

M E M O R A N D U M

May 26, 1994

ORIGINAL
FILE COPY

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (LORENZO) *[Signature]*
RE: DOCKET NO. 931111-SU - APPLICATION FOR CERTIFICATE TO
OPERATE WASTEWATER UTILITY IN FRANKLIN COUNTY BY RESORT
VILLAGE UTILITY, INC.

Please file the attached documentation in the above-referenced
correspondence file. Thank you.

JBL/dr

Attachment

cc: Division of Water and Wastewater (Rendell)

I:MEMOS.JBL

ACK _____
AFA _____
APP _____
CAF _____
CMU _____
CTR _____
EAG _____
LEG _____
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SEC / _____
WAS _____
OTH _____

DOCUMENT NUMBER-DATE

05195 MAY 26 94

FPSC-RECORDS/REPORTING

ORDER DENYING AMENDMENT TO ST. GEORGE ISLAND
DEVELOPMENT OF REGIONAL IMPACT ORDER

WHEREAS, Dr. Ben Johnson and Coastal Development Consultants, Inc., applied for an amendment to the St. George Island Development Order dated September 20, 1977 for 58 acres described in Appendix A hereto.

WHEREAS, the Franklin County Board of County Commissioners has conducted workshops and a hearing pursuant to Chapter 380,

WHEREAS, the 1977 Development Order designates the Property as a Commercial Area, to be developed with "one or more high quality resort hotels or motels, together with such affiliated uses as may be appropriate or desirable"; and

WHEREAS, the Applicant proposed an Amendment to the 1977 Development Order, which would have permitted a mixed-use development of the Applicant's property, including the construction of up to 60 multi-family residential units; and

WHEREAS, there was strong opposition from individual property owners within the Plantation to the inclusion of multi-family residential units within the proposed development; and

WHEREAS, the 1977 Development Order requires further Board Approval for the use of the Property for the construction of condominiums or multi-family residential units.

WHEREAS, the Franklin County Board of County Commissioners, hereby finds and orders,

1. This order is based on Competent and substantial evidence.
2. It is not necessary to determine if the proposed development order presented at the December 7, 1993, hearing is a substantial deviation from the 1977 Development Order.
3. The development plan described in the proposed St. George Island Resort Village Development Order amendment, including 60 multi-family residential units, is denied and the 1977 Development Order as it relates to the Property is not amended.
4. Any development of the Property will continue to be controlled by the terms and conditions of the 1977 Development Order as it relates to the Property.
5. The approval of site plans and appropriate rezoning of land within the development is addressed in the 1977 Development of Regional Impact Order. Development permits may be obtained as set forth in the 1977 Development of Regional Impact Order. The owners should apply for an Amendment to the development order specifying densities of uses permitted for the property.
6. Future applications for development orders should adequately address storm water, sewage disposal, fire safety, emergency evacuation and water supply, and provide reasonable assurances that the quality and productivity of Apalachicola Bay will be maintained.

A certified copy hereof shall be furnished by certified U.S. Mail to the Department of Community Affairs, the Apalachee Regional Planning Council, Ben Johnson and Coastal Development Consultants, Inc.

DONE AND ORDERED this 4th day of January, 1994.

KENDALL WADE CLERK
CO:FRANKLIN ST:FL

FL 940009 B 437 P. 247
CO:FRANKLIN ST:FL

FILED AND RECORDED
DATE 01/06/94 TIME 15:11

RECORD VERIFIED
BY: *Donna Crum* DC

NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT

M E M O R A N D U M

TO: Duncan ~~Callan~~ ~~Chief~~, Bureau of Environmental Management and
Resource Planning

THROUGH: Graham Lewis, Ph.D. - Senior Environmental Scientist
Tom Pratt - Chief, Ground Water Bureau
Pam Latham - Environmental Engineer

FROM: Dan Tonemaire - Assistant Water Resource Planner

DATE: February 8, 1993

SUBJECT: St. George Island Resort Village Development Onsite Wastewater
Treatment Plant

The proposed project is located within the Apalachicola River and Bay System, which has been designated by the Northwest Florida Water Management District as the highest priority watershed under the Surface Water Improvement and Management (SWIM) Program. As such, the Florida Legislature has directed the District to protect and restore water quality and natural resources of the river and bay system. The waters of Apalachicola Bay are classified as an Aquatic Preserve, Outstanding Florida Water (OFW), and Class II Shellfish Harvesting Approved waters. In addition, the area has been designated a National Estuarine Research Reserve and an International Biosphere Reserve. Activities that would adversely impact the water quality and natural resources of the system should not be permitted.

The proposed development encompasses approximately 58 acres adjacent to the airstrip east of Nick's Hole on St. George Island. Nick's Hole includes seagrass beds and marshes, and is one of the most productive nursery areas in the outer reaches of Apalachicola Bay. The initial proposal consisted of 175 hotel rooms, 165 residential condominium units, 42,000 square feet of commercial space, and 340 restaurant seats. This development will generate an estimated 70,000 - 90,000 gallons per day (GPD) of wastewater requiring disposal. An advanced wastewater treatment plant is proposed to handle the waste. This facility will utilize an extended aeration mode of the activated sludge process with additional high levels of nitrogen and phosphorus removal. The resulting wastewater will have a 5:5:3:1 (5 mg/l BOD, 5 mg/l TSS, 3 mg/l TN, and 1 mg/l TP) level of treatment.

The District's primary concern remains the potential degradation of surface waters and aquatic habitat in the bay. The District strongly encourages review of secondary and cumulative impacts on water resources associated with the overall proposed project and recommends that a Stormwater Plan for the entire site be submitted in conjunction with the wastewater treatment plant application in order that appropriate cumulative impacts be properly assessed. Insufficient information has been provided to adequately assess potential degradation of this OFW or interaction between rainfall, overland runoff, ground water, and surface waters, including circulation and mixing with Apalachicola Bay.

This application does not address potential stormwater impacts for the entire project. Reduced absorption over the disposal areas and increased impervious surfaces will result in additional stormwater runoff. The combined potential increase of stormwater runoff and effluent disposal may compound adverse effects to the water quality and aquatic habitat. These possibilities give cause for concurrent review of cumulative impacts from the development.

Specific concerns with the wastewater treatment plant application are included below:

1. The applicant has not provided documentation regarding the "strong ability [of marsh] to add to the natural filtration and processing of the diffused ground water..." (pp. i-ii and page 33 in original submittal). In addition, the applicant does not address the impacts of nutrient enriched freshwater on the receiving salt marsh community. Increased freshwater flows may provide opportunities for colonization of "weedy" or "noxious" species less tolerant of higher salinities (e.g., Phragmites and Typha).
2. The applicant does not address the impacts of nutrient rich freshwater on the gulf beach interface. Nutrient enriched freshwater could potentially discharge on the gulf beach, which might be conducive to noxious growths including bacteria and blue green algae.
3. Category I, Class C designation for the treatment plant requires minimal staff requirements (3 hours/day, 6 days/week) and does not appear adequate, given the location of the facility and potential load variability (peak usage on weekends and limited load during the week).
4. The applicant has based estimation of impacts to ground water on assumptions with which District staff do not concur. For instance:

Information presented on page 31 is used to demonstrate that dilution of wastewater will be sufficient to substantially reduce ground water nutrient concentrations below the 3 mg/L of nitrogen and 1 mg/L of phosphorus input concentrations at the discharge facility. The case is given of there being available 9.5 million gallons of ground water in which to dilute the discharged effluent. This volume is used to support the notion of achieving a 100:1 dilution of the treated effluent.

There are at least two reasons to question the assumptions underlying the concept of a 100:1 dilution ratio. First, in order to achieve the 100:1 dilution ratio, it would be necessary to have complete and instantaneous mixing of the 90,000 gallons of effluent into the 9.5 million gallons of ground water. Given the physics of ground water flow, this is simply not achievable. Second, in order to maintain the dilution ratio, each unit of 90,000 gallons of effluent (one days operation at maximum design capacity) would require a corresponding volume of 9.5 million gallons of uncontaminated ground water in which to be diluted. This would require complete replacement of the 9.5 million gallons on a daily basis, something that is also not possible.

A more reasonable assumption would be that a contaminant plume will develop as treated effluent becomes entrained in the local flow system. While it is true that the plume will undergo some dilution as it is transported through the flow system, it is questionable whether the dilution specified in the original submittal will be achieved. There is abundant literature to indicate that contaminant plumes emanating from constant sources of contamination can (under certain circumstances and for particular contaminants) maintain high concentrations, relative to that of the source. Indeed, the most conservative assumption in this case would be to assume no dilution over the course of plume evolution and discharge to adjacent surface waterbodies. In any case, the applicant should further substantiate the cited dilution rate, or provide other relevant calculations to support another rate.

Due to the unknowns involved in forecasting the actual discharge interface of the ground water and effluent to the surface waters without site specific data, conservative estimates are warranted. This assumption could then be used to estimate impacts to surface water from the effluent.

Submittals have indicated that mounding will occur under the absorption beds. Mounding will alter the elevation and flow of ground water. The site-specific information submitted in the recent ground water survey should allow calculations and estimates to be accomplished which could more accurately predict alterations in the direction and quantity of ground water flow due to the mounding. Once the fate of ground water quantities has been established, impacts at the interface with surface waters (bay and gulf) should be considered.

5. Much of the information provided by the applicant includes general estimations based on limited data. The applicant should provide relevant data from previous studies to substantiate statements made regarding water quality of effluent being discharged. If permits are to be issued on such limited information, marsh inventories of vegetation and soil chemistry and water quality data should be submitted to DEP on a regular basis for review and determination of impact. In the event of an impact, the facility should cease operation or alter disposal method or quantity.

6. At least four surface water quality monitoring stations should be located near the north shore (in the tidal creek, at the mouth of the tidal creek, east and west of the tidal creek mouth) which will provide early indication of water quality changes. If contamination is indicated, stations should be added to assess the contamination (one site should be added in Nick's Hole and a second control site outside the area of impact, probably further offshore). Surface water sampling should include a minimum of NH_4 , PO_4 , TP, DC along with other parameters proposed. In the event of an impact, the plant should cease operation or alter disposal method or quantity.
7. The close proximity of the proposed project, and particularly the wastewater treatment facility, to the bay requires all possible precautions. Plant malfunction or operator error could produce a "spill", creating a situation demanding on-site retention of plant overflow and/or stormwater. Occasional flooding presently occurs under certain tidal and storm conditions which could flush contaminants from the uplands directly to the bay. Potential impacts from flooding events should be considered.
8. According to the applicant and DEP, a stormwater plan for the facility is not required (sufficiency responses 1.F). Although a Stormwater permit is not required for this facility, it is likely that a permit will be required for the entire development. The combination of potential impacts from stormwater runoff (from the plant and the entire development) and effluent should be considered to approximate potential degradation.



Lawton Chiles
Governor

Florida Department of Environmental Protection

Northwest District
160 Governmental Center
Pensacola, Florida 32501-5794

Virginia B. Wetherell
Secretary

MAY 2 - 1994

Dr. Ben Johnson, President
Coastal Development Consultants, Inc.
1234 Timberlane Road
Tallahassee, Florida 32312

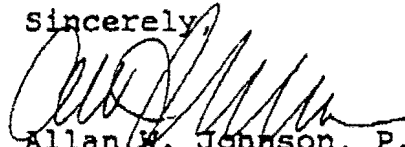
Dear Dr. Johnson:

This is to acknowledge receipt of your application, file number DC19-235845, for a permit to construct a new 0.030 MGD wastewater treatment facility to serve St. George Island Resort Village. Reclaimed water will be discharged to three (3) absorption beds.

The additional information received on April 4 was reviewed, however, the items listed on the attached sheet remain incomplete. Evaluation of your proposed project will continue to be delayed until we receive all requested information.

If you have any questions, please contact Joe May at (904) 444-8380. When referring to this project, please use the file number indicated.

Sincerely,



Allan W. Johnson, P.E.
Program Administrator
Water Facilities

AWJ:jmb

Attach: Completeness Summary Items
cc: Gary J. Volenec, P.E.
Franklin County Public Health Unit
Tallahassee Branch Office, DEP
Richard Deadman, DEP I'GOV PR
Duncan J. Cairns, NFWFMD
Mike Donovan, ARPC
Thomas H. Adams

1. In order to complete the review and processing of your application, the following is required:

B) Incomplete. Please provide the required PSC certification. This application will be incomplete, and the permit will not be issued, until the Department has received the PSC certification.

C) Incomplete. Your response is noted. Please provide the required documentation to confirm approval of the Development of Regional Impact Order from the Franklin County Board of Commissioners for your proposed project. The Department has serious reservations regarding the sufficiency of potable water service to St. George Island. This concern currently impacts on the development of St. George Island Resort Village. This application will be incomplete until the required documentation has been received by the Department, indicating approval of the Resort Village development by Franklin County.

FF) The Technical Services Section has reviewed the January 12 submittal for completeness and has found it to be incomplete. The portions of the application and documentation relative to groundwater have been reviewed pursuant to F.A.C. Rules 17-522 and 17-610.

The following list identifies items which are needed to satisfy and/or evaluate permitting requirements:

6) Complete.

9) Incomplete. The only unresolved concern for this site is that it is not clear what will happen if the system is hit by a severe storm (the "25 year precipitation event"). The National Weather Service can provide the climatological data which include the last 25 years' rainfall amounts. All one has to do is pick a station on or near the island and use the station data in the MODFLOW program. Those data can then be used to generate contour plots using the Surfer program. The generated plots will satisfy the Department's requirements to know how the ponds will perform when influenced by severe storms. The data already provided indicate that under normal loading conditions there will be radial flow from the ponds with some minor portion of the affected groundwater moving toward Nick's Hole; which is about 1,300 feet from the nearest pond. At that distance, under average flow conditions, there should be no adverse impact on Nick's Hole. However, your verification is required.

10) Complete.

The check-list of complete/incomplete information pertaining to F.A.C. Rule 17-522.600 has been revised. Those items which are incomplete at this time are as follows:

17-522.600(3)	Complete.
17-522.600(3)(a)1.	Complete.
17-522.600(3)(a)4.	Complete.
17-522.600(3)(e)	Complete.
17-522.600(3)(i)	Complete.
17-522.600(3)(k)	Complete.

2. Your comments are noted. However, to reiterate our position, the Department has time limitations when issuing a permit. For example, in accordance with F.A.C. Rule 17-610.840(3), a facility may be operated for up to six (6) months under a reuse/land application construction permit in order to demonstrate satisfactory project performance.

Therefore, this rule alone may restrict the time duration of the construction permit. The Department is willing to work with you to resolve this matter. But F.A.C. Rule 17-610.840(3) reuse/land application six (6) month operation period under the construction permit must not be compromised.

The Department is willing to issue the permit for 0.030 MGD plant capacity with a permit condition that will state that an expansion permit application must be submitted to the Department to increase the plant capacity as required by F.A.C. Rules 17-600.400(1), 17-4.050(6) and 17-4.050(7) prior to any proposed plant capacity increase.

18. The intervenor neither admits nor denies the allegations contained in paragraph eighteen, but puts the petitioners to their proof.

19. The intervenor neither admits nor denies the allegations contained in paragraph nineteen, but puts the petitioners to their proof.

20. The intervenor denies the allegations contained in paragraph twenty.

21. The intervenor denies the allegations contained in paragraph twenty-one.

Count III

22. Intervenor realleges answers to paragraphs 1-9 and 19.

23. The intervenor denies the allegations contained in paragraph twenty-two.

24. The intervenor denies the allegations contained in paragraph twenty-four.

25. The intervenor denies the allegations contained in paragraph twenty-five.

AFFIRMATIVE DEFENSE

of Thomas Adams

The proposed relocation of Leisure Lane would jeopardize and abrogate prior perpetual easement rights granted to Intervenor, other individuals, collective Plantation owners, and other entities, to utilize Leisure Lane as it is currently described in Franklin County official records for the purposes cited within easement documents listed by First American Title Insurance Company for Leisure Lane on the Intervenor's Policy of Title Insurance:

"Subject to those certain Easements for Leisure Lane recorded in O.R. Book 176 at Page 231 and Page 242; O.R. Book 232 at Page 253 and as corrected in O.R. Book 233 at Page 189; O. R. Book 237 at Page 103; O.R. Book 283 at Page 318 and O. R. Book 340 at Page 191, all of the Public Records of Franklin County, Florida.


In addition to the above citations, the terms of the Andrew Jackson Agreement with the Plantation Property Owners Assoc., O. R. Book 332 at Page 255 et al. Franklin County, Florida, speak to the issues of Leisure Lane and provide additional rights to its ownership and use.

2. The proposed amendment to the 1977 Development Order significantly alters the plans shown on Exhibits C and D showing the beach club and preliminary master plan filed with the 1977 Development Order in Franklin County, Florida. These exhibits specifically apply to the subject property and were the basis upon which Intervenor relied for the purchase of his property.

Wherefore, Intervenor prays that the demands of Petitioners be denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been served by U.S. Mail to P. Michael Ruff, Division of Administrative Hearings, De Soto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550; William J. Peebles, 308 East College Avenue, Tallahassee, Florida 32301 and J. Ben Watkins, 41 Commerce Street, Apalachicola, Florida, Attorneys for the Petitioner; Alfred O. Shuler, Post Office Box 850, Apalachicola, Florida 32329, Attorney for the Respondent; and Gregory Smith, Counsel to FLWAC, the Capitol, Room 209, Tallahassee, Florida, 32399-0001, this 19 day of May, 1994.



THOMAS H. ADAMS
Post Office Box 791,
Eastpoint, Florida 32328
(904) 927-2670

STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION

*now DOAH 94-2043
DRI*

PETITION TO INTERVENE FILED BY THOMAS H. ADAMS

Thomas H. Adams hereby files his Petition to Intervene, pursuant to provisions of Section 42-2.006, Florida Administrative Code in the above-styled appeal presently pending before the Florida Land and Water Adjudicatory Commission.

As grounds for his Motion to Intervene, the Intervenor would show as follows

1. The Intervenor owns the property Lot 58, Sea Palm Village contiguous and adjacent to the property of Ben Johnson & Coastal Development Consultants, Inc. described as the Resort Village proposal, and would be subject to adverse effects of the property being developed as proposed.
2. The Intervenor has actively participated in deliberations concerning this proposed "Resort Village" through all public hearings and most meetings of the State's Interagency Council which discussed this development. The Intervenor has corresponded with numerous agencies with respect to on-going evaluation of the status of the proposed project, and he has transmitted letters and petitions from the general public with regard to the proposal.
3. After a thorough review and analysis, and following full public hearing with public input from affected public agencies and the public-at-large, including the Intervenor, the Franklin County Board of Commissioners denied an amendment to the 1977 St. George Island Development Order, as set forth in Exhibit "A" and made a part hereof as though fully set out herein.
4. The Intervenor, having presented substantial information in support of the denial of this amendment at the Public Hearing and at earlier public workshops on the proposal, asserts his standing in these proceedings with the right to intervene as a full party with a right to question any phase of the proceedings.
5. In filing motions and petitions to intervene in appeals pending before the Florida Land and Water Adjudicatory Commission, Section 42-2.006(1) Florida Administrative Code, provides that "Intervenors may support or oppose any of the original parties, but shall declare their position when obtaining leave to intervene and shall allege sufficient facts in support thereof in the Petition to Intervene. In regards to the provisions of the cited section, the Intervenor supports the Franklin County Commissioners in their denial of the proposed amendment to the 1977 Development Order on the basis of the following facts:
 - a. The 1977 Development Order provides that multi-family residential structures shall not be allowed in commercially designated areas within

the Plantation without prior consent of the County. The County denied this consent as is their authority and properly denied the amendment which included multi-family structures.

b. The area of the proposed Resort Village includes that area designated as the beach club and the Development Order, page 3 states: (1) The Beach Club shall be developed substantially as shown on Exhibit "C" Any significant alteration of such plan shall require approval by the Board prior to actual construction. The Plan for this area is altered significantly by the Resort Village proposal and approval is denied in accordance with review and approval authority.

c. The Plantation Commercial Areas (v) meaning the two future commercial sites (south of Nick's Hole and the area near Bob Sikes Cut) have, upon request of owners of this property, reverted to single family residential development, hence over 75% of the property originally designated for possible commercial use no longer exists for commercial development.

d. Further commentary on the Plantation Commercial Areas states that, "before development is commenced in the commercial areas, plans and specifications for site clearing and construction be submitted to the Board for review and approval." Accordingly, the Board in its denial of the amendment recognized that the developer should submit detailed plans for any rezoning request as a part of its proper review and approval process.

e. Additionally, Section (vi) General Commercial Conditions of development state that "proper sewage treatment and drainage control are major factors in the final review and approval of plans for commercial areas..... to assure that planned development will not cause pollution of Apalachicola Bay or other environmental damage." The Board properly notified Resort Village of these requirements along with other normal safety provisions that should be considered in the protection of the Public welfare as part of the Board's review and approval authority.

f. As to whether or not specific issues are cited in the 1977 Development Order, it is noted in Section (vi) that "this condition (cooperation in attaining State and Federal permits) shall not apply if any substantial adverse data are developed subsequent to final approval." Currently, serious problems with water availability and adequate fire protection on the island represent substantial adverse data to be considered in the review and approval process. Similarly, recent concerns relative to hurricane evacuation, including problems of flooding, and integrity of the bridge to the island represent substantial and adverse data to be considered in the review and approval of more intense development proposals. The Board was within its regulatory mandate to examine any and all data which arose which was in its judgment substantial and /or adverse.

g. As to the issue of competent and substantial evidence, testimony of community members provided creditable data, observations, and knowledge of local issues from environmental, historical and social perspectives, and included people experienced and competent in community planning, environmental issues, and other resources appropriate to the deliberative process of the hearing. The County Commissioners also heard from a variety of experts in writing, and were

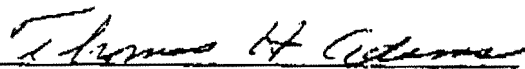
advised by DCA and ARPC that local concerns were of prime importance in this project, regardless of regional issues. Testimony of DEP revealed that many concerns existed and remained unresolved regarding waste water treatment, storm water run off, ground water, surface water and possible degradation of Apalachicola Bay waters.

h. Several site specific problems with respect to the Resort Village were noted which remain unresolved : (1) The plan to relocate and realign the only through road on the western end of the island. Problems of utility locations on the existing road and specific easements provided, thereto. (2) The placement of roads at right angles to the beach ["(k) Roads shall not be extended into primary dune areas at right angles to the beach. Such roads would foster increased wind erosion and pose a hazard for storm surge overwash and dune breaching."] (3) The proximity to and dangers associated with population concentration adjacent to the air strip. (4) The proximity of the project to Nick's Hole which is recognized as the most environmentally sensitive area of Apalachicola Bay. (5) The unavailability of information regarding ground water flow and its affect on surface waters. (6) The extent of serious flooding in this particular area as revealed in photographs taken on Oct. 3, 1992 (7) The State's interest in acquiring land at this site along with recent state acquisitions at adjacent sites (Nick's Hole, airport property) and the purchase of Pelican Point. property under consideration.

WHEREFORE, the Intervenor respectfully requests that the Florida Land and Water Adjudicatory Commission :

1. Enter its motion to allow Thomas H. Adams to intervene as a full party with the right to question any phase of the proceedings
2. Preserve any issues contained in the denial of the amendment to the 1977 Development Order hereto attached.
3. Grant such further relief as may be necessary and appropriate.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the parties listed below by U.S. Mail this 22nd day of December, 1994.



Thomas H. Adams
St. George Island
P.O.Box 791
Eastpoint, FL 32328
(904)- 927-2670

COMMERCIAL ZONE
PRELIMINARY MASTER PLAN

(DRAWN FROM ICA'S COPY
OF EXHIBIT D OF
1977 DEVELOPMENT
ORDER)

