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**MEETING MINUTE SUMMARY**  
**MILLCREEK PLANNING COMMISSION MEETING**  
**April 18, 2018 5:00 PM**  
**(approved June 20<sup>th</sup>, 2018)**

**Approximate meeting length:** 4 hours

**Number of public in attendance:** 15 plus those who did not sign or whose names were illegible

**Summary Prepared by:** Alexandra Muller

**Meeting Conducted by:** Chairman Tom Stephens

**ATTENDANCE**

Commissioners	Present	Absent
Tom Stephens (Chair)	x	
Fred Healey (Vice Chair)	x	
David Carlson	x	
Scott Claerhout	x	
Shawn LaMar	x	
Mark Mumford	x	
Heather Wilson	x	
Dave Allen	x	
Russ Booth	x	

Millcreek	Present	Absent
Jeff Silvestrini	x	
Francis Lilly	x	
Alexandra Muller	x	
Ashley Cleveland	x	
Robert May	x	
John Brems	x	

**Regular Meeting began at 5:01p.m.**

Chairman Stephens read the opening statement.

Commissioner LaMar arrived at 5:04pm

**CU-17-002** Allegiance Property Corporation requests a Final Conditional Use Permit approval for 6-unit multifamily development. **Location:** 2769 East 3300 South **Community:** Canyon Rim **Planner:** Rob May

Mr. May presented the staff report: Douglas Lowe was requesting a final conditional use approval to develop a 6-unit multifamily development at 2769 East 3300 South. As per Section 19.44.030 of the Millcreek City Code, A multi-family development is conditionally permitted in the R-M Zone with the approval of the Millcreek City Planning Commission. The purpose of the

R-M zone was to provide areas in the City for high-density residential development. The Millcreek Planning Commission had heard this request on December 13<sup>th</sup>, 2017 and granted preliminary approval, so the applicant could make some additional revisions to project. Planning Commission was concerned that the alley behind the project was in disrepair and needed verification from the city engineer that the applicants project was not responsible for any improvements to the alley due to the impacts of the multi-family increases traffic flow. Another item of concern was that the applicants plans needed to be stamped by a licensed engineer. There was no community council meeting at that time.

Mr. May said Mr. Lowe had made the necessary improvements to his plans and had provided letters of service for the improvements and new stamped plans by a licensed engineer. Additionally, the applicant had provided a letter from the city engineer that the project purview was not responsible for bearing the improvements to the alley beyond where the project impacts.

There were no questions by the Planning Commission

**Public Comment opened at 5:15pm.**

No public comments were offered.

**Public Comment closed at 5:16pm.**

No community council representative commented.

Chairman Stephens opened up the Planning Commission to discussion and motion.

Vice Chairman Healey commented developer had done everything to cooperate with previous feedback from the December meeting.

**Motion:**

Vice Chairman Healey motioned to approve a conditional use permit for # CU-17-002 for a multifamily development consisting of 6 dwelling units located at 2769 East and 3300 South with the conditions listed in the staff report.

Commissioner Claerhout seconded the motion.

No discussion on motion.

Commissioner Claerhout – Yes

Commissioner LaMar – Yes

Vice Chairman Healey – Yes

Chairman Stephens – Yes

Commissioner Mumford – Yes

Commissioner Carlson – Yes

Commissioner Wilson – Yes

**Motion passed.**

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**CU-18-002 (Continuing Business)** Gary Hassenflu requests a Conditional Use Permit for a 403-unit Mixed Use Family Development **Location:** 4186 South Main Street **Community:** Millcreek **Planner:** Ashley Cleveland

Chairman Stephens said Mr. Hassenflu had requested more time on his application.

Mr. Lilly summarized the progress of the application and said Mr. Hassenflu was making progress on a solution for a 2<sup>nd</sup> access. Getting developer

**Motion:**

Commissioner Mumford motioned for CU-18-002 a continuance on until applicant can present a final proposal.

Vice Chairman Healey seconded the motion.

Commissioner Claerhout – Yes  
Commissioner LaMar – Yes  
Vice Chairman Healey – Yes  
Chairman Stephens – Yes  
Commissioner Mumford – Yes  
Commissioner Carlson – Yes  
Commissioner Wilson – Yes

**Motion passed.**

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**ZM-18-004** Arlington Investments requests a Rezone from R-1-10 to subject to C2 and recommendation of a Development Agreement for a multifamily building **Location:** 4572-4600 South 900 East **Community:** Millcreek **Planner:** Rob May

Mr. May presented the staff report: The applicant, Arlington Investments, was petitioning the City Council to rezone the property at 4572 – 4600 South and 900 East from R-1-10 (single-family homes) to C-2 (commercial / mixed use) in order to facilitate the development of an 18-unit mixed use multi-family development to include 3,850 square feet of commercial space. The applicant was seeking a zone change as the first step of the project that would follow with a conditional use application for a mixed-use development. As per Chapter 19.60.020 of the Millcreek Code, a mixed-use development is a conditionally permitted use in the C-2 Zone with the approval of the Millcreek Planning Commission.

Mr. May continued with an explanation on the project information: Arlington Investments were proposing to develop a 3-level, 34-foot-high mixed-use project that consists of 18 two- bedroom units that range from 1,200 to 1,500 square feet in unit size. As part of the mixed use, the project will contain approximately 3,850 square feet of commercial retail space on the first floor that faces 900 East. The commercial retail space will include an outdoor patio that will serve as a public gathering space. The developer is including three amenities that include a barbecue area featuring a 12' foot gazebo, a playground area for tenant children and a basketball / sports court. He further described the building designs, height, and setbacks.

Mr. May went to describe the community council response: At their meeting on April 3, 2018 the Millcreek Community Council recommended approval of the Rezone from R-1-10 to C-2 with

the intention of developing a 18-unit multi-family mixed use project. There was some concern the parking did not meet the minimum required. The developer took note and adjusted the site plan to reflect the required parking was met. There were 8 Community Council Members in attendance. 6 had voted to recommend approval. 1 had voted to recommend denial and 1 had obtained

Commissioner Wilson said she was concerned about the size of the project and asked where was the architect stamp? She said she would not be comfortable with approving the project without it.

Mr. May said it was duly noted and it would be added before the conditional use permit.

Applicant: Jay Miraffie

Address: 6586 Heughes Canyon Drive

Mr. Miraffie said this was not the complete plan and were in the conceptual phase as they are not sure of the direction the Planning Commission might take it. He said after the rezone approval they would have a complete set of plans and have worked with the city on the requirements. He described the units and parking situation for his project.

No questions from the Planning Commission.

Lynda Bagley, Community Council Representative

Address: 1250 Manor Circle

Ms. Bagley said Mr. May did an excellent job presenting the community council views.

#### **Public Comment opened at 5:44pm**

No public comment was offered.

#### **Public Comment closed at 5:45pm**

Chairman Stephens opened Planning Commission to discussion and motion.

Chairman Stephens explained what the Planning Commission has the power to do.

Vice Chairman Healey whether they can stipulate in their recommendation to the City Council so the Commission can approve it subject to the development agreement?

Mr. Brems answered yes, they could identify the components of the development agreement.

Commissioner Allen said his concern was about this project and this looked like multi-family project especially on a street where it was not a walking commercial type of street. He said it looked like they came up with tools for the RM which were now not being applied. He said it was difficult to find the new RM zone on the city website. He said Mr. May's staff report was well done but had several questions. His view was that this was the wrong zone.

Mr. Lilly explained the 3 key differences with this project including differences between the C-2 Zone and the RM Zone such as density, open spaces

Commissioner LaMar said he was fine with how the project presented by staff and that it felt appropriate for the area.

#### **Public Comment reopened at 5:55pm**

Speaker 1: Bonnie Sweet

Address: 4572 Red Sage Court

Ms. Sweet said there was enough retail space and the area needed more family oriented places. She said she was not opposed because the project was nice but the area doesn't need more project like this one. She commented that 9<sup>th</sup> East was very busy already and so many people have been rear ended there. She noted the address was incorrect.

### **Public Comment closed 5:58pm**

Chairman Stephens reopened Planning Commission to discussion and motion.

Mr. May said the address could be readdressed and only one address would remain.

Chairman Stephens said structure of the RM was more robust and asked whether it was ok to scatter commercial everywhere?

Commissioner Carlson said he was puzzled asked why a different zone wasn't used such as an RM? He asked what did the applicant want to accomplish with this project?

Mr. Lilly said the two things you can't do in the RM: grocery stores and restaurants which were 2 concepts the applicant was considering. He added the RM does allow office and medical but with strict 9-5 uses.

Commissioner Allen thought parts of the project were not appropriate and explained his reasoning.

Vice Chairman Healey said he would play devil's advocate and explained why there should be some commercial uses that could be allowed as he was looking for most favorable use for this property. He said he wanted to limit significantly as to how it would be built which the development agreement would do.

Mr. Miraffie said initially it was separate for commercial and residential but then asked to combine. He said his preference was for a community grocery or coffee shop. He said there was a big need for apartment units right now was doing it on recommendation by staff.

Commissioner Carlson said that made him feel more comfortable and would hold the applicant to that proposed use.

Commissioner Mumford said he thought living on top of a business 24/7 would be the real issue and asked why the building was located in that particular area?

Mr. Lilly answered to create a better street presence in the area and added If the hours of operation were an issue it could be added to the development agreement.

Vice Chairman Healey said it was an arterial road so a tobacco shop could not be there.

Commissioner Allen asked who would enforce parking issues?

Mr. Lilly said the first line of enforcement would be the landlord but there were procedurals in place for violations.

Vice Chairman Healey said it was an underdeveloped area and he would give more leeway. He said he thought they could mitigate issues in the development agreement.

Commissioner Claerhout commented it could be an attractive project if a grocery store was underneath it.

Vice Chairman Healey thought the renderings would be better than what was currently at the location.

Mr. Lilly read portions of the code that explained what was allowed for the zone.

Commissioner said it felt more like a C-2 because of all the commercial around it so he would be ok with the project.

Commissioner Allen said he would vote no if he could.

**Motion:**

Commissioner LaMar motioned to approve ZM-18-004 rezone from R-1-10 to C-2 in order to facilitate the development of an 18-unit multi-family mixed use development located at 4572-4600 and 900 East, subject to a signed and recorded development agreement with the following conditions: 3800 sq ft of retail and including of the neighborhood retail and adhering to height/setbacks/renderings/hours of operation 7 am to 10pm excluding any establishment under the authority of the DAC.

Vice Chairman seconded the motion.

**Motion:**

Commissioner Wilson – No  
Commissioner Carlson – Yes  
Chairman Stephens – No  
Commissioner Mumford- Yes  
Vice Chairman Healey – Yes  
Commissioner LaMar – Yes  
Commissioner Claerhout – Yes

**Motion passed**

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Commissioner Wilson left at 6:50pm.

Break 6:34pm - 6:50pm

**ZM-18-005** Joe Johnson requests Rezone from R-M to C-2 & recommendation to adopt a development agreement for a mixed-use family **Location:** 2780 East 3300 **Community:** East Mill Creek **Planner:** Ashley Cleveland

Ms. Cleveland presented the staff report: The applicant, Joe Johnson, was seeking approval for a rezone to develop a 10-unit mixed use multifamily building with 1,600 sf of commercial space and ten residential units, located at 2780 East 3300 South. As part of this rezone, staff was recommending the adoption of a development agreement for the project. The parcel in question was approximately 0.28 acres along 3300 South. The units would be 3 stories tall with podium parking, rooftop decks, balconies, and enhanced landscaping. It could provide 1,600 square feet of commercial retail and office space.

Ms. Cleveland spoke about the project information including private balconies and podium parking. She explained the RM zone requirements for parking and amenities. She explained the General Plan considerations and issues of concern with the proposed methods of mitigation.

Ms. Cleveland spoke about the community council response: At a meeting on Thursday April 5, 2018, the East Mill Creek Community Council unanimously recommended this application for rezone from R-M to C-2, subject to a development agreement. She said she had received one phone call regarding having commercial space in an R-M zone.

Commissioner LaMar asked about the setback table and the reason for the asterisk in the staff report?

Ms. Cleveland answered the asterisk was there because it indicated enhanced landscaping which meant more than just water and grass.

Vice Chairman Healey asked for more information on building height.

Ms. Cleveland gave the feet of the building height.

Commissioner Carlson asked why did the applicant need a zone change to build this project?

Ms. Cleveland said she would let the applicant answer the question.

Joe Johnson, applicant

Address: 1946 E Clayborn Avenue

Mr. Johnson said he was a resident and was tired of seeing storage developments. He said he wanted to build something aesthetically pleasing because he loved building quality apartments to give residents opportunity to live close to home. He said it would be great for people downsizing and new married couples with the project having fantastic views. Mr. Johnson said the property currently zoned RM and since there was an economic component involved along a commercial corridor he went this route. He had met with staff to discuss why it couldn't work under RM because of density. He added he was currently working on a similar project in Salt Lake City.

Vice Chairman Healey asked for clarification on the height variations.

Mr. John said there would be 2 stories in the front and 3 stories in back.

Vice Chairman Healey asked about enhanced landscaped?

Mr. Johnson said it was more than trees and shrubs.

**Public Comment opened at 7:15pm.**

No public comment offered.

**Public Comment closed at 7:16pm.**

Chairman Stephens opened the Planning Commission to discussion and motion.

Vice Chairman Healey asked about the office space square footage.

Ms. Cleveland answered the square footage had changed from 1000 sq. feet to 1500 sq. feet because of a lobby and 2 extra parking spots.

Commissioner Carlson said there had been 2 projects in a row where developers try to run around the zone and questioned whether they got R-M right or did they need to take another look at it.

Commissioner Allen said this started out as an R-M zone and they should have used the R-M they had worked on.

Commissioner Booth said he agreed with previous comments and had concern in changing the R-M. He said he did not like to see the excess density.

Commissioner Mumford said he appreciated Mr. Johnson's viable plan but what he wanted to see was consistency.

Commissioner LaMar said he had similar concerns and commented that this project was different because it was not adjacent to the zone.

Commissioner Claerhout said he was not be in favor.

Vice Chairman Healey said his brother lived behind the project and thought this worked because it was next to a commercial corridor.

Ms. Cleveland commented that there was not a lobby but 2 commercial office spaces.

**Motion:**

Commissioner Allen recommend denial of ZM-18-005 based on the R-M being the appropriate zone.

Commissioner Mumford seconded the motion.

Commissioner Allen – Yes  
Commissioner Carlson – No  
Chairman Stephens – Yes  
Commissioner Mumford- Yes  
Vice Chairman Healey – No  
Commissioner LaMar – Yes  
Commissioner Claerhout – Yes

**Motion passed.**

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Break from 7:32pm - 7:42pm

**CU-18-005** Sean Hansen requests a Conditional Use Permit for 140-unit multifamily mixed used development **Location:** 3064 South Highland Drive **Community:** Millcreek **Planner:** Ashley Cleveland

Chairman Stephens asked the reason for the applicant's continuance?  
Mr. Lilly said the project was not mature at this point in time.



## **Motion:**

Vice Chairman Healey motioned that project CU-18-005 be continued for a later date. Commissioner Claerhout seconded the motion.

Unanimous approval.

## **Motion passed.**

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**EX-18-001** Paul Harkness requests a Special Exception to have a triplex in the R-1- 8 Zone declared legally nonconforming **Location:** 1264 East Sierra Way **Community:** Millcreek **Planner:** Robert May

**Mr. May presented the staff report:** Paul Harkness owns the property located at 1264 East Sierra Way that is currently zoned R-1-8 and consists of approximately .36 acres. The subject property currently has a structure that operates as a three-family dwelling in a zone that currently only allows one, one-family dwelling per lot. Historically, the subject property was zoned for two-family dwellings until 2004 when it was changed to single-family dwellings. Planning staff has no record or permits on file for when the structure was remodeled to a three-family dwelling. The applicant wishes to file for an application and go before the Planning Commission to have a use violation declared legal through special exception as per Chapter 19.88.140 of the Millcreek Code. Currently the subject property functions as a tri-plex with the top floor being one unit consisting of approximately 2200 s.f. and the basement floor consisting of two units that total approximately 1500 s.f. Each unit has separate entrance and has adequate off-street parking. Due to the current zoning of R-1-8, the use of a tri-plex is not a permitted use. The applicant is proposing, through application, as per Chapter 19.88.140 of the Millcreek Code to have the use of a tri-plex declared legal through special exception. Whenever land or a structure is used in violation of this Chapter, the owner may file an application with the planning commission to have the use declared legal through special exception. The Planning Commission may approve such an application only when the evidence established all of the following:

1. The use exists on the property at the time of the application and has been in continuous violation of the zoning ordinance for a period exceeding ten years;
2. No complaint has been made to the development services division concerning the violation for a period exceeding ten consecutive years during which the violation existed;
3. Continuation of the use will not have a detrimental effect on the health, safety or welfare of persons or property in the vicinity.

Mr. May went on to explain the historical zoning maps beginning from the 1850s to present and the Community Council response: At their meeting on April 3, 2018 the Millcreek Community Council unanimously recommended to the Millcreek Planning Commission to declare the use violation of a tri-plex legal through special exception with the condition that the basement units be inspected according to the Fit Premises Act, all windows encompassed by the tri-plex conversion meet current 2015 International Building Code Requirements and the minimum off-street parking requirements for each dwelling unit be met.

Commissioner Allen asked for clarification regarding the definition of a tri-plex.

Mr. May said he thought the word tri-plex was easier than saying three family dwelling. Mr. Lilly said it could be seen as a separate dwelling because there would be no communication between

the 3 sections: separate kitchen, separate living area. He said the project could be seen as having 2 mother-in-law apartments.

Paul Harkness, applicant  
Address: 1264 E Sierra way

Mr. Harkness said the only thing that wasn't correct with the presentation was that there were 2 separate entrances. He said they were both 1 bedroom 1 bath apartments with separate entrances. He said that was the way the property had been built when he purchased it 14 years ago.

Mr. May asked Mr. Harkness if there were 3 separate utilities for each section?  
Mr. Harkness said no, it was all off of one meter.

Commissioner Claerhout asked how large the windows were in the basement?  
Mr. Harkness said they were not up to standards as they were the same windows from 1986.

Chairman Stephens asked whether the applicant needed a business license?  
Mr. Lilly answered no, it was not needed as it was not a four-plex.

Mr. Brems asked since when had Mr. Harkness had the property and had he lived there?  
Mr. Harkness said he had purchased the property in 2004 and did not currently live there.

Mr. Brems asked if there had been any complaints on the property?  
Mr. Harkness said he has had no complaints and that the neighbors didn't even know there were 2 units.

**Public Comment opened at 8:12pm.**

Lynda Bagley, Millcreek Community Council Representative  
Address: 1250 Manor Circle

Ms. Bagley said the neighbors were surprised that he had more than 1 person living at the property and added that he has been an awesome neighbor.

**Public Comment closed at 8:13pm**

Commissioners discussion back and forth amongst themselves the wording on the motion and which law to follow such as the Fit Premises Act.

**Motion:**

Commissioner Carlson motioned to approve EX-18-001 use of triplex in the current single-family zone based on the evidence established that met the requirements of Chapter 19.88.140 located at 1264 East Sierra Way with the conditions stated in the staff report.  
Vice Chairman Healey seconded the motion.

Commissioner Allen – Yes  
Commissioner Carlson – Yes  
Chairman Stephens – Yes

Commissioner Mumford- Yes  
Vice Chairman Healey – Yes  
Commissioner LaMar – Yes  
Commissioner Claerhout – Yes

**Motion passed.**

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**ZT-18-003 (Continuing Business)** Millcreek will be undertaking Adoption of a Master Development Overlay Zone **Community:** City wide **Planner:** Francis Lilly

Mr. Lilly asked for a continuance on the application due to significant changes to the draft. He said he also wanted to take the new draft to the community councils for their input.

**Motion:**

Vice Chairman Healey motioned for a continuance of the application.  
Commissioner Allen seconded the motion.

Unanimously approved

**Motioned passed.**

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**ZT-18-003** Millcreek will be undertaking Amendments to the Millcreek Code Regulating Short-Term Rentals **Community:** City wide **Planner:** Francis Lilly

Mr. Lilly gave background regarding why Millcreek was undertaking Amendments to the Millcreek code including how proposing to move much of it under the business license section. He said while the Planning Commission did not have formal review authority on business license code but staff still wanted input from them before presenting it to the City Council.

Commissioners discussed enforcement issues and who would fall under the need to have a business license. Other issues discussed included how residents using Airbnb would be treated as well as distinguishing what constituted short term rental.

Mr. Lilly said he sent the draft to the community councils and did not receive formal feedback except from the Mt. Olympus Community Council which responded with unanimous approval to proposed changes.

**Public comment opened at 9:47pm.**

Speaker 1: Lynda Bagley  
Address: 1250 Manor Circle

Ms. Bagley said a lot of cities are suing Airbnb because tenants are subleasing from the company and cities are limiting how many people can have short term rentals. She said she was concerned with the wording of the ordinance because it allowed homeowners to get a business license and sublease to others.

**Public Comment closed at 9:49pm.**

**Motion:**

Commissioner Allen motioned for a positive recommendation of ZT-18-003 to the City Council and adopt the changes as done by staff.

Vice Chairman Healey seconded the motion.

Commissioner Allen – Yes

Commissioner Carlson – Yes

Chairman Stephens – Yes

Commissioner Mumford- Yes

Vice Chairman Healey – Yes

Commissioner LaMar – Yes

Commissioner Claerhout – Yes

**Motion passed.**

Commissioner Allen left at 9:50pm.

Chairman Stephen closed public hearing and opened the business portion of the meeting.

Mr. Brems spoke regarding alternate Commissioners speaking during meetings which he suggested should not happen until a regularly appointed Commissioner left and there was room on the dais.

Some Commissioners expressed that they wanted the alternates included in meetings particularly in expressing their opinion.

Mayor Silvestrini said he was concerned it may not be appropriate for alternates to participate when there was already a full Commission and added that under the ordinance there should only be 7 Commissioners. He said it could present legal issues.

Vice Chairman Healey said he had seen other planning commissions recognize alternates but they didn't participate until needed.

**Motion:**

Vice Chairman Healey motioned to adjourn.

Commissioner Mumford seconded the motion.

Unanimous approval.

**Adjourned at 8:55pm.**