AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Public Hearing; Marijuana Licenses

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement:

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

Summary:

Crested Butte Investments II,LLC public hearing for a cultivation license and a manufacturing license.

Fiscal Impact:

Submitted by: Beth Baker **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 db 10/4/19

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 10/4/2019 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 10/4/2019

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 15

Agenda Date: 10/15/2019

Revised April 2015

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

From: Beth Baker

Date: October 15, 2019

Subject: Public Hearing for two Marijuana Facility Licenses for Cultivation (MJ-19-00177) and for Manufacturing (MJ-19-00178)

Applicant: Crested Butte Investments II, LLC- Represented by Sarah Wattles

Location: 398 Riverland Drive, Suite 1B,1C, 2C, Lot 9, in Riverland Industrial Park: This is the site of the previously approved Pure Industries LLC, there is no change of use in the facilities and they don't require a land use change.

LINK to File: http://204.132.78.100/citizenaccess/ using link **click-** permits, **click-** application no., **use # mj-19-00177 and mj-19-00178, click-** attachments, **click-** view

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1. PURPOSE:

The purpose of this public hearing is to review the Crested Butte Investments II, LLC application, for a Marijuana Cultivation license and a Marijuana Manufacturing license. The Marijuana Cultivation Facility cultivation and manufacturing licenses if approved, are located at 398 Riverland Drive, Suites 1B,1C, and 2C, Lot 9 in Riverland Industrial Park.

The Gunnison County Marijuana Licensing Authority is the Board of County Commissioners (BOCC). A motion is requested to either approve, approve with conditions, or deny the cultivation and manufacturing applications.

The existing 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. The Land Use Change was approved at the same time as the original license and will not need to be renewed.

Staff conducted a site visit, September 25, 2019. Staff was taken through the entire facility. There was no detectable odor outside of the facility. There were cameras in the entire facility, that are on 24 hours a day. The film is kept for forty days.

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:** Crested Butte Fire District approved the use, in this facility November 7, 2014, and a final inspection was done July 8, 2015. The County Sheriff's Department received the new owner's

applications and State of Colorado approval for Crested Butte Investments II, LLC, dated September 12, 2019. The staff received an email dated September 23, 2019 noting no concerns. Any future 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 that does not comply with the licensing requirement in Article 5.

3. STAFF ANALYSIS OF CRITERIA AND PUBLIC INPUT RECEIVED

The current use of the facility will remain the same as the previously approved land uses. The Staff referred this application to the Gunnison County Sheriff's Office, who, in an email dated September 23, 2019, noted no concerns. Staff has not received any comments from referral agencies or the public that would generate any concern regarding the issuance of the new of the Marijuana Cultivation Facility License and Marijuana Manufacturing License.

The following is staff 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). There was no criminal history revealed in the background check. 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.

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:** The current land uses for the site were approved October 7, 2014 for cultivation, and June 23, 2015 for manufacturing. The new owners will not be changing the uses of the facility, so no new land use approvals are required. Section 9-104 of the Land Use Resolution, the County specifically prescribed an administrative review

process for Signal Peak Industrial Park, Gold Basin Industrial Park, Vista Business Park, Vista Business Park and Riverland Industrial Park. It was felt a marijuana facility would generally be consistent with the existing uses in those four Industrial Parks.

In reviewing this specific application, staff believes this proposal continues to be a harmonious land use with the recommended conditions stated below. The following image indicates the location of the existing business (see yellow circle).

Scale = 1:2400

Monday, September 29, 2014

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: The County has received written consent from the Riverland Property Owners Association, for the license.

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.

Staff Response: The Applicant uses activated carbon scrubbers to mitigate odor. This is the most common odor elimination measure used in the industry. Staff has not received any complaints concerning the odor from this facility.

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: Staff has not been made aware of any concerns from the CBFPD concerning the current land use at the site. An email from Under Sheriff Scott Jackson dated September 23, 2019 notes no concerns with the new owners, Crested Butte Investments II, LLC.

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 and this location. Water is provided by a well.

Environmental Health Official Crystal Lambert, in an email dated September 29, 2017, stated the OWTS system shall receive only biodegradable wastes for treatment and distribution as are compatible with those biological treatment processes that occur within the septic tank. All other waste, including wastewater from the marijuana growing process, shall be delivered via a separate drain system to holding containers. A regular schedule of delivery to an approved wastewater treatment facility shall be required as part of the use permit.

Pure Industries purchased a 275 gallon tank for the marijuana wastewater, and set up a pick up schedule with Schmalz Construction to pick up and dispose of the wastewater. This process has continued to the current date and the waste water disposal tank will typically be pumped 2-3 times per year. All waste water dumps into the tank will be traced by room and recorded in the waste water log.

4. RECOMMENDATIONS AND NEXT STEPS

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

1) After the license is issued, periodic inspection of the facility by Gunnison County officials shall be allowed by the property owner and applicant with reasonable notice. There shall be no noticeable odors outside of the subject building detected by inspections. Failure to correct detectible odors outside of the building may result in revocation of the license.
2) As mentioned in Resolution of 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 Land Use Resolution or failure to comply with other applicable local or state regulations may result in enforcement action against the applicant including revocation of the license.
3) This license is approved conditioned upon received 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.

The original Marijuana Cultivation and Manufacturing Land Use Changes where approved in 2014 and 2015. Staff has not received any complaints from any law enforcement agencies, CBFPD, the Riverland Property Owner's Association, or any individual since the issuance of the of the land use change permits.

The new owners, Crested Butte Investments II, LLC have been through the background check performed by the State of Colorado. The State has issued their conditional license approvals, dated September 12, 2019. The State's approval is conditioned on a County approval for the cultivation and the manufacturing licenses.

NOTICE OF PUBLIC HEARING
CONCERNING TWO MARIJUANA LICENSE
APPLICATIONS FOR CRESTED BUTTE INVESTMENTS II, LLC-
MARIJUANA PRODUCTS MANUFACTURING LICENSE and a
CULTIVATION LICENSE
THE PARCEL IS LEGALLY DESCRIBED AS LOT 9, RIVERLAND
INDUSTRIAL PARK, FILING #1- SUITES 1B, 1C, 2C

The Gunnison County Board of Commissioners will conduct a public hearing on October 15, 2019 at 9:30 A.M. in the Board of County Commissioners Meeting Room, 2nd Floor, Gunnison County Courthouse, 200 E. Virginia Ave., Gunnison, Colorado, to hear public comment concerning marijuana license application MJ-19-00177 and MJ-19-00178.

APPLICANT: The applicant is Crested Butte Investments II, LLC.

LOCATION: The site is located at 398 Riverland Dr. Suites 1B, 1C and 2C.

PROPOSAL: The applicant requests a marijuana products manufacturing license and a cultivation license. The facilities will be located in a previously County permited, established marijuana cultivation and licensing facility, formally Pure Industries, LLC.

PUBLIC PARTICIPATION: The public is invited to submit oral or written comments at the hearing, or to submit written comments by email: planning@gunnisoncounty.org; or letter (Community Development, 221 N. Wisconsin, Suite D, Gunnison, CO 81230), so long as they are received by 5 p.m. the afternoon before the date of the meeting so that they may be submitted for the public record during the hearing. A copy of the application is available online at: https://www.gunnisoncounty.org/436/Permit-Database. Additional information may be obtained by calling the Community Development Department at (970) 641-0360.

ADA ACCOMMODATIONS: Anyone needing special accommodations as determined by the *American Disabilities Act* may contact the Community Development Department prior to the day of the hearing.