

MEMBERS	PRESENT	ABSENT	EXCUSED
Bob Beda, Chair	X		
Dusty Szymanski	X		
Erich Ferchau	X		
Ed Seymour	X		
Carolyn Riggs	X		
Greg Larson	X		
Councilor Ellen Harriman	X		

OTHERS PRESENT: Director Steve Westbay, Planner Andie Ruggera, Zack Taylor, Carl Moyer, and John Buscovick.

CALL TO ORDER AT 7:00 PM BY CHAIR BOB BEDA

PLEDGE OF ALLEGIANCE TO THE FLAG

TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE TO PROHIBIT THE USE OF LAND WITHIN THE CITY OF GUNNISON FOR THE RETAIL SALE, DISTRIBUTION, CULTIVATION AND DISPENSING OF MEDICAL MARIJUANA
Chair Bob Beda opened the public hearing at approximately 7:02 p.m.

Proof of publication was shown for the record.

Director Steve Westbay gave an overview of the process for a text amendment to the *Land Development Code (LDC)*. Section 15.150.030 of the *LDC* specifies that a text amendment be reviewed by the Planning and Zoning Commission at a public hearing after 15 days public notice. A text amendment may be initiated by the City Council, the Planning and Zoning Commission, the Community Development Director, a resident of the City, an owner of a business within the City, or any person who holds a recognized interest in real property within the City.

Steve stated, as the Community Development Director, he initiated the text amendment. The proposed amendments to the *LDC* prohibit the use of land within the City of Gunnison for Medical Marijuana Centers, Medical Marijuana-Infused Products Manufacturers, and Optional Premises Cultivation Operations. Amendments are proposed in Section 15.40.010 (Definitions), Table 15.70.010 (Schedule of Uses – Residential Zone Districts) and Table 15.70.030 (Schedule of Uses – Commercial/Industrial Zone Districts).

Steve gave a history of the application and stated that Council had previously adopted ordinances that placed a moratorium on the processing and approval of all applications regarding medical marijuana. The intent of the moratorium was to give the City time to place a question to the voters as to whether or not they would allow medical marijuana commercial operations within the City.

Steve read two provisions of the 2010 State Legislation that contradict each other regarding the operation of medical marijuana commercial activities. Steve read all the proposed definitions regarding medical marijuana.

Chair Bob Beda inquired if other municipalities have a moratorium regarding medical marijuana and what they are doing to address the State Legislation. Director Steve Westbay stated he was not aware of what other municipalities are doing; however, City Attorney Rod Landwehr has been following the subject closely and has been talking to County Attorney, David Baumgarten.

Commissioner Erich Ferchau asked Steve to clarify if the proposed amendment would impact the private growth of medical marijuana for those individuals who have medical cards. Steve stated that it is the City Attorney's opinion that the proposed amendments will not affect the constitutional rights for the private use of medical marijuana.

Public Input

Zack Taylor – 211 South 14th Street

Mr. Taylor stated he has lived in Gunnison for five years and just graduated from Western State College. He informed the Commission during college he did an independent study on medical marijuana and has been following the discussions at City Council meetings. Mr. Taylor stated he was before the Commission to help inform and as a patient was representing all patients to make sure they have a voice.

Mr. Taylor referenced a memorandum from Police Chief Keith Robinson and the ordinance drafted by City Attorney Rod Landwehr to prohibit the use of medical marijuana commercial activities. He interpreted the code [LDC] to already allow the use of optional premises cultivation operations and medical marijuana-infused products manufacturing. Mr. Taylor stated the problem he has is that marijuana-infused products can only sale to medical marijuana centers as explained in the House Bill and Chief Robinson's memo.

Mr. Taylor explained that the community has ample say as to where businesses go. Chief Robinson's memo is proposing all medical marijuana businesses be placed within the Industrial Zone if the voters allow the use.

Chair Bob Beda stated the discussion of where medical marijuana businesses will be located, if voted in, is not germane to this public hearing for the proposed text amendment.

Commissioner Carolyn Riggs asked what the process would be if the community votes to allow medical marijuana commercial activities. Director Steve Westbay stated there would be a public hearing and an ordinance that addresses four sections of the Municipal Code: Finance, General Offenses, Business Regulation and the Land Development Code.

Mr. Taylor stated he agrees with having a question whether or not to allow medical marijuana commercial activities. He stated he knows he is early coming before this Commission, but would rather be early than late. The patient needs to have a say on where a

center goes. Mr. Taylor said the Industrial zone is extremely difficult to find and most people don't live down there. He stated we need to think tactfully and the centers don't need to be placed in a corner. We need to let businesses grow. He continued saying don't single out and corner an entire business. We need to progress our community and don't let it become stagnant. Mr. Taylor stated he is here to help, he knows what patients need and how to set up the centers. He thanked the Commission and said by taking our time our community can be the best.

Director Steve Westbay discussed the review standards for a text amendment. Steve stated that state statutes are driving the application and creating time constraints. He stated Council has committed to give the people the right to vote on the issue of medical marijuana commercial activities.

Commissioner Erich Ferchau asked if the ballot language would clarify State and Federal law and a timeframe to revise the *LDC* if the voters allow medical marijuana. Director Steve Westbay stated the ballot question will not have language describing State and Federal laws, but the ordinance, if voters approve, would specify that medical marijuana commercial activities are illegal with Federal laws. Steve stated there will not be a timeline to revise the *LDC*, but a draft ordinance will be ready if the voters allow the medical marijuana uses.

Carl Moyer asked what if the use passes and there is no motivation to change the code. Director Steve Westbay stated staff is currently working a draft ordinance to allow medical marijuana commercial activities if the vote passes. Steve further stated if regulations are not in place in the Municipal Code by June, 2011, the State Statute would be the regulation on those activities. Mr. Moyer stated that if voter approved, the uses will still be prohibited under zoning and still in violation, no matter what is said the City could drag their feet.

Commissioner Carolyn Riggs stated the City is very proactive in addressing issues and by drafting language to allow the medical marijuana.

Commissioner Greg Larson moved to recommend approval, to City Council, zoning amendment application ZA 11-1, for a text amendment to prohibit the retail sale, distribution, cultivation and dispensing of medical marijuana within the City of Gunnison, based on the following 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*.
2. The Planning and Zoning Commission finds that City Council previously adopted Ordinance No. 7, Series 2009 and Ordinance No. 2, Series 2010 imposing a moratorium on the processing and approval of all applications regarding medical marijuana.
3. The Planning and Zoning Commission finds that *C.R.S. 12-43-106* states: "The operation of this article shall be statewide unless a (local government) by either a majority of the registered electors (of the local government) . . . at a regular election or

special election . . . or a majority of the members of the governing board (of the local government) vote to prohibit the operation of medical marijuana centers, operational premises cultivation operations, and medical marijuana-infused products manufacturer's licenses."

4. The Planning and Zoning Commission finds that City Council intends to submit the question of whether to allow medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers within the boundaries of the City of Gunnison to eligible voters.
5. The Planning and Zoning Commission finds that the Colorado Medical Marijuana Code, C.R.S. Section 12-43.3-101, et seq., clarifies Colorado law regarding the scope and extent of Amendment 20 to the Colorado Constitution.
6. The Planning and Zoning Commission finds that the Colorado Medical Marijuana Code specifically authorizes a municipality in part "to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses...based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana."
7. The Planning and Zoning Commission finds that the proposed text amendment prohibits the establishment of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused product manufacturers within the City of Gunnison.
8. In regard to the process of this text amendment application, the Planning and Zoning Commission has reviewed the draft Ordinance 2, Series 2011 (enclosure 1) and the Planning and Zoning Commission finds that it complies with the established review standards (Section 15.150.050) of the *LDC*.
9. The Planning and Zoning Commission finds that based on the findings cited above, the approval of this text amendment protects the community's health, safety and welfare.

Commissioner Carolyn Riggs seconded the motion.

Roll Call Yes: Dusty, Erich, Ed, Bob, Ellen, Carolyn and Greg

Roll Call No:

Roll Call Abstain:

Motion Carried

CONSIDERATION OF THE DECEMBER 8, 2010 MEETING MINUTES

Councilor Ellen Harriman moved to approve the December 8, 2010 meeting minutes as presented. Commissioner Greg Larson seconded the motion.

Roll Call Yes: Dusty, Erich, Carolyn, Greg and Ellen

Roll Call No:

Roll Call Abstain: Ed and Bob – were not present at the December 8th meeting.

Motion Carried

UNSCHEDULED CITIZENS

There were none.

COUNCIL UPDATE

Councilor Ellen Harriman updated the Commission on recent Council business. The Council:

- Discussed the 2011 City equipment bids;
- Discussed proposed criminal code amendments;
- Discussed medical marijuana proposed regulations that allow commercial activities in preparation of the ballot question;
- An agreement has not been made yet between Quiznos and the City, however, planning is moving forward for the event; and
- A couple of water main breaks occurred over the weekend with one fairly large with a ten inch line.

PLANNING STAFF UPDATE

Director Steve Westbay provided an update on activity in the Community Development Department and discussed the following:

- Steve attended several meetings regarding the DOW Discovery Center design;
- Discussed provisions of the PUD; and
- Local government regulation of land use on State lands.

ADJOURN

Chair Bob Beda adjourned into a work session at approximately 7:38 p.m.

Bob Beda, Chair

Attest:

Andie Ruggera, Secretary