



**TOWN OF WINTER PARK
PLANNING COMMISSION
Tuesday, January 10, 2023 8:00 AM**

A G E N D A

- I. **Meeting Call to Order**
- II. **Roll Call of Commission Members**
- III. **Town Hall Meeting** (time for anyone from the public to speak about items not on the agenda)
- IV. **Minutes:** Not available
- V. **Conflicts of Interest**
- VI. **Action Items:**
 - A. 8:05am Election of Chair and Vice Chair (yearly)
 - B. 8:10am PUBLIC HEARING: Special Use Permit – 78902 Highway 40 – Great Divide Lettuce Colony Inc. (PLN22-098) – Request to continue to January 24, 2023
- VII. **Planning Commission Items for Discussion:**
 - A. Draft – Rules and Procedures
- VIII: **Director's Report**
 - A. Second UDC Text Amendment – January 24
 - B. Planning Commission and Town Council Joint Workshop – February 7
 - C. Condotel Regulations – February 14

Online Meeting Log-In Instructions – See next page

Computer Log-In Instructions

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81725744995?pwd=RnVOb2hpVmN1SXBydzFBZEc3NGhGZz09>

Passcode: 113389

Phone Log-In Instructions

Dial In Numbers

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 436 2866 or +1 301 715 8592
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Webinar ID: 817 2574 4995

Passcode: 113389

International numbers available: <https://us02web.zoom.us/j/81725744995>

You can log into the Zoom meeting through the link above to view what is projected on the screen. You can use either your computer audio or the number above. Everyone will be muted upon entry into the meeting to ensure that we have manageable background noise and limited interruptions.

Public Hearing Process

If you would like to participate in the public hearing, please follow these instructions so we can make sure everyone that wants to speak has the opportunity. When you log into Zoom you will be automatically muted to limit background noise. When the public hearing is opened for public comment, please use the “raise your hand” feature and staff will unmute citizens in the order they were received. To enable “raise your hand” feature, click on the “Participants” button the bottom of the screen.



MEMO

TO Planning Commission

FROM Hugh Bell, Planner

THROUGH James Shockey, Community Development Director

DATE January 10, 2023

RE PUBLIC HEARING: Special Use Permit – 78902 Highway 40 – Great Divide Lettuce Colony Inc.
(PLN22-098)

The attorney for the Applicant, Great Divide Lettuce Colony Inc., has requested the Planning Commission continue this application from the hearing on January 10 to January 24, 2023. See reasoning in the letter dated January 5, 2023. The Planning Commission heard this application on December 13, 2022 and voted 5-0 to continue to January 10.

Property Owner: Glenda R Flanagan

Applicant: Peter Doerken dba Great Divide Lettuce Colony Inc.

Location: 78902 Highway 40

Special Use Permit:
Application to operate a regulated marijuana business use.

Staff Recommendation:
Staff recommends the Planning Commission continue this application to the Tuesday, January 24, 2023 hearing.



January 5, 2023

Winter Park Town Council
Winter Park Planning Commission
50 Vasquez Road
Winter Park, CO 80482

Delivered via email: jshockey@wpgov.com, djardee@wpgov.com, hbell@wpgov.com, apflanagan@hpwclaw.com

Re: Great Divide Lettuce Colony Inc. // Planning Permit No. PLN22-098 // Request for Continuance

Please accept this letter as a request for a continuance from the following hearing dates regarding Planning Permit No. PLN22-09 for Great Divide Lettuce Colony (“GDLC”):

- Continuance from the January 10, 2023 Planning Commission hearing to January 24, 2023.
- Continuance from the January 17, 2023 Town Council hearing to February 7, 2023.

GDLC has retained a civil engineering firm for work related to this permit. The requested continuances will allow sufficient time for the work product to be part of the permit review process. Moreover, continuing the Town Council hearing for this permit to February 7th will allow Town Council to hold the hearings for this permit and GDLC’s marijuana license at the same Town Council meeting. Seeing the significant overlap in the content and issues for both hearings, holding them together will avoid unnecessary redundancy and thereby save time for all parties involved.

Please advise if there is any additional information needed from us.

Many thanks,

/s/ Brian Blumenfeld
Brian M. Blumenfeld
Attorney for Great Divide Lettuce Colony Inc.

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PLANNING COMMISSION POLICIES AND PROCEDURES

The Town of Winter Park Planning Commission formally adopted these Policies and Procedures at a regularly scheduled meeting on January 24th, 2023.

Winter Park Planning Commission
County of Grand
State of Colorado

Brad Holzwarth, Chair

PART I

AUTHORITY

The Town of Winter Park Planning Commission is authorized to adopt rules and regulations governing its procedure pursuant to § 2-2-2 of the Winter Park Town Code and § 8.3 of the Winter Park Town Charter. These Policies and Procedures shall constitute compliance with this provision.

PART II

MEMBERSHIP

Section 1

Total Membership

As permitted in the Town Charter, the Planning Commission ("Commission") shall consist of seven members appointed by the Town Council ("Council").

Section 2

Absence of Quorum

A quorum of the Commission shall be a minimum of five members. No public hearing or meeting shall be held unless a quorum is present. In the absence of a quorum, all public hearings shall be continued to the next available meeting. Staff will then post a notice of such continuance and rescheduling. Applications that require public notice will not be required to republish.

Section 3

Eligibility

At least five members of the Commission shall reside within the Town boundaries. The other members may reside outside of the Town boundaries.

Section 4

Appointment

- A. Time of Appointment: Commission members should be appointed by the Council at or before the annual or organizational meeting of the Commission, which is the first meeting of the calendar year, or at such other times as are necessary to complete terms and to fill vacancies. Terms of office shall be staggered.
- B. Reappointments: Commission members may be reappointed at the discretion of the Council.

Section 5

Term

The term of a Commission member shall be a maximum of four years per § 8.3 of the Town Charter. In case of a vacancy, an appointment shall be for the purpose of completing the term of the vacating Commission member.

Section 6

Removal

- A. General: A Commission member may be removed by the Council for nonperformance of duty or misconduct.
- B. Excessive Absence: Six unexcused absences from meetings in any year or three successive unexcused absences may constitute grounds for removal. The Community Development Director ("Director") may report the fact of such absences, along with any known mitigating factors, to the Council which will make the determination regarding a Commission member's removal.

Section 7 Compensation

A Commission member shall receive such compensation as may be fixed by the Council, and the Council shall provide for reimbursement of the members of the Commission for actual expenses incurred.

Section 8 Election of Officers

- A. General: At the first regular meeting of the new calendar year, the Commission members shall conduct an election of officers, unless the Commission members vote to delay the election. Commission officers shall include a Chair and a Vice-Chair. Other positions may be created by the Commission members as needed.
- B. Voting: A majority vote is required to elect each officer.
- C. Term of Office: An officer's term shall be for one year and may be extended for another term through reelection.

PART III POWERS, DUTIES, AND RESPONSIBILITIES

Section 1 Planning Commission

The Commission members shall carry out such powers, duties, and responsibilities according to § 2-1-4 of the Town Code. (See Appendix A)

Section 2 Chair

The duties of the Chair shall be as follows:

- A. Preside at all meetings of the Commission. (See Appendix B for additional instructions on conducting meetings.)
- B. Call special public hearings or meetings of the Commission, as needed, in accordance with these Policies and Procedures.
- C. Sign all necessary documents of the Commission.
- D. Take actions as necessary to preserve order and the integrity of all proceedings before the Commission.
- E. Efficiently move the agenda along, limit redundancy and the time allowed for comments, and set guidelines for public input.
- F. Recognize speakers and members prior to receiving comments and presentations.
- G. Prioritize conducting the meeting over voicing opinions in all agenda item discussions. Generally, the Chair should be the last to speak during the discussion stage of an item.
- H. Serve as the point of contact for staff regarding agenda decisions, including both content and schedule.
- I. When a meeting has been convened, the Chair shall have the authority to continue or cancel such hearing or meeting for cause, including, but not limited to, absence of quorum and absence of an agenda.
- J. Sign the minutes of the Commission.

Section 3 Vice-Chair

In the case of absence or disability of the Chair, the Vice-Chair shall perform the functions of the office of the Chair.

Section 4 Temporary Chair

- A. In the event both the Chair and the Vice Chair are absent from a meeting, the recording secretary must call the Commission to order and call the roll.
- B. If a quorum is present, the Commission shall elect by a majority vote a temporary Chair who will preside over the meeting until the arrival of the Chair or Vice Chair, at which time the temporary Chair shall relinquish the Chair duties upon conclusion of the business immediately before the Commission.

Section 5 Designated Recording Secretary

A recording secretary to the Commission shall be appointed by the Director to be present at all public hearings or meetings of the Commission. The duties of the recording secretary shall be as follows:

- A. Keep the minutes of all Commission public hearings or meetings and provide draft written meeting minutes for the Commission's consideration.
- B. Prepare resolutions, correspondence, and other official documents of the Commission.
- C. Prepare and distribute the Commission's meeting and hearing agendas, including all accompanying staff reports and other relevant materials.
- D. Prepare and distribute background materials, correspondence, and other relevant information as requested by the Commission, including copies of or links to Council meeting minutes for applications previously heard by the Commission.
- E. Track anticipated member attendance in order to determine if meeting cancellation will be required and follow-up with necessary communications to the affected applicant(s).
- F. Contact the Chair for their consent to cancel a regular Commission hearing or meeting where there are no planned agenda items.
- G. Post the appropriate notices due to the cancellation of a noticed public hearing due to a lack of a quorum.

PART IV MEETINGS

Section 1 Meetings with the Council

The Commission members shall meet with the Council annually to discuss related problems, concerns, and issues, or as often as agreed upon by the Council.

Section 2 Meetings

Meetings of the Commission are generally held twice per month. Additional meetings may be called as necessary. Meetings are to be held in person but may be held virtually when approved by the Commission and the designated recording secretary. Meetings are open to the public and may include public hearings.

Section 3 Work Sessions

Study sessions or work sessions can be called at any time. Twenty-four-hour notice must be provided in the official public posting place. No formal action or decisions can be made at a work session.

Section 4 Executive Sessions

All information and discussions taking place in an Executive Session shall remain confidential and shall not be released in any form, repeated or shared, by any participant in the Executive Session unless by a vote of the majority of the Commission, at which point, the participants are released from the confidentiality requirement.

PART V GENERAL RULES AND PROVISIONS

Section 1 Voting

- A. Total Number of Votes: Each Commission member shall have one vote for each matter put to a vote.
- B. Majority Rules: A majority vote of the Commission members present is required for any motion to pass.
- C. Abstention: No abstentions will be allowed, except as provided herein:
 - a. Conflict of interest.
 - b. Absence at a hearing or meeting for which minutes are voted on.
 - c. Absence at a hearing or meeting and the Commission Member did not read minutes or listen to audio.
- D. Tie Vote: In the event of a tie vote, the motion being voted on shall be deemed to have failed. When a motion that ties involves a recommendation to the Council, the item shall be forwarded to Council with no recommendation.

Section 2 Ethics

- A. Conflict of Interest: Holding a position that represents the public interest is a public trust. To actively promote public confidence, a Commission member must be aware of a possible conflict of interest arising in the course of duty.
 - a. A conflict of interest is described as a situation where the person:
 - i. Has a financial interest in the matter; or
 - ii. Believes a conflict of interest exists as defined by an applicable law.
 - b. A Commission member experiencing a conflict of interest should:
 - i. Declare that interest publicly;
 - ii. Abstain from voting on the matter;
 - iii. Withdraw from participation in any deliberations on the matter;
 - iv. Step down from the dais and leave the hearing room from which the deliberations are to occur for the duration of the conflict; and
 - v. Refrain from discussing the matter privately with other Commission members voting on it.
- B. Gifts: A Commission member shall not accept any compensation, gift, or service which would violate the provisions of Article XXIX of the Colorado Constitution, as amended.

- C. Ex Parte Communications: A Commission member shall not engage in an ex parte communication regarding an application that will be heard by the Commission in a quasi-judicial proceeding. Ex parte communications are acceptable when the Commission is acting in a legislative capacity.
 - a. Generally, an ex parte communication is a communication between a Commission member and an applicant or a member of the public that takes place outside a noticed public hearing or meeting on an application that will be heard by the Commission.
 - b. A Commission member who engages in an ex parte communication shall disclose it to the Commission and consider abstaining from voting if it creates an appearance of impropriety, creates a conflict of interest, or otherwise affects due process in the decision-making proceedings.

Section 3 Procedure for Making a Motion

See Appendix B. When there is a question regarding procedure, Roberts Rules of Order shall be used as a guideline.

Section 4 Continuance of an Agenda Item

- A. Whenever the Commission decides to continue a request before it, it may do so by motion. The matter postponed shall be scheduled to the nearest possible time providing a date and time certain. If the applicant fails to attend the public hearing or meeting, the Commission may table the item, which would require re-notification in accordance with the applicable process.
- B. When a meeting item is held and then continued over one or more Commission agendas, it shall be the responsibility of the absent regular or associate member to listen to all audio files of the missed hearings or meetings prior to participating in the continued hearing or meeting.
- C. In the course of holding and conducting a public hearing where a quorum of the Commission cannot be secured, the hearing and agenda items will be continued as outlined below:
 - a. When a quorum of the Commission is not available for a previously advertised public hearing, all items on the agenda for that particular date and time will be automatically continued to the next regularly scheduled public hearing of the Commission.
 - b. The recording secretary, immediately upon becoming aware of continuance of the public hearing, shall cause notice to be posted to the official public posting place.

Section 5 Amendments to these Policies and Procedures

These Policies and Procedures may be amended by a majority vote of the Commission at a meeting when a twenty-four-hour notice has been provided in the official public posting place.

Section 6 Severability

If any section, subsection, sentence, clause, or phrase of these Policies and Procedures is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of these Rules and Regulations.

Section 7

Rules of Procedure

In the operation of public meetings, the Commission members are generally to use Robert's Rules of Order.

APPENDIX A
WINTER PARK TOWN CODE

2-1-4: POWERS AND DUTIES:

- A. Master Plan: It shall be the function and duty of the commission to make and adopt a master plan, for approval by the town council, for the physical development of the town, including any areas outside of its boundaries, subject to the approval of the legislative or governing body having jurisdiction thereof, which in the commission's judgment bear relation to the planning of the town. This plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the commission's recommendations for the development of the territory. The adoption, enforcement and status of the master plan shall be in compliance with state law. (Ord. 7, Series of 1978)
- B. Zoning Ordinance: The commission shall prepare for the approval of the town council, a zoning ordinance, with appropriate land use regulations. An official zoning map recommending the boundaries of the various zoning districts shall be prepared and updated as needed by the commission for approval by the town council by resolution of both bodies. The adoption, enforcement, status and alteration of the zoning ordinance shall be in compliance with the law as set forth in the state statutes and town's home rule charter. (Ord. 398, Series of 2007)
- C. Subdivision Regulations: The planning commission shall adopt for approval by the town council such subdivision regulations as the commission deems proper according to law. (Ord. 7, Series of 1978)
- D. Design Review: The commission shall consider the recommendations made by the design review committee regarding building configurations, colors, materials and general compatibility of proposed structures and outdoor advertising within the community of Winter Park. (Ord. 81, Series of 1982)
- E. Additional Functions: The commission shall consider any other matters pertaining to the commission as provided by law, shall act in an advisory capacity to the town council when so requested, and shall have all powers and perform all functions which it is authorized to have and perform by ordinance and state law. (Ord. 7, Series of 1978)

APPENDIX B
CONDUCT OF PUBLIC HEARINGS AND MEETINGS

- A. Agenda
 - a. The Chair shall conduct the business as presented on the agenda unless a specific adjustment is made, and the adjusted agenda is approved by a majority of the Commission.
 - b. The Chair has the discretion to limit the time allotted for input from staff, the applicant, and the public in a manner that is fairly and consistently applied.

- B. Roll Call

The Chair calls the meeting to order and a roll call of Commission members present at the meeting is conducted. At this time, it will be announced whether or not there is a quorum present to conduct the meeting.

- C. Approval of Minutes

The Chair calls for a motion to approve the minutes from the previous meeting.

- D. Public Comment on Matters Not on the Agenda

This period is the opportunity for members of the public to comment for up to 3 minutes on any matter not on the agenda or scheduled for public hearing or public comment. The Commission shall not take action on items not on the meeting agenda. However, the Commission may direct those issues raised during this period be considered on a subsequent agenda, and simple questions may be answered at the Chair's direction. To ensure the Commission is able to consider issues already on the meeting agenda, if public comment during this period takes more than 30 minutes, the Chair may defer additional public comment to the end of the meeting or to a subsequent meeting.

- E. Consent Agenda

Consent agenda shall be conducted as follows:

 - a. The Chair states that the request may be considered as consent agenda.
 - b. The Chair requests comments from the Commission. If there are concerns with any request, it will be heard as a regularly scheduled item following a majority vote of the Commission to move the item off the consent agenda.
 - c. If there are no concerns with remaining items, the Chair will call for a motion to approve the consent agenda.
 - d. Public hearing items may not be considered on the consent agenda.

- F. General Business Items and Public Hearings
 - a. The Chair will call the first agenda item. If it is a public hearing, the Chair shall open the public hearing.
 - b. Staff Presentation
 - i. Staff name.

- ii. Project name and number.
 - iii. Description of request.
 - iv. Staff analysis and assessment, including specific approval criteria and any proposed conditions.
 - v. Answer questions from the Commission members.
- c. Applicant Presentation (limited to 15 minutes)
- The applicant shall, when called to the podium by the Chair:
- i. State their name.
 - ii. Indicate who they represent (if applicant's representative).
 - iii. Provide residence or business address, as applicable.
 - iv. Provide a brief presentation of the request.
 - v. Provide a summary of neighborhood outreach efforts.
 - vi. Indicate how referral agency comments were addressed and how the request meets the applicable approval criteria.
 - vii. Answer questions from the Commission members.
- d. Public Comment
- Those persons requesting to speak on the item before the Commission members shall sign in to speak. The Chair shall provide the following instructions to the potential speakers in the audience:
- i. Speakers should first state their name, place of residence, and indicate if they are representing an organization in the comments presented.
 - ii. Speakers should address all questions and concerns to Commission members. Dialogue between the applicant and those members of the public addressing the Commission members is not permitted.
 - iii. Speakers should avoid undue repetition of issues.
 - iv. Speakers have three minutes for an individual and six minutes for a referral agency.
 - v. Speakers may be asked to present a formal letter indicating that they have been authorized to speak on behalf of the HOA, referral agency, or other public entity.
 - vi. Speakers submitting documents shall give them to the appropriate staff person and the documents shall be numbered and entered into the public record by the recording secretary.
 - vii. When a final opportunity has been provided for any members of the public present at the hearing or meeting to speak, the Chair shall close the public comment.
 - viii. No other public comment will be taken, unless public comment is reopened by majority vote of Commission members. As part of its motion to reopen public comment, the Commission may ask that comments be directed to a specific issue or point of clarification.
- e. Final Comment

- i. The Chair may ask the staff to address specific questions or concerns raised during public comment.
 - ii. The Chair may ask that the applicant address specific questions or concerns raised during public comment.
 - iii. Following a question and answer period, the Chair shall ask the applicant if they wish to provide any final comments. Such comments will be subject to reasonable time limitations set forth by the Chair.
 - iv. If it is a public hearing, the Chair shall close the public hearing.
- f. Planning Commission Discussion and Findings
 - i. The Chair shall open up discussion among the Commission members. Following open discussion, the Chair shall ask the Commission members to provide final comments on the request.
 - ii. Each individual Commission member may indicate the basis for their upcoming vote on the request, providing specific findings on whether the request does or does not comply with the applicable approval criteria.
 - iii. If the Commission member intends to vote to deny the request, the member shall cite the specific approval criteria that has(ve) not been met.
 - iv. Once final Commission comments have been made, the Chair shall ask the Commission members to offer a motion on the request.
- g. Motion Procedure
 - i. Motion: The statement of a motion must be uninterrupted even if another Commission member intends to amend the motion. All motions require a second.
 - 1. Prior to discussion on the motion, the recording secretary may be requested to read the motion back so that the exact wording of the motion is clear to the Commission members.
 - 2. Discussion then takes place. The only debate permitted is on the motion.
 - ii. Amendments to the Motion: An amendment can be offered to the Commission member who made the motion. This is a suggested change, which if accepted, does not require a second or a formal vote. If a friendly amendment is offered and accepted, the recording secretary again may be required to read the motion as changed (the Commission member who made the original motion may choose not to accept the amendment).
- h. Recommendations or Actions
 - i. The Commission shall make one of the following recommendations or actions:
 - 1. Approval of the request without conditions.
 - 2. Conditional Approval of the request indicating recommended conditions (aka, Approval with Conditions).
 - 3. Denial of the request indicating the reasons for denial.
 - 4. Continuance of the request to a date and time certain.

5. Tabling of the request indefinitely. Requires re-notification in accordance with the applicable process.
6. No Recommendation - tie vote.

i. Voting

- i. After all discussion on the motion has taken place, the Chair shall conduct a vote. All votes shall be called. The Chair shall always vote last.
- ii. Commission findings of fact may be included with all votes.
- iii. All votes shall be recorded in the minutes of the public hearing or meeting.

G. Director's Report

Information or staff items that do not require action by the Commission.

H. Commission Reports

Information sharing, appointments, and discussion of items not on the agenda.

I. Adjournment