



**Minutes of the
Millcreek City Council
October 14, 2024
7:00 p.m.
Regular Meeting**

The City Council of Millcreek, Utah, met in a regular public meeting on October 14, 2024, at City Hall, located at 1330 E. Chambers Avenue, Millcreek, UT 84106. The meeting was recorded for the City's website and had an option for online public comment.

PRESENT:

Council Members

Jeff Silvestrini, Mayor
Silvia Catten, District 1
Thom DeSirant, District 2
Cheri Jackson, District 3
Bev Uipi, District 4

City Staff

John Brems, City Attorney
Elyse Sullivan, City Recorder
Kurt Hansen, Facilities Director
Carlos Estudillo, Planner
Sean Murray, Planner
Rita Lund, Communications Director

Attendees: Chief Petty-Brown, Rick Hansen, Kenzie Olson, Brandon Wixom, Dale Bennett, Jacob Richardson, Chief Jason Mazuran, Ron Lillie

REGULAR MEETING – 7:00 p.m.

TIME COMMENCED: 7:02 p.m.

1. Welcome, Introduction and Preliminary Matters

1.1 Pledge of Allegiance

Mayor Silvestrini called the meeting to order and led the pledge of allegiance.

1.2 Public Comment

Unified Police Department Chief Mazuran appreciated Millcreek's hospitality. He reported that things have gone well with the reorganization of UPD. He commended Millcreek Precinct Chief Petty-Brown.

Council Member Catten moved to move Business Matter 3.2 to just before the Planning Matters. Council Member DeSirant seconded. Mayor Silvestrini called for the vote. Council Member Catten voted yes, Council Member DeSirant voted yes, Council Member Jackson voted yes, Council Member Uipi voted yes, and Mayor Silvestrini voted yes. The motion passed unanimously.

3.2 Discussion and Consideration of Resolution 24-23, Approving an Appointment to the Planning Commission

Mayor Silvestrini said there was a vacancy on the Planning Commission, so applications were accepted to fill the position. He was happy to recommend Jacob Richardson from Council District 1. Richardson said he had served for about a year on the Millcreek Community Council.

Council Member DeSirant moved to approve Resolution 24-23, Approving an Appointment to the Planning Commission. Council Member Catten seconded. The Recorder called for the vote. Council Member Catten voted yes, Council Member DeSirant voted yes, Council Member Jackson voted yes, Council Member Uipi voted yes, and Mayor Silvestrini voted yes. The motion passed unanimously.

2. Planning Matters

2.1 Discussion and Consideration of Ordinance 24-48, Rezoning Certain Property Located at Approximately 877 E 4500 S, 4430-4438 S 900 E, 851 E 4500 S, 4402-4410 S 900 E, 814 E Williams Way, 739 E Williams Way # X from the C-2/ZC (Commercial 2 / Zone Condition) to C-2 (Commercial 2)

Mayor Silvestrini said this rezone would remove a zone condition on these properties which would not affect other C-2 properties in the city. Some of the conditions were no longer valuable or necessary. The mayor acknowledged a first reading of the item occurred at the council's last meeting. Sean Murray noted the zone condition was implemented in the 1980's by the county when the area was redeveloping for a lower intensity commercial use. Removing the zone condition would clean up the zoning and allow other small businesses into the existing building spaces. Mayor Silvestrini asked for public comment. There was none.

Council Member Jackson moved to adopt Ordinance 24-48, rezoning certain properties identified. Council Member DeSirant seconded. The Recorder called for the vote. Council Member Catten voted yes, Council Member DeSirant voted yes, Council Member Jackson voted yes, Council Member Uipi voted yes, and Mayor Silvestrini voted yes. The motion passed unanimously.

2.2 Discussion and Consideration of Ordinance 24-49, Rezoning 0.43 Acres of Real Property Located at Approximately 4181 South 900 East from the Residential (R-1-10) Zone to the Multifamily Residential (R-M) Zone and Imposing a Zone Condition Limiting the Property to 5 Residential Units

Mayor Silvestrini said a first reading of the item had taken place at a prior council meeting. Carlos Estudillo highlighted changes from the last proposal the council reviewed. The proposal included five townhome units that were larger than the initially proposed six townhome units. There would be an additional guest parking stall and more open space. He showed the council the building elevations. Based on the feedback in the neighborhood, community council, planning commission, and city council meetings, staff prepared a development agreement to accompany the rezone. The items addressed in the agreement included use and density, ownership, height, setbacks, parking, materials, right-of-way improvements, street improvements, and a restrictive-use agreement. Staff recommended approval of the rezone and development agreement as presented.

Council Member Jackson asked about, "an owner-occupied unit owned by an entity that is occupied by an individual who: has voting rights under the entity's organizing

documents; and has a 25% or greater share of ownership, control, and right to profits and losses of the entity..." from the restrictive use agreement. Mayor Silvestrini said the purpose was to make sure the occupant owned at least 25% of the property so that it could not be owned by a corporate entity unless the occupant was a large shareholder.

Mayor Silvestrini noted the council had received an email from the applicant for an appeal to increase the density back to the six unit proposal as it provided another housing unit for the public and an appeal on a constitutional basis for someone to use their property as they see fit. Brandon Wixom, applicant, felt the developers followed the city's code and met the requirements for the project but the project changed due to public comments. He said one parking stall would not make a difference in comparison to having an additional housing unit. He did not feel allowing only five units was the best choice. He felt there were constitutional rights being imposed upon by restricting what the owner could do with the property as far as rentals. The developers did not want to sell the units to one entity.

Mayor Silvestrini asked for public comment.

Ron Lillie, a neighbor across 900 E, felt the neighborhood could support five units with more parking provided that the agreement is kept. The neighbors did not want rental units.

Mayor Silvestrini noted he missed the first reading of the application. The Millcreek Community Council and Planning Commission recommended denial of the application. The commission did not want to go against the General Plan, which recommends Neighborhood 1 in this area. Neighborhood 2 would support the proposed project. The mayor noted he understood property rights, but pointed out the applicant was asking the council to approve a project in excess of the single-family zoning of the area, so he felt it was okay to impose conditions for the increased density. He said he had always recognized the housing shortage and the council has been bold about trying to increase the housing stock in the city. It was in the city's interest to promote home ownership. The request to approve additional density that is out of character for the neighborhood plan is within the council's discretion and they could insist upon home ownership for the development. It was not unreasonable to approve the compromise that was reached with the neighborhood in reducing the density to five units. He would not vote to approve the application over the recommended denial of the community council and planning commission unless homeownership was guaranteed. This could be accomplished through a restrictive agreement and CC&Rs. He noted the CC&Rs could be amended in the future and that was concerning. The city is making a compromise on density for the homeownership. He insisted upon a deed restriction on the property in addition to the CC&Rs. Council Member Jackson asked who enforced the restrictions. Mayor Silvestrini said the city could enforce the deed restriction.

Council Member DeSirant asked if every owner occupied housing approved by the council would also have a restrictive use agreement. Mayor Silvestrini said no, it would only apply to this project because this project was being considered on its own merits. Council Member DeSirant asked if a precedent was being set. Mayor Silvestrini said it depends on the density that is being required and what the circumstances are; other

projects may not have the impediments that this one has, violating the Future Land Use Map and General Plan. Council Member Catten asked what the objective was and felt the proposal was unfair. She asked about the Lotus Calla project on 900 E. Brad Sanderson said the rezone for that development had a deed restriction that allowed a portion of owner-occupied units within the rental project. Council Member Catten asked why the Millcreek Community Council recommended denial. Estudillo said there was concern for construction blocking roads, property values dropping, rentals, and parking. The commission recommended denial because it was spot zoning and went against the General Plan. They felt a holistic approach was needed for amending the General Plan in the area. Council Member Catten felt the council needed to figure out whether the area should be Neighborhood 1 or 2. She expressed concern over the restriction on rentals as she takes property owner rights very seriously. Council Member Jackson said there was an assumption that people would buy the property to rent it, but that was unknown.

Council Member Uipi asked the applicant about the sales price. Wixom anticipated about \$650,000 per unit. Council Member Uipi asked about restricting room rentals or removing the owner-occupancy requirement. Mayor Silvestrini said owners could rent rooms if it was still owner occupied. He wanted to avoid full rentals and only allow owner-occupancy. John Brems said a deed restriction and CC&Rs would be the best way to restrict rentals.

Council Member Jackson asked the applicant if there was concern about having the restriction on the property. Wixom said he would not want to own something he could not rent. He felt it was government overstepping to restrict renters without federal funding involved, it would violate the Fair Housing Act. The mayor said restricting rentals is not discriminatory on the basis of any protection in the Fair Housing Act. The applicant was requesting density in excess of what the zone would allow. The council was giving the applicant the parameters of what they would approve for a zone change but the applicant did not have to agree and therefore not build the project. Council Member Catten asked if the restrictions could be lifted in the future if the General Plan changed to a greater future land use. Mayor Silvestrini said the council could lift restrictions in the future. He then recommended a continuance of the application to work with the developer on a deed restriction.

Council Member Uipi asked Lillie what he would like to see as a neighboring property owner. Lillie felt like the mayor's opinion on the matter was good. The neighborhood did not want to see rentals or overflow parking. Their concern was with density.

Council Member Uipi moved to continue items 2.2, Ordinance 24-49, and 2.3, Ordinance 24-50.

Council Member Catten asked what the deed restriction and CC&Rs would look like. Brems said he could craft them how the council wanted. Council Member Jackson asked what the mayor wanted to see with a continuance. Mayor Silvestrini said a deed restriction that would ensure owner occupancy on the property. Council Member DeSirant was not opposed to the deed restriction if it was something the council would continue using. He said property having a similar deed restriction would not have prevented him from buying it when he was searching. He did not feel removing an entire unit to gain one parking stall was a benefit. Council Member

Catten felt 5-6 units was negligible, but if the neighbors felt parking was the true issue, then one stall could make a difference.

Dale Bennett, subject property owner, expressed concern about the economy going down and needing to rent the units. The mayor said the city might consider a hardship in the future. Wixom asked if half of the units could be deed restricted. The mayor did not want to do that. Council Member Jackson felt adding a hardship clause to the deed restriction was reasonable.

Council Member Catten seconded. Mayor Silvestrini called for the vote. Council Member Catten voted yes, Council Member DeSirant voted yes, Council Member Jackson voted yes, Council Member Uipi voted yes, and Mayor Silvestrini voted yes. The motion passed unanimously.

2.3 Discussion and Consideration of Ordinance 24-50, Approving a Development Agreement Concerning 0.43 Acres of Real Property Located at Approximately 4181 South 900 East

Item continued.

3. Business Matters

3.1 Discussion and Consideration of Resolution 24-22, Approving a Third Amended Interlocal Cooperative Agreement with Salt Lake County for Public Works Services

Mayor Silvestrini said this added the additional \$500,000 for pavement preservation the council approved in this year's budget since it was not in the original contract.

Council Member Jackson moved to adopt Resolution 24-22, Approving a Third Amended Interlocal Cooperative Agreement with Salt Lake County for Public Works Services.

Council Member Uipi seconded. The Recorder called for the vote. Council Member Catten voted yes, Council Member DeSirant voted yes, Council Member Jackson voted yes, Council Member Uipi voted yes, and Mayor Silvestrini voted yes. The motion passed unanimously.

4. Reports

4.1 Mayor's Report

The mayor reported the city celebrated Indigenous People's Day that day at Millcreek Common. He said the city could celebrate Christopher Columbus as a bold explorer, too.

4.2 City Council Member Reports

Council Member Catten reported attending Millfreaks. Council Member Jackson reported using the Grandview of City Hall as a resident.

4.3 Staff Reports

Elyse Sullivan asked the council to send her records for the records request (GRAMA) she emailed them earlier in the day.

5. Consent Agenda

5.1 Approval of September 9, 2024 Work Meeting and Regular Meeting Minutes

Council Member Catten moved to approve the minutes from the September 9th meetings. Council Member Uipi seconded. Mayor Silvestrini called for the vote. Council Member

Catten voted yes, Council Member DeSirant voted yes, Council Member Jackson voted yes, Council Member Uipi voted yes, and Mayor Silvestrini voted yes. The motion passed unanimously.

6. New Items for Subsequent Consideration

There were none.

7. Calendar of Upcoming Meetings

- Planning Commission Mtg. 10/16/24 5:00 p.m.
- City Council Mtg. 10/28/24 7:00 p.m.

ADJOURNED: Council Member Uipi moved to adjourn the meeting at 8:25 p.m. Council Member Jackson seconded. Mayor Silvestrini called for the vote. Council Member Catten voted yes, Council Member DeSirant voted yes, Council Member Jackson voted yes, Council Member Uipi voted yes, and Mayor Silvestrini voted yes. The motion passed unanimously.

APPROVED:  Date 10-28-2024
Jeff Silvestrini, Mayor

Attest: 
Elyse Sullivan, Recorder