



**Minutes of the  
Millcreek Planning Commission  
January 15, 2020  
5:00 p.m.  
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, January 15, 2020 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106.

**PRESENT:**

**Commissioners**

Fred Healey (excused)  
Tom Stephens (excused)  
David Allen (excused)  
Russ Booth  
Scott Claerhout  
Shawn LaMar  
Mark Mumford  
Victoria Reid (arrived at 5:47 p.m.)  
Skye Sieber

**City Staff**

Francis Lilly, Planning and Zoning Director  
Elyse Sullivan, City Recorder  
Erin O'Kelley, Planner  
Blaine Gehring, Planner  
Robert May, Planner

**Attendees:** Mayor Jeff Silvestrini, Council Member Dwight Marchant, Brandi Southard, Lynn Cooper, Derril Barnum, Lei Lin, Ray Henderson, Angela Kirsling, Herb Jimenez, Robby Stowe, Sandra Coffman, Jono Hampshire, Lorri Lake, Allen Sowards, Kristie Sowards, Babbie Hill, and Sean Hansen.

**REGULAR MEETING – 5:00 p.m.**

**TIME COMMENCED: 5:05 p.m.**

Chair Pro Tempore LaMar called the meeting to order.

**Commissioner Sieber moved to move business item 3.2 to the beginning of the agenda.**

**Commissioner Booth seconded. Chair Pro Tem LaMar called for the vote. All**

**Commissioners voted yes. The motion passed unanimously.**

**3.2 Appointment of Chair and Vice Chair for 2020**

**Commissioner Mumford moved to nominate Shawn LaMar as Chair of the Planning Commission for 2020. Commissioner Sieber seconded. Chair Pro Tem LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**Commissioner Sieber moved to nominate Russ Booth as Vice Chair of the Planning Commission for calendar year 2020. Chair LaMar seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

## 1. Public Hearings

### **1.1 Consideration of CU-19-017, Preliminary Conditional Use Permit for a 50-Unit Mixed Use Development in the C-2 Zone Location: 3816 S. Highland Drive Applicant: Sean Hansen Planner: Robert May**

Robert May said the application was for a conditional use permit for a 50 residential unit mixed-use development and a front yard setback reduction to 15 feet. In July, the Commission reviewed a similar mixed-use project on the property for 36-unit with Plowgian Auto as the commercial component. Plowgian Auto ended up relocating to Holladay instead so the proposal fell through. May showed the Commission a site plan and elevations of the proposed project. He said the applicant was requesting to construct a 50 residential unit with 1,900 square feet of commercial office space mixed-use development. The parcel was currently zoned Commercial C-2 and consisted of approximately .70 acres. The C-2 Zone allows for a mixed-use project as a conditional use. Due to the road right-of-way dedication of 10 feet, the applicant was also requesting a reduced front yard setback to 15 feet from 25 feet. Fifty percent of the building's front would face Highland Drive with enhanced landscaping between Highland Drive and the building. The proposed development would include a 4-story structure with "at grade" and "below grade" parking that meets the minimum parking requirements for the proposed residential/guest and office development. The site consists of a minimum required 12,142 square feet of open space and nearly 8,600 square feet of that would be landscaping. The remaining open space was proposed to be a fitness center and club room, podium lounge with a barbeque and fire pit, a rear lounge with a pickleball court, terraced garden barbeque space and seating, and 24-hour on-site maintenance would be provided.

May showed a shared parking calculation that said the developers would be required to have 83 parking stalls including residential, guest, and commercial. Due to the proposed site area being in a "Geologic Hazard Special Study Area," prior to any development a Geologic Hazard and Engineering Geology Report was required as per Millcreek's Geologic Hazards Ordinance. The Public Works Department supported the supplied geotechnical report and did not think the project would have any problems. A final geotechnical report would also be required. At their meeting on January 7, 2020, the Millcreek Community Council voted to recommend approval (10-1) of the requested conditional use application. There was some discussion among community council members regarding unit mix ratio and building size and materials being compatible with the surrounding area. Due to the project being adjacent to the boundaries of the East Mill Creek Community Council, the staff memo and project details were extended to that community council for a recommendation. At their meeting on January 2, 2020, the East Mill Creek Community Council unanimously recommended approval of the requested conditional use application.

May said the Planning Commission did approve the project in July, but since then the applicant had reduced the commercial intensity due to the loss of Plowgian Auto as part of the project. Staff found that the proposed project had been scaled down in terms of commercial intensity and found that the professional office space would be a much more compatible use in a mixed-use project scenario. Millcreek Public Works and planning staff did not find that a traffic study was necessary for approval since the increase of residential units was only 14 units, barely making a dent in the major collector's average daily trips. Additionally, the impact of a professional office space from an auto repair shop would

drastically reduce the congestion making it less of an impact to the surrounding uses and traffic. Due to the 10-foot right-of-way dedication required for an 80-foot right-of-way as laid out in the Master Transportation Plan, staff found that a reduction to 15 feet was acceptable and met the criteria for a reduced front yard. In addition to the standard conditions of approval, staff recommended adding the following conditions:

- Complete all necessary requirements under Chapter 19.75 Geologic Hazards Ordinance for final conditional use approval and prior to being issued a permit.
- Provide a lighting plan of the development where all lighting fixtures shall be directed downward with mechanisms to prevent dark sky illumination. Minimum Average Foot-Candles for interior streets shall be 0.3 and the fixture height shall not exceed 25 feet. No on-site light poles may be located closer than 10 feet from the public right of way.
- The applicant shall work with Millcreek Public Works to evaluate if Highland Drive street lighting is necessary for safe pedestrian travel.
- Meet all required ADA parking standards prior to final CUP approval.

Commissioner Claerhout asked about the frontage and setbacks aligning with adjacent buildings. May said the project would line up with nearby Talo Townhomes. There would be a dedicated 10 feet for improvements, then 25 feet for a front yard setback but the applicant was asking for a 15-foot reduced setback instead. Commissioner LaMar asked if the project was a PUD. May said no, it would be rental apartments. Commissioner Booth asked about the driveway proximity to Talo Townhomes. May said there was property between the residential projects. Commissioner Sieber asked about the driveways. May said there was a north and a south driveway.

Applicant - Sean Hansen, 3055 Richmond Street, said the north driveway would service the sub parking and the south driveway would service ground level and commercial parking. He said the garages would be open during the day. Commissioner Mumford asked if there was any conceptual plan for the green space on the east side of the property. May said there was an enhanced landscaping plan in the staff report. Commissioner Mumford asked that the landscaping not block line of sight on the driveways. May said it would not. Commissioner LaMar said he wanted the proposal presented to the Commission to be what was constructed. He asked about a tenant for the commercial space. Hansen said it would be owner-occupied. Commissioner Sieber asked about the construction period. Hansen said 12-14 months for construction then leasing for up to another year. Commissioner Claerhout asked about open space. Hansen said there would be a pet area, pickleball court with removable nets, and patios.

Allen Sowards, Millcreek Community Council, said the Council was comfortable with the proposal.

*Chair LaMar opened the public hearing.*

There was no public comment.

*Chair LaMar closed the public hearing.*

Commissioner Mumford expressed concern about the geological hazard area and requested an emergency cache incorporated into the complex to assist the residents in case of a disaster. Francis Lilly said Millcreek's Emergency Manager would be a good resource to know what the cache should entail. Commissioner Claerhout asked if there were proposed solar panels for the roof. Hansen said there would need to be a connection agreement with Rocky Mountain Power for that. May suggested that the developer explore options with Rocky Mountain Power. Chair LaMar requested that the Commission see the project again if the unit count changed. Lilly said parking would be recalculated if the unit count changed.

Commissioner Reid arrived at 5:47 p.m.

**Commissioner Mumford, on CU-19-017, moved to approve preliminary conditions of the conditional use permit based on the recommendation from the planners and to include an emergency cache and consideration of solar panels. Commissioner Claerhout seconded. Chair LaMar called for the vote. Commissioners Mumford, Claerhout, LaMar, Sieber, and Booth voted yes. Commissioner Reid abstained. The motion passed.**

**1.2 Consideration of CU-19-015, Preliminary Conditional Use Permit for 4 Duplexes in a Dwelling Group in an A-1 Zone Location: 4046 S. 700 W. Applicant: Rick Whiting Planner: Blaine Gehring**

Blaine Gehring said Rick Whiting was requesting approval of a conditional use permit (CUP) for a dwelling group consisting of 4 duplexes in an A-1 Zone located at 4046 South and 700 West. The subject property consisted of approximately 1.06 acres with approximately 117 feet of frontage along 700 West and had an existing single-family dwelling which would be demolished and replaced with one of the duplexes. The property was mostly vacant and had served as horse pasture for many years. A dwelling group was defined in the Millcreek Zoning Code as "a group of two or more dwellings located on a parcel of land in one ownership and having any yard or court in common" and was a conditional use in the A-1 Zone along with two-family dwellings. There were seven requirements for a dwelling group which include:

1. Meet the density requirements of the underlying zone.
2. Specific setback and separation requirements for the buildings.
3. 30-foot minimum access roadway.
4. Minimum of 2 parking spaces per unit.
5. Every dwelling within 60 feet of access roadway.
6. Provide landscaping per MKC 19.77 with solid visual barrier fences along all property lines.
7. Development approved by Community Development Director and Fire Marshal.

The proposed dwelling group would have 4 duplexes, an access road 30 feet wide, and density under 8 units per acre. The duplexes would be three stories with a basement and a height of 32 feet and 1 inch, which is under the height allowed in the A-1 Zone. An informal meeting was held by the developers and the neighboring property owners on September 26, 2019. The neighbors expressed support for the duplex concept at that meeting. At their meeting on January 7, 2020, the Millcreek Community Council recommended approval of the conditional use permit by unanimous vote with the condition that the applicant meet with the neighbors on an 8-foot high opaque fence. Planning staff recommended approval of the conditional use permit with the following conditions:

1. The applicant shall provide access and parking as shown on the site plan provided in the application.

2. Setbacks shall be as shown on the site plan provided in the application.
3. The applicant shall provide the proposed building elevations as provided in the application and add exterior materials of stucco and stone or brick on at least 50% of the exterior.
4. The applicant shall work with the neighbors on an 8-foot opaque fence around the property.
5. Landscaping shall be installed in compliance with Chapter 19.77 Water Efficient Landscape Design and Development Standards. Any revisions to the landscape plan package shall be reviewed and approved in writing by the director or designee prior to commencement of construction. Re-certification of compliance with the requirements of the landscaping ordinance shall be provided by the qualified professionals who prepared and submitted the landscaping plan.
6. All service and mechanical equipment must be screened by landscaping or other methods as set forth in section 19.77.070 of the zoning ordinance.
7. No light source (light bulb, fluorescent tube, or other direct source of light used to illuminate a parking area) shall be visible beyond the property line of any off-street parking area as required by Section 19.80.030 of the zoning ordinance. All light sources shall be Dark Sky compliant.
8. The applicant will comply with all requirements established through the technical review process prior to receiving final conditional use approval.
9. The applicant will comply with all requirements of the Unified Fire Code, subject to approval by the Fire Marshal.
10. The applicant shall obtain a complete review for an approved building permit and shall continually comply with the requirements of Millcreek City, Salt Lake City Department of Public Utilities, and the S. L. City Suburban Sewer District.
11. The applicant and its successors shall properly and continually maintain all required landscaping, fencing, buildings, and roads.

Commissioner Reid asked about hard cover. Gehring said there were no requirements in the A-1 Zone, but the proposal maintained a 40% open space on the property.

Applicant - Rick Whiting, 6633 Greenfield Way in Cottonwood Heights, said he had been very friendly to the neighbors. He mentioned that all storm water would be retained on site. Commissioner Reid asked about the water retention. Whiting said there would be 5 retention ponds.

Allen Sowards, Millcreek Community Council, said the project had a lot of back and forth collaboration with the neighbors and the Council appreciated that. He said the Council recommended an 8-foot fence instead of a 6-foot fence for privacy concerns. He said the Council did not care if the fence was opaque, just that the applicant and neighbors work together. Gehring said the dwelling group code required a solid fence.

*Chair LaMar opened the public hearing.*

Brandi Southard, 4088 S. 700 W., said the developer and the neighborhood had not met since the last meeting and had not yet discussed the fence. She said the placement of the buildings was well thought out. The neighbors would prefer a stone or brick fence, not vinyl. She noted that 3-stories was not conducive to the neighborhood though it was allowed in the zone. She asked if there was a construction period requirement.

Whiting said he planned on 10-12 months for construction. He said he was agreeable to work with the neighbors on the fence. Lilly said the County had a noise regulation, so between

10pm – 7am no loud noises for construction would be allowed although a permit for construction could be obtained.

Herb Jimenez, 4060 S. 742 W., asked if the property was sold, if another developer could build more units. Chair LaMar said it would be a new application that would have to go through the City's land use process. Gehring said the CUP would run with the land, not the owner. Lilly said that the applicant had maxed out the allowable density in that zone.

Sandra Coffman, 742 W. 4060 S., said she was concerned about the look of the buildings because they looked like apartments and the height was too much for the neighborhood.

Whiting said he had proposed a 2-story project previously and it was rejected.

*Chair LaMar closed the public hearing.*

Commissioner Mumford asked about upcoming 700 W. improvements. Gehring said the developer would be required to install curb, gutter, and sidewalk. Mayor Silvestrini said the City had long-term plans to resurface 3900 S. between 700 E. and 900 W. Commissioner Reid brought up the opacity of the fence. Gehring said the dwelling group code required that there be an opaque fence along the property lines. Chair LaMar expressed favor for the project.

**Commissioner Reid moved to approve conditional use permit CU-19-015, a dwelling group with four duplexes in the A-1 Zone, with the conditions as listed in the staff report and a slight modification on item 4 that the applicant would work with the neighbors and the City on the fence. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**1.3 Consideration of CU-19-016, Preliminary Conditional Use Permit for a Private Education Institution in a R-M Zone Location: 3950 S. 700 E. Applicant: Myotherapy College of Utah Planner: Blaine Gehring**

Blaine Gehring said Myotherapy College of Utah was a fully accredited college providing students with a high-quality education and experience to becoming a licensed massage therapist. They would like to occupy office space in the first two floors of the existing office building at 3950 South 700 East. A private education institution is defined in the Millcreek zoning code as a private educational institution providing private training which is "...instructional in nature... not providing direct services other than instruction to the general public" (19.04.425). Myotherapy College of Utah fits that definition. The office building is directly across the street from Western Governors University, Fortis College, and Independence University which were located in a C-2 Zone. There would be 49 parking spaces provided in the lease. At their meeting on January 7, 2020, the Millcreek Community Council recommended approval of the conditional use permit to the Planning Commission by unanimous vote. Staff recommended approval with the following conditions:

1. All tenant finishes will require a building permit.
2. Business license issued by Millcreek.
3. Compliance with and continual maintenance of all fire codes.
4. Parking will be as provided in the tenant lease of 49 parking spaces.
5. All items of the staff report.

Gehring said there would not be a technical review on the conditional use permit because the building already existed, so staff recommended a final conditional use approval rather than preliminary.

Commissioner Booth asked if 49 stalls would be adequate for the College. Gehring said staff did not anticipate more than 49 stalls being needed. Lilly said a provision in the parking code required an ongoing commitment for adequate parking so parking demands could be evaluated and increased if existing parking was insufficient. Commissioner Mumford asked if there were designated stalls for the College.

Applicant – Ray Henderson, 3030 E. 3150 S., said the reason for the College moving from their current location was that the building they were leasing was turning into a TRAX Station. The College graduates about 100 students a year and 50-60% of the students use UTA transit. Commissioner Sieber asked about faculty and hours of operation. Henderson said the class hours would be from 9am-10pm and there were 17 part-time faculty and 8 full-time administrative staff.

Allen Sowards, Millcreek Community Council, said the Council unanimously recommended approval because the use was consistent with adjacent properties with institutions of higher learning.

*Chair LaMar opened the public hearing.*

There were no comments.

*Chair LaMar closed the public hearing.*

Commissioner Mumford requested the property sign have the numeric address posted on 700 E. heading south. Gehring said that would not be part of the application but suggested that the applicant work with property management about that.

**Commissioner Sieber moved to approve a final conditional use permit for private education institution in the R-M zone, CU-19-016, with the conditions in the staff report and with the added condition that the applicant work with the property owner on more visible signage on 700 E. The applicant said the current monument signs were weathered. Commissioner Mumford seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

The Commission took a break from 6:27 – 6:36 p.m.

**1.4 Consideration of EX-19-003, Special Exception to Have a Second Dwelling on a Property in a R-1 Zone Declared Legal Location: 1438 Murphy's Lane Applicant: Lorri Lake Planner: Blaine Gehring**

Blaine Gehring said Lorri Lake was seeking a special exception to have a use violation declared legal. The property was located at 1438 Murphy's Lane and currently operated as a single-family home with a second dwelling attached to a detached garage. The zone currently only allowed one single-family dwelling per lot. The request, per Chapter 19.88.140 of the



Millcreek Code, was to have the use of the detached dwelling declared legal through special exception. Sometime in 1995 the properties east of the area on Highland Drive were being proposed for a commercial rezone. The residential neighbors did not want that zoning spilling over on to Murphy's Lane, so they petitioned to have their properties zoned R-1-8 from R-2-6.5. The owners were to have those properties containing second units declared legal by the County at that time. Lake purchased her property in 1996 not aware that her second unit had not been declared legal and a notice of non-compliance was placed on the property. The property met the following criteria for the exception:

1. The use has existed for ten years or longer.
2. No record of any complaints has been found for the property.
3. The house has the appearance of a single-family home with the unit attached to the garage in the rear of the property. There is sufficient parking to not cause any detrimental effects on the neighboring properties.

In January, the East Mill Creek Community Council and the Millcreek Community Council recommended approval of the special exception by unanimous votes with the condition that the applicant acquire a business license for renting the second dwelling unit. Staff recommended the Planning Commission grant the special exception with the condition that the applicant acquire a business license for renting the unit.

Commissioner Mumford asked how deep the property was. Gehring showed the Commission an aerial image of the parcel.

Applicant – Lorri Lake, 1438 E. Murphy's Lane, said the County declared the use non-compliant. Commissioner Claerhout asked why she was getting the property into conformance now. Lake said she wanted to refinance the property.

*Chair LaMar opened the public hearing.*

There were no comments.

*Chair LaMar closed the public hearing.*

**Commissioner Booth, in consideration of EX-19-003, moved to grant special exception to have a second dwelling on a property in a R-1 Zone declared legal. Commissioner Reid seconded.** Commissioner Sieber pointed out the one condition in the staff report for the applicant to obtain a business license for the rental unit. Chair LaMar pointed out that all conditions found in the staff report should be included. **Commissioner Booth affirmed. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**1.5 Consideration of ZM-19-019, Rezone from R-M to R-2-6.5 to Allow a Conversion of a Dental Lab into a Single-Family Home Location: 1470 E. 3900 S. Applicant: Robb Stowe Planner: Blaine Gehring**

Blaine Gehring said Robb Stowe was requesting the rezone of property located at 1470 E. 3900 S. from R-M to R-2-6.5 to facilitate the conversion of his dental lab back into a single-family dwelling. The property was a corner lot on 3900 South, 0.14 acres, and adjacent to R-2-6.5, R-1-8 and R-M zoning on the north side of 3900 South. When Stowe had his property rezoned to R-M in 1993, a zone condition was placed on the property limiting it to a dental lab. He converted the home into the lab and had used in that way for 28 years. He tried to sell



the lab in 2018 with no luck. Now that the applicant was retired, he would like to convert the lab back into a single-family dwelling and needed the zone condition removed in order to do so. Millcreek's Future Land Use Map designated the area as Neighborhood 1 which is single-family residential. With the zones on the south side of 3900 South being R-2 or R-1, leaving the R-M zone in place and removing the zone condition would be out of character for the neighborhood and the General Plan. At their meeting on January 7, 2020, the Millcreek Community Council voted 10-1 to send a favorable recommendation to the Planning Commission on the rezone. Staff recommended the Planning Commission send a favorable recommendation to the City Council for the rezone.

Applicant – Robby Stowe, 1470 E. 3900 S., asked for his plans to be approved.

Allen Sowards, Millcreek Community Council, said one person voted contrary because they once had a bad experience with a rezone but everyone else felt it was a consistent use.

*Chair LaMar opened the public hearing.*

There were no comments.

*Chair LaMar closed the public hearing.*

**Commissioner Claerhout, for application ZM-19-019, moved to favor recommendation of a rezone from R-M to R-2-6.5 to allow a conversion of a dental lab into a single-family home located at 1470 E. 3900 S. and subject to any specifications in the staff report.**

**Commissioner Sieber seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**1.6 Consideration of SD-19-015, Preliminary Plat Approval for a Flag Lot Subdivision Location: 1643 E. Woodland Avenue Applicant: Greg Sneyd Planner: Erin O'Kelley**

Erin O'Kelley said the Commission had seen the application previously as a rezone and the City Council approved the rezone in December 2019. The subdivision would be for two single family lots subject to the flag lot policy. The applicant would demolish the existing home on the proposed flag lot, lot 2, and rebuild conforming to the flag lot policy. Lilly reminded the Commission that the rezone and subdivision would resolve a non-conforming situation.

Applicant - Greg Sneyd, 3018 S. 2300 E., said the School of the Deaf and Blind (Jean Massieu School of the Deaf) installed a fence and expensive gate between their property and his property that would stay intact. O'Kelley said without the driveway access, the flag lot would not conform to the policy.

O'Kelly said that staff found that the proposed flag lot subdivision could meet the requirements of Title 18 of the Millcreek subdivision code in addition to the adopted flag lot policy. Further, the proposed subdivision did not create a zoning violation or conflict with the Residential Compatibility Overlay Zone (RCOZ) standards. Staff recommended that the proposed flag lot subdivision be granted preliminary-plat approval with the following staff conditions:

1. The design of the site and buildings shall comply with all applicable development standards of the Millcreek Zoning Code and any site development standards required by the Millcreek Engineer and Building Official, and Unified Fire Authority.
2. Must meet all requirements in the adopted Flag Lot Policy.
3. Prior to receiving final plat approval, the applicant shall certify that existing utility services have the capacity to accommodate additional demand induced by the development, or that the services will be upgraded to meet the additional demand.
4. Accessory structures will require separate building permits and staff review for zoning/land use compliance.
5. Any modifications to these approved plans must be approved by the Planning Department, in writing, prior to the changes being implemented in the field.
6. The proposed subdivision plat must complete a final technical review that includes an engineering review to ensure that the final plat complies with all conditions of approval of the preliminary plat and to ensure that the final plat complies with the design standards, codes, and ordinances and with minimum engineering/surveying requirements, including any bonding for possible future improvements.
7. All applicable zoning, building, health, fire and safety requirements must be met prior to receiving final approval of a building permit.
8. All items of the staff report.

*Chair LaMar opened the public hearing.*

Derril Barnum, Lower Millcreek Irrigation Company, said there was a canal to the north of the property. He said the canal had an easement on the subject property and he wanted to ensure the easement was recognized. O'Kelley said the easement was in the site plan and had been considered. She said the Irrigation Company would sign the final subdivision plat.

Lei L., 1685 E. Woodland Avenue, wondered if the proposed driveway would affect her property. O'Kelley said there would be a 5-foot landscaped buffer between the subject property and her property. The property owner asked about the construction timeframe for the driveway and about parking. O'Kelley said each lot was required to have adequate off-street parking because on-street parking was not allowed.

Sneyd said he would move forward as soon as possible to get the plat recorded, then demolish the old house, then design the house plans. He imagined it would take 90-120 days to start construction. Commissioner Mumford asked where construction workers would park. Sneyd said he had not addressed that yet. Commissioner Sieber asked about maintaining the fence line on the east side. Sneyd said he would maintain it.

*Chair LaMar closed the public hearing.*

**Commissioner Reid moved that the proposed flag lot subdivision, SD-19-015, be granted preliminary plat approval with the staff conditions listed in the report. Commissioner Sieber seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

## **2. Continuing Business**

**2.1 Consideration of ZM-19-018, Rezone from R-1-10 to R-1-6 to Facilitate a Flag lot  
Location: 967 E. Garden Drive Applicant: Peter Tolman Planner: Erin O'Kelley**

Erin O’Kelley said if granted, the rezone would facilitate a flag lot subdivision with two lots. The Millcreek Community Council revisited the application on January 7, 2020 and recommended denial. They expressed concern with neighborhood compatibility, an increase in density, the project details were too vague, and the development agreement did not adequately address their concerns about design and lot layout. O’Kelley said she updated the development agreement conditions and the Council did not feel that it was detailed enough. Staff had concerns about flag lot compatibility and recommended denial based on that and that the neighborhood concerns had not been mitigated or addressed.

Chair LaMar asked about the 50% grass condition in the development agreement. O’Kelley said staff encouraged xeriscape per the landscape ordinance and up to 50% of grass would be allowed.

The applicant was not present for comment. Chair LaMar allowed public comment.

Allen Sowards, 4315 Garden Drive, said he started a neighborhood petition asking if residents agreed with the following statement, “I am opposed to the rezone of 967 E. Garden Drive from R-1-10 to R-1-6 for the purpose of subdividing for a flag lot.” He said 18 adjacent households signed the petition. He said the proposed lot had 62 feet of frontage. He said surrounding lots had greater frontage and he did not want to set a precedent for flag lots. He asked the Commission to vote the same as the community council, a recommendation of denial.

O’Kelley said the two flag lots she had previously worked on in the last year were to correct non-conforming issues. Commissioner Claerhout said he was opposed to the proposal. Chair LaMar said he was not in favor of rezoning for additional density and this would not do that, but he did express concern about setting a precedent for other lots in the neighborhood doing that. He said the property was not the best configuration for a flag lot but was not opposed to it. He wished the applicant was present to discuss the proposal. Commissioner Reid said she was not opposed to the flag lot, but the applicant did not try to work further with the community council to resolve concerns.

**Commissioner Mumford moved to recommend denial of ZM-19-018 as recommended by staff, the community council, and the neighborhood. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

### **3. Business Meeting**

#### **3.1 Approval of December 18, 2019 Meeting Minutes**

**Commissioner Booth moved to adopt the minutes. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

#### **3.3 Updates from the Planning and Zoning Director**

Lilly wished the Commission a happy new year and thanked them for their service. He announced a staff change, that Blaine Gehring would be focusing on ordinance updates and code as a legislative analyst and the City would be hiring a new planner. Lilly said he would

like to do a work session on a fence ordinance and medical facility overlay zone. He brought up that the Commission’s bylaws should be updated and offered the Commission a chance to be included. He announced open houses on January 22<sup>nd</sup> on Millcreek Common and January 23<sup>rd</sup> on accessory dwelling units. The Planning Commission requested that the open houses be noticed as meetings in case a quorum showed up. Chair LaMar asked for meeting feedback as the new Chair. Commissioner Booth offered to keep public comments to a time limit and have those wishing to give comment to fill out a card and be preassigned.

**4. Calendar of Upcoming Meetings**

- City Council Work Mtg., 1/21/20, 5:30 p.m. at City Hall
- City Council Mtg., 1/27/20, 5:00 p.m. at City Hall
- TENTATIVE Planning Commission Mtg., 1/29/20, 5:00 p.m.
- Mt. Olympus Community Council Mtg., 2/4/20, 6:00 p.m. at 3450 E. Oakview Dr.
- Millcreek Community Council Mtg., 2/4/20, 6:30 p.m. at City Hall
- Canyon Rim Citizens Association Mtg., 2/5/20, 7:00 p.m. at 2375 E. 3300 S.
- East Mill Creek Community Council Mtg., 2/6/20, 6:30 p.m. at 2266 E. Evergreen Ave.
- City Council Mtg., 2/10/20, 5:00 p.m. at City Hall
- City Council Work Mtg., 2/18/20, 5:30 p.m. at City Hall
- Planning Commission Mtg., 2/19/20, 5:00 p.m. at City Hall

**ADJOURNED: Commissioner Mumford moved to adjourn the meeting at 7:31 p.m. Commissioner Sieber seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**APPROVED:** \_\_\_\_\_ **Date**  
**Shawn LaMar, Chair**

**Attest:** \_\_\_\_\_  
**Elyse Sullivan, City Recorder**