

<b>MEMBERS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>EXCUSED</b>
DIANE LOTHAMER, CHAIR	X		
JIM SEITZ	X		
BOB BEDA	X		
HARVEY HARRIMAN	X		
DELANEY KEATING		X	
COUNCILMEMBER ELLEN HARRIMAN	X		

**OTHERS PRESENT:** DIRECTOR STEVE WESTBAY, PLANNER ANDIE RUGGERA, PLANNING TECHNICIAN PAM CUNNINGHAM, LINDSEY SCHAUER

**I. CALL TO ORDER AT 7:02 pm BY CHAIR DIANE LOTHAMER**

**II. PLEDGE OF ALLEGIANCE TO THE FLAG**

**III. CONSIDERATION OF THE May 13, 2009 MEETING MINUTES.** Councilor Harriman moved to APPROVE the May 13, 2009 meeting minutes as corrected. Commissioner Seitz seconded the motion.

Roll Call Yes: Bob, Harvey, Diane, Jim, Ellen  
Roll Call No:  
Motion Carried

**IV. PUBLIC HEARING AND POSSIBLE ACTION. CONDITIONAL USE APPLICATION, CU 09-3,** submitted by Lindsey Schauer to operate a temporary Maté Tea Stand at 608 West Tomichi in the Commercial zone district.

Chair Diane Lothamer opened the public hearing at approximately 7:08 p.m.

Proof of publication was shown for the record.

Planner Ruggera reviewed the process for a conditional use permit and gave an overview of the application. The applicant, Lindsey Schauer, is requesting to operate a seasonal tea stand at 608 West Tomichi Avenue (Rock 'N Roll Sports) which is located in the Commercial district. The legal description of the site is the west 40 feet of Lots 13 through 15, Block 14, West Gunnison Addition, City and County of Gunnison.

The applicant addressed the Commission. She stated that she loves drinking maté tea and wants to share it with people. She stated that she initially wanted to have a trailer pulled by her bike as the tea stand, but has decided to have a temporary table or structure at the site instead. She will have an insulated cooler for hot water that is pre-boiled and a separate cold ice tea container and disposable cups.

Commissioner Harriman asked if the stand will be set up daily and taken down daily. The applicant replied that the table will stay but she will take the other things home daily.

Commissioner Harriman asked about the exact location of the stand and whether it would be between the sidewalk and the street. The applicant stated that the stand will be between the house and the sidewalk, and Planner Ruggera confirmed the stand will be not be in the right-of-way.

Councilor Harriman asked if the applicant has investigated [the requirement for] state permits. The applicant replied that she talked to the health inspector and was told that as long as everything is disposable there is no need for an inspection. It was pointed out that she will need a City sales tax license and perhaps a food license as well.

Councilor Harriman asked if she will be serving any food (i.e., baked goods) and the applicant replied she just plans to serve tea to start with.

**PUBLIC COMMENTS:** no one else was present, there were no comments.

**STAFF COMMENTS:** Planner Ruggera addressed departmental comments and stated that the comments were related to how the tea will be heated and the need to contact the Department of Public Health. Planner Ruggera stated that in going through the review standards, all are compliant to the *Code* and staff did not see any issues. She stated that there may be some additional traffic, but that there would not be a significant impact. The condition is that the applicant must provide Community Development staff a written confirmation from the Colorado State Department of Public Health and Environment that demonstrates compliance with related State standards.

**COMMISSION DISCUSSION:**

Commissioner Seitz pointed out an error in the first paragraph of the staff report that was a “cut and paste” error. Staff will make the correction. He also pointed out that 15.70.040 C is not cited and there are stipulations that apply. The Code states:

“Temporary commercial uses and activities shall be allowed only when:

1. The commercial use itself is allowed or is approved as a conditional use in the zone district.
2. Adequate parking is provided for the use, as determined by the community development director.
3. The use complies with all applicable health and safety codes and a permit for the use is obtained from the building official.
4. The use is situated such that it does not block any required access or egress from the site and is not located on any required parking.”

Planner Ruggera will add the language to the review standards.

Chair Lothamer observed that Staff Observation #6 “State and City sales tax licenses will need to be obtained for the tea stand” should be in the findings and conditions.

Commissioner Beda asked if the applicant would have been required to apply for a conditional use if the tea stand was on a bike trailer, like the hot dog vendors. Director Westbay replied that the hot dog vendors do need to apply for a conditional use because it is a commercial activity. Discussion followed about vending in public rights of way and different nuances of the *Code*.

Chair Lothamer closed the public meeting at 7:25 p.m.

Commissioner Harriman stated that he had not been sworn in yet and wasn't sure if he could vote. It was decided that since he had not been taken off the Commission yet, it would be appropriate for him to vote.

During the regular Planning and Zoning Commission meeting held on May 27, 2009 Councilor Harriman moved, and Commissioner Seitz seconded, and the Commission voted to APPROVE Conditional use Application CU 09-3, submitted by Lindsey Schauer for the operation of a seasonal maté tea stand located at 608 West Tomichi Avenue, based on the following findings of fact and conditions:

**FINDINGS OF FACT:**

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan 2007*.
2. The Planning and Zoning Commission finds that this conditional use application is for a temporary commercial activity in the Commercial district.
3. The Planning and Zoning Commission finds that a tea stand is compatible with neighborhood uses.
4. The Planning and Zoning Commission finds that the commercial use itself is allowed or is approved as a conditional use in the zone district.
5. The Planning and Zoning Commission finds that adequate parking is provided for the use, as determined by the community development director.
6. The Planning and Zoning Commission finds that the use complies with all applicable health and safety codes and a permit for the use is obtained from the building official.

7. The Planning and Zoning Commission finds that the use is situated such that it does not block any required access or egress from the site and is not located on any required parking.
8. The Planning and Zoning Commission finds that the tea stand shall be operated under any requirements or standards of the Colorado Department of Public Health and Environment.
9. The Planning and Zoning Commission finds that State and City sales tax licenses will need to be obtained for the tea stand.
10. The Planning and Zoning Commission finds that the application meets all of the provisions of the City's *Municipal Code* based on the following conditions:

**CONDITION:**

1. The applicant must provide Community Development staff a written confirmation from the Colorado State Department of Public Health and Environment that demonstrates compliance with related State standards.
2. State and City sales tax licenses shall be obtained for the tea stand.

Roll Call Yes: Bob, Harvey, Diane, Jim, Ellen

Roll Call No:

Motion Carried

**V. UNSCHEDULED CITIZENS:** There were none**VI. COUNCIL UPDATE.** Councilor Harriman reported that the Council has a new system for meeting packets that will be more efficient. At the City Council meeting of May 26, 2009, the Council:

- appointed vacancies for the Planning and Zoning Commission, the Zoning Board of Adjustments and Appeals, and the Building Board of Appeals. The vacancy on the Planning and Zoning Commission will be re-advertized and there should be a new member toward end of June;
- approved a multiday permit for the Arts Center for Sundays at Seven;
- changed the *Employee Handbook* to reflect changes for part-time employee benefits;
- approved a lease/purchase of a new dump truck; and,
- approved an amendment for local vendors' preference in the City Purchasing Policy.

Councilor Harriman also reported that:

- The new pool opened to a packed house. She said it is a lovely facility and that citizens will be pleased. She said that Director Ampietro reported to Council that 400 memberships were recently purchased by members of the community.
- Beginning June 1<sup>st</sup> the City will be giving sales tax rebates. A fund of \$25,000 will be used to give \$10 in Gunnison Greenbacks to anyone who turns in \$250 in receipts for purchased made in Gunnison that sales tax was paid on. The intent of the program is to stimulate spending in town.

**VII. STAFF REPORT:** Director Westbay reported:

- A contract for the VanTuyl Ranch planning consultants is being prepared for ERO Resources and will be presented to City Council on June 2<sup>nd</sup> with a request for approval on June 9<sup>th</sup>;
- He attended a CDOW workshop on the Prairie Dog Conservation Plan. It is a complex issue and the CDOW's primary interest is to reestablish historic habitats that are adequate for the species. They are not worried about colonies in developed areas, but want to look at the historic range. The other issue is the plague and the population spikes that are plague-related. The ranching participants asked if CDOW would go to the Wildlife Commission and ask how they will address the potential listing and take a stance. They asked that, if additional science proves the Prairie Dog should be listed, it [the listing] be a blend of science and range management.
- A WSC student, Tyler Patrick, has been awarded the Prather/Bartleson Geology Scholarship to do a hydrology study of the VanTuyl Ranch. He will put piezometers in the ground and do subsurface mapping of the hydrology. Director Westbay explained how the piezometers will work.
- Management Staff is working on *Employee Handbook* issues for temporary/part-time employees,
- The revised Annexation Petition has been submitted to the City and the eligibility process is starting over. Community Development staff will be working to revise the *Annexation Impact Report*.

**VIII. COMMISSION DISCUSSION:** Chair Lothamer asked the Commission if there were any comments.

- Commissioner Seitz asked if, since the True Value building is vacant, it would be advisable to not allow a new sales tax license for that property until the dangerous loading dock issue has been resolved. Director Westbay replied that staff would have to review the provisions of non-complying existing structures. He said that if the building is vacant for a year it would have to re-conform to those standards. Another alternative would be to prohibit use of the right-of-way by posting it as a "no parking" zone. Commissioner Seitz reiterated that now is an appropriate time to make the change with increased use of that area by community members going to the pool and Community Center. Discussion continued.

Chair Lothamer asked Councilor Harriman to mention to Council that the Commission has a concern for public safety at that site. Director Westbay stated that the owner of the property is planning to condominiumize the property and that the recorded plats will allow enforcement provisions to address the issue. In the meantime, Director Westbay will talk to the City Manager about posting the area as a no parking zone.

- The Commission discussed its meeting schedule. Work sessions will be held on June 10<sup>th</sup> and 17<sup>th</sup>. The public hearing on the annexation has been continued until June 24<sup>th</sup>. If the public hearing is closed on that date, the Commission will have 21 days to make a recommendation on the Gunnison Rising Zoning Amendment application. The tentative date for action will be July 15<sup>th</sup>.

## IX. ADJOURN

Chair Diane Lothamer adjourned the meeting into a work session at approximately 7:48p.m.

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Diane Lothamer, Chair

Attest:

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Pam Cunningham, Secretary