BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE No. 2449-2020

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, APPROVING A REZONING FROM URBAN WATERFRONT TO URBAN PLANNED UNIT DEVELOPMENT FOR A 0.925 ACRE PROPERTY, LOCATED AT 37 & 41 S.W. SEMINOLE STREET, SAID LAND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; ESTABLISHING THE SAILFISH COVE UPUD CONSISTING OF THIRTY (30) MULTI-FAMILY RESIDENTIAL UNITS AND 5,768 SQUARE FEET OF OFFICE/COMMERCIAL USE IN ACCORDANCE WITH SECTION 2.07.00 OF THE STUART LAND DEVELOPMENT CODE; ALLOWING A DENSITY OF 26.75 DWELLING UNITS PER ACRE ON A .925 ACRE SITE; APPROVING A FINAL SITE PLAN; PROVIDING FOR DEVELOPMENT CONDITIONS INCLUDING A TIMETABLE FOR DEVELOPMENT, DECLARING THE PLAN TO BE CONSISTANT 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.

* * * * *

WHEREAS, the City Commission of Stuart, Florida, has adopted and administers Section 2.07.00.I of the Land Development Code; and

WHEREAS, the Applicant, Certares Partners Holdings, LLC, is requesting a rezoning to UPUD to allow for development of a multi-family development consisting of 30 residential units on 0.925-acre waterfront property and 8 office/retail units totaling 5,768 square feet, and

WHEREAS, the applicant has requested a density of 26.75 dwelling units per acre per Table 2.07.A UPUD Density and Parking Space Calculation, for a building of more than 100 feet in width and for parking within the building envelope; and

WHEREAS, at the hearing the applicant showed by substantial competent evidence that the application does not create any detrimental effects on adjacent land uses; and

WHEREAS, the owners have 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 this ordinance; and

WHEREAS, the City Commission, has considered the Owner's voluntary request for a new zoning designation, and has also considered the recommendation of the City staff.

WHEREAS, the Community Redevelopment Board held a properly noticed hearing at a regularly scheduled meeting to consider the application of the Petitioner and recommended approval of rezoning to UPUD on August 4, 2020; and

WHEREAS, on August 24, 2020, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by the Owner, amending the city's official zoning map and approving the proposed building and site, and

WHEREAS, the owners have 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 this ordinance; and

WHEREAS, the Sailfish Cove UPUD development will be in harmony with surrounding properties and their anticipated development; and

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 and development conditions attached hereto as **Exhibit "C";**

NOW THEREFORE, BE IT RESOLVED 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 "D"**, hereinafter the "Development Documents", shall be deemed a part of this ordinance:

1. **Boundary Survey, Sheet 1 of 1 by Stephen J. Brown, Inc., Surveyors, Designers, Land Planners and Consultants dated 5.26.17.**
2. **Site Plan, Sheet 1 of 1, prepared by Conceptual Design Group, Inc. Landscape Architecture - Site Planning, dated 5.21.2020 and last revised per City Comments on 7.16.20**
3. **Pavement Marking and Layout, by Captec Engineering Inc., dated 4.21.20 and last revised on 7.16.20.**
4. **Pavement and Drainage, by Captec Engineering Inc., dated 4.21.20 and last revised on 7.16.20.**
5. **Landscape Plan, Sheets L-1 and L-2, prepared by Conceptual Design Group, Inc. Landscape Architecture - Site Planning, dated 5.21.20.**
6. **Architectural Elevations, Sheets A-1 thru A-7, by MC&A Town Planning and Architecture and Advanced Architecture and Planning - qualifier, dated 01.19.20.**

SECTION 2: The Future Land Use designation in the City's Comprehensive Land Use Plan shall remain "Downtown Redevelopment". The Land Development (Zoning) District designation on the City of Stuart Official Zoning Map shall become "UPUD" Urban Planned

Unit Development amended to allow for 30 multi-family residential units and 5,768 square feet of commercia/office units.

SECTION 3: This Ordinance shall take effect immediately upon its adoption.

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

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

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

SECTION 7: Following the adoption and acceptance of this ordinance by the Owner, 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 UPUD property or any portion of the UPUD 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 UPUD 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 and agreement shall be effective upon the last of the following to occur: adoption by the City Commission, and proper execution and acceptance by the Owners.

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.

Passed on first reading the 24th day of August 2020.

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:

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

ADOPTED on second and final reading 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 A URBAN 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 URBAN 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

WITNESSES:

Certares Partners Holdings, LLC

Witness #1:

Nelson E. Famadas

Print Name: _____

Print Name: _____

Signature: _____

Signature: _____

See owners acknowledgement next page

Witness #2:

Print Name: _____

Signature: _____

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" Legal Description:

LOTS 4 THROUGH 7, INCLUSIVE, FEROE SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE 25, PUBLIC RECORDS OF PALM BEACH (NOW MARTIN) COUNTY, FLORIDA.

Exhibit "B" Map:



Exhibit "C" Conditions of Approval

1. The Sailfish Cove UPUD Project and use thereof shall comply with the following drawings:

   A. Boundary Survey, Sheet 1 of 1 by Stephen J. Brown, Inc., Surveyors, Designers, Land Planners and Consultants dated 5.26.17.

   B. Site Plan, Sheet 1 of 1, prepared by Conceptual Design Group, Inc. Landscape Architecture - Site Planning, dated 5.21.2020 and last revised per City Comments on 7.16.20

   C. Pavement Marking and Layout, by Captec Engineering Inc., dated 4.21.20 and last revised on 7.16.20.

   D. Pavement and Drainage, by Captec Engineering Inc., dated 4.21.20 and last revised on 7.16.20.

   E. Landscape Plan, Sheets L-1 and L-2, prepared by Conceptual Design Group, Inc. Landscape Architecture - Site Planning, dated 5.21.20.

   F. Architectural Elevations, Sheets A-1 thru A-7, by MC&A Town Planning and Architecture and Advanced Architecture and Planning - qualifier, dated 01.19.20.

2. Any modifications to the Sailfish Cove UPUD Site Plan that does not exceed 10% of the approved building footprint, building setbacks, gross square footage, building location, parking size, location and number of parking, drainage areas, and location of landscaping may be approved by the City's Development Director, provided however, the Development Director may refer the matter to the City Commission for approval via a public hearing.

3. Development of the Subject Property as a UPUD shall include an impervious area of not more than 74.4% of the UPUD. The maximum building height within the UPUD shall be four (4) stories or 45 feet.

Landscaping

4. The common areas including the projects cabana and pool area shall be provided with landscaping with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition.

5. A Landscape maintenance plan, executed in accordance with the Land Development Regulations, shall be submitted to the Development Department and approved prior to the issuance of a certificate of occupancy.

Prior to Issuance of Site Permits

6. Applicant shall provide a digital boundary survey and civil plan prior to the issuance of a site permit.

7. Civil Plans shall be reviewed and approved by all applicable City departments prior to the issuance of a site permit.

8. All regulatory agency permits, including but not limited to the South Florida Water Management District and Army Corp of Engineers, shall be obtained by the applicant and copies provided to the City prior to the commencement of any development activities.

9. All development activities shall comply with the City's Concurrency Management System prior to the issuance of building permits.

10. Water and Sewer Services shall be provided by City of Stuart utilities.

11. In the event of any conflict in the provisions of Exhibit 'C' Development Conditions and attached exhibits, Exhibit 'C' shall prevail.

12. All utility improvements constructed by the developer within City's right-of-way, shall be constructed in a manner and form acceptable to the City Public Works department.

13. Prior to certificate of occupancy for any unit, the applicant shall provide an engineer's written confirmation attesting that the UPUD's storm water system is in place and functioning in compliance with all approved plans and specifications.

14. Erosion and dust control measures to be implemented during construction shall be provided on the civil plans and submitted during site permit review. Water trucks shall be provided by the applicant as necessary during construction to reduce dust generated on-site.

15. Within 30 days of approval of the UPUD, the applicant shall dedicate sufficient land to accommodate streetscape improvements along the portion of land abutting Seminole Street from the valley gutter back to the property (as depicted on site plan). The applicant shall provide legal description and survey necessary for the transfer. Upon transfer of the land the City agrees to grant a license agreement or ROW use permit to the applicant for the same land area, upon which the applicant shall build sidewalk, parallel parking, driveways, landscape islands, landscaping, irrigation and new streetlights consistent with the CRA Seminole Streetscape Plan.

16. If the CRA Seminole Streetscape Plan occurs prior to the Sailfish Cove development project, the applicant agrees to contribute an amount of $47,559 for all the elements associated with the Seminole Streetscape Improvement project prior to the issuance of the site permit. Also, the applicant agrees to enter into a license agreement with the City to use private property no more than 10 feet beyond the rights-of-way dedication for harmonization during the construction of Seminole Street.

17. Prior to issuance of a building permit, the applicant shall either contribute the required art fee of one percent of the vertical construction cost or provide work of art on the development pursuant to Section 3.01.08 within the dedicated land. The applicant agrees to maintain the public art in a location as depicted on the site plan.

18. As a condition of the issuance of any development permits, the applicant shall obtain a Revocable Permit for the construction of a sculpture/fountain (public art), sidewalk, parking space, monument sign, curbing and landscaping, and other minor right-of-way improvements which must be approved by the City Manager, under separate application.

19. Applicant shall execute a riparian easement for the boardwalk in exchange the office/retail component for the development will be parking exempt.

20. The applicant agrees to provide easement for FPL transformer pad, if requested, to serve this project and adjacent properties.

Development and Construction

21. Except as provided herein, all development shall comply with City Code.

22. Site work including but not limited to land preparation, clearing and grading, drainage and water, sewer and irrigation lines, shall be reviewed approved by the City's Public Works department and the city's engineering consultant prior to permitting.

23. Any sidewalks damaged during construction shall be repaired and/or replaced by the applicant as per the City's specification.

24. Notwithstanding the illustration shown on the site plan, all signage shall be in accordance with the City's Land Development Regulations with regards to size, dimensions, color, etc.

25. Site lighting shall not negatively impact adjacent properties and shall not create a visual nuisance. Decorative exterior light fixtures shall be approved prior to the issuance of any development permits.

26. The applicant shall comply with all applicable Handicap Accessibility standards.

27. Final Development Plans and Construction Drawings shall be reviewed and approved by all necessary City departments prior to the issuance of any building permits.

28. Any and all regulatory agency permits, including but not limited the South Florida Water Management District, and Army Corp of Engineers, shall be obtained by the applicant and copies provided to the City prior to the issuance of a site permit.

29. Prior to the issuance of any development permits, the developer shall obtain unity of title for the two parcels, 37 & 41 S.W. Seminole Street, prior to any site or building permits being approved.

30. The project shall have no more than one water meter to the single building unless public works deems more water meters are appropriate.

31. There shall be no improvements, fencing, installation of additional landscape material, etc. placed within the common acres that would be in nonconformance with approved vistas at the ends of the building.

Signage

32. All signs throughout the UPUD must have a consistent treatment, as to number, location, size, height, lighting, and materials with a unified theme throughout the Planned Unit Development. The development's monument sign shall adhere to the City of Stuart Land Development Code.

HOA Requirements & Future Amendments

33. The PUD may be conveyed to 30 separate homeowners without further amendment to this Ordinance. Prior to application for any development, the applicant/developer shall form a HOA (Homeowners Association) or other similar entity acceptable to the City Attorney, which shall be singularly responsible for the perpetual maintenance of the common site features.

34. Prior to the issuance of any building permits for any portion of the Property, the Owner shall clearly define, to the satisfaction of the City Attorney, the number of condominium associations that will be created with respect to the Property. There shall be a Master Association created for all condominium units to be constructed on the property. The Master Association shall be the entity responsible for accepting notices from the City and correcting any violations of this Ordinance, or the ordinances of the City and for any matters involving the City with respect to the Property, including, without limitation, fines and penalties. There shall be no conveyance of any units to third parties prior to the formation of the Master Association. There will be no future subdivision of the property without a plat approved by the City Commission.

35. Any applications to amend this Ordinance shall be limited to the developer or the Homeowners Association.

36. The Homeowner's Association shall regulate any permits for guest parking.

37. All dock facilities and marine related bulkheads, hardened shorelines, etc. shall be maintained by the Master Association, any new marine related improvements, modification, repairs and permitting associated with such facilities shall be accomplished by, and the responsibility of, the Master Association. There shall be no cabanas or outbuildings constructed on the property. There shall be no liveaboards permitted by definition of the Department of Environmental Protection. The term "liveaboard" is defined as a vessel docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period.

38. Dock Facilities are for the expressed use of the owners, and or tenants. Leasing of dock slips to entities other than tenants of the project is prohibited. Commercial use of the dockage facilities is prohibited. The number of slips shall be limited to 22 slips (per original approval). Dock & slips are illustrative in nature and not final documents.

Timetable for Development

39. Timetable for development shall be as follows:

Site and building permit application deemed sufficient for permit review under city codes and standards.	**August 1, 2022**
Final Certificate of Occupancy for all site and building improvements.	**August 1, 2024**

40. The following uses shall be permitted:

a. Multi-Family Residential
b. Home Occupations in accordance with the City's Land Development Code.
c. Office/Retail (5,768 square feet)