

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: April 12, 2016
Re: Retail Marijuana Store (the term "retail marijuana" is commonly known as "recreational marijuana")
Applicant: Serene Wellness V LLC dba
Serene Wellness Winter Park LLC
Daniel F. Volpe, President
Location: 79025 US Highway 40, Units 5 and 6
Winter Park, CO
Part of Lot 10, 11, 12, Block 1, Hideaway Park
Zone District: Business
Applicable
Regulations: Resolution Nos. 2013-12-25, 2014-1-26 and Ordinance #14 and Ordinance #14-1
Request: The Applicant is requesting a County Retail Marijuana Store License

Discussion:

Grand County Board of County Commissioners passed Resolution Nos. 2013-12-25, 2014-1-26 and Ordinance #14 and Ordinance 14-1 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 Retail Marijuana Store is Serene Wellness V LLC dba Serene Wellness Winter Park LLC. Daniel F. Volpe is the owner of the business. The proposed location is 79025 US Highway 40, Units 5 and 6 Winter Park, CO. The building is owned by Jozef and Slawomira Ligas. The lease to Serene Wellness Winter Park LLC consists of two units in the Valley Hi Motel and the lease ends August 31, 2017.

Applications for Retail Marijuana Licenses are submitted to the State of Colorado Marijuana Enforcement Division. The State then begins its review process. The State collects the state fees and within seven days remits the initial application and \$2,500 to the local jurisdiction. 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. In addition to the County application, a fee of \$5,500 is required.

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 \$8,000 fee (\$2,500 collected by the state and \$5,500 collected by the County)
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 and Ordinance #14-1

"Retail Marijuana Store" has the same meaning as defined in section 16(2)(n) of article XVIII of the state constitution. "Retail marijuana store" means any entity licensed to purchase marijuana from marijuana cultivation facilities and marijuana and marijuana products from marijuana product manufacturing facilities and to sell marijuana and marijuana products to consumers."

Section 5 – Ordinance #14 – Application

County application:

- A. **Cover Letter**
Complete
- B. **State Application**
Complete
- C. **Trade Name Registration**
Complete
- D. **Certificate of Good Standing from Colorado Secretary of State**
Complete
- E. **Entity Documents**
Complete
- F. **Documents showing legal possession**
Section 15 allows the landlord to enter property.
- G. **Diagram of Premise**
Complete
- H. **Financial Documents (Notes, Security Notes, Financial Obligations, Funding Sources)**
Complete
- I. **Copies of Inspections, Violations, Orders to Show Cause, Summary Suspensions, Administrative Holds**
N/A
- J. **Current Colorado Sales Tax Licenses and Colorado Retail Marijuana License Bond**

Complete

K. ***Security Plan, Burglar Alarm and Contract***

Complete plan but not complete contract

L. ***County Fees Submitted to the State***

Complete

M. ***County Submitted Fees***

Complete

N. ***Grand County Marijuana Business License Application, Memorandum of Understanding, Owners and Managers Form Affidavit of Lawful Presence***

Complete

O. ***Grand County Department of Community Development Marijuana License Review***

The existing building is a motel, known as the Valley Hi. The motel is either R-1 or R-2 occupancy. The Applicant plans to lease Unit #5 and #6 and convert them to retail space. A building permit is required to order to change the occupancy of the units to Group M – Mercantile. A Certificate of Occupancy for the retail use is required prior to a license is issued by Grand County.

A floor plan of the proposed retail space was submitted by the Applicant for a preliminary assessment. Complete plans for the tenant finish will be required if a license is approved for the proposed use. A building permit and certificate of occupancy shall be completed and issued prior to any license. A retail business is a permitted use in the Business District. No zoning permit is required for the use.

A total number of 28 spaces are required for the motel and the new retail use. The Applicant submitted a parking plan with 28 spaces. A shed exists in the drive aisle that will need removed prior to a license being issued by Grand County.

A sign permit is required to be issued prior the Applicant installing a sign and prior to a license being issued by the County.

Applicant shall contract Grand County Water and Sanitation District #1 to determine if additional water or sewer taps are required for the proposed retail use.

Applicant shall verify with CDOT whether or not a highway access permit is required with the addition of a retail use to the property.

A certificate of occupancy is required to be issued by Grand County to ensure the space complies with the requirements of the Grand County Building Code. The CO shall be issued prior to any license being issued.

P. ***Letter from Applicant regarding previous Marijuana License***

Complete

Q. ***Supplemental information provided to the state***

Complete

- R. ***State of Colorado Marijuana Licenses***
Complete
- S. ***1000 Foot Buffer Map and Land Use within 1000 foot buffer***
Complete
- T. ***Map of 2-mile radius – the “Neighborhood”***
Complete
- U. ***Grand County Assessor’s Property Record and Schedule Number***
Complete
- V. ***Proof that property taxes are paid***
Complete
- W. ***Applicants Marijuana Management Plan***
Complete
- X. ***Marijuana License Applications and Badges for current employees***
Complete
- Y. ***Notifications***
Complete
- Z. ***Public Comments***
Posted on web page at: <http://www.co.grand.co.us/720/Applications-in-Process>
- AA. ***Petitions***
Posted on web page at: <http://www.co.grand.co.us/720/Applications-in-Process>
- BB. ***Marijuana License Reviews and Responses***
Posted on web page at: <http://www.co.grand.co.us/720/Applications-in-Process>

Classes of licensing authorized

1. ***Retail marijuana stores may operate only in the Business or Tourist zones within unincorporated Grand County.***

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.

On June 30, 2016 the applicant made application to the Board of County Commissioners. Publication in the Middle Times was on July 14, 2016 and posting was completed on July 7, 2016.

(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. A postcard notification was made to all landowners within 2 miles of the proposed location. Notification was made by email to all individuals on the interested party list. The complete file is posted on the County's website.

Notification was made to Department of Planning and Zoning (Community Development), Grand County Sheriff's Department, and East Grand Fire Protection District. Courtesy notification was made to all property owners within 2 miles 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 Winter Park, Fraser/Winter Park Police Department, Colorado River Water Conservation District, East Grand School District, Grand County Social Services, Fraser Valley Metropolitan Recreation, Middle Park Conservation District, Grand County Library District, Grand County Water and Sanitation District, Grand County, Grand County Assessor, and Colorado Department of Transportation.

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.

The County Clerk and Recorder has received a number of written comments by mail or email. The count will be made available at the hearing. All comments are posted at www.co.grand.co.us/720/Applications-in-Process

The Clerk and Recorder has received a number of petitions and comments. The Clerk and Recorder has made every effort to determine the proximity to the license of every individual who signed the petitions. The efforts we employ to determine the proximity to the license for comments and petitions is

1. Check voter registration information
2. MV Registration Information
3. Driver License information
4. Assessor’s property tax records

This count will be made available at the hearing.

Comments	Against	For	Neutral	Total
Within the 2 Mile Radius				
Outside the 2 Mile Radius/Unknown				

Note: There are comments on the web page and these number equate to people not comments. Two people on one comment would be counted as two comments.

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 (Community Development), Grand County Sheriff's Department, and East Grand Fire Protection District. Courtesy notification was made to all property owners within 2 miles 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 Winter Park, Fraser/Winter Park Police Department, Colorado River Water Conservation District, East Grand School District, Grand County Social Services, Fraser Valley Metropolitan Recreation, Middle Park Conservation District, Grand County Library District, Grand County Water and Sanitation District, Grand County, Grand County Assessor, and Colorado Department of Transportation.

(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.

(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 and referenced Assessor's property records showing the land uses within 1,000 of the proposed location. The applicant states that there are 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 Nos. 2013-12-25, 2014-1-26 and Ordinance No. 14 and Ordinance No. 14-1. The fees required by law and statute have been remitted.

All standard language and conditions of the Grand County Resolution Nos. 2013-12-25, 2014-1-26 and Ordinance No. 14 and Ordinance No. 14-1 shall be made part of any approved license.

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 only after the following items identified by the Community Development Department are complete and a Certificate of Occupancy has been issued.

1. A building permit is required to order to change the occupancy of the units to Group M – Mercantile. A Certificate of Occupancy for the retail use is required prior to a license is issued by Grand County.

2. Complete plans for the tenant finish will be required if a license is approved for the proposed use. A building permit and certificate of occupancy shall be completed and issued prior to any license.
3. A shed exists in the drive aisle that will need removed prior to a license being issued by Grand County.
4. A sign permit is required to be issued prior the Applicant installing a sign and prior to a license being issued by the County.
5. Applicant shall contract Grand County Water and Sanitation District #1 to determine if additional water or sewer taps are required for the proposed retail use.
6. Applicant shall verify with CDOT whether or not a highway access permit is required with the addition of a retail use to the property.
7. A certificate of occupancy is required to be issued by Grand County to ensure the space complies with the requirements of the Grand County Building Code. The CO shall be issued prior to any license being issued.
 - The location of the proposed business sign (*The location of the sign will need to be set back at least 10 feet from all property lines.*)

In addition, the Clerk and Recorder recommends:

1. Lease needs to clearly state that upon default, the landlord may only enter the property with a State badged employee.
2. 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.
3. 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.
4. Upon employment, applicant must provide the appropriate application for the employee as well as the state issued card as identified below:

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