



# 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***

This application is classified as a major PUD development which has received a prior master site plan approval. As such, final action on this request for approval is required by the Board of County Commissioners at a public meeting pursuant to Section 10.5.F.9., Land Development Regulations, Martin County, Fla., (2019).

Pursuant to Section 10.2.B.2. Development applications shall demonstrate compliance with the comprehensive Plan, the LDR and the Code prior to approval by the decision-maker.

Pursuant to Section 10.5.F.9., Land Development Regulations, Martin County, Fla., a review of this application is not required by the Local Planning Agency (LPA)

The applicant addressed the non-compliance findings from the staff report dated July 7, 2020 with its resubmittal dated July 28, 2020. The previous staff reports and resubmittals are incorporated herein by reference.

### ***E. Location and site information***

Parcel number(s) and address:

N/A - Multiple

41-38-41-000-000-0004000000

Census tract:

Commission district:

Municipal service taxing unit:

Planning area:

Storm surge zone:

N/A – Multiple (Platted Phase 1)

Unaddressed (Phase 2A, 2B, 2C, 3)

Not Applicable

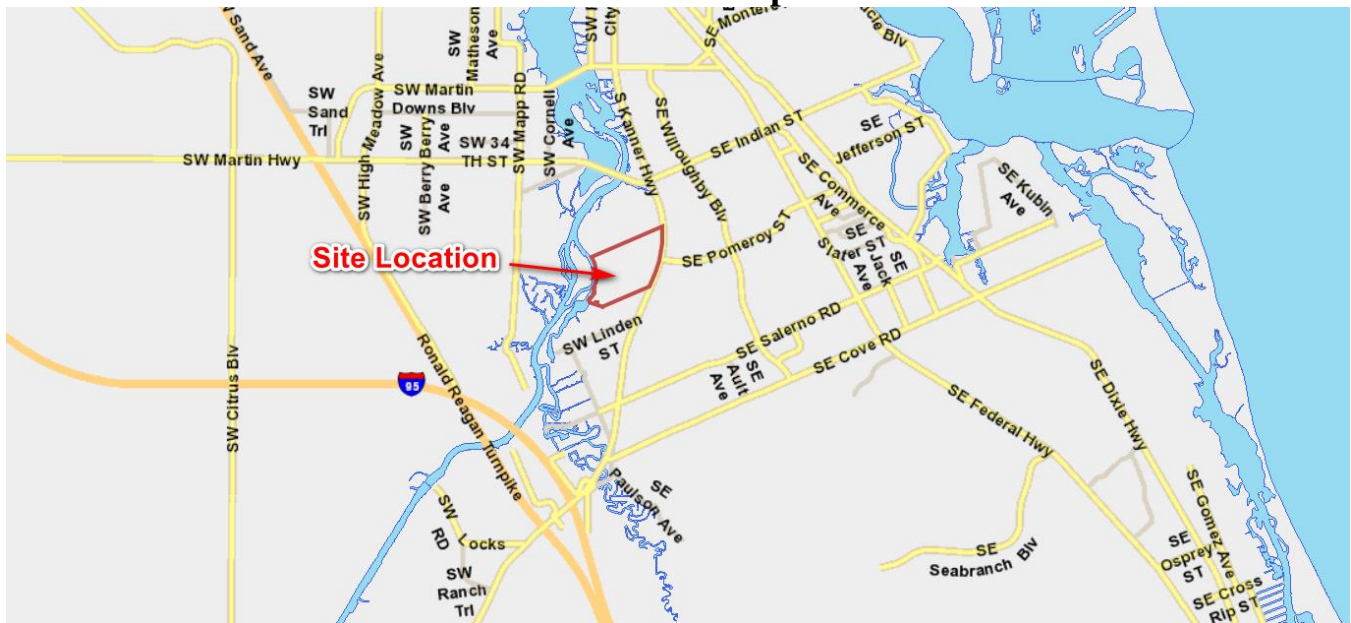
2

District 2

Port Salerno / 76 Corr

Category 5 Surge Zone

### **Location Map**



### **Aerial**



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

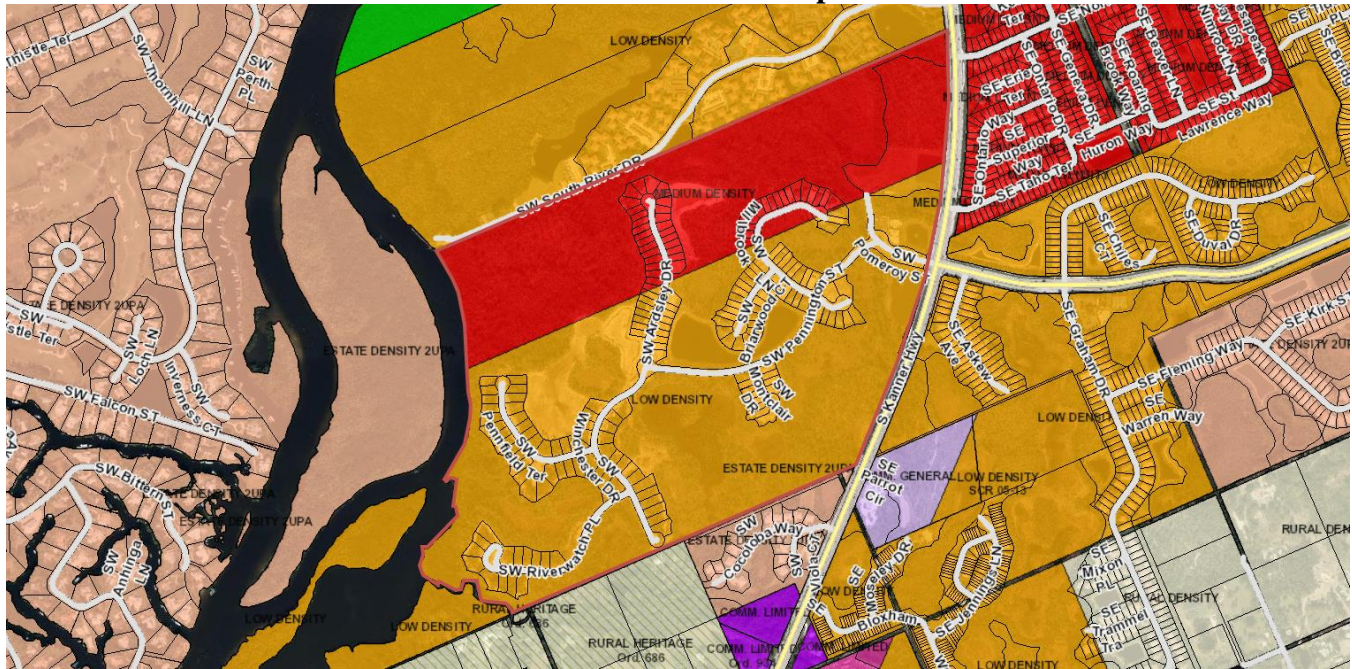
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To the north: Low Density Residential  
 To the south: Estate Density 2UPA, Rural Heritage, Low Density Residential  
 To the east: Medium Density, Low Density Residential (across S Kanner Hwy)  
 To the west: N/A, South Fork St Lucie River

### 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 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 Concurrence 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**