



# Board of County Commissioners

DPQJ-2

2401 SE Monterey Road  
Stuart, Florida 34996

## Agenda Item Summary

COUNTY  
EXHIBIT #1

File ID: 20-1066

DPQJ-2

Meeting Date: 9/29/2020

**PLACEMENT:** Departmental - Quasi-Judicial

### TITLE:

**BANYAN BAY PUD, REQUEST APPROVAL OF THE 9TH PUD AMENDMENT INCLUDING A REVISED MASTER AND PHASING PLAN, AND PHASE 2C FINAL SITE PLAN**

### EXECUTIVE SUMMARY:

Banyan Bay Macks, LLC requests approval for the 9th Amendment to the PUD zoning agreement including a revised master and phasing plan and Phase 2C final site plan approval for the Banyan Bay PUD. The main entrance to the project is located at the intersection of SW Kanner Highway (SR 76) and SE Pomeroy Street in Stuart. Included is a request for a Certificate of Public Facilities reservation.

**DEPARTMENT:** Growth Management

**PREPARED BY:** Name: Peter Walden, AICP  
Title: Principal Planner

**REQUESTED BY:** Lucido and Associates, Morris A. Crady, AICP

**PRESET:**

**PROCEDURES:** Quasi-Judicial

FILED FOR RECORD  
COMMISSION RECORDS  
MARION COUNTY FL  
Date 9/29/2020  
By CAROLYN TIMMANN  
CLERK OF CIRCUIT COURT  
D.C.

### BACKGROUND/RELATED STRATEGIC GOAL:

Request for the approval of the 9th PUD Amendment for the Banyan Bay PUD including a revised master and phasing plan and Phase 2C final site plan. The 251-acre property is an existing residential PUD located between South Kanner Highway and the South Fork of the St. Lucie River in Stuart. Main access to the property is by way of the existing signalized intersection at SW Kanner Highway (SR 76) and SE Pomeroy Street. Included with this application is a request for a Certificate of Public Facilities Reservation.

The approved PUD Master Plan allows for 305 dwelling units in five phases with an overall project completion deadline in 2027. The final site plan for Phase 1 was approved in 2005 and the Phase 1 plat was approved in 2008. Phase 1, which includes the main entrance, the Preserve Area Management Plan (PAMP) for the entire site and 74 detached single family homesites has been completed and Phase 2 A and 2B are under construction.

The proposed 9th PUD Amendment is solely limited to reducing the number of units and changing the product type in Phase 2C from 48 duplex units to 36 single family units, thereby reducing the total

residential units in the development to 293. No changes to the approved Preserve Area Management Plan, drainage requirements, height or setback requirements are required or proposed. Water and wastewater services will continue to be supplied by Martin County Utilities.

Phase 2C consists of 36 residential units on approximately 12.93 acres. The phase is bordered by wetland preserves to the north and west and SW Kanner Highway, preserves and a FDOT drainage pond to the east. The lots average five thousand square feet with a two-story height limit.

The following supporting items are attached:

Staff Report  
Revised Master and Phasing Plan  
Resolution to Approve Phase 2C  
Phase 2C Final Site Plan  
Application Materials Including Disclosure of Interest  
Resubmittal Materials  
Construction Plans  
Landscape Plans  
Sign Certification  
Resolution to Deny

### **ISSUES:**

There are no unresolved issues related to this application. The PUD Amendment is still under review and will be provided by Supplemental Memorandum.

### **LEGAL SUFFICIENCY REVIEW:**

Because this request involves the application of a policy to a specific application and site, it is a quasi-judicial decision. Quasi-judicial proceedings must be conducted with more formality than a legislative proceeding. In quasi-judicial proceedings, parties are entitled - as a matter of due process - to cross-examine witnesses, present evidence, demand that witnesses testify under oath, and demand a decision based on a correct application of the law and competent substantial evidence in the record.

### **RECOMMENDED ACTION:**

#### **RECOMMENDATION**

- Move that the Board receive and file the agenda item along with its attachments and the staff report as exhibit one.
- Move that the Board approve the 9th Amendment to the Banyan Bay PUD Zoning Agreement including the revised master and phasing plan.
- Move that the Board approve the final site plan for Phase 2C of the Banyan Bay PUD.

#### **ALTERNATIVE RECOMMENDATIONS**

Move that the Board continue the agenda item to a date certain.

### **FISCAL IMPACT:**

#### **RECOMMENDATION**

The applicant has paid the \$13,800.00 application fee and the \$290.00 completeness fee.

Funding Source	County Funds	Non-County Funds
<b>Subtotal</b>		
<b>Project Total</b>		

## ALTERNATIVE RECOMMENDATIONS

None

## DOCUMENT(S) REQUIRING ACTION:

- ☐ Budget Transfer / Amendment
 ☐ Chair Letter
 ☒ Contract / Agreement  
☐ Grant / Application
 ☐ Notice
 ☐ Ordinance
 ☒ Resolution  
☐ Other:

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# MARTIN COUNTY, FLORIDA DEVELOPMENT REVIEW

## STAFF REPORT

### *A. Application Information*

# **BANYAN BAY PUD NINTH AMENDMENT TO THE PUD ZONING AGREEMENT REVISED MASTER AND PHASING PLAN PHASE 2C FINAL SITE PLAN**

Applicant:	Banyan Bay Macks, LLC
Property Owner:	Banyan Bay Macks, LLC
Agent for the Applicant:	Lucido & Associates Morris A. Crady, AICP
County Project Coordinator:	Peter Walden, AICP, Principal Planner
Growth Management Director:	Paul Schilling
Project Number:	B082-039
Application Type and Number:	DEV2019120014
Report Number:	2020_0902_B082-039_Staff_Final
Application Received:	01/21/2020
Transmitted:	01/21/2020
Staff Report Issued:	03/10/2020
Resubmittal Received:	05/06/2020
Transmitted:	05/07/2020
Date of Report:	07/07/2020
Resubmittal received:	07/28.2020
Transmitted:	07/29/2020
Date of Report:	09/02/2020

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### *B. Project description and analysis*

Request for the approval of the 9th PUD amendment for the Banyan Bay PUD. The 251-acre property is an existing residential PUD located between South Kanner Highway and the South Fork of the St. Lucie River in Stuart. Main access to the property is by way of the existing signalized intersection at SW Kanner Highway (SR 76) and SE Pomeroy Street. The approved PUD Master Plan allows for 305 dwelling units in 5 phases with an overall project completion deadline in 2027.

Final site plan approval of Phase 1 was obtained in 2005 and the Phase 1 plat was approved in 2008. Phase 1 improvements included the construction of the project entrance and infrastructure improvements for 74 single family lots and a recreation building and creation of a Preserve Area Management Plan (PAMP) for the entire site.

Phase 2A, which consists of 111 single family lots, and Phase 2B, which consists of waterfront recreational improvements, have been approved and are under construction in accordance with the 7th PUD Amendment.

The proposed 9th PUD Amendment is solely limited to reducing the number of units and changing the product type in Phase 2C from 48 duplex units to 36 single family units. No changes to the approved Preserve Area Management Plan, drainage requirements, height or setback requirements are required or proposed. Water and wastewater services will continue to be supplied by Martin County Utilities.

### **C. Staff recommendation**

The specific findings and conclusion of each review agency related to this request are identified in Sections F through T of this report. The current review status for each agency is as follows:

<b>Section</b>	<b>Division or Department</b>	<b>Reviewer</b>	<b>Phone</b>	<b>Assessment</b>
F	Comprehensive Plan	Peter Walden	219-4923	Comply
F	ARDP	Samantha Lovelady	288-5664	Done
G	Development Review	Peter Walden	219-4923	Comply
H	Urban Design	Santiago Abasolo	288-5485	N/A
H	Community Redevelopment	Santiago Abasolo	288-5485	N/A
I	Property Management	Ellen MacArthur	221-1334	N/A
J	Environmental	Shawn McCarthy	288-5508	Comply
J	Landscaping	Karen Sjoholm	288-5909	Comply
K	Transportation	Lukas Lambert	221-2300	Comply
L	County Surveyor	Tom Walker	288-5928	Comply
M	Engineering	Michelle Cullum	288-5512	Comply
N	Addressing	Emily Kohler	288-5692	Comply
N	Electronic File Submission	Emily Kohler	288-5692	Comply
O	Water and Wastewater	James Christ	320-3034	Comply
O	Wellfields	James Christ	320-3034	Comply
P	Fire Prevention	Doug Killane	288-5633	Comply
P	Emergency Management	Michele Jones	219-4942	Comply
Q	ADA	Michelle Cullum	288-5512	Comply
R	Health Department	Todd Reinhold	221-4090	N/A
R	School Board	Kimberly Everman	223-3105	Comply
S	County Attorney	Krista Storey	288-5443	Review Ongoing
T	Adequate Public Facilities	Peter Walden	219-4923	Comply

### **D. Review Board action**

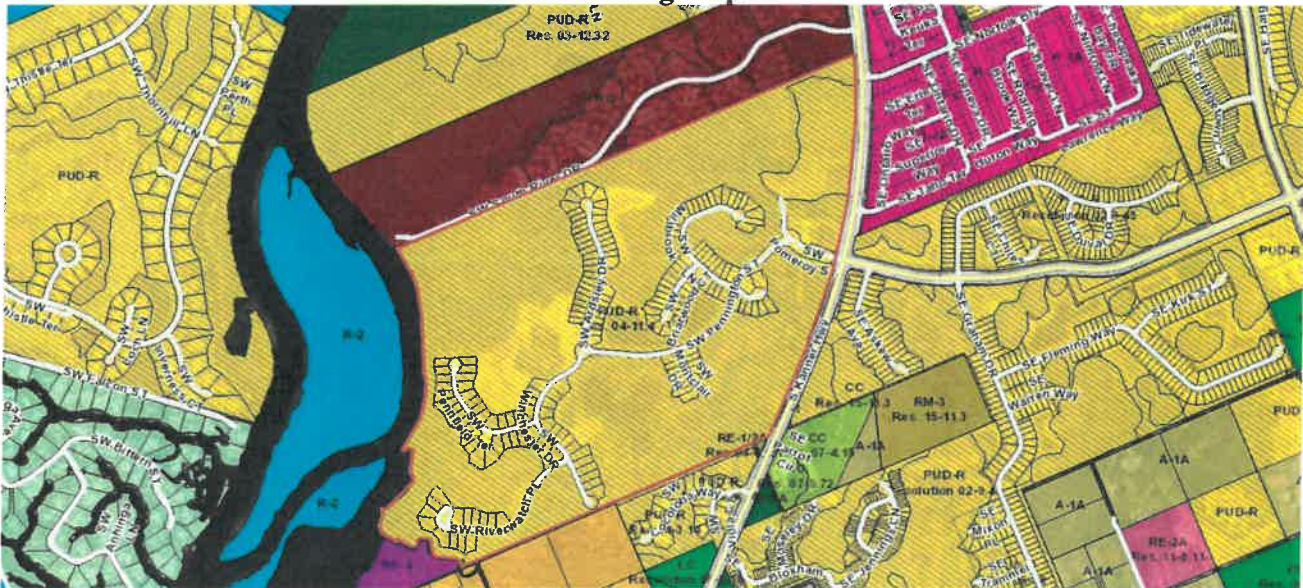




**Zoning district designations of abutting properties:**

To the north:	R-3, Multiple-Family Residential District
To the south:	PUD-R, Res PUD; A-1, Small Farms; RS-4, Low Density Residential
To the east:	R-2A, Two Family Res; PUD-R, Residential PUD (across S Kanner Hwy)
To the west:	N/A, South Fork St Lucie River

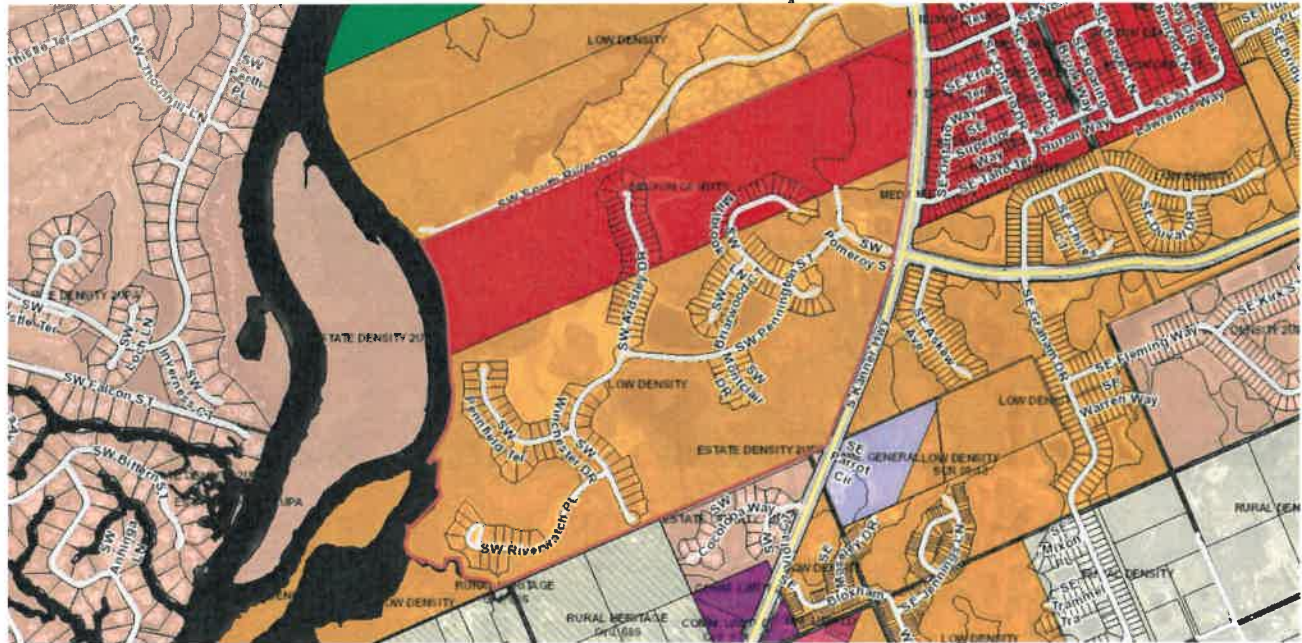
**Zoning Map**



**Future land use designations of abutting properties:**

To the north: Low Density Residential  
 To the south: Estate Density 2UPA, Rural Heritage, Low Density Residential  
 To the east: Medium Density, Low Density Residential (across S Kanner Hwy)  
 To the west: N/A, South Fork St Lucie River

# **Future Land Use Map**



## **F. Determination of compliance with Comprehensive Growth Management Plan requirements - Growth Management Department**

The Martin County Comprehensive Growth Management Plan, Goal 4.1, Objective 4.1A., Policy 4.1A.1., states: 'The County's existing Land Development Regulations shall conform to all guidelines and standards contained in this Plan and will:

- (1) Regulate the use of land and water consistent with this element and the FLUM, while ensuring land use compatibility and providing open space;
- (2) Regulate the subdivision of land;
- (3) Protect environmentally sensitive lands and incorporate minimum landscape standards;
- (4) Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
- (5) Regulate signage;
- (6) Ensure safe and convenient on-site traffic flow and parking needs;
- (7) Protect potable water wellfields and aquifer recharge areas;
- (8) Protect endangered and threatened species and species of special concern and their habitats as defined in the Florida Fish and Wildlife Conservation Commission's official list or as determined as regionally significant by the Treasure Coast Regional Planning Council;
- (9) Ensure that any development orders and permits issued do not result in a level of service (LOS) below the base level of service standards adopted in the Capital Improvements Element;
- (10) Include provisions for the transfer of development rights to:
  - (a) Protect environmentally sensitive areas and/or historic resources; and

- (b) Specify those receiving zones in the Primary Urban Service District that can accept additional density and where in-fill development allows for new development and redevelopment of previously underused portions of the Primary Urban Service District.

**Findings of Compliance:**

Staff has reviewed this application and finds that it complies with the LDR, as detailed within this report. Staff recommends approval of this development application as consistent with the guidelines and standards of the applicable Comprehensive Plan goals, objectives and policies, as implemented in the LDR.

***G. Determination of compliance with land use, site design standards, zoning, and procedural requirements - Growth Management Department***

**Findings of Compliance:**

The Growth Management Department Development Review Division staff has reviewed the application and finds it in compliance with the applicable regulations. There are no unresolved land use, zoning or procedural requirements issues associated with this application.

**Additional Information:**

**Information #1:**

No land clearing is authorized prior to the mandatory pre-construction meeting for the project. Property corners and preservation areas shall be located by a licensed land surveyor and clearly marked in the field prior to the pre-construction meeting. Authorization for clearing to install erosion control devices and preserve barricades will be granted at the pre-construction meeting. No additional land clearing shall commence until a satisfactory inspection of the required control structures and barricades has been obtained. Authorization for the relocation of gopher tortoises within the development, as provided for on state agency permits, may be granted by the Growth Management Department upon review of required permit materials. MARTIN COUNTY, FLA., LDR § 4.37

***H. Determination of compliance with the urban design and community redevelopment requirements – Community Development Department***

**Commercial Design**

The proposed project is not located within the General Commercial, Limited Commercial, Commercial Office/Residential or Waterfront Commercial Future Land Use Designations. Therefore, the Commercial Design reviewer was not required to review this application. MARTIN COUNTY, FLA., LDR SECTION 4.871.B. (2016)

**Community Redevelopment Area**

The proposed project is not located within a Community Redevelopment Area. Therefore, the Community Redevelopment Area reviewer was not required to review this application. MARTIN COUNTY, FLA.,

LDR ARTICLE 3, DIVISION 6 (2016)

***I. Determination of compliance with the property management requirements – Engineering Department***

No dedication of additional right of way is required or proposed by the Applicant pursuant to the Roadway Classifications set forth in Section 4.843.B, Land Development Regulations, Martin County, Fla. (2001) which includes Table 4.19.1 that lists the minimum right-of-way requirements. Therefore, the Applicant is not required to submit due diligence materials for review by Real Property Management.

***J. Determination of compliance with environmental and landscaping requirements - Growth Management Department***

**Environmental**

**Finding of Compliance:**

The Growth Management Department Environmental Division staff has reviewed the application and finds it in compliance with the applicable land development regulations.

**Advisory Comment:**

After a county development order is issued, the property owner and/or agent shall be responsible for obtaining a gopher tortoise relocation permit from Florida fish and wildlife conservation commission. All necessary permits, or a current wildlife survey showing no gopher tortoises exist onsite, shall be submitted to the growth management department, environmental division for review. The wildlife survey shall be no greater than 90 days old at the time of review. No land clearing will be authorized until this information is received. No land clearing, including installation of erosion control barricades, can take place prior to submittal of a gopher tortoise survey or tortoise relocation permit and after action report.

**Landscape**

**Findings of Compliance:**

The Growth Management Department staff has reviewed the application and finds it in compliance with the applicable Land Development Regulations regarding landscaping. The applicant has proposed construction of a 36 lot subdivision. The applicant has submitted landscape plans that provide 3.48 acres of landscape area which equates to 74% of the development area (total site minus lots and preserves) to document compliance with Section 4.663.A.1., Land Development Regulations, Martin County, Fla. (2013). Pursuant to this regulation a minimum of 20% of the total development area shall be landscaped.

Landscaped bufferyards are required between differing land uses and along certain transportation corridors. It is the intent of the code to encourage the preservation of existing vegetation for use in buffers as opposed to clearing and replanting designed landscapes. Section 4.663.B., Land Development Regulations, Martin County, Fla. (2013). Proposed preserve areas provide for required buffer on the north and demonstrate compliance with Section 4.663.B.1.a, Land Development Regulations, Martin County, Fla. (2013).

Wherever new residential dwelling units are proposed to be located along any minor or major arterial road, excluding Community Redevelopment Overlay Districts, a Type 5 bufferyard shall be required to screen the view of the dwelling units from the street Section 4.663.B.2., Land Development Regulations, Martin County, Fla. (2013). A Type 5 buffer has been provided adjacent to Kanner Highway utilizing a combination of proposed preserves and existing native vegetation that will be supplemented if necessary to meet opacity requirements.

Section 4.666.E.Land Development Regulations, Martin County, Fla. (2013) requires that development activity preserve at least ten percent of the total number of protected trees on the site unless it can be shown that the property would be precluded of reasonable use if the trees are not removed. To meet this requirement the applicant has submitted Landscape and Construction Plans to provide for preservation of large pines within the proposed landscape buffer.

Alterations cannot be made to the plans after final site plan approval. Any alteration may require an application to amend the affected approved plans.

The applicant is cautioned to consider the placement of utilities and any underground or above ground site improvement that could cause a conflict with the landscaping and possibly cause a change or amendment.

As-built landscape plans submitted prior to the release of a certificate of occupancy will be checked against the approved drawings. Inconsistencies may block the issuance of the certificate of occupancy and cause the applicant to begin the application process for a change or an amendment to the development order.

#### ***K. Determination of compliance with transportation requirements - Engineering Department***

##### **Findings of Compliance:**

The Traffic Division of the Engineering Department finds this application in compliance.

##### **Compliance with Adequate Public Facilities Ordinance:**

This application satisfies the Adequate Public Facilities Standard; it is exempt as it is a development, a development alteration, or an expansion that does not create additional impact on the roadway network (Article 5, Division 2, Section 5.32.D.3.f).

Roadway capacity was reserved September 24, 2013 pursuant to an agreement between the Martin County Board of County Commissioners and SR-76 LLC and the Fifth Amendment to the Banyan Bay Zoning Agreement.

#### ***L. Determination of compliance with county surveyor - Engineering Department***

##### **Findings of Compliance:**

The County Surveyor's office has reviewed this development application for compliance with applicable statutes and ordinances and finds it in compliance. This division recommends approval of the application, subject to compliance with the standards for the submittal of all post-approval documents and field verification.

#### ***M. Determination of compliance with engineering, storm water and flood management requirements - Engineering Department***

**The application was reviewed for compliance with the following Divisions of the Land Development Regulations. Staff's finding is summarized after each:**

1. Division 8- Excavation, Fill, and Mining: The applicant demonstrated in the Engineer's Opinion of Probable Excavation, Fill, and Hauling that the amount of proposed excavation balances with the amount of fill needed for the site; therefore, hauling material from the site is not approved with this Development Order. The applicant demonstrated compliance with Division 8.
2. Division 9- Stormwater Management:
  - a. The applicant has demonstrated the proposed development discharge rate is lower than the allowable discharge rate for the project and that flows from the development to the west will be adequately passed through the project via a series of interconnected storm culverts.
  - b. The applicant is proposing the minimum finished floor elevation be set above the predicted elevation of stormwater that will stage within the development after a 100-year storm having a three-day duration and without any discharge from the development.
  - c. The applicant is proposing the minimum edge of roadway elevation be set above the predicted elevation of stormwater that will stage within the development after a 10-year storm having a one-day duration.
  - d. The applicant has demonstrated that the system provides 150% additional water quality criteria for wet detention systems a, recovers half of the water quality volume between 24 hours and 5 days, and recovers 90% of the entire volume within 12 days after the storm event.
  - e. Thereby, the required attenuation, flood protection, and water quality treatment is in compliance with Division 9.
3. Division 10 - Flood Protection: This site does not fall within a Special Flood Hazard Area. The applicant demonstrated that the minimum finished floor elevation is set at or above the maximum predicted stage of the 100-year 3-day storm event; therefore, the applicant demonstrated compliance with Division 10.
4. Division 14 - Parking and Loading: The applicant demonstrated compliance with the parking requirements set forth in Division 14 for the single family residences.
5. Division 19- Roadway Design: The proposed roadway design meets County standards set forth in Division 19 for Roadway Design. The new proposed roadway is an extension of the existing development, so work is not proposed on State or County roadways.

**The Engineering Department finds this application in compliance provided the Development Order includes conditions for the following:**

1. Hauling of fill from the site is prohibited. The routes and timing of any fill to be hauled to the site shall be coordinated with the County Engineer. Compliance with all County excavation and fill regulations is required.

**ADEQUATE PUBLIC STORMWATER FACILITIES**

This project will provide the proposed development sufficient services based upon the adopted LOS for stormwater management facilities

***N. Determination of compliance with addressing and electronic file submittal requirements – Growth Management and Information Technology Departments***

**Addressing**

**Findings of Compliance**

The application has been reviewed for compliance with Division 17, Addressing, of the Martin County Land Development Regulations. Staff finds that the proposed site plan / plat complies with applicable addressing regulations. All street names are in compliance. They meet all street naming regulations in Article 4, Division 17, Land Development Regulations. Martin County, Fla. (2018).

**Electronic File Submittal**

**Findings of Compliance**

Both AutoCAD site plan and boundary survey were received and found to be in compliance with Section 10.2.B.2., Land Development Regulations, Martin County, Fla. (2019)

Both AutoCAD site plan and boundary survey were in State Plane coordinates and found to be in compliance with Section 10.2.B.2., Land Development Regulations, Martin County, Fla. (2019)

***O. Determination of compliance with utilities requirements - Utilities Department***

**Water and Wastewater Service**

**Findings of Compliance:**

This development application has been reviewed for compliance with applicable statutes and ordinances and the reviewer finds it in compliance with Martin County's requirements for water and wastewater level of service. [Martin County, Fla., LDR, Article 4, Division 6 and 7, (2016)]

**Wellfield and Groundwater Protection**

**Findings of Compliance:**

The application has been reviewed for compliance under the Wellfield Protection Program. The reviewer finds the application in compliance with the Wellfield Protection and Groundwater Protection Ordinances. [Martin County, Fla., LDR, Article 4, Division 5] (2016)

***P. Determination of compliance with fire prevention and emergency management requirements – Fire Rescue Department***

**Fire Prevention**

**Finding of Compliance**

The Fire Prevention Bureau finds this submittal to be in compliance with the applicable provisions governing construction and life safety standards of the Florida Fire Prevention Code. This occupancy shall comply with all applicable provisions of governing codes whether implied or not in this review, in addition to all previous requirements of prior reviews.

Initial approval included an emergency access located near the DOT storm water lake. Per a conversation with Morris Crady they will locate a replacement location acceptable for emergency egress.

### **Emergency Preparedness**

#### **Findings of Compliance:**

The Emergency Management Agency staff has reviewed this development application for compliance and has determined that it is in compliance with the applicable standards and restrictions of the Land Development Regulations.

#### ***Q. Determination of compliance with Americans with Disability Act (ADA) requirements - General Services Department***

#### **Findings of Compliance:**

The General Services Department staff has reviewed the application and finds it in compliance with the applicable Americans with Disability Act requirements.  
(2014 FBC, FIFTH EDITION\ACCESSIBILITY)

#### ***R. Determination of compliance with Martin County Health Department and Martin County School Board***

### **Martin County Health Department**

The applicant has indicated that the proposed final site plan contains no onsite potable wells or septic disposal systems. Therefore, the Department of Health was not required to review this application for consistency with the Martin County Code requirements within the Land Development Regulations or Comprehensive Growth Management Plan. MARTIN COUNTY, FLA., LDR SECTION 10.1.F. (2016)

### **Martin County School Board**

#### **Findings of Compliance:**

The School Board staff has reviewed this application for compliance with Florida Statutes, Martin County code and School Board Policy and has no objection to this application as indicated in the School Concurrency Determination provided in Exhibit 2 to this report.

#### ***S. Determination of compliance with legal requirements - County Attorney's Office***

#### **Review Ongoing**

#### ***T. Determination of compliance with the adequate public facilities requirements - responsible departments***

Phase 2C Final Site Plan:

The following is a summary of the review for compliance with the standards contained in Article 5.7.D of the Adequate Public Facilities LDR for a Certificate of Adequate Public Facilities Reservation.

Potable water facilities service provider – Martin County Utilities

Findings –positive evaluation

Source - Environmental Services Department

Reference - see Section O of this staff report

Sanitary sewer facilities service provider – Martin County Utilities

Findings – positive evaluation

Source -Environmental Services Department

Reference - see Section O of this staff report

Solid waste facilities

Findings – In Place

Source - Growth Management Department

Stormwater management facilities

Findings – positive evaluation

Source - Engineering Department

Reference - see Section N of this staff report

Community park facilities

Findings - Comply

Source - Growth Management Department

Roads facilities

Findings - Comply

Source - Engineering Department

Reference - see Section M of this staff report

Mass transit facilities

Findings – In Place

Source - Engineering Department

Reference - see Section L of this staff report

Public safety facilities

Findings – Comply

Source - Growth Management Department

Reference - see Section P of this staff report

A timetable for completion consistent with the valid duration of the development is to be included in the Certificate of Public Facilities Reservation. The development encompassed by Reservation Certificate must be completed within the timetable specified for the type of development.

***U. Post-approval requirements***

Approval of the development order is conditioned upon the applicant's submittal of all required documents, executed where appropriate, to the Growth Management Department (GMD), including unpaid fees, within sixty (60) days of the final action granting approval.

**Item #1:**

Post Approval Requirements List: After approval the applicant will receive a letter and a Post Approval Requirements List that identifies the documents and fees required. The applicant will return the Post Approval Requirements List along with the required documents in a packet with the documents arranged in the order shown on the list.

**Item #2:**

Post Approval Fees: The applicant is required to pay all remaining fees when submitting the post approval packet. If an extension is granted, the fees must be paid within 60 days from the date of the development order. Checks should be made payable to Martin County Board of County Commissioners.

**Item #3:**

Recording Costs: The applicant is responsible for all recording costs. The Growth Management Department will calculate the recording costs and contact the applicant with the payment amount required. Checks should be made payable to the Martin County Clerk of Court.

**Item #4:**

One (1) copy of the recorded warranty deed if a property title transfer has occurred since the site plan approval. If there has not been a property title transfer since the approval, provide a letter stating that no title transfer has occurred.

**Item #5:**

Original and one (1) copy of the current Unity of Title in standard County format if a property title transfer has occurred since the site plan approval. If there has not been a property title transfer since the approval, provide a letter stating so that no transfer has occurred.

**Item #6:**

1 (1) 24" x 36" copy of the approved construction plans signed and sealed by the Engineer of Record licensed in the State of Florida. rolled

**Item #7:**

1 (1) copy 24" x 36" of the approved site plan and one (1) reduced copy 8 1/2" x 11".

**Item #8:**

One (1) copy 24" x 36" of the approved master site plan and phasing plan.

**Item #9:**

One (1) 24" x 36" copy of the approved landscape plan signed and sealed by a landscape architect licensed in the State of Florida.

**Item #10:**

One (1) digital copy of site plan in AutoCAD 2010 - 2014 drawing format (.dwg). The digital version of the site plan must match the hardcopy version as submitted.

**Item #11:**

One (1) digital copy of master site plan in AutoCAD 2010 - 2014 drawing format (.dwg). The digital version of the site plan must match the hardcopy version as submitted.

**Item #12:**

Original and one (1) copy of the executed approved PUD zoning agreement.

**Item #13:**

Original of the construction schedule.

**Item #14:**

Two (2) originals of the Cost Estimate, on the County format which is available on the Martin County website, signed and sealed by the Engineer of Record licensed in the State of Florida.

**Item #15:**

Original of the Engineer's Design Certification, on the County format which is available on the Martin County website, signed and sealed by the Engineer of Record licensed in the State of Florida.

**Item #16:**

Original and one (1) copy or two (2) copies of the executed and signed Water and Wastewater Service Agreement with Martin County Regional Utilities and one (1) copy of the payment receipt for Capital Facility Charge (CFC) and engineering and recording fees.

**Item #17:**

One (1) blank USB flash/thumb drive, which will be utilized to provide the applicant with the approved stamped and signed project plans.

***V. Local, State, and Federal Permits***

Approval of the development order is conditioned upon the applicant's submittal of all required applicable Local, State, and Federal Permits, to the Growth Management Department (GMD), prior to the commencement of any construction.

## W. Fees

Public advertising fees for the development order will be determined and billed subsequent to the public hearing. Fees for this application are calculated as follows:

<i>Fee type:</i>	<i>Fee amount:</i>	<i>Fee payment:</i>	<i>Balance:</i>
Application review fees:	\$13,800.00	\$13,800.00	\$0.00
Inspection fees:	\$4,000.00		\$4,000.00
Advertising fees*:	TBD		
Recording fees**:	TBD		

\* Advertising fees will be determined once the ads have been placed and billed to the County.

\*\* Recording fees will be identified on the post approval checklist.

## X. General application information

Applicant: Banyan Bay Macks, LLC  
4750 Owings Mills Blvd  
Owings Mills, MD 21117

Agent: Lucido & Associates  
Morris A. Crady, AICP  
701 East Ocean Blvd  
Stuart, FL 34994  
772-220-2100

## Y. Acronyms

ADA.....Americans with Disability Act  
AHJ .....Authority Having Jurisdiction  
ARDP .....Active Residential Development Preference  
BCC.....Board of County Commissioners  
CGMP .....Comprehensive Growth Management Plan  
CIE .....Capital Improvements Element  
CIP .....Capital Improvements Plan  
FACBC .....Florida Accessibility Code for Building Construction  
FDEP.....Florida Department of Environmental Protection  
FDOT .....Florida Department of Transportation  
LDR.....Land Development Regulations  
LPA .....Local Planning Agency  
MCC.....Martin County Code  
MCHD.....Martin County Health Department  
NFPA .....National Fire Protection Association  
SFWMD .....South Florida Water Management District  
W/WWSA ....Water/Waste Water Service Agreement

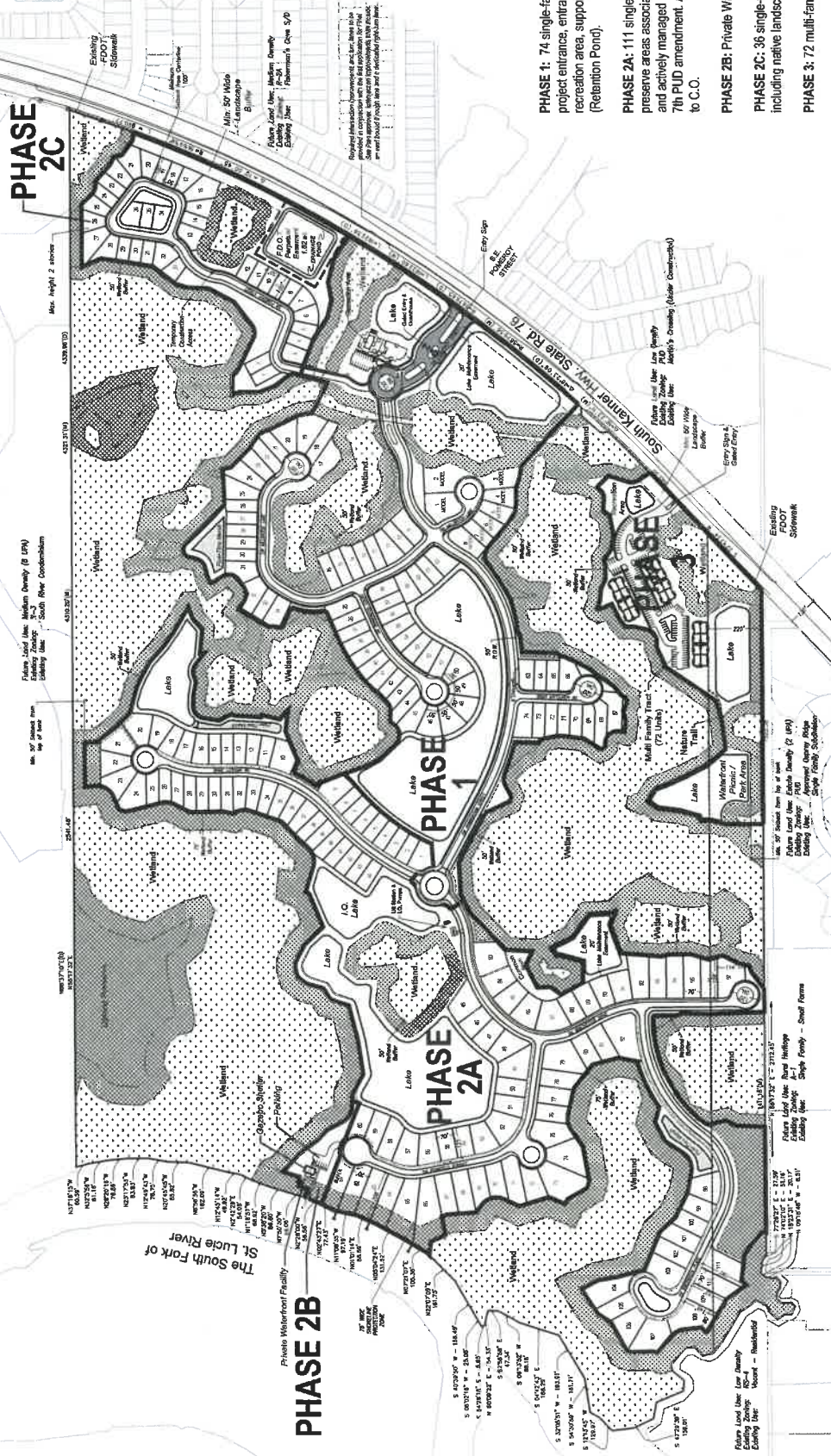
## Z. Attachments





**Lucido & Associates**  
Land Planning / Landscape Architecture  
701 E. Green Blvd., Suite 200, Fort Lauderdale, FL 33309  
(954) 583-3151, Fax (954) 583-3989

## PHASE 2C



**PHASE 1:** 74 single-family units (lots 1-8 the model center), main project entrance, entrance lakes, temporary stockpile areas, recreation area, supporting infrastructure and FDOT easements (Retention Pond).

**PHASE 2A:** 111 single-family units and supporting infrastructure. All preserve areas associated with the entire PUD are to be established and actively managed in perpetuity via the PAMP recorded with the 7th PUD amendment. All PAMP improvements to be completed prior to C.C.

**PHASE 2B:** Private Waterfront Facility.

**PHASE 2C:** 36 single-family units and supporting infrastructure including native landscape buffer along SR 76 and FDOT Pond.

**PHASE 3:** 72 multi-family units including supporting infrastructure.

### LEGEND

- Wetland Preserve (85.3 ac.)
- Wetland Buffer, Shoreline Protection Zone & Upland Preserve (61.3 ac.)
- Flow Through Marsh Tracts (1.24 ac.)



SCALE  
0 400 800

**Banyan Bay PUD**  
Revised Phasing Plan  
Martin County, Florida

Scale 1" = 200'  
Drawn By: J.E. H.C.  
Computer File: 9-400 Banyan Bay PUD Phasing  
Project Number: 8332895  
1 of 1

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA  
DEVELOPMENT ORDER**

**RESOLUTION NUMBER \_\_\_\_\_**

**[REGARDING A PHASE 2C FINAL SITE PLAN APPROVAL  
FOR BANYAN BAY PUD  
WITH A CERTIFICATE OF PUBLIC FACILITIES RESERVATION]**

**WHEREAS**, this Board has made the following determinations of fact:

1. Banyan Bay Macks, LLC, submitted an application for Phase 2C final site plan approval for the Banyan Bay PUD project, located on lands legally described in Exhibit A, attached hereto.
2. Upon proper notice of hearing this Board held a public meeting on the application on September 29, 2020.
3. At the public meeting, all interested parties were given an opportunity to be heard.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:**

A. The Phase 2C final site plan, attached hereto as Exhibit B, for the Banyan Bay PUD project is approved. Development of Phase 2C of the Banyan Bay PUD project shall be in accordance with the approved final site plan attached hereto as Exhibit B.

B. Failure to submit the required documents, plans and fees as required by Section 10.11, Land Development Regulations, Martin County Code, shall render approval of the Phase 2C final site plan for the Banyan Bay PUD project null and void.

C. No land clearing is authorized prior to the mandatory pre-construction meeting for the project. Property corners and preservation areas shall be located by a licensed land surveyor and clearly marked in the field prior to the pre- construction meeting. Authorization for clearing to install erosion control devices and preserve barricades will be granted at the pre-construction meeting. No additional land clearing shall commence until a satisfactory inspection of the required control structures and barricades has been obtained. Authorization for the relocation of gopher tortoises within the development, as provided for on state agency permits, may be granted by the Growth Management Department upon review of required permit materials. MARTIN COUNTY, FLA., LDR § 4.37

D. The Owner is not authorized to haul fill off of the site. The Owner must comply with all County excavation and fill regulations.

E. As part of the conditions of approval for all development orders for Major applications, including PUDs, the applicant shall provide annual status reports to the County Administrator to ensure that development occurs according to the terms of the development order. The Monitoring report shall be due on the Anniversary date of the Revised Master Plan Approval.

F. This application is hereby determined to meet the requirements for and shall serve as a Certificate of Public Facilities Reservation as set forth in Section 5.32.D, LDR, Martin County Code.

G. This resolution shall be recorded in the public records of Martin County. A copy of this resolution shall be forwarded to the applicant(s) by the Growth Management Department subsequent to recording.

**DULY PASSED AND ADOPTED THIS 29th DAY OF SEPTEMBER, 2020.**

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

BY: \_\_\_\_\_  
CAROLYN TIMMANN  
CLERK OF THE CIRCUIT COURT  
AND COMPTROLLER

BY: \_\_\_\_\_  
HAROLD E. JENKINS II, CHAIRMAN

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

BY: \_\_\_\_\_  
KRISTA A. STOREY  
SENIOR ASSISTANT COUNTY ATTORNEY

ATTACHMENTS:

Exhibit A, Legal Description  
Exhibit B, Revised Final Site Plan

**EXHIBIT A  
BANYAN BAY PUD, PHASE 2C  
LEGAL DESCRIPTION**

Commence at the Northeasterly corner of Banyan Bay P.U.D. (Plat Book 16, Page 75) and the Westerly right-of-way line of State Road No. 76 and the beginning of a non-tangent curve concave to the left having a radius of 5669.58 feet; the chord of which bears North 08°33'30" East, a distance of 272.44 feet; thence along the arc of said curve through a central angle of 02°45'13", a distance of 272.47 feet to the POINT OF BEGINNING; Thence, departing said Westerly right-of-way line, and along the easterly portion of that certain Conservation Easement recorded in Official Record Book 2095, page 252, Public Records of Martin County, Florida the following courses, and non-tangent to the last described curve, North 79°02'28" West, a distance of 108.53 feet; Thence South 80°41'31" West, a distance of 102.43 feet; Thence South 56°07'04" West, a distance of 75.20 feet;

Thence South 79°58'00" West, a distance of 71.60 feet;

Thence North 80°02'11" West, a distance of 105.31 feet;

Thence South 87°33'54" West, a distance of 107.33 feet;

Thence South 83°24'41" West, a distance of 55.21 feet;

Thence North 11°06'01" West, a distance of 39.36 feet;

Thence North 43°08'57" West, a distance of 7.95 feet;

Thence North 60°10'20" West, a distance of 75.58 feet;

Thence North 44°07'50" West, a distance of 67.92 feet;

Thence North 23°38'07" West, a distance of 78.91 feet;

Thence North 44°34'57" West, a distance of 29.99 feet;

Thence North 66°17'32" East, a distance of 80.69 feet;

to the beginning of a non-tangent curve concave to the left having a radius of 50.00 feet; the chord of which bears South 67°29'15" East, a distance of 34.56 feet; thence along the arc of said curve through a central angle of 40°26'28", a distance of 35.29 feet; Thence South 87°42'29" East, a distance of 140.73 feet; to the beginning of a curve concave to the left having a radius of 50.00 feet; the chord of which bears North 60°54'54" East, a distance of 52.07 feet; thence along the arc of said curve through a central angle of 62°45'15", a distance of 54.76 feet; Thence North 29°32'16" East, a distance of 120.22 feet; Thence North 04°31'43" East, a distance of 119.01 feet; Thence North 20°56'43" West, a distance of 83.36 feet;

Thence North 07°11'26" West, a distance of 49.86 feet;

Thence North 13°55'07" East, a distance of 119.90 feet;

Thence North 14°50'04" West, a distance of 211.47 feet;

Thence North 47°25'55" West, a distance of 85.32 feet;

Thence North 66°17'32" East, a distance of 257.68 feet;

Thence South 67°14'56" East, a distance of 56.85 feet;

## Exhibit A continued

to the beginning of a curve concave to the left having a radius of 50.00 feet; the chord of which bears North 81°27'08" East, a distance of 51.95 feet; thence along the arc of said curve through a central angle of 62°35'52", a distance of 54.63 feet;

Thence South 72°41'46" East, non-tangent to the last described curve, a distance of 94.11 feet; Thence South 86°57'46" East, a distance of 33.55 feet;

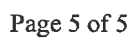
Thence South 39°17'58" East, a distance of 35.60 feet;

Thence South 77°04'42" East, a distance of 70.04 feet;

Thence North 76°22'46" East, a distance of 33.82 feet to the westerly Right of Way of State Road 76 (a 120 foot Right of Way); thence, departing the aforesaid easterly line of that certain Conservation easement, along said Westerly Right of Way, a non-tangent curve concave to the right having a radius of 5669.58 feet; the chord of which bears South 02°15'06" West, a distance of 974.44 feet; thence along the arc of said curve through a central angle of 09°51'35", a distance of 975.65 feet to the POINT OF BEGINNING.

Containing 12.94 acres more or less.

PARCEL I.D. NUMBER 41-38-41-000-000-00040-0







**December 19, 2019**

**Hand Delivery**

Nicki van Vonno, Director  
Martin County Growth Management Department  
2401 SE Monterey Road  
Stuart, FL 34996

**Re: Banyan Bay PUD – Revised Master and Phasing Plan, 9th PUD Amendment and Phase 2C Final Site Plan Application with Certificate of Public Facilities Reservation (Our Reference: #18-387)**

Dear Nicki:

On behalf of Banyan Bay Macks, LLC, we are pleased to submit this application for revised master and phasing plan (9th PUD Amendment), and concurrent final site plan approval of Phase 2C. As described in the enclosed project narrative, the sole purpose of the PUD Amendment is to change the product type and reduce the density in Phase 2C from 48 duplex units to 36 single family units.

The PUD Amendment application includes a concurrent application to obtain final site plan approval of Phase 2C. No changes to PUD special conditions, Preserve Area Management Plan (PAMP), stormwater management plan or other project elements are proposed or required.

With this understanding, please find enclosed the sufficiency review fee check in the amount of \$290.00, the CD with PDF copies of the application materials, and the original application package containing the following materials (the additional set of the 24x36 plans will be submitted upon a completeness determination):

1. Application form;
2. Digital submittal affidavit;
3. Project narrative;
4. The owner's notarized power of attorney for representation by Lucido & Associates;
5. The owner's disclosure of interest affidavit;
6. The recorded deed documenting ownership by Banyan Bay Macks, LLC;
7. The no property transfer statement;
8. The Phase 2C legal description;
9. The proposed Ninth PUD Amendment;
10. Parcel location, current aerial, future land use and zoning maps;
11. Signed & sealed engineer's opinion of probable excavation, fill and hauling for Phase 2C;
12. Signed & sealed stormwater report for Phase 2C;
13. The stormwater maintenance plan for Phase 2C
14. Signed & sealed traffic impact statement for Phase 2C;
15. Wildfire scoresheet;
16. The school impact worksheet;
17. The approved PAMP for the entire project;
18. Utility service letters;
19. Proposed water sources for Phase 2C;
20. Utilities information sheet for Phase 2C;

21. PUD statement of benefits;
22. The proposed revised master site plan, and digital copy of same;
23. The proposed revised phasing plan, and digital copy of same;
24. Signed & sealed boundary and topographic survey for Phase 2A, and digital copy of same;
25. The proposed Phase 2C final site plan, and digital copy of same;
26. The Phase 2C landscape plan including the protected tree inventory and mitigation plan;
27. The recorded 7<sup>th</sup> PUD Amendment;
28. The recorded 8<sup>th</sup> PUD Amendment;
29. The stamped-approved revised master plan (11x17);
30. The stamped-approved revised phasing plan (11x17);
31. The approved hurricane evacuation plan; and
32. Signed & sealed construction plans, including a land clearing and erosion control plan for Phase 2C.

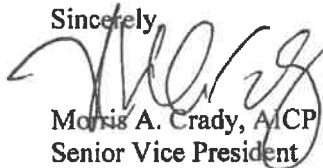
The following standard application materials are not provided for the reasons indicated:

- **Land dedication documentation** – No land dedications are required or proposed.
- **Environmental waiver** – No waivers or exceptions are required or proposed.
- **Landscape alternative compliance** – Alternative compliance is not proposed or required.
- **CRA alternative compliance** – The project is not within a CRA.
- **Groundwater model** – Not required because water source is Martin County utilities.
- **Lift station calculations** – The existing lift station in Phase 1 was recently upgraded with Phase 2A to include this phase.
- **Certified list of surrounding property owners** – No notice is required for this application.
- **Lighting plan** – No lights are required or proposed.
- **Architectural drawings, floor plans, commercial design drawings** – Not applicable.

Upon a determination of completeness, we will promptly submit the additional set of 24x36 plans for and the application fee in the amount of \$13,800.00.

Please feel free to contact me if you have any questions or need additional information.

Sincerely,



Morris A. Crady, AICP  
Senior Vice President  
Copy Team



Martin County, Florida  
 Growth Management Department  
 DEVELOPMENT REVIEW DIVISION  
 2401 SE Monterey Road, Stuart, FL 34996 772-288-5495 [www.martin.fl.us](http://www.martin.fl.us)

## DEVELOPMENT REVIEW APPLICATION

This document may be reproduced upon request in an alternative format by contacting the County ADA Coordinator (772) 320-3131, the County Administration Office (772) 288-5400, Florida Relay 711, or by completing our accessibility feedback form at [www.martin.fl.us/accessibility-feedback](http://www.martin.fl.us/accessibility-feedback)

### A. GENERAL INFORMATION

**Type of Application:** PUD Zoning Master & Final Site Plan

**Name or Title of Proposed Project:** Banyan Bay PUD, Phase 2C

**Brief Project Description:**

See project narrative

**Was a Pre-Application Held?** ☐ YES/NO ☐ **Pre-Application Meeting Date:** N/A

**Is there Previous Project Information?** ☒ YES/NO ☐

**Previous Project Number if applicable:** B-082-030

**Previous Project Name if applicable:** N/A

**Parcel Control Number(s)**

41-38-41-000-00040-0

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### B. PROPERTY OWNER INFORMATION

**Owner (Name or Company):** Banyan Bay Macks, LLC

**Company Representative:** Jon Mayers, Manager

**Address:** 4750 Owing Mills Blvd.

**City:** Owing Mills, **State:** MD **Zip:** 21117

**Phone:** 772 220-2100 **Email:** n/a

**C. PROJECT PROFESSIONALS****Applicant (Name or Company):** Same as Owner

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: FL Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Agent (Name or Company):** LUCIDO & ASSOCIATESCompany Representative: MORRIS A. CRADYAddress: 701 SE OCEAN BOULEVARDCity: STUART, State: FL Zip: 34994Phone: 772-220-2100 Email: MCRADY@LUCIDODESIGN.COM**Contract Purchaser (Name or Company):** N/A

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Land Planner (Name or Company):** Same as Agent

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Landscape Architect (Name or Company):** Same as Agent

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Surveyor (Name or Company):** GCY Surveying, Inc.Company Representative: Pete AndersonAddress: 1505 SW Martin HighwayCity: Palm City, State: FL Zip: 34991Phone: 772 286-8083 Email: \_\_\_\_\_**Civil Engineer (Name or Company):** Kimley HornCompany Representative: Blaine BergstresserAddress: 445 24th StreetCity: Vero Beach, State: FL Zip: 32960Phone: 772-794-4061 Email: \_\_\_\_\_

**PROJECT PROFESSIONALS CONTINUED****Traffic Engineer (Name or Company):** Same as engineer

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Architect (Name or Company):** Not Applicable

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Attorney (Name or Company):** Gunster Law FirmCompany Representative: Robert S. Raynes, Jr.Address: 800 SE Monterey Commons Blvd.City: Stuart, State: FL Zip: 34996Phone: 772 288-1980 Email: RRaynesJr@Gunster.com**Environmental Planner (Name or Company):** EW Consultants, Inc.Company Representative: Paul EzzoAddress: 1000 SE Monterey Commons Blvd, Suite 208City: Stuart, State: FL Zip: 34996Phone: 772-287-8771 Email: pezzo@ewconsultants.com**Other Professional (Name or Company):** Not Applicable

Company Representative: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**D. Certification by Professionals**

Section 10.2.D.7., Article 10, Development Review Procedures, Land Development Regulations (LDR), Martin County Code (MCC) provides the following:

When reviewing an application for a development permit that is certified by a professional listed in s. 403.0877, F.S., the County shall not request additional information from the application more than three times, unless the applicant waives the limitation in writing. If the applicant believes the request for additional information is not authorized by ordinance, rules, statute, or other legal authority, the County, at the applicant's request, shall proceed to process the application for approval or denial. (125.022(1), Fla. Stat.)



This box must check if the applicant waives the limitations.

**E. APPLICANT or AGENT CERTIFICATION**

I have read this application, and to the extent that I participated in the application, I have answered each item fully and accurately.

*[Signature]*  
Applicant Signature

12-19-19  
Date

Morris A. Crady  
Printed Name

**NOTARY ACKNOWLEDGMENT**

STATE OF: Fla. COUNTY OF: Martin

I hereby certify that the foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 20 19, by Morris A. Crady

☒ He or She ☒ is personally known to me or ☐ has produced \_\_\_\_\_ as identification.

*[Signature]*  
Notary Public Signature

Shannon D. Garrett  
Printed name

STATE OF: Fla. at-large





**Martin County Florida Growth Management Department  
DEVELOPMENT REVIEW DIVISION**  
2401 SE Monterey Road, Stuart, FL 34996  
772-288-5495 [www.martin.fl.us](http://www.martin.fl.us)

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### Digital Submittal Affidavit

I, Morris A. Crady, attest that the electronic version included for the project Banyan Bay PUD Master & Final Site Plan is an exact copy of the documents that were submitted for sufficiency, excluding any requested modifications made by the sufficiency review team. All requested modifications, if any, have been completed and are included with the packet.

[Signature]  
Applicant Signature

12-19-19  
Date

### NOTARY ACKNOWLEDGMENT

STATE OF: Fla COUNTY OF: Martin

I hereby certify that the foregoing instrument was acknowledged before me this 19<sup>th</sup> day of December, 20 19, by Morris A. Crady.

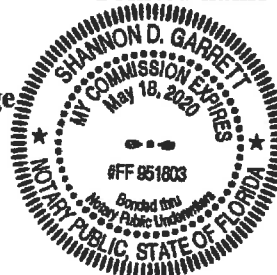
☒ He or She X is personally known to me or \_\_\_ has produced \_\_\_ as identification.

[Signature]  
Notary Public Signature

Shannon D Garrett  
Printed name

STATE OF: Fla

at-large





## PROJECT NARRATIVE

### **BANYAN BAY PUD Revised Master Plan (9<sup>th</sup> PUD Amendment) and Phase 2C Final Site Plan Application December 19, 2019**

#### ***Existing Property Characteristics***

The 251-acre (+/-) subject property is an existing residential PUD located between South Kanner Highway and the South Fork of the St. Lucie River in Martin County. Main access to the property is by way of the existing signalized intersection at Kanner Highway (SR 76) and SE Pomeroy Street. The approved PUD Master Plan allows for 305 dwelling units in 5 distinct phases with an overall project completion deadline in 2027.

Final site plan approval of Phase 1 was obtained in 2005 and the Phase 1 plat was approved in 2008. Phase 1 improvements included the construction of the project entrance and infrastructure improvements for 74 single family lots and a recreation building, creation of a Preserve Area Management Plan (PAMP) for the entire site. The recreation building and all lots and homes in Phase 1 have been sold.

Phase 2A, which consists of 111 single family lots, and Phase 2B, which consists of waterfront recreational improvements, have been approved and are under construction in accordance with the 7<sup>th</sup> PUD Amendment.

Phase 2C, which consists of 48 duplex units, and Phase 3, which consists of 72 multi-family units, have not received final site plan approval but are in compliance with approved PUD timetable of development schedule.

#### ***Proposed PUD Amendment/Phase 2C Final Site Plan Application***

The proposed PUD Amendment is solely limited to reducing the number of units and changing the product type in Phase 2C from 48 duplex units to 36 single family units. No changes to the approved Preserve Area Management Plan, drainage requirements, open space, height or setback requirements are required or proposed. Water and wastewater services will continue to be supplied by Martin County Utilities.

Except for the reduced number of units and change in product type from duplex to single family, the Phase 2C final site plan has been prepared in accordance with all applicable requirements of the PUD special conditions, the Martin County Comprehensive Plan and the Martin County Land Development Regulations.

***Banyan Bay Macks, LLC***  
***4750 Owings Mills Boulevard***  
***Owings Mills, Maryland 21117***

July 1, 2019

Nicki van Vonno, Director  
 Martin County Growth Management Department  
 2401 S.E. Monterey Road  
 Stuart, FL 34996

Re: Banyan Bay PUD

Dear Ms. van Vonno:

As owner of the above-referenced property, please consider this correspondence as formal authorization for Lucido & Associates to represent Banyan Bay Macks, LLC during the governmental review process of the application.

Sincerely,

**BANYAN BAY MACKS, LLC,**  
 a Delaware limited liability company

By:   
 Jonathan C. Mayers, Manager

STATE OF Maryland  
 COUNTY OF Baltimore

The foregoing was acknowledged before me this 3<sup>rd</sup> day of July, 2019,  
 by JONATHAN C. MAYERS, Manager of BANYAN BAY MACKS, LLC, a  
Delaware limited liability company, on behalf of the Company. He ☒ is personally known to  
 me or ☐ has produced \_\_\_\_\_ as identification.

(Notarial Seal)

  
 NOTARY PUBLIC

My Commission Expires: 11-18-2020

Robin Andrea Smith  
 Notary Public  
 Baltimore County, Maryland  
 My Commission Expires  
 November 18, 2020

### DISCLOSURE OF INTEREST AFFIDAVIT

BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared the undersigned person on the date set forth below, who, first being duly sworn, deposes and says under penalties of perjury:

1. That the record property owner(s) of the Real Property described in **Exhibit "A"** to this Affidavit is (are) as follows:

Name	Address
Banyan Bay Macks, LLC, a Delaware limited liability company	4750 Owings Mills Boulevard Owings Mills, MD 21117

(If more space is needed attach separate sheet)

2. That the following is a list of every natural person and entity with any legal or equitable interest in the property (as defined in Section 10.2.B.3. Land Development Regulations, Martin County Code):

Name	Address	Interest
Josh E. Fidler	c/o Chesapeake Realty Partners 4750 Owings Mills Blvd Owings Mills, MD 21117	50%
Lawrence M. Macks	c/o Chesapeake Realty Partners 4750 Owings Mills Blvd Owings Mills, MD 21117	50%

(If more space is needed attach separate sheet)

3. That the following is a list of those, who have any interest in a contract for sale of the property, or a conveyance of any interest in the property, including but not limited to, real estate brokers and salespersons; and any and all mortgagees of the property:

Name	Address	Interest

(If more space is needed attach separate sheet)

4. That the following is a list of all other applications for which the applicant has an interest as defined in subsection b. and c. of Section 10.2.B.3. Land Development Regulations, Martin County Code currently pending before Martin County. The list shall include any development applications, waiver applications, road opening applications, and lien reduction requests.

Application Name and/or Project Number	Names & Addresses of Parties involved	Date	Type of Application	Status of Application *
None				

(If more space is needed attach separate sheet)

- Status defined as:  
A = Approved  
P = Pending  
D = Denied  
W = Withdrawn

This Affidavit is given for the purpose of establishing compliance with the provisions of Section 10.2.B.3 Land Development Regulations; Martin County Code.

FURTHER AFFIANT SAYETH NOT.

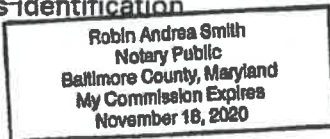
AFFIANT

*Jonathan C. Mayers*  
Jonathan C. Mayers, Manager  
Banyan Bay Macks, LLC

STATE OF Maryland  
COUNTY OF Baltimore

The foregoing Disclosure of Interest Affidavit was sworn to, affirmed and subscribed before me this 3rd day of July 2019, by JONATHAN C. MAYERS, MANAGER OF BANYAN BAY MACKS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, who is personally known to me or have produced \_\_\_\_\_

as identification



(Notary Seal)

*Robin Andrea Smith*  
Notary Public, State of Maryland  
Print Name: Robin Andrea Smith  
My Commission Expires: 11-18-2020

**Exhibit "A"**  
**(Disclosure of Interest and Affidavit)**  
**(Legal Description)**

**EXHIBIT A  
BANYAN BAY PUD, PHASE 2C  
LEGAL DESCRIPTION**

Commence at the Northeasterly corner of Banyan Bay P.U.D. (Plat Book 16, Page 75) and the Westerly right-of-way line of State Road No. 76 and the beginning of a non-tangent curve concave to the left having a radius of 5669.58 feet; the chord of which bears North 08°33'30" East, a distance of 272.44 feet; thence along the arc of said curve through a central angle of 02°45'13", a distance of 272.47 feet to the POINT OF BEGINNING; Thence, departing said Westerly right-of-way line, and along the easterly portion of that certain Conservation Easement recorded in Official Record Book 2095, page 252, Public Records of Martin County, Florida the following courses, and non-tangent to the last described curve, North 79°02'28" West, a distance of 108.53 feet; Thence South 80°41'31" West, a distance of 102.43 feet; Thence South 56°07'04" West, a distance of 75.20 feet;

Thence South 79°58'00" West, a distance of 71.60 feet;

Thence North 80°02'11" West, a distance of 105.31 feet;

Thence South 87°33'54" West, a distance of 107.33 feet;

Thence South 83°24'41" West, a distance of 55.21 feet;

Thence North 11°06'01" West, a distance of 39.36 feet;

Thence North 43°08'57" West, a distance of 7.95 feet;

Thence North 60°10'20" West, a distance of 75.58 feet;

Thence North 44°07'50" West, a distance of 67.92 feet;

Thence North 23°38'07" West, a distance of 78.91 feet;

Thence North 44°34'57" West, a distance of 29.99 feet;

Thence North 66°17'32" East, a distance of 80.69 feet;

to the beginning of a non-tangent curve concave to the left having a radius of 50.00 feet; the chord of which bears South 67°29'15" East, a distance of 34.56 feet; thence along the arc of said curve through a central angle of 40°26'28", a distance of 35.29 feet; Thence South 87°42'29" East, a distance of 140.73 feet; to the beginning of a curve concave to the left having a radius of 50.00 feet; the chord of which bears North 60°54'54" East, a distance of 52.07 feet; thence along the arc of said curve through a central angle of 62°45'15", a distance of 54.76 feet; Thence North 29°32'16" East, a distance of 120.22 feet; Thence North 04°31'43" East, a distance of 119.01 feet; Thence North 20°56'43" West, a distance of 83.36 feet;

Thence North 07°11'26" West, a distance of 49.86 feet;

Thence North 13°55'07" East, a distance of 119.90 feet;

Thence North 14°50'04" West, a distance of 211.47 feet;

Thence North 47°25'55" West, a distance of 85.32 feet;

Thence North 66°17'32" East, a distance of 257.68 feet;

Thence South 67°14'56" East, a distance of 56.85 feet;

to the beginning of a curve concave to the left having a radius of 50.00 feet; the chord of which bears North 81°27'08" East, a distance of 51.95 feet; thence along the arc of said curve through a central angle of 62°35'52", a distance of 54.63 feet;

Thence South 72°41'46" East, non-tangent to the last described curve, a distance of 94.11 feet; Thence South 86°57'46" East, a distance of 33.55 feet;

Thence South 39°17'58" East, a distance of 35.60 feet;

Thence South 77°04'42" East, a distance of 70.04 feet;

Thence North 76°22'46" East, a distance of 33.82 feet to the westerly Right of Way of State Road 76 (a 120 foot Right of Way); thence, departing the aforesaid easterly line of that certain Conservation easement, along said Westerly Right of Way, a non-tangent curve concave to the right having a radius of 5669.58 feet; the chord of which bears South 02°15'06" West, a distance of 974.44 feet; thence along the arc of said curve through a central angle of 09°51'35", a distance of 975.65 feet to the POINT OF BEGINNING.

Containing 12.94 acres more or less.

PARCEL I.D. NUMBER 41-38-41-000-000-00040-0

98

Consideration: \$19,000,000.00  
 Doc Stamps: \$ 133,000.00

*Prepared by and return to:*

**FELDMAN & MAHONEY, P.A.**  
 Donna J. Feldman, Esq.  
 2240 Belleair Road  
 Suite 210  
 Clearwater, Florida 33764

Tax Parcel Numbers: Multiple

### SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED ("Deed") is made as of December 28, 2016, by **BANYAN BAY VENTURE I, LLC**, a Delaware limited liability company, and **BANYAN BAY VENTURE II, LLC**, a Delaware limited liability company (collectively, the "Grantor"), each as their interests appear, each of whose address is 7807 Baymeadows Road East, Suite 205, Jacksonville, Florida 32256, in favor of **BANYAN BAY MACKS, LLC**, a Delaware limited liability company ("Grantee"), whose address is 4750 Owings Mills Boulevard, Owings Mills, Maryland 21117.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other valuable consideration, lawful money of the United States of America, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed to Grantee, its successors and assigns forever, all of the following described land in Martin County, Florida ("Property"), together with all ways, easements, covenants, benefits, rights of way, agreements, privileges, fixtures, improvements and appurtenances thereunto appertaining:

See Exhibit "A" attached hereto.

TO HAVE AND TO HOLD the Property, with the appurtenances, unto Grantee, its successors and assigns, in fee simple forever;

And Grantor does hereby covenant with Grantee that the Property is free from all liens and encumbrances except those matters set forth on Exhibit "B" attached hereto and incorporated herein by reference (the "Permitted Exceptions");

And Grantor does hereby fully warrant title to the Property unto said Grantee, its successors and assigns, and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other, subject only to the Permitted Exceptions.

*[Signatures begin on the following page.]*

[Banyan Bay Venture I Signature page to Special Warranty Deed]

IN WITNESS WHEREOF, Grantor has executed this Deed under seal on the date aforesaid.

Signed, sealed and delivered  
in the presence of:

BANYAN BAY VENTURE I, LLC,  
a Delaware limited liability company

Sara G. Zebouni  
Signature of Witness #1  
SARA G. ZEBOUNI  
Typed/Printed Name of Witness #1  
Chris O'Bannon  
Signature of Witness #2  
CHRIS O'BANNON  
Typed/Printed Name of Witness #2

By: [Signature]  
Graydon E. Miars, Vice President

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 14TH day of December, 2016, by Graydon E. Miars, as Vice President of Banyan Bay Venture I, LLC, a Delaware limited liability company, on behalf of the company, (check one) ☒ who is personally known to me or ☐ who has produced a \_\_\_\_\_ as identification.

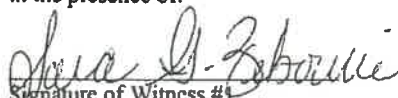
Sara G. Zebouni  
Notary Public, State of Florida  
My Commission Expires: 9/8/2020  
Affix Notary Seal Below:



[Banyan Bay Venture II Signature page to Special Warranty Deed]

IN WITNESS WHEREOF, Grantor has executed this Deed under seal on the date aforesaid.

Signed, sealed and delivered  
in the presence of:



Signature of Witness #1

SARA G. ZEBOUNI

Typed/Printed Name of Witness #1



Signature of Witness #2

CHRIS O. BANNON

Typed/Printed Name of Witness #2

BANYAN BAY VENTURE II, LLC,  
a Delaware limited liability company

By:


  
Graydon E. Miars, Vice President

STATE OF FLORIDA

COUNTY OF

DUVAL

The foregoing instrument was acknowledged before me this 14<sup>TH</sup> day of December, 2016, by Graydon E. Miars, as Vice President of Banyan Bay Venture II, LLC, a Delaware limited liability company, on behalf of the company, (check one) ☒ who is personally known to me or ☐ who has produced a \_\_\_\_\_ as identification.

  
Notary Public, State of Florida  
My Commission Expires: 9/8/2020  
Affix Notary Seal Below:

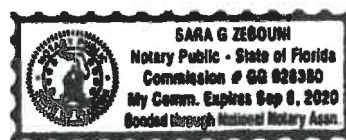


Exhibit "A"  
Property

**PARCEL 1:**

A PARCEL OF LAND LYING PARTIALLY IN LOT 6 AND PARTIALLY IN LOT 7 OF THE COMMISSIONER'S SUBDIVISION OF THE MILES OR HANSON GRANT AS RECORDED IN PLAT BOOK 1, PAGE 11, PALM BEACH COUNTY, NOW MARTIN COUNTY, FLORIDA, PUBLIC RECORDS, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED LOT 7, THENCE PROCEED SOUTH 66° 37' 10" WEST ALONG THE SOUTH LINE OF LOT 7 FOR A DISTANCE OF 206.38 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76 AND THE POINT OR PLACE OF BEGINNING; (1) THENCE CONTINUE SOUTH 66° 37' 10" WEST, ALONG THE SOUTH LINE OF SAID LOT 7 FOR A DISTANCE OF 1316.00 FEET TO A POINT; (2) THENCE PROCEED NORTH 23° 22' 50" WEST FOR A DISTANCE OF 1900.00 FEET TO A POINT; (3) THENCE PROCEED NORTH 66° 37' 10" EAST FOR A DISTANCE OF 2892.17 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76, SAID POINT BEING ON A CURVE CONCAVE TO THE WEST AND SAID CURVE HAVING A RADIUS OF 5679.65 FEET; (4) THENCE PROCEED SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 76, THROUGH A CENTRAL ANGLE OF 18° 23' 09", FOR A DISTANCE OF 1822.56 FEET TO THE END OF SAID CURVE; (5) THENCE PROCEED SOUTH 23° 02' 30" WEST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76 FOR A DISTANCE OF 660.15 FEET TO THE POINT OR PLACE OF BEGINNING.

**PARCEL 2:**

A PARCEL OF LAND LYING PARTIALLY IN LOT 6 AND PARTIALLY IN LOT 7 OF THE COMMISSIONER'S SUBDIVISION OF THE MILES OR HANSON GRANT AS RECORDED IN PLAT BOOK 1, PAGE 11, PALM BEACH COUNTY, NOW MARTIN COUNTY, FLORIDA, PUBLIC RECORDS, AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED LOT 7; THENCE PROCEED SOUTH 66° 37' 10" WEST ALONG THE SOUTH LINE OF LOT 7 FOR A DISTANCE OF 206.38 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76; THENCE PROCEED NORTH 23° 02' 30" EAST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76 FOR A DISTANCE OF 660.15 FEET TO A POINT OF CURVE TO THE LEFT, SAID CURVE BEING CONCAVE TO THE WEST AND HAVING A RADIUS OF 5679.65 FEET; THENCE PROCEED NORTHERLY ALONG THE ARC OF SAID CURVE AND ALONG THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76 THROUGH A CENTRAL ANGLE OF 18° 23' 09" FOR A DISTANCE OF 1822.56 FEET TO THE POINT OR PLACE OF BEGINNING; (1) THENCE PROCEED SOUTH 66° 37' 10" WEST ALONG A LINE PARALLEL TO AND 1900 FEET NORTHERLY OF, AS MEASURED PERPENDICULAR TO, THE SOUTH LINE OF THE ABOVE DESCRIBED LOT 7 FOR A DISTANCE OF 4067.56 FEET TO THE EASTERLY SHORE OF THE SOUTH FORK OF THE ST. LUCIE RIVER; THENCE PROCEED ALONG THE SHORE OF SAID RIVER OF THE FOLLOWING BEARINGS AND DISTANCES; (2) NORTH 00° 25' 55" WEST FOR 111.67 FEET; (3) NORTH 05° 00' 38" WEST FOR 100.33 FEET; (4) NORTH 07° 16' 55" WEST FOR 100.07 FEET; (5) NORTH 10° 43' 57" WEST FOR 100.02 FEET; (6) NORTH 10° 09' 01" WEST FOR 100.01 FEET; (7) NORTH 23° 40' 31" WEST FOR 103.07 FEET; (8) NORTH 24° 52' 45" WEST FOR 92.54 FEET; (9) NORTH 27° 22' 34" WEST FOR 100.60 FEET; (10) NORTH 31° 55' 43" WEST FOR 100.04 FEET; (11) NORTH 41° 36' 39" WEST FOR 26.79 FEET AND THE END OF SAID RIVER SHORE TRAVERSE; (12) THENCE PROCEED NORTH 66° 37' 10" EAST ALONG A LINE PARALLEL TO AND 909.45 FEET NORTHERLY OF, AS MEASURED PERPENDICULAR TO THE LINE DESCRIBED IN CALL NO. 1 FOR A DISTANCE OF 4339.96 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76 SAID POINT BEING ON A CURVE CONCAVE TO THE WEST AND SAID CURVE HAVING A RADIUS OF 5679.65 FEET; (13) THENCE PROCEED SOUTHERLY ALONG THE ARC OF SAID CURVE AND ALONG

THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 76 THROUGH A CENTRAL ANGLE OF 09° 58' 58" FOR A DISTANCE OF 989.58 FEET TO THE POINT OR PLACE OF BEGINNING.

**PARCEL 3:**

A PARCEL OF LAND LYING AND BEING IN LOT 7 OF THE COMMISSIONER'S SUBDIVISION OF THE MILES OR HANSON GRANT AS RECORDED IN PLAT BOOK 1, PAGE 11, PALM BEACH COUNTY, NOW MARTIN COUNTY, FLORIDA, PUBLIC RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 7, THENCE PROCEED SOUTH 66° 37' 10" WEST ALONG THE SOUTH LINE OF THE HANSON GRANT FOR A DISTANCE OF 1522.38 FEET TO THE POINT OR PLACE OF BEGINNING; (1) THENCE PROCEED NORTH 23° 22' 50" WEST FOR A DISTANCE OF 1900.00 FEET TO A POINT; (2) THENCE PROCEED SOUTH 66° 37' 10" WEST FOR A DISTANCE OF 1175.39 FEET TO A POINT ON THE APPROXIMATE MEAN HIGH WATER LINE OF THE ST. LUCIE RIVER; (3) THENCE MEANDER SOUTHERLY ALONG THE APPROXIMATE MEAN HIGH WATER LINE OF THE ST. LUCIE RIVER ON THE FOLLOWING BEARINGS AND DISTANCES; THENCE SOUTH 01° 29' 55" EAST FOR 89.15 FEET; THENCE SOUTH 02° 21' 15" EAST FOR 100.08 FEET; THENCE SOUTH 13° 11' 34" EAST FOR 30.80 FEET; THENCE SOUTH 00° 53' 11" EAST FOR 70.01 FEET; THENCE SOUTH 00° 21' 07" WEST FOR 100.00 FEET; THENCE SOUTH 04° 39' 00" WEST FOR 109.54 FEET; THENCE SOUTH 15° 58' 58" WEST FOR 95.04 FEET; THENCE SOUTH 21° 01' 09" WEST FOR 87.60 FEET; THENCE SOUTH 34° 40' 17" WEST FOR 185.40 FEET; THENCE SOUTH 42° 56' 04" WEST FOR 49.64 FEET; THENCE SOUTH 10° 24' 51" EAST FOR 24.84 FEET; THENCE SOUTH 65° 36' 31" EAST FOR 22.52 FEET; THENCE NORTH 41° 57' 34" EAST FOR 15.33 FEET; THENCE NORTH 19° 32' 32" EAST FOR 15.87 FEET; THENCE NORTH 84° 23' 41" EAST FOR 35.73 FEET; THENCE SOUTH 47° 30' 15" EAST FOR 31.23 FEET; THENCE SOUTH 05° 15' 53" WEST FOR 85.88 FEET; THENCE SOUTH 01° 47' 58" WEST FOR 109.63 FEET; THENCE SOUTH 06° 51' 17" EAST FOR 101.72 FEET; THENCE SOUTH 29° 58' 59" WEST FOR 52.21 FEET; THENCE SOUTH 41° 55' 21" WEST FOR 165.69 FEET; THENCE SOUTH 52° 25' 30" WEST FOR 70.37 FEET; THENCE SOUTH 56° 40' 04" WEST FOR 66.19 FEET; THENCE SOUTH 06° 39' 57" WEST FOR 58.32 FEET; THENCE SOUTH 17° 41' 50" WEST FOR 44.21 FEET; THENCE SOUTH 04° 41' 51" WEST FOR 10.75 FEET; THENCE SOUTH 25° 58' 39" EAST FOR 50.16 FEET; THENCE SOUTH 42° 57' 56" EAST FOR 51.19 FEET; THENCE SOUTH 20° 30' 36" WEST FOR 27.61 FEET TO A POINT IN THE CENTERLINE OF A CREEK SHOWN AS POINTE LAGOON CREEK; (4) THENCE MEANDER GENERALLY SOUTHEASTERLY ALONG THE CENTERLINE OF SAID POINTE LAGOON CREEK TO THE POINT OF INTERSECTION OF SAID CENTERLINE AND THE SOUTH LINE OF THE HANSON GRANT; (5) THENCE PROCEED NORTH 66° 37' 10" EAST ALONG THE SOUTH LINE OF THE HANSON GRANT FOR A DISTANCE OF 1639.03 FEET TO THE POINT OR PLACE OF BEGINNING.

**LESS AND EXCEPT:**

THAT PART OF LOTS 6 AND 7, ACCORDING TO THE PLAT OF MILES OR HANSON GRANT, AS RECORDED IN PLAT BOOK 1, PAGE 11, PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA, LYING WESTERLY OF STATE ROAD 76, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID LOT 7; THENCE RUN SOUTH 66° 11' 42" WEST ALONG THE SOUTH LINE OF SAID LOT 7 A DISTANCE OF 206.38 FEET TO THE WESTERLY EXISTING RIGHT OF WAY LINE FOR STATE ROAD 76; THENCE NORTH 22° 45' 25" EAST ALONG SAID EXISTING RIGHT OF WAY LINE, A DISTANCE OF 193.93 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 22° 45' 25" EAST ALONG SAID EXISTING RIGHT OF WAY LINE A DISTANCE OF 467.25 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 5679.58 FEET AND A CHORD WHICH BEARS NORTH 08° 34' 42" EAST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE AND SAID EXISTING RIGHT OF WAY LINE FOR STATE ROAD 76 SUBTENDED BY A CENTRAL ANGLE OF 28° 21' 26", A DISTANCE

OF 2810.98 FEET TO A LINE PARALLEL WITH AND 2809.45 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF LOTS 6 AND 7; THENCE SOUTH 66° 11' 42" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 3.27 FEET TO A POINT ON A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 5669.58 FEET AND A CHORD WHICH BEARS S 06° 19' 23" W; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, SUBTENDED BY A CENTRAL ANGLE OF 23° 34' 03" A DISTANCE OF 2332.07 FEET TO A PROPOSED ENTRANCE ROAD IN THE PROPOSED SUBDIVISION OF BANYAN BAY; THENCE SOUTH 63° 24' 50" WEST, A DISTANCE OF 35.54 FEET; THENCE SOUTH 18° 56' 31" WEST, A DISTANCE OF 100.00 FEET; THENCE SOUTH 25° 49' 30" EAST, A DISTANCE OF 35.63 FEET TO A POINT ON A CURVE CONCENTRIC WITH THE LAST DESCRIBED CURVE, HAVING A RADIUS OF 5669.58 FEET AND A CHORD WHICH BEARS SOUTH 21° 11' 35" WEST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, SUBTENDED BY A CENTRAL ANGLE OF 03° 07' 39" A DISTANCE OF 309.47 FEET TO A POINT OF TANGENCY WITH A LINE PARALLEL WITH AND 10.00 FEET WEST OF, AS MEASURED AT RIGHT ANGLES TO SAID WESTERLY EXISTING RIGHT OF WAY FOR STATE ROAD 76; THENCE SOUTH 22° 45' 25" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 481.80 FEET; THENCE SOUTH 67° 14' 35" EAST, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

AND

THAT PART OF LOT 7 OF THE COMMISSIONER'S SUBDIVISION OF THE MILES OR HANSON GRANT, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 11, OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED IN O.R. BOOK 716, PAGE 119, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID LOT 6; THENCE SOUTH 66° 11' 42" WEST ALONG THE SOUTHERLY LINE FOR SAID LOT 6, A DISTANCE OF 206.38 FEET TO THE WESTERLY EXISTING RIGHT OF WAY LINE FOR STATE ROAD 76 (KANNER HIGHWAY) AND THE POINT OF BEGINNING; THENCE NORTH 22° 45' 25" EAST ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 193.93 FEET; THENCE NORTH 67° 14' 35" WEST, A DISTANCE OF 10.00 FEET; THENCE SOUTH 22° 45' 25" WEST A DISTANCE OF 204.49 FEET TO A POINT ON THE SOUTHERLY LINE FOR SAID LOT 7; THENCE NORTH 66° 11' 42" EAST ALONG SAID LOT LINE, A DISTANCE OF 14.34 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPT:

BEING A PARCEL OF LAND LYING IN LOT 6 OF THE COMMISSIONER'S SUBDIVISION OF THE MILES OR HANSON GRANT, AS RECORDED IN PLAT BOOK 1, PAGE 11, OF THE PUBLIC RECORDS OF PALM BEACH (NOW MARTIN), COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 7 OF THE COMMISSIONER'S SUBDIVISION OF THE MILES OR HANSON GRANT, AS RECORDED IN PLAT BOOK 1, PAGE 11, OF THE PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA; THENCE ALONG THE EASTERLY LINE OF SAID LOT 7 NORTH 23° 42' 28" WEST, A DISTANCE OF 210.26 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 76; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE NORTH 22° 43' 24" EAST, A DISTANCE OF 380.43 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE LEFT HAVING A RADIUS OF 5669.58 FEET; THE CHORD OF WHICH BEARS NORTH 18° 12' 59" EAST; THENCE ALONG THE ARC OF SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 09° 00' 50" , A DISTANCE OF 891.95 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE NORTH 31° 48' 03" WEST, A DISTANCE OF 42.16 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE NORTHWEST, THE CHORD OF WHICH BEARS NORTH 12° 48' 17" EAST, A DISTANCE OF 118.99 FEET AND HAVING A RADIUS OF 5639.58 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 12' 32" , A DISTANCE OF 119.00 FEET; THENCE NORTH 57° 32' 04" EAST, NON-TANGENT TO LAST DESCRIBED CURVE, A DISTANCE OF 24.57 FEET TO THE BEGINNING OF A

Page 6 of 9

CFN# 2612129 OFFICIAL RECORDS BK 2898 PG 2070 PAGE 6 OF 9

NON-TANGENT CURVE, CONCAVE TO THE NORTHWEST, THE CHORD OF WHICH BEARS NORTH 10° 43' 23" EAST, A DISTANCE OF 257.13 FEET AND HAVING A RADIUS OF 5657.08 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02° 36' 16" , A DISTANCE OF 257.15 FEET; THENCE SOUTH 76° 52' 32" EAST, NON-TANGENT TO LAST DESCRIBED CURVE, A DISTANCE OF 12.53 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD 76 AND THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE NORTHWEST, THE CHORD OF WHICH BEARS SOUTH 11° 34' 09" WEST, A DISTANCE OF 423.56 FEET AND HAVING A RADIUS OF 5669.58 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 04° 16' 49" , A DISTANCE OF 423.46 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPT FROM ALL OF THE ABOVE:

ALL OF THOSE LANDS SHOWN ON THE PLAT OF BANYAN BAY PUD PHASE 1, AS RECORDED IN PLAT BOOK 16, PAGE 75, AS AFFECTED BY RESOLUTION NO. 08-5.32, RECORDED IN OFFICIAL RECORDS BOOK 2350, PAGE 1342, ALL OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

PARCEL 4:

ALL THOSE LANDS SHOWN ON THE PLAT OF BANYAN BAY PUD PHASE 1, AS RECORDED IN PLAT BOOK 16, PAGE 75, AS AFFECTED BY RESOLUTION NO. 08-5.32, RECORDED IN OFFICIAL RECORDS BOOK 2350, PAGE 1342, OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

**Exhibit "B"**  
**Permitted Exceptions**

1. Taxes and assessments for the year 2017 and subsequent years, which are not yet due and payable.
2. Resolution NO. 04-11.4 (Regarding Change in Zoning District Classification) recorded December 14, 2004, in Official Records Book 1963, Page 1085; Banyan Bay Planned Unit Development Zoning Agreement recorded February 4, 2005, in Official Records Book 1979, Page 2199; Resolution Number 05-9.3 (Regarding Final Site Plan Approval for Banyan Bay PUD, Phase I with a Certificate of Public Facilities Reservation) recorded December 2, 2005, in Official Records Book 2088, Page 1069; Martin County Florida Development Order Change (Administrative Amendment Regarding Revised Master Site Plan and Revised Final Site Plan for Banyan Bay PUD, Phase I) recorded September 28, 2006, in Official Records Book 2183, Page 2378; Martin County, Florida Development Order Change Regarding Second Amendment to the Banyan Bay PUD Agreement to Allow Phase I Plat Approval recorded August 8, 2008, in Official Records Book 2344, Page 2254; Third Amendment to Banyan Bay Planned Unit Development Zoning Agreement recorded July 23, 2009, in Official Records Book 2402, Page 2285; Fourth Amendment to Banyan Bay Planned Unit Development Zoning Agreement recorded May 10, 2011, in Official Records Book 2516, Page 2235; Fifth Amendment to Banyan Bay Planned Unit Development Zoning Agreement, recorded October 18, 2013 in Official Records Book 2682, Page 2387; Development Order - Resolution Number 16-5.17 Regarding a Revised Phase I Final Site Plan Approval for Banyan Bay PUD With a Certificate of Public Facilities Exemption recorded July 22, 2016, in Official Records Book 2868, Page 697; and Sixth Amendment to Banyan Bay Planned Unit Development Zoning Agreement, recorded July 22, 2016, in Official Records Book 2868, Page 708.
3. Proprietary Deed of Conservation Easement granted to the South Florida Water Management district by instrument recorded January 27, 2005, in Official Records Book 1976, Page 1975.
4. Water and Wastewater Service Agreement as set forth in instrument recorded December 9, 2005, in Official Records Book 2091, Page 230.
5. Deed of Conservation Easement granted to the South Florida Water Management District by instrument recorded December 21, 2005, in Official Records Book 2095, Page 252.
6. Reclaimed Water Agreement for Irrigation Quality Reuse as set forth in instrument recorded June 9, 2006, in Official Records Book 2151, Page 985.
7. Perpetual Easement granted to the State of Florida Department of Transportation by instrument recorded September 24, 2007, in Official Records Book 2280, Page 1385.
8. Restrictions, dedications, conditions, reservations, easements and other matters shown on the Plat of BANYAN BAY PUD PHASE I, as recorded in Plat book 16, Page 75; as affected by Resolution No. 08-5.32 recorded September 12, 2008, in Official Records Book 2350, Page 1342.
9. Utility Easement granted to Martin County by instrument recorded September 12, 2008, in Official Records Book 2350, Page 1343; and re-recorded September 23, 2008, in Official Records Book 2351, Page 2629; and together with Resolution No. 08-5.31 recorded September 12, 2008, in Official Records Book 2350, Page 1341.
10. Declaration of Covenants, Conditions and Restrictions for Banyan Bay, which contains

provisions for a private charge or assessments, recorded September 12, 2008, in Official Records Book 2350, Page 1346; as amended by First Amendment to Declaration recorded in Official Records Book 2429, Page 1497.

11. Assignment of Developer Rights and Assumption Agreement between Banyan Bay Development Corporation, a Florida corporation, and Banyan Bay Land, LLC, a Florida limited liability company, recorded December 23, 2009, in Official Records Book 2429, Page 1474, as further assigned by that Assignment of Developer Rights and Assumption Agreement, recorded on January 10, 2012 in Official Records Book 2555, Page 69, and assigned to Grantee concurrent herewith.

12. Assignment and Assumption of Development Rights between Banyan Bay Development Corporation, a Florida corporation and Banyan Bay Land, LLC, recorded December 23, 2009, in Official Records Book 2429, Page 1486, as affected by that certain Assignment and Assumption of Development Rights, recorded January 10, 2012 in Official Records Book 2555, Page 78, as further affected by assignment to Grantee concurrent herewith.

13. Utility Easement in favor of City of Stuart recorded in Official Records Book 2516, Page 124.

14. Assignment and Assumption S.R. 76 Agreement, recorded on January 10, 2012 in Official Records Book 2555, Page 91, as assigned to Grantee concurrent herewith.

15. Temporary Easement as set forth and described in that certain Order of Taking, contained in the Notice of Appeal of a Non-Final Order, recorded in Official Records Book 2794, Page 2600.

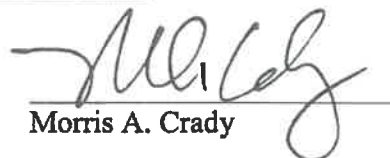
16. Perpetual Easement as set forth and described in that certain Order of Taking, contained in the Notice of Appeal of a Non-Final Order, recorded in Official Records Book 2794, Page 2600.

17. Unrecorded Stockpile License Agreement by and between Grantor and the Florida Department of Transportation dated November 12, 2015, as assigned to Grantee concurrent herewith.

**NOTE:** All recording references refer to the public records of Martin County, Florida.

To the best of my knowledge and belief, there has been no transfer of the Phase 2C subject property since the Special Warranty Deed into Banyan Bay Macks, LLC was recorded in the Martin County Public Records.

DATED THIS 16<sup>th</sup> DAY OF December, 2019.

  
Morris A. Crady

STATE OF FLORIDA  
COUNTY OF MARTIN

THE FOREGOING WAS ACKNOWLEDGED BEFORE ME THIS 16<sup>th</sup> DAY OF December, 2019 BY MORRIS A. CRADY, WHO ☒ IS PERSONALLY KNOWN TO ME OR ☐ HAS PRODUCED \_\_\_\_\_ AS IDENTIFICATION.

  
NOTARY PUBLIC

MY COMMISSION EXPIRES



**EXHIBIT A  
BANYAN BAY PUD, PHASE 2C  
LEGAL DESCRIPTION**

Commence at the Northeasterly corner of Banyan Bay P.U.D. (Plat Book 16, Page 75) and the Westerly right-of-way line of State Road No. 76 and the beginning of a non-tangent curve concave to the left having a radius of 5669.58 feet; the chord of which bears North 08°33'30" East, a distance of 272.44 feet; thence along the arc of said curve through a central angle of 02°45'13", a distance of 272.47 feet to the POINT OF BEGINNING; Thence, departing said Westerly right-of-way line, and along the easterly portion of that certain Conservation Easement recorded in Official Record Book 2095, page 252, Public Records of Martin County, Florida the following courses, and non-tangent to the last described curve, North 79°02'28" West, a distance of 108.53 feet; Thence South 80°41'31" West, a distance of 102.43 feet; Thence South 56°07'04" West, a distance of 75.20 feet;

Thence South 79°58'00" West, a distance of 71.60 feet;

Thence North 80°02'11" West, a distance of 105.31 feet;

Thence South 87°33'54" West, a distance of 107.33 feet;

Thence South 83°24'41" West, a distance of 55.21 feet;

Thence North 11°06'01" West, a distance of 39.36 feet;

Thence North 43°08'57" West, a distance of 7.95 feet;

Thence North 60°10'20" West, a distance of 75.58 feet;

Thence North 44°07'50" West, a distance of 67.92 feet;

Thence North 23°38'07" West, a distance of 78.91 feet;

Thence North 44°34'57" West, a distance of 29.99 feet;

Thence North 66°17'32" East, a distance of 80.69 feet;

to the beginning of a non-tangent curve concave to the left having a radius of 50.00 feet; the chord of which bears South 67°29'15" East, a distance of 34.56 feet; thence along the arc of said curve through a central angle of 40°26'28", a distance of 35.29 feet; Thence South 87°42'29" East, a distance of 140.73 feet; to the beginning of a curve concave to the left having a radius of 50.00 feet; the chord of which bears North 60°54'54" East, a distance of 52.07 feet; thence along the arc of said curve through a central angle of 62°45'15", a distance of 54.76 feet; Thence North 29°32'16" East, a distance of 120.22 feet; Thence North 04°31'43" East, a distance of 119.01 feet; Thence North 20°56'43" West, a distance of 83.36 feet;

Thence North 07°11'26" West, a distance of 49.86 feet;

Thence North 13°55'07" East, a distance of 119.90 feet;

Thence North 14°50'04" West, a distance of 211.47 feet;

Thence North 47°25'55" West, a distance of 85.32 feet;

Thence North 66°17'32" East, a distance of 257.68 feet;

Thence South 67°14'56" East, a distance of 56.85 feet;

to the beginning of a curve concave to the left having a radius of 50.00 feet; the chord of which bears North 81°27'08" East, a distance of 51.95 feet; thence along the arc of said curve through a central angle of 62°35'52", a distance of 54.63 feet;

Thence South 72°41'46" East, non-tangent to the last described curve, a distance of 94.11 feet; Thence South 86°57'46" East, a distance of 33.55 feet;

Thence South 39°17'58" East, a distance of 35.60 feet;

Thence South 77°04'42" East, a distance of 70.04 feet;

Thence North 76°22'46" East, a distance of 33.82 feet to the westerly Right of Way of State Road 76 (a 120 foot Right of Way); thence, departing the aforesaid easterly line of that certain Conservation easement, along said Westerly Right of Way, a non-tangent curve concave to the right having a radius of 5669.58 feet; the chord of which bears South 02°15'06" West, a distance of 974.44 feet; thence along the arc of said curve through a central angle of 09°51'35", a distance of 975.65 feet to the POINT OF BEGINNING.

Containing 12.94 acres more or less.

PARCEL I.D. NUMBER 41-38-41-000-000-00040-0



July 28, 2020

**HAND DELIVERY**

Peter Walden, Principal Planner  
Martin County Growth Management Department  
2401 S.E. Monterey Road  
Stuart, FL 34996

**RE: BANYAN BAY PUD, 9<sup>th</sup> PUD Amendment & Phase 2C Final Site Plan Application –  
Second Resubmittal in Response to Staff Report Issued July 7, 2020  
(MC Project #B082-039; Lucido #18-387)**

Dear Pete:

In response to the above-referenced staff report, please find enclosed the original resubmittal packet containing the revised documents and plans referenced below, a CD with PDF copies of the resubmitted materials and an additional set of 24x36 plans. The enclosed revised materials are listed as follows:

- Phase 2C final site plan (no changes needed);
- Phase 2C landscape plan;
- Reduced copy of stamped-approved copy of Revised Master Plan dated May 19, 2009;
- Reduced copy of stamped-approved copy of revised Phasing Plan dated May 19, 2009;
- Hurricane surge map exhibit (previously submitted);
- Stormwater report; and
- Construction plans including land clearing page.

The above-referenced application materials have been provided and/or revised in accordance with our discussion at the workshop and as outlined in the following itemized responses to the staff comments. Please note that only the **section headings, unresolved issues and remedy/suggestion/clarification** portions of the staff report have been repeated in **bold type**. Our responses follow in *italics*. Please refer to the staff report for the entire comment within each section.

**Itemized Responses to Staff Report**

- A. Application information**  
*Agree.*
- B. Project description and analysis**  
*Agree.*
- C. Staff recommendation**  
*See responses to the non-comply comments below.*
- D. Review Board/Committee action**  
*Agree.*
- E. Location and site information**  
*Agree.*

**F. Determination of compliance with Comprehensive Growth Management Plan requirements**  
**Unresolved Issues:**

**Item #1: Generic Comp. Plan Compliance**

*Agree.*

**G. Determination of compliance with land use, site design standards, zoning and procedural requirements**

**Findings of Compliance:**

The Growth Management Department Development Review Division staff has reviewed the application and finds it in compliance with the applicable regulations. There are no unresolved land use, zoning or procedural requirements issues associated with this application.

*Agree.*

**H. Determination of compliance with urban design and community redevelopment requirements**

*Not applicable.*

**I. Determination of compliance with property management requirements**

*Not applicable.*

**J. Determination of compliance with environmental and landscaping requirements**

**Environmental**

**Finding of Compliance:**

The Growth Management Department Environmental Division staff has reviewed the application and finds it in compliance with the applicable land development regulations.

*Agree.*

**Landscape**

**Unresolved Issues: Turfgrass and groundcover**

**Remedy/Suggestion/Clarification:**

There is a common area south of Lot #33 shown to be cleared and sodded. Further south the area has been previously cleared but between the two wetlands it appears there is existing native vegetation. Area to the north of the DOT lake is now shown as protecting existing native vegetation, however adjacent and south of lot 33 the response letter states that a perimeter berm must be established so the area must be cleared and no existing vegetation can be preserved. However, existing grade is elevation 10.2 to 10.5: the perimeter berm is shown to be at elevation 10.8. The width of this area varies between 40 and 80 feet, please explain why this berm elevation cannot be established and no existing vegetation can be preserved. Please revise clearing plans to protect this vegetation to the extent feasible. Common areas around the DOT lake are hatched to indicate preservation of any existing native vegetation, however there is also a label that indicates bahia sod, especially on the north side where there is existing dense native vegetation, please provide a delineation for limits of sod proposed.

*See revised clearing limits on landscape plans and construction plans enclosed.*

**Item #2: Landscape Native Tree Protect & Survey**

**Remedy/Suggestion/Clarification:**

Tree #31 and 34 are now shown as being protected, however the construction plans show the silt fence running through the trees. Provide tree barricade to protect sufficient protection area around these trees.

*See revised clearing limits on landscape plans and construction plans enclosed.*

**K. Determination of compliance with transportation requirements**

**Findings of Compliance:**

*Agree.*

**L. Determination of compliance with county surveyor**

**Findings of Compliance:**

*Agree.*

**M. Determination of compliance with engineering, stormwater and flood management requirements**

**Unresolved Issues:**

**Item #1: Stormwater Management Report**

The Site Data breakdown in the stormwater management report is inconsistent with the proposed Final Site Plan. Staff is unable to determine that the proposed pervious and impervious areas are consistent with the previously permitted Basin A. Please provide a more detailed breakdown that compares the permitted impervious and pervious areas to the proposed site data shown on the proposed Final Site Plan.

*The enclosed stormwater report has been revised as requested.*

**N. Determination of compliance with addressing and electronic file requirements**

**Addressing**

**Findings of compliance:**

*Agree.*

**Electronic File Submittal**

**Findings of compliance:**

*Agree.*

**O. Determination of compliance with utilities requirements**

**Water & Wastewater Service**

**Unresolved Issues:**

**Item #1: Drawings Must Be Approved**

The construction drawings must be approved by the Utilities and Solid Waste Department prior to sign off by the Department of permit applications and agreements. [ref. Code, LDR, s.10.2.B.5. Code, LDR, Art.10]

*The engineer of record will continue to work directly with utilities staff to finalize permit plans for submittal to FDEP.*

**Item #2: The applicant must submit an executable, final draft water and wastewater service agreement to the Growth Management Department for review by the Legal and Environmental Services departments prior to approval of the final site plan. The 'Water and Wastewater Service Agreement' must be executed and the applicable fees paid within sixty 60 days of final Martin County approval of the request. This development application is in noncompliance with Martin County's water and wastewater requirements.**

*The engineer of record will continue to work directly with utilities staff to finalize the service agreement.*

## **Wellfield and Groundwater Protection**

### **Findings of Compliance:**

*Agree.*

#### **P. Determination of compliance with fire prevention and emergency management requirements**

##### **Fire Prevention**

##### **Finding of Non-Compliance**

The Fire Prevention Bureau finds this submittal not in compliance with the applicable provisions governing construction and life safety standards of the Florida Fire Prevention Code and referenced publications. This occupancy shall comply with all applicable provisions of governing codes whether implied or not in this review, in addition to all previous requirements of prior reviews. Initial approval included an emergency access located near the DOT storm water lake. Is there another proposed area for the egress.

*All previous master plans have been reviewed to determine if any of them had an emergency access provision in Phase 2C. None of them identified an emergency access and none of the previous staff reports indicated a need for an emergency access in Phase 2C. The enclosed stamped-approved master and phasing plan dated May 19, 2009, which existed prior to the FDOT's construction of the retention pond, allowed 64 duplex units with no emergency access. The FDOT's taking reduced the number of duplex units from 64 to 48 and left no room for an emergency access or even a temporary construction road. The proposed revision to single family homes further reduces the number of units in Phase 2C from 48 to 36 units, which decreases the potential need for an emergency access in this phase of the project.*

##### **Emergency Preparedness**

##### **Findings of Compliance:**

The Emergency Management Agency staff has reviewed this development application for compliance with applicable statutes and ordinances and has determined that it is in compliance with the applicable standards and restrictions of the Land Development Regulations. This agency recommends approval of the application, subject to the following:

As previously requested, Emergency Management staff recommends that a map showing the storm surge evacuation zones be added to the plan in order to properly identify residents who may be required to evacuate. Please outline the project boundaries on the Storm Surge Map provided as Exhibit 1 to this report and attach it to the project's hurricane plan

*See enclosed hurricane storm surge map overlaid on the master plan, which was submitted with the previous submittal.*

#### **Q. Determination of compliance with ADA requirements**

##### **Findings of Compliance**

*Agree.*

#### **R. Determination of compliance with Martin County Health Department and School Board Requirements:**

##### **Martin County Health Department**

**Not applicable.**

*Agree.*

**Martin County School Board  
Findings of Compliance.**

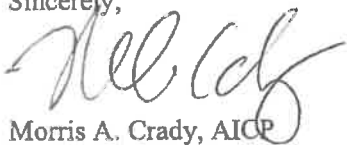
*Agree.*

- S. Determination of compliance with legal requirements**  
**Review Ongoing.**  
*Acknowledged.*
- T. Determination of compliance with adequate public facilities requirements**  
*Acknowledged.*
- U. Post-approval requirements**  
*Acknowledged.*
- V. Local, State and Federal Permits**  
*Acknowledged.*
- W. Fees**  
*Acknowledged.*
- X. General application information**  
*Noted.*
- Y. Acronyms**  
*Noted.*
- Z. Attachments**  
*Noted.*

I trust these responses and the revised plans satisfactorily address the comments contained in the staff report and allow the project to move forward to the next available County Commission meeting.

Please feel free to contact me or my assistant, Shirley Lyders, if you have any questions or need additional information.

Sincerely,



Morris A. Crady, AICP  
Senior Vice President  
Encl.

Copy To:        Client  
                    Development Team Members



# Lucido & Associates

Land Planning / Landscape Architecture  
101 E. 1st Street, Suite 200  
Tampa, FL 33602  
(813) 241-1111  
www.lucidoassociates.com

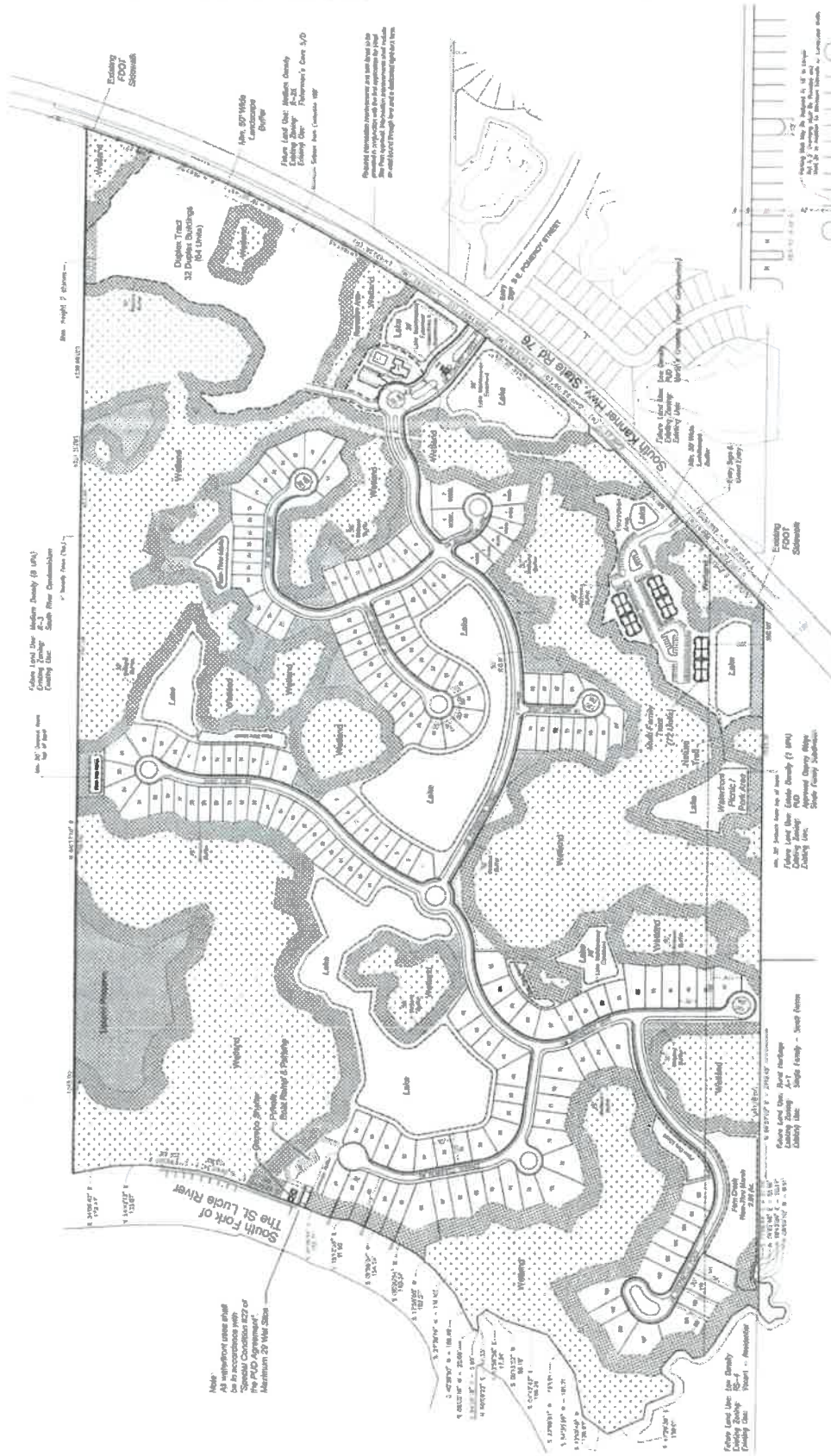
**Site Data:**  
Total Area: 251 Acres  
Product Type: Single Family/Multi-Family  
Gross Density: 1.25 Units per Acre  
Existing Use: Vacant  
Future Land Use Designation: Low Density PUD  
Proposed Zoning: RS-10  
Impervious Area: 60.38 Ac. (24.1%)  
Right of Way: 7.6 Ac.  
Recreational Lot Coverage: 31.0 Ac.  
Recreation Area: 0.8 Ac.  
Private Waterfront Area: 1.4 Ac.  
Duplex Tract: 12.9 Ac.  
Multi-Family Tract: 7.4 Ac.  
Pervious Area: 190.63 Ac. (75.9%)  
Right of Way: 7.5 Ac.  
Recreational Lot Coverage: 7.7 Ac.  
Recreation Area: 0.2 Ac.  
Private Waterfront Area: 0.3 Ac.  
Duplex Tract: 3.2 Ac.  
Multi-Family Tract: 1.8 Ac.  
Pervious Area: 2.8 Ac.  
Wetland Buffer/Preserve: 69.5 Ac.  
Other Landscape Areas: 0.7 Ac.  
Total Units: 321 Units  
Single Family: 185 Units  
Duplex Buildings: 64 Units  
Multi-Family Tract: 72 Units

**LEGEND**  
MAINTAIN EXISTING  
LAKE/STREAM/CHANNEL  
WETLAND PRESERVE  
WETLAND BUFFER/PRESERVE

**Banyan Bay PUD**  
Revised - Master Plan  
Martin County, Florida

**Scale**  
0' 100' 200' 300' 400' 500'

**1 of 1**



### Typical Parking Detail

Multi-Family Apartments: 72  
Duplex Buildings: (32 Buildings) 64 units  
Single Family Lots: 185

### Building Data

**Single Family Lots:**  
Front: 25'  
Side: 15'  
Rear: 15'  
Minimum Height: 10'  
Maximum Height: 10'  
Minimum Open Space: 20%  
Minimum Parking Space: 2 car garage per unit

**Duplex Buildings:**  
Front: 25'  
Side: 15'  
Rear: 15'  
Minimum Height: 10'  
Maximum Height: 10'  
Minimum Open Space: 20%  
Minimum Parking Space: 2 car garage per unit

**Multi-Family Apartments:**  
Front: 25'  
Side: 15'  
Rear: 15'  
Minimum Height: 10'  
Maximum Height: 10'  
Minimum Open Space: 20%  
Minimum Parking Space: 2 car garage per unit

### General Notes

1. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.
2. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.
3. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.
4. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.
5. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.
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8. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.
9. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.
10. All building footprints shall be in accordance with the applicable zoning ordinance and the applicable subdivision map.

### Vicinity Map

NOT TO SCALE



RECEIVED  
JAN - 9 1967  
U.S. DEPARTMENT OF COMMERCE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20540

**Banyan Bay PUD**  
Revised - Phasing Plan  
Martin County, Florida

[illegible]

1 of 1



**Lucido & Associates**  
 Land Planning / Landscape Architecture  
 7815 N.W. 11th Street, Suite 200  
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 150 Avenue A, Suite 101, Fort Myers, Florida 33901  
 Tel: (888) 367-3361  
 Fax: (888) 367-3362  
 800 Highland Avenue, Orlando, Florida 32803  
 Tel: (407) 826-3700  
 Fax: (407) 826-3701



**Data Source:**  
<http://geoweb.martin.fl.us/maps/>  
 Martin County Storm Surge Evacuation Zones

The purpose of the storm surge evacuation map is to provide the County with information on areas that may be impacted by storm surge (flooding) or other hazards. The map is intended to provide residents with the opportunity to evacuate to safety ahead of a hurricane. To navigate to a specific address, you can enter, zoom to a location or use the search box to enter an address. (Ex. 2401 SE Monterey Rd. Stuart, FL)

Evacuation orders will be issued by zone(s) based on the surge threat, and evacuation orders will be issued for mobile or manufactured homes for the unhighlighted areas based on the surge threat. The highlighted areas correspond to the colors and evacuation zones listed below.



To report an ADA accessibility issue or request accessibility assistance, please contact the County ADA Coordinator (772) 320-3131, Florida Relay 711, or complete our accessibility feedback form at [www.martin.fl.us/accessibility-feedback](http://www.martin.fl.us/accessibility-feedback)



**Banyan Bay PUD**  
 Hurricane Storm Surge  
 Martin County, Florida



Scale: 1" = 200'  
 Drawing: 12/15/11  
 Prepared By: J.L.S.  
 Checked By: J.L.S.  
 Computer Station: J.L.S.  
 Project Number: 11000  
 Date: 8/13/2011  
 Revision: 12/15/11  
 1 of 1

## *Drainage Analysis and Calculations*

# BANYAN BAY PHASE 2C Martin County, Florida

*Prepared for:*

CHESAPEAKE REALTY PARTNERS, LLC

*Prepared by:*

Kimley-Horn and Associates, Inc.  
CA No. 00000696

THIS IS TO CERTIFY THAT THE ENCLOSED ENGINEERING CALCULATIONS WERE PERFORMED  
BY ME OR UNDER MY DIRECT SUPERVISION.

\_\_\_\_\_  
BLAINE BERGSTRESSER, P.E.  
Florida Registration Number #84598  
CA No. 00000696  
Date: \_\_\_\_\_

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### **1.0 Introduction**

### **2.0 Background**

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3.2 Water Quality

3.3 Control Structures

3.4 Stage Storage

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D. Phasing Plan

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H. Time of Concentration

I. Water Quality Calculations

J. Permanent Pool Volume

K. Bleeder Size

L. ICPR Results

M. Stage Storage

Prepared Using: Interconnected Channel and Pond Routing Model (ICPR) ©2002 Streamline Technologies, Inc.  
Design prepared in compliance with South Florida Water Management District and Martin County design standards.

## 1.0 INTRODUCTION

The purpose of this report is present the surface water management system and the Construction Plans for Phase 2C (12.93 ac) of the Banyan Bay residential development project in Martin County, Florida. The Banyan Bay project consists of an approximately  $\pm 254$  acre parcel located in central Martin County, 2 miles north of Interstate 95 along State Road 76 (Kanner Highway).

Currently, the site for Phase 2C is undeveloped land adjacent to the existing Phase 1 of the project. There is a 1.5-acre conservation easement which contains 0.6 acres of wetlands. The previously approved area has been altered by the removal of 1.62 acres for a FDOT stormwater pond.

The proposed project consists of construction and operation authorization for 36 single-family homes. Project grading will direct stormwater runoff to a series of catch basins and conveyance piping which will discharge to the Phase 1 stormwater management system. The Phase 2C project area (12.93 acres) lies in Basin A and its land use was approved under Application No. 070615-10.

Phase 2C was previously approved by SFWMD under (Permit 43-00258-S, Application No. 070615-10). Please see *Appendix SFWMD Permit History* for a copy of the approved permit. An extension was granted on October 31, 2016 (Application No. 161024-27). To comply with Martin County criteria, the datum has been changed from NGVD to NAVD by converting all elevations using a factor of (-)1.46'. The below calculations and attached construction plans reflect the datum change.

## 2.0 BACKGROUND

### 2.1 Project Location

Please see *Appendix Location Map*. The project is located south of the South River Condominiums and north of Evans Estates along the western right of way of SR 76 in central Martin County.

### 2.2 Project Description

The total project area for all phases is approximately  $254 \pm$  acres and is proposed for development as a single-family residential project. The site currently contains three wetland sloughs through which the property currently drains. The proposed design includes nine lakes and three flow-through marshes. The flow-through marshes will be constructed as shallow lakes excavated to two feet below the seasonal high-water table and planted with vegetation. The proposed design will collect runoff from developed areas and direct it to the storm water management areas for treatment and attenuation. Primary access to the project will be via SR 76.

Pursuant to Martin County code, the on-site wetlands will be preserved and integrated into the storm water management system. In addition, each wetland will have a minimum 50-foot upland buffer.

### 2.3 **SFWMD Surface Water Permit History**

A Surface Water Management Permit (Permit No. 43-00258-S, Application No. 05173-A) was issued by SFWMD on September 8, 1983 to serve Banyan Bay residential and recreational lands on this site based upon a previously approved Conceptual Permit (Permit No. 43-00258-S, Application No. 05132-A) that was issued on December 09, 1982.

The Banyan Bay project was redesigned and the Conceptual Surface Water Management System for the residential development was permitted by SFWMD (Permit No. 43-00258-S, Application No. 030429-7) on March 10, 2004. Based on the Conceptual Permit, an Environmental Resource Standard General Permit (Permit No. 43-00258-S, Application No. 040326-13) was issued on September 02, 2004 to serve a 6.33-acre parcel of residential development known as Banyan Bay Phase 1A and 1B within Basin A, a temporary sales trailer facility in Phase 1A, and construction of 4.95 acres of wet detention lakes and residential development on eight lots within Phase 1B.

On August 10, 2005 Permit No. 43-00258-S, Application No. 050412-15 was approved, consisting of the conceptual modification of the previous Conceptual Surface Water Management Permit and the construction and operation authorization for the 33.56-acre Phase 1 storm water system. Phase 1 storm water system was certified by SFWMD on 06/20/08.

Phase 2C was previously approved by SFWMD under (Permit 43-00258-S, Application No. 070615-10). Please see *Appendix SFWMD Permit History* for a copy of the approved permit. The permit expired on August 28, 2012 and an extension was granted on August 22, 2016 (Application No. 160712-13).

#### **Basin A - Permitted Land Uses**

Building Area	3.0
Lake Area	3.4
Pavement Area	5.0
Pervious Area	6.7
Wetland Area	0.6
Offsite SR-76	0.5
Basin A Total =	19.2

#### **Basin A - Total Land Use Breakdown**

Building Area	4.22
Lake Area	4.19
Pavement Area	2.54
Pervious Area	7.14
Wetland Area	0.60
Offsite SR-76	0.50
Basin A Total =	19.2

**Basin A - Phase 1**

Building Area	0.1
Lake Area	3.2
Pavement Area	1.4
Pervious Area	1.1
Wetland Area	0.0
Offsite SR-76	0.50
Basin A Total =	6.26

**Basin A - Phase 2C**

Building Area	4.11
Lake Area	0.99
Pavement Area	1.19
Pervious Area	6.04
Wetland Area	0.60
Offsite SR-76	0.00
Basin A Total =	12.93

### 3.0 Surface Water Management System Design

#### 3.1 Proposed Drainage and Peak Discharge Rate

As previously defined (Permit No. 43-00258-S, Application No. 030429-7), Basin A lies on the northeastern corner of the project adjacent to South River Condominiums and SR 76. Included in this basin are 36 single-family homes and a clubhouse, Lakes A1 and A2 and Wetland 19. Storm water runoff will discharge to the northern wetland slough (Wetland 5) via a control structure in Lake A2.

Curve Numbers for each basin were calculated using TR-55 based off conditions in the original geotechnical report. The curve numbers can be found in *Appendix Curve Numbers*. The Time of Concentration for each basin was calculated using TR-55 and can be found in *Appendix Time of Concentration*. The rainfall events were modeled using Interconnected Channel and Pond Routing Model (ICPR). Detailed ICPR inputs and results can be found in *Appendix ICPR Results*.

Pursuant to SFWMD and Martin County criteria, the allowable peak discharge rate is based on the pre-development runoff rates resulting from the 25-year 72-hour storm event or previous agency action, or specific SFWMD basin criteria. According to the previous agency action (Permit 43-00258-S, Application No. 060823-16) Basin A is permitted 3.97 cfs.

#### 3.2 Water Quality

The detained water quality volume in the lakes complies with Martin County's criteria of 4.5 times the percent impervious for wet detention. Martin County requirements are more stringent than SFWMD's criteria of the greater of 1" over the drainage basin area and 2.5 times percent impervious. Please see the *Appendix Water Quality Calculations* for Basin A for detailed calculations by basin.

Basin	Treatment Method	Vol. Req.	Vol. Provided
A	Wet Detention	2.7 ac-ft	3.1 ac-ft

Martin County requires a 14-day wet season residence time in wet detention ponds in order to qualify for water quality. Please see *Appendix Permanent Pool Volume* to see the residence time is met in each pond.

### 3.3 Control Structures

The control structures for the wet detention ponds were designed to discharge to surrounding wetlands with an ultimate discharge to the South Fork of the St. Lucie River. The top of the structures are set at the 25-year 72-hour storm event elevation with bleeders set at the water control elevation for each lake. Weir notches were set at the water quality elevations. Below is a breakdown of the CS-A which was constructed during Phase 1:

CS-A: Type "E" Inlet with grate at 11.00' NAVD, a 4.75" rectangular weir at invert 8.99' NAVD, and a 4.5" bleeder at invert 8.04' NAVD.

### 3.4 Stage Storage

Below are the different design criteria for each basin. Please see *Appendix Stage Storage* for individual basin storage and *Appendix ICPR Results* for detailed ICPR results and inputs:

The 10-year 24-hour storm (6.8") was used to set the proposed minimum road crown.

Basin	Peak Stage	Min. Road Crown
A	9.86'	9.86'

The 25-year 72-hour storm (11.2") was used to set the perimeter berm and the allowable peak discharge.

Basin	Allowable Discharge	Method of Determination	Peak Discharge	Peak Stage (NAVD)
A	4.03 cfs	Previously Permitted	3.53 cfs	10.80'

The 100 year 72-hour storm (14") with zero discharge was used to set the minimum finished floor elevation.

Basin	Peak Stage (NAVD)	Proposed Min. FFE (NAVD)	FEMA Elevation
A	11.23'	11.23'	n/a

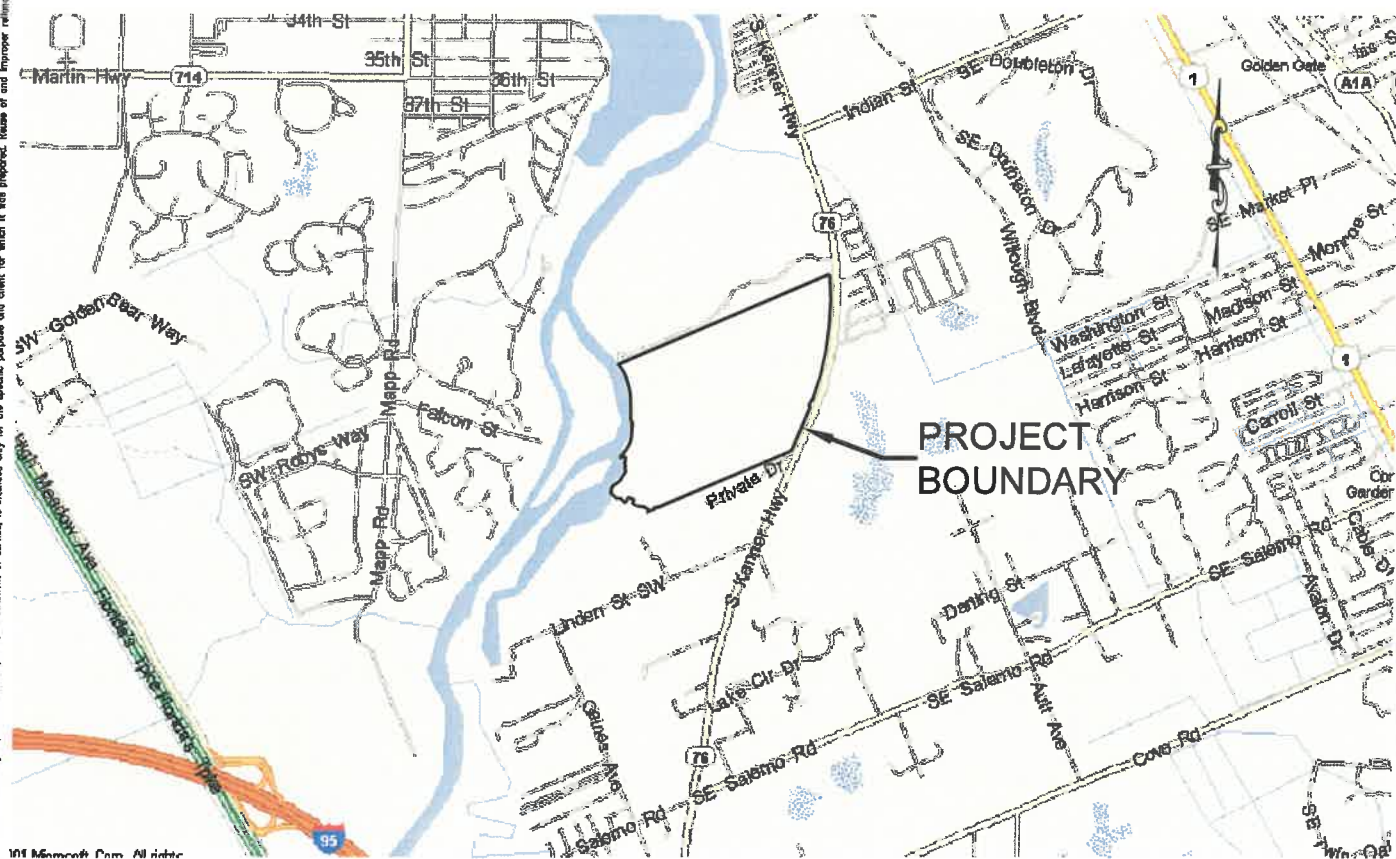
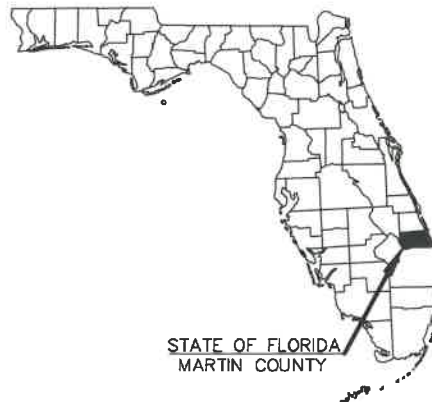
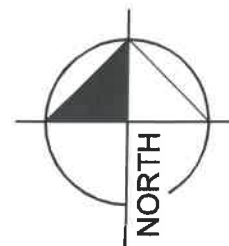
#### **4.0 RESULTS AND CONCLUSIONS**

Phase 2C was previously approved by SFWMD under (Permit 43-00258-S, Application No. 070615-10) to have a land use of 3.0 ac of building, 3.4 ac of lake, 5.0 ac of impervious area, 0.6 ac of wetland and 6.70 ac of pervious area. The proposed Phase 2C removes 1.62 ac for the FDOT stormwater pond and contains 4.22 ac for building, 3.2 ac of lake, 2.54 ac of impervious area, 0.6 ac of wetland and 7.14 ac of pervious area. With the change in land use, the pervious area is increased, the water quality requirements for both SFWMD and Martin County are met, and the storage requirements are met in the existing ponds in Phase 1. The drainage calculations, ICPR model, and construction plans were updated reflect the datum change from NGVD to NAVD. The proposed design meets or exceeds Martin County requirements and meets the SFWMD criteria from the previously approved permit.

## **APPENDICES**

## **APPENDIX A**

### **Location Map**



## LOCATION MAP

## BANYAN BAY

## MARTIN COUNTY, FLORIDA

SCALE	N.T.S.	 <b>Kimley-Horn and Associates, Inc.</b> © 2005 KIMLEY-HORN AND ASSOCIATES, INC. 2400 S.E. FEDERAL HWY, SUITE 320, STUART, FL 34994 TEL: (772) 286-2190 FAX: (772) 286-0138 <a href="http://WWW.KIMLEY-HORN.COM">WWW.KIMLEY-HORN.COM</a> CA 0000696
DESIGNED BY	MS	
DRAWN BY	MS	
CHECKED BY	GUJ	

DESIGN ENGINEER:	DATE MARCH 2005	FIGURE  1  100
FLORIDA REGISTRATION NUMBER:	PROJECT NO. 041052000	

## **APPENDIX B**

### **SFWMD Permit History**

**SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT**

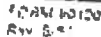
**BEG. PERMIT NUMBER:**

43-00258-7

**APPLICATION NUMBER:**

030 429-7

- 43-00258-8



Name: Banyan Bay Permit No. 43-00258-S  
Application No. 030429-2

☐ ORIGINAL APPLICATION  
☐ STAFF CALCULATION SHEET(S)  
☐ PERMIT  
☐ DRAWING(S)  
☐ SPECIAL CONDITION SHEET  
☐ STAFF REPORT

[illegible]



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE**

**PERMIT MODIFICATION NO. 43-00258-S**

**DATE ISSUED: MARCH 10, 2004**

**PERMITTEE: BANYAN BAY DEVELOPMENT CORPORATION  
(BANYAN BAY)  
201 ALHAMBRA CIR 12TH FL.  
CORAL GABLES, FL 33134**

**ORIGINAL PERMIT ISSUED: DECEMBER 9, 1982**

**ORIGINAL PROJECT DESCRIPTION: ORIGINAL PERMIT ISSUED AS A CONCEPTUAL APPROVAL**

**APPROVED MODIFICATION:** CONCEPTUAL AUTHORIZATION OF A SURFACE WATER MANAGEMENT SYSTEM TO SERVE A 252- ACRE RESIDENTIAL DEVELOPMENT KNOWN AS BANYAN BAY. CONSENT OF USE AUTHORIZATION FOR FACILITIES TO BE CONSTRUCTED WITHIN SOVEREIGN SUBMERGED LANDS IS INCLUDED. (NO CONSTRUCTION IS AUTHORIZED BY THIS PERMIT.)

**PROJECT LOCATION: MARTIN COUNTY,**

**PERMIT DURATION:** See Special Condition No.1. See attached Rule 40E-4.321, Florida Administrative Code. SECTION 28,29,32,33 TWP 38S RGE 41E

This Permit Modification is approved pursuant to Application No. 030429-7, dated March 18, 2003. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of any activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes(F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S. between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.414(1)(b), F.S., or as otherwise stated herein.

This Permit Modification may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit Modification may be transferred pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), F.A.C.

All specifications and special and limiting/general conditions attendant to the original Permit, unless specifically rescinded by this or previous modifications, remain in effect.

This Permit Modification shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and Environmental Resource Permit Staff Review Summary of the Application, including all conditions and all plans and specifications incorporated by reference, are a part of this Permit Modification. All activities authorized by this Permit Modification shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitting activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6.07, F.A.C.

**SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:**

SEE PAGES 2 - 6 OF 9 (22 SPECIAL CONDITIONS)  
SEE PAGES 7 - 9 OF 9 (16 GENERAL CONDITIONS)

**PERMIT MODIFICATION APPROVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**FILED WITH THE CLERK OF THE  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**ON ORIGINAL SIGNED BY:  
BY ELIZABETH VEGUILLA**

**DEPUTY CLERK**

**ORIGINAL SIGNED BY:  
BY GARRETT WALLACE JR.**

**ASSISTANT SECRETARY**

PAGE 1 OF 9

3/10/04

SPECIAL CONDITIONS

1. The conceptual phase of this permit shall expire on March 11, 2006.
2. Operation of the surface water management system shall be the responsibility of Banyan Bay Property Owner's Association. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions, a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:

Basin: A, Structure: CS-A

1-4.5" WIDE SHARP CRESTED weir with crest at elev. 10.58' NGVD.  
1-3.25" dia. CIRCULAR ORIFICE with invert at elev. 9.5' NGVD.

Receiving body : On-site wetland  
Control elev : 9.5 feet NGVD.

Basin: B, Structure: CS-B

1-4.75" WIDE SHARP CRESTED weir with crest at elev. 10.88' NGVD.  
1-3" dia. CIRCULAR ORIFICE with invert at elev. 9.9' NGVD.

Receiving body : On-site wetland  
Control elev : 9.9 feet NGVD.

Basin: C1, Structure: CS-C1

1-28" WIDE SHARP CRESTED weir with crest at elev. 12.15' NGVD.  
1-3" dia. CIRCULAR ORIFICE with invert at elev. 10' NGVD.

Receiving body : Lake C2  
Control elev : 10 feet NGVD.

Basin: C2, Structure: CS-C2

1-4.25" WIDE SHARP CRESTED weir with crest at elev. 10.95' NGVD.  
1-3.5" dia. CIRCULAR ORIFICE with invert at elev. 10' NGVD.

Receiving body : On-site wetland  
Control elev : 10 feet NGVD.

Basin: C2, Structure: CS-C3

1-4.25" WIDE SHARP CRESTED weir with crest at elev. 10.95' NGVD.

Receiving body : On-site wetland  
Control elev : 10 feet NGVD.

Basin: D1, Structure: CS-D1

1-12" WIDE SHARP CRESTED weir with crest at elev. 9.67' NGVD.  
1-3" dia. CIRCULAR ORIFICE with invert at elev. 8.5' NGVD.

Receiving body : Lake D2  
Control elev : 8.5 feet NGVD.

Basin: D2, Structure: CS-D2

1-2" WIDE SHARP CRESTED weir with crest at elev. 7.57' NGVD.  
1-3" dia. CIRCULAR ORIFICE with invert at elev. 6.5' NGVD.

Receiving body : On-site Wetland  
Control elev : 6.5 feet NGVD.

Basin: D3, Structure: CS-D3

1-2" WIDE SHARP CRESTED weir with crest at elev. 7.5' NGVD.  
1-3" dia. CIRCULAR ORIFICE with invert at elev. 6.5' NGVD.

Receiving body : On-site " " land  
Control elev : 6.5 feet NGVD.

Basin: E1, Structure: CS-E1

1-14.5" WIDE SHARP CRESTED weir with crest at elev. 8.04' NGVD.  
1-4.25" dia. CIRCULAR ORIFICE with invert at elev. 7' NGVD.

Receiving body : On-site Wetland  
Control elev : 7 feet NGVD.

Basin: E2, Structure: CS-E2

1-20" WIDE SHARP CRESTED weir with crest at elev. 11.17' NGVD.  
1-3" dia. CIRCULAR ORIFICE with invert at elev. 9.2' NGVD.

Receiving body : Lake E1  
Control elev : 9.2 feet NGVD.

Basin: E3, Structure: CS-E3

1-30" WIDE SHARP CRESTED weir with crest at elev. 9.35' NGVD.  
1-3" dia. CIRCULAR ORIFICE with invert at elev. 7' NGVD.

Receiving body : Lake E1  
Control elev : 7 feet NGVD.

4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.

9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Minimum building floor elevation:
 

BASIN: A -	14.00 feet NGVD.
BASIN: B -	12.94 feet NGVD.
BASIN: C1 -	13.48 feet NGVD.
BASIN: C2 -	13.39 feet NGVD.
BASIN: D1 -	10.67 feet NGVD.
BASIN: D2 -	10.58 feet NGVD.
BASIN: D3 -	9.75 feet NGVD.
BASIN: E1 -	10.77 feet NGVD.
BASIN: E2 -	12.27 feet NGVD.
BASIN: E3 -	10.94 feet NGVD.
13. Minimum road crown elevation:
 

Basin: A -	11.51 feet NGVD.
Basin: B -	11.50 feet NGVD.
Basin: C1 -	12.87 feet NGVD.
Basin: C2 -	12.00 feet NGVD.
Basin: D1 -	10.50 feet NGVD.
Basin: D2 -	8.50 feet NGVD.
Basin: D3 -	8.50 feet NGVD.
Basin: E1 -	9.00 feet NGVD.
Basin: E2 -	11.51 feet NGVD.
Basin: E3 -	10.17 feet NGVD.
14. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
15. The wetland conservation areas and upland buffer zones and/or upland preservation areas shown on Exhibit(s) 2 and 4G may in no way be altered from their natural or permitted state. Activities prohibited within the conservation areas include, but are not limited to: construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; removal or destruction of trees, shrubs, or other vegetation - with the exception of exotic vegetation removal; excavation, dredging, or removal of soil materials; diking or fencing; and any other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.

16. A mitigation program for Banyan Bay shall be implemented in accordance with Exhibit Nos. 3 and 4. The permittee shall preserve 78.11 acres of wetlands and 5.2 acres of upland compensation areas.
17. A monitoring and maintenance program shall be implemented in accordance with Exhibit No. 4. The monitoring program shall extend for a period of 5 years with annual reports submitted to District staff. Maintenance for the preserved wetland areas will occur on a regular basis to ensure the integrity and viability of those areas as permitted. Maintenance shall be conducted in perpetuity to ensure that the conservation area is maintained free from Category 1 exotic vegetation (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) immediately following a maintenance activity. Coverage of exotic and nuisance plant species shall not exceed 5% of total cover between maintenance activities. In addition, the permittee shall manage the conservation areas such that exotic/nuisance plant species do not dominate any one section of those areas.
18. Upon submittal of the first application for construction approval, the permittee shall submit a work schedule, subject to District staff review and approval, specifying completion dates for each mitigation, monitoring and maintenance task.
19. At the time of application for construction approval, the applicant shall submit sketches and legal descriptions of all the wetland preservation areas and upland buffer zones for review.

Prior to the commencement of construction resulting in wetland impacts, the permittee shall submit two certified copies of the recorded conservation easement for the mitigation areas and associated buffers. The data should also be supplied in a digital CAD (.dxf) or GIS (ESRI Coverage) format. The files should be in the Florida State Plane coordinate system, East Zone (3601) with a data datum of NAD83, HARN with the map units in feet. This data should reside on a CD or floppy disk and be submitted to the District's Environmental Resource Compliance Division in the service area office where the application was submitted.

The recorded easement shall be in substantial conformance with Exhibit 5. Any proposed modifications to the approved form must receive prior written consent from the District. The easement must be free of encumbrances or interests in the easement which the District determines are contrary to the intent of the easement. In the event it is later determined that there are encumbrances or interests in the easement which the District determines are contrary to the intent of the easement, the permittee shall be required to provide release or subordination of such encumbrances or interests.
- At the time of application for construction approval for any phase along the South Fork of the St. Lucia River, the permittee shall submit a draft mangrove trimming and monitoring plan. The plan is subject to review and approval by District staff. All mangrove trimming activities shall be accomplished by a certified professional mangrove trimmer and in accordance with the Mangrove Trimming and Preservation Act (Sections 403.9321-403.9333 Florida Statutes).
21. The District reserves the right to require remedial measures to be taken by the permittee if monitoring or other information demonstrates that adverse impacts to onsite or offsite wetlands, upland conservation areas or buffers, or other surface waters have occurred due to project related activities.
22. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for

the presence of manatee(s).

The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.

Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.

All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

If manatee(s) are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.

Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-561-562-3909) in south Florida.

Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads Caution: Manatee Area will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2" by 11" which reads Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for north Florida or in Vero Beach (1-561-562-3909) for south Florida.

### GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource Permit Construction Completion/Certification Form Number 0881. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings is discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must

- be clearly shown. The plans must be clearly labeled as "As-built" or "Record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.
  8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
  9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
  10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
  11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-4C, F.A.C..
  12. The permittee is hereby advised that Section 253.77, F.S. states that a person may

not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

# ENVIRONMENTAL RESOURCE PERMIT

## CHAPTER 40E-4 (10/95)

### 40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment,
2. the effective date of the local government development order,
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit, or
2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 15K-4.07(4), Amended 7-1-88, 4/20/94, Amended 7-1-88, 4/20/94, 10-3-95

## NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

### Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

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any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

#### CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15<sup>th</sup> Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

#### DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 2.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

#### LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Right.

#### PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

#### LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

#### MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

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publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.102, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- (4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

#### VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

- (a) the caption shall read: Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner;

(c) The name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

- a) the specific facts that make the situation an emergency; and
- b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

#### WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

#### 28-106.201

#### INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

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**28-106.301 INITIATION OF PROCEEDINGS**  
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (a) The name and address of each agency affected and each agency's file or identification number, if known;
  - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
  - (c) A statement of when and how the petitioner received notice of the agency decision;
  - (d) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
  - (e) A demand for relief.

**28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL**

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
  - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
  - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

**42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217**

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S., or rules duly adopted thereunder;

- (b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

- (c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

- (d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

- (e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

**28-107.005 EMERGENCY ACTION**

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

(2) The 14-day notice requirement of Section 20.569(2)(b), F.S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

**40E-1.611 EMERGENCY ACTION**

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574  
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • [www.sfwmd.gov](http://www.sfwmd.gov)

March 2, 2004

Banyan Bay Development Corporation  
201 Alhambra Circle - 12<sup>th</sup> Floor  
Coral Gables, FL 33134

Subject: Application No. 030429-7, Banyan Bay  
Martin County, S28,29,32,33/T38S/R41E

Enclosed is a copy of the South Florida Water Management District's staff report covering the permit application referenced therein. It is requested that you read this staff report thoroughly and understand its contents. The recommendations as stated in the staff report will be presented to our Governing Board for consideration on Wednesday, March 10, 2004 beginning at 8:30am at Parrot Jungle Island, 1111 Parrot Jungle Island Trail, Miami.

Should you wish to object to the staff recommendation or file a petition, please provide written objections, petitions and/or waivers (refer to the attached "Notice of Rights") to:

Elizabeth Veguilla, Deputy Clerk  
South Florida Water Management District  
Post Office Box 24680  
West Palm Beach, Florida 33416-4680

The "Notice of Rights" addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. You are advised, however, to be prepared to defend your position regarding the permit application when it is considered by the Governing Board for final agency action, even if you agree with the staff recommendation, as the Governing Board may take final agency action which differs materially from the proposed agency action.

Please contact the District if you have any questions concerning this matter.

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the addressee this 2nd day of March, 2004 in accordance with Section 120.60 (3), Florida Statutes.

Sincerely,

Damon Meiers, P.E., Deputy Director  
Environmental Resource Regulation Department

DM/gh

CERTIFIED #7002 3150 0003 3738 9313  
RETURN RECEIPT REQUESTED

#### GOVERNING BOARD

Nicolás J. Gutiérrez, Jr., Esq., Chair  
Pamela Brooks-Thomas, Vice-Chair  
Lisa M. Bagué

Michael Collins  
Hugh M. English  
Lennart E. Lindahl, P.E.

Kevin McCarty  
Harkley R. Thornton  
Trudi K. Williams, P.E.

#### EXECUTIVE OFFICE

Henry Dean, Executive Director

Last Date For Agency Action: 11-MAR-2004

INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Banyan Bay

Permit No.: 43-00258-S

Application No.: 030429-7

Application Type: Environmental Resource (Conceptual Approval Modification)

Location: Martin County, S20,25,32,33/T38S/R41E

Permittee: Banyan Bay Development Corporation

Operating Entity: Banyan Bay Homeowners Association

Project Area: 252 acres

Project Land Use: Residential

Drainage Basin: TIDAL ST LUCIE

Receiving Body: South Fork of the St. Lucie River

Special Drainage District: NA

Total Acres Wetland Onsite: 85.52

Total Acres Wetland Preserved Onsite: 84.41

Total Acres Impacted Onsite: 1.11

Total Acres Presv/Mit Compensation Onsite: 83.31

Conservation Easement To District: Yes

Sovereign Submerged Lands: Yes

**DRAFT**  
Subject to Governing  
Board Approval

Class: CLASS III

Type: Consent Of Use

**PROJECT PURPOSE:**

This application is a request for an Environmental Resource Permit to authorize conceptual authorization for a surface water management system to serve 252 acres of residential development. Authorization to use Sovereign Submerged Lands (Consent of Use) is also included with this permit. No construction authorization is requested. Staff recommends approval with conditions.

## PROJECT EVALUATION:

### PROJECT SITE DESCRIPTION:

The site is located west of S.R. 76 (Kanner Highway), between Indian Street and Salerno Road, along the South Fork of the St. Lucie River in Martin County. See Exhibit 1 for a location map.

There are no permitted surface water management facilities within the project area. The site contains 85.52 acres of wetlands. Approximately 1.1 acres of impact are proposed to provide access to upland areas of the site. Natural communities onsite include wet prairie, freshwater marsh, sloughs, bay swamp, mangrove forest, pine flatwoods, xeric oak and sand pine scrub.

### PROPOSED PROJECT:

The proposed project consists of the conceptual approval of a surface water management (SWM) system to serve the 252-acre (104.8-acres developed area) single and multi-family residential development, Banyan Bay. The SWM system is to consist of wet and dry detention areas.

The project site has been divided into 10 individual basins. Discharge from each basin is either to another basin, or to interconnected wetlands dispersed throughout the project site. Ultimate discharge from the project site is to the South Fork of the St. Lucie River.

A permit modification will be required prior to the construction of facilities associated with this project. Please refer to Exhibits 2A and 2B for the conceptual site plan and details information.

The project also includes conceptual approval of a boat ramp and boat storage facility for up to 88 vessels, as shown on Exhibit 2. Based on the submitted Property Owner's Association documents, the boating facilities will be limited to residents/owners of Banyan Bay. In addition, three dock structures are proposed to serve the 6 single-family residential lots along the South Fork of the St. Lucie River, located immediately south of the boat ramp. Application 030523-11 has been submitted for construction of the three docks, boat ramp, parking and vessel storage facility.

### LAND USE:

#### Construction:

Basin : A

Total Basin		
Building Coverage	3.00	acres
Lake	3.40	acres
Pavement	5.00	acres
Pervious	6.70	acres
Wetland	.60	acres
Total:	18.70	

Basin : B

Total Basin		
Building Coverage	1.30	acres
Lake	1.70	acres

Basin : B

Total Basin

Pavement	1.90	acres
Pervious	4.50	acres
Wetland	1.10	acres
Total:	10.50	

Basin : C1

Total Basin

Building Coverage	1.60	acres
Pavement	1.30	acres
Pervious	.70	acres
Water Mgmt Acreage	.40	acres
Total:	4.00	

Basin : C2

Total Basin

Building Coverage	6.20	acres
Lake	5.70	acres
Pavement	4.80	acres
Pervious	4.50	acres
Total:	21.20	

Basin : D1

Total Basin

Building Coverage	.70	acres
Pavement	.30	acres
Pervious	.50	acres
Water Mgmt Acreage	.30	acres
Total:	1.80	

Basin : D2

Total Basin

Building Coverage	1.60	acres
Pavement	1.20	acres
Pervious	1.30	acres
Water Mgmt Acreage	1.50	acres
Total:	5.60	

Basin : D3

Basin : D3

**Total Basin**

Building Coverage	.60	acres
Pavement	1.30	acres
Pervious	1.60	acres
Water Mgmt Acreage	.60	acres
<b>Total:</b>	<b>4.10</b>	

Basin : E1

**Total Basin**

Building Coverage	8.30	acres
Lake	7.00	acres
Pavement	5.70	acres
Pervious	6.00	acres
Wetland	1.50	acres
<b>Total:</b>	<b>28.50</b>	

Basin : E2

**Total Basin**

Building Coverage	1.90	acres
Lake	.60	acres
Pavement	1.30	acres
Pervious	1.00	acres
<b>Total:</b>	<b>4.80</b>	

Basin : E3

**Total Basin**

Building Coverage	2.50	acres
Pavement	1.70	acres
Pervious	.90	acres
Water Mgmt Acreage	.50	acres
<b>Total:</b>	<b>5.60</b>	

**WATER QUANTITY :**

**Discharge Rate :**

As shown in the table below, the proposed project discharge is within the allowable limit for the area.

Discharge Storm Frequency : 25 YEAR-3 DAY

Design Rainfall : 11.2 inches

Basin

Basin	Allow Disch (cfs)	Method Of Determination	Peak Disch (cfs)	Peak Stage (ft, NGVD)
A	3.7	Pre Vs Post	3.7	12.54
B	2	Pre Vs Post	2	12.1
C2	5	Pre Vs Post	5	12.51
D2	2.4	Pre Vs Post	2.4	9.02
D3	1.3	Pre Vs Post	1.3	8.93
E1	7.9	Pre Vs Post	7.8	9.53

**Finished Floors :**

Building Storm Frequency : 100 YEAR-3 DAY

Design Rainfall : 14 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Finished Floors (ft, NGVD)	FEMA Elevation (ft, NGVD)
A	14	.4	N/A
B	12.94	12.94	N/A
C1	13.48	13.48	N/A
C2	13.39	13.39	N/A
D1	10.67	10.67	N/A
D2	10.58	10.58	N/A
D3	9.75	9.75	N/A
E1	10.77	10.77	N/A
E2	12.27	12.27	N/A
E3	10.94	10.94	N/A

**Road Design :**

As shown in the following table and the attached exhibits, minimum road center lines have been set at or above the calculated design storm flood elevation.

Road Storm Frequency : 10 YEAR-1 DAY

Design Rainfall: 6.8 inches

Basin	Peak Stage (ft, NGVD)	Proposed Min. Road Crown (ft, NGVD)
A	11.51	11.51
B	11.28	11.9
C1	12.87	12.87
C2	11.66	12
D1	9.86	10.5
D2	8.18	8.5
D3	8.36	8.5
E1	8.61	9
E2	11.51	11.51
E3	10.17	10.17

**Control Elevation :**

Basin	Area (Acres)	Ctrl Elev (ft, NGVD)	WSWT Ctrl Elev (ft, NGVD)	Method Of Determination
A	18.70	9.5	9.50	Wet Season Soil Borings
B	10.50	9.9	9.90	Wet Season Soil Borings
C1	4.00	10	10.00	Wet Season Soil Borings
C2	21.20	10	10.00	Wet Season Soil Borings
D1	1.80	8.5	8.50	Wet Season Soil Borings
D2	5.60	6.5	6.50	Wet Season Soil Borings
D3	4.10	6.5	6.50	Wet Season Soil Borings
E1	28.50	7	7.00	Wet Season Soil Borings
E2	4.80	9.2	9.20	Wet Season Soil Borings
E3	5.60	7	7.00	Wet Season Soil Borings

**Receiving Body :**

Basin	Str.#	Receiving Body
A	CS-A	On-site wetland
B	CS-B	On-site wetland
C1	CS-C1	Lake C2
C2	CS-C2	On-site wetland
D1	CS-C3	On-site wetland
D2	CS-D1	Lake D2
D3	CS-D2	On-site Wetland
E1	CS-D3	On-site Wetland
E2	CS-E1	On-site Wetland
E3	CS-E2	Lake E1
	CS-E3	Lake E1

**Discharge Structures:** Note: The units for all the elevation values of structures are (ft, NGVD)

**Weirs:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
A	CS-A	1	Sharp Crested	4.5"				10.58 (crest)
B	CS-B	1	Sharp Crested	4.75"				10.88 (crest)
C1	CS-C1	1	Sharp Crested	28'				12.15 (crest)
C2	CS-C2	1	Sharp Crested	4.25"				10.95 (crest)
D1	CS-C3	1	Sharp Crested	4.25"				10.95 (crest)
D2	CS-D1	1	Sharp Crested	12"				9.67 (crest)
D3	CS-D2	1	Sharp Crested	2"				7.57 (crest)
E1	CS-D3	1	Sharp Crested	2"				7.5 (crest)
E2	CS-E1	1	Sharp Crested	14.5"				8.04 (crest)
E3	CS-E2	1	Sharp Crested	20"				11.17 (crest)
	CS-E3	1	Sharp Crested	30"				9.35 (crest)

**Water Quality Structures:** Note: The units for all the elevation values of structures are (ft, NGVD)

**Bleeders:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert Elev.
A	CS-A	1	Circular Orifice				3.25		9.5

### Water Quality Structures:

#### Leaders:

B	CS-B	1	Circular Orifice		
C1	CS-C1	1	Circular Orifice	3"	9.9
C2	CS-C2	1	Circular Orifice	3"	10
D1	CS-D1	1	Circular Orifice	3.5"	10
D2	CS-D2	1	Circular Orifice	3"	8.5
D3	CS-D3	1	Circular Orifice	3"	6.5
E1	CS-E1	1	Circular Orifice	3"	6.5
				4.25"	7
E2	CS-E2	1	Circular Orifice		
E3	CS-E3	1	Circular Orifice	3"	9.2
				3"	7

### WATER QUALITY:

Water quality treatment equivalent to either 1-inch over the project site area or 2.5-inches over the impervious site area (Basins C1, C2, D2, E1, E2, and E3) is required in either wet or dry detention facilities as indicated in the table below. The Volume Provided column shows the water quality treatment volume provided to meet Martin County requirements which exceed District requirements. Water quality treatment for Basins C1, D1, and E3 will be provided in the Basin C2, D2 and E1 wet detention area, respectively.

Basin	Treatment Method		Vol Req'd (ac-ft)	Vol Prov'd (ac-ft)
A	Treatment	Wet Detention	3.4 acres 1.6	3.8
B	Treatment	Wet Detention	1.7 acres .9	1.7
C2	Treatment	Wet Detention	5.7 acres 2.9	6.6
D2	Treatment	Wet Detention	1.2 acres .8	1.8
D3	Treatment	Dry Detention	.6 acres .3	.7
E1	Treatment	Wet Detention	7 acres 3.7	8.9
E2	Treatment	Wet Detention	.6 acres .6	1.4

### WETLANDS:

There are twenty-four wetlands located on the project site, totaling 85.52 acres (see Exhibit 2). The majority of this acreage is in the large bay swamps (Wetlands 1, 5, 16A- 43.83 acres) that slope toward the South Fork of the St. Lucie River and a large freshwater marsh at the southern end of the project (Wetland 12-18.65 acres). These wetlands are of good quality, with some areas of off-road vehicle damage and a minor presence of invasive exotic vegetation.

Within the eastern portion of the site, along SR 75, the wetlands are very densely vegetated with melaleuca, likely due to hydrologic alteration, and as a result are of very poor quality. Portions of the eastern end of Wetland 5 have been reduced to ditches.

The internal marshes and wet prairies are of fair to good quality but have experienced much damage due to off-road vehicles. Natural recruitment of desirable vegetation is expected once these activities have ceased.

The wetlands will be preserved on site with 50- foot or 75-foot upland buffers and incorporated into the water management system as shown on Exhibit 2. The proposed lakes will be controlled at or near the seasonal high water elevation of the surrounding wetlands, thus meeting the District's lake-wetland separation criteria. With any future application for construction, a restoration plan for temporary impacts

associated with the construction of water management structures must be provided. In addition, pre-treatment swales will be provided where lots are adjacent to wetland preserves.

#### Wetland Impacts:

The 1.11 acres of proposed impacts are due to the need to cross over or through wetland areas to reach upland areas to be developed. Secondary impacts have been included in the calculated impacts and will be fully offset by the mitigation proposal. Exhibit 3 details the wetland impacts and preservation. The crossings have been located to minimize impacts to wetlands. In addition, culverts will be installed under each crossing to maintain flow within the wetland areas (see cross sections B and C on Exhibit 2B). The crossing of Wetland 1 will be further minimized by the installation of a retaining wall, rather than using graded slopes.

#### Mitigation Proposal:

As mitigation, the applicants propose preservation of 78.11 acres of fair to good quality wetlands and an additional 5.2 acres of upland buffers (see Exhibits 3 and 4). The upland areas of the site provide forage and cover for wildlife and are of generally good quality. The melaleuca-dominated wetlands (totaling 6.3 acres) were not included in the mitigation calculation. However, these areas will be included in the conservation easement and all exotic vegetation removed under the Preserve Area Management Plan required by Martin County.

#### Monitoring/Maintenance:

Exhibit 4 is the mitigation, monitoring and maintenance plan for the proposed development. After initial exotic vegetation removal, the wetlands and upland buffers will be maintained to prevent exotic and nuisance vegetation from reaching 5% cover. Monitoring will consist of semi-annual data collection from transects, photostations and staff gauges as shown on Exhibit 4G. A monitoring and maintenance schedule will be submitted at the time of permit application for the first construction authorization. In addition, a restoration plan for the areas affected by installation of the proposed outfall structures will be required with the application for construction approval. Maintenance of the wetlands and upland buffers will be required in perpetuity.

This project will also be subject to a Martin County Preserve Area Management Plan, which requires preservation and management of wetlands and certain upland areas, with requirements for signage, exotic control, etc.

#### Wetland Inventory :

CONCEPTUAL	NEW	-BANYAN BAY	ONSITE				
Pre-Development		Post-Development					
	Total Existing	Impacted	Undisturbed	Enhanced	Preserved	Restored/ Created	
Fresh Water Forested	5.00	1.11	4.80		46.89		
Fresh Water Herbaceous	32.72		1.50		31.22		
Upland					5.20		
Total:	85.52	1.11	6.30		83.31		

#### Endangered Species:

This site is inhabited by a variety of wildlife, including listed wading birds and gopher tortoises, which were observed during site visits. In addition, manatees are known to use the adjacent South Fork of the St. Lucie River.

Because most of the wetlands will be preserved and the proposed wetland impacts are minor, impacts to wetland-dependant wildlife are anticipated to be minimal. The applicant will coordinate with the FFWCC and the USFWS regarding the taking and or relocation of the gopher tortoise burrows within the uplands on site. Commensal species, such as the federally-listed eastern indigo snake, may be found in association with these burrows.

The applicant is working with the Florida Fish and Wildlife Conservation Commission (FFWCC) under SFWMD application 030523-11, which has been submitted for construction of the boating facilities, regarding the additional vessel traffic that will be generated by this project. The FFWCC has requested that the standard manatee special conditions be included with any construction application that includes in-water work, and that any pipes or culverts proposed greater than 18" at or below mean high water be fitted with manatee grates. No pipes or culverts accessible to manatees are currently proposed.

Species	Potential Occurrence	Use Types
Gopher Tortoises	Observed	Burrows
Herons	Observed	Foraging
Manatee	Known Use	Corridor
White Ibis	Observed	Preferred Habitat Foraging

#### LEGAL ISSUES:

A draft conservation easement (Exhibit 5) for the wetlands and upland buffers has been prepared. As this application is for conceptual approval only, recordation of the easement is not required at this time. During review of the application for construction authorization, sketches and legal descriptions for the proposed conservation easements will be submitted for review and approval. After construction authorization is granted, the easement will be recorded prior to commencement of construction.

Draft Articles of Incorporation and Declaration of Easements, Covenants and Restrictions for the proposed Banyan Bay Homeowner's Association were submitted and have been incorporated into the permit file. The proposed association shall be responsible for the operation and maintenance of the surface water management system and the monitoring and perpetual maintenance of the conservation easement areas.

#### SOVEREIGN/SUBMERGED LANDS:

The proposed boat ramp and three piers are located in and/or over sovereign submerged lands. Although the boat ramp will be excavated from uplands, approximately 800 cubic yards will be excavated from the South Fork to connect the ramp to the waterway. Based on Ch. 18-21.005(1)(a)(2) and the proposed pre-empted area, the proposed activities (piers, ramp and dredging) qualify for a consent of use.

Only the six lots shaded on Exhibit 6 are considered riparian. Three piers will be constructed along alternate lot lines to provide a total of 12 slips for these 6 residential lots. Because a boat launching and storage facility will be constructed by the permittee for the benefit of the residents of Banyan Bay, and the wetlands and buffers will be preserved under a standard conservation easement, no other residential docking facilities are to be constructed on this site. Language has been included in the draft Covenants and Restrictions for the Banyan Bay Community that prohibits the construction of other boating facilities.

**RELATED CONCERNS:**

**Water Use Permit Status:**

The applicant has indicated that the surface water lakes will be used as a source for irrigation water for common areas of the project. Water Use application number 030505-16 has been submitted for this project, yet cannot be issued until a permit application for construction is submitted. If dewatering is needed for construction, a dewatering permit will also be required.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a general permit issued pursuant to Section 40E-20 FAC.

**Potable Water Supplier:**

Potable water for the project site will be served by Martin County Utilities, a letter of commitment will be provided at the time of application for construction authorization is submitted.

**Waste Water System/Supplier:**

Waste water services for the project site will be served by Martin County Utilities, a letter of commitment will be provided at the time of application for construction authorization is submitted.

**Right-Of-Way Permit Status:**

A Right-of-Way Permit is not required for this project.

**DRI Status:**

This project is not a DRI.

**Historical/Archeological Resources:**

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

**DF/ACZM Consistency Review:**

The District has not received a finding of inconsistency from the Florida Department of Community Affairs or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

**Third Party Interest:**

No third party has contacted the District with concerns about this application.

**Enforcement:**

There has been no enforcement activity associated with this application.

**STAFF RECOMMENDATION:**

The Staff recommends that the following be issued :

Conceptual authorization of a surface water management system to serve a 252- acre residential development known as Banyan Bay. Consent of Use authorization for facilities to be constructed within sovereign submerged lands is included.

Based on the information provided, District rules have been adhered to.

Staff recommendation is for approval subject to the attached General and Special Conditions.

**STAFF REVIEW:**

NATURAL RESOURCE MANAGEMENT DIVISION APPROVAL  
ENVIRONMENTAL EVALUATION

Melinda Parrott  
Melinda Parrott

DIVISION DIRECTOR :

Robert G. Robbins  
Robert G. Robbins

SUPERVISOR

Donald L. Medellin  
Donald L. Medellin

DATE: 2/27/04

SURFACE WATER MANAGEMENT DIVISION APPROVAL  
ENGINEERING EVALUATION

Edmond A. Palmowski  
Edmond A. Palmowski

DIVISION DIRECTOR :

Anthony M. Waterhouse, P.E.  
Anthony M. Waterhouse, P.E.

SUPERVISOR

Hugh A. Carter, P.E.  
Hugh A. Carter, P.E.

DATE: 2/27/04

**DRAFT**  
Subject to Governing  
Board Approval