

Midway City Council
16 November 2021
Regular Meeting

Swiss Creek PUD, Plat "A" /
Fifth Amendment



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: November 16, 2021

NAME OF PROJECT: Swiss Creek P.U.D. Plat A Third Amended

NAME OF APPLICANT: Rodan Lou and William Prather

AGENDA ITEM: Plat Amendment of Lot 1

LOCATION: 555 Mountain Springs Drive

ZONING DESIGNATION: R-1-15 zone

Rodan Lou and William Prather are requesting a Plat Amendment of the Swiss Creek PUD Plat “A” Third Amended. The applicant is proposing to add additional property to their parcel from an adjacent property, which is owned by the Homestead Group. The property is located at 555 Mountain Springs Drive in the R-1-15 zone.

BACKGROUND:

Rodan Lou and William Prather are proposing a plat amendment to Swiss Creek P.U.D. Plat A Third Amended. The parcel is located at 555 Mountain Springs Road in the R-1-15 zone. The purpose of the proposal is to adjust a common boundary line between this parcel and the parcel to the north, which is owned by the Homestead Group, so that the existing driveway and landscaping are within the updated parcel boundary. If approved, the current 29,007 square foot parcel would increase in size by approximately 1,267 square feet.

The Swiss Creek PUD plat was originally recorded on May 10, 1995. The original plat included one single family lot (44,604 SF) and thirteen attached units, all fronting onto a private road. The plat has undergone four previous plat amendments. I’ve outlined those adjustments below:

- 1st Amendment – 8/1/1996 - Deck area added to back of attached units, limited common added for attached units driveways, units are staggered
- 2nd Amendment – 8/21/2002 - Layout of attached units 1-9 modified. Unit 10 is eliminated.
- 3rd Amendment – 1/22/2007 - Single family lot split into two single family lots.
- 4th Amendment – 11/7/2019 – Attached units 1-6 are removed and become three detached single family lots.

ANALYSIS:

For the Land Use Authority to approve a plat amendment Utah State Code dictates that the Land Use Authority consider the petition in a public meeting. The City Council should consider if the proposal is in the best interest of the community and if the petition matches the vision of Midway as described in the General Plan. While there could be an argument made that increasing the parcel size does help limit density, the biggest advantage to the amendment is that it remedy's an existing encroachment concern without significant harm to the property rights of the adjacent parcel, which is a benefit to both property owners.

A plat amendment is a legislative item and the City Council is not obligated to allow any changes even if they feel that the applicant met the requirements of the Code. Subsection 9a-608(5)(a) states “a land use authority may consider at a public meeting an owner’s petition to vacate or amend a subdivision plat if the petition seeks to:

- (iii) adjust the lot lines of adjoining lots or parcels if the fee owners of each of the adjoining lots or parcels join in the petition, regardless of whether the lots or parcels are located in the same subdivision;

With that being said, a lot line adjustment is an administrative action, according to state law, as long as both properties comply with the land use ordinance. Utah law states that “owners of record of adjacent parcels...may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b). Utah Code 10-9a-608(5)(a). Subsection (5)(b) states that “the land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.”

No public street, right-of-way, easement will be vacated or altered. A public utility easement that runs along the shared lot line should be expanded so that it includes the area that is being brought into the plat. That way if there are any utilities in the existing easement, the easement will stay in place.

PROPOSED FINDINGS:

- Regarding acreage, Swiss Creek lot one is currently conforming to the code and will continue to do so if the amendment is approved.

- The property that is being exchanged comes from an undeveloped parcel owned by the Homestead Group. Because the parcel is undeveloped, no property rights are being harmed by the reduction of the property.
- An existing encroachment issue from a private driveway and landscaping would be resolved
- State law allows the adjustment of a lot line regardless of whether the lots are located in the same subdivision
- State law requires a land use authority to approve a lot line adjustment if the exchange will not result in a violation of any land use ordinance
- State law states a plat amendment may be considered by the land use authority at a public meeting
- No public street, right-of-way, or easement will be vacated or altered
- The duration of a plat amendment approval shall be for one year from the date of approval of the amendment by the City Council. Should the amended plat not be recorded by the County Recorder within the one-year period of time, the plat amendment's approval shall be voided, and approval must be re-obtained, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extends the time limit for recording, with or without conditions. Such conditions may include, but are not limited to, provisions requiring that: (a) each extension will be for a one-year period only, after which time an annual review must be requested by the applicant and presented before the City Council; and/or (b) no more than three one-year extensions will be allowed. The granting or denying of any extension, with or without conditions, is within the sole discretion of the City Council, and an applicant has no right to receive such an extension.

ALTERNATIVE ACTIONS:

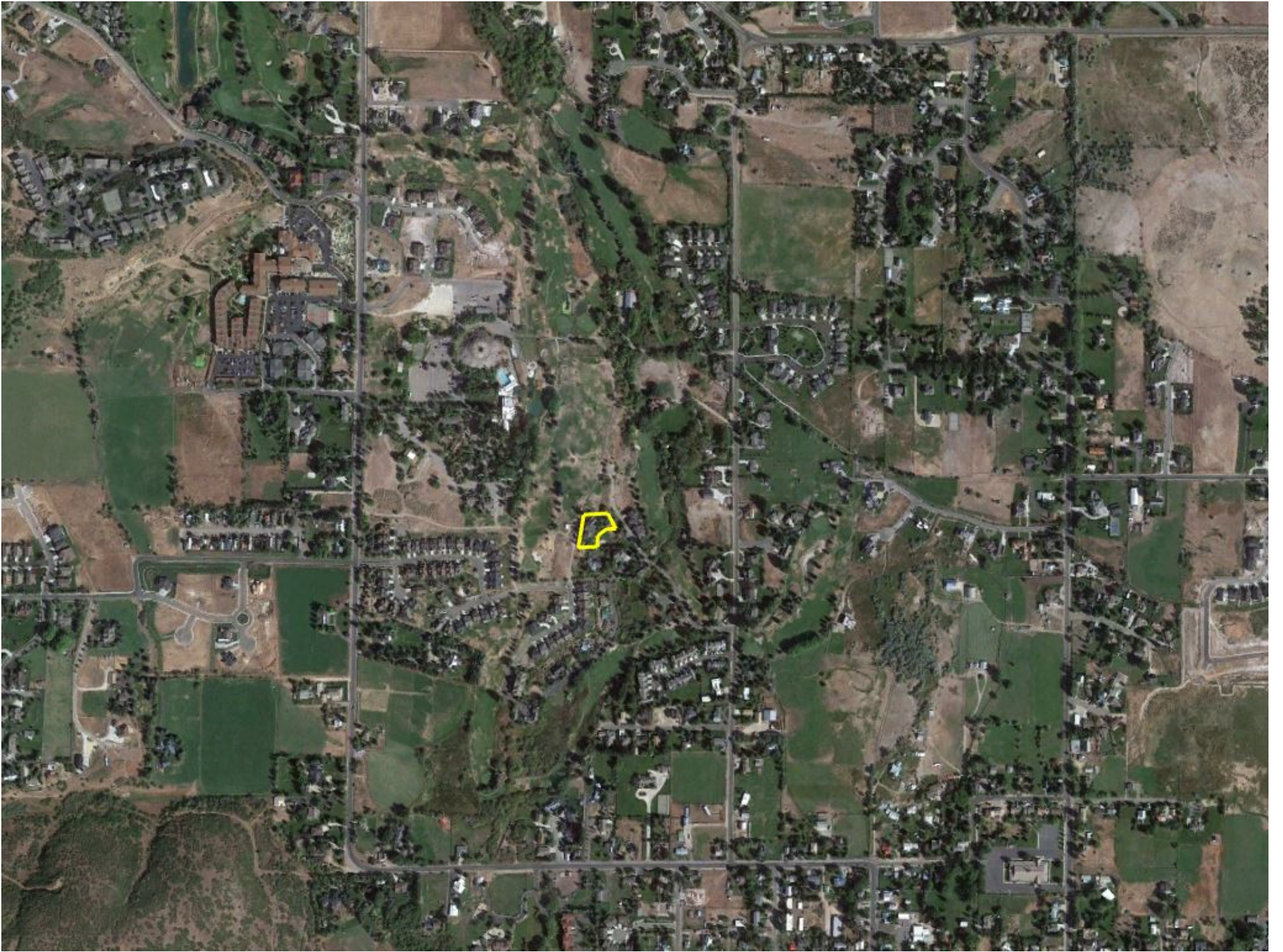
1. Approval (conditional). This action can be taken if the City Council finds there is good cause to approve the proposal.
 - a. Accept staff report
 - b. Reasons for approval (findings)
 - c. Place condition(s) if needed
2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.

- a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again

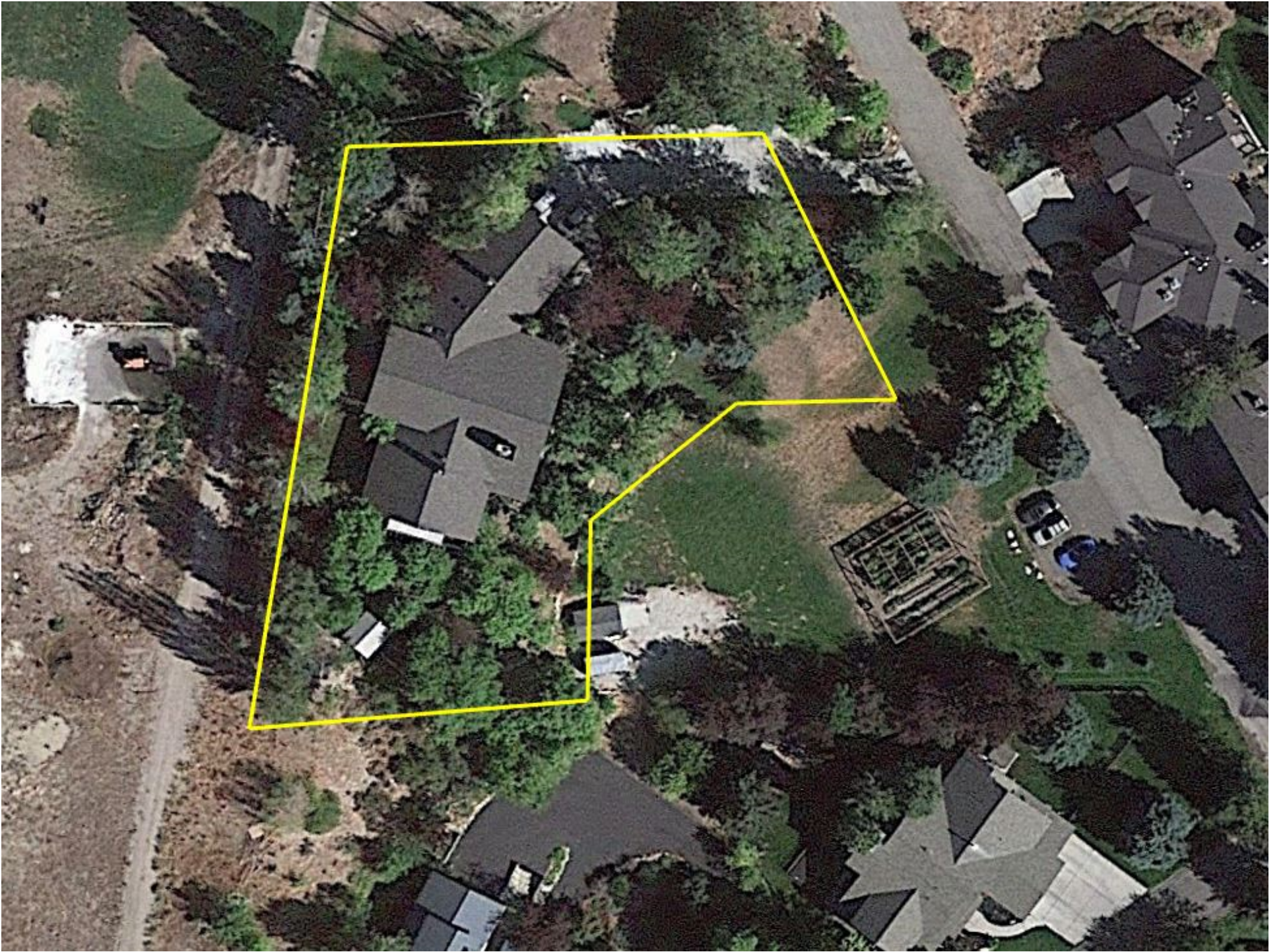
3. Denial. This action can be taken if the City Council finds that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

CONDITIONS:

- None







Exhibits

Exhibit 1 – Existing Plat

Exhibit 2 – Proposed Plat

Exhibit 1

Exhibit 2

