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**DEVIATION REQUEST
AND DECISION FORM**

Updated: 6/26/2019

PROJECT INFORMATION

Project Name :	CROSSROADS MIXED USE FILING NO. 1
Schedule No.(s) :	5408007005
Legal Description :	PLATTED UNDER RECEPTION NO. 222714975

APPLICANT INFORMATION

Company :	COLORADO SPRINGS EQUITIES LLC		
Name :	DANNY MIENTKA		
	X Owner	<input type="checkbox"/> Consultant	<input type="checkbox"/> Contractor
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ENGINEER INFORMATION

Company :	M&S CIVIL CONSULTANTS, INC.		
Name :	VIRGIL A. SANCHEZ	Colorado P.E. Number :	37160
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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

insert DEV221

Revise to 1.7.2.B and update the block below to summarize the referenced section.

Diagrams, figures, and other documents. A deviation from the standards or in Section 1.7 of the Engineer

Identify the specific ECM standard which a deviation is requested

A DEVIATION IS REQUESTED FOR THE PERMISSION TO CONSTRUCT A REQUESTED FROM ECM STANDARD 1.7.2 "BMP SELECTION". THE REASON FOR THE DEVIATION IS THE REQUEST FOR A STORMWATER TREATMENT AND WATER QUALITY FACILITY WITH (MTDs) MANUFACTURED TREATMENT AND WATER QUALITY CAPTURE TREATMENT FOR THE PROJECT.

State the reason for the requested deviation:

THE DEVELOPER FOR THIS PROJECT WOULD LIKE TO USE THE DETENTION POND AREA TO CREATE A PARK SITE FOR RECREATIONAL PURPOSES. THE PARK SITE WILL VISUALLY ENHANCE THE DRIVING EXPERIENCE FROM US HWY 24 AS WELL AS INCREASE THE LIMITED NUMBER OF RECREATIONAL AMENITIES AVAILABLE TO THE ADJACENT AND SURROUNDING AREAS.

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

~~ECM SECTION 1.7.2.B "OTHER SPECIALIZED BMPS"~~

Replace and identify that specific proprietary products proposed (Baysaver and Isolator) and identify using TSS for the base design for permanent stormwater quality control measures.

Explain any regional or national standards used as basis. (This section should be where you summarize the testing monitoring reports, and how this compare to the ECM standards. Explain NJCAT credentials which appears to be an accepted source by MHFD.)

A PERFORMANCE MONITORING PROGRAM TO BE PRE-APPROVED BY COUNTY STORMWATER STAFF AND AN AGREEMENT TO REPLACE THE EXPERIMENTAL SYSTEM WITH AN APPROVED SYSTEM SHOULD IT NOT FUNCTION TO THE REQUIRED LEVEL OF PERFORMANCE, BOTH AT THE OWNER'S EXPENSE, WILL BE REQUIRED. DESIGN OF AN EXPERIMENTAL BMP IS NOT TO COMMENCE UNTIL AFTER A MEETING WITH COUNTY STORMWATER STAFF IS HELD.

SEE ATTACHED INFORMATION FOR ADDITIONAL EXPLANATION AND COMPARISONS.

Update to reference. Too broad. Staff is assuming it's the document titled "Deviation Summary Narrative & Response to Comments"

Discuss specific #'s how the proposed alternative meets/exceeds county criteria for above ground full spectrum detention. Reference MHFD criteria and the EPC ECM (see Table I-8 in Appendix I for example)

Discuss how the Four-Step Process (ECM App 1.7.2) was followed to arrive at the conclusion that this UG alternative is suitable.

A hydrodynamic separator and isolator row PLUS were spec'd out. Both provide TSS removal. Will one or both of these be utilized? Also, will WQCV be provided and slowly released through the isolator rows and a weir? Because as Gilbert points out above, a lot of our criteria against UG WQ is related to WQCV only, and not TSS removal. So this deviation request is needed for UG WQCV treatment and not for the TSS removal standard (although still good to discuss both here since they are related). WQCV treatment and slow release is still desired by the County, so don't just remove it in order to expedite the process. We just need to see more discussion as to how WQCV will be treated and released.

B. Other Specialized BMPs.

The Technical Advisory Committee (TAC) selected the above structural BMPs after a comprehensive screening of known structural BMPs. The members of TAC included representatives from many city and County agencies and individuals from the development community. Final selection by TAC was based on the review of documentation on potential effectiveness in a semiarid climate, local applicability, maintenance considerations, and cost.

Development and evaluation of permanent BMPs are continuing processes. Better designs of the BMPs included in DCM2 and designs of new BMPs, including manufactured (proprietary) BMPs, will be developed and tested. To allow for this progress, additional BMPs will be considered on a case-by-case basis by County Stormwater Staff. Design and sizing details and results of independent testing of the BMP in conditions similar to those at the site will be submitted demonstrating that the BMP will meet or exceed the performance of approved BMPs for the site.

To promote improvement in stormwater protection, County Stormwater Staff may approve promising BMPs on an experimental basis. A performance monitoring program to be pre-approved by County Stormwater Staff and an agreement to replace the Experimental System with an approved system should it not function to the required level of performance, both at the owner's expense, will be required. A request to use an "experimental system" must be submitted to El Paso County in the form of a Request for a Deviation from these standards, submitted consistent with the criteria and process described Chapters 1 and 5, respectively. Design of any "experimental system" shall not commence until a Request for Deviation is submitted to and approved by the County.

LIMITS OF CONSIDERATION

(At least one of the conditions listed below must be met)

Delete/move first sentence to page 3. This is a reason for the request, not a justification why the ECM is inapplicable.

- The ECM 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:

THE CLIENTS REQUEST TO DEVIATE FROM THE EPC STANDARDS FOR THE SOLE PURPOSE TO BUILD A USEABLE PARK IN ITS PLACE. THE PARK SITE WILL BENEFIT THE PUBLIC IN LIEU OF A DETENTION POND. THE ECM STANDARD IS INAPPLICABLE TO THIS PARTICULAR SITUATION BECAUSE THE PUBLIC WOULD BENEFIT MORE FROM A RECREATIONAL PARK SITE THAN AN UN-USEABLE DETENTION POND. THE ECM STANDARD IS INAPPLICABLE TO THIS PARTICULAR SITUATION AND THEREFORE IS NOT TYPICALLY APPLICABLE TO THIS PARTICULAR SITUATION.

Revise justification. One justification is that I.7.3 is specific to incorporating WQCV in underground detention facilities. However the particular system is incorporating TSS with the underground detention facilities. The ECM does not specifically preclude the use of TSS with underground detention facilities.

And specifically reference and discuss #2 and #3 on page UG-9 of MHFD Detail T-11. We want to know which option you are proposing.

CRITERIA FOR APPROVAL

Per ECM 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.

THE PROPOSED DEVIATION WILL PROVIDE A COMPARABLE WATER QUALITY AND DETENTION TREATMENT NEEDS WHILE PROVIDING SUPERIOR AESTHETIC APPEAL. THE FACT THAT THE FACILITY WOULD BE SUBTERRAINEOUS ALLOWS FOR SUPERIOR SAFETY TO THE PUBLIC AND LACK OF VISUAL IMPACT. THE USE OF "PRE-TREATMENT" TREATMENT THAT MEETS OR EXCEEDS THE ECM CRITERIA. THE UNDERGROUND FACILITY MEETS THE DETENTION VOLUME EPC REQUIREMENT FOR CAPACITY. THE SITE ITSELF WILL PROVIDE EXCEPTIONAL INFILTRATION WHICH THE UNDERGROUND DETENTION ARE DURABLE, POSSESS A LONG DESIGN LIFE ELEMENTS OF AN ABOVE GROUND DETENTION POND. THE PROPOSED DESIGN IS EXPOSED TO DEGRADATION.

Revise. Identify the TSS criteria (see ECM I.7.1.C.2) and explain how this systems TSS removal is comparable or superior to the criteria.

2. Pollutant Removal Standard. The control measures is designed to treat at a minimum the 80th percentile storm event. The control measures shall be designed to treat stormwater runoff in a manner expected to reduce the event mean concentration of total suspended solids (TSS) to a median value of 30 mg/L or less. OR 100% of the applicable development site must be captured, except the County may exclude up to 20 percent not to exceed 1 acre of the applicable development site area when the County has determined that it is not practicable to capture runoff from portions of the site that will not drain towards control measures. In addition, the County must also determine that the implementation of a separate control measure for that portion of the site is not practicable (e.g., driveway access that drains directly to street).

For consistency and to avoid any confusion, add "WQ" to any mention of detention ponds to clarify that the discussion is about both WQ and detention.

The deviation will not adversely affect safety or operations.

THE CONSTRUCTION OF AN UNDERGROUND DETENTION SYSTEM WILL NOT ADVERSELY AFFECT SAFETY FOR THE PUBLIC, BUT WILL ONLY ENHANCE THE AREA FOR RECREATION, WILL OPERATE UNSEEN AND THEREFORE NOT SEE ATTACHED INFORMATION FOR OPERATIONAL REQUIREMENTS.

Underground system is confined space. What gets implemented to prevent the general public from access the system.

And to that point, how will the EPC inspector safety inspect the facility?

Also discuss that overall drain time will meet req's of SB 15-212:

The UG WQ & detention will infiltrate at least 97% of all of the runoff from a rainfall event that is less than or equal to a 5-year storm within 72 hours after the end of the event

Consider contacting the manufacturer to see if they have a comparative data for longterm maintenance cost between above ground EDB versus the proposed underground system.

Delete. Not applicable to the specific criteria being addressed. Construction cost is installation not maintenance cost.

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

THE PROPOSED UNDERGROUND DETENTION FACILITY WILL BE PRIVATELY OWNED AND MAINTAINED BY THE METROPOLITAN DISTRICT NO. 1. THE "DISTRICT" WILL ALSO PROVIDE AN AGREEMENT TO REPLACE THE SYSTEM IF IT FAILS TO THE REQUIRED LEVEL OF PERFORMANCE. (ECM I.7.2.B). ~~THE REQUEST FOR THIS DEVIATION IS NOT BASED ON CONSTRUCTION COSTS. THE UNDERGROUND DETENTION FACILITY AND CONSTRUCTION OF A PARK SITE IS FAR MORE EXPENSIVE THAN A STANDARD POND SITE. THE PURPOSE FOR THE ADDITIONAL EXPENSE IS TO ENHANCE THE DEVELOPMENT ITSELF, PROVIDE A USEABLE RECREATIONAL AREA, AND PROVIDE AN ATTRACTIVE FRONTAGE TO US HWY 24 NEAR THE "CROSSROADS" OF US HWY 24 AND US HWY 94.~~

Discuss how much more often (if at all) a below ground WQ facility (like the MTD and/or isolator row) will need to be inspected/maintained compared to an above ground WQ facility.

The deviation will not adversely affect aesthetic appearance.

THE PROPOSED DEVIATION WILL ENHANCE THE AESTHETIC APPEARANCE WITH THE CONSTRUCTION OF A PARK SITE IN LIEU OF A STANDARD ABOVE GROUND EPC DETENTION POND.

Explain the Badger Daylighting document that was included in the Maintenance Document and their role regarding maintenance. Staff assumes the "District" employs this company to conduct necessary inspections/maintenance.
Identify any specific training/certifications needed for entry into the system for inspections which County personnel would need to acquire to conduct inspections of the system.

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

THE DEVIATION MEETS THE DESIGN INTENT FOR DETENTION, WATER QUALITY, MAINTENANCE AND OPERATION AS WELL AS, OR BETTER THAN, A STANDARD ABOVE GROUND EPC DETENTION POND. THE UNDERGROUND DETENTION FACILITY PROPOSED FOR USE IN THE COUNTY WILL MEET THE GOOD ENGINEERING, HYDROLOGIC AND POLLUTION CONTROL PRACTICES AS DEFINED IN THIS SECTION I.7. THE APPROVAL CRITERIA FOR THIS DEVIATION REQUEST PROVIDED IN CHAPTERS 1 AND 5 OF THE ECM, THE OWNER OR AUTHORIZED AGENT WILL PROVIDE A STRUCTURE-SPECIFIC OPERATION AND MAINTENANCE (O&M) MANUAL AND MAINTENANCE AGREEMENT FOR THE STRUCTURES. THE OPERATION AND MAINTENANCE MANUAL WILL INCLUDE SPECIFIC PROCEDURES AND EQUIPMENT THAT WILL BE USED BY THE OWNER OR AUTHORIZED REPRESENTATIVE TO OPERATE AND MAINTAIN THE STRUCTURES. A SPECIFICATION SHEET OR GENERIC O&M MANUAL PROVIDED BY THE VENDOR WILL NOT BE USED TO SATISFY THE O&M MANUAL REQUIREMENT.

~~THE DEVIATION DOES NOT MEET THE NEXUS FOR LIMITED SPACE AVAILABLE.~~ Delete

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 DEVIATION MEETS THE CONTROL MEASURE REQUIREMENTS OF PART I.E.3 OF EPC'S MS4 PERMIT – CONSTRUCTION SITES. THE PERMITTEE WILL IMPLEMENT A PROGRAM TO REDUCE OR PREVENT THE DISCHARGE OF POLLUTANTS TO THE MS4 FROM APPLICABLE CONSTRUCTION ACTIVITIES.

THE DEVIATION MEETS THE CONTROL MEASURE REQUIREMENTS OF PART I.E.4 OF EPC'S MS4 PERMIT – POST-CONSTRUCTION STORMWATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT. THE PERMITTEE WILL IMPLEMENT A PROGRAM TO REDUCE THE DISCHARGE OF POLLUTANTS TO THE MS4 FROM APPLICABLE DEVELOPMENT SITES.

Discuss the hydrodynamic separator's and the isolator row's capabilities to contain trash and debris during storms that exceed their capacities and don't just allow trash to wash down the outlet pipe. Because the trash screen and track rack perform this function with above ground ponds. We just want to see a discussion of the WQ capabilities to see how they compare to the more familiar above ground counterparts.

REVIEW AND RECOMMENDATION:

Approved by the ECM Administrator

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

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Denied by the ECM Administrator

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

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Γ

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J

ECM ADMINISTRATOR COMMENTS/CONDITIONS:

1.1. PURPOSE

The purpose of this resource is to provide a form for documenting the findings and decision by the ECM 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 ECM 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 ECM.

1.3. APPLICABLE STATUTES AND REGULATIONS

Section 5.8 of the ECM 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 ECM are subject to deviation by the ECM Administrator provided that one of the following conditions is met:

- The ECM 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.