

Deviation Justification

1. A deviation is granted from the requirements of Section 4.06.02D. Standards, for retention and detention areas in buffer yards, referenced in Subsection of 4.06.02(D)5.a. of the LDC which states “The shape of a manmade body of water, including retention and detention areas, must be designed to appear natural with curvilinear edges”, the referenced Standard is the re-vegetated areas to be provided in the preserve areas of shrubs and grasses to be planted along the perimeter of the water management pre-treatment areas.
2. A deviation is granted from Subsection 4.06.05 H of the LDC that requires the toe of the slope to be set back a minimum of five feet from the edge of the right-of-way or property line, to allow the toe of the existing berm that was constructed in 1990 as part of the previously approved South Florida Water Management District permit to be located on the property line.
3. A deviation is granted from the requirements of Subsection 4.02.23D1.a. of the LDC, Development in the Activity Center #9 Zoning District that requires a buffer 25 feet in width, (a Type “D” buffer) is only applicable to vacant lots west of the Taco Bell site. The existing ten-foot buffer in front of Taco Bell and McDonald’s site shall remain 10 feet in width as originally approved and developed.

Deviations 1 thru 3 were previously approved by Ordinance 2007-26.

4. Deviation 4 seeks relief from LDC Section 3.05.07.H.1.e.ii(b), Preserve standards, which requires that approved created preserves may not be used to recreate not more than two acres of the required preserves if the property has equal to or greater than twenty acres and less than eighty acres of existing native vegetation to allow for the creation and/or replanting of an additional 3.29 acres of onsite native vegetation preservation area.

Justification:

Per PUD ordinance 07-26, a 6.12 acre native vegetation preserve was retained on the northern portion of the Project site. The addition of 3.29 acres of onsite native preservation area will increase the size of the onsite preservation area, preserve additional contiguous habitat, and allow for the retention of additional wetland resources onsite. The preservation areas will be enhanced through the removal of exotic vegetation

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and the existing native vegetation within the preserve areas will be supplemented with native plantings. Additionally, the preservation areas will be protected in perpetuity through a conservation easement.

5. Deviation 5 seeks relief from LDC Section 3.05.07.H.1.(d), Preserve standards, which requires that no individual residential or commercial lot, parcel lines or other easements including but, not limited to, utility or access easements that are not compatible with allowable uses in preserve area, may project into a preserve to allow existing right of way, and Collier County utility and access easements to be included within the native vegetation preservation area.

Justification:

Right of way and Collier County utility easements are located along the northern boundary of the proposed native vegetation preservation area. However, the location of and use of these easements is not incompatible with a preservation designation. The easement areas currently contain native vegetation and would be immediately restored to a native condition if disturbance occurred within the easement areas in the future.