



**Minutes of the
Millcreek City Council
October 13, 2020
7:00 p.m.
Special Meeting**

The City Council of Millcreek, Utah, met in a special public meeting on October 13, 2020 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was conducted electronically per Millcreek State of Local Emergency Directive No. 2 of 2020 and live streamed via the City's website with an option for online public comment.

PRESENT:

Council Members

Jeff Silvestrini, Mayor
Silvia Catten, District 1
Dwight Marchant, District 2 (electronically arrived at 7:30 pm)
Cheri Jackson, District 3
Bev Uipi, District 4 (arrived at 7:09 pm)

City Staff

Francis Lilly, Planning and Zoning Director
Elyse Sullivan, City Recorder
Erin O'Kelley, Planner
Rita Lund, Communications Director
Kurt Hansen, Legislative Policy Director
Jim Hardy, Building Official (electronic)
Blaine Gehring, Legislative Policy Analyst

Attendees: Commissioner Russ Booth, David Baird, Mike May, Jason Suker, Greg Whisenant, Thom DeSirant, and Jay Rogers.

WORK MEETING – 7:00 p.m.

TIME COMMENCED: 7:04 p.m.

Mayor Silvestrini called the work meeting to order and led the pledge of allegiance. He said the City has had a number of meetings on the topic of accessory dwelling units and the initiative for an ordinance was resident-driven. The comments received from the public have helped to shape the draft ordinance. The draft ordinance would be reviewed by the community councils, the Planning Commission, and the City Council when it was ready to go through the City process. He said staff would continue to take comments from the public on the ordinance after the town hall that night. He gave instructions to the public on how to provide comment online, over the phone, and in person.

1. Accessory Dwelling Unit (ADU) Virtual Town Hall

Erin O'Kelley said staff had actively reached out the community, especially to those who had voiced opinions on ADUs. There were two successful open houses, one in December 2019 and one in January 2020. Most residents requested another large town hall meeting. She said since January a draft ordinance had been prepared and was made available to the public in August 2020. The draft proposed that a lot would qualify for an ADU if: the owner lived on

the property, the lot was 8,000 square feet or greater, the lot did not currently have an ADU, the lot was used as a single-family lot, the lot was not a flag lot, and the lot was in a R-1 or A-1 Zone. She said a lot of people had expressed to her concern about detached structures. The requirements for an attached ADU included: owner occupancy requirement, setbacks based on Chapter 19.14 and 19.71, the lot must be 8,000 square feet or great, the lot coverage was based on Chapter 19.14 and 19.71, 2 bedrooms would be allowed, 1 ADU (attached or detached) would be allowed per lot, there be a separate entrance installed on the side or rear of the main building, 1 off-street parking stall per bedroom, occupancy limited to 2 adults and children, and the maximum size was 50% of the main dwelling not to exceed 850 square feet. O'Kelley pointed out that the red dots on her presentation meant that was something the public had made comment on. The requirements for a detached ADU included: owner occupancy required, 8.5 feet from the side and rear property line, 10 feet from the principal dwelling, lot must be 8,000 square feet or greater, lot coverage was based on the underlying zone and Residential Compatibility Overlay Zone (RCOZ), 2 bedrooms allowed, 1 ADU (attached or detached) allowed per lot, separate entrance may be installed on the side or rear, 1 off-street parking stall per bedroom, occupancy limited to 2 adults and children, maximum allowed lot coverage in rear yard would be 25%, maximum height allowed was 20 feet single story, and the maximum size was 50% of the main dwelling not to exceed 850 square feet.

Council Member Jackson asked about an ADU in conjunction with a garage. O'Kelley said the garage would have to meet the ADU standards. The draft ordinance did not have a route for converting existing garages into ADUs. The permitting process for an attached ADU was that an application would be submitted for review by the Planning Department, there would be internal staff review, and the applicant would then apply for a building permit and a business license. She said this process was easier than the detached ADUs to incentivize people to bring their ADU up to code. The permitting process for detached ADUs was to submit an application to the Planning Department for a conditional use permit, internal staff review, notice would be sent to surrounding property owners, community council review, Planning Commission review, technical review by staff, and the applicant would apply for a building permit then a business license. Staff was reviewing the requirement for a conditional use permit because of the cost to the applicant and the process burden for staff. She said it was hard to compare the requirement among surrounding cities. Some options could be an administrative conditional use permit or limiting notice requirements for a regular conditional use permit. Comments she had received from the public included: 8,000 square feet restricted ADUs to higher income lots, the conditional use permit process was difficult for property owners and overflowed the Planning Department pipeline, design guidelines for roofs limited the ability for property owners to use prefabricated models, an 8 foot setback limited feasibility, ADUs were restricted to streets with sidewalks or streets that could accommodate an increase in traffic, enforcing owner-occupancy requirements, ADUs on flag lots, reductions in setbacks, second stories not allowed, converting existing ADUs that did not meet standards, design standards to modify an existing ADU was a cost burden, and short term rentals not being allowed. She said some possible changes for the next draft ordinance could include: a permitting process for detached ADUs, more guidelines for detached ADUs, allowing reductions in setbacks, converting existing detached ADUs, requiring a garage for additional parking, licensing/internal processing, and design requirements for creating additional parking spaces.

Council Member Uipi asked about enforcement with other cities. O'Kelley said cities have trouble with the owner-occupancy requirement; most used a business license so they could check annually for the license renewal, also enforcement was complaint-based. Council Member Uipi asked when a draft ordinance would go to the community councils. O'Kelley said staff could go as fast or slow as necessary, and it depended on the comments received that evening. Mayor Silvestrini requested to listen to public comments that night then the Council review the next draft at a work meeting before it went to the community councils. Francis Lilly said staff was working on several research projects with surrounding cities on their ordinances; mapping where and how many ADUs there were in the Millcreek and meeting with utility providers and the Granite School District.

Jay Rogers, 2154 E. Lambourne Avenue, appreciated the progressive nature of Millcreek and thanked the Council. He felt the ordinance would benefit the community, especially with challenges with COVID-19. He said parking would be a problem but having an ADU on top of a garage would help to alleviate that. He expressed concern about privacy.

Caller – Todd Budy, 3579 Honeycut Road, applauded the Council's foresight on the issue. He said he had an existing garage that he would like to add an ADU to. He did not think that many people wanted an ADU, so the numbers would not overwhelm any neighborhood. He felt that ADUs were a good way to add density and affordable housing.

Greg Whisenant, 1277 Ridgedale Lane, appreciated the work that had been done. He suggested letting bigger lots have detached ADUs and smaller lots have attached ADUs.

Caller – Matthew Clewett, Public Policy Director for Salt Lake Board of Realtors, said ADUs were important to address affordable housing in the community. He suggested the 8,000 square foot, flag lot, and 850 square foot requirements would create problems. He said attached units were principally 50% or less of the main dwelling footprint and the size requirement would hinder that. He suggested using a percentage instead of a square footage. He said detached ADUs were usually on the second story, above garages, and asked for a reconsideration of that requirement.

Jason Suker, 3260 Orchard Street, said he was working on a garage project and had made best efforts to add a legal ADU to it. He asked the Council to accommodate best efforts with grandfathering ADUs.

Caller – Ben Towers, 2357 Lambourne Avenue, expressed concern about the 20-foot height requirement meeting RCOZ but not the draft ADU ordinance. He recently had garage permit approved by the City and this structure would be contrary to the draft ordinance.

Thom DeSirant, 718 E. Nibley View, expressed concern about preexisting structures, especially with setbacks. He asked if the Council would consider special exceptions. Mayor Silvestrini said it could be looked at. DeSirant appreciated the City addressing the issue. He said there were large flag lots in the city and some could reasonably fit an ADU.

Caller - Jamie Walker, 1725 E. 4620 S., highlighted a neighbor who rented their property that had two homes on the lot with a high number of vehicles regularly parked there and asked if they could continue renting. O'Kelley said if there was a business license, it would need to be

reviewed and regulated. She said if they applied for a new ADU, they would only be approved for the 2 parking stalls through the site plan. Walker asked the Council to consider a zone that allowed tiny houses. Lilly said it would be a new type of subdivision, not an ADU.

Elyse Sullivan read into the record four public comments received online that day through the public comment form on the Meeting Live Stream page on Millcreek's website.

"Jon Larsen, 2597 Kimbary Way, I support ADUs throughout Millcreek. We need more affordable housing options, and this is a smart, pragmatic way to do it. Some people will complain about parking, traffic, noise, and ambiguous things like "neighborhood character." None of those arguments hold water- they're just excuses from NIMBYs. Don't tell me that parking and traffic issues from a little old lady renting out an ADU is any worse than a family with teenagers. By the way, I want both in my neighborhood. Healthy neighborhoods have a variety of housing options at a variety of price points."

"Steve Ross, 3587 E. Millcreek Road, I'm concerned about monitoring the use of ADUs for short-term use vs long-term rentals. What recourse will I have if an ADU is installed next door to me and it's rented out on a short-term basis in violation of proposed rules? Short-term rentals usually result in a party house atmosphere with resulting noise, traffic congestion, and deterioration of the property itself. Similarly, what recourse will I have if more people live there than the rules stipulate? Will there be any monitoring of the use of any and all ADUs or enforcement of the rules? Thanks for considering my concerns."

"Shawn LaMar, 3621 S. 1200 E., I've been on since the start and haven't had issues."
(Referring to the Mayor inquiring about issues with the meeting live stream functionality).

"Jason Waxley, 1456 S. 2980 E., My comment is also on grandfathering. As you know there are many ADUs that do not conform to the proposal. If these units are not causing a burden to the neighborhood, would that ADU be grandfathered in until the residence changes ownership (when it would need an a new ADU license). I also feel that the 8000 SQFT requirement is exclusionary. Perhaps a mother in law (something already in the foot print) could be allowed on smaller lots. Doing so would allow access to the housing market for younger adults. Otherwise, owning a home will become increasingly impossible for younger people."

David Baird, 4538 Thousand Oaks Drive, said the ordinance was not ready to move through the city process yet. He said he provided O'Kelley with a list of considerations. He felt ADUs changed the character of the neighborhood and the City needed to mitigate the impact of them. He polled his neighborhood and there was no support for the ordinance. He asked the Council to move forward with an ordinance correctly.

Elyse Sullivan read into the record another comment received online through the website.

"Maddy McDonough, 1477 E. Gregson Avenue, I have two primary concerns about the ADU draft as it exists: 1) The 8,000 square foot lot size requirement seems arbitrary and, as a previous comment mentioned, limits permitted ADUs to property owners in a higher socioeconomic level. I think this will lead to continued, un-permitted uses. 2) I would suggest that ADUs be allowed to be built as a second floor to existing two-car garage structures, even if those garages are non-conforming structures under zoning or RCOZ, again, to increase equitable opportunity to have an ADU. There could be a requirement, for example, that limits

windows to be transom windows on the side and back of the unit that would "overlook" neighboring yards. My garage, for example, is built to the property line, but could easily accommodate an ADU on a second floor if that were permitted. It seems like a missed opportunity."

Caller - Todd Budy 3579 Honeycut Road, said there may not be interest for ADUs in affluent areas of the city, like Mt. Olympus (as Mr. Baird pointed out), because they did not need the extra income. He brought up the benefits of short-term rentals.

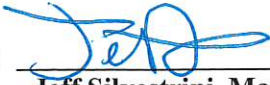
Caller – Barb Hansen, 3546 Gateway Road, asked about subdividing detached ADUs. Mayor Silvestrini said the City did not grant exceptions; to subdivide, the property would have to meet the requirements of the subdivision and zoning ordinances. Hansen asked about the required height with different roof types. Mayor Silvestrini said the limit was the maximum height of the structure regardless of roof type. Hansen asked about considerations for fire safety. Mayor Silvestrini said staff would review the site plan and if it did not meet fire safety standards it would not be permitted. Hansen asked about a restriction on the number of children because the draft code said occupants were limited to two adults and children. Mayor Silvestrini said the City did not control how many family members lived in a dwelling. Hansen asked about rent restrictions. Mayor Silvestrini said the market determined rental rates, not the City.

David Baird referenced the old television show "Happy Days" for levity.

Mayor Silvestrini thanked the public for the comments received. Erin O'Kelley said she appreciated the detailed comments and would look into them. She said in a previous meeting, staff had considered special exceptions, so it could be revisited. Mayor Silvestrini said he did not want to put more imposition on neighborhoods and brought up design standards for privacy reasons. Francis Lilly said there was a special exception process provision for noncomplying nonconforming uses currently in code. Council Member Catten brought up that existing buildings had shorter setbacks and there should be a work around for that. She asked about rules in cul-de-sacs or dead-end streets for on-street parking. She said prefabricated ADUs could be aesthetically pleasing though there could be future issues, like mobile/trailer homes, for infrastructure. She asked about limiting them as ADUs. Mayor Silvestrini said there were legal issues on putting limits on manufactured housing, though the building code would still be enforced. Lilly said prefabricated homes could be required to adapt to certain design standards. Council Member Jackson asked about the 850 square foot requirement with basement apartments. O'Kelley said the 850 square feet or less than 50% of the main building for attached ADUs was strict but staff was willing to modify the use. She said the public was concerned about creating a duplex which was why the draft ordinance was strict. Council Member Uipi said that residents were concerned about being able to accommodate their aging family members in existing structures. O'Kelley said staff was hoping to change the non-conforming use ordinance.

ADJOURNED: Council Member Uipi moved to adjourn the special meeting at 8:38 p.m. Council Member Jackson seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

APPROVED:



Jeff Silvestrini, Mayor

Date

10-26-2020

Attest:



Elyse Sullivan, City Recorder