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## MEMORANDUM

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DATE: December 22, 2023

TO: Bill Guman/Ed Morgan

FROM: Jeffrey C. Hodsdon, P.E. - LSC Transportation Consultants, Inc.

SUBJECT: Estates at Cathedral Pines  
*Land Development Code* Waiver  
LSC #S224150

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LSC Transportation Consultants, Inc. has prepared this waiver request to section 8.4.4.C of the El Paso County *Land Development Code* (LDC) waiver for the proposed Estates at Cathedral Pines in El Paso County, Colorado. The approximately 35-acre site (El Paso County parcel ID 6200000411) is located generally northwest of the intersection of Peregrine Way and Winslow Drive. Access is proposed to Winslow Drive about 1,100 feet north of Peregrine Way.

Please see attached copy of Deviation Exhibit No. 1 from the deviation request.

### WAIVER REQUEST SUMMARY

This request is for a waiver to section 8.4.4.C of the El Paso County Land Development Code, which reads: Public Roads Required. Divisions of land, lots, and tracts shall be served by public roads.

The request is to allow the two subdivision roadways, Windermere Drive and Cathedral Spire Heights to be private instead of public roads. The roadways would be owned and maintained by the HOA. The roadways would be built to County Rural Local roadway standards for cross section. A deviation request is also included with this submittal, which addresses a few design elements that do not meet ECM criteria. Please refer to that form for details.

Please refer to the project Letter of Intent for additional detail/information.

## **CRITERIA FOR APPROVAL AND JUSTIFICATION**

The following lists the criteria for approval of waivers as stated in section 7.3.3 of the *El Paso County Land Development Code*

### **7.3.3. Criteria for Approval of Waivers**

*A waiver from standards shall be approved only upon the finding, based upon the evidence presented in each specific case, that:*

- *The waiver does not have the effect of nullifying the intent and purpose of this Code;*
- *The waiver will not result in the need for additional subsequent waivers;*
- *The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;*
- *The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;*
- *A particular non-economical hardship to the owner would result from a strict application of this Code;*
- *The waiver will not in any manner vary the zoning provisions of this Code; and*
- *The proposed waiver is not contrary to any provision of the Master Plan.*

The following lists each criterion followed by justification:

#### ***The Waiver Does Not Have the Effect of Nullifying the Intent and Purpose of This Code***

This request to allow private subdivision roads will:

- Not be contrary to the intent and purpose of the code;
- Comply with the applicable design standards as modified by this request and the deviation form included with this submittal; and
- Meet the intent of the code by providing adequate, sustainable legal access to the subdivision lots, which combined with approval of the deviation request, will meet County ECM engineering standards.

#### ***The Waiver Will Not Result in the Need for Additional Subsequent Waivers***

Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM. The project is a private, gated community. The internal street serves solely to provide access to the individual homeowners' lots.

***The Granting of the Waiver Will Not be Detrimental to the Public Safety, Health, or Welfare, or Injurious to Other Property***

Public infrastructure to serve the new lots, including roads, drainage facilities, and utilities will all be constructed in compliance with applicable County standards, regulations and criteria in effect at the time of this application. A deviation request is included to address a few minor exceptions to ECM standards for road design elements.

Maintenance of tracts, open spaces, EDBs and the road falls under Article 8, Duties and Powers of Association, 8.1 General Duties and Powers of Association. Specifically:

The Association shall maintain all Common Areas and all portions of the Community required to be maintained by the Association under any Preliminary and Final Plat, site plan or other development approval by the County, access tracts providing access from a street to a Site which is defined as a "flag lot" under applicable County approvals (which access tracts shall be owned and maintained by the Association), perimeter fencing, fencing abutting Common Areas, landscaping areas along roadways, project signage and entry facilities, if any.

This passage is found in the document "Declaration of Covenants, Conditions and Restrictions for The Estates at Cathedral Pines" provided to the County with this project submittal.

The private roads will provide the necessary and acceptable access to the subdivision. Projected trip generation (75 vehicle trips per day) for the 8 lots would result in relatively low traffic volumes on these streets. The street cross-sectional elements would meet County standards, and roadway grades would meet County standards. A deviation request, provided with this submittal, addresses a few design elements that do not meet ECM criteria. Please refer to that form for details.

Windermere Court and Cathedral Spires Heights shall be maintained by the HOA and details will be outlined in a private access maintenance agreement.

The Conditions Upon Which the Request for a Waiver Is Based Are Unique to the Property for Which the Waiver Is Sought and Are Not Applicable to Other Property

This waiver is for the proposed subdivision roads only. These roadways would be completely bounded by platted individual lots, as the subdivision plat does not include any future vehicular access easements, road rights-of-way, etc. connecting to adjacent properties. In keeping with the rural character of the surrounding Black Forest community, internal circulation is proposed to be comprised of paved, private Rural Local roads. The waiver is requested in lieu of a dedication as public roadways to allow for the subdivision to be a gated community. This is reasonable, given the limited number of residences (8 dwelling units) that will utilize the road, and no need for through-road right-of-way to be provided to adjoining parcels, and maintenance by the HOA guaranteed by binding agreement.

***A Particular Non-Economical Hardship to the Owner Would Result from a Strict Application of This Code***

Absent this requested waiver, the applicant would not be able to create a gated community.

***The Waiver Will Not in Any Manner Vary the Zoning Provisions of This Code***

The proposed Zoning is PUD. The overall net density for the development is 0.22 DU/acre.

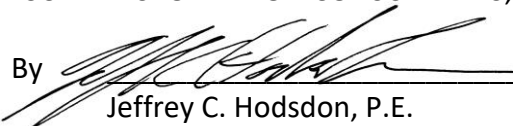
***The Proposed Waiver Is Not Contrary to Any Provision of the Master Plan***

This request is consistent with the purposes of the ***Your El Paso County Master Plan (2021)*** (adopted May 26, 2021). The proposed Development Plan is in conformance with subdivision design standards and establishes an adequate level of compatibility with surrounding areas of the site already constructed and other known surrounding areas currently proposed for development.

Respectfully submitted,

LSC TRANSPORTATION CONSULTANTS, INC.

By

  
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Jeffrey C. Hodsdon, P.E.  
Principal

JCH/JAB:jas

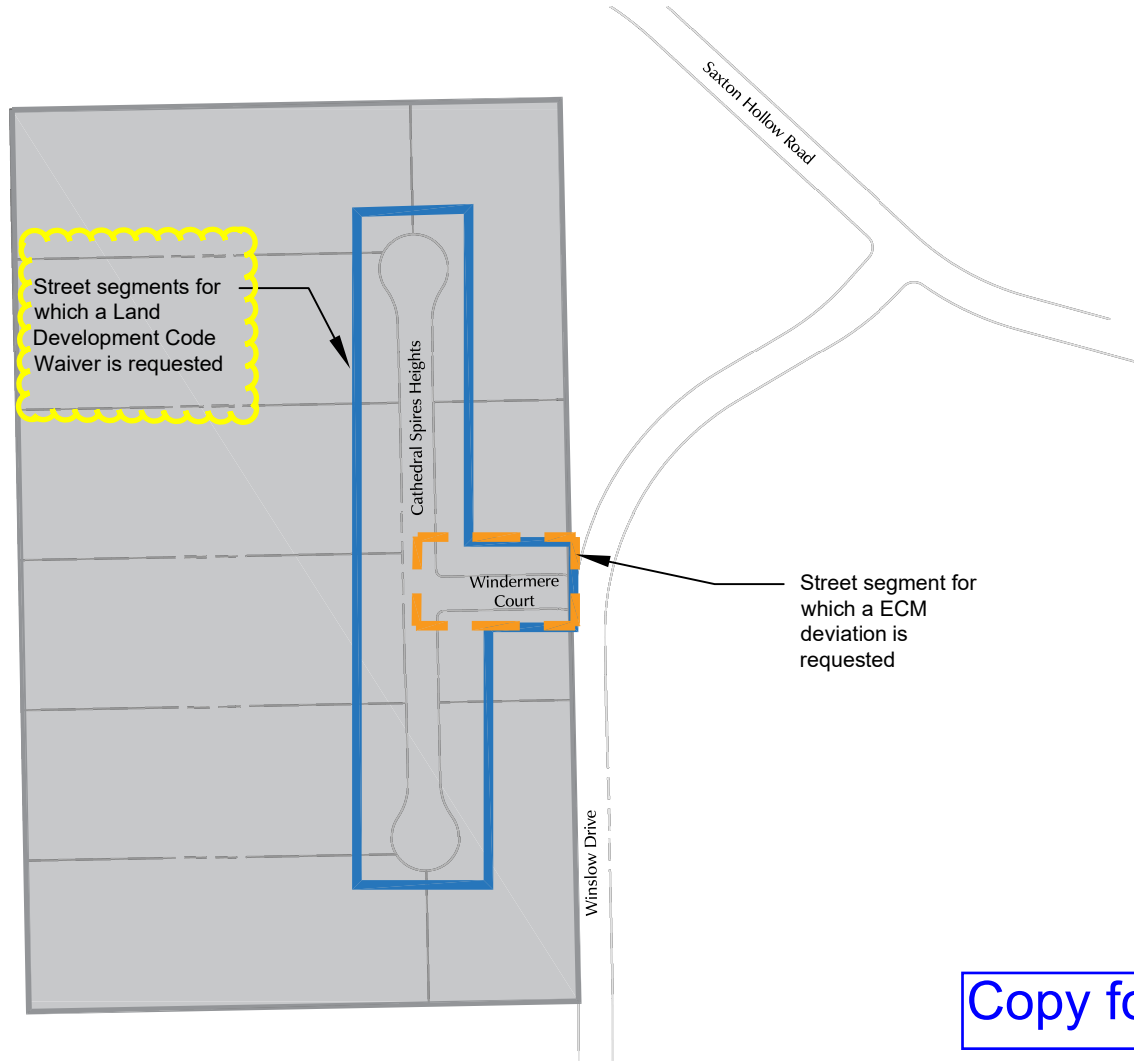
Enclosures: Copy of Deviation Exhibit No. 1

# Deviation Exhibit

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Site property boundary



Copy for *LDC Waiver*



Deviation Exhibit 1  
**Deviation Vicinity Map**

Estates at Cathedral Pines (LSC# S224150)