BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

RESOLUTION NUMBER 66-2020

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA GRANTING A DISTANCE WAIVER TO SPEEDY MART 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, Shaher Bargouthy, owner of Speedy Mart, Inc., a Florida registered company, is requesting a 2-APS liquor license for his place of business at 502 Martin Luther King Jr. Blvd. (A.K.A. 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. Bargouthy'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. Bargouthy'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 11:00 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. 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 74-2019 in its entirety.

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:

	YES	NO	ABSENT	ABSTAIN
MICHAEL J. MEIER, MAYOR				
EULA R. CLARKE, VICE MAYOR				
BECKY BRUNER, COMMISSIONER				
VACANT, COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				

ADOPTED this ___ day of _____, 2020.

ATTEST:

_____
MARY R. KINDEL
CITY CLERK

_____
MICHAEL J. MEIER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL J. MORTELL
CITY ATTORNEY

CITY'S ACKNOWLEDGMENT

STATE OF FLORIDA,
COUNTY OF _____

The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____day of _____, 2020, by MICHAEL J. MEIER, Mayor, and Mary R. Kindel, City Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation.

Personally Known OR Produced Identification
Type of ID Produced _____

Signature of Notary Public: _____
Commission Expires:

Notary Seal:

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:

Shaher Barghouthy - owner

Print name: _____ _____

Speedy Mart, Inc.

Print name: _____

OWNERS ACKNOWLEDGMENT

STATE OF FLORIDA,
COUNTY OF _____

The above Ordinance, Acceptance and Agreement was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2020, by _____

Personally Known OR Produced Identification
Type of ID Produced _____

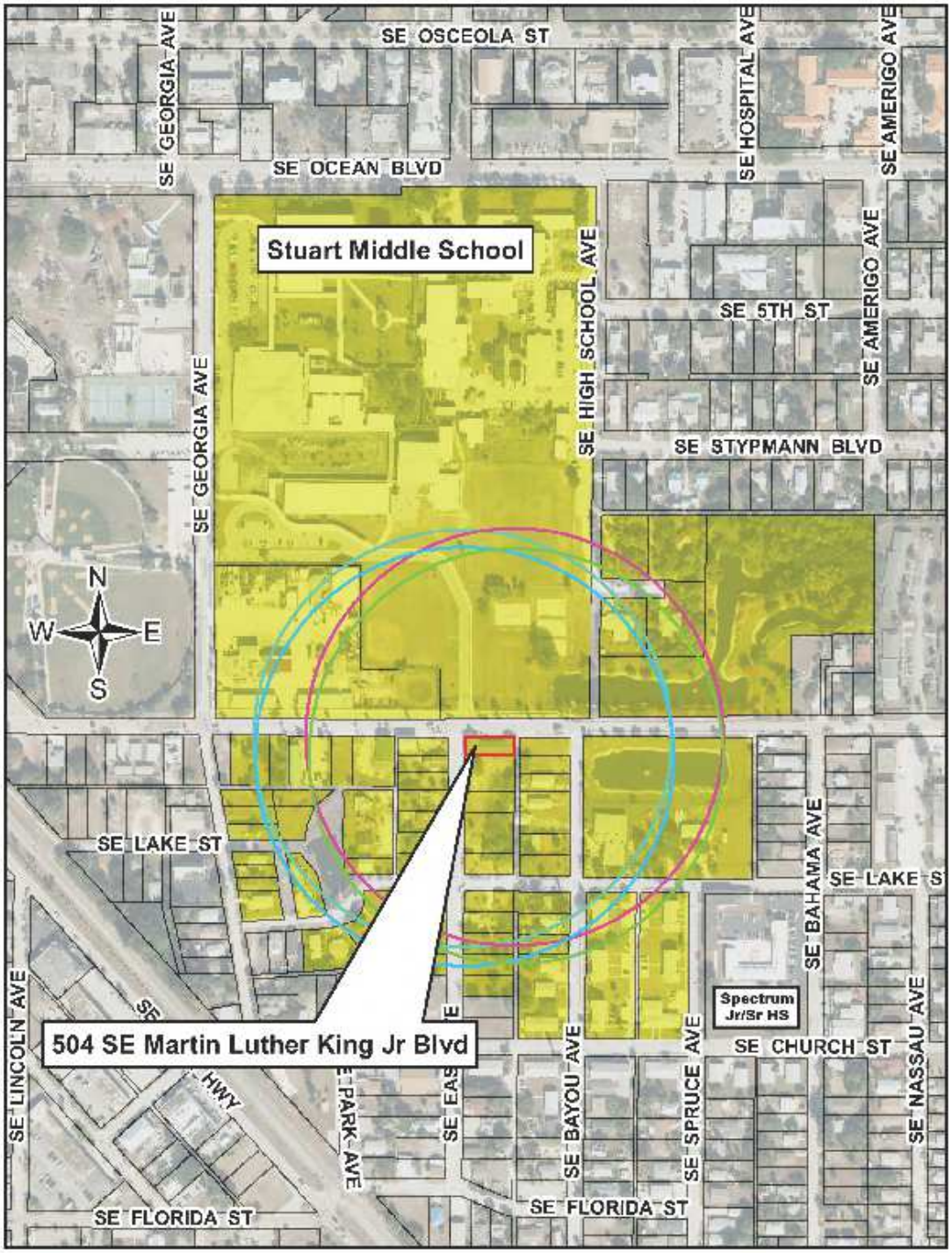
Signature of Notary Public: _____
Commission Expires:

Notary Seal:

“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.

"Exhibit B"


SE OSCEOLA ST
SE GEORGIA AVE
SE OCEAN BLVD
SE HOSPITAL AVE
SE AMERIGO AVE
Stuart Middle School
SE HIGH SCHOOL AVE
SE 5TH ST
SE AMERIGO AVE
SE GEORGIA AVE
SE STYPMANN BLVD
N
W
E
S
SE LAKE ST
SE BAHAMA AVE
SE LAKE ST
Spectrum Jr/Sr HS
504 SE Martin Luther King Jr Blvd
SE CHURCH ST
SE LINCOLN AVE
SE BAYOU AVE
SE SPRUCE AVE
SE NASSAU AVE
SE PARK AVE
SE FLORIDA ST
SE FLORIDA ST

Resolution No. 66-2020 Waiver 502-516 MLK

"Exhibit C"

