

**INDIAN RIVER COUNTY, FLORIDA
M E M O R A N D U M**

TO: Jason E. Brown; County Administrator

THROUGH: Stan Boling, AICP; Community Development Director

THROUGH: John W. McCoy, AICP; Chief, Current Development

FROM: Ryan Sweeney; Senior Planner, Current Development

DATE: April 5, 2017

SUBJECT: Florida Power & Light Company's Request for Special Exception Use Approval for a Private Heavy Utility (Blue Cypress Solar Energy Center) [SP-SE-17-04-06 / 2017030093-78598]

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of April 18, 2017.

DESCRIPTION & CONDITIONS

Culpepper & Terpening, Inc., on behalf of Florida Power & Light Company (FPL), has submitted an application for major site plan and special exception use approval to construct a new private heavy utility (Blue Cypress Solar Energy Center). The subject site is approximately 424 acres in size and is located on the west side of 98th Avenue, between 4th Street and 9th Street SW (Oslo Road). Please see attachment 3. The site is zoned A-2, Agricultural-2 (up to 1 unit per 10 acres), a zoning district in which special exception use approval is required for private heavy utilities (including solar energy centers). The entire site, with the exception of two small wetland areas, will be developed with solar arrays and stabilized access pathways (see attachment 7).

In this case, the applicant has applied for concurrent major site plan and special exception use approval. Consistent with the County land development regulations (LDRs), staff has approved the major site plan application subject to Board of County Commissioners (BCC) approval of the special exception use.

The BCC now needs to consider the special exception use request for the proposed private heavy utility (solar energy center), conduct a public hearing, and approve, approve with conditions, or deny the request. Pursuant to Section 971.05 of the LDRs, the BCC is to consider the appropriateness of the requested use for the subject site and compatibility of the use with the surrounding area. The BCC may recommend reasonable conditions and safeguards necessary to mitigate impacts and to ensure compatibility of the use with the surrounding area.

Planning and Zoning Commission Action:

At its meeting of March 23, 2017, the Planning and Zoning Commission (PZC) voted 5-0 to recommend that the BCC grant special exception use approval with a minor modification to the staff-recommended

conditions (see attachment 2). That minor modification was to recommended condition #2 which addresses improvements along the project access route from SR 60 to the project site. The condition change recommended by the PZC has now been incorporated into staff's recommended condition #2 and will provide more latitude to the Public Works Department to determine the appropriate right-of-way improvements (if any) during the review and approval of the project's County right-of-way permit (see analysis section item #6 below for more details).

ANALYSIS

- 1. Size of Development:** 423.81 acres

Note: There is an approximately three acre grove maintenance site located along the west side of the project site (see attachment 6). That site is not included in FPL's purchase agreement, will be retained by the current owner (West Vero Farms, LLC), and will be combined via a unity of title with an adjacent parcel owned by West Vero Farms, LLC. Prior to site plan release, the applicant must provide a recorded unity of title that combines the grove maintenance site with the adjacent parcel owned by West Vero Farms, LLC. This item has now been completed, but is included in this report for the record and for informational purposes.

- 2. Zoning Classification:** A-2, Agricultural-2 (up to 1 unit per 10 acres)
- 3. Land Use Designation:** AG-2, Agricultural-2 (up to 1 unit per 10 acres)
- 4. Impervious Area:** Proposed: 587,780 square feet or 13.49 acres
- 5. Open Space:**
Required: 80%
Proposed: 97%

Note: The solar arrays are post-mounted above the existing grade (i.e. the existing ground level), which will remain unaltered underneath the arrays. The open ground underneath the arrays is considered open space.

- 6. Traffic Circulation:** Primary access to the proposed project site will be provided via a gated, stabilized two-way driveway connection to 102nd Avenue, which is a semi-improved dirt road located within St. Johns Improvement District (SJID) right-of-way. The proposed site layout includes a modified grid network of 16' to 20' wide stabilized access pathways to allow maintenance vehicles access throughout the site (see attachment 7).

In accordance with County LDRs, the applicant has submitted a project traffic study which has been reviewed and conditionally approved by Public Works. Based on the review of that study, Public Works recommended a condition that certain improvements be provided at all culvert crossings that crossed a County-owned or maintained right-of-way (ROW) along the proposed project access route. The proposed project construction access route is 98th Avenue from SR 60 to the project site as shown in the attached exhibit (see attachment 4). Public Works staff typically reviews construction access location(s), routes, and needed improvements prior to construction commencing via the review of the County right-of-way permit application, and that permit application is typically submitted after site plan approval.

During the March 23, 2017 PZC public hearing, a representative of an adjacent property owner discussed the culvert crossings item (see attachment 2). After discussion, the PZC understood that Public Works will determine the specific type of access route improvements that will be required (if any) during review and approval of the project's County right-of-way permit application. Based on that understanding, recommended condition #2 was modified to remove the specific improvement that was originally noted and to provide more latitude to the Public Works Department during the review and approval of the County right-of-way permit application. That condition #2 modification is incorporated into staff's recommendation that appears at the end of this report.

An alternate project access route may be proposed, if necessary. If that is the case, then the applicant will need to obtain approval of any alternate project access route from Public Works, and the applicant will need to install all required improvements (if applicable), as determined by Public Works, prior to utilizing an alternate project access route for project construction traffic.

Based on the project location and the status/ownership of the adjacent rights-of-way, right-of-way dedications are not required for the subject project. None of the adjacent rights-of-way are owned or maintained by the County. The project's driveway location, design, internal circulation plan, and traffic study have all been approved by Traffic Engineering.

7. **Off-Street Parking:** The subject site will be an unmanned, restricted access solar energy center, and will be accessed only by authorized maintenance crews on an infrequent basis. The LDRs do not require permanent off-street parking spaces for such uses. The proposed site layout provides adequate space for maintenance vehicles to maneuver and park within the site. Therefore, the project site plan provides sufficient parking area on-site.
8. **Landscape Requirements:** Based on the site's location, the project layout, the type of proposed improvements, the status/ownership of the adjacent rights-of-way, and the land use designations of the adjacent properties, no landscape improvements are required or proposed.
9. **Environmental Issues:** There are two small, low-quality wetlands located on the project site. Those wetlands will not be impacted, and the proposed site layout provides the required wetland buffer/setback from the proposed solar arrays. Therefore, a County wetlands resource permit will not be required. No other environmental issues exist on the project site.
10. **Stormwater Management:** The applicant submitted a preliminary stormwater management plan that has been reviewed and approved by Public Works. That plan proposes to utilize the existing grove furrows/ditches to convey and treat the minimal amount of stormwater runoff that will be generated by the project. Prior to site plan release, the applicant must obtain a County Type "B" Stormwater Permit pursuant to Chapter 930 of the County LDRs.
11. **Utilities:** The project will be an unmanned facility, and will not include any bathroom facilities. Therefore no well or septic permits are required or proposed. The County Department of Utility Services and the Department of Health have acknowledged that the site will not include any utility provisions, and have approved the associated project site plan.

12. Extended Roadway Grid Network: Per Policy 3.8 of the Transportation Element of the County Comprehensive Plan, the County must consider protection of the extended roadway grid network during the site plan review and approval process. The applicant has provided an extended roadway grid network exhibit showing all potential extended roads that may cross the site at some time in the future (4th Street, 1st Street SW, 5th Street SW, 9th Street SW/Oslo Road, and 98th Avenue). Please see attachment 5. The provided exhibit shows alternate corridor alignments for two potential extended road locations (1st Street SW and 5th Street SW). Those alternate alignments correspond with the proposed on-site stabilized access paths, and are clear of proposed solar panel arrays. Staff has reviewed the proposed alternate corridor alignments and has confirmed that those alignments provide adequate protection for the extended roadway grid network, as shown on the project site plan.

13. Specific Land Use Criteria: Pursuant to LDR section 971.44(2), the following criteria for private heavy utilities apply to this project:

1. *Per Chapter 901, the definition of utilities, public and private – heavy includes “all major electrical generation plants (generating fifty (50) megawatts or more), major sewage treatment and disposal facilities, and major water purification plants;”*

Note: The proposed use (Blue Cypress Solar Energy Center) will generate 74.5 megawatts of power and meets the definition of a private heavy utility.

2. *Any power generation facility shall be consistent with the provisions of the Florida Electrical Power Plant Siting Act, Chapter 23, Section 23.09191 F.S.;*

Note: The proposed solar energy center will have a maximum gross capacity of 74.5 megawatts which is less than the 75 megawatt threshold. The proposed facility is therefore exempt from the Florida Electrical Power Plant Siting Act.

3. *All below-ground high voltage cables within a utility right-of-way shall be made known to the public through the use of signs posted therein;*

Note: There are no proposed below-ground high voltage cables within a utility right-of-way. Therefore, the above referenced signage criteria do not apply to the subject project. It should be noted that “high voltage” warning signs will be provide in English and Spanish along the perimeter security fence of the on-site substation compound.

4. *The disposal of all waste, gaseous, liquid or solid, shall comply with all federal, state and local laws;*

Note: It is anticipated that no hazardous or toxic waste will be generated by the proposed project. The applicant has acknowledged that if there is any disposal of waste, gaseous, liquid, or solid, such disposal will comply with all federal, state, and local laws.

5. *Between all above-ground facilities, (except distribution and collection facilities) and adjacent properties having a residential land use designation, a Type "A" buffer (reduce to "B" buffer where abutting a local roadway, reduce to "C" buffer where abutting a Thoroughfare Plan roadway) (with six-foot opaque screening) as specified in Chapter 926, Landscaping shall be provided;*

Note: All of the adjacent properties have an AG-2, Agricultural-2 (up to 1 unit per 10 acres) agricultural land use designation, and no adjacent property has a residential land use designation. Therefore, the above referenced landscape buffer requirements do not apply to the subject project.

6. *In all zoning districts except the industrial districts, all equipment, machinery, and facilities which cannot, by their size or nature, be located within an enclosed building shall be separated from adjacent properties having a residential land use designation by a Type "C" buffer (with six-foot opaque screening) as specified in Chapter 926, Landscaping;*

Note: As described in item 5 above, all of the adjacent properties have an AG-2, Agricultural-2 (up to 1 unit per 10 acres) agricultural land use designation, not a residential land use designation. Therefore, the above referenced landscape buffer requirements do not apply to the subject project.

7. *Driveways located in close proximity to adjacent properties having a residential land use designation shall provide a six-foot opaque screening between the driveway and adjacent property. An eight-foot opaque screen may be required if deemed necessary to mitigate noise and visual impacts.*

Note: As described in item 5 above, all of the adjacent properties have an AG-2, Agricultural-2 (up to 1 unit per 10 acres) agricultural land use designation, not a residential land use designation. Therefore, the above referenced driveway screening requirements do not apply to the subject project.

14. Surrounding Land Use and Zoning:

North: SJID Canal, 4th Street, Citrus Groves / A-2
East: SJID Canal, 98th Avenue (corridor), Citrus Groves / A-2
South: SJID Canal, Oslo Road, Citrus Groves / A-2
West: 102nd Avenue SW, SJID Canal, Citrus Groves / A-2

All conditions recommended by staff have been accepted by the applicant.

RECOMMENDATION

Based on the analysis above, staff recommends that the BCC grant special exception use approval for a private heavy utility facility (solar energy center) to be known as FPL Blue Cypress Solar Energy Center with the following conditions:

1. Prior to site plan release, the applicant shall provide a recorded unity of title that combines the grove maintenance site with the adjacent parcel owned by West Vero Farms, LLC. (*Completed*)
2. Prior to utilizing the approved project access route for construction traffic, the applicant shall install the required improvements (if any) determined by the Public Works Department.
3. Prior to utilizing an alternative project construction access route, the applicant shall:
 - a. Obtain approval of any alternate project construction access route from the Public Works Department.
 - b. Install the required improvements along the alternate route (if any).

ATTACHMENTS

1. Application
2. Excerpt from Draft March 23, 2017 PZC Minutes
3. Location Map
4. County Culvert Crossings Exhibit
5. Extended Roadway Grid Network Exhibit
6. Aerial
7. Site Plan