Inst. # 2778201
Bk: 3086 Pg: 2301 Pages: 1 of 7
Recorded on:10/3/2019 3:29 PM Doc: GOV
Carolyn Timmann
Clerk of the Circuit Court & Comptroller
Martin County, FL
Rec Fees: $61.00

BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 74-2019

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA GRANTING A DISTANCE WAIVER TO HARVEY PLAZA INC., THEREBY PERMITTING THE SALE OF PACKAGE BEER AND WINE WITHIN 500 FEET OF A SCHOOL AND WAIVING THE PARKING REQUIREMENT FOR THE EXISTING AND PROPOSED USES AT PROPERTY LOCATED AT 502 THRU 516 MARTIN LUTHER KING JR. BLVD; PROVIDING A SITE PLAN; AN EFFECTIVE DATE; PROVIDING FOR CONDITIONS OF APPROVAL; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, Philip Harvey, owner of Harvey Plaza Inc., a Florida registered company, is requesting a 2-APS liquor license for his place of business at 502 Martin Luther King Jr. Blvd. (Harvey Plaza); and

WHEREAS, City Code Section 4-3(b)(4) states that: *No alcoholic beverages shall be sold within 200 feet of any church, or within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the city commission approves the location as promoting the public health, safety, and general welfare of the community*; and

WHEREAS, City staff has reviewed Mr. Harvey's requested waiver and evaluated the potential impacts of the sale of package beer and wine at the proposed location; and

WHEREAS, the City Commission finds that conditionally granting said waiver promotes the public health, safety, and general welfare of the communities as it will assist with the redevelopment of this corridor.; and

WHEREAS, F.S. 562.45 (2) (A) is not applicable because this exception does not authorize on premise consumption. On premise consumption requires an ordinance adopted pursuant to F.S.166. 041(3)(c).

WHEARAS, City Land Development Code Section 3.02.05 Development Standards for the East Stuart Code District list permitted uses with number of parking spaces required for uses in the BMU sub-district; and

WHEARAS, City staff has also reviewed Mr. Harvey's requested waiver of 15 parking spaces and evaluated the potential impacts of the existing on street parking available; and

WHEREAS, the City Commission finds that conditionally granting said waiver for parking is justified based on the number of existing on-street parking spaces available and the projected impact on parking based on the existing and potential uses for the plaza.

NOW THEREFORE, BE IT RESOLVED 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 law, as applicable.

SECTION 2: The 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 with 500 foot radius circles from the real property corners is set forth in **Exhibit "B"** attached hereto and made a part hereof by reference. A Site Plan with a title 'Revise Bathrooms for Accessibility' by Joseph M. McCarty, Architect, Inc. signed and sealed on 6/11/2019 is set forth as **Exhibit "C"**.

SECTION 3: The distance waiver is conditioned upon compliance with all provisions set forth below:

i. This waiver shall be limited to a 2-APS beer and wine alcoholic beverage license (package sales only) from the Division of Alcoholic Beverages and Tobacco of the State of Florida.

ii. The sale of package beer and wine shall be permitted between the hours of 9:00 AM and 9:00 PM only.

iii. Applicant shall post and maintain a sign, approved by the City Police Department, prohibiting the consumption of alcoholic beverages anywhere on premises.

iv. The distance waiver from the middle school to sell alcohol shall be limited to the unit with the address of 502 Martin Luther King Jr. Blvd. only, is transferable and shall run with the land.

v. Mr. Harvey or subsequent owner shall obtain a Certificate of Occupancy for a convenience store with ability to sell package alcohol from 502 Martin Luther King Jr. Blvd. within 8 months of this approval or else the distance waiver becomes void.

vi. The parking waiver is transferable and shall run with the land and applies to any and all uses so long as the parking calculation does not exceed 21 required spaces. Any additional uses requiring additional parking must be authorized by East Stuart District major conditional use approval.

SECTION 4: The failure of the applicant to comply with the Development Conditions or terms set forth in this resolution, shall be deemed a zoning violation and no further permits, or other development approvals or orders shall be issued by the City to the owner or applicant 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 property owner to seek administrative or judicial redress.

SECTION 5: This conditional zoning approval, required by the state of Florida for the issuance of an alcoholic beverage license, may be revoked by the City manager for good cause shown, including violations of this resolution, excessive calls for police service, sale of alcohol to minors or noise violations. A decision by the City Manager to revoke conditional zoning approval is appealable to the City Commission.

SECTION 6: This resolution shall rescind Resolution 91-2014 in its entirety.

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

	YES	NO	ABSENT	ABSTAIN
REBECCA S. BRUNER, MAYOR	Y			
EULA R. CLARKE, VICE MAYOR	Y			
KELLI GLASS LEIGHTON, COMMISSIONER	Y			
MERRITT MATHESON, COMMISSIONER	Y			
MIKE MEIER, COMMISSIONER	Y			

ADOPTED this 26th day of August, 2019.

ATTEST:

MARY R. KINDEL
CITY CLERK

REBECCA S. BRUNER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

MICHAEL J. MORTELL
CITY ATTORNEY

CITY OF STUART · FLORIDA · INCORPORATED 1914 · SAILFISH CAPITAL OF THE WORLD ·

Resolution No. 74-2019 Waiver 502-516 MLK

OWNERS ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THE FOREGOING RESOLUTION, AND 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 FOREGOING RESOLUITON. IF IT IS LATER DISCOVERED THAT THE UNDERSIGNED, OR ITS SUCCESSORS OR ASSIGNS HAVE FAILED IN ANY MATERIAL WAY TO DEVELOP THIS BUSINESS ACCORDING TO THIS RESOLUTION, ITS CONDITIONS, AND THE DEVELOPMENT DOCUMENTS, THE UNDERSIGNED UNDERSTANDS AND AGREES THAT THIS RESOLUITION MAY BE AMENDED OR REPEALED BY THE CITY COMMISSION, AND THAT OTHER ADMINISTRATIVE ACTIONS AND PENALTIES MAY BE TAKEN AGAINST THE UNDERSIGNED, ITS SUCCESSORS OR ASSIGNS, BY THE CITY, INCLUDING BUT NOT LIMITED TO SANCTIONS DESCRIBED IN THIS RESOLUITION, CODE ENFORCEMENT ACTIONS, PERMIT AND LICENSING SUSPENSIONS OR REVOCATIONS, AND ANY OR ALL OTHER APPLICABLE CIVIL AND CRIMINAL ACTIONS.

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

WITNESSES:

Tom Rotz

Print name: 709 730

Philip Harvey

Harvey Plaza Inc.

Print name: Alicia King

Notary Public, State of Florida
My Commission Expires: 07/18/2022
Notary Seal

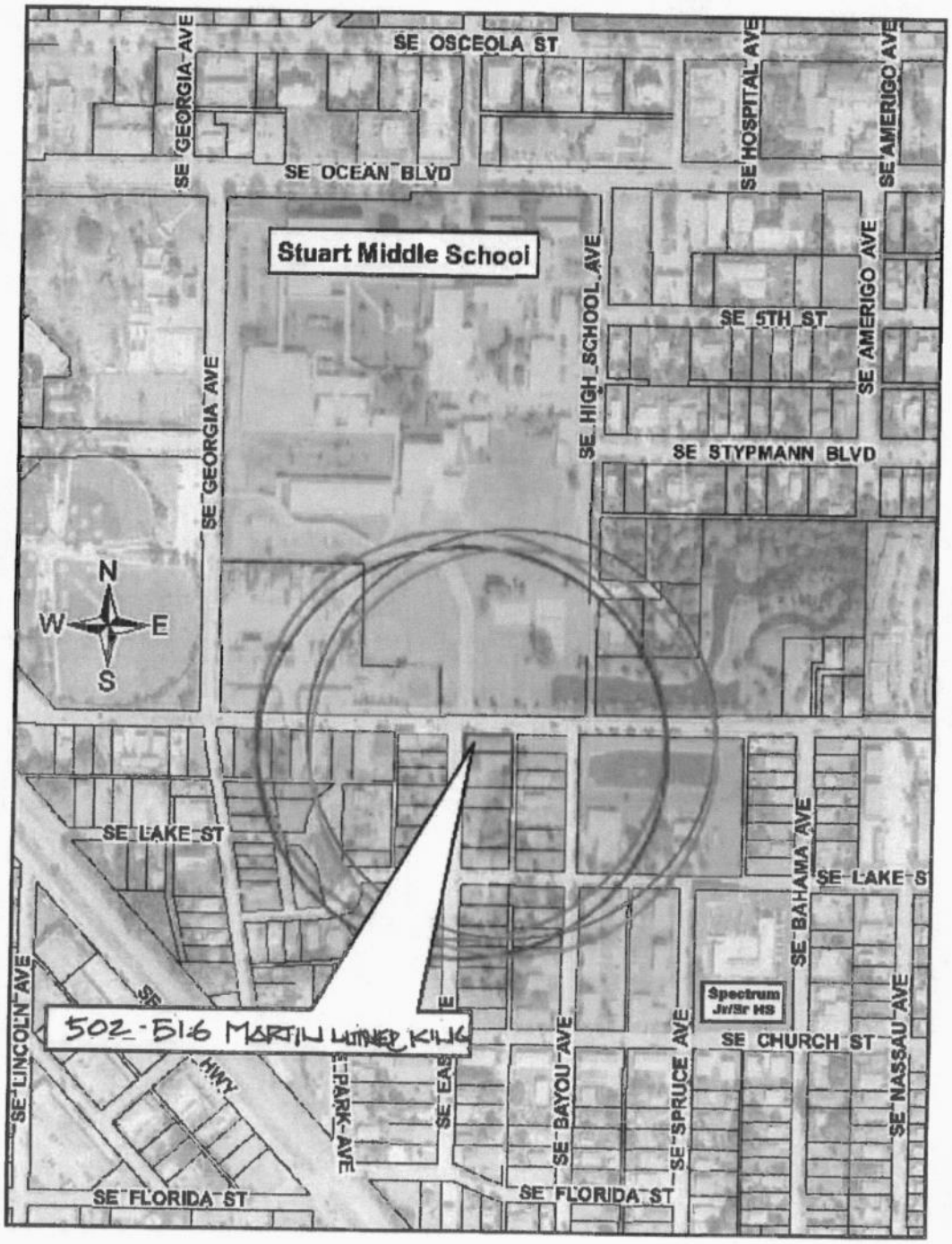
Notary Public State of Florida
Darcee M Pilarski
My Commission GG 239737
Expires 07/18/2022

"Exhibit A"

Lot 1, Block 1, of Lincoln Park according to the Plat of Hillcrest and Lincoln Park according to the Plat of Hillcrest and Lincoln Park filed October 8, 1913. And recorded in Plant Book 5, Page 14, Palm Beach Together a 10' alley adjacent on the East side.

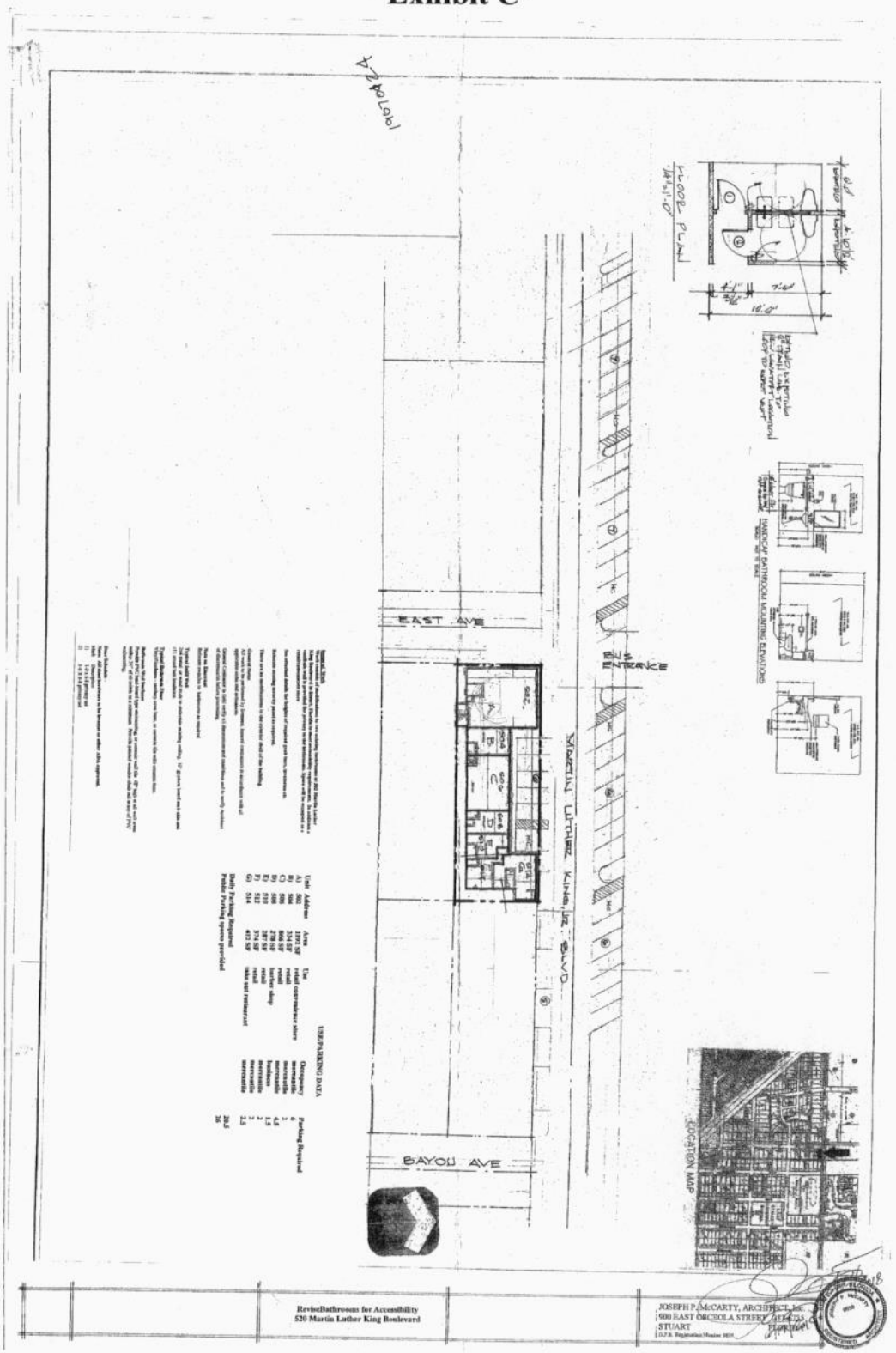
Resolution No. 74-2019 Waiver 502 MLK

"Exhibit B"



Resolution No. 74-2019 Waiver 502-516 MLK

"Exhibit C"



City of Stuart

121 SW Flagler Avenue • Stuart • Florida 34994
Telephone (772) 288-5306
Fax (772) 288-5305

City Clerk Department
Melissa "Joy" Warren
Assistant to The City Clerk

mwarren@ci.stuart.fl.us

September 26, 2019

Clerk of the Circuit Court
Attn: Recording
P.O. Box 9016
Stuart, FL 34995

RE: PLEASE RECORD:
RESOLUTION NO. 74-2019 –Harvey Plaza Waiver 502-516 Conditional Uses

Please record the above-named documents into the public records of Martin County. Upon completion, please return the original document back to my attention via inter-office mail.

Should you have any questions or comments, please do not hesitate to contact me at 772-288-3599 or mwarren@ci.stuart.fl.us.

Thank you,

Melissa "Joy" Warren
Assistant to City Clerk

Enc.