



**Planning and Community
Development Department**
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DEVIATION REQUEST AND DECISION FORM

Updated: 6/26/2019

PROJECT INFORMATION

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|---------------------|---|
| Project Name : | Mayberry Filing 5 |
| Schedule No.(s) : | |
| Legal Description : | All of Tract K, MAYBERRY, COLORADO SPRINGS FILING NO. 1, a subdivision of land in the Northwest Quarter of Section 14, Township 14 South, Range 63 West of the 6th Principal Meridian, El Paso County, Colorado, the plat of said subdivision recorded December 28, 2020 as Reception Number 220714655 in the Office of the Clerk and Recorder of El Paso County, Colorado. |

APPLICANT INFORMATION

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|-------------------|---|
| Company : | Mayberry Communities, LLC |
| Name : | Scott Souders |
| | <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Consultant <input type="checkbox"/> Contractor |
| Mailing Address : | 3296 Devine Heights #208 Colorado Springs, CO |
| Phone Number : | 719-922-2181 |
| FAX Number : | |
| Email Address : | scottsouders@mayberrycoloradosprings.com |

ENGINEER INFORMATION

| | | | |
|-------------------|--|------------------------|-------|
| Company : | R&R Engineers-Surveyors | Colorado P.E. Number : | 48189 |
| Name : | Clif Dayton | | |
| Mailing Address : | 1635 West 13 th Avenue, Suite 310 Denver, Colorado 80204 | | |
| Phone Number : | 303-753-6730 | | |
| FAX Number : | | | |
| Email Address : | | | |

OWNER, APPLICANT, AND ENGINEER DECLARATION

To the best of my knowledge, the information on this application and all additional or supplemental documentation is true, factual and complete. I am fully aware that any misrepresentation of any information on this application may be grounds for denial. I have familiarized myself with the rules, regulations and procedures with respect to preparing and filing this application. I also understand that an incorrect submittal will be cause to have the project removed from the agenda of the Planning Commission, Board of County Commissioners and/or Board of Adjustment or delay review until corrections are made, and that any approval of this application is based on the representations made in the application and may be revoked on any breach of representation or condition(s) of approval.

Signature of owner (or authorized representative)

Date

Engineer's Seal, Signature
And Date of Signature



DEVIATION REQUEST (Attach diagrams, figures, and other documentation to clarify request)

A deviation from the standards of or in Section 5.4 of the Land Development Code (LDC) is requested.

Identify the specific LDC standard which a deviation is requested:

Minimum front setback is 15' defined in Table 5.4, Density and Dimensional Standards for Agricultural Residential and Special Purpose District.

State the reason for the requested deviation:

The proposed development provides a 10' setback for the clubhouse, southern most apartment building, and townhomes fronting Market Place Drive. The club house serves as a grand entrance for the Mayberry Subdivision. Market Place Drive will provide an urban environment with townhomes on the west side and single-family homes on the east side.

Explain the proposed alternative and compare to the LDC standards (May provide applicable regional or national standards used as basis):

Instead of providing a 15' setback as the LDC requires, this project proposes to provide a 10' setback which encroaches the existing requirement by 5'.

LIMITS OF CONSIDERATION

(At least one of the conditions listed below must be met for this deviation request to be considered.)

- The LDC standard is inapplicable to the particular situation.
- Topography, right-of-way, or other geographical conditions or impediments impose an undue hardship and an equivalent alternative that can accomplish the same design objective is available and does not compromise public safety or accessibility.
- A change to a standard is required to address a specific design or construction problem, and if not modified, the standard will impose an undue hardship on the applicant with little or no material benefit to the public.

Provide justification:

Allowing the clubhouse, southern most apartment building, and townhomes fronting Market Place Drive to have a 10' setback versus a 15' setback will provide adequate space for recreational activities for the community.

CRITERIA FOR APPROVAL

Per LDC section 5.8.7 the request for a deviation may be considered if the request is **not based exclusively on financial considerations**. The deviation must not be detrimental to public safety or surrounding property. The applicant must include supporting information demonstrating compliance with **all of the following criteria**:

The deviation will achieve the intended result with a comparable or superior design and quality of improvement.

Allowing the clubhouse, southern most apartment building, and townhomes fronting Market Place Drive to have a 10' setback versus a 15' setback will give the subdivision a grand entrance while providing adequate space for recreational activities for the community. This will give the subdivision an urban feel.

The deviation will not adversely affect safety or operations.

Providing a 10' setback will not adversely affect safety or operations as this will still provide adequate space for utilities, landscaping, and pedestrian movement.

The deviation will not adversely affect maintenance and its associated cost.

Providing a 10' setback will not adversely affect maintenance or associated cost as this will still provide adequate space for utilities and landscaping.

The deviation will not adversely affect aesthetic appearance.

Providing a 10' setback will enhance the aesthetic appearance by allowing the clubhouse to stand out, give dimension to the subdivision, and give an overall urban feel.

The deviation meets the design intent and purpose of the LDC standards.

Providing a 10' setback versus a 15' setback will still meet design intent and purpose of the LDC standards.

The deviation meets the control measure requirements of Part I.E.3 and Part I.E.4 of the County's MS4 permit, as applicable.

The setback deviation request will not affect the control measure requirements of Part I.E.3 and Part I.E.4 of the County's MS4 permit.

REVIEW AND RECOMMENDATION:

Approved by the LDC Administrator

This request has been determined to have met the criteria for approval. A deviation from Section _____ of the LDC is hereby granted based on the justification provided.

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Denied by the LDC Administrator

This request has been determined not to have met criteria for approval. A deviation from Section _____ of the LDC is hereby denied.

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LDC ADMINISTRATOR COMMENTS/CONDITIONS:

1.1. PURPOSE

The purpose of this resource is to provide a form for documenting the findings and decision by the LDC Administrator concerning a deviation request. The form is used to document the review and decision concerning a requested deviation. The request and decision concerning each deviation from a specific section of the LDC shall be recorded on a separate form.

1.2. BACKGROUND

A deviation is a critical aspect of the review process and needs to be documented to ensure that the deviations granted are applied to a specific development application in conformance with the criteria for approval and that the action is documented as such requests can point to potential needed revisions to the LDC.

1.3. APPLICABLE STATUTES AND REGULATIONS

Section 5.8 of the LDC establishes a mechanism whereby an engineering design standard can be modified when if strictly adhered to, would cause unnecessary hardship or unsafe design because of topographical or other conditions particular to the site, and that a departure may be made without destroying the intent of such provision.

1.4. APPLICABILITY

All provisions of the LDC are subject to deviation by the LDC Administrator provided that one of the following conditions is met:

- The LDC standard is inapplicable to a particular situation.
- Topography, right-of-way, or other geographical conditions or impediments impose an undue hardship on the applicant, and an equivalent alternative that can accomplish the same design objective is available and does not compromise public safety or accessibility.
- A change to a standard is required to address a specific design or construction problem, and if not modified, the standard will impose an undue hardship on the applicant with little or no material benefit to the public.

1.5. TECHNICAL GUIDANCE

The review shall ensure all criteria for approval are adequately considered and that justification for the deviation is properly documented.

1.6. LIMITS OF APPROVAL

Whether a request for deviation is approved as proposed or with conditions, the approval is for project-specific use and shall not constitute a precedent or general deviation from these Standards.

1.7. REVIEW FEES

A Deviation Review Fee shall be paid in full at the time of submission of a request for deviation. The fee for Deviation Review shall be as determined by resolution of the BoCC.