

1. Mayor's Meeting

Millcreek Mayor's Meeting Agenda

PUBLIC NOTICE is hereby given that the Mayor of Millcreek will hold a meeting on Monday, 21 June 2021 at City Hall, 3330 S. 1300 E., Millcreek, Utah 84106, commencing at 8:30 a.m.

8:30 a.m. - MEETING:

1. Discussion and Consideration of EX-21-001, Sidewalk Exception For a New Single-Family Dwelling to be Built at 3817 S. Parkview Drive Subject to a Deferral Agreement by Applicant Miles Maynes
2. Adjourn

In accordance with the Americans with Disabilities Act, Millcreek will make reasonable accommodation for participation in the meeting. Individuals may request assistance by contacting the ADA Coordinator, 801-214-2751, at least 48 hours in advance of the meeting.

THE UNDERSIGNED DULY APPOINTED CITY RECORDER FOR THE MUNICIPALITY OF MILLCREEK HEREBY CERTIFIES THAT A COPY OF THE FOREGOING NOTICE WAS EMAILED OR POSTED TO:

City Offices City Website Utah Public Notice Website
Those Listed on the Agenda <http://millcreek.us>
<http://pmn.utah.gov>

DATE: June 7, 2021

CITY RECORDER: Elyse Sullivan

Documents:

[MAYOR 6-21-21 AGENDA.PDF](#)
[EX-21-001 STAFF REPORT_UPDATED.PDF](#)



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3330 South 1300 East
Millcreek, UT 84106
801-214-2700
millcreek.us

File # EX-21-001

Planning Commission Staff Report

Meeting Date: 19 May 2021
Applicant: Miles Maynes
Property Address: 3817 S Parkview Drive

Parcel ID: 16363270430000

Zone: R-1-15 zone

Community Council: Mount Olympus Community Council

Prepared By: Naba Faizi, Planner

SYNOPSIS AND SCOPE OF DECISION

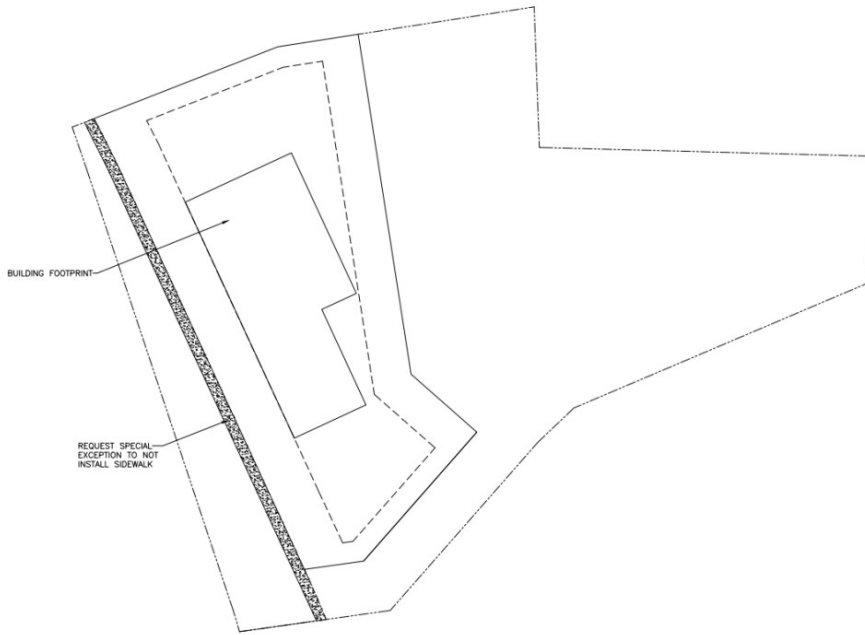
Part 1 – Sidewalk exception request

The applicant is seeking a special to exception to not install sidewalk for a new single-family residential project located at 3817 S Parkview Drive. The Millcreek Code requires “**All public and private curb ramp, ramp and sidewalk development located within the city subject to the jurisdiction of the city shall meet the requirements of this chapter**” (19.76.210) The Millcreek Code requires these improvements for all development, it is understood by Millcreek staff that the installation of all improvements at the time the development occurs is not necessary. In some cases, the installation of certain improvements and modifications can create adverse effects and drainage complications. Residents do reserve the right to apply for an exception to the code in cases where unusual topographical, aesthetic, or other exceptional conditions or circumstances exist. (19.76.210 item C)

SITE VICINITY AND DESCRIPTION

Zoning Map 3817 S Parkview Drive





PROPOSED SITE PLAN

OF CONCERN/PROPOSED MITIGATION

ISSUES

The applicant follows the City's development standards for building on residential lots.

Staff finds that although the addition of sidewalk is not necessary at this time of development, staff is recommending that a **deferral agreement** between Millcreek and the property owner be recorded and placed against the subject property that runs with the land in perpetuity. The recorded deferral agreement places the responsibility on the property owner that when the installation of sidewalk becomes required, the owner of the property will be responsible for the costs of the sidewalk improvements and related costs.

NEIGHBORHOOD RESPONSE

Property owners within a 300' radius were sent notices. Staff has not received any questions or concerns from residents.

COMMUNITY COUNCIL RESPONSE

The Mt Olympus Community Council voted unanimously to recommend approval of the sidewalk exception with a deferral agreement approved by the city.

REVIEWING AGENCIES RESPONSE

Compliance with current building, construction, engineering, fire, health, landscape and safety standards will be verified prior to final approval. All technical review requirements associated with final approval must be met including any public improvements required by Millcreek Engineering.

Millcreek's Public Works director has already reviewed the proposal and offered a positive recommendation. See attached documents.

PLANNING STAFF ANALYSIS AND FINDINGS

Due to sidewalks being mostly absent from Parkview Drive and other streets within proximity of the home, a sidewalk exception request is being requested and is seeking a favorable recommendation from the Millcreek Planning Commission. Staff finds that the requested sidewalk exception is in harmony with the character of the surrounding neighborhood.

Staff recommends approval of the proposed sidewalk exception request based on the following findings:

1. Due to sidewalks being mostly absent from Parkview Drive and other streets within close proximity, Millcreek Engineering has stated that there are no plans to enforce sidewalk for the subject lot at this time, but is likely to happen in the future and find that the improvements can be solidified by a deferral agreement recorded to the property. By granting the proposed exception, the property owner can enjoy a similar substantial property right possessed by other property owners in the neighborhood.
2. Staff finds that by granting the sidewalk exception, the property owner will not be faced with installing improvements that may create adverse impacts not compatible with the neighborhood.
3. Staff finds that granting this exception does not create a substantial detriment to the public good, because the majority of the streets in the neighborhood do not have sidewalks.
4. Staff finds that granting this exception would not substantially impair the intent and purpose of the Title 19 code and R-1-15 Zone. And the requirements of the development agreement for ZM-18-001 entry number 12750543 can be met.

PLANNING STAFF RECOMMENDATION

Staff recommends approval, in the following motions:

- A. Recommendation to approve the proposed sidewalk exception request accompanied with a recorded deferral agreement.** The Planning Commission recommends to the Mayor approval of the sidewalk exception, based on the following findings:

1. Due to sidewalks being mostly absent from Hale Drive and other streets within close proximity. Millcreek Engineering has stated that there are no plans to enforce sidewalk for the subject lot at this time, but may happen in the future and find that the improvements can be solidified by a deferral agreement recorded to the property. By granting the proposed exception, the property owner can enjoy a similar substantial property right possessed by other property owners in the neighborhood.
2. Staff finds that by granting the sidewalk exception, the property owner will not be faced with installing improvements that may create adverse impacts not compatible with the neighborhood.
3. Staff finds that granting this exception does not create a substantial detriment to the public good, because the majority of the streets in the neighborhood do not have sidewalks.
4. Staff finds that granting this exception would not substantially impair the intent and purpose of the subdivision code, because all other subdivision and R-1-15 Zone requirements can be met and the requirements of the development agreement for ZM-18-001 entry number 12750543 can be met.

SUPPORTING DOCUMENTS

1. Proposed Site Plan
2. Public Works Director Recommendation

POST PLANNING COMMISSION

Planning Commission was held on May 19th 2021. The Planning Commission recommended approval only if the conditions below can be met.

A deferral agreement between Millcreek and the property owner be recorded and placed against the subject property that runs with the land in perpetuity. The recorded deferral agreement places the responsibility on the property owner that when the installation of sidewalk becomes required, the owner of the property will be responsible for the costs of the sidewalk improvements and related costs.

Staff recommends approval of the proposed sidewalk exception request based of the following findings:

1. Due to sidewalks being mostly absent from Parkview Drive and other streets within close proximity, Millcreek Engineering has stated that there are no plans to enforce sidewalk for the subject lot at this time, but is likely to happen in the future and find that the improvements can be solidified by a deferral agreement recorded to the property.
2. Staff finds that by granting the sidewalk exception, the property owner will not be faced with installing improvements that may create adverse impacts not compatible with the neighborhood.
3. Staff finds that granting this exception does not create a substantial detriment to the public good, because the majority of the streets in the neighborhood do not have sidewalks.
4. Staff finds that granting this exception would not substantially impair the intent and purpose of the Title 19 code and R-1-15 Zone. And the requirements of the development agreement for ZM-18-001 entry number 12750543 can be met.

The meeting minutes are as follows:

1.3 Consideration of EX-21-001, Request for a Special Exception for a Sidewalk Location: 3817 S. Parkview Drive Applicants: Brynn Thomas and Miles Maynes Planner: Naba Faizi

Naba Faizi said the existing lot was empty and in the R-1-15 zone. The intent of the application was to build a single-family home and the applicant was requesting a sidewalk exception subject to a deferral agreement. The lot is located on Parkview Drive which currently has no sidewalks on any adjacent properties. She said the lot was rezoned from R-1-21 to R-1-15 in 2018 under ZM-18-001. At that time, there were recommendations for any future home built on the lot (Lot 1) as follows:

- Max height of home will be 30 feet above natural grade.
- The home on the lot shall comply with Building Envelope requirements of RCOZ 19.71.030 (B)(6) of the Millcreek code.
- The home shall face Parkview Drive with a minimum 30-foot setback from, the property line to the proposed home.
- The max. lot coverage shall not exceed 28% as per 19.71.060 (C) of the Millcreek code.

Faizi showed the Commission the subdivision plat, which had Lot 1 mislabeled as Lot 2. Faizi reported that the Mt. Olympus Community Council and the Millcreek Public Works Director provided positive recommendations to approve the exception. Faizi said staff found that although the addition of sidewalk was not necessary at this time of development, that a deferral agreement between Millcreek and the property owner should be recorded against the subject property that runs with the

land in perpetuity. The recorded deferral agreement places the responsibility on the property owner that when the

installation of sidewalk becomes required, the owner of the property would be responsible for the costs of the sidewalk improvements and related costs. She recommended approval of the exception with a deferral agreement subject to the following findings:

- Due to sidewalks being mostly absent from Parkview Drive and other streets within close proximity, Millcreek Engineering has stated that there are no plans to enforce sidewalk for the subject lot at this time but is likely to happen in the future and find that the improvements can be solidified by File # EX-21-001 Page 6 of 6 deferral agreement recorded to the property. By granting the proposed exception, the property owner can enjoy a similar substantial property right possessed by other property owners in the neighborhood.
- Staff finds that by granting the sidewalk exception, the property owner will not be faced with installing improvements that may create adverse impacts not compatible with the neighborhood.
- Staff finds that granting this exception does not create a substantial detriment to the public good, because the majority of the streets in the neighborhood do not have sidewalks.
- Staff finds that granting this exception would not substantially impair the intent and purpose of the Title 19 code and R-1-15 Zone. And the requirements of the development agreement for ZM-18-001 entry number 12750543 can be met.

Applicant – Brynn Thomas Maynes thanked Faizi and the Commission.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Commissioner Cianflone asked if the exception would change the setback requirement. Faizi said the front yard setback would be 30 feet. Lilly said the sidewalk would be in the right-of-way and would not affect the setback. Commissioner Allen said he liked small pieces of sidewalks and felt the City would have a hard time enforcing agreements in the future. He said in the staff's recommendation he did not like the wording that requiring the sidewalk would be a substantial impairment on property rights possessed by property owners. He said if the City made the applicant build the sidewalk, property rights would be violated per that wording. Commissioner Reid pointed out that the sidewalk would be nice on that property given the location. Commissioner Wright did not feel a sidewalk was necessary in that neighborhood. Lilly said curb, gutter, and sidewalk could be installed by the City at any time and the property owner would be required to participate at that time. He said that sidewalk exceptions were rare. Commissioner Cianflone was in favor of having a sidewalk and asked what it would take for the City to install a sidewalk there. Lilly said there was not any pressure to install one on Parkview Drive. Chair LaMar asked if the property owner could contract with a company to install the sidewalk or if they would pay the City if/when sidewalk was installed on the street. Mayor Jeff Silvestrini said the property owner would pay for their portion as the City installed it. Commissioner Allen was not in favor of the exception. Commissioner Sieber said she did not like putting off the installation but was encouraged by the development agreement. John Brems requested that the deferral agreement be for 20 years, not in perpetuity, similar to other agreements. Commissioner Claerhout asked why agreements were not in perpetuity. Brems said it was a policy decision. Mayor Silvestrini said he had been signing them for 40 years because that is the term for the Record Marketable Title Act. Chair LaMar asked about a renewal. Brems recommended 40 years without a renewal. Commissioner Allen pointed out that the time period was not set in code and the Commission makes the recommendation to the Mayor who ultimately decides. Brems confirmed.

Commissioner Wright moved to recommend approval of the proposed sidewalk exception request accompanied with a recorded deferral agreement. The Planning Commission recommends to the Mayor approval of the sidewalk exception for the 40-year deferral with the four bullet point staff findings.

- **Due to sidewalks being mostly absent from Parkview Drive and other streets within close proximity, Millcreek Engineering has stated that there are no plans to enforce sidewalk for the subject lot at this time but is likely to happen in the future and find that the improvements can be solidified by File # EX-21-001 Page 6 of 6 deferral agreement recorded to the property. By granting the proposed exception, the property owner can enjoy a similar substantial property right possessed by other property owners in the neighborhood.**
- **Staff finds that by granting the sidewalk exception, the property owner will not be faced with installing improvements that may create adverse impacts not compatible with the neighborhood.**
- **Staff finds that granting this exception does not create a substantial detriment to the public good, because the majority of the streets in the neighborhood do not have sidewalks.**
- **Staff finds that granting this exception would not substantially impair the intent and purpose of the Title 19 code and R-1-15 Zone. And the requirements of the development agreement for ZM-18-001 entry number 12750543 can be met.**

Commissioner Stephens seconded. Commissioner Allen asked for counsel to look at the wording of the four bullet statements before final approval. John Brems agreed.

Chair LaMar called for the vote. Commissioners Wright, Stephens, Claerhout, Sieber, Larsen, Cianflone, and LaMar voted yes. Commissioners Reid and Allen voted no. The motion passed.

