

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
MAY 17, 2005

Item 1 River Wilderness Associates, Ltd. Recommended Consolidated Intent

REQUEST: Consideration of an application for (1) a 10-year private easement containing 20,857 square feet, more or less, for the proposed widening of a private roadway; (2) authorization to remove an existing boat ramp and two docks, and construct a new boat ramp, courtesy pier, canoe/kayak launch and T-dock in a new location preempting 7,133 square feet; (3) authorization for the construction of a proposed private channel preempting 906 square feet; and (4) authorization for the severance of 1,410 cubic yards of sovereign material.

COUNTY: Manatee
 Private Easement No. 40558 (File No. 410035563)
 Application No. 43021118.008

APPLICANT: River Wilderness Associates, Ltd.

LOCATION: Sections 7, 8, 17 and 18, Township 34 South, Range 19 East, in the Manatee River, Class III Waters, near the town of Parrish
Aquatic Preserve: No
Outstanding Florida Waters: No
Designated Manatee County: No
Manatee Aggregation Area: No
Manatee Protection Speed Zone: Yes (slow speed zone and 25 mph in marked channel)

CONSIDERATION: \$40,370.50, consisting of (1) \$37,198.00, representing the negotiated rate based upon the appraised market rental value of the riparian upland property and the enhanced property value, benefits or profit to be gained by using sovereignty lands for a private road, and (2) \$3,172.50 for the severance of sovereign material computed at the rate of \$2.25 per cubic yard pursuant to section 18-21.011(3)(a)2, F.A.C. Sales tax will be assessed pursuant to section 212.031, F.S., if applicable.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands, the Southwest Florida Water Management District (SWFWMD) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, the SWFWMD will issue a "Consolidated Notice of Denial."

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The applicant is proposing to construct a 227-acre residential development project entitled River Wilderness, Phase III, Sub-phases E, F, G, H, and M. The project is bounded by Fort Hamer Road to the east, tidal and freshwater wetlands to the north that extend off-site into other phases of River Wilderness Subdivision, and tidal wetlands and the Manatee River to the west and south. The subject project is the last phase of the River Wilderness Subdivision, which began development in the early 1980's. The undeveloped project site is located partially in the 100-, 25-, and 5-year floodplains and the floodway of the Manatee River. The boundary of sovereignty submerged lands was determined by a mean high water survey conducted by the applicant, that established a shoreline length of approximately 21,034 feet for this project site.

Historically, the lands encompassed by the project were utilized for agricultural purposes. Two agricultural dirt/shell roads were constructed prior to 1952; one running 700± feet north-south, between Wetlands 1 and 2, and the other running 350± feet east-west through Wetland 1 and tying into Fort Hamer Road. Due to the construction of the north-south access road, surface water conveyance between Wetland 2 to the west and Wetland 1 to the east was reduced to what could pass through two 42-inch culverts, or over the road during large storm events. Similarly, the construction of the east-west access road reduced surface water conveyance between the Manatee River to the south and Wetland 1 to the north to what could pass through a single 18- or 24-inch culvert, or over the road during large storm events. This culvert is currently crushed and has been unable to convey surface water for an unknown period of time.

When completed, the residential development will contain a total of 178 lots. One hundred and sixteen (116) lots will be located around four interconnected floodplain compensation lakes and thirty nine (39) will be located along primary and secondary channels of the Manatee River. The remaining twenty three (23) lots do not directly abut potentially navigable water. Six common boat docks, with two slips per dock, will be constructed in one of the floodplain compensation lakes. A community boat ramp, canoe/kayak launch, and T-dock for temporary mooring and for use by River Wilderness residents only are proposed within the Manatee River.

Runoff from the residential development will be treated in effluent filtration and wet detention ponds, separate from the floodplain compensation lakes, prior to being discharged. Encroachment by fill into the 100-year floodplain will be compensated for by equivalent excavation within the project's six floodplain compensation lakes, channel, tidal pond creation mitigation area (Wetland 2), the effluent filtration and wet detention ponds, and two off-site floodplain compensation lakes in a separate phase of the River Wilderness Subdivision. The floodplain compensation will exceed the encroachment. Impacts to the floodplain conveyance and floodway will be offset by the improved hydrology due to the new ConSpan roadways and four interconnected floodplain compensation lakes, connected to the Manatee River via a channel.

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The existing agricultural roads will be widened to serve as private roadways above the 100-year flood elevation, as required by Manatee County, for hurricane evacuation purposes. Surface water conveyance under the north-south roadway will be through four 24-foot-wide ConSpans and under the east-west roadway through three 24-foot-wide ConSpans. The conveyance capacity of these ConSpans will improve the hydrologic connection between the Manatee River and Wetland 1, and between Wetland 1 and Wetland 2. Additionally, the connection between Manatee River and Wetland 1 will result in the extension of the Mean High Water Line (MHWL) into Wetland 1.

A private easement is requested for the widening of the east-west roadway, which will provide secondary access to the development per Manatee County Development Code requirements. In the proposed condition, the easement area will consist of three ConSpans, each 24 foot wide and a 2-lane, stabilized, asphalt roadway. Construction will require that 1,298 cubic yards of sovereign material be removed and 4,792 square feet of sovereignty lands be filled for purposes of stabilizing the roadway embankment. Also, 8,284 square feet of land that is currently above the MHWL will be excavated to an elevation of -4.2 4 feet below MHWL. A Department of Environmental Protection (DEP) approved appraiser, completed an appraisal of this area. The results of the appraisal have been reviewed and approved by DEP staff on December 8, 2004. The total private easement area encompasses 20,857 square feet.

A letter of consent is requested to remove an unauthorized boat ramp with two docks that are used for temporary loading and unloading only and that are providing access to a secondary channel of the Manatee River. A letter of consent is also requested to install a community boat ramp, canoe/kayak launch, and T-dock, to be used for temporary loading and unloading only, at a new location where access will be to the primary channel of the Manatee River. The existing boat ramp and two docks were installed between 1985 and 1989 by a previous landowner, preempting 3,337 square feet. Although the existing boat ramp and two docks are accessible to the public with unlimited parking, a boat usage survey conducted in the month of March of 2001 indicated low use with only one personal watercraft and three 12- to 16-foot-long boats noted during the survey. The new community boat ramp, canoe/kayak launch, and T-dock for temporary mooring, will be constructed to allow River Wilderness residents access to the primary channel of the Manatee River, where water depths at the end of the boat ramp and T-dock are -2.40 and -5.60 feet, respectively, at Mean Low Water. The community T-dock will extend 48 feet from the MHWL. Currently, the navigable portion of the water body is 280 feet wide. An upland parking area will be provided for five vehicles and trailers. Environmental Resource Permit Specific Conditions and Homeowners' Association Deed Restrictions will limit the use of the boat ramp and docking facilities to recreational vessels with propeller or keel drafts of no greater than 2.50 feet, as recommended by the Florida Fish and Wildlife Conservation Commission (FWC). These Specific Conditions and Deed Restrictions will also stipulate that there shall be no fueling or repair facilities, no pump-out facilities, no "liveaboards", no waste disposal, and no fish cleaning stations at any authorized

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or future dock associated with the project, as well as prohibit in water boat mooring for more than 72 hours. This new facility will preempt a total of 7,133 square feet and will require removal of 6 cubic yards of sovereign materials.

A letter of consent is also being requested for a 35 foot portion of a total 370-foot-long channel, having a width ranging from 16 feet at its narrowest point to 24 feet at the Manatee River, that will connect the first lake in a series of four interconnected floodplain compensation lakes to the Manatee River. The channel bottom elevation of -5.00 feet NGVD is the same elevation as the interconnected floodplain compensation lake bottoms. The construction of this channel will: (1) provide required floodplain compensation; (2) offset floodplain/floodway impacts by allowing the local section of the Manatee River to extend into the interconnected floodplain compensation lakes; (3) ensure water quality in the interconnected floodplain compensation lakes through flushing of the entire water column; and (4) provide potential access to the Manatee River for River Wilderness residents with lots located on the four interconnected floodplain compensation lakes who choose to independently construct single-family exempt docks. To prevent possible secondary impacts to manatees associated with this boat use, no-wake, idle speed zone signs and manatee awareness signs will be posted within the channel, at both the entrance from the river and the floodplain compensation lakes. Work on sovereign lands total 906 square feet and require 106 cubic yards of sovereign material to be dredged.

A total of four conservation easements are associated with this project. Two of these are specifically associated with the proprietary authorizations for the community boat ramp, canoe/kayak launch and T-dock / channel and the private roadway easement. The applicant is granting these easements to the Board of Trustees in order to demonstrate public benefit for the use of sovereignty submerged lands and to address FWC recommendations. The easements are: (1) an easement encumbering a 2-foot-wide by 773.5-foot-long linear strip of commonly-owned shoreline from the channel east to the property boundary along the Manatee River that will prohibit the construction of any additional docking facilities or other such water access development along the applicant's commonly-owned shoreline; and (2) a conservation easement encumbering Wetland 1 (84.7 acres) to conserve and protect resources contiguous with sovereignty lands.

The other two easements will be granted to SWFWMD and are: (1) an easement encumbering a 20.7-acre wetland restoration and enhancement mitigation area (Wetland 2) for mitigation of wetland impacts associated with the linked ERP; and, will also result in the extension of the MHWL into (Wetland 2); and (2) an easement encumbering any remaining shoreline of all privately owned structures, river front, and interior lake/basin waterways restricting the construction of docking facilities or other such water access development to one dock with one boat slip per lot, except for docks shared between two lots, not to exceed 156 slips, as recommended by the FWC.

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Correspondence received on January 28, 2004, from the Save the Manatee Club presents arguments opposing the potential single-family docks within the internal floodplain compensation lakes and along the Manatee River, the community boat ramp, canoe/kayak launch, and T-dock, and any means of access between the Manatee River and the internal floodplain compensation lakes. The staff biologist recommended denial of the permit until adequate protective measures are implemented and installed (specifically speed zones) and incidental take can be reasonably assured not to occur. Even if provision of adequate protective measures and reasonable assurance is provided and the permit issued, the letter further recommends that the permit prohibit construction of the channel, or any other means of providing boat access between the upland floodplain compensation lakes and the river and the community boat ramp, canoe/kayak launch, and T-dock.

The Sierra Club, Manatee Conservation Committee, submitted a letter that was received on May 28, 2004 that expressed concerns about cumulative impacts resulting from many of the recently permitted developments along the Manatee River, the amount of boat docks proposed, and the navigability of the river in the vicinity of River Wilderness. They recommend alteration of the deed restrictions to prohibit any boat docks. The letter also expresses opposition to the dredging request for the channel to the internal floodplain compensation lakes.

The FWC recently passed the Tampa Bay Manatee Protection Rules, in which marked 25 mph channels and slow manatee speed zones for Manatee County are identified. The Manatee County section of the rules (68C-22.014) includes a slow speed zone and a marked 25 mph channel east of I-75 on the upper Manatee River. According to William O'Shea of Manatee County Environmental Management and Dawn Griffen of FWC Boating and Waterways, marking of the newly adopted FWC/Manatee County Speed Zones is targeted to commence in June of this year by the FWC in partnership with Manatee County. Enforcement by Manatee County and FWC's Florida Marine Patrol will ensue once the zones are marked. Marking and enforcement of these areas addresses many of the concerns expressed by the Save the Manatee Club and the Sierra Club.

In addition, the applicant is also addressing Save the Manatee Club and Sierra Club concerns through implementation of a Manatee Protection Plan and by agreeing to all of the recommendations made by FWC. Furthermore, the applicant has committed to permit and pay for marking of the primary and secondary navigation channels, and posting and maintaining speed zone signs prior to any dock construction. To further assist in effective enforcement of the speed zones, the applicant is dedicating either two slips at one of the common docks or temporary mooring at the community T-dock and use of the community boat ramp facilities for local, state, or federal law enforcement. Both agency and applicant efforts will also address comments made by the U.S. Fish and Wildlife Service, who issued a biological opinion for the river reach in which this project is located (Reach 41). The biological opinion states "the

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absence of speed zones will need to be addressed in order for the Service to find that new watercraft access projects in these reaches will not adversely affect the manatee."

In a memorandum dated November 29, 2004, Manatee County verified that previous concerns were addressed through changes in site development plans, recommendations by the FWC, and stipulations that will be added to the Manatee County permit. The permit for this project is anticipated to be approved at a May Manatee County Commission Meeting.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs determined that the plan was in compliance. The proposed action is consistent with the adopted plan according to a memorandum received from Manatee County on November 29, 2004.

RECOMMEND DEFERRAL