



# SANDY CITY COMMUNITY DEVELOPMENT

JAMES SORENSEN COMMUNITY DEVELOPMENT DIRECTOR

MONICA ZOLTANSKI MAYOR

SHANE E. PACE CHIEF ADMINISTRATIVE OFFICER

## Staff Report Memorandum February 12, 2025

To: Board of Adjustment  
From: Community Development Department  
Subject: Falls Creek Estates Subdivision (Alleged Error Appeal)  
2873 & 2851 E. Wasatch Blvd.  
[Community #28, Pepper Dell]

BOA12122025-007094

PUD(2), PUD(1.62) & SAO Zones  
2 Lots, 1.47 Acres

**Public Meeting Notice:** This item has been noticed to property owners within 500 feet of the subject area, posted on public websites and at public locations.

### Request

The appellants, Garrett and Samantha Lisi (represented by the law firm Clyde Snow & Sessions), have requested the Board of Adjustment review an alleged error by the Planning Commission in their decision to determine preliminary submission review was complete on the Falls Creek Estates Subdivision located at 2873 and 2851 E Wasatch Blvd. The Lisi's own the neighboring property at 2859 E. Wasatch Blvd and have claimed that they were adversely impacted by the decision. The vicinity map below shows the location of these properties.

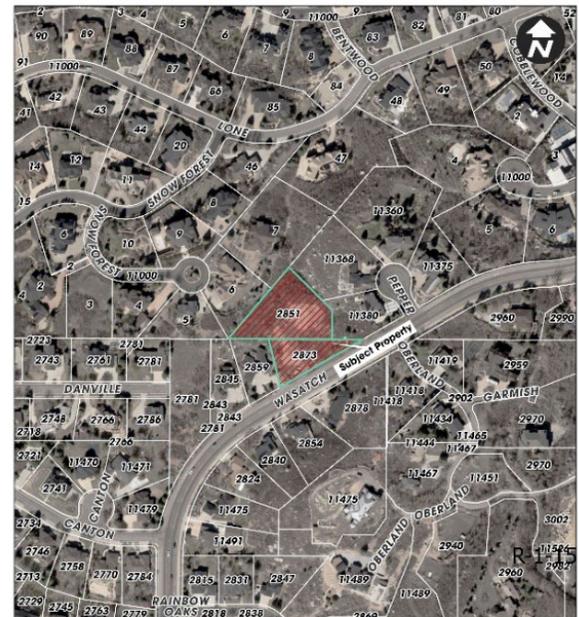
### Background

On November 20, 2025, the Planning Commission held a public meeting for preliminary subdivision review of the Falls Creek Estates Subdivision, which proposed to adjust property lines between a lot and an abutting remnant parcel to create one additional lot. The Planning Commission determined that the preliminary subdivision review for the Falls Creek Estates Subdivision was substantially complete with conditions.

On December 4, 2025, the Planning Commission approved the minutes from the November 20<sup>th</sup> meeting. City code requires appeals to be filed within 10 calendar days of the date the minutes are approved ([Sec. 21-35-1\(d\)](#)), and the appellant met this deadline by filing their appeal on December 12, 2025.

The appellant asserts that the Planning Commission erred in their decision because they believe the decision was illegal, as well as arbitrary and capricious. The appellant's application materials are included in this report as Exhibit "A." Please refer to Exhibit "A" for the full details of the appellant's arguments.

In response to this appeal, the owner and applicant of the Falls Creek Estates Subdivision, Ivory Development, LLC, submitted a brief to address the arguments of the appeal. Please refer to Exhibit "B" for the full details of the Ivory Development response.



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Board of Adjustment  
2873 and 2851 E WASATCH BLVD  
Community Development Department  
Sandy City, UT

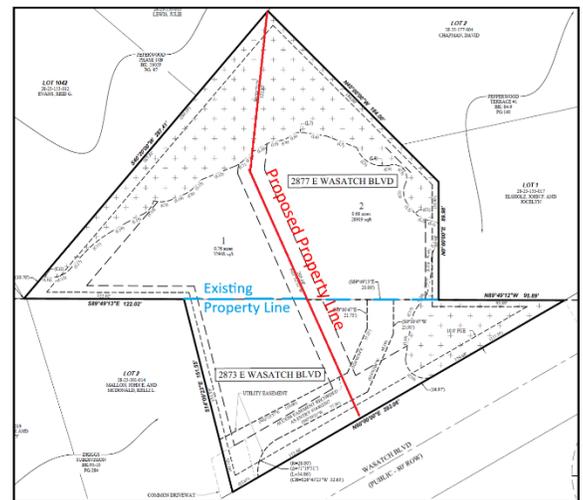
<b>Relevant Case History</b>	
<b>Case Number</b>	<b>Case Summary</b>
S#91-03	Driggs Subdivision created 3 lots within the PUD Zone in 1993
SUB009152025-007042 SPX11112025-007076	Preliminary subdivision review, adjusting property lines between Lot 3 of the Driggs Subdivision and a remnant parcel to the north to create one additional lot, and a special exception to not provide full street improvements. (November 2025)

**Public Notice**

The city issued notice of this public meeting on public websites, posted in three public locations, and mailed to property owners within 500 feet of the subject property prior to the Board of Adjustment meeting in accordance with the LDC Sec. 21-36-1 and -2 and the Utah State Code § 10-9a-205. *The notice stated that the proceedings for appeals are not open to public comment.*

**Analysis**

**Subdivision Description:** As shown on the map illustration to the right, the Falls Creek Estates Subdivision consists of the properties located at 2873 and 2851 E. Wasatch Blvd. The subdivision reconfigures existing Lot #3 of the Driggs Subdivision and a remnant parcel to the north by bisecting them north to south instead of east to west. This adjustment provides street frontages for both lots and creates sufficiently large buildable areas to allow for development of single-family homes on each lot. The Lisi’s property is located at 2859 E. Wasatch Blvd (Lot #2 of the Driggs Subdivision), shown immediately west of the subdivision. The Planning Commission’s staff report provides additional detail about the existing conditions and description of the Falls Creek Estates subdivision; the staff report is included in the appellant’s application material in Exhibit “A” and it can also be accessed online under the Planning Commission’s meeting held on November 20, 2025 via this [link](#).



**Applicant’s Arguments on Appeal**

**The Decision was Illegal**

**Inaccurate Characterization of Proposed Access:** The applicant argues that the decision was illegal because it misinterprets and/or runs contrary to existing applicable laws and regulations. They state that the Planning Commission mischaracterized the road access as a private lane that is more than 150 feet in length, when it should be a private street and meet the standards for a private street.

**Response:** As described earlier, the subdivision provides frontage for both lots onto a public street at Wasatch Blvd. Sandy City Code allows lots to be accessed from a shared driveway, and it does not require these lots that have street frontage to be accessed from a private lane or a private street. The code states: “A private lane shall be utilized to provide access for up to two residential lots that do not have frontage to a public or private roadway (Sec. 21-21-11(e)).” The assertion that the Planning Commission considered the shared driveway to be a private lane is not supported by the record and it is not required by the city code. Furthermore, the driveway length was considered by the Planning Commission, and it is less than 150 feet, which meets code requirements. If the driveway is extended in the future to a length greater than 150 feet, the City Code’s additional requirements for a driveway longer than 150 feet will be required as part of the building permit.

**Conflict With Original Easement:** The appellant argues that the subdivision interferes with the Lisi’s rights and obligation under the original private access and maintenance agreement between Lot #2 and Lot #3.

**Response:** Regarding the private easement claims, the appellant fails to cite any provision of Sandy City Code that was applied or interpreted incorrectly by the Planning Commission. In order to comply with Sandy City Code the physical improvements including the existing curb cut onto Wasatch Blvd. and the shared driveway shown in the preliminary subdivision application will provide shared access to both the appellants and applicant across a portion of the westerly 20

feet of Lot 3 of the Driggs Subdivision. That area would be maintained and accessible as a shared drive approach. The shared drive approach and also the shared driveway that will serve the proposed lots meet the 20-foot minimum width required by Sandy City Code. The appellant's claims regarding easements are beyond the jurisdiction and authority of Sandy City, the Planning Commission and the Board of Adjustment. The consideration of this appeal is not to adjudicate easements but to determine whether the Planning Commission erred in its application of Sandy City Code. Furthermore, review is confined to the administrative record per Sandy City Code Sec. 21-35-1 (see below). The Planning Commission did not consider, evaluate or base its decision on the purported private easements. Copies of the private easements were not included in the record for the Planning Commission, and they are not part of the record being considered by the Board of Adjustment for this appeal.

***Lot 4 Is Not Buildable:*** The appellant argues Lot #4 is not a buildable lot and restrictions of the Sensitive Area Overlay Zone preclude development.

**Response:** The assertion by the appellant that un-platted property can never be platted, subdivided and built on is not supported by any law. The appellant has not pointed to any law, and both Utah Code and Sandy City Code expressly allow consolidation of a remnant parcel from outside of a subdivision with a lot, or multiple lots, in an existing subdivision. Both Utah Code and Sandy City Code allow amended subdivisions, and it is specifically through the subdivision application process that the remnant parcel is proposed to be platted, subdivided and included in buildable lots. The Sensitive Area Overlay Zone encumbers portions of both lots in the Falls Creek Estates Subdivision, and both are shown in the preliminary subdivision application to meet the minimum buildable area requirements for development of single-family homes on each lot. Furthermore, it is a condition of the preliminary subdivision approval that the developer comply with Sandy City Code and these code requirements for construction will be applied as part of the building permit.

#### ***The Decision was Arbitrary and Capricious***

***Decision is Not Supported by the Record:*** The appellant argues that the Planning Commission's decision was not supported by the record and is arbitrary and capricious because they failed to adequately account for driveway separation and safety concerns related to access at Wasatch Blvd.

**Response:** The separation of driveways is not part of the record being considered on appeal. The Planning Commission did not apply or interpret separation of driveways, and no additional driveways are shown on the preliminary plat that was approved. Further, the separation standard cited by the appellant does not apply to single-family residential driveways.

Regarding safety concerns, the City Engineer reviewed the proposed subdivision, and no safety or traffic concerns were found to be a result of the proposed subdivision.

#### **Legal Standards for an Appeal**

The LDC, Section 21-35-1, sets the standards for reviewing an appeal. The following excerpt of this section establishes the proper standards and procedures for reviewing an appeal:

##### **Sec. 21-35-1. Appeals**

###### **(e) Information to be Presented.**

- (1) An appellant must first present any and all information to the land use authority which it intends to raise before the appeal authority. 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.
- (2) An appellant must present to the designated appeal authority every theory of relief that it can raise in District Court.
- (3) No new information that was not previously presented to the land use authority may be presented on appeal.

###### **(f) Review of the Record of the Land Use Authority.**

- (1) The appeal authority's review of decisions of a land use authority shall be confined to the administrative record developed by the land use authority unless the appeal authority determines that the record is incomplete or deficient.
- (2) If the appeal authority determines that the record is incomplete or deficient, it may remand the case to develop the record or continue the meeting to complete the record with the information previously presented to the land use authority.

(g) **Burden of Proof.** The appellant has the burden of proving that the land use authority erred.

(h) **Standard of Review.**

(1) **Legal Issues; Correctness Standard.** The appeal authority shall determine the correctness of a decision of the land use authority or administrative official in its interpretation and application of a land use ordinance. Because no specialized knowledge is necessary to make such a determination, no deference is given to the land use authority or administrative official; provided, however, the appeal authority shall not overrule that decision as a matter of law without the advice of its legal counsel.

(2) **Factual Issues and Other Issues; Arbitrary and Capricious Standard.** 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.

(i) **Scope of Authority.** Only those decisions in which a land use authority has applied a land use ordinance to a particular application, person, or parcel may be appealed to an appeal authority.

The Board's review of the Planning Commission's decision is to determine whether a reasonable mind could reach the same conclusion as the Planning Commission did, in light of the evidence the Planning Commission had before it. The appellant must marshal all the evidence in support of their claim that the Planning Commission decision was made in error and show that in spite of the facts which support the decision, and in light of conflicting or contradictory evidence, the decision is not supported by substantial evidence. Substantial evidence is evidence which is adequate to convince a reasonable mind to support a conclusion. *See Carlsen v. Board of Adjustment of City of Smithfield* 2012 UT App 260 ¶¶ 4, 5, 7.

### **Conclusion and Recommendation**

The applicant has not met their burden of proving that the Planning Commission decision was illegal or so unreasonable as to be arbitrary and capricious. The appellant bears the burden of proving that the land use authority erred. It is not enough to show that one could reasonably reach a different conclusion on the facts if there is a reasonable basis for the decision reached by the Planning Commission.

Based upon the foregoing the Board of Adjustment should conclude that the Planning Commission did not err in making their decision to determine the preliminary subdivision review was substantially complete for the Falls Creek Estates Subdivision and adopt the following findings:

#### **Findings:**

1. The record of this decision is sufficient and not deficient as demonstrated in the referenced staff reports and associated exhibits and other information in the record; therefore, this matter can be reviewed on the record.
2. The appellants have not shown that the Planning Commission's decision was an incorrect interpretation of a land use regulation or is contrary to law.
3. The appellants have not shown that there was no reasonable basis to justify the action taken, and the determinations made were so unreasonable as to be arbitrary and capricious.
4. Based on the findings cited in their motion and evidence cited in the record, the Planning Commission determination was processed as required by the Sandy Land Development Code and Utah Code.
5. Therefore, the Planning Commission's decision was correct in its decision and application of the Land Development Code.

Planner:



Melissa Anderson  
Zoning Administrator

References

The record of the Planning Commission meetings is accessible at <https://sandyutah.legistar.com> and includes all application materials, staff reports, meeting minutes, and meeting recordings. The links below provide direct reference to the meetings held related to this appeal:

1. Planning Commission meeting for [November 20, 2025](#)

Exhibits

- A. Appellant's Appeal and Application Materials
- B. Response Letter from Ivory Development, LLC
- C. Planning Commission Presentation on 11/20/2025
- D. Planning Commission Minutes 11/20/2025

File Name: S:\USERS\PLN\STAFFRPT\2025\BOA12122025-007094 - APPEAL FALLS CREEK SUB AND SPX\STAFF REPORT\STAFF REPORT - ALLEGED ERROR FALLS CREEK SUBDIVISION.FINAL.DOCX