

# **Letter of Intent**

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

**Rocky Top RV Park & Campground  
Rocky Top RV Storage**

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  
[edebra@qwest.net](mailto:edebra@qwest.net)

**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.

In addition to the motel and RV park/campground, Mr. Nieman plans to operate an RV storage business at the property. The property consists of approximately 9.30 acres.<sup>1</sup> The RV storage business is located along the lower southern side of the property along Highway 24.

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<sup>1</sup>The 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.

The property is zoned C-2. A parcel map showing the location of the property is included with this application.

### **III. Request and Justification.**

Mr. Nieman purchased the property on June 27, 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 to legalize the expanded RV park/campground, to allow a full-time employee caretaker to live in an RV on the property, and to also conduct an RV storage business on the property.

Request is for a Recreation Camp, with a provision of extended stay.

### **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).<sup>2</sup> 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, as well as the southeast RV storage lot. The gravel driveway entrance provides access to the northwest RV storage lot.

The motel and RV park/campground are located on the upper two-thirds of the property. The motel has 15 rooms, including the laundry and Manager's quarters, and the RV park/campground currently has 60 RV and trailer sites and 7 tent campsites. Amenities include electric, Internet/Wifi, water and sewer hookups at each site, two dump stations, a fenced dog park, a recreation room, 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.

Tents are not within the upper two-thirds

A 12' x 16' building will be constructed next to campsite 50 for bathrooms to serve the tent sites. 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

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<sup>2</sup>On 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 dated February 2, 1992, and 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. The Applicant has filed access permit applications with CDOT for the two driveways, and is awaiting either an acknowledgment of this Deed of Access Rights and/or issuance of access permits. The Applicant will provide a copy of the acknowledgment and/or access permits upon receipt.

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 Applicant proposes to have its full-time caretaker live on-site in his personal RV. It is common for 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 47 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 statement here that no RV will be posted for sale/rent while being stored on premise

The RV storage lot area is located on the lower third of the property facing Highway 24, is generally flat, and consists of two gravel parking areas. The RV storage lots are located on either side (northwest and southeast) of the paved driveway entrance. Twenty-nine RVs can be stored at the southeast storage lot, and six RVs can be stored at the northwest storage lot. The southeast storage lot is accessed via the paved driveway, is fenced on all sides, and is locked. The northwest storage lot is accessed via the gravel driveway, and will be similarly fenced and locked for security.

A parking area for storage lot customers is provided on the northwest storage lot, and includes ADA accessible parking. The small weather shelter/bus stop on the corner of the northwest storage lot will be removed. Three pre-existing legally non-conforming signs for the motel and RV/campground business are located along the southern boundary of the property.

There is no documentation to support this, you are only allowed 1 sign per street frontage

The RV storage areas, 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 long-term campers. 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 allows extended campground stays. 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, 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 thru a divorce, or a death in the family
- Employment transfer or searching for a new job in the area
- Seasonal campers, summer here and winter in warmer climates

## 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.**

Mr. Nieman and his family live on-site. Because Mr. Nieman lives at the campground full time, he is able to ensure that the facilities and grounds are kept clean and in good repair. He also monitors the grounds on a regular basis to 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 also 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, two sanitary sewer dump station for RVs, and regular trash pickup to ensure proper sanitation and waste disposal.

Does this mean there are 2 full-time residences for the property?  
Campers

is not consistent as it has been expanded

The properties adjoining the RV park/campground on the north and south are vacant land. The northern and southern property boundaries are enclosed with a 4' high wire fence.

The proposed RV storage business is consistent with the pre-existing park/campground use, and with the commercial zoning of the property. An business on the lower southern side of the property, along the U.S. Highway frontage, will also be harmonious and compatible with the character of the neighborhood. Another existing RV storage business is similarly located on Highway 24 frontage a short distance west of the subject property.<sup>3</sup>

include the distance and how the use is compatible with the adjacent neighbors and how the applicant plans to mitigate site issues with screening, etc

The motel, RV park/campground, and RV storage business will all be contained wholly within the boundaries of the subject property, and all are easily and safely accessible from the adjoining highway. Traffic volume to the RV storage business is 8 vehicle trips per day, and traffic to the motel and RV park/campground together is a maximum of 35 vehicle trips per day.<sup>4</sup> Neither the motel and RV park/campground nor the RV storage business will cause negative impacts to any future development in the area, nor will they negatively impact the health, safety, or welfare of the inhabitants of the area or the County.

another statement that no RVs will be posted for sale/rent while being stored

**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.**

were permits pulled for these retaining

The initial grading to establish the RV storage areas was minimal and is complete. The RV storage lots and roads in the RV park/campground will require annual road and lot maintenance. 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. 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.

park/campground

The RV storage areas, 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.

<sup>3</sup>Leggett's RV Storage, LLC, 10550 W. Highway 24, Green Mountain Falls, CO.

<sup>4</sup>Leaving the property and then returning counts as two trips. Thus, 8 trips is equivalent to 4 cars leaving and returning.

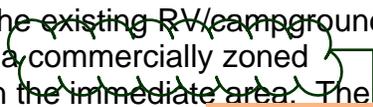
incorrect, the use has expanded which is why it now a non-conformity

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

The RV park/campground will be operated in the same way it has for the past 50+ years. As such, property values in the immediate area will not be impacted by granting the requested use variance to legalize that use.



Because the proposed RV storage use is similar to the existing RV/campground use and will be located along U.S. Highway 24 frontage on a commercially zoned property, it will have no adverse affect on property values in the immediate area. The proposed use is expected to enhance the value of the subject property.



screening is required to mitigate adverse affects

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

Rocky Top RV Park/Campground and Rocky Top RV Storage will at all times 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 either the RV park/campground or the proposed RV storage business. All campground activities and all RV storage and related activities will be conducted on-site. Entry to and exit from the RV park/campground and the storage business 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.<sup>5</sup> The existing wooden 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.

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<sup>5</sup>All 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 and the RV storage business will be 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.

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 tent sites 4-7. Traffic volume to the motel and RV park/campground together is a maximum of 35 vehicle trips per day. not adequate

Trash receptacles are located in five places within the campground, and will be screened with a wooden fence enclosure. The entire perimeter of the property is fenced with a 4 foot wire fence. The west boundary line between the tent sites and Lucky 4 Road is also partially fenced with a wooden privacy fence, which will be lowered so that it does not exceed the maximum height allowed in the setback and extended to the retaining wall behind campsite 54

see outside storage in the LDC for screening requirements

The RV storage lots are or will be fenced and locked. Parking spaces for storage lot customers, including ADA accessible spaces, are located on the northwest storage lot. No more than 4 customers per day are expected to visit the lots. Traffic volume to the RV storage business is 8 vehicle trips per day. 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.

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 proposed RV storage area and 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.**

Commitment letters required with this submittal

The RV park/campground has water and sewer hookups at each site, two dump stations, 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. No water or sanitary sewer disposal will be used or needed for the RV storage business.

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 and the RV storage business 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. Both access driveways and roads can accommodate large RVs and emergency vehicles. The roads, driveways, and storage lots 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 is in need of 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 use variance for the expanded RV Park/Campground, and continue using the southern side of the property as an RV storage business. Without approval of the use variance for the expanded RV Park/Campground, Mr. Nieman will be forced out of business. The RV Park/Campground revenue covers operating expenses without extra revenue available for repairs and maintenance. The RV storage business provides much needed extra income that will be used to make the necessary repairs more quickly, and pay for regular maintenance. Without this additional source of income, the repairs and maintenance will be delayed, which may adversely impact the safety of the motel and RV park/campground, the viability of the business, and the aesthetics of the property to the surrounding neighbors.

## APPENDIX A

## **APPENDIX B**