

**COMMISSIONERS:**  
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Planning Commission**  
**Brian Risley, Chair**

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

**RE: Project File #: P-17-002**  
**Project Name: SBR Racing Rezone**  
**Parcel No.: 32000-00-325**

OWNER:	REPRESENTATIVE:
Kerry E Burt 21430 Spencer Rd Calhan, CO 80808	Lee Seigel 12755 Thiebaud Ln Colorado Springs, CO 80908

**Commissioner District: 2**

Planning Commission Hearing Date:	11/19/2019
Board of County Commissioners Hearing Date:	12/10/2019

### EXECUTIVE SUMMARY

A request by Kerry E Burt for approval of a map amendment (rezone) of five (5) acres of the 40 acre parcel from the A-35 (Agricultural) zoning district to the A-5 (Agricultural) zoning district. The applicant has requested concurrent applications for a special use to allow for an outdoor amusement center and a minor subdivision of the 40 acre parcel into two (2) lots. The property is located north of Spencer Road and approximately 2.25 acres west of North Ellicott Highway and is within Section 22, Township 12 South, Range 63 West of the 6<sup>th</sup> P.M. The property is located in the Falcon/Peyton Small Area Master Plan (2006).

The applicant wishes to subdivide the land into 2 lots (Lot 1 being 35 acres and Lot 2 being 5 acres) and sell the 35 acre racetrack area to the operator of the racetrack. The

racetrack is considered legal-nonconforming due to the use being established in 1994, prior to when zoning was initiated for this portion of the County in 1999. Decreasing the lot size is considered an expansion of the non-conformity, which requires the use to be legalized.

A racetrack may be categorized as “Outdoor Amusement Center” and is defined as:

An establishment, which can be contained in part by a structure, but is largely exposed to the weather, designed or intended to provide entertainment or recreation for the general public characterized by being open for specific hours, receiving remuneration, advertising activities or use of the property, using sanctioned leagues, or holding organized events. The term includes, among other things, drive-in theaters, amusement parks, carousels, miniature golf courses, golf courses and driving ranges, go-cart tracks, skateboard parks, water parks, and privately-owned outdoor recreational facilities, but does not include bars, nightclubs, or sexually-oriented businesses. Accessory uses may include the preparation and serving of food or sale of equipment related to the identified uses.

An outdoor amusement center is a special use in the A-35 zoning district. If the map amendment (rezone) is approved, the PCD Director may approve the special use to allow the racetrack to continue onsite.

#### **A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION**

**Request:** A request by Kerry E Burt for approval of a map amendment (rezoning) 5 acres from A-35 (Agricultural) to A-5 (Agricultural).

**Waiver(s)/Deviation(s):** There are no waivers/deviations associated with the rezoning request.

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

#### **B. Planning Commission Summary**

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

#### **C. APPROVAL CRITERIA**

In approving a Map Amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019):

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

#### **D. LOCATION**

North: A-35 (Agricultural)	Agricultural
South: A-35 (Agricultural)	Agricultural
East: A-35 (Agricultural)	Agricultural
West: A-35 (Agricultural)	Agricultural

#### **E. BACKGROUND**

The property was zoned A-35 (Agricultural) on March 25, 1999, when zoning was first established for this area of the County. The applicant wishes to subdivide the land into 2 lots (Lot 1 being 35 acres and Lot 2 being 5 acres) and sell the 35 acre racetrack area to the operator of the racetrack. The minimum lot size requirement for the A-35 zoning district is 35 acres. The applicant is requesting to rezone five (5) acres of the 40 acre parcel to the A-5 zoning district, which requires a minimum lot size of five (5) acres, so that the land may be subdivided.

The racetrack is considered legal-nonconforming due to the use being established in 1994, prior to when zoning was initiated for this portion of the County in 1999.

Decreasing the lot size is considered an expansion of the non-conformity, which requires the use to be legalized.

A racetrack falls under the use categorization of “Outdoor Amusement Center” and is defined as:

An establishment, which can be contained in part by a structure, but is largely exposed to the weather, designed or intended to provide entertainment or recreation for the general public characterized by being open for specific hours, receiving remuneration, advertising activities or use of the property, using sanctioned leagues, or holding organized events. The term includes, among other things, drive-in theaters, amusement parks, carousels, miniature golf courses, golf courses and driving ranges, go-cart tracks, skateboard parks, water parks, and privately-owned outdoor recreational facilities, but does not include bars, nightclubs, or sexually-oriented businesses. Accessory uses may include the preparation and serving of food or sale of equipment related to the identified uses.

An outdoor amusement center is a special use in the A-35 zoning district. If the map amendment (rezone) is approved, the PCD Director may approve the special use to allow the racetrack to continue onsite.

## **F. ANALYSIS**

### **1. Land Development Code Analysis**

The subject parcel is currently zoned A-35 (Agricultural) and is surrounded by other A-35 parcels. One half (1/2) of a mile to the west and 2.25 miles to the east are parcels within the RR-5 (Residential Rural) zoning district, which require a minimum lot size of 5 acres. One fourth (1/4) of a mile to the east is a 1 acre parcel within the A-35 zoning district. One mile to the south are parcels within the RR-2.5 (Residential Rural) zoning district, which requires a minimum lot size of 2.5 acres.

The purpose of the A-35 Zoning District is:

The A-35 zoning district is a 35 acre district primarily intended to accommodate rural communities and lifestyles, including the conservation of farming, ranching and agricultural resources.

The purpose of the A-5 Zoning District is:

The A-5 zoning district is a 5 acre district primarily intended to conserve agricultural resources and ranching operations and accommodate limited residential use.

The primary difference between the two zoning districts is the dimensional standards- more specifically the minimum lot size requirement. The proposed map amendment (rezoning) is compatible in terms of compatible uses, but may not be considered compatible in terms of density when simply reviewing those parcels which are immediately adjacent. There are a number of other zoning districts within the vicinity. The proposed map amendment from the A-35 zoning district to the A-5 zoning district is compatible.

### **2. Zoning Compliance**

The applicant is requesting to rezone 5 acres to the A-5 (Agricultural) zoning district. The A-5 (Agricultural) zoning district is intended to conserve agricultural resources and ranching operations and accommodate limited residential use. The density and dimensional standards for the A-5 (Agricultural) zoning district are as follows:

Minimum Lot Size: 5 acres

Minimum Width at Front Setback Line: 200 feet

Setbacks: 25 feet on all sides

Maximum Height: 30 feet

The zoning map demonstrates that all existing structures will meet the setback requirements after the proposed subdivision has been completed.

### 3. Policy Plan Analysis

The El Paso County Policy Plan (1998) 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 6.1.3 - Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use, and access.***

The subject parcel is currently zoned A-35 (Agricultural) and is surrounded by other A-35 parcels. One half (1/2) of a mile to the west and 2.25 miles to the east are parcels within the RR-5 (Residential Rural) zoning district, which require a minimum lot size of 5 acres. One fourth (1/4) of a mile to the east is a 1 acre parcel within the A-35 zoning district. One mile to the south are parcels within the RR-2.5 (Residential Rural) zoning district, which requires a minimum lot size of 2.5 acres.

The purpose of the A-35 Zoning District is:

The A-35 zoning district is a 35 acre district primarily intended to accommodate rural communities and lifestyles, including the conservation of farming, ranching and agricultural resources.

The purpose of the A-5 Zoning District is:

The A-5 zoning district is a 5 acre district primarily intended to conserve agricultural resources and ranching operations and accommodate limited residential use.

The primary difference between the two zoning districts is the dimensional standards- more specifically the minimum lot size requirement. The proposed map amendment (rezoning) is compatible in terms of compatible uses and density when reviewing those lot sizes within the vicinity.

The applicant has requested a concurrent review of a minor subdivision to create one 5 acre parcel and one 35 acre parcel. Even though the second parcel is 35 acres it will be included in the subdivision. The proposal is in general conformance with the Policy Plan.

### 4. Small Area Plan Analysis

The parcel is included within the boundaries of the Falcon/Peyton Small Area Master Plan (2006), specifically the proposed future rural development area. The Plan defines rural residential density as "Parcel sizes are between 2.5 acres and 5 acres, with some of these platted lots ranging up to 10 acres in area."

Relevant goals and policies are as follows:

***3.1.4 Provide a variety of different densities of development options.***

*3.5.6 Balance long term transportation infrastructure needs with current requirements.*

*3.5.7 Ensure the coordination of land use and transportation planning.*

*3.1 Provide a balance of land uses that respects existing an historical pattern while providing opportunities for future residents and businesses.*

*4.5.1.5 Identify basic land use expectations in the Plan, but allow for the market and the detailed site planning process to specify detailed uses within the overall character, density and timing parameters established by the Plan.*

As discussed in the Background Section above, the racetrack has been in existence since prior to zoning, and prior to adoption of the Plan. The applicant wishes to sever the racetrack land to allow the business to continue while the remainder is under separate ownership. The subdivision will result in a parcel less than 35 acres in size which necessitates a map amendment (rezoning) action. The proposed 5 acre lot size is consistent with the recommended densities in the Falcon/Peyton Small Area Master Plan. The proposal is in general conformance with the Plan.

## **5. Water Master Plan Analysis**

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes.

The map amendment (rezone) application was submitted prior to the County adopting the Water Master Plan, therefore it is not an applicable review criteria.

## **5. Other Master Plan Elements**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. The Colorado Conservation District was sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies potential upland deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, severed mineral rights exist. The mineral rights owner has been notified of the application and hearing date.

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

No hazards were identified in the review of the proposed map amendment (rezone).

## **2. Wildlife**

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

## **3. Floodplain**

FEMA Flood Insurance Rate Map No. 08041C0585G which has an effective date of December 7, 2018 shows the property is located within flood zone X which is an area of minimal flood hazard and determined to be outside the 500-year floodplain.

## **4. Drainage and Erosion**

The property is located in La Vega Ranch drainage basin (CHBR0400) which is unstudied and has no drainage or bridge fees. A drainage report is not required with a rezone request.

## **5. Transportation**

The property is accessed via Spencer Road approximately half mile west of North Log Road. A traffic impact study was not required and the County road impact fee does not apply to this request because the rezone will not generate 100 more daily vehicle trips than the property would be expected to generate under the previous zoning.

## **H. SERVICES**

### **1. Water**

Water for Lot 2 is provided by individual wells (permit no. 83709-F). Water for Lot 1 is provided by bottled water.

### **2. Sanitation**

Wastewater for Lot 2 is provided by individual onsite wastewater treatment systems. Wastewater for Lot 1 is provided by portable toilets.

### **3. Emergency Services**

The property is within the Peyton Fire Protection District.

### **4. Utilities**

Electric is provided by Mountain View Electric Association. There is no gas available for this portion of El Paso County at this time.

### **5. Metropolitan Districts**

The property is not within a Metropolitan District.

### **6. Parks/Trails**

Land dedication and fees in lieu of park land dedication are not required for a map amendment (rezoning) application.

## **7. Schools**

Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application.

## **I. APPLICABLE RESOLUTIONS**

Approval        Page 27

Disapproval    Page 28

## **J. STATUS OF MAJOR ISSUES**

There are no major outstanding issues.

## **K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations.

### **CONDITIONS**

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include, but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the A-5 (Agricultural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

### **NOTATIONS**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.



**L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified three (3) adjoining property owners on November 4, 2019, for the Planning Commission meeting. Responses will be provided at the hearing.

**M. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Rezone Map

# El Paso County Parcel Information

File Name: MS-17-003/P-17-002

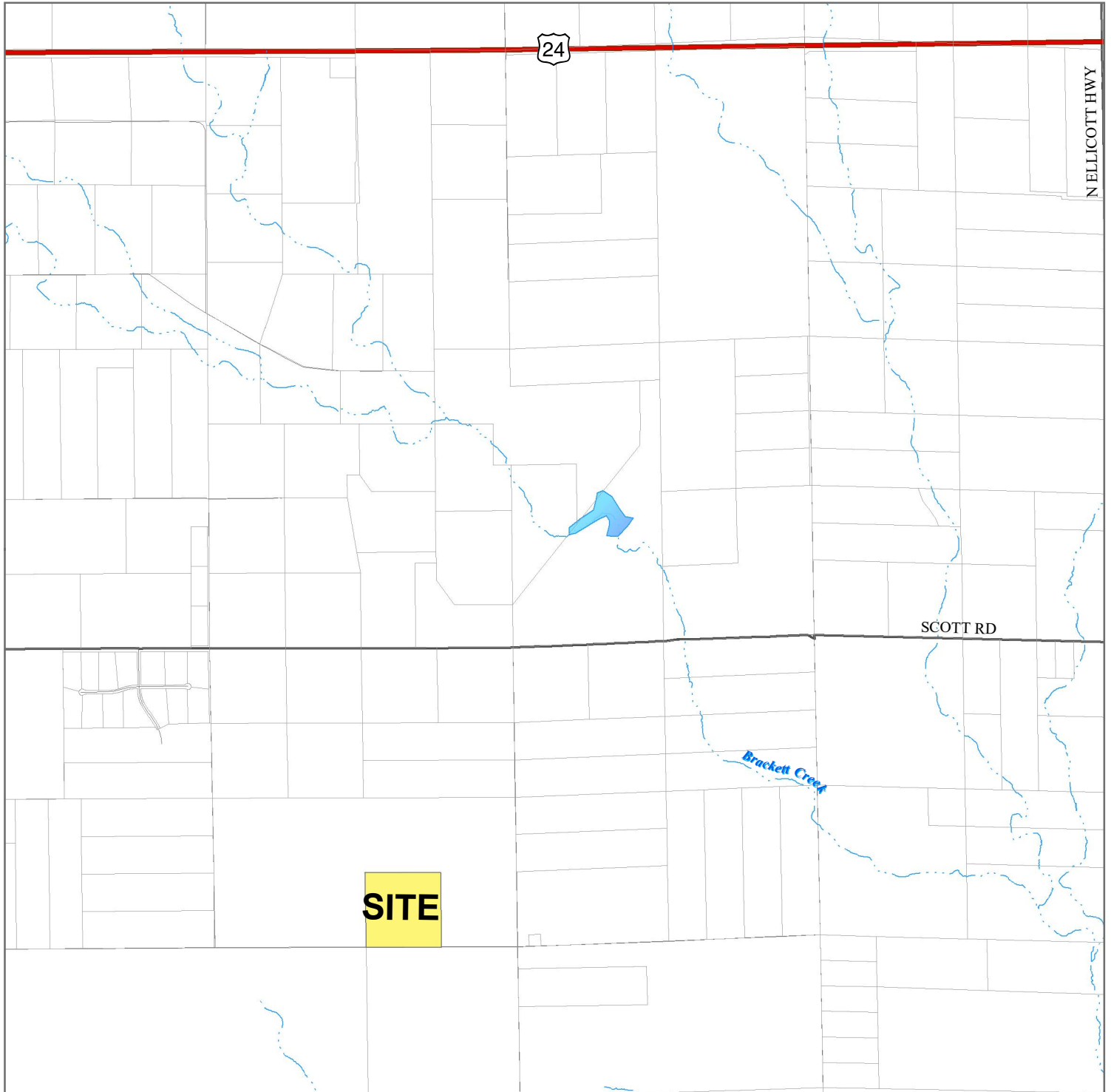
PARCEL	NAME
3200000325	BURT KERRY E

Zone Map No. --

ADDRESS	CITY	STATE
21430 SPENCER RD	CALHAN	CO

ZIP	ZIPLUS
80808	9113

Date: October 30, 2019



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



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**Letter of Intent  
Seigel Boys Racing  
Minor Subdivision, Rezone, Special Use  
4/3/17**

<b>OWNER:</b>	Kerry Burt 2066 Sather Drive Colorado Springs, CO 80915	<b>APPLICANT:</b>	Lee Seigel 12755 Thiebaud Lane Colorado Springs, CO 80908
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**CONSULTANT:** Shawn Hoch  
8605 Explorer Drive, Suite 250  
Colorado Springs, Colorado 80920

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

**REQUEST/JUSTIFICATION:** The request of this petition is to facilitate a land sale of 35-acres of a 40-acre parcel. To accomplish this land sale, the 40-acre parcel must be subdivided to create a five (5) acre lot which will be retained by the current owner. To create a five (5) acre lot, a request to rezone the five (5) acre portion of the property to A-5 is necessary. Additionally, a request to review a special use permit for the 35-acre parcel which houses an existing outdoor amusement center/ go-kart racing track is required to bring the existing outdoor amusement center/ go-kart racing track into conformance with current county standards as the parcel will change from a 40-acre to a 35-acre parcel. These three (3) applications are to be completed concurrently.

**EXISTING/PROPOSED FACILITIES, STRUCTURES, ROADS, ECT.:** Existing facilities located on the 35-acre parcel include the SBR Motorsports Park which utilizes one access off Spencer Road, parking area, a half mile go-kart racetrack, and one framed structure use for the storage of go-karts.  
Existing structures on the 5-acre parcel includes a single-family residence, a well and septic, and a large shed structure.  
There are no proposed facilities, structures, roads, etc. for either parcel.

**WAIVER REQUEST AND JUSTIFICATION:** Modified soils and geology report. No site modification / improvements, earth disturbing activities, or construction operations are being conducted.

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

**TOTAL NUMBER OF ACRES IN THE REQUESTED AREA:** 40 acres

**TOTAL NUMBER OF RESIDENTIAL UNITS AND DENSITIES FOR EACH DWELLING TYPE:** The only residential portion is the 5-acre which has one (1) existing dwelling unit.

**NUMBER OF INDUSTRIAL OR COMMERCIAL SITES PROPOSED:** N/A

**APPROXIMATE FLOOR AREA RATIO OF INDUSTRIAL AND/OR COMMERCIAL USES:** N/A

**NUMBER OF MOBILE HOME UNITS AND DENSITIES:** N/A

**TYPICAL MIN. LOT SIZE:** N/A

**TYPE OF PROPOSED RECREATIONAL FACILITIES:** N/A

**CONSTRUCTION PHASES:** N/A

**ANTICIPATED SCHEDULE OF DEVELOPMENT:** N/A

**UTILITIES – WATER AND SEWER:** 5-acre parcel: water is provided via well, Permit Number 115609 and sewer is on Septic.  
35-acre parcel: currently no well or septic for the existing outdoor amusement center/ go-kart racing track; drinking water is provided via bottle and sewer is provided via Porta Potty.

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

**AREA'S OF REQUIRED LANDSCAPING:** N/A

**APPROXIMATE ACRES AND PERCENT OF LAND TO BE SET ASIDE AS OPEN SPACE, NOT TO INCLUDE PARKING, DRIVE, AND ACCESS ROADS:** N/A, no site improvements are being made. This Letter of intent is to facilitate the land sale of 35 acres of a 40-acre parcel by subdividing out a 5-acre parcel which needs to be rezoned. All land will stay as is with no earth disturbance or increase in residential density, just the ownership of the 35-acre portion of the 40 acres of land containing the SBR Motorsports Park will change hands from the current land owner to the actual owner of the SBR Motorsports Park.

# SBR MOTOR SPORTS REZONING MAP

ZONING OF A PART OF THE SOUTHEAST 1/4 OF SECTION 22  
TOWNSHIP 12 SOUTH, RANGE 63 WEST OF THE 6TH P.M.,

## LEGAL DESCRIPTION:

**BASIS OF BEARINGS:** THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 63 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, ASSUMED TO BEAR N90°00'00"W, A DISTANCE OF 1324.90 FEET.

### PARCEL A:

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, EXCEPT PARCEL B AS DESCRIBED BELOW.

CONTAINING A CALCULATED AREA OF 35.067 ACRES.

### PARCEL B:

COMMENCING AT THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 12 SOUTH, RANGE 63 WEST OF THE SIXTH PRINCIPAL MERIDIAN; THENCE N 90°00'00" E, ON THE SOUTH LINE OF SAID SECTION 22, A DISTANCE OF 535.93 FEET TO THE POINT OF BEGINNING; THENCE N 00°00'00" E, A DISTANCE OF 375.99 FEET; THENCE N 90°00'00" E, A DISTANCE OF 579.26 FEET; THENCE S 00°00'00" W, A DISTANCE OF 375.99 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 22; THENCE N 90°00'00" W, ALONG SAID SOUTH LINE, A DISTANCE OF 579.26 TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 5.000 ACRES.

**OWNER: PETER J. BROMS &  
LINDA B. BROMS (GUARDIAN)**  
ASSESSOR NO. 3200000324  
ZONE: A-35

**PARCEL A**  
**OWNER: KERRY E. BURT**  
ASSESSOR NO. 3200000325  
ZONE: A-35  
PROPOSED ZONE: A-35  
W/ SPECIAL USE PERMIT

1,527,514 SQ. FT.  
35.067 ACRES

**OWNER: PETER J. BROMS &  
LINDA B. BROMS (GUARDIAN)**  
ASSESSOR NO. 3200000324  
ZONE: A-35

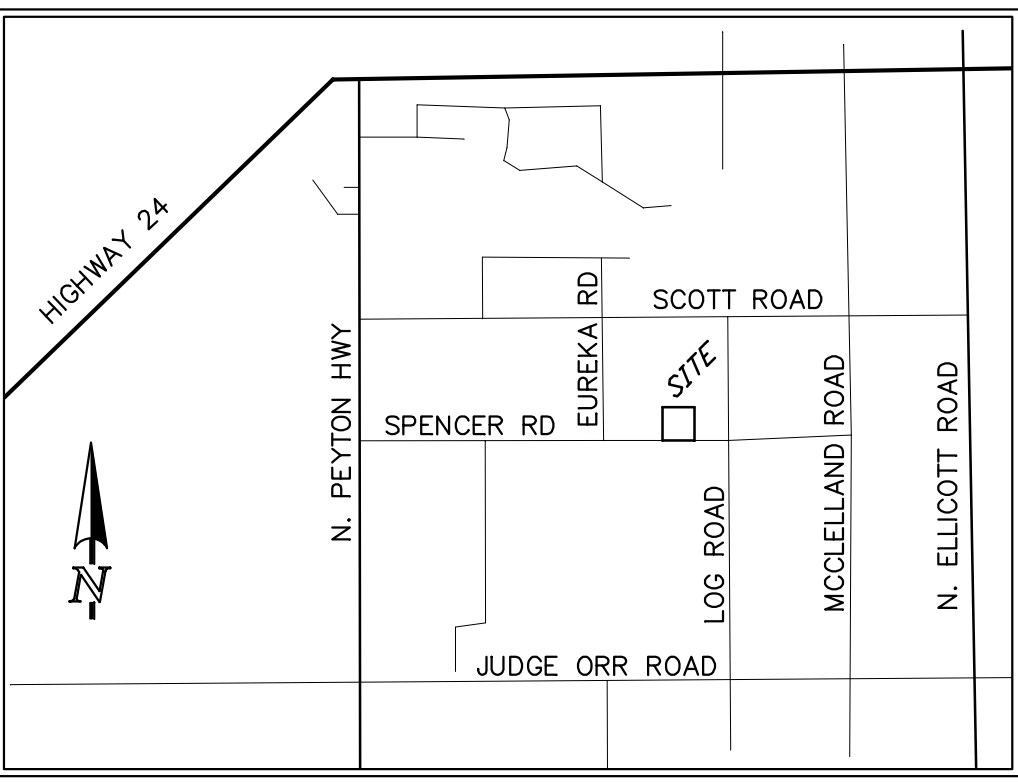
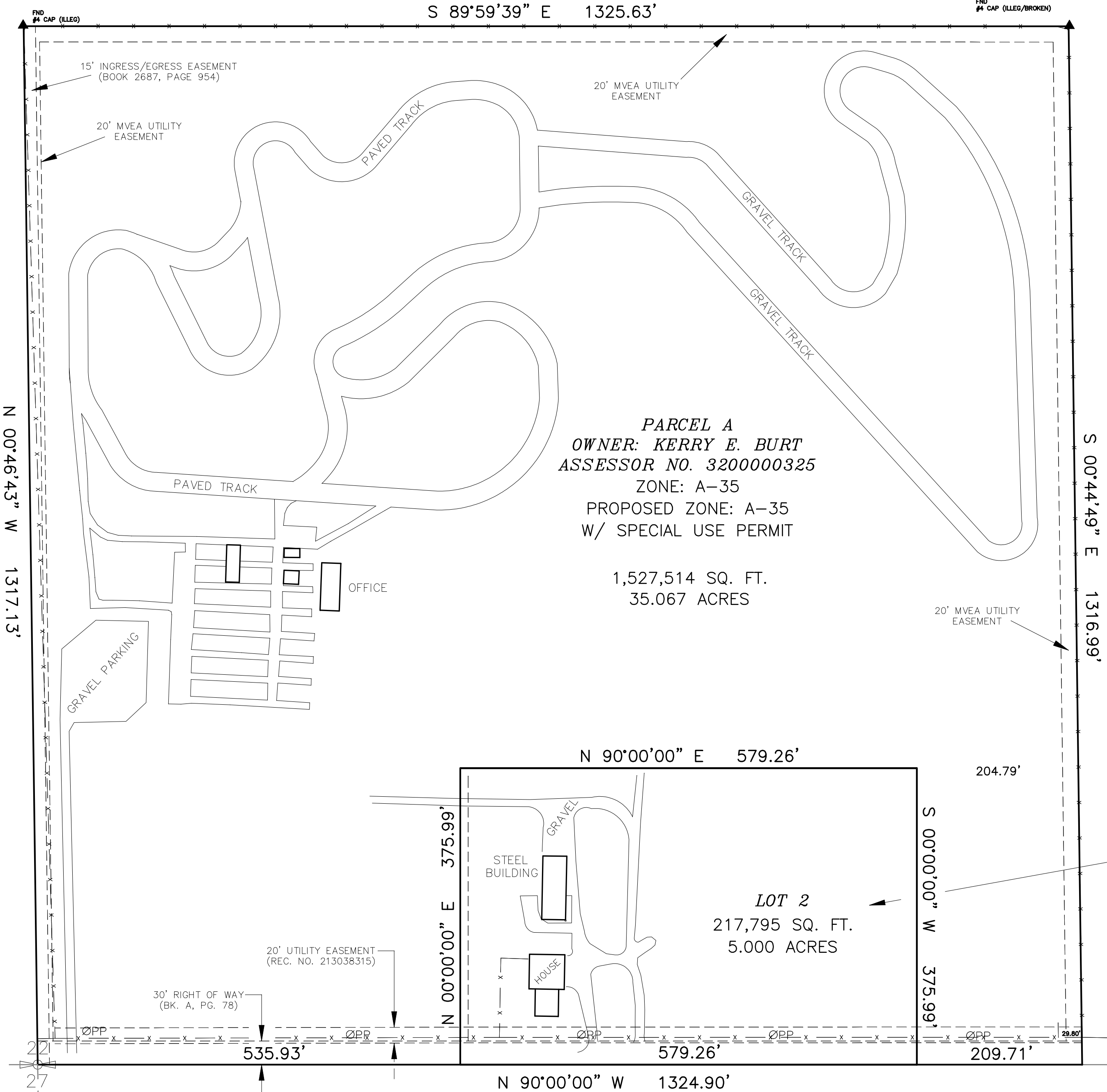
**PARCEL B**  
**OWNER: KERRY E. BURT**  
ASSESSOR NO. 3200000325  
ZONE: A-35  
PROPOSED ZONE: A-5

**OWNER: BEVERLY J. BLATTSPIELER**  
ASSESSOR NO. 3200000039  
ZONE: A-35

**OWNER: MARLA K. MANYIK &  
RICK A. MANYIK**  
ASSESSOR NO. 3200000697  
ZONE: A-35

## LEGEND

- SET NO. 5 REBAR WITH 1-1/2" ALUMINUM SURVEYORS CAP OR NAIL AND DISK STAMPED "37634"
- ▲ RECOVERED AS NOTED
- BOUNDARY LINE
- - - EASEMENT LINE
- x - x - x - FENCE
- e - e - e - OVERHEAD ELECTRIC SERVICE
- ØPP POWER POLE
- 29 32 QUARTER SECTION CORNER
- SF SQUARE FEET



VICINITY MAP:  
N.T.S.

**PETITIONER:** SIEGEL BOYS RACING (LEE SIEGEL - LESSEE)  
21430 SPENCER ROAD  
CALHAN, CO 80808

**INTERESTED PARTIES:** KERRY E. BURT (OWNER)  
21430 SPENCER ROAD  
CALHAN, CO 80808

JAMES L. SINGLETON (1/2 OIL, GAS, MINERAL INTEREST PER DEED)  
(ADDRESS UNKNOWN)

**PREPARER:** EAGLE LAND SURVEYING, INC.  
2345 ACADEMY PLACE  
SUITE 201  
COLORADO SPRINGS, CO 80909



**EAGLE**  
LAND SURVEYING INC.  
P.O. BOX 5365  
COLORADO SPRINGS, CO  
80931-5365  
PHONE: (719) 382-4150  
FAX: (719) 382-3290