



PLANNING COMMISSION STAFF REPORT

From: Millcreek Staff
To: Planning Commission
Meeting Date: December 20th, 2023
RE: File Number **ZT-23-012** – Adoption of a Commercial (C) Zone Ordinance
File Number **ZT-23-015** – Adoption of a Residential Mixed (RM) Zone Ordinance

Scope of Decision: **Discretionary.** This is a legislative matter, to be decided by the Millcreek City Council upon receiving a recommendation from the Community Council(s) and the Millcreek Planning Commission. Your recommendation can be broad in scope, but should consider prior adopted policies, especially the Millcreek General Plan.

Prepared by: Logan & Simpson and Millcreek Staff
Presented by: Brad Sanderson, AICP

Background & Request

As part of Millcreek's comprehensive zoning code update, Staff is seeking your input and recommendation regarding two new ordinances: **Commercial Zone** and **Residential Mixed Zone**.

As part of the incorporation of Millcreek as a city in 2017-2018, many zoning and development codes were adopted by have long been neglected and outdated. Millcreek Staff, with the aid of Logan and Simpson, a hired consultant, is working to update many of Millcreek's zoning codes.

Updates to the Commercial (C) and Residential Mixed (RM) zoning codes have been developed over the past several months with preliminary input from a stakeholder committee, consisting of Millcreek residents, developers, and members of the Community Councils. Furthermore, a draft of each ordinance was later emailed to each community council and planning commission member beginning in early October of this year followed by an informal presentation and discussion with each of the Community Councils in November.

A link to 'Konveio', (an online commenting platform), was established to gather further comment and consideration from each of the community councils and the planning commission. Staff later made a formal presentation to three of the four community councils during the month of December and have received some recommendations, (see below). Note: Canyon Rim did not hold a meeting during the month of December.

A notice was sent out to property owners who own property within the current C-1, C-2, C-3, or RM zones, as well as to many property owners abutting properties within any of these affected zones.



Staff is now requesting that the Planning Commission hold a public meeting and provide **two separate recommendations to the City Council**, one for each of the proposed ordinances. Staff welcomes any further guidance from you on how these ordinances can be improved to further the goals of the Millcreek General Plan and best practices regarding each proposed zoning code update.

General Overview

- The following Guiding Principals were initially established as part of the Millcreek code update:
 - Ensure that the code is user-friendly.
 - Consolidate and Unite
 - Include language that is clearly defined and uniform.
 - Make development easy.
 - Encourage community health and sustainable development practices.
 - Build the right procedures.
 - Provide enforceable tools.
- The code update **will not “rezone”** any properties, as part of the Commercial and Residential Mixed (RM) code update. All properties will stay within the respective zone, as per the current Zoning Map.
- The code update primarily applies to new development. All existing or current uses and/or structures, will not be affected by the proposed code update; and will be allowed to continue to exist and operate, so long as they were legally permitted under the old code at the time they were established.

Commercial Zone Summary

- Millcreek currently has three commercial zones each containing similar development and design standards. Following the Guiding Principles (listed above), the update seeks to consolidate the C-1, C-2 & C-3 Zones into a single commercial zone.
- To address some concerns with impact to existing neighborhoods, the update proposed certain proximity buffers as it relates to certain “incompatible uses” (e.g. gas stations, drive-thru, carwashes, auto sales and services, etc.). The intent of the buffers is to help alleviate possible impact which some possible higher impact uses may have on adjacent nearby residentially zoned properties.
- The update seeks to change certain uses from a ‘permitted use’ to ‘conditional use’ and vice versa.
- Mixed-use continues to remain as an allowed use within the commercial zone?
- Affordable housing, including some incentives, are being introduced as permitted uses (with some limitations)
- Proposed design standards include but are not limited to the following:
 - Build-to lines to promote urban street edge design (75% of building facades need to be near the street for properties located within 300 feet of a major intersection)
 - Limits structures to 35 feet tall when within 100 feet of a residential zone
 - Includes architectural articulation standards.
 - Maintains existing material requirements for general commercial use but requires equal treatment on all building facades.
 - Updates specific use design standards for hotels and prohibits stucco.
 - Mixed use development requires a minimum of 100 feet of street frontage.



- Mixed use follows RM Zone standards but allows for reduced open space from 20% of the land area to 250 square feet of open space/dwelling unit.
- New requirements for dumpster placement and screening

Implications & Considerations

- Although the consolidation of the three commercial zones may make the code less cumbersome, are there any foreseeable or unintended detriments resulting from the zone consolidation?
- Should the commercial zones remain as three separate uses or would they be better consolidated into two zones rather than one, or could additional buffers be implemented on certain uses that might mitigate impacts?
- Are there certain uses that should or should not be allowed within the commercial zones?
- Are there certain uses which should be a conditional use vs. a permitted use?
- Are the affordable housing incentives adequate, clear, and enforceable?
- Do the restrictions, as proposed within the commercial zone, discourage economic development?
- Should the commercial zones be reserved strictly for just retail type uses?
- Are there concerns with premium commercially zoned properties being developed as mixed use with an imbalance of retail vs. non-retail uses?
- Would the commercial zones be less cumbersome if mixed-use development, including the mixed-use design standards, were moved to mixed-use zones, with the possibility of re-designating where mixed-use development is most appropriate, as part of a future land use general plan update?
- Are there adjustments or additional design standards that should be considered?
- Do the proposed updated codes meet the intent of the Guiding Principles and strategies, goals, and policies of the General Plan?

Residential Mixed Zone Summary

- The RM Zone is primarily intended for medium to high density development but has many commercial uses currently within the zone, so a slight change to the name of zone has been made to “Residential Mixed” reflecting the mix of some uses in the district.
- Two, three, and four-household dwellings are proposed as ‘permitted use’.
- Multiple-household developments which have fewer than six (6) units and are less than 30 feet tall, are listed as ‘permitted use’. Developments which have more than six units and buildings exceeding 30 feet tall, (maximum of 45 feet tall) the use is then listed as a conditional use.
- Some commercial uses are allowed within new development but only as part of a mixed-use development.
- Requires mixed uses for properties along street frontages located within 500’ of major intersections. Permits commercial uses such as restaurant, retail, and personal services in conjunction with mixed use.
- Affordable housing density incentive - qualifies for a 25% reduction in minimum lot size.
- To help reduce box or barrack style development, a maximum building length and a street facing/orientation of building requirements have been added.
- New roof decks standards are included.
- Location and screening criteria for dumpsters and utilities.



- Recreational amenity requirements have been revised to reflect more current features and clarify standards for amenities.
- Requires ground floor living space for residential uses to activate ground levels.

Implications & Considerations

- Should there be limitations on certain ‘retail uses’ that should be allowed in the RM Zone?
- Should a higher number of residential units be allowed as ‘permitted use’ or is six the right number?
- Should lot coverage be excluded for residential developments exceeding a certain number of units and/or mixed-use type developments altogether?
- Is mixed use still an appropriate use within the RM Zone or should it be its own designation?
- Are the affordable housing incentives sufficient, or are there others? Do all the units need to be affordable or is there a percentage or ratio that might be preferred? How is it enforced?
- Should architectural features (i.e. parapets, towers, steeples, mechanical shelters, shade structures, etc.) be included or excluded from building height limitations (30 feet or 45 feet) include?
- Should ground floor living area requirements be limited to residential uses only or should they apply to mixed use development as well?
- Do the proposed updated codes meet the intent of the Guiding Principles and strategies, goals, and policies of the General Plan?

General Plan Considerations

The Millcreek General Plan includes a number of goals, strategies, and implementation targets that are accomplished through the updated **Commercial Zone** and **Residential Mixed Zone** ordinances. Relevant strategies and implementation measures are discussed below, along with a brief discussion in a shaded text box, describing how the ordinance updates accomplish these measures.

UNIQUE NEIGHBORHOODS

Strategy: *Ensure Neighborhood Compatibility*

Implementation: *Ensure that new adjacent and infill development is compatible with existing neighborhoods by regulating structure sizes and heights; building forms and materials; yard setbacks; streetscape character; height and bulk transitions; buffering; and other factors.*

Strategy: *Rezone for densities necessary to facilitate the production of moderate-income housing (MIH)*

Implementation: *Review and amend requirements of the Commercial Zones during the 2023 zoning code update to entice qualifying moderate income housing developments. Amendments may include waiving commercial use requirements for qualifying MIH projects in the C Zones.*

In addition to the buffer requirements listed within the recently adopted Landscape ordinance, both the ‘Residential Mixed’ and ‘Commercial’ ordinances attempt to further buffer existing neighborhoods by 1) maintaining the ‘height transition’ requirements, 2) maintain or increase the rear yard setback between new



commercial/multi-unit residential and existing residential zones/uses (15' for 2 to 4 unit dwellings and 25' for non-residential uses and higher density developments), 3) as it pertains specifically to the Commercial Zone, building proximity to abutting street frontages and further away from neighborhoods with required “build-to areas” and 4) limit on certain “higher impact uses” (gas stations, carwashes, drive-thru, etc.) to be located further than 150' distance from a residential use or property line.

Both Residential Mixed and Commercial ordinances introduce ‘affordable housing’ as a new stand-alone “permitted” use, with additional 25% density bonuses for larger developments.

VIBRANT GATHERING PLACES:

Strategy: Implement zoning incentives for moderate income units in new developments and offer a variety of housing opportunities.

Implementation: Explore specific incentives to entice developers to offer owner-occupied developments or a percentage thereof.

Mixed use developments remain as allowed uses within both the Commercial and Residential-Mixed zones. The Residential zone, if adopted would require a minimum of 150 sqft. of living space on the ground floor of multi-unit residential development.

THRIVING ECONOMY:

Strategy: Zone or rezone for higher density or moderate income residential development in commercial or mixed use zones near major transit investment corridors, commercial centers, or employment centers

Implementation: Revise land use designations within the Future Land Use Map and amend areas near major transit corridors and centers that are more appropriate for higher densities and qualifying moderate income housing developments by 2027

Strategy: Amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors

Implementation: Adopt reduced regulations and requirements in the Commercial Zone during the 2023 zoning code update which may include:

- Consider implementing a density bonus incentive that gives a developer the ability to construct more units in exchange for providing additional moderate income housing units.
- Create a streamlined development review process for affordable housing projects.

Density bonus, up to 25%, may be allowed for developments with affordable housing.

The Residential-Mixed zones requires mixed, within 500 feet of a specified intersection, for developing properties.



Community Council Recommendations

The Millcreek Community Council (MCC) recommended the following:

Approve the RM Residential Mixed Zone ordinance with the recommendation to consider changing Paragraph 18.01.30 (A) from "... and under 50 units" be changed to 12 units.

Approve the Commercial Zone with the following recommendations:

1. Add a restriction on new storage units east of 700 East.
2. Reduce the percentage of affordable housing that can be built in C-Zone. As written, it is 100%; perhaps 25-50% minimum will entice more potential developers interested in building affordable housing.

The Mount Olympus Community Council (MOCC) recommended the following:

The MOCC provides a **positive recommendation for its adoption of the R-M zone** draft ordinance, as no concerns or qualifications at this point in time have been identified.

The **MOCC provides a qualified recommendation for the adoption of the Commercial zone draft ordinance, subject to remedying or clarifying the following issues.**

1. The draft commercial zone ordinance reduces the geographical restrictions on a number of so-called "incompatible" uses, including, but not limited to) outdoor commercial recreation, vehicle service and repair, equipment car and truck rental, outdoor kennels, pawnshops, smoke shops, tattoo services, check cashing /payday lenders, flea markets, swap meets, etc.
2. Related to the above, the draft ordinance will allow in the current C-1 zone areas a number of "Incompatible" uses that are currently prohibited or limited in that zone, as listed above.
3. Although it is implausible for a number of reasons that such an outcome would occur, the draft commercial zone ordinance allows for a vehicle dealership at the Olympus Hills Shopping center location as a permitted use, an area designated in the General Plan as a prospective village center. In addition, there are a number of other uses that the draft ordinance will allow in this area that are also be incompatible with the village center concept.

The **East Mill Creek Community Council (EMCCC) forwards a positive recommendation for the approval** of the [Application ZT-23-015 Adoption of **Residential Mixed (RM) Zone Ordinance**] subject application.

The EMCCC forwards a positive recommendation for the approval of the [Application ZT-23-012 Adoption of **Commercial (C) Zone Ordinance**] subject application with the following considerations/questions: **Please read James Allyn's letter** regarding his concerns and objections (see letter attached).



Drafts of both proposed code updates were presented in the month of November; however, **Canyon Rim Community Council (CRCC) did not hold a meeting in the month of December.**

Attachments:

1. **Commercial Zone Summary and Draft**
2. **Residential Mixed Zone Summary and Draft**
3. **James Allyn's Letter (member of EMCCC)**

18.01 Commercial Zone (C)

18.01.010 Purpose.

- A. The purpose of the Commercial (C) Zone is to provide areas for community commercial development. Such zones cater to local and regional markets and may include limited residential uses as incorporated into a commercial mixed-use development.

18.01.020 Applicability

- A. This Chapter shall govern the development of land within the Commercial (C) Zone.

18.01.030 Permitted And Conditional Uses

- A. Uses in the Commercial (C) Zone are as set forth in Table 18.45.031 *Permitted and Conditional Uses in the C Zone*.

Table 18.45.031 Permitted and Conditional Uses in the Commercial (C) Zone		
<i>P= Permitted C= Conditional Use Review Required</i>		
<i>Land Use</i>	<i>C Zone</i>	<i>Limitations / References</i>
<i>Residential Uses</i>		
Affordable Housing	P	100% of units must be affordable if not in association with mixed use standards as set forth in MKZ 19.XX.XX
Multiple-household dwelling	P	Only permitted in association with mixed use set forth in the development standards as set forth in MKZ 19.XX.XX
Nursing home/ Assisted living	P	
Residential Facility For Persons With A Disability	P	
Residential Facility For Elderly Persons	P	
Caretaker Dwelling	P	Additional use standards apply as set forth in MKZ 19.XX.XX
<i>Commercial Uses</i>		

Table 18.45.031 Permitted and Conditional Uses in the Commercial (C) Zone

P= Permitted C= Conditional Use Review Required

<i>Land Use</i>	<i>C Zone</i>	<i>Limitations / References</i>
Animal Services	P	Outdoor kennels or animal play areas prohibited within 150' of a residential use or a residential zone. ¹
Automobile / recreational vehicle sales or rental	C	Only allowed when located on arterial roadways 80' or greater in width. Prohibited within 150' of a residential use or a residential zone. ¹ Additional use standards apply as set forth in MKZ 19.XX.XX
Automobile service and repair	C	Prohibited within 150' of a residential use or a residential zone and within 1,320' (1/4 mile) of an established substantially similar business. ¹ Additional use standards apply as set forth in MKZ 19.XX.XX Does not include any impound, salvage yard or vehicle recycling facilities
Car wash	C	Prohibited within 150' of a residential use or a residential zone ¹ and within 300' of a major intersection and within 1,320' (1/4 mile) of an established substantially similar business. ¹
Clinic, medical or dental	P	
Commercial Daycare	P	
Commercial Entertainment under 25,000 square feet	P	Outdoor entertainment uses prohibited within 150' of a residential use or a residential zone ¹ . Gun ranges (indoor or outdoor) are prohibited.
Commercial Entertainment, 25,000 square feet or more	C	Outdoor entertainment uses prohibited within 150' of a residential use or a residential zone. ¹ Gun ranges (indoor or outdoor) are prohibited.

Table 18.45.031 Permitted and Conditional Uses in the Commercial (C) Zone
P= Permitted C= Conditional Use Review Required

<i>Land Use</i>	<i>C Zone</i>	<i>Limitations / References</i>
Commercial kitchen / ghost kitchen	P	Prohibited within 150' of a residential use or a residential zone. ¹
Commercial parking lot/ parking garage	C	Parking garages shall include non-residential uses for at least 75% of the ground floor facing a public street.
Community Garden	P	
Depository Financial Institution	P	
Drive through window	C	Drive through windows prohibited within mixed-use developments.
Eating and drinking establishment	P	
Flex Space	P	Maximum square footage of 10,000 square feet per building, a minimum of 20% of floor area must be office and or retail uses.
Fuel Station	C	Prohibited within 1,320' (1/4 mile) of an existing fuel station and within 150' of a residential use or a residential zone. ¹
Funeral Home / Mortuary	P	
Greenhouse / plant nursery	P	
Gym / fitness studio under 5,000 square feet	P	
Gym / fitness studio 5,000 square feet or more	C	
Hospital	C	

Table 18.45.031 Permitted and Conditional Uses in the Commercial (C) Zone
P= Permitted C= Conditional Use Review Required

<i>Land Use</i>	<i>C Zone</i>	<i>Limitations / References</i>
Light Service and Repair	P	Maximum square footage of 10,000 square feet.
Lodging	P	
Live /Work Unit	P	Only permitted in association with mixed use set forth in the development standards as set forth in MKZ 19.XX.XX
Non-Depository Financial Institution	P	Prohibited within 2,40' (1/2 mile) of an established substantially similar business. ¹
Office	P	
Pawn Shop	P	Prohibited within 300' of a major intersection and within 1,320' (1/2 mile) of an established substantially similar business. ¹
Personal Service	P	
Reception or event center	P	Outdoor uses prohibited within 300' of a residential use or a residential zone. ¹
Retail sales	P	Retail stores primarily selling tobacco and/or associated paraphernalia are prohibited within 1,320' (1/4 mile) of an established substantially similar business. ¹
Self-storage facility	C	Prohibited within 300' of a major intersection and within 1,320' (1/4 mile) of an established substantially similar business. ¹ Additional location restrictions apply as set forth in MKZ 19.XX.XX
<i>Institutional Uses</i>		

Table 18.45.031 Permitted and Conditional Uses in the Commercial (C) Zone

P= Permitted C= Conditional Use Review Required

Land Use	C Zone	Limitations / References
Commercial wireless communication facilities	P	Only stealth type towers/ accessory structures permitted
Public uses	P	Detention Facilities are not permitted
Religious Assembly	P	
Quasi-Public Use	C	

¹ Distances are measured from property line or nearest point of the right-of-way at an intersection to the subject property line at the nearest point.

18.01.040 Accessory Uses.

- A. Accessory uses and structures shall be subordinate/incidental to the main use and structure and shall not be allowed in the front or side yards facing a street.

18.01.050 Spatial Requirements

- A. The spatial requirements are as set forth in Table 18.45.051 Spatial Requirements for the Commercial (C) Zone

Figure 18.45.051 Commercial zone spatial requirements illustration

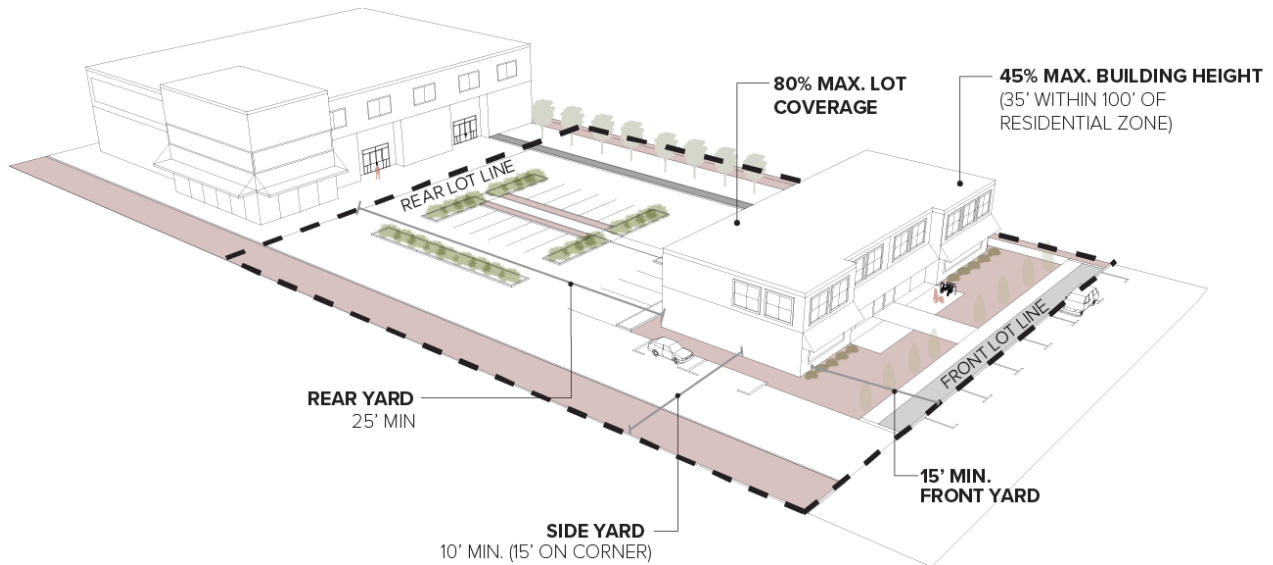


Figure 18.45.051 Commercial zone spatial requirements illustration when abutting residential zones.

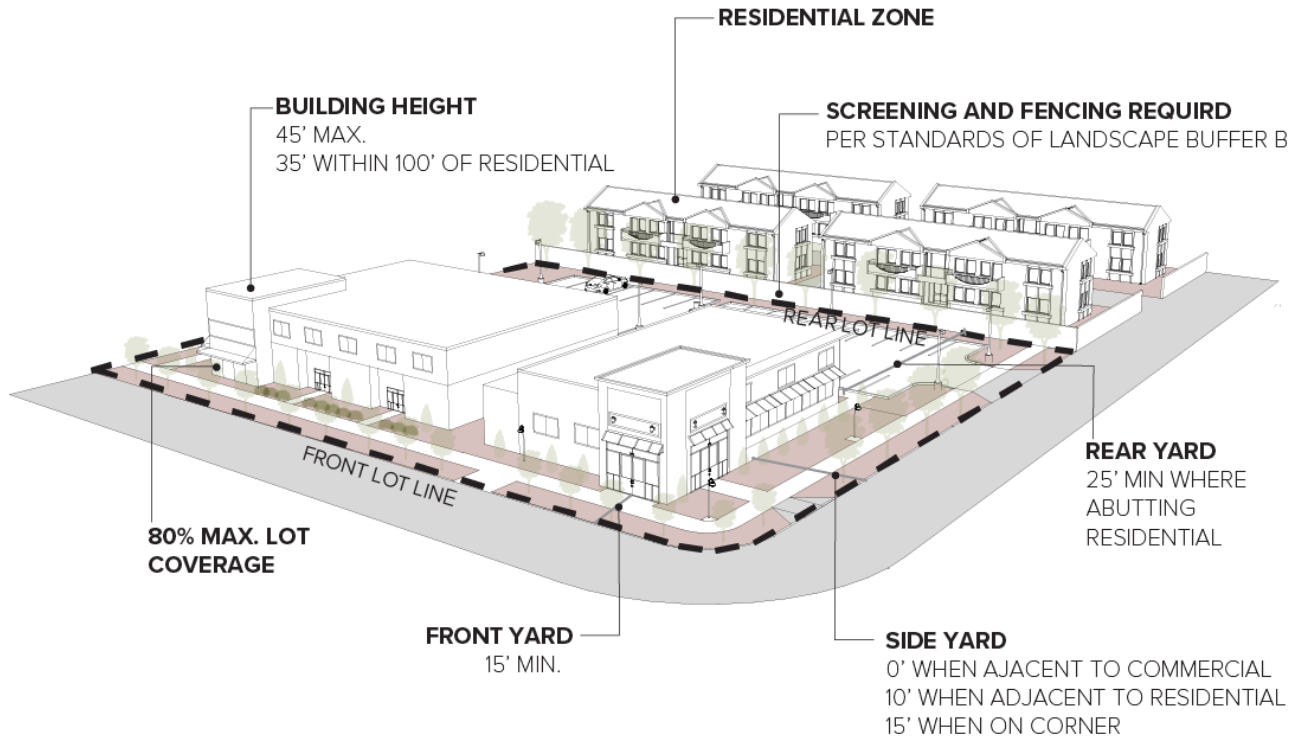


Table 18.45.051 Spatial Requirements for Commercial (C) Zone

<i>Spatial Requirement</i>	<i>C Zone</i>	<i>When abutting residential zone</i>
Minimum lot area	None	
Minimum lot width	None	
Maximum building height	45'	45', 35' within 100' of residential zone
Maximum lot coverage	80%	
Minimum building height	1 story, 2 stories within village centers (2300 E/ 3300 S, Olympus Hills, Highland Dr/ Murray-Holladay Rd)	
Minimum front yard	15'	15'

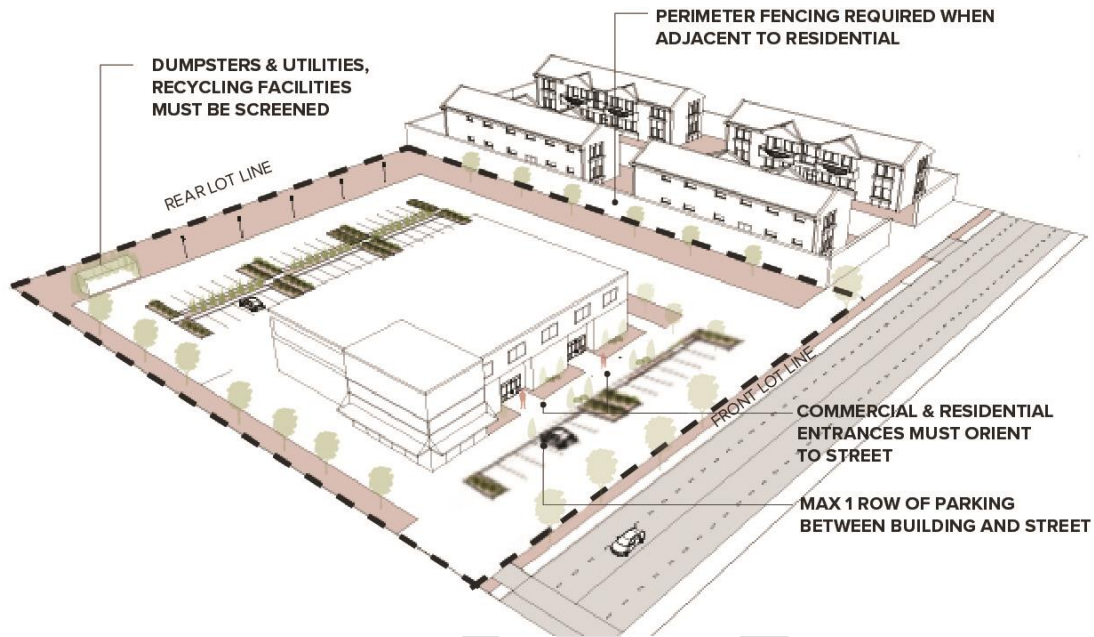
Table 18.45.051 Spatial Requirements for Commercial (C) Zone

<i>Spatial Requirement</i>	<i>C Zone</i>	<i>When abutting residential zone</i>
Minimum rear yard	None	25', subject to Landscape Buffer B as set forth in MKZ 19.XX
Minimum interior side yard	None	10' subject to Landscape Buffer B as set forth in MKZ 19.XX
Minimum corner side yard	15'	
Accessory structure minimum rear and interior side yard	1'	10' between buildings

18.01.060 Site Layout Standards.

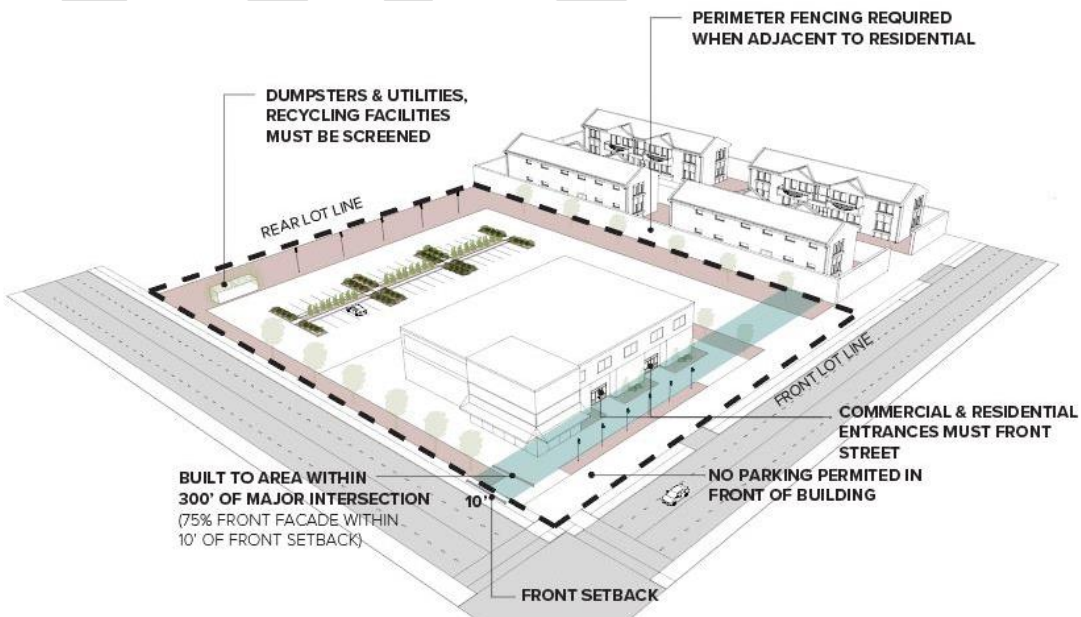
A. Development within the C Zone shall meet the following site layout standards:

Figure 18.45.061 Site Standards Illustration



1. Building Orientation. Buildings shall orient their street facing facades parallel to the right of way.
2. Build-To-Area. Developments within 300' of a major intersection as measured by a radius from the applicant's nearest property line to the arterial intersection ROW line are required to conform to the following standards:

Figure 18.45.062 Sites Within 300' of a Major Intersection Standards



- a. Major intersections are defined where the following streets intersect with one another:
 - (1) Murray- Holladay Rd.
 - (2) 4500 S
 - (3) 3900 S
 - (4) 3300 S
 - (5) 300 W
 - (6) West Temple
 - (7) Main Street
 - (8) State Street
 - (9) 500 East
 - (10) 700 East
 - (11) 900 East
 - (12) 1100 East
 - (13) 1300 East
 - (14) Highland Drive
 - (15) 2000 East
 - (16) 2300 East
 - (17) 2700 East
 - (18) Wasatch Boulevard
 - b. The build-to-area is measured perpendicularly to the front setback and is ten feet (10') in depth. Build-to-area may not encroach upon the front yard setbacks established in this Chapter.
 - c. A minimum of 75 percent of the front elevation of the building(s) must be within the build-to-area.
3. Entrances. Commercial and residential entrances to the first floor of commercial and mixed use buildings shall front on the street. On double or triple-frontage lots, entrances are required where the greatest amount of pedestrian traffic is anticipated, but in all cases must front on a street.
 4. Vehicle access and parking.
 - a. For sites within Village Centers and 300' of major intersections: No parking, circulation driveway or drop-off/ pickup areas are permitted between the front of the building and the street.
 - b. For all other locations: A maximum of one parking row, circulation driveway, or drop-off/ pickup areas is permitted between the front of the building and the street.

5. Garbage and Recycling. All development shall be designed to accommodate and efficiently manage the collection, storage, and removal of garbage and recycling per the following standards:
 - a. All developments must provide recycling services.
 - b. All development is required to screen dumpsters and recycling facilities per the standards of this section as well as the landscape standards as set forth in MKZ 19.77
 - c. No refuse, recycling bin, dumpster or dumpster enclosure structure shall be located closer than 10 feet (10') to any perimeter property line.
 - d. Enclosures shall be constructed of a solid masonry material and shall include sold steel gates.
6. Utilities.
 - a. Location. All utilities shall be located underground with the exception of existing overhead transmission lines.
 - b. Screening. All utility equipment shall be screened from view as set forth in MKZ 19.XX.
 - c. Permissions. Private water and other in-ground utilities that are privately owned require piping subject to the approval of the utility owner.
7. Perimeter Fencing. Fencing is required for non-residential uses located adjacent to residential zones and mixed-use developments as set forth in MKZ 19.77.050 *Landscape Standards*, except as follows:
 - a. Acceptable fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete.
 - b. Fencing with materials using composite products, wrought iron, wood, or vinyl is permitted if accompanied by a minimum two foot wide, six foot (6') tall brick or stone pillars spaced every ten feet on center.
 - c. Exterior fencing along a public right of way shall be limited to brick, stone, or block, or pre- cast concrete and be setback a minimum of 5 feet from the property line to allow for a landscaping buffer designed in accordance with MKZ 19.77.

18.01.070 Building massing standards

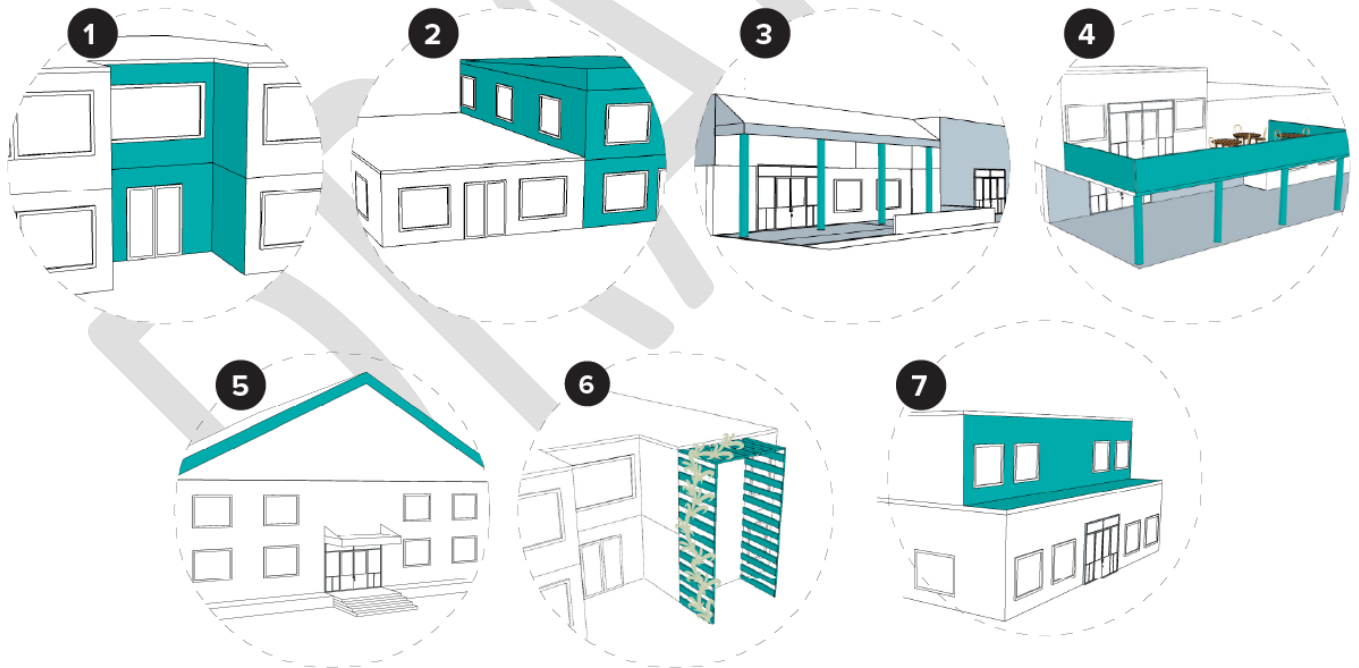
- A. Development within the C Zone shall meet the following building massing standards:
 1. Stepbacks. Buildings greater than 35 feet (35') in height shall have a 10 foot (10') stepback between the first or second stories and third story when along Streets, Property Frontages, and Residential Zone Boundaries.

Figure 2 Stepback illustration



2. Massing and Façade Articulation. All buildings that are not faced entirely in brick or stone shall be designed to have at least three of the following massing or façade articulation design elements:

Figure 18.45.071 Building Massing Standards Illustration



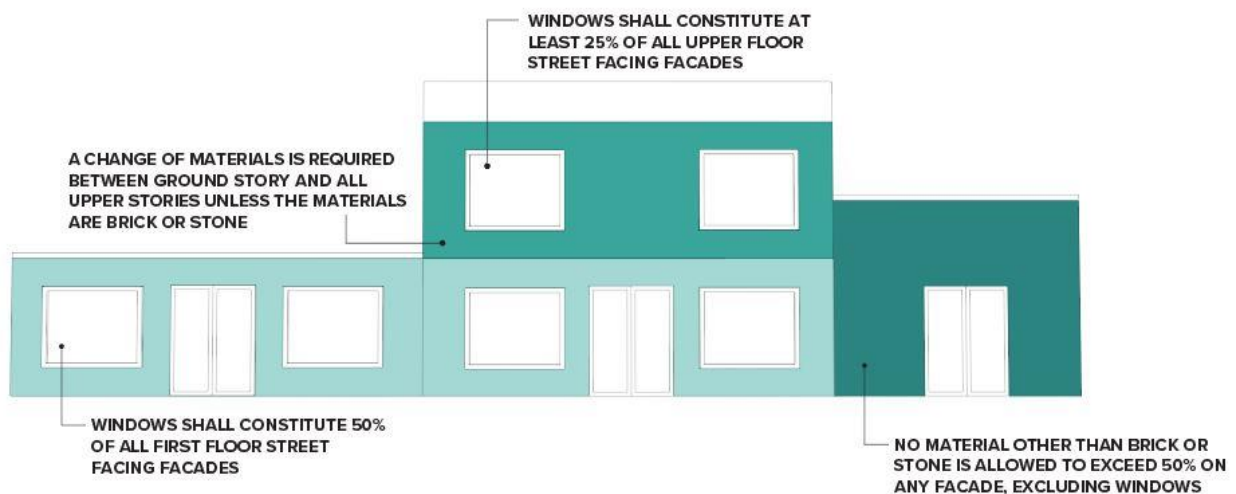
- a. Façade articulation. The primary façade plane shall not exceed forty feet (40') in length without full height articulation. The articulation shall be a minimum of two feet (2') in depth or projection from the primary façade plane and shall be a minimum of five feet (5') in width.

- b. Change in height. The top of the building shall change in height by at least five feet (5') every thirty feet (30') of façade length.
 - c. Indentations or recesses. The building shall feature indentations or recesses such as alcoves or arcades at least five feet (5') in depth along the façade at maximum of 75 foot intervals. Such indentations or recesses shall be a minimum of one story in height.
 - d. Terraces. Unless required as a stepback, usable terraces (a larger balcony intended as a private resident leisure space or commercial leisure space) at least 10 feet in depth along the street facing facades.
 - e. Pitched roofs. The primary structure is covered by a pitched roof with a minimum pitch of 3/12. Parapets are not considered to meet this requirement.
 - f. Architecturally integrated trellises. Architecturally integrated trellises shall be attached to the wall and cover at least twenty percent (20%) of a wall and shall project a minimum of 18 inches from the primary façade and have accompanying landscape planting material.
 - g. Stepbacks. Stepbacks shall only meet this requirement if not otherwise required.
3. Measurement of Building Height is measured from the natural grade original ground surface to the highest point of the roof, including firewalls, parapets, skylights, towers, steeples, flagpoles, shade structures, and all other architectural features.

18.01.080 Building Materials Standards

A. Development within the C Zone shall meet the following building materials standards:

Figure 18.45.081 Building Materials Requirements Illustration



1. Windows.

- a. Windows shall constitute at least 50 percent of first floor street-facing facades, and windows shall be at least 50 percent transparent.
- b. On double or triple-frontage lots, living screens may replace up to 50 percent of the window requirement for the façade along the lowest anticipated pedestrian traffic frontage.
- c. Windows shall constitute at least 25 percent of all upper story street-facing facades.

2. Exterior Materials.

- a. Exterior materials of a durable or resilient nature such as brick, stone, architectural metal panel, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics shall be used. Twenty-five year guarantee, architectural shingles and/or other longer lasting roof materials are required.
- b. Brick or stone may be used for up to one hundred percent (100%) of the building façade, excluding windows. No other single material is allowed to exceed fifty percent (50%) on any façade, excluding windows. Other materials may be considered for soffits, or as an accent or architectural feature.
- c. Stucco, EIFS, architecturally finished concrete, or architectural metal panel shall comprise no more than 20 percent (20%) of any façade or from an abutting property that is located in an R-1, R-2, R-4, or AG zone ("residential zone").
- d. A change of materials is required between the ground story and all upper stories, unless the material is brick or stone.

18.01.090 Design and Use Standards for specific uses.

- A. The following standards are applicable to the uses specified in addition to the development standards in this Chapter. Should conflicts occur, the more restrictive shall apply.
- B. Automobile / recreational vehicle sales or rental facilities shall meet the following site requirements:
 1. The minimum lot size for such use is 20,000 square feet.
 2. The site must contain an office of at least 2,000 square feet.
 3. Inventory lot parking shall not be included in the minimum parking requirements.
- C. Automobile service and repair uses shall meet the following site standards:

1. Bay doors shall not be located on facades facing residential uses or zones.
 2. Vehicles awaiting repair or service shall be screened by Landscape Buffer C as set forth in MKZ 19.XX.
 3. Vehicle storage areas shall not count toward parking minimum requirements.
- D. Caretaker Dwelling is only permitted in accordance with the following standards:
1. A caretaker dwelling is only permitted as an ancillary use in association with a primary commercial use.
 2. A maximum of one caretaker dwelling is permitted on a given site.
 3. The property owner shall record an affidavit stating the caretaker dwelling will not be leased, rented, or sold separately.
 4. A caretaker dwelling shall consist of a minimum habitable floor area of 600 square feet and not to exceed a maximum habitable floor area of 1,200 square feet.
 5. The caretaker dwelling is subject to the residential use off-street parking requirements Chapter 19.80 of the MKZ.
 6. The parking spaces for caretaker dwelling cannot be included in any parking reduction request including shared parking.
 7. Home businesses with a customer base visiting the caretaker dwelling shall be prohibited.
- E. Drive through windows. Drive through windows are considered if they meet the following impact mitigation standards:
- a. The drive through window is not located on a façade facing a public right-of-way, residential use or zone.
 - b. The drive through window is not located on a façade facing a residential use or zone.
 - c. The speaker box is located a minimum of 150 feet from the nearest property line of a residential use or zone.
 - d. The drive through is not located within a mixed-use site plan.
- F. Self storage facilities. Self-Storage facilities are prohibited within 300' of a major intersection and within 1,320' (1/4 mile) of an established substantially similar business. No additional self-storage facilities are permitted on the following locations:
1. on 3300 South
 2. on 4500 South, east of 2300 East
 3. on 3900 South, east of 2300 East
- G. Fuel Station Design Standards:
1. Fuel pump islands shall be so located that automobiles stopped for service will not extend over the property line, drive aisles, or otherwise impede circulation of the site or surrounding streets.

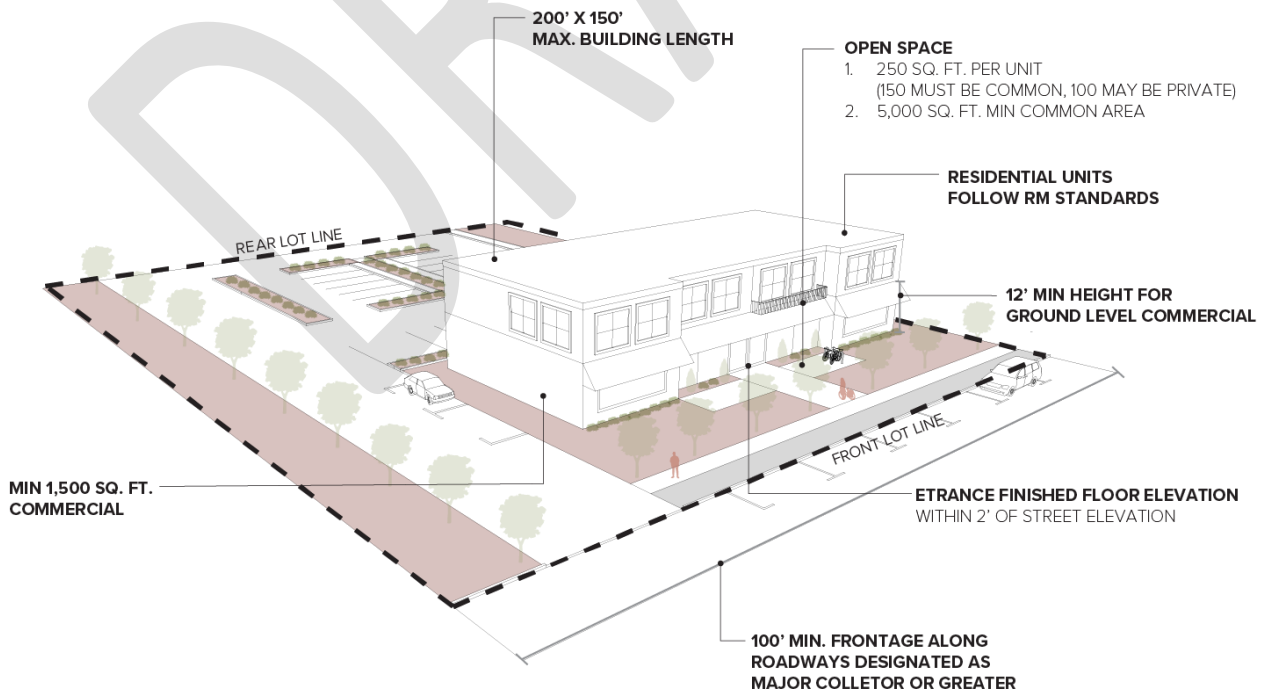
2. Fuel pump canopies shall be set back no less than four feet (4') from any required setback. At no point shall a fuel pump be located closer than twenty-four feet (24') to the nearest property line.
3. Fuel pump stations shall not count toward required parking calculations.

H. Hotel Design Standards:

1. Hotels shall have a prominent porte-cochere or portico, incorporating the materials used in the main building.
2. Stucco is prohibited on any façade.
3. Wall openings, such as windows and doors, located in lobbies and other common rooms, shall comprise at least 25% of the front façade.
4. Massing and Façade Articulation for hotels shall have at least five of the façade design elements listed in MKZ 19.04.090 G (2), Building massing standards.
5. Up to two facades may have a maximum building length of 200 feet and all additional facades may have a maximum building length of 150 feet.
6. No more than one row of parking is allowed between a hotel and any street it fronts.
7. Access to guest rooms shall be restricted exclusively to interior corridors, which shall be accessed via the main lobby of the building or entryways individually equipped with some form of security-controlled access system.

I. Mixed-Use Development Standards. All mixed-use developments shall meet the following standards:

Figure 18.45.091 Mixed Use Standards Illustration

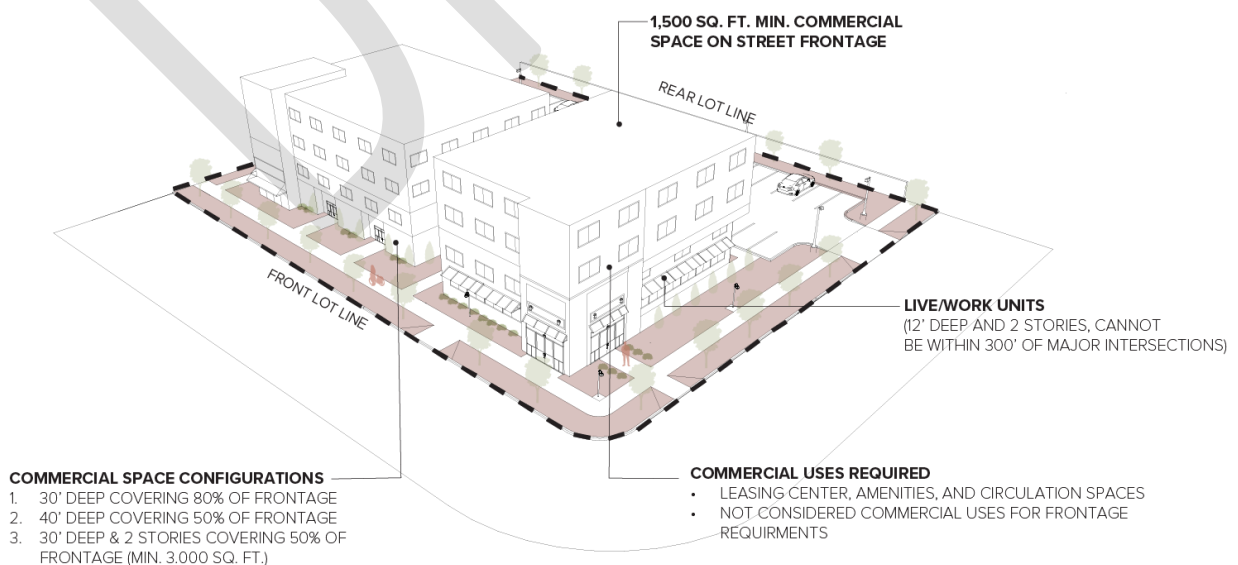


1. **Minimum Frontage Requirement.** If the mixed-use development includes residential uses, the mixed use site shall have a minimum of 100 feet of frontage along a major collector, minor arterial, or other principal arterial road as identified in the Roadway Functional Classification Map of the Millcreek Transportation Master Plan.
2. **Finished Floor Elevation.** The finished floor elevation of entrances on a ground floor commercial space fronting a street shall be no lower or higher than two feet (2') from the street elevation, as measured at the edge of asphalt, or top of curb, where a building abuts a public sidewalk.
3. Up to two facades may have a maximum building length of 200 feet and all additional facades may have a maximum building length of 150 feet.
4. **Parking.** Parking shall meet the requirements as set forth in MKZ 19.80 Parking and Mobility Standards. In addition, the following standards apply:
 - a. **Entry Gates Prohibited.** Vehicular entry gates are prohibited as part of any mixed-use development containing residential uses unless the gate services a structure or podium. Gates must be situated in a manner that does not pose a traffic hazard due to vehicle queues waiting to enter through the gate.
 - b. **Tandem Spaces in Podiums and Structures.** Tandem spaces in conjunction with garages may be allowed only for residential uses with a minimum size requirement of 20 feet in length and 9 feet in width per parking space, not to exceed two contiguous spaces for each unit.
 - c. Tandem parking or parking in a private garage or driveway shall not be counted as guest parking or commercial user parking.
5. **Minimum Commercial Floor Area Required.** Mixed-use developments are required to have commercial uses per the following standards:
 - a. A mixed-use development shall have at least 1,500 square feet of commercial floor area.
 - b. **Minimum First Story Height for Ground Floor Commercial Space.** Ground stories containing commercial space, including live/work units, shall be at least 12 feet in height.
 - c. Affordable housing is exempt from the minimum commercial floor area requirement.
6. **Residential standards.** Residential dwelling units in mixed use developments shall follow the standards as set forth in 18.41 Residential Mix (RM) Zone except as follows:

- a. Open space shall be provided for residential uses in the amount of at least 250 square feet per dwelling unit. 100 square feet per dwelling unit may be private open space, and 150 square feet per dwelling unit must be common open space.
- b. The required common open space shall be usable land areas that are not occupied by buildings, dwellings, structures, parking areas, streets, public park strips, curbs, gutters, sidewalks, walking paths, driveways, or alleys and shall be accessible by all residents of the mixed-use development.
- c. Buildings erected for the principal purpose of providing an amenity, or required interior common amenity spaces may be included as open space as set forth in the MKZ 19.XX, (*RM Amenities Standards*).
- d. Said open space may be an area of land or water set aside, or reserved for use by residents of the development, including an expanse of lawn, trees, plants, fully accessible landscaped roof areas, or other natural areas. Drainage basins may not be utilized toward required open space.
- e. Common open space may be distributed throughout the development and need not be in a single large area. Projects with over twenty dwelling units shall include a single and contiguous landscaped passive open space sufficient for outdoor activity with a minimum area of 5,000 square feet.

J. Additional Standards for Vertically-Integrated Mixed Use . A vertically integrated mixed-use building shall consist of commercial uses on the ground story with residential uses or office uses on upper stories and is subject to the following standards:

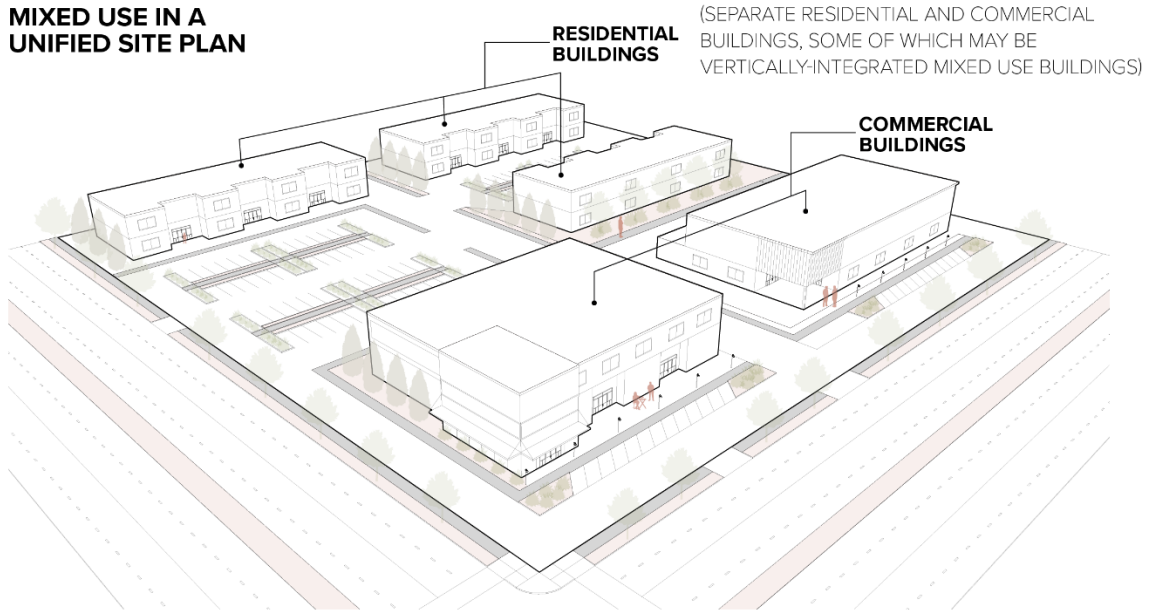
Figure 18.45.092 Commercial Space Configurations Diagram



1. Commercial Frontage and Minimum Depth of Ground Story Commercial Space. No less than 50 percent of the building's front façade shall be occupied by commercial uses. Such commercial uses shall utilize one of the following configurations:
 - a. Commercial spaces with a minimum depth of 30 feet as measured perpendicular to the frontage shall occupy at least 80 percent of a building's ground floor front façade.
 - b. Commercial spaces with a minimum depth of 40 feet as measured perpendicular to the frontage shall occupy at least 50 percent of a building's ground floor front façade.
 - c. Commercial spaces that occupy a minimum of two stories and shall have a minimum depth of 30 feet as measured perpendicular to the frontage and shall occupy at least 50 percent of a building's ground floor front façade. In no event shall the minimum required commercial square footage be less than 3,000 square feet.
 - d. Commercial spaces in a live/work unit shall have a minimum depth of 12 feet as measured perpendicular to the frontage, provided the commercial space in a live/work unit is a minimum of two stories and is not located within 300 feet of a major intersection.
2. Ground Story Use Requirements. The ground floor of a mixed use shall comply with the following requirements:
 - a. Live/Work Units. Live/Work units may be used to meet the requirement for commercial uses, provided that the entire ground floor of the live/work unit meets the design and use criteria listed in this chapter and is operated as an allowable commercial use in this Chapter. Commercial spaces in a live/work unit that are used to calculate the minimum commercial use or frontage requirements provided in this chapter shall not be used for residential purposes, parking, or storage
 - b. Residential Amenities as Commercial Uses. For the purposes of this chapter, leasing offices serving on-site residential and commercial uses, lobbies, required parking, elevators, stairwells and any residential amenity spaces are not considered commercial uses.
- K. Additional Standards for Mixed Use in a Unified Site Plan. A unified site plan shall consist of separate residential and commercial buildings, some of which may be vertically integrated mixed-use buildings, in a site plan that features consistent approaches to lighting, landscaping, signage, building design, and materials use.

Figure 18.45.093 Unified Site Plan Illustration

**MIXED USE IN A
UNIFIED SITE PLAN**



1. Commercial buildings in a unified site plan must occupy at least 30 percent of the gross ground story floor area of the unified site plan and shall occupy at least 50 percent of the of the building frontages along a right-of way. Commercial spaces of at least 1,500 square feet in ground floor area must occupy at least 50 percent of the building frontages along a right-of-way.
 2. Vertically integrated mixed-use buildings in a unified site plan shall meet the requirements of vertically integrated mixed use buildings and shall abut a public right-of-way.
- L. Additional Requirements for Commercially Significant Development Sites. A site is determined to be a Commercially Significant Development if any of the following apply:
1. The development site is greater than one acre is area.
 2. The development site is located within a Village Center, Retail/Office, or Employment/Commercial Future Land Use Designation on the adopted Millcreek Future Land Use Map
 3. The development site is located within 600 feet of the following intersections, as measured as a radius from the nearest property line to the intersection right of way line:
 - a. 4500 South and Highland Drive
 - b. 2000 East and 3300 South
 - c. 900 East and 3300 South
 4. Any Mixed-Use Development on a Commercially Significant Development Site shall meet the following requirements:

- a. The development must include commercial uses for at least 30 percent of the mixed-use development’s gross floor area of buildings adjacent to a street.
- b. Frontage Requirements. Commercial uses are not required on facades of mixed-use developments that are not located on a street identified in the Millcreek Transportation Master Plan Roadway Functional Classification Map as a Major Collector, a Minor Arterial, or an Other Principal Arterial.
- c. Live/Work Units. Live/Work units may be used to meet the requirement for commercial uses, provided that the entire ground floor of the live/work unit meets the design and use criteria listed in this chapter and is operated as an allowable commercial use in this Chapter. Commercial spaces in a live/work unit that are used to calculate the minimum commercial use or frontage requirements provided in this chapter shall not be used for residential purposes, parking, or storage.
- d. Parking and Vehicular Access. In addition to meeting the requirements of MKZ 19.80, Any required residential parking shall be located in an enclosed parking structure, podium, private garage, or carport.

18.01.100 Related Provisions

A. For additional information, refer to the Millcreek Code and in particular the following sections:

Related Provisions	
<i>Reference Section</i>	<i>Topic</i>
MKZ 19.XX	Occupancy permit
MKZ 19.XX	RM Zone Mixed Use standards
MKZ 19.XX	Landscaping Requirements
MKZ 19.XX	Parking and Mobility Requirements
MKZ 19.XX	Signage
MKZ 19.XX	Fencing
MKZ 19.XX	Accessory Structures
MKZ 19.XX	Nonconforming Structures
MKZ 19.XX	Off site improvements
MKZ 19.XX	Lighting
MKZ 19.XX	Height

18.01.110 Definitions (to be moved)

Multiple-household dwelling unit "Multiple-family dwelling" or "Multiple Dwelling Unit" means a building arranged or designed to be occupied by more than four families or households.

Nursing Home /Assisted living means an establishment where persons are lodged and furnished with meals and assistance and/ or nursing care.

Residential Facility For Persons With A Disability "Residential facility for persons with a disability" means a residence:

In which more than one person with a disability resides; and

Is (1) licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities, Utah Code, Unannotated; or (2) licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, Utah Code, Unannotated.

Residential Facility For Elderly Persons means a single-family or multiple-family dwelling unit that is occupied twenty-four hours a day in a family-type arrangement by eight or fewer elderly persons sixty years old or older capable of living independently.

Such facility shall be owned by one of the residents or by an immediate family member of one of the residents or the title has been placed in trust for a resident.

Placement in such facility is on a voluntary basis and may not be a part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution.

No person being treated for alcoholism or drug abuse may be placed in such a facility.

The structure shall be capable of use without the residential character being changed by exterior structural or landscaping alterations.

Each facility shall not be located within three-quarters mile of another residential facility for elderly persons or residential facility for handicapped persons.

This use is nontransferable and terminates if the structure is devoted to a use other than a residential facility for elderly persons or if the structure fails to comply with applicable health, safety, and building codes.

Caretaker Dwelling means an accessory dwelling unit that is under common ownership and is attached or internal to the main building and its commercial and is used for the accommodation of an employee, business owner and person under contract of the commercial use and main building for security or maintenance purposes.

Animal Services means a facility where dogs, cats or other domestic animals are provided care such as grooming, daycare, overnight boarding, or diagnosis and medical treatment. This includes surgical procedures and may include overnight accommodation on premises for treatment, observation and/or recuperation.

Automobile / recreational vehicle sales or rental A business involved in the sale, leasing, and rental, of new or used automobiles, commercial vans, trucks, semi-trailer trucks, motorcycles, or boats. This use may also include service, repair, and washing, which may take place on-site in conjunction with this use.

Automobile service and repair means an establishment primarily engaged in providing motor vehicle repair and maintenance, including activities such as lubrication, oil and tire changes, engine tune-ups and repair, brake repair, tire replacement, installation of after-market accessories such as window tinting, transmission or differential repair, automotive painting, and body and fender work.

Car wash A self-service or full-service facility for washing, cleaning and drying vehicles including automobiles, motorcycles, buses, or recreational vehicles.

Clinic, medical or dental means an establishment where patients receive consultation, diagnosis, and treatment by doctors, dentists, or similar practitioners. This use includes medical services offered exclusively on an outpatient basis, including emergency services such as urgent care centers, and licensed facilities offering substance abuse treatment, blood banks, plasma donation centers, physical therapy and rehabilitation, and medical/ dental laboratories.

Commercial Entertainment means one or more recreational activities or uses, either indoor or outdoor, operated as a business and open to the general public for a fee. Commercial entertainment facilities include but are not limited to arcades, billiard halls, bowling alleys, theatres, skating rinks, sport court facilities, trampoline parks, miniature golf course, axe-throwing, go-cart tracks, and performance venues. This definition does not include gun ranges, indoor or outdoor.

Commercial daycare means a facility not located within an occupied dwelling where children, or elderly and/or people with special needs, receive care from a person qualified by the state to provide supervision, protection, pre-school instruction, or similar care for a period of less than 24 hours per day. This includes nursery schools, childcare centers, Montessori schools, private pre-kindergartens, and play groups. A commercial daycare may be located within commercial spaces of a mixed use building but may not occupy residential units. This definition excludes care for persons who are violent or being treated for alcoholism or drug abuse. Placement in a day care/preschool center may not be part of or in lieu of confinement, rehabilitation or treatment in a correctional facility.

Commercial kitchen / ghost kitchen means a facility containing a kitchen(s) in which food for sale is prepared and transported from for off-premises consumption, such as a catering establishment, or delivery service pickup.

Commercial parking lot/ parking garage "Public garage" means a building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles. This includes drives, aisles and ramps, of one or more levels intended to provide parking as the principal use of the premises.

Community Garden means an area of land managed and maintained by a group or community members used to grow and harvest food crops and/or nonfood, ornamental crops such as flowers, for personal or group use, consumption, donation or sale, or for educational purposes. The private use of private land (not intended to benefit the community at large) does not constitute a community garden.

Cottage commercial means an establishment with retail offerings that also provides repair services/ custom manufacturing of specialty items. Examples include bicycle repair, computer repair, jewelry repair, shoe repair, tailoring, custom picture framing, furniture repair, musical instrument repair, florist shops or other similar specialties.

Depository Financial Institution An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. This classification includes credit unions, savings institutions, and Automated Teller Machines (ATMs) located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only.

Eating and Drinking Establishments means a place of business where food and or drink is prepared and served to general public for consumption on the premises, inside or outside, or made available for consumption off site via delivery, pick up, or catering services.

Flex Space means a building with an office or retail space for a portion of the floor area with the remaining floor area being used for warehouse or light industrial uses.

Fuel Station A facility for the retail dispensing and sale of vehicle fuels, including gasoline, gas/oil mixtures, diesel fuel, ethanol, or compressed natural gas through fixed dispensing equipment, operated by customers or employees. Accessory uses may include the sale of convenience items, food, lubricants, car washes, and similar accessory uses

Funeral Home / Mortuary A place for the storage of human bodies prior to their interment (burial, cremation, aquamation, or other similar preparation), or a building used for the preparation of the deceased for burial and the display of the deceased and associated ceremonies prior to interment.

Greenhouse / plant nursery means a facility or structure used for the cultivation of trees, shrubs or other plants that are grown for the purpose of retail or wholesale trade. This may also include the accessory sale of soil, planting materials, garden equipment or other similar material.

Gym / fitness studio means a facility where members or nonmembers use equipment or space or receive instruction for the purpose of physical exercise, fitness, flexibility, and/or weight control. Facilities may include amenities such as whirlpools, saunas, and massage rooms, as well as locker rooms, and showers. Gyms and fitness studios may also cater to children with instruction classes and lessons, as well as free play areas.

Hospital means an institution licensed by the State of Utah which provides diagnostic, therapeutic, surgical, and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. Any medical clinic or professional office which offers any inpatient or overnight care, or operates on a twenty-four (24) hour basis shall be considered a hospital. A hospital may include integral support service facilities such as laboratories, outpatient units and training and central services, together with staff offices necessary to the operation of the hospital. Includes both general acute and specialty hospitals and must be licensed by the Utah Department of Health pursuant to the Health Care Facility Licensing and Inspection Act.

Light Service and Repair means an establishment that primarily provide to the general public light assembly, minor service or repair of items completely within an enclosed space, generally in small quantities, not exceeding one hundred (100) pounds, not related to vehicle repair, not for wholesale and that do not emit noise, vibration, odors, or light beyond the enclosed space that would negatively impact surrounding properties and establishments. Products and items commonly associated with this use include jewelry, appliances, furniture, shoes, apparel, crafts, sewing, electronics, and computers.

Lodging means a commercial establishment providing temporary residence to the general public, with a temporary length of stay not exceeding thirty (30) days. Terms commonly associated with this use include hotel, motel, and inn. This definition shall not include bed-and-breakfasts.

Live /Work Unit means a unit which contains separate residential and non-residential areas intended for both residential and non-residential uses concurrently, and shares a common wall or floor with direct access between the residential and non-residential areas.

Non-Depository Institution means a business, other than a Financial Institution, that is registered by the state of Utah pursuant to the Check Cashing and Title Lending Registration Act. Included in Non-Depository Institutions:

- **Check Cashing Business"** means a person or business that, for compensation, engages in cashing a check for consideration or extending a Deferred Deposit Loan. Check Cashing does not include depository institutions, as defined by the state of Utah, Financial Institutions, or a Retail seller engaged primarily in the business of selling goods or services to Retail buyers that cash checks or issue money orders for a minimum flat fee not exceeding one percent of the check or one dollar (\$1.00) as a service fee that is incidental to its main purpose or business.
- **"Payday Loan Business"** means an establishment providing loans to individuals in exchange for personal checks or assignment of wages as collateral.
- **Title Loan Business"** means an establishment providing short-term loans to individuals in exchange for the title of a motor vehicle, motor home, or other motor vehicle as collateral.
- **"Deferred Deposit Loans"** means a business that conducts transactions where a person presents to a check casher a check written on that person's account or provides written or electronic authorization to a check casher to affect a debit from that person's account using an electronic payment and the check casher provides the maker an amount of money that is equal to the face value of the check or the amount of the debit less any fee or interest charged for the transaction and agrees not to cash the check or process the debit until a specific date.

Office means a place where transactions of business for a profession occur including, service, industry, or government. Office uses include, but are not limited to:

Architecture/Engineering/Design, Building Contractor (office only), Business Consulting Charitable Institutions, Computer Programming & Support, Detective Services, Employment Agency, Financial & Insurance Government Offices, Legal Services, Management Services, PR & Advertising, Property Development, Radio & TV Studio, Real Estate, Recording & Sound Studio, Research & Development, Research Agency, Surveying. This definition of office use excludes medical and dental office uses.

Pawn Shop means an establishment engaged in the buying or selling of new or secondhand merchandise and offering loans secured by personal property.

Personal Service means an establishment primarily engaged in providing personal care services, including barber shops, beauty salons, piercing and tattoo studios, tanning salons, spas, licensed massage therapy studios, educational tutoring facilities, laundromats, and dry cleaners.

Reception or event center A commercial or non-profit facility that can be rented to accommodate groups of people for conferences, weddings, and similar activities.

Retail sales Retail Uses A category of uses involving the retail sale of goods or merchandise to the general public for personal or household consumption. Retail sales include, but are not limited to: apparel & accessory store art and craft supply, book store, hardware, garden supply, camera & photo supply store, convenience store, pharmacy, gift, souvenir, grocery store, office supply, optical goods, paint & wallpaper, pet supply, specialty food market of all types, copy store, toy shop, automotive supply (no service), department store, gun shop, home furnishings & accessories sales, rental supply, medical supply, heating, air conditioning & plumbing supplies, cabinet supply (display only), machine sales and rental, agriculture equipment and supply, electrical supplies.

Self-storage facility means a building containing separate, individual, compartmentalized storage units that can only be rented or leased for the storage of customers' household goods.

Commercial wireless communication facilities means a commercially operated unmanned structure which consists of equipment used primarily for the transmission, reception or transfer of voice or data through radio wave or wireless transmissions. Such sites typically require the construction of transmission support structures to which antenna equipment is attached.

Public uses means a use operated exclusively by a public body, or quasi-public body, such use having the purpose of serving the public health, safety or general welfare, and including uses

Quasi-Public Use means a use operated by a private nonprofit educational, recreational, charitable or philanthropic institution, such use having the purpose primarily of serving the general public, such as private schools and universities, and similar uses.

19.04.060 Residential Mixed Zone (RM)

A. Purpose Statement

The primary purpose of the Residential Mixed (RM) Zone is to allow for a mixture of medium to high density residential uses, with some mixed-uses and other compatible nonresidential uses. This zone is intended as a transitional zone between low density residential neighborhoods and major right of way corridors and/or commercial centers while providing a walkable, comfortable, healthy, safe, and pleasant living environment in a high-quality setting.

B. Permitted And Conditional Uses

Uses in the Residential Mix (RM) Zone, are allowed as a Permitted or Conditional Use, as set forth in Table 19.XX.1. If a use is not specifically designated in the table, then it is prohibited.

Table 19.XX.1 Permitted and Conditional Uses in the Residential Mix (RM) Zone		
<i>P= Permitted C= Conditional Use Review Required</i>		
<i>Land Use</i>	<i>RM</i>	<i>Limitations / References</i>
<i>Residential Uses</i>		
Dwelling, Two-Household	P	Subject to standards in Medium Density Zones
Dwellings, Three-Household	P	Subject to in Medium Density Zones
Dwellings, Four-Household	P	Subject to in Medium Density Zones
Dwellings, Multiple-Household up to 30' building height and 6 units	P	Mixed-use shall be required for developments located within 500' of specified intersections. Subject to additional standards below.
Dwellings, Multiple-Household over 30' building height and more than 6 units	C	Mixed-use shall be required for developments located within 500' of specified intersections. At least three units shall have primary façade and primary entrance facing the street in developments with more than six units
Group Home	P	
Short-term rentals	P	As set forth in MKC 5.19, Short-term rentals
<i>Commercial Uses</i>		
Banks or Financial Institution	C	Permitted only within mixed-use. Excludes non-depository institutions, such as check cashing, drive through prohibited

Table 19.XX.1 Permitted and Conditional Uses in the Residential Mix (RM) Zone

<i>P= Permitted C= Conditional Use Review Required</i>		
<i>Land Use</i>	<i>RM</i>	<i>Limitations / References</i>
Commercial Daycare Center	C	Permitted only within mixed-use.
Gym / Fitness Studio	C	Permitted only within mixed-use.
Personal Service	C	Permitted only within mixed-use.
Preschool	C	Permitted only within mixed-use.
Restaurant	C	Permitted only within mixed-use. Drive through prohibited
Retail	C	Permitted only within mixed-use.
<i>Civic and Institutional Uses</i>		
Public uses	C	
Quasi-Public Use	C	
Religious Assembly	P	
<i>Miscellaneous Uses</i>		
Accessory Uses and buildings/structures	P	As set forth in MKZ 19.XX.XX Accessory Uses, Accessory Buildings and Structures

C. Permitted Use Incentive for Multi-Household Dwellings and Ownership and Affordable Housing Incentives

1. Multi-household dwellings proposed to be constructed at 30' and lower in height and under 50 units shall be permitted uses.
2. Density limitations may be reduced to 1500 square feet per unit for affordable and/or owner-occupied housing per the following:
 - a. % of AMI
 - b. Min. # of units (eight?).
3. When ownership concepts are proposed such as condominiums, the same incentives as described for affordable housing are allowed.

D. Spatial Requirements

1. The minimum setbacks, maximum height and lot size requirements are as set forth in Table 19.2.X Setbacks and Lot Size Minimums for Medium Density Residential Zoning Districts.
2. Setbacks.

- a. For the purposes of this chapter, where setbacks are measured from a right-of-way containing a fully improved sidewalk, setbacks shall be measured from the edge of the sidewalk that is closest to the front facade of the building.
- b. Where fifty (50) percent or more of the abutting lot frontage is occupied by a building façade, the front yard setback shall not be less than the average of existing buildings located within three hundred (300) feet on the same side of the street, as measured in both directions from the center point of the frontage to be developed, but a front setback shall never be less than fifteen (15) feet.

Figure 19. 1 Spatial Requirements Diagram

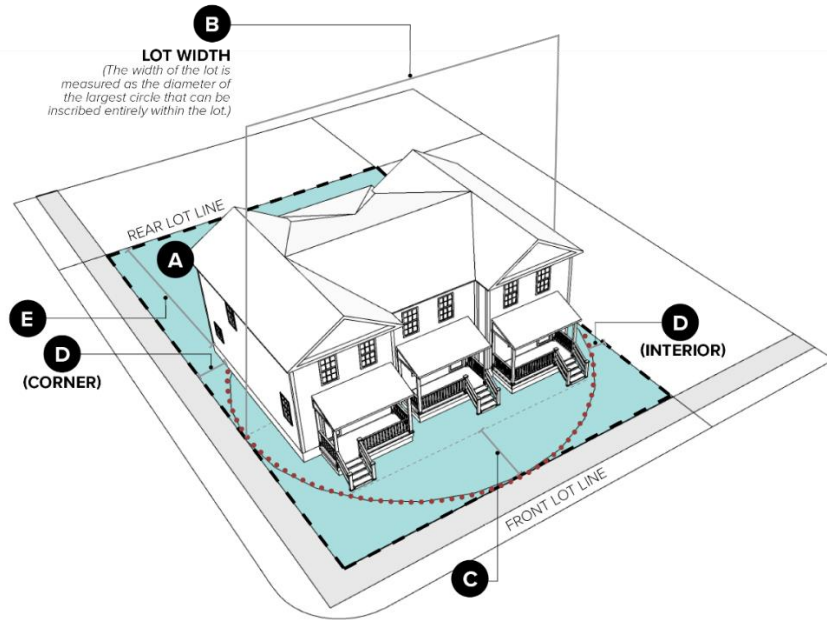


Table 19.XX.2 Spatial Regulations for the Residential Mix (RM) Zone			
	<i>Two, Three, and Four-Household Dwellings</i>	<i>Multi-household Dwellings– Five or more dwellings in a building</i>	<i>Other Permitted Principal Uses</i>
<i>Principal Buildings</i>			
Minimum Lot Area (A)	3,000 sf per dwelling	2,000 sf per dwelling, except affordable units and individually owned units may reduce these minimums to 1500 square feet	20,000 sf
Minimum Total Lot Width (B)	50 feet	50 feet	50 feet

Figure 19. 2 Maximum Building Height Diagram

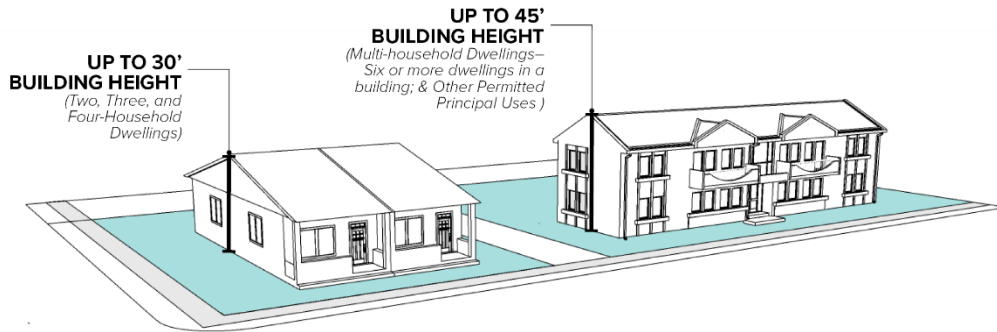


Table 19.XX.2 Spatial Regulations for the Residential Mix (RM) Zone			
	<i>Two, Three, and Four-Household Dwellings</i>	<i>Multi-household Dwellings— Five or more dwellings in a building</i>	<i>Other Permitted Principal Uses</i>
Maximum Building Height (Excluding fire walls, parapets, skylights, towers, steeples, flagpoles, shade structures, and all other architectural features)	30' (one story)	Up to 45' (two stories) *	45' (two stories) *
Maximum Lot Coverage	40 %	50 %	50 %
Maximum Building Length	None	150'	150'
Minimum Front Yard Setback (C)	20'	20'	20'
Minimum Interior Side Yard Setback (D)	10 feet	10 feet	10 feet
Minimum Interior Yard Setback, where subject property shares a side property boundary with a property zoned R-1, R-2, R-4, or AG (D)	15 feet	25 feet	25 feet

Table 19.XX.2 Spatial Regulations for the Residential Mix (RM) Zone

	<i>Two, Three, and Four-Household Dwellings</i>	<i>Multi-household Dwellings– Five or more dwellings in a building</i>	<i>Other Permitted Principal Uses</i>
Minimum Corner Side Yard Setback (D)	20 feet	20 feet	20 feet
Minimum Yard Depth Between Buildings – Multi-Household Development	5 feet	10 feet	10 feet
Minimum Rear Yard Setback (E)	20 feet	20 feet	20 feet

*Height Transition Requirements. For any development adjacent to an R- 1, R-2, R-4, or AG zone, the maximum height, as measured per Table 19.XX.3, for buildings or structures in the RM zone within one hundred (100) feet of a residential zone boundary shall not exceed 30'- feet tall.

Table 19.XX.2 Spatial Regulations for the Residential Mix (RM) Zone

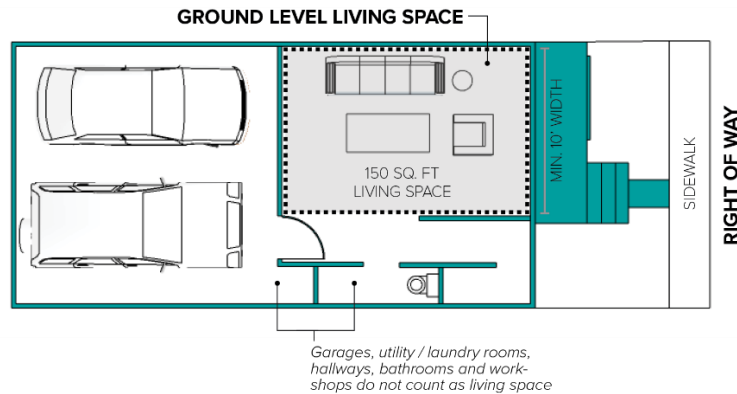
	<i>Two, Three, and Four-Household Dwellings</i>	<i>Multi-household Dwellings– Five or more dwellings in a building</i>	<i>Other Permitted Principal Uses</i>
<i>Accessory Buildings</i>			
Minimum Corner Side Yard Setback	20'	20'	20'
Minimum Rear Yard Setback	5'	5'	5'
Minimum Setback from Principal Building	10'	10'	10'
Maximum Building Height *	14'-20'. Any accessory structure more than 14' in height shall be set back an additional foot from the property line for each foot in height over 14', up to the maximum height of 20'.		

Table 19.XX.2 Spatial Regulations for the Residential Mix (RM) Zone

	<i>Two, Three, and Four-Household Dwellings</i>	<i>Multi-household Dwellings– Five or more dwellings in a building</i>	<i>Other Permitted Principal Uses</i>
Minimum Rear and Interior Side Yard when abutting an R-1, R-2, or R-4 Zone District	10'	10'	10'
Maximum Lot Coverage	25%	25%	25%

- E. Site Design Standards. Developments with more than two dwelling units within the RM Zone shall meet the following site layout requirements.
1. Building Orientation. Development shall front onto a street right-of-way with buildings being placed parallel and abutting the right-of-way as much as practical.
 2. Building Entrances and ground level living space.
 - a. Functional residential entrances are required on any street-facing façade.
 - b. First floor entrances shall be oriented to common areas using the following hierarchy:
 - i. Street
 - ii. Courtyard or common open space
 - iii. Auto courts / alley
 - c. First floor entrances shall include a porch of at least 100 square feet and a fence, wall or hedge no taller than 4 feet. Such areas are included in the open space requirement.
 - d. Dwelling units shall have a minimum ground level living space of at least one hundred and fifty (150) square feet with a minimum width of ten feet (10'). Garages, utility / laundry rooms, hallways, bathrooms and workshops do not count as living space for this purpose.

Figure 19. 4 Ground Level Living Space Diagram



3. Multiple Building Types. When a development consists of multiple building types, each building in the development shall comply with maximum building height and building length requirements for the building type, as well as the following requirements:

- a. Maximum lot coverage: Maximum lot coverage shall not exceed 40 percent.
- b. Interior Side Yard Setbacks: Minimum interior side yard setbacks shall follow the requirements for multi-household dwellings with five or more units in a building.
- c. Setbacks between buildings: Where two building types are adjacent to each other in a development, the setbacks between the buildings shall follow the requirements for multi-household dwellings with five or more dwellings in a building.
- d. Minimum Lot area Per Unit: The minimum lot area for a development with multiple building types shall be the sum of the lot area required for each building type times the number of units of that building type. In no case shall the total area required be less than 2,000 square feet per unit, regardless of building type.

4. Interior Streets and Driveways. The design of public and private streets within a development shall follow Millcreek standards for road widths as established by the Millcreek Transportation Master Plan and the development standards identified in the Standard Plans for Public Works Construction, Title 14.

- a. Notwithstanding the requirements in MKC Title 14, private streets and driveways serving more than one multi-household dwelling shall have an unobstructed drivable surface of at least twenty-five (25) feet in width. The unobstructed drivable surface shall be increased as required by the local fire authority.
- b. Notwithstanding the requirements in MKC Title 14, private streets shall be subject to the same inspections and construction standards as required for public streets.
- c. The City shall be granted a utility easement for the entire interior street system in a development project.

- d. Where garages face each other, a minimum of twenty-five (25) square feet of landscaping shall be required in the driveway area, between each dwelling unit.
5. Sidewalks. As required elements of a development, interior sidewalks shall be at least five (5) feet wide installed to serve the development and connect to the public street, and shall comply with the Standard Plans for Public Works Construction.
6. Parking and Vehicular Access. Parking for developments in the RM zone shall follow the requirements of MKZ 19.80. Additionally, developments shall comply with the following requirements:
 - a. Parking required for each residential dwelling unit must be in a structure, a podium, a private garage, or a carport.
 - b. Parking Location. For residential and mixed-use developments with eight (8) or more dwelling units, parking is allowed between any building façade and the property line along a right-of-way. Such parking shall not encroach on the side or front setbacks. Parking may not encroach into a side or rear yard setback, where abutting a property that is located in an R-1, R-2, R-4, or AG zone.
 - c. Private Garage Requirements. If a private garage is utilized, it must meet the following standards:
 - i. Two parking space garage: minimum unobstructed size of twenty-two (22) feet wide by twenty (20) feet in length, or twenty (20) feet wide by twenty-two (22) feet in length.
 - ii. Single parking space garage: minimum unobstructed size of ten (10) feet wide by twenty-two (22) feet in length, or eleven (11) feet wide by twenty (20) feet in length.
 - iii. All private garages must have a minimum unobstructed height of seven (7) feet for the entire required length and width of the private garage.
 - iv. Garage doors shall use complementary colors and include windows.
 - v. Private garage doors and private garages shall not be the only means of access to a dwelling.
 - d. Vehicular Access to Private Garages.
 - i. Vehicle access serving a private garage shall be at least twenty-six (26) feet in width.
 - ii. Where such drives serve units with opposing garages, landscaping shall be added between units
 - iii. Developments with twenty-five (25) or more units and lot widths of 150' shall provide a driveway for each garage with a minimum width of twelve (12) feet and minimum unobstructed depth of twenty (20).
 - e. Tandem Spaces in Podiums and Structures. Tandem spaces in conjunction with garages may be allowed only for residential uses with a minimum size requirement of twenty (20) feet in length and ten (10) feet in width per parking space, up to a maximum of two contiguous spaces for unit.

- f. Vehicular Entry Gates Prohibited. Vehicular entry gates are prohibited as part of any multi-household development unless the gate services a structure or podium. Gates must be situated in a manner that does not pose a traffic hazard due to vehicle queues waiting to enter through the gate.
 - g. Parking is prohibited within required fire access and turnaround facilities.
 - h. Tandem parking or parking in a private garage or driveway shall not be included in any required guest parking calculation.
 - i. Additional standards for Three-Household and Four-Household Buildings:
 - i. Private or Shared Driveways. No more than two (2) units may share a driveway.
 - ii. No driveway or combined driveway with the adjacent unit shall exceed twenty-four (24) feet in width unless such driveways are separated by a minimum five (5) feet wide irrigated planter that includes at least one (1) shrub and one (10 medium size tree.
 - iii. Driveways located on a street with a right-of-way greater than or equal to sixty-six (66) feet shall prohibit backing out onto the public street.
7. Open Space. Common and private open space shall be provided for residential uses in the amount of at least thirty percent (30%) of the gross site area of the building or development in the RM zone.
- a. For purposes of this section, gross site area means the total area of the development excluding anything in the public right of way.
 - b. The required common open space shall be usable land areas that are not occupied by buildings, dwellings, structures, parking areas, streets, public park strips, curbs, gutters, sidewalks, walking paths, driveways, or alleys and shall be accessible by all residents of the development.
 - c. The area of a building ~~erected in the RM zone~~ for the principal purpose of providing an amenity or required interior common amenity spaces may be included as open space. Said open space may be an area of land or water set aside, or reserved for use by residents of the development, including an expanse of lawn, trees, plants, fully accessible landscaped roof areas, or other natural areas.
 - d. Outdoor open space areas such as porches, balconies, roof patio and decks which exceed the minimum required sizes, may be counted toward the total open space requirement.
 - e. Common open space also includes formal picnic areas, and recreational areas. Common open space may be distributed throughout the development and need not be in a single large area.
 - f. Open space amenities and gathering shall reflect the market that the development is attempting to attract.

8. Fencing. Fencing for developments in the R-M zone shall follow the requirements of MKZ 19.XX. In addition, perimeter fencing is required where any development in the RM zone is adjacent to an R-1, R-2, R-4, or AG zone, and for non-residential uses located adjacent to residential uses and mixed-use developments.

- a. Acceptable fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete.
- b. Fencing with materials using composite products, wrought iron, wood, or vinyl may be allowed with a minimum 18 inch wide, six-foot tall brick or stone pillars spaced every twelve (12) feet on center.
- c. If exterior fencing is installed along a public right-of-way, materials shall be limited to brick, stone, block, pre-cast concrete, or metal or composite picket, and shall be setback a minimum of five (5) feet from the property line to allow for a landscaping buffer designed in accordance with MKZ 19.XX to soften long expanses of walls.

9. Garbage and Recycling. The development shall be designed to accommodate and efficiently manage the collection, storage, and removal of garbage to minimize detrimental effects of the collection, storage, and removal on any residence within the development and adjacent neighborhoods.

- a. Collection of garbage and recycling must occur on the property, and not on a public right-of-way.
- b. Dumpster enclosure structure shall not be located closer than ten feet (10') to any perimeter property line and shall not be located in between the primary structure(s) and the right-of-way.
- c. Dumpster and recycling enclosure /structures shall be constructed of a minimum six foot (6') tall, decorative precast or integrally colored and textured block, brick, stone, or other masonry material and shall include solid steel gates.

10. Mechanical Equipment and Utilities.

- a. All mechanical equipment such as HVAC systems shall be screened from view from the ground level vantage point along an adjacent street or private vehicular access as set forth in Buffer C of MKZ 19.77.050.
- b. All utilities shall be located underground including telephone, cable, fiber optic, or transmission power lines.
- c. Utility equipment shall be screened from view as set forth in Buffer C of MKZ 19.77.050.

11. Privacy. Each residential or mixed-use building in the RM zone shall provide adequate visual and acoustical privacy for dwelling units.

- a. Fences, walls, barriers, landscaping, and sound reducing construction techniques with a maximum transmission of 55 decibels in the walls and ceilings shall be used to enhance the privacy of its occupants, the screening of objectionable views or uses, and the reduction of noise.

- b. Where balconies or patios are provided for residential buildings, balconies or patio shall have an opaque fence that is at least three feet tall.

12. Rooftop Gardens and Rooftop Patios. For any development adjacent to an R-1, R-2, R-4 or AG zone, rooftop gardens or rooftop patios are prohibited within one hundred (100) feet of a residential zone boundary, unless the rooftop garden, patio or amenity space is not located above the highest occupied floor of a building in the RM zone or is obstructed from view from the zone boundary by at least twenty (20) feet of occupied floor space.

13. Lighting

- a. Interior Street and Parking Lot Lighting. Street and pedestrian lighting for streets on the interior of the development is required. The applicant shall submit a lighting plan which indicates the type and location of lights in relation to the development and designed for pedestrian safety. Minimum Average Foot-Candles for interior streets and parking lots shall be 0.3, the fixture height shall not exceed 25 feet, and no poles shall be located within 20 feet of any property line.
- b. Dark Sky Compliant Lighting Required. All lighting fixtures, including street lights, security lighting, building accent lighting and pedestrian lighting, shall be directed downward, shielded, and include mechanisms to prevent dark sky illumination.
- c. Yard Lights. An energy efficient LED street-oriented yard light shall be required per street facing façade where public street lighting is inadequate per the following:
 - i. Maximum height of eight (8) feet
 - ii. Minimum lighting capacity of 0.2 foot candles and/or 500 lumens.
 - iii. Yard lights shall direct the light downward and include cut offs to prevent dark sky illumination.
 - iv. Yard lights shall be located within five (5) feet of the public right of way.

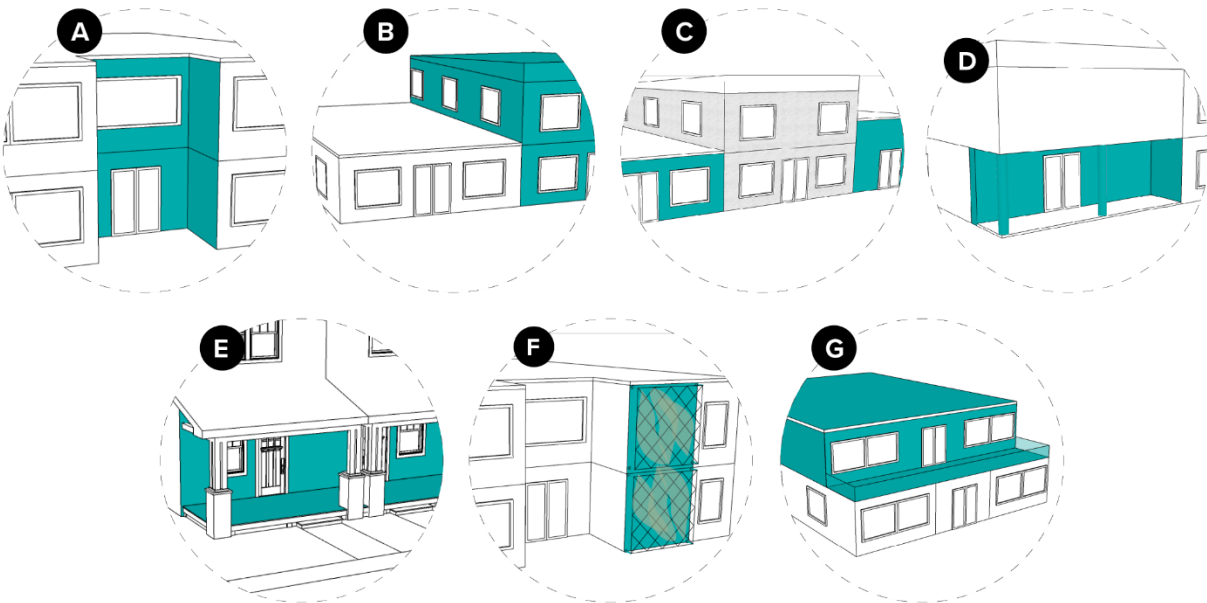
F. Building Materials and Massing Design Standards.

1. Building Massing and Façade Articulation. Buildings with brick and/or stone comprising 80 percent of all facades, excluding windows and doors, shall be designed to have at least two of the following massing or façade design elements. All other buildings in the RM zone shall be designed to have at least four of the following massing or façade design elements.

- a. Visual breaks along the street-facing façade such as horizontal articulation in the plane of the façade by at least 2 feet.
- b. Change in height at the top of the building by at least 10 feet for every 30 feet of façade length.
- c. Changes in materials, color, texture or pattern for greater than 50 percent of the building facade.

- d. Indentations or recesses at least 5 feet in depth along the street facing facades at 50-foot intervals.
- e. Usable terraces at least 10 feet in depth along the street facing facades (unless required as a step back). Usable terraces must provide either private or common leisure space.
- f. Vertical landscaping on trellises attached to the wall that cover at least 20 percent of a wall facing a street.
- g. Step backs of at least ten feet where not otherwise required on facades facing streets with a 66' ROW or greater.

Figure 19. 5 Building Massing and Façade Articulation Diagram



2. Building Massing and Façade Variation for Developments Containing Multiple Buildings.

- a. No more than two adjacent buildings or buildings within 300' of the development shall exhibit the same or substantially the same architectural design for street facing façades.
- b. All buildings in the development shall provide variation in all façades, including but not limited to, the use of materials and relief, to avoid monotonous design. For purposes of this section relief means: foundation jogs over two feet, bay or box windows, cantilevered living areas, recessed garages, pitched roofs versus flat, building length reduced by at least 20%, rooftop terraces where none exist at other locations, functional street facing balconies where none exist at other locations, and/or usable front porches of at least six feet in depth that extend across 40 percent or more of the front façade.

- c. At least three units for every 150' shall have the primary entry along the primary street facing facade.
 - d. Developments with five (5) or more residential dwelling units must meet one of the following additional standards if structures are greater than thirty feet (30') in height:
 - i. A ten-foot (10') step back is utilized between the first or second stories and third story on the façade of any building over thirty feet (30') in height. The step back must be present on any façade that faces any street, property frontage, and residential zone boundary.
 - ii. The building over thirty feet (30') in height shall incorporate brick and/or stone on at least eighty (80) percent of all facades, excluding windows and doors. Brick and/or stone facades supersede the varying materials requirements for upper floors.
3. Windows. Windows or doors shall comprise at least twenty-five (25) percent of each story of any street-facing façade. Buildings on streets with a right-of-way width of 80' or greater the street facing façade windows shall be increased to thirty (30) percent and include triple pane windows.
4. Building Materials. Except for two household building types, exterior materials of a durable, resilient nature shall be used such as brick, stone, stucco, prefinished panel, composite materials, or other materials of similar quality, hardness, and low maintenance characteristics. Identification of materials are required as part of the submittal. If the City staff questions the proposed materials based on the specified materials in this ordinance, a materials board may be required providing samples of the proposed materials. Materials must meet the following requirements:

Figure 19. 6 Building Materials Diagram



- a. With the exception of brick or stone, no single material is allowed to exceed 50 percent on any street-facing facade, excluding windows.
- b. Other materials may be considered for soffits, gables, or as an accent or architectural feature.
- c. Twenty-five-year guarantee, architectural shingles and/or other longer lasting roof materials are required.

- d. Stucco, EIFS, architecturally finished concrete, or metal siding shall comprise no more than 20 percent of any façade visible from a street or from an abutting property that is located in an R-1, R-2, R-4, or AG zone.
- e. A change of materials is required between the ground story and upper stories.
- 5. Renewable Energy Incentive. Projects with solar power arrays, windmills/turbines, or functional geothermal systems, suitable to generate fifty (50) percent or more of the development’s electrical demand shall be permitted an additional five (5) feet in height and not required to be screened from view. Solar carport rooftops are encouraged. Wind power generators shall have a setback from any property line equal to their height and not exceed a sound level of sixty (60) dB as measured from a point on the ground at least thirty (30) feet from the wind power generator.
- 6. Required Features.
 - a. Storage. Each residential dwelling unit for developments with three or more dwelling units shall be required to contain interior storage equal to one hundred (100) cubic feet.
 - b. Washer and Dryer hook-ups. All multi-household residential developments shall include either washer and dryer hook-ups for each dwelling unit or an on - site laundry.
 - c. Balconies or Patios. All Residential units shall have a private outdoor space per the following standards:
 - i. Developments with 3-4 dwelling units: Each residential unit shall have a private balcony and/or patio with a minimum of sixty (60) square feet with a minimum five (5) foot depth.
 - ii. Developments with five or more dwelling units: Each residential unit shall have a private outdoor balcony and/or patio. Balconies must be a minimum of sixty (60) square feet. Patios must be a minimum of one hundred (100) square feet with a minimum five (5) foot depth.
 - d. Management. Twenty-four (24)-hour on-site management is required for all residential developments consisting of more than fifty (50) dwelling units.
- G. Design Standards for Non-Residential Buildings. Design standards for non- residential buildings in the RM zone shall follow the design requirements found in MKZ 19.XX, Commercial (C) Zone.
- H. Design Standards for Mixed-Use Buildings. Design standards for mixed-use buildings in the RM zone containing residential uses shall follow the design requirements found in MKZ 19.XX, Commercial (C) Zone.

1. Recreational Amenities. For residential developments with eight (8) or more dwelling units, recreational amenities are required per Table 19.XX Required Number of Recreation Facilities.

TABLE 19.XX-4	
Total Number of Bedrooms	Total Number of Recreational Facilities
8-50	1
51-150	2
151-225	3
226-300	4
301-400	5
401-500	6
501+	7 plus 1 additional amenity for each 100 bedrooms above 600.

2. Amenities shall be considered per the following criteria:
- a. Sport Courts:
 - i. Large sport courts such as basketball, tennis, volleyball or similar shall be regulation size and each court may count as one (1) amenity up to a limit of three (3).
 - ii. Small sport courts such as pickleball, handball shuffleboard, horseshoes or similar may count as one (1) amenity for every three (3) courts up to six (6) courts totaling two (2) amenities.
 - b. Swimming Pools, Hot Tubs, Saunas:
 - i. 1,000 square feet pool surface area plus a cooling deck with a minimum width of ten feet (10') in all areas may count as one (1) recreational amenity.
 - ii. 2,500 square feet pool surface area plus a cooling deck with a minimum width of twenty feet (20') in all areas may count as two (2) recreational amenities.
 - iii. 5,000 square feet pool surface area plus a cooling deck with a minimum width of twenty feet (20') in all areas may count as three (3) recreational amenities.
 - iv. A hot tub or sauna area with a minimum eight (8) person capacity may count as one (1) recreational amenity.
 - c. Picnic Area. A picnic area may be considered as one (1) recreational amenity, up to a limit of two (2), should it meet all the following criteria:

- i. The seating area is covered by a pavilion, gazebo, pergola or similar shelter covering a minimum of 500 square feet;
 - ii. Tables with seating and /or benches for a minimum of fifteen (15) persons;
 - iii. At least one fixed cooking grill is provided; and
 - iv. A least one trash receptacle is provided.
- d. Dog Park. A dog park may be considered as a recreational amenity if it meets all the following criteria:
 - i. The dog park enclosure is 3,000 square feet minimum;
 - ii. The enclosure is fenced by a minimum five foot (5') tall fence meeting the requirements of MKZ 19.X.XX Fencing;
 - iii. No point of the enclosure may be less than thirty feet (30') in width;
 - iv. The enclosure shall include a minimum of one (1) dog waste station which shall include a bag dispenser and waste receptacle to be installed along the perimeter of the enclosure for every 3,000 square feet of the associated dog park; and
 - v. One twenty-five (25) square foot animal washing bay with associated plumbing shall be provided in conjunction with the dog park.
- e. Community /Amenity Centers may be considered as a recreational amenity should it meet all the following criteria:
 - i. Gym, fitness center and/or weight room may count as one (1) recreational amenity if it is a minimum of 750 square feet and appropriately equipped for fitness activities.
 - ii. A game room that is a minimum of 750 square feet and includes at least three (3) dedicating game spaces for activities such as table tennis, billiards, air hockey, or similar may count as one (1) recreational amenity.
 - iii. A business center, workshare space, teleconferencing spaces that total a minimum of 500 square feet may count as one (1) recreational amenity. A maximum of one business center may be utilized as an amenity.
 - iv. A lounge, movie theatre, or party or similar gathering room that is a minimum of 750 square feet may count as one (1) recreational amenity.
- f. Lawn or gathering area for non-organized sports may be considered one (1) recreational amenity as set forth in the following criteria:

- i. The lawn or gathering area is a minimum of 5,000 square feet and at least sixty feet (60') wide in all areas.
 - ii. Landscaping must be done in a manner that preserves the openness of the area for such activities.
 - iii. The lawn or gathering area is not located within drainage storage areas.
 - iv. No more than one (1) recreational amenity may be awarded for a lawn or gathering area on a given project.
- g. Trails may be considered as recreational amenities as set forth in the following criteria:
 - i. Trails 1,000- 2500 feet in length may count as one (1) recreational amenity.
 - ii. Trails over 2,500 feet in length may count as two (2) recreational amenities.
 - iii. No more than two (2) amenities may be awarded for trails on a given project.
 - iv. Six feet (6') foot minimum width shall be maintained for the entirety of the trail.
 - v. The trail shall features demarcated lanes for non-motorized use such as bicycling, walking, skating, or jogging.
 - vi. The trail may or may not be paved, but shall be constructed of a dust-free surface.
- h. Playgrounds may be considered as recreational amenities as set forth in the following criteria:
 - i. Active recreational area that is a minimum of 2,500 square feet may count as one (1) recreational amenity.
 - ii. No more than two (2) recreational amenities may be awarded for playgrounds on a given project.
 - iii. Playgrounds shall feature a variety of facilities, including equipment for younger children.
 - iv. When adjacent to any parking area, road, or other hazardous place the playground must be fenced with an open-style fence.
- i. Recreational Amenities not listed may be considered by the Director of Planning at the time of site plan submittal. In order to approve of such alternate amenities, the applicant must demonstrate all of the following criteria is met by the proposed amenity:

- i. The amenity serves a clear recreational function and serves as a clear enhancement to the quality of life for the residents of the development.
- ii. The proposed amenity is of similar or better standards to the amenities provided in this section.
- iii. The amenity is of a permanent nature.
- iv. The proposed amenity will not be of nuisance to residents or neighboring properties.

I. Related Provisions. For additional information refer to the zoning ordinance and in particular the following sections

Related Provisions	
<i>Reference Section</i>	<i>Topic</i>
MKZ 19.76.020	Occupancy permit
MKZ 19.76.070	Division of a two-family dwelling
MKZ 19.76.100	Sale of space needed to meet requirements
MKZ 19.76.140	Private garage or carport—Reduced yards
MKZ 19.76.190	Height limitations—Exceptions
MKZ 19.76.200	Additional height allowed when
MKZ 19.76.020	Occupancy permit
MKZ 19.76.070	Division of a two-family dwelling
MKZ 19.76.100	Sale of space needed to meet requirements
MKZ 19.76.140	Private garage or carport—Reduced yards
MKZ 19.76.190	Height limitations—Exceptions
MKZ 19.76.200	Additional height allowed when
MKZ 19.76.210	Off-site improvements
MKZ 19.80.040	Number of spaces required

Opinion: ZT-23-012 19.04.90 Commercial Zone Draft

In comparing the current and proposed draft commercial code, the elimination of the three zoning categories from the existing code removes their distinctive features in favor of a single overarching class which, to a certain degree, weakens some protections currently offered within EMCCC boundaries; this despite the rigorous limitations/design standards staff and consultants have proffered in the proposed ordinance. I acknowledge and appreciate that those intended restrictions do address many concerns a resident may have who is in close proximity to a commercial zone, as well as the fact that many present uses in the lower of the current three commercial zones do not exactly abide by the spirit suggested in the present “Purpose” language.

However, the erasure per se of the C-1 zone, for example, with its premise (if not promise) of “...lower intensity *neighborhood* commercial development that accomodates the *everyday needs of nearby residents...*” is, from my perspective, regretful. [*italics mine*] Indeed, zooming in to the various commercial parcels on the Millcreek zoning map (<https://maps-millcrk.hub.arcgis.com/pages/planning-and-zoning-public>), the descriptions “Neighborhood Commercial,” “Community Commercial” and “Regional Commercial” provide concise illustration of the preferred levels of development in each of the three categories. The proposed ordinance draft references that the purpose of the commercial zone is to, “...provide for community commercial development [that] cater[s] to *local and regional markets...*” Giving some weight as to the power of words, I believe this difference in tone and meaning is notable. [I will acknowledge also that, at the 12/07/2023 EMCCC meeting, Francis, if I understood him correctly, did mention that this possibly could be tweaked to give some consideration and reference the lowest intensity forms of use—I would welcome that.]

Some specific protections (not exhaustive) with the current zoning and the modification in the proposed draft are:

<u>Use</u>	<u>Current</u>	<u>Proposed</u>
Outdoor Kennel	Prohibited in C-1; C-2,C-3 not allowed within 300 ft of residential use	Permitted use; prohibited within 150 ft of residential use
Automobile Sales	Prohibited in C-1 & C-2	Conditional Use w/limitations
Hotel/Lodging	Not allowed in C-1; Conditional Use in C-2 & C-3	Permitted Use w/design & use standards
Pawn Shop	Not allowed in a C-1 zone or within 300' of an arterial/major intersection in the C-2, C-3 zones and not within 2640' of an established substantially similar business.	Prohibited within 300' of a major intersection and within 1,320' of an established similar business
Check Cashing/ Non-deposit Financial Institution	Not allowed in the C-1 zone and not within 300' of an arterial intersection or within 2640' of an established substantially similar business.	Prohibited within 2,640' of an established similar business

It may very well be that the limitations/design standards in the proposed ordinance draft mimic current protections, **based on existing zoning and measurements**. However, the effect of any potential rezones within EMCCC boundaries and their interaction with the proposed ordinance is unpredictable to some extent, yet possibly less so with the three categories of commercial zoning in the existing code.

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jbassoman@yahoo.com



**Minutes of the
Millcreek Planning Commission
November 15, 2023
5:00 p.m.
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, November 15, 2023, at City Hall, located at 1330 E. Chambers Avenue, Millcreek, Utah 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 (excused)
Victoria Reid, Vice Chair
Steven Anderson
David Hulsberg (excused)
Christian Larsen
Nils Per Lofgren
Diane Soule
Dwayne Vance (left at 6:30 p.m.)
Ian Wright

City Staff

Elyse Sullivan, City Recorder
Francis Lilly, Planning & Zoning Director
Brad Sanderson, Current Planning Manager
Carlos Estudillo, Planner
Katie Larsen, Planner
Ryan Bagshaw, Planning Engineer
Kurt Hansen, Facilities Director
Jake Green, Planning Engineer

Attendees: Ben Forsyth (electronic), Jenny with Veritas (electronic), Addison Bliss (electronic), Miguel Ortega (electronic), Dale Doerhoff, Angelo Calacino, Joseph Browning, Mariela Mendoza, Ryan Corbett

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED – 5:00 p.m.

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

Commissioner Reid moved to consider item 1.3, CU-23-007, first. Commissioner Larsen seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

1. Public Hearings

1.3 Consideration of CU-23-007, Request for a Conditional Use Permit to Accommodate a Drive-Thru Coffee Shop in the C-2 Zone Location: 877 E 4500 S Applicant: Jenny Sanders Planner: Carlos Estudillo

Carlos Estudillo said the applicant was seeking conditional use approval for a drive-through coffee shop with two small buildings facing 4500 S, two internal drive through lanes, and no indoor seating. The vacant site is located within the Smiths' parking lot, located near the intersection between 4500 S and 900 E, sharing land with a variety of uses that include grocery shopping, restaurants (dine-in and to-go), a gas station, beauty salon, and an established drive-through coffee shop. The proposed coffee shop would be located on a 0.36 acres (15,892 sf) lot. However, only 510 square feet of the footprint is proposed for the main, one-story building. An additional 280 square feet building would act as a remote cooler. The highest point of the proposed buildings would not exceed 20 feet in height. Architectural materials would include wood sliding, metal panels and screening, as well as brick and at least 50% of glass on the first floor of the front-facing façade. The proposal complies with Millcreek Code 19.77 landscaping standards by allocating 20% of the overall lot to open space. As per Millcreek Code 19.80.2, commercial uses with a drive-through window are required 1 parking space per 150 square feet of seating area, 4 stacking spaces from the place of order, and 4 stacking spaces from the pick-up window. While the applicant is not proposing a seating area, the site still contains 4 parking spaces and an ADA parking stall. The drive allows stacking 9 vehicles in one of the lanes, and 11 in the other lane from the pick-up window. The site does not contemplate a place of order, as employees are to be working in both lanes, taking orders as cars are stacked on the lanes.

Estudillo showed the commission the proposed site plan, building elevations, floor plan, and landscape plan. He showed the commission an AASHTO triangle exhibit showing the existing monument sign on the site. The applicant would need to maintain a clear site view from the sign as cars exit the parking lot onto 4500 S. He reviewed the findings and conclusions from the staff report, noting that a traffic and stacking study was assigned to Hales Engineering to analyze traffic operations at key intersections for existing conditions and to recommend mitigation measures as needed. The proposed coffee shop development is expected to generate approximately 54 (+304 pass-by) weekday daily trips, including 14 (+76 pass-by) trips in the morning peak hour, and 3 (+29 pass-by) trips in the evening peak hour. Therefore, no auxiliary lanes are recommended. Hales Engineering does not anticipate any significant conflicts with any other existing site improvements. It is recommended that a collector-type streetlight would be necessary for the southern property line, facing 4500 South. It is anticipated that the proposed development will have sufficient queue storage and adequate site circulation. Nonetheless, it is recommended that on-site staff direct traffic as needed to avoid rare queueing conflicts. The applicant intends to allocate 20% of the overall lot to open space.

Estudillo reported that the Millcreek Community Council did not recommend approval of the application due to issues such as traffic flow and parking not being properly mitigated. Two new site plans were presented to staff by the applicant days after the Millcreek Community Council meeting, with a different building layout and traffic flow. He concluded the following:

1. Staff has found that the proposed conditional use can meet the requirements of Title 19 Regulations, such as 19.60 (Commercial Zones), 19.77 (Landscape Standards).
2. Staff finds that the proposed project is in harmony with the General Plan and character of the immediate area. The proposed development does not create a zoning violation or conflict with existing properties.

3. While the assigned traffic study finds that no further mitigations are needed for traffic and parking, staff finds that further mitigations to traffic flow and parking should be discussed by the Planning Commission, based on the recommendations presented in the traffic study.
4. Staff find that the applicant must install streetlights on their right-of-way, as required by Millcreek Engineering.

He recommended the commission approve the application with the condition that the applicant must install streetlights on the right-of-way facing 4500 S, as required by Millcreek Engineering.

Commissioner Lofgren asked about detrimental impacts in the traffic study. Estudillo said none were identified, but the traffic engineer could speak to it. Commissioner Vance asked if the applicant was willing to do any of the three presented site plans. Estudillo said staff recommended the original site plan. Commissioner Soule asked if the traffic study included the cross traffic between the Java Joes and this location. Estudillo referred to the traffic engineer. Vice Chair Reid asked about the monument sign being shortened for a clear view. Estudillo said the existing monument sign was compliant, so nothing needed to be mitigated. Vice Chair Reid asked if orders would be taken by employees outside in the traffic lanes and if there were issues with safety. Estudillo requested the applicant address it.

Dale Doerhoff, applicant with Encore Restaurants, said they would be building one hundred and fifty-five 7 Brews Coffee shops between Utah and Arizona. Commissioner Soule asked why the company wanted to buy a coffee shop next to an existing coffee shop (Java Joes). Doerhoff said competition was standard. Vice Chair Reid asked if orders would be taken outside. Doerhoff said employees with iPads would be outside taking orders, with a 3–4-minute average time to get through the line. The food would be brought out to the customer, not handed out the drive-through window. Commissioner Larsen asked about the flow of traffic with the three designs. Doerhoff said Smiths requested the ingress/egress be to the north of the site and the developers were open to that design (not presented).

Joseph Browning, Hales Engineering, said the traffic study was based on the first site plan presented. Estudillo clarified that the two newer plans were presented as mitigations to the Millcreek Community Council's discussion. Commissioner Larsen asked about the north ingress/egress site plan option. Browning was not aware of that request. Commissioner Larsen appreciated not having ingress/egress from 4500 S.

Vice Chair Reid opened the public hearing.

Ryan Corbett, Java Joes owner, said cars did not pull within 18 inches of each other (as presented on the site plan). He said the ingress close to 4500 S. would cause a backup onto 4500 S. He expected 20-30 cars in the drive-through line at a time. He felt an ingress/egress on the north side would be safer. He encouraged the commission to reject the proposed site plan. He felt other nearby business owners would reject the proposal as well.

Mariela Mendoza, Subway owner, said this location was one of her busiest stores and parking was already a challenge. She did not feel the site plan would go well with the other existing businesses on the surrounding property.

Vice Chair Reid closed the public hearing.

Commissioner Lofgren said the commission could mitigate detrimental impacts, and that was all. He felt the drive-through with traffic coming off of 4500 S was not a valid argument since the Java Joes business did the same (as referenced by Corbett). Commissioner Larsen said this area was a potential neighborhood center and a drive through use would not be walkable. He recommended both ingress/egress be oriented to the north. Estudillo said a fourth site plan iteration, as referenced by the applicant, would require a continuance of the application to review. Commissioner Soule asked if the site plan would go back to the community council meeting. Lilly said a remand was not specifically addressed in policy, but staff could inform the community council. Vice Chair Reid asked the applicant if a continuance of the application would unduly burden them. Doerhoff said no, he was willing to work with the city. He committed to having a new site plan with ingress/egress to the north be reviewed by the traffic engineer, but not all of the potential site plans due to cost.

Commissioner Larsen moved, regarding application CU-23-007, to continue it for one month. Commissioner Wright seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

1.1 Consideration of CU-23-003/PUD-23-001, Request for a Conditional Use Permit and Subdivision of a 12 Unit Residential Mixed Use Project Location: 4080, 4088, and 4090 S Highland Drive Applicant: Nathan Anderson Planner: Katie Larsen

Katie Larsen said the applicant was seeking conditional use approval for a mixed-use project in the Commercial Zone. The project would consist of 12 units, which would be platted for ownership, with a commercial component of live-work units. The entire property is 0.64 acres, approximately 27,878 square feet in size. The parcel was currently vacant but previously had commercial uses, such as an auto body shop. She noted that the commission had seen the project previously through the associated development agreement. She showed the commission the proposed site plan which included 10 guest parking stalls (more than required), the proposed building renderings, and the landscaping plan which met code. There would be a shared dog park on site. She reviewed the following staff findings:

1. The proposal must meet Conditional Use Permit standards of approval found in MKZ 19.84.
2. The proposed development is to be subdivided for ownership. Subdivision standards can be found in Title 18 ‘Subdivisions’ as well as MKZ 19.78 ‘Planned Unit Developments (PUD).’
3. The proposal meets the requirements of the applicable parking standards as outlined in MKZ 19.80.
 - a. Every unit has an attached two-car garage.
 - b. The site plan provides ten guest or commercial parking spaces.
 - c. The project is required to provide three guest parking spots as well as four parking spots dedicated to the commercial office space onsite.
4. The drive aisle that accesses the property from Highland Drive is approximately 30 feet in width, wherein it is required to be at least 26 feet wide.
5. The project was rezoned to ‘Commercial C-2’ and is subject to the development agreement attached to this document.

- a. Agreement stipulates density, design, tree planting, and access.
6. The site provides 26% open space, whereas the underlying requirement is 20%.
7. The residential amenity for the site is a dog park.
8. The mixed-use component of the site satisfies the requirements of MKZ 19.60.
9. Building massing and façade articulation requirements have been met.
10. Landscaping standards have been met.
11. The Millcreek Community Council unanimously recommended approval of the item.

Larsen concluded that the project preliminarily met the requirements of the Commercial ‘C-2’ and Planned Unit Development ‘PUD’ zones, would be associated with and subject to a development agreement, and was subject to further review and approval by utility providers, fire, and engineering. She recommended approval of the application.

Commissioner Larsen asked if the units would be owner occupied. Commissioner Wright asked about the percentage of live/work units that are utilized in the city. Larsen noted a lot of live/work units were unoccupied, but this developer had a buyer lined up for these. Commissioner Wright asked what measures were in place to prevent a non-work owner from using the space. Lilly said a licensed commercial business had to occupy the workspace.

Nathan Anderson, applicant, said the proposed concept was expensive and he did not want it to be underutilized. He said an engineer wanted to use the live/workspace for their business. He said his company would be on the south side. He noted the units would be for sale/owner occupied.

Vice Chair Reid opened the public hearing.

There were no comments.

Vice Chair Reid closed the public hearing.

Vice Chair Reid asked about maintenance standards for the dog park. Anderson said people abuse dog parks. The space would be designated as a park area where dogs could go and not as a dog park. There would be dog bags available, but no trash receptacle.

Commissioner Wright moved that the Planning Commission approve the Conditional Use Permit, application file number CU-23-003, as per the findings and conclusions of the staff report. Commissioner Larsen seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

Commissioner Larsen moved that the Planning Commission approve the Planned Unit Development, application file number PUD-23-001, as per the findings and conclusions of the staff report. Commissioner Lofgren seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

1.2 Consideration of CU-23-005, Request for a Conditional Use Permit to Develop a New Trailhead for the Jordan River Trail in Phases Location: 1015-1033 W Meadowbrook Expressway Applicant: Salt Lake County Parks and Recreation Planner: Katie Larsen

Katie Larsen said Salt Lake County Parks and Recreation was proposing to develop a public park and trailhead on the east bank of the Jordan River at approximately 1033 W 3900 S. The Jordan River Parkway is a north-south system of trails that parallel the Jordan River, connecting 45 miles through Salt Lake County. The trail further connects to neighboring counties. Development and maintenance of the trails are divided among Salt Lake County and numerous local municipalities. The parcel previously housed a lift station for the transport of wastewater, which has since been relocated. Public and quasi-public uses are a conditional use in the underlying A-1 Agriculture Zone. She presented the proposed site plan to the commission.

Larsen reviewed the following staff findings:

1. The proposal must meet Conditional Use Permit standards of approval found in MKZ 19.84.
2. The Millcreek City General Plan identifies the Jordan River Parkway as an area for improvements in O7: Identify and maintain recreational access to Jordan River Parkway for all residents and visitors.
 1. Strategy 7.1: Provide ample, safe connections for pedestrians and bicyclists between neighborhoods and the water's edge. The county has recently installed a quarter mile of new trails on the East bank of the Jordan River to access the boundaries of Millcreek. Along with the new trails, a boat launch area has been added. The improvement connects the trail to surrounding residential areas via 4060 South.
 2. Strategy 7.3: Develop a public park and trailhead along the river.
3. Signage on the property must conform to the standards of MKZ 19.82 'Signs.' Signs must be placed five feet from property lines.
4. There are 24 parking spaces located onsite. Currently, there are no rules or regulations in the Millcreek code about parking for trailheads.
5. Landscaping onsite satisfies the requirements of MKZ 19.77 'Landscape Standards.'
6. The proposal satisfies the goals of the general plan and underlying zoning district.
7. Staff received no public comment on the proposal.
8. Millcreek Community Council unanimously recommended approval of the application on 11/7/2023.

Larsen concluded that the project met the requirements of the code, and no conditions of approval were recommended by staff. She recommended approval of the application.

Commissioner Vance asked about the findings on signs (3). Larsen said it was a code requirement.

Angelo Calacino, Salt Lake County Parks and Recreation, said the county had been pursuing plans to extend the Jordan River Trail. He said several projects along the trail were under construction and several more would be happening soon. Commissioner Vance asked if the project would be phased. Angelo said they were hoping to build it all at once, but they set up construction documents with a base bid with several alternates.

Vice Chair Reid opened the public hearing.

There were no comments.

Vice Chair Reid closed the public hearing.

Commissioner Vance said the project was a good one.

Commissioner Vance moved that the Planning Commission approve the Conditional Use Permit, application file number CU-23-005, as per the findings and conclusions of the staff report. Commissioner Soule seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

1.4 Consideration of CU-23-008, Request for a Conditional Use Permit for a 10.5 Foot Retaining Wall in the R-1-8 Zone Location: 3594 S Tanner Gardens Court Applicant: Sidney Winters Planner: Carlos Estudillo

Carlos Estudillo said the applicant was seeking conditional use approval for a single retaining wall composed of concrete, with a maximum height of 10.5 feet, which prevents the neighbor's retaining wall and sidewalk from sliding into their own yard. The neighbor's retaining wall measures to be approximately 12 feet in height. The retaining wall has already been built and is located at the north-west corner of 3594 S Tanner Court, abutting 3582 S Tanner Gardens Ct., and serves as a protective barrier from the neighbor's retaining wall (3582 S Tanner Gardens Ct.). Estudillo said retaining walls are limited to being 8 feet in height, although, as per Millcreek Code 19.95.090, residential properties that are not in the Foothills and Canyons Overlay Zone (FCOZ) and that have slopes that are greater than 30 percent are eligible for an exemption to the above requirements, subject to a conditional use permit that follows the process and meets the standards of approval established in Chapter 19.84, and subject to the following additional standards:

1. No wall may be greater than sixteen (16) feet in height, as measured from finished grade.
2. Walls may be terraced. Terraces must be at least three feet in depth.
3. Walls visible from rights-of-way must include landscaping, including at least one tree planted at a minimum of 2" caliper, spaced every 30 lineal feet along the retaining wall.

Estudillo presented a site plan, rendering of the proposed retaining wall, and pictures of the existing boulder retaining wall. The staff findings were:

1. The proposal must meet Millcreek engineering standards before final approval is issued.
2. The applicant must meet all applicable criteria stipulated in the exemption process in MKZ 19.95.090.
3. The proposal must meet Conditional Use Permit standards of approval found in MKZ 19.84.
4. The wall will be below the maximum allowable height of 16 feet.

5. The applicant has not provided a detailed landscaping plan that conforms to 19.95.090, as staff has not deemed it necessary, due to the retaining lacking presence from the right of way.
6. Feedback from residents and community councils was received and considered in the recommendation process.

Estudillo noted the proposal met the criteria outlined in Millcreek Code 19.95.090. Areas where the retaining wall will be located are on slopes of 30% and not located in the FCOZ. The wall will be 14 feet at its highest. Landscaping must be approved by Millcreek Planning and Zoning at the Certificate of Occupancy (C/O) inspection as per code 19.95.090. The East Mill Creek Community Council unanimously recommended the approval of CU-23-008, as presented by staff. Estudillo recommended approval of the application.

Vice Chair Reid asked if the picture of the boulders was the proposed wall. Estudillo confirmed.

Sid Winters, applicant, said he built the home and wall a year ago. The original plan was to make a 4-foot wall, a terrace, and then a second 4-foot wall. He said his builder built the first wall and buried it so they could excavate the second wall. The builder said the neighbor's retaining wall footings were not deep. If an 8-foot retaining wall was built as intended, it would leave the neighbor's footings exposed which would create problems in the future. An engineer examined the wall and said it was a good solution. Winters was not happy about the 10-foot wall. He did not realize he needed approval for it.

Vice Chair Reid opened the public hearing.

There were no comments.

Vice Chair Reid closed the public hearing.

Commissioner Lofgren moved that the Planning Commission approve the Conditional Use application, file number CU-23-008, as proposed. Commissioner Vance seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, Commissioner Vance voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

2. Commission Business

2.1 Discussion of ZT-23-012, Consolidation of C-1, C-2, and C-3 Zones and the Creation of a New Commercial C Zone Planner: Brad Sanderson

Sanderson presented maps of the C-1, C-2, and C-3 zones in the city. The general updates included combining the C-1, C-2, and C-3 Zones into a single unified zone. It would largely maintain existing design standards. The proposal reorganized and updated uses including new affordable housing use, allowing mixed-use as a permitted use, and new residential proximity / location criteria for heaviest commercial uses. The use updates included new definitions and permits more uses with new standards such as residential proximity location criteria for intense commercial uses. Small gyms (< 5,000 sq ft) are a permitted use while larger gyms (> 5,000 sq ft) require a conditional use. Drive-through uses would require a conditional use permit. There would be new uses for ghost kitchens and flex space. Updates

to the spatial standards included limiting structures to 35 feet tall when within 100 feet of residential zones. Build-to-area for sites within 300 feet of major intersections requires 75% of the front façade to be located near the street. Updated architectural articulation standards include new options for developers including pitched roofs. The proposal maintains existing materials requirements for general commercial uses but requires a 4-sided design. Updates to specific use design standards include prohibiting stucco on hotels, new minimum frontage requirements for mixed uses (100 feet), mixed uses following RM standards but permit reduced open space to 250 sq feet per dwelling unit, and new requirements for dumpster placement and screening.

Vice Chair Reid asked about restaurant patios. Sanderson said a patio could work with the spatial standards. He reviewed and explained the use and spatial requirements tables and highlighted the requirements for auto repair and service, auto sales, fuel stations, caretaker dwellings, self-storage facilities, and hotels. The site standards updates included an orientation requirement parallel to street entrances would be required to face the street and a maximum of one row of parking between the building and street. Design standards included that within 300 feet of major intersections, 50% or more of the front elevation of the building(s) must be built within 10 feet of the 15-foot setback. Massing and articulation standards included buildings not faced entirely in brick or stone required 3 or more of the options provided in code and stepbacks would be required where buildings were over 35 feet tall along streets, frontages, and residential zone boundaries. Material standards included windows would be required for at least 50% of ground floor facing right-of-way (50% transparency), upper floors require 25% windows, other materials may not exceed 50% (unless brick or stone), stucco, EIFS, unfinished concrete, or metal siding may be used at a maximum of 20%. Integrated site plan mixed use developments must have 30% or more of the gross ground story floor area for commercial uses (1,500 sq ft minimum) and commercial must occupy 50% or more of frontage. Additional requirements within 600 feet of commercially significant areas, Village Centers, and sites over 1 acre include 30% gross floor area commercial uses facing streets classified as major collector and above, live-work units can meet commercial requirement, and structured parking / private garage or carport would be required for residential uses.

Commissioner Soule thought the commercial zone was well written. She asked about stucco limitations. Sanderson said it was mostly an architectural preference, but it was not a good material with the local climate. Lilly said there was a special design standard for hotels, but generally he has advised against the use of stucco for aesthetics. Commissioner Soule noted there were no limits on the number of coffee shops in the city. Commissioner Larsen recommended more requirements for drive-throughs since the commission had little power to refuse them. Commissioner Soule noted drive-throughs blocking other businesses in commercial spaces. Vice Chair Reid wondered about code having consequences for vehicular stacking. Lilly said other cities required a separation requirement from other drive-throughs and/or intersections. Vice Chair Reid said too much success should be the businesses' problem, not the city's. Commissioner Larsen said a shared pedestrian path on 3300 S. should be considered as a restricted area for drive-through uses, and potentially a certain distance from multifamily housing where more people may be walking. Vice Chair Reid suggested limiting drive-throughs to certain arterials.

2.2 Discussion of ZT-23-015, Updates to the RM Zone Planner: Brad Sanderson

Brad Sanderson wanted to give the commission an overview of the zones before bringing them as applications for actions. These were part of the comprehensive zoning update. He showed maps of the RM Zone in the city. He then reviewed general updates to the code. There was a slight change to the name of the zone, from “Residential Multi-Family” to “Residential Mixed” to reflect the mix of uses within the district. Millcreek’s existing RM Zone is primarily intended for medium to high density residential uses. The proposed RM Zone may allow some commercial uses as part of a mixed development. The proposed RM Zone is also intended to be a transitional zone, in which case, many nonresidential uses have been limited public/quasi-public and/or commercial uses as part of a mixed use. Changes to zoning regulations are intended to regulate new development. Any existing structure or use that was legally established prior to the changes may continue, subject to Millcreek’s standards for nonconforming uses and noncomplying structures. The proposed organization was adjusted to group site standards, building massing standards, and materials standards accordingly.

Sanderson presented a table of uses in the RM Zone. If a use is not specifically designated in the table, then it is prohibited. Use updates included two, three, and four-household dwellings as permitted uses. Multiple-household developments with fewer than 6 units and under 30 feet in height are a permitted use. If over 30 feet (up to 45 feet), the use is conditional. Mixed-use development is required within 500 feet of major intersections. Uses have been revised to clarify which commercial uses are allowed in conjunction with mixed use, retail, restaurants, and personal services. The development standards included affordable housing qualified for a 25% reduction in minimum lot size (standard is 2,000 sq ft/per unit vs. proposed 1,500 sq ft/unit for affordable housing). Maximum building length standards and street facing building orientation requirements have been added. New roof decks standards are included. Location and screening criteria for dumpsters and utilities to be located further from single family residential. Recreational amenity requirements have been revised to reflect more current features and clarify standards for amenities. Revised site standards to require buildings oriented toward and accessed from the street. It requires ground floor living space for residential uses to activate ground levels. He reviewed the spatial regulations and presented diagrams from the spatial limits. The proposed code retains existing standards including building materials, massing requirements, height limits (however allows buildings under 30 feet as a permitted use), and lot and setback requirements. The revised development site standards include buildings are required to be parallel to the street, entrances along street facades (oriented to a hierarchy: street, open space, alley), and ground floor living space. He briefly reviewed the design standards and zone amenities.

Commissioner Larsen asked about the minimum height for residential being 35 feet. Sanderson said it was suggested to be 32 feet for the R-1 and R-2 zones. Commissioner Larsen asked why the height transition was 30 feet and recommended going to 32 feet for uniformity. Commissioner Soule said Murray City created its own food desert by not mandating grocery in its commercial zones. Sanderson noted this was a transitional zone. Vice Chair Reid asked if they could specify the commercial use. Sanderson said retail was a broad term.

2.3 Approval of October 18, 2023 Regular Meeting Minutes

Commissioner Lofgren moved to approve the October 18, 2023 regular meeting minutes. Commissioner Larsen seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

2.4 Updates from the Planning and Zoning Director

Francis Lilly announced the city hall open house the following evening. The Wasatch Front Regional Council would be doing a northern Salt Lake County Wasatch Choice Vision workshop at Murray City Hall, and he invited the commissioners to attend. He reported the city council did a first reading of the R-1 and RCOZ zones and they expressed concern with going to a height of 32 feet for all zones instead of staying with 30 feet. He suggested a meeting between the commission and council to better understand the commission’s rationale for their higher height recommendation. He pointed out that the city gets a lot of complaints about the height of single-family homes.

3. Calendar of Upcoming Meetings

- City Council Mtg. 11/27/23, 7:00 p.m.
- Mt. Olympus Community Council Mtg., 12/4/23, 6:00 p.m.
- Millcreek Community Council Mtg., 12/5/23, 6:30 p.m.
- Canyon Rim Citizens Association Mtg., 12/6/23, 7:00 p.m. TBD
- East Mill Creek Community Council Mtg., 12/7/23, 6:30 p.m.
- City Council Mtg. 12/11/23, 7:00 p.m.
- Historic Preservation Commission Mtg., 12/19/23, 11:30 a.m.
- Planning Commission Mtg., 12/20/23, 5:00 p.m.

ADJOURNED: Commissioner Wright moved to adjourn the meeting at 7:01 p.m. Vice Chair Reid seconded. Vice Chair Reid called for the vote. Commissioner Reid voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Soule voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

APPROVED: _____ Date
Shawn LaMar, Chair

Attest: _____
Alexander Wendt, Deputy Recorder