



Millcreek
 3330 South 1300 East
 Millcreek, UT 84106
 Phone: 801-214-2700
www.millcreek.utah.gov

For information regarding Agendas, please visit <https://millcreekut.org>

MEETING MINUTE SUMMARY
MILLCREEK PLANNING COMMISSION MEETING
January 17, 2018 5:00 PM
(Approved 2.21.18)

Approximate meeting length: 3.15 hours

Number of public in attendance: 11 plus those who did not sign or whose names were ineligible

Summary Prepared by: Alexandra Muller

Meeting Conducted by: Commissioner Stephens

ATTENDANCE

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

Millcreek	Present	Absent
Francis Lilly	X	
John Janson	X	
Alexandra Muller	X	
Ashley Cleveland	X	
Robert May	x	
John Brems	x	

Work Session began at 4:08p.m.

City Attorney John Brems gave a power point presentation on ethics and open meetings. Mr. Brems gave rules for closed meeting and gave examples for situations on social media.

Mayor Jeff Silvestrini spoke regarding the new Council Chambers security features. City Manager John Geilmann spoke to Millcreek policy and procedures such as when to take a break.

Recorder Elyse Greiner also spoke regarding Millcreek policy and procedures such as email usage.

Hearing began at 5:02 p.m.

PUBLIC PORTION OF MEETING OPENED

Chairman Stephens read the opening statement.

Recorder Elyse Greiner recited oath to Commissioners David Allen and Scott Claerhout.

CU-17-004 Troy Anderson requests a Conditional Use Permit for an addition to an existing detached garage serving a residence. **Location:** 1951 E Lambourne Ave
Community: Canyon Rim **Planner:** Robert May

Planner Robert May explained that Troy Anderson was seeking a conditional use permit to construct an addition to the rear of an existing 702 sq. ft. detached garage for use as a workshop and the proposed project would add an additional 442 sq. ft. to the garage (he added this was slightly different than what the staff report had stated). Mr. May explained per Section 19.14.030 of the Millcreek City Code, on lots under one-half acre, accessory uses and buildings that are customarily incidental to a permitted use, the total square footage of all accessory buildings cannot not exceed eight hundred square feet without an approved conditional use permit. Mr. May added that the proposed addition to the accessory structure would be required to meet all applicable setback and height requirements of the R-1-8 Zone. The applicant would be required to obtain a building permit and undergo a full plan review and setback inspection before final approval of a permit can be granted.

Mr. May said the Canyon Rim Citizens Association approved unanimously. Staff had not identified any issues of concern based on the plans provided and there had not been any responses from the neighborhood. Mr. May said the planning staff found that the proposed project met the requirements as stated in the R-1-8 Zone regarding accessory structures. The plans provided have shown that the minimum setback and height requirements could be met and that the proposed addition would not affect the lot coverage of the rear yard. He said final approval should be conditioned upon the completion of an approved building permit.

Mr. May concluded by stating staff recommended approval of the Conditional Use Permit for an addition to an existing detached garage service a resident in the R-1-8 Zone with the stated conditions in the staff report.

Applicant's wife Janet Anderson
Address: 1951 E Lambourne Ave

Ms. Anderson stated she really had nothing to add to Mr. May's presentation except adding her husband wanted to the workshop to putter in.

Public comment opened at 5:10pm

No public comments were offered from the audience.

Public comment closed at 5:11pm

Commissioner David Carlson arrived at 5:11pm.

Chairman Stephens opened time for Planning Commission discussion and motion at 5:12 p.m.

Commissioner LaMar stated he would like to have an addition such as this for his own home and would set forth the motion if there was no further discussion.

Chairman Stephens asked if any other Commissioner wanted to comment and seeing none, he asked Commissioner LaMar if he would like to make a motion.

Commissioner LaMar motioned to recommend approval of #CU-17-004 Conditional Use Permit for an addition to an existing detached garage of 442 sq. ft. serving a residence. Commissioner Mumford seconded the motion.

Chairman Stephens asked if the Commissioners would like to further discuss and seeing none, he called a vote on the motion.

Commissioner LaMar – yes
Commissioner Mumford – yes
Commissioner Claerhout – yes
Chairman Stephens – yes
Commissioner Booth –yes
Commissioner Allen – yes
Commissioner Carlson – abstained

Motioned passed.

CU-17-005 Sarah Franklin requests Conditional Use Permit for a 12-unit apartment building **Location:** 4115 South 300 East **Community:** Millcreek **Planner:** Ashley Cleveland

Planner Ashley Cleveland said the applicant Marco Diaz was requesting conditional use permit approval in an R-M zone at 4115 S 300 E. for a 12-unit apartment building. She said the size of the property was .43 acres on a vacant lot. Ms. Cleveland said the applicant Marco Diaz and landowner Sarah Franklin were 2 separate entities. Ms. Cleveland reminded the Planning Commission it is the deciding body on conditional use permit should the Commission recommend approval of the permit.

Ms. Cleveland said at their meeting on Tuesday, January 2, 2018, a majority of the Millcreek Community Council recommended approval of this conditional use permit. There was one council member who was against the permit due to building height and potential sunlight blockage to their front yard garden as well as concerns over water rights and well contamination due to construction. The Community Council recommended approval with the following conditions:

1. The applicant shall implement a suitable form of security be agreed upon by staff and the applicant to address concerns with crime.
2. The applicant shall take reasonable steps to prevent damage to irrigation systems owned by adjacent property owners.

Ms. Cleveland described the zones and properties, including a multi-family apartment homes built in the 1950s, surrounding the subject property. She then described the open spaces proposed including a patch of land that would be shared with the multi-family apartment homes. She explained there would be 2 parking spaces per units which fit with the recommendations according to the required parking study by A-Transportation Engineering. Ms. Cleveland described that the project would have some podium parking which would be underground.

Ms. Cleveland went on to describe the outside design style of the apartments with the goal and intent of the project in providing affordable family housing in the area

Ms. Cleveland said Planning Staff recommended approval of the conditional use permit with the additional conditions mentioned in the staff report.

Chairman Stephens asked Commissioners if they had any questions for Ms. Cleveland.

Commissioner LaMar asked whether the illustrations showed the actual parking count and then asked for further clarification on the percentage of open spaces based on site plan.

Ms. Cleveland answered it was the actual stalls per unit. She further said under the old R-M Zone, which this application was filed under, that the percentage would be a 60/40 split and had been reviewed by an architect. She explained when this site plan was initially completed with county surveying maps which now needed to be adjusted.

Commissioner Mumford said he was concerned about the parking and asked for a clarification regarding the parking stalls mentioned in the staff report.

Ms. Cleveland answered that there would be underground (podium) parking stalls for residents and stalls outside the podium for guests or visitors.

Mr. Lilly, planning staff, added that the applicant could enter into an agreement with the adjacent property owner for shared parking. The old RM ordinance required 2 parking stalls per unit, plus guest parking as determined by the planning commission. The applicant is essentially asking that guest parking be waived, because the submitted parking study comparisons justify the 2 stalls per unit without any additional parking for guests.

Commissioner Mumford asked what the height restriction was for this project?

Ms. Cleveland answered under the old ordinance it was 75 feet.

Mr. Lilly said the applicant was sitting astride the new and old ordinance. He said it was sometimes difficult to know which ordinance applied but staff had done the best they could to make it as compliant as possible.

Chairman Stephens asked if 100% of the apartments would be designated as affordable?

Marco Diaz

Address: 10999 Birch Creek Rd, South Jordan, Utah

Mr. Diaz said he applied on behalf of Sarah Franklin and apologized for being late to the meeting. He said there was a lack of housing in Millcreek and he wanted to provide nice housing at market rate for the neighborhood or slightly below. He said after looking at this lot it was decided to put 12 units with 24 parking spots and had met with the planners to meet all the requirements in terms of density, open spaces, and parking. There would be 2 bedroom units at approximately 600 square feet with taller ceilings and larger windows. Mr. Diaz said he normally does million-dollar luxury homes in Park City.

Chairman Stephens asked the Commissioners if they had any questions for Mr. Diaz.

Commissioner LaMar asked whether the open spaces were actually 40%.

Mr. Diaz answered it was 36%. He added they had initially worked with the county that required 50% open spaces. He had then worked with Millcreek consultant John Jansen as there were changes being made to the RM zone with 35% or 40% of open space depending if it was on an acre or less. He said it would not meet the county requirement but would meet Millcreek requirements.

Chairman Stephens said Millcreek had adopted the county's RM ordinance and was not sure if the draft RM ordinance had been adopted yet.

Mr. Lilly said the new RM ordinance had been adopted.

Chairman Stephens asked whether this application had been grandfathered in with the old ordinance?

Mr. Lilly answered that while City Attorney John Brems should speak to the issue, he understood this as applicants were vested under the old ordinance but have the new ordinance available to them.

Commissioner Mumford asked what would the fencing be on the north side of the property?

Mr. Diaz answered they planned to build an 8 feet tall vinyl fence.

Chairman Stephens asked whether there will be pillars to separate the fencing every 6 or 10 feet?

Mr. Diaz said by code it had to be though he was open to the Planning Commission suggesting ideas as they have not nailed down details. He said they were trying to have a contemporary look but also keep costs down to provide affordable housing.

Commissioner Mumford said he was mindful of the impact the fencing would have on the neighbors. He wanted to make sure it was conducive to the neighborhood as well as being safe.

Mr. Diaz said they wanted to be good neighbors so they met with Detective Betina Allen regarding planning and the additional 7 police officers allocated to Millcreek. He also stated he had an upcoming meeting with Sgt. Davis to discuss neighborhood policing and neighborhood

watch. Mr. Diaz said he did not believe this small 12-unit apartment should take the lead while there were hundreds of apartments nearby. He said he had worked with the legislature and thinks having a security guard working with police would be much more effective.

Commissioner LaMar asked for more information regarding the agreement between the other apartment building.

Mr. Diaz answered there was a cross-section agreement between Monoco apartments and their proposed project because there was an east side entrance that was closed to firetrucks due to complaints from the neighbors according to the fire chief. In order for the fire department to be able to cross from the north side they had to use a piece of land that the previous owner had agreed to share so the fire trucks could use.

Commissioner LaMar asked if there would be an agreement for shared amenities.

Mr. Diaz said no, the only agreement was for the cross-section easement.

Chairman Stephens opened meeting to public comment at 5:41pm.

Speaker 1: Sarah Franklin

Address: 1051 S 900 E, Salt Lake City

Ms. Franklin said she was thankful they were looking at their proposal and excited to work with Millcreek to provide a good solution to housing in the area.

Speaker 2: France Ross

Address: 4101 South 300 East

Mrs. Ross said she would let her husband speak. She said owns the property north of where the proposed project would be.

Speaker 3: Norman Ross

Address: 4101 South 300 East

Mr. Ross apologized for his appearance due to a visit to his dermatologist. He said the area was not the place to put a 12-unit apartment building and he had been through this before with previous applicants who promised they would better the neighborhood. He said that after this is built people would be parking on the street making it even more difficult to exit. He added the ambiance of their neighborhood would be adversely affected as the apartment would make it less private for current residents as they will be able to look down into their homes. He said the seasonal vegetable grown by Mrs. Ross and enjoyed by the neighborhood would be shaded by the apartment units and thereby be less productive. Mr. Ross said he his property value would go down and he was concerned with the fencing in terms of people entering his property and gang graffiti from large apartment houses in the area. He stated his lifestyle would be affected by this but thanked the fire and police departments for the job they were already doing. He voiced additional concerns over trash accumulation and that the building was not needed because there were already an abundance of for rent signs. He said if the 12 unit was approved that the applicant would work with the neighborhood to enhance it by working with them on what has been mentioned as areas of concern.

Mr. Diaz responded to the comments by stating the Monaco apartments at one point were going to develop the land. He said with development in general there would be of concern but leaving it as an open field would not be any better for the neighborhood. He was aware of the squatters

and graffiti issues in the area. He said by putting in a building and working with the neighbors to find resolution to their concerns would be good overall for the neighborhood, the city, and help property values.

Chairman Stephens opened up discussion to the Planning Commission at 5:49pm.

Commissioner LaMar asked if staff had verified the open spaces requirement?

Mr. Lilly answered for a parcel less than 1 acre in size 20% was allowed in the RM Zone.

Commissioner Booth asked since there were 12 items on the model motion in the staff report (and Ms. Cleveland had verbally said 5 of them) would the entire report would apply when the motion was done?

Ms. Cleveland answered confirmed the entire report would apply. She added the applicant could add anti-graffiti coating to the fencing or have dense planting.

Commissioner Allen said the Planning Commission was limited on a conditional use permit. He asked if this complied with the new code or the old code? He said the applicant could choose from either code but he was uncomfortable with the applicant choosing parts from both codes.

Ms. Cleveland answered that the applicant had met a lot of the requirements of the new code. She added they had met the open space requirement and exceeded the parking stalls recommended by the parking study. He added that, unless there was a parking expert on Commission, they should not be disputing a parking study.

Chairman Stephens said that no guest parking was calculated into the plans and the current off-street parking ordinance required 2 parking stalls per unit. He asked how guest parking will be handled, as there are concerns from the public that parking will migrate to the street.

Commissioner LaMar said typically he wanted to make sure the project was not under parked but looking at similar projects the 24 stalls seemed to be sufficient for residents and guests. He wondered if it was slightly over parked and could that be used for open spaces instead?

Commissioner Carlson said parking study indicated there was adequate parking and unless there is a subsequent parking study that said otherwise then they should go with the evidence before them.

Commissioner Booth asked for clarification regarding parking and to which ordinance would be applied as it seemed to be getting a little thin on parking requirements even though it was a good developer with good piece of property.

Mr. Lilly said applicants were able to submit under both old and new ordinance a parking study which could govern or set it aside though the Commission would have to have a compelling reason to do so. He added he did not have a concern with this parking study and the parking ratio of either 1.5 or 1.6 for this type of apartment would be appropriate as he had seen it in other projects. Mr. Lilly said the Planning Commission could make the request for more parking.

Chairman Stephens pointed out that the A-Trans parking study designated the proposed apartment for transitional users for “low income” and refugees who were unlikely to function as the traditional apartment user where there was a lower probability of a 2-car user household.

Mr. Lilly said he thought the applicant was attempting to state the market rate in the area was attractive to that particular audience and that effective parking ratio depended upon marketing. He cited examples of different marketing techniques. He said they were not receiving tax breaks and were deliberately targeting a market in need of affordable housing.

Commissioner Allen stated that he is concerned with the applicant choosing parts of both the new and old RM ordinances. He stated he is not sure whether or not this question has been answered.

Mr. Lilly answered the applicant had met the new code requirement regarding height, yard setback, open spaces, and amenities. He said they were not opposed to the old code as the only issue was parking.

Chairman Stephens said the parking was independent of the RM ordinance.

Ms. Cleveland said that while the applicant applied during this hybrid time they met the intents of the new code.

Mr. Lilly said where the applicant may not have met code was the minimum lot area per unit and perhaps they could make the case that they vested under the old code.

Commissioner Allen said he had no issues with Mr. Lilly’s statement but that the applicant would need to comply with only one code and not half the new code with half the old code.

City Attorney John Brems stated applicants do not get to pick and choose the best requirements from each code. He said they needed to choose one code only.

Chairman Stephens asked if the applicant chose to go with the old code would they be limited to 10 units?

Mr. Lilly answered “no”, as the limit would be under the new code.

Chairman Stephens commented there was a bit of a dilemma on how the Planning Commission should proceed.

Commissioner LaMar suggested they could make a motion for a continuance at a later date while the code issue was determined.

Commissioner Claerhout said it would be helpful to determine what code the applicant would be in to determine whether they would be in compliance.

Commissioner Claerhout motioned to pass application 4115 South 300 East until the next public hearing so staff and applicant determine what RM zone they will proceed under.

Commissioner Allen seconded the motion.

Unanimous approval and motioned passed.

ZM-17-010 First Utah Bank requests a rezone to C2 on their property **Location:** 3826 South 2300 East **Zone:** RM **Community:** East Mill Creek **Planner:** Francis Lilly

Mr. Lilly stated First Utah Bank was looking to rezone property they owned at 3286 South 2300 East where the site was approximately 1.23 acres in size. He added that the bank branch with a drive-through currently was on the site, and the building also served as First Utah Bank's headquarters. The building was recently renovated. In exploring options to place a pole sign on the property, the bank decided to pursue a rezone of the property to C-2, which more accurately reflected the commercial use of the property.

Mr. Lilly said should the Planning Commission recommend approval of the rezone, staff recommended that the rezone be accomplished with a zoning condition that limited the uses to office and bank, and that a development agreement be signed that prohibited the use of an electronic message center and required that the proposed pole sign illumination be turned off between the hours of 10 pm and 7 am.

Mr. Lilly said at the public meeting held on January 4th, 2018, the East Mill Creek Community Council a number of issues and concerns were raised regarding the rezone. He said the East Mill Creek Community proposed the following limitations which the applicant agreed to in concept: 1. The sign shall not exceed 16 feet in height; 2. that the light would be dimmed at night, regulated by a timer; and 3. that the sign would not be flashing or have any motion. Mr. Lilly said these limitations could be codified through the application of the zone condition limiting uses and development agreement (DA) regulating the operation of the sign.

Mr. Lilly described the surrounding businesses and zones. He said the applicant proposed the 16-ft. high sign right in front of their business. In the old RM zone, it was possible to put the sign on the property but the issue was the setback that would have the sign be 15 ft. back which would not work. Mr. Lilly described the history of the bank location since the 1970s.

Mr. Lilly said the Millcreek Township General Plan identified the parcel as part of a stable area, although the 3900 South Corridor was identified as an area where adaptable-flexible changes may be appropriate. The General Plan also included a goal to foster the creation of activity centers in Millcreek, and specifically to "promote the development of viable commercial, employment, and activity centers to serve the community." The goal was advanced by a number of objectives. Objective 4.3 stated: "Develop neighborhood level retail, commercial activity and professional services for quick and easy access by residents." He explained that had mostly already been done and the question was whether the C-2 would be consistent/inconsistent with that goal?

Mr. Lilly said the General Plan also established a best practice to "protect existing single-family residential areas of corridors from encroachment by focusing growth in activity nodes." The plan recommended: Every corridor in Salt Lake County has some portion of single-family residential style development. In order to prevent corridors from becoming a long strip of commercial development, growth should be focused in important activity centers, developing nodes into commercial, employment, and housing centers. Concentration of growth in these areas would relieve pressure on single-family areas to absorb growth, as well as create more livable, walkable

“centers” throughout the County. Implementation of “complete streets” design principles would improve the quality of residential areas by making them more walkable and livable.

Mr. Lilly said staff believed that the General Plan could be construed to support leaving the R-M zoning in place, in order to transition the intensity toward the residential uses found north of the bank site. However, the plan also acknowledged the need to support existing activity centers, and the applicant’s property had been a part of the 2300 East / 3900 South activity center for nearly four decades. He said a ground sign would be consistent with the character of an activity center, and the applicant’s zone change requested would facilitate a sign that has a narrower setback as allowed in the commercial zones, but would be located closer to the 3900 South intersection.

Mr. Lilly said the Planning Commission had the opportunity to make a policy call based on the general plan that would be used to support either recommendation. He said staff had worked with the applicant and community council and he said he could state with confidence the use would remain a bank with the sign being as unobtrusive as possible.

Mr. Lilly said staff recommended approval of motion to approve rezone request ZM-17-010 for property at 3286 South 2300 East from R-M to C-2, subject to a zone condition that restricted uses to a bank and office, and the height of any ground sign to 16 feet; and a development agreement that prohibited electronic message centers and prohibited illumination of any ground sign between the hours of 10 pm and 7 am the following day. He said they could make a motion to deny based on the General Plan to protect existing single-family residents.

Commissioner LaMar asked if there was any more specific language regarding the dimming of the light?

Mr. Lilly answered he was under the impression all illumination would be turned off between certain hours such as 10pm to 7am.

Commissioner Allen asked if it was possible to have the sign turned off during bank hours only?

Chairman Stephens said the sole point of the rezone would be to accommodate a pole sign.

Mr. Lilly summarized the application history and why it triggered the rezone: request of the applicant that the new zone would conform better with their business activity.

Commissioner Claerhout asked if Mr. Lilly thought the new zone would be more appropriate for the bank?

Mr. Lilly said not necessarily as the RM Zone stated banks are allowed but signage changes the dynamic.

Commissioner Carlson asked if any of the surrounding property was C-2?

Mr. Lilly answered yes, due sites on the east of the bank and across the street.

After seeing no further questions for staff from the Planning Commission, Chairman Stephens allowed the applicant to come forward.

Applicant Brad Baldwin (President of 1st Utah Bank)

Address: 3826 South 2300 East, Millcreek UT

Mr. Baldwin stated his bank had been there 40 years and it had recently acquired a half acre of land directly behind it. He summarized the buildings around the bank and stated they had invested \$4 million into the site with 70 parking stalls. He said the current sign was 7 feet from the sidewalk and didn't conform with current zone but with the new zone the sign would be elevated to 16 ft. from the same location. He said the current setback would place the sign in the lobby of the bank. Mr. Baldwin added there would be landscaping done including a bike park. He added the sign will be turned off around 9pm or 10pm and the lighting will not be very bright with no flashing or motions.

No public comments were offered from the audience.

Chairman Stephens opened the discussion up for the Planning Commission at 6:35pm.

Commissioner Mumford asked if the sign was at issue can you amend the signage restriction instead of changing the zone.

Mr. Lilly answered poles were entirely prohibited in the new RM zone.

Commissioner Allen said he was not a big fan of creating a c2 zone with a C1 zone and residential next to it but he would vote for it. He said in the future the next Planning Commission would wonder what they were doing though this sign was a good use.

Chairman Stephens said he agreed with Commissioner Allen's view with changing the zone but that the applicant was a valued member of the community and the sign being proposed was reasonable. He said his only concern would be the intensity of the lighting but wanted to make sure the motion included language ensuring the illumination would be a modest subtle light.

Mr. Lilly said that would be something that could be included when crafting a DA and added that staff had felt similar to the Commission when working on this rezone but the community has had a long-standing tradition in these types of custom zones.

Commissioner LaMar asked whether this would be considered a very tall ground sign?

Mr. Lilly answered that a ground sign is what most people call a pole sign.

Commissioner Carlson moved to recommend approval of Rezone Request ZM-17-010 for property at 3286 South 2300 East from R-M to C-2, subject to a zone condition that restricted uses to a bank and office, and the height of any ground sign to 16 feet; and a development agreement that would prohibit electronic message centers and illumination of any ground sign between the hours of 10 pm and 7 am the following day.

Commissioner Booth seconded the motion.

Commissioner LaMar suggested as a friendly amendment that the motion add language regarding the intensity of the lighting so staff could work with the applicant when crafting the DA.

Chairman Stephens added there was technology that allowed for the reduction and intensity of the light during the day and time of year.

Commission Carlson and Commissioner Booth did not object to the friendly amendment.

Unanimous approval and motion passed.

CU-17-006 Johnson Elite Orthodontics requests a Conditional Use Permit for a Dental Clinic **Location:** 2453 East 3300 South **Community:** Canyon Rim **Planner:** Robert May

Mr. May said Spencer Johnson from Johnson Elite Orthodontics was seeking Planning Commission approval for a conditional use permit to develop a Dental Clinic at 2453 East 3300 South. He stated the address had changed because the 2 lots had been combined. He summarized from the staff report items such as the projected setback, landscaping, and parking requirements.

Mr. May said 2 residential buildings were currently on the site and explained the age based on his information from the assessor's office.

Chairman Stephens commented he did not believe the age of the residential buildings to be correct.

Mr. May addressed the staff concerns on detrimental effect on utility adequacy: Detrimental effects on the adequacy of utility systems, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, or preserving existing systems, including other reasonable mitigation as determined by the City's engineering staff, contracted engineers, and utility service providers. He said the utility adequacy would be addressed prior to final approval.

Mr. May stated that the project may alter nearby properties that could cause conflict with neighbors over issues such as water rights, irrigation, and existing fencing. He said staff would recommend applicant work with adjoining property owners on the existing infrastructure issues. He said they asked the property owner to pay attention to the neighbors like existing fencing lines. Mr. May then described from the staff report the detrimental effects that would arise from incompatible designs in terms.

Mr. May said there was unanimous approval from the Canyon Rim Citizens Association. He said the community members raised questions on the existing infrastructure and best ways to mitigate the issues including the building permit process.

Chairman Stephens asked if there were irrigation canals or pipes on the site?

Mr. May answered there was an irrigation ditch that ran east and west that was already underground.

He said the staff would recommend the approval of the conditional use permit with the conditions mentioned in the staff report.

Commissioner Mumford asked if there was a sidewalk on the site?

Mr. May answered there was only a proposed sidewalk.

Chairman Stephens said the sidewalk was a requirement by code.

Commissioner Booth said there needed to be something more than asking the developer to work with the neighbors as his concern for property owners to the north of the site where old fencing was located and old ditches had been piped. He added that there should be something written to the DA addressing these issues so neighbors would have their concerns understood.

Mr. May said staff was in agreement and before final approval the issue would be addressed through the process.

Architect Pascal Meyer (representing the applicant)
Address: 9133 S Monroe Plaza Way, Sandy, UT 84070

Mr. Meyer said Mr. May had done an accurate job presenting their application and were ready to answer any questions or concerns from residents.

Chairman Stephens asked for more information on the shared utilities and irrigation line mentioned in the staff report.

Mr. Meyer said on the south end there are 2 existing drainage culverts that will be have be dealt with to be improved. They said they will do curb, gutter, and sidewalk but they don't have all the information of what is existing on the stretch.

Chairman Stephens asked about the area to the north of the site that is adjoining to residential neighbors

Mr. Meyer answered they understood there may be existing irrigation and they may have to put a fence on their property that would interfere with the neighbor's utilities. He added if the neighbor's utilities were on their site then the neighbor had the responsibility to move their utilities away from irrigation lines. He said if the utilities were on the neighbor's side then it was the applicant's responsibility to make sure they do not interfere when putting up a fence.

Chairman Stephens said one of the homes looked historical in nature and in need of repair. He understood it would be demolished and asked if the applicant knew of the home being in any type of historical registry?

Mr. Pascal said Mr. May had researched the issue and did not find the home to be on any historical registry.

Chairman Stephens asked why was so much parking being proposed? He commented that it exceeded the parking ordinance.

Mr. Pascal answered is it was due to the nature of the applicant's business which had high turnover.

Chairman Stephens asked about the materials they would use on fencing.

Mr. Pascal said he did not know what the applicant would do exactly on the fencing except to say it would be solid and 6 ft. high with consideration of installing pillars to break up the monotony. He noted from the site plan drawings/survey some of the neighbors' fencing was encroaching into their property and would work with the them to put their own fencing.

Commissioner Booth asked if the applicant would be willing to share a fence with the neighbor on the north side of the property if the utilities were not an issue?

Mr. Pascal said it would be the ideal situation though there were issues to consider but they did not want to have a fence backing another fence.

Chairman Stephens opened the hearing to public comment at 7:03pm. He reminded the public that the applicant had a right to develop the property but this process was on how best to mitigate the detrimental effects.

Speaker 1: John Faregen

Address: 2407 E 3400 S, Millcreek UT

Mr. Faregen said some of their concerns were addressed at the last meeting after speaking with the neighbors and new owners. He said there was a blocked wall on their side but close to their irrigation they were really concerned with. He said it sounded like the applicant was going to shorten it down to put a fence on top of it. Mr. Faregen said there was a grade difference of 2 ft. 2 inches between properties so the soil and water run off went into his property. There was sloping in the rear to the back. He said half that distance needed a wall to hold the soil back. He added he would like to leave his own fence from the corner to the back because his fencing has a heavy-duty post which he suggested to the applicant. He said their side would have a beautiful building and he did not have a preference on the color of the fence since graffiti wasn't an issue. Mr. Faregen said he thought it was an improvement but his biggest concerns were the soil, the block wall, and the water run-off from the big parking lot. He asked if applicant was going to have something underground to relieve it and he had not had a chance to ask the applicant.

Mr. May said during the building permit phase through technical review process there would be different agencies including engineering so the drainage issues would have to be resolved prior to the sign off on the permit.

Commissioner Allen left at 7:09pm.

Speaker 2: Tom Helme

Address: 2444 E 3225 S, Millcreek UT

Mr. Helme said he was located north of the site on the east side. He said there was also lateral to the east that feeds to an irrigation ditch he had put underground. He said while the ditch had not been used in years the irrigation company would require it to be preserved on the east side. He said the 2 other issues: the fencing where he would be happy to work with applicant as he does not want a double fence (he has a pet) and the lighting from the building which he does not want shining into his home at later hours. He said the project would be a great improvement to the area.

Speaker 3: Gary Lawrence

Address: 2434 E 3225 S, Millcreek UT

Mr. Lawrence said he was also on the north side of the property being developed. He asked whether the zoning required a fence height? He said a 6-ft. tall fence or higher would be nice. He said his other concern would be the lighting. Mr. Lawrence said the architect had mentioned fencing that may have encroached on his property but he thought the fence had been there long enough to have established the property line.

Chairman Stephens said the city does not have a fence ordinance so it could be quite low or quite high depending on the taste. He said he would let the applicant speak to the fencing concern.

There were no community council representatives to offer comment so Chairman Stephens said the staff report indicated unanimous approval.

Mr. Pascal responded to comments by the public. He said regarding the grade difference issue between the 2 properties on the west he thought installing a retaining wall would address that concern. He said they would be retaining the water and already had preliminary civil drawings for underground storage. The storm water retention system would pipe the storm water out to city storm drains so it would not be seen. He said sidewalk would be installed. He said they were aware of the existing ditch on the east side and they would preserve it. He said they were also aware of the side lighting issue and understood it would not encroach past the property by using fixtures to shield the light. Mr. Pascal said he was not sure how to address the issue of the fence on the property line except to address it by working with the neighbors to replace or build inside of it.

Commissioner LaMar asked whether the pine tree to the front of the house would be retained?

Mr. Pascal said the plan would be to demolish all the existing trees on the site to accommodate their development and plant new trees.

Chairman Stephens closed the public comment portion of the meeting and opened the discussion up for the Planning Commission at 7:17pm.

Commissioner Claerhout asked Mr. May to further discuss the 20-ft. side yard setback requirement.

Mr. May answered the zone requirement states 20-ft. on one side but not less than 40-ft. combined.

Commissioner Claerhout asked if that meant a combined 78 ft. or 68 ft.? He said he was not interested in the large combined number but the smaller "8" number.

Mr. May answered by reading the R-4-85 Zone: the minimum side yard for a dwelling shall be 8 ft. or the 2 required side yards shall not be less than 18 ft. Other main building shall have a minimum side yard of 20 ft. and the total width of the 2 side yards shall be less than 40 ft. He finished reading the zone and said it looked as if the 8-ft. minimum is referring to a dwelling. He asked if that answered the Commissioner's question?

Commissioner Claerhout said it appeared not to fit within the zoning and asked since this was a dental office would the side yards be 20 ft.?

Chairman Stephens commented the issue would be taken care of in the technical review process.

Mr. May said he thought Commissioner Claerhout was correct and that he had made a mistake on the staff report table.

Chairman Stephens said if someone motioned for approval then he wanted language regarding pillars included in the fencing added. He added he did not want to micromanage but he did not want solid vinyl fencing.

Mr. May confirmed the Planning Commission had the ability to make recommendations and amend the conditions he had placed in the staff reports.

Commissioner Claerhout motioned to approve CU-17-006 for the conditional use permit subject to the conditions listed in the staff report and that the applicant build an architecturally pleasing fence that abuts his neighbor.

Commissioner Mumford seconded the motion.

Commissioner LaMar stated he was glad applicant was willing to work with his neighbors since there wasn't a fence ordinance. He encouraged the cooperation to happen even though it wouldn't be part of the motion so there would not be a need for double fencing.

Unanimous approval. Motioned passed.

Break between 7:23pm and 7:33pm.

Commissioner Mumford recused himself for CU-17-003 and left at 7:24pm.

CU-17-003 Lynda Bagley requests a Conditional Use Permit for a Short-Term Rental Use in an Existing Residence. **Location:** 3074 S Richmond S **Community:** Millcreek **Planner:** Ashley Cleveland

Chairman Stephens said to applicant Lynda Bagley that she was last on the agenda. He stated he had her originally first or second but somehow, she ended up last after the agenda had been posted.

Applicant Lynda Bagley accepted the apology.

Planner Ashley Cleveland said Ms. Bagley was requesting a conditional use permit for a short-term rental use in the RM Zone in an existing residence at 3074 S Richmond Street. She said the subject property consisted of 0.247 acres and currently has a single-family home on the premises. She said to the north were commercial developments that lined along 1300 East and immediately north of the property were single family residential homes with senior housing south of the property.

Ms. Cleveland said the Planning Commission would be the deciding body and if the Commission approved this permit, Ms. Bagley would be able to rent out the property 30 days at a time pursuant to Chapter 5.19 on short term rentals.

Ms. Cleveland said at their meeting on Tuesday, 2 January 2018, the Millcreek Community Council unanimously recommended approval of this proposed rezone. Ms. Cleveland said concerns were raised about providing parking for AirBnB tenants though she said staff reminded the Council of the parking requirements of the RM zone. She said the Millcreek Community Council recommended the conditional use permit be approved with the following conditions: that applicant should provide parking for all guests.

Ms. Cleveland described the zoning map with the uses of the nearby properties. She added the important thing to note in the application was that it would be operating in the same existing single-family home presently there with the only difference being long term rental versus the option of long term rental with short term rental option. Ms. Cleveland then described the 3-D imaging map of the property site.

Chairman Stephens commented the home has a red roof appearance on the map.

Commissioner Booth asked if the property was close to the 2 sidewalks on the map?
Chairman Stephens answered it was next to the Chateau Brickyard that has a driveway looping to the back.

Commissioner Booth said he was concerned with the frontage width in front of 13th and asked if it went to the next street or was contained in the small area as he was not certain which house was being referred to?

Ms. Cleveland answered it was the home with red roof. She said the submitted site plan was for the existing home with the 3 log cabins in the back that have not yet been constructed though applicant has long range plans to increase the use with the additional buildings on the property. She explained the project will require future conditional use review and would be subject to all applicable zoning, fire, building, health, and licensing requirements when the application is filed to modify or expand the conditional use permit. Ms. Cleveland said there was currently one conditional use permit for the existing home as is it now to be able to have the business license for short term rentals and when applicant puts in 3 log homes the conditional use permit will be reviewed.

Ms. Cleveland restated the community council had given unanimous approval. She said one thing to note for this use was an ordinance specific to it that the Millcreek Business License person had found regarding: Section 19.04.547 of the Millcreek Code. She read the code section and added there was a page in the staff report specifically on the ordinance.

Ms. Cleveland read the Motion to Approve with the additional conditions from the staff report.

Applicant: Lynda Bagley
Address: 1250 Manor Circle, Millcreek UT

Ms. Bagley said when she filed her application she thought it would be under the old ordinance. She said it was one of things she was asked for: a drawing so she could do her application. She said in the explanation she could see it up (on the screen) and saying what she was doing. It stated she wanted to start with the house and then build out but she couldn't start until she had the drawing. Ms. Bagley said when she read the report the previous day she wondered why they were not submitting everything she had submitted for her application.

Chairman Stephens asked whether she meant the 4 or 5 additional dwellings?

Ms. Bagley said no, it would be an additional 3 dwellings and the garage was already an existing garage. She said the other 3 dwellings weren't cabins and under the new RM, which changed after she submitted the application, she didn't think she could do that with the building materials. Ms. Bagley said she submitted the application early enough and she had the printed out what she had submitted. She added that at the community council she showed the picture with the cabins and asked if she could hand it out which shows slight changes. Ms. Bagley said

she talked to the fire marshal who stated if she moved the farthest cabin a little to the east that he would approve it.

Chairman Stephens said for the present meeting they should limit it to the short-term rental application even though it was clear Ms. Bagley had broader plans. He said he saw the staff report mentioned future expansion and suggested if she would like she could ask the Commission could continue the application to work further with staff for a more comprehensive application.

Ms. Bagley said she had originally started this with the county where she had submitted her application and then on the news came AirBnB. She said she found out about all of this and she cringed at the word AirBnB as she had wanted to do this for years. She said she could ask to have it continued but she already had submitted the application. She added there had been changes but the fire marshal said he would ok it.

Chairman Stephens asked if he could have staff respond as the applicant stated her intent was for an application broader than a simple short-term rental though she also had mentioned additional rental units to the west though this application had not included it.

Mr. Lilly stated that was correct because they had communicated to the applicant that the issue was they could not do a conditional use permit on a new building without a technical review since the application was not ready. He said they did not have elevations or engineering nor the engineer at the site plan though they had received some conceptual renderings. Mr. Lilly said he believed they had communicated that to the applicant relatively early on that this permit or this first phase of the permit was for the single-family home.

Ms. Bagley said that he said it may have to come back and said Mr. Lilly had said grade. She said at the county where you get those maps the county had emailed asking him if that was what they wanted. She said they had sent one to Ms. Cleveland who called and spoke with them. Ms. Bagley said she had been doing this blindly and when she had gone through the county where they had handed her papers and said they had told her to “do this, do this” then Millcreek became a city so she stated she was now very confused. She commented they may not have seen the AirBnB report and that these other people who had options of both the old or new RM had filed their application a week after her. She added she had more than enough time for it and nothing had been asked of her. She said she still talked to people at the county including the fire marshal.

Chairman Stephens said the issue was that the only application before them was for the single-family dwelling. He said she could precede or continue the matter at an uncertain future date when she had submitted all the technical materials for the broader conceptual plan.

Commissioner Booth said he appreciated what Ms. Bagley’s was trying to do but with her experience she to have seen cases that had come in where the drawings that included elevations, surveys or information. He said it was very clear what was needed to be submitted for approval such as the fire marshal. He said she couldn’t submit just a line drawing and expect to get it approved but there was an opportunity for her to choose an option on whether to continue or come back.

Ms. Bagley said she understood and had been looking at a 3-story building that had been approved with the county. She said the Brickyard Chateau was 5 stories and explained the prospective site plan she envisioned.

Chairman Stephens asked if Ms. Bagley wanted to proceed or have the matter continued?

Ms. Bagley asked if she proceeded would it be under the old RM as she had filed the application December 7th? She said she had sent in her paperwork that but no one was responding.

Chairman Stephens replied it would be under the old RM or she could reapply under the new RM.

Ms. Bagley said she would not be able to build under the new RM with the building material requirements and setbacks which she had expressed that to staff. She said if the other cabins had to go with the new RM it would not be permitted.

Chairman Stephens said the new or old RM would not impact the application because it would be a separate part of the ordinance. He added the code on short term rental had many requirements. He asked if she had any intent to use the existing home as short-term rental absent the broader plans?

Ms. Bagley answered if she wanted all of it for short term rental.

Chairman Stephens said the only thing the Commission could authorize was the single-family dwelling for short term rental or she had the option to come back to staff to provide additional information because what she proposed was very conceptual.

Ms. Bagley said she had that already the elevation as well as the grade that was requested as she has had time to go out and get all the information.

Chairman Stephens said she could have expert items but they could only proceed on the application before them.

Ms. Bagley said not all of her paperwork had been submitted to the so she was unsure.

Commissioner Claerhout said he thought her concern was whether she should proceed tonight and if she came back with the 3 additions would it be subject to the new RM.

Mr. Lilly said they would be subject to the new ordinance because it would be a new application.

Commissioner Claerhout asked if she waited and came back with everything would she be under the new RM zone?

Mr. Lilly said if she came back with a new application or with an expansion / modification of the application it would be under the new RM and she would be under the new RM no matter what.

Ms. Bagley said she did not understand that. She said that was her point since she had submitted everything which is mentioned in the explanation. She had an updated version of the application and had spoken already with the fire marshal who stated they just needed a better turn around which she did. He said if they moved the one building east he would ok it since he needed an extra 150 ft. She said it would not work under the new RM.

Chairman Stephens instructed Ms. Bagley to have these conversations with staff as the Commission was limited to this very focused application,

Ms. Bagley said she would have to continue the application to build further on the property. Commissioner Claerhout said it sounded as if she would be subject to the new RM.

Ms. Bagley said she should not be subject to the new RM as they worked with other people who came in after her.

Mr. Lilly said if no action was taken on the application tonight and it just sat she could add to that application and be compliant under the old RM code. He said he would state for the public record what the expectation would be: an engineer set of drawings including elevations, rubber stamped by an architect, and reviewed technically by a fire marshal. He said they had conceptual reviews but nothing technical and that expectation was set with the application over a month ago.

Ms. Cleveland said regarding elevation she had received that phone call when Ms. Bagley was in line at the county and what the county had asked her was for a map elevation of the land. She said that was what was meant by elevation.

Ms. Bagley said that was not what was said. She said he had said grade which is why she didn't understand. She said he had said 'you don't even have the grade on here.'

Ms. Cleveland said that would be why an architect would be able to help.

Commissioner Claerhout said he understood if she continued the application it would be subject to the old RM.

Ms. Bagley said she would continue as she would not be able to build under the new under the new RM.

Chairman Stephens opened and closed the public comment as there were no members of the public apart from the applicant.

Chairman Stephens opened it up for Planning Commission discussion and motion at 8pm. He noted from the staff report that the community council had approved the application.

Commissioner LaMar motioned to continue application CU-17-003 for an unstated date to give applicant the opportunity to work further with staff to determine how to move forward.

Commissioner Claerhout seconded the motion.

Unanimous approval. Motioned passed.

Chairman Stephens said if Ms. Bagley pursued this it would be under the old RM if the current application was maintained.

Public meeting closed at 8:03pm.

Chairman Stephens opened up the business meeting at 8:03pm.

Commissioner LaMar stated he was in favor of keeping the current chair and vice chair.

Commissioner Booth seconded the motion.

Commissioner LaMar asked the current Chair and what he thought of the nomination.

Chairman Stephens said he would be willing to continue the role for 2018.

Commissioner LaMar asked what Commissioner Healey would think?

Chairman Stephens said Commissioner Healey indicated a desire to continue as Vice Chair and was wrapping up his more time-consuming business to allow for more time on the Commission.

Commissioner LaMar said he thought they had a good Planning Commission but for continuity as both had doing the job for some time which would good to keep going for another term.

Vote for Chair:

Commissioner LaMar - yes
Commissioner Booth – yes
Commissioner Claerhout – yes
Commissioner Carlson- yes

Motioned passed unanimously.

Chairman Stephens asked that the motioned be bifurcated and asked for someone to make a new motion for Vice Chair.

Commissioner Claerhout motioned to nominate Commissioner Healey for Vice Chair.
Commissioner LaMar seconded.

Vote for Vice Chair:

Commissioner Claerhout - yes
Commissioner Booth – yes
Commissioner LaMar – yes
Commissioner Carlson- yes

Motioned passed unanimously.

Commissioner Carlson motioned for the minutes listed to be approved.
Commissioner Booth seconded.

Motioned passed unanimously.

Chairman Stephens reminded the Commissioners of the upcoming work session.

Commissioner LaMar motioned to adjourn.

Commissioner Claerhout seconded the motion.

Motioned passed unanimously.

APPROVED

MILLCREEK PLANNING COMMISSION OPEN
AND PUBLIC MEETINGS TRAINING

- **Utah law requires that the presiding officer of the public body (*i.e.*, *Chair*) ensure that members of the public body are provided with annual training regarding the Open and Public Meetings Act (“Act”)**
-

GENERAL RULE

- **The Act provides that all meetings are open to the public unless closed under a specific closed meeting provision**
-

- **Meeting is defined as convening of a public body, with a quorum (four) present...for the purpose of discussing or acting upon a matter over which the public body has jurisdiction**
 - **Meeting does not include a chance or a social meeting**
-

SPECIAL RULE FOR PLANNING COMMISSION ADOPTED BY ORDINANCE (NOT STATE STATUTE)

- No member of the Commission shall have any ex parte discussion regarding any administrative or re-zone land use application before the Commission.
- Ex parte communication means any communication, including but not limited to electronic or social media communication, with interested parties of an administrative or re-zone land use application coming before the Commission prior to the Commission reaching a final decision.

- UTAH CODE ANN. § 52-4-210 provides “Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.”

-

- **A public body must give at least 24 hours advance notice of each meeting unless the meeting is to consider a matter of emergency or urgent mature**
 - **Public body must give notice of its annual meeting schedule**
 - **Notice requires a meeting agenda, date, time, and place of the meeting**
-

- **Notice should be specific enough to notify the public as to the topic to be considered**
 - **The Council chair may in his/her discretion discuss a topic raised by the **public** that is not on the agenda provided that the Council may not take final action on the topic unless it is properly noticed**
-

- **Written minutes and a recording must be kept of all open meetings**
 - **Written minutes are the official record of action taken at the meeting**
-

- **Closed meeting may be held for only specific purposes including the following:**
 - **Discussion of the character, professional competence, or physical or mental health of an individual**
 - **Discussion of pending or reasonable imminent litigation**
-

- **Discussion regarding the purchase, exchange, or lease of real property**
 - **Discussion regarding the sale of real property**
 - **When the Commission is acting in a judicial or quasi-judicial matter (not statutory)**
-

- **Minutes and recording of closed meeting are protected records under GRAMA**
 - **Recording does not need to be made if the closed meeting is closed exclusively for the discussion of the character, profession competence, or physical or mental health of an individual. Note the presiding officer must sign a sworn statement affirming that the sole purpose of the closed meeting was to discuss such matter**
-

CASE STUDY # 1

THE MEETING AT SMITHS

Four planning commissioners have been properly taught to shop local and run into each other at the local Smith's store, and one of the commissioners starts discussing the new M zone ordinance.

CASE STUDY #1

THE MEETING AT SMITHS

- **MAY:**
 - **Recommend that this is not an appropriate forum to discuss this matter and change the subject**
 - **Continue shopping (walk away)**
- **MAY NOT:**
 - **Discuss the matter and indicate how you will vote**

CASE STUDY #2

THE OVERBEARING CONSTITUTE

- **While attending your local worship service you are approached by a constitute who want to discuss your position and vote on the proposed new day care in his neighborhood (conditional use on commission agenda)**

CASE STUDY #2

THE OVERBEARING CONSTITUTE

- Open Meeting Act
 - Discuss the matter as you deem appropriate
 - PC Rules
 - **Recommend that this is not an appropriate forum to discuss this matter and change the subject**
 - **Continue worship (walk away)**
-

CASE STUDY #3

FACEBOOK DILEMMA

- While perusing Facebook you encounter a post about a daycare that has a pending conditional use application. The post contains some obvious misinformation that you consider outrageous and an intentional misrepresentations.

CASE STUDY #2

FACEBOOK DILEMMA

- Open Meeting Act
 - Engage as you deem appropriate
- PC Rules
 - **Close the post**

QUESTIONS CONCERNING THE OPEN AND PUBLIC MEETINGS ACT