BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2464-2021

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, AMENDING THE CITY'S OFFICIAL ZONING MAP, THEREBY APPLYING A LAND DEVELOPMENT ZONING DESIGNATION OF UPUD "URBAN PLANNED UNIT DEVELOPMENT" TO A PARCEL OF LAND TOTALING 0.63 ACRES, LOCATED AT 304 NE FLAGLER AVENUE, BEING MORE FULLY DESCRIBED IN EXHIBIT "A" ATTACHED; ESTABLISHING THE "SPORTFISH MARINA" URBAN PLANNED UNIT DEVELOPMENT (UPUD) CONSISTING OF A 37-ROOM BOUTIQUE HOTEL AND 49 SLIP MARINA, AND ALLOWING USES PERMITTED IN THE URBAN DISTRICT; PROVIDING FOR APPROVAL OF A SITE PLAN; PROVIDING FOR DEVELOPMENT CONDITIONS; DECLARING THE PROJECT 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, PROVIDING FOR ACCEPTANCE BY THE APPLICANT AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by Fernando Limon, Manager of LBS Power Holdings LLC (Applicant) and Ted Weitzel, President of Weitzel OZ LLC (Owner) of a 0.633 acre parcel of developed land located at 304 NE Flagler Avenue (**Exhibit "D" – Aerial**), and

WHEREAS, the City of Stuart has determined the need to assign UPUD zoning to said lands; and

WHEREAS, the Community Redevelopment Board (CRB) held a properly noticed hearing at a regularly scheduled meeting to consider amending the city's official zoning map and approving the existing and recommended approval for the rezoning on April 6, 2021; and

WHEREAS, on April 26, 2021, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by the Owner and Applicant, amending the city's official zoning map and approving the existing building and site, and

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

WHEREAS, the Owner and Applicant 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, 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 Sportfish Marina UPUD development will be in harmony with surrounding properties and their anticipated development; 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 and development conditions attached hereto as **Exhibit "C";**

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 "D"**, hereinafter the "Development Documents", shall be deemed a part of this ordinance:

a. Site Plan Set: McCarty & Associates 12-07-2020
b. Architectural Plan Set: Brent A. Wood Architecture LLC 3-11-2021
c. Landscape Plan Set: McCarty & Associates 3-11-2021
d. Drainage Statement: Captec Engineering Inc: 12-10-2020
e. Traffic Statement: Captec Engineering 12-09-2020
f. Utility Statement: Captec Engineering 12-09-2020
g. Boundary and Topographic Survey: Northstar Geomatics 11-12-2020
h. Fire Hydrant Exhibit - 2021

SECTION 2: The Zoning designation of the subject property shall be established as "UPUD" Urban Planned Unit Development on the City of Stuart's Official Zoning Map.

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.

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 5: 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 6: 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 PUD property or any portion of the PUD 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 PUD 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 7: 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 8: 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 9: Upon complete execution of this Ordinance, including the Acceptance and Agreement by the Owners, 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 the ____ day of _____, 2021.

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

ADOPTED on second and final reading this _____day of _____, 2021.

ATTEST:

_____ _____

MARY R. KINDEL EULA R. CLARKE

CITY CLERK MAYOR

APPROVED AS TO FORM

AND CORRECTNESS:

_____

MICHAEL J. MORTELL, ESQ.

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 ☐nline notarization, this _____day of _____, 2021, by EULA R. CLARKE, 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 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 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: Owner: LBS Power Holdings LLC,

_____

Print Name: _____ By:

_____

_____

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 ☐ line notarization, this _____ day of _____, 2021, by _____

Personally Known OR Produced Identification

Type of ID Produced _____

Signature of Notary Public: _____

Commission Expires:

Notary Seal:

Exhibit "A"
LEGAL DESCRIPTION

LOTS 1 ,2, AND 3, BLOCK 19, RIVERSIDE PARK, ACCORDING TO THE PLAT THEREOF FILED MARCH 26, 1925, RECORDED IN PLAT BOOK 4, PAGE 98, ST. LUCIE (NOW MARTIN) COUNTY , FLORIDA, TOGETHER WITH THE NORTHERLY ONE-HALF AND SOUTHERLY ONE-HALF OF THE ABANDONDED STREET KNOWN AS THE EASTERNLY EXTENSION OF HIBISCUS AVENUE, LOCATED BETWEEN LOT 4, BLOCK 18, AND LOT 1, BLOCK 19, OF THE AFORESAID PLAT OF RIVERSIDE PARK.

SITUATE IN THE COUNTY OF MARTIN, STATE OF FLORIDA.

EXHIBIT "B"

LOCATION MAP



EXHIBIT "C"

DEVELOPMENT CONDITIONS

Approved Plans and Documents (Exhibit "D")

a. Site Plan Set: McCarty & Associates 12-07-2020
b. Architectural Plan Set: Brent A. Wood Architecture LLC 3-11-2021
c. Landscape Plan Set: McCarty & Associates 3-11-2021
d. Drainage Statement: Captec Engineering Inc: 12-10-2020
e. Traffic Statement: Captec Engineering 12-09-2020
f. Utility Statement: Captec Engineering 12-09-2020
g. Boundary and Topographic Survey: Northstar Geomatics 11-12-2020
h. Fire Hydrant Exhibit - 2021

Development and Construction

1. Except as otherwise set forth in the Sportfish Marina UPUD, development shall comply with the City Land Development Code. Any modifications to the Master Site Plan that exceeds 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 public hearing.

2. All applicable state or federal permits must be obtained before the commencement any development activities. Issuance of this development order/permit/approval by the City of Stuart does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City of Stuart for the issuance of this order/permit/approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

3. Existing Mangroves shall be maintained and protected during construction and thereafter. Any trimming shall only be permitted by the Florida Department of Environmental Protection.

Allowable Uses

4. All uses allowed in Section 3.01.03.F.2. of the City's Land Development Code are permitted, however, the uses are restricted in accordance to the parking calculations within Section 3.01.03.F.2.

Prohibited

5. No temporary or modular buildings are permitted on the property except for permitted temporary construction/leasing trailers.
6. Billboards are prohibited on the property.
7. Banners and any other sign or advertising device not in accordance with the City's Land Development Regulations are prohibited.
8. No Live aboard vessels are allowed in the submerged land lease area connected to this PUD unless it is for the purpose to dock and to use the hotel facilities. No residential activities shall be permitted.

Amendments

9. Any applications to amend this Ordinance shall be limited to the single Owner, successors or assigned of the parcel, or the Master Owners Association, if applicable.

Prior to Issuance of Site Permits

10. Applicant shall provide a digital boundary survey and civil plan prior to the issuance of a site permit.
11. Civil Plans shall be reviewed and approved by all applicable City departments prior to the issuance of a site permit.
12. All regulatory agency permits, including but not limited to the South Florida Water Management District, Department of Environmental Protection 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.
13. All development activities shall comply with the City's Concurrency Management System prior to the issuance of building permits.

14. A compliance with the City's Public Art (Land Development Code 3.01.08) shall be required prior to issuance of Building Permit. The alternatives are an approval of a work of art on the development site by the Community Redevelopment Board, or the contribution of a sum of one percent of the vertical construction cost into the public art trust fund.
15. An application for site plan approval for a dock shall be required to comply with the Land Development Code provisions of 5.06.02 (Shoreline Protection Zone Delineation) and shall be accompanied with valid permits from the South Florida Water Management District and/or the Florida Department of Environmental Protection.