



Millcreek
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MEETING MINUTE SUMMARY
MILLCREEK PLANNING COMMISSION MEETING
March 21st, 2018 5:00 PM
 (approved May 16, 2018)

Approximate meeting length: 4 hours

Number of public in attendance: 20 plus those who did not sign or whose names were illegible

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
Jeff Silvestrini		x
Francis Lilly		x
Alexandra Muller	x	
Ashley Cleveland	x	
Robert May	x	
John Brems		x
John Jansen	x	

Regular Meeting began at 5:01p.m.

Chairman Stephens read the opening statement.

Commissioner LaMar arrived at 5:03p.m.

Mr. May introduced Jim Hardy, Millcreek's newly hired Building Official. Mr. Hardy explained his job duties.

Commissioner Carlson arrived at 5:22p.m.

ZM-17-001 (Continuing Business) Kasey Kershaw requests Rezone from R-2-10 to RM subject to Development Agreement/ Remove Zone Conditions limiting development to 12 units / acre subject to development agreement **Location:** 1224 East 4500 South, 1236 East 4500 South, 4500 South 1200 East, 4529 South 1200 East **Community:** Millcreek **Planner:** Rob May

Mr. May explained Mr. Kershaw's application timeline: In October 2017, the applicant, Kasey Kershaw, petitioned the City Council to rezone property on the corner of 1200 East and 4500 South. Specifically, the applicant sought to have the property at 4500 S 1200 E rezoned from R-2-10 to RM. The applicant requested that the other parcels remain RM, but that the existing zoning condition limiting development to 12 units per acre be amended to 20 units per acre. The Planning Commission considered this request on 15 November 2017. After receiving considerable public comment on the item, expressing concern about height, scale, and parking, the Planning Commission recommended a continuance to allow the developer to further refine the project in a manner that responded to resident concerns. Subsequent to that meeting, the Developer held an informal community meeting with residents on February 20th, 2018. At that meeting, the developer and residents discussed height, number of units, tenancy, design, traffic, and access.

Mr. May described the street views from the staff reports as well as the project information such as unit design, amenities, and site design. He then described the development agreement with minimum 7 stipulations mentioned in the staff report.

Mr. May explained the neighborhood and Community Council response: This project was the subject of two meetings before the Millcreek Community Council, and one neighborhood meeting organized by the developer to discuss issues brought up at the November 21 hearing. Subsequent to a redesign that addressed initial concerns about height and density, the residents continued to express concern about traffic impacts, parking, additional driveways along 1200 East, the use of the garages for non-residential purposes, and the developer's intention to hold the property for renter occupancy. These concerns were raised before the Millcreek Community Council at their meeting on Tuesday, 6 March 2018. At public meetings on 7 November 2017 and 6 March 2018, the Millcreek Community Council recommended that the applicant's request to amend the zone conditions be denied.

Mr. May explained the Planning Staff recommendations and motion.

Chairman Stephens opened the hearing up for questions by the Commissioners.

Commissioner Booth asked if there were going to be any type of restrictions in the development agreement on the accessory garages?

Mr. May answered currently there wasn't any type of restrictions.

Commissioner LaMar asked if the lots had been consolidated yet or would it happen after a rezone?

Mr. May answered it would be consolidated at a later date if they haven't been yet.

Commissioner LaMar asked if the dental office was the spot next to the project?

Mr. May answered yes, it was the dental office.

Commissioner LaMar asked for clarification regarding access from 4500?

Mr. May answered while it would have been nice to have access from 4500 due to traffic impact that 4500 is a Utah Department of Transportation (UDOT) road and they were not permitting access. He said it basically comes down to it is 600 feet from the intersection and because it was not an already existing public access UDOT would not allow it but would be allowed for emergency vehicles.

Commissioner LaMar asked regarding condition #6 on parking, how enforceable would that be? Chairman Stephens said the applicant would be able to better answer to the question.

Commissioner LaMar asked if there was enough variance in the roof height?

Mr. May answered that at this point they were renderings and at a future date there could be flexibility.

Commissioner Clearhout asked about Mr. May's previous statement that the dental property fell through.

Mr. May said he thought the dental office was still going through.

Kasey Kershaw, applicant

Address: 4949 Cottonwood Lane, Holladay, UT 84117

Mr. Kershaw said originally the purchase price had been substantially higher but due to the feedback from the Planning Commission and the community the seller was finally willing to relent on price. He said he was looking to do 26 or 27 townhome units at 3 stories with a flat roof that was going up all over Millcreek. He reiterated the seller dropped price after hearing feedback which was good news for him thus alleviating concerns about being profitable and has led him to build 17 townhomes instead meaning he would have to build larger units. He said that would require maxing out the height of the units, staying with a box structure to be within height compliance, and adding more bedrooms to make the financial numbers work.

Mr. Kershaw said his preference was to build smaller units in 6 unit buildings that look like 3 units with a more traditional architecture. He said if he did what was allowed then there would be 4 bedroom units which would be 70 plus bedroom total which would mean more cars and people versus the smaller 17 units with 44 bedrooms. He also liked that this project would have conforming architecture with a smaller footprint which would allow for a 20-ft. driveway which off street parking available. He said it would create a better feel to have a wider road and larger front yard.

Mr. Kershaw said he lived a couple of miles up the road and was in it for the long term. He addressed the concerns regarding having it as a rental versus a for sale complex. He said he has been in real estate for 22 years and has sold many townhomes. He traditional buyers, no matter how many restrictions there are, are who people accumulate too much stuff, want more yard space, or have kids and then tend to move out while a good percentage becomes a rental run by nonprofessional property owners who usually put anyone in there. He said the projects then degenerate and are not appreciated by the neighborhood. He said by having these 2 bedroom units professionally managed and having his name on the loan he has a very strong interest in making sure he has quality tenants.

Mr. Kershaw said if there was a bad tenant it is much easier to get rid of than a bad owner. He can financially vet who is in there to a large degree or remove them if they cause problems such as parking, which would be in the lease, where they would receive a warning and then removed if they violated it a second time. He said they would have a 3-day notice to vacate the garage.

Mr. Kershaw said he loves garages because people tend to stay longer when they are able to store their things. He said the lease would have standard language barring hazardous items.

He said he had done his best to mitigate the concerns from the feedback received.

Commissioner Mumford asked if Mr. Kershaw was going to keep the office space? Mr. Kershaw said the units look more conforming and if wasn't rezoned then he would build a bigger duplex to fill the spot.

Commissioner Mumford said he wanted to applaud Mr. Kershaw's efforts with the communities and being creative with the plans.

Chairman Stephens asked for the response from the Community Council meeting. Mr. May said he remembered when Mr. Lilly presented that the concern was for the parking enforcement and the traffic impact on 12th East.

Public Comment opened at 5:40pm.

Speaker 1: Linda Allen

Address: 1249 Sophomore Circle

Ms. Allen said it was good to see the Planning Commission again and listening to their stories. She said they had given a brief history of Mr. Kershaw's previous meetings and she would like to state one more story. She said she had spoken the previous week to Mr. Lilly who was gracious and had answered her questions. She asked one final question: how can I make this high-density complex ok with my heart? Ms. Allen said Mr. Lilly had replied that it was just too bad that it was zoned that way in the first place. She said she couldn't quit thinking about that and that Mr. Lilly had done a great job walking the tightrope between the community and Mr. Kershaw. She said this is what he does for a living, has a lot of expertise that she does not have, and saw a mistake that was made a long time ago by the county. She said the Planning Commission have the opportunity and the power to make a different choice by setting a precedence of caring for an already existing neighborhood yet they are in favor of growth and change. She said had no issue with Mr. Kershaw's high-density complex though she said it is hard to believe he can't make a hefty profit on 17 units. She said the corner property need to stay R-2-10. She said it's odd he now wants to put 5 units on that spot and expressed the concerns from November's meeting on issues such as traffic. She said she would appreciate the time and concern the Planning Commission would put toward this as it would affect her home and neighborhood forever. She doesn't want to come back in 15 years and say it was too bad it was rezone that way.

Speaker 2: Pam Samuelson

Address: 4528 S 1200 E

Ms. Samuelsson said she lived across from the project and represents the consensus of people on 12th East who have to deal with the traffic. She requested additional time to explain the different alternatives that were possible regarding access that Mr. Kershaw did not choose. She said she had spoken with UDOT. She said there had been lot of changes and discussion since the November meeting and many in the neighborhood were unhappy then and still unhappy.

Ms. Samuelson said Mr. Kershaw neglected to say it was now going to be a rental complex and with no access to 45th so they felt blindsided especially now that there was going to be a 5 complex on the corner. She said they went to do research as Mr. Kershaw had invited them to see his previous project on 5400 South in Murray and speak to the neighborhood as they were excited. She said they spoke with the people who lived across from the complex and they were not happy with it even though he had promised to take care of the rentals. She said as soon as the rentals were done they went up for sale and now those promises were no longer valid. Ms. Samuelson said the no parking on street was not being enforced. She said the neighbors had told her that end rentals resulted in increased traffic at all hours. She said her

neighborhood was older and did not get a lot of traffic. She said it had created littering, trespassing, and vandalism with one man had his car broken into so she said this was what they were facing. She asked how these PUD rules would be enforced? She said she does not want to be the watchdog that reports to the police and wants assurances about the issue since it was not being done in his previous done.

She said his previous rental do not have landscaping or fencing.

Ms. Samuelson said she had spoken with UDOT and described the reasons she says Mr. Kershaw did not get the access on 45th as well as the alternatives he could have used to gain access. She described the dangers of having 5 single driveways from the curb which she said she couldn't believe passed engineering. She said the Planning Commissioners will vote how they want but she wanted to do her part in pointing out the hazards and dangers.

Speaker 3: Lee Dial

Address: 4525 S 1200 E

Mr. Dial said he has lived in the neighborhood for several years though he rents out the home now and was greatly in favor of Mr. Kershaw's proposal for various reasons as density was already an issue they would have to deal with and a few more units weren't that big of a deal. He would rather have 2 story townhomes which fits the neighborhood and said If Mr. Kershaw wasn't granted a rezone he would still do whatever he wants under the zone change and the Planning Commission would not be able to stop him. He said at least with a zone change there will be a development agreement and there can be control. He said they already have density and to make the best out of it that they can especially since Mr. Kershaw has worked to get what the community wants. He added that fencing is important and restrict the material so the units don't look cheap.

Speaker 4: Sandra Carpenter Nordhagen

Address: 4658 Brookwood Drive

Ms. Carpenter Nordhagen said she was a longtime neighborhood resident and agreed with Mr. Dial's comment on having 22 units rather than 44 units. She said she agreed with Pam and Linda on the drastic changes in the neighborhood and horrendous amounts of traffic. She said this is a quiet residential neighborhood and the Planning Commissioners have not lived there. She described the neighborhood as having lots of older people – over the age of 70 as well as children who catch the school bus. She said 5 driveways means 5 nuts who would be driving back and forth to work.

Ms. Carpenter Nordhagen said they had heard the spiel in November of what was going to be built but that the February meeting had drastic changes from what they were told. She said the project wasn't as great as he implicated and that shot down trust in Mr. Kershaw.

Ms. Carpenter Nordhagen said her biggest concerns were rentals and storage garages. She said in the Murray project, one of those garages had been turned into a mechanic's shop in a residential zone. She asked what kind of guarantees or assurances from the Planning Commission these can be kept in control? She said she would hate to have a garage blown up because of meth.

Speaker 5: Paul Johnston

Address: 1112 E Range Road

Mr. Johnston said he appreciates the developer's willingness to listen to community. He said the issue was to compromise and agrees with previous concerns as he had been vocal about the corner units not being for commercial use. He wanted people to live there and not be another business.

I Mr. Johnston said if it was remained as is then it would be very old, ugly, and dilapidated so a new home would be better. He said that 17 units vs 22 units – perhaps there should be a compromise of 20. He added that he wasn't sure what would be viable for the developers but reducing the number of units would reduce the number of driveways. He said he would rather have 2 story than 3 story and the DA could make it look nice. He said he recommended voting yes with modifications.

Speaker 6: Mike Smith

Address: 1212 East

Mr. Smith said he was the dentist nearby and agreed with Lee. He said he likes that the developer is keeping it under 30 ft. and that he is doing his best to mitigate concerns. He said his only concern was how the developer planned to fit that many units on 12th.

Mr. Smith said he agrees with Kasey that this will look really good in the area and if it did not work out due to safety hazard then he would offer to purchase and incorporate into a well landscaped area. He said that would allow Mr. Kershaw options though he liked what he was doing with the project. He said he would vote for approval.

Speaker 7: Vitaliy Dadalyan

Address: 4520 South 1200 East

Mr. Dadalyan said as one of the only smokers he would sit on the porch and watch the people who pass to go to church. He said there was already a lot of traffic and if the rezoned pass he said a kid would get run over. He said the Planning Commissioners should really take a look at the street especially on a Sunday afternoon and driving there without crashing into a car was an art form they were perfecting. He said he understood Mr. Kershaw's business plan and hoped it was a quick flip as this was not a long-term solution because he thought they would turn into the previous projects in Murray.

Mr. Dadalyan said they own a beautiful home and are taking the last of the picture because their view will soon be blocked so property values will go down. He said he was there for his mom who saved to buy this home and was still making payments. He questioned those who were for the project. He said he would hate to see something terrible occurring and having to meet about it later.

Applicant: Kasey Kershaw

Address: 4949 Cottonwood Lane, Holladay, UT 84117

Mr. Kershaw said he wanted to respond to concerns and defend his record. He built the project at 5400 South 6th East which he said he was proud of though he had 2 business partners who made different decisions he would have made. He said there are 5 units and described the tenants living there including 3 single people living each in 2 bedroom units so the traffic impact was minimal. He said he personally vetted them and their financials. He has had multiple neighbors come to him to say how much they like the project because he literally did rid the area of an actual meth lab.

Mr. Kershaw said garages at that project are vastly different was is proposed in the current project and described the dimensions which he said Murray city allowed him to rent out to one person. He said his name is Patrick Green, a doctor with a practice in Tooele, who puts his motorcycles and toys in there including an old Jeep he works on every other week. He said it is not a mechanic's shop and these were high quality tenants.

Mr. Kershaw said that project ended in November and it has been hard to landscape so he took umbrage over the comments that it is not landscaped well. He said his 2 other partners wanted to sell the previous project. He said while he doesn't like to commit because of unforeseen circumstances, he would like to build a quality project to maintain and manage.

Mr. Kershaw spoke of hiring civil engineer Dale Bennett who he said has 40 years of experience and that. UDOT loves him because of his thoroughness. He described that they met with UDOT and what their options were including trying to fight the adjacent gated community for access. He further explained why UDOT was forcing him to access through 12th East only and he couldn't force UDOT into letting him access 45th South which was his preference. He continued to explain why the 12th East option was much safer including detailing the dimensions of the setbacks on the project.

Public Comment closed at 6:14p.m.

Chairman Stephens opened the Planning Commission to discussion and motion.

Commissioner Mumford asked whether there was discussion with UDOT of a traffic light being installed at 12th and 45th?

Mr. May answered no as Mr. Lilly had worked with UDOT and the 45th exit wasn't even an option.

Commissioner Allen said he saw this as 17 vs 22 units zoned for 17 units now though he disagrees with the staff report stating, "it would be a substantial change to the area". He said tended to favor the project because if they didn't vote there would still be 17 units. He said he was convinced the 5 would increase traffic though the 17 units may but at least they had a better seat of the table by voting for the rezone.

Commissioner Carlson said he was what Mr. Kershaw had done since the last meeting and meeting the concerns from the neighborhood on issues such as density, height, arch and it was clear the developer had listened to the concerns. He said it was hard to watch the neighborhood change especially as it had been a single family residential but he pointed out that 45th South is a major artery. He said the question was whether the developer is making reasonable compromises as he is entitled to access in this project and UDOT controls 45th. He added that it was not what they think but traffic engineers on what would be acceptable levels of impact.

Commissioner Wilson said the applicant took many opportunities to have conversations and what was before them was better. She said she supported the Planning Staff recommendations and pointed out the project would be back before them. She asked if Planning Commission could recommend to the City Council that there be no parking in front of the 12th East?

Mr. May said it was possible.

Commissioner Claerhout said to those who were not in favor of approving the rezone that due to population growth, the Planning Commission could either choose to deny and get a large 17-unit 3 story or they could get this 2 story 22-unit development. He said he lived near them and was in favor of the rezone due to more control and lesser of the 2 evils.

Chairman Stephen said he appreciated the fact that there was going to be parking on 12th East and met the city parking standards. He said he had visited the property and he observed that turning onto 45th South had been completely open. He said he did not think the cumulative impact turning onto College Street would not be much.

Commissioner LaMar asked if there was unintended parking?

Mr. May answered no.

Motions:

Commissioner Carlson motioned that Planning Commission move to recommend approval of ZM-17-001 of the proposed rezone at 4500 South 1200 East from R-2-10 to RM to the City Council, subject to a development agreement with the restrictions listed in the staff report and staff recommendation.

Commissioner Wilson seconded the motion.

Chairman Stephens – Yes
Commissioner Booth – Yes
Commissioner Carlson – Yes
Commissioner Wilson – Yes
Commissioner Mumford – No
Commissioner LaMar – Yes
Commissioner Claerhout – Yes

Motion passed.

Commissioner LaMar motioned to recommend to the City Council removing the zoning restriction holding the development to a maximum of 12 units for ZM-17-001 and hold subject property to a development agreement and staff recommendations.

Commissioner Claerhout seconded the motion.

Chairman Stephens – Yes
Commissioner Booth – Yes
Commissioner Carlson – Yes
Commissioner Wilson – Yes
Commissioner Mumford – No
Commissioner LaMar – Yes
Commissioner Claerhout – Yes

Motion passed.

6:47pm to 7pm break

CU-18-005 Eric Tuttle requests a Conditional Use Permit for two 5-unit townhome developments
Location: 1642 and 1648 East 3300 South **Community:** East Mill Creek **Planner:** Ashley Cleveland

Ms. Cleveland presented the staff report for Mr. Tuttle: The applicant, Eric Tuttle, is seeking approval for a Conditional Use Permit to develop two 5-unit townhomes at 1642 & 1648 E 3300 S. As per Chapter 19.44.030 of the Millcreek City Code, a residential development with any number of dwelling units per structure per lot, is conditionally permitted in the R-M Zone with the approval of the Millcreek City Planning Commission. The City Council approved a zone change and development agreement for this development in December 2017.

Ms. Cleveland went on to describe the street views, elevations map, and the project materials to be used. She then spoke of the community council response: At a meeting on Thursday (March 1, 2018), the East Mill Creek Community Council unanimously accepted this 10-unit development for recommendation.

Commissioner LaMar asked if the fencing at 4 ft. was the maximum height?

Ms. Cleveland answered the fencing was 8 ft. tall but 4 ft. tall was standard and explained there was no ordinance so the height was agreement by the residents with the applicant.

Commissioner Mumford asked whether fencing would cover the entire area or just the back yard?

Ms. Cleveland answered it would be the back yard only.

Commissioner Mumford asked whether it was possible to split the 39-ft. increase in the back lot and adding the setback to 17 ft. in the front? He thought there may be visual impairment in the egress/ingress.

Ms. Cleveland answered that the developer and residents has agreed on the 40ft. while UDOT cares only for the 7-ft. allocation.

Applicant: Eric Tuttle

Address: 1640 E 3300 S

Mr. Tuttle said they had not originally intended to develop the east lot but they recently had a partner who joined and now wanted to do both. He thanked planning staff and described the future setbacks, sidewalk, curb, and landscaping.

The Planning Commissioners had no questions for Mr. Tuttle.

There were no community council representatives.

Public comment opened at 7:21p.m.

No public comment was offered.

Public comment closed at 7:22p.m.

Commissioner Carlson said complimented the developer, planning staff, and the community for working the project that is compatible with the neighborhood. He said he liked that it was closer to 3300 South.

Chairman Stephens asked about the if there was going to be enough architectural variation on the street facing side?

Mr. Tuttle answered he was a minimalist and preferred a simple clean design. He said it was easier to mitigate noise through walls which it why it would only have 2 windows and they intentionally did that.

Commissioner Wilson commented on the excellent job regarding design, particularly both the arch and renderings.

Motion:

Commissioner LaMar motioned to approve CU-18-005 for a Conditional Use Permit subject to the listed conditions in the staff report.

Commissioner Mumford seconded the motion.

Chairman Stephens – Yes
Commissioner Booth – Yes
Commissioner Carlson – Yes
Commissioner Wilson – Yes
Commissioner Mumford – Yes
Commissioner LaMar – Yes
Commissioner Claerhout – Yes

Motion passed.

ZM-18-001 (Continuing Business) Robert Renza requests Rezone from R-1-21 to R- 1-15
Location: 3821 E Parkview Drive **Community:** Mt. Olympus **Planner:** Rob May

Mr. May presented the staff report for Mr. Renza: The Planning Commission held a public hearing on the proposed rezone on February 21st, 2018. At that hearing, the Commission moved to continue the item, to give staff and the applicant time to propose assurances that the new homes would be compatible in terms of height and setback to the surrounding neighborhood, and that the new proposed lot along Parkview Drive would have a home that was oriented to Parkview Drive, and not the shared lane to the south. Staff proposed that these considerations be addressed through a development agreement.

Mr. May spoke about the community council's response: The Mount Olympus Community Council held a meeting regarding this matter on February 6th, 2018. The application garnered significant public interest. Residents inquired about the proposed changes, and expressed questions and concerns about the proposed new lot using an existing shared access. Issues relating to lot configuration and access would be evaluated as part of a subdivision application, should the rezone be approved. Residents also brought up concerns about the height of the proposed residence. Some residents expressed reservations about subdivisions in general, while others supported the request, on the basis that lots in the area are oversized and some are difficult and economically infeasible to maintain. While no construction was proposed at the time, the Community Council recommended a height limit for any new development. Ultimately, the Community Council recommended on a vote of six in favor to two opposed, that the applicant's request to rezone the property from R-1-21 to R-1-15 be approved, subject to a zone condition that limits the height of any residence to 30 feet.

Mr. May explained zoning conditions. He also described the maps and aerial photos.

Chairman Stephens asked for clarification on which lot was labeled #1 and #2.
Mr. May answered that the upper lot was #2 and lower lot is #1.

Chairman Stephens asked regarding the conditions of the development agreement on whether the maximum height on lot #1 would be 30 ft. above natural grade or contour at up to an elevation of 5500 ft.? He said he could not visualize and that the wording should change to be clearer. He also asked where the natural contour would begin?

Mr. Jansen answered he believed Mr. Lilly worked that out with the applicant and pointed out the contour line on the map.

Mr. May added the intent was to drive the home into the property to protect the view.

Commissioner Carlson asked whether it was 2 or 3 lots being proposed?

Ms. Cleveland answered 2 lots out of 1 and the intent was to have the development agreement state that the home would be built into the soil.

Applicant: Robert Renza

Address: 3667 Oakland Lane

Mr. Renza stated since the last meeting he had spoken with Francis over restrictions due as a result of the rezone which he said seemed like a reasonable request. He said the plateau marked the 5,000 and pointed out on the map where the extra 500 feet would be applied. He spoke of the other restriction from the Mt. Olympus Community Council at keeping the maximum height at 30 ft. He said he hoped these restrictions hopefully would be enough to make decision on a rezone.

Joan Hayman, Mt. Olympus Community Council

Address: 4292 S Mars Way

Ms. Hayman said the Mt. Olympus Community Council voted in favor of the rezone based on it being subdivided into 2 properties which then would force homes to be smaller. She said that was what everyone wanted to see. She said they were not told the RCOZ does not overlay on the 15 and that back in the day when RCOZ was being developed no one thought to apply to zones not yet developed. She said they raised questions and happy that staff had addressed those lot sizes. She said they are at a point that if this rezone was approved and then not subdivided then there would be concerns that would be a sprawling building like a compound. She said they are looking for assurances like a legal stipulation that if the rezone was approved it would have to be subdivided into 2 lots. She said another concern was whether changing the zoning would set a precedent and she was giving notice that it was not a way to get their foot in the door to change the zone for their bigger lots. Ms. Hayman said this project was only approved because it was surrounded by smaller lots.

Mr. May said the development agreement could stipulate that the lot must be subdivided.

Public Comment opened at 7:47p.m.

No public comment.

Public Comment closed 7:48p.m.

Commissioner Carlson commented they had a long hearing previously and now there was no public comment about the changes made that they made.

Motion:

Commissioner Carlson motioned to rezone request ZM-18-001 for property at 3821 East Parkview Drive from R-1-21 to R-1- 15, subject to a development agreement that addresses, at a minimum, with the restrictions listed in staff report and requirement the lot be divided in 2 as depicted in staff report. Commissioner LaMar seconded the motion.

No Discussion.

Chairman Stephens – Yes

Commissioner Booth – Yes

Commissioner Carlson – Yes

Commissioner Wilson – Yes
Commissioner Mumford – Yes
Commissioner LaMar – Yes
Commissioner Claerhout – Yes

Motion passed.

CU-17-005 (Continuing Business) Marco Diaz requests 12-Unit Apartment building in the RM Zone **Location:** 4115 S 300 E **Community:** Millcreek **Planner:** Ashley Cleveland

Ms. Cleveland presented the staff report: Marco Diaz, was requesting conditional use permit approval in an R-M zone at 4115 S 300 E. As per Chapter 19.44 of the Millcreek City Code, a multi-family dwelling use, pursuant to Section 19.44.020 is permitted as a conditional use in the R-M zone. With the conditional use permit approval of the Millcreek City Planning Commission, a 12-unit multi-family complex would be built at this location for the development of the Franklin Apartments. The subject property consisted of 0.46 acres (confirmed by recent official survey), currently zoned RM, and was to the north are single family homes in the R-M zone along the 300 E. Immediately east of the property are multifamily apartment homes.

Ms. Cleveland described the maps and sites. She explained the timeline of the project: t 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 that was against the permit due to building height and potential sunlight blockage to their front yard garden. The Community Council recommended that a suitable form of security be agreed upon by staff and the applicant to address concerns with crime. Additionally, some documentation of well rights was requested to be addressed. the public hearing on Wednesday, January 17, 2018, application CU-17-005 Conditional Use Permit for a 12-unit apartment building at 4115 S 300 E, the Planning Commission voted to postpone approval of this application based upon a discrepancy with confirmed acreage of the lot and dedication of open space, which consequently affected adherence to the density requirements outlined in the old and new RM Ordinances. The differences and calculations are attached. Planning Staff found that the proposed project needed further refinement based on the vested interest and interpretation of the pre-2018 RM code. Since that meeting, the applicant has addressed the scale and density in the area via compatibility density map and written a letter to speak to some of the anticipated concerns with the development.

Ms. Cleveland went on to state what occurred at the latest community council meeting: after the applicant made some site plan changes- most notably to the addition of a rooftop garden to account as an amenity and open space, staff notified the Millcreek Community Council at their meeting on Tuesday, February 6, 2018, the Millcreek Community Council denied this application until their recommendations were met prior to the Planning Commission meeting on March 21. Lynda motions to recommend denial until the following conditions are met;

1. Consider cutting down number of units they have
2. The roof top garden is not to be counted as green space
3. Until security issues are addressed and the water rights issues for the adjacent houses are addressed and we get documentation showing that. The Community Council still recommended that a suitable form of security be agreed upon by staff and the applicant to address concerns with crime.

Ms. Cleveland spoke about the first site plan, the parking situation, and how the applicant had reached out to local police to help mitigate crime for the project.

Commissioner Allen asked whether the pre-2018 code was now being used for the project and whether the rooftop terrace were considered “open spaces” under the pre-2018 code
Ms. Cleveland answered it was the pre-2018 code and rooftop terraces were considered “open spaces” under it.

Commissioner LaMar asked for clarification on guest parking.

Ms. Cleveland answered the old RM had guest parking at 1.44 spaces per unit while new RM and parking 2 spaces per 2 bedroom units.

Chairman Stephens asked regarding the privacy fence on the roof mentioned in the staff report which effectively raises the height on the north side and suggested moving the privacy fence south.

Ms. Cleveland answered the fence had already been moved in the site plan. She explained that under the RM there was 40 feet height limit while this building was 30 feet and the fence was 5 or 6 feet.

Commissioner Mumford asked if the fence on top of the building had been moved from the edge by 5 feet to the south?

Ms. Cleveland said it was 10 feet to the south.

Marco Diaz, applicant

Address: 10999 Birch Creek Rd, South Jordan UT

Mr. Diaz said he took the previous feedback from the Commission and did their homework regarding the code. He said they had decided on the old code and explained the difference in the project since picking one code such as increased open space. He said he spoke of meeting with police and addressing the issues of density, parking, security, and neighborhood concerns.

Commissioner Mumford asked if the project was still considered low income?

Mr. Diaz answered no due to increased costs over the past year and were now making it full market rate.

Commissioner Mumford asked Mr. Diaz how confident he was that the structure would like renderings?

Mr. Diaz said it would be close but the renderings showed greener than it should have appeared.

Lynda Bagley, Millcreek Community Council Representative

Address: 1250 Manor Circle

Ms. Bagley said Mr. Diaz was not at the last community council meeting. She said they were told the project was for low income families. She said they were surprised about the roof top garden where she couldn't imagine sending kids to play on a roof and suggested the project needed something on the ground for children. Ms. Bagley said there was a well currently on the property and that neighbors to the north have used the water and rights to it. They are concerned about it being used or cut off. She said at a previous meeting, residents had mentioned their concerns and some had spoken to the county who hadn't addressed the issue. She said she had received an email stating the community council had approved the first time

but they hadn't approved without the conditions as initially the application had been denied. She reiterated it only passed on a second motion with the conditions. She said it was deceiving the way it had been represented and she wanted more assurances than a statement that water issue was going to be resolved. Ms. Bagley stated they were never said what the fence height was going to be.

Ms. Cleveland said at the February 6th Millcreek Community Council the application was denied app with the conditions but Planning had received an email afterwards, and they had wanted the conditions met before the March 21st Planning Commission meeting. She said applicant was made aware who did a query search with the county and the state where no wells were found on the property or adjacent to property. Ms. Cleveland said she also spoke with the City Engineer regarding contamination to the soil and said should this application be approved there would be a technical review with a full sweep would be required.

Public Comment opened at 8:23pm.

Speaker 1: France Ross

Address: 4111 South 300 East

Ms. Ross said she had a well on her property as well as the neighbor to the north of her has a well. She said she went to the water's right meeting the previous week and her name is on the well on her property. Ms. Ross said she preferred that the project reduce the number of units and have a playground for the children which she thought would be safer. She said there are many children in the neighborhood and then described how the fire department comes to the Monaco apartment 3-4 times a week. She said they know it is not a safe area and that there are plenty of apartments with for lease signs. She said there needs to be a fence between their properties and the apartment.

Chairman Stephens asked whether there would be fencing to protect children?

Marco Diaz, applicant

Address: 10999 Birch Creek Rd, South Jordan UT

Mr. Diaz answered we want to make sure the project was safe and complied with the building codes. He said there would be fencing around the entire parameter and it would be safe for everyone. Mr. Diaz said the target audience had changed to young professional who could command higher rent instead of families so he was not anticipating many children. He said they spoke to Utah Water Right's Division and his own engineers to provide documentation that there were no wells on the project property.

Public Hearing closed at 8:28pm

Chairman Stephens opened Planning Commission to discussion and motion.

Commissioner LaMar said while he liked the application it was an unfair requirement to the applicant regarding implementing security concerning crime as they don't require it for other applications.

Chairman Stephens said he agreed with Commissioner LaMar's comment.

Commissioner Clearhout asked what depth of the wells on the local properties?
Ms. Cleveland answered they did not know that information as this time.

Commissioner Carlson compliment the developer and staff to mitigate impact of the structure on surrounding neighborhood. He said the measures that were implemented are more than reasonable. He said this was another multifamily structure in a sea of multifamily structures and it seemed as though they were trying to make this one structure jump through many hoops. He said didn't think crime would be impacted by this building.

Commissioner Allen appreciated the clarification on the code they would be using and the efforts to comply. He said at the beginning he was skeptical exceeding the base density but he explained why he changed his mind. He stated he was also skeptical of the rooftop as an open space but if code allowed it then he was ok with it. He suggested a swing set for the kids.

Motion:

Commissioner LaMar motioned to approve CU-17-005 a multifamily development consisting of 12 dwelling units located at 4115 S 300 E with the conditions in staff report except condition #1 – striking out requirement on security and crime mitigation and acceptance of 24 total parking stalls. Commissioner Wilson seconded.

Chairman Stephens – Yes
Commissioner Booth – Yes
Commissioner Carlson – Yes
Commissioner Wilson – Yes
Commissioner Mumford – No
Commissioner LaMar – Yes
Commissioner Claerhout – Yes

Motion passed.

Commissioner Allen left at 8:40pm.

CU-18-004 Boyd Evans for Yubaraj Sapkota requests Conditional Use Permit for a detached garage serving a resident that exceeds 800 sq. feet maximum **Location:** 4869 East 4200 South **Community:** Millcreek **Planner:** Rob May

Mr. May presented the staff report: Yubaraj Sapkota is seeking a request for a conditional use permit to construct 1,620 square feet detached garage. As per Chapter 19.14.030 of the Millcreek City Code, on lots under one-half acre, accessory uses and buildings 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. Currently the property was zoned R-1-8, had a single-family dwelling located on it, and consisted of approximately .15 acres. The applicant wanted to construct a 1,620 square feet detached garage for cars and household storage. The proposed garage would exceed the maximum allowable of 800 s.f. as a permitted use, therefore a conditional use permit is triggered. The accessory building area would be 21% of the rear yard which is less than the 25% maximum requirement allowed by the permitted use portion of the R-1-8 ordinance relative to permitted accessory building coverage (19.17.070). The proposed garage would be required to meet all applicable setback requirements of the R-1-8 Zone. Proposed garage does not exceed 15 feet in height which is less than the 20-foot maximum.

Mr. May described the site, vicinity, and the photos he took of the project. He explained the material and measurements of the proposed metal garage.

Mr. May explained the community council response: On Community Council voted unanimously to approve the proposed garage with the condition that the proposed garage be built with materials that are similar to the existing dwelling on the same property and structures in the adjoining neighborhood.

Commissioner Claerhout asked if the 2 buildings in the backyard would be removed?
Mr. May confirmed they would be removed.

Boyd Evans, speaking for applicant
Address: 1112 E Chevy Chase Drive

Mr. Evans said he has been neighbors with Mr. Sapkota for 3 years and he had made modifications to the applicant's home. He said the building will not be much taller than other areas and apologized for not having better rendering. He said he would find a company that will provide better plans since previous company stopped taking their phone calls but assured the Commission the materials would meet what was been required and match the fabric of the neighborhood.

Commissioner LaMar asked if the building would be on a slab?
Mr. Boyd answered it would on whatever required footings and the applicant's intention was erect the building then provide interior slab inside.

Commissioner Mumford asked if there would be any toilets?
Mr. Boyd answered no, just electricity. He added they didn't want anyone to think they could live there.

No community council representative commented.

Public Hearing opened at 8:54pm.

Speaker 1: Kim Wong
Address: 870 East 4170 South

Mr. Wong asked if the property was rental or currently occupied? He said his concern was to have a big building like that for a home.

Mr. Boyd answered the property was currently a rental unit and once the garage was built the applicant would move himself or have his family move in. He said the garage would not store restaurant or commercial items.

Public Hearing closed at 9:02pm.

Commissioner Booth asked if any homes had similar structures?
Mr. Boyd said there were other structure but that they were half the size what they intended to build though he has not done an extensive study on it.

Commissioner Booth said he was concerned for precedent and could change the flavor of neighborhood. He questioned why the structure was so large.

Mr. May explained the conditional use would run with the land and that future property owners would have to comply with restrictions.

Mr. Jansen explained the differences and effects of imposing conditional use and the ordinance loopholes.

Commissioner LaMar said he did a search on google maps that showed similar structures so he was ok with the application.

Commissioner Claerhout commented that the structure should be made of material that blends in with the neighborhood which Chairman Stephens said was already in the conditions mentioned in the staff report.

Motion:

Commissioner Mumford motioned recommend approval of CU-18-004 for Conditional Use Permit for a 1,620 square feet garage serving a residence in the R-1-8 Zone with the conditions stated in the staff report with removal of wooden fence in the backyard.

Commissioner LaMar seconded.

No discussion.

Chairman Stephens – Yes
Commissioner Booth – No
Commissioner Carlson – Yes
Commissioner Wilson – Yes
Commissioner Mumford – Yes
Commissioner LaMar – Yes
Commissioner Claerhout – Yes

Motion passed.

Business meeting opened at 9:12p.m.

Commissioners discussed the architectural styles of new developments of multifamily dwellings with flat roofs and boxy styles. Most Commissioners said they did not care for the new modern styles but some commented that styles changed with time.

Commissioner Wilson left at 9:17pm.

Commissioner Mumford motioned to adjourn.
Commissioner Claerhout seconded the motion.

Unanimous approval to adjourn.

Adjourned at 9:19pm.