



**BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2018 - 51**

**A RESOLUTION REVERSING THE GUNNISON COUNTY PLANNING COMMISSION DECISION
ON THE GOLDEN EAGLE TRASH SERVICES, LLC APPLICATION (LUC-18-00017) AND
DENYING THE APPLICATION**

WHEREAS, Golden Eagle Trash Service, LLC applied for a Land Use Change permit (LUC-18-00017) to operate the Golden Eagle Trash Service business at a site described as 690 County Road 18, approximately one mile northwest of the City of Gunnison, legally described as the NW1/4SW1/4 Section 3, Township 49 North, Range 1 West, NMPM.

On September 21, 2018 the Gunnison County Planning Commission approved a minor impact Land Use Change permit for Golden Eagle Trash Services, LLC to conduct a commercial operation on the subject parcel (described above).

The Gunnison County *Land Use Resolution*, Section 8-103: *Appeals*, identifies the actions that may be appealed to the Board of County Commissioners, requirements for standing to appeal, the process for submittal and review of an appeal, the actions the Board is authorized to take, and the bases upon which action can be taken regarding those appeals.

On October 5, 2018 the Golden Eagle Trash Services decision was appealed by Ken and Rain Bodine, Lee Spann, Marielle and Rodney Rogers, and Jake Stone, in compliance with Gunnison County *Land Use Resolution*, Section 8-103: B. *Standing to Appeal*. The appellants submitted a written appeal dated October 5, 2018.

The County prepared the record of the initial decision-making body (Gunnison County Planning Commission). Transcripts of all Gunnison County Planning Commission meetings on the Golden Eagle Trash Services, LLC Land Use Change application were prepared and are included as part of the record.

The Board of County Commissioners held a work session on the appeal on October 16, 2018 and had the option per the Gunnison County *Land Use Resolution* Section 8-103: C.2.b.1. to conduct a public hearing. The Board determined that additional testimony or evidence submitted at a public hearing would be significant and might have an impact on the Board's final decision. The Board also decided to conduct a site visit as part of the public hearing.

The public hearing and site visit were held on November 29, 2018. The Board visited the subject parcel and reviewed the proposed location of the buildings and access roads, along with views from nearby properties. The Board has considered the record and all of the evidence submitted at the public hearing.

WHEREAS, the Gunnison County *Land Use Resolution*, Section 1-103: *Purposes*, identifies the purposes the *Land Use Resolution* is intended to achieve and among these are:

1. Protect the heritage of our rural character.
2. Provide for orderly use of land.
3. Preserve neighborhood character.
4. Promote compact development pattern.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners having reviewed the documentation submitted to the County within the Community Development file relative to this application,



including exhibits, references and documents as included therein, and the testimony and discussion at the public hearing, finds:

1. The Gunnison County Planning Commission erroneously found that the proposed location was well-suited to the specific use because:
 - “The site is located in an existing mixed-used residential/commercial neighborhood.
 - The nature of the business requires a large area for the parking of trucks and equipment associated with the business.
 - The site provides the ability to minimize impacts to the neighborhood.
 - The County Road access and traffic generated by the use has been determined to be adequate for this type of truck traffic.
 - The existing residence allows for conversion to an office for the business.
 - The location does not create significant impacts to Gunnison Sage-grouse.
 - Proximity to client base for the specific use within the City of Gunnison and surrounding areas.”
2. The Planning Commission did not appropriately apply the alternative locational standards in that there are sites reasonable attainable in or adjacent to the nearest municipality or existing permitted business or industrial park.
3. The development of a commercial use in this neighborhood may set a future precedent by which additional future commercial uses could be viewed as compatible under Gunnison County regulations.
4. There are legal nonconforming uses in the vicinity of the subject parcel. Nonconforming uses include Gunnison Alpine Contractor’s use of two parcels for commercial storage, trucking, and hauling operations and the Gunnison Sportsman’s Association Gun Club which is a recreational shooting range. The legal nonconforming uses do not establish a basis by which a determination can be made of suitable uses pursuant to Section 10-104: C.1.c.
5. The proposed use does have significant net adverse effects including negative economic impacts to property values, negative aesthetic impacts to the neighborhood and increased noise and traffic from the proposed commercial operation.
6. The appellants, jointly, individually, and together have standing.
7. The appellants have met their burden on appeal under the Gunnison County *Land Use Resolution*.

NOW, THEREFORE, THE BOARD DETERMINES:

1. The original action was inconsistent with the applicable requirements of the Gunnison County *Land Use Resolution*.
 - a. The Planning Commission erroneously found that the proposed location was well-suited to the specific use because the site is located in an existing mixed-use residential/commercial neighborhood. The Planning Commission should not have considered legal nonconforming uses in determining the suitability of the site.
 - b. The proposed use will have a significant net adverse effect on adjacent land uses, County or other infrastructure, or public health, safety, or welfare, or the environment.
 - c. The Planning Commission did not appropriately apply the alternative locational standards in that there are sites reasonable attainable in or adjacent to the nearest municipality or existing permitted business or industrial park.
2. The Planning Commission exceeded its jurisdiction in that:



- a. The Planning Commission erroneously found that the proposed location is well-suited to the specific use because the site is located in an existing mixed-use residential/commercial neighborhood. The Planning Commission should not have considered legal nonconforming uses in determining the suitability of the site.
 - b. The proposed use will have a significant net adverse effect on adjacent land uses, County or other infrastructure, or public health, safety, or welfare, or the environment.
 - c. The Planning Commission did not appropriately apply the alternative locational standards in that there are sites reasonable attainable in or adjacent to the nearest municipality or existing permitted business or industrial park.
3. The September 21, 2018 Planning Commission Decision on Golden Eagle Trash Services, LLC (LUC-18-00017) is reversed.

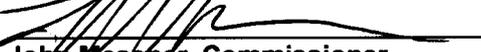
THIS RESOLUTION AND THE REVERSAL ISSUED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner MESSNER, seconded by Commissioner HOUCK, and adopted on this 14TH day of DECEMBER, 2018.

**BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO**


Phil Chamberland, Chairperson


Jonathan Houck, Commissioner


John Messner, Commissioner

ATTEST:


Gunnison County Clerk and Recorder
DEPUTY

