AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Public Hearing; TR Enterprises Limited; Marijuana

Action Requested: Motion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

TR Enterprises Limited - 244 Buckley Rd. Crested Butte- requesting approval for a new marijuana cultivation license

Fiscal Impact:

Submitted by: Beth Baker and Russ Forrest **Submitter's Email Address:** bbaker@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok - gs

Reveiwed by: GUNCOUNTY1\gstuhr Discharge Date: 4/14/2016 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 4/15/2016

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 10 minutes

Agenda Date: 4/19/2016

Revised April 2015

To: Gunnison County Board of County Commissioners/Gunnison County Marijuana Licensing Authority

From: Russell Forrest & Beth Baker

Date: April 19, 2016

Subject: Public Hearing for a Marijuana Facility License for Cultivation

Gunnison County Application # MJ-15-00279

Applicant: TR Enterprises Limited/Tom Rudder

Location: 244 Buckley (Lot 5 Riverland , Filing One)

---

1. PURPOSE:

The purpose of this public hearing is to receive public input regarding a proposed Marijuana Facility License proposed for cultivation, located at 244 Buckley Dr., Crested Butte Co.; Lot Five, Riverland Industrial Park, Filing One. The proposed cultivation facility, if approved, would be located in an existing building in the Riverland Industrial Park. The other uses in the building include: Unit 1- Blackjack Garage Door Co., Unit 2- Storage, Unit 3 -Metal workshop, Unit 4 -Precise Painting Co., Unit 5 -Small engine repair shop, Unit 6- Storage, Units 7 and 8 -both part of the same auto repair shop. The approximate square footage of the proposed marijuana facility is 4,632 square feet and it is located in a preexisting structure. TR Enterprises Limited would be leasing units Five and Six, in the building located at 244 Buckley Dr., Crested Butte, Co., in Riverland Industrial Park.

The Gunnison County Marijuana Licensing Authority is the Board of County Commissioners (BOCC). The BOCC is requested to receive public input and review the application against the standards mentioned below. A motion is requested to either approve, approve with conditions, or deny the application.

This proposed facility, given its location in Riverland Industrial Park, (See Section 9-104 of the Land Use Resolution) was reviewed under an Administrative Review Land Use Change Permit Application.

2. PURPOSE AND STANDARDS

On July 1, 2014 the BOCC approved Resolution No. 2014-18 which authorized regulations for marijuana cultivation, manufacturing and testing facilities. The purpose of these regulations are to:

1. To authorize licensing of marijuana cultivation, manufacturing, and testing in unincorporated Gunnison County as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended;
2. To establish specific standards and procedures for local licensing of marijuana-related business and establishments; and
3. To protect the health, safety, and welfare of the residents, consumers and patients in Gunnison County by prescribing the manner in which marijuana businesses can be conducted in the County.

As per Article 5, Standards, of Resolution of **No. 2014-18** the Board must find the following to approve a license:

A. **LACK OF CRIMINAL HISTORY**: The applicant and principal employees of a marijuana facility have no history of criminal activity indicating moral turpitude. Applicants shall provide suitable evidence of a Persons' proof of lawful presence, residence, and good character and reputation that the Board may request. The applicant must also consent to a criminal background check of the applicant and its principal employees.

B. **HARMONIOUS LAND USE**: The use and any associated signage is not identifiable as a Marijuana Facility from adjacent property, nor any arterial road, public trail, or public park. The applicant must demonstrate to the Board's satisfaction that there is no measurable detrimental impact to adjacent property which cannot be mitigated, and the applicant has demonstrated to the Board that the facility will be harmonious with its surrounding uses.

C. **APPLICABLE PROPERTY OWNERS ASSOCIATION APPROVAL:** The applicant must provide written consent for the use from the Property Owners Association if an active association exists for the subject property.

D. **ODOR:** Odors from any marijuana facility shall not be detectable and noticeable at the boundary to adjacent properties. Facilities shall be equipped with proper ventilation systems so that odors are filtered and do not materially interfere with adjoining land uses.

E. **FIRE AND SECURITY EMERGENCY SERVICES:** Applicable Fire Districts and the Sheriff's Department will receive applications for their review and comment. Concerns related to public safety received from emergency services must be avoided or mitigated to the Authority's satisfaction.

F. **PUBLIC SERVICES**: The Applicant shall demonstrate that there are adequate public services to support the proposed use.

The Board may approve or approve with conditions a license that meets all of the standards in Article 5. The Board shall deny an application which does not comply with the licensing requirement in Article 5.

3. STAFF ANALYSIS OF CRITERIA AND PUBLIC INPUT RECEIVED

Staff referred this application to the Crested Butte Fire Prevention District (CBFPD,) Gunnison County Building and Environmental Health Official, and Gunnison County Sheriff's Office. In addition, a public notice of this hearing and the land use application was sent to all property owners within 1000 feet of the property, notice placed on the property, and a notice was placed in the paper at least 15 days prior to the public hearing. No public input was received on the application at the time this memorandum was prepared. Staff received input from both the Crested Butte Fire Prevention District and the Gunnison County Sheriff's Department that they had no significant concerns regarding this application.

The following is staff's analysis of compliance to the Standards in Article 5.

A. **LACK OF CRIMINAL HISTORY**: The applicant and principal employees of a marijuana facility have no history of criminal activity indicating moral turpitude. Applicants shall provide suitable evidence of a Persons' proof of lawful presence, residence, and good character and reputation that the Board may request. The applicant must also consent to a criminal background check of the applicant and its principal employees.

> **Staff Response:** Staff, in the creation of the licensing requirements, acknowledged we would utilize the background check process required by the State of Colorado and the State of Colorado Marijuana Enforcement Division (The Division.) The Division has completed the background check for this applicant and reviewed the results with County staff. The applicant has not yet been issued a conditional State License. In addition, as mentioned previously, this application was forwarded to the Sheriff's office for their review. Again no input was provided to raise any concern regarding this standard. There is nothing in the applicant's background that is noteworthy.

B. **HARMONIOUS LAND USE**: The use and any associated signage is not identifiable as a Marijuana Facility from adjacent property, nor any arterial road, public trail, or public park. The applicant must demonstrate to the Board's satisfaction that there is no measurable detrimental impact to adjacent property which cannot be mitigated, and the applicant has demonstrated to the Board that the facility will be harmonious with its surrounding uses.

> **Staff Response:** It was felt during the development of Marijuana Facility Regulations a marijuana facility would generally be consistent with the existing uses in the Riverland Industrial Park, if the applicant demonstrates they meet the Standards in Section 9-104 along with the other applicable sections of the LUR and the Marijuana Facility Licensing Standards. In reviewing this specific application, staff believes this proposal will result in a harmonious land use with the recommended conditions stated below. Two marijuana cultivation facilities were approved by the BOCC/Gunnison County Marijuana Licensing Authority in 2014, they were application numbers MJ-14-00178 and MJ-14-00159. They are located at 398 Riverland Dr., in Riverland Industrial Park. There are no sensitive or incompatible land uses adjacent to this use in staff's opinion. Also, there are

no known individual grow uses within this building which could make enforcement of odor conditions problematic.

C. **APPLICABLE PROPERTY OWNERS ASSOCIATION APPROVAL:** The applicant must provide written consent for the use from the Property Owners Association if an active association exists for the subject property.

Staff Response: Riverland Lot Owner's Association approved the proposed use with conditions, in a letter dated August 24, 2015. The letter can be viewed in the Community Development file on line, with the link below.

D. **ODOR:** Odors from any marijuana facility shall not be detectable and noticeable at the boundary to adjacent properties. Facilities shall be equipped with proper ventilation systems so that odors are filtered and do not materially interfere with adjoining land uses. The specific methods of odor control can be viewed in the Community Development file on line, with the link below.

Staff Response: The Applicant is proposing several large charcoal can filters inside the building on both floors, as well as an ionizing system used in hospitals to ensure success. If after initial design implementation it is determined the facility needs more odor deterrent, it will be addressed and proper adage will be installed. This is the most common odor elimination measure used in the industry. Staff has a recommended condition provided below and with that condition, if accepted, staff believes this standard will be met.

E. **FIRE AND SECURITY EMERGENCY SERVICES:** Applicable Fire Districts and the Sheriff's Department will receive applications for their review and comment. Concerns related to public safety received from emergency services must be avoided or mitigated to the Authority's satisfaction.

Staff Response: As mentioned, the application has been referred to the Crested Butte Fire Protection District and the County Sherriff's Department. In addition, the State has specific security requirements. The applicant will need to secure approvals for a building permit to build the structure in question. CBFPD did provide a letter stating they had no significant concerns.

F. **PUBLIC SERVICES**: The Applicant shall demonstrate that there are adequate public services to support the proposed use.

Staff Response: This is an existing building and there are no utility limitations for this applicant at this location. Water is provided by a well.

4. RECOMMENDATIONS

Staff finds the application meets the Marijuana Facility License standards and recommends approval of the license with the following recommended conditions:

1) There shall be no noticeable odors which result from the Marijuana Facility detectable outside of the subject building at the property boundary.

2) As of the date of the license of this Resolution, the use, possession, distribution, and sale of marijuana is illegal under Federal law and those who engage in such activities do so at their own risk of criminal prosecution and a Federal action may result in the revocation of this license.

3) As mentioned in Resolution No. 2014-18 the applicant is consenting to inspections. Evidence from inspections or documented complaints regarding the facility in respect to the Standards in Resolution No. 2014-18 or in Section 9-104 of the *Gunnison County Land Use Resolution* or failure to comply with other applicable local or state regulations may result in the revocation of the Gunnison County Marijuana Facility License.

4) This license is approved conditioned upon receiving and maintaining all appropriate licenses with the Colorado Marijuana Licensing Authority. Failure to receive or maintain a valid applicable Colorado Marijuana License will result in the revocation of Gunnison County Marijuana Facility License.

ATTACHMENTS:

USING LINK- HTTP://204.132.78.100/CITIZENACCESS/

- **PUBLIC ACCESS**
- **PERMITS**
- **APPLICATION # MJ-15-00279**
- **ATTACHMENTS**

YOU MAY VIEW THE COMPLETE APPLICATION. HOA APPROVAL, PUBLIC NOTICE, ODOR CONTROL, ETC.