

MILLCREEK, UTAH
ORDINANCE NO. 24-26

**AN ORDINANCE APPROVING AND AMENDING A
DEVELOPMENT AGREEMENT WITH RESPECT TO A TOWNHOUSE
DEVELOPMENT KNOWN AS “OPUS GREEN” ON PROPERTY LOCATED AT
4186 SOUTH MAIN STREET**

WHEREAS, the Millcreek Council (“Council”) met in regular meeting on May 28, 2024, to consider, among other things, approving an amendment to a development agreement (“Agreement”) with respect to a townhouse development known as “Opus Green” on property located at 4186 South Main Street; and

WHEREAS, Utah Code Ann. § 10-9a-102 authorizes, among other things, that the City may enter into amended development agreements; and

WHEREAS, staff presented to the Council an Amended Development Agreement for the referenced property (“Amended Development Agreement”); and

WHEREAS, the Agreement required inclusion of a Commercial Component to be constructed within eighteen (18) months of Millcreek’s issuance of the first building permit for a residential unit; and

WHEREAS, the Developer is requesting that the Development Agreement be amended to require the Commercial Component to be constructed by February 3, 2026; and

WHEREAS, the parties to the Agreement desire to amend the Agreement (“Amended Agreement”), a copy of which is attached hereto, to correctly describe the ownership and forthcoming conveyance of the property, and to make other technical corrections; and

WHEREAS, after careful consideration the Council has determined that it is in the best interest of health, safety, and welfare of the residents of the City to approve the Amended Agreement.

NOW, THEREFORE, BE IT ORDAINED that the Council hereby approves the Amended Amendment and directs the Mayor and Recorder to execute and deliver the Amended Agreement.

PASSED AND APPROVED this 28th day of May, 2024.

MILLCREEK



By: Jeff
Jeff Silvestrini, Mayor

ATTEST:

Elyse
Elyse Sullivan, City Recorder

Roll Call Vote:

Silvestrini	<u>Yes</u>	No
Catten	<u>Yes</u>	No
DeSirant	<u>Yes</u>	No
Jackson	<u>Yes</u>	No
Uipi	<u>Yes</u>	No

CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:
ORDINANCE 24-26: AN ORDINANCE APPROVING AND AMENDING A DEVELOPMENT AGREEMENT
WITH RESPECT TO A TOWNHOUSE DEVELOPMENT KNOWN AS "OPUS GREEN" ON PROPERTY
LOCATED AT 4186 SOUTH MAIN STREET was adopted the 28th day of May, 2024 and that a copy of the
foregoing Ordinance 24-26 was posted in accordance with Utah Code 10-3-711 this 29 day of May, 2024.

Elyse
Elyse Sullivan, City Recorder

WHEN RECORDED RETURN TO:

Millcreek
Attn: Jeff Silvestrini
1330 East Chambers Avenue
Millcreek, UT 84106

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT**

This First Amendment to Development Agreement (“**First Amended Agreement**”) is made and entered into as of this _____ day of May 2024, (“**Effective Date**”), by and between **Millcreek OG, LLC**, a Utah limited liability company (the “**Developer**”), and **Millcreek**, a Utah municipality (the “**City**”).

RECITALS:

A. On or about April 14, 2021, City and Owner/Developer executed a Development Agreement (“DA”) for a real property development located at or near located at or near 4186 South Main Street, Millcreek City, Salt Lake County, Utah, as more particularly described in exhibit “A” (the “**Property**”).

B. Paragraph 17 of the DA provides in part that the MDA may be amended by a subsequent written amendment signed by all Parties be modified by a written amendment agreed to and approved by the parties.

C. Owner/Developer and the City desire to amend the MDA as provide herein.

D. Developer hereby represents to the City that it is voluntarily entering into this First Amended Agreement.

E. The City, acting pursuant to its authority under the Utah Municipal Land Use, Development, and Management Act, Utah Code Ann. §10-9a-101, *et seq.*, and its ordinances, resolutions, and regulations, and in furtherance of its land-use policies, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Owner/ Developer hereby amend the MDA as follows:

1. Paragraph 2 (b) is deleted in its entirety and following is inserted in lieu thereof:

Commercial Component. As part of the commercial component of the Project, Developer intends to include an approximately 2,200 square foot neighborhood market/coffee shop along the Main Street frontage (the “Commercial Space”). Developer shall construct the Commercial Space on or before February 3, 2026. Because similar retail uses are contemplated on neighboring property on Main Street, Developer reserves the right to convert such Commercial Space to retail,

[Notarial Seal]

STATE OF _____)
: ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2024 by _____, the Manager of Clearwater Development, LLC.

Notary Public

[Notarial Seal]

EXHIBIT A

Legal Description of the Property

Parcel No. 21-01-228-015-0000

Address: 4186 South Main Street

Legal Description:

BEG N 87°01'34" E 16.16 FT & N 0°15'54" E 1741.07 FT & N 76°16'11" W 33.93 FT FR E 1/4 COR SEC 1, T 2S, R 1W, S L M; N 76°16'11" W 23.32 FT; N 40°00'30" W 154.8 FT; N 68°26'54" W 290.8 FT; N 76°57'23" W 457 FT; S 29°13'33" W 51.05 FT; N 8°59' W 359.4 FT; S 89°14'45" E 748.55 FT M OR L; S 3°50' W 368.14 FT; N 85°15' E 197.01 FT; S 0°15'54" W 283.64 FT TO BEG. 7.05 AC M OR L 07549-2288