AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: DRAFT BOCC Meeting Minutes; Public Hearing 11/29/1

Action Requested: Motion

Parties to the Agreement:

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

Summary:

The draft 11/29/18 Public Hearing Minutes are attached for consideration.

Fiscal Impact:

Submitted by: Liz Mense **Submitter's Email Address:** EMense@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:
ok db 1/4/18

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 1/4/2019 Certificate of Insurance Required

Yes ○ No ◉

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\mbirnie Discharge Date: 1/4/2019

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 5

Agenda Date: 1/8/2019

Revised April 2015

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
PUBLIC HEARING MINUTES
November 29, 2018

The November 29, 2018 public hearing was held in the Board of County Commissioners' meeting room located at 200 E. Virginia Avenue, Gunnison, Colorado. Present were:

Phil Chamberland, Chairperson
Jonathan Houck, Vice-Chairperson
John Messner, Commissioner

Elizabeth Mense, Deputy County Clerk
Others Present as Listed in Text

Public Hearing; Golden Eagle Trash Service: Deputy County Manager Marlene Crosby and Community & Economic Development Director Cathie Pagano were present.

1. Open Public Hearing: Chairperson Chamberland opened the Public Hearing at 8:30 am.

2. Public Notice Confirmation: Community & Economic Development Director Pagano confirmed that the hearing was properly noticed. It was noticed in the newspaper and on site.

3. Identify Ex Parte Communications: There were no ex parte communications identified.

   PLEASE NOTE: The hearing briefly recessed at 8:30 am while the Board of County Commissioners and Staff went on a site visit. The hearing reconvened following the site visit at 9:32 am.

4. Appellant Presentation: Michael Dawson, Attorney for Alphonse and Carolyn Taramarcaz, requested that the appellant presentation be presented before the staff presentation. Mr. Dawson explained that the appellant, Ken Bodine, would need to make their case first as they have the burden of proof. The Board agreed. Mr. Bodine provided his testimony. He discussed the language within the application and Planning Commissioner decision and discussed inconsistencies and non-compliance with the Land Use Resolution (LUR). Mr. Bodine explained that the proposed use is not compatible with existing uses, a requirement of the LUR, and that the majority of uses on County Road 18 is residential, agricultural or vacant. He explained that there are no commercial operations in the area. He discussed financial implications, including the devaluation of their property, as well as other negative implications including increased noise levels, odors from vehicle operation, visual impacts, and a general increase in commercial heavy equipment activity on County Road 18. Mr. Bodine asked that the Board deny this proposal. Chairperson Chamberland requested that Mr. Bodine outline the inconsistencies with the LUR and address the information that he felt is misleading and/or false. Mr. Bodine provided a detailed explanation of what he felt the inconsistencies and misleading information were. Mr. Bodine presented an Appraisal of Real Property for 799 County Road 18 on behalf of Jake Stone.

5. Staff Presentation: Community and Economic Development Director Pagano stated that Mr. Bodine mentioned that there were no commercial uses in the area, however, the Gunnison County Assessor assesses one of the parcels of the Gunnison Alpine Contractors as residential and commercial. She went on further to state that an assessment alone doesn't dictate a land use approval or indicate that there was a previous land use approval. The Coleman parcel is considered an existing non-conforming use that existed prior to the adoption of the 2001 LUR. Director Pagano provided a definition of legal non-conforming use. Director Pagano discussed the Golden Eagle hours of operations outlined in the BOCC memo which came up in the appeal and the verbiage used in the Planning Commission's decision. It was stated in the Planning Commission's decision that the business typically operates between the hours of 6:30 am to 5:00 pm Monday through Friday. Director Pagano stated that those times are not a condition of the permit and that the company could potentially operate outside of those hours without enforcement action from staff. The Planning Commission's decision does not mandate that the company not operate on the weekends.

6. Board Questions.
   The Board asked the following questions to Staff. Chairperson Chamberland asked Director Pagano to address the inconsistency raised by Mr. Bodine stating that the property is located directly "adjacent" to Gunnison Alpine Contractors. She indicated that it is an incorrect statement that Coleman's is directly adjacent, however, she doesn't believe that the Planning Commission misunderstood the lay of the land, as they did a site visit and were provided with maps. Neal Starkebaum, Assistant Director for Community & Economic Development, indicated that the word "surrounding" should have been used versus "adjacent" in the Planning Commission's decision. Chairperson Chamberland inquired to County Attorney David Baumgarten how that effects the decision. County Attorney explained that the Board is not bound by the prior decision, rather they are reviewing information as if from the beginning. County Attorney Baumgarten addressed questions from the Board pertaining to legal non-conforming uses and the land use process.

Commissioner Messner inquired whether the shooting range is also a legal non-conforming use. Director Pagano indicated that it is. Commissioner Messner inquired whether there are any commercial uses in the surrounding area that are not non-conforming uses. Director Pagano stated that there have been no commercial uses on County Road 18 that have been permitted though the Land Use process since 2001. The Board inquired about the City of Gunnison and Gunnison County's Three Mile Plan. Commissioner Houck inquired about Sage-Grouse implications with the proximity to Tier I habitat and asked if there was any other documentation presented that he was not aware of, particularly pertaining to the long-term implications after the initial construction period during regular on-going operations.

BREAK: The public hearing briefly recessed at 10:36 am. The hearing resumed at 10:45 am.

The Board asked the following questions to the Applicants. Commissioner Messner asked the Applicant, Alphonse & Carolyn Taramarcaz, about the proposed 100'x100' storage yard and 50'x75' shop and the actual land use. Attorney Dawson estimated an acre of usage including the existing house that would be converted into an office space. Commissioner Messner inquired about the typical hours of operations. Alphonse Taramarcaz indicated that the schedule could shift due to holidays, a truck breakdown, or falling behind roll offs; however, they do not typically operate on the weekends. Attorney Dawson explained that the storage yard was moved at the Planning Commission's request due to visibility concerns. Attorney Dawson requested that the emails between himself and Director Pagano from 11/13/18 and 11/28/18 be added to the record as well as the memo from Planning Commission to the BOCC. Additionally, he submitted for the record a Secretary of State record for Bodine Construction showing a principal office address at 571 County Road 18 as well as documentation from Bodine Construction's website showing the same address. The Board accepted the presented documents for the record.

7. Public Comments: Chairperson Chamberland opened the Public Hearing to comments at 10:57 am. Stacy Mcphail expressed support for the Taramarcazs. She urged to Board consider the time and effort the Planning Commission put into their decision and uphold their decision. Mari Rogers stated that she lives south of the gun club and west of County Road 18. She requested that Board deny the application and expressed concern over the devaluation of surrounding properties. Sherry Redden expressed support for the Taramarcazs and asked that the BOCC do the right thing and uphold the approval of the application. Ms. Redden stated that the Taramarcazs have done everything right and gone through the appropriate processes. Corinne Stagl expressed support for the Taramarcazs and stated that this project would improve the neighborhood, not hinder it. She also indicated that the subject parcel has been cleaned up and looks better than it has in years and urged the Board to approve the application. Susan Whitehouse requested that the application be denied due to negative impacts on the neighborhood. Heather Develop expressed support for the Taramarcazs. She stated that Gunnison Alpine Contractors have been operating at their location for years and that currently they run fewer trucks than in years past. She doesn't believe that the Taramarcazs business would increase traffic in the area significantly since Gunnison Alpine Contractors are running fewer trucks. Jack Cullinan, an employee of Golden Eagle, stated that in five years he has only worked one Saturday and that currently there are four trucks that operate daily. Bill Nesbitt expressed support for the Taramarcazs and stating that the subject property makes sense. He requested that the BOCC review planning regulations and address both public health and safety concerns. He discussed the subject property as well as other locations that were considered. Danny Long expressed support for the Taramarcaz family stating that they are good people. Rain Bodine requested that the BOCC deny the application and stated that there are more appropriate locations for Golden Eagle to operate. Hal Hearne indicated that the location the Taramarcazs is proposing is a better fit visually than his industrial park, but questioned the precedence it would set in the residential area in the future.

8. Acknowledge Correspondence Received: The Board received an Appraisal of Real Property for the property located at 799 County Road 18 from Jake Stone. The Appraisal was provided by Ken Bodine. Commissioner Houck read aloud the highlighted sections on the record. The Board also received an email dated Wednesday, 11/28/18 from Jake Stone. Mr. Bodine requested that the email be read aloud on the record since Mr. Stone could not be in attendance. Chairperson Chamberland read the email in its entirety.

9. Appellant Response: Ken Bodine stated that Golden Eagle should be located within a municipal or industrial area, not a residential area. He stated that were are numerous properties within the County that would be better suited for their operations. He indicated that a future precedence would be set by approving the application. He reiterated that the locational standards set forth by the LUR have not been met.

BREAK: The public hearing briefly recessed at 12:07 pm. The hearing resumed at 12:11 pm. The Board deliberated amongst themselves following the Appellant Response and brief recess.

10. Close Public Hearing. Chairperson Chamberland closed the Public Hearing at 12:50 pm.

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Phil Chamberland, Chairperson

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Jonathan Houck, Vice-Chairperson

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John Messner, Commissioner

Minutes Prepared By:

_____
Elizabeth Mense, Deputy County Clerk

Attest:

_____
Kathy Simillion, County Clerk

DRAFT