BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2373-2018

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 "INSTITUTIONAL" FOR A 5.01 ACRE PORTION OF A 10.33 ACRE PARCEL, OWNED BY STUART COMMONS 76, LLC FORMERLY KNOWN AS CENTER POINTE, LLC, LOCATED ON THE EAST SIDE OF KANNER HIGHWAY (SR 76), NORTH OF INDIAN STREET; BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; AND FURTHER PROVIDING THAT SAID LANDS SHALL CONCURRENTLY BE REZONED FROM "CPUD" TO "RPUD" ON THE CITY'S OFFICIAL ZONING MAP; ESTABLISHING THE "KANNER HIGHWAY ASSISTED LIVING FACILITY" RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) CONSISTING OF A 64 UNIT/BED ASSISTED LIVING FACILITY WITH MEMORY CARE; 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; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, PROVIDING FOR ACCEPTANCE BY THE APPLICANT AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by Stuart Commons 76, LLC (owner)

of a 10.33 acre parcel of undeveloped land located on the east side of Kanner Highway (SR76) north of S.E. Indian Street, 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 City staff.

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

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 of amenities 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 this ordinance:

1. **Certus of Stuart Site Plan, SP1, prepared by Bowman Consulting, dated 07.16.18.**
2. **Boundary and Topographical Survey, Sheets 1 & 2 of 2, by Bowman Consulting, dated 11.16.17 and last revised on 08.8.18.**
3. **Landscape Plan with Tree Replacement & Contribution requirements, Sheet LS1 and LS2 by Heartwood and Bark Landscape Architecture and Urban Design, dated 2/16/18 and last revised on 08.13.18 per city comments.**
4. **Site Plan Photometric, Sheet ES101Cuhaci & Peterson Architects Engineers and Planners, dated 9.12.18.**
5. **Monument Sign for Certus Stuart Memory Care Sheet AS104, by Bessolo Design Group, Inc., dated 11.27.17.**
6. **Building Elevations, by Bessolo Design Group, Inc., no date**

SECTION 2: The land use designation in the City's Comprehensive land Use Plan shall be established as "Institutional". The Zoning designation of the subject property shall be established as "RPUD" Residential Planned Unit Development on the City of Stuart's Official Zoning Map.

SECTION 3: 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 4: 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 5: 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 6: 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 7: 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 Owners.

SECTION 8: 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 9: Upon complete execution of this Ordinance, including the Acceptance and Agreement by the Owners, 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 8th day of October, 2018.

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
KELLI GLASS LEIGHTON, MAYOR				
BECKY BRUNER, VICE MAYOR				
EULA R. CLARKE, COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED on second and final reading this 22nd day of October, 2018.

ATTEST:

_____
MARY KINDEL
CITY CLERK

_____
KELLI GLASS LEIGHTON
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: Stuart Commons 76, LLC

_____

Print Name: _____ _____

Richard Sowder Manager

_____

Print Name: _____

OWNER'S ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this

_____day of _____, 2018, by Richard Sowder Manager.

Notary Seal

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

CITY'S ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____day of _____, 2018, by KELLI GLASS LEIGHTON, Mayor, and Mary Kindel, City Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation.

Notary Seal

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

Exhibit A – Legal Description

A PARCEL OF LAND BEING A PORTION OF LOTS 5, 6, 11 AND 12 OF STUART FARMS SUBDIVISION OF LOT 5, MILES OR HANSON GRANT, AS RECORDED IN PLAT BOOK 1, PAGE 63, OF THE PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA; SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE FORMER EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 76 (KANNER HIGHWAY, FORMERLY A 100 FOOT RIGHT-OF-WAY), (A 200 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); AND THE NORTHERLY

RIGHT-OF-WAY LINE OF INDIAN STREET (A 100 FOOT RIGHT-OF-WAY AS NOW ESTABLISHED); THENCE NORTH 65 DEG 58' 17" EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 50.07 FEET TO A POINT ON THE NEWLY ESTABLISHED EASTERLY RIGHT-OF-WAY OF SAID STATE ROAD 76; THENCE PROCEED NORTH 21 DEG 00' 49" WEST, ALONG THE NOW ESTABLISHED EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 76, A DISTANCE OF 1,060.00 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT-OF-WAY PERPENDICULAR THERETO, NORTH 68 DEG 59' 11" EAST A DISTANCE OF 600.03 FEET TO A POINT; THENCE NORTH 21 DEG 00' 43" WEST, A DISTANCE OF 767.25 FEET TO THE INTERSECTION OF THE NORTHERLY LINE OF LOT 6 OF STUART FARMS SUBDIVISION OF LOT 5 DESCRIBED ABOVE AND A LINE PARALLEL WITH AND

650.00 FEET EASTERLY OF AS MEASURED AT RIGHT ANGLE TO SAID FORMER EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 76; THENCE WESTERLY ALONG SAID NORTHERLY LINE OF LOT 6 AND LOT 5 OF STUART FARMS SUBDIVISION OF LOT 5 DESCRIBED ABOVE A DISTANCE OF 602.02 FEET (DEED; 601.02 FEET CALCULATED), TO THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 76; THENCE SOUTH 21 DEG 00' 49" EAST ALONG

EXHIBIT B – LOCATION MAP



EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents (Exhibit D)

1. **The Kanner Highway Assisted Living Facility shall comply with the following documents and drawings:**
    a. **Certus of Stuart Site Plan, SP1, prepared by Bowman Consulting, dated 07.16.18.**
    b. **Boundary and Topographical Survey, Sheets 1 & 2 of 2, by Bowman Consulting, dated 11.16.17 and last revised on 08.8.18.**
    c. **Landscape Plan with Tree Replacement & Contribution requirements, Sheet LS1 and LS2 by Heartwood and Bark Landscape Architecture and Urban Design, dated 2/16/18 and last revised on 08.13.18 per city comments.**
    d. **Site Plan Photometric, Sheet ES101Cuhaci & Peterson Architects Engineers and Planners, dated 09.12.18.**
    e. **Monument Sign for Certus Stuart Memory Care Sheet AS104, by Bessolo Design Group, Inc., dated 11.27.17.**
    f. **Building Elevations, by Bessolo Design Group, Inc., no date**

2. Any modifications to the Master CPUD Site Plan that exceeds 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.

3. CPUD standards regarding circulation, parking, utilities, drainage, open space and all other applicable standards shall apply as described in the LDR except as modified as provided in the Rezoning in this and any future ordinance.

Prior to Issuance of Site Permits

4. Applicant shall provide a digital boundary survey and civil plan prior to the issuance of any site permits.

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

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

7. 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.

Access and Cross Connectivity

8. All development parcels within this PUD are intended to share vehicular and pedestrian points of ingress and egress from S.R. 76. All parcels within the PUD shall demonstrate vehicular and pedestrian cross connectivity between parcels and accommodate cross connectivity to future development of abutting parcels within the PUD, and to the properties to the north and south of lots 1 and 2 of the PUD. The Owner shall abandon any and all easements and other legal encumbrances as necessary and re-establish a new cross access easement along the entire length of the PUD demonstrating thru an official plat of the properties, the location of the access road parallel to S.R. 76 and connecting to the established access easement of the properties to the north of lot 2 and to the south of the

assisted living facility as shown on the Certus of Stuart Site Plan dated 02.15.18 by Bowman Consulting.

Landscaping

9. All landscape areas shall be provided with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition.

10. 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 Owner shall bear the pass-thru fee for landscape consulting fees not to exceed $1,500.00.

11. Preserve area requirements for the subject property located within this RPUD were met prior to annexation and consolidated within the residential portion of the PUD (Crossings at Indian Run).

12. 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.

13. The landscaping of this RPUD shall include low volume drip irrigation, drought tolerant vegetation and at least fifty percent (50%) native plant materials.

Open Space & Tree Mitigation Requirements

14. Not less than 18% of the RPUD 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 RPUD and adjacent property; however, other required landscaping shall not count towards the open space requirement.

15. Prior to any development activities on the site, payment into the City's tree replacement fund based on the City's Tree Replacement Formula, Section 5.05.02. The following is an

estimate of fees owed as of the date of this ordinance. A final fee calculation is required at the time of permitting.

Tree type	**Total $ to pay into city's tree fund**
Slash Pine	$18,375.00
All trees less Slash Pine (hardwoods)	$34,912.50
Total Requirements	**$53,287.50**

Endangered Species

16. 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 Owner shall cease all activities which might negatively affect that individual or population and immediately notify the City of Stuart, the Florida Game and Freshwater Fish 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 the protected species.

Public Works

17. The Public Works Department is mandating that Certus Stu Owner LLC connect to the regional lift station and sewage collection system designed by the Martin Memorial Medical Center, Inc. to serve the development of their properties (Parcel ID 40-38-41-001-013-00000-2 and 40-38-41-001-011-00000-0) as well as the properties on the adjacent property (Parcel ID 40-38-41-001-005-00000-8) currently owned by Center Pointe LLC. Certus Stu Owner LLC agrees to pay for their hydraulic share of the lift station and gravity sewer improvements constructed by Martin Memorial Medical Center, Inc. prior to

initiation of water and sewer service by the City of Stuart. A gravity sewer main will be constructed across the northern portion of the Martin Memorial owned parcels to provide a connection point for Center Pointe LLC property (being developed by Certus Stu Owner LLC).

Drainage

18. Drainage shall be provided in accordance with the City of Stuart specifications. The storm water management system shall conform to the requirements of South Florida Water Management District, Chapter 61-330, Florida Administrative Code and the Florida Department of Transportation, Chapter 14-86, Florida Administrative Code.

19. Storm water discharge shall be accomplished via an existing Florida Department of Transportation ditch (Deed Book 42, pages 432 and 433). A drainage connection permit shall be secured from FDOT prior to site permit construction.

Development and Construction

20. Except as otherwise set forth in the Riverside ALF RPUD, development shall comply with the City Land Development Code. Any modifications to the Master Site Plan that exceeds 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 public hearing.

21. All applicable state or federal permits must be obtained before the commencement 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.

22. Development of the Subject Property as a RPUD shall include an impervious area of not more than forty-five percent (45%) for the entire parcel within the RPUD. The maximum building height within the RPUD shall be one (1) story or twenty four (24) 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.

23. The developer shall provide an 8 foot wide sidewalk in front of the project along S Kanner highway.

24. In accordance with the Governor's emergency Rule, 58AER17-1, the facility is required to have a generator of sufficient capacity to meet said rules requirements for environmental control. Prior to the issuance of a certificate of occupancy, a generator must be installed as part of this development, subject to modification of the requirement by adoption of Statute and or permanent Florida Administration Rule.

25. The Kanner Hwy Assisted Living Facility RPUD Development shall be limited to 64 living units with a maximum of 64 beds.

26. The development shall use reclaimed water (Purple Pipe) for watering common areas when available.

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

28. Prior to certificate of occupancy for the facility, 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.

29. Construction activity shall be limited from 7.00 am to 6:00 pm Monday – Saturday.

30. 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.

31. Any existing infrastructure, sidewalk or private property that is damaged during construction shall be repaired or replaced prior to the issuance of a Certificate of Occupancy.

32. 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 residential areas.

29. All on-site utilities shall be buried.

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

Signage

31. All signs throughout the RPUD 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 design standards in Exhibit D.

Development Timetable

32. Timetable for development shall be as follows:

Final Certificate of Occupancy for all site and building improvements.	**January 13, 2022**

Allowable Uses

33. The following uses shall be permitted:
    a. Assisted Living facility with memory care.

Prohibited

34. No temporary or modular buildings are permitted on the property except for permitted temporary construction/leasing trailers.

35. Billboards are prohibited on the property.

36. Banners and any other sign or advertising device not in accordance with the City's Land Development Regulations are prohibited.

Platting

37. Platting shall be approved and recorded with the Martin County Clerk of Court prior to the first Site Permit being issued.