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COLORADO

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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, Planning Manager
 Jack Patton, Engineer I
 Craig Dossey, Executive Director**

**RE: Project File #: VA-18-005
 Project Name: Rocky Top Variance
 Parcel No.: 83092-00-011**

OWNER:	REPRESENTATIVE:
G&D Enterprises, Corporation P.O. Box 215, Green Mountain Falls, Colorado 80819	Debra Eiland, Esq., Law Office of Debra Eiland, P.C. 24 South Weber Street, Suite 300, Colorado Springs, Colorado 80903

Commissioner District: 3

Planning Commission Hearing Date:	1/7/2021 and 2/4/2021
Board of County Commissioners Hearing Date	2/23/2021

EXECUTIVE SUMMARY

A request by G&D Enterprise, Corp., for approval of a variance of use to legalize an existing Recreational Vehicle Park, Recreation Camp, and Automobile and Boat Storage Yard. The 9.32-acres parcel is currently zoned C-2 (Commercial) and is located northeast of the Highway 24 and Lucky 4 Road intersection and within Section 9, Township 13, Range 68 West of the 6th P.M. The property is located within the Ute Pass Comprehensive Plan (1982).

The item was heard on January 7, 2021 by the Planning Commission when it was continued to the February 4, 2021 Planning Commission hearing at the applicant's



request. At the February 4, 2021 hearing the applicant rescinded the request to legalize the automobile and boat storage yard. The request included within the staff report and the conditions of approval have been updated to reflect this revised request.

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by G&D Enterprise, Corp., for approval of a variance of use to legalize an existing Recreational Vehicle Park and Recreation Camp.

Waiver(s)/Deviation(s): None

Authorization to Sign: N/A

B. PLANNING COMMISSION SUMMARY

Request Heard: As a Regular item at 1/7/2021 and 2/4/2021 hearings.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 5 to 4

Vote Rationale: Hardship or exceptional difficulties not proven.

Summary of Hearing: The applicant was represented at the hearing. Planning Commission minutes from both hearings are attached.

Legal Notice: N/A

C. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code, the Board of County Commissioners may consider the following criteria in approving a variance of use:

- 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:R-T (Residential Topographic)	Vacant
South:R-T (Residential Topographic)	Water treatment facility
East: R-T (Residential Topographic)	Vacant/ Single-Family Residential
West: R-T (Residential Topographic)	Single- Family Residential

E. BACKGROUND

The parcel was created on December 16, 1965, prior to adoption of modern subdivision regulations by the El Paso County Board of County Commissioners on July 17, 1972. The property was zoned R-T (Residential Topographic) on July 24, 1967 when zoning was first established for this portion of El Paso County. The parcel was subsequently rezoned to C-2 (Suburban Business) on June 8, 1972.

The C-2 zoning district allowed recreation camps until 1966. According to the El Paso County Assessor’s records, the hotel/motel structure and storage warehouse were constructed in 1947, and the RV and tent campground was constructed in 1950, prior to the initial zoning of the property. Therefore, each of these uses were previously considered legal nonconforming when the parcel was first zoned R-T (Residential Topographic). When the property was rezoned to the C-2 zoning district, the hotel/motel use became conforming and the recreational camp use continued to be legal nonconforming.

The original footprint of the campsite area has been enlarged. Section 5.6.4 (B), Expansion of Use as Variance of Use or Special Use, of the Code states:

“A nonconforming use of land shall not be extended or enlarged; provided, however, an extension or enlargement may be approved as a variance of use. Where the use is a special use in the zoning district, a special use permit shall be obtained for an extension or enlargement of the use.”

A notice of violation was sent to the applicant on June 19, 2018, following a complaint being received by El Paso County Code Enforcement for inoperable vehicle storage and rubbish. A notice of violation was sent for the rubbish,

Recreational Vehicle Park, Recreation Camp, and Automobile and Boat Storage Yard.

Per the applicant's letter of intent, the site will have as many as 72 extended stay sites for recreational vehicles and trailers, "additional sites for camping", bathrooms to serve the camp sites, a green house, a children's playground, a dog park, a motel (with 15 rooms) including laundry facilities and an office with adjoining owners residence, a storage warehouse, and an open area for recreation vehicle storage.

The owners live on the property and have a full-time caretaker that resides in a recreational vehicle within the campground area. If the variance of use request is approved, the applicant will be required to submit and receive approval of a site development plan within 180 days of the date of approval unless administratively extended by the PCD Director. The site development plan will need to be substantially consistent with the site plan provided with the variance of use application and provide a more detailed depiction of the proposed use, including landscaping, parking, signage, and lighting.

F. ANALYSIS

1. Land Development Code Analysis

The El Paso County Land Development Code (2019) does not allow a Recreational Vehicle Park, Recreation Camp, and Automobile and Boat Storage Yard in the C-2 zoning district. The requested uses are not consistent with the C-2 zoning district without approval of a variance of use.

The existing uses on the 9.3-acre parcel consist of a hotel, recreation camp, recreational vehicle park, and automobile, boat and recreational vehicle park. There is no conventional zoning district which would allow for this unique mix of uses; therefore, a map amendment (rezone) to another zoning district is not a viable option in order to bring the property into compliance.

The Land Development Code (2019) defines a Recreational Vehicle Park as:
"An area within the RVP zoning district planned exclusively for the parking or temporary storage of 2 or more recreational vehicles for temporary or long term occupancy as a housing unit."

The Land Development Code (2019) defines a Recreation Camp as:
" A place used as a destination point for visitors, for vacationing or other recreational purposes which may include permanent structures and temporary facilities such as tents or yurts for the use of guests which

facilities may contain cooking facilities and are used for temporary occupancy(not to exceed 30 consecutive days or a total of 90 days in one calendar year). This term shall not be interpreted to include hotels, motels, restaurants, and theaters but would include land uses commonly considered as campgrounds, dude ranches, resorts or retreats.”

The facility consists of both tent camping spaces as well as recreational vehicle spaces. The use was once considered legal nonconforming. Due to the use being expanded, and the additional use of a Recreational Vehicle Park being established, the use is no longer considered legal nonconforming. The site is surrounded by rural residential properties, which were constructed between the years of 1960-1990. The campground use has been in place since 1950, which pre-dates the surrounding residential properties; therefore, the use is harmonious with the historical character of the neighborhood. Furthermore, due to the campground use being in place for 70 years, and due to a recreational vehicle park having similar impacts, the Planning Commission and Board of County Commissioners could make a finding that the expansion of the non-conforming use is compatible with the surrounding area and not detrimental to future development of the area.

In addition to the Recreation Camp and Recreational Vehicle Park, the owner has also established an Automobile, Boat, and Recreational Vehicle Storage area. The Land Development Code (2019) defines an Automobile and Boat Storage Yard as:

“A lot, parcel, or structure used for temporary storage of operable automobiles, trucks under 5 tons rated capacity, campers, recreational vehicles, trailers, or boats, not owned by the property owner, where typically the storage occurs when they are not in use and for a fee. The term shall not include scrap metal processing yards, vehicle dismantling yards, or salvage yards.”

The outside storage area for the automobiles, boats, and recreational vehicles is approximately 0.7 acres of the 9.3-acre property and is located in the southeastern corner, immediately adjacent to Highway 24. The outside storage use is more of a passive commercial use that generates little traffic and noise. The primary potential impact is visual.

Section 6.2.2.G.1.f of the Land Development Code (2019) states:

“(i) Site-Specific Landscaping Required. PCD Director approval of site-specific landscaping is required for establishing an outside storage area.

Installation of approved site-specific landscaping is required prior to utilizing an outside storage area.

(ii) Site-Specific Landscaping Standards. The site-specific landscaping shall reflect a combination of berms, shrubs, trees, fences or walls which will provide, at maturity, a minimum 6-foot high, 100% opaque screening for the outside storage area.”

If the variance of use request is approved, the applicant will be required to submit and receive approval of a site development plan within 180 days of the date of approval unless administratively extended by the PCD Director. The site development plan will need to be substantially consistent with the site plan provided with the variance of use application and provide a more detailed depiction of the proposed use, including landscaping, parking, signage, and lighting.

2. Zoning Compliance

The C-2 (Commercial) zoning district density and dimensional standards are as follows:

- Minimum front setback: 15 feet
- Minimum side setback: 25 feet
- Minimum rear setback: 25 feet
- Maximum height: 50 feet

All existing structures meet the dimensional standards of the C-2 zoning district. The applicant is proposing to construct a new bathroom facility for the campground use. This facility will also be required to meet all of the associated dimensional standards.

3. Policy Plan Analysis

Consistency with the El Paso County Policy Plan (1998) is not a required review criterion for a variance of use request. For background, 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 6.1.16 – Allow for new and innovative concepts in land use design and planning if it can be demonstrated that off-site impacts will not be increased and the health, safety and welfare of property owners and residents will be protected.

As discussed above, there is no zoning district which allows for a hotel, recreational vehicle park, recreation camp, and automobile, boat, and recreational vehicle storage. The hotel and campground have been located on the subject parcel for over 70 years. The additional uses of a recreational vehicle park and automobile, boat, and storage yard are complimentary to the pre-existing uses. The additional uses are not anticipated to significantly increase the off-site impacts or impact the health, safety, and welfare of those residents living in the immediate area.

4. Small Area Plan Analysis

The property is within the Ute Pass Comprehensive Plan (1982). Consistency with the Plan is not a required review criterion for a variance of use request. For background purposes, staff notes that the small area plan does not include a specific map with recommendations regarding future land use. The plan does, however, discuss tourist related uses and recommends that they be located in Green Mountain Falls. The subject parcel is not specifically located within Green Mountain Falls, but is located immediately east of Green Mountain Falls, across Highway 24.

5. Water Master Plan Analysis

The Water Master Plan was not yet adopted by El Paso County at the time of the initial variance of use application. Therefore, the Plan was not utilized in reviewing the proposed variance of use.

6. Other Master Plan Elements

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

The Master Plan for Mineral Extraction (1996) identifies decomposed granite 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, no severed mineral rights exist.

The El Paso County Parks Master Plan (2013) does not depict any parks or trails on the subject parcel.

Please see the Transportation section below for information regarding conformance with the 2016 Major Transportation Corridor Plan (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

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

2. Wildlife

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

3. Floodplain

The property is located within a Zone D floodplain, area with flood risk due to levee, as determined from the FEMA Flood Insurance Rate Map panel number 08041C0467G, dated December 7, 2018.

4. Drainage and Erosion

The property is located within the Upper Fountain (FOFO7600) drainage basin, which is not a studied basin. Drainage and bridge fees are not assessed with variance of use requests. No drainage report is on file with the County for this property. Prior to future development, a drainage report and grading and erosion control plan will be required with the associated site development plan.

5. Transportation

West Highway 24 is the primary access to and from the site. West Highway 24 is owned and maintained by the Colorado Department of Transportation (CDOT) and is classified as a four-lane principle arterial in the 2016 Major Transportation Corridors Plan (MTCP). The applicant will need to obtain an access permit from CDOT prior to approval of the site development plan. A traffic study was not required as the proposed variance of use is not expected to generate 100 daily vehicle trips more than the property would be expected to generate currently. The proposed variance of use will have a minimal impact to the County's transportation network. Applicability of the El Paso County Road Impact fee will be determined at the site development plan stage. There are no improvements identified in the 2016 Major Transportation Corridors Plan (MTCP) in the immediate vicinity of the site.

H. SERVICES

1. Water

Water is provided by an exempt well (Permit No. 5698).

2. Sanitation

The existing residence located on the property is served by an onsite wastewater treatment system (OWTS). El Paso County Public Health was sent a referral for the variance of use application and has provided comments indicating that the proposed additional new septic system associated with the new restroom facility will be required to be professionally engineered.

3. Emergency Services

The property is within the Green Mountain Falls/Chipita Park Protection District.

4. Utilities

Electrical service is provided by Colorado Springs Utilities (CSU) and natural gas service is provided by Black Hills Energy-Aquila. Black Hills Energy-Aquila and CSU were both sent referrals and have no outstanding comments.

5. Metropolitan Districts

The property is not located within a metropolitan district.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a variance of use application.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a variance of use application.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.4 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

CONDITIONS

1. Within 180 days of variance of use approval, the applicant shall apply for and receive approval of a site development plan. The deadline for receipt of approval

of the site development plan may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

2. Prior to site development plan approval, the applicant shall provide the Planning and Community Development Department with evidence that an access permit from the Colorado Department of Transportation (CDOT) has been obtained for the existing access.
3. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
4. Approval is limited to the use of a recreational vehicle park and recreation camp, as discussed and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or modification to the operation or facilities beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to review and approval of a new variance of use request.

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 nine (9) adjoining property owners on December 22, 2020, for the Board of County Commissioners' hearing. Responses received to date are attached.

M. ATTACHMENTS

Vicinity Map
Letter of Intent

Site Plan

Adjacent Property Owner Responses

Planning Commission Draft Minutes 1/7/2021 and 2/4/2021

Planning Commission Resolution

Board of County Commissioners' Resolution

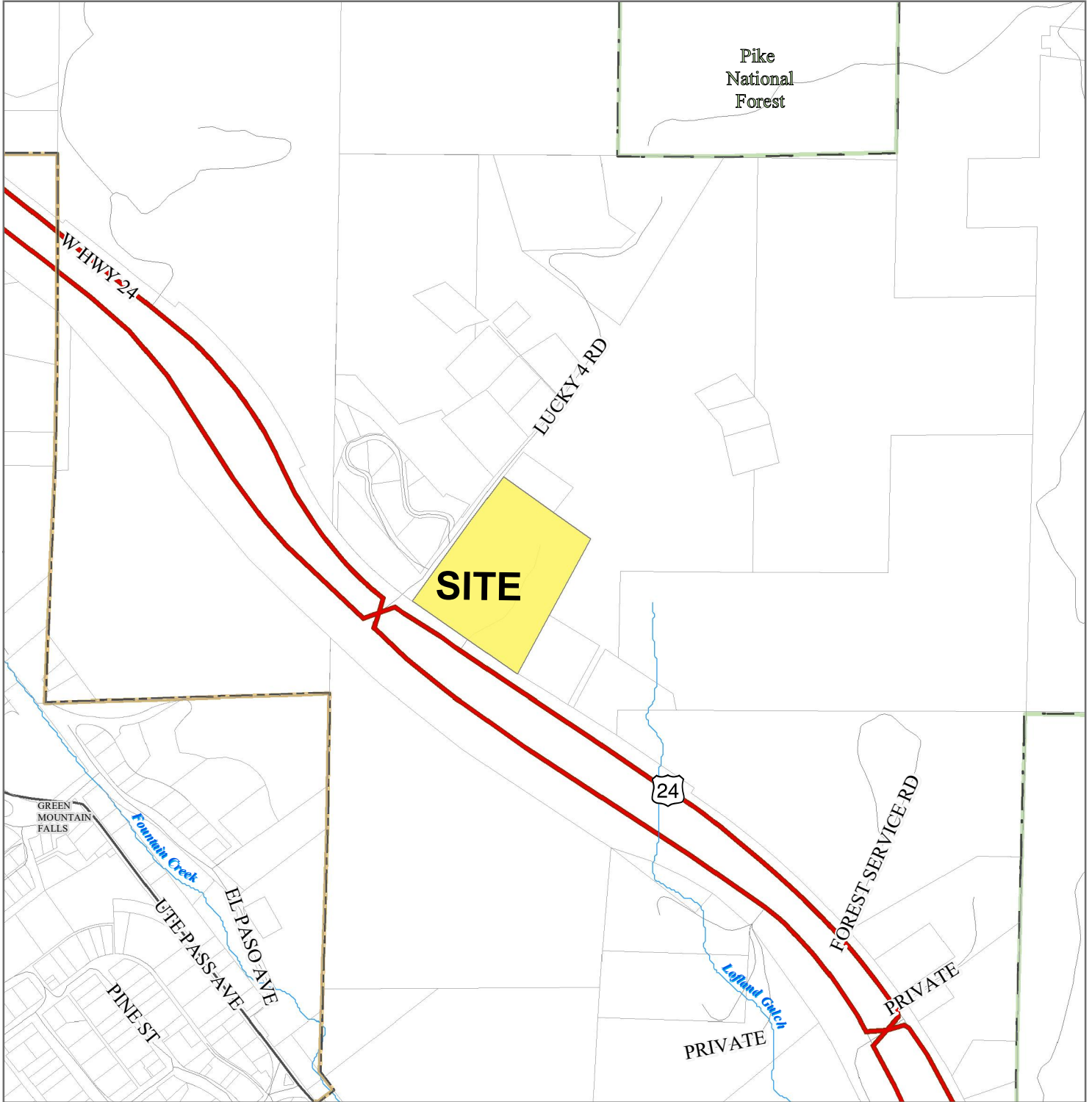
El Paso County Parcel Information

File Name: VA-18-005

PARCEL	NAME
8309200011	G&D ENTERPRISES CORP

Zone Map No. --

Date: December 21, 2020



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

**Application for Variance of Use
July 26, 2019**

**revised November 5, 2020
second revision February 1, 2021**

Rocky Top RV Park & Campground

**G&D Enterprises, Corp.
10090 West Highway 24
Green Mountain Falls, Colorado 80819
Owner: Daniel P. Nieman**

I. Owner/Applicant and Consultant.

G&D Enterprises, Corp. is owned by Daniel P. Nieman. The Owner/Applicant and Consultant contact information is as follows:

Applicant:

Daniel P. Nieman
P.O. Box 215
Green Mountain Falls, Colorado 80819
(989) 430-8065

Owner:

G&D Enterprises, Corp.
10090 West Highway 24
Green Mountain Falls, Colorado 80819
(719) 684-9044

Consultant:

Debra Eiland, Esq.
Law Offices of Debra Eiland, P.C.
24 S. Weber Street, Suite 300
Colorado Springs, Colorado 80903
(719) 471-1545
debra@eilandlawfirm.com

II. Site Location, Size and Zoning.

The property located at 10090 West Highway 24, Green Mountain Falls, Colorado contains a motel and RV park/campground. Pursuant to the El Paso County Assessor's records for Parcel #8309200011, the motel and a storage warehouse were built in 1947, and the RV park/campground was built in 1950. The motel has 15 rooms, including the laundry and manager's quarters, and the RV park/campground has had as many as 72 campsites for trailers and RVs, and additional sites for tent camping.

Mr. Nieman plans to operate the RV park/campground and motel as previous owners have. The property consists of approximately 9.30 acres.¹ The property is zoned C-2. A parcel map showing the location of the property is included with this application.

¹The Assessor's records show the property area to be 9.21 acres, which appeared on a Survey Plat recorded on January 27, 1997, under Reception Number 97902111. That acreage was subsequently amended by a Boundary Line Agreement recorded on February 19, 2004, at Reception Number 204028584. The change to 9.30 acres, based on that Boundary Line Agreement, is reflected in a full Boundary Survey and Land Survey Plat deposited with the El Paso County Clerk & Recorder's office on December 29, 2017, at Reception Number 217900261.

III. Request and Justification.

Mr. Nieman purchased the property on June 23, 2017. The property has been home to a small motel since 1947, and an RV park/campground since 1950. Pursuant to the Administrative Determination dated March 5, 2019 (ADM-18-029), the motel is a legal non-conforming use. However, due to the expansion of the campsites since the Land Use Code became effective, a variance is required to legalize the expanded RV park and campground use. Mr. Nieman is applying for a use variance for a recreational RV park and campground with a provision for extended stays.

IV. Existing and Proposed Facilities, Structures, Roads, etc.

Access to the property is provided from Highway 24 across a short CDOT owned gravel road via two driveway entrances (one paved and one gravel).² Both driveway entrances are wide enough to accommodate large RVs and emergency vehicles. The paved driveway entrance provides access to the motel and RV park/campground, and the gravel driveway entrance provides access to the tent sites.

The motel has 15 rooms, including a laundry, office and /manager's quarters, and the RV park/campground currently has 60 RV and trailer sites and 8 tent campsites. Amenities include electric, Internet/Wi-Fi, water, and sewer hookups at each site, one dump station, a fenced dog park, a recreation room, maintenance shop, bathrooms, and laundry building, and a covered patio/BBQ area. The two small sheds and propane tank located within the northern boundary setback will be moved outside the setback area.

The motel has an office with an adjoining manager's quarters, which is part of the motel building. Historically, the owner of the property has served as the motel manager and lived onsite in the manager's quarters. Mr. Nieman and his wife and minor son live in the manager's quarters. It is necessary for Mr. Nieman and his family to live onsite to manage and maintain the motel business. Due to the nature of the motel business, which requires 24 hour staffing, it would pose a significant financial burden to Mr. Nieman and his family if they were prohibited from living onsite. Mr. Nieman also purchased the property with the expectation that he and his family would live there just as other owners had before him. Mr. Nieman's presence onsite creates a safe environment for all guests.

To oversee maintenance and repairs of the RV park/campground, the Applicant proposes to have its full-time caretaker live on-site in his personal RV. It is common for

²On February 2, 1992, former owners David and Vivian Hansen conveyed to the Colorado State Department of Highways a strip of the property along the Highway 24 frontage, reserving an access easement across that strip of property and to the two driveway entrances. A copy of the Deed of Access Rights for the two access driveways off Highway 24 dated February 2, 1992, recorded in the records of the El Paso County Clerk and Recorder at Reception Number 860329, Book 2465, Page 195 is attached as Appendix A with copies of the Access Permit Applications filed with CDOT.

campgrounds, including state, federal, and commercially owned properties, to have a caretaker or campground host living on-site full time in an RV. The Rocky Top motel does not provide an apartment-type unit that would be suitable for this purpose. The Applicant has designated site number 27 along the northern boundary of the property for this purpose. The property adjoining the northern boundary of the Rocky Top property is vacant land with no residences. Rocky Top's caretaker living on-site in his RV will have no adverse impact on adjoining property owners. His presence will enhance safety and security to the benefit of neighboring properties and Rocky Top guests.

A 12' x 16' bathroom building will be constructed near campsite 50 to replace an old tent camper restroom building. A greenhouse will be constructed for the owner's personal use. A children's playground will be added above the dog park. Three light poles with security cameras will be added near the tent area, the northwest corner of the property, and below campsites 9 and 10. All lights will be shielded and equipped with dusk-to-dawn sensors. The Applicant will provide a photometric plan with the subsequent site development plan. Upgraded electric, water, and sewer connections will be installed at campsites 50-60, and the electric lines and connection to the well shed will also be upgraded. Over the next five years, the Applicant plans to add a retaining wall below campsites 1-9 and expand those campsites, and plans to upgrade the water, sewer, and electric connections to all the other campsites. These land disturbance areas will be included in the drainage report as part of the subsequent site development plan.

Campers access their campsites via private internal roads with a posted speed limit of 10 mph. Ample parking, including ADA accessible parking, is provided at the campsites and in front of the motel office. The Applicant also plans to install 16' x 30' cement pads on each of the campsites over the next several years. These land disturbance areas will be included in the drainage report as part of the subsequent site development plan.

The small weather shelter/bus stop on the northwest corner of the property will be removed. One sign for the motel and RV/campground business is located at the paved driveway entrance.

The defined tent sites and retaining walls are recent areas of land disturbance that exceed one acre in total area. All land disturbances that have occurred on the property since February 2008 are part of a Large Common Plan of Development and are considered for Water Quality Capture Volume. The drainage report submitted with the subsequent site development plan will address the historic/undeveloped condition of the property. All required engineering documents will be submitted with the site development plan.

V. Waiver Requests.

The Applicant requests a waiver of the LDC to allow extended stays. The upper two-thirds of the property has been used as an RV park/campground since 1950. The

adjoining properties to the north and east of the RV park/campground are vacant land. Rocky Top is open year round, and allowed extended campground stays prior to Mr. Nieman purchasing the property. Extended stays at Rocky Top provide an important resource to the community. Some examples of the campers who have taken advantage of the extended stay policy are:

- Families looking for property or a home to buy.
- Fire Evacuees - Families camp at Rocky Top while their homes are being built or rebuilt because of fires and other disasters.
- Families whose spouse/children are receiving medical treatment.
- Loggers, storm chasers, and seasonal or temporary workers
- Veterans seeking services from a VA provider.
- Students and workers from Charis Bible College
- Military awaiting deployment or transfers.
- Retirees visiting families.
- People going through a divorce, or a death in the family.
- Employment transfer or searching for a new job in the area.
- Seasonal campers, who summer here and winter in warmer climates.

The Applicant acknowledges that LDC Section 6.2.5.C.2.c.iii requires paving for 25 or more parking spaces, and that a waiver request will be required with the Site Development Plan if paved parking spaces are not proposed.

VI. Criteria for Approval of Use Variance.

A. 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 motel has an office with an adjoining owner's residence, which is part of the motel building. Historically, the owner of the property has served as the motel manager and lived onsite in the owner's residence. Just as previous owners have done before him, Mr. Nieman and his family live in the motel owner's residence to manage and maintain the motel business, while providing 24-hour staffing at the motel. The owner's presence at the motel enhances security and safety for motel guests and the surrounding neighborhood.

A full-time caretaker for the RV park/campground will live on-site to ensure that the facilities and grounds are kept clean and in good repair. The caretaker will monitor the grounds on a regular basis and ensure adherence to the campground rules including, but not limited to, an evening noise curfew. The campground Rules and Regulations are included as Appendix B. The presence of a full-time on-site caretaker will enhance safety and security to the benefit of neighboring properties.

In addition to the noise curfew, generators are not allowed at any time. Campers are advised of campground boundaries and are prohibited from entering neighboring properties so as not to disturb the peace and quiet enjoyment of the neighbors. The campground enforces a speed limit of 10 mph for all vehicles on the premises. The campground provides a laundry room, showers, washing station, a sanitary sewer dump station for RVs, and regular trash pickup to ensure proper sanitation and waste disposal. Three bear proof trash receptacles have been installed to contain campground waste.

Lucky 4 Road separates the Rocky Top property from the residential properties to the west. The properties to the west of Lucky 4 Road contain residences that were built between 1962-2005, many years after the RV park/campground opened. The western property boundary between the tent sites and Lucky 4 Road is currently fenced with a wooden privacy fence. That fence will be extended and/or replaced with opaque fencing that does not exceed the maximum height allowed in the setback and extended to the corner of the western and northern boundaries to provide screening for those residences.

The properties adjoining the RV park/campground to the north and east are vacant land. The northern and eastern property boundaries are currently enclosed with a 4 foot high wire fence, which the owner intends to replace within the next two years with 6 foot high opaque fencing or trees that will attain at maturity a minimum height of 6 feet to screen the property from future development on those adjoining properties.

The motel and RV park/campground are contained wholly within the boundaries of the subject property and are easily and safely accessible from the adjoining highway.

B. 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 installation of retaining walls along the western boundary was necessary to prevent water erosion caused by the improper diversion of the natural drainage path by the owner of the adjoining property to the west. No permits were required for installation of the retaining walls because all retaining walls on the property are 4 feet or less in height (see footnote 5 on page 8). None of the proposed future construction activities and improvements (e.g., an additional retaining wall and installation of concrete pads) are expected to impact air or water quality or result in additional odors or noise. The use will meet air, water, odor, and noise standards at all times during construction and upon completion of the project.

The tent sites and retaining walls are recent areas of land disturbance. All land disturbances that have occurred on the property since February 2008 are part of a Large Common Plan of Development and are considered for Water Quality Capture Volume. The drainage report submitted with the subsequent site development plan will address the historic/undeveloped condition of the property. All required engineering documents will be submitted with the site development plan.

C. The proposed use will not adversely affect property values in the immediate area.

The homes across Lucky 4 Road to the west were built from 1962-2005, after the RV park/campground opened for business in 1950. The expanded RV park and campground will be operated in much the same way as its predecessor. Property values in the immediate area will not be adversely affected by the expanded use.

The tent sites will be screened from adjoining properties by a 6 foot high opaque privacy fence. Signage will be posted on the fence facing each tent site prohibiting guests from hanging anything on or over the fence.

D. The proposed use will comply with all regulations of the El Paso County Land Development Code and all County, State and Federal regulations except those portions varied by this action.

Rocky Top RV Park/Campground will comply with all regulations of the County Land Development Code, and all County, State and Federal regulations, except those portions varied by approval of the requested use variance.

E. The proposed use will not adversely affect wildlife or wetlands.

The proposed use is not located within a Federally protected wetland, and no impact to endangered species is expected.

F. The applicant has addressed all off-site impacts.

The applicant is aware of no existing off-site impacts from the RV park and campground business. All campground activities will be conducted on-site. Entry to and exit from the RV park/campground is from Highway 24 and is separated a reasonable and safe distance from the Highway by a gravel road. A pre-existing private gravel road (Lucky 4 Road) runs past the west property line and is screened by a natural berm and a concrete block retaining wall that extends 1' to 3' in height.³ The privacy fence will be lowered so that it does not exceed the maximum height allowed in the setback. All lighting will be shielded from neighboring properties and will be equipped with dusk-to-dawn sensors.

³All retaining walls on the Rocky Top property are 4' or less in height. Pursuant to Pikes Peak Regional Building Department regulations, permits are needed for retaining walls *greater* than 4' in height. No permit is required for an accessory structure of less than 200 square feet, and no permit is required for fences less than 7 feet in height. See, Pikes Peak Regional Building Department website at: <https://www.pprbd.org/Information/HomeownerPermit>.

G. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping.

The RV park/campground is contained wholly within the boundaries of the subject property. Access to the property is provided from Highway 24 via a short gravel road and two driveway entrances. The driveway entrances and access road are sufficiently wide to accommodate large RVs and emergency vehicles. The access driveways have been previously granted by the Colorado Department of Highways (a/k/a "CDOT") by a recorded Deed of Access Rights. See, Appendix A. The Applicant has filed revised access permit applications with CDOT, copies of which are included in Appendix A. The Applicant's counsel is in direct communication with Mr. Arthur Gonzales of CDOT concerning the driveway access permits.

Campers access their campsites via internal private roads with a posted speed limit of 10 mph. All roads and campsites are configured to safely accommodate larger RVs and emergency vehicles. Ample parking, including ADA accessible parking, is provided at the campsites, in front of the motel office, and at the tent sites. Traffic volume to the motel and RV park/campground together averages 70 vehicle trips per day during the busier Summer months (35 vehicles x two trips per day). The Applicant acknowledges that LDC Section 6.2.5.C.2.c.iii requires paving for 25 or more parking spaces, and that a waiver request will be required with the Site Development Plan if paved parking spaces are not proposed.

Bear proof trash receptacles are located in 3 places within the campground and will be screened with wooden fence enclosures. Within the next two years Mr. Nieman intends to surround the perimeter of the property with opaque screening (6 foot high opaque fence or trees that will attain at maturity a minimum height of 6 feet), which will comply with all material, height, and setback requirements of the LDC.

The property contains existing trees and natural vegetation that provide adequate screening and landscaping. The property also contains an enclosed dog park, and ample open space between the existing motel and RV park/campground.

H. 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 RV park/campground has water and sewer hookups at each site, one dump station, a fenced dog park, two bathhouse and laundry buildings, and a dish washing station. A 12' x 16' building will be constructed for bathrooms to serve the tent sites.

Water is provided by an adjudicated commercial well. A copy of the Court Judgment and Decree is included with the application. Maintenance and pumping of the permitted onsite wastewater treatment system is provided by Arrowhead Septic and Divide Septic Services. Mr. Nieman understands that pursuant to the Judgment and Decree in Water Court Case No. 82CW5, Division 2, the Applicant, its successors and

assigns, cannot pump more than 14.7 gallons per minute for the uses allowed under the Decree.

The property owner to the west of the Rocky Top property installed a drain under Lucky 4 Road that redirected storm water, which historically flowed down or along the west side of Lucky 4 Road, onto the Rocky Top property causing erosion and damage to the Rocky Top property. Mr. Nieman recently installed some concrete block retaining walls and french drains along or near the west property line to stop the erosion caused by the redirected historic flow from the property to the west. The drainage report submitted with the subsequent site development plan will address the historic drainage pathway on the adjoining property and the adverse impact of this improper diversion of water by the adjoining property owner. All required engineering documents will be submitted with the site development plan.

Access to the RV park/campground is provided via an existing gravel road from Highway 24 and two access entrances deeded to the property by the Deed of Access Rights referenced previously herein.⁴ Both access driveways and roads can accommodate large RVs and emergency vehicles. The roads and driveways will be maintained annually or as needed by surface grading and the addition of gravel where needed. This routine maintenance will not result in any adverse impacts.

The property is served by the Green Mountain Falls Fire Protection District and the El Paso County Sheriff's Department. The response time to emergency calls is about 5 minutes.

I. The strict application of any of the provisions of the El Paso County 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.

The existing motel and RV park/campground needs significant and expensive maintenance and repairs. The cost of this work will exceed the regular income of the business for several years and place an undue financial burden and hardship on Mr. Nieman if he is unable to obtain the legal non-conforming use approval for the RV park/campground.

When marketing the property for sale, the previous owners highlighted, among other things, the 3 bedroom/2 bath owner's residence attached to the motel. Mr. Nieman purchased the property with the expectation that he and his family would live there just as other owners had before him. It would pose a significant financial burden to Mr. Nieman and his family if they were prohibited from living onsite.

⁴Copies of the Access Permit Applications for the two driveways are included in Appendix A.

APPENDIX A

Recorded at 9:00 o'clock A.M., FEB 2 1972, 19__ BOOK 2465 PAGE 195
Reception No. 860329 ~~PLAZA~~ Recorder

KNOW ALL MEN BY THESE PRESENTS: That I, or We,

DAVID A. HANSEN and VIVIAN F. HANSEN, J.T.

the Grantor or Grantors,
of the _____ County of El Paso and State of Colorado
for and in consideration of the sum of TEN DOLLARS, and other good and valuable considerations to the said Grantor or Grantors in hand paid, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents do hereby *GRANT, BARGAIN, SELL, CONVEY AND CONFIRM* unto

STATE DEPARTMENT OF HIGHWAYS Division of Highways, State of Colorado

the Grantee, its successors and assigns forever, the following right and interest in real property, situated in the _____ County of El Paso and State of Colorado, owned by said Grantor or Grantors, to-wit:

EACH AND EVERY RIGHT OR RIGHTS OF ACCESS OF THE GRANTOR OR GRANTORS to and from any part of the right-of-way for Colorado State Highway No. 24, a Freeway established according to the laws of the State of Colorado, and from and to any part of the said real property of the Grantor or Grantors abutting upon said Highway, along or across the access line or lines described as follows:

F 024-2(1) Sec. 1 PARCEL NO. AC-110 REV. NORTHEASTERLY LINE

Beginning at a point of intersection of the westerly property line and the northeasterly right of way line of S.H. No. 24 as recorded in Book 910, Page 473 of the El Paso County records, from which the $\frac{W}{4}$ corner of Sec. 9, T. 13 S., R. 68 W. of the 6th P.M. bears S. 37° 02' W., a distance of 644.8 feet;

1. Thence along said northeasterly right of way line, along the arc of a curve to the left, having a radius of 1,567.1 feet, a distance of 15.0 feet (the chord of this arc bears S. 55° 04' E. a distance of 15.0 feet) to the center of a 30.0 foot opening which is being excepted from this access limitation;
2. Thence continuing along said northeasterly right of way line, along the arc of a curve to the left, having a radius of 1,567.1 feet, a distance of 15.0 feet (the chord of this arc bears S. 55° 37' E. a distance of 15.0 feet);
3. Thence continuing along said northeasterly right of way line, S. 55° 53' 30" E., a distance of 305.4 feet to the center of a 30.0 foot opening which is being excepted from this access limitation;
4. Thence continuing along said northeasterly right of way line, S. 55° 53' 30" E., a distance of 269.9 feet;
5. Thence continuing along the northeasterly right of way line, N. 34° 06' 30" E., a distance of 10.0 feet to a point on the easterly property line.

together with all the appurtenances thereunto belonging.

Excepting, however, from this grant, the right of the Grantor or Grantors to have the following point or points of access at the locations set forth hereinafter, to be limited, however, in use by the Grantor or Grantors, to the width and purpose hereinafter designated:

WIDTH	USE OR PURPOSE	CENTER OF ACCESS OPPOSITE—	
		SIDE	STATION
30 foot		Left	2039+30 E. B.
30 foot		Left	P.O.S.T. 2036+05.4 E. B.

according to centerline stationing of the Grantee's Project No. F 024-2(1) Sec. 1

Further excepting from this grant, the right of the Grantor or Grantors to have access across the aforesaid line or lines at those points where passageways under the roadway, and public openings in said line or lines, may be provided for that purpose by the Grantee.

This deed, and the rights and interests herein conveyed, shall be and constitute a perpetual burden upon the real property of Grantor or Grantors, adjoining the hereinbefore described access line or lines, across which access will be denied, as herein set forth, and shall be binding upon the Grantor or Grantors, and all the heirs, successors and assigns of the Grantor or Grantors, with respect to said adjoining real property.

And the Grantor or Grantors, for themselves and for their heirs, successors, executors, administrators and assigns, do covenant, grant, bargain and agree to and with the Grantee, its successors and assigns, the above bargained access rights and interests, in the quiet and peaceable possession of the Grantee, and its successors and assigns, against all and every person or persons lawfully claiming, or to claim, the whole or any part thereof, by, through or under the Grantor or Grantors, to WARRANT AND FOREVER DEFEND.

Signed, sealed and delivered this 2 day of January, A.D., 1974

DAVID A. HANSEN

VIVIAN F. HANSEN

STATE OF Colorado

The foregoing instrument was acknowledged before me this 2 day of January, 1974

by DAVID A. HANSEN & VIVIAN F. HANSEN, J.T.

Witness my hand and official seal.

My Commission expires 12/31/74



STATE OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, A.D., 19____

by _____

Witness my hand and official seal.

My Commission expires _____

Notary Public

Reception by <u>56101229</u> Project <u>F 024-2(1) Sec. 1</u> Location <u>Cascade - West</u> Parcel No. <u>AC 110 BEV</u>	<p style="text-align: center;">DEED OF ACCESS RIGHTS</p> FROM <u>DAVID A. HANSEN</u> <u>VIVIAN F. HANSEN, J.T.</u>	TO <u>STATE DEPARTMENT OF HIGHWAYS</u> Division of Highways, State of Colorado	STATE OF COLORADO <u>Jefferson</u> County of _____ I, the County Clerk and Recorder of the County aforesaid, do hereby certify that the within document was filed for record in my office on the <u>2</u> day of <u>January</u> , A.D., 19 <u>74</u> at the hour of <u>2:00</u> o'clock <u>P.M.</u> , and was thereafter by me duly recorded in Book <u>2465</u> , Page <u>196</u> , of the records of my office. <u>HARRIET BEALLS</u> County Clerk and Recorder <u>Dawn Beckley</u> Deputy	FILE <u>5-25</u> AFTER RECORDING, PLEASE MAIL TO STATE DEPARTMENT OF HIGHWAYS Division of Highways, State of Colorado 1000 South Arapahoe Ave. Denver, Colorado 80222 Attention: STAFF RIGHT OF WAY ENGINEER
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COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT APPLICATION

Issuing authority application acceptance date:

Instructions:

- 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 <https://www.codot.gov/business/permits/accesspermits>

Please print or type

1) Property owner (Permittee) G&D Enterprises, Corp.		2) Applicant or Agent for permittee (if different from property owner) Daniel P. Nieman, President															
Street address 10090 West Highway 24		Mailing address P.O. Box 215															
City, state & zip Green Mtn Falls CO 80819	Phone # (719) 684-9044	City, state & zip Green Mtn Falls CO 80819	Phone # (required) (989) 430-8065														
E-mail address Karan@rockytopco.com		E-mail address if available rocko928@hotmail.com															
3) Address of property to be served by permit (required) 10090 West Highway 24, Green Mountain Falls, CO 80819																	
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>9</td> <td>13</td> <td>68</td> </tr> </table>				county	subdivision	block	lot	section	township	range	El Paso				9	13	68
county	subdivision	block	lot	section	township	range											
El Paso				9	13	68											
5) What State Highway are you requesting access from? Highway 24 West		6) What side of the highway? <input checked="" type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W															
7) How many feet is the proposed access from the nearest mile post? 4,330 feet <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input checked="" type="checkbox"/> W from: 291		How many feet is the proposed access from the nearest cross street? 315 feet <input type="checkbox"/> N <input type="checkbox"/> S <input checked="" type="checkbox"/> E <input type="checkbox"/> W from: Lucky 4 Road															
8) What is the approximate date you intend to begin construction? 3/1/2021																	
9) Check here if you are requesting a: <input checked="" type="checkbox"/> new access <input type="checkbox"/> temporary access (duration anticipated: _____) <input checked="" type="checkbox"/> improvement to existing access <input 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 Motel and RV Park/Campground																	
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: _____ Request is to obtain permit for existing driveway access point from Hwy 24 West.																	
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.																	
business/land use	square footage	business	square footage														
Motel & RV Park/Campground	406,002																
16) If you are requesting residential development access, what is the type (single family, apartment, townhouse) and number of units?																	
type	number of units	type	number of units														
n/a																	
17) Provide the following vehicle count estimates for vehicles that will use the access. Leaving the property then returning is two counts.																	
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 5	# of multi unit trucks at peak hour volumes 25															
# of single unit vehicles in excess of 30 ft. 5	# of farm vehicles (field equipment) 0	Total count of all vehicles 35															

18) 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.
- b) Highway and driveway plan profile.
- c) Drainage plan showing impact to the highway right-of-way.
- d) Map and letters detailing utility locations before and after development in and along the right-of-way.
- e) Subdivision, zoning, or development plan.
- f) Proposed access design.
- g) Parcel and ownership maps including easements.
- 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: <https://www.codot.gov/programs/environmental/resources/guidance-standards/environmental-clearances-info-summary-august-2017/view>

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.

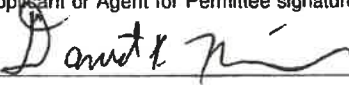

Where any of the above-referenced ANSI standards have been revised, the most recent version of the standard shall apply.

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: <https://www.codot.gov/business/civilrights/ada/resources-engineers>

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 Daniel P. Nieman	Date Jan. 29, 2021
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 Daniel P. Nieman, President	Date Jan. 29, 2021

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT APPLICATION

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- Please print or type**

1) Property owner (Permittee) G&D Enterprises, Corp.		2) Applicant or Agent for permittee (if different from property owner) Daniel P. Nieman, President	
Street address 10090 West Highway 24		Mailing address P.O. Box 215	
City, state & zip Green Mtn Falls CO 80819	Phone # (719) 684-9044	City, state & zip Green Mtn Falls CO 80819	Phone # (required) (989) 430-8065
E-mail address Karan@rockytopco.com		E-mail address if available rocko928@hotmail.com	
3) Address of property to be served by permit (required) 10090 West Highway 24, Green Mountain Falls, CO 80819			
4) Legal description of property: If within jurisdictional limits of Municipality, city and/or County, which one? county El Paso subdivision _____ block _____ lot _____ section 9 township 13 range 68			
5) What State Highway are you requesting access from? Highway 24 West		6) What side of the highway? <input checked="" type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W	
7) How many feet is the proposed access from the nearest mile post? 4,438 feet <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input checked="" type="checkbox"/> W from: 291		How many feet is the proposed access from the nearest cross street? 108 feet <input type="checkbox"/> N <input type="checkbox"/> S <input checked="" type="checkbox"/> E <input type="checkbox"/> W from: Lucky 4 Road	
8) What is the approximate date you intend to begin construction? 3/1/2021			
9) Check here if you are requesting a: <input checked="" type="checkbox"/> new access <input type="checkbox"/> temporary access (duration anticipated: _____) <input checked="" type="checkbox"/> improvement to existing access <input 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 Motel and RV Park/Campground			
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: _____ Request is to obtain permit for existing driveway access point off Hwy 24 Easement Road.			
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.			
business/land use	square footage	business	square footage
Motel & RV Park/Campground	406,002		
(tent site access)			
16) If you are requesting residential development access, what is the type (single family, apartment, townhouse) and number of units?			
type	number of units	type	number of units
n/a			
17) Provide the following vehicle count estimates for vehicles that will use the access. Leaving the property then returning is two counts.			
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 8	# of multi unit trucks at peak hour volumes 0	
# of single unit vehicles in excess of 30 ft. 0	# of farm vehicles (field equipment) 0	Total count of all vehicles 8	

18) 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: <https://www.codot.gov/programs/environmental/resources/guidance-standards/environmental-clearances-info-summary-august-2017/view>

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: <https://www.codot.gov/business/civilrights/ada/resources-engineers>

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 Daniel P. Nieman	Date Jan. 29, 2021
---	---------------------------------------	------------------------------

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 Daniel P. Nieman, President	Date Jan. 29, 2021
---	--	------------------------------

APPENDIX B

Rocky Top Campground Rules and Regulations

1. Our office hours are **(Summer) 9:00 AM-8:00 PM or (Winter) 9:00 AM-6:00 PM**. Registration must be accomplished on arrival and payment is due in advance of your stay here. Checkout time for the campground is 12:00 PM and strictly enforced. You may be responsible for an additional day of site rent if you do not vacate your site by 12:00 PM on the day of your departure.
2. Rec Room hours are **(Summer) 10:00 AM-8:00 PM or (Winter) 9:00 AM-6:00 PM**. **All children 14 years old and younger must have parental supervision**. Alcoholic beverages are not allowed inside the rec room. Do not move any of the game tables or remove games and/or game pieces from the rec room.
3. A maximum of two vehicles per site are allowed and they must be parked in the site you are paying for. If a 2nd vehicle will not fit on your site, you will need to ask management where you should park, and you will be charged \$3.00/day or \$50.00/month for additional parking. If there is not room for your guest to park on your site, please contact the office to be advised where they should park.
4. Quiet hours are observed from **10:00 PM till 8:00 AM**. The volume of noise or music must be low enough that it will not disturb others. Generators are not to be used in the park. **ABSOLUTELY NO FIREWORKS OR FIREARMS ARE TO BE DISCHARGED AT ANY TIME!!!**
5. In the event that you have guests visit you and they want to use campground amenities, or stay overnight, the office must be notified. A fee may apply for that usage.
6. Please use the utilities designated for your space only unless directed by the management of Rocky Top.
7. Quiet pets, under control and on a leash at all times, are welcome. All pets are to be walked on designated pet walks or on the roads throughout the campground. Pets are not to be left unattended in or around vehicles or campsites at any time. Dog houses are not allowed on sites. Pets left unattended in your RV or tent must be quiet in your absence. All pet's solid messes must be cleaned up immediately, including your site. If you are seen by any Rocky Top employee not picking up pet messes, you may be charged a \$50.00 cleanup fee for each incident. **Absolutely no pets are permitted in buildings**. If pet messes are left on your site when you check out, your credit card on file will be charged a \$50.00 cleanup fee.
8. Guests not on sewer hookups are required by law to retain all waste water in a suitable container. These containers are to be emptied only at the dump station. Dishes are not to be washed in the upper restrooms/showers. The lower restrooms have a dish washing station available only during summer season for your use. No washing of any vehicles or servicing (oil change) is permitted on this property.
9. The speed limit throughout the park is **10 MPH**. ATV's and dirt bikes (except for Rocky Top's maintenance ATV) are not to be ridden for pleasure riding on Rocky Top's property.
10. Rocky Top is surrounded by private property. Please respect others' property by keeping all people and pets inside our fence.

11. All sites must be kept neat and free of clutter. Only items used for camping are allowed to be left outside on your site.
12. Parents **MUST** accompany small children to the washrooms and showers. Children under 18 are subject to a 10:00 PM curfew unless accompanied by parents.
13. **STATE LAW DOES NOT ALLOW SMOKING IN ANY PUBLIC BUILDING. VIOLATION OF THIS LAW ON ROCKY TOP'S PROPERTY WILL RESULT IN A CHARGE TO YOU OF \$250.00 ON THE CREDIT CARD YOU HAVE PROVIDED BELOW.**
14. If you use the campgrounds during the colder months you will need to heat tape your water hose and plug in both your heat taped water hose and our heat taped water hydrant. If any damage results because of freezing due to your negligence then you will be responsible for any repairs to the facility, for any loss of business that may occur, and any inconvenience to other campers due to the problems you cause. **Any damages to Rocky Top property will be charged to the credit card you provided below.**
15. Vandalism will not be tolerated, and violators will be prosecuted.
16. Excessive use of alcohol with disruptive behavior or any evidence of illegal drugs will result in law enforcement being called and you and others with you will be asked to leave the property immediately.
17. Campfires are permitted in fire rings only. **FIRE RINGS ARE NOT TO BE MOVED.**
18. Garbage is to be placed into the dumpsters provided to keep wild animals away from campers.
19. The equipment, apparatus and facilities furnished are solely for the convenience of guests and **ALL PERSONS USING SAME DO SO AT THEIR OWN RISK. MANAGEMENT WILL NOT BE RESPONSIBLE FOR ACCIDENTS, INJURIES OR LOSS OF PROPERTY BY FIRE, THEFT, WIND OR ANY ACT OF GOD. MANAGEMENT WILL NOT BE RESPONSIBLE FOR LOSS OF MONEY OR VALUABLES OF ANY KIND.**
20. Management reserves the right to refuse service to anyone or make changes or supplement these rules as may be necessary. Violation of **ANY** of these rules may result in eviction **WITHOUT REFUND.**

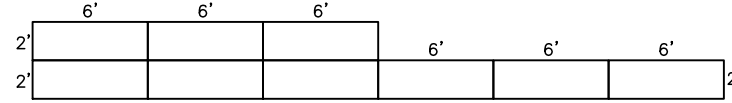
FYI – We have cameras throughout the property for your safety.

Please help us to keep our facility clean, neat and comfortable for all our guests. **THANK YOU** for your support to make everyone's stay at Rocky Top Motel and Campground a pleasant experience.

PLOT PLAN

G&D ENTERPRISES RV STORAGE – EL PASO COUNTY, COLORADO

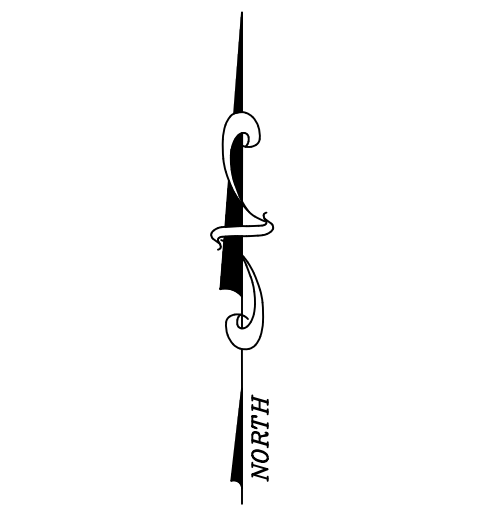
MODULAR BLOCK RETAINING WALL DETAIL:
SCALE: 1"=10'



WOOD PRIVACY FENCE NOTE:

THE WOOD PRIVACY FENCE DEPICTED ADJACENT TO TENT SITES 1-7 IS A CONSISTENT HEIGHT OF 5 FEET FROM THE TOP OF THE MODULAR BLOCK WALL. THE HEIGHT OF THE WALL TO THE FLOW LINE OF THE DITCH OR TO THE TOP OF THE BERM VARIES ANYWHERE FROM 1 FOOT TO 3 FEET.

WESTERN HILLS SUBDIVISION
PLAT BOOK 1 PAGE 21
SINGLE FAMILY RESIDENCE
ZONING R-1
OWNER: SHANEY WELSON



SCALE: 1" = 50'
JOB NO.: 18384
JULY 8, 2019

$$\Delta = 01^{\circ}02'10''$$

$$R = 1567.10'$$

$$L = 28.34'$$

$$ChB = N55^{\circ}09'52'' W$$

$$CB = 28.34'$$

PETITIONER:
DANIEL NIEMAN
P.O. BOX 215
10090 W. HIGHWAY 24
GREEN MOUNTAIN FALLS, CO 80819

OWNERS OF ALL INTERESTS:
G&D ENTERPRISES CORP.
P.O. BOX 215
10090 W. HIGHWAY 24
GREEN MOUNTAIN FALLS, CO 80819

OWNERS OF MINERAL INTERESTS:
NONE OF RECORD

PREPARER:
RAMPART SURVEYS, LLC
P.O. BOX 5101
WOODLAND PARK, CO 80866
(719) 687-0920

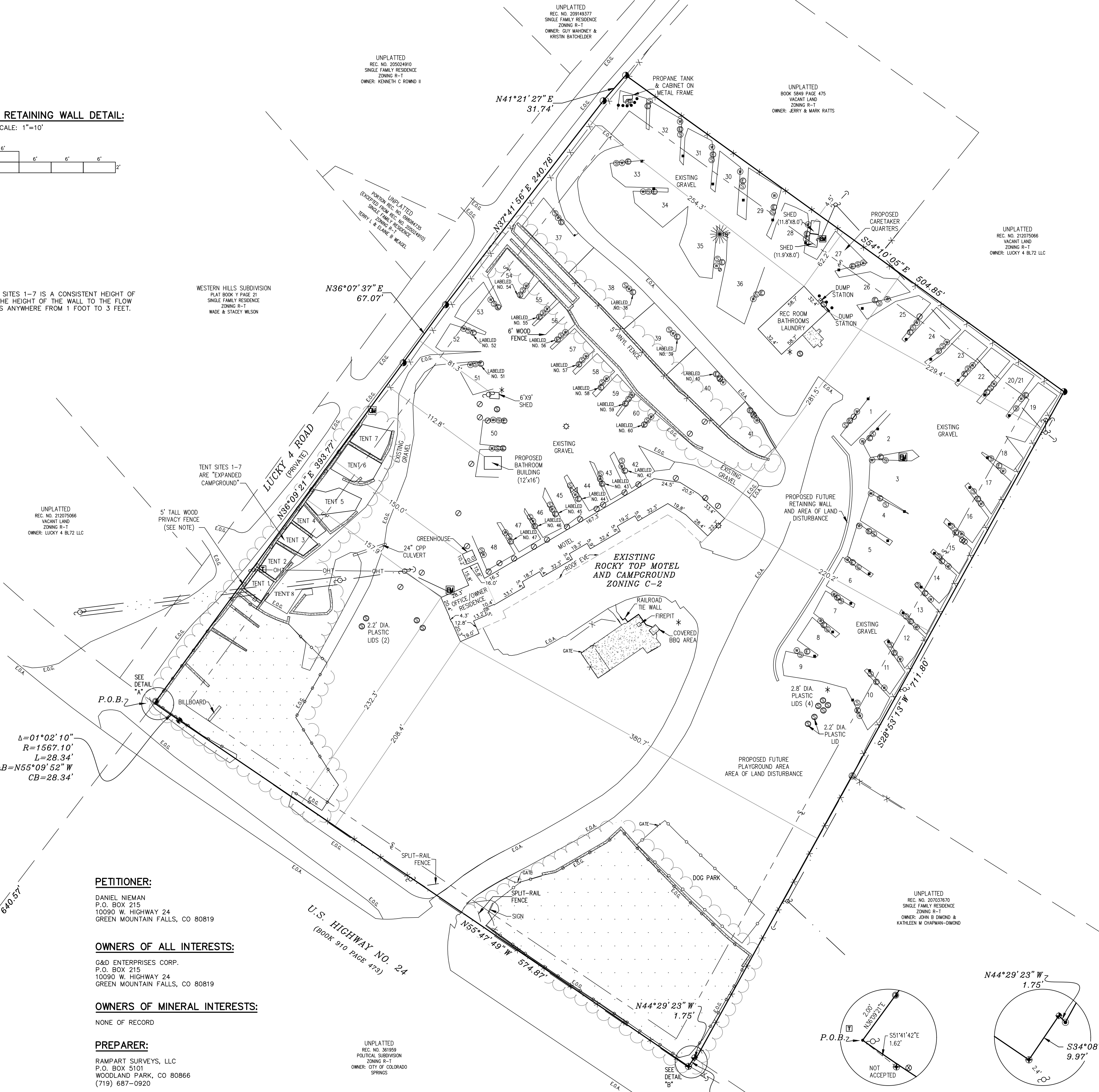
UNPLATTED
REC. NO. 301909
POLITICAL SUBDIVISION
ZONING R-1
OWNER: CITY OF COLORADO
SPRINGS

UNPLATTED
REC. NO. 20524910
SINGLE FAMILY RESIDENCE
ZONING R-1
OWNER: KIMBERLY C. ROWNO II

UNPLATTED
REC. NO. 209149377
SINGLE FAMILY RESIDENCE
ZONING R-1
OWNER: COTY MAHONEY &
KRISTIN BATCHELDER

UNPLATTED
BOOK 588 PAGE 475
VACANT LAND
ZONING R-1
OWNER: ERIC & MARK RATTI

UNPLATTED
REC. NO. 21070266
VACANT LAND
ZONING R-1
OWNER: LUCKY 4 RL72 LLC



LEGAL DESCRIPTION:

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 68 WEST OF THE 6th P.M., DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE U.S. HIGHWAY NO. 24, WHENCE THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 9 BEARS SOUTH 36 DEGREES 08 MINUTES WEST, 635 FEET;
THENCE SOUTH 55 DEGREES 22 MINUTES EAST ON SAID EASTERLY RIGHT OF WAY LINE, 805.3 FEET; THENCE NORTH 27 DEGREES 31 MINUTES EAST, 722 FEET; THENCE NORTH 55 DEGREES 08 MINUTES WEST, 513.8 FEET; THENCE SOUTH 35 DEGREES 18 MINUTES WEST, 723 FEET TO THE POINT OF BEGINNING, EXCEPT ANY PORTION CONTAINED WITHIN U.S. HIGHWAY 24, COUNTY OF EL PASO, STATE OF COLORADO.
SAID TRACT CONTAINS 9.30 ACRES OF LAND, MORE OR LESS.

MINIMUM SETBACKS:

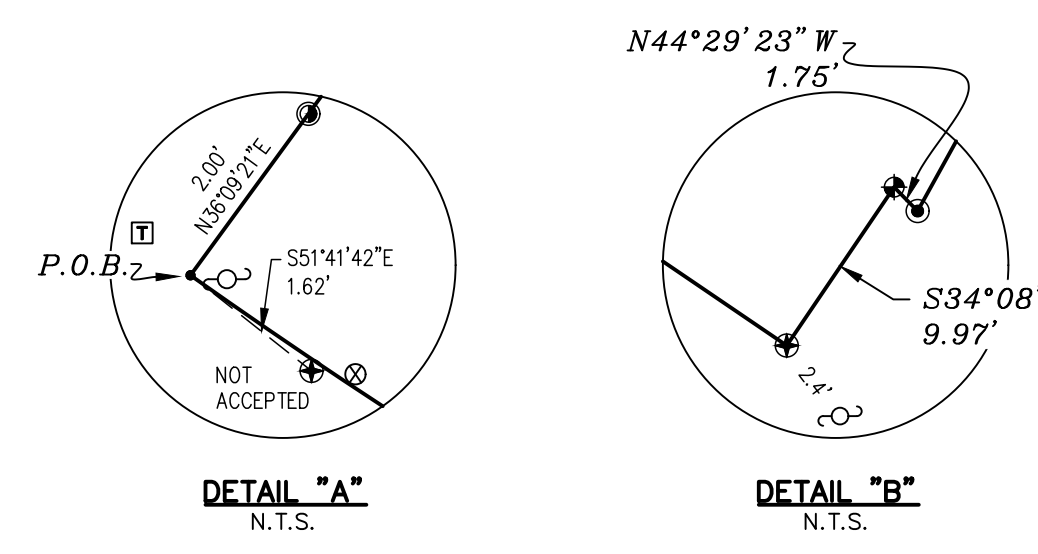
FRONT – 15'
REAR – 25'
SIDE – 25'

AREA OF LAND DISTURBANCE:

THE TOTAL AREA OF LAND DISTURBANCE INCLUDES THE BLOCK RETAINING WALLS, THE TENT SITES, AND GRAVEL LOTS, AND ALL TOGETHER EXCEEDS ONE ACRE.

LEGEND:

- FOUND 5/8" REBAR AND ORANGE CAP STAMPED "RAMPART PLS 26965"
- FOUND 5/8" REBAR AND 1-1/2" ALUMINUM CAP STAMPED "RAMPART PLS 26965 WC"
- SET 1/2" REBAR (NO CAP)
- SET 1-1/4" O.D. IRON PIPE
- FOUND REBAR AND YELLOW CAP STAMPED "RMLS 19625"
- FOUND 6" DIA. CONCRETE PEDESTAL AND 3-1/4" C.D.O.T BRASS CAP (HWY MARKER)
- FOUND REBAR AND 2-1/2" ALUMINUM CAP STAMPED "PLS 26965" (1/4 CORNER)
- ⊗ WATER VALVE
- ⊗ 2.5" CONCRETE SEPTIC LID
- ⊗ 4" PVC CLEAN-OUT
- ⊗ WATER HOOK-UP
- ⊗ SEWER HOOK-UP
- ⊗ ELECTRIC HOOK-UP
- ⊗ UTILITY POLE
- ⊗ GUY WIRE
- ⊗ BRACE POLE
- ⊗ ELECTRIC METER
- ⊗ LIGHT POLE
- ⊗ TELEPHONE PEDESTAL
- ⊗ GAS METER
- ⊗ SIGN
- ⊗ SETBACK LINE
- ⊗ 4" DIA. BOLLARD
- ⊗ NUMBERED POST
- ⊗ TRASH RECEPTACLE
- E.O.A. EDGE OF ASPHALT
- E.O.G. EDGE OF GRAVEL
- OVERHEAD ELECTRIC LINE
- OVERHEAD TELEPHONE LINE
- CHAIN LINK FENCE
- WIRE FENCE
- 6' TALL WOOD PRIVACY FENCE
- ▭ CONCRETE
- ▭ MODULAR BLOCK WALL (4' MAXIMUM HEIGHT)
- ▭ ROCK WALL (3' OR LESS IN HEIGHT)
- ⊗ EXISTING AREA OF LAND DISTURBANCE



DATE OF REVISION (PER COUNTY COMMENTS): JANUARY 28, 2021

**PLOT PLAN – PORTION NW1/4 SEC. 9, T13S
R68W OF THE 6th P.M., EL PASO COUNTY, COLORADO**

RAMPART SURVEYS, LLC

P.O. Box 5101 Woodland Park, CO, 80866 (719) 687-0920

DRAWING: 18384PP3.DWG PAGE 1 OF 1

Debra Eiland

From: Mike McCarthy <MikeMcCarthy@elpasoco.com>
Sent: Thursday, July 30, 2020 10:21 PM
To: Debra Eiland
Subject: RE: Rocky Top, VA185

Hi Debra,

I wasn't aware of this OWTS and it does answer my question about the restroom building. We do have a record of the final inspection being completed and the system was approved by El Paso County Public Health on October 9, 2017.

I reviewed the engineer design wastewater flow calculated for the 2017 onsite wastewater treatment system (OWTS) and the wastewater flow of the 1985 OWTS, the combined flow is less than 2,000 gallons per day; therefore, there isn't a requirement for oversight by the Colorado Department of Public Health and Environment.

Please feel free to use this email to support your variance request.

Respectfully,

Mike McCarthy
El Paso County Public Health
Environmental Health Division
mikemccarthy@elpasoco.com
719-575-8602

For local information about the novel coronavirus disease 2019 (COVID-19), visit [El Paso County Public Health's COVID-19 website](#).



2020 Census information can be found at:
<https://coloradosprings.gov/pikespeakcensus>

From: Debra Eiland <debra@eilandlawfirm.com>
Sent: Thursday, July 30, 2020 12:50 PM
To: Mike McCarthy <MikeMcCarthy@elpasoco.com>
Cc: Hannah McCullough <hannah@eilandlawfirm.com>; karan@rockytopco.com; Daniel Nieman <Rocko928@hotmail.com>
Subject: Rocky Top, VA185

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Dear Mike:

I represent Rocky Top Campground and am writing about the above referenced use variance application. I have attached a copy of the comments from your office dated July 7, 2020 for your reference.

Another OWTS was installed at the site in 2017 that will accommodate the proposed restroom building. For some reason, the permit is not accessible online, and the installer was told the permit was cancelled. Of course, it was not cancelled, the installation was completed, and the design engineer inspected and certified the installation is in accordance with the design.

Would you please look into this for us and let me know if there is something more Rocky Top needs to do on this? It appears that this OWTS should satisfy the comments from your office. Please do not hesitate to contact me with any questions or if you need more information. Thank you.

Debra Eiland, Esq.
Law Offices of Debra Eiland, P.C.
24 South Weber Street, Suite 300
Colorado Springs, Colorado 80903
telephone (719) 471-1545
facsimile (719) 471-1663
debra@eilandlawfirm.com
www.eilandlawfirm.com

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January 5, 2021

El Paso County Department of Development Services
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Re: Variance of Use (VA-18-005)
Rocky Top Variance

Dear Planning Commission Board Members,

My wife and I cannot attend the meeting scheduled for January 7, 2021. This correspondence is to supplement previously expressed concerns regarding the Rocky Top Motel and Campground owner's request for variances. We strongly implore the Board to REJECT/DENY the request for variance.

1. We purchased our property in 2009 with the understanding that the historic Rocky Top Motel and Campground would maintain community standards of aesthetic appeal and customary boundary/land use agreements. We believe that the County allowing this variance diminishes the quality of life in our neighborhood, creates new safety concerns, and increases pollution and noise.
2. Since 2009, we have paid taxes on our property to the County with the understanding that local officials would protect our interests and respond to community concerns, zoning violations, and lack of permits. We see an approval of this variance request as a breach of the implicit understanding inherent in the zoning that was established and was critical to our decision to purchase real estate in this area.
3. Since the purchase by the current owner in 2017, and the unauthorized expansion and use, we have endured the increased trash and litter blown onto our property and endeavored to clean it up. We cringe at the unsightly and amateurish attempts at fence building. We have complained about the increase in noise. We have made our concerns known to Rocky Top, but there has not been significant improvement. And the best predictor of future behavior is past behavior.
4. We have been educated by our neighbors about the strain placed on water and sewer systems and share their concerns. We defer to them to articulate these issues, and they have our full support. And, of course, we have also experienced the significant damage to Lucky 4 Road and subsequent injury to our vehicle alignments and shocks. Adding additional traffic to this road for access to Rocky Top is unthinkable.

5. According to paperwork sent to us over the past several years from Debra Eiland, Esq, in support of variance requests, Rocky Top has never been approved as a storage facility for RVs, campers, and trailers, much less cars and boats. The motel was never a permanent residential site.
6. Allowances of the changes requested in the variance will enable the development of a sub-community which would dramatically alter the common areas around and within its perimeter - destroying the value of surrounding single family residences, and burdening land, water, sewer, and roadways. The needs, welfare, and viability of the established tax-paying Lucky 4 Ranch community should be as strongly considered in this decision-making process as a potential business tax-base (that will likely cause a diminishment in the Lucky 4 Ranch community property values).
7. What Rocky Top has already accomplished without approved variances to date evidences that they will continue to cause harm to our community, even if it is unintentional and negligent. We are certain that safety, law enforcement, and other security concerns will likewise be neglected. We cannot imagine this is in the best interest of the Lucky 4 Ranch community or the County.

Guy and Kristin Mahoney
7180 Lucky 4 Road
Green Mountain Falls, CO 80819
Guy – 240-753-5499
Kristin – 301-385-4070

VA-18-005

Tracey Garcia

From: Elaine Weagel <eweagel@yahoo.com>
Sent: Tuesday, January 05, 2021 1:19 PM
To: Tracey Garcia
Subject: VA-18-005 Rocky Top CAmpground Variance
Attachments: Variance letter of rejection.docx; June 9 Ltr to Esq..docx

CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.

Dear Ms. Garcia,

Please find attached our letter of rejection to the above mentioned variance. I have also enclosed a copy of a letter I sent to Mr. Nieman's attorney, Mr. Nieman and the campground. This letter was hand delivered to them. I would like these items presented to the members of the board at the hearing on Thursday, January 7th at 1:00 pm.

Thank you,

Elaine Weagel
and Terry Weagel
7135 Skyline Circle
Green Mountain Falls, CO 80819

January 5, 2020

Planning Commission
200 S. Cascade Avenue
Colorado Springs, CO

Dear Board Members,

I truly regret that I will not be able to attend the hearing set for January 7th at 1:00 p.m. My husband has had a stroke and I am responsible for getting him to doctor appointments and therapy.

We, as adjacent land owners for twenty two years, are very concerned about the proposed changes in variance for Rocky Top Campground.

We have concerns over the water to this campground. How is the well currently zoned? We feel strongly that the increased use of water by this expanded RV park will introduce nitrates to our well. Has there been a state water engineer's report conducted based on zoning and property size? If so, does it include the expansion of RV's and laundries, etc.?

How is the current septic system set up? Will it handle additional RV's and camping?

For that matter, what is the county's definition of Recreational Vehicle Park and Recreational Camping? Does the definition include permanent living? Is this to be a year round, stay as long as you like, arrangement?

We are also extremely concerned about the amount of traffic going in and out on a daily basis. The entrance to the campground and Lucky Four Ranch Road is situated the crest of a hill on Highway 24. It is very difficult to get out on the highway now. How much more difficult will access to the highway become for us property owners with the addition of more RV's and recreational vehicles?

We have a document stating that if this variance is not granted to Mr. Nieman, this will cause a hardship for him financially. This should not be presented! Mr. Nieman knew the extensive work that needed to be done to bring the existing campground up to code, and if doing this creates a hardship for him, then he should have done a study to see if he could afford to do the repairs before he purchased the property. His lack of planning before purchasing should not be thrown on the adjunct property owners. We should not be expected to say it is okay, we understand. No, the answer is no, it should not matter that it creates a hardship for him.

The issue of him and his family living on the premises and a caretaker living in an RV on the premises year round is not an issue for us as this was the case when the motel was built. We do not approve of this issue being blended in with the variance for extra RV site development and recreational vehicle sites. To us, these are two separate variances and should be heard as such.

Finally, my husband and I are very disturbed by the lack of concern that the Pikes Peak Regional Planning Committee demonstrated to us as property owners. They issued stop work orders but never followed through checking the Rocky Top Campground to be sure there was no work being done. It tells us that

the powers that be could care less about the concerns of the property owners. This needs to change, we have worked hard to try to have the work that Mr. Nieman is doing be done correctly. No one returns our calls, no one comes to talk with us.

We, as property owners adjacent to Rocky Top Campground do not approve of this new variance.

Thank you for your time,

June 9, 2020

Hand Delivered

Debra Eiland, Esq.
Law Offices of Debra Eiland, P.C.
24 S. Weber Street, Suite 300
Colorado Springs, CO 80903

Dear Esq. Eiland:

I am in receipt of your letter dated May 29, 2020. I understand that G&D Enterprises, Corp., is amending its use variance application to request a variance of use for a recreational camp with a waiver for extended stay, and to operate an RV storage business on-site at Green Mountain Falls.

I have noted that there will be a specific time to respond by the El Paso County Planning Department; however, I feel strongly that my opinion needs to be in writing and in your hand before we receive anything else.

1. Mr. Nieman has already completed renovations to this property that he deems Acceptable to our neighborhood. He did this without permits or permission from the El Paso County Planning Department. I know this for a fact, several neighbors were in contact with the department.
2. Last fall, he constructed a shabby concrete block barrier and added a poorly installed fence on top of that. In doing so, the construction broke trees and broke tops of trees, leaving very tall broken trunks. He did eventually cut these back.
3. He also added tent sites along Lucky Four Ranch Road. This encourages campers to Hang their laundry and bedding over the fence to dry. It is very aesthetically pleasing to All who visit our homes in the neighborhood.
4. With regard to a provision for extended stays, the proper terminology is "permanent Residences". All the motor homes, RV's, trailers, etc. along the very back fence line that adjoins a vacant piece of property, are permanently skirted and some even have storage sheds next to them. I am aware of this as I have lived in my home for 21 years and none of these homes have never moved.
5. Your letter mentions existing and proposed facilities, structures, roads, etc: Last fall, Mr. Nieman also constructed several buildings without permits and was told (according to the El Paso County Planning Department) to stop. Mr. Nieman has been moving earth and constructing ever since he purchased the property.
6. With regard to RV storage lots, he has already created all along his property facing the frontage Road, these storage lots. It is a terrible eyesore and destroys the value of our homes in the Neighborhood. I, for one, DO NOT want RV storage lots! There is already a storage facility on Highway 24 heading to Woodland Park. We do not need any more storage lots.

Finally, your letter gives quite a few heartwarming reasons for Mr. Nieman to create all these changes to the existing campground. I personally regret this motel and campground ever being built. There are always barking dogs, loud music blaring and laundry hanging on the fences. We have also had a tremendous problem with trash. The bears get into the trash bins at the campground and drag the bags to our and our neighbor's property and who gets to clean it all up? We do! Just this spring alone I have picked up four bags of trash. My husband went for a walk a few weeks ago and told me that the vacant piece of property at the very back of the campground was covered in trash. I called the campground and asked them to go pick up the trash as I was tired of cleaning up their trash. They told me that they spray the trash with vinegar to keep the bears away but it does not help. Ya think!

Just last week, two sections of the shabby fence blew down because it is not constructed properly and one piece ended up in the ditch on Luck Four Rand Road and the other in the road.

One of my neighbors told me just yesterday that a mattress blew over from the campground And landed in the middle of Lucky Four Ranch Road.

I ask you Esq. Eiland, would you like to live in a neighborhood like this? All of us in that neighborhood do our best to take care of our homes and our property and we keep things clean. I am aware that none of this is your problem, you are only doing what you are hired to do. I wanted my voice heard as I do not like the cheap, shabby construction he has done and I certainly do not want any RV storage lots! Thank you for your kind attention.

I will also be mailing a copy of this letter to Mr. Nieman and I will deliver a copy of this letter to the campground.

Sincerely,

Elaine Weagel
P O Box 732
Green Mountain Falls, CO 80819

Objections to request for Rocky Top campground variance**File VA185 - Variance of Use for RV Storage (and long-term residence)**

I live across the road from the motel and campground. This camp ground should not be made into an RV park with stated intentions to house permanent and long term residents and to increase the population density of the campground.

When I moved here in 1992, the motel campground was much smaller than it is today with few winter guests apparent. I believe this to be a residential neighborhood and should not be compromised by increased population density and commercialization. My concerns are:

- Effect on home-owner property values
- Increased use of water at the campground
- Personal safety and security

In the request, the Applicant requests a waiver of the LDC to allow long-term campers, citing compatibility to the surrounding area.

It is clear from the request and the long list of expected renters that a sizeable increase in permanent and long staying residents is anticipated.

This increase is not compatible with the surrounding area and is detrimental to our neighborhood and to neighborhood resources.



7220 Lucky 4 Road

Objections to request for Rocky Top campground variance

File VA185 - Variance of Use for RV Storage (and long-term residence)

I live across the road from the motel and campground. This camp ground should not be made into an RV park with stated intentions to house permanent and long term residents and to increase the population density of the campground.

After hearing the previous proponent request, it is obvious that he seeks a blanket approval for occupation and storage of RVs. The request did not identify an overall plan or include details about long term intentions or set forth any limits.

Based upon proponents past disregard for prior required approvals this should not be allowed. He seeks blanket approval because he intends to install as many RV sites as possible on this property without regard to neighboring property owners.

Limits to future usage of this site and associated resources should be established.

When I moved here in 1992, the motel campground was much smaller than it is today with few winter guests apparent. I believe this to be a residential neighborhood and should not be compromised by increased population density and commercialization. My concerns are:

- Effect on home-owner property values**
- Increased use of water at the campground**
- Personal safety and security**

In the request, the Applicant requests a waiver of the LDC to allow long-term campers, citing compatibility to the surrounding area.

It is clear from the request and the long list of expected renters that a sizeable increase in permanent and long staying residents is anticipated.

This increase is not compatible with the surrounding area and is detrimental to our neighborhood and to neighborhood resources.



7220 Lucky 4 Road



MICHAEL ORSILLO CONSULTING, INC

ROCKY TOP CAMPGROUND
10090 W. Hwy 24
GREEN MTN. FALLS

PO BOX 2
COLORADO SPRINGS, CO 8090

PH 719-210-112
FAX 719-636-254
WWW.MICHAEL.ORSILLODESIGN.CO

On site Sanitation System Repair

Existing tanks have settled - 6" Tilt
& Leach field has failed.

25 - Travel trailer sites 50 GPD (see table)

$$Q = 25(50) = 1250 \text{ GPD}$$

TABLE 10-1

USE L_{TAR} = 0.80 Gal/ft²

TRENCH FACTOR = 1.0

ROCK FACTOR = 1.0

$$\text{AREA REQ} = 1250 \text{ GAL} / 0.80 = 1563 \text{ ft}^2$$

USE 2 Ft wide trench $L = 1563 / 2 = 781$ Long

DEEP TRENCH USE $D = 8' - 0"$

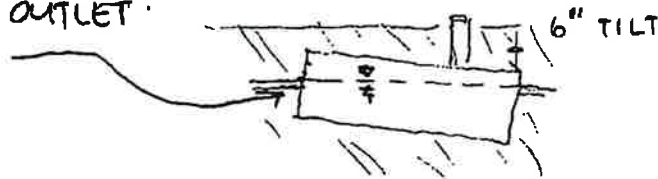
$$L_{\text{req}} = \frac{L(W+2)}{(1+W+2D)} = \frac{781(2+2)}{1+2+2(8)} = \frac{3125}{19} = 164 \text{ ft}$$

Add New 2250 GALLON SEPTIC TANK

REPAIR EXT'G TANKS AS SECONDARY TREATMENT

DRILL NEW OUTLET

6" LOWER



El Paso County Public Health
Environmental Health Services
1675 W. Garden of the Gods Rd., Suite 2044
Colorado Springs, CO 80907

5/18/17
MB



CHARLES R. JOHNSON
ENGINEER — GEOLOGIST

4102 Flintridge Circle
Colorado Springs, CO 80907
(303) 598-4361

December 11, 1984

Mr. Kayo Armentrout
P. O. Box 223
Green Mountain Falls, Colo. 80819

Dear Mr. Armentrout:

At your request, I have calculated the expected flow of sewage that can be expected from a new septic sewage system being installed at Motel X, 10090 West Highway 24 in El Paso County, Colorado.

The following facilities will be served by the new septic tank system:

Managers Quarters: A 2 bedroom apartment with kitchen, 3 occupants,
with an automatic washer.

Motel Rooms: 5 units with two double beds, 2 units with kitchenettes.
1 unit with one double bed.

ESTIMATED FLOW OF SEWAGE:

Managers Quarters: 3 persons @ 60 gallons per day per person	180 gpd
Automatic washer (0.4x180)	72 gpd
Motel Rooms: 5 rooms with 4 persons @ 60 gpd X 80% occupancy	960 gpd
1 room with 2 persons @ 60 gpd X 80% occupancy	<u>96 gpd</u>
Total	1308

Maximum daily flow = 1308 times 120% = 1570

I have examined the percolation test results and the septic system design and found them to be satisfactory.

Respectfully submitted,

Charles R. Johnson
Charles R. Johnson, PE 8621





1675 W. Garden of the Gods Rd., Suite 2044
Colorado Springs, CO 80907
(719) 578-3199 phone
(719) 578-3188 fax
www.elpasocountyhealth.org

Prevent • Promote • Protect

SP0006986 AR30011242 ON0649187

APPLICATION FOR AN ON-SITE WASTEWATER TREATMENT SYSTEM PERMIT

Property Information:

Property Address: 10090 West Hwy 24 B City and Zip: Green Mtn Falls 8081
Legal Description: See Attached
Tax Schedule #: 83092-00-011 Lot size: 9.21 Ac
Is the property gated: Yes No Please provide a gate code if necessary: _____
Site Located Inside City Limits: Yes No Proposed Use: Residential Commercial SITE
Water Supply: Well Cistern Municipal Potential Number of Bedrooms: 25 CAMP
Has a Conditional Acceptance Document been issued for this property: Yes No Unsure

Owner Information:

Primary Contact
Owner: David Y. McQuigg Daytime Phone: 719-373-0171
Owners Mailing Address: P.O. Box 215 Green Mtn Falls, CO 80819
Email Address: cyndim@rockytopco.com Fax #: 719-684-2579
General Contractor: ARMENTROUT Phone/Fax: 6890503

OWTS Installer Information:

Primary Contact
System Installer: ARMENTROUT Daytime Phone: 719 3393876
Email Address: _____ Licensed installer: Tier 1 Tier 2

All engineer-design systems must be installed by a Tier 2 licensed installer

CURRENT FEES AS APPROVED BY THE EL PASO COUNTY BOARD OF HEALTH

All Payments are due at the time of application submittal; by cash, check or major credit card (Visa / MC)

- New Permit:** \$685.00 (EPCPH Charge) + \$147.00 (EPC Planning Dept. Surcharge) + \$23.00 (CDPHE Surcharge) = \$855.00
- Major Repair Permit:** \$525.00 (EPCPH Charge) + \$23.00 (CDPHE Surcharge) = \$548.00
- Minor Repair Permit:** \$240.00 (EPCPH Charge) + \$23.00 (CDPHE Surcharge) = \$263.00

Permits expire one year from date of issuance, unless otherwise noted

REQUIRED: Provide a complete written scope of work to be performed on the property.

The following documents MUST be included with your application.

- A soils report: including at least 1 soil profile excavation pit, in accordance with section 8.5 A-F of OWTS regulations
- A clear and legible design document: including the proposed and alternate locations, as well as system layout, labeled with all setbacks to pertinent structures and features in table 7-1.
- Provide directions to property, from a main highway, on the back side of application.

Failure to provide the above listed documents may result in denial of the permit application

I certify that the information provided on this application is in compliance with Section 8.3, Chapter 8 of the Onsite Wastewater System (OWS) Regulations of the El Paso County Board of Health. I also authorize the assigned representative of El Paso County Public Health to enter onto this property in order to obtain information necessary for the issuance of a permit.

Applicants Signature: [Signature] Date: 4-28-17

Handwritten mark

EL PASO COUNTY HEALTH DEPARTMENT
COLORADO SPRINGS, COLORADO

013

P # 3219

SEWAGE DISPOSAL INSPECTION FORM

APPROVAL:
YES NO

8309200011

ENVIRONMENTALIST

DATE April 15, 198

Kick Mielich

LOCATION (street number) 10090 W HIGHWAY 24

OCCUPANT

Lechner

LEGAL DESCRIPTION

Green Mountain Falls, Co.

TYPE OF CONSTRUCTION

NO. OF BEDROOMS

SYSTEM INSTALLED BY

K.O. Armentrout

COMMERCIAL MFG.

pre cast

SIZE

2500

TYPE OF MATERIAL

concrete

NO. COMPARTMENTS

two

WIDTH

LENGTH

DEPTH (total)

LIQ. CAP.

2500

DISPOSAL FIELD: BED OR TRENCH DEPTH

WIDTH

LENGTH

SQ. FT.

DISTANCE BETWEEN LINES

ROCK

DEPTH

UNDER

OVER

LEACHING PITS (NO.)

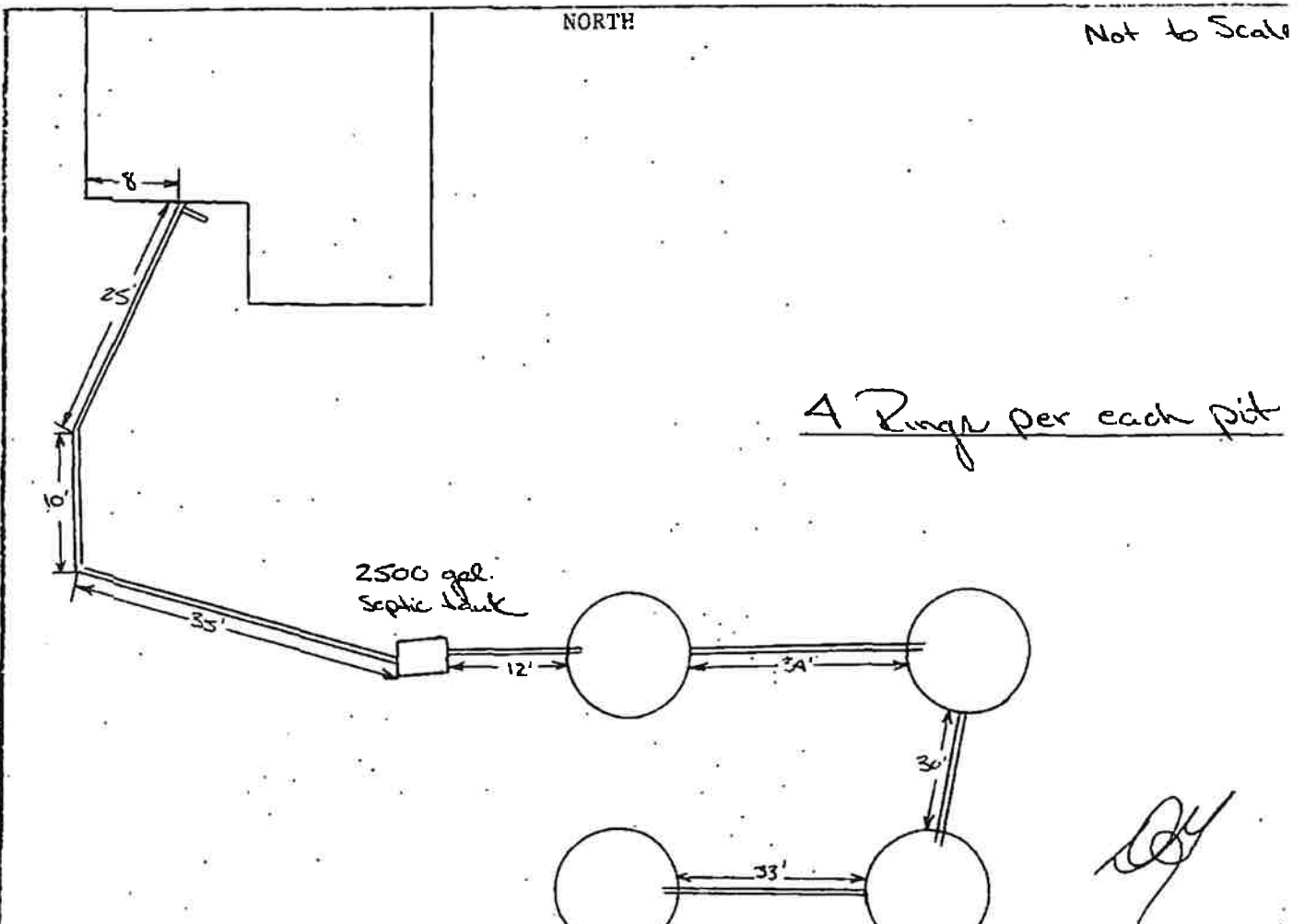
4

LINING MATERIAL

-

CAPACITY SQ. FT.

543



El Paso County Health Department
501 North Foote Avenue
Colorado Springs, CO 80909-4598
(303) 636-0125

APPLICATION FOR A PERMIT TO CONSTRUCT, REMODEL, OR INSTALL A SEWAGE DISPOSAL SYSTEM

NAME OF OWNER FRED LECHNER HOME PHONE 6330622 WORK PHONE 684-9014
ADDRESS OF PROPERTY 10090 W. HIGHWAY 24 DATE 3-24-85
LEGAL DESCRIPTION OF PROPERTY SAME
TAX SCHEDULE NUMBER - SYSTEM CONTRACTOR ARMENROUT PHONE 6849301
OWNER'S ADDRESS IF DIFFERENT -
TYPE OF HOUSE CONSTRUCTION - SOURCE AND TYPE OF WATER SUPPLY WELL
SIZE OF LOT 1/4 AC MAXIMUM POTENTIAL NUMBER OF BEDROOMS CINNAMON BASEMENT (yes or no)
PERCOLATION TEST RESULTS ATTACHED (yes or no)

A plot plan and accompanying information are essential; it may be drawn on the back of this application or be attached. Please include by measured distance the location of wells including neighbors' wells, springs, water supply lines, cisterns, buildings, proposed structures, property lines, property dimensions, subsoil drains, lakes, ponds, water courses, streams, and dry gulches. Please show the location of the proposed septic system by directions and distances from actual and/or proposed dwellings, structures, or fixed reference objects. Give complete directions to the property from major highways.

Applicant acknowledges that the completeness of the application is conditional upon such further mandatory and additional tests and reports as may be required by the department to be made and furnished by the applicant for purposes of evaluation of the application; and issuance of the permit is subject to such terms and conditions as deemed necessary to ensure compliance with rules and regulations adopted under Article 10, Title 25, C.R.S. 1973 as amended. The undersigned hereby certifies that all statements made, information and reports submitted by the applicant are or will be represented to be true and correct to the best of my knowledge and belief and are designed to be relied on by the El Paso County Health Dept. in evaluating the same for purposes of issuing the permit applied for herein. I further understand that any falsification or misrepresentation may result in the denial of the application or revocation of any permit granted based upon said application and in legal action for perjury as provided by law.

SIGNATURE [Signature]
FOR FRED

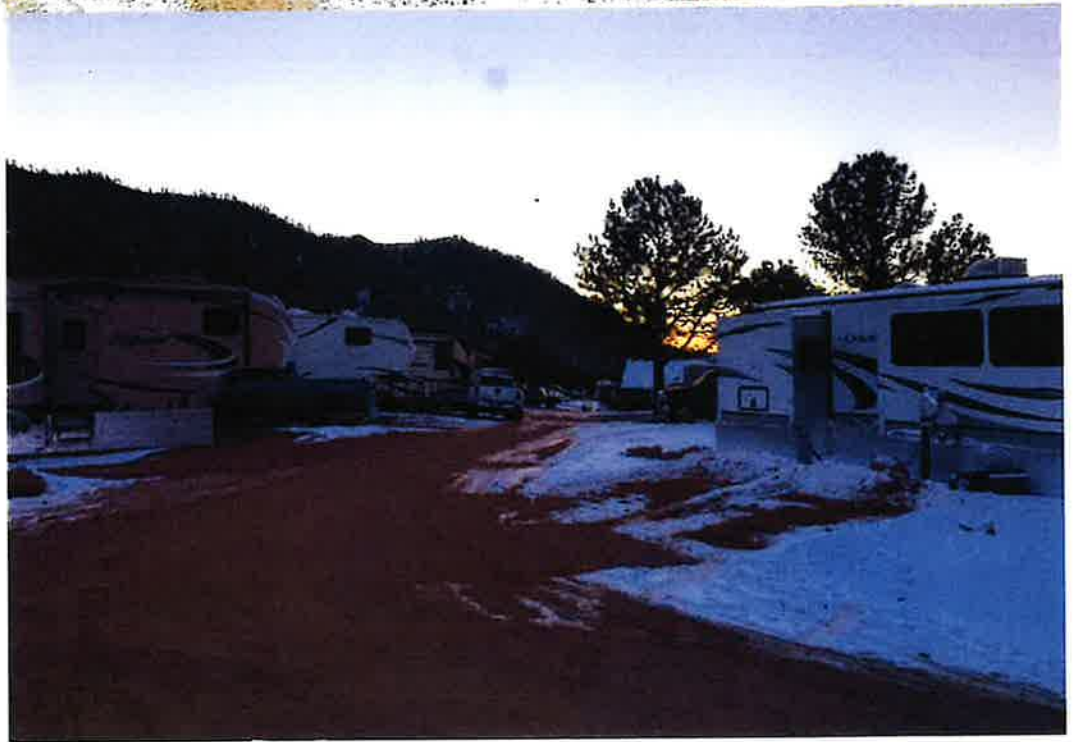
HEALTH DEPARTMENT USE ONLY

PERMIT NUMBER 3219 RECEIPT NUMBER 5621 DATE TO LAND USE DEPARTMENT N/A

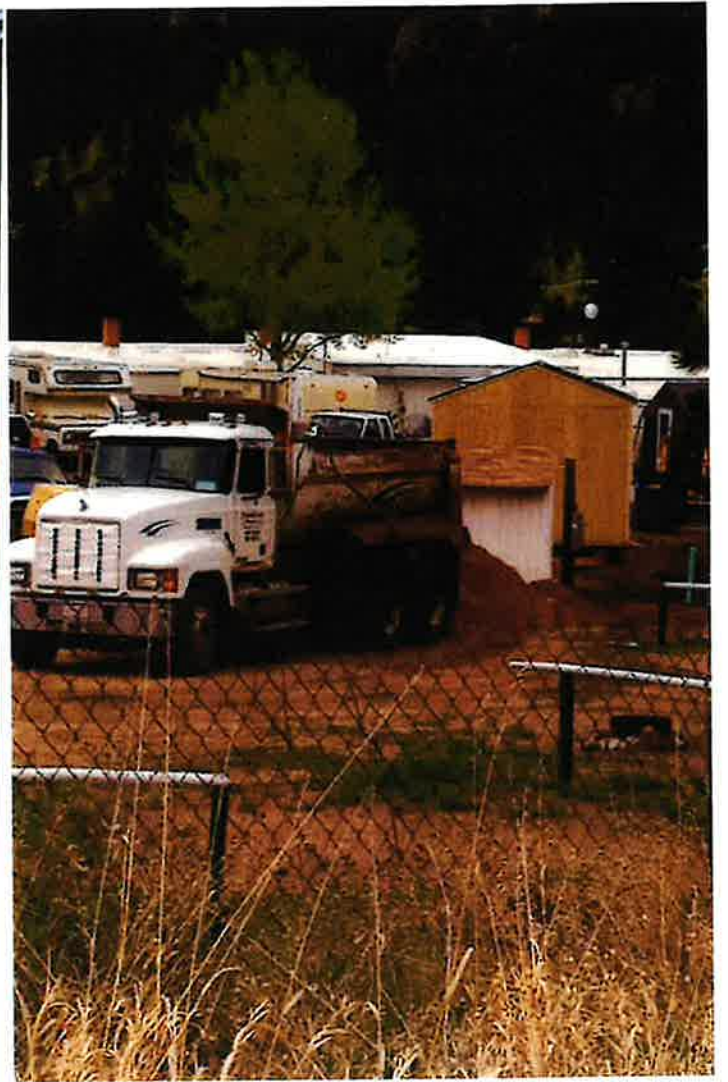
ABSORPTION AREA _____ TANK CAPACITY 2500 DATE OF SITE INSPECTION 3/25/85

REMARKS: Installed as per engineer design. Based on actual water usage. Design for 1170 gpd maximum usage.

APPLICATION IS APPROVED () DENIED () DATE 3/25/85 ENVIRONMENTALIST [Signature]









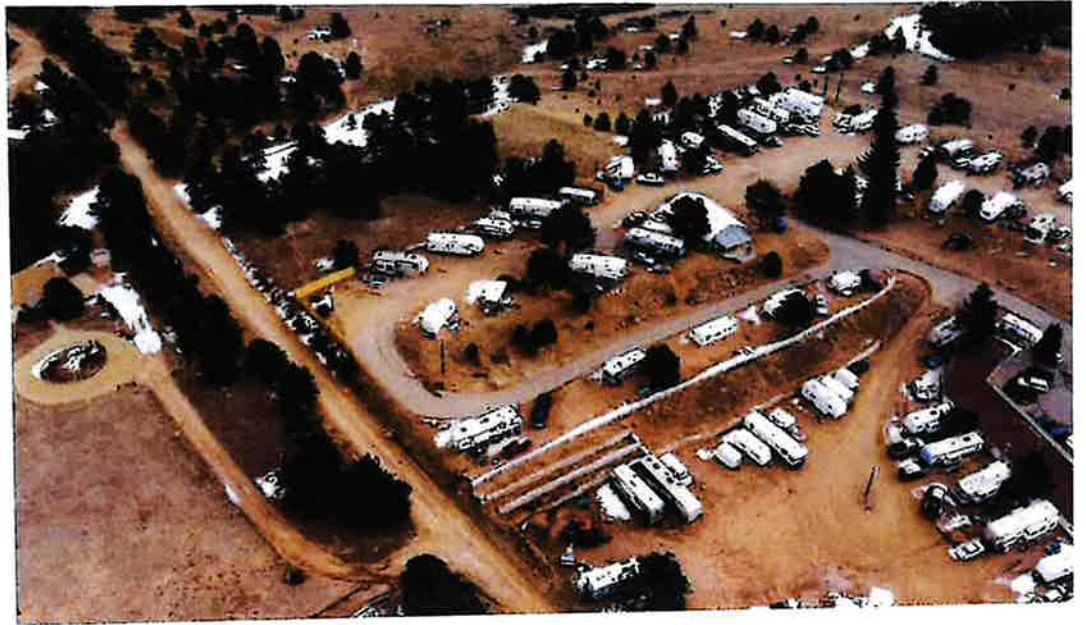






OW J-4 LMS





1-24-21



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, January 7, 2021
El Paso County Planning and Community Development Department
200 S. Cascade Ave – Centennial Hall Hearing Room
Colorado Springs, Colorado

REGULAR HEARING

1:00 p.m.

PRESENT AND VOTING: TOM BAILEY, SARAH BRITTAIN JACK, TIM TROWBRIDGE, BECKY FULLER, JAY CARLSON, JOAN LUCIA-TREESE, AND ERIC MORAES

PRESENT VIA ELECTRONIC MEANS AND VOTING: GRACE BLEA-NUNEZ

PRESENT AND NOT VOTING: NONE

ABSENT: BRIAN RISLEY AND THOMAS GREER

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, NINA RUIZ, RYAN HOWSER, GILBERT LAFORCE, JACK PATTON, LUPE PACKMAN, ELIZABETH NIJKAMP (VIA REMOTE ACCESS), AND EL PASO COUNTY ATTORNEY LORI SEAGO (VIA REMOTE ACCESS)

OTHERS SPEAKING AT THE HEARING: DAVE GORMAN, TOM SPITZA, DEBRA EILAND, DANIEL NIEMAN, GUY AND KRISTIN MAHONEY, MARK RATTS, TIM MCGEE, STEVE SWANSON, WADE WILSON

Report Items

- 1. A. Report Items -- Planning and Community Development Department – Mr. Dossey -- The following information was discussed:**

- a) **The next scheduled Planning Commission meeting is for Thursday, February 4, 2021 at 1:00 p.m. There will be no Planning Commission hearing on Thursday, January 21, 2021.**

- b) **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 gave building permit numbers for year-end 2020.
 - c) **Mr. Dossey** introduced **Ms. Lupe Packman** as a newly hired engineer for the department. Welcome Lupe!
- B. Public Input on Items Not Listed on the Agenda – Ms. Fuller** – Grants will be offered for businesses again.
2. **A. Sunshine Law – Ms. Lucia-Treese** read the statement into the record and made the motion to approve. **Mr. Moraes** seconded the motion. The motion passed unanimously. (8-0)
- B. Approval of the Minutes – December 17, 2020**
The minutes were unanimously approved as presented. (8-0)
- C. U-20-002** **HOWSER**

APPROVAL OF LOCATION SECURITY FIRE STATION 4

A request by Glen Investment Group No. II, LLC, and Security Fire Department for approval of location to allow for a new fire station. The property is zoned CS (Commercial Service) and is located at the northeast corner of the Mesa Ridge Parkway and Powers Boulevard intersection and is within Section 28, Township 15 South, Range 65 West of the 6th P.M. (Parcel No. 55282-00-005) (Commissioner District No. 4)

A member of the audience requested that the item be pulled to Regular. It will be heard as a full presentation.

Mr. Ryan Howser gave a brief overview of the project and asked **Ms. Seago** to go over the review criteria and CRS statement for an approval of location. He then introduced the applicants' representative, **Mr. Dave Gorman**, to give their presentation.

Mr. Carlson – The access coming onto Mesa Ridge seems like a bad place for access. I would think noise is going to be significant as well as acceleration of the trucks and lights. **Mr. Gorman** – We did propose an access onto Mesa Ridge without a light, but the County is not willing to offer that access. It was decided to concentrate on the Wayfair access. The trucks will leave the station

with full lights and sirens on, as required, but they expect only 1-2 calls a day. The safety provided by the sirens and lights outweighs the inconvenience.

Mr. Carlson – It appears that the commercial portion of that site also only has access onto Mesa Ridge. Is there no other access? **Mr. Gorman** – It's a principal arterial and it's ¼ to ½ mile distance requirement. So to add a lane, would also require a median.

Mr. Howser then gave his full presentation. **Ms. Packman** gave the engineering findings report.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Tom Spitza – (His emailed correspondence is on file.) We are in favor of the location subject to meeting some conditions with lighting, noise, and traffic. We were advised that the building would be much more compatible to the surrounding homes in the neighborhood. I'm not favorable to the picture that was shown. Regarding traffic, the clues of striping and lights do not protect people. The statement about significant study of accidents located there. Well that's why we are looking into the safety issues now and not when someone is hurt or killed. There is potential for a serious accident on East Mesa Ridge Parkway and Wayfair. It's very dark and dangerous. We need lighting there.

Mr. Carlson – Are you looking for a traffic signal at Wayfair and East Mesa Ridge Parkway? **Mr. Spitza** – We need lighting, striping, and possible traffic signals to warn people of that dangerous area.

Mr. Gilbert LaForce – This application met all the requirements for no TIS (Traffic Impact Study) required. The large commercial lot that is adjacent will trigger that TIS and we can do the analysis at that time when its warranted. The lighting is not in the criteria as a requirement. A signal would not be required until it's also warranted after a period of time of monitoring. **Mr. Bailey** – Are those things addressed at the time of a site plan application? **Mr. LaForce** – Yes, those things are addressed at the site plan stage.

Mr. Gorman had a chance for rebuttal. The presence of the fire station will not become a safety hazard but more of a benefit to have those services in the area for its residents.

DISCUSSION:

Mr. Moraes – I noticed some fire stations, not all, have traffic lights strung across the road to indicate a fire station. It's just something to think about during this process.

Ms. Seago – I just wanted to make a note for the PC to remind you this is a rare occasion where the PC has the final vote and not a recommendation that goes to the BoCC. Pursuant to state statute, if the PC disapproves it, the Fire Board has the authority to overrule the disapproval and place the fire station under state law regardless of the Planning Commissions' recommendation.

Ms. Fuller – There was concern about the lighting, the fire truck is going to be full of lights to signal its intention. This service is needed, and I am in favor of this location.

Ms. Lucia-Treese – I will be in favor and I live very close to this area. This fire station is very much needed for this area. I also live in an area that receives mutual aid from other agencies. This service is desperately needed.

Mr. Bailey – The approval of location is just the first step and there will be a site development plan. All those concerns will be addressed at the appropriate time.

PC ACTION: LUCIA-TREESE MOVED/MORAES SECONDED FOR APPROVAL OF CONSENT/MOVED TO REGULAR ITEM NUMBER 2C, U-20-002, FOR AN APPROVAL OF LOCATION FOR SECURITY FIRE STATION #4 UTILIZING RESOLUTION PAGE NO. 11, CITING 20-001 WITH FOUR (4) CONDITIONS AND ONE (1) NOTATION. THE MOTION WAS APPROVED UNANIMOUSLY (8-0).

Regular Items

3. VA-18-005

RUIZ

**VARIANCE OF USE
ROCKY TOP CAMPGROUND**

A request by G&D Enterprise, Corp., for approval of a variance of use to legalize an existing Recreational Vehicle Park, Recreation Camp, and Automobile and Boat Storage Yard. The 9.32 acre property is zoned C-2 (Commercial) and is located northeast of the Highway 24 and Lucky 4 Road intersection and within Section 9, Township 13, Range 68 West of the 6th P.M. (Parcel No. 83092-00-011) (Commissioner District No. 3)

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

Mr. Carlson – For disclosure, I'm in the commercial real estate business, and I have a listing adjacent to this property, but I believe I can make an impartial vote today.

Ms. Ruiz asked the applicants' representative, **Ms. Debra Eiland and Mr. Daniel Nieman**, to give their presentation.

Mr. Trowbridge – Could you explain your extended stay program? **Mr. Nieman** – Tour season is 5 months of a lot of campers coming to our area. Outside of that we have campers who want to stay for extended periods.

Ms. Blea-Nunez – What percentage of the sites are occupied during extended stays? **Mr. Nieman** – 100%.

Ms. Fuller – I would like you to go through the approval criteria and exceptional circumstances. **Mr. Nieman** – I do not have experience in this type of forum. The hardship is that the property had been run very similar to this prior to me owning it, including the extended stay and storage. If it's not full, my mortgage is based on it being full, so that is a financial hardship. **Ms. Fuller** – In your due diligence, was there any indication that all these uses were allowed? **Mr. Nieman** – We were able to repair the wastewater system and bring it up to code. Then we repaired the roof/awning of the hotel. It was my own ignorance to not understand what a C-2 zoning was and what was allowed. I felt that I was operating it the same as it had been operating.

Ms. Blea-Nunez – I have a question regarding compatibility and how this fits in with the neighboring community? **Mr. Nieman** – There are no residential homes abutting the area. There's a lot of open space.

Mr. Carlson – Isn't there an RV storage business adjacent? **Mr. Nieman** – That business is closing as we speak; the church has purchased it for more parking.

Mr. Trowbridge – Was the RV storage in place when you bought it? **Mr. Nieman** – it was already existing, I just relocated it.

Mr. Bailey – I'd like clarification of legal non-conforming uses vs. unauthorized uses. **Ms. Seago** – A legal non-conforming use is a use that was legal at the time it was established, either because it complied with the zoning at the time or it was in use before zoning for that property was established and then if zoning changes rendered that use illegal, that previously established use become legally non-conforming as long it was not abandoned or expanded. Unauthorized uses are those uses not allowed in a zoning district in the Land Development Code.

Mr. Carlson – For the hotel, do you limit the time people can stay if it's for tour season or for extended stay? What percentage is short term rentals? **Mr. Nieman** – 90% short term rentals. We do not limit the time they stay.

Mr. Moraes – How long is the longest someone has stayed? **Mr. Nieman** – 9 months. One person stayed longer as a caretaker of the property as an employee of mine.

Ms. Ruiz then gave her full presentation and answered questions from the Planning Commission. **Mr. Patton** gave the engineering report/findings.

Mr. Trowbridge – Could you summarize the changes that have taken place? Are there restrictions on a green house? **Ms. Ruiz** – The outside RV storage area is very new, and the campground was expanded. We rely on aerial imagery. (showed multiple aerial photos spanning many years).

Ms. Fuller – What is allowed in the C-2 zone district? **Ms. Ruiz** – There are a lot of allowed uses in C-2, we can pull up the permitted uses chart 5-1 if needed.

Mr. Carlson – My concern is not necessarily the number of campsites or the RV storage, but what is concerning is the extended stay part. They are asking for some waivers on the LDC for the extended stay. **Ms. Ruiz** – Our definition for a recreation camp is for tents, and an RV park definition there is no time limit. There is no need for a waiver of the requirement. Our code requires paving for 25 or more spaces, but these are not designated spaces.

Ms. Fuller – I looked at the CDOT application, one thing that glares at me is it states Teller County. Has this been completed correctly? **Ms. Ruiz** – That is probably in error. We have followed up with CDOT and they are not ready to give that access yet. We haven't heard that they are leaning towards denying the access, we just don't have their final word yet.

Ms. Fuller – I'm irritated because visually it's disappointing. I can understand why the neighbors are upset.

Mr. Trowbridge – I'd like to get specific numbers to how many campsites, what type they are and how many storage spaces are allowed. I'd like condition number four amended to show specific numbers. Ten years from now, another owner comes in, we will end up back here without the specific numbers locked down.

Ms. Fuller (to applicant) – Did you put in the RV storage after you purchased it? **Mr. Nieman** – Yes I did. **Ms. Brittain Jack** – Did you move it from the center of the property to the outside? **Mr. Nieman** – Yes, I did.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Wade Wilson – I live at the only house that is adjacent to this property. The LOI said that it is in need of significant repairs and will be a hardship on **Mr. Nieman** due to the expense. They continue to use the southern part of the property for RV storage. They would have to make the fence 20 ft tall for me to not see their RV storage. They were continually asked to stop, and they came here wanting to ask for forgiveness instead of doing it the right way. I am concerned how this will affect my well. I've had their tenants yelling at me across the fence. Safety is an issue. The pictures speak volumes. I've stayed at Rocky Top Campground in the past: I have fond memories of it; but this is not how they are operating now.

Mr. Guy Mahoney – My wife and I have been owners in the area since 2009. We have had difficulties with Rocky Top with various types of pollution such as debris and trash. It is evident that they had folks for extended periods of time. Some of the noise occurs at night with generator noise. Erosion has occurred with the use of the land. It was a quaint place that was occasional campers, but now there are people there all the time. We don't like the fencing. We are suggesting that the quality of life in our neighborhood will be impacted. I trusted El Paso County to protect the interest of all residents. It was zoned residential. The uses of that property are harmful to our properties and will bring a subclass type of residents there. They have failed to be good neighbors. I hope El Paso County protects our interests.

Mr. Tim McGee – I am separated by the campground by four properties. I am a private property rights kind of guy but also a rules follower. They have changed the visual impacts, and not in a good way. The fence that was ill-conceived and has caused erosion to the roads we use to get in and out of our property. I don't believe they are meeting setback lines. I appreciate the fact that he probably overpaid for the property, but I can't just put people in my yard to help pay for it either. He should be expected to have the property meet the requirements. If he is allowed to keep the RV storage up front, it will cause even more of a blight. I do not appreciate that my property value will go down for him to become more solid in his investment.

Ms. Fuller – Before he expanded to the perimeter of the property, did you mind what was there? **Mr. McGee** – No I didn't, there were trees and adequate setback from the road.

Mr. Steve Swanson – I live 50 yards from their property line. For the record, there are about 10 houses surrounding this property. I've been here since the 90s. It was pretty low key, almost closed down in the wintertime. Sewer lines, electric lines are going all over. There's more and more campers and full-time residents. He's wanting to put 60-70 RVs on the property. There are some RVs that have up to 5 people living in them. That's horrible for the water and for the neighborhood. Everyone in the area has signed petitions against this. The front of the property was a rolling meadow, now it's covered in RV storage.

Mr. Mark Ratts – I own the property adjacent to the hotel. One of the things that I haven't heard addressed is the fire access with regard to Lucky Ford Road. I understand the fire department wants it widened to better serve the area for fire protection. When they get into storage, that is more of a commercial or industrial use. I don't have as much against the residential living part.

Ms. Kristin Mahoney – I would like to add that when we first purchased the property, we checked with that property, and we were comforted with the structures they had and not expanding. I am very alarmed by the more recent expansions. Our roads have been impacted. It seems like people are coming now to look at for sale units as well.

The applicants had an opportunity for rebuttal. **Ms. Eiland** -- The number of campsites has been 72 and has been that number through the Assessor's website. **Mr. Nieman** does not have 72 sites and is not asking for that. His site plan asks for 60 RV sites and 7 tent sites for a total of 67 sites for camping. As far as parking in the RV storage area, there is space for 29 RVs on the east and 6 RVs on the west, for a total of 35 RVs. With regard to the expansion, he added the RV storage on the front of the property. He also added the tent sites on the boundary of Lucky Ford Road. Over the years, you can see that things have moved and/or added. It was not as organized in past years where there are designated sites now. He would like formal approval of those sites that he laid out. He would like the use as it is today legal. The greenhouse that has been mentioned, it is not a commercial greenhouse; it's a very small greenhouse for his wife to grow some vegetables. It's not for guests and will not be selling from it. The error on the access permit should say El Paso County and not Teller County. We have been in touch with CDOT for the access permit. Valerie Sword is looking at it with CDOT. Not all campers use Lucky Ford Road. The drainage that occurs on the road is naturally occurring and it is not the responsibility of Rocky Top. The well was adjudicated in 1972 so it's superior to other wells drilled after. **Mr. Nieman** – I'd invite anyone to come see what we are doing.

Ms. Fuller – The complaint came in when? **Ms. Ruiz** – In June 2018.

Ms. Fuller – Was that about the time that you started building the wall? **Mr. Nieman** – the fence was built in 2017, but other changes happened in 2018.

Mr. Carlson – Some of the folks that spoke in opposition, said they could only find a roofing permit and not other permits, how did you not get permits? **Mr. Nieman** – **The County** did not find the 2018 permit for the wastewater; I'm not sure why. That was engineered. We have 60-70 year old lines that need maintenance. Things had to be maintained and upgraded. There was no time for permits when it was emergency work.

Mr. Carlson – Does the mafia blocks require engineering or a permit? **Mr. Nieman** – If you stay under 4 feet or under you don't need a permit.

Ms. Lucia-Treese – When did you first become aware that you were not in compliance? **Mr. Nieman** – in 2018. That's when **Ms. Eiland** was retained, we started it back in 2018.

Mr. Moraes – Are there any setback requirements for tents? **Ms. Ruiz** – only for structures. However, there are landscaping setbacks and that would be reviewed at the site plan phase.

Mr. Moraes – If we denied this and this were to revert back to original use, is there any requirement for fencing? **Ms. Ruiz** – The only fencing that we would require is for the outside storage which has zero non-conforming status. Our LDC allows us to have the site brought up to today's standards if they are adding a new use which if this reverts back, would not apply.

Mr. Moraes – There was a concern about selling RVs in the storage area. Is that allowed? **Ms. Ruiz** – It's not allowed. Additionally, as we require 100% screening, so no one should be able to see that from the road. **Mr. Moraes** – But an owner could put an ad in the paper to come see their RV for sale at Rocky Top. **Ms. Ruiz** – If we found out that this was a lot that allowed RV sales, it could be a reason for revocation of the variance.

Mr. Carlson – If we don't allow any variance today, the only thing he could operate is the motel? **Ms. Ruiz** – He would have to remove outside storage and go back to using the spaces that were in existence before it became legal, non-conforming. He would still be able to have the hotel.

Ms. Fuller – He can have the hotel and 72 camping sites only? I'm really concerned about the long-term stay as well. Once it started to encroach on the adjacent properties and became visually unattractive, that's when the neighbors expressed opposition. **Ms. Ruiz** – Are you suggesting that you only approve part of the request for a variance and exclude the outside storage? **Ms. Fuller** – Yes I'm leaning that way. We could nix those as not allowing the outside storage and the encroaching areas and be able to define how many sites.

Mr. Dossey – Under LDC, I make the decision on these situations. We use aerial imagery to see scale and changes over time. I would caution you from simply relying on the Assessor's Office information. We tend to be lenient on disturbed areas. You are being presented with a variance of use, and unless the applicant says they want just to consider the outside storage, then you are tasked to look at that. You have to look at the entire request as the variance.

Mr. Trowbridge – Would the site development plan address drainage and if the concrete blocks are impacting the roads with erosion? And would it change required screening? **Ms. Ruiz** – We have identified that a drainage report will be required. We would look at whether they are in compliance with the ECM and not changing those historic flows.

Mr. Carlson – There is no determination how long someone can stay in an RV? **Ms. Ruiz** – That is correct.

Mr. Moraes – For the neighbors, if this doesn't survive in the C2, there are a lot of other uses that the neighborhood would not be happy with that is not a campsite.

Mr. Bailey – This is indicative as to where we are as a County as we continue to transition from the rural areas from the 80s and 90s. This use has been in place for 70 plus years. The fact that new people come and want to change Colorado from what it wasn't is something we deal with at every hearing. I am persuaded by the fact that the original use has been there for a long time, and I don't see where the changes are so drastic that we shouldn't approve this variance. I just think that this is difficult, but it's why we are here to listen to the public.

Ms. Fuller – I will respectfully disagree with **Mr. Bailey**. I don't think that the applicant has met the burden. Due diligence wasn't done. Clearly this was kind of a funky use and no one had an issue with it until the expansion happened. I don't think it's very neighborly or fair. On that standpoint, I don't believe the applicant has come prepared to show why this use is necessary or compatible. I would encourage the applicant to do a better job of how they are meeting the criteria.

Ms. Brittain Jack -- I grew up here and spent a lot of time in Green Mountain Falls area. This is not a new use. I would encourage them to be better neighbors but going back to the original use is not helpful.

Ms. Lucia-Treese – I don't like the asking for forgiveness and not permission. Ignorance is no excuse. I am concerned that this has been going on since 2018. I don't have an issue with extended stays. I have an issue with the applicant not proving to me a hardship if the variance is denied. I don't think he has brought together a cohesive presentation. I don't care if you aren't comfortable, but your legal counsel should have advised you to do better and be more prepared.

Mr. Trowbridge – How we vote is not an endorsement or an objection. I'll echo comments to the applicant. Your presentation was not done very well. I would expect you to be better prepared for the BoCC. I'm a private rights person too, but this is a commercial property and changes the rules a bit. My biggest concern is with the RV storage and not paying attention to the drainage on the west side. Also, keeping the

trash within the confines of the property is a concern. I cannot support this application.

Mr. Carlson – You may get turned down here and again at the BoCC. Does the applicant wish to change their variance request?

Ms. Blea-Nunez – I do agree with **Ms. Fuller** and **Ms. Lucia-Treese**. I'd ask that they narrow their request and be better to their neighbors.

Ms. Lucia-Treese – If the applicant would like to do something different for the BoCC, then that could change perhaps, but what is in front of us today, we have to vote either for or against in its entirety.

Mr. Dossey – If the applicant feels like moving forward with a vote is not in their best interest, they may continue to another meeting or withdraw. If they modify going to the BoCC, then it's not based on your recommendation.

Mr. Bailey – Does the applicant wish to request a continuance of this item? **Ms. Eiland** – We would like to request a continuance to February 4, 2021.

PC ACTION: BLEA-NUNEZ MOVED/LUCIA-TREESE SECONDED TO CONTINUE REGULAR ITEM NUMBER 3, VA-18-005, FOR A VARIANCE OF USE FOR ROCKY TOP CAMPGROUND TO FEBRUARY 4, 2021. THE MOTION PASSED UNANIMOUSLY (8-0).

4. LDC-20-001

RUIZ

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT
FIRE PROTECTION AND WILDFIRE MITIGATION**

A request by the El Paso County Planning and Community Development Department to amend Chapters 1, 5, and 6 of the El Paso County Land Development Code (2019) to remove discrepancies and add and modify language to eliminate the term "Fire Marshal". The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department.

Type of Hearing: Legislative

Ms. Ruiz gave a brief overview of the project and asked **Ms. Seago** to go over the review criteria for a land development code amendment.

Mr. Moraes – Is it illegal to shoot fireworks off when the El Paso County Sheriff implements a fire ban? And can we have a disclaimer to those purchasing fireworks in addition to the one currently required that setting fireworks off in El Paso County during a ban is illegal? **Ms. Seago** --- Yes, it is illegal to shoot off fireworks when

there is a fire ban. **Mr. Moraes** – Since we make fireworks sellers inform those that purchase fireworks that it is illegal to shoot off fireworks inside city and town limits; I believe we should also tell them that it is illegal to shoot off fireworks in El Paso County when the Sheriff implements a fire ban. We probably will not catch everyone that buys fireworks from outside El Paso County, we will at least inform those that purchase inside the County. **Mr. Dossey** – I would caution you on putting conditions in that we aren't able to enforce. People can simply go to Wyoming and buy fireworks and bring them to El Paso County. It's out of our control to be able to enforce. **Mr. Moraes** – All I am saying is that if we are telling them one thing to keep them out of trouble, we should also tell them the other thing to keep them out of trouble, and prevent a fire. **Ms. Seago** – I understand Mr. Moraes' suggestion to amend the signage requirements is not in any way asking the Planning Department to enforce the fire ban or fireworks restriction. It is just to amend the signage requirement that says if you are going to require a sign that notes the city fireworks ban, maybe consider adding similar language for the County. **IN FAVOR: NONE**

IN OPPOSITION: NONE

DISCUSSION:

PC ACTION: TROWBRIDGE MOVED/BLEA-NUNEZ SECONDED FOR APPROVAL REGULAR ITEM NUMBER 4, LDC-20-001, FOR AN AMENDMENT TO THE LAND DEVELOPMENT CODE FOR FIRE PROTECTION AND WILFIRE MITIGATION, UTILIZING RESOLUTION PAGE NO. 7, CITING 20-003, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).

- 5. El Paso County Master Plan – Information Update – No Action Needed – No update was given at today's hearing.**

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.

The minutes were approved as presented at the February 4, 2021 hearing.

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, February 4, 2021
El Paso County Planning and Community Development Department
200 S. Cascade Ave – Centennial Hall Hearing Room
Colorado Springs, Colorado

REGULAR HEARING
1:00 p.m.

**PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, TIM TROWBRIDGE,
BECKY FULLER, JAY CARLSON, JOAN LUCIA-TREESE, AND ERIC MORAES**

**PRESENT VIA ELECTRONIC MEANS AND VOTING: THOMAS GREER AND
GRACE BLEA-NUNEZ**

PRESENT AND NOT VOTING: NONE

ABSENT: SARAH BRITTAIN JACK

**STAFF PRESENT: CRAIG DOSSEY, NINA RUIZ, TRACEY GARCIA, ELENA
KREBS, RYAN HOWSER (VIA REMOTE ACCESS), JACK PATTON (VIA REMOTE
ACCESS), DANIEL TORRES (VIA REMOTE ACCESS), AND EL PASO COUNTY
ATTORNEY LORI SEAGO (VIA REMOTE ACCESS)**

**OTHERS SPEAKING AT THE HEARING: DANIEL NIEMAN, DEBRA EILAND,
STEVE SWANSON, CECIL SMISCHMY, WADE WILSON, TERRY REGEL, GARY
CRANE**

Report Items

- 1. A. Report Items -- Planning and Community Development Department –
Mr. Dossey -- The following information was discussed:**
 - a) The next scheduled Planning Commission meeting is for
Thursday, February 18, 2021 at 1:00 p.m.**

- b) **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.
- c) **Mr. Dossey** announced that he will give his Annual Report at the February 18, 2021 hearing.
- d) **Mr. Dossey** gave an update on the Master Plan process and timeline. The Plan is in review by staff currently and soon by the Master Plan Advisory Committee.

B. Public Input on Items Not Listed on the Agenda – NONE

CONSENT ITEMS

- 2. A. **Approval of the Minutes – January 7, 2021**
The minutes were unanimously approved as presented. (9-0)

B. SF-20-007 HOWSER
FINAL PLAT
THE RESERVE AT CORRAL BLUFFS FILING NO. 3

A request by Corral Ranches Development Company for approval of a final plat to create six (6) single-family residential lots and one (1) tract. The 59.95 acre property is zoned RR-5 (Residential Rural) and is located on the east side of Hoofprint Road, approximately one-quarter of a mile south of Blaney Road and one-half mile east of Meridian Road and is within Sections 31 and 32, Township 13 South, Range 64 West of the 6th P.M. (Parcel Nos. 43310-00-023, 43310-00-025, and 43320-00-016) (Commissioner District No. 2)

PC ACTION: CARLSON MOVED/LUCIA-TREESE SECONDED FOR APPROVAL OF CONSENT/MOVED TO REGULAR ITEM NUMBER 2B, SF-20-007, FOR A FINAL PLAT FOR THE RESERVE AT CORRAL BLUFFS FILING NO. 3 UTILIZING RESOLUTION PAGE NO. 19, CITING 20-004 WITH TWELVE (12) CONDITIONS AND TWO (2) NOTATIONS WITH A FINDING OF WATER SUFFICIENCY FOR QUALITY, QUANTITY, AND DEPENDABILITY AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (9-0).

C. SF-20-008 HOWSER
FINAL PLAT
THE RESERVE AT CORRAL BLUFFS FILING NO. 4

A request by Corral Ranches Development Company for approval of a final plat to create five (5) single-family residential lots. The 26-acre property is

zoned RR-5 (Residential Rural) and is located on the east side of Hoofprint Road, approximately one-quarter of a mile south of Blaney Road and one-half mile east of Meridian Road and is within Sections 31 and 32, Township 13 South, Range 64 West of the 6th P.M. (Parcel Nos. 43310-00-023 and 43320-00-016) (Commissioner District No. 2)

PC ACTION: FULLER MOVED/LUCIA-TREESE SECONDED FOR APPROVAL OF CONSENT/MOVED TO REGULAR ITEM NUMBER 2C, SF-20-008, FOR A FINAL PLAT FOR THE RESERVE AT CORRAL BLUFFS FILING NO. 4 UTILIZING RESOLUTION PAGE NO. 19, CITING 20-005 WITH ELEVEN (11) CONDITIONS AND TWO () NOTATION WITH A FINDING OF WATER SUFFICIENCY FOR QUALITY, QUANTITY, AND DEPENDABILITY AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (9-0).

D. SF-19-021 RUIZ
FINAL PLAT
THE GLEN AT WIDFIELD SUBDIVISION FILING NO. 10

A request by the Glen Investment Group No VII, LLC, for approval of a final plat to create 40 single-family residential lots. The 10.471 acre property is zoned RS-6000 (Residential Suburban) and CAD-O (Commercial Airport Overlay) and is located west of Marksheffel Road, east of Powers Boulevard, and both north and south of Peaceful Valley Drive and within Section 22, Township 15, Range 65 West of the 6th P.M. (Parcel Nos.55223-00-001 and 55272-00-004) (Commissioner District No. 4)

PC ACTION: TROWBRIDE MOVED/MORAES SECONDED FOR APPROVAL OF CONSENT/MOVED TO REGULAR ITEM NUMBER 2C, SF-19-021, FOR A FINAL PLAT FOR THE GLEN AT WIDFIELD SUBDIVISION FILING NO. 10 UTILIZING RESOLUTION PAGE NO. 19, CITING 20-006 WITH SEVENTEEN (17) CONDITIONS AND TWO (2) NOTATION WITH A FINDING OF WATER SUFFICIENCY FOR QUALITY, QUANTITY, AND DEPENDABILITY AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (9-0).

Note for the Record: Mr. Risley and Mr. Greer both stated that they had reviewed the testimony previously presented in the first portion of the hearing on January 7, 2021 and felt they were sufficiently informed to participate and vote on this item.

Regular Items

3. VA-18-005

RUIZ

**VARIANCE OF USE
ROCKY TOP CAMPGROUND**

A request by G&D Enterprise, Corp., for approval of a variance of use to legalize an existing Recreational Vehicle Park, Recreation Camp, and Automobile and Boat Storage Yard. The 9.32 acre property is zoned C-2 (Commercial) and is located northeast of the Highway 24 and Lucky 4 Road intersection and within Section 9, Township 13, Range 68 West of the 6th P.M. (Parcel No. 83092-00-011) (Commissioner District No. 3)

(Item continued from January 7, 2021 Planning Commission Hearing)

Ms. Ruiz gave a brief overview of the project, as well as a summary of the last hearing.

Ms. Seago – The Planning Commission members did receive additional documentation by PCD staff yesterday afternoon. At the previous hearing, the Planning Commission closed the public comment portion of the hearing, so it is my recommendation that this information not be considered. The information, however, will be forwarded to the Board of County Commissioners for their consideration.

Mr. Daniel Nieman gave his presentation on the changes presented for consideration. Dumpsters were reduced from five to three and have been made bear proof. RVs must be 2004 and newer which will eliminate those older models. We changed our fencing to opaque along the perimeter of the property. The internal driveways have been improved with asphalt over time when there has been extra asphalt from companies in the area. We've added concrete blocks to help with erosion based on an engineer's recommendation. We are asking to continue operation as it was for 70 years. We are withdrawing the request for outside storage of automobiles, boats, and RVs.

Mr. Carlson – The last time there was question as to how many camp sites were approved in 1972 and how many you have now. **Mr. Nieman** – The Assessor's site shows we are approved for 72 sites. We are at 60 sites currently. Lots have gotten larger to accommodate larger RVs.

Ms. Debra Eiland – There are nine criteria that we will speak to. The proposed use is compatible to the surrounding area. **Mr. Nieman** or a caretaker will be on-site at all times to ensure safety and cleanliness. There are campground rules in place that speak to noise curfew and generators are not allowed at any time. There are homes on the western boundary, but the northern and eastern sides are vacant properties. The fencing will be replaced to 6' opaque fencing as required. There will be site development plan submitted along with a drainage report and

stormwater report as required. There is an adjudicated well on the property. The motel was built in 1947, the RV park and campground was built in 1950. The campground and RV park is a far less invasive use than any of the other uses allowed in the zone district. The argument that the property values around the campground will be devalued is incorrect. It's been zoned C-2 for many years. We are asking for 60 RV/trailer sites and 8 tent sites. Improvements to the site are happening for the residents as well as for the visual impact for the neighbors. The proposed use will comply with all regulations of the Land Development Code and all County, State and Federal regulations except those portions varied by the action. The proposed use will not adversely affect wildlife or wetlands. The expansion of the campground happened before **Mr. Nieman** owned it. The RV storage did happen with **Mr. Nieman** and that was wrong. I can assure you that if this variance is approved, he will comply with everything that is required of him. He has closed all of the RV storage lots. All campground activities will be conducted on-site. Entry to and exit from Highway 24 and separated a reasonable and safe distance from the Highway by a gravel road. The west property boundary is screened by opaque privacy fence. All lighting will be shielded from neighboring properties and equipped with dusk-to-dawn sensors. The site plan will show the layout of the lighting, landscaping, lot and tent site placements, etc. Emergency vehicles have no issues accessing this property. There is a 10 mph speed limit throughout the park. There is a fenced dog park. There was great delay in getting the item to hearing due to staff turnover with PCD. The strict application of any of the provisions of the LDC would result in peculiar and exceptional practical difficulties or undue hardship on the owner of the property. He had no knowledge that the campground had been expanded and that it was a legal non-conforming use. It was represented to him that RV storage had occurred and was acceptable. He has withdrawn the RV storage. He only wants to continue the campground and hotel. It will strip away his investment and take away his business if this is not approved.

Ms. Ruiz had an opportunity to respond to the applicant's presentation. The fencing that they have proposed will meet the LDC requirements. If you make a motion today for approval or denial that it include the revision cited in the site plan and letter of intent. With regard to the timeline and staff response, EDARP keeps a time stamp of everything that occurs with a project. We have had some staff turnover, but I did find that the delays in the project were due to the applicant being unresponsive and not due to staff delays. There were many large gaps of time where PCD was waiting on them to respond. Staff took two months to complete a review at one time when we were extremely short staffed, but for the most part the delay has not been a staff issue. At one point we waited over 7 months to receive a resubmission. **Mr. Risley** – So in a 34 month process, there was about 17 months of delay from the applicants. **Ms. Ruiz** – That is correct.

Mr. Trowbridge – We did not get a revised staff report. **Ms. Ruiz** – Because we didn't get their revisions until this week, there was no revised staff report. We

would ask that you revise Condition #4 and make sure that your motion refers back to their revised site plan, and letter of intent.

Ms. Fuller – Are they expanding the footprint over what was already there? The location by Lucky Ford is a new location correct? It appears that it grew from the legal non-conforming. **Ms. Ruiz** – They are not proposing to adjust that site for RV storage, it will just not be used as RV storage any longer. **Mr. Nieman** – It's a gravel area that is vacant now. The camp sites by Lucky Ford relocated because of soil issues. I defined the sites better.

Ms. Fuller – Were the RV sites to the east always located there? **Mr. Nieman** – I've not made any changes to those sites.

Mr. Carlson – In the last hearing, you said if this variance is not approved, that it would go back to the campground and the non-conforming use and the number of sites in 1972. **Ms. Ruiz** – He stated that the RV spaces are larger now so the total number of sites is actually less. In order to maintain the legal nonconforming status the number of spaces and area being utilized would need to be the same or lesser.

Mr. Carlson – If this is not approved, they are still able to operate a campground there? **Ms. Ruiz** – Yes, they are.

Mr. Bailey – What do we have that defines the pre-1972 area that is allowed to be used for camping? **Ms. Ruiz** – We would rely on historical aerial pictures as well as what the historic Assessor records.

Mr. Trowbridge – Would it be staff's responsibility to provide that to the applicant? **Ms. Ruiz** – We could provide the aerial images for them to prepare their site plan accordingly.

Ms. Fuller – What would it take for us to look at those aerials? **Ms. Ruiz** – It wouldn't be something we could provide you today.

Mr. Carlson – The applicant mentioned that they had 72 campsites. Do you agree with that? **Ms. Ruiz** – Yes, based on the Assessor's record.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Cecil Smischmy – I am a managing partner of Lucky Ford. I disagree with Appendix A of the applicants' handout. The owner installed a drain that redirected stormwater that historically flowed down the westside of the road. My father bought Lucky Ford ranch in 1947. Lucky Ford Road was there at that point. My father maintained that road until he died and then I maintained it after. The pipe was installed and directed the stormwater across and down toward the highway. Those pipes disappeared after he purchased the property and now the stormwater

is causing erosion. I own land on three sides of his property. We have had multiple incidents of trespassers from his property. We will not be asking for them to leave, we will call the sheriff's office. We have had enough invasion on our land. I hope you will do the right thing.

Mr. Wade Wilson – I am the first house on Lucky Ford Road. I am directly across from the camp sites and tent sites. The tent sites were not there three years ago. I have a special relationship with Rocky Top. We've spent many nights there. We are not wanting to put him out of business, we just want him to do things correctly. You could put up a 26' fence and it wouldn't matter. The elevation allows us to see right into the park. I appreciate that the RV storage is gone. The tent site is horrible. I've been there the least amount of time but I've noticed the most change. He is coming to ask for forgiveness instead of doing it the right way.

Mr. Terry Regel – We have lived there for two years. I was so involved in talking to County Commissioners that we formed a group of citizens/homeowners right after **Mr. Nieman** moved in. I went down to Regional Building and took a petition to show what was happening at the campground. We showed pictures to Code Enforcement. We were told there was going to be a hearing about this property. A year and a half later, none of the problems have been taken care of. Nothing has been permitted. We have a cease and desist order and nothing has stopped.

Mr. Gary Crane – I still have real concerns regarding health and safety on the site. **Mr. Nieman** says he wants to be a good neighbor. I would suggest an outreach to the neighborhood to get feedback and you continue to make changes that are permitted. I'm a licensed contractor and I read the permitting records. I can't believe there have been no permits pulled for all the work that has been done. To have a good relationship, the prevailing need is trust. Trust that the work has been done or promised to be done will be done with permit and integrity so that the neighborhood can be proud of it. You violated that trust **Mr. Nieman**. I ask that the County, and Code Enforcement and **Mr. Nieman** work together on the issues.

Mr. Steve Swanson – I did some checking with the health department as to septic permits. They provided me two permits. One in 1985 and a major repair permit in 1987. I found that the permit in 1985 was approved for a 2-bedroom apartment and a single unit. That is what is attached to the septic permit. There are 15 rooms in the hotel. That in itself is an overload. In 2017, it was designed for 25 RVs. There are 40 RVs at the top of the property. He's proposing 60 RVs. Where does the sewage from the other RVs go? There's no septic system on record for that. There are electrical pedestals that weren't permitted.

Mr. Nieman had an opportunity for rebuttal. One of the big things that stuck out to me is the permit for the major repair. The County vendor approved contractor came out and approved the additional 25 sites. In 2018, there was another 2250 wastewater system put in. It was engineered and accommodates the other sites that were added. The records are out there. I have added \$80,000 worth of

improvements to address the wastewater. I inherited employees that worked with the previous owners. I don't have perfect knowledge of tent sites, so I've placed them where there is the least amount of soil erosion impacting those sites. A contractor was hired to grade Lucky Ford Road in 2002. Somewhere after 2002, someone install that diverter pipe. So now the road doesn't need to be graded any more. We started soil mitigation with block walls to divert that water, but that doesn't need a permit. I hire out the work and rely on the County approved contractors to work with Regional to get permits. Maintenance does not require permits either. We haven't done anything different than soil mitigation since I purchased the property. We are asking that we operate since 1950.

Mr. Risley – You indicated that you want to operate this the same as 1950 and yet you installed a wastewater system. Did you pull permits? Why are they not on record? **Mr. Nieman** – There is a permitted septic system that was done in 2018. We had the same engineer, the same contractor, and an inspection done. I relied on the contractor to pull those permits.

Ms. Eiland – This was included in the exhibits in the last hearing. This is an email from **Mike McCarthy**, from El Paso County Health. The permit did not appear online. Mr. McCarthy's response was that he was not aware of the OWTS. There is not a requirement for oversight from the EPC Public Health. We were assuming there was no further requirement. We will provide this to **Mrs. Garcia** for the record.

Ms. Eiland – **Mr. Nieman** purchased this property to run it as it was when he purchased it in 2017. Asking him to reduce the capacity or the operation to pre-2017 levels, he will be penalized for the work he has done and the purchase price he paid in 2017. I ask that you consider this in your deliberations.

DISCUSSION:

Ms. Fuller – I actually feel bad for **Mr. Nieman**. He is a victim of not doing due diligence. There were a lot of uses and he was a naïve buyer. I don't think that meets a hardship. It was a bad business decision made. He has a case to be filed against the seller, but I don't think we've had demonstration of hardship or exceptional difficulties. I wish that we had been able to see what that non-conforming footprint looked like, but I'm really happy that the storage is gone. I will be a no vote today.

Mr. Bailey – I appreciate those comments, but I disagree. I want to be sure that we get a different perspective on record. It's seems to me that there has been in the hearings a lot of people asking **Mr. Nieman** to be a good neighbor. I hear we are all for private property except when it's in my back yard. People have moved into an area, been there for many years, buy the lot next door and look over the fence and say what part of that don't I like. If all we look at is what **Mr. Nieman** has done in the last several years, we have to remember what was there before.

This use has been there much longer than some of the homes that were built after this use was already established. I just don't think that redefining the character of the neighborhood as residential is appropriate for us to do. I am in favor of the variance. The changes do away with the legitimate objections.

Mr. Carlson – I want to concentrate on what we are here to do today which is a variance of use. We are not engineers, it's not up to us to look at the drainage or erosion. I see it fits a problem. If we disapprove this, he could do so much more according to the zone district. It looks like he's doing things better. He will have issues that he has to deal with. I think we are here to settle an issue and I will be in favor of approving it.

Ms. Lucia-Treese – I am still very dismayed and distressed by this. The large gaps in time and not bringing what was needed bothers me greatly. I don't believe a hardship has been proven which is in our review criteria. It seems to me is there is a lot of passing of the buck. The owner didn't know this, the County staff did this. I don't believe that a concerted effort has been made and that this is merely coming for forgiveness rather than coming for approval.

Mr. Moraes – I look at this like a land use issue. When we look back at what has been there, it has been a campground and an RV park. Have things moved around and expanded? Yes. At the same time, if we try to go back to 1972 through aerial pictures, there is no way to definitely define what was there. It is going to be bigger or smaller and in different locations. But the odds of us nailing it 100% in the same size and same location the same way it was in 1972, in my mind is nearly impossible. Could we get close? Possibly. But would that be at the detriment of the applicant? Maybe. Maybe he'll still have more campground and the neighbors could still say it is still not in line with what was there in 1972. I don't think that it will be a determination and a true factor when we look at the aerials. At the same time, we talked about a similar case at Lone Duck Campsite. I looked at those variance applications, and it's basically the same. There was a violation and came back to the PC and BoCC. That variance was approved. I don't see much difference between that case and this case. I'm not saying we are setting a precedent, but in this case I look at it and we've done it in the past with campgrounds when you can't prove what was has gone on in the past. Finally, as soon as the RV storage issue came up, then we heard the complaints. If the RV storage was never there, would these other issues ever be known or brought up. In my mind, the other uses would have continued on. And now RV storage won't be there.

Mr. Trowbridge – I appreciate the RV storage being removed. I also appreciate **Ms. Eiland** getting that permit information tracked down. Processes take time. I totally understand the timeline and how it takes so much time to get here. It's been an RV campground for a long time. As for making changes, land changes require permitting, but we tend to do things on our own property and wonder if we do something on our property, do we need a permit. I will be in support of this.

Mr. Greer – I want to thank the applicant on the effort they've made so far. It is a difficult case and there are a lot of issues. I think the application meets the criteria and I will be in favor of this. I have reviewed the materials and I'm up to speed on the materials, so I feel able to vote on this.

Mr. Risley – I land somewhere in the middle. In looking at the approval criteria there are things we may consider. I also struggle to understand how this ties with undue hardship. The property is zoned C-2. Some of those uses may work to **Mr. Nieman's** advantage. I heard 60 sites, 72 sites, is it RV and tents? That is not clear to me. I would recommend that the applicant be much more clear when you go to the BoCC.

PC ACTION: TROWBRIDGE MOVED/BAILEY SECONDED FOR APPROVAL REGULAR ITEM NUMBER 4, VA-18-005 FOR A VARIANCE OF USE FOR ROCKY TOP CAMPGROUND WITH FOUR (4) CONDITIONS AND THREE (3) NOTATIONS AND THAT CONDITION #4 BE REVISED TO REMOVE THE APPROVAL OF THE OUTDOOR AUTOMOBILE, BOAT, AND RECREATIONAL VEHICLE STORAGE AND TAKING INTO CONSIDERATION THE CHANGES PRESENTED TODAY, UTILIZING RESOLUTION NUMBER 21-002 AND THAT THE ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION PASSED (5-4). THE NAY VOTES WERE LUCIA-TREESE, FULLER, RISLEY, AND BLEA-NUNEZ.

Ms. Fuller – There needs to be more clarity when you go to the BoCC. A bad business deal is not a hardship.

Ms. Lucia-Treese – My comments I made before the vote will suffice.

Ms. Blea- Nunez – I agree with my colleagues. This has not met a hardship. No further comments.

Mr. Risley – No further comments.

4. El Paso County Master Plan – Information Update – No Action Needed – An update was given during Report Items.

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 Trowbridge moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VA-18-005

Rocky Top Campground

WHEREAS, G&D Enterprise, Corp., 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 legalize an existing recreational vehicle park, recreation camp, and automobile and boat storage yard where such use is not permitted; and

WHEREAS, a public hearing was held by this Commission on January 7, 2021 and also on February 4, 2021; 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 [Click here to enter text.](#) for a variance of use within the Choose an item. zoning district to permit [Click here to enter text.](#) where such is not a permitted use for the following described unincorporated area of El Paso County be approved: See Exhibit A.

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

CONDITIONS

1. Within 180 days of variance of use approval, the applicant shall apply for and receive approval of a site development plan. The deadline for receipt of approval of the site development plan may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.
2. Prior to site development plan approval, the applicant shall provide the Planning and Community Development Department with evidence that an access permit from the Colorado Department of Transportation (CDOT) has been obtained for the existing access.
3. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
4. Approval is limited to the use of a recreational vehicle park and recreation camp, as discussed and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or modification to the operation or facilities beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to review and approval of a new variance of use request.

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 Bailey seconded the adoption of the foregoing Resolution.

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

Commissioner Risley	nay
Commissioner Bailey	aye
Commissioner Trowbridge	aye
Commissioner Blea-Nunez	nay
Commissioner Fuller	nay

Commissioner Moraes	aye
Commissioner Carlson	aye
Commissioner Lucia-Treese	nay
Commissioner Greer	aye

The Resolution was adopted by a vote of 5 to 4 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: February 4, 2021

Brian Risley, Chair

EXHIBIT A

LEGAL DESCRIPTION: 10090 W. HIGHWAY 24, GREEN MOUNTAIN FALLS, CO

THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 68 WEST OF THE 6th P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE U.S. HIGHWAY NO. 24, WHENCE THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 9 BEARS SOUTH 36 DEGREES 08 MINUTES WEST, 635 FEET; THENCE SOUTH 55 DEGREES 22 MINUTES EAST ON SAID EASTERLY RIGHT OF WAY LINE, 605.3 FEET; THENCE NORTH 27 DEGREES 31 MINUTES EAST, 722 FEET; THENCE NORTH 55 DEGREES 08 MINUTES WEST, 513.8 FEET; THENCE SOUTH 35 DEGREES 18 MINUTES WEST, 723 FEET TO THE POINT OF BEGINNING, EXCEPT ANY PORTION CONTAINED WITHIN U.S. HIGHWAY 24, COUNTY OF EL PASO, STATE OF COLORADO.

SAID TRACT CONTAINS 9.30 ACRES OF LAND, MORE OR LESS.

RESOLUTION NO. 21-

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

APPROVE VARIANCE OF USE TO LEGALIZE AN EXISTING RECREATIONAL RV PARK AND RECREATION CAMP FOR ROCKY TOP CAMPGROUND (VA-18-005)

WHEREAS, G&D Enterprise, Corp., did file an application with the Planning and Community Development Department of El Paso County for approval of a variance of use within the C-2 (Commercial) zoning district to legalize an existing recreational RV park and recreation camp 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 January 7, 2021 and February 4, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the subject variance of use; and

WHEREAS, a public hearing was held by this Board on February 23, 2021; 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 G&D Enterprise, Corp., for a variance of use to legalize an existing recreational RV park and recreation camp within the C-2 (Commercial) 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:

CONDITIONS

1. Within 180 days of variance of use approval, the applicant shall apply for and receive approval of a site development plan. The deadline for receipt of approval of the site development plan may be extended by the PCD Director, at his or her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.
2. Prior to site development plan approval, the applicant shall provide the Planning and Community Development Department with evidence that an access permit from the Colorado Department of Transportation (CDOT) has been obtained for the existing access.
3. No vehicular traffic and/or parking or storage of construction equipment, materials, or supplies shall occur over the existing onsite wastewater treatment system components.
4. Approval is limited to the use of a recreational vehicle park and recreation camp, as discussed and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or modification to the operation or facilities beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to review and approval of a new variance of use request.

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 23rd day of February, 2021 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

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SAID TRACT CONTAINS 9.30 ACRES OF LAND, MORE OR LESS.