



**Minutes of the  
Millcreek Planning Commission  
April 17, 2019  
5:00 p.m.  
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, April 17, 2019 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106.

**PRESENT:**

**Commissioners**

Fred Healey, Chair  
Tom Stephens, Vice Chair  
David Allen  
Russ Booth  
Dave Carlson (not in attendance)  
Scott Claerhout  
Shawn LaMar  
Mark Mumford (arrived at 5:21 p.m.)

**City Staff**

John Brems, City Attorney  
Francis Lilly, Community Development Director  
Elyse Greiner, City Recorder  
Blaine Gehring, Planner  
Robert May, Planner  
Erin O'Kelley, Planner

**Attendees:** Mayor Jeff Silvestrini, Council Member Dwight Marchant, Kasey Kershaw, Guy Larson, Jake Wood, Theresa Parker, Ethel Cooper, Amber Measom, Dave Hogan, Mark Goodman, Stuart Hinckley, Ryan O'Connor, Ashley & Alex Cass, Dan Miles, Suzanne Miles, Erin McCormack, Randall Eggert, Braden Saunders, Sheryl Martin, David & Melodie Webb, Byron Goates, Nate Sechrest, and Scott Johnson.

**REGULAR MEETING – 5:00 p.m.**

**TIME COMMENCED: 5:02 p.m.**

Chair Healey read an opening statement explaining the duties of the Planning Commission. He thanked the planning staff for their work and announced that item 1.3 would be continued by request from the applicant and staff. He said the public will have a chance to voice comments at the next community council meeting and the next Planning Commission meeting. Francis Lilly said the Millcreek Community Council would hear the item on Tuesday, May 7<sup>th</sup> at 6:30 p.m. and the next Planning Commission meeting would be Wednesday, May 15<sup>th</sup> at 5:00 p.m. There will be no additional mailed notice for the item.

**1. Public Hearings**

**1.1 Consideration of ZT-19-001, Amendment to Title 19 of the Millcreek Code  
Updating Requirements for Billboards Planner: Francis Lilly**

Chair Healey recused himself from the discussion because he owns properties that have billboards. He then turned the conduction of the meeting for item 1.1 to Vice Chair Stephens. Francis Lilly said he went over the proposed ordinance amendments at the last meeting but wanted to review what the code currently allows. Billboards are a permitted

use in the C-2, C-3, and M zones and are a conditional use in the C-1 zone. They can be up to 35 feet tall in the C-1 zone and 45 feet tall in all other zones. Freeway oriented billboards can be up to 35 feet above freeway grade level or 50 feet overall, whichever is greater. Billboards can be no more than 672 square feet (sf) in the C-2, C-3, and M zones and no more than 300 sf in the C-1 zone. Signs must be setback 18 inches from property lines or the future right-of-way line, 150 feet from any residential zone boundary, and the following separation requirements from each other: signs 300 sf or less are 300 lineal feet on the same side of street, signs greater than 300 sf are 500 lineal feet on the same side of street, and all signs must be separated by 150 radial feet from each other. Millcreek imposes a cap on the number and square footage of billboards in the City. Square footage for signs that are removed can be banked for future use and the sf credits expire after 36 months. One benefit of the square footage bank is that it allows signs' square footage to be vested in a manner that is longer than what state code provides for. State law says that if a city and a sign company cannot come to terms with the location of a future billboard, the sign company can relocate an existing sign within a mile of its original location provided that it is in a commercial or manufacturing zone. The city is given six months written notice and if in that time an agreement cannot be made, then an eminent domain process is started by the city to acquire the sign for its real property value and the advertising market value. The square footage bank allows the City and sign company more time to facilitate the relocation of that sign.

There are 51 signs in Millcreek, totaling approximately 31,000 sf in sign area, 17 signs have faces that are in excess of 300 sf, and 17 have other nonconforming circumstances, such as being a two-decked sign. Commissioner LaMar clarified that 51 is the number of structures which have 2 or more billboards. Lilly confirmed and said not all billboards in the City have two-faced signs, some are single-sided. Lilly showed a map to the Commission of where billboards currently are. He then showed a picture of a billboard behind a house at 3075 E. 3215 S. He said the sign was approved under current ordinance and permitted by the County and yet it is in the backyard of the residence, granted that the residence is located next to commercial property. Lilly said the location of the sign is less than ideal. He then showed a map of what the proposed billboard ordinance allowed, created by Erin O'Kelley. He said it may be difficult to move signs around based on how many there currently are. Then he highlighted the areas on the map where some could be erected. Lilly said no billboards can be erected without one being removed or replaced and mentioned that a sign company has applied for a permit on State Street to use banked square footage. Commissioner Stephens said if the sign company wished to invoke state law, the radius would be reduced to 300 feet. Lilly said a billboard company can invoke state law and restrictions imposed by Millcreek that restrict beyond state law is not enforceable. Lilly said he has spoken to every sign company that operates in Millcreek and they have expressed that they would rather work with the City than invoke the State's statutory provision. He said the proposed ordinance provides for obnoxious signs to be relocated to somewhere it does not recreate the situation.

The proposed ordinance changes that differ from the amendments discussed at the last Planning Commission meeting are: 1) billboard operators will be required to obtain one business license to operate all signs in the City rather than a business license for each sign, and 2) billboard operators will no longer be required to share with the City a full lease, although they may do so if they choose. Lilly said he received proposed changes to

the ordinance from Reagan Outdoor Advertising. Commissioner LaMar asked about sharing the lease with the City. Lilly said a private corporate company might be reticent to share a private lease and other businesses are not expected to provide one. Commissioner LaMar questioned the business license change. Lilly said one license that regulates 40 signs is more effective as a regulating lever for the City than one license for each sign. He said the way business licensing works, is that the City has to justify the cost of the fee based on the cost to regulate the business. Commissioner Stephens said the Planning Commission requested the billboard ordinance change. He said it was re-noticed for an additional public hearing because someone questioned the notice procedure being properly followed in March.

*Vice Chair Stephens opened the public hearing.*

Guy Larson, Reagan Outdoor Advertising, said Reagan had a two stacked sign with four faces across the street from the billboard that Lilly showed a picture of behind 3215 S. He said they removed that sign and searched to relocate it. There was nowhere else to take it under the existing ordinance, so they made the sign in the picture a bigger one. He said the original purpose statement of the proposed ordinance was to regulate billboards with the intent of enhancing economic development and redevelopment and aesthetics of existing and future billboards. He said sometimes signs are needed to be relocated to assist in development and redevelopment and if Reagan is approached to relocate one, they need the ability to do so. He highlighted the map that O'Kelley made of the proposed changes in the ordinance and said it did not account for distance from on-premise signs. The restrictions on separation spacing and clear view dramatically reduces where a sign can be put. He said he wanted the Commission to consider the lights proposal he had sent them. He said the proposed lighting changes raise safety issues with OSHA and if it will not be adjusted, they will go to the State Legislature to get it adjusted.

Stuart Hinkley, 2833 Mountain View Drive, said he is a resident of Millcreek and wanted to ensure that the Commission received Bruce Parker's email (see attached) which references the general plan. He said a reason why Millcreek incorporated was to not be at the mercy of out-of-city influences that would distract from the beauty of Millcreek. He said Parker said the billboards should be limited and Hinkley felt the nonconforming billboards were not being taken care of. He expressed concern about billboards being a permitted use and not a conditional use. He expressed concern for one business license per sign company instead of a license per sign. He said no other business can use one license if they have multiple locations, they each need one. He said billboard companies are working with Francis Lilly because they do not want the state statute challenged.

Nate Sechrest, Reagan Outdoor Advertising, said the business license costs should be directly related to the cost of the City in regulating businesses, so there is no need for any additional licenses. He said a nonconforming use is a use that can continue if it is not changed. He said he appreciated O'Kelley's map efforts. He said the industry standard of signs is 672 square feet, not 600 square feet. He said the proposed size restriction immediately makes every sign nonconforming and companies lose the ability to move them. He said if the Commission likes all the sizes, heights, and locations of all signs

currently in the City, then they should pass the proposed ordinance. He said it is better for everyone to work together to find solutions to make it easier to relocate billboards.

*Vice Chair Stephens closed the public hearing.*

Vice Chair Stephens brought up the two new proposals; no lease agreements and one business license for all signs. The Commission did not have an issue with not requiring companies to provide leases. Commissioner LaMar suggested that each billboard location should have a business license. Commissioner Mumford concurred and said one sign may have a bigger impact than others. Commissioner Allen asked if retail locations each had their own business license. Lilly said yes because they impact various systems and city infrastructure, billboards are different because their impact is less. Vice Chair Stephens asked the Commission about deleting the minimum separation between on-premise pole signs. Commissioner LaMar said that is the business sign companies are in and he did not see billboards bringing a benefit to Millcreek. He said billboards are allowed because of state law. Commissioner Claerhout said he did not have a strong opinion on the matter. Commissioner Booth favored one business license per sign and the separation from pole signs. Commissioner Allen said he did not see a nexus between radial distance from an on-premise pole sign and a billboard. Commissioner Claerhout said he was in favor of removing the pole sign separation. Vice Chair Stephens agreed with removing the separation requirement.

Vice Chair Stephens asked the Commission about billboard lighting shining downward instead of the current upwards lighting. He said the general plan speaks to dark sky compliance. Lilly said Reagan submitted a letter to staff about the lighting and their concerns for safety. Lilly said there were a number of technical solutions he proposed to the sign companies, but he did not receive a response back from them on the matter. Lilly said he was open to suggestions from the Commission about lighting. Commissioner LaMar said there would be a cost to switch the lighting but did not see a safety issue. The Planning Commission expressed a preference for downward shining lighting. Vice Chair Stephens said the only place he could conceive a 672 square foot sign is on I-15. Lilly said from a vantage point, the difference between 672 and 600 sf is hard to discern. Vice Chair Stephens took a poll of the Commission on the matters discussed. The Commission majority said to keep the 100-foot separation between billboards and on-premise pole signs and to require multiple business licenses.

Vice Chair Stephens said the draft ordinance proposes billboards as a permitted use, but a comment was raised during the public hearing that they should be a conditional use. Lilly said conditional uses are really good when the City's ordinance is clear cut on the conditions that can be imposed. He felt it was impossible, in light of state statute, to impose conditions that will not ultimately trigger the state statute provision, so the result of the public process with a conditional use permit will be for not if state statute is triggered. He asked what the City would accomplish but create angry neighbors. He felt it was good policy to avoid situations where the City sets up the expectation where residents can affect something when they may not be able to. He said but for state statute, the conditional use process would work. Commissioner LaMar said he was in favor of a conditional use permit process because it allows the public to be notified about the billboard and it makes the applicant be responsible to the public and that the Planning

Commission can make sure the conditions are precisely followed. Commissioner Allen said he could go either way but was in favor of a permitted use. Commissioner Booth asked if cities in Salt Lake County did a permitted or conditional use. Lilly said he did not know, but South Salt Lake does allow some conditional use areas and from his experience there, but it was a painful process for everyone involved. Lilly said if it is to be a conditional use, then the proposed ordinance would have to be amended to list conditions and the detrimental effects that can be mitigated against. John Brems said Utah Code Ann. §10-9a-507 states that a municipality may adopt land use ordinance that includes conditional uses and provisions for conditional uses as required compliance with standards set forth in an applicable ordinance. He said this proposed ordinance did not have those standards. Commissioner Claerhout was in favor of a conditional use permit. Commissioner Mumford said the Commission is a public body for the public to be able to voice opinions about issues and the public needs to have the opportunity to do so. Commissioner Booth said when Millcreek became a city, the public was told they would have transparency and could provide input on issues. Vice Chair Stephens said he wanted to send the matter to the City Council, so he was in favor of a permitted use. Lilly said height, setback, size, and lighting could be conditions, but they are already addressed in the proposed code. Vice Chair Stephens said there is a public notice process in the ordinance if the sign company invokes state law.

Commissioner Allen asked if the Commission could recommend to the City Council that billboards be a conditional use, and if they agreed, to send it make to the Commission to make the necessary revisions so the Commission did not spend time amending the proposal if the Council then decided to make billboards a permitted use. Lilly said the City Council would appreciate having the proposed language presented to them. Commissioners Booth and Claerhout favored a permitted use. Vice Chair Stephens said the only change from the ordinance draft proposed in March would be that the billboard operator will no longer be required to provide a lease to the City.

**Commissioner Allen moved to recommend approval of the draft ordinance as written with the additional change that billboard operators would not be required to share with the City a copy of the lease. Commissioner Booth seconded.** Vice Chair Stephens said a unanimous recommendation carries more weight. **Vice Chair Stephens called for the vote. Commissioners LaMar and Mumford voted no. Commissioners Allen, Stephens, Booth, and Claerhout voted yes. The motion passed.**

Vice Chair Stephen asked for the reasons for the dissenting votes. Commissioner LaMar said the conditional use was the biggest issue, but there were changes he felt needed to happen to the proposed ordinance from March that were not even addressed, such as the square footage bank. Commissioner Mumford echoed Commissioner LaMar's comments and added that the public demand an audience. Vice Chair Stephens said the Commissioner's dissent was due to their unhappiness from the permissiveness of the draft ordinance. He said Francis Lilly's staff report and presentation from March stands as reasons why the Commission wants the updated billboard ordinance. John Brems recommended that the business license provision be removed from the zoning ordinance and put in the business license ordinance. Commissioner Allen said the location of the license provision did not impact their decision.

The Commission took a break from 6:15-6:31 p.m.

**1.2 Consideration of ZM-19-005, Rezone from M and C-3 to MD, Subject to a Development Agreement for a Mixed-Use Multifamily Project Location: 3975-3999 S. Main St. Applicant: JF Glenwood, LLC Planner: Blaine Gehring**

Blaine Gehring said the applicant would like to develop a mixed-use development consisting of 6,800 square feet of commercial space and 176 residential units. The three subject parcels consist of 1.89 acres and are currently used for auto related businesses. The site is within one-half mile from the Meadowbrook TRAX Station. The project consists of one mixed-use building with 2 levels of parking and 4 levels of apartments. The site falls within the Meadowbrook Center area in the new general plan which is an area of a greater mix of uses including more higher density residential. Development in the Meadowbrook center is intended to be mid-rise in scale. The project meets many of the essential questions in the general plan. At their meeting on April 2, 2019, the Millcreek Community Council recommended denial of the zone change by 9-1 vote. The council did not feel the parking study was adequate for this site. Staff recommended approval of the zone change subject to a development agreement with the conditions in the staff report, which were:

1. A total of 275 parking spaces provided in the podium parking structure.
2. The building be no more than 66'6" high as presented.
3. Provide 6,800 square feet of commercial space across 100% of the building frontage.
4. The building be designed as represented in the application.
5. Setbacks shall be as shown on the site plan.
6. Install improvements to Main Street per Millcreek Engineering design.
7. Provide landscaping per Chapter 19.77 of the Millcreek Zoning Ordinance to include suitable street trees, street furniture and lighting along the frontage.
8. Incorporate green building principles in the project.

Jake Wood, applicant, said the JF Glenwood company is Utah-based. This is the second project they have done in the Meadowbrook area, the first was approved before Millcreek was incorporated. The entire ground floor of this project is about 9,000 square feet. There will be two plaza decks. The north side of the building will have a 20-foot setback. The intent is to expand the project in a second phase, so they have preplanned for plaza space on the north side. Commissioner LaMar asked about the parking. Wood said the code outlines minimum parking guidelines for the City and the code for the MD zone allows reductions in parking with a parking study, which was conducted.

Amber Measom, Millcreek Community Council representative, said the Millcreek Community Council discussed the project at length. She thinks the project is great but the hang up is that there are other high-density projects going up in the area and she thought there was not enough parking. The community council is hoping Main Street will be more walkable and they thought that parking would end up on the street if there was not enough provided. She said the denial was based on a thinking forward notion.

Scott Johnson, Hales Engineering from Lehi, said they specialize in traffic, transportation, parking, and planning. The parking study was used to identify opportunities for parking in developments like this application. This development would require almost 400 parking stalls according to code. Hales Engineering compared others' data to the data they have collected along the Wasatch Front from the last 2-3 years. He said the study was contracted through the City. The average demand in similar land uses,

apartments with podium parking, was 1.7 parking stalls per unit. Hales Engineering recommended 250 stalls for the project because commercial and residential can share parking. Gehring said there are 117 units that are 2-bedroom and 59 units that are 1-bedroom. Chair Healey expressed concern that public transport in relation to the project was not walkable. Johnson said the parking demand for transit-adjacent projects is about the same as those that were not transit-adjacent. Commissioner Stephens asked if the recommended ratio for this project was 1.56 stalls. Lilly confirmed. Commissioner LaMar said the supply for Birkhill Apartments, referenced in appendix B of the parking study, was 2.87 stalls per unit and the demand was 2.48 stalls per unit. Johnson said the average of all the land uses in appendix B was 2.4 stalls per unit and the difference in demand is about 250 stalls, which is in line with their recommendation. Commissioner Booth asked about the cause for difference between the average of 2.4 and their recommended ration of 1.56. Johnson said the recommendation was based on the parking within the building, that it is different than parking surrounding the building. Francis Lilly said regardless of what the parking study recommends, the applicant is stipulating to a 1.56 parking ratio, which is higher than surrounding projects in Millcreek. He said if the Commission changes the ratio, there should be a finding as to why that is appropriate. Johnson said they added the commercial parking to the residential parking.

*Chair Healey opened the public hearing.*

Dave Hogan, 4035 S. Main Street, said he does not have statistics on parking and traffic, but he has witnessed a dramatic increase in traffic in the area. He said there are unoccupied units in the area, then he expressed concern about street parking. He said he does see people walking to TRAX. He said he does not see a mixed use utilized by the public in the area. He asked about requiring the construction parking to be built first.

Amber Measom, 3437 S. Melvina Street, asked if the development agreement could stipulate that the residents are not allowed to park on the street. She asked about reserved commercial parking spaces for commercial parking. She said she felt a 1.6 or 1.7 parking ratio would be better.

Jake Wood thanked the residents for their feedback. He pointed out that the 1.5 ratio is greater than the neighboring Artesian Springs project. He said the developers are improving the sidewalks, which will add to the walkability. The TRAX stations have been eliminating parking though ridership is increasing. The strategy for cross parking is in the parking study, there are no plans to reserve commercial stalls, but they could put time restrictions on them. Podium parking is different from surface parking because it is secure, and they limit parking permits and control them through a systematic process. He said they do not object to limiting street parking because the development will not be relying on it.

*Chair Healey closed the public hearing.*

Blaine Gehring said there was a letter from the Economic Development Director recommending the project from an economic standpoint in the staff report. Francis Lilly said the City received grant money to update the street section of Main Street from 3900 S. to Central Avenue. The section will be the same as what is in front of this project and

the Front Climbing Gym; a ten-foot walk, parallel parking, and a small park strip for trees. He said the City is trying to develop a walkable street. Chair Healey said he felt 20-25 more parking stalls were needed. He suggested a shuttle service be provided to TRAX. He wondered about novel ideas to alleviate the need for parking. Commissioner Stephens inquired if the use was conditional since it was over one acre in size. Commissioner Allen said the parking study was not based on projects in the area that are complete. The assumption is that everyone who lives in these units works along the TRAX line. He worried that traffic studies cut out 150 stalls that the relatively new Millcreek parking code requires. Commissioner LaMar said the Birkhill Apartments show a demand of a 2.48 parking stall ratio. The problem with averages is that they come up short. He felt that a 1.56 ratio was too low and recommended 45 more stalls, a 15% reduction instead of 30%. He said he agreed with the community councils' assessment. He was ok with the rezone but would want the parking addressed for the conditional use permit.

Commissioner Mumford said he was in favor of the zone change. Lilly said there is grant money to do curb, gutter, sidewalk, and parallel parking from 3900 S. to Central Avenue. Granite School District is building an elementary school at 3800 S. and 700 W. Lilly said it takes a few thousand units to get the commercial ball rolling to bring in grocery stores. Lilly confirmed the application is for a conditional use. John Brems recommended that more parking be put in the development agreement and not imposed with the conditional use permit. Commissioner Booth expressed concern about the parking ratio. Chair Healey said he liked the project and would hope mitigations could be made about the Commission's concerns in the development agreement. Commissioner Mumford asked if they could encourage UTA to increase bus services in the area. Lilly said UTA is doing a public input campaign, UTA Service Choices Survey, right now and encouraged the Commissioners to provide their input.

**Commissioner LaMar, in regard to ZM-19-005, moved to recommend to the City Council approval from the zoning of M and commercial to MD with the items in the staff report (1-8 listed above), however, the first item in the staff report about parking be changed from 275 up to 320, which is about a 1.67 percent ratio. The findings for that are because the Birkhill study has a much higher parking ratio and the community council suggested around a 1.6-1.7 parking ratio. Commissioner Allen recommended sticking with a ratio and not a set parking stall number. Commissioner LaMar accepted the recommendation and amended his motion to exclude a specified parking stall amount in lieu of a 1.7 parking ratio. Commissioner Allen seconded the motion.** Commissioner Stephens said the Commission did not know the appropriate parking ratio. Chair Healey said parking studies would be discussed at the coming work meeting. **Chair Healey called for the vote. Commissioners Mumford, Claerhout, Booth, Healey, Allen, and LaMar voted yes. Commissioner Stephens voted no because he was not confident about the parking ratio proposed. Commissioner Booth then changed his vote to no for the same reason as Commissioner Stephens. The motion passed.**

**1.4 Consideration of ZM-19-003, Rezone from R-2-10 to R-1-3, Subject to a Development Agreement for a Duplex Development Location: 3999 S. 500 E. Applicant: Byron Goates Planner: Erin O'Kelley**

Erin O'Kelley said she overviewed the project last month and it has not changed since then. The application was re-noticed for the new zone, R-1-3, so it did go back to the

community council. The community council was pleased with the reduction of units and height of the project. She said the units will have electronic car compatibility in the garages and there will be solar panels on the roof. The community council received a comment from the public that the density was too high, but they recommended approval of the rezone. Staff recommended approval of the application subject to the conditions outlined in staff report, which were:

1. Height is limited to 28 ft.
2. Enhanced landscaping along public streets and in rear yards to provide privacy for neighbors and reduce impact of new development in the neighborhood. Trees are required as part of the landscape plan.
3. Wood features proposed in the illustrations of the project are required, as well as brick materials. These materials must be used anywhere a structure faces a public street.
4. Solar panels and charging stations be required in all units.

The applicant did not add any comment. Amber Measom commended the developer for coming to an agreement with the neighborhood.

*Chair Healey opened the public hearing.*

There were no comments.

*Chair Healey closed the public hearing.*

Commissioner Mumford clarified that the duplexes are two stories. O'Kelley confirmed. Lilly said the green initiatives (solar panels and electric car charging) will be included in the development agreement.

**Commissioner Allen moved to recommend approval for the proposed rezone on application ZM-19-003 from R-2-10 to R-1-3, subject to the conditions in the development agreement outlined in the staff report (1-4 listed above). Commissioner Mumford seconded.**

Commissioner LaMar inquired that the R-1-3 zone does not have a requirement for guest parking. Lilly confirmed. **Chair Healey called for the vote. Commissioner LaMar voted no. Commissioners Allen, Healey, Stephens, Booth, Claerhout and Mumford voted yes. The motion passed.**

**1.5 Consideration of CU-19-003, Conditional Use Permit for 2 Duplexes Location: 4137 S. 900 E. Applicant: Kasey Kershaw Planner: Blaine Gehring**

Blaine Gehring said any residential use over a single-family dwelling in the R-M Zone requires a conditional use permit. The project has two duplexes with a common driveway and access. The front duplex consists of two 2-bedroom units with a 1-car garage each while the rear duplex has two 3-bedroom units with a 2-car garage each. Each unit has tandem parking in front of the garage and one space for guest parking. The future land use in the general plan for this area is Neighborhood 1, which is single family detached homes. However, this property is already zoned R-M which allows for multiple family residential as a conditional use. The project meets the housing section of the general plan by providing new moderate-income housing in the area. At their meeting on April 2, 2019 the Millcreek Community Council unanimously recommended approval of this conditional use. Staff recommended approval of the conditional use permit with the conditions listed in the staff report, which were:

1. Compliance with R-M Zone standards with regards to fencing.
2. Parking shall be provided with one single car garage and one tandem and one guest space per two-bedroom unit and one two car garage with two tandem spaces and one guest space per three-bedroom unit.
3. Prior to receiving final conditional use approval, the applicant shall certify that existing utility services have the capacity to accommodate additional demand induced by the development, or that the services will be upgraded to meet the additional demand.
4. Any modifications to these approved plans must be approved by the Planning Department, in writing, prior to the changes being implemented in the field.
5. Landscaping shall be installed in compliance with Chapter 19.77 Water Efficient Landscape Design and Development Standards.
6. The applicant will comply with all requirements established through the technical review process prior to receiving final conditional use approval.
7. All items of the staff report.

Gehring said he had not received any public comments on the application. The applicant chose not to add comment during the meeting. Amber Measom expressed personal concern about parking. Gehring said there are 3 spaces per unit for the 2-bedroom units and there are 5 spaces for the 3-bedroom units.

*Chair Healey opened the public hearing.*

Alex Cass, 4134 S. 900 E., expressed concern about the height because he did not want to lose his view of the mountains. He also said parking in the neighborhood is an issue. Chair Healey said the height is less than what the developers were allowed to do in the zone.

*Chair Healey closed the public hearing.*

**Commissioner LaMar, regarding file CU-19-003, moved to approve the conditional use permit subject to the conditions in the staff report (1-7 listed above). Commissioner Stephens seconded. Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**1.6 Consideration of ZM-19-007, Rezone from R-1-8 to R-1-6, Subject to a Development Agreement to Facilitate a Flag Lot Subdivision Location: 3125 S. 2300 E. Applicant: Blake Hansen Planner: Erin O’Kelley**

Erin O’Kelley recommended this item be continued because she advertised the wrong community council meeting address in the public notice mailing.

*Chair Healey opened the public hearing.*

There were no comments.

*Chair Healey closed the public hearing.*

**Commissioner Allen moved to continue the item until it was prepared to come back. Commissioner Mumford seconded.** Erin O’Kelley said the intention is for the application to

come back in May. **Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

The Commission took a break from 7:47-7:54 p.m.

**Commissioner Stephens moved to reorder the agenda to proceed to item 1.8. Commissioner Allen seconded. Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**1.8 Consideration of SD-19-004, Subdivision Plat Amendment for Lots 1 and 2 of the Webb Creekside Subdivision Location: 2380 E. Evergreen Ave. Applicants:**

**David and Melodie Webb Planner: Robert May**

Robert May said this item was a lot consolidation but requires a plat amendment because of the easement. Typically, this type of proposal would be exempt from platting requirements, but due to the amendment involving the alteration or removal of an easement, a subdivision approval by the Planning Commission was required. This item did not go to the community council. May has not received any comments about it though the affected property owner talked to May but did not have a problem with it. He said all the information was in the staff report and said staff recommended approval of the application subject to the items in the staff report, which were:

1. The applicant shall maintain a minimum of 2 covered parking spaces.
2. The design of the site and building shall comply with all applicable development standards and any site development standards required by the Millcreek Engineer and Building Official, and Unified Fire Authority.
3. Prior to receiving final plat approval, the applicant shall certify that existing utility services have the capacity to accommodate additional demand induced by the development, or that the services will be upgraded to meet the additional demand.
4. Accessory structures will require separate building permits and staff review for zoning/land use compliance.
5. Any modifications to these approved plans must be approved by the Planning Department, in writing, prior to the changes being implemented in the field.
6. The proposed subdivision plat must complete a final technical review that includes an engineering review to ensure that the final plat complies with all conditions of approval of the preliminary plat and to ensure that the final plat complies with the design standards, codes, and ordinances and with minimum engineering/surveying requirements.
7. Prior to recordation, the applicant must pay all technical review fees, including addressing and surveying review fees accumulated.
8. All applicable zoning, building, health, fire and safety requirements including engineering standards must be met prior to receiving final approval of a building permit.
9. All items of the staff report.

*Chair Healey opened the public hearing.*

There were no comments.

*Chair Healey closed the public hearing.*

**Commissioner Stephens, in reference to SD-19-004, moved to approve the subdivision plat amendment for lots 1 and 2 of the Webb Creekside Subdivision as presented in the staff**

**report. Commissioner Allen seconded. Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**1.7 Consideration of ZM-19-008, Rezone from R-1-8 to C-2, Subject to a Zone Condition Limiting Uses to Public Uses to Facilitate the Reconstruction of a Fire Station Location: 3608 S. Jupiter Dr. Planner: Francis Lilly**

Francis Lilly said the existing fire station at 3608 S. Jupiter Drive is in need of repair. It is in the R-1-8 zone which does allow fire stations up to 40 feet in height, subject to additional setbacks, but it does not allow a zero-lot line. The station is almost 50 years old and not up to code and is substandard for their operations. The building would not survive an earthquake. The plan for the station is to do a 1-story building with a sleeping quarters and operations side and a larger apparatus bay. Unified Fire Authority (UFA) plans to acquire a small piece of property from the Olympus Hills Shopping Center to use. Lilly said he spoke to a resident earlier that had no objection to the change, but appreciates the wall, and would like to try to preserve the tree straddling the lot line. The Mt. Olympus Community Council unanimously recommended approval. The general plan identities replacing the station. This is a plan to replace it on-site in a manner that is compatible with code by allowing a zero-lot line to the west. The Planning Commission can impose a zone condition that will limit the uses to public uses so there will not be a situation of commercial encroachment in the future. Commissioner Mumford asked if it would be a training facility. The answer was no.

Mayor Jeff Silvestrini said he was speaking as Millcreek's Mayor and in the capacity of Chair of the Unified Fire Service Area Board. He said this fire station is the worst station in UFA's system based on condition. The walls are falling apart, the bays are not large enough for modern apparatus, and it has no seismic outfitting. The reconstruction has been in the works for a decade or more. The rezone would eliminate a side yard setback. He said the City needs a station above Wasatch Boulevard in case of a disaster and this station also services Parleys Canyon. He said UFA could build the station next spring with city approvals and it will be within their budget. The equipment bay may be about 30 feet tall and the other section will look like a residence. UFA has a goal to build stations that are more modest. Mayor Silvestrini said they could build a temporary station, but it would not be necessary because the station in Holladay and Millcreek Station #106 would be able to provide the coverage. Unified Fire Chief Mike Watson will visit the area neighbors to tell them what is going on.

*Chair Healey opened the public hearing.*

There were no comments.

*Chair Healey closed the public hearing.*

**Commissioner LaMar moved to recommend approval of zone change for ZM-19-008 from R-1-8 to C-2 subject to the zone condition limiting the uses to public uses to facilitate the reconstruction of the fire station. Commissioner Claerhout seconded. Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**1.3 Consideration of ZM-19-006, Rezone from R-2-8 to RM, Subject to a Development Agreement for a Townhome PUD Location: 950 E. Grape Ivy Way Applicant: Hamlet Development Planner: Erin O’Kelley**

Chair Healey said at the request of staff and the applicant there will be a continuance of the item to the next meeting.

*Chair Healey opened the public hearing.*

There were no comments.

*Chair Healey closed the public hearing.*

**Commissioner Mumford to continue ZM-19-006 to the next meeting. Commissioner LaMar seconded. Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**2. Business Meeting**

**2.1 Approval of March 20, 2019 Meeting Minutes**

Elyse Greiner mentioned that she changed the word “not” to “and” on list item number four on page four about the proposed billboard ordinance.

**Commissioner Stephens moved to approve the March 20, 2019 minutes. Commissioner Claerhout seconded. Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

**2.2 Updates from the Community Development Director**

Francis Lilly handed out a disclosure of business interests form, ethics review form, sexual harassment notice form, and volunteer contract form to the Commission to fill out. Chair Healey reminded the Commission about the work meeting on April 23<sup>rd</sup>. Lilly said that meeting would include discussion about the city center master plan and reviewing the guest parking study.

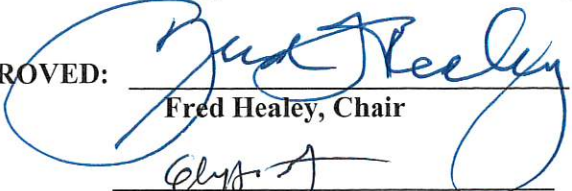
**3. New Items for Subsequent Consideration**


There were none.

**4. Calendar of Upcoming Planning Meetings**

- City Council Mtg., 4/22/19, 5:00 p.m. at City Hall
- Canyon Rim Citizens Association Mtg., 5/1/19, 7:00 p.m. at 2375 E. 3300 S.
- East Mill Creek Community Council Mtg., 5/2/19, 6:30 p.m. at 2266 E. Evergreen Ave.
- Mt. Olympus Community Council Mtg., 5/7/19, 6:00 p.m. at 3450 E. Oakview Dr.
- Millcreek Community Council Mtg., 5/7/19, 6:30 p.m. at City Hall
- City Council Mtg., 5/13/19, 5:00 p.m. at City Hall
- Planning Commission Mtg., 5/15/19, 5:00 p.m. at City Hall

**ADJOURNED: Commissioner Booth moved to adjourn the meeting at 8:18 p.m. Commissioner Allen seconded. Chair Healey called for the vote. All Commissioners voted yes. The motion passed unanimously.**

APPROVED:  Date  
Fred Healey, Chair

Attest:   
Elyse Greiner, City Recorder

Attached: Letter from Bruce Parker on item 1.1.



## MILLCREEK CITY, UTAH

APRIL 2019

PROPOSED ORDINANCE AMENDMENTS  
AFFECTING BILLBOARDS

At the March 2019 Planning Commission meeting I offered written comments directed to Meeting Item ZT-19-001. Thank you sincerely for your consideration of my earlier comments.

Item ZT-19-001 is now continued. I offer the following summary comments. Be aware that my comments are being limited to respect your time and for conciseness. I am only offering a few thoughtful comments for your attention and renewed consideration. However, a multiplicity of billboard related matters exists. All issues must be considered. The Planning Commission's recommendation, and the City Council's decisions will be precedent setting.

In advance, thank you for your attention and consideration and for your continued efforts on behalf of all citizens and businesses of our City.

Respectfully,

Bruce Parker  
4/16/2019  
[pds@utahplanning.com](mailto:pds@utahplanning.com)

## PROPOSED ZONING ORDINANCE AMENDMENTS AFFECTING BILLBOARDS

### MILLCREEK TOGETHER GENERAL PLAN, 2019 (Adopted February, 2019):

The Planning Commission is guided in its deliberations and decisions by the adopted General Plan, Millcreek Together General Plan, 2019. Clear, and numerous guidance is provided by the General Plan. A sampling of this policy guidance includes (emphasis added):

- LIVABILITY. GOAL E-4: Leverage the City's livability as a workforce and economic driver and **create a city brand** that supports growth and leverages existing community and economic assets (p. 43).
  - Strategy 4.3: **Structure ordinances** and incentives to encourage new development to **include site, architectural and landscape design features that enhance the appearance and reputation of the City and its neighborhoods and business districts** (p. 43).
- GENERAL DEVELOPMENT. GOAL GP-1: Design new development to respond to and **enhance the distinctive physical, historic, aesthetic and cultural qualities** of its location, while accommodating growth and change (p. 55).
  - Strategy 1.2: Design buildings and **streetscapes that are attractive** to create a more inviting atmosphere for pedestrians.
  - Strategy 1.3: **Promote development that enhances and improves views of the Wasatch Mountains and other significant view areas** (p. 55).
- VIEWSHED. GOAL HE- 7: Require that new development **protects the treasured views of Mount Olympus, the Oquirrh Mountains, the Great Salt Lake, and other significant viewsheds from roadways, frequented public areas, community gateways,** and other public places (p. 87).
  - Strategy 7.3: **Protect and enhance views by reducing, removing, or undergrounding visual obstacles such as utility lines and equipment** (p. 87).
  - Strategy 7.6: **Identify on- and off-site signs that could be altered or removed to enhance view corridors.** Consider alternative strategies such as acquisition, amortization and other techniques to alter or remove identified signs (p. 87).
- SIGNS. GOAL GP-2: **Ensure that sign location and design is responsive to site context and compatible with the surrounding character.**

- **Strategy 2.4: Discourage billboards in designated or developed commercial and residential areas and in locations that block views of the Wasatch Mountains or in conflict with the goals of the General Plan.** Consider techniques to remove or alter billboards such as purchase, amortization or other techniques.
- **STREETSCAPE. GOAL GC-3: Improve the safety and visual image of the community** by enhancing the look and feel of major corridors and protecting our scenic viewsheds.
  - **Strategy 3.9: Reduce the number, size, and height of billboards along all City streets** (pp. 77-78).

The Purposes of the Draft Ordinance recognizes: (1) Billboards create “negative impacts,” (2) Billboards are “impediments for economic development and redevelopment,” and (3) The number and square footage of Billboards should be reduced.

No General Plan policy exists, and valid public purpose is advanced, by allowing any additional billboards or allowing any billboard change, that does not conform to the Millcreek Together General Plan.

Further, the formulation of an ordinance should not devolve into some form of negotiation process. The inherent beauty of the City’s General Plan is to provide clarity and to avoid lengthy debate and horse-trading. The Millcreek Together General Plan couldn’t be clearer. The Planning Commission has a sound policy foundation to:

1. Require General Plan conformity and compliance and “reduce the number, size, and height of billboards” (General Plan, p. 78).

**STATE LAWS:**

As provided by applicable Utah State laws billboards enjoy unique statutory protections. The practical application of these protections, when considered in their totality, is to allow a billboard, once established, in perpetuity. All public actions affecting billboards must be deliberate. State law compliance is mandatorily required.

The Planning Staff recognizes; “even with the proposed changes, Millcreek’s ordinance will be more permissive than the codes in other cities” (March 2019 Staff Report, p, 1). Following and complying with the City’s General Plan meets several goals:

2. Implementing the City’s established policy goals; and
3. Recognizing, and complying with State law.

**TOTAL NUMBER v TOTAL SQUARE FOOTAGE BILLBOARDS:**

No one knows the existing total square footage of all billboards. What we do know is the total number, 51.

A clear and safe route is provided to address total billboards, not total billboard square footage. Consistent with the General Plan, the concept of a billboard square footage bank, and the accompanying billboard credit scheme, should be abandoned. Therefore;

4. Cap the maximum number of billboards allowed in Millcreek City to 51.

**PROPOSED CITY STAFF AMENDMENTS - NEW MATERIALS:**

The City Staff amendments are proposing billboards as a Permitted Use. Additionally, staff approved "Deviations" are provided and allowed. As an example. "Relocation of Billboards to Accommodate Redevelopment. To accommodate the redevelopment of sites within a community reinvestment area or any site in the city that is at least one acre in size, the City may allow the following deviations . . . . " (Clean Copy, §13). Standards to grant a "deviation" are lacking. This is extremely problematic when linked with a Permitted Use approval process.

5. Provide an alternative billboard review and relocation process. Approving the relocation of a billboard (not any "new" billboards), as a Permitted Use, conflicts with the public interest and transparency.

**SUMMARY:**

1. Require complete **General Plan compliance and consistency**. City residents, businesses, and leadership have spoken. Follow the General Plan.
2. Remove the Billboard Bank and Billboard Credit schemes. Limit **the maximum number of billboards allowed in Millcreek City to 51**.
3. Provide an **alternative billboard review and approval process**. Approving billboards as a Permitted Use is inappropriate to the public interest and transparency.

Thank you, BP.