



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

April 8, 2009

Colonel Paul L. Grosskruger
District Engineer
Department of the Army
Jacksonville District Corps of Engineers
Attn: Harry W. Bergmann, Jr.
1520 Royal Palm Square Boulevard, Suite 310
Fort Myers, Florida 33919

Subject: Plantation Development, Ltd; 2003-12117 (IP-HB)

Dear Colonel Grosskruger:

This letter is in response to permit application number 2003-12117 (IP-HB) submitted by Plantation Development, Ltd. The applicant originally proposed impacts to 2.98 acres of mangroves and 0.11 acres of tidal waters in order to construct six, two story multifamily condominiums. The applicant has since modified the site plan and currently proposes to impact 2.61 acres of mangroves and 0.11 acres of tidal waters, which contain 500 square feet of seagrass. The site plan modification would reduce the number of condominium buildings from six to four. The total site is 78 acres in size and includes 1.46 acres of uplands. The remaining site is tidal wetlands dominated by red mangrove (*Rhizophora mangle*), black mangrove (*Avicennia germinans*), and white mangrove (*Laguncularia racemosa*). The project is located on the east side of South Seas Plantation Road, 2 miles north of Captiva Road, in Sections 22 and 23, Township 45 South, Range 21 East, Captiva Island, Lee County, Florida.

The U.S. Environmental Protection Agency (EPA), Region 4, has completed its review of this project from the supplemental information provided by the U.S. Army Corps of Engineers dated March 4, 2009, and a site inspection conducted on March 25, 2009. The supplemental information received was provided in order to address our 3(a) letter dated January 26, 2006, and 3(b) letter dated February 17, 2006. This letter summarizes EPA's position on the project based on the Section 404(b)(1) Guidelines, which prohibit avoidable or significant adverse impacts to the aquatic environment.

The proposed project will still impact 2.61 acres of high quality, tidal mangrove wetlands. Mangrove wetlands located within Lee County form a vital component of the estuarine and marine environment, providing a major organic detrital base to the aquatic food chains, significant habitat for arboreal, intertidal and subtidal organisms, nesting sites, cover and foraging grounds for birds, and habitat for reptiles and mammals. Mangroves provide protected nursery area for fish, crustaceans, and shellfish. They are one of the most biologically productive ecosystems in the world. Mangroves also serve as storm buffers by functioning as wind breaks and through prop root baffling of wave action. Mangrove roots stabilize shorelines

and fine substrates, reducing turbidity, and enhancing water clarity. Mangroves improve water quality and clarity by filtering upland runoff and trapping waterborne sediments and debris. However, the cumulative loss of this habitat type has reduced overall water quality and fisheries production within the south Florida ecosystem. For these reasons, EPA considers mangroves to be an aquatic resource of national importance (ARNI).

The proposed project would also impact 500 square feet of submerged aquatic vegetation (seagrass). Fin and shell fish commonly associated with seagrass include Florida crawfish, stone crab, blue crab, penaeid shrimp, sea trout, gray snapper, red drum, pinfish, mullet, and flounder. Moreover, seagrass provides attachment sites for periphyton which in turn increases food value for the base of marine and estuarine food webs. Seagrass aids in stabilizing the shallow water submerged land which promotes water quality. It also performs important nutrient uptake functions which assist in the maintenance of water quality. For these reasons, EPA also considers seagrass to be an ARNI.

By letter dated January 26, 2006, EPA requested the applicant provide detailed information on alternative site locations that have been reviewed. Section 230.10(a) of the 404(b)(1) Guidelines states that no discharge of dredge and/or fill material (into waters of the United States, including wetlands) shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic environment, provided the alternative does not have other significant adverse environmental consequences. This regulation further states that for non-water dependant projects, practicable alternatives that do not involve special aquatic sites are presumed to be available. The applicant provided an alternative site analysis dated December 12, 2008, which illustrated four different levels of review. First, the applicant reviewed similarly situated properties located throughout southwest Florida. The applicant reviewed 5 possible alternative sites that would meet the project purpose, but determined that they were not practicable because those sites did not provide 7 acres of developable land with 70 acres of buffer. Second, the applicant reviewed other alternative sites located with the South Seas Resort Development. This analysis conducted by the applicant is incomplete, because it did not address any possible upland locations within South Seas Resort that may be available. EPA was provided information from the Captiva Civic Association that concludes there may be 11 other alternative sites within the South Seas Resort that may be available that do not impact wetlands (see Enclosure 1). Third, the applicant reviewed development on five parcels of land they currently own, but did not provide information as to why they were eliminated from consideration. Fourth, the applicant reviewed the "Do nothing alternative." The applicant stated, "This is not practicable due to the economic loss and that other viable development opportunities may exist, but do not involve the same positive outcome." In conclusion, EPA requests that the applicant address each of the four levels reviewed above by providing the following information on each site examined. This information was requested in our original letter dated January 26, 2006, but has not been provided. In addition, we would like the applicant to consider reviewing a combination of alternatives which would meet the project purpose without impacting ARNI.

- a. Presence, quantity and quality of wetlands.
- b. County and/or city zoning.

- c. Each land parcel's availability for purchase, and a determination of whether the proposed cost is reasonable.
- d. The presence or absence of any federally listed plant or animal species and/or historical properties.
- e. The presence or absence of high value uplands.
- f. Transportation and utilities access details.

According to the supplemental information provided, the applicant minimized mangrove impacts from 2.98 acres to 2.61 acres by reducing the number condominium buildings from six to four. EPA believes development should be limited to the 1.46 acres of uplands. We believe this can be accomplished by reducing the size of the project to the uplands and by removing the pool amenities, which can be found in numerous areas throughout the South Seas Resort. Should the applicant limit development to the uplands, EPA would conclude that the project meets the requirements of the Clean Water Act (CWA) Section 404(b)(1) Guidelines.

By letter dated January 26, 2006, EPA requested the applicant provide a cumulative impact analysis for other potential projects which are similarly situated as that proposed. EPA requested this information in order to determine the direct, secondary, and cumulative environmental impacts these projects will have on our aquatic resources. To date, this information has not been received.

In conclusion, EPA requests that the permit for the project be held in abeyance until the applicant provides the addition information requested which clearly illustrates the project is in compliance with the CWA Section 404(b)(1) Guidelines. Project impacts as proposed will occur within high quality mangrove wetlands and seagrass, which EPA has determined to be ARNI.

Thank you for providing an opportunity for EPA comment on this authorization. We look forward to receiving more information from you. If you should have any questions, please contact Ron Miedema at 400 North Congress Avenue, Suite 120, West Palm Beach, Florida 33401 or by telephone at 561-616-8741.

Sincerely,



Thomas C. Welborn
Chief
Wetlands, Coastal and Oceans Branch

Enclosure (4)

cc: FWS, Vero Beach, FL (Chuck Kelso)
SFWMD, West Palm Beach, FL (Anita Bain)
NMFS, St. Petersburg, FL (Mark Sramek)



North End of South Seas Island Resort – Located on North Portion of Captiva Island

- #1: Proposed Harbour Pointe Development Site
- #2 & #3 Alternative Development Sites on Former Golf Course Area East of Plantation Rd.
- #4 & #5: Alternative Development Sites on Existing Golf Course West of Plantation Rd.
- #6 & #7: Alternative vacant home sites along Plantation Rd.



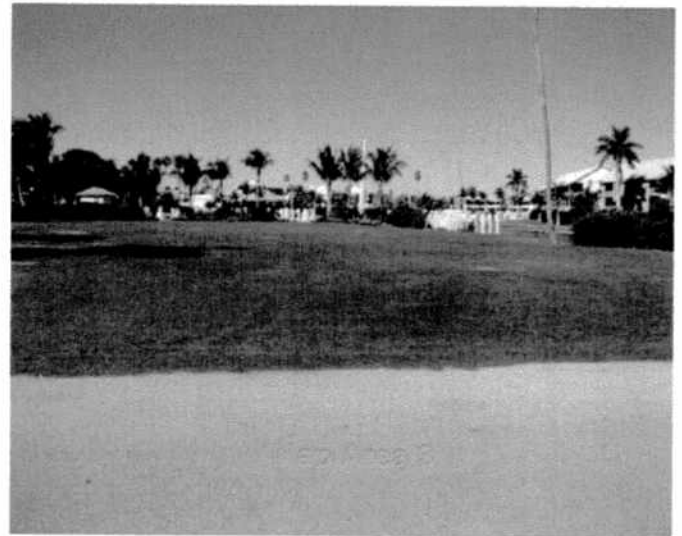
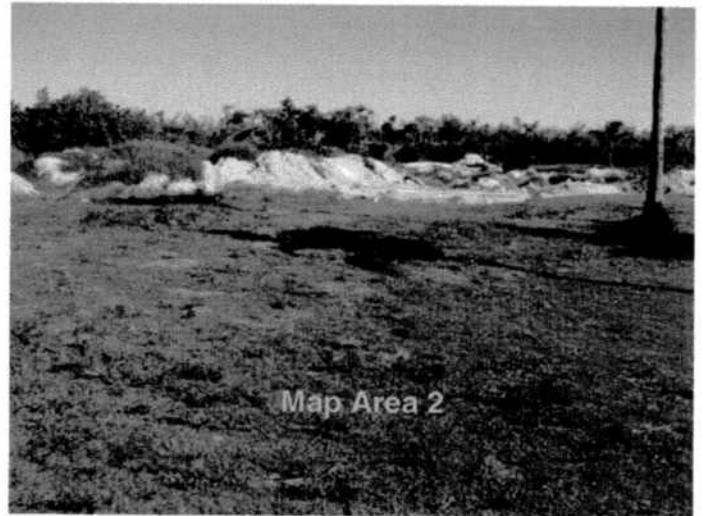
Site adjacent to Golf Course.



Another small home site on Gulf side of Plantation Road.



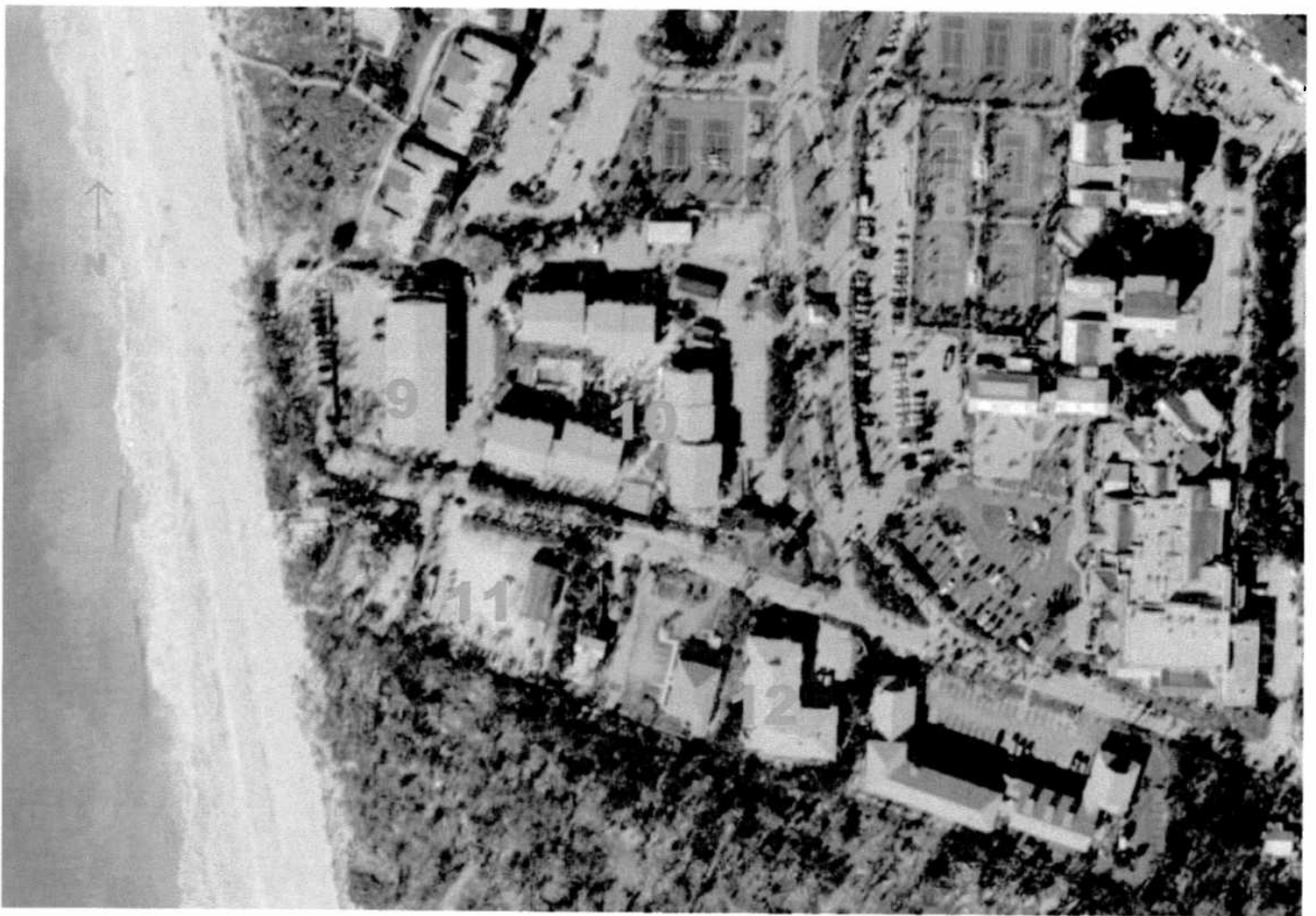
Small home site on Gulf side of Plantation Road.



The above Map Area #'s correspond with the South Seas North End aerial



Small home site on Bay side of Plantation Road.



South End of South Seas Island Resort – Located Mid Portion of Captiva Island

- #8: Alternative Development Sites on Resort Tennis Courts
- #9 & #10: Alternative Development Sites on Resort Employee Housing Complex Slated for Removal
- #11: Alternative vacant Resort vacant site adjacent to Resort on Captiva Dr.
- #12: Alternative Development Resort site adjacent to Resort Entrance



Building on Captiva Drive just outside the SSIR gate. This building is slated for removal.



Employee housing, slated for removal.



Another site on Captiva Drive just outside the SSIR gate.