



**Minutes of the
Millcreek Planning Commission
March 18, 2020
5:00 p.m.
Regular Meeting**

The Planning Commission of Millcreek, Utah, met in a regular public meeting on Wednesday, March 18, 2020 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was conducted electronically per Millcreek State of Local Emergency Directive No. 2 of 2020 and live streamed via the City's website with an option for online public comment.

PRESENT:

Commissioners

Shawn LaMar, Chair
Russ Booth, Vice Chair (electronic, arrived at 5:23 p.m.)
David Allen (electronic)
Scott Claerhout (electronic)
Fred Healey (absent)
Mark Mumford (electronic)
Victoria Reid (electronic)
Skye Sieber (electronic)
Tom Stephens (electronic)

City Staff

John Brems, City Attorney (electronic)
Elyse Sullivan, City Recorder
Francis Lilly, Planning and Zoning Director
Robert May, Planner
Erin O'Kelley, Planner

Attendees: Mayor Jeff Silvestrini, Council Member Dwight Marchant, Pickrell, McKay Quinn (electronic), Justin Heppler (electronic), Micah Peters (electronic), and Tony Tippetts (electronic).

REGULAR MEETING – 5:00 p.m.

TIME COMMENCED: 5:07 p.m.

Chair LaMar called the meeting to order and explained the instructions for the electronic meeting. Francis Lilly said items 1.1 and 1.2 would be continued per the applicants' request.

1. Public Hearings

**1.1 Consideration of ZM-20-003, Rezoning Approx. 1.2 acres from R-1-10 to R-1-3
Location: 4524 S. 785 E. Applicant: Bryan Colemere Planner: Robert May**

Chair LaMar opened the public hearing.

Francis Lilly read a written comment submitted online by the Millcreek Community Council.
"Millcreek Community Council response to ZM-20-003. I am Wayne Johnson representing the Millcreek Community Council. I live at 955 East Fairclough Dr (3565 South). The Millcreek Community Council met on 03 March 2020 and discussed ZM-20-003. I understand the developer requested a continuance. The council did not feel the requested zoning change would be appropriate for this neighborhood. It would allow development

which would not be fitting for the properties on this street. As this street does not connect to any other neighborhood, we only considered how the zoning change could affect this street without considering what nearby zoning may be. The council does not recommend the zoning change.”

Chair LaMar closed the public hearing.

1.2 Consideration of SD-20-003, Preliminary Plat Approval for a 4-lot Subdivision in an R-1-8 Zone Location: 3035 S. Kenwood Street Applicant: Ivory Development Planner: Robert May

Chair LaMar opened the public hearing.

Francis Lilly said a written comment was submitted online from Marie White, 3055 S. 1800 E. who had provided an attachment that read:

“March 18, 2020

Proposed Kenwood Avenues Subdivision

Comments and concerns from existing homeowners on “1800 East” including:

Lee and Jacque White, 3015 South 1800 East, Millcreek

Jeff and Tara Plowgain, 3029 South 1800 East, Millcreek

Dave and Lisa Schofield, 3045 South 1800 East, Millcreek

Lyle and Marie White, 3055 South 1800 East, Millcreek

Joe and Nora Anderson, 3065 South 1800 East, Millcreek

Gordon and Lisa White, 3040 South 1800 East, Millcreek

As neighbors directly impacted by this subdivision, with existing homes on the East side of “1800 East”, we want to begin by expressing our support for this property to become a public road, as currently, undeveloped property to the West has been unable to develop off this lane. Legal access to develop these properties has only been available off of Kenwood Avenue to the West, however this access creates deep lot subdivisions and eliminates building lots. It’s in the City’s best interest, in order to add additional housing, to approve this proposed subdivision provided the following conditions are addressed and satisfactory to those of us directly impacted by this proposal.

Concerns from existing homeowners on “1800 East” North of 3080 South or Gregson, directly impacted by the Kenwood Avenues Subdivision. These concerns have been sent to Millcreek City and Ivory Homes and are being reviewed by the Millcreek City Engineers, with the exception of 1 & 2 regarding utilities and legal access.

1. Salt Lake City Public Utilities should be contacted to evaluate if either the sewer or water lines need to be replaced as both are over 50 years old. It only makes sense to have this done prior to building the road.

2. Legal Access to the property needs to be granted by Lee White, current resident on the proposed road. As neighbors, we have worked hard to clear the legal issues surrounding this and eliminating the need, along with the costs, of Millcreek City to condemn the property for use as a public road.

3. The proposed plan by Ivory Homes for the Kenwood Avenues Subdivision road raises concerns:
a. Drainage concerns and future road base erosion: This is regarding the culinary, irrigation and/or rainwater drainage on the East side properties, which currently flow West and South across existing road. If a curb and gutter are placed 10 feet out on the existing asphalt, this would create a 5”-6” dam, which will stop water from flowing West and instead build up and seep down eroding the road base. As neighbors, we propose that curb and gutter requirements for the East side be

eliminated, thus allowing the water from our properties to continue to flow West and South and into the proposed gutter on the West side continuing onto storm drain on 3080 S. or Gregson Ave.

b. Asphalt removal and disposal: If curb and gutter are required on each side of road, there is no requirement for the developer to remove, dispose of and create a compacted base for the proposed "sidewalk" to be paid for by others.

c. Sidewalk to be paid for by "others". Please define who and what amount this may cost each homeowner. Require developer to pay for costs of removing trees in front of 3040 South home to make way for proposed road/sidewalk.

d. Landscaping Costs: Require developer to cover landscaping costs to proposed curb, gutter and sidewalk, on existing homeowner properties upon completion of road.

e. Sidewalk design and proposed elimination of park strip: If required, we request elimination of the park strip, with the sidewalk next to the curb. Current designs show a parking strip. This would match the existing sidewalk design at the local LDS Church building located across the Street on Gregson (3080 South) and Kenwood Ave.(1745 East).

f. Access to Driveways: Current markings don't appear to match existing driveways. We request access to driveways match existing driveways ranging from 20-40 feet.

g. Irrigation water drainage and unmarked items currently not addressed on plan i.e.

1. An irrigation pipe currently runs down the North side of the property between 3055 South and 3045 South.

2. An irrigation ditch currently runs down the West side of the proposed road property, with water actively used from White Ditch Water Company by JMP property on the West, and 3015 and 3065 South on the East side of the road, 3050 South on Melbourne utilizing the irrigation water within the past 10 years.

h. Require Develop to saw cut existing asphalt when expanding the road to required width, to ensure a straight edge to pour new asphalt against. This will help prevent premature breakup of the road, followed by a sealcoat to promote longevity.

4. Bond the developer and require a "not to exceed time line" or schedule for road construction to ensure project is completed and in a timely matter and/or signed agreement from the City that they would complete road project within 6 months of developer stopping road construction.

Thank you for time and consideration. If questions, please feel free to contact Marie White. Francis Lilly, Millcreek City Planner, has this contact information."

Elyse Sullivan said a comment was received online from Cathy Redd, 3003 Kenwood Street, asking to hear what the plan for SD-20-003 was and if it would include sidewalk in front of four homes. Francis Lilly said the item would be continued and information on the application would be heard at a later meeting.

Chair LaMar closed the public hearing.

Commissioner Mumford moved that ZM-20-003 be continued as per suggested and SD-20-003 for a continuance as well. Commissioner Allen seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

1.3 Consideration of CU-20-003, Conditional Use Permit for a Mixed-Use Building Consisting of 99 Residential Dwellings and Live/Work Space Location: 1395 E. Miller Avenue Applicant: PEG Development Planner: Erin O'Kelley

Erin O'Kelley said the applicant was seeking approval for a mixed-use project that would have 99 residential dwellings, five of the dwellings would be live-work units with commercial uses along the first floor on Miller Ave. The project was a mix of studio, 1-

bedroom, 2-bedroom, 3-bedroom, and townhome style units. The applicant was also requesting per Section 19.80 of the Millcreek Code a parking reduction of approximately 39 stalls using the parking study done by Hales Engineering in the staff report. She showed a site plan of the area and development summary. The access would be on the west side of the building. The proposed project would be 75 feet tall, 1,238 square feet per unit, have a 19-foot front yard setback, 10-foot side yard and rear yard setback, have a 195-foot lot width, 38,765 square feet in lot area, 20% open space, and have a pet wash, spa, and BBQ. The applicant was seeking an exception to the 193 stalls required by code via the results of the parking study. The applicant would provide 154 stalls that would include on-street parking allowed per code 19.73. The existing project area consisted of three parcels zoned C-3 but subject to the City Center Overlay Zone Neighborhood District conditions. The Millcreek Community Council recommended approval of the requested conditional use permit subject to the conditions recommended by staff and recommended denial of the request to reduce the parking requirements per the parking study. The Canyon Rim Citizens Association recommended approval of the conditional use permit subject to the conditions recommended by staff and to reduce the parking with the submitted parking study. They also recommended an additional condition that there be a security gate in the parking structure.

Commissioner LaMar asked about staff's recommendation on parking. O'Kelley said the code required the project to have approximately 193 parking stalls. Francis Lilly said the Planning Commission had previously approved parking ratios as low as 1.5 in the City Center. He said other applicants had agreed to certain traffic demand mitigation strategies as a result. Staff directed the traffic engineer for the traffic study to use and identify mid-market projects existing in Millcreek. Staff felt a 1.5 ratio was appropriate. Commissioner LaMar asked if on-street parking would be counted in the provided stalls. O'Kelley said the applicants were allowed to use 8 on-street stalls as part of the 154 provided stalls. Commissioner Reid asked about the security gate to separate commercial and residential parking and wondered if it negated the concept of shared parking. O'Kelley said since the applicant was requesting a reduction in stalls, the community council did not want residents of the property to lose stalls. The owners would have access to the live/work unit stalls. Commissioner Reid asked about the quarterly reports on parking to the City and what would be done if the parking was not adequate. Lilly said the parking requirements would be an ongoing commitment, and if parking exceeded the demand, the City could start a process to require more parking. The reports would give the City feedback on the appropriateness of the parking utilization.

Commissioner Reid asked about the landscaping plan and if what was proposed would meet the requirements of the City Center Plan on Highland Drive. Lilly said staff had not done a complete review of the landscaping plan to make sure it met the urban forestry plan which was still in draft format. The plan would include a boulevard appropriate tree and the developers would have to comply with the plan as a condition of approval. Commissioner Stephens mentioned the south facing façade lack of variation in the retail commercial store fronts, that the east side wall was unsightly and blank, and cautioned against allowing less than the 1.5 parking ratio. He said the City would encourage nighttime activities and the proposed shared parking ratio assumed that on-street parking would be used by tenants and not nighttime activity goers in the City Center. Lilly said there would be a time limit on parking stalls and on-street parking should be restricted by occupancy and enforced by signage. Commissioner Claerhout asked about the condition that the building permit not

being issued until it exceeded the energy code performance of at least 5%. Lilly said the energy code requirement was in code and would be verified in the plan review by the Building Department. Commissioner Mumford verified that there would be a single point of access from Miller Avenue to the development. O'Kelley confirmed. Lilly said the traffic study did not recommend a traffic light onto Miller Avenue. Commissioner Mumford expressed concern about left turns out of the development. Lilly said the development traffic could be accommodated per the study. Commissioner Booth asked if the applicant agreed to the recommended 1.5 parking ratio.

Applicant - McKay Quinn, PEG Development at 180 N. University Avenue in Provo, said the parking study concluded that 1.4 parking stalls was adequate for a mixed-use project of this size and he would be providing 1.52 stalls per unit. He said the east side wall backed right up to the neighboring Big O Tires which was why it lacked design.

Justin Heppler, AJC Architects (with PEG), said there was a grade change on the east side façade so some of the concrete wall would be covered. The south façade had a reverse column and the visual goal was to have four separate building masses and they would work on articulating that. The west façade could be articulated further if the Commission desired. Commissioner Mumford asked about the length of the buildings. The site was 266 feet along Miller Avenue and the building was about 195 feet in length. O'Kelley confirmed that within the City Center Overlay Zone, the building had to be less than 200 feet in length. Commissioner Stephens wondered about the east side blank wall above the existing roof line of Big O Tires.

Chair LaMar read the comments submitted online by the Millcreek Community Council.

"Millcreek Community Council response to CU-20-003. I am Wayne Johnson representing the Millcreek Community Council. I live at 955 East Fairclough Dr (3565 South). The Millcreek Community Council met on 03 March 2020 and discussed CU-20-003. There was considerable discussion about this development. We had a difficult time reaching an agreement which was approved by a majority vote. Overall, we do like this development and how this fits in with the city's plans for the city center. It is something that would work well with other developments which are going to be built soon on the street to the north of this development. The one aspect of this development which was difficult for the council was the request to reduce the amount of parking to a number of parking stalls well below what is required by city ordinance. (code?) As with all developments, the council is very concerned about the amount of provided parking and how a lack of parking can, and does, impact a neighborhood. The council is very concerned that reducing parking will cause parking issues on Miller Avenue. The council wants to ensure that there is adequate parking and that this development does not become the cause for more cars being parked on Miller Avenue. After much discussion the recommendation from the council is in favor of this development but with a strong recommendation that all possible efforts are used to increase the number of parking stalls provided. There was one dissenting vote and one member abstained. The abstaining vote was because one member was not present for all of the discussion. I will again emphasize that that the council strongly recommends that all possible efforts are used to increase the number of parking stalls."

Francis Lilly said the City Attorney made a comment on the chat function of the electronic meeting pointing out that the east blank wall could be a potential graffiti magnet. Lilly added that there was no public comment at the community council meetings.

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Justin Heppler said the east wall was no closer than 5 feet to the property line. He said they could open some of the parking garage wall up to add more character and add some windows along the townhome units on the east side.

Commissioner Allen said he was concerned about the lack of parking and would like to follow the code. Lilly said local data was proffered in the traffic study and it demonstrated that in a suburban context the ratio was within the 1.2-1.4 range. Commissioner Mumford did not see a justification for the reduction in parking and saw an issue with the ingress/egress. Commissioner Booth also expressed concern with parking and felt the 1.5 ratio was appropriate. Commissioner Claerhout echoed Booth's comments. Commissioner Sieber said blank walls were an opportunity for public art to enhance an area. She felt the parking would be adequate but wondered what the City could do once the City Center was built out if it was not adequate. Commissioner Stephens asked if the required code ratio was 1.5. Lilly said the code ratio was well over 2 parking stalls per unit. Commissioner Stephens said he would be in favor of a 1.5 ratio and hoped for the best. He asked about the single point of entry. Lilly said the only option of entry would be on the side, so it did not interfere with the retail on the front. Commissioner Stephens said he recommended that the applicant work with staff to provide east side variation to the elevation and parking garage. Commissioner Reid said she appreciated the approach by the architect on the east and west building sides. She said the 1.5 parking ratio could work but also liked the idea of subsidizing transit passes and having bike storage. She wanted the applicant to understand that the landscaping plan needed to be redone. Chair LaMar said the parking study was based on dwellings and the project was based on bedrooms. He said the parking reduction would be over 25% from 193 to 154 with the commercial parking removed. The other two projects on Villa Vista Avenue were less than a 15% reduction and he felt the proposed reduction was too much. Commissioner Claerhout asked about an adjusted parking ratio. Chair LaMar said including guest parking with residential it would be a 1.66 ratio. Commissioner Booth said the parking ratio should be higher.

Commissioner Allen said the Commission would like to see more parking and could craft a motion to require a higher ratio. Commissioner Claerhout said he was okay with the 1.5 ratio. Commissioner Reid agreed with Commissioner Claerhout, she wanted to encourage transit. Commissioner Allen said the City Center should attract residents and limiting cars on behalf of the project residents would not work. Lilly said the City was working on a public/private partnership on parking for the City Center. He felt the spill over parking would not be an issue. He would like to implement a neighborhood parking district in the area. Commissioner Claerhout said he appreciated looking at parking as a global issue and not just to this development. Chair LaMar said the percentage of reduction could be no more than 15%. Commissioner Stephens asked for clarification on parking. Chair LaMar said if the developers added 14 more stalls, they would only be about at a 15% reduction for residential parking with 158 residential stalls plus 10 stalls for commercial. Lilly asked for the applicant's input.

McKay Quinn said the provided parking with 154 stalls would meet the demand of the 99 units and retail. The parking would only service the development and there would be an additional 12 stalls on the street for the public. He said the residents would get one stall and could pay for a second stall if needed. The site was less than 1 acre and they had maximized the space on the site. They would have 1 level of below-grade parking and 2 above grade. Justin Heppler said there would be 12 free parking stalls, only 8 were counted in the parking numbers. He pointed out that larger projects in the area were approved at the 1.5 ratio and he trusted staff's recommendation. Commissioner Allen said 99 units on 1 acre was too many. Chair LaMar agreed. He said the code was the starting place for parking ratios and the other projects had a different required ratio to work from. He was not in favor of more than a 15% reduction in parking. Commissioner Stephens said his conditions of approval for the conditional use permit would be: that the applicant work with staff to provide architectural variation to the garage and east facing walls, not allow less than a 15% reduction of parking stalls than what was required by code, and that the landscaping plan be refined to reflect the Planning Commission's concerns.

Commissioner Stephens, as respects to application CU-20-003, moved to approve the preliminary conditional use permit subject to planning staff conditions as stated in the staff report in addition to the following: no parking stalls less than 15% than that which is required by current code, the east side elevation have architectural variation with opening the garage and adding windows and other variations, and refine the landscaping plan to reflect the Planning Commission's concerns. Commissioner Allen seconded.

The conditions listed in the staff report included the following:

1. Prior to receiving final subdivision plat approval, applicant shall bond for all required street improvements, including curb, gutter, sidewalk, street trees and required irrigation, required setback landscaping, streetlights, and any other improvement required by the City.
2. A gate must be installed for access to the parking structure to prevent designated residential lots being used by commercial/retail.
3. The applicant shall dedicate property along public streets and shall recording public access easements in accordance with Millcreek Public Works standards and the Adopted Cross-Sections in the City Center Overlay Zone.
4. Applicant shall incorporate travel demand management strategies for the project, including but not limited to subsidizing the cost of transit passes for commercial and residential uses, providing safe, secure, and convenient bicycle storage beyond what is required by Millcreek code.
5. The applicant will ensure that every residential unit has at least one dedicated parking space.
6. Dedicated residential parking shall not be leased separately from unit leases.
7. Applicant shall provide service availability letters from all utility providers prior to receiving final conditional use approval.
8. Applicant shall verify that the building will exceed the current energy code (2015 IECC, ASHRAE 90.1-2013) performance by at least 5 percent, prior to being issued a building permit.
9. Applicant shall verify with engineering staff through appropriate studies as required by the City's Geological Hazards ordinance that the soils are suitable for development prior to receiving final conditional use approval.
10. The applicant shall construct the west vehicular access in a manner that it can function as a potential future laneway as identified in the City Center Master Plan.
11. Applicant shall install dark-sky compliant lighting, and submit a lighting plan, including for signage, for review by planning staff prior to receiving final conditional use approval.
12. Applicant shall comply with the materials palette presented in the application. No stucco or EIFS will be permitted on any building façade visible from the street.

13. Within one year of receiving preliminary conditional use approval, applicant shall consolidate lots or amend the current condominium plat to adjust lot lines.
14. The applicant and its successors shall properly and continually maintain all required landscaping, fencing, buildings, and access driveways. Maintenance of trees shall be in accordance with the Millcreek City Center Urban Forestry Standards. The applicant shall initially set up a property maintenance company to maintain the premises.
15. The applicant shall obtain preliminary plan approval from the Fire Marshal prior to receiving final conditional use approval.
16. Applicant shall verify prior to receiving final conditional use approval that the residential uses have at least 5,531 square feet of shared open space, and that commercial uses have sufficient open space in addition to the residential requirement.
17. The applicant shall provide to the City daytime and evening peak time parking counts obtained at quarterly intervals at least once annually, from the date of issuance of the final certificate of occupancy, for at least three years.
18. Prior to receiving a certificate of occupancy, applicant shall apply an anti-graffiti material or coating on the north, west, and south building facades, and on any fencing the applicant installs on the project.
19. The design of the site and building shall comply with all applicable development standards, including but not limited to the City's Recreational Facility and Open Space Standards, Medium and High Density Residential Development Standards, and any site development standard required by the City Engineer and Fire Marshal.
20. Prior to receiving final conditional use approval, the applicant shall certify that existing utility services have the capacity to accommodate additional demand induced by the development, or that the services will be upgraded to meet the additional demand.
21. The applicant shall obtain final approval from the Millcreek City Engineer that all anticipated traffic impacts or concerns of the proposed development have been mitigated.
22. Signs and accessory structures will require separate building permits and staff review for zoning/land use compliance.
23. The applicant shall provide sufficient parking-lot light illumination. No light source (light bulb, fluorescent tube, or other direct source of light used to illuminate a parking area) shall be visible beyond the property line including the alley (ROW) of any off-street parking area as required by Section 19.80.030 of the zoning ordinance.
24. Any modifications to these approved plans must be approved by the Planning Department, in writing, prior to the changes being implemented in the field.
25. Landscaping shall be installed in compliance with Chapter 19.77 Water Efficient Landscape Design and Development Standards and as required by the City Center Overlay Zone. Any revisions to the landscape plan package shall be reviewed and approved in writing by the director or designee prior to commencement of construction. Re-certification of compliance with the requirements of the landscaping ordinance shall be provided by the qualified professionals who prepared and submitted the plan revisions.
26. The applicant will comply with all requirements established through the technical review process prior to receiving final conditional use approval.
27. All items of the staff report.

Commissioner Reid made a substitute motion to use the parking numbers as recommended in the staff report and but keep everything else the same in the original motion.

Commissioner Claerhout seconded the substitute motion. Chair LaMar called for the vote. Commissioners Allen, Mumford, Booth, and LaMar voted no. Commissioners Claerhout, Sieber, Stephens, and Reid voted yes. The motion did not pass.

Lilly asked about the rationale for the additional parking stall ratio request. Commissioner Allen said it was not a request from the Commission, but them granting less of a reduction.

Chair LaMar called for the vote on the original motion. All Commissioners voted yes. The motion passed unanimously.

The Commission took a break from 7:13-7:21 p.m.

1.4 Consideration of SD-20-004 & CU-20-002, Preliminary Conditional Use Permit and Preliminary Plat Approval for a Townhome Planned Unit Development Consisting of 150 Dwellings and 2,200 Square Feet of Commercial Space Location: 4186 S. Main Street Applicant: Clearwater Development Planner: Robert May

Robert May said the property was in the Meadowbrook area of Millcreek on Main Street and bordered Big Cottonwood Creek on the south with Murray City on the south side of the Creek. The new Front Climbing Gym directly to the east would share a property line and parking. This application was the second phase of the applicant's proposal following the successful approval of a development agreement by the City Council. The new development agreement would allow for up to 150 townhomes units with 2,200 square feet of commercial space, 50% of the townhomes would be platted as owner-occupied dwellings, and the applicant would provide a 1.15-acre park and a pedestrian bridge across Big Cottonwood Creek which would be dedicated to Millcreek. He showed the Commission a site plan and said the development would be platted in two phases. Each unit would have 2-car garages and there would be 14 parking stalls for park use. The applicant was proposing 139 units. He said the CC&R's would be regulated by the HOA. At their meeting on March 3, 2020, the Millcreek Community Council recommended the proposed preliminary conditional use permit and preliminary plat be approved. Staff found that the proposed project met the General Plan and would provide an improvement to the Meadowbrook area. Staff found that the project would be a powerful upgrade and improvement from the existing use and be a positive introduction to the area due to the developer providing a 1.15-acre park and a pedestrian bridge across Big Cottonwood Creek which would be dedicated Millcreek. Staff found that the proposal met the conditions of the approved development agreement. Staff recommended the following conditions:

1. The applicant must meet all requirements and conditions located in the Development Agreement.
2. The applicant is required to obtain the approval from the Salt Lake County Flood Control and signature on the recorded plat.
3. The applicant is required to obtain any approvals and permits required by the Utah State Water Rights Division and Army Corps of Engineers due to the bridge.
4. The applicant is required to obtain any approvals and permits required by any known irrigation ditch and canal owner.
5. The applicant will comply with all requirements established through the subdivision and conditional use technical review process prior to receiving final plat approval.
6. All requirements found in Title 18 (Millcreek Subdivision Code) shall be met, including all applicable fees and bonding, including addressing and surveying fees.
7. The applicant will comply with all requirements of the Unified Fire Code, subject to approval by the Fire Marshal.
8. The applicant shall obtain a complete review for an approved building permit and shall continually comply with the requirements of Millcreek City, Jordan Valley Water Conservancy District, and the Cottonwood Improvement District.
9. Any modifications to these approved plans must be approved by the Planning Department.
10. Applicant must meet Millcreek's MS4 permit requirements, including all requirements and standards of a Low Impact Development (LID) approach.
11. All items of the staff report.

Lilly said the developer and City had to be resign the development agreement and participation agreement due to an entity name change. He would like that added as a condition of approval.

Commissioner Stephens asked about the distance between garages. May said it would be 26 feet. Commissioner Stephens asked about architectural variation with roofs. Lilly said he would let the applicant speak to that. Commissioner Reid said a minimum of units would be owner-occupied. May said it would be 50% of the units and the HOA could manage those rentals. Commissioner Mumford asked about the walkway between the property and the Creek. May said there had not been any safety measures considered. Commissioner Sieber asked about the secondary access going into the Front Climbing Gym parking lot and the smaller parking lot near it. May said the secondary access was granted to the developer to allow climbing gym spillover parking. Commissioner Booth asked about the PUD. May said the PUD was a subdivision and a conditional use, so the plat would be recorded as a subdivision and the conditional use permit would be focused on the detailed architecture.

Applicant - Micah Peters, said the parcel had unique challenges but they were able to get two points of access. He said the riverfront walkway and pedestrian bridge would be an amenity for the residents and public. The commercial would be a neighborhood market/deli. The building height would be 30 feet and they would not change roof pitch but would add architectural variation. The landscaping plan would be cutting edge. He was working to make the units electric to save over 1,000 tons of natural gas though he did not want that as part of the agreement. He asked for flexibility with the unit count depending on how phase one panned out. The intent was for all units to be for-sale with the opportunity for 50% for-rent to accommodate the economy. He said there was a decent setback from the residential porches and the river parkway to answer Commissioner Mumford's question. May said he could add a condition of approval for some sort of barrier between the two areas.

Chair LaMar read the Millcreek Community Council's comment that was submitted online.

"Millcreek Community Council response to CU-20-002-19, SD-20-004. I am Wayne Johnson representing the Millcreek Community Council. I live at 955 East Fairclough Dr (3565 South). The Millcreek Community Council met on 03 March 2020 and discussed CU-20-002-19, SD-20-004. As this development was presented to the council previously, we were familiar with this development. There was not a lot of discussion. The developer explained how the concerns from our prior meeting had been addressed and the development changed in response to these concerns. The council was satisfied that our concerns had been addressed. The Council supports the development as it was presented. At this time, I do not have access to the minutes of our meeting so I can't tell you what the vote was. I believe it was unanimous in favor."

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Commissioner Mumford asked if the access would be from Main Street during construction. Commissioner Booth said he was pleased with the development. Commissioner Claerhout said the proposal was excellent. Commissioner Sieber said she was excited about the project and noted that there were parking problems at the other climbing gyms. Commissioner

Stephens offered no comment. Commissioner Reid said the development was good but could look less boxy. Peters said they would be using their primary access on Main Street during construction. Lilly said that the motion should include that the development agreement be signed and recorded, and that the applicant had asked for the capacity to build up to 150 dwellings subject to the development agreement and parking requirements. Commissioner Stephens brought up that the motion should also include added safety precautions to separate the project from Big Cottonwood Creek.

Commissioner Stephens, as respects to SD-20-004 & CU-20-002, moved to approve the applications subject to the conditions stated in the staff report, and in addition to those, that the development agreement be signed and recorded, the applicant will work with staff for some sort of safety barrier to separate the project from the general area by the Creek, and per the development agreement the approval is for a maximum of 150 residential units. Commissioner Mumford seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

1.5 Consideration of ZT-20-003, Amendments to Chapter 19.04 of Millcreek Code Pertaining to the Definition of Commercial Vehicles Planner: Francis Lilly

Francis Lilly said staff requested to amend the code. The City has two definitions for “commercial vehicle,” one in Title 11 and one in Title 19. The goal was to change the Title 19 zoning ordinance definition (1-ton capacity truck) to the one found in Title 11 of the traffic and vehicles ordinance (3/4-ton capacity truck) in addition to adding a definition of a trailer and truck. Lilly said the City was not well served by having two conflicting definitions as far as code enforcement. The community councils unanimously recommended the change. Commissioner Mumford asked about the commercial vehicle definition only applying to trucks. Lilly said there were four categories; heavy equipment, pickup trucks over 1 ton, vehicles with more than two axles, and vehicles that exceeded 8 feet in height. Commissioner Mumford asked about commercial vans. Lilly said part of the definition was any “...motorized vehicle or trailer used for or intended for business use...” He said the City was not establishing a new definition, just aligning two definitions in the code. Commissioner Booth talked about the difference between a 3/4-ton truck and a 1-ton truck. Commissioner Allen asked about personal trailers. Lilly said the definition focused on commercial vehicles intended for business use.

The Millcreek Community Council’s comment submitted online was the following:

“Millcreek Community Council response to ZT-20-003. I am Wayne Johnson representing the Millcreek Community Council. I live at 955 East Fairclough Dr (3565 South). The Millcreek Community Council met on 03 March 2020 and discussed ZT-20-003. There was some discussion about the definitions in the proposed change. The council wanted a clear understanding of the term ‘commercial vehicle’ before voting. The council voted to approve the update as presented.”

Chair LaMar opened the public hearing.

There were no comments.

Chair LaMar closed the public hearing.

Commissioner Booth, for item ZT-20-003 amendments to Chapter 19.04 of Millcreek Code pertaining to the definition of commercial vehicles, moved that the item be passed from the Planning Commission to the City Council for approval. Commissioner Claerhout seconded. Commissioner Allen brought up modifying the trailer definition. Commissioner Booth amended his motion to include that trailers used for business purposes be included in the definition not recreational use trailers. Commissioner Claerhout re-seconded the motion. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

1.6 Consideration of ZM-20-002, Amending the Zoning Map to Apply the C-3 Commercial Zone and the City Center Overlay Zone for Property to be Annexed into Millcreek, Between Miller and Woodland Avenues, and Highland Drive and Richmond Street Planner: Francis Lilly

1.7 Consideration of GP-20-002, Amending the Future Land Use Map to Apply the City Center Land Use Designation to Property to be Annexed into Millcreek, between Miller and Woodland Avenues, and Highland Drive and Richmond Street Planner: Francis Lilly

Francis Lilly said the applications dealt with land that will be incorporated into Millcreek per a boundary adjustment agreement with Salt Lake City that will take effect the first of July. The property currently in Salt Lake City was zoned CB, which is a mid-grade commercial zone, was surrounded by Millcreek's C-3 Zone on three sides and was in the City Center Overlay Zone. He showed the Commission an aerial map of the area and where it was located in the City Center. He said item 1.7 of the agenda was to designate that same property in the Future Land Use Map in the General Plan as City Center. The goal was to change the General Plan to include the property and to establish the property in the C-3 Zone with the City Center Overlay Zone pursuant to the boundary adjustment agreement with Salt Lake City. The Millcreek Community Council and Canyon Rim Citizens Association unanimously recommended approval of the applications.

Chair LaMar read the Millcreek Community Council's comment submitted online. *"Millcreek Community Council response to GP-20-002, ZM-20-002. I am Wayne Johnson representing the Millcreek Community Council. I live at 955 East Fairclough Dr (3565 South). The Millcreek Community Council met on 03 March 2020 and discussed GP-20-002, ZM-20-002. There was not much discussion on this item. The council understands the need to amend the zoning map to apply the C-3 zone and city center overlay plan as well as amend the future land use map to apply the city center land use designation to the property annexed from Salt Lake City. The council unanimously recommends approval of the zoning and future land use map amendment."*

Chair LaMar opened the public hearing.

There was no comment.

Chair LaMar closed the public hearing.

Commissioner Allen moved to forward a positive recommendation for item ZM-20-002 and GP-20-002 to the City Council subject to the conditions outlined in the staff report. Commissioner Sieber seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

2. Continuing Business:**2.1 Consideration of SD-19-014, Preliminary Plat Approval for a Single-Family Residential Subdivision Consisting of 5 Lots Location: 3675 South Craig Circle****Applicant: Tony Tippetts Planner: Robert May**

Francis Lilly said there were representatives from the project on the electronic meeting platform that could answer questions. Robert May showed the Commission a map, the site proposal, and pictures of the site for the subdivision. He said the road would have a 50-foot right-of-way standard. He showed the Commission the buildable area of each lot and a comparison of surrounding lot widths. Staff recommended continuance of the application in December 2019 because of concerns of the subdivision proposal effecting the character of the surrounding neighborhood in relation to the General Plan, lot width, and topography. He said the Planning Commission moved to continue the item until staff had adequate time to report back to the Commission when ready for full consideration of the project. The following items were requested to be provided to the Planning Commission before preliminary plat approval could be granted: 1) a preliminary agreement in place with the East Millcreek Water Company; 2) geotechnical recommendations be included in the subdivision approval conditions; and 3) protocol or schedule for the construction process and construction staging plan be provided. Subsequent to the Planning Commission meeting, the applicant sought an advisory opinion from the State of Utah Office of the Property Rights Ombudsman on whether or not the City could use a design standard articulated in a staff analysis requiring subdivisions to be designed according to the character of the surrounding development to modify an express lot frontage requirement in the City's Municipal Code. In their opinion, the Ombudsman's Office said because the subdivision ordinance does not define "character," the City may not impose a requirement on that basis by internal policy or as part of a subdivision approval. Accordingly, staff recommended approval of the subdivision plat, with the following staff conditions:

1. The applicant is required to obtain the approval from the East Millcreek Water Company and signature on the recorded plat.
2. The applicant is required to obtain any approvals and permits required by the Utah State Water Rights Division and Army Corps of Engineers.
3. The applicant is required to conduct a tree preservation plan that inventories all significant trees and their replacement, caliper for caliper, prior to any excavation or demo permits being issued in addition to meeting all the requirements found in Chapter 19.77 Water Efficient Landscape Design and Development Standards of the Millcreek Code.
4. The applicant is required to plat buildable areas that meet the requirements of the Residential Compatibility Overlay Zone.
5. No light source (light bulb, fluorescent tube, or other direct source of light used to illuminate a parking area) shall be visible beyond the property line of any off-street parking area as required by Section 19.80.030 of the zoning ordinance.
6. The applicant will comply with all requirements established through the subdivision technical review process prior to receiving final plat approval.
7. All requirements found in Title 18 (Millcreek Subdivision Code) shall be met, including all applicable fees and bonding, including addressing and surveying fees.
8. The applicant will comply with all requirements of the Unified Fire Code, subject to approval by the Fire Marshal.
9. The applicant shall obtain a complete review for an approved building permit and shall continually comply with the requirements of Millcreek City, Salt Lake City Department of Public Utilities, and the S. L. City Suburban Sewer District.
10. Any modifications to these approved plans must be approved by the Planning Department.

11. All standards and requirements of Title 14 of the Millcreek Code must be met, more specifically Chapter 14.12.020 and Chapter 14.12.025.
12. Applicant must meet Millcreek's MS4 permit requirements, including all requirements and standards of a Low Impact Development (LID) approach.
13. All requirements and recommendations within the Geotechnical report must be met.
14. All items of the staff report.

Commissioner Stephens asked about the inclusion of item 12. May said it needed to be added since it was not in the staff report. Commissioner Booth asked about access. May said lot 5 could not front on the abutting rear road. Commissioner Reid asked about the City allowing the creek to be degraded in any way and if it was an issue to look at. May said the water was not defined by the State as navigable waters, it was fed by a spring, and existed due to manmade improvements. The applicant must pipe the water through the property and let it flow onto the next property. Commissioner Mumford asked who was responsible for the 30,000 square foot preservation area. May said the preservation area was still owned by the lot owners. Commissioner Reid asked about tree preservation requirements or putting up a marker to not take trees down in the designated area. May said staff could explore that and said the tree preservation/storm water easement area could be notated on the recorded plat.

Applicant - Tony Tippetts said the gravel path and trees in the preservation area could be referenced in the surface agreement with owners.

Chair LaMar said he liked the tree preservation idea. He disagreed with the Property Rights Ombudsman's opinion on the term "character" and felt that reducing the lot count to fit the character of the neighborhood would have been appropriate. Commissioner Booth said the subdivision did not match the neighborhood. Chair LaMar read a comment from the City Attorney that was posted on the chat function of the electronic meeting asking if the applicant would be willing to comply with the Code standards of 19.12.100. Francis Lilly said the applicant was following it for the most part, but it referenced requirements of another zone. He suggested the applicant review Code 19.72.110 with staff during the technical review.

May asked Tippetts to inform the Commission about the construction plan. Tippetts said he was considering installing the road then selling the individual lots. The demolition paperwork for the existing home on the property had been completed. He was looking to do the whole process as quickly as possible. May asked if Tippetts would be willing to comply with code 19.12.100. Tippetts said he was not familiar with the code and did not want to agree to anything yet. Lilly said the application was subject to the landscaping ordinance for tree replacement and preservation, but there were more aggressive standards that could apply in code 19.72.110 in restoring disturbed vegetation. May said the current conditions were sufficient to accurately preserve the gully as the neighborhood wanted. He said the Commission could add a condition to explore options for tree demarcation or signage in the easement. Commissioner Stephens said the subdivision should be approved based on the current staff report. Commissioner Reid asked about working with staff on signage for tree preservation because she had concern for the long-term preservation. She suggested that there could be little signs in the ground that said, "natural preservation area." May said the Commission could approve the preliminary plat with the conditions in the staff report and amend the condition that required the applicant to meet all the requirements of the tree preservation code to also include demarcation signage options.

Commissioner Stephens, as respects to SD-19-014 preliminary plat approval for a single-family residential subdivision consisting of 5 lots located at 3675 South Craig Circle, moved that the preliminary plat be approved subject to the conditions stated in the staff report in addition that the applicant work with staff to look at and provide demarcation options for the preservation of the natural areas. Commissioner Reid seconded. Chair LaMar called for the vote. Commissioners Allen, Mumford, Claerhout, Sieber, Stephens, and Reid voted yes. Commissioners Booth and LaMar voted no. The motion passed.

3. Business Meeting

3.1 Approval of February 19, 2020 Meeting Minutes

Commissioner Booth moved to adopt the minutes from February 19, 2020. Commissioner Reid seconded. Chair LaMar called for the vote. All Commissioners voted yes. The motion passed unanimously.

3.2 Updates from the Planning and Zoning Director

Francis Lilly thanked the Commission for participating in the electronic meeting.

4. Calendar of Upcoming Meetings

- City Council Mtg., 3/23/20, 5:00 p.m. at City Hall
- Canyon Rim Citizens Association Mtg., 4/1/20, 7:00 p.m. at 2375 E. 3300 S.
- East Mill Creek Community Council Mtg., 4/2/20, 6:30 p.m. at 2266 E. Evergreen Ave.
- Mt. Olympus Community Council Mtg., 4/7/20, 6:00 p.m. at 3450 E. Oakview Dr.
- Millcreek Community Council Mtg., 4/7/20, 6:30 p.m. at City Hall
- City Council Mtg., 4/13/20, 5:00 p.m. at City Hall
- Planning Commission Mtg., 4/15/20, 5:00 p.m. at City Hall

ADJOURNED: Commissioner Stephens moved to adjourn the meeting at 9:16 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