

Letter of Intent
Seigel Boys Racing
Minor Subdivision, Rezone, Special Use
11/13/2017 – REVISED 8/3/20

OWNER: Kerry Burt
2066 Sather Drive
Colorado Springs, CO 80915

APPLICANT: Lee Seigel
12755 Thiebaud Lane
Colorado Springs, CO 80908

SITE LOCATION/SIZE/ZONING: 21430 Spencer Road
Calhan, Colorado 80808-9113
40 Acres, A-35, Agricultural

REQUEST: The request is to facilitate a land sale of 35-acres of a 40-acre parcel. To accomplish this land sale, the approximate 40-acre parcel must be subdivided to create an approximate five (5) acre lot which will be retained by the current owner. To create the smaller lot, a request to rezone the approximately five (5) acre portion of the Property to A-5 is necessary. Additionally, a request to approve a special use application for the 35-acre parcel which houses an existing outdoor amusement center/ go-kart racing and motor sports track (“motor sports track”) is required to bring the existing track into conformance with current county standards, as the parcel will be reduced in size from 40 acres to 35 acres. The three (3) applications are to be completed concurrently.

As there is no residence that will be constructed on Lot 1 (the motor sports park), Applicant requests approval to maintain and use an RV or travel trailer on the property during the seasonal summer season, solely for security purposes. While the property has security cameras and locked gates, a physical presence is necessary to deter potential crime and vandalism.

During special events held from Friday through Sunday, as further described below, some participants camp at the motor sports park in self-sufficient RVs and travel trailers. Participants are not charged a camping fee. On average, approximately 5-10 participants park RVs or travel trailers overnight during the larger special events, and 3-5 during a smaller event. Applicant requests approval to allow such intermittent, seasonal camping on Lot 1.

JUSTIFICATION: The SBR Motor Sports Final Plat contains two lots: Lot 1 will be the 35.01 acre parcel that will continue to be the location for the existing motor sports business. As will be explained in the Utilities section below, the Applicant requests approval of Lot 1 to exclude a requirement for a well or septic system for the business, which historically has been operated without a well or septic system. Lot 2 will be the 4.144 acre parcel that will continue to be used for residential purposes, which currently contains a well and septic system.

An outdoor amusement center is a principal permitted use in the A-35 zone, but subject to special use approval. Kart racing originally began operations on the 40-acre parcel prior to

overall County zoning, and is currently a legal non-conforming use. The Property was purchased by the present owner in 2012. The owner has leased the property containing the business to the Applicant for the past 8 years and offered to sell the motor sports park to the Applicant as long as the residence on the 4.144-acre parcel was subdivided from the parcel containing the motor sports park.

The motor sports park is open seven days a week from 10AM to 6PM, or until dark. From Monday through Friday, use is by appointment only. Weekend use is on a first come first served basis. There are no lights, so night time driving is prohibited. A PA system is used primarily during special events. Most of the PA usage is used for background music for customers to listen to while waiting for their races. Sound from the PA system stays within the motor sports park boundary and Applicant has not received any noise complaints from neighbors.

The motor sports park hosts approximately two large special events per year involving an average of 80 drivers. There are eight smaller events with a maximum of 25 drivers per event. The special events are kart races that occur during the park's regular business hours over a weekend and generally last three days. The kart races are scheduled on club calendars and are planned in advance. Fridays and Saturdays are for set-up and practice driving. Races and awards are held on Sundays. Other special events may occur with shorter notice but are generally shorter in duration and involve a smaller number of participants.

For a large event, an average daily traffic count is no more than 20 vehicles, in and out. Smaller events generate approximately 10 vehicles per day.

Currently, the only employees of the motor sports park are Lee and Ivy Seigel. However, the Applicant anticipates hiring approximately 6-7 seasonal temporary employees who will work during the summer months and only during special events on the weekends.

As there is no residence that will be constructed on Lot 1 (the motor sports park), Applicant requests approval to maintain and use an RV or travel trailer on the property during the seasonal summer season, solely for security purposes. While the property has security cameras and locked gates, a physical presence is necessary to deter potential crime and vandalism.

During special events held from Friday through Sunday, some participants camp on the site in self-sufficient RVs and travel trailers. Participants are not charged a camping fee. On average, approximately 5-10 participants park RVs or travel trailers overnight during the larger special events, and 3-5 during a smaller event. Applicant requests approval to allow such intermittent, seasonal camping on Lot 1.

No site modification / improvements, earth disturbing activities, or construction operations are being conducted or planned.

EXISTING/PROPOSED FACILITIES, STRUCTURES, ROADS, ETC.: Existing facilities located on the 35-acre parcel (Lot 1) include the SBR Motorsports Park, which utilizes one access off Spencer Road, a parking area, a half mile racetrack, one framed structure used for the sales office and storage of go-karts, and 3 open air carports for shade and staging.

Existing structures on the 4.144-acre parcel (Lot 2) includes a single-family residence, a well and septic, and a large shed structure used for storage. There are no proposed facilities, structures, or roads for either parcel.

WAIVER REQUEST AND JUSTIFICATION: Applicant is requesting a waiver to allow approval of the final plat for the subdivision with approval of Lot 1 as a “dry lot” with no requirement of water for approval, consistent with Section 8.4.7(A)(3) of the Land Development Code. Presently, no water is used in the motor sports operation on Lot 1, and Applicant does not expect any need for a water source in the near future. The groundwater determination process through the Colorado Ground Water Commission, including approval of a replacement plan that was recently completed for the Property, provides evidence of a 300-year water supply on Lot 2 for continued in-house use of the existing well, without the requirement that a well be constructed on Lot 1. The replacement plan further provides that the owner of Lot 1 may, but is not required to, elect to drill a nontributary Arapahoe aquifer well for commercial uses thereon, which will then allow for expanded types of use from the existing Denver aquifer well on Lot 2 if and only if such Arapahoe well is drilled and utilized on Lot 1. In either scenario, a 300-year water supply will be evidenced as described in the approved replacement plan. Initially, and for the foreseeable future, Lot 1 may be a “dry lot”.

PURPOSE AND NEED FOR THE CHANGE IN ZONE CLASSIFICATION: Current zoning is A-35 for the 40-acre parcel; the 35-acre lot will remain A-35. The approximate 5-acre subdivided parcel will require rezoning to A-5.

TOTAL NUMBER OF ACRES IN THE REQUESTED AREA: 40 acres

TOTAL NUMBER OF RESIDENTIAL UNITS AND DENSITIES FOR EACH DWELLING TYPE: The only residential portion is the approximate 5-acre parcel, which has one (1) existing single family residence.

UTILITIES – WATER AND SEWER: Lot 2: water is provided via well Permit Number 115609 and sewer is a septic system. Lot 1: SBR Motorsports Park has operated without well or septic for motor sports track. Since it began operations, drinking water is provided via bottle and sewer is provided via Portable Restrooms. The water decree quantified the amount of groundwater under Lot 1 and 2. For purposes of approval of the minor subdivision, no well or septic for Lot 1 is needed.

PROPOSED USES, RELATIONSHIP BETWEEN USES AND DENSITIES: The 35-acre parcel zoned A-35 will have a Special Use Permit for the existing track. The approximate 5-acre parcel zoned A-5 will be used as Single Family Residence.

APPROXIMATE ACRES AND PERCENT OF LAND TO BE SET ASIDE AS OPEN SPACE, NOT TO INCLUDE PARKING, DRIVE, AND ACCESS ROADS: N/A, no site improvements are being made. This letter of intent is to facilitate the land sale of 35 acres of a 40-acre parcel by subdividing out an approximate 5-acre parcel which needs to be rezoned to A-

5. All land will stay as is with no earth disturbance or increase in residential density. The ownership of the 35-acre portion of the 40 acres of land containing the SBR Motorsports Park will change hands from the current land owner to the actual owner of the SBR Motorsports Park.

CRITERIA FOR APPROVAL:

Minor Subdivision Criteria

This application complies with all requirements for approval of a minor subdivision contained in Section 7.2.1 (C) and the plans and standards set forth in Chapter 8 of the County Land Development Code. In addition, the proposed minor subdivision is in conformance with the goals, objectives and policies contained in the County Master Plan, including the Policy Plan. The Falcon-Peyton Small Area Plan (the “Plan”) is the Small Area Plan under the County Master Plan that provides guidelines for land use in the Falcon-Peyton area, including the Property.

The proposed minor subdivision is in conformance with the goals, objectives, and policies of the Master Plan and is consistent with the purposes of the Code. The minor subdivision application satisfies the following goals and policies from the Policy Plan:

Goal 6.1 a Encourage patterns of growth and development which complement the regions' unique natural environments and which reinforce community character.

Policy 6.1.3 - Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.

The proposed minor subdivision is compatible with adjacent properties which are either at least 35 acres in size. In the same area as the Property are properties that are 5 acres in size. The minor subdivision will retain the rural nature of the area. The existing natural environment on the Property will be preserved following approval of this subdivision.

As shown by the water reports submitted with this Application, a sufficient water supply has been acquired in terms of quantity, quality, and dependability in accordance with the water supply standards (C.R.S. § 30-28-133 (6) (a)) and the requirements of Chapter 8 of the Code, and the septic system that serves the existing residence on Lot 2 sewage disposal is in compliance with state and local laws.

There is no planned development for the Property as a result of the approval of the minor subdivision and no additional construction is being proposed. No soil or topographical conditions presenting hazards have been located on the Property. The existing legal access to the Property, being an entrance to the residence on Lot 2 and the kart park on Lot 1, will not change with the minor subdivision.

There will be no increase in traffic on public roads as a result of the minor subdivision. Nor will there be any change to the existing utilities or law enforcement currently serving the Property.

Rezone of Lot 2 to A-5 Criteria

For the rezoning application of the approximate 5-acre parcel that will be zoned A-5, Section 5.2.5 of the Land Development Code states that rezoning is justifiable under the following circumstances:

- **The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned.**

As stated above, the property is within the Falcon-Peyton Small Area Plan. There will be no change to the character of the approximate 5-acre residential parcel upon the rezone from A-35 to A-5; it will still contain the existing house, well and septic system. The existing use meets the plan's Goal 3.1.1 and Goal 3.1.3 set forth above. And, for the same reasons set forth above, the water conservation policies stated in Policy numbers 4.5.6.4, 4.5.6.6 and 4.5.6.15 above also apply to the rezone request.

- **The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. §30-28-111, §30-28-113, and §30-28-116.**

The rezone request complies with all applicable statutes, including C.R.S. §38-28-111 (compliance with County zoning plan), §30-28-113 (regulation of size and use of structures and land subject to zoning), and §30-28-116 (amendment of zone district).

- **The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions.**

Lot 2 will remain as a residential property with no change in its existing use. Emerald Acres, a subdivision comprised of 5-acre lots, is located approximately one mile from the Property. Most of the other properties in the immediate area are rural and residential in character, similar to Lot 2.

- **The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.**

The rezone will not change the existing residential use of Lot 2, and it will meet all standards required for the A-5 zone district.

Special Use Criteria

The motor sports racing operation meets applicable criteria for special use under Section 5.3.2 (C) of the Land Development Code, including the following:

- **The special use is generally consistent with the applicable Master Plan;**

The property is within the Falcon-Peyton Small Area Plan. The application meets the following goals and policies of the small area plan:

Goal 3.1.1 : Provide a balance of land uses that respects existing and historical patterns while providing opportunities for future residents and businesses; and

Goal 3.1.3: Preserve the rural character of the area.

The current historical use of the property as a motor sports racing business and single family residence will not change with the subdivision of the property into two separate lots. The business has been a convenient and desired recreational feature in eastern El Paso County for many years. The property will not change from its current appearance; it will still remain rural in nature.

Goal 3.2.2: Advocate for quality of life amenities that will bring jobs and tax base to the area.

The motor sports racetrack is a recreational amenity provided to eastern El Paso County residents that keeps them from having to drive into the urban centers of the County in order to recreate and have fun.

Goal 3.3.1: Encourage diversity and variety in housing types, sizes, locations, and prices to meet the needs of existing and new residents.

Goal 3.3.4: Meet the housing needs of as many existing and new residents of differing ages, incomes and desired living accommodation.

The property is being platted from a 40-acre parcel with one residence into two lots, to include a single family residential lot that will be rezoned to A-5. The size of the residential lot will provide more affordable housing than what is typically found with the large-acreage parcels in the immediate area.

Goal 3.3.7: Provide recreational amenities for area residents.

The motor sports racing business has provided a needed recreational amenity to eastern El Paso County residents for the past 20 years.

Policy 4.5.6.4: Review and manage all land uses in a manner which reasonably reduces potential for acute or long term adverse water quality impacts to the aquifers.

Policy 4.5.6.6: Encourage and accommodate water conservation practices for existing and new developments.

Policy 4.5.6.15: Uses that cannot meet 300-years' worth of sustainability from ground water should not be allowed to use ground water.

The minor subdivision application that accompanies the special use request requires a decree adjudicating the ground water rights underlying the property. The final plat of the two-lot subdivision will not be approved without the Applicant providing proof that it can meet the County's 300-year water requirement. Before these applications were submitted by the applicant, no quantification or restriction on the use of groundwater under this property had occurred. The adjudication of the water rights will allow for better overall management of the groundwater resources in this region of the County.

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

The applicant anticipates no change in the use or appearance of the property upon approval of the special use, rezoning and subdivision applications. The current uses of the property have been longstanding and are compatible with the surrounding land uses.

- **The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner; and**
- **The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;**

The applicant does not anticipate any increase in traffic or the use of public facilities and services in the area by approval of the special use application.

- **The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;**
- **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; and/or**
- **The special use conforms or will conform to all other applicable County rules, regulations or ordinances.**

The motor sports racing business will remain in compliance with all applicable federal, state and local laws, regulations and ordinances.