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# DEVIATION REQUEST AND DECISION FORM

Updated: 6/26/2019

## PROJECT INFORMATION

Project Name : Yucatan Convenience Store  
 Schedule No.(s) : 6501205016  
 Legal Description : Lot 1 Clearview West Filing No. 2 (4815 Yucatan Dr. Colorado Springs, CO 80911)

## APPLICANT INFORMATION

Company : BBKerns Design  
 Name : Bernie Kern, CPBD  
 Owner  Consultant  Contractor  
 Mailing Address : 1253 N Meade Ave  
 Colorado Springs, CO 80909  
 Phone Number : 719-375-4956  
 FAX Number : N/A  
 Email Address : bbkerndesigns@q.com

## ENGINEER INFORMATION

Company : Kimley-Horn  
 Name : Mitchell Hess Colorado P.E. Number : 0053916  
 Mailing Address : 2 N Nevada Ave, Suite 900  
 Colorado Springs, CO 80903  
 Phone Number : 719-284-7281  
 FAX Number : N/A  
 Email Address : Mitchell.Hess@kimley-horn.com

## 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]* Signature of owner (or authorized representative) 2-27-2023 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 **1.7.2.D (Figure I-1)** of the Engineering Criteria Manual (ECM) 2 is requested.

Identify the specific DCM standard which a deviation is requested:

Section 1.7.2.D (Figure I-1) of the ECM - BMP Requirements Flowchart for New Development and Redevelopment Sites - For Selecting Post-Construction BMPs in Compliance with El Paso County's Stormwater NPDES Permit

Specialized BMPs are required for the site due to the site's use being classified as high risk (convenience store and gas station). Figure I-2 goes on to state, "WQCV for site should be provided in PLD or SFB, or EBD should be used in conjunction with specialized BMP with equivalent removal rates as PLD or SFB".

State the reason for the requested deviation:

Due to site area constraints, the inclusion of a detention pond, sand filter, or other specialized BMP is not feasible.

The existing site is currently a convenience store and historically was a gas station. The owner would like to return the site to its original use of a gas station. Currently, stormwater sheet flows off of the paved areas and onto well stabilized landscape areas. In order to reduce erosion and the opportunity for pollutants to enter stormwater, we have proposed allowing the same drainage patterns to occur as currently found at the site. To help spread stormwater out evenly across the existing receiving pervious areas though, slotted curb would be installed to maximize the interface of impervious area and receiving pervious areas.

If another BMP were to be installed at this existing/developed site, such as an extended detention basin or pervious landscape detention facility, it would require disturbance of well-established landscape areas that could take years to re-establish. This disturbance would result in the opportunity for more pollution at the site. In using the runoff reduction standard for this site, stormwater will be treated in landscape areas similar to the concept of a pervious landscape detention facility. With the minor redevelopments of the site though, the stormwater runoff volumes are being reduce and so a detention pond is not required.

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

The water quality requirements for the site are being met by Option C of Part 1.E.4.a.iv of the County MS4 Permit, the "Runoff Reduction Standard".

Additionally, a grass buffer structural control measure will be employed at the site. All stormwater runoff that will pass by the proposed gas tanks and dispensers will be routed to the grass buffer area. As recommended by the Mile High Flood District, the grass buffers are a minimum of 14-ft wide. A drainage easement will be dedicated over the grass buffer area to ensure that the grass buffer control measure stays in place to provide water quality treatment for the site.



**LIMITS OF CONSIDERATION**

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

- 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:

With the recent adoption of the Green Infrastructure Manual to supplement the Drainage Criteria Manual, opportunities for implementing runoff reduction techniques have become available to developers to accomplish the goals of reducing runoff and maintaining a high standard for water quality upon discharge from the site.

Currently, stormwater sheet flows off of the paved areas and onto well stabilized landscape areas. In order to reduce erosion and the opportunity for pollutants to enter stormwater, we have proposed allowing the same drainage patterns to occur as currently found at the site. To help spread stormwater out evenly across the existing receiving pervious areas though, slotted curb would be installed to maximize the interface of impervious area and receiving pervious areas.

If another BMP were to be installed at this existing/developed site, such as an extended detention basin or pervious landscape detention facility, it would require disturbance of well-established landscape areas that could take years to re-establish. This disturbance would result in the opportunity for more pollution at the site. In using the runoff reduction standard for this site, stormwater will be treated in landscape areas similar to the concept of a pervious landscape detention facility. With the minor redevelopments of the site though, the stormwater runoff volumes are being reduce and so a detention pond is not required.

**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.

By this deviation, we will be able to limit disturbed areas and preserve existing conditions on the site to a significantly higher degree than trying to implement a specialized BMP while also providing water quality requirements and meeting the requirements of El Paso County's MS4.

The deviation will not adversely affect safety or operations.

By limiting the scope of construction and preserving existing conditions to the degree possible, safety and operations will be preserved by the granting of this deviation.

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

The routine maintenance of a grass buffer BMP is significantly easier and more cost-effective as compared to a detention basin, sand filter, or other specialized BMP.

The deviation will not adversely affect aesthetic appearance.

The addition of a sand filter or extended detention basin would result in a worse aesthetic appearance when compared with a grass buffer BMP, which will be incorporated into the proposed landscaping and be more cohesive with the site as a whole.

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

The design intent and purpose of the DCM Standards are to provide an opportunity for particulate matter and pollutants to settle out of stormwater, maintaining its quality before it is discharged from the site. The grass buffer BMP and runoff reduction will achieve these same goals with a smaller footprint while also allowing the well-established landscaping at the site to remain in place. Needlessly disturbing the existing vegetation could allow for more stormwater pollution to occur and it could take years to fully reestablish vegetated areas.

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.

This deviation is covered and specifically allowed for by Option C within Part I.E.4 of the El Paso Count MS4 Permit.

**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.

Γ \_\_\_\_\_ 7

L \_\_\_\_\_ J

**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.

Γ \_\_\_\_\_ 7

L \_\_\_\_\_ 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.