

**CITY OF SILVERTON
PLANNING COMMISSION MINUTES**

7:00 P.M.

JULY 14, 2020

The Planning Commission and staff of the City of Silverton met through the virtual meeting platform Zoom on July 14, 2020 at 7:08 p.m., with Chairman Flowers presiding.

I. ROLL CALL:

| Present | Absent | |
|---------------|----------------|--------------------------------|
| <u> X </u> | <u> </u> | Chairman, Clay Flowers |
| <u> X </u> | <u> </u> | Morry Jones |
| <u> X </u> | <u> </u> | Chris Mayou |
| <u> X </u> | <u> </u> | Vice Chairman, Rich Piaskowski |
| <u> X </u> | <u> </u> | Tasha Huebner |
| <u> </u> | <u>Excused</u> | Peter Matzka |
| <u> X </u> | <u> </u> | Ammon Benedict |

STAFF PRESENT:

Community Development Director, Jason Gottgetreu; Public Works Director, Petra Schuetz; and, Planning and Permit Assistant, Kate Schlee.

II. APPROVAL OF THE MINUTES:

Commissioner Piaskowski moved to approve the minutes of June 9, 2020, as amended. Commissioner Jones seconded the motion and it carried unanimously.

Amendments to Minutes: Remove the word “for” from page 4, line 12.

III. BUSINESS FROM THE FLOOR:

There were no comments.

IV. AGENDA ITEMS:

Case: 601 Ross Avenue Variance
Filed by:
Troy and Connie DeYoung
Planning Department File No.: VR-20-03

Chairman Flowers opened the hearing at 7:13 pm and asked for declarations of ex parte contacts,

conflicts of interest, and site visits. No Commissioners declared ex parte contacts or conflicts of interest. Chairman Flowers disclosed that he has viewed the site.

Community Development Director, Jason Gottgetreu presented a PowerPoint presentation of the staff report for the variance application to allow a six foot tall fence along a street frontage on a corner lot without the required five foot setback at 601 Ross Avenue. The property is located on the southwest corner of the intersection of Ross Avenue and Hazel Street. The current placement of the fence is in the public right-of-way along Hazel Street, which has been addressed in the suggested conditions of approval. Hazel Street does not have sidewalk, but a future sidewalk may conflict with the fence in the future. There are no sidewalk projects in the current or draft Transportation System Plans for Hazel Street. One of the conditions of approval would be for the homeowners to provide an insurance policy holding the city harmless in case something were to happen. An easement would also have to be recorded for the gas line that runs along the fence.

Commissioner Piaskowski asked for clarification on the easement and waiver or remonstrance that Director Gottgetreu discussed in his presentation. He further asked if the fence meets the corner lot visibility clearance. Director Gottgetreu provided the requested clarification and stated that the fence does meet the corner lot visibility clearance.

Commissioner Mayou stated that she has concerns that she will bring up during the discussion. Commissioner Mayou asked and Director Gottgetreu confirmed that the fence is currently 10 feet from where the code says it should be located.

Commissioner Jones asked for clarification on the insurance aspect that Director Gottgetreu mentioned in his presentation. Director Gottgetreu stated that the fence is on city property and the city could be sued for damages if someone were to hit it. The insurance is to reduce the amount of liability that the city would have with the structure in the right-of-way. The insurance will be paid by the homeowner.

Commissioner Huebner asked what precedent would set for the future by allowing this variance and if the homeowners could replace the current fence with a solid fence in the future. Director Gottgetreu responded that variance would only be for a six foot high fence, but the Planning Commission could attach the condition that the variance is only for this specific fence. In regards to precedence, variance applications are evaluated on an individual basis.

Commissioner Benedict asked for further clarification on the condition of approval on the insurance. Director Gottgetreu responded that the intent of the property owner carrying insurance is to alleviate city's liability.

Chairman Flowers asked if it is the homeowner's responsibility to notify the city of status changes with the fence insurance. Director Gottgetreu stated that the stipulation would be written into the policy. Chairman Flowers asked if the house were to be sold and the new homeowner removed the fence, could the fence be re-built in the same location. Director Gottgetreu responded that the stipulation could be attached to the variance that only allows the current fence and that if the fence were removed then a new fence would have to meet code requirements.

Applicants Testimony: Troy and Connie DeYoung, Property Owners, 601 Ross Avenue, Silverton, OR 97381

Mr. Young made statements about the background of the fence. He stated that they understand that ignorance is no excuse for not being in compliance with city code, which is why they applied for the variance, but they did not know they were in violation until they were contacted by Silverton code enforcement. The DeYongs have owned the home for six years. Mr. DeYoung stated that they feel like they are being picked on because they were told by the code enforcement officer that there was a complaint about the fence and that is why the violation is being addressed.

Mr. Young asked questions about the conditions of approval and Director Gottgetreu responded.

Commissioner Piaskowski asked the applicants if they would be open to retaining the open mesh type of fence as being a condition of approval and if they would be open to moving the fence if they were to remove and rebuild the fence. Mr. Young responded that they have no issues if that was added as a condition. They built the fence to keep the deer out and allow sunlight for the garden. Commissioner Piaskowski asked if they were to re-build the fence whether or not they would be willing to move the fence back. Mr. DeYoung responded that they would be open to moving the fence, but that their grapes are about three feet behind the current fence and that moving the fence would be more difficult to access the grapes.

Commissioner Mayou and Commissioner Jones had no questions for the applicants.

Commissioner Huebner asked the applicants for clarification about Mr. DeYoung's statement that there are similar violations throughout town. Mr. DeYoung responded that if you use the definition of fence in the code, which could include bushes, trees, etc., you would recognize that throughout town there are violations.

Commissioner Benedict asked the applicants for a ballpark on the cost of the fence, including the \$725 variance fee. Mr. Young responded that it was approximately \$3000-\$3500 with them building the fence themselves. Commissioner Benedict thanked the applicants.

Chairman Flowers agreed with the applicants that there are places around town that are in similar violation to code. Chairman Flowers asked if there is an after-the-fact recourse to refund the variance fee.

Public Testimony:

Proponent Testimony: None

Opponent Testimony: None

Neutral Testimony: None

Written Testimony: There are ten letters in support of the application that were included in the

meeting packet.

Rebuttal: None.

Commissioner Benedict made a motion to close the public hearing. Commissioner Huebner seconded the motion to close the public hearing. The motion to close the public hearing passed unanimously and was closed at 7:54 p.m.

Commissioner Piaskowski made comments in support of the application if the fence is maintained in the current design and the conditions of approval are met.

Commissioner Mayou stated that she is opposed to the application and she expressed multiple concerns about the fence especially the fact that it is on city property.

Commissioner Jones stated that he is frustrated that the applicants are in this position, but that he agrees with a lot of what Commissioner Mayou brought up.

Commissioner Huebner stated that she understands how the applicants ended up in this situation because she knows of other areas in town where people have done similar things. Commissioner Huebner stated that she is concerned about setting precedent, but she understands that it is hard to move the garden.

Commissioner Benedict expressed how upset he is that the DeYoungs are in this situation. He also stated that he has concerns about the pedestrian issue and isn't a fan of these fences, but that he doesn't feel comfortable enforcing this issue because if there hadn't been a complaint, they wouldn't be before the committee tonight. He also stated that he has concerns about stating that it is okay to build on city property.

Chairman Flowers stated that he is against making a condition regarding the type of fence because it is not a valid argument to state that commission members don't like this type of fence. He further stated that he sees no reason that this application should not be approved.

Commissioner Piaskowski asked Director Gottgetreu if the City's liability issues would be negated if the fence were moved to the property line. Director Gottgetreu stated that the fence would then be on private property and he would assume that it would remove the city's liability.

Commissioner Mayou stated that she is concerned and does not think that the Planning Commission should approve a variance to allow the fence to remain on city property. She would be fine if it were moved back five feet and placed on the property line and would be fine with giving the applicants time to move the fence.

Commissioner Benedict made a motion to approve the application, as presented for the existing fence. Commissioner Huebner seconded the motion. The motion passes 4-2. Commissioner Benedict, Commissioner Huebner, Commissioner Piaskowski and Chairman Flowers voted in favor of the motion. Commissioner Jones and Commissioner Mayou voted against the motion.

Amendments to conditions: None

The commission took a five minute. The meeting resumed at 8:55 p.m.

Case: Transportation System Plan

Filed by: City of Silverton, 306 S Water St, Silverton, OR

Planning Department File No.: CP-20-02 & DC-20-01

Chairman Flowers reviewed the public hearing process for the audience.

Chairman Flowers opened the hearing at 8:55 p.m. and asked if any members wished to abstain or declare a conflict of interest. No Commissioners abstained or declared a conflict of interest.

Public Works Director, Petra Schuetz presented a PowerPoint presentation of the staff report for the comprehensive plan amendment to adopt the 2020 Silverton Transportation System Plan (TSP) and Circulation Plan as a support document to the Silverton Comprehensive Plan and to amend the development code to implement the updated TSP and ensure compliance with the Oregon Transportation Planning Rule.

Commissioner Piaskowski asked how Director Gottgetreu how he sees the Planning Commission applying the documents. Director Gottgetreu gave a detailed response. Commissioner Piaskowski asked about the appendix that is associated with the document and why it is not being included with the materials that are being adopted. Director Schuetz responded that a consultant used by the city for this process recommended not adopting the appendix, but that the appendix will be published with the document.

Commissioner Mayou stated that she enjoyed reading through the plan and expressed appreciation for staff. She also pointed out a few typos within the document.

Commissioner Jones had not questions.

Commissioner Huebner expressed support for the document and appreciation for staff.

Commissioner Benedict expressed support for the document and his appreciation for staff's hard work.

Chairman Flowers expressed support for the document.

Applicants Testimony:

Chairman Flowers clarified that since the city is the applicant, the staff report presented by Director Gottgetreu acts as the applicant's testimony.

Public Testimony:

Proponent Testimony: None.

Opponent Testimony: None.

Neutral Testimony: None.

Written Testimony: None.

Rebuttal: Director Gottgetreu stated that he wants to make sure that a joint work session does not violate any procedural restrictions.

Commissioner Benedict made a motion to close the public hearing. Commissioner Mayou seconded the motion and it passed unanimously at 9:33 p.m.

Commissioner Mayou stated that she thinks that the Salamander foot bridge project would be a good community projects and could save the city \$100,000.

Commissioner Mayou made a motion to recommend to the city council to approve the Comprehensive Plan Amendment and the Development Code amendments as presented. The motion passes 6-0.

V. REPORTS AND COMMUNICATIONS

Director Gottgetreu announced that the July 28th joint work session with the Affordable Housing Task Force will happen via Zoom, at 6:00 p.m., due to the governor's order of gatherings of no more than ten people.

Commissioner Benedict expressed concern by himself and other citizens that have approached him about the homeless population including the liter, drug paraphernalia, feces, damage to private property, etc. He stated that he thinks that this is an enforcement issue, but that it needs to be addressed because it is jeopardizing public safety. Commissioner Huebner expressed a shared concern.

VI. ADJOURNMENT

The Meeting adjourned at 9:54 p.m.

Respectfully submitted,

/s/ Kate Schlee,
Planning and Permit Assistant