



City of Stuart

AGENDA

REGULAR MEETING OF THE STUART CITY COMMISSION

MARCH 27, 2023

AT 5:30 PM

COMMISSION CHAMBERS

121 SW FLAGLER AVE.

STUART, FLORIDA 34994

CITY COMMISSION

Mayor Troy McDonald

Vice Mayor Becky Bruner

Commissioner Eula R. Clarke

Commissioner Christopher Collins

Commissioner Campbell Rich

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.

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

PRESENTATIONS

1. BOYS AND GIRLS CLUB PRESENTATION

COMMENTS BY CITY COMMISSIONERS

COMMENTS BY CITY MANAGER

APPROVAL OF AGENDA

COMMENTS FROM THE PUBLIC (Non-Agenda Related) (3 Minutes Max.)

CONSENT CALENDAR

2. APPROVAL OF 03/09/2023 SCM, 03/13/2023 SCM ATTORNEY-CLIENT, & 03/13/2023 CCM MINUTES (RC)

3. MODIFICATION TO SFWMD CONSENT ORDER 94-93-CO-93 (RC):

RESOLUTION No. 22-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE EXECUTION A MODIFICATION TO CONSENT ORDER NO. SFWMD 94-93-CO-WU WITH THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

END OF CONSENT CALENDAR

COMMISSION ACTION

4. NAMING OF CITY RIGHT OF WAY BETWEEN SE JOAN JEFFERSON AND SW OCEAN BLVD. (RC):

RESOLUTION No. 20-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE NAMING OF PUBLIC RIGHT OF WAY LOCATED IN THE TRIANGLE DISTRICT BETWEEN SW JOAN JEFFERSON WAY TO SW OCEAN BLVD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

5. SIGN UP AND SAVE INCENTIVE PROGRAM (RC):

RESOLUTION No. 23-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING A REVISED SIGN UP AND SAVE INCENTIVE TO UNSEWERED PROPERTIES IN THE CITY OF STUART FOR THE PERIOD BEGINNING APRIL 1, 2023, AND ENDING ON MARCH 31, 2024. PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

6. AUTHORIZATION OF MAYOR TO EXECUTE INTERIM CITY ATTORNEY CONTRACT (RC):

RESOLUTION No. 24-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE AN EMPLOYMENT CONTRACT WITH PAUL J. NICOLETTI, ESQ. FOR THE INTERIM CITY ATTORNEY POSITION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

7. 90 DAY EXTENSION FOR DUE DILIGENCE ON OLD CITY LANDFILL PROPERTY (RC):

RESOLUTION No. 25-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING AN EXTENSION OF NINETY (90) DAYS OF DUE DILIGENCE TO THE VACANT LAND CONTRACT ENTERED INTO WITH PURCHASER, GOLDSTEIN KITE ENVIRONMENTAL, LLC AND THE CITY OF STUART, FLORIDA RELATED TO THE SALE OF THE OLD CITY LANDFILL PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

8. AUTHORIZATION TO NEGOTIATE LEASE FOR 2 ACRE VACANT PARCEL NORTH OF ROOSEVELT BRIDGE (RC):

RESOLUTION No. 26-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO NEGOTIATE A VACANT LAND LEASE WITH REPRESENTATIVE(S) FROM SLC COMMERCIAL FOR THE LEASE OF THE CITY OWNED HANEY CREEK TWO (2) ACRE PARCEL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

ORDINANCE SECOND READING

9. FS PROPRTIES LLC., ZONING MAP AMENDMENT (RC):

ORDINANCE No. 2513-2023; 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.

ORDINANCE FIRST READING

10. COMPREHENSIVE PLAN TEXT AMENDMENT - ZONING IN PROGRESS (RC):

ORDINANCE No. 2514-2023; AN ORDINANCE OF THE CITY OF COMMISSION OF THE CITY OF STUART, COMPREHENSIVE PLAN AMENDMENT AS DEFINED IN F.S.§163.3187; AMENDING THE TEXT TO THE COMPREHENSIVE PLAN FUTURE LAND USE ELECMENT 1, USE OBJECTIVE 1.A7. FUTURE LAND USE CATEGORIES, POLICY 1.A7.2. GROSS DENSITIES AND TABLE OF LAND USE DENSITIES AND INTENSITIES, OJECTIVE 1.C1. URBAN CODE OVERLAY ZONE; AND OBJECTIVE 3.A7. DEVELOPMENT INCENTIVES; AMENDING THE TEXT TO THE FUTURE LAND USE ELEMENT 1; 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.

11. LAND DEVELOPMENT CODE TEXT AMENDMENT - ZONING IN PROGRESS (RC):

ORDINANCE No. 2515-2023; AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY' LAND DEVELOPMENT CODE; MORE SPECIFICALLY ADMENDING THE EXISTING SECTION 2.07.00.I OF CHAPTER II ENTITLED "URBAN PLANNED UNIT DEVELOPMENT (UPUD) DISTRICTS, TABLE 2.07.A. UPUD UNIT DENSITY AND PARKING SPACE CALCULATION TO REDUCE THE MINIMUM UNIT SIZE REQUIREMENTS; 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.

DISCUSSION AND DELIBERATION

ADJOURNMENT

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.

INVOCATION: Any invocation that may be offered at the opening of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker.

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 3/27/2023

Prepared by: Susej Meleqi

Title of Item:

BOYS AND GIRLS CLUB PRESENTATION

Summary Explanation/Background Information on Agenda Request:

BOYS AND GIRLS CLUB PRESENTATION

Funding Source:

N/A

Recommended Action:

Enjoy!

ATTACHMENTS:

1. BGCMC City Commission Presentation Final

GREAT FUTURES START **HERE.**



BOYS & GIRLS CLUBS
OF MARTIN COUNTY



SERVING THE CHILDREN & YOUTH WHO NEED US THE MOST

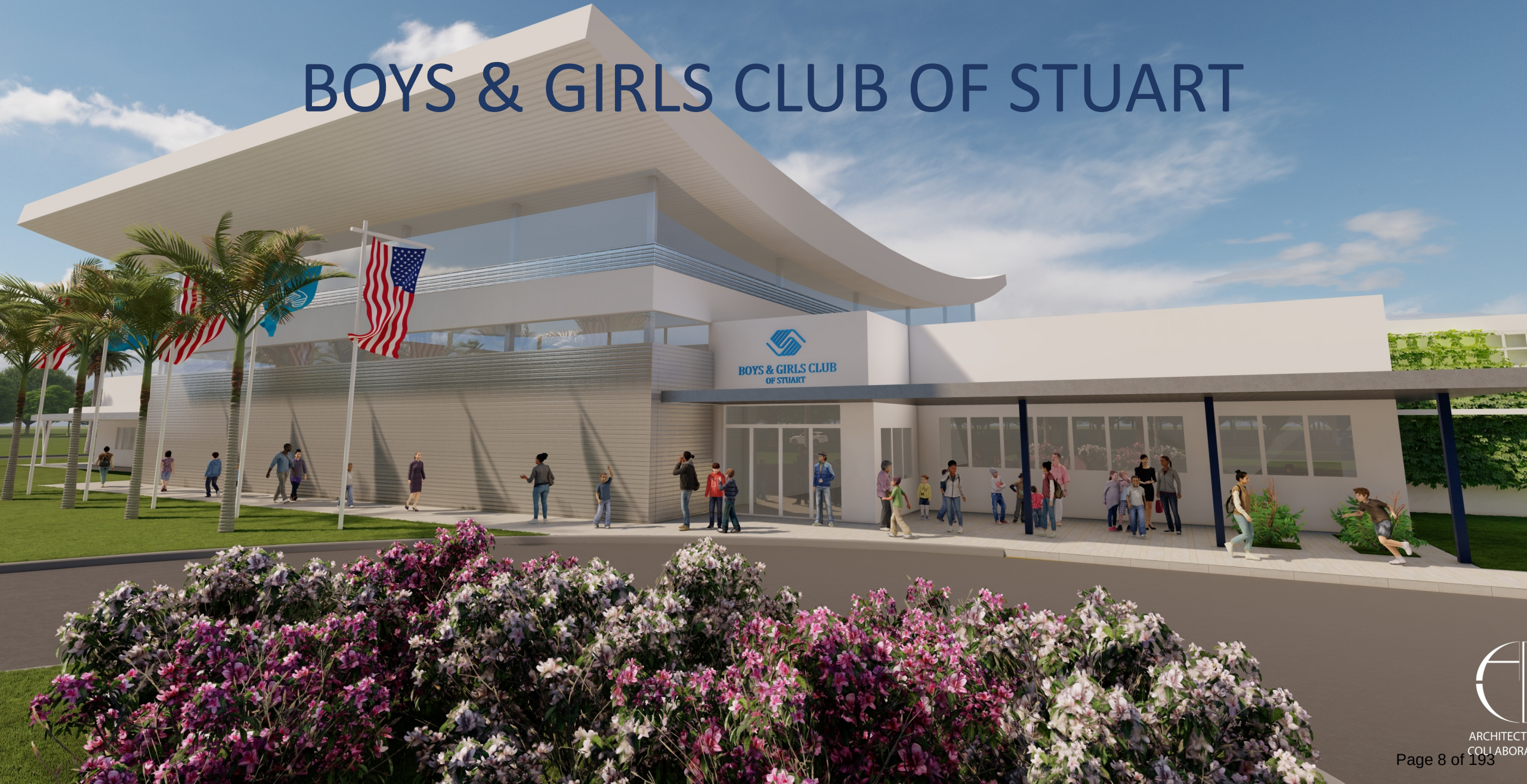
GREAT FUTURES START **HERE.**



- Martin County's largest youth-service provider
- Serve nearly 4,500 youth ages 6-18 annually, representing about 25% of all local school-age students
- 87% of club members are low-and-moderate-income, qualifying for National School Lunch program
- 40% - Hispanic (13% county), 29% - Black (5% county), 19% - White (79% county), 12% - other (3% county)
- Clubs strategically located to serve county's highest-need, most diverse communities.
- Core areas of emphasis - Academic Success, Good Character/Citizenship and Healthy Lifestyles.
- Clubs open 2-6:30 pm on school days, 7:30 a.m. -6 pm on non-school and during summer.
- All members receive daily healthy snack and full dinner that's prepared by our chef and graduates of our Culinary Pathways training and certification program.
- Membership is FREE to every child can attend regardless of ability to pay.



BOYS & GIRLS CLUB OF STUART



NEW BEGINNING AND NEW POSSIBILITIES FOR THOSE MOST IN NEED

GREAT FUTURES START **HERE.**



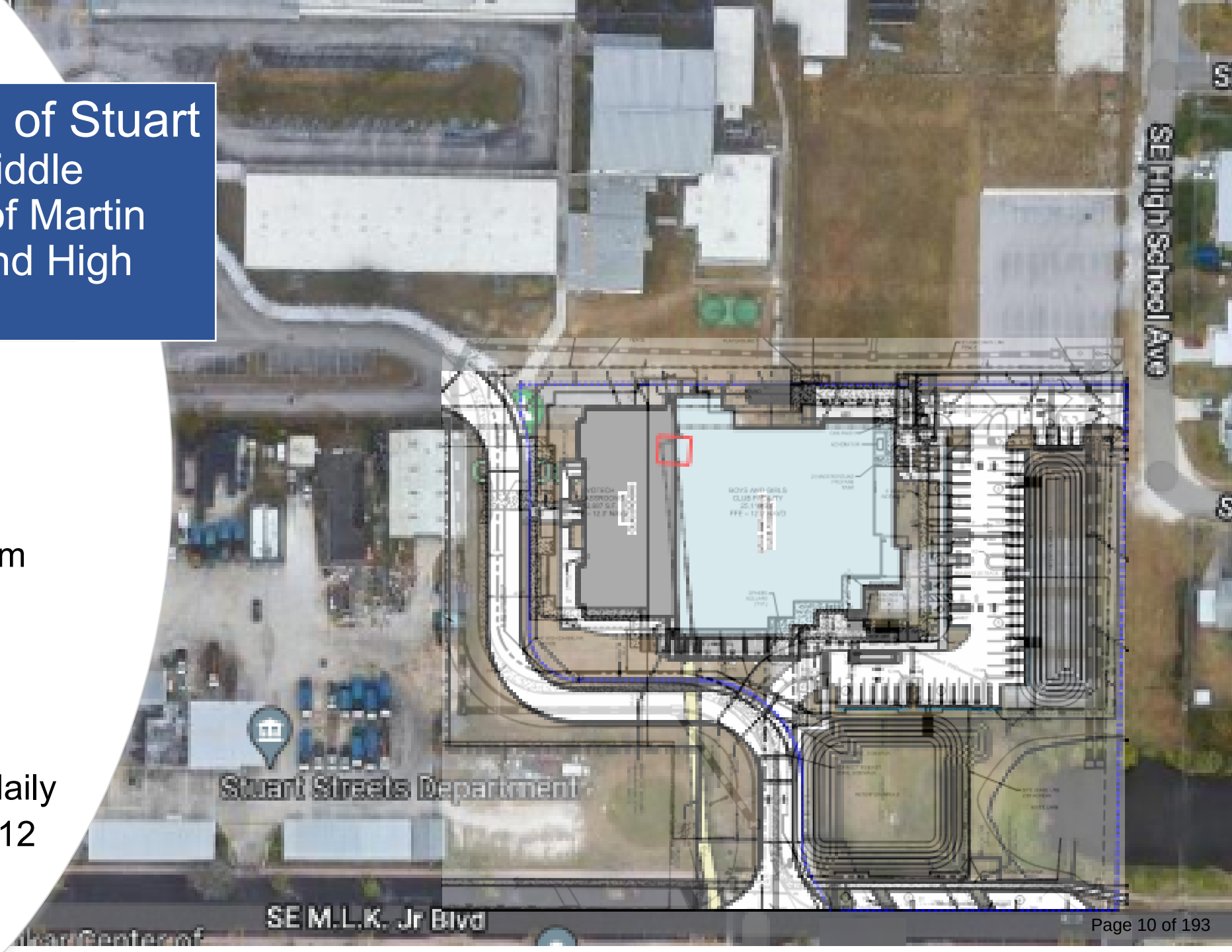
"We believe this is nothing short of an historic moment locally — a moment that will be remembered for igniting a change in the narrative of what's possible for countless children, many of whom hail from some of the toughest parts of our community." — Keith Fletcher, CEO of Boys & Girls Clubs of Martin County.



Boys & Girls Club of Stuart

Located on Stuart Middle School Campus off of Martin Luther King Jr. Dr. and High School Avenue.

- 3+ acre site
- 39,000 sf building
- Programming Spaces
- 3 Workforce Labs
- Community Gymnasium
- Performing Arts Stage
- Culinary Arts Kitchen
- Cafeteria
- Garden Zone
- Serving 3500+ youth daily
- Members grades K to 12



CLUB PROGRAMING



- Traditional club features – places to play, learn, get help with homework and foster creative interests and abilities.
- Partnering with Stuart Middle School on Workforce Development Lab—totaling 9,800 sf—to position members for success in the job market upon graduation through training and certifications in high-demand career pathways.
- HVAC, Carpentry, Plumbing, Electric, Culinary and Hospitality, Virtual Reality Curriculums, Drone Piloting, Supply Chain Automation and more.
- SMS students will have access to the Labs during school hours and club members during afterschool hours.
- Gymnasium will feature a basketball court with bleacher seating up to 250, and includes a performing arts stage—all open for community when not utilized by our members.

HIGH ANTICIPATION AMONG COMMUNITY LEADERS

GREAT FUTURES START **HERE.**



“This club will bring a new place and space for us to create a stronger pipeline of local young men and women to help strengthen our local economy.”—Joan Goodrich, executive director of the Business Development Board of Martin County

“This future of many of the children of Martin County is at stake and it’s our duty to provide them with every opportunity possible to be successful.”—Missi Campbell, executive director of the Palm City Chamber of Commerce

“This will help break that generational curse. They can get out of regular school and go right over and finish up with a skill and step right out and get a job. Not everyone is college material. Not everyone is going to the school of their choice. But they can have a Plan B and it can turn out to be their Plan A. Every parent wants better for their kids and the Boys & Girls Clubs of Martin County is actually offering something to help see that it can happen.”—Thelma Washington, executive director of the Gertrude Walden Child Care Center.

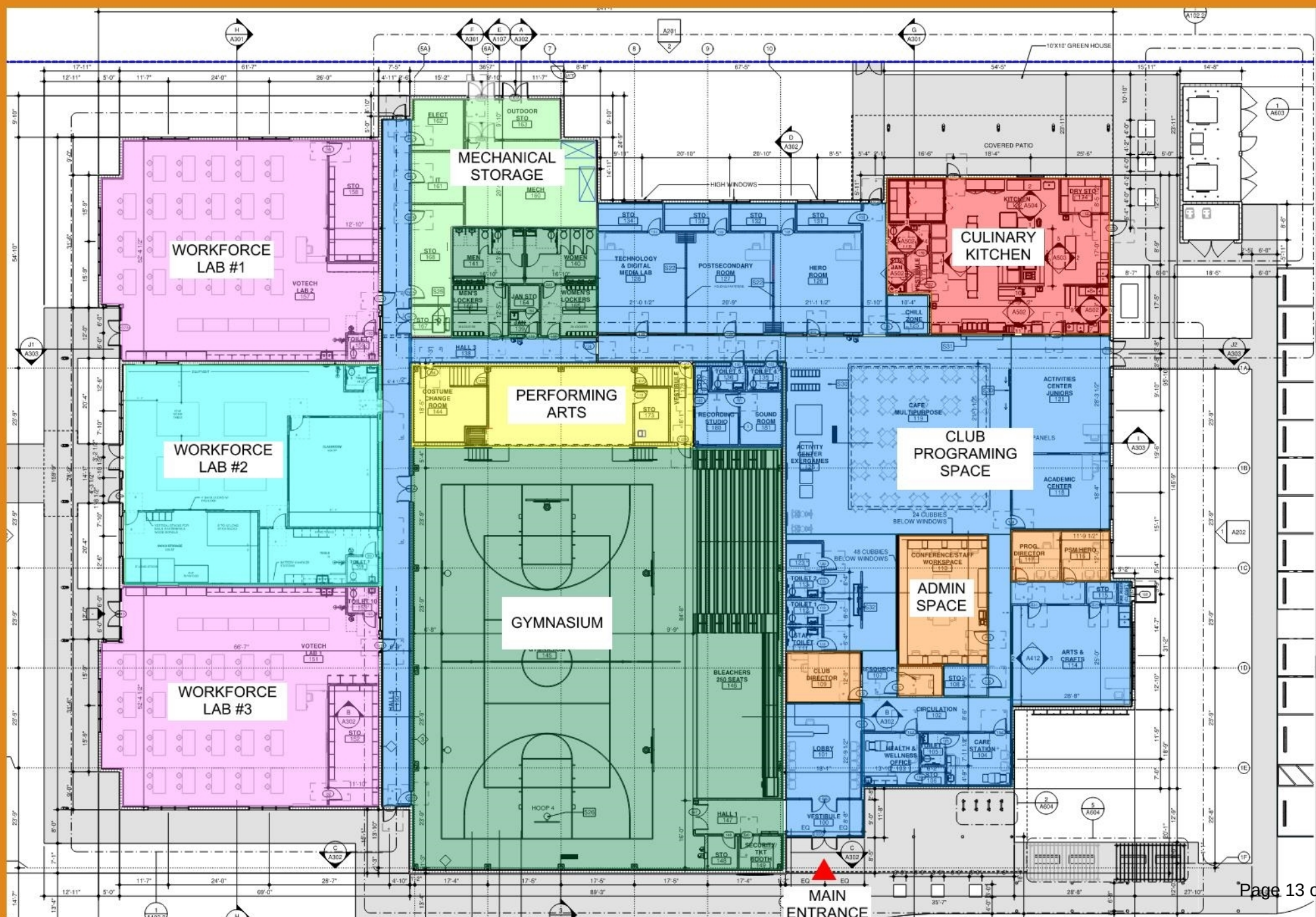


STUART CLUB

DO MORE
AIM HIGHER
GO BEYOND



Building
Our
Future



- Early April 2023 - Start of new Stuart Middle School bus loop
- Mid May 2023 - Start of BGC Construction
- 13 Month Construction Project
- \$17M - Cost of Construction
- Anticipated Opening Date: 2024 School Year



DO MORE
AIM HIGHER
GO BEYOND

www.bgcmartin.org/DoMore



**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 3/27/2023

Prepared by: Susej Meleqi

Title of Item:

APPROVAL OF 03/09/2023 SCM, 03/13/2023 SCM ATTORNEY-CLIENT, & 03/13/2023 CCM MINUTES (RC)

Summary Explanation/Background Information on Agenda Request:

APPROVAL OF 03/09/2023 SCM AND 03/13/2023 CCM MINUTES (RC)

Funding Source:

N/A

Recommended Action:

Approve minutes.

ATTACHMENTS:

1. 03092023 SCM Minutes
2. 03132023 SCM - Attorney - Client Minutes
3. 03132023 CCM Minutes

MINUTES
SPECIAL COMMISSION MEETING OF THE STUART CITY COMMISSION
CITY MANAGER POSITION
MARCH 9, 2023
AT 4:00 PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Troy McDonald
Vice Mayor Becky Bruner
Commissioner Eula R. Clarke
Commissioner Christopher Collins
Commissioner Campbell Rich

ADMINISTRATIVE

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

ROLL CALL

4:00 PM

PRESENT: Mayor McDonald, Vice Mayor Bruner, Commissioner Clarke, Commissioner Collins, Commissioner Rich

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

4:01 PM MOTION: Approve
MOVED BY: Eula Clarke
SECONDED BY: Christopher Collins
Motion approved unanimously.

COMMENTS FROM THE PUBLIC (3 Minutes Max.)

1. Mark Perry - Sunshine Farms Way, Palm City; Commented on the importance of the City Manager position and the importance of focusing on our local waterways, appreciates the support of the City and working closely with the local agencies.

COMMISSION ACTION

1. DETERMINATION ON REPLACING THE CITY MANAGER'S POSITION

City Manager, David Dyess, presented the following options for the position of City

Manager to the Commission:

1. Appoint an Interim City Manager as a temporary appointment, noted Mr. Boglioli, Finance Director, has served as in the Manager's absence and is willing to fulfill the role.
2. Appoint Interim City Manager with long-term intentions; having the person in the position with the option to hire or later go outside for hire.
3. Post the position with a local or statewide search. This can be done in house with the Human Resources Department.
4. Municipal Search Firm
5. Executive Search Firms

Commissioner Clarke called Human Resources Director, Roz Johnson, to the podium to request information on option #3 and timeframes. City Manager Dyess provided feedback on the experience he recently went through and the outside search took approximately 3 months. Ms. Johnson explained that they feel there are external candidates that they feel would apply and reviewed the process of an internal hire as an interim.

Commissioner Rich confirmed that two options can be done simultaneously, select an internal interim as well as do an external search. Ms. Johnson confirmed that is correct. The Commission discussed whether a City Manager is required to live within City limits and the past policies on the subject.

Commissioner Collins commented that he had been transparent in his decision in having City Attorney, Mike Mortell, transition into the position as he is interested in hiring an Environmental Attorney. Feels the City should be in a defensive posture, preparing for what may be coming and noted Attorney Mortell lives in the City.

McDonald commented that the most successful managers have been from within and he currently has no interest in hiring externally. Supports Mortell in an interim position and suggested adding a deadline to the interim position, giving the Commission and Mortell the opportunity to evaluate the situation.

Commissioner Rich commented that he knows of other experienced city managers who live in the City and may be interested in the position.

Commissioner Clarke clarified the amount of time Dyess was given as an interim as 6 months. She agrees with a local hire and is thankful we have internal staff who are interested and qualified for the position.

City Manager Dyess announced his plans. He is scheduled for a start date in Juno Beach on May 1, 2023 and is requesting the City of Stuart release him by the end of March as he is interested in taking some time off between jobs.

4:25 PM MOTION: Have Mike Mortell move to Interim City Manager for 6 months, beginning March 31st, with a 3 month review by the Commission.

MOVED BY: Christopher Collins

SECONDED BY: Campbell Rich

Motion approved unanimously. 4:34 PM

The Commission participated in a discussion of an Interim City Attorney. Mayor McDonald proposed Mr. Paul Nicoletti, previous City Manager and City Attorney, as the Interim City Attorney until a permanent replacement is found.

Commissioner Bruner commented that Mr. Nicoletti would be a good fit. Discussion on paying the Interim City Attorney a monthly flat rate or hourly; to be determined.

Commissioner Clarke requested that if Mortell because the City Manager, that he no longer practice private cases. He confirmed but it was agreed that no changes would be made until under a new contract. No Interim contract changes are being done to the current City Attorneys contract.

4:35 PM MOTION: Have Mr. Nicoletti as our Interim City Attorney until we figure out what we need to do with the attorney position.

MOVED BY: Eula Clarke

SECONDED BY: Becky Bruner

Motion approved unanimously.

Commissioner Clarke thanked Roz Johnson for the information provided and helping through the process, thanked Lewis "Joly" Boglioli for always being willing to take on responsibilities. Announced that this is a new day in the City and come April 1st, asked for full cooperation and encouraged all for their support and that we are going to look to Mr. Mortell over the next several months to shine as a beacon in the City.

ADJOURNMENT

4:46 PM

Mary R. Kindel, City Clerk

Troy McDonald, Mayor

Minutes to be approved at the Regular Commission Meeting this 27th day of March, 2023.

MINUTES
SPECIAL COMMISSION MEETING OF THE STUART CITY COMMISSION
MARCH 13, 2023
AT 3:30 PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Troy McDonald
Vice Mayor Becky Bruner
Commissioner Eula R. Clarke
Commissioner Christopher Collins
Commissioner Campbell Rich

ADMINISTRATIVE

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

ROLL CALL

3:30 PM

PRESENT: Mayor McDonald, Vice Mayor Bruner, Commissioner Clarke, Commissioner Collins, Commissioner Rich

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

MOTION: Approve
MOVED BY: Eula Clarke
SECONDED BY: Campbell Rich
Motion approved unanimously.

DISCUSSION AND DELIBERATION

1. ATTORNEY CLIENT MEETING (Not Open to the Public)
3:32 PM Meeting paused - Commissioners in Shade Meeting.
4:02 PM Reconvened

ADJOURNMENT

4:02 PM

Mary R. Kindel, City Clerk

Troy McDonald, Mayor

Minutes to be approved at the Regular Commission
Meeting this 27th day of March, 2023.

MINUTES
REGULAR MEETING OF THE STUART CITY COMMISSION
MARCH 13, 2023
AT 4:00 PM
COMMISSION CHAMBERS
121 SW FLAGLER AVE.
STUART, FLORIDA 34994

CITY COMMISSION

Mayor Troy McDonald
Vice Mayor Becky Bruner
Commissioner Eula R. Clarke
Commissioner Christopher Collins
Commissioner Campbell Rich

ADMINISTRATIVE

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

ROLL CALL

4:05 PM

PRESENT: Mayor McDonald, Vice Mayor Bruner, Commissioner Clarke, Commissioner Collins, Commissioner Rich

INVOCATION

Pastor Aaron Meehan - Higher Purpose Pentecostal Church

PLEDGE OF ALLEGIANCE

1. ARTS MOMENT - CHAZ RUSSELL, STEEL DRUM DUET

Chaz Russell and Loretta Russell performed "One Love" on the steel drums.

PROCLAMATIONS

2. IRISH AMERICAN HERITAGE MONTH - MARCH 2023

Steven Risley accepted the Proclamation on behalf of Ray Lynch, Florida State President and National Director of the Ancient Order of Hibernians.

PRESENTATIONS

3. SERVICE AWARD - MARCH 2023

Jan Foselli from the Fire Department celebrated 5 years and accepted her award.

4. INDIAN RIVER LAGOON NATIONAL ESTUARY PROGRAM

Caleta Scott, Indian River Lagoon Community Engagement Coordinator, presented on the Indian River Lagoon Estuary Program, reviewed the vision, mission, and goals, as well as the progress of projects. She stated she is interested in learning more and working with City staff on projects. She commended the staff on the work they have done for the different water programs in the City.

5. POPULATION STUDY FOR THE CITY OF STUART AND THE UTILITY SERVICE AREA

David Farmer, CEO of Natural Forecasting Models, presented the importance of growth forecasts and the study of the population for Stuart and the utility service area.

6. PHASE 4 MEMORIAL PARK

Tom Lucido of Lucido & Associates introduced Steph Mathes of Culpepper & Turpening and Doug Fitzwater, with Lucido & Associates, presented on Memorial Park and reviewed the park in phases. Prior to renovations up to the current park amenities, and the proposed plans.

City Manager Dyess commented that the next setup was to go out to RFP.

Commissioners had a brief discussion on Memorial Park.

COMMENTS BY CITY COMMISSIONERS

Commissioner Rich

- Commented that he is attending the Legislative session in Tallahassee from March 14 - March 16.

Commissioner Clarke

- Thanked the presenter for the population study, stated she hopes there will be more time to review in the future.
- Enjoyed the Community Night Out at Pier Point with the Police Department and complimented the Department.
- Announced that she attended the NAACP event.
- Inquired about the process of becoming a contractor for the City.
- Commented on the Costco agreement being signed by the State's Cabinet.
- Announced the Water Fest.

Mayor McDonald

- Announced he attended the NAACP dinner and presented the award for Community Organization to our East Stuart Community Center on 10th St.
- Commented that the Cabinet made the final ruling on Kanner LLC/Costco, and stated that the City did everything right and it has been a long road, and believes this will be a beneficial location for the City.

- Request to pull Item #9 from the Consent Calendar.

COMMENTS BY CITY MANAGER

City Manager David Dyess

- Commented that the City has been putting out water news in the newsletter and advertisements for professional services on Open Gov and Demand Star.
- Announced the City will be bringing back the incentive program of Septic to Sewer/Sign-up and save to offer benefits for residents to sign up for City sewer.

APPROVAL OF AGENDA

5:17 PM MOTION: Approve, with pulling Agenda Item #9 from Consent Calendar.

MOVED BY: Eula Clarke

SECONDED BY: Christopher Collins

Motion approved unanimously.

COMMENTS FROM THE PUBLIC (3 Minutes Max.)

- 1.) Caryn Hall Yost-Rudge - Palm City Rd.; Commented on comments that were made by Mayor McDonald during a past conversation from a previous shade meeting.
- 2.) Johnathan Dobbs - Box Leaf Pl; Commented on Walking with Warriors and what they offer.
- 3.) Chris Rudiger - Commented in support of the Walking with Warriors and the support the City provides to the emergency services.

Commissioner Collins commented that he would like to see funding for Walk for Warriors.

- 4.) Gail Goldie - 12th St; Commented that she wanted to thank the Commissioners for looking into the septic to sewer program and bringing it back, but would like to know where to find out about City businesses who are still on septic and how they can take apart of this program.

CONSENT CALENDAR

7. APPROVAL OF 02/27/2023 CCM MINUTES (RC)

8. RESIN REPLACEMENT WATER TREATMENT FACILITY (RC):

RESOLUTION No. 17-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING BUDGET ADMENDMENT NO. 9 TO THE 2022-2023 ENTERPRISE FUND; APPROPRIATING AND AUTHORIZING THE EXPENDITURE OF FUNDS FOR RESIN REPLACEMENT IN THE VESSELS USED IN THE REMOVAL OF PFAS AT THE CITY'S WATER TREATMENT FACILITY; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

9. RELATING TO SB 102 AND HB 627 ON AFFORDABLE HOUSING PREEMPTIONS (RC):

RESOLUTION No. 18-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, REQUESTING STATE SENATORS AND REPRESENTATIVES OF THE FLORIDA LEGISLATURE MODIFY LANGUAGE IN SENATE BILL 102 AND HOUSE BILL 627 RELATING TO HOUSING; URGING THE LEGISLATURE TO NOT PREEMPT LOCAL GOVERNMENTS FROM THE LOCAL REGULATION OF AFFORDABLE HOUSING AND DEVELOPMENT PROJECTS WITHIN THEIR JURISDICTION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

PULLED

END OF CONSENT CALENDAR

5:28 PM MOTION: Approve less Item #9.

MOVED BY: Eula Clarke

SECONDED BY: Becky Bruner

Motion approved unanimously.

* 9. RELATING TO SB 102 AND HB 627 ON AFFORDABLE HOUSING PREEMPTIONS (RC):

RESOLUTION No. 18-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, REQUESTING STATE SENATORS AND REPRESENTATIVES OF THE FLORIDA LEGISLATURE MODIFY LANGUAGE IN SENATE BILL 102 AND HOUSE BILL 627 RELATING TO HOUSING; URGING THE LEGISLATURE TO NOT PREEMPT LOCAL GOVERNMENTS FROM THE LOCAL REGULATION OF AFFORDABLE HOUSING AND DEVELOPMENT PROJECTS WITHIN THEIR JURISDICTION; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Ben Hogarth, Community Affairs Liaison, presented and reviewed the Senate Bills.

Commissioners had a discussion on the bills, what it looks like for the City, and what can be done.

PUBLIC COMMENT:

1.) Laura Giobbi - Ocean Ave; Commended the Commission for their work on their bills and spoke on a program in Connecticut that is similar to the Senate Bill and she stated it has not helped affordable housing whatsoever.

5:48 PM MOTION: Approve.

MOVED BY: Eula Clarke

SECONDED BY: Christopher Collins

Motion approved unanimously.

COMMISSION ACTION

10. LEASE NEGOTIATION AUTHORIZATION FOR DOG PARK CAFE:

RESOLUTION No. 19-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO NEGOTIATE A LEASE AGREEMENT FOR THE OPERATION OF AN OFF LEASH DOG CAFÉ AT THE POPPLETON CREEK DOG PARK; FURHTER

AUTHORIZING THE CITY MANAGER TO EXECUTE ANY APPLICATIONS NECESSARY TO OBTAIN SITE PLAN APPROVAL OR A BUILDING PERMIT NECESSARY FOR THE OPERATION OF SAME; PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Nathan Ritchey, Applicant, presented the proposed K-9 Social Club concepts, benefits to the community, dogs, and the property improvements; reviewed that K-9's will be members, required vaccines, insurance coverage, turf and sanitation of grounds, food trucks, a concession stand.

Commissioner Collins asked Mr. Ritchey questions about the cleaning solution products. Mr. Ritchey agreed to bring the listing of products back to the Commission.

Commissioner Rich asked about the K-9 owners' responsibilities to clean up after their animals, the location and hours, and expressed concern about it being next to the Estates of Stuart Condominium. He suggested Mr. Ritchey be required to communicate with the residents nearby.

City Attorney Mortell commented the process that Mr. Ritchey will be required to do with the Development department if the Commission approves the Resolution.

Commissioners had a brief discussion with Mr. Ritchey.

6:16 PM MOTION: Approve.

MOVED BY: Eula Clarke

SECONDED BY: Becky Bruner

Motion approved unanimously.

ORDINANCE SECOND READING

- 11. 751 SE CENTRAL PARKWAY - REZONING FROM COMMERCIAL TO RESIDENTIAL PLANNED UNIT DEVELOPMENT (QUASI-JUDICIAL) (RC):**

ORDINANCE No. 2487-2023; AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP TO REZONE REAL PROPERTY FROM COMMERCIAL PLANNED UNIT DEVELOPMENT "CPUD" TO RESIDENTIAL PLANNED UNIT DEVELOPMENT "RPUD" FOR A 4.88-ACRE PARCEL, LOCATED AT 751 SE CENTRAL PARKWAY; SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; ESTABLISHING THE SAILFISH CAY RPUD CONSISTING OF SIXTY (60) TOWNHOUSE UNITS; 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.

Attorney Mortell swore in five (5) people; Jodi Nentwick-Kugler, Development Director, Susan O'Rourke, O'Rourke Engineering, Ryan Johnston, Applicant, Jason Litterick, Landscape Architect, Mark Landsman, Engineer.

Mr. Nentwick-Kugler reviewed the conditions of approval of the project.

Bob Raynes, Land Use Attorney, noted that the dates on the exhibits were updated and item #4 was deleted. Mr. Raynes read the condition into the record.

PUBLIC COMMENT:

1.) Laura Giobbi - Ocean Ave; Commented that she would like clarification of maximum build-out and why we would be changing from commercial to multiple-family housing.

City Attorney Mortell responded.

2.) Mark Brechbill - Osceola St; Commented that he likes the idea that it is home ownership and stated that the housing has potential to become affordable; questioned how the use of the property can be restricted on the leasing portion.

6:30 PM MOTION: Approve.

MOVED BY: Eula Clarke

SECONDED BY: Campbell Rich

VOTE: Motion passed 3/2.

YES: Eula Clarke, Troy McDonald, Campbell Rich

NO: Becky Bruner, Christopher Collins

ORDINANCE FIRST READING

12. FS PROPRTIES LLC., ZONING MAP AMENDMENT (RC):

ORDINANCE No. 2513-2023; 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.

Ms. Nentwick- Kugler presented on the location, history, surrounding properties, existing and proposed future land use and zoning, Local Planning Agency comments, and staff recommendation.

Tyson Waters, Applicant, was online via Zoom, stated they agree with the staff recommendation and is available for questions.

6:36 PM MOTION: Approve.

MOVED BY: Becky Bruner

SECONDED BY: Christopher Collins

Motion approved unanimously.

Commissioner Collins commented about the email that was sent from Mr. Dyess about Walking for Warriors and would like staff to see what funding can be allocated for them.

PUBLIC COMMENT:

- 1.) Audra Creech - Palm City; Commented on the importance of funding Walking for Warriors and Safe Space; shared her personal story.
2. Tom Campenni - St Lucie Crescent; Suggested language to add to the Senate Bill "10 square miles or less".

City Manager Dyess clarified that Walking for Warriors does not qualify for ARPA funding.

DISCUSSION AND DELIBERATION

ADJOURNMENT

6:43 PM

Mary R. Kindel, City Clerk

Troy McDonald, Mayor

**Minutes to be approved at the Regular Commission
Meeting this 27th day of March, 2023.**

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 3/27/2023

Prepared by: Peter Kunen

Title of Item:

MODIFICATION TO SFWMD CONSENT ORDER 94-93-CO-93 (RC):

RESOLUTION No. 22-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE EXECUTION A MODIFICATION TO CONSENT ORDER NO. SFWMD 94-93-CO-WU WITH THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The City of Stuart executed Consent Order No. SFWMD 94-93-CO-WU with the South Florida Water Management District on October 17, 1994, and executed a Modification to the Consent Order on August 10, 2009. The City of Stuart submitted a Consumptive Use Permit Application to the South Florida Water Management District on March 10, 2023; The City is requesting a modification to the wellfield operation plan as identified in Item 20 in the August 19, 2009, Modification Consent Order No. SFWMD 94-93-CO-93.

Funding Source:

N/A

Recommended Action:

Approve.

ATTACHMENTS:

1. R22-2023 Resolution Modification to SFWMD Consent Order SFWMD 94-93-CO-WU
2. SFWMD Consent Order August 10, 2009
3. Proposed Modification to SFWMD Consent Order



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

RESOLUTION NUMBER 22-2023

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF STUART, FLORIDA AUTHORIZING THE
EXECUTION A MODIFICATION TO CONSENT ORDER
NO. SFWMD 94-93-CO-WU WITH THE SOUTH FLORIDA
WATER MANAGEMENT DISTRICT; AND PROVIDING AN
EFFECTIVE DATE, AND FOR OTHER PURPOSES.**

* * * * *

WHEREAS, The City of Stuart executed Consent Order No. SFWMD 94-93-CO-WU with the South Florida Water Management District on October 17, 1994, and executed a Modification to the Consent Order on August 10, 2009, and

WHEREAS, The City of Stuart submitted a Consumptive Use Permit Application to the South Florida Water Management District on March 10, 2023; and

WHEREAS, the City is requesting a modification to the wellfield operation plan as identified in Item 20 in the August 19, 2009, Modification Consent Order No. SFWMD 94-93-CO-93, and

**NOW THEREFOE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF
STUART, FLORIDA THAT:**

SECTION 1: The City Commission hereby authorizes to execute the Modification to the August 10, 2009, Modification to Consent Order No. SFWMD 94-93-CO-93.

SECTION 2: This resolution shall take effect on adoption.

Resolution No. 22-2023;
Modification to SFWMD Consent Order 94-93-CO-93

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this 27th day of March, 2023.

ATTEST:

MARY R. KINDEL
CITY CLERK

TROY MCDONALD
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

**BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

ORDER NO. SFWMD

-CO-WU

In re:

CITY OF STUART,

Respondent.

MODIFICATION OF CONSENT AGREEMENT NO. SFWMD 94-93-CO-WU

Pursuant to Chapter 373, Florida Statutes, and the rules promulgated thereunder, this Modification of Consent Agreement NO. SFWMD 94-93-CO-WU is entered into between the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT** ("District" or "SFWMD") and **CITY OF STUART** ("City") by mutual consent, without trial or adjudication of any issue of fact or law.

FINDINGS OF FACT

The District and City stipulate to the following Findings of Fact.

1. The District is a public corporation of the State of Florida existing by virtue of Chapter 25270, Laws of Florida, 1949, and operating pursuant to Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code, as a multi-purpose water management district with its principal office in West Palm Beach, Florida.
2. The City is a municipality of the State of Florida, with its principal office located at 121 S.W. Flagler Street, Stuart, Martin County, Florida.
3. On October 17, 1994, the parties entered into Consent Agreement No. SFWMD 94-93-CO-WU, which was incorporated by reference into the City's Water Use Permit No. 43-00053-W ("Permit") issued by the District on May 10, 2001. A true

EXHIBIT 16A

and correct copy of Consent Agreement No. 94-93-WU-CO is attached hereto as Exhibit "A."

4. Consent Agreement No. 94-93-WU-CO required the City to implement a wellfield operation plan approved by the Florida Department of Environmental Protection ("FDEP"),¹ mitigation plan, and monitoring requirements to remediate pollution of the Surficial aquifer located in close proximity to the City's wellfield. For a detailed description of the events necessitating the execution of Consent Agreement No. 94-93-WU-CO, please refer to Exhibit "A."

5. The City is authorized by Consent Agreement No. 94-93-WU-CO to withdraw water at specified rates from Well Nos. 1 through 15 until such time as the District receives written confirmation from FDEP of completion of the Feasibility Study/Conceptual Remediation Action Plan ("FS/RAP").

6. Prior to the expiration of Consent Agreement No. 94-93-WU-CO, Consent Agreement No. 94-93-WU-CO could be modified or extended by the District, or the District would consider taking action on any then pending water use permit application by the City based on the District's permitting criteria in effect at that time. Additionally, nothing in Consent Agreement No. 94-93-WU-CO would bind the Governing Board from approving such application.

7. The District has not received written notification from FDEP that the FS/RAP has been completed.

8. On or about January 28, 2005, the City submitted a water use permit application (Application No. 050128-14) to renew and modify its Permit. The City is

¹ FDEP is the state agency with jurisdiction to require remediation of ground water contaminant sites pursuant to Chapter 403, Florida Statutes.

presently seeking to modify the wellfield operation plan for Well Nos. 1 through 15, which was set forth in Consent Agreement No. 94-93-WU-CO and incorporated by reference into its Permit, as well as an increase in its Surficial aquifer allocation. A map depicting the locations of Well Nos. 1 through 15 is attached hereto as Exhibit "B."

9. The City has informed the District that the revised wellfield operation plan it proposed for Well Nos. 1 through 15 was approved by FDEP and is consistent with the FS/RAP.

10. The City seeks authorization from the District to modify the wellfield operation plan in continuation of its implementation of the remediation in the FS/RAP to remove volatile organic compound ("VOC") contaminants in the Surficial aquifer through operation of its Public Water Supply Well Nos. 1 through 15 and the City's VOC Treatment System. FDEP entered into a Consent Order with Turbocombustor Technologies ("TCT") to remediate the contaminant plume and approved TCT's FS/RAP which involves offsite remediation through operation of the City's Public Water Supply Wells Nos. 1 through 15 and the City's VOC Treatment System.

11. The City received District authorization to use water in conjunction with the FS/RAP operations through the execution of Consent Agreement No. 94-93-CO-WU and the issuance of its May 10, 2001 Permit. The City also executed an Agreement with TCT, dated May 27, 1992, in order to implement the FS/RAP. The District accepted said Agreement insofar as it was found to be consistent with the requirements of Consent Agreement 94-93-CO-WU.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. The District has regulatory authority over consumptive uses of water in the District pursuant to Part II of Chapter 373, Fla. Stat.

13. Rule 40E-2.301(1)(d), F.A.C., requires an applicant for a consumptive use permit to provide reasonable assurances that the proposed water use will not cause pollution of the aquifer. It is the position of the District that the requested water withdrawals to implement the FS/RAP will cause movement of contaminants into a previously uncontaminated portion of the Surficial aquifer. Therefore, pursuant to the above-cited District rules, a water use permit may not be issued by the District to institute this remediation. The City contends that area-wide VOC contamination from known and unknown sources has existed within said Surficial aquifer since as early as 1986 and a water use permit may be issued to implement the FS/RAP.

14. In addition to its permitting authority, Section 373.171(1), Fla. Stat., authorizes the water management districts to issue orders affecting the use of water, as conditions warrant to "obtain the most beneficial use of the water resources of the state and to protect the public, health, safety, and welfare and the interests of the water user affected...."

15. Chapter 373, Fla. Stat., gives deference to water management district governing boards in defining how to maximize reasonable-beneficial uses of the State's water resources, including the balance of various missions to address harm to the water resources while developing water resources for consumptive uses. *Village of Tequesta v. Jupiter Inlet Corp.*, 371 So. 2d 883 (Fla. 1979); *Harloff v. City of Sarasota and*

SWFWMD, 575 So. 2d 1324 (Fla. 2d DCA 1991); Osceola County v. St. Johns River Water Management District, 488 So. 2d 616 (Fla. 5th DCA 1986), aff'd, 504 So. 2d 385 (Fla. 1987).

16. The District is authorized to issue orders pursuant to Section 373.083, Fla. Stat.

17. The Governing Board finds that approval of the water withdrawals is necessary to implement the FS/RAP for removal of VOC contaminants from the aquifer and to allow the City to operate its wellfield in order to meet its public water supply demands. As a result, execution of this order modifying the Consent Agreement is authorized pursuant to Section 373.171, Fla. Stat.

18. Considering the above findings of fact, it is necessary and appropriate to modify the wellfield operational plan and allocation set forth in Consent Agreement No. SFWMD 94-93-CO-WU.

ORDER

Based upon the above Findings of Fact, Ultimate Facts and Conclusions of Law, the Governing Board orders that:

19. The City shall continue to implement and enforce all actions required under Consent Agreement No. SFWMD 94-93-WU-CO and all miscellaneous provisions incorporated in said Consent Agreement shall remain in effect, except as provided herein.

20. The wellfield operation plan as set forth in Paragraph 2 of the Order Section of Consent Agreement No. SFWMD 94-93-WU-CO is hereby modified to reflect the following:

Public Water Supply Wells Nos. 1 through 15 shall be operated according to the following schedule. At times of average daily demand, the wells shall be operated in three groups at the following average rates:

Group 1

Well Number	Withdrawal Rate
4	0.175 MGD (123 GPM for 24 hours continuously)
6	0.133 MGD (94 GPM for 24 hours continuously)
10	0.200 MGD (140 GPM for 24 hours continuously)
13	0.242 MGD (169 GPM for 24 hours continuously)

Group 2

Well Number	Withdrawal Rate
1	0.200 MGD (140 GPM for 24 hours, 7 day cycle)
3	0.191 MGD (138 GPM for 24 hours, 7 day cycle)
5	0.133 MGD (94 GPM for 24 hours, 7 day cycle)
7	0.166 MGD (116 GPM for 24 hours, 7 day cycle)
9	0.166 MGD (116 GPM for 24 hours, 7 day cycle)
11	0.208 MGD (146 GPM for 24 hours, 7 day cycle)
15	0.242 MGD (169 GPM for 24 hours 7 day cycle)

Group 3

Well Number	Withdrawal Rate
2	0.191 MGD (138 GPM for 24 hours, 7 day cycle)
8	0.166 MGD (116 GPM for 24 hours, 7 day cycle)
12	0.230 MGD (161 GPM for 24 hours, 7 day cycle)
14	0.250 MGD (175 GPM for 24 hours 7 day cycle)

A. Group 1 wells will be pumped continuously. Wells 4, 6, 10, and 13 are scheduled to be run continuously for the purpose of optimizing the ability of the wellfield to capture the TCT contaminant plume, with the exception of up to two weeks of scheduled maintenance per year.

B. Group 2 wells will be pumped for 7 days, and then rested for 7 days. When Group 2 wells are resting, Group 3 wells will be pumped for 7 days, and then rested for seven days. The pumping sequence shall then be repeated.

C. At times of peak day demand, all wells may be operated. If Group 2 wells are operating and Group 3 wells are resting, Wells 2 and 14 will be placed into service before Wells 8 and 12. If Group 3 wells are operating and Group 2 wells are resting, Wells 1, 3, 11, and 15 will be placed into service before Wells 5, 7, and 9.

21. The allocations set forth in Paragraph 3 of the Order Section of Consent Agreement No. 94-93-WU-CO are hereby modified to reflect the following: The MAXIMUM ANNUAL ALLOCATION shall not exceed 1,341 MG (3.67 MGD). The MAXIMUM DAILY ALLOCATION shall not exceed 5.22 MG.

22. Persons who are not parties to this Order, but whose substantial interests may be affected by the Order, may have a right to petition this Order. A notice of rights is attached and incorporated as Exhibit "C."

23. This is a final order from the District, pursuant to Section 120.52(7), F.S., and is final and effective on the date filed with the Clerk of the District unless a petition for administrative hearing is filed in accordance with Chapter 120, F.S., or any other applicable state law. Upon the timely filing of a petition, this order modifying Consent Agreement No. 94-93-CO-WU will not be effective until further order from the District.

DONE AND SO ORDERED in West Palm Beach, Palm Beach County, Florida,
on this 10 day of August 2009.



Attested:

By:

Cathy Wideman
Assistant Secretary

Dated: 8/10, 2009

**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
BY ITS GOVERNING BOARD**

By:

Carol A. Webb
Executive Director or designee

Legal Form Approved:

By:

Jennifer Bokankowitz, Esq.

RESPONDENT: CITY OF STUART

By:

James A. Christie, Jr.
Print Name: James A. Christie, Jr.
Print Title: Mayor

**APPROVED
AS TO FORM
& CORRECTNESS**

Paul J. Nicoletti
**PAUL J. NICOLETTI
CITY ATTORNEY**

**BEFORE THE GOVERNING BOARD OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

ORDER NO. SFWMD -CO-WU

In re:

CITY OF STUART,

Respondent.

MODIFICATION OF CONSENT AGREEMENT NO. SFWMD 94-93-CO-WU

Pursuant to Chapter 373, Florida Statutes, and the rules promulgated thereunder, this Modification of Consent Agreement NO. SFWMD 94-93-CO-WU is entered into between the **SOUTH FLORIDA WATER MANAGEMENT DISTRICT** ("District" or "SFWMD") and **CITY OF STUART** ("City") by mutual consent, without trial or adjudication of any issue of fact or law.

FINDINGS OF FACT

The District and City stipulate to the following Findings of Fact.

1. The District is a government entity of the State of Florida existing by virtue of Chapter 25270, Laws of Florida, 1949, and operating pursuant to Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code, as a multi-purpose water management district with its principal office in West Palm Beach, Florida.
2. The City is a municipality of the State of Florida, with its principal office located at 121 S.W. Flagler Street, Stuart, Martin County, Florida.
3. On October 17, 1994, the parties entered into Consent Agreement No. SFWMD 94-93-CO-WU, which was incorporated by reference into the City's Water Use Permit No. 43-00053-W ("Permit") issued by the District on May 10, 2001. A true and

correct copy of Consent Agreement No. 94-93-WU-CO is attached hereto as Exhibit "A."

4. Consent Agreement No. 94-93-WU-CO required the City to implement a wellfield operation plan approved by the Florida Department of Environmental Protection ("FDEP"),¹ mitigation plan, and monitoring requirements to remediate pollution of the Surficial aquifer located in close proximity to the City's wellfield. For a detailed description of the events necessitating the execution of Consent Agreement No. 94-93-WU-CO, please refer to Exhibit "A."

5. The City is authorized by Consent Agreement No. 94-93-WU-CO to withdraw water at specified rates from Well Nos. 1 through 15 until such time as the District receives written confirmation from FDEP of completion of the Feasibility Study/Conceptual Remediation Action Plan ("FS/RAP").

6. Prior to the expiration of Consent Agreement No. 94-93-WU-CO, Consent Agreement No. 94-93-WU-CO could be modified or extended by the District, or the District would consider taking action on any then pending water use permit application by the City based on the District's permitting criteria in effect at that time. Additionally, nothing in Consent Agreement No. 94-93-WU-CO would bind the Governing Board from approving such application.

7. The District has not received written notification from FDEP that the FS/RAP has been completed.

8. On or about June 12, 2020, the City submitted a water use permit application (Application No. 200612-14) to renew and modify its Permit. The City is

¹ FDEP is the state agency with jurisdiction to require remediation of ground water contaminant sites pursuant to Chapter 403, Florida Statutes.

presently seeking to modify the wellfield operation plan for Well Nos. 1 through 15, which was set forth in Consent Agreement No. 94-93-WU-CO and incorporated by reference into its Permit. A map depicting the locations of Well Nos. 1 through 15 is attached hereto as Exhibit "B." The City is requesting the same allocation from the surficial aquifer system that was previously approved. The modification also requests an allocation from the deeper, brackish, Floridan Aquifer System.

9. The City has informed the District that the revised wellfield operation plan it proposed for Well Nos. 1 through 15 was approved by FDEP and is consistent with the FS/RAP.

10. The City seeks authorization from the District to modify the wellfield operation plan in continuation of its implementation of the remediation in the FS/RAP to remove volatile organic compound ("VOC") contaminants in the Surficial aquifer through operation of its Public Water Supply Well Nos. 1 through 15 and the City's VOC Treatment System. FDEP entered into a Consent Order with Turbocombustor Technologies ("TCT") to remediate the contaminant plume and approved TCT's FS/RAP which involves offsite remediation through operation of the City's Public Water Supply Wells Nos. 1 through 15 and the City's VOC Treatment System.

11. The City received District authorization to use water in conjunction with the FS/RAP operations through the execution of Consent Agreement No. 94-93-CO-WU and the issuance of its May 10, 2001 Permit. The City also executed an Agreement with TCT, dated May 27, 1992, in order to implement the FS/RAP. The District accepted said Agreement insofar as it was found to be consistent with the

requirements of Consent Agreement 94-93-CO-WU.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. The District has regulatory authority over consumptive uses of water in the District pursuant to Part II of Chapter 373, Fla. Stat.

13. Rule 40E-2.301(1)(d), F.A.C., requires an applicant for a consumptive use permit to provide reasonable assurances that the proposed water use will not cause pollution of the aquifer. It is the position of the District that the requested water withdrawals to implement the FS/RAP will cause movement of contaminants into a previously uncontaminated portion of the Surficial aquifer. Therefore, pursuant to the above-cited District rules, a water use permit may not be issued by the District to institute this remediation. The City contends that area-wide VOC contamination from known and unknown sources has existed within said Surficial aquifer since as early as 1986 and a water use permit may be issued to implement the FS/RAP.

14. In addition to its permitting authority, Section 373.171(1), Fla. Stat., authorizes the water management districts to issue orders affecting the use of water, as conditions warrant to "obtain the most beneficial use of the water resources of the state and to protect the public, health, safety, and welfare and the interests of the water user affected...."

15. Chapter 373, Fla. Stat., gives deference to water management district governing boards in defining how to maximize reasonable-beneficial uses of the State's water resources, including the balance of various missions to address harm to the water resources while developing water resources for consumptive uses. *Village of Tequesta v. Jupiter Inlet Corp.*, 371 So. 2d 663 (Fla. 1979); *Harloff v. City of Sarasota and*

SFWMD, 575 So. 2d 1324 (Fla. 2d DCA 1991); *Osceola County v. St. Johns River Water Management District*, 486 So. 2d 616 (Fla. 5th DCA 1986), *aff'd*, 504 So. 2d 385 (Fla. 1987).

16. The District is authorized to issue orders pursuant to Section 373.083, Fla. Stat.

17. The Governing Board finds that approval of the water withdrawals is necessary to implement the FS/RAP for removal of VOC contaminants from the aquifer and to allow the City to operate its wellfield in order to meet its public water supply demands. As a result, execution of this order modifying the Consent Agreement is authorized pursuant to Section 373.171, Fla. Stat.

18. Considering the above findings of fact, it is necessary and appropriate to modify the wellfield operational plan and allocation set forth in Consent Agreement No. SFWMD 94-93-CO-WU.

ORDER

Based upon the above Findings of Fact, Ultimate Facts and Conclusions of Law, the Governing Board orders that:

19. The City shall continue to implement and enforce all actions required under Consent Agreement No. SFWMD 94-93-WU-CO and all miscellaneous provisions incorporated in said Consent Agreement shall remain in effect, except as provided herein.

20. The wellfield operation plan as set forth in Paragraph 2 of the Order Section of Consent Agreement No. SFWMD 94-93-WU-CO is hereby modified to reflect the following:

Public Water Supply Wells Nos. 1 through 15 shall be operated according to the approved operating plan contained in the City's Consumptive Use Permit ("CUP"), located at www.sfwmd.gov/ePermitting under Permit No. 43-00053-W.

21. The allocations set forth in Paragraph 3 of the Order Section of Consent Agreement No. 94-93-WU-CO are hereby modified to reflect the following: The MAXIMUM ANNUAL SURFICIAL AQUIFER ALLOCATION shall not exceed 1,341 MG (3.67 MGD). The MAXIMUM MONTHLY SURFICIAL AQUIFER ALLOCATION shall not exceed 130.65 MG.

22. Persons who are not parties to this Order, but whose substantial interests may be affected by the Order, may have a right to petition this Order. A notice of rights is attached and incorporated as Exhibit "C."

23. This is a final order from the District, pursuant to Section 120.52(7), F.S., and is final and effective on the date filed with the Clerk of the District unless a petition for administrative hearing is filed in accordance with Chapter 120, F.S., or any other applicable state law. Upon the timely filing of a petition, this order modifying Consent Agreement No. 94-93-CO-WU will not be effective until further order from the District.

DONE AND SO ORDERED in West Palm Beach, Palm Beach County, Florida, on this ____ day of _____ 2022.

**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
BY ITS GOVERNING BOARD**

By: _____
Executive Director or designee

Attested:

Legal Form Approved:

By: _____
Assistant Secretary
Dated: _____, 2022

By: _____
Savannah W. Middlebush, Esq.

RESPONDENT: CITY OF STUART

By: _____
Print Name: _____
Print Title: _____

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST City Commission

Meeting Date: 3/27/2023

Prepared by: Pinal Gandhi-Savdas

Title of Item:

NAMING OF CITY RIGHT OF WAY BETWEEN SE JOAN JEFFERSON AND SW OCEAN BLVD. (RC):

RESOLUTION No. 20-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE NAMING OF PUBLIC RIGHT OF WAY LOCATED IN THE TRIANGLE DISTRICT BETWEEN SW JOAN JEFFERSON WAY TO SW OCEAN BLVD; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The City and CRA initiated the request to legally assign a name to a public right-of-way between SW Joan Jefferson Way to SW Ocean Blvd located within the Community Redevelopment Area. The right-of-way is located in the Triangle District (Potsdam) which is home to many historical structures. The path runs adjacent to the the AT&T building from Joan Jefferson Way south to 3rd Avenue. On the South end, it abuts an Art Studio which occupies the historic building known as the 1895 Church of StuArt and the north end is the historic Walton building which was preserved and repurposed into a restaurant. The CRA recently improved the right of way to provide better connectivity as well as a pedestrian connection through the Triangle District.

The staff is recommending naming the public right of way to honor the late Alice Luckhardt, a local historian and researcher who contributed so much to the preservation of Stuart's history and landmarks.

The Luckhardt family opened one of Stuart's first flee markets (Lucky's Market) on 11 acres of land owned by the family. The city has a street known as Luckhardt Street to the south of Stuart off SE Federal Highway. The naming will honor Alice Luckhardt's legacy in Stuart and also encourage the community to use the thoroughfare as an inviting corridor within the Triangle District.

The staff recommends assigning the name **Alice Luckhard Lane** to the public alley between SW Joan Jefferson to SW Ocean Blvd as depicted in the attached Resolution/Exhibit.

Funding Source:

N/A

Recommended Action:

Approve Resolution No. 20-2023 with a recommended name for the right of way.

ATTACHMENTS:

1. Resolution No 20-2023 Naming Alley
2. Alice Luckhardt Bio
3. Historic Structures in Triangle District (Potsdam)
4. The First Community Church in Stuart, Florida - Treasure Coast Biz
5. The historic Walton building on Decker Avenue is moving to downtown Stuart
6. Map - SE Luckhardt Street
7. Early-Pioneers



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

RESOLUTION NUMBER 20-2023

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF STUART, FLORIDA AUTHORIZING THE
NAMING OF PUBLIC ALLEY LOCATED IN THE
TRIANGLE DISTRICT BETWEEN SW JOAN JEFFERSON
WAY TO SW OCEAN BLVD; PROVIDING AN EFFECTIVE
DATE; AND FOR OTHER PURPOSES.**

* * * * *

WHEREAS, the City and CRA initiated the request to legally assign name to public alley between SW Joan Jefferson Way to SW Ocean Blvd located within the Community Redevelopment Area; and

WHEREAS, the alley is located in the Triangle District (Potsdam) which is a home to many historic structures; and

WHEREAS, the narrow walkway from SW Joan Jefferson Way to SE 3rd Street is donned with the first community church built in Stuart and historic Walton building; and

WHEREAS, the CRA is recommending naming the public alley to honor Alice Luckhardt, a local historian and researcher who contributed so much to the preservation of Stuart's history and landmarks;

WHEREAS, her affiliation with Stuart has enhanced the qualify of life of Stuart's residents; and

Resolution Number 20-2023
Alley Naming between SW Joan Jefferson Way and SW Ocean Blvd

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

SECTION 1: The City Commission hereby authorizes to legally assign name to public alley between SW Joan Jefferson Way to SW Ocean Blvd as depicted on “Exhibit A” to be named Alice Luckhardt Lane.

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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED 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

Resolution Number 20-2023
Alley Naming between SW Joan Jefferson Way and SW Ocean Blvd

EXHIBIT A





Alice Louise (Kershaw) Luckhardt
Halpatiokee DAR meeting 12.9.22

Alice Louise (Kershaw) Luckhardt was born in Orlando, Florida, February 28, 1950, to parents Harry and Nan (Everhart) Kershaw.

Alice's accomplishments through the years were many and varied.

Having been diagnosed with cancer in June 2022, she bravely succumbed to the disease, December 4, 2022, at age 72.

She grew up in Dade County, a 1968 graduate of Miami Central High, Miami-Dade Junior College and Florida State by 1972 with a B.S. in history and education to be employed as a teacher at Stuart Middle School, relocating to Stuart, Florida that year.

Alice was involved with curriculum committee and class projects, several honored with monetary awards.

She organized a student European field trip tour with a dozen students in 1977 and another in '83.

In Daytona Beach in April 1986, Alice was honored with a trophy as one of the outstanding social studies teachers in Florida and in 1990 selected to be in the first edition of 'Who's Who Among American Teachers' nominated by a student.

She retired from teaching in 1990 to assist husband, Greg, with the family business, Lucky's Flea Market and Storage on Luckhardt Street in Stuart.

During this time, Alice developed an interest in genealogy and family research, submitting a story to a nationally known genealogist to be

selected and published in the book "In Search of Our Ancestors: 101 Inspiring Stories" in 1999.

After Lucky's Flea Market sold in 2000,

Alice devoted more time for genealogical and historical research projects. She wrote several true stories which were published in national and local magazines such as: Ancestry, Internet Genealogy, History, Discovering Family History Magazine, South Florida History, Family Chronicle, Florida Monthly, Fort Pierce, Jupiter, Genealogical Helper and Reminisce with several articles also published Online in 'Suite 101' and 'Associated Content' both being historical websites.

She wrote four books since 2006, published through Lulu of NC, titled "Legends ~ Family Stories and Myths," "The Invincible Alice," "O.B. Padgett ~ A Florida Son" and the most recent in 2016, "Did You Know?" featuring forty little known facts or historical events.

She also assisted in providing research and how-to articles for the genealogy sites, WikiTree and FamilyTree.com.

Selected by Arcadia Publishing in NC, Alice researched and organized 200 vintage photos, 1890s-1950s, which included history of Stuart for the company's 'Images of America' series, released in 2016. From 2012-2022

Alice with husband, Greg, researched and wrote a weekly series of 'Historical Vignettes' for TC Palm's, Your News, which with that and other acknowledged accomplishments were, selected Martin County Historical Preservation Board's Preservationists of the Year in 2013. With thousands of images and news articles, Greg created a *Community Scrapbook* that has been made available to the Stuart Heritage

Museum, the Elliott Museum, historian Sandra Thurlow, and the archivist at the *Stuart News*.

In presenting the HPB Preservationist of the Year award the Board Chairman, Joette Rice said “An important duty of the *Martin County Historic Preservation Board* is to: ‘Promote an awareness of the benefits of historic preservation and its benefits to the community.’ By collecting, recording, and sharing the history of Martin County with us, Alice and Greg have fostered an appreciation of our unique heritage and raised awareness of the benefits of historic preservation

Alice also extensively researched for projects for the Elliott Museum and Gilbert's House of Refuge in Martin County and was involved in Stuart Heritage Museum's Historic Home Tours. Since 2010 she was a member of the museum's Board of Directors.

As a qualified Martin County historian, Alice enjoyed lecturing at various venues regarding Martin County's interesting history and was involved with the Stuart Main Street committee and creation of the 7 ft historical 'sailfish' markers throughout the town.

She was the historical coordinator for the 'Century in Review' a live 90-minute program at the Lyric Theatre to mark the 100th anniversary of the City of Stuart in March 2014. In 2015,

Alice researched and proposed naming the Gazebo in downtown Stuart for Fergie Ferguson, a war hero and accomplished athlete. She also assisted in providing information about local fallen soldiers, one of which is selected each year to be honored with a plaque in the park by the City of Stuart on Memorial Day.

In 2015, she was asked to participate in the writing and filming of a docudrama television episode for a show titled, "American Lawmen" produced by Cineflix for the American Heroes Channel, featuring Alice's extensive research of the Ashley Gang. She appeared on the program which aired nationally March 9, 2016.

Alice is a member of the Stuart Heritage Museum, Martin County Historical Society, Martin County Genealogical Society, International Society of Family History Writers and Editors, Carroll County, MD Genealogical Society and a former member, officer of the Daughters of the British Empire of Florida.

On December 9, 2016 she was awarded "Women in American History" by the National and Local DAR organization for historical research, one of only ten in the nation selected that year and the first in Martin County.

In June 2018, Alice accepted as a member of the Halpatiokee Chapter of the Stuart DAR. Her DAR patriot was Captain Conrad Sherman of Berks County, Pennsylvania. She served as co-chair of the Chapter's America 250 and Historic Preservation Committee .For the 70th anniversary of the founding of Halpatiokee Chapter, Alice co-authored "Halpatiokee Salutes It's Founderss-2019."

She has assisted All Saints Church in Jensen Beach with research through the years and most recently with information for those buried with no available record.

Alice was involved with Emancipation Day history in 2021 and has provided research for the Stuart City Commissioners for preserving historic landmarks.

For 2021, the FSSDAR, Florida DAR recognized and honored Alice for efforts in various local preservation projects and presentations.

During 2022, she was involved with the History Channel's series, Great Escapes, with information and filming regarding a local boy who led a life of crime, noted as one of the great prison escape artists.

Through the years, Alice often assisted members of the community in answering genealogical or historically related questions, always dedicated and enthusiastic in preserving the region's little known facts and interesting stories.

She will certainly be missed as a local historian and researcher who has contributed so much for Martin County, which is quite evident.

In lieu of flowers and cards, memorial donations may be made to Stuart Heritage Museum.

Her service will be held January 7, 2023 11:00 a.m. at All Saints Episcopal Church in Jensen Beach, Florida. All are invited.

Dec. 16, 2022 – Martin County Genealogical Society

**Remembering Alice Louise (Kershaw) Luckhardt
(Feb. 28, 1950 – Dec. 4, 2022)**

Alice Louise (Kershaw) Luckhardt was born in Orlando, Florida, to Harry and Nan (Everhart) Kershaw, and grew up in Dade County. In June of this year, she learned that she had cancer and bravely succumbed to the disease earlier this month.

Alice came to Stuart in 1972 to teach at Stuart Middle School, with a brand new B.S. in history and education from Florida State University. Her dedication and ability earned recognition from peers and students as one of Florida's Outstanding Social Studies Teachers (1986) and inclusion in the first edition of *Who's Who among American Teachers* (1990; she was student nominated).

Although helping her husband Greg in the family business took her away from teaching, Alice continued to be a vital part of the local history and genealogy communities.

She believed that everyone – not just famous people – has an interesting story, and enjoyed uncovering and sharing those stories in books, magazine and website articles, talks, and other venues, ranging from historical markers to theater and museums.

Alice's Work and Legacy

Her books:

- *Legends: Family Stories and Myths* (2006, revised 2008)
- *The Invincible Alice* (2007)
- *O.B. Padgett: A Florida Son* (2014)
- *Did You Know?* (2016)
- *Stuart* (2016) for which Alice researched and organized 200 vintage photos, 1890s-1950s, for the Arcadia Press "Images of America" series

Magazines in which her articles appeared:

- | | |
|------------------------------|-----------------------|
| • Ancestry | • Florida Monthly |
| • Internet Genealogy | • Fort Pierce |
| • History | • Jupiter |
| • Discovering Family History | • Genealogical Helper |
| • South Florida History | • Reminisce |
| • Family Chronicle | |

Websites for which she contributed research and articles:

- | | |
|----------------------|------------------|
| • Suite 101 | • WikiTree |
| • Associated Content | • FamilyTree.com |

Other publications:

- “Your News,” TC Palm, researched and wrote a weekly series of historical vignettes with her husband, Greg.

Community Activities:

- Researcher for the Elliott Museum and Gilbert’s House of Refuge
- Board member, Stuart Heritage Museum
- Speaker/lecturer on Martin County history
- Researched and proposed naming the gazebo in downtown Stuart for Fergie Ferguson, a war hero and accomplished athlete
- Helped provide information about local fallen soldiers, one of which the city selects annually to be honored on Memorial Day with a plaque in the park
- Stuart Heritage Museum’s Historic Home Tours
- Creation of the 7-foot historical “sailfish” markers throughout Stuart
- Historical coordinator for “Century in Review” a live 90-minute program at the Lyric Theatre to mark Stuart’s 100th anniversary
- Co-chair of the America 250 and Historic Preservation Committee for the Halpatiokee Chapter of the DAR
- Researcher into burials with no available records for All Saints Church in Jensen Beach

Member of:

- Stuart Heritage Museum
- Martin County Historical Society
- Martin County Genealogical Society
- International Society of Family History Writers and Editors
- Carroll County, Maryland Genealogical Society
- Halpatiokee Chapter of the Daughters of the American Revolution
- Previous member, and officer of the Daughters of the British Empire of Florida

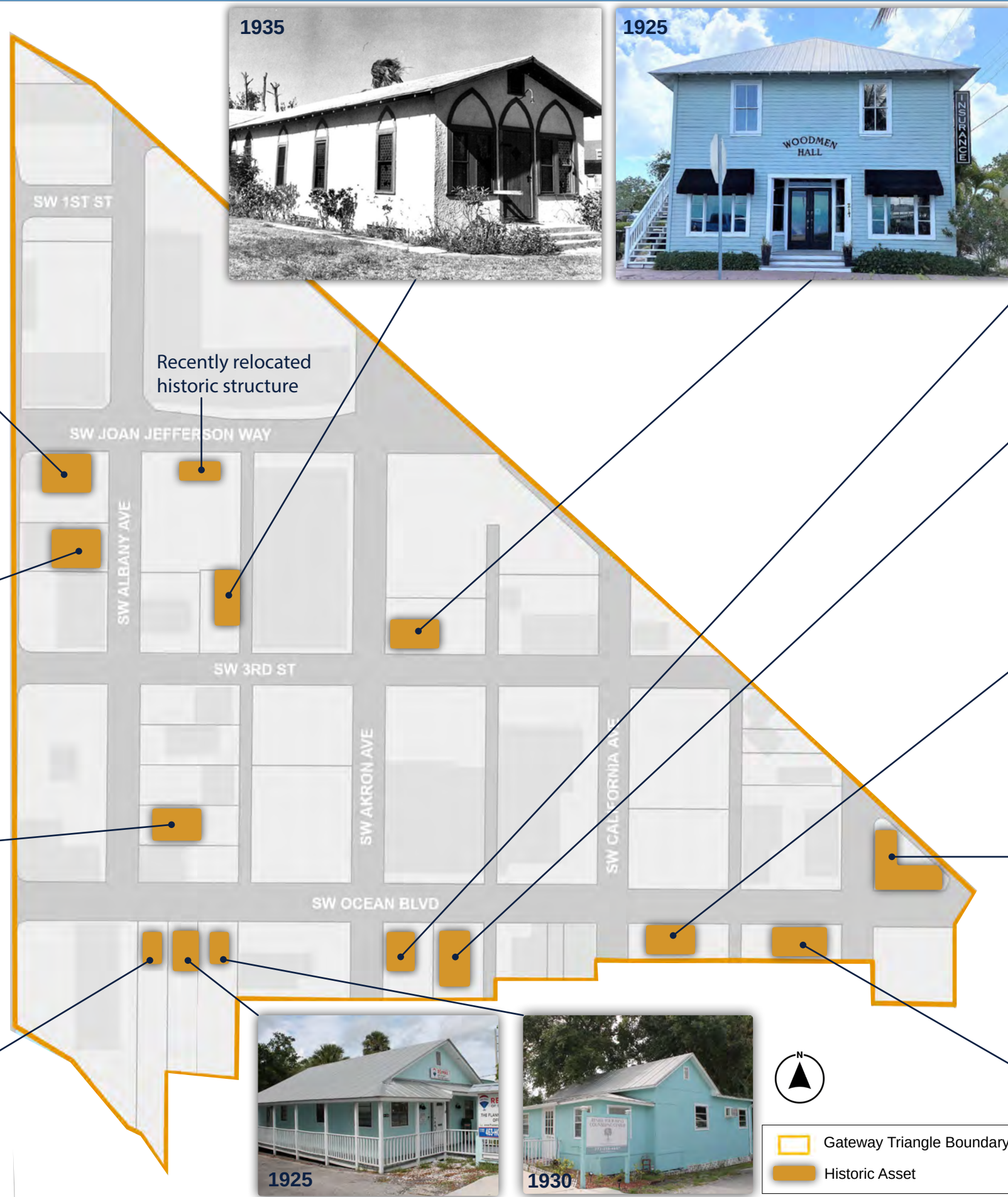
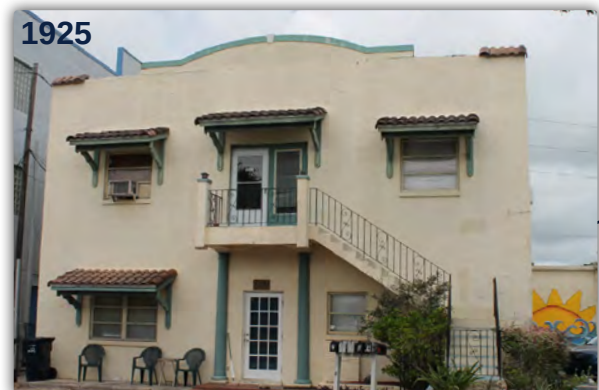
Awards, not already mentioned:

- Martin County Preservationists of the Year (2013), shared with her husband, Greg
- “Women in American History,” for historical research, from both the national and local chapter of the Daughters of the American Revolution

In honor of her life’s work, in lieu of flowers and cards, memorial donations may be made to Stuart Heritage Museum, 161 SW Flagler Ave., Stuart, 34994, or <https://www.stuartheritagemuseum.com/donations/>.

HISTORIC PRESERVATION

The study area is home to many historic structures, some of which are identified here with their location and year of construction. Structures may be contributing assets to a historic district. Historic structures may have value as historic sites for their architectural significance.



THE 1895 CHURCH OF STUART

Treasure Coast Biz

Martin County Lifestyle Magazine

Menu

The First Community Church in Stuart, Florida

Our special Thank You to Alice L. Luckhardt and Sandra Henderson Thurlow.



This little Methodist Church, completed shortly before Potsdam's name was changed to Stuart in June 1895, was the community's only house of worship for many years. (1902, Thurlow / Ruhnke Collection)

The town's first church was built by the First Methodist Church in May 1895 with wood supplies sent via a boat from Titusville. Its dedication was June 1895.





"The location given is now in the middle U.S.1, just after you cross the Roosevelt Bridge going south. This little painted white church and red roof with a tall steeple attracted people from miles around. It was the church for the whole community whatever their denomination, as it was the only church here," – wrote [Mrs. John E. Taylor \(Sara Josephine Kitching\) in her short memoir on the history of the First United Methodist Church in Stuart, Florida](#). In the photograph above, you can see the first church and the George W. Parks General Merchandise, built in 1901, and what we now know as the Stuart Heritage Museum. The church was placed close to the tracks so anyone traveling via the train could see the steeple and know this was a civilized town. Just before 1900 there were 12

members for the Methodist Church.



Three men sit on the stoop of Stuart's first church. Walter Kitching's general merchandise store can be seen in the background and smoke from a passing wood-burning locomotive appears in the right-hand corner. (Photo courtesy Historical Society of Martin County)

The seating capacity of the Community Church is unknown but would have been small in accord with the area's population. Stuart's population in 1900 was just under 100 people, and by 1917-1918 it was 1,200.

In 1907, the little first Methodist Church was outgrown, and a new, second, First Methodist Church was started, built on the corner of West 2nd Street and Avenue D (now Albany Avenue).

The first little Methodist church with the red roof was sold, the steeple was removed, and it was used as a residence. Later, the former community church was used by numerous commercial businesses, including a cleaning shop, real estate office, newspaper office, print shop, and the Stuart Chamber of Commerce.

Members of the local Episcopal Church of All Saints in Jensen began planning on building a Stuart Episcopal Church in June 1925. They

figured it would cost \$30,000. Raising the necessary funds took awhile and in the meantime with hurricanes striking Florida including Stuart, banks closing and investment money not available, the hope of a church vanished.

A major move and transformation occurred in 1930 when a new reorganized Stuart Episcopal congregation still in need of a building looked at the former Community Church. This now deserted 1895 church was purchased for \$300 by the congregation and moved in the summer 1930 to two donated lots (from Stanley Kitching and John Charles Hancock) on West 3rd Street and then renovated by the church members.

Men with nails, hammers, saws, lumber and paint have been rushing about in an effort to transform the little building into an Episcopal church. This included removing the tall original steeple. They enlarged and improved the building with special wooden trim 'arches' made to adorn the outside windows and a Sunday School addition was built onto the original structure.

Squads of ladies armed with pins, needles and sundry materials have taken up their "residence," with grim determination to have everything ready. No one could imagine what the united effort of those loyal and gallant church members could produce without a peek inside the now completed edifice. The little building was now not as small as it may look from the outside. It had a comfortable seating capacity for 85 people not including the choir of about 10 persons.



The building that served as the community's first church was purchased by local Episcopalians, moved to West Third Street, and dedicated as St. Mary's Episcopal Church in 1932. (Photo courtesy Leona Rue Luckhardt)

In January 1932, the building was ready for service, dedicated and named St. Mary's Episcopal Church. Over the years the church was able to seat 120 people.

Added next door (on the left side) to the new St. Mary's Episcopal Church was a special thatched structure which could be used for large church meetings, pageants and shows put on by different members of the congregation.





The children of St. Mary's Episcopal Church stand beside the Parish House made with palm logs and fronds and windows salvaged from the Royal Poinciana Hotel in Palm Beach. (Photo courtesy Dr. H. H. "Dale" Hipson)



The Rev. William B. Hays who became Priest in Charge of both All Saints and St. Mary's on January 15, 1933, stands with the Junior Choir next to St. Mary's Church on West Third Street in April 1933 (Photo courtesy Leona Rue Luckhardt)

St. Mary's Episcopal Church grew and became a popular church in Stuart. Eventually, they needed a larger church. At Hospital Avenue and 4th St. (later known as East Ocean Blvd) they built in 1949-1950 a new church. They figured the old church would be moved later next to the new church to be used for Sunday School and the 3rd Street lots would be offered for sale. This did not happen, instead it remained the church's parish house for a few years. By June 1953 St. Mary's Episcopal Church instead had constructed a new cloister room, three Sunday School rooms and a kitchen, connected to the main church by a breezeway.



Parishioners visit with each other in front of the original St. Mary's Episcopal Church in 1949. The new priest, Fr. G. P. Huntington stands near the doorway. (Photo courtesy Dale M. Hudson)

In 1951 the Methodist bought this property including the little church, and it was back home again with its original owners. At this same time it was moved over several feet to the south east to make room for their parsonage. The first church was then used as their Methodist Youth center. All this property was sold in January of 1961.

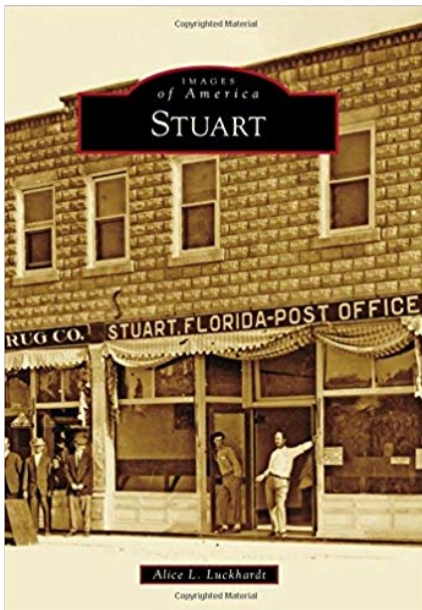
The 1895 church building, constructed over a hundred and twenty years ago, was made of good solid materials. Portions of the building are made of nearly indestructible Dade County pine.

In June of 2019, Olga Hamilton and Robert W. Hamilton, Jr. purchased the historic building of the town's first church. Their mission is to restore the steeple. Visit us on Facebook – [The 1895 Church of StuArt.](#)



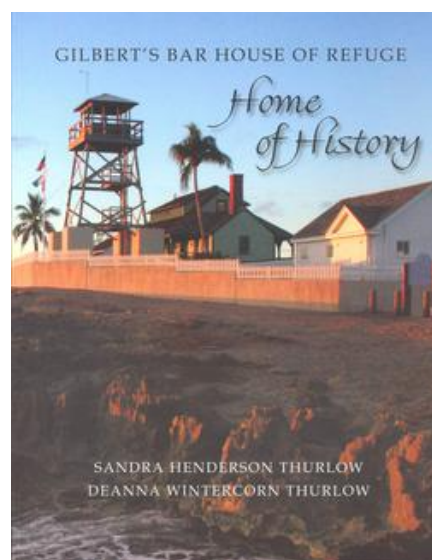


Alice L. Luckhardt and Sandra Henderson Thurlow at the Stuart Heritage Museum, Stuart, Florida. Their books are available at the Museum's gift shop.



Alice L. Luckhardt, a native Floridian, historian, and genealogist, has collected and compiled rare photographs with interesting stories that document the life and times of Stuart's early residents. These efforts, which include images from the archives of the Stuart Heritage Museum, Elliott Museum, and vast private collections, will thus preserve a permanent legacy to these industrious and daring pioneers. The book 'Images of America: Stuart' by Alice L. Luckhardt contains over 200 vintage photographs, highlighting old landmarks, including the Stuart welcome sign and the St. Lucie River Yacht Club, along with snapshots of Osceola Avenue and more. Copies of the "Stuart"

book by Alice L. Luckhardt are available at [the Stuart Heritage Museum](https://the-stuart-heritage-museum.com/), and all sales benefit the non-profit museum.



Sandra Henderson Thurlow has devoted thirty years to researching, collecting and sharing local history. Her three coffee-table-style books, Sewall's Point: The History of a Peninsular Community on Florida's Treasure Coast, first published in 1992 and republished in 2007, Stuart on the St. Lucie, published in 2002, and Historic Jensen and Eden on Florida's Indian River, published in 2004, showcase photographs collected from pioneer families and community leaders. Sandra's fourth book, Gilbert's Bar House of Refuge — Home of History published in collaboration with her daughter-in-law, Deanna Thurlow, was completed in March 2020. The entire proceeds from book, which chronicles the history of Martin County's oldest and most historic building, benefit the Historical Society of Martin County.

HISTORIC BUILDING RESTORATION IN STUART, FLORIDA

HELP US PUT THE STEEPLE BACK!



CLICK HERE FOR MORE INFORMATION

[Treasure Coast Food Bank resumes Food for Thought Tours](#)

[Louis C. and William D. McFarlan: Stuart Glass Negatives – covering 1901 to possibly 1910 to 1911](#)

Copyright © 2022 Treasure Coast Biz - MartinCountyLifestyleMag.com



NEWS

Historic building from 1926 is moving to downtown Stuart

Sade M. Gordon Treasure Coast Newspapers

Published 12:41 p.m. ET Sept. 21, 2020 | Updated 11:17 a.m. ET Sept. 22, 2020

STUART — A shabby little building on the outskirts of the city is moving to Albany Avenue for a makeover and a new purpose.

The historic Walton building will be restored and repurposed into a takeout restaurant by a local business owner. It was moved in 2016 to Decker Avenue from its original home since 1926 on Akron Avenue.

The building was supposed to move back to downtown Stuart after 90 days, but the deal fell through with the owner of the Albany Avenue lot. Now, four years later, the Walton will finally have new purpose.

“It’s an economic reuse of a historical property and I think that’s a win-win,” Mark Brechbill, business consultant and the current owner of the Walton building, said at last week's commission meeting.

In 1907, the Bentel family bought the vacant plot of land off Dixie Highway for \$125. About two decades later, Fred Walton, a contractor and builder leased the land from the Bentels. He built the Walton there in 1926 as an office building for his construction company.

Walton was also the builder for the third iteration of the Lyric Theatre and the Hibiscus Apartments, which were demolished in 2019 and replaced with the Townhomes of Frazier Creek by a local builder.

“Too many historic buildings ... they’ve already had their past destroyed solely because they were old,” said Alice Luckhardt in her presentation to city commissioners last week. “This building has age, it has history and can continue to provide purpose to the local citizens.”

The Walton building has worn many hats: it's been an office, beauty salon, beauty shop, deli, vegan restaurant and burger restaurant. It was abandoned and relocated in 2016.

For its future, Sue Parks, a Stuart resident and founder of Stuart Segway Tours, envisioned a stylish takeout restaurant, selling root beer floats and cheeseburgers.

"My plans are to make it like an old-time café," said Parks. She pictured a small menu of breakfast and lunch items for locals to stop by on their wanderings through Stuart. "I'm really excited about it."

Parks is renting the Walton building from the property owner, Brechbill, but they are holding off on establishing the specifics of the lease until the restoration of the building is complete. She said assuming there are no delays, she's hoping to complete renovations and be ready to open by January.

The city commission voted 3-2 last week to allow Brechbill to move the Walton from city-owned property to his own property on Albany Avenue. The building sat rent-free on the city's land a few years past the original 90-day deadline, which Tom Reetz, the senior development planner for Stuart, called "water under the bridge."

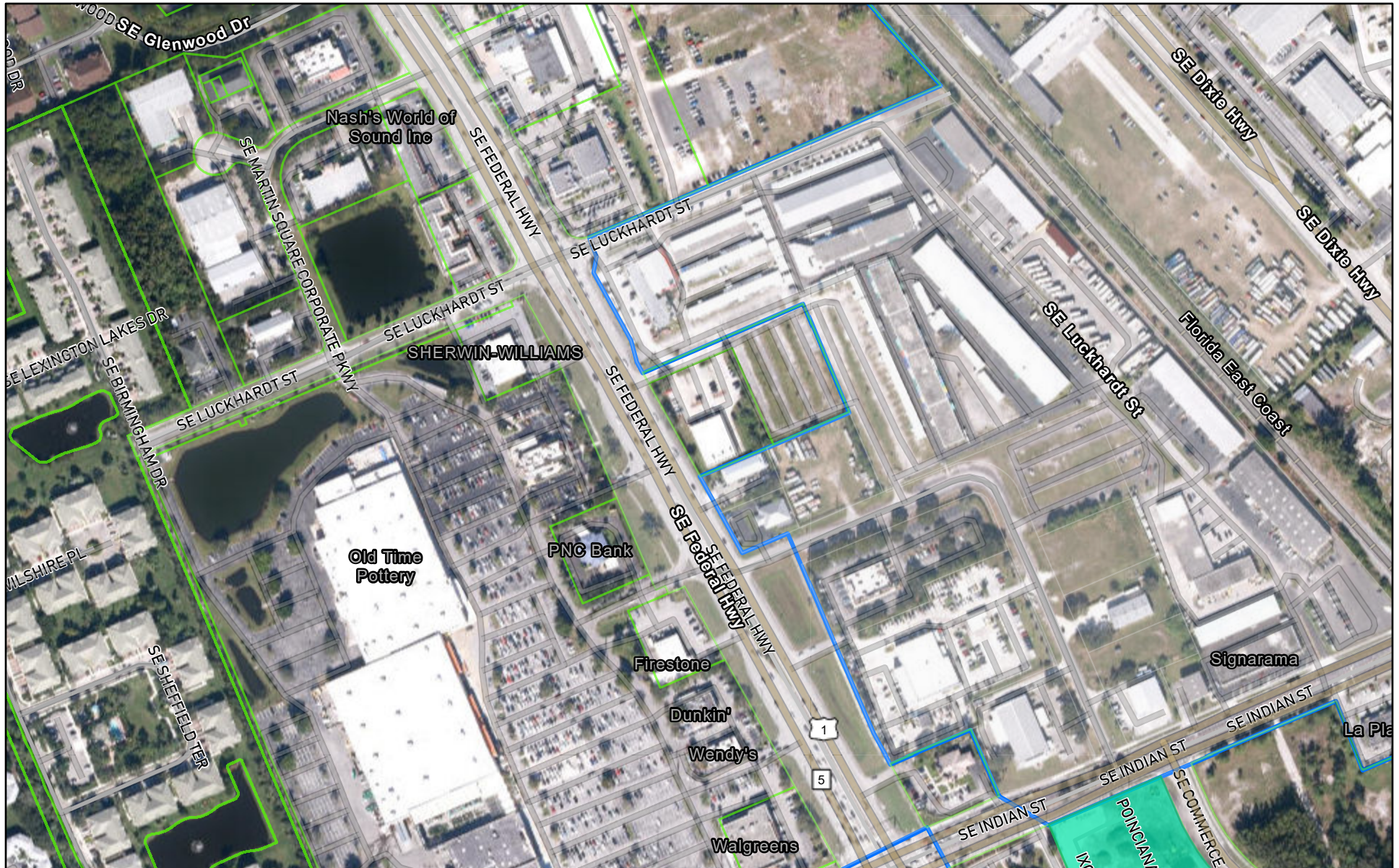
Commissioners added a caveat to their vote: if Brechbill didn't get the permits required for the move within 90 days, the city could dispose of the building as it sees fit.

Mayor Mike Meier and Commissioner Merritt Matheson voted against the Walton building's relocation, citing concerns about the building's lack of shade, parking and restroom availability. Matheson was also concerned about the site plan's violation of the city's development code requiring public art on site.

"I don't question the value, the historic value of the building," Meier said at last week's meeting. "But it seems to me like the idea 'we want to preserve the building' ... and it's like 'Here's a place to put it. Let's put it here.' "

More: Repurposing historic buildings is important in cities of all sizes

ArcGIS Web Map



3/10/2023, 2:02:42 PM

Current Projects View - Current Projects City of Stuart Parcels

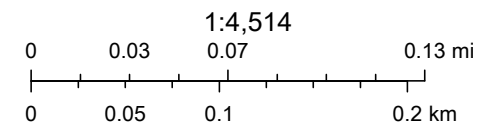
■ COMPLETED

■ City of Stuart

■ Utility Customers and Other

□ Stuart City Limits

— Roads



State of Florida, Maxar, Esri, Community Maps Contributors, FDEP, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph,

ArcGIS Web AppBuilder

The Rue and Luckhardt Families

Constructing Martin County

Luckhardt.....why is that name so familiar in Martin County?



Henry Rue in the 1930s.

Alice and Greg Luckhardt are noted local historians who work tirelessly to promote and preserve Martin County history. Greg is a descendant from the Rue family of Martin County pioneers. Inspired by the treasured family photos, scrapbooks and interesting stories of life in Stuart collected by Greg's parents, Roy and Leona, Greg and Alice have pursued their passion to preserve local history. Greg has compiled a Digital Community Scrapbook which includes thousands of images, articles, obituaries, and information pertaining to all aspects of Martin County's community heritage. Alice has authored several books and magazine articles. They coauthor a weekly series of historical vignettes for the *Stuart News*. Alice is a well-known speaker on the Martin County of days gone by. In 2013, Greg and Alice were recognized as the *Martin County Preservationists of the Year*.



Harriet Rue in 1928 surrounded by pineapples.

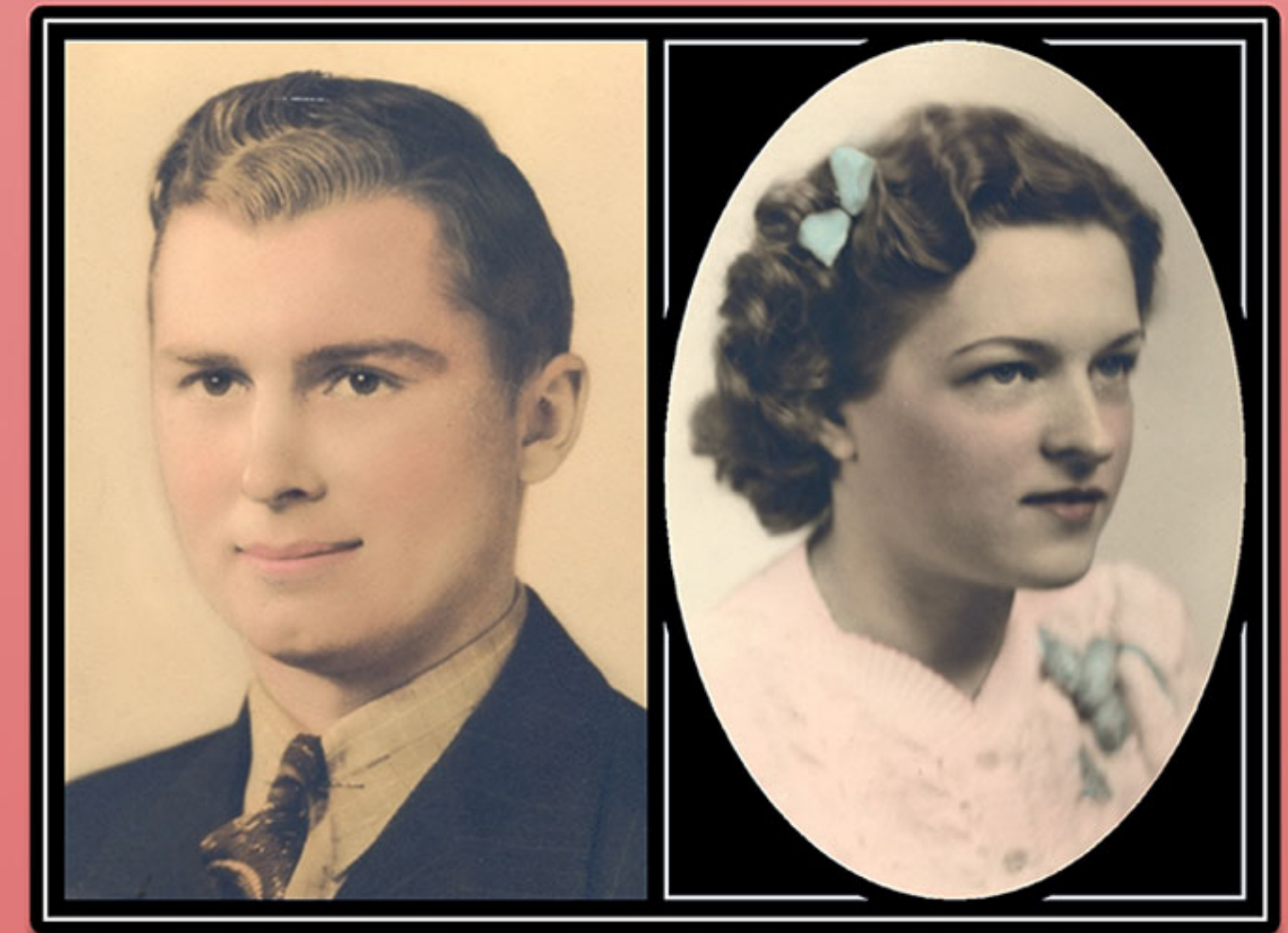
Luckhardt Street, located south of Stuart off US Hwy 1, goes back to the early 1970s. It was then that Roy Luckhardt opened one of Stuart's first flea markets on 11 acres that he owned. After Roy's death in 1984, son Greg and his wife Alice continued to manage the flea market until April of 2000.

The family history in Martin County began in 1924-25, when Henry (1862-1937) and Harriet Rue (1862-1957) along with their adult sons, Charles (1897-1968) and Fred (1899-1967), relocated from Michigan, to Stuart. The Rue's purchased the *Butter Kist Shoppe* from Nathen Hickey and renamed it *Rue and Sons Sweet Shop*. The business was a successful addition to Stuart's newly developing downtown. Henry passed away in 1937 and the sweet shop closed in the 1940s; Harriet went on to own *Friendly Tavern*. In 1957 at the age of 95, Harriett passed away as Stuart's oldest resident.

From 1932-1953, son Fred owned *Stuart Paint Store*, while his wife Viola served as the county tax clerk.

Son, Charles Rue was a civic leader and deeply involved in community affairs. He rose to serve as Master of the Masonic Lodge in 1930, and President of the Kiwanis Club in 1950. Through Martin County's formative years, Charles had an interesting and varied career as a sign painter, carpenter-cabinet maker, bookkeeper, manager or salesman for several businesses including Texaco, Pontiac, Firestone, Luckhardt Construction, and the *Stuart News*. When elected Chairman of the Martin County School Board in the 1930s, he traveled to Ohio to pick up and drive Martin County's first school-owned bus back to Stuart. Charles and his wife Lois also organized a small "orchestra" ensemble, which entertained at many local functions. Lois served as president of PTA in 1935.

During WWII, Charles received a citation for work as a civilian carpenter in the Engineers Corps at Camp Murphy. He designed and built one of the first observation towers for the war effort on Hobe Sound Beach. Lois also volunteered her services at Camp Murphy as a seamstress.



Roy Luckhardt in 1938 and Leona Rue in 1937.

Charles and Lois were founding members of the first St. Mary's Church on 3rd St. The couple was instrumental in facilitating the construction and growth of the parish. in the 1930s they established the first Sunday School and Children's Choir. Lois was the church organist. Charles was actively involved in the new church on 4th Street-East Ocean Blvd. when it was built in 1949.

Charles and Lois had two daughters, Leila (1917-2001) and Leona (1919-2015). Leona remained in Stuart and married Roy "Lucky" Luckhardt (1921-1984) in 1947. They raised three children - Grant, Greg, and Elisa. Roy owned *Luckhardt Construction*, a heavy equipment construction company and other businesses in Stuart over the years. Roy's businesses were responsible for many noteworthy projects in Martin County and in the 1960s, his company did extensive work on Alligator Alley.



At the Lighthouse Restaurant in Stuart, 1952, the Rue /Luckhardt family celebrates Harriet M. Rue's 90th birthday. Left to right are: Viola Rue, Fred Rue, Greg Luckhardt, Leona R. Luckhardt, Hattie M. Rue, Roy Luckhardt, Grant Luckhardt, Charles H. Rue and Lois R. Rue.

The Luckhardt family continues to call Martin County home, promoting and preserving its unique history by sharing it with locals and visitors alike.



Both Photos: *Luckhardt Construction* with its heavy equipment was instrumental in building the infrastructure of Martin County. Above: a new sign is installed over the Arch in Jensen Beach, 1954.

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST City Commission

Meeting Date: 3/27/2023

Prepared by: Peter Kunen

Title of Item:

SIGN UP AND SAVE INCENTIVE PROGRAM (RC):

RESOLUTION No. 23-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING A REVISED SIGN UP AND SAVE INCENTIVE TO UNSEWERED PROPERTIES IN THE CITY OF STUART FOR THE PERIOD BEGINNING APRIL 1, 2023, AND ENDING ON MARCH 31, 2024. PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

To clarify and be consistent with past practices, the following is provided:

1. Residential properties include: simplex grinder tank installation, electrical panel installation, decommissioning of existing septic tank, all piping, and restoration.
 - a. \$10,000.00 after 1st year of new sign up and save incentive sunsets.
 - b. \$8,000.00 if Agreement is executed within the 1st year.
 - c. \$7,000.00 if Agreement is executed and paid in full within 1st year.
2. Commercial properties (1ERC) include simplex grinder tank installation, electrical panel installation, decommissioning of existing septic tank, all piping, and restoration.
 - a. \$10,000.00 after 1st year of new sign up and save incentive sunsets.
 - b. \$8,000.00 if Agreement is executed within the 1st year.
 - c. \$7,000.00 if Agreement is executed and paid in full within 1st year.
3. Commercial properties (more than 1 ERC, with a maximum of 4 ERC's) include a duplex grinder tank installation, electrical panel installation, decommissioning of existing septic tank, all piping, and restoration.
 - a. \$13,465.00 plus an additional \$2,092.00 per ERC with a maximum of no more than 4 ERC's.
 - b. \$2,000.00 credit if Agreement is executed within 1st year.
 - c. An additional \$1,000.00 credit if paid in full within the 1st year.
4. The above installations are owned, operated, and maintained by the City.
5. Commercial properties with more than 4 ERC's are not eligible for the sign up and save incentives and must construct infrastructure in accordance with the City's latest Utility Standards

and Specifications.

Funding Source:

N/A

Recommended Action:

Approve Resolution

ATTACHMENTS:

1. R23-2023 Sign Up and Save Incentives



BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 23-2023

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING A REVISED SIGN UP AND SAVE INCENTIVE TO UNSEWERED PROPERTIES IN THE CITY OF STUART FOR THE PERIOD BEGINNING APRIL 1, 2023, AND ENDING ON MARCH 31, 2024. PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the City's Voluntary Septic to Sewer Program has resulted in more than one-thousand four hundred and fifty-eight (1,458) residential property owners signing Agreements to connect to the City-wide Low Pressure Sewer System and thus taking advantage of sign up and save incentives; and

WHEREAS, the septic to sewer sign up and save incentive program ended on July 24, 2021; and

WHEREAS, the Stuart City Commission has a desire to re-establish incentives to the approximate seven hundred (700) residential properties and commercial properties in the City that remain on septic systems; and

WHEREAS, the City of Stuart recognizes that septic to sewer conversions in the City's Sewer Service Area are beneficial to the water quality of the St. Lucie River; and

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

SECTION 1: The foregoing precatory language is adopted as if set forth below.

SECTION 2: To further incentivize the owners of unsewered properties in the City, the City will provide an additional opportunity to take advantage of a sign up and save incentive discount option.

SECTION 3: The updated charge for a residential property owner to connect to the City's low pressure sewer system is \$10,000.00

SECTION 4: If an Agreement is executed and the charges are placed on the City's utility bill for a ten-year period (no interest loan) prior to March 31, 2024, a \$2,000.00 credit will be applied to the charges for all eligible property owners within City.

SECTION 5: To further incentivize the owners of properties in the City an additional \$1,000.00 credit will be applied to those property owners who sign an Agreement and pay the full amount prior to March 31, 2024.

SECTION 6: Commercial properties (1 ERC) are eligible for the same incentive as a residential property.

SECTION 7: Commercial properties with more than one (1) ERC shall pay the updated charge of \$13,465.00 and an additional \$2,092.00 per ERC with a maximum of no more than four (4) ERC's; and

SECTION 8: Commerical incentives will be applied based on total cost.

SECTION 9. This Resolution shall become effective on April 1, 2023, and expire on March 31, 2024.

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:

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

YES	NO	ABSENT	ABSTAIN

Resolution No. 104-2016

Resolution authorizing a one-year sign up and save incentive discount to unsewered properties in the Manor, Riverview, Pelican, Stypmann, Osceola, Cabana Pint, and Hibiscus Sewer Basins

ADOPTED 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

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 3/27/2023

Prepared by: Michael Mortell

Title of Item:

AUTHORIZATION OF MAYOR TO EXECUTE INTERIM CITY ATTORNEY CONTRACT (RC):

RESOLUTION No. 24-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE AN EMPLOYMENT CONTRACT WITH PAUL J. NICOLETTI, ESQ. FOR THE INTERIM CITY ATTORNEY POSITION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

At the March 9, 2023 Special City Meeting, the City Commission unanimously voted to instruct staff to negotiate a part time contract for Paul Nicoletti to serve as interim City Attorney. Mr. Nicolletti has provided a proposal to the City and the Human Resources Department vetted same. Resolution 24-2023 grants authority to the Mayor to execute a contract for the interim services.

Funding Source:

N/A

Recommended Action:

Approve Resolution No. 24-2023.

ATTACHMENTS:

1. R24-2023 Auth. for Mayor to execute Interim City Atty Contract with PN



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

RESOLUTION NUMBER 24-2023

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE AN EMPLOYMENT CONTRACT WITH PAUL J. NICOLETTI, ESQ. FOR THE INTERIM CITY ATTORNEY POSITION; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the Charter of the City of Stuart provides in Section 3.06 that there shall be a City Attorney, appointed by the City Commission, who shall serve as the legal advisor to and attorney for the City. The City Attorney shall prosecute and defend all suits, complaints, and controversies for and on behalf of the City, unless otherwise directed by the Commission, and shall review all contract, bonds, and other instruments in writing in which the City is to be a party, and shall endorse on each approval as to form and legality; and

WHEREAS, during the Special Commission meeting held on March 9, 2023, to discuss the filling of the future vacant City Manager position, the Commission voted unanimously to appoint the current City Attorney, Michael J. Mortell, as the Interim City Manager for a period of six (6) months; and

WHEREAS, with City Attorney, Michael J. Mortell, acting as the Interim City Manager, the City Attorney position will become vacant; and

WHEREAS, at that same Special Commission meeting the City Commission also discussed and voted unanimously to appoint Paul J. Nicoletti, Esq. as Interim City Attorney. As the former City Attorney and City Manager of the City of Stuart, Mr. Nicoletti is familiar with the workings of every City department and possesses the institutional history and intimate knowledge of the City's business and the policy objectives the City Commission desires to achieve; and

WHEREAS, the City Commission desires to enter into an employment contract with Paul J. Nicoletti, Esq., for the position of Interim City Attorney.

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

SECTION 1: The City Commission wishes to appoint Paul J. Nicoletti, Esq. as the Interim City Attorney for a period designated by the City Commission.

SECTION 2: The Mayor is hereby authorized to negotiate and execute the employment contract with Paul J. Nicoletti, Esq. for interim legal services

SECTION 3: 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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this _____ day of March, 2023.

ATTEST:

MARY R. KINDEL
CITY CLERK

TROY MCDONALD
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

CITY OF STUART, FLORIDA AGENDA ITEM REQUEST City Commission

Meeting Date: 3/27/2023

Prepared by: Michael Mortell

Title of Item:

90 DAY EXTENSION FOR DUE DILIGENCE ON OLD CITY LANDFILL PROPERTY (RC):

RESOLUTION No. 25-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING AN EXTENSION OF NINETY (90) DAYS OF DUE DILIGENCE TO THE VACANT LAND CONTRACT ENTERED INTO WITH PURCHASER, GOLDSTEIN KITE ENVIRONMENTAL, LLC AND THE CITY OF STUART, FLORIDA RELATED TO THE SALE OF THE OLD CITY LANDFILL PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The original contract included a 270 day due diligence period to conduct studies and obtain a brownfield designation. The buyer has contacted the City and explained that it needs to do additional investigation and is requesting an additional 90 days to the due diligence period.

Goldstein Kite Environmental, LLC. has conducted significant due diligence on the property related to inspections, environmental regulatory designations, and pursuing governmental financial assistance for the property. Goldstein Kite Environmental, LLC. wishes to conduct further due diligence by having a Comprehensive Phase II Environmental Site Assessment, Geotechnical Study, and a Traffic Study done and completed on the property.

A copy of the adopting Resolution (R69-2021) is attached to the agenda. It was approved by the Commission on September 27, 2021. The Real Estate contract is attached to the Resolution as well. Pursuant to the Real Estate contract, there was a 275 day Feasibility Study period. From the "effective date of the contract", the buyer in its sole and absolute discretion could determine if the property is suitable for its intended use. Pursuant to paragraph 3 of the Contract, the effective date is the date on which the last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter offer. The date shown on the contract is June 10, 2022. 275 days from the effective date if following the contract, is March 12, 2023. However, the Resolution was adopted on September 27, 2022.

If the Resolution was deemed the effective date, then the Feasibility period would end or the 275 days would expire on June 29, 2023. Unfortunately, I have been litigating with Julianne Mandody lately and when everyone gets along, ambiguity does not matter but when litigation begins, everyone seeks to interpret the agreements in the light most unfavorable to the City. If the City Commission grants an extension, it should specific date rather than a number of days. This will resolve any ambiguity.

Funding Source:

N/A

Recommended Action:

Approve Resolution Number 25-2023 authorizing a 90 day extension to the due diligence period.

ATTACHMENTS:

1. R25-2023 Auth. 90 day Ext. for Due Diligence City Landfill
2. Goldstein Kite Environmental



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

RESOLUTION NUMBER 25-2023

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING AN EXTENSION OF NINETY (90) DAYS OF DUE DILIGENCE TO THE VACANT LAND CONTRACT ENTERED INTO WITH PURCHASER, GOLDSTEIN KITE ENVIRONMENTAL, LLC AND THE CITY OF STUART, FLORIDA RELATED TO THE SALE OF THE OLD CITY LANDFILL PROPERTY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, beginning in 1950, the Old City Landfill site was owned and utilized by Martin County as an open disposal area and was then acquired by the City of Stuart in 1962, where waste disposal at the site continued until the mid-1970's when the City placed limitations on the type of wastes that could be placed on the property.

WHEREAS, trench and fill construction was later utilized by the City for waste burial. Ultimately, the landfill was closed for waste disposal in 1980.

WHEREAS, over the years, the City has leased a portion of the landfill while continuing to solicit leasing opportunities in accordance with a Florida Department of Environmental Protection Environmental Resource Permit that limits the permitted activities on the property.

WHEREAS, the City entered into a Vacant Land Contract with Goldstein Kite Environmental, LLC to purchase the property from the City.

WHEREAS, Goldstein Kite Environmental, LLC. has conducted significant due diligence on the property related to inspections, environmental regulatory designations, and pursuing governmental financial assistance for the property.

WHEREAS, Goldstein Kite Environmental, LLC. wishes to conduct further due diligence by having a Comprehensive Phase II Environmental Site Assessment, Geotechnical Study, and a Traffic Study done and completed on the property.

WHEREAS, Goldstein Kite Environmental, LLC. has requested an additional ninety (90) days of due diligence in order to complete these.

WHEREAS, there is no prejudice to the City of Stuart in granting an additional ninety (90) days for Goldstein Kite Environmental, LLC. to complete the assessment and studies.

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

SECTION 1: The City Commission agrees and authorizes the Purchaser, Goldstein Kite Environmental, LLC a ninety (90) day extension to complete its due diligence on the Old City Landfill property.

SECTION 2: Further, all remaining terms of the Vacant Land Contract entered into by the City of Stuart and Purchaser, Goldstein Kite Environmental, LLC shall remain in full effect.

SECTION 3: 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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this _____ day of March, 2023.

ATTEST:

MARY R. KINDEL
CITY CLERK

TROY MCDONALD
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

LEOPOLD KORN, P.A.

ATTORNEYS AT LAW

Temporary Address (pending permanent move):

20801 Biscayne Boulevard
Suite 501
Aventura, FL 33180

Phone (Main): 305-935-3500 x 209

Direct Phone: 305-356-8401

Direct Telefax: 786-899-2301

Email: nleopold@leopoldkorn.com

Norman Leopold
Gary A. Korn
Karen S. Leopold
Hilary S. Feinstock
Noah A. Leopold

June 24, 2022

Michael J. Mortell, Esq.
Mr. David Dyess
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

VIA EMAIL: mmortell@ci.stuart.fl.us

VIA EMAIL: ddyess@ci.stuart.fl.us

RE: GOLDSTEIN KITE ENVIRONMENTAL REDEVELOPMENT PARTNERS STUART I,
LLC Purchase from City of Stuart; Vacant Land ("the Property")

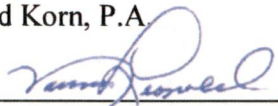
Dear Michael:

Please be advised that this firm is holding in escrow the deposit in the amount of \$100.00 for the purchase of the above-referenced property.

Should you have any questions, please feel free to contact me.

Sincerely,

Leopold Korn, P.A.

By: 

Norman Leopold, for the Firm

NL/ym

Cc: Mr. Michael R. Goldstein, Esq. (via email)
Mr. Kelly Kite (via email)

I:\work\REAL\Goldstein\City of Stuart\Deposits Monies Invoices\Escrow.L.doc

LEOPOLD KORN, P.A.

ATTORNEYS AT LAW



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

RESOLUTION NUMBER 69-2021

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE SALE OF THE OLD CITY LANDFILL PROPERTY AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AND TO EXECUTE A VACANT LAND CONTRACT WITH THE PURCHASER, GOLDSTEIN KITE ENVIRONMENTAL, LLC AND/OR ASSIGNS; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, beginning in 1950, the Old City Landfill site was owned and utilized by Martin County as an open disposal area and was then acquired by the City of Stuart in 1962, where waste disposal at the site continued until the mid-1970's when the City placed limitations on the type of wastes that could be placed on the property.

WHEREAS, trench and fill construction was later utilized by the City for waste burial. Ultimately, the landfill was closed for waste disposal in 1980.

WHEREAS, over the years, the City has leased a portion of the landfill while continuing to solicit leasing opportunities in accordance with a Florida Department of Environmental Protection Environmental Resource Permit that limits the permitted activities on the property.

WHEREAS, for a few years the City of Stuart hauled and processed all yard waste collected in the City to the Old City Landfill.

WHEREAS, an offer from Goldstein Kite Environmental, LLC to purchase the property from the City has been received.

WHEREAS, the City desires to sell the property to Goldstein Kite Environmental, LLC.

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

SECTION 1: The City Commission agrees and authorizes the City to sell the property known as the Old City Landfill.

SECTION 2: Further, the City Manager is hereby authorized to enter into and execute the Vacant Land Contract on behalf of the City of Stuart, Florida.

SECTION 3: This resolution shall take effect on adoption.

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

EULA R. CLARKE, MAYOR
MERRITT MATHESON, VICE MAYOR
BECKY BRUNER, COMMISSIONER
TROY MCDONALD, COMMISSIONER
MICHAEL J. MEIER, COMMISSIONER

YES	NO	ABSENT	ABSTAIN
Y			
Y			
Y			
Y			
Y			

ADOPTED this 27th day of September, 2021.

ATTEST:


MARY R. KINDEL
CITY CLERK 6/10/2022


~~EULA R. CLARKE~~
MAYOR Merritt Matheson

APPROVED AS TO FORM
AND CORRECTNESS:


MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY



Vacant Land Contract

1. **Sale and Purchase:** City of Stuart ("Seller")
and GOLDSTEIN KITE ENVIRONMENTAL REDEVELOPMENT PARTNERS STUART I, LLC and/or ASSIGNS ("Buyer")
(the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")
described as:
Address: _____
Legal Description: SEE ADDITIONAL TERMS ON PARAGRAPH 20 HEREIN BELOW and Rider

SEC /TWP /RNG of County, Florida. Real Property ID No.: _____
including all improvements existing on the Property and the following additional property: _____

2. **Purchase Price:** (U.S. currency).....\$ 100.00
All deposits will be made payable to "Escrow Agent" named below and held in escrow by:
Escrow Agent's Name: Leopold Korn, P.A.
Escrow Agent's Contact Person: Norman Leopold
Escrow Agent's Address: 20801 Biscayne Blvd. Aventura
Escrow Agent's Phone: 305-356-8401
Escrow Agent's Email: nleopold@leopoldkorn.com
(a) Initial deposit (\$0 if left blank) (Check if applicable)
☐ accompanies offer
☒ will be delivered to Escrow Agent within days (3 days if left blank)
after Effective Date\$ 100.00
(b) Additional deposit will be delivered to Escrow Agent (Check if applicable)
☐ within days (10 days if left blank) after Effective Date
☐ within days (3 days if left blank) after expiration of Feasibility Study Period\$ _____
(c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage).....\$ _____
(d) Other:\$ _____
(e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)
to be paid at closing by wire transfer or other Collected funds\$ -0-
(f) ☐ (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The
unit used to determine the purchase price is ☐ lot ☐ acre ☐ square foot ☐ other (specify): _____
prorating areas of less than a full unit. The purchase price will be \$ _____ per unit based on a
calculation of total area of the Property as certified to **Seller** and **Buyer** by a Florida licensed surveyor in
accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the
calculation: _____
3. **Time for Acceptance; Effective Date:** Unless this offer is signed by **Seller** and **Buyer** and an executed copy
delivered to all parties on or before _____, this offer will be withdrawn and **Buyer's** deposit, if
any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is
delivered. The "Effective Date" of this contract is the date on which the last one of the **Seller** and **Buyer**
has signed or initialed and delivered this offer or the final counter offer.
4. **Closing Date:** This transaction will close on See Paragraph 20 ("Closing Date"), unless specifically
extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,
but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,
Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business
day. In the event insurance underwriting is suspended on Closing Date and **Buyer** is unable to obtain property
insurance, **Buyer** may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If
this transaction does not close for any reason, **Buyer** will immediately return all **Seller** provided documents and
other items.

Buyer [Signature] (_____) and Seller [Signature] (_____) acknowledge receipt of a copy of this page, which is 1 of 7 pages.

VAC-10 Rev 8/14

© Florida Realtors®

5. **Financing: (Check as applicable)**

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

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

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

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

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

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

LN# _____ in the approximate amount of \$ _____ currently payable at \$ _____ per month, including principal, interest, ☐ taxes and insurance, and having a ☐ fixed ☐ other (describe) _____ interest rate of _____% which ☐ will ☐ will not escalate upon assumption. Any variance in the mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. **Buyer** will purchase **Seller's** escrow account dollar for dollar. If the interest rate upon transfer exceeds _____% or the assumption/transfer fee exceeds \$ _____, either party may elect to pay the excess, failing which this contract will terminate; and **Buyer's** deposit(s) will be returned. If the lender disapproves **Buyer**, this contract will terminate; and **Buyer's** deposit(s) will be returned.

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

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

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

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

(Check one) ☐ within 30 days after Effective Date ☐ at least _____ days before Closing Date,

(Check one)

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

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

VAC-10/ Rev 8/14

© Florida Realtors®

(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 _____ 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 _____ 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 275 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

Buyer (Jah) and Seller (ES) acknowledge receipt of a copy of this page, which is 3 of 7 pages.
VAC-10 Rev 8/14

© Florida Association of Realtors®

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 deed~~

~~Recording fees for documents needed to cure title~~

~~Title evidence (if applicable under Paragraph 7)~~

Other: The Seller will have no costs

(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 () () acknowledge receipt of a copy of this page, which is 4 of 7 pages.
VAC-10 Rev 8/14

© Florida Realtors®

(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.~~

Buyer () () and Seller () () acknowledge receipt of a copy of this page, which is 5 of 7 pages.
VAC-10 Rev 8/14

© Florida Realtors®

701
50
272 ~~(b) Buyer Default: If Buyer fails, neglects, or refuses to perform Buyer's obligations under this contract,~~
273 ~~including payment of deposit(s), within the time(s) specified, Seller may elect to recover and retain the~~
274 ~~deposit(s), paid and agreed to be paid, for the account of Seller as agreed upon liquidated damages,~~
275 ~~consideration for execution of this contract, and in full settlement of any claims, whereupon Seller and Buyer~~
276 ~~will be relieved from all further obligations under this contract; or Seller, at Seller's option, may proceed in~~
277 ~~equity to enforce Seller's rights under this contract.~~

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

701
50
287 ~~17. Professional Advice; Broker Liability. Broker advises Seller and Buyer to verify all facts and representations~~
288 ~~that are important to them and to consult an appropriate professional for legal advice (for example, interpreting~~
289 ~~this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor~~
290 ~~reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,~~
291 ~~property condition, environmental, and other specialized advice. Buyer acknowledges that Broker does not reside~~
292 ~~in the Property and that all representations (oral, written, or otherwise) by Broker are based on Seller~~
293 ~~representations or public records. Buyer agrees to rely solely on Seller, professional inspectors, and~~
294 ~~government agencies for verification of the Property condition and facts that materially affect Property~~
295 ~~value. Seller and Buyer respectively will pay all costs and expenses, including reasonable attorneys' fees at all~~
296 ~~levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising~~
297 ~~from Seller's or Buyer's misstatement or failure to perform contractual obligations. Seller and Buyer hold~~
298 ~~harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or~~
299 ~~damage based on (i) Seller's or Buyer's misstatement or failure to perform contractual obligations; (ii) the use or~~
300 ~~display of listing data by third parties, including, but not limited to, photographs, images, graphics, video~~
301 ~~recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's~~
302 ~~performance, at Seller's or Buyer's request, of any task beyond the scope of services regulated by Chapter 475,~~
303 ~~Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)~~
304 ~~products or services provided by any vendor; and (v) expenses incurred by any vendor. Seller and Buyer each~~
305 ~~assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve~~
306 ~~Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.~~
307 ~~This Paragraph will survive closing.~~

701
50
308 ~~18. Commercial Real Estate Sales Commission Lien Act. If the Property is commercial real estate as defined by~~
309 ~~Section 475.704, Florida Statutes, the following disclosures will apply. The Florida Commercial Real Estate Sales~~
310 ~~Commission Lien Act provides that when a broker has earned a commission by performing licensed services~~
311 ~~under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the~~
312 ~~broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.~~

701
50
313 ~~19. Brokers: The brokers named below are collectively referred to as "Broker." Instruction to closing agent:~~
314 ~~Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in~~
315 ~~separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the~~
316 ~~extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any~~
317 ~~MLS or other offer of compensation made by Seller or Seller's Broker to Buyer's Broker.~~

318* ~~(a) _____ (Seller's Broker)~~
319* ~~will be compensated by ☐ Seller ☐ Buyer ☐ both parties pursuant to ☐ a listing agreement ☐ other~~
320* ~~(specify): _____~~
321* ~~(b) _____ (Buyer's Broker)~~
322* ~~will be compensated by ☐ Seller ☐ Buyer ☐ both parties ☐ Seller's Broker pursuant to ☐ a MLS offer of~~
323* ~~compensation ☐ other (specify): _____~~

Buyer (701) () and Seller (50) () acknowledge receipt of a copy of this page, which is 6 of 7 pages.
VAC-10 Rev 8/14

© Florida Realtors®

324* 20. Additional Terms: _____
325 SEE RIDER ATTACHED
326 The Closing shall occur thirty (30) days after the end of the Feasibility Study Period
327 The Deposit in the amount of \$100.00 will be deemed to be independent consideration (the "Independent Consideration") for the execution of the Agreement.
328 Such Independent Consideration will, upon any termination of this Agreement prior to Closing, be paid by Escrow Agent to Seller.
329 The Independent Consideration is deemed earned by Seller as of the Effective Date and is non-refundable in all events;
330 provided, however, that if Closing occur, such amount will be credited against the Purchase Price.
331 ~~During the Feasibility Study period, the parties shall work together in good faith to create a development agreement for the Property.~~
332 _____
333 _____
334 _____
335 _____
336 _____
337 _____
338 _____
339 _____
340 _____

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

343* Buyer: [Signature] Date: 05/17/2022
344* Print name: Kelly P. Kite, Jr. as Manager per Rider
345* Buyer: _____ Date: _____

346* Print name: _____
347 Buyer's address for purpose of notice:
348 Address: _____
349* Phone: _____ Fax: _____ Email: _____

350* Seller: [Signature] Date: 6-10-22
351* Print name: David Dyess
352* Seller: _____ Date: _____

353* Print name: _____
354 Seller's address for purpose of notice:
355* Address: _____
356* Phone: _____ Fax: _____ Email: _____

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

Florida Association of REALTORS® and local Board/Association of REALTORS® make no representation as to the legal validity or adequacy of any provision of this form in any specific transaction. This standardized form should not be used in complex transactions or with extensive riders or additions. This form is available for use by the entire real estate industry and is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark that may be used only by real estate licensees who are members of the National Association of REALTORS® and who subscribe to its Code of Ethics. The copyright laws of the United States (17 U.S. Code) forbid the unauthorized reproduction of blank forms by any means including facsimile or computerized forms.

Buyer ([Signature]) and Seller ([Signature]) acknowledge receipt of a copy of this page, which is 7 of 7 pages.
VAC-10 Rev 8/14

© Florida Realtors®

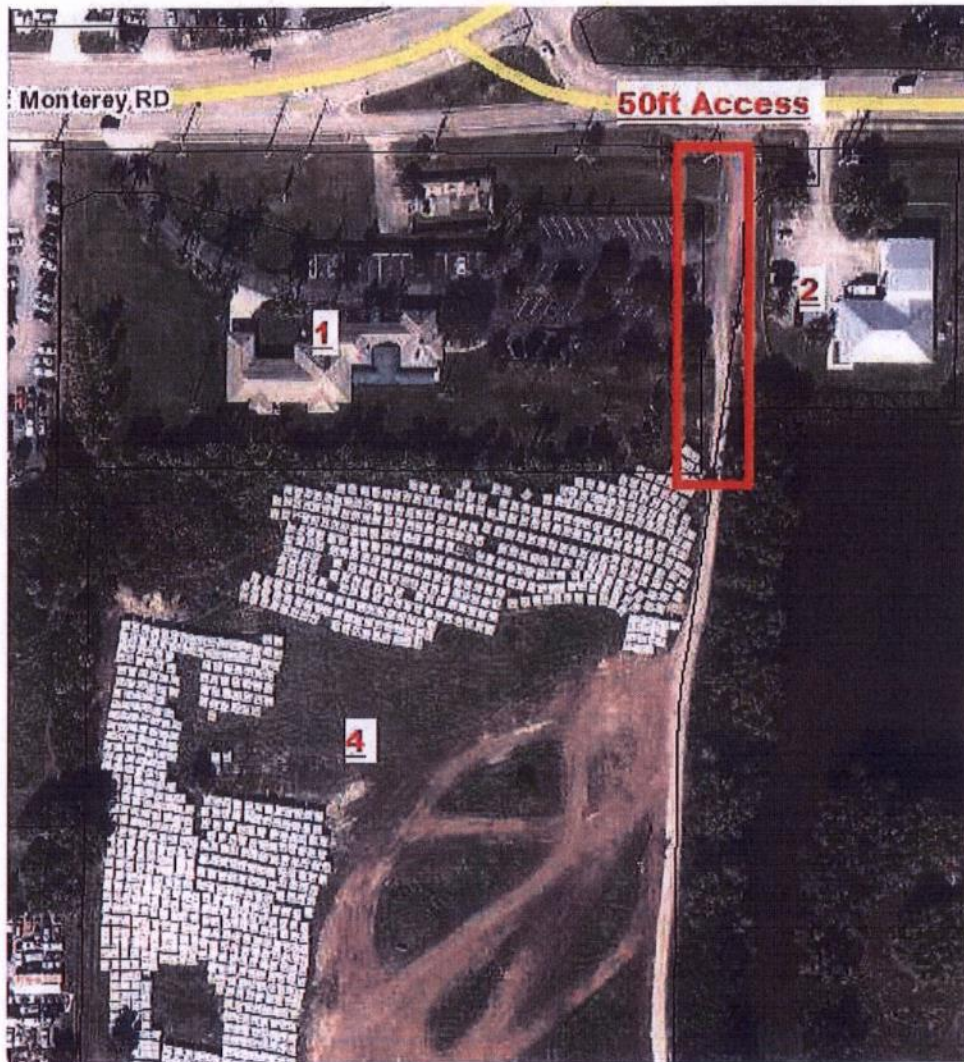
Exhibit A



Handwritten signature

05

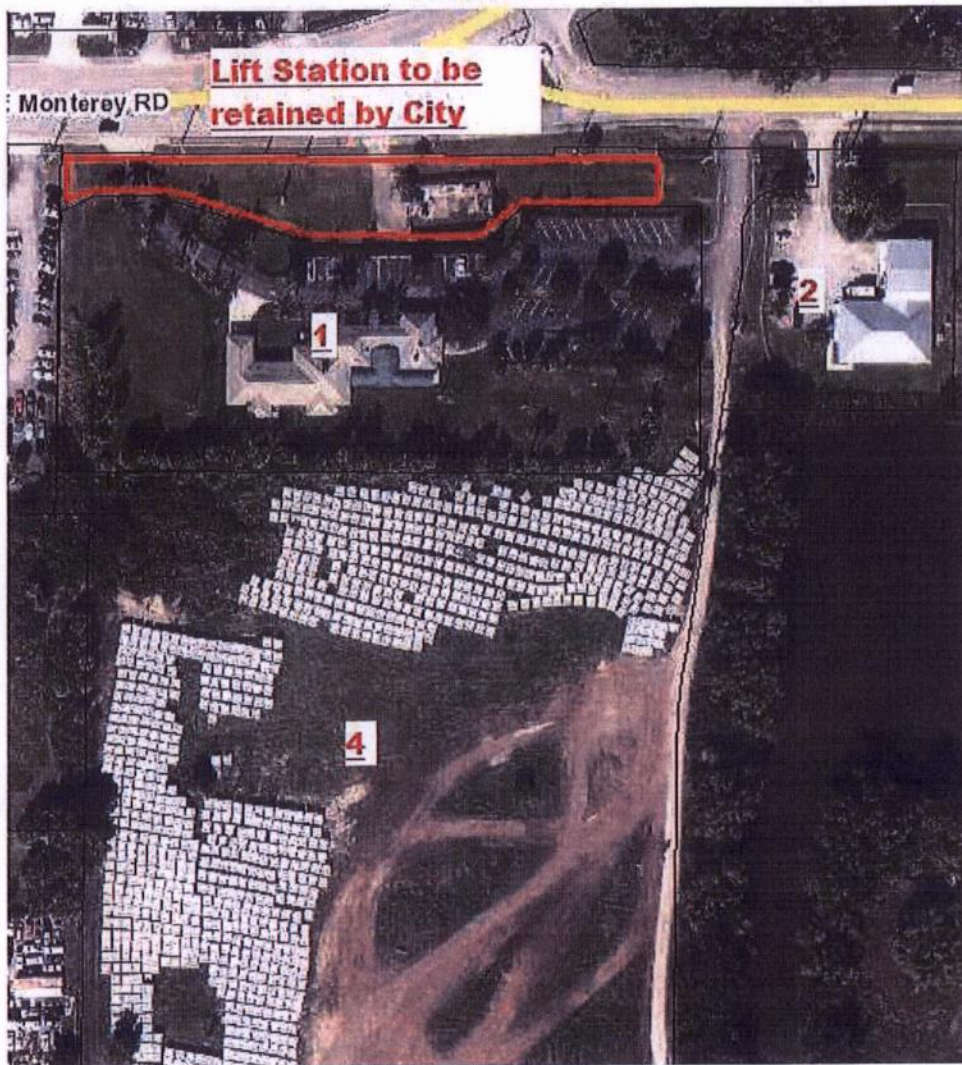
Exhibit B



2/09/

005

Exhibit C



Handwritten signature

02

Exhibit D



Handwritten signature

55

RIDER ("RIDER") TO VACANT LAND CONTRACT (THE "CONTRACT") BY AND BETWEEN CITY OF STUART, AS SELLER ("SELLER") AND GOLDSTEIN KITE ENVIRONMENTAL REDEVELOPMENT PARTNERS STUART I, LLC, AS BUYER ("BUYER")

1. General Provisions:

(a) All capitalized terms used but not defined herein shall have the meanings assigned to the same in the Contract.

(b) In the event of a conflict between the terms of the Contract and this Rider, the terms of this Rider shall prevail. Except as otherwise set forth herein, the Contract is unmodified and in full force and effect, and the parties hereby reaffirm and ratify all non-conflicting portions of the Contract. The Contract, as amended by this Rider, constitutes the entire Contract and understanding of the parties, and shall not be modified or amended except by written agreement duly executed by the parties hereto.

(c) Except as may otherwise be provided for herein, all capitalized terms used herein shall have the meaning ascribed to them in the Contract. The Contract and this Rider may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All counterparts are to be construed together and shall constitute one document. This document, including any amendments hereto, to the extent signed and delivered by means of a facsimile machine, electronic mail (including .pdf or any electronic signature e.g., www.docusign.com) or other commercially reasonable transmission method ("Electronic Signature") shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. The parties agree that any document executed by Electronic Signature (including this document) shall be deemed (i) to be "written" or "in writing", (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts", if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto agrees to and shall re-execute original forms thereof and deliver such original forms thereof to all other parties.

(d) No party hereto may raise the use of an Electronic Signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine, electronic mail, or other commercially reasonable transmission method as a defense to the formation of a contract, and each party forever waives such defense. For the purposes hereof, a business day ("Business Day") shall mean any day other than a Saturday, Sunday or any other day on which banking institutions in the State of Florida are authorized by law or executive action to close.

(e) The Effective Date of the Contract shall be the date on which the last of Seller and Buyer executes the Contract and this Rider and communicates the fact of execution to the other party.

(f) The rights of Buyer hereunder shall be freely assignable to a single purpose entity, affiliate, related entity or an entity with common ownership or control, i.e., the majority interest and the principals of the Buyer and assignee shall be substantially the same. Any other assignment shall

Handwritten signature and initials in blue ink.

be subject to Seller's written consent, which shall not be unreasonably withheld.

(g) In the event any term or provision of this Contract shall be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Contract shall be construed to be in full force and effect.

(h) The failure of any party hereto to enforce any provisions of this Contract shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Contract, or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Contract shall be held to constitute a waiver of any other or subsequent breach.

2. **Definitions:** The following additional terms shall have the meanings assigned herein.

(a) "Environmental Laws" means any federal, state, regional, or local (i) law, statute, ordinance, provision, regulation, rule, court order, judicial or administrative order, decision, determination, decree, consent order, consent decree, consent agreement, or other legal requirement; (ii) permit, license, registration, authorization, or approval; or (iii) administrative policy, guideline, or standard required or imposed by a Governmental Entity (as hereinafter defined), whether now existing or hereinafter enacted, promulgated, issued, or ordered (including as they may be amended from time to time), and whether codified, common law, judicial, administrative, or quasi-administrative in nature, arising under, relating to, or otherwise in connection with (a) the natural environment (including but not limited to all environmental media found in the natural environment), public health, or any Hazardous Substances (as hereinafter defined) or Solid Waste (as hereinafter defined); (b) the protection, conservation, or use of soils, sediments, surface water, groundwater, drinking water, or air; or (c) any other similar, analogous, or related subjects, laws, or environmental matters. For purposes of this definition, the term "Environmental Law" shall include but not be limited to the following: (A) the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, et seq.); (B) the Solid Waste Disposal Act, including the Resource Conservation and Recovery Act, as amended (42 U.S.C. § 6901, et seq.); (C) the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. § 9601, et seq.); (D) the Superfund Amendments and Reauthorization Act of 1986, as amended (codified in sections of 10 U.S.C., 29 U.S.C., and 42 U.S.C.); (E) the Federal Clean Air Act, as amended (42 U.S.C. § 7401, et seq.); (F) the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. § 136, et seq.); (G) the Toxic Substances Control Act, as amended (15 U.S.C. § 2601, et seq.); (H) the Emergency Planning and Community Right-to-Know Act, as amended (42 U.S.C. § 11001, et seq.); (I) the Occupational Safety and Health Act, as amended (29 U.S.C. § 650, et seq.); (J) the Safe Drinking Water Act, as amended (21 U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f, et seq.); (K) the National Environmental Policy Act, as amended (42 U.S.C. § 4321, et seq.); (L) the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801, et seq.); (M) the Atomic Energy Act, as amended (42 U.S.C. § 2011, et seq.); (N) the Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. § 301, et seq.); (O) the Endangered Species Act (16 U.S.C. § 1531, et seq.); (P) any laws regulating the use of biological agents or substances including medical or infectious wastes; (Q) any environmental transfer laws that regulate the transfer of property; (R) Chapters 373, 376, and 403 of the Florida Statutes; and (S) as it relates to subsections (A) through (R) of this definition, any and all corresponding, implementing, or related rules, regulations, or requirements or any and all state or local laws, ordinances, and requirements that may be applicable, all as in effect on the date hereof and as may hereafter be amended from time to time.



(b) "Governmental Entity" means any federal, state, regional or local government agency, authority, district, court, tribunal, organization, department, board, commission, officer, official, or other instrumentality that exercises any form of jurisdiction or authority under any Environmental Law.

(c) "Hazardous Substances" means and includes, without limitation, (i) any solid, liquid, gaseous, or thermal pollutant, irritant, or contaminant, including but not limited to soot, acids, alkalis, vapors, fumes, or toxic chemicals, waste and waste material, and/or by-products or progeny thereof whether known or unknown; (ii) any chemicals, materials, elements, compounds, substances, or contaminants defined, classified, or regulated by any applicable Environmental Law or by any Governmental Entity, now, in the past, or in the future, including but not limited to as are encompassed in the definition of "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "hazardous air pollutants," "pollutants," "contaminants," "contamination," "toxic chemicals," "petroleum or petroleum products," "toxics," "hazardous chemicals," "extremely hazardous substances," "pesticides," or related materials; (iii) any petroleum or petroleum products (including but not limited to gasoline and fuel additives including MTBE and other oxygenates, typically added to gasoline or their degradation products), natural or synthetic gas, radioactive materials, asbestos-containing materials, urea formaldehyde foam insulation, or radon; (iv) per- and polyfluoroalkyl substances; and (v) any other chemical, material, substance, pollutant, or contaminant, exposure to which is prohibited, limited, or regulated by any Governmental Entity.

(d) "Solid Waste" means and includes, without limitation, garbage, rubbish, refuse, special waste, yard waste, construction and demolition debris, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural or governmental operations. For purposes of this definition, "solid waste" shall also mean ash that is produced from the process of incinerating municipal solid waste, ash residue, white goods, waste tires, construction and demolition debris, yard trash, and biological wastes.

3. Property Condition: For purposes of clarity, Buyer's Inspections under Paragraph 8 of the Contract during the Feasibility Study Period may include, without limitation:

- (a) inspection of all physical aspects of the Property;
- (b) evaluation of all zoning, code and governmental requirements and the development potential of the Property;
- (c) Phase I and Phase II environmental assessments and testing;
- (d) geotechnical assessments and testing;
- (e) assessments, surveys, and studies regarding wetlands, habitats, species, and any and all other natural resources;
- (f) engaging all contractors and consultants to assist with the Inspections;
- (g) evaluation of title and survey; and
- (h) evaluation of the Property Information.

Handwritten signature and initials in blue ink, likely representing the parties involved in the contract.

In addition, for purposes of clarity, Buyer shall have the right to terminate the Contract on or before the expiration of the Feasibility Study Period under Paragraph 8 of the Contract to the extent that Buyer's Inspections, Buyer's contemplated development of the Property or any other matters related to the Property are not acceptable to Buyer, all as determined by Buyer in its sole and absolute discretion.

4. **Buyer Release:** BUYER HEREBY FOREVER RELEASES SELLER FROM ANY AND ALL LIABILITIES, CLAIMS, DEMANDS, LOSSES (INCLUDING BUT NOT LIMITED TO ECONOMIC LOSSES AND LOSS IN THE VALUE OF THE PROPERTY), SUITS, ACTIONS, JUDGMENTS, DAMAGES, EXPENSES, COSTS, FEES (INCLUDING REASONABLE ATTORNEYS' FEES), OR PENALTIES INCLUDING BUT NOT LIMITED TO ALL OF THE FOREGOING ARISING UNDER THE ENVIRONMENTAL LAWS, RESULTING FROM (I) SOLID WASTE ON OR ANY HAZARDOUS SUBSTANCES ON OR MIGRATING AWAY FROM THE PROPERTY; (II) ANY CURRENT OR FUTURE CORRECTIVE ACTION REQUIREMENTS OR OBLIGATIONS WITH RESPECT TO THE PROPERTY IMPOSED ON ANY PARTY, INCLUDING BUT NOT LIMITED TO SELLER, UNDER ANY APPLICABLE ENVIRONMENTAL LAW WITH RESPECT TO ANY SOLID WASTE ON OR ANY HAZARDOUS SUBSTANCES ON OR MIGRATING AWAY FROM THE PROPERTY; (III) ANY DAMAGE OR THREAT OF DAMAGE TO ANY NATURAL RESOURCES OR ECOLOGICAL RECEPTORS WITH RESPECT TO ANY SOLID WASTE ON OR ANY HAZARDOUS SUBSTANCES ON OR MIGRATING AWAY FROM THE PROPERTY; AND (IV) ANY LOSS OF BUYER'S ABILITY TO DEVELOP OR USE THE PROPERTY IN ANY MANNER WHATSOEVER DUE TO ANY SOLID WASTE ON OR ANY HAZARDOUS SUBSTANCES ON OR MIGRATING AWAY FROM THE PROPERTY. BUYER EXPRESSLY AGREES THAT BUYER SHALL NEVER INSTITUTE LITIGATION AGAINST SELLER ALLEGING DAMAGES RELATING TO, OR SEEKING INJUNCTIVE OR OTHER EQUITABLE RELIEF BASED ON, ANY CONDITION, FACT, OR OCCURRENCE ARISING OUT OF ANY SOLID WASTE ON OR ANY HAZARDOUS SUBSTANCES ON OR MIGRATING AWAY FROM THE PROPERTY. BUYER EXPRESSLY WAIVES ANY RIGHT WHICH IT MAY NOW HAVE OR MAY EVER ACQUIRE AGAINST SELLER FOR OR BY REASON OF ANY SOLID WASTE ON OR ANY HAZARDOUS SUBSTANCES ON OR MIGRATING AWAY FROM THE PROPERTY. ALL OF THE FOREGOING IS HEREBY REFERRED TO AS "BUYER'S ENVIRONMENTAL RELEASE."

5. **Brownfields Designation.** Buyer agrees to assist Seller in designation of the Property as a Brownfield Area pursuant to §376.80, Florida Statutes. Buyer shall be responsible for preparing the designation request and all supporting documentation including all costs for preparation and notice. Seller shall allow Buyer to comply with public notification as required under §376.80, Florida Statutes, by scheduling the public hearings required by statute upon request from the buyer and allowing them to occur during the Feasibility Study Period. No later than one hundred and twenty days (120) after the Effective Date of the Contract, Buyer shall submit to Seller a request to designate the Property a Brownfield Area pursuant to applicable Florida law. Seller shall cooperate in the designation request and hold a public hearing to approve the application at the next available regularly scheduled City Commission meeting consistent with the applicable statutory requirements.

6. **Brownfield Site Rehabilitation Agreement.** No later thirty (30) days following the Closing Date, Buyer shall submit a Brownfield Site Rehabilitation Agreement ("BSRA") for the Property to the Florida Department of Environmental Protection ("FDEP") and use best efforts to have the BSRA executed as promptly as possible.

Handwritten signature and initials in blue ink, located in the bottom right corner of the page.

7. **Buyer's Site Rehabilitation Obligations.** Provided that Buyer takes title to the Subject Property, Buyer and/or Buyer's successors and assigns shall fund and perform site rehabilitation activities pursuant to Chapter 62-780, Florida Administrative Code, in order to obtain a Site Rehabilitation Completion Order with Conditions ("SRCOC"). Seller acknowledges that an SRCOC will involve the use of engineering controls and institutional controls as approvable methodologies to obtain regulatory closure. Seller agrees to support such use and, if required, execute any Consent and Joinder documents that FDEP may require as a condition to agreeing to a Declaration of Restrictive Covenant. Inasmuch as migration of Hazardous Substances to adjacent City owned lands may have occurred, Seller agrees to record restrictions regarding use of groundwater if requested by Buyer. No later than one hundred and twenty (120) days after approval of a Remedial Action Plan ("RAP") for the Property by FDEP, Buyer shall post a bond or, if a bond is not commercially available or practical, other form of reasonable financial assurance acceptable to both Buyer and Seller, to ensure implementation of the RAP in the event that Buyer defaults on its obligation to obtain an SRCOC pursuant to this paragraph.

8. **Requirements and Best Practices for Landfill Redevelopment.**

(a) When conducting any redevelopment activities at the Property, Buyer and Buyer's successors and assigns shall comply with the applicable provisions of FDEP's Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida, Version 2.2, dated August 19, 2015, as may be amended from time-to-time. Buyer and, as may be applicable, Buyer's successors and assigns shall also utilize best practices when any construction activities impact contaminated media. Such activities shall include at a minimum preparation of a Soil Management Plan, Air Monitoring Plan, Health & Safety Plan, and Dewatering Plan ("collectively, Environmental Construction Management Documents"). Buyer and, as may be applicable, Buyer's successors and assigns shall seek approval of the Environmental Construction Management Documents from FDEP.

(b) Buyer shall set aside five (5) acres of the Property for use as a passive park (the "Park Acreage"), the location and configuration of which shall be at Buyer's discretion. The "passive park" shall be part of and subject to any development approval presented to the City Commission.

9. **Environmental Liability Insurance.** Buyer covenants to purchase, at Buyer's sole cost and expense, an environmental liability insurance policy ("ELIP") providing claims coverage for pre-existing conditions of no less than \$10 million per occurrence and \$10 million in the aggregate from a carrier that is rated no less than "A" by AM Best and Company. Such policy shall have a deductible no greater than \$100,000.00 and carry a term of no less than ten years. Buyer shall use its best efforts to include Seller on the ELIP as an additional insured; however, Seller acknowledges that such coverage may be limited or fully prohibited by, or in light of, Seller's ownership and operation of the Property.

Economic Incentives for Site Rehabilitation and Redevelopment Activities. Buyer and Seller acknowledge that grant funding and other forms of economic incentives may be available for site rehabilitation, redevelopment, job training, and job creation and training activities at and in connection with the Property from one or more Governmental Entities (collectively, "Economic Incentives"). Provided that the Contract has not been terminated at an earlier date, no later than forty-five (45) days after commencement of the Feasibility Study Period, Buyer shall present Seller with a memorandum summarizing those Economic Incentives that Buyer reasonably believes would enhance the remediation and redevelopment of the Property (the "EI Memorandum"). Provided that the Contract has not been terminated at an earlier date, Buyer shall meet with Seller

to discuss the EI Memorandum and develop a strategy for pursuing the Economic Incentives summarized therein. The parties shall use reasonable best efforts to agree to such a strategy, which strategy shall be documented in a "Memorandum of Understanding". Where required by the application process associated with a particular the Economic Incentive, Seller shall agree to serve as an applicant, co-applicant, or endorser. All costs associated with the development, filing, pursuit, and award of an Economic Incentive shall be borne by Buyer. Seller shall seek commission approval to execute all agreements, agency forms or other documents that may be necessary for the request of such approvals. This provision shall survive the closing of the transaction contemplated by this Contract. The parties agree that the City shall not be required to seek any grants or economic incentives that could impair or impact the City's ability to qualify for other grants or incentives that the City desires to pursue.

10. **Delivery of Documents:** [Intentionally deleted.]

11. **Seller's Environmental Consultant.**

(a) Seller shall have the right to hire an environmental consultant to review and provide advice to Seller regarding any environmental plans, reports, or correspondence issued by the Buyer for purposes of satisfying its environmental and regulatory obligations under the Contract and Rider.

(b) Subject to the election that Seller may make pursuant to paragraph 12(c) herein, at Seller's sole discretion, Buyer shall process and pay any invoice issued by Seller's environmental consultant within thirty (30) days of receipt from Seller or Seller's environmental consultant of such invoice with a notice from Seller that the invoice is reasonable, accurate, and consistent with the work approved by Seller.

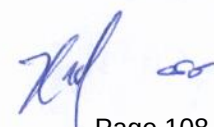
(c) In the event that Seller wishes to pay Seller's environmental consultant directly for the work described in paragraph 12(a) herein, at closing Buyer shall remit the sum of \$100,000.00 to Seller, which Seller shall hold in escrow (the "Environmental Escrow") for payment of any invoices from Seller's environmental consultant as Seller deems appropriate. If at any time prior to the issuance of the SRCOC, the amount of funds remaining in the Environmental Escrow decreases to below \$10,000.00, Seller shall provide Buyer with a notice of replenishment and Buyer shall have ten (10) business to deposit another \$40,000.00 in the Environmental Escrow.

(d) Nothing in this paragraph shall require Buyer to pay Seller's environmental consultant or reimburse Seller for any costs associated with invasive testing of, at, or in connection with the Property.

(e) Buyer's obligation to pay Seller's environmental consultant as set forth in this paragraph 12 shall terminate once the SRCOC for the Property is issued by the FDEP.

12. **Seller Representations:** The Seller makes no representations about the condition of the property which is why the sales price is only 100.00. The Buyer shall have the right to extensive due diligence of 270 days during which it can determine the status of the property. The City represents that it is selling to the buyer any interest in the property which it might own and have the ability to sell.

13. **Covenants of Seller:** Seller agrees that the following covenants ("Covenants") are incorporated into the Contract and the Closing is conditioned upon the Covenants being true and



correct as of the Closing:

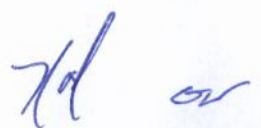
(a) Between the date of the Contract and the date of Closing, Seller will not, without Buyer's prior written consent, which consent shall not be unreasonably withhold, create or permit to be created any encumbrances on the Property with the exception of those imposed by a government agency such as the Florida Department of Environmental Protection. In no event shall any encumbrance be for a period ending subsequent to the date of Closing and any encumbrance must specifically provide that it is subordinate to the terms of the Contract. For the purposes of this subparagraph, the term "encumbrance" shall mean any liens, claims, options, mortgages, encroachments, leases, easements, covenants, conditions or restrictions.

(b) Seller will not enter into any new leases or extend any existing leases without the consent of the Buyer.

14. As Is Purchase: SELLER AND BUYER AGREE THAT, EXCEPT AS PROVIDED FOR IN THIS CONTRACT OR ANY CLOSING DOCUMENT, THE PROPERTY SHALL BE SOLD AND THAT BUYER SHALL ACCEPT POSSESSION OF THE PROPERTY ON THE CLOSING DATE AS IS, WHERE IS, WITH ALL FAULTS, WITH NO RIGHT OF SET-OFF OR REDUCTION IN THE PURCHASE PRICE, AND THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS CONTRACT OR ANY CLOSING DOCUMENT SUCH SALE SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, EXCEPT FOR THOSE SET FORTH IN THIS CONTRACT, INCLUDING, WITHOUT LIMITATION, WARRANTY OF INCOME POTENTIAL, OPERATING EXPENSES, USES, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BUYER REPRESENTS THAT IT IS A KNOWLEDGEABLE BUYER OF REAL ESTATE AND THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE.

15. Legal Description and Survey: Paragraph a1 (line 6) and Paragraph 20 (lines 337 to 338) are amended to provide that the Property being conveyed is described as follows:

Parcel 3: Tx ID No. 163841000000000140



Parcel 4: Tax ID No. 163841000000000160, **less** that portion of parcel 4 between Southeast Monterey Rd and Parcel 1 as needed to maintain the its lift station as shown in "Exhibit C", **and less** approximately 3 acres of parcel 4 directly to the south of parcel 1 currently used for debris staging as shown in "Exhibit D"; **together with** an easement over such portions of Parcels 1 and 2 (as shown on the attached Exhibit B) as to provide a 50 foot wide strip for access to Parcel 4 from Monterey Road

Parcel 5: 163841000000000130

The parcels are further depicted on Exhibit "A" attached hereto. During the Feasibility Period, the Buyer shall, at Buyer's expense, obtain a survey setting forth the full legal description for the parcels being conveyed to Buyer, as well as the parcels being retained by Seller. The legal description of the Property will thereupon be agreed to by the parties and incorporated into the Contract.

16. Force Majeure and Pandemic: Paragraph 12 of the Contract is deleted, and the following is substituted therefor:

(a) Force Majeure. In the event that the performance by either party of any of its obligations hereunder is delayed by acts of God, natural disaster, terrorist activity or war, order of the Government of the United States or of the State of military authority, restraint of government or people due to civil disturbances, or other similar cause not within the reasonable control of the party claiming such delay then the party affected shall notify the other party in writing of the event of force majeure causing the delay, the specific obligation delayed, and the duration of the delay and the deadline for completion of such obligation shall be extended by a like number of days. Notwithstanding the foregoing, no events or matters of force majeure are deemed to extend the Closing or the performance of any other obligations hereunder by Buyer or Seller for more than ninety (90) days.

(b) Pandemic. Seller acknowledges and agrees that the impact of the recent pandemic known as the "coronavirus" or "COVID-19" may make Buyer's performance of the Inspections impractical or impossible and any delay or election not to perform any of the Inspections shall not be deemed a Buyer's Default under this Agreement. Additionally, if, as a result of such pandemic, the State of Florida and/or any governing authority over the jurisdiction in which the Property is located is, at any point in time during the term hereof, subjected to a "state of emergency," "stay at home order," or "shelter in place order" as declared by its Governor or other applicable governing authority (in each case, a "COVID 19 Tolling Event"), all time periods under this Agreement within which to perform hereunder, including without limitation, the Feasibility Period and the Closing Date, shall automatically toll until the Governor of the State of Florida or other applicable governing authority declares such COVID 19 Tolling Event has been lifted and no longer is in effect. Notwithstanding the foregoing, governmental orders or declarations in place as of the Effective Date shall not be considered COVID 19 Tolling Events unless such orders or declarations are modified or extended after the Effective Date.

17. Phase I and II: Buyer agrees to contract for a Phase I ESA Assessment no later than ninety (90) days after the Effective Date of the Contract and to contract for a Phase II ESA Assessment no later than one hundred fifty (150) days after the Effective Date of the Contract. The scope of the Phase II shall be determined by Buyer. Following completion of the Phase II investigation, including test pits, Buyer shall restore the Property to its previous condition, at Buyer's expense.

18. Default:

(a) Paragraph 15(a) of the Contract is modified as follows: If Seller fails, neglects or refuses to perform Seller's obligations under this contract, Buyer's sole remedy shall be to bring an action for specific performance.

(b) Paragraph 15b of the Contract is amended to provide that, in the event of a default by Buyer, Seller may bring an action against Buyer for its damages. Seller specifically waives any right to bring an action against the members, managers, principals, employees or agents of Buyer arising out of or as a result of the breach of this Agreement and acknowledges it has no recourse against such individuals.

19. **Closing Costs:** Paragraph 9 is amended to provide that Buyer shall be responsible for all of the Seller Costs set forth therein, including but not limited to, all recording fees.

20. **Title:** Paragraph 7 is amended to provide that the Seller will convey title by means of a special warranty deed and that such special warranty deed shall reflect that the title is subject to existing contamination and any liens, easements, and encumbrances resulting from such contamination. Paragraph 7 is further modified to provide that Buyer shall obtain its own title commitment from a title company selected by Buyer and at Buyer's sole expense. Notwithstanding anything to the contrary, paragraph 7c is modified to provide that Buyer shall have thirty (30) days from the Effective Date of the Contract to advise Seller, in writing, of any title defects. Seller shall thereupon have ten (10) days to notify Buyer, in writing, whether it is electing to cure the title defects. In the event Seller advises Buyer that it is not electing to cure the title defects then Buyer shall have ten (10) days to elect either to cancel this Contract or to accept title as is. In no event shall Seller have any obligation to cure any title defects raised by Buyer, Buyer's only remedy being to cancel this Contract.

21. **Notices:** Any notice, request, demand, instruction or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be deemed to be delivered (a) upon personal delivery to and receipt by the person to whom delivered (including, without limitation, delivery to and receipt by facsimile or electronic mail), or (b) three (3) days after deposit in United States registered or certified mail, return receipt requested, or (c) one (1) business day after deposit with a nationally recognized overnight express courier for "next day" delivery, in each case, addressed to the parties at their respective addresses or facsimile numbers (as applicable) set forth below:

If to Seller:

City of Stuart
Office of the City Manager
121 SW Flagler Avenue
Stuart, FL 34994
Office: (772) 288-5312
Attn: David Dyess, City Manager
ddyess@ci.stuart.fl.us

With a copy to:

Office of the City Attorney
121 SW Flagler Avenue

Stuart, FL 34994
Office: (772) 288-583-6836
Attn: Michael J. Mortell, Esq., City Attorney
mmorteell@ci.stuart.fl.us

If to Buyer:

Goldstein Kite Environmental Redevelopment Partners Stuart I, LLC
2055 US Highway 1, Vero Beach, FL 32960
Office (772) 237-3444
E-fax (772) 237-3444
Cell (772) 538-7507
Attn: Kelly P. Kite, Jr., Manager
kelly@ktlc.com

and

Goldstein Kite Environmental Redevelopment Partners Stuart I, LLC
2100 Ponce de Leon Blvd., Suite 2100
Coral Gables, FL 33134
Office (305) 777-1682
Cell (305) 962-7669
Attn: Michael R. Goldstein, Manager
mgoldstein@goldsteinenvlaw.com

With a copy to:

Norman Leopold, Esq.
Leopold Korn, P.A.
[20801 Biscayne Blvd., Suite 501](mailto:nleopold@leopoldkorn.com)
[Aventura, FL 33180](mailto:nleopold@leopoldkorn.com)
Direct Telephone: [305-356-8401](tel:305-356-8401)
Main Office: [305-935-3500](tel:305-935-3500) x 209
Email: nleopold@leopoldkorn.com

A party may change its address, facsimile number and email address for receipt of notices by service of a notice of such change in accordance herewith. Notwithstanding the foregoing, the parties agree that their respective attorneys shall have the authority to deliver and to receive notices on behalf of their clients and to enter into any extensions of time periods provided for in this Agreement on their behalves and that such notices and extensions by the attorney shall be binding upon each of the parties hereto in this Contract and that such extension by the attorney shall be binding upon Buyer and Seller.

22. **License:** Seller, as Licensor, entered into a License Agreement with Virgin Trains, USA Florida LLC, a Delaware limited liability company, as Licensee, dated April 12, 2019 (the "License Agreement"), a true and correct copy of which is attached hereto and made a part hereof as **Exhibit "E"**. Seller will not enter into any amendments, modifications or alterations of the License Agreement without first obtaining the consent of the Buyer, which consent may be granted or withheld in

Buyer's sole discretion. Seller shall continue to receive the rents from the license agreement and in the event the license agreement extends beyond the period of time during which the buyer needs the property cleared, the parties agree to revisit the agreement to determine a reasonable time for the termination of the license. It is currently contemplated that the agreement will be concluded by the first quarter of 2023 which is prior to the actual closing based upon the due diligence period.

IN WITNESS WHEREOF, the parties have hereunder set their hands and seals the day and year written below.

SELLER:

CITY of STUART, a municipal corporation

By: 

Name: David Dyess

Title: City Manager

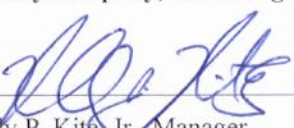
Date: 6-10-, 2022

BUYER:

**GOLDSTEIN KITE ENVIRONMENTAL
REDEVELOPMENT PARTNERS STUART I,
LLC, a Florida limited liability company**

By: GOLDSTEIN KITE ENVIRONMENTAL,
LLC, a Florida limited liability company, its
Managers

By: Kite Capital Partners, LLC, a Florida limited
liability company, its Manager.

By: 
Kelly P. Kite, Jr., Manager

Date: May 17, 2022



City of Stuart

Mary R. Kindel | City Clerk
121 SW Flagler Ave. Stuart, FL 34994
Phone: 772.288.5306

June 10, 2022

Kelly P. Kite Jr.
Kite Capital Partners, LLC
2055 U.S. Hwy. 1
Vero Beach, FL 32960

Subject: Executed City of Stuart Landfill Vacant Land Contract Agreement

Dear Mr. Kite,

Please find attached a copy of Resolution No. 69-2021 adopted by the Stuart City Commission on September 27, 2021 and one of the two original copies of the Vacant Land Contract between the City of Stuart and Goldstein Kite Environmental Redevelopment Partners Stuart I, LLC. The additional original copy is on record in the office of the City of Stuart City Clerk.

Should you have any questions or comments, please feel free to contact me at mkindel@ci.stuart.fl.us. Thank you.

Sincerely,

Mary R. Kindel
City Clerk

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kelly Kite Jr.
Kite Capital Partners, LLC
2055 US Hwy. 1
Vero Beach, FL 32960



9590 9402 4397 8248 7875 39

2. Article Number (Transfer from service label)

7012 2920 0000 2337 8066

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Jana Carrington*

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

JANA CARRINGTON

C. Date of Delivery

6-15-22

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Return Receipt for Merchandise |
| ☐ Collect on Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery Restricted Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Mail Restricted Delivery | |

USPS TRACKING#



ORLANDO FL 328

15 JUN 2022 PM 5 L

9590 9402 4397 8248 7875 39

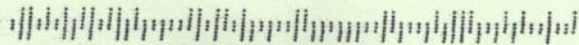


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

David Dyess / Mary Kindel
City of Stuart
121 SW Flagler Ave.
Stuart, FL 34994



7012 2920 0000 2337 8066

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	\$ 5.91
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.91

Postmark
Here

6/13/22 MK

Sent To Kelly Kite Kite Capital Pkwy
Street, Apt. No.,
or PO Box No. 2055 US Hwy. 1
City, State, ZIP+4 Vero Beach, FL 32960

PS Form 3800, August 2006

See Reverse for Instructions



CERTIFICATE OF LIABILITY INSURANCE

4/1/2023

DATE (MM/DD/YYYY)
7/15/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000 kctsu@lockton.com	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED 1497105 LANGAN ENGINEERING & ENVIRONMENTAL SERVICES, INC. 300 KIMBALL DRIVE, 4TH FLOOR PARSIPPANY NJ 07054 SPIEVACK, MICHAEL	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : National Fire Insurance Co of Hartford		20478
	INSURER B : The Continental Insurance Company		35289
	INSURER C : Valley Forge Insurance Company		20508
	INSURER D : Evanston Insurance Company		35378
	INSURER E :		
INSURER F :			

COVERAGES **CERTIFICATE NUMBER:** 18718080 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC OTHER:	Y	N	7014708217	4/1/2022	4/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	N	N	6016359856	4/1/2022	4/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$	N	N	6045964169	4/1/2022	4/1/2023	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$ XXXXXXXX
C B B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	6016359842 (AOS) 6016359873 (CA) 6057485432 (NY)	4/1/2022 4/1/2022 4/1/2022	4/1/2023 4/1/2023 4/1/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	PROF LIAB INCL POLL LIAB	N	N	MKLV7PL0005239	4/1/2022	4/1/2023	PER CLAIM \$3M, AGG \$3M

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: PROJECT #: 341010201; THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A. AND CITY OF STUART ARE ADDITIONAL INSURED AS RESPECTS GENERAL LIABILITY, AS REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER**CANCELLATION****18718080**GOLDSTEIN KITE ENVIRONMENTAL, LLC
C/O THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
2100 PONCE DE LEON BLVD., SUITE 710
CORAL GABLES FL 33134

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 3/27/2023

Prepared by: Michael Mortell

Title of Item:

AUTHORIZATION TO NEGOTIATE LEASE FOR 2 ACRE VACANT PARCEL NORTH OF ROOSEVELT BRIDGE (RC):

RESOLUTION No. 26-2023; A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO NEGOTIATE A VACANT LAND LEASE WITH REPRESENTATIVE(S) FROM SLC COMMERCIAL FOR THE LEASE OF THE CITY OWNED HANEY CREEK TWO (2) ACRE PARCEL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

In November, 2011, a referendum was held and over 80% of the City of Stuart residents voted to have the City of Stuart enter into a long term land lease for the 1.97 acre commercial parcel on US-1 at the entrance to North River Shores to fund the maintenance of the Haney Creek Watershed. There was previously a hotel interested in the site and then an agency tied up the parcel for over a year attempting to use the land to provide affordable housing. The City has now received an inquiry from a commercial realtor seeking to enter a long-term lease to provide two restaurants.

Staff is seeking authority from the City Commission to enter into contract negotiations to lease the parcel for use by the restaurants. If approved by the City Commission, the City Manager will execute an exclusive real estate contract with the realtor providing for a due diligence period to determine if the property is suitable for the use. The financial terms of the contract and final details will return to the City Commission for approval if the interested party deems the location and property suitable.

Funding Source:

N/A

Recommended Action:

Approve Resolution 26-2023.

ATTACHMENTS:

1. R26-2023 Auth. to Negotiate 2 Acre Vacant Parcel Lease
2. 2 acres information



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

RESOLUTION NUMBER 26-2023

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA AUTHORIZING THE CITY MANAGER TO NEGOTIATE A VACANT LAND LEASE WITH REPRESENTATIVE(S) FROM SLC COMMERCIAL FOR THE LEASE OF THE CITY OWNED HANEY CREEK TWO (2) ACRE PARCEL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the City currently owns the vacant two (2) acre parcel located in Haney Creek north of the Roosevelt Bridge on U.S. Highway 1; and

WHEREAS, the City has been contacted by SLC Commercial on behalf of their client showing an interest in leasing the vacant two (2) acre parcel; and

WHEREAS, the potential Lessee is interested in leasing the property in order to develop it into a Popeye's and Del Taco fast food restaurants; and

WHEREAS, the City desires to lease the vacant parcel as it has been on the market for some time.

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

SECTION 1: The City Commission agrees and authorizes the City Manager to enter into negotiations for the lease of the vacant two (2) acre parcel north of the Roosevelt Bridge on U.S. Highway 1.

SECTION 2: The City Manager and/or Mayor is hereby authorized to execute the Vacant Land Lease Contract with the Lessee should the terms be acceptable.

SECTION 3: 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:

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

YES	NO	ABSENT	ABSTAIN

ADOPTED this _____ day of March, 2023.

ATTEST:

MARY R. KINDEL
CITY CLERK

TROY MCDONALD
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

2-Acre Commercial Parcel on US Hwy 1

DESCRIPTION: Suitable for Banks, Offices, Restaurants & Retail Uses
(excluding car sales and gas stations)

Owned and offered for lease by the City of Stuart, Florida, this 2-acre parcel fronts on US Highway 1 (aka Federal Highway). Zoned Commercial Planned Unit Development (CPUD), this easy-access site adjoins the signalized intersection of NW North River Shores Blvd and accommodates over 50,000 motorists a day. City-prepared prototype site plans give potential tenants a significant head start in quantifying the site's development potential. Upon determination of a specific use, fast track site plan approval can be accomplished within 60 days. Building permit applications are typically processed in under a week. Water, sewer and all other essential utilities are immediately available to the site.

Actual Lot Size: 1.97 Acres (Total Space Available 85,937 Sq. Ft.)



Easy-access, high traffic location close to well populated residential neighborhoods.

[Prev](#) [2 of 5](#) [Next](#)



Fast track site plan approval within 60 days of determination of specific use.

[Prev](#) 3 of 5 [Next](#)



Existing city-prepared prototype plans for this city owned and offered site give potential tenants a

[Prev](#) 4 of 5 [Next](#)

CITY OF STUART, FLORIDA

AGENDA ITEM REQUEST

City Commission

Meeting Date: 3/27/2023

Prepared by: Jodi Nentwick

Title of Item:

FS PROPERTIES LLC., ZONING MAP AMENDMENT (RC):

ORDINANCE No. 2513-2023; 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 adoption of Ordinance 2513-2023 to rezone from CPUD to the B-2.

ATTACHMENTS:

1. Staff Report
2. Draft Ordinance 2513-2023 - Rezone
3. Petition Application
4. CPUD Ordinance 2141-07 (Expired)
5. B-2 Permitted Uses
6. Release of Unity of Title



TO: Mayor and City Commission
FROM: Jodi Nentwick-Kugler, Development Director
MEETING DATE: March 27, 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***

Utilities: Martin County Water and Sewer

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.

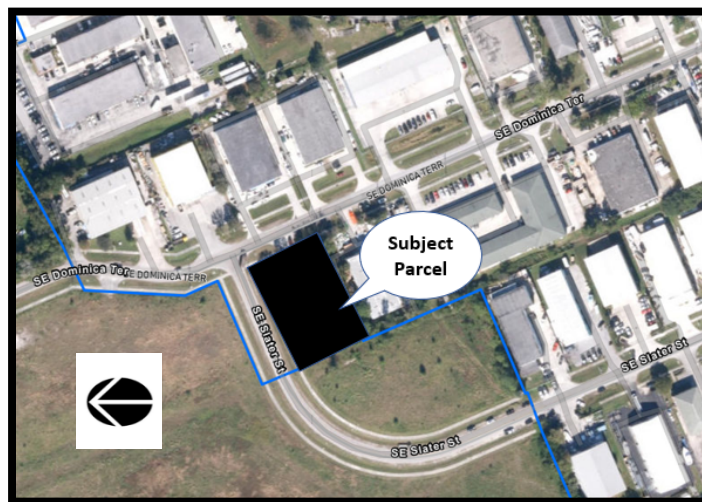
The Developer failed to meet the Development Timetables outlined within the CPUD, and as such, the CPUD expired.

On December 9, 2009, the Unity of Control entered on January 15, 2008, by and between the Kremser Family Limited Partnership, Stuart Town Center I, LLC, and Frank S. Scilleci, recorded a Release of Unity of Control by the City of Stuart within Martin County Official Records. This release immediately terminates any and all conditions, restrictions and limitations placed on the affected parcels and all such conditions, restrictions and limitations by said Unity of Control are hereby released and are null and void.

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 Dominica Terrace. 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.

LOCAL PLANNING AGENCY (LPA)

On February 9, 2023, the LPA held a public hearing on this item. There being no public comments, the Board unanimously forwarded a recommendation of approval to the City of Stuart City Commission.

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 **APPROVAL** of the rezoning petition from CPUD to B-2 Zoning Designation on Adoption of Ordinance 2513-2023.



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

ORDINANCE NUMBER 2513-2023

* * * * *

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 the Rezoning from CPUD Commercial Planned Unit Development to B-2 Business General; and

WHEREAS, the Local Planning Agency board held a property noticed hearing a on February 9, 2023, to consider the applicant's request and recommended approval of the subject petition to the City Commission to amend the Official Zoning Atlas; 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 and Florida Building 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
CITY 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: _____

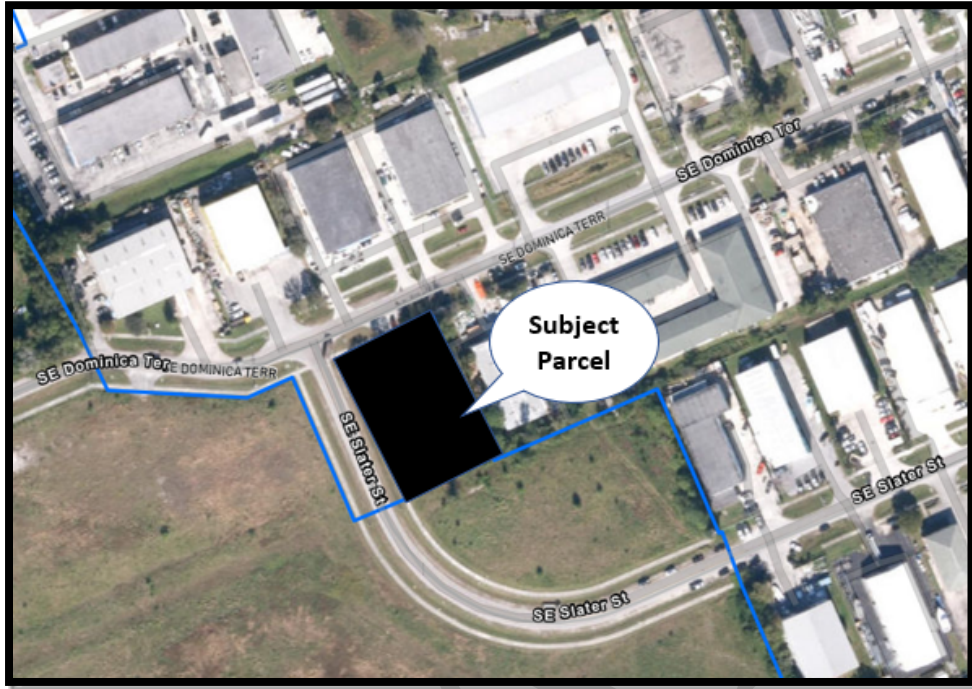
EXHIBIT A – LEGAL DESCRIPTION

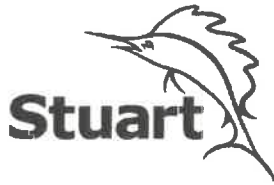
Lot 2, MANATEE BUSINESS PARK, according to the Plat thereof as recorded in Plat Book 6, Page 17, of the Public Records of Martin County, Florida.

Parcel ID#: 52-38-41-013-000-0002-6 Address: 2970 SE Dominica Terrace

(The remainder of this page intentionally left blank)

EXHIBIT B – LOCATION MAP





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)

[Signature]
Print Name: Farhad Khani

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

Michele Khani
Print Name: Michele Khani

STATE OF Florida
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.



Beth Dittman
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.

1. 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
✓		
✓		
	✓	
✓		
	✓	

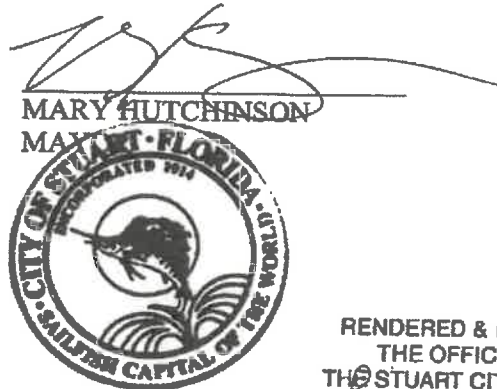
ADOPTED on second and final reading this 26th day of November, 2007.

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 Towne 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

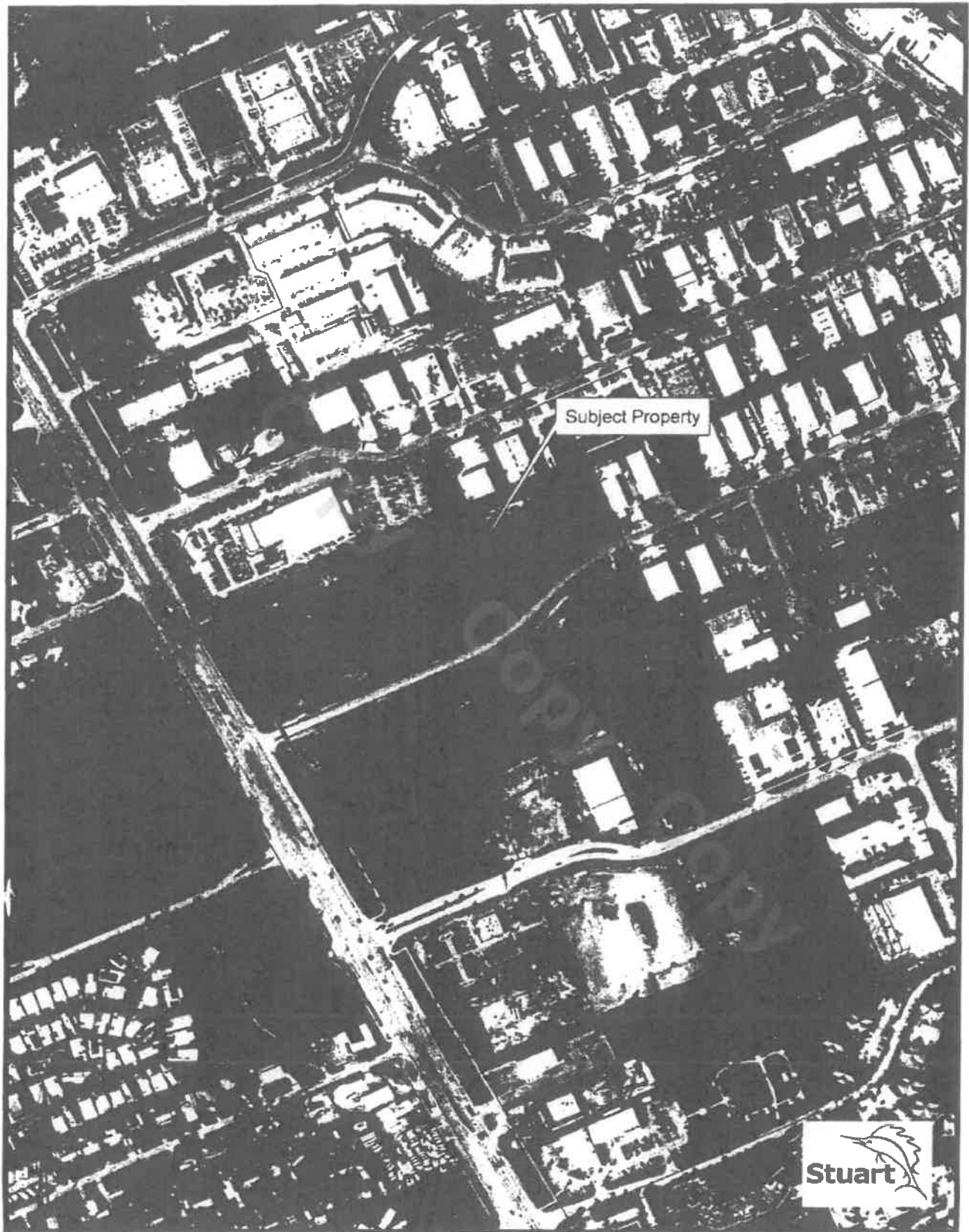
Parcel "B"

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	-	-	-

(Supp. No. 12)

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

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	CU	-	-	-	A	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	CU	-	-	-	A	A	A	-
Child care center (> five acres) (refer to supplemental standards in section 2.06.04)	-	-	-	-	-	-	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	-	-	-	-	-	-	-	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	-	-	A	A	A	-

Telecommunications Uses													
Radio and/or television broadcast stations	-	-	-	-	-	-	P	P	P	-	-	-	-
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	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	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						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]

Parcel I.D. No. 5238410130000001080000

RELEASE OF UNITY OF CONTROL BY THE CITY OF STUART

The Unity of Control agreement entered into on January 15, 2008 by and between the Kremser Family Limited Partnership, a Florida limited partnership, Stuart Town Center I, LLC and Frank S. Schilleci, recorded in Official Records Book 02303 at Page 2906 of the public records of Martin County, Florida, restricting the use of the land described in the Exhibit "A" attached thereto is hereby released. The Unity of Control no longer has any force and effect and any related conditions, restrictions and limitations imposed by said Unity of Control are hereby released and are null and void.

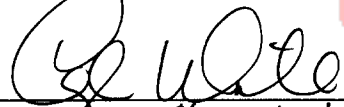
Pursuant to Paragraph 2 of the Unity of Control, the City of Stuart by this Release gives notice of its Release of the Unity of Control. This Release immediately terminates any and all conditions, restrictions and limitations placed on the affected parcels and all such conditions, restrictions and limitations are hereby declared null and void and no longer have any force or effect upon the subject property.

The three parcels described on Exhibit A to the Unity of Control Agreement are no longer bound and are no longer restricted or limited as to transfer, sale, devise or assignment.

This Release is executed this 23rd day of November, 2009, at Stuart, Florida.

Witnesses:

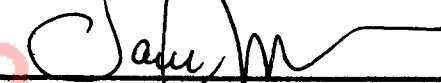
City of Stuart


Print Name: Cheryl White

By: 
Print Name: James A. Christie Jr.
Its: Mayor

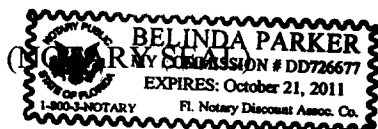

Print Name: BELINDA PARKER

APPROVED
AS TO FORM
& CORRECTNESS


PAUL J. NICOLETTI
CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF MARTIN

I HEREBY CERTIFY that the foregoing Release of Unity of Control was acknowledged before me this 23rd day of November, 2009, by James A. Christie, Jr., as Mayor of the City of Stuart, on behalf of the City, who is (☒) is personally known to me or (☐) has produced _____ as identification.




Notary Public

I am a Notary Public of the State of FL., having a Commission Number of DD726677 and my commission expires 10/21/2011.

UNITY OF CONTROL

In consideration of the issuance of a permit to Stuart Town Center I, LLC, an Alabama limited liability company authorized to do business in the state of Florida, as "Developer", for the construction of The Fountains at Stuart commercial project, and for other good and valuable consideration, the undersigned hereby agree to restrict the use of lands described in Exhibit "A", attached hereto in the following manner:

1. The three (3) parcels described in Exhibit "A" hereto (the "Property") shall be considered as one plot and parcel of land for the purposes of zoning and development. Any transfer, sale, devise or assignment of any portion of the three parcels must be made subject to this Unity of Control, and subject to the provisions of the City of Stuart Ordinance No. 2141-07, a Commercial Planned Unit Development.

2. The undersigned further agree that this condition, restriction and limitation shall be deemed a covenant running with the land, and shall remain in full force and effect, and be binding upon the undersigned, its successors, heirs and assigns until such time as the same may be released in writing by the City of Stuart or by the owners of the three parcels at such time.

3. The undersigned further agree that this instrument shall be recorded in the Public Records of Martin County, Florida.

WITNESSES:

Sign: Joan Kremser
Print: JOAN KREMSER
Sign: James Sopko
Print: JAMES SOPKO

Kremser Family Limited Partnership, a
Florida limited partnership, by Kremser
Management, Inc., a Florida corporation,
General Partner

By: Wayne R. Kremser
Name: Wayne R. Kremser
Title: President

STATE OF FLORIDA
COUNTY OF MARTIN

I HEREBY CERTIFY that the foregoing Unity of Title was acknowledged before me this 15 day of JAN., 2008 by Wayne R. Kremser, President of Kremser Management, Inc. a Florida corporation on behalf of the corporation. He (X) is personally known to me or () has produced _____ as identification.



NOTARY PUBLIC
James Sopko
Name: JAMES SOPKO
State of Florida at large
My commission expires: _____

EXHIBIT A

Book2303/Page2906 CFN#2061272

Page 1 of 4

WITNESSES:

Sign: Candace Murphy
Print: Candace Murphy
Sign: Robert Trotman
Print: Robert Trotman

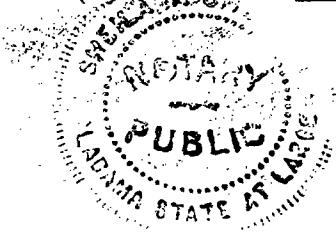
OWNERS:

Stuart Town Center I, LLC, an Alabama
limited liability company

By: Charles R. Trotman
Name: Charles R. Trotman
Title: Manager

STATE OF FLORIDA
COUNTY OF MARTIN

I HEREBY CERTIFY that the foregoing Unity of Title was acknowledged before me this
15th day of January 2008 by Charles R. Trotman, Manager of Stuart Town Center I, LLC, an
Alabama limited liability company on behalf of the company. He (✓) is personally known to me or
() has produced _____ as identification.



NOTARY PUBLIC

Sheila T. Sheehan
Name: Sheila T. Sheehan
State of ~~Florida~~ at large Alabama
My commission expires: 7/28/2010

WITNESSES:

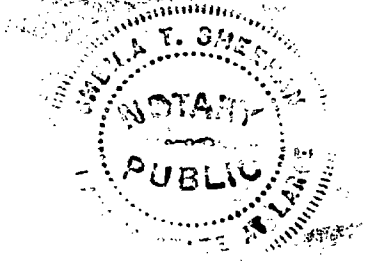
Sign: Candace Murphy
Print: Candace Murphy
Sign: Robert Trotman
Print: Robert Trotman

Frank S. Schilleci, an individual

By: Frank S. Schilleci
Frank S. Schilleci

STATE OF FLORIDA
COUNTY OF MARTIN

I HEREBY CERTIFY that the foregoing Unity of Title was acknowledged before me this
15th day of January 2008 by Frank S. Schilleci. He (✓) is personally known to me or () has
produced _____ as identification.



NOTARY PUBLIC

Sheila T. Sheehan
Name: Sheila T. Sheehan
State of ~~Florida~~ at large Alabama
My commission expires: 7/28/2010

EXHIBIT A

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.

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.

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.

Stuart 231228.1

Book2303/Page2908 CFN#2061272

Page 3 of 4

CITY OF STUART, FLORIDA

AGENDA ITEM REQUEST

City Commission

Meeting Date: 3/27/2023

Prepared by: Jodi Nentwick

Title of Item:

COMPREHENSIVE PLAN TEXT AMENDMENT - ZONING IN PROGRESS (RC):

ORDINANCE No. 2514-2023; AN ORDINANCE OF THE CITY OF COMMISSION OF THE CITY OF STUART, COMPREHENSIVE PLAN AMENDMENT AS DEFINED IN F.S.§163.3187; AMENDING THE TEXT TO THE COMPREHENSIVE PLAN FUTURE LAND USE ELECMENT 1, USE OBJECTIVE 1.A7. FUTURE LAND USE CATEGORIES, POLICY 1.A7.2. GROSS DENSITIES AND TABLE OF LAND USE DENSITIES AND INTENSITIES, OJECTIVE 1.C1. URBAN CODE OVERLAY ZONE; AND OBJECTIVE 3.A7. DEVELOPMENT INCENTIVES; AMENDING THE TEXT TO THE FUTURE LAND USE ELEMENT 1; 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:

On October 10, 2022, the City of Stuart City Commissioners, adopted by Resolution Number 93-2022, declared a “zoning in progress” declared that no plans, permits, licenses, or other development order of any kind shall be issued for any applications received after the effective date of the zoning in progress and directed staff to prepare an ordinance to adopt a text amendment to the land development regulations addressing Section 2.07.00(I), density and parking calculation within an Urban Planned Unit Development.

The City Commission directed staff to draft text amendments addressing the density and parking calculations within an urban planned unit development as currently described in Section 2.07.00(I) of the Stuart Land Development Regulations.

On March 15, 2023, the Local Planning Agency voted a recommendation of denial to the City Commission as drafted. The motion died due to a lack of second.

Funding Source:

N/A

Recommended Action:

Staff recommends the Local Planning Agency to forward a approval recommendation to the City Commission.

ATTACHMENTS:

1. Draft Ordinance Comprehensive Plan Text Amendment - Zoning in Progress



BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER XX-2023

AN ORDINANCE OF THE CITY OF COMMISSION OF THE CITY OF STUART, COMPREHENSIVE PLAN AMENDMENT AS DEFINED IN F.S.§163.3187; AMENDING THE TEXT TO THE COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT 1, USE OBJECTIVE 1.A7. FUTURE LAND USE CATEGORIES, POLICY 1.A7.2. GROSS DENSITIES AND TABLE OF LAND USE DENSITIES AND INTENSITIES, OBJECTIVE 1.C1. URBAN CODE OVERLAY ZONE; AND OBJECTIVE 3.A7. DEVELOPMENT INCENTIVES; AMENDING THE TEXT TO THE FUTURE LAND USE ELEMENT 1; 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, the purpose of this Land Development Code amendment is to support the objectives of the City’s Comprehensive Plan to initiate Land Development Code to provide for a variety of housing units; and

WHEREAS, the City Commission discussed the need for modification of the Land Development Code and the potential for a “zoning in progress” during its regularly scheduled City Commission meeting on September 12, 2022; and

WHEREAS, the City Commission scheduled an agenda item to discuss the zoning in progress for the City Commission Meeting on September 26, 2022. During the discussion, the Commission directed staff to follow the Land Development Regulations pertaining to zoning in progress to consider amendments to the density and parking calculations within an urban planned unit development; and

WHEREAS, On October 10, 2022, the City Commission adopted Resolutions 93-2022 and 95-2022 initiating the Zoning in Progress procedure authorized in Section 1.04.04 of the Stuart Land Development Code; and

WHEREAS, the City Commission adopted the Zoning in Progress procedure on October 12, 2022 for a period of 90 days, and

WHEREAS, the City Commission has held workshops, accepted public input and evaluated professionally acceptable material related to the issues in the Zoning in Progress. The issues addressed in the Zoning in Progress are complicated and additional time is necessary to ensure that any changes are appropriate. There is good cause for additional time to be spent evaluating and drafting any text amendments that may be necessary, and

WHEREAS, On January 9, 2023, the City Commission adopted Resolution 04-2023 extending the Zoning in Progress for 90 days from January 12, 2023, until such time as the Commission has adopted text amendments and terminated Zoning in Progress.

WHEREAS, the Local Planning Agency reviewed the proposed amendments to the Plan Text Amendments at a public hearing on March 15, 2023, and

WHEREAS, the City Commission duly scheduled, advertised, and held a public hearing on _____, to consider this ordinance and provide for full public participation in the Comprehensive Plan Text Amendments.

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

SECTION 1: The Comprehensive Plan is hereby amended as follows:

ELEMENT 1 - FUTURE LAND USE ELEMENT

Policy 1.A7.1. The City of Stuart has designated the following land use categories and allowed uses for all land within the City of Stuart:

- D. *Office/Residential*: This mixed-use category allows offices and living residential quarters in the same building and/or in adjacent buildings. Zoning controls the
- I. *Downtown Redevelopment*: The Downtown Redevelopment future land use designation applies only to ~~includes the~~ land area within the Stuart Community Redevelopment Area. General uses permitted include low density residential, multi-family residential, office, commercial, recreation, lodging, public facilities, conservation, and mixed-use projects. Individual projects and sites may consist of single uses. However, a mix of residential uses and non-residential uses shall be required within this designation as a whole. Also, electric distribution substations are allowed.
- K. *East Stuart*: The East Stuart future land use designation applies only to land area within the Stuart Community Redevelopment Area. The designation is specific to the historic African American district and adjacent land areas. General uses permitted include low density residential, multi-family residential, office, commercial, recreation and mixed-use projects. Also, public facilities and electric distribution substations are allowed.

Policy 1.A.7. 2. Gross densities, gross intensities and proportional use amounts for each land use category are established in the “Table of Land Use Densities and Intensities” that is adopted as part of this element. In order to promote the efficient use of land and to provide an affordable house stock (Policy 3.A2.6. Housing opportunities), the City’s Land Development code shall provide adjustment, through the urban planned unit development process, to accommodate smaller residential units and allow smaller housing units to be calculated at 0.5 density. In accordance to the Land Development Code, Chapter II, Section 2.07 – Table 2.07.A. UPUD Unit Density and Parking Space Calculation. Per unit for units less than 900 sq. ft. and 0.75 density per units less than 1,100 sq. ft.

TABLE OF LAND USE DENSITIES AND INTENSITIES

Land Use Category	Inside or/ Outside Community	Residential Density ⁴		Intensity Non-Residential	
		General	By Commission Action UPUD RPUD or Major- UCE2	Composition of FLU	Floor Area Ratio (FAR)

	Redevelopment Area ¹		Planned Unit Development or Major UCCU Not ALF ⁴	Assisted Living Facility (ALF) ³	% Non-Residential	% Residential	General	>2.0 FAR ²
Low Density Residential	<u>Not applicable</u> NA	<8.72 du/ac for SFD, and to 11.62 du/ac for duplex ⁵	<8.72 du/ac for SFD, and to 11.62 du/ac for duplex ⁵	<u>Not applicable</u> none	<u>0-5%</u>	95-100%	<0.75 FAR	=
Multi-Family Residential	<u>Inside</u>	<15 du/ac	<30 du/ac	<30 du/ac	<u>0-30%</u>	70-100%	<3.0 FAR	<20 ac
	<u>Outside</u>	<10 du/ac for SFD, and to 11.62 du/ac for all others ⁹	<30 du/ac	<30 du/ac	<u>0-30%</u>	70-100%	<0.5 FAR	=
Commercial	<u>Inside</u>	<15 du/ac	<15 du/ac	<30 du/ac	<u>85-100%</u>	0-15%	<3.0 FAR	<50 ac
	<u>Outside</u>	<10 du/ac	<10 du/ac	<30 du/ac	<u>85-100%</u>	0-15%	<1.5 FAR	=
Office/Residential	<u>Inside</u>	<15 du/ac	<30 du/ac	<30 du/ac	<u>75-100%</u>	0-25%	<3.0 FAR	<10 ac
	<u>Outside</u>	<10 du/ac for SFD, and to 11.62 du/ac for all others ⁹	<30 du/ac	<30 du/ac	<u>75-100%</u>	0-25%	<1.5 FAR	=
Industrial	<u>Inside</u>	<u>Not applicable</u>	Not applicable	Not applicable	100%	0%	<3.0 FAR	<10 ac
	<u>Outside</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>100%</u>	0%	<1.0 FAR	=
Public	<u>Not applicable</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>Not applicable</u>	<u>100%</u>	<u>0%</u>	<1.0 FAR	=
Institutional	<u>Not applicable</u>	<10 du/ac	<30 du/ac	<30 du/ac	100%	<u>0%</u>	<0.75 FAR	=
Recreation	<u>Not applicable</u>	<u>Not applicable</u> none	<u>Not applicable</u>	<u>Not applicable</u>	<u>100%</u>	0%	<0.5 FAR	=
Downtown Redevelopment	<u>Inside</u>	<15 du/ac	<30 du/ac	<30 du/ac	<u>0-70%</u> ²	0-70%	<4.0 FAR	<50 ac
Neighborhood/Special District	<u>Inside</u>	<15 du/ac	<30 du/ac	<30 du/ac	<u>10-70%</u>	30-90%	<3.0 FAR	<10 ac
	<u>Outside</u>	<u>Not applicable</u>	<15 du/ac	<30 du/ac	10-70%	30-90%	<2.0 FAR	=
East Stuart	<u>Inside</u> NA	<17 du/ac	<30 du/ac	<30 du/ac	0-30%	70-100%	<1.5 FAR	=

Conservation	Not applicable	Not applicable None	Not applicable	Not applicable	100%	0%	<10% ISR	=
Marine/Industrial	Not applicable	<15 du/ac	<15 du/ac	Not applicable NA	0-75%	0-25%	<3.0 FAR	<5 ac

Footnotes:

¹—CRA = Community Redevelopment Agency. A delineated area.

²—RPUD = Residential Planned Unit Development; Major UCCU = Major Urban Code Conditional Use.

³—The total number of acres in developments approved and constructed after the policy effective date that exceed 2.0 FAR shall not exceed the specified amount.

⁴—ALF = Assisted Living Facility

⁵—This designation is intended for parcels that are suited for single family attached and detached and duplex development ranging in density from 8.72 for single family units to 11.62 for duplex units.

⁶—Recreation uses shall not exceed 25 percent of the land area.

⁷—ISR = Impervious surface ratio. Not to exceed 10,000 square feet for any contiguous parcel.

⁸—Shall be interpreted on an Urban Subdistrict basis within the CRA (including Urban Neighborhood, Urban General, Urban Center, Urban Waterfront, and Urban Highway).

⁹—This designation is intended for parcels that are suited for single family attached and detached, duplex and multi-family development ranging in density from 10 for single family units to 11.62 for multi-family and duplex units.

Note: Throughout the City, properties located in the Coastal High Hazard Area (CHHA), as identified on the future land use map in the Coastal Element of the Comprehensive Plan, are limited to 15 dwelling units per acre unless the applicant can demonstrate to comply with Florida Statute 163.3178 (9)(a)1,2 and 3. ALFs shall continue to be prohibited within the Coastal High Hazard Area.

¹ The total number of acres in developments approved and constructed after the policy effective date that exceed 2.0 FAR shall not exceed the specified amount.

² Recreation uses shall not exceed 25 percent of the land area.

³ ALFs shall be prohibited within the Coastal High Hazard Area (CHHA) as identified on the CHHA Map in Coastal Element of the Comprehensive Plan.

⁴ Applied to platted lots approved prior to (insert date – 1928 or 1975?).

Abbreviations used:

ISR = Impervious surface ratio

Major UCCU = Major Urban Code Conditional Use

PUD = Planned Unit Development

du/ac = dwelling unit per acre

ac = acre

SECTION 2: This Ordinance becomes effective upon adoption.

SECTION 3: 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 and the Florida Building Code.

SECTION 4: 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 4: 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 5: This Ordinance shall be effective upon the following to occur: adoption by the City Commission, and proper execution and acceptance by the Owner.

SECTION 6: 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 7: Upon complete execution of this Ordinance, including the Acceptance and Agreement by the Owner, the City Clerk is directed to record in the Public Records of Martin County, Florida.

(The remainder of this page intentionally left blank)

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:

TROY MCDONALD, MAYOR
BECKY BRUNER, COMMISSIONER
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
CITY MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

**CITY OF STUART, FLORIDA
AGENDA ITEM REQUEST
City Commission**

Meeting Date: 3/27/2023

Prepared by: Jodi Nentwick

Title of Item:

LAND DEVELOPMENT CODE TEXT AMENDMENT - ZONING IN PROGRESS (RC):

ORDINANCE No. 2515-2023; AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY' LAND DEVELOPMENT CODE; MORE SPECIFICALLY ADMENDING THE EXISTING SECTION 2.07.00.I OF CHAPTER II ENTITLED "URBAN PLANNED UNIT DEVELOPMENT (UPUD) DISTRICTS, TABLE 2.07.A. UPUD UNIT DENSITY AND PARKING SPACE CALCULATION TO REDUCE THE MINIMUM UNIT SIZE REQUIREMENTS; 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:

On October 10, 2022, the City of Stuart City Commissioners, adopted by Resolution Number 93-2022, declared a "zoning in progress" declared that no plans, permits, licenses, or other development order of any kind shall be issued for any applications received after the effective date of the zoning in progress and directed staff to prepare an ordinance to adopt a text amendment to the land development regulations addressing Section 2.07.00(I), density and parking calculation within an Urban Planned Unit Development.

The City Commission directed staff to draft text amendments addressing the density and parking calculations within an urban planned unit development as currently described in Section 2.07.00(I) of the Stuart Land Development Regulations.

On March 15, 2023, the Local Planning Agency recommended approval to the City Commission. The motion passed 3-2.

Funding Source:

N/A

Recommended Action:

Staff recommends approval of Comprehensive .

ATTACHMENTS:

1. Draft Ordinance Land Development Code Text Amendment - Zoning in Progress



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' LAND DEVELOPMENT CODE; MORE SPECIFICALLY ADMENDING THE EXISTING SECTION 2.07.00.I OF CHAPTER II ENTITLED "URBAN PLANNED UNIT DEVELOPMENT (UPUD) DISTRICTS, TABLE 2.07.A. UPUD UNIT DENSITY AND PARKING SPACE CALCULATION TO REDUCE THE MINIMUM UNIT SIZE REQUIREMENTS; 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, the purpose of this Land Development Code Amendment is to support the objectives of the City's Comprehensive Plan to initiate Land Development Code to provide for a variety of housing units; and

WHEREAS, the City Commission discussed the need for modification of the Land Development Code and the potential for a "zoning in progress" during its regularly scheduled City Commission meeting on September 12, 2022; and

WHEREAS, the City Commission scheduled an agenda item to discuss the zoning in progress for the City Commission Meeting on September 26, 2022. During the discussion, the

Commission directed staff to follow the Land Development Regulations pertaining to zoning in progress to consider amendments to the density and parking calculations within an urban planned unit development; and

WHEREAS, On October 10, 2022, the City Commission adopted Resolutions 93-2022 and 95-2022 initiating the Zoning in Progress procedure authorized in Section 1.04.04 of the Stuart Land Development Code; and

WHEREAS, the City Commission adopted the Zoning in Progress procedure on October 12, 2022 for a period of 90 days, and

WHEREAS, the City Commission has held workshops, accepted public input and evaluated professionally acceptable material related to the issues in the Zoning in Progress. The issues addressed in the Zoning in Progress are complicated and additional time is necessary to ensure that any changes are appropriate. There is good cause for additional time to be spent evaluating and drafting any text amendments that may be necessary, and

WHEREAS, On January 9, 2023, the City Commission adopted Resolution 04-2023 extending the Zoning in Progress for 90 days from January 12, 2023, until such time as the Commission has adopted text amendments and terminated Zoning in Progress.

WHEREAS, the Local Planning Agency reviewed the proposed amendments to the Plan Text Amendments at a public hearing on March 15, 2023, and

WHEREAS, the City Commission duly scheduled, advertised, and held a public hearing on _____, to consider this ordinance and provide for full public participation in the Comprehensive Plan Text Amendments.

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

SECTION 1: The Land Development Code is hereby amended as follows:

**CHAPTER II – ZONING DISTRICT USES ALLOWED, DENSITY, INTENSITY 2.07.00.
- DESIGNATION OF PLANNED UNIT DEVELOPMENT (PUD)**

- I. Urban planned *development (UPUD) districts*.
 - a. Location. A UPUD may be located only within the defined community

redevelopment area of the city.

b. Density.

- i. A UPUD shall not exceed the density outlined in policy A7.2 of the City of Stuart Comprehensive Plan relating to gross densities of the underlying future land use designation as defined and described “low-density residential,” “office/residential,” “multi-family residential,” “commercial,” “industrial,” “marine-industrial,” “recreation,” “downtown redevelopment,” or “public,” by the future land use element of the City of Stuart Comprehensive Plan, and which is of suitable character and compatible with surrounding uses as determined by the city commission.
- ii. The table 2.07.A shall be used for the purpose of residential density and parking space calculation within a UPUD.

Table 2.07.A. UPUD Unit Density and Parking Space Calculation

<i>Maximum Unit Size</i>	<i>Maximum Bedrooms</i>	<i>Unit Density</i>	<i>Parking Space per Unit</i>
900 500 sq. ft.	1	0.5	1.25
1,100 700 sq. ft.	2	0.75	1.4
No maximum	No maximum	1	1.5

SECTION 2: This Ordinance becomes effective upon adoption.

SECTION 3: 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 and the Florida Building Code.

SECTION 4: 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 4: 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 5: This Ordinance shall be effective upon the following to occur: adoption by the City Commission, and proper execution and acceptance by the Owner.

SECTION 6: 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 7: Upon complete execution of this Ordinance, including the Acceptance and Agreement by the Owner, the City Clerk is directed to record in the Public Records of Martin County, Florida.

(The remainder of this page intentionally left blank)

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:

TROY MCDONALD, MAYOR
BECKY BRUNER, COMMISSIONER
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
CITY MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY