

EXHIBIT B



VIA EMAIL

January 20, 2026

Board of Adjustment
Attn: Melissa Anderson Community Development
10000 Centennial Parkway Sandy, Utah 84070
manderson@sandy.utah.gov
plan@sandy.utah.gov

Re: Response to Appeal of Planning Commission Preliminary Approval — Falls Creek Estates Subdivision (SUB009152025-007042; SPX11112025-007076)

Dear Ms. Anderson and Members of the Board:

Ivory Development, LLC (“Ivory”) submit this response to the appeal filed by counsel for Garrett and Samantha Lisi regarding the Planning Commission’s preliminary approval of the Falls Creek Estates Subdivision. For the reasons below, the appeal should be denied and the preliminary approval affirmed.

I. Appellants’ Lack Standing

The appellants assert standing as owners of 2859 E. Wasatch Blvd. (Lot 2) adjoining the proposed subdivision and referencing a shared driveway easement with 2873 E. Wasatch Blvd. (Lot 3). Appellants state they own Lot 2 abutting the proposed subdivision and that Lot 2 shares a driveway entrance with Lot 3. Ivory does not challenge the proximity of the appellants or the reality that the development of a neighboring parcel necessarily affects all surrounding lot owners. However, standing to pursue an administrative appeal requires alleging error in administration or interpretation of the code, not merely proximity. Appellants have failed to do so.

II. Ivory’s Proposed Development has Lawful, Record Access

Appellants argue the Commission treated the access serving Lots 3 and 4 as a private lane and contend it must instead be treated as a private street. They rely on staff report references to an existing shared approach and a driveway easement. To be clear, the reference in Paragraph 8 of Staff Recommendations and Conditions for Motion #2 is a reference to the requirement that Ivory record a private access agreement and maintenance agreement against the shared driveway for future lots 3 and 4. It is not referencing the 1993 driveway easement burdening Lots 2 and 3 (“Original Easement”). The Original Easement is not relevant. The shared driveway is located completely on property owned by Ivory. While part of Ivory’s property is burdened by the Original Easement, that does not affect Ivory’s ability to grant a separate

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easement to the future Lot 4. Additionally, the Original Easement is not part of the record in this matter. "The appellant may not bring new information for consideration before the appeal authority that had not been previously presented to the land use authority during its consideration of the matter." Sandy City Code § 21-15-3.

Appellants further contend the approach serves three properties and exceeds 150 feet, arguing the facility therefore meets the City's definition of a private street and not a private lane. Appellants misunderstand Ivory's site plan. As an initial matter, the portion of the drive approach that will serve all three lots is only approximately 41 feet long. Also, the shared driveway for future lots 3 and 4 will only be used by two units and is much shorter than 150 feet. Exhibit A to the staff report obviously does not show a finalized driveway design. It is a preliminary plat. It merely shows the proposed location of the driveway up through the current property boundary. Once the lot line adjustment is made, and the home location is known, the driveway will only extend to the home.

The preliminary approval conditions can and will be met during the final plat approval process, including demonstration of lawful access and meeting applicable dimensional and emergency access standards. Those compliance items are appropriately finalized at improvement plan and final plat stages, consistent with how preliminary approvals routinely condition later technical confirmations.

With regard to Appellants' arguments regarding maintenance costs, in addition to being based on a document not before the Board, it's important to note that the Commission's preliminary approval does not adjudicate private property rights between easement holders; it conditions subdivision approval on the applicant demonstrating adequate, lawful access. Private allocation of maintenance costs under recorded easements is a civil matter outside the scope of the Commission's land use determinations. The appeal does not identify a condition in the approval that compels the Appellants to alter their private obligations; rather, it asks the Board to preemptively decide private easement scope, which is beyond the Board's purview at this stage. The existing conditions require the applicant to document legal access sufficient for plat recordation. If the applicant cannot, final approval would not proceed. Ivory is open to communicating with the Lisis outside of this process and addressing the Lisis' concerns regarding cost sharing and maintenance is a way that is fair to all parties.

III. Appellants Misunderstand Sandy City Code § 21-15-3

Appellants assert the Commission recognized Lot 4 as a "remnant" with no development rights. The appeal points to a generalized meeting reference but does not provide necessary context. The whole purpose of the application is to reconfigure the existing lot and remnant parcel by bisecting them north to south, thereby creating buildable areas on both lots. Sandy City Code § 21-15-3 only requires applicants to identify "[b]uildable and non-buildable areas," which Ivory did. See Exhibit A to Staff Report Memorandum. There is no requirement that the

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applicant show that the property is buildable as *existing* even if the application is denied. If that was the requirement, there would be no need for a subdivision process. Moreover, the Commission's action was preliminary, conditioned upon satisfying Sensitive Area Overlay requirements, including demonstrating buildable areas and compliance with usable land standards. No part of the preliminary approval authorizes construction contrary to those standards.

IV. Ivory has Sufficient Access from Wasatch Boulevard

Appellants raise safety concerns regarding the shared drive approach. It is unclear how the Appellants can assert that the approach is unsafe for Ivory's development, when Appellants' utilize a similar approach, apparently without incident. Traffic safety and access spacing are addressed through engineering review. That review has shown no safety or traffic concerns resulting from the addition of a single new residential unit.

V. Standard of Review.

The Board is required to give the Commission significant deference. Sandy City Code § 21-35-1(h)(2) states,

Land use authorities and administrative officials have specialized knowledge in the field of planning and land use and are charged with and are experienced in implementing the goals and policies of the community as adopted by and under the supervision of elected representatives of the public. Accordingly, they should be allowed a comparatively wide latitude of discretion; and their actions endowed with a presumption of correctness and validity which an appeal authority should not interfere with unless it is shown that there is no reasonable basis to justify the action taken, and that, therefore, the determinations made were so unreasonable as to be arbitrary and capricious. It is not the appeal authority's prerogative to substitute its judgment for that of the land use authority where the record discloses a reasonable basis for the land use authority's determination.

Appellants have the burden of to show that the Commissions decision was illegal, arbitrary, or capricious. Sandy City Code § 21-35-1(g). They have not done so.

VI. Conclusion.

The existing preliminary approval conditions already require the applicant to demonstrate code-compliant access classification, dimensions, turnarounds, legal rights of access, Sensitive Area compliance, and transportation safety compliance prior to final plat. The Board need not substitute its judgment for the standard, conditional preliminary process that defers technical, evidence-based confirmations to final engineering and plat submittals.

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Appellants' private easement maintenance concerns are not properly before the Board and are not grounds to overturn a preliminary land use approval. Additionally, a stay is unwarranted where the approval is conditional, non-final, and preserves all substantive code compliance checks prior to final action. Ivory respectfully asks that the Decision be upheld.

Respectfully submitted,



Analise Quinn Wilson
General Counsel