

Meeting Body: Emigration Canyon Planning Commission

Meeting Date: June 27, 2024

Planner: Brian Tucker, Planning Manager

File Number: REZ2024-001197

Project Type:

- Re-Zone / Map Revision

Areas Affected: This re-zone would apply to the portion of parcel #16-01-200-005 currently zoned R-M.

Key Findings:

- Staff propose the elimination of the Residential Multi-Family (R-M) zoning district.
- In order to eliminate the Residential Multi-Family (R-M) zoning district, that zone must not be applied to any property within the jurisdiction.

Staff Recommendation: Staff recommends that the Commission make a recommendation to re-zone the subject parcel, consistent with the analysis presented herein.



GREATER SALT LAKE
**Municipal Services
District**

SUMMARY

The MSD Planning Staff are working with the Emigration Canyon Planning Commission to repeal and replace Emigration Canyon’s Zoning Ordinance. Only one small portion of one parcel is zoned Residential Multi-Family (R-M). This small portion does not have any residential use and is used for a parking lot, garbage and sewage facilities for adjacent commercial uses. Residential Multi-Family (R-M) uses are not envisioned to be part of the proposed ordinance. The R-M can only be eliminated if no parcels within the jurisdiction have that zone applied to them. Rezoning the property to Forestry Recreation (FR-20), the zone applied to the majority of the parcel would facilitate the elimination of the R-M zone from the proposed Emigration Canyon Zoning Ordinance.

ATTACHMENTS

The following attachments are included as supplementary materials to the end of this staff report:

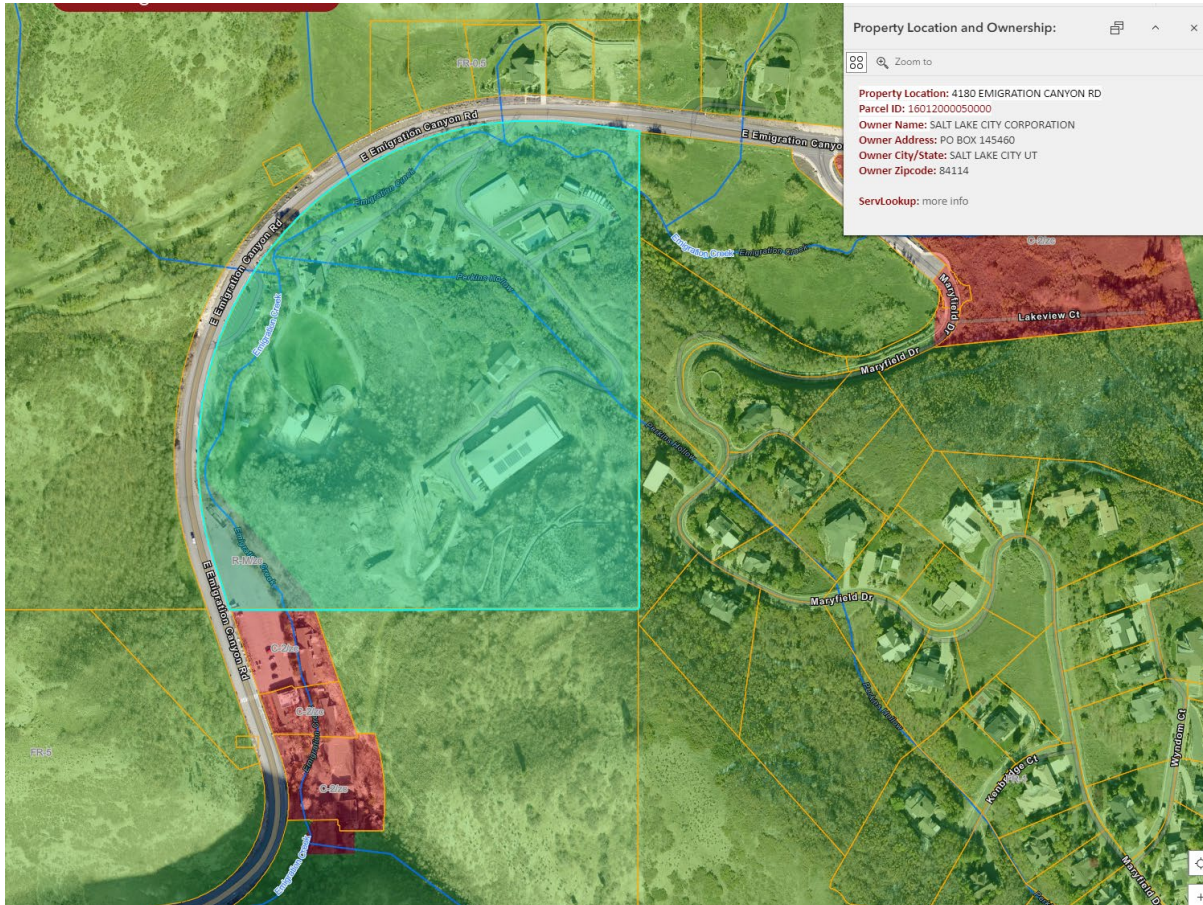
1. Emigration Canyon Code, Ch. 19.88 Nonconforming Uses and Noncomplying Structures.

BACKGROUND

The MSD Planning Staff are working with the Emigration Canyon Planning Commission to repeal and replace Emigration Canyon’s Zoning Ordinance. When it was incorporated, Emigration Canyon adopted a very slightly altered version of Salt Lake County’s Zoning Ordinance. Emigration Canyon. As part of this effort to repeal the existing ordinance and replace it with an ordinance built for Emigration Canyon, the City is evaluating which zones to keep, which zones to eliminate, and which zones to create in order to better serve the community and its long term vision.

Parcel #16-01-200-005, owned by Salt Lake City and located at approximately 4180 W Emigration Canyon Road, has two zones applied to it. The majority of the parcel, the 25.13 acres

occupied by Camp Kostopulos, is zoned Forestry Recreation (FR-20). A small portion of the property (0.88 acres), part of the parking lot adjacent to Emigration Brewery, is zoned Residential Multi-Family (R-M). This small portion of the subject parcel is the only property in Emigration Canyon zoned R-M.



PROPOSED MAP AMENDMENT

The Planning Staff and Planning Commission have discussed eliminating the R-M zone from the proposed zoning ordinance, which is only possible if the R-M Zone is not applied to any property in the City. The R-M zone was applied to this property only to accommodate the parking, trash and sewage needs for the adjacent commercial establishments. These uses are established and would become legal, nonconforming uses. In Emigration Canyon, a legal, nonconforming use can be maintained, and a noncomplying structure can be enlarged and even moved under certain circumstances.

These nonconforming parking, garbage and sewage facilities are not intended to stay nonconforming in the long term. As part of the repeal and replace effort, the Staff and Planning Commission have been reviewing a proposed Parks and Recreation zone and Public Facilities and Institution zones. In the long term Staff would propose that the entire Camp K parcel be rezoned to either the Parks and Recreation or Public Facilities and Institution zones. As those don't exist in the current ordinance, this proposed FR-20 rezone is an interim step to eliminate the R-M zone.

Any future zone change would be subject to the legislative process and the public hearings and meetings associated with that process.

STAFF ANALYSIS

General Plan Guidance:

The Emigration Canyon General Plan, adopted in 2022, is supportive of this rezone. The subject parcel is part of the Main Canyon Corridor Character Area. The vision for this area includes preserving the commercial area adjacent to the subject parcel and Camp Kostopulos. The implementation strategies include preserving the unique canyon ecosystem and scenery and supporting land use and development patterns that incorporate nature scale and use into the built environment and increase public awareness and responsibility toward the natural environment.

The current Residential Multi-Family (R-M) is not an appropriate zone for this area given the vision and strategies in the General Plan. Multi-Family residential development is not part of the heritage or existing development pattern in the canyon. The proposed Forestry Recreation (FR-20) zone is a much more appropriate zone for this area.

Potential Zone Analysis:

The proposed rezone will not affect the operations and future vision of Camp Kostopulos. The rezone will not hamper Salt Lake City's use of the property as the owner of a parcel that has been used for decades as an active recreational use of an open space area. The commercial uses will not be hampered because the existing parking, garbage, and sewage uses will be allowed to continue as they are and have been.

Notice:

Notice has been given in accordance with Utah Code 10-9a-205. Notice was mailed to each affected entity, each property owner within the potential rezone area and each property owner within 300' at least 10 calendar days before the public hearing. Notice was posted on the Utah Public Notice Website.

Review Procedure and Criteria:

The Emigration Canyon Council is the land use authority for zoning map amendments. The Council cannot amend the zoning map without first submitting the amendment to the Emigration Canyon Planning Commission for the Planning Commission's recommendation. The Planning Commission must hold a public hearing and review and recommend an action to the Council. The Council must then hold a public meeting after which they may adopt, adopt with revisions, or reject the zoning map amendment recommended by the Planning Commission.

A rezone can be approved if it is reasonably debatable that the decision could promote the public welfare. It is not necessary to show that the decision actually promotes the public welfare, or is the best alternative, as long as it is reasonably debatable that the public could benefit from the

decision. Similarly, a rezone can be denied if it is reasonably debatable that the decision could detrimentally impact the public welfare.

This rezone is being initiated by the Staff, not by the landowner. Salt Lake City and Camp Kostopulos have both been notified of the proposed rezone. The MSD Staff held a meeting with Salt Lake City Public Works and Camp K to discuss the proposed rezone. Both entities will have the opportunity to present at the public hearing if they choose. Where the property owners did not request the rezone, they may file a written protest no later than 10 days after the day of the first public hearing. The written protest does not preclude the Council from rezoning the property.

STAFF RECOMMENDATION

Based on the above review and analysis, staff finds that:

1. MSD Planning Staff and Planning Commission have discussed the need for Multi-Family zoning in Emigration Canyon and have reached a consensus that this type of zoning is not appropriate for the canyon.
2. MSD Planning Staff and Planning Commission propose the elimination of the Residential Multi-Family (R-M) zoning district.
3. In order to eliminate the Residential Multi-Family (R-M) zoning district, that zone must not be applied to any property within the jurisdiction.
4. The one parcel zoned Residential Multi-Family (R-M) is owned by a Salt Lake City.
5. The City has not indicated any interest in using the subject parcel for any use other than those that exist.
6. The Forestry Recreation (FR-20) zone is supported by the General Plan for this area.

Therefore MSD Planning Staff recommend that the subject parcel be rezoned to Forestry Recreation (FR-20).

POTENTIAL PLANNING COMMISSION ACTIONS

The Planning Commission's role in the rezoning process is to provide a recommendation to the Emigration Canyon Council. After taking public comment at the hearing, the Planning Commission could take any of the following actions, among others:

- Option 1. Recommend approval of the rezone to Forestry Recreation (FR-20).
- Option 2. Recommend that the Council not rezone the property, leaving the property in the Residential Multi-Family (R-M) zone.
- Option 3. Table the matter, requesting more information from the Planning Staff.

Chapter 19.88 NONCONFORMING USES AND NONCOMPLYING STRUCTURES*

[19.88.010 Continuation Of Use](#)

[19.88.020 Occupation Within One Year](#)

[19.88.030 Maintenance Permitted](#)

[19.88.040 Repairs And Alterations Permitted](#)

[19.88.050 Addition Of Parking Space](#)

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[19.88.110 Restoration Of Damaged Structure](#)

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[19.88.140 Application To Have A Use Violation Declared Legal Through Special Exception](#)

[19.88.150 Application To Have A Structure Declared A Noncomplying Structure](#)

19.88.010 Continuation Of Use

The occupancy of a noncomplying structure or of a building or structure by a nonconforming use, existing at the time this title became effective, may be continued, provided that the use has not been abandoned or the building left vacant as provided in Section 19.88.120.

(Ord. 1627 § 10 (part), 2008: prior code § 22-4-7)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.020 Occupation Within One Year

A vacant building or structure may be occupied by a use for which the building or structure was designed or intended if so occupied within a period of one year after the use became nonconforming.

(Prior code § 22-4-8)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.030 Maintenance Permitted

A noncomplying structure may be maintained.

(Ord. 1627 § 10 (part), 2008: prior code § 22-4-1)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.040 Repairs And Alterations Permitted

Repairs and structural alterations may be made to a noncomplying structure or to a structure housing a nonconforming use. Any remodel or structural alteration that requires the demolition of an outside wall of a noncomplying structure shall only be allowed upon approval of the land use hearing officer, unless the new construction complies with the zoning ordinance. The land use hearing officer decision regarding applications for the removal and replacement of outside walls of a noncomplying structure shall be based upon the criteria outlined in Section 19.88.070(B).

(Ord. No. 1758, § XVI, 9-24-2013; Ord. 1627 § 10 (part), 2008: prior code § 22-4-2)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.050 Addition Of Parking Space

A building or structure lacking sufficient automobile parking space in connection therewith as required by this title may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this title for such alteration or enlargement.

(Prior code § 22-4-4)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.060 Expansion Of Use Permitted

A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming.

(Prior code § 22-4-10)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.070 Additions, Enlargements, Moving And Reconstruction Of A Structure

- A. A noncomplying structure or building occupied by a nonconforming use shall not be added to or enlarged in any manner or moved to another location on the lot or reconstructed at another location on the lot except as provided by subsection B of this section unless such additions and enlargements comply with the regulations and intent of this title.
- B. A building occupied by a nonconforming use or a noncomplying structure may be added to or enlarged or moved to a new location on the lot or reconstructed at a new location on the lot upon a permit authorized by the land use hearing officer, provided that the land use hearing officer shall find:
 1. The addition to, enlargement of, moving of, or reconstruction of the structure at a new location on the lot is in harmony with one or more of the purposes of this title as stated in Section 19.02.020 of this title, and is in keeping with the intent of this title;
 2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the nonconforming use or structure.

(Ord. No. 1758, § XVI, 9-24-2013; Ord. 1627 § 10 (part), 2008; Ord. 1296 § 3, 1995; prior code § 22-4-3)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.080 Nonconforming Use Of Land

The nonconforming use of land, existing at the time this title became effective, may be continued provided that no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property, and provided that if such nonconforming use of land, or any portion thereof, is abandoned or changed for a period of one year or more, any future use of such land shall be in conformity with the provision of this title.

(Prior code § 22-4-11)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.090 Change Of Use

- A. A nonconforming use may be changed to any use allowed in the most restrictive zone where such nonconforming use is allowed, provided the planning commission finds that such use would not be more intensive than the most recent existing legal nonconforming use.
- B. Structures shall not be enlarged, removed, reconstructed or otherwise changed except for interior remodeling and exterior restoration or renewal that will make the appearance of the structure more nearly conform to the character of the area in which it is located.
- C. The existing lot or parcel shall not be enlarged upon or modified except to create landscaping, fencing, curb, gutter and sidewalk, road widening or minimum off-street parking that will provide a safer and more compatible facility.
- D. Any change of a nonconforming use to another nonconforming use shall be a conditional use and subject to provisions of Chapters 19.78 and 19.84, except that the proposed nonconforming use need not conform to the Metro Township general plan.
- E. The planning commission may approve a change of use pursuant to this title even though the nonconforming use may have been abandoned.

(Ord. 1627 § 10 (part), 2008: Ord. 1473 (part), 2001: prior code § 22-4-9)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.110 Restoration Of Damaged Structure

A noncomplying structure or a structure occupied by a nonconforming use which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy and not the result of the intentional or reckless disregard of the owners or occupants, may be restored and the occupancy or use of such structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed, provided that such restoration is started within a period of one year and is diligently prosecuted to completion.

(Ord. 1627 § 10 (part), 2008: prior code § 22-4-5)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.120 Abandonment Or One-Year Vacancy

A structure or portion thereof occupied by a nonconforming use, which is, or hereafter becomes, vacant and remains unoccupied by a nonconforming use for a continuous period of one year, except for dwellings, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. If the use has not applied to the premises for a consecutive period of sixty days during any twelve-month period, the use shall be deemed abandoned.

(Ord. 1627 § 10 (part), 2008: prior code § 22-4-6)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.140 Application To Have A Use Violation Declared Legal Through Special Exception

- A. Whenever land or a structure is used in violation of this title, the owner may file an application with the planning commission to have the use declared legal through special exception. The planning commission may approve such an application only when the evidence establishes all of the following:
 - 1. The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding ten years;

2. No complaint has been made to the development services division concerning the violation for a period exceeding ten consecutive years during which the violation existed;
3. Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.

B. The planning commission may consider as evidence:

1. Documents that are part of the public record, such as tax appraisals, utility records, aerial photographs, building permits, etc.
2. Documentation from third parties, such as affidavits, photographs, etc.
3. Documentation from current or past property owners, such as tax records, rental/lease agreements, appraisal records, etc.

In approving an application hereunder, the planning commission may set any conditions it deems necessary for protection of adjacent properties or the public welfare including provisions limiting the period of time the use may continue. This section shall in no way be interpreted to permit the continuation of any violation which exists on the effective date of the ordinance codified in this section. Any person shall have the right to appeal to the land use hearing officer a decision rendered by the planning commission pursuant to this section. Appellants shall follow the appeal procedures set forth in Section 19.92.050 of this title.

(Ord. No. 1758, § XVI, 9-24-2013; Ord. 1627, § 10 (part), 2008; Ord. 1473 (part), 2001; Ord. 1199, §§ 2, 3, 1992)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

19.88.150 Application To Have A Structure Declared A Noncomplying Structure

Whenever a structure is in violation of the height or setback provisions of this title, the owner may file an application with the director or director's designee to have the structure declared noncomplying. The director or director's designee shall approve the application when the evidence clearly establishes the following:

- A. The structure has existed at its current location, with the same size, height and setbacks for at least ten years;
- B. The structure is found by the Metro Township building official or designee to pose no threat to the health or safety of persons in or around the structure, and;
- C. Emigration Canyon Metro Township has not taken enforcement action for the violation for a period exceeding five consecutive years during which the violation existed.

(Ord. 1627 § 11, 2008)

HISTORY

Adopted by Ord. [18-06-02](#) on 6/28/2018

