

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, Lou Costello, John Billingsley, Ed Slaughenaupt, Jason Booth, Ken Bergan, Stephen Pierotti, and Tom Barber.

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

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. PUBLIC HEARING – TEXT AMENDMENT, ZA 15-2, TO AMEND SECTION 2, ZONING DISTRICTS, PRINCIPAL USE TABLE AND SECTION 3, SPECIFIC USE REGULATIONS WITHIN THE LAND DEVELOPMENT CODE, TO ADDRESS THE LOCATION AND LAND USE REGULATIONS FOR MARIJUANA ESTABLISHMENTS.

Open Public Hearing. Chair Larson opened the public hearing at approximately ___7:01 p.m. Chair Larson thanked the public for all their input from previous meetings and attending the public hearing. Larson also thanked staff for their hard work on researching and drafting the marijuana codes.

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)*. Westbay gave the history of marijuana stating in 2013 with the passing of the State vote regarding retail marijuana, the City Council, passed an ordinance prohibiting the operation of retail marijuana within the City. Since the action of voters in 2013 members of the public had requested that the City determine whether to continue the prohibition on medical and retail marijuana establishments within the City.

On November 4, 2014, the City put the question to registered voters on whether to allow medical and retail marijuana establishments within the City of Gunnison. Voters approved the allowance of medical and retail marijuana establishments along with the taxation on sales. Both the *Colorado Medical Marijuana Code* and *Colorado Retail Marijuana Code* authorize a local jurisdiction to allow the marijuana establishments within its boundaries to adopt its own time, place and manner restrictions, as well and other local regulations, which rules and regulations may be stricter than those established by the State of Colorado.

After the approval of the ballot question, City staff began developing an ordinance to address regulatory provision for marijuana establishments. Amendments are proposed to the City Sales and Use Tax Code (Chapter 3.10), Business Regulations (Chapter 8.50), and Technical Codes (Title 14, Building, Mechanical and Fire Codes) of the *City Municipal Code* and are reviewed and approved by City Council.

Amendments to the *LDC* are proposed to address land use regulations for marijuana establishments in Section 2, Zoning Districts, Principal Use Table and Section 3 Specific Use Regulations.

Applicant Presentation. Director Westbay discussed public input received to date. A total of five work sessions concerning the topic of marijuana regulations had been held. While many topics were

broached during these sessions, locational standards for retail establishments, the issue of co-occupancy tenants in a single building and wastewater discharge were of greatest interest.

Westbay discussed the origin of the proposed 1000 foot buffer for schools, daycare and mental health facilities and stated the Federal Drug Enforcement Administration had set the 1000 foot buffer and it was logical that the State used the same buffer. Westbay stated he reviewed a variety (approximately 30) of other City codes within the State and feels very comfortable with the buffer recommendations to the Commission.

Several public comments received focused on a draft proposal to prohibit co-tenant occupancy in the building with marijuana establishments. The primary concern was regarding odor issues affecting tenants in the building. Based on comments received, staff modified the regulations to allow shared occupancy in buildings with appropriate mechanical systems.

Westbay discussed wastewater discharge and stated it was the City's responsibility to protect the multi-million dollar wastewater facility. One belief raised was that the proposed regulations singled-out the marijuana industry as a polluter without regard to other industrial discharge sources. Westbay stated that within the *LDC* there are discharge standards for specific uses such as car washes, auto shops and City shops. Proposed codes set wastewater discharge thresholds and if the discharge, from the licensed facility is greater, the marijuana establishment must institute a pretreatment device plan for the facility.

Director Westbay reviewed the proposed amendments to the *LDC*.

Public Input. The following public comments were received:

Stephen Pierotti – local resident

Mr. Pierotti stated his opinion regarding the buffer map has changed since the last public workshop. He stated the buffer requirement of the 1000 foot buffer from medical marijuana establishments was presented by staff as a minimum for all marijuana establishments. Mr. Pierotti read the medical marijuana section of the state code and said the City had the authority to add or remove buffers all together. He stated he believed the school buffer should be 500 feet [like liquor laws]. Pages three and 17 of the staff report uses the statement, "which rules and regulations may be stricter than those established by the State of Colorado," should say, may be varying distance.

Tom Barber – local resident

Mr. Barber stated he has run hundreds of groups in schools dealing with issues. With all of the groups drugs and alcohol was always involved. He said he can picture places on the Front Range that sell marijuana or sexually oriented business and dislikes how they look. Mr. Barber stated he did not want kids to have to pass these types of places in Gunnison. He encouraged the Commission to consider limiting marijuana establishments to the Industrial district. These establishments shouldn't be shown so blatantly for everyone to see.

Ed Slaughenhaupt

Mr. Slaughenhaupt appealed to the Commission for greater restrictions on marijuana to allow only in the Industrial zone. No Tomichi Avenue or Main Street. Decisions should be based on the protection of children and the next generation of kids that will be impacted as well. The Commission should base their decisions on two things: 1) the protections of minors; and 2) listening to the people.

The Gunnison Times had an opinion poll in their paper where they had 91 people participate. 69% of the participants voted retail marijuana should only be in the Industrial district and 5% felt marijuana should be allowed nowhere.

Lou Costello

You [the Commission] should listen to voters that stated they wanted marijuana in 2014. Mr. Costello stated he likes the buffer map at this point. The process has been delayed long enough. The marijuana establishments should be transparent and open, to hide these businesses is crazy. Mr. Costello agreed with John Billingsley regarding the sign code proposal. He stated, how do you advertise business when you already have an established logo. All of his marketing would have to change.

John Billingsley

Mr. Billingsley commented that he had read the proposed sign code and disagreed with the regulations. He stated the name of the business should not be regulated. He has other stores called "The Pot Shop" and with the existing code he would have to rename his business if he opened in Gunnison. The marijuana establishments should be transparent. Mr. Billingsley stated he doesn't feel the restriction should be part of the Code. He continued saying the staff and Commission has done a great job with drafting and compromising on the marijuana codes and he is happy with the proposed buffers. Mr. Billingsley thanked Director Westbay and stated he has been very responsive in regard to comments on marijuana codes.

Todd Bogard

Mr. Bogard stated he saw that the codes do not allow co-habitants and didn't understand why. He didn't see an issue with it. Director Westbay explained that the original codes did not allow co-occupancy of a marijuana use with a non-marijuana use and the regulations now allow co-tenants.

Staff Presentation. Director Westbay overviewed the staff observations and review standards. Westbay stated the City received a full spectrum of comments. The business regulations and licensing process was established to be very streamlined. The public process is under City Council review with some instances that would require Planning and Zoning Commission review. In regard to the technical codes, staff knows them in concept and future amendments may be needed as marijuana establishments are developed.

Director Westbay stated he recommends approval of the application and that the recommendation is being driven by the health, life safety and welfare of the community.

Commission Discussion. Chair Larson thanked the public for all comments received tonight and at previous meetings.

Commissioner Ferchau recused himself from the vote due to a conflict of interest.

Commissioner Niemeyer expressed he is impressed by the amount of engagement by the community and said nothing ever comes easy. Niemeyer liked the buffer maps as proposed.

The Commission discussed the sign code regulations regarding using the terms "marijuana," "pot," "weed," or other slang terms. A question was raised on whether the name or location was the most important. Both Mr. Billingsley and Mr. Costello stated they were both equally important.

A lengthy conversation continued on the sign code and what the State allows. City Attorney, Kathleen Fogo stated that the State of Colorado does not restrict names unless it is a duplicate name or misleading.

Mr. Billingsley and Mr. Costello requested the Commission to take out the sign code prohibiting marijuana terms used in the business name.

The Commission reached consensus that the sign code language should be changed. The sign code section was amended to read:

“Marijuana establishment signage shall include only the registered or trade name, address and phone number of the marijuana establishment. Display graphic/images of any portion of a marijuana plant on signage associated with marijuana establishments shall be prohibited.”

The Commission thanked City Attorney, Kathleen Fogo for attending the public hearing.

Close Public Hearing. Chair Larson closed the public hearing at 8:25 p.m.

Commissioner Niemeyer moved, Commissioner Cave seconded, and the Planning and Zoning Commission voted to recommend APPROVAL, to City Council of Zoning Amendment application ZA 15-2, for a Text Amendment to Section 2, Zoning Districts and Section 3, Specific Use Regulations regarding medical and retail marijuana regulations with the *LDC*, with the amended sign code section, 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 proposed Text Amendment amends Section 2, Zoning Districts and Section 3, Specific Use Regulations within the *Land Development Code*.
3. The Planning and Zoning Commission finds that on November 4, 2014, the City of Gunnison put the question to registered electors on whether to allow medical marijuana establishments within the City, whether to allow retail marijuana establishments in the City, and whether to apply a local tax to the sale of medical or retail marijuana within the City.
4. The Planning and Zoning Commission finds that voters approved the allowance of medical and retail marijuana establishments within the City limits, as well as taxation on the sales of the same, subject to such rules, regulations, limitations and restrictions as may be adopted by City Council.
5. The Planning and Zoning Commission finds that the City has the power and authority to adopt Articles pursuant to:
 - a. The Colorado Medical Marijuana Code, C.R.S., Title 12, Article 43.3;
 - b. The Colorado Retail Marijuana Code, C.R.S. Title 12, Article 43.4;
 - c. The authority granted to home rule municipalities by Article XX of the Colorado Constitution;
 - d. The powers contained in the City of Gunnison Home Rule Charter;
 - e. The Local Government Land Use Control Enabling Act, Article 20 of Title 29, C.R.S.;
 - f. Part 3 of Article 23 of Title 31, C.R.S., (concerning municipal zoning powers);
 - g. Section 31-15-103, C.R.S., (concerning municipal police powers);
 - h. Section 31-15-401, C.R.S., (concerning municipal police powers); and,
 - i. Section 31-15-501, C.R.S., (concerning municipal authority to regulate businesses).

9. The Planning and Zoning Commission finds that marijuana uses include Retail Marijuana and Medical Marijuana Centers; Marijuana Manufacturing and Medical Marijuana-Infused Products Manufacturing; Marijuana Cultivation and Medical Marijuana Optional Premises Cultivation; and, Marijuana Testing Facilities.
10. The Planning and Zoning Commission finds that a wide variety of community viewpoints were expressed during the public forums conducted in March and April 2015, and the proposed text amendments represent a balanced compilation of standards that protect the community's best interests.
11. The Planning and Zoning Commission finds that land use regulations for all marijuana establishments include location and buffer standards, signage, utilities, odors, building standards, hours of operation and inspections. The Planning and Zoning Commission further finds that additional standards are required for each marijuana establishment type (i.e. equipment, hazardous waste, sewer system discharge, etc.).
12. 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: Tocke, Larson, Beda, Cave and Niemeyer

Roll Call No:

Roll Call Abstain:

Motion carried

IV. SUBDIVISION RECLASSIFICATION REQUEST FROM A MAJOR TO A MINOR SUBDIVISION, SUBMITTED BY THE GUNNISON COUNTY PIONEER AND HISTORICAL SOCIETY MUSEUM

Director Westbay stated he had received a request from the Gunnison County Pioneer and Historical Society to reclassify a subdivision from a major to a minor. Director Westbay made a determination that the request met the criteria for a reclassification based on a community benefit and stated the Commission had the authority to revoke the determination if they wanted to. The Commission agreed with the determination for a reclassification.

V. UNSCHEDULED CITIZENS. There were none

VI. CONSIDERATION OF THE APRIL 22, 2015 MEETING MINUTES. Commissioner Cave moved and Commissioner Tocke seconded, to approve the April 22, 2015 meeting minutes as presented.

Roll Call Yes: Niemeyer, Ferchau, Larson, Tocke and Cave

Roll Call No:

Roll Call Abstain: Beda – was not present at the April 22nd meeting

Motion carried

VII. COUNCIL UPDATE. The May 12, 2015 Council meeting was cancelled and there was nothing to report.

VIII. COMMISSIONER COMMENTS. Commissioner Tocke moved and Commissioner Beda seconded, to excuse Councilor Ferguson from the May 13, 2015 regular meeting.

**OFFICIAL MINUTES MAY 13, 2015
CITY OF GUNNISON PLANNING AND ZONING COMMISSION
REGULAR MEETING**

7:00PM

Page 6 of 6

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

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

- GOCO informed staff that the City of Gunnison was awarded \$407,200 for the Rivers to Ridges Trails project.

X. ADJOURN. Chair Larson adjourned the meeting to Work Session at 8:50 p.m.

Attest:

Greg Larson, Chair

Andie Ruggera, Secretary