BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2383-2018

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP, THEREBY APPLYING A LAND DEVELOPMENT ZONING DESIGNATION OF CPUD "COMMERCIAL PLANNED UNIT DEVELOPMENT" TO A PARCEL OF LAND TOTALING 1.85 +/- ACRES, OWNED BY DELICETO, LLC., LOCATED AT 700 SW FEDERAL HIGHWAY, BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; ESTABLISHING THE "SAFE AND SECURE SELF-STORAGE AT STUART" COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) CONSISTING OF 115,332 SQUARE FOOT WAREHOUSE FOR MINI STORAGE; PROVIDING FOR APPROVAL OF A FINAL 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 DELICETO, LLC. (owner) of a 1.85+/- acre parcel of undeveloped land located on 700 SW Federal Highway, and

WHEREAS, the City of Stuart has determined the need to assign CPUD zoning to said lands; and

WHEREAS, on September 10, 2018, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by the owners, amending the city's official zoning map and approving a final site plan for the construction of a 115,332 square foot warehouse for mini storage; and

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, the City Commission, has considered the Owner's voluntary request for a new zoning designation, and has also considered the recommendation of the City staff.

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 CPUD 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:

a. **Site Plan, Sheet 1 of 1, prepared by HJA Design Studio, dated 9.26.18.**
b. **Boundary Survey, Sheets 1of 1, HSQ Group, Inc., Professional Surveyors and Mappers dated 1.30.18.**
c. **Landscape Plan, Sheet L1, by HJA Design Studio, dated 9.26.18.**
d. **Lighting Plan, Sheet L1, by HJA Design Studio, dated 8.2.18.**
e. **Architectural Footprints and Elevations, Sheets A1 to A7, by Good and Edward Design Studios, dated 5/31/18**

SECTION 2: The Zoning designation of the subject property shall be established as "CPUD" Commercial 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 45 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: **DELICETO**, LLC

_____

Print Name: _____ _____

David H. Cloran, Vice President

_____

Print Name: _____

OWNER'S ACKNOWLEDGMENT

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

_____day of _____, 2018, by David H. Cloran, Vice President of Deliceto, LLC.

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 Kindell, 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

Exhibit "A"

Lots 147, 148 and 149, H. W. Bessey's Second Addition, according to Plat thereof, Plat Book 5, Page 52, Public Records of Palm Beach (now Martin) County, Florida.

Lots 150, 151, 152, 155 and 156, H. W. Bessey's Second Addition to the Town of Stuart, Florida, according to the Plat thereof filed May 29, 1914 and recorded in Plat Book 5, Page 52, Palm Beach (now Martin) County, Florida, Public Records. Less 13 feet taken from the East side of Lots 152 and 155 by the State of Florida for highway purposes in 1953 and less the 215 square feet, more or less, taken from the East side of Lots 152 and 155 by the State of Florida for highway purposes in 1962.

Lots 157 and 158, H. W. Bessey's 2nd Addition to the Town of Stuart, as in Plat Book 5, Page 52, Palm Beach (now Martin) County, Florida, Public Records.

INITIAL

EXHIBIT B – LOCATION MAP



EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents (Exhibit D)

1. The Safe and Secure Self-Storage at Stuart CPUD and use thereof shall comply with the following documents and drawings:
   - **f. Site Plan, Sheet 1 of 1, prepared by HJA Design Studio, dated 9.26.18.**
   - **g. Boundary Survey, Sheets 1of 1, HSQ Group, Inc., Professional Surveyors and Mappers dated 1.30.18.**
   - **h. Landscape Plan, Sheet L1, by HJA Design Studio, dated 9.26.18.**
   - **i. Lighting Plan, Sheet L1, by HJA Design Studio, dated 8.2.18.**
   - **j. Architectural Footprints and Elevations, Sheets A1 to A7, by Good and Edward Design Studios, dated 5.31.18**

Prior to Issuance of Site Permits

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

5. 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.

Prior to City Commission Approval

6. Prior to City Commission Approval, the applicant shall provide staff with an updated site plan, showing a left-turn only sign and narrow the right turn apron at the SW Pine Avenue curb cut

in order to restrict the vehicular flow away from the residential property. Similarly, the applicant shall provide a right-turn only sign and narrow the left turn apron at the SW Bryant Avenue.

7. Prior to City Commission Approval, the applicant shall provide staff with an updated site plan showing a sidewalk connection from the internal sidewalk to the existing sidewalk along Palm City Road.

Development and Construction

8. Except as otherwise set forth in the Safe and Secure Self-Storage and Stuart CPUD, development shall comply with the City Land Development Code. Any modifications to the Final 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.

9. 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.

10. Development of the Subject Property as a CPUD shall include an impervious area of not more than fifty-nine percent (59%) for the entire parcel within the CPUD. The maximum building height within the CPUD shall be forty-five (45) feet, or 4 stories. 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.

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

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

13. Prior to certificate of occupancy of the building, the applicant shall provide an engineer's written confirmation attesting that the CPUD's storm water system is in place and functioning in compliance with all approved plans and specifications.

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

15. 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.

16. 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.

17. 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.

18. All on-site utilities shall be buried.

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

Landscaping

20. The common buffer and other common areas shall be provided with landscaping with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition.

21. "Hat racking" of trees is prohibited on the property.

22. 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.

23. A landscape maintenance agreement, executed in accordance with the Land Development Regulations, shall be submitted prior to the issuance of the first Certificate of Occupancy any building shown on the Final Site Plan.

Open Space & Tree Mitigation Requirements and Littoral Plantings

24. Not less than 37% of the CPUD shall be open space as defined in the City Land Development Regulations. The applicant has provided 41% of the property as open space, including the perimeter landscape buffers and interior landscape area. Required open space may include native vegetation areas and landscape buffers between the CPUD and adjacent property; however, other required landscaping shall not count towards the open space requirement.

25. The applicant has not identified any existing trees that require mitigation. Notwithstanding, and pursuant to the Stuart Land Development Code, Section 5.05.02, the replacement or removal of existing specimen trees, such as palm trees found in the landscape buffers, shall fully comply with Section 5.05.02.

Signage

26. 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 monument sign(s) shall adhere to the design standards in the City's Land Development Code.

Development Timetable

27. Timetable for development shall be as follows:

Site and Building permit applications deemed sufficient for permit review under city codes and standards.	**September 1, 2020**
Final Certificate of Occupancy for all site and building improvements.	**January 1, 2022**

Allowable Uses

28. The following uses shall be permitted:
    a. Self-Storage Facility

Prohibited

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

30. Billboards are prohibited on the property.

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