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ZT-26-002

Planning Commission Staff Report – Updated 15 September 2026

Meeting Date: **September 16, 2026**

Applicant: **Millcreek**

Re: **Zoning Code Changes**

Prepared By: **Francis Xavier Lilly, AICP, Planning Director**

REQUEST AND SYNOPSIS

Since the zoning code update of 2025, staff have successfully employed the new code to various projects and developments around the city. So far this has proven to be a major improvement from the previous zoning code. After adopting the code, staff proposed a series of additional code amendments in Autumn 2025 and again earlier this year. The following updates are a third round of updates. Primarily, these updates are a response to changes in the State of Utah's Land Use Development and Management Act (LUDMA), which we are required to follow. In addition, staff is proposing some clarifying language that:

- Allows for nonconforming uses and noncomplying structures to be eligible for subdivision, provided the nonconformity or noncompliance does not increase;
- Clarifies that the minimum area for a lot or parcel created on a private street shall not include the area for the private street.
- Provides options for multifamily buildings to provide extra open space in lieu of balconies.
- Allows for retaining walls to abut a right-of-way, where currently the requirement is a four-foot setback.
- Allows for noncomplying retaining walls or fences to be replaced to the same height and location.
- Slightly increases the projection or "standoff" distances for wireless telecommunications antennae on monopoles and wall-mounted structures, upon the recommendation of wireless telecommunications users, in order to facilitate the relocation or removal of existing wireless telecommunications facilities in Millcreek.
- Corrects State statute references. Last year, LUDMA was recodified, and the statutory references changed.

Specifically, the changes are as follows:

Removal and Vacancy of Planning Commission Members – Page 1
Staff is proposing expanding the language for the removal and vacancy of planning commission members, in compliance with a State statute update adopted this year. See Utah Code Ann. 10-20-301 for state statutory requirements.

Appeal Hearing Due Process – Pages 2-3
State statute was updated to limit public participation in appeals. Staff is proposing to update the ordinance in a manner compliant with State law. See Utah Code Ann. 10-20-1106.

State statute also changed to establish a different burden of proof for applicants than for adversely affected parties. See Utah Code Ann. 10-20-1105.

Nonconformities in Subdivisions – Pages 3-4
Currently, the code does not allow for a subdivision to be created that involves a noncompliant property or a nonconforming use. The noncompliance/nonconformity would have to be eliminated before subdivision. This has proven to be a substantial development impediment for residential subdivisions that would otherwise be legal, and could require the removal of housing. In the interest of preserving naturally-occurring affordable housing, staff is proposing to allow for noncompliant structures and nonconforming uses to be included in subdivisions, provided that the new lots created or the properties effected are compliant in terms of lot coverage, lot size, and setbacks.

Change of Use Permit – Page 5
In the interest of streamlining approvals and enhancing the customer service experience, staff is proposing exempting home offices and home businesses (that do not have employees or customers on-site) from applying for a change of use permit.

Classification Requests – Pages 5-7
In 2025, State law required cities to create a process to establish standards to determine whether a proposed business use aligns with an existing land use listed in our code. That statute created an appeal process that required city council review. Earlier this year, the law was changed that clarified that classification requests are administrative in nature, and no automatic city council review was warranted. See Utah Code Ann. 10-20-507 for the statutory requirements.

Nonconformities Application Procedures – Page 7, Page 11
In the interest of streamlining approvals and enhancing the customer service experience, staff is proposing to allow the city to make a nonconformities determination if it is supported by records held by Millcreek, without requiring an application and a fee of a land owner.

Determining Minimum Area for a Lot or Parcel on a Private Street – Page 7-8
Millcreek has a process for lots, parcels, and buildings on a private street. By definition, a lot or parcel is defined in a manner that excludes the street, however, staff is proposing a change to the ordinance that clearly states that the minimum area for a lot or parcel on a private street does not include the area used as the street itself. In the future, the city may be asked to take over private streets; unless the lot area does not include the private street, the lots could become nonconforming.

Calculating Side Yard Setbacks on Properties and Parcels 50% Larger than the Minimum Width – Page 8
These proposed redlines do not change any standards, but the calculation language for determining the required setbacks is moved for clarity and enforceability.

Setbacks for Civic and Institutional Uses in the R-1 Zones – Page 8-9
Civic and Institutional Uses in all our residential zones have a consistent setback: 20 feet. However, there is an error in the R-1 zones: The table references 20 feet, but the text references 30 feet. The proposed change aligns the text with the table.

Balconies and Patios in the RM Zone – Page 9-10
Each unit in a building in the RM zone requires a balcony or patio. Notably, that requirement doesn't exist for multifamily or mixed use buildings in other zones. Balconies or patios provide useful open space and building relief to buildings, however. In response to Salt Lake County's housing authority, which is seeking approval for a deeply affordable housing project in Millcreek, staff is suggesting an option where additional open space can be provided in lieu of a balcony or patio. In the case of the housing authority, balconies may not be appropriate for the senior housing project they are proposing. This proposal would maintain the open space requirement provided by the balconies, but would provide a developer with flexibility in how that open space is deployed.

Garage Sales – Page 10
Millcreek Code Compliance is requesting additional clarity for our regulations regarding yard and garage sales, to aid in enforceability and responsiveness to concerns reported by Millcreek residents.

Setback Requirements for Accessory Structures – Page 10
Staff identified an error in the language for setback requirements for accessory structures in rear or side yards that abut a public right-of-way, and clarified that the enhanced setback requirement only applies to the property boundary that abuts the right-of-way, and not all yards.

Ordinary Maintenance and Repair / Fences and Retaining Walls – Page 10
Staff is proposing to clarify that the replacement of a fence or retaining wall should be considered as "ordinary maintenance and repair", because it is often infeasible or impossible to repair a fence or retaining wall without addressing footings or foundations. For all other structures, ordinary maintenance and repair would prohibit any structural alterations. A definition of "ordinary maintenance and repair" is included on Page 15.

Retaining Wall Setbacks – Page 11
Currently, retaining walls are required to be set back 4 feet from a right-of-way. This has proven to be a challenging requirement for many homeowners in Millcreek, who are replacing existing, failing retaining walls. Staff is proposing modifying the language that would allow a retaining wall to abut a right-of-way, without a setback, provided a survey is included that establishes the right-of-way line.

Accessory Building Requirements – Pages 11-13
In the 2026 legislative session, the State of Utah made some significant changes to the statute that limits how cities can regulate ADUs. For the most part, Millcreek's code complies with the new statutory requirements. However, state statute plainly restricts regulating materials, roof pitch, and window placement on single-household buildings (See Utah Code Ann. 10-20-618 for a list of prohibited design elements). Recent changes to state law extended that prohibition to detached ADUs (See Utah Code Ann. 10-21-304(3)(d)). Staff notes that elements of the new state law is unclear, and we are advocating for some greater municipal flexibility for

regulating detached ADUs, particularly those that are built within the accessory building setbacks. For now, however, the staff recommendation is to remove our current design and window-placement requirements to ensure compliance with state statute.

Wireless Telecommunication Facilities – Pages 13-16
Staff is proposing some minor changes to wireless telecommunication facilities to promote the relocation of wireless telecommunication infrastructure in Millcreek. Specifically, the additional standoff distance allowance for a wall-mounted wireless antenna would facilitate the removal of the noncomplying monopole located at the southwest corner of 1300 East and 3300 South. Similarly, increasing the standoff distance for monopoles will facilitate collocation at an existing Millcreek facility. Neither situation appears to impose unreasonable aesthetic impacts on Millcreek. In both cases, the redlines include text modification and a revised image.

Updated Definitions – Pages 16-17
Staff is proposing a definition for "parking lot" and an revised definition for "recreational vehicle" that is identical to the definition for "recreational vehicle" in Title 14. Aligning definitions will aid Millcreek's code compliance department in enforcing and clarifying requirements around unlicensed RVs in Millcreek.

Utah Code Statutory Reference Corrections – Pages 17-23
The redlines under this section are simple corrections to the numerous hyperlinked references in Millcreek code to state statute requirements. In 2025, the State of Utah recodified LUDMA, so the old references are no longer valid. No substantive changes to code are contemplated in this section.

PUBLIC COMMENT

No formal public comment was submitted for this application at the open house held on Tuesday, 1 September 2026. As of the submittal of this staff report, East Mill Creek Community Council submitted a letter recommending approval of the proposed changes. HousingConnect, Salt Lake County's housing authority, submitted a letter expressing support of the proposed changes to the balcony requirements in the RM Zone. That letter is attached to this staff report.

Additional comment will be transmitted to the Planning Commission once it is received by staff.

PLANNING STAFF RECOMMENDATIONS

Staff recommends approval of the changes found in the zoning code attached at the end of this summary. Questions, comments, and discussion are encouraged to ensure that the update aligns with the goals and strategies outlined in the Millcreek Together General Plan.

SUPPORTING DOCUMENTS

- **Code Rewrite Redlines**
- **Letter of Support from HousingConnect**
- **Recommendation Letter from East Mill Creek Community Council**

18.03.010 Planning Commission

E. Removal and Vacancy. ~~The Mayor may remove members of the Planning Commission may be removed by the Mayor with the advice and consent of the City Council. The Mayor shall promptly fill any vacancy occurring on the Planning Commission with the advice and consent of the City Council for the unexpired term of such member. The Mayor shall also promptly fill any vacancy on the Planning Commission due to the expiration of a term, with the advice and consent of the City Council.~~

1. The Mayor may remove members of the Planning Commission with the advice and consent of the City Council. Causes for removal include:
    a. Using public funds for a political purpose under Utah Code Title 20A, Chapter 11, Part 12, Political Activities of Public Entities Act;
    b. Violating a provision of Utah Code Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
    c. Acting with the intent to influence a land use decision or an appeal of a pending land use application in a manner that creates actual impermissible bias or an unacceptable risk of impermissible bias in the planning commission member's administrative or quasi-judicial duties; and
    d. Any other cause as determined by the Mayor.
2. A planning commission member deliberating about a specific pending land use application in a planning commission meeting with municipal staff, an elected official, or the land use applicant is not cause for removing a planning commission member from the planning commission.
3. The Mayor shall promptly fill any vacancy occurring on the Planning Commission with the advice and consent of the City Council for the unexpired term of such member. The Mayor shall also promptly fill any vacancy on the Planning Commission due to the expiration of a term, with the advice and consent of the City Council.

18.03.020 Land Use Hearing Officer (LUHO)

C. Hearings, Meetings, and Due Process

1. The LUHO shall hold hearings or meetings as necessary and shall not have ex-parte contacts. It shall have the authority to administer oaths, provide an

opportunity for cross- examination, and direct the proceedings in a quasi-judicial manner, so that each participant's due process rights are respected. All hearings must be open to the public and recorded.

2. Notice Requirements. Noticing shall be as set forth in MKZ 18.14.080, Public Notice.

3. Upon request Millcreek will provide copies to all parties of public regarding the matter. Otherwise, no discovery shall be allowed except as specifically ordered and scheduled by the LUHO.

4. Hearings or meetings shall be conducted with appropriate formality and decorum to protect due process rights. The Utah Rules of Evidence and Rules of Civil Procedure are used as guidelines and are not strictly followed or applied. The rules regarding authorization, foundation, hearsay, or relevance shall not be strictly applied.

5. The LUHO may only allow the following people to present or speak during an appeal hearing:

    a. The appellant or the appellant's representatives;

    b. The land use applicant or the land use applicant's representatives; and

    c. Millcreek Staff or designated staff representatives.

18.04.010 Appeals

A. Purpose. Appeals are intended to provide additional review of a decision made by the Land Use Authority. Appeals are subject to the standards as set forth in Utah Code Section 10-20-1101 et seq.

B. Applicability. An applicant, Millcreek, or an adversely affected party may appeal any final decision made by the Land Use Authority regarding the administration or interpretation of this Code.

C. Procedure for Legislative Decisions. Legislative decisions are appealed to the district court as set forth in Utah Code Section ~~10-9a-101~~ 10-20-101 et seq.

D. Procedure for Administrative Decisions.

    1. A notice of appeal must be filed with the Planning Director within ten (10) business days of the issuance of a written administrative decision from a Land Use Authority.

2. Any applicable fee as set forth in the Consolidated Fee Schedule must be paid at the time of filing the notice of appeal.

3. Upon receipt of the notice of appeal, the Planning Director will schedule the item for the next available public meeting of the Land Use Hearing Officer (LUHO), not to exceed forty-five (45) days from when the notice of appeal was received.

4. Noticing shall be as set forth in MKZ 18.14.080, Public Notice.

5. The LUHO shall make a determination at the meeting and issue a written decision within ten (10) days of the meeting.

E. Approval Criteria and Burden of Proof. An appeal may be approved if the LUHO finds that there was an error in any order, requirement, decision, or determination made by the Land Use Authority in the administration or interpretation of this Code. In an appeal, the burden of proof is as follows:

1. If the appellant is a land use applicant, the appellant has the burden of proving that the land use authority's land use decision is illegal or is not supported by substantial evidence.

2. If the appellant is an adversely affected party, the appellant has the burden of proving that the land use authority's land use decision is illegal, or that the factual findings are clearly erroneous.

F. Appeals from Subdivision Improvement Plans. Notwithstanding the foregoing, appeals from subdivision improvement plans shall be handled in accordance with Utah Code Section ~~10-9a-604.2~~ 10-20-806.

18.15.020 Administrative Decisions

A. Minor Subdivision

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

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.~~ Any new lot or any lot affected by the subdivision that has a noncomplying structure or a structure occupied by a nonconforming use is subject to the following

additional approval criteria:

(1) The noncomplying structure or the structure occupied by a nonconforming use shall be legally established through the process for a nonconformities determination as set forth in MKZ 18.15.040 (A).

(2) Any new lot or any lot affected by the subdivision that has a noncomplying structure or a structure occupied by a nonconforming use meets all other requirements of the code, including but not limited to setbacks and lot coverage. No nonconformity or noncompliant condition may be created or expanded through a subdivision.

B. Major Subdivision

5. Approval Criteria. The Planning Commission shall approve the request if:

g. The Planning Commission may not approve a Preliminary Subdivision with a noncomplying structure or a structure occupied by a nonconforming use~~.~~, unless:

(1) The noncomplying structure or the structure occupied by a nonconforming use was legally established through the process for a nonconformities determination as set forth in MKZ 18.15.040 (A).

(2) Any new lot or any lot or parcel affected by the subdivision that has a noncomplying structure or a structure occupied by a nonconforming use meets all other requirements of the code, including but not limited to setbacks and lot coverage. No nonconformity or noncompliant condition may be created or expanded through a subdivision.

C. Change of Use Permit.

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. Home offices and home businesses that do not have employees or customers visiting the site of the business are not required to obtain a Change of Use Permit.

18.15.030 Administrative Decisions - Other Land Use Decisions

J. Classification Request

1. Purpose. The purpose of this Section is to establish standards for Classification Requests to determine whether a proposed ~~land~~ business 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~~ requesting that the City Council adopt a land use ordinance that permits the new or unlisted business use as a permitted or conditional use, by following the procedure and paying a fee as set forth in MKZ 18.15.010 (B), except that no Planning Commission recommendation is required. An application requesting that the City Council adopt a land use ordinance that permits the new or unlisted business use as a permitted or conditional use ~~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. b. The Planning Director shall notify the applicant in writing of the City Council's determination, and the reasons for their determination.

7. Appeal. The City Council's decision of a review of a classification request is a legislative decision. Legislative decisions are appealed to the district court as set forth in Utah Code Section 10-20-1109 et seq. ~~An Appeal of the City Council's determination shall follow the process as set forth in MKZ 18.04, Appeals.~~

18.15.040 Administrative Decisions - Nonconformities And Variances

A. Nonconformities Determination

2. Applicability. A property owner shall have the burden of establishing that a nonconforming use, noncomplying structure, nonconforming lot, or other nonconformity legally existed before its current land use designation, unless the Planning Director can make a nonconformities determination based on records held by Millcreek, including but not limited to historic building and land use permits, and historic zoning and subdivision codes. A Nonconformities Determination is required prior to an application to expand or enlarge a noncomplying structure.

18.25.020 Development Standards

All private streets shall be constructed to City standards as set forth in MKC 14.20, and development on lots or parcels along private streets are subject to the development standards of the underlying zone, except as follows:

1. Any lot or parcel fronting on a private street shall have the minimum lot or parcel width and area requirements of the underlying zone.

2. The minimum setback for buildings on lots or parcels on a private street that are located in an R-1, R-2, or A zone shall be the minimum setbacks required of the underlying zone measured from edge of private street.

3. The minimum area for a lot or parcel on a private street shall not include the area dedicated or reserved by easement as a private street.

18.34.040 Spatial Requirements

D. Side Yard Setbacks on Lots or Parcels Fifty Percent Larger Than Minimum Lot or Parcel Width. Lots or parcels with a width at least 50 percent larger than the required minimum lot or parcel width shall measure side yard setbacks as set forth in the following:
    1. The combined measurements of the side yard setbacks shall be at least 25 percent of the ~~lot or parcel width~~ diameter of the largest circle that can be inscribed entirely within the lot or parcel excluding any streams, floodplains, wetlands, areas of thirty percent slope or greater, or other natural hazard areas shall be excluded from the circle, as illustrated in Figure 18.34.1.
    2. No side setback shall be less than the required minimum side yard setback.
    ~~3. The width of the lot or parcel is measured as the diameter of the largest circle that can be inscribed entirely within the lot or parcel excluding any streams, floodplains, wetlands, areas of thirty percent slope or greater, or other natural hazard areas shall be excluded from the circle, as illustrated in Figure 18.36.1.~~

18.36.040 Spatial Requirements

B. Side and Rear Setbacks for Civic and Institutional Uses. Civic and Institutional Uses require a minimum ~~30~~20-foot rear and side yard setback when abutting and sharing a property line with a residential use.

E. Side Yard Setbacks on Lots or Parcels Fifty Percent Larger Than Minimum Lot or Parcel Width. Lots or parcels with a width at least 50 percent larger than the required minimum lot or parcel width shall measure side yard setbacks as set forth in the following:
    1. The combined measurements of the side yard setbacks shall be at least 25 percent of the ~~lot or parcel width~~ diameter of the largest circle that can be inscribed entirely within the lot or parcel excluding any streams, floodplains,

wetlands, areas of thirty percent slope or greater, or other natural hazard areas shall be excluded from the circle, as illustrated in Figure 18.36.1.

2. No side setback shall be less than the required minimum side yard setback.

~~3. The width of the lot or parcel is measured as the diameter of the largest circle that can be inscribed entirely within the lot or parcel excluding any streams, floodplains, wetlands, areas of thirty percent slope or greater, or other natural hazard areas shall be excluded from the circle, as illustrated in Figure 18.36.1.~~

18.37.040 Spatial Requirements

E. Side Yard Setbacks on Lots or Parcels Fifty Percent Larger Than Minimum Lot or Parcel Width. Lots or parcels with a width at least 50 percent larger than the required minimum lot or parcel width shall measure side yard setbacks as set forth in the following:

1. The combined measurements of the side yard setbacks shall be at least 25 percent of the ~~lot or parcel width~~ diameter of the largest circle that can be inscribed entirely within the lot or parcel excluding any streams, floodplains, wetlands, areas of thirty percent slope or greater, or other natural hazard areas shall be excluded from the circle, as illustrated in Figure 18.37.1.
2. No side setback shall be less than the required minimum side yard setback.

~~3. The width of the lot or parcel is measured as the diameter of the largest circle that can be inscribed entirely within the lot or parcel excluding any streams, floodplains, wetlands, areas of thirty percent slope or greater, or other natural hazard areas shall be excluded from the circle, as illustrated in Figure 18.36.1.~~

18.39.090 Required Features

1. Storage. Each residential dwelling unit for developments with three or more dwelling units shall be required to contain interior storage equal to 100 cubic feet.

2. Washer and Dryer Connections. All multi-household residential developments shall include either washer and dryer connections for each dwelling unit or an on-site laundry.

3. Balconies or Patios or Additional Open Space. All residential units shall have a private balcony and/or patio with a minimum of 60 square feet with a minimum five-foot (5') depth, or shall provide open space in lieu of private balconies or patios. Open space in lieu of balconies or patios shall be provided for at least 60 square feet per residential unit that lacks a balcony or patio, in addition to the minimum

requirements set forth in MKZ 18.39.050 (G), and shall meet all the standards in that section.

4. Management. Twenty-four-hour on-site management is required for all residential developments consisting of more than 50 dwelling units.

18.58.040 Allowed Temporary Uses And Structures

E. Yard and Garage Sales~~, Open houses,~~ shall be limited to three (3) consecutive days in a calendar year and are only allowed within non-commercial zones or on a lot or parcel with a legally-established residential use. No consignment goods may be offered.

18.59.030 General Requirements For Accessory Structures

D. Setback Requirements:

3. On lots where the rear or side yard abuts a public right-of-way, the minimum setback requirement for an accessory structure is 20 feet from the ~~side and rear property lines~~ the property line that abuts the public right-of-way, unless a noise barrier authorized and constructed by the Utah Department of Transportation or the City separates the right-of-way from the accessory structure.

18.60.050 Noncomplying Structures

C. Ordinary Maintenance and Repair. ~~A noncomplying structure may be maintained or repaired provided no structural alterations are made and the degree of nonconformity is not increased.~~

1. Fences and Retaining Walls. The replacement of a noncomplying fence or retaining wall with a new fence or retaining wall at the same height and location is considered ordinary maintenance and repair.
2. All Other Noncomplying Structures. Ordinary maintenance and repair for all other noncomplying structures is allowed provided no structural alterations are made and the degree of nonconformity is not increased.

18.66.090 Determination Status Procedure For Nonconformities

A. ~~In all cases, the~~ The property owner shall have the burden of establishing that a nonconforming use, noncomplying structure, nonconforming lot, or other nonconformity ~~legally existed~~ was legally established before its current land use designation~~.~~, unless the Planning Director can make a nonconformities determination using records held by Millcreek, including but not limited to historic building and land use permits, and historic zoning and subdivision codes. In cases where the Planning Director cannot make a nonconformities determination using records held by Millcreek, the property owner shall file a Nonconformities Determination Application. The Planning Director shall review the application as follows:

18.66.140 Retaining Wall Setbacks

A. The following shall apply to retaining walls within the front and street side yard setback areas:

1. Each retaining wall shall not exceed ~~four feet (4')~~ three feet (3') in height.
2. The City shall require a survey establishing a right-of-way line as part of any land use application or building permit for a retaining wall that is to be located within four feet (4') of a current or future public right-of-way as set forth in the adopted Millcreek Transportation Master Plan. The survey must be completed by a surveyor licensed to practice in the State of Utah.

B. Fences shall not be installed on the top of, or within four (4') feet parallel to the top of a retaining wall. Any retaining wall exceeding 30 inches in height and within 36 inches of a walking surface or a property line shall provide a minimum 42-inch high guardrail, or similar barrier on top of the retaining wall.

C. ~~At no point shall a r~~Retaining walls shall not be located within ~~four feet (4') of~~ the current ~~or future~~ public right-of-way as set forth in the adopted Millcreek Transportation Master Plan unless, otherwise approved in writing by the Public Works Director.

18.71.060 Development Standards Generally

A. An accessory dwelling unit shall not be sold separately or subdivided from the principal dwelling unit or property.

B. A property may have either an internal or attached ADU as part of a primary dwelling, or a detached ADU on the lot or parcel that is shared with the primary dwelling. No property may have more than one ADU.

C. The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. When a new ADU is proposed in an existing single-household dwelling, the entire ADU shall comply with all applicable standards.

D. The installation of separate utility meters is prohibited.

E. An ADU shall comply with the regulations of the underlying zone for accessory buildings. Where the provisions in this chapter are inconsistent with provisions found in any other chapters of City ordinances, the most restrictive provisions shall apply.

~~F. Design Standards. The ADU, attached or detached, shall incorporate at least one of the exterior materials used in the principal dwelling for 20 percent of all structure facades. The ADU must have a pitched roof unless the principal dwelling has a flat roof, in which case an ADU may have a flat roof or a pitched roof. The ADU shall maintain the same color of the primary dwelling for at least 50 percent of all facades.~~

~~G.~~ F. ADUs may not be built within a recorded easement.

~~H.~~ G. Additional requirements for internal ADUs shall be as set forth in MKZ 18.71.070.

~~I.~~ H. Additional requirements for attached ADUs shall be as set forth in MKZ 18.71.080.

~~J.~~ I. Additional requirements for detached ADUs shall be as set forth in MKZ 18.71.090.

18.71.090 Development Standards For Detached Accessory Dwelling Units

A. A detached ADU shall be a permanent structure. Trailers, mobile homes, and other portable structures, especially structures with wheels, shall not be permitted as a detached ADU.

B. A detached ADU is not eligible for The Neighborhood Compatibility Modification provisions found in MKZ 18.34 or MKZ 18.36.

C. A detached ADU shall not be used as a short-term rental.

D. Exterior lighting shall provide illumination directed downward and shall follow the standards as set forth in MKZ 18.68, Outdoor Lighting. Light sources shall not be visible from abutting properties.

E. ~~Windows on a façade, located within 15 feet of an abutting property containing a single-household, twin home, or duplex dwelling, shall be fixed (non-operable) and translucent or shall be installed skylights.~~

~~(F)~~ E. Entrances, parking, and stairways within 15 feet of an abutting property shall not be visible from the abutting property. This may be done with a fence along the side and rear property lines, landscaping that is dense enough to obscure activity or by placing the entrances and stairs out of view of abutting properties. Corner properties with ADU entrances facing a right-of-way are not required to screen the entrance if not facing the same right-of-way as the primary dwelling entrance.

~~(G)~~ F. Detached ADUs shall not be built on slopes of 30 percent or greater.

~~(H)~~ G. Balconies on the second story of an ADU are prohibited.

~~(I)~~ H. Exterior stairways and landing shall not encroach into a setback.

18.75.060 Wall Mounted Wireless Telecommunication Facilities

Wall-mounted wireless telecommunication facilities shall satisfy the following standards, as depicted in Figure 18.75.4:

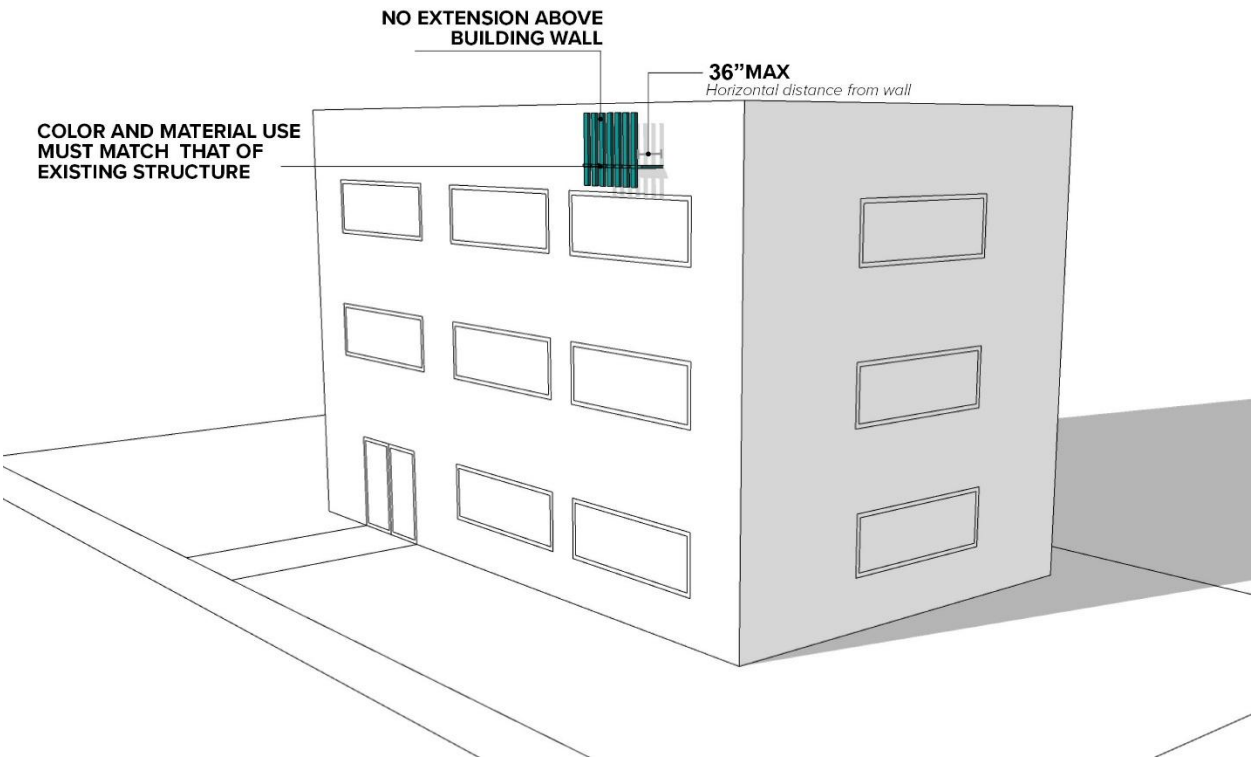
A. Wall mounted wireless telecommunication facilities shall be mounted to the wall of the primary structure and not extend more than ~~24 inches~~ 36 inches as measured from the surface edge of the wall to the front or furthest portion of the equipment.

B. Wall-mounted wireless telecommunication facilities shall be located at least ~~30~~ thirty feet (30') above the finished grade of the wall surfaces to which it is mounted.

C. Wall-mounted commercial transmission equipment shall not extend above the wall to which it is mounted.

D. Wall-mounted wireless telecommunication facilities, including the supporting structure, shall be colored to match the building colors, textures, and materials.

Figure 18.75.4, Wall Mounted Transmission Equipment Illustration



18.75.090 Monopole Wireless Telecommunication Facilities

~~Freestanding stealth~~ Monopole wireless telecommunication facilities shall satisfy the following standards, as depicted in Figure 18.75.7, provided that:

A. Monopole wireless telecommunication facilities may only be considered after the applicant has submitted a statement of need demonstrating why the proposed facility cannot be wall-mounted, roof mounted, co-located, or integrated into a freestanding structure.

B. Monopoles are prohibited on properties within an R-1, R-2, R-4, or AG Zone, or a sensitive land designation unless the monopole and equipment are made stealth based upon the surrounding natural environment and/or architectural elements located ~~environment~~ within 1,320 feet of the facility, as directed by the Planning Director.

C. Monopoles are prohibited in residential and agricultural zones except in public parks and schools or properties exceeding two (2) acres in size.

D. A minimum of one-half (1/2) mile distance is required between monopoles.

E. Monopoles shall not be allowed in the front yard setback of any lot or parcel, or between the primary building and abutting right-of-way.

F. Monopoles shall be set back from any residential property line three times (3x) the height of the monopole.

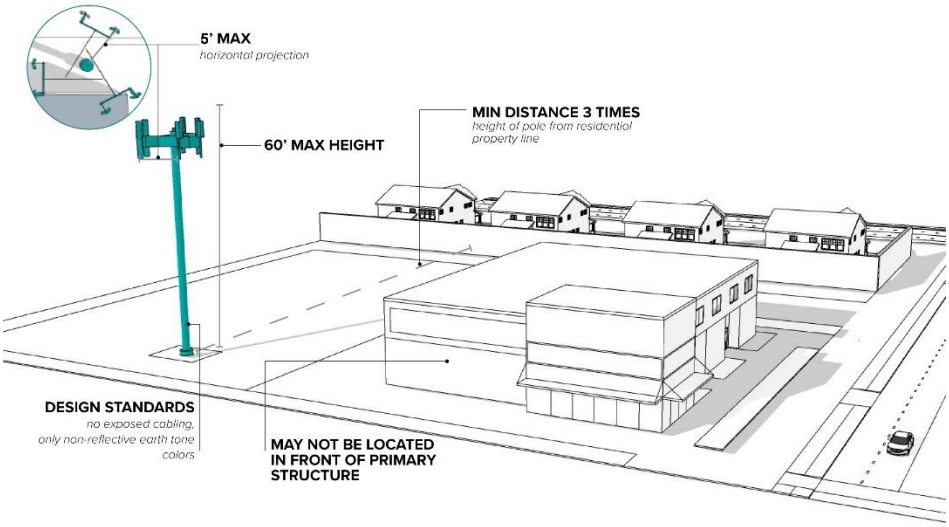
G. Monopoles shall not exceed 60 feet in height as measured from the top of the monopole or equipment to the finished grade.

H. Monopoles and related pole-mounted transmission equipment, including antennas, shall have non-reflective or powder coated surfaces in unobtrusive earth-tone colors.

I. External pole mounted antennas shall not project more than ~~four~~ five feet ~~(4')~~ (5') as measured from the front of or furthest portion of the antenna, or similar equipment, to the nearest surface edge of the monopole.

J. No exposed cabling is permitted, and all cables shall be routed internally within the pole and~~/or~~ buried underground. The Planning Director may consider exterior cable trays designed to replicate an existing vertical element. Standard cable trays painted and textured to match the existing facade do not satisfy the intent or qualify as hidden or concealed.

Figure 18.75.7, Monopole Installation



18.97.030 Alphabetized Definitions

Ordinary Maintenance and Repair means any maintenance or repair to any existing noncomplying structure that is for the limited purpose of correcting decay, deterioration or damage, and that doesn't increase the degree of noncompliance of the existing noncomplying structure.

Parking Lot means a property used for the storing or parking of vehicles, excluding properties that are used to store vehicles for sale or lease.

Recreational Vehicle~~s~~ (RV~~s~~) means ~~motor vehicles or trailers with living space for traveling, camping, or daily living. These may include campers, travel trailers, or motor homes.~~ A vehicle, snowmobile, trailer, camper, or watercraft with or without a motor, designed and constructed for recreational use or as temporary living quarters for travel or vacation purposes. Recreational vehicle includes a vehicle, snowmobile, trailer, camper, or watercraft with or without a motor, designed and constructed for recreational use. Recreational vehicle does not include human or battery powered personal apparatuses, such as bicycles, kick-scooters, or children's toys.

UTAH CODE STATUTORY REFERENCE CORRECTIONS

18.01.020 Purpose And Authority

B. This title is adopted as set forth in Utah Code Section ~~10-9a-101~~10-20-101 et seq., Municipal Land Use, Development, and Management Act, the general welfare power delegated to municipalities as set forth in Utah Code Section 10-8-84, Ordinances, Rules and Regulations, and the police power authority of local government established by Utah common law.

18.03.020 Land Use Hearing Officer (LUHO)

A. Creation. A Land Use Hearing Officer (LUHO) is hereby created as set forth in Utah Code Chapter ~~10-9a~~10-20, Municipal Land Use, Development, and Management Act. It is the intent of the City Council that the Land Use Hearing Officer (LUHO) satisfies the requirement of the above-referenced statute for an appeal authority to hear and decide requests for appeals from decisions applying land use ordinances.

18.13.060 Public Notice Requirements

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~~ 10-20-101 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~~10-20-205, Notice of public hearings and public meetings on adoption or modification of land use regulation.

18.14.010 Pre-Application Consultation

B. Applicability. An applicant may request a pre-application consultation with the Planning Director prior to submitting any application. If a pre-application consultation is required, an application may not be accepted until after the pre-application consultation is completed. For purposes of Regular Residential Subdivisions, the pre-application consultation is a pre-application meeting for purposes of Utah Code Section ~~10-9a-604.1~~ 10-20-805.

D. The informal evaluation of the application is not binding upon the applicant or Millcreek and does not constitute a pre-application meeting under Utah Code Section ~~10-9a-604.1~~ 10-20-805.

18.14.020 Concept Review

B. Applicability. An applicant may request a concept review from the Planning Director prior to submitting any application. If an application type requires a concept review as set forth in MKZ 18.15, Specific Procedures by Application Category and Type, the concept review must be completed prior to submission. For purposes of Regular Residential Subdivisions, the concept review is an alternative pre-application meeting for purposes of Utah Code Section ~~10-9a-604.1~~ 10-20-805.

18.14.050 Application Completeness And Compliance Review For Regular Residential Subdivisions

E. Appeal from Subdivision Improvement Plans. For a dispute arising from the subdivision improvement plans, an appeal from Millcreek's final decision shall be made in accordance with Utah Code Section ~~10-9a-604.2~~ 10-20-806.

18.15.010 Legislative Decisions

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

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~~ 10-20-101 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.

B. Land Use Code Text Amendment

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~~ 10-20-101 et seq., Municipal Land Use, Development, and Management Act.

18.15.020 Administrative Decisions

A. Minor Subdivision

3. Procedure. Unless noted otherwise, the following application steps are required, as set forth in MKZ 18.14, Land Use Application Steps.

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~~ 10-20-806.

B. Major Subdivision

4. Preliminary Subdivision Procedure. The following application steps, as set forth in MKZ 18.14, Land Use Application Steps, are required, unless noted otherwise.

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~~ 10-20-806.

D. Subdivision Amendment for Minor Plat Adjustments

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

e. The amended plat complies with all other applicable requirements of this Code, Utah Code Section ~~10-9a-608~~10-20-811, and regulations and standards.

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:

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~~ 10-20-812, Land use authority approval of vacation or amendment of plat -- Recording the amended plat.

G. Public Street or Municipal Utility Easement Vacation

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~~ 10-20-813, Petition to vacate a public street, and shall follow the procedure as set forth below:

18.15.030 Administrative Decisions - Other Land Use Decisions

A. Conditional Use Permit

5. Conditions of Approval. Unless otherwise specified in this Code or Utah Code Section ~~10-9a-507~~ 10-20-506, 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.

18.15.040 Administrative Decisions - Nonconformities And Variances

C. Variances
   1. Purpose. The purpose of this Section is to establish standards for requests for variances from the standards of this Code. Variances are intended to provide a means of relief from the requirements of this Title if they have resulted in a hardship as they are applied to a property. Variances are subject to the standards as set forth in Utah Code Section ~~10-9a-701~~ 10-20-1101 et seq., Appeal authority required.

18.24.060 Improvement Assurance Guarantee

E. Inspections and Warranty Inspections.
   5. Within 15 days after the warranty period expires, and upon a determination that the infrastructure improvement meets City standards, the City shall return the remaining 10% of the improvement completion assurance for that category, along with any remaining portion of a bond as described in Utah Code Section ~~10-9a-604.5(5)(b)~~ 10-20-807(5)(b).

18.60.100 Exemptions

A. Billboards. The provisions of this chapter shall not apply to billboards. Nonconforming billboards shall be terminated in accordance with applicable provisions of Utah Code Section ~~10-9a-512~~10-20-607, Termination of a billboard and associated rights, and ~~10-9a-513~~10-20-608, Municipality's acquisition of billboard by eminent domain. In the event such provisions are repealed, nonconforming billboards shall be subject to the provisions of this chapter.

18.61.010 Purpose And Intent

D. To provide for the health, safety, and welfare of residents, as well as protect urban and nonurban development, the good order and aesthetics of Millcreek, and protection of property values as set forth in Utah Code Section ~~10-9a-102~~10-20-101(1), General land use authority.

18.71.040 Permitted And Conditional Uses And Limitations

A. Internal ADUs are a permitted use as set forth in Utah Code Section ~~10-9a-530~~ 10-21-303, with additional requirements set forth in MKZ 18.71.070.

18.71.070 Development Standards For Internal Accessory Dwelling Units

Internal ADUs are regulated pursuant to Utah Code Section ~~10-9a-530~~ 10-21-303, and additionally shall:

A. Not change the appearance of the primary dwelling as a single-household dwelling;

B. Be prohibited from having separate utility meters from the primary dwelling; and

C. Be prohibited in a mobile home or manufactured home.

18.97.030 Alphabetized Definitions

Final Plat means an instrument approved for recording subdividing property into lots as depicted on a map that a licensed professional land surveyor makes and prepares in accordance with Utah Code Sections ~~10-9a-603~~ 10-20-803 or 57-8-13.

LUDMA (the Municipal Land Use Development Management Act) means the Utah State Law pertaining to land use codified at Utah Code Section ~~10-9a-101~~ 10-20-101 et seq.

Subdivision means any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development. Subdivision does not include a bona fide division or partition of agricultural land for agricultural purposes, as set forth in Utah Code Section ~~10-9a-605(2)~~10-20-808(2), a recorded conveyance document, consolidating multiple lots or parcels into one legal description encompassing all lots by

reference to a recorded plat and all parcels by metes and bounds description, joining a lot to a parcel, a bona fide division of land by deed or other instruments if the deed or other instrument states in writing that the division is in anticipation of future land use approvals on the parcel or parcels, does not confer any land use approvals, and has not been approved by the City, a boundary adjustment, a boundary establishment, road, street, or highway dedication plat, a deed or easement for a road, street, or highway purposes, or any other division of land authorized by law. The word "subdivide," and any derivative thereof shall have reference to the term subdivision as defined in this Title.

Subdivision Amendment means an amendment to a recorded subdivision as set forth in Utah Code Section ~~10-9a-608~~10-20-811 that vacates all or a portion of a subdivision, increases the number of lots within a subdivision, that alters a public right-of-way, a public easement, or public infrastructure within the subdivision, or alters a common area or other common amenity within the subdivision. A subdivision amendment does not include a simple or full boundary adjustment.

EAST MILL CREEK
Community Council

September 14, 2026

To: Millcreek Planning Commission
Millcreek Planning and Zoning

Subject: ZT-26-002 Zoning Code Changes

At the September 3, 2026, meeting of the East Mill Creek Community Council (EMCCC) we discussed this application from Millcreek Staff. The EMCCC voted 4-0 with two abstentions to forward a positive recommendation to the Planning Commission.

/s/
Jamie Allyn
Vice Chair | Land Use, EMCCC

CC: Francis Lilly
EMCCC

HOUSING CONNECT

3595 South Main Street,
Salt Lake City, UT 84115

www.housingconnect.org

O: 801-284-4400
TDD: 801-284-4407
F: 801-284-4406
Reasonable Accommodations:
801-284-4439

August 27, 2026

Francis Xavier Lilly, AICP
Planning & Zoning Director
Millcreek City
1330 E. Chambers Avenue
Millcreek, UT 84106

RE: Parkhill Supportive Housing Project Request for Alternative Compliance with Balcony Requirement in Millcreek Municipal Code 18.39.090(C)

Dear Francis,

Thank you for meeting with representatives of Housing Connect, First Step House, and Blueline Development on August 6, 2026, to discuss the Parkhill Supportive Housing project and the applicability of the balcony requirement contained in Millcreek Municipal Code Section 18.39.090(C). We appreciate your willingness, along with Planner Carlos Estudillo, to consider how the City's development standards can be adapted to better serve the unique needs of supportive housing residents while maintaining the intent of the ordinance.

As currently written, Section 18.39.090(C) requires that all residential units include a private balcony or patio with a minimum of 60 square feet of area and a minimum depth of five feet. Housing Connect respectfully requests an exception or alternative compliance pathway for the Parkhill project that would allow the development to be constructed without private balconies.

Parkhill is being designed as a supportive housing community serving individuals who have experienced or at risk of homelessness and who are working toward long-term housing stability. While balconies are often an attractive amenity in conventional multifamily developments, we believe the goals of supportive housing are better served through thoughtfully designed shared indoor and outdoor spaces that encourage community, engagement, and access to services.

First, Housing Connect strives to create environments that support resident well-being and provide safe, accessible spaces for all residents. In our experience, shared amenity spaces and outdoor gathering areas are more effective and easier to design, program, and maintain in a manner that serves the diverse needs of supportive housing residents than private elevated outdoor spaces attached to individual units.

Second, private balconies can present building management and security considerations. Supportive housing communities rely on regular interaction between residents and onsite staff, as well as controlled access to residential areas. Focusing outdoor amenities in common areas allows those spaces to be more effectively monitored, maintained, and activated for resident use.

Third, supportive housing is intentionally designed to encourage resident engagement and connection. Experience has shown that thoughtfully designed common areas, community rooms, outdoor gathering spaces, gardens, and other shared amenities are more effective at promoting social interaction, reducing isolation, and supporting resident services than private balcony spaces that are used by individual residents.

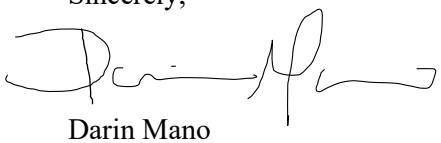
EQUAL HOUSING OPPORTUNITY

Importantly, Housing Connect is not seeking to eliminate resident amenities. Instead, we propose that the area otherwise required for private balconies be reallocated to enhanced common indoor amenity spaces and shared outdoor open space available to all residents. This approach would continue to provide meaningful access to outdoor recreation, fresh air, and gathering opportunities while better supporting the operational and resident-service goals of supportive housing.

We believe this alternative achieves the underlying intent of the ordinance by providing equivalent or greater resident amenity value while addressing the unique safety, security, and programmatic needs of permanent supportive housing. If the City Council wishes, this alternative compliance option could be limited to affordable housing or supportive housing developments where these considerations are particularly relevant.

We appreciate Millcreek City's partnership and willingness to consider innovative approaches that support both high-quality development and successful housing outcomes for vulnerable residents. Housing Connect looks forward to continuing to work with City staff and the City Council as the Parkhill project moves forward.

Sincerely,



Darin Mano
Director of Community Outreach and Development
Housing Connect

EQUAL HOUSING OPPORTUNITY