BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2436-2020

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE FUTURE LAND USE MAP OF THE CITY'S COMPREHENSIVE PLAN THEREBY CHANGING THE FUTURE LAND USE DESIGNATION FROM "COMMERCIAL" TO "MULTI-FAMILY RESIDENTIAL" FOR TWO PARCELS EQUALING 13.93 ACRES, OWNED BY TED GLASRUD ASSOCIATES, FL, LLC, LOCATED ON THE WEST SIDE OF S.E. COMMERCE AVENUE, SOUTH OF S.E. INDIAN STREET, AND NORTH OF S.E. FISCHER STREET WITH SAID LANDS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; AND FURTHER PROVIDING THAT SAID LANDS SHALL CONCURRENTLY ESTABLISH THE AHS AT HARBOR GROVE RESIDENTIAL PLANNED UNIT DEVELOPMENT RPUD CONSISTING OF THREE HUNDRED TWENTY FOUR (324) MULTI-FAMILY UNITS WITHIN NINE (9) INDIVIDUAL THREE-STORY APARTMENT BUILDINGS; APPROVING A DEVELOPMENT SITE PLAN; PROVIDING FOR DEVELOPMENT CONDITIONS AND A TIMETABLE FOR DEVELOPMENT; DECLARING THE PLAN TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by AHS Residential Services, LLC for

two contiguous parcels equaling 13.93 acres of land located on the west side of S.E. Commerce Avenue south of S.E. Indian Street and north of S.E. Fischer Street.

WHEREAS, the City of Stuart has determined the need to assign the future land use and a land development zoning district for said lands; and

WHEREAS, the City Commission, has considered the Petitioner's voluntary request to change land use and zoning designations, and has also considered the recommendation of the City staff.

WHEREAS, the Applicant has committed to the City that its development will comply with all development codes, plans, standards and conditions approved by the City Commission; and that it will bind its successors in title to any such commitments made upon approval of the RPUD; and

WHEREAS, at the hearing the applicant showed by substantial competent evidence that the application is consistent with the Stuart Comprehensive Plan, and the Land Development Code of the City, and with the procedural requirements of law; and

WHEREAS, the RPUD development will be in harmony with surrounding properties and their anticipated development;

WHEREAS, the foregoing recitals are true and adopted as findings of fact and conclusions of law.

WHEREAS, the property is legally described in **"Exhibit A"** of this ordinance. A map depicting the property is attached hereto as **Exhibit "B"** and made a part hereof by reference; and development conditions including a timetable for development attached hereto as **Exhibit "C";**

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA THAT:

SECTION 1: The following new documents are on file as public records of the City, at the office of the City Clerk in City Hall, and attached hereto as **Exhibit "D"**, hereinafter the

"Development Documents", shall be deemed a part of the development conditions, and shall supplement any earlier approvals:

a. **The Master Site Plan, Sheet SP-1, prepared by Lucido and Associates, Landscape Architects, dated 08.08.19 and last revised on 05.29.20.**
b. **Boundary and Topographic Survey, Sheet 1 of 1, prepared by Stephen Brown, Professional Surveyor and Mapper, dated 03.10.20.**
c. **The Landscape Plan Cover Sheet, The Landscape Plan, The Master Plant Schedule, Landscape Details, Landscape Specifications, Sheets CV, LA-1 thru LA-7, prepared by Lucido and Associates, dated 08.08.19 and last revised on 04.30.20.**
d. **Harbor Grove Fire Autoturn Fire Truck Access 1, Sheet EX-1 thru EX-3, prepared by Mathers Engineering Corporation, dated November, 2019.**
e. **Harbor Grove Conceptual Drainage and Fire Lines, Sheet 1 of 1, prepared by Mathers Engineering Corporation, dated November, 2019, last revised on January 30, 2020.**
f. **AHS at Harbor Grove Architectural Floor Plans and Elevations, Sheet A101, by Bellon BA Architects, dated 07.22.19**
g. **AHS Proposed Club House, Sheet A102, by Bellon BA, dated 11.06.19.**
h. **Photometrics Plan by Kome, (Originally for a project named Banyon Ridge with the same layout), dated 02.07.2019.**

SECTION 2: The Future Land Use designation in the City's Comprehensive Land Use Plan shall be established as "Multi-Family Density Residential". This ordinance may not become effective until 31 days after adoption. If challenged within 30 days after adoption, this ordinance may not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining that the adopted large-scale land use amendment complies as defined in s. 163.3184(1)(b).

SECTION 4: The Land Development (Zoning) District designation on the City of Stuart Official Zoning Map shall be established as "RPUD" Residential Planned Unit Development subject to the appeal period stated in Section 2, above.

SECTION 5: Except as otherwise provided herein, no development permits, site permits, or building permits shall be issued by the City except in compliance with the City's Land Development Code.

SECTION 6: All ordinances or parts of ordinances in conflict with this ordinance or any part thereof is hereby repealed to the extent of such conflict. If any provision of this ordinance conflicts with any contractual provision between the City and the developer of the site, this ordinance shall prevail.

SECTION 7: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 8: The complete execution and recording of this Ordinance by the City Clerk shall occur no later than 90 days from the date of this approval, failing which this ordinance shall

SECTION 9: This ordinance shall be effective upon the last of the following to occur: adoption by the City Commission, and proper execution and acceptance by the Owner. However, the Future Land Use and Zoning Designations granted herein shall not be effective until thirty-one (31) days after adoption, and as otherwise provided by law.

SECTION 10: Upon complete execution of this Ordinance, including the Acceptance and Agreement by the Owner, the City Clerk is directed to record a Certified Copy of the same in the Public Records of Martin County, Florida.

Passed on first reading the ____ day of _____, 2020.

Commissioner _____ offered the foregoing Ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT	ABSTAIN
MICHAEL J. MEIER, MAYOR				
EULA R. CLARKE, VICE MAYOR				
BECKY BRUNER, COMMISSIONER				
VACANT, COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				

ADOPTED this ___ day of _____, 2020.

ATTEST:

_____ _____

MARY R. KINDEL
CITY CLERK

MICHAEL J. MEIER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____

MICHAEL J. MORTELL
CITY ATTORNEY

CITY'S ACKNOWLEDGMENT

STATE OF FLORIDA,
COUNTY OF _____

The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____day of _____, 2020, by MICHAEL J. MEIER, Mayor, and Mary R. Kindel, City Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation.

Personally Known OR Produced Identification
Type of ID Produced _____

Signature of Notary Public: _____
Commission Expires:

Notary Seal:

ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN A RESIDENTIAL PLANNED UNIT DEVELOPMENT AND IN ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE ABOVE ORDINANCE. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO DEVELOP THIS RESIDENTIAL PLANNED UNIT DEVELOPMENT ACCORDING TO THIS ORDINANCE, ITS CONDITIONS, AND THE DEVELOPMENT PLANS AND DOCUMENTS, THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THIS ORDINANCE MAY BE AMENDED OR REPEALED BY THE CITY COMMISSION, AND THAT OTHER ACTIONS MAY BE TAKEN AGAINST THE UNDERSIGNED BY THE CITY, INCLUDING BUT NOT LIMITED TO CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING REVOCATIONS, AND ALL APPLICABLE CIVIL AND CRIMINAL ACTIONS.

IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT:

WITNESSES: Owner: AHS at Harbor Grove, LLC

_____

Print Name: _____ By: _____

_____

Print Name: _____

OWNERS ACKNOWLEDGMENT

STATE OF FLORIDA,
COUNTY OF _____

The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2020, by _____

Personally Known OR Produced Identification
Type of ID Produced _____

Signature of Notary Public: _____
Commission Expires:

Notary Seal:

EXHIBIT A – LEGAL DESCRIPTION

LEGAL DESCRIPTION

PARCEL 1:

A PORTION OF TRACTS 66, 67 & 68, OF REVISED PLAT OF PORT SEWALL LAND COMPANY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3 PAGE 7 OF THE PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE PONT OF INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF INDIAN STREET AND THE WEST RIGHT OF WAY LINE OF COMMERCE AVENUE AS SHOWN IN OFFICIAL RECORDS BOOK 959 PAGE 2139; THENCE S.66°47'40"W., ALONG THE NORTH LINE OF SAID TRACT 68 AND THE SOUTH RIGHT OF WAY LINE OF INDIAN STREET A DISTANCE OF 299.86 FEET TO THE NORTHWEST CORNER OF SAID TRACT 68; THENCE S.23°12'20"E., ALONG THE WEST LINE OF TRACT 68 A DISTANCE OF 724.91 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 68; THENCE N.66°47'40"E., ALONG THE SOUTH LINE OF SAID TRACTS 66, 67 & 68, A DISTANCE OF 622.90 FEET TO A POINT ON SAID WEST RIGHT OF WAY LINE OF COMMERCE AVENUE; THENCE N.37°16'10"W., ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 7.23 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 435.0 FEET AND A CENTRAL ANGLE OF 35°31'49"; THENCE NORTHWESTERLY, ALONG SAID RIGHT OF WAY AND THE ARC OF SAID CURVE, AN ARC DISTANCE OF 269.75 FEET TO A POINT OF REVERSE CURVATURE, CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 515.0 FEET, AND A CENTRAL ANGLE OF 49° 31'44"; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY AND THE ARC OF SAID CURVE AN ARC DISTANCE OF 445.19 FEET TO A POINT OF TANGENCY; THENCE N.23°16'15"W., ALONG SAID RIGHT OF WAY A DISTANCE OF 100.04 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 301,542.96 SQUARE FEET, 6.9225 ACRES, +/-.

(TOGETHER WITH)

PARCEL 2:

THAT PART OF TRACTS 103, 104 AND 105, SEWALL'S POINT LAND COMPANY SUBDIVISION, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, PAGE 7 OF THE PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA, LYING NORTH AND EAST OF THE FOLLOWING DESCRIBED LINE:

COMMENCE AT THE INTERSECTION OF THE CENTERLINE OF SE FISCHER STREET AND SE COMMERCE AVENUE, THENCE SOUTH 66 DEGREES WEST 304.68 FEET, THENCE NORTH 23 DEGREES WEST 40 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE NORTHWEST 206.37 FEET, THENCE NORTH 37 DEGREES WEST 149.84 FEET, THENCE SOUTH 66 DEGREES WEST 253.59 FEET, THENCE NORTH 23 DEGREES WEST 40 FEET AND THENCE SOUTH 66 DEGREES WEST 254.98 FEET TO THE WEST LINE OF LOT 103 AND THE POINT OF TERMINUS OF SAID LINE.

PARCEL CONTAINING 305,243.29 SQUARE FEET, 7.0074 ACRES, +/-.

TOTAL ACREAGE CONTAINING 606,786.25 SQUARE FEET, 13.9299 ACRES, +/-.

EXHIBIT B – LOCATION MAP

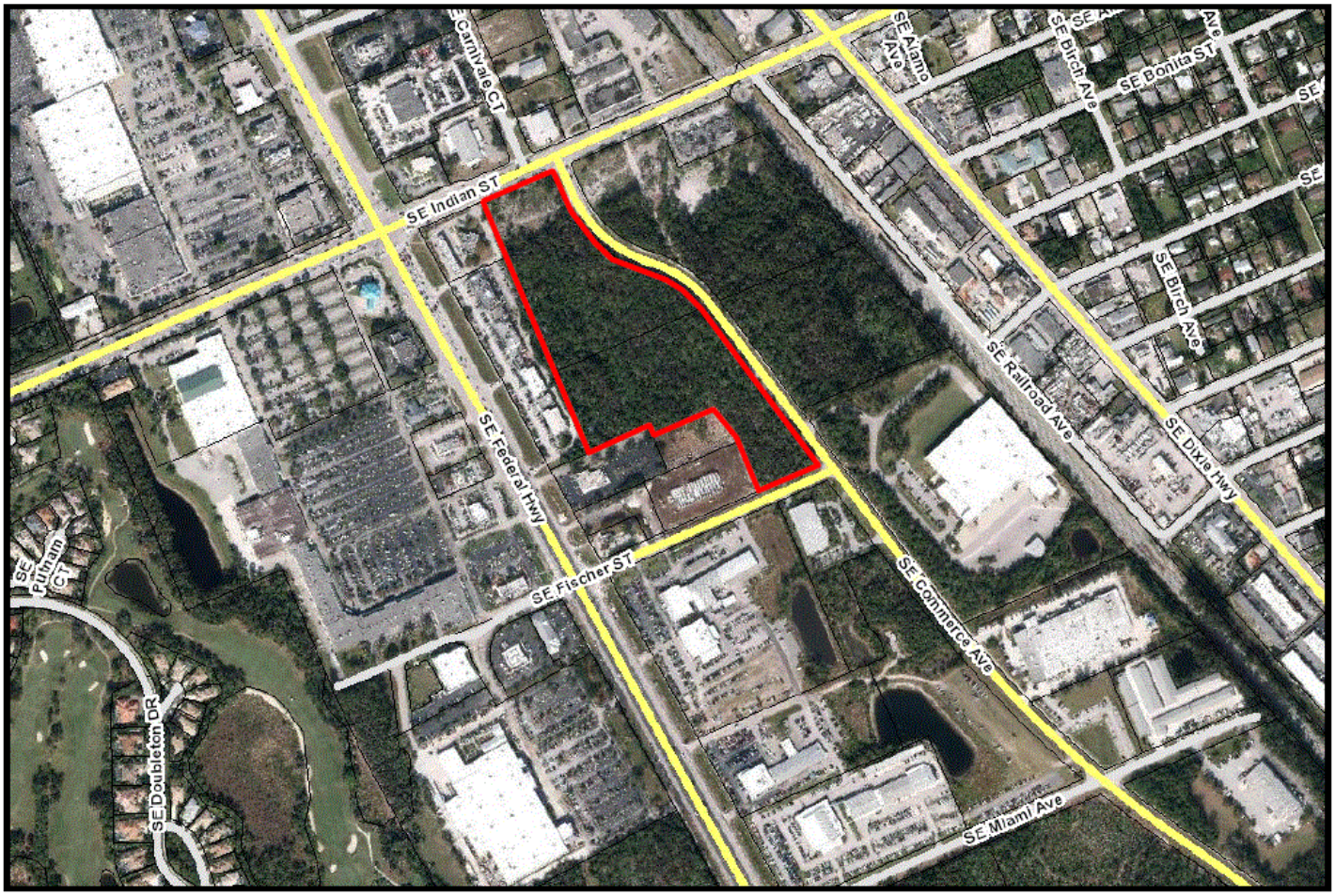


EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents

1. The RPUD project and use thereof shall comply with the following drawings:

   a. **The Master Site Plan, Sheet SP-1, prepared by Lucido and Associates, Landscape Architects, dated 08.08.19 and last revised on 05.29.20.**
   b. **Boundary and Topographic Survey, Sheet 1 of 1, prepared by Stephen Brown, Professional Surveyor and Mapper, dated 03.10.20.**
   c. **The Landscape Plan Cover Sheet, The Landscape Plan, The Master Plant Schedule, Landscape Details, Landscape Specifications, Sheets CV, LA-1 thru LA-7, prepared by Lucido and Associates, dated 08.08.19 and last revised on 04.30.20.**
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   h. **Photometrics Plan by Kome, (Originally for a project named Banyon Ridge with the same layout), dated 02.07.2019.**

2. Any modifications to the Master RPUD Site Plan that is less than 10% of the approved building footprint, building setbacks, gross square footage, building location, parking size, location and number of parking spaces, drainage areas, impervious areas and location of landscaping may be approved by the City's Development Director, provided however, the Development Director may refer the matter to the City Commission for approval via a public hearing.

3. The developer has agreed that 17 (5% of the units rounded up) of the two-bedroom units will be rented at rates no greater than 80% of Area Median Income ("AMI") in Martin County (as such AMI may change from time to time) and based upon the annual Florida Housing Finance Corporation Family Rental Program schedule published annually by the Florida Housing Finance Corporation, and the balance of the units can be rented at market rates. The developer shall self-monitor compliance with the foregoing rental rate restriction and will provide the City with an annual occupancy report in the form of a Rent Roll for the Units. The City shall have the right, with prior notice to developer, to conduct an on-site inspection of the project to audit the tenant files. The foregoing restrictions shall be in effect for a period of ten (10) years from the issuance of the first certificate of occupancy for the improvements constructed on the property. Notwithstanding, in the event of a foreclosure sale or the transfer of ownership by deed in lieu of foreclosure by any institutional lender of any mortgage, deed of trust or other security instrument encumbering the Property this restriction shall be extinguished

4. The maximum building height within the RPUD shall be 3 stories or 31'-9" to the roof parapet roof. Height shall be measured from the lowest permissible finished first floor elevation to the surface of a flat roof and to the eave of a pitched roof.

5. Prior to certificate of occupancy of the last building, the applicant shall provide an engineer's written confirmation attesting that the RPUD's storm water system is in place and functioning in compliance with all approved plans and specifications.

6. Erosion and dust control measures to be implemented during construction shall be provided on the civil plans and submitted during site permit review. Water trucks shall be provided by the applicant as necessary during construction in order to reduce dust generated on-site.

Landscaping

7. The common areas including the projects clubhouse and pool area shall be provided with landscaping with an irrigation system of enough capacity to maintain the landscaping in a healthy growing condition.

8. The City's landscape inspector shall have the opportunity to inspect all trees and/or landscape material with the landscape architect. The developer shall bear the pass-thru fee for landscape consulting fees not to exceed $1,500.00.

9. A Landscape plan, executed in accordance with the Land Development Regulations, shall be submitted to the Development Department and approved prior to the issuance of a certificate of occupancy.

Required Open Space and Native Preserve Area

10. Open Space. Not less 5.64 acres of the RPUD shall be open space as depicted on the Site Plan by Lucido and Associates as described in Exhibit C. Required open space may include native vegetation areas, however, other required landscaping shall not count towards the open space requirement.

Tree Mitigation

11. The project shall comply with Section 5.05.02 of the "Tree replacement and protection requirements" of the City's Land Development Code. All required tree mitigation will be met on site.

Prior to Issuance of Site Permits

12. Applicant shall provide a digital boundary survey and civil plan prior to the issuance of a site permit.

13. Civil Plans shall be reviewed and approved by all applicable City departments prior to the issuance of a site permit.

14. All regulatory agency permits, including but not limited to the South Florida Water Management District and Army Corp of Engineers, shall be obtained by the applicant and copies provided to the City prior to the commencement of any development activities.

15. All development activities shall comply with the City's Concurrency Management System prior to the issuance of building permits.

Development and Construction

16. Project phasing shall be shown on the site and construction plans and are subject to staff approval during plan review process. The first phase shall include work along the projects entrance, stormwater infrastructure and the clubhouse including vehicular gates.

17. The Developer shall install landscaping and gates at the development's entry location at as shown on the landscaping plan prior to the first certificate of occupancy for a residential unit. The entry gates shall be made operational prior to issuance of a certificate of occupancy.

18. The property owner shall provide easements for licensed television services that can coexist together with power in a public utility easement.

19. In the event of any conflict in the provisions of Exhibit 'C' Development Conditions and attached exhibits, Exhibit 'C' shall prevail.

20. Erosion and dust control measures to be implemented during construction shall be provided on the civil plans and submitted during site permit review. Water trucks shall be provided by the applicant as necessary during construction in order to reduce dust generated on-site.

21. All utility improvements constructed by the developer within Martin County's right-of-way, shall be constructed in a manner and form acceptable to Martin County. The developer shall grant any such utility easements necessary for this site as may be required by the Martin County.

22. The project's storm water facilities, specifically the Native Planting schemes at the Retention areas will be designed using Low Impact Development "(LID) Techniques as described in the University of Florida IFSA Extension publication LID Practices: Integration Wetlands and Enhancing Storm water Basins".

23. Temporary or freestanding storage units are prohibited on the property once construction is complete.

24. Site work including but not limited to land preparation, retention area excavation, clearing and grading, drainage and water, sewer and irrigation lines shall be reviewed and approved by the city's public works department and the city's engineering consultant prior to permitting.

Signage

25. All signs throughout the PUD must have a consistent treatment, as to number, location, size, height, lighting, and materials with a unified theme throughout the Planned Unit Development. The development's monument sign shall adhere to sign criteria found in Chapter 6 of the City's Land Development Code.

Future Amendments

26. Owner shall not subject the Property to any condominium conversion and neither shall any portion of the Property be converted to units for sale in connection with a condominium conversion nor shall the title to any such units be transferred to any party other than being held as a single parcel for the purposes of apartment rental.

Timetable for Development

27. Timetable for development shall be as follows:

Site and building permit application deemed sufficient for permit review under city codes and standards.	**August 1, 2022**
Final Certificate of Occupancy for all site and building improvements.	**August 1, 2024**

Allowable Uses

28. The following uses shall be permitted:

a. Multi-Family Residential

b. Home Occupations in accordance with the City's Land Development Code.

d. This residential facility shall not operate as an age restricted community in accordance with Florida Law.