

**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), Created preserves, which requires that “Approved created preserves may 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 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. An additional 3.29 acres of onsite native preservation area will be required if the property is developed to include residential uses. This increases the size of the onsite preservation area from 6.12 to 9.41 acres. The preservation areas will be enhanced through the removal of exotic vegetation; the preserve areas will be primarily consist of a created preserve.

**Deviation Justification**

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 water management facilities, berms, and Collier County utility easements to be located within the native vegetation preservation area, as depicted on the Master Plan.

**Justification:**

Collier County utility easements are located along the northern boundary of the proposed native vegetation preservation area. The County agrees to vacate the easements along the northern property line in favor of an easement to be recorded along the western property line. This will be done as a companion Vacation Application by Collier County Public Utilities along with this PUDA application. Please see Utility Requirements in Section 5.3 of the PUD. The location of and use of this easement is not incompatible with the preserve area as Collier County Public Utilities will install its pipeline beneath the preserve using horizontal directional drilling to avoid any aboveground impacts. Any future impacts within the County Utility Easement due to main breakage or actions by its employees or contractors would be immediately restored to a native condition by Collier County Public Utilities; a replanting plan will be provided during plan review.

6. Deviation 6 seeks Relief from LDC 3.05.07.H.1.h.ii.f) which states that “when stormwater discharges are allowed in preserves, the associated stormwater facilities such as berms, swales, or outfall structures, may be located within the preserve, but the area of such facilities cannot count towards the native vegetation preservation requirement pursuant to section 3.05.07” to allow for berms to count toward the minimum native vegetation so as long as they are recreated in accordance with LDC section 3.05.07.H.1.e.

**Justification:**

The revised master plan now includes the existing perimeter berm within the expanded proposed preserve limits. The current PUD approved Master Plan configuration had the berm outside of the delineated preserve.