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ZT-25-005

Staff Report

Meeting Date: 21 January 2026

Applicant: Millcreek

Re: Repeal of Community Council Provisions in Title 18

Prepared By: Francis Xavier Lilly, AICP

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

REQUEST AND SYNOPSIS

The Utah Property Rights Ombudsman was established by state statute to provide information to government entities, private citizens, civic groups, and other interested parties about land use law and property rights, among other things. In August 2024, Millcreek received an informal opinion from the Utah Property Rights Ombudsman on whether Millcreek's four community councils are subject to the requirements of the Utah Open and Public Meetings Act (OPMA). The Ombudsman opined that the community councils are subject to OPMA, in the letter attached to this memorandum.

Staff explored options that would ensure community council compliance with OPMA but could not find a means that would satisfy the requirements of state statute, while protecting the independent legacy of the community councils and addressing other concerns of the city, including insurance liability, overtime demands of staff, and compliance with state elections laws. Accordingly, the City Council determined that best means to protect the city's interests and the independence of the community councils is to sever the formal relationship between the community councils and the city, as that is Ombudsman's formal concern. The City Council repealed Chapter 2.56 of the Millcreek Code of Ordinances at a public meeting held on Monday, January 13, 2026. [Here is a link to a video of the proceedings](#). Comments were made as part of the public comment period at the beginning of the meeting, and the bulk of the City Council's discussion begins at 58:08.

Additional amendments need to be made to Title 18, which concerns how developments are noticed to the community councils. This memorandum addresses the amendments.

The draft amendments remove references to special notifications and recommending authority for the community councils, and establishes a 21-day noticing period prior to a Planning Commission meeting. This is substantially the same noticing requirement we have now, since Community Councils meet anywhere from two to three weeks prior to a Planning Commission meeting. This new noticing provision will still give community councils time to provide feedback to the Planning Commission or City Council, just like any other resident or community organization.

As a courtesy, planning staff will still notify community council chairs of upcoming agenda items. Additionally, as a pilot project, staff will hold open houses two weeks prior to every planning commission meeting at City Hall. These open houses will give residents and business owners an opportunity to visit with planning staff, and with applicants. The time and date of these open houses will be published on notices that are posted on properties and mailed to affected property owners as required by Millcreek Code. Anyone is invited to these meetings, including community councils. Staff will provide opportunities at these open houses for anyone to write a comment to be included in the public record. Additionally, community councils could make a recommendation after attending these open houses and hearing what their neighbors have to say about an application. The first open house will be held on **Tuesday, February 3, 2026 at 5:00 pm at City Hall**. Every public notice that will be sent out before the February Planning Commission meeting will include a notice for this open house.

Moving forward, any recommendations received in writing at least a week in advance of a Planning Commission will be included in the packet of materials sent to the Planning Commission. Additionally, staff is considering creating project-specific websites for applications, [similar to what Salt Lake City does](#).

The attached code amendments show text to be deleted by a ~~strike-through~~, and text to be added by underlining.

Community Councils were invited to send their recommendations regarding these changes to staff by Tuesday, January 13, 2026. As of the publication of this staff report, only one recommendation was received, by the East Mill Creek Community Council. It is attached to this staff report.

RECOMMENDATION

Staff recommends that the planning commission transmit a recommendation of approval of the proposed changes to Title 18, in consideration of the City Council's decision to repeal Chapter 2.56 of the Millcreek Code of Ordinances, along with a recommendation that staff continue to seek out innovative methods of obtaining quality public comment on applications, particularly prior to a Planning Commission public meeting.

ATTACHMENTS

- Proposed Code Changes – Redlines
- Letter from the Property Rights Ombudsman
- Letter from the Millcreek Mayor to the Community Councils
- Recommendation from the East Mill Creek Community Council

18.13.010 Application Categories And Land Use Authority Designations

- A. The Land Use Authority is a person, board, commission, or body designated by Millcreek to act upon a land use application.
- B. Millcreek hereby designates land use authorities by application type, as set forth in Table 18.13-1, Land Use Authority Designations.
- C. Depending on the nature of the Land Use Authority designated to act on a land use application, land use applications fall into two categories: Legislative Decisions and Administrative Decisions.
 - 1. Legislative decisions are discretionary and include those application types listed in Table 18.13-1 that the City Council makes upon receiving a recommendation from the Planning Commission **and Community Council(s)**, where applicable.
 - 2. Administrative Decisions consist of all other development approvals and include those application types listed in Table 18.13-1 that are made by the Planning Commission, Planning Director, or Land Use Hearing Officer. Administrative decisions are subject to the appropriate standards of review and shall be made based on findings of fact.

18.13.020 Designation Of Recommending Bodies And The Role Of Staff In Application Reviews

- A. Millcreek also establishes the roles of recommending bodies, ~~including the Planning Commission and Community Councils~~, to make recommendations on certain land use application types, as set forth in Table 18.13-2, Roles of Recommending Bodies by Application Type. No recommendation is required for application types not listed in Table 18.13-2.
- B. Millcreek Staff shall review all applications for completeness and substantial compliance with relevant requirements and may provide recommendations on Land Use Applications before the applicable Land Use Authority.

Table 18.13-2 Roles of Recommending Bodies by Application Type		
Application Type	Community Council	Planning Commission
<i>Legislative Decisions</i>		
General Plan and Future Land Use Map Adoption and Amendment	Recommendation	Recommendation
Land Use Code Text Amendment	Recommendation	Recommendation
Zoning Map Amendment	Recommendation	Recommendation
Development Agreement	Recommendation	Recommendation
Public Street or Municipal Utility Easement Vacation	None	Recommendation
<i>Administrative Decisions – Other Land Use Decisions</i>		
Conditional Use Permit	Recommendation	N/A
Classification Request Determination Review	Recommendation	Recommendation

8.13.050 Formal Public Engagement ~~And Community Council Engagement~~

Requirements

A. Certain application types require Formal Public Engagement, including a Public Meeting or a Public Hearing. The type of public engagement applicable to each application type is set forth in MKZ 18.15, Specific Procedures by Application Category and Type. ~~For the purposes of this Title, Community Council meetings are not considered a Formal Public Engagement.~~

1. Public Meetings. Public Meetings are required to be open to the public as set forth in Utah Code Section 52-4-101 et seq., Open and Public Meetings Act. All land use decisions made by the City Council and Planning Commission shall be rendered during open and public meetings. The Planning Director may also conduct public meetings related to land use applications or other land use issues. No public meeting shall commence until all procedures as set forth in MKZ 18.13.060, Public Notice Requirements, are met. The following criteria apply to public meetings:
 1. At a public meeting to consider an application, the Land Use Authority shall review the data supplied by the applicant, review the findings and recommendations of the Planning Director, and may take public comment from all interested persons in attendance.
 2. The applicant or their designated agent whose application is before the Planning Director, Planning Commission or City Council shall be present at the public meeting.
 3. The applicant shall present evidence in support of the application sufficient to enable the reviewing body to consider the matter and make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of the application.
2. Public Hearings. At a public hearing, members of the public are provided a reasonable opportunity to comment on the subject of the hearing. No public hearing shall commence, nor shall public comment be received, until all notice procedures as set forth in MKZ 18.13.060, Public Notice Requirements, are met. The following criteria is applicable to public hearings:
 1. At a hearing to consider an application, the reviewing body shall review the data supplied by the applicant, review the findings and

recommendations of the Planning Director, and take testimony from all interested persons in attendance.

2. The applicant or their designated agent whose application is before the Planning Commission or City Council shall be present at the hearing.
3. The applicant shall present evidence sufficient to enable the reviewing body to consider the matter and make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence.

B. Continuances. For Administrative Decisions, the Land Use Authority may allow up to two continuances of a public meeting or public hearing, totaling not more than six months, to hear the matter, so the applicant may make modifications or provide additional information and evidence supporting the application.

1. If an application is continued to a date certain so that the Land Use Authority can receive additional information, then notice of a continuation to a date certain shall be posted on the subject property, but no further publication or mailed notice for a continued public meeting is required.
2. If an application is not continued to a certain date, it requires re-notification following the procedure set forth in MKZ 18.13.060, Public Notice Requirements.

C. Community Council Engagement. Certain application types are required to be subject to review by a relevant community council, which may choose to make a recommendation on that application.

1. Community Councils are encouraged to provide written recommendations to the Planning and Zoning Department. If the relevant Community Council does not provide a recommendation on an application, the application shall proceed through the approval process without a Community Council recommendation.
2. Where a land use application involves property located within 600 feet of the boundaries of another community council district, the Planning Director shall submit the application for review by the community councils of each community district.
3. If a complete application is submitted prior to a Planning Commission meeting held in a month where the applicable Community Council meeting

~~is not scheduled to be held, a Neighborhood Meeting may be utilized in lieu of the Community Council meeting, with a summary report of the meeting provided to the Community Council electronically. This neighborhood meeting must be completed at least seven (7) days prior to the Planning Commission meeting.~~

18.13.060 Public Notice Requirements

- A. Public Notices are required to inform the public about an application's relevant proceedings. The public notice requirements are intended to provide information regarding the application and relevant public meetings or hearings for the application.
- B. The Land Use Authority, as set forth in Table 18.13-1, shall schedule and hold any required public hearing or public meeting according to the provisions of this Land Use Code and State Statute. Where applicable, the notice shall include the date and time of the meeting of the appropriate recommending body. This section describes the general notice procedure for public meetings and hearings in Millcreek. Noticing requirements follow this section unless otherwise noted in MKZ 18.15, Specific Procedures by Application Category and Type.
- C. Table 18.13-3, Noticing Summary, summarizes the various noticing requirements for each application type. The specific noticing requirements of each application type are more fully described in MKZ 18.15, Specific Procedures by Application Category and Type.
- D. Mailed Notices Procedure. Applications requiring mailed notices as set forth in Table 18.13-3, Noticing Summary shall follow the requirements of Utah Code Section 10-9a-101 et seq., Municipal Land Use, Development, and Management Act, and these procedures unless otherwise noted in in MKZ 18.15, Specific Procedures by Application Category and Type.
- E. Millcreek will mail notices for any application requiring a public meeting or public hearing. The applicant is responsible for the mailing expenses as set forth in the Consolidated Fee Schedule.
 1. Mailed notices shall follow the requirements of Utah Code Section 10-9a-205, Notice of public hearings and public meetings on adoption or modification of land use regulation.

2. Mailed notices shall be sent to each owner of record of real property whose property is located partially or entirely within the mailed noticing distance as set forth in Table 18.13-3, unless otherwise set forth in this Title.
 - a. ~~For applications where a Community recommendation is requested, mailed notices must be sent at least seven (7) days before the Community Council meeting.~~
 - b. ~~For applications where a Community Council is not requested to make a recommendation, mailed notices must be sent at least ten (10) days prior to the first public hearing or seven (7) days prior to a public meeting.~~
3. If multiple mailed notices are needed, they may be combined into a single mailed notice with all applicable information.

F. Notice Sign Procedure. Applications requiring a noticing sign on the subject property as set forth in Table 18.13-3 Noticing Summary, shall follow these procedures unless otherwise set forth in MKZ 18.15, Specific Procedures by Application Category and Type.

1. Millcreek shall post notification signage on the subject property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.
2. The notice shall be posted a minimum of five (5) days prior to the first Formal Public Engagement on the item and shall remain posted on sight until after the final Land Use Authority decision on the matter. If a notice is removed prior to a final decision, the applicant shall promptly notify the Planning Director within one business day, and the City shall replace the notice within one business day thereafter.
3. The notice sign shall state the purpose of the public notice and where interested parties can find out more information on the application and Formal Public Engagement schedule.

G. Online Noticing Procedure. Applications requiring online noticing as set forth in Table 18.13-3 Noticing Summary shall follow these procedures unless otherwise set forth in MKZ 18.15, Specific Procedures by Application Category and Type.

1. Millcreek is responsible for posting notice for any application requiring online noticing on Millcreek's official website no later than 24 hours prior to the first Formal Public Engagement on the item.

2. Millcreek is responsible for posting notice to the Utah Public Notice Website created by Utah Code Section 63A-16-601 no later than ten (10) days prior to the first public meeting or hearing on the item.

H. Hard Copy Notice. A hard copy of any public notice issued by Millcreek shall be posted at Millcreek City Hall at least twenty-four (24) hours prior to a public hearing or a public meeting.

1. Timeframes for Mailed Notice and Notice Sign shall be based on calendar days prior to the first **community Council Meeting or the first Formal Public Engagement, whichever comes first**
2. Timeframes for Posting on the Millcreek Website and Utah Public Notice shall be based on calendar days prior to the first Formal Public Engagement.
3. Timeframes for Hard Copy of Notice are based on hours prior to the first formal Public Engagement.

Table 18.13-3 Noticing Summary

Application Type	Mailed Notice	Mailed Notice Distance (from boundaries of subject property)	Notice Sign (on subject property)	Posting On Millcreek Website and Utah Public Notice Website	Hard Copy of Notice
Legislative Decisions					
General Plan / Future Land Use Map Adoption or Amendment (1)(2)	721	600 feet from subject property for Future Land Use Map Amendments	521	10	24 hours
Land Use Code Text Amendment (1)(2)	721	N/A		10	24 hours

Zoning Map Amendment (1)(2)	721	600 feet from subject property	521	10	24 hours
Zoning Map Amendments - Adoption and Amendments of Village Center Special Districts (1)(2)	721	600 feet from the boundary of the Village Center as designated on the Future Land Use Map of the Millcreek General Plan	521	10	24 hours
Public Street or Municipal Utility Easement Vacation (2)	1021	Each property that is accessed by the public street or municipal utility easement	521	10	24 hours
<i>Administrative Decisions - Subdivisions</i>					
Minor Subdivision	721	300 feet from subject property	521	7	24 hours
Major Subdivision- Preliminary	721	300 feet from subject property	521	7	24 hours
Subdivision Amendment (2)	721	Affected Property Owners Within a Subdivision	521	7	24 hours
Vacating a Subdivision Plat	721	300 Feet from subject property	521	7	24 hours
<i>Administrative Decisions – Other Land Use Decisions</i>					
Conditional Use Permit	721	300 Feet from subject property	521	7	24 hours

<i>Administrative Decisions – Nonconformities and Variances</i>					
Expansion of a Noncompliant Structure or a Structure Containing a nonconforming use	10	300 Feet from subject property	5	7	24 hours

I. Table 18.13-3 Notes

1. The Planning Director shall determine if an application is ministerial in nature. If the Planning Director determines that the application is not ministerial in nature, notice shall be provided to the area directly affected by the land use ordinance change.
2. These application types require affected entities to be notified.

18.14.030 Neighborhood Meeting

- A. Purpose. A neighborhood meeting is intended for an applicant to inform residents and property owners of potential projects, help solicit neighborhood input on land use application, to provide any additional local information, and give the applicant an opportunity to address any relevant neighborhood concerns prior to submission.
- B. Applicability. A neighborhood meeting for relevant application types is required, as set forth in [MKZ 18.15, Specific Procedures by Application Category and Type](#).
- C. Procedure. It is the applicant's responsibility to conduct the neighborhood meeting. The applicant shall organize the meeting and provide adequate proof of notice to include the following:
 1. The applicant shall send a written notice stating the place, date, and time of the neighborhood meeting to all property owners, as identified in the Salt Lake County recorder's records, whose property is within the required notice radius for the land use applications as set forth in [MKZ 18.13.060, Public Notice Requirements](#).
 2. The applicant shall mail notice to all property owners, as identified in the Salt Lake County recorder's records, whose property is within the required notice radius for the land use applications as set forth in [MKZ 18.13.060, Public Notice Requirements](#) via First Class Mail at least one week prior to the neighborhood meeting.
 - 3. The applicant shall e-mail notice to members of the relevant community council(s), using email addresses provided by the Planning Director, at least one week before the neighborhood meeting.**
 4. The neighborhood meeting shall be conducted at a location within Millcreek, which is commonly open to the public.
 5. The record of a neighborhood meeting shall be submitted with the application and shall include:
 - a. A list of all individuals who were notified;
 - b. A roster of attendees; and

c. A statement summarizing the topics discussed at the meeting.

18.14.070 Application Compliance Review For All Other Applications

- A. Purpose. The application review is intended to ensure that a given application is in conformance with the requirements of all applicable standards of the Millcreek Code and other relevant ordinances and statutes. Application review also provides an opportunity to check for the accuracy of documents provided by the applicant.
- B. Applicability. All applications deemed complete are subject to full review by the Planning Director and other relevant reviewing authorities. This Section applies to all applications other than those for Regular Residential Subdivisions.
- C. Procedure.
 1. The Planning Director will review the application and determine if it meets the standards of the Millcreek Code. If adjustments are needed to obtain approval, these will be communicated to the applicant in writing. The applicant will then have the opportunity to amend the application and resubmit it for subsequent review.
 2. As part of the initial review, the Planning Director shall refer the development application to the appropriate review agencies and specify the timeframe for comments to be due back to the Planning Director.
 3. Upon an application's resubmittal for a subsequent review, it shall be reviewed by the agencies who requested revisions.
 4. After the Planning Director determines that the application meets all applicable standards, the Planning Director shall schedule the first public meeting or public hearing, if required, and prepare a staff report. The staff report shall be made available for inspection and copying by the applicant and the public prior to any scheduled public hearing(s) on the application. The staff report shall indicate whether, in the opinion of the Planning Director, the development application complies with all applicable standards of this Code.
 5. If the Planning Director is the Land Use Authority, an application may be approved upon the finding that all necessary revisions have been made and the application is compliant with the regulations of this Code.
 6. No application may be scheduled for **a review and recommendation by a community council, if applicable, or** a public meeting or public hearing without a review for compliance with the Code and applicable regulations.

7. When the City utilizes a third party review for technical documents or studies, a fee shall be assessed for the additional review as paid by applicant. Such costs shall be based on an estimate provided by the third-party reviewer of the City's choosing and paid for in advance by a deposit by the applicant or developer. Unused funds shall be returned to the applicant, without interest. Such studies or peer reviews may be required for any application identified to be in sensitive lands.

18.14.080 Public Notice

- A. Purpose. Certain application types require public notice to inform the public about the applicant's relevant proceedings of an applicant and allow the public to participate **in community council meetings, if applicable, and** in a Formal Public Engagement as required.
- B. Applicability. Public notice is required for the application types listed in table 18.13-3, Noticing Summary, or as set forth elsewhere in this Title. The Planning Director shall prepare public notices after a complete and accurate application has been reviewed by the Planning Director for compliance with applicable requirements.
- C. Procedure. Providing public notice shall follow the procedures as set forth in MKZ 18.13.060, Public Notice Requirements, or as set forth elsewhere in this Title.

18.14.090 Formal Public Engagement **And Community Council Engagement**

- A. Purpose. Formal Public Engagement **and Community Council Engagement are** **is** required for certain application types so that the public can participate in the proceedings of applicable community councils and public bodies that make recommendations or decisions on land use applications.
- B. Applicability. Formal Public Engagement **and Community Council Engagement are** **is** required for the application types listed in Table 18.13-3 Noticing Summary, or as set forth elsewhere in this Title.
- C. Procedure. Providing public notice shall follow the procedures as set forth in MKZ 18.13.060, Public Notice Requirements, or as set forth elsewhere in this Title.

18.15.010 Legislative Decisions

A. General Plan and Future Land Use Map Adoption or Amendment

1. Purpose. The City Council may adopt or amend the General Plan and Future Land Use Map, including amending the number, shape, boundaries, or area of any designation on the Future Land Use Map. The purpose of this Section is to provide standards to amend the text and/or maps of the General Plan. The amendment process is established to provide flexibility in response to changing circumstances, to reflect changes in public policy, and to advance the general welfare of Millcreek. A summary of meeting and noticing requirements for applications for General Plan and Future Land Use Map Adoptions or Amendments is set forth in Table 18.15-1.
2. Applicability. The City or any person may file an application requesting an amendment to the General Plan or Future Land Use Map. Applications for General Plan and Future Land Use Map Adoption or Amendments shall include the reasons or basis upon which the applicant believes the general plan should be amended. Amendments to the General Plan and Future Land Use Map shall comply with the procedures set forth in Utah Code Section 10-9a-101 et seq., Municipal Land Use, Development, and Management Act. No application may be filed by any property to amend any part of the general plan for a period of one year after adoption of such part of the general plan by the council.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Pre-Application Consultation
 - b. Neighborhood Meeting
 - c. Application Submittal. As the Planning Director determines, an associated Development agreement may be required. A Development Agreement must be considered concurrently with the application and shall follow the procedure as set forth in this chapter. If a Future Land Use Map Amendment is approved subject to a Development Agreement, the approval of the Future Land Use Map Amendment shall be made effective upon recording of an executed Development Agreement.
 - d. Application Completeness Review

- e. Application Compliance Review. Upon completion of the review, the Planning Director shall make a recommendation.
- f. Public Notice. Mailed notices are required as part of any future land use map amendment.
- g. Formal Public Engagement

(1) The application shall be presented to the relevant Community Council(s) for a recommendation; and

- (1)** The Planning Commission shall hold a public hearing and make a recommendation to the Land Use Authority; and
- (2)** The City Council shall hold a public meeting and shall be the Land Use Authority for General Plan and Future Land Use Map Adoption or Amendment applications.

b. Decision.

2. Submittal Requirements. Any person seeking an amendment to the General Plan or Future Land Use Map shall submit a complete application, a completed General Plan or Future Land Use Map Adoption or Amendment Checklist, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and any other relevant supporting documentation, maps, studies and any other information that would inform Staff and the Planning Commission in making a recommendation, and that would allow the City Council to make a decision.

Table 18.15-1 General Plan and Future Land Use Map Adoption or Amendment Meeting and Noticing Requirements

<i>Application Procedure Steps</i>	<i>Requirement</i>	<i>Code Reference</i>
Pre-Application Consultation	Required	<u>MKZ</u> <u>18.14.010</u>
Neighborhood Meeting	Required	<u>MKZ</u> <u>18.14.030</u>

Community Council Recommendation	Required	<u>MKZ</u> <u>18.14.090</u>
Planning Commission Public Hearing and Recommendation	Required	<u>MKZ</u> <u>18.13.050</u> <u>MKZ</u> <u>18.14.090</u>
City Council Public Meeting	Required	<u>MKZ</u> <u>18.13.050</u> <u>MKZ</u> <u>18.14.090</u>
Mailed Notice to Affected Entities	Required	<u>MKZ</u> <u>18.13.060</u>
Mailed Noticing Requirement for Property Owners – Distance	600 feet	<u>MKZ</u> <u>18.13.060</u>
Mailed Noticing Requirement – Time	<u>7</u> <u>21</u> days prior to the first <u>Community Council Meeting</u> <u>formal public engagement</u>	<u>MKZ</u> <u>18.13.060</u>

3. Disapproval of General Plan and Future Land Use Map Adoption or Amendment. Disapproval of an application to amend the general plan shall preclude the filing of another application to amend the general plan text in the same or similar manner or to amend the general plan map for any property, or any portion thereof, to the same land use designation within two years of the date of the final disapproval of the application unless the City Council finds that there has been a substantial change in the circumstances or other significant reasons since the disapproval of the application to merit consideration of a second application within the two-year time period, upon receiving a recommendation on the matter from the Planning Commission.

B. Land Use Code Text Amendment

1. Purpose. The City Council may amend the text of any land use ordinance. The purpose of this Section is to provide standards to amend the text of the Land Use Code. The Land Use Code Text Amendment procedure is established to provide flexibility in response to changing circumstances, to reflect changes in public policy, and to advance the general welfare of Millcreek. A summary of meeting and noticing requirements for applications for Land Use Code Text Amendments is set forth in Table 18.15-2.
2. Applicability. The City or any person may file an application requesting an amendment to the text of this Land Use Code. Applications for Land Use Code Text Amendments shall include the reasons or basis upon which the applicant believes the Land Use Code should be amended. Amendments to the Land Use Code shall comply with the procedures set forth in Utah Code Section 10-9a-101 et seq., Municipal Land Use, Development, and Management Act.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Pre-Application Consultation
 - b. Application Submittal. As the Planning Director determines, an associated Development Agreement may be required. A Development Agreement must be considered concurrently with a Land Use Text Amendment application and shall follow the procedure set forth in this chapter. If a Land Use Code Text Amendment is approved subject to a Development Agreement, the approval of the Land Use Code Text Amendment shall be made effective upon recording of an executed Development Agreement.
 - c. Application Completeness Review
 - d. Application Compliance Review. Upon completion of the review, the Planning Director shall make a recommendation.
 - e. Public Notice
 - f. Formal Public Engagement

(1) The application shall be presented to all Community Councils for a recommendation; and

(1) The Planning Commission shall hold a public hearing and make a recommendation; and

(2) The City Council shall hold a public meeting and shall be the Land Use Authority for Land Use Code Text Amendment applications.

b. Decision.

2. Submittal Requirements. Any person seeking an amendment to the Land Use Code shall submit a complete application, a completed Land Use Code Amendment Checklist, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and any other relevant supporting documentation, maps, studies, any other information that would inform Staff and the Planning Commission in making a recommendation, and that would allow the City Council to make a decision.

Table 18.15-2 Land Use Code Text Amendment Meeting and Noticing Requirements

<i>Application Procedure Steps</i>	<i>Requirement</i>	<i>Code Reference</i>
Pre-Application Consultation	Required	<u>MKZ 18.14.010</u>
Community Council Recommendation	Required	<u>MKZ 18.13.050</u>
Planning Commission Public Hearing and Recommendation	Required	<u>MKZ 18.13.050 MKZ 18.14.090</u>
City Council Public Meeting	Required	<u>MKZ 18.13.050 MKZ 18.14.090</u>
Mailed Notice to Affected Entities	Required	<u>MKZ 18.13.060</u>

Mailed Noticing Requirement – Time	<p><u>721</u> days prior to the first <u>Community Council Meeting formal</u> <u>public engagement</u></p>	<u>MKZ 18.13.060</u>
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B. Zoning Map Amendment

1. Purpose. The City Council may amend the number, shape, boundaries, or area of any zone. The purpose of this Section is to provide standards to amend the boundaries of any zone district, or the zone classification of any property in a zone district. The Zoning Map Amendment procedure is established to provide flexibility in response to changing circumstances, to reflect changes in public policy, and to advance the general welfare of Millcreek. A summary of meeting and noticing requirements for applications for Land Use Code Text Amendments is set forth in Table 18.15-3.
2. Applicability. The City or any person may file an application requesting an amendment to the Official Zoning Map. Zoning Map Amendment applications shall include the reasons or basis upon which the applicant believes the Zoning Map should be amended.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Pre-Application Consultation
 - b. Concept Review
 - c. Neighborhood Meeting
 - d. Application Submittal. As the Planning Director determines, an associated Development agreement may be required. A Development Agreement must be considered concurrently with a Zoning Map Amendment application and shall follow the procedure as set forth in this chapter. If a Zoning Map Amendment is approved subject to a Development Agreement, the approval of the Zoning Map Amendment shall be made effective upon recording of an executed Development Agreement.
 - e. Application Completeness Review

f. Application Compliance Review. Upon completion of the review, the Planning Director shall make a recommendation.

g. Public Notice

h. Formal Public Engagement

~~(1) The application shall be presented to the relevant Community Council(s) for a recommendation; and~~

~~(1) The Planning Commission shall hold a public hearing and make a recommendation; and~~

~~(2) The City Council shall hold a public meeting and shall be the Land Use Authority for Zoning Map Amendment applications.~~

i. Decision.

2. Submittal Requirements. Any person seeking a Zoning Map Amendment shall submit a complete application, a completed Zoning Map Amendment Checklist, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and the Planning Commission in making a recommendation, and allow the City Council to make a decision.

3. Conditions to Zoning Map Amendment.

i. In order to provide more specific land use designations and land development suitability; to insure that proposed development is compatible with surrounding neighborhoods; and to provide notice to property owners of limitations and requirements for development of property, conditions may be attached to any zoning map amendment which limit or restrict the following:

(1) Uses;

(2) Dwelling Unit Density;

(3) Building Square Footage;

(4) Height of Buildings or Structures

- j. A zoning map amendment attaching any of the conditions set forth in subsection A shall be designated ZC after the zoning classification on the zoning map.
- k. In the event any zoning condition is declared invalid by a court of competent jurisdiction, then the entire zoning map amendment shall be void. Any deletion in or change to zoning condition shall be considered an amendment to the zoning ordinance and shall be subject to the requirements of this chapter.

Table 18.15-3 Zoning Map Amendment Meeting and Noticing Requirements

<i>Application Procedure Steps</i>	<i>Requirement</i>	<i>Code Reference</i>
Pre-Application Consultation	Required	<u>MKZ 18.14.010</u>
Concept Review	Required	<u>MKZ 18.14.020</u>
Neighborhood Meeting	Required	<u>MKZ 18.14.030</u>
Community Council Recommendation	Required	<u>MKZ 18.13.050</u>
Planning Commission Public Hearing and Recommendation	Required	<u>MKZ 18.13.050</u> <u>MKZ 18.14.090</u>
City Council Public Meeting	Required	<u>MKZ 18.13.050</u> <u>MKZ 18.14.090</u>
Mailed Notice to Affected Entities	Required	<u>MKZ 18.13.060</u>

Mailed Noticing Requirement for Property Owners – Distance	600 feet	<u>MKZ 18.13.060</u>
Mailed Noticing Requirement – Time	721 days prior to the first Community Council Meeting formal public engagement	<u>MKZ 18.13.060</u>

B. Development Agreement

1. Purpose. The purpose of this Section is to provide standards for the consideration and adoption of Development Agreements as part of applications for Legislative Decisions. Development agreements are intended to stipulate specific unique details of a development proposal that exceed the standards of the Code, in order to establish a clear understanding of timing, responsibility, and other relevant details regarding a proposal and its supporting infrastructure.
2. Applicability. A Development Agreement is a voluntary agreement between Millcreek and the Applicant. A Development Agreement must be submitted concurrently with a land use application for a Legislative Decision, along with a completed Development Agreement Checklist.
3. Procedure. Approval of a Development Agreement shall follow the procedure for the relevant application type.
4. Minimum Standards. The Development Agreement shall include, at a minimum, the following:
 - i. Site plans and building elevations.
 - j. A detailed narrative of materials, design, uses, public and private amenities, landscaping, parking, lighting, signs, utilities, and any other detail that is relevant to the Development Agreement.
 - k. A list of all agreed-upon public improvements, an estimate of the cost of such improvements, the proposed form of construction security for the improvements, and any other provisions or conditions deemed necessary by Millcreek to ensure that all public improvements will be

completed in a timely, cost-effective manner that meets Millcreek's standards.

- l. A clause that states that the developer would not object to a decision by the City to initiate a Zoning Map Amendment for the property and withdraw from the Development Agreement if a building permit is not applied for within two (2) years of execution of the Development Agreement, or if the Development Agreement is not recorded within sixty (60) days of execution of the Agreement.
5. Submittal Requirements. Any person seeking a Development Agreement as part of a land use application for a Legislative Decision shall submit an additional fee as set forth in MKZ 18.13.040, Submittal Requirements in General, shall follow the application procedure and submittal requirements for the relevant application type, and shall submit and any other relevant supporting documentation, maps, studies and any other information that would inform Staff and the Planning Commission in making a recommendation, and allow the City Council to make a decision.

18.15.020 Administrative Decisions

A. Minor Subdivision

1. The purpose of this Section is to provide standards for Minor Subdivisions. Minor Subdivisions are intended to provide a streamlined review for small-scale projects with limited impact. A Minor Subdivision is required prior to issuance of a grading permit, if applicable, or building permit or other minor development activities. A summary of meeting and noticing requirements for applications Minor Subdivisions is set forth in Table 18.15-4.
2. Applicability. The minor subdivision procedure applies to a property creating or modifying three (3) lots or fewer. Plats involving four (4) or more lots are not eligible for the Minor Subdivision procedure.
3. Procedure. Unless noted otherwise, the following application steps are required, as set forth in MKZ 18.14, Land Use Application Steps.
 - a. Pre-application Consultation. This is optional at the applicant's request for Regular Residential Subdivisions and required for all other subdivisions. If the applicant requests a pre-application consultation,

Millcreek shall schedule it within fifteen (15) days to review the concept plan and give initial feedback.

- b. Concept Review. This is optional at the applicant's request for Regular Residential Subdivisions and required for all other subdivisions.
- c. Application Submittal.
- d. Application Completeness Review. Application completeness reviews for Regular Residential Subdivisions are subject to the standards as set forth in MKZ 18.14.050.
- e. Subdivision Plan Review. A subdivision plan review for Regular Residential Subdivisions includes the engineering drawings that are subject to the standards as set forth in this Title and constitute the subdivision improvement plans as identified in Utah Code Section 10-9a-604.2.
- f. Application Compliance Review.
- g. Public Notice.
- h. Formal Public Engagement. The Planning Director shall hold a public meeting and shall be the Land Use Authority for Minor Subdivision applications.
- i. Decision and Findings.

4. Approval Criteria. The Planning Director shall approve the request if:

- a. The minor subdivision creates no more than three (3) lots in total.
- b. The minor subdivision does not create remnant or otherwise unusable lots or parcels.
- c. The minor subdivision is consistent with and complies with the requirements of the specific zoning district in which it is located.
- d. The lots created with the proposed minor subdivision have a buildable area that would not require a future variance to construct the use the lot is intended for.
- e. As applicable, the minor subdivision is consistent with the terms and conditions of any previously approved plat.

- f. The minor subdivision will not limit Millcreek's ability to provide facilities or services effectively.
 - g. No new lot nor any lot affected by the subdivision will have a noncomplying structure or a structure occupied by a nonconforming use, unless the lot created for the purpose of dividing a legally-established two-household dwelling pursuant to the standards as set forth in MKZ 18.26.
- 5. Submittal Requirements. Any person seeking a Minor Subdivision shall submit a complete application, a completed Subdivision Requirements Checklist, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, a Title report that correctly discloses all recorded matters of title regarding the property and which is prepared and dated not more than ninety (90) days before the proposed recordation of the subdivision, and any other relevant supporting documentation, maps, studies and any other information that would inform Staff and allow the Land Use Authority to make a decision.
- 6. Development Improvement Completion Assurance. Before an applicant conducts any development activity on a minor subdivision or records a plat, the applicant shall complete any required landscaping or infrastructure improvements or post an improvement competition assurance for any required public landscaping or infrastructure improvements as set forth in MKC 14.12.070.
- 7. Requirements Prior to Recording a Subdivision Plat. The subdivision plat may not be recorded until all of the following items have been completed:
 - a. The final plat has been approved and signed by the City Engineer, Planning Director, and City Attorney, or designee certifying that all requirements have been met.
 - b. The Mayor's signature and City Recorder's attestation have been applied to the Mylar plat drawing.
 - c. The improvement guarantee determined by the City Engineer and approved by the City Attorney, or designee, has been properly posted with the City.
 - d. All necessary deeds, easements, and agreements have been executed and submitted to the City.

- Expiration. Failure to submit the approved minor subdivision for recording within twelve (12) months after the date of the approval letter shall void the approval and the subdivider shall be required to submit a new minor subdivision application for review. Prior to the expiration of the six (6) month period, the Planning Director may grant up to one extension as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals.

Table 18.15-4 Minor Subdivision Meeting and Noticing Requirements

<i>Application Procedure Steps</i>	<i>Requirement</i>	<i>Code Reference</i>
Pre-Application Consultation	Optional for Regular Residential Subdivisions. Required for all other Subdivisions.	<u>MKZ 18.14.010</u>
Concept Review	Optional for Regular Residential Subdivisions. Required for all other Subdivisions.	<u>MKZ 18.14.020</u>
Planning Director Public Meeting	Required	<u>MKZ 18.13.050 MKZ 18.14.090</u>
Mailed Noticing Requirement for Property Owners – Distance	300 feet	<u>MKZ 18.13.060</u>
Mailed Noticing Requirement – Time	7 days prior to Planning Director Public Meeting	<u>MKZ 18.13.060</u>

B. Major Subdivision

- The purpose of this Section is to provide standards for Major Subdivisions. Major subdivisions are intended to ensure lots and development conform with zoning regulations, and all applicable Millcreek standards. A summary of meeting and noticing requirements for applications for Major Subdivisions is set forth in Table 18.15-5.
- Applicability. The major subdivision procedure is required for a proposed division of land when one (1) or more of the following conditions exist:

- a. The resultant subdivision will produce four (4) or more lots; or
 - b. The subdivision is not otherwise eligible for approval as a Minor Subdivision.
- 3. Procedure Overview. Major Subdivisions require two (2) steps.
 - a. Preliminary Subdivision, which requires approval by the Planning Commission; and
 - b. Final Subdivision, which requires approval by the Planning Director.
- 4. Preliminary Subdivision Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required, unless noted otherwise.
 - a. Pre-application Consultation. This is optional for Regular Residential Subdivisions and required for all other subdivisions.
 - b. Concept Review. This is optional at the applicant's request for Regular Residential Subdivisions and required for all other subdivisions.
 - c. Application Submittal
 - d. Application Completeness Review. Application completeness reviews for Regular Residential Subdivisions are subject to the standards as set forth in MKZ 18.14.050.
 - e. Subdivision Plan Review. A subdivision plan review for Regular Residential Subdivisions includes the engineering drawings that are subject to the standards as set forth in this Title and constitute the subdivision improvement plans as identified in Utah Code Section 10-9a-604.2.
 - f. Application Compliance Review. Upon completion of the review, the Planning Director shall make a recommendation.
 - g. Public Notice.
 - h. Formal Public Engagement. The Planning Commission shall hold a public meeting and shall be the Land Use Authority for preliminary approval of Major Subdivision applications.
 - i. Decision and Findings.
- 5. Approval Criteria. The Planning Commission shall approve the request if:

- a. The Preliminary Subdivision is consistent with and complies with the requirements of the specific zoning district in which the Preliminary Subdivision is located and the applicable requirements of this Code and other applicable Millcreek and State requirements.
 - b. As applicable, the Preliminary Subdivision is consistent with the terms and conditions of any previously approved development plan or Development Agreements.
 - c. Provides a layout of lots, streets, blocks, driveways, utilities, drainage, and other public facilities as required by all applicable standards of this Code and applicable regulations and standards.
 - d. The project preserves, protects, integrates, or mitigates impacts to any identified sensitive lands or geologic hazards associated with the property.
 - e. The Subdivision will not impair the ability of Millcreek or any public utility provider to provide facilities or services effectively.
 - f. The engineering drawings and subdivision improvement plans comply with all applicable standards of this Title and other applicable Millcreek and State requirements.
 - g. The Planning Commission may not approve a Preliminary Subdivision with a noncomplying structure or a structure occupied by a nonconforming use.
6. Submittal Requirements. Any person seeking a Major Subdivision shall submit a complete application, a completed Subdivision Requirements Checklist, all required engineering drawings and subdivision improvement plans, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, a Title report that correctly discloses all recorded matters of title regarding the property and which is prepared and dated not more than ninety (90) days before the proposed recordation of the subdivision, and any other relevant supporting documentation, maps, studies and any other information that would inform Staff and allow the Land Use Authority to make a decision.
7. Post Approval Action. Following Preliminary Subdivision approval, the Planning Director shall issue a timely written record of the decision, including any additional requirements of approval, along with a copy of the approved

plat, plans, reports, and studies that were presented in the public meeting, as set forth in MKZ 18.14.100, Decision and Findings.

8. Subdivision Expiration. Approval of a Preliminary Subdivision shall be effective for twelve (12) months following the date of the Planning Commission approval. An approved Subdivision shall expire and be of no further force and effect if the subdivision or a phase of the subdivision has not been submitted within twelve (12) months after the date of the approval. In the case of phased Subdivision submission, the approval of the remaining portion of the Preliminary Subdivision shall automatically gain an extension of six (6) months, up to a maximum number of years specified by the Planning Commission at the time of approval of the initial phase. Prior to the expiration of the six (6) month period, the Planning Director may grant one extension of six (6) months as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals.
9. Development Improvement Completion Assurance. Before an applicant conducts any development activity on a minor subdivision or records a plat, the applicant shall complete any required landscaping or infrastructure improvements or post an improvement competition assurance for any required public landscaping or infrastructure improvements as set forth in MKC 14.12.070.
10. Requirements Prior to Recording a Subdivision Plat. The subdivision plat may not be recorded until all of the following items have been completed:
 - a. The final plat has been approved and signed by the City Engineer, Planning Director, and City Attorney, or designee certifying that all requirements have been met.
 - b. The Mayor's signature and City Recorder's attestation have been applied to the Mylar plat drawing.
 - c. The improvement guarantee determined by the City Engineer and approved by the City Attorney, or designee, has been properly posted with the City.
 - d. All necessary deeds, easements, and agreements have been executed and submitted to the City.
11. Final Subdivision Approval. After the Planning Commission issues a preliminary approval of a Major Subdivision, the Planning Director shall

commence a final compliance review of the subdivision application and shall issue a Final Subdivision Approval. The Planning Director shall approve, conditionally approve, or deny the Final Subdivision and approve the plat based on the approval criteria in this section. The Planning Director shall confirm that:

- a. The Final Subdivision is in conformance with the previously approved Preliminary Subdivision and any conditions imposed by the Planning Commission; and
- b. The Final Subdivision will comply with the applicable requirements of this Code and other applicable Millcreek and State requirements.
- c. The final plat has been approved and signed by the City Engineer, Planning Director, and City Attorney, or designee certifying that all requirements have been met.
- d. The Mayor's signature and City Recorder's attestation have been applied to the Mylar plat drawing.
- e. The improvement guarantee determined by the City Engineer and approved by the City Attorney, or designee, has been properly posted with the City.
- f. All necessary deeds, easements, and agreements have been executed and submitted to the City.

12. Expiration. Failure to submit the approved major subdivision for recording within twelve (12) months after the date of the approval letter shall automatically expire the approval. The applicant of an expired subdivision will be required to submit a new subdivision application for review. Prior to the expiration of the twelve (12) month period, the Planning Director may grant up to one extension as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals.

Table 18.15-5 Major Subdivision Meeting and Noticing Requirements

Application Steps	Requirement	Code Reference

Preliminary Subdivision		
Pre-Application Consultation	Optional for Regular Residential Subdivisions. Required for all other Subdivisions.	<u>MKZ 18.14.010</u>
Concept Review	Optional for Regular Residential Subdivisions. Required for all other Subdivisions.	<u>MKZ 18.14.020</u>
Neighborhood Meeting	Optional for Regular Residential Subdivisions. Required for all other Subdivisions.	<u>MKZ 18.14.030</u>
Planning Commission Public Meeting	Required	<u>MKZ 18.13.050</u> <u>MKZ 18.14.090</u>
Mailed Noticing Requirement for Property Owners – Distance	300 feet	<u>MKZ 18.13.060</u>
Mailed Noticing Requirement – Time	7 days prior to Planning Director Public Meeting	<u>MKZ 18.13.060</u>
Final Subdivision		
Pre-Application Consultation	Optional	<u>MKZ 18.14.010</u>
Concept Review	Optional	<u>MKZ 18.14.020</u>

C. Condominium Subdivisions, Condominium Conversions, and Condominium Vacations.

1. Purpose. The purpose of this Section is to provide standards for Condominium Subdivisions, Condominium Conversions, and Condominium Vacations as part of an application for a Major Subdivision, a Subdivision Amendment, or a Vacation of a Subdivision Plat. Condominium Subdivisions, Condominium Conversions, and Condominium Vacations shall be reviewed

pursuant to the requirements as set forth in Utah Code Section 57-8-1 et seq., Condominium Ownership Act, et seq. and shall follow the procedures as set forth in this Chapter, with additional requirements as set forth in Utah Code Section 57-8-101 et seq., as amended. Condominium Conversions are intended to allow for existing legally-established multiple-household dwelling developments, including legally-established three-household and four-household dwellings, to be converted into condominiums to promote affordable homeownership in Millcreek.

2. **Applicability.** Any application affecting a plat or property that is defined as a Condominium Plat or Condominium as set forth in Utah Code Section 57-8-1 et seq., Condominium Ownership Act, is subject to the standards of this section.
3. **Procedure.** A Condominium Subdivision or Condominium Vacation shall follow the procedures for a Major Subdivision. Condominium Conversions shall follow the procedures for a Minor Subdivision, and the procedures set forth in this Section.
4. **Condominium Conversion Submittal Requirements.** Any person seeking a Condominium Conversion shall submit a complete Minor Subdivision application, completed Minor Subdivision Requirements and Condominium Conversions Checklists, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, a Title report that correctly discloses all recorded matters of title regarding the property and which is prepared and dated not more than ninety (90) days before the proposed recordation of the subdivision, and any other relevant supporting documentation, maps, studies and any other information that would inform Staff and allow the Land Use Authority to make a decision. Additionally, a Property Report must be submitted for any Minor Subdivision application for a Condominium Conversion, and the Property Report shall include the following requirements:
 - a. A site plan indicating the layout of existing and proposed landscaping, parking, lighting, fencing, private and common areas, and amenities, by a licensed surveyor/engineer.
 - b. The age of the building or buildings.
 - c. The general condition, useful life, and capacity of the building's structural elements, including the roof, foundations, mechanical

system, electrical system, plumbing system, boiler, and other structural components.

- d. All known conditions constituting deficiencies requiring repair to meet existing building codes.
- e. All known conditions which may require repair or replacement within the next succeeding five (5) year period.
- f. A statement from a third-party building inspector licensed to practice in the State of Utah stating that the structure or structures have been inspected for compliance with the International Building Code minimum standards. If the building inspector finds deficiencies, the applicant shall present plans to bring the structure or structures into conformity with said standards prior to the issuance of certificates of occupancy.
- g. Where it is determined that physical conditions in an existing building do not allow the strict application of the international building code standard, the Land Use Appeal Authority shall review all requests to vary from these standards and may grant variances or approve alternates where it is determined the intent of the requirement will be met. In any event, there shall be disclosure to buyers of any conditions that do not meet code or standards set by Millcreek.

5. Condominium Conversion Application Compliance Review Requirements.

As part of an Application Compliance Review for an application for a Preliminary Major Subdivision, the Application Compliance Review shall include the following actions:

- a. Building Inspection Staff Review. Upon receipt of the application for approval of a condominium project, the building inspection department shall review the proposed building plans for new construction and/or in the case of a conversion project, the property report and plan of improvement, renovations, and repairs to determine conformance with applicable building codes. In the case of a conversion, the department shall require inspections of the property and may require supplementation, revision, and resubmission of the property report where necessary. In the preliminary review report to the Planning Commission, the Chief Building Official or designee shall note corrections, repairs and replacements that must be made to

bring the structures into code compliance, together with a list of renovation improvements proposed by the owner/developer that are not required by code. The Chief Building Official or designee shall also list any requirements of the International Building Code that needs consideration by the Board of Appeal due to unique circumstances associated with the structure. The Chief Building Official or designee may then recommend denial until existing violations of code are corrected or may recommend preliminary approval of the project and building report subject to correction of the violations prior to final approval.

- b. Fire Marshal Review. The Fire Marshal shall inspect each structure proposed for conversion and submit a report to the Planning Director outlining its fire safety conditions. The marshal shall stipulate those conditions requiring improvement, prior to occupancy, in the report.
- c. Code Compliance Review. The City Code Compliance inspector shall inspect each structure proposed for conversion and submit a report to the Planning Director outlining its conditions regarding municipal code compliance. Millcreek shall identify those conditions requiring improvement in the report prior to being issued final plat approval.
6. Public Notice – Additional Requirements for Condominium Conversions. In addition to the Public Notice requirements for Subdivisions as set forth in MKZ 18.13.060, Public Notice Requirements, the applicant for a Condominium Conversion shall provide written notice of intended conversion to the existing tenants as of the date of the application. Service of the written notice shall be in accordance with a service of a summons as set forth in the Utah Rules of Civil Procedure. The applicants shall provide proof of service stating the date, place, and manner of service, including a copy of the notice.
7. Approval Criteria for Condominium Conversions. The Planning Commission shall approve the request if it satisfies the Preliminary Approval Criteria for Minor Subdivisions as set forth in MKZ 18.15.020 (B). Any condominium conversion shall have a minimum of three (3) legal units or lots. One (1) or more single-household detached dwellings shall not be platted as a condominium development.

8. Requirements Prior to Recording a Subdivision Plat. The subdivision plat may not be recorded until all of the following items have been completed:
 - a. The final plat has been approved and signed by the City Engineer, Planning Director, and City Attorney, or designee certifying that all requirements have been met.
 - b. The Mayor's signature and City Recorder's attestation have been applied to the Mylar plat drawing.
 - c. The improvement guarantee determined by the City Engineer and approved by the City Attorney, or designee, has been properly posted with the City.
 - d. All necessary deeds, easements, and agreements have been executed and submitted to the City.

D. Subdivision Amendment for Minor Plat Adjustments

1. Purpose. The purpose of this Section is to provide standards for Subdivision Amendments that make minor changes to lots that are of a small, technical nature, but largely do not affect otherwise approved or existing plats. The Planning Director shall allow such modifications according to the criteria within this Section. A summary of meeting and noticing requirements for applications for Subdivision Amendments for Minor Plat Adjustments is set forth in Table 18.15-6.
2. Applicability. A subdivision amendment may only be considered on approved subdivisions. If an application for a subdivision amendment cannot satisfy the approval criteria in this section, it shall be processed as a Minor or Major Subdivision. Only an owner of land within a platted subdivision, as shown on property records at the office of the County Recorder, may petition the City in writing to amend, alter or vacate any portion of a subdivision.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Pre-Application Consultation.
 - b. Application Submittal.
 - c. Application Completeness Review.
 - d. Application Compliance Review.

- e. Public Notice.
- f. Formal Public Engagement. The Planning Director shall hold a public meeting and shall be the Land Use Authority for Subdivision Amendment applications.
- g. Decision and Findings.

4. Approval Criteria. The Planning Director shall approve the request if:

- a. The amended plat is in substantial conformance with the original approved subdivision.
- b. The amended subdivision does not increase the number of lots or parcels or create new lots or parcels.
- c. The amended subdivision does not eliminate or move a recorded easement without the prior approval of the easement holder.
- d. The amended subdivision will not create any nonconformities or increase the degree of nonconformity of any existing structure or use.
- e. The amended plat complies with all other applicable requirements of this Code, Utah Code Section 10-9a-608, and regulations and standards.
- f. All proposed vacations, alterations or amendments of subdivision plats must meet the review requirements outlined in this chapter and the requirements of the individual zone in which the subdivision is proposed.

5. Submittal Requirements. Any person seeking a Subdivision Amendment for Minor Plat Adjustments shall submit a complete application, a completed Subdivision Requirements Checklist, a Title Report that correctly discloses all recorded matters of title regarding the property and which is prepared and dated not more than ninety (90) days before the proposed recordation of the subdivision, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and any other relevant supporting documentation, maps, studies and any other information that would inform Staff and allow the Land Use Authority to make a decision.

6. Requirements Prior to Recording a Subdivision Plat. The subdivision plat may not be recorded until all of the following items have been completed:

- a. The final plat has been approved and signed by the City Engineer, Planning Director, and City Attorney, or designee certifying that all requirements have been met.
- b. The Mayor's signature and City Recorder's attestation have been applied to the Mylar plat drawing.
- c. The improvement guarantee determined by the City Engineer and approved by the City Attorney, or designee, has been properly posted with the City.
- d. All necessary deeds, easements, and agreements have been executed and submitted to the City.

7. Expiration. Failure to submit the approved subdivision amendment for recording within six (6) months after the date of the approval letter shall void the approval and the subdivider shall be required to submit a new subdivision amendment application for review. Prior to the expiration of the six (6) month period, the Planning Director may grant up to one extension as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals.

Table 18.15-6 Subdivision Amendment for Minor Plat Adjustments Meeting and Noticing Requirements

<i>Application Procedure Steps</i>	<i>Requirement</i>	<i>Code Reference</i>
Pre-Application Consultation	Required	<u>MKZ</u> <u>18.14.010</u>
Planning Director Public Meeting	Required	<u>MKZ</u> <u>18.13.050</u> <u>MKZ</u> <u>18.14.090</u>
Mailed Noticing Requirement for Property Owners – Distance	Affected Property Owners	<u>MKZ</u> <u>18.13.060</u> <u>MKZ 18.97</u>

Mailed Noticing Requirement – Time	7 days prior to Planning Director Public Meeting	<u>MKZ</u> <u>18.13.060</u>
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E. Boundary Adjustment

1. Purpose. The purpose of this Section is to provide standards for agreements between adjoining property owners to relocate a common boundary that results in a conveyance of property between the adjoining lots, adjoining parcels, or adjoining lots and parcels.

a. Simple Boundary Adjustment. An applicant may propose a simple boundary adjustment by submitting a written request that includes conveyance documents and describes all lots or parcels affected by the proposed simple boundary adjustment.

(1) Applicability. A simple boundary adjustment may not affect a public right-of-way, municipal utility easement, or other public property; an existing easement, onsite wastewater system, or an internal lot restriction; or result in a lot or parcel out of conformity with land use regulations, including a lot or parcel that crosses a zone district boundary. If an application for a simple boundary adjustment does not meet these requirements, then a full boundary adjustment is required.

(2) Procedure. The following application steps, as set forth in MKZ 18.14, Land Use application Steps, are required.

- a) Application Submittal.
- b) Application Completeness Review.
- c) Application Compliance Review.
- d) Decision and Findings. In the case of simple boundary adjustments, the decision and findings of the Planning Director shall take the form of a Notice of Consent.

(3) Approval Criteria. The Planning Director shall approve the request if it meets the requirements of this section by issuing a Notice of Consent that states the City is not responsible for

any error related to the simple boundary adjustment and the county recorder may record the simple boundary adjustment.

- (4) Submittal Requirements. Any person seeking a simple boundary adjustment shall submit a written request that includes conveyance documents and describes all lots or parcels affected by the proposed simple boundary adjustment, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and any other information that would inform staff and allow the Planning Director to make a decision.
- (5) Expiration. Failure to submit the approved simple boundary adjustment for recording within six (6) months after the date of the approval letter shall void the approval and the applicant shall be required to submit a new simple boundary adjustment application. Prior to the expiration of the six (6) month period, the Planning Director may grant up to one exception as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals.

b. Full Boundary Adjustment. An applicant may propose a full boundary adjustment by submitting a written request by the adjoining property owners that includes conveyance documents, a survey that complies with Utah Code Section 57-1-45.5(3)(b).

- (1) Applicability. A full boundary adjustment is a boundary adjustment that is not a simple boundary adjustment.
- (2) Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a) Application Submittal. Application submittal shall include a survey that complies with Utah Code Section 57-1-45.5(3)(b).
 - b) Application Completeness Review.
 - c) Application Compliance Review.
 - d) Decision and Findings. In the case of full boundary adjustments, the decision and findings of the Planning Director shall take the form of a Notice of Consent.

(3) Approval Criteria. The Planning Director shall approve the request for a full boundary adjustment if the proposal includes all the necessary information and the survey that complies with Utah Code Section 57-1-45.5(3)(b) and that shows no evidence of a violation of a land use regulation or the creation of a lot or parcel that crosses a zone district boundary by issuing a Notice of Consent that states the City is not responsible for any error related to the full boundary adjustment and the county recorder may record the boundary adjustment.

(4) Submittal Requirements. Any person seeking a full boundary adjustment shall submit a written request that includes conveyance documents, a survey that complies with Utah Code Section 57-1-45.5(3)(b), a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and any other information that would inform Staff and allow the Planning Director to make a decision.

(5) Expiration. Failure to submit the approved full boundary adjustment for recording within six (6) months after the date of the Notice of Consent shall void the approval and the applicant shall be required to submit a new full boundary adjustment. Prior to the expiration of the six (6) month period, the Planning Director may grant up to one extension as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals.

F. Vacating a Subdivision Plat. The vacation of a subdivision plat shall comply with the requirements as set forth in, and shall follow the process as outlined below:

1. Vacation of subdivisions with three or fewer lots shall follow the Minor Subdivision process.
2. Vacation of subdivisions with more than three lots shall follow the Major Subdivision process.
3. The City Council may vacate a subdivision or a portion of a subdivision by adopting and recording an ordinance as set forth in Utah Code Section 10-9a-609, Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

G. Public Street or Municipal Utility Easement Vacation

1. Purpose. The purpose of this Section is to provide standards for the vacation of public streets or municipal utility easements. Dedicated public streets and municipal utility easements may be vacated, in whole or in part, if Millcreek determines that all or a portion of the public street or municipal utility easement is unnecessary or infeasible for future public access or use. A summary of meeting and noticing requirements for applications for Land Use Code Text Amendments is set forth in Table 18.15-7.
2. Applicability. A public street or municipal utility easement may be vacated by filing an application for a minor subdivision, a major subdivision, or a subdivision amendment, or the City Council may approve a petition to vacate a public street or municipal utility easement by ordinance.
3. Procedure – Public Street or Municipal Utility Easement Vacation By Plat. A vacation of a public street or municipal utility easement may be accomplished through the filing of an application for a Minor Subdivision, a Major Subdivision, or a Subdivision Amendment, and shall follow the process for each application type, and the following additional steps:
 - a. After the Land Use Authority grants Preliminary Subdivision approval and before a Final Subdivision approval is issued, the City Council shall hold a public hearing to consider the vacation of a public street or municipal utility easement.
 - b. Public Notice shall follow the process as set forth in [MKZ 18.13.060, Public Notice Requirements](#).
 - c. A public hearing shall follow the process as set forth in [MKZ 18.13.050, Formal Public Engagement and Community Council Engagement Requirements](#).
 - d. If the filing of a subdivision plat accompanies a vacation of a public street or municipal utility easement, the final decision on the plat shall be withheld until the City Council issues a decision regarding the vacation of a public street or municipal utility easement.
4. Procedure – Public Street or Municipal Utility Easement Vacation by Ordinance. In lieu of a Minor Subdivision, Major Subdivision, or Subdivision Amendment, a petition to vacate a public street or municipal utility easement may be filed following the procedure as set forth in [Utah Code Section 10-9a-609.5, Petition to vacate a public street](#), and shall follow the procedure as set forth below:

- a. Pre-Application Consultation
- b. Concept Review
- c. Neighborhood Meeting
- d. Application Submittal
- e. Application Completeness Review
- f. Application Compliance Review. Upon completion of the review, the Planning Director shall make a recommendation.
- g. Public Notice
- h. Formal Public Engagement
 - (1) The Planning Commission shall hold a public hearing and make a recommendation; and
 - (2) The City Council shall hold a public meeting and shall be the Land Use Authority for Public Street or Municipal Utility Easement Vacation applications.
- i. Decision and Findings

5. Approval Criteria. Public streets or municipal utility easements may not be vacated unless the following criteria are met:

- a. The vacation does not deprive abutting properties of adequate legal access to existing or proposed public utilities or drainage installations;
- b. The vacation is consistent with the General Plan and other adopted policies and plans, including any adopted transportation plan or streets/roadway plan;
- c. The land to be vacated is no longer necessary for public use and convenience;
- d. The right-of-way is no longer needed for public transportation purposes;
- e. The vacation will not adversely impact the use of the right-of-way for public utility and/or drainage purposes;

- f. Access to lots or properties surrounding the plat will not be adversely affected, and the vacation will not leave any land-locked properties or deprive abutting properties of adequate legal access;
- g. The vacation will not adversely impact the health, safety, and/or welfare of the general community, or reduce the quality of public facilities or services provided to any property, including but not limited to police/fire protection, access, and utility service;
- h. The vacation satisfies the requirements of MKC 14.52;
- i. Good cause exists for the vacation; and
- j. The public interest or any person will not be materially injured by the proposed vacation.

6. Submittal Requirements. Any person seeking a Public Street or Municipal Utility Easement Vacation shall submit a complete application, a completed Public Street or Municipal Utility Easement Checklist, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, a Title Report that correctly discloses all recorded matters of title regarding the property and which is prepared and dated not more than ninety (90) days before the proposed recordation of the subdivision, any other relevant supporting documentation, maps, studies and any other information that would inform Staff and the Planning Commission in making a recommendation, and allow the City Council to make a decision.

7. Final Approval and Recording. Approval of a plat or ordinance vacating a public street or municipal utility easement shall be deemed a certification of the vacation. With this certification, the Planning and Zoning Department shall forward a signed copy of the signed plat or ordinance to the Salt Lake County Recorder for recording. Failure of the applicant to submit any revised information or legal description that enables the ordinance to be processed as approved within three months following approval shall render the vacation void.

Table 18.15-7 Public Street and Municipal Utility Easement Vacation Meeting and Noticing Requirements

Application Procedure Steps	Requirement	Code Reference
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Pre-Application Consultation	Required	<u>MKZ 18.14.010</u>
Concept Review	Required	<u>MKZ 18.14.020</u>
Neighborhood Meeting	Required	<u>MKZ 18.14.030</u>
Planning Commission Public Hearing and Recommendation	Required	<u>MKZ 18.13.050 MKZ 18.14.090</u>
City Council Public Meeting	Required	<u>MKZ 18.13.050 MKZ 18.14.090</u>
Mailed Notice to Affected Entities	Required	<u>MKZ 18.14.060</u>
Mailed Noticing Requirement for Property Owners – Distance	Each property that is accessed by the public street or municipal utility easement.	<u>MKZ 18.13.060</u>
Mailed Noticing Requirement – Time	10 days prior to Planning Commission Public Hearing	<u>MKZ 18.13.060</u>

18.15.030 Administrative Decisions - Other Land Use Decisions

A. Conditional Use Permit

1. Purpose. The purpose of this Section is to provide standards for Conditional Use Permits, which are intended for a land use that, because of the unique characteristics or reasonably anticipated detrimental effects of the land use on Millcreek, surrounding neighbors, or adjacent land uses, require additional consideration subject to objective standards. The additional consideration allows the Planning Commission to impose reasonable conditions to mitigate reasonably anticipated detrimental effects. The intent of the conditional use is to identify reasonably anticipated detrimental effects and impose reasonable conditions on a use, including but not limited to noise, pollution, traffic, or other similar harms to the general health, safety, and welfare of Millcreek. A summary of meeting and noticing requirements for applications for Conditional Use Permits is set forth in Table 18.15-8.

2. Applicability. A Conditional Use Permit is required for those uses listed as a conditional use in the applicable zoning district regulations of this Code. A Conditional Use Permit that involves property development, redevelopment, construction, reconstruction, or alteration of a building or structure will also require a site plan approval as set forth in MKZ 18.15.030 (B).
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Pre-Application Consultation
 - b. Concept Review
 - c. Neighborhood Meeting
 - d. Application Submittal
 - e. Application Completeness Review
 - f. Application Compliance Review. As part of an application compliance review, the Planning Director may:
 - (1) Provide the application to other City departments for review and comment as may be required by this Code, as necessary for complete review of the application, or as necessary to identify and understand the potential detrimental effects of the proposed conditional use; and
 - (2) require other information or studies to address potential detrimental effects of the proposed conditional use that have been reasonably anticipated by the City during its review of the application.
 - g. Upon completion of the review, the Planning Director shall make a recommendation.
 - h. Public Notice
 - i. Formal Public Engagement. The Planning Commission shall hold a public meeting and shall be the Land Use Authority for Conditional Use Permit applications.
 - (1) The application shall be presented to the relevant Community Council(s) for a recommendation; and

The Planning Commission shall hold a public meeting and shall be the Land Use Authority for Conditional Use Permit applications.

- a. Decision and Findings
2. Approval Criteria. The Planning Commission shall consider the following criteria in reviewing all conditional use applications:
 - a. The proposed conditional use shall comply with Millcreek ordinances, Federal, and State Statutes, as applicable to the use and to the site where the conditional use will be located; and
 - b. The Land Use Authority shall approve a Conditional Use Permit if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use. Detrimental effects of the proposed use include:
 - (1) Detrimental effects of decreased street service levels and/or traffic patterns including the need for street modifications such as dedicated turn lanes, traffic control devices, safety, street widening, curb, gutter and sidewalks, location of ingress/egress, parking lot surfacing and design of off-street parking and circulation, loading docks, as well as compliance with off-street parking standards, including other reasonable mitigation as determined by a qualified traffic engineer.
 - (2) Detrimental effects on the adequacy of utility systems, water and sewer, solid waste, snow removal, service delivery, and capacities, including the need for such items as relocating, upgrading, providing additional capacity, irrigation systems, or preserving existing systems, including other reasonable mitigation as determined by Millcreek's engineering staff, contracted engineers, and utility service providers.
 - (3) Detrimental effects on connectivity and safety for pedestrians and bicyclists.
 - (4) Detrimental effects of the use due to its nature, including noise that exceeds sound levels normally found in residential areas, odors beyond what is normally considered acceptable, within a neighborhood including effects of environmental impacts, dust, fumes, smoke, odor, noise, vibrations; chemicals, toxins,

pathogens, gases, heat, light, electromagnetic disturbances, and radiation. Detrimental effects of the use may include hours of operation and the potential to create an attractive nuisance.

- (5) Detrimental effects that increase the risk of contamination of or damage to adjacent properties and injury or sickness to people arising from, but not limited to, waste disposal, fire safety, geologic hazards, soil or slope conditions, liquefaction potential, site grading/topography, storm drainage/flood control, the removal of dangerous or blighted structures, high ground water, environmental health hazards, or wetlands, as determined by the City Engineer, and/or other qualified specialists.
- (6) Detrimental effects of modifications to exterior lighting that conflict with abutting properties.
- (7) Detrimental effects arising from site design and/or building design in terms of use, scale, intensity, height, mass, setbacks, character, construction, solar access, landscaping, fencing, screening, lighting (on-site and adjacent street lighting), signs, and architectural design and exterior detailing/finishes and colors within the area.
- (8) Detrimental effects on emergency fire service and emergency vehicle access.
- (9) Detrimental effects on usable/functional/accessible open space and sensitive lands.
- (10) Detrimental effects from inadequate maintenance of the property and structures in perpetuity, including performance measures, compliance reviews, and monitoring.
- (11) Detrimental effects of excessive storm water generation.

3. Conditions of Approval. Unless otherwise specified in this Code or Utah Code Section 10-9a-507, Conditional Uses, the Planning Commission shall approve all conditional use applications with objective standards as set forth in the Land Use Code. In such cases, any conditions attached to approvals

shall be directly related to the anticipated detrimental effects of the proposed use or development. No conditions of approval shall be less restrictive than the requirements of this Code, except where the Code allows flexibility. All conditional uses are presumed to be compatible with the zone and the General Plan's intent.

4. Denial. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the Land Use Authority may deny the conditional use.
5. Submittal Requirements. Any person seeking a Conditional Use Permit shall submit a complete application, a completed Conditional Use Permit Checklist, and a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and any other relevant supporting documentation, maps, studies and any other information that would inform Staff and allow the Land Use Authority to make a decision.
6. Revocation. Upon a determination by Millcreek that there is a failure to comply with a condition of a conditional use permit, the Planning Director shall forward that determination to the Planning Commission for review at a public meeting. The Planning Commission shall consider staff's recommendation and make a recommendation to the Land Use Hearing Officer (LUHO) regarding whether a failure to comply with a condition of the conditional use permit exists. At a hearing of the LUHO, the LUHO shall determine if there is a failure to comply with a condition of the approved Conditional Use Site Plan. Should the LUHO determine that there is failure to comply with the condition(s) of the Conditional Use, the LUHO shall revoke the Conditional Use Permit.
7. Expiration. A Conditional Use Permit granted pursuant to this section shall expire within one (1) year from the date of final approval if action is not taken within that time. An applicant may apply for up to one extension by following the process as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals. For the purposes of this section, "action" means obtaining a building permit pursuant to the issuance of a conditional use permit or, if a building permit is not required, obtaining a business license pursuant to the issuance of a conditional use permit.

8. Discontinuance and Termination of Right. If a Conditional Use Permit is abandoned or discontinued for a period of twelve (12) continuous months, the Planning Director may provide notice via certified mail to the applicant and upon such notice, the Conditional Use Permit shall expire. Prior to the expiration of the Conditional Use Permit due to discontinuation, the Planning Director may approve one, six (6) month extension of the Conditional Use Permit if no changes to the site design are required. Upon expiration, the property affected shall be subject to all provisions and regulations of this Code applicable to the zoning district in which such property is classified.

9. Transferability. Conditional Use Permits shall run with the land.

Table 18.15-8 Conditional Use Permit Meeting and Noticing Requirements

Application Procedure Steps	Requirement	Code Reference
Pre-Application Consultation	Required	<u>MKZ 18.14.010</u>
Concept Review	Required	<u>MKZ 18.14.020</u>
Neighborhood Meeting	Required	<u>MKZ 18.14.030</u>
Community Council Recommendation	Required	<u>MKZ 18.13.050</u>
Planning Commission Public Meeting	Required	<u>MKZ 18.13.050</u> <u>MKZ 18.14.090</u>
Mailed Noticing Requirement for Property Owners – Distance	300 feet	<u>MKZ 18.13.060</u>
Mailed Noticing Requirement – Time	7-21 days prior to the first Community Council Meeting formal public engagement	<u>MKZ 18.13.060</u>

B. Site Plan Approval

1. Purpose. The purpose of this Section is to establish standards for Site Plan Approvals for Permitted Use approvals that are intended to ensure that development or redevelopment in Millcreek is developed in accordance with this Code. Building permits may not be obtained nor shall any site work be performed prior to site plan approval.
2. Applicability. A Site Plan Approval is required under the following circumstances:
 - a. Property development, redevelopment, construction, reconstruction, or alteration of a building or structure, except for attached or detached single or two-household dwellings that are located in a recorded subdivision and that are not in a sensitive lands area.
 - b. Review of a permitted use approval, a conditional use permit that involves property development, redevelopment, construction, reconstruction, or alteration of a building or structure, or a request for reasonable accommodation for a group home or residential facility for Persons With a Disability, subject to the standards as set forth in MKZ 18.74, Residential Facilities for Persons With a Disability.
 - c. Changes or alterations to an existing site plan or structure that does not otherwise qualify for a Minor Site Plan Amendment.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Concept Review.
 - b. Application Submittal.
 - c. Application Completeness Review.
 - d. Application Compliance Review.
 - e. Decision and Findings. The Planning Director shall be the Land Use Authority for Site Plan Approval applications for permitted uses. The Planning Commission shall be the Land Use Authority for Site Plan Approval for conditional uses.
4. Approval Criteria. Once all application submittal requirements have been met, the Planning Director shall approve the site plan if it complies with all

applicable provisions of this Code and other applicable Millcreek policies, including but not limited to:

- a. Dedication of a public right-of-way for the public street on which the property fronts.
- b. Dedication of public utility or drainage easements necessary for the development.
- c. Construction of public right-of-way improvements abutting the property or the deferral of said improvements as set forth in MKC 14.12.100.
5. Submittal Requirements. Any person seeking a Site Plan Approval for Permitted Uses shall submit a complete application, a completed Site Plan Approval for Permitted Uses Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision.
6. Expiration. A site plan approved pursuant to this section shall expire within one (1) year from the date of final approval if action is not taken within that time. An applicant may apply for no more than one extension by following the process as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals. For purposes of this subsection, "action" means obtaining a building permit.
7. Discontinuance and Termination of Right. If a site plan that is approved pursuant to this section is abandoned or discontinued for a period of six (6) continuous months the site plan shall be considered expired. Prior to the expiration of the site plan due to discontinuation, the Planning Director may approve one, six (6) month extension of the site plan if no changes to the site design are required. Upon expiration, the property affected shall be subject to all provisions and regulations of this Code, applicable to the zoning district in which such property is classified.
8. Transferability. Site plans shall run with the land.

C. Change of Use Permit.

1. Purpose. The purpose of this Section is to establish standards for Change of Use Permits, which are intended for developed property that has changed from one use to another. This permit is intended to ensure that the existing

site is adequate for the new use, and that the proposed use complies with all applicable standards. When an existing property changes from a permitted use classification established in this Title to a use classification that is established in this Title as a conditional use, the applicant shall obtain a Conditional Use Permit following the procedures as set forth in MKZ 18.15.030 (A).

2. **Applicability.** A Change of Use Permit is required when any existing property changes from one use classification established in this Title to another use classification established in this Title.
3. **Procedure.** The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Application Submittal
 - b. Application Completeness Review
 - c. Application Compliance Review
 - d. Decision and Findings. The Planning Director shall be the Land Use Authority for Change of Use applications.
4. **Approval Criteria.** The Planning Director shall approve the site plan if it complies with all applicable provisions of this Code and other applicable Millcreek policies, including the following:
 - a. The new use is permitted in the governing zoning district; and
 - b. The new use complies with all applicable development standards, including but not limited to landscaping standards, parking and mobility standards, minimum driveway and roadway widths, and any dedication or public improvement requirements.
5. **Submittal Requirements.** Any person seeking a Change of Use Permit shall submit a complete application, a completed Change of Use Permit Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision.

D. Minor Site Plan Amendment

1. Purpose. The purpose of this Section is to establish standards and a streamlined review process for Minor Site Plan Amendments, which allow for minor changes to approved site plans for conditional and permitted uses.
2. Applicability. An applicant who has obtained a site plan that has been previously approved may apply for a Minor Site Plan Amendment approval for minor changes to the site plan, subject to the approval criteria as set forth in this section.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Application Submittal.
 - b. Application Completeness Review.
 - c. Application Compliance Review.
 - d. Decision and Findings. The Planning Director shall be the Land Use Authority for Minor Site Plan Amendment applications.
4. Approval Criteria. The Planning Director shall approve the site plan if it complies with all applicable provisions of this Code and other applicable Millcreek policies, including the following:
 - a. The proposed change does not significantly alter the site plan's approved access, circulation, or layout.
 - b. The proposed changes do not increase the number of residential units.
 - c. The proposed change does not expand the floor area of a building, structure, or oval site by more than ten percent (10%).
 - d. The proposed change complies with all applicable requirements of the Code and other relevant Millcreek and State regulations.
 - e. The proposed change does not affect any required mitigations or violate any conditions of approval for a Conditional Use Permit.
 - f. The amended site plan complies with all applicable development standards, including but not limited to landscaping standards, parking and mobility standards, minimum driveway and roadway widths, and any dedication or public improvement requirements.

5. Submittal Requirements. Any person seeking a Minor Site Plan Amendment shall submit a complete application, a completed Minor Site Plan Amendment Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision.
6. Expiration. A site plan that is approved pursuant to this section shall expire within one (1) year from the date of final approval if action is not taken within that time. An applicant may apply for up to one extension by following the process as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals. For purposes of this subsection, "action" means obtaining a building permit.
7. Discontinuance and Termination of Right. If a site plan that is approved pursuant to this section is abandoned or discontinued for a period of six (6) continuous months the site plan shall be considered expired. Prior to the expiration of the site plan due to discontinuation, the Planning Director may approve one six (6) month extension of the site plan if no changes to the site design are required. Upon expiration, the property affected shall be subject to all provisions and regulations of this Code, applicable to the zoning district in which such property is classified.
8. Transferability. Site plans shall run with the land.

E. Compliance Determination for an Accessory Dwelling Unit.

1. Purpose. The purpose of this Section is to establish standards and a streamlined review process for a Compliance Determination for an Accessory Dwelling Unit, which allows a property owner to determine if an accessory dwelling unit complies with applicable standards.
2. Applicability. A property owner of a single-household dwelling with an existing Accessory Dwelling Unit on the property may apply for a Compliance Determination for an Accessory Dwelling Unit.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Application Submittal.
 - b. Application Completeness Review.

- c. Application Compliance Review.
- d. Decision and Findings. The Planning Director shall be the Land Use Authority for Compliance Determination for Accessory Dwelling Unit applications.

4. Approval Criteria. The Planning Director shall issue a Compliance Determination if the Accessory Dwelling Unit complies with all applicable provisions of this Code, particularly MKZ 18.71, Accessory Dwelling Unit Standards, and other applicable Millcreek policies, including the following:

- a. The Accessory Dwelling Unit is on a residential property that contains a single-household dwelling.
- b. The Accessory Dwelling Unit is on a residential property that is owner-occupied.

5. Submittal Requirements. Any person seeking a Compliance Determination for an Accessory Dwelling Unit shall submit a complete application, a completed Compliance Determination for an Accessory Dwelling Unit Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, proof of owner occupancy, any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision, and proof of owner occupancy in the form of a document from at least two of the following categories that show the applicant's name and the address of the property for which a Compliance Determination for an Accessory Dwelling Unit is being applied.

- a. Utility bill, dated within the last sixty (60) days;
- b. Correspondence from any government agency that shows the home address, dated within the last sixty (60) days;
- c. A voter registration card dated within the last calendar year;
- d. A social security statement, dated within the last sixty (60) days;
- e. A bank statement dated within the last sixty (60) days;
- f. Automobile registration documentation dated within the last calendar year;
- g. Income tax forms dated from the most recent tax filing period;

- h. Insurance documentation or insurance bill dated within the last calendar year that shows home address;
- i. Current active business license or permit issued by Millcreek or a state or federal agency that shows home address;
- j. College or school correspondence that shows home address, dated within the last sixty (60) days;
- k. W-2 from the most recent tax filing period;
- l. Official payroll documentation that includes home address issued by an employer within the last sixty (60) days, such as a pay stub with home address, a form submitted for tax withholding purposes, or a payroll receipt;

6. Discontinuance and Termination of Right. If a Compliance Determination for an Accessory Dwelling Unit is issued pursuant to this section is abandoned or discontinued for a period of six (6) continuous months, or if the single-household dwelling ceases to be owner-occupied, the compliance review shall be considered expired. Prior to the expiration of the Compliance Determination for an Accessory Dwelling Unit due to discontinuation, the Planning Director may approve one, six (6) month extension of the Determination if no changes to the application are required. Upon expiration, the property affected shall be subject to all provisions and regulations of this Code applicable to the zoning district in which such property is classified.

7. Transferability. Compliance Determinations for an Accessory Dwelling Unit run with the land, provided that the single-household dwelling is owner-occupied.

F. Reasonable Accommodation Determination for Residential Facilities for Persons With a Disability

1. Purpose. The purpose of this Section is to establish standards for applications for a Reasonable Accommodation Determination for Residential Facilities for Persons With a Disability in a manner that balances local zoning considerations with state and federal mandates requiring a reasonable accommodation for disabled persons living together in a group housing arrangement in a residential neighborhood.
2. Applicability. Any person or entity seeking a reasonable accommodation to exceed the residential occupancy limits established in any zone for a

residential facility for Persons With a Disability shall apply for a Reasonable Accommodation Determination for Residential Facilities for Persons With a Disability. Applicants have the burden of providing sufficient evidence that the requested accommodation is necessary to allow disabled individuals reasonable, non-discriminatory, federally mandated housing opportunities in the relevant zone.

3. Procedure. An application for a Reasonable Accommodation Determination for Residential Facilities for Persons With a Disability shall follow the procedure for a Site Plan Approval for Permitted Uses as set forth in this chapter.
4. Approval Criteria. The Planning Director shall consider the following in making a Reasonable Accommodation Determination for a Residential Facility For Persons With a Disability:
 - a. The facility meets or will meet all program, physical facility, and licensure requirements of the Utah Department of Health and Human Services.
 - b. Except as otherwise provided in this chapter, buildings and uses shall meet all applicable City development standards, licensing, and zoning requirements.
 - c. The facility shall not house persons who are involuntarily residing there or who are residing there as part of or in lieu of confinement, rehabilitation, or treatment in a correctional facility.
 - d. The applicant provides sufficient evidence that the requested accommodation is necessary to provide disabled individuals with reasonable, non-discriminatory, federally mandated housing opportunities in the relevant zone. Evidence may include information about the facility's history, management, financial feasibility, and therapeutic benefits, and applicable law.
 - e. The zoning ordinance applicable to the property.
 - f. The anticipated parking, traffic, and noise impact on the neighborhood if the reasonable accommodation is granted.
 - g. Whether or not the accommodation will be an undue burden or expense to the City.

- h. The extent to which the accommodation will or will not benefit the applicant.
- i. The extent to which the accommodation will or will not benefit the community.
- j. Whether or not the accommodation fundamentally alters the Citywide zoning ordinance and whether or not the accommodation would likely create a fundamental change in the character of a residential neighborhood.
- k. Whether or not the applicant has demonstrated that the accommodation will affirmatively enhance the applicant's life or ameliorate the effects of the applicant's disability, or the lives or disabilities of those on whose behalf the applicant is applying.
- l. Whether or not, without the accommodation, similar housing is available in the City for the applicant or group of applicants.
- m. The anticipated impact of the requested accommodation on the immediate neighborhood.
- n. The requirements of applicable federal and state laws and regulations.

5. Submittal Requirements. Any person seeking a Reasonable Accommodation Determination For A Residential Facility For Persons With a Disability shall submit a complete application, a completed Site Plan Approval for Permitted Uses Checklist, a completed Reasonable Accommodation Determination Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, and the following additional information:

- a. The specific regulation, policy, or procedure from which an accommodation is sought and/or for which deviation or waiver is requested.
- b. A document that provides a detailed explanation of why the requested accommodation is warranted under federal and/or state law, including how the person(s) is disabled under the Americans with Disabilities Act or the Fair Housing Act.
- c. An analysis based on evidence, legal authorities, and other information showing that the accommodation is reasonable and

necessary to afford the disabled person(s) an equal opportunity to use and enjoy the residential dwelling.

- d. The number of residents and employees who will have vehicles on the property and a site plan showing where the vehicles will be parked.
- e. Whether the owner/operator of the Residential Facility For Persons With a Disability or applicant has other facilities for the disabled and, if so, a description and copy of any complaints from neighbors, incident reports from a local police department, or investigations, citations, notices of violations(s) or complaints received from any federal, state, or local agencies, etc. relating to licensure , parking, traffic, a direct threat to the health or safety of other persons, or substantial physical damage to the property of others.
- f. An accurate description of the type of program(s), treatment(s), therapies, and/or services that will be provided to the residents of the Residential Facility For Persons With a Disability, and the clinical rationale for such program(s), treatment(s), therapies, and/or services.
- g. The category of state licensure that the Residential Facility for Persons With a Disability will have.
- h. An accurate summary and/or description of the admissions criteria and operational protocols for the Residential Facility for Persons With a Disability.

6. Expiration. A Reasonable Accommodation Determination for a Residential Facility for Persons With a Disability that is issued pursuant to this section shall expire within one (1) year from the date of final approval if action is not taken within that time. An applicant may apply for no more than one extension by following the process as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals. For purposes of this subsection, "action" means obtaining the required state licensure and a Millcreek business license.
7. Transferability. Reasonable Accommodation Determinations for Residential Facility are nontransferable. A new Reasonable Accommodation Determination is required if any ownership changes, changes occur in the maximum occupancy, changes occur in the licensing or disability classification under state or federal law, or the facility remodels or expands.

8. **Termination.** A use permitted by this shall be subject to revocation by the appropriate land use or licensing authority if:
 - a. The facility is devoted to a use other than a residential facility for Persons With a Disability;
 - b. The facility exceeds the maximum number of residents specified and approved in the Reasonable Accommodation Determination, or changes the disability classification under state or federal law, or remodels or expands without first applying for and receiving an additional Reasonable Accommodation Determination;
 - c. The facility is not licensed by the Utah Department of Health and Human Services, or if a license is revoked; or
 - d. An appropriate authority has determined that residents of the facility have engaged in a pattern of criminal acts of nuisance, theft, or violence in the adjoining neighborhood.

G. Eligible Facility Request (EFR) for a Wireless Telecommunications Facility.

1. **Purpose.** The purpose of this section is to establish standards for eligible facility requests (EFR) for wireless telecommunications facilities to ensure that such requests are in conformance with federal law with Millcreek's requirements for wireless telecommunications facilities.
2. **Applicability.** An EFR is required for any modification of an existing wireless telecommunications facility that does not substantially change the physical dimensions of a tower or base station.
3. **Procedure.** The following application steps, as set forth in [MKZ 18.14, Land Use Application Steps](#), are required.
 - a. Application Submittal.
 - b. Application Completeness Review. The City shall comply with all applicable shot clocks when reviewing an EFR application.
 - c. Application Compliance Review.
 - d. Decision and Findings. The Planning Director shall be the Land Use Authority for EFRs.

4. Approval Criteria. The Planning Director shall approve the EFR if it complies with all applicable provisions of this Code and federal law, including the following:
 - a. The proposed EFR complies with standards as set forth in MKZ 18.75.100.
 - b. The proposed EFR does not result in a substantial change to the physical dimensions of an eligible support structure.
5. Submittal Requirements. Any person seeking an EFR shall submit a complete application, a completed Eligibility Facilities Request Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision.

H. Sign Permit

1. Purpose. The purpose of this Section is to establish standards for Sign Permits, to ensure that that signage in Millcreek is in conformance with Millcreek's adopted signage requirements found within this Code.
2. Applicability. No person shall erect, alter, relocate, or modify any sign without first obtaining a sign permit, if required, and a building permit, if required, for such work unless no permit is required as set forth in MKZ 18.65, Signs.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Application Submittal.
 - b. Application Completeness Review.
 - c. Application Compliance Review.
 - d. Decision and Findings. The Planning Director shall be the Land Use Authority for Sign Permit applications.
4. Approval Criteria. The Planning Director shall approve the request if the proposed signage complies with the requirements as set forth in MKZ 18.65, Signs, and all other applicable Millcreek, State, and Federal statutes.

5. Submittal Requirements. Any person seeking a Sign Permit shall submit a complete application, a completed Sign Permit Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision.
6. Expiration. A sign permit that is approved pursuant to this section shall expire within one (1) year from the date of final approval if action is not taken within that time. An applicant may apply for up to one extension by following the process as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals. For purposes of this subsection, "action" means obtaining a building permit, if a building permit is required.
7. Transferability. Sign permits shall run with the land.

I. Temporary Use Permit

1. Purpose. The purpose of this section is to establish standards for Temporary Use Permits, which are intended to ensure that temporary uses within Millcreek are in conformance with all applicable Millcreek requirements found within this Code.
2. Applicability. A Temporary Use Permit is required when a temporary use as set forth in MKZ 18.58, Temporary Uses and Structures, is intended to be placed on a property in Millcreek.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Application Submittal.
 - b. Application Completeness Review.
 - c. Application Compliance Review.
 - d. Decision and Findings. The Planning Director shall be the Land Use Authority for Temporary Use applications.
4. Approval Criteria. The Planning Director shall approve the request if the proposed temporary use complies with the requirements of the zoning district in which the use is located, the requirements as set forth in MKZ 18.58, Temporary Uses and Structures, and all other applicable Millcreek, State, and Federal statutes.

5. Submittal Requirements. Any person seeking a Temporary Use Permit shall submit a complete application, a completed Temporary Use Permit Checklist, a fee as set forth in MKZ 18.13.040, Submittal Requirements in General, any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision.
6. Expiration. A Temporary Use Permit that is approved pursuant to this section shall expire within one (1) year from the date of final approval if action is not taken within that time. An applicant may apply for up to one extension by following the process as set forth in MKZ 18.12.030, Expirations and Extensions of Land Use Approvals.

J. Classification Request

1. Purpose. The purpose of this Section is to establish standards for Classification Requests to determine whether a proposed land use aligns with an existing land use specified in this Code in a manner compliant with state statute.
2. Applicability. An applicant may formally request a Classification Request. Classification Requests are limited to those land uses for which a Millcreek business license is required.
3. Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required.
 - a. Pre-application Consultation.
 - b. Application Submittal.
 - c. Application Completeness Review.
 - d. Application Compliance Review.
 - e. Decision and Findings.
 - (1) The Planning Director shall be the Land Use Authority for Classification Requests.
 - (2) The City Council shall be the Land Use Authority for Reviews of Classification Requests.
4. Approval Criteria. The Planning Director shall find that a proposed land use aligns with an existing land use specified in this Code, if the proposed land

use complies with all applicable provisions of this Code and other applicable Millcreek policies, including the following:

- a. The applicant provided sufficient evidence demonstrating that the proposed land use complies with the zone district's development standards, including but not limited to parking and vehicular access requirements, inventory storage, lighting, noise, and landscaping.
- b. The proposed land use is substantially similar to the uses allowed in that district and is more comparable to such uses than those uses allowed in a less restrictive district.
- c. If the proposed use is most similar to a conditional use authorized in the zone district in which it is proposed to be located, any Classification Request Determination for such use shall require that it may be approved only as a conditional use.
- d. The proposed use is consistent with the purpose statement of the underlying zoning district.
- e. The proposed land use requires a Millcreek business license.

5. **Submittal Requirements.** Any person seeking a Classification Request shall submit a complete application, a completed Classification Request Checklist, a fee as set forth in [MKZ 18.13.040, Submittal Requirements in General](#), any other relevant supporting documentation, maps, studies, and any other information that would inform Staff and allow the Land Use Authority to make a decision. As part of an application for a Classification Request, the Planning Director may require the submittal studies or plans following the procedure as set forth in [MKZ 18.69, Required Studies and Plans](#).
6. **City Council Review of a Classification Request Determination.** If the Planning Director determines that the proposed land use is new and unlisted, the applicant may submit an application to the City Council to review the Planning Director's determination, by following the procedure and paying a fee as set forth in [MKZ 18.15.010 \(B\)](#). An application for City Council Review of a Classification Request must be submitted within ten (10) business days of issuing a written Classification Request Determination from the Planning Director.

- a. The City Council shall schedule a public meeting to review the classification request within 60 days of filing a complete application for a City Council Review of a Classification Request Determination.
- b. The City Council shall apply the approval criteria for Classification Requests as set forth in MKZ 18.15.030 (J)(4).
- c. If the City Council approves the Classification Request, it shall designate an appropriate zone or zones for the proposed use and determine whether it is a conditional use or a permitted use.
- d. The Planning Director shall notify the applicant in writing of the City Council's determination, and the reasons for their determination.

7. Appeal. An Appeal of the City Council's determination shall follow the process as set forth in MKZ 18.04, Appeals.

18.45.030 Neighborhood Contact And Outreach

- A. Purpose. Institutions are encouraged to be active and invested in the nearby community. This section is intended to promote ongoing communication between campus institutions and other uses and to provide courtesy notices of large construction projects that may impact abutting properties.
- B. Any development, modification, addition, alteration to any use on a property located in the IF zone or intended to be rezoned to the IF zone that exceeds 10,000 square feet in gross square footage or exceeds 30 feet in height require a mailed notice, shall adhere to the following noticing requirements: Notice shall be mailed at least fourteen days prior to submitting for a permit or application to Millcreek, including building permit, to property owners within 300 feet of the campus perimeter.
 - 1.—Notice shall be mailed at least fourteen days prior to submitting for a permit or application to Millcreek, including building permit, to property owners within 300 feet of the campus perimeter.
 - 2.—Notice shall be given electronically at least fourteen days prior to submitting a land use application to Millcreek, including building permit, to the Chair for the Community Council in which the subject campus is located.
- C. The notice shall at a minimum consist of general timeline of construction, scope of work, anything in the construction that may interrupt regular flow of traffic or that

takes place in a public right-of-way and contact information of the project manager or a designee that can answer questions or address concerns.

D. Exemption. If the scope of the project has already met the requirements of MKZ 18.14.090 as part of a land use review process, it is exempt from the neighborhood contact requirements.

18.48.050 Pre-Application Process

A. Pre-Application Consultation. Prior to submitting a complete application, an applicant shall hold a pre-application consultation with representatives of the City.

B. Neighborhood Meeting. At least one week prior to submitting a complete application, an applicant shall conduct a neighborhood meeting in accordance with MKZ 18.14.030.

C. Community Council Meeting. Prior to submitting a complete application and after conducting a neighborhood meeting, an applicant shall schedule with the applicable Community Council a meeting to discuss the proposed application and plans.

C. Joint Work Session of the Planning Commission and City Council. Prior to submitting a complete application and after conducting a neighborhood **and community council** meeting, an applicant shall schedule with the City a joint work session of the Planning Commission and City Council. The purpose of the joint work session will be to discuss the proposed project and potential Development Agreement in conceptual detail. **A Joint Work Session of the Planning Commission and City Council must be held prior to the first noticed Community Council meeting held on the application.**

18.49.040 Pre-Application Process

A. Pre-Application Consultation. Prior to submitting a complete application, an applicant shall hold a pre-application consultation with representatives of the City.

B. Neighborhood Meeting. At least one week prior to submitting a complete application, an applicant shall conduct a neighborhood meeting in accordance with MKZ 18.14.030.

C. Community Council Meeting. Prior to submitting a complete application and after conducting a neighborhood meeting, an applicant shall schedule with the applicable Community Council a meeting to discuss the proposed application and plans.

C. Joint Work Session of the Planning Commission and City Council. Prior to submitting a complete application and after conducting a neighborhood **and community council** meeting, an applicant shall schedule with the City a joint work session of the Planning Commission and City Council. The purpose of the joint work session will be to discuss the proposed project and potential Development Agreement in conceptual detail. **A Joint Work Session of the Planning Commission and City Council must be held prior to the first noticed Community Council meeting held on the application.**

18.65.170 Off-Premises Signs; Billboards

- A. Purpose. In keeping with the goals of the Millcreek General Plan to promote signs that are responsive to neighborhood character, and to improve the aesthetics of major streetscapes, the purpose of the billboard ordinance is to provide reasonable regulation of billboards in order to reduce the heights and area of future billboards, mitigate negative impacts, promote safety, protect property values, and reduce impediments for economic development and redevelopment. It is Millcreek's policy to reduce the number and combined square footage of billboards where feasible.
- B. Cap on Area of Billboards. The combined square footage of all billboards allowed in the City shall be limited to the combined square footage of billboards that existed as defined herein as of December 27, 2013, within the boundaries of the City as it was incorporated and on December 28, 2016. This cap shall automatically decrease as billboards are annexed into a municipal jurisdiction or removed and not relocated.
- C. Billboards are only allowed in the C and M zones as a permitted use, subject to the additional restrictions established in this chapter.
- D. Location. Billboards shall not be allowed in those locations listed in Subsection F, below, notwithstanding the underlying zone.
- E. Size. Billboards shall not exceed 300 square feet, except as provided below:
 1. Signs that are intended to be viewed from an Interstate freeway travel lane shall not exceed 672 square feet.
 2. Signs oriented for viewing along State Street and located within 20 feet of the State Street right-of-way shall not exceed 672 square feet.
- F. Prohibited Locations. Billboards, notwithstanding the underlying zone, shall not be permitted anywhere within 100 feet of the Main Street right-of-way, east of Interstate

215, or within 500 feet of the following intersections, as measured as a radius from the nearest property line to the intersection right-of-way line:

1. 2000 East and 3300 South
2. 1100 East and 3900 South
3. 1300 East and 3900 South
4. 2300 East and 3900 South
5. 2300 East and Claybourne Avenue
6. Murray-Holladay Road and Highland Drive

G. Height. The maximum height of a billboard shall be 32 feet above the grade level of the road, except as provided below:

1. Signs that are oriented for viewing on an Interstate freeway travel lane may have a maximum height of 50 feet, but in no event shall be greater than 25 feet above freeway grade level.
2. In the event that a billboard cannot be viewed from any residential zone, it may exceed 32 feet in height, up to a maximum height of 40 feet. In order to achieve the additional height, the billboard owner must certify as part of a building permit that the billboard meets the following requirements:
 - a. The billboard is not visible from a ground-level vantage point on any property in a residential zone within 150 feet of the Residential Zone Boundary, and
 - b. The billboard must be situated on the same side of the street and within 50 feet of an existing building or buildings and have no greater height than the immediately adjacent building(s).

H. Separation. The minimum distance between all billboards on the same side of the street shall be 500 lineal feet as measured along the same side of the street including intersections. All billboards must be at least 250 radial feet from any other billboard located on the opposite side of the street from where a new sign is to be located.

I. Setbacks.

1. Setbacks from Rights-of-Way. The minimum setback shall be 5 feet to the leading edge of a billboard, including all structural and service support

elements. The billboard's front-yard setback shall be measured from the future right-of-way line as indicated on the Transportation Master Plan. The closest edge of a billboard shall not project into any required setback area.

2. Setbacks from property line. The minimum setback from any property line shall be five feet to the leading edge of the billboard, including all structural and service support elements.
3. Setbacks from on-premise pole signs. The minimum setback between a billboard and any on-premise pole sign shall be 100 feet.
4. Setbacks from A, R-1, R-2, R-4, and RM Zones. The minimum setback between a billboard and any Residential Zone Boundary shall be one hundred fifty feet. The minimum setback of a billboard may be reduced to 100 feet if the billboard owner certifies as part of a building permit that no portion of the proposed billboard is visible from any ground level vantage point on a property in an A, R-1, R-2, R-4, or RM zone that is within 150 feet of the proposed sign, as measured from the zone boundary line.

J. Lighting. The use of uplighting is prohibited. All lights shall direct their light downward and shall be shielded so that the lighting is confined to the sign face and the lighting source is not directly visible from any ground-level vantage point.

K. Design. Billboards shall utilize either the "mono-pole" or the "bi-pole" design and shall be continually maintained structurally and on the sign face. The back of any single-faced billboard and the structure behind the sign shall be painted a dark color. The billboard owner shall make a good faith effort to design the billboard so as to reduce and minimize the visual bulk and mass of the pole and other structural elements of the billboard. Internally illuminated billboards, electronic display, digital display, LED display, video display billboards and electronic message centers are only allowed immediately adjacent to the Interstate 15 and shall be limited to no more than one change to the copy face in a twenty-four- hour period. Two-decked billboards are prohibited in all zones.

L. Maintenance. All billboards, including the entirety of the sign area and all structural supports, shall be continuously maintained by the billboard company. Any area under the sign and all structural supports shall be continuously maintained and kept free of all animal droppings or other environmental and safety hazards by the billboard owner or the lessor of the land.

M. Relocation of Billboards to Accommodate Redevelopment. In order to accommodate the redevelopment of sites within a community reinvestment area, or

any site in the City that is at least one acre in size, the City may allow the following deviations from the standards in this chapter:

1. The minimum separation distance between billboards may be reduced to 400 lineal feet as measured along the same side of the street including intersections and may be reduced to 150 radial feet from any other billboard.
2. The maximum height of a billboard may be increased to 40 feet in height, subject to the standards established above.

N. Credits for Removal.

1. Prior to the removal of any billboard, the owner shall obtain a permit for the demolition of the billboard. Permits may be provided following application to the City. After any billboard is removed, the City shall create a "billboard bank account" for the sign owner.
2. The account shall solely reflect credits for the billboard advertising space square footage as well as the date of removal, and the street address from which the billboard was removed. Any billboard credits not used within thirty-six months of their creation shall expire and be of no further value or use.
3. A billboard owner may sell or otherwise transfer billboards and/or billboard bank account credits.
4. The transfer of any billboard bank account credits does not extend their thirty-six-month life as provided in this section. Removal of a billboard that has two in-use advertising faces shall receive billboard bank account credits for the square footage of each sign face.
5. Credits may not be used to enlarge any non-conforming billboard or conforming billboard, other than those billboards located immediately adjacent to the Interstate 15 freeway, along State Street, or within 20 feet of the State Street right-of-way.

O. Relocation.

1. The owner of an existing billboard may remove an existing billboard from any site to an approved location only after a permit for relocation is obtained upon substantiation of compliance with this chapter.
2. Prior to approval of a permit for relocation, the billboard owner (applicant) shall submit to the City a complete copy of the completed and signed lease agreement or other document to be signed by the property owner, indicating

at a minimum the duration of the lease Additionally, prior to approval of a permit for relocation, the City shall by letter inform **the affected community council chair and** Planning Commission chair that application for a billboard permit has been received.

3. If a sign is to be relocated within 600 feet of a community district boundary, the City shall inform the affected community council chairs of each community district.

- 3.** Billboards moved to approved locations shall conform to all billboard requirements of the new location.
- 4.** Billboards moved from one location to another must be installed in the new approved location within the period allotted by the International Building Code (IBC).
- 5.** A new billboard permit shall only be issued if the applicant has billboard bank account credits of a sufficient number of advertising face square feet for the billboard to be constructed.
- 6.** When the permit for construction of a new billboard is issued, the City shall deduct from the sign owner's billboard bank account the advertising face square footage used for the new billboard.
- 7.** If the new billboard uses less than the entire available square footage credits, any remaining square footage credits shall remain in the sign owner's billboard bank account.

P. Notice Required for Billboards Relocated Subject to State Statute.

- 1.** If the City receives written notice, electronic or otherwise, from a billboard owner to invoke intent, rights or benefits of any kind under Section 2(a) of UCA 10-9a-513 or under any other or future State Statute that applies in any manner to billboards or outdoor advertising, the City shall provide written notice of such request or intent to all property owners of record located within 500 feet of the property to which the sign is to be relocated or erected.
- 2.** Property owner notices shall be sent via first class mail within one week of receipt of notice from the billboard owner, and a copy of the notice shall be sent to the billboard owner.

- Q. Business Licenses Required for Billboards. Each billboard operator shall obtain a business license and paying the required fee as established in the Millcreek fee schedule.
- R. Severability and Conflict. This section and its various parts are hereby declared to be severable if a court of competent jurisdiction declares any subsection, clause, provision, or portion of this section invalid or unconstitutional. No court decision will affect the validity of either this section as a whole or any parts not declared invalid or unconstitutional by that decision. If any part of this section is found to be in conflict with any other provision of the City, the most restrictive or highest standard will apply, prevail, and govern.



SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

UTAH DEPARTMENT OF COMMERCE

Office of the Property Rights Ombudsman

MARGARET W. BUSSE
Executive Director

JORDAN S. CULLIMORE
Division Director, Office of the Property Rights Ombudsman

August 14, 2024

Mr. John Brems
Millcreek City
1330 E Chambers Ave.
Millcreek, UT 84106
[**via email**](#)

RE: Millcreek Community Councils and the Utah Open and Public Meetings Act

Mr. Brems,

You asked me to provide an informal opinion on the question of whether Millcreek community councils, created in Millcreek Municipal Code (MMC) Chapter 2.56, are subject to the requirements of the Utah Open and Public Meetings Act (OPMA), Utah Code Chapter 52-4.

It is my opinion that the councils are subject to OPMA because a community council is a “public body,” as defined in OPMA. OPMA’s definition of a public body includes, in relevant part, any advisory body of a municipality that is created by local ordinance, consists of two or more individuals, and is supported in whole or in part by tax revenue, that is vested with authority to “make decisions regarding the public’s business.” See Utah Code § 52-4-103(7)(a).

A community council meets the definition. The councils are created by local ordinance, as indicated above. Additionally, they consist of more than one person,¹ and they are supported by the city. See MMC 2.56.110 & 111. Finally, the councils, by ordinance, are tasked with making decisions regarding the public’s business in several ways, including the following:

1. Community councils develop priorities regarding municipal services and facilities in the district. These priorities are annually communicated to the City Council for use in policy development and the budget process. MMC § 2.56.090.

¹ “The citizens of each community council district shall have the opportunity to create a community council consisting of *members* elected pursuant to...” MMC § 2.56.050(A) (emphasis added).

2. The councils are encouraged, by ordinance, to make written recommendations to the community development department concerning applications the city receives. See MMC § 2.56.100.

Each of these functions involves an advisory role in the public decision-making process. Accordingly, it is my opinion that community councils are properly categorized as “public bodies” under the Utah Open and Public Meetings Act and are subject to OPMA rules governing public bodies and the meetings those bodies conduct.

Sincerely,

A handwritten signature in blue ink that reads "Jordan S. Cullimore".

Jordan Cullimore
Lead Attorney
Office of the Property Rights Ombudsman

Millcreek City Council

Cheri Jackson, Mayor
Silvia Catten, District 1
Thom DeSirant, District 2
Nicole Handy, District 3
Bev Uipi, District 4



Millcreek City Hall

1330 East Chambers Avenue
Millcreek, Utah 84106
801-214-2700
millcreekut.gov

December 16, 2025

Dear Community Council Chairs,

As you know, the State Ombudsman has issued an opinion on the quasi-governmental nature of our current community council setup, finding it not compliant with state open-meeting laws. City staff has spent several months researching what changes need to be made and how we should proceed to become compliant with the law. As such, beginning January 1, 2026, the following outlines the new relationship between the City and the community councils:

- The Community Council section of the City code (Chapter 2.56) will be repealed no later than February 9, 2026 to sever the formal relationship between the City and the Community Councils. Additional noticing provisions related to community councils that are found in the City's zoning ordinance will be repealed in February.
- The Community Councils remain valued organizations in our community and will be allowed to use City property for their meetings at no charge. Community Councils using City rooms are required to abide by all of the regular room rental requirements, including respecting opening and closing times.
- The Community Councils may still request annual financial support for their activities, including a Utah Code section 10-8-2 Study and Council consideration and approval (similar to what they have in the past).
- The City plans to share information about where and when Community Council meetings will be held as part of our new "Community Calendar" sections of our newsletters and website. While the City will no longer host the website for the respective Community Councils, we can still link to your independent website or social media platforms from our City website.
- The Mayor and City Councilmembers are still available, upon request from Community Councils, to provide updates and reports and to meet individually or collectively with Community Council members to hear their ideas or concerns.

- As a courtesy, the City Planning Director will still notify Community Councils of potential developments occurring in their respective areas and will provide the same written report and packet to them that the Planning Commission will receive. If there are specific projects that the Community Council would like further information on, they can work through the Planning Director to have questions answered, and be introduced to applicants who may be invited to Community Council meetings for further discussion. In situations where the Planning Director determines it appropriate, and at the request of the Community Council, the Planning Director will schedule time with the community councils to discuss applications and other initiatives.
- The City continues to welcome and value feedback from Community Councils, whether it concerns planning and zoning issues, specific requests for public works improvements in their area, or other City issues. This feedback can be shared with the City through letters submitted to the Planning Commission or City Council as part of the public record, Community Council members speaking at public comment in Planning Commission or City Council meetings, or through the City's online "Report a Concern" portal. And as always, you are welcome to call or email me or any of the City Councilmembers.

Thank you for the good work and the many thankless hours you and your council members contribute to our City. Community councils are a valued tradition in Millcreek, and although we must make this change to comply with the law, we remain committed to public engagement and open dialogue with our residents—an area in which community councils play a vital role. We appreciate the service you provide to our neighborhood and hope that this structural change will not diminish your efforts or commitment. We look forward to our continued association, albeit in a less formalized, more legal way.

All the best,

A handwritten signature in blue ink that reads "Cheri Jackson".

Cheri Jackson, Mayor



January 13, 2026

To: Millcreek Planning Commission
Millcreek Planning and Zoning

Subject: ZT-25-005 Application by Millcreek to Repeal Community Council Provisions in Title 18 of the Millcreek Code

With the repeal by the City Council of Chapter 2.56 of the Millcreek Code, the impending result of this application is a foregone conclusion. Accordingly, the point of any recommendation would be entirely moot. Therefore, the East Mill Creek Community Council (EMCCC) provides none.

We plan to continue to provide planning recommendations going forward in such manner as are warranted and as long as are informally solicited by the City.

Sincerely,

/s/

Jamie Allyn
Vice Chair | Land Use EMCCC

CC: Francis Lilly
EMCCC



**Minutes of the
Millcreek Planning Commission
December 17, 2025
5:00 p.m.
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, December 17, 2025, 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
Victoria Reid, Vice Chair
Steven Anderson (left at 6:50pm)
Christian Larsen
Nils Per Lofgren
Jacob Richardson
Diane Soule
Ian Wright

City Staff

Elyse Sullivan, City Recorder
Francis Lilly, Planning & Zoning Director
Zack Wendel, Planner
John Brems, City Attorney
Sean Murray, Planner

Attendees: Scott Cameron, Jeremiah Clark, Jenny Burgess, Craig Cook, Ms. Cook, Chad Jones, Rod Fulkerson

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED – 5:02 p.m.

Chair LaMar called the meeting to order and briefly explained the duties of the planning commission.

1. Commission Business

1.1 Consideration of ZM-25-006, Request to Remove a Zoning Condition in the RM Zone Limiting Age of Residents at a Facility Location: 777 E 3900 S Applicant: Preston Reading, on Behalf of Pacifica Companies Planner: Zack Wendel

Zack Wendel clarified that the application is not a rezone of the base zoning, which will remain Residential Mixed (RM), but a request to remove a zoning condition imposed in 1995 when the property was initially developed as a residential healthcare facility. That condition required all residents to be 62 years of age or older. The applicant, representing the property owner, seeks to convert the facility from an assisted living use to a 55-plus senior living use, which necessitates removal of the age restriction and triggers different parking requirements under current Millcreek code. While the original facility was approved for 75 units with 35 parking spaces on the final 1995 site plan (despite only 19 being required at the time), the current proposal reduces the unit count to 70, requiring 35 parking spaces at a ratio of 0.5 spaces per unit. The site presently contains only 32 spaces, and the applicant proposes restriping the existing lot to meet the minimum requirement; however, staff and emergency

services have documented significant overflow parking onto 775 East, a narrow residential street, creating access and safety concerns, particularly for emergency vehicles. Neighborhood residents and Unified Fire Authority have raised repeated concerns, and the Millcreek Community Council unanimously recommended against removing the zoning condition due to the inadequate parking plan. Although the zoning condition removal would support the city's general plan goal of expanding moderate-income senior housing and would not alter the future land use map, staff finds the proposed parking solution insufficient and recommends, if approval is granted, that at least 38 on-site parking spaces be provided and that the applicant coordinate with Public Works and the Unified Fire Authority to implement no-parking zones and signage along the frontage. Staff also outlined alternative options for City Council consideration, including denying the request, reducing the unit count to align with existing parking, prohibiting the sale of parking permits separately, or modifying the zoning condition to limit the property's use exclusively to 55+ housing.

Commissioner Soule asked about the bedroom count of the units. Wendel said there are one and two bedroom units, but he did not know the count. Commissioner Soule asked about the percentage of people who do not have cars. She argued about the driving difference between an assisted living facility and 55+ facility. Lilly said that was a reasonable finding that people in an assisted living facility would drive less than those in a 55+ facility. Commissioner Reid observed empty parking spaces onsite and wondered why people were not parking there. She wondered if other nonresidents were parking on the street. Wendel said the assumed empty spaces are for working residents as all parking permits for the facility had been issued. He acknowledged painting one side of the street with a red curb to allow for first response apparatus to be able to navigate the street and facility parking lot. Commissioner Richardson asked about parking enforcement, specifically with developments with parking problems like Artesian Springs. Lilly said Artesian Springs charges for parking, so residents park on the street where it is free. The city has since prohibited selling or leasing parking separately from an apartment lease as part of the development agreement.

Chair LaMar asked about an old requirement for a fence that no longer existed. Wendel said it was a discretionary matter for the commission to decide to enforce. Commissioner Richardson asked about moderate income senior housing. Lilly said they did not propose conditioning providing permanent affordable housing.

Chad Jones, representing Pacifica Companies, clarified that the original approval of 35 parking spaces was based on 75 units, whereas the current proposal reduces the number of active units to 70 in order to remain within the 35-space threshold. He noted that the property is intended to serve residents at no more than 50 percent of Area Median Income (AMI), subject to confirmation from the managing entity. In response to parking concerns, Jones agreed to eliminate the two proposed on-street parking spaces, reducing the total count to 36, but explained that an additional full-size parking stall shown in the upper left corner of the restriping plan is permissible under the parking ordinance, bringing the total on-site parking to 37 spaces. He emphasized that a full redesign or expansion of the parking lot would likely yield only two additional stalls and would not meaningfully resolve the broader on-street parking issues, and therefore the applicant is proposing to comply strictly with the existing code requirement of 0.5 parking spaces per unit for 55-plus senior living. The applicant committed to maintaining the 55+ age restriction, working with Unified Fire Authority to implement red curb striping and no-parking signage, and reviewing the issue of separately

leased parking stalls. Jones also observed that recent site visits showed available spaces in the lot alongside continued on-street parking, suggesting behavioral rather than capacity issues, and reiterated the applicant's willingness to address concerns to the extent feasible while remaining compliant with the code.

Commissioner Soule asked if the interior would be remodeled to reduce the units. Jones answered no, the existing remaining five units are being used for storage and as a model. Commissioner Soule asked about unit counts. Wendel said the original facility had 75 units, the applicant is proposing 70 units, and staff recommended it be reduced to 64 units. Commissioner Soule asked about occupancy and said it made a difference from unit count because couples often have two cars. Commissioner Anderson said a stall should come with the unit and paying for parking should be for extra parking. Commissioner Richardson asked if the applicant had met with UFA. Jones said no. Wendel said the street parking was creating ingress/egress issues for apparatus going in/out of the parking lot.

Jeremiah Clark, Millcreek Community Council, reiterated council concerns about cars parking on the other side of the street and the ratio for parking stalls only being 0.5 for 55+ facilities.

Chair LaMar opened the public hearing.

Craig Cook, 775 E, stated that he purchased the neighboring property approximately 15 years ago, when the subject site operated as a convalescent home, and during that time the street experienced minimal parking impacts due to limited resident driving and infrequent visitor traffic. He explained that significant parking problems only arose after the property began operating as a 55+ facility, a change of which nearby residents were not notified, and that the resulting overflow parking has led to tenant dissatisfaction and vacancies in his property. Cook expressed concern that a 55+ designation is not enforceable unless it is formally imposed as a zoning condition, as was the prior 62-and-over requirement and argued that without such a condition the property could effectively function as a standard apartment building. He emphasized that the lack of parking on 3900 South forces vehicles onto the residential street, creating access issues for fire trucks, mail delivery, and garbage collection, and asserted that proposed red-curb areas would not adequately address emergency access for the full length of the street. Cook also raised concerns about current occupants allegedly not meeting the 55+ threshold and about changes being implemented without proper licensing or approvals. He urged the city to require an enforceable 55+ zoning condition and additional off-site or alternative parking solutions to prevent on-street overflow, contending that nearby residents should not bear negative impacts or loss of property rights resulting from the property owner's business decisions.

Ms. Cook, 775 E, requested the west side of 775 E be red striped because cars are blocking mailboxes and space for garbage cans.

Rod Fulkerson, 775 E, said on average there are 17 cars parked on the street. He suggested the facility owners buy surrounding property to turn into parking.

Scott Cameron, nearby property owner, wondered about the ages of the residents living at the facility. He felt there was no enforcement of age taking place.

Chair LaMar closed the public hearing.

Chair LaMar asked if a 55+ year old could live there with a child. Lilly noted that enforcement of age-restricted housing can be legally complex, as a qualifying resident may lawfully reside with younger family members, making compliance difficult to monitor. He emphasized, however, that land use approvals and business licenses are granted based on specific representations and assumptions provided by the applicant, including compliance with age restrictions and associated parking impacts. If the city were to discover that the property is being operated in a manner inconsistent with those representations, such as leasing units to residents who do not meet the 55-plus criteria that could constitute inaccurate or fraudulent information and provide grounds for code enforcement actions, including potential revocation of the business license. While acknowledging that such enforcement is particularly sensitive when it involves housing and human occupants, and that the City is understandably reluctant to displace residents, he confirmed that there is an active code enforcement case related to these concerns. Ultimately, he stated that failure to comply with the terms of land use approval or licensing could require the City to consider more serious enforcement measures if necessary.

Commissioner Soule asked if the business was currently operating at 55+ versus assisted living. Lilly said there was an active code enforcement case on the property, and they were operating without a business license. Wendel said the facility was converted in 2022.

Commissioner Soule wondered why the facility was not being treated like an apartment building since it was operating as one. She thought some green space on the property could be used for parking. Commissioner Wright asked if the commission could take action on a land use application with an active code case. Lilly explained that the land use enforcement officer has asked the applicant to attempt to resolve the compliance issues before further enforcement action is taken, and that staff is currently working to facilitate a path toward compliance. He acknowledged that the commissioner raised valid concerns and noted that there is discretion to consider neighborhood impacts, staff's preliminary assessment, and the community council's recommendation when formulating a reasonable course of action. He also stated that, while undesirable, one available option would be for the property to revert to its prior assisted living use and allow the existing leases associated with the 55+ operation to expire over time, characterizing this as a possible but unfavorable alternative.

Chair LaMar raised general concerns regarding both emergency access and ongoing spillover parking impacts in the neighborhood, noting from a site visit that restricting parking on one side of the street would likely shift vehicles to the opposite side rather than resolve the underlying issue. He suggested that alternative approaches, such as a residential parking permit program with limited-duration guest parking, might warrant further exploration, though he emphasized that such options were not ready for decision at the current meeting and would require additional input from affected residents. Chair LaMar also discussed the possibility of designating no-parking or red curb areas, potentially on the west side of the street, to improve street width and emergency access, while acknowledging that such measures may not fully address turning radius concerns. He expressed broader concern that the current 55+ parking standard allows no designated guest parking and may be insufficient given observed conditions. Additionally, he identified site maintenance issues along the eastern property line, including debris, abandoned materials, and deteriorated fencing, and suggested that cleanup and site improvements should be considered as a condition of

approval, even if full fence replacement is not required, consistent with conditions originally imposed in 1995.

Commissioner Reid asked if the problem was the 55+ age not being enforced or that the code is wrong because 0.5 stalls per unit is not enough. Lilly noted this was a legislative approval, so if the commission felt that more parking was needed then they should make a finding as part of their recommendation to the city council. Commissioner Soule felt there was not enough information to make a recommendation. Commissioner Larsen recommended denial until the parking requirements are increased and there be a workable plan to meet those requirements. Chair LaMar would like to know the bedroom count of the facility.

Commissioner Richardson said 80% AMI for senior housing was something the commission should care about.

John Brems said the Fair Housing Act prohibits discrimination based upon age. There is an exemption for 55 and older communities that meet specific conditions. Those conditions are called the 80/20 Rule. At least 80% of the occupied units, not just those who signed the lease, are persons at least 55 years of age or older. The 80% requirement must be maintained. He noted this application to remove a zoning condition was legislative, so the commission could solve problems if there were any with the development.

Commissioner Larsen moved to continue this application to a specified date, so that the parking requirements for 55 plus can be evaluated and increased, a plan can be implemented to meet those requirements and brought again before the Planning Commission, and to include more information on the units, as well as AMI and to provide documentation that 80% of the units are occupied by age 55 or older. Commissioner Reid seconded. Chair LaMar called for the vote. Commissioner Anderson voted yes, Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted no, Commissioner Reid voted yes, Commissioner Richardson voted yes, Commissioner Soule voted no, and Commissioner Wright voted yes. The motion passed. Commissioner Soule felt the application should be denied. Commissioner Lofgren felt new information would not change the parking issue. Lilly said the application would come back to the commission in January.

1.2 Consideration of GP-25-003, Request to Amend the Millcreek Together General Plan to Add a Water Preservation Element Planners: Sean Murray & Francis Lilly

Sean Murray presented General Plan Amendment GP-25-003, which adds a required Water Preservation Element to the Millcreek General Plan in response to Utah Senate Bill 110 (2022). He explained that, unlike water conservation plans adopted by water providers, preservation plans guide municipal policies and land use strategies to reduce end-user water demand. Millcreek worked with Bowen Collins, state agencies, and regional water providers—primarily Salt Lake Public Utilities and Jordan Valley Water—to develop the plan using available consumption data, which indicates average use of approximately 208 gallons per capita per day and an annual total of roughly 15,100 acre-feet. Murray noted that most water use fluctuations are seasonal and driven largely by outdoor irrigation, particularly in lower-density single-family neighborhoods. Population growth projections were aligned with water provider conservation plans, showing that per-capita water use is already declining and is expected to continue decreasing with ongoing conservation practices. Since Millcreek does not operate its own water system, the plan focuses on policy tools already in use or proposed, including water-wise landscaping standards, rain barrel subsidies, public education, land use

planning that supports higher density in designated centers and corridors, and coordination with water providers. Murray reported that community councils generally supported the plan, with concerns centered on data precision, private property rights, and state mandates, and that City Council feedback emphasized water quality and downstream impacts. He concluded that the plan positions Millcreek to maintain reliable water supplies into the future, while acknowledging the need for periodic updates, improved data collection, continued coordination with water providers, and expanded public education efforts.

Chair LaMar opened the public hearing.

Michael Rush, Canyon Rim Citizens Association, expressed support for the inclusion of policies recognizing and promoting tree canopy preservation and expansion in the final plan, noting that tree canopies help reduce heat island effects, lower cooling demands, decrease evaporation, and ultimately reduce water usage. He emphasized the importance of protecting Millcreek's existing canopy while actively seeking opportunities to expand it in a thoughtful and sustainable manner. Rush also reflected on long-term water demand projections, particularly the estimated acre-foot usage by 2060, and encouraged ongoing consideration of how population growth and increased density may lead to future inflection points requiring difficult policy decisions. He urged city leaders to remain mindful of these long-term implications as they make planning and land use decisions, even within shorter elected terms.

Chair LaMar closed the public hearing.

Chair LaMar commended the broader goals of the plan related to protecting water resources and promoting regional cooperation, and suggested an additional refinement focused on quantifying water use in landscape planning. He recommended that landscape plans not only describe plantings and irrigation systems, but also clearly estimate expected water consumption so conservation goals can be measured and managed over time. Chair LaMar emphasized that these metrics should be practical and enforceable, proposing that developments of a given size target specific water-use thresholds, particularly during peak summer months. He further stressed the importance of ensuring that irrigation guidance is not merely documented in plan sets or digital files, but is translated into clear, durable, and accessible on-site instructions, such as posted schedules near irrigation control boxes, so that future maintenance personnel can easily follow appropriate watering practices and avoid over-irrigation.

Murray noted that Salt Lake Public Utilities has suggested potential strategies to improve water-use tracking and efficiency, particularly for larger developments. One option discussed was requiring separate water meters for indoor and outdoor use, which would allow more accurate monitoring of irrigation-related consumption and provide better data for future planning. He also highlighted existing code requirements for efficient irrigation systems, such as limits on drip emitter output, and pointed to emerging technologies like smart sensors that adjust watering based on soil moisture and weather conditions. Murray explained that many water conservation rebate programs already require pre- and post-installation inspections to ensure systems are installed and operated as designed. He concluded that, as technology continues to improve and costs decrease, the city could consider adding more specific requirements, especially for larger projects, to further enhance water efficiency and data collection.

Commissioner Soule raised concerns about improving water-use data collection by accounting for infrastructure losses, noting that aging pipes in parts of Millcreek contribute to water breaks and significant water loss before repairs are made. She suggested the city works more closely with Salt Lake Public Utilities to better understand how much overall water consumption is attributable to system leaks and whether more proactive pipe replacement could reduce these losses. Commissioner Soule also recommended expanding use of the Utah Water Conservation Program, particularly for larger developments, by requiring landscape plans to be reviewed through the program before installation to improve efficiency. Additionally, she emphasized the value of better public outreach and education about available rebates, suggesting that sharing real examples and financial benefits could encourage broader participation in water-wise landscaping programs.

Murray acknowledged that Salt Lake Public Utilities faces ongoing challenges related to aging infrastructure and water loss, noting that the utility is not a taxing entity and relies on Salt Lake City's budget, which complicates system-wide upgrades. He explained that utility reports submitted to the state indicate a significantly higher water loss rate compared to other systems, attributable to a combination of unavoidable system losses and frequent breaks associated with older infrastructure. While recognizing the scale and complexity of these challenges and the competing priorities the utility manages, Murray agreed that conducting a more focused study to better understand infrastructure-related water losses would be valuable and could provide useful data to inform future planning and coordination efforts.

Commissioner Lofgren moved to recommend GP-25-003, the adoption of a Water Preservation Element to the Millcreek General Plan to the Millcreek City Council, as presented. Commissioner Richardson seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Reid voted yes, Commissioner Richardson voted yes, Commissioner Soule voted yes, and Commissioner Wright was not present for the vote. The motion passed.

2. New Item

2.1 Consideration of CU-25-009, Request for a Condition Use Permit to Allow a Business Office an Outcall Service Location: 715 E 3900 S Applicant: Brandi Defa Planner: Zack Wendel

Zack Wendel explained that the applicant is requesting a conditional use permit to operate a business office for an outcall service, within an existing office complex in the Residential Mixed (RM) zone. Under the Millcreek zoning ordinance, outcall service businesses are classified as sexually oriented businesses and may operate in the RM zone with a conditional use permit and business license, subject to legal standards informed by case law. The property is a nearly 1.5-acre office complex with approximately 25,000 square feet of space, though the proposed use would occupy only about 207 square feet for administrative purposes. The office would be staffed by one licensed employee per shift, serve no clients on site, conduct all bookings online or by phone, and display only minimal signage required for emergency identification. Surrounding uses include medical and commercial facilities, and the proposed office-only use is expected to mitigate typical impacts associated with sexually oriented businesses. Staff determined that the application meets all conditional use permit criteria except for one issue: the parking lot is not fully compliant with current off-street parking standards due to faded or missing striping. As a result, staff recommends approval of

the permit with conditions requiring the applicant to work with the property owner to restripe the parking lot within one year and limiting the use strictly to office functions with no on-site outcall services. The Millcreek Community Council recommended approval by a 6–1 vote, with three abstentions, requesting only that the parking restriping condition be removed, though staff continues to support that condition to ensure orderly and safe parking.

Chair LaMar asked if the restriping was for the whole lot or just what would be used for the business. Wendel said the applicant would work with the property owner to get the whole lot restriped.

The applicant declined to comment.

Chair LaMar felt only the business space used needed to be striped. The commission discussed requiring the restriping or not since the office would only take up approx. 200 square feet of a 25,000 square foot complex. Wendel said a land use application is the opportunity to ask for fixes. Brandi Defa said the complex has open parking for all tenants. Commissioner Richardson asked about consequences if the property owner did not stripe the parking lot. Wendel said if it was a condition of approval, it would be grounds to disqualify the business from being allowed to operate. Lilly said the remedy could be code enforcement action. Some commissioners did not feel the tenant should be responsible for having the whole parking lot restriped.

Commissioner Soule moved that the Planning Commission approve application CU-25-009, with the conditions that only business office use will be allowed at the location, and no outcall services will occur at this location. Commissioner Richardson seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted no, Commissioner Reid voted no, Commissioner Richardson voted yes, Commissioner Soule voted yes, and Commissioner Wright voted no. The motion passed. The dissenting commissioners felt it was a missed opportunity to get the parking lot restriped.

3. Commission Business

3.1 Approval of November 19, 2025 Regular Meeting Minutes

Chair LaMar moved to approve the minutes as presented in the packet. Commissioner Lofgren seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Reid voted yes, Commissioner Richardson voted yes, Commissioner Soule voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

3.2 Housing Subcommittee Report

Commissioner Richardson reported on a recent meeting with Clarke Nelson of the Granite School District Board, held to discuss the city's housing committee efforts and proposed zoning reforms aimed at expanding affordable housing and stabilizing elementary school enrollment. Speaking in a personal capacity, Nelson expressed strong encouragement for these goals and support for providing additional housing options within the community. The discussion included potential collaboration between the city and the school district, including the possibility of the district using its communication channels, such as periodic mailers, to

help explain the importance of housing policy to families and the broader community. Commissioner Richardson indicated that Nelson was receptive to continued cooperation and expressed optimism about working together moving forward. As next steps, Richardson plans to engage SOS Eastwood, a parent-led advocacy group supporting Eastwood Elementary, to seek their involvement and support for the City's housing initiatives.

3.3 Updates from the Planning Director

Francis Lilly explained that the mayor intends to bring forward an ordinance to the City Council repealing the city's formal relationship with the community councils, following an opinion from the Utah State Property Rights Ombudsman concluding that the quasi-governmental role of community councils, as currently structured, does not comply with state Open and Public Meetings laws. He outlined that community councils have functioned in a manner similar to planning commissions for land use matters, creating significant administrative and legal burdens that the city is not equipped to sustain. Under the proposed change, community councils would continue to exist as valued community organizations, retain access to city facilities, request funding, and provide input on planning matters, but without formal noticing, staffing, or regulatory obligations from the city. Planning staff would continue to share information, solicit feedback, and engage informally, while formal references to community councils would be removed from noticing procedures, without reducing public notice timeframes. Lilly also noted plans to improve public engagement through a more transparent, web-based application platform and emphasized that the city's intent is to remain compliant with state law while preserving meaningful public participation. He concluded by noting that related procedural updates will come before the Planning Commission in January and expressed appreciation for the Commission's service and continued collaboration with community stakeholders.

2. Calendar of Upcoming Meetings

- City Council Mtg. 1/12/26 7:00 p.m.
- Planning Commission Mtg. 1/21/26, 5:00 p.m.

ADJOURNED: Commissioner Wright moved to adjourn the meeting at 7:18 p.m. Commissioner Larsen seconded. Chair LaMar called for the vote. Chair LaMar voted yes, Commissioner Larsen voted yes, Commissioner Lofgren voted yes, Commissioner Reid voted yes, Commissioner Richardson voted yes, Commissioner Soule voted yes, and Commissioner Wright voted yes. The motion passed unanimously.

APPROVED: _____ Date
Shawn LaMar, Chair

Attest: _____ Elyse Sullivan, Recorder