

Administrative Hearing Staff Report

Meeting Date: June 5, 2019



FILE NUMBER/

PROJECT NAME: CUP-19-004

LOCATION: 2609 E. Oak Creek Dr., Cottonwood Heights, UT

REQUEST: Conditional use wall height extension to build an 8-foot fence along the east border of the property line.

OWNER: Mark Sullivan

APPLICANT: Mark Sullivan: 801-244-2834

STAFF CONTACT: Andy Hulka; 801-944-7065

RECOMMENDATION: APPROVE

APPLICANT'S PROPOSAL

This is a request for approval to construct an eight foot fence along the east border property line at 2609 E. Oak Creek Dr. The eight foot fence is proposed to act as a visual and sound barrier between the subject property and surrounding properties and traffic. The wall is currently in poor condition and in need of reconstruction.

BACKGROUND

Zoning

The zoning designation of the property is R-1-8 (Residential Single-family). Fences and walls may be allowed to a maximum height of eight feet in any zone as a conditional use, and up to 12 feet as a conditional use with neighbor consent, as outlined in section 19.76.050.E.

E. Fences.

1. No fence, wall or hedge shall be erected to a height which exceeds four feet in the required front yard and six feet in the side yards and/or rear yard. Fencing to a maximum height of eight feet may be allowed for side and/or rear yards as a conditional use upon a clear and convincing showing by the property owner:

(a) Of unique or special circumstances of a material, adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and

(b) That erection of such a fence is the most reasonable solution under the circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

(d) "Neighbor consent" means that all neighbors abutting the proposed wall/fence will be required to provide written consent for retaining wall/fence height above eight feet up to 12 feet.

3. *Conditional use. Fences in the side and rear yards may be erected to the maximum height of eight feet as a conditional use upon a clear and convincing showing by the property owner in accordance with subsections (a) and (b) below:*

(a) The existence of unique or special circumstances of a natural material and adverse nature relating to the property that will be substantially minimized or eliminated by the increased height of the requested fence; and

(b) That erection of such a fence is most reasonable solution under the most reasonable circumstances. Any such conditional use permit may be granted by the director or his designee following an administrative hearing preceded by all required notifications. A building permit shall be required for all fences approved as a conditional use.

4. *Neighbor consent. Side and rear yard fences may exceed eight feet in height to a maximum height of 12 feet in cases where the applicant has neighbor consent, and has received conditional use approval in accordance with subsection 19.76.050(E)(3).*

Staff Analysis: The proposed wall height extension meets the above requirements, as found in the zoning ordinance. Violation of any of these requirements may lead to revocation of any conditional use permit and/or business license on the property.

Nuisance Analysis

The reason the applicant is requesting the wall height extension is to keep out traffic noise, light, and increase privacy from surrounding properties. The presence of a nearby traffic calming device along Oak Creek Rd. suggests traffic is of enough volume to warrant a taller fence.

IMPACT ANALYSIS

Attachments:

1. Conditions of Approval & Findings
2. Context Aerial

CONDITIONS OF APPROVAL

1. The applicant must complete necessary steps to obtain a building permit.

FINDINGS FOR APPROVAL

1. There is clear and convincing evidence shown by the property owner of a unique or special circumstance relating to noise and privacy issues on the property that will be substantially minimized or eliminated by the increase of the requested wall; (19.76.050.E.1.a)
2. That construction of such wall is the most reasonable solution under the circumstances. The additional fence height is necessary to ensure mitigation of noise impacts, as well as privacy issues.
3. The conditional use permit is granted by the director or his designee following an administrative hearing preceded by all required notifications. (19.76.050.E.1.b)

- The evidence presented with the proposed conditional use has been found to be in compliance with the requirements of section 19.84.080 (Conditional Uses – Determination) and section 19.76.050.E (Miscellaneous – Fences).

CONTEXT AERIAL



Existing Conditions

