

September 4, 2018

**ADMINISTRATIVE INTERPRETATION
DECISION AND FINDINGS
Petition #PLNZAD2018-00662**



REQUEST:

A request for an Administrative Interpretation regarding the designation of yards and required setbacks for a new house proposed for construction at 1630 E Yalecrest Avenue. The property is zoned R-1/5,000 and is subject to the Yalecrest Compatible Infill Overlay (YCI) as well as the Upper Yale Park Subdivision which was recorded on August 15, 1924. The parcel is irregularly shaped and loosely resembles a cone (see attachments). The two longest property lines are both directly adjacent to the public streets Yalecrest and Military Drive. The applicant contends that the original/existing house on the site chose to front on Yalecrest Avenue which established it as the front yard and Military Drive as the corner side yard. The orientation toward Yalecrest Avenue as the front yard would be maintained by the proposed house. The applicant also contends that the setback requirements established by the R-1/5,000 zone should govern rather than the YCI or the original subdivision plat.

Consequently, this Administrative Interpretation addresses and resolves the following questions:

- What is the designation of each of the lot lines for the subject parcel?
- What setbacks are required by the YCI overlay, R-1/5,000 zoning standards, and the original subdivision plat?
- Do the R-1/5,000, YCI, or subdivision plat standards take precedence?

DECISION:

The Zoning Administrator finds that the front yard setback established by the front building line on the Upper Yale Park subdivision plat prevails, and therefore, the minimum front yard setback for the subject property is 25 feet. Even though the proposed house will front on Yalecrest Avenue and the property line adjacent to Military Drive is considered the corner side yard by the current Salt Lake City zoning ordinance, the original subdivision plat takes precedence making the setback from that lot line 25 feet as well. The rear lot line is determined to be on the southeast side perpendicular to the corner side yard lot line along Military Drive and the interior side yard lot line is located on the southwest side perpendicular to the front lot line along Yalecrest Avenue. The rear yard setback is 25% of the lot depth or 20 feet, whichever is less, and the interior lot line setback is 4 feet. The rear and interior side yard lot line setbacks are established by the R-1/5,000 zoning district since they are not specified on the subdivision plat or the YCI (see attachments).

FINDINGS:

Pursuant to the Definitions section of the Salt Lake City zoning code (21A.46), the following definitions are pertinent to determining the lot lines:

LOT LINE, FRONT: "Front lot line" means that boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way. On corner lots, the property owner shall declare the front lot line and corner side yard line on a building permit application. In the case of landlocked land, the front lot line shall be the lot line that faces the access to the lot.

LOT LINE, CORNER SIDE: "Corner side lot line" means any lot line between the front and rear lot lines which abuts a public street.

LOT LINE, REAR: "Rear lot line" means that boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.

LOT LINE, INTERIOR SIDE: "Interior side lot line" means any lot line between the front and rear lot lines which does not abut a public street.

Given those definitions, the applicant is correct in considering the lot line adjacent to Yalecrest Avenue as the front lot line and the one adjacent to Military Drive as the corner side lot line. The rear lot line would be the one that meets, and is perpendicular to, the corner side yard at the south east corner of the parcel. The remaining line is the interior side lot line (see attachments).

With the lot lines determined, there are two sections of the Salt Lake City zoning code that address the required setbacks from said lot lines. The first is in regards to the Yalecrest Compatible Infill overlay district. Section 21A.34.010(A) states the following:

Statement Of Intent: An overlay district is intended to provide supplemental regulations or standards pertaining to specific geographic features or land uses, wherever these are located, in addition to "base" or underlying zoning district regulations applicable within a designated area. Whenever there is a conflict between the regulations of a base zoning district and those of an overlay district, the overlay district regulations shall control.

Section 21A.34.120(D) specifically states the following in regards to front yard requirements of the YCI but does not address setback requirements of other yards:

Front Yard Requirements: The minimum front yard shall be derived by measuring the front yards (the open, unoccupied, landscaped space between the front building lines of all developed properties) fronting the same side of the street within three hundred feet (300') of the subject property but in no case shall the measurements extend across intervening streets. The minimum required front yard shall be equal to the average of the smallest fifty percent (50%) of front yards measured. For example, if ten (10) developed properties are located along the same side of the street within three hundred feet (300') of the subject property, the required minimum front yard is equal to the average of the five (5) ($10 \times 50\% = 5$) smallest front yards.

The other section of the Salt Lake City zoning code that addresses the required setbacks from lot lines is the R-1/5,000 zoning district. Section 21A.24.070(E) states the following:

E. Minimum Yard Requirements:

- 1. Front Yard: The minimum depth of the front yard for all principal buildings shall be equal to the average of the front yards of existing buildings within the block face. Where there are no existing buildings within the block face, the minimum depth shall be twenty feet (20'). Where the minimum front yard is specified in the recorded subdivision plat, the requirement specified on the plat shall prevail. For buildings legally existing on April 12, 1995, the required front yard shall be no greater than the established setback line of the existing building.*
- 2. Corner Side Yard: Ten feet (10').*
- 3. Interior Side Yard:*

- a. *Corner lots: Four feet (4').*
- b. *Interior lots: Four feet (4') on one side and ten feet (10') on the other.*
4. *Rear Yard: Twenty five percent (25%) of the lot depth, or twenty feet (20'), whichever is less.*
5. *Accessory Buildings and Structures In Yards: Accessory buildings and structures may be located in a required yard subject to section 21A.36.020, table 21A.36.020B of this title.*

Utah case law provides direction in determining the apparent conflict between the previous sections of the SLC zoning ordinance. Taghipour v. Jerez, 52 P.3d 1252 (Utah 2002) is instructive in a case where there seems to be a conflict in the operation of separate regulations. There, the Supreme Court of Utah held that:

When two statutory provisions purport to cover the same subject, the legislature's intent must be considered in determining which provision applies. Jensen v. IHC Hosps., Inc., 944 P.2d 327, 331 (Utah 1997). To determine that intent, our rules of statutory construction provide that "when two statutory provisions conflict in their operation, the provision more specific in application governs over the more general provision." [Citation omitted].

The R-1/5,000 zoning district standard for the front yard is more specific than the front yard standard in the YCI and therefore "governs over the more general provision" in that it specifically states that, "where the minimum front yard is specified in the recorded subdivision plat, the requirement specified on the plat shall prevail."

With that established, the Upper Yale Park subdivision plat includes a front building line measuring 25 feet from the front parcel line for each lot in the subdivision. It establishes the minimum front yard setback from the public streets for each lot. The subdivision plat indicates that the subject lot has a front building line of 25 feet from each of the parcel lines that are adjacent to Yalecrest Avenue and Military Drive. The subdivision plat takes precedence and the front building line (setback) is in effect for the lot line adjacent to Military Drive as well as Yalecrest Avenue (see attachments).

The Upper Yale Park subdivision plat includes an outbuilding limit line for each lot in the subdivision. The outbuilding limit line was intended to stipulate the location of accessory buildings toward the rear of the lot. It does not establish a rear yard setback for the principal building.

If you have any questions regarding this interpretation please contact Chris Lee at (801) 535-7706 or by email at chris.lee@slcgov.com.

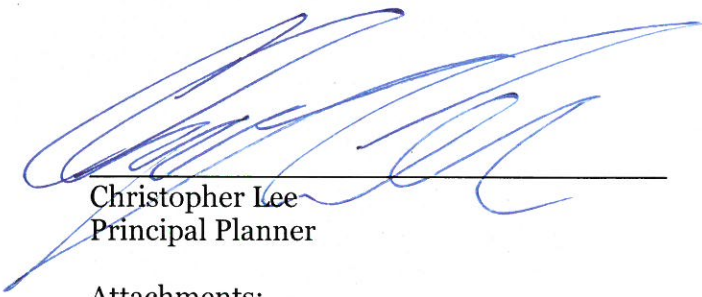
APPEAL PROCESS:

An applicant or any other person or entity adversely affected by a decision administering or interpreting this Title may appeal to the Appeals Hearing Officer. Notice of appeal shall be filed within ten (10) days of the administrative decision. The appeal shall be filed with the Planning Division and shall specify the decision appealed and the reasons the appellant claims the decision to be in error. Applications for appeals are located on the Planning Division website at <https://www.slc.gov/planning/applications/> along with information about the applicable fee. Appeals may be filed in person or by mail at:

In Person: Salt Lake City Corp Planning Counter 451 S State Street, Room 215 Salt Lake City, UT	US Mail: Salt Lake City Corp Planning Counter PO Box 145471 Salt Lake City, UT 84114-5417
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NOTICE:

Please be advised that a determination finding a particular use to be a permitted use or a conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure. It shall merely authorize the preparation, filing, and processing of applications for any approvals and permits that may be required by the codes and ordinances of the City including, but not limited to, a zoning certificate, a building permit, and a certificate of occupancy, subdivision approval, and a site plan approval.



Christopher Lee
Principal Planner

Attachments:

- Parcel Map with Existing House and Designated Lot Lines and Setbacks
- Upper Yale Park Subdivision Plat
- Upper Yale Park Subdivision Plat – Parcel Detail

- cc: Nick Norris, Planning Director
Joel Paterson, Zoning Administrator
Greg Mikolash, Development Review Supervisor
Posted to Web
Applicable Recognized Organizations



Yalecrest Avenue

Front Lot Line

Corner Side Lot Line

Interior Side Lot Line

1630

Rear Lot Line

Military Drive

1624

1064



 Subject Parcel

