

EX-20-006

Request for a special exception to have a nonconforming use declared legal.

Applicant: Adam Reiser

Planner: Samah Safiullah

November 18, 2020 Planning Commission



Existing Conditions

The existing parcel is a single-family lot in the R-1-10. The neighborhood is a mix of R-1-10 lots and R-2-10. The zones are residential single and two family lots with a minimum lot size of 10,000 SF. This property is not the only non-conforming duplex in the neighborhood. From research the duplex has been in existence since the late 1990s. The applicant is proposing, through application, as per Chapter 19.88.140 of the Millcreek Code to have the use of a duplex declared legal through special exception.



Existing Conditions



The property meets the aesthetic and fabric of its surrounding neighborhood. There are quite a few duplexes surrounding this property. Historically, the original house was built in 1913 and has since been designated under multiple residential zones.



Existing Conditions



Driveway on property. Applicant will need to prove that there are enough off-street parking stalls for a duplex.

19.80.040 (2 spaces per unit with at least one covered space per unit.

Existing dwellings that lack one covered space as of March 12, 2018 are exempt from a covered parking requirement.)

Existing Conditions



Community Council

- At their regularly scheduled meeting on November 5th, 2020 the East Millcreek Community Council offered the following recommendation and conditions:
 - While the community would have given a position recommendation, it cannot because a complaint had been filed and per City Code 18.88.140, A.2.
 - EMCCC feels that 1) if the complaint can be resolved to the satisfaction of both parties, 2) and the city, 3) and in a timely manner, and 4) that the duplex meets city code (e.g., off street parking) that we would forward with a positive recommendation.



19.88.140 Application To Have A Use Violation Declared Legal Through Special Exception

- Whenever land or a structure is used in violation of this title, the owner may file an application with the planning commission to have the use declared legal through special exception. The planning commission may approve such an application only when the evidence establishes all of the following:
 - The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding ten years;
 - **No complaint has been made to the development services division concerning the violation for a period exceeding ten consecutive years during which the violation existed;**
 - Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.



Staff Analysis

- The Millcreek Code 19.88 requires that the applicant provide evidence proving the following the standards are met:
- **The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding ten years;**
- The applicant has provided documentation that the house has existed in this condition for a greater period of 10 years and is prepared to sign an affidavit stating this.
- **No complaint has been made to the development services division concerning the violation for a period exceeding ten consecutive years during which the violation existed;**
- *Staff has found recorded evidence of non-compliance of this home in 2018. Part of the non-compliance was due to a complaint made by a resident received by the city in 2018.*
- **Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.**



Staff Analysis

If the property can meet applicable codes for adding an additional legal dwelling to the property such as resolving the neighbor's complaint, meeting off-street parking ordinances, business licensing etc. Staff does not feel this application will have a detrimental impact to neighbors. Staff also finds that many surrounding residences have the same use as this property.



Planning Commission Recommendation and Model Motion

Staff finds that we received residential complaints in January of 2018 and received a certificate of non-compliance in 2018. Subject to the resolution of the complaint, staff would recommend approval of the special exception with the additional following conditions:

- 1. The applicant obtain a business license for renting the unit.**
- 2. The applicant meets off-street parking requirements for duplexes under Chapter 19.80 Off-Street Parking Requirements.**

Motion to grant the special exception EX 20-006 to have the property declared legal.



ZM-20-010

Request to rezone property located
at 875 E 4315 S from R-1-21, R-1-8,
R-1-5 to only R-1-5.

Applicant: Ted Zeharias

Planner: Erin O'Kelley

November 18, 2020 Planning Commission



Existing conditions

- The applicant is requesting to rezone property located at 857 E 4315 S. The existing lot has one single-family house located in the R-1-5 zone. The backyard to the North of the house is a separate parcel in the R-1-8 zone. The applicant's main house is located within the Windsor One Amended Subdivision. The two lots to the North are not located within the subdivision.



Existing conditions



The diagram illustrates a building footprint and its surrounding easement. Key features include:

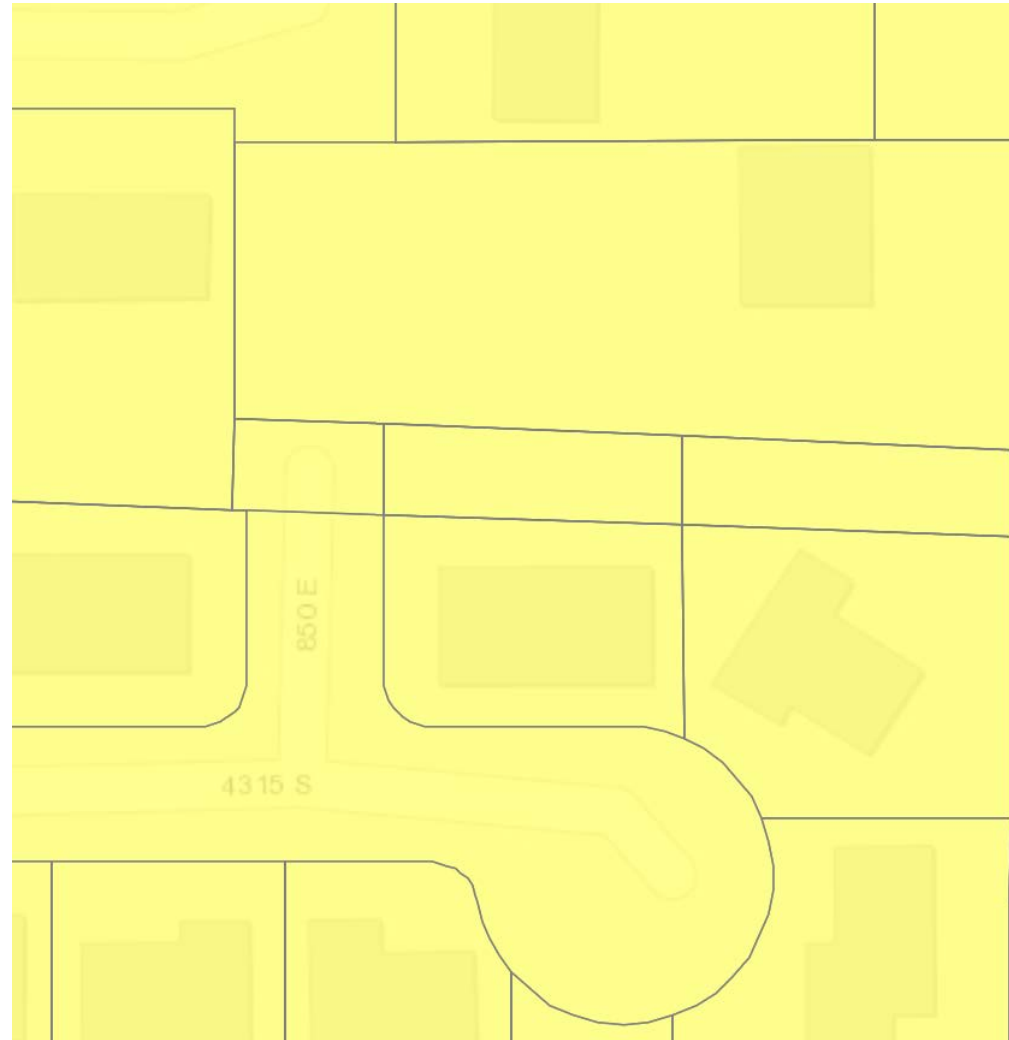
- Building Footprint:** Labeled '6' with an area of '5858 SQ.FT.'.
- Easement:** A red-shaded area around the building, labeled '10' PUDE' (Public Utility Easement).
- Dimensions:**
 - North side: 92.604'
 - South side: 59.312'
 - East side: 65.727'
 - West side: 50.924'
- Orientation:** The building is oriented '857 E.' and has a width of '4303 S.'.
- Corner Points:** Labeled C1 through C9.
- North Arrow:** Indicated by a dashed line pointing upwards.



General Plan

The rezone proposal does not contradict the future land use map as described in the general plan.

The property is designated as Neighborhood 1, primarily single-family detached homes, 1-2 stories.



Neighborhood Meeting and Response

- Staff has not received any response from adjacent properties regarding this rezone.



Community Council

- **At their meeting on November 3, 2020 the Millcreek Community Council recommended that:**
 - The rezone ZM-20-010 be adopted with no additional conditions.
- Staff is not recommending a development agreement at this point.



Recommendation and Model Motion

Motion to recommend approval for the rezone ZM-20-010
located at 875 E 4315 S from R-1-8, R-1-5, R-1-21 to only R-1-5
with no additional conditions or development agreement.



ZT-20-007

Amendments to the Commercial Zone Text Regarding Hotels

Applicant: City

Planner: Samah Safiullah

November 18th, 2020 Planning Commission

Hotel Definition

“Hotel” means a building containing fifteen (15) or more sleeping rooms, each room accessed from within the building, providing a room for sleeping accommodations for a fee with private bathroom facilities and customary lodging services. Customary lodging services shall include, at a minimum, daily housekeeping services provided by on-site staff, and an interior lobby supervised by a person in charge twenty-four hours per day. Additional customary lodging services include, but are not limited to, conference and meeting rooms, dining areas, restaurants, sale of convenience items, and recreational facilities.

19.60.060 (E) Additional Requirements for Hotel

1. Hotels must have a prominent porte-cochere or portico, incorporating the materials used in the main building.

~~2. Stucco is prohibited on any street-facing façade of a hotel.~~

~~“Stucco is prohibited on any façade visible from any street or Interstate freeway interchange or travel lane”.~~

3. Wall openings, such as windows and doors, located in lobbies and other common rooms, shall comprise at least 75% of the front façade.

4. Bulk and Yard Regulations shall follow C-2 and C-3 requirements within 19.60.050.

5. Massing and Façade Articulation for hotels shall have at least five of the façade design elements listed in MKC 19.60.060 (C)(10).

6. Maximum building length of 200 feet.

7. No more than one row of parking is allowed between a hotel and any street it fronts.

8. All landscaping must be in accordance with MKC Chapter 19.77 Water Efficient Landscape Design And Development Standards.

9. Access to guest rooms shall be restricted exclusively to interior corridors, which shall be accessed via the main lobby of the building or entryways individually equipped with some form of security-controlled access system.

Existing Commercial Zone Design Standards (C-2 and C-3)

19.60.050 Bulk And Yard Regulations

Bulk and Yard Regulations establishes bulk and yard regulations for the commercial zoning districts.

Table 19.60-3 BULK & YARD REGULATIONS

	C-1	C-2	C-3
MINIMUM LOT AREA	None required	None Required #1	None Required #1
MINIMUM LOT WIDTH	None Required	None Required #2	None Required #2
MAXIMUM BUILDING HEIGHT, including fire walls, parapets, skylights, towers, steeples, flagpoles, shade structures, and all other architectural features.	35 Feet, subject to height transition requirements.	45 Feet, subject to height transition requirements.	45 Feet, subject to height transition requirements.
MAXIMUM LOT COVERAGE	70 Percent	80 Percent	80 Percent
MINIMUM BUILDING HEIGHT	1 story	1 story	1 story
MINIMUM FRONT YARD	20 Feet	20 Feet	20 feet
MINIMUM REAR YARD	If located adjacent to residential zone boundary, 25 feet, otherwise not required	If located adjacent to a residential zone boundary 25 feet, otherwise not required	If located adjacent to residential zoning, 25 feet, otherwise not required
MINIMUM INTERIOR SIDE YARD	If located adjacent to residential zone boundary, 10 feet, otherwise not required	If located adjacent to residential zone boundary, 10 feet, otherwise not required	If located adjacent to residential zone boundary, 10 feet, otherwise not required
MINIMUM CORNER SIDE YARD	20 Feet	20 Feet	20 Feet
ACCESSORY STRUCTURES: REAR AND INTERIOR SIDE YARD	1 Foot	1 Foot	1 Foot
ACCESSORY STRUCTURES: REAR AND INTERIOR SIDE YARD WHEN ABUTTING RESIDENTIAL USE	10 Feet	10 Feet	10 Feet



Proposed Changes

USES	C-1	C-2	C-3	SPECIFIC USE STANDARDS
Hotel, ~~Motel~~ , Bed & Breakfast	€	C	C	No Hotels ~~or Motels~~ are allowed in the C-1 zone. Hotels must be located on development sites with at least 100 feet of frontage along a major collector, minor arterial, or other principal arterial road as identified in the Roadway Functional Classification Map of the Millcreek Transportation Master Plan. ~~Proposed hotel architectural designs, aesthetics, and materials will need to avoid the themes and styles of lodging commonly found along freeways and highways.~~

- Note: It is being proposed that “Motel” will be removed from the ordinance completely



Minor Arterial

3900 South

1300 East

Highland Drive

Wasatch Boulevard

Major Collector

500 West

300 West

500 East

900 East

2300 East

Other Principal Arterial

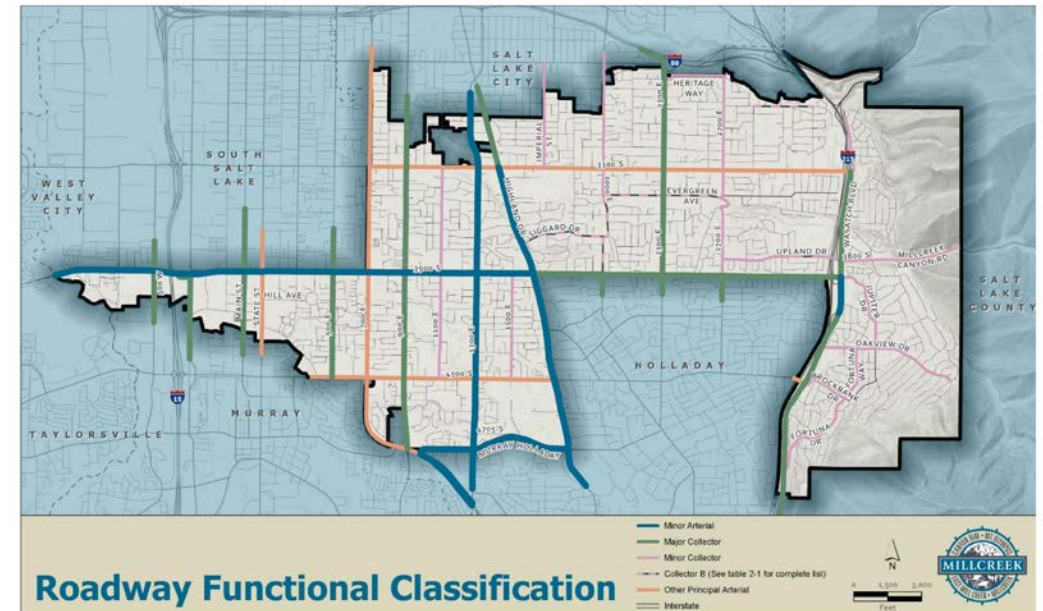
State Street

700 East

4500 South

3300 South

Figure 2-2 – Existing and Newly Adopted Roadway Functional Classification Map



Discussion Points

- It is a possibility for us to have the same requirement from the Commercial code for windows on the front, side, and rear sides of the structure: “Windows shall constitute at least 50 percent of first floor street-facing facades, and windows shall be at least 50 percent transparent on the sides and rear. Is this necessary?”
- Are the proposed building width lot coverage restrictions enough for size restrictions in the design guidelines, or do we need a maximum room count?



Discussion Points

- **Street Trees.** Street trees are required in planting areas or tree grates every 40 feet, depending on tree type, on center and within 15 feet of back of curb along the street. Trees must be 2-inch minimum caliper canopy type, at least 30 feet in height at maturity and maintained with a limb clearance of 8 feet above a sidewalk and fourteen and one half (14.5) feet above the street surface. A Street Tree planting plan is required, which may modify the minimum separation requirement above, depending on the width of the tree canopy at maturity.



Objective/Staff Analysis

These proposed changes are intended to promote a higher standard for the design and aesthetic of future hotel projects within Millcreek, as well as a higher quality of environment for all staff and occupants of the hotel. Given that the current code is vague, it lacks clear standards for a comfortable and attractive entity.



Planning Staff Recommendation

Staff requests that the Planning Commission make a favorable recommendation on the above changes. Staff's intent with this amendment is to create a safer, higher quality level of lodging in Millcreek City. The proposed changes acknowledge the various amenities that can be provided through lodging and ensures a sanitary and comfortable environment for all occupants.

