



**CITY OF SILVERTON – PLANNING COMMISSION  
REGULAR MEETING**  
Silverton City Council Chambers  
421 S. Water Street  
**April 9, 2019 - 7:00 PM**

**AGENDA**

**I. ROLL CALL**

**II. MINUTES** – Minutes from the Meeting held March 12, 2019

**III. BUSINESS FROM THE FLOOR**

Items not on the Agenda.

**IV. PUBLIC HEARINGS**

**4.1 Development Code Amendment DC-19-01**

To amend the allowed use in the Residential Districts SDC 2.2.110 by allowing Nano Radio Transmission Facilities through the Conditional Use process subject to Special Use Standards. The application will be reviewed following the criteria found in Silverton Development Code section 4.7.200.

**VI. REPORTS AND COMMUNICATIONS**

**VII. ADJOURNMENT**

*Written comments may be filed with the Community Development Department, prior to the Public Hearing or you may attend the Hearing and testify in person or in writing on these applications. Additional information and/or review of this application may be obtained at Silverton City Hall, 306 South Water Street or by contacting the Community Development Department at (503) 874-2207. Copies of the staff report will be available seven (7) days prior to the public hearing. All documents will be available on our website at [www.silverton.or.us](http://www.silverton.or.us).*

*AMERICANS WITH DISABILITIES ACT: The City of Silverton intends to comply with the A.D.A. The meeting location is accessible to individuals needing special accommodations such as a sign language interpreter, headphones, or other special accommodations for the hearing impaired. To participate, please contact the City Clerk at 503-874-2216 at least 48 hours prior to the meeting.*

**CITY OF SILVERTON  
PLANNING COMMISSION MINUTES**

*Drafted for approval; subject to change and/or correction*

**7:00 P.M.**

**MARCH 12, 2019**

The Planning Commission of the City of Silverton met at the Silverton Community Center on Tuesday March 12, 2019 at 7:01 p.m., with Chairman Flowers presiding.

**9I. ROLL CALL:**

Present	Absent	
<u>  X  </u>	<u>      </u>	Chairman Clay Flowers
<u>  X  </u>	<u>      </u>	Vice-Chairman Gus Frederick
<u>  X  </u>	<u>      </u>	Morry Jones
<u>  X  </u>	<u>      </u>	Chris Mayou
<u>      </u>	<u>Excused</u>	Rich Piaskowski
<u>      </u>	<u>Excused</u>	Tasha Huebner
<u>  X  </u>	<u>      </u>	Peter Matzka

**STAFF PRESENT:**

Community Development Director, Jason Gottgetreu and Permit Assistant, Kate Schlee.

**II. APPROVAL OF THE MINUTES FROM THE MEETINGS HELD JANUARY 8<sup>TH</sup> & 22<sup>ND</sup>, 2019:**

Commissioner Frederick moved to approve the minutes of January 8, 2019 as presented. Commissioner Jones seconded the motion and it carried unanimously.

Commissioner Mayou announced that she would abstain from voting on the Minutes of January 22, 2019, but she suggested that they be amended to include the statement, "At a previous meeting," at the beginning of paragraph one under Reports and Communications on page two of the proposed Minutes.

Commissioner Frederick moved to approve the Minutes of January 22, 2019, as amended. Commissioner Matzka seconded the motion and it carried 4-0, with Commissioner Mayou abstaining.

**III. BUSINESS FROM THE FLOOR:**

There were no comments.

**IV. AGENDA ITEMS:**

**4.1 Case:** 105 North Water Street Design Review Approval Appeal

**Filed by:** Ben Johnston, Owner of 105 North Water Street, 2262 McGilchrist St SE, Salem, OR 97302

1 Blake Bural, Representative/Architect, 363 State Street, Salem OR, 97301

2  
3 **Planning Department File No.:** DR-18-03

4  
5 Chairman Flowers reviewed the Public Hearing procedures.

6  
7 Chairman Flowers opened the public hearing at 7:07 p.m., and asked for declarations of ex  
8 parte contacts and conflicts of interest. No Commissioners declared ex parte contacts or  
9 conflicts of interest.

10  
11 Director Gottgetreu presented the staff report, which explained the appellant's objections to DR-  
12 18-03 criteria 2, 5, 7, 10 and General Design Standard M.3 and presented the staff  
13 recommended design review criteria changes.

14  
15 Part of the appellant's objection to criteria 5 is that there is not an existing easement for the  
16 building to the south and that the criteria need to be more specific. Staff's recommended  
17 language, as written on pages 16-17 of the Staff Report for the Appeal of a Design Review  
18 Application for Exterior Modifications to 105 North Water Street, clarifies the issue.

19  
20 Several Commissioners expressed that they don't understand the purpose of having a right-of-  
21 way on the deck.

22  
23 Commissioner Matzka asked if the deck is being engineered to handle the load rating to  
24 withstand a large crowd. Director Gottgetreu stated that the question would be better directed to  
25 the applicant, his representative or the building official. He further stated that the easement is  
26 one step closer to achieving the goals of the Downtown Master Plan, which include a creek  
27 walk.

28  
29 Director Gottgetreu summarized that his recommendation for the commission is the approval of  
30 the revisions to criteria 2, 5 and 7 and the removal of criteria 10 and General Design Standard  
31 M.3.

32  
33  
34 **Applicant's Testimony: Ben Johnston**, Owner of 105 North Water Street, 2262 McGilchrist St  
35 SE, Salem, OR 97302

36 **Mark Hoyt**, Applicant's Representative, 693 Chemeketa St NE, Salem, OR 97301

37  
38 At 7:23 p.m., Chairman Flowers invited the applicants to come forward and provide testimony.  
39 Mr. Hoyt stated that the applicant agrees with staff.

40  
41 Mr. Hoyt provided a background of the reason for the appeal of the staff report, which is  
42 because the funds being granted to the applicant are tied to the staff report and the creek walk  
43 laid out in the Downtown Master Plan and they want a solution that can resolve the issues now  
44 and prevent them from having to be revisited or resolved later.

45  
46 He presented photographs to better demonstrate the decks between 105 North Water Street  
47 and the Wine Bar's adjacent deck.

48  
49 Commissioner Matzka asked how they would protect the street tree. Mr. Hoyt responded by  
50 explaining that due to the placement of the building, no large equipment will be used for the  
51 project and so it will be easier to work with staff to design something that works with the

1 construction practices to protect the street tree.

2  
3 Commissioner Frederick thanked the applicant for the design.

4  
5 Commissioner Mayou had no questions.

6  
7 Commissioner Jones asked Director Gottgetreu why the tree couldn't be replaced. Director  
8 Gottgetreu responded that it is a 30 year old tree that is nice and big.

9  
10  
11 **Public Testimony:** None

12  
13 **Proponent Testimony:** None

14  
15 **Opponent Testimony:** None

16  
17 **Neutral Testimony:** None

18  
19 **Written Testimony:** None

20  
21 **Rebuttal:** None

22  
23 Commissioner Frederick made a motion to close the public hearing and Commissioner Jones  
24 seconded the motion. The motion passed unanimously. Chairman Flowers closed the Public  
25 Hearing at 7:35 p.m.

26  
27 Commissioner Mayou made a motion to approve the application with the revised conditions 2, 5,  
28 7 and the removal of 10 and General Design Standard M.3. Commissioner Matzka seconded  
29 the motion. The motion passed unanimously.

30  
31  
32 **AGENDA ITEMS:**

33  
34 **5.1 Case: Discuss Development Code Amendments related to Broadband Internet**

35  
36 Director Gottgetreu presented an overhead presentation of the staff report for development  
37 code changes related to broadband internet services. He outlined the recommended changes  
38 as listed in the Memo, included in the meeting packet, using photos to demonstrate what would  
39 and would not fall within the standards. He also addressed some of the concerns that should be  
40 taken into account in drafting the code changes.

41  
42 Commissioner Mayou stated again that she is not enthusiastic about 5G and that she thinks it is  
43 abhorrent that the federal government has stated that municipalities cannot take health effects  
44 into consideration when discussing 5G deployment. She informed the commission that  
45 tomorrow, Mayor Wheeler of Portland and one of the city of Portland commissioners will be  
46 bringing forth a resolution that will be adopted despite Section 704 of TSA1996, which prevents  
47 states and local municipalities from considering the health effects of wireless infrastructure.  
48 Mayor Wheeler is urging cities to adopt resolutions stating that they will consider the health  
49 effects.

50  
51 Chairman Flowers responded by stating Commissioner Mayou's points could be issues that

1 need to be addressed in the future, but that he does not think that the 5G topic fits within the  
2 purview of what the planning commission has been asked to do by the city council.

3  
4 Director Gottgetreu reiterated that the council was not asking the planning commission to  
5 address 5G, but equipment that falls into the lower spectrum of frequencies.

6  
7 **Public Testimony: Jordan Reed**, General Manager of Adaptive Broadband, 4771 Jones Rd  
8 SE, Salem, OR

9  
10 Adaptive Broadband provides wireless internet to about a 50 mile radius around the Salem  
11 area, including Jefferson, Monmouth, Independence, Stayton, Silverton customers outside of  
12 the city limits near the Pratum area.

13  
14 Mr. Reed started out by explaining that 5G and 5 gigahertz are different things. Adaptive  
15 Broadband uses equipment that is the same as what most people have in their house right now.  
16 The FCC sets strict limits on how powerful radios are allowed to be depending on what  
17 configuration of antennas you have attached to them. For example, a cell phone could pick up  
18 signal from a tower 5 miles away, but the antennas used by Adaptive Broadband would not  
19 work if you were standing in front of it because your body alone can block out the signal  
20 because it is not strong enough to go that distance. He further explained the pictures that were  
21 previously shown by Director Gottgetreu along with an explanation of how Adaptive Broadband  
22 would set up their equipment, if allowed to operate in Silverton.

23  
24 There was a discussion regarding the scenarios that would require Conditional Use  
25 applications.

26  
27 Commissioner Matzka suggested that Mr. Reed provide physical examples of the antennas and  
28 radios that he is proposing to use.

29  
30 Chairman Flowers received affirmation that the members are willing to move forward with a  
31 public meeting.

### 32 33 34 **VI. REPORTS AND COMMUNICATIONS**

35  
36 The broadband topic will be on the April public meeting agenda. The meeting notice will be a  
37 public notice in the newspaper because notice by mail is only required when limiting what  
38 people are doing.

39  
40 Director Gottgetreu does not have an update on the James Street property appeal.

41  
42 Director Gottgetreu announced that the City hired a new City Engineer, Mike White. He comes  
43 to the city from the east coast and has about 30 years of experience both on the public side and  
44 running his own engineering firm.

45  
46 Chairman Flowers requested that Karl Berkey provide training to the commission members on  
47 traffic impact analysis reports. Commissioner Mayou reiterated that she would like to know more  
48 about them.

49  
50 Commissioner Mayou suggested that the city review the Dark Sky Program. Commissioner  
51 Frederick stated that the city is compliant. Director Gottgetreu stated that the new street lights

1 are compliant and Chairman Flowers stated that it applies from the date that city council  
2 adopted the program moving forward and there is nothing that they can do for the older lights.  
3  
4

5  
6 **VII. ADJOURNMENT**

7 Chairman Flowers adjourned the meeting at 8:27 p.m.

8  
9 Respectfully submitted,

10  
11  
12  
13 /s/ Kate Schlee,  
14 Planning and Permit Assistant  
15

DRAFT



City of Silverton  
Community Development  
306 South Water Street  
Silverton, OR 97381

**APPLICANT:**  
CITY OF SILVERTON  
306 SOUTH WATER STREET  
SILVERTON, OR 97381

## STAFF REPORT

**CONTACT PERSON:**  
JASON GOTTFREU, 503-874-2212

**PROCEDURE TYPE** IV

**LOCATION:** N/A

**FILE NUMBER:** DC-19-01

**LAND USE DISTRICT:**  
RESIDENTIAL

**PROPERTY DESCRIPTION:**  
**ASSESSOR MAP#:** N/A  
**LOT #:** N/A  
**SITE SIZE:** N/A  
**ADDRESS:** N/A

**PROPOSED DEVELOPMENT ACTION:** DEVELOPMENT CODE AMENDMENT TO AMEND THE ALLOWED USED IN THE RESIDENTIAL DISTRICTS SDC 2.2.110 BY ALLOWING NANO RADIO TRANSMISSION FACILITIES THROUGH THE CONDITIONAL USE PROCESS SUBJECT TO SPECIAL USE STANDARDS.

DATE: APRIL 2, 2019

- Attachments
- A. Review Criteria
  - B. Amended Code Language
  - C. Staff Report
  - D. Testimony

## ATTACHMENT A: REVIEW CRITERIA

**REVIEW CRITERIA:** Legislative amendments are policy decisions made by city council. They are reviewed using the Type IV procedure in SDC 4.1.500. Amendments to the comprehensive plan, and amendments to the zoning and development code or zoning map necessitating a comprehensive plan amendment, may be approved if the city council finds that the change is consistent with the following criteria:

- A. The amendment is consistent with the goals and policies of the comprehensive plan, the statewide planning goals, and any relevant area plans adopted by the city council;
- B. The amendment conforms to the transportation planning rule provisions as implemented through SDC 4.7.600; and
- C. The amendment is in the public interest; for example, it is needed to meet changing conditions or new laws.



## ATTACHMENT B: AMENDED CODE LANGUAGE

The proposed amendments are as follows. Additional language appears in italics.

Uses	Status of Use in District			
Use Categories (Examples of uses are in Chapter 1.6 SDC; definitions are in Chapter 1.5 SDC.)	Single- Family Residential (R-1)	Low Density Residential (R- 5)	Multiple- Family Residential (RM-10)	Multiple- Family Residential (RM-20)
Radio frequency transmission facilities and telecommunication towers, excluding amateur radio antennas, when accessory to a permitted use, provided they do not exceed the permitted structure height	N	N	N	N
<i>Nano radio frequency transmission facilities, per SDC 2.200.O</i>	<i>CU + S</i>	<i>CU + S</i>	<i>CU + S</i>	<i>CU + S</i>

*2.2.200.O. Nano radio frequency transmission facilities. Nano radio frequency transmission facilities shall comply with the following standards:*

- 1. Facilities are only allowed to be installed on existing residential dwellings.*
- 2. Antenna size for each site is limited to 12 square feet cumulatively with no individual antenna larger than 5 square feet.*
- 3. Antenna shall be attached via a mono pole with one connection to the structure or flush mounted to the structure. The mono pole shall not exceed 3 inches in diameter. Lattice towers and guyed towers are not permitted.*
- 4. Antenna and associated supports shall not exceed 5 feet in height or project more than 2 feet horizontally from the structure it is attached to, if flush mounted.*
- 5. All support and ancillary equipment associated with the antenna shall be placed underground or inside the existing structure the antenna is to be attached to. Ground cabinets are prohibited.*
- 6. Facilities shall not emit light visible from ROW.*
- 7. Antennas, Brackets (mounting), and Cabling shall be similar in color to the structure it is attached to.*

8. *Facilities may generate no more than 45 decibels within three feet on any residential dwelling or City park boundary, and no more than 50 decibels within ten feet of any other property.*
9. *No logos or brand names shall be visible from the Right-of-Way.*
10. *Nano radio frequency transmission facilities are limited to devices, equipment, machinery, structures or supporting elements that produce nonionizing electromagnetic radiation within the range of frequencies from 100 KHz to 7 GHz operating as a discrete unit to produce a signal or message.*

# ATTACHMENT C: STAFF REPORT, DC-19-01

## FINDINGS OF FACT

### A. Background Information:

1. City Council Goal 4 is to implement policies and programs to maintain safety and quality of life with objective 4.7 to explore ways to increase high speed data options in the city by removing barriers to entry in the city code for installation of high speed wired or wireless data networks.
2. On September 10<sup>th</sup>, 2018, the City Council directed Staff to initiate a Development Code amendment process consensus to allow the Planning Commission to look into drafting code language to amend the Development Code to allow for additional broadband facilities.
3. The Planning Commission met on November 27, 2018, January 22, 2019, and March 12, 2019 to discuss potential standards. A public hearing was advertised and scheduled for April 9, 2019.

### B. Silverton Development Code (SDC):

#### Section 4.7.200

#### Legislative Amendments

- A. *The amendment is consistent with the goals and policies of the comprehensive plan, the statewide planning goals, and any relevant area plans adopted by the city council;*

**Findings:** The Development Code Amendment is to implement a City Council Goal to implement policies and programs to maintain safety and quality of life and objective to explore ways to increase high speed data options in the city by removing barriers to entry in the city code for installation of high speed wired or wireless data networks.

The goal of the Economy element of the Comprehensive Plan is to “Diversify and improve the Economy of Silverton.” The amendment is addressing emerging ways to provide broadband internet service in the City through small scale antenna placed on private property throughout the City. The amendment will allow more competition within the broadband field which may lead to better prices and better service. Based on the above findings, the criterion is met.

- B. *The amendment conforms to the transportation planning rule provisions as implemented through SDC 4.7.600; and*

**Findings:** The code amendment does not significantly affect a transportation facility thereby making the transportation planning rule not applicable. The criterion is met.

*C. The amendment is in the public interest; for example, it is needed to meet changing conditions or new laws.*

**Findings:** This update is in the public interest by addressing a changing condition in the ways broadband internet service can be provided in the City through small scale antenna placed on private property throughout the City. The amendment is designed to allow for small antenna to be placed on residential structures in an unobtrusive manner to facilitate additional broadband options in Silverton.

A potential provided would have to submit a Condition Use application that would be reviewed by the Planning Commission in a public hearing. In addition to the Conditional Use criteria, the proposed use would also have to show compliance with the special use standards identified above.

The intent of the standards is to minimize the visual impact that Nano Wireless Facilities would have on surrounding properties. The standards would allow facilities that are similar in scale to that of the dish style antenna that are currently used for television services. Antenna size for each site is limited to 12 square feet cumulatively with no individual antenna larger than 5 square feet. The antenna would only be allowed on primary structures, thereby precluding the construction of additional accessory structures on the site to house facilities. Only the antenna and associated supports would be visible, any support or ancillary equipment would be located within the structure or be placed underground. The antennas, brackets, and cabling would have to be similar in color to the structure it is attached to the blend in with the surroundings. Based on the above findings, the criterion is met.

### **III. SUMMARY AND CONCLUSION**

Findings have been made for all of the applicable Code sections. The proposed development code amendment meets all applicable Silverton Development Code Review Criteria and Standards.

The Planning Commission shall prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative

#### **Planning Commission Options:**

1. Recommend to the City Council the APPROVAL of the proposed development code amendment as it meets the review criteria.
2. Recommend to the City Council the DENIAL of the proposed development code amendment as it does not meet the review criteria.
3. Recommend to the City Council a MODIFICATION of the proposed development code amendment so that it meets the review criteria.

Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the community development director or designee before the council public hearing on the proposal. The community development director or designee shall send a copy to each council member and place a copy in the record;

## **ATTACHMENT D: TESTIMONY**

None Received.