BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2472-2022

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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 A 9.43 ACRE PARCEL ANNEXED BY ORDINANCE NO. 1527-97, OWNED BY TED GLASRUD ASSOCIATES FL LLC, LOCATED ON THE SOUTH EAST CORNER OF SE INDIAN STREET AND SE COMMERCE AVENUE, SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; AND FURTHER PROVIDING THAT SAID LANDS SHALL CONCURRENTLY BE REZONED FROM COMMERCIAL PLANNED UNIT DEVELOPMENT "CPUD" TO RESIDENTIAL PLANNED UNIT DEVELOPMENT "RPUD" ON THE CITY'S OFFICIAL ZONING MAP; ESTABLISHING THE SILVERTHORN RPUD CONSISTING OF EIGHTY SIX (86) ATTACHED HOMES; APPROVING A MASTER 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 Lucido and Associates and Meritage Homes representing Ted Glasrud Associates Fl, LLC (owner), for a 9.43-acre parcel of land located on the south east corner of S.E. Indian Street and Commerce Avenue; and

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

WHEREAS, the City Commission, has considered the Petitioner's voluntary request for 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 construction 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. **Master Site Plan, Sheet SP-1, prepared by Lucido & Associates, dated 04.01.21, & resubmitted on 08.02.21 & 10.22.21.**
b. **Boundary Survey with Tree Locations, dated 04.01.21, Sheets 1 thru 6, prepared by Caulfield & Wheeler, Inc., dated 11/02/2020, and revised with Legal description on 01.26.21**
c. **The Landscape Plans, Tree Plan, Tree Mitigation Plan/Plant Schedule, Landscape Details, and Landscape Specifications, Sheets LA-1, LA-2, LA-3, LA-4, LA-5, LA-6, LA-7, LA-8 & LA-9 prepared by Lucido & Associates, dated 04.01.21, & resubmitted on 08.02.21 & 10.22.21.**
d. **Architectural Floor Plans with Elevation and Rendering, Sheets A1.1L, A1.1R, A1.4Le, A1.4Re & A3.1 by Fieldstone Architecture & Engineering for Meritage Homes, with control date of 12.2.19.**
e. **Paving, Grading & Drainage Plan, Sheets 4 & 5, prepared by The Milcor Group, Inc., dated 07.23.21, 09.20.21 and last revised on 10.20.21.**
f. **The Model/Phasing Plan, Sheet SP-1, prepared by Lucido & Associates, dated 04.01.21, & resubmitted on 08.02.21.**

SECTION 2: The Future Land Use designation in the City's Comprehensive Land Use Plan shall be established as "Multi-Family Residential". The Land Development (Zoning) District designation on the City of Stuart Official Zoning Map shall be established as "RPUD” Residential Planned Unit Development amended by this ordinance to allow for 86 attached townhome units.

SECTION 3: This ordinance becomes effective upon adoption.

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 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 8: This ordinance shall be effective upon the following to occur: adoption by the City Commission, and proper execution and acceptance by the Owner.

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 the __th day of _____ 2022.

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				
REBECCA S. BRUNER, COMMISSIONER				
TROY MCDONALD, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED on second and final reading this _____ day _____ of, 2022.

ATTEST:

_____ _____

MARY R. KINDEL
CITY CLERK

EULA R CLARKE
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____

MICHAEL MORTELL
CITY ATTORNEY

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 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: _____

Ted Glasrud Associates FL, LLC

By: _____

Theodore G. Glasrud (President of Glasrud Management, Inc.)

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____ day of _____, 2022, by Theodore G. Glasrud, President of Glasrud Management, Inc.

_____

Notary Public, State of Florida

My Commission Expires:

Notary Seal

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

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 _____, 2022, 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 I:

TRACTS 65, 66 AND 67 LYING EAST OF SE COMMERCE AVENUE AND SOUTH OF SE INDIAN STREET AND WEST OF THE FLORIDA EAST COAST RAILWAY, 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.

LESS AND EXCEPTING FROM TRACT 65 AND 66 LANDS CONVEYED TO HAROLD H. DUBNER, AS TRUSTEE IN OFFICIAL RECORDS BOOK 450, PAGE 1798 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF LOTS 65 AND 66, PORT SEWALL, AS RECORDED IN PLAT BOOK 3, PAGE 7, PALM BEACH (NOW MARTIN) COUNTY, FLORIDA, PUBLIC RECORDS, BEING MORE PARTICULARLY DESCRIBED AS:

BEGIN AT THE NORTHEASTERLY CORNER OF LOT 65 (BEING THE INTERSECTION OF THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY AND THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF INDIAN AVENUE). THENCE SOUTH 66°46'28" WEST ALONG THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF INDIAN AVENUE A DISTANCE OF 290 FEET; THENCE SOUTH 23°13'32" EAST A DISTANCE OF 190 FEET; THENCE NORTH 66°46'28" EAST A DISTANCE OF 352.85 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE NORTH 41°31'42" WEST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 200.12 FEET TO THE POINT OF BEGINNING.

PARCEL II:

The Easterly 100 feet of Lot F-78, Plat Book 1, Page 129, Sheet Two, Public Records of Palm Beach County, Florida, also described as the Easterly 100 feet of the Southerly 301 feet of Lot 65 and the Easterly 100 feet of the Northerly 123 feet of Lot 106, Port Sewall Subdivision, Plat Book 3, Page 7, Public Records of Palm Beach County, Florida, more particularly described as follows, to wit:
Begin at the intersection of the Westerly limit of the right of way of the Florida East Coast Railway, and the North line of said Lot F-78, said point of intersection being 499.26 feet distance, southerly, from the intersection of said right-of-way limit and the center of Indian Avenue; thence Southerly along said right of way limit 446.59 feet, more or less, to the South line of said Lot F-78; thence Westerly along said South line, 105.33 feet to a point; thence Northerly, parallel to and 100 feet distance from said right of way limit, 446.59 feet, more or less, to the North line of said Lot F-78; thence Easterly along the North line of said Lot F-78, 105.33 feet to the Place of Beginning.

LESS AND EXCEPTING THE FOLLOWING:

A parcel of land being a portion of lands described in Official Records Book 441, Page 2161, Martin County, Florida, Public Records.

Being more particularly described as follows:

Commence at the intersection of the Southwesterly right-of-way line of the Florida East Coast Railroad and the Southeasterly right-of-way line of S.E. Indian Street; thence South 41°59'54" East along the Southwesterly right-of-way line of the Florida East Coast Railroad, a distance of 762.83 feet to the Point of Beginning; thence continue South 41°59'54" East a distance of 130.35 feet; thence, departing said right-of-way, South 66°19'23" West a distance of 105.33 feet; thence North 41°59'54" West a distance of 130.35 feet; thence North 66°19'23" East a distance of 105.33 feet to the Point of Beginning.

CONTAINING 9.503 ACRES, MORE OR LESS.

EXHIBIT B – LOCATION MAP



EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents

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

a. **Master Site Plan, Sheet SP-1, prepared by Lucido & Associates, dated 04.01.21, & resubmitted on 08.02.21 & 10.22.21.**
b. **Boundary Survey with Tree Locations, dated 04.01.21, Sheets 1 thru 6, prepared by Caulfield & Wheeler, Inc., dated 11/02/2020, and revised with Legal description on 01.26.21**
c. **The Landscape Plans, Tree Plan, Tree Mitigation Plan/Plant Schedule, Landscape Details, and Landscape Specifications, Sheets LA-1, LA-2, LA-3, LA-4, LA-5, LA-6, LA-7, LA-8 & LA-9 prepared by Lucido & Associates, dated 04.01.21, & resubmitted on 08.02.21 & 10.22.21.**
d. **Architectural Floor Plans with Elevation and Rendering, Sheets A1.1L, A1.1R, A1.4Le, A1.4Re & A3.1 by Fieldstone Architecture & Engineering for Meritage Homes, with control date of 12.2.19.**
e. **Paving, Grading & Drainage Plan, Sheets 4 & 5, prepared by The Milcor Group, Inc., dated 07.23.21, 09.20.21 and last revised on 10.20.21.**
f. **The Model/Phasing Plan, Sheet SP-1, prepared by Lucido & Associates, dated 04.01.21, & resubmitted on 08.02.21.**

1. Any modifications to the Master RPUD Site Plan less than 10% 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 a public hearing.

2. Development of the Subject Property as a RPUD shall include an impervious area of not more than 225,275 sf or 5.17 acres (54.4% of the site) within the RPUD. The maximum building height within the RPUD shall be 2 stories or 30 feet. Height shall be measured from the lowest permissible finished first floor elevation to the surface of a flat roof or to the eave of a pitched roof. The peak of a pitched roof may not exceed 15 feet above the maximum building height.

3. The developer shall post a sign at the mailboxes located along perpendicular stalls reserving spaces specifically for mail delivery and pick-up only.

Landscaping

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

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

6. A Landscape maintenance 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 Pervious and Open Space

7. Not less than 4.59 acres of the RPUD or shall be open space that may include landscaped buffer areas as depicted on the Master Site Plan by Lucido and Associates as described in Exhibit C.

Tree Mitigation

8. The project shall comply with project's Tree Mitigation/Plant Schedule plan, Sht. LA-7 by Lucido and Associates.

Prior to Issuance of Site Permits

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

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

11. 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.

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

Development and Construction

13. The Developer shall construct the project's infrastructure in one phase and is required to control the sales of lots in blocks according to the Model/Phasing plan by Lucido and Associates. The last building's townhouse unit shall obtain a certificate of occupancy by December 30, 2025.

14. The Developer shall install landscaping and gates at the development's entry as shown on the landscaping plan prior to the first certificate of occupancy for a residential unit. The entry gates shall be made operational with gate code coordination for accessibility by the City's Public Works Department for trash pickup and meter reading prior to issuance of the third certificate of occupancy.

15. The proposed cabana and pool landscaping shall be completed before the certificate of occupancy has been issued for the 10^{th} residential unit or within 12 months from the start of any development activity.

16. The developer shall eradicate all invasive vegetation for the entire site to be completed and inspected prior the first building permit being issued.

17. The property owner shall provide easements for licensed cable services.

18. Water and Sewer Services shall be provided by Martin County Utilities. Additionally, the development shall use reclaimed water (Purple Pipe) for watering common areas and make available to individual lots if made available by Martin County.

19. The Developer shall provide a six-foot white vinyl privacy fence at the perimeter of the property.

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

21. 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.

22. 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.

23. All utility improvements constructed by the developer within Martin County's right-of-way, shall be constructed in a manner and form acceptable to the County's Engineering department.

24. The developer shall provide both transponders and individual gate access codes for Public Works sanitation pickup.

25. The project's Native Planting schemes at the lake 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".

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

27. The installation of a Knox key switch to operate the gate is required for City of Stuart fire rescue and Martin County Fire Rescue and the gate codes are to be posted with the City's Police Department.
28. A lighting plan shall be included on the Landscape plan for the community's common areas including any street lighting at permitting. All lights at the common areas shall be limited to 15 feet in height and shielded from neighboring property.

29. Site work including but not limited to land preparation, lake excavation, clearing and grading, drainage and water, sewer and irrigation lines, and private road shall be reviewed and approved by the City's Public Works department and the City's engineering consultant prior to permitting. Specifically,

    a. Private Road (entry and within the development)

    b. Proposed Lake

    c. Cabana and Pool

30. The Developer shall coordinate with Martin County's Engineering department to implement and be responsible for the const of improvements to SE Indian Street and SE Commerce Avenue to include eliminating the northbound left-turn lane on to Indian Street and converting the northbound approach on Commerce Avenue to right-out only.

Signage

31. 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 the City of Stuart Land Development Code.

Platting- HOA Requirements & Future Amendments

32. Plat approval per Section 11.01.06.1 shall occur prior to any future development permit for any development activity, no permit for development including site work and

infrastructure, shall be issued by the City unless and until a plat has been approved by the City Commission and recorded in the public records.

33. The PUD may be conveyed to 86 separate homeowners without further amendment to this Ordinance. Prior to application for any development, the applicant/developer shall form a HOA (Homeowners Association) or other similar entity acceptable to the City Attorney, which shall be singularly responsible for the perpetual maintenance of the common site features and include restrictions regarding boats, boat trailers, sheds, etc.

34. City of Stuart waste receptacles, including recycle shall be stored in garages only. The developments HOA shall be responsible for enforcing this waste receptable policy. The receptacles at the amenity areas shall be stored inside the clubhouse or outside in an approved enclosure. The developments HOA shall be responsible for enforcing this waste receptable policy. The property-owners association shall pay for initial bins (one trash bin and one recycle bin) for each unit including the cabana for a total of 87 trash bins and 87 recycle bins at the time of permitting. The City will provide a single bill to the HOA for trash pick-up.

35. There shall be no on street parking on trash/recycle collection days. The developer and home-owners association shall request and consent to law enforcement entry to property and enforcement of state and city laws to include traffic enforcement. Additionally, the City of Stuart Police Department shall have authority to enforce city laws and all conditions of development of Ordinance 2472-2021.

36. No yard waste shall be placed in the street.

37. All new fences shall be maintained by the Silverthorn Home-Owners Association.

38. Any applications to amend this Ordinance shall be limited to the developer or the Home-Owners Association.

39. The Home-Owner’s Association shall regulate any permits for guest parking.