

EL PASO

COMMISSIONERS:
DARRYL GLENN (PRESIDENT)
MARK WALLER (PRESIDENT PRO TEMPORE)



COUNTY

STAN VANDERWERF
LONGINOS GONZALEZ
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Date: December 20, 2018

To: Board of County Commissioners
Darryl Glenn, President

Re: AL-18-022 Double D Ranch Special Use Amendment

From: Nina Ruiz, Planner II
Craig Dossey, Executive Director

Subject: Amendment of the Double D Ranch Special Use Approval

Executive Summary:

Deanna Brekke received approval from the Board of County Commissioners on February 13, 2018, for a special use to legalize an existing kennel (AL-17-021, BoCC Resolution No. 18-057). This approval included six (6) Conditions of Approval and three (3) Notations.

The applicant has requested Condition No. 6 be revised to not require a new well permit to provide water to the kennel operation.

Background:

Deanna Brekke received approval from the Board of County Commissioners on February 13, 2018, for a special use to legalize an existing kennel (BoCC Resolution No. 18-057). This approval included 6 Conditions and 3 Notations.

The applicant has requested Condition of Approval No. 6 of the Board of County Commissioner Resolution be revised. The condition currently reads:

6. The applicant shall provide a copy of a well permit from the State Engineer for the existing use within 120 days of the date of approval. The due date may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to obtain the well permit.



The applicant requests the condition be revised to not require a new well permit. After the prior BoCC approval, the applicant began the process of revising the well permit to allow for the kennel. The cost of re-permitting the well exceeded her expectations. Therefore, the applicant requests Condition of Approval No. 6 be amended to allow water that is purchased legally off site to be hauled onto the property and to not have to obtain a new well permit.

Recommendation:

If the request is approved by the Board of County Commissioners, staff recommends the new Condition of Approval No. 6 read as follows:

In no case shall the existing well on the property be used for kennel purposes unless specifically approved by the State Engineer's Office and documentation of such approval is provided to the El Paso County Planning and Community Development Department. If water is transported to the site from an offsite source, a copy of a receipt for each water purchase as well as documentation regarding the number of animals boarded per day shall be retained by the applicant and shall be provided upon request to the Planning and Community Development Department Director. Such request may not occur more frequent than once per calendar year.

Attachments:

Vicinity map

Letter of Intent

Resolution No. 18-057

Board of County Commissioners' Resolution

El Paso County Parcel Information

File Name: AL-18-022

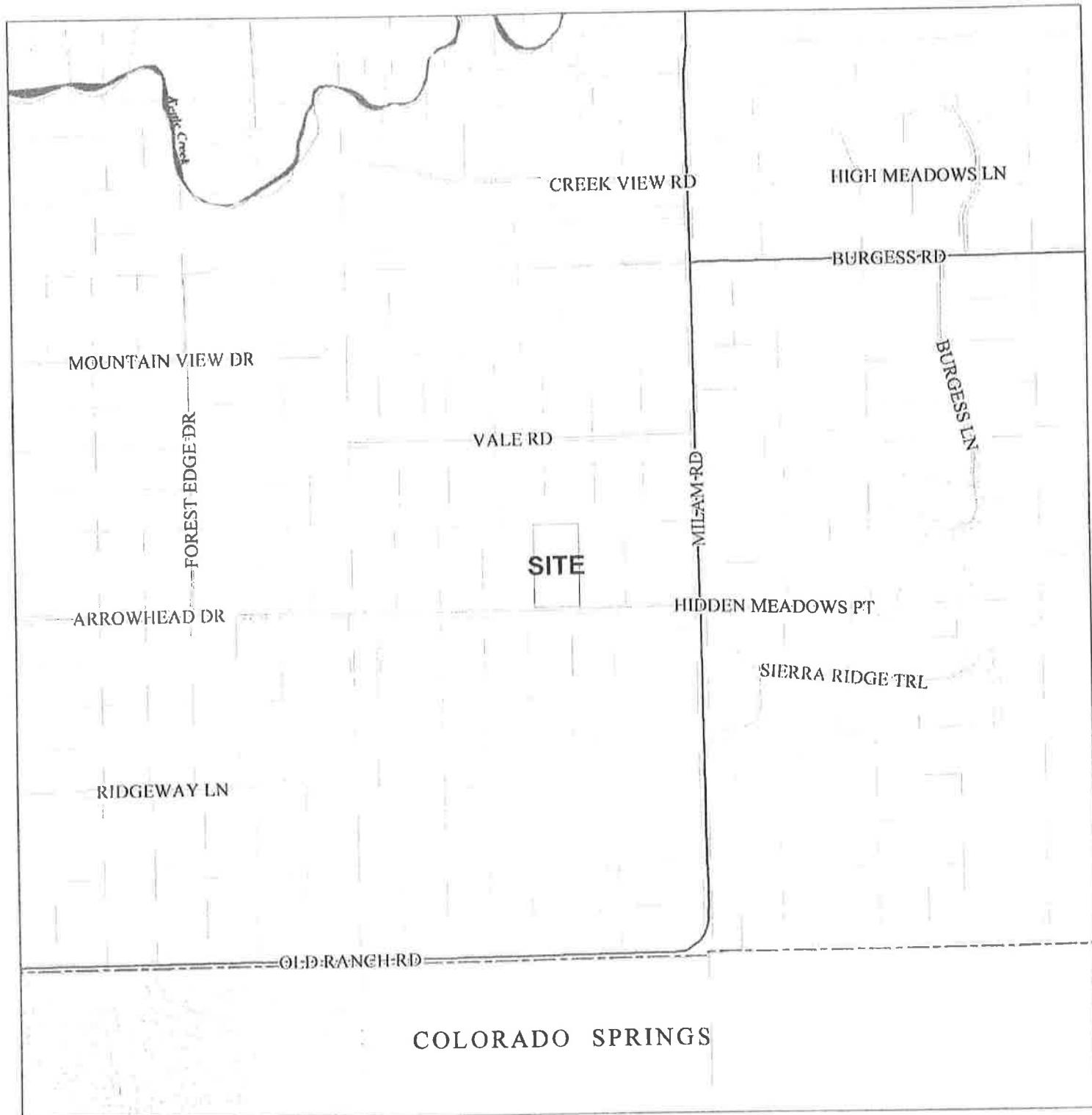
Zone Map No.: ---

PARCEL	NAME
6223000123	BREKKE DEANNA

ADDRESS	CITY	STATE
4590 ARROWHEAD DR	COLORADO SPRINGS	CO

ZIP	ZIP+4
80908	3782

Date: December 4, 2018



COLORADO SPRINGS

Please report any parcel discrepancies to:
El Paso County Assessor
1675 W Garden of the Gods Rd
Colorado Springs, CO 80907
39) 520-6600



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Deanna Brekke Johnson
4590 Arrowhead Drive
Colorado Springs, CO 80908
512-698-2397

LETTER OF INTENT – AMENDMENT TO SPECIAL USE

Date: September 17, 2018

Owner/Applicant: Deanna Brekke Johnson

Site Information: LEGAL DESCRIPTION:
TRACT IN S2S2NE4 SEC 23-12-66 AS FOLS, BEG AT SE COR OF
SD NE4, TH W 1254 FT ON S LN THEREOF FOR POB, TH
E 349 FT ON SD LN, N AT R/A 660 FT TO INTSEC N LN OF
S2S2NE4, W 349 FT ON SD LN, TH S 660 FT TO POB, EX
S 30.0 FT TO COUNTY FOR RD
El Paso County, Colorado

4590 Arrowhead Drive, Colorado Springs, CO 80908
Tax Schedule No. 6223000123
5.09 acres
Zoned RR-5

Request: Deanna Brekke Johnson, the Owner/Applicant, requests an amendment to the special use approval for an existing kennel within the RR-5 (Residential Rural) District that was approved by the Board of County Commissioners ("Board") on February 13, 2018. The Board approved Resolution No. 18-057 (attached) that contained six conditions and three notations. Of relevance to this special use amendment request are the following conditions:

2. There shall be no more than fourteen (14) dogs onsite at any time. This total number shall include personal dogs under the ownership of the property owner.

6. The applicant shall provide a copy of a well permit from the State Engineer for the existing use within 120 days of the date of approval. The due date may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to obtain the well permit.

Following the Board's approval of the special use in February, Ms. Johnson contacted the State Engineer's office to inquire about the process to obtain a well permit that would allow the use of the well for the kennel on her property. She was advised the process would require a change from the existing domestic well use (for a residence, livestock watering and limited outdoor irrigation) to a use for a kennel with up to 10 dogs in addition to the 4 owner's dogs allowed under County ordinances. The State Engineer's Office and a water lawyer Ms. Johnson contacted advised that the process to change the use of her well would entail a prolonged water adjudication process, to include hiring a water

engineer and/or a water lawyer to quantify the amount of additional water that would be used for the 10 additional dogs allowed under the kennel special use, and a water court proceeding that would then approve the adjudication. At that point, Ms. Johnson could apply to the State Engineer for a change in use of her well permit. The water lawyer estimated that the process could cost \$4,000 to \$6,000, as long as there were no objections from water rights owners in the area (which would then increase the costs), and it would take months to complete. The water lawyer suggested that Ms. Johnson bring water for the dogs onto her property and not use her existing well for the kennel use.

Ms. Johnson requests an amendment to the special use condition number 6 to eliminate the requirement of pursuing an adjudication process to change the use of her domestic well to a use that will allow for a kennel and instead, to require that Ms. Johnson bring in water from offsite to be used for the kennel operation, and to document the offsite purchase of the water by retaining receipts of her water purchases in the event a complaint of improper use of her well is received by the State Engineer.

Justification: The requirement to change Ms. Johnson's well permit to allow the kennel use approved by special use was a condition of the Board's approval. However, given the small amount of water used daily for up to 10 additional dogs on the property, the lengthy and expensive process to change the domestic well permit to allow for commercial use is not warranted.

From an internet search, a dog typically drinks from 1 oz of water per day for each pound of body weight (petmd.com; dogster.com). Another veterinarian-related website states a 20 pound dog drinks between 300-500 ml (10-17 oz) of water per day (vetbabble.com). If Ms. Johnson had the maximum of 10 additional kennel dogs at the property every day of the week, and if each dog weighed an average of 80 pounds (not all of her client dogs weigh that much), then she would need a little over one-half gallon per dog per day (80 lb dog drinks 80 oz of water per day; 80 oz = .625 gallons). With 10 dogs, that would equate to 6.25 gallons per day, or 43.75 gallons per week. This calculation assumes all of the client dogs are big dogs, and all 10 kennel dogs are present every day of the week. Yet, over this summer, Ms. Johnson's kennel operation has seen much less client dogs than the allowed maximum.

Ms. Johnson intends to purchase a water storage tank that can be kept filled to ensure all of the water used for the kennel operation comes from the tank and not from the domestic well on the property. She will either contract with a commercial water hauler to receive regular water deliveries or haul the water herself. Ms. Johnson will keep all purchase receipts in the event the State Engineer requests documentation of the water purchases if a complaint about illegal water use is received. Water hauling is an accepted practice in Colorado, according to the State Engineer's Office.

The amendment to the condition requiring a change in well permit to instead allow Ms. Johnson to purchase offsite water for the kennel operation will benefit the neighbors, as she will not be using water from her domestic well, which pumps from the Dawson aquifer, as much as she would if the well permit were changed to allow for the kennel use. Her reduction in use will contribute toward the slowdown in depletion of the Dawson aquifer, which topic is of great concern to Black Forest residents. And, a change in use of her well permit could allow a future owner of her property to request approval from the County of a different commercial use of the property, which could be detrimental to the neighborhood.

For these reasons, Ms. Johnson requests an amendment to condition number 6 of the special use approved by the Board to allow her to purchase water offsite for the kennel dogs and not to pursue a change in her existing well permit.

ATTACHMENT TO LETTER OF INTENT

Chuck Broerman
02/15/2018 04:08:15 PM
Doc \$0.00 5
Rec \$0.00 Pages
El Paso County, CO
218018420

RESOLUTION NO. 18-057

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF COLORADO

APPROVAL OF A SPECIAL USE TO LEGALIZE AN EXISTING KENNEL WITHIN THE RR-5 (RESIDENTIAL RURAL) ZONING DISTRICT (AL-17-021)

WHEREAS, Deanna Brekke did file an application with the El Paso County Planning and Community Development Department for approval of a special use to legalize an existing kennel within the RR-5 (Residential Rural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on January 2, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the application with conditions and notations; and

WHEREAS, a public hearing was held by this Board on February 13, 2018; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.

WHEREAS, pursuant to Section 5.3.2 of the El Paso County Land Development Code, as amended, in approving this special use, this Board considered one or more of the following criteria:

1. The special use is generally consistent with the applicable Master Plan;
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 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;
4. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
5. The special use will comply with all applicable local, state, and federal 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; and/or
7. The special use conforms or will conform to all other applicable County rules, regulations or ordinances.
8. That for the above-stated and other reasons, the proposed special use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED, that the El Paso County Board of County Commissioners, Colorado, hereby approves the application for a special use to legalize an existing kennel within the RR-5 (Residential Rural) zoning district.

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Approval shall be limited to a kennel as described and depicted in the applicant's letter of intent and site plan drawings.
2. There shall be no more than fourteen (14) dogs onsite at any time. This total number shall include personal dogs under the ownership of the property owner.

3. All animal waste shall be disposed of in a manner that complies with the requirements of El Paso County Public Health.
4. Any subsequent addition or modification to the operation or facility beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to administrative review, and if it is the opinion of the Planning and Community Development Director that it constitutes a substantial increase, then such addition or modification shall be subject to review and approval by the Board of County Commissioners.
5. The proposed use shall comply with all requirements of this Code and all County, State and federal regulations except those portions varied by this action.
6. The applicant shall provide a copy of a well permit from the State Engineer for the existing use within 120 days of the date of approval. The due date may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to obtain the well permit.

NOTATIONS

1. Special use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 13th day of February, 2018, at Colorado Springs, Colorado.

Resolution No. 18-057
Page 4

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

ATTEST
EL PASO COUNTY, COLORADO
By: Charles D. Broerman
County Clerk & Recorder

By: [Signature]
President

Chuck Broerman
02/15/2018 04:08:15 PM
Doc \$0.00
Rec \$0.00

El Paso County, CO

Pages 5
218018420

RESOLUTION NO. 18-057

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF
COLORADO

APPROVAL OF A SPECIAL USE TO LEGALIZE AN EXISTING KENNEL WITHIN THE
RR-5 (RESIDENTIAL RURAL) ZONING DISTRICT (AL-17-021)

WHEREAS, Deanna Brekke did file an application with the El Paso County Planning and Community Development Department for approval of a special use to legalize an existing kennel within the RR-5 (Residential Rural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on January 2, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the application with conditions and notations; and

WHEREAS, a public hearing was held by this Board on February 13, 2018; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.

WHEREAS, pursuant to Section 5.3.2 of the El Paso County Land Development Code, as amended, in approving this special use, this Board considered one or more of the following criteria:

1. The special use is generally consistent with the applicable Master Plan;
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 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;
4. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
5. The special use will comply with all applicable local, state, and federal 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; and/or
7. The special use conforms or will conform to all other applicable County rules, regulations or ordinances.
8. That for the above-stated and other reasons, the proposed special use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED, that the El Paso County Board of County Commissioners, Colorado, hereby approves the application for a special use to legalize an existing kennel within the RR-5 (Residential Rural) zoning district.

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Approval shall be limited to a kennel as described and depicted in the applicant's letter of intent and site plan drawings.
2. There shall be no more than fourteen (14) dogs onsite at any time. This total number shall include personal dogs under the ownership of the property owner.

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5. The proposed use shall comply with all requirements of this Code and all County, State and federal regulations except those portions varied by this action.
6. The applicant shall provide a copy of a well permit from the State Engineer for the existing use within 120 days of the date of approval. The due date may be administratively extended by the Planning and Community Development Department Director if the Director determines that the applicant is making a good faith effort to obtain the well permit.

NOTATIONS

1. Special use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or special use conditions/standards are being violated, preceded by notice and public hearing.
3. If the special use is discontinued or abandoned for two (2) years or longer, the special use shall be deemed abandoned and of no further force and effect.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 13th day of February, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

ATTEST
EL PASO COUNTY, COLORADO
By: Charles D Broerman
County Clerk & Recorder

By: [Signature]
President

EXHIBIT A

TRACT IN S2S2NE4 SEC 23-12-66 AS FOLS, BEG AT SE COR OF
SD NE4, TH W 1254 FT ON S LN THEREOF FOR POB, TH
E 349 FT ON SD LN, N AT R/A 660 FT TO INTSEC N LN OF
S2S2NE4, W 349 FT ON SD LN, TH S 660 FT TO POB, EX
S 30.0 FT TO COUNTY FOR RD

RESOLUTION NO. 18-

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF
COLORADO

APPROVAL OF AN AMENDMENT OF SPECIAL USE CONDITION OF APPROVAL
NO. 6 (BOCC RESOLUTION 18-057) (AL-18-022)

WHEREAS, Deanna Brekke did file an application with the El Paso County Planning and Community Development Department for approval of an amendment of a special use to not require a new well permit to provide water to the kennel operation within the RR-5 (Residential Rural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Board on December 20, 2018; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.

WHEREAS, pursuant to Section 5.3.2 of the El Paso County Land Development Code, as amended, in approving this special use, this Board considered one or more of the following criteria:

1. The special use is generally consistent with the applicable Master Plan;
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 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;
4. The special use will not create unmitigated traffic congestion or traffic hazards in the surrounding area, and has adequate, legal access;
5. The special use will comply with all applicable local, state, and federal 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; and/or
7. The special use conforms or will conform to all other applicable County rules, regulations or ordinances.
8. That for the above-stated and other reasons, the proposed special use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED, that the El Paso County Board of County Commissioners, Colorado, hereby approves the application for a special use amendment to allow Deanna Brekke within the RR-5 (Residential Rural) zoning district to not be required to have a new well permit to provide water to the kennel operation.

BE IT FURTHER RESOLVED Condition No. 6 shall be amended and the new condition shall be as follows:

In no case shall the existing well on the property be used for kennel purposes unless specifically approved by the State Engineer's Office and documentation of such approval is provided to the El Paso County Planning and Community Development Department. If water is transported to the site from an offsite source, a copy of a receipt for each water purchase as well as documentation regarding the number of animals boarded per day shall be retained by the applicant and shall be provided upon request to the Planning and Community Development Department Director. Such request may not occur more frequent than

once per calendar year.

DONE THIS 20th day of December, 2018, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

ATTEST:

By: _____
President

By: _____
County Clerk & Recorder

EXHIBIT A

TRACT IN S2S2NE4 SEC 23-12-66 AS FOLS, BEG AT SE COR OF
SD NE4, TH W 1254 FT ON S LN THEREOF FOR POB, TH
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