

**AGENDA  
CITY OF GUNNISON  
PLANNING & ZONING COMMISSION  
REGULAR MEETING  
Rev 10/7/2011**

**DATE:** WEDNESDAY, OCTOBER 12, 2011  
**TIME:** 7:00 P.M.  
**PLACE:** CITY HALL, COUNCIL CHAMBERS, 201 WEST VIRGINIA AVE.

- 7:00pm**
- I. CALL TO ORDER**
  - II. PLEDGE OF ALLEGIANCE TO THE FLAG**
  - III. CONSIDERATION OF THE SEPTEMBER 28, 2011 MEETING MINUTES**
  - IV. DISCUSSION OF NOVEMBER MEETING SCHEDULE**
  - V. UNSCHEDULED CITIZENS**
  - VI. COUNCIL UPDATE**
  - VII. COMMISSIONER COMMENTS**
  - VIII. PLANNING STAFF UPDATE**
  - IX. ADJOURN TO WORK SESSION**

**WORK SESSION**

**LAND DEVELOPMENT CODE UPDATE.** (Discussion will continue with Section 4.8 Signs)

**TO COMPLY WITH ADA REGULATIONS, PEOPLE WITH SPECIAL NEEDS ARE REQUESTED TO CONTACT THE CITY OF GUNNISON COMMUNITY DEVELOPMENT DEPARTMENT AT 641.8090**

This agenda is subject to change, including the addition or deletion of items at any time. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are posted at City Hall and on the City website at [www.cityofgunnison-co.gov](http://www.cityofgunnison-co.gov). Work sessions are not recorded and formal action cannot be taken. For further information, contact the Community Development Department at 641-8090.

**ALL PLANNING & ZONING COMMISSION MEETINGS  
ARE USUALLY BROADCAST LIVE ON LOCAL CABLE CHANNEL 15**

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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.

\_\_\_\_\_  
Bob Beda, Chair

Attest:

\_\_\_\_\_  
Pam Cunningham, Secretary

## ***DRAFT MEMORANDUM***

TO: City Council  
Planning and Zoning Commission  
FROM: Steve Westbay  
DATE: November 2, 2011  
RE: Draft Sign Code Review

### **INTRODUCTION**

During the past few months the Planning and Zoning Commission has worked on the draft Sign Code development. Detailed focus on sign code regulations is warranted because the existing code lacks necessary specificity, directives are confusing, and it does not address modern sign technologies. Revised elements of the draft sign code include but are not limited to:

- Expanded definition section to help facilitate better understanding and administration;
- Expanded “exemption” list to address specific signage not requiring official permit review;
- Expanded list of “prohibited” signs addressing safety and other factors;
- Detailed provisions addressing the computation of sign area;
- Specified conditions defining sign illumination standards;
- Detailed regulations addressing Electronic Message Centers;
- Specified regulations central to administering signage in individual zoning districts; and
- Detailed provisions addressing critical International Code requirements for sign construction and maintenance.

The draft sign code employs a performance based structure. This structure addresses critical performance standards such as location, size and height, and construction of signage. Topics summarized in this memorandum include a review of Performance Based Standards, Electronic Sign Standards; and proposed Code Incentives to promote business marketing potential.

### **PERFORMANCE BASED STANDARDS**

Approximately 15 to 20 contemporary municipal sign codes were reviewed during the development of this draft sign code. Model sign code standards from the American Planning Association (APA) and the United States Sign Council (USSC), the largest association of independent sign shops in the world, were also used in the development of these regulations.

The trend in contemporary sign codes is to use performance based standards for promulgating related regulations. These performance based standards set criteria for size, appropriate locations based on land use, illumination standards and other critical topics related to signage. The performance based structure is integrated with a comprehensive list of definitions and coherent directives that guide the permitting and administration process. Performance based standards integrated into the draft sign code include, but are not limited to the following:

**Sign Types.** The draft sign code includes a lengthy list of sign types located in the definitions section. These definitions are essential for the reader to understand the related standards and for code administration. For the most part, sign types are similar to those presently found in the City. Basic sign types include wall sign, freestanding sign, projecting sign and window sign.

**Prohibited Signs.** The draft code contains a fairly lengthy list of prohibited signs. Many of the prohibited sign types are derived from recommendations of the USSC. Prohibited signs include mechanically moving signs, flashing signs, signs that obstruct ingress/egress, and mirror device signs.

**Sign Area and Computation.** The draft sign code does not propose any major changes to the maximum allowed sign area, which is set at 150 square feet. However, the draft code is more explicit in defining how the sign area is calculated. Additionally, the draft code has relaxed regulations in a manner whereby incidental signs such as directories, menus, open/closed, vacancy and other similar signs are not included in the computation of total Permitted Sign Area.

**Zone District Regulations.** Obviously the functional needs and scale of signage is different for individual zone districts. The draft sign code incorporates performance standards based on zoning land uses designations. Zone district sign regulations are set forth in a table format. These tables define maximum sign area, allowed number of signs, maximum sign height and specify prohibitions in given zone districts.

**Construction Standards.** The draft sign code establishes specific construction standards. Draft regulations require that electric components be designed to meet fire code standards and be equipped with components tested and validated by the Nationally Recognized Testing Laboratory (NRTL). The Building Official is authorized to require a building permit and engineer stamp for proposed signs.

### **ELECTRONIC SIGN STANDARDS**

The industry refers to modern electronic signs as Electronic Message Centers (EMC). By definition an EMC is “... *An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location*”. They are also known as an EMC and typically use light emitting diodes (LEDs) or liquid crystal display (LCD) as a lighting source. *Electronic message centers provide a static image display for a minimum of five second interval.*

Local governments regulate electronic advertising devices in varying degrees. While some cities completely prohibit the use of all electronic signs, others have no regulations specific to electronic signs. The draft sign code incorporates a menu of performance standards derived from the United States Sign Council and other modern municipal codes. These standards include display area size, copy change rate, placement, and illumination.

**Display Size.** The copy area of EMC’s is limited to 25 percent of the total sign area; the maximum EMC display area will not exceed 37 square feet. The draft code also establishes further restrictions based on the zone district designation. Maximum display area of EMCs is greatest in the Commercial District and is reduced in other districts.

**Sign Copy Change Rate.** There are varying opinions regarding the change rate of sign copy. Studies by the Federal Highway Administration in Seattle, Washington indicated that sequencing increases the likelihood of distractions and accidents; the USSC maintains that the static rate display duration of at least four seconds is appropriate and safe.

The draft code requires a minimum static display time interval of five seconds, which is in line with the USSC recommended four second interval. Thresholds for copy change rate (sequencing) in conjunction with standards for maximum display transition time are used to distinguish between the allowed copy change rate and prohibited flashing or illusionary movement messages.

**Placement.** There are several considerations related to electronic sign placement. Many modern codes prohibit the placement of EMC signs that may be viewed from any residentially zoned property. This approach was not included in the draft code because EMC’s presently exist at the High School and Community School. There have also been inquiries from the College to place an EMC on the College

Foundation property west of McDonalds which is zoned R-2 residential.

The draft sign code addresses this issue by establishing maximum size thresholds and, in the case of residential areas, limiting their installation to churches, schools and other institutional facilities. Establishing an overlay district would be another method to address the placement and use of EMC's.

**Illumination (Brightness).** The draft sign code sets limits for daytime and nighttime illumination: *"No sign shall exceed 5000 nits during the day and 500 nits during nighttime hours."* This light intensity threshold was derived from other model codes reviewed during the development of this draft code and is in line with recommended levels published by the USSC.

## **CODE INCENTIVES**

The regulatory bounds of the draft sign code have been relaxed in some instances to enhance business marketing opportunities and simplify the code's administration.

**Exempt Signs.** The existing sign code defines 10 sign types that are exempt and the draft update includes 24 sign types that are exempt. The exemption list simplifies the administration provision of the code, and in some cases provides additional marketing flexibility. For example, exempting traffic control signs make administrative sense, and exempting menu signs and small window signs promotes marketing potential.

**EMC's.** As discussed previously EMC's are being permitted with specific performance standards. While EMC's are allowed in all zone districts the maximum display area is set according to the zone district; the Commercial District is permitted up to 37.5 square feet and the other zone districts are limited to a maximum of 12 square feet of display area.

**Sign Area.** In many instances the permitted area of signs has been increased, but the maximum sign area for any business is 150 square feet which is consistent in the existing sign code. The area of freestanding signs in non-residential districts has been increased from 50 square feet to 60 square feet. Additionally, the permitted area wall signs and freestanding signs in the multi-family zone district has been adjusted to a maximum of 75 square feet; this has been included to allow multi-family complexes the ability to have identification signage.

The other major incentive in sign area provisions relate to the exclusion of small signage used by businesses to market pedestrian traffic. Window sign displays have been relaxed to exclude a portion of the window signage display area from the Permitted Sign Area; small suspended signs, food menus and other small signage features are also excluded from the Permitted Sign Area. These signage exclusions allow business owners to market pedestrian traffic without affecting the allowed area of primary sign structures.

**Sandwich Board Signs.** Another change relates to the display of sandwich board signs on public rights-of-way. The draft sign code contemplates these displays as long as the business owner is granted an administrative license agreement to address liability issues. The administrative license agreement concept is supported because the existing license agreement process is very cumbersome and time consuming for both the applicant and City staff.

**Historic Signs.** The draft sign code includes an exemption provision for any sign that is designated as a historic sign by City Council resolution. This exclusion allows the Council to consider the merits of any existing sign and allow for its continued existence if it has historic value.

## **CONCLUSION**

The draft sign code includes provisions that expand business marketing potential. However, the new code also establishes performance based standards to ensure that signs do not overwhelm the City's streetscape. Considering new electronic sign technologies is possibly the most difficult topic addressed in the draft code. Regulation of EMC's is based on performance measures that address illumination, sequencing, and other technical quantifications. However, the perception of EMC's is very much an individual value based function. The Planning and Zoning Commission has included standards intended to protect the sense of the existing community, but allows for the flexibility to use modern signage technologies.