



Sandy City, Utah

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Meeting Minutes

Board of Adjustment

Thursday, September 12, 2024

6:30 PM

City Hall Council Chambers and Online

Meeting procedures are found at the end of this agenda.

This Board of Adjustment meeting will be conducted both in-person, in the Sandy City Council Chambers at City Hall, and via Zoom Webinar. Residents may attend the meeting either in-person or via the webinar link below; however, the meeting is not open to public comment. Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_EzJ8raGpQgGMP9Keh_dQuA

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Webinar ID: 874 9519 1892

Passcode: 593499

SELF-GUIDED FIELD TRIP

1. [24-313](#) Self-guided Field Trip Map

Attachments: [Map](#)

5:30 PM EXECUTIVE SESSION

6:30 PM REGULAR SESSION

Welcome

Pledge of Allegiance

Introductions

Public Meeting Items

2. [BOA0823202](#) Appeal to Review Alleged Error of the Planning Commission for the Willow
[4-006819](#) Creek Country Club Conditional Use Permit
8505 S Willow Creek Drive
[Community #18, Willow Creek]

Attachments: [Staff Report for Appeal of Willow Creek CC](#)
[Exhibit A - Appeal Packet](#)
[Exhibit B - Staff Report Code Amendment](#)
[Exhibit C - Ordinance 24-15](#)
[Exhibit D - Willow Creek CC Response to Appeal](#)

Melissa Anderson, Zoning Administrator, presented evidence to the Board of Adjustment.

Burker Staker made a motion that the record on this decision is complete and not deficient as demonstrated in the referenced staff reports and associated exhibits and other information in the record and therefore, this matter can be reviewed on the record, and not de novo. Matt Hale seconded the motion. Vote was unanimous in agreement.

Melissa Anderson continued her presentation to the Board of Adjustment.

Amy Walker, appellant representing six of the residents whose backyards are directly behind the proposed new structure at Willow Creek Country Club. She presented her case of why these residents feel that the Planning Commission's decision was arbitrary and capricious. Their concerns included, but not limited to, issues regarding light and noise pollution.

Brent Bateman, attorney with the firm of Dentons Durham Jones and Pinegar, is representing the Willow Creek Country Club property owner. Mr. Bateman presented his case to the Board of Adjustment. He stated this is a conditional use permit which is an administrative land use decision. He stated that the concerns of the appellants are not supported by evidence. He stated that the homeowners are concerned about their view but that their argument that their right to a view is more important than that right of the property owner to use their land is wrong. He stated that the land owner is complying with the Sandy City land ordinances and therefore has the right to the use of their land.

Matt Hale, board member, asked a question about why the new buildings are not going to be built in the same place as the old buildings.

Brent Bateman stated that they can't tear down the old buildings without putting up new buildings first. He stated they would be in violation of many other things if they did that.

Melissa Anderson submitted the Sandy City's Legal Standards for Review in her conclusion statement to the Board.

Amy Walker submitted her rebuttal statement to the Board.

Matt Hale asked Ms. Walker to clarify her concerns regarding Sandy City Code Section 21-33-3 which she had stated had not been considered by the Planning Commission.

Ms. Walker expounded on the concerns that a building the size that is being proposed has not been compared to other uses in the district. She stated "is there anything as

large as 16,600 square feet in the district?"

Burke Staker, board member, asked how big the current clubhouse is and if all of the 168 acres of the Willow Creek Country Club is considered open space? He was informed that it is all open space and that the clubhouse is at least 40,000 square feet.

Ms. Walker stated that the old buildings on the property were "grandfathered" in but any new buildings need to comply with current codes.

Mr. Staker asked if the applicant is proposing any new uses to the property that is not there already?

Ms. Walker stated that is irrelevant due to the new buildings have to comply with the existing code.

Burke Staker disagreed with the appellants use of the term "office space". He stated that this isn't office space for people to pull in and set up offices. This is an office for the superintendent of the country club.

Amy Walker again stated that it is against city code to build office space.

Bruce Bryner, Board of Adjustment chairperson, asked for clarification on Code Section 21-33-3.

Patrick Boice, Legal Council for Board of Adjustment, explained the land use table regarding what is permitted and what isn't permitted in an open space district. He stated that the Planning Commission had to determine if the fact that office space is listed as a non permitted use mean that there can be no office in an open space area or does that mean that's not the primary use. His review of the record he believes that the Planning Commission looked at primary use first which was determined to be the golf course. He stated that his advise to the Board is that they analyze whether these are uses that are completely prohibited or whether these are primary uses. He stated that other open space would have similar uses.

Mike Wilcox, Planning Director, gave the definition of ancillary use as stated within the Sandy City code.

Tyler Brown, board member, stated his opinion that this case falls under the arbitrary and capricious standard of review framework rather than the correctness standard framework. Even if it did fall under the correctness standard framework, he feels that the Planning Commission applied the law correctly in this case.

Burke Staker asked what the setback for the property on Etienne is.

Mike Wilcox stated that the minimum setback is twenty feet from a primary structure but the decision of the Planning Commission would make it fifty feet away from the neighboring dwellings because the Planning Commission added a condition to mitigate impacts of the proposed building.

Bruce Bryner closed the meeting to outside comment and invited the Board members to discuss the case amongst themselves.

A motion was made by Tyler Brown, seconded by Burke Staker, that the Planning Commission did not err in its decision to determine that the preliminary site plan review application was complete for the proposed relocation and

reconstruction of the Willow Creek Country Club maintenance area facilities and in their decision to approve the conditional use permit. As part of this motion the appellants have not shown that there's no reasonable basis to justify the action taken and therefore the Planning Commissions determinations were not proven to be so unreasonable as to be arbitrary and capricious. To support the Planning Commissions decision he cited the following findings based on the substantial evidence presented:

1. This conditional use permit approval is consistent with current use which already has a maintenance facility and greenhouse there.

2. The CUP and site plan were examined thoroughly by the Planning Commission.

3. The detrimental affects of the proposed site plan and conditional use permit were addressed and mitigated with conditions such as the fifty foot setback, the Salt Lake County noise ordinance and applying code amendments

Yes: 3 - Bruce Bryner
Burke Staker
Tyler Brown

No: 1 - Matt Hale (Alternate)

Absent: 2 - Brian Jones
Jim Edwards

Administrative Business

1. Director's Report

Mike Wilcox stated the city has drafted the general plan and invited all to review. He stated it will be going to the Planning Commission for formal review.

Adjournment

Meeting Procedure

1. Staff Introduction
2. Presentation by the appellant
3. Presentation by the property owner
4. Staff presentation
5. Response by appellant
6. Questions of the appellant, staff, and others by the Board
7. Discussion of the issue by the Board
8. Motions and decision by the Board

Board of Adjustment applications may be tabled if: 1) Additional information is needed in order to take action on the item; OR 2) The Board of Adjustment feels there are unresolved issues that may need further attention before the Board is ready to make a motion. No agenda item will begin after 11 pm without a unanimous vote of the Board. The Board may carry over agenda items, scheduled late in the evening and not heard, to the next regular scheduled meeting.

In compliance with the Americans With Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, or if you have any questions regarding the Board of Adjustment Agenda or any of the items, please call the Sandy City Planning Department at (801) 568-7256.