



AGENDA

**LOCAL PLANNING AGENCY
FEBRUARY 9, 2023
AT 5:30 PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FLORIDA 34994**

LOCAL PLANNING AGENCY

**Chair - Kelly Laurine
Vice Chair - Margaret Bromfield
Board Member - Donald Cuozzo
Board Member - Laura Giobbi
Board Member - William Mathers
Board Member - Ryan Strom
Board Member - James "Mac" Stuckey
Ex Officio Board Member - Mark Sechrist**

ADMINISTRATIVE

**Development Director, Jodi Nentwick-Kugler
Board Secretary, Susej T. Meleqi**

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.

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: 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.

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.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. APPROVAL OF 01/12/2023 LPA MINUTES

COMMENTS FROM THE PUBLIC (3 Minutes Max.)

COMMENTS BY BOARD MEMBERS (Non-Agenda Items)

ACTION ITEMS

2. FS PROPERTIES LLC., SUBMITTED A PETITION FOR A REZONE TO THE OFFICIAL ZONING ATLAS LOCATED AT 2970 SE DOMINICA TERRACE, STUART, FL 34994 (RC):

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP; TO REFLECT THE REZONING OF A 0.68 ACRE PARCEL; LOCATED AT 2970 SE DOMINICA TERRACE; BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; FROM COMMERCIAL PLANNED UNIT DEVELOPMENT "CPUD" TO BUSINESS – GENERAL (B-2) ZONING DISTRICT; 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.

STAFF UPDATE

ADJOURNMENT

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
Local Planning Agency**

Meeting Date: 2/9/2023

Prepared by: Susej Meleqi

Title of Item:

APPROVAL OF 01/12/2023 LPA MINUTES

Summary Explanation/Background Information on Agenda Request:

APPROVAL OF 01/12/2023 LPA MINUTES

Funding Source:

N/A

Recommended Action:

Approve minutes.

ATTACHMENTS:

1. 01122023 LPA Minutes

MINUTES
LOCAL PLANNING AGENCY OF THE CITY OF STUART
JANUARY 12, 2023
AT 5:30 PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

LOCAL PLANNING AGENCY

Chairperson - Kelly Laurine
Vice Chairperson - Margaret Bromfield
Board Member - Donald Cuozzo
Board Member - Laura Giobbi
Board Member - William Mathers
Board Member - Ryan Strom
Board Member - James "Mac" Stuckey
Ex Officio Board Member - Mark Sechrist

ADMINISTRATIVE

Development Director, Jodi Nentwick-Kugler
Board Secretary, Mary R. Kindel

CALL TO ORDER

5:30 PM

ROLL CALL

PRESENT: Chair Laurine, Vice Chair Bromfield, Board Member Cuozzo, Board Member Giobbi, Board Member Mathers, Board Member Strom, Board Member Stuckey

PLEDGE OF ALLEGIANCE

1. ADVISORY BOARD MEMBER OATH

Board Members (7) Kelly Laurine, Margaret Bromfield, Donald Cuozzo, Laura Giobbi, William Mathers, Ryan Strom, and James Stuckey were sworn in by City Attorney, Mike Mortell.

2. ANNUAL BOARD REORGANIZATION - SELECTION OF CHAIR AND VICE CHAIR

5:33 PM MOTION: Approve to keep the current Chair.

MOVED BY: Donald Cuozzo

SECONDED BY: William Mathers

Motion approved unanimously.

5:34PM MOTION: Approve to keep the current Vice Chair.
MOVED BY: Donald Cuozzo
SECONDED BY: Ryan Strom
Motion approved unanimously.

APPROVAL OF AGENDA

5:34 PM MOTION: Approve.
MOVED BY: Ryan Strom
SECONDED BY: Laura Giobbi
Motion approved unanimously.

APPROVAL OF MINUTES

3. APPROVAL OF 12/08/2022 LPA MINUTES

5:34 PM MOTION: Approve.
MOVED BY: Ryan Strom
SECONDED BY: Margaret Bromfield
Motion approved unanimously.

COMMENTS FROM THE PUBLIC (3 Minutes Max.)

None.

COMMENTS BY BOARD MEMBERS (Non-Agenda Items)

None.

ACTION ITEMS

4. STUART AUTO VAULT, LLC., SUBMITTED A PETITION FOR VOLUNTARY ANNEXATION FOR PROPERTY LOCATED FRONTING SE MONTEREY ROAD (RC):

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, ANNEXING A PARCEL OF LAND FRONTING SE MONTEREY ROAD, CONSISTING OF 0.34-ACRES, SAID PARCEL 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.

Jodi Nentwick-Kugler, Development Director, presented the public notices that were made, location, surrounding properties, existing and proposed future land use, existing and proposed zoning. Staff recommends approval of Ordinances.

Board Member Stuckey had a question in regards to the piece of property that is being annexed into the City.

Board Members had a brief discussion with the City Attorney in regards to the upcoming project.

5:48PM MOTION: Approve.
MOVED BY: Donald Cuozzo
SECONDED BY: Ryan Strom
Motion approved unanimously.

5. STUART AUTO VAULT, LLC., SUBMITTED A PETITION FOR A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT FOR PROPERTY LOCATED FRONTING SE MONTEREY ROAD (RC):

ORDINANCE NO. 2511-2023; AN ORDINANCE OF THE CITY OF COMMISSION OF THE CITY OF STUART, SMALL SCALE COMPREHENSIVE PLAN AMENDMENT AS DEFINED IN F.S. §163.3187; AMENDING THE COMPREHENSIVE PLAN, FUTURE LAND USE MAP FOR AN APPROXIMATELY 0.34-ACRE PARCEL FROM THE FUTURE LAND USE OF GENERAL COMMERCIAL (COUNTY) TO THE FUTURE LAND USE OF COMMERCIAL (CITY); AMENDING THE FUTURE LAND USE MAP; 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.

Attorney Mortell explained the future land use designation of the property.

5:53 PM MOTION: Approve.
MOVED BY: Donald Cuozzo
SECONDED BY: Laura Giobbi
Motion approved unanimously.

6. STUART AUTO VAULT, LLC., SUBMITTED A PETITION FOR A REZONE TO THE OFFICIAL ZONING ATLAS FOR PROPERTY LOCATED ON THE SOUTH SIDE FRONTING SE MONTEREY ROAD (RC):

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP; TO REZONE A 0.34-ACRE PARCEL; LOCATED ON THE SOUTH SIDE OF SE MONTEREY ROAD; BEING MORE DESCRIBED IN EXHIBIT "A" ATTACHED, FROM B-1 BUSINESS (COUNTY) ZONING DESIGNATION TO B-4 LIMITED BUSINESS/MANUFACTURING (CITY) ZONING DESIGNATION; 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.

Attorney Mortell explained the different zoning types.

Board Member Mathers asked if, for their development, do they need to be considered "B4" in order to be consecutive with the other zoning.

5:56PM MOTION: Approve.
MOVED BY: Margaret Bromfield
SECONDED BY: William Mathers
Motion approved unanimously.

STAFF UPDATE

7. ADVISORY BOARD ORIENTATION REVIEW BY CITY CLERK

Mary Kindel, City Clerk, provided a brief orientation for the Board Members.

Board Members had several questions in regards to communication with other board members and applicants.

Attorney Mortell provided clarification to Board Members who had questions.

ADJOURNMENT

6:36 PM

Mary R. Kindel, City Clerk

Kelly Laurine, Chair

**Minutes to be approved at the LPA
Meeting this 9th day of February, 2023.**

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST Local Planning Agency

Meeting Date: 2/9/2023

Prepared by: Jodi Nentwick

Title of Item:

FS PROPRITIES LLC., SUBMITTED A PETITION FOR A REZONE TO THE OFFICIAL ZONING ATLAS LOCATED AT 2970 SE DOMINICA TERRACE, STUART, FL 34994 (RC):

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP; TO REFLECT THE REZONING OF A 0.68 ACRE PARCEL; LOCATED AT 2970 SE DOMINICA TERRACE; BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; FROM COMMERCIAL PLANNED UNIT DEVELOPMENT "CPUD" TO BUSINESS – GENERAL (B-2) ZONING DISTRICT; 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.

Summary Explanation/Background Information on Agenda Request:

This parcel was originally part of a much larger PUD which expired many years ago. The owner of the parcel is seeking the ability to sell his property but can not because it currently has PUD zoning tied to an expired PUD. The owner is not seeking any development rights other than straight zoning and has requested that his property revert to the status of Commercial B-2 zoning so that it has a marketable title.

Funding Source:

N/A

Recommended Action:

The staff has reviewed the Rezone in the Official Atlas petition and has determined that it conforms to the Standards of Review as set forth in Section 11.01.09 of the City of Stuart Land Development Code and is consistent with the City of Stuart Comprehensive Plan Goals, Objectives, and Policies.

Staff recommends the Local Planning Agency forward a recommendation of **APPROVAL** to the City Commission for the rezoning on First Reading.

ATTACHMENTS:

1. LPA Staff Report
2. Draft Ordinance XX-2023 - Rezone
3. Public Notification Packet
4. Petition Application
5. Ordinance 2141-07
6. B-2 Permitted Uses



TO: Local Planning Agency (LPA)
FROM: Jodi Nentwick-Kugler, Development Director
MEETING DATE: February 9, 2023
SUBJECT: **FS Properties LLC**
Rezone to Official Zoning Atlas (Project No. Z22040002)

GENERAL INFORMATION

Property Owner/Applicant: FS Properties LLC
PO Box 207
Harpersville, AL 35078

Agent/Agent of Record: Tyson Waters, Partner
Fox McCluskey
3461 SE Willoughby Boulevard
Stuart, FL 34994

Location: 2970 SE Dominica Terrace, Stuart, FL

Parcel ID#: 52-38-41-013-000-0002-6

Parcel Size: +/-0.69-acres

Existing Use: Undeveloped

Existing Future Land Use: Commercial

Existing Zoning: (CPUD) Commercial Planned Unit Development
Proposed Zoning: ***(B-2) Business - General***

EXECUTIVE SUMMARY

This is a request from the property owner, FS Properties, LLC, to Rezone to the Official Zoning Atlas for +/-0.69-acres vacant land from (CPUD) Commercial Planned Unit Development Zoning Designation to (B-2) Business – General Zoning Designation located at 2970 SE Dominica Terrace within the City of Stuart.

BACKGROUND

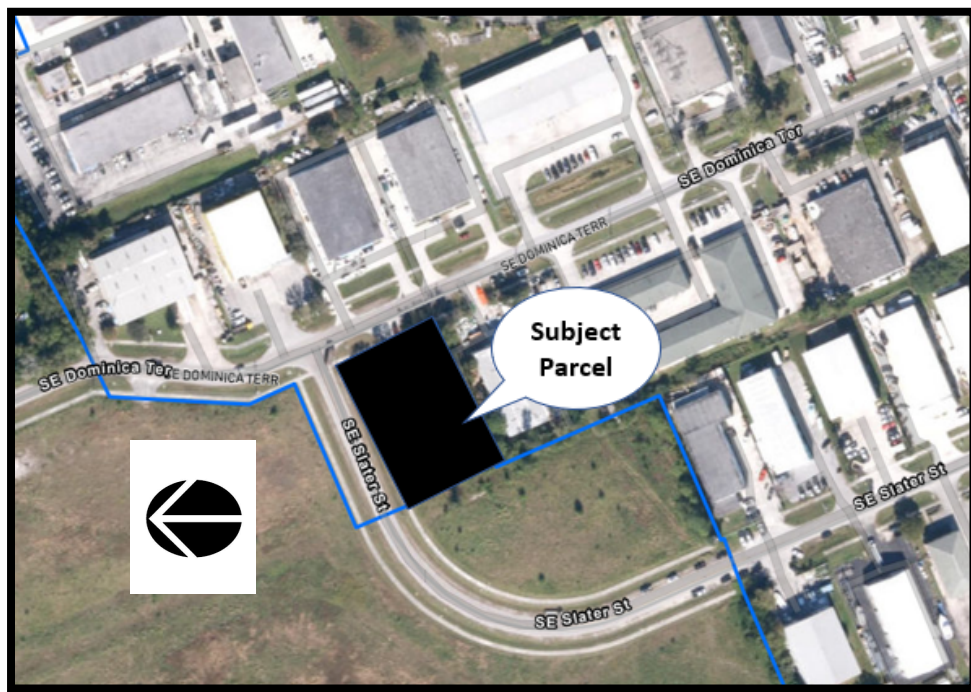
On November 13, 2007, the City Commission of the City of Stuart approved Ordinance Number 2141-07, to approve a major amendment to the CPUD known as the “Fountains of Stuart”. The overall CPUD is comprised of three (3) parcels totaling 25.37-acres, which includes the +/- .069-acres. The CPUD was approved for a large commercial development and required the project to be constructed in single-phase, with site permit submission occurring no later than December 1, 2008, a building permit submission no later than December 1, 2009, and the issuance of a certificate of occupancy no later than December 1, 2012.

The Developer failed to meet the Development Timetables outlined within the CPUD, and as such, the CPUD expired.

Approval History:

- Ordinance 2140-07 An abandonment and relocation of a portion of SE Slater Street, an improved right-of-way to facilitate the development of the Fountains of Stuart project.
- Ordinance 2141-07 A Major Amendment to the Commercial Planned Unit Development (CPUD) of a Master/Final Site Plan, providing for conditions for compliance with site design qualitative development standards to establish the “Fountains of Stuart” CPUD consisting of retail, office and restaurant uses.

Location Map



LAND USE AND ZONING

The subject site currently has a Commercial Future Land Use Designation, and a Zoning Designation of CPUD District. The subject property is currently vacant located on the south of SE Willoughby Boulevard. The site is bounded by City of Stuart to the north and west and unincorporated Martin County to the and south and east. The existing uses, zoning districts, and future land-use designations of the adjacent properties are summarized in Table 1.

Table 1. Existing Use, Zoning and Land-Use Designations

EXISTING USE		ZONING	FUTURE LAND USE
Subject Property:	Vacant	CPUD	Commercial
North:	Vacant	CPUD	Commercial
South:	Light Equipment Manufacturing	(M-2) Industrial District (County)	Industrial (County)
East:	Warehouse Distribution	(M-2) Industrial District (County)	Industrial (County)
West:	Vacant	CPUD	Commercial
SECTION 1: REZONE TO THE OFFICIAL ZONING ATLAS STANDARDS OF REVIEW AS SET FORTH IN THE LAND DEVELOPMENT CODE SECTION 11.01.09			

In accordance with the LDC 11.01.00.G., the advisory board Local Planning Agency (LPA) shall hear from all interested parties regarding whether the rezoning application complies with the requirements of the City's Land Development Code (LDC) and the Comprehensive Plan (CP). The LPA shall consider the application, the written comments of each responding department, consultant, and agency as well as the compliance recommendation of the development department.

In formulating its recommendation to the city commission, the LPA shall consider the following criteria:

a. The existing land use pattern;

The proposed land use pattern has been established as light manufacturing, warehouse distribution, which is allows for industrial, low-impact within enclosed facility.

b. The possible creation of an isolated district unrelated to adjacent and nearby districts;

The proposed rezoning to B-2 would not create an isolated zoning classifications in regard to nearby or adjacent classifications of zoning.

c. The population creation of the area and possible increase or overtaking of the load on public facilities such as schools, utilities and streets;

The intended use of the subject property or other uses permitted within the Commercial Future Land Use Designation and the proposed B-2 Zoning District, in addition to setbacks, lot coverage, and parking requirements within the LDC, would not encourage the type and intensity of development that would result in overtaxing of schools, utilities, or streets. The proposed B-2 Zoning District does not allow for any residential units.

d. The possible overloading of the city's sewage collection, treatment and disposal facilities;

Currently, the site is vacant. Any future development that is feasible is not anticipated to overload the City's system and will be required to hook up to Martin County utility services.

e. The possible overloading of the city's drainage system;

The B-2 Zoning District limits impervious surface coverage of 65% on any type of use. Additionally, any improvements to the site would be required to comply with applicable stormwater management requirements.

f. The existing district boundaries in relation to existing conditions on the subject property;

There are no issues in this regard.

g. The existence of changed or changing conditions which make the passage of the proposed rezoning necessary or appropriate.

Any future development proposed requires meeting the adopted Level of Service (LOS).

h. The impact of the proposed rezoning upon living conditions in the adjacent neighborhood;

The type and intensity of development is feasible and would not create an adverse impact to nearby neighborhoods and is consistent with the future development, the Commercial Future Land Use category and the design principles of the area that will continue to surround the site.

i. The impact of the rezoning the flow of light and air to adjacent areas;

The type and intensity of development that would be feasible on the subject property would not create an adverse impact upon flow of light and air to adjacent areas.

j. The impact of the proposed rezoning upon property values in the adjacent areas;

The rezoning to B-2 would likely result in an increase in property values in the adjacent area by allowing a range for vacant and undeveloped land.

k. The impact of the proposed rezoning upon improvement or development of adjacent property in accordance with existing regulations; and

The rezoning to B-2 would not impact adjacent properties to improve or develop in accordance with existing regulations.

- I. *The existence of other adequate sites in the city for the proposed use in districts already permitting such use.*

The subject location is ideal for low intensity light manufacturing due to the proximity to surrounding existing permitted uses.

CONSISTENCY WITH THE CITY'S COMPREHENSIVE PLAN

Objective 1.A7. – The future land use categories defined below provide general descriptions intended to encompass all present and future land uses in the City of Stuart. The "Table of Land Use Densities and Intensities" provides specific density and intensity measures that shall establish the maximum density and intensity allowed in each land use category. The Future Land Use Map establishes the optimum, overall distribution of land uses as well as can be established on a City-wide basis. Neither these policies nor the Future Land Use Map shall be construed to mean that every parcel in a designated area is suitable for the designated use. Other plan objectives and policies will be applied to ensure that any proposed development will be suitable for the particular site. Similarly, the Future Land Use Map does not assure the landowner the right to the most intense use allowable under the designated future land use category. The City shall have the discretion to decide that the permitted land use shall be more limited than the maximum allowable under the future land use category; provided, that the City shall approve some development that is consistent with the City's plan.

Policy 1.A71.C. – Commercial: Land uses and activities predominately connected with the sale, rental, and distribution of products or performance of professional and non-professional services. Includes retail sales, service establishments, business, professional and other offices, shopping centers, financial institutions, restaurants, entertainment, hotels, motels, and other temporary lodging. A limited amount of Multi-Family Residential and indoor industrial uses are allowed. Mixed-use projects are allowed. Also, public facilities and electric distribution substations are allowed.

CONSISTENCY WITH THE CITY'S LAND DEVELOPMENT CODE

Proposed Zoning Designation

The proposed rezoning to B-2 (Business - General) Zoning District is consistent with the proposed Commercial Future Land Use designation as per LDC Section 2.01.03. Table 1. – *Zoning District/Future Land Use Category Compatibility Chart.*

Table 1 - Zoning District/Future Land Use Category Compatibility Chart.

Future Land Use Categories	Implementing Zoning Categories					
	B-1	B-2	B-3	B-4	CPUD IPUD MXPUD UPUD	SE Ocean Blvd.
Commercial	X	X	X	X	X	X

PUBLIC NOTIFICATION

On January 25, 2023, the applicant provided notification letters to eleven (11) owners of property located within the 300 feet of the proposed petitions. One (1) public notification sign detailing the Local Planning Agency (LPA) and City Commission's Public Hearing was posted on the premise, and an advertisement displayed in TC Palm Newspaper on January 27, 2023.

STAFF RECOMMENDATION

Staff has reviewed the Rezone to the Official Atlas petition and has determined that it conforms to the Standards of Review as set forth in Section 11.01.09 of the City of Stuart Land Development Code and is consistent with the City of Stuart Comprehensive Plan Goals, Objectives, and Policies.

Staff recommends the Local Planning Agency forward a recommendation of **APPROVAL** to the City Commission for the rezoning on First Reading.



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

ORDINANCE NUMBER XX-2023

* * * * *

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP; TO REZONE A 0.69-ACRE PARCEL; LOCATED AT 2970 SE DOMINICA TERRACE; BEING MORE DESCRIBED IN EXHIBIT "A" ATTACHED, FROM COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) ZONING DESIGNATION TO B-2 BUSINESS GENERAL ZONING DESIGNATION; 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, on December 11, 1989, the City of Stuart City Commission adopted Ordinance Number 1174-89, adopting a comprehensive growth management plan as mandated by the local government comprehensive planning and land development regulation act, Chapter 163, Part II, Florida State Statutes, also known as the City of Stuart Comprehensive Plan, that designated this future land use of this property as Commercial; and

WHEREAS, on April 22, 2022, an application was submitted to the city for t Rezoning from CPUD Commercial Planned Unit Development to B-2 Business General; and

WHEREAS, the Local Planning Agency board held a property noticed hearing at a regularly scheduled meeting to consider the applicant's request; and

WHEREAS, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by FS Properties, LLC (property owner) for a 0.69-acre parcel of land; and

WHEREAS, the City of Stuart has determined the need to change the Land Development Zoning District for said lands; and

WHEREAS, the City Commission, has considered the Petitioner's voluntary request for zoning designations, and has also considered the recommendation of City staff; and

WHEREAS, the Applicant has committed to the City that its development will comply with all development codes, plans, standards, and conditions approved by the City Commission; and that it will bind its successors in title to any such commitments made upon approval of the Rezoning; and

WHEREAS, at the hearing the applicant showed by substantial competent evidence that the application is consistent with the Stuart Comprehensive Plan, and the Land Development Code of the City, and with the procedural requirements of law; and

WHEREAS, the foregoing recitals are true and adopted as findings of fact and conclusions of law.

WHEREAS, the property is legally described in “**Exhibit A**” of this ordinance. A map depicting the property is attached hereto as **Exhibit “B”** and made a part hereof by reference;

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

SECTION 1: The following new documents are on file as public records of the City, at the office of the City Clerk in City Hall, and attached hereto as **Exhibit “B”**, hereinafter the “Location Map”, shall be deemed a part of the development conditions, and shall supplement any earlier approvals:

SECTION 2: The Land Development (Zoning) District designation on the City of Stuart Official Zoning Map shall be established as “B-2 Business General”.

SECTION 3: This ordinance becomes effective upon adoption.

SECTION 4: Except as otherwise provided herein, no development permits, site permits, or building permits shall be issued by the City except in compliance with the City’s Land Development Code.

SECTION 5: All ordinances or parts of ordinances in conflict with this ordinance or any part thereof is hereby repealed to the extent of such conflict. If any provision of this ordinance conflicts with any contractual provision between the City and the Developer of the site, this ordinance shall prevail.

SECTION 6: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7: Following the adoption and acceptance of this ordinance by the Owners, and in addition to any other action for failure to complete development or otherwise comply with the Development Documents, the City Development Director may obtain a hearing before the City Commission and shall thereupon give at least five (5) days written notice of the time, date and location of the hearing, along with specific notice of the alleged breach. At the hearing before the City Commission, the Developer may appear and may contest the allegation of breach or explain the reason or reasons for the breach. Upon a finding of a material breach of the Development Documents and therefore, the Ordinance(s) adopting the same, the City Commission may impose or do any or all of the following:

- a. Initiate the process to amend or repeal this or any other ordinance pertaining to the development.
- b. Direct the City Development Director to initiate the process to rezone the property or any portion of the property.
- c. Impose an administrative penalty of up to \$1,000.00 for each violation, and up to \$5,000.00 for each repeat violation that occurs, along with all reasonable costs, including attorney's fees incurred by the City.

Any breach of any provision or condition of this Rezone ordinance by the Developer shall be considered a zoning violation subject to any remedies provided herein, or as otherwise provided by law. In the event a violation found continues from day to day, each day the violation is found to continue shall be deemed a separate violation.

SECTION 8: This ordinance shall be effective upon the following to occur: adoption by the City Commission, and proper execution and acceptance by the Owner.

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

SECTION 10: Upon complete execution of this Ordinance, including the Acceptance and Agreement by the Owner, the City Clerk is directed to record this Ordinance in the Public Records of Martin County, Florida.

Passed on first reading the ___ day of _____ 2023.

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:

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:

TROY MCDONALD, MAYOR
BECKY BRUNER, VICE MAYOR
EULA R. CLARKE, COMMISSIONER
CHRISTOPHER COLLINS, COMMISSIONER
CAMPBELL RICH, COMMISSIONER

YES	NO	ABSENT	ABSTAIN

ADOPTED on second and final reading this _____ day of _____, 2023.

ATTEST:

MARY R. KINDEL
CITY CLERK

TROY MCDONALD
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN A RESIDENTIAL PLANNED UNIT DEVELOPMENT AND IN ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE ABOVE ORDINANCE. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO DEVELOP THIS RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) ACCORDING TO THIS ORDINANCE, ITS CONDITIONS, AND THE DEVELOPMENT PLANS AND DOCUMENTS, THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THIS ORDINANCE MAY BE AMENDED OR REPEALED BY THE CITY COMMISSION, AND THAT OTHER ACTIONS MAY BE TAKEN AGAINST THE UNDERSIGNED BY THE CITY, INCLUDING BUT NOT LIMITED TO CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING REVOCATIONS, AND ALL APPLICABLE CIVIL AND CRIMINAL ACTIONS.

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

WITNESSES:

Print Name: _____

Print Name: _____

FS Properties, LLC

By: _____

Vincent J. Schilleci

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____ day of _____, 2023, by Vincent J. Schilleci, Individually and as a Co-Personal Representative of the Estate of Frank S. Schilleci, Sole Member, FS Properties, LLC.

Notary Public, State of Florida

My Commission Expires: _____

Notary Seal

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

CITY'S ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2023, Troy McDonald, Mayor, and Mary Kindel, City Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation, who ☐ are personally known to me or ☐ have produced _____ as identification.

(Notary Seal)

Signature of Notary Public

Printed Name: _____

EXHIBIT A – LEGAL DESCRIPTION

(The remainder of this page intentionally left blank)

EXHIBIT B – LOCATION MAP

DRAFT

City of Stuart
Development Department
121 SW Flagler Avenue
Stuart, FL 34994
Ph. 772-288-5300
Fax 772-288-5388

AFFIDAVIT ATTESTING TO NOTIFICATION

Tyson Waters, Esq., being first duly sworn, deposes and says:

That I am the authorized agent for FS Properties, Inc., the owner and petitioner of the following described property which constitutes the location for which notification is required:

Project Name: FS Properties LLC
Parcel ID Number: 52-38-41-013-000-0002-6

That a copy of the notice was sent by regular U.S. Mail on January 25, 2023, to the property owners within 300 feet of the subject property; and

That a list of the property owners and their addresses is on file with the City of Stuart; and

That a photograph showing the placement of the notification sign is attached to this Affidavit and made a part hereof; and

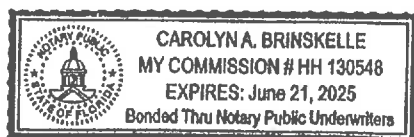
That notice was sent and property was posted at least fifteen (15) days prior to the scheduled public hearings for this item.



Tyson Waters
Authorized Agent for Owner/Petitioner

State of Florida)
County of Martin)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization on this 27th day of January 2023, by Tyson Waters, who ☐ are personally known to me or who ☐ have produced _____ as identification.



Notary Public
Printed Name: Carolyn A. Brinskelle
My Commission expires:

6-21-25

NOTICE OF PUBLIC HEARING

**REZONING REQUEST
FOR PROJECT NO. Z22040002**

**LOCATED AT: 2670 SE DOMINICA TERRACE
Parcel ID Number: 52-38-41-013-000-0002-6 (0.68-acres)**

**REQUEST TO CONSIDER A REZONING FROM COMMERCIAL
PLANNED UNIT DEVELOPMENT (CPUD) ZONING DISTRICT
TO BUSINESS-GENERAL (B-2) ZONING DISTRICT.**

**Stuart LPA - February 9, 2023 AT 5:30 PM
STUART CITY COMMISSION - February 27, 2023 AT 5:30PM
March 13, 2023 AT 4:00 PM**

**STUART CITY HALL 121 SW FLAGLER AVE 772-288-5326 8:30 AM - 4:00 PM
VISIT WWW.CITYOFSTUART.US FOR MORE INFORMATION**



NOTICE OF PUBLIC HEARING

REZONING REQUEST
FOR PROJECT NO. Z22040002

LOCATED AT: 2675 SE DOMINICA TERRACE
Parcel ID Number: 52-38-45-012-000-0002-6 (3.68-acres)

REQUEST TO CONSIDER A REZONING FROM COMMERCIAL
PLANNED UNIT DEVELOPMENT (CPUD) ZONING DISTRICT
TO BUSINESS-GENERAL (B-2) ZONING DISTRICT

Stuart LPA - February 6, 2023 AT 8:30 PM
STUART CITY COMMISSION - February 27, 2023 AT 9:30 PM
March 13, 2023 AT 4:00 PM
STUART CITY HALL 221 SW FLAGLER AVE STE 200 SUITE 200 33588
WWW.CITYOFSTUART.FL GOVERNMENT

BEALE HOLDINGS INC
3 SEAHORSE LN
VERO BEACH FL 32960

STUART RECYCLING INC
2963 SE DOMINICA TER
STUART FL 34997

DKJJ PROPERTIES LLC
3041 SE DOMINICA TERR
STUART FL 34997

FS PROPERTIES LLC
PO BOX 207
HARPERSVILLE AL 35078

JAGS LLC
3081 SE SLATER ST
STUART FL 34997

KHANI FARHAD KHANI MICHELE
PO BOX 38219
SAINT LOUIS MO 63138

KHANI FARHAD KHANI MICHELE
PO BOX 38219
SAINT LOUIS MO 63138

LARAS REAL ESTATE LLC
3201 SE DOMINICA TER
STUART FL 34997

MANATEE ENTERPRISES
5625 SW EVANS DR
STUART FL 34997

METWALLY MAGED METWALLY AMR
PO BOX 2650
STUART FL 34995-2650

METWALLY OMAR AHMED FAROUK METWALLY
ABDEL KARIM AHMED F
2555 NEWBOLT DR
ORLANDO FL 32817

Final Publication Date	City
1/27/2023	Stuart
Ad Number	State
GCI1010547	FL
Publication	ZIP Code
Stuart News	34994-2139
Market	Your Name
Treasure Coast	Jennifer DeWitt
Delivery Method	Email Address
Both	jldewitt@gannett.com
Number of Affidavits Needed	
1	
Customer Email	
smeleqi@ci.stuart.fl.us	
Customer Name	
City Of Stuart Class Legals	
Customer Phone Number	
(772) 288-5300	
Customer Address	
121 SW Flagler AVE	
Stuart, FL 34994-2139	
Account Number (If Known)	
440106	
Name	
Susej Meleqi	
Street	
121 SW Flagler AVE	

Treasure Coast Newspapers

PART OF THE USA TODAY NETWORK

The Stuart News

1939 SE Federal Highway, Stuart, FL 34994

AFFIDAVIT OF PUBLICATION

CITY OF STUART CLASS LEGALS
121 SW FLAGLER AVE
STUART, FL 34994
ATTN

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he is a legal clerk of the Stuart News, a daily newspaper published at Stuart in Martin County, Florida, that the attached copy of advertisement was published in the Stuart News in the following issues below. Affiant further says that the said Stuart News is a newspaper published in Stuart in said Martin County, Florida, with offices and paid circulation in Martin County, Florida, and that said newspapers have heretofore been continuously published in said Martin County, Florida, daily and distributed in Martin, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The Stuart News has been entered as Periodical Matter at the Post Offices in Stuart, Martin County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

1/27/2023



Subscribed and sworn to before on the 27th day of January, 2023:



My commission expires:

9/19/25

VICKY FELTY
Notary Public
State of Wisconsin

Publication Cost: \$315.00
Ad No: GCI1010547
Customer No: 440106
PO#: PUBLIC NOTICE
THIS IS NOT AN INVOICE

NOTICE OF PUBLIC HEARING CITY OF STUART REQUEST FOR AN OFFICIAL ZONING MAP AMENDMENT (REZONE)

The CITY OF STUART LOCAL PLANNING AGENCY (LPA) PLANNING ADVISORY BOARD will meet on Thursday, February 9, 2023, at 5:30 PM in the City Commission Chambers at City Hall, 121 SW Flagler Avenue, Stuart, FL 34994.

ORDINANCE NO. XX-2023

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP; TO REZONE A 0.68 ACRE PARCEL; LOCATED AT 2970 SE DOMINICA TERRACE; BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; FROM COMMERCIAL PLANNED UNIT DEVELOPMENT "CPUD" TO BUSINESS - GENERAL (B-2) ZONING DISTRICT; 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.

Applicant: FS Properties, LLC
Project Number: Z22040002
Address: 2970 SE Dominica Terrace,
Stuart, FL 34997

Location Map

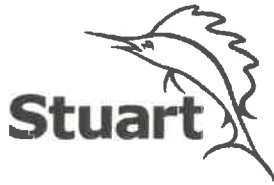


All interested parties are invited to attend and be heard. Copies of the items will be available at the Stuart City Hall. Written comments may be directed to the Development Director, City of Stuart, at the following address: 121 SW Flagler Avenue, Stuart, FL 34994, telephone 772-288-5328.

ANY PERSON SEEKING TO APPEAL THE DECISION OF THE CITY COMMISSION AS TO THE FOREGOING IS ADVISED THAT A RECORD OF PROCEEDINGS IS REQUIRED IN ANY SUCH APPEAL AND THAT SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF PROCEEDINGS IS MADE INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

In accordance with the Americans with Disabilities Act (ADA), and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in 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.

Mary Kindel, City Clerk



City of Stuart
121 SW Flagler Ave.
Stuart, FL 34994
development@ci.stuart.fl.us
(772) 288-5326

Received by: _____

Reviewed by: _____

Rezone Real Property Application

(including Planned Unit Developments)

Project ID# 222040002
(Staff Entry)

Pre-App Conference Date: January 31, 2022	Application Date:
---	-------------------

SITE INFORMATION

Project Name: FS Properties, LLC Rezoning	Parcel ID#: 52-38-41-013-000-0002-6
Site Address: 2970 SE Dominica Terrace, Stuart, Florida	
Subdivision: Manatee Business Park (PB 6, Page 17)	Lot(s): 2
Site Area/Acreage: 0.6892, more or less	Flood Zone/Base Flood Elevation: Flood Zone X
Existing Zoning District / CRA Subdistrict: Commercial Planned Unit Development	
Proposed Zoning District / CRA Subdistrict: B-2 (Business - General)	
PUD Rezoning (Check the box below that applies):	
Rezoning to CPUD: ☐	Rezoning to UPUD: ☐
Rezoning to RPUD: ☐	Rezoning to UPUD <5 Bungalow Units: ☐
Rezoning to MXPUD: ☐	Rezoning to Public Service PSPUD: ☐
Rezoning to Industrial IPUD: ☐	Rezoning to Non-PUD District Rezoning: ☒
Current Comprehensive Plan Future Land Use Designation: Commercial	
Proposed Comprehensive Plan Future Land Use Designation (if applicable): N/A	
Existing Land Use: vacant	Proposed Land Use: Commercial
Proposed Square Footage (if applicable): N/A	Proposed Density (if applicable): N/A

PETITIONER INFORMATION

Property Owner: FS Properties, LLC	Phone Number / Email Address: cpabw@bellsouth.net
Property Owner's Mailing Address: PO Box 207, Harpersville, AL 35078	
Applicant (if not Owner):	Phone Number / Email Address:
Applicant's Mailing Address:	
Agent/Contact Person: Tyson Waters, Esq. / Fox McCluskey	Phone Number / Email Address: 772-287-4444 / twaters@foxmccluskey.com
Agent's Mailing Address: 3461 SE Willoughby Blvd., Stuart, FL 34994	
Architect: N/A	Engineer: N/A
Planner: N/A	Landscape Architect: N/A

City of Stuart Development Department, 121 SW Flagler Ave. Stuart, FL 34994 Phone: (772) 288-5326 Fax: (772) 288-5388

Statement of Ownership and Designation of Authorized Agent

(Please Print or Type)

Before me, the undersigned authority, personally appeared William H. White

Who, being by me first duly sworn, on oath deposed and says:

1. That he/she is the fee simple title owner of the property described in the attached Legal Description.
2. That he/she is requesting approval of a PUD Amendment to the Fountains of Stuart CPUD in the City of Stuart, FL.
3. That he/she has appointed Tyson Waters, Esq. to act as an authorized agent on his/her behalf to accomplish the above project.

Name of Owner: FS Properties, LLC

W. White
Signature of Owner:
3565 Lorna Ridge Drive

Street Address

P.O. Box 207

P.O. Box

205 922 0260

Telephone Number

cpabw@bellsouth.net

Email Address:

William H. White, manager

By: Name/Title

Hoover AL 35216

City, State, Zip Code

Hooverville, AL 35078

City, State, Zip Code

205 922 0336

Fax Number

STATE OF Alabama COUNTY OF Jefferson

Sworn and subscribed before me by means of ☒ physical presence or ☐ online notarization, this

4th day of April, 2022 By Rachel L. Jones

Personally Known OR Produced Identification

Type of Identification Produced:

Rachel L. Jones

Notary Public

My Commission expires:

8-29-2025

Financial Responsibility Form

(Please Print or Type)

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: <u>William H White</u>
Title: <u>Manager</u>
Company: FS Properties, LLC
Company Address: PO Box 207 <u>3565 Lorna Ridge Dr</u>

City/State/Zip Code: <u>Harpersville, AL 35078 Hoover AL 35216</u>
Telephone Number: <u>205 322 6260</u>
Facsimile Number: <u>205 322 0336</u>
Email Address (optional): <u>cpabw@bellsouth.net</u>

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

1. Signed this 4th day of April, 2022.

W H White

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

**FS PROPERTIES, LLC
COMPANY RESOLUTIONS**

The undersigned, for and on behalf of **FS Properties, LLC**, an Alabama limited liability company (the "Company"), do HEREBY CERTIFY that at a meeting of the members and manager of the Company, duly and properly notice, at which meeting all of the members and manager of the Company were present and acting throughout, the following resolutions were duly and unanimously adopted:

BE IT RESOLVED, that the Company approves the filing of an amendment to the Fountains of Stuart Commercial Planned Unit Development ("CPUD") to remove the property legally described as follows: Lot 2, MANATEE BUSINESS PARK, according to the Plat thereof as recorded in Plat Book 6, Page 17, of the Public Records of Martin County, Florida ("Property"), from the CPUD, as well as file such applications and requests to change the land use and zoning on the Property as the authorized representative deems appropriate and in the best interest of the Company.

BE IT FURTHER RESOLVED, that William H. White ("Authorized Representative") is hereby authorized, empowered and directed to enter into, execute and deliver on behalf of the Company all of such documents, applications, authorizations (including authorization to appoint other parties to act on behalf of the Company in furtherance of obtaining all necessary approvals for the purposes set forth herein), and to undertake all other such actions reasonably necessary to effectuate the purposes set forth herein, each on such terms and conditions as the Authorized Representative shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.

IN WITNESS WHEREOF, these resolutions are made effective as of March 1, 2022.



By: Vincent J. Schilleci, individually and as a Co-Personal Representative of the Estate of Frank S. Schilleci, Sole Member

By: William H. White, as a Co-Personal Representative of the Estate of Frank S. Schilleci, Sole Member and as Authorized Representative

**FS PROPERTIES, LLC
COMPANY RESOLUTIONS**

The undersigned, for and on behalf of **FS Properties, LLC**, an Alabama limited liability company (the "Company"), do HEREBY CERTIFY that at a meeting of the members and manager of the Company, duly and properly notice, at which meeting all of the members and manager of the Company were present and acting throughout, the following resolutions were duly and unanimously adopted:

BE IT RESOLVED, that the Company approves the filing of an amendment to the Fountains of Stuart Commercial Planned Unit Development ("CPUD") to remove the property legally described as follows: Lot 2, MANATEE BUSINESS PARK, according to the Plat thereof as recorded in Plat Book 6, Page 17, of the Public Records of Martin County, Florida ("Property"), from the CPUD, as well as file such applications and requests to change the land use and zoning on the Property as the authorized representative deems appropriate and in the best interest of the Company.

BE IT FURTHER RESOLVED, that William H. White ("Authorized Representative") is hereby authorized, empowered and directed to enter into, execute and deliver on behalf of the Company all of such documents, applications, authorizations (including authorization to appoint other parties to act on behalf of the Company in furtherance of obtaining all necessary approvals for the purposes set forth herein), and to undertake all other such actions reasonably necessary to effectuate the purposes set forth herein, each on such terms and conditions as the Authorized Representative shall approve, such approval to be conclusively evidenced by the execution and delivery thereof.

IN WITNESS WHEREOF, these resolutions are made effective as of March 1, 2022.

By: Vincent J. Schilleci, individually and as a Co-Personal Representative of the Estate of Frank S. Schilleci, Sole Member



By: William H. White, as a Co-Personal Representative of the Estate of Frank S. Schilleci, Sole Member and as Authorized Representative

JOINDER IN AND CONSENT TO APPLICATION TO AMENDMENT TO
FOUNTAINS OF STUART COMMERCIAL PLANNED UNIT DEVELOPMENT

KNOW ALL MEN BY THESE PRESENTS, that the undersigned do by these presents hereby join in and consent to FS Properties, LLC's application to amend the Fountains of Stuart Commercial Planned Unit Development recorded at Official Records Book 2305, Page 530, of the Public Records of Martin County, Florida, as amended (the "CPUD"), for the purpose of removing the property described on Exhibit "A" attached hereto and made a part hereof from the CPUD.

In furtherance thereof, we do hereby make, constitute and appoint Tyson Waters, Esquire, and Fox McCluskey Bush Robison, PLLC, as our attorneys-in-fact for the sole and limited purpose of processing said application and attending such meetings and hearings necessary to remove the FS Properties, LLC, parcel from the CPUD. In furtherance thereof, our attorneys-in-fact appointed herein shall be authorized and empowered to sign for and on our behalf any application, ordinance, resolution or other document as may be required by the City of Stuart in order to remove the property described on Exhibit "A" from the CPUD.

The authority granted in this instrument shall lapse six (6) months after the date hereof, at which time this instrument shall have no further force or effect.

IN WITNESS WHEREOF, we have set our hands and seal this 29 day of MARCH, 2022.

Signed, Sealed and delivered
In the presence of:

Melissa Hillmer
Print Name: Melissa Hillmer
Witness (as to both)

Kristen Pattillo
Print Name: Kristen Pattillo
Witness (as to both)

[Signature]
Print Name: Farhad Khani

Michele Khani
Print Name: Michele Khani

STATE OF Illinois
COUNTY OF MADISON

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 29 day of March, 2022, by Farhad Khani and Michele Khani, who are personally known to me or have produced D.R. Lic as identification.



[Signature]
Signature of Notary Public
BETH DITTMAN
Print, type or stamp commissioned
Name of Notary Public
My Commission expires: 8/4/2022

Exhibit "A"
Legal Description

Lot 2, MANATEE BUSINESS PARK, according to the Plat thereof as recorded in Plat Book 6, Page 17, of the Public Records of Martin County, Florida.

JUSTIFICATION STATEMENT

The purpose of this application to amend the Fountains of Stuart Commercial Planned Unit Development ("CPUD") to remove the subject property owned by the Applicant (FS Properties, LLC) from the CPUD. No other modification or revision to the CPUD is requested as part of this application.

As background, the CPUD was approved in 2007. The overall CPUD is comprised of three parcels totaling 25.37 acres, more or less, including the subject property, which is comprised of 0.6892 acres, more or less. The CPUD was for a large commercial development and required the project to be constructed in a single phase, with site permit submission occurring no later than December 1, 2008, building permit submission no later than December 1, 2009, and the issuance of a certificate of occupancy no later than December 1, 2012. The project was never developed and, as such, and having failed to meet with the development timetables in the CPUD, the CPUD is of no force or effect. That said, the 25.37 acres, including the subject property, as still governed by the CPUD for zoning and development purposes.

The subject property is owned by the Applicant and the balance of the land within the CPUD is under separate ownership (please see enclosed Joinder and Consent). There are no intentions to developed the entire site as a single development. Instead, it is anticipated the subject property will be developed consistent with the development pattern of the properties adjacent to it and the balance of the land in the CPUD will be developed as a separate parcel, independent of the subject property.

The Applicant is requesting the CPUD to be amended in order to remove the subject property from the terms and conditions of the CPUD, thus allowing the subject property to be developed independently of the balance of the land in the CPUD. The other property owner of lands within the CPUD has executed a Joinder and Consent to this application and the proposed request. The other property owner does not object to the request and this application.

The requested amendment to the CPUD is only to remove the subject property from the CPUD and does not authorize any specific uses or development on the subject property. Approval of the application to remove the subject property from the CPUD is not inconsistent with the City of Stuart's Comprehensive Plan, including concurrency with adopted levels-of-service for utilities and compatibility with existing or planned uses. Furthermore, approval of the proposed amendment to the CPUD would not violate any relevant development standards of the City of Stuart's Land Development Regulations.



Alabama Secretary of State



FS Properties, LLC	
Entity ID Number	000 - 320 - 891
Entity Type	Domestic Limited Liability Company
Principal Address	Not Provided
Principal Mailing Address	Not Provided
Status	Exists
Place of Formation	Jefferson County
Formation Date	10/17/2014
Registered Agent Name	HOGAN, MATTHEW
Registered Office Street Address	2700 HIGHWAY 280 SUITE 320W BIRMINGHAM, AL 35223
Registered Office Mailing Address	2700 HIGHWAY 280 SUITE 320W BIRMINGHAM, AL 35223
Nature of Business	REAL PROPERTY
Organizers	
Organizer Name	HOGAN, MATTHEW
Organizer Street Address	2700 HIGHWAY 280 SUITE 320W BIRMINGHAM, AL 35223
Organizer Mailing Address	2700 HIGHWAY 280 SUITE 320W BIRMINGHAM, AL 35223
Organizer Name	SCHILLECI, VINCENT J III
Organizer Street Address	2700 HIGHWAY 280 SUITE 320W BIRMINGHAM, AL 35223
Organizer Mailing Address	2700 HIGHWAY 280 SUITE 320W BIRMINGHAM, AL 35223
Transactions	
Transaction Date	10/24/2014
Miscellaneous Filing Entry	New Entity Effective 10-17-2014 15:00
Scanned Documents	
Purchase Document Copies	
Document Date / Type / Pages	10/24/2014 Certificate of Formation 4 pgs.

[Browse Results](#)
[New Search](#)

Nentwick, Jodi

From: Tyson J. Waters <twaters@foxmccluskey.com>
Sent: Thursday, August 18, 2022 1:10 PM
To: Wohlitka, Erin
Subject: RE: FS Properties

I do not believe that is accurate. A foreign entity has to register in the State of Florida to do business. Owning property is not deemed to "be doing business" in the State of Florida and does not require the entity to register in the State. If they end up developing the property, I would agree but at this point and for the purposes of the application they are not looking to do so.

Sincerely,

Tyson J. Waters, Partner



3461 SE Willoughby Boulevard
Stuart, Florida 34994
(772) 287-4444 Telephone, ext. 223
(772) 283-4637 Fax
twaters@foxmccluskey.com

CONFIDENTIALITY WARNING: This e-mail is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this communication in error, please do not distribute it and notify us immediately by e-mail at the above e-mail address or via telephone at (772) 287-4444 AND DELETE THE ORIGINAL MESSAGE.

REPLIES FILTERED: Any incoming reply to this communication to us will be electronically filtered for "spam" and/or "viruses," which may result in your reply being quarantined and potentially delayed or not received at all. For that reason, we cannot guarantee that we will receive your reply or receive it in a timely manner. Accordingly, you should consider sending communications to us which are particularly important or time-sensitive by means other than e-mail or, at a minimum, follow up with us to ensure that it was received. Although this e-mail is believed to be free of any virus or other defect that might affect any computer system in which it is received, it is the responsibility of the recipient to ensure that it is virus free. Fox McCluskey accepts no responsibility for any loss or damage arising in any way from its use.

From: Wohlitka, Erin <ewohlitka@ci.stuart.fl.us>
Sent: Thursday, August 18, 2022 1:04 PM
To: Tyson J. Waters <twaters@foxmccluskey.com>
Subject: RE: FS Properties

Thanks Tyson,

I spoke to our Finance Director and apparently we have to have that Alabama LLC registered with Sunbiz to do business in the State of Florida per statute. Were you aware of this? If you could get them to register their entity, that would be great.

Thanks,

Erin Wohlitka

Acting Director | Development Department
City of Stuart | 121 SW Flagler Ave. Stuart, FL 34994
P: (772)600-1255

From: Tyson J. Waters <twaters@foxmccluskey.com>
Sent: Tuesday, August 9, 2022 7:46 AM

This message has originated from an [EXTERNAL EMAIL ADDRESS]. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email. If it shows as being from someone within the City, please contact the City's Technology Services personnel.

Erin,
Received your message. FS Properties, LLC is a Alabama limited liability company. Attached is the deed and a print out from the Alabama Secretary of State website showing the existence of the entity. Hope this helps. If more questions please let me know. Thanks again.

Sincerely,

Tyson J. Waters, Partner



3461 SE Willoughby Boulevard
Stuart, Florida 34994
(772) 287-4444 Telephone, ext. 223
(772) 283-4637 Fax
twaters@foxmccluskey.com

CONFIDENTIALITY WARNING: This e-mail is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this communication in error, please do not distribute it and notify us immediately by e-mail at the above e-mail address or via telephone at (772) 287-4444 AND DELETE THE ORIGINAL MESSAGE.

REPLIES FILTERED: Any incoming reply to this communication to us will be electronically filtered for "spam" and/or "viruses," which may result in your reply being quarantined and potentially delayed or not received at all. For that reason, we cannot guarantee that we will receive your reply or receive it in a timely manner. Accordingly, you should consider sending communications to us which are particularly important or time-sensitive by means other than e-mail or, at a minimum, follow up with us to ensure that it was received. Although this e-mail is believed to be free of any virus or other defect that might affect any computer system in which it is received, it is the responsibility of the recipient to ensure that it is virus free. Fox McCluskey accepts no responsibility for any loss or damage arising in any way from its use.

From: Tyson J. Waters
Sent: Tuesday, June 28, 2022 2:33 PM
To: Wohlitka, Erin <ewohlitka@ci.stuart.fl.us>; Michael Mortell <mmortell@ci.stuart.fl.us>
Subject: FS Properties

Mike and Erin,
I understand that has been a number of changes within the City and wanted to reach out regarding a pending project/PUD amendment. Earlier this year we filed a PUD amendment request on behalf of FS Properties, which PUD amendment was requesting that the FS Properties parcel be removed from the Fountains of Stuart PUD. The Fountains of Stuart PUD is an old CPUD that was never development and is essentially null and void since all development timeframes have long passed. We have the authorization of the other property owner within the PUD to have the FS Properties parcel removed. I believe the proposal had the support of City staff, though appreciate that other than one meeting that Erin attended neither of you may have been involved with the request. I was wondering if I could get a status update on the application as my consent from the other property owner is limited in both duration and scope (i.e. for 6 months and only contemplates the removal of the FS Properties parcel from the PUD).

Thank you for the assistance in advance and hope things are going well for your both.

Sincerely,

Tyson J. Waters, Partner





INSTR # 2062606
OR BK 02305 PG 0530
Pgs 0530 - 5421 (13pgs)
RECORDED 01/24/2008 10:28:04 AM
MARSHA EWING
CLERK OF MARTIN COUNTY FLORIDA
RECORDED BY C Burkev

Return to:

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

BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2141 - 07

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA TO APPROVE A MAJOR AMENDMENT TO THE COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) LOCATED ON THE EAST SIDE OF SE FEDERAL HIGHWAY (US 1); PROVIDING FOR APPROVAL OF A MASTER/FINAL SITE PLAN; PROVIDING CONDITIONS FOR COMPLIANCE WITH SITE DESIGN QUALITATIVE DEVELOPMENT STANDARDS TO ESTABLISH THE "FOUNTAINS OF STUART" COMMERCIAL PLANNED UNIT DEVELOPMENT;" A COMMERCIAL DEVELOPMENT CONSISTING OF RETAIL AND OFFICE AND RESTAURANT USES; DECLARING THE CPUD DEVELOPMENT TO BE CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY; APPROVING CERTAIN DEVELOPMENT DOCUMENTS; APPROVING CERTAIN CONDITIONS OF DEVELOPMENT; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR ACCEPTANCE BY THE APPLICANT; AND PROVIDING FOR DIRECTIONS TO THE CITY CLERK.

WHEREAS, the City Commission approves major amendment to the Commercial Planned Unit Development (CPUD) for the subject property for that certain 25.37 acres of land located on the east side of SE Federal Highway; and

WHEREAS, an application to amend the CPUD was properly filed on behalf of the petitioner, Stuart Towne Center 1, LLC ("Owner," "Applicant," or "Developer," as variously used herein); and

WHEREAS, the property is legally described as set forth in "Exhibit A", and an application has been filed for a major amendment to the CPUD for development of a commercial retail, office and restaurant lifestyle center; and

WHEREAS, the Applicant has committed to the City that its development will comply with all Development Documents, plans, standards and conditions approved by the City Commission; and that it will bind its successors in title to any such commitments made upon approval of the CPUD; and

WHEREAS, the City Commission held a properly noticed hearing at a regularly scheduled City Commission meeting to consider the application of the Owner for the Property to approve "FOUNTAINS OF STUART" as a Commercial Planned Unit Development (the "CPUD"); and

WHEREAS, at the hearing the applicant showed by substantial competent evidence that the application is consistent with the Comprehensive Plan, and Land Development Code of the City, and with the procedural requirements of law; and

WHEREAS, the City Commission has determined the application is consistent with the overall planning and development goals and objectives of the City; and

WHEREAS, the CPUD is consistent with the Stuart Comprehensive Plan and the development will be in harmony with surrounding properties and their anticipated development.

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

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

SECTION 2: A legal description of the property is set forth in "Exhibit A" attached hereto and made a part hereof by reference. A map depicting the Property is attached hereto as "Exhibit B" and made a part hereof by reference. The conditions of development for the property are attached hereto as "Exhibit C" and made a part hereof by reference and shall constitute one of the development documents.

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

SECTION 4: The following documents on file as public records of the City at the office of the City Development Department in City Hall, and as listed on Exhibit C, and as attached hereto, hereinafter the "Development Documents", shall be deemed a part of the development regulations applicable to the Property:

- A. Final Site Plan – Lucido & Associates; Job # 06-325; Last Revised 10/24/2007.
- B. Landscape Plan – Lucido & Associates; Job # 06-325; Last Revised 10/01/2007.
- C. Building Elevations - CMH Architects, Inc.; Last revised 10/24/07.
 - i. Belk Building Elevations – CMH Architects, Inc; Last revised 02/02/07.

SECTION 5. Except as otherwise provided herein, no building permits, certificates of occupancy or other development orders or approvals shall be issued by the City except in compliance with the aforesaid Development Documents. The failure of the Developer to complete development, or to comply with the Development Documents, or with any term or

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

SECTION 6: In addition to any other action for failure to complete development or to comply with the Development Documents, the City Development Director may obtain a hearing before the City Commission, and shall thereupon give at least five (5) days written notice of the time, date and location of the hearing, along with specific notice of the alleged breach. At the hearing before the City Commission the developer may appear, and may contest the allegation of breach or explain the reason or reasons for the breach.

In the event a material breach is found to have occurred, the City Commission may initiate the process to amend or repeal this ordinance. In the event a material breach is found to have occurred, the City Commission may also direct the City Development Director to initiate the process to rezone the PUD property or any portion of the PUD property.

Any breach of any provision or condition of this PUD ordinance by the developer shall be considered a zoning violation subject to any remedies provided therefore in this PUD ordinance, as well as any other remedies provided by law.

In the event a material breach of this ordinance, and acceptance and agreement, by the developer is found to have occurred, the City Commission may impose an administrative penalty. Upon a finding by the City Commission that any material condition of PUD approval Ordinance 2115-07 has been breached, the City Commission may impose a penalty of up to

\$1,000.00 for each violation, and each repeat violation that occurs, along with all reasonable costs, including attorneys fees incurred by the City. In the event the violation found is a continuing violation from day to day, each day the violation is found to continue may be deemed a separate violation.

SECTION 7: All ordinances or parts of ordinances in conflict with this ordinance or any part thereof are hereby repealed to the extent of such conflict. If any provision of this ordinance conflicts with any contractual provision between the City and the developer of the site, this ordinance shall prevail.

SECTION 8: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 9: This ordinance and agreement shall be effective upon the last of the following to occur: adoption by the City Commission, and proper execution by the Owner.

SECTION 10: Upon complete execution of this Ordinance, including the Acceptance and Agreement by the Owner, the City Clerk is directed to record a Certified Copy of the same in the Public Records of Martin County, Florida.

PASSED on First Reading this 13 day of November, 2007.

Commissioner Martell offered the foregoing ordinance and moved its adoption. The motion was seconded by Commissioner Krauskopf and upon being put to a roll call vote, the vote was as follows:

MARY HUTCHINSON, MAYOR
JEFFREY KRAUSKOPF, VICE MAYOR
JAMES CHRISTIE, COMMISSIONER
MIKE MORTELL, COMMISSIONER
CAROL WAXLER, COMMISSIONER

YES	NO	ABSENT
☒	☐	☐
☒	☐	☐
☐	☒	☐
☒	☐	☐
☐	☒	☐

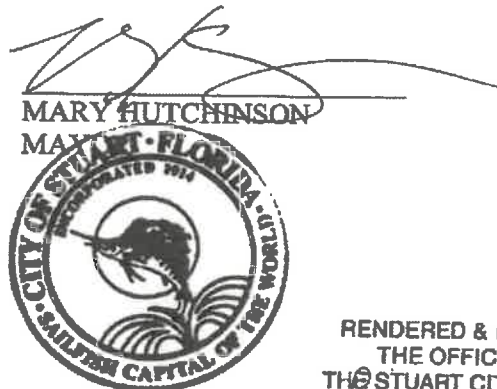
ADOPTED on second and final reading this 26th day of November, 2007.

ATTEST:

CHERYL WHITE
CITY CLERK

APPROVED AS TO FORM
AND CORRECTNESS:

PAUL J. NICOLETTI
CITY ATTORNEY



ACCEPTANCE AND AGREEMENT

RENDERED & FILED IN
THE OFFICE OF
THE STUART CITY CLERK

ON January 23, 2008.

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN A COMMERCIAL PLANNED UNIT DEVELOPMENT AND IN ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE ABOVE ORDINANCE. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO DEVELOP THIS COMMERCIAL PLANNED UNIT DEVELOPMENT ACCORDING TO THIS ORDINANCE, ITS CONDITIONS, AND THE DEVELOPMENT PLANS AND DOCUMENTS, THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THIS ORDINANCE MAY BE AMENDED OR REPEALED BY THE CITY COMMISSION, AND THAT OTHER ACTIONS MAY BE TAKEN AGAINST THE UNDERSIGNED BY THE CITY, INCLUDING BUT NOT LIMITED TO CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING REVOCATIONS, AND ALL APPLICABLE CIVIL AND CRIMINAL ACTIONS.

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

11/19/2007 10:51 AM
MSD

Page 6 of 7

STATE OF ALABAMA
MONTGOMERY COUNTY

WITNESSES:

Nora Hornsby
Print Name: Nora Hornsby

By: Charles F. Notman

Greg Hughes
Print Name: Greg Hughes

OWNERS ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this
day of January, 2008 by Charles R. Notman, the
Manager of Stuart Town Center I, LLC

Sheila T. Sheehan
Notary Public, State of Alabama
My Commission Expires: July 28, 2010

Notary Seal

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

CITY'S ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this
day of January, 2008, by Mary Hutchinson Mayor, and Cheryl White, City
Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation.

Notary Public, State of Florida
My Commission Expires: _____

Notary Seal

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

ORDINANCE #2141-07 'THE FOUNTAINS' -EXHIBIT "A"

Legal Description(s)

Parcel "A"

THAT PORTION OF THE SOUTH 1/3 OF THE NORTH 9/15 OF LOTS 18, 19 AND 20 OF THE COMMISSIONER'S SUBDIVISION OF THE MILES OR HANSON GRANT AS RECORDED IN PLAT BOOK 1, PAGE 11, PALM BEACH (NOW MARTIN) COUNTY, FLORIDA, PUBLIC RECORDS LYING EASTERLY OF THE RIGHT OF WAY OF U.S. HIGHWAY NO. 1 AND WESTERLY OF S.P.S. COMMERCIAL CENTER SOUTH SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 41, MARTIN COUNTY, FLORIDA, PUBLIC RECORDS (LESS RIGHT OF WAY FOR SLATER STREET EXTENSION DESCRIBED IN OFFICIAL RECORDS BOOF 832, PAGE 266, MARTIN COUNTY FLORIDA, PUBLIC RECORDS). PARCEL CONTROL NO. 52-38-41-000-000-0070-80000

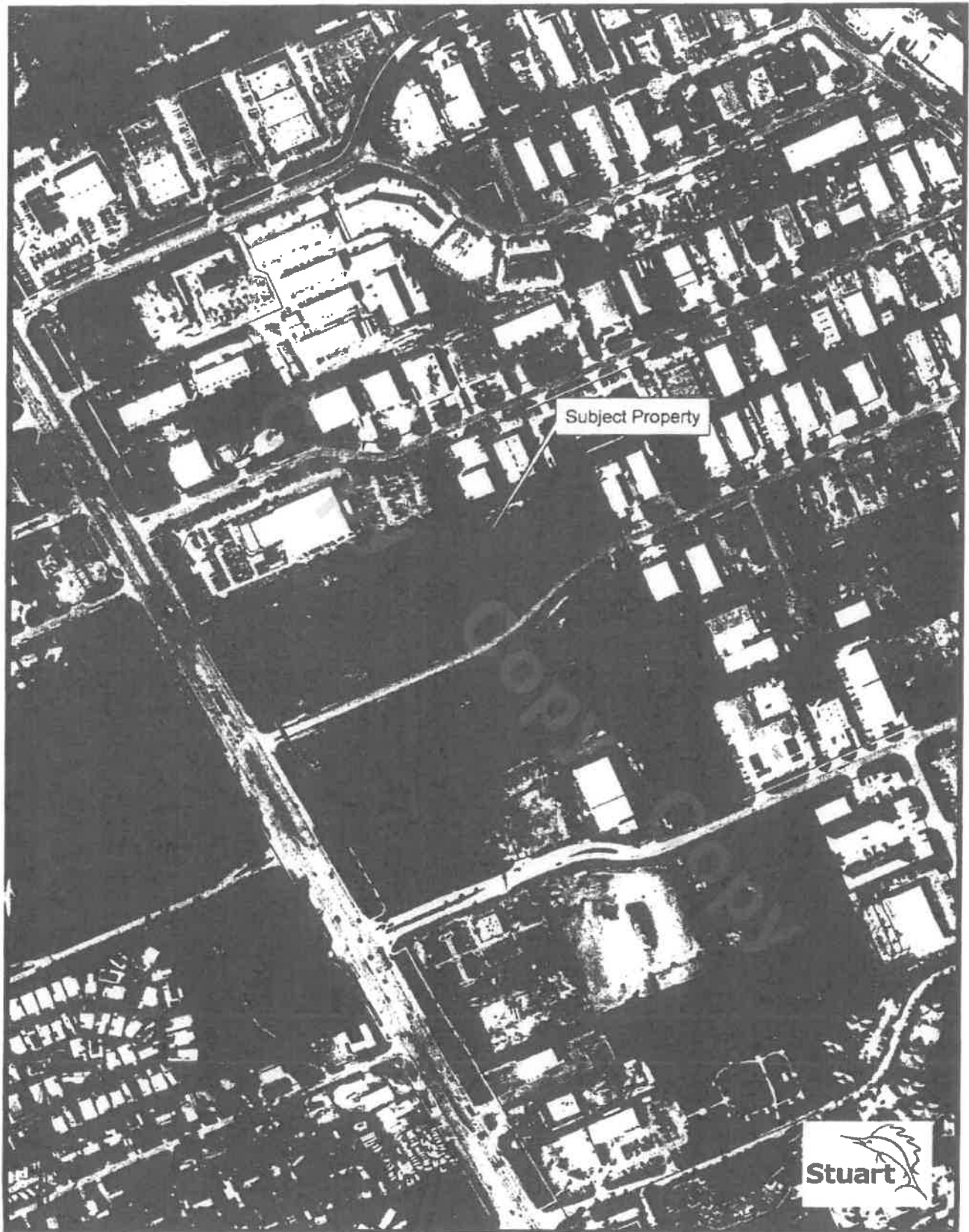
Parcel "B"

LOT 1 AND TRACT "A", MANATEE BUSINESS PARK, A SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 17, AND AS CLARIFIED BY THAT SURVEYOR'S AFFIDAVIT RECORDED IN OFFICIAL RECORDS BOOK 374, PAGE 1075, BOTH OF THE PUBLIC RECORDS OF MARTIN COUNTY FLORIDA. TOGETHER WITH THAT PORTION OF ABANDONED RIGHT-OF-WAY AS ABANDONED AND DESCRIBED IN RESOLUTION NO. 0073 RECORDED IN OFFICIAL RECORDS BOOK 1500, PAGE 943, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA. CONTAINING 5.330 ACRES, MORE OR LESS.

Parcel "C"

LOT 2, MANATEE BUSINESS PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6, PAGE 17, OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA

Fountains of Stuart Exhibit 'B'



ORDINANCE #2141-07 'THE FOUNTAINS' – EXHIBIT "C"

Approved Plans and Documents

1. The project shall comply with the Final Site Plan (Job# 06-325) by Lucido & Associates, Last Revised 12/05/07. This includes the site data pertaining to car parking and associated/warranted uses.
2. The project shall comply with the Landscape Plan (Project #06-325) by Lucido & Associates, Last Revised 12/05/07.
3. The project shall comply with the Building Elevations by CMH Architects, Inc. Last revised 10/24/2007 with the exception of Belk which shall comply with the Building Elevations by CMH Architects, Inc. Last revised 02/02/07.
4. The project shall comply with the Objections, Recommendations and Conditions (ORC) report generated by the Department of Community Affairs which stipulates the City to limit development of the site to an intensity and density that can be accommodated without lowering the level of service below the adopted standards on impacted roadways, or a maximum of 350,000 square feet of commercial development on the site.
5. The project may utilize up to 113 parking stall credits in meeting its parking requirement. Any stalls so utilized shall be replaced by a pervious area of comparable size only.
6. Any modifications to the CPUD Final Site Plan, due to final engineering, that exceeds 5% of the approved building footprint, building setbacks; density; building location; parking size, location and number; drainage areas; and location of landscaping shall require further approval by the City Commission via a public hearing.

Landscaping

7. All landscape areas shall be provided with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition.
8. The City's landscape inspector shall have the opportunity to inspect all trees and/or landscape material with the landscape architect prior to installation. The developer shall bear the pass-thru fee for landscape consulting fees not to exceed \$1,500.00.
9. A Landscape maintenance plan, executed in accordance with the Land Development Regulations, shall be submitted prior to the issuance of a certificate of occupancy.
10. "Hat racking" of trees is prohibited on the property.

• The Fountains of Stuart
SE Federal Highway
Exhibit C
Development Conditions

- 10a. A Landscaping scheme for portions of SE Dominica and SE Slater shall be approved by staff and installed prior to the issuance of the first Certificate of Occupancy. The approved scheme shall be maintained in perpetuity by the developer or their assigns.
- 10b. Prior to issuance of the last certificate of occupancy, the applicant shall contribute and/or build "City of Stuart gateway signage" on US-1 (a minimum of \$50,000) including installation of the landscaping for the signage area. The approved landscaping scheme shall be maintained in perpetuity by the developer or their assigns.
- 10c. the applicant shall be responsible to maintain the property abutting the FDOT right-of-way along SE Federal Highway.

Prior to Issuance of Development Permits

- 11. The applicant shall construct the intersections of Dominica Terrace at US-1 and Dominica Terrace at Slater Street as part of the realignment of Slater Street with adequate turning radii consistent with existing turning radii of the intersection at Slater Street and US-1.
 - 11.a. The applicant shall modify the SE Federal Highway and SE Dominica Terrace and SE Slater Street and SE Dominica Terrace intersections with adequate turning radii to accommodate existing boat hauling from the S.P.S. Business Park subject to the review and consent by the Marine Industries Association.
 - 11.b. The Marine Industries Association shall have the opportunity to review and consent to the proposed traffic signal at the project entrance to determine that it accommodates existing boat hauling from the SPS Business Park.
- 12. The developer shall make a contribution to the Marine Industries Association or the City of Stuart in the amount of \$15,000.00 to aid in the construction of an alternate route for hauling boats out of the SPS Center should such route be determined feasible.
- 13. The applicant shall attempt to secure an easement deed from one of the parcel owners d-g for an approximately 10' x 10' ground area for the foundation, pole sign and maintenance and a 750 square feet above ground coverage area to accommodate the City's sign certification agreement with Lamar. If the applicant is unable to secure an easement deed with a parcel owner (d-g) then the applicant shall grant an easement deed in the northwest corner of the subject site. No other billboards shall be permitted on-site.
- 14. The developer will assure that access is maintained at all times during construction of the project from the S.P.S. Business Park to SE Federal Highway, or that any temporary road closure is timed to avoid impacting any boat hauling schedules.
- 15. The project shall be deemed 'in compliance' by all reviewers and all consultant invoices shall be paid in full.

16. The applicant shall correspond with the City of Stuart legal department to execute a unity of title for all applicable parcels to the city's satisfaction.
17. The abandonment of SE Slater Street, for the balance of the property shall be approved and recorded in the public records of Martin County.
18. The relocation and improvements to SE Slater Street shall be completed and installed prior to the issuance of a certificate of occupancy.
19. Final site plan construction drawings shall be reviewed and approved by all applicable City departments.
20. All regulatory agencies, including but not limited to the South Florida Water Management District and Army Corp of Engineers shall issue letters of 'no objection' to the applicant and provide copies to the City prior to the issuance of a development permit. The city has agreed to issue an "early work permit" once the applicant and city have executed a 'hold harmless agreement'. Once the applicant obtains permits from all regulatory agencies, copies shall be submitted to the City.
21. Development shall comply with the City's Concurrency Management System prior to the issuance of development permits. A concurrency reservation certificate shall be binding upon the applicant meeting the following three standards:
 - Site Plan construction approval;
 - The issuance of building permits to commence construction; and
 - Pays all applicable impact and permit fees.

Development and Construction

22. Construction Activities hours shall not be limited unless the City or County receive complaints regarding concerns over safety, noise, etc.
23. All mechanical equipment associated with the development shall be roof top or located behind the building and screened decoratively screened or landscaped with hedge material.
24. Backflow prevention devices and above ground utilities shall be delineated on the landscape plans during final site plan review and shall be out of view or screened from the public right-of-way.
25. The property owner agrees to be liable for burying local overhead utilities adjacent to or upon its property, other than FPL transmission lines.
26. Erosion and dust control measures to be implemented during construction shall be provided on the civil engineering plans and submitted during final site plan review. Water trucks shall be provided by the applicant as necessary during construction in order to reduce dust generated on-site.

27. All pole lighting, bollards, fencing and similar structures shall be of a decorative character. Poles for lighting in the parking areas shall not exceed 35 feet in height. All lighting shall have a consistent theme throughout the development.
28. Construction of all permanent buildings shall be of concrete and/or masonry units.
29. All utility improvements constructed by the developer within the City's or County's right-of-ways including all lift stations shall be conveyed to the City or County in a manner and form acceptable to the City Attorney and the City Public Works Director. The developer shall convey an easement for any utilities required for the development of the site that are not located within the public right-of-way.
30. Building addresses and/or numbers shall be in plain view and shown on each building plan submitted at the time of building permit application in accordance with the City Code and shall be consistent with the sign plan.
31. Street furniture provided on-site shall be of high quality and aesthetically pleasing appearance. Street furniture shall be reviewed and approved by staff prior to the issuance of a development permit.
32. Any sidewalk damaged during construction shall be repaired or replaced prior to the issuance of a Certificate of Occupancy for the last building.

Development Timetable

33. The project shall be constructed in one (1) phase. The timetable for development shall be as follows:

Site Permit Submission - (No Later Than) - December 1, 2008

Building Permit Submission - (No Later Than) - December 1, 2009

Certificate of Occupancy - (No Later Than) - December 1, 2012

Prohibited

34. No temporary or modular buildings are permitted on the property, other than construction trailers while development permits are active. All construction trailers must be permitted through the City of Stuart Development Department.
35. Banners and any other sign or advertising device not in accordance with the City's Land Development Regulations are prohibited with the exception of the entrance monument sign which may be a maximum of 15 feet in height. Banners and other advertising devices may be allowed through a 'special event permit' issued by the City Manager.

Sec. 2.02.02. Table 2: Land uses

Land Use	Zoning Districts															
	Residential					Nonresidential							PUD			
	R-1A	R-1	R-2	R-3	B-1	B-2	B-3	B-4	P	I	H	RPUD	CPUD	MXPUD	PSPUD	IPUD
Residential Land Uses																
Accessory dwelling units, detached (refer to section 6.09.02)	P	P	P	P	-	-	-	-	-	-	A	-	A	-	-	-
Assisted living facilities of four or fewer persons (refer to supplemental standards in section 2.06.03)	P	P	P	P	-	-	-	-	-	-	A	-	-	-	-	-
Assisted living facilities of five or more persons (refer to supplemental standards in section 2.06.03)	-	-	-	CU	-	-	-	-	-	-	A	-	-	-	-	-
Community residential home of seven—14 residents	-	-	-	CU	-	-	-	-	-	-	A	A	A	-	-	-
Duplex dwelling unit	-	-	P	P	-	-	-	-	-	-	A	-	A	-	-	-
Family day care home in a residence	P	P	P	P	P	-	-	-	-	-	A	A	A	-	-	-
Group home of six or fewer residents	P	P	P	P	-	-	-	-	-	-	A	A	A	-	-	-
Home occupations (refer to supplemental standards in section 2.06.09)	P	P	P	P	-	-	-	-	-	-	A	A	A	-	-	-
Multi-family dwelling units	-	-	-	P	-	-	-	-	-	-	A	-	A	-	-	-

Transient Residential Land Uses and Overnight Accommodations																	
Residential units combined with non-residential uses	-	-	-	-	P	P	P	P	P	-	-	-	-	A	A	-	-
Single-family dwelling unit	P	P	P	P	P	-	-	-	-	-	S	-	-	A	-	A	-
Institutional Uses																	
Bed and breakfast inns	-	-	-	-	-	P	-	-	-	-	-	-	-	A	A	A	-
Hotels/motels	-	-	-	-	-	-	P	P	-	-	-	-	-	-	A	A	-
Rooming and boardinghouses	-	-	-	-	-	P	-	-	-	-	-	-	-	A	A	A	-
Adult day care centers (< five acres)	-	-	-	-	-	CU	P	P	P	P	CU	-	-	-	A	A	-
Adult day care centers (> five acres)	-	-	-	-	-	-	P	P	P	CU	-	-	-	-	A	A	-
Cemeteries	-	-	-	-	-	-	-	P	-	-	-	-	-	-	A	-	-
Child care center (< five acres)	-	-	-	-	-	CU	P	P	P	P	CU	-	-	A	A	A	-
Child care center (> five acres) (refer to supplemental standards in section 2.06.04)	-	-	-	-	-	-	P	P	P	P	CU	-	-	-	A	A	-
Community centers	-	-	-	P	P	P	-	-	-	-	P	-	-	A	A	A	-
Crematoriums	-	-	-	-	-	-	-	-	CU	-	-	-	-	-	A	A	-
Funeral homes	-	-	-	-	-	-	-	-	-	P	-	-	-	-	A	A	-
Funeral homes with crematoriums	-	-	-	-	-	-	-	-	CU	-	-	-	-	-	A	A	-
Governmental buildings	-	-	P	P	P	P	-	-	-	-	-	-	-	A	A	A	-
Libraries	-	-	P	P	P	P	-	-	-	-	P	-	-	A	A	A	-
Museums	-	-	-	-	-	-	P	P	P	-	-	-	-	-	A	A	-
Religious institutions (< five acres)	-	-	-	CU	P	P	-	P	P	-	P	-	-	A	A	A	-

Telecommunications Uses														
Radio and/or television broadcast stations	-	-	-	-	-	-	P	P	P	-	-	-	A	A
Stealth communication facilities - In conjunction with uses other than single family or two-family residences, stealth telecommunications facilities which do not exceed 45 feet in height or which are constructed as part of an existing architectural feature or structure provided its total height does not exceed 120 percent of the height of the architectural feature or structure (refer to supplemental standards in section 2.06.11)	-	-	-	-	P	P	P	P	P	A	-	A	A	A
Stealth communication facilities - In conjunction with uses other than single family or two-family residences, stealth telecommunications facilities which exceed 45 feet in height (refer to supplemental standards in section 2.06.11).	-	-	-	-	-	-	CU	CU	CU	-	-	A	A	A

Telecommunications towers (refer to supplemental standards in section 2.06.11)	-	-	-	-	-	-	-	-	-	CU	-	CU	-	-	A	A	-	A
Telecommunications towers to be located on real property not owned by the City of Stuart (refer to supplemental standards in section 2.06.11)	-	-	-	-	-	-	-	-	-	-	-	-	CU	-	-	A	-	A
Telecommunications towers to be located on real property owned by the City of Stuart by resolution of the city commission (refer to supplemental standards in section 2.06.12)	-	-	-	-	-	-	-	-	-	-	-	-	CU	-	-	A	A	-
Storage, Transportation and Logistics Uses																		
Accessory structures (refer to section 6.09.00)	P	P	P	P	P	P	P	P	P						A	A		
Bus and train (passenger) station/terminals	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	A	-	-
Parking garages (private or government provided public)	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	A	-	-
Parking lots (private or government provided public)	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	A	-	-
Railroad freight stations and terminals	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	A
Truck terminals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	A

Created: 2022-10-14 10:13:07 [EST]

(Supp. No. 12)

(Ord. No. 2401-2019, § 1, 4-8-19)

(Supp. No. 12)

Created: 2022-10-14 10:13:07 [EST]