

ZONING DIVISION
LEE COUNTY
DEVELOPMENT OF REGIONAL IMPACT SUFFICIENCY REVIEW
TRANSMITTAL SHEET

TO: Distribution

John Fredyma, Asst County Attorney
Susie Derheimer, Environmental Sciences
Pam Houck, Zoning Director

FROM: Alvin Block, AICP

DATE: 02/21/2014

*** REVIEWERS - remember permit plan checklists should now be used.**

PROJECT NAME: RIVERS EDGE YACHT/COUNTRY CLUB

CASE #: DRI2014-00001

INFORMATION SUMMARY:

RESUBMITTAL

To update your file
☒ Review and forward sufficiency
questions or make finding of
sufficiency

RESPONSE REQUIRED BY: 03/14/2014

Additional Comments:

(DRI) Lee County LDC Section 34-373(d)(1).

Sufficiency and Completeness

No hearing will be scheduled for an application for a Planned Development until the application has been found sufficient. All applications for Planned Developments will be deemed sufficient unless a letter advising the applicant of any insufficiencies has been mailed within fifteen (15) working days of submittal of the application. All amended applications will be deemed sufficient unless a subsequent letter advising the applicant of any insufficiencies has been mailed within fifteen (15) working days of the date of the resubmittal. The contents of insufficiency letters will be limited to brief explanations of the manner in which insufficient applications do not comply with the formal requirements in Section 34-373.

cc: DRI planner/working file
DRI Zone File

Distributed by: Jamie Princing

Date: 02/24/2014

PAVESE LAW FIRM

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Drawer 1507, Fort Myers, Florida 33902-1507 | (239) 334-2195 | Fax (239) 332-2243

STEVEN C. HARTSELL

Direct dial: (239) 336-6244
Email: stevhartsell@paveselaw.com

LEE COUNTY
RECEIVED

2014 FEB 21 PM 3:12

February 20, 2014

COMM. DEV./
PUB. WRKS. CNTR.
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Via Hand Delivery

Ms. Mary Gibbs, Director
Lee County Department of Community Development
1500 Monroe Street
Fort Myers, Florida 33901

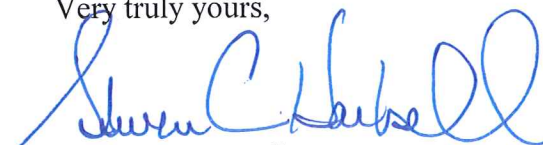
RE: Notice of a Proposed Change to Previously Approved River's Edge Yacht and Country Club (A/K/A Gulf Harbour) Development of Regional Impact
STRAP No.: 30-45-24-13-0000A.0000
Zoning Resolution No.: Z-02-020
Our Client File No.: 69205.010

Dear Ms. Gibbs:

On February 6, 2014, Palmas Del Sol Condominium Association, Inc., submitted a Notice of Proposed Change to the previously approved River's Edge Yacht and Country Club (A/K/A Gulf Harbour) Development of Regional Impact (DRI) to reduce the minimum height of the mangrove trimming from 32-feet NGVD to 20-feet NGVD. Section 5 of the Notice of Proposed Change referred to a report by Senior Biologist Parke Lewis of Dex Bender and Associates which justified that reduction in height. Enclosed is the "Revised Mangrove Trimming Plan for Palmas Del Sol" which was inadvertently left out of that Notice of Proposed Change. A copy of this submittal has also been provided to Lee County's Department of Community Development and the Southwest Florida Regional Planning Council.

Thank you and please do not hesitate to contact me if you have any questions. I apologize for any inconvenience.

Very truly yours,



Steven C. Hartsell

Enclosures
/DLM

cc: Ms. Donna Harris, Division of Community Planning & Development, Florida Department of Economic Opportunity
Mr. David Crawford, AICP, Southwest Florida Regional Planning Council

69205.010 Doc #314

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY
DIVISION OF COMMUNITY PLANNING & DEVELOPMENT
The Caldwell Building, MSC 160
107 East Madison Street
Tallahassee, Florida 32399

**NOTIFICATION OF A PROPOSED CHANGE TO A PREVIOUSLY APPROVED
DEVELOPMENT OF REGIONAL IMPACT (DRI)
SUBSECTION 380.06(19), FLORIDA STATUTES**

Subsection 380.06(19), Florida Statutes, requires that submittal of a proposed change to a previously approved DRI be made to the local government, the regional planning agency, and the state land planning agency according to this form.

1. I, Steven C. Hartsell,, the authorized representative
of Palmas Del Sol Condominium Association, Inc., hereby give notice of a proposed change to a
(developer)

previously approved Development of Regional Impact in accordance with Subsection
380.06(19), Florida Statutes. In support thereof, I submit the following information concerning
the River's Edge Yacht and Country Club DRI (A/K/A Gulf Harbour) development, which
(original & current project names)

information is true and correct to the best of my knowledge. I have submitted today, under
separate cover, copies of this completed notification to Lee County, to the Southwest Florida
(local government)

Regional Planning Council and to the Bureau of Community Planning, Department of Economic
Opportunity.

2-6-2014
Date

Steven C. Hartsell
Signature

2. Applicant (name, address, phone).

*Palmas Del Sol Condominium Association, Inc.
11660 Court of Palms
Fort Myers, Florida 33908-6552
239-738-4679*

3. Authorized Agents (name, address, phone).

*Steven C. Hartsell, Esq.
Pavese Law Firm
PO Drawer 1507
Fort Myers, Florida 33902-1507
239-336-6244
stevehartsell@paveselaw.com*

4. Location (City, County, Township/Range/Section) of approved DRI and proposed change.

*Fort Myers, Lee County
Township 45S
Range 24E
Sections 29, 30, and 31*

5. Provide a complete description of the proposed change. Include any proposed changes to the plan of development, phasing, additional lands, commencement date, build-out date, development order conditions and requirements, or to the representations contained in either the development order or the Application for Development Approval.

Indicate such changes on the project master site plan, supplementing with other detailed maps, as appropriate. Additional information may be requested by the Department or any reviewing agency to clarify the nature of the change or the resulting impacts.

The Palmas Del Sol Condominium is a three building condominium (six to eight residential living stories over two stories of parking) located on the Caloosahatchee River in the River's Edge Yacht and Country Club DRI (A/K/A Gulf Harbour). It is adjacent to a 10-acre mangrove preserve which is governed by a 2003 Conservation Easement to Lee County which was put in place at the time of the DRI approval, as well as mangrove trimming conditions incorporated into the Fourth Amended Development Order for River's Edge Yacht and Country Club (A/K/A Gulf Harbour), a Development of Regional Impact [State DRI #12-8182-21; County Case #81-09-08-DRI(c)]. A copy of the Conservation Easement and the Fourth Amended Development

Order are attached for your reference. Although the Florida Department of Environmental Protection (FDEP) is included in the easement, it did not participate in the creation of the Conservation Easement, and has recently filed a release of that easement as it relates to FDEP (Instr. #2013000225345, Official Records of Lee County, FL.).

The purposes of the Conservation Easement and the mangrove trimming DRI conditions were not only to set aside the 10 acre area for mangrove preservation, but to protect views to the river for the condominium owners and to provide for construction of a boardwalk to the river with an observation deck. In Section 4 of the easement and Section G.5.d(1) of the Fourth Amended Development Order mangrove trimming is limited to 32' NGVD in height. That condition has unexpectedly caused a pressing problem that the Palmas Del Sol owners are hoping to resolve. Due to the distance of the conservation area extending from the condominium buildings out to the river, and due to the height of the trees in the conservation area, shortly after trimming them to 32' any views of the river are effectively blocked for residents of the first living floor (sitting on top of two stories of parking). As the trees grow taller until the next trimming (annually) the views are blocked even more. The residents have noted that this has a negative impact on both their views and their property values.

Accordingly, the Applicant is requesting to reduce the minimum height of the mangrove trimming to 20' NGVD. To support this request, the Applicant has engaged Parke Lewis, Biologist for Dex Bender & Associates, who prepared the enclosed biological analysis which shows that the height of the trees can be safely trimmed to 20' NGVD (in stages) without adversely affecting the health or integrity of the individual trees or of the overall conservation area. Since the primary purpose of the conservation area will remain intact (preservation of the ten acres with a healthy and functional mangrove system), the secondary goals of protecting the residents' views and the associated property values can also be maintained at the same time by allowing the reduction in the minimum trim height.

Furthermore, any trimming may be done only after obtaining the necessary review and mangrove trimming permit approval from the FDEP. The Applicant has had preliminary meetings with FDEP that lead the Applicant to believe that such a permit is reasonably possible.

Consequently, the Applicant requests that the River's Edge Yacht and Country Club DRI conditions be amended to allow the Applicant to apply to FDEP to lower the trimming height (within the previously defined view corridors extending from each building) from 32' NGVD down to a height of 20' NGVD. This will allow the views to the river to be preserved for all of the residents as originally expected when the DRI and Conservation Easement were put into place while still maintaining the mangrove system protection and preservation. The amendment also clarifies that trees other than mangroves may be trimmed to the same height.

6. **Complete the attached Substantial Deviation Determination Chart for all land use types approved in the development. If no change is proposed or has occurred, indicate no change.**

No change.

7. **List all the dates and resolution numbers (or other appropriate identification numbers) of all modifications or amendments to the originally approved DRI development order that have been adopted by the local government, and provide a brief description of the previous changes (i.e., any information not already addressed in the Substantial Deviation Determination Chart). Has there been a change in local government jurisdiction for any portion of the development since the last approval or development order was issued? If so, has the annexing local government adopted a new DRI development order for the project?**

The River's Edge Yacht and Country Club DRI (A/K/A Gulf Harbour) was amended on March 16, 1992 (Resolution #Z-91-032A) to (1) remove a cap on the area of impervious surfaces; (2) provide that selective clearing for limited pedestrian access to the river via boardwalks or decks shall not involve any dredge or fill activities; and (3) provide for minimal disturbance to native vegetation.

A second amendment was adopted on March 21, 1994 (Resolution #Z-94-005) to modify the location and design of the marina facility.

A third amendment was adopted on March 19, 2001 (Resolution #Z-00-057A) to (1) reduce the number of dwelling units from 2,071 to 1,987; (2) eliminate 200 hotel units; (3) replace the 65,000 square feet of commercial with a 5,000 square foot ship's store and 30,000 square foot club house; (4) eliminate the 250 seat restaurant; and (5) extend the buildout date an additional 7 years to May 4, 2005.

A fourth amendment was adopted on October 7, 2002 (Resolution #Z-02-020) to allow construction of a boardwalk with observation platform and mangrove trimming within the established Mangrove Preservation Area (Tract E) and was subsequently approved as the Fourth Amended Development Order for River's Edge Yacht and Country Club (A/K/A Gulf Harbour), a Development of Regional Impact [State DRI #12-8182-21; County Case #81-09-08-DRI(c)].

There has not been a change in local government jurisdiction for any portion of the development since the last development order was issued.

8. **Describe any lands purchased or optioned within 1/4 mile of the original DRI site subsequent to the original approval or issuance of the DRI development order. Identify such land, its size, intended use, and adjacent non-project land uses within**

½ mile on a project master site plan or other map.

N/A

- 9. Indicate if the proposed change is less than 40% (cumulatively with other previous changes) of any of the criteria listed in Paragraph 380.06(19)(b), Florida Statutes.**

Do you believe this notification of change proposes a change which meets the criteria of Subparagraph 380.06(19)(e)2., F.S.

YES X NO

- 10. Does the proposed change result in a change to the buildout date or any phasing date of the project? If so, indicate the proposed new buildout or phasing dates.**

N/A

- 11. Will the proposed change require an amendment to the local government comprehensive plan?**

N/A

Provide the following for incorporation into such an amended development order, pursuant to Subsections 380.06 (15), F.S., and 73-40.025, Florida Administrative Code:

- 12. An updated master site plan or other map of the development portraying and distinguishing the proposed changes to the previously approved DRI or development order conditions.**

N/A

- 13. Pursuant to Subsection 380.06(19)(f), F.S., include the precise language that is being proposed to be deleted or added as an amendment to the development order. This language should address and quantify:**

- a. All proposed specific changes to the nature, phasing, and build-out date of the development; to development order conditions and requirements; to commitments and representations in the Application for Development Approval; to the acreage attributable to each described proposed change of land use, open space, areas for preservation, green belts; to structures or to other improvements including locations, square footage, number of units; and other major characteristics or components of the proposed change;**

The proposed amended language to the Fourth Amended Development Order is as follows (additions underlined; deletions ~~crosshatched~~):

Section G. WATER SUPPLY, WATER QUALITY AND WILDLIFE HABITAT

- ...
5. For the riverfront lots the following vegetation management and maintenance guidelines apply:

- ...
- d. Selective trimming of native vegetation, one boardwalk with an observation deck, and one access walkover is allowed on the property described in Exhibit F, which is a portion of Tract E, per the following conditions:

(1) Mangrove (including other preserved trees) Trimming

- ...
- (c) All mangrove trimming must be conducted as permitted by the Florida Department of Environmental Protection (FDEP) General Mangrove Permit File No. 36-0152741-0003 which includes but is not limited to the following conditions:

...

(iv) The final height of trimmed mangroves and other preserve trees to be maintained is 20' 32' NGVD (approximately 18 30'+ from substrate). Only the mangroves within the mangrove trimming areas shown in Exhibit G may be trimmed. Because many of the trees in the mangrove trimming areas are less than 32' NGVD in height (as of June 2002), approximately thirty percent of the area will not be initially trimmed. Trees less than 20' 32' NGVD in the mangrove trimming area will only be trimmed as they exceed 20' 32' NGVD in the future to maintain the required elevation.

(d) Red mangroves ~~trimming is limited on the main trunk to branches above 32' NGVD with a diameter of 1" or less. All other branches above 32' NGVD~~ will be trimmed in compliance with the FDEP Permit.

(e) Once the final configuration and height (32' 20' NGVD) is achieved, the trimming corridors will be maintained by annual or biennial trimming events.

...

(vii) The trimming corridors ~~must be~~ have been monitored annually for a period of ten (10) years from the date of the initial trimming, and will continue to be monitored for another five (5) years from the 2014 date of the next trimming below 32' NGVD. Annual reports will be submitted to Lee County Environmental Sciences that analyze tree health, canopy coverage, plant species present and wildlife observed.

- b. **An updated legal description of the property, if any project acreage is/has been added or deleted to the previously approved plan of development;**

N/A

- c. **A proposed amended development order deadline for commencing physical development of the proposed changes, if applicable;**

N/A

- d. **A proposed amended development order termination date that reasonably reflects the time required to complete the development;**

N/A

- e. **A proposed amended development order date until which the local government agrees that the changes to the DRI shall not be subject to down-zoning, unit density reduction, or intensity reduction, if applicable; and**

N/A

- f. **Proposed amended development order specifications for the annual report, including the date of submission, contents, and parties to whom the report is submitted as specified in Subsection 73C-40.025 (7), F.A.C.**

N/A

SUBSTANTIAL DEVIATION DETERMINATION CHART

** [NOTE: No change is proposed or has occurred.]*

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Attraction/Recreation	# Parking Spaces			
	# Spectators			
	# Seats			
	Site locational changes			
	Acreage, including drainage, ROW, easements, etc.			
	External Vehicle Trips			
	D.O. Conditions			
	ADA Representations			
Airports	Runway (length)			
	Runway (strength)			
	Terminal (gross square feet)			
	# Parking Spaces			
	# Gates			
	Apron Area (gross square feet)			
	Site locational changes			
	Airport Acreage, including drainage, ROW, easements, etc.			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

SUBSTANTIAL DEVIATION DETERMINATION CHART

Airports (cont.)	# External Vehicle Trips			
	D.O. Conditions			
	ADA representations			
Hospitals	# Beds			
	# Parking Spaces			
	Building (gross square feet)			
	Site locational changes			
	Acreage, including drainage, ROW, easements, etc.			
	External Vehicle Trips			
	D.O. conditions			
	ADA representations			
Industrial	Acreage, including drainage, ROW, easements, etc.			
	# Parking spaces			
	Building (gross square feet)			
	# Employees			
	chemical storage (barrels and pounds)			
	Site locational changes			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

SUBSTANTIAL DEVIATION DETERMINATION CHART

Industrial (cont.)	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
Mining Operations	Acreage mined (year)			
	Water withdrawal (gal/day)			
	Size of mine (acres), including drainage, ROW, easements, etc.			
	Site locational changes			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
Office	Acreage, including drainage, ROW, easements, etc.			
	Building (gross square feet)			
	# Parking Spaces			
	# Employees			
	Site locational changes			
	# External vehicle trips			
	D.O. Conditions			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

SUBSTANTIAL DEVIATION DETERMINATION CHART

Office (cont.)	ADA representations			
Petroleum/Chemical Storage	Storage Capacity (barrels and/or pounds)			
	Distance to Navigable Waters (feet)			
	Site locations changes			
	Facility Acreage, including drainage, ROW, easements, ect.			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
Ports (Marinas)	# Boats, wet storage			
	# Boats, dry storage			
	Dredge and fill (cu. yds.)			
	Petroleum storage (gals.)			
	Site locational changes			
	Port Acreage, including drainage, ROW, easements, etc.			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

SUBSTANTIAL DEVIATION DETERMINATION CHART

Residential	# Dwelling units			
	Type of dwelling units			
	# of lots			
	Acreage, including drainage, ROW, easements, etc.			
	Site locational changes			
	# External vehicle trips			
	D.O. Conditions			
Wholesale, Retail, Service	Acreage, including drainage, ROW, easements, etc.			
	Floor Space (gross square feet)			
	# Parking Spaces			
	# Employees			
	Site locational changes			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

SUBSTANTIAL DEVIATION DETERMINATION CHART

Hotel/Motel	# Rental Units			
	Floor space (gross square feet)			
	# Parking Places			
	# Employees			
	Site locational changes			
	Acreage, including drainage, ROW, easements, etc.			
	# External vehicle trips			
	D.O. Conditions			
	ADA representations			
R.V. Park	Acreage, including drainage, ROW, easements, etc.			
	# Parking Spaces			
	Buildings (gross square feet)			
	# Employees			
	Site locational changes			
	# External vehicle trips			
	D.O. conditions			
	ADA representations			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

SUBSTANTIAL DEVIATION DETERMINATION CHART

Open Space (All natural and vegetated non-impervious surfaces)	Acreage			
	Site locational changes			
	Type of open space			
	D.O. Conditions			
	ADA representations			
Preservation, Buffer or Special Protection Areas Preservation (cont.)	Acreage			
	Site locational changes			
	Development of site proposed			
	D.O. Conditions			
	ADA representations			

Note: If a response is to be more than one sentence, attach a detailed description of each proposed change and copies of the proposed modified site plan drawings. The Bureau may request additional information from the developer or his agent.

Revised Mangrove Trimming Plan for Palmas Del Sol

May 2013

Prepared for:

**Palmas Del Sol Condominium Association
11660 Court of Palms
Fort Myers, FL 33908**

Prepared by:

**Parke Lewis, Senior Biologist
W. Dexter Bender & Associates, Inc.
4470 Camino Real Way, Suite 101
Fort Myers, FL 33966
(239) 334-3680**

INTRODUCTION

The 10.17 acre mangrove preserve area at Palmas Del Sol consists primarily of white mangroves, black mangroves, red mangroves, buttonwoods and a ground cover understory of leather fern. The density of mature mangroves within the fringe varies from roughly 6'-8' on center along the river shoreline up to about 20' on center in the interior of the preserve. The mangrove fringe along the river contains no areas of open understory. Large mature trees consisting of black, red and white mangroves are scattered throughout the trimming area with red mangroves being the predominant species along the shoreline. Other species which can be found in the preserve include scattered cabbage palm, coin vine and pond apple in the drier portions of the preserve. Prior to the first exotic and nuisance vegetation removal event in December of 2002, extensive infestation by the exotic tree species Brazilian pepper, seaside mahoe and Australian pine were found within the preserve, particularly on the old spoil deposits and the sand and shell ridge along the river front. In order to provide for a view of the river from the residences at Palmas Del Sol, the FDEP issued General Permit # 36-0152741-003 to trim mangroves on August 13, 2001. Trimming within the preserve consisted of annual trimming in which the mangroves within the designated view corridors were to be trimmed to a height of no less than 32' NGVD. Outside of the trimming corridors, mature mangroves vary in height from 25' to 35' with trees in excess of 40' also present.

Trimming of mangroves in the indigenous preserve area is provided for with specific conditions in River's Edge Yacht and Country Club DRI Development Order #12-8182-21, as amended; Zoning Resolution Z-02-020; and a Conservation Easement recorded at Lee County Official Records Book 3893, Page 2562. These conditions do not prohibit trimming of other native vegetation (e.g., buttonwoods), and specifically allow for the mangroves to be trimmed to a final height of 32' NGVD (approximately 30' from the substrate) and to be maintained at that height on an annual basis.

PROPOSED TRIMMING

In order to provide for the residents of the Palmas Del Sol Condominiums to have:

"visual access to the river from the rear of the lot through the vegetation in the buffer and preservation area[s] elective trimming of trees and vegetation within the preservation and buffer areas for this purpose may be permitted only in those areas specifically designated in this Development Order ... " as described in the DRI Development Order Section, II.G.5.a.

The applicant is requesting that the existing Florida Department of Environmental Protection Permit (FDEP # 36-0152741-003) and the Lee County DRI Development Order and Conservation Easement language be revised so that the minimum trim height within "view corridors" be changed from 30' to 18' as measured from the substrate. This requested change is compatible with existing FDEP General Permit to Trim Mangroves guidelines and mangrove/native vegetation trimming projects on similar sites and meets the following conditions as described under F.S. 403.9327(1)(a) :

1) "The trimming is supervised or conducted exclusively by a professional mangrove trimmer."

- *The proposed trimming will be supervised exclusively by a professional mangrove trimmer.*

2) "The trimming is conducted in an area where the Department has not delegated the authority to regulate mangroves to a local government."

- *The project is located in Lee County. The County does not have delegated authority to regulate mangroves. However, Lee County has imposed additional restrictions on the trimming of mangroves and other native vegetation in the Palmas Del Sol preserve as part of the DRI Development Order.*

3) "No herbicide or other chemical will be used for the purpose of removing leaves of a mangrove."

- *No herbicide or chemical defoliants will be used.*

4) The mangroves subject to trimming under the permit do not extend more than 500' waterward as measured from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline.

- *All trimming corridors are less than 500' in depth from the most landward mangrove to the river.*

5) No more than 65% of the mangroves along the shoreline which exceed 6' in pre-trimmed height as measured from the substrate will be trimmed, and no mangrove will be trimmed so that the overall height of any mangrove is reduced to less than 6' as measured from the substrate.

- *The mangrove trimming corridors consist of less than 65% of the mangroves along the shoreline which exceed 6' in pre-trimmed height. And no mangroves are to be trimmed below 20' NGVD in height. As such, the proposed revisions fall under the criteria necessary to obtain a general permit to trim mangroves.*

The trimming conducted as proposed above will be significantly less than the trimming allowed down to the 6' minimum trim height provided for under a general permit. Furthermore, the 20' height as the final configuration is being applied to all vegetation in the trimming corridors, including allowing those currently less than 20' in height to grow up to 20'.

MONITORING

The Palmas Del Sol Tenth Annual Monitoring Report was submitted to Lee County in July of 2012. This report documents the overall condition of the preserve as being in satisfactory condition meeting and exceeding the requirements of plant survivability and exotic and nuisance vegetation presence as required under the Development Order. The preserve area is treated annually for the presence of exotic and nuisance vegetation, primarily Brazilian pepper, seaside mahoe and moon vine. Currently the preserve area is free of exotic and nuisance vegetation. Permitted trimming of mangroves and other native vegetation within the view corridors has not resulted in any tree mortality. Furthermore, sampling data from the Tenth Annual Monitoring Report depicts an increase in ground cover and mid-story vegetation within the trimming corridors, with overall native vegetation densities in excess of 90%. This can be attributed to the continued growth of untrimmed vegetation at heights lower than 30' in addition to an increase in ground cover vegetation such as leather fern, immature buttonwoods and mangroves that have naturally recruited into these areas with the increase in sunlight as the canopy trees in the corridors were trimmed.

Due to inadequate supervision by the landscape company before W. Dexter Bender & Associates, Inc. began supervision, mangroves had been over-trimmed to heights ranging from 15' to 22' in height, below the approved 30' minimum trim height. Lee County identified that problem (2009 Lee County Enforcement Case, ENV2009-00034) and required remedial measures to be taken under better supervision. A site inspection by Lee County Environmental Sciences staff in September of 2011 revealed that the trees were at that time approximately 25' to 34' in height. In addition, there has been a reasonable amount of time for the individual trees and canopy cover to recover since the 2009 Enforcement Case.

The Conservancy of Southwest Florida Collection Protocol for determining health of mangrove trees (Updated 2010/2012) and based upon Standardized Mangrove Data Collection Protocols developed for previous tree assessments and substantiated by work described by Duke *et. al.* 2010, Saintilin 2010 and FRC Environmental 2008/2010 provides the following categories and descriptors for assessing mangrove condition: "In general healthy mangroves have been described as living trees, saplings and seedlings that have green leaves with little evidence (less than 20%) of yellowing or curling, no abnormal leaf loss; little evidence of insect damage or disease (less than 20%) and no epicornic growth. Whereas unhealthy mangroves have been described as living trees, saplings and seedlings that may have die backs and/or receding canopies, many yellowing or curling canopies; extensive insect damage and/or disease; adventitious roots, and/or epicornic growth."

Consistent with the observations of Lee County Division of Environmental Sciences staff, we have observed that most all trees over trimmed in the corridors have fully recovered. In general, tree structure height has been reduced, but the canopy itself has closed in and trees are growing normally and are healthy as described above.

There are dozens of similar local FDEP permitted mangrove trimming projects in preserve areas that consist of long term maintenance trimming of mature mangroves without adverse effects to the preserve area. A few examples consistent with the 20' trim height are provided below:

The Lot "D" Safety Harbor project of North Captiva

These mangroves were initially illegally trimmed in the early 1990s. As a condition of the Consent Agreement, the FDEP allowed for a minimum trim height of 20' to be allowed. The mangrove fringe contains all three species of mangroves and has been continuously trimmed since the late 1990s. Including severe mangrove destruction as a result of hurricane Charley in 2004, this mangrove fringe is healthy in good condition and is trimmed on an annual basis to maintain the 20' configuration.

Sea Isles Condominium Fort Myers Beach

The mangroves along the residential area shoreline and within the preserve have been continuously trimmed under an FDEP general permit since 2002. Trees which were initially up to 40' in pre trimmed height were reduced through annual trimming in height to approximately 15' over a period of several years.

Harbor Place Condominium

These mangroves are located directly to the west of Palmas Del Sol. The mangroves in this preserve area are similar in height and configuration to the adjacent Palmas del Sol mangrove fringe. These Harbor Place mangroves are being trimmed under an FDEP general permit to reduce their height and configuration to improve the view of the river from the residences. The FDEP later issued a second General Permit to allow for a larger trimming corridor than was provided for in the initial permit.

CONCLUSION

The proposed revised minimum trim height of 20' is consistent with FDEP guidelines for trimming mangroves. This trimming can be conducted in stages and under the specific conditions of an FDEP General Permit, and with continued monitoring of the preserve and annual reports to Lee County to ensure the stability of a healthy mangrove forest preserve.