



JULY 12, 2022

PCD FILE NO. EA2269

**LETTER OF INTENT
K9 CUTS AND CARE
SPECIAL USE MAJOR KENNEL AND
MINOR SITE DEVELOPMENT PLAN**

1. Owner name, contact phone number and email

Christina Selvig, f.k.a. Christina Mathews
719-649-5646
K9cutsandcare@gmail.com

2. Applicant name

Same as owner.

3. Property Address

9750 Flaming Sun Dr.
Colorado Springs, CO

4. Property tax schedule number

5226001004

5. Current property zoning and site location

The property is located on Lot 4 of the Stapleton Estates, Filing No. 1, Plat 6061, Parcel No. 5226001004. It is zoned RR-5 and situated on the northeast corner of Flaming Sun Drive and Raygor Road in the Black Forests Estates Subdivision. The driveway is off Flaming Sun Drive, a public dirt road.

6. Discussion summarizing proposed request and compliance with applicable requirements of the Land Development Code

Ms. Selvig is requesting approval of a minor site plan and major kennel special use permit for her existing business, K9 Cuts and Care. K9 Cuts and Care has operated as a daycare and boarding facility for as many as 25 dogs at a time since 2002. For that duration, she has not received a complaint regarding her management of the kennel.

K9 Cuts and Care is operated from Ms. Selvig's residence in rural El Paso County. It is situated on RR-5 zoned lot with one main residence and two outlying buildings. The four-car garage attached to the residence and one outlying building, a barn, are used for dog boarding and care. Ms. Selvig maintains 18 kennels in an immaculate facility with twice daily cleaning and waste removal from the kennels dog runs. Additionally, Ms. Selvig installed noise-proof, aesthetically pleasing 6-foot privacy fencing around the kennels to ensure minimal disturbance for neighbors in the community.

The vast majority of the business operations are sheltered from view and setback more than 200 feet from the property line in all directions. In order to accommodate the one area of the fenced dog run that is visible from the road, Ms. Selvig is submitting a proposed landscape plan in addition to the other materials.

The requested Major Kennel use is one that is allowed by Special Use Permit in the RR-5 zone. The proposed Special Use is appropriate here. The business is beneficial for the surrounding community, with neighbors throughout the years utilizing the service for their own dogs. Two neighbors have voluntarily supplied letters of support for Ms. Selvig's application, both of whom face the portion of the business operations that fall shy of the 200-foot setback.

Approval of the permit application and site plan would be in accord with the El Paso County Land Development Code and allow a longtime small business to continue to provide excellent service to the El Paso County community. The request is applicable to the Land Development Code because the Accessory Use of Rural Home Occupation is considered allowable by Special Use in the RR-5 zone pursuant to the El Paso County Land Development Code Chapter 5, Table 5-2. The intent "is to provide a mechanism by which a business owner or entrepreneur may reasonably establish or expand their home occupation on a large residential, forestry, or agriculturally zoned property in manner that protects neighboring properties from extreme or unreasonable impacts." The site complies with the minimum zoned lot size of 4.75 acres.

This application meets the Special Use submittal requirements, the standards for Use and Dimensional Standards in Chapter 5 of the El Paso County Land Development Code (2021). Special Use Applications are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

7. Discussion and analysis of compliance with Criteria of Approval in Chapter 5 of the Land Development Code

a. The strict application of any of the provisions of this Code would result in particular and exceptional practical difficulties and undue hardship

As previously noted, a major kennel as defined in Land Development Code 5.2.30(B) may be operated on a property zoned as RR-5 with a special use permit. The Land Development Code provides that "[s]tructures and outdoor areas used as part of a kennels operation adjoining a residential, forestry, or agricultural zoning district shall be setback a minimum of 200 feet from all property lines. Land Development Code 5.2.30(B)(2). The setback may be reduced where appropriate mitigation measures are taken. *Id.*

The ten kennels in the four-car garage attached to the residence are setback 200 feet from the property line and blocked from view of the road by the garage, residence, trees on the east and south, and the second garage structure on the property. The northernmost corner of the barn structure, which houses 8 kennels, is approximately 104 feet from the north property line. The barn structure, not considering the outdoor kennel use, is in compliance with setback regulations. The 6' high decorative, noise-proofed kennel screen fencing extends farther north towards the north property line and isolates one of the two fenced outdoor dog play areas from view. The northernmost corner of the decorative kennel screen fence is approximately 84 feet from the north property line.

If K9 Cuts and Care were required to come into strict compliance with the 200-foot setback recommendation regarding the kennels in the barn, the entire barn structure would become unusable. Additionally, Ms. Selvig's investment in noise-proofed, aesthetically pleasing privacy

fencing surrounding those kennels and the adjoining dog run would be wasted. The existing fencing for the outdoor dog play areas would have to be removed and resituated to a different location or eliminated entirely. If any portion were moved to a different location to accommodate the setback, it may create additional difficulties as the east side of the property, where such transitions may be accommodated, does not have the shelter from the road provided by the trees and structures currently in place. Electric, heating, and plumbing would also have to be run to separate areas of the property to adjust for any modifications.

All of these factors would create exceptional practical difficulties and undue hardship in cost and utility provision if K9 Cuts and Care were required to strictly comply with the setback.

b. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental the health, safety, or welfare of the inhabitants of the area of the County

K9 Cuts and Care's business operations meet this requirement. The kennel is located on a large property where all surrounding properties are of the same or similar large size with buildings set back from the road. The properties may be used for keeping a variety of animals, even absent a special use permit. Ms. Selvig's residence is the final home before a dead end in a rural community. Even if the land beyond the dead end were to be developed, the kennel would not interfere as operations do not impede on the activities of the road or the visibility of neighbors to the east. Instead, the kennel would provide a service to residents as it currently does for the property's neighbor to the direct north, who has provided a letter of support. All areas are securely fenced and no animal is permitted to leave the property prior to being leashed. This ensures the kennel and its canine inhabitants are not detrimental to the health, safety, or welfare of the inhabitants in the Black Forest community or larger El Paso County.

All areas of the outdoor dog runs are solid framed 18 inches below grade to prevent dogs digging out. They are also filled with limestone as a natural barrier to bacteria, and then layered with three-quarter inches of pea gravel. This ensures that contamination does not exit the property, in addition to alleviating concerns that a pet may get loose. The outside yards are surrounded by solid four-foot fencing that is topped with an electrified fence, and the entry and exit is also a manual electric wire to operate the controls. The fencing is dug six to eight inches down so dogs may not dig under. Dogs do not jump the fence or exit the property. Whenever the dogs are in the big outdoor yards, they are supervised by an employee of K9 Cuts and Care.

Additionally, waste is properly and regularly disposed of. The kennels, runs, and fenced areas are cleaned of animal waste twice daily. All waste is enclosed so as not to create any odor, and removed from the property weekly.

The kennels are also housed in air conditioned and heated insulated buildings to ensure the safety and health of the animal inhabitants in all weather conditions.

Finally, hours are limited to maintain the character of the neighborhood. Pick up and drop off may not occur outside the hours of 8-9:30 a.m. and 4-5:30 p.m., Monday through Saturday. Although dogs may be boarded or kenneled on Sundays and holidays, customers are not permitted to drop off or pick up on those days. There are never more than two customers parked for pick-up or drop-off at a time.

Additionally, the proposed permit and site plan are generally consistent with the applicable master plan. The applicable master plan is the “Your El Paso Master Plan” (2021). The plan is a comprehensive document that communicates a vision for many factors influencing the quality of life in El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County. The special use meets the vision, principles, goals of the Master Plan while implementing its objectives and specific strategies.

Stapleton Estates, Filing No. 1 is not located within a key area, primary annexation area or a priority development area as delineated by the Master Plan. No new infrastructure, pedestrian or multimodal connections are required for this project.

The site is located within an area of minimal change: undeveloped as identified in the areas of change map in the Master Plan. This project promotes minimal change to the site and does not alter the essential character of the area. The rural character of the area will remain unchanged, and contiguous areas of large-lot residential and open space will be preserved.

The site is located within the “Suburban Residential” Placetype area northwest of Highway 24 and north of Woodmen Road. The Primary Land Use of this placetype is Single Family Detached housing. However, supporting land uses include Commercial Service. The proposed Major Kennel Special Use is in keeping with the planned supporting land use designation in the placetype. The landscape and geography of the region are conducive to large lot residential use as well as the Rural Home Occupation as an accessory use. The open space of the area is conducive to the proposed major kennel permit without creating a cramped or crowded space. The site is also capable of providing the necessary parking and open space on the lot without disturbing critical natural resources.

In the Economic Development category, Goal 3.1 is “*Recruit new businesses and spur the development of growing sectors.*” Also located in the Economic Development category, the Master plan states “*One method for supporting rural economic growth is home-based businesses. A home-based business reduces startup and operational costs by removing the need for separate workspace. By allowing residents to manage compatible, low-intensity personal businesses from their home, the County is creating greater opportunities for new companies to be established. Additionally, these new businesses could be providing a missing good or service directly to their communities.*” Allowing the Rural Home Occupation will support economic development by providing an opportunity for the practice of a needed service within the community. Employees also receive training at the location, with former neighborhood community members going on to veterinary school after learning the care of animals at K9 Cuts and Care.

The proposed special use is in compliance with the 2040 Major Transportation Corridors Plan (MTCP). This plan shows no intention to make any improvements to the area surrounding the site.

The proposed special use is also in compliance with the Master Plan for Mineral Extraction as the separate mineral estate owners for the property and the existing development were found and notified of the development.

The proposed special use is in compliance with the El Paso County Water Master Plan (2018). Water on the site is provided by well. The existing well will continue to provide water.

c. The proposed use will be able to meet air, water, odor, or noise standards established by County, State or Federal regulations during construction and upon completion of the project

The proposed permit does not require any construction. The proposed planting of five ponderosa pines would be completed with minimal disturbance to the surrounding area, the only proposed change to the site.

Per air, water, odor, and noise standards, K9 Cuts and Care is in compliance. Each party who employs K9 Cuts and Care services for dog boarding and kenneling agrees to have a bark collar used if that parties' dog is barking. The yards are distanced from residences in order to prevent noise from carrying. Additionally, the kennels in the barn have been surrounded by noise-proofed fencing to ensure no detriment to the peace of enjoyment of neighboring properties.

As stated in the previous section, waste is disposed of twice daily from all areas, and kennels are also cleaned twice daily. This is in keeping with Land Development Code 5.2.7. Pet waste is stored in trash disposal containers so smell does not exit the property, and removed from the property weekly. Food is stored in airtight, sealed containers off the ground to prevent rodent or other infestation. Limestone fills dugout dog runs for natural bacteria prevention, and kennels and walls are wiped down and disinfected daily and prior to any new dog entering the kennel area. Water bowls are similarly scrubbed and refilled twice daily. All dog beds are vacuumed and shaken out twice daily to ensure a clean environment.

K9 Cuts and Care has also had the septic and water system upgraded to ensure there is sufficient water and sewage capacity for the animals. The septic permits 891.4 gallons per day, approved for the kennels' use.

d. The proposed use will not adversely affect wildlife or wetlands

There are no nearby wetlands to impact. Wildlife is not impacted by the use of kennels. The areas where dogs are permitted are all fenced so the dogs may not exit the property. Each dog is required to enter on a lead, and is also on a lead when it exits the property.

The dogs are not permitted outdoors at night. There are aluminum-clad guillotine weather and wind protectant doors on each individual kennel to the outside. These flaps are closed when a dog is not in the run, including all night, to ensure that there is no interference with wildlife or neighboring properties.

e. The applicant has addressed all offsite impacts

K9 Cuts and Care has addressed the noise, odor, and visual impacts of the kennel and boarding operation. Noise proofing, bark collars, and buffering are in place. In order to ensure that any visual impact is further minimized, K9 Cuts and Care provides a landscaping proposal that provides for the planting of five ponderosa pine trees along the only border of visible dog run to the road that is within 200-feet of the property line. This will further limit any visual or noise impacts. Additionally, the neighbors directly facing this border have provided letters of support stating that they have not been impacted to date by the kennel and boarding on the property.

f. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping

The site plan provides adequate parking. There are never more than two vehicles at the location at a time, and dogs are led in and out of their respective kennels and the property on leads to ensure that they are brought in and taken to their owners timely and efficiently. Hours for pick up and drop off are limited to ensure traffic does not interfere with the peace and tranquility of the neighborhood, with pick up and drop off limited to between 8 and 9:30 a.m. and 4 and 5:30 p.m. on Monday through Saturday. Holidays and Sundays are closed to pick up and drop off. As there are only 18 kennels in use, the maximum number of trips at full capacity in a day is 36. However, even when the kennel is at full capacity, in reality there are typically fewer than 36 trips per day due to the overnight boarding nature of the facility.

The open space is largely guarded from view of the road and neighboring properties by buildings and trees. The kennels in the barn and accompanying dog run are completely enclosed by a 6-foot sound-proofed barrier so as not to be visually or audibly noticed. The only area of the outdoor dog areas visible to the road on the west property border is fenced entirely with a four-foot fence and dogs are always under supervision when in that area. In order to further limit any visibility concerns, the landscape plan in addition to the site plan proposes the planting of five ponderosa pines to shield any view of passersby or neighbors from the kennel operation.

g. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed

Adequate sewage for the requested permit was ensured with the 2018 septic designation, provided as part of the application materials. There are 892 gallons per day, sufficient for the kennel and residential use. In addition, there are 2,000 gallons of septic tank retention. The El Paso County Sheriffs' office provide police protection. The site is within the Falcon Fire Protection District. The lots and homes are subject to the codes and policies adopted by the District regarding fire protection. The proposed permit will not change the fire or police protection for the property. Roads are adequately available, and K9 Cuts and Care owner Ms. Selvig privately maintains the branch of Flaming Sun from which her driveway offshoots as the County has previously informed her that is her responsibility. She has it plowed during every storm and graded annually or more as needed.

8. Discussion regarding how the proposed request complies with the definition of the proposed use and any applicable use specific standards within the Land Development Code

The request is applicable to the Land Development Code because the Accessory Use of Rural Home Occupation is considered allowable by Special Use in the RR-5 zone pursuant to the El Paso County Land Development Code Chapter 5, Table 5-2. The intent "is to provide a mechanism by which a business owner or entrepreneur may reasonably establish or expand their home occupation on a large residential, forestry, or agriculturally zoned property in manner that protects neighboring properties from extreme or unreasonable impacts". The site complies with the minimum variance lot size of 4.75 acres zoned as RR-5 pursuant to Chapter 5.

Pursuant to Land Development Code 5.2.30(B), a major kennel is any kennel in which nine or more dogs or cats of more than four months of age exist. K9 Cuts and Care provides kennels for 18 dogs simultaneously, meeting the definition of a major kennel. The discussion of 7.a in this Letter of Intent addressed that the majority of the property and proposed permitted dog runs and kennels are setback 200 feet from the property line, as required under 5.2.30(B)(2). K9 Cuts and Care requests a reduction in the minimum setback as permitted pursuant to that same section for the area where

the kennels and outdoor yard are within 200 feet of the property boundary. Visibility, noise, and odor have all been obscured to ensure minimal impacts to adjoining properties or community members passing on Raygor Road bordering these areas of the property. In addition, K9 Cuts and Care provides a landscape plan for the planting of trees to further mitigate any potential visual impacts of the kennel operations.

Pursuant to Land Development Code 5.2.30(B)(3), animals are not permitted overnight unsupervised outdoor access. K9 Cuts and Care only allows supervised outdoor access, regardless of whether it is night or day. The animals are kenneled indoors for the evening and then permitted out during daytime hours under supervision.

The requested permit will be in keeping with applicable county, state, and federal laws, as stated in Land Development Code 5.2.30(B)(4). All animal care rules, laws, and regulations are met and exceeded at K9 Cuts and Care.

The major kennel permit application is consistent with the special use requirements of the Land Development Code.

9. Overlay

No overlay applies to this property.

10. Discussion regarding the provision of utilities

Mountain View Electric Association provides electric utilities to the property. The electric use is consistent with the residential nature of the property. Black Hills Energy is the gas utility provider for the property. The gas usage is consistent with the residential nature of the property. The special use permit will not burden the provision of electric or gas to the property and is in keeping with the residential, rural nature of the property.

11. Discussion of anticipated traffic generation and access

As stated above, there are no more than 36 trips per day generated to the property by the requested permitted use. This is consistent with the traffic plan for the property. No more than two customers are present at a time, and traffic is limited in hours to 1.5 hours in the morning and 1.5 hours in the evening. Pick up and drop off is available Monday-Saturday only, with no pick up or drop off on holidays or Sundays.