

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

OTHERS PRESENT: Community Development Director Steve Westbay, Planning Technician Pam Cunningham, Nathan Melby, Olivia Mount, Nate Mount, Cea Mount, Erik Bjornstad, Emma Bjornstad, Ashley Burt, Jackie Burt, Kelly McKinnis, Jen Morgan, Janice Welborn, George Sibley, Anne A. Ash, Mark Ritter, Maryo Ewell, David Dlugasch, Pat Montgomery, Jen Orth.

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

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. PUBLIC HEARING AND POSSIBLE ACTION: Conditional Use Application CU 11-4, submitted by Gunnison Council for the Arts, for the operation of a school in the Central Business District (CBD).

Open Public Hearing. Chair Bob Beda opened the public hearing at approximately 7:02 pm.

Proof of publication was shown for the record.

Review of Process. Director Westbay gave an overview of the process of a Conditional Use application.

Applicant Presentation. John Schumacher, member of the board of Gunnison Council for the Arts, addressed the Commission. Mr. Schumacher stated that the Arts Center has presented an application for the operation of the Orsch School on the second floor of the Arts Center. The lease is a two-year lease at the option of Orsch, after that it is year to year. Currently Orsch has 65 students in K-8TH grade enrolled for this school year. He stated that the Arts Center thinks this move is good because it has been having financial difficulties for several years. The utilities are about \$35,000 per year. He said that since he has been on the Board since December 2010, most of the discussion has been about how to keep the doors open. Instead of worrying about keeping the doors open, this lease will allow the Arts Center focus on arts activities and collaborations. He continued, stated that the arrangement with Orsch is a fantastic collaboration. The Orsch School is a creative school that aligns with the mission of the Arts Center. The Arts Center hopes to have children's theatre in the future and there will be further collaborations with the rest of community and the college. Focusing on the first floor will allow the Arts Center to thrive. The presence, energy and vibrancy of kids in the building are immeasurable. Now the building is quiet. The second floor with 65 kids and faculty will lend vibrancy to the Arts Center; it will bring more people and parents, and expose more people to the Arts Center. The Arts Center Board is excited and respectfully requests approval.

Jackie Burt, founder of Orsch, addressed the Commission. She stated that Orsch is a school that breaks the mold. It is built around independence, the ability to choose flexible pacing, and flexible approaches. Its center is creativity, which is the most important driver in any of us. It is a dynamic philosophy.

Commissioner Szymanski asked if Orsch part of a larger idea or if it is unique. Ms. Burt stated that she invented it and this will be the 3rd year.

The applicants were excused.

Public Input. Chair Beda asked if any members of the public wished to speak.

Kellie McKinnis, owner of Gunnison Real Estate, addressed the Commission. She stated she is all for the school and opportunities to learn. However, her concern is the traffic flow, drop off and pick up. She stated she manages 300 rentals and that 900+ people come to the office each month to pay rent. She said that a few weeks ago during Grind Fest there were vans behind the building and dogs running around. This has been ongoing; parents think the alley is an area for drop off and pick up. She has seen many near head on accidents in the alley. She explained that at the Tomichi entrance to the alley it is posted as one-way, while on new York there is no one-way sign. She said this concerns her with children next door. She said she hopes the Commission thinks about the traffic flow and parking.

Commissioner Ferguson asked if it would be better if the Commission asked for the alley to be one way. Ms. McKinnis responded that it would be safer to either get rid of the one-way sign or put a sign on the other end.

Chair Beda asked the audience how many were there in support of the application. There was a unanimous raising of hands.

Director Westbay entered correspondence from Steven Pierotti into the public record; however Mr. Pierotti was in attendance, so he addressed the Commission. He stated that as an artist, business owner, and Arts Center participant, he supports this move—it brings needed energy to that block of Gunnison and is a financial win for the Arts Center, allowing them to focus on programming. He stated he fully support the Orsch.

Staff Presentation. Director Westbay stated he will address traffic, parking, liquor license issues, and a summary of building code considerations and a letter from Eric Jansen, Building Official. A summary of his comments follows:

Traffic. Tomichi and Main has the highest volume of traffic in the City. It is a lighted controlled intersection with full movement. The sections are 100 feet wide. In 2010 a traffic study was done, which found that peak traffic hours vary, but noon and 8:00 a.m. have the highest volume. Traffic engineers rate intersections on Levels of Service (LOS), with an alphanumeric designation (“A” being best and “F” being worst). Presently, the intersection is about a B or C, which is excellent. The applicants have stated that the majority of the students will be shuttled, with 25 vehicle trips in the morning and afternoon. Director Westbay estimated for a school with enrollment of 65 to 100, traffic could approach 100 vehicles per day. The existing configuration and volume of traffic is adequate to address this additional traffic load.

School zones. Director Westbay noted for the record that the applicant is not proposing a school zone. He said that in the city, every school is designated as a school zone – 25 mph with striped cross walks. On Main and Tomichi, it would present a problem to designate a school zone and CDOT would have to be involved because the City has no authority over speed limits on state highways. Staff feels it is important to consider long term impacts in relation to this land use. The student population is small and there is no bus traffic. The intersection is signalized, the curriculum includes frequent walks, and the students are taught etiquette to be urban hikers. Reducing the speed limit would be problematic and it would put a burden on the Police Department to enforce. Staff does not support a school zone designation.

Parking and Drop Off. The Orsch School will generate increased parking demand between 8:00 a.m. and 4:00 p.m., but won't interfere with Arts Center activities in the evening. Staff recognizes how hectic it can get at the Arts Center in the evenings [with parents dropping children off for Arts Center activities] and this won't alleviate that. However, morning and evening transitions at the Orsch School will be quick. He added that Orsch providing education to the parents about parking and drop-off areas will be important.

Traffic Accident Data. Staff reviewed traffic accident data for the past five years at the intersection of Main and Tomichi. The records show that the three accidents during that time frame are attributed to distracted driving and rear end accidents; none are attributed to parking or ingress/egress at the Arts Center.

Liquor Licenses. The *State Liquor Code* states that liquor licenses may not be issued to businesses within 500 feet from schools or day care centers. In Gunnison, there are 15 establishments within 500 feet of the Arts Center. They would be allowed to renew their liquor licenses, because they are grandfathered; new liquor licenses would be subject to the state provisions, but it would be up to City Council to grant new licenses. The Arts Center is a "designated premise area" on the 1st and 2nd floor, so their liquor license would have to be amended with the City Clerk as an administrative review.

Building Code Considerations. The Arts Center is coded as "A" (Assembly) and "B" (Business). Schools are "E" (Education facility) with further parameters. The new designation affects the facility in several ways. Primarily, ADA compliant bathrooms must be accessible to children. There are ADA bathrooms on the first floor, which will be accessible to the children by elevator. As long as they are accessible, the second floor bathrooms won't have to be ADA.

The Fire Marshal has noted that some exit lighting will be required. He also made notations about an existing stairway, which isn't wide enough to be compliant. The applicants would like to block off those stairs. Director Westbay and the Fire Marshal looked at the exiting program and determined that this fourth stairway could be closed off. Staff will support that, but not mandate it.

The Arts Center building is a designated historic structure, which limits some of the compliance with the IBC, so structural components won't be required.

Director Westbay concluded by stating that the Staff Observations and Review Standards showed that the program is compliant with those standards.

Commission Questions

Commissioner Larson asked if the administrative review of the Arts Center liquor license would address selling alcohol at the Arts Center during school hours. Director Westbay responded that the *State Liquor Code* is silent on the issue of a school in the same building where there is a liquor license. Staff feels that it is appropriate to comingle the uses as long as liquor premises are appropriately identified. This will be addressed on the staff level.

Councilor Seymour asked for clarification regarding the 500-foot rule for liquor licenses and the existing licenses in the vicinity. Director Westbay stated that the existing licenses are ok but that new licenses will be up to City Council. The local government has the authority to waive the provision and also has the discretion to say no to liquor licenses. City Council could deny a new license, which is why a Conditional Use is done. If the existing business [with a liquor license] changes ownership, it is an administrative change.

Chair Beda asked, if the Arts Center decides to abandon the stairwell, it would eliminate [vehicle] queuing. Director Westbay responded that it would not because the stairs aren't used.

Commissioner Ferguson stated that, regarding safety, the one-way alley makes sense, but it should be properly signed. Director Westbay will handle this administratively by communicating with public works.

Chair Beda asked which direction should be one-way. Director Westbay said he will let the Public Works Director decide.

Commissioner Ferchau asked if CDOT has any control on South Main and if they are involved in decisions about temporary coning or barriers. Director Westbay responded that generally CDOT lets staff do that; they stay out of daily operations. They do designate it as an urban highway system and can reduce the speed limit if they desire.

Commissioner Szymanski asked if it is possible to designate the parking area outside the Arts Center as drop off only with no parking. Director Westbay responded that it could be possible, right now it is two-hour parking, or it could be lowered to 15 minute parking. However, that could force parking onto adjacent properties. He reiterated that early in the morning drop-off will be quick. People who go to a class will probably park on Main or Tomichi. It is up to the Chief of Police to change the parking designation. Commissioner Szymanski said he also supports the one-way alley designation.

Councilor Seymour asked the applicants if the conditions are acceptable to them. Jackie Burt responded that it is acceptable to Orsch, and it has been thoroughly reviewed and contemplated. Jon Schumacher said they are acceptable to the Arts Center as well.

Director Westbay stated that in, writing the Conditions, staff honed in on the scope of the school with 65 students, if there is an increase enrollment there will be more parking issues. He spoke with Ashley Burt about the 100 student threshold and Orsch is ok with that. It provides growth, but limits implications as the school grows. It is important to note that because the liquor license issues do exist, if Council terminates a liquor license because of the school, the City will have to consider that strongly.

Jackie Burt stated she can't fathom any of the Orsch families having a problem with a liquor license because the school already coexists with the businesses downtown.

Jon Schumacher stated there is children's programming in the building now, and there has never been a problem.

Commission Discussion.

Commissioner Szymanski asked if the second floor will still be used for evening functions. Jon Schumacher responded that Orsch will have exclusive use, but it is a collaborative situation and if there was an adult reading class or board meeting, they are amenable to the Arts Center using it on an as-needed basis. Commissioner Szymanski asked what the children do for lunch. Jackie Burt responded that the children will walk to the parks in the warmer months and during winter will eat in doors. It is a sack lunch program, with one meal a week catered.

Commissioner Ferchau said he supports the concept of the school, but regarding the children's safety, hopes there could be temporary use of traffic lanes for drop-off and that maybe there could be control monitors. He said he would like to discuss sun setting this decision in one or two years, so that as we explore where we are going, we don't deter businesses with liquor license issues because this is in the CBD. Director Westbay responded that staff is receptive and that Condition #3 addresses that—staff agrees that the vibrancy of downtown is important.

Commissioner Ferchau stated that he is not sure he is comfortable with the possibility that a business might not be granted a liquor license and suggested that perhaps the school and attendees could sign something that they aren't in opposition to liquor licenses. Chair Beda said that it could be a different Council at a different time who would uphold the 500-foot rule. Commissioner Ferchau said that if there is a conflict, it is the school that should be reconsidered.

Commissioner Ferguson stated that he agrees with Commissioner Ferchau's points, but that Director Westbay has done an excellent job of discussing and putting together Conditions that address those issues. City Council is accountable to the community and it may change from time to time as the community changes, but he has faith in the elected and appointed leaders that they will continue to make good decisions. He said he finds the Conditions address the concerns very well.

Councilor Seymour stated he sees Commissioner Ferchau's points, but that the Commission should also keep in mind the school is a business being added to the downtown, but he wouldn't object to a sun set clause.

Commissioner Larson said his first concern was safety considerations, but he feels those have been addressed. He commended Orsch for teaching children how to behave downtown. He said the Conditions address his concerns.

A typographical error was corrected on Condition #1.

Chair Beda said he would like to add a Finding 13 that there have been issues on the alley and a Condition #6. Commissioner Ferguson said any change to the alley should be properly and fully signed.

Chair Beda said he would like to address the concern about sun setting and the lease. Jon Schumacher responded that Orsch has an option after one year and the Arts Center has an option at two years. Commissioner Ferchau stated he was thinking about a two-year timeframe for the sun setting, perhaps giving lead time so the school has time to make changes.

Ashley Burt stated that given there is an exit clause, the addition of a sunset clause is an additional layer of protection. He would request it run five years with the lease because of the investment of time, energy, and money. Commissioner Ferchau said he is fine with five years, but would like to have a one-year transition, so it could be a five-year sunset clause with a 6th year transition.

Chair Beda asked if the Conditional Use is exclusive to Orsch or if it could apply to another school at the same location. Commissioner Ferguson responded that this is an action regarding the Gunnison Arts Center, not Orsch. If they meet the land use requirements for the Arts Center, it is a moot point. Commissioner Ferchau stated that knowing the people involved and what they have done to date, the oversight on the children is significantly different than could be in the future [by someone else]. Commissioner Ferguson stated that the reason there are certain conditions and approvals is because the applicant is cognizant of the discussion. The next owner wouldn't be aware of those things. The Conditional Use could be concurrent with the lease. If the lease expires the Conditional Use expires; if either party terminates the lease then the conditional use expires.

Ashley Burt asked what happens if the parties want to renew the lease at five years. The response was that the sunset clause would trigger a review.

Director Westbay proposed a new Finding and two new Conditions:

Finding: The Planning and Zoning Commission finds that the adjacent alley is not properly signed for safe and functional vehicle movement.

Condition 6: Proper one-way signage of the alley adjacent to the Arts Center between Tomichi Avenue and New York Avenue shall be established by the City.

Condition 7: This Conditional Use approval shall run for a six year period; it will terminate on August 15, 2017. This Conditional Use shall be reviewed no later than August 15, 2016. This Conditional Use is concurrent with the Lease Agreement between Orsch and the Gunnison Arts Center and will terminate when and if the lease terminates.

Chair Beda closed the public hearing at 8:05 p.m.

ACTION: During the special Planning and Zoning Commission meeting held on August 15, 2011, Commissioner Larson moved, and Commissioner Ferguson seconded, and the Commission voted to APPROVE Conditional Use application CU 11-4, submitted by Gunnison Council for the Arts, LLC for the operation of the Orsch School at 102 South Main Street, 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*.
2. The Planning and Zoning Commission finds that this Conditional Use application is for the operation of a school in the Central Business District.
3. The Planning and Zoning Commission finds that the existing LOS for the intersection of Main Street and Tomichi Avenue is functioning very efficiently; traffic generated from the proposed school will not have a significant impact on the intersection LOS.
4. The Planning and Zoning Commission finds that designating this intersection as a school zone is not supported by City staff; the relative size of the student population is a significant factor of the staff position.
5. The school is proposed within 500 feet of approximately 15 establishments that have a liquor license to sell alcohol. Any new liquor license might be denied by the City Council, based on the relative location of this school to the new liquor license location.
6. The Planning and Zoning Commission finds that the Gunnison Arts Center liquor license must be amended to comply with the *State Liquor Code* to limit the designated premises to the first floor of the building.
7. The Planning and Zoning Commission finds that because the school enrollment numbers are relatively small, and due to the fact that parking demand for the school occurs during the day rather than in the evening, parking demands are considered to be reasonable and will not have a significant adverse impact upon downtown parking demand.
8. The Planning and Zoning Commission finds that based on City Police Department data there have been three accidents at the Tomichi and Main intersection in the past five years, but none of the accidents were attributed to automobile parking ingress/egress movement.
9. The Planning and Zoning Commission finds that based on provisions of the *International Building Code*, this is a change in building occupancy; the present occupancy designation is "A" (Assembly) and "B" (Business). The Orsch use is classified by the IBC as "E" (Education).
10. The Planning and Zoning Commission finds that modifications are needed to the proposed structure for the school use that conforms to the *2009 International Building Code* and *2009 International Fire Code* before a Change in Occupancy will be issued for the second floor of the Gunnison Arts Center building.
11. The student population size and number of employees has a very significant relationship to the potential impacts of this Conditional Use and the Planning and Zoning Commission finds

that setting an upper limit threshold on the number of student is a reasonable solution to address additional impacts.

12. The Planning and Zoning Commission finds that the adjacent alley is not properly signed for safe and functional vehicle movement.
13. The Planning and Zoning Commission finds that operation of the Orsch School will not be a detriment to the community's health, safety and welfare as long as the following conditions are fulfilled:

CONDITIONS:

1. Future designation of the intersection of Main Street and Tomichi Avenue as a school zone is not to be considered. If it is determined by the City Council that the need for such a designation exists, the school shall terminate operations at this location.
2. The Gunnison Arts Center liquor license must be amended to comply with the *State Liquor Code* to limit the designated premises to the first floor of the building.
3. If the location of the school is cited as the primary reason for the denial of a new liquor license, a review of this Conditional Use approval shall be initiated and the Conditional Use approval may be subject to revocation.
4. Modifications to the Arts Center Building as determined by the City Building Official and Fire Marshal shall be initiated immediately. The timing to allow the Change of Occupancy and inhabitation of the Arts Center by the Orsch School is subject to determination by the City Building Official. The Building Official shall determine that all necessary life-safety issues are appropriately addressed, and that building conditions are safe for students and employees prior to the approved occupancy by the school.
5. This Conditional Use approval sets the maximum student enrollment to 100 students. If the enrollment exceeds this threshold this approval is subject to a new Conditional Use application.
6. Proper one-way signage of the alley adjacent to the Arts Center between Tomichi Avenue and New York Avenue shall be established by the City.
7. This Conditional Use approval shall run for a six year period; it will terminate on August 15, 2017. This Conditional Use shall be reviewed no later than August 15, 2016. This Conditional Use is concurrent with the Lease Agreement between Orsch and the Gunnison Arts Center and will terminate when and if the lease terminates.

Roll Call Yes: Dusty, Erich, Bob, Ed, Stu, Greg
Roll Call No:
Roll Call Abstain:
So Carried

IV. ADJOURN. Chair Beda adjourned the meeting at approximately 8:07 p.m.

Bob Beda, Chair

Attest:

Pam Cunningham, Secretary