

**THE PALMS OF TERRA CEIA BAY  
COMMUNITY DEVELOPMENT DISTRICT  
P.O.Box 1383  
Palmetto, Florida, 34220-1383**

**Wednesday, June 23, 2004**

Cece McKiernan,  
Environmental Administrator,  
Department of Environmental Protection,  
Southwest District,  
3804 Coconut Palm Drive,  
Tampa, Florida, 33619

Dear Ms McKiernan,

**Subject: File No: 41-0167340-004 (Modification to Permit No: 41-0167340)  
Applicant: Palms of Terra Ceia Bay Community Development District.**

We attach for your consideration and approval a request with supporting documents, wherein we seek to have the above quoted permit modified so that each of the development sites fronting onto Terra Ceia Bay shall have an equitable allocation of mangrove trimming rights.

In this request we are seeking to increase the trimming height of the mangroves at the same time asking to be allowed to trim mangroves over a larger linear footage than has previously been represented to you. From the attached history you will understand that there has been some confusion relative to the previous requests submitted to you, and it is our objective to correct previous errors, at the same time treating each of the property owners equitably relative to their obtaining water views for the lower floors of their existing and planning buildings.

Should you wish to discuss this request in greater detail, or require additional information please do not hesitate to contact us. We would confirm that we, and the owner of the undeveloped parcels would be very happy to meet with you at your offices to discuss the mangrove trimming issue in greater detail.

We look forward to receiving a favorable response to this request which we believe to be very reasonable and equitable.

Yours truly,



Ed. C. Bennett  
Vice Chairman and Treasurer

cc. Members of the Board of Supervisors, Palms of Terra Ceia Bay CDD.  
Mrs. Beverly Dielman, President Estuaries Condominium Association, Inc.  
Carlos Escalante - Manatee Floral Inc.

**PALMS OF TERRA CEIA BAY  
COMMUNITY DEVELOPMENT DISTRICT**

**Wednesday, June 23, 2004**

**WETLANDS MANGROVE TRIMMING**

**REQUEST FOR MODIFICATION OF PERMIT # 41-0167340-04**

Please find attached for your information the following documents:

- Completed Application Form with respect to modifying permit # 41-0167340-04
- Check for the Application Fee of \$50.00
- Copy of Wetlands Mangrove Trimming – History of Events.
- Copy of permit 41-0167340-04 for your information.
- Copy of the Conservation Easement dated January 10, 1996
- Copy of the DEP Document – Conservation Easement.
- Reduced survey plans of the Wetlands which are subject to this request.

Permit 41-0167340-02 permitted trimming of 335 linear feet of windows out of a total of 546 linear feet. This calculates to 61% of the total linear footage being permitted for trimming.

Permit 41-0167340-03 permitted trimming of 200 linear feet out of 200 linear feet. This calculates to 100% of the linear footage that was subject to that amendment.

Permit 41-0167340-04 changed the name of the permitted entity from Estuaries Condominium Association Inc. to The Palms of Terra Ceia Bay Community Development District.

From the attached reduced survey it can be seen that we are now requesting permission to trim windows which total 380 linear feet of mangroves to a height of 9 to 10 feet out of a total of 930 linear feet. This calculates to 41% of the total linear footage being permitted for trimming, a significant reduction over that agreed to in permit 41-0167340-02.

It is planned, again referring to the attached reduced plot of survey to trim windows in the following allocations, such windows to be clearly indicated by offices of the DEP.

1. Development Parcel 1 -	120 linear feet.
2. Estuaries Condominium Association Inc. -	100 linear feet
3. Development Parcel II -	160 linear feet.
Total trimming linear footage requested -	380 linear feet.

## **MAINTENANCE OF WETLANDS**

The Board of Supervisors of the District is in total agreement with the DEP concerning the ongoing preservation and maintenance of the Wetlands in Florida, and it was with this in mind that during 2003 in excess of \$23,000.00 was expended in removing exotics, principally Brazilian Peppers from the area in question. In addition the planning of in excess of 3,000 sea grapes was undertaken. This work was approved by the DEP and also the City of Palmetto and SWFWMD at the time. You will have information concerning this in your records.

To ensure that the Wetlands are maintained correctly in the future the District has let a contract to its Landscaper of Records where by he undertakes two clean ups each year, cutting down the undergrowth, removing any exotics and generally ensuring that the area is maintained in a high desirable condition. The cost of these maintenance clean ups is \$2,250.00 each year.

## **CONCLUSION**

It is our position that the Palms of Terra Ceia Bay Community Development District are demonstrating that they are excellent custodians of the Wetlands they own which front the Terra Ceia Bay and we respectfully request that you give favorable consideration to this most recent request to modify the current permit.



# FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

## NOTICE OF INTENT TO USE GENERAL PERMIT FOR MANGROVE TRIMMING OR APPLICATION FOR INDIVIDUAL PERMIT TO ALTER OR TRIM MANGROVES

This application form may be used to provide notice to the department of your intent to use a general permit to trim mangroves pursuant to Section 403.9327, Florida Statutes, or to apply for an individual permit to alter or trim mangroves pursuant to Section 403.9328, Florida Statutes. Applications to trim or alter mangroves are not required to be submitted on this form. This form is being provided as a service to the public to clarify what information the department needs to process an application. Submitting all of the necessary information initially will reduce the permit application processing time.

### GENERAL INFORMATION / INSTRUCTIONS

- \*\* Mangrove trimming - means to cut mangrove branches, twigs, limbs, and foliage, but does not mean to remove, defoliate or destroy the mangroves.
- \*\* Mangrove alteration - means anything other than trimming of mangroves.
- \*\* Please submit all documents in a clearly legible form on 8 1/2 X 11 inch paper, type or print all information.
- \*\* If providing notice of intent to use a general permit for mangrove trimming pursuant to s. 403.9327, Florida Statutes, please complete sections 1, 2, 3, 4, 5 & 7 of this application.
- \*\* If requesting an individual permit to alter or trim mangroves pursuant to s. 403.9328, Florida Statutes, please complete sections 1, 2, 3, 4, 6, & 7 of this application.
- \*\* Submission of insufficient information may result in denial of the permit.

**SECTION 1 / APPLICANT INFORMATION**

Applicant/Riparian Owners Name THE PALMS OF TERRACEIA BAY Name of Applicant's Agent, if applicable NOT APPLICABLE  
 Address COMMUNITY DEVELOPMENT DISTRICT Corporate Name \_\_\_\_\_  
PO BOX 1383 Address \_\_\_\_\_  
PANNETTO \_\_\_\_\_  
FL 34220-1383 \_\_\_\_\_  
 Telephone (Day) (941) 721-7161 Telephone (Day) \_\_\_\_\_  
 FAX: (941) 721-8173

**SECTION 2 / APPLICATION TYPE AND PROCESSING FEE (check the appropriate box)**

- New Permit Application
- General Permit for Mangrove Trimming (\$100)
- Individual Permit for Mangrove Alteration or Trimming (1-19 mangroves \$250) (20 or more mangroves \$500)
- Other \_\_\_\_\_ (explain)
- Modification to an Existing Permit (Existing Permit No. MA 4110167340104)
- General Permit for Mangrove Trimming (\$50)
- Individual Permit for Mangrove Alteration or Trimming (1-19 mangroves \$50) (20 or more mangroves \$250)

**SECTION 3 / SITE LOCATION (Please attach a vicinity map with clear directions to the proposed site using county, state, and U.S. highway names and route numbers. The vicinity map should clearly identify the project site so that a person unfamiliar with the area can locate the project site)**

Name of Waterway at Location of the Proposed Activity TERRACEIA BAY

County and Municipality in Which the Proposed Activity is Located MANATEE COUNTY

Location Where Proposed Activity Will Occur:  
TERRACEIA BAY BLVD PANNETTO 34221  
WETLANDS ADJUTING ESTUARIES DEVELOPMENT

Street address, road or other descriptive location

Section	Township	Range
<u>10</u>	<u>34S</u>	<u>17E</u>

Lot No. \_\_\_\_\_ Block No. \_\_\_\_\_ Subdivision Name ESTUARIES CONDOMINIUMS

If Available Please Provide Coordinates for Center of Project:  
82.36.5 " Latitude 27.32.2 " Longitude

## SECTION 4 / PROJECT SITE INFORMATION

1. Please provide scaled or dimensioned site plans showing an overhead and profile (side-view) drawings clearly delineating and identifying the areas to be trimmed or altered. The overhead and profile drawings should be submitted on separate 8 ½ X 11" sheets of paper and should include the following information:
  - a. Graphic scale, and all principal dimensions and extent of proposed trimming or alteration; include the depth of the mangrove fringe as measured waterward from the trunk of the most landward mangrove tree in a direction perpendicular to the shoreline to the trunk of the most waterward mangrove tree; the existing height of the mangroves and the proposed height after trimming or alteration; the location of the proposed trimming or alteration in relation to permanent features such as docks, seawalls, fences, etc.; the profile drawing should show the portions of the trees that are proposed to be trimmed or altered.
  - b. Include the approximate location and species of all mangrove trees at the project site, or if this is not practical, show the area covered by the tree canopy and indicate the dominant tree species present.
  - c. Include the approximate shape and dimensions of the lot or parcel of land and the existing shoreline (approximate mean high water line).
  - d. North arrow and a legend that explains all symbols and patterns used in the drawings.
2. Please provide recent color photographs which clearly depict the existing conditions within the area of proposed trimming or alteration. Mark on the photographs the heights or configurations which are proposed to be attained. Include some reference features in the photographs which can be used to judge the existing and proposed dimensions, heights, and configurations of the trees. These photographs should be labeled and mounted on 8 ½ X 11" paper.

## SECTION 5 / INFORMATION SPECIFIC TO GENERAL PERMIT APPLICATIONS

- \*\* Applicants for a General Permit must provide sufficient information to enable the Department to determine the scope of the proposed trimming and whether the activity will comply with the conditions of Section 403.9327, Florida Statutes.
- \*\* All trimming under a General Permit pursuant to Section 403.9327, Florida Statutes, must be performed by a professional mangrove trimmer. This application must be signed by the professional mangrove trimmer who will perform the trimming, and the individual who owns or controls the property.
1. Mangrove Trimming is Being Proposed According to the Following Authority (check the appropriate box):
    - General Permit to trim mangroves for riparian property owners (Paragraph 403.9327(1)(b), Florida Statutes)
    - General Permit for the limited trimming of mangroves within existing navigational channels, basins, or canals to provide clearance for navigation of watercraft (Paragraph 403.9327(1)(c), Florida Statutes)

(Section 5 Continued on the next Page)

SECTION 5 (continued)

2. Are the mangroves that are proposed to be trimmed located on lands owned or controlled by the professional mangrove trimmer listed below, or by the person contracting with the professional mangrove trimmer, or on sovereign submerged lands (state owned submerged lands) immediately waterward and perpendicular to such lands?  Yes  No

3. Have mangroves on the parcel of property where this project is proposed, been trimmed in the past under a General Permit authorized by Section 403.9327, Florida Statutes?  Yes  No

4. What percentage of the mangroves along the shoreline, which are currently taller than six (6) feet, will be trimmed? 41%

5. Please provide an explanation of how the mangroves will be trimmed to ensure that no more than 25 percent of the foliage will be removed annually until the final height is achieved. If staged trimming is to occur, please provide a schedule of trimming that includes, at a minimum, the anticipated beginning and ending dates of the trimming project (attach additional sheets if necessary).

PLAN TO TRIM WINDOWS TO A HEIGHT OF 9 TO 10 FEET MINIMUM

6. How will the cut mangrove material be removed, and where will the cut material be disposed?

BY HAND AND MOVED TO AN APPROVED DUMP.

7. Are the mangroves proposed to be trimmed located within a conservation easement?  Yes  No  
If yes, attach a copy of the conservation easement.

8. Is the proposed trimming to occur on property developed for multifamily residential use?  Yes  No  
If yes, trimming must be equitably distributed so that each owner's riparian view is similarly affected.

9. Professional Mangrove Trimmer who will supervise or conduct the proposed mangrove trimming project:

Name A-1 LAWN SERVICE INC. Address 1611 21<sup>ST</sup> ST W.  
(Print or Type) PALMETTO

Telephone(Day) 941-729-7413 FLORIDA 34221.

I qualify as professional mangrove trimmer under the following authority: CURRENTLY

UNDERGOING EXAMINATION TO QUALIFY AS A PROFESSIONAL MANGROVE TRIMMER

(If qualified by being a member of one of the professional groups listed in Subsection 403.9329(1), Florida Statutes, provide documentation of your membership. If qualified by the Department pursuant to Subsection 403.9327(2), Florida Statutes, a copy of the Notice of Professional Mangrove Trimmer Status must be submitted with this application)

Signature [Signature]  
President A-1 LAWN SERVICE INC.

Date 06.23.2004

**SECTION 6 / INFORMATION SPECIFIC TO INDIVIDUAL PERMIT APPLICATIONS TO ALTER OR TRIM MANGROVES**

\*\* If a proposed mangrove alteration or trimming project does not qualify for an exemption under Section 403.9326, Florida Statutes, or a General Permit under Section 403.9327, Florida Statutes, an Alteration or Trimming Permit under Section 403.9328, Florida Statutes, must be obtained prior to conducting the proposed activities.

\*\* Applicants for an Individual Permit to Alter or Trim Mangroves must provide sufficient information to enable the Department to determine the scope and impacts of the proposed project.

1. The proposed activities involve mangrove (check the appropriate box):  Alteration  Trimming

2. How many mangroves are to be altered or trimmed?  1-19  20 or more

3. Is the proposed alteration or trimming part of a dredge and fill project that is exempt under Section 403.813, Florida Statutes, or permitted under Part IV of Chapter 373, Florida Statutes?  Yes  No

4. The purpose of the project is to provide (check appropriate box)  View  Access  Other (explain)

5. Are the mangroves proposed to be trimmed located within a conservation easement or an area that has been created, enhanced, restored or preserved as mitigation for a dredge & fill permit, MSSW permit, or an Environmental Resource Permit?  Yes  No  
If yes, attach a copy of the conservation easement and/or the permit.

6. Please describe the alteration or trimming techniques to be used (attach additional sheets if necessary):

a. How will the mangroves be altered or trimmed? ALL TRIMMING WILL BE

ACCOMPLISHED WITH HAND HELD EQUIPMENT

b. Who will perform the alteration or trimming? A-1 LANN SERVICE INC ONCE QUALIFIED

c. How will the cut mangrove material be removed, and where will the cut material be disposed? \_\_\_\_\_

CARRIED OUT BY HAND AND HAULED TO THE LANDFILL

(APPROVED DUMPING LOCATION)

7. Please describe any additional alteration or trimming details (attach an additional sheet if necessary)

SEE ATTACHMENTS



### SECTION 7 / CERTIFICATION

Application is hereby made for a permit or permits to authorize the activities described herein.

1. I hereby certify that: (please check the appropriate box)

I am the record owner , lessee , or the record easement holder  of the property described in Section 3 of this application.

I am not , the record owner, lessee, or record easement holder of the property described in Section 3 of this application.

2. I understand I may be required to provide additional information/data necessary to demonstrate reasonable assurance or evidence that the proposed activities will comply with the applicable State Water Quality Standards and other environmental standards.

3. I agree to provide entry to the project site for inspectors with proper identification or documents as required by law from the environmental agencies for the purpose of inspecting the site. Further, I agree to provide entry to the project site for such inspectors to monitor permitted work if a permit is granted.


4. I am familiar with the information contained in this application and that to the best of my knowledge and belief, such information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities or am acting as the duly authorized agent of the applicant. I understand that knowingly making any false statement or representation in this application is a violation of Section 403.161, Florida Statutes, and Chapter 837, Florida Statutes.

*PALMS OF TERRA CEMA DAY CDA*

*BY ED C BENNETT VICE CHAIRMAN*

Printed/Typed Name of Applicant or Agent

*AND TREASURER*



Signature of Applicant or Agent

*06.23.2004*

Date

Corporate Title if Applicable

*VICE CHAIRMAN / TREASURER*

*Ed C Bennett  
Bd Chairman*

**An Agent May Sign Above If Applicant Completes The Following**

I hereby designate and authorize the agent listed above to act on my behalf as my agent in the processing of this permit application and to furnish, on request, supplemental information in support of the application.

Printed/Typed Name of Applicant

Signature of Applicant

Date

\*\* Please submit this completed form, with attached drawings and other necessary information along with a check in the amount of the appropriate DEP processing fee (as determined in Section 2, page 2). Make the check payable to the "Florida Department of Environmental Protection" and send to the local DEP office with jurisdiction over the project site.

**PALMS OF TERRA CEIA BAY  
COMMUNITY DEVELOPMENT DISTRICT**

**Wednesday, June 23, 2004**

**WETLANDS MANGROVE TRIMMING – HISTORY OF EVENTS**

From the beginning of the process initiated by the developer of records, Fru-Con Development Corporation through their subsidiaries Fru-Con Ocean Golf Park, Ltd and The Fru-Con Projects, Inc, which occurred in the 1995 timeframe ownership of the Wetlands subject to the various permits have always vested with the Palms of Terra Ceia Bay Community Development District notwithstanding that representations to the DEP indicated differently.

The only action by the District over the years in question was to enter into a Conservation Easement with the DEP, which was dated January 10, 1996 and was signed by the then Chairman of the Palms of Terra Ceia Bay Community Development District – Gerald A. Faulmann. A copy of this Easement is attached for your reference.

The following issues are relative to the request now being submitted to you:

- The Conservation Easement specifically refers to your permit # 41-2598983, and stipulates that Mangrove Trimming under the terms of this permit should be allowed to continue. (While we have requested a copy of this permit from your offices at this date it has not been provided to us.)
- In addition I enclose a copy of the DEP Document – Conservation Easement which specifically states that “The Grantor reserves the right to do continued mangrove trimming in the specified areas and specified heights indicated in Permit No. 41-016734023-002.”
- Permit 41-0163401-002 was issued and dated December 21, 2000 to Dunescapes Inc (Bruce F. Patten) representing the Estuaries Condominium Association, Inc (who at no time owned the Wetlands in question) which permit approved trimming windows through 546 linear feet of mangroves. The supporting schematic would indicate that total linear footage of trimming permitted totaled 325 linear feet. A condition of this permit was that the mangroves would be maintained at a 9 to 10 feet minimum height level. **It should be noted that the Community Development District, the legal and recorded owner of the Wetlands to which the permit was subject were not a party to the application and there is no recorded evidence that they were consulted or that they gave their consent to the request.**
- Permit 41-01673403-003 was issued dated August 19, 2002 to McClarney Inc (Ray McClarney) representing the Estuaries Condominium Association, Inc (who at no time owned the Wetlands in question) modifying the permit as follows:

**“The modification is to trim mangroves along 200 linear feet of shoreline, and to abandon previously authorized trimming along 546 linear feet of shoreline.” The purpose of this request, we understand, was to reduce the minimum height requirement from the original permitted 9 to 10 feet, to a new lower level of 6 feet. Again is should be noted that the request was submitted without the knowledge or support of the District, the recorded owners of the Wetlands in question.**

- **Relative to the previous paragraph it should be recorded that a meeting did occur in your offices between Mark Peterson, Environmental Manager, Beverly Dielman, President, Estuaries Condominium Association, Inc, Ray McClarney of McClarney Inc and representing the Palms of Terra Ceia Bay Community Development District, Clyde M. Boltz – Chairman and Ed. C. Bennett – Vice Chairman and Treasurer. This meeting was convened at the request of the District when we discovered by pure chance that mangrove trimming permission was being sought of the DEP without the District’s (as the legal property owner) consent or agreement. While a compromise was reached in that meeting the representatives of the District were not made fully aware of the impact of the permit being requested relative to previous agreements. Had it been notified to the District representatives that 135 linear feet of trimming rights were being lost then no agreement or compromise would have been forthcoming?**
- **On April 4, 2004, at the request of the District modification a permit modification 41-0167340-004 transferring the permit into the name of the District was issued. It was upon receipt of this new permit that we understood clearly what had historically been requested and approved, and certainly the action previously stated would not have been agreed to by the District.**