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Jeb Bush Governor Southwest District 3804 Coconut Palm Drive Tampa, Florida 33619

David B. Struhs Secretary

OCT 29 2002

Rita K. Gillespie c/o Michael R. Friday M. R. Friday & Associates, Inc. 1748 Independence Boulevard, Suite E-7 Sarasota, FL 34234

Re: Notification of Use of General Permit

File # 58-00205180-001

Dear Mr. Friday:

This is to notify you that your notice of intent to use the general permit (received October 2, 2002) pursuant to Chapter 403.9327, Florida Statutes, was reviewed by Department Staff. Your project appears to qualify for use of the general permit for the trimming of the mangroves as identified on the attached approved drawings. Please be advised that pursuant to Chapter 403.9327 F.S., no more than 65% of the mangroves along the shoreline which exceed 6' in pretrimmed height may be trimmed and no more than 25% of the foliage may be removed annually. The project is located at 6435 Manasota Key Road, Englewood, Section 5, Township 40 South, Range 19 East, Sarasota County, within the Lemon Bay Aquatic Preserve, a Class II Outstanding Florida Waterbody.

Please be advised that any deviation therefrom may be subject to enforcement action. You may not begin construction until 30 days from the date the notice was received by the Department of Environmental Protection. Attached for your information is a copy of Chapter 403.9327, Florida Statutes. If you have any further questions please call Michael Conn at (813) 744-6100, extension 330.

Sincerely,

**Bob Stetler** 

**Program Administrator** 

Environmental Resource Management Program

**Enclosures:** 

Chapter 403.9327, Florida Statutes

Notice of Rights

Approved Project Drawings, 2 pages

cc: Sarasota County Natural Resources

Rita K. Gillespie File No.: 58-0205180-001 Page 2 of 3

### 403.9327 General permits

(1) The following general permits are created for the trimming of mangroves that do not qualify for an exemption provided by s. 403.9326:

(a) A general permit to trim mangroves for riparian property owners, if:

1. The trimming is conducted in an area where the department has not delegated the authority to regulate mangroves to a local government;

2. The trimming is supervised or conducted exclusively by a professional mangrove trimmer;

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

4. No more than 65 percent of the mangroves along the shoreline which exceed 6 feet in pretrimmed 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 feet as measured from the substrate; and

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

(b) A general permit for the limited trimming of mangroves within existing navigational channels, basins, or canals to provide clearance for navigation of watercraft, if:

1. The trimming is conducted in an area where the department has not delegated the authority to regulate mangroves to a local government;

2. The trimming is supervised or conducted exclusively by a professional mangrove trimmer;

3. The mangroves are located on lands owned or controlled by the professional mangrove trimmer or by the person contracting with the professional mangrove trimmer to perform the trimming activities, or on sovereign submerged lands immediately waterward and perpendicular to such lands;

4. The trimming is limited to those portions of branches or trunks of mangroves which extend into the navigation channel beyond a vertical plane of the most waterward prop root or root system; and

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

(2) The department may establish additional general permits for mangrove trimming.

(3) The general permits under this section are subject to the following conditions:

(a) A general permit may be used only once on any parcel of property to achieve a mangrove height of no less than 6 feet;

(b) Trimming must be conducted in stages so that no more than 25 percent of the foliage is removed annually; and

(c) The height and configuration of mangroves trimmed under these general permits may be maintained

under s. 403.9326(1)(d).

(4) Notice of intent to use a general permit must be made in writing to the department and must contain sufficient information to enable the department to determine the scope of the proposed trimming and whether the activity will comply with the conditions of this section.

(5) The department shall grant or deny in writing each request for a general permit within 30 days after receipt, unless the applicant agrees to an extension. If the applicant does not agree to an extension and the department fails to act on the request within the 30-day period, the request is approved. The department's denial of a request for a general permit is subject to review under chapter 120. The department's action may not receive a presumption of validity in any administrative or judicial proceeding for review.

(6) Trimming that does not qualify for an exemption under s. 403.9326 or a general permit under this

section requires a permit as provided in s. 403.9328.

(7) If a local government receives delegation of the department's authority to regulate mangroves, the delegated local government shall issue permits for mangrove trimming in lieu of a general permit from the department, but the local government may not directly or indirectly limit the use of the exemptions in s. 403.9326. A delegated local government may impose stricter substantive standards than those of the department for the issuance of a permit authorized by this section; however, such regulations may not prohibit all mangrove trimming.

History.—

s. 7, ch. 95-299; s. 6, ch. 96-206.

Rita K. Gillespie File No.: 58-0205180-001

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#### **RIGHTS OF AFFECTED PARTIES**

This letter acknowledges that the proposed activity is exempt from Environmental Resource Permitting requirements under is timely filed, this determination automatically becomes only proposed agency action subject to Chapter 403.9326(1)(b), Florida Statutes. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. The procedures for petitioning for a hearing are set forth in the attached notice.

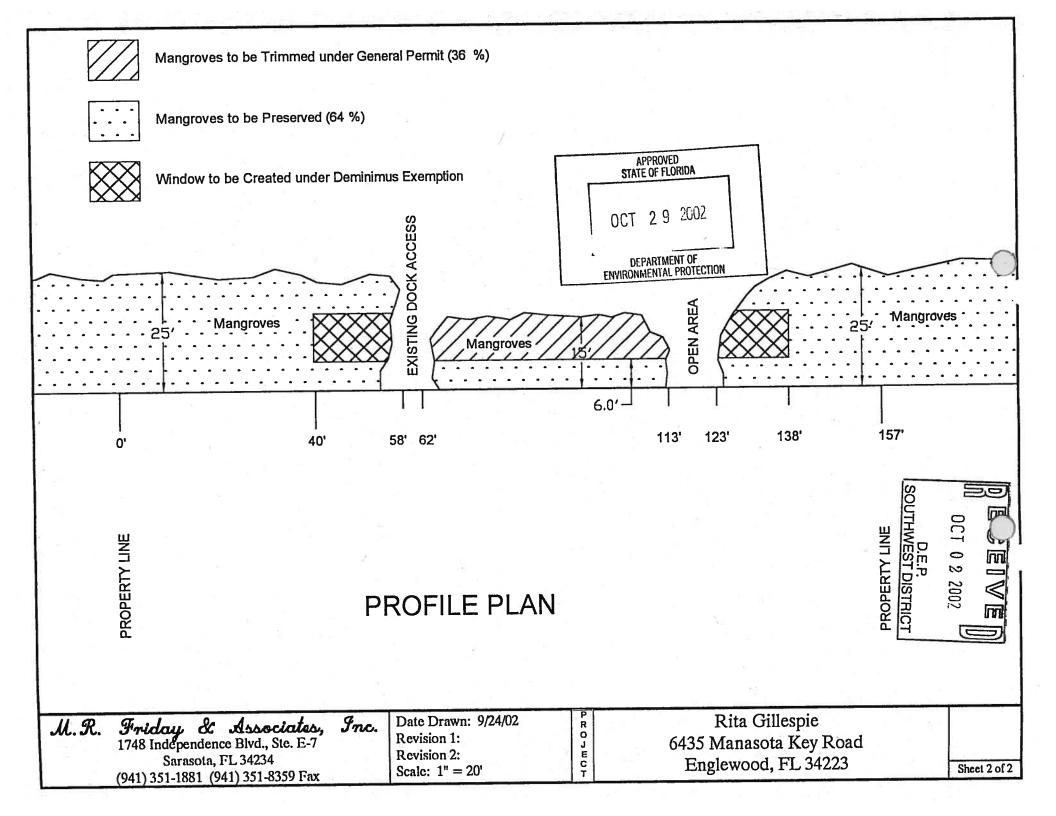
This determination is based on the information you provided the Department and the statutes and rules in effect when the application was submitted and is effective only for the specific activity proposed. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year.

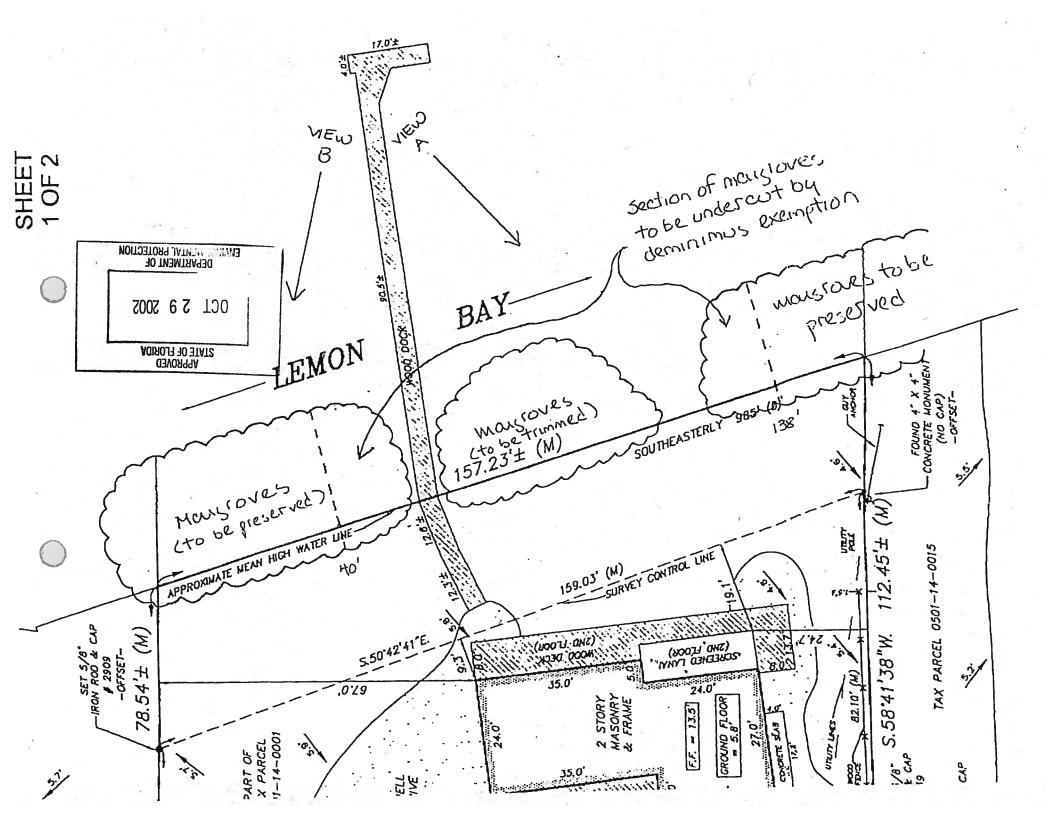
Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of exemption have a right to request an administrative hearing on the Department's decision that the proposed activity qualifies for this exemption. Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activity is not authorized under the exemption established under Chapter 403.9326(1)(d), Florida Statutes.

The Department will not publish notice of this determination. Publication of this notice by you is optional and is not required for you to proceed. However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permit.

If you wish to limit the time within which all substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the enclosed notice (Attachment A) in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

If you wish to limit the time within which any specific person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including Attachment A. For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031 of the Florida Statutes. In the event you do publish this notice, within seven days of publication, you must provide to the following address proof of publication issued by the newspaper as provided in section 50.051 of the Florida Statutes. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.





### INTEROFFICE MEMORANDUM

To: Bob Stetler, Environmental Administrator

**Through:** Mark Peterson, Environmental Manager

From: Mike Conn, E.S. I M (10/28)

**Date:** October **29**, 2002

File No.: Rita Gillespie/ 58-0205180-001

**Subject:** Mangrove NGP for Signature

<u>PROJECT DESCRIPTION:</u> this application is to trim less than 65% of mangroves along the shoreline of 6435 Manasota Key Road, Englewood, Section 5, Township 40 South, Range 19 East, Sarasota County, within the Lemon Bay Aquatic Preserve, a Class II Outstanding Florida Waterbody.

The project is NA for SPGP approval.

# DAY 30 FOR THIS PROJECT IS November 1, 2002

This staff assessment is preliminary and is designed to assist in the review of the application prior to final agency action. The comments provided herein are not the final position of the Department and may be subject to revision pursuant to additional information and further review.

# M.R. FRIDAY & ASSOCIATES, INC.

# 1748 INDEPENDENCE BLVD., STE. E-7 SARASOTA, FL 34234

Ph. (941) 351-1881

Fax: (941) 351-8359

## Environmental Consulting and Permitting

DATE:

October 28, 2002

FROM:

Michael R. Friday, President

TO:

Mike Conn, FDEP

FAX #;

(813) 744-6090

PAGES (including cover):

2

**SUBJECT:** Rita Gillespie, Revised Site Plan

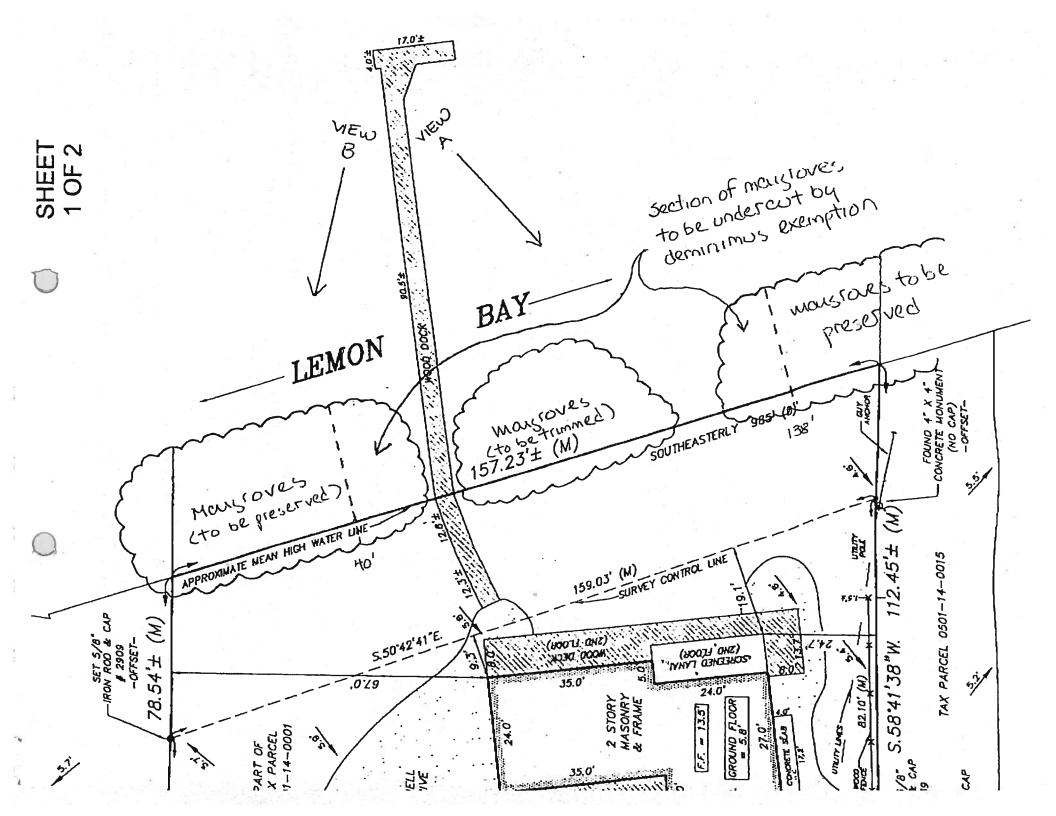
### **MESSAGE:**

Per our conversation, find attached a revised site plan with the comment about the under-trimming and location. Call me to verify that this is ok and I will put an original in the mail. Thanks.

If you have any questions please call.

CC:

file



# M.R. FRIDAY & ASSOCIATES, INC.

# 1748 INDEPENDENCE BLVD., STE. E-7 SARASOTA, FL 34234

Ph. (941) 351-1881

Fax: (941) 351-8359





### **MEMORANDUM**

**DATE:** 

October 16, 2002

FROM:

Michael R. Friday, President

TO:

Mike Conn, FDEP

**SUBJECT:** Rita Gillespie, Mangrove Trimming Application, Revised Signature Page

**MESSAGE:** 

Per our conversation.

If you have any questions please call.

Cc:

file

| SECTION 5 (continued)  |  |  |  |  |
|--|--|--|--|--|
| 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).                              |  |  |  |  |
| NIA  |  |  |  |  |
| 6. How will the cut mangrove material be removed, and where will the cut material be disposed?   |  |  |  |  |
| Houd removal + taken to County landfill  |  |  |  |  |
| 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: John R. Heuslick Address: 1748 Independence Blud., Ste. 67 (Type or Print) Scrussta, FC 34234  |  |  |  |  |
| Telephone(Day): (941) 351-7728   |  |  |  |  |
| I qualify as professional mangrove trimmer under the following authority: (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: Date: 10/16/02  |  |  |  |  |





# 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.

|                | FOR DEP USE ONLY |                             |    |
|----------------|------------------|-----------------------------|----|
|                | DATES: Received  | _/ / Complete / / Inspected | // |
| Application No | o. : MA /        | / Fee Received:             |    |

| Applicant/RiparianOwners Name Roto K. Gillespie Address 773 Manasota Key Road Telephone (Day) Enjewood, Fl 34273 (941) 493-2598                                      | Name of Applicant's Agent, if applicable Michael R. Friday, President Corporate Name M.R. Friday & Associates, Inc. Address 1748 Independence Blvd., Ste. E-7 (Telephone (Day) (941) 351-1881 |  |  |  |
|--|---|--|--|--|
| SECTION 2 / APPLICATION TYPE AND PROCES New Permit Application   | SING FEE (check the appropriate box)  Modification to an Existing Permit  Existing Permit No. MA / / / )  |  |  |  |
| General Permit for Mangrove Trimming (\$100)   | ☐General Permit for Mangrove Trimming (\$50)  |  |  |  |
| ☐ Individual Permit for Mangrove Alteration or Trimming (1-19 mangroves \$250) (20 or more mangroves \$500)  | ☐Individual Permit for Mangrove Alteration or Trimming (1-19 mangroves \$50) (20 or more mangroves \$250)   |  |  |  |
| □Other Explain:  |   |  |  |  |
|  | n *n = 9  |  |  |  |
| SECTION 3 / SITE LOCATION (Please attach a vicinity state, and U.S. highway names and route numbers. The vicin unfamiliar with the area can locate the project site) | map with clear directions to the proposed site using county, nity map should clearly identify the project site so that a person   |  |  |  |
| Name of Waterway at Location of the Proposed Activity:   | Lemon Bay   |  |  |  |
| County and Municipality in Which the Proposed Activity is Located: Sarasota  |   |  |  |  |
| Location Where Proposed Activity Will Occur: 6435 Marsota Key Road   |   |  |  |  |
| Street address, road or other descriptive location: Englewood, FC 34223  |   |  |  |  |
| Township: 405 Range: 19 E Section: 05  |   |  |  |  |
| Lot No. Block No. Subdivision Name:  |   |  |  |  |
| If Available Please Provide Coordinatesfor Center of Project:  |   |  |  |  |
| Longitude: <u>° '</u> <u>"</u> Latitude: <u>°</u> '  | <u>n</u>  |  |  |  |

SECTION 1 / APPLICANT INFORMATION

#### 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

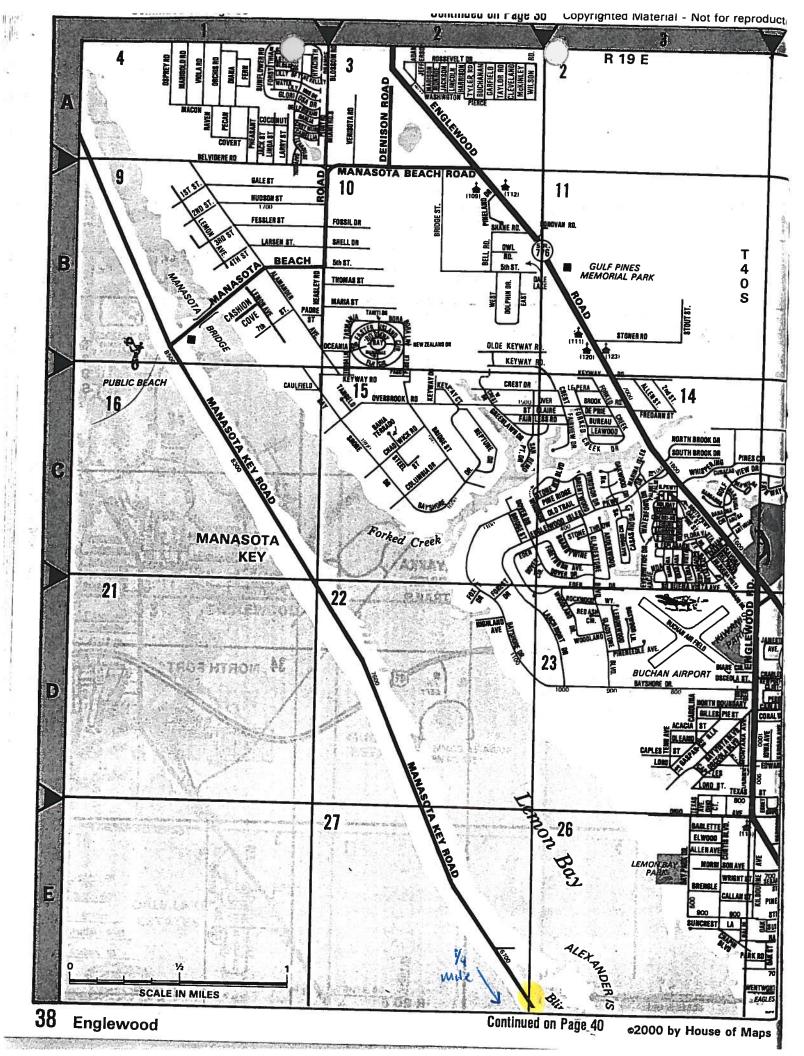
| <b>J</b> |   |
|----------|---|
| **       | Applicants for a General Permit must provide sufficient information to enable the Department to determine the scope of the proposed trimming and whether the activity will comply with the conditions of Section 403.9327, Florida Statutes.  |
| **       | All 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):   |
| X        | General Permit to trim mangroves for riparian property owners (Paragraph 403.9327(1)(a), 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)(b), Florida Statutes)  |
| 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? |
| 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 Union   |
| 4        | What percentage of the mangroves along the shoreline, which are currently taller than six (6) feet, will be trimmed?  |

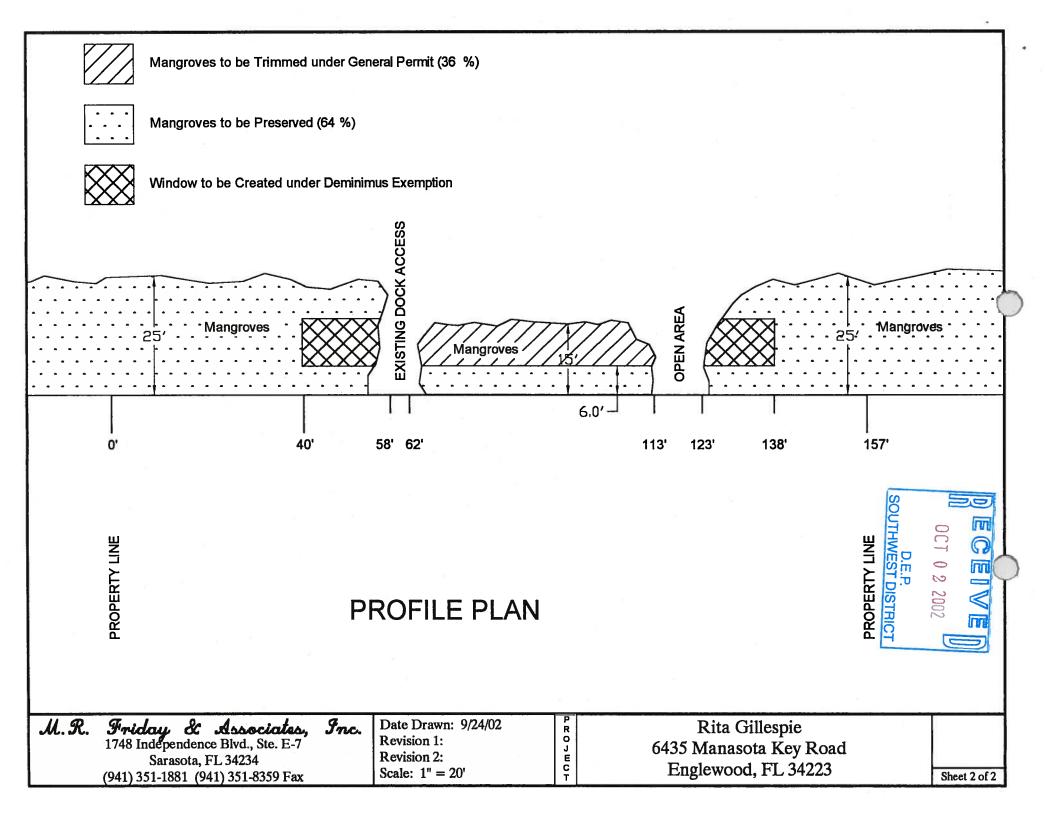
(Section 5 continued on the next page)

36%

| SECTION 5 (continued)  |  |  |  |  |
|--|--|--|--|--|
| 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).                              |  |  |  |  |
| No mayroves 716' in pre-trimmed height   |  |  |  |  |
| 6. How will the cut mangrove material be removed, and where will the cut material be disposed?   |  |  |  |  |
| Hard cut w/debris removed to local laufill   |  |  |  |  |
| or recycling facility  |  |  |  |  |
| 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: Michael R Friday Address: 1748 Independence Blud. E-7 (Type or Print) Professional Environmental Swasstu, FL 34234   |  |  |  |  |
| Telephone(Day): (941) 351-1881   |  |  |  |  |
| I qualify as professional mangrove trimmer under the following authority: (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: <u>M.O. O. O.</u> Date: <u>9/26/02</u>  |  |  |  |  |
|  |  |  |  |  |

| 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 $\square$ , the record owner, lessee, or record easement holder of the property described in Section 3 of this application.   |  |  |  |  |
| <ol> <li>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.</li> </ol>  |  |  |  |  |
| 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. |  |  |  |  |
| Michael R. Friday  Printed/Typed Name of Applicant or Agent  Signature of Applicant or Agent  Date   |  |  |  |  |
| President, M.R. Friday & Associates, Inc.  |  |  |  |  |
| Corporate Title if Applicable  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| 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.   |  |  |  |  |
|  |  |  |  |  |

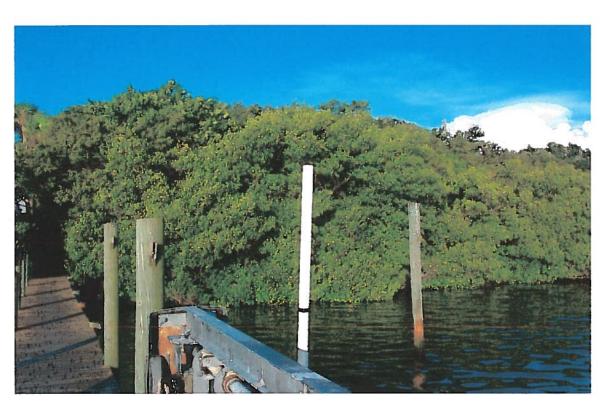




REDUCED COPY (NOT TO SCALE)



View A



View B

