



Millcreek

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**MEETING MINUTE SUMMARY
MILLCREEK PLANNING COMMISSION MEETING
Wednesday, July 19, 2017 5:00 p.m.**

(Approved 12.13.17)

Approximate meeting length: 3 hours 2 minutes

Number of public in attendance: 35

Summary Prepared by: Wendy Gurr

Meeting Conducted by: Commissioner Stephens

***NOTE:** Staff Reports referenced in this document can be found on the State and County websites, or from Salt Lake County Planning & Development Services.

ATTENDANCE

Commissioners	Public Mtg	Business Mtg	Absent
Tom Stephens (Chair)	x	x	
Fred Healey (Vice Chair)			x
Shawn LaMar	x	x	
David Carlson	x	x	
Scott Claerhout	x	x	
Mark Mumford	x	x	
Heather Wilson	x	x	
Dave Allen	x	x	
Russ Booth	x	x	

Planning Staff / DA	Public Mtg	Business Mtg
Wendy Gurr	x	x
Max Johnson		
Alex Murphy	x	x
Spencer Hymas	x	x
Tom Zumbado		
Todd Draper		

PUBLIC HEARINGS

Hearings began at – 5:01 p.m.

30459 – (Continued from 06/21/2017) - A Public Hearing will be held to modify and eventually eliminate the M-1 and M-2 zoning districts, Chapters, 19.66 and 19.68, within Millcreek. The purpose of the hearing is to consider proposed Manufacturing zoning modifications to the M-1, and M-2 zoning ordinances for consolidation into one single light manufacturing zone. A new light Manufacturing Zone would replace the current M-1 and M-2 zones. No changes to zoning district boundaries are proposed. The draft ordinance can be reviewed on the City’s website under <https://millcreekut.org/planningzoning/pending-zoning-amendment-proposals>. **Planner:** John Janson

John Janson provided an analysis of the changes in the draft document. Commissioner Stephens confirmed that a legal non-conforming use runs with the land. The current draft allows for an expansion of a legal non-conforming use under certain conditions, subject to a 25% maximum expansion. Commissioner Stephens asked how 25% would be measured. Mr. Janson said the measurement depends on the proposal, Commissioner Booth asked if it can be an expansion of a building or site. Mr. Janson confirmed both. Commissioner Claerhout asked how often an expansion could take place. Mr. Janson said probably only once. Mr. Stephens asked in what manner is the M zone draft broader and / or more restrictive than the

current M zones language Mr. Janson said “heavy” manufacturing will no longer be allowed, but many manufacturing uses are added. The draft language is such that “light” manufacturing of all types will be allowed, subject to taking place within an enclosed building and not creating a nuisance or unsafe conditions due to emission of light, sound smoke, pollution, etc. In addition, those commercial uses allowed in the C-3 zone will now be allowed in the new M zone.

Commissioner Stephens advised that it has been requested this matter be continued to the August meeting and if any commissioner objected to this continuance. Commissioner Allen said the planning commission should take public comment at this time. Planning commissioners agreed. There was a short discussion about noticing of the public hearing and the fact that two separate notices were mailed out, due to uncertainty as to whether or not the first mailing reach the intended recipients. A third mailing will not take place, as it was agreed the two mailings are sufficient to meet noticing requirements and the desire of the planning commission and city council to notice adequately.

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Morgro, Inc.

Name: Dell Davis

Address: 145 West Central Avenue

Comments: Mr. Davis said the ordinance update and rezone is being rushed through in order to allow for more high-density housing. Mr. Davis described Morgro’s operation. Many thousands of pounds of fertilizer and ice melt ingredients come and go from their location, with much truck traffic. Mr. Davis gave the example of Merlin Olsen having sued chemical companies, alleging that their operations caused his cancer. Morgro’s ingredients and products are registered with the EPA. Mr. Davis asked if it is wise to move high density housing near industrial facilities. Mr. Davis and others met at a group meeting yesterday and discussed the new proposed zoning and think they should form a property owners association and develop a litigation fund. Mr. Davis said this is not a threat, but something they need to do. They’d rather spend money improving their businesses to fit into Millcreek. If the city proceeds with the re-zone and ordinance rewrite, he has several questions about “grandfathering” and legal non-conforming status. Substantial outside storage is required in order to handle the volume of products, including chemicals for snow and ice. They plan to use 100% of their property to put pallets on, equaling up to 400 semi-truck loads. The second question dealt with height restrictions and setbacks. Mr. Davis said Morgro does not want to be “grandfathered”. Instead, they want to keep their current manufacturing zoning. The current standards should be left in place and have the current standards complied with.

Speaker # 2: Citizen

Name: Doug Black

Address: 155 West Central Avenue

Comments: Mr. Black said he has several issues. His property is an income property investment and has been at the current premises for twenty-seven years. The new ordinance limits the type of tenants that will find his property useful for their operations. His building was built for M-2 ordinance standards and it’s been operated in that manner for many years. The new ordinance will diminish the value of his property. Mr. Black is uncertain as to what will be allowed in the updated ordinance as compared to M-1 or M-2. He has a tenant who wants to purchase a property of his, but the prospect of being a non-conforming use is troublesome for the parties involved. Mr. Black is concerned that the new ordinance will prohibit the future use of the open yard, which is valuable to current and prospective businesses, especially in the M-2 zone, which allows open yard use.

Mr. Janson responded, stating that it is important to read the definition of what constitutes light manufacturing. If the manufacturing occurs inside the building and doesn’t have impacts beyond the

building, then it is an allowed use. Commissioner Stephens said that there is a difference between steel fabricating and a foundry, for example, as a foundry could be considered to be heavy manufacturing due to impacts beyond the building, whereas steel fabricating is unlikely to have impacts outside of the building.

Speaker # 3: Tenant of Doug Black

Name: Ralph Warner

Address: 3384 Marinda Way

Comments: Mr. Warner asked if the general plan is being considered. He read from the draft ordinance. He asked what the threshold for noise is. In addition, Meadowbrook apartments are backed up to the freeway. He is considering buying a building, with needed yard space. He asked if outdoor storage of operable equipment is exempt from the outdoor storage rule and whether or not it would be grandfathered.

Commissioner Stephens said it will be helpful to clarify the language regarding open storage. Commissioner Allen inquired about the 50% open yard language. Mr. Warner said the space is used and he is requesting more clarification. Commissioner Booth noted that stored equipment should be operable. Mr. Warner said language should be added in order to provide clarification.

Speaker # 4: Citizen

Name: Bruce Nelson

Address: 175 West Central Avenue

Comments: Mr. Nelson said this is a multiple use area. 50% of the property is open yard and this amount of property is required to operate his business. He has had dealings with the county for years regarding the use of his property. He has paid \$500,000 in property taxes and now people are coming in and telling him what he can and cannot do. It is not just the law, it's personal, too. You pay the taxes, obey the law. He questions the whole zoning update process and its origins. Mr. Nelson said waste disposal, tree recycling, concrete and asphalt recycling and waste needs to be provided somewhere. He is not sure where he stands as far as what he can do and not do. The County has used bullying tactics. He has provided valuable employment and services and would like to be able to continue doing so.

Commissioner Stephens said Mr. Nelson's operation will be grandfathered (legal non-conforming use) and he can continue to operate in the exact same manner as he has done to date. Commissioner Stephens said he would like to have Mr. Brems explain to Mr. Nelson how he can feel confident that his current operation will remain legal. Mr. Brems said he can ask for a determination of a legal non-conforming use. Mr. Murphy said these determination letters can be provided and are useful for financial transactions involving the property and business, giving the parties confidence that the current operation is legal and will remain so. Commissioner Stephens advised that planning staff can supply the determination letter.

Speaker # 5: Citizen

Name: Greg Bailey

Address: 165 West Central Avenue

Comments: Mr. Bailey said he has been in the Meadowbrook area for 17 years and has had dealings with cities. The grandfathering issue greatly bothers him. He has experienced grandfathering and it works very well for the city but not the property owners. He is concerned about down zoning, the property becomes non-conforming and then the situation always goes bad. Property values are more than just the land. His building has value, too. He agrees with the business owners giving testimony. They don't cause any problems. His property taxes on one building is probably greater than the property taxes paid on twenty homes up the road. He and the other property owners are being taken advantage of. They will suffer and the city will not take care of them.

Speaker # 6: Citizen

Name: Bruce Nelson

Address: 175 West Central Avenue

Comments: Mr. Nelson wants clarification as respects whether or not he can replace a worn-out piece of equipment under the draft ordinance.

Mr. Janson stated that the draft ordinance is not that specific to determine whether or not a piece of equipment can be replaced. Commissioner Stephens said he is allowed to replace the equipment. Commissioner Wilson said she does not know what additional language to add in order to make that more clear.

Speaker # 7: Citizen

Name: Gary White

Address: 210 Howick Street

Comments: Mr. White said he is 3rd generation and his family is in the ready mixed concrete business and warehouse leasing. He has seen a lot of people working their entire lives and are now experiencing redevelopment in Murray. His family has a lot of property in Salt Lake County. These business owners and property owners are concerned. The concern is the tighter the city pushes, and density goes up, the cost of property rises. Everyone knows what's coming. People are waiting to be bought out and the whole community is changing. He is here to support Morgro, as it pays taxes and is a legitimate company.

Speaker # 8: Citizen

Name: Larry Maddocks

Address: 3025 South 1100 East

Comments: Mr. Maddocks said his property is just north of Brickyard. He wants his property to continue to be in the current M zone. He wants to leave the M-1 zoning as is, so they can have some selling power.

Speaker # 9: Citizen

Name: Camron Carpenter

Address: 2816 East 2100 South

Comments: Mr. Carpenter said he does a lot of real estate work and has had numerous meetings with Mayor Silvestrini. He has a buyer for a warehouse on Commerce Drive. The language in the draft ordinance would kill his deal. The buyer would like to improve the building, if purchased, but thinks the new ordinance language will not allow improvements. In addition, Mr. Carpenter is unsure how the ordinance draft will affect the ability to utilize the outside space. These businesses can't exist if they don't have an outside area. Suggested a higher percentage of a lot or parcel be allowed to be used as outside space.

Commissioner Stephens said he would be hesitant to offer any opinion on this specific property or use. Commissioner Allen said the long-term goal is to have properties become more conforming. Commissioner Stephens said the point is not whether the building is conforming or non-conforming. It is the "use" that is either legally non-conforming or allowed. Mr. Janson told him to read the new ordinance, as it has changed.

Speaker # 10: Citizen

Name: Bob Hackworth

Address: 34 West Central Avenue

Comments: Mr. Hackworth said he has been at this location for 25 years. They rent excavation equipment to protect employees working in trenches. He actively works to clean up debris that has been dumped near their business. They conform to the existing zoning. They support the effort to clean up the neighborhood. The existing businesses in Meadowbrook are not the problem. The city needs to be explicit with its

ordinance language. Mr. Hackworth suggested the new ordinance “embrace” a third class of use that will apply to existing businesses, but did not elaborate.

Speaker # 11: Part Owner of the property adjacent to The Brickyard area

Name: Lynda Bagley

Address: 1250 Manor Circle

Comments: Ms. Bagley said she purchased a property east of her property and was hoping to go into business. They (she and siblings) have had the property for many years and have paid taxes on it. They wanted to go into business, but things changed and the business she wanted to do would not fit in with the M zone. She understands the anger of those property owners toward the new draft ordinance. She wouldn't want to have residential uses in this area.

PUBLIC PORTION OF MEETING CLOSED

Commissioners had a brief discussion of the public comments and agreed that they will need to schedule another work session in order to thoroughly review the public comments received at this public hearing.

Motion: To continue file #30459 to the August 16th public hearing in order to adequately analyze and discuss the public comments provided at this evening's hearing.

Motion by: Commissioner Carlson

2nd by: Commissioner Claerhaut

Vote: Commissioners voted unanimous in favor (of commissioners present)

30491 - The Millcreek Planning Commission is considering a change in how building height is measured. The proposal is to change the definition of maximum height from the mid-point on a sloped roof to the peak. **Planner:** John Janson

John Janson provided a summary of the proposed ordinance language.

Commissioner LaMar asked about structures on the roof that would not be subject to the height limitation. Commissioner Stephens stated that there can be a number of roof mounted equipment and structures that are not subject to the height measurement or maximum height. Mr. Brems said that the ordinances must be followed. Commissioner Allen asked if could limit these additional items to equipment required to operate the building.

Commissioners had a brief discussion with regards to measurement, slope, and original grade.

Mr. Hymas said the grading specialist helps determine height and original grade as respects RCOZ.

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Mt. Olympus Community Council

Name: David Baird

Address: 4538 Thousand Oaks Drive

Comments: Mr. Baird said, being the chair, he has seen many issues and dilemmas of what constitutes appropriate height. They define a protocol for staff to declare to the private party on how to determine the height. He's familiar with an RCOZ Option B application and they did go with staff's recommendation. Regardless of the decision, it is important to make sure that there is a step by step objective on how to do it. Mr. Baird said he and the community council endorses the height measurement change.

PUBLIC PORTION OF MEETING CLOSED

Commissioners had a brief discussion and agreed that roof mount equipment be limited to HVAC and mechanical equipment, including solar, and to strike the word “tower” from the schedule of equipment and structures that can exceed the maximum height.

Motion: To recommend approval of file #30491 to the Millcreek City Council with recommended amendments.

Motion by: Commissioner Allen

2nd by: Commissioner LaMar

Vote: Commissioners voted unanimous in favor (of commissioners present)

30434 – Omar Abou-Ismael is requesting conditional use approval for a restaurant liquor license and site plan amendment. **Location:** 3961 South Wasatch Boulevard. **Zone:** C-2. **Community Council:** Mt. Olympus. **Planner:** Jeff Miller

Salt Lake County Planning and Development Services Planner Alex Murphy provided an analysis of the staff report.

Commissioner Stephens asked where is the sidewalk in question. Mr. Murphy said narrowest point of the sidewalk is by the pillar and is 39 inches wide, whereas the normal width is 54 inches. The patio will be elevated and the DABC will require controlled access at all times. Commissioner Wilson was concerned about ADA compliance. Mr. Murphy said the other option for access is to go out into the parking lot. Commissioner Mumford asked if the applicant is raising the patio and eliminating a stair. Mr. Murphy said a few stairs will be removed. Commissioner Booth asked if the patio line is being adjusted to create more space.

PUBLIC PORTION OF MEETING OPENED

Speaker # 1: Applicant

Name: Omar Abou-Ismael

Address: 3021 South 3300 East

Comments: Mr. Abou-Ismael said it's a health food restaurant that it has been in Sugarhouse for 12 years and is now relocating. He has been at this new location most every day and has seen very little pedestrian traffic along the walkway in front of this premises. Instead, customers just park in front of the store they want to go to. The patio is a small area, and if required to be made smaller will not be worth it. This project has been under construction for a year and he can't wait any longer to open the restaurant. He has already put in two sets of doors and the reason for doing so is to have the elevation be level with the doors. He loves Millcreek and would like to have the patio. He went to the community council and everyone was happy to have his restaurant at its new location.

Commissioner Allen asked if he (the applicant) has seen the staff report and understands staff's recommendations. The applicant answered “yes”. The applicant's landlord has some outstanding site plan requirements that have not been completed, but Mr. Brems stated that it would not fair to hold the applicant hostage as a means to get the site plan requirements completed.

Speaker # 2: Mt. Olympus Community Council

Name: David Baird

Address: 4538 Thousand Oaks Drive

Comments: Mr. Baird offered unanimous support for the reduction in the sidewalk width and for approval of the liquor license. Mr. Baird said that it is an acceptable trade off of having a distinctive restaurant with the small change to the width.

Speaker # 3: Citizen

Name: Ned Skanchy, landlord

Address: 1963 South 1200 East

Comments: Mr. Skanchy said they want to make the shopping center vibrant with outside dining and more restaurants.

PUBLIC PORTION OF MEETING CLOSED

Commissioners had a brief discussion regarding this application.

Motion: To approve application #30434 with recommended conditions

Motion by: Commissioner Wilson

2nd by: Commissioner Mumford

Vote: Commissioners voted unanimous in favor (of commissioners present)

BUSINESS MEETING

Meeting began at – 7:40 p.m.

- 1) Approval of Minutes from the June 21, 2017 meeting.

Motion:

Motion by:

2nd by:

Vote:

- 2) Approval of Minutes from the July 7, 2017 light manufacturing work session meeting.

Motion: To approve minutes from the July 7, 2017 minutes as presented.

Motion by: Commissioner Carlson

2nd by: Commissioner Mumford

Vote: Commissioners voted unanimous in favor (of commissioners present)

- 3) Ordinance issues from today's meeting: none

- 4) Other Business Items (as needed):

Confirmed keeping the planning commission public hearing meeting at 5pm;

As respects a certain applicant who has come back to planning staff requesting a change in amenities to reflect the tenant demographics, the commissioners agreed to delegate this matter to staff.

Briefly discussed an upcoming RM design standards field trip.

Briefly discussed the need to create a Fencing Ordinance.

MEETING ADJOURNED

Time Adjourned – 8:03 p.m.

APPROVED