

Procedures Manual

Subject: DEVIATION REVIEW AND DECISION FORM

Date Issued: 12/31/07
Revision Issued: N/A
Rescinded: N/A

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.

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 5.9 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. RELATED PROCEDURES

1.6.1. Governing Procedures

P-AR-063-07 Deviation

1.6.2. Other Related Procedures

P-AR-012-07 Administrative Relief

1.7. RESOURCE

Attached is the Deviation Review and Decision Form that is used by the applicant/engineer for requesting and justifying a deviation. The form is reviewed by the ECM Administrator and approved or denied. 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.



Development Services Department
 2880 International Circle
 Colorado Springs, Colorado 80910

**DEVIATION REVIEW
 AND DECISION FORM**

Phone: 719.520.6300
 Fax: 719.520.6695
 Website www.elpasoco.com

Procedure # R-FM-051-07
 Issue Date: 12/31/07
 Revision Issued: 00/00/00

DSD FILE NO.:

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General Property Information:

Address of Subject Property (Street Number/Name):
 Tax Schedule ID(s) #: 5500000135
 Legal Description of Property: See attached

Subdivision or Project Name: The Gardens
 at North Carefree PUD/Preliminary Plan

Section of ECM from Which Deviation is Sought: Appendix I Section I.7.1B
 Specific Criteria from Which a Deviation is Sought: 1st Bullet; Providing Water Quality for Entire Development

Proposed Nature and Extent of Deviation: Approximately 0.94 acres (7.9%) of 11.89 acres of the area inside the development boundary will not reach a proposed on-site water quality facility. Of the area inside the development boundary that will not reach a facility, 0.19 acres is proposed roadway that connects to and drains into adjacent Akers Drive along the west boundary; the remaining 0.75 acres will be sloped areas of back lots along the west boundary that also drains into the adjacent Akers Drive.

Applicant Information:

Applicant: Mule Deer Investments Email Address: HHerber@me.com
 Applicant is: Owner Consultant Contractor
 Mailing Address: 2727 Glen Arbor Drive State: CO Postal Code: 80920
 Telephone Number: 719-331-0083 Fax Number: 719-227-7392

Engineer Information:

Engineer: Charlene Durham, P.E. Email Address: charlene.durham@stantec.com
 Company Name: Stantec Consulting Services
 Mailing Address: 5725 Mark Dabling Blvd. Suite 190 State: CO Postal Code: 80919
 Registration Number: 36727 State of Registration: CO
 Telephone Number: 719-278-1324 Fax Number: _____

Explanation of Request (Attached diagrams, figures and other documentation to clarify request):

Section of ECM from Which Deviation is Sought: Appendix I Section I.7.1B
 Specific Criteria from Which a Deviation is Sought: 1st Bullet, Providing Water Quality for Entire Development

Proposed Nature and Extent of Deviation: Approximate 0.94 acres of 11.89 acres of the area inside the development boundary will not reach a proposed on-site water quality facility. Of the area inside the development boundary that will not reach a WQ facility 0.19 acres is proposed roadway, the remaining 0.75 acres is back of lots and open space along the western boundary that drains to Akers Drive. Access is only allowed to Akers Drive and the site is east of Akers Drive and naturally slopes toward Akers Drive. The 0.19 acres of roadway drains into Akers Drive because the site naturally drains toward Akers Drive. 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 the minimum of 0.19 acres. It is not practicable to drain this area of the access drives into the WQ facilities because it would push the bottom of the WQ facilities to a point so low that they could not drain into the existing public drainage system.

The 0.75 acre area is landscaped areas with vegetative cover and plantings as well as ground covers such as mulch and rock. In addition there is the east Acres Drive sidewalk in this area. East of the area that drains to Akers Drive the grading plan rises and in some cases uses a vertical wall in order to reduce the amount of area that drains to Akers Drive forcing drainage to the WQ facilities. It is not practicable to change the grading or modify the elevation to force additional area to the WQ facilities.

Reason for the Requested Deviation: The existing site drains into Akers Drive from east to west. It is not practicable to change the existing topography that currently drains into Akers Drive so that 100% of the site drains to proposed WQ facilities. Since the site is higher than Akers Drive it is not practicable to capture storm water in Akers Drive and have to drain to the site for treatment in a proposed WQ facility. It is practicable to limit the amount of drainage to Akers Drive as proposed.

Comparison of Proposed Deviation to ECM Standard: The ECM Standard requires 100% WQ treatment. The proposed drainage design provided treatment for all but 7.9% of the site to be treated. The El Paso County MS4 permit allows for up to 20% of the site, not to exceed 1 acre, to not drain to a proposed WQ facility

Applicable Regional or National Standards used as Basis: CDPS General permit CORO90000 (MS4 Permit) Part I Section E.4.iv (A), page 29 of 63 with the specific exclusions of: (A) WQCV Standard: Control Measure is designed to provide treatment and/or infiltration of the WQCV and (1) 100% of the applicable development site is captured, except the permittee may exclude up to 20%, not to exceed 1 acre, of the applicable development site area when the permittee has determined that it is not practicable to capture runoff from portions of the site that will not drain towards the control measures. In addition, the permittee 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 the street). In this case, primarily due to the fact that the proposed site currently drains from east to west into Akers Drive it is not practicable for 100% of the site to be captured and conveyed to the proposed WQ facility. Access is only allowed to Akers Drive and the site is east of Akers Drive and naturally slopes toward Akers Drive. The 0.19 acres of roadway drains into Akers Drive because the site naturally drains toward Akers Drive 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 the minimum of 0.19 acres. It is not practicable to drain this area of the access drives into the WQ facilities because it would push the bottom of the WQ facilities to a point so low that they could not drain into the existing public drainage system.

The 0.75 acre area is landscaped areas with vegetative cover and plantings as well as ground covers such as mulch and rock. In addition there is the east Akers Drive sidewalk in this area. East of the area that drains to Akers Drive the grading plan rises and in some cases uses a vertical wall in order to reduce the amount of area that drains to Akers Drive forcing drainage to the WQ facilities. It is not practicable to change the grading or modify the elevation to force additional area to the WQ facilities

Application Consideration:

CHECK IF APPLICATION MEETS CRITERIA FOR CONSIDERATION

JUSTIFICATION

X The ECM standard is inapplicable to a particular situation.

The ECM Standard requires 100% WQ treatment. The proposed drainage design provides treatment for all but 7.9% of the site to be treated. The El Paso County MS4 permit allows for up to 20% of the site, not to exceed 1 acre, to not drain to a proposed WQ facility

X 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.

Access is only allowed to Akers Drive and the site is east of Akers Drive and naturally slopes toward Akers Drive. The 0.19 acres of roadway drains into Akers Drive because the site naturally drains toward Akers Drive 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

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criteria will allow reducing the amount of roadway area to the minimum of 0.19 acres. It is not practicable to drain this area of the access drives into the WQ facilities because it would push the bottom of the WQ facilities to a point so low that they could not drain into the existing public drainage system.

The 0.75 acre area is landscaped areas with vegetative cover and plantings as well as ground covers such as mulch and rock. In addition there is the east Akers Drive sidewalk in this area. East of the area that drains to Akers Drive the grading plan rises and in some cases uses a vertical wall in order to reduce the amount of area that drains to Akers Drive forcing drainage to the WQ facilities. It is not practicable to change the grading or modify the elevation to force additional area to the WQ facilities. The elevation of Akers Drive at the main access drive near the WQ facilities is _____. The elevation of the bottom of the proposed WQ Facilities is _____

X 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.

It is not practicable to change the grading of the site to meet the 100% WQ Treatment requirement. With addition of the MS4 permit to the El Paso County ECM the criteria can be met.

If at least one of the criteria listed above is not met, this application for deviation cannot be considered.

Criteria for Approval:

PLEASE EXPLAIN HOW EACH OF THE FOLLOWING CRITERIA HAVE BEEN SATISFIED BY THIS REQUEST

- The request for a deviation is not based exclusively on financial considerations. The proposed design provides for WQ treatment of 92.1% of the site. The 7.9% of the site cannot drain to the WQ facilities in any way that is practicable without violating other criteria. _____
- The deviation will achieve the intended result with a comparable or superior design and quality of improvement. The deviation will meet the ECM standards when considering the El Paso County MS4 permit requirements. The area that does not drain to the WQ facilities is 0.19 acres of roadway required by criteria to intersect with Akers Drive at minimum slopes. The remaining area consists of landscaped backyards and open space with some sidewalk. The landscaped areas will provide water quality inherent to natural infiltration of storm water into the ground. _____
- The deviation will not adversely affect safety or operations. The deviation will not adversely effect operations particularly safety by maintaining criteria driven roadway intersection slopes even though this does allow 0.19 acres of area to not drain to a WQ facility _____
- The deviation will not adversely affect maintenance and its associated cost. The deviation does not adversely affect maintenance and associated costs. There generally is no additional material used and maintenance of the design is the same as it would be without the deviation. _____
- The deviation will not adversely affect aesthetic appearance. Aesthetic appearance will not be adversely affected and may be enhanced by the landscaped open space visible from Akers Drive as well as limiting but not eliminating proposed walls and landscaping. _____

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, 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 INVESTMENTS, LLC
Heath A. Herber, Manager _____ Date 1/25/2019
Signature of owner (or authorized representative)

Signature of applicant (if different from owner) Date _____
Charlene M. Durham _____ 1/25/19
Signature of Engineer Date

Engineer's Seal



Review and Recommendation:
APPROVED by the ECM Administrator



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

____ Additional comments or information are attached.

DENIED by the ECM Administrator

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

____ Additional comments or information are attached.

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°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°35'19", AN ARC LENGTH OF 76.88 FEET, WHOSE LONG CHORD BEARS S02°59'19"E A DISTANCE OF 76.86 FEET;
- 3) THENCE S05°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°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°59'26", AN ARC LENGTH OF 72.43 FEET, WHOSE LONG CHORD BEARS S03°17'16"E A DISTANCE OF 72.42 FEET TOT HE SOUTHWEST CORNER OF SAID LOT 2;

THENCE N88°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;

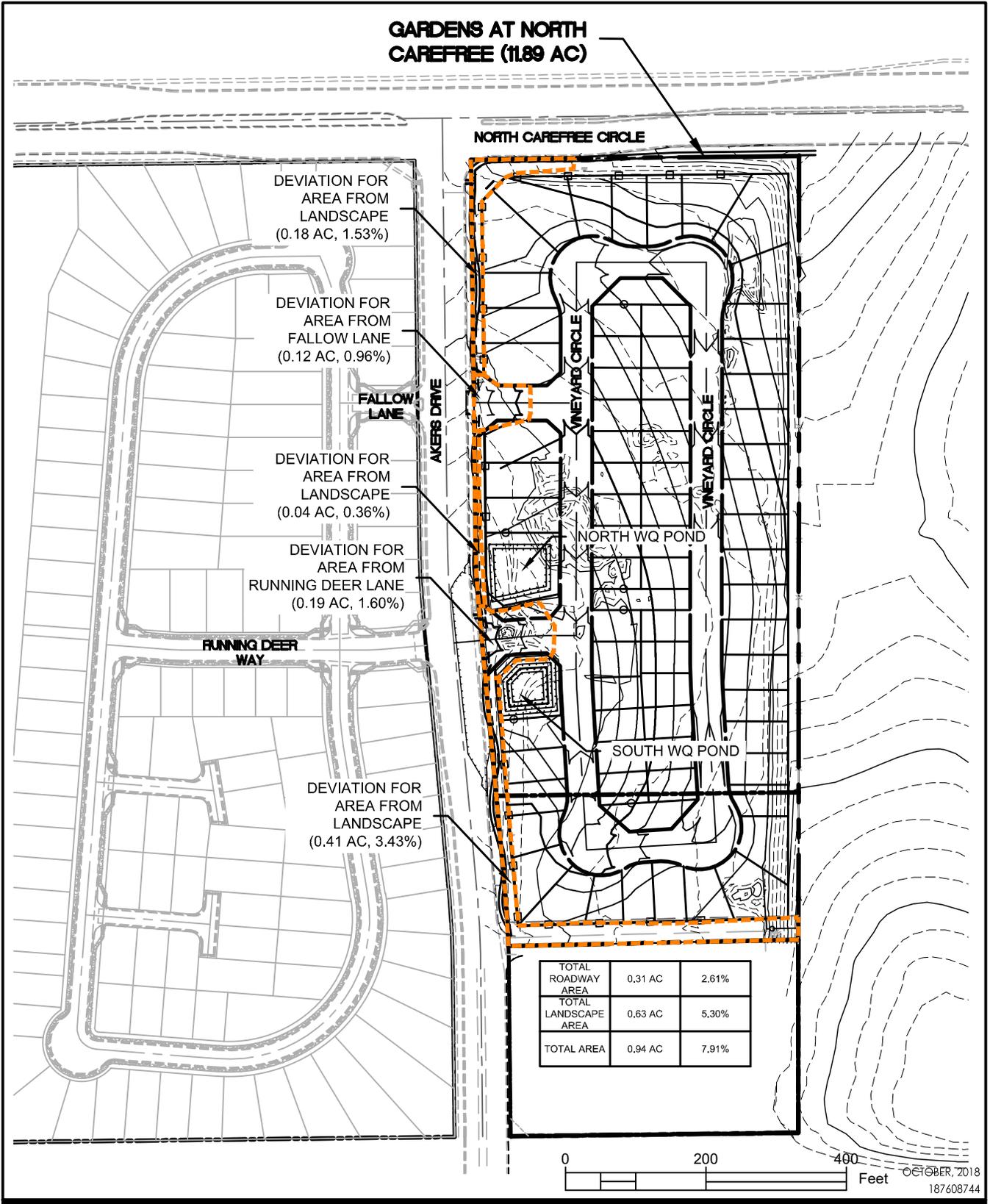
THENCE N00°02'55"E ON THE EAST LINE OF SAID LOT 2, A DISTANCE OF 209.74 FEET TOT HE NORTHEAST CORNER OF SAID LOT 2;

THENCE N00°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°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

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1/24/2019 11:26 AM



 **Stantec**

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Client/Project
MULE DEER INVESTMENTS, LLC
GARDENS AT NORTH CAREFREE

Figure No.
1.0

Title
VICINITY MAP