

**AGENDA
CITY OF GUNNISON
PLANNING & ZONING COMMISSION
Rev 4/17/2015**

DATE: WEDNESDAY, APRIL 22, 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 MARCH 11, 2015 MEETING MINUTES**
- V. CONSIDERATION OF THE MARCH 18, 2015 MEETING MINUTES**
- VI. COUNCIL UPDATE**
- VII. COMMISSIONER COMMENTS**
- VIII. PLANNING STAFF UPDATE**
- IX. ADJOURN TO WORK SESSION**

WORK SESSION

DISCUSSION OF DRAFT MARIJUANA CODES

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 and Javier and Georgina Moltensen.

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 – CONDITIONAL USE APPLICATION CU 15-1, SUBMITTED BY JAVIER AND GEORGINA MOLTENSEN FOR A SINGLE FAMILY DWELLING IN THE COMMERCIAL DISTRICT ZONE

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 a single family dwelling in the Commercial District Zone.

Applicant Presentation. Javier Moltensen approached the Commission and stated he has the opportunity to build a home on the corner of 8th Street and Tomichi Avenue. Mr. Moltensen stated he believed a residence would be a nice fit in the area.

Public Input. No comments were received.

Staff Presentation. Staff did not have further comments.

Commission Discussion. Commissioner Beda stated the proposed location was the best place for a residence in the Commercial District.

Close Public Hearing. Chair Larson closed the public hearing at 7:10 pm.

Commissioner Beda moved, Commissioner Cave seconded and the Planning and Zoning Commission voted to APPROVE Conditional Use application, CU 15-1, submitted by Lorenzo Javier Moltensen and Georgina Cuaulti for single family dwelling on Lots 10-12, Block 18, West Gunnison Addition, with the following findings of fact and condition:

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 application is for a Conditional Use to allow the applicant to construct a single family dwelling in the Commercial zone district.
3. The Planning and Zoning Commission finds that a single family dwelling at this location is compatible with the surrounding neighborhood.
4. The Planning and Zoning Commission finds that the site provides ample room to comply with the standards of the *LDC* and final review of the site will be conducted during the building permit process.
5. The Planning and Zoning Commission finds that the proposed single family dwelling use will not have a significant effect on future City sales tax revenues.
6. The Planning and Zoning Commission finds that the single family dwelling use will not affect the health, safety or welfare of the community.
7. The Planning and Zoning Commission finds that the review standards for Conditional Uses have been or will be met based on the following condition:

Condition:

1. The applicant shall apply for a building permit for a single family dwelling prior to Conditional Use expiration of March 11, 2018.
Roll Call Yes: Ferchau, Tocke, Larson, Ferguson, Cave and Beda
Roll Call No:
Roll Call Abstain:
Motion carried

V. THREE-MILE COUNTY REFERRAL – VISTA BUSINESS CENTER, PRELIMINARY PLAN APPLICATION, ADJACENT TO SIGNAL PEAK INDUSTRIAL PARK

Planner Ruggera reviewed the Vista Business Center Preliminary Plan application. The Commission discussed the proposed industrial uses and the vacant industrial land still available within the City.

Councilor Ferguson inquired on the possible risks with the ISDS systems so close to Tomichi Creek. He also stated concern of industrial uses that are near the ISDS systems. Ferguson asked if there was a possibility of hooking onto the City's water system. Director Westbay stated hooking into the City's system would be problematic and lift station would be required.

Commissioner Cave moved to authorize Chair Greg Larson to sign the letter to the County Planning Commission regarding the Vista Business Center Preliminary Plan application. Commissioner Ferchau seconded the motion.

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

VI. CONSIDERATION OF THE FEBRUARY 11, 2015 MEETING MINUTES. Commissioner Tocke moved and Commissioner Cave seconded, to approve the February 11, 2015 meeting minutes as amended.

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

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

- UGRWCD General Manager, Frank Kugel and District 8 Board Member, George Sibley presented to Council the Gunnison Basin and State water plan; and
- Council discussed a resolution to set the May, 2015 election as a mail ballot election.

VIII. COMMISSIONER COMMENTS. Commissioner Tocke moved and Councilor Ferguson seconded to excuse Commissioner Niemeyer from the March 11, 2015 regular meeting.

Roll Call Yes: Ferchau, Larson, Beda, Cave, Ferguson and Tocke

Roll Call No:

Roll Call Abstain:

Motion carried

Commissioner Cave moved and Councilor Ferguson seconded to excuse Commissioner Tocke from the March 18, 2015 regular meeting.

Roll Call Yes: Ferchau, Tocke, Larson, Beda, Ferguson and Cave

Roll Call No:

Roll Call Abstain:

Motion carried

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

- Staff is working on a text amendment to reclassify a major subdivision to a minor;
- Staff finished work on the Paths to Parks GOCO grant;
- Staff is working on the draft marijuana code and preparing for the upcoming public workshops; and
- Staff processed a request for a license agreement to construct a deck within the Main Street right-of-way.

X. ADJOURN. Chair Larson adjourned the meeting to Work Session at 7:47 p.m.

Attest:

Greg Larson, Chair

Andie Ruggera, Secretary

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 – TEXT AMENDMENT ZA 15-1, SUBMITTED BY STEVE WESTBAY, DIRECTOR OF COMMUNITY DEVELOPMENT, REQUESTING AN AMENDMENT TO RECLASSIFY A MAJOR SUBDIVISION TO A MINOR FOR A DEMONSTRATED COMMUNITY BENEFIT AND TO CORRECT TYPOGRAPHICAL ERRORS WITHIN THE LDC.

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. Director Westbay reviewed the process of a Text Amendment application to amend the *Land Development Code (LDC)*.

Applicant Presentation. Director Westbay discussed the proposed amendment to reclassify a major subdivision to a minor for a demonstrated community benefit and gave an overview of the minor amendments or corrections to the *LDC*.

Public Input. No comments were received.

Staff Presentation. Staff did not have further comments.

Commission Discussion. The Commission did not have further comments.

Close Public Hearing. Chair Larson closed the public hearing at 7:09 pm.

Commissioner Beda moved, Commissioner Cave seconded, and the Planning and Zoning Commission voted to recommend APPROVAL, to City Council of Zoning Amendment application ZA 15-1, for a Text Amendment to Section 12, Subdivision Standards, specifically regarding a subdivision reclassification from a major to a minor subdivision and minor amendments throughout the *LDC*, 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 the amendment establishes a means to reclassify a major subdivision to a minor subdivision for the purpose of a demonstrated community benefit.
3. The Planning and Zoning Commission finds that proposed amendments enhance staff direction or correct errors within the *LDC*.
4. The Planning and Zoning Commission finds that this Text Amendment application complies with the review standards for Text Amendments (*LDC*, Section 10.5).
5. The Planning and Zoning Commission finds that based on the record of the application proceedings, approval of this Text Amendment protects the community's health, safety and welfare.

Roll Call Yes: Niemeyer, Ferchau, Larson, Ferguson, Cave and Beda

Roll Call No:

Roll Call Abstain:

Motion carried

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

- Received an update on the fire truck. The truck will be completed in 12 to 18 months; and
- Discussed the dog park project and funding for the pool chemical system and energy monitoring system.

VI. COMMISSIONER COMMENTS. Commissioner Ferchau gave an update on the Gunnison Sage-grouse.

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

- The Community Clean Up is on April 18th; and,
- Ana's Pledge Bicycle Rodeo is scheduled for May 2nd;

VIII. ADJOURN. Chair Larson adjourned the meeting to Work Session at 7:16 p.m.

Attest:

Greg Larson, Chair

Andie Ruggera, Secretary

MEMORANDUM

TO: City Council
FROM: Management Staff – Marijuana Code Committee
DATE: April 21, 2015
RE: Marijuana Code Overview

Introduction

Development of local marijuana regulations to date has been premised on following:

- directives associated with state statutes and accompanying regulations established for the industry;
- obtaining input from the community regarding potential directives; and,
- determining relevant local oversight provisions directed at protecting the community's health, safety and welfare.

The public input process has shown there is a dichotomy of opinion in the community. It is anticipated that the final local marijuana regulations will establish a reasonable balance between diverse community opinions and ensuring that health, safety and welfare factors are adequately addressed.

Regulatory oversight of the new marijuana business market requires amendments to the City Sales and Use Tax Code (Chapter 3.10), the Business Regulations (Chapter 8.50), and the City's adopted International Codes (Chapter 14, Building, Mechanical, and Fire Codes) of the *City of Gunnison Municipal Code* (GMC). Additionally, the *City of Gunnison Land Development Code (LDC)* will be amended to address a variety of use regulations. This memorandum summarizes the general ordinance structure and content provisions that will be incorporated into the draft ordinance.

Sales Tax Distribution

Passage of the sales 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 retail) will be established by an amendment to this Section of the GMC. Excise tax will be applied to Retail marijuana and marijuana products exported from the city limits.

Business Regulations

Business regulations address a variety of topics including, but not limited to, license and application fee requirements; application material contents; review process and procedures; renewal, ownership transfers and change of location; and suspension revocation provisions.

A subject requiring Council direction is associated with the remittance of fees if an application is withdrawn. Specifically, if an application is withdrawn the staff recommends that the application fees will not be refunded. Does the Council wish to also refund the collected *license fee* or should it also be retained by the City?

Application content and the licensing process will focus on the business functions. Business licensing application materials deemphasize operational details, but they mandate compliance with adopted building and *LDC*. That is to say, licenses will be considered without a great amount of facility and operational related details, but the license will not be subject to issuance until the building, mechanical, and fire code provisions are adequate and zoning compliance requirements are fulfilled.

Suspension and revocation provisions in the Business Regulations will consist of a list of mandates that, if not fulfilled, will constitute a case for revocation. Topics are related to professional business conduct; building code compliance; pollutant discharge into the City's sewer facilities; equipment standards; industrial hygiene provisions; and, oversight mandates for hazardous and toxic materials.

Building, Mechanical, and Fire Codes

The control of odor is necessary to minimize nuisances. Draft regulations for all marijuana establishments require that odors be removed from the facility in a manner that does not constitute a nuisance to adjacent occupants, structures and properties. Fulfilling the odor mandate in new buildings will not be a major issue, but existing buildings will be required to retro-fit mechanical systems (heating/air conditioning). The odor nuisance provision will allow marijuana establishments to operate in multi-tenant facilities.

Marijuana cultivation establishments and marijuana product manufacturing establishments present unique issues that must be addressed by amendments to the Building Code. Issues include, but are not limited to certification standards for equipment used in manufacturing and the use of flammable materials and compressed gas in cultivation or product manufacturing. Staff proposes the prohibition of compressed gases, and flammable and combustible liquids for cultivation and production. However, an exception will permit the use of Carbon Dioxide gas if certain life-safety features and provisions are in place. Specifically, if carbon dioxide gas levels exceed 5,000 parts per million an alarm system shall activate and the CO₂ equipment will shut down.

Due to the fact that this is an emerging industry, the equipment used in the cultivation and product manufacturing operations has not been tested by registered safety institutions that address the safety of machinery design. Typically manufacturing equipment is tested by institutions such as Underwriters Laboratories, the International Code Council or other similar entities. Because manufacturing operations are an “emerging industry” the related equipment specification have not been established, tested and approved by industrial safety institutions. The proposed code will require all equipment possess industrial safety certifications or be stamped and approved by a licensed engineer.

Food safety production standards will be addressed by the City marijuana code standards. Proposed local standards will require that marijuana product manufacturing establishments be inspected and approved by an industrial hygienist certified by the American Board of Industrial Hygiene. Design and operation protocol of the said marijuana manufacturing and production facilities will be required to comply with food safety mandates established by the State of Colorado. Annual inspection by a certified industrial hygienist is also proposed in the marijuana code.

Land Development Code (LDC)

Land use regulation amendments will apply to Sections 2 and 3 of the *LDC*. The Principal Use Table (Table 2-3) will be amended to address zone districts where grow operations, manufacturing, testing 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. These additional regulatory provisions apply to topics including, but not limited to:

- Zoning compliance: *no marijuana establishments in the CBD or B1 and cultivation and product manufacturing is limited to the Industrial District;*
- Grow operations and wastewater discharge: *must meet local and state discharge standards;*
- Signage standards: *comply with city sign standards and prohibit certain terms and images;*
- Industrial hygiene standards: *directed at filling oversight provisions not presently being met by the State of Colorado;*
- Hours of operation: *8:00am-7:00pm, seven days per week*

Land Use Buffers

The Colorado Revised Statutes require Medical marijuana establishments be separated at least 1,000 feet from public or private pre-schools, elementary, middle, junior high, high schools or institutions of higher education. Many other communities have established additional buffers from churches, rehabilitation

