FLORIDA DEPARTMENT OF Environmental Protection

Southeast District Office
3301 Gun Club Road, MSC 7210-1
West Palm Beach, FL 33406
561-681-6600

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

May 30, 2023

Store Capital Acquisitions, LLC
c/o Chad Freed,
8377 E. Hartford Dr., STE 100
Scottsdale, AZ 85255

Re: Warning Letter No.: #WL23-0095ERP56SED
SandPiper/Mangroves
Site No.: 435405; Project No.: 410938
St. Lucie County

Dear Mr. Freed:

A complaint inspection was conducted at your property which is located at 4500 SE Pine Valley St., Port St Lucie, FL 34952, on 5/10/2023 and 5/17/2023. During this inspection, possible violations of Chapters 403 and 373, Florida Statutes (F.S) were observed.

During the inspection, Department personnel noted the following (see the enclosed inspection report for a full account of Department observations):

- Unauthorized alteration, including destruction, of mangroves.

Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 403.121, 403.141 and 403.161, Florida Statutes.

Please contact Patricia Andrade, at (561) 681-6629 or Patricia.Andrade@FloridaDEP.gov , within **15 days** of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in receiving any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolving this matter.

Sincerely,

Jason Andreotta
Director, Southeast District
Florida Department of Environmental Protection

Enclosure: Inspection Report
Area of Unauthorized Mangrove Impact Map

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Florida Department of Environmental Protection

SOUTHEAST DISTRICT COMPLIANCE ASSURANCE PROGRAM

ERP Inspection Report

Inspection Date:	5/10/2023 5/17/2023	**Inspection Type:**	Complaint (No. 40272)
Lead Inspector:	Patricia Andrade		
Project Name:	Sandpiper Resort/Mangrove Alteration	**Site No.:**	435405
File / OGC No.:	n/a	**Project No.:**	410938
Owner/Responsible Party:	Store Capital Acquisitions LLC	**Contact:**	
Contractor/Agent:	Michael Mota	**Contact:**	michael@michaelmota.com

Location: The project is located within the North Fork St. Lucie Aquatic Preserve and Outstanding Florida Waters, Class III Waters of the State, adjacent to 4500 SE Pine Valley St., Port St Lucie, FL 34952 (Section 23, Township 37S, Range 40E), in St. Lucie County (Parcel No.: 4423-210-0001-000-3), approximately at (27°14'33.3406" x -80°18'35.7815")



Figure 1 - Site location, (image taken from St. Lucie County Property Appraiser's Website)

Site History & Inspection Overview

Site History:
Store Capital Acquisitions, LLC purchased Parcel No.: 4423-210-0001-000-3 ('Property') on September 2, 2022, which includes the Sandpiper Bay Resort.

On February 28, 2018, the property obtained a self-certification (56-0361785-001-EE) for a Repair and Replace-Dock (Aquatic Preserves). On March 9, 2018, the property received an exemption verification for dock pilings (56-0361785-002-EE). The property also has a Submerged Lands Lease (BOT No. 560000758) with the Florida Department of Environmental Protection (FDEP) for the docking facility.

Site Inspection Overview:
On May 8, 2023, FDEP's Office of Communications received a complaint via e-mail stating that mangroves were cut down along the eastern shoreline of the resort. On May 10, 2023, FDEP's Southeast District (SED) Office was informed of the potential violations. On this same day, SED staff in the area, Ashley Lyon and Margaret Naylor, visited the property to document the mangrove impacts. Upon arrival, Mike Giarogalo, the property manager escorted FDEP staff to the areas of concern. While on-site, it was noted that mangroves were significantly altered, and the trimmings/branches of mangroves were piled in, or adjacent to, roll-off dumpsters for later disposal (**Photos 1 & 2**). On May 17, 2023, a follow-up inspection was conducted by FDEP Staff, Patricia Andrade and Ashley Lyon, to further assess the mangrove impacts. Staff met with Mike Giarofalo and Michael Mota, a representative of the owner of the property. They had let staff know that the reasoning behind the mangrove removal/cutting was because of a tornado that had impacted the mangroves; however, the mangroves observed in roll-off dumpsters were full of foliage and healthy (Photos 1 & 2). They stated they did not know that a permit was needed to trim/alter mangroves or that they were protected under Florida Statute.

Compliance Status: Significant Non-Compliance

Resource Assessment

FLUCCS/FNAI Community Types:	Mangrove forest, Developed	
Wetlands/Other Surface Waters:	☒ Yes ☐ No	
Other Resources Present:	☒ Yes ☐ No	Identify: *Rhizophora mangle*
Resource Impacts:	☒ Yes ☐ No	
Area of **Authorized** Impacts:	0 sq. ft.	
Area of **Unauthorized** Impacts:	~ 17,789 sq. ft.	

MANGROVES

Total Length of Shoreline:	~3,394 ft.
Length of Mangrove Fringe:	~951 ft. (length of impacted Mangrove Fringe)
Depth of Mangrove Fringe:	15 - 26 ft.
Mangroves Trimmed:	☐ Yes ☒ No %
Mangroves Altered:	☒ Yes ☐ No 100%
Pre-Impact Height:	☐ <6 ft. ☒ 6-10 ft. ☒ 10-16 ft. ☐ 16-24 ft. ☒ >24 ft.
Post-Impact Height:	☒ <6 ft. ☐ 6-10 ft. ☐ 10-16 ft. ☐ 16-24 ft. ☐ >24 ft.
Diameter at breast height (DBH):	☐ <1″ ☐ 1-3″ ☒ 3-5″ ☐ 5-7″ ☐ >7″
Percent Canopy Cover by Species:	~99% RED 1% BLK % WHT

Impact Description:

At the time of the inspection, the mangrove fringe consisted mostly of red mangroves (*Rhizophora mangle),* with few black mangroves *(Avicennia germinans)* scattered throughout. Mangroves highlighted in the orange polygon (**see Attachment 1: Mangrove Impact Map**) were cut to less than one (1) foot in height. Based on the height of adjacent unaltered mangroves (**photo 24**), the diameter of the remaining trunks (**photo 21**), and historic images prior to alteration, it is determined that the majority of mangroves along the shoreline were between 10-15 ft in height. The impacted mangrove fringe is measured to be ~951 ft long, cumulatively, with an average depth of ~18 ft. The mangroves highlighted in red (**see Attachment 1: Mangrove Impact Map**) were also cut to less than one (1) foot in height and prop roots had been cut on still-standing adjacent mangroves. This section consisted of red mangroves that were over 25 ft. in height based on observation of adjacent unaltered mangroves (**photo 4**).

The unauthorized impact area was calculated using field measurements and aerials of the property in Arc GIS Pro (**see Attachment 1: Mangrove Impact Map**). A polygon was overlayed to show the extent of the mangroves exceeding 25ft in red and the mangroves that were 10-15 ft in height in orange. Combined, the polygons total an unauthorized trimming area of 17,789 sq. ft.

Investigation Summary

On May 8, 2023, the Florida Department of Environmental Protection's (FDEP) Southeast District (SED), received a complaint stating that mangroves were cut along the eastern shoreline of the Property.

On May 10 & 17, 2023, FDEP Staff visited the property to assess the mangrove impacts. While on-site, it was determined that mangroves were significantly altered, defoliated and/or destroyed. The entire shoreline was populated with red and black mangroves, with red being the dominant species. Some areas of the shoreline contained mangroves that were greater than 24 ft. in height, which would have required an Individual Permit from the Department just to trim, while other areas contained mangroves that were 10-15 ft. in height. The mangroves that altered or destroyed would not have been permittable by the department.

"SIGNIFICANT NON-COMPLIANCE" DESCRIPTION:

The mangrove trimming that was performed is categorized as significant non-compliance because of the resulting significant mangrove alterations/destruction and would not have been permittable.

Statute/Rule References:

Chapter 403.9328, F.S. states:

(1) A person may not alter or trim, or cause to be altered or trimmed, any mangrove within the landward extent of wetlands and other surface waters, as defined in chapter 62-340.200(19), Florida Administrative Code, using the methodology in s. 373.4211 and chapter 62-340, Florida Administrative Code, when the trimming does not meet the criteria in s. 403.9326 or s. 403.9327 except under a permit issued under this section by the department or a delegated local government or as otherwise provided by ss. 403.9321-403.9333.

Chapter 373.430, F.S. states:

(1) It shall be a violation of this part, and it shall be prohibited for any person:

(b) To fail to obtain any permit required by this part or by rule or regulation adopted pursuant thereto, or to violate or fail to comply with any rule, regulation, order, or permit adopted or issued by a water management district, the department, or local government pursuant to their lawful authority under this part.

Recommendations for Corrective Actions

Follow-Up Action:

- Immediately cease all mangrove trimming/alteration on the property.
- Enter into a Consent Order with the Department which will provide timeframes to complete corrective actions, including but not limited to replanting and monitoring mangroves within the mangrove fringe, purchasing of temporal loss mitigation and payment of penalties and department costs.

Supporting Documentation:

- Site inspections photographs
- Aerial Map of Unauthorized Mangrove Impact



5/25/2023

Luciano Guidoni, Environmental Manager



5/24/2023

Patricia Andrade, Environmental Specialist III — Date

Photographs Taken:



Photo 1: Mangroves debris/branches in dump trucks



Photo 2: Mangroves debris/branches in a roll-off dumpster



Photo 3: View of eastern extent of impacts, facing east



Photo 4: View of mangrove fringe that is >25 ft. (used as reference), facing East. (Pole is 25')



Photo 5: View on mangrove fringe, prop roots cut/cut down to 6”-1ft., facing East



Photo 6: View on mangrove fringe, prop roots cut/cut down to 6”-1ft., facing East





Photos 7 & 8: Diameter of roots, showing an average of 4.5 in.



Photo 8: View of mangrove fringe depth at 18 ft.





Photos 9 & 10: View of cut prop roots ranging from 6 in. -1ft.



Photo 11: View of post-trimmed mangrove fringe, facing West



Photo 12: View of post-trimmed mangrove fringe, facing East



Photo 13: View of mangrove fringe, facing North, the pile of mangrove cuttings



Photo 14: View of post-trimmed mangrove fringe, facing West, throughout riprap cut down to less than 1 foot.



Photo 15: View of mangrove fringe depth at ~13.5 ft.

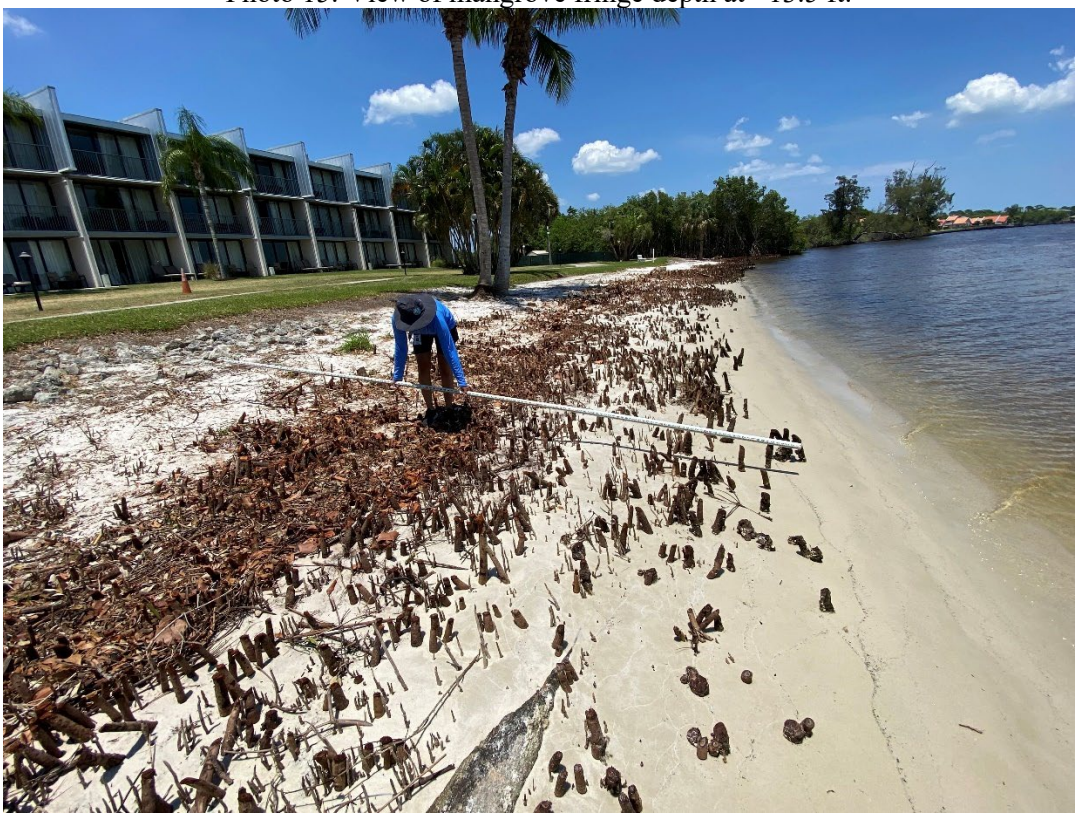

Photo 16: View of mangrove fringe depth at ~13.5 ft.



Photo 17: View of post-trimmed mangrove fringe, cut down to <6in -1ft.



Photo 18: View of post-trimmed mangrove fringe, cut down to 5 ft.



Photo 19: View of post-trimmed mangrove fringe, facing East



Photo 20: View of post-trimmed mangrove fringe, facing West



Photo 21: Diameter of trunk, showing an average of 5 in



Photo 22: Facing West, mangrove fringe throughout rip rap



Photo 23: View of post-trimmed mangrove fringe, cut down to 5 ft.



Photo 24: Untouched mangroves on the western side of the shoreline, ~12 ft in height.



Photo 25: View of shoreline, post-impacts facing North (Provided by FDEP IRLAP)



Photo 26: View of shoreline, post-impacts, facing East (Provided by FDEP IRLAP)



Photo 27: View of shoreline, post-impacts facing North (Provided by FDEP IRLAP)



Photo 28: View of shoreline, post-impacts facing West (Provided by FDEP IRLAP)



Photo 29: View of shoreline, post-impacts facing East (Provided by FDEP IRLAP)



Photo 30: View of shoreline, post-impacts facing North (Provided by FDEP IRLAP)



Photo 31: View of shoreline, post-impacts facing North (Provided by FDEP IRLAP)



Photo 32: View of shoreline, post-impacts facing North on eastern shoreline (Provided by FDEP IRLAP)



Photo 33: View of shoreline, post-impacts facing East (Provided by FDEP IRLAP)

MANGROVE IMPACT MAP

SANDPIPER / MANGROVES

Site No.: 435405; Project No.: 410938



Cadastral 2020 (Property Appraiser Parcels) - Public View

Impacted Mangroves (10-15 ft. tall)

Impacted Mangroves (> 25ft. tall)

TOTAL MANGROVE IMPACTS: ~ 17, 789 SQ. FT

0 62.5 125 Feet

N

Created by FDEP
5/24/2023