

Randall E. Kidd and Bonnie J. Kidd
14650 Rosholt Loop
Colorado Springs, CO 80921
(719) 761-0979

LETTER OF INTENT

Date: June 23, 2020

Owner/Applicant: Randall E. Kidd and Bonnie J. Kidd

Site Information: Legal Description: Lot 3, ROSHOLT RETREAT, County of El Paso,
State of Colorado
14650 Rosholt Loop, Colorado Springs, CO 80921
Tax Schedule No. 6133005007
5.36 acres
Zoned RR-5

Request: Approval of a private dog breeding kennel on the property described above (the "Property") as a special use under Section 5.3.2 of the El Paso County Land Development Code (the "Code"). Table 5-1 of the Code identifies a major kennel as a permitted principal use in the RR-5 zone as long as special use approval is obtained. We request special use approval for the Property, which is zoned residential rural, in order continue to use our Property to breed and raise healthy, intelligent, and beautiful AKC registered Golden Retrievers. This special use approval is in conjunction with approval of a rural home occupation under Section 5.29 (C) of the Code, which is an accessory use of the Property, which has been going on with our small scale dog breeding operation since 1993.

We are requesting approval of a major kennel not to exceed 15 animals on the Property, for the reasons set forth below.

We are also requesting a setback reduction of the dog barn from our property line, which is less than 200 feet from the kennel.

The maximum amount of animals on the Property will be 15, although not all of the animals will be part of our breeding program.

Justification: We purchased the Property in 1992 when it was still vacant land. When we looked to build our home and our barn, we paid particular attention to their location being away from other homes in the neighborhood. At that time, our neighborhood consisted of 5-acre lots connected by a loop road known as Rosholt Loop, and our lot was in the far southeast corner of the loop. Two other neighbors, to the east and south, lived on 20 plus acres and their homes were located far away from our shared boundary lines.

When our barn was built in 1993, it was with the intent of placing it as far away from existing neighbors as possible. Due to the trees and terrain, our dog barn was not visible to any of our neighbors.

The large acreage property to the south of us was subdivided into 5-acre lots in 2006, and a private road for the lots was constructed right next to our southern property line. Two homes were built in proximity to our southern property line. Our pre-existing dog barn is now more visible to the two adjacent neighbors to the south due to tree thinning for fire protection and because their homes were built so close to the private road next to our property.

What began as a breeding program with about 10 dogs has become one of our main income sources due to Randy Kidd's retirement for medical reasons. We currently have a total of 11 dogs in our breeding program. We do not board dogs overnight or operate a day care facility for dogs owned by others. We do occasionally have other female dogs temporarily on site for breeding purposes, which would never exceed the 15-animal limit.

In addition to the dogs used as part of our breeding program, there are also two dogs and two cats that are owned by our sons, who also live with us on the Property. It is intended that our sons will eventually move off the Property and when that happens, their pets will go with them.

We breed European Cream and classic Golden Retrievers. Since we began our breeding program in 1993, it became necessary to increase the number of dogs to ensure we could provide only quality breeding adult dogs that pass rigorous health clearance requirements. However, since we began to breed and raise our Golden Retrievers, we have generally averaged 10 to 12 dogs per year on the Property. In the past, we raised an average of four litters per year, but our intention beginning this year is to only have two litters per year that will be born and raised on the Property, with the majority of the puppies adopted out after they reach at least 8 weeks of age.

The other dogs that we are not actively breeding are between the ages of four months and two years and are going through the process of obtaining clearances before they can or should be bred. OFA (Orthopedic Foundation for Animals) requirements for hip and elbow clearances mandate the dogs are mature and over the age of 24 months before they can be certified, so until that time, we raise the dogs in the hope they will receive their health certification. Dogs that pass these clearances will be considered for breeding purposes and will replace one of our older breeding adults. Those who do not pass will be adopted out into loving pet homes. The breeding females are retired from breeding at 6 or 7 years of age, after having around four litters (one litter per year from age two), and are also adopted out to their forever homes.

In the past three years, we bought ten dogs from various other kennels for breeding purposes. Only three of the ten met our breeding standards after health tests, so the seven dogs that did not meet the health standards were adopted out to pet homes. To ensure high breeding standards for the Golden Retrievers we breed, we need to maintain a pool of dogs where we can raise, evaluate, test and then select only those who pass the health standards.

We are audited regularly by the American Kennel Club (AKC) for compliance with AKC rules, regulations and policies to include: dog identification; record keeping; and meeting AKC's care and condition policy. Our kennel is in compliance with all AKC regulations and policies.

We also investigated whether our kennel was required to obtain a PACFA (Pet Animal Care Facility Act) license through the State of Colorado Department of Agriculture. The PACFA program is a licensing and inspection program for pet care facilities throughout Colorado. After an inspection and review of our facility by a PACFA investigator earlier this year, we decided to reduce the number of litters we raise each year and as a consequence, our kennel is deemed exempt from PACFA regulations because the number of dogs we raise does not require State licensure.

We love our dogs and care for them the best we can. Last year we spent over \$6,000 for premium dog food and nutritional supplements; \$12,000 for vet bills including clearance evaluations and exams by veterinary specialists; and \$1,000 for preventive medicines.

Dogs are locked up at night and free to go in and out of the dog barn or shelter during the day but remain in the dog pens unless they are out on the Property under our control. Between 9-10 pm to 6-8 am daily, the dogs are locked up inside the insulated barn (with no access to the outdoor pens) or brought into the house. Usually four of the dogs will spend the night in our house. From approximately 7 am to 9 pm they are free to be outdoors in their pens or in the barn or shelter. There is a heater in the barn when the weather is freezing. Straw is placed on the floor for additional comfort and warmth. We rotate dogs into our house during the day as well.

Existing facilities: We will continue using the existing facilities and have no plans to build any new structure. The building is a 12 ft x 24 ft insulated "dog barn". We will also use the existing fencing for external dog runs surrounding the dog barn. There are ten 6 foot high chain-link runs surrounding the dog barn within a perimeter area of approximately 66.5 ft x 90 ft. The runs are sized as follows and correlate with the numbers on the attached site plan:

- | | | | |
|-----|-------------------|------|-------------------|
| (1) | 68.5 ft x 20.5 ft | (2) | 48.5 ft x 17.5 ft |
| (3) | 48.5 ft x 10 ft | (4) | 41 ft x 13 ft |
| (5) | 41 ft x 11 ft | (6) | 20.5 ft x 11.5 |
| (7) | 20.5 ft x 9.5 ft | (8) | 24 ft x 7.5 ft |
| (9) | 11.5 ft x 10 ft | (10) | 11.5 ft x 10 ft. |

In an effort to mitigate the neighbors' concerns, we will be installing a 7-foot high field fence around the barn that will also connect to our house and a portion of our front yard. This will prevent dogs from leaving the Property if they slip away from the barn unintentionally. We will also attach privacy screening on the south side to obscure the neighbors from viewing our dogs and to help prevent distractions that cause our dogs to bark. This should also prevent the potential for neighbor dogs attacking our dogs when the neighbor dogs enter onto our Property, which does not have a perimeter fence. We cannot afford to install a perimeter fence around our Property. In the future, when we obtain the necessary finances, we plan on installing a 7-foot high field fence on the southern property line with privacy screening to provide additional blocking between us and the neighbors to the south, to provide another layer of privacy and to prevent the neighbors from cutting down more of our trees on our Property without permission.

Solid waste: Solid waste is picked-up in the barn, yard and runs and bagged 2 to 3 times per day and placed in the garbage. Garbage is hauled away weekly.

Water and sewer: The Property operates with a domestic water well permit with a variance to water 4 large animals (i.e. horses) with a reduction in irrigation rights. According to Penn State Extension, the average horse requires 5 to 10 gallons of water per day (7.5 gallons on average). PetMed states a dog will use 1 oz of water per pound of weight. Our fully mature dogs range in weight from 62 lbs. to 76 lbs. with an average weight less than 70 lbs. Four horses would require 30 gallons of water per day (7.5×4) or 3840 oz (30×128). Thirty gallons of water per day would supply the water needs for almost 55 Golden Retrievers ($3840 / 70$). Even going with the lowest estimate of 5 gallons per day for a horse would equate to a use that would be greater than what 36 Golden Retrievers (which we don't have) would consume.

The Property operates with a septic system, but all dog waste is bagged and collected by a garbage hauling company.

Customer traffic and parking: We typically only have traffic when we have puppies to sell. The average litter is 7 puppies, and visitation by potential buyers varies. We estimated that with 4 litters per year, there were "peak" days for visitation of 8 days per year. Each peak day would see 10 trips per day (5 buyer vehicles). We schedule appointments so that when one buyer leaves, another comes to pick up their puppy. With our reduction to two litters per year, the customer traffic is estimated to be one-half of the numbers calculated above.

Visitors park in front of our house and in pull-outs along the driveway, as shown in the site plan. There are no more than one or two cars of visitors on the Property at a time.

Justification for Setback Waiver: The setback of the dog kennel (measured from the perimeter of the dog runs surrounding the barn) is approximately 280 feet from the property line to the north; 144 feet to the south; 155 feet to the east; and 170 feet to the west. The Code provides a minimum property line setback in the RR5 zone of 200 feet. Our barn was constructed in 1993, well before adjacent homes were built close to our southern property line, and our

property is heavily treed. The dog barn and our house is shielded from the view of most of our adjacent neighbors' homes because of the tree cover. In addition to the trees, we are installing a 7-foot high field fence around the barn and in an area close to our house which will be screened. Presently, loose dogs owned by our neighbors enter our property and provoke our dogs to bark. By screening the new fence, it will serve not only to keep our neighbors' loose dogs from getting near our dogs, it will act as a visual barrier between our dogs and the neighbors' dogs, reducing potential conflict that causes the dogs to bark.

Miscellaneous:

As there will be no change to the structures or parking layout on our Property, there will be no disturbance to the Property that will exceed one acre.

Our kennel has no employees. This is a mom and pop business.

Neighbor Complaints:

We only had one prior anonymous complaint to the Sheriff's Department about barking dogs before the latest complaint to the County that prompted this special use application. As a result of the prior complaint over a year ago, we immediately began locking up our dogs overnight in the dog barn and in our house. In the past, we have had one neighbor call us directly when he heard dogs barking. Both times he called, it was not our dogs that were barking, but neighbors' dogs. If it had been determined the barking was coming from our dogs as opposed to other dogs in the neighborhood (there are many dogs in our neighborhood that bark), we would have made sure our dogs were quiet.

Although one of the objectors' letters stated that complaints were filed with animal law enforcement, the Humane Society of the Pikes Peak Region (HSPPR) was not able to locate any record of a complaint against us. Nor were we ever notified by HSPPR that a complaint had been filed against us.

In 2006, the large tract of land to the south of our property was subdivided into four 5-acre lots. When we were notified of the subdivision process going through the County, we responded and recommended the new homes be built as far away from our Property as possible to avoid future problems or complaints. The opposite was done. Two of the homes (including the home owned by the latest complainant) appear to be as close to our property line as possible. Initially, our dogs were not locked up at night because they were usually quiet and would only bark when disturbed. Due to increased neighborhood activities, the dogs are now locked up at night to mitigate any disturbances to our neighbors through the night. As we are known to breed Golden Retrievers, the few neighbors who have complained directly to us about barking dogs have assumed the barking was coming from our dogs, whether or not our dogs were the source of the barking. Given this additional scrutiny, we are keenly aware of when our dogs are barking, as well as when other dogs in the neighborhood are barking.

After the County sent a letter to neighbors on December 30, 2019 advising them of our Special Use request, the County received seven objections to our request. We respectfully respond to their complaints, which are generally delineated as follows:

1. The dogs bark too much. As set forth above, the dogs are locked in at night and are monitored during the day. Over the last year, we are keenly aware of where dog barking is coming from in the neighborhood. Much of the time the barking is not coming from our dogs but from other dogs in the neighborhood, yet we are blamed for all barking that our neighbors hear. When we hear our dogs bark, we know they are barking for a reason so we go to them to investigate why they are barking and we quiet them or bring them into our house. Much of the time we find that a loose neighbor dog is on our property and is provoking our dogs to bark.

We were contacted one time by the Sheriff's Department about a complaint of barking dogs. We immediately began to lock our dogs in at night. We have always encouraged our neighbors to contact us directly if they believe our dogs are barking so we can investigate and stop their barking if they in fact are the source of the barking. We spoke to one of our southern neighbors (who complained to the Sheriff's Department) and following our discussion, we modified the barn doors by installing damping material to provide further noise reduction. We asked our southern neighbors to let us know whether the modifications helped to reduce the noise or not. The neighbors never contacted us, so we assumed the modifications helped. However, we were then notified of the County complaint that resulted in this special use request.

2. The dog breeding operation is an illegal puppy mill. Until the complaint from a new neighbor initiated this special use application, we were not aware of a requirement to obtain approval for our kennel. Although we have a total of 15 animals on our Property, not all of the animals are dogs and not all are involved in our breeding operation. As stated above, we have a limited number of breeding animals and are limiting the number of litters raised to two per year. The other dogs are not ready for breeding due to age and certification requirements. If those dogs don't meet our breeding criteria, they are adopted into loving pet homes and do not remain on our Property.

3. There is no fence around the Property. We have not fenced the perimeter of our Property because there has never been a need for it. All of our dogs are housed in the barn and runs or are in our house. We will be installing additional fencing around the barn, runs and house while this application is pending or shortly after approval.

4. The existence of the kennel decreases property values in the area. One objector asserted in his letter to the County that if he subdivides his 28-acre parcel into 5-acre lots, those lots adjacent to our Property will most certainly be devalued. Yet, he provided no data to support his assertion of devaluation. In fact, of the four homes closest to the southern boundary of our Property (on Old Lasso Point), two sold in 2018 for \$800,000 and \$835,000 respectively, one sold for \$755,000 in 2012 and the latest sale was on May 8, 2020 where the home sold for \$1,350,000.

Criteria for Approval: Our request meets all criteria required for special use approval of a kennel, as follows:

5.3.2 (C) In approving a special use, the following criteria may be considered:

1. **The special use is generally consistent with the applicable Master Plan.**

The use of the Property as a kennel is allowed as a special use under the El Paso County Land Development Code for properties zoned RR-5. The Tri-Lakes Comprehensive Plan (the "Plan") is the Small Area plan under the County Master Plan for land use in our neighborhood. The Property is within the sub-area of the Plan known as the Ponderosa Breaks. The Property's use as a kennel is consistent with the Plan in that it continues to maintain the low density residential uses that focus on the timbered areas rather than the open portions, that are compatible with adjacent existing subdivisions.

The Property has been the location of our small scale breeding operation for over fifteen years. The use of the Property for a private small scale kennel is consistent with the Plan. The character of the neighborhood as rural-residential remains unchanged by our continued secondary use of the Property as a private kennel.

2. **The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the area.**

The Property's principal use is for our residence, and it will continue to be upon approval of the special use. The exterior of our home and dog barn have not been modified in appearance and are consistent with most other older homes and barns in the neighborhood. There is no signage or advertising on the Property and we do not intend to install signs. Our residential property blends in with adjacent residential properties.

The kennel is secondary to our use of the Property as a rural residence. There is no visual or other essential change in the residential character of the Property. The Property has been used by us to breed our own Golden Retrievers since 1993. Following a recent neighbor's complaint, the County notified us of the need to apply for special use approval for a kennel, which was the first time we became aware of the special use approval requirement for our kennel. Most of our neighbors have moved into the neighborhood since we built our home in 1993. They know we have been breeding Golden Retrievers since our residence and dog barn existed when most became our neighbors, and we have not received many complaints about our dogs over the years.

There are no detrimental visual impacts arising from the kennel. As stated before, despite our comments given at the time the adjacent property was subdivided in 2006 that homes adjacent to our property line should be set back further away from the property line, the neighboring homes were built within view of our home and dog barn, to include the home of the latest complainant.

3. The impact of the special use does not overburden or exceed the capacity of public facilities and services.

Our kennel does not overburden or exceed the capacity of the county roads used to access our Property. See the response to number 4 below.

4. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access.

We rarely have clients or visitors come to the Property, and if we do, it is generally from one to four visitors (a family) at a time. The only other people that interact with the dogs on a recurring basis are our family members who live on the Property and care for the dogs. We have no employees.

5. The special use will comply with all applicable local, state and federal laws and regulations regarding air, water, light or noise pollution.

The business does not create odors, smoke or other noxious activities inside or outside of the Property. Any noise from barking dogs is mitigated by the dogs being locked up at night and under our control during the day. We pick up dog waste on the Property 2-3 times per day and dispose of it in the garbage, which is picked up weekly. There are no hazardous, explosive or highly flammable substances used or waste products produced by our dog breeding operation.

6. The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County.

Our kennel does not create odors, noise, smoke or other noxious activities inside or outside of the Property. There are no hazardous, explosive or highly flammable substances used or waste products produced.

7. **The special use conforms to all other applicable County rules, regulations or ordinances.**

The facility is conducted in compliance with all applicable County laws, codes and regulations. The kennel is exempt from the State PACFA licensure because the maximum number of 15 dogs on the Property and the limit of two litters per year is not enough to require licensing.

We would be happy to answer any questions or provide more information.

Randy and Bonnie Kidd





Photo of Barn from the southeast showing dog runs that face to the southeast.



Barn interior showing dog dens in the barn. There are 4 dens total and are shared by the dogs.



Exterior runs to the dog barn.



Dog doors into the kennel. The doors leading to the outside are shut between 9:00 – 10:00 pm each night until the dogs are let out in the morning.



Puppies lounging in a dog run. Waste is picked up 2-3 times a day and disposed in the trash.



Photo showing dog runs surrounded by trees on and around property boundary





From the barn looking to the south (Old Lasso Point)





Additional dog shelter in the basement of the house used only when it is very cold outside.



Photo taken from the southeast corner of the Subject Property (closest to Baker property and along Old Lasso Point) looking northwest to the dog barn.



Entrance from Rosholt Loop to the Property



Photo taken at the Property boundary line to property to the east (Johnson Property) showing the dense tree cover and distance to neighbor's house.



The yellow circle shows the only home located south of the Property's southern property line before Applicant/Owner built their home and dog barn in 1993-94. The two new homes shown were constructed closer to the Property after 2006.



View of the Property looking north from Old Lasso Point (along Property's south property line)



Photos taken on the Property's southern property line (Old Lasso Point) showing both houses built after 2006 (Home and Barn on the Property were built in 1993)