



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

PLANNING DEPARTMENT

300 Sixth Street

Trish Anderson, Planner II
Urban Division
city web: www.rcgov.org

Phone: 605-394-4120
Fax: 605-394-6636
e-mail: trish.anderson@rcgov.org

MEMORANDUM

TO: Planning Commission

FROM: Trish Anderson, Planner II

DATE: August 30, 2002

RE: New Definitions for Abutting, Adjacent, Adjoining, and Contiguous

Staff has recently been made aware of the need for definitions in the Zoning Ordinance for the words abutting, adjacent, adjoining, and contiguous. These words and their variations appear throughout the Zoning and Subdivision Ordinance and are not defined. A principal issue is whether or not the public right-of-way is included or excluded in these definitions. In an effort to clarify the ordinance, the City Attorney and Planning staff suggest the following definitions:

Adjacent: parcels with no private lots between them (can be separated by public ROW)

Adjoin, Abut, Contiguous: to share any portion of a lot line, including a single point

Staff has researched the Subdivision and Zoning Ordinance and come up with over 100 occurrences of these words. The below list contains only those references which staff is proposing to change. The list contains the references to the subdivision and zoning code, with the existing language crossed out, and the proposed language in italics. Where the change in language will result in a policy change, or further background information is required, there is a brief explanation. Those items are starred with an asterisk.

CONTIGUOUS

1. **17.38.080 (A) (6) Mobile Home Residential District-** "No type I mobile home district shall be created which contains less than three acres of ~~contiguous~~ *adjacent* territory.



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2. **17.38.080 (B) (6) Mobile Home Residential District** - "No type II mobile home district shall be created which contains less than three acres of ~~contiguous~~ *adjacent* territory.

3. **17.50.180 (A) Motel Complex** - "Where the major portion of a motel complex is located in a proper zoning which allows motel complexes, a portion of the motel may be located in a MDR and HDR area if this portion is contiguous or ~~adjacent~~ to the properly zoned motel area."

4. **17.50.300 (C) Landscape Regulations, Definitions, Adjacent** - "~~Adjacent for the purpose of this section, means an area where the property lines are contiguous, or are separated by a street, alley, easement, or right of way.~~"

*The definition of both contiguous and adjacent will be located in the definitions section in Chapter 17.04. Definitions

ADJOIN AND/OR ADJOINING

5. **16.20.030 (E) - Information Required on Layout Plats** - "The following information is required for subdivision layouts: ~~Adjoining~~ Adjacent development: property lines, roads, watercourses;

6. **16.20.050 (B) (1) Information Required on Final Plats** - "The names of all ~~adjoining~~ *adjacent* subdivisions or a description of unplatted areas and their street layout;

7. **17.04.285 - Definition of Floodway** - "Floodway means the channel of the watercourse and those portions of the ~~adjoining~~ *adjacent* floodplains which are reasonably required to carry and discharge the regulatory flood."

8. **17.04.755 - Definition of Yard** - "Yard means an open space between a building and the ~~adjoining~~ lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this title, that building or structure may be located in a portion of a yard required for a main building."

9. **17.08.030 (H) - Park Forest District - Conditional Uses** - Golf course or country clubs, with ~~adjoining~~ *adjacent* grounds of not less than sixty acres, but not including miniature courses and driving tees operated for commercial purposes;

10. **17.10.030 (H) Low Density Residential District - Conditional Uses** - Golf course or country clubs, with ~~adjoining~~ *adjacent* grounds of not less than sixty acres, but not including miniature courses and driving tees operated for commercial purposes;

11. **17.28.040 (C) (d) Flood Hazard District - Standards for Conditional Uses** - "So far as practicable, structures be placed approximately on the same flood flow lines as those of ~~adjoining~~ *neighboring* structures;

12. **17.38.030 (I) Mobile Home Residential District** - "Golf course or country clubs, with ~~adjoining~~ *adjacent* grounds of not less than sixty acres, but not including miniature courses and driving tees operated for commercial purposes,"

13. **17.50.060 (A) Planned Developments - Procedure - "Initial Development Plan.** "When a petitioner is requesting approval of a planned development or planned development designation, the conditional use procedure shall be followed as specified in Section 17.54.030 of this title with the exception of notification requirements. Notice to ~~adjoining~~ property owners

within one hundred fifty feet of the property under consideration, exclusive or public right-of-way, shall be required.”

14. 17.50.070 (A) (b) Planned Developments – Amendments – “The following changes in an initial and/or final development plan are considered major amendments: Any change in the street pattern which would impact ~~adjoining~~ *adjacent* property;”

15. 17.50.100 (A) Development standards for planned commercial developments (PCD) and planned development designations (PDD) – “Planned commercial developments are designed to make commercial development compatible with ~~adjoining~~ *adjacent* land use to property address environmental factors such as steep slopes, geologic conditions, etc.....”

16. 17.50.105 (A) Development standards for planned light industrial development (PLID) districts and planned development designations (PDD) – “Planned light industrial developments are designed to make light industrial development compatible with ~~adjoining~~ *adjacent* land use,”

ADJACENT

17. 16.12.050 Design Standards, Street plan – Half streets – “Where there exists a dedicated or platted half-street ~~adjacent~~ *adjoining* to the tract to be subdivided, the other half shall be platted.”

18. 16.28.040 (H) Rural Subdivisions – Road specifications – “All lots ~~adjacent~~ *abutting* to an arterial road or a federal, state or county highway shall have placed upon the plat a non-access easement.”

19. 17.04.075 Definitions – Basement- “Basement means that portion of a building between floor and ceiling, which is partly above and partly below grade (~~adjacent~~ *adjoining* ground elevation), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.”

20. 17.04.140 Definitions – Cellar – “Cellar means that portion of a building between the floor and ceiling which is wholly or partly below grade (~~adjacent~~ *adjoining* ground elevation) and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.”

21. 17.04.335 Definition – Grade, ~~adjacent~~ *adjoining* ground elevation – “~~Adjacent~~ *adjoining* ground elevation grade means the lowest part of elevation of the finished surface of the ground surface, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.”

22. 17.04.645 Definitions – Story – “If the finished floor level directly above a basement, cellar or unused under-floor space is more than six feet above grade (~~adjacent~~ *adjoining* ground elevation) as defined herein for more than fifty percent of the total perimeter....that cellar or unused under-floor space shall be considered a story.”

23. 17.30.040 (C) (1) SC-1 Neighborhood Shopping Center District Area Regulations - Yards – “All parking areas and buildings, both main and accessory, shall be set back not less than twenty-five feet from all street lines ~~adjacent~~ *abutting* to the shopping center site.”

- 24. 17.32.040 (C) (1) Community Shopping Center District Area Regulations – Yards** – “All parking areas and buildings, both main and accessory, shall be set back not less than twenty-five feet from all street lines ~~adjacent~~ *abutting* to the shopping center site.”
- 25. 17.50.180 (A) Supplementary Regulations Applicable to Some or All Districts – Motel Complex** – “Where the major portion of a motel complex is located in a proper zoning which allows motel complexes, a portion of the motel may be located in a MDR and HDR area if this portion is contiguous ~~or adjacent~~ to the properly zoned motel area.”
- 26. 17.50.270 (H) (5) Minimum Off-Street Parking Requirements – Parking for Persons with Disabilities – Signage**- “Such signs must be located so they cannot be obscured by a vehicle parked in the space and so they are visible from the driver’s seat of the vehicle parked in the space. Such signs must be located on a permanent supporting post or on an ~~adjacent~~ *adjoining* wall.”
- 27. 17.50.270 (H) (6) (a) Minimum Off-Street Parking Requirements – Parking for Persons with Disabilities – Accessible Parking Spaces** – “Access aisles ~~adjacent to~~ *adjoining* accessible spaces shall be a minimum of sixty inches in width.”
- 28. 17.50.270 (H) (8) (a) Minimum Off-Street Parking Requirements – Parking for Persons with Disabilities – Passenger Loading Zones** – “Passenger loading zones shall provide an access aisle at least sixty inches wide and twenty feet long ~~adjacent~~ *adjoining* and parallel to the vehicle pull-up space.”
- 29. 17.50.290 Off-street loading and unloading requirements** – “In all commercial or industrial districts, except the Central Business District,there shall be provided and maintained on the lot adequate space for vehicle standing, loading and unloading. The space shall be ~~adjacent~~ *adjoining* to the opening used for loading and unloading....”
- 30. 17.50.300 (B) Landscape Regulations – Objective** – “To ensure that the ~~off street paved ground parking~~ area and the ~~adjacent~~ *adjoining* right-of-way are clearly and visibly delineated;”
- 31. 17.50.300 (C) Landscape Regulations Definitions** – “~~Adjacent for the purpose of this section, means an area where the property lines are contiguous or are separated by a street, alley, easement or right-of-way.~~”
- 32. 17.50.300 (E) (2) Landscape Regulations – Option 1 Irrigated Landscape Design** – “All vegetation must be planted within twenty-five feet of the lot line or within twenty-five feet of easements which are ~~adjacent~~ *adjoining* to the lot line.”
- 33. 17.50.300 (E) (2) Landscape Regulations – Option 2 Non-irrigated Landscape Design** – “All vegetation must be planted within twenty-five feet of the lot line or within twenty-five feet of easements which are ~~adjacent~~ *adjoining* to the lot line.”
- 34. 17.50.300 (G) (2) Landscape Regulations – General Requirements** – “Sight Distance for Landscaping ~~Adjacent~~ *Adjoining* to Public Rights-of Way and Points of Access.”
- 35. 17.56.090 (D) Business Park District Landscaping** – “~~Business park districts shall be considered intensity level two when determining the percent increase in required landscaping when an adjacent use is residential as per Section 17.50.300 (E)(2)(b) of this code.~~” “*When a business park district is adjacent to a residential district, landscaping shall be provided as*

regulated in the landscape regulations adopted by Section 17.5.300 of this title. Fifty percent of the plant material shall be visible from the residential district whenever possible.”

* The reference to an intensity level two is from the old landscaping code that required that point requirements be increased when the adjacent property is of a less intense zoning classification. For each degree of intensity change, the point requirements increased ten percent. The proposed change in language above is consistent with the landscaping requirements for the Office Commercial District where similar types of land usage occur.

ABUT, ABUTS, AND/OR ABUTTING

36. 16.12.030 Street Plan – Traffic Pattern – “Subdivisions which abut, *or are adjacent to*, or include within the proposed area to be subdivided, any highway or arterial street, shall provide:

37. 16.20.040 (O) (1) Information Required on Preliminary Plats – “The gas, electric and telephone distribution plan shall contain the following information: Location of all poles or subsurface facilities as necessary to serve each lot or parcel of land within the subdivision, and where necessary to ~~abutting~~ *adjacent* property,”

* **Items 38 – 43** – Under current regulations, if there is an alleyway or public right-of-way separating a commercial district from a residential district, no screening is required. The proposed use of the word adjacent, as opposed to abuts, means that screening will be required regardless of whether a commercial lot is actually touching a residential lot, or if the lots are separated by a public right-of-way. Staff believes that this change is necessary to protect residential neighborhoods from the glare from the headlights, noise, dust etc., generated by many commercial uses. Applicants who do not agree with this approach have the option of seeking a variance to the screening requirements.

38. 17.18.080 General Commercial District, Screening Requirements – “When a general commercial zoning district ~~abuts~~ *is adjacent to* a side or rear year of a residential district, ~~exclusive of alleys~~, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the abutting property lines and shall be maintained in good condition.”

39. 17.20.080 Neighborhood Commercial District, Screening Requirements – “When a neighborhood commercial zoning district ~~abuts~~ *is adjacent to* a side or rear year of a residential district, ~~exclusive of alleys~~, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the abutting property lines and shall be maintained in good condition.”

40. 17.36.080 Hotel-Motel Zoning District, Screening Requirements – “Whenever a hotel-motel zoning district ~~abuts~~ *is adjacent to* a side or rear year of a residential district, ~~exclusive of alleys~~, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the abutting property lines and shall be maintained in good condition.”

41. 17.40.070 Office Commercial District, Screening Requirements – “When an office commercial district ~~abuts~~ *is adjacent to* the rear yard of a residential district, exclusive of alleys, an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the ~~abutting~~ *adjacent* property lines and shall be maintained in good condition.”

42. 17.30.070 Neighborhood Shopping Center District, Screening Requirements – “When a neighborhood shopping center is near ~~or abuts~~ *is adjacent to* a residential district, fences, walls or year-round screen planting shall be provided when necessary to shield such residential

districts from parking lot illumination, headlights, fumes, heat, noise and dust and to reduce the visual encroachment of commercial architecture, signs and activity on residential privacy and residential neighborhood character.”

43. 17.32.070 Community Shopping Center District, Screening Requirements – “When a community shopping center is near ~~or abuts~~ *is adjacent to* a residential district, fences, walls or year-round screen planting shall be provided when necessary to shield such residential districts from parking lot illumination, headlights, fumes, heat, noise and dust and to reduce the visual encroachment of commercial architecture, signs and activity on residential privacy and residential neighborhood character.”

44. 17.24.040 (D) (2) Heavy Industrial District, Area Regulations – Rear Yard –“The depth of any rear yard which ~~abuts a street or~~ a residential district shall be not less than fifty feet.”

45. 17.40.040 (B) Office Commercial District, Area Regulations – Side Yard. “No building shall be located closer than twenty-five feet to a side property line, except when the side lot line abuts a commercial district, *with the exception of the office commercial district*, or an industrial district. In such case, the setback from the side lot line shall be the same as that of the district abutting it. *If a property zoned office commercial abuts another property that is zoned office commercial, then the side yard setback shall be eight feet for a single story building and twelve feet for a two-story building.*”

* The current code is unclear about the required side yard setback when a lot zoned office commercial is next to another lot that is zoned office commercial. The above language clarifies that the setback in this scenario is 25 feet if next to a residential lot, and eight or twelve feet when next to a lot zoned office commercial.

46. 17.40.040 (C) Office Commercial District, Area Regulations – Rear Yard. “No building shall be located closer than twenty-five feet to a rear property line, except when the rear lot line abuts a commercial district, *with the exception of the office commercial district*, or an industrial district. In such case, the setback from the rear lot line shall be the same as that of the district abutting it. *If a property zoned office commercial abuts another property that is zoned office commercial, then the rear yard setback shall be eight feet for a single story building and twelve feet for a two-story building.*”

* The current code is unclear about the required rear yard setback when a lot zoned office commercial is next to another lot that is zoned office commercial. The above language clarifies that the setback in this scenario is 25 feet if next to a residential lot, and eight or twelve feet when next to a lot zoned office commercial.

47. 17.50.110 (C) (3) Mobile Home Parks – “Mobile home spaces ~~must~~ *may* abut upon a driveway of not less than twenty feet in width, which shall have unobstructed access to the access road within the mobile home park.”

Recommendation: Staff is recommending that the Planning Commission authorize staff to advertise a public hearing to consider an ordinance amendment to adopt the aforementioned definitions and to change the language in the code accordingly.