



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA
ORDINANCE NUMBER 2466-2021**

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 ASSIGNING A FUTURE LAND USE DESIGNATION OF "NEIGHBORHOOD SPECIAL DISTRICT" TO THE 49+/- ACRE PROPERTY, OWNED BY NEHME HOLDINGS, LLC AND WILLOUGHBY GROUP, LLC LOCATED ALONG SR-76 KANNER HIGHWAY, SOUTH OF MARTIN COUNTY HIGH SCHOOL AND ABUTTING LYCHEE TREE NURSERY; SAID LAND, ANNEXED BY ORDINANCE No. 2327-2016 AND ORDINANCE No. 2337-2017, BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; AND CONCURRENTLY ASSIGNING "CPUD" ZONING TO SAID LAND ON THE CITY'S OFFICIAL ZONING MAP; ESTABLISHING THE KANNER CPUD COMMERCIAL PLANNED UNIT DEVELOPMENT, CONSISTING OF 162,020 SQUARE FEET OF RETAIL, BULK MERCHANDISE, AND AUTOMOBILE REPAIR SERVICES BUILDING FOOTPRINT WITH A STAND ALONE KIOSK AND FUEL FACILITY, 398 RESIDENTIAL APARTMENT UNITS AND RETAIL AND RESTAURANT PADS PROVIDING FOR APPROVAL OF A MASTER SITE PLAN; PROVIDING FOR DEVELOPMENT CONDITIONS, INCLUDING A TIMETABLE OF DEVELOPMENT; DECLARING THE PROJECT TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; PROVIDING DIRECTIONS TO THE CITY CLERK; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE, PROVIDING FOR ACCEPTANCE BY THE APPLICANT AND FOR OTHER PURPOSES.

*** * * * ***

WHEREAS, on August 22, 2016 and January 9th, 2017, the City Commission adopted Ordinance No. 2327-2016 and 2337-2017 respectively, annexing a total of 5 parcels fronting S. Kanner Highway south of Martin County High School and abutting the Lychee Tree Nursery.

WHEREAS, the City of Stuart has determined the need to apply the Future Land Use and Land Development Zoning district for said lands; and

WHEREAS, On May 24, 2021, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by M&M Realty Partners, amending the Future Land Use Map of the City's Comprehensive Plan, amending the city's official zoning map and approving a master site plan for a retail, bulk merchandise and automobile repair services with a standalone kiosk and fueling facility, and 398 residential apartment units and retail and restaurant pads; 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 this ordinance; and

WHEREAS, the City Commission considered and determined that the wetland habitat existing on the Property has been highly disturbed and that exotic vegetation and nuisance vegetation has reduced the quality of the wetlands and that the wetlands and water surfaces for the most part are scattered throughout the Property thereby limiting avoidance and minimization of impacts to wetlands to the extent that such impacts must be addressed by offsite mitigation pursuant to Section 5.03.03 of the City of Stuart Land Development Code; and

WHEREAS, the City Commission recognizes and acknowledges that there are no state or federal mitigation banks within the boundaries of the City of Stuart, the City Commission therefore accepts offsite mitigation for this Project at the Bluefield Ranch Mitigation Bank pursuant to Section 5.03.03. of the City of Stuart Land Development Code; and

WHEREAS, the City Commission considered and determined that the native upland habitat existing on the Property is scattered and has been previously disturbed, and that exotic and nuisance vegetation has reduced the quality of the habitat on site, and that the disturbed native habitat does not provide sufficient wildlife habitat necessary for the long term survival of listed species as determined by the Florida Fish and Wildlife Conversation Commission (FFWCC) and because the Property is not identified as a strategic habitat conservation area and the scattered and disturbed native habitat on the Property limits avoidance and minimization impacts to native upland habitat the native upland habitat has been recreated on site; and

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

WHEREAS, this CPUD development will be in harmony with surrounding properties; and

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

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 construction of development are 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 documents are on file as public records of the City, at the office of the City Clerk in City Hall and are attached hereto as **Exhibit “D”**, hereinafter the “Development Documents”, shall be deemed a part of this ordinance:

- 1. Drainage and Utility Statement, by Engineering Design and Construction Engineers Dated March 10, 2021**
- 2. Traffic Analysis for Kanner CPUD, by O’Rourke Engineering and Planning, Pages 1-52, dated December 16, 2020 and last revised on April 21, 2021**
- 3. Land Use Plan Amendment Traffic Analysis, by O’Rourke Engineering and Planning, Pages 1-36, dated December 18, 2020 and last revised on April 21, 2021**
- 4. Signal Warrant Analysis for Kanner CPUD, Pages 1-23, by O’Rourke Engineering and Planning, Dated February 18, 2020 and last revised on April 22, 2021**
- 5. Environmental Assessment Report, by EW Consultants, Inc. Pages 1-41, dated March 2021**
- 6. Proposed Retail Buildings and Proposed Restaurant Buildings: Stuart Retail Center, by EP Design Services, Sheets A-001 thru A-004, dated March 3, 2021**

- 7. Residential Multifamily Plans and Elevations, by Forum Architecture & Interior Design, Inc. Pages A5.11, A5.21, A5.31, A5.41, A5.51, A5.61, and A6.11. all dated December 16, 2020**
- 8. Costco Building Elevations, by MG2, Pages 1-9, dated December 16, 2020**
- 9. Master Site Plan, Sheet 1 of 1, By Lucido and Associates Dated March 16, 2021**
- 10. Phasing Plan, by Engineering Design and Construction Engineers Sheet 1 of 1, dated March 10, 2021**
- 11. Boundary, Topographic & Tree Survey, by Engineering Design and Construction Engineers, Sheets 1-9. dated February 26, 2021**
- 12. Landscape plan, By Lucido and Associates, Sheets CV-1 & LA1-LA6, dated December 17, 2020, and 03.19.2021**
- 13. Preliminary Engineering Plans and Specifications, by Engineering Design and Construction Engineers, Pages 1-9, dated March 04, 2021**
- 14. Lake Excavation vs Retention Exhibit, by Engineering Design and Construction Engineers Sheet 1 of 1, dated March 10, 2021**
- 15. Kanner CPUD Garbage Truck Turning Exhibit, by Engineering Design and Construction Engineers, Sheet 1 of 1, dated March 19, 2021**
- 16. Kanner CPUD Fire Truck Turning Exhibit, by Engineering design and Construction Engineers Sheet 1 of 1; dated March 19, 2021**

17. Photometric plans, sheets E0.1, E1.1, E1.10, E1.11, E1.2 E1.9, By Lucido and Associates, dated 8.21.2020 and 12.18.2020.

SECTION 2: The Future Land Use designation in the City's Comprehensive Land Use Plan shall be established as "Neighborhood Special District". 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 development amendment is in compliance as defined in F.S. 163.3184(1)(b).

SECTION 3: The Land Development (Zoning) District designation on the City of Stuart Official Zoning Map shall be established as "CPUD" Commercial Planned Unit Development.

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 City's Land Development Code.

SECTION 5: 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 6: 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 7: Following the adoption and acceptance of this ordinance by the Owners, 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 or do any or all of 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 CPUD 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 8: This ordinance and agreement 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, or as otherwise provided by law.

SECTION 9: The complete execution and recording of this Ordinance by the City Clerk shall occur no later than 60 days from the date of this approval, failing which this ordinance shall be void.

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 this ____ 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:

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

YES	NO	ABSENT	ABSTAIN

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 MORTELL
CITY ATTORNEY

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 COMMERCIAL 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 COMMERCIAL 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:

Nehme Holdings, LLC
Ms. Eileen Nehme, Owner

Print Name: _____

By: _____

Print Name: _____

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☒ physical presence or ☐ online notarization this _____ day of _____, 2021, by _____, who ☐ is personally known to me or ☐ has produced _____ as identification.

(Notary Seal)

Signature of Notary Public
Printed Name: _____

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

WITNESSES:

Willoughby Group, LLC
Mahmoud Hadid, Managing Director

By: _____

Print Name: _____

Print Name: _____

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☒ physical presence or ☐ online notarization this _____ day of _____, 2021, by _____, who ☐ is personally known to me or ☐ has produced _____ as identification.

(Notary Seal)

Signature of Notary Public

Printed Name: _____

CITY’S ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☒ physical presence or ☐ online notarization this _____ day of _____, 2021, Eula R. Clarke, Mayor, and Mary Kindel, City Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation, who ☐ are personally known to me or ☐ have produced _____ as identification.

(Notary Seal)

Signature of Notary Public

Printed Name: _____

‘EXHIBIT A’ – LEGAL DESCRIPTION

PARCEL 1

THE REAL PROPERTY LYING AND BEING IN GOVERNMENT LOT 5 AND 6, SECTION 16, TOWNSHIP 38 SOUTH , RANGE 41 EAST, MARTIN COUNTY, FLORIDA, DESCRIBED AS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTH LINE OF THE HANSON GRANT AND THE CENTERLINE OF STATE ROAD 76, THENCE PROCEED NORTH 66°18'30" EAST ALONG THE NORTH LINE OF THE HANSON GRANT FOR A DISTANCE OF 50.08 FEET TO A CONCRETE MONUMENT ON THE EAST RIGHT OF WAY LINE OF STATE ROAD 76. THENCE PROCEED NORTH 20°23'20" WEST ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 76 FOR A DISTANCE OF 330 FEET AND THE POINT OR PLACE OF BEGINNING. THENCE PROCEED NORTH 66°18'30" EAST FOR A DISTANCE OF 984.42 FEET TO A POINT, THENCE PROCEED NORTH 20°23'20" WEST FOR A DISTANCE OF 350 FEET TO A POINT, THENCE PROCEED SOUTH 66°18'30" WEST FOR A DISTANCE OF 984.42 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 76; THENCE PROCEED SOUTH 20°23'20" EAST ALONG THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD 76 FOR A DISTANCE OF 350 FEET TO THE POINT OR PLACE OF BEGINNING.

LESS AND EXCEPT PARCEL NO. 145 CONVEYED TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, RECORDED IN O.R. BOOK 951, PAGE 284, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF GOVERNMENT LOT 5, SECTION 16, TOWNSHIP 38 SOUTH, RANGE 41 EAST, MARTIN COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 5; THENCE SOUTH 66°02'08" WEST ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT 5, A DISTANCE OF 127.80 FEET TO A POINT ON THE EASTERLY EXISTING RIGHT OF WAY LINE FOR STATE ROAD 76 (KANNER HIGHWAY); THENCE NORTH 20°39'37" WEST ALONG SAID EASTERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 330.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 20°39'37" WEST ALONG SAID EXISTING RIGHT OF WAY LINE, A DISTANCE OF 350.00 FEET; THENCE NORTH 66°02'08" EAST, A DISTANCE OF 20.03 FEET; THENCE SOUTH 20°39'37" EAST, A DISTANCE OF 350.00 FEET; THENCE SOUTH 66°02'08" WEST, A DISTANCE OF 20.03 FEET.

PARCEL 2:

A PARCEL OF LAND LYING IN GOVERNMENT LOTS 6 AND 7, SECTION 16, TOWNSHIP 38 SOUTH, RANGE 41 EAST, MARTIN COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF TRACT 2, STUART FARMS, AS RECORDED IN PLAT BOOK 1, PAGE 63, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, POINT ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF S.E. WILLOUGHBY BOULEVARD; THENCE NORTH 23°40'21" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 208.04 FEET TO A POINT OF CURVATURE CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE HAVING A RADIUS OF 1420.00 FEET, A CENTRAL ANGLE OF 14°55'37", AND AN ARC LENGTH OF 369.95 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 66°43'59" WEST, FOR A DISTANCE OF 791.02 FEET TO A POINT; THENCE NORTH 20°39'22" WEST FOR A DISTANCE OF 395.23 FEET TO A POINT ON THE SOUTH LINE OF A MARTIN COUNTY ACCESS STRIP RECORDED IN OFFICIAL RECORDS BOOK 882, PAGES 783 AND 785, MARTIN COUNTY, FLORIDA; THENCE SOUTH 89°28'43" EAST ALONG SAID MARTIN COUNTY ACCESS STRIP, FOR A DISTANCE OF 859.34 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF S.E. WILLOUGHBY BOULEVARD, POINT ALSO BEING ON THE ARC OF A CURVE CONCAVE TO THE EAST, RADIAL LINE BEARS NORTH 82°49'31" EAST; THENCE SOUTHERLY ALONG SAID CURVE AND SAID WESTERLY RIGHT-OF-WAY LINE, HAVING A RADIUS OF 1420.00 FEET, A CENTRAL ANGLE OF 02°01'03", AND AN ARC LENGTH OF 50 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION:

TITLE COMMITMENT # 807690

A PARCEL OF LAND LYING IN GOVERNMENT LOTS 5, 6, AND 7, SECTION 16, TOWNSHIP 38 SOUTH RANGE 41 EAST, MARTIN COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS :

BEGINNING AT THE NORTHEAST CORNER OF TRACT 2, STUART FARMS, AS RECORDED IN PLAT BOOK I, PAGE 63, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, POINT ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF S.E. WILLOUGHBY BOULEVARD AND ALSO BEING A POINT ON THE NORTH LINE OF THE HANSON GRANT; THENCE SOUTH 65°51'31" WEST ALONG THE NORTH LINE OF SAID HANSON GRANT, FOR A DISTANCE OF 1738.28 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH KANNER HIGHWAY (S.R. 76); THENCE NORTH 20°39'22" WEST ALONG SAID EASTERLY RIGHT OF WAY LINE, FOR A DISTANCE OF 330.00 FEET TO A POINT; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, NORTH 65°51'31" EAST, FOR A DISTANCE OF 964.39 FEET TO A POINT; THENCE NORTH 20°39'22" WEST, FOR A DISTANCE OF 256.55 FEET TO A POINT; THENCE NORTH 66°43'59" EAST, FOR A DISTANCE OF 791.02 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF S.E. WILLOUGHBY BOULEVARD, SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 1420.00 FEET, A CENTRAL ANGLE OF 14°55'37", A CHORD BEARING OF SOUTH 16°11'46" EAST AND A CHORD LENGTH OF 368.90 FEET; THENCE TRAVEL COUNTER-CLOCKWISE ALONG THE ARC OF SAID NON-TANGENT CURVE AND THE WESTERLY RIGHT-OF-WAY LINE OF S.E. WILLOUGHBY BOULEVARD, FOR A DISTANCE OF 369.95 FEET TO A POINT OF TANGENCY; THENCE SOUTH 23°40'21" EAST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, FOR A DISTANCE OF 208.04 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION:

TITLE COMMITMENT # 807694

A PARCEL OF LAND LYING WITHIN THE HANSON GRANT, MARTIN COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS: THE WESTERLY 330.00 FEET OF LOT 2, AND ALL OF LOTS 3 AND 4 OF STUART FARMS, AS RECORDED IN PLAT BOOK I, PAGE 63, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, NOW SITUATED, LYING AND BEING IN MARTIN COUNTY, FLORIDA.

LESS AND EXCEPT

THAT PORTION CONVEYED TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AS RECORDED IN OFFICIAL RECORDS BOOK 951, PAGE 282, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 10 FOOT WIDE PARCEL OF LAND OVER THE WESTERLY PORTION OF LOT 4, ACCORDING TO THE PLAT OF STUART FARMS, AS RECORDED IN PLAT BOOK 1, PAGE 63, PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA, LYING EASTERLY OF STATE ROAD 76, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID LOT 4; THENCE RUN SOUTH 66°02'08" WEST, ALONG THE NORTH LINE OF SAID LOT 4 AND ALONG THE NORTH LINE OF HANSON GRANT, A DISTANCE OF 376.46 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 66°02'08" WEST, ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 10.01 FEET; THENCE SOUTH 20°39'37" EAST, ALONG A LINE THAT IS 10 FEET EASTERLY OF, AS MEASURED AT RIGHT ANGLES TO AND PARALLEL WITH THE EASTERLY RIGHT OF WAY LINE OF THE 100 FOOT WIDE STATE ROAD 76, A DISTANCE OF 600.55 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 4; THENCE NORTH 66°06'12" EAST, ALONG THE SOUTH LINE OF SAID LOT 4, A DISTANCE OF 10.01 FEET; THENCE NORTH 20°39'37" WEST, ALONG A LINE 20 FEET EASTERLY OF AS MEASURED AT

RIGHT ANGLES TO AND PARALLEL WITH THE EASTERLY RIGHT OF WAY LINE OF THE SAID 100 FOOT WIDE STATE ROAD 76,
A DISTANCE OF 600.56 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH AN ABANDONED 40 FOOT DEDICATED RIGHT OF WAY LYING BETWEEN SAID LOTS 2 AND 3.

‘EXHIBIT B’ – LOCATION MAP

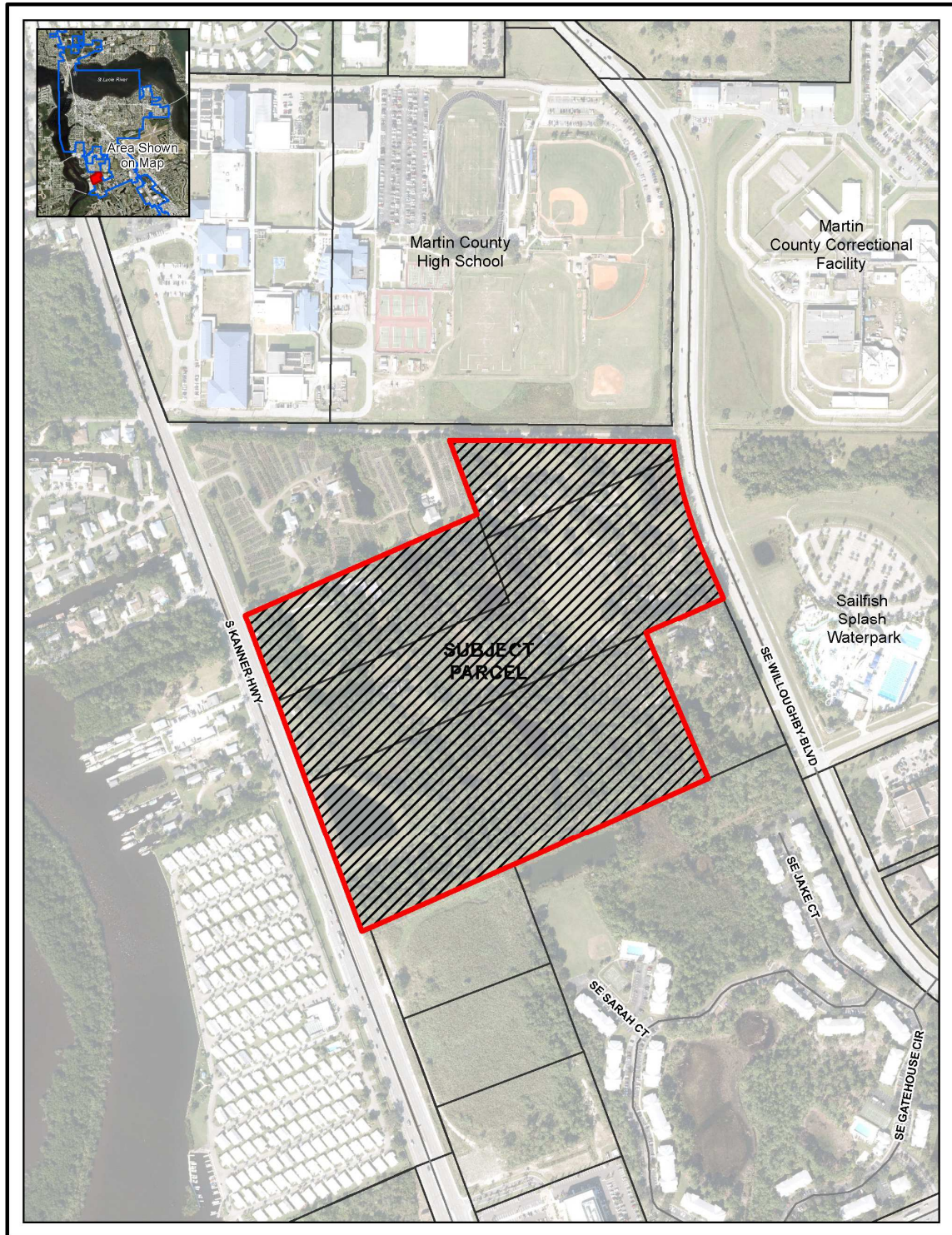


EXHIBIT C – DEVELOPMENT CONDITIONS

1. All development approved hereby, and the use thereof, shall comply with the following drawings:

Approved Plans and Documents (Exhibit D)

- A. Drainage and Utility Statement, by Engineering Design and Construction Engineers Dated March 10, 2021**
- B. Traffic Analysis for Kanner CPUD, by O’Rourke Engineering and Planning, Pages 1-52, dated December 16, 2020 and last revised on April 21, 2021**
- C. Land Use Plan Amendment Traffic Analysis, by O’Rourke Engineering and Planning, Pages 1-36, dated December 18, 2020 and last revised on April 21, 2021**
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- H. Costco Building Elevations, by MG2, Pages 1-9, dated December 16, 2020**
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- Q. Photometric plans, sheets E0.1, E1.1, E1.10, E1.11, E1.2 E1.9, By Lucido and Associates, dated 8.21.2020 and 12.18.2020.**

Prior to Issuance of Site Permits

2. Applicant shall provide a digital boundary survey and civil plan prior to the issuance of any final site permits.
3. Final Development plans and/or Construction Drawings and Building Plans shall be submitted, reviewed, and approved by the City prior to the issuance of any Development Permits.
4. Civil Plans shall be reviewed and approved by all applicable City departments prior to the issuance of a final site permit.
5. All required 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 phase of development activities.
6. All development activities shall comply with the City's Concurrency Management System prior to the issuance of building permits.
7. The applicant shall provide a photometric plan prior to building permit approval (Final Site Plan approval). Lighting shall comply with Section 6.07.00 of the Land Development Code and reviewed by police for CEPTED/Crime Prevention recommendations. Lighting shall include shields to direct the light away from the Lychee Tree Nursery.

Development and Construction

8. Except as otherwise set forth in the Kanner CPUD, development shall comply with the City Land Development Code. Any modifications to the Master Site Plan that is 10%, or less, of the approved building footprint, building setbacks, gross square footage, building location, parking size, location and number of parking, drainage 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 public hearing.

9. All applicable state or federal permits must be obtained before the commencement of any development activities. Issuance of this development order/permit/approval by the City of Stuart does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City of Stuart for the issuance of this order/permit/approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.
10. Development of the Property as a CPUD shall include a net impervious area of not more than seventy-five (75%) for the combination of parcels within the CPUD.
11. The maximum building height within the CPUD shall be 4 stories or forty-five (45) feet. 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. The peak of a pitched roof may not exceed 15 feet above the maximum building height.
12. Water and Sewer Services shall be provided by City of Stuart Utilities.
13. In the event of any conflict in the provisions of Exhibit ‘C’ Development Conditions and attached exhibits, Exhibit ‘C’ shall prevail.
14. Prior to certificate of occupancy of the retail, bulk merchandise and automobile repair services building and fueling facility, the applicant shall provide an engineer’s written confirmation attesting that the necessary components of the CPUD’s stormwater and utility systems are in place and functioning in compliance with all approved plans and specifications.

15. Construction activity shall be limited from 6.00 am to 6:00 pm. Monday – Saturday. However, the City’s Development Director shall have the discretion to authorize construction to take place outside the standard construction hours set forth in the City’s Land Development Code and Code of Ordinances.
16. Notwithstanding anything to the contrary in the City of Stuart Land Development Code of City of Stuart Code of Ordinances, there shall be no restrictions on delivery hours for the retail, bulk merchandise and automobile repair services building and fueling facility.
17. 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 and/or temporary construction water service shall be utilized by the Developer in order to reduce dust generated onsite during construction.
18. Any existing infrastructure, sidewalk or private property including adjacent property boundaries that are damaged during construction shall be repaired or replaced prior to the issuance of a Certificate of Occupancy.
19. All on-site utilities shall be buried unless overhead lines are otherwise required by local utility authorities.
20. Prior to Final Plan approval the Developer shall obtain the necessary water use permits from the South Florida Water Management District for irrigation and temporary construction dewatering. As part of these approvals the Developer shall demonstrate the project will not adversely impact adjacent properties, wetlands, surface waters or cause adverse migration of saline water and regulated contaminants.
21. All utility and driveway connection improvements constructed by the Developer within Florida’s Department of Transportation’s right-of-way shall be constructed in a manner and form acceptable to the FDOT. The developer shall grant any such utility easements necessary for this site as may be required by the FDOT and or Martin County.

22. a. Sidewalk shall be constructed as needed within the S. Kanner Highway right-of-way to connect with the existing sidewalk. The proposed sidewalk adjacent to the internal connector road shall be eight (8) feet in width; all other sidewalks internal to the development shall have a minimum width of six (6) feet.
 - b. Traffic improvements to S.E. Willoughby Boulevard will include a northbound left turn lane into the project and a southbound right turn lane into the project.
 - c. The Developer shall construct a two-lane local privately maintained roadway to connect S. Kanner Highway to S.E. Willoughby Boulevard. Notwithstanding anything to the contrary herein, including the Development Timetable, the completion of the connection road from S. Kanner Highway to S.E. Willoughby Boulevard shall constitute vesting of the Kanner CPUD project for development purposes.
 - d. All improvements identified in paragraphs 22a, 22b, and 22c which meet the ‘rational nexus’ criteria as outlined in Florida State Statute, that requires an impact fee to have a reasonable connection (or rational nexus) between the proposed new development and the need and the impact of additional capital facilities, and the expenditure of funds and the benefits accruing to the proposed new development, shall be eligible for impact fee credits from the City of Stuart and from Martin County, subject to agreement..
23. a. A detailed stormwater analysis for the existing conditions and proposed developed conditions will be generated for comparison. Runoff will be collected by a series of inlets and pipes and directed to the master stormwater management system for treatment and attenuation. The existing FDOT stormwater detention lake will be redesigned and expanded so that the system can handle the FDOT improvements as well as runoff from the proposed development. The proposed system will discharge via existing connections to the S. Kanner Highway storm system. Conveyances shall be installed to ensure off-site flows that currently drain through the property will be maintained in the post-development condition. The Developer shall take precautions necessary to ensure that

groundwater elevations at the Lychee Tree Nursery irrigation ponds are not adversely affected at any time during or after construction of the stormwater management system.

b. Any existing or offsite lakes, ponds or ditches that will be impacted by the construction of the S. Kanner CPUD will be analyzed. The necessary improvements shall be implemented to maintain existing drainage patterns and levels of flood protection. The Developer shall provide drainage bypass of sufficient capacity to ensure existing drainage patterns and conveyance of off-site flows onto the Property are maintained. Final design of the bypass system shall be provided and reviewed prior to Construction Site Plan approval.

24. The project's storm water facilities, specifically the Native Planting schemes at the detention/retention areas/wetlands, 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". Littoral planting shall be provided at the perimeter of all lakes including the expanded D.O.T. pond.
25. One or more sanitary pump stations shall be provided by the developer to service the Kanner CPUD and subject to review and approval by the City's Public Works Department.
26. In the event it is determined that any representative of a plant or animal species that is Federally or State designated as Endangered, Threatened, or Species of a Special Concern is resident on or otherwise is significantly dependent upon the property, the Developer shall cease all activities which might negatively affect that individual or population and immediately notify the City of Stuart, the Florida Fish and Wildlife Commission and the U.S. Fish and Wildlife Service. Proper protection to the satisfaction of all agencies shall be provided by the Developer. Construction shall cease until all agencies are satisfied as

to the protection of protected species. The developer's Environmental Professional shall conduct a survey for existing Gopher Tortoise burrows and relocate as necessary.

27. Temporary or freestanding storage units are prohibited on the Property once construction is complete.

Landscaping

28. The common areas including the project's entry and driveway connection shall be provided with landscaping with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition as depicted on landscape plans and prior to Certificate of Occupancy.
29. A landscape strip 25' wide (minimum) shall be maintained along all north, south and east CPUD parcel boundaries as depicted on Site and Landscape Plans.
30. Landscaping of the project shall include low volume drip irrigation, drought tolerant vegetation and fifty percent (50%) or more of native plant materials.
31. "Hat racking" of trees is prohibited on the Property.
32. The Landscape Architect and the Environmental Professional shall attest in writing at the time of installation and prior to certificate of occupancy that the landscape and native landscape area plantings have been installed in compliance with the approved plans, specifications and reports. At one (1) year after certificate of occupancy both professionals will provide a written confirmation that all installed trees, palms and other plants are in good condition and require no replacement. If any material has not survived it will be noted and replaced and a new letter provided.

Required Open Space and Native Vegetation Area

33. Open Space. Not less than 25% of the Kanner CPUD shall be open space as defined in the City Land Development Regulations. Required open space may include native vegetation areas and landscape buffers between the CPUD and adjacent property; however, parking area interior landscaping shall not count towards the open space requirement.
34. Excluding wetlands defined by the South Florida Water Management District, not less than 25% of the total development site shall be native vegetation area. The required native vegetation area may include open space areas and the landscape buffer between the site and adjacent property. The location of the native vegetation shall comply with the project's landscape plans by Lucido and Associate described in **Exhibit "C"**, attached hereto.

Tree Mitigation & Wetland Mitigation

35. The developer proposes to meet the tree mitigation by planting on-site, providing innovative stormwater treatment design, and incorporating low impact development (LID) practices and otherwise comply with Section 5.05.02 of the "Tree replacement and protection requirements" of the City's Land Development Code.
36. The CPUD property contains low quality wetlands that may be mitigated as permitted within the City of Stuart Land Development Regulations specifically in Sec. 5.03.03 of the City's land development code.

Signage

37. All signs throughout the CPUD 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 signs shall adhere to the design standards in

the City's land development code, with exception to signage associated with the retail, bulk merchandise and automobile repair services building and fueling facility.

38. Timetable for development shall be as follows:

Development Timetable - See Phasing Plan Exhibit by EDC above (cont. below)

Phase 1A – 29.73 Acres:

Retail Bulk Merchandise (Site & Building), Fueling Facility (Site & Building)

Site Lighting

Interior Landscaping

Connector Road

Land Clearing

Master Drainage

Master Utilities

Mass Grading for entire CPUD

Install of Perimeter Buffer Landscape

Site and building permit application deemed sufficient for permit review of Phase 1A under city codes and standards.	December 31, 2022
Final Certificate of Occupancy for Phase 1A site and building improvements.	December 31, 2024
Permit Approval of Phase 1A Connector Road	December 31, 2022
Final Inspection of Phase 1A Connector Road	December 31, 2024

Phase 1B – 14.51 Acres:

Multi-Family (Site & Building)

Site Lighting

Interior Landscaping

Site and building permit application for Phase 1B deemed sufficient for permit review under city codes and standards.	December 31, 2023
Final Certificate of Occupancy for Phase 1B site and building improvements.	December 31, 2026

Phase 1C – 4.74 Acres:

Retail / Restaurant Outparcel (Site & Building)

Site Lighting

Interior Landscaping

Site and building permit application for Phase 1C deemed sufficient for permit review under city codes and standards.	December 31, 2025
Final Certificate of Occupancy for Phase 1C site and building improvements.	December 31, 2028

Notes:

1. The dates set forth above may be extended administratively by the Development Director, in incremental periods not to exceed six (6) months, for any delays caused by outside governmental agencies in issuing permits which have been applied for by the Developer.
2. The dates set forth above may be extended pursuant to Section 252.363, Florida Statutes for any declaration of a state of emergency issued by the Governor of the State of Florida.

Allowable Uses

39. The following uses shall be permitted:

- a. Retail, bulk merchandise, and automotive repair services with fueling facility
- b. Retail, intensive sales and Restaurant
- c. Restaurant with drive-thru (Requires Minor Amendment to CPUD)
- d. Multi-Family Residential
- e. Office, medical (Requires Minor Amendment to CPUD)
- f. Office, business or professional (Requires Minor Amendment to CPUD)
- g. Childcare center (Requires Minor Amendment to CPUD)
- h. Banks/financial institution (Requires Minor Amendment to CPUD)
- i. Warehouse, wholesale and retail distribution, including last mile delivery
(Requires Minor Amendment to CPUD)