



**Minutes of the
Millcreek Planning Commission
April 10, 2023
7:00 p.m.
Special Meeting**

The Planning Commission of Millcreek, Utah, met in a special public meeting on Monday, April 10, 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 (absent)
Christian Larsen
Nils Per Lofgren (absent)
Skye Sieber (electronic)
Dwayne Vance
Ian Wright (absent)

City Staff

Francis Lilly, Planning & Zoning Director
Elyse Sullivan, City Recorder
Kurt Hansen, Facilities Manager
John Brems, City Attorney
Mike Winder, City Manager
Rita Lund, Communications Director
Laurie Johnson, HR-Finance Director
Lisa Dudley, HR-Finance Director
John Miller, Public Works Director
(electronic)

Attendees: Mayor Jeff Silvestrini, Council Member Silvia Catten, Council Member Thom DeSirant, Council Member Cheri Jackson, Council Member Bev Uipi, Joe Moss, John Janson, Dan Jackson, Lt. Petty-Brown

SPECIAL MEETING – 7:00 p.m.

TIME COMMENCED – 7:04 p.m.

The meeting consisted of one item from the City Council's regular meeting.

2. Planning Matters

2.1 Progress Report on the Zoning and Subdivision Code Update and R-1/Residential Compatibility Overlay Zone (RCOZ) Discussion with the Millcreek Planning Commission

Francis Lilly said this code would require the most outreach and the greatest amount of discussion with the public. Joe Moss, Logan Simpson, gave a project update that the subdivision ordinance was adopted on March 15, 2023, the landscape and parking and mobility ordinances were being considered that night, and the AG (Agriculture), FRE, and MHTH (Mobile Home / Tiny Home) Zone Districts would go before the Planning Commission that month. The AG, FRE, MH/TH Zone District drafts were posted online for public comment, they were currently reviewing R-1/RCOZ, R-2s, R-4, MD-3, and RM zones with the stakeholder committee, there would be continued district drafting and staff/stakeholder committee review through August, the Supplemental Regulations

chapter drafting and review would be in June-October, and final recodification and Title 14 updates would be in July-November. The goal was to combine similar districts when possible, update and simplify uses, review what uses were permitted and conditional, reduce conditional uses by utilizing standard mitigations where appropriate, introduce definitions for all uses, move the Foothills and Canyons Overlay Zone (FCOZ) and geo-hazards, including steep slope standards, to a sensitive lands overlay, make planned unit developments (PUD) an overlay zone, allow "Legacy" districts for zones to be phased out over time (MD-3, R-4, and AG have already been identified and others may be added), uses regarding animals to be unified in a supplementary section, temporary uses/structures to be unified in a supplementary section, and wireless telecom to be updated in a supplementary section.

Moss said a lot of the agricultural and forestry zones in the code were not actually in use, they were inherited from the county. He gave an overview of the AG Zone which included combining A-1, A-2, A-5, A-10 and A-20 into a unified AG Zone, updating and simplifying uses, having fewer conditional uses, and revising spatial requirements. Moss noted that the existing few agricultural zoned lots were small. John Janson said the lot size was not reduced; it was a 10,000 square foot lot. The Forest Recreation Estate (FRE) Zone included combining the F-1, FM-10, FR-0.5, FR-1, FR-2.5, FR-5, FR-10, FR-20, FR-50, and FR-100 zones into one unified zone, updating and simplifying uses with fewer conditional uses, eliminated uses geared toward canyon development, and revised spatial requirements that support General Plan goals for conservation. The maximum density is 1 unit per lot. Mayor Silvestrini brought up Mr. Jackson's public comment. Moss said the intent was not to remove developability, but substantial limitations can happen on some of the development because of the slopes.

Moss said Millcreek currently had a mobile home zone. He said people may want this zoning as a source of affordable housing. This zone was intended for mobile home parks, tiny homes would be added as an additional use option, it would update and simplify uses with slight revisions to uses, it used existing spatial requirements plus a pad description for a tiny home. Mayor Silvestrini asked if tiny homes would be different from detached accessory dwelling units (ADUs). Moss said yes. The community councils recommended approval of the AG and MHTH zone changes. There were split recommendations on the FR zones. Mt. Olympus unanimously recommended adoption of the FR zone changes as written. The Millcreek Community Council recommended (5-3) removing the 5 acre minimum lot size for the FR zones. The Canyon Rim Citizens Association recommended (5-4) to keep the FR-1 in place without changing the 1 acre minimum lot size. The East Mill Creek Community Council unanimously recommended keeping the FR-1 zone in place without changing the 1 acre minimum lot size.

Lilly said pulling the FR-1 out of the five acre minimum generated a lot of discussion. The tension was between the General Plan goal for conservation and adjusting minimum lot sizes to facilitate conservation and options of a property owner who sits on undeveloped land. He said no rights had been exercised since the property had been undeveloped land with questionable access (referencing Mr. Jackson's property). Mayor Silvestrini said access was a factor with those properties. Commissioner Vance asked about tiny home parks versus tiny homes on standalone lots. Moss said it would be on its own lot. Commissioner LaMar asked what advantages there were for the changes to

PUDs. Moss said a PUD was currently a conditional use and the advantage of an overlay zone would be that the base district can be customized. It becomes a discretionary legislative decision and gives the ability to work with developers to create a better quality project than might be seen otherwise. Commissioner LaMar asked about the 10,000 square foot lot minimum. Moss said that was the lowest minimum.

John Janson said the RCOZ was confusing. The overall objectives were to reduce confusion between the zone and RCOZ, simplify requirements by combining the RCOZ and R districts to a unified standard (RCOZ is the standard for the zones), evaluate current requirements to ensure they are the right fit for Millcreek today, and covers R-1-3, R-1-4, R-1-5, R-1-6, R-1-7, R-1-8, R-1-10, R-1-15, and R-1-21 zones. Standards from the current R-1 zones and RCOZ combined had RCOZ prevailing with three options, A, B, and C. The option A standards would become the general standards, not a separate requirement, and change the envelope for smaller lots. The option B would be renamed as a "Neighborhood Compatibility Modification." Option C would create a new law for a single lot. It would be renamed to "Extraordinary Circumstance Modification." This clarifies the legislative nature and limits the applicability. This requires city council approval, essentially a rezone process.

Mayor Silvestrini said the RCOZ was implemented by the county and option C is essentially a rezone. He wanted criteria for what was extraordinary. Jansen said it would be limited to unique lots. Lilly said there had been a lot of internal discussion about the RCOZ option C process. He recognized there was an unusual pattern of lots in Millcreek. Commissioner LaMar asked what lots would be eligible for option C. Janson said there would be a list of criteria, the way it was currently defined allowed any lot to apply for this. Lilly said staff was considering limiting it to lots that were legally established prior to 2009 when the RCOZ was first adopted. Commissioner Vance asked how option C differed from variance criteria. Janson said a variance had five set criteria by state law that was difficult to meet. This allowed more flexibility assuming someone gets through the process, it's discretionary. Council Member Uipi asked if there was something that defined "extraordinary." Moss said the criteria in the draft was the lot needed to be an existing lot of record prior to the first RCOZ adoption in 2009, it can only be considered if the proposed residential structure could not be accommodated through a neighborhood modification, the site features unique characteristics difficult for construction, and there were easements impacting the buildable area of the lot.

Janson showed the spatial requirements for the single household residential zones and different envelope renderings. Commissioner Larsen said his neighborhood should be zoned R-1-6 but should be R-1-4 and asked which standards would apply to his neighborhood. He said there was no maximum building height for R-1-4 with RCOZ. Lilly said it would default to the base zone. Mayor Silvestrini said this ordinance was enacted to strike a balance for new housing stock to be compatible with existing housing stock. Commissioner Larsen recommended eligible R-1-6 zoned lots be downzoned where appropriate. Mayor Silvestrini said the 28 foot height limit could be adjusted. He acknowledged the housing affordability crises but was not sure the residents would be receptive to additional building height. Lilly said a way to safely stabilize a neighborhood was to set policies to encourage under certain circumstances the ability for people to

expand or stay in their homes. RCOZ may have had an unintended consequence of keeping the neighborhood as is. It is easier to expand a home than find another one.

John Brems said option C had confused him of what it is and is not, and wondered if it should be turned into a variance. Mayor Silvestrini said it effectively created a new zone for property, but a variance was not supposed to be legislative. He said guardrails would be appropriate. Commissioner Vance asked if option C would open floodgates on what could be obtained on a discretionary basis. Council Member Jackson said it would be on a case by case basis but with consistency. Mayor Silvestrini said it was a safety valve with a discretionary element that a land use hearing officer could not give. Council Member Uipi wondered what precedent had been set with option C. Commissioner Reid asked if someone who got turned down for option C could apply for a variance. Lilly said there was not an appeal of a legislative decision, but there was nothing stopping anyone from applying for a variance. Commissioner LaMar requested good definitions.

Moss described the next steps which included R zones public outreach, mailouts and planner office hours in May, R/RCOZ, and MD-3 District discussions with community councils in April-May with a recommendation in June, a new R zone draft to the stakeholder committee soon for comments, R-2s, R-4, and RM district discussions with the stakeholder committee and then community councils in April-May with a recommendation in June. Lilly said there would be about 7,000 mailings informing of planning office hours to take comment. Mayor Silvestrini felt incorporating RCOZ into the base zone would be helpful for residents. Moss said the consultants would be sending out draft ordinances.

The commission meeting ended due to the end of the discussion item and loss of a quorum.

APPROVED: Shawn LaMar Date 5/21/2023
Shawn LaMar, Chair

Attest: Elyse Sullivan
Elyse Sullivan, City Recorder