

GUNNISON COUNTY PLANNING COMMISSION
PRELIMINARY AGENDA: Friday, September 7, 2018

- 8:45 a.m.**
- **Call to order; determine quorum**
 - **Approval of Minutes**
 - **Unscheduled citizens:** A brief period in which the public is invited to make general comments or ask questions of the Commission or Planning Staff about items which are not scheduled on the day's agenda.
- 9:00 a.m.** **Alpha Mechanical Solutions, LLC**, continued public hearing, request to renovate the existing vacant, former Trough restaurant, located at 37610 W. Highway 50, approximately 1 mile west of the City of Gunnison, south of Highway 50, bounded by Shavano Drive on the west and south, legally described as .92-acres in the NE1/4NW1/4 Section 10, Township 49 North, Range 1 West, NMPM
LUC-18-00025
- 10:00 a.m.** **Golden Eagle Trash Service LLC**, continued public hearing, request for a commercial storage yard for refuse trucks, recycle containers and 3-bay shop building, with existing residence, located at 690 CR 18, legally described as a parcel in the NW1/4SW1/4 Section 3, Township 49 North, Range 1 West, NMPM, on 40-acres
LUC-18-00017
- 11:00 a.m.** **Staff**, proposed Land Use Resolution amendments

Adjourn

The applications can be viewed on gunnisoncounty.org,
link to <http://204.132.78.100/citizenaccess/>

- Public access
- Projects
- Application #
- **LUC-18-00017**
- **LUC-18- 00025**
- Attachments

REGULAR MEETING
September 7, 2018

The Gunnison County Planning Commission conducted a regular meeting in the Planning Commission Meeting Room in the Blackstock Government Center, 221 N. Wisconsin, Gunnison, Co. **Present:**

Chairperson- Kent Fulton Vice-Chairperson- Jack Diani Commissioner-Molly Mugglestone Commissioner- Vince Rogalski Alternate Commissioner- Daniel Spivey Alternate Commissioner-Diego Plata	Director of Community and Economic Development-Cathie Pagano Assistant Director of Community Development- Neal Starkebaum Manager of Administrative Services- Beth Baker Others present as listed in text
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Recused/Absent/Seated:

Absent: Commissioner Cattles
Commissioner Mugglestone not present for the LUR amendment review

Recused: Commissioner Mugglestone recused from the Golden Eagle Trash LLC review.

Seated: Commissioners Spivey and Plata for the day's meeting.

With a quorum present Chairperson Fulton opened the September 7, 2018 regular meeting of the Planning Commission.

Moved by Rogalski seconded by Diani to approve the Planning Commission meeting minutes of August 17, 2018 as amended, the motion passed unanimously.

Alpha Mechanical Solutions (LUC-18-00025): The Gunnison County Planning Commission conducted a continued public hearing. They reviewed the request to renovate the existing 6,600 square foot, vacant, former Trough restaurant, to include:

- Add a 2,613 square foot second floor, within the existing building
- Add a future 3,242 square foot addition to the east side of the existing building
- Fence/Screen the existing parking area
 - + 75% of the building used for warehouse/commercial office
 - + 25% of the building used for light industrial manufacturing

The site is located at 37610 W. Highway 50, approximately 1 mile west of the City of Gunnison, south of Highway 50, bounded by Shavano Drive on the west and south, legally described as .92-acres in the NE1/4NW1/4 Section 10, Township 49 North, Range 1 West, NMPM

Commissioner Spivey was seated.

Present representing the Planning Commission: Commissioners Fulton, Diani, Mugglestone, Rogalski, Plata, and Spivey.

Present representing staff: Assistant Director of Community and Economic Development Neal Starkebaum, and Manager of Administrative Services Beth Baker.

Present representing the application: applicants Fred and Lisa Niederer.

With a quorum present Chairperson Fulton opened the continued public hearing.

Applicant Comments- Fred Niederer said there were no updates.

Staff Comments- No comments.

Commission Comments: No comments.

The commissioners reviewed the draft decision.

Fulton closed the continued public hearing at 9:10 A.M.

Moved by Rogalski seconded by Diani to approve LUC-18-00025- Alpha Mechanical Solutions, renovation of the existing 6,600 sq. ft. building, the former Trough restaurant.

PROJECT DESCRIPTION:

Fred and Lisa Niederer, authorized applicants, request a land use change permit to renovate and occupy the existing, vacant restaurant/bar (Trough Restaurant) to include:

- Addition of a second floor area of 2,613 square feet within the existing building
- Addition of a 3,242 square foot addition to the existing building, on the southeast side
- Remodel of the exterior shell of the existing building
- Installation of landscaping on the north and south sides of the property
- Fence/Screen the existing parking area, for use as a parking and storage area
- Installation of three (3) storage containers on the north property line, which will be faced on the north side by a wood clad fence, incorporated with a roof structure over the containers; and

Operate Alpha Mechanical Solutions, LLC from the premises, to include the following operational elements:

- 75% of the building would be used for warehouse/commercial
- 25% of the building would be used for light industrial
- Business hours typically Monday – Friday, 7:00 a.m. – 6:00 p.m.
- Typical large truck deliveries average 1 or 2/month, not including UPS and FedEx
- This is a service business; no retail and limited customer contact at office

LOCATION:

The site is located at 37610 W. Highway 50, approximately 1 mile west of the City of Gunnison, south of Highway 50, bounded by Shavano Drive on the west and south, legally described as the .92-acres in the NE1/4NW1/4 Section 10, Township 49 North, Range 1 West, NMPM.

ADJACENT LAND USES:

North: Across Highway 50/Highway 50 frontage road – Vacant 40-acre parcel

South: Dos Rios Condominiums

West: Waterwheel Motel

East: Brooks Storage – commercial storage units

PLANS/REPORTS/SUBMITTALS:

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

- Minor Impact Land Use Change Application
- Site Plan and 3-D Architectural renderings of the building, prepared by Ben White Architecture - dated June 5, 2018.
- Marlene Crosby, Gunnison County Public Works Director, email of July 11, 2018.
- Greg Larson, Chair, City of Gunnison Planning and Zoning Commission Comments, July 11, 2018.
- Alternative Locational Standards – Applicant, letter of August 9, 2018.
- Updated Project Description - Applicant, letter of August 16, 2018.
- Landscaping Cost Estimate, Mountain Rain Company, Leslie Logan.

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.

City of Gunnison:

Greg Larson, Chair, Planning and Zoning Commission, letter of July 11, 2108:

“The City has the following observations regarding this proposed use:

1. Based on the existing Three-Mile Map, the property is designated as a Tourist Accommodations use and is located within the Urban Growth Boundary.
2. The Three-Mile Plan states: "Outside of the City limits, Tourist Accommodations have been mapped as a distinct category, and have been applied to existing concentrations of lodging and to lands that would be appropriate for new lodging units."
3. The existing building on the site has historically been a restaurant and has been vacant for several years. The proposed improvement would update and occupy the vacant building.
4. Adjacent land uses are predominantly condos/townhomes and accommodation units with single family residences, north across Highway 50.
5. As proposed, the light industrial/commercial use is not aesthetically consistent with the surrounding area. Some new trees are proposed; however, additional landscaping/screening and alternate fence materials would improve the consistency of the aesthetics of the neighborhood. The City does not encourage a fence along the Highway 50 frontage for a more appealing entrance to the City.
6. It is a priority of the City to protect the aesthetic appeal of the entrances to Gunnison. The City encourages the expansion of additional light industrial uses in the County to be within existing industrial areas on Highway 50 east of Gunnison and south of Gunnison on County Road 38.”

Gunnison County Public Works Department:

Comments from Marlene Crosby, GC Public Works Director, email of July 18, 2018, notes:

“His use of the facility will significantly reduce the number of trips entering or exiting onto the highway.

Shavano Drive has two access points onto HW 50 just west of Gunnison which splits the traffic almost perfectly between the two. Both accesses have been in existence since I started working for the County in 1985.”

SITE VISIT:

The Commission conducted a site visit on August 3, 2018. The Commission members viewed the site, including the existing building, the building’s location and visibility of the parking area relative to Shavano Drive and Highway 50, the existing vegetation surrounding the parcel, and the proximity of the surrounding neighborhood.

PUBLIC HEARING:

A public hearing was held on August 17, 2018 and September 7, 2018. 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.

Oral Comments:

Martin Klinowski, Appraiser, explained he did not see any evidence there would be a decrease to the monetary values of the adjacent condos.

Written comments received:

Patria Labau, August 8, 2018 email, opposed to request
Sally Boucher, August 7, 2017 email, opposed to request
Stephen and Charlotte Standefer, August 13, 2018 letter, opposed to request
Bonnie Wilson, August 15, 2018 email, concerns with the request
Erin Barrett, August 16, 2018, supports the request

Michelle Phelps, August 16, 2018 email, supports the request
Jenny Lain, August 16, 2018 email, supports the request
Jason Lain, August 16, 2018 email, supports the request
Josh Marquez, August 16, 2018 email, supports the request

MEETINGS WITH PLANNING COMMISSION:

August 3, 2018– Work session/ Site Visit
August 17 & September 7, 2018 – Public Hearing

COMPLIANCE WITH THE APPLICABLE STANDARDS OF THE GUNNISON COUNTY LAND USE RESOLUTION:

Section 9-301: Commercial and Industrial Uses.

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.
- 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 residential use of the property is proposed.

Section 10-103: Residential Density:

Not applicable. No residential subdivision of the property is proposed.

Section 10-104: Locational Standards for Commercial, Industrial and Other Non-Residential Development

The Trough Restaurant/Bar commercial use was established at this location in the 1970's; subsequent use was The Steakhouse Restaurant. The building has been vacant for the last four years.

B. PRIMARY LOCATIONAL STANDARD. Proposed commercial, industrial and other non-residential development shall be reviewed for its location relative to existing development. In order of priority, this new growth should be located:

- 1. ADJACENT TO INCORPORATED MUNICIPALITY.** A proposed commercial, industrial, or other non-residential development should be located adjacent to a municipal boundary on land that qualifies for annexation into the municipality by meeting the criteria of the *Colorado Municipal Annexation Act*, C.R.S. 31-12-101.

The site is not adjacent to the City of Gunnison, and not eligible for annexation.

- 2. CONSISTENT WITH A MUNICIPAL THREE MILE PLAN AREA.** When the proposal is for development located within a municipal three-mile plan area, the development proposal shall address how it comports with the objectives and policies of the applicable municipal three-mile plan. The County shall consider how the proposed development has addressed those objectives and policies, and any further intergovernmental agreement between the County and the municipal government regarding the three-mile plan area. Where

there is a conflict between the objectives or policies of a three-mile plan or the intergovernmental agreement, and County standards, County standards shall apply.

The City of Gunnison provided comments, dated July 11, 2018, identifying the property as “Tourist Accommodations”, in the 1996 City of Gunnison’s Three Mile Plan. As the proposal is not consistent with a “Tourist Accommodations” designation, the proposal is not consistent with the City of Gunnison’s Three Mile Plan. The City of Gunnison’s Three Mile Plan contains no area designated for commercial or industrial use.

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

Not Applicable.

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

The applicant submitted information regarding the availability of the other existing business or industrial parks in the vicinity of the City of Gunnison, letter dated August 9, 2018, noting:

“Gold Basin Industrial Park. The property is a lease only option and not a purchasable property with no buildings currently available to lease. We cannot attain financing to build a shop on a property that a bank cannot be first lien position. We would have to build a building out of pocket and this is simply not possible.

Vista Industrial Park. The land prices are extremely high and the park does not have the necessary infrastructure to run our business. We need natural gas for our business as most of our equipment requires. The cost to run natural gas to the property is not financially feasible as it would reduce our ability to build the needed structure. The property also sits in a flooded field that is used for harvesting hay until it is completely sold out. I am allergic to hay so this is not an option.

There have not been any other options in the form of land or existing buildings that would accommodate our business in the industrial section of Gunnison so we are forced to look outside of the city limits. The building formerly known as the “Trough” is large enough, is financially feasible and has enough outdoor space to accommodate our business while also allowing us to grow.”

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

Not applicable.

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

Not applicable.

- 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.

Not applicable.

- 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 existing use 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, has noted that the proposed use will result in a significant reduction in traffic from the previous use as a restaurant/bar. As a service business, with no retail and typical daytime operating hours, and with limited manufacturing, which will take place within the interior of the building, the use will create no significant negative adverse effect to the existing neighborhood.

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.*

No impacts to wildlife identified, as this is an existing site, within an existing developed area.

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.

Section 12-103: *Road System.*

The Gunnison County Public Works Department reviewed the proposed development and provided comments, email from Marlene Crosby, Public Works Director, July 18, 2018 and at the public hearing. In her comments to the Planning Commission she notes that the neighborhood will see a significant reduction in the amount of traffic from the use of the property as a restaurant/bar. The site has two existing points of egress onto Shavano Drive. No traffic issues were identified and no improvements to the road system are required.

Section 12-104: *Public Trails.*

Not applicable.

Section 12-105: *Water Supply.*

The site will be served by existing water service from the Dos Rios W&S District.

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

The site will be served by existing wastewater service from Dos Rios W&S District.

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 existing building is 15' from Shavano Drive, on the south property line. The proposed expansion will not expand the existing non-conformance, pursuant to Section 1-108: Nonconforming Uses. Site Plan submitted with application. The footprint of the building, with the proposed addition, would be approximately 9,843 square feet.

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 required on a site-specific basis. The site and surrounding areas are heavily treed, however, the Highway 50 frontage of the property, directly in the view corridor of Highway 50 has few existing trees. The County and the applicant are sensitive to the concerns raised by the City of Gunnison's comments. In response to the concerns expressed by the City of Gunnison, the applicant will provide vegetative buffering along the Highway 50 frontage to mitigate the visual concerns noted by the City. The applicant will plant six (6) conifer trees (3-3.5" in diameter/12'-14' in height) along the north property line, adjacent to Highway 50. A wood clad fence, will be installed, attached to the north side of the container wall, adjacent to Highway 50, 9'6" in height, with a roof shed, which will provide visual screening of the parking lot and storage area, from Highway 50. Additionally, to provide for softening of the building mass, on the south, four (4) conifer trees (3-3.5" in diameter/12'-14' in height) will be planted along the south property line, to provide visual buffering to the condominium complex across Shavano Drive. Wood clad fencing, including the sliding gate, will be 9' 6" in height, which will provide visual screening of the parking lot and storage area, from the residential condominiums, located across Shavano Drive.

Section 13-112: Snow storage.

Sufficient area is available for snow storage.

Section 13-113: Fencing

The storage yard will be fenced as follows:

- East (adjacent to commercial self-storage) – 8" chain link fence, with privacy slats
- South – Solid 9'6" wood fence (with a 20' sliding entry gate)
- West - Solid 9'6" wood fence (with a 20' sliding entry gate)
- North - Solid 9'6" wood fence, incorporated with a roof structure over the storage containers.

Section 13-114: Exterior Lighting.

Exterior light fixtures shall comply with standards of this section.

Section 13-115: Reclamation and Noxious Weed Control.

No reclamation is proposed. The entire parking lot is asphalt.

Section 13-116: Grading and Erosion Control.

This an existing site. Standard best management practices shall be employed to provide erosion control during construction of the addition.

Section 13-117: Drainage, Construction and Post-Construction Stormwater Runoff.

Not applicable, existing site, no changes to drainage.

Section 13-118: Standards to Ensure Compatible Uses.

The service business incorporates self-limiting operational aspects, as well as architectural elements for the remodel that will ensure that the use is compatible with the neighborhood, including:

- 75% of the building would be used for warehouse/commercial
- 25% of the building would be used for light industrial
- Business hours typically Monday – Friday, 7:00 a.m. – 6:00 p.m.
- Large truck deliveries average 1 or 2 deliveries/month, aside from UPS or FedEx.
- All outside storage will be fully screened from Highway 50 and from the adjacent residential neighborhood.
- This is a service business; no retail sales and limited customer contact at office.
- The remodel of the building exterior will incorporate architectural elements and use different color schemes to be aesthetically pleasing and harmonious with the neighborhood, and from Highway 50.

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. The use will generate fewer impacts than the previous use of the property as a restaurant/bar.

- 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, 7:00 a.m. – 6:00 p.m.

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 noise or glare to the neighborhood. All manufacturing use is contained within the building.

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

Trash receptacles will be contained with the storage yard, or placed in an appropriate area for trash pickup.

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

Loading and delivery is on a limited basis, with large truck typically providing 1 or 2 deliveries/month, not including smaller truck deliveries, such as UPS and FedEx. The delivery/loading area is appropriate for the use.

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

The applicant identifies three entry doors that will provide fully shielded security lighting for access to the building, and are appropriate for the safety of the employees. The lighting of the bay doors on the north side of the building will be manually controlled and only illuminated when active.

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;

A landscaping plan has been submitted and the additional landscaping found to be appropriate for buffering of the existing building from Highway 50 and the adjacent residential 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;

Not applicable.

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.

Not applicable. The existing parking lot is asphalt.

An example of a similar, compatible mixed commercial/industrial use, adjacent to a residential neighborhood is the Gunnison County Electric Association office and warehouse/storage yard, located a ¼ mile west of this site. The GCEA office/warehouse/storage yard is directly adjacent to the Que Qua Condominium complex, a multi-unit residential/condominium development, separated by a fence. GCEA expanded the facility in 2010, including adding 6,700 square feet to the second floor of the office complex, and the addition of 29 parking spaces. The office complex is now approximately 28,000 square feet; the warehouse is approximately 12,000 square feet and the storage yard is used for daily operations. No complaints concerning the operation of the GCEA facility have been filed with Gunnison County from the Que Qua Condominium Association.

FINDINGS:

The Commission finds that:

1. This application is a Minor Impact Project.
2. The location complies with Section 10-104: *Locational Standards for Commercial, Industrial and Other Non-Residential Development*, C. Alternative Locational Standards. 1. Locational Considerations. B. No Site Is Reasonably Attainable In Or Adjacent To The Nearest Municipality Or Existing Permitted Business Or Industrial Park.
3. The use, with proposed mitigation, 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.
4. Marlene Crosby, Public Works Director, in her email of July 18, 2018, and in testimony at the public hearing, notes that the use will significantly reduce traffic from the previous use of the property as a restaurant/bar. Public Works has no concerns with the application.
5. The location is suitably visibly buffered from Highway 50 and from surrounding residential neighborhood, with the incorporation of the proposed landscaping, fencing, and by virtue of the design and architectural elements incorporated into the remodel of the exterior of the building.
6. 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.

7. 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*.
8. 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. 2018-00025 – Alpha Mechanical Solutions, LLC, 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. The applicant shall plant six (6) conifer trees (3"-3.5" in diameter/12'-14' in height) along the north property line, adjacent to Highway 50, and shall plant four (4) conifer trees (3"-3.5" in diameter/12'-14' in height) along the south property line, as shown on the site plan.
3. A Landscaping Improvements Agreement, subject to approval by the Gunnison County Attorney, shall be executed by the Board of County Commissioners, addressing the installation of the landscaping. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.
4. All fencing shall be installed by November 30, 2018.
5. 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 stock and installation of the landscaping, identified on the site plan prepared by Ben White Architecture - dated June 5, 2018, plus 25 percent; such cost estimate as provided by a qualified landscaping contractor, and that said surety is retained by Gunnison County. The Certificate of Minor Impact shall not be recorded until this condition is fulfilled.
6. 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.
7. 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.

Mugglestone left the meeting, for the remainder of the day.

Golden Eagle Trash LLC (LUC-18-00017): The Gunnison County Planning Commission conducted continued public hearing. They continued their review the request for a commercial storage yard for refuse trucks, recycle containers and 3-bay shop building, with existing residence, located at 690 CR 18, legally described as a parcel in the NW1/4SW1/4

Section 3, Township 49 North, Range 1 West, NMPM, on 40-acres.

Commissioner Mugglestone has recused herself from this review.

Commissioner Spivey and Plata were seated.

Present representing the Planning Commission: Commissioners Fulton, Diani, Rogalski, Plata and Spivey.

Present representing staff: Director of Community and Economic Development Cathie Pagano, Assistant Director of Community and Economic Development Neal Starkebaum and Manager of Administrative Services Beth Baker.

Present representing the application: applicants Carolyn and Alphonse Tamarcaz, and attorney Mike Dawson.

With a quorum present Chairperson Fulton opened the continued public hearing.

Applicant Comments:

Dawson said they had submitted an updated drawing and cost estimate. They had provided copies of covenants for Gold Basin Industrial Park, and Vista Business Center, as requested.

Alphonse Tamarcaz said the shop building was moved, to minimize the visibility of the building. The west side of the building will have no doors; there will be doors on the east side of the building. One will not be able to get into the shop area, without going through a gate. There will be fencing on three sides of the yard, adjacent to the shop, the shop will be the fourth side; fencing for the enclosed area. The fencing will be chain-link with slats, 8ft. in height.

Dawson noted they had provided a list of the properties, they had considered; they have determined this is the best site.

Staff Comments:

None

Public Comments:

Ken Bodine asked if the proposed structure has been moved closer to his house: Dawson said it is a little closer to the road. Starkebaum said it is essentially where the road is; approximately 24 ft. to 30 ft. closer.

Bodine asked if there were any drawings/ elevations of the proposed building yet; Tamarcaz said no. He added it will not be over 30 ft. in height, will have a shed roof, pitched back to the west.

Jon Mugglestone asked if all the trash containers would be kept behind the fence; Tamarcaz said yes.

Bodine asked if anyone had contacted Vista Business Center owner Hal Hearn; it was noted they had not spoken to Hearn, only reviewed the covenants.

Rick Odom asked what type of review would be required if the applicants would want to expand. Starkebaum explained, it would depend upon the requested square footage, it would either be an administrative review or possibility a minor impact review.

Planning Commission Comments:

Fulton addressed the applicants' position regarding the covenants for Vista Business Center and Gold Basin Industrial Park.

Gold Basin Industrial Park:

- This type of use is not allowed, under the covenants
- It is cost prohibitive

- The lots cannot be purchased, only leased
- Radon mitigation is required

Vista Business Center:

- This type of use is not allowed, under the covenants
- It is cost prohibitive

Diani asked if the 300 ft. line was set in stone; Dawson said with the moving of the shop it is. Diani asked if the shop could be moved back a bit; Dawson noted the concern, they are trying to put this in the flat area. Starkebaum added, the comments of the Sage-grouse coordinator assessment did not define a 300 ft. line. Diani asked if moving it further from the road would be worthwhile visually; Dawson and Tamarcaz said it would not make a material difference, because of the flat topography.

Fulton suggested the commissioners address the locational standards. No other opportunities available: Rogalski said Gold Basin was not, but was not sure if Vista Business Center was.

Pagano explained the *Gunnison County Land Use Resolution* (LUR) states, economic feasibility may be considered, but shall not be the deciding factor. Starkebaum pointed out the LUR states, when there is no other site reasonably attainable within or adjacent to the municipality or existing permitted business or industrial park nearest the proposed development site; the nearest industrial park is, Gold Basin Industrial Park.

Starkebaum asked the applicants to specifically identify why Gold Basin Industrial Park would not work, for this development.

Dawson said they would need 3.5 to 4 acres, and there are not sites of that size. They need to purchase the site and these sites are only for lease. The covenants prohibit this type of use. He added, because the applicant's need a loan, secured by real estate, this site is not reasonably attainable. Pagano reiterated, economics can't be the only deciding factor. She added the County may be open to this type of use, in Gold Basin Industrial Park.

Plata asked if the owners of the Gold Basin Industrial Park agreed this was not an approved use; Dawson explained he had spoken to the sub- lessor, who agreed a lease would not work for this operation. Starkebaum noted the BOCC owns the land, but all the land within Gold Basin is under lease, and they control what type of lease is allowed. It would be up the lease holder to determine if they would be open to this type of lease.

Rogalski said he was OK with the applicant's proposed site. Diani said he remained a bit conflicted.

Starkebaum reiterated, the standard states, nearest the proposed site, and that would be Gold Basin Industrial Park. Dawson said it is not attainable, because the lots can only be leased. Pagano noted that section of the LUR contains a lot of "or's" in it; not sure the only one nearest the proposed development was the only one to be considered.

Fulton requested an executive session, for clarification, with the County Attorney.

Bill Nesbit challenged the need for an executive session, because this would not meet the criteria of the Open Meetings Act. Fulton explained they were looking for clarity on the LUR. Nesbit disagreed.

Starkebaum asked the commissioners if the mitigations proposed by the applicant were sufficient. Pagano asked the commissioners if this meets the locational standards.

The commissioners agreed, they needed an executive session, with the County Attorney, to discuss LUR Sections 10-104 and 13-119

Dawson said the standard is- reasonably attainable, these other sites are not.

Plata noted legal guidance would allow for a more informed decision.

Fulton recessed the meeting until 11:30 a.m., at which time they would conduct an executive session.

Executive Session- Golden Eagle Trash LLC – LUC-18-00017

Moved by Fulton, seconded by Diani for the Commission to go into executive session with the County Attorney David Baumgarten, and the Community and Economic Development staff, to get legal advice for the purpose of discussing *Gunnison County Land Use Resolution 10-104, and 13-119*; all of the discussion during the executive session constitutes a privileged attorney-client communication, no record of the executive session is required to be kept. The motion passed unanimously.

The Commission went into executive session at 11:30 a.m. *Executive sessions of the Gunnison County Planning Commission are conducted as per C.R.S. 24-6-402(4). This specific session was conducted as per C.R.S. 24-6-402(4)(b).* , Attorney client privileged as a conference with the County Attorney for the purpose of receiving legal advice on specific legal question.

Attorney Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402 (2) (d.5) (II) (B), I attest that I am the Gunnison County Attorney; that I represent the Gunnison County Planning Commission; that I attended all of the above referenced executive session; that all of the executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4) (b) and that, because in my opinion all of the discussion during the executive session constituted a privileged attorney-client communication, no record of the executive session was required to be kept and no such record was kept.

Date: _____
David Baumgarten
Gunnison County Attorney

A. Chairperson Statement Regarding Executive Session

Pursuant to C.R.S. 24-6-402(4)(d.5)(II)(B), I attest that I am the Chairperson of the Gunnison County Planning Commission; that I attended all of the above referenced executive session; and that all of that executive session was confined to the topic authorized for discussion pursuant to C.R.S. 24-6-402(4), no record of the executive session was required to be kept.

Date: _____
Kent Fulton, Chairperson
Gunnison County Planning Commission

The Commission came out of executive session at 12:02 p.m. Chairperson Fulton stated the discussion had remained on topic, LUR sections 10-104 and 13-119.

Fulton requested the commissioner's comments, on the location is well suited for the specific use.

Rogalski said it is compatible with the neighborhood, it is currently a mixed use neighborhood. The applicants currently have a presence on Coleman's property. They have mitigated most of the items, with visual- reorienting of the shop and screening. He is in favor of the application.

Diani agreed it is compatible with the neighborhood uses, Coleman's trucking is an existing business, and the applicant currently uses Coleman's site. They are mitigating impacts by moving the storage building and fencing. The trucks will be kept in the garage, with the building doors closed. He is favor of the application.

Fulton said there are existing businesses in the area, and the applicant already stores roll offs on Coleman's property. The applicant has mitigated the issues. He cited LUR Section 10-104 C. 1. c – location well suited to specific use.

Plata agreed it is compatible with existing mixed uses, and noted the applicant had mitigated the issues.

Spivey agreed with his fellow commissioners.

Starkebaum requested clarification on the commissioners' thoughts 10-104 B or C:

- Fulton said 10-104 C
- Rogalski said 104-C applies-10- 104 B applies but is not the driving factor
- Diani said 10-104 C applies, 10- 104 B applies but is not the driving factor
- Plata agreed with Diani
- Spivey agreed 10-104 C

Bodine asked, in what way LUR Section 10-104 C relates to this use; Fulton said it is currently a mixed use area. The roll offs are already on Coleman's property. It is a compatible use. Bodine asked if the use of Coleman's property, by Golden Eagle, is an approved land use. Starkebaum explained, Coleman's was in place, before the LUR. It is a commercial operation, and there are a multitude of uses, which are grandfathered. The gun club is also a commercial use. All applications are reviewed individually, on their own merits. Bodine was concerned, the roll offs should not be on the Coleman's site, even now.

The commissioners directed staff to prepare a draft decision of approval, to be reviewed at the next continued the public hearing, September 21, 2018 at 9:00 A.M.

Gunnison County Land Use Resolution (LUR) proposed amendments: The Gunnison County Planning Commission conducted a work session to discuss the proposed amendments to the LUR.

Chairperson Fulton seated Commissioners Spivey and Plata.

Present representing the Planning Commission: Commissioners Fulton, Diani, Rogalski, Plata, and Spivey.

Present representing staff: Assistant Director of Community and Economic Development Neal Starkebaum, and Manager of Administrative Services Beth Baker.

With a quorum present, Chairperson Fulton opened the work session

Moved by Diani seconded by Rogalski to recommend approval of the draft *Gunnison County Land Use Resolution (LUR)* amendments to the Board of County Commissioners.

The commissioners adjourned the meeting at 12:25 P.M.

/S/ Beth Baker
Manager of Administrative Services
Community and Economic Development Department
Gunnison County Community Development Department