

## 1. Planning Commission Meeting (PDF)

### Millcreek Planning Commission Meeting Agenda

Public Notice is hereby given that the Planning Commission of Millcreek will assemble in a regular public meeting on Wednesday, 19 October 2022 at City Hall, 3330 S. 1300 E., **Millcreek, Utah 84106, commencing at 5:00 p.m.**

5:00 p.m. - Regular Meeting

#### 1. Public Hearings

1.1 Consideration of RC-22-002, Request for a Residential Compatibility Overlay Zone (RCOZ) C Special Exception to Build a Single-Family Dwelling that Exceeds Height Limitations of the R-1-10 Zone Location: 4347 S. Garden Drive Applicant: Jeff Hadlock **Planner: Carlos Estudillo**

1.2 Consideration of FC-22-002, Request for a Slope Waiver to Construct a New Single-Family Dwelling in the Foothill and Canyons Overlay Zone (FCOZ) Location: 3733 S. Choke Cherry Drive Applicant: Won Shim Planner: Carlos Estudillo

1.3 Consideration of CU-22-016, Request for a Conditional Use Permit for a 150-Unit Affordable Housing Project Location: 4101 S. Howick Street Applicant: CDCU Planner: Robert May

#### 2. Commission Business

2.1 Approval of September 21, 2022 Regular Meeting Minutes

2.2 Updates from the Planning and Zoning Director

2.3 Staff Update on Local Link / 3300 S. Studies

#### 3. Calendar of Upcoming Meetings

- **City Council Mtg., 10/24/22, 7:00 p.m.**
- Planning Commission Mtg. 10/26/22, 5:00 p.m.
- Planning Commission & City Council Special Mtg. 10/26/22, 6:30 p.m.

#### 4. Adjournment

The Planning Commission public meeting is a public forum where the Planning Commission receives comment from applicants, the public, applicable agencies and staff regarding land use applications and other items on the Commission's agenda. In addition, it is where the Planning Commission takes action on these items. Actions may include: approval, approval with conditions, denial of legislative items, continuance, or **recommendation to other bodies as applicable.**

In accordance with the Americans with Disabilities Act, Millcreek will make reasonable accommodation for participation in the meeting. Individuals may request assistance by contacting the ADA Coordinator, 801-214-2751 or [khansen@millcreek.us](mailto:khansen@millcreek.us), at least 48 hours in advance of the meeting.

The meeting will be live streamed via the City's website at:  
<https://millcreek.us/373/Meeting-Live-Stream>. Public comment can be submitted before or during the meeting via the City's website at:  
<https://millcreek.us/FormCenter/Contact-Us-5/Public-Comments-61>.

The Commission may convene in an electronic meeting. Commissioners may participate from remote locations and may be connected to the electronic meeting by GoToMeeting, Zoom, or telephonic communications. The anchor location will be City Hall.

THE UNDERSIGNED DULY APPOINTED CITY RECORDER FOR THE MUNICIPALITY OF MILLCREEK HEREBY CERTIFIES THAT A COPY OF THE FOREGOING NOTICE WAS EMAILED OR POSTED TO:

City Offices   City Website   Utah Public Notice Website

Those Listed on the Agenda   <http://millcreek.us>

<http://pmn.utah.gov>

DATE: October 12, 2022

CITY RECORDER: Elyse Sullivan

Agenda items may be moved in order, sequence, and time to meet the needs of the Planning Commission.

Documents:

[PC 10-19-22 AGENDA.PDF](#)  
[PC 9-21-22 DRAFT MINUTES.PDF](#)



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- 1.3 Consideration of **CU-22-016**, Request for a Conditional Use Permit for a 150-Unit Affordable Housing Project **Location:** 4101 S. Howick Street **Applicant:** CDCU **Planner:** Robert May

#### 2. Commission Business

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**Minutes of the  
Millcreek Planning Commission  
September 21, 2022  
5:00 p.m.  
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, September 21, 2022, at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was conducted electronically and live streamed via the City's website with an option for online public comment.

**PRESENT:**

**Commissioners**

Shawn LaMar, Chair  
Victoria Reid, Vice Chair  
Aryel Cianflone  
Scott Claerhout  
David Hulsberg  
Christian Larsen  
Nils Per Lofgren  
Skye Sieber (excused)  
Ian Wright (excused)

**City Staff**

John Brems, City Attorney  
Elyse Sullivan, City Recorder (electronic)  
Francis Lilly, Planning & Zoning Director  
Kurt Hansen, Facilities Manager  
Brad Sanderson, Current Planning Manager  
Katie Larsen, Planner  
Robert May, Long Range Planner  
Sean Murray, Planning Admin. Asst.  
Jen Smith, Staff Engineer

**Attendees:** Jay Larsen (electronic), Mitch Vance (electronic), Diana Johnson (electronic), Trevor Stevens (electronic), Chip Spencer, Britton Knaphus

**REGULAR MEETING – 5:00 p.m.**

**TIME COMMENCED: 5:10 p.m.**

Chair LaMar called the meeting to order and read a statement describing the duties of the Planning Commission.

**1. Public Hearings**

**Consideration of GP-22-001, a Moderate Income Housing Element General Plan Amendment Planner: Robert May**

Robert May noted that general plan amendments were directed by H.B. 462, Utah Housing Affordability Amendments. Millcreek's Moderate Income Housing Plan was an appendix to the General Plan. May said he went through every goal and strategy in the General Plan to identify moderate income housing (MIH) and added the strategies and implementations into chapter 4. H.B. 462, which updated State Code 10-9a-403, requires municipalities to update strategies in general plans with moderate income housing elements from a list of 24 strategies options and that each city develop actionable implementation plans for each of those strategies which includes a timeline for each within the next five years. Cities with a fixed guideway transit station must choose a minimum of 4 strategies, one of which must be the adoption of a Station Area Plan (SAP). To be considered a priority municipality for state funding, cities would need to adopt at least 6 strategies, but staff was proposing to adopt 9.

May noted this was a typical carrot and stick approach with the state. May said of the 24 strategy options, staff chose strategies that were most supported already through existing goals in the General Plan. May said within a half-mile radius of Millcreek's boundaries, there are two fixed guideway transit stations (Murray North and Meadowbrook Trax Stations). Millcreek would work with Murray and South Salt Lake on adopting station area plans as required. The plans did not need to be adopted until 2025.

May went over the community council responses to the proposed strategies. The Mt. Olympus Community Council voted to approve the proposed amendments to the General Plan. They were concerned with waiving commercial use requirements for MIH development, eliminating commercial components that may threaten the tax base, and reducing off-street parking, especially with accessory dwelling units (ADUs). The East Mill Creek Community Council voted to approve the proposed amendments. They wondered about reducing minimum yard sizes for detached ADUs, had concern with waiving requirements for MIH developers and providing them too many incentives, and they wanted verification that community reinvestment area funds were being used for MIH and/or seniors. The Canyon Rim Citizens Association voted to approve the proposed amendments. They recommended including incentives for tiny home projects. The Millcreek Community Council voted to approve the recommended amendments with the condition of removing proposed strategies 1, 2, 6, and 9. They felt Millcreek had already done a lot with affordable housing and expressed concern about MIH mainly being constructed within their boundaries.

May noted a section of state code 10-9a-403:

(b) In drafting the moderate-income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

May recommended the Planning Commission recommend adoption of the MIH amendments as presented by staff. The application would then go to the city council for final approval ahead of the October 1 state deadline.

Commissioner Reid asked if there was an advantage for Millcreek to adopt 9 strategies instead of 6. May felt that having more would prioritize Millcreek for available transportation funding. Commissioner Reid asked about a distinction between municipalities already doing a lot for moderate income housing versus those who were adding opportunities. May said Millcreek was a leader, but there was no distinction. Francis Lilly said staff wanted to provide the Planning Commission and City Council as many options as possible to choose from in case some did not work; having more options would give Millcreek more options for various funding. Commissioner Reid asked about implications of the number of strategies adopted now versus later. May said the bill provided 24 strategies, and Millcreek could do more later.

Chair LaMar asked about the SAP being the sixth strategy. May said there was confusion with the bill, but 4 strategies were required for fixed transit way cities, but 2 more were

needed for prioritized funding. Chair LaMar wondered about partnering with neighboring cities. May showed the commission images of the UTA stations with half mile radiuses. The stations are not in Millcreek, but the radial boundaries are in Millcreek. The strategies can still apply. Commissioner Larsen asked for clarification on strategy 1, implementation 2; [re-visit the Future Land Use Map and Land Use Framework chapter of the General Plan and include moderate income housing development as “use” and “key characteristic” for all categories well served by transit and near activity centers by 2027] what was “well served by transit and near activity centers.” May said well served meant within a reasonable distance. Lilly noted the type of transit could be considered. Commissioner Larsen expressed concern with reducing minimum off-street parking requirements in areas well served by transit. He asked that the off-street parking areas be considered appropriately with transit.

May noted these amendments would not change the code, he kept the General Plan language intentionally vague. Chair LaMar asked about the 5 year timeframe. May said some strategies included the words “continue to collaborate” and others would be addressed in the comprehensive zoning update in 2023. Chair LaMar acknowledged that the city had time to figure out details. May said within the next 5 years. Every year the city would have to produce a MIH report to the state.

*Chair LaMar opened the public hearing.*

Chip Spencer, 3443 S. 1300 E., said he was a member of the Millcreek Community Council. Personally, he wondered when the state would stop making requirements for Millcreek. He felt in principle, the state employing the carrot and stick approach was inappropriate. He wondered where the money the city would be eligible for in implementing these strategies would come from. He said there was language about giving incentives to developers. He felt that the developers should be held to the stick or carrot too. He was against the use of force to cause people to do certain things; this was a social engineering project. If Millcreek residents wanted to provide MIH, then that would be great. He was surprised the state of Utah was forcing this on communities.

*Chair LaMar closed the public hearing.*

May noted that every city was approaching strategies differently, but implementing strategy 2 [create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones] garnered the most feedback. Chair LaMar said reductions would have to be considered thoughtfully. Commissioner Larsen interpreted 2 as one Millcreek was already doing with having adopted an accessory dwelling unit (ADU) ordinance. May said strategy 2 was meant to be vague and the adoption of the code would take place later. Chair LaMar felt strategy 2 was already met. May said the Commission could reword the strategy. Commissioner Larsen did not want to eliminate the strategy. May said one of the strategies to replace 2 was to eliminate impact fees for detached ADUs. Commissioner Cianflone said implementation 2.1 and reducing off street parking requirements gave her pause. May said he could reword strategy 2 to review/explore ways to reduce regulations for detached ADUs and then refine it the next year with the code update. Chair LaMar was not in favor of going smaller on minimums but was for allowing for larger square footage ADUs based on larger lots. May said the city needed to look at measurable, achievable steps.

Commissioner Hulsberg did not object to any strategies. Commissioner Reid wanted to ensure that new projects were of quality materials and design. She asked about reducing commercial requirements. May said the regulations were not reduced for commercial, it would be more specific for qualifying moderate income housing projects. Lilly noted that Millcreek got to decide when those credits were given. Commissioner Lofgren was in favor of vague language to leave options open. May noted the strategies would be adopted, not the implementation action. Chair LaMar asked where the state funding came from. Lilly said two sources, anything that was approved by the State Transportation Commission (class b & c road funds paid through gas tax), and American Rescue Plan Act and coronavirus related federal grants dispersed through the state. Chair LaMar said he was not opposed to off-street parking reductions if the neighborhood was considered.

**Commissioner Larsen, regarding GP-22-001, a moderate income housing element general plan amendment, moved to recommend adoption with revisions to strategy 2 as discussed. Commissioner Reid seconded. Chair LaMar called for the vote. Commissioner LaMar voted yes, Commissioner Reid voted yes, Commissioner Cianflone voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. The motion passed unanimously.**

**1.2 Consideration of CU-22-010, Request for a Conditional Use Permit for Two Businesses with Drive Up Uses Location: 4750 S. Highland Drive Applicant: Jay Larsen, Holladay Corner LLC Planner: Brad Sanderson**

Brad Sanderson said this was an amendment to a site plan as a conditional use permit. The applicant was proposing to reconfigure the site plan to add a second drive thru on the south side of the building. He noted a traffic study was commissioned with Hales Engineering and there were two parcels of property.

The proposal included: removal of the fuel canopy and related facility, update building façade, remove driveway access along Highland Drive near the intersection, relocate driveway access along Murray Holladay Road further west away from the intersection and reduce the overall width to 30 feet wide, remove approximately 36 parking stalls and add 18 stalls back, reconfigure a west drive thru as proposed, add a second drive thru along the south side of the building as proposed, add planter islands at the ends of parking rows with trees and other landscape material required by code, add landscaped berm near intersections as a buffer between the drive thru and right-of-way, relocate dumpster enclosure to a more accessible location near the south property line, and record any necessary easements. Sanderson showed the commission the proposed site plan. Staff had concern about queuing onto the streets but felt the site plan addressed it. Staff recommended approval of the application subject to the following conditions:

- The applicant shall install and maintain adequate directional signage and drive thru separation barriers such as, median with bollards or other similar physical barrier between the south drive thru and south drive aisle, as recommended by the City Engineer.
- The applicant is to limit the uses contemplated by a certain traffic impact study, conducted by Hales Engineering on 3/07/2022, otherwise, a new traffic study shall be conducted, whereupon a new conditional use permit shall be obtained through the City.

- The applicant shall provide approvals for all utility providers including but not limited to water, sewer, power, gas communication, irrigation, etc.
- The applicant shall provide all geotechnical hazard declarations, and a floodplain development permit, as required by the City Engineer.
- Prior to construction, the applicant shall obtain a property line adjustment or property consolidation approval from the City and record applicable documents with Salt Lake County Recorder's Office, ensuring that the property lines do not bisect the building.
- The applicant shall provide an irrigation easement determined by the irrigation company or water users, and a minimum 10' public utility easement parallel to and abutting both Highland Drive and Murray Holladay Road.

Commissioner Larsen asked if the building would be for one tenant with two drive thrus or if it was two tenants with two drive thrus. Sanderson said the latter, with businesses in between. Chair LaMar asked about the entrance. Sanderson said it would move to the west. Lilly said there were existing trees that would be preserved or replaced. Commissioner Reid asked about control over what kind of businesses went in. Sanderson said the conditions were on the drive thru, any businesses permitted by the zone could go in. The second staff condition would limit the uses as recommended by the traffic study, kept to a medium use business. Commissioner Reid asked if there was a problem, if there would be a mechanism to remedy the situation. Sanderson said the business and owner would have to work it out.

Jay Larsen, applicant, said he did not want a large impact on the drive thru and access. The market would regulate itself.

Commissioner Hulsberg asked about the Murray Holladay Road access being used as an exit only. Jen Smith, staff engineer, said it was not addressed for the western entrance. Sanderson noted there would be bollards outlining the drive thru. Larsen said the traffic study looked at the east entrance and they did not give a recommendation to close it, it would be a right in-right out. Chair LaMar asked about the applicant having a relationship with the other nearby landowners if extra parking was needed. Larsen said they controlled the whole center, and it was currently overparked.

Chip Spencer, Millcreek Community Council, said the council supported the project.

*Chair LaMar opened the public hearing.*

There were no comments.

*Chair LaMar closed the public hearing.*

Chair LaMar asked about sod. Sanderson said there would be no sod. Chair LaMar wanted to avoid temporary barriers, cones and chain, to add more queuing. He felt if queuing became a problem, he would like the site plan revisited. Larsen said he was okay with revisiting it if there was a problem. Lilly suggested that in the event the city received repeated non-seasonal complaints regarding queuing or vehicle stacking on the public right-of-way or in a manner that interfered with parking, it would be the property owner's responsibility to seek solutions or approach staff with solutions to the problem.



Commissioner Lofgren moved that the Planning Commission approve the site plan and conditional use permit, application CU-22-010, as proposed, subject to the conditions with parking and queuing as discussed and in the staff report. Commissioner Cianflone seconded. Chair LaMar called for the vote. Commissioner LaMar voted yes, Commissioner Reid voted yes, Commissioner Cianflone voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. The motion passed unanimously.

The Planning Commission took a break from 7:04-7:21 p.m.

**1.3 Consideration of CU-22-011, Request for a Conditional Use Permit to Modify and Add to an Existing Monopole per Millcreek Code 19.83 Location: 3401 S. 2000 E.**

**Applicant: Britton Garr Knaphus, T-Mobile Planner: Katie Larsen**

Katie Larsen said the applicant was requesting a conditional use permit to modify and upgrade an existing monopole. She reviewed Millcreek code 19.83 in that monopoles were a conditional use in the R-1 Zone and were allowed with public or quasi-public uses, the height limit was 60 feet, and the monopoles shall be setback from any residential structure a distance equal to its height. The 60-foot monopole would be black steel and may have antennas that extend from the pole up to 5 feet from the surface edge. She noted the closest home was 96 feet away. Larsen showed the commission elevations of the existing and proposed poles. The East Mill Creek Community Council unanimously approved the application. Larsen recommended approval of the application.

Britton Knaphus, applicant representing T-Mobile, said the wooden utility pole was owned by PacifiCorp and was too small to be a stealth pole. This proposal would increase the antenna count and stay in the 5 foot standoff window. Commissioner Cianflone asked about the condition of the wood pole. Knaphus said the pole would be replaced by a steel pole. PacifiCorp did not allow modifications to existing poles.

*Chair LaMar opened the public hearing.*

There were no comments.

*Chair LaMar closed the public hearing.*

Commissioner Cianflone moved that the Planning Commission approve application number CU-22-011 per the proposed plans. Commissioner Hulsberg seconded. Chair LaMar called for the vote. Commissioner LaMar voted yes, Commissioner Reid voted yes, Commissioner Cianflone voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. The motion passed unanimously.

**1.4 Consideration of SD-22-007/PUD, Request to Subdivide an Approved Townhouse Development into One Hundred Units to Allow for Individual Ownership Location: 525 E. 4500 S. Applicant: Mitch Vance, JF Capital Planner: Brad Sanderson**

Brad Sanderson said the application was previously approved with conditions in February 2021. The original conditions of approval had been met through a site plan review. The applicant would like to subdivide the property to create individual ownership. Sanderson

showed the commission the proposed plat. The application was a conditional use as a planned unit development (PUD). The plat would vacate existing easements and record new ones. The Millcreek Community Council unanimously recommended approval of the application. Chair LaMar asked why this subdivision went to the community council. Sanderson said it was a PUD and therefore a conditional use permit.

Mitch Vance, applicant, said the developer was values-driven. They were attempting to offer missing middle housing, some of which would be rented. Commissioner Larsen appreciated the applicant's efforts. He wanted to see more owner-occupancy.

Chip Spencer, Millcreek Community Council, said the council supported the project. They had questions about the homeowner's association and maintenance of common areas. He wondered about "most" of the units being owner occupied. Vance said they did not have a specified proportion of owner-occupancy units.

*Chair LaMar opened the public hearing.*

There were no comments.

*Chair LaMar closed the public hearing.*

**Commissioner Larsen moved that the Planning Commission approve the PUD/subdivision and conditional use permit, application file SD-22-007, as proposed. Commissioner Cianflone seconded. Chair LaMar called for the vote. Commissioner LaMar voted yes, Commissioner Reid voted yes, Commissioner Cianflone voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. The motion passed unanimously.**

**1.5 Consideration of ZM-22-010, Request to Rezone from R-1-8 to R-2-8 to Accommodate Multifamily Housing, Which Would Also Require a General Plan Amendment Location: 4326 S. 900 E. Applicant: Diana Johnson Planner: Katie Larsen**  
Katie Larsen said the rezone request from R-1-8 to R-2-8 was to accommodate the existing duplex and provide for the construction of another duplex. The existing units cannot be rented out because they are in single family R-1 zoning. The property is located in the Neighborhood 1 designation in the Future Land Use Map of the General Plan. A General Plan amendment would be needed for the property to be designated as Neighborhood 2 in order to facilitate the zone change. The overall lot size is 0.39 acres which exceeds the R-1-8 standards. The existing and proposed plans would fall under the standards of the R-2-8 Zone, which required 4,000 square feet of lot area for each unit. If the rezone was granted, the applicant would subdivide the lot and build another duplex on the new lot. The site is surrounded by many uses and zones. The additional living space on the existing structure was constructed without proper building permits, code case #225135. Two units cannot be rented out in an R-1 zone without an owner living on the property and the other unit being an accessory dwelling unit.

Larsen reported the applicant held an onsite neighborhood meeting on June 4, 2022. Two neighbors showed interest in the project, one largely in favor of the improvements proposed and the other expressing concerns about increased traffic. The Millcreek Community Council

voted with 5 in favor of this project and 2 opposed. Many of the concerns were centered around amending the General Plan and creating a precedence for forgiving nonconformities. Community council members suggested height restrictions, and design characteristics that would be in harmony with single family homes within the surrounding neighborhood.

Larsen reviewed the following staff findings:

1. The purpose of a land use designation and general plan is to lend some level of predictability to all landowners, both present and future, as to what uses could be reasonably anticipated within certain areas of the city.
2. Rezoning the property would deviate from the intended purpose for original land use designation of the property from the current Neighborhood 1 land use designation.
3. Two family dwellings, such as duplexes, twin homes, townhomes, etc., are not permitted within the R-1 Zone or Neighborhood 1 land use designation.
4. Attached housing would be an allowed use within the R-2 Zone and Neighborhood 2 land use designation.
5. The property is located on the hard corner of Rowley and 900 East and is near other multi-family uses and zones within the vicinity.
6. 900 East is considered a minor collector street, which might be able to accommodate some additional, though limited housing or other more intense uses.
7. No building permit was obtained by the current applicant to convert the property to a two unit dwelling.
8. Rezoning the property would resolve a pending code case, file #225135, regarding the recent unpermitted construction and change of use of the property.
9. All further applications and improvements must be further reviewed and obtained by Millcreek.

Staff's conclusions were:

1. Rezoning the subject parcel sets a precedent in forgiving nonconformities that may be self-created which are contrary to the general plan.
2. Allowing the property to be rezoned does create additional housing, although largely insignificant, to meet city goals and policies to expand housing stock.
3. Due to the location, the property may be considered as a transition property since it is located between 900 East and other single family uses located further west along Rowley Drive.
4. Imposing certain design criteria could make future housing on the property somewhat more compatible with the surrounding single family uses.

Larsen said there were two possible recommendations that could be derived from and supported by the findings and conclusions, essentially approval or denial of the rezone.

Commissioner Reid asked about constructing an additional building. Larsen confirmed another duplex would be built after the rezone and a subdivision. Commissioner Cianflone expressed concern for setting a precedent with not following city standards. She asked if the applicant could subdivide then rezone the property. Larsen said they could do a subdivision first. Lilly said a property owner could request a rezone any time. The General Plan provides the guidance whether a rezone was appropriate at all. Commissioner Larsen asked when the construction was conducted. Larsen said in the fall of 2021.

Diana Johnson, applicant, said construction started in December 2021 and a stop work order was issued due to lack of required permits. She worked with the contractors and city to get the proper permits. The current code case was regarding the two individual units though the site was only being rented to one individual.

Chair LaMar asked about a letter in the packet from the applicant stating the units would be rented to low-income families. He asked how the city would know if it was being rented to low-income tenants. Johnson said the home was old and unique, so it would not be appealing for higher-income tenants. The rent being charged was below the 80% median income of the county.

Chip Spencer, Millcreek Community Council, said the council had concerns with changing the zoning. Commissioner Reid asked if the council considered four units on the property. Spencer said yes, the rezone would facilitate the other duplex and the council considered that.

*Chair LaMar opened the public hearing.*

Trevor Stevens, Diana Johnson's general contractor, felt it was presented that the Johnson's were doing work improperly but rather they used another contractor initially and that contractor failed to file permits. He thought they tried to work with the city. They would like to create a valued project with the additional duplex.

*Chair LaMar closed the public hearing.*

Commissioner Larsen did not feel the rezone was appropriate to forgive a nonconforming use and did not want to set a precedent. He did not think changing the neighborhood in the General Plan was appropriate for the area. He had reservations about how the property would be managed going forward. He noted in his personal neighborhood there were nonconforming units before Millcreek incorporated, and they were the bane of the neighborhood. Commissioner Lofgren agreed, however, he said 900 E. was not solely a single-family neighborhood. A potential alternative would be to deny the rezone, subdivide the lot, then rezone the 900 E. lot but not let the zoning go into the neighborhood. Commissioner Hulsberg said preserving the intention of the General Plan was a priority. Commissioner Cianflone pointed out that an amendment to the General Plan should be a separate conversation than one for this application. Commissioner Hulsberg asked if the applicant was intending to occupy the property. Larsen said no.

Commissioner Reid asked if height or design restrictions differed from the two zones. Lilly said no, that was dictated by the Residential Compatibility Overlay Zone (RCOZ). Chair LaMar asked if the General Plan neighborhood designations were a policy guideline or a strict standard. Lilly read from the General Plan. Neighborhood 1 was single-family detached homes with typically 1-6 dwelling units per acre. Neighborhood 2 was single-family detached homes on smaller lots, duplexes, triplexes, townhomes, and smaller multi-family buildings with typically 6-18 dwelling units per acre. "Range of Density and Scale. It is important to note that the General Plan's upper limits in the Range of Density Scale and the Key Characteristics for each Category must not be interpreted as a presumption of right or entitlement by those planning to develop or redevelopment a property or group of properties. What constitutes an ultimately acceptable use, density, scale and key characteristics for a

specific location is dependent on a robust public process, the guidance and goals provided by this General Plan and, most importantly, the current zoning ordinances.”

Chair LaMar was not opposed to the duplexes, but felt the robust public process was missing in changing the neighborhood designation in the General Plan. Lilly said state law protects the applicant in having an ADU in a single-family zone if the owners lived onsite and met Millcreek code. Commissioner Cianflone wondered if the internal ADU was larger than the primary unit. Commissioner Larsen would like to resolve the code case file. Johnson noted all the work had been permitted. Commissioner Reid did not feel comfortable having the lot split with another duplex. She acknowledged the property was surrounded by R-2 and C-2 zoning and pointed out the community council voted 5-2 for it so that should be considered. She would be okay with the duplex on 900 E. and a single-family dwelling on the other lot. Commissioner Larsen was inclined to deny the application for the rezone and address a subdivision application later. Lilly said it was good policy to change the Future Land Use Map before approving a rezone. Chair LaMar reiterated that a duplex may be ok on one lot and not the other. Commissioner Larsen noted his experience with this type of nonconforming home was not good. Commissioner Lofgren clarified that the commission was not giving assurance for future application approvals.

**Commissioner Larsen moved that the Planning Commission forward the recommendation of denial to the City Council regarding the rezone and General Plan amendment, file ZM-22-010, as proposed.** He expressed concern with setting a precedent with resolving nonconformities through a rezone and changing the neighborhood from Neighborhood 1 to 2 to accommodate this application. He said if the commission wanted to consider the neighborhood change, they should look at the neighborhood comprehensively. **Commissioner Lofgren seconded. Chair LaMar called for the vote. Commissioner LaMar voted yes, Commissioner Reid voted yes, Commissioner Cianflone voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. The motion passed unanimously.**

## **2. Commission Business**

### **2.1 Approval of July 20, 2022 Special Meeting Minutes**

**Chair LaMar moved to approve the June 20 special meeting minutes as prepared in the packet. Commissioner Cianflone seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Cianflone voted yes, Commissioner Claerhout voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. Commissioner Reid abstained. The motion passed.**

### **2.2 Approval of July 20, 2022 Regular Meeting Minutes**

**Chair LaMar moved to approve the July 20 regular meeting minutes. Commissioner Cianflone seconded. Chair LaMar called for the vote. Commissioner LaMar voted yes, Commissioner Cianflone voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. Commissioner Reid abstained. The motion passed.**

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

Francis Lilly asked about doing a second meeting in October since there were a lot of applications. Chair LaMar asked about the temporary homeless shelter coming before the commission. Lilly said homeless shelters were permitted uses in the C Zone. The city was working on a management plan with the shelter operator, Switchpoint.

**2.4 City Center Overlay Zone Update**

Lilly would like to set up small group meetings with commissioners to discuss specific sites pertaining to the future of the City Center Overlay Zone.

**2.5 Utah APA Fall Conference Discussion**

Lilly asked the commission if they had any take aways from the APA Conference. Chair LaMar noted a lot of entities were involved with the Jordan River. Commissioner Reid said she heard there were enough housing units permitted in the state to solve the housing crises, but developers did not want to build where cities wanted them to. She said she went on a tour of Lehi and appreciated the historic signs. She learned that streetcars were effective for economic development and not transportation. Cities should be requiring a water use landscaping plan and use emitters, not restricting the amount of grass. Lilly said the legislature would intervene when they felt they had a compelling interest to do so. Sustainability was on the horizon, especially with water. He anticipated structuring incentives in zoning to get wanted outcomes. In a few years, the General Plan would need a comprehensive update.

**3. Calendar of Upcoming Meetings**

- City Council Mtg., 9/26/22, 7:00 p.m.
- Mt. Olympus Community Council Mtg., 10/3/22, 6:00 p.m.
- Millcreek Community Council Mtg., 10/4/22, 6:30 p.m.
- Canyon Rim Citizens Association Mtg., 10/5/22, 7:00 p.m.
- East Mill Creek Community Council Mtg., 10/6/22, 6:30 p.m.
- City Council Mtg., 10/10/22, 7:00 p.m.
- Historic Preservation Commission Mtg., 10/13/22, 6:00 p.m.
- Planning Commission Mtg., 10/19/22, 5:00 p.m.

Lilly suggested October 26<sup>th</sup> as the second commission meeting date in October.

**ADJOURNED: Commissioner Cianflone moved to adjourn the meeting at 8:41 p.m. Commissioner Reid seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Reid voted yes, Commissioner Cianflone voted yes, Commissioner Hulsberg voted yes, Commissioner Larsen voted yes, and Commissioner Lofgren voted yes. The motion passed unanimously.**

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

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