BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2371-2018

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 "LOW DENSITY RESIDENTIAL" FOR A 15.2 ACRE PORTION OF A 19.3 ACRE PARCEL ANNEXED BY ORDINANCE NO. 1560-97, OWNED BY E. CLARK GIBSON, LOCATED ON THE SOUTH WEST CORNER OF NW JENSEN BEACH BLVD AND NW GREEN RIVER PARKWAY, SAID LAND 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 OSPREY PRESERVE RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) CONSISTING OF EIGHTY SIX (86) ATTACHED HOMES AND ONE (1) SINGLE FAMILY HOME; APPROVING A MASTER DEVELOPMENT PLAN; PROVIDING FOR DEVELOPMENT CONDITIONS AND A TIMETABLE FOR DEVELOPMENT, DECLARING THE PLAN TO BE CONSISTANT 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 E. Clark Gibson Trustee, for a 15.2 acre portion of the 19.30 annexation parcel of land located on the south west corner of NW Jensen Beach Blvd. and NW Green River Parkway; 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 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 the development conditions, and shall supplement any earlier approvals:

a. **The Master Site Plan, Sheet 1 of 1, prepared by Lucido & Associates, dated 02.19.18, last revised on 10.02.18.**
b. **The ALTA/NSPS Land Title Survey – Osprey Preserve, by Associated Land Surveyors, Inc, dated 10.30.17.**
c. **The Landscape Plans, Sheet 1 of 5, prepared by Lucido & Associates, dated 02.20.18, and resubmitted on 10.03.18.**
d. **The Tree Preservation Plan, Sheet 2 of 4, prepared by Lucido & Associates, dated 02.20.18, last resubmitted on 10.03.18.**
e. **Architectural Floor Plans and Elevations for Osprey Preserve, Sht. P-7, First Floor Plan, Front & Rear Elevations #4, 5 & 6, by Kelly & Kelly Architects, Dated February 16, 2018.**
f. **Preserve Area Management Plan by EW Consultants, Inc. dated June 2018.**

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

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

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

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

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

SECTION 8: This ordinance shall be effective upon the last of the following to occur: adoption by the City Commission, and proper execution and acceptance by the Owner. However, the Future Land Use and Zoning Designations granted herein shall not be effective until thirty one (31) days after adoption, and as otherwise provided by law.

SECTION 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 this 14th day of May, 2018.

Passed on first reading the 14th day of May 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 _____day of _____, 2018.

ATTEST:

_____ _____

MARY R. 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: E. Clark Gibson as Trustee

_____ By: _____

Print Name: _____

_____

Print Name: _____

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____ day of _____, 2018, by E. Clark Gibson as Trustee,

_____

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 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 Public, State of Florida

My Commission Expires:

Notary Seal

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

EXHIBIT A – LEGAL DESCRIPTION

Osprey Preserve

BEING A PARCEL OF LAND LYING IN SECTION 20, TOWNSHIP 37 SOUTH, RANGE 41 EAST, MARTIN COUNTY, FLORIDA, BEING A PORTION OF LOTS 13, 14, 15, AND 16, BLOCK 1, ST. LUCIE GARDENS, AS RECORDED IN PLAT BOOK 1, PAGE 35, ST. LUCIE (NOW MARTIN) COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PINEAPPLE PLANTATION PLAT TWO, A P.U.D., AS RECORDED IN PLAT BOOK 14, PAGE 26, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, POINT ALSO LYING ON THE SOUTH RIGHT OF WAY LINE OF JENSEN BEACH BOULEVARD (A 120 FOOT WIDE RIGHT OF WAY); THENCE SOUTH 89°27'41" EAST, ALONG THE SAID SOUTH RIGHT OF WAY LINE OF JENSEN BEACH BOULEVARD, FOR A DISTANCE OF 976.74 FEET TO A POINT; THENCE DEPARTING SAID SOUTH RIGHT OF WAY LINE OF JENSEN BEACH BOULEVARD, SOUTH 44°37'33" EAST, FOR A DISTANCE OF 42.44 FEET, TO A POINT ON THE WEST LINE OF A ROAD EASEMENT (100 FOOT WIDE), AS RECORDED IN OFFICIAL RECORDS BOOK 1963, PAGE 1423, MARTIN COUNTY, FLORIDA; THENCE SOUTH 00°21'24" WEST ALONG SAID ROAD EASEMENT, FOR A DISTANCE OF 630.08 FEET TO A POINT ON A LINE THAT IS 660 FEET SOUTH OF, AND PARALLEL WITH THE SOUTH RIGHT OF WAY LINE OF JENSEN BEACH BOULEVARD; THENCE NORTH 89°27'41" WEST, DEPARTING SAID WEST LINE OF ROAD EASEMENT AND ALONG SAID PARALLEL LINE, FOR A DISTANCE OF 1005.37 FEET TO A POINT ON THE EAST LINE OF PINEAPPLE PLANTATION PLAT TWO, A P.U.D., AS RECORDED IN PLAT BOOK 14, PAGE 26, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE NORTH 00°14' 17" EAST, ALONG SAID EAST LINE OF PINEAPPLE PLANTATION PLAT TWO, A P.U.D., FOR A DISTANCE OF 660.01 FEET TO THE POINT OF BEGINNING.

EXHIBIT B – LOCATION MAP



EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents

2. The Osprey Preserve RPUD project and use thereof shall comply with the following drawings:

a. The Master Site Plan, Sheet 1 of 1, prepared by Lucido & Associates, dated 02.19.18, last revised on 10.02.18.

b. The ALTA/NSPS Land Title Survey – Osprey Preserve, by Associated Land Surveyors, Inc, dated 10.30.17.

c. The Landscape Plans, Sheet 1 of 4, prepared by Lucido & Associates, dated 02.20.18, and resubmitted on 10.03.18.

d. The Tree Preservation Plan, Sheet 2 of 4, prepared by Lucido & Associates, dated 02.20.18, last resubmitted on 10.03.18.

e. Architectural Floor Plans and Elevations for Osprey Preserve, Sht. P-7, First Floor Plan, Front & Rear Elevations #4, 5 & 6, by Kelly & Kelly Architects, Dated February 16, 2018.

f. Preserve Area Management Plan by EW Consultants, Inc. dated June 2018.

3. Any modifications to the Master RPUD 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.

4. Development of the Subject Property as a RPUD shall include an impervious area of not more than 2000 square feet per lot 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 and to the eave of a

pitched roof. The peak of a pitched roof may not exceed 15 feet above the maximum building height.

Landscaping

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

6. 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.

7. 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 Open Space and Native Preserve Area

8. Open Space. Not less than 47% of the RPUD shall be open space as depicted on the Master Site Plan by Lucido and Associates as described in Exhibit C. Required open space may include native vegetation areas and landscape buffers. Other required landscaping shall not count towards the open space requirement.

9. Excluding wetlands defined by the South Florida Water Management District, not less than 25% of the total development site shall remain as undeveloped and recreated native vegetation area. The required native vegetation area may include open space areas and the landscape buffer between the site and adjacent property; however, other required landscaping shall not count towards the native vegetation requirement. The location of the native vegetation shall comply with the project's landscape plan, Shts. 1 of 4 & 2 of 4 by Lucido and Associates. The project shall adhere to the Preserve area mitigation and monitoring plan prepared for Lucido & Associates and prepared by EW consultants dated

February, 2018. The owner and developer shall adhere to the provisions of the Wetland Maintenance and Monitoring Plan and permanent maintenance will be the responsibility of the HOA.

Tree Mitigation

10. Except as follows, the project shall comply with Section 5.05.02 of the "Tree replacement and protection requirements" of the City's Land Development Code.

    a. Prior to any development activities, in addition to the preserve area maintenance plan required herein, the developer shall provide a benchmark exhibit, acceptable to the city, prepared by the developer's environmental professional, accurately depicting the site's upland preserve areas in their final configuration, including existing and added plant materials as called for in the PAMP. This exhibit shall not include any materials planted in the preserve area for the purposes of tree mitigation.

    b. In the event the developer proposes to meet any or all of the tree mitigation requirements of section 5.05.02 by planting within the upland preserve areas, the developer shall provide an additional exhibit, acceptable to the city, depicting the planted materials shown on the benchmark exhibit required above as well as any additional planting materials proposed for the purpose of tree mitigation. This exhibit shall include the environmental professional's certification that the addition of supplemental plantings for the purpose of tree mitigation does not compromise the environmental integrity, or sustainability of the site's preserve areas. This exhibit shall be made a part of the PAMP for the purpose of perpetual maintenance as called for therein.

    c. In the event the developer chooses to address tree mitigation by planting in the project's preserve area or elsewhere on the site, the following shall occur: For plantings in the preserve area, not less than 50% shall consist of Pines trees or

shrubs (Wax Myrtle, Green Button wood and Cocoplum) and 50% Palms (Minimum 14 feet).

d. The developer shall provide an affidavit of spending, including receipts, prior to certificate of occupancy.

e. Prior to Site Plan approval, the applicant shall provide replacement fund a check in the amount of $18,000 to be deposited in the City's Tree Fund account.

Prior to Issuance of Site Permits

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

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

13. 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.

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

Development and Construction

15. The Developer shall construct the project's infrastructure in one phase and is required to control the sales of lots in blocks and will create a lot sales and construction plan which shall be provided to the City's Development Department for review and approval prior to application for the first building permit.

16. The Developer shall install landscaping (and gate if proposed) at the development's entry as shown on the landscaping plan prior to the first certificate of occupancy for a

residential unit. The entry gate (if applicable) shall be made operational prior to issuance of the third certificate of occupancy.

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

18. The developer shall follow the guidelines for eradication of nuisance and exotic vegetation for both wetland and upland preserve areas as described in the Wetland Maintenance and Monitoring Plan by EW Consultants, Inc. dated February 2018 and be completed and inspected prior the first building permit is issued.

19. The property owner shall provide easements for licensed television services. Preserve area easements shall be dedicated to state agencies with the City of Stuart having the option to have those same easements.

20. The projects proposed drainage outfall to Green River Pkwy shall have Martin County approval before any developmental activity on the site occurs.

21. 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.

22. The Developer shall provide a decorative aluminum fence on lots with a retaining wall acceptable to the Development Department.

23. In the event of any conflict in the provisions of Exhibit ‘C’ Development Conditions and attached exhibits, Exhibit ‘C’ shall prevail.

24. 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.

25. 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.

26. All utility 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.

27. The projects turn lanes as described on the project's Master Site plan shall be completed before the first building permit is issued.

28. 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". The proposed dry retention shall have native grasses along the edges of the retention area are to become part of the stormwater filtration process.

29. The developer shall construct a minimum 8' wide sidewalk along the projects frontage on Green River Parkway and connect with the existing sidewalk on Jensen Beach Boulevard.

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

31. 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.

32. 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 approved by the city's public works department and the city's engineering consultant prior to permitting. Specifically,

    a. Private Road & R.O.W. including pedestrian sidewalk

    b. Proposed Lake

    c. Dry Detention Area

    d. Cabana and Pool

    e. Existing wetland and Upland Preserve

Setbacks

33. The minimum building setbacks for the development shall be:

Front = 20'

Side Corner = 15'

Side = 15'

Rear = 15'

Signage

34. 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 Proposed Entry Monument Sign drawing by Lucido and Associates.

Platting- HOA Requirements & Future Amendments

35. 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.

36. The PUD may be conveyed to 87 separate home owners (two per lot), with the exception of lot 55 (a single family residence) 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.

37. If there are any encroachments in to the preserve area a notice of violation shall be issued to the developer or Home Owners Association which will be responsible for remedying the violation.

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

39. The City may elect at any time to assign a future land use designation of "Conservation" to the PUD's preserve areas without objection by the owners. Further, the City may at its discretion, take over maintenance of the preserve area(s) without objection by the owners.

Land Contribution

40. The owner of the property Mr. Clark Gibson shall contribute 1.78 acres of unencumbered land just south of Jensen Beach Blvd. and adjacent to Green River Parkway to the City and with terms acceptable to the City Attorney prior to any site or building permits being released.