



## LIST OF DEVIATIONS AND JUSTIFICATION

### THREE OAKS LOGISTICS CENTER

MPD REZONING

±77.94 ACRES

STRAPS#: 03-46-25-00-00001.1070 and 04-46-25-00-00003.0040

Fort Myers, FL 33912

### Connection Separation

#### **DEVIATION IA - Connection Separation: (Previously Approved)**

Relief from LDC §10-285(a) Table I requirement to provide a minimum connection separation of 440 feet on a minor arterial road to allow a minimum separation of 100 feet on Three Oaks Parkway between the project's southernmost driveway and the FPL access driveway for the FPL Patrol Road.

**JUSTIFICATION:** The applicant is proposing an access road connection at the south end of the property on the west side of Three Oaks Parkway which is approximately 100' north of Florida Power and Light's (FPL) existing driveway apron which serves the FPL Patrol Road. Their driveway is fenced off with a gate and not accessible to the public. Additional access onto Three Oaks Parkway will help with the project's traffic circulation and help distribute the traffic within the development to Three Oaks Parkway. This southernmost access point is critical for circulation but is anticipated to generate a smaller percentage of the traffic from the project. The proposed placement still provides adequate separation between the project's entrances and the driveway stubs serving the properties to the south and as such, the deviation will not impact public health, safety, and welfare.

#### **DEVIATION IB - Connection Separation: (Previously Approved)**

Relief from LDC §10-285(a) Table I requirement to provide a minimum connection separation of 330 feet on a major collector road to allow a separation of 100 feet on Oriole Road between the project's southernmost driveways and the FPL access driveways for the FPL Patrol Road.

**JUSTIFICATION:** The applicant is proposing access road connections at the south end of the property on the east and west sides of Oriole Road which are approximately 100' north of Florida Power and Light's (FPL) existing driveway apron which serves the FPL Patrol Road. Their driveway is fenced off with a gate and not accessible to the public. Additional access onto Oriole Road will help with the project's traffic circulation and help distribute the traffic within the development to Oriole Road. These southernmost access points are critical for circulation but are anticipated to generate a smaller percentage of the traffic from the project. The proposed placement still provides adequate separation between the project's entrances and the driveway stubs serving the properties to the south and as such, the deviation will not impact public health, safety, and welfare.



## Surface Water Management

### **DEVIATION 2A (Previously Approved)**

Relief from LDC §10-329(d)(1)a.2 Setbacks for Water Retention or Detention Excavations. Deviation from the requirement that no excavation will be allowed within 50 feet of any existing or proposed right-of-way line or easement for a collector or arterial street; to allow a 25-foot setback.

JUSTIFICATION: The adjacent properties are part of a master water management system under SFWMD permit # 36-05268-P which provide existing drainage easements that extend beyond the north and south property line (See "Surface Water Management System"). The request enhances the planned development and promotes the general intent of the LDC to protect the public health, safety, and welfare. The developer will provide for the protection of wayward vehicles through the use of guardrails, berms, swales, vegetation, or other suitable methods as determined by the Director.

### **DEVIATION 2B (Previously Approved)**

Relief from LDC §10-329(d)(1)a.3 Setbacks for Water Retention or Detention Excavations. Deviation from the requirement that no excavation will be allowed within 50 feet of any private property line under separate ownership; to allow a 25-foot setback and/or to allow a zero-foot setback when the lake is combined with an adjacent property lake.

JUSTIFICATION: All adjacent properties are or are anticipated to be developed as commercial and/or industrial and as such, the additional setback is not necessary. The adjacent properties north and south are part of a master water management system under SFWMD permit # 36-05268-P which system provides an existing drainage easement which extends beyond the property line (See "Surface Water Management System"). This request also includes the existing lakes located along the west property line which are directly adjacent to the Formosa Industrial Parks lakes. The request enhances the planned development and promotes the general intent of the LDC to protect the public health, safety, and welfare.

### **DEVIATION 2C (Previously Approved)**

Relief from LDC §10-329(d)(4) Bank Slopes. Deviation from the requirement that the banks of excavations permitted under this section must be sloped at a ratio not greater than six horizontal to one vertical from the top of bank to a water depth of two feet below the dry season water; to allow the existing lake to be sloped at a ratio of four horizontal to one vertical.

JUSTIFICATION: The existing lake was constructed in 2009 when the code allowed for lakes to be sloped at a ratio of four horizontal to one vertical. The lake banks already have established vegetation to prevent erosion, as such, the existing conditions meet the intent of the LDC and will not impact public health, safety, and welfare. Furthermore, the 4:1 lake bank slope is necessary to comply with FAA requirements for lakes located within 10,000 feet of airport operations.



### **DEVIATION 2D (Previously Approved)**

Relief from LDC §10-329(d)(6) Fencing. A four-foot fence may be required, at the discretion of the Director, to be placed around excavations for water retention when located less than 100 feet from any property under separate ownership; to not require fencing around any existing or proposed lakes.

JUSTIFICATION: The lakes are existing and, in some cases, straddle the property lines (north and south perimeter lakes). In addition, the project is surrounded by other industrial properties that are either part of the same master drainage system (north and south) or is adjacent to the drainage system of another industrial park (west side), as such, the deviation will not impact public health, safety, and welfare.

|                                             |
|---------------------------------------------|
| <b>Landscape Standards &amp; Open Space</b> |
|---------------------------------------------|

### **DEVIATION 3A (Previously Approved)**

Relief from LDC 10-416(d)(4)(3) Notes for Buffer Type Table. A Deviation from the requirement that palm trees are limited to a maximum of 50 percent of the ROW tree requirement to allow palms to make up 100 percent of the ROW tree requirement along Three Oaks Parkway for Tracts A-1, A-2, B-1 and B-2.

JUSTIFICATION: The buffer is adjacent to a Lee County utility easement and per the updated LCU design manual, canopy trees must be 10' from their utility line and palms can be placed 5' from their lines. Therefore, the placement of palms in the buffer would minimize conflicts between buffer plantings and LCU utility lines.

### **DEVIATION 3B (Proposed Lakes Only) (Previously Approved)**

Relief from LDC 10-418(2) Planted Littoral Shelf, which requires all surface water management systems to provide a planted littoral shelf that mimics the function of a natural marsh, to not have to provide the littoral shelf as required by subsections b. Location Criteria, c. Shelf Configuration, and e. Shelf Elevation of this section. In addition, deviate from subsection 10-418(2)(d)3. which allows native wetland trees to be substituted for up to 25% of the total number of herbaceous plants required, to allow native wetland trees to be substituted for 100% of the total number of herbaceous plants required at the rate of one tree per 100 herbaceous plants.

JUSTIFICATION: This deviation is requested to meet FAA regulations, as the project is located within the FAA circular Wildlife Hazardous Area. Creation of littoral zones may provide habitat for species that could be hazardous to aircraft. This deviation is requested to meet FAA regulations that promote steep sided retention bank slopes to facilitate control of hazardous wildlife. In general, the goal of this deviation is to eliminate design and landscape features and materials that attract flocks of birds and pose an elevated risk to aviation.

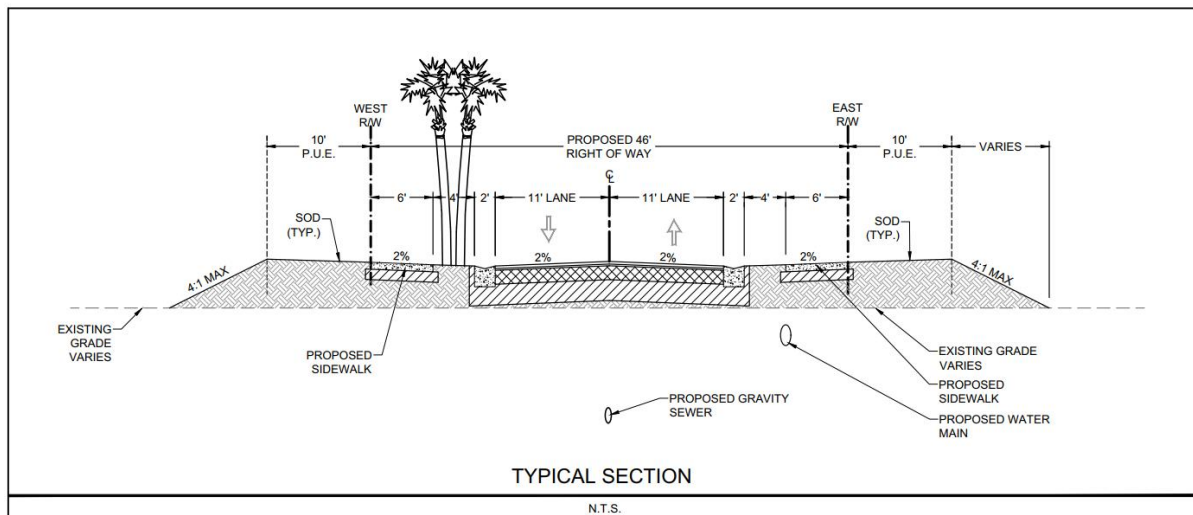


## Street Design & Construction Standards

### **DEVIATION 4A (Previously Approved)**

Relief from LDC §10-296(e)(2) d. Tree and Palm Spacing in Roadway Planting Areas (Street Trees). Deviate from the requirement that Street Trees must be planted on both sides of the road, that palm trees may only be substituted for a maximum of 50 percent of the required small trees, and that the trees must be spaced evenly along the frontage and not clustered, to allow the trees required per this section of the code to be planted on one side of the road, to allow 100 percent of the trees to be palm trees, and to allow the palm trees to be clustered. As an enhancement to the code, the palms must be staggered in height from 10' to 14'.

**JUSTIFICATION:** The proposed deviation will prevent and/or minimize conflicts between the Street Trees and water mains. Most roadways have a parallel water main located on one side of the road that is typically placed midway between the curb and the right-of-way line. Both the Lee County Land Development Code and the Lee County Utilities Design Manual (Section 2.2E.5.d) require a separation of 10 feet for canopy trees and 5 feet for palm trees from all utility lines. The purpose of planting the trees on only one side of the road is to allow the trees to be placed on the side of the road that does not have the watermain. The purpose of allowing only palm trees is to further avoid conflicts with utility lines that may be present in the adjacent PUE and/or minimize conflicts when there are other utility lines installed in the right-of-way (i.e. force mains). The purpose of allowing the palm trees to be clustered is to avoid potential line-of-sight conflicts that may occur if the trees are evenly spaced.



### **DEVIATION 4B (Previously Approved)**

Relief from LDC §10-296(k)(1) Cul-de-Sacs. Deviation from the requirement that dead-end streets be closed at one end by a circular turnaround for vehicles; to allow the internal roads and/or accessways to be constructed with a hammer head road configuration instead of cul-de-sacs.



**JUSTIFICATION:** The dead-end roads and/or accessway or any phased road or accessway will be designed to allow vehicles and emergency vehicles to turn around using a hammer head road configuration which is typically approved by fire departments and have been previously approved for the Florida Gulf Coast Business Center and Three Oaks Distribution Center in the nearby vicinity of this project. The request enhances the planned development and promotes the general intent of the LDC to protect the public health, safety, and welfare.

**DEVIATION 4C** Relief from LDC Section 34-2013(b)(3) which allows up to a maximum 35' wide driveway at the property line for two-way parking lot access to allow the access point to be up to 50' as measured at the property line and 35' at the throat width.

**JUSTIFICATION:** The extra width of the driveway pavement will allow for semi-trucks to properly enter and exit the site. Without the additional width, large trucks entering and exiting the site would be forced to traverse areas outside of the pavement leading to destruction of the sidewalks and landscape areas adjacent to driveways.

**DEVIATION 4D** Relief from LDC Section 10-295 which requires street stubs or an interconnection to adjoining area to only require interconnection if developed with commercial uses.

**JUSTIFICATION:** The applicant is willing to provide interconnectivity between Tract 'B' (the eastern parcel which has frontage on Three Oaks Parkway) and Tract 'A' (the western parcel which has frontage on Oriole Road) only if the two parcels are developed with principal uses of commercial. If Tract 'A' is developed with a principal use of industrial, interconnectivity to the east is not required. As currently proposed, Tract 'A' is to be developed with approximately 450,000 SF of industrial dock high buildings. Traffic from industrial use development, which will have heavy truck traffic is not compatible with vehicular traffic from offices and/or retail uses. Allowing semi-trucks to travel through the commercial parcel and/or allowing passenger vehicles to travel through an industrial dock high warehousing facility creates safety concerns and limits the industrial property's developer from adequately securing their facility. It is doubtful that there would be any benefit to the traveling public from interconnectivity of these two different uses if the Principal Use is Industrial fronting Oriole Road. In fact, it would probably be more dangerous to the vehicles to traverse these incompatible transportation uses (large heavy delivery trucks on Tract A and passenger cars on Tract B) going from Oriole Road to Three Oaks Parkway or vice versa. Since the Goal is to reduce vehicular trips on public Arterial or Collector roads, we don't believe there will be any trip reduction on public roads from any such connectivity of unrelated and incompatible vehicular uses."

### Developer Signs

#### **DEVIATION 5A and 5B (Previously Approved)**

Relief from LDC §30-153(2) a. and §30-153(2) a.1.ii. Nonresidential Identification Signs. Deviate from the requirement that the development is permitted to have one identification sign equal to one square foot of sign area per face for everyone linear foot of frontage.

To allow two additional signs on each of the project's road frontages (west side of Three Oaks Parkway, west side of Oriole Road and east side of Oriole Road) for a total of three ground-mounted developer signs on each road frontage. (§30-153(2)a.); and To allow the northern and southern most signs on each road frontage to have 150 square feet of sign area per sign face and



center signs on each road frontage to have 200 square feet of sign area per face. No sign shall exceed 200 square feet of sign area per sign face. This is a deviation of an additional 350 square feet of sign area on each of the road frontages.

JUSTIFICATION: The developer, or common area frontage, on any one of the three road frontages is determined by adding the widths of the entrance roads that intersect with main roads. The developer has three 50' wide road entrances on each frontage for a total of 150 linear feet of frontage on each road frontage. The deviation allows an additional 350 square feet of total sign area and two additional ground-mounted developer signs per frontage to serve the project. The support in rationale for the additional signs and sign area is:

- The diversity and the large size of the development requires additional signage to bring clarity, order, and support to the office, retail, and industrial centers, some of which will be internal to the project and otherwise difficult to find.
- The developer signs bring order to the development. The developer signs are neutral to the development as a whole seeking to properly inform the travelling public by directing traffic to a destination, thereby avoiding confusion and lessening dangerous traffic conditions and shortening trip lengths.
- Developer area signs add beauty. The sign areas are generally well-landscaped, designed with consistent architecture, and maintained by the developer; therefore, not dependent on a particular lease, business or lot owner.
- The faster speeds on Three Oaks Parkway and Oriole Road require additional square footage of signage to properly size the lettering to be readable at the speeds expected on an arterial or collector road.
- Given the amount of frontage on each of the two abutting roads (approximately 1,140 LF), there are significant distances between entrances to the development, on average over 400 feet on Three Oaks Parkway and over 360 feet on Oriole Road, which allows for adequate spacing between signs.

NOTE: The signs discussed in these deviations are developer signs. They do not preclude the individual lots and buildings on Three Oaks Parkway and Oriole Road from having building and ground-mounted signs as permitted in LDC 30-153(3).

Proposed conditions to approval:

- The developer must submit a detailed, final sign package covering the proposed signs along Three Oaks Parkway Extension and Oriole Road, for review and approval by the Department of Community Development in conjunction with the first local development order for the property.
- Ground mounted identification signs must have a minimum separation of 300 feet on Oriole Road and 400 feet on Three Oaks Parkway.
- Ground mounted identification signs must have a maximum height of 20 feet.



- The signs will be placed and constructed in accordance with LDC 30-93, visibility triangle safe sight distance requirements.

|                                                   |
|---------------------------------------------------|
| <b>Refuse and Solid Waste Disposal Facilities</b> |
|---------------------------------------------------|

**DEVIATION 6A- Container Spaces**

Relief from LDC §10-261(a), which requires 216 SF for the first 25,000 SF of building area plus 8 SF for each additional 1,000 SF of building area of sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers to allow a 50% reduction of this requirement.

**JUSTIFICATION:** This section of the code is applicable to multi-family residential developments, commercial businesses, and industrial uses; however, the table does not provide a separate calculation for industrial uses. Instead, industrial uses are calculated at the same rate as commercial uses, which ignores the differing characteristics of each type of use and as such, requires more enclosure space than what is needed for industrial use. Industrial uses typically have less employees per square foot of building area, less areas open to the public and larger areas dedicated to dead storage and/or warehousing. Therefore, we are requesting a 50% reduction in the required container space for the portions of the project over 25,000 SF such that the new formula would be 216 SF for the first 25,000 SF plus 4 SF for each additional 1,000 SF. Therefore, based on maximum industrial development for this project of 442,000 SF this would equate to 1,884 SF (216 SF for first 25,000 SF plus 417,000 SF/1,000 SF x 4 SF). This required area may vary depending on the final building size.

**DEVIATION 6B- Refuse and Solid Waste Disposal Screening**

Relief from LDC §10-261(c), which require refuse collection areas to be screened on three sides, to require the refuse collection area to be screened on one side when the refuse and solid waste disposal area is not visible from Oriole Rd or Three Oaks Parkway.

**JUSTIFICATION** Given the location of the project, vacant but potentially future commercial/industrial uses to the north, south and east and refuse areas being shielded from view by internal roadways and buildings. Refuse and solid waste disposal screening will be provided per the Code for Parcel A. The deviation pertains to the project's internal site areas. The deviation will not result in any adverse impacts to the public. The project will benefit from the deviation by avoiding unnecessary construction costs.