

Grand County Clerk and Recorder Marijuana License Review

To: Grand County Board of County Commissioners
From: Sara L. Rosene, Grand County Clerk and Recorder
Date: January 13, 2015
Re: Optional Premises Cultivation Operation

Applicant: Igadl, Ltd. dba Igadl
David Salturelli, Member/Manager
Kemsley Wilton, General Manager
Location: 72399 US Highway 40, Unit C, Tabernash, CO 80478
Zone District: Business
Applicable
Regulations: Resolution No. 2014-1-26 and Ordinance #14
Request: The Applicant is requesting a County Optional Premises Cultivation Operation.

Discussion:

Grand County Board of County Commissioners passed Resolution No. 2014-1-26 and Ordinance #14 to exercise the authority of the County of Grand to allow state licensed marijuana establishments to exist in unincorporated Grand County in accordance with applicable state laws and regulations as well as the additional local licensing requirements and other restrictions. This regulation and ordinance is adopted pursuant to constitutional and statutory authority as well as the county's authority under its police power in order to preserve the public health, safety, and general welfare.

The applicant for this Optional Premises Cultivation Operation is Igadl, Ltd. dba Igadl. David Salturelli is the Member /Manager of Igadl and Kemsley Wilton is the General Manager. The proposed location is in the old Highland Lumber building at 72399 US Highway 40, Unit C, Tabernash, CO 80478. The building is owned by Highland Investment, Co. LLC and is leased to Igadl, Ltd. The lease expires September 1, 2019.

Applications for Medical Marijuana Licenses are submitted to the local jurisdiction. The local jurisdiction provides a letter acknowledging receipt of the application. The County collects a \$500 fee.

The applicant submits its state application and local jurisdiction letter to the state for review.

The State then begins its review process. If additional documentation is needed, it is requested of the applicant. This information is not forwarded to the local authority by the State. The State then must make a determination to approve or deny the license no sooner than 45 days and no later than 90 days. Once the license is approved, the Conditional State license is remitted to the local authority.

Grand County uses the initial state license application and the County application to start the review process.

Grand County makes the notifications required in the County Ordinance. The County Clerk's review includes the following:

1. Review of the initial state application.
2. Review of the documents included with the County application.
3. Receipt of the \$500 fee
4. Contact with both the state and the applicant to obtain any additional documents or to receive clarification.

During the review process, the County Clerk's Office makes courtesy notification to all landowners, taxing districts, hospitals, and towns within 1,000 of the proposed license location.

After the final review, the Clerk and Recorder schedules a public hearing to be heard by the Board of County Commissioners.

Compliance with Grand County Resolution No. 2014-1-26 and Ordinance #14

"Retail Marijuana Cultivation Facility" has the same meaning as "marijuana cultivation facility" as defined in section 16(2)(h) of article XVIII of the state constitution. "Marijuana cultivation facility" means an entity licensed to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers."

"Optional premises" means the premises specified in an application for a medical marijuana center license with related grow facilities in Colorado for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by section 14 of article XVIII of the state constitution.

"Optional premises cultivation operation" means a person licensed pursuant to article 43.3 title 12, C.R.S., to operate a business as described in section 12-43.3-403"

The applicant stated that he will use Unit C, 72399 US Highway 40, Tabernash for both a Retail Marijuana Cultivation Facility and the Optional premises cultivation operation. The applicant has declared that there will be a virtual wall for the grow operations.

Section 5 – Ordinance #14 – Application

County application:

1. ***Operating Fee or Operating Renewal Fee (cash or check only). This fee is non-refundable and not dependent on the approval of an application.***

County application and license fee is \$500 and has been received by the County.

2. ***Written approval from Grand County Community Development Department.***

The Grand County Department of Community Development Marijuana License review with final approval by Planning and Zoning and Building was signed on December 8, 2014. The following comments are on the completed review:

The building will have a Certificate of Occupancy when the improvements are complete.

Prior to the CO, the following must be completed:

- Well Permit: Permit #186885-A needs to be updated to the new owner.
- The applicant will contract with Water Boy, Inc. trucking water of 30,000 gallons per minute for grow operation
- Sewer taps: 4.75 required, 3 existing: Must show proof of purchase for 1.75 additional sewer taps

- Waste water: Must show completion and acceptance of all required repairs and/or improvements required by Tabernash Meadows Water & Sanitation District

These requirements shall NOT stop the licensing process, but shall be completed prior to any issuance of any Certificate of Occupancy and shall be required of the Building Permit.

- Required Fire Impact Fees paid, if necessary, to East Grand Fire Protection District prior to issuance of any Building Permit.
- Need letter and/or approval from CO Board of Health for kitchen/bakery. This shall be required prior to issuance of any Certificate of Occupancy. This shall NOT hold up a Building Permit.

3. For renewals, a letter from the Department of Revenue or other evidence that all applicable excise tax and sales taxes have been paid during the prior licensed term.

N/A

4. A letter from the Marijuana Enforcement Division or other evidence stating that the applicant has not violated any State Regulations during any previous licensed term at any establishment owned or operated by applicant or any of its affiliated business entities. If the applicant has violated any State or Local Regulations during any previous term, the applicant shall provide a detailed description of all violations and how the applicant has satisfactorily corrected and mitigated any such violations.

Or

Letter from applicant stating that he/she has had no such license in Colorado.

Applicant has provided an affidavit stating that he had no such license in Colorado.

5. A copy of the applicant's State of Colorado Marijuana Business Application (excluding fingerprint cards) for the licensed period being applied for and proof that the applicant has submitted all necessary documentation to the State to obtain a State License.

The Colorado Department of Revenue Marijuana Enforcement Division provided the initial application. The applicant has provided an affidavit that all supplemental documents provided to the State of Colorado Marijuana Enforcement Division have been provided to the County. The Department of Revenue Marijuana Enforcement Division has issued the State Retail Marijuana Store license for this location.

6. Detailed map showing any alcohol or drug treatment facility, child care establishment, school or church within 1000 feet of the proposed location. A detailed map showing the 2 mile radius ("the neighborhood") around the property.

The applicant has submitted a map showing the land uses within 1,000 feet of the proposed location. The map indicates no alcohol or drug treatment facilities, child care establishments, schools or churches within 1000 feet of the proposed location. In addition, the applicant has provided a map showing the 2-mile radius around the property.

7. The Grand County Assessor's schedule number for the proposed location. All buildings associated with the schedule number must correspond to the diagram of proposed licensed premises.

Assessor's Schedule No. R082892 is a tract of land of approximately 11 acres in the SE1/4NE1/4 Section 1 South, Range 76 West. The optional premises is located in the center of the 10,996-square foot building on the 11-acre tract of land.

8. Letter from the Grand County Treasurer showing that all property taxes have been paid and no tax liens exist on the property where the business will be conducted.

Certificate of Taxes Due from the Grand County Treasurer dated November 7, 2014 shows no taxes due.

9. A copy of applicant's applicable state sales tax license.

N/A

10. A copy of a marijuana management plan detailing the training program for employees and staff that shall contain, at a minimum, educational and operation standards on the prevention of sale or distribution of marijuana products to anyone under the age of twenty-one (21) years old. Such plan should detail any efforts being made or proposed to be made by the applicant to educate the community or otherwise participate in community outreach regarding the topic of underage marijuana use.

From applicant:

Staff Training

Applicant provided a Marijuana Management Plan stating that staff will be required to read, attend an in-house class and be quizzed on the Law Enforcement Guide to False Identification and Illegal ID Use. (Applicant provided the U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention "Law Enforcement Guide to False Identification and Illegal ID Use" prepared by Pacific Institute for Research and Evaluation in support of the OJJDP Enforcing the Underage Drinking Laws Program.)

The plan continues to state that "The guide is informative in assisting retailers on how to identify false or fake IDs or the use of IDs by people other than the individual included in the application. All identifications will be checked using an ID-E-600 ID Scanner to prevent the use of fake IDs or reuse of the same ID by more than one person." The applicant provided the specifications and description of the ID-E-600 ID Scanner.

Community Outreach

Igadl will make efforts to work with Grand Futures in order to engage in community outreach regarding the topic of underage marijuana use and will, with the help of its biochemist, who will be in charge of Igadl's lab, develop a class to teach middle school and high school aged children about the effects of marijuana on a developing brain.

Tracking

Igadl, in compliance with the state managed Marijuana Inventory Tracking System (MITS) will track the marijuana in its possession from seed to sale. The MITS system utilizes tags with bar codes during the marijuana plant's life cycle to track the plant as it grows from seed/clone to vegetating plant to flowering plant. Once the marijuana is harvested from the plant, the yield is tracked and stored in Igadl's secure drying room until it is ready to be trimmed. The dried marijuana will then be taken to the trimming room in the amount expected to be trimmed that day and the bud will be separated from the trim and both will be labeled with tracking tags and taken to a secure holding room. The bud will be

packaged in a security packaging room where it will receive approved child safety packaging and state mandated safety labels. If the harvested marijuana is infused into marijuana infused products, then it will be tracked to the kitchen/lab and the infused products will be tracked as they go to Igadl's packaging room where they will be packaged for sale with approved child safety packaging and state mandated safety labels. The items will then be sold on Igadl's retail store or wholesaled to a licensed business. Each night all marijuana will be stored in a secure room in a restricted area off of the sales floor. Restricted access areas will be protected from the public access through a locking ID system and all entrances, exits, and areas where marijuana will be grown, stored, trimmed, packaged or otherwise handled will be video monitored.

Control of the Premises

The public entrance will only allow access to Igadl's lobby. In order to gain access to the limited access area where marijuana and marijuana infused products will be sold, a potential customer will first have to show proof that the customer is over 21 years of age as well as a valid medical marijuana registry card (red card) in order to purchase medical marijuana. Igadl will only serve customers over the age of 21 even if they have a red card. Staff will be trained on how to identify fake documents. The information will be entered into a customer account in the lobby before the individual can enter the limited access area. Entry to the limited access area will be controlled by a door that can only be opened automatically by one of Igadl's staff located in the lobby after the intake process is completed. Once inside the limited access area the customer will again have to show proof of identification prior to the purchase of any marijuana or marijuana infused product in order to confirm the information previously entered regarding the customer during Igadl's intake procedure in the lobby of its licensed premises. The lobby and retail area will remain under constant video surveillance.

11. *Copy of a completed Marijuana Employee License Application provided to the State of Colorado for all employees within 30 days of employment.*

Applicant has provided license applications on current employees and will provide license applications on future employees.

The State of Colorado issues cards based on the applications. The cards and applications are identified as follows:

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|-------------|--|
| Red card | Colorado Associated Key Marijuana License Application is for the owner of a business and must be renewed annually |
| Green Card | Medical Marijuana Key Employee License Application is for managers of the business, can be used anywhere in the state and is renewed every two years |
| Blue Card | Medical Marijuana Support Employee License Application is for support workers , can be used anywhere in the state, and is renewed every two years |
| Yellow card | Retail Marijuana Occupational Employee License Application, is for retail only support, can be used anywhere in the state, and is renewed every year |

Section 6 – Classes of licensing authorized

2. Retail marijuana cultivation facilities may operate only in the Business zone or Forestry and Open zone within unincorporated Grand County after issuance of a special use permit as provided in the Grand County Zoning Regulations.

7. Optional premises cultivation licenses may operate only in the Business zone or Forestry and Open zone within unincorporated Grand County after issuance of a special use permit as provided for by the Grand County Zoning Regulations.

Section 7 – Schedule Hearing and Notice

(a) Upon receipt of a complete application for a marijuana establishment, the Clerk and Recorder shall schedule a public hearing before the Board of County Commissioners not less than thirty days from the date of the application and shall post and publish the public notice thereof not less than ten days prior to such hearing. Public notice shall be given by the posting of a sign in a conspicuous place on the premises for which application has been made and by publication in a newspaper of general circulation.

A complete application as provided by the applicant on December 8, 2014. Publication in the Middle Times was on January 1, 2015 and posting was completed on January 2, 2015.

(b) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and address of the applicant, such other information as may be required to fully apprise the public of the nature of the application. If the applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

Signs posted are in compliance with this section. In addition, courtesy notification was sent to any landowner within 1000 feet of the property making notification of proposed license. In addition, the hearing date and time were made available by courtesy notification and to the interested party list by email and on the County website.

Notification was made to Department of Planning and Zoning, Grand County Sheriff's Department, East Grand Fire Protection District. Courtesy notification was made to all property owners within 1,000 feet of the premises, all taxing districts in which the property is located, Kremmling Memorial Hospital District dba Middle Park Medical Center, Grand County EMS, Grand County Public Health, Grand County Juvenile Services, Grand County Road and Bridge, Colorado State Patrol, Grand County Rural Health Network, Town of Granby, Granby Police Department, Town of Fraser, and Fraser Police Department.

A second notification was sent with the hearing date and time to these same entities.

Section 8 – Public Hearing

(a) At the public hearing held pursuant to this section, any party in interest shall be allowed to present evidence and to cross-examine witnesses. As used in this section, "party of interest" means any of the following:

- a. The applicant;***
- b. An adult resident of the neighborhood under consideration;***
- c. The owner or manager of a business located in the neighborhood under consideration;***
- d. An authorized representative of a registered neighborhood organization that encompasses all or part of the neighborhood under consideration; or***
- e. The Board of County Commissioners***

(b)As used in this section, the term “neighborhood” shall have the same meaning as the Board of County Commissioners utilizes for purposes of issuance of liquor licenses.

(c)The Board of County Commissioners has authority to refuse to issue any marijuana establishment license for good cause, subject to judicial review pursuant to C.R.C.P. 106. For purposes of this subsection (c), the term “good cause” means:

- 1. The applicant has violated, does not meet, or has failed to comply with any of the terms conditions, or provisions of the Colorado Retail and/or Medical Marijuana Code or any rule or regulation promulgated pursuant thereto, or this regulation and ordinance or any rule or regulation promulgated pursuant to this regulation and ordinance;***
- 2. With respect to second or additional retail or medical marijuana establishment license applied for by the same applicant, the Board of County Commissioners shall consider the effect on competition of the granting or disapproving of additional license to such licensee, and no application for a second or additional license that would have effect or restraining competition shall be approved.***
- 3. Evidence that the issuance of the license will adversely impact the health, welfare or public safety of the neighborhood in which the marijuana establishment is proposed to be located.***

(d)Before entering any decision approving or denying the application, the Board of County Commissioners shall consider, except where this regulation and ordinance specifically provides otherwise, the facts and evidence adduced as a result of public hearing required by this section, and any other pertinent matters affecting the qualifications of the applicant for the conduct of business as a marijuana establishment.

(e)The Board of County Commissioners shall also consider:

- 1. The reasonable requirements of the neighborhood and the desires of the adult inhabitants as evidenced by petitions, remonstrance, or otherwise; and***
- 2. The number and availability of other marijuana establishments in or near the neighborhood under consideration; and***
- 3. Whether the issuance of such license would result in or add to an undue concentration of marijuana establishments and, as a result, require the use of additional law enforcement resources.***

(f)Any decision of the Board of County Commissioners approving or denying an application shall be in writing stating the reasons therefor, within thirty days after the date of the public hearing, and a copy of such decision shall be sent by certified mail to the applicant at the address shown in the application and to the state licensing authority.

Section 9. Licensing requirements – Provisions applicable to all licenses

In addition to those requirements of the Colorado Medical and/or Retail Marijuana Codes the following shall be required of all licenses:

(a)Notice of applications to departments and agencies. Upon receipt of an application for any class of local license, the Clerk and Recorder shall give notice of the application to the Department of Planning and Zoning and the Grand County Sheriff’s Department, and the Local Fire District. Any applicant for a license under this regulation and ordinance shall obtain any and all necessary permits, licenses, and other regulatory approvals from the other affected county departments and agencies prior to the issuance of a license under this regulation and ordinance.

Notification was made to Department of Planning and Zoning, Grand County Sheriff's Department, and East Grand Fire Protection District. Courtesy notification was made to all property owners within 1,000 feet of the premises, all taxing districts in which the property is located, Kremmling Memorial Hospital District dba Middle Park Medical Center, Grand County EMS, Grand County Public Health, Grand County Juvenile Services, Grand County Road and Bridge, Colorado State Patrol, Grand County Rural Health Network, Town of Granby, Granby Police Department, Town of Fraser, and Fraser Police Department.

A second notification was sent with the hearing date and time to these same entities.

(b)Background checks and determination of good character and state residency. Prior to the issuance of any local license, the Board of County Commissioners shall make a finding and determine as to the good moral character of the applicant and compliance with state residency requirements in accordance with the standards and procedures set forth in the Colorado Retail Marijuana Code and/or the Colorado Medical Marijuana Code. In so doing, the Board may incorporate any findings as to good character and residency previously made by the state licensing authority, and shall not be required to perform a criminal background check if the state licensing authority has already performed a criminal background check on the applicant.

A background check for the initial application was performed by the State of Colorado. A background check with fingerprints prior to beginning work and annually is required by Grand County.

(c)Area maps. All applications for marijuana establishment submitted pursuant to this regulation and ordinance shall include an area map drawn to scale indicating land uses of other properties within a 1,000-foot radius of the property upon which the applicant is seeking a license. The map shall depict the proximity to the property to any school, church or child care establishment, to any other marijuana establishments, or to any alcohol or drug treatment facility.

The applicant has submitted a map showing the land uses within 1,000 of the proposed location. The map indicates no alcohol or drug treatment facilities, child care establishments, schools or churches within 1000 feet of the proposed location. In addition, the applicant has provided a map showing the 2-mile radius around the property.

***(d)Additional prohibited locations. No retail or medical marijuana license shall be issued for the following locations:
(1)Within one thousand (1,000) feet of any school, child care establishment, alcohol or drug treatment facility or church, with the distance computed by direct measurement in a straight line from the nearest property line of the land use for the school, child care facility, alcohol or drug treatment facility, or church to the nearest portion of the building in which the marijuana establishment is located.***

(e)Off-site delivery of product by licensee prohibited. All sales and distribution of retail or medical marijuana by a licensed marijuana establishment shall occur only upon the licensed premise, and the licensee shall be strictly prohibited from delivering retail or medical marijuana to any person at any other location.

(f)Signs and advertising.

(1)Any person or premises licensed as a marijuana establishment shall comply with all county ordinances and regulations regulating signs and advertising. In addition, no licensed marijuana establishment shall use any advertising material that is misleading, deceptive, or false, or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.

(2) Except as otherwise provided in this subsection (2), it shall be unlawful for any person licensed under this regulation and ordinance or any other person to advertise any marijuana product anywhere in the county where the advertisement is visible to members of the public from any street, sidewalk, park or other public place, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the Grand County Zoning Regulations; any sign mounted on a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this paragraph (2) shall not apply to:

(a) Any sign located on the same zoned lot as a marijuana establishment which exists solely for the purpose of identifying the location of the marijuana establishment and which otherwise complies with the Grand County Zoning Regulations and any other applicable county laws and regulations; or

(b) Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the county; or

(c) Advertising which is purely incidental to sponsorship of a charitable event by a marijuana establishment.

Comments

The Grand County Clerk and Recorder has received all documentation required by Grand County Resolution No. 2014-1-26 and Ordinance No. 14. The fees required by law and statute have been remitted.

The applicant requested that the local authority add a requirement that the building use downward facing lighting on the exterior of the building.

All standard language and conditions of the Grand County Resolution No. 2014-1-26 and Ordinance No. 14 shall be made part of any approved license.

Recommendation

If, after taking testimony at the public hearing, the Board of Commissioners approves the license, the Clerk and Recorder recommends that a license be issued after the following items identified by the Community Development Department are complete and a Certificate of Occupancy has been issued.

1. Update Well Permit #186885-A to new owner to reflect change of ownership prior to any issuance of a Certificate of Occupancy.
2. The contract with Water Boy, Inc. must be in full force in effect during the term of the license.
3. Show proof of 4.75 sewer taps
4. Show completion and acceptance of all required repairs and/or improvements required by Tabernash Meadows Water & Sanitation District prior to any issuance of Certificate of Occupancy.
5. Proof of Fire Impact Fees paid, if necessary to East Grand Fire Protection District.

The Clerk and Recorder also recommends:

1. Applicant must provide proof of training of employees as identified in staff training section of the applicant's Marijuana Management Plan prior to renewal of the County license.
2. Applicant must provide proof of Community Outreach as identified in the community outreach section of the applicant's Marijuana Management Plan prior to renewal of the County license.
3. The lighting on the exterior of the building be downward facing.
4. All employees of IgadI must complete a background check with the Grand County Sheriff's Office including being fingerprinted prior to beginning work and annually at renewal.
5. Upon employment, applicant must provide the appropriate application for the employee as well as the state issued card as identified below:

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|-------------|--|
| Red card | Colorado Associated Key Marijuana License Application is for the owner of a business and must be renewed annually |
| Green Card | Medical Marijuana Key Employee License Application is for managers of the business, can be used anywhere in the state and is renewed every two years |
| Blue Card | Medical Marijuana Support Employee License Application is for support workers, can be used anywhere in the state, and is renewed every two years |
| Yellow card | Retail Marijuana Occupational Employee License Application, is for retail only support, can be used anywhere in the state, and is renewed every year |