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Millcreek, UT 84107
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File # 30459

Zoning Ordinance Summary and Recommendation

Public Body: Millcreek City Council

Meeting Date: September 5, 2017

Parcel ID: Manufacturing zones in Millcreek

Current Zone: M-1, M-2 **Proposed Zone:**
M Zone

Property Address: Generally manufacturing areas along State St. and to the west

Request: Recommendation to the City Council for updates and modifications to the M-1, and M-2, to create a new M zone for light manufacturing, change the Zoning map designations, and repeal the existing M-1 and M-2 zones

Community Council: All included in review

Planner: John Janson

Planning Commission Recommendation: Approval

Community Council Recommendation: No specific recommendation submitted

Planning Staff Recommendation: Recommend Approval to the City Council

Applicant Name: Millcreek (the City)

AMENDMENT DESCRIPTION

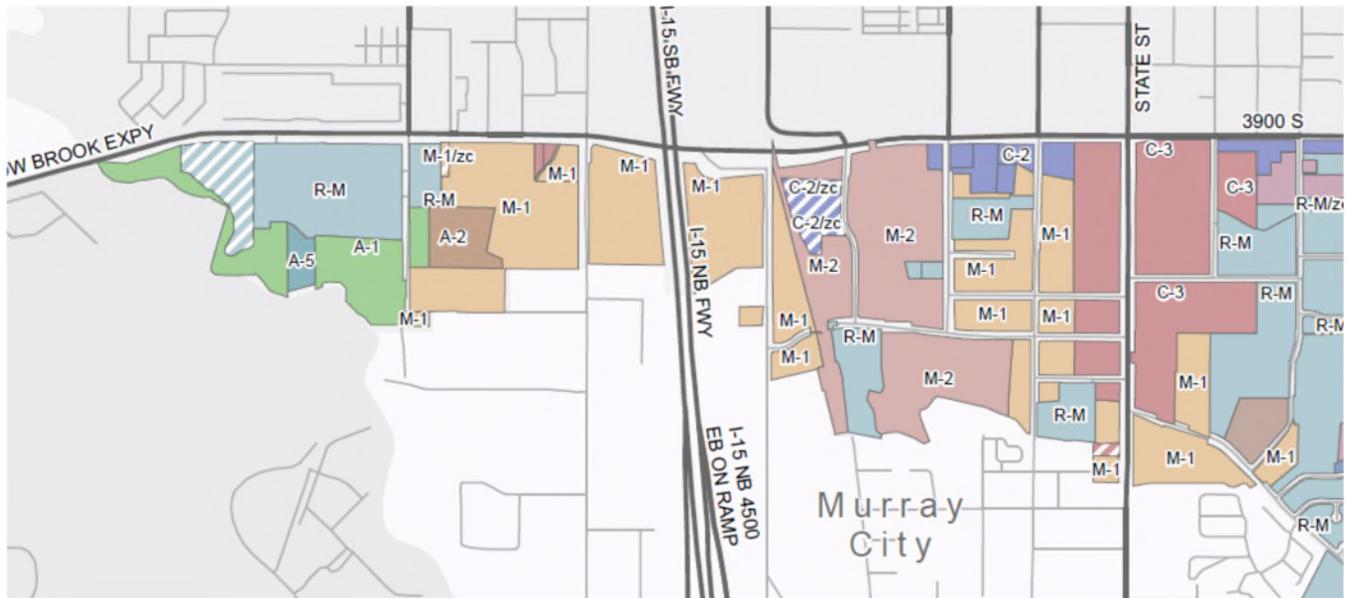
A series of updates and modifications are proposed to the Manufacturing (M-1, M-2) zones that will result in the creation of one new "Light Manufacturing" zone. As part of several updates being accomplished by the City, the Manufacturing zones are suggested for considerable changes in terms of format and content to address issues that have gone unresolved over the past ten to 15 years. Heavy manufacturing uses are not recommended for continuation in Millcreek.

In a sense, this is a consolidation, upgrade, and rezoning proposal since the existing zones would be replaced with the new M zone which is different from the existing M-1 and M-2. In addition, the existing M-1 and M-2 zoning districts are suggested for deletion from the zoning ordinance and map.

SITE & VICINITY DESCRIPTION

The following map displays the Manufacturing zones in Millcreek. Essentially, they include a small area near Big Cottonwood Creek just east of State Street, and the areas to the west of

State Street to the western City border along the Jordan River. In addition, there is one small, 1.25 acre parcel just north of the Brickyard condominiums, that is zoned M-1.



ZONE CONSIDERATIONS

Major issues addressed include:

- The redundancy of uses in the two zones
- The lack of a clear distinction between the two zones that allows heavy manufacturing in both zones
- The question of whether heavy manufacturing uses belong in Millcreek and the use conflicts they cause
- Consolidation of the M-1 and M-2 into an “M” zone
- The new zone relies on a definition of light manufacturing, and warehousing
- The new zone allows light manufacturing and warehousing as a permitted use
- The new zone relies on referring to the C-3 zone, which was recently adopted
- The new zone includes some design standards
- Suggests that no new M zones be created and that the existing M-1 and M-2 be “repealed and replaced”
- Non-conforming uses language has been modified to allow for some expansion, if additional compliance to City ordinances is achieved

GENERAL PLAN CONSIDERATIONS

No specific guidance is given in the General Plan, but for the Meadowbrook area there is a Small Area Plan that suggests a transition to transit oriented development based on the two adjacent stations. New residential uses have been built near the TRAX line, on south Main near Big Cottonwood Creek, north on Main (Bud Bailey), and an additional mixed use development

has tentatively been approved for the SW corner of Main and 3900 S. Heavy manufacturing uses are a conflict with the adjacent residential uses in the area.

COMMUNITY COUNCIL and PUBLIC INPUT

- Mail outs were sent to approximately to 170 property owners, twice, and the draft was posted on the City Website. The first mail out had some inaccurate addresses, so a second one was completed for the second hearing. State Law states that posting or a mail out is sufficient notice, but in this case the City has posted three times, and mailed out twice.
- Phone calls – most owners were initially just trying to understand what we are engaged in, or trying to find the new draft on the website, but more recent calls concerned outside storage and to understand the non-conforming use issue.
- Open House on June 8th, was attended by about 14 people, some were multiple owners of the same parcel. The Brickyard parcel owners were there. Again, most were simply trying to understand the proposal. Complaints were received about existing difficult uses such as the junk and impound lots, some trespassing occurring, possibly related to new housing in the area, and non-conforming use status.
- In addition, there was some discussion of businesses that have no use permit nor a business license – these are currently illegal businesses and would remain illegal in the new M zone. No illegal business can obtain a non-conforming status.
- Non-conforming use philosophy, has been modified in the draft, as described in 19.66.050. A potential buyer of one of the concrete plants wanted to understand what happens, if that use is discontinued. The non-conforming use runs with the property, so therefore it has the right to continue. This draft continues the general non-conforming use law but adds a provision to allow expansion of the use and building on the site, if additional compliance with ordinance standards, especially those pertaining to the streetscape, are coupled with the expansion proposal.
- The existing non-conforming use chapter of the ordinances allows a stepping down of uses, and not immediate compliance by the first change of use. Here is the relevant Non-Conforming Use Chapter language:

19.88.090 - Change of use. A. **A nonconforming use may be changed to any use allowed in the most restrictive zone where such nonconforming use is allowed, provided the planning commission finds that such use would not be more intensive than the most recent existing legal nonconforming use.** B. Structures shall not be enlarged, removed, reconstructed or otherwise changed except for interior remodeling and exterior restoration or renewal that will make the appearance of the structure more nearly conform to the character of the area in which it is located. C. The existing lot or parcel shall not be enlarged upon or modified except to create landscaping, fencing, curb, gutter and sidewalk, road widening or minimum off-street parking that will provide a safer and more compatible facility. D. Any change of a nonconforming use to

another nonconforming use shall be a conditional use and subject to provisions of Chapters 19.78 and 19.84, except that the proposed nonconforming use need not conform to the general plan. E. The planning commission may approve a change of use pursuant to this title even though the nonconforming use may have been abandoned.

The language in 19.66.050 of this draft would supersede the above section

- The Brickyard parcel majority owners wish the M-1 zone to continue. They have had an occasional wood chip business (unlicensed) there, a portrait studio (no use issue there) and a rental. The rental and the wood chip business would be contrary to the proposed zone. They may have a right to continue those uses (if appropriate use permits have been obtained) but I saw no evidence of such uses in my visit to the site. The house is boarded up. The access is poor. Even though this remnant parcel from a Manufacturing area that was located around the Brickyard, has this M-1 zoning, in the long run, this is a parcel that the City may want to change the zoning on. It is surrounded by residential use.
- The hearings on June 21st and July 19th provided input to this process and resulted in a continuation of the ordinance proposal. The focus seems to be the non-conforming use issue, outside storage, and any sort of change to zoning. Modifications to the NCU and storage sections were made. Letters were received for the August 16th hearing and are attached.
- Outside storage is now proposed to be allowed for existing uses for the entire parcel, which allows such uses to continue without becoming a non-conforming use.
- Major modifications were made to the non-conforming use language to allow expansions if streetscape improvements are provided. The draft eliminates a traditional standard that any use over an acre becomes a conditional use. It also provides for greater height for outside storage and more flexibility for outside storage in terms of repair, cleaning, and fabrication.

All of the Community Councils have reviewed the draft. Their input included suggestions to:

- Add halfway houses to the M zones – they need to be somewhere (not included in the draft)
- Discuss massage uses in the C zones (this was addressed by the Planning Commission and City Council)
- The broad category and definition of light manufacturing seems to work as opposed to a long list, though some are thinking of that category as just one use. It can encompass a wide array of uses.

PLANNING COMMISSION RESPONSE

A work session was held on June 9th. A public hearing was held June 21, 2017. Owners were concerned about their non-conforming use status, the way non-conforming uses have been

treated in the existing ordinances compared to the proposed draft, and the fact that the City might actually change current ordinances.

A discussion of allowing larger parking lots in front of buildings, if the landscaping along the adjacent road is widened occurred. The current draft has a limit of one row of parking within 300' of prominent intersections. The draft is intended to promote a more urban appearance near the prominent intersections.

A work session was held on July 7, 2017 that included several property owners who provided input. The non-conforming use issue was discussed and resulted in changes to the draft to create additional flexibility for property owners that are "grandfathered" under the proposed ordinance.

A second public hearing was held on July 19th with considerable input provided by property owners. A Planning Commission work session was held on August 8th and additional modifications were suggested that are now reflected in the draft. The Planning Commission held a final public hearing on August 16th. Considerable input by property owners was directed at the idea that change was not necessary, the outside storage issue and becoming a non-conforming use. There was disappointment by the owners that Millcreek would change the zoning.

PLANNING STAFF ANALYSIS

Major issues have been addressed in this draft. A new concept for non-conforming uses that allows expansion, if, site improvements along the street are provided, is a unique means of providing needed improvements to the area as well as owner flexibility.

Outside storage for existing uses is now suggested as a continuing option for the entire parcel.

Outside activity may include cleaning, repair, and fabrication, as an accessory use.

20' back from the property line, outside storage can reach 18' in height. There was a question about whether a height restriction was necessary beyond the setback.

A restriction that the uses would not be allowed any environmental impacts, has been tempered to reflect the use becoming a nuisance by exceeding local, State and Federal standards.

The traditional "any use over an acre becomes a conditional use" language has been removed.

Each use stands on its' own in terms of being permitted or conditional. Parcel size is not an accurate determinant of potential detrimental effects.

The broad categories of light manufacturing and warehousing are permitted uses.

Commercial, C-3 uses are also included in the M zone proposal.

Many of the property owners are questioning whether they actually are becoming a non-conforming use under this proposed ordinance. It was recommended in the last Public Hearing that a "Determination" letter, which defines the status of the uses on a particular property be offered, by request, for free for some time period after the adoption of a new M zone. Staff recommendation would be for a year after adoption.

PLANNING STAFF RECOMMENDATION

Planning staff recommends the Planning Commission draft using the following motions to the City Council:

1. Approval of the new M zone draft.
2. Change the Zoning Map for the zones designated M-1, and M-2, to the new M zone.
3. Repeal the M-1 and M-2 zones.

Attachments – “A” draft ordinance, “B” e mailed input letters and a response:

“A” Draft Ordinance

CHAPTER 19.66 LIGHT MANUFACTURING ZONE “M”

19.66.010	PURPOSE, DEFINITIONS, APPLICATIONS
19.66.020	PERMITTED AND CONDITIONAL USES
19.66.030	PROHIBITED USES, LIMITATIONS
19.66.031	ACCESSORY USES
19.66.040	BULK AND YARD REGULATIONS
19.66.050	SPECIAL REGULATIONS FOR THE LIGHT MANUFACTURING ZONE
19.66.060	NON-CONFORMING USE OF STRUCTURES AND LAND
19.66.070	GENERAL STANDARDS OF APPLICABILITY

19.66.010 Purpose, Definitions, Applications

A. Purpose of M, Light Manufacturing Zone

The purpose of the Light Manufacturing Zone is to provide areas for light manufacturing, warehousing, and commercial uses in an aesthetically attractive setting.

B. Definitions. Light manufacturing: Manufacturing conducted within an enclosed building predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, research, testing and packaging of such products, and associated services, storage, sales (retail and wholesale) and distribution of such products, which minimizes noise, odors, vibration, hazardous waste materials, or particulates that could be considered a nuisance to neighboring properties.

Warehousing: the storage of raw, in-process and finished materials within an enclosed structure or building, including retail and wholesale activities, which does not produce noise, odors, vibrations, hazardous waste materials or particulates that will cause detrimental effects to neighboring properties.

C. Applications for rezoning

It is the intent of Millcreek City to restrict existing and future manufacturing uses to the geographic boundaries of the manufacturing zones existing at the time of adoption of this ordinance.

19.66.020 Permitted and Conditional Uses

Table 19.66-1: Manufacturing Zoning District--Permitted and Conditional Uses

“P” indicates that a use is permitted within that zoning district.

“C” indicates that a use is a conditional use within that zoning district and a conditional use permit shall be obtained as required in Chapter 19.84.

No letter (i.e., a blank space), or the absence of a use from the table, indicates that use is not a permitted use nor a conditional use within the zoning district. Uses may be subject to additional restrictions and limitations found in 19.88.030 Prohibited Uses, Limitations.

Table 19.66-1

USES	M	SPECIFIC USE STANDARDS
Light manufacturing	P	
Warehousing	P	
Commercial		Allowed uses: those permitted and conditional uses in the C-3 Zone as per CHAPTER 19.32 COMMERCIAL ZONES
Any development that shares a common boundary with a residential use and/or zone.	C	Transitions are required as per Table 19.66-3
Outdoor Storage as an accessory to a principle use	P	See section 19.66.050 A (4)
State Store or Package Agency	P	
Recreational vehicle campgrounds	C	
Sexually Oriented Business	C	Subject to Chapter 19.91
Truck Transfer Company	C	Temporary outside storage of trucks and trailers allowed to exceed the standard in 19.66.050 A (4)

Vehicle and Equipment repair & auto body shops	P	See outdoor storage restrictions in 19.66.050 A (4)
Accessory uses and buildings customarily incidental to conditional and permitted uses. Accessory use may include outside repair, fabrication, and cleaning of equipment, vehicles, and/or stored products.	P	
Caretaker's residence	P	Only as a secondary use to a principle use

19.66.030 Prohibited Uses, Limitations – notwithstanding the permitted and conditional uses in TABLE 19.66-1 and other ordinances found in this Title, the following specific prohibitions and/or limitations apply:

Table 19.66-2

USES	SPECIFIC USE LIMITATIONS
Detention facility/jail as a principal use	Not allowed
C-3, Commercial uses	Subject to all prohibitions, limitations, standards and/or conditions in the in the C-3 zone, Chapter 19.32 and specifically the prohibitions and limitations of table 19.32-2
Outside storage as a principal use	New outside storage uses are prohibited
Product displays over five feet in horizontal distance from the main building.	Not allowed

19.66.031 Accessory Uses

Accessory uses and structures shall be subordinate to the main use and structure.

19.66.040 Bulk and Yard Regulations

Table 19.66-2: Manufacturing Zone: establishes bulk and yard regulations for the manufacturing zoning district.

Table 19.66-3

BULK REGULATIONS	M
MINIMUM LOT AREA	20,000 square feet

BULK REGULATIONS	M
MINIMUM LOT WIDTH	100'
MAXIMUM BUILDING HEIGHT	40 feet
MAXIMUM LOT COVERAGE	80 Percent
MINIMUM BUILDING HEIGHT	1 story
MINIMUM FRONT YARD	20 feet
MINIMUM REAR AND/OR SIDE YARD	If located adjacent to residential zoning, 25 feet, otherwise 10' required
MINIMUM INTERIOR SIDE YARD	10 feet
MINIMUM CORNER SIDE YARD	20 Feet
ACCESSORY STRUCTURES: REAR AND INTERIOR SIDE YARD	2 Foot
ACCESSORY STRUCTURES: REAR AND INTERIOR SIDE YARD WHEN ABUTTING RESIDENTIAL USE	10 Feet
PARKING LOT LIGHTING	Not located within 25' of any public street, down lighting only and subject to all other City lighting standards
SIGNS	Limited to monument on-premise and flat or wall signs Subject to the C-3 zone standards in 19.82 SIGNS

1. For buildings adjacent to residential uses, the side and rear yards abutting residential uses shall be increased by one foot for every two feet that the structure exceeds twenty-five feet in height.
2. For “automobile service station” uses, gasoline pumps shall be set back not less than twenty-four feet from any street property line, and not less than thirty feet from any residential zone boundary line. If the pump island is set at an angle on the property, it shall be so located that automobiles stopped for service will not extend over the property line. In addition, canopies constructed to provide a weather shield over gasoline pump islands shall not encroach on the front or side yard setback and not be located less than ten feet from any residential zone boundary.

19.66.050 Special Regulations for the Manufacturing Zone

A. General Conditions in the M Zone

All uses in the M zone shall be permitted only under all of the following conditions:

1. Business operations shall be conducted wholly within an enclosed building, except for the parking and servicing of vehicles and equipment and service to people in automobiles, and except that any type of restaurant may have outdoor dining.
 2. All uses shall minimize, so as not to become a nuisance, any unsafe, unhealthy, objectionable and unreasonable waste, odor, dust, smoke, other emissions, noise, vibration, as determined by any Federal, State, County, and/or City health and safety codes, regulations, or ordinances.
 3. All principal assembly, manufacturing, testing, cleaning, testing and associated services or processes shall be done wholly within completely enclosed buildings. Accessory use may include outside repair, fabrication, and cleaning of equipment, vehicles, and/or stored products.
 4. For new uses, outside storage of product, materials, vehicles, or equipment is allowed in the rear or side yard and may cover up to 50% of the parcel, subject to a solid barrier perimeter fence of 6' to 8', depending and relating to the height of the products, materials, or equipment stored outside. The maximum height of outside product, materials, or equipment shall not exceed 18 feet and any items exceeding 8' shall not be stored within 20' of the fence. The surface area of the outside storage area shall be paved with cement or asphalt hard surface paving or a contained durable permeable surfacing such as, gravel. Any outdoor storage of vehicles and equipment shall be considered temporary and only include operable, functional vehicles and equipment able to be immediately put to the intended use.
- Existing legal uses with outdoor storage operating at the time of the adoption of this ordinance, (date to be added upon adoption) shall retain the ability to store product, materials, vehicles, or equipment on 100% of the parcel or parcels occupied by such use.
5. Roof mounted mechanical equipment and vents, including swamp coolers shall be screened from view using a pedestrian vantage point along the adjacent street, but not including an elevated street such as a freeway.

B. Design Standards for all uses in the M zone

1. Entrances to the first floor of manufacturing and commercial buildings shall front on the street. Windows shall make up at least 25% of first floor street-facing facades. Top floors shall have architectural differentiation from the other floors in the building.
2. No more than one row of parking is allowed between the building(s) and the street within 300' of any major intersection (defined in the Commercial Zone Chapter 19.32). Each distance is measured as a radius from the applicant's nearest property line to the intersection ROW line. Any overlap of the radius onto the applicant's property excludes the entire property.
3. Corner parcels are deemed to have two front yards, but only one front yard is required to have a public entrance.
4. Landscaping along any public street shall comply with this chapter and Chapter 19.77.
5. Garbage and Recycling. The development shall be designed to accommodate and efficiently manage the collection, storage, and removal of garbage to minimize the detrimental effects of the collection, storage, and removal such as noise and odor. Dumpster enclosures are required. No refuse dumpster or dumpster enclosure structure shall be located closer than 20 feet to any perimeter property line. Enclosure structures must have a minimum of three sides that reflect or emulate the materials, design, and quality of the overall development. All developments shall provide recycling services.
6. Building Materials. Exterior materials of a durable or resilient nature such as brick, stone, stucco, concrete, prefinished panel, composite materials, painted block, or other materials of similar quality, hardness, and low maintenance characteristics shall be used. No single material is allowed to exceed 50 percent on street-facing facades. Other materials may be considered for soffits, or as an accent or architectural feature. Twenty-five year guarantee, architectural shingles and/or other longer lasting roof materials are required.
7. Building relief. All buildings shall include façade differentiation through the use of varied materials and relief every 100 feet or less.
8. Landscaping on Public Right-of-Way. Where a development is adjacent to a public right-of-way, a permanent landscaped open space shall be required along any front, side, or rear yard adjacent to said right-of-way. This area shall be kept free of buildings and structures (except fences, as per chapter 19.77.050, and approved by the Planning Commission), and permanently maintained with street trees and other landscaping, screened or protected by natural features, as per chapter 19.77. If such areas are the result of double frontage lot designs with inadequate access to the street, such areas shall be landscaped as per chapter 19.77 with a minimum of a five-foot landscaped area next to the public ROW. Fences shall not be located within this five foot landscaped area. Aesthetic entrance features are encouraged, but must maintain a clear view for access/egress. Additional landscape treatments or buffers may also be required with width and landscaping specifications as per chapter 19.77.

9. Perimeter Fencing. Fencing is required adjacent to residential uses and to screen outside storage. Preferred fencing materials include architecturally designed brick, stone, or block, or pre-cast concrete. Fencing with materials using composite products, wrought iron, chain link with slats, wood, or vinyl are also acceptable. Unless otherwise allowed by the Planning Commission or staff, exterior fencing along a public right of way shall be setback a minimum of 5 feet from the property line to allow for a landscaping buffer designed in accordance with chapter 19.77 to soften long expanses of walls. Interior fencing shall comply with section 19.78.030(11) (f).

10. Interior Street Lights. Street and pedestrian lighting for streets on the interior of the development is required. All lighting fixtures shall be directed downward with mechanisms to prevent dark sky illumination. The applicant shall submit a plan which indicates the type and location of lights in relation to the development and designed for pedestrian safety. Minimum Average Foot-Candles for interior streets shall be shall be 0.3 and the fixture height shall not exceed 25 feet.

11. Access between commercial uses. Vehicular and pedestrian access between uses that does not force vehicles out to the adjacent street is required.

12. Development sharing a common boundary with existing or proposed residential uses shall maintain a minimum 20-foot landscaped setback from such residential areas for all structures and storage areas. Such setback areas shall contain a minimum six-foot high masonry wall located on the property line, and one five-foot high coniferous tree per 300 square feet as a minimum standard.

13. Development sharing a common boundary with existing or proposed residential uses:

- a. The required minimum six-foot high concrete or masonry wall shall be constructed concurrently with the foundation of the proposed building.
- b. No proposed manufacturing use shall be constructed which will allow a direct view into the rear yard of a residential use.
- c. Loading docks shall be located a minimum of 100 feet from an existing or proposed residential use. Such loading docks shall incorporate screening whether in the form of landscaping or wing walls.

14. Curb cuts shall not be located closer than 50 feet to any corner. Loading docks shall not be visible from the adjacent street.

15. Curb cuts shall not be located closer than 20 feet to a side or rear lot line, and the distance between separate curb cuts serving adjacent land uses shall not be less than 40 feet, unless one or more of the following circumstances apply:

- a. A common curb cut serves adjacent land uses;
- b. Curb cuts cannot meet separation standards due to narrow lot frontage;
- c. Curb cuts cannot meet separation standards due to location of existing cuts on adjacent lots; or
- d. A professional traffic engineer, after preparing a traffic study, recommends that curb cuts be located closer to interior lot lines in order to maintain a safe distance from street intersections.

16. In order to meet the purposes of this chapter the Planning Commission or staff shall consider the following prior to approval of any plan:

- a. Lots may be accumulated to provide the minimum lot area. Individual lots with an area smaller than the minimum lot area are not suitable for a development.
- b. The development shall provide appropriate buffering to adjacent properties and uses.
- c. Safe access shall be provided within the site and to public streets.
- d. Uses adjacent to defined creeks shall include a usable open space buffer area next to that creek.

17. In the event standards in this chapter conflict with other standards found elsewhere in Chapter 19, the more restrictive standards apply.

19.66.060 Non-Conforming Use of Structures and Land

Non-conforming uses and structures are legal uses that existed at the time of this ordinance adoption (insert date), but no longer comply with the new zoning requirements or allowed uses. If such uses and structures have been legally approved under the previous zoning ordinance, then they may continue since the non-conforming use status runs with the land, which means, the non-conforming use may be passed from one owner to another.

Notwithstanding Chapter 19.88, NONCONFORMING USES AND NON-COMPLYING STRUCTURES, the following standards apply to all non-conforming uses and non-conforming structures within the M Zone:

1. A non-conforming use shall not be expanded or increased unless the expansion or increase provides improvements to the site that result in greater conformity with the ordinance. No nonconforming use or structure shall be expanded or increased unless the expansion brings the structure into greater compliance with City standards.
 - a. Potential improvements to be considered for non-conforming use or structure expansions may include, but are not limited to: curb, gutter, sidewalk, park strip improvements, substantial front setback area landscaping including street trees, distinctive street lighting, opaque/appropriately located and aesthetically acceptable fencing, parking lot paving, pole sign elimination, etc. Proposed improvements by the applicant shall be considered by the Planning Commission in relation to a proposed expansion of the non-conforming use.
 - b. All such expansions shall be reviewed and considered for approval by the Planning Commission in a public hearing, but no proposal shall increase the non-conforming use or structure by more than 25%. Any expansion of the use or structure shall provide at least two of the improvements mentioned in (a) above or at least two agreed upon substitute improvements. Substitute improvements shall be of similar quality.
2. A nonconforming use shall not be changed to a different use unless the proposed new use is a conforming use.
3. Exterior façade changes to nonconforming structures shall only be allowed if they help to bring the structure into compliance, or at least partial compliance, with the architectural standards of this Chapter.

4. All legal uses that become non-conforming as of the adoption date of this ordinance (insert date), are legal non-conforming uses.

19.66.070 General Standards of Applicability

The use and development of property within the Manufacturing Zone is also subject to other applicable chapters in the zoning ordinance.

"B" e mailed input letters and one response – first letter

Millcreek Planning Commission 3932 South 500 East Millcreek, Utah 84107 RE: Proposed Zoning Change File # 30459 Dear Millcreek Planning Commission:

We appreciate the elected officials and all those who are willing to serve in our newly formed City of Millcreek. We recognize their efforts and hard work to make a better community. We hope that they are mindful of their fiduciary duties to represent those people they have been chosen to represent, including those who have industrial and manufacturing businesses within the city boundaries. As we have been reviewing and considering these zoning changes, many of the citizens and businesses have filled the council room and expressed concerns, made objections, pointed out problems and conflicts, and opposed the zoning changes. What is noticeably absent is there has been little or no word from citizens and business community members speaking for or in favor of the proposed changes, other than a few from the City, City Planning Staff and those of the county who want to have impact on our new city. In the current form, this proposed zoning change constitutes a regulatory taking of the properties, by unreasonably restricting, over regulating, and interfering with one's ability to grow or expand its business. This proposed zoning change is condemnation, that creates blight, as well as financial hardships and impacts. The properties that are being impacted have complied with all zoning ordinances and building rules and regulations at the time their buildings were constructed, and under the proposed regulation these businesses would be forced out of compliance or into a conditional use situation. While efforts are being made to "grandfather " these businesses in, the forced non-compliance is further condemnation as it restricts future growth and development of one's property in its current M-UM-2 zoning. These businesses were built with an industrial use application and had the ability to perform and do all of those things that were necessary in the M-1 and M-2 zones. This was their intended use and that was how they were Page 1 of 2 Quality assured since 1971 a)t constructed. The construction, design, and layout of these buildings, in many cases does not lend itself well to other types of uses.

Based upon this, we are requesting that the zoning ordinance not be changed. We are workable and willing to meet with the planners and review what other cities have done as it pertains to transitional zoning, and explore other options that are not a condemnation or a regulatory taking of one's property or property rights. We would propose an alternative option for a more legal and friendly transition. We would like to propose a Transitional Zone, Transitional Zone M-1T and M-2T. These types of zones have been used in other cities in similar situations and provide new opportunities without impacting the old ones, and without condemning or restricting property uses. The transitional zone would allow new uses without any changes being made to the current zoning. The new uses would be considered as a conditional use and reviewed by the City Council and Planning Departments, on a case by case basis. Allowing the city to move forward with the master plan flexible to allow other uses in the proposed transitional zone, while allowing everything that is currently built and constructed to continue with their original zoning, and to be in compliance with those original zoning ordinances. The new zone would allow a transition for new and old uses. This will help the city maintain its current sales tax base, as well as open the door for new opportunities and ultimately to create the zone that the planners appear to be desirous of. As a new city we have an excellent opportunity to be better than the county and the other cities that surround us. We have the opportunity to be innovative, creative, forward thinking and move away from the same old thing the County had been doing for years. Let's not be the same old community, let's be better. The City does not have to accept something that is not right for its citizens and community. Millcreek City Officials can change the face of Millcreek without driving their current businesses and tax base out of the community. They can do it with careful planning and by taking the time to get it right.

Your consideration in this matter is appreciated. Fred W. Jones President and General Manager

Second letter

Westech Fuel Equipment Concerns
Proposed Zoning Ordinance Change 30459

Westech Fuel Equipment's building was designed and built for an industrial purpose. It was built to, and in compliance with the M1-M2 standards for the zone at the time of its construction. It was also built in compliance with the restrictive covenants that exist on the deeds for the properties in this area.

Our building was built and constructed for purposes that include but are not limited to, outdoor storage, outdoor work areas, billboard signage, combination office and warehouse space, truck and transport deliveries, forklifts, and was built adjacent to the railroad to accommodate those purposes. Westech's building and property is unique and its use does not lend itself well to non-industrial uses.

Adopting this ordinance change in its current form would prevent our ability to use or sell our property for its highest and best use.

Unlike homes and office buildings, industrial properties are built for specific and unique uses, which is specifically why these types of zones were adopted. Trying to force an industrial building to be in compliance with other zoning designations, is like trying to park your semi truck in the parking spot designed for your car, it just doesn't fit.

We would be impacted and non-conforming in the following areas under Section 19.66.050 and 19.66.060 of the proposed ordinance:

1. Signage- We have a low profile monument sign in the landscape planter area and billboard sign that we use to promote our business and add value to our property.
2. Outside Storage-we specifically purchased this property for outside storage. It is designed for the South side of the property to hold items that are too large for or that do not fit in our warehouse.
3. Business areas wholly enclosed in the building/no outside work areas- In order to comply with this change we would have to change the operation of our business and add additional equipment or relocate equipment with an economic impact. We weld and fabricate steel components in the yard.
4. Dumpster within 20' of property line. Our dumpster was located to accommodate the use of our property and to provide access for the waste company to pick it up. It is within 10 feet of our property line in a locked gated area.
5. Curb Cuts do not meet 50' setback from the corner and our unloading dock faces the adjacent street. Losing our curb cuts would land lock our property and business and prevent access for delivery trucks.
6. Building construction does not have facade differentiation
7. Design standards-windows do not make up 40% of the first floor

8. Perimeter Fencing. We have fencing around our storage but it is chain link with slats, not concrete or brick.
9. Interior Street Lights- we need lights on our building to keep it illuminated for safety and to protect those items in our outdoor storage and provide enough lighting that we may help prevent burglaries from occurring.
10. Parking- We cannot accommodate our employees with one row of parking.
11. Roof mounted equipment is not screened entirely from view. All of our air conditioning and heating units are on the roof without screen walls built around it.

We recognize in the proposed ordinance, that this non-conforming use status " runs with the land and may pass from owner to owner", however expansion under the proposed ordinance would require us to bring the property up to the new ordinance standards, which would prevent us from using our property for its intended purpose and use. This is restrictive and over regulating, as expansions to existing buildings would never completely meet compliance to the new proposed ordinance changes without tearing the existing buildings and structures down or without major financial impacts.

Therefore, substantially interfering with our property and destroying or lessening the value and our right to use and enjoy, therefore constituting a regulatory taking.

We would strongly encourage the planning department and city officials to look at an alternate approach to the proposed new zoning ordinance change, one that is fair to the existing property owners, which allows them to grow and develop their business and be part of the community.

Second letter/response

John:

Thank you for your email.

I don't have any specific examples to give you, but offer the following:

As you know, zoning can be combined to form some sort of combination zone, many of which are unique to the community adopting the particular designation. Whether you call this a transitional zone or a combination of an M1, M2 and C-3 zone, it does not matter. Provided that the combination of the zone does not create a situation that deprives the property owners of economically reasonable use or value of their property, and that it does not deprive them of the utility or value of that property.

We appreciate you pointing out the incentives and items that you feel enhance the ordinance, but those items we feel are actually a deterrent. We have listed some examples of how it would affect Westech and its property and have attached them to this email.

Again, we believe that the current proposed ordinance is a regulatory taking. If accepted the City would be substantially interfering with our property, destroying and lessening the value as well as our right to use and enjoy.

We also have concerns that it is tortuous interference into a private contract, as many of these properties have deeded restrictive covenants and uses. We believe any zoning ordinance should be constructed in a way that

allows the property owners to comply with their deeded covenants and restrictions. Bearing in mind that it is not the public or community requesting this zone change, but rather the City Officials and Planning and Zoning.

Thank you for your time. We appreciate the opportunity to make comments and participate in this discussion.

Third letter

Dear Millcreek Commissioners,

I understand that the timeline for official responses/complaint expired as of yesterday. I suppose you can throw my comments in the trash or take them as unofficial.

Unfortunately for me, I have not yet been able to take on a serious study of what you propose in total and I am sure there are many items I would like to comment on – both pro and con. I am sure I am like many who will be effected by the proposed changes and will only find the objections when we propose to develop, add to, or change a current use of properties we own or develop.

For the record, I represent Alder Development and Sunnyside Enterprises, who own 5 existing buildings and two undeveloped lots in western Millcreek. Our goal over the past 30years of developing these properties has been to build and own light industrial buildings that can serve a number of different tenants and be desirable rentals to a wide group of tenants for years to come.

One of our biggest challenges has been dealing with the building or Zoning officials of Salt Lake County, Murray City (where we own properties), or Salt Lake City (where we also own property). We have been fined by Murray City for landscaping violations on the same development that was given a landscaping award by a local Industrial Building owners group! Go Figure...

So a few quick thoughts

- It appears you want to restrict car and equipment sales, rental or repair options. That seems odd since all other Cities seem to want them for their sale tax base. We all drive cars, but god forbid we need to get them fixed and can't find a repair guy due to your outdoor parking restrictions.
- Your restrictions on outside storage 19.66.050 A (4) are not clear to me. Who is stuck with the 50% rule and who gets to use the "alternate" 75% rule? Why is outdoor storage of vehicles or equipment considered temporary? At my office of Alder Construction we have a yard space that is critical to my business and is at least as big as the building. South of me is the old Scott Machine space that contains a very large lot space that is critical to the current user. Are we "out of spec"?
- And your note states that existing legal business are exempt from the outdoor storage requirement. If I move from my current location and re-let this space to someone else (who wants and needs significant outdoor storage), is that new tenant also exempt? My current business of Alder Construction would not be allowed under your new storage rules. I'm not feeling welcome in Millcreek!
- 19.66.050 A (5) – do I need to shield the solar panels I just put on a number of my building? Or are some uses more desirable than others? And really – in an office environment maybe, but in an M-1? Come on. Whose visual sensibilities are we offending? You ought to notice the high rise residential on the east side of the freeway of 39th. Everyone that has a unit above the ground floor will be able to look down on the "offensive equipment" located on the top of any adjacent or near by building. What ever screen is installed will not prevent a view from above meaning even screens will make our properties noncompliant. Am I also supposed to install screens over the equipment to keep the offensive items from view?? What about those very offensive cell phone installations? I think you should have them screened as they are offensive to me. But then my cell phone wouldn't work – so never mind..
- 19.66.050 A (4)
- 19.66.050 B. 1. M Zones are not commercial, we don't advertise in our front windows or show off product. Glass storefronts are preferred targets of the criminal class. M Zones are not patrolled like commercial. Often nights and weekends there is no one around. Why make an easy target easier to break into? I only speak from experience. Stupid idea!

- 19.66.050 B.1. I have a lot bordering on 5th West and 39th South. Due to takings by SLCounty we can not exit onto 5th west, and UDOT will not allow an access on 39thsouth. The front of the building we have designed for this space will face to the South to the common access (and private) road. We plan to make the façade facing 5thwest attractive, but it is not the front of the building and will not conform to this spec.
- 19.66.050 B. 6. We all strive for attractive building designs. It appears you have determined that a total precast or tilt-up concrete building is undesirable. And you have just raised the cost of any new M Zone structure. Also – I just reroofed some buildings and while I went with very good materials I do not have 25yr guarantees on any of the new roofs. And most flat roof structures do not use shingles.
- 19.66.050 B.7. This apparently applies to all sides of a building. Please show me an industrial building that meets this criterial.
- 19.66.050 B.8. I wish you had included 19.77 so I could review that requirement.

Sorry for the lack of organization and the tardiness of this email.

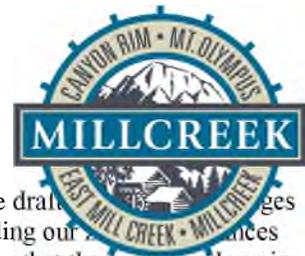
Thank you for your consideration

Bruce Alder
Alder Construction
Alder Development
3939 So 500 West
SLC, UT 84123
801-266-8856

Fourth letter see Douglas Black's attached letter

Douglas Black
155 West Central Avenue
Millcreek, Utah

August 10, 2017



Thank you for providing the Planning Commission your thoughts and concerns about the M zone draft. Changes to zoning are a significant issue for property owners, but as a new City we are engaged in upgrading our streets and sidewalks that have remained relatively untouched for a very long time under County governance. It is clear that the area is undergoing gradual changes with the interest in transit oriented development near the two stations and the consistent demand for mixed use and multi-family buildings.

Your letter raised issues that I think we can address. The original draft has been modified substantially based on the input we have received over the last three months and again we thank you for your participation in this process. The responses below relate directly to the letter you sent:

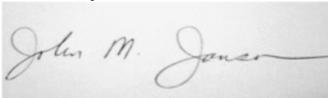
1. Outside storage – the draft has evolved on this issue. It now separates new uses from existing uses. As an existing legal use you would be entitled to use the entire parcel for outside storage, less any required setbacks. New uses would be required to use no more than 50% of the parcel for outside storage. This would not apply to your situation since you are an existing use that is engaged in outside storage.
2. Expansion of non-conforming uses and structures - if your uses are non-conforming (which has not been determined yet), a modification to the original draft has been made in response to public input to allow expansions of use and structures, if additional improvements are made to the property, addressing the streetscape. Improvements that have been mentioned so far are curb, gutter, and sidewalk, landscaping of the front yard setback, street lights, street trees, new fences, signs, etc. The bottom line being that there is an allowance for expansion of up to 25% of the building and use.
3. Storage height – the Planning Commission just revised the draft to allow for 18' of height, twenty feet back from the property line and/or fence. This may still be up for debate since some felt we should not address the height of stored equipment if it is stored further back on the parcel.

4. C-3 zone – it is not the intent of this process to create C-3 zones in the Meadowbrook area. The C-3 zone uses are simply being added to the proposed M zone uses. This allows greater flexibility for the property owners that wish to transition to more commercially oriented uses.
5. Permitted uses – the draft relies on the definition of light manufacturing and warehousing to allow a wide variety of uses. It does not try to specify all the uses that could meet the definition of light manufacturing. Essentially, as long as the use is primarily conducted within an enclosed building and does not create a nuisance with impacts that are greater than what the Salt Lake County Health Code allows, then the use is permitted. A permitted use simply is a staff processing function, and does not require the extra step of a public hearing with the Planning Commission. In addition, the draft now suggests the elimination of a traditional part of the ordinances that required any use over an acre in size to come before the Planning Commission as a conditional use. With your property being 1.5 acres in size, this new philosophy in the ordinances simplifies your permitting process.
6. Selling a non-conforming use – the non-conforming use runs with the land, not just the owner. So, this “right” is transferred to the new owner. County staff has stated they have worked with many owners of non-conforming uses over the years and they have not encountered significant problems in working with banks or potential purchasers.

I think many of your concerns have been considered in the new draft but we can not be sure yet, if in fact, your use is destined to be a non-conforming use with the new draft. The structure may not meet the intent of the new draft but the use may still be conforming. The best way to determine that is to request a letter from City staff, after the draft ordinance is adopted (with whatever amendments it receives through the process), and get a determination of your use and structure issues. That letter would create a permanent file and establish your actual status.

Please feel free to contact me (801-232-3778, j_janson@comcast.net) with any additional concerns you have.

Sincerely,

A handwritten signature in cursive script that reads "John M. Janson". The signature is written in dark ink on a light-colored background.

John M. Janson
Millcreek Staff

Millcreek (TNW)

Reid

8/9/2017

August 9, 2017

Millcreek Planning Commission
3932 South 500 East
Millcreek, Utah 84107

I am responding to your proposal to change our zoning from M-1 and M-2 respectively, to your new M-2 zone. I think there is no real reason to do this. I am against this on several levels.

First, the property I own at 155 West Central Avenue is very valuable because it has one and a half acres of asphalt-fenced yard, around a 13,000 square foot building. That building has two 5,000 square foot shops and 3,000 square feet of office and storage space. For whatever your reason for stopping my tenants from using one-half of it, is stupid. What am I suppose to do with the half you won't let us use? It makes it impossible to rent it for its market rate. It hinders my ability to lease the property because that is what the tenants want and need. It is what makes the property valuable. What you are trying to do is called a "taking".

Second, what if a tenant is successful and needs to add onto the building to expand his or her business and needs more room for inventory and to provide more jobs to good people? Why would you stop that? It makes no sense at all, especially if you add on within the correct set backs and build to code. Again stupid! Why?

Third, yard storage height. We have always been able to use whatever space and stock to a height that is needed. You do not own the air space over my land. Your proposal for changing the zone from M-1 and M-2 to a M-zone is just a ruse to change our zoning to C-3. Nothing in a C-3 works in a M-2. The buildings were built for M-1 and M-2 not C-3. Your M-zone is nothing more than C-3 because your M-zone only permits three things--auto repair, body shops and truck transfers. Nothing else from M-2. Truck transfers--that sounds a lot like Ashgrove Cement. M-2 allows many different

kinds of businesses, more like 72 permitted uses. That is a lot more than your M-zone allows and I think your conditional use is nothing more than a weapon, stopping good tenants from even getting started. Yet all the buildings were built for M-1 and M-2 respectively.

There are several other points I am going to make at the public meeting on August 16th, like my inability to sell my property or operate it in the fashion that I have been doing for 27 years. On second thought, I think your zoning proposal is designed to do one thing--shut us down and devalue our properties and make it so the only people we can sell to is a developer and he knows this and that makes him think he can beat us down on the price.

We, as property owners, have vested property rights and you cannot do what you are trying to do to us. This is nothing more than a vicious attempt to take our property rights.

A large, stylized handwritten signature in black ink, appearing to read 'Douglas A. Black'.

Douglas A. Black, Owner
155 West Central Avenue
Millcreek City, UT