



**Minutes of the
Millcreek Planning Commission
November 25, 2019
5:00 p.m.
Special Meeting**

The Planning Commission of Millcreek, Utah, met in a special public meeting on Monday, November 25, 2019 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106.

PRESENT:

Commissioners

Fred Healey, Chair (absent)
Tom Stephens, Vice Chair
David Allen (absent)
Russ Booth
Scott Claerhout (absent)
Shawn LaMar
Mark Mumford
Victoria Reid
Skye Sieber

City Staff

Francis Lilly, Planning and Zoning Director
Alexander Wendt, Deputy Recorder
Kurt Hansen, Legislative Policy Director

Attendees: Mayor Jeff Silvestrini, Council Member Dwight Marchant, John Janson, Marv Poulson, D. Wenzel, and Jake Christensen.

Minutes by Alexander Wendt.

SPECIAL MEETING – 5:00 p.m.

TIME COMMENCED: 5:02 p.m.

Vice Chair Tom Stephens called the meeting to order.

1. Continuing Business

**1.1 Consideration of ZT-19-003, Adoption of the City Center Overlay Zone Planner:
Francis Lilly.**

Francis Lilly explained that the purpose of the meeting was for reviewing the Planning Commission's draft for the City Center Overlay Zone. He said the City was creating a code compliance checklist for every building type contemplating in the code. In the CCOZ there will be a required site plan review whether the proposed building is part of a conditional use permit or not. The required fee will be \$455 and there will be a review process. Staff will review the application item by item from the City Code. This form will be required to be filled out by developers. Mr. Lilly believed this would ensure all obligations and requirements would be met. Then the document would be presented to the Planning Commission.

Mr. Lilly edited the proposed ordinance section on commercial recreation by adding language from City Code that it did not include temporary and seasonal licenses or large scale events as defined in Title 5 of City Code. Vice Chair Stephens stated that if the commercial recreation definition is all risk and all is allowed except for items that are excluded, that perhaps the definition should say commercial recreation does not preclude seasonal and temporary licenses.

Mr. Lilly explained staff would do a 13-item checklist on development plans even if the use was a permitted use. He suggested that a conditional use permit shall be required for any building that meets any of the following criteria, “a total square footage greater than 25,000 square feet, and or, a ground floor footprint greater than 15,000 square feet, and or, a height greater than 36 feet, not including any element described as a height exception in Table 19.73-4.”

John Janson asked the Planning Commission if the height requirement should be lowered. Any application that comes in that triggers any one of the criteria would require a conditional use permit. Commissioner Reid asked how developers would react to the conditional use process. Mr. Janson replied that the development community does not usually like the conditional use process, however, development was not as discretionary as it once was. Largely, the decision would be left up to the City. Mr. Lilly stated that the public and stakeholders expect a public process. Mr. Lilly said that a larger building with larger parking demand and multiple uses should have a conditional use. Commissioner Reid said she did not want to make the requirements too stringent.

Commissioner LaMar asked about detrimental effects and the wording of “that may need to be addressed.” Commissioner LaMar said the wording was not strong enough since the problem would need to be solved not just addressed. Mr. Lilly stated he would make an addition that if staff notes a detrimental effect then it will need to be mitigated or resolved.

Mr. Lilly asked if the Commission was fine with the conditional use thresholds for height and size. Commissioner LaMar said he would prefer the thresholds be lowered. Vice Chair Stephens asked for the sentiment of the Planning Commissioners and asked why the relevant language was duplicated in the draft. Mr. Janson stated it was there to make the requirements very clear. Mr. Lilly said the section is designed to show how to make an application. Vice Chair Stephens asked to review the categories by district. Vice Chair Stephens then asked if the requirement for a maximum 2,500 square foot limit on building size in the neighborhood district was too small. Mr. Janson replied that it applies to a small office in a building. The intent for a neighborhood district is more residential. Mr. Lilly explained that neighborhood retail has a limit of 5,000 square feet of space. Commissioner LaMar asked about size of offices. Mr. Lilly explained this is by use. Commissioner LaMar clarified asking if an individual had a storefront and a call center then the call center would have to go elsewhere if it was 5,000 square feet. Vice Chair Stephens asked if the 2,500 feet is aggregate or only for ground floor use. Mr. Janson replied that the square footage limits are based on the proposed use. Vice Chair Stephens would prefer to increase the 2,500 square foot limit. Mr. Janson stated the intent is to keep the space small in a neighborhood district. Mr. Lilly responded that in the C-1 zone 5,000 square feet is the limit. Commissioner Booth thought some might slip through. Mr. Lilly said that any office use would have to be limited to 2,500 square feet. Mr. Janson stated the City is trying to encourage the larger offices to Mill Center or

Marketplace. Vice Chair Stephens said he then thought moving back to 2,500 square feet was preferable.

Commissioner Mumford asked for a definition of non-stealth telecommunication facilities. Mr. Lilly explained that those are older style cell towers that are not designed to be styled to look like something else. Commissioner Mumford asked if Millcreek would want to develop their own communication system at a future date. Mr. Lilly said it would need to be behind a parapet or be screened in some way if the City moved to that point.

Mr. Lilly moved to page 6, concerning residential uses. Residential uses are permitted by district and within the building types specified in section 19.73.050 (14) except that mixed use buildings located within 300 feet of the northwest corner of Highland Drive on 3300 South and northeast corner of 1300 East and 3300 South. Property owners would prefer 250 feet. Mr. Lilly explained that if you are 250 feet from a corner then no more than 25% of the building could be used for residential uses. Mr. Lilly explained concerning rooftop gardens that they will not be, "allowed within 100 feet of a R-1 or R-2 zone boundary in the Neighborhood or Market Place districts, unless the rooftop garden, patio or amenity space is not located above the highest occupied floor of a building, or is obstructed from view from the zone boundary by at least 20 feet of occupied floor space." John Janson stated that the surrounding zonings to these areas were not often a R-1 or R-2.

Commissioner Reid asked if there were code requirements for parking structures due to safety concerns and restricted visibility. Mr. Janson stated there were no ordinances in Millcreek about parking structures and lighting or visibility. Commissioner Reid said it was a safety concern, however, if the structures were well lit with clear elevators then they would be safer. Mr. Lilly replied that there was an idea called crime prevention through environmental design. There are four principles within this school of thought; natural surveillance, natural access control through limited and obvious points of entrance and exist, territorial reinforcement by creating safe spaces by eliminating blind corners, and finally maintenance. The City can incorporate these ideas in the conditional use ordinance. Commissioner Sieber stated that parking garages in downtown Salt Lake City were brighter due to brighter colors. Mr. Lilly said the City would have a major parking garage at some point. Commissioner LaMar asked if the parking structure could be underneath the common area. Mr. Lilly replied any parking garage was subject to fault line requirements.

Mr. Lilly said building heights were still a concern. Vice Chair Stephens said the Commission could make a sub-recommendation to the City Council that height should not exceed 50 feet at Tuxedo Junction. Mr. Lilly explained that the challenge was in height transitions and proximity to view corridors in residential areas. Mr. Lilly said that development in the area was the end-goal and leaving the height the same would limit new development. Mr. Janson and Commissioner Mumford agreed that the area would be a gateway to Millcreek. Vice Chair Stephens asked if the Commission would recommend the Tuxedo Junction area to not exceed 50 feet. Commissioner LaMar said that 50 feet was better than 74 feet. Commissioner LaMar asked if the height of a 48-foot minimum could be reduced to a smaller amount for the 48-74 feet area. Commissioner LaMar worried about a canyon feel and a minimum of 40 feet instead of 48 feet could alleviate that. Vice Chair Stephens asked if a 50-foot maximum height was okay for Tuxedo Junction. Commissioner LaMar said making the minimum 40 or 36 feet was better since it did not force a potential

developer to the minimum of 48 feet. Mr. Lilly stated that the street was wide, there was 100 feet of right-of-way. Additionally, the setbacks are also larger. Commissioner Booth stated the setbacks and less than 50 feet of height may deter some development since developers will expect more square footage. Mr. Janson suggested adding another height category for the south side of 3300 S. Commissioner Reid disagreed and preferred to keep the height limits at 48-74 feet. Commissioner Booth said that many people would want the greater heights since it opens more potential for new building. Mr. Lilly said that the minimum height on the south side of 3300 S. would be 40 feet and he would change the map.

Mr. Lilly said that height restrictions would not allow structures except towers and solar panels and these cannot be located closer than 10 feet to the edge of the building. The building and fire code have rigorous standards about putting pools and other things next to the edge of a building. Mr. Lilly said there would have to be a 10-foot setback from the edge of the building. Commissioner LaMar worried about turning a 74-foot building into an 84-foot building. Mr. Lilly said that rooftop gardens, patios, and amenity space are, "not allowed within 100' feet of a R-1 or R-2 zone boundary in the Neighborhood or Market Place districts, unless the rooftop garden, patio or amenity space is not located above the highest occupied floor of a building, or is obstructed from view from the zone boundary by at least 20 feet of occupied floor space." Mr. Lilly explained if it's a 74-foot building that has a pool then there would have to be a wall constructed however, the wall would have to be ten feet away from the edge of the building. Vice Chair Stephens said the pool was not habitable space, it would be for recreation. Commissioner LaMar said that if people are using the space and it was not a mechanical part of the building then the building was too tall for the area. The mass of the building has therefore increased. Mr. Lilly said that if the building was setback 20 feet from the road and the amenities on the roof are set ten feet back you could not see them from ground level. Commissioner LaMar said that if a developer would like to put a pool on top of their building then they need to include the height of the safety wall in their plans and then bring the height of the building down to 74 feet to stay within the required height. Mr. Janson clarified that they wished to emphasize using the roof tops as small park spaces. Mr. Lilly stated that a roof-top garden was designed to give a view and was not perceived from the ground-floor. Vice Chair Stephens stated that these buildings would be subject to the conditional use site plan requirement.

Francis Lilly began a discussion on trees. Mr. Marv Poulson handed out a sheet to the Commission on recommended tree types. Commissioner Booth stated that the Commission could get bogged down discussing trees in depth at that time. Vice Chair Stephens asked if Mr. Poulson had more input on trees. Mr. Poulson replied that he had more to input. Commissioner LaMar suggested that the code should be more open regarding trees and experts should pick the trees later. Commissioner Reid said she advocated for a consistent look; however, she was still worried about disease wiping out the trees if they were the same type. Mr. Lilly stated there was a proposal for urban forestry policy looking at canopy requirements and how trees are maintained, the tree design should be consistent in a block by block basis. Commissioner Booth said that the process for determining trees should be deliberate and open to a public hearing. Mr. Janson stated there was a tree planting plan, however, the choice does not need to be made now. Mr. Lilly stated that the City can use wording saying to stakeholders planting trees must use a tree on the approved list. Commissioner LaMar agreed, this would give the City the opportunity to adopt a tree plan for certain blocks.

Mr. Lilly said that setbacks are for street facing facades and not the back of buildings. Vice Chair Stephens noted Russ Sorenson's application and how setbacks solve issues there. Mr. Janson said they added on page 23 a 2-foot variation for the back of buildings. Mr. Lilly went to page 10 for the wording on setbacks. Mr. Lilly quoted, "For any building over 40 feet in height or for any development on properties fronting on the Millcreek Common, 33rd South, Richmond and/or with frontage on Highland Drive, a twenty-foot setback of the building façade, facing the street, is required between bottom of the first story and the top of the third story and upper stories. This setback shall be segmented, such as, a ten foot initial setback between the first and second floors and then an additional ten foot setback between the second and third floors or shall create a setback of 20 feet between the first and third floors, that should be utilized as a usable space for residents or businesses within the building."

Vice Chair Stephens asked that if a building height over 40 feet would trigger the setback requirements. Mr. Lilly replied yes. Commissioner Reid said that if two buildings were back-to-back from each other than a setback was unnecessary. Vice Chair Stephens said the way it was worded then step backs would be required for a building over 40 feet on the street-side. Vice Chair Stephens clarified if the wording should be, "facing the street", or "facing any street." Commissioner LaMar stated that he preferred having more setbacks than not having them, although being right up against another building did not make sense to trigger a setback.

Mr. Lilly said that if there was a chance for parking next to the open space, the parking would need to meet the standards in the CCOZ Ordinance. The designers are moving away from a one-way loop road in the open space. Mr. Lilly quoted, "Opposing residential bedroom windows located on building walls in adjacent buildings, where such buildings are closer than 20 feet from each other, shall offset the window a minimum of 5 feet and provide window blinds for each opposing window, or reduce the opacity of the window to prevent one side from viewing the other." Windows on building plans would be offset when they are closer than 20 feet. Buildings balcony's must be ten feet from each other. Mr. Lilly said that stucco was prohibited for use as materials on any façade visible from a right-of-way. Mr. Lilly said on page 25, 10 feet was the minimum rear yard setback except with abutting an R-1, R-2, or R-4-8.5 zone, then the setback was 25 feet. Mr. Janson added that guest parking does not include the driveway.

Francis Lilly stated that if there was a small wireless facility in the right-of-way then there was city code governing the placement. They must be placed on utility poles that are like streetlights. Mr. Janson reminded the Commission that the only poles will be streetlight poles since utilities are underground. Mr. Lilly said small wireless facilities could be required to be placed on existing poles. Commissioner Reid asked if the streetlight language was changed. Mr. Lilly and Mr. Janson replied yes. Commissioner LaMar questioned drive-through's for food or beverage service as opposed to a restaurant. Commissioner LaMar said the terms "food or beverage service" was more absolute.

Vice Chair Stephens opened the floor to public comment.

Diane Wenzl, 3240 S 1000 E., agreed with Commissioner LaMar about building heights creating a canyon feel along 3300 S. She also agreed that roof-top amenities make buildings

too tall. In past public hearings, she had seen developers using maximized allowed heights not the minimum heights.

Jake Christensen, 3161 Walnut Park Cove., stated in the 48-74-foot zone on 3300 S. if the setback was only 10 feet, then you can build another 70-foot building next to it with another 10-foot setback for a total setback of 20 feet. This would limit sunlight to lower residences when two 70-foot buildings abut only 20 feet apart. He stated that there should be greater setbacks of 35-60 feet of separation. Since the greater setbacks are common in larger cities like Manhattan and Chicago.

Mr. Janson stated there would be buildings with shadows and by increasing setbacks it would reduce what could happen in the intensity of the buildings. On lower buildings, a setback like that was not required. Commissioner LaMar asked what the current minimum setback was. Mr. Lilly said that if two buildings abut, they must be separated by ten feet on each property for a total of 20 feet. Mr. Lilly stated that if the buildings have a balcony then the setback begins from the edge of the balcony and they must be 20 feet apart. Commissioner LaMar said they want to make this a nice, livable area for the residents who will live there. Commissioner LaMar added he would like more space than the 20-foot minimum. Commissioner Booth stated that extra space may be nice, however 20 feet was enough because density was the goal. Density helps decrease building costs and rent costs. Commissioner Sieber asked that there be a graduated scale for the setback based on the height of the building. Commissioner LaMar asked for more separation when buildings are taller. Commissioner Reid said she was fine with 20 feet.

Vice Chair Stephens said that in their recommendation to City Council, the Planning Commission could instruct staff to review increasing setbacks for taller buildings. Mr. Lilly agreed to do so.

Vice Chair Stephens moved to recommend to the City Council that the City Center Overlay Zone Ordinance be adopted subject to the items discussed and enumerated in the meeting on 25 November 2019. Commissioner Reid seconded. Vice Chair Stephens asked for discussion on the motion, of which there was none. Vice Chair Stephens called for the vote. Commissioners Booth, Sieber, Mumford, Stephens, and Reid voted yes. Commissioner LaMar voted no. The motion passed 5-1.

2. New Items for Subsequent Consideration

There were none.

3. Calendar of Upcoming Meetings

- Mt. Olympus Community Council Mtg., 12/3/19, 6:00 p.m. at 3450 E. Oakview Dr. (tentative)
- Millcreek Community Council Mtg., 12/3/19, 6:30 p.m. at City Hall
- East Mill Creek Community Council Mtg., 12/5/19, 6:30 p.m. at 2266 E. Evergreen Ave.
- City Council Mtg., 12/9/19, 5:00 p.m. at City Hall
- City Council Mtg., 12/16/19, 5:00 p.m. at City Hall
- Planning Commission Mtg., 12/18/19, 5:00 p.m. at City Hall

ADJOURNED: Commissioner Mumford moved to adjourn the meeting at 6:44 p.m. Commissioner Booth seconded. Vice Chair Stephens called for the vote. All Commissioners voted yes. The motion passed unanimously.

APPROVED:

Thom B. Stephens
Tom Stephens, Vice Chair

Date

12/18/19

Attest:

Elyse Greiner
Elyse Greiner, City Recorder

