

MINUTES
City of Glenwood Springs
Planning and Zoning Commission
Regular Meeting
October 25, 2016
Council Chambers, First Floor, City Hall
101 W. 8th Street
6:00 p.m.

1. Roll Call.

Present at roll call were Commissioners: Michael Blair, Ingrid Wussow, Michael Dunn, Marco Dehm, Kathryn Grosscup, and Sumner Schachter

Absent: Commissioner Tim Malloy and Alternate Chelsea Carnaoli-Parkison

Also present were City staff members: Trent Hyatt, Planner
Gretchen Ricehill, Senior Planner
Kathleen Michel, Administrative Assistant
Jon Hoistad, City Attorney's Office

2. Receipt of the minutes from the September 27, 2016 regular meeting.

MOTION: Commissioner Dunn moved to accept the minutes as written; Commissioner Schachter seconded the motion. Motion carried by voice vote.

3. Comments from citizens appearing for items not on the agenda.

No one appeared before the Commission.

Public Hearings:

4. #24-16 - Consideration of a Special Use Permit and a Design Variance for a Culver's drive thru restaurant.

Applicant: Roger Neal, High Country Engineering
Owner: Jaysco L1 LLC
Location: 51283 Highway 6 & 24 (PIN No 2185-164-00-034)
Zone: C/1 Limited Commercial

Trent Hyatt presented the staff report regarding the application for 51283 Hwy 6 & 24 to convert the existing Burger King Restaurant to another restaurant. Surrounding businesses are similar. GWS Middle School is to the north. There is a sidewalk at right of way with striped crosswalk at driveways. Parking lot improvements; they will need a variance for driveway width. Seems to fit with the city and the area. They provided illustrations and materials board for the project. 39 parking spaces required. 48 proposed on site. Drive aisle width limited in some spots. There is an existing condition with this regard. He advised regarding the findings needed for a design variance.

P&Z can approve, deny or continue the application. Staff recommends approval of the design variance and the special use permit with conditions.

Questions for staff

Commissioner Schachter asked about signage being subject to the current sign code if they change signage.

Mr. Hyatt said he was correct. They would be subject for any new signs. If they remove a legal non-conforming, they would not be able to keep the non-conforming sign status.

Commissioner Wussow wanted to know if there was access from the school yard.

Mr. Hyatt noted it was directly adjacent to the school property but there is not a sidewalk or pedestrian walkway to provide access.

Commissioner Blair commented about a drainage or irrigation ditch that used to be between the properties. [Further comments inaudible.] He asked about the width of the building is not being changed; only length extended at back.

Mr. Hyatt said he was correct but it was not the full length of the building. They are making adjustments to the dimensions of parking spaces to bring them to code.

Commissioner Blair commented on legal notice and using the legal description rather than an address. He was concerned that people wouldn't know where the site was.

Commissioner Dunn asked about the narrowest point that requires a design variance. What is it currently?

Mr. Hyatt said it was being widened slightly to accommodate patrons waiting for food and the vehicles that need to pass through that area.

Applicant presentation

Roger Neil with High Country Engineering representing the applicant. We also have the architect, Jeffrey Hancock, and Ryan Costner, the owner.

Jeffrey Hancock, 314 Sopris Circle, Basalt, CO., spoke about the restaurant chain that is very family oriented. It has very popular frozen custard. It will fit with what we have here in the Valley.

Ryan Coster, 400 W. Hopkins, Aspen, CO, said his family is changing franchises after being Burger King for 22 years. Their franchise agreement was expiring and they decided on a change. The building will look very much better. We are excited about the change.

Mr. Neal said Trent covered it well. He explained that three spaces would be for customers waiting for their orders. He said they can flatten a curve and get a wider access to get by the waiting cars.

Questions to applicant

Commissioner Grosscup asked about the single access from Hwy 6. There is an alley but it is not real access. She asked about what type of food.

Response was that it was not fast food. The food is made to order and it is necessary to wait for the food. A runner will deliver to the car after payment.

Commissioner Grosscup commented that school kids will cut through the back if there is no fence. She asked if the colors were common throughout the franchise.

Commissioner Blair asked if Culvers was a chain.

Mr. Coster said the building appearance was consistent with others in the chain. The colors were similar to the car dealerships.

Commissioner Blair was complementary on the appearance of the building.

Commissioner Wussow commented that after owning Burger King for 22 years, you know about the foot traffic from the school. How long will the construction take and will you have fencing? Will you have bike racks?

Mr. Coster said that they will fence during the construction time and bike racks were included in the plans. They love pedestrian traffic from the middle school.

Commissioner Dunn asked about widening the access drive. Are you comfortable with that being a condition of approval.

Applicant agreed.

Commissioner Schachter asked if the applicant would work with the Community Development Department to improve the width.

Mr. Neal said it would still be short but we can adjust the curve a little. We all have driven on the bridge so know how to handle narrow lanes.

Mr. Hancock said the cars were typically waiting for their food order.

Commissioner Grosscup commented that with the tightness if moved forward would it interfere with the access drive.

Mr. Neal replied that cars will be able to pass but it is not the standard 24 feet.

Commissioner Blair had a repetitive question about the waiting cars.

At 6:29 p.m. the Chairman invited public comment.

Joel Hathaway, 180 Rockledge Drive, principal of the Middle School, noted that the big ditch goes behind the strip mall but not behind Burger King. Kids go through there after school, but we do not allow it to be a back and forth use. It does serve as a potential emergency exit for the school. Because of the frozen custard, you will attract lots of kids. There will also be more cars which could be a conflict.

No further commenters. Public hearing closed at 6:30 p.m.

Item 24-16

MOTION: Item 1: Design variance: Commissioner Schachter moved to approve the design variance with the findings and conditions on page 4 of the staff report. Commissioner Wussow seconded the motion. Motion carried unanimously.

MOTION: Item 2: Special Use Permit for drive thru restaurant. Commission Schachter moved to approve the Special Use Permit with findings and conditions on pages 5 and 6 of the staff report. Commissioner Grosscup seconded the motion.

Commissioner Schachter said the curve change was to be determined by staff with applicant. Applicant has indicated they are willing to do it.

Commissioner Wussow agreed.

Commissioner Dunn wondered if they need to talk about the back area mentioned by Principal Hathaway. He said he didn't like the idea of a fence there and there isn't a set pedestrian access there right now. The way it is would be a happy medium where it is not encouraging kids to come through that way but is an obvious delineation between the two properties.

Chairman Dehm asked Trent to display the site plan.

Mr. Hyatt suggested they view the landscaping plan.

Commissioner Schachter agreed the kids would be going to Culvers. Everyone understands that. There is no strong objection from the neighboring school, he said that he would view it as at some point the School District will partner with neighboring landowners for discussion of the access.

Commissioner Wussow said the access is a positive thing as kids do not have to walk on the street to get to 7-Eleven. She liked it.

Chairman Dehm said it would be nice to have a foot path actually laid out with a gravel path or anything instead of going over the landscaping.

Called for question. Motion carried unanimously.

Chairman Grosscup said she picked up five kids from school today and asked them if they knew about Culvers. They were all devastated that Burger King would be gone.

5. #25-16 - Consideration of a Special Use Permit and a Design Variance for Native Roots Grass & Gas retail marijuana establishment.

Applicant: RJJ Mel Ray LLC
Owner: Fattor Family Limited Partnership
Location: 23 Mel Ray Road (PIN No 2185-061-04-005)
Zone: C/1 Limited Commercial

Trent Hyatt presented the staff report. The site is at 23 Mel Ray Road in the C-1, limited commercial zone. He said that the Shell gas station would continue to sell gas and would remodel to accommodate the marijuana sales by removing the convenience store function. The remodel would modify the interior and exterior of the existing building, with new façade treatments on the exterior facing the highway. The existing Shell branding would change but the liquor store would remain. The site is surrounded by similar uses and the Glenwood Mall PUD and Interstate 70 right-of-way to the south. Surrounding uses also include retail uses. The Glenwood Springs Middle School is in the neighborhood. The Municipal Code provides special use review considerations which he outlined on

a PowerPoint® slide. The gas station does not have an access permit and CDOT is reviewing the status. The location meets the required separation from schools. He reviewed how the location complies with code. Applicant proposed to remove some windows of the windows and a correction was provided. Staff was concerned with the metal siding and possible reflections but the metal has a matt finish.

Mr. Hyatt said that

(a) The applicant's proposal does not negatively impact pedestrian access to the site.

(b) The applicant has demonstrated safe and adequate vehicular circulation and parking; they propose additional parking spaces for employee use only; they do not propose any changes to vehicular circulation. It was identified during the review that there is not an existing access permit for this site. CDOT has requested that they go through its formal review process for an access permit.

(c) The proposed use is compatible with the character of the neighborhood. He mentioned the nearby retail uses and other commercial operations and restaurants around the site. The site meets the City's required separation from schools by approximately 40 feet.

(d) The proposal mitigates any negative potential impacts to surrounding properties. As you know, odor is generally an issue that is associated with retail or medical marijuana establishments.

Section 70.040.040(a)(15) are the specific criteria for marijuana businesses in the City: Stating that:

- a. The use shall comply with the special use permit considerations we just discussed, giving special treatment to neighboring land uses such as residences, parks, public or institutional facilities and land uses.
- b. No medical or retail marijuana establishment shall be located:
 1. Within 500 feet of any existing public or private school; or
 2. Within 900 feet of an existing marijuana business.

He pointed out that this facility is approximately 530 feet from Glenwood Springs Middle School. Staff was concerned about the small gap there and room for error so the applicant had a Colorado licensed surveyor verify the distance as 539.7 feet from the middle school.

- c. The potential mitigates the potential for offensive odor emitting from the site.

Odor being a major concern, the applicant is proposing the industry's leading technology and that is carbon filters for their circulation system. He pointed out that this specific business, they do not plan to package any of the product on site. It will be brought from an off-site facility so we assume it will eliminate some of the odor issues we have seen with other locations. We are recommending a

condition be placed in the Special Use Permit that requires compliance with this standard as well as the ability for the City to revoke their license if they do not comply with the odor control provision.

- d. The storage of retail marijuana shall be limited to 25 percent of the gross floor area of the operation. Applicant proposes approximately 100 square feet or 10 percent of their site for storage.
- e. They shall comply with the City's hours of operation requirements; that is 8:00 a.m. to 7:00 p.m.
- f. All signage shall be subject to the City's sign code and a separate sign permit shall be required for proposed signage.

In regards to the Commercial Design Standards which are intended to promote buildings constructed to the human scale for those along the street and neighboring properties. The applicant has proposed numerous upgrades to the façade, including new corrugated metal panels, new colors, as well as the addition of awnings. One of the issues that staff identified in the review was that applicant proposed to remove two of the windows on the east façade. That was in conflict with one of the City's requirements to have a minimum of 30% of the façade to be glazed windows or doors. They propose this to meet security requirements; state regulations do not allow that any product be visible from outside of the structure. That was originally listed as a design variance in the staff report, but since the release of the staff report, the applicant has added an awning to apply to the façade to help meet some of the standards. In lieu of the glazed windows, they have added a separate architectural treatment.

Staff was concerned during the review about the application of the metal siding to the building. They wondered if it would create a reflection of light to adjacent properties. The applicant has provided a materials board that shows that the metal has a matt finish. The metal product has been used at some of their other locations. He provided illustrations of the proposed appearance of the building.

The Engineering Department provided comments about CDOT access and location of dumpsters. The Police Department did not provide any comments. Water & Wastewater provided us with typical specifications for providing water to the site. Black Hills Energy had no comments. West Glenwood Sanitation stated they can serve the property. We did not receive any comments from adjacent property owners. Since release of the staff report, we did receive a letter from the Roaring Fork School District. Mr. Hyatt provided copies of the letter from Roaring Fork School District regarding this application. The School District is not an adjacent property owner within the 200 foot notice area. They expressed concern they have with the proximity to the Middle School and use of marijuana by teens or children in our community as well as the availability of marijuana with its increased exposure in the State and the community.

Mr. Hyatt advised the Commission that he would not address the design variance as it had been resolved by compliance to design standards with recent changes.

The special use permit is the only action to be taken. The Commission can recommend approval or denial to the City Council, or it can continue the hearing for more information. Any marijuana application requires the approval of the City Council. Staff believes the application meets the special review considerations and recommends approval of the application with the recommended conditions.

Questions of Staff

Commissioner Grosscup asked for clarification whether all special use permits go to Council.

Mr. Hyatt responded that new regulations were adopted just over a year ago for marijuana establishments requiring marijuana businesses to be approved by special use permit by the Planning & Zoning Commission and the City Council. He did not believe there were any other special uses that required approval by the City Council.

Commissioner Dunn asked about the moratorium on new marijuana licenses.

Mr. Hyatt explained that the moratorium was while the regulations were being revised prior to September 2015.

Commissioner Dunn said he was concerned that the School District did not have notice, leaving them unaware until the last minute. He wondered if noticing policies should be reviewed to include the School District.

Commissioner Blair repeated earlier notice comments of Commissioner Dunn.

Mr. Hyatt repeated that notification was for properties within 200 feet of a site. As we noted earlier, the School District property has more than 500 feet separation. He said he had a meeting earlier with Two Rivers Charter School and made them aware of the application that was coming.

Commissioner Blair commented that even if they were not able to comment here, they would still have a chance to comment to City Council.

Mr. Hyatt agreed.

Commissioner Schachter asked how the percentage of area of the subject property was determined. Do you include the entire surface area of the property?

Mr. Hyatt replied that it was the floor area of the unit within the building. They are using 10% but would be allowed up to 25%.

Commissioner Schachter asked if any signage was subject and conforming with existing standards in the area. He was concerned about the tall, large pedestal gas station sign. He wondered if it could be converted to a green cross or some other signage without review or permission.

Mr. Hyatt said that non-conforming signs can remain if only doing a face change. If there are any alterations to the sign, additions or structural changes, that is when the sign becomes non-compliant.

Commissioner Schachter inquired even if it is change of business.

Mr. Hyatt said that was right.

Commissioner Schachter commented that current code no longer allows the signage height of the double pole sign

Mr. Hyatt was not sure about the size/height as we still allow free-standing signs. He said he was not sure of the maximum height for that district.

Commissioner Schachter wanted to know if the sign as it exists could be changed to virtually anything else the new owner might want.

Mr. Hyatt said that was correct.

Commissioner Grosscup asked about product and storage of product. Is there a definition difference for storage regulations for retail marijuana? You have products for display and sale and then you have separate storage. What is storage? She also asked if there was a limit on retail space.

Mr. Hyatt replied that he wants to say it just the storage on site and not the product displayed for purchase. He said there was no limit on the amount of retail space.

Commissioner Grosscup asked if we have a limitation on liquor stores on the same property.

Mr. Hyatt responded there was no restriction.

Commissioner Grosscup asked if there were other retail outlets actually opening at 8:00 a.m.

Mr. Hyatt said he was not sure but our code is 8:00 a.m. to 7:00 p.m. He said he had not visited many of the locations.

Commissioner Grosscup asked the total number of retail outlets.

Mr. Hyatt said he thought that with medical, retail and cultivation, this would be number 8. He did not know the breakdown for each category. Only one remains that is solely medical, the one downtown. Some may be retail and medical combined.

Commissioner Grosscup asked if by adding the awning, the staff was comfortable with the way the human scale applies to the building.

Mr. Hyatt said that section says the façade must meet three requirements. If it was simply a change of use from Shell to another gas supplier and they weren't making any changes to the façade, we wouldn't require any design considerations but because they are changing the façade, we look at this more fine-tuned to make sure they meet those elements along the façade. If you utilize glazed windows and doors as one of your three architectural features or elements of the façade, that must make up 30% of the façade. During the review, I said you can't use that as one of your three elements if you reduce the amount of glazed windows. In lieu of the windows, they added the awning to the side that projects four feet from the face of the building. The other consideration they had was change of materials; the other is the projection with the awning and the roof projects out.

Commissioner Grosscup asked if the percentage of storage was a percentage of the entire building or just their portion.

Mr. Hyatt said it was just their portion of the building.

Commissioner Wussow had some questions about multiple schools in the same area. She wanted to know if the gymnastics academy in the mall fit the criteria of a school.

Mr. Hyatt said that there is a K-12 designation for schools.

Commissioner Wussow asked if restroom facilities were available for customers who were buying gasoline.

Mr. Hyatt said there is a restroom in the building but the question to ask the applicant is whether it is open to customers.

Commissioner Blair asked about design considerations for the building

Mr. Hyatt confirmed that it is not a consideration because of their recent change.

Commissioner Blair asked if that included the materials to be applied to the building.

Mr. Hyatt commented that with any special use permit, the commission could consider them as they relate to the specific review considerations.

Commissioner Schachter wondered if we address signage as part of the special use permit.

Mr. Hyatt said that a special use permit would give a lot of leeway in terms of what requirements you can apply. He directed their attention to the staff report on page 6 that is also part of the special use permit and allows restrictions on the approval of the special use permit.

Chairman Dehm asked if the applicant operated the gas station. Is this an approved use for the area?

Mr. Hyatt replied that they will have an attendant for the gasoline station but will no longer have the convenience store. Mr. Hyatt confirmed that this is a correct usage with the special use permit. He said that in all our commercial zone districts, this is a use by special use permit.

Chairman Dehm asked about the awning to eliminate a design variance. What if we don't like the awning?

Mr. Hyatt said that it meets the intent of the commercial design standards.

Applicant presentation

Dominic Moriello, land planning consultant, 2205 Eagle Ranch Road, Eagle, CO, said he was involved in drafting the ordinances for short term rentals and backyard chickens for Glenwood Springs. He introduced the members of his team: John Borg with Native Roots; Chris Hanneffe; and Dave Cuesta. They are the people who operate, find locations, and permit locations for the Native Roots brand. He displayed images of some of the store fronts throughout the state. There has been a question about the corrugated metal. Here is an example that shows the patina it will acquire in about six months. There are 17 stores throughout Colorado. Native Roots has become one of the leading brands in Colorado. They treat this as a very formal business. They follow the rules and are very cognizant of neighbors and how they operate their stores and the security they employ. They have stores in Denver, Boulder, Colorado Springs, Longmont, Frisco, Eagle-Vail, Dillon and Aspen. The Gas and Grass brand was introduced in Colorado Springs with two uses at the same location. This site has no access permit. We are going through the formality with CDOT. The marijuana replaces the convenience store. The gas station is a completely separate operation and there is a window for payment for gas or pay at the

pump. There is no interaction between the gas transactions or the marijuana transactions. Restrooms on site are for employees. There is another gas station with a convenience store and public restrooms across the street. Parking on-site is head-in parking off of Mel Ray. All elevations are receiving treatment for unified design. Lighting improvements are being made. Brick will be painted, stucco painted and the metal will be added. The galvanized metal will patina over time.

He explained the floor plan and the security measures for people entering to purchase products. There is a small lobby. A front corner room is devoted to the gas station payment window. There is a mechanical area, a restroom, and a storage area which is basically a vault where everything is stored when the store closes. All product arrives pre-packaged. Odor will be very contained. In multi-tenant buildings there can be odor problems and pre-packaging helps avoid that. Regarding the special review criteria, he covered the same things Trent had presented very quickly. He said they have safe access and are accessible to the public. He pointed out there is a bus stop nearby and there is sidewalk and a crosswalk to the other gas station across the street. Vehicular circulation will not be changed. He said that only four parking spaces were required and they have six dedicated parking spaces. There were also six spaces at the pumps. He said that the proposed use was compatible with the character of the neighborhood as this was a heavily commercial district. There are also some residential areas nearby. The neighborhood was highly automobile intensive with the major interchange for I-70. He said this use would not have any more impact on the surrounding uses than a retail store would have. This would become a 21 and older property with the adjacent liquor store. Persons below 21 could pump gas but could not enter the marijuana store or the liquor store. For mitigation of impacts, they have reduced the possibility of odors by using only pre-packaged goods. Surrounding properties all have similar uses and hours. This place will close at 7:00 p.m. whereas a convenience store could operate 24/7.

He said the distance from the school was measured using the City's GIS system to calculate the separation. That gave us 530 feet. We also had a surveyor do a calculation that indicated 539 feet. This complies with the standard established by the City. The closest marijuana facility is Green Dragon which is quite a distance away. He noted that signage is subject to Municipal Code provisions and they will comply with that. He displayed similar signage at another facility. He said they believed this usage was compatible with the City's criteria and the mixed uses in the area. It has adequate access and was consistent with the Comprehensive Plan. There were conditions in the original memo and we are okay with conditions 1 through 8. I have spoken with Trent about converting condition 9 to "upon the issuance of a C.O." rather than issuance of a special use permit, knowing how long it can take CDOT to issue an access permit. We would like to renovate the facility prior to that at our own risk. Condition 10 will go away based on the change to the design standard.

Questions to the Applicant

Commissioner Schachter wanted to focus on signs, particularly the double pole sign which appears to be non-conforming. He did not think the signs provided an attractive entrance to our city. You made a statement that all signs would comply with the current code. He wondered if they were referring to this sign or not.

Mr. Moriello said he was referring to whatever the regulations allow or disallow.

Commissioner Schachter wondered how tall the light sign was.

Mr. Moriello did not know.

Mr. Hyatt explained the method of calculating what would be allowed.

Commissioner Schachter asked if the applicant would be willing to consider decreasing the height of the sign to bring it to current standards.

Mr. Moriello said it was an expensive sign and would be expensive to modify it. He said he would have to confer with his clients.

Chris Hannafee, construction manager, indicated they will propose a sign package. The Shell signage would go away.

Commissioner Wussow how many parking spaces are there now? What will it have in the future? There are times when it is overcrowded.

Mr. Moriello said that customer parking will remain the same as now.

Commissioner Wussow asked if the building signage would be dark after 7:00 p.m.

Mr. Hannafee indicated they will comply with code regarding lighting.

Commissioner Wussow asked if Geno's was also owned by the Fattor Family Partnership.

Steve Sender, 55 Riverpines Court, Edwards, CO, replied that the fee interest is owned by the Fattor Family Limited Partnership. Geno's is owned by Pioneer Stores Western Partnership and they will continue to operate Geno's separately.

Commissioner Wussow asked if the exterior remodel would include Geno's and who will own the gas operation?

Mr. Sender replied that was correct and that the parent company of the applicant would operate the gas station.

Commissioner Wussow said there would be four different business entities: Geno's, the owners of the real estate, the owner of Native Roots, and then the parent company for the gas station.

Mr. Sender said that the owner of the real estate would lease to the three uses, which are all separate entities.

Commissioner Wussow asked if one of the entities goes out, what are we left with. Especially since we have a retrofit for an industry that we don't always know the future of.

Mr. Sender said the real estate is owned by the owners of the dispensary so it is hard to predict if Geno's decided to go out. It would be in our interest to protect the façade of the building and protect the character of the property.

Commissioner Blair asked if there is a common design for the multiple stores.

Mr. Moriello said they were not identical but they try to use some of the same elements and their branding and signage are similar.

Mr. Hannafee said there are some common elements for Gas and Grass outlets.

Commissioner Blair noted that unlike national chains such as McDonalds, you do not require everything to be identical. Do you try to locate stores near the interstate?

Mr. Hannafee said that opportunities for locations were very limited. The interstate is not our focus.

Mr. Sender explained that we start with zoning code and buffers around schools and day cares to eliminate choices and see what we have left. This was the location that worked.

Commissioner Blair asked about signs and employee parking.

Mr. Hannafee said they will work with the Code and Trent to determine what we will have. Employees will not park in front of store.

Commissioner Grosscup inquired how many employees would normally be present.

Mr. Hannafee said there could be up to 8-10 at any one time. Anywhere from 5-10 based on the busy times.

Mr. Sender said there are 6 parking spaces and six at the pump. Employees would park off-site.

Commissioner Grosscup was concerned with the location in this residential area. This is the gateway to all of the residential housing in the area. She thought that the green awning might be extreme. She wondered if they could bring the sign designs for our consideration.

Mr. Moriello said they would like to know if they can have a SUP before spending money on sign designs.

David Cuesta said that the largest distance restriction is 1000 feet. No one can enter our store facility without age verification.

Chairman Dehm asked about the idea that someone could reach the lobby before providing proof of age.

Mr. Cuesta said that if a minor entered the lobby, we would quickly ask them to leave. We are not offering any public restrooms.

Commissioner Wussow asked if they have had a retail location with a liquor store adjacent.

Mr. Cuesta said we have shared a shopping center location but not shared walls. No on-site consumption is allowed by state law. We observe people leaving and make sure they go to their car and leave the premises. We would send our own employee out and if things don't go well, we would call on local law enforcement.

Chairman Dehm asked if the word "marijuana" was on your signage.

Response: It is not. Nowhere.

Chairman Dehm to staff, what is our authority to impose conditions?

Jon Hoistad, City Attorney's office, said there are multiple things you can use with a special use permit to protect the public health, safety and welfare.

Commissioner Blair asked about employee parking.

Mr. Hyatt said that he asked the applicant to provide a contract for the off-site employee parking so we can verify that it has been provided.

Commissioner Grosscup asked if applicant would be willing to have hours that are outside the rush to schools traffic in the 8:00 a.m. hour.

Mr. Cuesta said we could open at 9:00 a.m. rather than 8:00 a.m. as the most likely scenario. We would be looking at 9:00 a.m. until 6:45 p.m.

At 7:54 p.m. the hearing was opened to public comment.

Kim Conte, 4104 Sunset Ridge Court, said that she lives east of the site. She pointed out all the schools in the area with their after school activities; kids take the bus and the bus stop is adjacent to the parking lot for this facility. When is enough, enough? Everyone knows that Glenwood Springs has lots of marijuana stores. This location is between two schools and there is also a bus stop. We don't need another one.

James Griffin, 903 Oxford Lane, agreed with Commissioner Wussow about the parking problems. There is no access to the back of the building. You cannot have access over the fuel tank. We are talking about 12 people with 12 cars. Only six places, one is a handicapped space. This business seems to anticipate lots of customers. There is not enough parking on site for the businesses.

Tina Schraeder, 77 Mtn. Shadows Drive, said that she works at Glenwood Springs Elementary School. Lots of children are walking in this area. Lots of low income families live in the area. She does not want her children to think that pot shops are okay. We already have problems at the high school; we don't need any more.

Joel Hathaway, 180 Rockledge Drive, middle school principal, understands the rules and the allowed distance. This shop would preserve the character of the neighborhood. We already have a drive-thru liquor store, another liquor store, a bar and now the possibility of a weed store. There are a lot of children walking or riding their bikes through the neighborhood and taking the bus. As the school principal he feels an obligation to protect the kids as much as he can. He wants a family friendly area for the children walking to school. There are lots of people traveling through including the Greyhound bus stop. This is not a neighborhood he would want his children to walk through to get to school. The kids that are most affected by the character of the neighborhood are poor kids that don't have rides to school, they are walking and riding their bikes through bunches of liquor stores, weed stores, and bars. As a community, we should reflect heavily on the atmosphere we want for our kids when they go back and forth to school every day.

No further comments. At 8:04 p.m. the Chairman closed the public hearing.

Applicant response

Mr. Morielli said the number of dumpsters will be reduced substantially so some of the congestion issues will be resolved.

Chairman Dehm asked why Glenwood.

Response: They have stores in Aspen, Eagle-Vale, Frisco, Dillon. Parachute is open. Palisades is talking about opening. There are grumblings in Grand Junction. This is the western gateway. It is a logical place to grab that business.

The Chairman brought it back to the Commission.

MOTION: Action Item 2, request for special use permit. Commissioner Schachter moved to approve the Special Use Permit with findings and eleven conditions on page 7 and added three conditions: (1) applicant to provide signage plan to bring all signs (new and existing, including the pole sign) into compliance to be approved by Community Development Department. (2) to provide an off-site parking plan for employees secured by lease contract or purchase for a minimum of six spaces, to be approved by the Community Development Department staff. (3) that operating hours shall be open no longer than the period of 9 a.m. to 7 p.m. Monday – Sunday. No second. Motion was withdrawn.

MOTION: Action Item 2, request for special use permit. Commissioner Dunn moved to deny the Special Use Permit based on the non-compliance with the stated goals of the comprehensive plan and the proposed use is not compatible with the surrounding neighborhood. Commissioner Wussow seconded the motion.

Commissioner Schachter commented that as a Commissioner, his interpretation was quasi-judicial, that there is very little ground to deny the permit based on current code and current actions of the City Council. My view would be to approve with conditions. Public comments are subjective but are a universal concern of all of us and they belong before the Council. It would be difficult to support denial.

Commissioner Blair agrees with some of Commissioner Schachter's thoughts. He thought Commissioner Dunn stated it well. It doesn't meet the character of the City as expressed by its citizens. More of these stores are having a negative effect on the reputation of this city. This is at a main entrance to the City and a main route for school children to their schools. The citizens have spoken so this Commission has latitude but with conditions. He said they should disapprove because it lacked adequate parking.

Commissioner Wussow said that her sentiment is that we appreciate that you want to have a business in Glenwood. Community feedback as well as a consensus here, it's the location that is a problem. Children are bright, they

understand what it is, and they will think it is acceptable. She wished them luck to find a better location.

Commissioner Dunn wants to elaborate a little. One of the criteria we have to use to evaluate special use permits is compliance with the stated goals in the Comp Plan. One of those goals is to preserve the small town character of Glenwood Springs. To me small town character means family-friendly. Economic diversity is another goal. We are to the saturation point and perhaps too dependent on one industry. Another criteria for evaluating special use permits is that the proposed use is compatible with the surrounding neighborhood. Applicant felt it was good for the neighborhood that has liquor stores and auto related businesses. Auto shops do not propose a risk to our kids; liquor stores have been around long enough for us to know what those dangers are; retail marijuana is still a social experiment. We don't know yet what the dangers are. He thinks we need to proceed with caution.

Commissioner Grosscup agreed with others as it is too visible at gateways. Not a compatible use. We have two entrances to our city. This is a gateway to our whole valley. This is the primary gateway from the west side of Colorado and Utah. She does not see this use as compatible. She thanked the applicant for all the effort in making this application.

Commissioner Schachter suggested a discussion with the implied message as well as a specific message for council. He suggested a discussion after the action was taken.

Chairman Dehm said he did not make decisions based on fear of what could be or shouldn't be or on my personal opinion. I decide based on the code. Our code allows this type of establishment and the state allows it. Liquor stores are no different. People used to be afraid of them. He said that he will not make a decision on how I feel on this use. The special use permit is our tool to tell you please do this somewhere else. We do allow this but we believe this is the wrong location.

The Chair called for the question. The motion for denial carried as follows:
AYES: Commissioners Blair, Wussow, Dunn, Dehm and Grosscup
NOES: Commissioner Schachter

Gretchen Ricehill said that the matter would go forward to City Council as a denial. It will be on the November 17 agenda.

Commissioner Schachter said if we agree that we should send a separate message to Council. The current P&Z urges the council to consider these comments related to this planning item and to review and re-evaluate whether our current code regarding marijuana establishments and the comp plan in the best interest of Glenwood Springs warrants changes in the code and perhaps a

consideration of limiting or prohibiting any additional establishments. I'm not saying don't do it but that it is time to reevaluate. That is the message based on what he heard tonight that might be supported by the Commission to take to Council.

Commissioner Grosscup commented that one of the things we struggled with related to this particular application is noticing issues. We have a distance of 200 feet required.

Mr. Hoistad said this was noticed in the paper; the property is posted. Fewer people than we might expect showed up. It is not the fault of our noticing and the School District has been aware of the application. This is just a recommendation to Council; they will make their own decision.

Commissioner Grosscup commented that the hours are a concern. The earlier hours should be looked at again. There was concern about the night life effect but little discussion of the earlier hours. How do other communities our size treat the number of marijuana businesses they can accommodate? We need to understand that better. We are a tourist economy in this town and this is a critical aspect of what we offer.

Mr. Hoistad said that a number of other cities have caps on the number of marijuana establishments.

Commissioner Grosscup said that she was not looking to say no but wants to understand where we fit with other cities and what they allow. We don't really have the broader context of the way the industry is evolving. Glenwood is a highly attractive location based on the statements by the applicant.

Commissioner Dunn agreed with Commissioner Schachter about sending a message. Liquor licensing laws are the purview of the state and certain numbers are allowed. When numbers fill up, they are done. The proximity to children going to school was the thing that made us uncomfortable about this application. Had there been a greater distance from the schools; maybe we need to expand that distance further.

Mr. Hoistad says we do not have a cap on the number of liquor stores; it is established by the "community need." We had a marijuana moratorium in place last year. This location involved other aspects of the community. If you think Council should take another look, then go ahead.

Mr. Hyatt agreed it could go into the staff report.

Commissioner Blair agreed with sending message to Council. Our physical situation makes it difficult to find a location. From a business standpoint, that should be a great location. But we should add some suggestions to Council. We

should think about how we might limit. Parachute asks voters if they should limit outlets in their community.

Mr. Hoistad thought he was mistaken about Parachute.

Commissioner Schachter said he was glad that Tina and Kim stayed. Understanding the decision is important. What Council will do with it, we don't know. In local politics voices matter, there was not a room full of people here saying do it or don't do it. Concerns by the school district, parents and others should be heard by the Council members. The more they hear, the better and more representative the process will be.

Commissioner Dunn said he made the motion because it was clear based on the Comp Plan goal of maintaining small town character. That is what we are supposed to do with special use permits.

Commissioner Wussow commented on the dialogue regarding public notice. Can we give the School District notice even though they don't fit in the 200 foot measure for notice? They are familiar with a specific demographic and how they move through the community. Can we request that the School District is automatically given the public notice?

Mr. Hoistad said that is something we could have in the code but that would seem to be granting another jurisdictional authority control over our own zoning and land use.

Commissioner Wussow said it was necessarily control just giving notice.

Mr. Hoistad said it was something we could have in the code but does the local government start letting the School District know every time we have something they may or may not like.

Ms. Ricehill said we can circulate the application to the School District as part of the comment process. She said she agreed with Jon and was uncomfortable with pigeon-holing one entity over all the others that may have an interest in this. It would be very difficult to do that.

Commissioner Wussow said that in Montana liquor licenses are extremely difficult to get. How are other municipalities applying the marijuana regulations?

Mr. Hoistad commented that permits in Basalt where siting is basically non-existent for retail marijuana establishments, they do occasionally change hands for a considerable amount of money. It may not be a good thing.

Commissioner Wussow agreed it may not be a good thing and said looking at it as a retail business, it needs to be supply and demand. When the demand is not

there, the businesses will close. Then you end up with abandoned buildings with the marijuana business signs that remain for years after the use may fail.

Mr. Hoistad agreed that was a valid concern. We all see the way the country is going in this right now. That concern is being diminished over time. When another decade or so goes by, this will look no different than the neighborhood liquor store.

Commissioner Schachter noted that we are at the forefront of a huge social experiment. The voters of Colorado and Glenwood Springs put us at the forefront of it, not at the tail end. For the next decade or so, there is a lot of limbo going on, a lot of angst from the communities, and lots of money to be made by investors. Until the feds change their minds, we are going to be in limbo for quite a while.

Commissioner Grosscup said she still thinks it is a local use decision process. She said she still wants a chart depicting what other cities are doing.

Chairman Dehm talked about his decision process of not making a decision based on fear or too much is too much or anything that could be or should be. He is pro business. Every business should have a shot at it. He said that he was here to uphold the code. If we need a different code so maybe we should tell Clarion to look at the marijuana situation. He agreed that a table would be helpful in the future so we don't have to struggle so much. The Comp Plan goals belong in this discussion, especially that location.

Commissioner Dunn said that a different location might have had another result.

Commissioner Wussow said it was an opportunity to see if it fit and add some conditions.

Commissioner Blair talked about wanting more stringent rules so we don't have to try to interpret all the time. As the Planning Commission, we do have to look to the future. We do need to have some latitude in making our decisions.

Chairman Dehm noted that when you read the Comp Plan, it is subject to interpretation. We have skilled planners who provided a staff report based on the code and comp plan.

6. Comments from the Commissioners

Commissioner Schachter said he will be gone in November.

Commissioner Grosscup reminded everyone about 2H and 2I.

Commissioner Schachter noted that the downtown smoking regulations are working. But the signage isn't easy to see. There still are lots of people downtown during the day that are smoking.

7. Adjournment. 8:48 p.m.