



A G E N D A

**REGULAR MEETING OF THE STUART CITY COMMISSION
TO BE HELD October 14, 2019
AT 5:30 PM Commission Chambers
121 SW FLAGLER AVE.
STUART, FLORIDA 34994**

CITY COMMISSION

**Mayor Rebecca S. Bruner
Vice Mayor Eula R. Clarke
Commissioner Kelli Glass Leighton
Commissioner Merritt Matheson
Commissioner Mike Meier**

ADMINISTRATIVE

**City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel**

Agenda items are available on our website at <http://www.cityofstuart.us>
Phone: (772) 288-5306 . Fax: (772) 288-5305 . E-mail: mkindel@ci.stuart.fl.us

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 772-288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

(RC) next to an item denotes there is a City Code requirement for a Roll Call vote.
(QJ) next to an item denotes that it is a quasi-judicial matter or public hearing.

WHAT IS CIVILITY? *Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.*

ROLL CALL

PLEDGE OF ALLEGIANCE

1. ARTS MOMENT - SONG BY SAMARA LEWIS

PROCLAMATIONS

2. FLORIDA CITY GOVERNMENT WEEK - OCTOBER 21-27, 2019
3. DOMESTIC VIOLENCE AWARENESS MONTH - OCTOBER 2019

PRESENTATIONS

4. 'REACH UP' EAST STUART YOUTH INITIATIVE ANTI-GANG/BULLYING CAMPAIGN, BY COMMUNITY SERVICES STAFF.

COMMENTS BY CITY COMMISSIONERS

COMMENTS BY CITY MANAGER

APPROVAL OF AGENDA

COMMENTS FROM THE PUBLIC (5 min. max)

PUBLIC COMMENT: *If a member of the public wishes to comment upon ANY subject matter, including quasi-judicial matters, please submit a Request to Speak form. These forms are available in the back of the Commission Chambers, and should be given to the City Clerk prior to introduction of the item number you would like to address.*

CONSENT CALENDAR

CONSENT CALENDAR: *Those matters included under the Consent Calendar are self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by one motion. If discussion on an item is desired by any City Commissioner that item may be removed by a City Commissioner from the Consent Calendar and considered separately. If an item is quasi-judicial it may be removed by a Commissioner or any member of the public from the Consent Calendar and considered separately.*

5. APPROVAL OF 09/23/2019 SCM PLASTICS WORKSHOP #3, 09/23/2019 SCM FINAL BUDGET, AND 09/23/2019 CCM MINUTES. (RC)
6. ABANDONMENT OF TEMPORARY EASEMENT AT MARTIN LUTHER KING BLVD AND PALM BEACH RD. (RC):

RESOLUTION No. 93-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF

STUART, FLORIDA AUTHORIZING THE CITY MANAGER AND CITY CLERK TO TERMINATE AND ABANDON AN EXISTING TEMPORARY LANDSCAPE EASEMENT DEED ENTERED INTO WITH CLYDE COUTANT, TRUSTEE ON OR ABOUT APRIL 23, 2008; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

7. AUTHORIZATION FOR SALE OF 2375 S. KANNER HIGHWAY (RC):

RESOLUTION No. 97-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE A REAL ESTATE SALES AGREEMENT WITH 16 KANNER, LLC FOR THE SALE OF REAL PROPERTY OWNED BY THE CITY OF STUART LOCATED AT 2375 S. KANNER HIGHWAY, STUART, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

8. AWARD BID FOR AQUIFER TEST WELL (RC):

RESOLUTION No. 95-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO APPROVE THE AWARD OF ITB #2019-108, FLORIDAN AQUIFER TEST PRODUCTION WELL FA-1 TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER TOTAL UNIT PRICE OF \$1,082,000.00 TO ALL WEBBS ENTERPRISES, INC OF JUPITER, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

9. AWARD BID TO PAVE ALLEYWAY (RC):

RESOLUTION No. 96-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVES THE AWARD OF ITB #2019-106, FRAZIER ADDITION ALLEYWAY IMPROVEMENTS TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER TOTAL UNIT PRICE OF \$387,961.60 TO SUNSHINE LAND DESIGN OF STUART, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

10. AMENDING LEASE WITH DUFFIELD MARINE (RC):

RESOLUTION No. 98-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF STUART AND DUFFIELD MARINE, INC. FOR THAT CERTAIN PROPERTY KNOWN AS THE SHEPARD PARK BUILDING (FORMER CHAMBER OF COMMERCE BUILDING); PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

11. SRF LOAN ADJUSTMENT (RC):

RESOLUTION No. 99-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA ADOPTING AMENDMENT 1 TO THE STATE OF FLORIDA DRINKING WATER STATE REVOLVING FUND LOAN AGREEMENT DW430420. PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

END OF CONSENT CALENDAR

COMMISSION ACTION

12. THE PELICAN CAFE LEASE, 351 SW FLAGLER AVENUE (RC):

RESOLUTION No. 71-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO AUTHORIZE THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF STUART AND THE PELICAN CAFÉ, LLC FOR THE PROPERTY LOCATED AT 351 SW FLAGLER AVENUE, STUART; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER

PURPOSES.

ORDINANCE FIRST READING

13. ANNEXATION OF PROPERTY NORTH-WEST KANNER HIGHWAY AND INDIAN STREET (QUASI-JUDICIAL)(RC):

ORDINANCE No. 2415-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND ON THE NORTHWEST CORNER OF STATE ROAD 76 (AKA KANNER HIGHWAY) AND SW MARTIN HIGHWAY, CONSISTING OF 15.88 ACRES, SAID PARCELS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

14. SINGLE-USE PLASTICS AND POLYSTYRENE PRODUCTS (RC):

ORDINANCE No. 2413-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, CREATING A NEW ARTICLE IX IN CHAPTER 20 OF THE CITY CODE ENTITLED "EXPANDED POLYSTYRENE AND PLASTICS REGULATION"; PROVIDING FINDINGS, INTENT AND DEFINITIONS; CREATING DIVISION (A) RELATED TO REGULATIONS FOR THE DISTRIBUTION OF EXPANDED POLYSTYRENE AND SINGLE-USE PLASTICS ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY; PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

15. PROHIBITION OF PLASTIC STRAWS WITHIN CITY LIMITS (RC):

ORDINANCE No. 2416-2019; AN ORDINANCE OF THE CITY OF STUART, CREATING DIVISION B IN ARTICLE IX, CHAPTER 20 OF THE CITY CODE RELATED TO REGULATIONS FOR THE DISTRIBUTION OF SINGLE-USE PLASTIC STRAWS BY FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

16. ZONING TEXT CHANGE TO ESTABLISH REGULATIONS ON FRONT YARD FENCES IN THE R-2 ZONING DISTRICT (RC):

ORDINANCE No. 2406-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 6, SECTION 6.09.05, "FENCES, WALLS, HEDGES AND ENCLOSURES" OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS THAT SHALL LIMIT THE HEIGHT, TYPE AND LOCATION OF FENCES IN THE FRONT YARD OF RESIDENTIAL SINGLE FAMILY/DUPLEX (R-2) DISTRICT PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

ORDINANCE SECOND READING

QUASI-JUDICIAL HEARINGS: *Some of the matters on the Agenda may be "quasi-judicial" in nature. City Commissioners will disclose all ex-parte communications, and may be subject to voir dire by any interested party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment without being sworn. Unsworn testimony will be given appropriate weight and credibility by the City Commission.*

DISCUSSION AND DELIBERATION

ADJOURNMENT

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION**

Meeting Date: 10/14/2019

Prepared by: Melissa Warren

Title of Item:

ARTS MOMENT - SONG BY SAMARA LEWIS

Summary Explanation/Background Information on Agenda Request:

N/A

Funding Source:

N/A

Recommended Action:

Enjoy!

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Ryanne Cavo

Title of Item:

FLORIDA CITY GOVERNMENT WEEK - OCTOBER 21-27, 2019

Summary Explanation/Background Information on Agenda Request:

Florida City Government Week offers an important opportunity to convey to all citizens of Stuart that they can shape and influence government through their civic involvement and positively impact lives by civic engagement.

Funding Source:

N/A

Recommended Action:

Issue the Proclamation.

ATTACHMENTS:

	Description	Upload Date	Type
□	Proclamation - Florida City Govt Week	9/19/2019	Proclamation

**PROCLAMATION
FLORIDA CITY GOVERNMENT WEEK
OCTOBER 21-27, 2019**

- WHEREAS,** city government is the government closest to most citizens, and often has direct daily impact upon its residents; and
- WHEREAS,** city government is administered for and by its citizens, and is dependent upon public commitment to and understanding of its many responsibilities; and
- WHEREAS,** city government officials and employees share the responsibility to pass along their understanding of this level of government and the importance of volunteering in their community; and
- WHEREAS,** the Florida League of Cities and its member cities, of which Stuart is a member, have joined together to teach students and other citizens about municipal government through a variety of different projects, volunteer opportunities and information; and
- WHEREAS,** Florida City Government Week offers an important opportunity to convey to all citizens of Stuart that they can shape and influence government through their civic involvement and positively impact lives by civic engagement.

NOW THEREFORE, I, REBECCA S. BRUNER, Mayor of the City of Stuart, Florida, do hereby proclaim October 21st through October 27th, 2019 as

FLORIDA CITY GOVERNMENT WEEK

in the City of Stuart, Florida and encourages its citizens to get involved and make a difference in their community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Stuart to be affixed this 14th day of October, 2019.

ATTEST:

REBECCA S. BRUNER
MAYOR

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Ryanne Cavo

Title of Item:

DOMESTIC VIOLENCE AWARENESS MONTH - OCTOBER 2019

Summary Explanation/Background Information on Agenda Request:

Domestic violence, also known as intimate partner violence, is a public health issue that impacts individuals, family members, friends, coworkers, schools, and communities; as described by the Centers for Disease Control and Prevention, domestic violence occurs when an individual is harmed physically, sexually, or psychologically by a current or former partner or spouse.

Funding Source:

N/A

Recommended Action:

Issue the Proclamation

ATTACHMENTS:

Description	Upload Date	Type
 Proclamation - Domestic Violence Awareness Month - October 2019	10/4/2019	Proclamation

**PROCLAMATION
DOMESTIC VIOLENCE AWARENESS MONTH
OCTOBER 2019**

- WHEREAS,** domestic violence, also known as intimate partner violence, is a public health issue that impacts individuals, family members, friends, coworkers, schools, and communities; as described by the Centers for Disease Control and Prevention, domestic violence occurs when an individual is harmed physically, sexually, or psychologically by a current or former partner or spouse; and
- WHEREAS,** the 2018 Uniform Crime Report from the Florida Department of Law Enforcement documents 104,914 reported domestic violence incidences and 64,573 arrests for domestic violence; and
- WHEREAS,** SafeSpace offers victims of domestic violence safety, support and education, empowering them to create an independent life, free from violence; SafeSpace provides a 60-bed emergency shelter, a supportive living program for individuals in need of longer-term housing, as well as outreach services for those who choose not to enter a shelter but are affected by domestic violence; and
- WHEREAS,** the City of Stuart stands with SafeSpace, our law enforcement officers, victims and other brave individuals who are focused on protecting families and communities from domestic violence; and
- WHEREAS,** Domestic Violence Awareness Month is an opportunity to remember the victims of domestic violence, support efforts to ensure their safety and well-being, and increase awareness to reduce future incidences.

NOW THEREFORE, I, REBECCA S. BRUNER, Mayor of the City of Stuart, Florida, do hereby proclaim October 2019 as:

DOMESTIC VIOLENCE AWARENESS MONTH

in the City of Stuart, Florida and encourage all citizens to work collectively to prevent domestic violence.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Stuart to be affixed this 14th day of October, 2019.

ATTEST:

REBECCA S. BRUNER
MAYOR

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION**

Meeting Date: 10/14/2019

Prepared by: bhogarth

Title of Item:

'REACH UP' EAST STUART YOUTH INITIATIVE ANTI-GANG/BULLYING CAMPAIGN, BY
COMMUNITY SERVICES STAFF.

Summary Explanation/Background Information on Agenda Request:

The ESYI staff will present the poster contest for the anti-gang/bullying campaign that was held in September 2019.

Funding Source:

N/A

Recommended Action:

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Mary Kindel, City Clerk

Title of Item:

APPROVAL OF 09/23/2019 SCM PLASTICS WORKSHOP #3, 09/23/2019 SCM FINAL BUDGET, AND 09/23/2019 CCM MINUTES. (RC)

Summary Explanation/Background Information on Agenda Request:

N/A

Funding Source:

N/A

Recommended Action:

Motion to approve Minutes.

ATTACHMENTS:

	Description	Upload Date	Type
▢	09/23/2019 SCM Plastics Workshop #3 Minutes	10/1/2019	Attachment
▢	09/23/2019 SCM Final Budget Minutes	10/1/2019	Attachment
▢	09/23/2019 CCM Minutes	10/1/2019	Attachment

MINUTES
SPECIAL MEETING OF THE STUART CITY COMMISSION
HELD September 23, 2019
AT 2:30 PM Commission Chambers - PLASTICS WORKSHOP #3
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Rebecca S. Bruner
Vice Mayor Eula R. Clarke
Commissioner Kelli Glass Leighton
Commissioner Merritt Matheson
Commissioner Mike Meier

ADMINISTRATIVE

City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel



2:30 PM ROLL CALL

Present: Mayor Bruner, Vice Mayor Clarke, Commissioner Glass Leighton, Commissioner Matheson, Commissioner Meier.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA



2:32 PM Motion: Move approval of the Agenda.

Moved by: Vice Mayor Clarke

Seconded by: Commissioner Meier

Motion passed unanimously.

COMMENTS FROM THE PUBLIC (5 min. max)

- 1) Pete Walson – Overlook Drive; Commented that while recently participating in a cleanup, dealt with more plastic bags than straws. Would like the outcome of this meeting to know that our materials are truly recycled.**

City Attorney Mortell read Florida Statute 403.7033 which states information on local government agency regulations concerning containers, wrappings, or disposable plastic bags. He commented that it is a dead-end street for the commission to pursue the bag issue at this time.

- 2) **MiMi Wild – Osceola Street; Commented that she attended the Stuart fireworks show and liked the event recycling.**
- 3) **Bill West – Osceola Street – Commented that his family was in the fuel industry and stated that 1 gallon of gasoline creates 4 lbs. of plastics, encourages gasoline consumption reduction.**
- 4) **Gayle Ryan – 21st Street; Commented on the items that cannot go into the local recycling program. Encourages citizens to get involved with the Surfrider Foundation.**
- 5) **Jacqui Thurlow-Lippisch – Riverview Drive; Commended that she is proud of the City and like the fertilizer ordinance, Stuart is taking the lead and sometimes you have to create inconveniences in order to create change and help the environment.**

 **2:47 PM City Manager David Dyess briefly commented that this is the third Plastics Workshop and explained the upcoming presentation and review of the two Ordinances.**

DISCUSSION AND DELIBERATION

1. SINGLE-USE PLASTICS AND POLYSTYRENE PRODUCTS.

ORDINANCE No. 2413-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, CREATING A NEW ARTICLE IX IN CHAPTER 20 OF THE CITY CODE ENTITLED “EXPANDED POLYSTYRENE AND PLASTICS REGULATION”; PROVIDING FINDINGS, INTENT AND DEFINITIONS; CREATING DIVISION (A) RELATED TO REGULATIONS FOR THE DISTRIBUTION OF EXPANDED POLYSTYRENE AND SINGLE-USE PLASTICS ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY; PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Anne Ellig, Public Works Program Manager, presented on biodegradable products, renewable resources, composting or traditional plastics. Affordable compostable materials.

Commissioners and staff discussed the various details concerning exemptions.

Public Comment:

- 1) **Tom Campenni – St. Lucie Crescent; Commented on event products for alcohol, paper products will not work.**

 **3:24 PM City Manager Dyess requested clarification on the following:**

Exemptions apply to all School District supplied products.

January 1, 2020 begins the education outreach period with warnings with opportunity to hold another event in Stuart could be revoked.

January 1, 2021 begins the penalty period with fines enforced.

Dyess reviewed that beverages such as cans, cups, and bottles stay recyclable, composting language stays as is with compostable products replaces bowls, cups, and silverware, and as the events are published, and better products are available, we can publish that information to the event holder.

Commission agreed.



Public Comment:

- 1) Terry Hartman – Lighthouse Drive; on behalf of the Barn Theatre, brought recycling to the theatre and would like to see more education in the community.**
- 2) Carol Ann Leonard – Jackson Street; Commented on alternatives to plastic straws and utensils.**
- 3) April Price – Port St. Lucie; on behalf of Marine Industries and commented on the relation to public safety, water bottles and individual services are important at events.**
- 4) Helen McBride – Flamingo Avenue; Commented on the straws being exempt for children at schools about the seniors should be considered as well. No recycle bins are located in the 10th Street Community Center, they are all outside but should be inside for everyone to recycle.**
- 5) Lisa Beagle – Ridge Avenue; Complimented the City on this effort and Commissioner Meier for his comments on the industrial composting as it is an educational component of the Surfrider Foundation. Additional options are available for schools to recycle materials that are not accepted in the City's programs such as chip bags.**
- 6) Clayton Therrine – NW Dixie Hwy.; Operations Manager of All Sports Production, producers of the Stuart Boat Show. Commented on the permit notification process and asked who is responsible for compliance and enforcement as well as the timing to get all on board with the changes.**
- 7) Jackie Pakonis – Ranch Trail; Commented that she has been attending the meeting to change her behavior and feels that this action is critical.**



4:15 PM 2. PROHIBITION OF PLASTIC STRAWS WITHIN CITY LIMITS.

ORDINANCE No. 2416-2019; AN ORDINANCE OF THE CITY OF STUART, CREATING DIVISION B IN ARTICLE IX, CHAPTER 20 OF THE CITY CODE RELATED TO REGULATIONS FOR THE DISTRIBUTION OF SINGLE-USE PLASTIC STRAWS BY FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

City Attorney Mortell reported on various Ordinances of other Florida Cities and their exemptions.

Sec. 20-209 Distribution of Single-Use Plastic Straws; a. and b.

Drive-Thru can automatically provide paper/plastics straws up to January 1, 2021. As of January 2021, paper straws must be distributed.

Sec. 20-211 Exemptions; Commission consensus for automatic exception for a. b. and c.

Medical and Dental Facilities

Schools/Childcare Facilities

These facilities do not have to come before the commission with exemption requests.



4:24 PM ADJOURNMENT

Mary R. Kindel, City Clerk

Rebecca S. Bruner, Mayor

Minutes to be approved at the Regular Commission Meeting this 14th day of October, 2019.

MINUTES
SPECIAL MEETING OF THE STUART CITY COMMISSION
HELD September 23, 2019
AT 5:15 PM Commission Chambers - FINAL BUDGET
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Rebecca S. Bruner
Vice Mayor Eula R. Clarke
Commissioner Kelli Glass Leighton
Commissioner Merritt Matheson
Commissioner Mike Meier

ADMINISTRATIVE

City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel



5:18 PM ROLL CALL

Present: Mayor Bruner, Vice Mayor Clarke, Commissioner Glass Leighton, Commissioner Matheson, Commissioner Meier.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA



5:19 Motion: Move approval of the Agenda.

Moved by: Commissioner Glass Leighton

Seconded by: Vice Mayor Clarke

Motion passed unanimously.

COMMENTS FROM THE PUBLIC (5 min. max)



5:19 PM COMMISSION ACTION

1. ADOPT FINAL MILLAGE RATE FOR FISCAL YEAR 2020:

RESOLUTION No. 91-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, OF MARTIN COUNTY, FLORIDA, ADOPTING THE FINAL

LEVYING OF AD VALOREM TAXES FOR MARTIN COUNTY FOR FISCAL YEAR 2020;
PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

 **5:21 PM Motion: Move approval of Resolution 91-2019.**
Moved by: Commissioner Glass Leighton
Seconded by: Vice Mayor Clarke
Motion passed unanimously.

2. ADOPTING FINAL BUDGET FOR FISCAL YEAR 2020:

RESOLUTION No. 92-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, OF MARTIN COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2020, BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

5:21 PM Motion: Move approval of Resolution 92-2019.
Moved by: Commissioner Glass Leighton
Seconded by: Commissioner Meier
Motion passed unanimously.

ADJOURNMENT

Mary R. Kindel, City Clerk

Rebecca S. Bruner, Mayor

**Minutes to be approved at the Regular Commission
Meeting this 14th day of October, 2019.**

MINUTES
REGULAR MEETING OF THE STUART CITY COMMISSION
HELD September 23, 2019
AT 5:30 PM Commission Chambers
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Rebecca S. Bruner
Vice Mayor Eula R. Clarke
Commissioner Kelli Glass Leighton
Commissioner Merritt Matheson
Commissioner Mike Meier

ADMINISTRATIVE

City Manager, David Dyess
City Attorney, Michael J. Mortell
City Clerk, Mary R. Kindel



5:30 PM ROLL CALL

Present: Mayor Bruner, Vice Mayor Clarke, Commissioner Glass Leighton, Commissioner Matheson, Commissioner Meier.

PLEDGE OF ALLEGIANCE

Mayor Bruner acknowledged Representative Toby Overdorf in the audience.

PROCLAMATIONS

1. DITCH THE DEVICE DAY - SEPTEMBER 23, 2019

Dr. Agnieszka Marshall from Tykes and Teens came forward to accept the Proclamation, thanking the Commission and provided each Commissioner with a cell phone sleeping bag, encouraging them and the public to put their phones to sleep on occasion.

2. AMERICORPS DAY OF SERVICE - OCTOBER 4, 2019

Mr. Omar Ferreira and Allyssa Holmes of Boys and Girls Club of Martin County accepted the Proclamation and announced the benefits and duties of the Americorps in our schools.

3. 1928 OKEECHOBEE HURRICANE

Vice Mayor Eula Clarke accepted the Proclamation and will be presenting it at the Port Myakka Memorial Event on September 27, 2019. She announced that the City is providing transportation for the seniors at the Community Center to attend the Memorial Service on Kanner Hwy.

PRESENTATIONS

4. SEPTEMBER SERVICE AWARDS

**James Gibbons – 5 Years
Stephen Mayer – 5 Years
Joseph Hogan – 5 Years
Daniel Duran – 10 Years**

5. EMPLOYEE OF THE MONTH - SEPTEMBER 2019, COMMUNITY SERVICES DEPARTMENT

Community Services Department Division Manager, Julie McHenry acknowledged Monica Sands, Recreation Leader as September Employee of the Month.

6. UF/IFAS EXTENSION OFFICE SERVICES PRESENTATION BY JENNIFER PELHAM.

Jennifer Pelham presented on the various services UF/IFAS provides to the City of Stuart including Best Management Practice events, NPDES reporting support, educational outreach, consulting services, and youth programs.

COMMENTS BY CITY COMMISSIONERS

Commissioner Glass Leighton

- **No comments.**

Commissioner Matheson

- **Commented that he attended the Army Corp of Engineers Public Workshop last week and the LOSOM Lake Okeechobee schedule update stated it should be done by 2022. His request is that they change language from “minimize” to “eliminate”.**
- **Attended a Florida Beaches and Shores Conference and commented on the effects of climate change and look forward to the future discussions on this issue.**

Commissioner Meier

- Commented on the discussions at the 3rd Plastics Workshop to include straws and single use plastics on City-owned property. Mentioned the possibility of support from state representatives at the state level for research on plastic regulation.
- Encourages all to review Martin County Commissioner Sarah Heard's TC Palm article, urging citizen's and elected officials to fund C-23, C-24, C-25 to complete IRL South Projects to get CERP going.
- Would like the City to draft a letter of support to send it to the governor and perhaps to the Florida legislators just echoing that support, we would like to see IRL South completed quickly so that CERP can be completed.

 **6:00 PM Motion: Draft a letter to send in support of IRL South's Projects being completed.**

Moved by: Commissioner Meier

Seconded by: Commissioner Matheson

Motion passed unanimously.

- Meier thanked Jessica Tharp and other 10th Street staff for their efforts and reminder all of the various activities available to all residents at the Community Center.

Vice Mayor Clarke

- Attended the Army Corp of Engineers Meeting at IRSC and gave a presentation on behalf of the City.
- Complimented the East Stuart Community Center staff for the organization of the Reading of the Constitution and all the activities they coordinate.

Mayor Bruner

- No comments.

COMMENTS BY CITY MANAGER

City Manager Dyess

- Announced the creation of a Sustainability Workgroup/Committee that will internally work on various environmental issues.
- Dyess invited Jim Chrulski to come forward; Jim requested a letter from the Commission in support of Geoffrey Smith's induction into the Art Hall of Fame.

 **6:08 PM Motion: Draft a letter to send in support Geoffrey Smith's induction into the Art Hall of Fame.**

Moved by: Commissioner Glass Leighton

Seconded by: Vice Mayor Clarke

Motion passed unanimously.

- Dyess invited Ben Hogarth to come forward; Ben presented his final update for the summer on the St. Lucie River and Lake Okeechobee. He announced the upcoming PDT meeting locations/webinars.

Mayor Bruner announced the Rotary Club 2nd Annual Water Forum on October 5th from 9 a.m. to 12 noon in downtown Stuart on the Riverwalk. Speakers will include Congressman Brian Mast, Jacqui Thurlow-Lippisch, Senator Gayle Harrell, and Mark Perry.

- Dyess provided a brief status update on the Bahama's relief effort including Operation 300's function and the planning of a benefit concert in November.

 6:16 PM Motion: Send a letter Operation 300 from the City of Stuart for all the work that they are doing.

Moved by: Vice Mayor Clarke

Seconded by: Commissioner Meier

*Clerk's Note – It appears the Commission discussed multiple options and a vote was never held. As a result, Commission direction did not occur.

Commissioner Matheson suggested sending letters to the top three groups, Abaco Alliance and Stuart Sailfish Club as well as support the concert effort with advertising.

APPROVAL OF AGENDA

 6:23 PM Motion: Move approval of the Agenda.

Moved by: Commissioner Glass Leighton

Seconded by: Vice Mayor Clarke

Motion passed unanimously.

COMMENTS FROM THE PUBLIC (5 min. max)

- 1) Helen McBride – Flamingo Avenue; Commented that she is participating in the upcoming field trip to Port Myakka on Friday. Upset about not being notified about the community meeting at the 10th Street Community Center last week, heard letters went out but she did not receive one. That center is for all of the City of Stuart and not just the East Stuart neighborhood.

City Attorney Mortell and City Manager Dyess commented that zoning required letters notify residents within 300 feet; the meeting was advertised via flyers throughout the City.

- 2) Marie Stein – Flamingo Avenue; Resident since 1983 and commented on complaint about lot behind her at 1515 5th Street. Recently re-platted lot and is currently experiencing drainage problems.

CONSENT CALENDAR

7. APPROVAL OF 09/09/2019 SCM AND 09/09/2019 CCM MINUTES

8. VNA/FDOT TEMPORARY STREET CLOSURE PERMIT:

RESOLUTION No. 76-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA RECOMMENDING THE VISITING NURSE ASSOCIATION'S ("VNA") APPLICATION TO FLORIDA DEPARTMENT OF TRANSPORTATION ("FDOT") FOR THE TEMPORARY CLOSING OF A STATE ROAD PERMIT FOR THE 2019 STUART CHRISTMAS PARADE ROUTE; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

9. LOBBYING SERVICES AGREEMENT EXTENSION WITH JORDAN CONNORS GROUP:

RESOLUTION No. 79-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, WAIVING A COMPETITIVE SELECTION PROCESS AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR LOBBYING SERVICES WITH THE JORDON CONNORS GROUP IN A NOT TO EXCEED AMOUNT OF \$49,440.00 PER YEAR; PROVIDING ASSURANCES; PROVIDING FOR CONFLICTS; SEVERABILITY, AND EFFECTIVE DATE.

10. APPENDIX A FEE RATE UPDATE:

RESOLUTION No. 81-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA ADOPTING APPENDIX "A" BY AMENDING CHAPTER 10, CHAPTER 32, CHAPTER, 34, CHAPTER 36, AND CHAPTER 42 OF THE CITY'S CODE OF ORDINANCES, AND PROVIDING AN EFFECTIVE DATE.

11. INTERLOCAL AGREEMENT WITH COUNTY FOR GAZEBO PARK:

RESOLUTION No. 88-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE MAYOR TO TERMINATE AN INTERLOCAL AGREEMENT REGARDING COURTHOUSE RESTORATION DATED OCTOBER 10, 1989 AND EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF STUART ("CITY") AND MARTIN COUNTY ("COUNTY") TO MANAGE AND MAINTAIN "GAZEBO PARK".

12. AWARD ELECTRICAL ROOM HARDENING:

RESOLUTION No. 89-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVES THE AWARD OF ITB #2019-109, WASTEWATER TREATMENT PLANT ELECTRICAL ROOM HARDENING TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER TOTAL UNIT PRICE OF \$442,698.00 TO BOROMEI CONSTRUCTION, INC OKEECHOBEE, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

13. MOTOROLA IN-CAR LEASE AGREEMENT:

RESOLUTION No. 90-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE EXECUTION OF A MUNICIPAL LEASE WITH MOTOROLA FOR PUBLIC SAFETY RADIOS; AND PROVIDING AN EFFECTIVE DATE AND FOR OTHER MATTERS.

END OF CONSENT CALENDAR

 **6:38 PM Motion: Move approval of the Consent.**
Moved by: Commissioner Glass Leighton
Seconded by: Commissioner Meier
Motion passed unanimously.

COMMISSION ACTION

14. LEASE 151 FLAGLER AVE TO TOBY OVERDORF, THE STATE REPRESENTATIVE FOR DISTRICT 83:

RESOLUTION No. 69-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO AUTHORIZE THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF STUART AND TOBY OVERDORF FOR THE PROPERTY LOCATED AT 151 SW FLAGLER AVENUE, STUART TO SERVE AS THE STATE REPRESENTATIVE DISTRICT 83 OFFICES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

 **6:40 PM Motion: Move approval of the Resolution No. 69-2019.**
Moved by: Commissioner Glass Leighton
Seconded by: Commissioner Matheson
Motion passed unanimously.

15. UF/IFAS MEMORANDUM OF UNDERSTANDING AMENDMENT:

RESOLUTION No. 80-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING A REVISED MEMORANDUM OF UNDERSTANDING WITH THE UF/IFAS EXTENSION 'FLORIDA FRIENDLY LANDSCAPING' (FFL) PROGRAMS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

 **6:42 PM Motion: Move approval of Resolution 80-2019.**
Moved by: Commissioner Meier
Seconded by: Vice Mayor Clarke
Motion passed unanimously.

ORDINANCE FIRST READING

 6:42 PM ORDINANCE SECOND READING

16. REZONING TO URBAN PLANNED UNIT DEVELOPMENT (QUASI-JUDICIAL):

ORDINANCE No. 2412-2019; 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 UPUD "URBAN PLANNED UNIT DEVELOPMENT" TO A PARCEL OF LAND TOTALING 0.29 ACRES, OWNED BY STUART HILLS PROPERTIES, LLC, LOCATED AT 801 S.E. OCEAN BLVD., BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; ESTABLISHING THE "SADA INTERNATIONAL SALON" URBAN PLANNED UNIT DEVELOPMENT (UPUD) CONSISTING OF A TWO-STORY COMMERCIAL BUILDING TOTALING 3,485 SQUARE FEET, AND ALLOWING USES PERMITTED IN THE URBAN DISTRICT; PROVIDING FOR APPROVAL OF AN EXISTING SITE AND BUILDING; PROVIDING FOR DEVELOPMENT CONDITIONS; 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.

 6:43 PM Motion: Move on second reading.

Moved by: Commissioner Glass Leighton

Seconded by: Vice Mayor Clarke

Motion passed unanimously.

17. ROW ABANDONMENT REAR OF MOLLY'S HOUSE (QUASI-JUDICIAL):

ORDINANCE No. 2414-2019; AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO PROVIDE FOR THE ABANDONMENT OF CERTAIN PUBLIC RIGHT-OF-WAY WITHIN THE CITY BEING THAT CERTAIN 12-FOOT PORTION OF RIGHT-OF-WAY, AS SET FORTH ON THE PLAT OF STYPMANN'S SUBDIVISION, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGE 82, MARTIN COUNTY, FLORIDA PUBLIC RECORDS RUNNING EAST TO WEST THROUGH THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND DEPICTED IN EXHIBIT "B" ATTACHED HERETO; PROVIDING FOR PAYMENT OF A PRIVILEGE FEE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

 6:45 PM Motion: Move approval including the applicant's requesting the waiver from the payment of the privilege fee and application fee.

Moved by: Commissioner Glass Leighton

Seconded by: Vice Mayor Clarke

Motion passed unanimously.

18. AMENDMENT TO KORNBLUH CPUD (QUASI-JUDICIAL):

ORDINANCE No. 2417-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA,

AMENDING THE KORNBLUH COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) FOR PARCEL OF LAND FRONTING NW FEDERAL HIGHWAY (U.S. HIGHWAY 1) SOUTH OF ABUTTING NORTH STUART BAPTIST CHURCH, CONSISTING OF 2.57 ACRES OWNED BY FLORIDA PATIO PARTNERS LLC; AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR A FINAL SITE PLAN WITH TWO PHASES OF DEVELOPMENT ALLOWING FOR THE CONSTRUCTION OF TWO BUILDINGS TOTALING 16,620 SQUARE FEET; 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.

Stephen Mayer reported that staff includes a condition of approval that prior to the final site plan approval the applicant shall submit a final landscape plan, showing that the area within the wetland buffer area on the north west corner of the site be planted with 100% native vegetation.

 **6:46 PM Motion: Move approval if there's been no other changes other than that to accept that condition that was brought forth by staff for Ordinance No. 2417-2019. Moved by: Vice Mayor Clarke
Seconded by: Commissioner Matheson
Motion passed unanimously.**

6:47 PM DISCUSSION AND DELIBERATION

19. DISCUSSION ABOUT A LETTER SENT BY THE TREASURE COAST COUNCIL OF LOCAL GOVERNMENTS.

Commissioner Matheson requested the City rebuke the letter sent by the Treasure Coast Council of Local Governments (TCCLG) in reference to the seat on the South Florida Water Management District with a member from the agriculture industry. In his opinion, that does not represent the City of Stuart and that representative should be someone from the tourism industry. Feels with the City being a part of that Council, it represents the City's interests.

Public Comment:

- 1) Tom Campenni – St. Lucie Crescent; Commented as past Chair of the TCCLG, feels the letter does not represent the City of Stuart because the Commission did not vote for it, it just represents that particular council. They would have requested that each council send their own letter. Feels it would be a mistake to rebuke a letter sent on behalf of the 16 or 17 governments that the Council represents.**

Commissioner Meier read the letter out loud for the record. Meier commented that he was also surprised that the letter went out without seeing the final draft but agreed that agriculture should also have a seat at the table. Feels the City should be a

respectful neighbor and member of this Council and allow other areas be represented and we all work together.

 7:02 PM Motion: Motion that the City of Stuart encourage the Governor to use his best judgment in choosing a representative that represents not any one particular industry but represents the best interests of all of Florida residents.

Moved by: Commissioner Matheson

Seconded by: Commissioner Meier

Motion failed 3/2.

Bruner - NO

Clarke - NO

Glass Leighton - NO

Meier - YES

Matheson - YES

 7:04 PM ADJOURNMENT

Mary R. Kindel, City Clerk

Rebecca S. Bruner, Mayor

Minutes to be approved at the Regular Commission
Meeting this 14th day of October, 2019.

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Michael J. Mortell

Title of Item:

ABANDONMENT OF TEMPORARY EASEMENT AT MARTIN LUTHER KING BLVD AND PALM BEACH RD. (RC):

RESOLUTION No. 93-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER AND CITY CLERK TO TERMINATE AND ABANDON AN EXISTING TEMPORARY LANDSCAPE EASEMENT DEED ENTERED INTO WITH CLYDE COUTANT, TRUSTEE ON OR ABOUT APRIL 23, 2008; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

In 2008, the City entered into a temporary easement with the property owner on the corner of Martin Luther King Blvd., and Palm Beach Road to install landscaping and irrigation as part of a "Beautiful Cities Campaign". It should be noted that the City was named America's most beautiful city for its size in the national America in Bloom competition. The competition included cities ranging in size from 5,000 to 25,000 residents. In any event, the easement stated that it would be removed within 60 days if there was ever a request from the owner. The current owner has asked to remove the easement.

Funding Source:

N/A

Recommended Action:

Move approval of Resolution 93-2019 authorizing the Abandonment of the Temporary Easement Deed.

ATTACHMENTS:

	Description	Upload Date	Type
□	R93-2019 - Abandonment of Temporary Landscape Easement Deed	9/26/2019	Resolution add to Y drive
□	Abandonment of Temp Landscape Easement Deed	9/26/2019	Attachment



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 93-2019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER AND CITY CLERK TO TERMINATE AND ABANDON AN EXISTING TEMPORARY LANDSCAPE EASEMENT DEED ENTERED INTO WITH CLYDE COUTANT, TRUSTEE ON OR ABOUT APRIL 23, 2008; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the City of Stuart, Florida and Clyde Coutant, Trustee entered into a Temporary Landscape Easement Deed dated April 23, 2008 and recorded on April 30, 2008 in Martin County, Florida Public Records. The Deed was intended to provide temporary access to the real property owned by Clyde Coutant for the purpose of the installation by the City or its agents of landscape, irrigation, water service line, and necessary appurtenances thereto; and

WHEREAS, the City no longer utilizes the Easement for landscape purposes; and

WHEREAS, the real property was sold to a new owner on or about September 9, 2019 and the City has received a request for it to abandon the existing Temporary Landscape Easement Deed and both parties desire to abandon the Temporary Landscape Easement Deed; and

WHEREAS, the City has the right to terminate the Temporary Landscape Easement Deed.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City Commission of the City of Stuart hereby authorizes the City Manager and City Clerk to execute the Abandonment of Temporary Landscape Easement Deed that was entered into with prior owner, Clyde Coutant, Trustee on or about April 23, 2008 on real property located at:

A parcel of land, beginning at the southeast corner of Lot 12, Block 4, Lake Clare Section of St. Lucie Estates according to the plat thereof recorded at Plat Book 1, Page 66 Official Records of Martin County, Florida, thence running 50 feet north on the eastern property line; thence running in a southwesterly direction approximately 58.31 feet to a point on the property line 30 feet west of the southeast corner of said Lot 12, thence 30 feet east to the point of beginning.

SECTION 2: This resolution shall take effect upon adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this ____ day of October, 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL
CITY ATTORNEY

Prepared by and Return to:
Michael J. Mortell, Esq.
City of Stuart
121 SW Flagler Avenue
Stuart, Florida 34994

PCN: 04-38-41-011-004-00010-3

ABANDONMENT OF TEMPORARY LANDSCAPE EASEMENT DEED

THIS ABANDONMENT OF TEMPORARY LANDSCAPE EASEMENT DEED (the "DEED") is hereby made as of this ____ day of September, 2019, by **CLYDE COUTANT, TRUSTEE ("COUTANT")** and the **CITY OF STUART, a Florida municipality ("CITY")** whose address is 121 SW Flagler Avenue, Stuart, Florida 34994.

RECITALS

WHEREAS, CLYDE COUTANT, Trustee entered into that certain Temporary Landscape Easement Deed with the CITY dated April 23, 2008 and recorded on April 30, 2008 in Official Records Book 2325, Page 1450, of the Public Records of Martin County, Florida, which Deed provided temporary access to the real property owned by COUTANT for the purpose of the installation by the CITY or its agents of landscape, irrigation, water service line, and necessary appurtenances thereto. The real property located in the City of Stuart, Martin County, Florida is described as follows:

A parcel of land, beginning at the southeast corner of Lot 12, Block 4, Lake Clare Section of St. Lucie Estates according to the plat thereof recorded at Plat Book 1, Page 66 Official Records of Martin County, Florida, thence running 50 feet north on the eastern property line; thence running in a southwesterly direction approximately 58.31 feet to a point on the property line 30 feet west of the southeast corner of said Lot 12, thence 30 feet east to the point of beginning.

WHEREAS, the CITY is no longer utilizing the Easement for landscape purposes;
and

WHEREAS, COUTANT and the CITY desire to abandon the Landscape Easement effective upon the recording of this Agreement in the Public Records of Martin County, Florida; and

WHEREAS, the CITY has the right to terminate the Deed.

NOW THEREFORE, for in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the CITY asserts as follows:

1. The Recitals set forth above are true and correct and incorporated by reference herein.
2. The Temporary Landscape Easement Deed is hereby terminated and shall be of no further force and effect; effective upon the recording of this Abandonment of Temporary Landscape Easement Deed in the Public Records of Martin County, Florida.

IN WITNESS WHEREOF, David Dyess, City Manager on behalf of the City of Stuart has executed this Abandonment of Temporary Landscape Easement Deed as of the day and year first hereinabove set forth.

Witnessed on this _____ day of September, 2019.

CITY OF STUART, FLORIDA,
a Florida municipality

By: _____
DAVID DYESS, City Manager

ATTEST:

By: _____
MARY R. KINDEL, City Clerk

APPROVED AS TO FORM
AND CORRECTNESS:

By: _____
MICHAEL J. MORTELL, City Attorney

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Michael J. Mortell

Title of Item:

AUTHORIZATION FOR SALE OF 2375 S. KANNER HIGHWAY (RC):

RESOLUTION No. 97-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE A REAL ESTATE SALES AGREEMENT WITH 16 KANNER, LLC FOR THE SALE OF REAL PROPERTY OWNED BY THE CITY OF STUART LOCATED AT 2375 S. KANNER HIGHWAY, STUART, FLORIDA; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

During a City Commission, the Board took action and authorized the City Manager to execute the contract and pursue the sale. However, it was determined that there was never a Resolution formally adopted by the Commission and in order to complete the real estate transaction a Resolution must be included.

Funding Source:

N/A

Recommended Action:

Move approval of Resolution 97-2019 Authorizing sale of 2375 S. Kanner Highway.

ATTACHMENTS:

Description	Upload Date	Type
☐ R97-2019 Authorization allowing CM to Execute a Real Estate Contract for Sale of 2375 S Kanner Hwy.	10/7/2019	Resolution add to Y drive
☐ Executed Contract dated 4/23/19	10/2/2019	Exhibit
☐ First Amendment to Contract	10/2/2019	Exhibit
☐ Second Amendment to Contract	10/2/2019	Exhibit
☐ 1-28-19 CCM Minutes	10/2/2019	Exhibit



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 97-2019

**A RESOLUTION OF THE CITY COMMISSION OF
THE CITY OF STUART, FLORIDA AUTHORIZING
THE CITY MANAGER TO EXECUTE A REAL
ESTATE SALES AGREEMENT WITH 16 KANNER,
LLC FOR THE SALE OF REAL PROPERTY OWNED
BY THE CITY OF STUART LOCATED AT 2375 S.
KANNER HIGHWAY, STUART, FLORIDA;
PROVIDING AN EFFECTIVE DATE; AND FOR
OTHER PURPOSES.**

* * * *

WHEREAS, the City of Stuart entered into a long-term lease with Tenant, 16 Kanner, LLC on June 15, 2018 for an initial period of twenty (20) years for the vacant real property located at 2375 S. Kanner Highway, Stuart, Florida, property previously identified as 7-Eleven; and

WHEREAS, on January 28, 2019 at a City of Stuart Commission Meeting, the City Attorney brought forth the Tenant's request to purchase the vacant real property; and

WHEREAS, open discussion ensued allowing the City Attorney to pursue the sale opportunity and concluded with a motion being brought forward and the City Commission voting unanimously to allow it; and

WHEREAS, on April 23, 2019, the City Manager entered into a Vacant Land Contract with 16 Kanner, LLC or assigns.

NOW, THEREFORE, the City Commission of the City of Stuart hereby resolves as follows:

SECTION 1: The City Commission hereby authorizes the City Manager to execute the Vacant Land Contract and any and all Amendments/Addendums for the sale of the vacant real property located at 2375 S. Kanner Highway, Stuart, Florida.

SECTION 2: This resolution shall take effect immediately upon adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this 14th day of October, 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

Vacant Land Contract

- 1* 1. **Sale and Purchase:** City of Stuart ("Seller")
2* and 16 Kanner LLC or assigns ("Buyer")
3 (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")
4 described as:
5* Address: 2375 S Kanner Hwy, Stuart, FL 34994-4621
6* Legal Description: See attached Exhibit A Legal Description less and except the "Sign
7 Parcel" Exhibit B to be attached prior to closing.
8
9
10
11* SEC 09 /TWP 38 /RNG 41 of Martin County, Florida. Real Property ID No.: 09384100000000690
12* including all improvements existing on the Property and the following additional property: _____
13
14* 2. **Purchase Price:** (U.S. currency) \$ 1,300,000.00
15 All deposits will be made payable to "Escrow Agent" named below and held in escrow by:
16* Escrow Agent's Name: City of Stuart
17* Escrow Agent's Contact Person: City Manager
18* Escrow Agent's Address: 121 SW Flagler Ave. Stuart, FL 34994
19* Escrow Agent's Phone: (772) 220-4096
20* Escrow Agent's Email: mmortell@ci.stuart.fl.us
21 (a) Initial deposit (\$0 if left blank) (Check if applicable)
22* ☒ accompanies offer
23* ☒ will be delivered to Escrow Agent within 5 days (3 days if left blank)
24* after Effective Date \$ 22,500.00
25 (b) Additional deposit to be delivered to Escrow Agent (Check if applicable)
26* ☐ within _____ days (10 days if left blank) after Effective Date
27* ☐ within _____ days (3 days if left blank) after expiration of Feasibility Study Period \$ _____
28* (c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage) \$ _____
29* (d) Other: \$ _____
30 (e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)
31* to be paid at closing by wire transfer or other Collected funds \$ 1,277,500.00
32* (f) ☐ (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The
33* unit used to determine the purchase price is ☐ lot ☐ acre ☐ square foot ☐ other (specify): _____
34* prorating areas of less than a full unit. The purchase price will be \$ _____ per unit based on a
35 calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in
36 accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the
37* calculation: _____
38 3. **Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy
39* delivered to all parties on or before April 15, 2019, this offer will be withdrawn and Buyer's deposit, if
40 any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is
41 delivered. The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer
42 has signed or initialed and delivered this offer or the final counter offer.
43* 4. **Closing Date:** This transaction will close on See Paragraph 21 ("Closing Date"), unless specifically
44 extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,
45 but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,
46 Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business
47 day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property
48 insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If
49 this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and
50 other items.

Buyer (_____) (_____) and Seller (_____) (_____) acknowledge receipt of a copy of this page, which is 1 of 7 pages.
VAC-11 Rev. 6/17

51 5. Financing: (Check as applicable)

52* (a) ☒ Buyer will pay cash for the Property with no financing contingency.

53* (b) ☐ This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s)
54* specified below ("Financing") within _____ days after Effective Date (Closing Date or 30 days after Effective
55* Date, whichever occurs first, if left blank) ("Financing Period"). Buyer will apply for Financing within _____
56* days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial,
57* and other information required by the lender. If Buyer, after using diligence and good faith, cannot obtain the
58* Financing within the Financing Period, either party may terminate this contract and Buyer's deposit(s) will be
59* returned.

60* (1) ☐ New Financing: Buyer will secure a commitment for new third party financing for \$ _____
61* or _____ % of the purchase price at (Check one) ☐ a fixed rate not exceeding _____ % ☐ an
62* adjustable interest rate not exceeding _____ % at origination (a fixed rate at the prevailing interest rate
63* based on Buyer's creditworthiness if neither choice is selected). Buyer will keep Seller and Broker fully
64* informed of the loan application status and progress and authorizes the lender or mortgage broker to
65* disclose all such information to Seller and Broker.

66* (2) ☐ Seller Financing: Buyer will execute a ☐ first ☐ second purchase money note and mortgage to
67* Seller in the amount of \$ _____, bearing annual interest at _____ % and payable as
68* follows: _____

69* The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow
70* forms generally accepted in the county where the Property is located; will provide for a late payment fee
71* and acceleration at the mortgagee's option if Buyer defaults; will give Buyer the right to prepay without
72* penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on
73* conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to
74* keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller
75* to obtain credit, employment, and other necessary information to determine creditworthiness for the
76* financing. Seller will, within 10 days after Effective Date, give Buyer written notice of whether or not
77* Seller will make the loan.

78* (3) ☐ Mortgage Assumption: Buyer will take title subject to and assume and pay existing first mortgage to

79* LN# _____ in the approximate amount of \$ _____ currently payable at
80* \$ _____ per month, including principal, interest, ☐ taxes and insurance, and having a
81* ☐ fixed ☐ other (describe) _____

82* interest rate of _____ % which ☐ will ☐ will not escalate upon assumption. Any variance in the
83* mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. Buyer will
84* purchase Seller's escrow account dollar for dollar. If the interest rate upon transfer exceeds _____ % or
85* the assumption/transfer fee exceeds \$ _____, either party may elect to pay the excess,
86* failing which this contract will terminate; and Buyer's deposit(s) will be returned. If the lender disapproves
87* Buyer, this contract will terminate; and Buyer's deposit(s) will be returned.
88*

89* 6. Assignability: (Check one) Buyer ☒ may assign and thereby be released from any further liability under this
90* contract, ☐ may assign but not be released from liability under this contract, or ☐ may not assign this contract.

91* 7. Title: Seller has the legal capacity to and will convey marketable title to the Property by ☒ statutory warranty
92* deed ☐ special warranty deed ☐ other (specify) _____, free of liens, easements,
93* and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants,
94* restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any
95* other matters to which title will be subject) _____,
96* provided there exists at closing no violation of the foregoing.

97* (a) Title Evidence: The party who pays for the owner's title insurance policy will select the closing agent and
98* pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent.
99* Seller will deliver to Buyer, at

100* (Check one) ☒ Seller's ☐ Buyer's expense and

101* (Check one) ☒ within 21 days after Effective Date ☐ at least _____ days before Closing Date,

102* (Check one)

103* (1) ☒ a title insurance commitment by a Florida licensed title insurer setting forth those matters to be
104* discharged by Seller at or before closing and, upon Buyer recording the deed, an owner's policy in the
105* amount of the purchase price for fee simple title subject only to the exceptions stated above. If Buyer is
106* paying for the owner's title insurance policy and Seller has an owner's policy, Seller will deliver a copy to
107* Buyer within 15 days after Effective Date.

Buyer (_____) (_____) and Seller  (_____) acknowledge receipt of a copy of this page, which is 2 of 7 pages.

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(2) ☐ an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to Seller, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to Buyer from the policy effective date and certified to Buyer or Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller, then (1) above will be the title evidence.

(b) **Title Examination:** After receipt of the title evidence, Buyer will, within 10 days (10 days if left blank) but no later than Closing Date, deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (i) Buyer fails to deliver proper notice of defects or (ii) Buyer delivers proper written notice and Seller cures the defects within 30 days (30 days if left blank) ("Cure Period") after receipt of the notice. If the defects are cured within the Cure Period, closing will occur within 10 days after receipt by Buyer of notice of such cure. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Cure Period. If the defects are not cured within the Cure Period, Buyer will have 10 days after receipt of notice of Seller's inability to cure the defects to elect whether to terminate this contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** Buyer may, at Buyer's expense, have the Property surveyed and must deliver written notice to Seller, within 5 days after receiving survey but not later than 5 days before Closing Date, of any encroachments on the Property, encroachments by the Property's improvements on other lands, or deed restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a title defect and Seller's and Buyer's obligations will be determined in accordance with Paragraph 7(b).

(d) **Ingress and Egress:** Seller warrants that the Property presently has ingress and egress.

8. **Property Condition:** Seller will deliver the Property to Buyer at closing in its present "as is" condition, with conditions resulting from Buyer's Inspections and casualty damage, if any, excepted. Seller will not engage in or permit any activity that would materially alter the Property's condition without the Buyer's prior written consent.

(a) **Inspections: (Check (1) or (2))**

(1) ☐ **Feasibility Study:** Buyer will, at Buyer's expense and within _____ days (30 days if left blank) ("Feasibility Study Period") after Effective Date and in Buyer's sole and absolute discretion, determine whether the Property is suitable for Buyer's intended use. During the Feasibility Study Period, Buyer may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and investigations ("Inspections") that Buyer deems necessary to determine to Buyer's satisfaction the Property's engineering, architectural, and environmental properties; zoning and zoning restrictions; subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state, and regional growth management plans; availability of permits, government approvals, and licenses; and other inspections that Buyer deems appropriate. If the Property must be rezoned, Buyer will obtain the rezoning from the appropriate government agencies. Seller will sign all documents Buyer is required to file in connection with development or rezoning approvals. Seller gives Buyer, its agents, contractors, and assigns, the right to enter the Property at any time during the Feasibility Study Period for the purpose of conducting Inspections, provided, however, that Buyer, its agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses, damages, costs, claims, and expenses of any nature, including attorneys' fees, expenses, and liability incurred in application for rezoning or related proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a construction lien being filed against the Property without Seller's prior written consent. If this transaction does not close, Buyer will, at Buyer's expense, (i) repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in before conducting the Inspections and (ii) release to Seller all reports and other work generated as a result of the Inspections.

Before expiration of the Feasibility Study Period, Buyer must deliver written notice to Seller of Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of the Property as suitable for Buyer's intended use in its "as is" condition. If the Property is unacceptable to Buyer and written notice of this fact is timely delivered to Seller, this contract will be deemed terminated, and Buyer's deposit(s) will be returned.

(2) ☒ **No Feasibility Study:** Buyer is satisfied that the Property is suitable for Buyer's purposes, including being satisfied that either public sewerage and water are available to the Property or the Property will be approved for the installation of a well and/or private sewerage disposal system and that existing zoning

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and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency, growth management, and environmental conditions, are acceptable to **Buyer**. This contract is not contingent on **Buyer** conducting any further investigations.

(b) **Government Regulations:** Changes in government regulations and levels of service which affect **Buyer's** intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has expired or if Paragraph 8(a)(2) is selected.

(c) **Flood Zone:** **Buyer** is advised to verify by survey, with the lender, and with appropriate government agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply to improving the Property and rebuilding in the event of casualty.

(d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as defined in Section 161.053, Florida Statutes, **Seller** will provide **Buyer** with an affidavit or survey as required by law delineating the line's location on the Property, unless **Buyer** waives this requirement in writing. The Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shore line of the Property being purchased.

☒ **Buyer** waives the right to receive a CCCL affidavit or survey.

9. **Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be conducted by mail or electronic means. If title insurance insures **Buyer** for title defects arising between the title binder effective date and recording of **Buyer's** deed, closing agent will disburse at closing the net sale proceeds to **Seller** (in local cashier's check if **Seller** requests in writing at least 5 days before closing) and brokerage fees to Broker as per Paragraph 19. In addition to other expenses provided in this contract, **Seller** and **Buyer** will pay the costs indicated below.

(a) **Seller Costs:**

Taxes on the deed

Recording fees for documents needed to cure title

Title evidence (if applicable under Paragraph 7)

Other: _____

(b) **Buyer Costs:**

Taxes and recording fees on notes and mortgages

Recording fees on the deed and financing statements

Loan expenses

Title evidence (if applicable under Paragraph 7)

Lender's title policy at the simultaneous issue rate

Inspections

Survey

Insurance

Other: _____

(c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases, and other Property expenses and revenues. If taxes and assessments for the current year cannot be determined, the previous year's rates will be used with adjustment for any exemptions.

(d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, **Seller** will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but has not resulted in a lien before closing; and **Buyer** will pay all other amounts. If special assessments may be paid in installments, ☒ **Seller** ☐ **Buyer** (**Buyer** if left blank) will pay installments due after closing. If **Seller** is checked, **Seller** will pay the assessment in full before or at the time of closing. Public body does not include a Homeowners' or Condominium Association.

(e) **PROPERTY TAX DISCLOSURE SUMMARY:** **BUYER** SHOULD NOT RELY ON THE **SELLER'S** CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT **BUYER** MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.

Buyer (_____) (_____) and Seller (OS) (_____) acknowledge receipt of a copy of this page, which is 4 of 7 pages.

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(f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If Seller is a "foreign person" as defined by FIRPTA, Seller and Buyer will comply with FIRPTA, which may require Seller to provide additional cash at closing.

(g) **1031 Exchange:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided, however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing will not be contingent upon, extended, or delayed by the Exchange.

10. Computation of Time: Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in this contract.**

11. Risk of Loss; Eminent Domain: If any portion of the Property is materially damaged by casualty before closing or Seller negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain proceedings or an eminent domain proceeding is initiated, Seller will promptly inform Buyer. Either party may terminate this contract by written notice to the other within 10 days after Buyer's receipt of Seller's notification, and Buyer's deposit(s) will be returned, failing which Buyer will close in accordance with this contract and receive all payments made by the governmental authority or insurance company, if any.

12. Force Majeure: Seller or Buyer will not be required to perform any obligation under this contract or be liable to each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes, earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably within the control of Seller or Buyer and which by the exercise of due diligence the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for the period that the act of God or force majeure is in place. However, in the event that such act of God or force majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to the other, and Buyer's deposit(s) will be returned.

13. Notices: All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or electronic means. Buyer's failure to timely deliver written notice to Seller, when such notice is required by this contract, regarding any contingency will render that contingency null and void, and this contract will be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by an attorney or licensee (including a transactions broker) representing a party will be as effective as if delivered to or received by that party.

14. Complete Agreement; Persons Bound: This contract is the entire agreement between Seller and Buyer. Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker unless incorporated into this contract. Modifications of this contract will not be binding unless in writing, signed or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. Seller and Buyer will use diligence and good faith in performing all obligations under this contract. This contract will not be recorded in any public record. The terms "Seller," "Buyer," and "Broker" may be singular or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if permitted, of Seller, Buyer, and Broker.

15. Default and Dispute Resolution: This contract will be construed under Florida law. This Paragraph will survive closing or termination of this contract.

(a) **Seller Default:** If Seller fails, neglects, or refuses to perform Seller's obligations under this contract, Buyer may elect to receive a return of Buyer's deposit(s) without thereby waiving any action for damages resulting from Seller's breach and may seek to recover such damages or seek specific performance. Seller will also be liable for the full amount of the brokerage fee.

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(b) **Buyer Default:** If Buyer fails, neglects, or refuses to perform Buyer's obligations under this contract, including payment of deposit(s), within the time(s) specified, Seller may elect to recover and retain the deposit(s), paid and agreed to be paid, for the account of Seller as agreed upon liquidated damages, consideration for execution of this contract, and in full settlement of any claims, whereupon Seller and Buyer will be relieved from all further obligations under this contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this contract.

16. Attorney's Fees; Costs: In any litigation permitted by this Contract, the prevailing party shall be entitled to recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting the litigation. This Paragraph 16 shall survive Closing or termination of this Contract.

17. Escrow Agent; Closing Agent: Seller and Buyer authorize Escrow Agent and closing agent (collectively "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to Seller or Buyer, unless the misdelivery is due to Agent's willful breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

18. Professional Advice; Broker Liability: Broker advises Seller and Buyer to verify all facts and representations that are important to them and to consult an appropriate professional for legal advice (for example, interpreting this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax, property condition, environmental, and other specialized advice. Buyer acknowledges that Broker does not reside in the Property and that all representations (oral, written, or otherwise) by Broker are based on Seller representations or public records. Buyer agrees to rely solely on Seller, professional inspectors, and government agencies for verification of the Property condition and facts that materially affect Property value. Seller and Buyer respectively will pay all costs and expenses, including reasonable attorneys' fees at all levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising from Seller's or Buyer's misstatement or failure to perform contractual obligations. Seller and Buyer hold harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or damage based on (i) Seller's or Buyer's misstatement or failure to perform contractual obligations; (ii) the use or display of listing data by third parties, including, but not limited to, photographs, images, graphics, video recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's performance, at Seller's or Buyer's request, of any task beyond the scope of services regulated by Chapter 475, Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv) products or services provided by any vendor; and (v) expenses incurred by any vendor. Seller and Buyer each assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract. This Paragraph will survive closing.

19. Commercial Real Estate Sales Commission Lien Act: If the Property is commercial real estate as defined by Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales Commission Lien Act provides that when a broker has earned a commission by performing licensed services under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

20. Brokers: The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:** Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any MLS or other offer of compensation made by Seller or Seller's Broker to Buyer's Broker.

(a) SLC Commercial (Seller's Broker)
will be compensated by ☒ Seller ☐ Buyer ☐ both parties pursuant to ☐ a listing agreement ☒ other (specify): \$50,000 paid at closing

(b) _____ (Buyer's Broker)
will be compensated by ☐ Seller ☐ Buyer ☐ both parties ☐ Seller's Broker pursuant to ☐ a MLS offer of compensation ☐ other (specify): _____

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327* 21. Additional Terms: A) Closing shall occur within the sooner of: A) 30 days of Buyer
328 obtaining site plan approval and building permits to construct and express car
329 wash on the site or B) September 1, 2019

330
331 B) The ground lease entered into between the City of Stuart and 16 Kanner LLC
332 and dated 6/15/18 shall become null and void as of the effective date of this
333 contract. The \$22,500 deposit held by the City of Stuart for the ground lease
334 shall be applied as the deposit for this contract. The deposit shall be
335 non-refundable as of the effective date of this contract. In the event this
336 transaction does not close, the ground lease will be reinstated retroactive to
337 the effective date of this contract.

338
339 *or The City shall be entitled to an easement to access the Billboard*
340 *for maintenance purposes. Further, the parties shall agree upon a site*
341 *plan to be adopted depicting the Billboard parcel and both shall*
342 *execute any documents necessary for the City to own the Billboard*
343 *Parcel separately in fee simple and obtain a separate parcel ID Number.*

COUNTER-OFFER/REJECTION

344* ☐ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and
345 deliver a copy of the acceptance to Seller).

346* ☐ Seller rejects Buyer's offer

347 This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before
348 signing.

349* Buyer: [Signature] Date: 4/4/2019

350* Print name: 16 Kanner LLC or assigns

351* Buyer: _____ Date: _____

352* Print name: _____

353 Buyer's address for purpose of notice:

354* Address: _____

355* Phone: _____ Fax: _____ Email: _____

356* Seller: [Signature] Date: 4-23-19

357* Print name: City of Stuart David Dyess

358* Seller: _____ Date: _____

359* Print name: _____

360 Seller's address for purpose of notice:

361* Address: 121 Flagler Ave Stuart FL 34994

362* Phone: 288-5312 Fax: _____ Email: _____

363* Effective Date: _____ (The date on which the last party signed or initialed and delivered the
364 final offer or counter offer.)

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Absolute Net - Non-Subordinated Ground Lease

EXHIBIT A

LEGAL DESCRIPTION

**THE SOUTH 260 FEET OF THE WEST 310.5 FEET OF THE SOUTHWEST 1/4
OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 38 SOUTH, RANGE 41
EAST, LESS ROAD RIGHT-OF-WAYS.**

Being more particularly described as follows:

**Beginning at a Point on a Curve on the East Right-of-Way of
State Road No. 76. (100 foot Right-of-Way) and the North
Right-of-Way of Monterey Road (80 foot Right-of-Way), thence
South 89°11'49" East, along the North line of Monterey Road, a
distance of 251.80 feet, to a point, thence North 00°19'16"
East, a distance of 220.00 feet, to the South line of Seville
Street (50 foot Right-of-Way), thence North 89°11'49" West,
along said Right-of-Way, a distance of 268.95 feet, to a Point
on a Curve and the East Right-of-Way of State Road No. 76, said
Curve being concaved to the West, having a Radius of 9772.09
feet, a Central Angle of 01°17'40", thence in a clockwise
direction along the Arc of said Curve, a distance of 220.81
feet, to the Point and Place of Beginning.**

Parcel ID # 09-38-41-000-000-00690-0

FIRST AMENDMENT
TO PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is made as of the 16th day of August, 2019, by and between CITY OF STUART, ("Seller") and, 16 KANNER, LLC a Florida corporation (the "Buyer").

RECITALS:

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated April 23, 2019 (the "Agreement"). Capitalized terms in this Amendment that are not otherwise defined in this Amendment shall have the same meaning as given to such terms in the Agreement for property located at 2375 S. Kanner Highway, Stuart, Florida.

B. Seller and Buyer desire to amend this Agreement as hereinafter set forth.

NOW THEREFORE, in consideration of the mutual agreements covenants hereinafter contained and for other good and valuable consideration, the receipt and adequacy of which are hereby mutually acknowledged, the parties hereto agree as follows:

1. Closing shall be amended to be no later than October 1, 2019.
2. Except as specifically modified by this Amendment, all of the terms and conditions of the Agreement are hereby ratified and confirmed by Buyer and Seller as being in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first written above.

SELLER

City of Stuart

By: 

Date: August 27, 2019

BUYER

16 KANNER, LLC.

By: 

Date: 8/16/2019

SECOND AMENDMENT
TO PURCHASE AND SALE AGREEMENT

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT (this "Amendment") is made as of the 1st day of ~~August~~ ^{October}, 2019, by and between **CITY OF STUART**, ("Seller") and, **16 KANNER, LLC** a Florida corporation (the "**Buyer**").

RECITALS:

A. Seller and Buyer are parties to that certain Purchase and Sale Agreement dated April 23, 2019 (the "Agreement"). Capitalized terms in this Amendment that are not otherwise defined in this Amendment shall have the same meaning as given to such terms in the Agreement for property located at 2375 S. Kanner Highway, Stuart, Florida.

B. Seller and Buyer desire to amend this Agreement as hereinafter set forth.

NOW THEREFORE, in consideration of the mutual agreements covenants hereinafter contained and for other good and valuable consideration, the receipt and adequacy of which are hereby mutually acknowledged, the parties hereto agree as follows:

1. Closing shall be amended to be no later than October 8, 2019.
2. Except as specifically modified by this Amendment, all of the terms and conditions of the Agreement are hereby ratified and confirmed by Buyer and Seller as being in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the day and year first written above.

SELLER

City of Stuart

By: 

Date: 10-1-19

BUYER

16 KANNER, LLC.

By: Scott Collette

Date: 09/30/2019

- 1) Matt Morrison – SW Cabana; opposes the proposal of Costco.

 6:26 PM Motion: Motion to approve of Ordinance No. 2397-2019 to continue the item to a date to be determined.

Motion by: Commissioner Glass Leighton

Seconded by: Commissioner Meier

Motion passed unanimously.

12. AMENDMENT TO BAKER ROAD CPUD (QUASI-JUDICIAL):

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.

Four (4) people sworn; Kevin Freeman, Development Director, Stephen Mayer, Senior Planner, Brad Currie, EDC, and owner, Dan Sharkey.

Stephen Mayer briefly reviewed Ordinance 2400-2019 and introduced applicant, Mr. Brad Currie, EDC, who presented on the Baker Road Amendment to CPUD.

 6:38 PM Motion: Move approval.

Motion by: Commissioner Meier

Seconded by: Vice Mayor Clarke

Motion passed unanimously.

ORDINANCE SECOND READING

DISCUSSION AND DELIBERATION

 6:39 PM 13. 2375 KANNER HIGHWAY:

THE CURRENT TENANT HAS APPROACHED THE CITY WITH A REQUEST TO BUY THE PROPERTY.

Attorney Mortell reviewed the status and conditions of the property, previously identified as 7-Eleven.

Discussion pertaining to an appraisal, property condition, the electronic billboard, and option of lease vs. sale of property.

Public Comment:

- 1) Helen McBride – Flamingo Ave.; commented whether the City can put this out for bid.

Attorney Mortell responded that the City cannot because it is on a 20 year lease. He briefly explained the history of the property.

 6:55 PM Motion: Motion that we move forward with allowing the City Attorney to pursue this opportunity.

Motion by: Commissioner Glass Leighton

Seconded by: Commissioner Matheson

Motion passed unanimously.

 6:58 PM ADJOURNMENT

Mary R. Kindel, City Clerk

Rebecca S. Bruner, Mayor

Minutes to be approved at the Regular Commission Meeting this 11th day of February, 2019.

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Alaina Knofla

Title of Item:

AWARD BID FOR AQUIFER TEST WELL (RC):

RESOLUTION No. 95-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO APPROVE THE AWARD OF ITB #2019-108, FLORIDAN AQUIFER TEST PRODUCTION WELL FA-1 TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER TOTAL UNIT PRICE OF \$1,082,000.00 TO ALL WEBBS ENTERPRISES, INC OF JUPITER, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

This solicitation was advertised in the Palm Beach Post and DemandStar on August 13, 2019. Demandstar notified five hundred and fifty dollars (550) potential bidders and issued seventeen (17) bid packages for this project. Three (3) bids were received by the bid opening date and time of 2:30 pm. August 17, 2019.

Funding Source:

1610/563 200032601

Recommended Action:

Adopt Resolution No. 95-2019

ATTACHMENTS:

Description	Upload Date	Type
❑ Recommendation of Award	10/1/2019	Cover Memo
❑ R95-2019	10/2/2019	Resolution add to Y drive



October 1, 2019

Mr. Tim Voelker, P.E.
Asst. Public Works Director/City Engineer
City of Stuart
121 SW Flagler Ave.
Stuart, FL 34994

RE: *Floridan Aquifer Test Production Well FA-1*
 ITB #2019-108 Bid Review
 KHA Project No. 144967102

Dear Mr. Voelker,

The City of Stuart publicly advertised bid documents and scheduled a mandatory pre-bid conference held on August 28, 2019, at 11:00 AM to discuss the Floridan Aquifer Test Production Well FA-1 with potential bidders. The bids were due and publicly opened and read on Wednesday, September 18th, 2019 at 2:30 PM. A total of three (3) bids were received for the project. The attached bid tabulation includes a summary of the bids received and the Engineer's Opinion of Probable Cost (OPC). The low bid of \$1,082,000.00 was received from All Webbs Enterprises, Inc. (AWE), and the second lowest bid of \$1,269,325.00 was received from Florida Design Drilling Corporation. The Engineer's OPC estimate for the project was \$1,240,000.00, which was 13% higher than the lowest bid.

Kimley-Horn and Associates, Inc. has reviewed the bid proposals for the apparent low bidder for completeness with respect to the lowest responsive, responsible bidder. The results of our review are as follows:

- The lowest bidder, AWE, acknowledged receipt of both Addendum #1 and #2.
- Bid security is equal to 10% of the amount of the bid.
- AWE holds a valid contractor and occupational licenses.
- Work referenced was similar in scope and type to the work specified for this project.

Although AWE has struggled to meet deadlines and project schedules on several other recent projects we have been involved with, the projects were completed successfully. Based on our review of the information provided and available, we see no reason the City should not award the bid to the apparent low bidder, All Webbs Enterprises, Inc. in the amount of \$1,082,000.00, as written in the Base Bid Total.

Please do not hesitate to contact me at (561) 845-0665 if you have any questions.

Sincerely,

Andrea Carpenter

KIMLEY-HORN AND ASSOCIATES, INC.

Andrea L. Carpenter, P.E.

Encl: Bid Tabulation
Bid Proposals

CC: Dave Peters, Public Works Director
File

DRAFT



BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 95-2019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO APPROVE THE AWARD OF ITB #2019-108, FLORIDAN AQUIFER TEST PRODUCTION WELL FA-1 TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER TOTAL UNIT PRICE OF \$1,082,000.00 TO ALL WEBBS ENTERPRISES, INC OF JUPITER, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City Commission of the City of Stuart hereby approves the award of ITB #2019-108, Floridan Aquifer Test Production Well FA-1 to the lowest, responsive and responsible bidder, All Webbs Enterprises, Inc., of Jupiter, Florida at the unit price total of \$1,082,000.00; subsequent to review and approval by City Attorney.

SECTION 2: This resolution shall take effect upon adoption.

Resolution No. 95-2019

Approve Award of ITB #2019-108, Floridan Aquifer Test Production Well FA-1

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this 14th day of October, 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL MORTELL
CITY ATTORNEY

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Dave Peters

Title of Item:

AWARD BID TO PAVE ALLEYWAY (RC):

RESOLUTION No. 96-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVES THE AWARD OF ITB #2019-106, FRAZIER ADDITION ALLEYWAY IMPROVEMENTS TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER TOTAL UNIT PRICE OF \$387,961.60 TO SUNSHINE LAND DESIGN OF STUART, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

This solicitation was advertised in the Palm Beach Post and DemandStar on June 3, 2019. Demandstar notified eight hundred and twenty one (821) potential bidders and issued thirty (30) bid packages for this project. One (1) bid was received by the bid opening date and time of 2:30 pm. July 10, 2019.

Public Works staff has checked references and recommends award to the lowest responsive and responsible bidder, for a total unit price \$387,961.60.

Funding Source:

1230/563 (2003201-563)

Recommended Action:

Adopt Resolution No. 96-2019

ATTACHMENTS:

Description	Upload Date	Type
□ R96-2019	10/2/2019	Resolution add to Y drive



BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 96-2019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA APPROVES THE AWARD OF ITB #2019-106, FRAZIER ADDITION ALLEYWAY IMPROVEMENTS TO THE LOWEST, RESPONSIVE, RESPONSIBLE BIDDER TOTAL UNIT PRICE OF \$387,961.60 TO SUNSHINE LAND DESIGN OF STUART, FLORIDA PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City Commission of the City of Stuart hereby approves the award of ITB# 2019-106, Fraizer Addition Alleyway Improvements, to the lowest, most responsive and responsible bidder, Sunshine Land Design of Stuart, Florida, for the Lump Sum total of \$387,961.60; authorization to execute final agreement subsequent to review and approval by City Attorney.

SECTION 2: This resolution shall take effect upon adoption.

Resolution No. 96-2019

SECTION 2: This resolution shall take effect upon adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this 14th day of October 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL MORTELL
CITY ATTORNEY

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION**

Meeting Date: 10/14/2019

Prepared by: Michael J. Mortell

Title of Item:

AMENDING LEASE WITH DUFFIELD MARINE (RC):

RESOLUTION No. 98-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF STUART AND DUFFIELD MARINE, INC. FOR THAT CERTAIN PROPERTY KNOWN AS THE SHEPARD PARK BUILDING (FORMER CHAMBER OF COMMERCE BUILDING); PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

After reviewing the lease and the proposed uses authorized under same, it has been determined that an amendment to the lease would provide public benefit by releasing one of the two dock slips for City use. If the amendment is approved, all terms of the lease will remain the same with the exception that the western most dock will revert back to the City. Duffy Electric Boats will continue to operate from the premises.

Funding Source:

N/A

Recommended Action:

Move approval of Resolution 98-2019 amending lease with Duffield Marine.

ATTACHMENTS:

Description	Upload Date	Type
□ R98-2019 Duffy Boat Lease	10/4/2019	Resolution add to Y drive



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION 98-2019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF STUART AND DUFFIELD MARINE, INC. FOR THAT CERTAIN PROPERTY KNOWN AS THE SHEPARD PARK BUILDING (FORMER CHAMBER OF COMMERCE BUILDING); PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, The City Commission determined that it was in the best interests of the citizens of the City of Stuart to lease the former Chamber of Commerce building also known as the Shepard Park Building for use as a rental and sales office for Duffy Electric Boats.

WHEREAS, in the original lease, all boat slips adjacent to the property were included within the leased property. The Commission approved the lease agreement on September 10, 2012 by Resolution Number 77-2012.

WHEREAS, the City has determined that Duffy Electric Boats can still provide the same service and amenities as it is currently providing without the western most dock. The City can use this dock for storage of its own vessels or in the alternative as a means to provide access to the water to other government agencies or otherwise make it available as it determines is the best use.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The City Commission authorizes the City Manager to enter as second amendment to the lease agreement and the Mayor and the City Clerk are hereby authorized to execute the Second Amendment to the Lease Agreement between the City and Duffield Marine, Inc, Newport Beach, CA, for that certain property known as “The Shepard Park Building”, 400 South Federal Highway, Stuart, Florida 34994 to return the western dock to the City of Stuart.

SECTION 2: This Resolution shall take effect upon its adoption.

RESOLUTION 98-2019
Lease Amendment with Duffield Marine, Inc.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this ____ day of October, 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting**Date:** 10/14/2019**Prepared by:** Tim Voelker, P.E. - Public Works Assistant Director/City Engineer**Title of Item:**

SRF LOAN ADJUSTMENT (RC):

RESOLUTION No. 99-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA ADOPTING AMENDMENT 1 TO THE STATE OF FLORIDA DRINKING WATER STATE REVOLVING FUND LOAN AGREEMENT DW430420. PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The State of Florida Department of Environmental Protection and the City of Stuart entered into a Drinking Water State Revolving Fund Loan Agreement, Number DW430420 for the PFC Treatment System project, authorizing a loan amount of \$2,403,385.00, excluding capitalized interest and including principal forgiveness in the amount of \$372,841.00.

Amendment 1 provides adjustment to the loan amount, principal forgiveness amount, semiannual loan payment amount, loan service fee, and project costs in order to reflect actual costs. The loan amount is reduced by \$100,782.00; therefore, the adjusted total disbursed loan amount is \$2,302,603.00.

Funding Source:

Budgeted FY19 - 1610 / 563 (Water Treatment Team)

Recommended Action:

Approve Resolution No. 99-2019

ATTACHMENTS:

Description	Upload Date	Type
❑ R99-2019 State Revolving Fund Amendment to Loan Agreement DW430420	10/7/2019	Resolution add to Y drive
❑ Amendment 1	10/8/2019	Attachment
❑ Amortization Schedule Report	10/2/2019	Backup Material



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 99-2019

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF STUART, FLORIDA ADOPTING AMENDMENT 1
TO THE STATE OF FLORIDA DRINKING WATER STATE
REVOLVING FUND LOAN AGREEMENT DW430420.
PROVIDING AN EFFECTIVE DATE, AND FOR OTHER
PURPOSES.**

* * * * *

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART,
FLORIDA that:**

SECTION 1: The City of Stuart, Florida has previously approved and executed the \$2,403,385.00 (excluding capitalized interest and including principal forgiveness in the amount of \$372,841.00) State of Florida Drinking Water Revolving Fund Construction Loan Agreement DW430420.

SECTION 2: Amendment 1 provides adjustment to the loan amount, principal forgiveness amount, semiannual loan payment amount, loan service fee, and project costs in order to reflect actual costs.

SECTION 3: All other terms and provisions of the Loan Agreement shall remain in full force and effect.

SECTION 4: This resolution shall take effect on adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this 14th day of October, 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL
CITY ATTORNEY

**STATE REVOLVING FUND
AMENDMENT 1 TO LOAN AGREEMENT DW430420
CITY OF STUART**

This amendment is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and the CITY OF STUART, FLORIDA, (Project Sponsor) existing as a local governmental entity under the laws of the State of Florida. Collectively, the Department and the Project Sponsor shall be referred to as "Parties" or individually as "Party".

The Department and the Project Sponsor entered into a Drinking Water State Revolving Fund Loan Agreement, Number DW430420, authorizing a Loan amount of \$2,403,385, excluding Capitalized Interest and including Principal Forgiveness in the amount of \$372,841; and

The Loan Amount, Principal Forgiveness amount, Semiannual Loan Payment amount, Loan Service Fee, and Project costs need adjustment to reflect actual costs; and

Certain provisions of the Agreement need to be revised.

The Parties hereto agree as follows:

1. The total amount awarded is reduced by \$100,782 of which the Principal Forgiveness portion is \$15,634.47 and the Loan amount is \$85,147.53. The revised total amount awarded is \$2,302,603.00. Of that, the Principal Forgiveness is \$357,206.53.

2. The Loan Service Fee is reduced by \$1,703, and the adjusted total service fee, rounded to the nearest dollar, for this Loan is \$38,908. The fee represents two percent of the Loan amount excluding Capitalized Interest; that is, two percent of \$1,945,396.47.

3. The total amount of the Loan is \$1,986,330.85, which consists of \$1,945,396.47 disbursed to the Project Sponsor, \$2,026.38 of accrued Capitalized Interest and \$38,908.00 of service fee charges.

4. The total amount remaining to repay is \$1,986,330.85, consisting of unpaid principal of the Loan of \$1,947,422.85 and an unpaid service fee charge of \$38,908.00 both at an interest rate of 0.69 percent per annum.

5. The Semiannual Loan Payment amount is hereby revised and shall be in the amount of \$53,248.78. Such payments shall be received by the Department on March 15, 2020 and semiannually thereafter on September 15 and March 15 of each year until all amounts due hereunder have been fully paid.

6. Subsection 2.03(1) of the Agreement is deleted and replaced as follows:

(1) The financial assistance authorized pursuant to this Loan Agreement consists of the following:

Federal Resources, Including State Match, Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
FS98452218-0	EPA	66.468	Capitalization Grants for Drinking Water State Revolving Fund	\$2,302,603	140129

7. The Project Sponsor and the Department acknowledge that changes in Project costs may occur as a result of an audit. Unless this Agreement is amended subsequent to an audit, the following Project disbursements shall be final.

CATEGORY	PROJECT COSTS (\$)
Construction and Demolition	2,150,165.00
Technical Services During Construction	152,438.00
SUBTOTAL (Total Disbursed)	2,302,603.00
Less Principal Forgiveness	(357,206.53)
Capitalized Interest	2,026.38
TOTAL (Loan Principal Amount)	1,947,422.85

8. All other terms and provisions of the Loan Agreement shall remain in effect.

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This Amendment 1 to Loan Agreement DW430420 may be executed in two or more counterparts, any of which shall be regarded as an original and all of which constitute but one and the same instrument.

IN WITNESS WHEREOF, the Department has caused this amendment to the Loan Agreement to be executed on its behalf by the Secretary or Designee, and the Project Sponsor has caused this amendment to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this amendment shall be as set forth below by the Department.

for
CITY OF STUART

Mayor

Attest:

Approved as to form and legal sufficiency:

City Clerk
SEAL

City Attorney

for
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Secretary or Designee

Date

Calculation of Semiannual Payment for Remaining Years

Sponsor: Stuart

Funding Number: 430420

Beginning of Repayment Period: 09/15/2019

Payments Remaining: 40

Original Loan		Combined Rate: .69					
Date	Disbursement Or Serv. Fee	Cap. Int. At 03/15/2020	Amount To Repay	Interest At 03/15/2020	Total Owed At 03/15/2020	Present Value* At 09/15/2019	Payment Amount
03/29/2019	186,199.70	598.39	186,798.09	644.45	187,442.54		
07/15/2019	561,627.10	658.26	562,285.36	1,939.88	564,225.24		
08/12/2019	1,197,569.67	769.73	1,198,339.40	4,134.27	1,202,473.67		
09/23/2019	38,908.00	0.00	38,908.00	127.98	39,035.98		
Subtotals:	1,984,304.47	2,026.38	1,986,330.85	6,846.58	1,993,177.43	1,986,324.61	53,248.78

*Present value is the total owed divided by $(1 + (\text{Combined interest rate})/2)$
 The Payment Amount is computed using the present value.

State Revolving Fund Loan
*** Amortized Repayment Schedule ***

Funding Number: 430420

Sponsor: Stuart

Original Loan Interest: .69 GAA Rate: 0

Date	Pmt. No.	Payment	Serv. Fee Paid	SF Interest	Interest	Grt. All. Assmt.	Principal Paid	Total to Pay*
09/15/2019		0.00	0.00	0.00	0.00	0.00	0.00	1,986,330.84
03/15/2020	1	53,248.78	38,908.00	127.98	6,718.61	0.00	7,494.19	1,939,928.65
09/15/2020	2	53,248.78	0.00	0.00	6,692.75	0.00	46,556.03	1,893,372.62
03/15/2021	3	53,248.78	0.00	0.00	6,532.14	0.00	46,716.64	1,846,655.98
09/15/2021	4	53,248.78	0.00	0.00	6,370.96	0.00	46,877.82	1,799,778.16
03/15/2022	5	53,248.78	0.00	0.00	6,209.23	0.00	47,039.55	1,752,738.61
09/15/2022	6	53,248.78	0.00	0.00	6,046.95	0.00	47,201.83	1,705,536.78
03/15/2023	7	53,248.78	0.00	0.00	5,884.10	0.00	47,364.68	1,658,172.10
09/15/2023	8	53,248.78	0.00	0.00	5,720.69	0.00	47,528.09	1,610,644.01
03/15/2024	9	53,248.78	0.00	0.00	5,556.72	0.00	47,692.06	1,562,951.95
09/15/2024	10	53,248.78	0.00	0.00	5,392.18	0.00	47,856.60	1,515,095.35
03/15/2025	11	53,248.78	0.00	0.00	5,227.08	0.00	48,021.70	1,467,073.65
09/15/2025	12	53,248.78	0.00	0.00	5,061.40	0.00	48,187.38	1,418,886.27
03/15/2026	13	53,248.78	0.00	0.00	4,895.16	0.00	48,353.62	1,370,532.65
09/15/2026	14	53,248.78	0.00	0.00	4,728.34	0.00	48,520.44	1,322,012.21

State Revolving Fund Loan
*** Amortized Repayment Schedule ***

Sponsor: Stuart

Funding Number: 430420

Original Loan		Interest: .69	GAA Rate: 0						
Date	Pmt. No.	Payment	Serv. Fee Paid	SF Interest	Interest	Grt. All. Assmt.	Principal Paid	Total to Pay*	
03/15/2027	15	53,248.78	0.00	0.00	4,560.94	0.00	48,687.84	1,273,324.37	
09/15/2027	16	53,248.78	0.00	0.00	4,392.97	0.00	48,855.81	1,224,468.56	
03/15/2028	17	53,248.78	0.00	0.00	4,224.42	0.00	49,024.36	1,175,444.20	
09/15/2028	18	53,248.78	0.00	0.00	4,055.28	0.00	49,193.50	1,126,250.70	
03/15/2029	19	53,248.78	0.00	0.00	3,885.56	0.00	49,363.22	1,076,887.48	
09/15/2029	20	53,248.78	0.00	0.00	3,715.26	0.00	49,533.52	1,027,353.96	
03/15/2030	21	53,248.78	0.00	0.00	3,544.37	0.00	49,704.41	977,649.55	
09/15/2030	22	53,248.78	0.00	0.00	3,372.89	0.00	49,875.89	927,773.66	
03/15/2031	23	53,248.78	0.00	0.00	3,200.82	0.00	50,047.96	877,725.70	
09/15/2031	24	53,248.78	0.00	0.00	3,028.15	0.00	50,220.63	827,505.07	
03/15/2032	25	53,248.78	0.00	0.00	2,854.89	0.00	50,393.89	777,111.18	
09/15/2032	26	53,248.78	0.00	0.00	2,681.03	0.00	50,567.75	726,543.43	
03/15/2033	27	53,248.78	0.00	0.00	2,506.57	0.00	50,742.21	675,801.22	
09/15/2033	28	53,248.78	0.00	0.00	2,331.51	0.00	50,917.27	624,883.95	
03/15/2034	29	53,248.78	0.00	0.00	2,155.85	0.00	51,092.93	573,791.02	

State Revolving Fund Loan
*** Amortized Repayment Schedule ***

Sponsor: Stuart

Funding Number: 430420

Original Loan		Interest: .69	GAA Rate: 0					
Date	Pmt. No.	Payment	Serv. Fee Paid	SF Interest	Interest	Grt. All. Assmt.	Principal Paid	Total to Pay*
09/15/2034	30	53,248.78	0.00	0.00	1,979.58	0.00	51,269.20	522,521.82
03/15/2035	31	53,248.78	0.00	0.00	1,802.70	0.00	51,446.08	471,075.74
09/15/2035	32	53,248.78	0.00	0.00	1,625.21	0.00	51,623.57	419,452.17
03/15/2036	33	53,248.78	0.00	0.00	1,447.11	0.00	51,801.67	367,650.50
09/15/2036	34	53,248.78	0.00	0.00	1,268.39	0.00	51,980.39	315,670.11
03/15/2037	35	53,248.78	0.00	0.00	1,089.06	0.00	52,159.72	263,510.39
09/15/2037	36	53,248.78	0.00	0.00	909.11	0.00	52,339.67	211,170.72
03/15/2038	37	53,248.78	0.00	0.00	728.54	0.00	52,520.24	158,650.48
09/15/2038	38	53,248.78	0.00	0.00	547.34	0.00	52,701.44	105,949.04
03/15/2039	39	53,248.78	0.00	0.00	365.52	0.00	52,883.26	53,065.78
09/15/2039	40	53,248.86	0.00	0.00	183.08	0.00	53,065.78	0.00
Subtotals:		2,129,951.28	38,908.00	127.98	143,492.46	0.00	1,947,422.84	
*Total to pay may reflect activity during repayment term								

State Revolving Fund Loan
*** Amortized Repayment Schedule ***

Sponsor: Stuart

Funding Number: 430420

All Increments Combined

Date	Pmt. No.	Payment	Serv. Fee Paid	SF Interest	Interest	Grt. All. Assmt.	Principal Paid	Total to Pay*
09/15/2019		0.00	0.00	0.00	0.00	0.00	0.00	1,986,330.84
03/15/2020	1	53,248.78	38,908.00	127.98	6,718.61	0.00	7,494.19	1,939,928.65
09/15/2020	2	53,248.78	0.00	0.00	6,692.75	0.00	46,556.03	1,893,372.62
03/15/2021	3	53,248.78	0.00	0.00	6,532.14	0.00	46,716.64	1,846,655.98
09/15/2021	4	53,248.78	0.00	0.00	6,370.96	0.00	46,877.82	1,799,778.16
03/15/2022	5	53,248.78	0.00	0.00	6,209.23	0.00	47,039.55	1,752,738.61
09/15/2022	6	53,248.78	0.00	0.00	6,046.95	0.00	47,201.83	1,705,536.78
03/15/2023	7	53,248.78	0.00	0.00	5,884.10	0.00	47,364.68	1,658,172.10
09/15/2023	8	53,248.78	0.00	0.00	5,720.69	0.00	47,528.09	1,610,644.01
03/15/2024	9	53,248.78	0.00	0.00	5,556.72	0.00	47,692.06	1,562,951.95
09/15/2024	10	53,248.78	0.00	0.00	5,392.18	0.00	47,856.60	1,515,095.35
03/15/2025	11	53,248.78	0.00	0.00	5,227.08	0.00	48,021.70	1,467,073.65
09/15/2025	12	53,248.78	0.00	0.00	5,061.40	0.00	48,187.38	1,418,886.27
03/15/2026	13	53,248.78	0.00	0.00	4,895.16	0.00	48,353.62	1,370,532.65
09/15/2026	14	53,248.78	0.00	0.00	4,728.34	0.00	48,520.44	1,322,012.21

State Revolving Fund Loan
*** Amortized Repayment Schedule ***

Funding Number: 430420

Sponsor: Stuart

All Increments Combined

Date	Pmt. No.	Payment	Serv. Fee Paid	SF Interest	Interest	Grt. All. Assmt.	Principal Paid	Total to Pay*
03/15/2027	15	53,248.78	0.00	0.00	4,560.94	0.00	48,687.84	1,273,324.37
09/15/2027	16	53,248.78	0.00	0.00	4,392.97	0.00	48,855.81	1,224,468.56
03/15/2028	17	53,248.78	0.00	0.00	4,224.42	0.00	49,024.36	1,175,444.20
09/15/2028	18	53,248.78	0.00	0.00	4,055.28	0.00	49,193.50	1,126,250.70
03/15/2029	19	53,248.78	0.00	0.00	3,885.56	0.00	49,363.22	1,076,887.48
09/15/2029	20	53,248.78	0.00	0.00	3,715.26	0.00	49,533.52	1,027,353.96
03/15/2030	21	53,248.78	0.00	0.00	3,544.37	0.00	49,704.41	977,649.55
09/15/2030	22	53,248.78	0.00	0.00	3,372.89	0.00	49,875.89	927,773.66
03/15/2031	23	53,248.78	0.00	0.00	3,200.82	0.00	50,047.96	877,725.70
09/15/2031	24	53,248.78	0.00	0.00	3,028.15	0.00	50,220.63	827,505.07
03/15/2032	25	53,248.78	0.00	0.00	2,854.89	0.00	50,393.89	777,111.18
09/15/2032	26	53,248.78	0.00	0.00	2,681.03	0.00	50,567.75	726,543.43
03/15/2033	27	53,248.78	0.00	0.00	2,506.57	0.00	50,742.21	675,801.22
09/15/2033	28	53,248.78	0.00	0.00	2,331.51	0.00	50,917.27	624,883.95
03/15/2034	29	53,248.78	0.00	0.00	2,155.85	0.00	51,092.93	573,791.02

State Revolving Fund Loan
*** Amortized Repayment Schedule ***

Sponsor: Stuart

Funding Number: 430420

All Increments Combined

Date	Pmt. No.	Payment	Serv. Fee Paid	SF Interest	Interest	Grt. All. Assmt.	Principal Paid	Total to Pay*
09/15/2034	30	53,248.78	0.00	0.00	1,979.58	0.00	51,269.20	522,521.82
03/15/2035	31	53,248.78	0.00	0.00	1,802.70	0.00	51,446.08	471,075.74
09/15/2035	32	53,248.78	0.00	0.00	1,625.21	0.00	51,623.57	419,452.17
03/15/2036	33	53,248.78	0.00	0.00	1,447.11	0.00	51,801.67	367,650.50
09/15/2036	34	53,248.78	0.00	0.00	1,268.39	0.00	51,980.39	315,670.11
03/15/2037	35	53,248.78	0.00	0.00	1,089.06	0.00	52,159.72	263,510.39
09/15/2037	36	53,248.78	0.00	0.00	909.11	0.00	52,339.67	211,170.72
03/15/2038	37	53,248.78	0.00	0.00	728.54	0.00	52,520.24	158,650.48
09/15/2038	38	53,248.78	0.00	0.00	547.34	0.00	52,701.44	105,949.04
03/15/2039	39	53,248.78	0.00	0.00	365.52	0.00	52,883.26	53,065.78
09/15/2039	40	53,248.86	0.00	0.00	183.08	0.00	53,065.78	0.00
Totals:		2,129,951.28	38,908.00	127.98	143,492.46	0.00	1,947,422.84	
*Total to pay may reflect activity during repayment term								

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: David Dyess

Title of Item:

THE PELICAN CAFE LEASE, 351 SW FLAGLER AVENUE (RC):

RESOLUTION No. 71-2019; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO AUTHORIZE THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF STUART AND THE PELICAN CAFÉ, LLC FOR THE PROPERTY LOCATED AT 351 SW FLAGLER AVENUE, STUART; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The Pelican LLC has requested a renewal of their lease prior to lease end of their current lease. After discussion on facility improvement, lease terms and rates the attached lease is what has been agreed upon by Pelican LLC.

Staff agrees to these terms based on the current ownership of the Pelican Cafe LLC. Staff has recommended language in the lease that would evaluate rates if ownership were to change during the term of the lease, however the Pelican Cafe LLC. has asked not to have the below language included:

Any of the following acts shall constitute a transfer and shall require the Landlord's approval:

(A) Transfer the demised premises or any portion thereof to any "affiliate company." An "affiliate company" shall mean, any corporation, partnership or other business entity or individuals under common control and ownership with the Tenant, or with the parent or any subsidiary of the Tenant.

(B) Merge into or consolidate with any corporation, limited liability company or individual.

(C) Transfer the demised premises or shares of the current LLC, or any portion thereof, to any buyer of the business operations of Tenant

(D) Transfer the leased premises to any franchisee or licensee of the Tenant.

(E) Any sale of all or any of the shares of Tenant shall be considered as a transfer or assignment of this lease which shall require the approval of Landlord.

In the event that a transfer or assignment occurs, Tenant agrees that Landlord shall immediately have the right to renegotiate the rent which shall be defined as the going rate that rental properties in a specific area can be expected to rent for when compared to other properties of similar size, condition, and amenities.

Funding Source:

N/A

Recommended Action:

Motion to approve lease to be executed by the Mayor and City Clerk after language is added to reevaluate the lease rate if Pelican Cafe LLC were to change ownership.

ATTACHMENTS:

Description	Upload Date	Type
▣ Resolution 71-2019	9/12/2019	Resolution add to Y drive
▣ Pelican Cafe Lease	10/7/2019	Attachment



BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 71-2019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO AUTHORIZE THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF STUART AND THE PELICAN CAFÉ, LLC FOR THE PROPERTY LOCATED AT 351 SW FLAGLER AVENUE, STUART; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the City owns the building located at 351 SW Flagler Avenue in the City of Stuart, more commonly known as “The Pelican Café,” and

WHEREAS, Paul Daly as Managing Partner of The Pelican Café, LLC seeks to execute a lease agreement with the City of Stuart for the building; and

WHEREAS, the City Commission finds that it is befitting to lease the building formerly known as the “Coast Guard Auxiliary Building” located at 351 SW Flagler Avenue to Paul Daly, Managing Partner of The Pelican Café, LLC

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The Mayor and City Clerk are hereby authorized and directed to execute a lease agreement between the City of Stuart and The Pelican Café, LLC for a period of ten (10) years with the option of two (2) additional five (5) year renewals. Copies of the Leases are on file in the Office of the City Clerk.

SECTION 2: This resolution shall take effect upon adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this 14th day of October 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL MORTELL
CITY ATTORNEY



LEASE AGREEMENT

THIS LEASE AGREEMENT made and entered into as of _____, by and between the City of Stuart, Florida, whose principal address is 121 South Flagler Avenue, Stuart, Florida 33494 its successors or assigns ("Landlord") and The Pelican Café, LLC., 351 Flagler Avenue, Stuart, Florida, 34996, doing business as the "The Pelican Café, LLC." ("Tenant").

WITNESSETH:

ARTICLE I - GRANT AND TERM

1.01 Leased Premises: Landlord, for and in consideration of the covenants, conditions, agreements and stipulations contained in this lease agreement ("Lease") does hereby lease unto Tenant and Tenant does hereby take and hire from Landlord that certain building known as the "Coast Guard Auxiliary Building", 351 SW Flagler Avenue, Stuart, Florida, now existing ("Building") located at the northwesternmost end of Flagler Park ("Land") particularly described in **Exhibit "A"**, attached hereto. The Building and Land being leased hereunder are hereafter collectively referred to as the "Leased Premises."

1.02 Term: This Lease shall constitute a binding contract and agreement as of this date. The term, obligations to pay rent, rights to occupy and the other provisions concerning the Leased Premises, except where expressly stated otherwise, shall commence on the day and year the Leased Premises is first occupied by Tenant and shall continue for a period of ten (10) years. This Lease may be renewed for two (2) additional five (5) year period(s) provided both Tenant and Landlord mutually agree in writing.

1.03 Regulatory Approval: This Lease and Tenant's obligations hereunder are contingent upon Tenant obtaining such approvals, permits and consents as are legally required from those regulatory agencies, building permitting agencies or other bodies having jurisdiction over the Building and Landlord agrees to assist in connection therewith to the extent that it is legally allowed without providing special benefit to the lessee. Tenant affirms that it will acquire all permits necessary to construct the enclosure which is a condition of this lease.

ARTICLE II – RENT & MAINTENANCE

2.01 Rent:

A. Base Rent: Commencing on the first day of the first month after Lease signature by Tenant, rent payments shall commence. Throughout the term of this Lease, Tenant shall pay to Landlord, at the address set forth for notices under this Lease or at such other address as Landlord shall from time to time designate by notice given to Tenant as hereinafter provided as rental for the Leased Premises, in lawful money of the United States of America, a monthly rent payable in advance in the amount of One Thousand nine Hundred sixty five and 00/100 Dollars (\$1,965.00) plus applicable state sales tax or any other tax as may be hereinafter enacted and applicable to the rental revenue of this lease. The rent shall be adjusted on April 1 each year using the Consumers' Price Index for All Items in Miami-Fort Lauderdale (Series

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

CUURA320SA0) for the month of December each year as promulgated by the Bureau of Labor Statistics of the United States Department of Labor using December, 2005 as a base.

B. Additional Monthly Compensation: In addition to the base rental set forth above in paragraph 2.01A, Tenant shall be responsible to pay Landlord additional rent equal to three percent (3%) of Tenant's gross sales, not including Florida Sales and Use Taxes collected, if any, derived from the Leased Premises. Said gross sales shall be determined on a monthly basis and shall be due and payable to Landlord on or before the fifteenth day of the following month. Along with the rent payment, the Tenant shall furnish a fully executed copy of the monthly Sales and Use Tax Return (DR-15CS), as submitted to the Florida Department of Revenue.

C. Late Fee: The base rent is due no later than the first day of each month. Any base rent not tendered by the lessor by 5:00 pm on the fifth day of the month is deemed late. A late fee of 10% of the monthly base amount will be payable as a late fee when rent is paid after the fifth day of each month.

2.02 Maintenance:

A. Landlord and Tenant Maintenance: Landlord covenants to maintain, at its cost and expense, the exterior, structural and foundation components of the Building. Such maintenance shall specifically include the repair and replacement, if necessary, of the roof. Landlord shall not provide the repairs to the air conditioning, electrical and plumbing systems in the Building. Tenant's maintenance shall specifically include, but shall not be limited to the grease trap, all fixtures installed by the Tenant, all interior walls, ceilings, cabinets, and any built-in bars, exhaust fans, interior lighting, interior painting, air conditioning, restaurant appliances and equipment, tables, chairs, and other seating. Tenant shall promptly repair or replace all items that are the responsibility of the Tenant. Landlord's maintenance shall specifically include the paving, curbing and repair of all sidewalks, parking areas and driveways. Tenant shall promptly notify Landlord of any needed repairs to the Building systems or its structure that are the responsibility of Landlord hereunder. Landlord shall thereafter promptly commence and diligently pursue such repair work. In the event of an emergency, Tenant shall be reimbursed for the cost of making such emergency repairs which actually would have been the responsibility of Landlord.

B. Adjacent Areas of Flagler Park: The Leased Premises and areas immediately adjacent to the Leased Premises including adjacent park grounds within 30 feet of the building shall be maintained by the Tenant. Tenant shall also empty the trash cans in the immediate vicinity of the building and shall maintain good order in the park immediately adjacent to the Leased Premises. These areas shall be kept clean and orderly by the Tenant as though part of the Leased Premises. Any damage to Flagler Park, whether it be vandalism, weather related or brought about by any other cause shall be reported immediately to the Landlord.

C. Tenant Maintenance: Tenant covenants to keep in good order and maintain all portions of the Leased Premises which are not the responsibility of the Landlord.

ARTICLE III - INSURANCE

3.01 Tenant's Insurance:

Tenant is required to provide the following insurance coverage, and shall not commence any work in connection with this agreement until it has obtained all of the following types of insurance and such insurance has been approved by Landlord, nor shall the Tenant allow any contractor or subcontractor to commence work on this facility until all similar insurance required of those contractors or subcontractors has been obtained and approved. All policies shall be with insurers qualified and doing business in the State of Florida.

A. Loss Deductible Clause: Landlord shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of Tenant and any contractor or subcontractor providing such insurance.

B. Worker's Compensation Insurance: Tenant shall obtain and maintain during the life of this contract, Worker's Compensation Insurance for all of its employees connected with the work of this project and, in case any work is sublet, the Tenant shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by Tenant. Such insurance shall fully comply with the Florida Worker's Compensation Law. Any class of employee engaged in hazardous work under this contract who is not protected under the Worker's Compensation statute, shall be provided, and cause each subcontractor to provide adequate insurance, satisfactory to the Landlord for the protection of its employees not otherwise protected.

C. Commercial General Liability Insurance: Tenant shall maintain, and prior to the commencement of this contract, provide the City with evidence of Commercial General Liability insurance to include: 1) Premises/Operations, Products/Completed Operations and Personal/Advertising injury, with limits of not less \$1,000,000 per occurrence; 2) Fire Damage with limits of not less than \$100,000 per occurrence; 3) medical payments with limits not less than \$5,000.00 per person and 4) a General Aggregate limit of not less than \$2,000,000.00. In the alternative, the Tenant may substitute an All Risk Policy with not less than \$2,000,000.00 in coverage.

The Tenant shall require each of its subcontractors to procure and maintain during the life of this subcontract, insurance of the type specified above or insure the activities of his subcontractors in its policy, as specified above.

E. Tenant's Insurance: In addition to the foregoing, the Tenant will be required to maintain Fire & Casualty Insurance in the amount sufficient to cover the Tenant's contents, owned property and any improvements and betterments made to the building.

F. Liquor Liability Insurance: Tenant shall obtain and maintain Liquor Liability Insurance with limits not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

G. Certificates of Insurance: the Tenant upon notice of award will furnish the Landlord with a Certificate of Insurance Form. These shall be completed by the authorized Resident Agent and returned to the City Attorney's Office. This certificate shall be dated and show:

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

The name of the insured Tenant, the specified job by name and job number, the name of insurer, the number of the policy, its effective date, and its termination date.

Statement that the Insurer will mail notice to the Landlord at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.

The City of Stuart shall be named or additional named insured on all Insurance certificates.

H. Indemnification: Tenant hereby binds himself or itself to indemnify and save harmless Landlord from or on account of any injuries or damages, received or sustained by Tenant or any person or persons during or on account of the construction of this work; or by or in consequence of any negligence in connection with the same; or by use of any improper materials or by or on account of any act-of omission of the said party of the second part or his or its agents, servants or employees. Said indemnity to be covered by and limited to the amount of Comprehensive General Liability Insurance.

In case of injury to persons, animals or property by reason of failure to erect or maintain proper and necessary barricades, safeguards and signals, or by reason of any negligence of any Contractor, subcontractor, or any of the Contractor's agents, servants, or employees during the performance of the work before the estimates have become due under this contract, the Owner may, through its officials, withhold such payments, so long as may seem necessary for the indemnity of the Owner, provided that the failure to pay the same shall not be construed or considered as a waiver of the indemnity as above set forth.

ARTICLE IV - TAXES

4.01 Ad Valorem Taxes: Tenant shall pay ad valorem real or personal property taxes by November 30th each year, if any, and all other taxes and special assessments which may be levied against the Leased Premises during Tenant's occupancy thereof.

ARTICLE V - CONSTRUCTION, DELIVERY AND TENANT IMPROVEMENTS

5.01 Landlord's Improvements: Landlord warrants the premises to be free and clear of all liens for claims by mechanics and materialmen for and on account of labor and materials furnished in connection with any construction. Such warranty shall continue in full force and effect for the entire term hereof.

5.02 Tenant's Right to Enter: After the date hereof, Landlord shall afford Tenant reasonable access to the Leased Premises prior to Tenant's possession thereof for the purpose of inspection, measuring and installing or arranging for the installation of fixtures. By affording such prior access to Tenant, Landlord shall not be entitled to any rent nor shall any rent be accrued by reason of such access. Acceptance of possession by Tenant shall conclusively establish that Tenant has inspected the Leased Premises and accepts same as is.

5.03 Tenant Improvements: Tenant agrees to perform all improvements, at its own cost and expense, which are necessary to make the Building conform with Tenant's plans ("Tenant Improvements") as set forth in the plans and specifications approved by the Landlord and

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

attached hereto as **Exhibit "B"**. The tenant is authorized to remove the external A/C compressor at tenants expense and give the Landlord \$6,500.00 at the time of removal for the replacement of the unit.

The Tenant shall complete all "Tenant Improvements" construction and shall obtain a certificate of occupancy therefor on or before December 31, 2020. This Lease will terminate on March 31, 2021 if construction of the tenant Improvements are not completed by December 31, 2020. Landlord shall cooperate and assist Tenant in connection with the issuance of all necessary permits and approvals for Tenant.

All alterations, decorations, partitions, awnings, additions and improvements, including any equipment vaults installed or made by Tenant, shall remain the property of Tenant during the term of this Lease provided, however, that at the termination hereof such alterations, decorations, additions and improvements which have not been permanently affixed to the Leased Premises may at Tenant's option either become the property of and belong to Landlord or Tenant may remove such from the Leased Premises, provided that Tenant restores the Leased Premises to a condition reasonably satisfactory to Landlord.

ARTICLE VI - RIGHTS, DUTIES AND LIABILITY OF TENANT AND LANDLORD

6.01 Utilities: Tenant shall pay all charges related to the use of gas, heating oil, sewer, water, electric, stormwater, collection and disposal of solid waste and other utility services and shall make all deposits for all utilities used on the Leased Premises. Tenant shall pay all costs and charges to hookup all utilities.

6.02 Delivery to Landlord Upon Termination: Tenant shall deliver up and surrender to Landlord possession of the Leased Premises upon the expiration of this Lease or its earlier termination under the terms hereof. The Leased Premises are to be in as good a condition and repair at the time of such surrender as at the rent commencement date of the term hereof (loss by fire, casualty, act of God, and ordinary wear and tear excepted).

6.03 Damage or Destruction of Leased Premises: In the event that the Leased Premises are damaged or destroyed by fire, windstorm, flood or other casualty, Landlord shall, within one hundred eighty (180) days after such casualty, fully restore the Leased Premises. If the Leased premises cannot be so restored within one hundred eight (180) days, then Tenant may terminate this Lease by notifying Landlord in writing. .

In the event the Lease is not terminated, during any time that the Leased Premises are untenantable due to causes set forth in this section, the Rent shall be abated until such time as the Leased Premises are once again fully restored. Insurance proceeds received by Landlord shall be applied to meet its obligation hereunder to an extent sufficient to restore the Leased Premises. The obligation of the Landlord to restore the Leased Premises shall be limited to the amount of the insurance proceeds received by the Landlord. In all cases of restoration by Landlord under this section, the Leased Premises shall be restored to substantially the prior existing condition, subject to such changes as Tenant may request, subject to Landlord's approval, provided that any

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

such changes which increase the cost of restoration shall be at the sole cost and expense of Tenant.

6.04 Covenant of Quiet Enjoyment: For so long as Tenant pays all of the Rent and other charges required in this Lease and is not in material default under any of its obligations hereunder, Landlord agrees that Landlord will not permit the disturbance of nor interference with Tenant's peaceful and quiet possession and enjoyment of the Leased Premises during the term hereof.

6.05 Termination of Utilities and Services: Landlord shall not be liable to Tenant for the interruption of utility services for the Leased Premises except where such interruption is the result of Landlord's unreasonable delay in the making of necessary repairs or improvements or the result of the negligence, misconduct or default under this Lease of Landlord or of any agent of Landlord.

6.06 Assignment or Subletting: Lease assignment shall require the consent of the Landlord. Any sublease of any portion of the Leased Premises shall be first approved by the Landlord which will not be unreasonably withheld or delayed so long as the tenant improvements which are a material condition of this lease have begun. A prospective new tenant shall not qualify for the benefits of this lease based solely on the fact that it doesn't have any negative history. The Commission shall have the right to review the entirety of the circumstances when making its decision. A proposed assignment may be disapproved by the City in its sole discretion if not in the best interests of the City.

Any other assignment of this lease or any right or interest hereunder, voluntarily or by operation of law, or any subletting of the premises or any part thereof, shall be void and in such event Lessor may, at Lessor's option, terminate this lease. The assignment or sublease shall be valid, however, and Lessor shall have waived such option to terminate if, before the assignment or sublease, Lessor and the person or entity to which the premises or any part thereof is to be assigned or subleased reach agreement in writing that the character, credit and business of such person or entity is acceptable to Lessor under commercially reasonable standards and that the rent payable during the balance of the term under this lease with regard to the premises or that part thereof to be assigned or subleased shall be an amount equal to rents then being charged for usage comparable to the premises in size and location. A consent to any assignment of this lease, voluntarily or by operation of law, or to any subletting of premises shall apply only to the specific instance covered thereby. In any event, any assignment, subordination or attornment, even if consented to in writing by Lessor shall not relieve Lessee from its primary liability under this lease for the payment of rent or any other duty or obligation of this lease unless specifically agreed to in writing by Lessor. Any assignment or sublease shall be subject to all the terms and conditions of this lease.

During the term of this lease and all lease options, the business shall always be known as "The Pelican Café and Beach". During the term of this lease and all lease options, the business shall retain the same charming tropical family friendly, pet friendly restaurant with a soft sand beach and comfortable prices that the residents of Stuart have come to know and love.

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

Construction of a metal roof covered pavilion and all items associated with its build-out as outlined in this document are and will be included in this lease. Any change to alter the current concept or building structure, after the pavilion build-out is finished, must be approved in writing by the City Manager, City Attorney and City Council.

6.07 Tenant's Liability for Defense of "Clear Title" and Landlord's Right to Reimbursement: Tenant has no authority to create any mechanic's lien for labor or material against the Land, Building or the Leased Premises. All persons contracting with Tenant who furnish any materials or services to the Leased Premises and all materialmen, contractors and laborers are hereby charged with notice that they must look to Tenant personally for payment for any such work done or material furnished during the term of this Lease. The Tenant shall hold the Landlord harmless and defend any such lien which may be filed and further, shall within ten (10) days of the filing of the lien transfer said lien to a bond pursuant to Chapter 713, Florida Statutes.

6.08 Governmental Laws, Regulations and Requirements: Tenant agrees, at its own cost an expense and through the term of this Lease, to comply promptly with all orders, rules, regulations and requirements of every kind and nature relating to compliance with the use or occupancy of the Leased Premises now or hereafter in force and effect, of federal, state, municipal or other governmental authorities.

6.09 Environmental Regulations: Both the landlord and the tenant are aware that the Commission is currently contemplating regulations regarding the use of plastics and other single use items on City Property. The parties to this agreement agree that any regulations adopted by the City Commission as part of the City Code Article IX. Expanded polystyrene and plastics regulation shall become a part of this lease and shall be enforceable. Both parties agree that the lease isn't scheduled to be renewed until October 31, 2021 and therefore, any regulations adopted by the City Commission as they pertain to City owned property that are adopted prior to October 31, 2021 shall become a part of this agreement and shall have full force and effect. The Tenant agrees that it will not claim that these regulations were entered after the execution of the lease as the parties desire to enter the lease extension early and as such the tenant agrees to be bound by all ordinances and policies adopted by the City prior to October 31, 2021, pertaining to City Owned property.

6.10 Default and Remedies:

A. If Tenant defaults in the payment of rent or any other item to be paid by Tenant hereunder or in the performance of any other term, covenant, or condition of this Lease and such default shall not have been cured within thirty (30) days after receipt of written notice thereof by Landlord to Tenant, Landlord may reenter and take possession of the Leased Premises, terminate this Lease or pursue such other rights and remedies as are available to Landlord at law in equity.

B. If Landlord defaults by failure to perform as required under the terms and conditions of this Lease and such default is not cured within thirty (30) days of notice thereof, Tenant shall be entitled to seek any remedy available to it at law or equity for the satisfaction of said breach

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

including the right to terminate this Lease to recover damages and incidental costs arising from said breach or the right to seek specific performance of Landlord of the terms and conditions as herein stated.

6.10 Landlord's Right of Entry: Landlord or any of its agents shall have the right to enter the Leased Premises upon reasonable advance notice during all reasonable hours to undertake such maintenance and to make such repairs, additions and alterations as are required of it, provided that such entries are made in full compliance with Tenant's security procedures and further, provided that Landlord shall refrain from performing such maintenance or making such repairs, additions or alterations as are required of Tenant until Tenant has failed to perform or make the same after twenty (20) days prior notice of the need and propriety thereof. Tenant also grants Landlord the right to enter the Leased Premises at any time in the event of an emergency to correct an emergency condition. In the event of any such emergency, Landlord shall observe and comply with Tenant's security practices. If Landlord becomes aware of any such emergency prior to Tenant's realization of such, Landlord shall give Tenant prompt notice of any emergency condition occurring on the Leased Premises. The Landlord shall have the right to show the property to prospective tenants during the final sixty (60) days of the lease.

6.11 Use of Leased Premises: Tenant shall use the Leased Premises for a small eating and drinking Café serving a limited menu, beer, wine and liquor. Tenant shall abide by all Federal Laws, State Statutes and Local Ordinances pertaining to the serving and sale of beer and wine beverages. Tenant shall assume all responsibility for any permits, licenses and fees pertaining to the operation of the Café.

Tenant shall not perform any acts or engage in any practices which may injure or damage the Leased Premises. The hours of operation shall be sunrise to sunset daily seven days per week. Changes to the normal hours of operation may be approved at the discretion of the City Manager.

Tenant specifically agrees not to have any live or recorded music or other noise that exceeds 60 DbA at a distance of 100' feet from its source, and to otherwise fully cooperate with the Landlord should the Landlord receive complaints regarding noise emanating from the Lease Premises.

6.12 Signs: Landlord agrees that Tenant shall have the right, at Tenant's cost and expense, to erect and maintain Tenant's standard signage advertising its business on the exterior of the Leased Premises provided that all such signs shall be erected and maintained in compliance with the requirements of all governmental departments having jurisdiction over the Leased Premises.

ARTICLE VII - EMINENT DOMAIN

7.01 Total Condemnation of Leased Premises: If the whole of the Leased Premises shall be taken or condemned by eminent domain or other condemnation proceedings, then the term of this Lease shall cease and terminate without further obligation for either party as of the date of

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

such condemnation or eminent domain. In the event of such condemnation, the parties reserve their respective rights to claim their proportionate share of the proceeds.

7.02 Partial Condemnation of Leased Premises: In the event of a material condemnation of any part the Leased Premises which renders the Leased Premises unsuitable for the business of Tenant, the Tenant may terminate this Lease as of the date of such proceeding or remain in such portion of the Leased Premises as remains after such condemnation or taking.

In such cases, where the Leased Premises are not rendered unsuitable, Rent shall be reduced prorata based on the number of square feet remaining in the Leased Premises after such condemnation until such time as the Lease is terminated.

ARTICLE VIII - MISCELLANEOUS

8.01 Entire Agreement: This Lease contains the entire agreement between the parties hereto. It may be modified only by an agreement in writing signed by both Landlord and Tenant.

8.02 Address for Notice and Rent: Notices to Tenant under this Lease shall be addressed to Tenant and mailed or delivered to The Pelican Cafe, LLC., c/o Paul Daly, Managing Partner, 351 SW Flagler Ave. Stuart, Florida 34994. Notice to Landlord under this Lease shall be addressed to Landlord and mailed or delivered to the City Manager, City of Stuart, 121 South Flagler Avenue, Stuart, Florida 34994. All Rent due under this Lease delivered to Landlord at the above address and all notices under this Lease shall be given by registered or certified mail, return receipt requested, at the addresses set out above (unless the party to receive such sums or such notice has given the other party prior written notice of a new address for such purpose, in which case the new address shall be used). In the case of notices, the date of such registry shall be considered the date of the giving of notice.

8.03 Landlord and Tenant Defined: The terms Landlord and Tenant as herein contained shall include the singular and/or plural, the masculine, feminine and/or neuter, and heirs, representatives and/or assigns wherever the context so requires or admits.

8.04 No Waiver: No waiver by Landlord or Tenant of any breach of any term, covenant or condition contained in this Lease shall be deemed to imply or constitute a waiver of such term, covenant or condition or of any subsequent breach of same or any other term, covenant or condition herein contained. The subsequent acceptance of Rent or other amounts due hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease other than the failure of Tenant to pay the particular amount so accepted regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such amount and no such payment by Tenant of any rents due hereunder shall be deemed a waiver of any preceding breach by Landlord. No covenant, term or condition of this Lease shall be deemed to have been waived by Landlord to Tenant unless such waiver be in writing. The rights and remedies created by this Lease are cumulative and are not intended to be exclusive. The use of one remedy under this Lease shall not be taken to exclude or waive the

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

right or use of another and each party shall be entitled to pursue all remedies generally available under the laws of the State of Florida.

8.05 Costs: If either party shall at any time be in default hereunder and if the other party shall in its discretion deem it necessary to engage an attorney to enforce any rights and obligations hereunder, the prevailing party to the action will be reimbursed for all reasonable expenses incurred, including but not limited to court costs and attorney's fees at both the trial and appellate levels.

8.06 Force Majeure: In the event that either party to this Lease shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, natural disaster causing damage that prohibits use, war or other reason of a like nature which is not the fault of the party so delayed in performing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period of the performance of any such delay act shall be extended for a period equivalent to the period of such delay. As a result of extensive physical damage to premises the Landlord may choose not to repair resulting in a termination of Lease.

8.07 Examination of Lease: Submission of this instrument for examination or signature by Tenant constitutes neither a reservation of, nor an option for, a lease and this instrument shall not become effective as a lease (or otherwise) until execution and delivery by both Landlord and Tenant.

8.08 Captions and Section Numbers: The article numbers, captions and section numbers appearing in this Lease are inserted only as a matter of convenience and shall in no way be interpreted to define, limit, construe or describe the scope or intent of any of the articles, captions or sections of this Lease nor in any way affect this Lease.

8.09 Brokers: Landlord and Tenant represent and warrant each to the other that it has dealt with no broker, agent or other person in connection with this leasing transaction and that no broker, agent or other person brought about this leasing transaction other than as set out below and each agrees to indemnify the other against and to hold harmless from any and all claims by any other broker, agent or other person claiming a commission (or other form of compensation) by virtue of having dealt with Landlord or Tenant with regard to this leasing transaction. The provisions of this section shall survive the termination of this Lease.

8.10 Invalidity of a Portion of Lease: If any clause or provision of this Lease is or becomes illegal, unenforceable or otherwise invalid because of present or future laws or any rule or regulation of any governmental body or entity effective during its term, then the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby.

8.11 Terms Binding on Successors in Interest: The respective rights and obligations hereunder shall inure to and be binding upon the respective heirs, distributees, devisees, legal and personal representatives, assigns, grantees and successors in interest of Landlord and shall also inure to and be binding upon the permitted assigns and successors in interest of Tenant.

Lease Agreement - City of Stuart, Florida and The Pelican Café, LLC.

8.12 Exclusive Use of Leased Premises: The City shall not lease the property described herein to any other party except Tenant for the term of this agreement.

ARTICLE IX - OPTION TO RENEW

9.01 Option to Renew: The Landlord and Tenant may mutually agree to an extension of the term of this Lease. In such event the rent shall be subject to the mutual negotiations of the parties.

IN WITNESS WHEREOF the parties hereto have executed and delivered this Lease in two (2) counterparts on the day and year first above

ATTEST:

LANDLORD
CITY OF STUART, FLORIDA

Mary Kindel, City Clerk

Rebecca Bruner, Mayor

APPROVED AS TO FORM
AND CORRECTNESS

Mike Mortell, City Attorney

TENANT
THE PELICAN CAFÉ, LLC,
a Florida corporation

WITNESSES:

By: _____
Paul Daly, Managing Partner

EXHIBIT A - SITE BOUNDARY

STEPHEN J. BROWN, INC..

LICENSED BUSINESS NUMBER: 6484

SURVEYORS • DESIGNERS • LANDPLANNERS • CONSULTANTS

619 EAST 5TH STREET, STUART, FLORIDA 34994 EMAIL: SJBINC@BEJJSOUTH.NET (772) 288-7176

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN A PORTION OF LOT 2, BLOCK 1. PLAT OF KITCHING'S ADDITION, AS RECORDED IN PLAT BOOK 2, PAGE 86, PUBLIC RECORDS OF PALM BEACH (NOW MARIN) COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF GOVERNMENT LOT -2, SEC170N 5, TOWNSHIP 38 SOUTH. RANGE 41 EAST AND THE NORTHEAST LINE OF A 185 FOOT WIDE FLORIDA EAST COAST RAILWAY RIGHT OF WAY AS SHOWN ON SAID PLAT OF KITCHING'S ADDITION AND ALSO BEING THE SOUTHWEST LINE OF A 20 FOOT WIDE COUNTY ROAD RIGHT OF WAY AS SHOWN ON SAID PLAT; THENCE N47°00'41"W, ALONG SAID RIGHT-OF-WAY LINE, FOR A DISTANCE OF 337.44 FEET, TO THE POINT OF BEGINNING.

THENCE SOUTH 45°55'51" WEST, FOR A DISTANCE OF 6.80 FEET; THENCE NORTH 41°09'21" WEST, FOR A DISTANCE OF 40.14 FEET; THENCE SOUTH 49°27'25" WEST, FOR A DISTANCE OF 2.51 FEET; THENCE NORTH 40°41'48" WEST, FOR A DISTANCE OF 40.28 FEET; THENCE SOUTH 49°11'54" WEST, FOR A DISTANCE OF 5.26 FEET; THENCE NORTH 88°33'44" WEST, FOR A DISTANCE OF 21.39 FEET; THENCE NORTH 00°25'11" EAST, FOR A DISTANCE OF 19.88 FEET; THENCE SOUTH 89°00'55" EAST, FOR A DISTANCE OF 29.02 FEET; THENCE NORTH 79°01'35" EAST, FOR A DISTANCE OF 20.31 FEET; THENCE NORTH 52°01'15" EAST, FOR A DISTANCE OF 11.16 FEET; THENCE NORTH 88°40'21" EAST, FOR A DISTANCE OF 15.99 FEET; THENCE NORTH 59°20'07" EAST, FOR A DISTANCE OF 29.27 FEET; THENCE NORTH 10°54'25" EAST, FOR A DISTANCE OF 12.42 FEET; THENCE SOUTH 44°07'19" EAST, FOR A DISTANCE OF 25.51 FEET; THENCE SOUTH 45°01'07" WEST, FOR A DISTANCE OF 44.12 FEET; THENCE SOUTH 32°52'48" EAST, FOR A DISTANCE OF 30.08 FEET; THENCE SOUTH 45°55'51" WEST, FOR A DISTANCE OF 40.58 FEET. TO THE AFORESAID POINT OF BEGINNING.

SAID PARCEL LYING IN THE CITY OF STUART, AND CONTAINING 6,272.07 SQUARE FEET, 0.14 ACRES, MORE OR LESS.

NOTES:

ALL BEARINGS ARE REFERENCED TO THE EASTERLY LINE OF GOVERNMENT LOT 2, CALCULATED AS N 47°00'41" W.

THIS LAND DESCRIPTION SHALL NOT BE VALID UNLESS IT IS PROVIDED IN ITS ENTIRETY, CONSISTING OF 2 SHEETS, WITH SHEET 2 BEING THE SKETCH OF THE DESCRIPTION.

FILE:

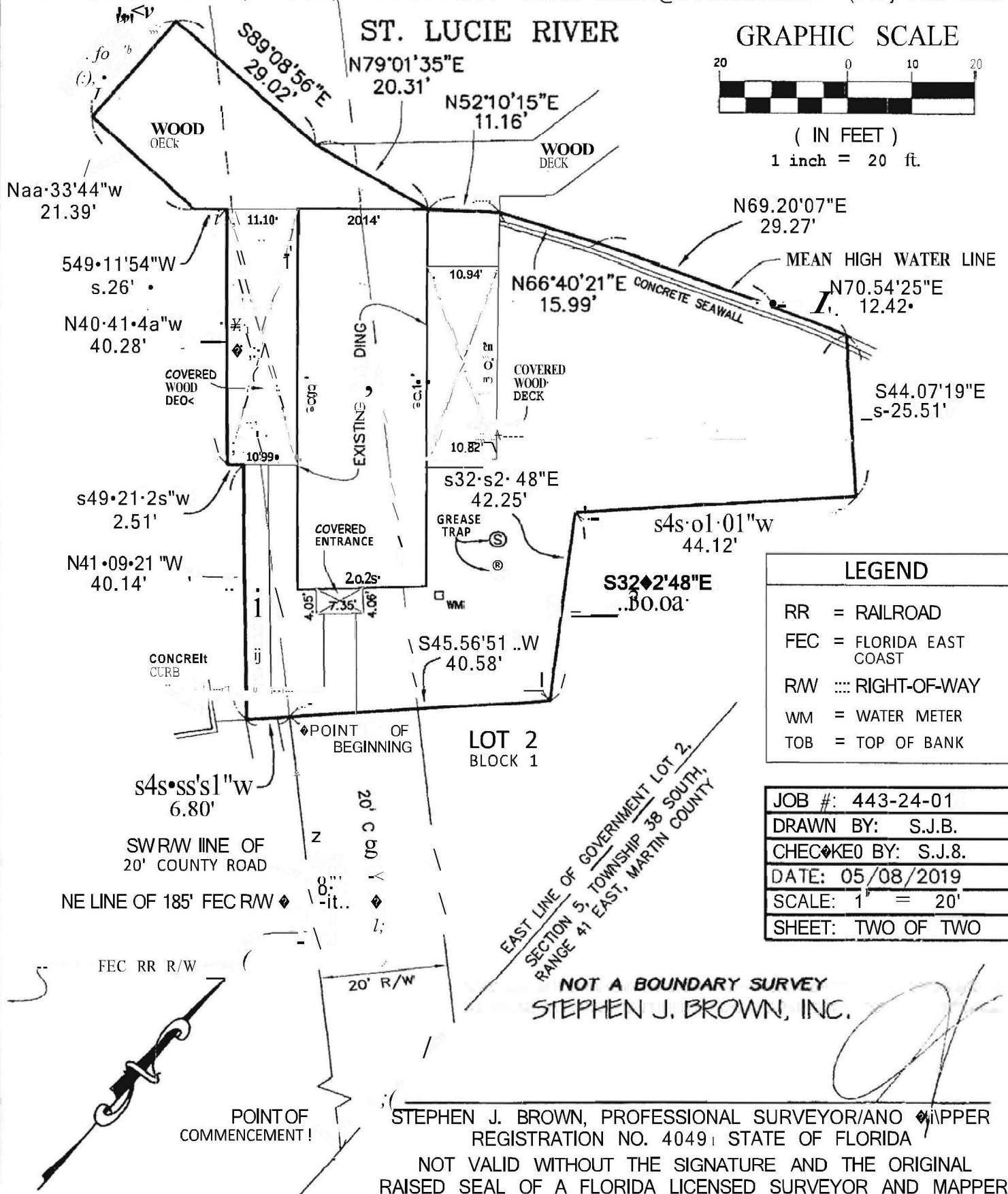
JOB #:	443- 24-01
DRAWN BY:	S.J.B.
CHECKED BY:	S.J.B.
DATE:	05/08/2019
SCALE:	N/A
SHEET:	ONE OF TWO

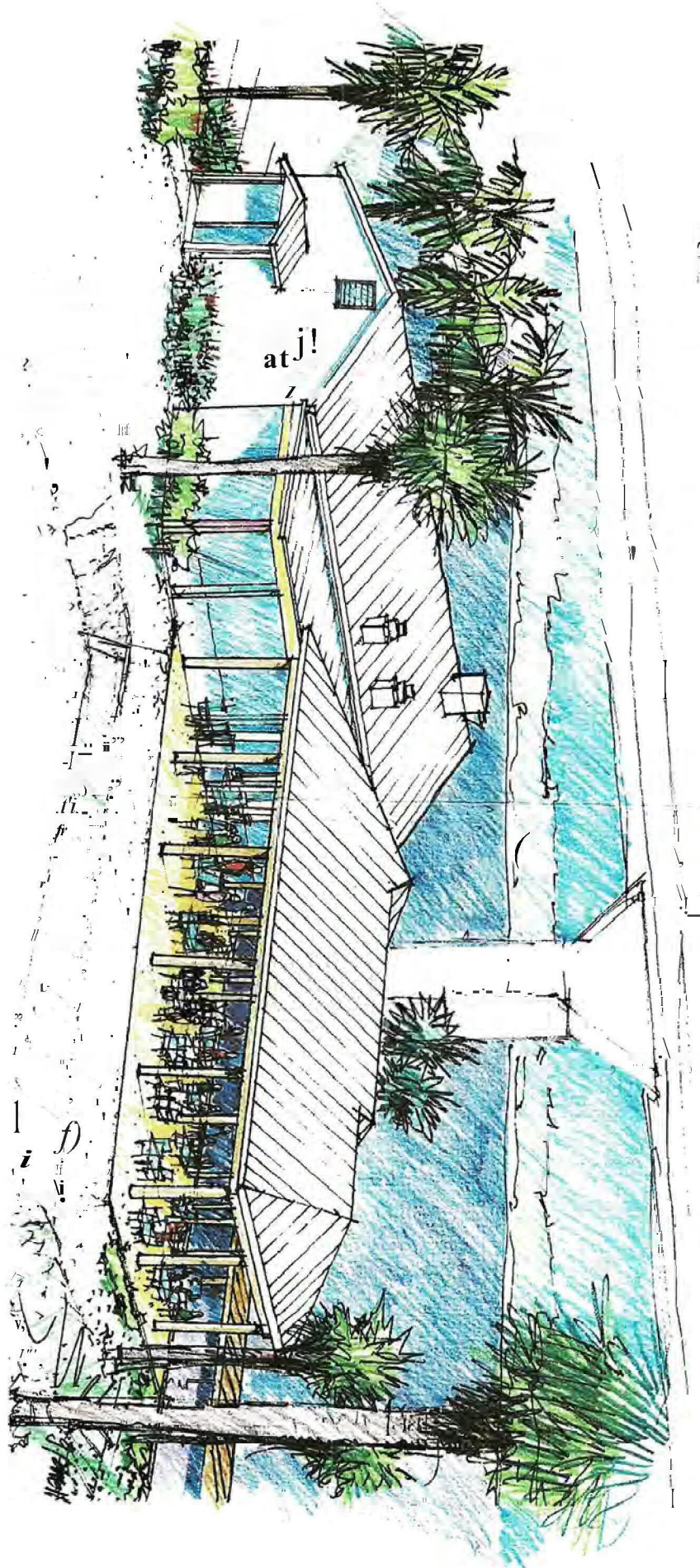
- STEPHEN J. BROWN, INC.

LICENSED BUSINESS NUMBER: 6484

SURVEYORS • DESIGNERS • LANDPLANNERS • CONSULTANTS

619 EAST 5TH STREET, STUART, FLORIDA 34994 EMAIL: SJBINC@BEI.J.SOUTH.NET (772) 288-7176





To: Dave Dyess, City Manger
From: Paul Daly, Managing Partner
The Pelican Cafe LLC
Re: Pelican Cafe Beach Construction Project, Description of Improvements
Date: July 27, 2019

This description is a brief compilation from meetings with architects and general contractors as well as guidelines provided by the City Manager. -rhe building will be a single story detached structure, rectangular shape, primary function to provide cover for outdoor seating on the East side of Pelican Cafe. Preliminary details are isolated Spread footers to carry columns, beams and engineered roof structure. Roof covering will be metal and similar in appearance to other structures in Flagler Park. Floor would remain sand. All construction would follow State, Federal Codes, Laws, Ordinances, regulations, applicable Florida Codes 2017 and coordinated through the City Development, Building, Planning and Zoning Departments.

Thank you,



Paul Daly

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Stephen Mayer

Title of Item:

ANNEXATION OF PROPERTY NORTH-WEST KANNER HIGHWAY AND INDIAN STREET (QUASI-JUDICIAL)(RC):

ORDINANCE No. 2415-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND ON THE NORTHWEST CORNER OF STATE ROAD 76 (AKA KANNER HIGHWAY) AND SW MARTIN HIGHWAY, CONSISTING OF 15.88 ACRES, SAID PARCELS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The City has received application to annex a parcel on the northwest corner of SR 76 (also known as Kanner Highway) and SW Martin Highway, which is the continuation of Indian Street. The 15.88-acre parcel is undeveloped and under contract for purchase by Atlantic Realty. The property is considered contiguous to the City, is compact in form and will not create a municipal enclave if annexed.

The property is zoned COR-1 (Commercial/Office/Residential) and is designated by Martin County to the Commercial/Office/Residential Future Land Use designation. If the annexation is approved, it is Atlantic Realty's intention to pursue a PUD authorizing residential development and will be served by the City of Stuart's utilities. At the current time, the applicant is not proposing a development plan or seeking PUD approval. The applicant understands that a City Comprehensive Plan land use category and a PUD zoning designations will be necessary to pursue modification of the Commercial Office approval previously granted by Martin County. As a result, Martin County's land use and zoning regulations remain in effect. The Martin County Board of County Commissioners was notified of the proposed annexation by certified mail on September 9, 2019. A complete copy of tonight's agenda item was also provided to the County's Growth Management Department on September 9, 2019. At the time of this agenda item, the County has not provided comments.

On September 9, 2019, the Local Planning Agency recommended approval of the item and moved the Ordinance forward to the City Commission. The draft minutes have been attached to this agenda. Staff has discussed, with the applicant, the option of incorporating additional property, in the same ownership and to the south of the Veterans Bridge, into this annexation request. At this time the property to the south of the bridge is not included within this request, staff are informed by the applicant that the owner of the property intends to donate it to Martin County .

Funding Source:

N/A

Recommended Action:

Move to approve Ordinance 2415-2019 on First Reading.

ATTACHMENTS:

Description	Upload Date	Type
▢ Staff Report	10/3/2019	Staff Report
▢ Ordinance No 2415-2019	10/3/2019	Ordinance add to Y drive
▢ Attorney Opinion	9/11/2019	Attachment
▢ Survey	10/8/2019	Exhibit
▢ Justification Statement from Applicant	10/3/2019	Attachment
▢ Owner Consent	9/9/2019	Attachment
▢ Agent letter	9/9/2019	Attachment
▢ Application	9/9/2019	Attachment
▢ Application Signature Page 2	9/9/2019	Attachment
▢ LPA Minnutes - Draft - September 19	10/3/2019	Attachment

STAFF REPORT & MAPS

Background:

The City has received application to annex a parcel on the northwest corner of SR 76 (also known as Kanner Highway) and SW Martin Highway, which is the continuation of Indian Street. The 15.88-acre parcel owned by Knight Kiplinger are undeveloped and under contract for purchase by Atlantic Realty. The property is considered contiguous to the City, are compact in form and will not create an enclave if annexed.

The City Attorney finds the attached application to be in order and in compliance with Florida Statute Section 171.044. The property owners are not proposing a development plan or schedule of development at this time. The property owners understand that a City Comprehensive Plan land use category and a PUD zoning designations will have to be applied for at a later date. In the meantime, Martin County's land use and zoning regulations remain in effect. As called for by Florida Statute, the Martin County BOCC was notified of the proposed annexation by certified mail on September 9, 2019. A complete copy of tonight's agenda item will be provided to the County's Growth Management Department on September 9, 2019.

	Size (Ac)	Status	County Land Use	County Zoning	City Land Use	City Zoning	Utilities
Kiplinger	15.88	Vacant, undeveloped	Commercial/ Office/ Residential	COR-1 (Commercial Office/ Residential District)	TBD (Likely Residential)	TBD (Likely RPUD)	City of Stuart to provide water & sewer service and sanitation service

Parcel Information

County Land Use

Commercial Office/Residential development (COR). Martin County shall establish policies and criteria to guide mixed-use development. Commercial Office/Residential development shall be allocated to accessible sites adjacent to major thoroughfares. It shall also serve as a transitional use separating more intensive commercial uses from residential development. Office and residential development may be allocated along the outer fringe of core commercial areas where such development may encourage reinvestment in declining residential areas adjacent to commercial core areas. The COR future land use designation shall also be allocated to areas appropriately suited for Traditional Neighborhood Development, described under Goal 4.3. The development provisions for the standard COR zoning districts and the PUD zoning district are expressed below:

Development in the Commercial Office/Residential future land use designation shall be restricted to professional and business offices, limited service establishments, financial institutions, live-work units, residential development or any combination of these uses. Freestanding retail sales and service establishments shall be excluded from these areas. However, restaurants, certain service commercial uses, and limited commercial uses, as identified in the Land Development Regulations, may occupy 25 percent of the commercial square footage in a building.

Residential storage facilities may be approved in areas designated COR, and the Land Development Regulations shall include criteria for review of such uses. However, the building shall be restricted to structures with small modules adaptive exclusively to storage of personal items of residential clients. Commercial tenants shall be expressly prohibited. The facility shall be designed to blend harmoniously with residential structures.

The intensity of lot use, defined as floor area ratio (FAR), shall be governed by the parking standards of the Land Development Regulations. The maximum building coverage shall be 40 percent, and the minimum net lot size permitted in COR districts shall be 10,000 square feet. The minimum open space shall be 40 percent and the maximum building height shall be 30 feet. Multiple-family residential uses are encouraged to develop in areas designated for office development at densities compatible with criteria cited in Policy 4.13A.7.(5) for High Density Residential development. The Land Development Regulations shall require appropriate landscaping and screening, including a vegetative berm system where feasible. Plant material and a decorative fence or wall shall be used to assure compatibility between established residential uses and proposed office developments.

A bed and breakfast or other facilities for transient lodging, catering to seasonal residents, shall be permitted. Kitchen facilities shall be permitted to accommodate occupants visiting for periods exceeding the general motel trip duration of one to four nights. Approved transient lodging facilities existing as of the effective date of the CGMP shall be considered permitted in such an area.

Landscaping, screening, buffering and similar design techniques shall be used to assure a smooth transition between residential structure types and densities.

Residential use shall be allowed in the COR future land use designation as part of a mixed-use project as allowed under Goal 4.3 in any of the seven CRAs designated in Policy 4.2B.4. Residential densities shall be as provided in Policy 4.3A.3.

County Zoning

COR-1 (Commercial Office Residential District)

PERMITTED USES

Modular homes; Multi-Family dwellings; Single Family Dwellings, Townhouse Dwellings, Duplex Dwellings, Zero-Lot Line Homes, Community centers; Cultural and Civic Uses, Educational Institutions; Neighborhood assisted residences with six or fewer residents; Places of Worship; Protective and emergency services; Public libraries, Public parks and recreation area, active; Public parks and recreation areas, passive; Utilities; Ancillary Retail; Bed and breakfast inns; Business and Professional Office; Commercial day care; Financial Institutions; Family day care; Medical Services; Residential Storage Facilities; Recreational Vehicles Parks; and several Life Science, Technology and Research and Targeted Industries Business uses.

COR-1

Required lot area and width. 10,000 square feet in area, 80-foot lot width

Maximum Residential Density: 5.00 units per acre

Building coverage: 40%

Maximum Height: 30 feet

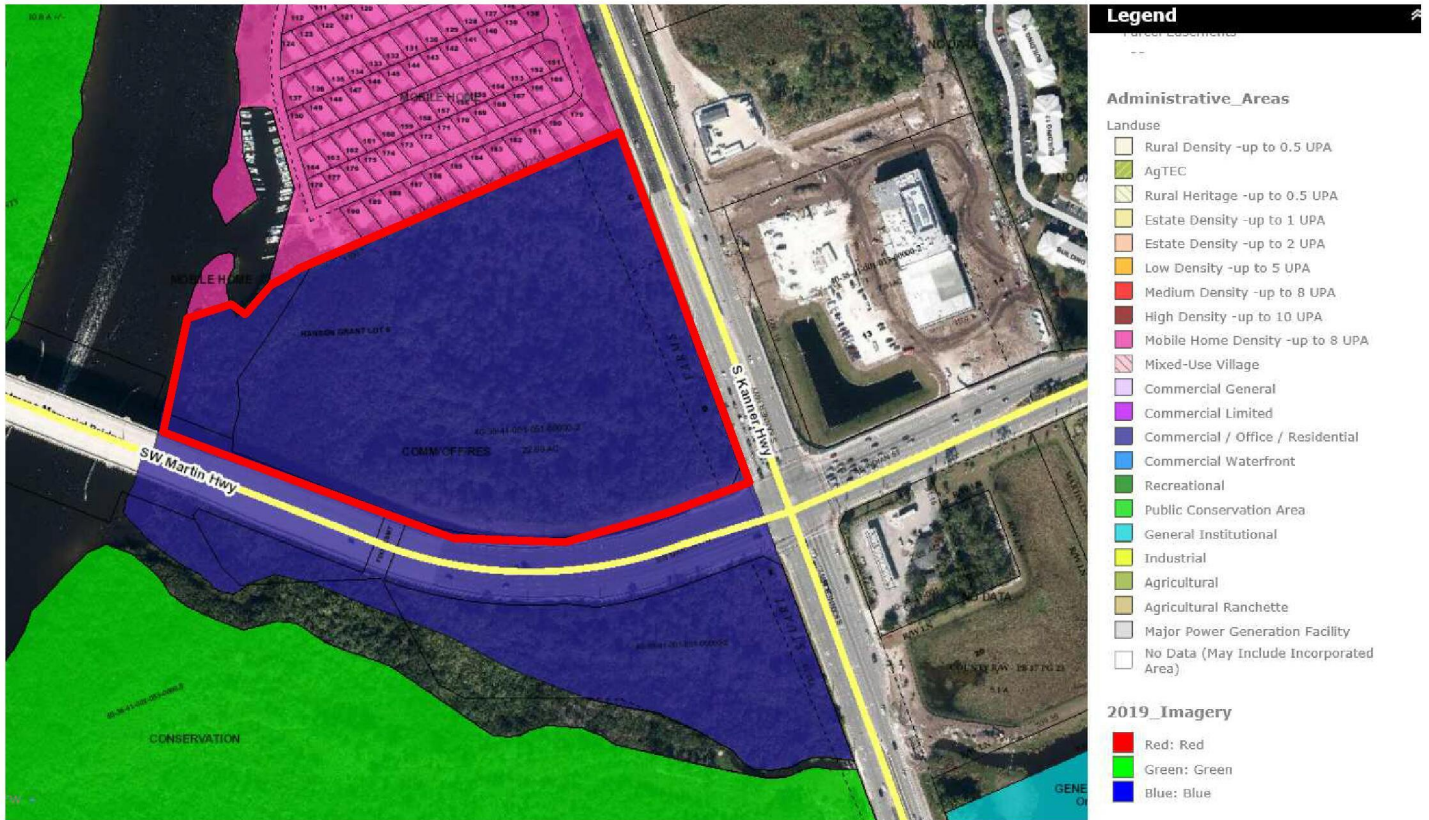
Minimum Open Space: 40%

Front Setback: 25 feet

Rear Setback: 20 feet (30 feet for 3 and 4 stories)

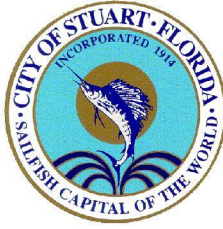
Side Setback: 10 (30 feet for 3 and 4 stories)

MARTIN COUNTY FUTURE LAND USE MAP



MARTIN COUNTY ZONING MAP





ORDINANCE No. 2415-2019

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND ON THE NORTHWEST CORNER OF STATE ROAD 76 (AKA KANNER HIGHWAY) AND SW MARTIN HIGHWAY, CONSISTING OF 15.88 ACRES, SAID PARCELS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, Petitioners Knight Kiplinger constituting the fee simple title holder and Atlantic Realty, Inc. constituting the agent assigned by the owner of a parcel of land on the northwest corner of State Road 76 and SW Martin Highway, consisting of 15.88 acres, and more particularly described in **Exhibit "A"**, attached hereto and made a part thereof, has voluntarily requested the City of Stuart annex said lands into the corporate limits of the City; and

WHEREAS, the City Commission, has considered the Petitioners' voluntary request for annexation, and has also considered the recommendation of the Stuart Local Planning Agency and City staff.

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

Section 1. Findings. The City Commission finds the above statements are true and correct,

and serve as a basis for consideration of this ordinance; that said lands are contiguous with the corporate limits of the City of Stuart, creates no enclaves, is reasonably compact, and that the City can effectively provide police, fire, and sanitary services to said land, all in compliance with the terms and requirements of Sec. 171.44, Florida Statutes, and the City of Stuart Code.

Section 2. Annexation. The City Commission has determined that development of said lands upon annexation shall be in accordance with the regulatory requirements of Martin County until such time as amendments to the City's Comprehensive Land Use Plan and Official Zoning Map become effective; and that the parcel of land more particularly described in **Exhibit "A"**, is hereby annexed into and shall be within the corporate limits of the City of Stuart, Florida, and that same shall henceforth be a part of said City as if said lands were originally a part of the City of Stuart.

Section 3. Directions to the City Clerk. The City Clerk shall cause the boundaries as set forth in the City's Charter to be amended and codified. The City Clerk shall submit such documentation as required by law to give effect to this ordinance to the Clerk of the Circuit Court, Board of County Commissioners Florida Statute 171.044(6) within 10 days prior to second reading adoption, the Chief Administrative Officer of Martin County, and the Florida Department of State within seven (7) days following adoption, in accordance with Section 171.044, Florida Statutes. Upon complete execution of this Ordinance, the City Clerk is directed to record a Certified Copy of the same in the Public Records of Martin County, Florida.

Section 4. Repeal of Conflicting Ordinances. All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

Section 5. Severability. If any word, clause, sentence, paragraph, section or part thereof

contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance. The corporate boundary of the City shall be re-codified to include lands annexed.

Section 6. Effective Date: This ordinance shall be effective upon its adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

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

**Exhibit “A”
Legal Description**

Legal Description

PARCEL CONTROL NUMBER 403841001051000002

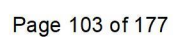
NORTH PARCEL

Commencing at the intersection of the North line of the Miles or Hanson Grant and the Westerly right of way line of State Road No. 76; thence South 20°42'45" East, a distance of 1500.00 feet to the Point of Beginning; thence continuing along said Westerly right-of-way line, South 20°42'45" East, a distance of 439.03 feet; thence South 06°32'38" East, a distance of 49.16 feet; thence South 20°42'48" East, a distance of 318.71 feet to a point on the Northerly Right-of-Way line of S.W. Martin Highway; thence along said line South 22°47'40" West, a distance of 55.18 feet; thence South 68°30'26" West, a distance of 152.45 feet to the beginning of a tangent curve concave to the North having a radius 881.25 feet; thence Northwesterly along the arc of said curve through a central angle of 41°32'17" a distance 638.89 feet to a tangent line; thence North 69°12'10" West, a distance of 380.47 feet to a point on the Mean High Water Line; thence along said line North 03°47'25" East, a distance of 50.12 feet; thence North 16°40'46" East, a distance of 48.08 feet; thence North 05°17'18" West, a distance of 65.43 feet; thence North 34°10'01" East, a distance of 139.17 feet; thence North 31°06'00" East, a distance of 167.15 feet to a point on the South River Land Mobile Home Park (unrecorded); thence North 65°59'26" East, a distance of 760.50 feet to the Point of Beginning.

Containing 15.88 Acres, more or less.

[illegible]

10142019 CCM



**CITY OF STUART
OFFICE OF THE CITY
ATTORNEY**



MEMORANDUM

TO: STEPHEN MAYER, DEVELOPMENT DEPARTMENT

SUBJECT: VOLUNTARY ANNEXATION OF 15.88 ACRE PARCEL OF LAND
ON THE NORTHWEST CORNER OF STATE ROAD 76 (KANNER
HIGHWAY) AND SW MARTIN HIGHWAY.

CC: DAVE DYESS, CITY MANAGER

DATE: September 11, 2019

ISSUE

I have reviewed an annexation request for a 15.88-acre parcel adjacent to the City of Stuart. It is unfortunate that the additional nine (9) acres of land adjacent to the site isn't included in the submittal. The City has demonstrated that it is a strong environmental steward. The placement of this land into conservation is also a consideration made by the Commission when reviewing this project and it makes sense that it be included with the developed parcel. However, in light of the fact that it was not included, the review is limited to the 15.88 acres.

Voluntary annexations are governed by the standards of Section 171.044 Florida Statutes. The basic requirement is stated as follows:

“(1) The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality.”

Section 171.044(1), F.S., authorizes the owner or owners of real property in an unincorporated area of the county, which is contiguous to a municipality and reasonably compact, to petition the municipality for such property to be annexed to the municipality. After determining that the petition bears the signatures of all of the property owners in the area proposed to be annexed,

the city may adopt a nonemergency ordinance to annex the property and redefine the municipal boundaries at a regular meeting of the governing body.

Under the voluntary annexation procedure set forth in s. 171.044, there are three (3) general requirements for a non-charter county annexation. First, a petition for voluntary annexation must be unanimously signed by all property owners in the area to be annexed. Second, the property proposed to be annexed must be contiguous and reasonably compact. Third, the proposed annexation cannot create a municipal enclave.

1. **Signed by all property owners in the geographic area being annexed.** *The present annexation is made up of a single parcel and the application has been executed by the owner of the property.*
2. **Contiguous to the Municipality:** Property is deemed to be “Contiguous” under Section 171.031 (11), F.S., where a substantial part of a boundary of the territory sought to be annexed is coterminous (sharing a common boundary) with a part of the boundary of the municipality. “Contiguous” has also been defined as “touching or adjoining in a reasonably substantial ... sense.” See City of Sanford v. Seminole County, 538 So. 2d 113 (Fla. 5th DCA 1989); May v. Lee County, 483 So. 2d 481 (Fla. 2d DCA 1986).

Section 171.031(11) provides that:

Separation of the territory sought to be annexed from the annexing municipality by a publicly owned right-of-way for a highway, road, railroad, canal or utility or a body of water, watercourse or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this act.

In the current application, a substantial part of the boundary is coterminous with the City of Stuart. Therefore, the property meets condition one and is contiguous to the City of Stuart.

3. **Reasonably Compact**

“Compactness is defined under subsection (12) of 171.031, F.S., to mean a concentration of a piece of property in a single area. The requirement for compactness precludes any action which would create enclaves, pockets, or ginger areas in serpentine patterns. The purpose of the compact and contiguous requirement is to assure creation of geographically unified and compact municipalities, City of Sunrise v. Broward County, 473 So. 2d 1387 (Fla. 4th DCA 1985).

A review of the map and the application determines that this property is reasonably compact and meets Florida Statute 171.031(12). The property will remain geographically unified and is compact in size. The annexation of this site will not create a municipal enclave.

No Enclaves

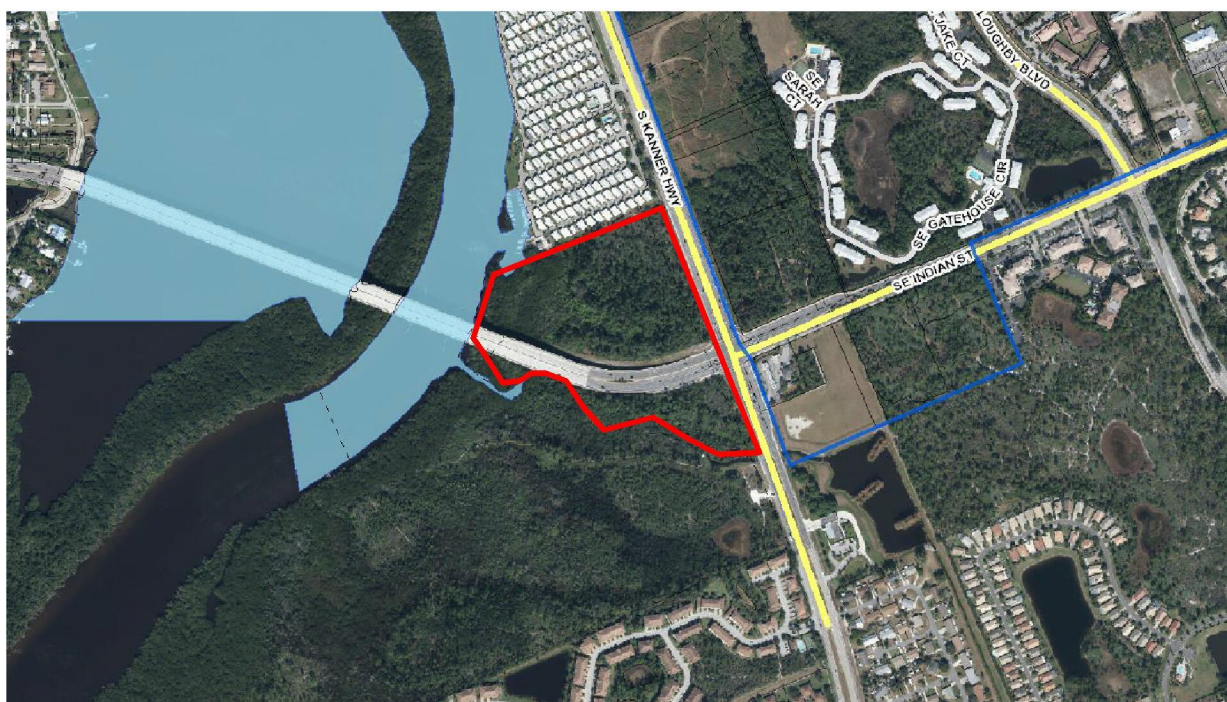
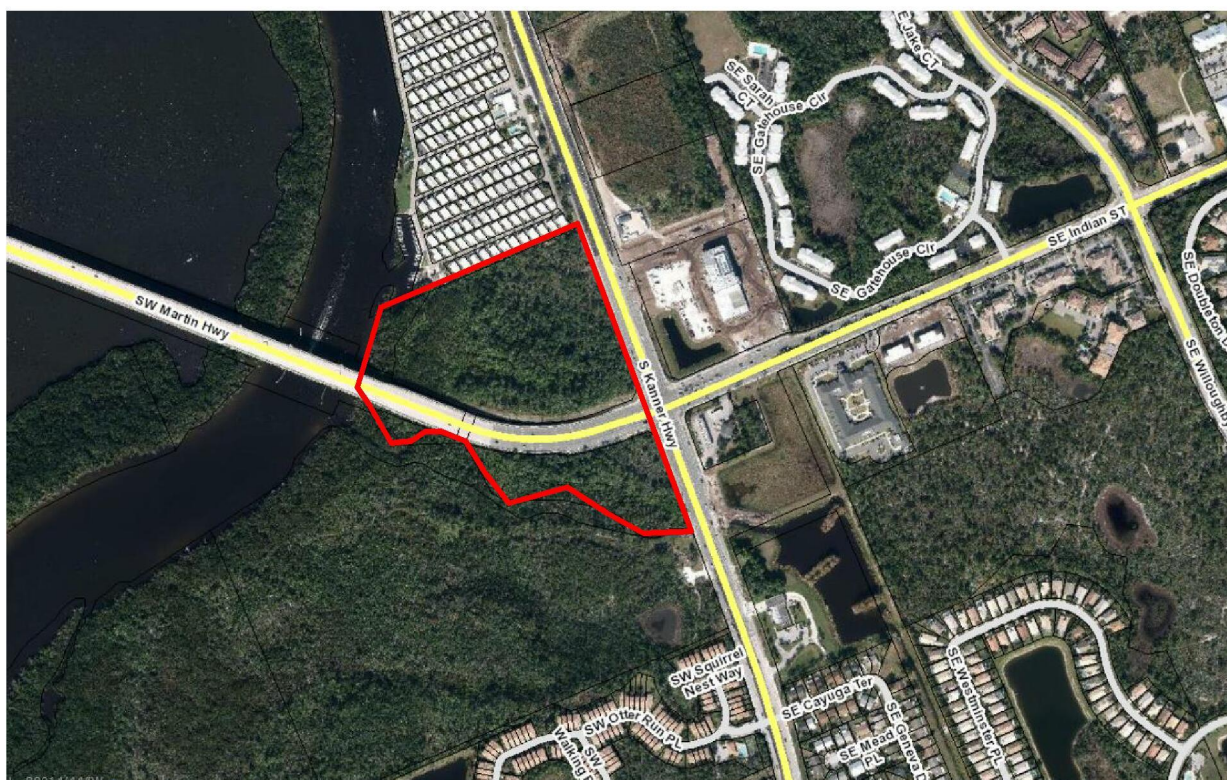
Subsection 5 of 171.044, F.S. Provides that “[l] and shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves”. Because the property adjacent to this parcel remains in the County even though all property owners have executed a consent to annexation agreement, the enclave discussion appeared to need further discussion. Attorney General Opinion 80-84, titled “*Enclaves of County Land Within Municipal Territory Not Prohibited.*” In said opinion, the Florida Attorney General opined that even though the annexation would result in the creation of an enclave of *unincorporated territory*, Section 171.044(5)'s prohibition against the creation of enclaves (as clarified by the definition of "compactness" contained in s. 171.031(12)) seems to contemplate *municipal enclaves*, and that statute does not purport to prohibit or otherwise regulate enclaves of county land brought about by municipal annexation. (See ss. 171.044(1) and 171.031(12), both of which are concerned with and refer to the "area" or the "piece of property" to be annexed. Both sections possess a purpose of assuring creation of geographically unified and compact municipalities.) And, it is significant that the presence of a boulevard abutting the southwesterly boundary of the county parcel in question will allow the county ample access, since this road and its right-of-way are apparently not subject to the jurisdiction of the city.

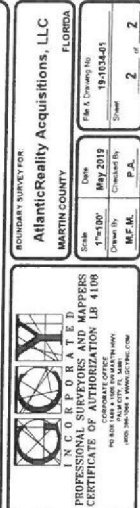
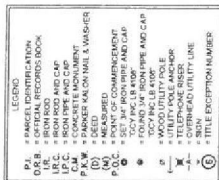
A review of the map shows that the “unincorporated properties would remain adjacent to the unincorporated portions of Martin County via the St. Lucie River which is clearly an exception described in Section 171.031(11) discussed above. However, even if the unincorporated properties did not remain adjacent to Palm City via the river as contemplated by F.S. 171.031(11), the Attorney General has opined that the intent of the statute is to not create “municipal enclaves” and this annexation does not. In addition, Kanner Highway which runs directly in front of the property is not under the jurisdiction of the City of Stuart and continues to provide direct access to the other properties. Therefore, this annexation will not create a municipal enclave.

Conclusion

Based upon the foregoing facts and analysis it is my opinion that the voluntary annexation of this parcel into the municipal boundaries of the City of Stuart comply with Florida Statute §171.044. This opinion is prepared solely at the request of and for the use of, the City of Stuart, and no other person or entity may rely on it for any purpose without the express written permission of the City of Stuart.

Exhibit 'A'







Bridgeview Residential

Justification Statement

Rev: September 20, 2019

Introduction/Request:

On behalf of the Applicant, Atlantic Realty, Inc. and Gentile Glas Holloway O'Mahoney & Associates, Inc. (2GHO) respectfully request review and approval of the submitted request for a Voluntary Annexation of a parcel of land located in Martin County abutting the City limits of Stuart, Florida. Further, the applicant will be requesting a future land use amendment from Martin County COR – Commercial Office Residential Designation to the City of Stuart MF – Multi-Family Residential designation and a Rezoning from COR1 – Commercial Office Residential 2 to RPUD - Residential Planned Unit Development.

Site Description:

The subject site is 15.88 acres of undeveloped land, located on the northwest corner of State Road 76 SW Kanner Highway and SW Martin Highway.

Surrounding Land Use and Zoning:

The request for annexation is consistent with the surrounding property uses.

	Current Zoning	Current FLU	Existing Use
Subject Area	Martin County – COR1	Martin County – COR	Vacant
North	Martin County - TP	Martin County – Mobile Home	Riverland - Mobile Home Park
South	SW Martin Highway Martin County COR1	Martin County – COR	Vacant
East	SW Kanner Highway City of Stuart - CPUD	SW Kanner Highway – City of Stuart – Commercial	Medical offices
West	St. Lucie River		

Potential Costs:

- 1. An estimate of the direct public costs to provide capital facilities for City utilities and other municipal services required by the development;**

Development of this property in the city will result in no direct public costs for the provided capital facilities for City utilities and other municipal services required by the development.

However, development of the property in the City will generate an estimated \$252,288 in City Impact Fees for parks, transportation and public safety.

2. An estimate of the ad valorem tax revenues to be generated by the subject property at the current millage rate both prior to and after development;

Ad Valorem Tax Revenues

Taxing Authority	Millage	Land Assessed	Taxes	Building Value	Taxes
County - General Fund-Op	6.5971	768,890	\$5,072.44	9600000	\$63,332.16
School - General Fund	4.1140	768,890	\$3,163.21	9600000	\$39,494.40
School - Discretionary	0.7840	768,890	\$575.13	9600000	\$7,180.80
School Capital Outlay	1.5000	768,890	\$1,153.34	9600000	\$14,400.00
School Addtnl Voter Mil	0.5000	768,890	\$384.45	9600000	\$4,800.00
Childrens Services Ordncs	0.3618	768,890	\$278.18	9600000	\$3,473.28
FL - Inland Navigation Dist	0.0320	768,890	\$24.60	9600000	\$307.20
City of Stuart - General Fund	4.7500	768,890	\$3,652.23	9600000	\$45,600.00
City of Stuart - Debt Service	0.2462	768,890	\$189.30	9600000	\$2,363.52
South Florida Water Management	0.2936	768,890	\$225.75	9600000	\$2,818.56
					\$183,769.92

\$14,718.63

\$198,488.55 Total

3. An estimate of the residential population increase of the City after development;

Residential Population Increase	
City of Stuart Impact Fees	\$259,856.64
Martin County Impact Fees	\$1,557,067.81
School Impact Fees	\$1,816,924.45
Development Fees	\$8,243.00
Total	\$3,642,091.91

Construction Costs – estimated hard costs for the project - \$24,000,000.00.

Comprehensive Plan Consistency:

Element I, Goal Statement A – Maintain and enhance Stuart’s quality of life, natural beauty of small town waterfront character, its stable residential neighborhoods, and its status as the commercial/institutional hub for greater Martin County.

Response: The proposed residential development will provide opportunities for needed multi-family apartments/condominium that is consistent with the City’s goal of providing stable neighborhoods in the City.

Element I, Objective A2 – Enhance public access to and public views of the St. Lucie River waterfront through implementation of the following policies. Policy A2.1 – City development regulations to implement his objective shall continue to contain provisions which allow cluster development, planned unit developments, mixed uses, limitations on impervious surfaces, and other innovative land development techniques. Such techniques shall be designed to maintain existing open space for recreation, groundwater recharge, and waterfront views.

Response: The proposed residential planned unit development will provide for clusters of the multi-family and will also provide for a proposed raised boardwalk to the river.

Element I, Objective A.7: Future Land Use Categories

Response: The applicant will also be requesting a Future Land Use Designation to Multi-Family.

Element I, Objective A.8: Land Development Regulations

Response: The proposed development will meet or exceed all City of Stuart LDR requirements for a residential planned unit development.

Element I, Objective B1, Policy B1.4 – Annexation and redevelopment strategies for infill development and redevelopment should be formulated to produce a future viable economy for the City.

Response: The proposed project would occur on an undeveloped site which is surrounded by roads and a mobile home park on the northwest corner of SW Kanner Highway and Martin Highway. The subject site is an important corner within the area and will offer the city a viable area for residential homes/apartments that are needed.

Element II: Transportation

Response: Concurrency with capacity/level of services will be met by the plan that is proposed.

Element IV: Infrastructure

Response: The proposed development will address the public facilities that will be required for the development.

Element V: Conservation, Objective A.1: Surface Water Quality – Stormwater plans shall adhere to the City of Stuart master Drainage Plan. In an effort to benefit surface water quality, a program to eradicate all invasive exotic trees and vegetation shall be implemented.

Response: Stormwater system shall meet the requirements as outlined and will meet the 3-day, 25-year storm event, with overflow for major storms directed to native areas, roadways.

Element V, Conservation, Objective A.5. Natural Systems – Native habitats shall be protected. Invasive exotic trees and vegetation shall be removed. Wetlands shall be protected.

Response: The proposed site will maintain the existing wetlands on site, the wetlands will be have a 50 foot buffer which will be averaged to not less than 25 feet through the PUD Agreement. The minimum average width of the upland buffer shall be 50 feet and at no point less than 25 feet.

Element V, Conservation, Objective A.6 Wildlife Protection – All endangered/threatened species shall be protected. Development sites shall be surveyed for protected species. The status of the City of Stuart as a bird sanctuary shall be maintained.

Response: An Environmental Assessment will be provided as part of the Rezoning application to determine if there are any species of wildlife present on site.

Conclusion:

On behalf of the applicant, Gentile Glas Holloway O'Mahoney & Associates, Inc. respectfully request approval of this application. The Project Managers at Gentile Glas Holloway O'Mahoney & Associates, Inc. are M. Troy Holloway and Patricia Lentini.

July 15, 2019

Mr. Kev Freeman
Director of Development
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

Re: Bridgeview Development – Parcel ID – 40-38-41-001-051-00000-2

This letter is to serve as permission for Fairview Properties, Inc. to submit applications for Annexation, Rezoning and Major Site Plan through the City of Stuart and Atlantic Realty Partners, Inc. to act as the agents to assist with the preparation and submit all documentation and attend all meetings pertaining to the property as above described, as it relates to the zoning process, site plan review and approval process.

Sincerely,

Fairview Properties, Inc.

Knight A. Kiplinger, President
Print Name and Title

~~STATE OF FLORIDA~~
~~COUNTY OF MARTIN~~

I hereby certify on the 30th day of July, 2019, K. Kiplinger personally appeared before me and produced identification, or is personally known to me, to be the person described herein and who executed the foregoing instrument.

Witness my hand and official seal in the state and county, the day and year aforesaid.


Notary

Commission Expires:

6/14/24



July 29, 2019

Mr. Kev Freeman
Director of Development
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

Re: Affidavit of Authorization for Annexation, Rezoning and Major Master Site Planning.

This affidavit authorizes Atlantic Residential and its agent Gentile Glas Holloway O'Mahoney & Associates, Inc. (2GHO) to submit all necessary applications and documentation, initiate procedures and attend all meetings pertaining Annexation, Rezoning and Major Master Site Plan to the City of Stuart for the +/- 15-acre site owned by Fairview Properties, Inc., located on the north west corner of S Kanner Hwy. and Indian Street (PCN 40-38-41-001-00000-2), in Stuart, Florida.

Sincerely,

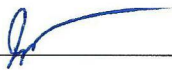
Fairview Properties, Inc.

Knight Kiplinger, President
Knight Kiplinger, President

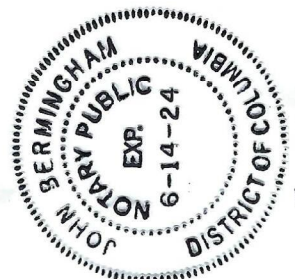
~~STATE OF FLORIDA~~
~~COUNTY OF MARTIN~~

I hereby certify on the 30th day of July, 2019, K. Kiplinger personally appeared before me and produced identification, or is personally known to me, to be the person described herein and who executed the foregoing instrument.

Witness my hand and official seal in the state and county, the day and year aforesaid.



Notary



July 15, 2019

Mr. Kev Freeman
Director of Development
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

Re: Bridgeview Development -

This letter is to serve as permission for Atlantic Realty Partners, Inc. to submit applications for Annexation, Rezoning and Major Site Plan through the City of Stuart and Gentile Glas Holloway O'Mahoney & Associates, Inc. (2GHO) to act as the agents to assist with the preparation and submit all documentation and attend all meetings pertaining to the property as above described, as it relates to the zoning process, site plan review and approval process.

Sincerely,

Atlantic Realty Partners, Inc.



Richard Aaronson, President

STATE OF FLORIDA
COUNTY OF MARTIN

I hereby certify on the 17 day of July, 2019, Richard Aaronson personally appeared before me and produced identification, or is personally known to me, to be the person described herein and who executed the foregoing instrument.

Witness my hand and official seal in the state and county, the day and year aforesaid.


Notary

Commission Expires:





City of Stuart
121 SW Flagler Ave
Stuart, FL 34994

Received by: _____

Reviewed by: _____

Approved by: _____

(772) 288-5326

Annexation Application

Project ID# _____

(Staff Entry)

Pre-App Conference Date: June 20, 2019	Application Date:
Project Name: Bridgeview	
Parcel ID# 40-38-41-001-051-0000-2	Project Address: SW Kanner Highway
Zoning/CRA Sub-district: Currently in Martin County - COR Land Use and Zoning	
Subdivision: See attached Legal Description	Lot(s): See attached Legal Description
Fee: \$1,792.00 (this does not include fees that may be charged as a result of application review by the City's consultants)	

Submittal Requirements:

- A. Completed application form;
- B. Payment of fees;
- C. A concept plan;
- D. An estimate of the direct public costs to provide capital facilities for City utilities and other municipal services required by the development;
- E. An estimate of the ad valorem tax revenues to be generated by the subject property at the current millage rate both prior to and after development;
- F. An estimate of the residential population increase of the City after development; and
- G. Any other information as may be required by the City Development Director in order to do a thorough review of the request.
- H. One (1) copy of all documents on a PDF formatted disc electronically signed and sealed.

(The data requirements for a concept plan are available at the Development Department)

Approving Authority: The Development Director is required to prepare a staff report and recommendation concerning this application. For a Major PUD amendment, the Local Planning Agency (LPA) is required to hold an advertised public hearing and formulate a recommendation to the City Commission. For both types of applications, the City Commission is required to hold an advertised public hearing after which it may approve, approve with conditions, or deny the application.

Justification: Please explain how the proposed annexation would further the relevant goals, objectives, and policies of the City's comprehensive plan (include additional pages if needed).

Please see the attached Justification Statement.

(over)

General Information

(Please Print or Type)

1. Property Owner, Lessee, Contract Purchaser, or Applicant (circle one):

Name: Richard Aaronson	City/State/Zip Code: Atlanta, GA 30326
Title: President	Telephone Number: (404) 591-2499
Company: Atlantic Realty Partners, Inc.	Facsimile Number: (404) 591-2901
Company Address: 3500 Lenox Road Suite 1250	Email Address (optional):

2. Agent of Record (if any): The following individual is designated as the Agent of Record for the property owner, lessee, or contract purchaser and should receive all correspondence related to the application review.

Name: George G. Gentile	City/State/Zip Code: Jupiter, FL 33458
Title: Senior Partner	Telephone Number: 561-575-9557
Company: Gentile Glas Holloway O'Mahoney & Assoc., Inc. (2GHO)	Facsimile Number: 561-575-5260
Company Address: 1907 Commerce Lane Suite 101	Email Address (optional): george@2gho.com/pat@2gho.com

3. The Undersigned, as the Property Owner, Lessee, Contract Purchaser, or Applicant (circle one), acknowledges responsibility for all City expenses associated with the referenced application(s) including time spent by the City's consultants and further acknowledges that payment of consultant fees will be made prior to the receipt of the consultant comments.

Name: Richard Aaronson	City/State/Zip Code: Atlanta, GA 30326
Title: President	Telephone Number: (404) 591-2499
Company: Atlantic Realty Partners, Inc.	Facsimile Number: (404) 591-2901
Company Address: 3500 Lenox Road, Suite 1250	Email Address (optional):

I hereby certify that all information contained herein is true and correct.

4. Signed this 18th day of July, 2019.



Signature of Property Owner, Lessee, Contract Purchaser or Applicant (circle one)

State of Florida, Martin County The foregoing instrument was acknowledged before me on this 18 day of July 2019 by Richard Aaronson who is personally known to me, or who has produced _____ as identification and who did/did not take an oath.


Notary Signature

Commission Expires:



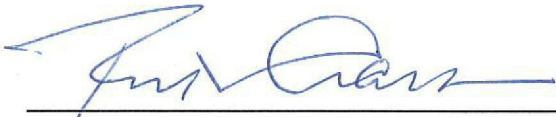
ANNEXATION APPLICANTS

I/we the undersigned petitioner(s) and owner(s) of the above described parcel of land in unincorporated area of Martin County, Florida, said parcel being contiguous of the existing City Limits of the City of Stuart, hereby petition for annexation to the Municipality of Stuart by Ordinance of the City Commission.

I/we certify that the petitioner(s) obligations as outlined in the Stuart Code will be complied with appropriate stages of petition consideration.

Submitted with the completed Application for Annexations Petitions and Comprehensive Plan Amendment is a petition fee of \$_____, and the following petition attachments:

1. Recent survey of subject property (dated not more than 10 years prior to date submitted).
2. Description of surrounding County land uses and zoning (copies of County maps depicting same).
3. Flood zone information and description of existing utilities (copies of County maps depicting same).
4. Aerial photograph.
5. Proof of parcel ownership (deed).
6. Completed application for Rezoning, or if petitioner is requesting a PUD Zoning Classification additional attachments shall be required as part of this application.
7. Sign fee (\$20 per sign).
8. All Application Fees.



Signed Property Owner/Authorized Agent

Signed Property Owner/Authorized Agent

SWORN TO AND SUBSCRIBED before
me this 17 day of July, 2019



Notary Public



My commission expires:



MINUTES

**LOCAL PLANNING AGENCY/PLANNING ADVISORY BOARD
TO BE HELD SEPTEMBER 19, 2019 AT 5:30PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FL 34994**

LOCAL PLANNING AGENCY

**Chair – Michael Herbach
Vice Chair – Ryan Strom
Board Member – Li Roberts
Board Member – Larry Massing
Board Member – Campbell Rich
Board Member – Bill Mathers
Board Member – Christina de la Vega
Ex Officio – Garrett Grabowski**

ADMINISTRATIVE

**Development Director – Kev Freeman
Board Secretary – Jordan Pinkston**

CALL TO ORDER  **5:32 PM**

ROLL CALL  **5:32 PM**

Present: Michael Herbach, Li Roberts, Larry Massing, Campbell Rich, Bill Mathers, Christina de la Vega

Absent: Ryan Strom

APPROVAL OF MINUTES:

Motion: Action: Approve.

Moved by: Li Roberts

Seconded by: Larry Massing
Motion passed unanimously.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS: None.

COMMENTS FROM THE BOARD MEMBERS: None.

ACTION ITEMS:

1. ZONING TEXT CHANGE TO ESTABLISH REGULATIONS ON FRONT YARD FENCES IN THE R-2 ZONING DISTRICT (RC): ORDINANCE No. 2406-2019: AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 6, SECTION 6.09.05, "FENCES, WALLS, HEDGES AND ENCLOSURES" OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS THAT SHALL LIMIT THE HEIGHT, TYPE AND LOCATION OF FENCES IN THE FRONT YARD OF RESIDENTIAL SINGLE FAMILY/DUPLEX (R-2) DISTRICT PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

PRESENTATION: Stephen Mayer, Senior Planner
Michael Mortell, City Attorney

BOARD COMMENT:

Larry Massing asked why R2, when it is okay in other zoning districts.

Mike Mortell said that is more a policy question. In R1 a lot has to be 100 feet wide and R1A it can be 75 feet wide and that is because someone said so and it is a generalized practice.

Stephen Meyer said that staff hasn't revised the ordinance that is on the agenda, so it is the same request for guidance as per the City Commission.

Bill Mathers confirmed that he understood the request.

Li Roberts asked if R2 was on the map being shown because she wanted clarification on the language for R2 and what it can be butted up to.

Michael Herbach said that he understands that R2 is duplex, and R3 can be duplex or multi-family.

Cristina de la Vega said that if you are next to a duplex then you can use the different zoning if you are next to it.

Li Roberts said the verbiage that is being discussed is on 6-93, C2, page 17 of 63 and read the language.

Kev Freeman said that language was referring to primarily R3 which is mutli-family district. We are talking about R2 which is a single-family district.

Li Roberts asked for confirmation that the language would be left the same in multi-family residential districts.

Key Freeman said that language would need to be changed in B2 on page 17 of 63. If you are in R2 and you are put into R3 with less or alternative fencing, you could apply those. Our intention would be to maintain this in R2.

Li Roberts wanted to talk about the front yard piece on page 13 of 63. She asked for confirmation that a fence would never be higher than six feet.

Stephen Mayer confirmed that was correct.

Cristina de la Vega had questions regarding page eleven. She asked if you could build a solid wood fence and not have wind restriction.

Stephen Mayer said the air flow restriction is specific to that type of stockade fence only. If you are going to build a stockade fence, then it would need to give 30% difference in where you put planks.

Cristina de la Vega asked why staff does not do that for concrete fences.

Mike Mortell said that when it was adopted it was to support the wooden fences to allow wind to blow through them so they would not tip over, rather than the concrete fences that are built to a different standard.

Cristiana de la Vega asked about metal fences and showed a picture of a metal fence that is in R2 which is made from metal as a good example. She had questions about page 12, number 13 regarding arbors and showed another photo of an example that would not be allowed and suggested they raise the height to 12 feet instead of 9 feet. She asked why we cannot have chickees in the city.

Stephen Mayer said that chickees are allowed in the city, but they must meet setbacks. An arbor does not have a front setback requirement.

Li Roberts questioned if the photo was permitted because she did not think that it met the requirements.

Stephen Mayer said that was not permitted.

Larry Massing said that what Cristina de la Vega is describing is different than a fence or wall. He said the second photo would have been looked at under another section of the code.

Michael Herbach confirmed that it would be allowed if they met setbacks and code.

Campbell Rich had questions about page eight in the second section. said that he pg. 8 second section. He asked questions about fencing in front of front doors.

Stephen Mayer confirmed that was true.

Campbell Rich said that the ordinance talks about the ability to run an opaque fence along the property line up to six feet high all the way around. He recommended a step down.

Stephen Mayer said that the step down would naturally come going 6ft to 4 ft.

Li Roberts said that on page 13 of 63 asked if we are eliminating c, d & e for the text amendment.

Stephen Mayer confirmed that the code was not be changed there that is why they were not included.

Discussion occurred for clarification of the motion being made.

MOTION:

Action: Approve with the review of the ordinance that will be sent to the City Commission to be changed on the second page of the ordinance, to be sure that it allows the type of fence we saw in the example and to delete the words in number five “mounted on steel posts”.

Moved by: Cristina de la Vega

Second by: Campbell Rich

Motion passed with Li Roberts opposing.

PUBLIC COMMENT:

2. ANNEXATION OF PROPERTY NORTH-W EST KANNER HIGHWAY AND INDIAN STREET. (QUASI-JUDICIAL)(RC): ORDINANCE No. 2415-2019: AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND ON THE NORTHW EST CORNER OF STATE ROAD 76 (AKA KANNER HIGHWAY) AND SW MARTIN HIGHWAY, CONSISTING OF 15.88 ACRES, SAID PARCELS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

PRESENTATION: Stephen Mayer, Senior Planner

Troy Holloway, Gentle Glas Holloway O'Mahoney

BOARD COMMENT:

Cristina de la Vega asked for clarification of the wetland buffers.

Troy Holloway said that the code is a 50-foot average and that minimum code requirement will be provided. There are 5.8 acres of wetlands, leaving us with 10 acres to develop on.

Mike Mortell confirmed that the board is only voting on annexation today.

Cristina de la Vega questioned that the County has a shoreline protection zone which is 75 feet and the City does not have that.

Mike Mortell said that the applicant is only entitled to do what has been approved by the county. It would only have county zoning and would only change after another application is filled out.

Cristina de la Vega said that she only wanted to see what the plan is after this. She is worried about the City of Stuart's code being less than the County. She is concerned.

Troy Holloway confirmed that they are going to meet the City of Stuart's PUD code, which is a 50ft average buffer surrounding the wetland.

Campbell Rich asked why he is seeking annexation.

Troy Holloway said that he is seeking it because they want to do residential. Currently with the COR you do some residential, but with a mixed-use environment. The plan that is currently approved is 99,000 sq. feet of office and currently in that zoning would not allow them to do what they do.

Campbell Rich said they are taking a risk by only requesting annexation with no future plan.

Marcela Cambolor said that she was there representing the seller, Knight Kiplinger. She said that if the annexation were to go through then the zoning and land use will still remain the same. This company has a proven track record of doing good quality work for a more appropriate fit for the area it is located. It would be difficult because of code restrictions to do residential in the manner that they want to do it under COR or in most of the county's land use or zoning categories. It would be difficult to do residential because of height restrictions. The city is more lenient to multi-family residential in that location but yes there is a risk.

Campbell Rich asked why they are not including the parcel just south of it.

Allen Stevenson with Realty Partners said he believes Mr. Kiplinger would like to donate the land at a future date and that is why he has withheld it from the purchase.

Campbell Rich wanted to point out a typo on page 54.

Larry Massing abstained from annexation issue.

Cristina de la Vega said she wished he would say that he would stick with the county wetland setbacks. She said that she knows that the next application will be the PUD and will go to the 50ft. Eventually it will change, and I would prefer you stay at the 75ft since you are at the banks of the river.

Allen Stevenson said that they will look at that.

Marcela Cambor said that she wanted to clarify and that the county buffer for wetlands is 50 feet and 75 feet is the shoreline protection from the water meaning your PUD is comparable to the County in that sense it is the same thing.

Li Roberts said this was sent Martin County on September 9, 2019 and wanted to see if they made any comments.

Stephen Mayer said they did not have a response, but we will continue to communicate.

Li Roberts said Exhibit A shows the part south of Memorial Bridge so she was assuming that would be cleaned up to reflect the property owners parcel.

Stephen Mayer said that the survey needs to reflect the new parcel.

Li Roberts said that she appreciated all the info that was given to fit with Comprehensive Plan. She asked Mike Mortell if this is going to affect Riverland.

Mike Mortell said that he has done research and has spoken with staff and Martin County. He said there is a barrier made by the river, but you can do annexations across roads and bodies of water. It probably would be an enclave if Kanner Highway was a city road, but the exception is a county or state road going through. The original purpose of the annexation was to provide you with municipal services, but the City of Stuart deviated from that and only allows signatures on annexation papers for approval. Riverland will not lose any municipal services they are currently receiving, they will not modify their taxation, they will not lose their connection to Martin County, they will continued to receive services from Martin County fire and police however it is likely they will receive double coverage after this. As a result, they will remain unincorporated, not subject to tax and not be alienated.

Li Roberts asked for confirmation that the Martin County line is beyond Riverland. She wanted to make sure they not creating enclave.

Mike Mortell confirmed that it will not create an enclave.

Bill Mathers asked if they created a master site plan.

Troy Holloway said that he was not sure.

Bill Mathers said he assumed that they would come back with an RPUD to do the development. He recommended talking to the people at the trailer park.

Troy Holloway said that they have been in communications with the community.

Bill Mathers said the PUD allows the board to have options included above the code.

Allen Stevenson said he has reached out to people at Riverland and they continue to get input from the residents.

Bill Mathers said that they have come to our meetings and they have legitimate issues and it is important to talk to them.

Michael Herbach asked for confirmation of the process of their request.

Troy Holloway confirmed that they are still three steps away.

Staff keep track of comments.

MOTION:

Action: Approve, with adjustment to correct Exhibit A.

Moved by: Li Roberts

Second by: Bill Mathers

Motion passed unanimously with Larry Massing abstaining.

PUBLIC COMMENTS:

1. Don Barber – 3500 S. Kanner Highway, Stuart
2. Edward Colligan -- lives in Riverland

BOARD COMMENTS:

Li Roberts confirmed that Riverland will continue to be in the county. On the boarder to the east it is touching city property.

Li Roberts requested that staff keep track of comments regarding the timing of the fence to make sure it does not get lost in the shuffle.

Allen Stevenson said that they will build a fence before they do anything else.

STAFF UPDATE:

3. Staff has received a request to implement the procedure followed by the City Commission when reviewing quasi-judicial matters such as PUD and development orders.

PRESENTATION: Kev Freeman

BOARD COMMENT:

Bill Mathers asked about the commission board members stating that they come with an opened mind and was wondering if they have to say that.

Mike Herbach said that comments from the public will not come until after a motion is made.

Kev Freeman said the public is then aware where the board stands and make more of an impact with comments.

Bill Mathers said that it is a better format.

Kev Freeman he would like to see that it is putting more notice on the applicants.

Michael Herbach made comments about reading the oath at future meetings.

ADJOURNMENT:

Motion: Action: Adjourn

Moved by: Bill Mathers

Seconded by: Campbell Rich

Michael Herbach, Chair

Jordan Pinkston, Board Secretary

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: Michael Mortell

Title of Item:

SINGLE-USE PLASTICS AND POLYSTYRENE PRODUCTS (RC):

ORDINANCE No. 2413-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA, CREATING A NEW ARTICLE IX IN CHAPTER 20 OF THE CITY CODE ENTITLED “EXPANDED POLYSTYRENE AND PLASTICS REGULATION”; PROVIDING FINDINGS, INTENT AND DEFINITIONS; CREATING DIVISION (A) RELATED TO REGULATIONS FOR THE DISTRIBUTION OF EXPANDED POLYSTYRENE AND SINGLE-USE PLASTICS ON CITY-OWNED PROPERTY AND RIGHTS-OF-WAY; PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The City Commission intends to regulate the use of plastics on City property. Because there are attainable alternatives to plastics which are polluting the landfills due to the inability to break down or biodegrade. It is the intention of the ordinance to be proactive in the reduction of plastic waste and to further create awareness and deter the future use of plastics on City property.

Funding Source:

N/A

Recommended Action:

Move approval of Ordinance 2413-2019 on first reading.

ATTACHMENTS:

	Description	Upload Date	Type
□	Ord 2413 Polystyren prohibition on City property	10/7/2019	Ordinance add to Y drive



BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2413-2019

AN ORDINANCE OF THE CITY OF STUART, FLORIDA,
CREATING A NEW ARTICLE IX IN CHAPTER 20 OF THE CITY
CODE ENTITLED "EXPANDED POLYSTYRENE AND PLASTICS
REGULATION"; PROVIDING FINDINGS, INTENT AND
DEFINITIONS; CREATING DIVISION (A) RELATED TO
REGULATIONS FOR THE DISTRIBUTION OF EXPANDED
POLYSTYRENE AND SINGLE-USE PLASTICS ON CITY-OWNED
PROPERTY AND RIGHTS-OF-WAY; PROVIDING FOR A
SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING
FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES

WHEREAS, the City of Stuart declares that it is in the interest of the public health,
safety and welfare of its residents and visitors to reduce litter and pollutants on the land
and in the waters of the City; and

WHEREAS, it is the City's intent to maintain and enhance Stuart's quality of life,
natural beauty and small-town waterfront character, its stable residential neighborhoods,
and its status as the commercial/institutional hub for greater Martin County; and

WHEREAS, Element IV, Objective A4 of the City's Comprehensive Plan commits
to ongoing monitoring and reduction of solid waste collection through its Residential
Single Stream Recycling Program and a voluntary Commercial Recycling Program; and

WHEREAS, the City Commission calls for the citywide goals of zero waste
and the protection and enhancement of the city's environment by implementing policies

1 that reduce hazardous materials like polystyrene; and

2 **WHEREAS**, the City Commission wishes to continue the City's legacy of
3 environmental leadership by adopting "green" ordinances and policies that will act to
4 conserve natural resources, contribute to the long-term economic vitality of the St. Lucie
5 River region as well as its tributaries, and reduce waste and pollution in the environment;
6 and

7 **WHEREAS**, expanded polystyrene is neither biodegradable nor feasibly
8 recyclable within the current city recycling program. Instead, it fragments into
9 microbeads, which are then ingested by marine life and other wildlife, thus
10 endangering their life and wellbeing; and

11 **WHEREAS**, expanded polystyrene products have little value and constitute a
12 portion of the litter and pollution in the City's waterways, rights-of-way, parks, and other
13 public places; and

14 **WHEREAS**, the City of Stuart will serve as a leader in environmental protection
15 by prohibiting the distribution and use of expanded polystyrene and non-recyclable, single-
16 use plastic food service articles by its contractors, vendors, and special event permittees
17 in City facilities and rights of way and on City property including but not limited to in City
18 parks and at City marinas, piers, and docks as well as future leases for entities doing
19 business on City owned property.

20 **NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**

21 **CITY OF STUART, FLORIDA THAT:**

22 **SECTION 1:** The Stuart City Code is hereby amended by adding regulations to
23 Article IX to Chapter 20, to read as follows:

ARTICLE IX. EXPANDED POLYSTYRENE AND PLASTICS REGULATION

Sec. 20-201. Findings and Intent.

The City Commission finds that the reasonable control of the distribution of expanded polystyrene products (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) and single-use non-recyclable plastics in response to the growing issue of these items ending up in overburdened landfills, waterways, preserves and other public lands is required to protect the public health, safety, and welfare of the residents. It is the intent and purpose of this Article to provide and maintain, for the citizens and visitors of the City, healthy and aesthetically-pleasing experiences, while simultaneously advancing the City's sustainability goals and contributing to its long-term economic vitality by reducing the introduction of these non-biodegradable and environmentally deleterious products into surrounding ecosystems and landfills. The provisions of this Article are not intended and shall not be construed as superseding or conflicting with any statutory provisions relating to, or rules and regulations promulgated by, the State Department of Agriculture and Consumer Services, but shall be construed as implementing and assisting the enforcement thereof.

Sec 20-202. Definitions.

As used in this Article, the following words and phrases shall have the following meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

"Biodegradable materials" are manufactured products made entirely from natural materials, like uncoated paper or plant fibers, that will undergo a natural process of deterioration.

1 Bioplastics are a type of biodegradable plastic derived from biological substances rather
2 than from petroleum, which have a rate of biodegradation that is exponentially faster than
3 traditional plastics.

4 City contractor shall mean any person in privity of contract with the City conducting
5 business on City-owned property or within the City right-of-way, including but not limited
6 to: contractors, vendors, lessees, licensees, concessionaires, and operators of a City
7 facility or property.

8 Distribute shall mean to sell, use, offer for sale or use, or provide for sale or use.

9 Drive-through food order shall mean food and/or beverage items that a customer
10 purchases via a drive-through at a food service establishment and consumes away from
11 the premises.

12 Expanded polystyrene shall mean blown polystyrene and expanded and extruded foams
13 that are thermoplastic petrochemical materials utilizing a styrene monomer and
14 processed by any number of techniques including, but not limited to, fusion of polymer
15 spheres (expandable bead foam), infection molding, foam molding and extrusion-blown
16 molding (extruded foam polystyrene).

17 Expanded polystyrene product shall mean food containers, plates, bowls, cups, lids,
18 trays, coolers, ice chests, "clamshells," and all similar articles that consist of expanded
19 polystyrene.

20 Food service establishment shall mean any vendor within the City of Stuart that sells food
21 and/or beverages for consumption by customers on, near, or off its premises.

22 Food service provider shall mean any person listed in Section 20-203 of this
23 Division that distributes food or beverages.

1 Plastic is a synthetic material derived from petroleum or a biologically based source.

2 Plastic bag is a bag provided to a customer, typically at the point of sale or distribution,
3 for the purpose of transporting food service related items, and is made predominantly of
4 nonwoven, flexible plastic that is less than 10 mils thick.

5 Plastic straw is a tube intended for transferring a beverage from its container to the
6 mouth of the drinker, or for mixing a beverage in its container, which is made
7 predominantly of plastic.

8 Polystyrene is a synthetic resin which is a polymer of styrene, used chiefly as lightweight
9 rigid foam and films.

10 Polystyrene products are disposable food service articles including protective packaging,
11 containers, cups and lids.

12 Recyclable materials are raw or processed materials that are accepted and processed
13 by the City of Stuart recycling program.

14 Single-use plastics. For purposes of this policy, single-use plastics include polystyrene
15 and expanded polystyrene products, plastic straws, and any un-numbered plastic
16 products designed with the intent of being used one time and then disposed of, as
17 defined herein.

18 **DIVISION A. – REGULATION OF EXPANDED POLYSTYRENE AND SINGLE-USE**
19 **PLASTICS ON CITY-OWNED PROPERTY AND CITY RIGHT-OF-WAY**

20
21 **Sec. 20-203. Prohibition of the distribution of single-use plastic products on**
22 **City-owned property or rights-of-way.**

- 23 a. No person or entity within the parameter of a permitted event, may bring
24 or otherwise distribute any single-use plastics on City property. The City

encourages the use of compostable products for food items including plates, bowls, cups, silverware, bags and napkins. Compostable items will be accepted on City property.

b. Beverages may be served in recyclable cups, cans or bottles.

c. It is the intention of the City to encourage reuse when possible and to reduce plastic pollution through the use of alternative products.

d. In addition to permitted events, the following persons/entities shall not distribute any single-use food service plastic products in conjunction with the provision of food or beverage services on City-owned property, or within or abutting the City right-of-way:

i. Sidewalk café permittees

ii. City Contractors

iii. Pushcart vending permittees

iv. Mobile food establishment permittees

v. Food truck rally permittees

vi. Park and public facility permittees

vii. Outdoor special events and public assembly permittees

viii. Minor easement permittees

ix. Vendors providing services or engaged in commercial activity on city owned property in direct privity with the City or on behalf of a permittee or licensee.

e. These regulations regarding polystyrene and single use plastics are intended to supplement Sec. 30-3 of the City Code and are not intended to rescind or

1 replace same.

- 2 f. The City shall maintain a list of approved providers of compostable products
3 which the City believes are acceptable substitutes for plastics.

4 **Sec. 20-204.** Applicable contracts, permits, and licenses related to use of City
5 Property or Rights of Way shall include a provision that plastic products shall not be
6 permitted on City property as provided in this ordinance.

7 **Sec. 20-205. Revocation.** The City may revoke or cancel any permit for non-
8 compliance with this ordinance, and may use past non-compliance as grounds for the
9 denial of renewal or reissuance of a permit. Where applicable, the City may pursue
10 appropriate contractual remedies for non-compliance with this ordinance.

11 **Sec. 20-206. Exemption**

- 12 a. The following are exempt from the prohibition set forth herein:

- 13 i. Pre-packaged foods that food service providers distribute to their
14 customers and that have been filled and sealed prior to receipt by the
15 food service provider.
16 ii. Single-use products used for pre-packaged food that have been filled
17 and sealed prior to receipt by the City contractor or permittee, or for
18 packaging.

19 **Sec. 20-207. Enforcement; penalties.**

- 20 a. Any permit issued prior to the effective date of this ordinance shall be informed
21 of the ordinance however, it shall be exempt from enforcement.
22 b. The following code violations shall be issued by the City for a violation of
23 Article IX, Section A:

- 1 a. Other communities have staggered violations based upon size and
2 impact of event
- 3 b. *First violation. The violator shall pay a fine of \$250.00.*
- 4 c. *Second violation. The violator shall pay a fine of \$500.00*
- 5 d. *Third violation and any subsequent violation. The violator shall pay a fine*
6 *of \$1,000.00*
- 7 e. *Any violation shall serve as grounds to revoke the deposit for the*
8 *permitted event.*
- 9 f. *A violation may also serve as grounds for refusal to issue a permit for*
10 *the event or to the applicant for any event in the future.*

- 11 c. Nothing stated herein shall be construed as a limitation to the City's remedies
12 available to it through its contract, lease, permit, or other relationship with
13 a vender, licensee, tenant or other entity in violation of this code.

14 **Sec. 20-208. Reserved.**

15 **SECTION 2:** All ordinances or parts of ordinances herewith are hereby
16 repealed to the extent of such conflict.

17 **SECTION 3:** If any word, clause, sentence, paragraph, section or part thereof
18 contained in this Ordinance is declared to be unconstitutional, unenforceable, void
19 or inoperative by a court of competent jurisdiction, such declaration shall not affect
20 the validity of the remainder of this Ordinance.

21 **SECTION 4:** The provision of this ordinance shall be codified.

22 **SECTION 5:** This ordinance shall take effect on January 1, 2021.

23 Passed on first reading the ____day of _____.

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:

REBECCA S. BRUNER, MAYOR
EULA R. CLARKE, VICE MAYOR
KELLIGLASSLEIGHTON, COMMISSIONER
MERRITT MATHESON, COMMISSIONER
MIKE MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED on second and final reading this _____ day of _____.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL MORTELL
CITY ATTORNEY

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
CITY COMMISSION**

Meeting Date: 10/14/2019

Prepared by: Michael Mortell

Title of Item:

PROHIBITION OF PLASTIC STRAWS WITHIN CITY LIMITS (RC):

ORDINANCE No. 2416-2019; AN ORDINANCE OF THE CITY OF STUART, CREATING DIVISION B IN ARTICLE IX, CHAPTER 20 OF THE CITY CODE RELATED TO REGULATIONS FOR THE DISTRIBUTION OF SINGLE-USE PLASTIC STRAWS BY FOOD SERVICE ESTABLISHMENTS; PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The pending ordinance, 2416 is drafted to prohibit the distribution of straws by commercial businesses within the geographic limits of the City of Stuart. The proposed ordinance provides for a warning process until December of 2020 and then a fine schedule beginning in 2021. Further, the ordinance does not require customers of a drive through business to request a straw but beginning in 2021, no businesses including drive through services shall be allowed to issue or distribute plastic straws.

Funding Source:

N/A

Recommended Action:

Move approval of Ordinance 2416-2019 on First Reading.

ATTACHMENTS:

Description	Upload Date	Type
Ord 2416 Plastic Straw	10/7/2019	Ordinance add to Y drive



BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2416-2019

AN ORDINANCE OF THE CITY OF STUART, CREATING DIVISION
B IN ARTICLE IX, CHAPTER 20 OF THE CITY CODE RELATED TO
REGULATIONS FOR THE DISTRIBUTION OF SINGLE-USE
PLASTIC STRAWS BY FOOD SERVICE ESTABLISHMENTS;
PROVIDING FOR A SEVERABILITY CLAUSE AND A CONFLICT
CLAUSE; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER
PURPOSES

WHEREAS, the City of Stuart declares that it is in the interest of the public health,
safety and welfare of its residents and visitors to reduce litter and pollutants on the land
and in the waters of the City; and

WHEREAS, it is the City's intent to maintain and enhance Stuart's quality of life,
natural beauty and small-town waterfront character, its stable residential neighborhoods,
and its status as the commercial/institutional hub for greater Martin County; and

WHEREAS, Element IV, Objective A4 of the City's Comprehensive Plan commits
to ongoing monitoring and reduction of solid waste collection through its Residential
Single Stream Recycling Program and a voluntary Commercial Recycling Program; and

WHEREAS, the City Commission calls for the citywide goals of zero waste
and the protection and enhancement of the city's environment by implementing policies

1 that reduce hazardous materials like polystyrene and straws; and

2 **WHEREAS**, the City Commission wishes to continue the City's legacy of
3 environmental leadership by adopting "green" ordinances and policies that will act to
4 conserve natural resources, contribute to the long-term economic vitality of the St. Lucie
5 River region as well as its tributaries, and reduce waste and pollution in the environment;
6 and

7 **WHEREAS**, the City Commission recognizes that while certain single-use
8 straws may be defined as recyclable, it has been determined that the current city
9 recycling facilities cannot process any plastic straws including those that are labeled as
10 recyclable. In addition, most of these items are not recycled and often end up in
11 overburdened landfills, waterways and wetlands; and

12 **WHEREAS**, improperly discarded plastic straws and stirrers are the fifth most
13 common plastic in ocean clean-ups, posing a direct threat to marine life because they
14 fragment into microplastics, which are then ingested by marine life and other wildlife,
15 endangering their life and wellbeing; and

16 **WHEREAS**, the City finds that there are alternatives to plastic straws which are
17 reasonable, less harmful to the natural environment, and can be composted or biodegrade
18 in landfill; and

19 **WHEREAS**, single-use plastic straws have little value and constitute a portion of
20 the litter and pollution in the City's waterways, rights-of-way, parks, and other public
21 places; and

22 **WHEREAS**, the City of Stuart will serve as a leader in environmental protection
23 by prohibiting the distribution and use of plastic drinking straws within the geographical

borders of the City of Stuart.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
CITY OF STUART, FLORIDA THAT:**

ARTICLE IX, CHAPTER 20

DIVISION B. – REGULATION OF SINGLE-USE PLASTIC STRAWS

Sec. 20-209. Distribution of Single-Use Plastic Straws

a. Until December 31, 2020:

- i. No commercial business operating as a food service establishment shall distribute or provide as a display for self-dispensing any single-use plastic straw to any customer.
- ii. Straws may be provided but only after specific request from the consumer.
- iii. Business operating with a drive through window are allowed to provide a straw to the customer without receiving a request.

b. Beginning January 1, 2021:

- i. No commercial business operating as a food service establishment shall distribute or provide as a display for self-dispensing a single-use plastic straw to any customer.
- ii. After January, 1, 2021, straws derived from any material shall only be available upon request by the consumer or patron. Under no circumstances shall they include plastic straws.
- iii. Business operating with a drive through window are allowed to provide a non-plastic straw to the customer without receiving a request.

1 **Sec. 20-210. Enforcement; penalties.**

2 a. From January 1, 2020 until December 31, 2020, the commercial
3 establishments shall receive warnings in order to provide awareness and
4 allow the business to exhaust the plastic straw inventories.

5 b. Beginning January 1, 2021, the following civil citations shall be issued for a
6 violation of Article IX, Chapter 20, Division B.

7 i. *Each violation:* A fine of \$25.00.

8 ii. *Second violation:* A fine of \$50.00.

9 iii. *Third violation:* A minimum fine of \$50.00 and a mandatory appearance
10 with the City Magistrate. The magistrate shall have the authority to
11 enter a maximum fine of \$1,000.00 and assess administrative costs.

12 **Sec. 20-211. Exemptions.** The following businesses and activities are authorized to
13 seek an exemption from the provisions of this Division:

14 a. Medical and Dental Facilities

15 b. Assisted Living Facilities / Nursing Homes

16 c. Pre-packaged outside the City, provided such beverage is not altered,
17 packaged or repackaged within the City, by supermarkets, convenience
18 retailers and restaurant suppliers.

19 **Sec. 20-212. Reserved.**

20 **SECTION 2:** All ordinances or parts of ordinances herewith are hereby
21 repealed to the extent of such conflict.

22 **SECTION 3:** If any word, clause, sentence, paragraph, section or part thereof
23 contained in this Ordinance is declared to be unconstitutional, unenforceable, void

or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 4: The provision of Sections 1 of this ordinance shall be codified.

SECTION 5: This ordinance shall take effect upon adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED on second and final reading this _____ day of _____.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL MORTELL
CITY ATTORNEY

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST CITY COMMISSION

Meeting Date: 10/14/2019

Prepared by: S. Mayer

Title of Item:

ZONING TEXT CHANGE TO ESTABLISH REGULATIONS ON FRONT YARD FENCES IN THE R-2 ZONING DISTRICT (RC):

ORDINANCE No. 2406-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 6, SECTION 6.09.05, "FENCES, WALLS, HEDGES AND ENCLOSURES" OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS THAT SHALL LIMIT THE HEIGHT, TYPE AND LOCATION OF FENCES IN THE FRONT YARD OF RESIDENTIAL SINGLE FAMILY/DUPLEX (R-2) DISTRICT PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The City Commission directed staff to amend the City's Land Development Code to prohibit opaque fences, over 4' in height, in the front of residential structures within the R-2 zoning district. Further, City Staff was directed to identify to current properties that would have nonconforming fences if this ordinance was enacted and to make recommendations regarding the least intrusive alternatives. Upon review, staff noted two potential exceptions when opaque fences should be allowed in the front yard, while over 4' in height.

The first exception is common throughout the city. Opaque fences along the side property line, typically to add privacy to the front of the house or driveway. These fences typically stop short of reaching the front property line but do extend past the facade of the primary structure. An exception allowing opaque fences up to 6' high along the side property line which can go past the facade of the structure but can not extend past 10 feet before the front property line, or sidewalk. This ensures that driveways will not be screened from view, providing safety for pedestrians utilizing the sidewalk and approaching automobiles.

The second exception is found when an opaque fence shields the front door from the right away and typically runs across both front doors in a duplex at a length of approximately 8 feet. Similarly, short spans of opaque fences are used to shield mechanical equipment, or stored items in the front yard, and adjacent to the house. Therefore, there is also an exception to allow small, 8 foot spans of opaque fences to run parallel to the right of way, so long as the house is not completely shielded from view from the right of way. It is important to note that staff does not make an exception for the 10' clearance area from the front property line as it pertains to 6 foot opaque fences. The gap between these partial spans should be discussed.

Within the City's 314 R-2 zoned properties, staff notes that the proposed text amendment will create three nonconforming fences (less than 1%). One each on: Fini Dr., 5th Street and Stypmann Blvd.

At the Local Planning Agency (LPA) hearing on July 18, 2019, the LPA voted to continue the item to September 19, and requested that the City Attorney be present to answer legal questions that the board had regarding the legality of limiting fence regulations to the R-3 zoning district. The initial inquiry pertaining to "spot zoning" has already been reviewed and it has been determined that this ordinance does not constitute "spot zoning" because it is intended for an entire zoning district. At the September 19, 2019 meeting, the LPA voted to approve the Ordinance, with one recommended change to change the wording on the second page of the ordinance to be

sure it allows the type of fence in the example Cristina de la Vega provided and to delete the words in paragraph number five "-mounted on steel posts".

Funding Source:

N/A

Recommended Action:

Motion to approve ORDINANCE No. 2406-2019 on First Reading

ATTACHMENTS:

Description	Upload Date	Type
▢ Ordinance No 2406-2019	10/2/2019	Ordinance add to Y drive
▢ Existing Land Development Regulations - Fences	3/29/2019	Backup Material
▢ Research Draft	7/5/2019	Backup Material
▢ LPA Minutes - July 18	9/9/2019	Attachment
▢ LPA Minnutes - Draft - September 19	10/2/2019	Attachment



**BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA**

ORDINANCE NO: 2406-2019

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 6, SECTION 6.09.05, "FENCES, WALLS, HEDGES AND ENCLOSURES" OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS THAT SHALL LIMIT THE HEIGHT, TYPE AND LOCATION OF FENCES IN THE FRONT YARD OF RESIDENTIAL SINGLE-FAMILY/ DUPLEX (R-2) DISTRICT PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the effective regulation of fences and other enclosures is vital to the Public's health safety and welfare, and

WHEREAS, the City's Comprehensive Plan establishes Policy A.5.2 of the Future Land Use Element, which establishes the Policy of neighborhood sustainability and compatibility, and

WHEREAS, Policy B.3.2 of the Future Land Use Element of the City's Comprehensive Plan establishes the compatibility with surrounding land uses and neighborhood design, and

WHEREAS, on April 22, 2019, the Local Planning Agency met for the purpose of transmitting its recommended amendment to the Land Development Code, and

WHEREAS, the Stuart City Commission held duly noticed public hearings on May 13, 2019 and May 27, 2019 to consider this ordinance and provide for full public participation in the Land Development Code amendment process.

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

SECTION 1: The City of Stuart Land Development Code Chapter 6, Section 6.09.05., "Fences, Walls, Hedges and Enclosures" is hereby amended as follows:

Sec. 6.09.05. Fences, walls, hedges, and enclosures.

- A. *General requirements for all walls and fences.* The regulations set forth in this section 6.09.05 shall apply to any existing or new development for residential, business, public, or industrial property for which a fence or accessory structure permit application has been submitted to the city development department. (Ord. No. 1742, 7-10-00)
1. The requirements of this section shall be in addition to and shall supersede in the event of a conflict those contained in the building code, relating to type of construction and materials of fences or walls.
 2. Any fence or wall over six feet in height must be designed and sealed by a licensed professional engineer or licensed architect.
 3. Wooden fences shall be of the woven or staggered type, with at least 30 percent of their area open to permit the flow of air. Only within the R-1A, R-1, and R-2 zoning districts shall a stockade type fence be permitted. (Ord. No. 1741-00, 7-10-00)
 4. Fences and walls shall be constructed of concrete, cement blocks, brick, chain link, wood, ornamental wrought iron, stone, or any alternate material as approved by the city development director. Concrete or cement block walls shall be stucco or provided with a textured finish. (Ord. No. 1742, 7-10-00)
 5. Metal fences shall be of non-corrodible metal or galvanized wire fabric, having a minimum of 11 gauge, ~~mounted on steel posts.~~
 6. Ornamental iron fences shall meet the requirements of section 6.09.05.A.17 of this Code.
 7. Fences or walls should be generally in harmony and compatible with their surroundings, including, but not limited to the following factors of compatibility: maximum height, materials, fence or wall type and use of landscaping.

8. All fences and walls shall be maintained in good repair on both sides, so as to be structurally sound.
9. All fences and walls on the same property shall be continuous in alignment and of uniform construction and appearance.
10. All new and existing fences and walls shall be finished on the exterior side (all framing facing the interior) and shall be maintained in an attractive condition.
11. No fence shall be constructed of materials which easily corrode, decay or rust, unless specifically treated to inhibit such corrosion, decay or rust.
12. The height of fences and walls shall be measured from existing natural elevation of a lot, prior to any construction or alteration. (Ord. No. 1453-96, 6-1-96)
13. An entryway bower, arbor, or trellis, constructed in conjunction with a fence or wall, shall not exceed a maximum height of nine feet, measured from existing grade.
14. A fence or wall shall only be located on a developed parcel of land - unless the owner or contractor can clearly demonstrate that an extenuating circumstance exists creating a situation that compromises the safety, health, and general welfare of surrounding residents.
15. No fences, walls, or hedges may be located within the intersection sight-triangle as set forth in section 6.04.03.B.8., Visibility triangles. (Ord. No. 1742, 7-10-00)
16. *Electrical fences prohibited.* Electrically charged fences are prohibited, except in prisons or jails.
17. *Barbed wire or razor wire fences.* Barbed wire fences are hereby prohibited, except at the top of fences or walls erected in industrial, business, commercial or public use zoning districts. Razor wire fences shall only be permitted to be used in jails or prisons.
18. *Dangerous materials prohibited.* Unless specifically permitted in this article, no fence, wall, or other enclosures shall include materials or devices, such as broken glass, spikes, razors, nails or similar materials intended or designed to maim, mutilate or cause other bodily injury to any person or animal.
19. *Construction design for wind pressure and other stresses.* All fences and walls shall be adequately secured and designed to withstand wind pressure of at least 50 pounds per square foot and any additional stresses to which they would normally be subjected, unless the Building Code calls for higher standards or more restrictive construction.
20. *Obstruction of water drainage.* In no case shall a fence or wall restrict the natural sheet flow of water or impede movement of drainage water from swales, drainage ditches, etc.

21. All non-residential and multi-family development projects shall also install a construction fence with a temporary six-foot chain link fence with obscure green or black fabric of uniform color or other visual barrier material approved by the Development Director around the site prior to the initiation of the construction phase.

B. *Specific requirements, including type, material, and design for fences or walls--in single-family or duplex residential districts.* In single-family and duplex residential zoning districts, all fences and walls constructed shall comply with the following requirements:

1. For Single Family and Duplex lots on R-2 zoned property, fences and walls may be erected or maintained along or adjacent to a lot line to a height not exceeding six feet in the side and rear yards. Opaque fences and walls erected within the front yard shall not exceed a height of four feet, unless otherwise allowed in this chapter. Open fences, such as chain link, picket, lattice, rail or similar fences and are not otherwise opaque, shall not exceed a height of six feet. Opaque fences and walls may be raised to six feet along the side lot line, if at least 10 feet from the front yard property line or sidewalk, whichever is closest. Opaque fences within the front yard may not completely enclose and obscure the house from view of the public right of way, unless they are less than 4 feet high. Such fences and walls may be raised to six feet in height for a total length of 8 feet per property. For all other residential zoning districts, the maximum height of walls or fences along the rear and side yards shall be six feet. All heights are measured from the base of the fence.
2. If the fence or wall abuts (disregarding intervening alleys or unopened rights-of-way) a zoning district other than single-family or duplex residential, then the single-family owner or occupancy may elect to comply with the requirements of such abutting zoning district.

* * *

F. *Height of fences or walls at intersections.*

1. Anything else in this section to the contrary notwithstanding, three feet (as measured from the crown of the road) shall be the maximum height of any section of new fence or wall which is located within 20 feet of the following intersections, unless protected by a traffic-control device:
 - a. The right-of-way lines of two streets;
 - b. The right-of-way line of a street and the right-of-way line of an alley;
 - c. The right-of-way line of a street and the right-of-way line of a railroad.

2. Three feet (as measured from the crown of the road) shall be the maximum height of any section of new fence or wall to which is located within eight feet of the following intersections:

a. The centerline of a driveway and the abutting right-of-way line.

SECTION 2: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 4: The provisions of this ordinance shall be codified.

SECTION 5: This ordinance shall become effective immediately upon adoption.

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:

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

YES	NO	ABSENT	ABSTAIN

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:

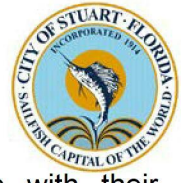
MICHAEL MORTELL
CITY ATTORNEY



1. In addition to the safety requirements of F.S. 515.27, a fence shall be installed that meet the requirements of this subsection, unless a barrier meeting the specific requirements of F.S. 515.29 is installed.
2. All new swimming pools must have a fence at least four feet high, with a spring lock gate, or be otherwise completely enclosed; provided, however, that no fencing need be erected on any side abutting a barrier such as a lake, river, creek, or canal.
3. A building permit final inspection will not be conducted for a new swimming pool, unless the proper building permit for a fence receives a final inspection simultaneously.
4. It shall be unlawful for any person, firm or corporation to build or cause to be built a new swimming pool, unless such pool is properly fenced in accordance with paragraph 6.09.04.C.1 above.
5. All spas shall be secured with a locked cover or must have a fence at least four feet in height, with a spring lock gate, or be otherwise completely enclosed; provided, however that no fencing need be erected on any side abutting a barrier such as a lake, river, creek, or canal. (Ord. No. 1720-00, 3-27-00)

Sec. 6.09.05. Fences, walls, hedges, and enclosures.

- A. *General requirements for all walls and fences.* The regulations set forth in this section 6.09.05 shall apply to any existing or new development for residential, business, public, or industrial property for which a fence or accessory structure permit application has been submitted to the city development department. (Ord. No. 1742, 7-10-00)
 1. The requirements of this section shall be in addition to and shall supersede in the event of a conflict those contained in the building code, relating to type of construction and materials of fences or walls.
 2. Any fence or wall over six feet in height must be designed and sealed by a licensed professional engineer or licensed architect.
 3. Wooden fences shall be of the woven or staggered type, with at least 30 percent of their area open to permit the flow of air. Only within the R-1A, R-1, and R-2 zoning districts shall a stockade type fence be permitted. (Ord. No. 1741-00, 7-10-00)
 4. Fences and walls shall be constructed of concrete, cement blocks, brick, chain link, wood, ornamental wrought iron, stone, or any alternate material as approved by the city development director. Concrete or cement block walls shall be stucco or provided with a textured finish. (Ord. No. 1742, 7-10-00)
 5. Metal fences shall be of non-corrodible metal or galvanized wire fabric, having a minimum of 11 gauge, mounted on steel posts.
 6. Ornamental iron fences shall meet the requirements of section 6.09.05.A.17 of this Code.



7. Fences or walls should be generally in harmony and compatible with their surroundings.
8. All fences shall be maintained in good repair on both sides, so as to be structurally sound.
9. All fences and walls on the same property shall be continuous in alignment and of uniform construction and appearance.
10. All new and existing fences and walls shall be finished on the exterior side (all framing facing the interior) and shall be maintained in an attractive condition.
11. No fence shall be constructed of materials which easily corrode, decay or rust, unless specifically treated to inhibit such corrosion, decay or rust.
12. The height of fences and walls shall be measured from existing natural elevation of a lot, prior to any construction or alteration. (Ord. No. 1453-96, 6-1-96)
13. An entryway bower, arbor, or trellis, constructed in conjunction with a fence or wall, shall not exceed a maximum height of nine feet, measured from existing grade.
14. A fence or wall shall only be located on a developed parcel of land - unless the owner or contractor can clearly demonstrate that an extenuating circumstance exists creating a situation that compromises the safety, health, and general welfare of surrounding residents.
15. No fences, walls, or hedges may be located within the intersection sight-triangle as set forth in section 6.04.03.B.8., Visibility triangles. (Ord. No. 1742, 7-10-00)
16. *Electrical fences prohibited.* Electrically charged fences are prohibited, except in prisons or jails.
17. *Barbed wire or razor wire fences.* Barbed wire fences are hereby prohibited, except at the top of fences or walls erected in industrial, business, commercial or public use zoning districts. Razor wire fences shall only be permitted to be used in jails or prisons.
18. *Dangerous materials prohibited.* Unless specifically permitted in this article, no fence or wall shall include materials or devices intended or designed to maim, mutilate or cause other bodily injury.
19. *Construction design for wind pressure and other stresses.* All fences and walls shall be adequately secured and designed to withstand wind pressure of at least 50 pounds per square foot and any additional stresses to which they would normally be subjected, unless the Building Code calls for higher standards or more restrictive construction.
20. *Obstruction of water drainage.* In no case shall a fence or wall restrict the natural sheet flow of water or impede movement of drainage water from swales, drainage ditches, etc.



21. All non-residential and multi-family development projects shall also install a construction fence with a temporary six-foot chain link fence with obscure green or black fabric of uniform color or other visual barrier material approved by the Development Director around the site prior to the initiation of the construction phase.
- B. *Specific requirements, including type, material, and design for fences or walls--in single-family or duplex residential districts.* In single-family and duplex residential zoning districts, all fences and walls constructed shall comply with the following requirements:
1. The maximum height of walls or fences shall be six feet;
 2. If the fence or wall abuts (disregarding intervening alleys or unopened rights-of-way) a zoning district other than single-family or duplex residential, then the single-family owner or occupancy may elect to comply with the requirements of such abutting zoning district.
- C. *Same--In multiple-family residential districts.* The regulations set forth in this subsection shall apply only to an application for a fence and wall permit and shall not exist in conflict with any regulations otherwise herein this Code regarding buffers and required buffer materials for non-residential development abutting a residential use or zone. In multiple-family residential zoning districts, all fences and walls constructed shall comply with the following requirements:
1. The maximum height of walls or fences shall be six feet;
 2. If the fence or wall abuts (disregarding intervening alleys or unopened rights-of-way) a zoning district other than single-family, duplex or multiple-family residential, then the multiple-family owner or occupant may elect to comply with the requirements of such abutting zoning district.
 3. Fences and walls shall be setback a minimum of three feet from any abutting right-of-way for the purpose of landscape beautification. Landscaping materials shall consist of a hedge and groundcover or other grounded landscape treatment.
 4. Chain link or mesh fences, minimum gauge of 11, shall be vinyl coated along, at a minimum, the weave of the fencing material. Colors of the vinyl material shall be limited to green or black.
 5. Walls shall have pilasters spaced at recurring intervals and shall include associated wall and corner caps. A minimum of two of the following architectural embellishments, complementing the existing or proposed building(s) on site and not to exceed 12 inches in height, shall be included:
 - Ornamental stone mountings
 - Peaked cap along ridge of wall
 - Ornamental ironwork
 - Buttresses



- Built-in planter
6. One of the above must be built by the occupant or owner of the multiple-family property, but the owner or occupant of the single-family or duplex property may build it, if desired.
 7. Plans for either of the above shall be included as a part of the development permit application for such multiple-family property and shall be erected during or immediately after the erection of the principal building, and in any event, before the certificate of occupancy of the principal building is issued.
 8. Any such buffer or wall previously built must be maintained.
- D. *Same--In business and public districts.* The regulations set forth in this subsection shall apply only to an application for a fence and wall permit and shall not exist in conflict with any regulations otherwise herein this Code regarding buffers and required buffer materials for non-residential development abutting a residential use or zone. In business zoning districts, all fences and walls constructed shall comply with the following requirements:
1. Fences or walls erected in the B-1 zoning district shall be no higher than six feet. Fences or walls shall be setback a minimum of three feet from any abutting street right-of-way for the purpose of landscape beautification. Landscaping materials shall consist of a hedge and groundcover or other grounded landscape treatment.
 2. Fences or walls erected in the B-2 or B-4 zoning districts shall be no higher than eight feet. Fences or walls shall be setback a minimum of five feet from any abutting street right-of-way for the purpose of landscape beautification. Landscaping materials shall consist of one flowering or accent tree for every 30 linear feet, planted singly or in clusters; a hedge and groundcover or other grounded landscape treatment.
 3. Chain link or mesh fences, minimum gauge of 11, shall be vinyl coated along, at a minimum, the weave of the fencing material. Colors of the vinyl material shall be limited to green or black.
 4. Walls shall have pilasters spaced at recurring intervals and shall include associated wall and corner caps. A minimum of two of the following architectural embellishments, complementing the existing or proposed building(s) on site and not to exceed 12 inches in height, shall be included:
 - Ornamental stone mountings
 - Peaked cap along ridge of wall
 - Ornamental ironwork
 - Buttresses
 - Built-in planter



5. Such wall must be built by the occupant or owner of the business, or commercial property, but the owner or occupant of the residential property may build it, if desired.
6. Plans for such wall shall be included as a part of the development permit application on such business or commercial property and shall be erected during or immediately after the erection of the principal building thereon, and in any event, before the certificate of occupancy of the principal building is issued.
7. Any such wall previously built must be maintained.

E. *Same--Separating industrial zoning districts from other districts.*

1. Fences or walls erected in the I (Industrial) zoning district shall be no higher than ten feet. Fences and walls shall be setback a minimum of five feet from any abutting street right-of-way for the purpose of landscape beautification.
2. Whenever any industrial zoning district, which is not vacant, abuts (disregarding intervening easements or unopened rights-of-way) any other non-residential zoning district, there shall be a masonry dividing wall erected, to a minimum height of six feet (eight foot minimum within 300 feet of a residential zoning district) with a maximum of ten feet, the full length of the property line adjoining such other district or a landscaped buffer of not less than six feet in width accompanied by a six foot high structure. Such landscaped buffer shall be designed and planted so as to be 80 percent opaque when viewed horizontally between two and six feet above ground level.
3. Such wall must be built by the occupant or owner of the industrial property, but the owner or occupant of the other zoned property may build it, if desired.
4. Plans for such wall shall be included as a part of the development permit application for such industrial property and such wall shall be erected during or immediately after the erection of the principal building, and in any event, before the certificate of occupancy of the principal building is issued.
5. Any such wall previously built must be maintained.

F. *Height of fences or walls at intersections.*

1. Anything else in this section to the contrary notwithstanding, three feet (as measured from the crown of the road) shall be the maximum height of any section of new fence or wall which is located within 20 feet of the following intersections, unless protected by a traffic-control device:
 - a. The right-of-way lines of two streets;
 - b. The right-of-way line of a street and the right-of-way line of an alley;
 - c. The right-of-way line of a street and the right-of-way line of a railroad.



2. Three feet (as measured from the crown of the road) shall be the maximum height of any section of new fence or wall to which is located within eight feet of the following intersections:

- a. The centerline of a driveway and the abutting right-of-way line.

Sec. 6.09.06. Awnings, canopies, and cabanas.

- A. *Number of cabana rooms and carports per trailer or structure; master plans for cabana rooms, detached rigid canopies.* Only one cabana room and one carport shall be permitted as an adjunct to any one mobile home, trailer or structure. Typical drawings for cabana rooms or detached rigid canopies shall be approved by the building official when prefabricated under controlled factory conditions and such typical drawings together with its roof, walls, panels, beams, columns, connections, and principal members in compression, tension or flexure shall have been analyzed by a Florida registered professional engineer and design calculations, details, plans and specifications have been provided bearing his seal, signature, and affidavit as set forth in the Florida Building Code. To be so approved, each such typical drawing must meet the minimum design loads required by the Florida Building Code, for foundation, floor and walls. The roof may be as described in 6-490(b). In the event an application for an installation or construction permit is based on a previously approved typical drawing, unrevised reprints of the typical drawing shall accompany each application for a permit for the purpose of providing the building official with a means for comparison and as an aid to identification.

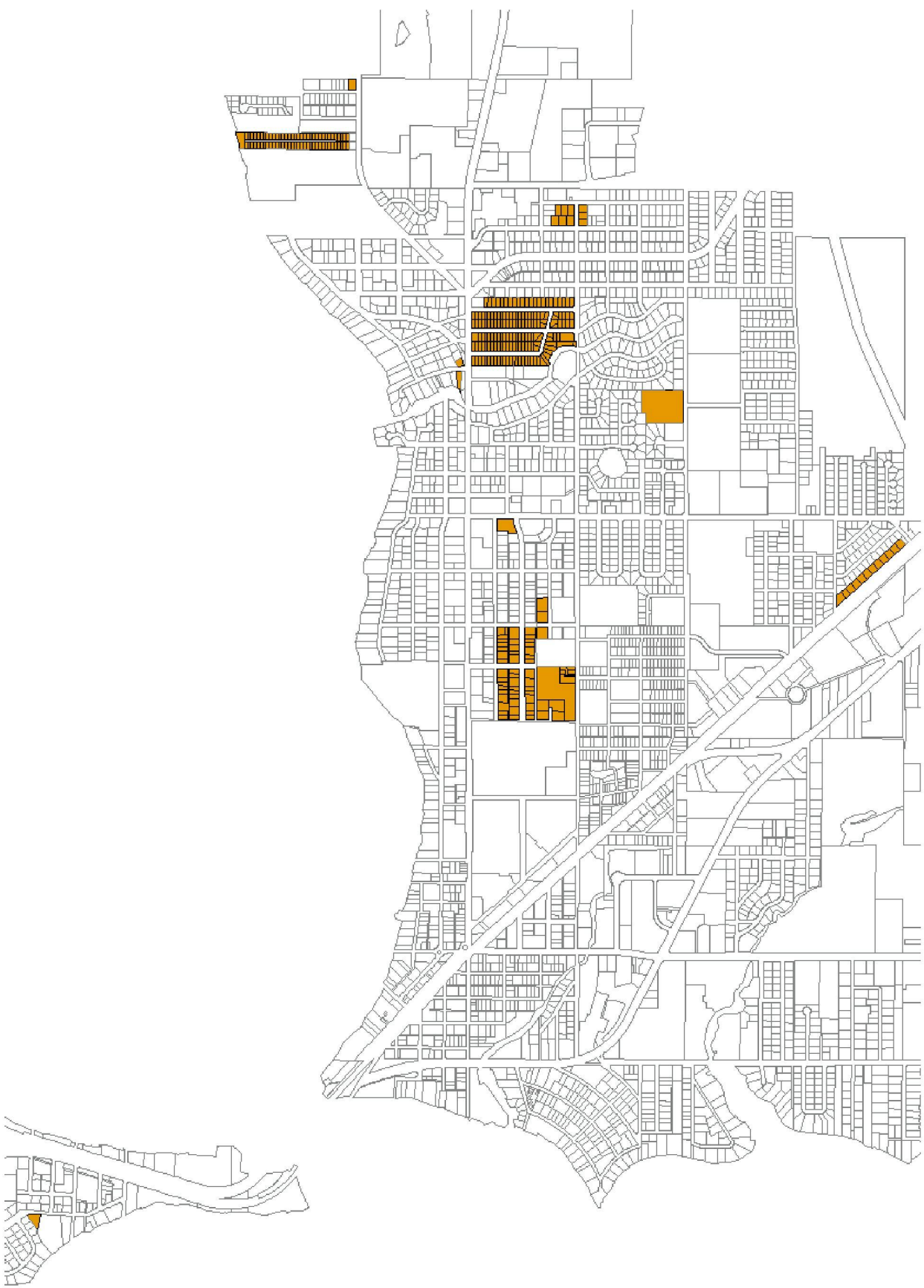
6.10.00. OUTDOOR STORAGE

- A. *Applicability.* All businesses and services shall be conducted within completely enclosed buildings in the B-1, B-2, and B-4 business zoning districts. If in the discretion of the city development director a demonstrated necessity exists for an outdoor storage area in the B-1, B-2, or B-4 zoning districts due to the economic hardship of enclosing the area, an outdoor storage area may be allowed subject to the following standards.
- B. *Standards for outdoor storage areas.*
 1. *Location and maintenance.*
 - a. An outdoor storage area may be located adjacent to a structure but shall not be located in the front yard setback area.
 - b. No loose materials such as sand, lumber, cardboard boxes, and the like which are subject to being scattered or blown about the premises by normal weather conditions shall be allowed.
 - c. An outdoor storage area shall be kept neat and orderly. The area shall not be permitted to take on the characteristics of a junkyard.
 - d. Materials stored shall not be stacked in piles higher than five feet and shall not be visible from surrounding properties or rights-of-way.

Table							
sde.STUART.Zoning							
OBJECTID *	PCN	CITY	ZONING	ZONING_SUB	SHAPE *	ZoningChgDate	ZoningChgOrdinance
315	3237410020000004090000	0	R-2	<Null>	Polygon	<Null>	<Null>
887	03384100000000021040000	0	R-2	<Null>	Polygon	<Null>	<Null>
893	03384101101100150000000	0	R-2	<Null>	Polygon	<Null>	<Null>
894	03384100200000022190000	0	R-2	<Null>	Polygon	<Null>	<Null>
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897	03384100200000023080000	0	R-2	<Null>	Polygon	<Null>	<Null>
898	03384100200000014070000	0	R-2	<Null>	Polygon	<Null>	<Null>
900	03384100200000023170000	0	R-2	<Null>	Polygon	<Null>	<Null>
901	03384100200000014160000	0	R-2	<Null>	Polygon	<Null>	<Null>
902	03384100200000024060000	0	R-2	<Null>	Polygon	<Null>	<Null>
903	03384100200000013090000	0	R-2	<Null>	Polygon	<Null>	<Null>
904	03384100200000024150000	0	R-2	<Null>	Polygon	<Null>	<Null>
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907	03384100200000025030000	0	R-2	<Null>	Polygon	<Null>	<Null>
908	03384100200000012010000	0	R-2	<Null>	Polygon	<Null>	<Null>
909	03384100200000025120000	0	R-2	<Null>	Polygon	<Null>	<Null>

1 | (314 out of *2000 Selected)

sde.STUART.Zoning





MINUTES

**LOCAL PLANNING AGENCY/PLANNING ADVISORY BOARD
TO BE HELD JULY 18, 2019 AT 5:30PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FL 34994**

LOCAL PLANNING AGENCY

**Chair – Michael Herbach
Vice Chair – Ryan Strom
Board Member – Li Roberts
Board Member – Larry Massing
Board Member – Campbell Rich
Board Member – Bill Mathers
Board Member – Christina de la Vega**

ADMINISTRATIVE

**Development Director – Kev Freeman
Board Secretary – Jordan Pinkston**

CALL TO ORDER **5:29 PM**

Present: Michael Herbach, Ryan Strom, Li Roberts, Larry Massing, Campbell Rich, Bill Mathers

Absent: Christina de la Vega

Mike Mortell swore in new board member Campbell Rich.

APPROVAL OF MINUTES:

Motion: Action: Approve.

Moved by: Li Roberts

Seconded by: Ryan Strom

Motion passed unanimously.

COMMENTS FROM THE PUBLIC: None.

COMMENTS FROM THE BOARD MEMBERS:

Larry Massing will be abstaining from the ordinance brought before the board because his company is the engineering company.

OTHER MATTERS BEFORE THE BOARD:

1. PLANTATION STORAGE OF STUART CPUD: (QUASI-JUDICIAL)(RC):
ORDINANCE NUMBER 2411-2019; AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) ADOPTED BY ORDINANCE No. 1527-97 FOR A 7.01 ACRE PARCEL ON THE EAST SIDE OF COMMERCE AVENUE SOUTH OF INDIAN STREET OWNED BY TED GLASRUDD ASSOCIATES FL, LLC, SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; ESTABLISHING PLANTATION STORAGE OF STUART, CONSISTING OF A 98,000+/- SQUARE FOOT SELF-STORAGE FACILITY WITH 4,347 SQUARE FEET OF OUTDOOR BOAT AND VEHICULAR STORAGE AREA; APPROVING A MASTER SITE PLAN; PROVIDING FOR DEVELOPMENT CONDITIONS AND A TIMETABLE FOR DEVELOPMENT, DECLARING THE PLAN 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, AND FOR OTHER PURPOSES.

PRESENTATION: Tom Reetz, Senior Planner
Bob Raynes, Land Use Attorney for Gunster Law Firm

- Presented Exhibit C – Development Condition Changes

Charles Chase, Self Storage
Raul Ocampo, Architect

- Showed rendering photos

Dale Adams, Mathers Engineering
Daniel Sampseen, Landscape Architect

BOARD COMMENT:

Li Roberts asked if there were a manager living on site.

Charles Chase confirmed that there would be no need to have a manager on site due to surveillance.

Li Roberts asked for confirmation on the plans presented, specifically where sidewalks were going to be located.

Dale Adams said the only sidewalks were up around the office. Later on in the planning process they eliminated a lot of sidewalks.

Li Roberts asked about outdoor vehicle storage.

Charles Chase said they do not allow grass parking they have about 5,000 square feet of parking offered.

Li Roberts asked about fencing on the property and how it affects landscaping.

Dale Adams confirmed where landscape is currently going to be located.

Li Roberts asked about exterior lighting.

Charles Chase confirmed that there will be wall packs on the building.

Li Roberts asked where parking was located and where residents are expected to park.

Charles Chase confirmed that pedestrians normally do not have parking issues, any parking for storage units is done quickly.

Li Roberts asked questions about the gates and if they blocked citizens from walking onto the property.

Charles Chase said inbound you punch in a code, other than that everything is secured by fencing. We also have high security so no one will try to access the property.

Li Roberts said the goal is to have it completely secured and she was concerned about getting through the fencing after reviewing the site plans.

Charles Chase confirmed that they would not allow any pedestrian opportunity to come in and everything will be secured by fencing.

Larry Massing asked when controlled access was. He is concerned about small businesses using the units in the wrong way.

Charles Chase confirmed the facility operated 24/7 and was constantly under surveillance. There lease agreement says no business operation can happen on the property.

Campbell Rich wanted confirmation why the applicant was requesting to change to CPUD and what the benefit was for the applicant and the city.

Tom Reetz confirmed that it is a request to amend the CPUD to allow for storage. We are giving them specific allowable use and the benefit for the residents is a local storage facility that they can utilize.

Campbell Rich asked about parking spaces.

Charles Chase was not aware of the parking space rule and the amount just worked out in the design.

Campbell Rich asked questions about the report prepared by EDC about the Environmental Assessment regarding wetlands.

Bob Raynes confirmed that they have done on site surveys and found no wetlands. It has been reviewed Kimley Horn and the South Florida Water Management District.

Campbell Rich asked about the components found on the property and if they constituted as a wetland.

Bob Raynes said that he could not speak on behalf of Environmental Protection, but both the South Florida Water Management District and Kimley-Horn found no wetlands.

Kev Freeman usually the applicant has an environmental consultant attending, staff relies on expert testimonials and it meets city code.

Ryan Strom asked about the shared drive to the north and how it would be developed.

Dale Adams said Commerce Avenue is a Martin County right of way and has limited all of the properties to the north and are only allowing this driveway connection serving all parcels. We have submitted plans to Martin County which will allow improvements and widening on Commerce Avenue and there will be opposing left turn lanes to go into each project.

Bob Raynes said there is shared access is on our property.

Ryan Strom said that he thought comments from staff and consultants were well reviewed by the applicant and he was impressed by the site plan.

Dale Adams said they are installing a 10-inch water main to serve all projects on Indian.

Larry Massing asked what the previously CPUD use on the property.

Tom Reetz confirmed it was annexed as a CPUD.

Campbell Rich asked about the upland preserve area requirements.

Bob Raynes said that it is the same person who owns the properties.

Tom Reetz said that the city code requires 8 feet sidewalks in front of new developments.

Bob Raynes said he believes it is an existing 5-foot sidewalk and that is under Martin County right of way jurisdiction. We are proposing to do the 6-foot sidewalk extension to the existing sidewalk.

Tom Reetz said because most of that is not developed and within the city limits, we would require neighboring properties to north and south to do 8ft sidewalks. The existing 5 foot should be corrected to 8 feet.

Kev Freeman said they will work with the applicant to see what the expense is to widen the sidewalk, provided that widening is able to be done.

Li Roberts asked if the correct language should be, when that road is widened or on a certain date, whichever comes sooner than that would be an 8 ft sidewalk.

Dale Adams said that the roadway improvements are not going to be done by the county. Roadway improvements will be made by the current contract owner and paying for the construction with an understanding from Martin County on what they want in their right of way. Improvements will be made by current owner as part of contract with Mr. Chase. Widening the sidewalk may affect the County's roadside soil drainage.

Bob Raynes confirmed that it is required by the county, but private funding.

Key Freeman would like language that states, providing there is allowable section within the right of way that the sidewalk be incorporated at 8ft that city staff will work with county engineers included along commerce.

MOTION:

Action: Move approval with staff recommendation and following conditions:

1. Article 1 appendix D – change December 12, 2019 to June 12, 2019
2. Article 5 - Remove “and Army Corp of Engineers”
3. Article 14 – Remove “Water trucks shall be provided by the applicant as necessary during construction in order to reduce dust generated on-site.”
4. Article 19 – Add lines to read, “All on-site utilities lines shall be buried.”
5. Article 31 – Adjust time table for development to the following
 - Site and Building permit applications deemed sufficient for permit review under city codes and standards. (December 31, 2022)
 - Final Certificate of Occupancy for all site and building improvements. (December 31, 2025)
6. Article 32, appendix A – Self-Storage Facility with ancillary office and ancillary retail services customary for self-storage facilities.
7. Correcting the site plan to show appropriate fencing that was discussed
8. If feasible, provide an 8 ft sidewalk along Commerce Avenue

Moved by: Li Roberts

Second by: Larry Massing

Motion passed with Bill Mathers abstaining.

2. ZONING TEXT CHANGE TO ESTABLISH REGULATIONS ON FRONT YARD FENCES IN THE R-2 ZONING DISTRICT (RC): ORDINANCE No. 2406-2019; AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 6, SECTION 6.09.05, "FENCES, WALLS, HEDGES AND ENCLOSURES" OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS THAT SHALL LIMIT THE HEIGHT, TYPE AND LOCATION OF FENCES IN THE FRONT YARD OF RESIDENTIAL SINGLE FAMILY/DUPLEX (R-2) DISTRICT PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

PRESENTATION: Stephen Mayer, Senior Planner

BOARD COMMENT:

Li Roberts asked for confirmation on the wording in B1 and requested it be revised.

Larry Massing asked for confirmation on hedges and if they were included or not.

Stephen Mayer confirmed that it meant completely enclosed unless it is four feet high, not including hedges.

Li Roberts said the wording was confusing to her and wanted confirmation on opaque fencing.

Kev Freeman confirmed that she is okay with the concept, but the language needs to be clearer and better manipulated.

Campbell Rich asked if the two 8 footers could be contiguous.

Stephen Mayer confirmed that it could be.

Ryan Strom asked if we are okay with 16 feet or opaque per duplex.

Stephen Mayer confirmed that it would be 8 ft per property and 16ft max.

Michael Herbach asked about property owners purchasing lots and splitting them up.

Bill Mathers said sometimes there are lot splits with two different owners

Herbach said if there is a vacant lot for sale and he builds a duplex than that is two units.

Stephen said it is possible, but historically it is two separate units.

Li Roberts said with the language we can push the property up until there is only a 10-foot variance, so I am not really shielding anything. What she would do is to make a deal with her neighbor to build a 16-foot fence against the right of way line and plant shrubs.

Larry Massing asked Li Roberts what she accomplished by doing that.

Li Roberts said the reason that piece was in there was to allow for an accommodation of people who had something they wanted to shield something higher than 4ft.

Ryan Strom said that he does not think the cops will be worried about that because they can still see your yard, which was the concern.

Larry Massing said this does not meet the definition of a fence, it is typically a boundary and that is more of a bind.

Michael Herbach asked for confirmation that we are trying to improve streetscape.

Stephen Mayer said correct, that is why there is a 10ft zone.

Ryan Strom asked if there was any thought for a 6ft unit versus 8 ft as far as length.

Stephen Mayer responded that he wanted to be cautious and allow people to at least have 8ft.

Li Roberts said they have one thing that is ugly, so we are wanting to change the code.

Kev Freeman said that neighbors have come forward showing their concerns and that is why staff is attempting to make this ordinance. We are concerned from a planning and value point of view for having fences along street frontages that can affect long term property values. Many people look at location and appearance of the street when purchasing a home. That is why CRA has become so popular. They have more architectural regulations and people know what they are going to get and that is quality in terms of appearance. Our job is to protect the property values of all residents. We

are struggling to find an alternative way to do this. Another example would be a PUD for a residential subdivision came into the LPA, would you conceive of any PUD that came before you and allow 6ft fencing to run down the front of property lines on that PUD.

Larry Massing asked about Riverside Drive.

Kev Freeman said the value of that property is not street facing, it is waterfront. He said we are not regulating those homes, this is R2 only. This was the least intrusive regulation we found after a lot of staff time was spent. Our intent is to increase the potential value incurring on a property as a whole.

Tom Campenni made a public comment (see below).

Li Roberts asked if she felt you have seriously stepped on my rights as a property owner doing this R2 Zoning I am still able to come in and get a variance, correct?

Kev Freeman confirmed she would be able to.

Ryan Strom asked if this answered Tom Campenni's concern.

Kev Freeman said that his concern was in the regulation itself.

Larry Massing said whether we do this or not the state of Florida will do what they want.

Li Roberts said on the Board of Zoning Adjustment that one of the requirements to get a zoning variance is that you are not granting something to someone that nobody else has.

Kev Freeman said that he had a meeting with the Board of Adjustment earlier this week to get direction for staff to look at that language. The issue with the Board of Adjustment and their allowances of variances hinges on hardship. In most cases, you can argue that almost all cases are a self-imposed hardship. I am asking for the Board of Adjustment is we can make it more regulated and less subjective with options for people that come forward and to get the neighbors involved. It is regulation through community outreach.

Michael Herbach said he does not think it is a bad idea but is concerned that it will go a step further and blown out of proportion.

Larry Massing said that fences are regulated at the local level but not regulated by building code. He asked why we don't revise the fence ordinance across the entire city instead of one zoning district.

Kev Freeman said there has been a number of discussion items that have come forward to the Local Planning Agency and City Commission. That would be his preferred option, but he has been directed to regulate as least intrusive as possible to insure there would be the least amount of nonconformities as possible. Out of 300 potential nonconformities we only have three, one of which that is the fence that was brought up.

Larry Massing said it does not make sense to just choose R2 zoning and go all across the board to all fencing.

Bill Mathers asked about what our remedy was.

Kev Freeman said that will be a separate part of the code under the variance section, which will be a sperate ordinance. I want to allow people to do what they want to do, but I do not want to be having to make the decision every time somebody comes in.

Mike Meier made a public comment (see below).

Bill Mathers said all R2 lots are typically small that are trying to be resolved. It is allowing someone to put a fence higher than four feet and our current ordinance is six.

Kev Freeman said that fences are mandated in certain areas, but those fences are specifically designed as picket fencing. Those are the areas where you do see a maintains of property value and esthetic value of the street.

Bill Mathers said we need to inform the public that they can apply for a variance and they do have an alternative option.

Larry Massing confirmed that we are writing an ordinance for R2, but if I wanted to do it in an R1 or R1A so then why are we limiting it to R2.

Kev Freeman said that is what City Commission directed staff to do.

Stephen Mayer said that R2 has smaller lot sizes than the others, so smaller lots can be more compliant.

Bill Mathers said at one point the city ordinance said that you could not have a fence higher than four feet in front lot for law enforcement.

Kev Freeman said present code does not support that.

Michael Herbach said it two houses built together with a fence in between so they cannot see their neighbor. If there were spaces between the homes, it probably would not be a problem.

Larry Massing is interested in the legal implication of us endorsing a code that is isolated to one zoning district.

Kev Freeman told the board that Mike Mortell has reviewed the ordinance and we did not have any comments back.

Larry Massing asked to push the item to the next meeting to hear what the City Attorney has to say.

Michael Herbach asked about it having to meet 50lbs per square foot wind code. He asked to remove item #19.

PUBLIC COMMENT 6:53 PM

Tom Campenni this is a solution in search of a problem. The reason why Tallahassee gets involved in what we do is because we overregulate. Right now, if I want to put a vegetable garden in the front yard, I can have my whole front yard covered. We try to regulate, but we do not need he regulation. This is silly and I would take exception to people saying the of the city is to protect property values. If that was true, you just approved something that brings very little value to the city and that's fine,

but if you really wanted to bring value to the city you would have said, let's bring 300 units there. But you didn't because it is not your job to do that, it is not the city's job to do that. So, since one guy is an idiot you are going to change a code that will affect at least 300 homes and they are not going to be happy when they can't do what they want to their property. We do not live in a police state, so it is not up to the police to say how we protect our homes. In my opinion, this is something we are looking to do because one person is an idiot. I believe the board, commission and city should just relax because this is going to come back and hurt us in the long run.

Mike Meier discussed the fencing in the Potsdam area being required. He thinks this is a great benefit to the community and streetscape. The Development Department Director said that he is looking to protect the character of the city and to increase property values. This ordinance change will not make the fence go away, but we are not frozen in time. There are a lot of people moving to the City of Stuart from down south and I hear from a lot of them. Fear of crime increases as people move here from other places and might feel like putting a fence in the front yards. This is a good policy and helps protect our character by starting small. The City Commission does not currently have the votes to do a full city-wide ordinance. As a resident I support this first step.

MOTION: **7:08 PM**

Action: This comes back in September meeting after it has gone to legal to address our concerns.

Moved by: Li Roberts

Second by: Larry Massing

Motion passed unanimously.

ORDINANCES

3. Amendment to the Land Development Code (RC)

This amendment to the City's Land Development Code is required in order to comply with House Bill 7103

(Application Processing Timelines).

MOTION:

Action: Approve.

Moved by: Larry Massing

Second by: Li Roberts

Motion passed unanimously.

PUBLIC COMMENTS: None.

BOARD COMMENT:

Campbell Rich was disappointed to hear that neither State Representative Toby Overdorf nor Gayle Harrell called the City and asked whether the position of this ordinance would create any undo burdens like hiring additional staff.

ADJOURNMENT **7:11 PM**

Motion: **Action:** Adjourn

Moved by: Li Roberts

Seconded by: Ryan Strom

Michael Herbach, Chair

Jordan Pinkston, Board Secretary



MINUTES

**LOCAL PLANNING AGENCY/PLANNING ADVISORY BOARD
TO BE HELD SEPTEMBER 19, 2019 AT 5:30PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FL 34994**

LOCAL PLANNING AGENCY

**Chair – Michael Herbach
Vice Chair – Ryan Strom
Board Member – Li Roberts
Board Member – Larry Massing
Board Member – Campbell Rich
Board Member – Bill Mathers
Board Member – Christina de la Vega
Ex Officio – Garrett Grabowski**

ADMINISTRATIVE

**Development Director – Kev Freeman
Board Secretary – Jordan Pinkston**

CALL TO ORDER  **5:32 PM**

ROLL CALL  **5:32 PM**

Present: Michael Herbach, Li Roberts, Larry Massing, Campbell Rich, Bill Mathers, Christina de la Vega

Absent: Ryan Strom

APPROVAL OF MINUTES:

Motion: Action: Approve.

Moved by: Li Roberts

Seconded by: Larry Massing
Motion passed unanimously.

COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS: None.

COMMENTS FROM THE BOARD MEMBERS: None.

ACTION ITEMS:

1. ZONING TEXT CHANGE TO ESTABLISH REGULATIONS ON FRONT YARD FENCES IN THE R-2 ZONING DISTRICT (RC): ORDINANCE No. 2406-2019: AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING CHAPTER 6, SECTION 6.09.05, "FENCES, WALLS, HEDGES AND ENCLOSURES" OF THE CITY'S LAND DEVELOPMENT CODE; PROVIDING FOR REGULATIONS THAT SHALL LIMIT THE HEIGHT, TYPE AND LOCATION OF FENCES IN THE FRONT YARD OF RESIDENTIAL SINGLE FAMILY/DUPLEX (R-2) DISTRICT PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE, A CONFLICT CLAUSE AND CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

PRESENTATION: Stephen Mayer, Senior Planner
Michael Mortell, City Attorney

BOARD COMMENT:

Larry Massing asked why R2, when it is okay in other zoning districts.

Mike Mortell said that is more a policy question. In R1 a lot has to be 100 feet wide and R1A it can be 75 feet wide and that is because someone said so and it is a generalized practice.

Stephen Meyer said that staff hasn't revised the ordinance that is on the agenda, so it is the same request for guidance as per the City Commission.

Bill Mathers confirmed that he understood the request.

Li Roberts asked if R2 was on the map being shown because she wanted clarification on the language for R2 and what it can be butted up to.

Michael Herbach said that he understands that R2 is duplex, and R3 can be duplex or multi-family.

Cristina de la Vega said that if you are next to a duplex then you can use the different zoning if you are next to it.

Li Roberts said the verbiage that is being discussed is on 6-93, C2, page 17 of 63 and read the language.

Kev Freeman said that language was referring to primarily R3 which is mutli-family district. We are talking about R2 which is a single-family district.

Li Roberts asked for confirmation that the language would be left the same in multi-family residential districts.

Key Freeman said that language would need to be changed in B2 on page 17 of 63. If you are in R2 and you are put into R3 with less or alternative fencing, you could apply those. Our intention would be to maintain this in R2.

Li Roberts wanted to talk about the front yard piece on page 13 of 63. She asked for confirmation that a fence would never be higher than six feet.

Stephen Mayer confirmed that was correct.

Cristina de la Vega had questions regarding page eleven. She asked if you could build a solid wood fence and not have wind restriction.

Stephen Mayer said the air flow restriction is specific to that type of stockade fence only. If you are going to build a stockade fence, then it would need to give 30% difference in where you put planks.

Cristina de la Vega asked why staff does not do that for concrete fences.

Mike Mortell said that when it was adopted it was to support the wooden fences to allow wind to blow through them so they would not tip over, rather than the concrete fences that are built to a different standard.

Cristiana de la Vega asked about metal fences and showed a picture of a metal fence that is in R2 which is made from metal as a good example. She had questions about page 12, number 13 regarding arbors and showed another photo of an example that would not be allowed and suggested they raise the height to 12 feet instead of 9 feet. She asked why we cannot have chickees in the city.

Stephen Mayer said that chickees are allowed in the city, but they must meet setbacks. An arbor does not have a front setback requirement.

Li Roberts questioned if the photo was permitted because she did not think that it met the requirements.

Stephen Mayer said that was not permitted.

Larry Massing said that what Cristina de la Vega is describing is different than a fence or wall. He said the second photo would have been looked at under another section of the code.

Michael Herbach confirmed that it would be allowed if they met setbacks and code.

Campbell Rich had questions about page eight in the second section. said that he pg. 8 second section. He asked questions about fencing in front of front doors.

Stephen Mayer confirmed that was true.

Campbell Rich said that the ordinance talks about the ability to run an opaque fence along the property line up to six feet high all the way around. He recommended a step down.

Stephen Mayer said that the step down would naturally come going 6ft to 4 ft.

Li Roberts said that on page 13 of 63 asked if we are eliminating c, d & e for the text amendment.

Stephen Mayer confirmed that the code was not be changed there that is why they were not included.

Discussion occurred for clarification of the motion being made.

MOTION:

Action: Approve with the review of the ordinance that will be sent to the City Commission to be changed on the second page of the ordinance, to be sure that it allows the type of fence we saw in the example and to delete the words in number five “mounted on steel posts”.

Moved by: Cristina de la Vega

Second by: Campbell Rich

Motion passed with Li Roberts opposing.

PUBLIC COMMENT:

2. ANNEXATION OF PROPERTY NORTH-WEST KANNER HIGHWAY AND INDIAN STREET. (QUASI-JUDICIAL)(RC): ORDINANCE No. 2415-2019: AN ORDINANCE OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND ON THE NORTHWEST CORNER OF STATE ROAD 76 (AKA KANNER HIGHWAY) AND SW MARTIN HIGHWAY, CONSISTING OF 15.88 ACRES, SAID PARCELS BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

PRESENTATION: Stephen Mayer, Senior Planner

Troy Holloway, Gentle Glas Holloway O'Mahoney

BOARD COMMENT:

Cristina de la Vega asked for clarification of the wetland buffers.

Troy Holloway said that the code is a 50-foot average and that minimum code requirement will be provided. There are 5.8 acres of wetlands, leaving us with 10 acres to develop on.

Mike Mortell confirmed that the board is only voting on annexation today.

Cristina de la Vega questioned that the County has a shoreline protection zone which is 75 feet and the City does not have that.

Mike Mortell said that the applicant is only entitled to do what has been approved by the county. It would only have county zoning and would only change after another application is filled out.

Cristina de la Vega said that she only wanted to see what the plan is after this. She is worried about the City of Stuart's code being less than the County. She is concerned.

Troy Holloway confirmed that they are going to meet the City of Stuart's PUD code, which is a 50ft average buffer surrounding the wetland.

Campbell Rich asked why he is seeking annexation.

Troy Holloway said that he is seeking it because they want to do residential. Currently with the COR you do some residential, but with a mixed-use environment. The plan that is currently approved is 99,000 sq. feet of office and currently in that zoning would not allow them to do what they do.

Campbell Rich said they are taking a risk by only requesting annexation with no future plan.

Marcela Cambor said that she was there representing the seller, Knight Kiplinger. She said that if the annexation were to go through then the zoning and land use will still remain the same. This company has a proven track record of doing good quality work for a more appropriate fit for the area it is located. It would be difficult because of code restrictions to do residential in the manner that they want to do it under COR or in most of the county's land use or zoning categories. It would be difficult to do residential because of height restrictions. The city is more lenient to multi-family residential in that location but yes there is a risk.

Campbell Rich asked why they are not including the parcel just south of it.

Allen Stevenson with Realty Partners said he believes Mr. Kiplinger would like to donate the land at a future date and that is why he has withheld it from the purchase.

Campbell Rich wanted to point out a typo on page 54.

Larry Massing abstained from annexation issue.

Cristina de la Vega said she wished he would say that he would stick with the county wetland setbacks. She said that she knows that the next application will be the PUD and will go to the 50ft. Eventually it will change, and I would prefer you stay at the 75ft since you are at the banks of the river.

Allen Stevenson said that they will look at that.

Marcela Cambor said that she wanted to clarify and that the county buffer for wetlands is 50 feet and 75 feet is the shoreline protection from the water meaning your PUD is comparable to the County in that sense it is the same thing.

Li Roberts said this was sent Martin County on September 9, 2019 and wanted to see if they made any comments.

Stephen Mayer said they did not have a response, but we will continue to communicate.

Li Roberts said Exhibit A shows the part south of Memorial Bridge so she was assuming that would be cleaned up to reflect the property owners parcel.

Stephen Mayer said that the survey needs to reflect the new parcel.

Li Roberts said that she appreciated all the info that was given to fit with Comprehensive Plan. She asked Mike Mortell if this is going to affect Riverland.

Mike Mortell said that he has done research and has spoken with staff and Martin County. He said there is a barrier made by the river, but you can do annexations across roads and bodies of water. It probably would be an enclave if Kanner Highway was a city road, but the exception is a county or state road going through. The original purpose of the annexation was to provide you with municipal services, but the City of Stuart deviated from that and only allows signatures on annexation papers for approval. Riverland will not lose any municipal services they are currently receiving, they will not modify their taxation, they will not lose their connection to Martin County, they will continued to receive services from Martin County fire and police however it is likely they will receive double coverage after this. As a result, they will remain unincorporated, not subject to tax and not be alienated.

Li Roberts asked for confirmation that the Martin County line is beyond Riverland. She wanted to make sure they not creating enclave.

Mike Mortell confirmed that it will not create an enclave.

Bill Mathers asked if they created a master site plan.

Troy Holloway said that he was not sure.

Bill Mathers said he assumed that they would come back with an RPUD to do the development. He recommended talking to the people at the trailer park.

Troy Holloway said that they have been in communications with the community.

Bill Mathers said the PUD allows the board to have options included above the code.

Allen Stevenson said he has reached out to people at Riverland and they continue to get input from the residents.

Bill Mathers said that they have come to our meetings and they have legitimate issues and it is important to talk to them.

Michael Herbach asked for confirmation of the process of their request.

Troy Holloway confirmed that they are still three steps away.

Staff keep track of comments.

MOTION:

Action: Approve, with adjustment to correct Exhibit A.

Moved by: Li Roberts

Second by: Bill Mathers

Motion passed unanimously with Larry Massing abstaining.

PUBLIC COMMENTS:

1. Don Barber – 3500 S. Kanner Highway, Stuart
2. Edward Colligan -- lives in Riverland

BOARD COMMENTS:

Li Roberts confirmed that Riverland will continue to be in the county. On the boarder to the east it is touching city property.

Li Roberts requested that staff keep track of comments regarding the timing of the fence to make sure it does not get lost in the shuffle.

Allen Stevenson said that they will build a fence before they do anything else.

STAFF UPDATE:

3. Staff has received a request to implement the procedure followed by the City Commission when reviewing quasi-judicial matters such as PUD and development orders.

PRESENTATION: Kev Freeman

BOARD COMMENT:

Bill Mathers asked about the commission board members stating that they come with an opened mind and was wondering if they have to say that.

Mike Herbach said that comments from the public will not come until after a motion is made.

Kev Freeman said the public is then aware where the board stands and make more of an impact with comments.

Bill Mathers said that it is a better format.

Kev Freeman he would like to see that it is putting more notice on the applicants.

Michael Herbach made comments about reading the oath at future meetings.

ADJOURNMENT:

Motion: Action: Adjourn

Moved by: Bill Mathers

Seconded by: Campbell Rich

Michael Herbach, Chair

Jordan Pinkston, Board Secretary