



PLANNING COMMISSION REGULAR MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201
April 24, 2023 - 6:00 PM

AGENDA

Email public comments to: publiccomment@cityofsalida.com

Please register for the Planning Commission meeting:
<https://attendee.gotowebinar.com/rt/1909092342220683277>

CALL TO ORDER BY CHAIRMAN – 6:00 PM

ROLL CALL

APPROVAL OF THE MINUTES

- 1. February 28, 2023 - Draft Minutes

UNSCHEDULED CITIZENS

AMENDMENT(S) TO AGENDA

PUBLIC HEARINGS

Public Hearings will follow the following procedure:

- | | |
|---|--|
| A. Open Public Hearing | E. Public Input |
| B. Proof of Publication | F. Close Public Hearing |
| C. Staff Review of Application/Proposal | G. Commission Discussion |
| D. Applicant's Presentation (if applicable) | H. Commission Decision or Recommendation |

- 2. **Amendments to Chapter 16 of the Salida Municipal Code** - The proposal is for an amendment to Chapter 16, of the Salida Municipal Code regarding small cell facilities to establish a procedure for the application, review, and siting of small cell facilities.

- 3. **Sherman Market Conditional Use Permit Renewal** - The request is to renew the Conditional Use Permit granted in 2022 for an Outdoor Market and Event Space located within the Central Business(C-2) zone district, Central Business Economic Overlay (CBEO) at 151 W. First Street.

UPDATES

COMMISSIONERS' COMMENTS

ADJOURN

**An alternate can only vote on, or make a motion on an agenda item if they are designated as a voting member at the beginning of an agenda item. If there is a vacant seat or a conflict of interest, the Chairman shall designate the alternate that will vote on the matter. If a Voting member shows up late to a meeting, they cannot vote on the agenda item if the alternate has been designated.



PLANNING COMMISSION REGULAR MEETING

448 E. 1st Street, Room 190 Salida, Colorado 81201
February 28, 2023 - 6:00 PM

MINUTES

Email public comments to: publiccomment@cityofsalida.com

Please register for the Planning Commission meeting:
<https://attendee.gotowebinar.com/rt/1909092342220683277>

CALL TO ORDER BY CHAIRMAN – 6:19 PM

ROLL CALL

PRESENT

Chairman Greg Follet
Vice-Chair Francie Bomer
Commissioner Giff Kriebel
Commissioner Judith Dockery
Commissioner Michelle Walker
Commissioner Brian Colby
Commissioner Aaron Derwingson
Alternate Commissioner Dan Bush

APPROVAL OF THE MINUTES

1. January 23, 2023 - Draft Minutes

Motion to approve the Meeting Minutes from January 23rd, 2023 made by Vice-Chair Bomer, Seconded by Commissioner Derwingson.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Kriebel, Commissioner Dockery, Commissioner Walker, Commissioner Colby, Commissioner Derwingson

MOTION PASSED.

UNSCHEDULED CITIZENS: NA

AMENDMENT(S) TO AGENDA: NA

PUBLIC HEARINGS

Public Hearings will follow the following procedure:

- | | |
|---|--|
| A. Open Public Hearing | E. Public Input |
| B. Proof of Publication | F. Close Public Hearing |
| C. Staff Review of Application/Proposal | G. Commission Discussion |
| D. Applicant's Presentation (if applicable) | H. Commission Decision or Recommendation |

2. **Groover Annexation** - The applicant's, Dewey and Lorita Groover, are requesting approval to annex their .65 acre property located at 7285 County Road 160.

A. Open Public hearing – 6:20 pm

B. Proof of Publication –

C. Staff Review– Planner Jefferson reviewed the application and staff recommended that Planning Commission recommends City Council approve the application subject to conditions to be added to the annexation agreement. The conditions are that they meet the current inclusionary housing

requirements, the owner agrees to pay at the time of building permit all applicable fees for the property and the fees in lieu of open space shall be provided.

Commission asked the following questions:

- To what extent could development occur on that particular acreage?
- D. Applicant’s Presentation-** Lorita and Dewey Groover were present and spoke on the application.
- E. Public Input –** NA
- F. Close Public Hearing –** 6:25 pm
- G. Commissioner Discussion –**

Commission discussed the following:

- At what point does the sidewalk requirement come in?

H. Commission Recommendation –

Motion made by Vice-Chair Bomer to recommend City Council approve the proposed Groover Annexation as it meets the findings of fact for annexation, subject to the following recommended conditions to be included in the annexation agreement, conditions number one through three, Seconded by Commissioner Kriebel.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Kriebel, Commissioner Dockery, Commissioner Walker, Commissioner Colby, Commissioner Derwingson

MOTION PASSED.

3. Groover Zoning - Major Impact Review - The applicant's, Dewey and Lorita Groover, are requesting a zoning designation of the Medium Density Residential (R-2) zone district should their property be annexed.

- A. Open Public hearing –** 6:28 pm
- B. Proof of Publication –**
- C. Staff Review–** Planner Jefferson reviewed the application and staff recommends that Planning Commission recommends City Council approve the zoning request of the Medium Density Residential (R-2) zone district.
- D. Applicant’s Presentation-** Lorita and Dewey Groover were present.
- E. Public Input –** NA
- F. Close Public Hearing –** 6:29 pm
- G. Commissioner Discussion –** NA
- H. Commission Recommendation –**

Motion made by Vice-Chair Bomer to recommend City Council approve the proposed zoning of the site as Medium Density Residential (R-2) Zone district, Seconded by Commissioner Walker.

Voting Yea: Chairman Follet, Vice-Chair Bomer, Commissioner Kriebel, Commissioner Dockery, Commissioner Walker, Commissioner Colby, Commissioner Derwingson

THE MOTION PASSED.

UPDATES

Community Development Director, Almquist provided updates.

ADJOURN With no further business to come before the Commission, the meeting adjourned at 6:44 p.m.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: April 24, 2023
AGENDA ITEM TITLE: Amendments to Chapter 16 of the Salida Municipal Code regarding Small Cell Facilities
AGENDA SECTION: Public Hearing

BACKGROUND:

In September of 2018 the Federal Communications Commission (FCC) adopted a declaratory ruling and order (“Small Cell Order”) that limited the ability of local governments to regulate the siting and placement of Small Cell Facilities. In addition to limiting local governments’ ability to regulate the actual siting and placement, the Small Cell Order also limited the recovery of fees and costs and went on to establish a presumptively valid fee schedule.

The Small Cell Order is slightly in conflict with the state statutes, so to create clarity for the City, the amendments are proposed.

Within the attached Ordinance are the proposed amendments to Chapter 16 of the Code, as it relates to creating a procedure for the application, review and siting of small cell facilities and the variance approval criteria.

The public hearing on Ordinance 2023-05 with the City Council is scheduled for May 2nd, 2023.

STAFF RECOMMENDATIONS:

Staff is recommending that Planning Commission recommend City Council approve the proposed text amendments included in Ordinance 2023-05.

RECOMMENDED MOTIONS:

- A. “I make a motion to recommend that City Council approve the proposed text amendments to Chapter 16 of the Salida Municipal Code regarding Small Cell Facilities.”

Attachments:

Ordinance 2023-05
Proof of Notice

**CITY OF SALIDA, COLORADO
ORDINANCE NO. 05
(Series of 2023)**

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO AMENDING CHAPTER 16 OF THE SALIDA MUNICIPAL CODE,
REGARDING SMALL CELL FACILITIES, TO ESTABLISH A PROCEDURE FOR
THE APPLICATION, REVIEW, AND SITING OF SMALL CELL FACILITIES**

WHEREAS, the City of Salida, Colorado (the “City”) is a statutory city, duly organized and existing under the laws of the state of Colorado;

WHEREAS, pursuant to C.R.S. § 31-15-401, the City possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare;

WHEREAS, pursuant to C.R.S. § 31-23-301, the City possesses the authority to regulate and restrict the height, size, location, and uses of buildings and other structures in furtherance of the public health, safety, and welfare;

WHEREAS, the City Council finds it desirable and prudent to regulate the siting of Small Cell Facilities to provide for managed development, installation, maintenance, modification, and removal of Small Cell Facilities that is consistent with the City’s mountain town character and to protect the health, safety, and welfare of the public;

WHEREAS, at the same time, the City Council recognizes the importance of modern, reliable wireless connectivity for its residents and endeavors to not unreasonably or materially inhibit the development of a competitive wireless communications marketplace in the City;

WHEREAS, Small Cell Facilities, which are necessary for the delivery of new and evolving wireless technologies, provide network coverage to a smaller area than previous wireless technologies and, as such, must be deployed in greater numbers, often within the public right-of-way;

WHEREAS, pursuant to C.R.S. § 29-27-404(3), the siting, construction, and operation of Small Cell Facilities is a permitted use by right in any zone, subject to the exercise of local police powers;

WHEREAS, on September 26, 2018, the Federal Communications Commission (the “FCC”) adopted a Declaratory Ruling and Order (“Small Cell Order”) limiting the ability of local governments to regulate the siting and placement of Small Cell Facilities;

WHEREAS, the FCC Small Cell Order provided that local governments cannot “materially inhibit” the deployment of Small Cell Facilities;

WHEREAS, the FCC Small Cell Order provided that aesthetic standards adopted by local governments applicable to Small Cell Facilities must be reasonable and published in advance;

WHEREAS, the FCC Small Cell Order established “shot clocks” limiting the amount of time that local governments have to respond to Small Cell Facility applications, which in some respects conflict with the shot clocks for Small Cell Facilities established under C.R.S. § 29-27-403;

WHEREAS, the FCC Small Cell Order provided that local fees associated with the deployment of Small Cell Facilities must be limited to recovery of a regulatory entity’s actual costs, and established a presumptively valid fee schedule;

WHEREAS, pursuant to the Middle Class Tax Relief and Job Creation Act of 2012, the FCC, in an Order dated May 19, 2020 (“6409 Order”), promulgated specific regulations for applications for Wireless Communications Facilities that qualify as Eligible Facilities Requests, as that term is defined in the 6409 Order;

WHEREAS, some applications for Small Cell Facilities may qualify as Eligible Facilities Requests;

WHEREAS, pursuant to 47 U.S.C. 332(c)(7)(B)(i), local governments cannot regulate the placement, construction, or modification of any Wireless Communications Facility, including Small Cell Facilities, on the basis of the environmental effects of radio frequency emissions; and

WHEREAS, the City Council finds it desirable and appropriate, and in the best interest of the general health, safety, and welfare of its residents to amend Chapter 16 of the Salida Municipal Code (the “Code”), by creating a new Article XIV, as it relates to the establishment of procedures for the application, review, and siting of Small Cell Facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Section 16-1-80 of the Code, concerning definitions for the Land Use Code, is hereby amended by the addition of the following definitions to read as follows:

This Article defines words, terms and phrases contained within this Land Use Code. The following terms shall have the following meanings when used in this Land Use Code:

...

Base Station means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of Base Station does not include or encompass a Tower as defined herein or any equipment associated with a Tower. Base Station does include, without limitation:

- a. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the City, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

b. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems (“DAS”) and small-cell networks) that, at the time the relevant application is filed with the City, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

Camouflage or Camouflage Design Techniques means measures used in the design and siting of Wireless Communications Facilities (WCFs) with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure, or (ii) is integrated in an outdoor fixture such as a flagpole, while still appearing to some extent as a WCF. This definition does not include Concealment Design Techniques where a facility is designed to look like something other than a WCF.

Concealment or Concealment Design Techniques means utilization of elements of stealth design in a facility such that the facility looks like something other than a WCF. Concealment can further include a design which mimics and is consistent with the nearby natural or architectural features (such as an artificial tree), is incorporated into existing permitted facilities (such as being attached to the exterior of such facility and painted to match it), or replaces existing permitted facilities (such as traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate Concealment Design Techniques such that the facility looks like something other than a WCF.

Eligible Facilities Request means any request for modification of an existing Tower or Base Station that does not Substantially Change the physical dimensions of such Tower or Base Station involving:

- a. Collocation of new Transmission Equipment;
- b. Removal of Transmission Equipment; or
- c. Replacement of Transmission Equipment.

A request for modification of an Existing Tower or Base Station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an Eligible Facilities Request.

Eligible Support Structure means any Tower or Base Station as defined herein, provided that it is existing at the time the relevant application is filed with the City.

Small cell facility means a wireless service facility that meets both of the following qualifications:

- a. Each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed

elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and

b. Primary equipment enclosures are no larger than seventeen (17) cubic feet in volume as measured on the exterior surface of the enclosure. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: Electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

Substantial Change means a modification substantially changes the physical dimensions of an Eligible Support Structure if, after the modification, the structure meets any of the following criteria:

a. For Towers, other than Towers in the right-of-way, it increases the height of the Tower by more than ten (10) percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other Eligible Support Structures, including Towers in the right-of-way, it increases the height of the structure by more than ten (10) percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;

b. For Towers, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

c. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the Eligible Support Structure but not to exceed four (4) cabinets per application; or for Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the structure;

d. For any Eligible Support Structure, it entails any excavation or deployment outside the current site;

e. For any Eligible Support Structure, it would defeat the Concealment elements of the Eligible Support Structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;

f. For any Eligible Support Structure, it does not comply with the conditions associated with the siting approval of the construction or modification of the Eligible Support Structure or Base Station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds

identified in paragraphs (a), (b), and (c) of this definition.

For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station.

Tower means any structure that is designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers, and other similar facilities. Small Cell Facilities in rights-of-way are not Towers.

Transmission Equipment means equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Wireless Communications Facility or WCF means a facility used to provide personal wireless services as defined in 47 U.S.C. 332(c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building used for serving that building only. A WCF includes antennas (including without limitation, directions, omni-directions, and parabolic antennas), Base Stations, Transmission Equipment, Small Cell Facilities, Towers, and support equipment. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios and their associated transmitting antennas.

Section 3. Table 16-D of Section 16-4-150 of the Code, concerning the schedule of uses and review process, is hereby amended in-part, to read as follows:

**TABLE 16-D
Schedule of Uses**

N = Not Permitted P = Permitted AC = Administrative Conditional Use C = Conditional Use AR = Administrative Review LR = Limited Impact Review MR = Major Impact Review									
Industrial Uses	R-1	R-2	R-3	R-4	RMU	C-2	C-1	I	Standards
...									
Communication facility, <u>excluding small cell facilities</u>	N	N	N	N	N	N	MR	LR	Sec. 16-4-190(o)
<u>Small cell facilities</u>	<u>AR</u>	<u>AR</u>	<u>AR</u>	<u>AR</u>	<u>AR</u>	<u>AR</u>	<u>AR</u>	<u>AR</u>	Chap. 16, Art. XIV

Section 4. Subsection 16-4-190(o) of the Code, concerning communication facilities, is amended to read as follows:

Sec. 16-4-190. – Review standards applicable to particular uses.

- ...
- (o) Communication Facilities, excluding small cell facilities
- ...

Section 5. Chapter 16, Article XIV of the Code, concerning small cell facilities, is hereby created to read as follows:

ARTICLE XIV. - SMALL CELL FACILITIES

Sec. 16-14-10. - Purpose.

The purpose of this Article is to regulate the placement, construction, and modification of Small Cell Facilities to protect the health, safety, and welfare of the public and to provide for managed development, installation, maintenance, modification, and removal of Small Cell Facilities that is consistent with the City’s mountain town character, while at the same time not unreasonably interfering with or materially inhibiting the development of a competitive wireless communications marketplace in the City.

Sec. 16-14-20. - Scope and applicability.

No person shall construct a Small Cell Facility in the City except in compliance with the provisions of this Article. Wireless communications providers shall request permission to locate Small Cell Facilities or modify existing Small Cell Facilities pursuant to the requirements of this Article. The siting, mounting, placement, construction, and operation of Small Cell Facilities is a permitted use by right in any zone, provided that the conditions of this Article are satisfied.

Sec. 16-14-30. - Procedures for review.

(a) Small Cell Facilities - Generally. No new Small Cell Facility shall be constructed except after a written request from an applicant, reviewed and approved by the City in accordance with the procedures set forth in this subsection (a), unless eligible for review as an Eligible Facilities Request as set forth in subsection (b).

(1) Within ten (10) business days of receipt of an application for a new Small Cell Facility, the Administrator shall provide written comments to the applicant determining completeness of the application and setting forth any modifications required to complete the application to bring the proposal into full compliance with the requirements of this Article.

a. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within ten (10) business days of receipt of the application, specifically delineating all missing documents or information required in the application.

b. The timeframe for review resets to zero (0) when the applicant makes a supplemental written submission in response to the City’s notice of incompleteness.

c. Following a supplemental submission, the City will notify the applicant within ten (10) business days whether the supplemental submission provided the information identified in the original notice delineating missing information. If the application remains incomplete, the timeframe is tolled pursuant to the procedures identified in the foregoing paragraphs. In the case of a second or subsequent notice of incompleteness, the City may not specify missing information or documents that were not delineated in the original notice of incompleteness.

(2) Subject to tolling, the City shall approve or deny an application for a new Small Cell Facility within ninety (90) calendar days of the date on which the City receives such an application.

(b) Small Cell Facilities - Eligible Facilities Requests. No collocation of a Small Cell Facility nor modification to any existing Small Cell Facility shall occur except after a written request from an applicant, reviewed and approved by the City in accordance with the procedures for Eligible Facilities Requests set forth in this subsection (b).

(1) Upon receipt of an application for an Eligible Facilities Request, the City shall review such application to determine whether the application so qualifies. An application for an Eligible Facilities Request does not qualify as such if the modification would result in a Substantial Change to an Eligible Support Structure or would violate a generally applicable building, structural, electrical, or safety code or other law codifying objective standards reasonably related to public health and safety.

(2) Subject to tolling, the City shall approve an Eligible Facilities Request within sixty (60) calendar days of the date on which the City receives such an application, unless it determines that the request is not properly classified as an Eligible Facilities Request. The sixty (60) calendar day review period begins to run when the application is filed with the City, and may be tolled by mutual agreement of the City and the applicant or where the City determines that

the application is incomplete, as follows:

- a. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within thirty (30) calendar days of receipt of the application, specifically delineating all missing documents or information required in the application;
- b. Upon notice of incompleteness to the applicant, the timeframe for review pauses. The timeframe for review begins running again, but does not reset to zero (0), when the applicant makes a supplemental written submission in response to the City’s notice of incompleteness; and
- c. Following a supplemental submission, the City will notify the applicant within ten (10) calendar days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in the foregoing paragraphs. In the case of a second or subsequent notice of incompleteness, the City may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(3) In the event the City fails to act on an Eligible Facilities Request within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant of approval becomes effective when the applicant notifies the City in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(c) The Administrator shall be the final approval authority for all Small Cell Facilities and Eligible Facilities Requests and, upon approval, shall issue a permit to the applicant to deploy or modify a Small Cell Facility.

(d) Where an applicant seeks approval for more than one (1) Small Cell Facility, the City shall allow the applicant, at the applicant’s discretion, to file a consolidated application for Small Cell Facilities and receive a single approval for multiple Small Cell Facilities in a consolidated application. For a consolidated application, each Small Cell Facility within the consolidated application remains subject to review for compliance with the requirements of this Article. The denial of any individual Small Cell Facility is not a basis to deny the consolidated application as a whole or any other Small Cell Facility incorporated within the consolidated application.

(e) The Administrator may apply reasonable conditions to the approval of a Small Cell Facility application or an Eligible Facilities Request to ensure conformance with applicable design criteria or to advance a legitimate City interest related to health, safety, or welfare, except where the City’s authority is limited with respect to Eligible Facilities Requests.

(f) The approval under this Article for any Small Cell Facility expires if the Small Cell Facility is not established within one (1) year of the approval or if it is abandoned or unused for a period of six (6) months.

Sec. 16-14-40. - Application contents; fees.

(a) An application for a Small Cell Facility or an Eligible Facilities Request shall include the

following information and materials:

- (1) The applicant’s name, address, and telephone number and the name, address, and telephone number of any representative authorized to act on behalf of the applicant.
- (2) A description of the property on which the Small Cell Facility is proposed for development, including a visual plan illustrating the proposed location of the Small Cell Facility.
- (3) A disclosure of the ownership of the property on which the Small Cell Facility is proposed for development, and a demonstration of the applicant’s right to install a Small Cell Facility on such property.
- (4) An eight and one-half (8½) inches by eleven (11) inches vicinity map locating the subject property within the City.
- (5) A written description of the proposal and a written explanation of how the proposed Small Cell Facility complies with the requirements for Small Cell Facilities or, if applicable, Eligible Facilities Requests.
- (6) A signed statement from a qualified radio frequency engineer, certifying that a technical evaluation of proposed Small Cell Facility indicates no potential interference problems and that the site will comply with all applicable regulations for radio frequency emissions promulgated by the FCC.
- (7) A signed statement from the applicant certifying the accuracy of the information contained in the application.

(b) An applicant for a Small Cell Facility or Eligible Facilities Request shall pay the required fees as set forth in the City’s fee schedule. An application submitted without the required fees shall be deemed incomplete.

(c) All applications are public records and the information contained therein is subject to disclosure, except such information that is protected from public disclosure by applicable law.

Sec. 16-14-50. - Design standards.

Small Cell Facilities shall conform to the following design standards:

- (1) Trees. Existing trees shall be preserved to the maximum extent possible.
- (2) Height limitation. The maximum height of any Small Cell Facility shall either not exceed the maximum structure height established for the zoning district in which the facility is to be located or not extend beyond five (5) feet taller than any other utility poles or traffic signals within five hundred (500) feet of the proposed Small Cell Facility located within the same zone district.
- (3) Camouflage/concealment required. Small Cell Facilities shall, to the maximum extent possible, use Concealment Design Techniques, such as incorporating the facility into the built

environment, using a pole painted a color consistent with other utility poles in the vicinity (with all antennas and related equipment located within the pole structure), or replacing existing permitted facilities with Small Cell Facilities located within the replaced poles, so that the presence of the Small Cell Facility is not apparent. Where Concealment Design Techniques are not possible, Small Cell Facilities shall utilize Camouflage Design Techniques. Camouflage Design Techniques include, but are not limited to using materials, colors, textures, screening, undergrounding, landscaping, or other design options that will blend the site to the surrounding natural setting and built environment.

(4) Non-reflective materials. The visible exterior surfaces of Small Cell Facilities, such as poles, antennas, vaults, and equipment enclosure structures shall be constructed out of or finished with non-reflective materials and shall be painted to match as closely as possible the color and texture of the vertical infrastructure on which it is mounted.

(5) Equipment vaults below grade. Except for equipment that is expressly permitted above grade for a Small Cell Facility, equipment vaults and other Transmission Equipment shall be placed below grade when located within the right-of-way. Such equipment may be placed above grade outside of the right-of-way, provided Concealment/Camouflage Design Techniques are utilized.

(6) Multiple users. To the extent practicable, all Small Cell Facilities shall be designed and constructed to permit such facilities to accommodate at least two (2) wireless service providers on the same facility.

(7) Separation. All stand-alone Small Cell Facilities located within the right-of-way shall be separated from other stand-alone Small Cell Facilities by a distance of at least six hundred (600) feet. In determining compliance with this separation requirement, the Administrator may consider approved and pending applications for other Small Cell Facilities.

(8) Residential property. When located adjacent to a residential property, a Small Cell Facility must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, a Small Cell Facility must be placed in front of the common side yard property line adjoining residential properties or on the corner formed by two intersecting streets.

(9) Historic preservation. Any Small Cell Facility that is proposed for construction in a historic district shall be required to receive a certificate of approval pursuant to Chapter 16, Article XII, unless exempt pursuant to Section 16-12-100.

(10) Any other administratively approved Small Cell Facility design standards adopted by the Administrator.

Sec. 16-14-60. - Operational standards.

(a) Federal requirements. All Small Cell Facilities shall meet the current standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the federal government with the authority to regulate Small Cell Facilities. If such standards and regulations are changed, then the owners of the Small Cell Facility shall bring such

facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the Small Cell Facility at the applicant's expense.

(b) Radio frequency standards. All Small Cell Facilities shall comply with federal standards for radio frequency emissions.

(c) Signal interference. All Small Cell Facilities shall be designed and sited, consistent with applicable federal regulations, so as not to cause interference with the normal operation of radio, television, telephone, public safety communications, and other services utilized by adjacent residential and non-residential properties.

(d) Operation and maintenance. All Small Cell Facilities shall be maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the City concludes that a Small Cell Facility fails to comply with such codes and constitutes a danger to persons or property, then the City may take any action with respect to such violation as provided by applicable law, including removal of the Small Cell Facility at the applicant's expense.

(e) Abandonment and removal. Any Small Cell Facility that is not used for a period of six (6) months or more shall be deemed to be abandoned. No applicant shall fail to remove a Small Cell Facility that is abandoned. If a Small Cell Facility applicant fails to remove an abandoned facility at the request of the Administrator, the City may remove the Small Cell Facility at the applicant's expense.

(f) Hazardous materials. No hazardous materials shall be permitted in association with Small Cell Facilities, except those necessary for the operation of Small Cell Facilities and only in accordance with all applicable laws governing such materials.

(g) Collocation. No Small Cell Facility applicant shall unreasonably exclude a communications competitor from using the same facility or location. Upon request by the Administrator, the applicant shall provide evidence explaining why collocation is not possible at a particular facility or location.

(h) Compliance with other laws. All Small Cell Facilities shall meet the requirements of the City design and construction standards, the requirements of Chapter 11, "Streets, Sidewalks and Public Property," and all other applicable local, state, and federal laws.

Sec. 16-14-70. - Indemnification.

As a condition of its permit, the applicant for any Small Cell Facility shall, at its sole cost and expense, indemnify, hold harmless and faithfully defend the City, its officials, boards, commissions, commissioners, agents, and employees against any claims, suits, causes of action, proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of its equipment authorized by this Article. This indemnification requirement will apply whether the act or omission complained of is authorized, allowed, or prohibited by applicable law, except in cases where liability is solely caused by the negligence of the person or persons covered by the indemnity.

Sec. 16-14-80. - Waiver.

The Administrator shall have the authority to waive any requirement or standard set forth in this Article if the Administrator makes a determination that the specific requirement or standard is preempted by federal or state law. Prior to applying the waiver to any pending application, the Administrator shall, in consultation with the City Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific City requirement or standard set forth in this Article.

Section 6. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING on this __ day of _____, 2023, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this ____ day of _____, 2023, and set for second reading and public hearing on the __ day of _____, 2023.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED IN FULL, by the City Council on this __ day of _____, 2023.

City of Salida

Mayor Dan Shore

ATTEST:

City Clerk

**THE PLANNING COMMISSION AND
CITY COUNCIL FOR THE CITY OF
SALIDA CONCERNING A PROPOSED
AMENDMENT TO CHAPTER 16, OF THE
SALIDA MUNICIPAL CODE REGARDING
SMALL CELL FACILITIES**

**TO ALL MEMBERS OF THE PUBLIC
AND INTERESTED PERSONS: PLEASE
TAKE NOTICE** that on **April 24, 2023** at
or about the hour of 6:00 p.m., a public
hearing will be conducted by the City of
Salida Planning Commission at City Council
Chambers, 448 East First Street, Suite 190,
Salida, Colorado and online at the following
link: [https://attendee.gotowebinar.com/
rt/1909092342220683277](https://attendee.gotowebinar.com/rt/1909092342220683277)

The hearing is regarding proposed
amendments to Chapter 16, of the Salida
Municipal Code regarding small cell facilities
to establish a procedure for the application,
review, and siting of small cell facilities.

Any recommendation by the Planning
Commission shall be forwarded to the
City Council for review and public hearing
scheduled for **May 2, 2023** at or about
the hour of 6:00 p.m. at City Council
Chambers and online at the following
link: [https://attendee.gotowebinar.com/
register/6382995264411204366](https://attendee.gotowebinar.com/register/6382995264411204366).

Interested persons are encouraged to attend
the public hearings. Further information on
the application may be obtained from the
Community Development Director, (719) 530-
2634.

*Please note that it is inappropriate to
personally contact individual Planning
Commissioners or City Councilors outside
of the public hearing while an application
is pending. Such contact is considered
ex parte communication and will have to
be disclosed as part of the public hearings
on the matter. If you have any questions/
comments, you should email or write a letter
to staff, or present your concerns at the
public meeting via the above GoToWebinar
link so your comments can be made part of
the record.

Published in The Mountain Mail April 4, 2023



STAFF REPORT

MEETING DATE: April 24, 2023

AGENDA ITEM TITLE: The Sherman Market– Renewal of a Conditional Use Permit – 151 W. First Street

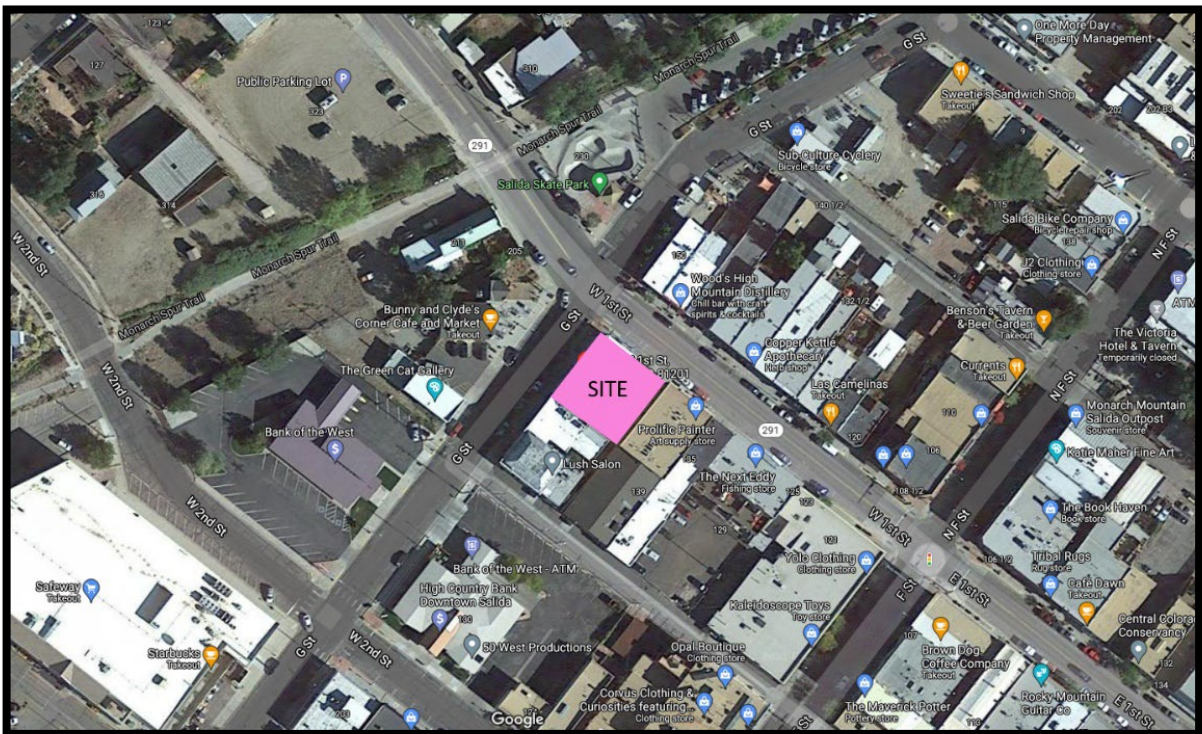
AGENDA SECTION: Public Hearing

REQUEST:

The request is to renew the Conditional Use Permit granted in 2022 for an Outdoor Market and Event Space located within the Central Business(C-2) zone district, Central Business Economic Overlay (CBEO) at 151 W. First Street.

The applicant was granted a Conditional Use Permit for 2022. This permit is being brought back to the Planning Commission for two reasons:

- 1) The previous permit conditions stated that if this use had not been addressed by the new land use code (which is not yet in effect), the applicant would be required to come back to Planning Commission to renew, and
- 2) The applicant was in violation of their Conditional Use Permit issued in 2022, necessitating additional review.



APPLICANT:

The applicant is Cate Kenny, 123 G Street, Salida, CO 80201.

LOCATION:

The subject property is described as Lots 11-13, Block 21, City of Salida, Chaffee County, Colorado. This property is also known as 151 W. First Street.

PROCESS:

The Salida Municipal Code, Chapter 16, specifies that Conditional Use applications be reviewed by the City of Salida Planning Commission at a public hearing after fifteen days public notice. The Planning Commission may make a decision to approve, approve with conditions, deny, or remand the application back to the applicant for modification.

The Planning Commission must find the use meets the review standards for a Conditional Use as stated in Section 16-4-110 of the Salida Municipal Code.

OBSERVATIONS:



1. The applicant is requesting to utilize their courtyard to host an outdoor market and other possible events. This property is located in the Central Business (C-2) zone district, Central Business Economic Overlay (CBEO). Table 16-D, Schedule of Uses, does not identify outdoor retail or outdoor event space as a use; however, per 16-4-140 the proposed use may be considered a conditional use if determined to be substantially similar to a use specifically described. In this case, the Administrator has determined the use is substantially similar to temporary commercial activities.
2. This will be the 6th year that the applicant has utilized their courtyard space. The use of the space has been primarily an outdoor market over those years, with additional events being added in 2021.

- 3. In previous years this request had been processed as a Limited Impact Review for a temporary commercial activity with more than 2 vendors and required additional permits and fees for a Multiple Vendor permit, as well as additional vendor fees on top of that permit. The Multiple Vendor Permit, established by Salida Municipal Code Chapter 6 and updated in 2019, is better designed for individual, short-term events such as a weekend festival. This is a private courtyard space that will be used for both recurring and one-time events, sometimes hosting multiple vendors and sometimes not. This permit allows us to consider all events under one Conditional Use Permit.
- 4. The surrounding land uses are commercial and multi-family residential.
- 5. A public comment letter was received and is included in this packet.

REVIEW STANDARDS (Section 16-4-110. Conditional Uses.)

- (a) General. Conditional uses are those land uses which are generally compatible with the permitted uses in a zone district, but which require site-specific review of their location, design, intensity, density, configuration and operating characteristics, and which may require the imposition of appropriate conditions, in order to ensure compatibility of the use at a particular location and mitigate its potentially adverse impacts. It is the intent of these regulations to provide a review of conditional uses so that the community is assured that any proposed conditional uses are suitable for the proposed location and are compatible with the surrounding land uses. Conditional uses are generally appurtenant to the property supporting the use; however, conditional use permits may also be made specific to the permit holder if appropriate under the circumstances.
- (b) Review Standards. An application for conditional use approval shall comply with the following standards. In addition, an application for a conditional use must demonstrate compliance with any review standards particular to that use specified in Table 16-D.

On May 31, 2022, the applicant was sent a written notification of being in violation of three conditions of their permit:

- * Racks of product were placed outside of the fenced area of the Sherman Market.
- * A vending truck was parked in the adjacent 1st Street right-of-way.
- * A generator was in use.

Because of the temporary nature of the market, the violation only lasted one day. Per Section 16-4-130 of the Salida Municipal Code, the permit holder was notified of this violation and given the required abatement period of thirty (30) days. As part of this renewal of the permit, staff recommends one of following two options should a future violation occur. In both options, the 30 day abatement period shall be considered used up from the 2022 violation:

- A violation of any condition of this permit will cause the Planning Commission to issue, at the following duly noticed hearing, a decision either revoking or sustaining the conditional use permit.

-OR-

- One violation may serve as a warning if corrective action is taken as soon as the applicant is notified. The next violation will cause the Planning Commission to issue, at the following duly noticed hearing, a decision either revoking or sustaining the conditional use permit.

(1) Consistency with Comprehensive Plan. The use shall be consistent with the City's Comprehensive Plan.

Applicant's Response: *The Sherman Market space is consistent with the City's Comprehensive Plan.*

The City’s Comprehensive Plan identifies supporting local businesses, and to help retain and expand unique and independent local businesses, as a principle of the plan.

(2) Conformance to Code. The use shall conform to all other applicable provisions of this Chapter, including, but not limited to:

a. Zoning district standards. The purpose of the zone district in which it is located, the dimensional standards of that zone district and any standards applicable to the particular use, all as specified in Article V.

The purpose of the Central Business District (C-2) zone district is to provide for the business and civic functions that make up the City's core. The Central Business District (C-2) has a strong pedestrian character and provides for concentrated commercial activity.

The purpose of the Central Business Economic Overlay (CBEO) is to establish standards to preserve and protect the downtown area as a viable commercial district, and to ensure that future development be designed and planned in a manner compatible with those goals.

The activation of the courtyard at 151 West First Street with an outdoor market and events is compatible with the C-2 and CBEO districts. No structures are proposed.

Standards applicable to this conditional use are parking standards (addressed below in paragraph b.) and standards that apply to vendors on the property. The standards are identified as part of the outdoor vending permit and as a condition of approval, staff recommends that those standards shall apply here:

➤ The applicant shall be responsible for ensuring all vendors comply with the following:

a. All vendors shall remit appropriate sales tax to the State of Colorado and shall have their sales tax license visible at all times.

b. Food Vendors:

- i. Food vendors shall obtain a ‘License to Operate a Retail Food Establishment’ from CDPHE prior to vending on this site.
- ii. All food vendors shall receive a minimum of one fire inspection prior to or during operation. An operable, certified fire extinguisher is required.
- iii. All waste from activity must be removed and properly disposed of daily. Any grease produced from food preparation must be disposed of in accordance with Chaffee County Health Department regulations.

b. Site development standards. The parking, landscaping, sign and improvements standards.

Applicant’s Response: Hylton Lumber has agreed to allow the Sherman Market to access their parking lot.

The parking arrangement with Hylton Lumber is acceptable to staff for the terms of this conditional use. Table 16-J requires 1 parking space per 250 square feet of retail use. The Sherman Market courtyard is approximately 1,750 square feet, requiring 7 parking spaces. As a condition of approval:

- The parking agreement shall be re-visited by staff should the use or ownership of Hylton Lumber change in the future. If the required parking cannot be provided via a parking agreement, the applicant shall pay the Business Occupier Fee applicable at that time.

Any signage will meet the requirements of the Municipal Code.

(3) Use Appropriate and Compatible. The use shall be appropriate to its proposed location and be compatible with the character of neighboring uses, or enhance the mixture of complementary uses and activities in the immediate vicinity.

Applicant’s Response: *The Sherman Market is compatible with neighboring uses.*

The proposed uses shall be contained within the fence of the courtyard. As a condition of approval:

- No activity shall encroach into the 1st Street right-of-way; activity shall be contained behind the current fence line.

(4) Traffic. The use shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking or loading problems. Necessary mitigating measures shall be proposed by the applicant.

Applicant’s Response: *The Sherman Market will not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking, or loading problems. See attached information.*

As a condition of approval:

- Vendors shall not block parking along 1st Street, G Street, or impede traffic flow in the alley, other than to temporarily load and unload.

(5) Nuisance. The operating characteristics of the use shall not create a nuisance, and the impacts of the use on surrounding properties shall be minimized with respect to noise, odors, vibrations, glare and similar conditions.

Applicant’s response: *The Sherman Market will not create a nuisance for surrounding properties.*

As a condition of approval:

- Any use of amplified sound shall comply with the City of Salida noise regulations as provided in Chapter 10, Article IX, Noise Control of the Salida Municipal Code in effect at that time.

The applicant can provide electricity from the Sherman Hotel if needed by vendors. As a condition of approval:

- Generators shall not be allowed.

(6) Facilities. There shall be adequate public facilities in place to serve the proposed use, or the applicant shall propose necessary improvements to address service deficiencies which the use would cause.

Applicant’s response: *The Sherman Market will provide public facilities.*

The applicant has restroom facilities within the Sherman Building available for the vendors and customers.

(7) Environment. The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.

Applicant’s response: *The Sherman Market will not impact the environment.*

The proposed use is located within the existing courtyard of the Sherman Hotel and will not adversely affect environmental resources.

REVIEW AGENCIES:

Fire, Assistant Chief Kathy Rohrich: “Fire has no concerns at this time.”

Police, Chief Russ Johnson: “No issues at this time from PD.”

Public Works, Director David Lady: “No concerns.”

RECOMMENDED FINDINGS:

- 1. This application is consistent with the Land Use Code and the surrounding neighborhood uses and conditions.
- 2. The applicable review criteria for Conditional Use applications have been met.

STAFF RECOMMENDATION:

Based on the above findings, staff recommends **APPROVAL** of the renewal of the conditional use permit for the Sherman Market at 151 West First Street subject to the conditions listed below.

RECOMMENDED MOTION:

“I make a motion to approve the renewal of the conditional use permit for the Sherman Market at 151 West First Street subject to the following conditions:

- 1. A violation of any condition of this permit will cause the Planning Commission to issue, at the following duly noticed hearing, a decision either revoking or sustaining the conditional use permit.

-OR-

- 1. One violation may serve as a warning if corrective action is taken as soon as the applicant is notified. The next violation will cause the Planning Commission to issue, at the following duly noticed hearing, a decision either revoking or sustaining the conditional use permit.
- 2. The applicant shall be responsible for ensuring all vendors comply with the following:
 - a. All vendors shall remit appropriate sales tax to the State of Colorado and shall have their sales tax license visible at all times.
 - b. Food Vendors:
 - i. Food vendors shall obtain a ‘License to Operate a Retail Food Establishment’ from CDPHE prior to vending on this site.
 - ii. All food vendors shall receive a minimum of one fire inspection prior to or during operation. An operable, certified fire extinguisher is required.
 - iii. All waste from activity must be removed and properly disposed of daily. Any grease produced from food preparation must be disposed of in accordance with Chaffee County Health Department regulations.

3. The parking agreement shall be re-visited by staff should the use or ownership of Hylton Lumber change in the future. If the required parking cannot be provided via a parking agreement, the applicant shall pay the Business Occupier Fee applicable at that time.
4. No activity shall encroach on the 1st Street right-of- way; activity shall be contained behind the current fence line.
5. Vendors shall not block parking along 1st Street, G Street, or impede traffic flow in the alley, other than to temporarily load and unload.
6. Any use of amplified sound shall comply with the City of Salida noise regulations as provided in Chapter 10, Article IX, Noise Control of the Salida Municipal Code in effect at that time.
7. Generators shall not be allowed.

Attachments:

- Application materials
- Proof of Public Notice
- Public Comment Letter

THE SHERMAN MARKET - 2023
151 West First Street
Salida, CO 81202

The Sherman Market space is an open-air courtyard located in the middle of Salida's historic downtown. Salida is the largest historical district in Colorado and is one of two certified Creative Arts Districts as well. The Sherman Market is a place to give the community a unique space to create on the west side of First Street.

The Sherman Market began in 2017. This year we are excited to celebrate our 5th annual market. Our artisans & shoppers have grown by 50% year over year. The Sherman Market not only brings local & nationwide tourists to Salida, but also brings income to local businesses, hotels, restaurants, shops, etc. Not to mention the creative & cultural benefits art brings to any community.

The Sherman Market plans to operate:

- Sat 5/27 & Sun 5/28
- Sat 6/17 & Sun 6/18
- Sat 6/24 & Sun 6/25
- Sat 7/08 & Sun 7/09
- Sat 7/15 & Sun 7/16

Last summer, The Sherman Market received a violation to the approved conditions. Our market manager explained to the offending vendor the city requirements (no generator, no product on sidewalk & no parking on First St) The owner of the business was aware of the violation & chose to park at their own risk. The Sherman Market will continue to only allow vendors participating in the market to sell within the gated courtyard.

The Sherman Market signage will meet the requirements stated in the City Code.

As per the City of Salida, it is required to have adequate parking. Hylton Lumber has agreed to allow the Sherman Market to access their parking lot.

Thank you for your time & consideration. Please contact us if you have any questions or concerns.

Best regards,

Greg & Cate Kenny



GENERAL DEVELOPMENT APPLICATION

448 East First Street, Suite 112
Salida, CO 81201
Phone: 719-530-2626 Fax: 719-539-5271
Email: planning@cityofsalida.com

1. TYPE OF APPLICATION (Check-off as appropriate)

- | | |
|--|--|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Administrative Review:
(Type) _____ |
| <input type="checkbox"/> Pre-Annexation Agreement | |
| <input type="checkbox"/> Variance | <input checked="" type="checkbox"/> Limited Impact Review:
(Type) _____ |
| <input type="checkbox"/> Appeal Application | |
| <input type="checkbox"/> Certificate of Approval | <input type="checkbox"/> Major Impact Review:
(Type) _____ |
| <input type="checkbox"/> Creative Sign Permit | |
| <input type="checkbox"/> Historic Landmark/District | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> License to Encroach | |
| <input type="checkbox"/> Text Amendment to Land Use Code | |
| <input type="checkbox"/> Watershed Protection Permit | |
| <input checked="" type="checkbox"/> Conditional Use | |

2. GENERAL DATA (To be completed by the applicant)

A. Applicant Information

Name of Applicant: CATE KENNT

Mailing Address: 123 G. STREET - SALIDA, CO 81201

Telephone Number: 214.406.7201 FAX: _____

Email Address: thecatekennt@gmail.com

Power of Attorney/ Authorized Representative: _____
(Provide a letter authorizing agent to represent you, include representative's name, street and mailing address, telephone number, and FAX)

B. Site Data

Name of Development: THE SHERMAN MARKET

Street Address: 151 W. FIRST ST. - SALIDA, CO 81201

Legal Description: Lot _____ Block _____ Subdivision _____ (attach description)

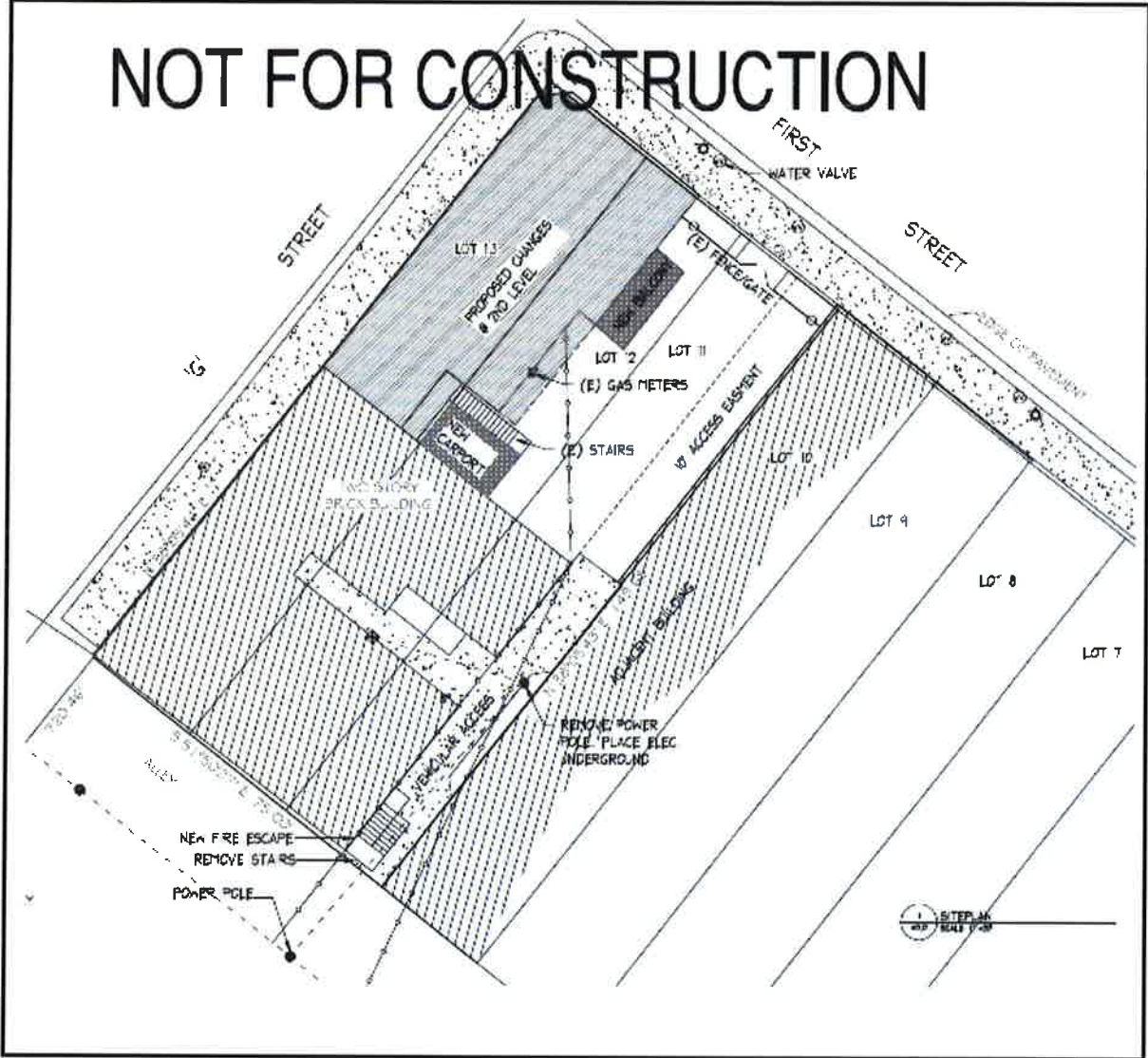
Disclosure of Ownership: List all owners' names, mortgages, liens, easements, judgments, contracts and agreements that run with the land. (May be in the form of a current certificate from a title insurance company, deed, ownership and encumbrance report, attorney's opinion, or other documentation acceptable to the City Attorney)

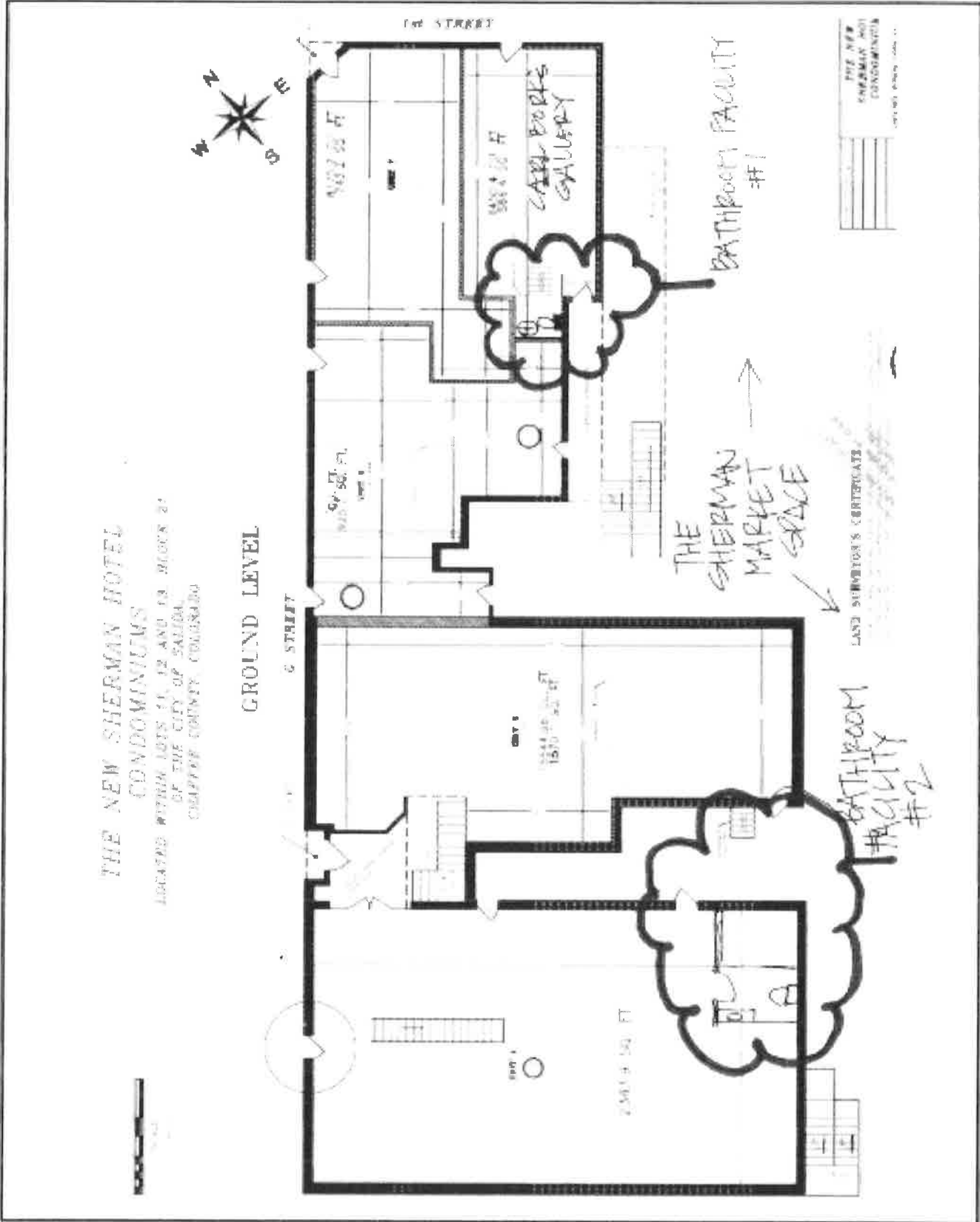
I certify that I have read the application form and that the information and exhibits herewith submitted are true and correct to the best of my knowledge.

Signature of applicant/agent Date 3.17.23

Signature of property owner Date 3.17.23

PLAT MAP





IMPROVEMENTS LAYOUT - MAIN LEVEL



CONDITIONAL USE APPLICATION & ADMINISTRATIVE CONDITIONAL USE

448 East First Street, Suite 112
Salida, CO 81201
Phone: 719-530-2626 Fax: 719-539-5271
Email: planning@cityofsalida.com

A. TYPE OF CONDITIONAL USE REQUESTED (Refer to Schedule of Uses in Article IV of the Land Use Code)

Residential Zone Districts (Table 16-D): _____
Or
Commercial/Industrial Zone Districts (Table 16-D): THE SHERMAN MARKET.

B. DEVELOPMENT PROCESS (City Code Section 16-4-110)

1. Pre-Application Conference. Optional.
2. Submit Application.
3. Staff Review. Schedule Hearing, if required. Forward Report to Applicant and Planning Commission, if required.
4. Public Notice Provided For Hearing.
5. Public Hearing Conducted by Planning Commission and Action Taken.

C. APPLICATION CONTENTS (City Code Section 16-3-60 for Admin. Conditional Use or 16-3-80 for Conditional Uses)

1. **General Development Application**
2. **Conditional Use Application**
3. **Site Plan.** A site plan of the subject property, showing existing and proposed features, buildings, roads, alleys, utilities, etc. which are relevant to the review of the application. The application will also indicate conformance with any applicable development standards for the proposed conditional use. **The copies shall be accepted on 8½" x 11", 11" x 17", 24"x 36" paper or electronically.**
4. **Surrounding Land Use.** Current land use of properties on all sides of the property and across the street(s) and alley.
5. **Public Notice- Conditional Use Applications requiring public noticing.**
 - a. **List.** A list shall be submitted by the applicant to the city of adjoining property owner's names and addresses. A property owner is considered adjoining if it is within 175 feet of the subject property regardless of public ways. The list shall be created using the current Chaffee County tax records.
 - b. **Postage Paid Envelopes.** Each name on the list shall be written on a postage-paid envelope. Postage is required for up to one ounce. Return address shall be City of Salida, 448 E First Street, Suite 112, Salida, CO 81201
6. **Other Information.** Staff may request additional information as deemed necessary to evaluate the impacts of the conditional use application. Mobile Home Parks and Recreational Vehicle Parks shall contain the additional information required in Section 16-4-190 of the Land Use Code.
7. **Vicinity Map.** 8 ½" x 11" map showing parcel's location in the City.
8. **Application Fee** \$500, cash or check made out to City of Salida, or \$250.00 for **Administrative Conditional Use application.**

D. REVIEW STANDARDS (If necessary, attach additional sheets)

An application for conditional use approval shall comply with the following standards.

1. **Consistency with Comprehensive Plan.** The use shall be consistent with the City's Comprehensive Plan.
THE SHERMAN MARKET IS CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN. SEE ATTACHED

2. **Conformance to Code.** The use shall conform to all other applicable provisions of this Land Use Code, including, but not limited to:
A. Zoning District Standards. The purpose of the zone district in which it is located, the dimensional standards of that zone district, and any standards applicable to the particular use, all as specified in Article 5, Use and Dimensional Standards.

b. Site Development Standards. The parking, landscaping, sign and improvements standards.
SEE ATTACHED

3. Use Appropriate and Compatible. The use shall be appropriate to its proposed location and be compatible with the character of neighboring uses, or enhance the mixture of complementary uses and activities in the immediate vicinity.

THE SHERMAN MARKET IS COMPATIBLE WITH NEIGHBORING USES.

4. Traffic. The use shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking or loading problems. Necessary mitigating measures shall be proposed by the applicant.

THE SHERMAN MARKET WILL NOT CAUSE UNDUCE TRAFFIC CONGESTION, INCOMPATIBLE SERVICE DELIVERY, PARKING, OR LOADING PROBLEMS.

5. Nuisance. The operating characteristics of the use shall not create a nuisance and the impacts of the use on surrounding properties shall be minimized with respect to noise, odors, vibrations, glare, and similar conditions.

THE SHERMAN MARKET WILL NOT CREATE A NUISANCE FOR SURROUNDING PROPERTIES.

6. **Facilities.** There shall be adequate public facilities in place to serve the proposed use, or the applicant shall propose necessary improvements to address service deficiencies which the use would cause.

THE SHERMAN MARKET WILL PROVIDE PUBLIC FACILITIES. SEE ATTACHED.

7. **Environment.** The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics, or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.

THE SHERMAN MARKET WILL ^{NOT} ~~PROVIDE~~ ~~PUBLIC FACILITIES~~. IMPACT THE ENVIRONMENT.

**PUBLIC NOTICE
NOTICE OF PUBLIC HEARING BEFORE
THE PLANNING COMMISSION FOR
THE CITY OF SALIDA CONCERNING A
CONDITIONAL USE APPLICATION
TO ALL MEMBERS OF THE PUBLIC
AND INTERESTED PERSONS: PLEASE**

TAKE NOTICE: that on April 24, 2023 at or about the hour of 6:00 p.m., a public hearing will be conducted by the City of Salida Planning Commission at City Council Chambers, 448 East First Street, Suite 190, Salida, Colorado and online at the following link: <https://attendee.gotowebinar.com/rt/1909092342220683277>

The applicant, Cate Kenny of The Sherman Hotel LLC, is requesting renewal of a Conditional Use Permit for Outdoor Market and Events on a piece of property known as Lots 11-13, Block 21, City of Salida, Chaffee County, Colorado. This property is also known as 151 West First Street.

The general purpose of the application is to renew that Conditional Use Permit granted in 2022 for an outdoor market and event space within a Central Business (C-2) zone district. Interested persons are encouraged to attend the public hearing. Further information on the application may be obtained from the Community Development Department, (719) 530-2631.

*Please note that it is inappropriate to personally contact individual City Councilors or Planning Commissioners, outside of the public hearing, while an application is pending. Such contact is considered ex parte communication and will have to be disclosed as part of the public hearings on the matter. If you have any questions/comments, you should email or write a letter to staff, or present your concerns at the public meeting via the above GoToWebinar link so your comments can be made part of the record.

Published in The Mountain Mail April 7, 2023

Merrell Bergin
PO Box 868
Salida, CO 81201-0868
mberginco@gmail.com

34

April 21, 2023

Kathryn Dunleavy
Planner
City of Salida
448 East 1st Street
Salida, CO 81201

Via Email: kathryn.dunleavy@cityofsalida.com
Re: Conditional Use Permit: The Sherman Hotel, LLC
Support for Planning and Zoning Hearing April 24, 2023

Kathryn,

Thank you for sending the 2023 Conditional Use Permit renewal application for The Sherman Hotel, LLC. The incident that the applicant Cate Kenny refers to was on Sept. 16, 2022. Email text below:

I tried to reach Cate Kenny today at 3:42 to talk about the large truck and food cart that was setting up to operate in the alley between 1st and 2nd, F and G behind our building. They were planning to serve the New Sherman courtyard.

There was no fire access in the alley and only small cars could pass. I was unable to reach Cate and told her by text that I was calling Code Enforcement.

I then reached sheriff dispatch and they may have sent someone because now the truck has moved around to 1st and G and is taking up two parking places there. The service window is open to the street.

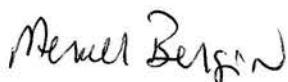
They appear to be servicing what was described to me as a private party in the Sherman Courtyard but people are coming up to them from First Street and asking for water and food from the streetside.

Code Enforcement and Community Development were made aware of this, and they were contacted by Police that day.

Subsequently, I had a very positive face to face meeting with Greg and Cate Kenny. We shared our mutual concerns as neighbors, as well as cell phone information and all was resolved. I appreciate their candor in bringing this to the renewal application.

I feel confident heading into the new season that the applicants will consistently ensure that the alley behind the Sherman is clear of vehicles, except for active loading/unloading with the driver nearby. I also believe they will make their vendors aware of the prohibition of not using First Street/Hwy 291 as a pop-up vendor location,

Given the above, I support the renewal application and look forward to working with the applicants if any new issues arise.



Merrell Bergin

Tel.303-601-1785