BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2387-2019

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 "NEIGHBORHOOD SPECIAL DISTRICT" TO "MULTI-FAMILY DENSITY RESIDENTIAL" FOR A 11.34 ACRE PARCEL ANNEXED BY ORDINANCE NO. 1548-97, OWNED BY FRANK GIACOBBE, FORMERLY REFERED TO AS PHASE VIII MULTI-FAMILY ON THE PINEAPPLE PLANTATION MASTER PLAN AND LOCATED ON THE EAST SIDE OF US HIGHWAY ONE, WEST OF THE WINDEMERE RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD), AND SOUTH OF THE PINEAPPLE COMMONS COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD), SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; AND FURTHER PROVIDING THAT SAID LANDS SHALL CONCURRENTLY ESTABLISH THE WATERMARK RESIDENTIAL RPUD CONSISTING OF TWO HUNDRED EIGHTY FOUR (284) MULTI-FAMILY UNITS WITHIN TWO FOUR-STORY APARTMENT BUILDINGS; APPROVING A DEVELOPMENT SITE 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 Jesse Houghtalen, for a 11.34 acre parcel of land located on the east side of US Highway One, west of the Windemere RPUD, and south of the Pineapple Commons; 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 designations, a refresh of the existing RPUD, 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 refreshed 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 Site Plan, Sheet SP1, prepared by Bowman Consulting, dated 01.03.19.**
b. **The ALTA/NSPS Land Title Survey – Watermark Apartments, by Bowman Consulting, Inc, dated 06.13.18**
c. **The Landscape Plans, Sheet CV, LA-1 thru LA-10, prepared by Lucido & Associates, dated 10.08.18**
d. **Architectural Floor Plans and Elevations, by Lucido and Associates, dated 10.12.18**
e. **Preserve Area Management Plan to be provided prior to second reading**

SECTION 2: The Future Land Use designation in the City's Comprehensive Land Use Plan shall be established as "Multi-Family 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 the ____ day of _____, 2018.

Commissioner _____ offered the foregoing resolution 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
REBECCA S. BRUNER, MAYOR				
EULA R. CLARKE, VICE MAYOR				
KELLI GLASS LEIGHTON, COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED this ___ day of _____, 2019.

ATTEST:

_____
MARY R. KINDEL
CITY CLERK

_____
REBECCA S. BRUNER
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:

_____ By: _____

Print Name: _____

_____

Print Name: _____

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____ day of _____, 2019, by _____,_____

_____

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 _____, 2019, by REBECCA S. BRUNER, MAYOR , and MARY R. 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

LEGAL DESCRIPTION (FROM TITLE COMMITMENT)

A PARCEL OF LAND LYING IN A PORTION OF LOTS 5, 6 AND 8, BLOCK 2, AS SHOWN ON PLAT NO. 1, ST. LUCIE GARDENS, AS RECORDED IN PLAT BOOK 1, PAGE 35, PUBLIC RECORDS OF ST. LUCIE (NOW MARTIN) COUNTY, FLORIDA; SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGIN AT THE NORTHWEST CORNER OF SAID LOT 6, BLOCK 2; PROCEED SOUTH 89 DEGREES 39 MINUTES 09 SECONDS EAST ALONG THE NORTH LINE OF SAID LOTS 5 AND 6, A DISTANCE OF 600.02 FEET TO A POINT ON A LINE 600 FEET EAST OF AND PARALLEL WITH AS MEASURED AT RIGHT ANGLES TO THE WEST LINE OF SAID LOT 6; THENCE SOUTH 00 DEGREES 45 MINUTES 42 SECONDS WEST, DEPARTING SAID NORTH LINE AND ALONG SAID PARALLEL LINE, A DISTANCE OF 368.72 FEET, TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF OF 475.00 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 43 DEGREES 10 MINUTES 43 SECONDS EAST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 11 DEGREES 00 MINUTES 01 SECONDS, A DISTANCE OF 91.19 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1020.87 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 25 DEGREES 19 MINUTES 17 SECONDS, A DISTANCE OF 451.16 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 625.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10 DEGREES 07 MINUTES 08 SECONDS, A DISTANCE OF 110.38 FEET; THENCE SOUTH 40 DEGREES 05 MINUTES 05 SECONDS WEST, A DISTANCE OF 47.17 FEET TO THE NORTHWEST CORNER OF PINEAPPLE PLANTATION PLAT NO. 1, AS RECORDED AT PLAT BOOK 14, PAGE 4, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE NORTH 89 DEGREES 36 MINUTES 25 SECONDS WEST, A DISTANCE OF 275.25 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF US HIGHWAY NO. 1 (S.R. 5) (A 200.00 FOOT RIGHT-OF-WAY); THENCE NORTH 18 DEGREES 41 MINUTES 27 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 349.23 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 8; THENCE SOUTH 89 DEGREES 36 MINUTES 25 SECONDS EAST ALONG THE SAID NORTHERLY LINE OF SAID LOT 8 AND DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 60.16 FEET TO A POINT ON SAID WESTERLY LINE OF LOT 6; THENCE NORTH 00 DEGREES 45 MINUTES 42 SECONDS EAST, ALONG SAID WESTERLY LINE OF LOT 6 A DISTANCE OF 665.74 FEET TO THE POINT OF BEGINNING.

CONTAINING 493967 SQUARE FEET OR 11.34 ACRES, MORE OR LESS.

EXHIBIT B – LOCATION MAP



EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents

2. The Watermark Apartments RPUD project and use thereof shall comply with the following drawings:

a. The Site Plan, Sheet SP1, prepared by Bowman Consulting, dated 01.03.19.

b. The ALTA/NSPS Land Title Survey – Watermark Apartments, by Bowman Consulting, Inc, dated 06.13.18

c. The Landscape Plans, Sheet CV, LA-1 thru LA-10, prepared by Lucido & Associates, dated 10.08.18

d. Architectural Floor Plans and Elevations, by Lucido and Associates, dated 10.12.18

e. Preserve Area Management Plan to be provided prior to second reading

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 no more than (80%) impervious coverage for the RPUD. The maximum building height within the RPUD shall be 4 stories or 42'7". 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.

5. Notwithstanding any presence of premium parking consisting of carports/garages, at no time shall any parking space be deemed unavailable for use due to an absence of a lease agreement for the use of said space.

6. Garages shall not be used for storage to the exclusion of a vehicle.

7. 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.

8. 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.

Landscaping

9. 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.

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

11. 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

12. Open Space. Not less than 33% of the RPUD shall be open space as depicted on the Site Plan by Bowman Consulting as described in Exhibit C. 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.

13. Excluding wetlands defined by the South Florida Water Management District, not less than 20% 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, by Lucido and Associates. The project shall adhere to the Preserve area mitigation and monitoring plan (to be prepared prior to second reading). 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

14. The project shall comply with Section 5.05.02 of the "Tree replacement and protection requirements" of the City's Land Development Code.

Prior to Issuance of Site Permits

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

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

17. 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.

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

Development and Construction

19. 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.

20. 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 a certificate of occupancy.

21. 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.

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

23. 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.

24. 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.

25. 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.

26. The projects turn lanes as described on the project's Master Site plan shall be completed before the first Certificate of Occupancy from either building is issued.

27. 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.

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

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

Signage

30. 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.

HOA Requirements & Future Amendments

31. Owner shall not subject the Property to any condominium conversion and neither shall any portion of the Property be converted to units for sale in connection with a condominium conversion nor shall the title to any such units be transferred to any party

other than being held as a single parcel for the purposes of apartment rental unless owner amends this restriction through a minor PUD amendment process.

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

33. 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.

34. Timetable for development shall be as follows:

Site and building permit application deemed sufficient for permit review under city codes and standards.	**September 1, 2019**
Final Certificate of Occupancy for all site and building improvements.	**January 1, 2023**

Allowable Uses

35. The following uses shall be permitted:
    a. Multi-Family Residential
    b. Home Occupations in accordance with the City's Land Development Code.
    d. This residential facility shall operate as an age restricted community in accordance with Florida Law.