



**Minutes of the
Millcreek Planning Commission
November 18, 2020
5:00 p.m.
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, November 18, 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:

Commissioners

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

City Staff

John Brems, City Attorney
Alexander Wendt, Deputy Recorder
Francis Lilly, Planning and Zoning Director
Erin O'Kelley, Planner
Samah Safiullah, Planner
Naba Faizi, Planning Permit Technician
Kurt Hansen, Legislative Policy Director

Minutes by Alexander Wendt.

Attendees: Julie Albert, Adam Reiser, and Joe Kerwin.

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED: 5:03 p.m.

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

1. Public Hearings

1.1 Consideration of GP-20-002, Adoption of the Millcreek City Center Urban Forestry Standard Planner: Francis Lilly

Francis Lilly, Planning Director, presented his staff report on the Urban Forestry Standard for Millcreek Common. The Urban Forestry standard instructs developers on the type of tree they may plant in Millcreek Common. To enforce the standard the plan must be adopted. The trees must be the correct size for park strips, tree wells, and the size of the road. Chambers Ave trees are different from trees allowed on Highland Drive. Mr. Lilly stated the document is straightforward, however the Urban Forestry Standard Plan must go through a public process. The City wants to create a beautiful walking space said Mr. Lilly. Mr. Lilly gave a summary of the Millcreek City Center Plan. Mr. Lilly said that sometimes the question

comes up asking how the City can ensure that the landscaping is viable. State statute allows a 10% warranty landscaping bond for one year. The City will require a minimum 2-inch diameter tree be planted. Mr. Lilly expects that the City will need a Forester to maintain the trees in the public right of way. This person will be an employee or under contract. The Community Councils have reviewed this document said Mr. Lilly. All Community Councils that reviewed the document approved of it. Early in the process the City received public comment on the trees the City may plant. Members of the public did help edit the document and revise it said Mr. Lilly. Professional landscape architects played a large role in the document.

Chair LaMar asked if Mr. Marv Poulsen was involved. Mr. Lilly replied yes. Commissioner Booth said that he appreciated the effort that went into making this document. Chair LaMar asked if developers put the trees in the park strip are the trees owned by the City. Mr. Lilly said the City does own the trees, but landowners are required to maintain landscaping in the park strip. Mr. Lilly said the City would like streets to have a consistent tree based on the street. Commissioner Reid said she supports the idea of hiring a professional to look after the trees after they are planted.

Chair LaMar opened the public hearing.

Chair LaMar asked for public comment. There was none.

Chair LaMar closed the public hearing.

Commissioner Booth moved to approve the recommendation of GP-20-002, The Millcreek City Center Urban Forestry Standard to the City Council. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

1.2 Consideration of ZM-20-010, Rezoning Property from R-1-8, R-1-5, and R-1-10 to R-1-5 Location: 857 E. 4315 S. Applicant: Ted Zaharias Planner: Erin O'Kelley

Erin O'Kelly, Planner, said the applicant was requesting to rezone property located at 857 E. 4315 S. The applicant submitted a building permit to expand their kitchen into their yard. The applicant was unaware that the backyard to the north is a separate parcel in the R-1-8 Zone. The City is requiring a rezone application and a subdivision amendment. The rezone proposal does not contradict the Future Land Use map as described in the General Plan. Staff has not received any response from adjacent properties. The Millcreek Community Council recommended that the rezone be adopted with no additional conditions. Staff is not recommending a development agreement.

Chair LaMar asked if 850 E. will be completed. O'Kelley said not at this time. Chair LaMar asked if the City has concerns about creating an irregularly shaped lot. Francis Lilly said that it resolves a longstanding surveying error. If the lot minimum is not affected the City is fine with the change.

Chair LaMar opened the public hearing.

Chair LaMar asked if there was any public comment. There was none.

Chair LaMar closed the public hearing.

Commissioner David Allen moved to approve the rezone ZM-20-010 located at 857 E. 4315 S., rezoning the property from R-1-8, R-1-5, and R-1-10, to R-1-5 only and recommend to the City Council the rezone. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

1.3 Consideration of ZM-20-009, Rezoning Property from R-1-10 to R-1-6 Location: 4396 S. Garden Drive Applicant: Tanner Webster Planner: Samah Safiullah

Samah Safiullah, Planner, requested the item be moved to December due to changes in the application.

Commissioner Allen moved to continue ZM-20-009 to an indefinite time. Commissioner Sieber seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

1.4 Consideration of EX-20-006, Property to be Declared a Legal Two-Dwelling Unit Through Special Exception Location: 3452 S. 2000 E. Applicant: Adam Reiser Planner: Samah Safiullah

Samah Safiullah presented EX-20-006 for a special exception that a property be declared a legal two-dwelling unit. The existing parcel is a single-family lot in the R-1-10 zone. The neighborhood is a mix of R-1-10 lots and R-2-10. The zones are residential single and two family lots with a minimum lot size of 10,000 square feet. This property is not the only non-conforming duplex in the neighborhood. From research the duplex has been in existence since the late 1990s. One condition for the application is that the applicant must prove there is enough property for parking for two units. There are three conditions in the code that must be met. First, 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. Second, 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. Third, continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity. Staff found that a complaint had occurred in 2018. The Millcreek Community Council cannot give a positive recommendation because a complaint had happened. If the property can meet applicable codes staff does not feel that the application will have a detrimental impact to neighbors.

Mr. Lilly explained that person who gave the complaint that caused the non-compliance but the person who gave the complaint has written to Mr. Lilly and withdrew their complaint. They spoke with the current owner of the property and is satisfied. Commissioner Reid asked what the complaint was about. Ms. Safiullah said the complaint was about a previous resident of the home; there was an unfavorable smell coming from the home. Mr. Lilly said there was a complaint about the smell and the use not belonging in the current zone. Commissioner Allen asked if the code could be fixed since the code does not say that the complaint can be withdrawn. John Brems, City Attorney, said under the provision that requires ten consecutive years, there is nothing in the code that says whether a complaint can be withdrawn, it simply

asks if there is a complaint. Commissioner Allen clarified asking if that there were ten years that went by with no complaint then that would meet the code. Mr. Brems said yes.

The applicant, Adam Reiser, said the main points were touched upon. Mr. Reiser said that in any other legal forum you can always withdraw something, things are not stuck in perpetuity. It is unfortunate that a previous owner had been irresponsible. The Kerwins are under contract to buy the home, they are business owners in Millcreek, they spoke with Ms. Eagan the neighbor and a good relationship is forming. Mr. Reiser said he feels this is good example of a special exception. He does not believe that parking will be an issue, a contractor provided analysis that there are 6 spaces for off-street parking.

Chair LaMar opened the public hearing.

An email submitted by Paige Poulson, 2020 E. Evergreen Avenue, stated, "I am the owner of house at 2020 E. Evergreen Ave. I am writing to you to express my support of the approval of Project Number: EX-20-006. The applicant is Adam Reiser. I tried to go online to submit my vote of support but was unable to access the project."

Joe Kerwin, 1178 Stratford Avenue, stated, "My wife Rachel and I are the potential buyers." Their financing is contingent on the property being rezoned. He said that they spoke with Ms. Eagan and her concerns. They had a good conversation and Ms. Eagan was then supportive. The Kerwins love the neighborhood.

Julie Albert, a friend of the Kerwins, reiterated that Joe and Rachel would be a good addition to the community.

Chair LaMar closed the public hearing.

Commissioner Stephens said he was in favor of the exception. Chair LaMar asked about conditions for business licensing. He would like the home to be inspected by a building inspector. Mr. Lilly explained that the business license ensures there is a building inspection.

Commissioner Allen moved to grant special exception to EX-20-006 to have the property declared legal. Commissioner Claerhout seconded. Commissioner Reid asked if the Commission would like to add that the applicant must meet the requirements in the staff report. **Commissioner Allen accepted the amendment. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.**

2. Continuing Business

2.1 Consideration of ZT-20-007, Amendments to Chapters 19.04 and 19.60 of the Millcreek Code Pertaining to Hotels and Motels Planner: Samah Safiullah

Ms. Safiullah gave the new definition for a hotel. "Hotel" means a building containing fifteen (15) or more sleeping rooms, each room accessed from within the building, providing a room for sleeping accommodations for a fee with private bathroom facilities and customary lodging services. Customary lodging services shall include, at a minimum, daily housekeeping services provided by on-site staff, and an interior lobby supervised by a person in charge twenty-four hours per day. Additional customary lodging services include, but are not limited to,

conference and meeting rooms, dining areas, restaurants, sale of convenience items, and recreational facilities.

Ms. Safiullah went over the additional requirements. Hotels must have a prominent porte-cochere or portico, incorporating the materials used in the main building. Stucco is prohibited on any street-facing façade of a hotel. Wall openings, such as windows and doors, located in lobbies and other common rooms, shall comprise at least 75% of the front façade. Bulk and Yard Regulations shall follow C-2 and C-3 requirements within 19.60.050. Massing and Façade Articulation for hotels shall have at least five of the façade design elements listed in Millcreek Code 19.60.060 (C)(10). No more than one row of parking is allowed between a hotel and any street it fronts. All landscaping must be in accordance with Chapter 19.77 Water Efficient Landscape Design and Development Standards. Access to guest rooms shall be restricted exclusively to interior corridors, which shall be accessed via the main lobby of the building or entryways individually equipped with some form of security- controlled access system.

Ms. Safiullah said that there was other another change in the report. Hotels must be located on development sites with at least 100 feet of frontage along a major collector, minor arterial, or other principal arterial road as identified in the Roadway Functional Classification Map of the Millcreek Transportation Plan. Street trees are required and must meet City code. Staff analysis is that changes are intended to promote a higher standard for the design as well as higher quality for staff and residents.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Commissioner Stephens asked to review the maximum building length. The maximum building length is 200 feet. Commissioner Stephens said his current concern is that there could be a proposal in a C-2 zone due to proximity to ski resorts and the Olympus Hills area. Commissioner Stephens is concerned a maximum length does not deal with the width of a building, or there could be multiple buildings of 200 feet. He suggested that perhaps adding more language that includes width to inhibit overly large proposals that cannot be denied through a conditional use. Commissioner Reid asked if a hotel is more problematic than a commercial office building. Commissioner Stephens said she made a good point and asked if a hotel was less desirable than an office building. Commissioner Stephens said he would rather have a large office building in that area. Cottonwood Heights is dealing with a large project near Big Cottonwood Canyon and there is a possibility that in Millcreek five miles to the north, a developer may wish to do the same thing. Millcreek has design standards to prevent some building sizes. Commissioner Reid questioned the justification for treating an office differently than a hotel. Commissioner Stephens said that the residents would probably object to both, the project would be impossible to deny except for design standards. Chair LaMar said that the code would not prevent three buildings that are each 200 feet long. Chair LaMar said that a total square footage amendment may help prevent a development with three buildings that are all 198 feet long.

Mr. Lilly said that hotels tend to follow a format and they look like shoeboxes because of efficiency. There could be two hotels on a campus. Mr. Lilly explained that he took measurements of the Hyatt in Cottonwood Heights, it is 162 feet long and is narrow. Mr. Lilly does not think the City would get a hotel proposal much larger than that. Mr. Lilly said the transient room tax is very valuable to the City. Even on Wasatch Blvd there would be a considerable discussion among the City Council and others about the economic development potential. Mr. Lilly said he does not want to shut the door before the City hears from a developer. Chair LaMar asked the best mechanism to limit a building that they do not want. Mr. Lilly asked what is objectionable about a hotel compared to an office building. Mr. Lilly said that a resort style hotel is desirable, but they do not want transitional housing masquerading as a hotel. Unless there is something about a hotel that is objectionable, he does not believe a hotel should be treated differently. Commissioner Sieber commented on building length, if the City does not want a big shoebox style building in the City Center there is a requirement for architectural differentiation, so that is a potential option for other areas. Commissioner Booth said he agrees with Mr. Lilly, a hotel can bring a lot, but they also want to protect the area. Commissioner Reid said that the current design elements are already stricter in the proposed code. In the report there was new language about porte-cochere. Ms. Safiullah said the language on porte-cochere has not changed. Mr. Lilly said that strict enforceable standards are easy for the City to stand behind. The accomplishes that with the stucco and porte-cochere requirement.

Commissioner Stephens asked about item number 4, and the minimum number of windows. He read that the staff report says that front facing façade shall be 50% windows on the first floor. Commissioner Stephens said that the way the staff report reads that a hotel would look more like an office building. Mr. Lilly said that 25% windows is like the City Center Plans. Mr. Lilly said that 25% windows is more than you think, and if the Commission would like the hotel to look like an office building maybe bumping the number of windows to 30% is advisable. Commissioner LaMar said perhaps on the first floor the City may not want windows everywhere, but the City may not want a flat wall on the front of a hotel.

Chair LaMar asked how 15 or more units define a hotel, there could be a proposal for a 12-unit hotel. Chair LaMar asked what ordinance would govern a 12-unit hotel. Ms. Safiullah said the commercial code would restrict it. Mr. Lilly said they could build it as a bed and breakfast, but a hotel is 15 rooms per this definition. Chair LaMar asked about one row of parking adjacent to a street. Mr. Lilly prefers most parking behind the building. Chair LaMar asked about if there was a hotel bordering a street on one side and I215 on the other. Mr. Lilly said the street would be 3800 S. and Wasatch Blvd, I-215 is not the street, most parking would border I-215.

Commissioner Booth said that post COVID-19 developers will probably be more conservative about making new hotels, perhaps the Commission should not make the process more difficult than it needs to be. Commissioner Allen said that he agrees with Mr. Lilly, and that he does not want to make the process too hard. He asked if a hotel were built on Wasatch and I-215 would I-215 be considered frontage. Mr. Lilly said for materials yes, parking no. Commissioner Stephens said that Ms. Safiullah has answered his concerns. Commissioner Reid said she would prefer 25% window coverage on all floors. Commissioner Claerhout agreed that 25% windows is preferable. Commissioner Wright asked if proposals had been made for a piece of land. Mr. Lilly said this is theoretical. Chair LaMar asked for more

language about the 200 feet in length, he wants to make sure something does not come down the road that is unintended but unstoppable. He asked that maybe language could be added limiting the size of multiple buildings. Commissioner Booth said that sometimes adding language about a building being proportional to its size and length can help in cases like this.

Chair LaMar asked Ms. Safiullah if she was looking for a recommendation of approval, or ideas for more language to add to the ordinance.

Commissioner Stephens moved that the Planning Commission extend a favorable recommendation to the City Council subject to a minimum of 25% windows on all levels on the façade of a hotel. Commissioner Reid seconded. Chair LaMar called for the vote. All present Commissioners voted yes. The motion passed unanimously.

3. Business Meeting

3.1 Approval of October 21, 2020 Regular Meeting Minutes

Chair LaMar moved to approve the October 21, 2020 Regular Meeting Minutes. Commissioner Stephens seconded. Chair LaMar called for the vote. Commissioner Claerhout and Commissioner Allen abstained. All other Commissioners present voted yes. The motion passed.

3.2 Updates from the Planning and Zoning Director

Mr. Lilly said he has a picture of Mount Olympus to give Commissioner Mumford and all the Commissioners could sign it.

Mr. Lilly thanked Commissioner Stephens and Chair LaMar for their help on writing Code. Mr. Lilly asked for more help from other Commissioners. He asked for participation in a biweekly code idea meeting.

Mr. Lilly said he would like to have a meeting on an updated Residential Multifamily Code. A full re-write is probably needed said Mr. Lilly.

Commissioner Stephens asked about the accessory dwelling unit ordinance. Mr. Lilly said that the City Council will meet and talk about it informally in December. Chair LaMar asked if the Commission could discuss it in a work meeting in January. Mr. Lilly said that works well. Chair LaMar asked about the fencing ordinance. Mr. Lilly said it is working well. Mr. Lilly thanked the Commission for all the work they are continuing to do in meeting during difficult circumstances.

3. Calendar of Upcoming Meetings

- City Council Mtg., 11/23/20, 5:00 p.m. at City Hall
- Mt. Olympus Community Council Mtg., 12/1/20, 6:00 p.m. TBD
- Millcreek Community Council Mtg., 12/1/20, 6:30 p.m. TBD
- Canyon Rim Citizens Association Mtg., 12/2/20, 7:00 p.m. TBD
- East Mill Creek Community Council Mtg., 12/3/20, 6:30 p.m. TBD
- City Council Mtg., 12/14/20, 5:00 p.m. at City Hall
- Planning Commission Mtg., 12/16/20, 5:00 p.m. at City Hall

ADJOURNED: Commissioner Claerhout moved to adjourn the meeting at 6:51 p.m. Commissioner Allen seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

APPROVED: Shawn LaMar Date 1/20/21
Shawn LaMar, Chair

Attest: Elyse Sullivan
Elyse Sullivan, City Recorder