

**AGENDA
CITY OF GUNNISON
PLANNING & ZONING COMMISSION
Rev 1/23/2015**

DATE: WEDNESDAY, JANUARY 28, 2015
TIME: 7:00 P.M.
PLACE: CITY HALL, COUNCIL CHAMBERS, 201 WEST VIRGINIA AVE.

REGULAR MEETING

7:00pm

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE TO THE FLAG**
- III. UNSCHEDULED CITIZENS**
- IV. CONSIDERATION OF THE DECEMBER 10, 2014 MEETING MINUTES**
- V. COUNCIL UPDATE**
- VI. COMMISSIONER COMMENTS**
- VII. PLANNING STAFF UPDATE**
- VIII. ADJOURN TO WORK SESSION**

WORK SESSION

MARIJUANA CODE DISCUSSION

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 on the City website at 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.

MEMBERS	PRESENT	ABSENT	EXCUSED
Erik Niemeyer	X		
Erich Ferchau	X		
Andy Tocke	X		
Bob Beda	X		
Sharon Cave	X		
Greg Larson	X		
Councilor Stu Ferguson	X		

OTHERS PRESENT: Community Development Director Steve Westbay, Planner Andie Ruggera.

I. CALL TO ORDER AT 7:00 PM BY CHAIR GREG LARSON

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. UNSCHEDULED CITIZENS. There were none

IV. PUBLIC HEARING AND ACTION– Conditional use, CU 14-6 submitted by Joseph Harmon for the operation of a church in the central business district

Open Public Hearing. Chair Larson opened the public hearing at approximately ___7:00 p.m.

Proof of publication. Proof of publication was entered into the record.

Review of the Process. Planner Ruggera reviewed the process of a Conditional Use application for the operation of a church in the Central Business District.

Applicant Presentation. The applicant, Joseph Harmon stated he moved from Alamosa with his wife and extended family and wanted to open a church at the 137 West Tomichi Avenue site. Mr. Harmon stated he is proposing Wednesday night services and morning (7 a.m.) services Monday through Friday. The proposed hours of operation should not affect downtown parking and signed two-hour parking. Mr. Harmon stated the site provided a good atmosphere for the church.

Commissioner Ferchau inquired on the capacity of the building proposed for the church. Mr. Harmon responded that he hopes the congregation grows and he currently has a six-month lease on the building. He stated that if they grow too big he has no intention of staying at this location and would find a different site.

Public Input. Terry Morrow, owner of real estate occupied by the Blackstock Bistro, inquired on the location and asked if there were any regulations regarding placing a church next to a bar. Ms. Morrow stated that the Bistro generates a lot of parking use on Wednesday nights. She inquired if [the City] would be better off with a sales tax producing business at this site.

Suzanne Esty, owner of the proposed church site, stated she thought the church was a good fit. She stated the applicant is brand new to the community and are very peaceable. Ms. Esty doesn't think there would be an issue with a church at this location including parking.

Mr. Harmon replied that he does not protest, he teaches the bible. He is not going to reach people by shouting across the people that are headed to the bar. Mr. Harmon stated his job was to preach over the pulpit and once the congregation gets a little bigger they would like to move. He stated if they grow much bigger they would want more parking at a different location also.

Staff Presentation. There was discussion on the process of liquor licenses in the downtown area. Director Westbay stated that City Council is wise in considering that there are many mixed uses in the downtown area that include bars, restaurants and churches. Council has always been supportive of these mixed uses and has allowed new and renewed liquor licenses to businesses within close proximities of other uses downtown.

Commission Discussion. The Commission further discussed liquor license procedures and a new finding was added to the proposed findings of fact.

Close Public Hearing. Chair Larson closed the public hearing at 7:15 pm.

Commissioner Tocke moved, and Commissioner Cave seconded, and the Commission voted to approve Conditional Use Application CU 14-6, submitted by Joseph Harmon for the operation of a church at 137 West Tomichi Avenue, based on the following findings of fact:

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 church in the Central Business District.
3. The Planning and Zoning Commission finds that the surrounding uses of retail, commercial services and professional offices are compatible with the operation of a church.
4. The Planning and Zoning Commission finds that the hours of operation are Sundays, Wednesday evenings and daily at 7 a.m.
5. The Planning and Zoning Commission finds that City Council has historically supported mixed uses in the downtown area and the church use will not affect existing or new liquor licenses.
6. The Planning and Zoning Commission finds that a church in the CBD will not be a detriment to the community's health, safety and welfare.

V. CONSIDERATION OF THE NOVEMBER 12, 2014 MEETING MINUTES. Commissioner Niemeyer moved and Commissioner Cave seconded, to approve the November 12, 2014 meeting minutes as corrected.

Roll Call Yes: Ferchau, Tocke, Beda, Larson, Ferguson, Cave and Niemeyer
Roll Call No:
Roll Call Abstain:
Motion carried

VI. COUNCIL UPDATE. Councilor Ferguson updated the Commission on recent Council business:

- Council approved second reading on utility rate increases; and

- Council approved the second reading of the 2015 City Budget.

VII. COMMISSIONER COMMENTS. The Commission discussed the Region 10 Broadband Initiative and the fiber infrastructure needed for the initiative.

VIII. PLANNING UPDATE. Director Westbay provided an update on recent Community Development activities:

- Staff is continuing work on the Peaks to Parks grant and CWCB grant;
- Staff is working on the marijuana ordinance;
- Staff evaluations were completed; and
- Staff is continuing work on community survey.

IX. ADJOURN. Chair Larson adjourned the meeting to Work Session at 7:46 p.m.

Attest:

Greg Larson, Chair

Andie Ruggera, Secretary

TO: Planning and Zoning Commission
FROM: Management Staff – Marijuana Code Committee
DATE: January 28, 2015
RE: Marijuana Code Overview

Introduction

On November 4, 2014, the City of Gunnison put the question to registered voters of the city, whether to allow medical marijuana establishments and/or retail marijuana establishments, and whether the sale of related products should be subject to taxation. Since the approval of the ballot question, City staff has started developing an ordinance to address regulatory provisions for recreational marijuana. Regulatory oversight of the new marijuana business market requires amendments to the City Sales and Use Tax Code (Chapter 3.10) and the Business Regulations (Chapter 8.50) of the *City of Gunnison Municipal Code*. Additionally, the *City of Gunnison Land Development Code* (LDC) will be amended to address land use regulations. This memorandum summarizes the general ordinance structure; defines specific statutory and legal mandates; outlines land use regulation changes and speaks to the topic Marijuana Tax Revenues.

Ordinance Structure

Passage of the sale tax question requires amendments to GMC, Section 3.10.060, Schedule of Sales Tax Distribution of Receipts. A five percent sales tax on related products (medical and recreational) will be established by an amendment to this Section of the GMC.

The City's business regulations, which are codified in Title 8 of the GMC, will be amended to address the licensing provisions for growing, product manufacturing, and retail sales of medical and recreational marijuana businesses. Amendments to this section will address application fees; application contents; procedural functions; and review standards.

Land use regulation amendments needed for the marijuana industry will necessitate changes to Sections 2 and 3 of the LDC. Specifically, the Principal Use Table (Table 2-3) will be amended to address zone districts where grow operations, manufacturing and retail sales may occur. Section 3 of the LDC, titled Specific Use Regulations, will be amended with the addition of specific standards, protocols and procedures deemed necessary for this new industry. Additional details regarding land use regulation matters are addressed later in this memorandum.

Statutory and Legal Mandates

The Colorado Revised Statutes include the Colorado Medical Marijuana Code (C.R.S. §12-43.3-101 et seq.) and the Colorado Retail Marijuana Code, (C.R.S. §12-43.4-101 et seq.). These statutory mandates are promulgated by the Colorado Department of Revenue, Marijuana Enforcement Division (MED), who establish under the Code of Colorado Regulations (CCR's) specific protocols for licensing, tracking, transporting, manufacturing, labeling, packing, and enforcing Medical and Retail Marijuana industries in Colorado.

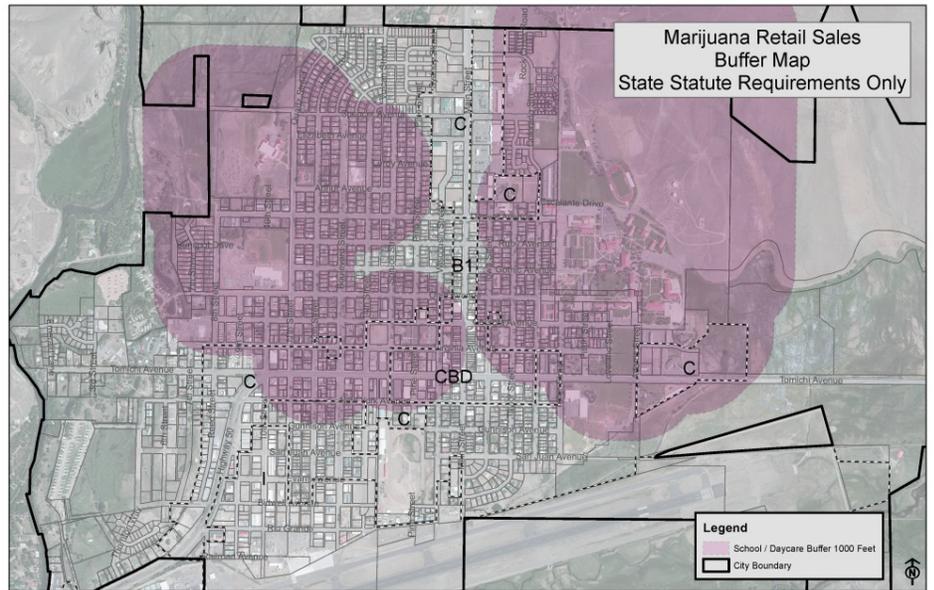
As a Home Rule Municipality, the City of Gunnison has broad discretionary authorities, exceeding state statutes that may be applied to regulating recreational and medical marijuana industries. Business regulatory components of the City's regulations will, for the most part, follow state CCR procedures. It is anticipated that licensing such businesses will be very similar to the review of a liquor license. However, land use regulatory provisions may have a higher level of regulatory oversight to address health, safety and general welfare factors that are unique to the industry. These additional regulatory provisions may apply to topics including, but not limited to:

- Grow operations and wastewater discharge;
- Manufacturing facilities design of hash-oil extraction devices (UL or engineer stamp);

- Signage;
- Land use buffers – residential and park buffers; and
- Use in public places.

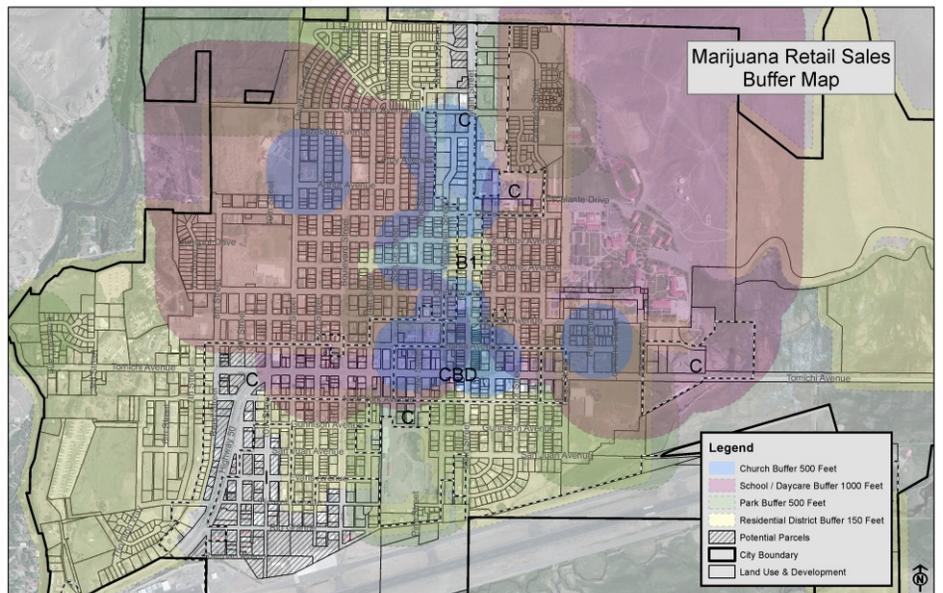
Land Use and Building Code Regulations

The Colorado Revised Statutes for recreational marijuana establishment requires a 1,000 foot separation buffer between public or private pre-schools, elementary, middle, junior high, high school or institution of higher education. Many other communities have established additional buffers from churches, rehabilitation facilities, parks and other similar land uses. As noted in the adjacent map, a very large portion of the city land area is excluded for the related uses, based on the separation mandates from schools and the Western campus.



The staff believes there is merit for considering additional buffers from residential zone districts, places of worship (churches, synagogues, etc.) and parks. The map below depicts separations using a 150 foot residential buffer, 500 foot religious facility buffer, and 500 foot park buffer. Input from the Planning and Zoning Commission and City Council is needed in regard to proposed additional buffer standards.

Amendments to the Special Use Regulations (Section 3) of the LDC will be necessary. Section 3 will likely address a rather wide array of regulations pertaining to medical and recreational marijuana establishments. Signage, lighting, security, size, hours of operation and other factors will be established in Section 3 of the LDC.



Additional regulations addressing building codes are also necessary. Issues may include, but be limited to heating and ventilation systems; certifications standards for equipment used in manufacturing; wastewater quality standards (nutrients and pesticide discharge levels); wall separation design to prevent odors in buildings with party walls separating occupant types; and other similar details.

Another matter to be addressed is whether or not to limit the number of medical and recreational marijuana establishments allowed in the community. In general, large municipalities permitting these uses do not limit the number of business, while many smaller communities have limited the number of medical and retail marijuana establishments that may be licensed to operate.

Marijuana Tax Revenues

The advent of the marijuana industry will affect operational demands for licensing, permitting, inspecting and regulating the related uses. At this point in time, the additional demand on city operations is uncertain. The ballot question approved the use of tax revenues to defray costs incurred in regulating the marijuana industry, funding social, recreational, and educational programs and substance abuse prevention, education and counselling programs and to promote the general purposes of the City. While the additional revenues will be used for purposes funded by the General Fund specific directions for using these funding sources will be formulated at the discretion of the City Council.

Conclusion

The Planning and Zoning Commission is asked to consider the following topic questions and provide input for developing the ordinance.

1. Should marijuana establishments be regulated as a Conditional or Permitted use? This is really a question of approval authority. While judgment decisions should be minimal there will likely be instances when staff would need to make some difficult decision if they were granted as a permitted use. Conversely, many of the land use and building code standards will be technical in content and have little to do with overarching land use policies – in such instances staff must be capable to address technical mandates.
2. Should there be additional buffers established in addition to the statutory buffer separations? The staff recommends a 150 foot buffer from residential districts; that is to say any property within 150 feet of a residential district will be prohibited from operating a medical or recreational marijuana establishment. Staff also recommends a 150 foot buffer from any place of worship and public parks.
3. How many marijuana licenses should be permitted in the city limits?