

1. Planning Commission Public Hearings Notice
Millcreek, Utah
Public Hearings Notice

Notice is hereby given that the Millcreek Planning Commission will hold three public hearings at approx. 5:00 p.m. on Wednesday, July 21, 2021, at City Hall, 3330 S. 1300 E., Millcreek, Utah: 1) consideration of ZM-21-001, rezone request from RM to MD for a 65-unit senior living multifamily development at approx. 4074 S. West Temple by applicant Todd Reeder; 2) consideration of ZM-21-002, rezone request from R-1-8 to R-2-8 for two sets of duplexes at approx. 3698 E. 3800 S. by applicant Matt Newbold; and 3) consideration of ZT-21-006, technical corrections regarding definitions, noticing, and Planning Commission membership in Title 19 of the Millcreek Code. A copy of the associated information for the hearings is on file for review at City Hall and on the City's website at: <https://millcreek.us/agendacenter>. The public is invited to attend or watch the hearings and make comments. The meeting will be live streamed via the City's website at: <https://millcreek.us/373/Meeting-Live-Stream>. Public comment can be submitted via the City's website at: <https://millcreek.us/FormCenter/Contact-Us-5/Public-Comments-61>. In compliance with the Americans with Disabilities Act, individuals needing special accommodation during the public hearings should notify the ADA Coordinator at khansen@millcreek.us or 801-214-2751 two days prior to the meeting date.

Documents:

[ZT-21-006 COMMUNITY COUNCIL MEMO.PDF](#)



3330 South 1300 East
Millcreek, UT 84106
801-214-2700
millcreek.us

File # ZT-21-006

Staff Memorandum

Date: 24 June 2021
From: Blaine Gehring, AICP, Legislative Analyst
Francis Xavier Lilly, AICP, Planning Director
To: All Community Councils
RE: Adoption of Technical Amendments to the Zoning Ordinance
Applicant: Millcreek City
File No.: ZT-21-006

SYNOPSIS AND SCOPE OF DECISION

Planning Commission Procedures

First, on August 27, 2018 the City Council increased the number of members of the Planning Commission from seven to nine members (Ord. 2018-50). With that increase to nine members, the required quorum for passage of any item before them would require a five member vote. The ordinance requiring just a four member quorum was never changed, however. This amendment to Section 19.50.060.B. of the Zoning Ordinance would make that change from four members to five members to constitute a quorum.

19.05.060 Commission Procedures

- A. The Commission shall annually elect a chair, a vice chair, and such other officers it deems advisable from among its members. The chair and such other officers elected by the Commission shall serve for a term of one year and may serve successive terms.
- B. ~~Four~~ Five members of the Commission shall constitute a quorum.
- C. The Commission shall adopt rules of order and procedure for use by the planning commission in a public meeting and for any other purposes considered necessary for the functioning of the Commission. Such policies and procedures shall be approved by the Council before taking effect.

- D. The Commission shall establish their meeting schedule. Such meeting schedule shall be approved by the Council before taking effect. All meetings, including any necessary public hearings, shall be held after the regular working hours of City. All meetings and public hearings of the Commission shall be public meetings and comply with the provisions of UTAH CODE ANN. § 52-4-1, et seq., and be held in a public place designated.

Public Hearings, Meetings, and Noticing

Second, because the major newspapers in Salt Lake County have now gone to a weekly publication rather than daily, the 2021 Utah Legislature in passing SB 201 found it expedient to eliminate the noticing requirement in newspapers. Section 19.04.439 of the Zoning Ordinance currently defines "Public Notices" and the noticing requirements. However, staff feels that having the noticing requirements of "Public Notices" in the definitions section of the zoning ordinance is not the proper place for it. It makes it hard to find for an average person and should realistically be in the administration section of the ordinance. Staff is proposing to have two new definitions for "Public Hearing" and "Public Meeting" in sections 19.04.438 and 19.04.439 and move "Public Hearings and Meetings" (19.04.438) and "Public Notices" (19.04.439) to Chapter 19.02 General Provisions and Administration in two new sections 19.02.150 Public Hearings and Meetings and 19.02.160 Public Notices. In the new section 19.02.160 the requirement for publication in a newspaper would be eliminated. In addition, staff is recommending moving the noticing requirements for street vacations to Chapter 14.48 of the Millcreek Ordinance, in the Highways, Sidewalks, and Public Places Title.

19.04.438 Public Hearings and Meetings

A public hearing means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

19.04.439 Public Meeting Notices

A public meeting means a meeting required to be open to the public under the Utah Open and Public Meetings Act, as set forth in Utah State Code Title 52, Chapter 4, Open Meetings Act.

19.04.438- 19.02.150 Public Hearings And Meetings

- A. Public Hearings. A public hearing means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing, pursuant to UCA 10-9a-103(45). Public hearings shall be conducted for the following land use decisions:
1. When adopting or amending a general plan;
 2. When enacting or amending zoning ordinances or the zoning map, a public hearing before the planning commission is required, but is not required before the city council;
 3. Vacation or amendment of platted street, right-of-way or easement;
 4. Annexation policy plans and applications;
 5. Vacating or changing a subdivision plat, but only as required by state law;
 6. Any other land use decision for which a public hearing is required by law.
- B. Public Meetings. Public meeting means a meeting that is required to be open to the public under Utah State Code Title 52, Chapter 4, Open Meetings Act (UCA 10-9a-103(46)). All land use decisions

made by the city council and planning commission shall be rendered during open and public meetings. The community development director may also conduct public meetings related to land use applications or other land use issues.

- C. Public Comment. Public comment may also be allowed in any public meeting at the discretion of the public body. Except as provided above, a public body need not allow public comment where a public hearing is not required by this section or state law.
- D. Solicitation of Input. Regardless of whether a meeting is held, prior to making a land use decision the public body may solicit input from affected citizens and property owners and provide a reasonable opportunity for those individuals to express themselves. This may be accomplished through public outreach activities conducted prior to the land use decision in a manner that is consistent with the requirements of due process and fair review and provides an opportunity for the applicant and others participating in the review of the application to respond to the information presented. Relevant information gathered in the process of review is to be included in the meeting record.
- E. The community development director may require a neighborhood meeting to help solicit better neighborhood input on land use application described in (1 and 2) below, prior to a complete land use application being submitted to the city.
 - 1. Developments in a residential zone:
 - a. General Plan Amendments resulting in a change to the future land use map.
 - b. Rezones and Adoptions of Development Agreements.
 - ~~c. Multi family developments.~~
 - ~~d. Planned unit developments.~~
 - 2. ~~Nonresidential-d~~Developments abutting a residential development or residential zone boundary:
 - a. General Plan Amendments resulting in a change to the future land use map.
 - b. Rezones and Adoptions of Development Agreements.
 - c. Conditional use applications for uses requiring new construction, or for a use that is anticipated to create traffic or parking demand at least 20 percent greater than the existing use.
 - d. Planned unit developments.
 - e. If a complete application is submitted prior to a Planning Commission meeting held on a month where a community council meeting is not scheduled to be held, a neighborhood meeting may be conducted in lieu of a community council meeting.
 - 3. Applicant's Burden to Conduct a Neighborhood Meeting. If required by the community development director, the applicant shall organize a neighborhood meeting, and provide adequate proof of notice, to include the following:

- a. The applicant shall send a written notice stating the place, date, and time of the neighborhood meeting to all residential property owners, as identified in the Salt Lake County recorder's records, whose property is within the required notice radius for the land use applications described in MKZ ~~19.04.439~~ 19.02.160 below.
- b. The applicant shall notify these owners at least one week prior to the neighborhood meeting.
- c. The neighborhood meeting shall be conducted at a location within Millcreek.
- d. Phone calls or informal door to door contacts shall not be considered to constitute a neighborhood meeting.
- e. The record of a neighborhood meeting shall include:
 - (1) A list of all individuals who were notified;
 - (2) A roster of attendees; and
 - (3) A copy of the minutes.

~~19.04.439~~ 19.02.160 Public Notices

- A. Required Notice. The land use authority shall schedule and hold any required public hearing or public meeting according to the provisions of this code and state statute. Public notices for land use decisions not described in this section shall be given in accordance with state statute. The city shall provide notice of the date, place, and time of public hearings or public meetings with the planning commission, and city council, if applicable, within the timeframes established by this section, or as provided by state statute or city ordinance.
 - 1. Mailed Notices. The applicant shall bear the cost of mailing notices. Notice shall be provided by first class mail by the city to property owners and affected entities as established below:
 - a. Conditional Use Permits. Notice shall be mailed at least seven days prior to the community council public meeting to any property owners within a three-hundred-foot radius of the property lines of the property on which the conditional use is proposed.
 - ~~b. Right of Way Vacations. Notice shall be given in accordance with state statute UCA 10-9a-609.5(2). Notices shall be mailed at least ten days prior to the public hearing to the following parties:~~
 - ~~(1) Any property owner whose property is accessed by the portion of the right of way that is proposed to be vacated.~~
 - ~~(2) Any property owners within three hundred feet of the portion of the public right of way that is proposed to be vacated.~~

~~(3) All property owners whose property is in between the portion of the right-of-way to be vacated and the nearest street intersection.~~

be. Subdivision Approvals and Amendments to Subdivision Plats.

(1) Notice shall be given in accordance with state statute UCA 10-9a.608(1)(c). Additional notices shall be mailed at least ten days prior to the public hearing to any property owners within a three-hundred-foot radius of the boundary of the proposed subdivision plat amendment.

(2) For an amendment to a recorded subdivision that involves the alteration or removal of an easement, private right-of-way, condition, limitation, or special requirement, only those persons or entities who have a direct interest in, or who will be directly affected by the proposed change (including the applicant) must be notified of any pending action.

d.. Zoning Map Amendments. Notice shall be mailed at least seven days prior to the community council public meeting to any property owners within a six-hundred-foot radius of the boundary of the proposed zoning or future land use map amendment.

e. General Plan/Future Land Use Map Amendments. Notice shall be mailed at least seven days prior to the community council public meeting to any property owners within a six-hundred-foot radius of the boundary of the future land use map amendment.

2. Publication of Notices. Notices shall be published by the following methods, unless otherwise provided for by state statute.

a. Mailed notices shall be prepared and mailed by city staff and paid for by the applicant.

b. Public notices shall be published on the city's website and on the state's public notice website at least ten days prior to a public hearing, and at least seven days prior to a public meeting.

~~c. Notices for public hearings shall be published in a newspaper of general circulation in the area at least ten days prior to the public hearing.~~

~~d.c.~~ A hard copy of any public notice issued by the land use authority shall be posted at city hall at least twenty-four (24) hours prior to a public hearing or a public meeting.

3. Posting on Site. Notification signage shall be posted on the property or land for which a conditional use permit, right-of-way vacation, subdivision plat approval, amendment to a subdivision plat, or zoning or future land use map amendment is considered, at least five days prior to the first public meeting on the matter. Notice shall be posted by the ~~community development department~~ City and shall be clearly visible from the right-of-way.

Definition Change: Agriculture

This proposed definition change enables the owner of a single-family residential lot to maintain a noncommercial greenhouse associated with a residential use. Currently, wholesale nurseries and greenhouses are allowed as conditional uses in some residential zone. Staff seeks to clarify that, notwithstanding the requirement for wholesale nurseries, residents may maintain a greenhouse for their own enjoyment on their residential property.

19.04.020 Agriculture

"Agriculture" means the tilling of the soil, the raising of crops, horticulture and gardening, **noncommercial greenhouses associated with residential uses**, but not including the keeping or raising of domestic animals or fowl, except household pets, and not including any agricultural industry or business such as fruit-packing plants, fur farms, animal hospitals or similar uses.

Definition Change: Building Height

We use the term "original ground surface" to mean the surface of the lot before any human-caused alterations. Another term that developers often use is "existing grade." We simply wish to tie these terms together so that applicants know what staff means by "original ground surface".

19.04.095 Building, Height Of

- A. "Height of building" means the vertical distance above the lowest original ground surface, **or "existing grade"**, at any point on the perimeter of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the highest point of pitched or hipped roofs, or gambrel roofs.
- B. Buildings may be stepped to accommodate the slope of the terrain provided that each step shall be at least twelve feet in horizontal dimension. The height of each stepped building segment shall be measured as required in subsection A.
- C. Original ground surface, **or "existing grade"**, shall be the elevation of the ground surface in its natural state before any **manmade human-caused** alterations including but not limited to grading, excavation or filling, excluding improvements required by zoning or subdivision ordinances. When the elevation of the original ground surface is not readily apparent because of previous **manmade human-caused** alterations, the elevation of the original grade shall be determined by the development services division using the best information available.

Definition Change: Family

as part of HB 82 passed by the Legislature, the designation of "single-family limit" found in UCA 10-9a.505.5 was amended to eliminate "unrelated individuals" as part of that limit. This means that the definition of "family" in the Millcreek code needs to be amended as follows:

19.04.230 Family

"Family" means:

1. Any number of people living together in a dwelling unit related by blood, marriage or adoption, and including up to three additional ~~unrelated~~ people; or
2. One to four ~~unrelated~~ people living together in a dwelling.

Each ~~unrelated~~ person owning or operating a motor vehicle shall have a lawfully located off-street parking space.

Definition Change: Private Garage

*As we are considering an accessory dwelling unit ordinance, staff is recommending a change to the definition of "private garage" to require that such a garage actually share a wall in common with the structure, if the garage is to be considered a part of the dwelling, rather than a detached accessory building. Currently, a private garage can be considered a part of the dwelling if it shares a roof **or** a shared wall in common. In order to maintain the legislative intent of an "internal ADU" as defined by state statute, we are recommending this change.*

19.04.265 Garage, Private

"Private garage" means an accessory building designed or used for the storage of not more than four automobiles owned and used by the occupants of the building to which it is accessory; provided, that on a lot occupied by a multiple dwelling, the private garage may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units in the multiple dwelling. A garage shall be considered part of a dwelling if the garage and the dwelling have a ~~roof or~~ shared wall in common. A private garage may not be used for storage of more than one truck for each family dwelling upon the premises, and no such truck shall exceed two and one-half tons capacity.

Definition Change: Lot

Earlier this year, the City Council adopted a change in the city's roadway standards to require a minimum 25 feet for a private roadway. This text change implements a recommendation set forth in the adopted Transportation Master Plan. This change of definition of "lot" brings that definition into conformance with the City standard set forth in Section 14.12.130 of the Millcreek Code.

19.04.335 Lot

"Lot" means a parcel of land occupied by a building or group of buildings, together with such yards, open spaces, lot width and lot areas as are required by this title, having frontage upon a street or upon a right-of-way approved by a land use hearing officer, or upon a right-of-way not less than ~~twenty~~ **twenty-five** feet wide. Except for group dwellings and guest houses, not more than one dwelling structure shall occupy one lot.

Community Council Action

As per Chapter 2.56.100 of the Millcreek City Code, staff is seeking Community Council input on the technical amendments to the Zoning Ordinance as described. These will go to the Planning Commission for their review and recommendation.