



**CITY OF SILVERTON – PLANNING COMMISSION
REGULAR MEETING**

Silverton City Council Chambers
421 S. Water Street
June 13, 2017 - 7:00 PM

AGENDA

I. ROLL CALL

II. MINUTES

None

III. BUSINESS FROM THE FLOOR

Items not on the Agenda.

IV. PUBLIC HEARINGS

4.1 Silverton Development Code Interpretation Regarding Residential District Setback Yards

V. REPORTS AND COMMUNICATIONS

VI. 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.

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
Community Development
306 South Water Street
Silverton, OR 97381

STAFF REPORT

FILE No. CI-17-01

LAND USE DISTRICT:

RESIDENTIAL

APPLICANT:

CITY OF SILVERTON

306 S WATER STREET

SILVERTON, OR 97381

CODE INTERPRETATION: SILVERTON DEVELOPMENT CODE INTERPRETATION REGARDING RESIDENTIAL DISTRICT SETBACK YARDS.

DATE: JUNE 6, 2017

FINDINGS

A. Background Information:

1. A question has arisen as to when certain provisions regarding setbacks and allowable setback exceptions apply in the Residential Districts and how staff interprets the provisions. The relevant code sections are Silverton Development Code (SDC) 2.2.120 and 2.2.130.
2. 4.8.100 Interpretations – Purpose.

Some terms or phrases within the code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the code text.

The community development director may initiate a code interpretation (i.e., without an application being filed by a property owner) and ask the Planning Commission to ratify the decision, in which case the city shall provide notice of the decision to affected property owner(s) with an opportunity to appeal the decision to city council. Such appeals must be filed in accordance with SDC 4.1.400.

B. Silverton Development Code:

2.2.120 Residential districts – Development standards.

The development standards in Table 2.2.120.A apply to all uses, structures, buildings, and development, and major remodels, in the residential districts.

<p>Minimum Setbacks (feet): See also: SDC 2.2.130, Residential districts – Setback yards – Exceptions, reverse frontage lots and flag lots; 3.1.200(N), Vision Clearance; and 3.2.500, Fences and Walls.</p> <p>Front/Street Setback</p> <p>Primary structure 15 ft. Garages and carport entries 20 ft. Accessory structure 20 ft. Front porch, balcony, portico, patio/garden wall and similar architectural elements that are less than 50 percent enclosed 12 ft. from right-of-way line, provided the structure does not conflict with vision clearance at intersections, utilities or easements</p>	
<p>Note: Other standards may preclude building at a minimum setback. Be sure to avoid utilities, easements, and clear vision areas. See also special setback for planned street improvements under Chapter 3.4 SDC.</p>	
<p>Side Setbacks</p> <p>One-story structures 5 ft. Two-story structures 7 ft. Three-story structures 9 ft.</p>	
<p>Accessory structure 5 ft.</p> <p>Exceptions:</p> <p>Alley minimum setback 5 ft. Common walls when allowed 0 ft.</p>	
<p>Rear Setbacks</p> <p>One-story structure 20 ft. Two-story structures 20 ft. Three-story structures 20 ft. Accessory structures 5 ft. Porches, decks and similar structures May encroach into rear yard setback 10 ft.</p>	
<p>Exceptions:</p> <p>Alley minimum setback 5 ft. Common walls when allowed 0 ft.</p>	
<p>Special setback for planned street improvements in residential districts</p>	<p>The city may require a minimum setback of up to 50 feet measured from the street center line to any structure, when a structure abuts a street containing less than the standard right-of-way for the subject street classification. Street classification and required right-of-way width are as indicated by the city of Silverton transportation system plan.</p>
<p>Special setbacks for accessory structures less than 200 square feet on corner lots</p>	<p>10 feet from street property lines and five feet from rear property lines, at least 50 feet from through curb intersection, outside of any vision clearance area.</p>
<p>Note: Other standards may preclude building at a minimum setback. Be sure to avoid utilities, easements, and clear vision areas. See also special setback for planned street improvements under Chapter 3.4 SDC.</p>	

2.2.130 Residential districts – Setback yards – Exceptions, reverse frontage lots and flag lots.

A. Residential Yard Setbacks – Purpose. Residential setback yards provide space for private yards and building separation for fire protection/security, building maintenance, sunlight and air circulation. The setback yard standards contained in Table 2.2.120 are also intended to promote human-scale design and traffic calming by diminishing the visual presence of garages along the street and encouraging the use of pedestrian amenities, such as extra-wide sidewalks and street furnishings in multiple-family developments and in residential-commercial projects. The standards also encourage the orientation of buildings to provide street visibility for public safety and neighborhood security.

B. Setback Yards – Exceptions. Eaves, chimneys, bay windows, overhangs, and similar architectural features may encroach into a side yard setback by not more than 36 inches; provided, that a setback of not less than 36 inches is preserved, all applicable building and fire codes are met, and the clear vision standards in SDC 3.1.200 are met. Porches, decks and similar structures not exceeding 30 inches in height are not subject to setback provisions. Porches, decks and similar structures exceeding 30 inches in height may encroach into the rear setback no more than 10 feet and may encroach into the front yard as provided in Table 2.2.120. Walls and fences built on property lines are subject to the height standards in Table 2.2.120 and the provisions of SDC 3.1.200 (N), Vision Clearance, and 3.2.500, Fences and walls.

C. Setback Yards – Reverse Frontage Lots. Buildings on reverse-frontage lots (through lots) shall be required to meet the street yard setback on both streets; a rear yard setback is not required. Reverse frontage lots are subject to the fence height and setback requirements in SDC 2.2.120 and the landscape buffer requirements in SDC 3.2.300.

D. Setback Yards – Flag Lots. Where flag lots are allowed, the front yard of the flag lot shall conform to one of the following, as designated by the approval body:

Option 1. Adjacent to the street from which access is taken, or

Option 2. Adjacent to the flag pole from which access is taken.

The applicant for a building permit may request either Option 1 or Option 2, except as otherwise prescribed by conditions of a partition or subdivision approval, and provided adequate setbacks and privacy screening or fencing are provided. The city may impose such conditions of approval as provided under SDC 4.3.115.

C. Staff Analysis.

A question has arisen as to the applicability of Section 2.2.130 of the Silverton Development Code (SDC). The title of the code section is “2.2.130 Residential districts – Setback yards – Exceptions, reverse frontage lots and flag lots.” And then has subsections; A. Purpose, B. Exceptions, C. Reverse Frontage Lots, and D. Flag Lots.

Subsection A is the purpose statement. The purpose statement to a land use regulation is both context for interpreting that regulation as well as an explicit statement of its purpose. Absent wording to the contrary, generally worded zoning district purpose statements are not mandatory approval criteria for permits or other site-specific land use decisions but are typically aspirational. Staff finds that Subsection A Purpose applies to all land in the Residential Districts.

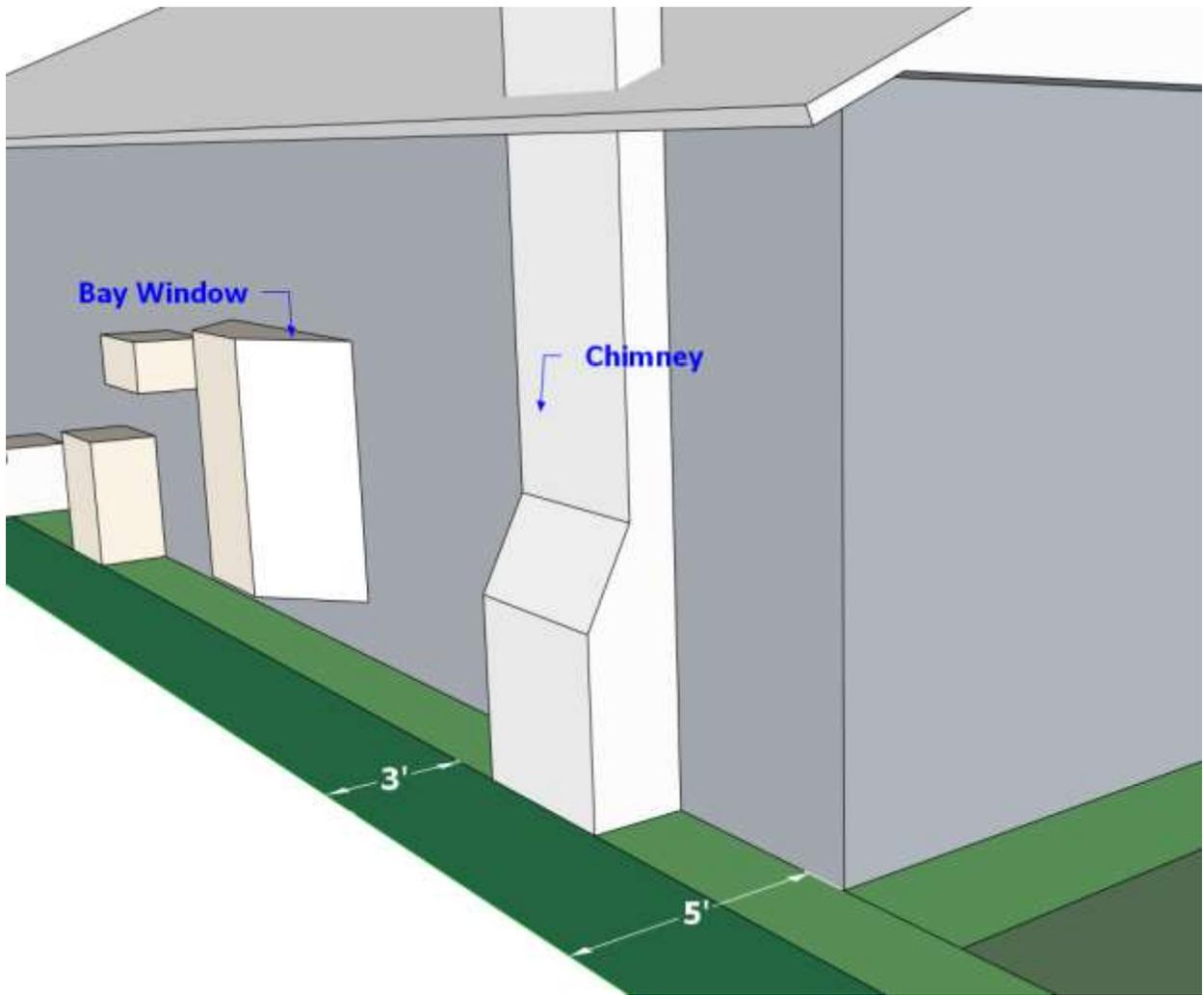
Subsection B is Exceptions. This section indicates certain circumstances where the typical standards in Table 2.2.120.A are not the prevailing code standard. For instance, a one-story structure has a 5' side yard setback. However, a chimney that is on a one-story structure may encroach into a side yard setback by not more than 36 inches; provided that a setback of not less than 36 inches is preserved. This is to allow a small encroachment while preserving access for fire protection. The Table in 2.2.120.A lays out the typical standard and is further refined by the exception section to address when certain features and structures can encroach into the setback. The sections work in concert together rather than conflict with one another. The subsection is under the heading Residential Districts – Setback Yards and staff finds the subsection to apply to all land in Residential Districts.

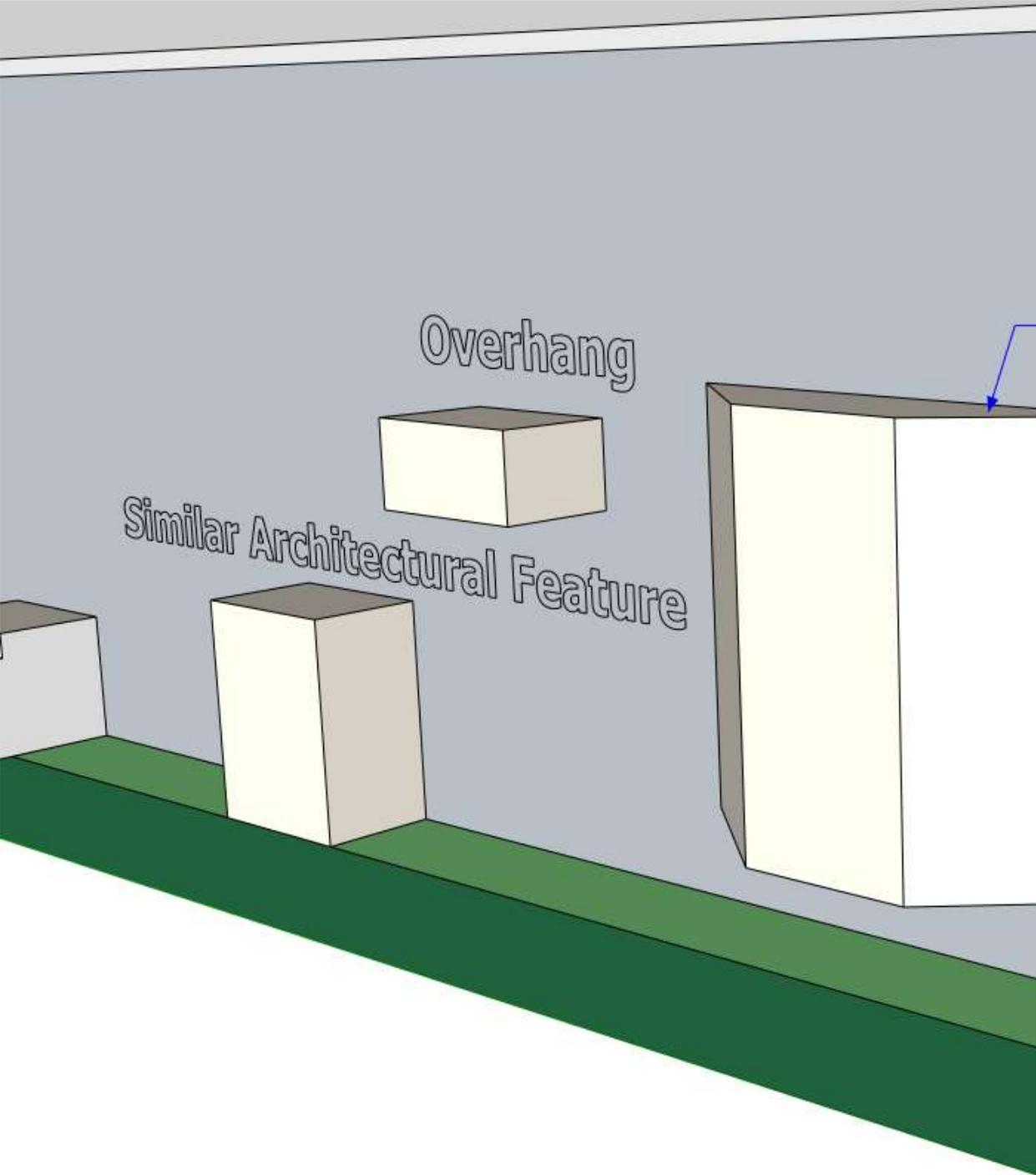
Subsection C is Reverse Frontage Lots. This section indicates how setbacks are determined on lots that have frontage on streets in the front yard and what is typically considered the rear yard. Reverse frontage lots are not a typical lot layout and therefore needed a subsection to further define setbacks. Staff finds the subsection to apply to all land in Residential Districts that are reverse frontage lots.

Subsection D is Flag Lots. This section indicates how setbacks are determined on flag lots that have two distinct parts, the flag, which is the only building site; and is located behind another lot; and the pole, which connects the flag to the street; provides the only street frontage for the lot; and at any point is less than the minimum lot width for the zone. Flag lots are not a typical lot layout and therefore needed a subsection to further define setbacks. Staff finds the subsection to apply to all land in Residential Districts that are flag lots.

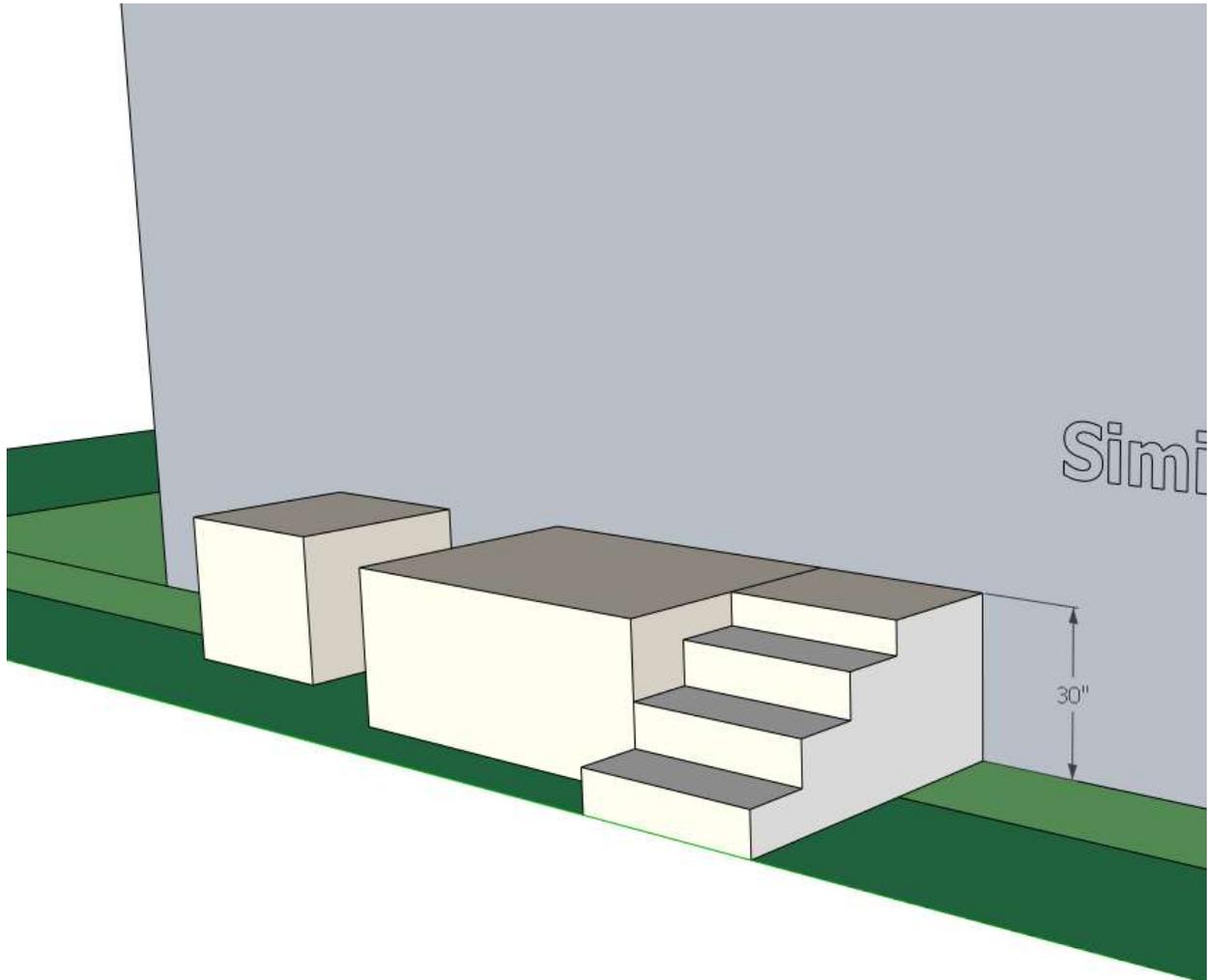
Each subsection applies to all land in the Residential districts and that they stand alone from one another; that the exceptions in Subsection B apply to all land in the Residential Districts, not just Reverse Frontage Lots or Flag Lots.

The following is an illustration how staff interprets the exceptions in Subsection B. The first sentence relates to eaves, chimneys, bay windows, overhangs and similar architectural features. Eaves, Chimneys, Bay Windows and Overhangs are defined terms and little interpretation is needed. The section then states that 'similar architectural features' are also allowed to encroach to within 3' of a property line. Similar architectural feature is not a defined term and requires interpretation. Staff's interpretation is that a small encroachment of something similar in scale to the mentioned terms in the exception would fall under the similar feature term. The rationale is that if something as large as a chimney or other identified feature would be allowed in the same spot, then staff doesn't see a strong reason to not allow a similar feature or structure in the same place provided the scale is within that of what would otherwise be allowed. The code does allow some encroachment, provided at least 3' is left so the fire district could still get to the back yard. The purpose stated in the SDC of setbacks is to provide space for private yards and building separation for fire protection/security, building maintenance, sunlight and air circulation. The interpretation is consistent with the purpose. The interpretation been vetted as reasonable by the City Attorney.





The next section of the exceptions is that Porches, decks and similar structures not exceeding 30 inches in height are not subject to setback provisions. Porches and decks are defined as “Accessory Structures” while similar structures require interpretation. The under 30” exception apply to similar structures that staff interprets as other accessory structures under 30” with a similar scale as porches and decks. Examples of accessory structures include but are not limited to: garages, decks, fences, arbors, gazebos, heat pumps, and other structures.



D. SUMMARY AND CONCLUSION

The above interpretations have been made by staff and are presented to the Planning Commission for ratification. If the interpretation is ratified, the city shall provide notice of the decision to affected property owner(s) with an opportunity to appeal the decision to city council. Such appeals must be filed in accordance with SDC 4.1.400.