BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2398-2019

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 ASSIGNING A FUTURE LAND USE DESIGNATION OF "MULTI-FAMILY RESIDENTIAL" FOR A 15.4 ACRE PARCEL ANNEXED BY ORDINANCE NO. 2348-2017, OWNED BY WERNER BOLS, LOCATED ON THE NORTH SIDE OF THE INTERSECTION OF N.E. SAVANNAH ROAD AND N.E. BAKER ROAD., WEST OF THE HOPE CENTER FOR AUTISM AND SOUTH OF JENSEN PARK ESTATES BOTH IN UNINCORPORATED MARTIN COUNTY, SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; AND FURTHER PROVIDING THAT SAID LANDS SHALL CONCURRENTLY ESTABLISH THE SAVANNAH PLACE APARTMENTS RESIDENTIAL PLANNED UNIT DEVELOPMENT RPUD CONSISTING OF TWO HUNDRED EIGHTY (280) MULTI-FAMILY UNITS WITHIN SIX (6) INDIVIDUAL 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 Werner-Bols Revocable Trust, for a 15.14 acre parcel of land located on the north side of the intersection of N.E. Savannah Road and N.E. Baker Road, west of the Hope Center for Autism building, and south of Jensen Park Estates, both in unincorporated Martin County; and

WHEREAS, the City of Stuart has determined the need to assign the Future Land Use and a 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 development 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 and associates, dated 03.01.2019.**
b. **The Boundary Survey, Sheets 1 thru 7, by Betsy Lindsay, Inc., dated 02.20.2018.**
c. **The Landscape Plans, Cover Sheet & Sheets LA-1 thru LA-5, prepared by Lucido & Associates, dated 01.31.19.**
d. **Savannah Road Turn Lanes, Sheet 1 of 1, by Captec Engineering Inc., dated 03.08.18.**
e. **Architectural Floor Plans and Elevations, by Marc Wiener A.I.A., Sheets A1.04 Compactor, A2.01R Leasing Rec Center, A2.02R Roof Plan, AC3.02R Typical Garage Building, AC3.011 Typical Building Type 1, AC3.01 11 Typical Building Type 2, AC3.01 111 Typical Building Type 3, AC3.02 R Pool Pavilion, and AC3.01 R Leasing/Rec Center, all dated 18.03.29.**
f. **Lighting Plan, by _____, Sheet ____, dated _____.**
g. **Kennedy Homes-Savannah Place Apartments Natural System Restoration and Enhancement, by J.J. Goldasich and Associates, Inc. FLUUCS Map dated 12/29/2017, FLUUCS Map with floor plan dated 12/29/2017 Env 1, dated 12/29/2017, Env 2 dated 12/29/2017.**
h. **Ecological Assessment and Preserve Area Management Plan by Jim Goldasich, PWS, dated 2/11/19.**

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

ADOPTED on second and final reading this _____day of _____, 2019.

ATTEST:

_____
MARY R. KINDEL
CITY CLERK

_____
BECKY 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:

Werner-Bols Revocable Trust

Werner Bols owner

_____ By: _____

Print Name: _____

_____

Print Name: _____

OWNERS ACKNOWLEDGMENT

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

_____

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 Becky Bruner, 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

A PARCEL OF LAND LYING IN A PORTION OF SECTION 28, TOWNSHIP 37 SOUTH, RANGE 41 EAST, MARTIN COUNTY, FLORIDA, AND BEING FURTHER DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 LYING NORTHERLY OF THE NORTH RIGHT-OF-WAY OF NE SAVANNAH ROAD AND NORTHERLY OF THE RIGHT-OF-WAY EXTENSION OF BAKER ROAD.

AND

THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 37 SOUTH, RANGE 41 EAST, MARTIN COUNTY, FLORIDA.

EXHIBIT B – LOCATION MAP

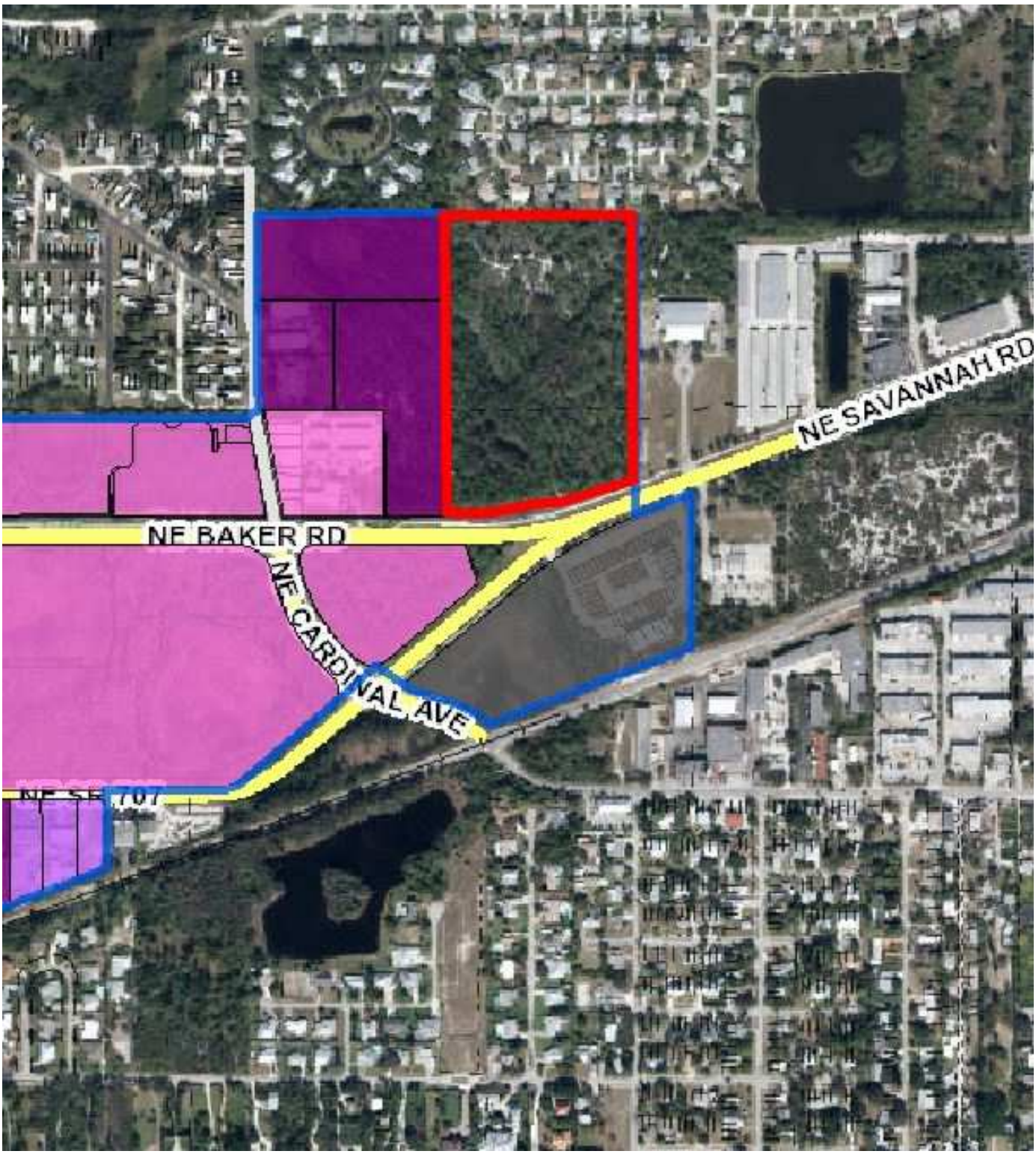


EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents

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

a. The Master Site Plan, Sheet 1 of 1, prepared by lucido and associates, dated 03.01.2019.

b. The Boundary Survey, Sheets 1 thru 7, by Betsy Lindsay, Inc., dated 02.20.2018.

c. The Landscape Plans, Cover Sheet & Sheets LA-1 thru LA-5, prepared by Lucido & Associates, dated 01.31.19.

d. Savannah Road Turn Lanes, Sheet 1 of 1, by Captec Engineering Inc., dated 03.08.18.

e. Architectural Floor Plans and Elevations, by Marc Wiener A.I.A., Sheets A1.04 Compactor, A2.01R Leasing Rec Center, A2.02R Roof Plan, AC3.02R Typical Garage Building, AC3.011 Typical Building Type 1, AC3.01 11 Typical Building Type 2, AC3.01 111 Typical Building Type 3, AC3.02 R Pool Pavilion, and AC3.01 R Leasing/Rec Center, all dated 18.03.29.

f. Lighting Plan, by _____, Sheet ____, dated _____.

g. Kennedy Homes-Savannah Place Apartments Natural System Restoration and Enhancement, by J.J. Goldasich and Associates, Inc. FLUUCS Map dated 12/29/2017, FLUUCS Map with floor plan dated 12/29/2017 Env 1, dated 12/29/2017, Env 2 dated 12/29/2017.

h. Ecological Assessment and Preserve Area Management Plan by Jim Goldasich, PWS, dated 2/11/19.

3. Any modifications to the Master RPUD Site Plan that is less than 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 (52%) impervious coverage for the RPUD. The maximum building height within the RPUD shall be 4 stories or 45'-0". 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 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 clubhouse 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. At the time of permitting, relocated landscaping to the public right-of-way shall be located clear of utility lines and approved by the City of Stuart.

11. 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.

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.

Required Open Space and Native Preserve Area

13. Open Space. Not less than 22.6% of the RPUD shall be open space as depicted on the Site Plan by Lucido and Associates as described in Exhibit C. Required open space may include native vegetation areas, however, other required landscaping shall not count towards the open space requirement.

14. Excluding wetlands defined by the South Florida Water Management District, not less than 28% of the total pre-development site shall remain as undeveloped and recreated native vegetation area. The required native vegetation area may include open space areas; 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 first reading). The owner and developer shall adhere to the provisions of the Wetland Maintenance and Monitoring Plan (included in PAMP) and permanent maintenance will be the responsibility of the owner.

Tree Mitigation

15. The project shall comply with Section 5.05.02 of the "Tree replacement and protection requirements" of the City's Land Development Code. All required tree mitigation will be met on site.

Prior to Issuance of Site Permits

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

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

18. 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.

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

Development and Construction

20. The Developer shall construct the project's infrastructure in one phase and complete all site and infrastructure prior to the first certificate of occupancy.

21. The Developer shall install landscaping and gate 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 shall be made operational prior to issuance of a certificate of occupancy.

22. The property owner shall provide easements for licensed television services. A Conservation easement shall be dedicated to state agencies with the City of Stuart having the option to have those same easements.

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

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 new intersection at N.E. Baker Road and N.E.Savannah Road as well as turning lanes into the project as described on the project's Master Site plan and Turning Lane Exhibit shall be completed before the first Certificate of Occupancy is issued for any building.

27. The project's storm water facilities, specifically the Native Planting schemes at the lake 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".

28. As part of the stormwater system, the owner shall install a floating mat littoral system. The size of the mat shall be 5% of the surface area of the lake, or approximately 1,437 sf. The littoral mat system shall be manufactured and installed by Beesmats or City of Stuart approved equal. The littoral mat system shall be "harvested" at least once per year and new planting installed for new nutrient uptake. The mat system shall be maintained in working order in perpetuity.

29. Littoral plantings and upland planting shall be provided per Landscape plan by Lucido and Associates at the lakes bank and entire perimeter.

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

31. Owner shall restore 4.3 acres within the heart of the Haney Creek watershed as per Exhibit C letter f. Kennedy Homes-Savannah Place Apartments Natural System Restoration and Enhancement, by J.J. Goldasich and Associates, Inc. Env 1 & 2 and shall be maintained and monitored as specified in the PAMP attached as Exhibit C letter g.

32. Site work including but not limited to land preparation, lake excavation, clearing and grading, drainage and water, sewer and irrigation lines shall be reviewed and approved by the city's public works department and the city's engineering consultant prior to permitting.

33. Savannah Place Apartments will provide two on-site trash compactors. The trash compactor dedicated to trash collection will have an associated 30-yard rollout dumpster and shall be a Marathon RJ-275 or equal. The trash compactor dedicated to recycling collection shall have an associated 10-yard dumpster and shall be a Marathon RJ-225 or equal. The resident shall separate their refuse into general trash and recycling and place the trash into a general trash receptacle and a recyclable trash receptacle located on their floor. The apartment management is responsible for transferring the trash from the on-floor receptacle to the compactor by way of a rolling cart. The resident will not be responsible for transferring the trash to the compactor, or be responsible for operation of the compactor. The trash within the compactor shall be picked up by the City of Stuart Sanitation Department.

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 Mark Wiener A.I.A. Architecture and Planning.

Work Force Housing

35. The Owner shall set aside ten (10) units in the Development, five (5) two-bedroom units and five (5) one-bedroom units, as Work Force Housing ("WFH"). No more than three (3) units shall be allocated to any one building in the Development.

36. Prospective tenants for WFH shall be required to demonstrate to the Owner that all those parties who will occupy the WFH unit will, collectively, (a) make no more than the 80% category of income limits defined in the State Housing Initiatives Partnership Program (SHIP) for Martin County, (b) have a credit score of no less than 650, and (c) have the ability to pay the rent for the WFH unit.

37. The rent for a WFH unit shall be no greater than the 80% category of rental limits per bedroom as defined in the State Housing Initiatives Partnership Program (SHIP) for Martin County.

38. In the event the number of units occupied as WFH Units falls below ten (10), and in the event the Owner, after using reasonable efforts is unable to find a prospective tenant for WFH for a period of two (2) months after the number of WFG tenants has fallen below ten (1), may lease out vacant units to other than WFH tenants. Provided, however, the Owner shall not allow the number of WFH units to stay below ten (1) for longer than two (2) months.

39. On an annual basis starting one (1) year after all certificates of occupancy are obtained, the Owner shall provide to the Development Department of the City, a report setting forth the following: (a) the number of units in the Development actually occupied as WFH during the preceding year, (b) the length of stay in each WFH unit, (c) the rent actually paid for each WFH unit for the preceding year, and (d) the efforts of the Developer to find prospective tenants eligible for WFH.

Future Amendments

40. 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.

41. 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 owner. Further, the City may at its discretion, take over maintenance of the preserve area(s) without objection by the owner.

Timetable for Development

42. Timetable for development shall be as follows:

Site and building permit application deemed sufficient for permit review under city codes and standards.	**March 1, 2020**
Final Certificate of Occupancy for all site and building improvements.	**March 1, 2023**

Allowable Uses

43. 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 not operate as an age restricted community in accordance with Florida Law.