

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, Planner Andie Ruggera, Planning Technician Pam Cunningham, Beth Marcue, Janice Wellborn.

**I. CALL TO ORDER AT 7:02 PM BY CHAIR BOB BEDA**

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

**III. CONSIDERATION OF THE SEPTEMBER 14, 2011 MEETING MINUTES**

Commissioner Riggs moved to approve the September 14, 2011 meeting minutes as presented. Commissioner Szymanski seconded the motion.

Roll Call Yes: Dusty, Erich, Stu, Bob, Carolyn, Ed

Roll Call No:

Roll Call Abstain:

So Carried

**IV. UNSCHEDULED CITIZENS.** There were none

**V. PUBLIC HEARING AND POSSIBLE ACTION:** Conditional Use Application CU 11-5, submitted by Beth Marcue to operate a Bed and Breakfast in the Professional Business (B1) district.

**Open Public Hearing.** Chair Bob Beda opened the public hearing at approximately 7:04 pm.

**Proof of publication was shown for the record.**

**Review of Process.** Planner Ruggera gave an overview of the process of a Conditional Use application. The applicant, Beth Marcue, is requesting to operate a one-room bed and breakfast in the Professional Business (B1) district. The legal description of the property is Tract A, Lowe Subdivision, City and County of Gunnison, Colorado.

**Applicant Presentation.** Beth Marcue addressed the Commission. She stated she would like to rent one of the rooms in her house. She explained that the property is located in zone B-1 and the block is mixed use with about 50% residential and 50% commercial. She said she has talked to all of the residents in the area and they are comfortable with the idea. She said she does have two off-street parking places, one for herself one for the rental unit.

Chair Beda asked if her [graphic design] studio is on a different property. Ms. Marcue replied that it is the same property and was originally the garage.

Commissioner Ferchau asked Ms. Marcue if she would ever want to use more than one bedroom for the bed and breakfast. She replied that there are only two bedrooms in the house. Commissioner Ferchau stated that he wouldn't want the condition of rental of only one bedroom to be a limiting factor and wondered why that was in the staff report. Planner Ruggera explained that one of the requirements for a bed and breakfast is that the owner or manager has to live on-site and the request was for a one-room bed and breakfast inn.

Commissioner Ferchau asked "What if someone wants to rent on VRBO?" Chair Beda responded that it is against the current *Code*.

Commissioner Szymanski asked for clarification that a bed and breakfast can have up to nine rental rooms and Planner Ruggera confirmed that was correct. Commissioner Ferchau stated that he wants the applicant to know she is limiting herself by renting only one room and that she could sleep in the studio. Ms. Marcue replied, "I don't foresee that." Planner Ruggera stated that the other complication is the parking requirements. Right now there are two parking spaces; she would need two additional spaces if she were to rent two rooms. Commissioner Ferchau said he would like to think about the rare opportunity to have the whole house rented.

Commissioner Ferguson said, "I agree with Eric. The criteria are set forth clearly. As long as she meets the criteria, why do we have to add other parameters?"

Chair Beda asked if it is prudent to change the language because of the public hearing. Planner Ruggera said that the public hearing was advertised as a one-room bed and breakfast because that was what was requested.

Commissioner Szymanski stated "Ultimately it is Beth's decision. She came to us requesting a one bedroom bed and breakfast. If she wants two, legally we would have to advertise for two. It is just the fact that it was advertised as one.

Commissioner Riggs said, "It is up to Beth to tell us what she wants to do. We can either approve it as is, or have another public hearing after we notify the public. Ms. Marcue said, "Let's just go with what we've got. I appreciate your input and ideas, but let's see if this idea even works for me."

Commissioner Riggs asked what prompted her to open a room in her home. Ms. Marcue replied "I have been thinking about renting it for a while, a friend came to visit and fell in love with the town and with the house, and she suggested I do this. I decided to try it. I appreciate your input and ideas."

**Public Input.** Chair Beda asked if any members of the public wished to speak. There were none.

**Staff Presentation.** Planner Ruggera reviewed the departmental comments, specifically that the Building Official and Fire Marshal want an inspection for life and safety issues. She went over the staff observations, review standards, and the conditions to mitigate possible issues.

**Commission Discussion.** Commissioner Szymanski said that it is a great idea because of the location of the spare bedroom and that it is a great house.

Commissioner Ferchau said, "I don't like the idea of the nuisance condition. I don't like the idea that neighbors who have no right to complain do. We have college rentals all over town. I would like to see that Condition removed because it puts her at risk because if there is some complaint, she would have to come back to us. That isn't necessary."

Commissioner Ferguson said, "I think it is an acceptable use, we should encourage economic development on a modest and compatible level. The size is not intimidating. It is a nice opportunity. I concur that Condition #5 could be removed in its entirety. There are already provisions in the *Code* for nuisance."

Councilor Seymour said "I am comfortable with removing Condition 5. This seems like a great use; it will enhance the neighborhood. It is good; it has brought other things we can discuss in the *Code* discussion."

Commissioner Riggs said, "I could go either way on #5, but I lean toward leaving it because I think it is good for any type of out of town visitation to have those limitations for guests, especially for a neighborhood that is so mixed. It is not going to hinder her intention. She is going to screen her guests. It is important to keep the same rules and conditions across the board." Planner Ruggera stated that the nuisance condition is listed to be consistent with other Conditional Uses.

Chair Beda responded, "It is already in the *Code*. You could apply it to the building across the street that is vacant and hasn't been kept up." Planner Ruggera replied the Municipal Code does have a nuisance section; however it is not related to the enforcement of a Conditional Use permit.

Commissioner Ferguson said, "I still advocate taking it out. We keep trying to get better. If we take superfluous things out of government we would be more efficient. We have nuisance in the *Criminal Code*. It has far greater teeth than this. We should be consistent and apply equally to everyone. For rental property it is a way to get attention, declare it a public nuisance. I argue for consistency and use the tools we have."

Planner Ruggera asked if there was consensus to take Condition #5 out. There was consensus. Planner Ruggera suggested that Finding #9 be struck as well.

Chair Beda closed the public hearing at 7:32

### **ACTION**

During the regular Planning and Zoning Commission meeting held on September 28, 2011, Commissioner Szymanski moved, and Commissioner Riggs seconded, and the Commission voted to APPROVE Conditional Use application CU 11-5, submitted by Beth Marcue to operate a one-room bed and breakfast inn at 123 North Boulevard, based on the following findings of fact and conditions as amended:

### **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 one-room bed and breakfast inn in the B-1 district zone.
3. The Planning and Zoning Commission finds that a bed and breakfast inn provides short-term lodging.
4. The Planning and Zoning Commission finds that the proposed bed and breakfast inn is compatible with the neighborhood uses.
5. The Planning and Zoning Commission finds that the two off-street parking spaces required for this Conditional Use are present on the parcel.
6. The bed and breakfast inn use is similar to a home business. The Planning and Zoning Commission finds that this business indicates the need for the owner or manager to reside at the property.
7. The Planning and Zoning Commission finds that the bed and breakfast inn shall be operated under any requirements or standards of the Colorado Department of Public Health and Environment.
8. The Planning and Zoning Commission finds that the bed and breakfast inn must be inspected by the Building Official and Fire Marshal to ensure fire and life safety requirements.
9. 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:

**Conditions:**

1. No more than one room shall be occupied by guests at any time.
2. The owner or manager shall reside at the bed and breakfast inn.
3. 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.
4. The bed and breakfast inn must be inspected by the Building Official and Fire Marshal to ensure fire and life safety requirements prior to opening.

Roll Call Yes:                      Dusty, Erich, Stu, Bob, Carolyn, Ed

Roll Call No:

Roll Call Abstain:

So Carried

- VI.** Motion to excuse Commissioner Larson. Commissioner Szymanski moved and Commissioner Ferguson seconded to excuse Commissioner Larson.  
Chair Ferguson asked who was in favor. It was passed unanimously.

- VII. COUNCIL UPDATE.** Councilor Seymour updated the Commission on recent Council business:

The Council:

- had a budget retreat on September 19<sup>th</sup>;
- at the meeting on September 27<sup>th</sup> citizens come in to discuss the possibility of a sales tax audit and those present were against random audits because it would take up their time, which is money. At this time all staff has authority to do is investigate how they would do an audit.
- passed two ordinances on 2<sup>nd</sup> reading which are the final steps for vacating the utilities on Bidwell;
- took action to spend \$6,850 for a firehouse storage unit to replace a lean-to that collapsed and was replaced in that amount by the insurance company. Commissioner Ferchau asked if the insurance company cares how the money is spent. He suggested that “With the large volunteer fire department you might get more bang for your buck to build a better shed and not go buy a pre-made one from out of town.”

#### VIII. COMMISSIONER COMMENTS

- Commissioner Riggs pointed out the invitation from the Orsch School/Arts Center that was given to each Commissioner. The invitation is to an open house to welcome everyone to come see how the collaboration is going. There will be food and beverages and students and staff will provide tours. She encouraged everyone to attend.
- Commissioner Szymanski said that the 10<sup>th</sup> annual Natural Building Conference was last weekend. It was sponsored by the City and other local businesses and was attended by about 70 people from all over. The state association members moved to do an international conference in Colorado next year, on the Front Range. He thanked the City for the grant that helped with marketing.
- Commissioner Ferchau said he “would encourage staff, when dealing with Beth and those types of people to make things more advantageous for them. We are here to serve the public and their interests and try to make things work. It is unfortunate, that even though it is something that won’t come up in the future, that we limited it.”

#### IX. PLANNING STAFF UPDATE. Planner Ruggera updated the Commission on recent department activity:

- The Joint Session with City Council and the Commission to discuss the sign code will be on November 1<sup>st</sup>.
- staff has been working on updating the trail plan; and
- staff has been working on the new web pages for the City’s web site.

#### X. ADJOURN TO WORK SESSION. Chair Beda adjourned the meeting at approximately 7:45 p.m.

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Bob Beda, Chair

Attest:

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Pam Cunningham, Secretary