



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
South Florida Ecological Services Office  
1339 20<sup>th</sup> Street  
Vero Beach, Florida 32960

July 15, 2014

Jim Sopher  
Project Manager  
RAM Realty Services  
4801 PGA Boulevard  
Palm Beach Gardens, Florida 33418

Dear Mr. Sopher:

The purpose of this letter is for the U.S. Fish and Wildlife Service (Service) to express concern regarding the RAM Realty Services' intent to construct the Coral Reef Commons development within the Richmond Pine Rocklands region of Miami, in Miami-Dade County, Florida. It is our understanding that Coral Reef Commons will contain a variety of commercial (*e.g.*, Wal-Mart, L.A. Fitness) and residential (*i.e.*, condominiums) development on approximately 150 acres. As discussed further below, the development of Coral Reef Commons is of the nature that could result in the take of federally protected species, and RAM Realty Services could be liable for violating Federal law. The following comments are provided in accordance with the Endangered Species Act, as amended (Act) (16 U.S.C. 1531–1543).

The pine rockland community of south Florida is critically imperiled globally (FNAI 2012). Destruction of the pinelands for economic development has reduced this habitat community by 90 percent on mainland south Florida (O'Brien 1998). The Richmond Pine Rocklands retain some of the largest remaining contiguous fragments of pine rockland habitat outside of Everglades National Park, and this area is known to be occupied by a number of rare plants and animals.

One such species is the endangered Florida bonneted bat (*Eumops floridanus*). Existing data indicate that the Florida bonneted bat uses pine rocklands and is present in the Richmond Pine Rockland area (Marks and Marks 2012; Ridgley 2012; J. Maguire, in litt. 2012; F. Ridgley, pers. comm. 2013a-c; 78 FR 61004). Repeated early emergence echolocation calls from the Zoo Miami and surrounding lands suggests that the Florida bonneted bat may also be roosting on-site or nearby, potentially on the site proposed for construction of Coral Reef Commons.

Another such species is the Bartram's scrub-hairstreak (*Strymon acis bartrami*), a butterfly that has been extirpated from the majority (over 90 percent) its former historic range. As a result, on August 15, 2013, the Service proposed rules to list the Bartram's scrub-hairstreak as endangered, as well as to designate critical habitat for the butterfly. These rules are currently being evaluated for finalization. The Bartram's scrub-hairstreak has occurred throughout the Richmond Pine Rocklands for several decades (Smith et al. 1994, Salvato and Salvato 2010), and was observed within the proposed project footprint of Coral Reef Commons as recently as June 27, 2014.



In addition to the Florida bonneted bat and Bartram’s scrub hairstreak, a number of other federally listed, proposed listed, and candidate species occur within the Richmond Pine Rocklands, and have either been documented or are likely to occur within the project footprint. These additional species and their statuses are summarized in the following table.

Species	Status	Critical Habitat	Presence at Richmond
Florida bonneted bat <i>Eumops floridanus</i>	Endangered	To be proposed	Present
Florida leafwing butterfly <i>Anaea troglodyta floridalis</i>	Proposed Endangered	Proposed	Historically
Bartram’s hairstreak butterfly <i>Strymon acis bartrami</i>	Proposed Endangered	Proposed	Present
Florida brickell-bush <i>Brickellia mosieri</i>	Proposed Endangered	Proposed	Present
Carter’s small-flowered flax <i>Linum carteri</i> var. <i>carteri</i>	Proposed Endangered	Proposed	Unknown
Deltoid spurge <i>Chamaesyce deltoidea</i> ssp. <i>deltoidea</i>	Endangered	None	Present
Tiny polygala <i>Polygala smallii</i>	Endangered	None	Present
Miami tiger beetle <i>Cicindelidia floridana</i>	Potential Candidate	TBD	Present

The Service is concerned that RAM Realty Services may construct the Coral Reef Commons project without first securing an Incidental Take Permit pursuant to section 10 of the Act. Consequently, if the proposed project results in Take of the Florida bonneted bat or the Bartram’s scrub-hairstreak (if listed), the Coral Reef Commons could be in violation of section 9 of the Act. Section 9 of the Act and its implementing regulations prohibit the “take” of any federally endangered or threatened species. Take is defined to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Harm and harass are further defined in the Code of Federal Regulations (50 CFR 17.3); harass is defined as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is further defined as an act that results in significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Therefore, any activity or omission including disruption or modification of habitat occupied by listed species which significantly alters their behavior or creates the likelihood of injury or death may constitute a violation of section 9 of the Act. If a person is found guilty of violating section 9 of the Act, potential criminal penalties include fines of up to \$200,000 and/or up to 6 months imprisonment per violation.

The premise of take in reference to development of Coral Reef Commons will include the destruction, alteration, or reduction of Florida bonneted bat habitat. Our final listing rule for the Florida bonneted bat identifies those activities that would constitute a violation of section 9 of the Act, including unauthorized destruction or alteration of occupied or potentially occupied habitat in ways that kills or injures individuals by significantly impairing the species' essential breeding, foraging, sheltering, or other essential life functions (78 FR 61004). We would like to work with you to help avoid and minimize impacts to the species and avoid a possible violation of section 9 of the Act. Take of a roost site is a clear violation of the Act and determination of whether Florida bonneted bat is roosting on site is essential to avoiding this. Thus, prior to clearing the property, we highly recommend that you conduct a survey to determine whether the species is roosting on the site. Survey methodology and results should be coordinated with the Service.

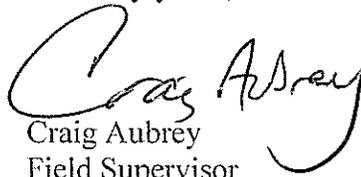
If listed, take would also include the destruction, alteration, or reduction of Bartram's scrub-hairstreak habitat, including the butterfly's larval hostplant, pineland croton (*Croton linearis*). Take may occur in ways that kill or injure individuals by significantly impairing the butterfly's essential breeding, foraging, sheltering, or other essential life functions.

In addition, we are also concerned about indirect impacts that may result from development of Coral Reef Commons. Specifically, we are concerned that the project, as proposed, will compromise land managers' abilities to conduct conservation activities on their lands (*i.e.*, prescribed fire treatments, exotics removal, etc.) within the Richmond Pine Rocklands.

We are communicating these concerns in an effort to assist RAM Realty Services from incurring potential legal liability under the Act for development activities recently approved by Miami-Dade County. We request that RAM Realty Services refrain from conducting any activities that could result in the take of federally listed species on the subject property until they have either (1) received confirmation from the Service that the proposed project will not result in the take of federally listed species or (2) demonstrated that they have received incidental take authorization under the Act.

Thank you for your cooperation in the effort to conserve fish and wildlife resources. If you have any questions, please contact Mark Salvato at 772-469-4340.

Sincerely yours,



Craig Aubrey  
Field Supervisor

South Florida Ecological Services Office

cc: electronic only

FWS, Office of Law Enforcement, Miami, Florida (David Pharo)

Corps, Miami, Florida (Audrey Siu)

FWC, West Palm Beach, Florida (Mary Truglio, Ricardo Zambrano)

Miami-Dade Park and Recreation Department, Miami, Florida (Joe Maguire, Sonya Thompson)

Miami-Dade Environmentally Endangered Lands Program, Miami, Florida (Cynthia Guerra,  
James Duncan, Tim Joyner, Craig Grossenbacher)

SFWMD, West Palm Beach, Florida (Brian Garrett)

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