# EXHIBITS

from HEX hearing

Case #	-: DCI 2004-00036
•	

CASE NAME: Harbour Pointe

Attach a copy of this form to the top of packet of the exhibits & place exhibits in case file.

ARE THERE ANY BOARD EXHIBITS? \_\_YES \_\_NO

LOCATION OF BOARDS:

If there are any board exhibits, attach another copy of this form to boards for identification purposes.



## **STAFF'S EXHIBITS**

- 1 Proposed Condition, from Susie Derheimer, dated July 30, 2008(8.5" X 11")
- Aerial photograph with subject property highlighted in red, prepared by Lee County DCD, mapped July 28, 2008(color)(8.5" X 11")(24" X 36")
- Aerial photograph with development area marked in red, prepared by Lee County DCD, mapped January 28, 2008 (color)(8.5" X 11") (24" X 36")
- 4 Letter from Donna Marie Collins to Rich Joyce, dated June 11, 1992, in regards to service road, (two pages)
- Memo from Ed Cronyn to Wayne Daltry and Roland Ottolini, dated January 11, 2008 (one page)
- 6 Environmental Plan reducing wetland impacts and site acreage, marked with red marker, prepared by Johnson Engineering, dated June 28, 2004 (11"X17")
- 7 Greenways Trail Segments Plan Lee County Parks & Recreation, last revised January 30, 2006 (color)(11"X17")
- 8 Derheimer Testimony, (eight pages) (8.5"X11")

Order, Coastal Cravens, LLC vs. Lee County, Florida, Order Granting, in part, and denying, in part, Appellee's motion to dismiss, dated January 16, 2008, (two pages)

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

#### **APPLICANT'S EXHIBITS**

- 1 Memorandum from Pavese Law Firm, dated July 29, 2008, 24 hour notice, (three pages) (8.5" X 11")
- 2 Rezoning Analysis, prepared by Morris-Depew & Associates Inc., (bound book)
- Master Concept Plan, prepared by Johnson Engineering, dated May 2008, four pages (24" X 36")[SUPERCEDES ORIGINAL APPLICANT'S EXHIBIT 8]
- 3b Drainage Plan, prepared by Johnson Engineering, dated May 2008 (11" X 17")
- 4 Site Plan Comparison, prepared by Kevin L. Erwin Consulting Ecologist, dated July 29, 2008 (11" X 17")
- Map regarding location of boat facilities and seagrass, prepared by Kevin L. Erwin Consulting Ecologist, dated July 29, 2008 (color) (11" X 17")[SUPERCEDES ORIGINAL APPLICANT'S EXHIBIT 22]
- Reduced Site Plan Exhibit, prepared by Kevin L. Erwin Consulting Ecologist, dated July 29, 2008 (color) (11" X 17")
- Aerial photograph with graphic site design and preserved areas, prepared by BSSW Architects Inc., dated June 30, 2008 (color)(11" X 17") (24" X 36")[SUPERCEDES ORIGINAL APPLICANT'S EXHIBIT 4]
- 8 Resume for W. Michael Maxwell, MAI, SRA, for Maxwell & Hendry Valuation Services, Inc., (two pages) (8.5" X 11")
- 9a Economic Study Composite, prepared by Maxwell & Hendry Valuation Services, Inc., dated May 4, 2007
- 9b Back up document for the Economic Study, prepared by Maxwell & Hendry Valuation Services. Inc.
- 10 Resume for Andrew D. Tilton, Senior Engineer for Johnson Engineering Inc.(8.5" X 11")
- 11 Resume for George C. Patton, P. E., M.S.C.E., Bridge Department Manager / Project Manager / Senior Bridge Engineer for E. C. Driver & Associates (8.5" X 11")
- Bridges Conceptual Sketches General Plan and Elevation, prepared by E.C. Driver & Associates Inc., (four pages) (11" X 17")

- 13 Compatibility Study with graphics superimposed, prepared by BSSW Architects Inc., dated July 2008 (color)(11"X17") [SUPERCEDES ORIGINAL APPLICANT'S EXHIBIT 9]
- Proposed Bridge Schematic, prepared by BSSW Architects Inc., dated July 2008 (color)(11" X 17")[SUPERCEDES ORIGINAL APPLICANT'S EXHIBIT 11]
- Legal Description and easement for entrance road, prepared by Steven C. Hartsell, Esquire, Pavese Law Firm, (nine pages) (8.5"X11")
- 16 Composite consisting of ERP for entrance road
- 17 Chadwick Site Proposed Trail Network, prepared by Torrence, dated January 16, 2006 (color)(8.5"X11")
- 18 Resume for Dr. Harvey H. Harper, III, P.E., President of Environmental Research & Design, Inc., 26 pages
- 19 Harper Presentation, dated August 7, 2008, (four pages)
- 20 Resume for Michael J. Frankenberger, Senior Ecologist for Kevin L. Erwin Consulting Ecologist, Inc., (two pages)
- Aerial of Harbour Pointe at South Seas Resort Impact Map, prepared by Kevin L. Erwin, dated January 13, 2006 (color)(11"X17")
- 22 Michael J. Frankenberger presentation, dated August 7, 2008, (12 pages) (8.5"X11")
- 23 Memo from Morris-Depew, dated August 6, 2008, (five pages) (8.5"X11")
- Composite consisting of 403.9324, F. S., and list of Delegated Counties, (three pages (8.5"X11")
- Closing Memorandum from Steven C. Hartsell, Esquire, Pavese Law Firm, dated August 7, 2008, (seven pages) (8.5"X11")
- 26 Email & Memorandum from Steve Hartsell, dated August 12, 2008, re: Identification of 2005 Hearing Exhibits that have been superceded by 2008 Hearing Exhibits, and revised Conditions (5-page document) [post hearing submittal]

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

#### **OTHER EXHIBITS**

#### CCA / Uhle

1 Composite consisting of Approved Minutes of 060105CP, pages 369-381, Draft Minutes of 101205CP, pages 706-712, Minutes Report Local Planning Agency, dated April 25, 2005, 21 pages, CPA2004-09 Goal 13-Captiva BOCA Sponsored

- Amendment to the Lee County Comprehensive Plan, dated October 12, 2005, Captiva Community Panel minutes, dated April 20, 2005, (three pages)
- West law, 403.9324, F. S., (two pages) (8.5"X11")
- Basis of Review for Environmental Resource Permit Applications, dated July 22, 2007, pages 9-48 and Table of Contents, (three pages)

#### Price

Letter of authorization from Land's End Village Condominium Association, Inc. to represent 64 owners of Land's End Village on Captiva Island, undated, with attached listed of owners names & STRAP numbers (multiple pages)(8.5" x 11")

#### Ryan

- 1 Resume for Nicole Ryan, Governmental Relations Manager for Conservancy of Southwest Florida (8.5" X 11")
- 2 Letter from Conservancy of Southwest Florida, dated July 31, 2008, (15 pages) (8.5" X 11")
- Notes from representative Ryan for Conservancy of Southwest Florida, (17 pages) (8.5" X 11")

#### SCCF / Wessell

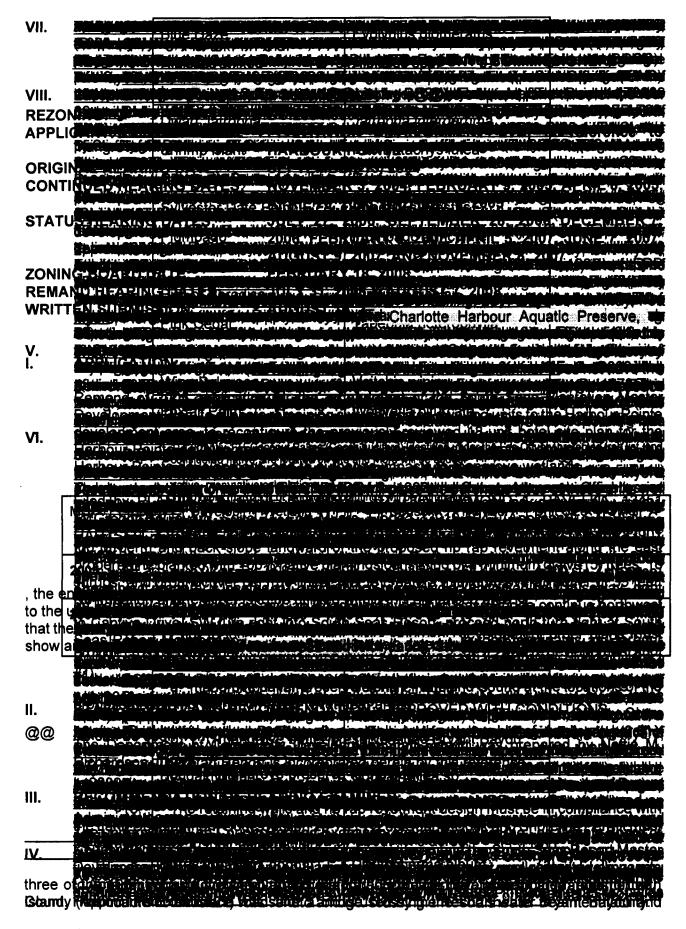
- 1 Two aerials of Bayside Road (color)(8.5" X11")
- 2 Two photographs of Mangroves, dated 2004 (color)(8.5"X11")
- Two photographs of Mangroves, dated 2008 (color)(8.5" X11")
- 4 Six photographs, dated July 2008 (color)(8.5"X11")
- 5 Map of Pine Island Sound Aquatic Preserve, dated July 24, 2006 (color)(8.5"X11")
- 6 Letter from SCCF, dated August 7, 2008, (15 pages) (8.5"X11")

# **Tritaik**

1 Resume for Paul Stephen Tritaik, Refuge Manager for FWS-Pelican Island NWR/Archie Carr NWR

#### Urich

1 Responsible Growth Management Coalition, Inc., Brochure (color)(8.5" X 11")



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DCI200400036 August 7th EXHIBITS

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#22 photos of mangrores	
#3 July 2008 photos - mangron	19#3
#4 July 2008 photos (6) -	#4
#5 Pine Det. Sound Aquatic	#5
#6 letterdated 8-7-08 sup	#6
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#10	#10
OTHER EXHIBITS	
NAME	NAME
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V#3 BOR 1/2007	#3
#4	#4
#5	#5

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5. 1/08 Memo for Cronign to Wayne Paltry ctr.

6. En v. Plan reducing wetland impacts of Site Acreage.

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& 403.9324 & List of Delegater Counties - Compos. Closing Memo

26.

# **NICOLE RYAN**

5501 Rattlesnake Hammock Road, #212 Naples, Florida 34113 239.403.4220 (Work) and 239.793-4416 (Home)

# **EXPERIENCE**

# Governmental Relations Manager

Conservancy of Southwest Florida, Naples FL

Act as spokesperson for Conservancy on policy issues related to growth management. Testify on behalf of the Conservancy at local, regional, state and federal public hearings. Provide public policy assistance to agencies and organizations involved in land use policy issues of interest to the Conservancy. Research and investigate growth management issues in order to develop recommended policy position statements. Supervise the Environmental Policy Specialist for our regional growth management office. Oversee growth management, land use and Legislative issues dealing with growth management. Provide the bridge of communication between the Conservancy and the community, elected and appointed officials, media, civic organizations and stakeholders groups on growth management issues. Act a liaison to the Conservancy Board of Directors in providing regular updates and recommendations on action for various policy issues.

# **Environmental Policy Manager**

Conservancy of Southwest Florida, Naples, FL October 2001 to December 2005
Oversaw growth management, land use and legislative issues dealing with the protection of
Southwest Florida's natural environment. Responsible for conveying the Conservancy's policy
positions to elected officials and agency staff. Spoke frequently at public hearings and serving as
the main point of communication for the Policy Department. Responsible for working with a
variety of interests, such as developers and their attorneys and consultants in order to learn about
projects and discuss Conservancy concerns. Served as a primary media contact and
spokesperson for the organization regarding growth management issues. As policy manager,
acted as a liaison to the Conservancy Board of Directors in providing regular updates on issues
of environmental significance.

# **Environmental Policy Specialist**

Conservancy of Southwest Florida, Naples, FL August 1998 to October 2001
Worked with other policy staff in formulating Conservancy environmental positions and preparing official position statements. Responsible for crafting regular correspondence to community leaders and public officials. Managed monthly environmental speakers series and coordinated environmental forums for public officials during election cycles. Responsible for writing and compiling monthly issues bulletin.

#### **Public Affairs Specialist**

Conservancy of Southwest Florida, Naples, FL October 1997 to August 1998

Managed grassroots advocacy for the organization to include a proactive outreach program for enlightening the community of environmental concerns. Responsible for overseeing the Conservancy Speakers Bureau. Participated in editorial board meetings on a regular basis and served as a member of the Environmental Affairs Committee to the Board of Directors.

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## **Policy Analyst**

Illinois Environmental Protection Agency, IL February 1997 to October 1997
Assisted in the preparation and presentation of training seminar given by the organization's Health and Safety Unit. Assisted in the implementation of the Emissions Reduction Market System to include creating and presenting an educational seminar on the system. Responsible for the review of annual emissions report submitted to the agency's Bureau of Air. Position required managing substantial amounts of technical information and proficiency with several databases.

#### **EDUCATION**

M.A. in Environmental Studies with emphasis in Land Use Planning, University of Illinois at Springfield

Relevant coursework:

Concepts of Ecology

Development of Planning Theory

**Environmental Natural Sciences** 

Environmental Planning: Land/Resource Use

Land Use Planning: Principles and Practices

**Pollution Prevention** 

B.A. in Psychology and Geography, Carroll College, Waukesha, Wisconsin

#### PROFESSIONAL AFFILIATIONS

- League of Women Voters of Collier County, Member Past Member of Board of Directors/Chair Natural Resources Committee
- Past Estuary Conservation Association Board of Directors
- Founder of the Conservancy of Southwest Florida's Friends of Sand Dollar Island
- Appointed by the Collier County Board of County Commissioners to the Lake Trafford Restoration Task Force
- Appointed member of Collier County Wiggins Pass Modeling Evaluation Work Group
- Leadership Collier Class of 2006
- Leadership Institute Class of 2008

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- Leadership Collier Class of 2006
- Leadership Institute Class of 2008



1450 Merrihue Drive

Naples, FL 34102
239.403.4213

Fax 239.262.0672

www.conservancy.org

July 31, 2008

The Hearing Examiner
Office of the Lee County Hearing Examiner
1500 Monroe Street
Fort Myers FL 33902

RE: Harbour Pointe, Captiva Island: Amendment to the South Seas Resort Master Development Plan; Case Number DCI2004-00036

# Honorable Hearing Examiner:

I represent the Conservancy of Southwest Florida and am here today to present our objections to the proposed Harbour Pointe development, specifically the project's inconsistency with the Lee Plan. The Conservancy's mission is to protect our unique natural environment and quality of life, now and forever. The Conservancy focuses our advocacy on environmental policy issues within Southwest Florida, but we also work at the state and local level to ensure our environment is protected and that growth occurs in a sustainable manner. We are supported by over 5,000 members, many of which reside in Lee County. Members of the Conservancy regularly utilize Pine Island Sound and the area near Captiva Island and Redfish Pass for boating, fishing, and other recreation and would be directly impacted by the construction of the Harbour Pointe development on Captiva Island and would be directly impacted in their use and enjoyment of property by the construction of the Harbour Pointe development on Captiva Island.

For the record, I am the Conservancy's Governmental Relations Manager, responsible for the Conservancy's Growth Management Program and land use policy within our Environmental Policy Department. I have a Master of Arts degree in Environmental Studies with an emphasis in Land Use Planning from the University of Illinois at Springfield. My course work included classes in: Land Use Planning Principles and Practices, Environmental Planning Land and Resource Use, and Development of Planning Theory. I was hired in 1997 by the Conservancy to work on environmental policy and growth management issues.

Classiff # 3 Eyan July 31, 2a For the past 10 ½ years, I have represented this organization as an environmental and growth management policy specialist, responsible for reviewing local government planning documents and development applications and testifying before local, regional and state decision makers, primarily County Commissioners and Planning Commissions. My testimony has focused on a variety of planning issues, such as, Planned Unit Development amendments, conditional use permits, rezoning, Comprehensive Plan amendment and Land Development Code amendments and the consistency of development proposals with comprehensive plans. My job responsibilities also include working at the local, regional and state level on land planning issues, such as the statewide Rural Land Stewardship program rule development and Legislative issues regarding growth management. I am familiar with the Lee Plan and have reviewed the proposal to amend the South Seas Resort Master Development Plan for consistency with the Lee Plan.

## Function of the Lee Plan

As you are aware, Florida law, under Chapter 163, Part II, Florida Statutes, requires each local government to consistently manage growth by adopting and implementing a comprehensive plan that is consistent with state and regional planning requirements. The comprehensive plans are essentially a local government's constitution for controlling and directing the type and amount of land uses allowed or encouraged by a community.

It is important to point out that there are different layers of government and agency oversight required for approval of a development project, with each of these entities reviewing an application from a different set of criteria. For permitting in wetlands, a State Environmental Resource Permit (ERP), a federal Corps 404 permit and consistency with local land use plans are all required. Because each review applies different criteria, all three approvals are required prior to project commencement.

The issuance of an ERP, while one step in the approval process for a project, is not comprehensive enough to substitute for a County land use consistency determination, as an ERP does not address many of the goals, objectives and policies in the Lee Plan. It is the Lee Plan's function to look at the "big picture" and determine appropriateness of various land uses within particular locations. It is Lee County's responsibility to review a project's consistency with <u>all</u> applicable goals, objective and policies within the Lee Plan. It is also Lee County's responsibility to ensure that development which is inconsistent with provisions of the Lee Plan is either modified or denied County approval. Thus, Lee County cannot simply defer to the ERP to satisfy county consistency requirements.

The Lee Plan itself clearly establishes Lee County's responsibility to properly plan, incentivize and regulate land uses consistent with the Goals, Objective and Policies of the Lee Plan. The overall Vision Statement of the Lee Plan stresses

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the importance of the County's land-use role to supplement state and regional regulatory programs to protect natural resources:

The county will protect its natural resource base in order to maintain a high quality of life for its residents and visitors. This will be accomplished through an aggressive public land acquisition program and by maintaining and enforcing cost-effective land use and environmental regulations that supplement, where necessary, federal, state, and regional regulatory programs. (Page I-2)

The applicant, Plantation Development, Ltd., is seeking amendment to the South Seas Resort Master Development Plan (SSRMDP) in order to allocate the remaining six unallocated dwelling units to, and reconfigure the site plan for, the Harbour Pointe development area. The applicant is also requesting permission to construct a bridge crossing the channel to Bryant Bayou and removal of an existing, unpermitted road. This amendment would allow for 24 units to be constructed within 4 six-plex buildings, swimming pool, gazebo, single slip water taxi dock and canoe/kayak launch and private bridge. The project would directly impact 2.72 acres of mangrove wetlands. Currently, Harbour Pointe has an Administrative Interpretation (ADD2002-00098) from Lee County allowing for a 1.3 acre development footprint with no impact to mangrove wetlands, along with the ability to maintain the current road for emergency access.

Lee County is not bound by the ERP authorized by the South Florida Water Management District. It is the ultimate responsibility of the Lee County Board of County Commissioners, utilizing the Hearing Examiner's findings and recommendations, to determine whether the proposed amendment is consistent with the Goals, Objectives, and Policies of the whole Lee Plan.

To be more specific, Policy 114.1.2, under the general Goal for protecting wetlands, while providing that the County will not perform an independent review of wetland impacts where an Environmental Resource Permit has been approved, does not relieve the County of its obligation to apply more specific policies regarding Captiva Island and its mangroves or the full range of other Goals, Objectives, and Policies in the Lee Plan.

The Conservancy believes the expanded Harbour Pointe project, as proposed with mangrove wetland impacts, is inconsistent with the Lee Plan, and as proposed, amendment of the Harbour Pointe site plan of the 2002 South Seas Resort Master Development Plan should be denied.

The Conservancy bases our assessment of inconsistency with the Lee Plan on review of the following Goals, Objective and Policies.

#### Captiva Mangrove Protection

GOAL 13: CAPTIVA. To maintain and enhance the historic pattern of development on Captiva, consisting of unobtrusive, low-density residential use in

an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic. The purpose of this goal is to provide policies to confirm and reinforce that historic pattern. (Added by Ordinance No. 03-01).

**OBJECTIVE 13.1:** Develop and maintain incentive and/or regulatory programs to ensure the longterm protection and enhancement of wetland habitats, water quality, natural upland habitats, community facilities, existing land use patterns, infrastructure capacity, and historically significant features on Captiva Island. (Added by Ordinance No. 03-01).

**POLICY 13.1.12:** Mangroves on Captiva Island will be protected to the greatest extent possible. (Added by Ordinance No. 05-19)

The proposed development is inconsistent with this goal, objective and policy because it does not protect to the greatest extent possible the mangrove wetlands contained on the site. In 2002, Lee County issued an Administrative Interpretation recognizing the allocation of the 18 units for the Harbour Pointe development, with the specific stipulation that this development could only occur if there were not wetland impacts. Such a configuration of development would restrict any proposed footprint to the 1.6 acre existing upland spoil site.

The proposed amendment in this case would not meet the mangrove protection "to the greatest extent possible" requirement of Policy 13.1.12. Harbour Pointe could be designed so that no mangrove wetland impacts occur. However, due to the applicant's desire for achieving a specific profit margin, the current proposal is before you requesting 2.72 acres of direct mangrove impacts to construct this project.

It is important to keep in mind that the amendment is for the entire South Seas plan, and the units that the developer is seeking to construct can be located in other areas that do not impact mangroves. It is important to reiterate the connection of this project to the South Seas Resort itself, as the Conservancy believes it is relevant to your recommendation. In 1985, a permit was issued by the South Florida Water Management District for the planned development of the entire South Seas Resort. In 1998, the resort owners (at that time, Plantation Development, Ltd.) made the conscious decision to sell 220 acres of the resort, including almost all of the uplands. Plantation Development, Ltd. retained limited portions of the resort, mostly mangroves, including the 78 acres of the proposed Harbour Pointe site, of which 76.5 are mangroves or other wetlands. Eighteen units were attached to the Harbour Pointe site at the time of sale, and a 2002 Lee County Administrative Interpretation (ADD2002-00098) has vested these units to Harbour Pointe, with the stipulation of no wetland impact for the development.

However, the property owner is not proceeding with development of the vested units on the allowed footprint, but is instead requesting approval to increase the

an environment characterized by diverse and healthy native vegetation, clean offshore water with diverse and healthy marine life, and limited commercial development and traffic. The purpose of this goal is to provide policies to confirm and reinforce that historic pattern. (Added by Ordinance No. 03-01).

**OBJECTIVE 13.1:** Develop and maintain incentive and/or regulatory programs to ensure the longterm protection and enhancement of wetland habitats, water quality, natural upland habitats, community facilities, existing land use patterns, infrastructure capacity, and historically significant features on Captiva Island. (Added by Ordinance No. 03-01).

**POLICY 13.1.12:** Mangroves on Captiva Island will be protected to the greatest extent possible. (Added by Ordinance No. 05-19)

The proposed development is inconsistent with this goal, objective and policy because it does not protect to the greatest extent possible the mangrove wetlands contained on the site. In 2002, Lee County issued an Administrative Interpretation recognizing the allocation of the 18 units for the Harbour Pointe development, with the specific stipulation that this development could only occur if there were not wetland impacts. Such a configuration of development would restrict any proposed footprint to the 1.6 acre existing upland spoil site.

The proposed amendment in this case would not meet the mangrove protection "to the greatest extent possible" requirement of Policy 13.1.12. Harbour Pointe could be designed so that no mangrove wetland impacts occur. However, due to the applicant's desire for achieving a specific profit margin, the current proposal is before you requesting 2.72 acres of direct mangrove impacts to construct this project.

It is important to keep in mind that the amendment is for the entire South Seas plan, and the units that the developer is seeking to construct can be located in other areas that do not impact mangroves. It is important to reiterate the connection of this project to the South Seas Resort itself, as the Conservancy believes it is relevant to your recommendation. In 1985, a permit was issued by the South Florida Water Management District for the planned development of the entire South Seas Resort. In 1998, the resort owners (at that time, Plantation Development, Ltd.) made the conscious decision to sell 220 acres of the resort, including almost all of the uplands. Plantation Development, Ltd. retained limited portions of the resort, mostly mangroves, including the 78 acres of the proposed Harbour Pointe site, of which 76.5 are mangroves or other wetlands. Eighteen units were attached to the Harbour Pointe site at the time of sale, and a 2002 Lee County Administrative Interpretation (ADD2002-00098) has vested these units to Harbour Pointe, with the stipulation of no wetland impact for the development.

However, the property owner is not proceeding with development of the vested units on the allowed footprint, but is instead requesting approval to increase the

development footprint and transfer in six floating units from South Seas Resort that were additionally retained as part of the 1998 sales transaction. Yet, the retention of these six units was a private agreement between the buyer and seller of the South Seas Resort and as such, Lee County is in no way obligated to provide for transfer of these six units.

The applicant is attempting to justify development on mangrove wetlands because this is the only property they own after selling their uplands. Yet, they desire to receive County approval for their development not as a new rezone application, but as an amendment to the existing SSRMDP, within which there are upland sites that would be more appropriate for this project. In this respect, if the Harbour Pointe development is truly separate from the remainder of South Seas, then the site should be removed from the SSRMDP and treated as a new rezone application under the current zoning applicable to the Lee Plan. Such an application must then stand on its own merits for review as a development in mangrove wetlands, and be subject to a consistency review on that basis against the Lee Plan and the Future Land Use Map.

On the other hand, if the applicant desires to amend the existing SSRMDP, then more appropriate upland locations within the entire South Seas Resort should be reviewed for placement of development that would otherwise impact mangrove wetlands. The Conservancy recognizes that there are 24 units still vested within the SSRMDP. Our position is not that these units should be denied altogether. However, their development must be consistent with the goals, objectives and policies contained within the Lee Plan, and as presented to you today, for the reasons stated previously, we do not believe such consistency exists.

To properly apply Policy 13.1.12 to the proposed amendment of the South Seas Plan, the entire South Seas Resort Master Development Plan should be reviewed to find an appropriate upland location for the 24 units desired for construction. There is currently a development agreement that allows for future Plantation Development Ltd. units to utilize the resort's amenities, including the tennis courts and swimming pools. In addition, there will be shared roads, and the proposed bridge to access Harbour Pointe would be located on South Seas Resort's property, the location of a former golf putting green. This indicates that while owned by different entities, these properties are still one, intact planning unit. Therefore, a variety of potentially appropriate upland locations for development within South Seas should be evaluated – the site of the proposed bridge being one site that should be considered as viable options for development, instead of a proposal to impact 2.72 acres of mangrove wetlands.

There are also alternatives for the development of the units on Plantation's property. First, Harbour Pointe could be developed in the manner in which it was initially permitted, with all development wholly contained within the existing upland spoil site on 1.3 acres. Such a design would require scaling back on the size of the units, which would be compatible with the already existing units within

South Seas, including the units across the inlet from Harbour Pointe. The swimming pool could be eliminated to provide more space for the units. In addition, any bridge construction would need to be designed to avoid mangrove impacts and be constructed to access Harbour Points on the already existing spoil site. As the current road is not permitted, and has been improved without the necessary permits, it should be abandoned to allow the natural processes to reclaim this area naturally.

Another option could be the construction of one or more single-family homes on the Harbour Pointe site, to be wholly contained within the current limits of the spoil site. Because of the location, such homes would be the showplace of South Seas and as such, could demand an extremely high price that would make up for the lack of additional units on this site.

The SFWMD Basis of Review for Environmental Resource Permits does not contain a requirement to protect mangroves to the greatest extent possible. It only requires that SFWMD consider whether the applicant has implemented practicable design modifications to reduce or eliminate adverse wetland impacts. In the challenge to the ERP the Administrative Law Judge initially found that the applicant had not demonstrated that it had implemented practicable design alternatives. Plantation then made some modifications to the project and claimed that it would not be profitable to further reduce mangrove impacts, providing the Administrative Law Judge with a basis to find that Plantation had implemented practicable alternatives. Implementing practicable alternatives, however, is clearly not the same as protecting mangroves to the greatest extent possible.

This proposed project's increase of direct mangrove wetland impacts from none to 2.72 acres is inconsistent with Policy 13.1.12, regardless of what agency permits have been issued and constitutes grounds for a recommendation of denial.

Recreational, Eco-tourism and the Economic Value of Ecosystem Services GOAL 80: Increase the recreation potential of Lee County's natural waterways. (Added by Ordinance No. 07-09)

GOAL 84: REGIONAL PARKS. To preserve a portion of the county's natural environment to augment that which is set aside by the state of Florida and the federal government, in order to preserve natural habitats, protect the water supply, and preserve the natural heritage; and to make these natural resources available to the general public for resource-based recreational activities, enjoyment of nature, and educational enrichment.

The proposed development is inconsistent with this goal because of its location within the Charlotte Harbour National Estuary (CHNE) and its proximity to other key state and federal conservation areas, including the Ding Darling National Wildlife Refuge, one of the most visited wildlife refuges in the United States.

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Removal of 2.72 acres of a mature mangrove forest within such an area will significantly degrade the entire system. This project will not only adversely impact the mangroves directly destroyed by development, but it will also precipitate secondary impacts to the adjacent mangroves. Alteration of natural systems, especially mangrove wetlands, has a tremendous impact on the resource areas that local, state and federal agencies and organizations are working to protect.

The CHNE identifies four major threats to the estuary and local ecosystem within the 2008 update of their Management Plan: water quality degradation, hydrologic alterations, fish and wildlife habitat loss and stewardship gaps. The management plan also states that:

Mangrove systems have the highest measured annual productivity of any system measured in the world. They are critical to the world's carbon balance. Over the years, dredge-and-fill operations have reduced about 25 percent of the mangrove habitat in the CHNEP study area (Comprehensive Conservation and Management Plan 2008 Update, page 24).

In order to provide meaningful access to the natural environment and increase the recreational potential of the natural waterways, intact and functional ecosystems must be protected. Approval of the Harbour Pointe project would negatively impact natural resources due to the direct impact to 2.72 acres of mangroves, along with additional secondary impacts. Such impacts are not only contrary to the CHNE management plan, but they are inconsistent with the Lee Plan and constitute grounds for a recommendation of denial.

GOAL 121: FISHERIES MANAGEMENT. To preserve the ecosystem that nourishes and shelters the commercial and sport fisheries in Lee County.

**POLICY 121.1.3:** The county will continue to design and implement protective and incentive mechanisms to prevent adverse impacts to commercial and sport fisheries. (Amended by Ordinance No. 00-22)

The proposed development is inconsistent with this goal and policy because of the importance of these mangroves as a food source and shelter to a variety of fish species. There is an enormous amount of marine life in the surrounding waters, including game fish such as redfish, snook, trout and tarpon. The US Environmental Protection Agency has identified mangroves in Lee County as Aquatic Resources of National Importance (ARNI).

This mangrove system provides a valuable source of food for a variety of fish in the form of detritus, or dead leaf litter, serving as an important nursery for many species of juvenile fish, including snook and tarpon. One acre of mangroves produces between five and ten thousand fish in a given year. Based upon the

Lee Plan's goal to preserve and manage fisheries resources, the destruction of 2.72 acres of mangrove wetlands (which could produce between 13,600 and 27,200 fish annually) is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

GOAL 158: Lee County will achieve and maintain a diversified and stable economy by providing a positive business climate that assures maximum employment opportunities while maintaining a high quality of life. (Amended by Ordinance No. 00-22)

**OBJECTIVE 158.1:** Lee County will encourage the conservation and enhancement of those natural and cultural resources that represent the foundation of the county's existing retirement, recreation, and tourist oriented economy in order to place Lee County in a competitive position to enable the retention and expansion of these and other business opportunities. (Amended by Ordinance No. 00-22)

**POLICY 158.1.7:** Lee County will encourage the preservation of sensitive natural resources, including beaches, wetlands, estuaries, clean air and water, historic resources, scenic vistas and other unique natural resources through public acquisition and/or regulatory protection. (Amended by Ordinance No. 00-22)

**POLICY 158.2.5:** Lee County, in coordination with the Tourist Development Council and other appropriate entities, will promote the development of ecotourism in Lee County. (Amended by Ordinance No. 00-22)

The proposed development is inconsistent with this goal, objective and policies based on the economic benefit of intact natural ecosystems to the economy of Lee County. The waters in an around this area are considered one of the ten best fishing spots in the country and host to several annual major fishing tournaments. Fishing, along with canoeing, kayaking, general boating and other forms of nature-based recreation are not only an important part of Lee County's economy, but are some of the reasons why people move here in the first place. Quality of life and quality of environment are inextricably interwoven. It is Lee County's responsibility to take into account not only the impacts to the development site itself, but also the impacts to the community in general, and the precedents that could be set by approval of impacts to our sensitive environmental resources.

While the applicant has stated during several public hearings that economics are an important component of their business decision of building placement, size and need for amenities, it is also essential to consider the economics of ecosystem services. Such services encompass a broad range of values added. Mangrove wetlands provide: Storm protection, nutrient cycling, filtration of pollutants and nutrient breakdown, refugia as nurseries for juvenile fish species, habitat for nesting and feeding of wading birds, osprey and migratory species

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that rely on intact ecosystems for stopover locations, recreation in the form of eco-tourism, sports fishing, canoeing, kayaking boating, and for aesthetic, educational and scientific value. While all of these provisions have a value, it was not until recently that economists took a close look at putting a value on ecosystem services.

In his recently published book, "The Economics of Everglades Restoration: Missing Pieces in the Future of South Florida," economist Richard Weisskoff computed that, within the Everglades ecosystem of South Florida, conservatively, "the value of total ecosystem services is \$58.7 billion in 1995, or \$68.2 billion adjusted for the year 2000 prices. This amounts to 34.8% or about one third of the total value-added of the 'normal' economy (that is, without ecosystem services)" (Page 165).

Moreover, mangrove/saltwater wetlands comprise an important portion of the value added by natural areas for ecosystem services. Weisskoff estimates that in 1994 dollars, saltwater wetlands contributed over \$2.6 billion in ecosystem services value. Thus, when determining the economic impacts of a development, the economics cannot be simply limited to a developer's bottom line of expectation of profit, but also the economic impacts of development on our ecosystem services, which in fact are a benefit to all people. Based on the proposed projects impacts to economically valuable mangroves, the destruction of 2.72 acres of mangrove wetlands is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

Protection of Coastal Resources Through Proper Planning GOAL 104: COASTAL RESOURCE PROTECTION. To protect the natural resources of the coastal planning area from damage caused by inappropriate development. (See also Goal 113.) (Amended by Ordinance No. 94-30)

OBJECTIVE 104.1: ENVIRONMENTALLY CRITICAL AREAS. Within the coastal planning area, the county will manage and regulate, on an ongoing basis, environmentally critical areas to conserve and enhance their natural functions. Environmentally critical areas include wetlands (as defined in Goal 114)

**POLICY 104.1.1:** Development will be limited in Rare and Unique upland habitats and strictly controlled in wetlands in the coastal planning area. (See Policy 107.1.1(2) and Goal 114.) (Amended by Ordinance No. 94-30, 00-22)

The proposed development is inconsistent with this goal, objective and policy because the mangrove wetlands within the Harbour Pointe site constitute an "environmentally critical area" and the site is located within a "coastal planning area." This policy clearly states that it is Lee County's obligation to protect its natural resources from the damage of inappropriate development. Allowing the applicant to remove 2.72 acres of mangrove wetlands, which equates to over two football fields worth of mangroves (one acre = 43,560 square feet and one

football field at 160 feet x 360 feet = 57,600 square feet), will create a tremendous impact not only to the site itself, but to adjacent land and waterways.

As the only use deemed to be vested by Lee County for this site is a development of 18 units with no wetland impacts, proper protection of the Lee County coastal resources would dictate that the County require the landowner to reconfigure the development footprint to accommodate the 18 units on the upland spoil site. Alternatively, as this amendment is to the entire SSRMDP, the entire South Seas property could be considered for other, more appropriate, locations for the placement of these units. However, as currently proposed, the project is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

Protection of Life and Property for the People of Lee County GOAL 110: HAZARD MITIGATION. To provide through county plans, programs, and regulations means to minimize future property losses from natural disasters such as flooding, tropical storms and hurricanes. (See also Goal 105.) (Amended by Ordinance No. 94-30)

The proposed Harbour Pointe development is part of a functioning, mature mangrove forest within a barrier island system that provides storm protection for the existing residents of South Seas. Mangrove forests are an important component in absorbing some of the impacts of hurricanes and storms, thus protecting citizens and property. In addition to the reduced buffer protection for current residents that will occur if this development is approved, the addition of 24 residential units to Harbour Pointe will also place these new residents in a highly vulnerable area with regard to storm impacts. This project will adversely impact the public health, safety and welfare of not only future Harbour Pointe residents but also other residents and visitors to Captiva Island. Thus, the project is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

### **Protection of Natural Resources**

GOAL 107: RESOURCE PROTECTION. To manage the county's wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.

OBJECTIVE 107.1: RESOURCE MANAGEMENT PLAN. The county will continue to implement a resource management program that ensures the long-term protection and enhancement of the natural upland and wetland habitats through the retention of interconnected, functioning, and maintainable hydroecological systems where the remaining wetlands and uplands function as a productive unit resembling the original landscape. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 107.1.1:** County agencies implementing the natural resources management program will be responsible for the following:

football field at 160 feet x 360 feet = 57,600 square feet), will create a tremendous impact not only to the site itself, but to adjacent land and waterways.

As the only use deemed to be vested by Lee County for this site is a development of 18 units with no wetland impacts, proper protection of the Lee County coastal resources would dictate that the County require the landowner to reconfigure the development footprint to accommodate the 18 units on the upland spoil site. Alternatively, as this amendment is to the entire SSRMDP, the entire South Seas property could be considered for other, more appropriate, locations for the placement of these units. However, as currently proposed, the project is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

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**POLICY 107.1.1:** County agencies implementing the natural resources management program will be responsible for the following:

- 1. Identifying upland and wetland habitats/systems most suitable for protection, enhancement, reclamation, and conservation.
- 2. Recommending standards to the Board of County Commissioners for Board approval for development and conservation that will protect and integrate wetlands (as defined in Objective 114.1)
- **POLICY 107.2.2:** Continue to provide regulations and incentives to prevent incompatible development in and around environmentally sensitive lands (as defined in Policy 107.1.1.4.b.). (Amended by Ordinance No. 94-30)
- **POLICY 107.2.3:** Prevent water management and development projects from altering or disrupting the natural function of significant natural systems.
- **POLICY 107.2.4:** Encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments.
- **POLICY 107.2.10:** Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas must protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations. (Amended by Ordinance No. 00-22)
- **POLICY 107.2.13:** Promote optimal conditions rather than minimum conditions for the natural system as the basis for sound planning. (Added by Ordinance No. 07-16)
- **OBJECTIVE 107.3: WILDLIFE.** Maintain and enhance the fish and wildlife diversity and distribution within Lee County for the benefit of a balanced ecological system. (Amended by Ordinance No. 94-30)

The goal, objectives and policies contained within this section of the Lee Plan require Lee County to comprehensively evaluate the proper balance between competing needs, including water quality, wildlife protection, development and quality of life, both on-site and in adjacent and surrounding areas. Assessment of the resource in question – mangrove wetlands – and the impact of removal of 2.72 acres of mangroves is inextricably woven into their importance as storm protection for the adjacent residents. These mangroves also provide habitat for fish and other marine life, which is essential for recreational fishing and as a food source for wildlife. Wading and migratory birds utilize these mangroves for nesting and perching. I personally witnessed an osprey nest along with several osprey and ibis utilizing the site. Thus, the importance of protecting mangrove wetlands not only benefits plants and animals, but also the people of Lee County.

The proposed development is inconsistent with these goals, objectives and policies because it would replace 2.72 acres of mature mangroves with residential development. Moreover, regulations and incentives are not being

implemented to prevent the proposed incompatible development in an environmentally sensitive area.

## **Protection of Listed Species**

OBJECTIVE 107.4: ENDANGERED AND THREATENED SPECIES IN GENERAL. Lee County will continue to protect habitats of endangered and threatened species and species of special concern in order to maintain or enhance existing population numbers and distributions of listed species.

**OBJECTIVE 107.12: MARINE PRODUCTIVITY.** Lee County will support maintenance and improvement of marine fisheries productivity, and promote the conservation of fishery resources through the protection and restoration of finfish and shellfish habitat. (Amended by Ordinance No. 00-22)

**POLICY 107.12.2:** Support state and federal fisheries management programs that protect and enhance the long-term biological and economic productivity of coastal and estuarine waters and their sources for commercial and sport fisheries.

Tourism is the largest industry in Florida, contributing \$53 billion annually to our economy. Wildlife-related recreation constitutes a significant portion of that total, with fishing, hunting and wildlife viewing generating \$7.2 billion annually. Therefore, protection of our marine resources provides a benefit the entire community, through the ability to enjoy ecotourism, or as a community that benefits from the positive economic impact of ecotourism.

Objective 107.12 is clear in the mandate that Lee County is obligated and will support maintaining and improving marine fisheries resources and productivity. Such protection cannot be accomplished if one of the integral components of a healthy marine environment – mangrove wetlands – is destroyed. The applicant could design the project to be compatible with the protection of marine resources by removal of impacts to 2.72 acres of mangrove wetlands. Until such modification is done, the project is inconsistent with the Lee Plan and as such constitutes grounds for a recommendation of denial.

# **Protection of Water Quality**

GOAL 108: ESTUARINE WATER QUALITY. To manage estuarine ecosystems so as to maintain or improve water quality and wildlife diversity; to reduce or maintain current pollution loading and system imbalances in order to conserve estuarine productivity; and to provide the best use of estuarine areas. (Amended by Ordinance No. 94-30)

**POLICY 108.1.2:** Development affecting coastal and estuarine water resources must maintain or enhance the biological and economic productivity of these resources. (Amended by Ordinance No. 00-22)

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**POLICY 108.1.2:** Development affecting coastal and estuarine water resources must maintain or enhance the biological and economic productivity of these resources. (Amended by Ordinance No. 00-22)

The proposed project site is located within an Outstanding Florida Waters (OFW), the Pine Island Aquatic Preserve. As an OFW, this system is both hydrologically and ecologically connected and, according to Chapter 62-302.700 Florida Administrative Code, is a water designated worthy of special protection because of its natural attributes. The OFW will be significantly impacted as stormwater from the project site travels from the retention ponds onto on-site wetlands and discharges directly into the mangrove system and aquatic preserve. This project's proposed stormwater system will directly and adversely impact these waters, thus making the application inconsistent with the Lee Plan, with such inconsistency constituting grounds for a recommendation of denial.

Maintaining the Integrity of Coastal Planning Areas
GOAL 113: COASTAL PLANNING AREAS. To conserve, maintain, and
enhance the natural balance of ecological functions in the coastal planning area,
with particular emphasis on the protection of beach and dune systems so as to
retain their contribution to storm protection, natural resources, and economic
development. (Amended by Ordinance No. 94-30)

**OBJECTIVE 113.1: COASTAL PLANNING AREA IN GENERAL.** Lee County will manage the coastal planning area to provide a balance among conservation of resources, public safety capabilities, and development. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 113.1.1:** Coastal areas with significant public value for water retention and purification, wildlife habitat, and primary productivity will be protected through the development permitting process and enforcement of appropriate codes and regulations. (Amended by Ordinance No. 00-22)

**POLICY 113.1.2:** All development within the coastal planning area must be compatible with protection of natural systems. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 113.1.5:** Lee County will protect and conserve the following environmentally sensitive coastal areas: wetlands, estuaries, mangrove stands, undeveloped barrier islands, beach and dune systems, aquatic preserves and wildlife refuges, undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities, and marine grass beds. (Amended by Ordinance No. 00-22)

Policy 113.1.5 is not discretionary, but requires Lee County to protect and conserve environmentally sensitive coastal areas, of which mangroves are included. Balancing the needs of not only individual property owners, but the public's interest and the economic values attached to healthy, intact ecosystems must be considered. The location of this proposed development within the CHNE and the Pine Island Aquatic Preserve OFW, and in close proximity to Ding Darling National Wildlife Refuge and three other national wildlife refuges means

that any negative impacts created will be detrimental not only to Lee County but to other entities. Regardless of the amount of mitigation offered, allowing development that removes 2.72 acres of mangroves does not meet the requirement of mangrove protection or the protection of the surrounding natural ecosystems. As proposed, this project is inconsistent with the Lee Plan and this constitutes grounds for a recommendation of denial.

#### **Protection of Wetlands**

GOAL 114: WETLANDS. To maintain and enforce a regulatory program for development in wetlands that is cost-effective, complements federal and state permitting processes, and protects the fragile ecological characteristics of wetland systems. (Amended by Ordinance No. 94-30)

**OBJECTIVE 114.1:** The natural functions of wetlands and wetland systems will be protected and conserved through the enforcement of the county's wetland protection regulations and the goals, objectives, and policies in this plan. "Wetlands" include all of those lands, whether shown on the Future Land Use Map or not, that are identified as wetlands in accordance with F.S. 373.019(17) through the use of the unified state delineation methodology described in FAC Chapter 17-340, as ratified and amended by F.S. 373.4211. (Amended by Ordinance No. 94-30, 00-22)

POLICY 114.1.1: Development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres, except that one single family residence will be permitted on lots meeting the standards in Chapter XIII of this plan, and except that owners of wetlands adjacent to Intensive Development, Central Urban, Urban Community, Suburban, and Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance with Footnotes 9b and 9c of Table 1(a), Summary of Residential Densities. (Amended by Ordinance No. 94-30, 00-22)

**POLICY 114.1.2:** The county's wetlands protection regulations will be consistent with the following:

- 1. In accordance with F.S. 163.3184(6)(c), the county will not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption.
- 4. Every reasonable effort will be required to avoid or minimize adverse impacts on wetlands through the clustering of development and other site planning techniques. On- or off-site mitigation will only be permitted in accordance with applicable state standards.

**POLICY 1.5.1:** Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological

that any negative impacts created will be detrimental not only to Lee County but to other entities. Regardless of the amount of mitigation offered, allowing development that removes 2.72 acres of mangroves does not meet the requirement of mangrove protection or the protection of the surrounding natural ecosystems. As proposed, this project is inconsistent with the Lee Plan and this constitutes grounds for a recommendation of denial.

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POLICY 1.5.1: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological

functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Amended by Ordinance No. 94-30)

According to Policies 114.1.1 and 1.5.1, the density allowed within Wetlands is one dwelling unit per 20 acres. This site, if reviewed as an approximately 78 acre mangrove wetland forest, would be eligible for three units. However, as this proposal is an amendment to the already approved SSRSDP, there are 18 units that have been determined to be vested to this site. Yet, even with the vested 18 units, these units are not vested over the entire 78 acre site. They are specifically tied to 1.3 acres of the upland spoil at the north tip of the mangrove island. With regard to the six additional units requested by the applicant, the availability of these units to Plantation Development, Ltd. was through a private agreement, which does not translate into any obligation on the County's part to allow for transfer onto mangrove wetlands, and is in fact inconsistent with these policies within the Lee Plan.

Thus, in order to be consistent with these policies, Lee County must require the development of the vested 18 units within the existing allowed footprint of the upland portion of the site, or to allow the developer to find another, more appropriate, upland location within the South Seas Resort for the 18-24 units. However, as proposed, this project is inconsistent with the wetlands protection policies of the Lee Plan.

### **Protection of Water Quality**

**GOAL 115: WATER QUALITY AND WASTEWATER.** To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.

**OBJECTIVE 115.1:** Maintain high water quality, meeting or exceeding state and federal water quality standards.

**POLICY 115.1.1:** Sources of water pollution will be identified, controlled, and eliminated wherever feasible.

While Goal 108 requires Lee County to protect water quality for the benefit of the estuary and the wildlife that utilize this resource, Goal 115 gives the County a broader mandate to ensure that water quality is maintained not only for the environment, but for the people of Lee County. As the project's 2.72 acres of mangroves to be impacted currently filter pollutants out of the water column, their removal will result in a decrease in the ability of this mangrove system to enhance water quality. In addition, the impacts of this proposal will create secondary and cumulative impacts that extend beyond the direct 2.72 acres of mangroves slated for removal.

This correlation between impacts to mangrove ecosystems and degradation to not only the environment but water quality and quality of life was highlighted by the Charlotte Harbour National Estuary Program's Management Plan, which states:

Over the years, dredge-and-fill operations have reduced about 25 percent of the mangrove habitat in the CHNEP study area. In addition to direct loss, urban and agricultural runoff changes water flows to interfere with the beneficial functions performed by mangrove systems. The high cost of developing mangrove habitat is ultimately paid by taxpayers in terms of flood damage, shoreline erosion and water quality corrections. Despite increased regulation, cutting and trimming continues to threaten mangroves (Comprehensive Conservation and Management Plan 2008 Update, page 24).

This project's proposal to remove mangrove wetlands is inconsistent with protection of water quality as required under the goal, objective and policy of 115 and constitutes grounds for a recommendation of denial.

In conclusion, the Conservancy of Southwest Florida believes that for the reasons stated above, the proposed development for Harbour Pointe is inconsistent with the Lee Plan and, as proposed, should be recommended for denial.

Sincerely,

Nicole Ryan

Governmental Relations Manager

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Sincerely,

Nicole Ryan

Governmental Relations Manager

Nicole Ryan

I represent the Conservancy of Southwest Florida and am here today to present our objections to the proposed Harbour Pointe development, specifically the project's inconsistency with the Lee Plan. The Conservancy's mission is to protect our unique natural environment and quality of life, now and forever. The Conservancy focuses our advocacy on environmental policy issues within Southwest Florida, but we also work at the state and local level to ensure our environment is protected and that growth occurs in a sustainable manner. We are supported by over Members of the Conservancy regularly utilize Pine Island Sound and the area near Captiva Island and Redfish Pass for boating, fishing, and other recreation and would be directly impacted by the construction of the Harbour Pointe development on Captiva Island. Members of the Conservancy reside and own property on Captiva Island and would be directly impacted in their use and enjoyment of property by the construction of the Harbour Pointe development on Captiva Island,

I am going to express ofinions as to the inconsistency of this project with the Lee Plan. For the record, I am the Conservancy's Governmental Relations Manager, responsible for the Conservancy's Growth Management Program and land use policy within our Environmental Policy Department. I have a Master of Arts degree in Environmental Studies with an emphasis in Land Use Planning from the University of Illinois at Springfield. My course work included classes in: Land Use Planning Principles and Practices, Environmental Planning Land and Resource Use, Development of Planning Theory, Concepts of Ecology and Pollution Prevention. I was hired in 1997 by the Conservancy to work on environmental policy and growth management issues. For the past 10 ½ years, I have

OCEXHIBIT # 20036 Byan July 31,20

represented this organization as an environmental and growth management policy specialist, responsible for reviewing local government planning documents and development applications and testifying before local, regional and state decision makers, primarily County Commissioners and Planning Commissions. My testimony has focused on a variety of planning issues, such as, Planned Unit Development amendments, conditional use permits, rezoning, Comprehensive Plan amendment and Land Development Code amendments and the consistency of development proposals with comprehensive plans. My iob responsibilities also include working at the local, regional and state level on land planning issues, such as the statewide Rural Land Stewardship program rule development and Legislative issues regarding growth management. I am familiar with the Lee Plan and have reviewed the proposal to amend the South Seas Resort Master Development Plan for consistency with the Lee Plan.

## **Function of the Lee Plan**

As you are aware, Florida law, under Chapter 163, Part II, Florida Statutes, requires each local government to consistently manage growth by adopting and implementing a comprehensive plan that is consistent with state and regional planning requirements. The comprehensive plans are essentially a local government's constitution for controlling and directing the type and amount of land uses allowed or encouraged by a community.

It is important to point out that there are different layers of government and agency oversight required for approval of a development project, with each of these entities reviewing an application from a different set of criteria. For permitting in wetlands, a State Environmental Resource Permit (ERP), a federal Corps 404 permit and consistency with local land use

plans are all required. Because each review applies different criteria, all three approvals are required prior to project commencement. The must focuse the missingly applies the project with th

The issuance of an ERP, while one step in the approval process for a project, is not comprehensive enough to substitute for a County land use consistency determination. as an ERP does not address many of the goals, objectives and policies in the Lee Plan. It is the Lee Plan's function to look at the "big picture" and determine appropriateness of various land uses and a project's consistency with all applicable goals, objective and policies. It is also Lee County's responsibility to ensure that development which is inconsistent with the Lee Plan either be modified or denied County approval. Thus, Lee County cannot simply defer to the ERP to satisfy county consistency requirements or is Lee County bound by the ERP authorized by the South Florida Water Management District. It is the ultimate responsibility of the Lee County Board of County Commissioners, utilizing the Hearing Examiner's findings and recommendations, to determine whether the proposed amendment is consistent with the Goals, Objectives, and Policies of the whole Lee Plan.

To be more specific, Policy 114.1.2, under the general Goal for protecting wetlands, while providing that the County will not perform an independent review of wetland impacts where an Environmental Resource Permit has been approved, does not relieve the County of its obligation to apply more specific policies regarding Captiva Island and its mangroves or the full range of other Goals, Objectives, and Policies in the Lee Plan.

The Conservancy believes the expanded Harbour Pointe project, as proposed with mangrove wetland impacts, is

inconsistent with the Lee Plan, and as proposed,

amendment of the Harbour Pointe site plan of the 2002

South Seas Resort Master Development Plan should be denied.

The Conservancy bases our assessment of inconsistency with the Lee Plan on review of the following Goals, Objective and Policies.

## **Captiva Mangrove Protection**

The proposal is inconsistent with Policy 13.1.12 contained in the specific development standards for Captiva, which states: *Mangroves on Captiva Island will be protected to the greatest extent possible.* 

The proposed development is inconsistent with this policy because it does not protect to the greatest extent possible the mangrove wetlands contained on the site. In 2002, Lee County issued an Administrative Interpretation recognizing the allocation of the 18 units for the Harbour Pointe development, with the specific stipulation that this development could only occur if there were no wetland impacts. Such a configuration of development would restrict any proposed footprint to the existing upland spoil site.

The proposed amendment in this case would not meet the mangrove protection "to the greatest extent possible" requirement of Policy 13.1.12. Harbour Pointe could be designed so that no mangrove wetland impacts occur. However, due to the applicant's desire for achieving a specific profit margin, the current proposal is before you requesting 2. The acres of direct mangrove impacts to construct this project.

It is important to keep in minds the amendment is for the entire South Seas Resort Master Development Plan (or South Seas Plan), and the units that the developer is seeking to construct can be located in other areas that do not impact mangroves It is important to reiterate the connection of this project to the South Seas Resort itself, as the Conservancy believes it is relevant to your recommendation. In 1985, a permit was issued by the South Florida Water Management District for the planned development of the entire South Seas Resort. In 1998, the resort owners (at that time, Plantation Development, Ltd.) made the conscious decision to sell 220 acres of the resort. including almost all of the uplands. Plantation Development, Ltd. retained limited portions of the resort, mostly mangroves, including the 78 acres of the proposed Harbour Pointe site, of which 76.5 are mangroves or other wetlands. Eighteen units were attached to the Harbour Pointe site at the time of sale, and a 2002 Lee County Administrative Interpretation (ADD2002-00098) has vested these units to Harbour Pointe, with the stipulation of no wetland impact for the development.

However, the property owner is not proceeding with development of the vested units on the allowed footprint, but is instead requesting approval to increase the development footprint and transfer in six floating units from South Seas Resort that were additionally retained as part of the 1998 sales transaction. Yet, the retention of these six units was a private agreement between the buyer and seller of the South Seas Resort and as such, Lee County is in no way obligated to provide for transfer of these six units.

The applicant is attempting to justify development on mangrove wetlands because this is the only property they own after selling their uplands. Yet, they desire to receive County approval for their development not as a new rezone application, but as an amendment to the existing South Seas Plan, within which there are upland sites that would be more appropriate for this project. In this respect, if the Harbour Pointe development is truly separate from the remainder of South Seas, then the site should be removed from the South Seas Plan and treated as a new rezone application under the current zoning applicable to the Lee Plan. Such an application must then stand on its own merits for review as a development in mangrove wetlands, and be subject to a consistency review on that basis against the Lee Plan and the Future Land Use Map.

On the other hand, if the applicant desires to amend the existing South Seas Plan, then more appropriate upland locations within the entire South Seas Resort should be reviewed for placement of development that would otherwise impact mangrove wetlands. The Conservancy recognizes that there are 24 units still vested within the South Seas Plan. Our position is not that these units should be denied altogether. However, their development must be consistent with the goals, objectives and policies contained within the Lee Plan.

To properly apply Policy 13.1.12 to the proposed amendment of the South Seas Plan, the entire South Seas Plan should be reviewed to find an appropriate upland location for the 24 units desired for construction. There is currently a development agreement that allows for future Plantation Development Ltd. units to utilize the resort's amenities, including the tennis courts and swimming pools. In addition, there will be shared roads, and the proposed bridge to access Harbour Pointe would be located on South Seas Resort's property, the location of a former golf putting green. This indicates that while owned by different entities,

these properties are still one, intact planning unit. Therefore, a variety of potentially appropriate upland locations for development within South Seas should be evaluated.

There are also alternatives for the development. First, Harbour Pointe could be developed in the manner in which it was initially permitted, with all development wholly contained within the existing upland spoil site. Such a design would require scaling back on the size of the units, which would be compatible with the already existing units within South Seas, including the units across the inlet from Harbour Pointe. The swimming pool could be eliminated to provide more space for the units.

Another option could be the construction of one or more single-family homes on the Harbour Pointe site, to be wholly contained within the current limits of the spoil site. Because of the location, such homes would be the showplace of South Seas and as such, could demand an extremely high price that would make up for the lack of additional units on this site.

While a District ERP <u>has</u> been issued, the District's Basis of Review for permits does not contain a requirement to protect mangroves to the greatest extent possible, as the Lee Plan does. It only requires that SFWMD consider whether the applicant has implemented practicable design modifications to reduce or eliminate adverse wetland impacts. Implementing practicable alternatives, however, is clearly not the same as protecting mangroves to the greatest extent possible.

This proposed project's increase of direct mangrove wetland impacts from none to 2.72 acres is inconsistent with Policy 13.1.12, regardless of what agency permits have been

issued and constitutes grounds for a recommendation of denial.

GOAL 80 reads: Increase the recreation potential of Lee County's natural waterways and

GOAL 84 reads: REGIONAL PARKS. To preserve a portion of the county's natural environment to augment that which is set aside by the state of Florida and the federal government, in order to preserve natural habitats, protect the water supply, and preserve the natural heritage; and to make these natural resources available to the general public for resource-based recreational activities, enjoyment of nature, and educational enrichment.

The proposed development is inconsistent with these goals because of its location within the Charlotte Harbour National Estuary (CHNE) and its proximity to other key state and federal conservation areas, including the Ding Darling National Wildlife Refuge, one of the most visited wildlife refuges in the United States. Removal of 2.72 conservation area will degrade the entire system. Alteration of natural systems, especially mangrove wetlands, will have a tremendous impact on the resource areas that local, state and federal agencies and organizations are working to protect.

The CHNE identifies four major threats to the estuary and local ecosystem within the 2008 update of their Management Plan: water quality degradation, hydrologic alterations, fish and wildlife habitat loss and stewardship gaps. The management plan also states that:

Mangrove systems have the highest measured annual productivity of any system measured in the

# world. (Comprehensive Conservation and Management Plan 2008 Update, page 24).

environment and increase the recreational potential of the natural waterways, intact and functional ecosystems must be protected. Approval of this is not only contrary to the Charlotte Harbour National Estuary management plan, but is inconsistent with the Lee Plan and constitute grounds for a recommendation of denial.

Under GOAL 121: FISHERIES MANAGEMENT,
POLICY 121.1.3 reads: The county will continue to design
and implement protective and incentive mechanisms to
prevent adverse impacts to commercial and sport fisheries.

The proposed development is inconsistent with this policy because of the importance of these mangroves as a food source and shelter to a variety of fish species. There is an enormous amount of marine life in the surrounding waters, including game fish such as redfish, snook, trout and tarpon. The US Environmental Protection Agency has identified mangroves in Lee County as Aquatic Resources of National Importance (ARNI).

This mangrove system provides a valuable source of food for a variety of fish in the form of detritus, or dead leaf litter, serving as an important nursery for many species of juvenile fish, including snook and tarpon. One acre of mangroves produces between five and ten thousand fish in a given year. Based upon the Lee Plan's goal to preserve and manage fisheries resources, the destruction of 272 acres of mangrove wetlands (which could produce between 13,600 and 27,000 fish annually) is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

OBJECTIVE 158.1reads: Lee County will encourage the conservation and enhancement of those natural and cultural resources that represent the foundation of the county's existing retirement, recreation, and tourist oriented economy in order to place Lee County in a competitive position to enable the retention and expansion of these and other business opportunities.

The proposed development is inconsistent with this objective based on the economic benefit of intact natural ecosystems to the economy of Lee County. The waters in an around this area are considered one of the ten best fishing spots in the country and host to several annual major fishing tournaments.

While the applicant has stated during several public hearings that economics are an important component of their business decision of building placement, size and need for amenities, it is also essential to consider the economics of ecosystem services. Such services encompass a broad-range of values added. Mangrove wetlands provide benefits such as: Storm protection, nutrient cycling, filtration of pollutants and nutrient breakdown, refugia as nurseries for juvenile fish species, habitat for nesting and feeding of wading birds, aesthetic, educational and scientific value. While all of these provisions have a value, it was not until recently that economists took a close look at putting a value on ecosystem services.

In his recently published book, "The Economics of Everglades Restoration: Missing Pieces in the Future of South Florida," economist Richard Weisskoff computed that, in 1994 dollars, mangroves/saltwater wetlands contributed over \$2.6 billion in ecosystem services value. Thus, when determining the economic impacts of a development, the economics cannot be simply limited to a developer's bottom line of expectation of profit, but also the economic impacts of development on our ecosystem services, which in fact are a benefit to all people. Based on the proposed projects impacts to economically valuable mangroves, the destruction of 2.72 acres of mangrove wetlands is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

## Under GOAL 104: COASTAL RESOURCE PROTECTION.

OBJECTIVE 104.1 reads: ENVIRONMENTALLY CRITICAL AREAS. Within the coastal planning area, the county will manage and regulate, on an ongoing basis, environmentally critical areas to conserve and enhance their natural functions. Environmentally critical areas include wetlands

The proposed development is inconsistent with this objective because the mangrove wetlands within the Harbour Pointe site constitute an "environmentally critical area" and the site is located within a "coastal planning area." This policy clearly states that it is Lee County's obligation to protect its natural resources from the damage of inappropriate development. Allowing the applicant to remove 2. To acres of mangrove wetlands, which equates to over two football fields worth of mangroves (one acre = 43,560 square feet and one football field at 160 feet x 360 feet = 57,600 square feet), will create a tremendous impact not only to the site itself, but to adjacent land and waterways.

The project is inconsistent with Objective 104.1 the Lee Plan and constitutes grounds for a recommendation of denial.

GOAL 110 reads: HAZARD MITIGATION. To provide through county plans, programs, and regulations means to minimize future property losses from natural disasters such as flooding, tropical storms and hurricanes.

The proposed Harbour Pointe development is part of a functioning, mature mangrove forest within a barrier island system that provides storm protection for the existing residents of South Seas. Mangrove forests are an important component in absorbing some of the impacts of hurricanes and storms, thus protecting citizens and property. In addition to the reduced buffer protection for current residents that will occur if this development is approved, the addition of 24 residential units to Harbour Pointe will also place these new residents in a highly vulnerable area with regard to storm impacts. Thus, the project is inconsistent with the Lee Plan and constitutes grounds for a recommendation of denial.

## Under GOAL 107: RESOURCE PROTECTION.

**POLICY 107.2.3 reads:** Prevent water management and development projects from altering or disrupting the natural function of significant natural systems.

**POLICY 107.2.10 reads:** Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas must protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

**POLICY 107.2.13 reads:** Promote optimal conditions rather than minimum conditions for the natural system as the basis for sound planning.

and

OBJECTIVE 107.3 reads: WILDLIFE. Maintain and enhance the fish and wildlife diversity and distribution within Lee County for the benefit of a balanced ecological system.

The goal, objectives and policies contained within this section of the Lee Plan require Lee County to comprehensively evaluate the proper balance between competing needs, including water quality, wildlife protection, development and quality of life, both on-site and in adjacent and surrounding areas. Assessment of the resource in question – mangrove wetlands – and the impact of removal of 2.72 acres of mangroves is inextricably woven into their importance as storm protection, habitat for fish and other marine life recreational value for fishing and as a food source for wildlife. Wading and migratory birds utilize these mangroves for nesting and perching. Thus, the importance of protecting mangrove wetlands not only benefits plants and animals, but also the people of Lee County.

The proposed development is inconsistent with these goals, objectives and policies because it would replace 2.72 acres mature mangroves with residential development.

OBJECTIVE 107.12 reads: MARINE PRODUCTIVITY. Lee County will support maintenance and improvement of marine fisheries productivity, and promote the conservation of fishery resources through the protection and restoration of finfish and shellfish habitat.

Tourism is the largest industry in Florida, contributing \$53 billion annually to our economy. Wildlife-related recreation constitutes a significant portion of that total, with fishing, hunting and wildlife viewing generating \$7.2 billion annually. Therefore, protection of our marine resources provides a benefit the entire community, through the ability to enjoy

ecotourism and from the positive economic impact of ecotourism.

Objective 107.12 is clear in the mandate that Lee County is obligated and will support maintaining and improving marine fisheries resources and productivity. Such protection cannot be accomplished if one of the integral components of a healthy marine environment – mangrove wetlands – is destroyed. The applicant could design the project to be compatible with the protection of marine resources by removal of impacts to mangroves. Until such modification is done, the project is inconsistent with the Lee Plan and as such constitutes grounds for a recommendation of denial.

Under GOAL 108: ESTUARINE WATER QUALITY.

**POLICY 108.1.2 reads:** Development affecting coastal and estuarine water resources must maintain or enhance the biological and economic productivity of these resources. (Amended by Ordinance No. 00-22)

The proposed project site is located within an Outstanding Florida Waters (OFW), the Pine Island Aquatic Preserve. As an OFW, this system is both hydrologically and ecologically connected and, according to Chapter 62-302.700 Florida Administrative Code, is a water designated worthy of special protection because of its natural attributes. The OFW will be significantly impacted as stormwater from the project site with the retention ponds onto on-site wetlands and discharge directly into the mangrove system and aquatic preserve, making this project inconsistent with the Lee Plan.

Under OBJECTIVE 113.1: COASTAL PLANNING AREA IN GENERAL.

and and

POLICY 113.1.5 reads: Lee County will protect and conserve the following environmentally sensitive coastal areas: wetlands, estuaries, mangrove stands[, undeveloped barrier islands, beach and dune systems, aquatic preserves and wildlife refuges, undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities, and marine grass beds.]

Policy 113.1.5 is not discretionary, but requires Lee County to protect and conserve environmentally sensitive coastal areas, of which mangroves are included. Balancing the needs of not only individual property owners, but the public's interest and the economic values attached to healthy, intact ecosystems must be considered. The location of this proposed development within the Charlotte Harbor National Estuary and the Pine Island Aquatic Preserve OFW, and in close proximity to Ding Darling National Wildlife Refuge and three other national wildlife refuges means that any negative impacts created will be detrimental not only to Lee County but to other entities. As proposed, this project is inconsistent with the Lee Plan and this constitutes grounds for a recommendation of denial.

POLICY 114.1.1 reads: Development in wetlands is limited to very low density residential uses and uses of a recreational, open space, or conservation nature that are compatible with wetland functions. The maximum density in the Wetlands category is one unit per 20 acres? except that one single family residence will be permitted on lots meeting the standards in Chapter XIII of this plan, and except that owners of wetlands adjacent to Intensive Development, Central Urban, Urban Community, Suburban, and Outlying Suburban areas may transfer densities to developable contiguous uplands under common ownership in accordance

with Footnotes 9b and 9c of Table 1(a), Summary of Residential Densities.

POLICY 1.5.1 essentially states the same thing: [Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 114 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan. (Amended by Ordinance No. 94-30)]

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resource, Goal 115 and its objectives and policies gives the County a broader mandate to ensure that water quality is maintained not only for the environment, but for the people of Lee County. As the project's 2.72 acres of mangroves to be impacted currently filter pollutants out of the water column, their removal will result in a decrease in the ability of this mangrove system to enhance water quality. In addition, the impacts of this proposal will create secondary and cumulative impacts that extend beyond the direct acres of mangroves slated for removal.

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The high cost of developing mangrove habitat is ultimately paid by taxpayers in terms of flood damage, shoreline erosion and water quality corrections. (Comprehensive Conservation and Management Plan 2008 Update, page 24).

This project's proposal to remove mangrove wetlands is inconsistent with protection of water quality as required under the goal, objective and policy of 115 and constitutes grounds for a recommendation of denial.

In conclusion, the Conservancy of Southwest Florida believes that for the reasons stated above, the proposed development for Harbour Pointe is inconsistent with the Lee Plan and, as proposed, should be recommended for denial.

## Fax

## Nctional Wildlife Refuge System



J.N. "Ding" Darling National Wildlife Refuge Island Bay National Wildlife Refuge Pine Island National Wildlife Refuge Marlacha Pass National Wildlife Refuge Calposahatchee National Wildlife Refuge

1 Wildlife Dr Sanibel, FL 33957

ph: 239/472-1100x fax: 239/472-4061

To: Diana Parker

From: Paul Iritaik

Date: 8/1/08

Pages to follow:

Subject: Resune

Diana,

Flease accept my resume as documentation for my testimony as an expert witness on:

1. Fish and Wildlife Management

2 - Coastal Habitat Management

This resume has not been updated since

I was hired as Ratige Manager of the J.N.

"Ding" Darling NWR Complex. If you need an

VESUME J. Can sent it to you next week.

TRITAIR #1 55

RESUME DC (0004-00030

RESUME DC (0004-00030

RESUME DC (0004-00030)

Paul Stephen Tritaik

6710 49th Ct. Vero Beach, FL 32967 Mobile: 772-216-6512

Evening Phone: 772-567-9675 Day Phone: 772-562-3909 Email: paul tritaik@fws.gov

Country of citizenship: Veterans' Preference:

United States of America

Registered for Selective

Service

GS-0485-12, 10/2002-Present

Highest Grade: Contact Current **Employer:** 

Yes

AVAILABILITY

Job Type:

Permanent

Work Schedule:

**Full Time** 

WORK EXPERIENCE FWS-Pelican Island NWR/Archie Carr NWR 10/2002 - Present

Vero Beach, Florida US

Grade Level: GS-12 Salary: \$71,874 USD Per Year

Hours per week: 40

#### Refuge Manager (Project Leader), 0485

Served as Project Leader/Refuge Menager for the Pelican Island & Archie Carr NWRs. Supervised & mentored a multidisciplinary staff of up to 5 permanent employees, 3 temporary employees, 1 contract employee, 2 interns, 5 YCCs, & oversaw up to 370 volunteers. Established performance plans to assess employees' performance & individual development plans to enhance employee's skills. Fostered a collaborative work environment to maximize results. Resolved personnel problems before they reached formal actions.

Provided leadership in the operation of two highly visible, politically sensitive, & sometimes controversial refuges. Represented the refuge & agency at public meetings with stakeholders (often with opposing viewpoints) to defend & promote management actions or policies. Negotiated with stakeholders to resolve conflicts & achieve mutual benefits, while building community support & enduring partnerships. Managed partnerships resulting in over \$80 million in land acquisition, habitat restoration, & visitor facilities through donations, leases, conservation sessments, & agreements.

Coordinated hurricane response with local emergency management teams & provided guidance & direction to multi-agency Incident Command Teams. Served as chair of the South Florida Ecosystem Team, interagency working groups & planning committees to develop strategies & action plans to achieve Service goals.

Formulated Comprehensive Conservation Plans on two refuges to establish long-term goals & objectives. Developed three Minor Expansion Proposals to authorize expanded land acquisition. Prepared several Environmental Assessments, IntraService Section 7s, & step-down management plans to achieve objectives in compliance with Service directives. Established refuge goals through the Refuge Annual Performance Plan & developed annual work plans through strategic planning. Managed an annual budget of about \$2 million (operations & special projects) & assets of over \$3 million.

Assessed refuge uses & made compatibility determinations to maximize benefits and minimize impacts. Issued special use permits to manage those uses while protecting the resources of the refuge. Coordinated research activities with various universities to assess wildlife abundance, productivity & health as well as evaluating biological threats & habitat degradation.

#### Accomplishments:

Planned & coordinated the NWRS Centennial in March 2003, with participation from a U.S. Senator & Congressman, Secretary of Interior, FWS Director, NPS Director, FWS Directorate leaders, partners & FW5 employees & volunteers from all over the nation.

Detailed to the Regional Office to act for the Refuge Supervisor & Deputy, & to the Washington Office to assist refuge policy projects. Expanded land acquisition at both refuges. Protected & restored Pelican Island. Established 2 refuge friends groups. Built the refuge's first visitor facilities & created the Centennial Trail boardwalk & tower. (Contact Supervisor: Yes, Supervisor's Name: Ron Hight/Elizabeth Souheaver, Supervisor's Phone: 321-861-2278/404-679-7163)

PWS-Pelican Island NWR/Archie Cerr NWR 1/1993 - 10/2002 Vero Beach, Florida US

Grade Level: GS-9/11 Salary: \$49,813 USD Per Year Hours per week: 40

Refuge Manager, 0485

Supervised a staff of 3 permanent employees (biologist, biological technician, and park ranger), 2 temporary biological technicians, 40 volunteers, and several interns engaged in biological surveys, pest plant control, outreach activities, environmental education, and visitor services (turtle walks).

Coordinated annual Pelican Island Wildlife Festival since 1993, which has successfully fostered greater community support and awareness and draws about 3,000 - 7,000 people contributing to the local economy.

Wrote position descriptions, developed performance standards, interviewed and selected candidates, approved leave, and conducted performance appraisals.

Prioritized refuge projects in annual work planning and managed a budget of over \$600,000.

Wrote the Pelican Island Comprehensive Conservation Plan and other management

Wrote reports on annual accomplishments and assessed maintenance and operational needs for budget planning purposes.

Wrote environmental assessments and preliminary project proposals for land acquisition and management activities.

Prepared grant applications for funding projects and drafted interagency memorandums of agreement to establish partnerships.

Organized interagency coordination meetings and activities and facilitated public meetings for the purpose of disseminating refuge information and receiving public input.

Provided assistance to intra-agency partners on habitat conservation plans, recovery plans, and coastal restoration projects.

Supervised contracts with consultants to plan and perform refuge projects on habitat restoration.

Coordinated impoundment management activities with state and local agencies and administered agreements on farming (citrus) operations.

Planned, performed, and supervised biological surveys and studies (see turtles, beach mice, and water birds) and interpreted data for management purposes.

Performed land surveys and site inspections to assist in land acquisition efforts.

Managed and directed public use activities on the refuges (tours, turtle walks) and enforced refuge regulations.

Planned, performed, and supervised wildlife and habitat management, including invasive exotic plant control; nuisance animal control; boundary posting; habitat restoration, and grounds maintenance. (Contact Supervisor: Yes, Supervisor's Name: Ron Hight, Supervisor's Phone: 321-861-2278)

FWS - Bond Swamp NWR Round Oak, Georgia US

6/1991 - 1/1993 Grade Level: GS-7/9 Salary: \$27,789 USD Per Year Hours per week: 40

#### Refuge Manager, 0485

Developed partnerships with Ocmulgee National Monument, Georgia DNR, Mecon Museum of Arts and Sciences, Brown's Mount Association, and local conservation organizations.

Developed preliminary plans for public use access.

Conducted eagle, colonial waterbird, red-cockaded woodpacker, and wood duck nest surveys. Established wood duck nest box program. Developed neotropical migratory bird monitoring program.

Conducted law enforcement activities, animal damage control, boundary surveys and posting.

Provided guided interpretive tours, environmental education, and outreach. Coordinated special events on the refuge. Managed hunting and fishing programs.

Conducted prescribed burning, timber cruising, exotic plant control, and nuisance animal control.

#### Accomplishments:

Coordinated the Fish and Wildlife Service's interactive exhibit on the Olympic Flag Tour, including exhibit planning and design, logistics, staffing, and transportation for the exhibit to 6 cities in 11 days.

Coordinated logistics for an Earth Day Expo event with the Atlanta Braves, which reached over 10,000 people. (Contact Supervisor: Yes, Supervisor's Name: Ronnie Shell, Supervisor's Phone: Retired)

#### **EDUCATION**

#### University of Maryland

College Park, Maryland US

Bachelor's Degree - 5/1982

122 Semester Hours
Major: Wildlife Management
GPA: 2.7 out of 4.0
Relevant Coursework, Licensures and Certifications:
General Zoology (4 credits), Animal Diversity (4), Special Problems in Zoology (2),
Principles of Conservation - Botany(3), General Botany (4), Population Biology &
Ecology (4), Life of the Oceans - Merine Biology (3), Mammalogy (3), Wildlife
Management (3), Conservation of Natural Resources (3), Animal Ecology (2),
Introduction to Insect Population Management (3), Introduction to Wildlife Disease (2),
Endangered Species (3), Ornithology (4), Living Off The Land - Wild Edible Plants (3).

## JOB RELATED TRAINING

Training: Ethics (2007); Government Purchase Card Approving Official (2007); Discrimination and Whistleblowing in the Workplace (2005-2007); Federal Information Systems Security Awareness (2005-2007); MOCC-Airboat Safety Module (2007); Stepping Up To Leadership (2006); Staffing and Placement for Supervisors (2006); Records Management Awareness (2006); Orientation to the Privacy Act (2006); GIS Introduction for Conservation Professionals (2006); Hebitat Management Planning (2006); Contracting Officer's Representative (2006); COR Mentor Program (2006); Marine Turtle Exterior Lighting Seminar (2005); Applied Supervision (2005); Merit System Principles and Prohibited Personnel Practices (2005); Supervisory Pay and Leave Overview (2005); Supervisory Ethics (2005); National Wilderness Stewardship (2005); Law Enforcement In-service Refresher (1990-2005); SAMMS Training (2004); Fire Extinguisher Application (2003); Property Officer Training (2002); Refuge Competibility (2001); The Government Purchase Card (2000); Refuge Comprehensive Conservation Planning (2000); Ecosystem Approach to Conservation (1999); Franklin Covey Time Management (1999); Pesticide Applicators License (1998); Motorboat Operator Certification Course (1997); Volunteer Recruitment and Management (1997); Negotiation Strategies and Techniques (1995); Meeting the Needs of the Disabled:Program Accessibility (1992); Project Learning Tree (1992); Archaeological Resources Protection Training Program (1991); Aviation User Training (1991); ATV Safety (1991); Defensive Driving (1991); Standards of Survival (1991); Meeting The Media (1991); WordPerfect (1991); Disc Operating System (1991); Desktop Publishing (1991); Introduction to Supervision, (1990); Boating Skills and Seamanship (1990); Police Training Program (1989); Refuge Officer Basic Training (1969); Firefighter Training (1989); Basic Fire Behavior (1989); Basic ICS (1989); Power Saw Training (1989); Project Wild (1989).

**AFFILIATIONS** 

Society

Society

Pelican Island Audubon

Friends of the Carr Refuge

FW5 Heritage Committee Indian River Lagoon North

POT

South Beach Community Park Advisory Committee

Ex-officio Board Member

Ex-officio Board Member

Southeast Employee Representative

PWS Representative

FWS Representative

REFERENCES

Lou Hinds

U.S. Fish and Wildlife Service Wildlife Refuge Manager, Chincoteague NWR

Phone Number: Email Address: Reference Type: 757-336-6122 lou\_hinds@fws.gov Professional

Rob Jess

U.S. Fish and Wildlife Service Wildlife Refuge Manager,

Yukon Flats NWR

Phone Number: Email Address: Reference Type:

robert\_jess@fws.gov

**Professional** 

907-456-0440

Paul Souza

U.S. Fish and Wildlife Service Field Supervisor, South

Florida Field Office

Phone Number: Email Address: Reference Type:

paul\_souza@fws.gov

Professional

772-562-3909

Wait Stieglitz

U.S. Fish and Wildlife Service Regional Director (Retired)

772-663-9750

Phone Number: Email Address: Reference Type:

waltstieg@belisouth.net

Professional

ADDITIONAL INFORMATION Honors/Awards/Racognition:

Regional Director's Honor Award (2004, 2001); Fish and Wildlife Service Heritage Award (2003); National Marine Resources Council Paul Kroegel Award (2007); Pelican Island Elementary School Our Hero Award (2004); Pelican Island Audubon Society Special Recognition Award (2003); Stepping Up To Leadership (2006); Superior Performance Award (2007, 2006); Star Award (2005, 2004, 2001); Special Act Service Award (12/22/1996, 9/5/1993, 3/20/1993); On-The-Spot Award (8/7/1994); Special Achievement Award (6/30/1994, 8/30/1993, 3/26/1993, 6/30/1991); Performance Award (8/25/1991); National Park Service Director's Historic Landmark Certificate of Appreciation (2003); City of Sebastian Certificate of Appreciation (2003); Sebastian River Area Chamber of Commerce Certificate of Appreciation (2003); Florida Fish and Wildlife Conservation Commission Certificate of Appreciation (2000); Regional Director's Certificate of Appreciation (1992); ARD Refuges and Wildlife Certificate of Appreciation (1990).

#### Derheimer, Suzanne

From:

Derheimer, Suzanne

Sent:

Wednesday, July 30, 2008 2:21 PM

To:

Richardson, Nettie M.

Subject: Harbour Pointe 24 hr letter

Nettie.

I will agree to the applicant's proposed revised conditions with the following changes:

Remove "per LDC S10-420(b)" from applicant's proposed Condition 10

Revise Staff's Condition II. A. 11. to read "Prior to local development order approval, landscaping plans must depict the top of berm and back slope landward of the proposed rip rap revetment along the east property line planted with 100% native plantings consisting of a minimum of 5 trees, 18 shrubs, and groundcover per 100 linear feet to create a minimum overall buffer of 35 feet. No irrigation and fertilizer is to be utilized within this enhanced area".

Given the no irrigation and fertilizer requirement within this area, 100% native is appropriate.

Susie

Susie Derheimer, Environmental Planner

Lee County
Department of Community Development
Division of Environmental Sciences
P.O. Box 398
Fort Myers, FL 33902-0398

Phone: 239-533-8158 Fax: 239-485-8344

SDerheimer@leegov.com

OC 12004-00036 STAFF EXHIBIT # + July 31, 2008

## Derheimer, Suzanne

From: Derheimer, Suzanne

Sent: Wednesday, July 30, 2008 2:23 PM

To: Richardson, Nettie M.

Subject: Harbor Pointe 24 hr letter

One more thing. ES staff request the Proposed List of Approved Harbour Pointe Non-native Landscape Plants be attached as an Exhibit to the staff report.

S

## Susie Derheimer, Environmental Planner

Lee County
Department of Community Development
Division of Environmental Sciences
P.O. Box 398
Fort Myers, FL 33902-0398
Phone: 239-533-8158

Fax: 239-485-8344 SDerheimer@leegov.com





This map drawn for visual purposes only. Not to be used for official zoning map.

2005 Aerial Photography Printed Jan. 28, 2008

# Plantation Dev. Ltd. DCI2004-00036









This map drawn for visual purposes only. Not to be used for official zoning map.

2007 Aerial Photography Printed July 28, 2008 South SeasProposed Dev Area DCI2004-00036





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HEHORANDUH

FROH

THE OFFICE OF THE

COUNTY ATTORNEY

LAND USE

- DATB: 11/Jun/1992

TO: Rick Joyce

Environmental Sciences FROM:

Donna Marie Collins

Assistant County Attorney

RE: Mariner Properties, Inc. South Seas Plantation LU--1074

On April 23, 1992, Raymond Pavelka and Bob Offi of Mariner Properties, Inc. (Mariner), and County staff members discussed the permitting and development history of South Seas Plantation. I have examined the South Seas Plantation Master Plan as it relates to the Harbour Pointe site. My research has confirmed that the South Seas Plantation Master Plan was subject to an F-0015 review. The project subsequently received a Development Standards Ordinance (DSO) Exemption in 1985. The approval dates suggest that the Master Plan for South Seas Plantation is not subject to the Lee County Mangrove, Wetland, or Tree Protection Section Seven of each Ordinance specifically Ordinances. provides that projects granted Final Development Orders prior to the enactment of those Ordinances would be exempt from those Ordinances to the extent the particular Ordinance conflicts with approvals given in the Development Order application.

Mariner received Master Plan approval for the South Seas Plantation project sometime in 1973. The Plan has been updated several times since then. When Mariner updated their Master Plan on May 16, 1985, the Plan specifically referenced a "service road" which would provide emergency access to the Harbour Pointe location. The project received a DSO Exemption on June 27, 1985. (B ... | 6-39-85) ... The basis for ... the Exemption-was-Hariner's ... F-0015. site plan approval within six months of December 21, 1984. At the time Hariner received the DSO Exemption there was no time limitation on the duration of such exemptions. The Plan was once again updated in February, 1987. Those documents also refer to a "service road" designed to provide access for emergency vehicles to the Harbour Pointe site. Insofar as the service road to Harbour Pointe was originally planned for the purposes of providing emergency access to the site, it is the opinion of this Office that Mariner's efforts to construct or improve the road consistent with this purpose should be exempt from the local permitting requirements of the Wetland Protection Ordinance, the Hangrove Ordinance, and the Tree Protection Ordinance.

STAFF EXHIBIT #

Rick Joyce June 11, 1992 Page 2 of 2

At this time, the minimum width necessary to provide adequate access for emergency vehicles is approximately 20 feet. See the Lee County Development Standards Ordinance, as amended. Therefore, Mariner may construct the service road to these dimensions without seeking permits from Lee County pursuant to the Mangrove, Tree or Wetlands Protection Ordinance. It is my understanding, however, that Mariner will remain subject to the Florida Department of Environmental Regulation and United States Army Corps of Engineers permitting requirements.

For similar reasons, Mariner is exempt from any potential violation for failing to obtain permits for the removal of Mangroves along the Point itself. Had Mariner constructed Harbour Pointe prior to 1986, as was their right to do so, the Point would require reinforcement in order to protect the proposed development. Mariner's placement of the revetment at this time is entirely consistent with the original approval and is therefore exempt from the permitting requirements of the Mangrove, Wetland Protection and the Tree Protection Ordinance.

For the foregoing reasons, the Official Notification of Code Violation issued on March 4, 1992 may be withdrawn. Although there is evidence that Mariner proposed that the service road would be 15 feet in width, the road has been repeatedly referred to as an "emergency access" road. Therefore the road should satisfy minimum standards to provide such access without the need to apply for additional permits from Lee County.

Should you have any questions regarding the foregoing, please do not hesitate to contact me. I am available to meet at your earliest convenience.

## DMC/cpb

Cc: Tim Jones, Assistant County Attorney
Greg Hagen, Assistant County Attorney
Hary Gibbs, Director, Community Development
Paul Bangs, Diector, Development Review
Dave Ceilley, Environmental Sciences
Raymond Pavelka, Hariner Properties, Inc., 12800 University
Drive, Suite 350, Fort Hyers, Florida 33907-5343

(3919M)

#### **MEMORANDUM**

TO: DCD Directors, Wayne Daltry, Roland Ottolini

FROM: Ed Cronyn, Director, Environmental Sciences Division

THROUGH: Mary Gibbs, Director, Department of Community Development

**DATE**: January 11, 2008

**RE:** Coordination with South Florida Water Management District (SFWMD) on Environmental Resource Permit (ERP) Applications

This memorandum outlines short-term and long-term strategies to insure interagency collaboration and coordination on the review and issuance of ERP permits within Lee County.

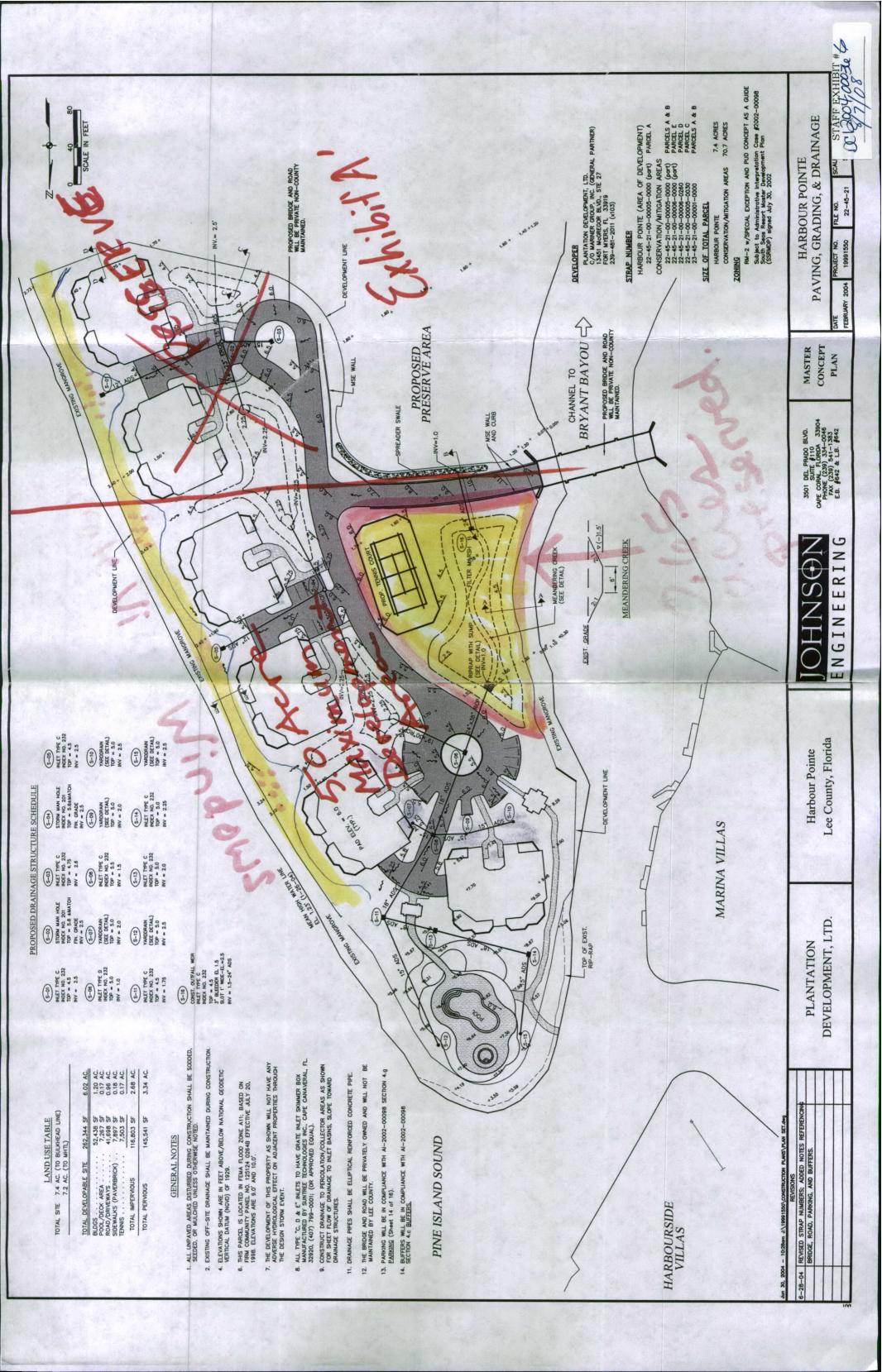
### Review and Comment on ERP Applications

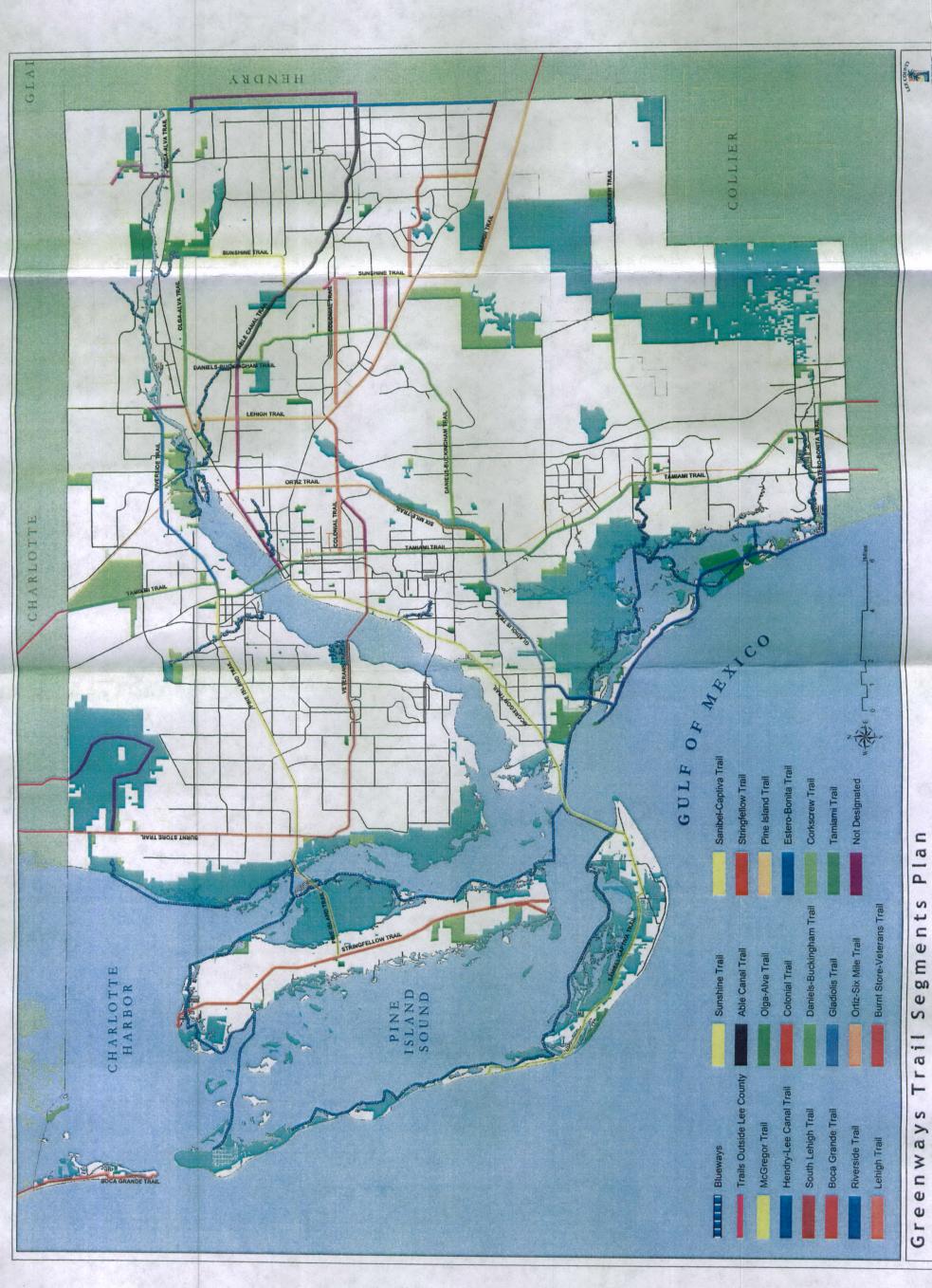
- 1. ES staff (Doug Griffith) receives notice and reviews new ERP applications and staff reports, specifically to determine whether the proposed project has the potential for listed species, excessive wetland impact, or flow-way concerns;
- 2. ES staff will attend monthly environmental interagency meetings at SFWMD;
- 3. For those projects with potential concerns, ES staff will send email with brief bulleted list of potential issues and direct web-link to permit application to Mary Gibbs, Pam Houck, Paul O'Connor, Pete Eckenrode, Ed Cronyn, Wayne Daltry, and Natural Resources (Roland Ottolini/Kurt Harclerode);
- 4. Email recipients respond to ES staff within 1 week (or shorter, if needed to meet SFWMD timeline) indicating potential concerns;
- 5. ES staff and/or others concerned contact SFWMD staff by phone or in-person for clarification, and via email or in writing to convey any concerns not resolved via phone contact

### Technical Assistance to Identify Watershed Resources of Concern

- Identify/develop and share GIS-based maps of flow-ways, areas of ecological/wetland importance, and potential mitigation areas within Lee County, including Lee County Master Mitigation Plan, DRGR FLUCCS map, bald eagle nests, etc.;
- 2. Identify/develop and share other technical information to help educate and advise SFWMD staff towards improved protection of environmentally valuable lands and restoration/mitigation within Lee County.







Segments Lee County Parks & Recreation

ES staff Harbour Point Testimony

What I recognized as Durheimer Estimony

Environmental Sciences (ES) staff has reviewed the proposed Harbour Pointe RPD DCI2004-00036 for compliance with the South Seas Resort Administrative Interpretation (AI) and consistency with the Lee County Comprehensive Plan (Lee Plan). Staff findings have been addressed in the ES staff report dated July 14, 2008 which is Attachment F-1 to the Zoning Division Staff Report.

In the following testimony, ES staff would like to address the projects compliance and consistency with the AI and Lee Plan as discussed in the ES staff report and also comment on environmental concerns and Lee Plan consistency addressed in Ms. Ryan's testimony during public comment on July 31, 2008.

I refer you to Administrative Interpretation for South Seas Resort which was the Applicants Exhibit 2 of the 2005 Hearing Proceedings and ES would like to present a copy of the letter from the Lee County Attorney's Office dated June 11, 1992 which is referenced in the AI. ES staff could not confirm if the document was presented in the previous hearings. (present copy).

As discussed in the ES staff report page 5 of 11, AI2002-00098 5.d states that other than as discussed in the letter from the Lee County Attorney's Office dated June 11, 1992, no wetland impacts are authorized by the SSRMDP. This letter from the Lee County Attorney's Office states "In so far as the service road to Harbour Pointe was originally planned for the purposes of providing emergency access to the site, it is the opinion of this Office that Mariner's efforts to construct or improve the road consistent with this purpose should be exempt from the local permitting requirement of the Wetland Protection Ordinance, the Mangrove Ordinance, and the Tree Protection Ordinance".

It is ES staff understanding that the 2002 SSRMDP and Harbour Pointe site plan as approved by AI2002-00098 allows for the widening of the existing access road and any associated mangrove impacts to meet emergency access standards. Based on information regarding emergency road width requirements reviewed by staff during the application process and testified to by the applicant and staff in previous 2005 testimony, mangrove impacts will occur along  $\pm 2,239$  linear feet of shoreline abutting Pine Island Sound. If the existing access road is widened to the minimum 31 foot width needed for emergency access purposes, the end result is a (2,239 linear feet x 31 foot width =1.6 acres) road. Given the existing road is 0.6 acres, the emergency access road will require an additional  $\pm 1.0$  (1.6- $\pm 0.6$  acre existing road) acres of direct mangrove impacts along  $\pm 2,239$  linear feet of shoreline abutting Pine Island Sound. ES staff would like to note that the minimum 31 foot width is based on county requirements. Other agencies may require a wider width.

The AI 5.d. also states "prior to proposing amendments to the SSRMDP for development that may encroach on wetlands-including but not limited to any expansion of the Harbour Pointe development area-the developers will initiate an environmental study adequate to evaluate the feasibility of such development in wetlands"

STAFF EXHIBIT # 9

It is ES staff understanding that the current 2002 SSRMDP and Harbour Pointe site plan as approved by AI2002-00098 does not allow additional wetland impacts other than for access road improvements and the AI does not prohibit the applicant from amending the site plan and proposing wetland impacts, other than for access road improvements, provided that environmental analysis adequately evaluates the feasibility of such development in the wetlands.

Given the current 2002 SSRMDP and Harbour Pointe site plan as approved by AI2002-00098 allows a minimum of  $\pm 1.0$  acres of additional impacts to mangrove wetlands, ES staffs review for AI compliance and Lee Plan consistency for the proposed expansion of the Harbour Pointe site plan is not based on a scenario of no impact to mangrove wetlands as in Ms. Ryans testimony, but compliance and consistency is based on how the proposed amendment to the site plan minimizes impacts to the mangrove wetlands and provides a balanced site design, more beneficial to the existing mangrove wetland ecosystem than the current approved site plan.

This ES staff interpretation of the Al2002-00098 re-iterates testimony provided by ES staff-Kim Trebatoski during the 2005 Hearing proceedings which can be verified in the transcripts and is summarized the Staff's Analysis and Recommendation of the Hearing Examiner Recommendation for DCI2004-00036 Hearing date February 9, 2005 Continuance date April 8, 26 and May 3, 2005 and documented in Ms. Trebatoski's Staff Report dated January 14, 2005 (Exhibit C-1 of Attachment C to the Staff Report).

With regards to the projects consistency with the Lee Plan, I would first like to address Madam Hearing Examiners question regarding the SFWMD ERP and Policy 114.1.2. Although Lee County does not undertake an independent review of the impacts to wetlands resulting from development in wetlands that is specifically authorized by a DEP or SFWMD dredge and fill permit or exemption, Lee County Environmental staff is actively involved in the SFWMD ERP project review process. SFWMD actively seeks and Lee County ES staff provides comment on ERP applications through monthly Interagency Project Review Meetings and SFWMD Public Notice request for local government comment. This interagency collaboration and coordination on the review and issuance of ERP permits provides Lee County with the opportunity to comment and make recommendations to insure any proposed wetland impacts and required mitigation is consistent with Lee Plan Goals, Objectives, and Policies and Land Development Code requirements.

When ES staff receives an application for rezoning of a parcel(s) which contain wetlands, staff will request the proposed project be placed on the next monthly SFWMD Interagency Project Review meeting agenda. During that meeting and any subsequent meetings, local government and state agency staff discuss wetland environmental issues and work together to insure state and local regulation and policies are addressed in the final ERP site design.

When SFWMD receives an ERP application within Lee County. ES staff receives a public notice SFWMD requesting comments on the proposed project. For those projects with listed species, wetland impacts, or flow-way concerns ES staff will forward the public notice to the Community Development Director, Zoning Director, Planning Director, Smart Growth Director and Natural Resources Director and submit comments to SFWMD conveying all Lee County issues.

(Submit memorandum from Ed Cronyn, Director)

Coordination as it pertains to the Harbor Pointe Project:

As previously stated Kim Trebatoski, Principle Planner, is the ES staff member who reviewed the recommended approval with conditions of the previous proposed Harbour Pointe site plan and testified during the previous hearing proceedings. Ms. Trebaoski addressed Lee County concerns and recommendations with the SFWMD at a minimum of six (6) Monthly SFWMD Interagency Project Review Meetings. The Harbour Pointe project was discussed at the

December 9, 2003 January 13, 2004 July 13, 2004 November 9, 2004 July 12, 2005 September 13, 2005

Ms. Trebatoski's Staff Report dated January 14, 2005 and Addendum dated March 24, 2005 (Exhibit C-1 and C-2 of Attachment C to the Staff Report) recommended elimination of the tennis court, reduction in unit size, reduction of the filter marsh, commitment to planting of dry detention areas with appropriate native wetland plants. The staff report also states and conditions #3 the impacts to the existing mangrove forest may be further reduced if the SFWMD approves a creative and unique surface water management plan for the site and if allowed the applicant shall commit to preserving additional mangrove forest. The addendum conditions that the development order plans must delineate a minimum of 0.85 acres of mangrove preservation beyond that shown on the MCP. The additional preservation must be provided adjacent to the delineated preserves or within a single contiguous preserve north of the proposed access road within the Harbour Pointe development tract.

ES staff would like to submit Ms. Trebatoski's modifications as conditioned to the 2004 MCP to illustrate that the final approved SWFMD ERP (Attachment E-1 to the Staff Report) site designs mimics ES staff recommendations with an even greater reduction in wetland impacts than recommended by ES staff. The ERP Exhibit 7.0A & B also require and provide details for the native planting of stormwater retention areas.

The ERP consistency with Lee County ES staff recommendations illustrates how Lee County Goals, Objectives and Policies were incorporated into the site design.

ES staffs recommendation of approval with conditions in the July 14, 2008 staff report (Attachment F to the staff report) is not solely based on an approved SFWMD ERP. Staff's reference to the approved ERP is to document the consistency with Lee Plan Policy 114.1.2. ES staff also references the approved ERP to provide verification of minimization of wetland impacts given the ES staff 2005 site design recommendations and interagency collaboration and coordination during the ERP application process. ES staff also references the ERP to document site design requirements to illustrate how those design requirements are consistent with Lee Plan Goals, Objectives, and Policies.

ES staff reviewed the proposed Harbour Pointe project with the following Lee Plan Goals, Objectives, and Policies within the ES staff report dated July 14, 2008 and in response to Ms. Ryan testimony:

Objective 13: Captiva. Objective 13.1 Policy 13.1.2 states "Mangroves on Captiva Island will be protected to the greatest extent possible".

In Ms. Ryan's testimony she stated Harbour Pointe could be designed with no mangrove wetland impacts to occur and that the current proposal is requesting 2.72 acres of direct mangrove impacts. This statement is incorrect, wetland impacts will occur for the emergency access road improvements and the current proposal is for 2.61 acres of direct mangrove wetland impacts and 0.11 acre shading impacts.

Her testimony also stated that the proposed project's increase of direct mangrove wetland impacts from none to 2.72 acre is inconsistent with Policy 13.1.12.

As provided in the 2005 ES staff report and testimony, ES staff reviewed the project based on current approved wetland impacts for improvement for the emergency access road versus the proposed site design which restores the existing 2,239 linear feet access road along the Pine Island Sound shoreline to native mangrove wetland habitat and eliminates associated wetland impact for road improvements. ES staff found that removal and restoration of the emergency access road and clustering the development and access bridge/road at the north tip of the island is far more beneficial to the overall mangrove wetland ecosystem.

The applicant has provided SFWMD ERP No. 36-00583-S-02 which approves a site design which mimics ES staff recommendation for this specific clustered design. Through the ERP Basis of Review 4.2.1.1, the applicant is required to demonstrate wetland impacts are minimized to the greatest extend possible. A conservation easement with mangrove trimming plan for three specific mangrove wetland areas totaling  $\pm 1.39$  acres within the 5.24 acre Harbour Pointe property is required as part of the ERP approval to insure proper trimming and maintenance of the mangrove buffer. The mangrove forest preserve within the other 72.76 acres of the site is placed in and subject to a restrictive conservation easement with wetland mitigation and monitoring plan requirements.

Ms. Ryan's testimony identifies Goal 80 and Goal 84 and states direct mangrove impacts to 2.72 acres of mangroves is inconsistent with the Lee Plan.

Goal 80: Increase the recreational potential of Lee County's natural waterways

Objective 80.1 Expand the Great Calusa Blueway and Lee County Paddling Trail System.

Policy 80.1.1 Establish locations, design standards, and implementation techniques for providing public access to appropriate waterways.

Policy 80.1.2 Designate canoe access points on appropriate waterways in accordance with the Lee County Green ways master Plan.

ES staff does not find this Goal applicable in the manner Ms. Ryan finds the project inconsistent given associated Objectives and Policies. But given the Greenways Trail Segments Plan Map within the Lee County Greenway Master Plan does identify the Blueways trail along the east shoreline of the proposed project and the development plan proposes a canoe/kayak launch within the development site, ES staff finds the project as conditioned consistent with Goal 80.

Goal 84: Regional Parks. To preserve a portion of the county's natural environment to augment that which is set aside by the state of Florida and the federal government, in order to reserve natural habitats, protect the water supply, and preserve the natural heritage; and to make these natural resources available to the general public for resource-based recreational activities, enjoyment of nature and education enrichment. Objective 84.1 Lee County must provide 6 acres per 1,000 population. The acres used in calculating this standard are improved Regional Park acres that are open for public use Policy 84.1.1 Regional parks will be resource-based facilities which preserve natural amenities. Lee County will avoid locating incompatible uses in regional parks.

The proposed project is not a regional park. ES staff does not find this Goal applicable given associated Objectives and Policies and did not review for consistency.

Goal 121: Fisheries Management. To preserve the ecosystem that nourishes and shelters the commercial and sport fisheries in Lee County.

Policy 121.1.3 The county will continue to design and implement protective and incentive mechanisms to prevent adverse impacts to commercial and sport fisheries. Objective 107.12: Marine Productivity. Lee County will support maintenance and improvement of marine fisheries productivity, and promote the conservation of fishery resources through the protection and restoration of finfish and shellfish habitat. Policy 107.12.2.: Support state and federal fisheries management programs that protect and enhance the long-term biological and economic productivity of coastal and estuarine waters and their sources for commercial and sport fisheries.

Goal 158: Lee County will achieve and maintain a diversified and stable economy by providing a positive business climate that assures maximum employment opportunities while maintaining a high quality of life. And associated Objective and Policies.

Goal 104: Coastal Resource Protection. To protect the natural resources of the coastal planning area from damage caused by inappropriate development.

Objective 104.1.: Environmentally Critical Areas Within the coastal planning area, the county will manage and regulate environmentally critical areas to conserve and enhance

their natural functions. Environmentally critical areas include wetlands (as defined in Goal 114) and Rare and Unique upland habitats. Rare and Unique upland habitats include tropical hardwoods.

Policy 104.1.1 requires development to be limited in Rare and Unique upland habitats and strictly controlled in wetlands in the coastal planning area.

Goal 107: Resource Protection. To manage the county's wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality and natural surface water characteristics.

Objective 107.1: Resource management plan. The county will continue to implement a resource management program that ensures the long-term protection and enhancement of the natural upland and wetland habitats through the retention of interconnected, functioning, and maintainable hydroecological systems where the remaining wetlands and uplands function as a productive unit resembling the original landscape. Policy 107.1.1, 107.2.3, 107.2.4, 107.2.8, 107.2.10,107.2.13

Goal 113: Coastal Planning Areas. To conserve, maintain, and enhance the natural balance of ecological functions in the coastal planning area so as to retain their contribution to storm protection, natural resources, and economic development. Objective 113.1: Coastal Planning Area in General. Lee County will mange the coastal planning area to provide a balance among conservation of resources, public safety capabilities and development.

Policy 113.1.1: Coastal areas with significant public value for water retention and purification, wildlife habitat, and primary productivity will be protected through the development permitting process and enforcement of appropriate codes and regulations. Policy 113.1.2: All development within the coastal planning area must be compatible with protection of natural systems.

Policy 113.1.5: lee County will protect and conserve the following environmentally sensitive coastal areas: wetlands, estuaries, mangroves strands, undeveloped barrier islands, beach and dune systems, aquatic preserves and wildife refuges, undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities and marine grass beds.

ES staff agrees with Ms. Ryan's testimony that estuaries, aquatic preserves, mangrove wetlands, and wildlife habitat are within or adjacent to the project, ES staff also agrees the site is within the coastal planning area and should be considered environmentally critical worthy of resource protection but does not agree the project is inappropriate development inconsistent with the Lee Plan because:

As provided in the 2005 ES staff report and testimony, ES staff reviewed the project based on current approved wetland impacts for improvement for the emergency access road versus the proposed site design which restores the existing 2,239 linear feet access road along the Pine Island Sound shoreline to native mangrove wetland habitat and eliminates associated wetland impact for road improvements. The existing 0.7 acre road is to be removed, regraded and replanted to the same conditions as adjacent mangroves. The existing mangrove wetland, located north of the existing water treatment plant and south of the proposed development, will benefit hydrologically from the removal of the road, with the improve tidal connection to Pine Island Sound. Dead and fallen debris is to be removed from portions of the mangrove preserve to assist in the recovery from

hurricane disturbance, with additional removal required upon the Districts review and approval. Maintenance will be conducted in perpetuity to ensure that the conservation areas are maintained free from Category 1 exotic vegetation. ES staff found that removal and restoration of the emergency access road and clustering the development and access bridge/road at the north tip of the island, preservation of the entire 1.3 acre Rare and Unique tropical hardwood hammock and 71.47 of the 74.08 acres of wetlands preserved on site, a conservation easement over the 72.76 acres of mitigation area, dedicated to the state and Lee County, which strictly limits activities to restoration, creation, enhancement, maintenance and monitoring, 1.19 acres of mangrove buffer within the development footprint with limited trimming conservation easement is consistent with the Lee Plan.

Objective 107.3: Wildlife. Maintain and enhance the fish and wildlife diversity and distribution within Lee County for the benefit of a balanced ecological system Objective 107.4: Endangered and Threatened species in general. Lee County will continue to protect habitats of endangered and threatened species and species of special concern in order to maintain or enhance existing population numbers and distributions of listed species.

Policy 107.4.3 requires detailed inventories and assessments of the impacts of development where it threatens habitat of endangered and threatened species and species of special concern.

Policy 107.4.4 restricts the use of protected plant and wildlife species habitat to that which is compatible with the requirements of endangered and threatened species and species of special concern and requires new developments to protect remnants of viable habitats when listed vegetative and wildlife species inhabit a tract slated for development, except where equivalent mitigation is provided.

The applicant has submitted a listed species survey for the project site. The surveys were conducted during June, August and October of 2003. During a current site inspection, ES staff observed Osprey and wading bird nesting that was not documented in the 2003 surveys. Osprey are not a Lee County listed species, however, active Osprey nests are protected through the Migratory Treaty Bird Act. Florida Fish and Wildlife Conservation Commission (FWC) and/or U.S. Fish and Wildlife Service (FWS) consultation, recommendations and possible permits will be required to avoid impacts to the nesting species within areas where development and major restoration (emergency access road) activities are proposed. Prior to development order and vegetation removal approval, ES staff has conditioned the applicant must provide updated listed species surveys meeting the requirements of Land Development Code (LDC) Section 10-473 and any necessary FWC and/or FWS permits. The applicant must also submit species management plans meeting the requirements of LDC Section 10-474 for any listed species documented utilizing the site.

Objective 107.7: West Indian Manatees encourages the county to implement a broad based approach to manatee protection, including reduced boat related mortality, habitat protection, and increased public awareness, in order to maintain the health and stability of the marine ecosystem including the existing manatee population.

The project as permitted by the approved SFWMD ERP only allows a single slip water taxi dock and/or canoe/kayak launch. ES staff has conditioned the development order plans must depict the location of any proposed single slip water taxi dock and/or canoe/kayak launch. The applicant must provide updated surveys including species type, locations, and abundance of seagrasses within waters adjacent to the project site and location s of the required mangrove buffers within the 5.24 project site. The proposed locations of the slip and launch must avoid impacts to the required mangrove buffers and avoid or minimize impacts to seagrass. Local, State and Federal permits for the single slip dock will be required.

Lee Plan Objective 60.5: Incorporation of green infrastructure int the surface water management system encourages incorporating green infrastructure as part of the surface water management system for improved water quality, improved air quality, improved water recharge/infiltration, water storage, wildlife habitat, recreational opportunities, and visual relief within the urban environment.

Policy 60.5.1: The County encourages new development to design their surface water management systems to incorporate best use management practices including, but not limited to, filtration marshes, grassed swales planted with native vegetation, and preserved and/or restored wetlands.

Policy 60.5.2: The County encourages new development to design their surface water system to incorporate existing wetlands.

ES staff has conditioned the proposed stormwater management system incorporates a dry and wet retention areas to collect and treat stormwater runoff. The approved SFWMD ERP requires these retention areas to be planted with native species that are adapted to appropriate hydric conditions, maintained to control exotics and nuisance vegetation, removal of debris, and vegetation periodically thinned to maintain operation of the water management system. The storwater design also incorporates the existing mangrove wetlands into the stormwater design.

In summary, based on the previous 3 day+ of testimony and environmental documentation provided by the applicant and ES staff in conjunction with the approved SFWMD ERP Staff continues find the project consistent with the Lee Plan and to recommend approval with conditions.

#### BEFORE THE HEARING EXAMINER OF LEE COUNTY, FLORIDA

COASTAL CRAVENS, LLC
Appellant

vs.	Case Number: ADM2007-00004
LEE COUNTY, FLORIDA Appellee	·

## ORDER GRANTING, IN PART, AND DENYING, IN PART, APPELLEE'S MOTION TO DISMISS

THIS CAUSE came before the undersigned Hearing Examiner, on December 7, 2007 for an evidentiary hearing, for de novo review or appeal, of the determination or interpretation, made by Craig R. Brown, Senior Environmental Planner, Division of Environmental Sciences, in his letter of May 11, 2007. At said hearing, the Assistant Lee County Attorney, John J. Fredyma, Esquire, moved to dismiss the action, based on the Hearing Examiner's lack of subject matter jurisdiction. Rather than argue the unexpected motion at that hearing, the Hearing Examiner ordered the Appellee to submit a memorandum of law in support of its motion, on or before December 21, 2007. The Hearing Examiner also ordered the Appellant to submit a written response, or memorandum of law, in support of their position, on or before January 11, 2008. The hearing continued on the merits of the Appellant's appeal. The Hearing Examiner is in receipt of the memorandums submitted by both Appellant and Appellee, on the Appellee's Motion to Dismiss.

The undersigned Hearing Examiner after having reviewed the submissions by the Appellant and Appellee, the underlying letter that is the subject of this appeal, and the appropriate Lee County Ordinances, finds as follows:

- 1. This office generally has jurisdiction over appeals from administrative actions pursuant to Section 34-145(a)(1) of the Lee County Land Development Code. That section specifically provides, "The Hearing Examiner will hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, determination or action of any administrative official charged with the administration and enforcement of the provisions of this land development code or any other ordinance that provides for similar review . . . " (Emphasis Added)
- 2. The Hearing Examiner finds, no other authority in the ordinance cited or any other Lee County Ordinance which gives it authority to hear appeals from determinations or interpretations of the Lee County Comprehensive Plan.



#### IT IS THEREFORE:

ORDERED, that the Appellee's Motion to Dismiss is GRANTED, IN PART, as the same applies to the appeal of determinations or interpretations of the Lee County Comprehensive Plan; specifically, Lee County Comprehensive Plan Goals 105 and 113, and Lee County Comprehensive Plan Objectives 105.1.3 and 113.2, and it is

FURTHER ORDERED, that the Appellee's Motion to Dismiss is DENIED, IN PART, as the same applies to the appeal of determinations or interpretations of the Lee County Land Development Code; specifically Lee County Land Development Code Section 26-75. The Hearing Examiner will enter a decision on the remaining subject matter of this appeal at a later date.

DONE AND ORDERED, at 1500 Monroe Street/Fort Myers, Lee County, Florida on this

16th day of January, 2008.

RICHARD A. GESCHEIDT Deputy Hearing Examiner

Lee County Hearing Examiner's Office

P. O. Box 398

Fort Myers, Florida 33902-0398

(239) 533-8100

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the aforesaid Order was sent to all hearing participants, officially established as of the above Order date, either by U.S. Mail, Inter-County Mail, or Facsimile Transfer on the 17<sup>TH</sup> day of January, 2008.

Suzanne Hunter-Galvan

Office Manager



Lee County Community Development,

Attn. Hearing officer;

Please let this letter serve as notice that Steffeney Price is the representative for the 64 owners at Land's End Village on Captiva Island. Ms. Price has been appointed by the Condominium Association's Board of Directors, as the owner

are unable to attend themselves.

Randy Baumgarten

President

Land's End Village

Condominium Association

LAND'S END VILLAGE

UNIT #	(AKA)	S.T.R.A.P.	#	BLDG NAME	BLDG #
1601		22-45-21-23-		ACACIA	8
1602 1603—		22-45-21-23- 22-45-21-23-			
1604		22-45-21-23-			
1605		22-45-21-23-	00000.1605	BANYAN	9
1606		22-45-21-23-			
1607—		22-45-21-23-			
1608		22-45-21-23-			
1609 1610		22-45-21-23- 22-45-21-23-	00000.1609 00000 1610	CHINA BERRY	10
1611		22-45-21-23-			
1612		22-45-21-23-			
1613		22-45-21-23-		DOMBEYA	11
1614		22-45-21-23-	00000.1614		
1615		22-45-21-23-		•	
1616		22-45-21-23-			
1617		22-45-21-23-		EUCALYPTUS	12
1618		22-45-21-23-			
1619 1620		22-45-21-23- 22-45-21-23-			
1621		22-45-21-23-		FRANGI PANI	13
1622/		22-45-21-23-		INANGI PANI	13
1623		22-45-21-23-			
1624		22-45-21-23-			
1625		22-45-21-23-	00000.1625	GUMBO LIMBO	14
1626	-	22-45-21-23-			
1627		22-45-21-23-			
1628		22-45-21-23-			
1629		22-45-21-23-		HALA	15
1630 1631		22-45-21-23-			
1632		22-45-21-23- 22-45-21-23-			
1633		22-45-21-23-		IVY BERRY	16
1634		22-45-21-23-			10
1635		22-45-21-23-	00000.1635		
1636		22-45-21-23-			
1637		22-45-21-23-		JACARANDA	17
1638		22-45-21-23-			
1639 1640		22-45-21-23- 22-45-21-23-			
1641		22-45-21-23-		KAPOK	1
1642		22-45-21-23-		KAPOK	1
1643		22-45-21-23-			
1644		22-45-21-23-			
1645 —		22-45-21-23-	00000.1645	LAUREL	2
	. •	22-45-21-23-			
1647 .		22-45-21-23-			
1648 1649		22-45-21-23- 22-45-21-23-		MACNOL TA	2
1650		22-45-21-23-		MAGNOLIA	3
1651		22-45-21-23-			
1652		22-45-21-23-	00000.1652		
1653		22-45-21-23-		NUTMEG	4
1654		22-45-21-23-			
1655		22-45-21-23- 22-45-21-23-			:
1656	-	243-71-73-	00000.1656		

UNIT # (AKA)	S.T.R.A.P. #	BLDG NAME	BLDG #
1657 1658	22-45-21-23-00000.1657 22-45-21-23-00000.1658	OSAGE	5
1659 1660	22-45-21-23-00000.1659 22-45-21-23-00000.1660		
1661-	22-45-21-23-00000.1661	POINCIANA	6
1662-BLD66 1663-	22-45-21-23-00000.1662 -22-45-21-23-00000.1663-		
1664	22-45-21-23-00000.1664 22-45-21-23-00000.1665	QUEEN PALM	7
1666- BUD67	22-45-21-23-00000.1666 22-45-21-23-00000.1667		
1668-	22-45-21-23-00000.1668		

1653

Steffeney - you have our permission to speak in our behalf with regard to the proposed development by Mariner at South Seas - which we definitely opposed

Ann and Bill McCarthy - LEV 1653

Original Message— From: Steffeneyprice@aol.com

From: Steffeneypnse@aol.com
To: kleser@verizon.net; joe.peller@sympatico.ca; ABonazzoli@aol.com; ainvesm@tampabay.rr.com; bucky's@mcleodusa.net; Randeiseen@aol.com; Annewhoke@aol.com; theskey@spauldingslye.com; rabinow@swbell.net; SaintAnne@aol.com; argyle@ryle.com; siligmueller@sbcglobal.net; nick@brookesfamily.me.uk; CJHayes@scj.com; theskey@spauldingslye.com; gay15@yahoo.com; LaBequeB@aol.com; dave@paradoxfla.com; soosa55@hotmail.com; jackie@pimcapital.com; Captivatw@aol.com; wskiser@msn.com; paggipax@belisouth.com; iscritoss@worldnet.att.net; aplangbo@arthink.net; hagolden@msc.com; jackie@pimcapital.com; Captivatw@aol.com; Retiton@aol.com; Retiton@aol.com; Retiton@aol.com; Retiton@aol.com; Retiton@aol.com; Retiton@aol.com; Retiton@aol.com; Retiton@aol.com; ikipser@rockport.k12.ma.us; barbeeg@comcast.net; EFMF7@aol.com; rickie@brookesfamily.me.uk; Jana.us; barbeeg@comcast.net; EFMF7@aol.com; redy@eetamber.com; newkumel@geospectrum.com; ken@facher.com; hackeraysandra@yahoo.com; drkwl@laudenbach.com; alkanter@mid-atlantickpg.com; randy@eetamber.com; enanovic@maine.rr.com; sharonneskey1@comcast.net; pater@spauldenda.com; sharonneskey1@comcast.net; pater@spauldenda.com; tholderman@ufpi.com; mmiller@gotv.net; buld@porokesfamily.me.uk; dawson4ingc@hotmail.com; Mslovich@aol.com; chinglee@verizon.net; poth@stonybrookhouse.com; robert@cushbrookonline.com; chinglee@verizon.net; pater@pimcapital.com; Farmerfam5@aol.com; Wskiser@aol.com; Caraquila@sullcom.com; inchard.crowre@wachovissac.com; rice@rpminc.com; LANDSANDERSON@cs.com
Sent: Mon, 21 Jul 2008 3:49 pm

a message dated 7/21/2008 2:47:01 P.M. Eastern Davlight Time. Steffenevorice writes:

would like to correct the title it should say "AT SOUTH SEAS RESORT " NOT "by south seas resort" orry for the incorrect titling.

#### **Good Afternoon LEV Owners**

I am sending this email to inform you, if you have not already received a letter from Lee County Community Development of the

proposed affocation of 6 units at the Resort.

As proposed anocation or 6 units at the resort.

As property owners within close proximity of this building site, the county will be holding a public hearing before the Lee County Hearing Examiner at 9 a.m. on July 31st, 2008, in downtown Ft. Myers. It states if you do not appear in person for this hearing you will not be admitted to future hearings or court sessions. I will be attending this meeting in person. I have requested a copy of the site plan and all copies pertinent to this meeting from the County. I am going there in the morning to gather as much information for you as I can. I will be forwarding all documentation to each owner via email as soon as I receive it.

This meanings also be blanked. Points are which in to include a builded what overgoes the absence I be because Parison. This is the did

This proposed sits is the Harbour Points area which is to include a bridge that crosses the channel to Bryant Bayou. This is the dirt

road at Engineering.

I will provide a site map and all information that pertains to this. I would hope for those of you cannot attend this meeting that a letter or email that reflects your thought be forwarded for us to present in your piece. I am going to ask Larry and Suzie Anderson 1656 owners that live here year round to attend with me. Please feel free to contact me with any questions you may have pertaining to this IMPORTANT issue.

Regards

Steffeney J Price Lands End Village Condominium Association, Inc PO Box 640 Captiva, Florida 33924 239-395-5821 (Office) 239-295-5822 (Office fax) 239-263-0611 (E-Fax) 239-218-4946 (Cellular)

steffeneyprice@aol.com

Steffeney J Price Lands End Village Condominium Association, Inc O Box 640 aptiva, Florida 33924 39-395-5821 (Office) 139-**3**95-5822 (Office fax) 39-263-0611 (E-Fax) 39-218-4946 (Cellular)

teffeneyprice@aol.com

et fantasy football with free live scoring. Sign up for FanHouse Fantasy Football today.

orwarded Message:

ub): Proposed building project by South Seas Resort

ffeney J Price nds End Village Condominium Association, Inc ptiva, Florida 33924 -395-5821 (Office) -395-5822 (Office fax) ·263-0611 (E-Fax) -218-4946 (Cellular)

feneyprice@aol.com



LEASE / FENTAL

Subj:

**RE: LEV/contract** 

Date: From: 7/23/2008 9:37:36 A.M. Eastern Daylight Time

To:

jackie@pimcapital.com YValenti@luxuryresorts.com Steffeneyprice@aol.com

Yes, you have my permission to fwd to Steffeney.

----Original Message----

From: Valenti, Yolanda [mailto:YValenti@luxuryresorts.com]

**Sent:** Tuesday, July 22, 2008 5:24 PM

**To:** Valenti, Yolanda **Subject:** LEV/contract

Greetings from Captiva ..... hope all is well with you.

The Board of Directors for Lands End is requesting a copy of your rental agreement. I emailed Steffeney Price and explained I would need the permission from the owners in our rental program before I forward any legal documents between the owner and resort.

If you can email me with your permission or you can forward the association your contract directly.

Thank you in advance

Yolanda

Yolanda A. Valenti Director of Owner Services 5400 Plantation Road-Captiva Island, Fl 33924 P 239.472.7556 F 239.395.6752 www.southseas.com yvalenti@luxuryresorts.com

PRIVACY WARNING: For auditing purposes, a copy of this message has been saved in a permanent database.

PRIVACY WARNING: For auditing purposes, a copy of this message has been saved in a permanent database.



Subj:

Re: LEV/contract

Date: From: 7/23/2008 8:58:12 A.M. Eastern Daylight Time

To

ejorden@verizon.net steffeneyprice@aol.com

Just wanted to take away any excuses.

ED

Sent from my Verizon Wireless BlackBerry

From: steffeneyprice@aol.com

Date: Wed, 23 Jul 2008 11:47:04 +0000 To: De Jorden<br/>
ejorden@verizon.net>

Subject: Re: LEV/contract

Ed

Our attorney has given a letter to me that states they have to give those to us. Also I am requesting all rental agreements from outside agencies so there is no question.

Sent from my Verizon Wireless BlackBerry

From: ejorden@verizon.net

Date: Wed, 23 Jul 2008 11:42:24 +0000

To: Valenti, Yolanda<YValenti@luxuryresorts.com>

CC: S Price<steffeneyprice@aol.com>

Subject: Re: LEV/contract

Yolanda,

It is acceptable to us to give our rental agreement for #1657 to Steffeney Price @ LEV.

ED and SUZANNE JORDEN

Sent from my Verizon Wireless BlackBerry

From: "Valenti, Yolanda" <YValenti@luxuryresorts.com>

Date: Tue, 22 Jul 2008 17:23:41 -0400

To: Valenti, Yolanda<YValenti@luxuryresorts.com>

**Subject**: LEV/contract

Greetings from Captiva.....hope all is well with you.

The Board of Directors for Lands End is requesting a copy of your rental agreement. I emailed Steffeney Price and explained I would need the permission from the owners in our rental program before I forward any legal documents between the owner and resort.

f you can email me with your permission or you can forward the association your contract directly.

Thank you in advance

Yolanda

1657

Subj:

Re: Proposed building project by South Seas Resort

Date:

7/23/2008 7:51:25 P.M. Eastern Daylight Time

From:

ejorden@verizon.net Steffenevprice@aol.com

#### Steffeney.

Since we can not be in attendance we would like you to represent us, #1657.

Thank you for you help

ED and Suzanne Jorden

---- Original Message ----- From: Steffeneyprice@aol.com

To: <a href="mailto:klieser@verizon.net">klieser@verizon.net</a>; <a href="mailto:joe.peller@sympatico.ca">joe.peller@sympatico.ca</a>; <a href="mailto:ABonazzoli@aol.com">ABonazzoli@aol.com</a>; <a href="mailto:bucky's@mcleodusa.net">bucky's@mcleodusa.net</a>; <a href="mailto:Rabinow@swbell.net">Randeileen@aol.com</a>; <a href="mailto:Annewaol.com">Annewhoke@aol.com</a>; <a href="mailto:annewaol.com

CJHayes@sci.com; emullen@tngus.com; riay5@yahoo.com; LaBequeB@aol.com;

dave@paradoxfla.com; soosa55@gmail.com.jackie@pimcapital.com; Captivatw@aol.com;

wskiser@msn.com; paggypax@bellsouth.net; ainvestm@tampa.rr.com; jschloss@worldnet.att.net;

aglangbo@earthlink.net; hegolden@mac.com; hiavelliott@yahoo.com; Rsetton@aol.com; dwilds@1stpartners.com; Shaqqmn@aol.com; lfclarke@ihu.edu; OKOBOJICAP@aol.com;

| <u>dwilds@1stpartners.com</u>; <u>snaddmn@aol.com</u>; <u>krciarke@inu.edu</u>; <u>OROBOJICAP@aol.com</u>; | <u>Plmmom@aol.com</u>; <u>klieser@rockport.k12.ma.us</u>; <u>barbeeg@.comcast.net</u>; <u>EFMF7@aol.com</u>;

vickie@brookesfamily.me.uk; beckerfamily@bluewin.ch; ejorden@verizon.net; Tyobage@aol.com;

newkumet@geospectrum.com; ken@fadner.com; thackeraysandra@yahoo.com; drkwl@laudenbach.com;

alkanter@mid-atlanticpkg.com; randy@leelumber.com; enanovic@maine.rr.com;

sharonneskey1@comcast.net; jijjjbuck@comcast.net; diane@nygaardlaw.com; tholderman@ufpi.com;

mmiller@patv.net; lulu@brookesfamily.me.uk; dawson4inc@hotmail.com; MSlovich@aol.com;

chinglee@verizon.net; iscasev@yahoo.com; roch@stonybrookhouse.com; robert@rushbrookonline.com;

crinker@yahoo.com; barbeemib@comcast.net; peter@pimcapital.com; Farmerfam5@aol.com;

Wskiser@aol.com; clee@pmn.com; suzanne.iorden@verizon.net; CWPOLLARD@aol.com; LISABROOK@aol.com; aquilaf@sullcrom.com; LANDSANDERSON@cs.com; rrice@rpminc.com;

richard.crowne@wachoviasec.com

Cc: Jmlamotta@cs.com

Sent: Monday, July 21, 2008 2:31 PM

Subject: Proposed building project by South Seas Resort

#### **Good Afternoon LEV Owners**

I am sending this email to inform you, if you have not already received a letter from Lee County Community Development of the proposed allocation of 6 units at the Resort.

As property owners within close proximity of this building site, the county will be holding a public hearing before the Lee County Hearing Examiner at 9 a.m. on July 31st, 2008, in downtown Ft. Myers. It states if you do not appear in person for this hearing you will not be admitted to future hearings or court sessions. I will be attending this meeting in person. I have requested a copy of the site plan and all copies pertinent to this meeting from the County. I am going there in the morning to gather as much information for you as I can. I will be forwarding all documentation to each owner via email as soon as I receive it.

This proposed site is the Harbour Pointe area which is to include a bridge that crosses the channel to Bryant Bayou. This is the dirt road at Engineering. I will provide a site map and all information that pertains to this. I would hope for those of you cannot attend this meeting that a letter or email that reflects your thought be forwarded for us to present in your place. I am going to ask Larry and

Objects Plany 1648

Chris J. Hayes Lands End Village Unit 1648 Captiva Island, Florida

To whom it may concern,

Steffeney Price we represent myself and my unit #1648 on any local or county business. Steffeney can be used as my proxy vote, if needed. Please let me know if you have any questions.

Best regards,

### Chris

Chris J. Hayes S.C. Johnson & Son, Inc. Racine, WI 53403 262 260 4168 nicely.

The Board of Directors for Lands End is requesting a copy of your rental agreement. I emailed Steffeney Price and explained I would need the permission from the owners in our rental program before I forward any legal documents between the owner and resort.

-----

If you can email me with your permission or you can forward the association your contract directly.

Thank you in advance

Yolanda

Yolanda A. Valenti

**Director of Owner Services** 

5400 Plantation Road-Captiva Island, FI 33924

P 239.472.7556 F 239.395.6752

www.southseas.com

yvalenti@luxuryresorts.com

Subj:

Fw: Re: LEV/contract 1608

Date: 7/22/2008 10:23:16 P.M. Eastern Daylight Time rjay15@yahoo.com

To: steffeneyprice@aol.com

Warmest regards,

RJ

--- On Tue, 7/22/08, ron weinberger < rjay15@yahoo.com > wrote:

From: ron weinberger <rjay15@yahoo.com>

Subject: Re: LEV/contract 1608

To: "Valenti, Yolanda" <YValenti@luxuryresorts.com>

Date: Tuesday, July 22, 2008, 10:14 PM

Yes,

Please provide Steffeney with the rental agreements.

Thank you very much!!!!!!!

Warmest regards,

RJ

--- On Tue, 7/22/08, Valenti, Yolanda < YValenti@luxuryresorts.com > wrote:

From: Valenti, Yolanda < Y Valenti@luxuryresorts.com>

Subject: LEV/contract 1608 To: rjay15@yahoo.com

Date: Tuesday, July 22, 2008, 4:56 PM

Ron

Greetings from Captiva.....hope all is well with you. Your unit is coming alone very

🛋 معرفي والأروا

Wednesday, July 23, 2008 America Online: Steffeneyprice

nicely.

The Board of Directors for Lands End is requesting a copy of your rental agreement. I emailed Steffeney Price and explained I would need the permission from the owners in our rental program before I forward any legal documents between the owner and resort.

If you can email me with your permission or you can forward the association your contract directly.

Thank you in advance

Yolanda

Yolanda A. Valenti

**Director of Owner Services** 

5400 Plantation Road-Captiva Island, FI 33924

P 239.472.7556 F 239.395.6752

www.southseas.com

yvalenti@luxuryresorts.com

Wednesday, July 23, 2008 America Online: Steffeneyprice

Subj:

Fw: Re: LEV/contract 1608

Date: 7/22/2008 10:23:16 P.M. Eastern Daylight Time riay15@yahoo.com

To:

steffeneyprice@aol.com

Warmest regards,

RJ

--- On Tue, 7/22/08, ron weinberger < rjay15@yahoo.com > wrote:

From: ron weinberger <rjay15@yahoo.com>

Subject: Re: LEV/contract 1608

To: "Valenti, Yolanda" <YValenti@luxuryresorts.com>

Date: Tuesday, July 22, 2008, 10:14 PM

Yes,

Please provide Steffeney with the rental agreements.

Thank you very much!!!!!!!

Warmest regards,

RJ

--- On Tue, 7/22/08, Valenti, Yolanda < YValenti@luxuryresorts.com> wrote:

From: Valenti, Yolanda <YValenti@luxuryresorts.com>

Subject: LEV/contract 1608 To: rjay15@yahoo.com

Date: Tuesday, July 22, 2008, 4:56 PM

Ron

Greetings from Captiva.....hope all is well with you. Your unit is coming alone very

Wednesday, July 23, 2008 America Online: Steffeneyprice



## Celebrating 40 years of island conservation 3333 Sanibel Captiva Road, Sanibel Island Florid 33957 Telephone 239.472.2329

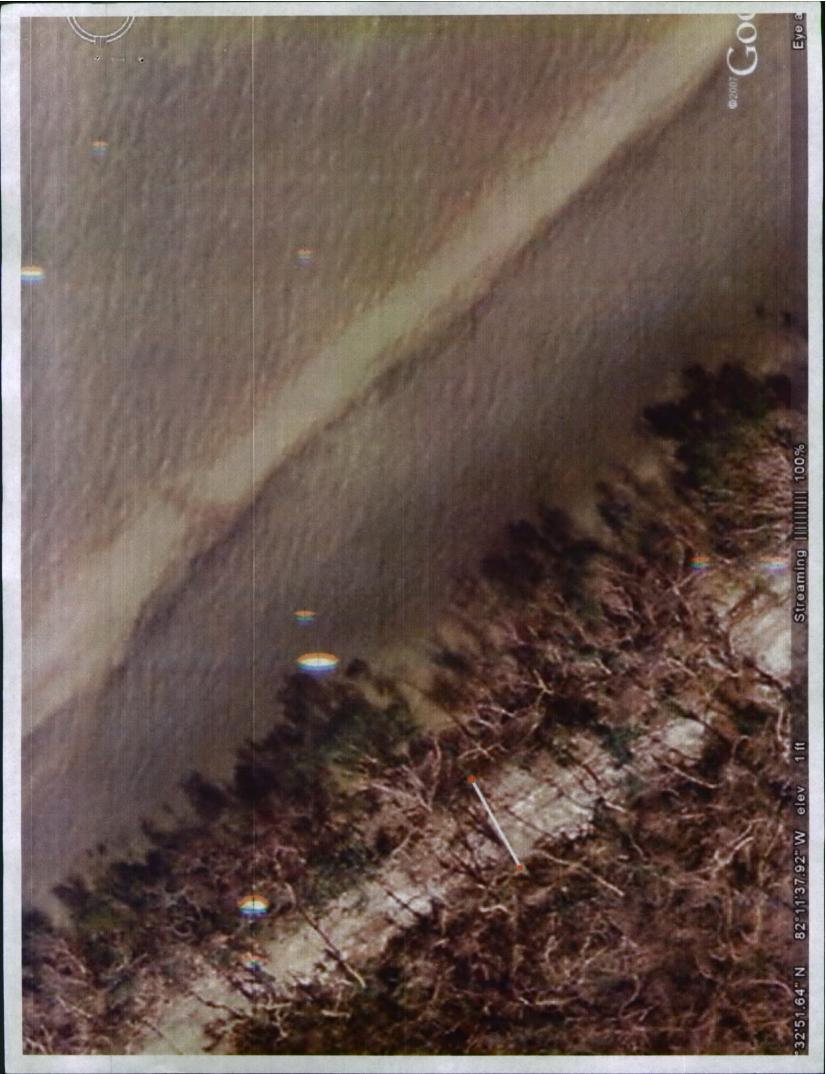
### Harbour Pointe Road

29.28 ft Setback

**Google Earth** 

July, 2008

EXHIBIT # 1 SCCF/Wassell DCD 517/08036







# Celebrating 40 years of island conservation 3333 Sanibel Captiva Road, Sanibel Island Florid 33957 Telephone 239.472.2329

**Harbour Pointe Photos** 

October, 2004

EXHIBIT #2 SCCF/Wesse Degasty-0836



PHOTO TAKEN TO / 13/04 RAE ANN WESSOL