



MILLCREEK PLANNING AND ZONING
3330 SOUTH 1300 EAST
MILLCREEK, UTAH 84106

File No. ZT-21-003

City Council Staff Report

Meeting Date: 12 July 2021
Applicant: City

Request: ZT-21-003 – Recommendation to Amend the Millcreek Zoning Ordinance to Enact a City Center Overlay – Development Agreement Zone (CCOZ-DA)

Prepared By: Francis Xavier Lilly, AICP, Planning Director and Robert May, Senior Planner

SYNOPSIS AND SCOPE OF DECISION

Summary

Millcreek is requesting the City Council to adopt an City Center Overlay – Development Agreement Zone (CCOZ-DA) to provide limited flexibility in the application of our City Center standards to accommodate innovation in development design and to facilitate projects that better interface with significant public investment in the City Center, including but not limited to Millcreek Common and the Millcreek City Hall.

Scope of Decision

Pursuant to §19.90.010 of the Millcreek Code, the City Council may amend the number, shape, boundaries, or area of any zone or any regulation within any zone. Any such amendment shall not be made or become effective unless the same shall have been proposed by or be first submitted for the recommendation of the relevant planning commission.

Why an Overlay Zone atop an Overlay Zone?

Millcreek is requesting that the City Council amend the Millcreek Zoning Ordinance to enact a **City Center Overlay – Development Agreement Zone** in an effort to further advance the goals and vision of the Millcreek City Center Master Plan. The purpose of the proposed CCOZ-DA zone is NOT to simply relax the standards of the underlining Commercial (C-2) Zone or the City Center Overlay (CCOZ) Zone. Rather, the purpose is to craft more specific standards, pursuant to a development agreement, to accommodate a unique situation into the City Center and Common.

Typical overlay zoning districts establish additional or stricter standards and criteria in addition to those of the underlying zoning district and are usually more restrictive and predictable in manner. The CCOZ-DA will function more clearly and establish the standards within the City Center Overlay Zone Districts. Essentially, the zone "floats" until a development application and agreement is approved for a particular location, then the

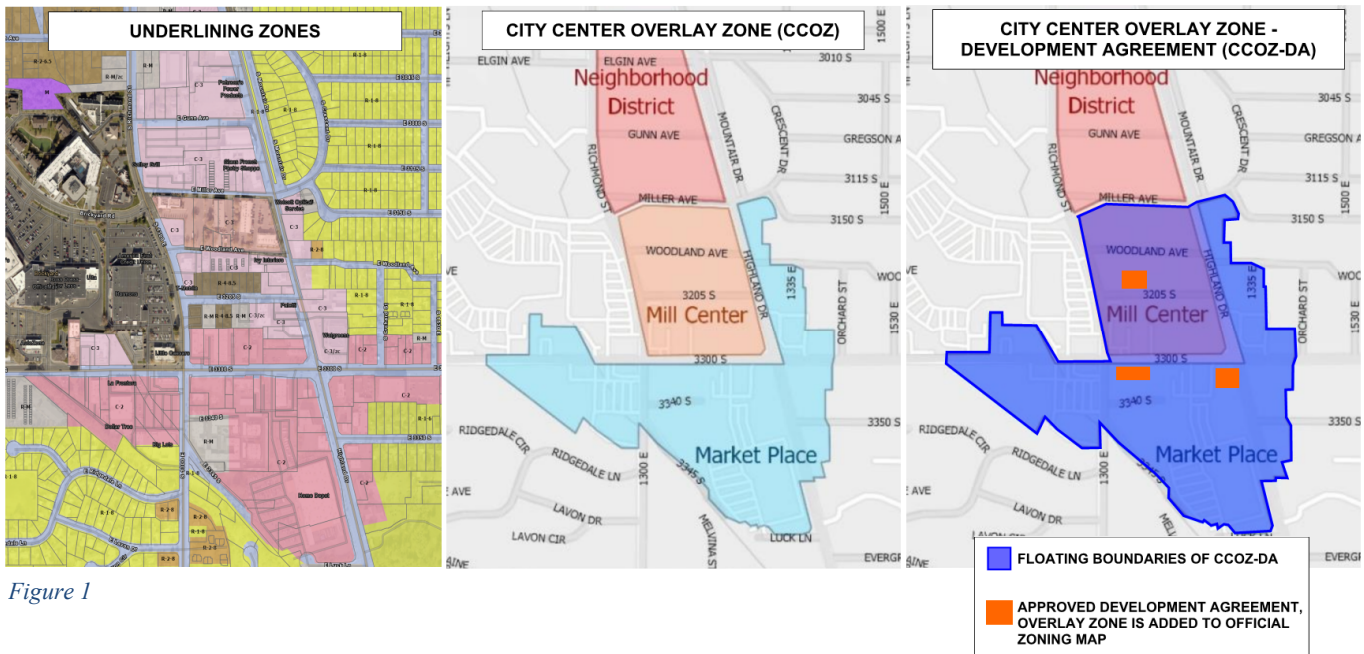


Figure 1

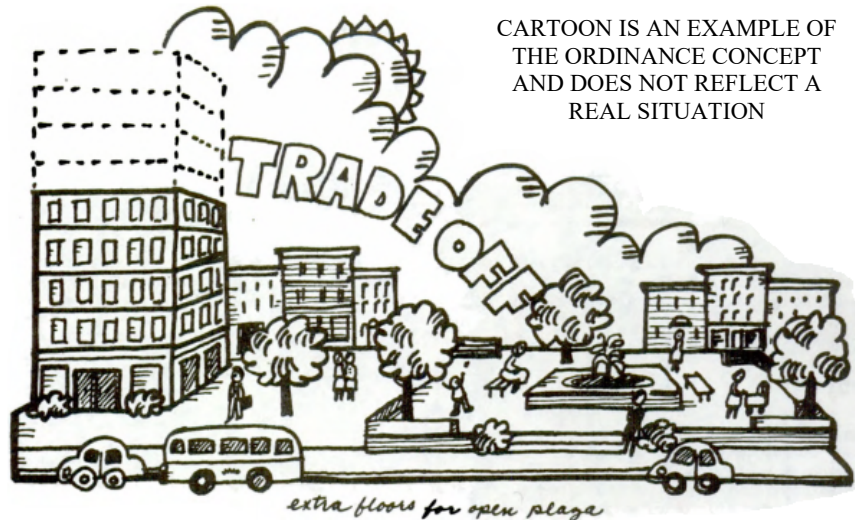
development agreement becomes part of the official zoning map. See Figure 1.

The concept of the CCOZ-DA has been widely used in other cities since the early 1950's and allows the city some flexibility to leverage variations in existing zoning standards and obtain public goods. For example, a developer may provide schools, parks, open space, plazas, low-income housing, or money, in exchange for greater flexibility in required building setbacks, floor heights, lot area, parking requirements, number of dwellings, and other minimum standards. Millcreek staff have been in extensive and prolonged discussions with multiple developers whose projects adjoin the Common on opportunities for shared parking facilities, safe and grade-separated access to the Common across 3300 South, the impacts of required fault setbacks and proposed street improvements on development sites, and the possible inclusion of a new City Hall and public marketplace as part of the overall project. Refer to the "Development Agreement Possibilities" section of the staff report below for details.

The CCOZ-DA overlay zone provides a mechanism for the applicant and the city to seek a particular development in the City Center, and to have it regulated by conditions in a development agreement. Each development agreement (and therefore, each zone) would be a unique project, and would be regulated under that development agreement. Where a development agreement is silent on a particular matter, the base standards of the CCOZ and underlining zone would apply. In order to give the City maximum discretion to approve or deny any proposed deviation from the CCOZ standards, we are recommending an additional overlay zone, where the standards would be regulated through a development agreement that would be crafted specifically for that development and location. **This will require a review by each Community Council, as well as the Planning Commission and the City Council. Because rezones are legislative acts, they are discretionary in nature, and are not subject to the restrictions imposed on conditional uses. Development Agreements are entered into and approved at the sole discretion of the City.**

In summary, the flexibility of the CCOZ-DA will allow Millcreek to balance and benefit the public advantage with the developer's costs and gains through a development agreement. The proposed ordinance seeks to engage transparency by providing a robust public process and citizen input for each development agreement application.

Pursuant to **§2.04.160** of the Millcreek Code, The City Council, except as expressly limited by statute, may adopt any ordinance to regulate, require, prohibit, govern, control, or supervise any activities, business, conduct, or condition.



Grounds for Approval or Denial

A CCOZ-DA proposal may be approved, denied, or approved subject to conditions. In order to obtain approval for a CCOZ-DA designation, a developer would have to submit an application at a reasonable amount of specificity, to include a site plan, elevations, materials details, parking calculations, proposed uses, and proposed enhancements to the Millcreek Common or other essential public spaces in the City Center. In addition, parking studies, geologic studies, and a third-party analysis on urban design from a competent architect retained by the City may be required prior to submitting an application for approval. Any “deal points” discussed with the City, each Community Council District, and the Planning Commission, would then be included in a formal development agreement. A rezone would ultimately be subject to approval by the City Council, subject to the development agreement.

In order to approve a deviation from the CCOZ standards, the Council must find that the development:

1. Does not conflict with the General Plan or the City Center Master Plan.
2. Will allow for a better development than would be possible under the strict application of CCOZ.
3. Meets the requirements of the code, other than what is proposed to be modified.
4. Enhances the public welfare.
5. Enhances the urban form and walkability of the City Center.
6. Supports public investment in the City Center.
7. Does not adversely impact utilities.

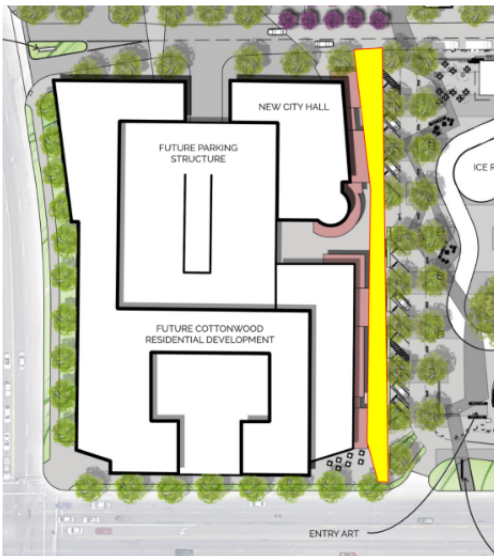
In addition, staff would not recommend approval of a CCOZ-DA designation, unless an applicant can clearly and favorably answer two questions:

1. **But for the proposed development agreement and rezone, would we get a quality project at this location, with all the things we want?**
2. **Is what the developer proposing “something of value” for Millcreek?**

DEVELOPMENT AGREEMENT POSSIBILITIES

As we have worked with developers on projects abutting Millcreek Common, we have discussed options for potential development agreements that could be approved under a CCOZ-DA designation. At this point, discussions are very tentative, but options for a development agreement include:

Option 1: Millcreek Common West



A rough concept for Millcreek Common West, immediately west of the ice ribbon and concession facility, is a mixed-use project that includes a restaurant site, the new City Hall and public market, and a large, shared parking structure that would accommodate residential and employee parking, as well as provide parking for visitors with direct access onto Millcreek Common. The area in yellow describes the area between the Millcreek Common property boundary and the west edge of the fault setback. This setback, as well as required setbacks on all other sides of the property, is impacting the developable area of Millcreek Common West.

In addition, the proposed parking structure in the middle of the project takes up a certain amount of space, and as a result, what can be built is rather limited. This may be a case where a development agreement that relieves the developer of certain setback and stepback provisions in the CCOZ in exchange for specific ground floor uses along the Common, a shared parking structure, and an

alternative pallet of design features and materials could be a benefit to both the developer and Millcreek. Millcreek would also get the benefit of a slightly wider Millcreek Common than it would otherwise have, because the fault line setback area now becomes additional public space.

Option 2: Millcreek Common North



A concept for a development proposal for the Comcast site between Miller and Woodland is addressing a unique-shaped parcel, with an edge that faces a portion of the Common that will not have vehicle access. This portion of Phase II is intended to be entirely pedestrian-oriented.

Nonetheless, our current code requires retail frontage. As an alternative to the retail requirement, the developer is considering live/work studio spaces (potentially marketed to artists and craftspeople) along the frontage, as well as completing a pedestrian connection identified in the Millcreek City Center Plan to the east of the building. In addition, the developer has expressed a willingness in concept to contribute to the construction of the proposed amphitheater in Millcreek Common, and possibly commit to additional shared parking.

The trade-offs and deviations from the code requirements may involve a partial dedication of Woodland Avenue, and the allowance of additional height to

accommodate the extra parking, as well as the replacement of the CCOZ ground floor commercial standard with a custom requirement that acknowledges the fact that neither parking nor vehicle access will be provided between the proposed building and Millcreek Common.

Option 3: Millcreek Common East / MC33

A developer is considering a publicly accessible above-grade pedestrian crossing over 3300 South as part of a project that connects development on the south side of 3300 South with development on the north side of 3300 South.

A pedestrian bridge was a desired amenity expressed by many Millcreek residents during the community engagement phase of the Millcreek City Center Master Plan. In fact, the CCOZ text contemplates a process where a “contribution in lieu” of required open space could be approved by development agreement. The CCOZ-DA zone would be the mechanism that will accomplish that and could address specific building articulation recommendations as well as additional shared parking that could benefit visitors to Millcreek Common.



Achieving these desired goals requires us to have the option for some flexibility in our design standards and other use and zoning requirements in the CCOZ. We would only recommend this flexibility if an applicant could demonstrate that the outcomes would be enhanced relative to strict adherence to the existing City Center Overlay Zone. Specifically, **but for** the proposed deviations, would Millcreek get a quality project that advances the goals of the City Center Master Plan? And – is that quality project something of value to Millcreek?

MILLCREEK CITY CENTER MASTER PLAN

Vision and Goals

Staff finds that the adoption of the CCOZ-DA will provide Millcreek with a tremendous growth management tool to help further advance the vision and goals of the Millcreek City Center Plan. A mechanism by which that will grant Millcreek an enormous amount of leverage. Any deviation from code or proposed development agreement consideration would need to be supported by the following goals:

A WALKABLE URBAN PLACE THAT IS ICONIC

Focusing on pedestrian experience and forming human-scaled walks and buildings are crucial to the creation of active public spaces that Millcreek residents will frequently enjoy. This urban space will help define the City of Millcreek by providing a distinct experience from the nearby Holladay Village Center and Sugar House Central Business District.

AN AMENITY AND GATHERING PLACE FOR THE WHOLE CITY

Creating a community gathering space for both large, organized events and casual daily interactions is vital to facilitate opportunities for uniting community members. Providing a variety of gathering spaces and amenities will help attract a diverse range of community members and contribute to its active year-round use by residents of all ages and abilities.

AN ENGINE OF EMPLOYMENT, POPULATION, AND TAX BASE TO HELP KEEP TAXES LOW FOR MILLCREEK

Providing economic energy and opportunities for the community is critical to the long-term health of the community. The new Millcreek City Center is located at nearly the geographic center of the community and presents a significant opportunity for employment and tax base in Millcreek.

DESIGN SHOULD SUPPORT TRANSPORTATION ALTERNATIVES

Transportation is key in the success of the City Center’s adaptability for growth over time. Complete streets with a mix of pedestrian, bike and vehicle accommodation within a single right of-way are a necessary component along with planning for future potential transit service in the area. The design will look to integrate these options into the City Center to support the needs and desires of a wide variety of users including Millcreek residents and visitors.

RESPECT SURROUNDING EXISTING RESIDENTIAL NEIGHBORHOODS

The community must be engaged and feel empowered to participate meaningfully in defining the goals and outcomes of this important project. Their involvement and interaction during the planning process is needed to properly address concerns and achieve the desired outcomes for the new City Center.

City Center Guiding Principles

The CCOZ-DA is intended to advance the goals of the Millcreek City Center Master Plan and to further the purpose and intent of the City Center Overlay Zone. Staff finds that although there may be a degree of flexibility and discretion allowed, each application and development agreement should harness the City Center Guiding Principles.

THE CITY CENTER SHOULD EMPHASIZE WALKABILITY, AND MINIMIZE INTERNAL TRAFFIC AND PARKING DEMAND

Walkability is core to the notion of the City Center. If people cannot walk, stroll, browse, sit, dwell, and interact with neighbors, Millcreek will have a center that is devoid of the vibrancy and sense of place residents expect. Moreover, access to the City Center from neighborhoods should be designed so that people may access the City Center on foot, bicycle or means other than by driving. Plaza-like spaces for walking and gathering are encouraged. Traffic and parking should be designed to be separate from the public space, which should amplify the Center’s character as a place for community members to meet. Publicly accessible parking structures should be constructed to minimize surface parking and maximize space for public life.

THE CITY CENTER SHOULD INCLUDE MUNICIPAL PROPERTY OWNED BY THE CITY AND DESIGNATED FOR PUBLIC USE

The City Center should serve civic purposes and should include property owned by the City to be used for their goals, referenced in the Introduction section of this plan. This will lead to the development of a signature public space. Building in the City Center is a premier opportunity for any developer seeking to showcase a high-profile project. Therefore, it is appropriate to require developers to invest in public spaces through impact fees and dedication of space for Millcreek residents and visitors to enjoy. A payment in-lieu system is being considered in this area and Mill Park features and land could be dedicated instead of private open space. Such investments might include enhanced street amenities and features in and along the periphery of Mill Park. Additional landscaping and flexible outdoor spaces that can be adapted for public events are a few examples.

THE DESIGN OF MILLCREEK’S CITY CENTER SHOULD REPRESENT THE CITY IN WAYS THAT ARE DISTINCTIVE FROM OTHER CITIES AND UNIQUE TO MILLCREEK

Millcreek should stand out distinctively with a City Center that honors our history and celebrates our character. Gatherings and conversations should be encouraged. Culture and arts should be facilitated. Design for civic

functions should be non-commercial and distinct from the surrounding commercial and residential properties. Signage, site amenities, and architecture should be restrained, lowlight, and traditional but artful. Water and trees should be used to highlight these places, a direct expression of the character of the City. Spaces, walkways and seating should integrate indoor with outdoor environments

THE CITY CENTER SHOULD EMPHASIZE CULTURE, ART, IDEAS, AND INTERACTION BETWEEN CITIZENS

Millcreek needs to emphasize its support for all arts and the City Center can and should showcase that. The population of Millcreek is sophisticated, with schools that have aggressively taught arts for many years. The range of arts should be broad, covering the visual, musical, performance and literary arts, as well as newer forms. An emphasis on shopping as a city culture can be decadent. Millcreek's City Center can stand out from the majority of the homogenized and consumer-centric commercial centers in Utah. The Center should have an equal focus on bringing Millcreek citizens together to do things other than shopping. Activities like concerts, art exhibits, and community fairs should be programmed. Cultivating these types of interactions with residents through events and happenings like outdoor sculpture gardens and art installation exhibits will help create a more interconnected, cohesive community.

COMMUNITY COUNCIL INPUT

In September and November of 2019, all four community councils were asked to give their recommendations to the Planning Commission and City Council regarding the adoption of the City Center Overlay Zone. In May 2021, all four community councils were asked to give their recommendations to the Planning Commission and City Council regarding the adoption of the City Center Overlay- Development Agreement Zone. Below is a side-by-side review of their recommendations and comments.

	CITY CENTER OVERLAY ZONE	CITY CENTER OVERLAY - DEVELOPMENT AGREEMENT ZONE
Millcreek Community Council (MCCC)	The Millcreek Community Council voted seven in favor to one opposed for the adoption of the City Center Overlay Zone. The Millcreek Community Council stressed the need for a pedestrian connection across 3300 South to provide safe and pleasant access into the City Center from neighborhoods particularly to the south and west. The Millcreek Community Council also advised the city to reconsider the City Center Master Plan's recommendation of a one-way vehicle loop around the entirety of the open space.	The Millcreek Community Council voted unanimously to recommend approval of the CCOZ-DA process, after we discussed in detail how a development agreement would work, the Millcreek CC recommended monthly updates on city center progress and staff discussed with them an option to limit the applicability of development agreements to the Mill Center subdistrict, and the marketplace subdistrict west of highland drive.
Canyon Rim Citizens Association (CRCA)	The Canyon Rim Citizens Association voted five in favor to one opposed for the adoption of the City Center Overlay Zone. The CRCA recommended a lower maximum height for the southeast corner of 3300 South and Highland Drive, in order to better preserve the view corridor to Mount Olympus, Twin Peaks, and Lone Peak.	Did not meet
East Millcreek Community Council (EMCC)	The East Mill Creek Community Council voted unanimously to recommend adoption of the City Center Overlay Zone. They recommended that planning staff further refine the list of acceptable street trees proposed in the ordinance.	The East Mill Creek Community Council voted unanimously to recommend adoption of the City Center Overlay-Development Agreement Zone. They would like the scope of the development agreement option to be limited to the Mill Common Area and the Marketplace Area along 3300 South.
Mount Olympus Community Council	The Mount Olympus Community Council voted unanimously to recommend adoption of the City Center Overlay Zone, subject to the inclusion of the requirement of more commercial space on developments on the north side of 3300 South, between Richmond Street and Highland Drive.	The Mount Olympus Community Council voted unanimously to recommend adoption of the City Center Overlay-Development Agreement Zone, subject to a revision in the ordinance that requires all Community Councils to make a recommendation for each CCOZ-DA application.

PLANNING STAFF RECOMMENDATION

As the Millcreek City Center and Common develop, commercial and residential developer interest has increasingly become more engaged. Staff finds that the major advantage of a development agreement overlay zone is not only the flexibility, but it allows for a broad range of benefits, and allows both the applicant and the City to request specific negotiated allowances that meet both parties objectives. The proposed overlay concept would allow the City to potentially maximize its ability to capture the most value from any given development. Careful preparation of the proposed ordinance was taken by staff and the following findings have been identified.

- Staff finds that the proposed ordinance will allow Millcreek to balance and benefit the public advantage with the developer's costs and gains through a development agreement.
- Staff finds that the proposed ordinance is specifically geared to allow for the best possible outcome while preserving the Vision Themes of the Millcreek Together General Plan
- Staff finds that attached ordinance harnesses a conducive process, by incorporating the vision and goals and guiding principles of the City Center Master Plan.
- Staff finds that the proposed ordinance serves as an excellent growth management tool to fulfill and advance the objectives of the City Center Master Plan by at minimum, assisting in the creation of walkable urban spaces, and unique amenity and gathering places for the whole city.
- Staff finds that the flexibility of the proposed ordinance will help assist Millcreek in achieving a stable and prosperous economy, and hopefully resulting in lower taxes and a comfortable tax base to make necessary improvements.
- Staff finds that the proposed ordinance incorporates a transparent process where citizen input on goals and specific decisions are welcomed.

PLANNING COMMISSION RECOMMENDATION

The Millcreek Planning Commission held a public hearing on the CCOZ-DA Zone at a meeting on 19 May 2021, and continued the discussion on the ordinance at a special meeting on 3 June 2021 and at another special meeting on 29 June 2021. At that third meeting, the Planning Commission recommended that the City Council adopt the CCOZ-DA Zone as presented to and modified by the Planning Commission at their 29 June 2021 meeting. Specifically, the Planning Commission recommends that the ordinance include a three-year sunset provision.

SUPPORTING DOCUMENTS

1. [Millcreek City Center Overlay Zone](#)
2. [Millcreek City Center Master Plan](#)
3. [Millcreek Common Design Concept](#)
4. Millcreek Common Master Plan – April 2021
5. [Planning Commission Minutes – 19 May 2021](#)
6. Planning Commission Draft Minutes – 6 and 29 June 2021
7. Draft Ordinance



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SCALE: 1" = 50'



MILLCREEK COMMON

April 16, 2021

epgdesign
planning + landscape architecture



**Minutes of the
Millcreek Planning Commission
June 3, 2021
5:00 p.m.
Special Meeting**

The Planning Commission of Millcreek, Utah, met in a special public meeting on Thursday, June 3, 2021 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106.

PRESENT:

Commissioners

Shawn LaMar, Chair
Victoria Reid, Vice Chair
David Allen
Scott Claerhout
Skye Sieber (Absent)
Tom Stephens
Ian Wright
Christian Larsen
Aryel Cianflone

City Staff

John Brems, City Attorney (Electronic)
Alexander Wendt, Deputy Recorder
Francis Lilly, Planning and Zoning Director
Mike Winder, Assistant City Manager

Minutes by Alexander Wendt.

Attendees: No public attendees

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED: 5:15 p.m.

Chair Shawn LaMar called the meeting to order.

1. Special Meeting

1.1 Discussion and Consideration of ZT-21-003, City Center Overlay Development Agreement Zone; Francis Lilly, Planning Director.

Francis Lilly, Planning Director, thanked everyone for coming to the meeting. He said the purpose of the meeting was to discuss and potentially recommend to the City Council an ordinance regarding a different set of standards for the City Center. This could give developers a framework to ask a question about an alternative approach to a design problem. This would help the City vet the question and the proposed changes. Mr. Lilly said the Planning Commission had the discretion to recommend or not recommend a rezone and there was nothing in this draft that changed that. Rezones are a more flexible decision than a conditional use permit (CUP). There are situations where staff would like to discuss alternatives and need a framework.

Mr. Lilly explained, the City Center Master Plan contemplated an open space that was 194

feet wide, inclusive of 15-foot setbacks on either side of the promenade. As staff went through community input to not give much land back to developers it was clear the community wanted a bigger, more functional, more pedestrian friendly place than the original Master Plan contemplated. This is approximately 230 feet from building edge to edge. Mr. Lilly explained that Millcreek Common is longer in addition to being wider. Mike Winder, Assistant City Manager, said it was nice that the city was able to expand the open space. Millcreek Common is wider than envisioned in the Master Plan and it is bigger at 5.3 acres not 4.2 acres. Mr. Lilly said that typically development pressure narrows the site but in this case the opposite happened because the city listened to the community. Commissioner Stephens asked about giving land to developers. Mr. Lilly explained that it means selling land to developers at fair market value.

Mr. Lilly reviewed concerns that the Planning Commission had. First, the scope of the City Center Overlay Zone Development Agreement is too broad, anyone can apply. The solution proposed by staff was to qualify, a developer would need 100 feet of frontage along Millcreek Common, or a project that provides a direct grade-separated non-vehicular access. Commissioner Stephens said that this then applies to the southwest corner of 3300 S. and Highland Drive. Mr. Lilly said yes. The second concern is that promises were made to the community regarding building height. The solution is increased height was limited to the Common frontages, but it has been removed altogether. The third concern is guardrails or checks and balances are needed. Mr. Lilly gave a solution. The solution presented is 10% numeric variance allowed from standards. Setbacks can only be modified to the extent that they do not harm mature shade trees, stucco is still prohibited, sign standards cannot be modified, and step backs may be modified only along Millcreek Common frontages.

Commissioner Stephens proposed that setbacks are not changed at all. Mr. Lilly said that parking structures are needed. The developable space is becoming smaller. Mr. Lilly said that many famous streets in Paris are the same width as Millcreek Common. This gives a sense of what Millcreek Common may look like regarding width. Setbacks may not be warranted. If the space as it is built is beautiful, then architectural rules matter less. Mr. Lilly said his challenge is to have architects provide a solution to meet the rules for the space. Some building materials have been suggested by the designer of Millcreek Common. The architect has suggested materials of brick, steel, stone, carbonized wood, and in some cases old world stucco. Mr. Lilly said that developers must follow the standards set by the City and sends them away with homework; Millcreek drives a hard bargain. The City is not proposing a different way to reduce parking requirements. Applicants must get a parking study. The current parking ratio is not sophisticated enough to handle the varied parking uses at Millcreek Common. Mr. Lilly would like the ability to offer an alternate model to a developer. Not every site in Millcreek should be subject to this standard because not every site in Millcreek functions as a power center. But in terms of parking demand, the Millcreek Common does function more like a power center. Chair LaMar asked about why the city cannot use a certain parking standard. Mr. Lilly said that he must use the ratios set in City's Code. Commissioner Reid asked if Mr. Lilly would rather have too much or too little parking. Mr. Lilly said that he would rather have too little parking because he believes the space will be worth parking farther away for. Mr. Lilly said that he is not worried about parking on Gregson because of major streets acting as a barrier. If an intelligent system where parking is validated, parking is used better. Commissioner Wright said that parking spills over from Per Noi. Per Noi, a local Italian restaurant on the border of Salt Lake City

and Millcreek, has almost no usable parking to begin with, said Mr. Lilly. He explained why it is different, people do not park on Gregson and go to Del Taco. Mr. Winder said that if developers do not have enough parking, then their businesses will die. There are currently 462 parking spaces planned. There is a more thoughtful developer community in this case because the developers are local. Mr. Lilly explained that a developer who worked at Fashion Place Mall and University Mall in Orem stated that their parking is more than necessary on most days. Chair LaMar asked if Mr. Lilly knew about plans for Brickyard and parking there. Mr. Lilly said that Salt Lake City does not care as much about parking as Millcreek does. Mr. Lilly said he has not heard development plans but would be surprised if portions of Brickyard were not re-developed.

Mr. Lilly said another concern from the Planning Commission is that they want to be involved in a meaningful way. The proposed solution is that the developer will have to organize a neighborhood meeting and a joint session of Planning Commission and City Council before making their application. Commissioner Cianflone asked what happens if the framework does not get approved. Mr. Lilly said that changes would have to be made to the City Center Overlay Zone (CCOZ). Mr. Winder said that CCOZ would look messy. Mr. Lilly said that CCOZ is good, but he would like more flexibility to make buildings around the City Center look as good as they can. The final concern expressed was that the Planning Commission did not want to trade away well thought out land use regulation for economic development incentives. Mr. Lilly explained there is no tax increment funds (TIF) to offer developers. Every penny is being used for Millcreek Common. Staff is proposing these solutions that enhance public welfare and create a better development than would be possible under strict application of CCOZ. Mr. Lilly said a building is being built in Salt Lake City out of 7 stories of shipping containers. It looks like a prison colony in a science fiction movie. But if this new plan allows a building to be articulated with slightly more units or a different parking area that is not a bad deal.

Mr. Lilly asked the Commission how they would get there. Mr. Winder said that the City does not want to have the CCOZ Development Agreement forever. A solution to this is potentially sunseting the CCOZ Development Agreement Zone. A targeted intervention of this area gives the City the opportunity to discuss tradeoffs and incorporate aesthetic concerns that are hard to write into code. The bottom line is to create a framework to give developers flexibility. Mr. Lilly said he does not want to get so far ahead of the Planning Commission that they cannot stand a potential solution and come to some form of a consensus.

Commissioner Wright asked about the current height restrictions in CCOZ. Chair LaMar said 75 feet right along Millcreek Common but on the west edge of Highland Drive height is restricted to 50 feet. Commissioner Sieber asked about underground parking due to the fault line. Mr. Winder said the fault line prohibits underground parking. Commissioner Reid said she liked the idea of a community meeting. Chair LaMar agreed. Mr. Winder said Woodbury and other developers prefer to know what changes they will need to make early on. There will not be many projects city-wide; you can count the potential projects on one hand. Chair LaMar said that fundamentally this makes sense. If there is unique project, it makes sense to allow some changes, but he wants to avoid a developer who has lofty changes. CCOZ should be used for most of the planning but then make little tweaks. There is no guarantee the application will be approved, and the current wording says an application will be considered

by the City Council after the Planning Commission gives their recommendation. Chair LaMar asked to tighten this up to a favorable recommendation, not just a recommendation. Chair LaMar added, perhaps change this to most of the Planning Commission gives a favorable recommendation. Commissioner Stephens said that the City Council has legislative authority, and all the Planning Commission can only give recommendations. Mr. Lilly said that part of this depends on how people behave. The Planning Commission can engage early, not be diffident. Commissioner Stephens said that nothing can prevent the Planning Commission from going to the City Council meeting and then give thoughts in a meeting. Mr. Winder said that the City Council does not want to ignore the Planning Commission just like the Planning Commission does not want to ignore the Community Councils, otherwise the system breaks down. Mr. Lilly said that if there is a situation where the Planning Commission is going to recommend denial, he will tell the developer and help come up with a solution. Commissioner Reid asked about a sunset provision. Mr. Lilly said that there was not a clear consensus earlier, so he did not write it in. Mr. Winder said a sunset provision means that the City must review the provision at some point in the future.

Commissioner Stephens asked about the southwest corner of Highland Drive and 3300 S. because it was a critical corner for setbacks. Mr. Lilly said that he is only suggesting that setback requirements be changed along Millcreek Common. Mr. Lilly said that he would not recommend changes there. Mr. Lilly said that required setbacks could be changed only on frontage on Millcreek Common itself. Commissioner Cianflone asked about process changes in terms of making the changes and not changing them. She said she does not have an appetite for trading greenspace for retail-space. Commissioner Cianflone said she feels more supportive of this framework even though the proposals are not a worthwhile tradeoff. Chair LaMar asked about moving retail around. Mr. Lilly said that within this arc of 250 feet there must be 75% nonresidential uses. While redesigning Millcreek Common staff realized they were creating a nice wide urban plaza, this is where you want retail. Mr. Winder said if retail is not placed correctly the storefronts will just die. If this area is just residential you have failed, if it is just an office park you failed, if it is just retail that is a failure. The City wants to create a complementary area. Even by moving the retail it is the same square foot amount of retail.

Mr. Lilly said there is an option to do this in a development agreement than rewriting the code. Mr. Winder said the City would love to facilitate keeping Tres Hombres. With a development agreement the City can dictate where the developer makes restaurant space. A development agreement gives staff leverage explained Mr. Lilly. Commissioner Wright asked if this is a bigger version of what is in Sugarhouse by Spitz. Mr. Winder said there are items staff likes and does not like from Sugarhouse. The ground floor is being patterned off the city center in Lenexa, Kansas. Mr. Lilly said this would be bigger and more fun than Sugarhouse Plaza. Mr. Winder said Millcreek Common will be special and no one wants to mess this up. Mr. Lilly asked for lingering concerns or questions. Commissioner Reid asked about design standards not to exceed 10% changes. Mr. Lilly said there could be fenestration or windows, trees that are 30 feet on center. Chair LaMar asked about dark sky rules. Mr. Lilly said that it is covered in the Master Plan.

Commissioner Stephens said that his recommendation is to let ideas mature and settle in and then have the Planning Commission make a motion during the next Planning Commission meeting. Commissioner Larsen said that he is supportive but would like to wait until the next

Planning Commission meeting before they make a motion to deny or approve. Mr. Lilly asked for the Commission to let him know about any changes they would like to make. Commissioner Stephens said that it is a good idea to read through the draft and then look for ambiguity and wordsmith things. Chair LaMar said that this can be added to the agenda in two weeks. Mr. Lilly said that he will clean up the draft, bring it back to the Commission, and then look at it fresh.

Mr. Winder said that staff wanted to get this right and appreciated the Planning Commission taking extra time on this because this is a once in a generation opportunity to build a city center for Utah's newest city. Mr. Winder asked the Commission about the sunset provision. The Planning Commission said they liked three years for a sunset provision. Mr. Winder said from an economic development perspective he likes three years because he can encourage developers to work faster. Mr. Lilly said there can be language in a development agreement addressing work not being done in a specific timeframe. For example, if nothing is worked on in 24 months then the agreement dies. Mr. Winder said the best ally is the opportunity zone. It is a federal tool; the clock is ticking on it and developers are anxious to move forward.

Commissioner Stephens moved to continue the application, ZT-21-003, City Center Overlay Development Agreement Zone Application to the next regularly scheduled Planning Commission Meeting. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners voted yes.

ADJOURNED: Commissioner Reid moved to adjourn the meeting at 6:30 p.m. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

APPROVED: _____ **Date**
Shawn LaMar, Chair

Attest: _____
Elyse Sullivan, City Recorder



**Minutes of the
Millcreek Planning Commission
June 29, 2021
5:00 p.m.
Special Meeting**

The Planning Commission of Millcreek, Utah, met in a special public meeting on Tuesday, June 29, 2021 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was live streamed via the City's website with an option for online public comment. This meeting was a continuation of the regular June 16, 2021 meeting which adjourned early due to a power outage.

PRESENT:

Commissioners

Shawn LaMar, Chair
Victoria Reid, Vice Chair (excused)
David Allen
Scott Claerhout
Skye Sieber (excused)
Tom Stephens
Ian Wright (absent)
Christian Larsen
Aryel Cianflone

City Staff

Francis Lilly, Planning and Zoning Director
Elyse Sullivan, City Recorder
Jen Smith, Staff Engineer
Kurt Hansen, Facilities Director
Samah Safiullah, Planner
Naba Faizi, Planning Permit Tech.

Attendees: Lynette Stanton, David Anderson, and Eric Corbit.

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED: 5:02 p.m.

Chair LaMar called the meeting to order.

2. Continuing Business

2.1 Consideration of ZT-21-003, a Recommendation to Amend the Millcreek Zoning Ordinance to Enact a City Center Overlay – Development Agreement Zone Location: 3332 S. 1300 E. Planner: Francis Lilly

Francis Lilly reviewed a red-lined copy of the proposed City Center Overlay-Development Agreement Zone (CCOZ-DA) ordinance. In the Scope and Eligibility section, he added language that the Council may approve or deny a CCOZ-DA request upon receiving a recommendation from the Planning Commission. In the Development Approval section, he added that only property that had at least 100 feet of frontage on Millcreek Common or that provides a grade-separated non-vehicular access (pedestrian bridge) to Millcreek Common could apply for the zone. He added in the Preliminary Site Plan Approval subsection the complete application process. There were minor changes made in the Zone Change

subsection. Lilly said action must be taken within 2 years of approval of the development agreement as stated in the Expiration of Preliminary Site Plan subsection. He pointed out that there would be a 3-year sunset provision added into the Council's ordinance on the zone.

Lilly went through the Development Standards section. Chair LaMar asked what EIFS was. Commissioner Stephens said low quality stucco that has mold problems. Commissioner Allen said it was the commercial version of stucco. Lilly said it was paneled. He continued and said maximum height standards could only be modified for office/commercial/civic mixed-use buildings to allow for additional height to accommodate the new city hall.

Commissioner Cianflone asked about Development Standards, Bulk and Yard Regulations B2 and B3 on modification of setbacks and setbacks. Lilly recommended giving designers flexibility and a chance to come up with something. Commissioner Stephens recommended that setbacks not be eliminated because they are emphasized in the Master Plan. Lilly disagreed, he wanted to avoid uniformity. Commissioner Allen suggested it be reviewed on a case-by-case basis. Commissioner Cianflone asked what the setback standard was. Lilly said 10 feet. He felt they were more important in preserving a view, to allow more light, or to avoid creating a walled in space but said the plaza was wide enough that setbacks would not always be necessary. Commissioner Cianflone asked about setbacks. Lilly said it depended on the location in the City Center. Commissioner Cianflone pointed out that the original City Center Overlay Zone (CCOZ) was adamant about having them. Commissioner Larsen agreed with Commissioner Allen's comments. Lilly noted that all underlying design standards expressed in numerical form would be limited to a reduction not exceeding 10% from the underlying zone. He said it included anything not specified therein, which he added to the ordinance. Commissioner Allen asked about the sign standards being modified. Lilly said modifications would not be allowed per this zone. Commissioner Stephens brought up digital billboards in the City Center and a meeting he had about them with city staff.

Lilly said he removed language for modifying sidewalks in the Required Improvements subsection. He said there were already clear standards elsewhere in the code. He then reviewed the Application Process section. Commissioner Cianflone asked what the standard for special meetings would be, to be able to apply for the zone. Lilly said having at least 100 feet of property frontage in Millcreek Common. Chair LaMar recommended including electronic message centers in the subsection about signs. Lilly pointed out that electronic message centers were not allowed in CCOZ. He said this ordinance proposal was the vehicle for developments, not sign companies.

Commissioner Allen hoped the proposed ordinance achieved the goals of staff. Commissioner Cianflone asked about the dark sky illumination language. Lilly amended the language that best practices regarding dark sky illumination shall be followed pursuant to the International Dark Sky Association.

Commissioner Stephens, as respects to ZT-21-003 Recommendation to Amend the Millcreek Zoning Ordinance to Enact a City Center Overlay – Development Agreement Zone, moved to recommend adoption by the City Council based upon the most recent draft and edits made at the June 29, 2021 public meeting and also that the reasons for adoption is that overall the Commission feels comfortable that the current draft as presented is sufficiently structured to ensure a good outcome to any development agreement overlay

zone ordinance application that may come before the city. Commissioner Allen seconded. Chair LaMar called for the vote. All Commissioners present voted yes. The motion passed unanimously.

ADJOURNED: Commissioner Allen moved to adjourn the meeting at 7:28 p.m. Commissioner Claerhout seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

APPROVED: _____ **Date**
Shawn LaMar, Chair

Attest: _____
Elyse Sullivan, City Recorder

CITY CENTER OVERLAY - DEVELOPMENT AGREEMENT ZONE

Note: The three-year sunset provision will be included in the ordinance adoption document, and not in the zone text below.

- 19.73A.010: Purpose and Intent:
- 19.73A.020: Scope:
- 19.73A.030: Uses Allowed:
- 19.73A.040: Development Approval:
- 19.73A.050: Development Standards:
- 19.73A.060: Other Applicable Regulations:

19.73A.010: PURPOSE AND INTENT:

The purpose of the City Center Overlay – Development Agreement (CCOZ-DA) Zone is to allow flexibility in the strict application of the City Center Overlay Zone Design standards given particular site conditions and opportunities for additional development of public open space, while adhering to the goals of the City Center Master Plan. The application of the development agreement concept is intended to advance the goals of the Millcreek City Center Master Plan and to further the purpose and intent of the City Center Overlay Zone, thus ensuring substantial compliance with the intent of zone regulations and other provisions of this title related to public health, safety, and general welfare, and at the same time securing the advantages of large scale site planning for mixed use development appropriate in Millcreek's City Center.

19.73A.020 SCOPE AND ELIGIBILITY:

The City Council may approve a CCOZ-DA zone upon receiving a recommendation from the Planning Commission regarding adoption of the zone and a development agreement. Once a CCOZ-DA zone is established over a particular property, the provisions of this chapter shall apply to all property located within the CCOZ-DA zone as shown on the official zoning map. Development Agreements are entered into and approved at the sole discretion of the City. The CCOZ-DA overlay zone may only be applied to land within the Mill Center and Marketplace Districts of the City Center Overlay Zone.

19.73A.030: USES ALLOWED:

The uses allowed on any lot in the CCOZ-DA zone shall be the same uses allowed in the underlying zone in which the lot is located. Allowed uses may be restricted or modified by development agreement conditions. Allowed uses may not create a nonconforming use or structure.

19.73A.040: DEVELOPMENT APPROVAL:

A. Generally: The use and development of land located in the CCOZ-DA zone shall be approved according to applicable administration and development review procedures applicable to the underlying zone set forth in this title except as modified by this chapter.

1. A CCOZ-DA zone may be used only in combination with the Mill Center and Marketplace Districts within the City Center Overlay Zone, subject to the requirements of this chapter.
2. A CCOZ-DA zone may only be applied to property that has at least 100 feet of frontage along the Millcreek Common or that provides a grade-separated non-vehicular access to the Millcreek Common.
3. Variations from applicable development standards of the City Center Overlay Zone may be approved pursuant to the provisions of this chapter.

- B. Preliminary Site Plan Approval: A preliminary site plan shall be submitted and considered concurrently with an application for approval of a rezone to the CCOZ-DA zone. The preliminary site plan shall be considered pursuant to provisions of section 19.02.080 of this title, and the application process described in section 19.73.030, except as modified by this section.
1. The preliminary site plan shall show generally, building elevations, architectural elements, building materials, building height, open space, parking, residential unit types, commercial space layouts, landscaping, pedestrian and traffic circulation, drainage, utility layout, and proposed improvements to public spaces; and
 2. If the development is proposed to be developed in phases, the preliminary site plan shall also show phase boundaries. Each phase shall be of such size, composition, and arrangement so that construction, marketing, and operation of each phase is feasible as a unit, independent of any subsequent phases.
 3. A development shall be in single ownership and control or under option to purchase by an individual or a corporate entity at the time of application, or the application shall be filed jointly by all owners of the property.
 4. As part of the Preliminary Site Plan Approval, the City at its sole discretion may obtain recommendations from various consultants, including but not limited to: a qualified traffic and parking consultant, and a designer with demonstrated expertise in urban design and placemaking. Consultant services shall be commissioned by the City and paid for by the applicant. The recommendations of these consultants shall be forwarded to staff and the Millcreek Planning Commission and City Council as part of an application for a CCOZ-DA zone approval.
 5. Upon receiving a professional recommendations from various consultants, and upon completion of the application process as described in MKZ 19.73.030, each community council and the planning commission shall make a recommendation to the city council regarding a complete application for a CCOZ-DA rezone and development agreement. The planning commission shall approve, approve with conditions, or disapprove the completed application, consisting of, but not limited to, the preliminary site plan and draft development agreement for the property where the development is proposed to be located. At the same time, the planning commission will make a recommendation to the city council to adopt, adopt with conditions or not adopt the rezone of the subject property to the CCOZ-DA Zone. Planning commission approval of a preliminary site plan shall not be effective unless and until CCOZ-DA rezone is approved by the city council.
- C. Zone Change: After action by the planning commission, the city council shall consider the application to rezone the subject property to the CCOZ-DA zone as an amendment of the official zoning map.
1. Submittal of an application for the CCOZ-DA zone does not guarantee the application will be approved. A zoning map amendment may be approved only if the city council, after receiving a recommendation from the planning commission, finds that the proposed City Center Overlay Zone-Development Agreement and the associated preliminary site plan:
 - a. Do not conflict with any applicable policy and guidance of the general plan or the City Center Master Plan;

- b. Will allow integrated planning and design of the site and, on the whole, better development than would be possible under the strict application of the City Center Overlay Zone
 - c. Meets the use, and other requirements of this chapter and the zone with which the City Center Overlay Zone-Development Agreement zone will be combined, except as otherwise allowed by this chapter.
 - d. Enhances the public welfare, enhances urban design and walkability, and supports public investment in the Millcreek City Center.
 - e. Does not adversely impact existing public utilities, including but not limited to power, gas, telecommunications, storm water, culinary water, or sanitary sewer.
 - 2. In order to make findings necessary to approve City Center Overlay Zone-Development Agreement zone, conditions of approval may be imposed to assure the master development will:
 - a. Accomplish the purpose of this title;
 - b. Be developed as one integrated land use rather than as an aggregation of individual and unrelated buildings and uses; and
 - c. Meet the requirements of the zone in which the proposed development is located except as such requirements are modified by this chapter and as shown on an approved preliminary site plan for the development.
 - 3. Zoning conditions, as provided in MKC section 19.90.060, also may be placed on property at the time of zoning to restrict or prohibit uses or development that would not be compatible with adjoining uses, notwithstanding whether such uses then exist or future uses as shown in the general plan.
- D. Subdivision Requirements: An application for subdivision approval may proceed concurrently with an application for a site plan approval. Compliance with the requirements of this chapter does not exempt any applicant from meeting other applicable requirements of this title.
- E. Construction Limitations: Upon approval of a zone change and development agreement construction shall proceed in accordance with approved plans and specifications, subject to subsequent conditional use and subdivision approval, if required by the underlying zone, and shall conform to any conditions associated with the preliminary site plan, zone change, or final site plan approval.
- F. Amendments: Amendments to approved plans shall be obtained by following the same procedure required for the original approval.
- G. Development Agreement. In conjunction with approval of a zone change and a preliminary site plan approval, the city may elect to enter into a development agreement with the owner of a proposed development which includes the following provisions.
- 1. Upon approval of a preliminary site plan and a related development agreement, the preliminary site plan shall vest in the owner the right to develop the subject property as a development, within the parameters set forth in the approved preliminary site plan and approved development agreement.

2. The development agreement may, among other things, provide that:
 - a. The land subject to the preliminary site plan may be subdivided and the subdivided tracts may be sold to different owners; and
 - b. Any utility, grading and drainage plans, landscaping, fencing, screening plans, signs, lighting, materials and massing requirements, and site plans will be required as part of the site plan approval.
- H. Expiration of Preliminary Site Plan and Development Agreement: Each development agreement shall include a clause that allows the City to re-zone the property and withdraw from the Development Agreement if the Development Agreement is not recorded within two (2) years of execution of the Development Agreement, or in the event the applicant has failed to commence physical construction within two (2) years of the execution of the Development Agreement. The applicant can make a written request for an extension of the 24-month period to the Planning Director, but for a period not exceed one (1) year.

19.73A.050: DEVELOPMENT STANDARDS:

- A. Generally: The development standards for any lot in the CCOZ-DA zone shall be the same as in the underlying zone in which the lot is located except as modified by this chapter and an approved site plan and development agreement.
- B. Bulk and Yard Regulations: Bulk and yard regulations for the underlying zone may be modified by development agreement, subject to the following limitations:
 1. Maximum height standards may only be modified for office/commercial/civic mixed use buildings, regulated by MKZ 19.73.070 (N)(5)(b). In order to qualify for a modification of the maximum height, an office/commercial/civic mixed use building, as defined in MKZ 19.73.070 (N)(5)(b), shall contain at least 40,000 square feet of public uses. In no case shall the maximum height of an office/commercial/civic mixed use building exceed 85 feet.
 2. Required minimum setbacks may be modified only for building facades that front Millcreek Common.
 3. Required setbacks may be modified, but in no event to the point where shade trees, otherwise required, will not flourish to full maturity.
- C. Design Standards and Parking Requirements. Design standards and parking requirements established in the underlying zone and in MKZ 19.80 may be modified by development agreement, subject to the following limitations:
 1. Parking requirements may be modified subject to a shared parking analysis using standards established in *Shared Parking, Third Edition* by the International Council of Shopping Centers.
 2. Stucco and EIFS are prohibited for use as materials on any façade visible from a right-of-way, or Millcreek Common.
 3. Except as specified in this chapter, all underlying design standards expressed in numerical form are limited to a modification not exceeding 10% from the underlying standard.

4. Minimum and maximum heights shall not be modified, except for office/commercial/civic mixed use buildings as defined in MKZ 19.73.070 (N)(5)(b), with at least 100 feet of frontage on the Millcreek Common.
 5. Sign standards shall not be modified.
- D. Effect on Adjacent Properties: The arrangement of structures and open spaces within a development shall assure that adjacent properties will not be adversely affected. Height and intensity of buildings and uses shall be arranged around the boundaries of the development in manner compatible with existing adjacent developments and zones, and with adjacent public spaces.
 - E. Lot Area and Width: A development shall not be subject to the lot width and lot area requirements of the underlying zone in which the development is located. Lot area and widths shall be shown on an approved site plan.
 - F. Setback and Buffer Requirements: Setbacks and buffer requirements shall be as shown on an approved site plan.
 - G. Walls and Fences: Walls and fences shall be as shown on an approved site plan.
 - H. Height of Buildings: Maximum building height shall be as shown on an approved site plan.
 - I. Open Space: Open space requirements and the location and amenities of all open space shall be reviewed and approved as part of the preliminary site plan process.
 - J. Public and Community Facilities: In addition to dwellings and commercial facilities allowed by the underlying zone, a development may include areas for public or private recreation buildings, and other similar community facilities.
 - K. Required Improvements:
 1. All streets in a City Center Overlay Zone-Development Agreement zone shall be constructed according to city standards and specifications adopted by the city, and shall advance the goals of the City Center Master Plan.
 2. Stormwater shall be controlled and managed according to a stormwater plan approved by the city.
 3. Infrastructure improvements, including but not limited to utilities, irrigation, street signs, street lighting, fencing, and other required improvements, shall be provided in accordance with city standards and specifications.
 - M. Grading and Drainage Plans: A detailed grading and drainage plan shall be submitted as part of a site plan application.
 - N. Landscaping, Fencing, and Screening Requirements: Landscaping, fencing, and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be submitted as part of a site plan application.
 - O. Signs and Lighting: The size, location, design, and nature of signs, if any, and the intensity and direction of area lighting shall be detailed in a site plan application and shall conform to the City Center Master Plan and the City Center Overlay Zone, and shall comply with all applicable requirements in the City Center Overlay Zone, and shall

adhere to best practices regarding dark sky illumination, pursuant to the guidelines of the International Dark Sky Association, as referenced in MKZ 19.73.070 (T).

- P. Nonconforming uses and noncomplying structures. Nonconforming uses or noncomplying structures may not be included in any CCOZ-DA approval unless first declared legal through special exception subject to the standards of MKZ 19.88

19.73A.060: APPLICATION PROCESS

An application for an adoption of a CCOZ-DA zone and enactment of a development agreement shall follow the process as outlined in MKZ 19.73.030, in addition to the following public meeting requirements:

- A. Neighborhood Meeting. Prior to submitting a complete application, an applicant shall conduct a neighborhood meeting, and provide adequate proof of notice to include the following:
 - 1. The applicant shall send a written notice stating the place, date, and time of the neighborhood meeting to all property owners, as identified in the Salt Lake County recorder's records, whose property is within 600 feet of the property described in the rezone.
 - 2. The applicant shall notify these owners at least one week prior to the neighborhood meeting.
 - 3. The neighborhood meeting shall be conducted at a location within Millcreek.
 - 4. Phone calls or informal door to door contacts shall not be considered to constitute a neighborhood meeting.
 - 5. The record of a neighborhood meeting shall include:
 - a. A list of all individuals who were notified;
 - b. A roster of attendees; and
 - c. A copy of the minutes.
- B. Joint Work Session of the Planning Commission and City Council. Prior to submitting a complete application and after conducting a neighborhood meeting, an applicant shall schedule with the City a joint work session of the Planning Commission and City Council. The purpose of the joint work session will be to discuss the proposed project and potential development agreement in conceptual detail.

19.73A.070: OTHER APPLICABLE REGULATIONS:

To the extent that use and development of land located in a City Center Overlay Zone-Development Agreement zone includes any matter governed by other applicable regulations set forth in this title, such regulations shall apply in addition to the requirements of this chapter.

MILLCREEK, UTAH
ORDINANCE NO. 21-29

**AN ORDINANCE OF MILLCREEK VACATING A PORTION OF 1800 EAST STREET
FROM GREGSON AVENUE TO APPROXIMATELY 3206 SOUTH**

WHEREAS, the Millcreek Council (“Council”) met in regular meeting on July 12 2021, to consider, among other things, vacating a portion of 1800 East Street from Gregson Avenue to approximately 3206 South; and

WHEREAS, Millcreek Code of Ordinances 14.48 et seq. requires compensation to the city for the vacation and/or transfer of its interest in public streets; and

WHEREAS, Utah Code Ann. § 10-9a-208 provides in part that for any proposal to vacate some or all of a public street, right-of-way, or easement, the legislative body shall hold a public hearing; and give notice of the date, place, and time of the hearing at least 10 days before the public hearing and the notice shall be mailed to the record owner of each parcel that is accessed by the street being vacated; mailed to each affected entity; posted on or near the street being vacated in a manner that is calculated to alert the public; published on the City website; and published on the Utah Public Notice Website created in Section 63A-16-601; and

WHEREAS, staff has advised the Council that the interest in the public street being vacated was obtained by mistake and has no real economic value; and

WHEREAS, as required by state statute, notice regarding such hearing was mailed to the record owner of each parcel that is accessed 1800 East Street on 18 June 2021; and

WHEREAS, as required by state statute, notice regarding such hearing was given to all affected entities on 18 June 2021; and

WHEREAS, as required by state statute, notice regarding such hearing was posted on 18 June 2021 on or near 3206 South 1800 East in a manner that was calculated to alert the public; and

WHEREAS, as required by state statute, notice was published on the City website and on the Utah Public Notice Website created in Section 63A-16-601; and

WHEREAS, on June 28, 2021, the Council held a public hearing in which public comment was received regarding the proposed vacation; and

WHEREAS, the Council finds that the interest in the public street being vacated was obtained by mistake and has no real economic value; and

WHEREAS, the Council finds that good cause exists for the vacation; and neither the public interest nor any person will be materially injured by the vacation; and

WHEREAS, the Council finds that it is in the best interest of the residents of the City to vacate a portion of 188 East Street as depicted in the attached map and described in the attached legal description.

NOW, THEREFORE, be it ordained by the Council that 1800 East Street from Gregson Avenue to approximately 3206 South is hereby vacated as described in the attached legal description, and the same is declared to be no longer necessary as a public street, alley, or public way and the Mayor and Recorder are hereby directed to record a copy of this ordinance in the office of the Salt Lake County Record.

PASSED AND APPROVED this 12th day of July, 2021.

MILLCREEK

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

Roll Call Vote:

Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

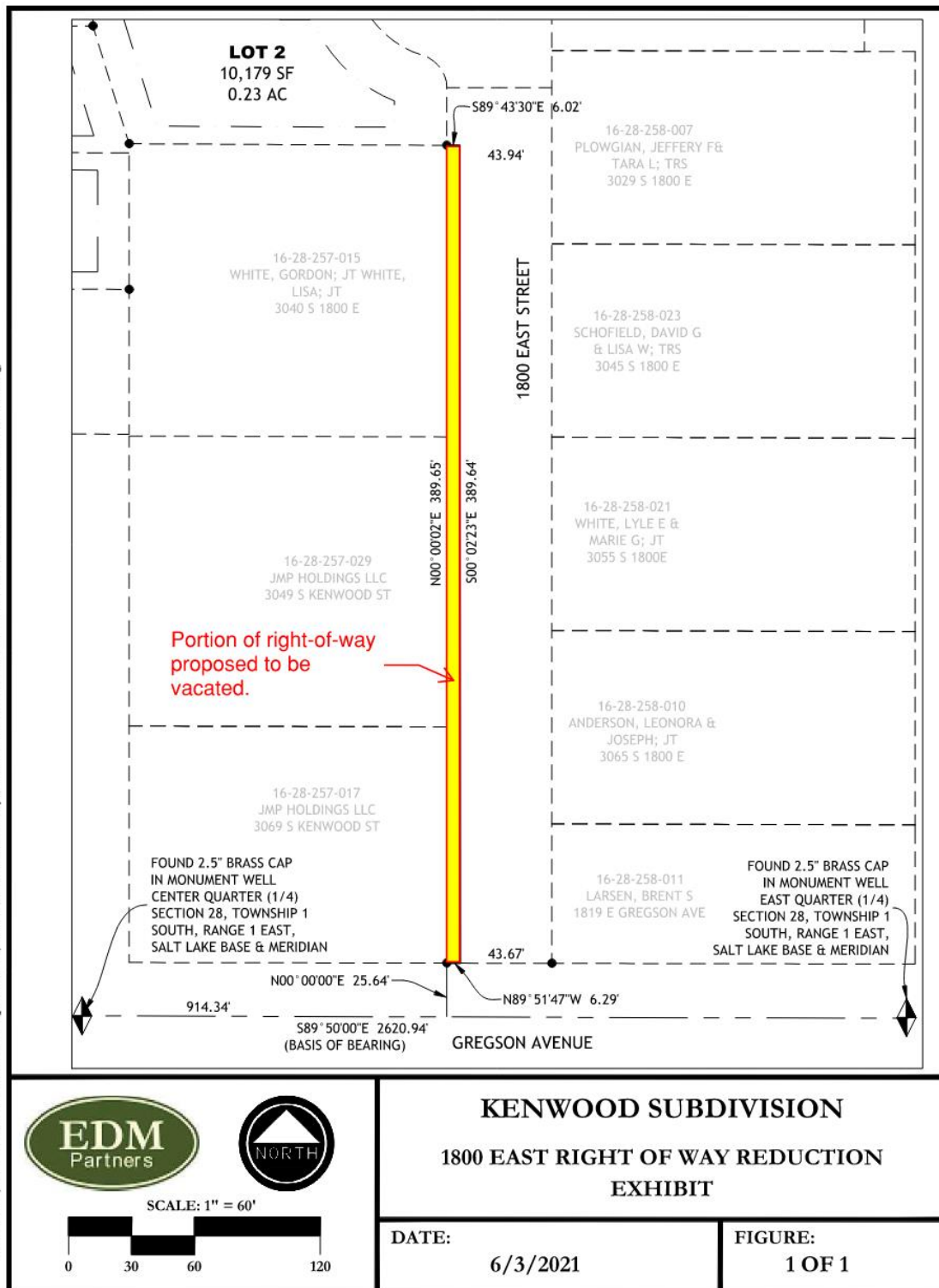
LEGAL DESCRIPTION

A TRACT OF LAND BEING PART OF KENWOOD SUBDIVISION, RECORDED IN BOOK 2020 AT PAGE 249 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER. SAID TRACT OF LAND IS LOCATED IN THE NORTHEAST QUARTER (1/4) OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF GREGSON AVENUE AND THE WESTERLY RIGHT OF WAY LINE OF 1800 EAST AS RECORDED IN SAID KENWOOD SUBDIVISION, SAID POINT BEING S89°50'00"E 914.34 FEET ALONG THE SECTION LINE AND N00°00'00"E 25.64 FEET FROM THE CENTER QUARTER (1/4) CORNER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN; AND RUNNING THENCE N00°00'02"E 389.65 FEET; THENCE S89°43'30"E 6.02 FEET; THENCE S00°02'23"E 389.64 FEET; THENCE N89°51'47"W 6.29 FEET TO THE POINT OF BEGINNING.

CONTAINS 2,398 S.F. OR 0.05 ACRES IN AREA

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CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:
ORDINANCE 21-29: AN ORDINANCE OF MILLCREEK VACATING A PORTION OF 1800
EAST STREET FROM GREGSON AVENUE TO APPROXIMATELY 3206 SOUTH
was passed and adopted the 12th day of July 2021 and certifies that copies of the foregoing
Ordinance 20-XX were posted in the following locations within the municipality this ____ day
of July, 2021.

1. Millcreek City Hall, 3330 S. 1300 E., Millcreek, UT 84106
2. Millcreek Community Center, 2266 E. Evergreen Ave., Millcreek, UT 84109
3. Calvin S. Smith Library, 810 E. 3300 S., Millcreek, UT 84106

Elyse Sullivan, City Recorder

MILLCREEK, UTAH
ORDINANCE NO. 21-30

**AN ORDINANCE OF MILLCREEK VACATING A PORTION OF CHAMBERS
AVENUE BETWEEN 1340 EAST AND APPROXIMATELY 1364 EAST**

WHEREAS, the Millcreek Council (“Council”) met in regular meeting on July 12 2021, to consider, among other things, vacating a portion of Chambers Avenue between 1340 East and approximately 1364 East; and

WHEREAS, Millcreek Code of Ordinances 14.48 et seq. requires compensation to the city for the vacation and/or transfer of its interest in public streets; and

WHEREAS, Utah Code Ann. § 10-9a-208 provides in part that for any proposal to vacate some or all of a public street, right-of-way, or easement, the legislative body shall hold a public hearing; and give notice of the date, place, and time of the hearing at least 10 days before the public hearing and the notice shall be mailed to the record owner of each parcel that is accessed by the street being vacated; mailed to each affected entity; posted on or near the street being vacated in a manner that is calculated to alert the public; published on the City website; and published on the Utah Public Notice Website created in Section 63A-16-601; and

WHEREAS, staff has advised the Council that the interest in the public street being vacated has no real economic value to the City; and

WHEREAS, as required by state statute, notice regarding such hearing was mailed to the record owner of each parcel that is accessed by Chambers Avenue on 18 June 2021; and

WHEREAS, as required by state statute, notice regarding such hearing was given to all affected entities on 18 June 2021; and

WHEREAS, as required by state statute, notice regarding such hearing was posted on 18 June 2021 on or near 1364 East Chambers Avenue in a manner that was calculated to alert the public; and

WHEREAS, as required by state statute, notice was published on the City website and on the Utah Public Notice Website created in Section 63A-16-601; and

WHEREAS, on June 28, 2021, the Council held a public hearing in which public comment was received regarding the proposed vacation; and

WHEREAS, the Council finds that the interest in the public street being vacated was obtained by mistake and has no real economic value; and

WHEREAS, the Council finds that good cause exists for the vacation; and neither the public interest nor any person will be materially injured by the vacation; and

WHEREAS, the Council finds that it is in the best interest of the residents of the City to vacate a portion of Chambers Avenue as depicted in the attached map and described in the attached legal description.

NOW, THEREFORE, be it ordained by the Council that Chambers Avenue between 1340 East and approximately 1364 East is hereby vacated as described in the attached legal description, and the same is declared to be no longer necessary as a public street, alley, or public way and the Mayor and Recorder are hereby directed to record a copy of this ordinance in the office of the Salt Lake County Record.

PASSED AND APPROVED this 12th day of July, 2021.

MILLCREEK

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

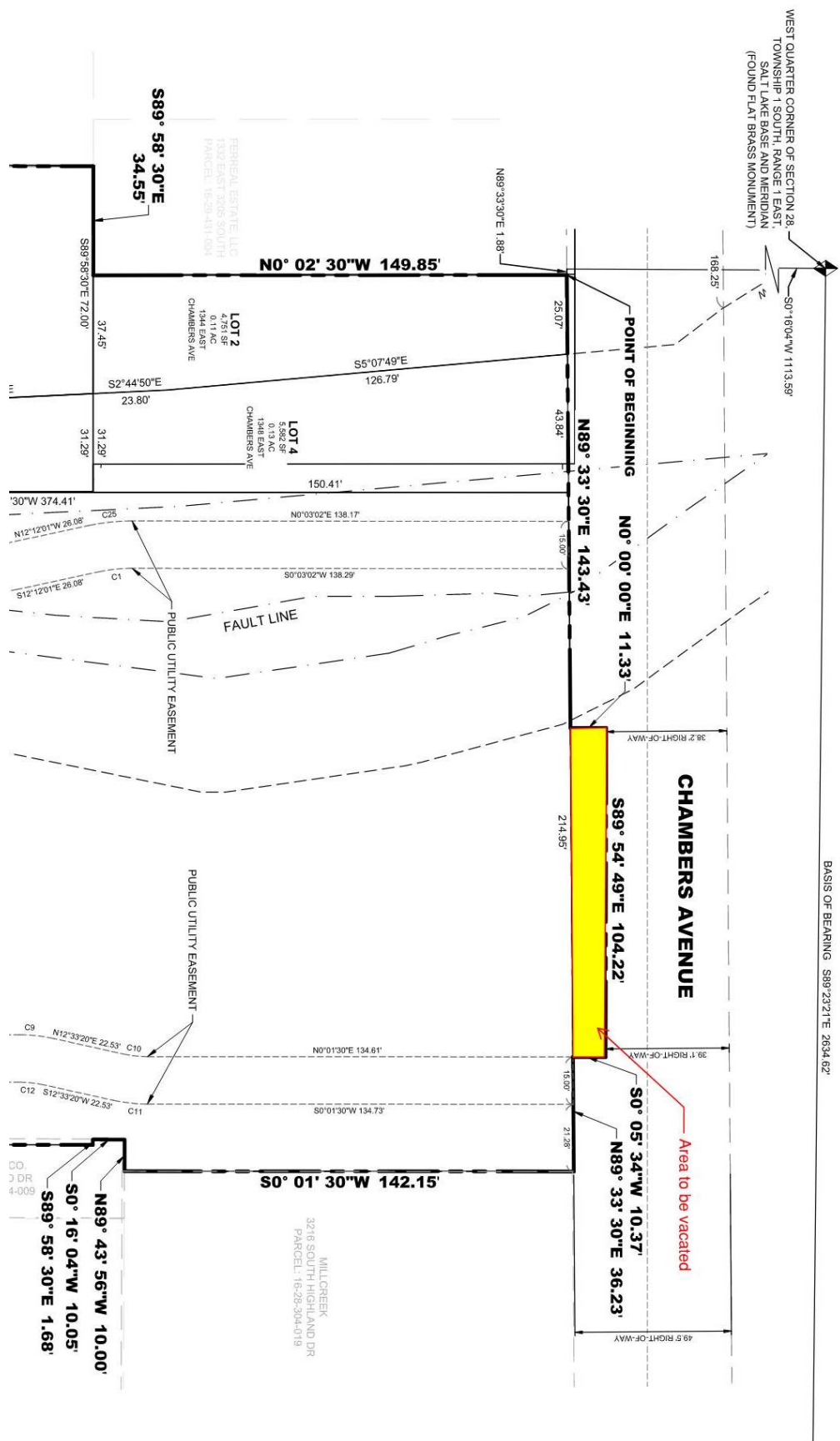
Roll Call Vote:

Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

LEGAL DESCRIPTION FOR RIGHT-OF-WAY VACATION OF CHAMBERS AVENUE:

THAT PORTION OF THE 3205 SOUTH STREET (CHAMBERS STREET) RIGHT-OF-WAY TO BE VACATED FOR FUTURE CONSTRUCTION.

BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF 3205 SOUTH STREET SAID POINT ALSO BEING SOUTH $00^{\circ}16'04''$ WEST ALONG THE SECTION LINE 1113.59 FEET AND NORTH $89^{\circ}33'30''$ EAST 145.31 FEET FROM THE WEST QUARTER CORNER OF SECTION 28, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING; THENCE NORTH 11.33 FEET; THENCE SOUTH $89^{\circ}54'49''$ EAST 104.22 FEET; THENCE SOUTH $0^{\circ}05'34''$ WEST 10.37 FEET; THENCE SOUTH $89^{\circ}33'30''$ WEST 104.21 FEET TO THE POINT OF BEGINNING.



CERTIFICATE OF POSTING

I, the duly appointed recorder for Millcreek, hereby certify that:

ORDINANCE 21-30: AN ORDINANCE OF MILLCREEK VACATING A PORTION OF CHAMBERS AVENUE BETWEEN 1340 EAST AND APPROXIMATELY 1364 EAST was passed and adopted the 12th day of July 2021 and certifies that copies of the foregoing Ordinance 21-30 were posted in the following locations within the municipality this ____ day of July, 2021.

1. Millcreek City Hall, 3330 S. 1300 E., Millcreek, UT 84106
2. Millcreek Community Center, 2266 E. Evergreen Ave., Millcreek, UT 84109
3. Calvin S. Smith Library, 810 E. 3300 S., Millcreek, UT 84106

Elyse Sullivan, City Recorder

MILLCREEK, UTAH
RESOLUTION NO. 21-30

**A RESOLUTION APPROVING AN INTERLOCAL COOPERATIVE AGREEMENT
WITH SALT LAKE COUNTY FOR AMENDMENT NO. 4 TO AGREEMENT FOR
ADDRESSING SERVICES**

WHEREAS, the Millcreek Council (“*Council*”) met in regular session on July 12, 2021, to consider, among other things, approving an Interlocal Cooperative Agreement with Salt Lake County for amendment no. 4 to agreement for addressing services; and

WHEREAS, the Utah Local Cooperative Act (Utah Code Ann. § 11-13-101, *et seq.*) (the “*Act*”) provides that two or more entities are authorized to enter into agreements with each other for joint or cooperative action; and

WHEREAS, Salt Lake County (“*County*”) and Millcreek are public agencies, as contemplated in the Act, and the services contemplated are joint and cooperative actions, as contemplated in the Act; and

WHEREAS, the County and Millcreek entered into an Agreement for Addressing, First Amended Agreement, Second Amended, Third Amendment Agreement for Addressing, wherein County provides certain addressing services for Millcreek in exchange for certain consideration; and

WHEREAS, the Third Amended Agreement expired on June 30, 2021; and

WHEREAS, the Council has determined that it is in the best interest of the inhabitants of Millcreek to renew the Addressing Agreement for an additional one year term; and

WHEREAS, a Fourth Amended Agreement has been presented to the Council for review and approval, a copy of which is attached hereto (“*Agreement*”); and

WHEREAS, the Agreement sets forth the purpose thereof, the extent of participation of the parties, and the rights, duties, and responsibilities of the parties.

NOW, THEREFORE, BE IT RESOLVED that the Agreement is approved, and that the Mayor and Recorder are hereby authorized and directed to execute and deliver the same.

This Resolution assigned No. 21-30, shall take effect immediately on passage.

PASSED AND APPROVED by the Millcreek Council this 12th day of July, 2021.

MILLCREEK COUNCIL

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

Roll Call Vote:

Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

AMENDMENT NO. 4
to the
INTERLOCAL COOPERATION AGREEMENT
between
SALT LAKE COUNTY
for its Addressing Division and
MILLCREEK CITY

THIS FOURTH AMENDMENT (“Amendment”) is entered into this ____ day of _____, 2021, by and between SALT LAKE COUNTY, on behalf of its Addressing Division, a body corporate and politic of the State of Utah (“County”), and MILLCREEK CITY, a municipal corporation of the State of Utah (“City”). County and City may be collectively referred to herein as the “Parties.”

WITNESSETH

WHEREAS, the Parties are local governmental units and are therefore authorized under the Utah Interlocal Cooperation Act, Section 11-13-101, et seq., U.C.A. 1953, as amended, to enter into agreements with each other which enable them to make the most efficient use of their powers; and

WHEREAS, the Parties entered into an Interlocal Agreement for Addressing on or about July 19, 2017 (“Agreement”), wherein County was to provide certain addressing services for Millcreek in exchange for certain consideration, with the original Agreement having a term ending on June 30, 2018; and

WHEREAS, in 2018, 2019, and 2020 the Parties renewed the Agreement for additional one-year terms; and

WHEREAS, the Parties are again desirous to renew the Agreement for an additional one-year term; and

WHEREAS, Parties have determined that it is mutually advantageous to enter into this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the promises, mutual covenants and undertakings of the parties hereto, and in compliance with and pursuant to the provisions of the Interlocal Cooperation Act, the Parties hereby agree as follows:

1. Pursuant to paragraph 13 of the Agreement, the Agreement shall be renewed for an additional one-year period, effective on July 1, 2021 and continuing through June 30, 2022.
2. All other provisions of the Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the Parties have subscribed their names hereon and caused this agreement to be duly executed on the date and year specified above.

[Signature Page to Follow]

INTERLOCAL AGREEMENT – SIGNATURE PAGE FOR THE COUNTY

SALT LAKE COUNTY

By: _____
Mayor or Designee

Date: _____

Approved by:
DEPARTMENT OF ADMINISTRATIVE SERVICES

By: _____
Megan Hillyard
Department Director

Date: _____

Approved as to Form:

By: _____
Dianne R. Orcutt
Deputy District Attorney

Date: _____

INTERLOCAL AGREEMENT – SIGNATURE PAGE FOR THE CITY

MILLCREEK CITY

By _____
Jeff Silvestrini, Mayor

Date _____

ATTEST:

By _____
City Recorder

Date _____

Approved as to Form and Legality:

By _____
John Brems
City Attorney

Date _____

MILLCREEK, UTAH
RESOLUTION NO. 21-31

**A RESOLUTION APPROVING THE APPOINTMENT OF STIFEL, NICOLAUS & CO.
AS UNDERWRITER FOR THE SERIES 2021 SALES TAX REVENUE BONDS**

WHEREAS, the Millcreek Council (“Council”) met in regular meeting on July 12, 2021, to consider, among other things, approving the appointment of Stifel, Nicolaus & Co. as underwriter for the Series 2021 Sales Tax Revenue Bonds; and

WHEREAS, the Council has determined to issue a Series 2021 Sale Tax Revenue Bond and needs underwriter services; and

WHEREAS, the City’s financial advisor recommends the appointment of Stifel, Nicolaus & Co. as underwriter for the Series 2021 Sales Tax Revenue Bonds; and

WHEREAS, a contract/agreement (“Agreement”) for such services is attached hereto; and

WHEREAS, after careful consideration the Council has determined that it is in the best interest of health, safety, and welfare of the residents of the City to approve the Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council that the Agreement is approved and the Mayor and Recorder are hereby authorized to execute and deliver the Agreement.

PASSED AND APPROVED by the Council this 12th day of July 2021.

MILLCREEK COUNCIL

Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

Roll Call Vote:

Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

STIFEL

UNDERWRITER ENGAGEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 6th day of July, 2021, by and among Millcreek, Utah (the "Issuer") and Stifel, Nicolaus & Company, Incorporated, (the "Underwriter" or "Stifel"), with reference to the following facts:

RECITALS

WHEREAS, the Issuer plans to issue Sales Tax Revenue Bonds (the "Bonds") to finance the construction of the new City Hall and related parking structure and fund a Debt Service Reserve Fund if required (the "Project"); and

WHEREAS, the Issuer desires and is authorized by law to retain the services of the Underwriter in connection with the issuance of the Bonds; and

WHEREAS, the Underwriter agrees to be retained by the Issuer and to provide to the Issuer the services described herein; and

WHEREAS, Stifel agrees to act as underwriter, subject to the conditions set forth herein;

NOW therefore, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

Scope of Services

The Issuer has engaged the Underwriter to perform various services related to the issuance of the Bonds, which are to be performed within the framework of all relevant rules and regulations. All services are provided on an arm's length, commercial basis and may or may not be provided in conjunction with services provided by advisors to the Issuer, such as, but not limited to, a financial advisor or a municipal advisor.

With this understanding, the Underwriter may provide the following services and perform the following functions with respect to the Bonds:

A. Structuring the Financing

1. The Underwriter will work with the Issuer, its bond counsel, financial advisor, disclosure counsel, and other members of the Issuer's financing team in evaluating specific terms and conditions affecting the Bonds with the purposes of meeting the Issuer's financing objectives and assuring appropriate credit quality;
2. The Underwriter will work with the Issuer to create a feasible and efficient structure for the Bonds in order to enhance the Bonds' marketability;
3. In cooperation with Issuer, the Underwriter will assist in the preparation of and/or review of all documents necessary to implement the issuance of the Bonds, including, but not limited to, authorizing resolutions, bond purchase agreement, and preliminary and final official statements distributed to potential investors, as required;

B. Marketing the Securities

1. The Underwriter will provide information and material as needed to support presentations for rating agencies and/or bond insurance companies; if requested;
2. The Underwriter will coordinate printing and distribution of the preliminary and final official statements;
3. Together with the Issuer and other appropriate parties, the Underwriter will provide market information on the timing of the sale of the Bonds in relation to the market conditions and financing needs;

4. The Underwriter will arrange for distribution of the final official statements in accordance with Section 240.15c2-12 of Title 17 of the Code of Federal Regulations; and
5. The Underwriter will serve as sole managing underwriter of the Bonds, which obligation is conditioned upon the execution of a mutually satisfactory bond purchase agreement and other customary documentation, and coordinate with all parties so as to consummate the sale and delivery of the Bonds in a timely manner.

Regulatory Disclosure

The Issuer is aware of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Securities and Exchange Commission's adopted rule commonly known as the "Municipal Advisor Rule" (SEC Rule 15Ba1-1 to 15Ba1-8 -"the Rule") and the underwriter exclusion from the definition of "municipal advisor" for a firm serving as an underwriter for a particular issuance of municipal securities. Some of the services that Stifel will be called upon to perform, such as providing advice with respect to the sizing, structure, timing and terms of the Bond issuance, are services that are also commonly provided by financial advisory firms.

However, in providing such services for the Bonds, the parties understand and agree that Stifel is serving as an underwriter for this transaction and is permitted to give advice and recommendations under the "underwriter exclusion" provision of the Rule. Issuer agrees that Stifel will not be serving as the Issuer's financial advisor or acting as an agent or fiduciary for the Issuer and that the Issuer will be consulting with its own legal, financial and other advisors. This Agreement and relationship shall be either executed, approved or acknowledged by the governing board of Issuer (the "Governing Board").

Disclosures Required by MSRB Rule G-17 Concerning the Role of the Underwriter

The Issuer confirms and acknowledges the following disclosures, as required by the Municipal Securities Rulemaking Board (MSRB) Rule G-17 as set forth in MSRB Notice 2019-20 (Nov. 8, 2019)¹:

The following G-17 conflict of interest disclosures are broken down into three types, including: 1) dealer-specific conflicts of interest disclosures (if applicable); 2) transaction-specific disclosures (if applicable); and 3) standard disclosures. You may receive additional separate disclosure letters pursuant to Rule G-17 from the co-managing underwriters or other syndicate members for the Bonds if they have their own dealer-specific or transaction-specific disclosures.

1. Dealer-Specific Conflicts of Interest Disclosures

Stifel has not identified any actual or potential² material conflicts of interest.

2. Transaction-Specific Disclosures: Disclosures Concerning Complex Municipal Securities Financing:

- o Since we have not recommended a "complex municipal securities financing" to the Issuer or Obligor, additional disclosures regarding the financing structure for the Bonds are not required under MSRB Rule G-17.

¹ Revised Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities (effective Mar. 31, 2021).

² When we refer to *potential* material conflicts throughout this letter, we refer to ones that are reasonably likely to mature into *actual* material conflicts during the course of the transaction, which is the standard required by MSRB Rule G-17.

3. **Standard Disclosures**

- **Disclosures Concerning the Underwriters' Role:**
 - MSRB Rule G-17 requires an underwriter to deal fairly at all times with both issuers and investors.
 - The underwriters' primary role is to purchase the securities with a view to distribution in an arm's-length commercial transaction with the Issuer. The underwriters have financial and other interests that differ from those of the Issuer.
 - Unlike a municipal advisor, an underwriter does not have a fiduciary duty to the Issuer under the federal securities laws and is, therefore, not required by federal law to act in the best interests of the Issuer without regard to its own financial or other interests.
 - The Issuer may choose to engage the services of a municipal advisor with a fiduciary obligation to represent the Issuer's interest in this transaction.
 - The underwriters have a duty to purchase the securities from the Issuer at a fair and reasonable price, but must balance that duty with their duty to sell the securities to investors at prices that are fair and reasonable.
 - The underwriters will review the official statement for the securities, if any, in accordance with, and a part of, their respective responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.³
- **Disclosures Concerning the Underwriters' Compensation:**
 - The underwriters will be compensated by a fee and/or an underwriting discount that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Bonds. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction and the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Bonds. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest since the underwriters may have an incentive to recommend to the Issuer a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

Limitation of Duties

The Issuer acknowledges and agrees that Stifel is not making a commitment to extend credit, make a loan or otherwise fund the Project beyond the obligations contained in a mutually satisfactory bond purchase agreement. The Issuer acknowledges that the services provided under this Agreement involve professional judgment by Stifel and that the results cannot be, and are not, guaranteed.

As addressed above, among the services that Stifel will perform under this Agreement is assistance in preparation of, and/or review of the preliminary and final official statements for the Bonds. We note, however, that under

³ Under federal securities law, an issuer of securities has the primary responsibility for disclosure to investors. The review of the official statement by the underwriters is solely for purposes of satisfying the underwriters' obligations under the federal securities laws and such review should not be construed by an issuer as a guarantee of the accuracy or completeness of the information in the official statement.

federal securities law, an issuer of securities has the primary responsibility for disclosure to investors. Our assistance with respect to, and/or review of the official statement will be solely for purposes of satisfying our obligations as underwriter under the federal securities laws and such assistance and/or review should not be construed by the Issuer as a guarantee of the accuracy or completeness of the information in the official statement.

Expenses

The Issuer, from the Bond proceeds, will pay the Underwriter's costs incurred in the performance of this Agreement, including costs of its legal counsel, if any, communication, preparation of the official statements, and overhead expenses.

The Issuer, from the Bond proceeds or other lawfully available funds, will pay for legal fees, including disclosure counsel; rating agency and credit enhancement fees including all related travel (if any); the cost of appraisal, fiscal consultant, statistical, computer, and graphics services (if any), cost of printing and distribution of the official statements and expense of publication, advertising, and informational meetings; and the costs of fiscal agent or bond trustee and registrar.

Compensation

The Underwriter agrees to prepare and coordinate all aspects of the sale of the Bonds. Stifel will be paid only when the Bonds are sold. The fee for Stifel's preparation and coordination of the sale of the Bonds shall be \$3.49 per \$1,000.00 of Bonds sold. The underwriting fee is contingent on a successful sale of the Bonds and is payable from the proceeds of the Bonds.

Term of Agreement

This Agreement is to continue until the Project is financed or until the Governing Board formally abandons the Project, unless previously terminated by mutual written consent of the parties hereto.

This Agreement may be terminated at any time by the Issuer, upon five business days' prior notice to such effect to the Underwriter, or by the Underwriter upon five business days' prior notice to such effect to the Issuer. Any such termination, however, shall not affect the obligations of the Issuer under the Expenses section hereof.

Severability of Provisions

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

Governing Law

This Agreement, and the rights and obligations of the parties hereto, shall be construed, interpreted and enforced pursuant to the laws of the State of Utah, and exclusive venue in any and all actions existing under this Agreement shall be laid in the action or proceeding which Issuer or Underwriter may be required to prosecute to enforce its respective rights within this Agreement. The unsuccessful party therein agrees to pay all costs incurred by the prevailing party therein, including reasonable interest and attorney's fees, to be fixed by court, and said costs, interest, and attorneys' fees shall be made a part of the judgment in said action. Prior to the commencement of any litigation concerning this Agreement, the Issuer and the Underwriter agree to first submit any disagreements to mediation. This mediation requirement is intended to reduce the costs of dispute resolution for both parties.

Subcontractors

The Underwriter shall, with the prior written approval of the Issuer, use such subcontractors as are necessary in the fulfillment of this Agreement.

Miscellaneous

Nothing contained herein shall preclude the Underwriter from carrying on its customary and usual business activities. The Underwriter specifically reserves the right, but is not obligated, to bid for and maintain secondary markets on any Issuer outstanding bonds subject to appropriate information barriers. Services provided by the Underwriter in connection with this Agreement shall not limit the Underwriter from providing services for the Issuer in conjunction with other services requested by the Issuer except as limited by rule of law or regulation.

Stifel certifies that it and its parent company, wholly or majority-owned subsidiaries, and other affiliates, are not currently engaged in, or for the duration of this Agreement will not engage in, a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. Stifel understands that “boycott” includes, but is not limited to, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations, but does not include an action made for ordinary business purposes.

In connection with services agreed to herein, it is understood that the Underwriter will render professional services as an independent contractor. Neither the Underwriter nor any of its agents or employees shall be deemed an employee of the Issuer for any purpose.

The Underwriter shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of the Issuer.

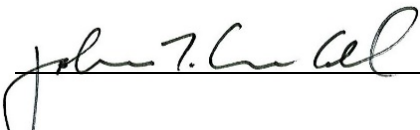
The Issuer acknowledges and recognizes Stifel as Underwriter with respect to the municipal securities referenced for purposes of MSRB Rule G-23 and Securities and Exchange Commission Rule 17 CFR (Registration of Municipal Advisors) and acknowledges receipt of the G-17 disclosures included herein. It is our understanding that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the subject transaction. If our understanding is incorrect, please notify the undersigned immediately.

This Agreement constitutes the entire agreement between the parties relating to the subject matter thereof and supersedes any prior understandings or representations. The Agreement may be amended or modified only by a writing signed by both parties. It is solely for the benefit of the Issuer and Stifel, and no other person.

This Agreement is submitted in duplicate originals. The acceptance of this Agreement by the Issuer will occur upon the return of one original executed by an authorized Issuer representative, and the Issuer hereby represents that the signatory below is so authorized.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

Stifel, Nicolaus & Company, Incorporated

By:  _____

Name: John T. Crandall

Title: Managing Director

Date: July 6, 2021

ACCEPTANCE

Millcreek, Utah

By: _____

Name: _____

Title: _____

Date: _____



**Minutes of the
Millcreek City Council
June 14, 2021
7:00 p.m.
Regular Meeting**

The City Council of Millcreek, Utah, met in a regular public meeting on June 14, 2021 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was live streamed via the City's website with an option for online public comment.

PRESENT:

Council Members

Jeff Silvestrini, Mayor
Silvia Catten, District 1
Dwight Marchant, District 2
Cheri Jackson, District 3
Bev Uipi, District 4 (arrived at 7:10 pm)

City Staff

John Brems, City Attorney
Elyse Sullivan, City Recorder
Francis Lilly, Planning & Zoning Director
Kurt Hansen, Facilities Director
Laurie Johnson, HR-Finance Director
Mike Winder, Assistant City Manager

Attendees: Thom DeSirant, Peter Frost, Stanford Bell, and Chief Steve DeBry.

REGULAR MEETING – 7:00 p.m.

TIME COMMENCED: 7:02 p.m.

1. Welcome, Introduction and Preliminary Matters

1.1 Pledge of Allegiance

Mayor Silvestrini called the meeting to order then led the pledge of allegiance. He recognized the day as Flag Day.

1.2 Public Comment

There were no comments.

2. Planning Matters

2.1 First Reading on ZT-21-001, Amendments to Title 18 Regarding Title Report Requirements; Francis Lilly, Planning & Zoning Director

Francis Lilly said as a matter of practice, planning staff requires a title report for subdivisions. He said the title report has information that is necessary for the plat. The title reports would be required within 90 days of recording a plat. Mayor Silvestrini expressed the importance of updated title reports.

2.2 Discussion and Consideration of Ordinance 21-24, Approving an Amended Development Agreement for Capri Village for Property Located at or Near 3612 South 805 East

Francis Lilly said the Council previously approved a development agreement for 40 new deed restricted senior living condos for Capri. The condos will replace the old pitch and putt course. There will be a new community center, new homes, and additional parking. Mayor Silvestrini said the development also provided a contribution to the City's affordable housing stock. Lilly said 6 of the units would be deed restricted for sale at a lower cost at \$173,203 per the old agreement. He said that figure was based on the 2016 market and the cost of construction had gone up since then, so the developer asked to change that price to \$233,824.05 and would stay in the 80% AMI (Area Median Income) threshold. The amended agreement would stipulate that the maximum sale price of those units would be at \$233,824.05.

Stanford Bell, Northstar Builders, said the cost of lumber in 2019 was \$13,000 per building and it was currently \$50,000 per building. The cost greatly affected the developer's ability to complete the project. He said the AMI had jumped up 35% since 2019. Mayor Silvestrini said he appreciated what Northstar Builders had done for the community.

Council Member Marchant moved to approve Ordinance 21-24, Approving an Amended Development Agreement for Capri Village as presented. Council Member Jackson seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

3. Financial Matters

3.1 Public Hearing on a Monetary Appropriation to the Asian Association of Utah

Mayor Silvestrini said the Asian Association of Utah was affiliated with the Millcreek refugee community. They operate the center on 3900 S. which provides a place for kids to go, an after-school program, and they partnered with the Millcreek Promise Program. Due to budget cuts in connection with the pandemic, the center was short \$100,000. The Association asked if Millcreek could assist them. The Mayor said a study was conducted to establish a basis for taxpayer funds with a finding that the appropriation would be to the benefit of the general welfare of residents and therefore would be appropriate. Mayor Silvestrini asked the Council to appropriate \$100,000 to the Association in FY 2021-22 from the American Rescue Plan Act. He said it was an eligible expense since it was pandemic relief as revenue replacement. He would like the Council to make a similar contribution during the next year fiscal year.

Peter Frost, Director of Youth and Family Services at the Asian Association of Utah, said he had enjoyed participating in the Education Subcommittee associated with the Millcreek Promise Program. He said people benefited from the Sunnyvale Neighborhood Center and this funding would allow them to continue the after-school programs. He said the center was open year-round and he appreciated the appropriation. Council Member Marchant asked where his office was located. Frost said he split his time between the Center and an office downtown. Council Member Catten asked how the Sunnyvale Center was usually funded. Frost said as a nonprofit organization, they received funding

from various sources such as private donations, city/county/state funding, and even federal funding. He said in the past it had primarily been funded from the State Department of Workforce Services. He said the County did provide some funding and that had been cut. Council Member Uipi asked about the budget specific to the Sunnyvale program. Frost said the hard costs of the center and the program costs were about \$400-450,000 a year. The Center was looking to reimplement English classes. Mayor Silvestrini said Frost had submitted a detailed budget request to him.

Council Member Uipi moved to open the public hearing. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

There were no comments.

Council Member Uipi moved to close the public hearing. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

3.2 Discussion and Consideration of Ordinance 21-21, Approving a Monetary Appropriation to the Asian Association of Utah

Council Member Uipi moved to approve item 3.2, Ordinance 21-21. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

3.3 Public Hearing to Receive Input from the Public with Respect to (a) the Issuance of Approximately \$39,000,000 of Sales Tax Revenue Bonds and (b) Any Potential Economic Impact that the Project to be Financed with the Proceeds of Said Bonds May Have on the Private Sector

Mayor Silvestrini said the Council had already passed a parameters resolution which said that if the City could get the set minimum terms, then the City was authorized to borrow \$39 million to build a city hall. He said by issuing a sales tax revenue bond at this time, the City would be able to take advantage of low interest rates and it would enable the City to build a city hall at Millcreek Common. The city hall needs to be relocated because of the impending termination of the lease on the current building. The public hearing was an opportunity to hear feedback from the public on the matter. He said city staff and bond counsel would be making a rating presentation to Standard and Poor's (S&P) that week.

Council Member Uipi moved to open the public hearing. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

Mayor Silvestrini said because of the sales tax revenue the City was receiving, staff was confident the City would be able to pay for the bonds without raising taxes.

Thom DeSirant, 718 E. Nibley View Court, asked if this bond was the same as the bond the City took out for the \$20 million for Millcreek Common. Mayor Silvestrini said yes, the difference was that these bonds would be repaid from the General Fund rather than

tax increment. DeSirant asked if sales tax revenue went down, if the bond would be paid with increased property taxes in the future. Mayor Silvestrini said it was possible, but the City still had three times the coverage to make the payments if there was no revenue. He said the likelihood was extremely low. DeSirant asked about other taxing entities' share. Mayor Silvestrini said the taxing entities participate in the community reinvestment area, so Millcreek was ensured of their increment for twenty years. Council Member Marchant said it was highly unlikely that Millcreek's revenue would go down.

Council Member Uipi moved to close the public hearing. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

Mayor Silvestrini said the City's financial counsel felt the rating from S&P would be sufficient since they gave the City a favorable rating the last time. Council Member Catten asked if anyone had given any comment to the Mayor on the matter. The Mayor said he had not received any negative comments. He said he appreciated Woodbury & Associates for allowing the City to rent the current city hall building at a discounted rate. Mike Winder said he had received positive feedback about the proposed city hall and that even with the bond, Millcreek was one of the least leveraged cities in the Salt Lake valley because of its solid financial position. Laurie Johnson said once she had run the numbers in a spreadsheet, she knew that Millcreek could make payments on the bond. The budget projected revenues conservatively and expenses realistically.

3.4 Discussion and Consideration of Ordinance 21-22, Adopting a Final Budget; Making Appropriations for the Support of Millcreek for the Time Period Beginning July 1, 2021 and Ending June 30, 2022, and Determining the Rate of Tax and Levying Taxes Upon All Real and Personal Property within Millcreek (the Resulting Tax is the Same Amount of Tax Previously Collected by Millcreek and will not Result in a Tax Increase to Residents of Millcreek)

Mayor Silvestrini said the Council had reviewed and tentatively adopted a tentative budget. He said Millcreek would not need a tax increase. Laurie Johnson reviewed the General Fund revenue changes from the tentative budget. She received the certified tax rate from the County on June 11th. The County determined the rate, and it would be 0.001841 compared to the previous year of 0.001699. Mayor Silvestrini said if property values go up, the city tax revenue does not go up. The rate is adjusted so the same revenue amount is collected. Johnson said the new growth in property tax revenues was \$80,011.

Johnson reviewed the General Fund expense changes. There was a small increase to the Animal Services contract with Salt Lake County. She rounded the Unified Police Department contract amount up as well. She increased postage and shipping costs in the Communications budget for newsletters. In the Non-Departmental budget, it increased \$6,500 as a contribution to Fund Balance. A position was eliminated in the Facilities budget. In the Fleet budget, an additional \$35,000 was added for another pool vehicle.

Johnson reviewed the Fund Balance projections and projected it at 34.82%. She said the American Recovery Act funds was received in the current fiscal year but would be considered deferred revenue to be recognized in the next fiscal year. Mayor Silvestrini

said the decision to not recognize it was recommended by the City's auditor. Johnson said it gave the Council time to decide how to spend it. There were no changes in the Capital Improvement Fund budget. The Storm Water Fund budget included costs for a camera truck at \$60,000.

Mayor Silvestrini asked for public comment. There was no comment.

Council Member Uipi moved to approve item 3.4, Ordinance 21-22. Council Member Marchant seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

Mayor Silvestrini mentioned that Millcreek would be shifting from using iWorQ software to Tyler Technologies for permitting in July.

3.5 Discussion and Consideration of Resolution 21-18, Acknowledging Receipt and Acceptance of the Millcreek Fiscal Year 2020-21 Fraud Risk Assessment and Direction to File it with the State Auditor

Laurie Johnson said Millcreek first did the fraud risk assessment the prior fiscal year and there were not many changes since then. She said Millcreek was considered low risk. She thanked Council Member Marchant for signing the outgoing checks.

Council Member Marchant moved to approve Resolution 21-18, Acknowledging Receipt and Acceptance of the Millcreek Fiscal Year 2020-21 Fraud Risk Assessment and Direction to File it with the State Auditor. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4. Business Matters

4.1 Discussion and Consideration of Resolution 21-19, Approving the Name Change of 2940 East Street and 3835 South Street to McBride Drive

Council Member Uipi presented a map of the affected residences that would have the street name change and a proposed notice to those residents. She requested the Council continue the resolution to the next meeting so that all the residents could be noticed of the address change. Council Member Uipi asked if the City could consider renaming the entire "U" shape of the street. Mayor Silvestrini said county code did not allow it because it would create duplicate addresses and multiple entrances to the same street.

Council Member Catten moved to continue item 4.1, Resolution 21-19, to the next city council meeting. Council Member Jackson seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.2 Discussion and Consideration of Ordinance 21-23, Amending Title 2 Chapter 49 of the Millcreek Code of Ordinances Entitled Street Addressing and Property Identification

Mayor Silvestrini said the Council had a first reading of the item. John Brems said with the amendment, the petitioner would be required to pay the street name change fees and put a notice on the petition, and the street name change would be from intersection to intersection.

Council Member Uipi moved to approve item 4.2, Ordinance 21-23, excluding McBride Drive. Council Member Jackson seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.3 Discussion and Consideration of Resolution 21-20, Approving the Execution of an Interlocal Cooperative Agreement with the City of South Salt Lake Providing for the Joint Participation in a Pavement Project for 3900 South Between the Jordan River and 700 East

Mayor Silvestrini said the interlocal agreement was between South Salt Lake and Millcreek and the project had already been completed but the paperwork had not been.

Council Member Jackson moved to adopt Resolution 21-20, Approving the Execution of an Interlocal Cooperative Agreement with the City of South Salt Lake Providing for the Joint Participation in a Pavement Project for 3900 South Between the Jordan River and 700 East. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.4 Discussion and Consideration of Resolution 21-21, Approving an Interlocal Agreement for Animal Services Amendment No. 4

Mayor Silvestrini said this agreement was an extension to the current agreement. There was an increase in cost to include a 2.5% cost of living adjustment. He said the rate billed was the same for all municipalities. Council Member Jackson asked if the concerns the Council had were addressed. Mayor Silvestrini said Millcreek adopted certain portions of the County's animal control ordinance prior to the County amending it. The County would still enforce what Millcreek adopted.

Council Member Catten moved to approve Resolution 21-21, Approving an Interlocal Agreement for Animal Services Amendment No. 4. Council Member Uipi seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.5 Discussion and Consideration of Resolution 21-22, Approving an Interlocal Agreement for Justice Court Services Amendment No. 1

Mayor Silvestrini said the cost for justice court services was the same rate as before.

Council Member Uipi moved to approve item 4.5, Resolution 21-22. Council Member Jackson seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.6 Discussion and Consideration of Resolution 21-23, Approving the Appointment of Jeff Silvestrini to the Community Renewable Energy Board and John Brems as an Alternative to the Community Renewable Energy Board

Mayor Silvestrini said he and John Brems were familiar with the ongoing of the program. Council Member Uipi asked why a council member was not the alternate. Mayor Silvestrini said John Brems was more familiar with it, but a council member could serve instead. Council Member Jackson said there was accountability with an elected official. She said she would serve as the alternate.

Council Member Uipi moved to approve item 4.6, Resolution 21-23, to appoint Mayor Jeff Silvestrini to the Community Renewable Energy Board with the amendment of substituting Council Member Cheri Jackson as the alternative to the Community Renewable Energy Board instead of John Brems. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

5. Reports

5.1 Mayor's Report

Mayor Silvestrini said he went with two members of staff, Aimee McConkie and Mike Winder, to Lenexa, Kansas and Rapid City, South Dakota the prior week. Staff had been modeling Lenexa for Millcreek Common and went to see it in person. Lenexa has been a city since 1901 and has a population of about 50,000. Staff will be able to learn from their experiences with the council chambers, and kitchens and shops in the market space. Their city hall has a public market that serves as a food hall. He said they built their city hall too large for their needs, so they rent space to a private university. He suggested that there not be a "council chambers" in the new city hall, but a "community forum" as Lenexa had. In Rapid City, staff learned about their splash pad and ice ribbon. Staff felt the trip was invaluable in helping to plan for Millcreek Common. He also mentioned that the two Venture Outs that had taken place already had been successful.

5.2 City Council Member Reports

Council Member Catten recommended expanding the 4th of July parade. She said the coming Friday was the grand opening of the Refugee Justice League Resource Center.

Council Member Jackson said the new Youth Council had met and assisted with Venture Out.

5.3 Staff Reports

Mike Winder said the American Recovery Fund restrictions were stricter than the CARES Act funds, so staff was looking into the potential uses of the funds.

Francis Lilly reported on the "International Making Cities Livable" conference he attended in Carmel, Indiana and on Carmel's city center. He learned that once their city center was complete, they had more projects continuously happening in connection to it throughout the city for decades.

6. Consent Agenda

6.1 Approval of May 24, 2021 Work Meeting and Regular Meeting Minutes

Council Member Jackson moved to approve item 6.1, the meeting minutes from May 24th. Council Member Uipi seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

7. New Items for Subsequent Consideration

There were none.

8. Calendar of Upcoming Events

- Planning Commission Mtg., 6/16/21, 5:00 p.m. at City Hall

- City Council Mtg., 6/28/21, 5:00 p.m. at City Hall

Council Member Jackson reported that she would not be available to attend the June 28th meeting. Council Member Uipi asked if the Council had the option for a virtual meeting on June 28th because she might be enroute during that time. Elyse Sullivan told the Council that any future Council meetings held electronically would need to be noticed accordingly so she would need advanced notice. Council Member Uipi said she would confirm her availability with Sullivan. Mayor Silvestrini said the meeting could be noticed electronically and directed that it be.

ADJOURNED: Council Member Uipi moved to adjourn the meeting at 9:15 p.m. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

APPROVED: _____ **Date**
Jeff Silvestrini, Mayor

Attest: _____
Elyse Sullivan, City Recorder



**Minutes of the
Millcreek City Council
June 28, 2021
6:45 p.m.
Work Meeting
7:00 p.m.
Regular Meeting**

The City Council of Millcreek, Utah, met in a regular public meeting on June 28, 2021 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was live streamed via the City's website with an option for online public comment.

PRESENT:

Council Members

Jeff Silvestrini, Mayor
Silvia Catten, District 1
Dwight Marchant, District 2
Cheri Jackson, District 3 (excused)
Bev Uipi, District 4 (excused)

City Staff

John Brems, City Attorney
Elyse Sullivan, City Recorder
Francis Lilly, Planning & Zoning Director
Kurt Hansen, Facilities Director
Laurie Johnson, HR-Finance Director
Rita Lund, Communications Director
Alex Wendt, Business License Administrator

Attendees: Carol Elliott, Thom DeSirant, Nelson Cannon, Corinne Jackson, Renee Cannon, Lee White, Gordon White, Richard Miller, Officer Victor Shaw, and Chief Steve DeBry.

WORK MEETING – 6:45 p.m.

TIME COMMENCED – 6:47 p.m.

Mayor Silvestrini called the work meeting to order.

1. Proposed Amendments to Title 5 Business Licenses and Regulations; Alex Wendt, Business License Administrator

Alex Wendt reviewed his proposed changes to the Millcreek Code which would codify processes and policies that were already in place. Those changes included: clearly specifying penalties for not having a business license, clarifying supporting documents that may be needed for certain kinds of businesses such as Business Name Registration from the Utah Department of Commerce and a sales tax certificate, specifying that a building inspection may be needed, stating that the Millcreek Building Official and Code Compliance Officers are designated as license deputies and are authorized to inspect all licensed businesses if needed, stating that a current business license must be presented to the Millcreek Building Official and Code Compliance Officers upon request, and adding a section for long-term rentals. The Council gave Wendt direction to bring the changes back to the Council in an ordinance.

2. Staff Reports

Rita Lund announced the 4th of July parade on Saturday (July 3) of that week.

3. Discussion of Agenda Items, Correspondence, and/or Future Agenda Items

There was none.

Council Member Catten moved to adjourn the work meeting at 6:54 p.m. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

REGULAR MEETING – 7:00 p.m.

TIME COMMENCED: 7:01 p.m.

1. Welcome, Introduction and Preliminary Matters

1.1 Pledge of Allegiance

Mayor Silvestrini called the meeting to order then led the pledge of allegiance.

1.2 Public Comment

There were no comments.

1.3 Proclamation Honoring Emerson Cannon

Mayor Silvestrini thanked Council Member Marchant for bringing Emerson Cannon to his attention. He then proclaimed the following:

PROCLAMATION

HONORING EMERSON CANNON

Emerson Cannon spent a lifetime serving his community, his profession, his family, and his church. He was a long-time contributor to his East Mill Creek Community and a distinguished professor of physics at the University of Utah and Salt Lake Community College. His research led to the formation of the Utah Research and Development Company. He additionally taught and coached soccer at Cottonwood High School, reaching the state championship. (He schooled his charges in appropriate language even in the loss in that championship game.) He faithfully served his church in several callings and missions.

Emerson contributed to the support of his community in various ways, even loaning money to his neighbors in their times of need. In his later years, Emerson remained a loyal Millcreek resident, moving to Old Farm. Emerson was well-loved by his community. For his humane nature and his contributions to the greater Millcreek community, I am pleased to recognize June 28, 2021, as Emerson Cannon Day in the City of Millcreek.

Council Member Marchant said his son had a personal acquaintance with Emerson Cannon. He said he was a wonderful role model. Emerson Cannon's son said his father lived in Millcreek for about 41 years and served on a community council.

1.4 Millcreek Precinct Officer of the Month for May 2021

Chief Steve DeBry announced Officer Victor Shaw as Officer of the Month for May 2021. He said Officer Shaw was the acting sergeant when the sergeant was off. Officer Shaw investigated a hit and run, located the vehicle, got a confession from the suspect, and charges were filed against the suspect. The Citizens Advisory Board presented Officer Shaw with a gift. Mayor Silvestrini said he attended the Sheriff's award presentation, and a number of Millcreek officers were recognized.

2. Planning Matters

2.1 Public Hearing on Proposed Vacation of a Portion of 1800 East Street from Gregson Avenue to Approximately 3026 South 1800 East

Francis Lilly said by way of Millcreek policy and state statute, essential questions need to be answered (paraphrased) for vacations: Was it noticed properly? Does good cause exist for the vacation? Will the public interest or any person be materially injured by the vacation? What is Millcreek's legal interest in the street? What is Millcreek's need for the street, currently and in the foreseeable future? Is it appropriate to be compensated for the right-of-way being given up? Mayor Silvestrini said the concept of vacation is the City giving up some of its right-of-way for a better purpose or because it was no longer useful.

Lilly said the vacation was for a portion of 1800 E. Gregson Avenue to 3206 S. (SV-21-002), the westerly five and a half feet. He said the Kenwood Subdivision plat was approved during the prior year and the private road was dedicated for public use. Since then, there had been a survey dispute on the basis of bearing. He said in consultation with the City's engineering team, the City would be okay with a 45-foot road. He said everyone affected by and in the proximity of the vacation was noticed, per state statute and city code. Staff recommended a finding of good cause because a targeted vacation resolves an apparent survey discrepancy, the alternative of shifting the entire right-of-way +/- 5 feet to the east would impact several property owners, and 1800 East would remain at a +/- 45-foot road, enough to accommodate two travel lanes and a sidewalk on either side. Staff recommended a finding that neither the public interest nor any person would be materially injured by the vacation, because: 1800 East would continue to function as a two-way street, 1800 East can be improved with sidewalk (but no park strip) without requiring any additional land to be dedicated in the future, no landowners' access to 1800 East is deprived by virtue of this vacation. Mayor Silvestrini clarified that there would still be a park strip on the other side of the street. Lilly confirmed.

Lilly said that historically, the road was a private road maintained by adjacent property owners, 1800 East from Gregson north was dedicated to the City as part of the Kenwood Subdivision plat in 2020, and a vacation would revert ownership of the underlying land to adjacent property owners, the Whites and the Pickrells. The current and future need for the street was that the proposed vacation was limited to +/- 5 feet along the west right-of-way line, it did not affect the ability of 1800 E. to accommodate two-way vehicular or pedestrian traffic, and sidewalks on either side, and the resulting roadway would lack park strip but would otherwise comply with standards. Lilly expressed confidence in being able to maintain the current street standard.

Lilly said compensation of vacations was required in appropriate cases. In light of the fact that the City was petitioning the Council for a vacation in order to resolve a surveying dispute in the cleanest and most limited way possible, staff did not recommend

that the City seek compensation for the westerly 6 feet of 1800 East that is to be vacated. Mayor Silvestrini said the City should not require compensation because the owner could claim the dedicating party did not actually own the property when the subdivision was platted. Council Member Marchant presumed service providers still had adequate access. Lilly confirmed.

Council Member Catten moved to open the public hearing. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

There were no comments.

Council Member Catten moved to close the public hearing. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

Lilly said he received an email from Marie White, 3055 S. 1800 E. and read it into the record. *“Lyle and I are unable to attend the meeting this Thursday, however wanted to express our support for this property line adjustment. Would you please have our support for this documented into the records of Thursday’s meeting?”*

2.2 Public Hearing on Proposed Vacation of a Portion of Chambers Avenue from 1340 East to Approximately 1364 East

Francis Lilly said the nature of the vacation was to address the encroachment of the “adventure hub” in Millcreek Common on the right-of-way. He said staff was working on consolidating parcels for the Common. He showed the Council a conceptual drawing of the Common and Chambers Avenue. He said the surrounding property owners were noticed about the vacation and the City owned the property to be vacated, so nobody would be impacted by it. Staff recommended a finding of good cause, because: no building encroachments are allowed so staff is holding the City to the same standards as a private developer, the vacation does not affect the ability for two-way travel to occur on Chambers Avenue after the redesign, and it furthers a public project identified in the General Plan and the City Center Master Plan. Staff recommended a finding that neither the public interest nor any person would be materially injured by the vacation, because: the vacation does not affect the ability for two-way travel to occur on Chambers Avenue after the redesign, Millcreek is the sole property owner with frontage along the portion of Chambers Avenue proposed to be vacated, and no other existing business access or pedestrian right-of-way would be adversely affected by the vacation. The current and future need for the street was that the proposed vacation was limited to 11 feet along the south right-of-way line, would not affect the ability of Chambers Avenue to accommodate two-way vehicular or pedestrian traffic, and the resulting roadway would still comply with standards. Lilly said Millcreek is both the legislative authority to vacate a local right-of-way and would be the recipient of the real property that is to be vacated so no compensation was warranted.

Council Member Catten asked about the ice house (adventure hub) location. Lilly said it would jut out into the right-of-way and showed her a depiction of it.

Council Member Marchant moved to open the public hearing. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

Carol Elliot, 3210 S. Highland Drive, asked how wide the sidewalks would be. Lilly said along this section of Chambers Avenue it would be more than 20 feet as part of Millcreek Common. She asked if the sidewalks would vary in width between 1300 S. and Highland Drive. Lilly said yes, the standard was 10 feet. She asked if 10-foot sidewalks would be acquired. Lilly did not yet know because engineering had not yet been completed.

Council Member Marchant moved to close the public hearing. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

2.3 Discussion and Consideration of Ordinance 21-28, Amending Title 18 of the Millcreek Code of Ordinances with Respect to Title Report Requirements

Mayor Silvestrini said the Council had a first reading on the matter at their last meeting. Francis Lilly said the goal was to codify a staff requirement as part of a subdivision approval that the City receive a title report within 90 days of recording a mylar. Title reports contain a lot of necessary information about a property that might affect the ability to record a plat.

Council Member Marchant moved to approve Ordinance 21-28, which amends code as respects to with Respect to Title Report Requirements. Council Member seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

3. Financial Matters

3.1 Public Hearing on Opening and Amending the FY 2020-21 General Fund and Capital Improvement Project Fund Budget

Laurie Johnson said the final budget amendment was to clean things up. The amendment included a General Fund budget increase in the amount of \$3,697,551. All General Fund revenues and expenses were evaluated and increased or decreased based on updated information. The transfer to the General Fund Balance increased to the amount of \$2,750,000 and the transfer to the Capital Improvement Project (CIP) Fund increased in the amount of \$2,695,183. There were increases in the CIP budget in the amount of \$3,690,183 with the recognition of \$1,000,000 in H.B. 244 funds and the transfer from the General Fund. Mayor Silvestrini said the H.B. 244 funds were appropriated by the Legislature in the last session for transportation purposes and it was the first part of an additional amount that would be paid each year over the next 15 years. He said it would be put towards an overlay, sidewalk, and curb and gutter work on 2000 E. Johnson said the \$1 million would be put in the CIP Fund Balance. She said the Storm Water Fund revenues and expenses were also updated based on updated information; both were reduced in the amount of \$1,078,000.

Johnson reviewed the General Fund revenue budget which had property tax revenue increase by \$706,000, sales tax increase by \$2.5 million, mass transit tax increase by \$250,000, licenses and permits increase by \$470,000, Class C Road funds increase by

\$250,000, charges for services increase by \$40,000, and donations increase by \$27,060. She said the \$547,454 from Fund Balance would not be needed due to higher revenue with property taxes. Johnson reviewed some of the General Fund expense changes. She said in the Non-Departmental budget, the contribution to Fund Balance went up by \$1,099,779 and the transfer to the CIP fund was \$2,695,183. She said the Fund Balance was at 26.73%. The CIP Fund revenue and expense budgets reflected the H.B. 244 funds and the transfer from the General Fund. The Storm Water Fund revenue budget decreased by \$1,075,000 and the expense budget decreased by \$523,500 in the contribution to Fund Balance line item.

Council Member Marchant said Wasatch Front Waste and Recycling District (WFWRD) would be requesting about \$50,000 of reimbursement expenses from the whole District due to the pandemic. Johnson said staff was getting training on how to use the American Recovery Act funds. Those revenues were deferred to the next fiscal year. Johnson said as the Council got requests for those funds, the Council would have to decide what to approve.

Mayor Silvestrini said Council Member Uipi emailed the Council a public comment, so he re-opened the public comment section of the meeting and asked the City Recorder to read it into the record.

Elyse Sullivan read the following:

"Mayor,

I would like to read this in to record that I am attending tonight's City Council via phone. I would also like to amend the minutes to reflect that while Councilwoman Jackson asked to be excused for tonight's meeting, I had asked for a virtual option because we would be driving back from California. You also directed staff to make a virtual option available. I did not asked to be excused, but in your welcome tonight, you excused my attendance due to travel. My request from the June 14, 2021 Council meeting should also reflect in our recording. According to our City Attorney, my comments maybe made as a public citizen, but I'm not allowed to vote.

We have several critical matters on tonight's agenda, which I did not want to miss. I am extremely frustrated that I am not allowed to represent my district in these conversations and votes. In the beginning, we were able to join via phone and vote, and I'm not sure if that also had to be noticed. However, I want to make sure the record reflects to the residents in my district that I am present. For all of item 2, I support 2.1, 2.2, and 23. For all of item 3, I support 3.2, 3.3, and 3.4. For all of item 4, I support 4.1 through 4.8. I would like to ask that we consider more arborist services from item 4.3, as we have discussed this in a prior council meeting. For item 6.1, please amend minutes to reflect my request for a virtual meeting, which you and Council supported.

Thank you for letting me assure my attendance tonight for the public and minutes."

Council Member Catten moved to open the public hearing. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

There were no comments.

Council Member Catten moved to close the public hearing. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

3.2 Discussion and Consideration of Ordinance 21-25, Amending the 2020-21 Fiscal Year Budget

Mayor Silvestrini thanked Laurie Johnson for her work.

Council Member Catten moved to approve Ordinance 21-25, Amending the 2020-21 Fiscal Year Budget. Council Member Marchant seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

3.3 Public Hearing on an Appropriation of up to \$45,000 to the Community Councils, up to \$150,000 for Events, and up to \$10,000 for the Rain Barrel Program

Rita Lund said this appropriation was standard practice for the City. The community council appropriations were based on population although Canyon Rim Cares may be provided extra funds. She said the Rain Barrel program had been appropriated \$5,000 in the past but it was very popular that year. Mayor Silvestrini said the events would be for Venture Out, the community theatre group, the Arts Council summer concerts, and Millfreaks. He said the community council funding allowed for flexibility for the Canyon Rim Cares program and the study accounted for that. He said when the City makes distributions of taxpayer funds to other organizations, a study is conducted from an independent consultant to make a recommendation on whether the expenditure is consistent with the general welfare of the city. The purpose of the public hearing is for comments on the study or contributions.

Rita Lund said the contributions for the Canyon Rim Cares Program would go towards snacks for and deep cleaning of the Maliheh Free Clinic, get supplies for students at the Utah Deaf and Blind School, gifts for the Candycane Lane with the YWCA, the little libraries, and letters for the elderly. Council Member Catten asked if the funding was requested. Lund said yes. Council Member Marchant pointed out that the use of the funds extended outside of Canyon Rim.

Council Member Catten moved to open the public hearing. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

There were no comments.

Council Member Marchant moved to close the public hearing. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

3.4 Discussion and Consideration of Ordinance 21-26, Approving a Monetary Contribution of up to \$45,000 to Community Councils, up to \$150,000 to Utah Venture Outdoors and up to \$10,000 to the Utah Rivers Council

Council Member Catten moved to approve Ordinance 21-26, Approving a Monetary Contribution of up to \$45,000 to the Millcreek Community Councils (all four), up to \$150,000 to Utah Venture Outdoors and up to \$10,000 to the Utah Rivers Council. Council Member Marchant seconded. Mayor Silvestrini said the City subsidized the cost of the rain barrels. Lund said it also met education requirements for the City's MS4 permit. **The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.**

4. Business Matters

4.1 Discussion and Consideration of Resolution 21-19, Approving the Name Change of 2940 East Street and 3835 South Street to McBride Drive

Mayor Silvestrini said the matter was on the agenda at the last meeting and it was continued to enable delivery of notice to the residents on those streets. He said when there is a U shape configuration, County Addressing only allows two legs to be renamed so there are not duplicate addresses.

Mayor Silvestrini asked for public comment. There was no comment.

Council Member Catten moved to approve Resolution 21-19, Approving the Name Change of 2940 East Street and 3835 South Street to McBride Drive. Council Member Marchant seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.2 Discussion and Consideration of Ordinance 21-27, Regulating, Preventing, and Banning the Discharge of Fireworks Within Areas of the City that are East of 900 East Street

Mayor Silvestrini said he and others lobbied the Legislature several years ago to shorten the numbers of days fireworks were able to be lawfully discharged and to enable governments to have more local control over the discharge of fireworks based upon conditions of dryness. He said the Legislature intended to prohibit cities from an outright ban of fireworks, but cities could go through a process to restrict areas that met certain conditions. The restrictions can only be enacted upon the recommendation of the fire marshal. The fire marshal recommended the designated restriction line be 900 E. in Millcreek. He said the City could not ban fireworks citywide per code. The Mayor recommended avoiding the use of personal fireworks this season due to the heat and drought.

Council Member Marchant said the owners of the firework companies were threatening to sue cities that were banning fireworks entirely for breaking the law. Mayor Silvestrini said if the Council were to enact a restriction that was unlawful, there would not be a successful prosecution against someone who violated that restriction. John Brems read from state statute (Utah Code Ann. 15A-5-202.5), "if the municipal legislative body closes an area to the discharge of fireworks, the legislative body shall close the area along an identifiable feature like a major roadway... ensure that the boundaries in the

designated enclosed area is as close as is practical to the defined hazardous area, provided that the closed area may include areas outside of the hazardous area...” He felt the statute gave the Council the authority to do as proposed.

Mayor Silvestrini said violation of the restriction was an infraction with a \$1,000 fine. Council Member Marchant hoped there would be more than warnings issued. Mayor Silvestrini said Millcreek issued a printed newsletter to all residences the prior week, but the publications were sent to the printers one month in advance, so the proposed change would change what was sent out. He said updated maps had been delivered to every firework outlet. Mayor Silvestrini said it was lawful to sell fireworks in Utah so cities could not ban the sale of them. Council Member Catten expressed frustration with legislators for leaving the issue to local government when they have to operate within certain parameters. She felt there was no way to explain the full effect to residents. She hoped for a legislative fix. She pointed out that fireworks were only allowed on the west side of the city. She said surrounding cities had banned fireworks and Millcreek was following state guidelines. Residents do not know the city boundaries. She was encouraged that some firework stands were not stocked. Council Member Marchant said a resident expressed appreciation for the clarification on the standards. He referred residents to the City’s electronic newsletter. He said there were two non-emergency numbers residents could call to report firework abuse.

Council Member Marchant moved to approve Ordinance 21-27, Regulating, Preventing, and Banning the Discharge of Fireworks Within Areas of the City that are East of 900 East Street. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.3 Discussion and Consideration of Resolution 21-24, Approving the First Amendment to Interlocal Cooperative Agreement between Salt Lake County and Millcreek for Park Services

Mayor Silvestrini said the interlocal was a renewal of park services for the same amount as the prior year. He reported that parks were being watered less because of the drought and the City had already saved about \$60,000. He pointed out, however, that parks had a higher need for watering than private lawns because they were for public use.

Council Member Catten moved to approve Resolution 21-24, Approving the First Amendment to Interlocal Cooperative Agreement between Salt Lake County and Millcreek for Park Services. Council Member Marchant seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.4 Discussion and Consideration of Resolution 21-25, Approving the Renewal of a Lobbyist Service Contract with Capstone Strategies, LLC

Mayor Silvestrini said the City’s lobbyists were Ashley and Dave Spatafore and their reports were among the best he had ever seen. Council Member Catten requested fireworks legislation be worked on.

Council Member Catten moved to approve Resolution 21-25, Approving the Renewal of a Lobbyist Service Contract with Capstone Strategies, LLC. Council Member Marchant

seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.5 Discussion and Consideration of Resolution 21-26, Approving the Renewal of a Managed Information Technology Service Contract with Les Olson Company

Kurt Hansen said in February, the IT provider was changed to Les Olson until the end of the fiscal year. The new contract would follow the fiscal year. The contract increased \$100 a month to back up emails. Council Member Marchant asked if the contract was a fixed amount. Hansen said it was fixed at about \$6,000 a month.

Council Member Marchant moved to approve Resolution 21-26, Approving the Renewal of a Managed Information Technology Service Contract with Les Olson Company. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.6 Discussion and Consideration of Resolution 21-27, Approving the Renewal of a Civil Legal Services Contract Between Millcreek and John N. Brems

Mayor Silvestrini said the contract contained a 4% raise which was consistent with what other Millcreek employees received that year. He said Brems devoted his full time to Millcreek and his work was fantastic. Council Member Marchant asked Brems about his work with Herriman. Brems said he no longer represented Herriman.

Council Member Marchant moved to approve Resolution 21-27, Approving the Renewal of a Civil Legal Services Contract Between Millcreek and John N. Brems. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.7 Discussion and Consideration of Resolution 21-28, Accepting the Outdoor Recreation Infrastructure Grant that Requires a Match in the Amount of \$5,000 and Approving the Agreement with the State of Utah, Governor's Office of Economic Development

Mayor Silvestrini said the grant required a 50/50 match to install bike racks in Millcreek Common.

Council Member Catten moved to approve Resolution 21-28, Accepting the Outdoor Recreation Infrastructure Grant that Requires a Match in the Amount of \$5,000 and Approving the Agreement with the State of Utah, Governor's Office of Economic Development. Council Member Marchant seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4.8 Discussion and Consideration of Resolution 21-29, Authorizing and Recognizing Mayor Jeff Silvestrini as the Official Authorized to Execute Agreements for and on Behalf of Millcreek with Salt Lake County Regarding the Community Development Block Grant Program (CDBG) for the Program Year 2021-2022

Mayor Silvestrini said he had been signing all the contracts previously. Laurie Johnson said the County requested the resolution for a grant for construction of a sidewalk on 3900 S. near the TRAX station.

Council Member Marchant moved to approve Resolution 21-29, Authorizing and Recognizing Mayor Jeff Silvestrini as the Official Authorized to Execute Agreements for and on Behalf of Millcreek with Salt Lake County Regarding the Community Development Block Grant Program (CDBG) for the Program Year 2021-2022. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

5. Reports

5.1 Mayor's Report

Mayor Silvestrini thanked first responders for their work on the 3-alarm fire in the City that month. He reported that a building under construction in the City Center was on fire and then the power blew out at City Hall. He said 11 small businesses in a strip mall adjacent to the fire had been displaced and staff was working to try and relocate them. He reported no injuries in the fire. The cause of the fire was still under investigation.

He said staff was working with developers and the City's financial counsel on the new city hall. The City was issued a bond rating of AA+ by Standard & Poor's.

5.2 City Council Member Reports

Council Member Marchant said Wasatch Front Waste and Recycling District reported that there would be no fee increase in the coming year. He said \$17 a month was what residents currently paid. There are 5 glass recycling locations in the District and 2 locations in Millcreek. He said 33% of green waste comes from about 2,500 residences in Millcreek. Green waste goes into compost and is sold back to the public. Council Member Catten asked about the neighborhood cleanups. Council Member Marchant said it would be in September. Rita Lund said there would be a clean up day in October.

5.3 Staff Reports

There were none.

5.4 Unified Fire Authority Report

There was no report.

5.5 Unified Police Department Report

Chief Steve DeBry presented the May 2021 crime statistics to the Council. There were 3,416 calls for service, 1,038 total cases, 278 total citations, and 49 books arrests. There were 31 assaults, 13 burglaries, 26 drug offenses, 75 family offenses, 1 homicide, 136 larcenies, 1 robbery, 10 sex offenses, and 37 stolen vehicles. He showed a bar graph comparing the April and May crime trends. He reported that the Community Crime Suppression Unit had 41 arrests, 38 traffic citations, 7 recovered stolen vehicles, and 1 recovered stolen gun. They also had 5 active drug investigations and proactive patrols in several areas. The Millcreek traffic enforcement officers and the Community Oriented Policing (COP) Unit conducted a pedestrian safety operation at 3665 S. 900 E. The operation was aimed to educate and bring awareness to drivers of pedestrian safety and as a result, 31 citations were issued. The COP Unit had a booth at Venture Out! COP Detectives partnered with Salt Lake County Health Department to continue to clean-up several large campsites near Van Winkle Expressway where 1,700 pounds of waste was removed.

He said there would be a dedicated officer on firework enforcement on July 3, 4, and 5th. He said if the situation was life-threatening, residents should call 911, otherwise they should call the non-emergency number.

6. Consent Agenda

6.1 Approval of June 14, 2021 Regular Meeting Minutes

6.2 Approval of June 22, 2021 Special Meeting Minutes

Council Member Catten moved to approve June 22nd special meeting minutes and to continue 6.1 June 14th regular meeting minutes. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

7. New Items for Subsequent Consideration

There were none.

8. Calendar of Upcoming Events

- East Mill Creek Community Council Mtg., 7/1/21, 6:30 p.m. TBD
- Mt. Olympus Community Council Mtg., 7/6/21, 6:00 p.m. TBD
- Millcreek Community Council Mtg., 7/6/21, 6:30 p.m. TBD
- Canyon Rim Citizens Association Mtg., 7/7/21, 7:00 p.m. TBD
- City Council Mtg., 7/12/21, 5:00 p.m. at City Hall

ADJOURNED: Council Member Catten moved to adjourn the meeting at 9:11 p.m. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

APPROVED: _____ **Date**
Jeff Silvestrini, Mayor

Attest: _____
Elyse Sullivan, City Recorder