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Sheldon,

You have asked my opinion as to whether or not the building of a lodge and cabin/casitas that will be used for short term rentals in conjunction a golfing facility is a permitted use in Coalville City's agricultural zone. You have also asked me to opine on the issue of whether or not these would be counted against the allowed density for single family dwellings in that zone.

In rendering this opinion I have reviewed the City's land development code along with the information that your provided tome consisting of some plats, plans and bubble charts provided to you by the applicant for the project. I have also spoken with the applicant's attorney about their application and intentions.

I have kept in mind the following guiding principles of law which confine my legal opinion.

First under Utah law a Land owner is entitled to approval of its application if the application complies with the City's land use regulations. Utah Code 10-9a-509. The applicant's attorney indicated to me that they are not asking for any code or zoning amendments and are applying under the City's regulations as they exist.

Second, All ambiguities in the land use ordinances are to be interpreted in favor of the land owner, "because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner." *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995). *Brown v. Board of Adjustment*. 957 P.2d 207 (Utah Ct. App. 1998),

Third, Utah Code 10-9a-306 which read as follows:

Land use authority requirements -- Nature of land use decision.

- (1) A land use authority shall apply the plain language of land use regulations.
- (2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.
- (3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

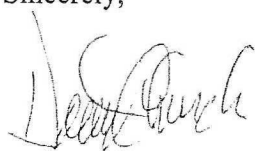
Based on these general principles of law it is my opinion is that the application to build a lodge and cabins/casitas available for nightly rental as part of the golf course development is a permitted use under Coalville City's land use code and should not be counted against the allowed density for dwellings in that zone.

I base this conclusion on the following. First your agricultural zone allows recreational facilities such as golf courses as a permitted use. Second recreational facility is defined in your code to include "support facilities" customarily associated with the recreation facility. Support Facilities does not appear to be a defined term in your code. Any ambiguity as to what is a support facility is for a high end private golf course will have to be interpreted in favor of the applicant. Therefore the building of a lodge and cabin/casitas for the use of the members of the golf course and their guests must be considered a permitted use unless there is a specific code section that prohibits that activity and use. I did not find any such prohibition in your code.

This opinion is based on the following assumptions and representations. First the lodge and cabin/casitas must be on the same parcel with the golf course and be owned by the same owner and remain so into the future. Their use must be inextricably linked to the use of the recreation facility. Second, the members and guest of the golf facility may not establish permanent residency in these facilities and third, the lodge and cabin/casitas cannot be opened to public nightly rental not associated with the use of the recreation facility.

Please let me know if this does not address your requested opinion.

Sincerely,

A handwritten signature in cursive script, appearing to read "David L. Church".

David L. Church
Attorney at Law