Return to:

City Attorney's Office
City of Stuart
121 SW Flagler Street
Stuart, FL 34994

ORDINANCE No. 2400-2019

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, AMENDING THE BAKER ROAD COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) FOR A PARCEL OF LAND FRONTING N.W. FEDERAL HIGHWAY (U.S. HIGHWAY 1), CONSISTING OF 0.80 ACRES OWNED BY BAKER ROAD, LLC.; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; ADOPTING A REVISED FINAL SITE PLAN; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

******

WHEREAS, Petitioner, Baker Road, LLC., constituting the fee simple title holder to the land fronting N.W. Federal Highway (U.S. Highway-1), consisting of 0.80 acres, more particularly described in **Exhibit "A"**, attached hereto and made a part thereof, and

WHEREAS, on October 8, 2018, the City Commission considered and adopted Ordinance 2381-2018, the Petitioner's voluntary request for land use and zoning designation, and

WHEREAS, on October 8, 2018, the City Commission adopted Ordinance 2382-2018, designating the Future Land Use and Zoning District for said land to Commercial and CPUD, and adopting a site plan for the Baker Road CPUD.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF STUART:

SECTION 1. The foregoing recitals are true and adopted as findings of fact and conclusions of laws.

SECTION 2. The legal description of the property, reflecting the 0.80 acre parcel, is set forth in **Exhibit "A"** attached hereto and made a part hereof by reference. A boundary and topographical survey depicting the Property is attached hereto as **Exhibit "B"** and made a part hereof by reference. The conditions of development for the property are attached hereto as **Exhibit "C"** and made a part hereof by reference, and each shall constitute one of the development documents.

SECTION 3: The Owners' written acceptance of this Ordinance shall constitute an agreement with the City for the purposes expressed herein, but the same shall not be construed as a "Development Agreement," as provided in Section 163.3221, Florida Statutes.

SECTION 4. The following "Development Documents" on file as public records of the City at the office of the City Development Department and as attached hereto as **Exhibit "D"** shall be henceforth deemed as Approved, and shall become a part of the development conditions applicable to the Subject Property, and all construction shall be in accordance therewith:

1. **Site Plan, page 1 of 1, prepared by EDC, Dated 12.10.18.**
2. **Landscape Plan prepared William A Flint, III, Project No. 18-030, Dated 12.09.18**
3. **Architectural Concepts Plan and Color Chart prepared by Architectonic, Inc, entitled Independence Ear, Nose and Throat, Project # C18026.**

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. The failure of the owner to comply with the Development with any term or

condition of development set forth in this ordinance, shall be deemed a zoning violation and no further permits, or other development approvals or orders shall be issued by the City to the owner until the violation has been resolved, and the matter may become the subject of a code enforcement action brought by the City. This section shall not impair the due process or other legal rights of the Owner to seek administrative or judicial redress.

SECTION 6. Following the adoption and acceptance of this ordinance by the Owner, 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 CPUD property or any portion of the CPUD 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 CPUD 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. 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 8. 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 9. This ordinance shall be effective upon its adoption. However, the Future Land Use Designation granted herein shall not be effective until thirty-one (31) days after adoption, and as otherwise provided by law F.S. 163.3187.

SECTION 10. 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.

Passed on first reading the 28th day of January, 2019.

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
REBECCA S. BRUNER, MAYOR				

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

ADOPTED on second and final reading this 11th day of February, 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 THE FOREGOING ORDINANCE, AND 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 FOREGOING ORDINANCE. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO DEVELOP THIS COMMERCIAL PLANNED UNIT DEVELOPMENT ACCORDING TO THIS ORDINANCE, ITS CONDITIONS, AND THE DEVELOPMENT DOCUMENTS, THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THIS ORDINANCE MAY BE AMENDED OR REPEALED BY THE CITY COMMISSION, AND THAT OTHER ADMINISTRATIVE ACTIONS AND PENALTIES MAY BE TAKEN AGAINST THE UNDERSIGNED, ITS SUCCESSORS OR ASSIGNS, BY THE CITY, INCLUDING BUT NOT LIMITED TO SANCTIONS DESCRIBED IN THIS ORDINANCE, CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING SUSPENSIONS OR REVOCATIONS, AND ANY OR ALL OTHER APPLICABLE CIVIL AND CRIMINAL ACTIONS.

IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT:

WITNESSES:

Baker Road, LLC.

_____

Print Name:_____

By:_____

Daniel DelRowe, Owner

_____

Print Name:_____

OWNERS ACKNOWLEDGMENT

The above Acceptance and Agreement of Ordinance No. _____ was acknowledged before me this _____ day of _____, 2018, by Daniel DelRowe, owner of Baker Road, LLC.

_____

Notary Public, State of Florida
My Commission Expires:
Notary Seal

Personally Known _____ OR Produced Identification _____
Type of Identification Produced ____

Exhibit "A"
Legal Description

Parcel "A"

Known as all of Lot 1 and a portion of Lot 2, Block 1, "Palm Lake Park" S/D, as recorded in Plat Book 3, Page 41, Public Records of Martin County, Florida and being more particularly described as follows: Beginning at the intersection of the West right of way of the U.S. Highway No. 1, and the South line of said Lot 1, thence N88°47'07"W, along said South line a distance of 277.34 feet, thence N22°16'44"E, along a line parallel to and 100 feet East at right angles to the West line of Lot 2 a distance of 106.83 feet to a point of the North line of Lot 2, thence S88°47'07"E, along said North line a distance of 202.84 feet to the West line of U.S. Highway No. 1, thence S18°41'32"E, along said West line a distance of 106.03 feet to the Point and Place of Beginning.

Parcel "B"

Known as all of Lot 2 and a portion of Lot 2, Block 1, "Palm Lake Park" S/D, as recorded in Plat Book 3, Page 41, Public Records of Martin County, Florida and being more particularly described as follows: Commencing at the intersection of the West right of way line of U.S. Highway No. 1 and the South line of Lot 1, thence N88°47'07W, along said Lot 1 and the extension Lot 2 a distance of 277.34 feet to the Point and Place of Beginning. Thence N88°47'07"W, continuing along South line of said Lot 2, a distance of 107.16 feet to a point, thence N22°16'44"E, along the West line of said Lot 2 a distance of 106.83 feet to a point, thence S88°47'07"E, along the North line of said Lot 2 a distance of 107.16 feet to a point, thence S22°16'44"W, along a line parallel to and 100 feet East at right angles to the West line of said Lot 2 a distance of 106.83 feet to the Point and Place of Beginning.

Exhibit "B"
Boundary and Topographical Survey

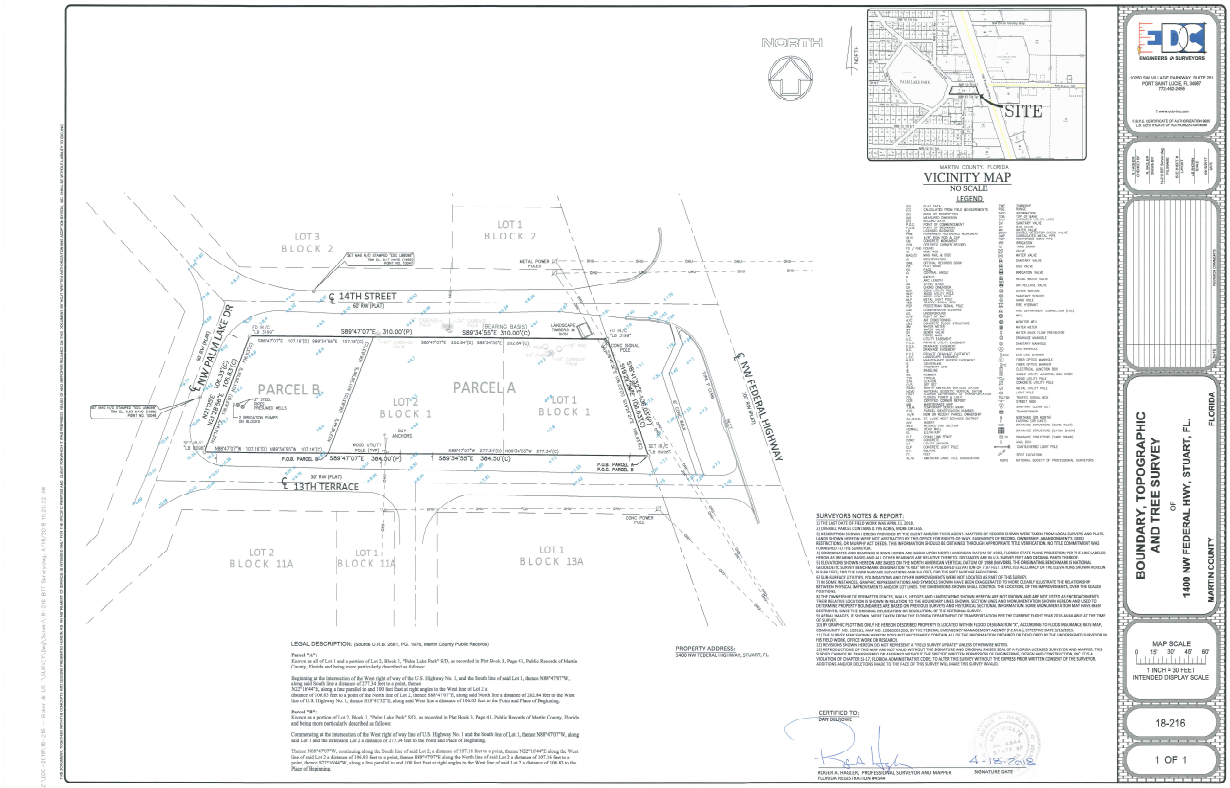


Exhibit "C"
Development Conditions

Approved Plans and Documents

1. The project shall comply with the Site Plan page 1 of 1, prepared by EDC, Last Revised 12/10/18.

2. The project shall comply with the Landscape Plan by William A. Flint, III, Project No. 18-030, Last Revised 12/9/2018.

3. The architectural elevations shall demonstrate compliance with all applicable commercial development standards in Section 6.05.00 of the Land Development Code. At the minimum, the project shall comply with the Architectural Concepts by Architectonic, Inc., Project #C18026.

4. Any modifications to the CPUD Site Plan, due to final engineering, that exceeds 10% of the approved building footprint, building setbacks; gross square footage; building location; parking size; location and number; drainage areas; and location of landscaping shall require further approval by the City Commission via a public hearing.

Permitted Uses

5. The project has been approved for a stand-alone 6,800 square foot low intensity medical office building, as defined by the City's Land Development Code. Uses within the proposed building are limited to low intensity medical office, and business and professional office. Approval of any other uses may be amended by a major amendment to this CPUD.

Prior to Issuance of Site Permits

6. Applicant shall provide a floor plan for the proposed medical office building.

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

8. The applicant is responsible for obtaining all state, federal and local permits.

9. Lighting shall comply with Section 6.07.00 of the Land Development Code and reviewed by Police for CPTED/Crime Prevention recommendations. Lighting shall include shields to direct the light away from the future residential/multi-family development to the west of the property. Lighting shall be installed with LED bulbs.

10. The tree mitigation requirements are set forth in the Landscape Plan by HJA Design Studio, item #2 above. The tree mitigation to be provided shall meet the standards sets

forth in Section 5.05.02 for tree replacement and/or mitigation through the City tree fund at the replacement ratios specified prior to the approval of a site permit.

Landscaping

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

12. 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.

13. A landscape maintenance plan, executed in accordance with the LDC, shall be submitted to the Development Department and approved prior to the issuance of a certificate of occupancy.

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

Development and Construction

15. Construction activity shall be limited from 7:00 am to 6:00 pm Monday - Saturday.

16. Building generators, if utilized, shall be located behind the building that they serve, and screened with decorative materials or landscaped with hedge material. Sound attenuation shall be provided to assure that noise levels do not exceed 65 db at the property line. Non-emergency testing of generators shall be limited to the hours of 12:00 p.m. to 3:00 p.m. on weekdays.

17. All mechanical equipment associated with the development shall be roof top or located along the side or rear of the building and decoratively screened or landscaped with hedge material.

18. To the extent possible, all on-site utilities must be buried except for any existing FPL transmission lines.

19. Backflow prevention devices and required above ground utilities shall be delineated on the landscape plans during final site plan review and shall be out of view or screened from the public right-of-way.

20. 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.

21. No temporary or modular buildings are permitted on the property except for permitted temporary construction trailers.

22. Any proposed signage shall comply with Section 6.11.00 of the Land Development Code. A separate permit(s) for all signs are required.

23. The building shall be fire sprinklered based on occupancy, unless subsequent plans submitted show conditions for which exceptions are allowed by the FFPC.

Development Timetable

24. Timetable for development shall be as follows:

- Site and Building Permit Submission – August 1, 2020
- Certificate of Occupancy – January 1, 2022

Prohibited Uses

25. The uses that are not allowed within the CPUD are night club, gas stations, arcade, pool hall, pharmacies, medical marijuana treatment center, outdoor entertainment and adult businesses and bars. (add gas stations)

Exhibit "D"
Development Documents

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