

**LETTER OF INTENT  
SPECIAL USE**

**BRECK & TIMOTHE CUNNINGHAM  
17505 BLACK FOREST ROAD  
COLORADO SPRINGS, CO 80908**

**Owner/Applicant:**

Breck & Timothe Cunningham  
17505 Black Forest Road  
Colorado Springs, CO 80908

**Site Location, Size and Zoning**

Construction of a horse barn (36' x 48') with an adjoining indoor riding arena (80' x 120')(hereinafter referred to as the 'Project'), at the Owners' residential location is proposed by the attached application for Administrative Special Use. Due to the size of the Project being greater than 5,000 square feet, application for and approval of a special use permit is required to proceed with construction. The property has El Paso County Tax Schedule Number 5117001001 and is currently developed with one residence and one outbuilding (shop), having the address of 17505 Black Forest Road. The property is 12.38 acres in size and its legal description is Lot 1, Filing 1, Cherry Creek Springs. The Owners' property is zoned RR-5 (Residential Rural) and falls within the area governed by the Black Forest Preservation Plan (BFPP), the pertinent small area plan (SAP) that is incorporated in El Paso County's overall Master Plan.

The six adjacent-neighbor properties on the east side of Black Forest Road and within Cherry Creek Springs are platted, zoned RR-5, and have single-family residences (with the exception of the common area adjacent to the subject property). The two adjacent-neighbor properties on the west side of Black Forest Road are unplatted, zoned RR-5, and have single family residences as well.

**Request and Justification:**

The request is for approval of a special use to construct a four-stall horse barn (36 'x 48') with an adjoining indoor riding arena (80 'x 120'), on the Owners' 12.38 acre property which comprises Lot 1, Filing 1, Cherry Creek Springs. The Owners' property currently has one existing single-family residence and a detached shop (40 'x 60'), with a private well and on-site waste water treatment

(OSWT). The construction will allow for private stabling of four horses on the Owners' property, but equally important, will make possible the training, recreational use and enjoyment of the horses year-round notwithstanding the severe weather conditions which otherwise preclude outdoor use and enjoyment of horses in this location for a significant part of each calendar year.

The susceptibility of the Owners' property to inclement weather occurs as a result of its location on the Platte-Arkansas divide. "Severe summer and winter storms are often spawned and sometimes stall in the turbulent air near the ridge line .... It is this severity of weather phenomena which has the most significant impact on land use decisions." (See BFPP at pg. 14-15). The Owner's property falls within the Grasslands area of the Black Forest, designated as Plan Unit 6 (Visual Unit 2, one of eleven distinct visual units which have been delineated for the planning area). (See BFPP at 66). Climate in the Grasslands of the Black Forest is on average, significantly cooler, wetter, windier and subject to more severe storm events than the Colorado Springs metropolitan area, and as a result, to address the inclement weather, there is a need for the barn and indoor riding arena. (See BFPP at 14, 65-66).

**Special Use Approval Criteria** (See El Paso County Land Development Code, ¶15.3.2)

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

The Owners' property has ten foot wide public utility, drainage and slope easements on its north and east sides. The boundary adjacent to the common area, the south side, and the west side which is adjacent to Black Forest Road, a public road and also an exterior subdivision boundary, have a 20' wide public utility and drainage easement. The residence and outbuilding currently in place do, and the proposed Project will, meet the zoning district setback requirements of 25 foot front, side and rear yard setbacks. (See El Paso County Land Development Code [hereinafter Land Development Code], Table 5-4 Density and Dimensional Standards for Agricultural, Residential and Special Purpose Districts at pg. 150)

Pursuant to the Land Development Code, the RR-5 zoning district is a "5 acre district intended to accommodate low-density, rural, single-family development." The Owners' property, as well as all of Cherry Creek Springs, have been platted to conform to RR-5 zoning constraints. Furthermore, the Owners' proposed Project is for a private horse stable (Agricultural Structure),

which is authorized pursuant to the Land Development Code. (See Table 5-1.a, Use and Dimensional Standards).

Consistent with the Master Plan, the Owners' property is in Cherry Creek Springs which is a low density residential development with density limited to one dwelling unit per (at least) five acres. (See BFPP at 94). The proposed Project will have no impact on the low density residential development required and present on the Owners' property.

**2. 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 west side of the Owners' property is adjacent to Black Forest Road, and six of eight adjacent neighbors reside on platted properties in Cherry Creek Springs on the north, east and south sides of the Owners' property. These six adjacent neighbors' lots range in size from 5.2 to 12.62 acres, with the exception of the common area to the east of the Owners' property. The common area is 47.01 acres in size.

On the west side of Black Forest Road, the remaining two adjacent neighbors' properties are unplatted, and zoned RR-5, each with a single family residence. One property is 40 acres in size, and has an eight-stall horse barn with an outdoor full roping arena (170' x 270'), and a chute, cattle pen and run, along with four double loafing sheds and corrals. The remaining adjacent neighbor's property on the west side of Black Forest Road is 240 acres in size and has been designated and is currently used as agricultural grazing land.

Within the Cherry Creek Springs development, numerous properties (including an adjacent neighbor), have horse stables and one property owner located adjacent to the east side of the same common area which adjoins the Owners' property, has a barn on their five acre lot with attached indoor riding arena equivalent in size, construction materials and style to the Owners' proposed Project.

Moving away in every direction from the Owner's property in Cherry Creek Springs, a significant presence of large properties (40+ acres) is found with private and commercial horse stables and riding arenas equal to or greater in size than the Project proposed herein.

Additionally, the Project will have no impact on the ability to visualize the prominent visual features mentioned in the Master Plan, including the microwave tower, fences and drainage features. (See BFPP at 66). As pointed out in the Master Plan, in the Northern Grasslands there are panoramic views to the Front Range and Pikes Peak available at several locations. (*Id.*) Due to the large distances separating the adjacent neighbors from the Owners' property, a buffer has been created and the proposed Project is either not in the line of sight of any neighbor's view of the Front Range and Pikes Peak, or in several instances, neighbors have no view of the Front Range or Pikes Peak due to terrain masking by natural topographic phenomena.

To address any potential for even the slightest adverse visual impact resulting from the Project, the earth tone color of the Owners' residence and detached shop will be matched in construction materials used. The Project will be constructed in a location on the 12 acres which is central and affords considerable open space surrounding it. A wall will be placed to screen from view the area used for manure management. (See BFPP, ¶ 10.2 at pg. 88) Finally, measures will be taken to limit grazing so as to prevent overgrazing on Owners' property. (*Id.* ¶ 8.6 at pg. 84)

The requested special use will be in harmony with the residential-rural, and agricultural character of the neighborhood as contemplated by the Black Forest Preservation Plan, and highly compatible with the existing and allowable land uses in the surrounding area.

**3. 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**

The proposed Project will not rely on any public facilities or services other than fire protection and electric utility. The Project is located in the Falcon Fire Protection District (FFPD) which provides fire protection for the surrounding area. (See <https://assessor.elpasoco.com/wp-content/uploads/Tax-Maps/FPD/FALCONFPD-Tax-Map.pdf>) The Project will be pole barn/arena construction with inherently fire-resistant metal roofs and metal siding.

Electrical service is provided to the Owners' property by Mountain View Electric Association, pursuant to Cherry Creek Springs, Filing 1, Plat Note number 10. (See Plat 9799, Reception No. 97128907 of the Records of El Paso County, Colorado).

The Owners' property is currently supplied with water by a private groundwater well, Permit no. 57762-F. As authorized by the Permit, the use of ground water from this well is limited to household use in one (1) single family dwelling, the watering of not more than eight (8) large domestic animals and the irrigation of not more than 12,000 square feet of home gardens and lawns. Accordingly, water pumped from the well will be used to water the horses stabled by the proposed Project, and will continue to be operated in accordance with the Conditions of Approval set out in the Well Permit, and otherwise in compliance with Decrees of Water Division 1, Case No. 96-CW-1064, Water Division 2 Case No. 96-CW-230, and Water Division 1, Case No. 93-CW-018, as amended, which pertain to certain obligations with respect to ground water management, withdrawal restrictions, and water augmentation.

Neither the horse barn/arena (stable) or any corrals will be located over any portion of an On-site Wastewater Treatment System (OWTS). The stable and corrals will be kept in a clean and orderly manner with horse manure picked up on a regular basis and disposed of by spreading over pastures on the property, or by removal from the property. (See Use and Dimensional Standards, Chpt 5, Para 5.1.50 at page 67)

Although the Land Development Code allows private stables and corrals, the Code places no specific restriction on the number of horses allowed in an RR-5 zoning district. The Cherry Creek Springs Covenants, Conditions, and Restrictions (CC&R's), however, do limit the number of horses to no more than four per lot. Accordingly, the Owners will limit the number of horses on the property to four in compliance with the Cherry Creek Springs CC&R's.

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

The Owners' residence and outbuilding (shop) will continue to be accessed from Black Forest Road through the existing cul-de-sac and driveway. The proposed Project will be accessed through the same existing cul-de-sac and driveway. No additional access points are proposed.

The special use will not result in additional vehicle trip generation. Since the special use is exclusively for the personal and private enjoyment of the Applicants/Property Owners, there will be no additional traffic to or from the property resulting from the special use.

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

As confirmed by the El Paso County Assessor's Office, mineral interests on the Owners' property have not been severed and the Owners do not plan to extract any minerals from the property.

The Project will otherwise be in compliance with applicable laws and regulations regarding air, water, light or noise pollution.

**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**

The Owners' property is subject to the constraints of the Cherry Creek Springs Filing 1 Plat, which documents that drainage, water availability, soils and geological and erosion control reports have been submitted and are on file at the El Paso County Planning Department. (See Plat 9799, Reception No. 97128907 of the Records of El Paso County, Colorado).

The Project will not result in any detriment to the public health, safety and welfare of present or future residents of El Paso County.

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

The special use will conform to all other applicable County rules, regulations and ordinances.