

AGENDA

GALLUP CITY COUNCIL SPECIAL MEETING TUESDAY, NOVEMBER 15, 2022; 4:00 P.M. CITY COUNCIL CHAMBERS



Louie Bonaguidi, Mayor

Linda Garcia, Councilor, Dist. 1

Michael Schaaf, Councilor, Dist. 2

Sarah Piano, Councilor, Dist. 3

Fran Palochak, Councilor, Dist. 4

Maryann Ustick, City Manager

Curtis Hayes, City Attorney

The meeting will be accessible through the City of Gallup's Facebook Page:

[City of Gallup, New Mexico Government - Home | Facebook](https://www.facebook.com/CityofGallup)

A. Pledge Of Allegiance

The members of the body and the public are invited to recite the Pledge of Allegiance.

B. Roll Call

C. Discussion/Action Topics

1. Public Hearing: An Appeal To A Planning And Zoning Commission Action Taken, Denying A Conditional Use Permit At 300 W. Hill Ave For Cannabis Sales; RP2022-48

Any person aggrieved by the decision of the Board of Adjustment on an appeal, and administrative action, a variance or conditional use permit, may within ten (10) days of the decision, file with the City Clerk a notice of appeal to City Council.

At least fifteen (15) days after published notice of the hearing, the City Council shall hear the appeal de novo and may reverse, affirm or modify the action of the Board. The City Council may consider the approved or not yet approved minutes of the Board at the meeting the action appealed from was taken and a transcript of that hearing, provided copies of each are furnished to all interested parties.

Appeals from the City Council decision may be taken to district court as provided in New Mexico Statutes Annotated Section 3-21-9, 1978, as amended, or successor legislation.

Mr. Joseph Hyde, Hydroponics Indoor Garden Center on behalf of Charles M. High III, Trustee C/O Sam Soo Hoo, property owner, has filed an appeal for the action taken by the City of Gallup Planning and Zoning Commission.

Case# CUP2022-00700002: Joseph Hyde, Hydroponics Indoor Garden Center on behalf of Charles M. High III, Trustee C/O Sam Soo Hoo, property owner, initiated a request for a conditional use permit to allow a Cannabis Sales business in the Mixed-Use Center (MXC) Zone District. The property is located at 300 W. Hill Ave.; more particularly described as the S. 70' of Lots 20 Thru 22, Block 47, O.T.S. Addn.

Use Table 10-3-1 of the City of Gallup Land Development Standards (LDS) lists "Cannabis Sales", located within the Mixed-Use Center (MXC) Zone District as a conditional use and as such is required to obtain approval of a conditional use permit (CUP) prior to the business operating.

The proposed site shall be subject to compliance with the provisions of Section 10-3-C-j-iii, "Use Specific Standards" for the Mixed-Use Center (MXC) Zone District which lists specific requirements for a Cannabis Sale use. Subject site is located at 300 W. Hill Ave.

As mentioned above Section 10-3-C-j-iii of the City of Gallup Land Development Standards lists specific use requirements for a Cannabis Sales use as follows:

1. "This use must comply with all applicable local and state regulations and licensing.
2. No Cannabis Sales shall be licensed if located within three hundred (300) feet of any residential zone district or residential use, and uses listed under the civic and institutional category with the exception of public safety facilities, hospitals and medical clinics.
3. If any residential zone district, residential use and/or civic and institutional use listed in subsection 10-3-C-j-iii-2 above locates within three hundred (300) feet of an existing Cannabis Sales use that was originally in compliance, the cannabis sales use shall still be considered a conforming use. The cannabis sales use will be rendered nonconforming if it ceases to operate for a period of one hundred eighty (180) days or more and may not recommence operation in its location.
4. This use shall require a Conditional Use Permit pursuant to Section 10-5-Bd-iii Conditional Uses if located within 300 feet of another cannabis-related establishment.
5. The distance between any such a facility shall be measured in a straight line, without regard to intervening structures or objects, from the closest property line in which the cannabis sales establishment is located.
6. Cannabis Sales establishments may only sell cannabis products for off-site consumption between the hours of 10:00 a.m. and midnight Monday through Saturday and noon to midnight on Sundays."

In order to grant a conditional use permit request, the applicant must meet all the Use Specific Standards listed above. The site located at 300 W. Hill Ave. however does not meet all the standards being that it is within three hundred (300) feet of a residential use. Immediately to the west of the site location is a single-family dwelling. Although no one is living in the single-family dwelling structure, it is still considered a residential use.

Conditions for approval of a conditional use permit state that nine criteria listing acceptable grounds for requesting and granting a conditional use permit must be met. The "Acceptable Grounds for Requesting and Granting a Conditional Use Permit" are included in your packet as Exhibit "A" for your review.

It is the findings of staff that the request does not meet the limitations and grounds for approval being that they do not meet certain conditions. Those conditions are as follows:

2. No Cannabis Sales shall be licensed if located within three hundred (300) feet of any residential zone district or residential use, and uses listed under the civic and institutional category with the exception of public safety facilities, hospitals and medical clinics.

The Gallup Task Force has reviewed this request, a copy of their comments is also included in your agenda packet for your review.

The Gallup Planning and Zoning Commission heard this case at their regular meeting held on October 12, 2022 and voted to deny said request by a five (5) affirmative to zero (0) negative vote based on findings of fact and conclusions of law presented.

The Gallup City Council is now being asked to reverse, affirm or modify the action of the Gallup Planning and Zoning Commission denial of said conditional use permit.

Fiscal Impact:	None.
Recommendation:	Staff recommends City Council make a decision based on findings of fact and conclusions of law.
Speaker's Name	Nikki Lee

Documents:

[CUP APPEAL RESOLUTION R2022-48.PDF](#)
[RP2022-11.PDF](#)
[!APPEAL TO CC JOSEPH HYDE 10.19.2022.PDF](#)
[GTF COMMENTS DISTRIBUTED.PDF](#)
[AERIAL.PDF](#)

D. Motion To Adjourn

Pursuant to the “Open Meetings Act”, NMSA 1978, Section 10-15-1 through 10-15-4 of the State of New Mexico, this Agenda was posted at a place freely accessible to the public 72 hours in advance of the scheduled meeting.