BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2410-2019

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE KINGSPORT ESTATES RESIDENTIAL PLANNED UNIT DEVELOPMENT FOR A 7.46 ACRE PROPERTY OWNED BY STUART DEVELOPMENT LLC, LOCATED ON THE SOUTH SIDE OF CENTRAL PARKWAY APPROXIMATELY MIDWAY BETWEEN ITS INTERSECTIONS WITH S. KANNER HIGHWAY TO THE WEST AND U.S. HIGHWAY ONE TO THE EAST, SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; ESTABLISHING THE SEASIDE RPUD CONSISTING OF SEVENTY-FIVE (75) ATTACHED HOMES; APPROVING A MASTER 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 Lucido and Associates and Meritage Homes representing Stuart Development, LLC (owner), for a 7.46 acre parcel of land located on

the south side of Central Parkway approximately midway between its intersections with S. Kanner Highway to the west and U.S. 1 to the east; and

WHEREAS, the City of Stuart has determined the need to amend the existing RPUD; and

WHEREAS, the City Commission, has considered the Petitioner's voluntary request for a Major Amendment to the 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 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 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 SP-1, prepared by Lucido & Associates, dated 02.13.19, last revised on 07.01.19 (Response to LPA comments).**
b. **The Stuart Central ALTA/NSPS Land Title & Topographic Survey, Sheets 1 & 2 of 3, by Caulfield and Wheeler, Inc, dated 11.28.18.**
c. **The Stuart Central ALTA/NSPS Land Title Tree Survey, Sheet 3 of 3, by Caulfield and Wheeler, Inc, dated 11.28.18.**
d. **The Landscape Plan & Plant Schedule, Sheets LA1, LA2, LA3, & LA4 of 4, prepared by Lucido & Associates, dated 02.13.19, and response to comments dated 05.30.28.19, last revised on 07.01.19 (Response to LPA comments).**
e. **Architectural Floor Plans, Roof Plan and Elevations for Front Load Townhomes, Sht. A2.2 Sheet A2.3, Sheet A2.4, and 3.1, by Meritage Homes, dated December 14, 2018.**

SECTION 2: The Future Land Use designation in the City's Comprehensive Land Use Plan shall remain "Multi-Family Residential". The Land Development (Zoning) District designation on the City of Stuart Official Zoning Map shall remain "RPUD" Residential Planned Unit Development amended by this ordinance to allow for 75 attached townhome units.

SECTION 4: This ordinance becomes effective upon adoption.

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 following to occur: adoption by the City Commission, and proper execution and acceptance by the Owner.

SECTION 9: The complete execution and recording of this Ordinance by the City Clerk shall occur no later than 60 days from the date of this approval, failing which this ordinance shall be void.

SECTION 10: 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 8 day of July, 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 _____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:

Mark Spirtis, Managing member
Stuart Development LLC,

_____ By: _____

Print Name: _____

_____

Print Name: _____

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____ day of _____, 2019, by Mark Spirtis, Stuart Development LLC managing member.

_____

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

Seaside RPUD

A parcel of land lying in Section 9, Township 38 South, Range 41 East, Martin County, Florida, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of the Northeast Quarter of the Southwest Quarter of said Section 9; thence South 00°22'03" West along the East line of said Southwest Quarter a distance of 746.37 feet to a point on the South Right-of-Way of Central Parkway and the Point and Place of Beginning. Thence continuing South 00°22'03" West a distance of 580.16 feet to a point on the North Right-of-Way of San Jose Street; thence North 89°16'18" West a distance of 660.71 feet to a point; thence North 00°21'26" East a distance of 414.03 feet to a point of curve and the South Right-of-Way of Central Parkway, said curve being concave to the South having a radius of 445.00 feet, a central angle of 10°59'51"; thence in a clockwise direction along the arc of said curve and Right-of-Way a distance of 85.41 feet to a point; thence North 66°34'15" East a distance of 204.53 feet to a point of curve, said curve being concave to the South, having a radius of 445.00 feet, a central angle of 23°49'37"; thence in a clockwise direction along the arc of said curve a distance of 185.06 feet to a point; thence South 89°36'08" East continuing along said South Right-of-Way a distance of 219.46 feet to the Point and Place of Beginning.

LESS AND EXCEPT the lands conveyed to the City of Stuart in Special Warranty Deed recorded in Official Records Book 2363, Page 1504.

EXHIBIT B – LOCATION MAP



EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents

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

a. The Master Site Plan, Sheet SP-1, prepared by Lucido & Associates, dated 02.13.19, last revised on 07.01.19 (Response to LPA comments).

b. The Stuart Central ALTA/NSPS Land Title & Topographic Survey, Sheets 1 & 2 of 3, by Caulfield and Wheeler, Inc, dated 11.28.18.

c. The Stuart Central ALTA/NSPS Land Title Tree Survey, Sheet 3 of 3, by Caulfield and Wheeler, Inc, dated 11.28.18.

d. The Landscape Plan & Plant Schedule, Sheets LA1, LA2, LA3, & LA4 of 4, prepared by Lucido & Associates, dated 02.13.19, and response to comments dated 05.30.28.19, last revised on 07.01.19 (Response to LPA comments).

e. Architectural Floor Plans, Roof Plan and Elevations for Front Load Townhomes, Sht. A2.2 Sheet A2.3, Sheet A2.4, and 3.1, by Meritage Homes, dated December 14, 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 187,514 sf or 4.31 acres 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 or to the eave of a

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

5. If all the mailboxes are in the pool clubhouse amenity area then additional parking needs to be added or redistributed to take care of off street parking that would occur.

Landscaping

6. 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.

7. 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.

8. 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 Pervious and Native Preserve Area

9. Not less than 42.3% of the RPUD shall be pervious area (Landscape area and Native Landscape area) as depicted on the Master Site Plan by Lucido and Associates as described in Exhibit C. Required Pervious Area may include native vegetation areas and landscape buffers between the CPUD and adjacent property.

10. Excluding wetlands defined by the South Florida Water Management District, not less than 21% of the total development site shall be native vegetation area. The required native vegetation area may include open space areas and the landscape buffer between the site and adjacent property. The location of the native vegetation shall comply with the project's landscape plan, Shts. LA-1 of 4 & 2 of 4 by Lucido and Associates.

Tree Mitigation

11. The project shall comply with project's tree mitigation plan, Sht. LA-2 of 4 by Lucido and Associates.

Prior to Issuance of Site Permits

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

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

14. 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.

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

Development and Construction

16. 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. The last building's townhouse unit shall obtain a certificate of occupancy by June 30 of 2023.

17. The Developer shall install landscaping and gates at the development's entry as shown on the landscaping plan prior to the first certificate of occupancy for a residential unit. The entry gates shall be made operational with gate code coordination for accessibility by the City's Public Works Department for trash pickup and meter reading prior to issuance of the third certificate of occupancy.

18. 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.

19. The developer shall eradicate all invasive vegetation for the entire site to be completed and inspected prior the first building permit being issued.

20. 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.

21. Water and Sewer Services shall be provided by City of Stuart 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 6 foot tall decorative aluminum fence acceptable to the Development Department at the projects entry connecting both to the proposed 6' high precast wall to the east and the existing west wall at the Villa Bella development. The community's Home Owners Association shall maintain all the new walls and give easement to Villa Bella Condominium to maintain the existing wall at the project's west property line.

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 City's right-of-way, shall be constructed in a manner and form acceptable to the City Public Works department.

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

28. The developer shall provide both a transponder and individual gate access codes for Public Works sanitation pickup and water meter reading and maintenance before the first certificate of occupancy is issued.

29. An 8 foot wide sidewalk shall be constructed along the entire front of the project shall be completed before the last certificate of occupancy is issued.

30. The project's 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".

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

32. 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.

33. A lighting plan shall be included on the Landscape plan for the community's common areas including any street lighting. All lights at the common areas shall be limited to 15 feet in height and shielded from neighboring property.

34. 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. Cabana and Pool

    d. Upland Preserve

35. The developer shall make provision for a future pedestrian gate from the development to the future Willoughby Blvd. extension before the final Certificate of occupancy is issued.

Signage

36. 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 City of Stuart Land Development Code.

Platting- HOA Requirements & Future Amendments

37. 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.

38. The PUD may be conveyed to 75 separate home owners 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 and include restrictions regarding boats, boat trailers, sheds, etc.

39. If there are any encroachments into the preserve area, at common areas a notice of violation shall be issued to the developer or Home Owners Association which will be responsible for remedying the violation.

40. City of Stuart waste receptacles, including recycle shall be stored in garages only. The developer shall pay for initial bins (one trash bin and one recycle bin) for each unit including the clubhouse for a total of 76 trash bins and 76 recycle bins at the time of permitting. The receptacles at the amenity areas shall be stored inside the clubhouse or outside in an approved enclosure.

41. The developer shall pay for individual water meters for each unit including clubhouse at the time of permitting.

42. There shall be no on street parking on trash/recycle collection days. The developer and home owners association shall request and consent to law enforcement entry to property and enforcement of state and city laws to include traffic enforcement. Additionally, the City of Stuart Police Department shall have authority to enforce city laws and all conditions of development of Ordinance 2410-2019.

43. No yard waste shall be placed in the street.

44. All new fences and walls shall be maintained by the Seaside Home Owners Association. Both sides of the existing wall at the Villa Bella separating the two communities shall be maintained by the Villa Bella Home Owners Association. Seaside shall grant easement to Villa Bella for maintenance of the existing wall separating the two communities.

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

46. The Home Owner's Association shall regulate any permits for guest parking.

47. The Home Owners Association shall maintain the eco-mat at the lake per the manufactures specifications.