BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2463-2021

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, REZONING TWO PARCELS ON EITHER SIDE OF A 11' PUBLIC RIGHT OF WAY (ALLEY) ALONG SW PALM CITY ROAD, ON THE SOUTHWEST INTERSECTION OF SW HALPATIOKEE STREET, TOTALING 0.97 ACRES FROM RESIDENTIAL MULTI-FAMILY/OFFICE (R-3) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD); ESTABLISHING THE "PALMETTO COVE" RPUD CONSISTING OF THIRTEEN (13) MULTI-FAMILY UNITS WITHIN TWO (2) INDIVIDUAL TWO-STORY TOWNHOME BUILDINGS; WITH SAID LANDS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; 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, has considered the Petitioner's request to rezone the property to Residential Planned Unit Development (RPUD), establishing the Palmetto Cove RPUD, and has also considered the recommendation of the City staff; and

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.

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

SECTION 1: The foregoing recitals are true and adopted as findings of fact and conclusions of law.

SECTION 2: The legal description of the property is set forth in **Exhibit 'A'** attached hereto and made a part hereof by reference. A Map depicting the Property is attached hereto as **Exhibit 'B'** and made a part hereof by reference. The conditions of development attached hereto as **Exhibit 'C'** and made a part hereof by reference, and each shall constitute one of the development documents.

SECTION 3: The following 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 Site Plan, Sheet 1 of 1, prepared by C Calvert Montgomery and Associates, Inc., dated 05.21.2020 and last revised on 03.25.21.**
b. **Boundary and Topographic Survey, Sheet 1 of 1, prepared by Christian Fenex and Associates, LLC, (Professional Surveyor and Mapper), dated 12.23.19.**
c. **The Landscape Plan, Sheets 1 and 2, prepared Conceptual Design Group, dated 08.26.20.**
d. **Garbage Truck Exhibit and Fire Truck Exhibit, Sheets 1 thru 3, prepared by C Calvert Montgomery and Associates, Inc., dated 02.15.21.**
e. **Conceptual Engineering Plan, Sheet 1, prepared by C Calvert Montgomery and Associates, Inc., dated 02.16.21.**
f. **Architectural Floor Plans and Elevations, by Braden and Braden A1A PA, dated 08.12.20**
g. **Architectural Rendering, by Braden and Braden A1A, PA, dated 08.21.20**

SECTION 4: Except as otherwise provided herein, no development permits, site permits or building permits shall be issued by the City except in compliance with the aforesaid Development Documents. The failure of the Developer to complete development, or to comply with the Development Documents, or with any term or condition of development set forth in this ordinance, shall be deemed a zoning violation and no further permits, or other development approvals or orders shall be issued by the City to the owner until the violation has been resolved, and the matter may become the subject of a code enforcement action brought by the City. This section shall not impair the due process or other legal rights of the Developer to seek administrative or judicial redress.

SECTION 5: Following the adoption and acceptance of this ordinance by the Owner, and in addition to any other action for failure to complete development or otherwise comply with the Development Documents, the City Development Director may obtain a hearing before the City

Commission, and shall thereupon give at least five (5) days written notice of the time, date and location of the hearing, along with specific notice of the alleged breach. At the hearing before the City Commission the developer may appear and may contest the allegation of breach or explain the reason or reasons for the breach. Upon a finding of a material breach of the Development Documents and therefore, the Ordinance(s) adopting the same, the City Commission may impose any or all the following:

a. Initiate the process to amend or repeal this or any other ordinance pertaining to the development.
b. Direct the City Development Director to initiate the process to rezone the PUD property or any portion of the PUD property.
c. Impose an administrative penalty of up to $1,000.00 for each violation, and up to $5,000.00 for each repeat violation that occurs, along with all reasonable costs, including attorney's fees incurred by the City.

Any breach of any provision or condition of this PUD ordinance by the developer shall be considered a zoning violation subject to any remedies provided herein, or as otherwise provided by law. In the event a violation found continues from day to day, each day the violation is found to continue shall be deemed a separate violation.

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 become void.

SECTION 9: 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 _____, 2021.

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
EULA R. CLARKE, MAYOR				
MERRITT MATHESON, VICE MAYOR				
BECKY BRUNER, COMMISSIONER				
TROY MCDONALD, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED on second and final reading this _____day of _____, 2021.

ATTEST:

_____ _____

MARY R. KINDEL
CITY CLERK

EULA R. CLARKE
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL J. MORTELL, ESQ.
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 _____, 2021, by EULA R. CLARKE, 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:

_____

Print Name: _____

_____

Print Name: _____

Owner: 924 SW Palm City Road, LLC

By: _____

Nicolas Calle, President

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 _____, 2021, by _____

Personally, Known OR Produced Identification

Type of ID Produced _____

Signature of Notary Public: _____

Commission Expires:

Notary Seal:

EXHIBIT A – LEGAL DESCRIPTION

LEGAL DESCRIPTION:

LOTS 1, 2, 3, 4, 5, 6, AND 7 BLOCK 2 OF HALPATIOKEE PARK AS RECORDED IN PLAT BOOK 8, PAGE 25 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA PART OF S.W. 1/4 OF THE SE 1/4 OF SECTION 5, TOWNSHIP 38 SOUTH, RANGE 41 EAST
AND
LOT 2, DYER ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 14, PAGE 36, OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA.

EXHIBIT B – LOCATION MAP

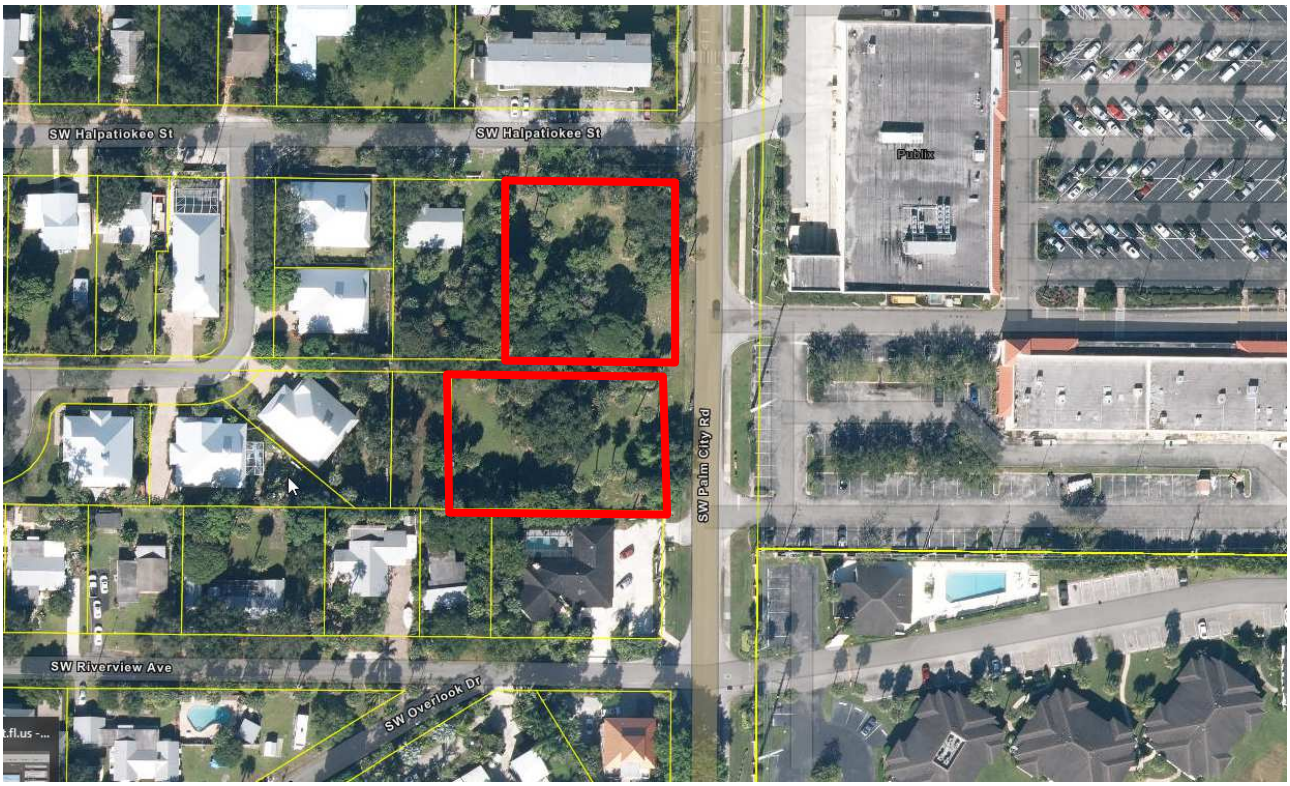


EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents

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

   a. **The Site Plan, Sheet 1 of 1, prepared by C Calvert Montgomery and Associates, Inc., dated 05.21.2020 and last revised on 03.25.21.**
   b. **Boundary and Topographic Survey, Sheet 1 of 1, prepared by Christian Fenex and Associates, LLC, (Professional Surveyor and Mapper), dated 12.23.19.**
   c. **The Landscape Plan, Sheets 1 and 2, prepared Conceptual Design Group, dated 08.26.20.**
   d. **Garbage Truck Exhibit and Fire Truck Exhibit, Sheets 1 thru 3, prepared by C Calvert Montgomery and Associates, Inc., dated 02.15.21.**
   e. **Conceptual Engineering Plan, Sheet 1, prepared by C Calvert Montgomery and Associates, Inc., dated 02.16.21.**
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   g. **Architectural Rendering, by Braden and Braden A1A, PA, dated 08.21.20**

2. Any modifications to the 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. 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.

Landscaping

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

5. 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

6. Open Space. Not less .38 acres or 39.5% of the RPUD shall be Open Space as depicted on the Site Plan as described in Exhibit C. Required open space may include contiguous buffer and retention areas, however, other required interior landscaping shall not count towards the open space requirement.

Tree Mitigation

7. 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

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

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

10. 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.

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

12. The applicant shall provide a Final Site plan showing two (2) bike racks, one EV parking space location and the location of the centralized mailbox with a dedicated parking space.

Development and Construction

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

14. 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.

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

16. Any existing sidewalks damaged along Halpatiokee Street or Palm City Road during construction, or requiring full replacement given that the on-site grade is significantly

altered, the developer shall be required to repair or replace the entire sidewalk prior to the issuance of a Certificate of Occupancy.

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

18. 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.

19. Any proposed landscaping in the city's right of way shall be preserved and maintained by the developer and/or home-owner's association in perpetuity. Subject to mutually agreed upon maintenance easement agreement and indemnification between the developer and the City relative to ROW liability issues.

Signage

20. 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

21. 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

22. Timetable for development shall be as follows:

Site and building permit application deemed sufficient for permit review under city codes and standards.	**April 1, 2024**
Final Certificate of Occupancy for all site and building improvements.	**April 1, 2025**

Allowable Uses

23. The following uses shall be permitted:

a. Multi-Family Residential

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