



**Minutes of the
Millcreek Planning Commission
July 17, 2024
5:00 p.m.
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, July 17, 2024, at City Hall, located at 1330 E. Chambers Avenue, Millcreek, Utah 84106. The meeting was conducted electronically and live streamed via the City's website with an option for online public comment.

PRESENT:

Commissioners

Shawn LaMar, Chair
Victoria Reid, Vice Chair
Steven Anderson (left at 8:38pm)
David Hulsberg (absent)
Christian Larsen
Nils Per Lofgren (excused)
Diane Soule
Dwayne Vance
Ian Wright (excused)

City Staff

Elyse Sullivan, City Recorder
Francis Lilly, Planning & Zoning Director
John Brems, City Attorney
Kurt Hansen, Facilities Director
Robert May, Long Range Planning Manager
Carlos Estudillo, Planner

Attendees: Cyndy Heiner, Nola Chase, Steve Yeager, Marilyn Woodger, Micheline VanWagoner, Terry VanWagoner, Kelly Keate, Jason Boal, Brandon Wixom, Dale Bennett, Vickie Bennett, Sue Coia

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED – 5:02 p.m.

Chair LaMar called the meeting to order and read a statement describing the duties of the Planning Commission.

1. Public Hearings

1.1 Consideration of ZM-24-005, Request to Rezone from R-1-10 (Residential Single Family) to R-M (Residential Multi-family) to Allow for a 6-Unit Residential

Development Location: 4181 S 900 E Applicant: Dale Bennett Planner: Carlos Estudillo

Carlos Estudillo said the lot is 0.43 acres. The vicinity is composed of single-family dwellings, multifamily, and medium-density housing. He presented findings of historical zoning on the parcel. In 1979, 1988, and 1993 the lot was zoned R-2-10. In 2004, the zone was changed to R-1-10. The proposed project would consist of six townhome units capped at 35 feet in height. The footprint would be 24% of the site with 40% open space. Every unit would have a two-car garage and there would be three guest parking stalls. He presented the proposed site plan and renderings of the building. The General Plan identifies the property as Neighborhood 1, single family detached homes. The proposed use would be Neighborhood 2,

small multifamily. The proposal does meet some General Plan goals, Goal N-1 with strategy 1.5, Goal N-2 with strategy 1.4, and Goal N-6.

A neighborhood meeting was held on February 27, 2024. Sixteen people attended and expressed concern about property values, traffic, affordability, short term and long term rentals, low-income housing, and neighborhood safety. The Millcreek Community Council held a meeting on July 2, 2024. Seven residents attended and expressed concern with construction equipment blocking the road, property values dropping, and increased density. The community council voted to not recommend approval of the rezone.

Staff conclusions included:

1. A Multifamily residential use would NOT be in harmony with the current land use designation because the general plan designation for this lot is under "*Neighborhood 1*", which its primary intended use is accommodate single-family homes in low-density neighborhoods. This application would need a General Plan Amendment.
2. Additional research in neighborhood compatibility must be provided by the applicant to demonstrate compliance with the goals and strategies of the Millcreek General Plan.
3. The proposal will meet the requirements set forth in MKZ 19.44(Multi-family Residential zone), 19.77 (Landscape standards) and 19.80 (Parking and Mobility Standards).
4. A development agreement may best ensure the type, scale, style, materials, orientation, dedication, utilities easements, access, phasing, and other aspects pertaining to the future development of these properties, where the underlying zoning and land use ordinances may be insufficient; Therefore, a development agreement may be in place to ensure development design and layout of the property.
5. All development will be required to meet the minimum zoning and land use ordinances; to which the concept plan may likely evolve from what is currently presented for this rezone application.

Estudillo recommended a continuance of the application for the applicant to design a proposal that was better supported by the neighborhood and the General Plan. Commissioner Vance asked how many units would be allowed per the rezone. Estudillo said code would only permit density to 9 units, but there were other requirements that needed to be met such as open space and parking. Commissioner Reid asked about access to the property. Estudillo noted an access to the south was owned and used by Salt Lake County.

Brandom Wixom, partner to the applicant, studied the property uses from 3900 S to 4500 S on 900 E. which he identified as 16 commercial, 266 multifamily, 12 single family, 22 duplex/triplex, and 2 other/county park, with 318 total addresses. Only 3.8% were single family homes. He showed a video and pictures of the surrounding properties. He asked the commission if a single family home or more middle affordable housing was better for the city. His findings were that 900 E is a major transportation corridor with bus stops (one of which was within a few feet of the subject property), the historical zoning allowed the subject property to have a higher density, the county real estate official says that it is in their long term plan to make a preserve park with walking trails and potentially a bike path that would help connect east/west, and the property is in close proximity to shopping and retail. He said the state (600,000 new residents by 2065) and city (8,000 new residents between 2017-2040) were expecting more growth in the coming years. He compared and contrasted Neighborhoods 1, 2, and 3, and felt Neighborhood 1 did not make sense on the major

corridor. A traffic study was commissioned, and it concluded that the proposed development would have no impact on the traffic. He concluded that the proposal would attract an adaptive workforce who would use the easy public transportation access. The General Plan's goal is to document the vision and goals of city residents and businesses, and to guide the inevitable future growth and development into identified centers and along major transportation corridors, while protecting the essential character of the city's residential neighborhoods.

Chair LaMar opened the public hearing.

Sue Coia said there were 30 units in the Montana Vista (neighboring gated community) which was not captured in the applicant's presentation. She said a lot of mixed housing was going in on 900 E and adding more units would create more traffic and crime. The larger neighboring lot has six units on it, and it is too crowded.

Marilyn Woodger, Montana Vista, expressed concern about rentals, traffic, and spot zoning. She, a professional realtor, felt this would take away from her property value.

Micheline Vanwagoner noted the bus stop had been relocated to the south and was no longer in front of the subject property. She noted her neighbor's child was killed on 900 E. She worried about traffic, and the new bike path on the east side of the road. She pointed out that there was no parking allowed on 900 E so there would be no space for construction vehicles.

Vicki Bennett said Utah was charitable and these additional homes would help with needed housing.

Steve Yeager, Montana Vista, said the study conducted was on the west side of 900 E because the east side of 900 E was residential. He would like to see two single family homes on the subject property.

Dale Bennett said the applicant's study was of the east side of 900 E. He mentioned only one drive approach was proposed, instead of two, so that would help with the traffic impact. He felt the proposal would increase property values.

Nola Yeager (Chase) said building height did have an impact on the surrounding residences. The community council was against the proposal.

Chair LaMar closed the public hearing.

Estudillo said his recommendation was based on the findings before the applicant made his presentation. He noted a conditional use application would come before the commission. Commissioner Reid asked how far away Montana Estates was from the subject property. Estudillo showed the commission a map (couple properties to the south). He said these proposed units were comparable to those recently approved on the west side of 900 E. Commissioner Soule asked about market prices. Wixom did not know the exact price of the units but approximated \$450,000-650,000. Commissioner Larsen asked how the lot size compared to other projects on 900 E. Francis Lilly said it was smaller. Commissioner Soule asked if similar properties had been recently rezoned. Lilly confirmed, on Garden Avenue.

Commissioner Anderson felt infill townhomes fit on major corridors. He said there was a northern and southern buffer to the property. He pointed out that 900 E was widened to accommodate for more traffic. Commissioner Reid agreed and said the area had a mix of uses. She felt the bike lanes would provide better safety and visibility with no street parking. Commissioner Larsen agreed. He said 900 E was not a single family neighborhood and this type of housing was needed. He encouraged staff and the applicant to determine the appropriate number of units. Estudillo clarified the unit capacities for Neighborhood 1 and 2 in the General Plan. Commissioner Vance recommended a zone condition of a maximum of 6 units. He was not in favor of approving things contrary to the General Plan. John Brems pointed out a General Plan amendment was not listed as an action item on the agenda.

Chair LaMar said the rezone was not compatible with Neighborhood 1 and it felt like a spot zone. He felt like six units was tight for the property. Lilly said the proposal could be re-noticed with a Future Land Use map amendment at the next meeting. Commissioner Reid asked if the six units to the north were zoned R-1-10. Lilly noted the neighborhood was subject to a downzoning sometime between the late 90s and early 2004. In an earlier version of the Future Land Use Map, this neighborhood was originally designated as Neighborhood 2 but there was enough concern in the neighborhood to adjust it to Neighborhood 1. The six units to the north of the property were nonconforming. Commissioner Reid did not feel this rezone would be spot zoning. Commissioner Soule said the existing single family dwelling on the subject property was not helping the Montana Vista property values, improving the subject property would improve them. Commissioner Larsen said this was not an egregious case of spot zoning.

Commissioner Larsen moved to continue application file ZM-24-005 to a later date to allow the applicant and city staff to work out a design or density that would be better supported by the neighborhood and General Plan and/or amendments to the General Plan.

Commissioner Soule seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Anderson voted yes, Commissioner Larsen voted yes, Commissioner Reid voted yes, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

1.2 Consideration of ZM-24-008, Request to Rezone from A-1 and A-2 (Agricultural) to M (Manufacturing) Location: 4100 S 700 W Applicant: Jason Boal Planner: Carlos Estudillo

Estudillo said the lots were located at 650 W 4100 S, 640 W 4100 S, 4075 S 700 W, 4066 S 700 W, and 4058 S 700 W. The total site area is 8.17 acres, and the current use is manufacturing with a trucking and storage business. Properties surrounding the subject property consist of multi-family housing, agricultural, and manufacturing. Sunnyvale Park is located north of the subject property. There is inconsistent zoning on the lot, so the rezone proposal would bring the lot into the same M Zone. The subject property is within the Light Manufacturing land use designation which envisions neighborhoods comprised of, "A range of employment uses, including a wide range of commercial uses, small-scale manufacturing, light industrial, processing, wholesaling, flex space."

Estudillo said based on the findings listed within the staff report, the following conclusions could be made:

1. The Subject Property is within the “Light Manufacturing” land use designation, which complies with the vision of the Millcreek General Plan.
2. The property has been historically utilized for the following uses, including trucking and storage business, overnight rental and storage of truck, trailer, and automobile equipment, truck, trailer and automobile repair and warehousing. Continuing the uses envisioned by the Millcreek General Plan.
3. No development is currently proposed, as the application’s purpose is to consolidate the current zoning of the lot into one zone (Manufacturing zone).
4. In a future application, the Community Council will be considering the land swap/vacation of a portion of 700 W, along the property’s frontage, with the purpose of realigning the right-of-way to match existing improvements, through the dedication of the swapped land.

A neighborhood meeting was held on June 18, 2024, and three people attended voicing comments about not wanting multi-family development and had questions regarding a potential road extension of 700 W to 4170 S. The Millcreek Community Council, on July 2, 2024, voted to recommend approval of the proposed zoning consolidation as presented (7-2 vote). Estudillo recommended the commission recommend approval of the rezone.

Commissioner Larsen asked about the two objections in the community council. Estudillo said they felt if there is a rezone, it should be done to accommodate high density. They did not want to see the expansion of the manufacturing use. Commissioner Vance asked about the right-of-way boundary. Estudillo noted the GIS team was still figuring out the boundaries. He said the entire applicant’s property would be rezoned to M, though the map in the presentation did not illustrate it. Commissioner Reid said the property to the south of the park did not have to be zoned M. Staff said it made sense to rezone the property to make it conform with the existing use.

Jason Boal, representing the new property owner, said the intent was to continue utilizing the existing use. The 700 W right-of-way vacation and rezone would go to the city council at the same time so there would not be carry over agricultural zoning. He said the city park was surrounded by industrial uses but there were grade changes between the properties.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

John Brems noted that he had not reviewed the application yet for the rezone or vacation. Boal said a vacation application had been submitted to the city a month prior. Commissioner Vance recommended rezoning the entirety of the parcel. Commissioner Reid preferred to keep property next to the park as agriculture for potential of future housing.

Commissioner Vance moved that the Planning Commission recommend approval of application file number ZM-24-008 as presented provided that that includes the entirety of the property owned by the applicant. Commissioner Anderson seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Anderson voted yes,

Commissioner Larsen voted yes, Commissioner Reid voted no, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed.

The commission took a break from 6:44-6:57pm.

**1.3 Consideration of ZT-24-010, Amending Code 19.76.190 Regarding Building Heights
Planner: Robert May**

Robert May said the objective was to consolidate everything building height related into one code chapter. The proposed changes include consolidations to the Height Limitations/Exceptions sections with the “Height of Building” definition, clarification to the definition of “Building Height” for when original grade is not readily apparent, revised non-residential use projections to be consistent with the City Center Overlay Zone, updated template changes integrating with other updated codes, and an improved illustration clarifying where original grade is measured. He showed the proposed language determining elevation of original grade when original ground surface was not readily apparent. He said the height limitation was the same as the City Center Overlay Zone. Features, not habitable space, could increase the height by no more than 14 feet. Other cities did 8 feet, 14 feet, no limit, or distinguished between elevator/stairway (16 feet) and mechanical equipment and parapet wall (5 feet) allowances. The Mt. Olympus Community Council, the Millcreek Community Council, and the East Mill Creek Community Council unanimously recommended approval. The Canyon Rim Citizens Association did not provide a collective response on the proposed code.

The commission briefly discussed buildings with less than one story, essentially basement houses. Chair LaMar asked if rooftop decks were habitable spaces. May said if it can be occupied.

Chair LaMar opened the public hearing.

Elyse Sullivan read an online comment provided by Kathy Blake, Woodland Avenue. “My comment is about building height exceptions for non-residential buildings. It seems pointless to me to define building height limitations only to allow exceptions where equipment on top of the building can exceed the height limit. I understand that non-residential buildings often have equipment on the roof that is necessary to run utilities/mechanicals inside the building (cooling systems, elevators, etc) but why does that equipment get exempted from the height limitation? If we are aiming for a particular aesthetic in an area of the city by limiting building height that limitation should **include** whatever rooftop equipment/mechanicals are part of the building plan.”

Chair LaMar closed the public hearing.

Chair LaMar wondered about limiting features to, for instance, only 40% of the square foot area of the building so there was not a parapet wall around the entire perimeter. May said a lot of it is design features. Lilly said rooftop features could impact the allowable stories. He said the tradeoffs needed to be balanced. The commission discussed possible height allowance restrictions on features, limiting to 14 feet. Anything more than 14 feet would need a variance. May said mechanical and parapet walls could be limited to five feet.

Commissioner Anderson moved to recommend ZT-24-010, regarding building heights, be approved as proposed by staff with the exception that the height is 14 feet for stairway and elevator and 5 feet for parapet walls and mechanical equipment. Commissioner Reid seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Anderson voted yes, Commissioner Larsen voted yes, Commissioner Reid voted yes, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

1.4 Consideration of ZT-24-011, Amending Code 19.76.080 Regarding Lots and Buildings on Private Rights-of-Way Planner: Robert May

May noted this chapter was completely rewritten. He reviewed the proposed changes. The proposal exchanged “Right of Way” with “Street or Lane,” added a table distinguishing between existing and new private streets or lane requirements, exchanges minimum lot area of one-half acre to the minimum area of the zone, included standards for when certain requirements must be met, and updated template changes integrating with other updated codes. He showed the commission a map of the city highlighting private lanes or streets. He wanted criteria for existing and new private roads, so he presented a table showing the requirements.

Chair LaMar asked if winding roads were considered a private lane or a driveway. May said anything that is being serviced off the public right-of-way serving more than one home is a private road. He said a driveway could not serve a driveway. Public works and emergency services have minimum standards. Chair LaMar wondered if there could be an exception for long driveways. Commissioner Soule said new ones should meet standards for emergency services. May reported the community councils did not have feedback and recommended approval of the application.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Chair LaMar, regarding ZT-24-001, Amending Code 19.76.080 Regarding Lots and Buildings on Private Rights-of-Way, moved to recommend approval to the city council as presented by staff based on the findings in the staff report with the recommendation that staff consider looking at reasonable options for a narrower road for new development if it makes sense to staff/if there is a compatible option to have a narrower road and staff can decide what that minimum width could be. Commissioner Reid seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Anderson voted yes, Larsen voted yes, Commissioner Reid voted yes, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

1.6 Consideration of ZT-24-013, New Code Proposal Regarding Professional Studies and Plans for Land Use Developments Planner: Robert May

May said through current code, studies were required for mostly large scale developments that have the most impact. They are usually required when obtaining conditional use permits to mitigate, through standards of approval, any detrimental effects. The proposed code would

describe the scope, limitations, and boundaries for the use of professional studies. These are meant for developments impactful on the city's quality of life through infrastructure and resources. For traffic studies, he wanted to use the UDOT standards. He presented the UDOT traffic study parameter guidelines and tables for when traffic studies were required. Chair LaMar asked about drive throughs and the half acre threshold. May said all drive throughs would have a traffic study. Chair LaMar asked if there were new studies, or just code defining when they were triggered. May said when they are triggered. The possible studies included traffic impact, shade, photometric, parking and mobility, sign illuminance, noise, circulation and access plan, operations, and rehabilitation and containment. Commissioner Soule appreciated checklists in the code, the UDOT standards, and the opportunity for the city to use discretion. Commissioner Vance recommended the city has the discretion to relieve the requirement, not require it.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Commissioner Anderson clarified that no other UDOT standards were being adopted, just the traffic study standards. May confirmed.

Chair LaMar, regarding ZT-24-013, moved to recommend approval to the city council based on items in the staff report and the presentation Robert gave to removing the half acre requirement for drive throughs. Commissioner Soule seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Anderson voted yes, Commissioner Larsen voted yes, Commissioner Reid voted yes, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

1.5 Consideration of ZT-24-012, New Code Proposal Regarding Affordable Housing Incentives Planner: Robert May

May said the main trigger for the proposed chapter was the 2019 and 2024 housing reports showing there is a deficit of affordable housing. The main goal is to incentivize affordable and diverse housing types. He thought this could help with low density affordable housing on the east side of the city. The second trigger is the Moderate Income Housing Report. There are implementation actions within the housing report that Millcreek needs to make progress on. In 2022, Millcreek adopted nine moderate income housing strategies with implementation actions. There is a timeline within that for the city to meet and make/report progress on. The city gets state priority funding when showing progress on those. The city met six strategies the prior year. He felt the proposed code was a good start in achieving compliance with the housing report. The incentives included density bonus, increased building elevation, open space reduction, ground floor commercial requirements waived, development fee waiver, streamlined application process, and parking reduction. He explained the rationale for each and showed the commission maps of the city highlighting the various zones these incentives would apply towards.

Commissioner Vance said an enforcement mechanism he had seen was a right of repurchase at a set amount. Chair LaMar asked about the density bonus for parking. May noted

additional units due to the increase in density shall meet the off-street parking requirements. Commissioner Vance asked about organizations that advocate for affordable housing across jurisdictions or if it was up to the individual municipalities. May said the Division of Workforce Services, Utah Housing Community Development, monitors the moderate income housing program.

May said the Millcreek Community Council recommended approval of the ordinance but struggled with some of the deficit numbers in the housing report. They felt it was inflated. Commissioner Reid expressed concern for 100% affordable housing buildings and preferred mixed affordability. People that are low income might not have a car, but they need the open space. She was worried about a massive building with the lowest income. May said the 100% affordable ones need the most help, they need the incentives, though the mixed housing ones diffuse the stigma. Commissioner Soule expressed the importance of open space. Commissioner Anderson felt the open space could be reduced. May suggested proximity to a park could be a reason to reduce open space. Commissioner Anderson said maybe the developer could help to develop the nearby parks. Commissioner Anderson left the meeting.

Commissioner Soule suggested incentives for land donations. She suggested incentivizing low income housing such as tiny home villages. Commissioner Larsen did not support incentivizing tiny home villages as it is the least efficient way to develop affordable housing or housing in general. Chair LaMar questioned the 50% density bonus and concluded it did not mean a 50% larger building since there were still other limitations on height, etc.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Commissioner Larsen moved to recommend file # ZT-24-012 as proposed by staff with the additional following conditions: including the right of repurchase enforcement, revising the open space reductions within proximity to a park, and incentivizing mixed income levels rather than entirely 100% low income/deeply affordable income. Commissioner Reid seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Reid voted yes, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

2. Commission Business

2.1 Approval of June 19, 2024 Regular Meeting Minutes

Chair LaMar moved to approve the June 2024 minutes. Commissioner Vance seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Reid voted yes, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

2.2 Updates from the Planning and Zoning Director

Francis Lilly said at the next meeting the commission would see more code updates. The final comprehensive update should wrap up in the fall. He announced the joint city council

and planning commission meeting on July 29th for the village center phase II project [on Wasatch Boulevard].

3. Calendar of Upcoming Meetings

- City Council Mtg. 7/22/24 7:00 p.m.
- City Council and Planning Commission Special Mtg. 7/29/24 5:00 p.m.
- East Mill Creek Community Council Mtg., 8/1/24, 7:00 p.m.
- Mt. Olympus Community Council Mtg., 8/5/24, 6:00 p.m.
- Millcreek Community Council Mtg., 8/6/24, 6:30 p.m.
- Canyon Rim Citizens Association Mtg., 8/7/24, 6:30 p.m.
- Historic Preservation Commission Mtg., 8/8/24, 6:00 p.m.
- City Council Mtg. 8/12/24 7:00 p.m.
- Planning Commission Mtg., 8/21/24, 5:00 p.m.

ADJOURNED: Commissioner Reid moved to adjourn the meeting at 8:57 p.m. Commissioner Vance seconded. Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Reid voted yes, Commissioner Soule voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

APPROVED:


Shawn LaMar, Chair

Date

8/21/2024

Attest:


Elyse Sullivan, Recorder