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## DEVIATION REQUEST AND DECISION FORM

Updated: 6/26/2019

### PROJECT INFORMATION

Project Name:	The Gardens at North Carefree
Schedule No.(s):	5500000135
Legal Description:	See attached

### APPLICANT INFORMATION

Company :	Mule Deer Investments, LLC
Name :	Heath A. Herber, Manager
	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Consultant <input type="checkbox"/> Contractor
Mailing Address :	2727 Glen Arbor Drive Colorado Springs, CO 80920
Phone Number :	719-331-0083
FAX Number :	
Email Address :	hherber@wheatlandscapital.com

### ENGINEER INFORMATION

Company :	Stantec	Colorado P.E. Number :	24997
Name :	Charles K. Cothorn		
Mailing Address :	5725 Mark Dabling Boulevard Suite 190 Colorado Springs, CO 80919		
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Email Address :	Charles.cothorn@stantec.com		

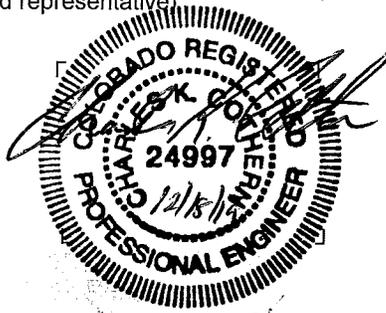
OWNER, APPLICANT, AND ENGINEER DECLARATION

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.

MULE DEER INVESTORS LLC  
by Heath A Herber, manager  
Signature of owner (or authorized representative)

12/18/2019  
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 Chapter 2, Section 2.3.4 of the Engineering Criteria Manual (ECM) is requested.

Identify the specific ECM standard which a deviation is requested:

Section 2.3.4, Table 2-12 and 2-14  
Rate of Vertical Curve, K

State the reason for the requested deviation:

To allow for a K value outside of the parameters stated in the K ECM in both the crest and sag condition on Fallow Lane and Running Deer Way.

The 2 access roads to the project (Running Deer Way and Fallow Lane) cannot meet the minimum K value requirements for vertical curves in part to the short segment of each road and driven by the requirement to treat 100% of storm water on site and the requirement to provide a 2% cross slope at the intersection with Akers Drive to meet ADA standards for cross walks. The K factors being used in the crest are 6.39 (Fallow Lane) and 3.41 (Running Deer Way) and in Running Deer Way sag is 10.30; required K factor are 12 at the crest and 26 in the sag curves.

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

The access drives have been designed at maximum allowable slopes to intersect with Akers Drive, pushing the high point in these drives as close to Akers Drive as roadway criteria will allow reducing the amount of roadway area to 0.19 acres that does not drain to the detention pond on site. The total area of the development not draining to a detention pond is 0.92 acres which is just under the maximum allowed of 1-acre. Most of the areas that do not drain to the detention pond has no flexibility to be modified to drain to the ponds; the two access roadways were the only area that could be modified to get under the 1 acre maximum area allowed to not drain to a pond based on the previously approved water quality deviation.

The roadway cannot meet the criteria based on drainage requirements and restricted access requirements. The two access roads in question are 186 ft. (Fallow Lane) and 174 ft. (Running Deer Way) long, intersection to intersection; distance from stop bar to stop bar is closer to 136 ft. and 124 ft. respectively. The roads have stop conditions at each end. Minimal speed can be attained on these short roads, so site distance and driver comfort are not factors in road design. Allowance of the lower than minimum K factors will not detract from the purpose of the road.

The K factors being used in the crest are 6.39 (Fallow Lane) and 3.41 (Running Deer Way) and in Running Deer Way sag is 10.30; required K factor are 12 at the crest and 26 in the sag curves.

## 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:

The access drives have been designed at maximum allowable slopes to intersect with Akers Drive, pushing the high point in these drives as close to Akers Drive as roadway criteria will allow reducing the amount of roadway area to 0.19 acres that does not drain to the detention pond on site. The total area of the development not draining to a detention pond is 0.92 acres which is just under the maximum allowed of 1-acre. Most of the areas that do not drain to the detention pond has no flexibility to be modified to drain to the ponds; the two access roadways were the only area that could be modified to get under the 1 acre maximum area allowed to not drain to a pond based on the previously approved water quality deviation.

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## 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 intended result of a safe roadway will be achieved based on the design conditions.

The two access roads in question are 186 ft. (Fallow Lane) and 174 ft. (Running Deer Way) long, intersection to intersection; distance from stop bar to stop bar is closer to 136 ft. and 124 ft. respectively. The roads have stop conditions at each end. Minimal speed can be attained on these short roads, so site distance and driver comfort are not factors in road design. Allowance of the lower than minimum K factors will not detract from the safety of the road.

The deviation will not adversely affect safety or operations.

The two access roads in question are 186 ft. (Fallow Lane) and 174 ft. (Running Deer Way) long, intersection to intersection; distance from stop bar to stop bar is closer to 136 ft. and 124 ft. respectively. The roads have stop conditions at each end. Minimal speed can be attained on these short roads, so site distance and driver comfort are not factors in road design. Allowance of the lower than minimum K factors will not detract from the safety or operation of the road.

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

Roadway maintenance cost will be the same. The same equipment and materials can be used to maintain the roadway.

The deviation will not adversely affect aesthetic appearance.

The two access roads in question are 186 ft. (Fallow Lane) and 174 ft. (Running Deer Way) long, intersection to intersection; distance from stop bar to stop bar is closer to 136 ft. and 124 ft. respectively. The roads have stop conditions at each end. Minimal speed can be attained on these short roads, so site distance and driver comfort are not factors in road design. Allowance of the lower than minimum K factors will not detract from the aesthetics of the road.

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

The deviation meets the design intent by providing a standard roadway cross section.

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 requested is based on meeting the requirements of Part I.E.3 and Part I.E.4 of the County's MS4 permit; therefore it does not change how the standard Non-Residential Collector meets the control measures requirements as described above in the MS4 permit, and insure that the requirements are met.

**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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**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.

**LEGAL DESCRIPTION – THE GARDENS AT NORTH CAREFREE:**

BEING LOT 2, MULE DEER BUSINESS PARK FILING NO. 1 AND A TRACT OF LAND LOCATED IN THE EAST 1/2 OF SECTION 29, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF AKERS DRIVE (80 FEET WIDE) AS PLATTED IN MULE DEER BUSINESS PARK FILING NO. 1, RECORDED WITH RECEPTION NO. 206712353 IN THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER, POINT BEING ON THE SOUTHERLY RIGHT-OF-WAY OF NORTH CAREFREE CIRCLE (120 FEET WIDE) AS PLATTED IN PRONGHORN MEADOWS FILING NO. 1, RECORDED WITH RECEPTION NO. 202165571 OF SAID RECORDS:

THE FOLLOWING FIVE (5) COURSES ARE ON THE EASTERLY RIGHT-OF-WAY OF SAID AKERS DRIVE;

- 1) THENCE  $S00^{\circ}41'40''E$  A DISTANCE OF 552.96 FEET TO A POINT OF CURVE TO THE LEFT;
- 2) THENCE ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 960.00 FEET, A DELTA ANGLE OF  $04^{\circ}35'19''$ , AN ARC LENGTH OF 76.88 FEET, WHOSE LONG CHORD BEARS  $S02^{\circ}59'19''E$  A DISTANCE OF 76.86 FEET;
- 3) THENCE  $S05^{\circ}16'59''E$  A DISTANCE OF 277.56 FEET TO THE NORTHWEST CORNER OF LOT 2, OF SAID MULE DEER BUSINESS PARK FILING NO. 1;
- 4) THENCE  $S05^{\circ}16'59''E$  ON THE WESTERLY LINE OF SAID LOT 2, A DISTANCE OF 142.31 FEET TO A POINT OF CURVE TO THE RIGHT;
- 5) THENCE ON THE ARC OF SAID CURVE AND SAID WESTERLY LINE OF LOT 2, HAVE A RADIUS OF 1040.00 FEET, A DELTA ANGLE OF  $03^{\circ}59'26''$ , AN ARC LENGTH OF 72.43 FEET, WHOSE LONG CHORD BEARS  $S03^{\circ}17'16''E$  A DISTANCE OF 72.42 FEET TOT HE SOUTHWEST CORNER OF SAID LOT 2;

THENCE  $N88^{\circ}42'27''E$  ONO THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 413.10 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2;

THENCE  $N00^{\circ}02'55''E$  ON THE EAST LINE OF SAID LOT 2, A DISTANCE OF 209.74 FEET TOT HE NORTHEAST CORNER OF SAID LOT 2;

THENCE  $N00^{\circ}02'55''E$  A DISTANCE OF 906.69 FEET TO A POINT ON THE SOUSTHERLY RIGHT-OF-WAY OF SAID NORTH CAREFREE CIRCLE;

THENCE  $S896^{\circ}18'20''W$  ON SAID SOUTHERLY RIGHT-OF-WAY, A DISTANCE OF 467.50 FEET TO THE POINT OF BEGINNING.

THE ABOVE TRACT OF LAND CONTAINS 503,669 SQUARE FEET OR 11.563 ACRES, MORE OR LESS