AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Discussion; Golden Eagle Trash Service Appeal

Action Requested: Discussion

Parties to the Agreement:

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:

The decision to approve LUC-18-00017 has been appealed.

Fiscal Impact:

Submitted by: Cathie Pagano **Submitter's Email Address:** cpagano@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 10/10/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 10/10/2018 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 10/10/2018

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 60

Agenda Date: 10/16/2018

Revised April 2015

Gunnison County, CO
Community Development Department
221 N. Wisconsin St. Ste. D, Gunnison, CO 81230
Phone: (970) 641-0360 FAX: (970) 641-8585
Website: www.gunnisoncounty.org
Email: planning@gunnisoncounty.org

To: BOCC

From: Cathie Pagano

Date: October 9, 2018

Re: Golden Eagle Trash Service, LLC Appeal

The Land Use Change permit approval (LUC-18-00017) decision for Golden Eagle Trash Service, LLC has been appealed by Ken and Rain Bodine, Lee Spann, Marielle and Rodney Rogers, and Jake Stone.

Section 8-103: *Appeals* of the Gunnison County *Land Use Resolution* (LUR) sets forth a process by which a decision may be appealed to the Board of County Commissioners as follows:

"BOARD CONSIDERATION OF APPEAL. *The appeal shall be considered by the Board at a regularly scheduled meeting within 30 days after the date the written appeal was filed and appeal fee paid.*

a. NOTICE OF MEETING. *The Community Development Department shall, by first-class mail, inform the applicant, the appellant and if a public hearing was part of the review process on the application for which an appeal of action has been filed, anyone who testified at the public hearing or submitted written comments on the application. That information shall include the date, time, and place of the meeting.*

b. BOARD DETERMINATION WHETHER TO CONDUCT PUBLIC HEARING*. At the meeting, the Board may determine that a public hearing should be conducted on the appeal. If the Board so determines, notice shall be given pursuant to Section 3-112: Notice of Public Hearing. The public hearing shall be conducted pursuant to Section 3-113: Conduct of Public Hearing.*

1. CRITERIA FOR CONDUCTING PUBLIC HEARING. *The Board shall conduct a public hearing if the Board is satisfied that the anticipated, additional testimony or documents could not reasonably have been presented to the initial decision-making body. The Board shall consider all of the following in making such a decision:*

a. AVAILABILITY AT TIME OF REVIEW BY INITIAL DECISION-MAKING BODY*. Availability of the anticipated, additional testimony or documents at the time of review of the application by the initial decision-making body.*

b. ADDITIONAL TESTIMONY OR EVIDENCE WOULD BE SIGNIFICANT*. Whether the additional testimony or evidence would be significant; that is, whether it would have a major effect on the Board's decision on the appeal.*

c. BOARD CONSIDERATION ONLY OF RECORD; NO PUBLIC HEARING CONDUCTED*. If the Board determines that a public hearing shall not be conducted on the appeal, the Board shall limit its consideration to review of the record of the initial decision-making body, and argument by the appellant and applicant regarding that record. No new evidence shall be accepted or considered, and the Board chairperson may limit statements made to the Board.*

d. BOARD CONSIDERATION OF RECORD AND NEW EVIDENCE; PUBLIC HEARING CONDUCTED. *If the Board determines that a public hearing shall be conducted on the appeal, the Board shall make its decision de novo based on consideration of the record of the initial decision-making body and any evidence presented at the public hearing.*

3. BOARD DECISION. *The Board shall affirm, reverse, modify or remand, in whole or part the appealed action. When the Board reverses or modifies a decision, the Board shall set forth its findings and state its reasons.*

When the Board elects to remand the matter back to the initial decision-making body, the Board shall include a statement explaining the reasons for the remand and the action to be taken.

a. ***MODIFICATION, REVERSAL OR REMAND OF ORIGINAL ACTION****. The original action shall only be modified, reversed or remanded if the appellant establishes, that:*

   1. ***NO CREDIBLE EVIDENCE****. There is no credible evidence in the record to support the original decision;*

   2. ***ORIGINAL ACTION INCONSISTENT WITH THIS RESOLUTION.*** *The original action was inconsistent with the applicable requirements of this Resolution; or*

   3. ***REVIEW BODY ACTION INAPPROPRIATE.*** *The initial decision-making body exceeded its jurisdiction or abused its discretion.*

b. ***BOARD DECISION SHALL BE FINAL.*** *The Board's decision to affirm, reverse or modify a decision shall be final and shall not be further appealed, but may be subject to judicial review."*

On September 21, 2018, the Planning Commission unanimously voted to approve the LUC-18-00017 for Golden Eagle Trash Service, LLC. The Planning Commission decision is attached. The entirety of the file, including the audio recordings of the meetings and minutes, can be viewed in the online permit database.

The BOCC work session on October 16th will be an opportunity for the BOCC to discuss the application and appeal and determine whether to hold an additional public hearing. The Community Development Department shall notify the applicants, appellants, and members of the public that attended the public hearing of the October 16th BOCC meeting by First-Class mail.

Please feel free to contact me with any questions or concerns. Thank you.

TO:	**Planning Commission**
SUBJECT:	**Minor Impact Decision** **Golden Eagle Trash Service LLC** **LUC #2018-00017**
DATE:	**Planning Commission Meeting of September 21, 2018**
PREPARED BY:	**Neal Starkebaum, Assistant Director**
PROPERTY OWNER:	**Meldonna V. Cody** **211 Marcus Ave. #4** **Soldota, AK 99669**
APPLICANT:	**Alphonse and Carolyn Taramarcaz** **2509 CR 46** **Gunnison, CO 812340**
REPRESENTED BY:	**Michael C. Dawson** **O'Hayre and Dawson, P.C.**

Planning Commissioner Molly Mugglestone recused herself from the project.

At its regular meeting on September 21, 2018, Commissioners Spivey and Plata were seated and the Planning Commission unanimously approved the following Minor Impact Decision, as amended, moved by Jack Diani and seconded by Daniel Spivey:

PROJECT DESCRIPTION:

Alphonse and Carolyn Taramarcaz, Golden Eagle Trash Service, LLC, authorized by the owner, Meldonna Cody, and represented by Michael C. Dawson, PC, request the following, with the revised site plan, submitted at the September 7, 2018 Planning Commission meeting:

- Consolidate the operations of Golden Eagle Trash Service from three separate locations to this site with parking of the operation's trash trucks, and outside storage of roll-offs, dumpsters and recycle equipment, and the use of the existing residence as an office.
- No trash or recycles would be stored or transferred onsite; only the parking of trash trucks and equipment used in the operation, except as noted below.
- Construction of a new, private loop road from County Road 18 to provide access to a new building and a 100' x 100' vehicle/equipment storage area.
- Construction of a three-bay, 50' x 75' storage building, which would be used to house three trash trucks, with the orientation of the building facing east, with three bay doors on the east side of the building.
- The storage yard would be enclosed with an eight foot chain link/privacy fence.
- Traffic generated would include three to four compactor trucks that would leave in the morning and return in the afternoon, and approximately four roll-off trips per day.
- The business operates year-round, Monday – Friday, with service hours generally from 6:30 a.m. to 5 p.m. Office hours are Monday – Friday 8:00 a.m. – 5 p.m.
- The proposed storage building will have no water supply and will not generate any wastewater.
- No on-site mechanical repair or servicing, washing of trash trucks, dumpsters or roll-offs would be permitted.
- No trash is contained in the trucks or roll-offs, as they are emptied at the County landfill daily, with the exception of holidays, or when the County landfill is closed.

● No storage of fuel or flammable materials onsite.
● No exterior lighting on the west or south side of the storage building, or the office.

LOCATION:
The site for the storage yard and building is on the northern end of the property, just south of the existing building. The site is located at 690 CR 18, approximately 1 mile northwest of the City of Gunnison, ¾ of a mile north of Highway 50, east of County Road 18, legally described as the NW1/4SW1/4 Section 3, Township 49 North, Range 1 West, NMPM. The site is a portion of a 40-acre parcel.

ADJACENT LAND USES:
North: Gunnison Sportsman's Association Gun Club (145-acres)
South: 35-acre tract – Lot 1, McIntosh Mountain Estates, 35+acre development - (Spann Ranches)
West: Residential
Northwest: Gunnison Alpine Contractors – existing commercial trucking business and storage facility
East: Vacant (156-acre parcel)

PLANS/REPORTS/SUBMITTALS:
Plans, reports, and other submittal documents informing this Decision include, but are not limited to:

- Minor Impact Land Use Change Application
- Revised Site/Road and Drainage Plan, prepared by Bob Williams, P.E., Williams Engineering, LLC – August 24, 2018.
- Revised Cost Estimate, Road, Building Pad and drainage improvements, prepared by Bob Williams, P.E., Williams Engineering, LLC – August 24, 2018.
- Brooke Vasquez, Wildlife Biologist, Sage-grouse comments, letter of March 27, 2018.
- Marlene Crosby, Gunnison County Public Works Director, email of July 3, 2018.
- Greg Larson, Chair, City of Gunnison Planning and Zoning Commission Comments, May 23, 2018.

This review and Decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Department file relative to this application; including all exhibits, references, testimony and documents as included therein.

REVIEW AGENCY REFERRAL COMMENTS:
The following entities or agencies provided referral comments.

<u>City of Gunnison:</u>
Greg Larson, Chair, Gunnison Planning and Zoning Commission, letter of May 23, 2018:

> "Based on the existing Three-Mile Map, the property is-designated as Rural Residential (1 unit per 5- 35 or more acres) and is located outside of the Urban Growth Boundary. One of the objectives of the *Three-Mile Plan* is to encourage infill development within the City limits and to "Limit new commercial and industrial development to lands within or immediately adjacent to existing City commercial and industrial zones." The proposed commercial fleet yard use on this site is not contemplated by the *Three-Mile Plan.*
>
> The City encourages the County to address stormwater management and water quality concerns. Increased hard surface coverage increases water volume and concentration times for surface run-off. Water quality Best Management Practices should be employed to mitigate possible water quality degradation. The City also encourages the County to have the applicant mitigate any trash from spreading onto surrounding properties that might occur from everyday operations of the trash service."

Gunnison County Public Works Department:

Comments from Marlene Crosby, GC Public Works Director, email of July 3, 2018, notes:

"We have reviewed the application submitted by Golden Eagle Trash on CR #18. We would require a Development Improvement Agreement for the service road that will be built on their property. The access points onto CR #18 will be built to standard and will be considered part of the road plan covered in the DIA.

This road has historically served truck traffic. For many years the Woodbury family operated the local Mayflower Moving franchise out of property on the road. It has also seen the truck traffic generated by Gunnison Alpine Trucking operated by Jim Coleman for several decades.

The road is currently not in good shape and is scheduled for repair work as funding becomes available. From reading the application it appears that the majority of the traffic will be empty trucks leaving and returning to the site. The Public Works Department does not feel it is the applicant's responsibility to repair the road.

The Public Works Department has no objections to this application. As owners of the Gunnison County Landfill we know that the management and collection of solid waste is critical to the survival and health of our community."

Gunnison County Wildlife Conservation Coordinator:

Brooke Vasquez, Wildlife Biologist, Sage-grouse comments, letter of March 27, 2018, states:

"Based upon this analysis, a review of the data available, and the nature of the proposed activity, I find that the proposed activity will not adversely impact Gunnison sage-grouse or their habitats beyond that which has already occurred.

Because there are Gunnison sage-grouse in the general area, I recommend the following requirements be applied as a condition of all Gunnison County permits issued for projects on this parcel to protect Gunnison Sage-grouse:

1) Construction activity from March 15 to May 15 will be limited to daylight hours, starting no earlier than 9am and ending by 4pm, to minimize disturbance to the lek and normal movement of sage-grouse.

2) Due to the proximity of Tier 1 Habitat, a Gunnison County Reclamation Permit will be required for any site disturbing activities on this parcel. That permit should contain specific reclamation conditions. Disturbed areas need to be reseeded with an approved seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

3) For activities not requiring a Reclamation Permit, disturbed areas must be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

4) Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance.

5) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution*, dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

6) Per Section 11-106 I of the *Gunnison County Land Use Resolution*, design of fences other than those with agricultural operations shall ensure they do not adversely impact wildlife. Woven wire fencing should not be allowed for perimeter fencing or as interior cross fencing, except immediately surrounding major structures such as a residence or intensive human activities such as a garden. Perimeter and cross fencing should be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication *Fencing with Wildlife in Mind.* All fencing should be marked or of high-visibility construction to minimize Gunnison sage-grouse collision hazards.

7) Per Section 11-106 G. e. of the *Gunnison County Land Use Resolution*, unless pre-empted by Federal or State law, all non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and

quail), shall be imported only from a source certified by the State of Colorado to be disease free. Prior to importation of any species of gallinaceous game-birds to this parcel, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation (movement onto the property) of any wild birds, as defined above, shall occur without written approval by Gunnison County."

SITE VISIT:
The Commission conducted a site visit on June 15, 2018. The Commission members viewed the site, including the location of the proposed storage area and storage building, the location of the proposed access road, the topography of the site relative to the proximity to surrounding properties, and the surrounding neighborhood.

PUBLIC HEARING:
A public hearing was held by the Planning Commission on July 20, 2018, and continued to August 3, August 17, September 7 and September 21, 2018.

Written Comments received:
- Mark and Julianne Bacialli, 86 Buena Vista Dr., letter of July 15, 2018
  Daren and Ashley Biggers, 56 Buena Vista Dr.
  Jon Mugglestone, 98 Buena Vista Dr.
  Neil and Nancy Santarella, 91 Buena Vista D
- Meldonna Cody, email of July 17, 2018
- Jim Coleman, letter of July 17, 2018
- Jake and Sarah Stone, letter of July 17, 2018
- Cody Stratman, email of July 19, 2018
- Ken Bodine, letter of July 19, 2018
- Rod and Mary Rogers, email of July 24, 2018
- A concerned citizen, letter of July 27, 2018
- Ken Bodine, letter of July 30, 2018
- Bill Scott, email of July 29, 2018
- Ken and Rain Bodine, letter of August 16, 2018

Public concerns identified in writing or at public hearing:
- Visibility of the site
- Additional traffic
- Road safety
- Scavenger nuisance
- 6:30 a.m. start time
- Odors from trucks
- Impacts to road, neighborhood
- Suitability of the use
- Diminution of property values
- Lighting
- Noise
-

All testimony, both written and oral, as well as all documents submitted during the hearing process, is hereby incorporated and referenced as part of this record of review.

MEETINGS WITH PLANNING COMMISSION:
June 15, 2018 – Work session/Site Visit
July 20, August 17, September 7, 2018 - Public Hearing/ Work session

COMPLIANCE WITH THE APPLICABLE STANDARDS OF THE *GUNNISON COUNTY LAND USE*

RESOLUTION:

Section 9-301: ***Commercial and Industrial Uses.***
The applicant is proposing a commercial storage and staging area for Golden Eagle Trash Service.

D. General Standards:

D.1: Non Residential Accessory Uses: The proposed use is not accessory to a residential use.

D.2: Food Service Requirements: No food service is proposed as part of this application.

D.3: Electrical Disturbances: No use of equipment that creates electrical disturbances is anticipated at the site.

D.4: Fire and Explosive Hazards: No materials or products that decompose by detonation are proposed to be stored at the site.

D.5. Glare and Heat: No glare or heat producing activities are anticipated or expected at the site.

D.6. Exterior Lighting: The exterior lighting shall be designed so that all direct rays and glare are confined to the subject parcel. No exterior lighting will be allowed on the west or south sides of the building.

D.7. Odors: No odors are anticipated or expected.

D.8. Radioactivity: No radioactive materials are proposed to be stored on site.

D.9. Vibration: No activities that cause vibration are expected to occur along the property boundaries.

D.10. Noise: No significant noise is anticipated as a result of this application.

Section 10-102: ***Locational Residential Development:***
Not applicable. No subdivision of the property is proposed. There is an existing residence on the property.

Section 10-103: ***Residential Density:***
Not applicable. No subdivision of the property is proposed.

Section 10-104: ***Locational Standards for Commercial, Industrial and Other Non-Residential Development***
The site meets the Primary Locational Standard. B.2.

1. The proposed site is within the City of Gunnison's Three Mile Plan area.

2. The City of Gunnison provided comments, dated May 23, 2018, noting that the City does not specifically object to the proposed use, and noted comments to assist in mitigating any issues, but that the use is not contemplated in the City's "Three Mile Plan". See City of Gunnison comments.

Gunnison Alpine Contractors, a commercial trucking operation, in business since the early 1970's, is located within 200 feet of the subject parcel, directly to the northwest. The Gunnison Sportsman's Association Gun Club, a recreational gun club, providing rifle sight-in, target practice, Trap and Skeet, and range and pistol shooting is located north of and adjacent to the property. The applicant has stored dumpsters and roll-offs at the Alpine Contractors yard for several years.

The City of Gunnison provided comments, dated May 23, 2018, noting that the City did not specifically object to the proposed use, and noted comments to assist in mitigating any issues, but that the use is not contemplated in the City's "Three Mile Plan", in the 1996 City of Gunnison's Three Mile Plan. As the use was not contemplated, the proposal is not consistent with the City of Gunnison's Three Mile Plan. The City of Gunnison's Three Mile Plan contains no areas designated for commercial or industrial uses.

Therefore, the location does not meet the Primary Locational Standards.

C. ALTERNATIVE LOCATIONAL STANDARDS. When the applicant has demonstrated that a proposed commercial, light industrial, industrial or other non-residential development cannot satisfy the primary locational standard, the location may be approved if the Board finds that in addition to meeting all of the other applicable requirements of this *Resolution*, the cumulative impacts of the proposed development and existing development will result in no significant net adverse impact to neighborhood uses, wildlife, visual quality, air or water quality, and the proposed use complies with the following:

1. LOCATIONAL CONSIDERATIONS.

a. NECESSARY LOCATION. The location is necessary because of specific circumstances including location of minerals, unique transportation needs or geologic conditions; or

b. NO SITE IS REASONABLY ATTAINABLE IN OR ADJACENT TO THE NEAREST MUNICIPALITY OR EXISTING PERMITTED BUSINESS OR INDUSTRIAL PARK. There is no site reasonably attainable within or adjacent to the municipality or existing permitted businesses or industrial park nearest the proposed development site, in an area that qualifies for annexation, or is consistent with a municipal Three Mile Plan area. Evaluation of suitability shall consider size of parcel needed, reasonable availability of necessary utilities and other infrastructure, and the applicant shall provide documentation of comparable sites. Economic feasibility or practicality of comparable sites may be considered, but shall not be the deciding factor in determining suitability; or

c. LOCATION WELL-SUITED TO SPECIFIC USE. The proposed location is particularly well-suited for the specific use (recreational facilities, including dude ranches or resorts); provided, however, that location in a high traffic area or on a highway artery shall not, in and of itself, qualify a proposed commercial development for approval; or

The Planning Commission finds that the location is well-suited to the specific use:

- 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.

d. NEED OR USE IS WELL-SUITED IN A PARTICULAR AREA. There is a documented need for the specific use in the proposed location; or

e. USE IS DESIGNED TO SERVE A SPECIFIC RESIDENTIAL AREA. The development will be located and designed primarily to serve an integral part of a specific residential area or development, and shall provide services that are reasonably likely to reduce vehicle trips between the residential area and population centers.

2. COMPATIBLE WITH EXISTING USES ESTABLISHED IN IMPACT AREA. The proposed use is compatible with uses established in the impact area.

The use is compatible with uses established in the impact area. Compatibility is addressed in Section 13-118: Standards to Ensure Compatible Uses.

3. NO SIGNIFICANT NET ADVERSE EFFECT. There will be no significant net adverse effect, including cumulative impacts when there is a reasonable probability that there are cumulative

impacts, of the proposed and existing developments on adjacent land uses, County or other infrastructure, or public health, safety or welfare, or the environment.

The use, as designed, will cause no significant net adverse effects. Testimony and comments from Marlene Crosby, Public Works Director, indicate that the proposed use will result in no significant impacts to County Road 18. Compatibility and mitigation to ameliorate significant net adverse effects is identified in Section 13-118: Standards to Ensure Compatible Uses.

Section: 11-102: *Voluntary Best Management Practices*
Voluntary; not mandated.

Section 11-103: *Development in Areas Subject to Flood Hazards.*
The site is not located within an area subject to flood hazards, according to County mapping.

Section 11-104: *Development in Areas Subject to Geologic Hazards*.
The subject parcel is not located within an area of geologic hazards, according to County mapping.

Section 11-105: *Development in Areas Subject to Wildfire Hazards.*
The subject parcel is in a low wildfire hazard area, according to County mapping.

Section 11-106: *Protection of Wildlife Habitat Areas.*
Comments were received from Brooke Vasquez, Wildlife Biologist, Sage-grouse comments, letter of March 27, 2018. No impacts to Sage-grouse were identified, as long as the use is limited to the western portion of the property. The site proposed is within an existing disturbed area. The analysis includes recommended conditions of approval to minimize impacts to Gunnison Sage-grouse in the area and is incorporated into the conditions of approval in this decision.

Section 11-107: *Protection of Water Quality*.
Not applicable. The site is not located within 125 feet of a water body.

Section 11-109: *Development That Affects Agricultural Lands.*
Not applicable. There is limited agricultural use on lands abutting the property.

Section 12-103: *Road System*.
The applicant identified in the application that traffic generated by the use would include three to four compactor trucks that would leave in the morning and return in the afternoon, and approximately four roll-off trips per day. The Gunnison County Public Works Department reviewed the proposed development and provided comments, in an email from Marlene Crosby, Public Works Director, July 3, 2018. See comments. In testimony at the public hearing, Marlene Crosby, Public Works Director, noted that Mayflower Moving Co. used the road in the 1970s, Coleman's trucking operation has been there since the 1980s; there has been historic heavy equipment traffic usage. This proposed usage is an insignificant addition to the road impacts. The current condition of the road exceeds the County standards and that the road is adequate for the additional traffic. Road plans for the loop road have been reviewed and approved by Public Works and a Development Improvements Agreement is required for the improvements.

Section 12-104: *Public Trails*.
Not applicable. The applicant has not proposed any public trails.

Section 12-105: *Water Supply*.
The existing structure is served by an existing individual well. No water use is contemplated at the proposed storage building.

Section 12-106: *Sewage Disposal/Wastewater Treatment.*

The existing structure is served by an onsite wastewater treatment system. No wastewater will be generated from the storage building.

Section 12-107: *Fire Protection*.
The parcel is in the Gunnison County Fire Protection District and subject to their regulations and standards. No comments were received from the District.

Section 13-103: *General Site Plan Standards and Lot Measurements.*
The proposed location complies with property line setback requirements. Site Plan submitted with application.

Section 13-107: *Installation of Solid Fuel-Burning Devices*
Installation of solid-fuel burning devices shall comply with this Section.

Section 13-108: *Open Space and Recreation Areas*
Not applicable. No open space is required for this use.

Section 13-109: *Signs.*
An identification sign requires a sign permit in compliance with this Section.

Section 13-110: *Off-Road Parking and Loading.*
The site provides sufficient off-road parking and loading.

Section 13-111: *Landscaping and Buffering.*
Landscaping and buffering is not specifically required. The site and surrounding areas are predominately sagebrush. The Commission determined that any vegetative landscaping used as buffering would be out of context with the neighborhood.

Section 13-112: *Snow storage*.
Sufficient area is available for snow storage.

Section 13-113: *Fencing*
An eight (8) foot chain link fence with opaque, slatted fencing on three sides of the storage yard, with the storage building being the fourth side, is proposed to provide visual mitigation from County Road 18, as well as the surrounding area, Gates on the loop road may be installed to limit access during non-business hours.

Section 13-114: *Exterior Lighting.*
Exterior light fixtures shall comply with standards of this section. The applicant shall submit a lighting plan at the time of building permit application. No exterior lighting is permitted on the west or south sides of the storage building and the office.

Section 13-115: *Reclamation and Noxious Weed Control.*
Reclamation will be required, pursuant to Public Works requirements, and the applicant is required to control noxious weeds.

Section 13-116: *Grading and Erosion Control.*
The site is fairly level, which will minimize the amount of site grading required. Standard best management practices shall be employed to provide erosion control.

Section 13-117: *Drainage, Construction and Post-Construction Stormwater Runoff.*
A drainage plan prepared and stamped by Bob Williams, P.E., Williams Engineering, dated August 24, 2018, has been submitted. No significant issues were identified with the historical drainage.

Section 13-118: Standards to Ensure Compatible Uses.
The site has been located and designed in a manner that will not adversely affect the character of nearby residential areas:

- The closest residence is approximately 400 feet to the southwest of the site. There is a knoll located between the site and the residence, which creates a substantive difference in topography between the site and the residence, which will minimize the visibility of the building and storage yard. The building site is considerably lower than the elevation of County Road 18. The combination provides a buffer between the site and the closest residence to the southwest.
- The site is not visible to properties to the south, closer to Highway 50.
- The building is oriented to the east, away from County Road 18, with the bay doors on the east side of the building. The storage yard is on the east side of the building, which will be screened by an eight foot chain link privacy fence, which when combined will minimize visibility of the storage area from County Road 18 and surrounding areas.
- Other commercial businesses are within the immediate area, including the Gunnison Sportsman's Association Gun Club and Gunnison Alpine Contractors – trucking firm.
- The storage building's exterior will be earth tones, intended to blend with the surroundings.
- There will be no storage of fuel or flammable materials onsite.
- No trash will be contained in the trash trucks, with the exception of holidays, or when the County landfill is closed. The perimeter chain link fence will provide a catch barrier for any potential wind-blown trash.
- No on-site mechanical repair or servicing, or washing of trash trucks, dumpsters or roll-offs shall be permitted.
- The business typically operates Monday-Friday, 6:30 a.m. – 5 p.m., closed on the weekends.

1. **HAZARDS OR NUISANCES**. Land use changes shall not subject other uses to undue noise, dust, fumes, odor, explosion, aircraft flight patterns, or other hazards or nuisances, whether the result of design, location, basic character, or of planned or reasonably expected growth.

The use, as described in the project narrative, generates no hazards or nuisances.

2. **ADVERSE IMPACTS TO ADJOINING LAND**. Land use changes shall eliminate or minimize or mitigate conflicts between adjoining land uses and to the maximum extent feasible, avoid changes that will result in significant net adverse impact to adjoining land.

The use, as described in the project narrative, will not result in significant net adverse impact to adjoining lands. See Section 13-118, Compatibility.

B. ADDITIONAL COMPATIBILITY REQUIREMENTS. As a condition of approval for Land Use Change Permits and in addition to any other requirements of this *Resolution*, the applicable review body may recommend and the decision-making body shall be authorized to impose conditions that are necessary to minimize any potentially adverse impacts. Such conditions may include the following:

1. **HOURS.** Limitation on hours of operation and deliveries;

   Business hours typically limited to Monday – Friday, 6:30 a.m. – 5:00 p.m., closed weekends.

2. **NOISE AND GLARE.** Relocation on a site of activities that generate potential adverse impacts neighborhood uses including noises and glare;

   No use that would generate significant noise or glare to the neighborhood.

3. **TRASH.** Appropriate placement of trash receptacles;

   Required. Should not be a concern for the applicant.

4. **LOADING AND DELIVERY**. Appropriate location of loading and delivery areas;

   The delivery/loading area is appropriate for the use.

5. **ILLUMINATION**. Appropriate lighting location, intensity, and hours of illumination;

   Security lighting is permitted, but limited to compliance with Section 13-114: Exterior Lighting. No exterior lighting is permitted on the west or south sides of the storage building, or the office.

6. **OUTDOOR SERVICES**. Appropriate placement and illumination of outdoor vending machines, telephones, and similar outdoor services and activities;

   Not applicable.

7. **LANDSCAPING.** The requirement of additional landscaping and buffering;

   Buffering will be provided by the siting of the storage building and orientation to the east, with the three bay doors located on the east side of the building. The storage yard is located on the east side of the building, which will be screened by an eight foot chain link privacy fence. The combination will minimize visibility of the storage area and activity and provide buffering from County Road 18 and properties in the neighborhood.

8. **HEIGHT AND SIZE RESTRICTIONS**. The imposition of height and size restrictions to preserve light, privacy, views of significant features from public property and rights-of-way, and to ensure reasonable compatibility of structure sizes;

   Maximum height of the building is limited to 30 feet.

9. **NATURAL LIGHTING**. Preservation of natural lighting;

   Natural lighting is not impaired.

10. **SOLAR ACCESS**. Preservation of solar access;

    Solar access is not impaired.

11. **ODORS AND FUMES**. Ventilation and control of odors and fumes; and

    No unusual odors or fumes will be generated by the proposed use.

12. **DUST CONTROL**. The imposition of paving or other means as a dust control measure.

    Dust control required as determined by Gunnison County Public Works.

FINDINGS:
The Commission finds that:

1. This application is a Minor Impact Project.

2. Integration of the standards of Section 13-119: *Standards to Ensure Compatible Uses*, as well as other measures to mitigate issues raised during this review have been identified relative to compatibility including but are not limited to: limitation on type and intensity of use, buffering the neighbors from impacts, operational elements, and site selection, building orientation and design.

3. The Commission finds, based upon the existence of other commercial businesses in the neighborhood that uses similar to those proposed are established in the area. Therefore, locating a commercial business with similar use and design restrictions regarding hours and types of uses in the area is reasonable.

4. Some neighboring property owners have argued that the proposed use is not compatible with the existing neighborhood. For the reasons set forth in this document and consistent with the LUR, the Commission finds that such arguments should not prevent or preclude approval with the conditions set forth below.

5. The proposal is compatible with the existing neighborhood and the proposed development has been designed in a manner that will not adversely affect the character of nearby residential areas. Mitigation factors and operational elements considered by the Planning Commission:
   - This is an existing mixed-use neighborhood, as other commercial businesses have been established within the neighborhood, including the Gunnison Sportsman's Association Gun Club and Gunnison Alpine Contractors trucking firm.
   - Installation of an eight foot chain link, privacy fence, to provide screening/buffering of the storage yard.
   - The three-bay, 50' x 75' storage building, which would be used to house three trucks, is oriented to the east, with the three bay doors on the east side of the building. The storage yard is located on the east side of the building, which will be screened by an eight foot chain link privacy fence. The combination will minimize visibility of the storage area and outside activity from County Road 18 and properties in the neighborhood.
   - The proposed site is considerably lower than the elevation of County Road 18. The closest residence is approximately 400 feet to the southwest of the site, across County Road 18, and is separated by a knoll, which creates a topography break between the site and the residence, which will minimize the visibility of the site. The combination provides a topographic buffer between the site and the residence.
   - The proposed site is not visible to properties to the south.
   - The building's exterior will be earth tones, intended to blend with the surroundings.
   - No exterior lighting is permitted on the west or south sides of the storage building, or the office.
   - No storage of fuel or flammable materials is permitted on-site.
   - No storage of trash or transfer of trash, or storage of recyclables is permitted on-site, except for holidays, or when the landfill is closed.
   - No mechanical repair or servicing, or washing of trash trucks, dumpsters or roll-offs is permitted on-site.
   - The business typically operates Monday-Friday, 6:30 a.m. – 5 p.m., year-round, closed on the weekends.

6. The Gunnison County Public Works Department reviewed the proposed traffic impacts to County Road 18 and provided comments. Marlene Crosby, Public Works Director, noted that Mayflower Moving Co. used the road in the 1970s, Coleman's trucking operation has been there since the 1980s; there has been historic heavy equipment traffic usage. The proposed use is an insignificant addition to the road impacts. The current condition of the road exceeds the County standards and that the road is adequate for the additional traffic.

7. Brooke Vasquez, Wildlife Biologist, Sage-grouse comments, letter of March 27, 2018, provided comments identifying no significant impact to Gunnison Sage-grouse or habitat, but included conditions of approval to minimize potential impacts to the Gunnison Sage-grouse.

8. The Planning Commission determines that the existing location is suitably visibly buffered from surrounding uses based upon the site location and design, fencing and topographic relief.

9. Approval of this request is based upon the facts presented and implies no approval of a similar use in a different location and with different impacts on the environment and community. Each such future application shall be reviewed and evaluated, subject to its compliance with current regulations, and its impact to the County.

10. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site plan as submitted. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new

permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*

11. This review and decision incorporates, but is not limited to, all the documentation submitted to the County and included within the Planning Office file relative to this application; including all exhibits, references and documents as included therein.

DECISION:
The Gunnison County Planning Commission, having reviewed all the documentation submitted to the County and included within the Planning Office file relative to this application, including all exhibits, references and documents as included therein, and including provision of a public hearing, and having reached the above cited Findings, classifies LUC No. 2018-00017 – Golden Eagle Trash Service as a Minor Impact Project, approves the Land Use Change Permit with the following conditions, and that said approval shall be memorialized by recordation of a Minor Impact Certificate with the Gunnison County Clerk and Recorder:

1. This permit is limited to activities described within the "Project Description" of this application, and as depicted on the site plan submitted as part of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*

2. A Development Improvements Agreement, subject to approval by the Gunnison County Attorney, shall be executed by the Board of County Commissioners, addressing the construction of the new access road, building pad, and drainage improvements, on plans prepared by Bob Williams, P.E., Williams Engineering, LLC – dated August 24, 2018. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.

3. A performance bond, letter of credit or other means of surety acceptable to the Board of County Commissioners be required to cover the cost of the improvements as identified on plans prepared by Bob Williams, P.E., Williams Engineering, LLC – dated August 24, 2018, plus 25 percent; such cost estimate as provided by the applicant's engineer, and that said surety is retained by Gunnison County. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.

4. The building's exterior shall be earth tones, intended to blend with the surroundings.

5. Installation of the eight foot, chain link privacy fence shall be completed prior to the parking of trash trucks, dumpsters or roll-offs on the site.

6. No on-site storage of fuel or flammable materials shall be permitted.

7. No storage of trash is permitted on-site, except for holidays, or when the landfill is closed.

8. No trucks parking outside are permitted to contain refuse.

9. No on-site mechanical repair or servicing, or washing of trash trucks, dumpsters or roll-offs shall be permitted.

10. The following requirements will be applied as conditions of all Gunnison County permits issued for projects on this parcel to protect Gunnison sage-grouse and their habitats:

    1) Construction activity from March 15 to May 15 will be limited to daylight hours, starting no earlier than 9am and ending by 4pm, to minimize disturbance to the lek and normal movement of sage-grouse.

2) Due to the proximity of Tier 1 Habitat, a Gunnison County Reclamation Permit will be required for any site disturbing activities on this parcel. That permit should contain specific reclamation conditions. Disturbed areas need to be reseeded with an approved seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

3) For activities not requiring a Reclamation Permit, disturbed areas must be reseeded with an appropriate seed mix. Colorado Parks and Wildlife (CPW) and/or the Natural Resources Conservation Service (NRCS) are available to help identify an appropriate seed mix.

4) Property owners must control or attempt to eradicate any noxious weeds that occur on the property. A list of noxious weeds may be found in the Colorado Noxious Weed list: www.colorado.gov/pacific/agconservation/noxious-weed-species The Gunnison County Weed Management Program should be contacted (970- 641-4393) for additional information and technical assistance.

5) Per Section 11-106 G.3.d.1. of the *Gunnison County Land Use Resolution*, dogs and cats must be kept under appropriate control, by means which may include kenneling or other physically secure methods to ensure that negative effects to wildlife from pets do not occur. This includes construction workers' pets.

6) Per Section 11-106 I of the *Gunnison County Land Use Resolution*, design of fences other than those with agricultural operations shall ensure they do not adversely impact wildlife. Woven wire fencing should not be allowed for perimeter fencing or as interior cross fencing, except immediately surrounding major structures such as a residence or intensive human activities such as a garden. Perimeter and cross fencing should be built using specifications from the most recent edition of the Colorado Parks and Wildlife (CPW) publication *Fencing with Wildlife in Mind.* All fencing should be marked or of high-visibility construction to minimize Gunnison sage-grouse collision hazards.

7) Per Section 11-106 G. e. of the *Gunnison County Land Use Resolution*, unless pre-empted by Federal or State law, all non-indigenous gallinaceous game-birds (including but not limited to pheasants, chukar, and quail), shall be imported only from a source certified by the State of Colorado to be disease free. Prior to importation of any species of gallinaceous game-birds to this parcel, the person proposing such action shall submit a list of species, with numbers proposed, and a disease certification, with a listing of diseases certified, from the source proposed. No importation (movement onto the property) of any wild birds, as defined above, shall occur without written approval by Gunnison County."

11. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

12. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.