



**Minutes of the
Millcreek Planning Commission
March 15, 2023
5:00 p.m.
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, March 15, 2023, at City Hall, located at 3330 S. 1300 E., Millcreek, UT 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
David Hulsberg
Christian Larsen
Nils Per Lofgren
Skye Sieber (excused)
Dwayne Vance
Ian Wright (absent)

City Staff

Francis Lilly, Planning & Zoning Director
Elyse Sullivan, City Recorder
Kurt Hansen, Facilities Manager
Carlos Estudillo, Planner
Katie Larsen, Planner
Robert May, Long Range Planning Manager
Jake Green, Planning Engineer (electronic)

Attendees: Tyler Morris, Ryan Heath, Dwight Yee, Mark McAllister, Aidan Newsome, Gary Davis, Hung-Shih Chou

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED – 5:00 p.m.

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

1. New Business

1.1 Consideration of LB-23-001, Request for a Lot Line Adjustment of Lots 5 and 6 in the Columbian Court Condominium Subdivision Location: 3600 S. 1300 E. Applicant: Hung-Shih Chou Planner: Katie Larsen

Katie Larsen said the Columbian Court Condominium Subdivision was originally platted for six units, but only four units had been constructed. She reviewed the following staff findings:

- Any lot boundary adjustment must comply with City Code 18.08.030 & Utah Code 10-9a-608 (1)&(2).
- The owner of the properties involved within this application has filed the application and provided signed owner's affidavits stating that they are the rightful owner of said properties.
- The proposed lot line adjustment will not result in a violation of the Millcreek's land use or zoning ordinances, including setbacks, lots size, easements, etc.

- The application includes an accurate legal description of both the original properties and the adjusted legal description of each proposed property; both of which have been prepared by a licensed surveyor and/or engineer.
- The proposed lot line adjustment does not seek to add or subtract any land to/from the recorded subdivision, affect a public right-of-way, or create any additional lots.
- Notification was given to the adjacent property owners and property owners within the recorded subdivision, at least 10 days prior to the public meeting, as required by local and state codes.
- There are known CC&R's. Millcreek does not govern any such private documents if any such documents exist, whereupon it is the sole responsibility of the homeowners to pursue, govern, or enforce such documents privately, if at all.
- The applicant has agreed to extend the private drive aisle to allow for access to all units.
- The project is associated with an original Conditional Use Approval issued in 2008 by Salt Lake County.

Larsen showed the commission the original subdivision plat which had Columbian Court (street) terminating before the end of unit 6. Millcreek staff had requested that the road be extended to accommodate unit 6. She showed the commission the proposed plat and concluded that the proposed lot line adjustment should be approved based upon the following:

- The proposal will not result in the violation of any local land use or zoning ordinances of any kind and, the proposal appears to comply with Millcreek and State Codes.
- The applicant must finish improvements stipulated in the original conditional use permit, including, but not limited to:
 - Amenities
 - Landscaping
 - Parking

Commissioner Vance asked if all the conditions had been satisfied in the original condition use permit, and if there was a deadline to complete them. Larsen said no and recommended that all the conditions be finished at the point of a certificate of occupancy being issued. Commissioner Vance asked if the applicant owned all the units. Larsen believed they owned only units 5 and 6 but would let the applicant answer. Commissioner Vance asked about encroachment on the common area.

Gary Davis, representative of the applicant, said the property owner was looking to complete the complex. The footprint of units 5 and 6 were two feet bigger than the original and they had an updated floorplan. He said the gap between these units and 3 and 4 would be 16 feet wide. The other unit owners were in favor of the project. Commissioner Vance asked if there was an HOA. Davis did not know. Commissioner Vance asked if the other owners cared that these units would be bigger than theirs. Davis said the other owners signed affidavits acknowledging consent of the project. Larsen confirmed that consent of other owners in an HOA was a requirement of a condominium subdivision.

Commissioner Vance, based on the findings and conditions listed within the staff report and adopting those findings as findings and conclusions of the Planning Commission itself, with the one modification that the original requirements under the conditional use permit

regarding the amenities, landscape, and so forth be completed prior to the final CO (certificate of occupancy) being issued, moved that the Planning Commission approve lot boundary adjustment application file number LB-23-001, as otherwise proposed. Commissioner Reid seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

2. Public Hearings

2.1 Consideration of ZM-22-013, Request to Rezone Property from R-2-10 to R-M to Accommodate a Proposal to Build a 14-Unit Townhome Development Location: 3956-3960 S. 300 E. Applicant: Dwight Yee Planner: Carlos Estudillo

Carlos Estudillo said the applicant was seeking to rezone two parcels from the R-2-10 (Medium Density Residential Zone) to the R-M (Multifamily Residential Zone) to accommodate a 14-unit townhome development. The parcels are located at 3956 S 300 E and 3960 S 300 E and total 1.33 acres. The area vicinity was composed of two-family dwellings and commercial properties to the north, multi-family buildings to the south, and large-scale commercial to the west of the subjected parcels. The future project would consist of 14 townhome units capped at 30 feet high, well below the maximum required height in the R-M zone. The proposed project's footprint was 10,450 square feet, well below the maximum required lot coverage of 18,580 square feet (40% of total lot size) in the R-M zone. The proposed open space area is 18,804 square feet, barely above the maximum required open space area of 18,580 square feet (40% of total lot size) in the R-M zone. There would be a 25-foot private lane for access with a firetruck turn-around located at the north end of the property. Ten guest parking spots would be located near the south property line, which meets the required guest parking requirement. A fenced playground would be provided as a development amenity. Water-wise planting was envisioned to compose of most of the landscaping. All architectural requirements have been met, including frontage requirements.

Estudillo showed the commission the proposed site plan and building renderings and elevations of the project if the rezone was granted. The property was designated as Neighborhood 3 in the General Plan, with the primary use being multifamily apartments or condominiums. He said based on the findings listed within the staff report, the following conclusions could be made:

1. A multifamily use would be in harmony with the current land use designation because the general plan designation for these parcels is under "Neighborhood 3", which its primary intended use is for multi-family apartment and condominiums.
2. The number of units shown within the proposed concept plan would be below the maximum density contemplated by the general plan because the applicant is proposing 14 units in 1.33 acres, well below the designated density for the "Neighborhood 3" category, which is 18-35 units per acre.
3. 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.

4. 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 said the Millcreek Community Council provided a letter of recommendation that day recommending unanimous approval of the application. He recommended the commission recommend approval of the application. The project would come back to the commission with a conditional use permit application.

Commissioner Larsen asked if a development agreement was necessary. Estudillo said if the commission felt it was necessary, it could be an added condition by the commission to have one. Commissioner Reid asked if the property to the south was part of the discussion for this project. Estudillo said they were included but the applicant could elaborate. Commissioner Hulsberg asked if the units would be for individual ownership. Estudillo deferred to the applicant.

Dwight Yee, representing property owner, said the property owner to the south came to the neighborhood meeting. That property owner did not want to be part of the rezone application. The property owners to the north were interested in developing but did not have a concept plan for their property so they were not included. Commissioner Vance asked if the units would be platted individually. Yee did not know. Commissioner Larsen asked if the applicant would be open to negotiating a development agreement with staff. Yee confirmed.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Commissioner Larsen felt it was smart to craft a development agreement to accompany the rezone. Commissioner Vance agreed, the rezone approval would be based on the proposal. Commissioner Hulsberg said in Neighborhood 3, the density could be greater than what was being proposed, but this proposal fit the neighborhood.

Commissioner Larsen, based on the findings and conclusions listed in the staff report, moved that the Planning Commission approve the rezone application file ZM-22-013, as proposed, with the additional condition that a development agreement be negotiated consistent with this proposal. Commissioner Hulsberg seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

2.2 Consideration of CU-23-002, Request for a Conditional Use Permit for a Mixed-Use Development in the City Center Consisting of 58 Residential Units with 9,561 Square Feet of Ground Floor Office and Retail Space Location: 1353 E. Chambers Avenue Applicant: Cottonwood Residential Planner: Robert May

Robert May said this project would be a quality project in the city center because of the building materials to be used and the surrounding landscaping. The city was working with

the applicant and surrounding property developers to make a cohesive area development with phase 2 of Millcreek Common. The development would include residential units in 5 stories of wood frame construction over a 2-level above-grade parking structure wrapped in commercial space facing Woodland Avenue, Chambers Avenue, and Millcreek Common. Chair LaMar asked if both garages would be open to the public. May deferred to the applicant. May briefly highlighted the unit mix of 1-3 bedroom units, and the shared parking matrix which would include 115 total parking stalls. May showed the commission the elevations illustrating the grade change and glazing requirements, and the city center site plan and renderings with this project included.

Commissioner Reid acknowledged that it took a long time for trees to grow, and wondered if shade structures could be added in the city center until the canopy grew in. May said he would make note of it for the city center as it was outside of this applicant's scope. May noted that awnings were required on the applicant's building.

May said the Millcreek Community Council recommended approval (9-2 vote) of the project as did the Canyon Rim Citizens Association (11-0 vote). Chair LaMar asked for insight on the two opposing votes. May was unsure. Commissioner Larsen asked how many times the Commission would see the application. May said this would be the only time. Commissioner Vance asked if besides the one designated stall per unit, if the remaining stalls would be shared with guests and commercial. May confirmed. Commissioner Vance clarified that there were 18 conditionals of approval. May confirmed. Commissioner Hulsberg asked about the dark-sky compliant lighting and wondered if the applicant was being held to an expectation that the rest of the city center was not. May said it was a general standard.

Tyler Morris, Cottonwood Residential, said the reasons for the no votes with the Millcreek Community Council were based on it not being an affordable housing project and wanting something that was beyond the scope of the project. He noted the Cottonwood Residential corporate office would be on the ground floor of the building, as would two true retail spaces. Morris confirmed that both parking garages would be open to the public. The residential spaces would be signed and reserved.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Chair LaMar said the shared parking made sense. Commissioner Reid liked the stepback balcony.

Commissioner Hulsberg moved, based on the staff report and recommendations from the community councils, to grant preliminary conditional use approval of application CU-23-002 with the conditions of approval located in the staff report. Commissioner Larsen seconded.

The conditions in the staff report:

- 1. Development's guest parking stalls within development will be available for shared parking during business hours operating hours.*

2. *Prior to receiving final approval, applicant shall bond for all required improvements, including curb, gutter, sidewalk, street trees and required irrigation, required setback landscaping, streetlights, and any other improvement required by the City.*
3. *Applicant shall make best efforts to incorporate travel demand management strategies for the project, including but not limited to subsidizing the cost of transit passes for commercial and residential uses, providing safe, secure, and convenient bicycle storage beyond what is required by Millcreek code.*
4. *The applicant will ensure that every residential unit has at least one dedicated parking space.*
5. *Applicant shall provide service availability letters from all utility providers prior to receiving final conditional use approval.*
6. *Applicant shall verify with Millcreek Engineering staff through appropriate studies as required by the City's Geological Hazards ordinance that the soils are suitable for development prior to receiving final conditional use approval.*
7. *Applicant shall install dark-sky compliant lighting, and submit a lighting and photometric plan, including for signage, for review by planning staff prior to receiving final conditional use approval.*
8. *Applicant shall comply with the materials palette presented in the application.*
9. *The applicant shall obtain preliminary plan approval from the Fire Marshal prior to receiving final conditional use approval.*
10. *Prior to receiving a certificate of occupancy, applicant shall apply an anti-graffiti material or coating on the north, west, and south building facades, and on any fencing the applicant installs on the project.*
11. *The design of the site and building shall comply with all applicable development standards, including but not limited to the City's Recreational Facility and Open Space Standards, Medium and High-Density Residential Development Standards, the Millcreek Urban Forestry Standards, and any site development standard required by the City Engineer and Fire Marshal.*
12. *Prior to receiving final conditional use approval, the applicant shall certify that existing utility services have the capacity to accommodate additional demand induced by the development, or that the services will be upgraded to meet the additional demand.*
13. *Signs and accessory structures will require separate building permits and staff review for zoning/land use compliance.*
14. *No light source (light bulb, fluorescent tube, or other direct source of light used to illuminate a parking area) shall be visible beyond the property line including the alley (ROW) of any off-street parking area as required by Section 19.80.030 of the zoning ordinance.*
15. *Any modifications to these approved plans must be approved by the Planning Department, in writing, prior to the changes being implemented in the field.*
16. *Landscaping shall be installed in compliance with Chapter 19.77 Water Efficient Landscape Design and Development Standards and as required by the City Center overlay Zone. Any revisions to the landscape plan package shall be reviewed and approved in writing by the director or designee prior to commencement of construction. Re-certification of compliance with the requirements of the landscaping ordinance shall be provided by the qualified professionals who prepared and submitted the plan revisions.*
17. *The applicant will comply with all requirements established through the technical review process prior to receiving final conditional use approval.*
18. *All items of the staff report, and discussions located in the meeting minutes.*

Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

4. Commission Business

4.1 Approval of February 15, 2023 Regular Meeting Minutes

Chair LaMar moved to approve the February 15th regular meeting minutes as presented in the staff report. Commissioner Vance seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

3.2 Approval of February 28, 2023 Special Meeting Minutes

Commissioner Reid moved to approve the February 28th special meeting minutes. Commissioner Larsen seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Hulsberg abstained, Commissioner Larsen voted yes, Commissioner Lofgren abstained, and Commissioner Vance abstained. The motion passed.

3.3 Updates from the Planning and Zoning Director

Francis Lilly said there were a couple of commission vacancies, and the city was taking applications. There were other terms that would expire at the end of the current fiscal year, Commissioners Reid and Vance, but they had volunteered to be appointed for another term. Lilly pointed out that he sent the commission a city center update via email. He reported that the temporary homeless shelter would be ending mid-April. The crime trend had declined in that area relative to the prior year. He reported that there was a survey out to residences in the Mountair Acres Subdivision about potentially designating the neighborhood as a historical district. He announced that there would be code changes to the zoning code in the coming meetings. The city council adopted the subdivision ordinance on March 13th and would adopt the landscape ordinance and parking and mobility ordinance at their next meeting on April 10th. The landscape ordinance did meet the Central Utah Water Conservancy District's standards, and they wanted to use the city's ordinance as a model for other communities on waterwise landscaping. The city council suggested a slightly different parking ratio for the Meadowbrook and City Center areas than for the rest of the city with the parking ordinance. Chair LaMar asked if the temporary homeless shelter report was available for other entities. Lilly said he would create a report after the shelter closed, which would include data, and he would send that to the state.

3.4 Open and Public Meetings Act Annual Training; John Brems, City Attorney

This item would be rescheduled for the April meeting.

4. Calendar of Upcoming Meetings

- Mt. Olympus Community Council Mtg., 4/3/23, 6:00 p.m.
- Millcreek Community Council Mtg., 4/4/23, 6:30 p.m.
- Canyon Rim Citizens Association Mtg., 4/5/23, 7:00 p.m.
- East Mill Creek Community Council Mtg., 4/6/23, 6:30 p.m.
- City Council Mtg., 4/10/23, 7:00 p.m.
- Historic Preservation Commission Mtg., 4/13/23, 6:00 p.m.
- Planning Commission Mtg., 4/19/23, 5:00 p.m.

ADJOURNED: Commissioner Larsen moved to adjourn the meeting at 6:13 p.m. Chair LaMar seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, and Commissioner Vance voted yes. The motion passed unanimously.

APPROVED: Shawn LaMar Date 4/19/23
Shawn LaMar, Chair

Attest: Elyse Sullivan
Elyse Sullivan, City Recorder