

EL PASO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
Darryl Glenn, President

FROM: Nina Ruiz, Planner II
Gilbert LaForce, PE Engineer II
Craig Dossey, Executive Director

RE: Project File #: VA-17-001
Project Name: Chung Second Residence
Parcel No.: 62030-00-004

OWNER:	REPRESENTATIVE:
Leisle Chung Revocable Trust 5075 Gibson Lake Court Colorado Springs, CO 80924	McGrady and Associates 2810 Andromeda Drive Colorado Springs, CO 80906

Commissioner District: 1

Planning Commission Hearing Date:	10/16/2018
Board of County Commissioners Hearing Date	12/11/2018

EXECUTIVE SUMMARY

A request by the Leisle Chung Revocable Trust for approval of a variance of use to allow a second dwelling. The 31.33 acre metes and bounds parcel is zoned RR-5 (Residential Rural) and is located east of Highway 83, approximately one quarter (1/4) of a mile south of Old Northgate Road and is within Section 3, Township 12 South, Range 66 West of the 6th Principal Meridian. A concurrent request has been made for an exemption of the subdivision regulations pursuant to C.R.S. §§30-28-101 to legalize the illegal division of land created in 1980. The property is located within the boundary of the Black Forest Preservation Plan (1987).



A. REQUEST/WAIVERS/AUTHORIZATION

Request: Approval of a variance of use to allow a second dwelling.

Waiver(s): There are no waivers requested with this application.

Authorization to Sign: There are no documents associated with this application that require signing by the Chair.

B. PLANNING COMMISSION SUMMARY

Request Heard: As a Regular Item at the October 16, 2018 hearing.

Recommendation: Approval with recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 8 to 0

Vote Rationale: N/A

Summary of Hearing: Planning Commission draft minutes are attached.

Legal Notice: N/A

C. APPROVAL CRITERIA

In approving a variance of use, the Board of County Commissioners may consider the following criteria for approval outlined in Section 5.3.4 (Variance of Use) of the El Paso County Land Development Code (2018):

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- 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 to the health, safety, or welfare of the inhabitants of the area and County;
- 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 use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- 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.

D. LOCATION

North:	RR-5 (Residential Rural)	Agricultural
South:	RR-5 (Residential Rural)	Agricultural
East:	RR-5 (Residential Rural)	Agricultural
West:	RR-5 (Residential Rural)	Agricultural

E. BACKGROUND

On July 17, 1972, El Paso County adopted subdivision regulations pursuant to Colorado Revised Statutes § 30-28-101. The effect of adopting the subdivision regulations in 1972 is that any subsequent division of land that results in the creation of a parcel having less than 35 acres in size must be approved by the Board of County Commissioners through a subdivision action or as an exemption from the subdivision regulations. The subject parcel is 31.33 acres in size and was created on June 20, 1980, without the approval of the Board of County Commissioners; therefore, the parcel is considered an illegal division of land. The letter of intent details the chain of title to explain why the illegal division of land was not discovered until recently:

“On or about June 20, 1980, the Robinsons deeded approximately 3.6 acres to a neighbor. The 3.6-acre parcel became part of a larger 266.92-acre parcel (Parcel No. 6200000661). On or about December 3, 1980, the Robisons quitclaimed all the property in the North half of the Southeast Quarter of Section 3 that is south of the southern boundary of the existing parcel. This property became part of two parcels which are 35.01 acres and 81.29 acres, respectively (Parcel Nos. 6203000012 and 6203000011, respectively).

These two transfers left the remaining parcel only 31.83 acres. However, when the Robisons transferred the remaining 31.8-acre parcel in 1998 to William and Carolyn Edwards the legal description did not except out the 3.6-acre parcel that was conveyed in 1980. Thus, the Edwards believed they were acquiring a 35-acre parcel. The Edwards' title insurance also did not except out the 3.6-acre parcel from the legal description. The Edwards had an Improvement Location Certificate created on May 2, 2000 that confirmed the erroneous 35-acre legal description. Thus, the Edwards had every reason to believe they had acquired 35 acres from the Robisons.

Based on the belief that the parcel was 35 acres, the Edwards were issued a well permit on September 1, 1998, a building permit to build their home (Permit # D51714) on June 16, 1999, and a certificate of occupancy for their home on February 18, 2000.

The error in the legal description was not discovered until the property was being conveyed to the current owner (the Applicant) in 2014. The Applicant was unaware that the lot had been illegally subdivided until 2017 when the Applicant was going through the Variance of Use application process with the County planning staff.”

C.R.S. § 30-28-101 authorizes the Board of County Commissioners to exempt parcels from subdivision regulation. A concurrent request for an exemption of subdivision has been requested. An exemption of subdivision is heard before the Board of County Commissioners and not before the Planning Commission. The subdivision exemption request is anticipated to be scheduled for hearing before the Board of County Commissioners on November 13, 2018. The variance of use has been requested to allow a second dwelling. The second dwelling is proposed to be constructed for the occupants and the occupants parents will reside in the existing home, as they have done so for years. The proposed home does not qualify as an extended family dwelling as it will exceed the maximum size allowance of 1,500 square feet and is requested to be 10,000 square feet in size. A variance of use must be approved for a second dwelling prior to Planning and Community Development authorizing a building permit for construction of the second home.

F. ANALYSIS

1. Land Development Code Analysis

A variance of use has been requested to allow a second dwelling. The second dwelling is proposed to be constructed for the occupants and the occupants parents will reside in the existing home. This type of a home may be considered extended family housing if there is a familial need. The extended family housing may be approved with an administrative special use. However, the extended family house is limited to no greater than 1,500 square feet in size, whereas the home being proposed will greatly exceed that allowance at a size of 10,000 square feet. The request is being made for a variance of use to allow a second residence on the property, without the occupancy being limited to family members only and without a familial need being established, which would be requirements if the dwelling was being otherwise proposed as extended family housing.

2. Zoning Compliance

The property is zoned RR-5 (Residential Rural), which does not allow two (2) homes on the same property as permanent full-time residences. The proposed second residence will meet all the dimensional standards of the RR-5 (Residential Rural) zoning district.

3. Policy Plan Analysis

Consistency with the El Paso County Policy Plan (1998) is not a required review criteria for a variance of use request. For background, the Policy Plan has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County master plan. Relevant policies are as follows:

Policy 6.2.11 Encourage compatible physical character, density and scale in existing neighborhoods.

Policy 6.2.12 Ensure that proposed zone changes and/or use variances in established neighborhoods are of compatible scale and physical character.

The majority of the surrounding developed properties have two residential structures onsite. The neighbor directly to the southwest has a main house and a guest house, which only allows for temporary and not permanent habitation. There are two properties with multiple homes that were built prior to zoning (located at 15555 Highway 83 and 13580 Bridle Bit Road). There is another property along Highway 83 that has two homes (13535 Highway 83). The houses in this area are quite large and range in size from 4,000 square feet to 15,000+ square feet in size. Based upon the existing multiple residential structure situations of the nearby properties, staff recommends that the proposed second dwelling could be found to be generally compatible with the density and scale of the surrounding area.

4. Small Area Plan Analysis

The property is within the Black Forest Preservation Plan (1987), specifically Planning Unit 4 (Shoup & Highway 83). Consistency with the Plan is not a required review criteria for a variance of use request. For background, the Plan has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County master plan.

Planning Unit 4 of the Plan recommends limited development, including large lot residential development with no more than one dwelling unit per five acres. The variance of use approval will result in a density of one dwelling unit per 15.5 acres.

5. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the property as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies potential stream terrace deposits in the area of the subject property. A mineral rights certification was prepared for the application indicating that, upon researching the records with El Paso County, no severed mineral rights exist.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No physical hazards were identified in the review of the variance request.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the property as having a low wildlife impact potential.

3. Floodplain

The property is not impacted by any designated floodplain as indicated by FEMA's Flood Insurance Rate Map Number 08041C0295F dated March 17, 1997.

4. Drainage And Erosion

The property is located within Black Squirrel Creek (FOMO3600), which is included in the Drainage Basin Fee Program; however, drainage or bridge fees are not assessed with variance of use requests.

5. Transportation

The property is accessed from State Highway 83 via an existing private road. A CDOT State Highway Access Permit (permit no. 217025) has been approved to allow the additional single family home.

A traffic impact study was not required and the County Road Impact Fee does not apply to this request because the variance of use is not expected to generate 100 more daily vehicle trips than the property would be expected to generate without the variance of use request being approved. However, effective on and after January 1, 2020, the obligation to pay Road Impact Fees is triggered by issuance of a Building Permit.

H. SERVICES

1. Water

The property is served by a well that allows for up to three (3) single family residences (well permit no. 212373).

2. Sanitation

The existing residence is served by an onsite wastewater treatment system (OWTS). The second home will also be served by a new OWTS.

3. Emergency Services

The site is located within the boundaries of the Black Forest Fire Protection District. The District was sent a referral and did not respond.

4. Utilities

Black Hills Energy provides natural gas and Mountain View Electric Association provides electricity to the subject parcel.

5. Metropolitan Districts

The property is not located within a metropolitan district.

6. Parks/Trails

There are no planned parks/trails on the subject parcel. No park fees or land dedication in lieu of fees are required for this application.

7. Schools

The property is located within the Falcon School District No. 49. No school fees or land dedication in lieu of fees are required with this application

I. APPLICABLE RESOLUTIONS

See Attached Resolution

J. STATUS OF MAJOR ISSUES

There are no unresolved major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in 5.3.4 (Variance of Use) of the El Paso County Land Development Code (2018), staff recommends the following condition and notations:

CONDITION

1. A residential site plan must be approved prior to the construction of the home.

NOTATIONS

1. Variance of 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 variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified five (5) adjoining property owners on September 26, 2018, for the Board of County Commissioners' hearing. Responses will be provided at the hearing should any be received.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
CDOT Access Permit
Planning Commission Draft Minutes
Planning Commission Resolution
Board of County Commissioners' Resolution

El Paso County Parcel Information

PARCEL	NAME
6203000004	CHUNG LEISLE REVOCABLE TRUST

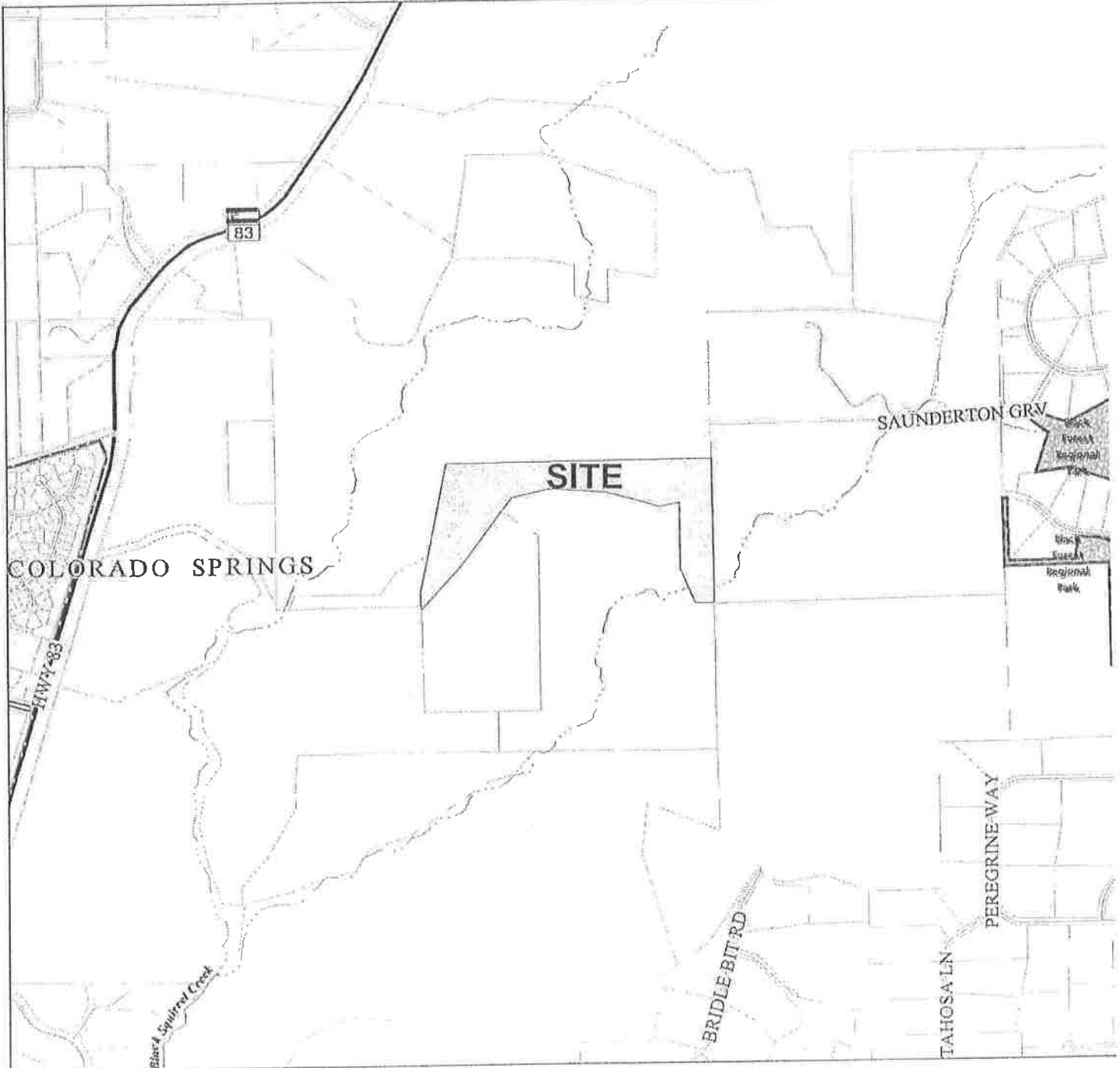
File Name: VA-17-001

Zone Map No: --

ADDRESS	CITY	STATE
5075 GIBSON LAKE CT	COLORADO SPRINGS	CO

ZIP	ZIPPLUS
80924	8200

Date: September 25, 2018



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
(719) 520-6600



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Letter of Intent and Response Letter for Chung Second Residence

August 9, 2017

El Paso County Planning and Community Development Department
ATTN: Nina Ruiz
2880 International Circle, Ste 110
Colorado Springs, CO 80910

RE: Variance of Use Application
13975 Hwy 83
Colorado Springs, CO 80921

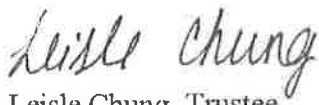
Dear Ms. Nina Ruiz:

Thank you for providing comments on our original Letter of Intent, in your letter dated March 8, 2017. Over the past months, we have diligently worked towards completing requests. This is a revised Letter of Intent to incorporate your feedback, and replaces that original Letter of Intent. It also constitutes our response letter to your March 8 comment letter.

This letter begins with responses to your comments and then presents the case for how this request complies with the "Variance of Use Criteria" in Chapter 5 of the Land Use Development Code.

Thank you for the opportunity to make this application.

Sincerely,
Leisle Chung Revocable Trust



By: Leisle Chung, Trustee

Postscript added 09/12/18: Following the submission of this letter, we were informed that the property was non-conforming and needed to go through the subdivision exemption process. We submitted an application for subdivision exemption, which is being considered concurrently with this request.

Owner/Developer

Leisle Chung Revocable Trust
5075 Gibson Lake Court
Colorado Springs, CO 80924
(719)-429-7758

Consultant

James McGrady
McGrady and Associates
2810 Andromeda Drive
Colorado Springs, Co 80906
(719)-494-3782

Location

The site is located at 13975 Highway 83 and consists of 31.8 Acres and is located the North East quarter of the South East Quarter of Section 3 Township 12 South, Range 66 West of the 6th P.M. in El Paso County, Colorado. The Site is generally east of the Intersection of Highway 83 and Northgate Boulevard.

Application Request

Variance of use to construct a second residence on a property that is zoned RR-5 and is comprised of 31.8 acres. The home will be approximately 10,000 square feet in size, consistent with the size of homes in the immediate surrounding area.

Response to comments

Comment 1: We have received comments from adjacent property owners stating there is a condition in the CDOT access permit that limits the number of homes to be served. Please provide a copy of the CDOT access permit indicating your parcel may have two homes.

Response: We have received an Access Permit from CDOT (attached). It grants permission for an additional home to be serviced by the existing access road. At the time requested by CDOT, we will be restriping Highway 83 to comply with the CDOT requirements.

Comment 2: How large is the proposed outbuilding and what will its purpose be? The variance of use will not include the outbuilding and if the proposal is not consistent with the zoning another action may be necessary.

Response: The intent of the new outbuilding in the original Letter of Intent was to keep outdoor work equipment. We have dropped and hereby withdraw this request since it is out of scope for the variance of use.

Comment 3: There appears to be a discrepancy in the lot size. Please have your surveyor confirm the lot size and add it to the drawings and revise all information accordingly.

Response: *(revised 9/12/18)* The newly submitted drawings that accompany this application reflect a lot size of 31.8 acres. As a result of this comment, we have submitted an application for subdivision exemption seeking to legalize our non-conforming lot.

Comment 4: Clarify that the request is not for an extended family dwelling unit but for a second home. The letter of intent leads the reader to believe the request is different than what you have applied for. Should the request have been for an extended family dwelling of the proposed size a special use would be required.

Response: This request is for a Variance of Use to allow a second home, and it is not for an extended family dwelling unit. The existing home is currently occupied by Leisle Chung's parents and the new home will be initially occupied by Leisle Chung and her husband and children. However, the request is for a Variance of Use to allow for future flexibility, should the applicant's parents no longer reside in the original house or other circumstances change.

Comment 5: The letter of intent does not address the County Policy Plan or Black Forest Preservation Plan. Please include specific citations for how your request is consistent with these plans. The variance of use does not require a finding specific to these plans but it does help support consistency with the surrounding area.

It is the Applicant's intent to maintain the unique environmental and residential character of the planning area through strict compliance with any density guidelines. The subject property is located within the Northgate Visual Unit Boundary, as defined in the Black Forest Preservation Plan, and is immediately east of Highway 83 and Northgate Road. This parcel of land has an area of over 31 acres. The proposed variance seeks to construct a second home on the 31+ acre parcel. The owner does not anticipate subdividing the parcel and is requesting that two homes be allowed to be built on the parcel and is therefore requesting a variance of use to do so.

The existing home and out buildings are generally located in the northeast corner of the parcel. It is anticipated that the second home will be located near the existing home as shown on the enclosed plot plan in the northeast corner of the parcel. In addition to this, the property is subject to deed restrictions which dictate where a second home could be constructed. These restrictions have been plotted on the deed restriction drawing.

The Black Forest Preservation Plan

The Black Forest Preservation Plan was completed in 1974 and a full update created in 1987 to provide an advisory planning tool for this specific sub-area of the county. Chapter 3 is "meant to function as the primary applied portion" of the plan, as a guide in the review, administration and implementation of land use decisions.

The following are the critical issues identified by the plan and the impacts, if any, of the Applicant's request on those issues.

- *History:* Applicant's request does not impact any historic sites or structures.
- *Socioeconomic:* Applicant's request will not reduce the socioeconomic mix.

- *Natural systems:* Applicant appreciates the natural systems which exist on the property and hopes to maintain them. Applicant's request will not affect the Ponderosa Pines which are located throughout the property. The building envelope is intentionally located in an open area. Applicant will adhere to all requirements on septic recharge. Applicant's request does not include the grazing of livestock on the property. Applicant's request will not exacerbate dust problems because no new unpaved roads will be created. No impact on wildlife has been identified.
- *Groundwater:* Please see the discussion in other sections below regarding well and septic.
- *Community services and public facilities:* Applicant's variance of use is for a second home on a property already serviced by public facilities. Applicant's property is between Cathedral Pines and Flying Horse, both neighborhoods with higher density.
- *Transportation:* No new roads will be created. The only alteration will be at the request of the Colorado Department of Transportation to restripe a portion of Hwy 83, which Applicant will accomplish upon approval of the Variance of Use and at the time requested by CDOT in conjunction with construction of the second home.
- *Visual Analysis:* Applicant's property is not visible from any public access roads. Applicant's second home is intended to be a beautiful residence that will be consistent with the themes desired in Black Forest. All on site electric lines serving the second home will be underground and will not impact the view shed of the surrounding homes.

If the Variance of Use is approved, the applicant will have two homes on a parcel that is >31 acres which is sufficient for two homes. With this density, it would still be considered rural (lots >10 acres), in line with the goal to "Retain the Black Forest Planning area as a primarily rural residential community." It adheres to the policy of promotion of "an overall average minimum lot area of 5 acres."

The design and location of the second home will preserve the sensitive natural environment and unique community character of the Black Forest Planning Area. Beyond what has been outlined above:

- The Applicant is adhering to existing deed restrictions which impact the height and location of the building. The home will be 28 feet in height.
- The second home will follow the guideline of being a "safe and attractive dwelling unit." The home will be constructed of building materials, designs, and façade treatments which allow the structures to blend into or accent the natural environment.
- The second home will be clustered near the existing home and existing out buildings thereby minimizing the appearance of sprawl and generally preserving the open spaces which exist on the property.

The second home will perpetuate the rural character of the Black Forest Planning Area by maintaining open space across the majority of the lot. The second home will be built within planned building areas as defined by deed restrictions. The homes will be served by two septic systems and one well that is decreed for multiple homes. The septic systems will be built within the allowable areas for construction. The homes will not impede the views of Pikes Peak and/or the Front Range from other homes located in the area.

The County Policy Plan

The County Policy Plan functions as the overall policy element of the county master plan. Small Area Plans, such as the Black Forest Preservation Plan, are incorporated as elements of the master plan. As such, the following include only the portions not already addressed by the preceding section on the Black Forest Preservation Plan.

Addressed in previous section under Black Forest Preservation Plan, as well as in following sections of this letter.

- 2.0 Natural Systems
- 4.0 Historic Resources
- 9.0 Transportation
- 10.0 Water and Wastewater
- 11.0 Drainage and Flood Protection

Other sections:

- 3.0 Water Resources. The second home will be served from an existing well that currently serves the existing home. The well is permitted for fire protection, ordinary household purposes, inside for not more than three homes. The well is also permitted for the irrigation of not more than one acre of gardens and lawns. Based on the Applicant's current intent for the well, approximately 90% of the water pumped will return to Black Squirrel Creek through the alluvium. More detail regarding the water resources are found in later sections of this letter.
- 5.0 Economic Development: Does not apply to the Applicant because this is a residence. No economic harm is expected.
- 6.0 Growth and Land Use: The Variance of Use would not contradict any of the goals outlined for appropriate growth and land use. The policy is to encourage new development that is consistent with Small Area and other adopted plans.
- 7.0 Special and Unique Land Uses: Does not apply
- 8.0 Parks, Trails, and Open Space: The Variance of Use does not contradict these goals.
- 12.0 Other Services and Utilities: The building site has access to a well. Electricity already runs to the proposed building site, and comment from MVEA indicates that it is a certificated service area that it will continue to serve. A propane tank will likely be installed. A well already exists to service another home.
- 13.0 Housing: Most policies in this section relate to affordable and low-income housing, as well as housing alternatives for special populations.

Comment 6: Please consider revising the letter of intent to eliminate statements without supporting evidence or basis for the conclusions.

Response: Revisions have been made throughout, and this Letter of Intent replaces the prior Letter of Intent.

Comment from Enumerations: The proposed residence will require an address separate from the existing residence. The property owner should contact Enumerations to establish this address prior to submitting plans for permit.

Response: The property owner will contact Enumerations and secure an address prior to issuance of building permit.

Comment from Mountain View Electric Association: This area is within MVEA certificated service area. MVEA will continue to serve this area according to our extension policy. Information concerning connection requirements, fees and upgrades under MVEA line extension policy can be obtained by contacting the Engineering Department of MVEA.

MVEA has no objection to the approval of this variance of use request.

MVEA has existing facilities near and within this parcel of land. If there is any removal or relocation of facilities it will be at the expense of the applicant and a review of easements will be required in order to serve.

Response: The property owner will adhere to MVEA comments.

The following had no comments: Floodplain

The following have not issued comments: BFLUC, Black Forest Fire, Black Hills, EPC Health, Engineering Division.

Compliance with “variance of use criteria” in Section 5.3.4(C) of Chapter 5 of the Land Use Development Code

The RR-5 zoning allows for one single family residence as indicated on the uses chart. There is no allowance for a duplex, additional dwelling, attached home, etc. A mother-in-law residence is allowed if it is no greater than 1,500 sft and does not have a kitchen.

This application asks that a second single family residence be allowed to be constructed. All other applicable County Codes shall be adhered to.

According to 5.3.4.(C), in approving a variance of use, the following criteria may be considered. All criteria are in blue with a response to each.

Criteria: The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.

The property is zoned RR-5 which allows for one home as a use by right. The land use code also allows for the construction of a second home, as a Variance of Use. The existing home is currently occupied by Leisle Chung’s parents, and the applicant desires to build a second home on the property to be initially occupied by Leisle Chung, her husband, and children. Living next to Leisle Chung’s parents, and being able to more easily care for them as they age, is important to Leisle Chung and her family.

It would cause practical difficulties and hardship for the Chungs to live with her parents in the single existing home, or to live in a mother-in-law type dwelling. Living away from the subject property as is currently the situation makes looking after them more difficult and causes practical difficulties and hardship for the Chungs, which will likely increase as her parents age.

The applicant requests a variance of use, not an extended family dwelling, to allow for future flexibility, should the applicant's parents no longer reside in the original house or other circumstances change.

The land use code contemplates second homes, and this situation and property are a very good example of circumstances that support the issuance of a Variance of Use to allow a second home.

Criteria: 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 to the health, safety, or welfare of the inhabitants of the area and County;

The property is located in Black Forest, where homes exist on minimum lots of 5 acres. The property has more than sufficient acreage (31+ acres) to accommodate an additional home. Please also see response above regarding how this request is consistent with the advisory guidelines of the Black Forest Preservation Plan. The second home would be 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 to the health, safety, or welfare of the inhabitants of the area or the County. The home will be approximately 10,000 square feet which is compatible with the surrounding homes.

Criteria: 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.

Applicant will work with a reputable builder to ensure that construction and completion are in accordance with the air, water, odor or noise standards established by County, State or federal regulations. The second home will be able to meet applicable air, water, odor and noise standards established by the County, State or federal regulations.

Criteria: The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action

The proposed use, a second single family home, will adhere with all other requirements outlined in this Code and applicable regulations. Applicant will work with a reputable builder, obtain all required permits, and adhere to regulations except those portions varied by the Variance of Use.

The proposed use will not adversely affect wildlife or wetlands.

No adverse effects of wildlife have been identified by applicant or commenting agencies. The building area is in a location used by prior owners to graze cattle, horses, and had an RV over an

extended period of time. The proposed building area is not located in wetlands. The second home will be located near the existing home, and will not impact the majority of this large parcel.

The applicant has addressed all off-site impacts.

No off-site impacts have been identified by applicant or commenting agencies. As stated above, Applicant will comply with any and all requirements of the CDOT Access Permit.

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 incorporates all elements above, where necessary. Sufficient parking will exist for the home occupants and visitors. The Applicant has addressed road impacts through the Access Permit. The second home is clustered to retain open space on the property. The property does not affect open spaces designated by the county. No additional fencing is planned as part of this Application. The second home will not affect neighbor's views of the mountains. Landscaping will exist for at least 5 feet around the boundary of the home.

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

The second home will not require public facilities and services greater than presently available. Sewer, water, stormwater drainage, fire protection, police protection, and roads are available and adequate to serve the second home.

Sewer & septic

The applicant will provide to the El Paso County Planning Department an approved application for a septic service permit, to serve the second home. Each home will be served by separate on site waste systems. The applicant intends to build a second onsite waste disposal system that complies with the requirements set for in well permit number.

Water

The well permit issued by the State of Colorado's Office of the State Engineer Division of Water Resources allows serving up to three homes from the existing well permit number 212373.

Both the existing home and the second home will be served Well permit Number 212373 issued September 1, 1998. Said well was drilled in the NE ¼ SE ¼ of Section 3 Township 12 South Range 66 West of the 6th P.M. The well was approved pursuant to CRS 37-92-602(3)(b)(II)(A) as the only well on the tract of land described as that portion of the SE ¼ Section 3 Township 12 South, Range 66 West 6th P.M., El Paso County.

The use of the ground water from this well is limited to fire protection, ordinary household purposes inside not more than three single family dwellings, the irrigation of not more than one acre of home gardens and lawns, and the watering of domestic animals.

Plain casing was installed and properly sealed to a minimum of 100 feet. The total depth of the well does not exceed 460 feet, which corresponds to the base of the Dawson Aquifer.

The maximum pumping rate shall not exceed 15 gallons per minute.

The return flow from the use of the well must be through individual waste water disposal system(s) of the non-evaporative type whereby the water is returned to the same stream in which the well is located.

Fire & Police protection

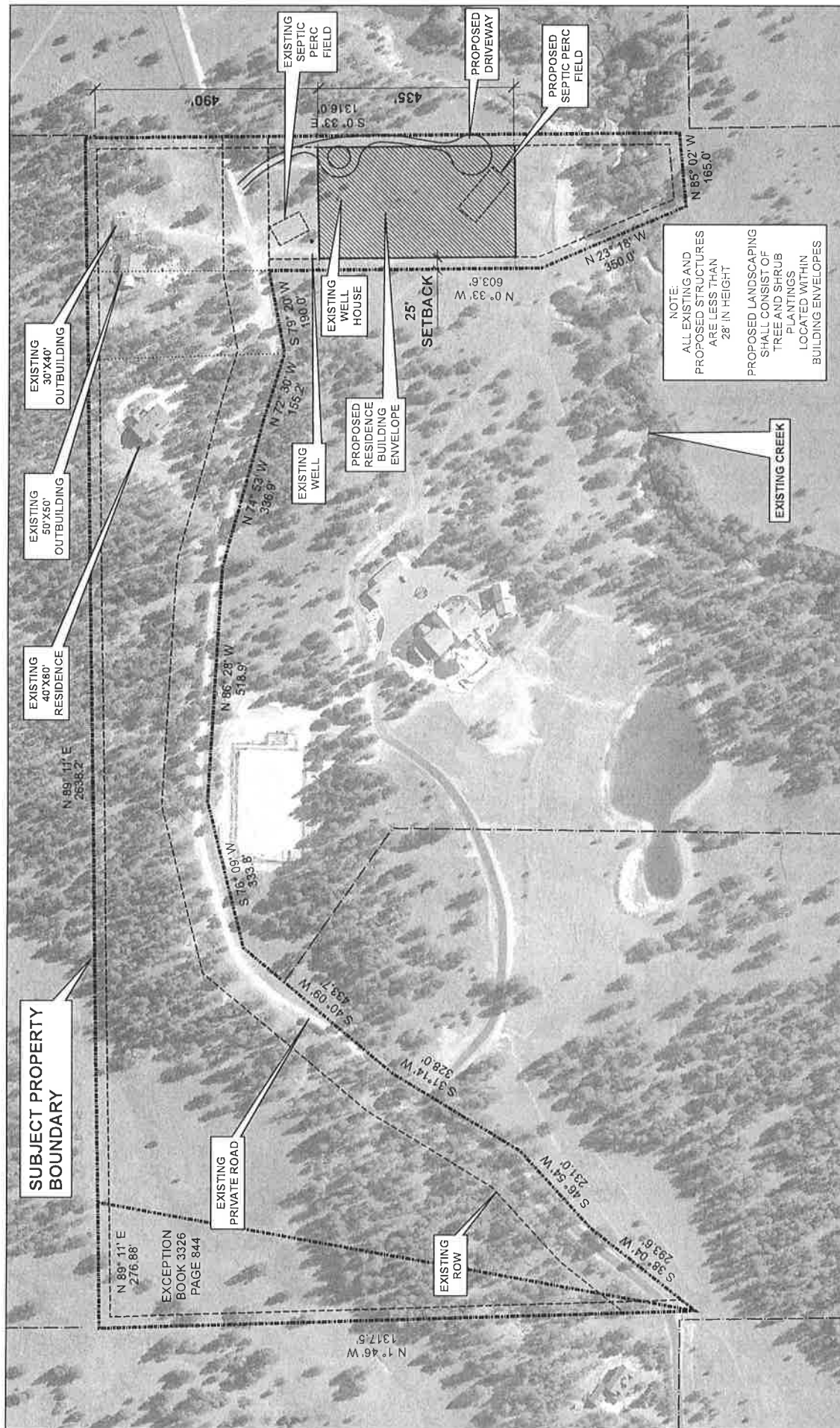
Fire and police protection exist for the area in question.

Road

The property is accessed by an existing driveway that has been in place for over 50 years. Applicant has a legally deeded right to the access based on the acquisition deed describing the property and access easement, as described in the original 1959 deed. Applicant's title insurance also insures its ownership of the property and the easement rights.

The applicant has secured an access permit from CDOT for an additional home. Upon approval of the Variance of Use and at the time required by CDOT, applicant will proceed with CDOT's requirement to restripe Hwy 83 for the second home.

A traffic impact study is not required as the anticipated trip generation is less than 100 trips per day and less than 10 trips during the peak hour.



1 inch = 200 feet



PLOT PLAN

13975 HIGHWAY 83, EL PASO COUNTY COLORADO

CONTACT/APPLICANT:
JAMES McGRADY
McGRADY & ASSOCIATES
2810 ANDROMEDA DR.
COLORADO SPRINGS, CO 80906
(719) 494-3782

OWNER/APPLICANT:
VINHAI LEISLE CHUNG
5075 GIBSON LAKE CT.
COLORADO SPRINGS, CO 80924
(719) 429-7928

PREPARED BY:
MARK BUTTON
VISUAL ENVIRONMENTS, INC.
P.O. 1263, ELIZABETH, CO 80107
(303) 646-2985

DATE: 7/25/17



COLORADO

Department of Transportation

Region 2

Access Permitting
PO Box 536
Pueblo CO 81002

June 20, 2017

ATTN: Leisle Chung
5075 Lake Gibson Court
Colorado Springs, Colorado 80924

**RE: State Highway Access Permit No. 217025, Located at MM 22.88 on the east/right side of SH83
(addressed as 13975 SH83, Colorado Springs, CO 80921).**

Dear Permittee:

The Colorado Department of Transportation (CDOT) has received your signed permit and application fee. A copy of the issued permit is enclosed. The next step in the CDOT access permitting process is for you (Applicant) to obtain a Notice to Proceed (NTP). ***Failure to obtain an approved Notice to Proceed prior to any construction will be a violation of the State Highway Access Code (2 CCR 601-1, "the Code") § 2.4.***

Notice to Proceed Information

Well in advance of construction, the Applicant shall request a NTP in writing along with submitting other items, such as construction drawings, specifications, and other required documents to CDOT. The Applicant must submit a complete packet of this information to CDOT with their written request. If the Applicant chooses not to request the NTP, the permit expires pursuant to subsection 2.3(11)(d).

CDOT has seven days to determine if the NTP submittal is complete for review and then notify the applicant of any deficiencies. If complete, CDOT will review and comment on the submitted information within 30-days. If CDOT determines the information is unacceptable, missing, or in need of correction, the Applicant shall correct their submittal and resubmit the complete request for NTP.

Once resubmitted, CDOT will review the revised NTP documents within 10-days. If the revised documents are satisfactory, CDOT will issue a NTP. If further corrections are necessary, the cycle of submittal, review and comments will repeat itself until approval is granted and the NTP is issued.

The request for NTP shall include the following documents, along with any other items specified in the Terms and Conditions of your permit:

- 1) Cover Letter Requesting a NTP
- 2) The permittee shall prepare and submit an approved striping plan to the intersection of SH83 & the access; for the existing and proposed change-in use to the access. The construction & inspection of the access shall be discussed and coordinated at least 5 days prior to any work within the ROW with the CDOT Access Construction Inspector.

Feel free to contact me at 719-562-5537 with any questions.

Respectfully,

Andrew Lewis
Region 2 Assistant Access Manager



COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT		CDOT Permit No. 217025
		State Highway No / Mp / Side 083A / 22.880 / Right
Permit Fee \$50.00	Date of Transmittal 6/6/17	Region / Section / Patrol / Name 2 / 04 / 39 / Brad Bauer
		Local Jurisdiction El Paso County

The Permittee(s):

Leisle Chung
 5075 Lake Gibson Court
 Colorado Springs, Colorado 80924
 (719) 429-7948

The Applicant(s):

James McGrady
 2810 Andromeda Drive
 Colorado Springs, Colorado 80904
 (719) 494-3782



is hereby granted permission to have an access to the state highway at the location noted below. The access shall be constructed, maintained and used in accordance with this permit, including the State Highway Access Code and any attachments, terms, conditions and exhibits. This permit may be revoked by the Issuing Authority if at any time the permitted access and its use violate any parts of this permit. The issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.

Location: 13975 SH83, Colorado Springs, CO 80921

PAID
 6/15/17
 \$50 - CK # 3633

Access to Provide Service to:	(Land Use Code)	(Size)	(Units)
	210 - Single-Family Detached Housing	5	Each
	997 - Agriculture	35.5	Acres

Additional Information: SEE ADDITIONAL TERMS AND CONDITIONS. Access easement served by recorded warranty deed recorded in El Paso County, May 13, 1959.

MUNICIPALITY OR COUNTY APPROVAL

Required only when the appropriate local authority retains issuing authority.

Signature	Print Name	Date	Title

Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from Initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used.

The permittee shall notify Todd Ausbun with the Colorado Department of Transportation, at (719) 696-1403 at least 48 hours prior to commencing construction within the State Highway right-of-way.

The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and its terms and conditions.

Permittee Signature: <i>Leisle Chung</i>	Print Name Leisle Chung	Date 6/15/17
Co-Permittee Signature: (if applicable)	Print Name	Date

This permit is not valid until signed by a duly authorized representative of the Department.

COLORADO DEPARTMENT OF TRANSPORTATION

Signature	Print Name	Title	Date (of issue)
<i>[Signature]</i>	ANDREW LEWIS	ASST. ACCESS MGR	6/20/17

Copy Distribution:

Required:
 1. Region
 2. Applicant

3. Staff Access Section
 4. Central Files

Make copies as necessary for:
 Local Authority Inspector
 MTCE Patrol Traffic Engineer

Previous editions are obsolete and may not be used
 Page 1 of 3 CDOT Form #101 5/07

STATE HIGHWAY ACCESS PERMIT # 217025

June 6, 2017

Permittee: Leisle Chung Revocable Trust

Applicant: McGrady and Associates, James McGrady 719-494-3782

- General 1. CDOT retains the right to perform any necessary maintenance work in this area.
2. **WORKER SAFETY AND HEALTH** All workers within the State Highway right of way shall comply with their employer's safety and health policies/procedures, and all applicable U.S. Occupational Safety and Health Administration (OSHA) regulations including, but not limited to the applicable sections of 29 CFR Part 1910 - Occupational Safety and Health Standards and 29 CFR Part 1926 - Safety and Health Regulations for Construction. At a minimum, all workers in the State Highway right of way, except when in their vehicles, shall wear the following personal protective equipment: Head protection that complies with the ANSI Z89.1-1997 standard; At all construction sites or whenever there is danger of injury to feet, protective footwear that complies with the ANSI Z41-1999 standard will be worn; High visibility apparel as specified in the Traffic Control provisions of this permit (at a minimum, ANSI/ISEA 107-1999, Class 2). Where any of the above-referenced ANSI standards have been revised, the most recent version of the standard shall apply.
- Insurance 3. A certificate of insurance naming the Colorado Department of Transportation (CDOT) as an additional insured is required to be submitted before work begins.
- Traffic 4. No interference with traffic will be allowed after 12:00 Noon the day before a 3- or 4-day holiday weekend, as listed under 108.06 of the Standard Specifications for Road and Bridge Construction.
5. Traffic control and work hours on state highways, interstates and freeways will be allowed as determined by the CDOT Inspector for this permit and area only.
6. The Permittee shall coordinate all traffic control operations with any special events in the area. The Permittee shall not schedule operations that interfere with traffic from 2 hours before until 2 hours after any such event.
- Access 7. A NOTICE TO PROCEED TO CONSTRUCTION, CDOT Form 1265, is required before beginning the construction of the access or any activity in the highway right-of-way. All submittals, documents, plans, and other items that must be completed shall be submitted and approved by the Department before a NOTICE TO PROCEED to construction will be issued.
8. The access is located on the right/east side of State Highway 83A, a distance of 640 feet south from milepost 23 (22.88).
9. This section of highway is a Category E-X highway. The applicant shall submit the following information with the request for the Notice to Proceed:
- The permittee shall prepare and submit an approved striping plan to the intersection of SH83 & the access; for the existing and proposed change-in use to the access.
 - The construction & inspection of the access shall be discussed and coordinated at least 5 days prior to any work within the ROW with the CDOT Access Construction Inspector.
10. This Access Permit is issued to allow access to State Highway 83 for a change in use of the property. The previous use of the access was to serve 4 single family homes. The access will now serve 5 single family homes by easement in the submitted warranty deed recorded in El Paso County, May 13, 1959.

**State Highway Access Permit
Form 101, Page 2**

The following paragraphs are excerpts of the State Highway Access Code. These are provided for your convenience but do not alleviate compliance with all sections of the Access Code. A copy of the State Highway Access Code is available from your local issuing authority (local government) or the Colorado Department of Transportation (Department). When this permit was issued, the issuing authority made its decision based in part on information submitted by the applicant, on the access category which is assigned to the highway, what alternative access to other public roads and streets is available, and safety and design standards. Changes in use or design not approved by the permit or the issuing authority may cause the revocation or suspension of the permit.

APPEALS

1. Should the permittee or applicant object to the denial of a permit application by the Department or object to any of the terms or conditions of a permit placed there by the Department, the applicant and permittee (appellant) have a right to appeal the decision to the [Transportation] Commission [of Colorado]. To appeal a decision, submit a request for administrative hearing to the Transportation Commission of Colorado within 60 days of transmittal of notice of denial or transmittal of the permit for signature. Submit the request to the Transportation Commission of Colorado, 4201 East Arkansas Avenue, Denver, Colorado 80222-3400. The request shall include reasons for the appeal and may include changes, revisions, or conditions that would be acceptable to the permittee or applicant.
2. Any appeal by the applicant or permittee of action by a local issuing authority shall be filed with the local authority and be consistent with the appeal procedures of the local authority.
3. In submitting the request for administrative hearing, the appellant has the option of including within the appeal a request for a review by the Department's internal administrative review committee pursuant to [Code] subsection 2.10. When such committee review is requested, processing of the appeal for formal administrative hearing, 2.9(5) and (6), shall be suspended until the appellant notifies the Commission to proceed with the administrative hearing, or the appellant submits a request to the Commission or the administrative law judge to withdraw the appeal. The two administrative processes, the internal administrative review committee, and the administrative hearing, may not run concurrently.
4. Regardless of any communications, meetings, administrative reviews or negotiations with the Department or the internal administrative review Committee regarding revisions or objections to the permit or a denial, if the permittee or applicant wishes to appeal the Department's decision to the Commission for a hearing, the appeal must be brought to the Commission within 60 days of transmittal of notice of denial or transmittal of the permit.

PERMIT EXPIRATION

1. A permit shall be considered expired if the access is not under construction within one year of the permit issue date or before the expiration of any authorized extension. When the permittee is unable to commence construction within one year after the permit issue date, the permittee may request a one year extension from the issuing authority. No more than two one-year extensions may be granted under any circumstances. If the access is not under construction within three years from date of issue the permit will be considered expired. Any request for an extension must be in writing and submitted to the issuing authority before the permit expires. The request should state the reasons why the extension is necessary, when construction is anticipated, and include a copy of page 1 (face of permit) of the access permit. Extension approvals shall be in writing. The local issuing authority shall obtain the concurrence of the Department prior to the approval of an extension, and shall notify the Department of all denied extensions within ten days. Any person wishing to reestablish an access permit that has expired may begin again with the application procedures. An approved Notice to Proceed, automatically renews the access permit for the period of the Notice to Proceed.

CONSTRUCTION

1. Construction may not begin until a Notice to Proceed is approved. (Code subsection 2.4)
2. The construction of the access and its appurtenances as required by the terms and conditions of the permit shall be completed at the expense of the permittee except as provided in subsection 2.14. All materials used in the construction of the access within the highway right-of-way or on permanent easements, become public property. Any materials removed from the highway right-of-way will be disposed of only as directed by the Department. All fencing, guard rail, traffic control devices and other equipment and materials removed in the course of access construction shall be given to the Department unless otherwise instructed by the permit or the Department inspector.
3. The permittee shall notify the individual or the office specified on the permit or Notice to Proceed at least two working days prior to any construction within state highway right-of-way. Construction of the access shall not proceed until both the access permit and the Notice to Proceed are issued. The access shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation of construction within the highway right-of-way. A construction time extension not to exceed 30 working days may be requested from the individual or office specified on the permit.
4. The issuing authority and the Department may inspect the access during construction and upon completion of the access to ensure that all terms and conditions of the permit are met. Inspectors are authorized to enforce the conditions of the permit during construction and to halt any activities within state right-of-way that do not comply with the provisions of the permit, that conflict with concurrent highway construction or maintenance work, that endanger highway property, natural or cultural resources protected by law, or the health and safety of workers or the public.

5. Prior to using the access, the permittee is required to complete the construction according to the terms and conditions of the permit. Failure by the permittee to abide by all permit terms and conditions shall be sufficient cause for the Department or issuing authority to initiate action to suspend or revoke the permit and close the access. If in the determination of the Department or issuing authority the failure to comply with or complete the construction requirements of the permit create a highway safety hazard, such shall be sufficient cause for the summary suspension of the permit. If the permittee wishes to use the access prior to completion, arrangements must be approved by the issuing authority and Department and included in the permit. The Department or issuing authority may order a halt to any unauthorized use of the access pursuant to statutory and regulatory powers. Reconstruction or improvement of the access may be required when the permittee has failed to meet required specifications of design or materials. If any construction element fails within two years due to improper construction or material specifications, the permittee shall be responsible for all repairs. Failure to make such repairs may result in suspension of the permit and closure of the access.

6. The permittee shall provide construction traffic control devices at all times during access construction, in conformance with the M.U.T.C.D. as required by section 42-104, C.R.S., as amended.

7. A utility permit shall be obtained for any utility work within highway right-of-way. Where necessary to remove, relocate, or repair a traffic control device or public or private utilities for the construction of a permitted access, the relocation, removal or repair shall be accomplished by the permittee without cost to the Department or issuing authority, and at the direction of the Department or utility company. Any damage to the state highway or other public right-of-way beyond that which is allowed in the permit shall be repaired immediately. The permittee is responsible for the repair of any utility damaged in the course of access construction, reconstruction or repair.

8. In the event it becomes necessary to remove any right-of-way fence, the posts on either side of the access shall be securely braced with an approved end post before the fence is cut to prevent any slacking of the remaining fence. All posts and wire removed are Department property and shall be turned over to a representative of the Department.

9. The permittee shall ensure that a copy of the permit is available for review at the construction site at all times. The permit may require the contractor to notify the individual or office specified on the permit at any specified phases in construction to allow the field inspector to inspect various aspects of construction such as concrete forms, subbase, base course compaction, and materials specifications. Minor changes and additions may be ordered by the Department or local authority field inspector to meet unanticipated site conditions.

10. Each access shall be constructed in a manner that shall not cause water to enter onto the roadway or shoulder, and shall not interfere with the existing drainage system on the right-of-way or any adopted municipal system and drainage plan.

11. By accepting the permit, permittee agrees to save, indemnify, and hold harmless to the extent allowed by law, the issuing authority, the Department, its officers, and employees from suits, actions, claims of any type or character brought because of injuries or damage sustained by any person resulting from the permittee's use of the access permit during the construction of the access.

CHANGES IN ACCESS USE AND PERMIT VIOLATIONS

1. It is the responsibility of the property owner and permittee to ensure that the use of the access to the property is not in violation of the Code, permit terms and conditions or the Act. The terms and conditions of any permit are binding upon all assigns, successors-in-interest, heirs and occupants. If any significant changes are made or will be made in the use of the property which will affect access operation, traffic volume and or vehicle type, the permittee or property owner shall contact the local issuing authority or the Department to determine if a new access permit and modifications to the access are required.

2. When an access is constructed or used in violation of the Code, section 43-2-147(5)(c), C.R.S., of the Act applies. The Department or issuing authority may summarily suspend an access permit and immediately order closure of the access when its continued use presents an immediate threat to public health, welfare or safety. Summary suspension shall comply with article 4 of title 24, C.R.S.

MAINTENANCE

1. The permittee, his or her heirs, successors-in-interest, assigns, and occupants of the property serviced by the access shall be responsible for meeting the terms and conditions of the permit, the repair and maintenance of the access beyond the edge of the roadway including any cattle guard and gate, and the removal or clearance of snow or ice upon the access even though deposited on the access in the course of Department snow removal operations. Within unincorporated areas the Department will keep access culverts clean as part of maintenance of the highway drainage system. However, the permittee is responsible for the repair and replacement of any access-related culverts within the right-of-way. Within incorporated areas, drainage responsibilities for municipalities are determined by statute and local ordinance. The Department will maintain the roadway including auxiliary lanes and shoulders, except in those cases where the access installation has failed due to improper access construction and/or failure to follow permit requirements and specifications in which case the permittee shall be responsible for such repair. Any significant repairs such as culvert replacement, resurfacing, or changes in design or specifications, requires authorization from the Department.

Permittee: Leisle Chung Revocable Trust

Applicant: McGrady and Associates, James McGrady 719-494-3782

- General 1. CDOT retains the right to perform any necessary maintenance work in this area.
2. WORKER SAFETY AND HEALTH All workers within the State Highway right of way shall comply with their employer's safety and health policies/procedures, and all applicable U.S. Occupational Safety and Health Administration (OSHA) regulations including, but not limited to the applicable sections of 29 CFR Part 1910 - Occupational Safety and Health Standards and 29 CFR Part 1926 - Safety and Health Regulations for Construction. At a minimum, all workers in the State Highway right of way, except when in their vehicles, shall wear the following personal protective equipment: Head protection that complies with the ANSI Z89.1-1997 standard; At all construction sites or whenever there is danger of injury to feet, protective footwear that complies with the ANSI Z41-1999 standard will be worn; High visibility apparel as specified in the Traffic Control provisions of this permit (at a minimum, ANSI/ISEA 107-1999, Class 2). Where any of the above-referenced ANSI standards have been revised, the most recent version of the standard shall apply.
- Insurance 3. A certificate of insurance naming the Colorado Department of Transportation (CDOT) as an additional insured is required to be submitted before work begins.
- Traffic 4. No interference with traffic will be allowed after 12:00 Noon the day before a 3- or 4-day holiday weekend, as listed under 108.06 of the Standard Specifications for Road and Bridge Construction.
5. Traffic control and work hours on state highways, interstates and freeways will be allowed as determined by the CDOT Inspector for this permit and area only.
6. The Permittee shall coordinate all traffic control operations with any special events in the area. The Permittee shall not schedule operations that interfere with traffic from 2 hours before until 2 hours after any such event.
- Access 7. A NOTICE TO PROCEED TO CONSTRUCTION, CDOT Form 1265, is required before beginning the construction of the access or any activity in the highway right-of-way. All submittals, documents, plans, and other items that must be completed shall be submitted and approved by the Department before a NOTICE TO PROCEED to construction will be issued.
8. The access is located on the right/east side of State Highway 83A, a distance of 640 feet south from milepost 23 (22.88).
9. This section of highway is a Category E-X highway. The applicant shall submit the following information with the request for the Notice to Proceed:
- The permittee shall prepare and submit an approved striping plan to the intersection of SH83 & the access; for the existing and proposed change-in use to the access.
 - The construction & inspection of the access shall be discussed and coordinated at least 5 days prior to any work within the ROW with the CDOT Access Construction Inspector.
10. This Access Permit is issued to allow access to State Highway 83 for a change in use of the property. The previous use of the access was to serve 4 single family homes. The access will now serve 5 single family homes by easement in the submitted warranty deed recorded in El Paso County, May 13, 1959.

Permittee: Leisle Chung Revocable Trust

Applicant: McGrady and Associates, James McGrady 719-494-3782

11. The ditches may not be used for any construction purposes unless allowed under appropriate legal permits; any construction traffic accessing SH83 under permits shall have appropriate flagging or traffic control.
12. Equipment and vehicles cannot be parked in the clear zone; this includes when occupied by construction personnel; the clear zone shall be kept clear of vehicles, equipment and stockpile to prevent accidents.
13. No additional access will be allowed to State Highway 083 along the property boundaries.
14. The Permittee shall refer to all additional standard requirements attached to this permit. This includes CDOT Form 101b, enclosed additional terms, conditions, exhibits, and noted attachments.
15. The following criteria were used to establish this Access Permit:
 - a) The Application for Access Permit (CDOT Form 137) dated 4/3/17 and accepted by the regional office on 5/30/17 and all attachments.
 - b) State Highway Access Code, Volume 2, CCR-601-1; Effective date August 31, 1998
 - c) The State Highway Access Category Assignment Schedule, as revised.
 - d) The Colorado Department of Transportation (CDOT) M&S Standard Plans
 - e) Vicinity Map
 - f) Attached Details
16. The Permittee is required to comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) that have been adopted by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board), and incorporated by the U.S. Attorney General as a federal standard. These guidelines are defining traversable slope requirements and prescribing the use of a defined pattern of truncated domes as detectable warnings at street crossings. The new Standards Plans and can be found on the Design and Construction Project Support web page at:
<https://www.codot.gov/business/designsupport/standard-plans>.
17. All costs associated with the installation of this access are the responsibility of the Permittee. This includes the design, construction, utility relocation, testing of materials and inspection.
18. This Access Permit is issued in accordance with the 1998 State Highway Access Code (2CCR 601-1), and is based in part upon the information submitted by the Permittee. This Access Permit is only for the use and purpose stated in the Application and on the Permit. Any changes, based upon existing and/or anticipated future conditions in traffic volumes, drainage, types of traffic, or other operational aspects may render this permit void, requiring a new Application for Access Permit to be submitted for review by the Department and/or Issuing Authority.
19. If necessary, minor changes, corrections and/or additions to the Permit may be ordered by the Department Inspector, other Department representative, or the local authority, to meet unanticipated site conditions. Changes may not be in violation of the State Highway Access Code. All major changes to the permit must be approved in writing by the Department prior to commencement of any work on or within the State Highway right-of-way.
20. The Department standards, specifications, and regulations shall override the design plans incorporated in this permit should an oversight, omission, or conflict occur. The

Permittee: Leisle Chung Revocable Trust

Applicant: McGrady and Associates, James McGrady 719-494-3782

Department assumes no liability or responsibility whatsoever for the accuracy, completeness or correctness of the Permittee's design plans. Any design plan errors are the sole responsibility of the Permittee and/or the engineer.

21. The access shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation of construction within State Highway right-of-way.
22. Backing maneuvers within and into the State Highway right-of-way are strictly prohibited. All vehicles shall enter and exit the highway right-of-way in a forward movement. Backing into the right-of-way shall be considered a violation of the Terms and Conditions of the Access Permit and may result in the revocation of the Permit by the Department and/or Issuing Authority.
23. This access will be allowed a full movement. However, left turn movements in and out of this access may be prohibited at some future date.
24. A Fully Executed Complete Copy of this Permit and a valid Notice to Proceed to Construction must be on the job site with the contractor at all times during the construction. Failure to comply with this or any other construction requirement may result in the immediate suspension of the work by order of the Department Inspector or the Issuing Authority.
25. If any traffic control devices are evident within 50 feet of the construction area, the Permittee/Contractor must contact Mr. Eric Lundberg, Asst. Traffic Operations Engineer, in Pueblo. Mr. Lundberg can be contacted in Pueblo at (719) 546-5405.
26. Any additional permits and clearances required by other Federal, State, Local Government Agencies or Ditch Companies is the responsibility of the Permittee and/or Applicant.
27. The Permittee is responsible for obtaining any necessary additional federal, state and/or local government agency permits or clearances required for construction of the access. Approval of this access permit does not constitute verification of this action by the Permittee.
28. Whenever there is work within the highway right of way, the Permittee shall develop and implement a traffic control plan. This plan shall utilize traffic control devices as necessary to ensure the safe and expeditious movement of traffic around and through the work site as well as ensure the safety of the work force. A certified Traffic Control Supervisor or a Professional Traffic Engineer shall prepare the traffic control plan. The plan shall be in conformance with the latest Manual on Uniform Traffic Control Devices (MUTCD) and other applicable standards. The plan must be submitted and approved by the State Access Inspector listed below five working days prior to beginning construction within the highway right of way. The approved traffic control plan will be attached to the Permit and the NOTICE TO PROCEED TO CONSTRUCTION and must be available on site throughout the duration of the construction. All work that requires traffic control shall be supervised by a registered professional traffic engineer or by a certified traffic control supervisor. The contractor in accordance with the Department Standards shall certify flagging personnel, when required.
29. Five working days prior to beginning construction, the Permittee/Contractor must contact Mr. Brad Bauer, Senior Maintenance Supervisor, to coordinate the construction with any scheduled maintenance activity. Mr. Bauer can be contacted in Colorado Springs at (719) 227-3205. Failure to comply with this requirement may result in the

revocation of this permit.

30. Work shall BEGIN AFTER 8:30 a.m. and all equipment shall be off the right-of-way BEFORE 3:30 p.m. each day. No work is allowed within the highway right-of-way on weekends or State/Federal holidays. No construction vehicles shall be parked, or construction materials stockpiled on the highway right-of-way overnight. No private vehicles may be parked on the highway right-of-way at any time during construction.
31. Two-way traffic shall be maintained throughout the work area at all times.
32. The Annual Average Daily Traffic (AADT) volumes approved for this access shall not exceed 70 trips. If in the future, the traffic volumes increase by greater than 20% of the permitted number, the permittee (property owner) is required to apply for a new Access Permit and may be required to construct highway improvements.
33. Reconstruction or improvements to the access may be required when the Permittee has failed to meet the required design and/or materials specifications. If any construction element fails within two years due to improper construction or material specifications, the Permittee shall be responsible for all repairs. Failure to make such repairs may result in the revoking of the permit and closure of the access.
34. All access permit requirements shall be met prior to the herein-authorized use of this access.
35. Signing and striping are the responsibilities of the Permittee. All signs shall be manufactured in accordance with the Manual on Uniform Traffic Control Devices (M.U.T.C.D.). The sheeting for the signs shall be highway intensity sheeting (ASTM Type IV retro reflective sheeting). The Department shall approve the striping.
36. Any damage to existing highway facilities shall be repaired immediately at no cost to the Department and prior to continuing other work. Any mud or other material tracked or otherwise deposited on the roadway shall be removed daily or as ordered by the Department inspector.
37. The Department Inspector or the Issuing Authority may suspend any work due to non-compliance with the provisions of this permit, adverse weather or traffic conditions, concurrent highway construction or maintenance in conflict with permit work or any condition deemed unsafe for workers or the general public. The work may be resumed upon notice from the Department Inspector or Issuing Authority.
38. The Permittee shall maintain adequate, unobstructed sight distance in both directions from the access. When determining the distance between accesses, the point of tangent shall be used where a radius is present, or the beginning of the curb cut. The minimum sight distance that shall be maintained along the highway for the access shall be 525 feet. The minimum sight distance that shall be maintained for the vehicle entering the highway shall be 600 feet.
39. Any landscaping or potentially obstructing objects such as but not limited to advertising signs, structures, trees, and bushes, shall be designed, placed, and maintained at a height not to interfere with the sight distance needed by any vehicle using the access. Planting of tree(s), which will be over 4 inches in caliper at maturity, will not be allowed within 30 feet of the edge of the traveled way. All other objects shall not exceed a total height of thirty inches from the top of final grade. The Department will

Permittee: Leisle Chung Revocable Trust

Applicant: McGrady and Associates, James McGrady 719-494-3782

require any object or landscaping that becomes unsightly or is considered to be a traffic hazard to be removed by the Permittee at no cost to the Department.

40. Within the right-of-way, maximum grades shall be limited to ten percent for low volume field and residential access. All other accesses shall be limited to a maximum of eight percent grade. Lesser grades may be required for drainage control purposes.
41. An access that has a gate across it shall be designed so that the longest vehicle using it can clear the roadway when the gate is closed.
42. It is the responsibility of the Permittee to prevent all livestock from entering the State Highway right of way at this access location. Any livestock that does enter the highway right of way shall be the sole responsibility of the Permittee.

Access C & G 43. The access width shall be measured exclusive of the radii or flares. The width of any non-traversal median is not counted as part of the access width. Only the travel portion is measured.

44. The surface width of the access shall be 25-28 feet at the ROW line.

Access Drg 45. The highway drainage system is for the protection of the state highway right-of-way, structures, and appurtenances. It is not designed nor intended to serve the drainage requirement of abutting or other properties beyond undeveloped historical flow. Drainage to the state highway right-of-way shall not exceed the undeveloped historical rate of flow.

Access Insurance 46. The Permittee or the contractor shall be required to provide comprehensive general liability and property damage insurance naming the Department and the issuing authority (if applicable) as an additional insured party, in the amounts of not less than \$600,000 per occurrence and automobile liability insurance of \$600,000 combined single limit bodily injury and property damage for each accident, during the period of access construction. By accepting the permit, the Permittee agrees to save, indemnify, and hold harmless to the extent allowed by law, the issuing authority, the Department, its officers, and employees from suits, actions, claims of any type or character brought because of injuries or damage sustained by any person resulting from the Permittee's use of the access permit during the construction of the access.

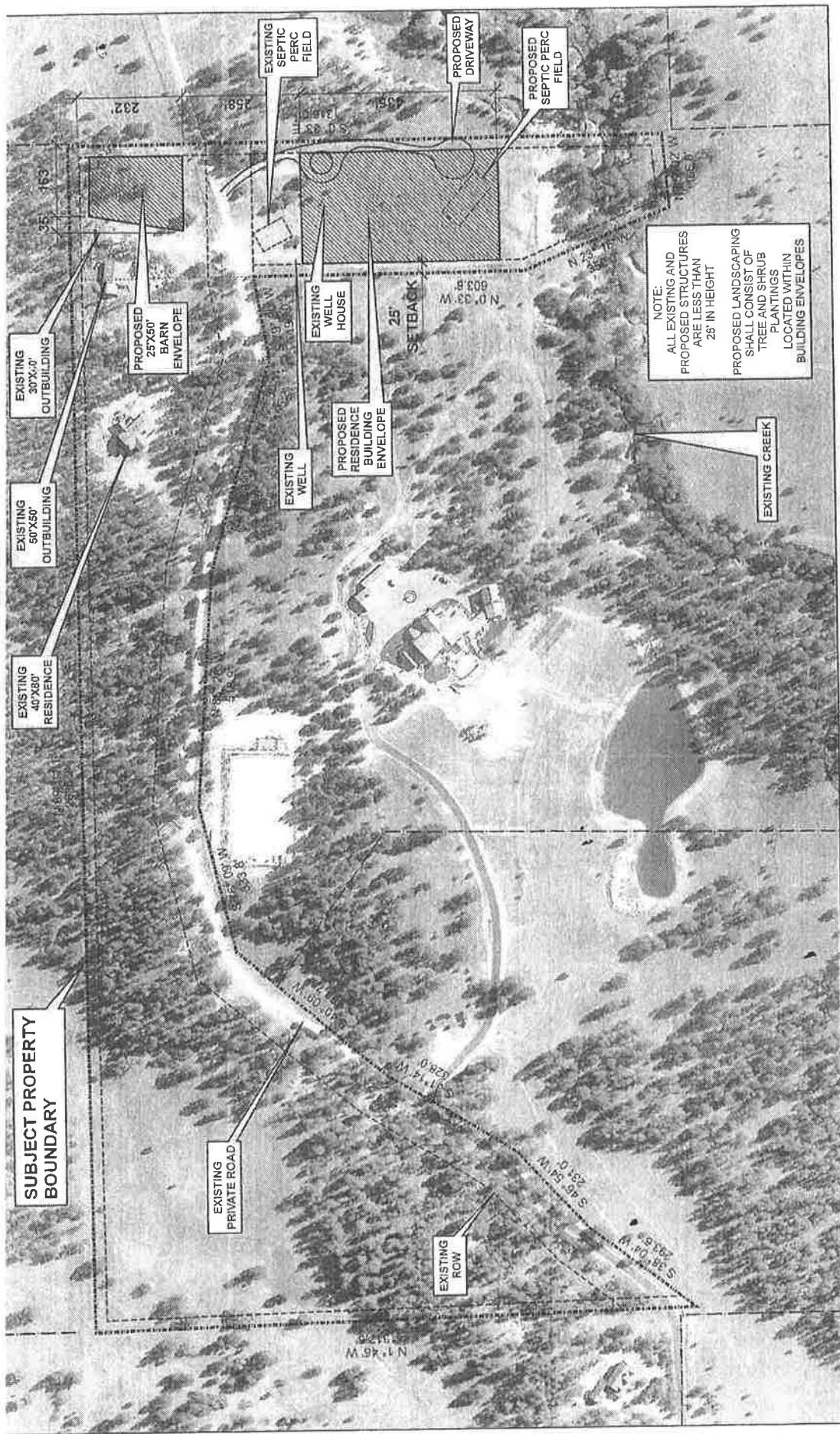


Google earth

© 2015 Google

Imagery Date: 11/2/2015 lat 29.028944° lon -104.780904° elev 0 ft eye alt 5849 ft O

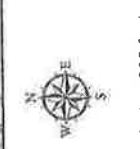
🗺 Tour guide 1999



PREPARED BY:
MARK BUTTON
VISUAL ENVIRONMENTS, INC.
P.O. 1263, ELIZABETH, CO 80107
(303) 646-2985

OWNER/APPLICANT:
VINHANG LEISLE CHUNG
5075 GIBSON LAKE CT.
COLORADO SPRINGS, CO 80924
(719) 429-7928

CONTACT/APPLICANT:
JAMES McGRADY
McGRADY & ASSOCIATES
2810 ANDROMEDA DR.
COLORADO SPRINGS, CO 80906
(719) 494-3782



1 inch = 200 feet

0 200 400 800 Feet

PLOT PLAN
13975 HIGHWAY 83, EL PASO COUNTY COLORADO

DATE: 3/14/17

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT APPLICATION

Issuing authority application
acceptance date:

Instructions:

**Please print
or type**

- Contact the Colorado Department of Transportation (CDOT) or your local government to determine your issuing authority.
- Contact the issuing authority to determine what plans and other documents are required to be submitted with your application.
- Complete this form (some questions may not apply to you) and attach all necessary documents and Submit it to the issuing authority.
- Submit an application for each access affected.
- If you have any questions contact the issuing authority.
- For additional information see CDOT's Access Management website at <http://www.dot.state.co.us/AccessPermits/index.htm>

1) Property owner (Permittee) Leisle Chung Revocable Trust		2) Applicant or Agent for permittee (if different from property owner) James McGrady															
Street address 5075 Gibson Lake Court		Mailing address 2810 Andromeda Drive															
City, state & zip Colo. Springs, CO 80924	Phone # 719-429-7948	City, state & zip Colo. Springs, CO 80904	Phone # (required) 719-494-3782														
E-mail address lchung@vanguardskin.com		E-mail address if available jmcgrady@comcast.net															
3) Address of property to be served by permit (required) 13975 State Highway 83, Colorado Springs, CO																	
4) Legal description of property: If within jurisdictional limits of Municipality, city and/or County, which one? <table border="1"> <tr> <td>county</td> <td>subdivision</td> <td>block</td> <td>lot</td> <td>section</td> <td>township</td> <td>range</td> </tr> <tr> <td>El Paso</td> <td></td> <td></td> <td></td> <td>3</td> <td>12 South</td> <td>66 West</td> </tr> </table>				county	subdivision	block	lot	section	township	range	El Paso				3	12 South	66 West
county	subdivision	block	lot	section	township	range											
El Paso				3	12 South	66 West											
5) What State Highway are you requesting access from? Highway 83		6) What side of the highway? <input type="checkbox"/> N <input type="checkbox"/> S <input checked="" type="checkbox"/> E <input type="checkbox"/> W															
7) How many feet is the proposed access from the nearest mile post? feet <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W from:		How many feet is the proposed access from the nearest cross street? 1,163 feet <input type="checkbox"/> N <input checked="" type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W from: Old North Gate Road															
8) What is the approximate date you intend to begin construction? 3/1/2020																	
9) Check here if you are requesting a: <input type="checkbox"/> new access <input type="checkbox"/> temporary access (duration anticipated:) <input type="checkbox"/> improvement to existing access <input checked="" type="checkbox"/> change in access use <input type="checkbox"/> removal of access <input type="checkbox"/> relocation of an existing access (provide detail)																	
10) Provide existing property use Single Family Residential																	
11) Do you have knowledge of any State Highway access permits serving this property, or adjacent properties in which you have a property interest? <input checked="" type="checkbox"/> no <input type="checkbox"/> yes, if yes - what are the permit number(s) and provide copies: and/or, permit date: We have heard that a permit exists but we have never seen said permit.																	
12) Does the property owner own or have any interests in any adjacent property? <input checked="" type="checkbox"/> no <input type="checkbox"/> yes, if yes - please describe:																	
13) Are there other existing or dedicated public streets, roads, highways or access easements bordering or within the property? <input checked="" type="checkbox"/> no <input type="checkbox"/> yes, if yes - list them on your plans and indicate the proposed and existing access points.																	
14) If you are requesting agricultural field access - how many acres will the access serve? N/A																	
15) If you are requesting commercial or industrial access please indicate the types and number of businesses and provide the floor area square footage of each. <table border="1"> <tr> <th>business/land use</th> <th>square footage</th> <th>business</th> <th>square footage</th> </tr> <tr> <td>N/A</td> <td></td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td></td> <td></td> <td></td> </tr> </table>				business/land use	square footage	business	square footage	N/A				N/A					
business/land use	square footage	business	square footage														
N/A																	
N/A																	
16) If you are requesting residential development access, what is the type (single family, apartment, townhouse) and number of units? <table border="1"> <tr> <th>type</th> <th>number of units</th> <th>type</th> <th>number of units</th> </tr> <tr> <td>existing + 1 new</td> <td>(16)</td> <td></td> <td></td> </tr> </table>				type	number of units	type	number of units	existing + 1 new	(16)								
type	number of units	type	number of units														
existing + 1 new	(16)																
17) Provide the following vehicle count estimates for vehicles that will use the access. Leaving the property then returning is two counts. <table border="1"> <tr> <td>Indicate if your counts are <input type="checkbox"/> peak hour volumes or <input checked="" type="checkbox"/> average daily volumes.</td> <td># of passenger cars and light trucks at peak hour volumes #</td> <td># of multi-unit trucks at peak hour volumes 0</td> </tr> <tr> <td># of single unit vehicles in excess of 30 ft.</td> <td># of farm vehicles (field equipment) 0</td> <td>Total count of all vehicles # 70 estimate 10/home (16)</td> </tr> </table>				Indicate if your counts are <input type="checkbox"/> peak hour volumes or <input checked="" type="checkbox"/> average daily volumes.	# of passenger cars and light trucks at peak hour volumes #	# of multi-unit trucks at peak hour volumes 0	# of single unit vehicles in excess of 30 ft.	# of farm vehicles (field equipment) 0	Total count of all vehicles # 70 estimate 10/home (16)								
Indicate if your counts are <input type="checkbox"/> peak hour volumes or <input checked="" type="checkbox"/> average daily volumes.	# of passenger cars and light trucks at peak hour volumes #	# of multi-unit trucks at peak hour volumes 0															
# of single unit vehicles in excess of 30 ft.	# of farm vehicles (field equipment) 0	Total count of all vehicles # 70 estimate 10/home (16)															

Previous editions are obsolete and may not be used

Page 1 of 2 CDOT Form #137 01/10

1b) Check with the issuing authority to determine which of the following documents are required to complete the review of your application.

- | | |
|--|---|
| a) Property map indicating other access, bordering roads and streets. | e) Subdivision, zoning, or development plan. |
| b) Highway and driveway plan profile. | f) Proposed access design. |
| c) Drainage plan showing impact to the highway right-of-way. | g) Parcel and ownership maps including easements. |
| d) Map and letters detailing utility locations before and after development in and along the right-of-way. | h) Traffic studies. |
| | i) Proof of ownership. |

1- It is the applicant's responsibility to contact appropriate agencies and obtain all environmental clearances that apply to their activities. Such clearances may include Corps of Engineers 404 Permits or Colorado Discharge Permit System permits, or ecological, archeological, historical or cultural resource clearances. The CDOT Environmental Clearances Information Summary presents contact information for agencies administering certain clearances, information about prohibited discharges, and may be obtained from Regional CDOT Utility/Special Use Permit offices or accessed via the CDOT Planning/Construction-Environmental-Guidance webpage <http://www.dot.state.co.us/environmental/Forms.asp>.

2- All workers within the State Highway right of way shall comply with their employer's safety and health policies/procedures, and all applicable U.S. Occupational Safety and Health Administration (OSHA) regulations - including, but not limited to the applicable sections of 29 CFR Part 1910 - Occupational Safety and Health Standards and 29 CFR Part 1926 - Safety and Health Regulations for Construction.

Personal protective equipment (e.g. head protection, footwear, high visibility apparel, safety glasses, hearing protection, respirators, gloves, etc.) shall be worn as appropriate for the work being performed, and as specified in regulation. At a minimum, all workers in the State Highway right of way, except when in their vehicles, shall wear the following personal protective equipment: High visibility apparel as specified in the Traffic Control provisions of the documentation accompanying the Notice to Proceed related to this permit (at a minimum, ANSI/ISEA 107-1999, class 2); head protection that complies with the ANSI Z89.1-1997 standard; and at all construction sites or whenever there is danger of injury to feet, workers shall comply with OSHA's PPE requirements for foot protection per 29 CFR 1910.136, 1926.95, and 1926.96. If required, such footwear shall meet the requirements of ANSI Z41-1999.



Where any of the above-referenced ANSI standards have been revised, the most recent version of the standard shall apply.

3- The Permittee is responsible for complying with the Revised Guidelines that have been adopted by the Access Board under the American Disabilities Act (ADA). These guidelines define traversable slope requirements and prescribe the use of a defined pattern of truncated domes as detectable warnings at street crossings. The new Standards Plans and can be found on the Design and Construction Project Support web page at: <http://www.dot.state.co.us/DesignSupport/>, then click on *Design Bulletins*.

If an access permit is issued to you, it will state the terms and conditions for its use. Any changes in the use of the permitted access not consistent with the terms and conditions listed on the permit may be considered a violation of the permit.

The applicant declares under penalty of perjury in the second degree, and any other applicable state or federal laws, that all information provided on this form and submitted attachments are to the best of their knowledge true and complete.

I understand receipt of an access permit does not constitute permission to start access construction work.

Applicant or Agent for Permittee signature 	Print name James M'Grady	Date 3-28-17
If the applicant is not the owner of the property, we require this application also to be signed by the property owner or their legally authorized representative (or other acceptable written evidence). This signature shall constitute agreement with this application by all owners-of-interest unless stated in writing. If a permit is issued, the property owner, in most cases, will be listed as the permittee.		
Property owner signature 	Print name Leisle Chung	Date 4/3/17

COLORADO DEPARTMENT OF TRANSPORTATION

Environmental Clearances Information Summary

PURPOSE - This summary is intended to inform entities external to CDOT that may be entering the state highway right-of-way to perform work related to their own facilities (such as Utility, Special Use or Access Permittees), about some of the more commonly encountered environmental permits/clearances that may apply to their activities. This listing is not all-inclusive - additional environmental or cultural resource permits/clearances may be required in certain instances. Appropriate local, state and federal agencies should be contacted for additional information if there is any uncertainty about what permits/clearances are required for a specific activity. **IMPORTANT - Please Review The Following Information Carefully - Failure to Comply With Regulatory Requirements May Result In Suspension or Revocation of Your CDOT Permit, Or Enforcement Actions By Other Agencies**

CLEARANCE CONTACTS - As indicated in the permit/clearance descriptions listed below, the following individuals or agencies may be contacted for additional information:

- Colorado Department of Public Health and Environment (CDPHE): General Information - (303) 692-2035
Water Quality Control Division (WQCD): (303) 692-3500
Environmental Permitting Website <https://www.colorado.gov/pacific/cdphe/all-permits>
- CDOT Water Quality Program Manager: (303) 757-9343 <https://www.codot.gov/programs/environmental/water-quality>
- CDOT Asbestos Project Manager: Phil Kangas, (303) 512-5519
- Colorado Office of Archaeology and Historic Preservation: (303) 866-3395
- U.S. Army Corps of Engineers, District Regulatory Offices:
Omaha District (NE CO), Denver Office (303) 979-4120
<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado.aspx>
Sacramento Dist. (Western CO), Grand Junction Office (970) 243-1199
<http://www.spk.usace.army.mil/Missions/Regulatory.aspx>
Albuquerque District (SE CO), Pueblo Office (719)-543-9459
<http://www.spa.usace.army.mil/Missions/RegulatoryProgramandPermits.aspx>
- CDOT Utilities, Special Use and Access Permitting: (303) 757-9654 <https://www.codot.gov/business/permits>

Wildlife Resources - Disturbance of wildlife shall be avoided to the maximum extent practicable. Entry into areas of known or suspected threatened or endangered species habitat will require special authorization from the CDOT permitting office. If any threatened or endangered species are encountered during the progress of the permitted work, work in the subject area shall be halted and the CDOT Regional Permitting Office and Region Planning and Environmental Manager shall be contacted immediately. Authorization must be provided by CDOT prior to the continuation of work. Information about threatened or endangered species may be obtained from the CDOT website, <http://www.codot.gov/programs/environmental/wildlife/guidelines>, or the Colorado Parks and Wildlife (CPW) website, <http://www.cpw.state.co.us/learn/Pages/SQC-ThreatenedEndangeredList.aspx>. Additional guidance may be provided by the appropriate Region Planning and Environmental Manager (RPEM).

Cultural Resources - The applicant must request a file search of the permit area through the Colorado Office of Archaeology and Historic Preservation (OAHP), Denver, to ascertain if historic or archaeological resources have previously been identified (<http://www.historycolorado.org/oaHP/file-search>). Inventory of the permit area by a qualified cultural resources specialist may be necessary, per the recommendation of CDOT. If archaeological sites/artifacts or historic resources are known to exist prior to the initiation of the permitted work or are encountered as the project progresses, all work in the subject area shall be halted and the CDOT Regional Permitting Office and Region Planning and Environmental Manager shall be contacted immediately. Authorization must be provided by CDOT prior to the continuation of work. Additional guidance may be provided by the Regional Permitting Office and RPEM. **Contact Information:** Contact the OAHP for file searches at (303) 866-3395.

Paleontological Resources - The applicant must request a fossil locality file search through the University of Colorado Museum, Boulder (<https://cumuseum.colorado.edu/research/paleontology/vertebrates/policies>), and the Denver Museum of Nature and Science (<http://www.dmns.org/science/collections/earth-science-collections/>) to ascertain if paleontological resources have been previously identified in or near the permit area. Inventory of the permit area by a qualified paleontologist may be necessary, per the recommendation of CDOT. If fossils are encountered during the permitted work, all work in the subject area shall be halted and the CDOT Regional Permitting Office and Region Planning and Environmental Manager shall be contacted immediately. Authorization must be provided by CDOT prior to the continuation of work. Additional guidance may be provided by the Regional Permitting Office in the Permit Special Provisions. **Contact Information:** See the museum websites listed above for Paleontological Collections Manager contact information. Contact the CDOT Paleontologist for further information at nicole.peavey@state.co.us or (303) 757-9632. The CDOT Paleontologist will not conduct a comprehensive file search independently of the museums.

Hazardous Materials, Solid Waste - The Solid Wastes Disposal Sites and Facilities Act C.R.S. 30-20-100, et al, and Regulations Pertaining to Solid Waste Disposal Sites and Facilities (6 CCR 1007-2), prohibit solid waste disposal without an approved Certificate of Designation (a landfill permit). The Colorado Hazardous Waste Act C.R.S. 25-15-301 et al, and the Colorado Hazardous Waste Regulations (6 CCR 1007-3) prohibit the transfer, storage or disposal (TSD) of hazardous waste except at permitted TSD sites. There are no permitted landfills or TSD sites within the State Highway Right of Way. Therefore, all solid or hazardous wastes that might be generated by the activities of entities entering the State Highway Right of Way must be removed from the ROW and disposed of at a permitted facility or designated collection point (e.g., for solid waste, a utility or construction company's own dumpster). If pre-existing solid waste or hazardous materials contamination (including oil or petroleum contaminated soil, asbestos, chemicals, mine tailings, etc.) is encountered during the performance of work, the permittee shall halt work in the affected area and immediately contact the CDOT Regional Permitting Office for direction as to how to proceed. **Contact Information:** Theresa Santangelo-Dreiling, CDOT Hazardous Materials Project Manager, (303) 512-5524, or Andy Flurkey, (303) 512-5520.

Asbestos Containing Materials, Asbestos Contaminated Soil - All work on asbestos containing materials (ACM) must comply with the applicable requirements of the CDPHE Air Pollution Control Division's (APCD) Regulation 8. Disposal of ACM, and work done in asbestos-contaminated soil, must comply with the CDPHE Hazardous Materials and Waste Management Division's (HMWMD) Solid

<p>Waste Regulations. The application for any CDOT permit must specifically identify any ACM involved in the work for which authorization is being requested. Additional guidance or requirements may be specified in the permit special provisions. Contact Info: CDPHE APCD and HMWMD Regulations can be accessed via the CDPHE Environmental Permitting Website listed above. Additional information <u>concerning clearance on CDOT projects</u> is available from the CDOT Asbestos Project Manager (303) 512-5519, or Theresa Santangelo-Dreiling, Hazardous Materials Management Supervisor (303) 512-5524.</p>
<p>Transportation of Hazardous Materials - No person may offer or accept a hazardous material for transportation in commerce unless that person is registered in conformance with the United States Department of Transportation regulations at 49 CFR, Part 171. The hazardous material must be properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements, or an exemption, approval or registration has been issued. Vehicles requiring a placard, must obtain authorization and a State HAZMAT Permit from the Colorado Public Utilities Commission. Contact Information: For authorization and more info call the Federal Motor Safety Carrier Administration, US DOT for inter- and intra-state HAZMAT Registration (303) 969-6748. Colorado Public Utilities Commission: (303) 894-2868.</p>
<p>Discharge of Dredged or Fill Material – 404 Permits Administered By the U.S. Army Corps of Engineers, and Section 401 Water Quality Certifications Issued by the CDPHE WQCD - Corps of Engineers 404 permits are required for the discharge of dredged or fill materials into waters of the United States, including wetlands. There are various types of 404 permits, including nationwide permits, which are issued for activities with relatively minor impacts. For example, there is a nationwide permit for utility line activities (nwp #12). Depending upon the specific circumstances, it is possible that either a "general" or "individual" 404 permit would be required. If an individual 404 permit is required, section 401 water quality certification from the CDPHE WQCD is also required. Contact the appropriate Corps District Regulatory Office for information about what type of 404 permit may be required (contact information above). Contact the CDPHE Water Quality Control Division at (303) 692-3500.</p>
<p>Working on or in any stream or its bank - In order to protect and preserve the state's fish and wildlife resources from actions that may obstruct, diminish, destroy, change, modify, or vary a natural existing stream or its banks or tributaries, it may be necessary to obtain a Senate Bill 40 certification from the Colorado Department of Natural Resources. A stream is defined as 1) represented by a solid blue line on USGS 7.5' quadrangle maps; and/or 2) intermittent streams providing live water beneficial to fish and wildlife; and/or 3) segments of streams supporting 25% or more cover within 100 yards upstream or downstream of the project; and/or 4) segments of streams having wetlands present within 200 yards upstream or downstream of the project measured by valley length. The CPW application, as per guidelines agreed upon by CDOT and CPW, can be accessed at http://www.coloradodot.info/programs/environmental/wildlife/guidelines.</p>
<p>Stormwater Construction Permit (SCP) and Stormwater Discharge From Industrial Facilities - Discharges of stormwater runoff from construction sites disturbing one acre or more - or certain types of industrial facilities, such as concrete batch plants - requires a CDPS Stormwater Permit. Contact Information: Contact the CDPHE Water Quality Control Division at (303) 692-3500. Website: https://www.colorado.gov/pacific/cdphe/wq-construction-general-permits and https://colorado.gov/pacific/cdphe/wq-commerce-and-industry-permits.</p>
<p>Construction Dewatering (Discharge or Infiltration) and Remediation Activities - Discharges of water encountered during excavation or work in wet areas may require a Construction Dewatering or Remediation Activities Discharge Permit. Contact Information: For Construction Dewatering and Remediation Activities Discharge Permits, contact the CDPHE WQCD at (303) 692-3500. For Applications and Instructions (CDPHE website): https://www.colorado.gov/pacific/cdphe/wq-construction-general-permits.</p>
<p>Municipal Separate Storm Sewer System (MS4) Discharge Permit - Discharges from the storm sewer systems of larger municipalities, and from the CDOT highway drainage system that lies within those municipalities, are subject to MS4 Permits issued by the CDPHE WQCD. For facilities that lie within the boundaries of a municipality that is subject to an MS4 permit, the owner of such facility should contact the municipality regarding stormwater related clearances that may have been established under that municipality's MS4 permit. All discharges to the CDOT highway drainage system or within the Right of Way (ROW) must comply with the applicable provisions of the Colorado Water Quality Control Act, the Water Quality Control Commission (WQCC) Regulations (https://www.colorado.gov/pacific/cdphe/wqcc-regulations-and-policies-and-water-quality-statutes) and the CDOT MS4 Permit # COS-000005 (https://www.codot.gov/programs/environmental/water-quality/documents). Discharges are subject to inspection by CDOT and CDPHE. Contact the CDPHE Water Quality Control Division at (303) 692-3500 for a listing of municipalities required to obtain MS4 Permits, or go to https://www.colorado.gov/pacific/cdphe/wq-municipal-ms4-permits.</p>
<p>General Prohibition – Discharges - All discharges are subject to the provisions of the Colorado Water Quality Control Act and the Colorado Discharge Permit Regulations. Prohibited discharges include, but are not limited to, substances such as wash water, paint, automotive fluids, solvents, oils or soaps and sediment. Contact Information: Contact the CDPHE Water Quality Control Division at (303) 692-3500.</p>
<p>General Authorization - Allowable Non-Stormwater Discharges - Unless otherwise identified by CDOT or the WQCD as significant sources of pollutants to the waters of the State, the following discharges to stormwater systems are allowed without a Colorado Discharge Permit System permit: landscape irrigation, diverted stream flows, uncontaminated ground water infiltration to separate storm sewers, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, uncontaminated springs, footing drains, water line flushing, flows from riparian habitats and wetlands, and flow from firefighting activities. Allowable non-stormwater discharges can be found at https://www.codot.gov/programs/environmental/water-quality/glossary.html. Contact Information: The CDPHE Water Quality Control Division (telephone #'s listed above).</p>
<p>Erosion and Sediment Control Practices - For activities requiring a Stormwater Construction Permit, erosion control requirements will be specified in that permit. In those situations where a stormwater permit is not required, all reasonable measures should be taken in order to minimize erosion and sedimentation according to CDOT Standard Specifications 107.25 and 208. All disturbances require a stabilization plan, native seeding or landscape design plan according to applicable CDOT Standard Specifications 212-217 and 623. In any case, the CDOT Erosion Control and Stormwater Quality Guide (most recent version) should be used to design erosion controls and to restore disturbed vegetation. Contact Information: The CDOT Erosion Control and Stormwater Quality Guide may be obtained from the Bid Plans Office at (303) 757-9313 or from: https://www.codot.gov/programs/environmental/landscape-architecture/erosion-storm-quality.</p>

Disposal of Drilling Fluids - Drilling fluids used in operations such as Horizontal Directional Drilling may be classified as "discharges" or "solid wastes," and in general, should be pumped or vacuumed from the construction area, removed from the State Highway Right of Way, and disposed of at permitted facilities that specifically accept such wastes. Disposal of drilling fluids into storm drains, storm sewers, roadside ditches or any other type of man-made or natural waterway is prohibited by Water Quality Control and/or Solid Waste regulations. Small quantities of drilling fluid solids (less than 1 cubic yard of solids) may be left on-site after either being separated from fluids or after infiltration of the water, provided: 1) the drilling fluid consists of only water and bentonite clay, or, if required for proper drilling properties, small quantities of polymer additives that are approved for use in drinking water well drilling; 2) the solids are fully contained in a pit, and are not likely to pose a nuisance to future work in the area, 3) the solids are covered and the area restored as required by CDOT permit requirements (Utility, Special Use, or Access Permits, etc.). **Contact Information:** Contact CDPHE (telephone #'s listed above).

Noxious Weeds and Invasive Species Management Plan - Noxious Weeds and Invasive Species guidance can be found by contacting the Colorado Department of Agriculture (<https://www.colorado.gov/pacific/agconservation/noxiousweeds>) and the Colorado Division of Parks and Wildlife (<http://cpw.state.co.us/aboutus/Pages/RS-NoxiousWeeds.aspx>). In either case, management plans involving the control of noxious weeds associated with the permitted activity and cleaning of equipment will be required.

Concrete Washout - Waste generated from concrete activities shall NOT be allowed to flow into the drainage ways, inlets, receiving waters, or in the CDOT ROW. Concrete waste shall be placed in a temporary concrete washout facility and must be located a minimum of 50 feet from state waters, drainageways, and inlets. Concrete washout shall only be performed as specified by the CDOT Environmental Program and shall be in accordance to CDOT specifications and guidelines. **Contact Information:** Contact CDPHE or find additional information on the CDOT website: <https://www.codot.gov/business/designsupport/2011-construction-specifications/2011-Specs> and refer to the specifications and their revisions for sections 101, 107 and 208.

Spill Reporting - Spills shall be contained and cleaned up as soon as possible. Spills shall NOT be washed down into the storm drain or buried. All spills shall be reported to the CDOT Illicit Discharge Hotline at (303) 512-4446 (4H2O), as well as the Regional Permitting Office and Regional Maintenance Supervisor. Spills on highways, into waterways, any spill in the highway right-of-way exceeding 25 gallons, or that may otherwise present an immediate danger to the public shall be reported by calling 911, and shall also be reported to the CDPHE at 1-877-518-5608. More information can be found at <https://www.colorado.gov/pacific/cdphe/emergency-reporting-line>.

About This Form - Questions or comments about this Information Summary may be directed to Alex Karami, Program Administrator, CDOT Access Management Unit, at (303) 757-9841, alex.karami@state.co.us.



COLORADO

Department of Transportation

Region 2

Access Permitting

PO Box 536

Pueblo CO 81002

Permit No. 217025

June 6, 2017

To: Leisle Chung
5075 Lake Gibson Court
Colorado Springs, Colorado 80924

Dear Permittee:

1. Please review the attached State Highway Access Permit (Form #101) and all enclosed attachments.
2. If you choose NOT to act on the permit, please return the permit unsigned.
3. If you wish to APPEAL the Terms and Conditions of the permit, please refer to the attached Form 101, Pages 2 and 3 for an explanation of the appeal procedures.
4. If you ACCEPT the Permit and its Terms and Conditions and are authorized to sign as legal owner of the property or as an authorized representative, please sign and date the Access Permit form on the line marked "PERMITTEE". Your signature confirms your agreement to all the listed Terms and Conditions.
5. Provide a check or money order made payable to "CDOT" for the total amount due of \$50.00
6. You must return the signed Access Permit, including all pages of terms and conditions and all attachments, with your payment to the Colorado Department of Transportation (CDOT) at the address noted below. The Department will return an executed copy of this permit. You may retain this cover letter for your records.
7. If you fail to sign and return the attached Access Permit within 60 days of the date of this transmittal letter, Colorado Department of Transportation will consider this permit withdrawn.
8. As described in the attached Terms and Conditions, you must make a written request to obtain a Notice to Proceed. DO NOT begin any work within the State Highway Right-of-Way without a validated Access Permit and Notice to Proceed. Use of this permit without the Colorado Department of Transportation's validation shall be considered a violation of State Law.

If you have any questions please call Andrew Lewis, Assistant Access Manager at (719) 562-5537.

Please return Access Permit and attachments to: Andrew Lewis
Region 2 Traffic Section
905 N. Erie Ave.
Pueblo, Colorado 81001



VINH & LEISLE CHUNG
5075 GIBSON LAKE CT
COLORADO SPRINGS, CO 80924

23-101/1020

3633

DATE 6/15/17

PAY TO THE
ORDER OF

CDOT

\$ 50.00

Fifty and xx/100

DOLLARS  Security Features
Included
Deposit only Bank

CHASE

JPMorgan Chase Bank, N.A.
www.Chase.com

MEMO: Permit 217025

Leisle Chung

MP

⑆ 10 200 10 1 7 ⑆

⑆ 3633

#103912

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

Planning Commission Meeting
Tuesday, October 16, 2018
El Paso County Planning and Community Development Department
2880 International Circle, Hearing Room
Colorado Springs, Colorado 80910

PRESENT AND VOTING: JIM EGBERT, BRIAN RISLEY, ALLAN CREELY, PETER AURICH, JOAN LUCIA-TREESE, TOM BAILEY, GRACE BLEA-NUNEZ, AND SHARON FRIEDMAN

PRESENT AND NOT VOTING: NONE

ABSENT: KEVIN CURRY AND JANE DILLON

STAFF PRESENT: CRAIG DOSSEY, NINA RUIZ, DANIEL TORRES, GILBERT LAFORCE, AND EL PASO COUNTY ATTORNEY LORI SEAGO

OTHERS PRESENT WHO SPOKE AT HEARING: LEISLE CHUNG, JIM MCGRADY, RENEE CONGDON

1. Report Items

Planning and Community Development Department – Mr. Dossey gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting. He also updated the Planning Commission on the project comparison numbers for the Department.

- A. The next scheduled Planning Commission meeting is on November 6, 2018.
- B. The Water Master Plan Open House will be in the Regional Building Atrium on **October 25, 2018 from 6:00 – 8:00 p.m.**
- C. With regard to the Land Use Master Plan we have selected the consultants and that will go to the Board of County Commissioners soon for their approval. It will be a two to three year process.

2. Consent Items

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

A. Approval of the Minutes – October 2, 2018

The minutes were approved as presented. (8-0)

B. PUDSP-18-003

RUIZ

**PLANNED UNIT DEVELOPMENT/PRELIMINARY PLAN
STONEBRIDGE AT MERIDIAN RANCH FILING 4**

A request by GTL, Inc., for approval of a map amendment (rezoning) of 68 acres from PUD (Planned Unit Development) to PUD (Planned Unit Development) and approval of a preliminary plan for 209 single-family lots. The property is located at the northwest corner of the Eastonville Road and Stapleton Drive intersection. (Parcel Nos. 42000-00-413 and 42000-00-415)

PC ACTION: MR. CREELY MOVED/MS. LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2B, PUDSP-18-003 FOR A PLANNED UNIT DEVELOPMENT AND PRELIMINARY PLAN UTILIZING RESOLUTION PAGES 29 AND 25 WITH SIX (6) CONDITIONS AND FOUR (4) NOTATION (MORE PARTICULARY DESCRIBED ON PAGE 18-053) AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

C. SF-18-023

RUIZ

**FINAL PLAT
STONEBRIDGE AT MERIDIAN RANCH FILING 4**

A request by GTL, Inc., for approval of a final plat to create 209 single-family residential lots. The 68 acre property is zoned PUD (Planned Unit Development) and is located at the northwest corner of the Eastonville Road and Stapleton Drive intersection. (Parcel Nos. 42293-00-001 and 42293-00-002)

PC ACTION: NO ACTION REQUIRED BY THE PLANNING COMMISSION. THE APPLICANT HAS WITHDRAWN THEIR APPLICATION.

D. SF-18-022

RUIZ

**FINAL PLAT
WINDING WALK FILING 2**

A request by GTL, Inc., for approval of a final plat to create 60 single-family residential lots. The 25.09 acre property is zoned PUD (Planned Unit

Development) and is located at the northwest corner of the Eastonville Road and Stapleton Drive intersection. (Parcel No. 42293-00-003)

PC ACTION: MR. CREELY MOVED/MS. LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2D, SF-18-022 FOR A FINAL PLAT FOR WINDING WALK FILING NO. 2 UTILIZING RESOLUTION PAGE 19 WITH TEN(10) CONDITIONS AND THREE (3) NOTATIONS (MORE PARTICULARY DESCRIBED ON PAGE 18-054) WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDAILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

E. CS-18-003

RUIZ

**MAP AMENDMENT (REZONE)
SPRINGS EAST AT WATERVIEW COMMERCIAL REZONE 2**

A request by Rankin Holdings LP for approval of a map amendment (rezoning) of 1.7 acres from the RS-5000 (Residential Suburban) to CS (Commercial Services) zoning district. The property is located east of Powers Boulevard and south of Bradley Road. (Parcel No. 55000-00-413)

PC ACTION: MR. CREELY MOVED/MS. LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2E, CS-18-003 FOR A MAP AMENDMENT (REZONE) OF SPRINGS EAST AT WATERVIEW COMMERCIAL REZONE 2 UTILIZING RESOLUTION PAGE 27 WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS (MORE PARTICULARY DESCRIBED ON PAGE 18-056) AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

F. MS-18-002

RUIZ

**MINOR SUBDIVISION
HUDSON MINOR SUBDIVISION**

A request by Greg and Sheri Hudson for approval of a minor subdivision to create four (4) single-family residential lots. The 38 acre property is zoned RR-5 (Residential Rural) and is located west of Black Forest Road and one-quarter (1/4) of a mile south of County Line Road. (Parcel No. 51000-00-323)

PC ACTION: MR. CREELY MOVED/MS. LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2F, MS-18-002 FOR A MINOR SUBDIVISION FOR HUDSON MINOR SUBDIVISION UTILIZING

RESOLUTION PAGE 19 WITH ELEVEN (11) CONDITIONS AND ONE (1) NOTATION (MORE PARTICULARLY DESCRIBED ON PAGE 18-057) WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

Regular Items

3. VA-17-001

RUIZ

**VARIANCE OF USE
CHUNG SECOND RESIDENCE**

A request by the Leisle Chung Revocable Trust for approval of a variance of use for a second dwelling. The property is zoned RR-5 (Residential Rural) and is located east of Highway 83 and approximately one-quarter (1/4) mile south of Old Northgate Road. (Parcel No. 62030-00-004)

Ms. Ruiz gave a brief overview and asked **Ms. Seago** to go over the review criteria for a variance of use.

Ms. Ruiz then introduced the applicant, **Ms. Leisle Chung**, to give their presentation to the Planning Commission. **Ms. Renee Congdon** and **Mr. Jim McGrady** also spoke on behalf of the applicant.

Mr. Risley – In many ways, the issue of the size of the lot and the odd nature of the title transfer speaks to review criteria number one of peculiar and exceptional considerations.

Mr. Egbert – I presume that you and County staff are in agreement that there are no stormwater issues.

Mr. McGrady – As we looked at the overall grade of the site, it's extremely flat. Its composed of decomposed granite and has no proposed runoff from the site. I don't see any issues with stormwater.

Ms. Friedman – I want to applaud the applicant for such a great presentation in reviewing each of those review criteria.

Ms. Chung – In response to the attorney question why we did not subdivide: The variance of use seems like an easier process, and we did not find it necessary to subdivide.

Mr. Risley – Is a variance of use a permanent enough solution? Would a future owner have the opportunity to subdivide in the future? **Ms. Ruiz** – The variance of use would not have any conditions of approval that would limit it to just family. The

variance would transfer to a new property owner to either have the two residences for one family, or they could choose to subdivide in the future. Another option would have been to say it was an extended family dwelling and get permission for the size of the structure. Staff advised them to complete a variance of use versus requesting a special use for a 10,000 sq ft home where 1,500 sq ft is the maximum size allowed.

Mr. Risley – The variance of use can be revoked by the Board of County Commissioners or when the use goes away after two years then it would revert to the previous use, is that correct? **Ms. Ruiz** – Yes, that's correct.

Ms. Ruiz gave her full presentation to the Planning Commission and also explained that Condition #2 should be removed regarding the CDOT permit.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Mr. Risley – I'm not opposed to what you're trying to propose. What I'm struggling with is why go through the variance of use and a subdivision exemption when you could simply subdivide. **Ms. Congdon** – They were 75% down the road on the variance path before they realized they had an illegal parcel. Subdividing is a lot more complicated than a variance and they are not looking at selling this parcel for a very long time. **Ms. Chung** – We don't have any intention of selling off any of this property.

Ms. Friedman – In the event that people move or change their minds, what happens with two houses on the property? **Ms. Ruiz** -- If they were to sell the property and wanted to use one house as a rental, they could do that. We've placed no conditions or restrictions on the property.

PC ACTION: MS. BLEA-NUNEZ MOVED/MS. LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM NO. 3, VA-17-001 FOR VARIANCE OF USE FOR CHUNG SECOND RESIDENCE UTILIZING RESOLUTION PAGE 51 WITH ONE (1) CONDITION AND THREE (3) NOTATIONS (MORE PARTICULARLY DESCRIBED ON PAGE 18-058), AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title

indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

VARIANCE OF USE (Approved)

Commissioner Blea-Nunez moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VA-17-001

WHEREAS, Leisle Chung Revocable Trust did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the Choose an item. zoning district to permit a second residence where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on October 16, 2018; and

WHEREAS, based on the evidence, testimony, exhibits, 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, and comments by the Planning Commission Members during the hearing, this Commission finds as follows:

1. That the application was properly submitted for consideration by the Planning Commission.
2. That proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. That all exhibits were received into evidence.
5. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That the proposed variance of use conforms to Chapter 5, Use and Dimensional Standards, Section 5.3.4, Variance of Use, of the El Paso County Zoning Resolutions.

7. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County, and

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Planning Commission considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. 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 to the health, safety, or welfare of the inhabitants of the area and the County;
3. 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;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. 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.

NOW, THEREFORE, BE IT RESOLVED that the application of Leisle Chung Revocable Trust for a variance of use within the Choose an item. zoning district to permit a second dwelling where such is not a permitted use for the following described unincorporated area of El Paso County be approved:

See Appendix A

AND BE IT FURTHER RESOLVED that the Planning Commission recommends the following condition(s) and notation(s) shall be placed upon this recommendation:

CONDITION

1. A residential site plan must be approved prior to the construction of the home.

NOTATIONS

1. Variance of 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 variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.

AND BE IT FURTHER RESOLVED that this Resolution and recommendations be forwarded to the El Paso County Board of County Commissioners for its consideration.

Commissioner Lucia-Treese seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Egbert	aye
Commissioner Risley	aye
Commissioner Creely	aye
Commissioner Aurich	aye
Commissioner Blea-Nunez	aye
Commissioner Lucia-Treese	aye
Commissioner Bailey	aye
Commissioner Friedman	aye

The Resolution was adopted by a vote of 8 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: October 16, 2018

APPENDIX A

LEGAL DESCRIPTION

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EL PASO COUNTY COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS

THE EAST LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 3, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE 6TH P.M. BEING MONUMENTED AT THE NORTH END BY A FOUND 2" ALUMINUM CAP STAMPED ACCORDINGLY, PLS 13830 AND AT THE SOUTH END BY A FOUND 2-1/2" ALUMINUM CAP STAMPED ACCORDINGLY, PLS 30130; MEASURED AS BEARING S00°33'00"E WITH A DISTANCE OF 1317.81 FEET;

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 3, SAID POINT BEING THE POINT OF BEGINNING;

THENCE S00°33'00"E ON THE EAST LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER SAID SECTION 3, A DISTANCE OF 1317.81 TO THE S 1/16 CORNER OF SECTION 3 AND 2, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE 6TH P.M.;

THENCE ALONG A BOUNDARY LINE AS DESCRIBED IN BOOK 3410 AT PAGE 490 OF THE RECORDS OF EL PASO COUNTY COLORADO FOR THE FOLLOWING TEN COURSES:

1. N86°42'10"W, A DISTANCE OF 169.06 FEET;
2. N22°57'04"W, A DISTANCE OF 350.00 FEET;
3. N00°28'12"W, A DISTANCE OF 603.27 FEET;
4. S79°37'51"W, A DISTANCE OF 187.15 FEET;
5. N72°09'05"W, A DISTANCE OF 155.20 FEET;
6. N73°21'44"W, A DISTANCE OF 342.37 FEET;
7. N85°32'34"W, A DISTANCE OF 515.84 FEET;
8. S77°20'48"W, A DISTANCE OF 330.71 FEET;
9. S37°35'28"W, A DISTANCE OF 758.87 FEET;
10. S43°21'52"W, A DISTANCE OF 528.81 FEET TO THE CENTER SOUTH 1/16 CORNER OF SAID SECTION 3, SAID POINT BEING THE SOUTHEASTERLY CORNER OF SHAMROCK RANCH FILING NO. 1 AS RECORDED UNDER RECEPTION NO. 215713683 OF SAID RECORDS;

THENCE N00°40'38"W ALONG THE WEST LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 3, A DISTANCE OF 124.60 FEET, SAID LINE ALSO BEING THE EASTERLY BOUNDARY LINE OF SAID SHAMROCK RANCH FILING NO. 1;

THENCE N12°26'43"E, ALONG THE EASTERLY BOUNDARY OF SAID SHAMROCK RANCH FILING NO. 1, A DISTANCE OF 337.04 FEET;

THENCE CONTINUE N12°26'43"E ALONG THE EASTERLY BOUNDARY LINE OF A PARCEL OF LAND AS DESCRIBED IN BOOK 3326 AT PAGE 844, A DISTANCE OF 882.17 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3 FROM WHICH THE CENTER QUARTER CORNER OF SAID SECTION 3 BEARS N89°21'26"W A DISTANCE OF 276.88 FEET;

THENCE S89°21'26"E ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2359.28 FEET TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 1,385,491 SQUARE FEET (31.80 ACRES) MORE OR LESS.

RESOLUTION NO. 18-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVE VARIANCE OF USE TO PERMIT A SECOND DWELLING
(VA-17-001)

WHEREAS, Leisle Chung Revocable Trust did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the RR-5 (Residential Rural) zoning district to permit a second dwelling where such is not permitted for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by this reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on October 16, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use (VA-17-001); and

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

WHEREAS, based on the evidence, testimony, exhibits, recommendations of the El Paso County Planning Commission, 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, and comments by the County Commissioners during the hearing, this Board finds as follows:

1. That the application for the variance of use was properly submitted for consideration by the Board of County Commissioners.
2. That proper posting, publication and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted, and that all interested persons and the general public were heard at those hearings.
4. That all exhibits were received into evidence.

5. That the proposed land use does permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That for the above-stated and other reasons, the proposed variance of use is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.4 of the El Paso County Land Development Code, as amended, in approving this variance of use, the Board of County Commissioners considered one or more of the following criteria:

1. The strict application of any of the provisions of the Land Development Code would result in peculiar and exceptional practical difficulties or undue hardship on either the owner or the contract purchaser of the property;
2. 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 to the health, safety, or welfare of the inhabitants of the area and the County;
3. 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;
4. The proposed use will comply with all applicable requirements of the Land Development Code and all applicable County, State, and Federal regulations except those portions varied by this action;
5. The proposed use will not adversely affect wildlife or wetlands;
6. The applicant has addressed all off-site impacts;
7. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
8. 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.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the application by Leisle Chung Revocable Trust for a variance of use to allow a second dwelling within the RR-5 (Residential Rural) zoning district where such is not a permitted use for the

unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by this reference;

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

CONDITION

1. A residential site plan must be approved prior to the construction of the home.

NOTATIONS

1. Variance of 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 variance of use conditions/standards are being violated, preceded by notice and public hearing.
3. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of 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 October, 2018 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
President

By: _____
County Clerk & Recorder

EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 3,
TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EL PASO
COUNTY COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS

THE EAST LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF
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BEING MONUMENTED AT THE NORTH END BY A FOUND 2" ALUMINUM
CAP STAMPED ACCORDINGLY, PLS 13830 AND AT THE SOUTH END BY A
FOUND 2-1/2" ALUMINUM CAP STAMPED ACCORDINGLY, PLS 30130;
MEASURED AS BEARING S00°33'00"E WITH A DISTANCE OF 1317.81 FEET;

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 3,
SAID POINT BEING THE POINT OF BEGINNING;

THENCE S00°33'00"E ON THE EAST LINE OF THE NORTH HALF OF THE
SOUTHEAST QUARTER SAID SECTION 3, A DISTANCE OF 1317.81 TO THE
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WEST OF THE 6TH P.M.;

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FOLLOWING TEN COURSES:

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2. N22°57'04"W, A DISTANCE OF 350.00 FEET;
3. N00°28'12"W, A DISTANCE OF 603.27 FEET;
4. S79°37'51"W, A DISTANCE OF 187.15 FEET;
5. N72°09'05"W, A DISTANCE OF 155.20 FEET;
6. N73°21'44"W, A DISTANCE OF 342.37 FEET;
7. N85°32'34"W, A DISTANCE OF 515.84 FEET;
8. S77°20'48"W, A DISTANCE OF 330.71 FEET;
9. S37°35'28"W, A DISTANCE OF 758.87 FEET;
10. S43°21'52"W, A DISTANCE OF 528.81 FEET TO THE CENTER SOUTH
1/16 CORNER OF SAID SECTION 3, SAID POINT BEING THE
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THE SOUTHEAST QUARTER OF SAID SECTION 3, A DISTANCE OF 124.60
FEET, SAID LINE ALSO BEING THE EASTERLY BOUNDARY LINE OF SAID
SHAMROCK RANCH FILING NO. 1;

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THENCE CONTINUE N12°26'43"E ALONG THE EASTERLY BOUNDARY LINE OF A PARCEL OF LAND AS DESCRIBED IN BOOK 3326 AT PAGE 844, A DISTANCE OF 882.17 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 3 FROM WHICH THE CENTER QUARTER CORNER OF SAID SECTION 3 BEARS N89°21'26"W A DISTANCE OF 276.88 FEET;

THENCE S89°21'26"E ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 2359.28 FEET TO THE POINT OF BEGINNING;

CONTAINING A CALCULATED AREA OF 1,385,491 SQUARE FEET (31.80 ACRES) MORE OR LESS.