

**SILVERTON PLANNING COMMISSION
REGULAR MEETING
SILVERTON COMMUNITY CENTER
421 S. WATER STREET
October 13, 2015 - 7:00 PM**

AGENDA

I. ROLL CALL

Chairman – Clay Flowers	
Vice Chairman – Gus Frederick	Commissioner – Joe Pelletier
Commissioner – Rich Piaskowski	Commissioner – Jeff DeSantis
Commissioner – Stacy Posegate	Commissioner – Phillip Appleton

II. MINUTES

Approval of Minutes of the Regular Meeting held September 8, 2015.

III. BUSINESS FROM THE FLOOR

Items not on the Agenda.

IV. PUBLIC HEARINGS

4.1 Development Code Amendment To Amend The Silverton Development Code By Adding Provision Regulation The Producing, Processing And Sale Of Marijuana

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
PLANNING COMMISSION MINUTES**

Drafted for approval; subject to change and/or correction

7:00 P.M.

September 8, 2015

The Planning Commission of the City of Silverton met at the Silverton Community Center on September 8, 2015 at 7:00 PM with Chairman Flowers presiding.

9I. ROLL CALL:

Present	Absent	
X	_____	Chairman Clay Flowers
X	_____	Vice-Chairman Gus Frederick
_____	<u>Excused</u>	Stacy Posegate
X	_____	Jeff DeSantis
X	_____	Joseph Pelletier
X	_____	Rich Piaskowski
X	_____	Phillip Appleton

STAFF PRESENT:

Community Development Director, Jason Gottgetreu; City Manager Bob Willoughby; and City Clerk, Lisa Figueroa

II. APPROVAL OF THE MINUTES FROM THE MEETING HELD , 2015:

COMMISSIONER DESANTIS MOVED TO APPROVE THE MINUTES OF JULY 14, 2015 AS PRESENTED. VICE CHAIRMAN FREDERICK SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.

COMMISSIONER DESANTIS MOVED TO APPROVE THE MINUTES OF AUGUST 11, 2015 AS PRESENTED. VICE CHAIRMAN FREDERICK SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.

III. BUSINESS FROM THE FLOOR:

There were no comments.

IV. AGENDA ITEMS:

**1. Case: 4984 East View Lane
Filed by: LaCinda Campbell
Planning Department File No.: AN-15-02**

Chairman Flowers opened the hearing 7:05 p.m. and asked for declarations of ex parte contacts, conflicts of interest, and site visits. No Commissioners declared ex parte contacts or conflicts of interest. He reviewed the Public Hearing procedures.

1 Community Development Director Jason Gottgetreu presented the Staff Report. He said the
2 property is located south of East View lane and the request is to annex it into the City limits. He
3 reviewed the review criteria. He said the well on the site has failed and they would like to
4 connect to the City's water system. He indicated the application is also requesting a waiver of
5 going to the voters because of a safety issue.
6

7 **Applicants Testimony:**

8 Joe Layton, owner of 4984 East View Lane; addressed the Commission. He said they have been
9 without water since July. He said they have considered putting a tank in but decided to request
10 an annexation.
11

12 **Public Testimony:**

13
14 **Proponent Testimony:**

15
16 There were no comments.
17

18 **Opponent Testimony:**

19
20 There were no comments.
21

22 **Neutral Testimony:**

23
24 Randy Sterner, 5114 East View Lane; asked how much property would be annexed into the City.
25 Chairman Flowers explained the annexation procedure to Mr. Sterner.
26

27 **Written Testimony:**

28
29 There were no comments.
30

31 **Rebuttal:**

32
33 Mr. Layton did not provide any rebuttal.
34

35 Chairman Flowers closed the Public Hearing at 7:15 p.m.
36

37 **COMMISSIONER DESANTIS MOVED TO RECOMMEND TO THE CITY COUNCIL**
38 **THE APPROVAL OF THE PROPOSED ANNEXATION AS IT MEETS THE REVIEW**
39 **CRITERIA AND RECOMMEND THE CITY COUNCIL ADOPT FINDING**
40 **EXEMPTING THIS ANNEXATION FROM BEING REQUIRED TO BE APPROVED**
41 **BY A MAJORITY VOTE AMONG THE ELECTORATE. VICE CHAIRMAN**
42 **FREDERICK SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.**
43

44 **2. Case:** Continued Public Hearing Design Review Application

45 **Filed by:** Silverplace Apartments

46 **Planning Department File No.:** DR-15-03
47

48 Chairman Flowers stated the public Hearing is closed, and all public testimony has been closed.

1 He asked Community Development Director Gottgetreu to provide a procedural outline before
2 the Commission continued.
3

4 Community Development Director Gottgetreu indicated the record was closed at the end of the
5 August 11, 2015 Meeting to allow the applicant seven days to submit a final argument. He said
6 the record was closed to all individuals. He indicated there were letters submitted which stated
7 the final argument contained new evidence and requested additional evidence be accepted into
8 the record. He said the record contains all testimony and evidence submitted to the City that the
9 governing body has not rejected. He said the time to reject or accept new evidence that is
10 submitted after the close of the evidentiary record is before the governing body deliberates and
11 reaches a tentative decision. He said Staff's recommendation is to reject the evidence received
12 after August 18 because the final argument does not go beyond legal argument or commentary
13 on evidence that is already in the record.
14

15 Chairman Flowers noted Commissioner Pelletier was absent from the two previous Public
16 Hearings and asked if he had reviewed the materials. Commissioner Pelletier indicated he
17 reviewed the materials, but he stated he would be abstaining from the discussion and decision.
18

19 Chairman Flowers asked the Commission if anyone felt the letter from Mr. Ramis contained any
20 new evidence and received no response. Commissioner Appleton said he felt the omission of the
21 three-story reference from the Code is of no bearing to deny the application. He said he is
22 concerned in regards to the traffic impact and recommended the City consider making those
23 neighboring streets one way to mitigate traffic in that area. He said he would be willing to
24 approve the application as presented.
25

26 Commissioner Piaskowski concurred with Commissioner Appleton's comments in regards to
27 building height. He said he understood there were concerns with the Traffic Impact Analysis
28 Report (TIA), but he stated they should consider the Engineer's recommendations. He asked for
29 what can be done about the pedestrian railroad crossing. Community Development Director
30 Gottgetreu said the applicant is offering \$50,000 to support an application for design permitting
31 and construction for a crossing modification and recommends the developer enter into an
32 agreement with Marion County regarding the terms of Marion County's involvement, including
33 their level of potential obligation for involvement in any rail appeal process. He said they would
34 have to submit the application as the roadway authority. He said the developer or their engineer
35 would enter into a public facility improvement contract consistent with the City's purchasing
36 policies for the design permitting and construction of the modification. He indicated the
37 developer would be eligible for System Development Charges credits should the costs exceed
38 \$50,000.
39

40 Vice Chairman Frederick said he understands there is a need for affordable housing in Silverton.
41 He said the developer has met all the criteria, but he is concerned the three-story buildings may
42 not be compatible with the surrounding areas.
43

44 Chairman Flowers said he believes the three-story buildings do not meet the criteria indicated in
45 the Code as it was presented. He expressed concern on the traffic impact in the neighborhood as
46 well as the request to have building lengths greater than 88-feet, which is specific in the Code.
47 He commented on several concerns and issues brought up during the Public Hearing. He said he
48 would not approve the application as written but he may consider approving it with certain

1 conditions. He said there should be some compromise because the applicant is not willing to
2 reduce the density.

3
4 Commissioner DeSantis said he was concerned with the TIA and pedestrian connectivity
5 between the neighborhoods. He said he agreed with comments from Marion County. Chairman
6 Flowers noted there was discussion about connectivity at Wilson Street and asked that it be
7 conditioned if the application moves forward.

8
9 Commissioner Piaskowski suggested the buildings closest to the neighborhood be built as two-
10 story and then transition to three-story as they move out. Chairman Flowers said it should not be
11 approved as written and he reviewed the Commission's options: a. Approve it as written; b.
12 Deny it as written; or c. Make further conditions of approval to modify it. The Commission
13 discussed the options.

14
15 **COMMISSIONER DESANTIS MOVED TO DENY THE APPLICATION AS WRITTEN.**
16 **VICE CHAIRMAN FREDERICK SECONDED THE MOTION.**

17
18 The Commission discussed the conditions of denial. Commissioner DeSantis said it does not
19 meet Code for connectivity and is not conducive with the adjoining neighborhood. Community
20 Development Director Gottgetreu indicated compatibility is not a review criterion on which the
21 application can be denied. He said there are sidewalks on the frontage of the site, so the issues
22 would be the connection to Wilson Street which could be conditioned. He noted the connectivity
23 to Fossholm Street could be done if it is practicable, after considering cost, existing technology
24 and overall purpose. Commissioner DeSantis said his motion is based on lack of connectivity to
25 adjoining neighborhoods. The Commission asked about the purpose statements. Community
26 Development Director said the listed design standards are used to implement a specific purpose
27 statement. Chairman Flowers clarified the character of the existing neighborhood is purpose
28 statement, not a Code requirement. Community Development Director Gottgetreu said yes.

29
30 **FOLLOWING DISCUSSION, THE MOTION TO DENY THE APPLICATION AS**
31 **WRITTEN BECAUSE IT DOES NOT MEET CONNECTIVITY REQUIREMENTS,**
32 **BUILDING HEIGHT, AND BUILDING COMPATABILITY CARRIED THREE TO**
33 **TWO. COMMISSIONER APPLETON AND CHAIRMAN FLOWERS OPPOSED.**
34 **COMMISSIONER PELLETIER ABSTAINED.**

35
36 Chairman Flowers asked Community Development Director Gottgetreu to outline the appeal
37 process. Community Development Director Gottgetreu said a Notice of Decision will be sent
38 out within the next ten business days, which will be followed by a ten-day appeal period. He
39 indicated anyone with standing may appeal the decision to the City Council.

40
41 **3. Case: Public Hearing of Development Code Amendment to Amend the Silverton**
42 **Development Code**

43 **Filed by:** City of Silverton

44 **Planning Department File No.:** DC-15-01

45
46 Chairman Flowers opened the hearing at 7:54 p.m. and asked for declarations of ex parte
47 contacts, conflicts of interest, and site visits. No Commissioners declared ex parte contacts or
48 conflicts of interest.

1
2 Community Development Director Gottgetreu presented the staff report. He said the City
3 Council directed Staff to include amendments to the Development Code which would allow the
4 Council to call up a decision made by the Planning Commission.

5 The Commission discussed the proposed amendments. Chairman Flowers said the proposed call
6 up decision was once in the Code, but was omitted during the last Code update. Commissioner
7 DeSantis asked for clarification on the process. Community Development Director Gottgetreu
8 outlined the process and stated with the call up decision, the Council may be able to .
9

10 Commissioner Appleton said he is concerned including the amendments into the Code because it
11 could provide an avenue for someone to bend a Councilor's ear to call up a decision of the
12 Commission. Commissioner Appleton questioned how common the call up decision is in other
13 municipalities. Community Development Director Gottgetreu indicated that because it is in the
14 Code, it does not mean the Council will call up every decision the Commission makes.
15

16 **Applicants Testimony:**

17
18 There were no additional comments.
19

20 **Public Testimony:**

21
22 **Proponent Testimony:**

23
24 There were no comments.
25

26 **Opponent Testimony:**

27
28 There were no comments.
29

30 **Neutral Testimony:**

31
32 There were no comments.
33

34 **Written Testimony:**

35
36 **Rebuttal:**

37
38 There were no comments.
39

40 **VICE CHAIRMAN FREDERICK MOVED TO CLOSE THE PUBLIC HEARING.**
41 **COMMISSIONER DESANTIS SECONDED THE MOTION AND IT CARRIED**
42 **UNANIMOUSLY.**
43

44 Chairman Flowers closed the Public Hearing at 8:05 p.m.
45

46 Commissioner Appleton said there is already an appellate process already in place, which allows
47 the applicant to appeal the decision of the Planning Commission. Community Development
48 Director Gottgetreu noted there is a \$500 fee if someone with standing, proponent, opposing, or

1 neutral standing filed an appeal.

2
3 The Commission asked why there is a \$500 fee. Community Development Director Gottgetreu
4 said there are notification requirements for the Public Hearing of the appeal. The Commission
5 discussed the process and how it would impact the Planning Commission's decision process.
6

7 **COMMISSIONER DESANTIS MOVED TO RECOMMEND TO THE CITY COUNCIL**
8 **THE DENIAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENT AS IT**
9 **DOES NOT MEET THE REVIEW CRITERIA. VICE CHAIRMAN FREDERICK**
10 **SECONDED THE MOTION.**

11
12 The Commission discussed the motion. Commissioner Appleton said the process already exists
13 and it should be citizen driven. City Manager Willoughby referenced a previous development
14 where the Commission made a decision against Staff's recommendation.
15

16 **FOLLOWING DISCUSSION THE MOTION FAILED THREE TO THREE.**
17 **COMMISSIONERS PELLETIER, FLOWERS AND PIASKOWSKI OPPOSED.**

18
19 Chairman Flowers said he would agree to the call up decision, but it has to be used in the right
20 way for checks and balances. The Commission considered reimbursing the \$500 filing fee to the
21 appellant if the Council sided with the appellant.
22

23 **COMMISSIONER DESANTIS MOVED TO RECOMMEND TO THE CITY COUNCIL**
24 **THE DENIAL OF THE PROPOSED DEVELOPMENT CODE AMENDMENT AS IT**
25 **DOES NOT MEET THE REVIEW CRITERIA. COMMISSIONER APPLETON**
26 **SECONDED THE MOTION AND IT CARRIED FOUR TO TWO. COMMISSIONERS**
27 **PIASKOWSKI AND PELLETIER OPPOSED.**

28
29 **REPORTS AND COMMUNICATIONS**

30
31 Community Development Director Gottgetreu noted there will be a development code
32 amendment before the Planning Commission in October. He said there is a joint Work Session
33 scheduled with the City Council scheduled for Monday, October 19, 2015 beginning at 6:00 p.m.
34

35 Commissioner DeSantis asked for an update regarding the speed limit change on Second Street.
36 Public Works Director Eckley said he would forward the Oregon Department of Transportation
37 report to Commissioner DeSantis.
38

39 **ADJOURNMENT**

40
41 The Meeting adjourned at 8:55 p.m.

42
43 Respectfully submitted,
44
45
46

47 /s/Lisa Figueroa,
48 City Clerk



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-15-02

LAND USE DISTRICT:
N/A

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 SILVERTON DEVELOPMENT CODE BY ADDING PROVISION REGULATION THE PRODUCING, PROCESSING AND SALE OF MARIJUANA.

DATE: OCTOBER 6, 2015

- 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

New Language *Underlined in Bold Italics.*

Section One: 1.5.300 Definitions.

“Marijuana Processor” means a facility licensed by the Oregon Liquor Control Commission or registered by the Oregon Health Authority who the process, compound or convert marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extract. Marijuana processing is a manufacturing and production use.

“Marijuana Producer” means a facility that is licensed by the Oregon Liquor Control Commission or the Oregon Health Authority to manufacture, plant, cultivate, grow or harvest marijuana. Marijuana production is an agricultural use.

“Marijuana Retailer” means a facility licensed by the Oregon Liquor Control Commission who sells marijuana to a consumer. Marijuana retailers are a retail sales and services use.

“Marijuana Wholesaler” means a facility licensed by the Oregon Liquor Control Commission who purchases marijuana items in this state for resale to a person other than a consumer. Marijuana wholesalers are a retail sales and services use.

“Medical Marijuana Dispensary” means a facility registered with the Oregon Health Authority or for which an application has been submitted to the OHA that transfers usable marijuana, immature marijuana plants, seeds, and cannabinoid products, concentrates and extracts to Registrants and Primary Caregivers. Dispensaries also receive transfers of cannabinoid products, concentrates and extracts from Marijuana Processing Sites. Dispensaries receive transfers of usable marijuana, immature marijuana plants and seeds from Registrants and Primary Caregivers. Medical marijuana dispensaries are a retail sales and services use.

“Medical Marijuana Grow Site” means specific location registered by the OHA used by a medical marijuana grower to manufacture, plant, cultivate, grow, or harvest marijuana or dries marijuana leaves or flowers marijuana for medical use by a specific patient.

Section Two: 2.2.200.3 Special use standards.

G. Home Occupations. The purpose of this section is to encourage those who are engaged in small commercial ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which, by the nature of the venture, are appropriate in scale and impact to be operated

within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses:

1. Home occupations meeting the standards in subsection (G)(2) of this section are allowed outright, provided the owner has obtained and is in compliance with all applicable permit and licensing requirements, and all other uses and structures on the subject property are in conformance with all applicable city codes and requirements.

2. Standards for Home Occupations.

a. The use is carried on only by members of the family residing on the premises and not more than one outside employee or volunteer who does not exceed 40 hours per week.

b. The home occupation shall be continuously conducted in such a manner as not to create any public or private nuisance, including, but not limited to, offensive noise, vibration, smoke, dust, odors, heat or glare resulting from the operation noticeable at or beyond the property line, fire hazards, or electronic, electrical or electromagnetic interference. In a residential zone noise associated with the home occupation of more than 55 dba at the lot line is prohibited.

c. The home occupation shall be conducted entirely within the dwelling or any attached garage or within an unattached enclosed accessory building.

d. In residential zones, no structural alterations shall be made to the dwelling that would be inconsistent with future use of the building exclusively as a dwelling.

e. No alteration to or use of the premises shall be made such as to reduce the number of required on-site parking spaces.

f. In residential zones there shall be no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a dwelling.

g. There is no visible outside storage of materials other than plant materials.

h. The use does not adversely affect the residential character of the neighborhood, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

i. There is not excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.

j. All visits by suppliers or customers shall occur between the hours of 7:00 a.m. and 7:00 p.m.

k. Construction businesses may be allowed when vehicles are screened by a sight-obscuring fence, wall or hedge or vehicles are parked in a building. All repairs and storage of materials shall occur within a building. There shall not be more than two vehicles associated with the home occupation parked on the premises at one time.

l. Where a home occupation involves deliveries one off-street loading space shall be provided. If visits by customers occur, two additional off-street parking spaces shall be provided if the street along the lot

frontage does not provide paved area for at least two parallel parking spaces within 100 feet of the residence. During normal loading/unloading or customer parking periods, the off-street loading and parking shall be reserved exclusively for that use.

m. The residence shall not be used as headquarters or main office for assembly or dispatch of employees to other locations.

n. The rental of separate living quarters within a single-family residence is limited to not more than one bedroom which does not contain separate cooking facilities and which has a maximum occupancy of two persons.

o. Home occupations conducted as a for-profit business shall obtain business licenses in accordance with Chapter 5.12 SMC.

3. Prohibited Home Occupation Uses.

a. Auto body repair and painting.

b. Ongoing mechanical repair conducted outside of an entirely enclosed building.

c. Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations which involve toxic or flammable materials which in the judgment of the fire chief of the Silverton fire district pose a dangerous risk to the residence, its occupants, and/or surrounding properties.

d. Junk and salvage operations.

e. Storage and/or sale of fireworks in quantities judged by the fire chief of the Silverton fire district to be dangerous.

f. Marijuana processors.

4. Enforcement.

a. Complaints regarding home occupations may be initiated by the city of Silverton or the public. Complaints must be related to noncompliance with the standards listed above.

b. The community development director shall make a determination of whether the alleged violation of the home occupation provisions has occurred. The determination will result in allowing the use to continue as it exists, ordering termination, or bringing into compliance with the home occupation standards.

c. If a notice of termination or an order to bring the use into compliance is given, the respondent shall be provided a reasonable time to cure or remedy the alleged infraction after the notice is given. The time allowed shall not be less than 24 hours, nor more than 30 days. Where there is an extreme hardship, additional time may be granted to the respondent. Notwithstanding the remedial time period specified above, if the community development director determines that the alleged infraction presents an immediate danger to the public health, safety or welfare, or that any continuance of the violation would

allow the respondent to profit from the violation or would otherwise be offensive to the public at large, the director may require immediate remedial actions.

d. If the community development director is unable to serve a notice of infraction on the respondent or, if after such service the respondent refuses or is unable to remedy the infraction, the city may proceed to remedy the infraction as provided in SMC15.08.790.

Section Three: 2.2.110 Residential districts – Allowed land uses.

Table 2.2.110.A identifies the land uses that are allowed in the residential districts. The specific land use categories are described and examples of uses are provided in Chapter 1.6 SDC. Land uses may not be modified through a planned development, except as provided in Chapter 4.5 SDC. Table 2.2.110.B specifies the land uses allowed in the acreage residential district.

Table 2.2.110.A – Land Uses Allowed in Residential Districts (R-1, R-5, RM-10, RM-20)

Uses	Status of Use in District			
	Single-Family Residential (R-1)	Low Density Residential (R-5)	Multiple-Family Residential (RM-10)	Multiple-Family Residential (RM-20)
Use Categories (Examples of uses are in Chapter 1.6 SDC; definitions are in Chapter 1.5 SDC.)				
Residential Categories				
<i>Household Living</i>				
Single-family (not attached; does not include cottage cluster developments)	P	P	P	P
Accessory dwelling, per SDC 2.2.200	S	S	S	S
Duplex (2 dwellings sharing a common wall on one lot), per SDC 2.2.200				
- One duplex: corner lot	S or CU	P	P	P
- One duplex: interior noncorner lot	S or CU	P	P	P
- More than one duplex (4+ units) consecutively attached	N	DR	DR	DR

Single-family attached (2 or more common-wall single-family dwellings), each on its own lot, per SDC 2.2.200	N	S	S	S
Cottage cluster (2 – 4 single-family dwellings on one lot), per SDC 2.2.200	N	DR	DR	DR
Manufactured home on individual lot, per SDC 2.2.200 , except manufactured home subdivisions	S	S	S	S
Manufactured home park, per SDC 2.2.200				
- Lawfully existing as of November 5, 2008	N/A	N/A	N/A	N/A
- New manufactured home park	N	DR	DR	N
Multifamily (3 or more dwellings on lot), per SDC 2.2.200	N	DR	DR	DR
Shipping container or converted vehicles	N	N	N	N
<i>Group Living</i>				
Group living (dormitories, sororities, fraternities)	N	N	CU	CU
Group care home, per SDC 2.2.200	P	P	P	P
Group care facility, per SDC 2.2.200	N	N	DR	DR
Group care institution, per SDC 2.2.200	N	N	DR	DR
Commercial Categories				
Bed and breakfast inn	CU+S	CU+S	CU+S	CU+S
Home occupation, per the standards in SDC 2.2.200	S	S	S	S
Kennel	N	N	N	N
Industrial Categories	N	N	N	N
Institutional Categories				

Basic utilities	P	P	P	P
Jails and detention facilities	N	N	N	N
Renewable energy facilities				
- Accessory use	CU+S	CU+S	CU+S	CU+S
- Primary use	N	N	N	N
Nonrenewable energy facilities	N	N	N	N
Telecommunication facilities and towers	N	N	N	N
Daycare, adult or child				
- Family daycare (16 or fewer children); subject to state licensing, ORS Chapter 657A	P	P	P	P
- Nonfamily daycare	CU	CU	CU	CU
Parks and open space				
- Outdoor uses, including parking	P	P	P	P
- Lighted sports fields and/or buildings exceeding 2,000 square feet	CU	CU	CU	CU
Religious institutions and houses of worship				
- Facilities lawfully established as of November 5, 2008	P	P	P	P
- New facilities	CU	CU	CU	CU
Jails and Detention Facilities	N	N	N	N
Schools				
- 20 or fewer students	P	P	P	P
- More than 20 students	CU	CU	CU	CU

<i>Other Categories</i>				
Accessory structures (with a primary use)				
- No taller than 22 ft. and no larger than 800 square feet of building footprint	S	S	S	S
- Taller than 22 ft. or larger than 800 square feet of building footprint, not to exceed primary structure's floor area	CU	CU	CU	CU
Membrane carports/canopies are not allowed within any required setback				
Farm use, keeping of livestock, except roosters and swine, if greater than 1 acre	P	N	N	N
Farm use, chickens	S	N	N	N
Farm use, sale of produce raised on premises	P	N	N	N
Agriculture – Nurseries and similar horticulture (indoor or outdoor)	P	P	P	P
<u>Agriculture – Marijuana Producers and Grow Sites Enclosed and Non-enclosed</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
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
Temporary uses (limited to “P” and “CU” uses), per SDC 4.9.100	P/CU	P/CU	P/CU	P/CU
Transportation facilities (operation, maintenance, preservation, and construction, per TSP)	P	P	P	P
Key:				

P = Permitted, subject to land use review

S = Permitted with standards (SDC [2.2.200](#)), except standards may be modified with a planned development overlay

DR = Design review required (Chapter 4.2 SDC)

CU = Conditional use required (Chapter 4.4 SDC)

N = Not permitted

Table 2.2.110.B – Land Uses Allowed in Acreage Residential District (AR)

Uses	Status of Use
Use Categories (Examples of uses are in Chapter 1.6 SDC; definitions are in Chapter 1.5 SDC.)	
Residential Categories	
<i>Household Living</i>	
Single-family (not attached; does not include cottage cluster developments)	P
Accessory dwelling, per SDC 2.2.200	P
Duplex (2 dwellings sharing a common wall on one lot), per SDC 2.2.200	N
Single-family attached (2 or more common-wall single-family dwellings), each on its own lot, per SDC 2.2.200	N
Cottage cluster (2 – 4 single-family dwellings on one lot), per SDC 2.2.200	N
Manufactured home on individual lot, per SDC 2.2.200 , except manufactured home subdivisions	S
Manufactured home park, per SDC 2.2.200	N
Multifamily (3 or more dwellings on lot), except as provided for cottage housing	N

<i>Group Living</i>	
Group care home, per SDC 2.2.200	P
Group care facility or institution, per SDC 2.2.200	N
Commercial Categories	
Bed and breakfast inn	CU+S
Commercial use in conjunction with a farm use, involving primarily sales of produce or goods not produced on the premises	CU
Home occupation, per the standards in SDC 2.2.200	P
Kennels	CU
Other commercial uses not similar to those listed above	N
Industrial Categories	N
Institutional Categories	
Basic utilities	P
Renewable Energy Facilities	
- Accessory Use	CU+S
- Primary Use	N
Nonrenewable Energy Facilities	N
Telecommunication facilities and towers	N
Community services	P
Daycare, adult or child	
- Family daycare (16 or fewer children); subject to state licensing, ORS Chapter 657A	P

- Nonfamily daycare	N
Parks and open space	
- Outdoor uses, including parking	P
- Lighted sports fields and/or buildings exceeding 2,000 square feet	CU
Religious institutions and houses of worship	
- Facilities lawfully established as of November 5, 2008	P
- New facilities, not exceeding 20,000 square feet in total floor area	CU
Jails and Detention Facilities	N
Schools	
- 20 or fewer students	P
- More than 20 students	CU
<i>Other Categories</i>	
Accessory structures (with a primary use)	
- Meeting required setbacks and height regulations with a building footprint not to exceed the primary structure's footprint	P
Membrane carports/canopies are not allowed within any required setback	
Farm use, including livestock and the sale of produce that is raised on the premises; riding academies and public stables	P
Agriculture – Nurseries and similar horticulture (indoor or outdoor), except gardening that is allowed as ancillary to a permitted residential use	P
<u>Agriculture – Marijuana Producers and Grow Sites enclosed and non-enclosed</u>	<u>N</u>
Mining and/or excavation that is not accessory to a permitted use with applicable land use approval	N

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
Temporary uses (limited to “P” and “CU” uses), per SDC 4.9.100	P/CU
Transportation facilities (operation, maintenance, preservation, and construction per TSP)	P
<p>Key:</p> <p>P = Permitted, subject to land use review</p> <p>S = Permitted with standards (SDC 2.2.200), except standards may be modified with a planned development overlay</p> <p>DR = Design review required (Chapter 4.2 SDC)</p> <p>CU = Conditional use required (Chapter 4.4 SDC)</p> <p>N = Not permitted</p>	

Section Four: 2.3.110 Commercial districts – Allowed land uses.

Table 2.3.110 identifies the land uses that are allowed in the commercial districts. The specific land use categories are described and uses are defined in Chapters 1.5 and 1.6 SDC.

Table 2.3.110 – Uses Permitted in Commercial Districts

Use Categories (Examples of uses are in Chapter 1.6 SDC; definitions are in Chapter 1.5 SDC)	Downtown Commercial (DC)	General Commercial (GC)	Downtown Commercial (DCF)
Residential Categories			
All residential uses (household living and group living) allowed, if: - Lawfully existing as of September 1, 2006 (SDC 2.3.160 (E)), or	S	S	S

- Replacement or rebuilding of residential structure conforming to the same footprint as previously existed as of November 5, 2008, or	P	P	P
- New dwelling, free-standing (not above commercial use), or	N	CU	P
- New dwelling(s) built in conjunction with a permitted commercial use, including caretaker dwellings (residential use allowed above ground floor commercial only)	P	P	P
Group living uses shall conform to the provisions in SDC 2.2.200 .			
Commercial Categories			
Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities), per SDC 2.3.160(A)	CU+S	CU+S	CU+S
Bed and breakfast inn, per SDC 2.2.200	P	P	P
Educational services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, major event	CU	CU	N
Mobile food vendor, per SDC 2.3.160(B)	S	S	S
Offices	P	P	P
Outdoor recreation, commercial	CU	CU	CU
Parking lot (when not an accessory use)	CU	CU	CU
Quick vehicle servicing or vehicle repair. (See also drive-up/drive-in/drive-through uses, per SDC 2.3.160)			
- Fully enclosed (e.g., garage)	CU	P	N
- Not enclosed	N	CU	N
Retail sales and service (See also drive-up uses, per SDC 2.3.160)			
- Fully enclosed (e.g., garage)	P	P	P

- Not enclosed (other than accessory uses)	N	N	N
- Eating establishments as an accessory use, enclosed in same building with primary use	P	P	P
- Eating establishment not enclosed, per SDC 2.3.160(C)	S	S	S
Self-service storage	N	CU	N
Industrial Categories			
Industrial service (See also drive-up uses)			
- Fully enclosed (e.g., office)	N	P	CU
- Not enclosed	N	CU	N
Manufacturing and production			
- Fully enclosed	CU	P	CU
- Not enclosed	N	CU	N
Warehouse and freight movement	N	CU	N
Waste-related	N	N	N
Wholesale sales			
- Fully enclosed	N	P	CU
- Not enclosed	N	CU	N
Institutional Categories			
Basic utilities	P	P	P
Renewable energy facilities			
- Accessory uses	CU + S	CU + S	CU + S
- Primary uses	N	CU + S	N

Nonrenewable energy facilities	N	N	N
Funeral services	P	P	P
Cemeteries, mausoleums, and crematoriums	CU	CU	CU
Colleges	P	P	P
Community service	CU	CU	CU
Daycare, adult or child daycare; family daycare (16 or fewer children) under ORS 657A.250	CU	CU	CU
Jails and detention facilities	N	CU	N
Parks and open space	P	P	P
Religious institutions and houses of worship			
- Lawfully existing as of November 5, 2008	P	P	P
- New	CU	CU	CU
Schools			
- 20 or fewer students	P	P	P
- More than 20 students	CU	CU	CU
Other Categories			
Accessory structures (with a primary permitted use)	P	P	P
Agriculture – Animals	N	N	N
Agriculture – Nurseries and similar horticulture (see also wholesale and retail uses)	CU	CU	N
<u>Agriculture – Marijuana Producers and Grow Sites enclosed</u>	<u>N</u>	<u>P</u>	<u>N</u>
<u>Agriculture – Marijuana Producers and Grow Sites non-</u>	<u>N</u>	<u>N</u>	<u>N</u>

<u>enclosed</u>			
Historic building alterations, per Chapter 3.5 SDC	S	S	S
Mining	N	N	N
Radio frequency transmission facilities and telecommunication towers and antennas, except those allowed as ancillary to a primary permitted use	N	CU	N
Rail lines and utility corridors, except existing facilities on nonzoned railroad properties are permitted	CU	CU	CU
Temporary uses (limited to “P” and “CU” uses), per SDC 4.9.100	P/CU	P/CU	P/CU
Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city’s transportation system plan)	P	P	P
<p>Key:</p> <p>P = Permitted, subject to land use review or design review (Chapter 4.2 SDC). Other uses may be allowed with a planned development</p> <p>S = Permitted with standards (SDC 2.3.160). Other uses may be allowed with a planned development</p> <p>CU = Conditional use required (Chapter 4.4 SDC). Other uses may be allowed with a planned development</p> <p>N = Not permitted</p>			

Section Five: 2.4.110 Industrial district – Allowed uses.

Table 2.4.110 identifies the land uses that are allowed in the industrial districts. The specific land use categories are described and uses are defined in Chapters 1.5 and 1.6 SDC.

Table 2.4.110

Uses	Status of Use in District		
	Industrial (I)	Light Industrial	Industrial Park (IP)
Use Categories (Examples of uses are in Chapter 1.6 SDC; definitions are in			

Chapter 1.5 SDC)		(LI)	
Residential Categories			
<i>Household Living</i>			
Residential uses (household living and group living) not allowed, except as follows:			
- Lawfully existing before September 1, 2006, per SDC 2.3.160(D) ; or	S	S	S
- Caretaker dwelling (accessory to a primary permitted use)	P	P	P
Group living uses shall conform to the provisions in SDC 2.2.200 .			
Commercial Categories			
Drive-up/drive-in/drive-through (drive-up windows, kiosks, similar uses/facilities)			
- Accessory to a primary permitted use	P	CU	CU
- Not accessory to a permitted use	CU	CU	N
Bed and breakfast inn	N	N	N
Educational services, not a school	N	CU	CU
Entertainment, major event	N	N	N
Mobile food vendor, per SDC 2.3.160(B)	S	S	S
Offices	CU	P	P
Outdoor recreation, commercial	N	N	N
Parking lot, when not an accessory use	CU	CU	CU
Quick vehicle servicing or vehicle repair	CU	CU	CU
Retail sales and service			

- Accessory to a primary permitted use	P	P	P
- Not accessory to a primary permitted use, limited to 30,000 square feet gross floor area (SDC 2.4.140)	N	S	S
Indoor sports facility – no square footage limit	CU	CU	CU
Self-service storage			
- Enclosed	P	P	P
- Unenclosed (any portion)	P	CU	N
Industrial Categories			
Heavy industrial	P	P	PH
Industrial service			
- Fully enclosed (e.g., office)	P	P	P
- Not enclosed	P	CU	N
Manufacturing and production			
- Fully enclosed	P	P	P
- Not enclosed	CU	N	N
Warehouse and freight movement	CU	CU	CU
Waste-related	CU	CU	N
- Composting facilities	CU	CU	CU
Wholesale sales, per SDC 2.4.140			
- Fully enclosed	N	S	S
- Not enclosed	CU	CU+S	CU+S

Institutional Categories			
Basic utilities	P	P	P
Renewable energy facilities			
- Accessory or primary use	CU+S	CU+S	CU+S
Nonrenewable energy facilities	CU	CU	CU
Colleges, including vocational schools	CU	P	P
Community service	CU	P	P
Daycare, adult or child daycare	N	N	N
Jails and detention facilities	CU	CU	CU
Parks and open space	P	P	P
Religious institutions and houses of worship			
- Lawfully existing as of November 5, 2008	P	P	P
- New	N	N	N
Schools			
- 20 or fewer students	N	P	P
- More than 20 students	N	CU	CU
Funeral services	P	P	P
Cemeteries, mausoleums, and crematoriums	CU	CU	CU
<i>Other Categories</i>			
Accessory structures (with a primary use)	P	P	P
Agriculture – Animals	N	N	N

Agriculture – Nurseries and similar horticulture (See also wholesale and retail uses)	P	CU	N
<u>Agriculture – Marijuana Producers and Grow Sites enclosed</u>	<u>P</u>	<u>CU</u>	<u>CU</u>
<u>Agriculture – Marijuana Producers and Grow Sites non-enclosed</u>	<u>N</u>	<u>N</u>	<u>N</u>
Mining	N	N	N
Radio frequency transmission facilities			
- Within height limit of district	P	P	P
- Exceeds height limit (free-standing or building-mounted facilities)	CU	CU	CU
Rail lines and utility corridors	CU	CU	CU
Temporary uses (limited to “P” and “CU” uses), per SDC 4.9.100 .	P/CU	P/CU	P/CU
Transportation facilities (operation, maintenance, preservation, and construction in accordance with the city’s transportation system plan)	P	P	P
<p>Key:</p> <p>P = Permitted, subject to land use review or design review (Chapter 4.2 SDC)</p> <p>PH = Permitted, subject to design review conducted by the planning commission in a public hearing</p> <p>S = Permitted with standards (SDC 2.4.140). Standards may be modified with a planned development</p> <p>CU = Conditional use required (Chapter 4.4 SDC)</p> <p>N = Not permitted</p>			

ATTACHMENT C: STAFF REPORT, DC-15-02

FINDINGS OF FACT

A. Background Information:

1. The State of Oregon passed Measure 91 which legalized recreational marijuana. The Silverton Development Code did not previously address marijuana facilities as they were not allowed by law.

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 define and regulate the growing, processing and sale of marijuana. There are no comprehensive plan policies with regard to marijuana. 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 affect the transportation system 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: With the passage of Measure 91 and subsequent revisions contained in House Bill 3400, the City has the ability to regulate marijuana facilities. There are 6 different types of marijuana facilities that are defined within SDC 1.5.300. The definitions state what type of use the facility is, which governs which zoning district it is permitted in and under what circumstances.

A Marijuana Producer is a licensed facility that grows marijuana and is not permitted in any residential zone. A producer is permitted in the General Commercial (GC) zone if it is entirely enclosed (indoor) and is not permitted in the Downtown Commercial (DC) or Downtown Commercial Fringe (DCF) zones. Outdoor production is not permitted in any Commercial zone.

A producer is permitted in the Industrial (I) zone if it is entirely enclosed (indoor) and is a Conditional Use in the Light Industrial (LI) or Industrial Park (IP) zones. Outdoor production is not permitted in any Industrial zone.

A Marijuana Processor is a licensed facility who process, compound or convert marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts. Marijuana processing is a Manufacturing and Production use. They are allowed as a Conditional Use in the DC and

DCF zones if fully enclosed and not permitted if not enclosed. In the GC zone they are permitted outright if enclosed and a Conditional Use if not enclosed. The SDC is only one portion of the regulatory framework governing marijuana facilities. There are existing State laws as well as State laws that are currently being drafted for the January 2016 licensing period. In addition, the City of Silverton adopted a licensing ordinance that contains further regulations. A typical Manufacturing and Production use could apply for a Conditional Use if not enclosed, but there is a specific regulation on Marijuana Producers that require them to be located entirely indoors. Manufacturing and Production uses are allowed in all Industrial zones.

Marijuana Retailers, Medical Marijuana Dispensaries and Marijuana Wholesalers are classified as Retail Sales and Service Uses. They are not allowed in Residential zones but are permitted in all Commercial and Industrial zones. There are existing State laws governing the location of recreational stores and dispensaries. They cannot locate within 1,000 feet of a school and medical dispensaries cannot locate within 1,000 feet of another dispensary. There is no current State law requiring retail stores to locate at least 1,000 feet from another retail store or dispensary. The City can adopt such a provision if it is determined to be in the public interest to do so.

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.