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City Attorney's Office
City of Stuart
121 SW Flagler Street
Stuart, FL 34994

ORDINANCE No. 2473-2021

AN ORDINANCE OF THE CITY OF STUART AMENDING THE COMPREHENSIVE PLAN; ADDING ELEMENT 12 - A NEW PROPERTY RIGHTS ELEMENT; AMENDING ELEMENT 1 - FUTURE LAND USE ELEMENT; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, Section 163.3167, Florida Statutes, requires The City of Stuart to maintain a comprehensive plan to guide its future development and growth; and

WHEREAS, Section 163.3177(6)(i)1., Florida Statutes, requires The City of Stuart comprehensive plan to include a property rights element; and

WHEREAS, The City of Stuart respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, the City of Stuart respects the rights of all people to participate in land use planning processes; and

WHEREAS, the existing Policy 1.A7.7 of the future land use element of the City of Stuart comprehensive exists to protect property owners from any unreasonable or unfair burden placed upon them by a development order issued by the City; and

WHEREAS, the existing Policy 1.A7.7 of the future land use element of the City of Stuart comprehensive plan recognizes the effectiveness of F.S. § 70.051 (Florida Land Use and Environmental Dispute Resolution Act), in resolving disputes and assuring that any potentially unreasonable or unfairly burdensome development order of the City is properly identified and that all private property rights are

given an opportunity for adequate dispute resolution, if required by law and requested by the property owner; and

WHEREAS, existing Policy 1.A7.7 of the future land use element of the City of Stuart comprehensive grants relief to property owners where a development order is disputed as being unreasonable or unfairly burdensome by a property owner; and

WHEREAS, this ordinance will amend the comprehensive plan by adding a property rights element and include all existing language from existing Policy 1.A7.7 to be within the property rights element at Policy 12.5;

WHEREAS, the Table of Land Use Densities and Intensities within the Future Land Use Element of the comprehensive plan limits the maximum non-residential development within the Marine Industrial Future Land Use category to 75%, and

WHEREAS, the requirement to include 25% residential within the Marine Industrial Future Land use may restrict the beneficial economic development of such land use by mandating a potentially incompatible use, and

WHEREAS, this amendment was presented to the Local Planning Agency at its meeting of September 9th, 2021.

WHEREAS, the City Commission, has considered the Petitioner's voluntary request for annexation, and has also considered the recommendation of the Stuart Local Planning Agency and City staff.

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

SECTION 1. Findings. The City Commission finds the above statements are true and correct and serve as a basis for consideration of this ordinance.

SECTION 2. Amendment. The City of Stuart comprehensive plan is amended by adding the property rights element attached as **EXHIBIT A** and amending the future land use element attached as **EXHIBIT B** and made a part of this ordinance as if set forth in full.

SECTION 3. Repeal of Conflicting Ordinances. All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

SECTION 4. Severability. If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 5. The effective date of this plan amendment: If the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or development dependent on this amendment may be issued or commence before it has become effective.

SECTION 9. Adoption. Upon complete execution of this Ordinance, 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 _____,_____

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 _____,_____

ATTEST:

_____
MARY R. KINDEL
CITY CLERK

_____
EULA R. CLARKE
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

Exhibits

EXHIBIT A

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Element 12 – PROPERTY RIGHTS ELEMENT Goals, Objectives, and Policies City of Stuart, Florida.

Goal Statement 12 - The City of Stuart will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

Objective 12 - The City of Stuart will respect judicially acknowledged and constitutionally protected private property rights.

Policy 12.1 The City of Stuart will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 12.2 The City of Stuart will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 12.3 The City of Stuart will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 12.4 The City of Stuart will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

Policy 12.5 It is the policy of the City of Stuart that no development order issued by the City shall be unreasonable or shall unfairly burden the land of a property owner. Accordingly, the City recognizes the effectiveness of F.S. § 70.051 (Florida Land Use and Environmental Dispute Resolution Act), in resolving disputes and assuring that any potentially unreasonable or unfairly burdensome development order of the City is properly identified and that all private property rights are given an opportunity for adequate dispute resolution, if required by law and requested by the property owner.

Policy 12.6 Where a development order is disputed as being unreasonable or unfairly burdensome

by a property owner, the use of the relief in F.S. § 70.051 is specifically encouraged as a means of identifying and resolving any unreasonable or unfair burden on the use of an owner's property.

Policy 12.7 The relief to which an owner may be entitled shall be the following:

a. Granting of a permit for development consistent with the relief recommended by a special magistrate, or as otherwise agreed upon by the property owner and the City.

Policy 12.8 Development approved pursuant to the protections in F.S. § 70.051 shall be consistent with all other objectives and policies of the Comprehensive Plan and Land Development Code.

EXHIBIT B

ELEMENT 1 - FUTURE LAND USE ELEMENT GOALS, OBJECTIVES, AND POLICIES CITY OF STUART, FLORIDA

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OBJECTIVE 1.A7. - FUTURE LAND USE CATEGORIES.

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TABLE OF LAND USE DENSITIES AND INTENSITIES

		Residential			Non-Residential			
			UPUD, RPUD or Major UCE [2]					
Land Use Category	In/Out CRA [1]	General	Not ALF [4]	ALF	% Residential	General	>2.0 FAR [3]	% Non- residential
Low Density Residential	NA	<8.72 du/ac to 11.62 du/ac [5]	<8.72 du/ac to 11.62 du/ac [5]	none	95-100%	<0.75 FAR		0—5%
Multi-Family Residential	In	<15 du/ac	<30 du/ac	<30 du/ac	70—100%	<3.0 FAR	<20 ac	0—30%
	Out	<10 du/ac to 11.62 du/ac [9]	<30 du/ac	<30 du/ac	70—100%	<0.5 FAR		0—30%
Commercial	In	<15 du/ac	<15	<30 du/ac	0—15%	<3.0 FAR	<50 ac	85—100%
	Out	<10 du/ac	<10	<30 du/ac	0—15%	<1.5 FAR		85—100%
Office/Residential	In	<15 du/ac	<30 du/ac	<30 du/ac	0—25%	<3.0 FAR	<10 ac	75—100%
	Out	<10 du/ac to 11.62 du/ac [9]	<30 du/ac	<30 du/ac	0—25%	<1.5 FAR		75—100%
Industrial	In	None			0%	<3.0 FAR	<10 ac	100%
	Out	None			0%	<1.0 FAR		100%

Public		None			0%	<1.0 FAR		100%
Institutional		<10 du/ac	<30 du/ac	<30 du/ac	0%	<0.75 FAR		100%
Recreation		None				<0.5 FAR		100%
Downtown Redevelopment		<15 du/ac [8]	<30 du/ac	<30 du/ac	0—70%	<4.0 FAR	<50 ac	0—70% [6]
Neighborhood/Special District	In	<15 du/ac		<30 du/ac	30—90%	<3.0 FAR	<10 ac	10—70%
	Out	<15 du/ac		<30 du/ac	30—90%	<2.0 FAR		10—70%
East Stuart	NA	<17 du/ac	<30 du/ac	<30 du/ac	70—100%	<1.5 FAR		0—30%
Conservation		None			0%	<10% ISR		100%
Marine/Industrial		<15 du/ac	<15 du/ac	NA	0—25%	<3.0 FAR	<5 ac	0—~~75~~100%

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Policy 1.A7.7. Property Rights*:* ***Cross reference Element 12: Property Rights Element.*** ~~It is the policy of the City of Stuart that no development order issued by the City shall be unreasonable or shall unfairly burden the land of a property owner. Accordingly, the City recognizes the effectiveness of F.S. § 70.051 (Florida Land Use and Environmental Dispute Resolution Act), in resolving disputes and assuring that any potentially unreasonable or unfairly burdensome development order of the City is properly identified and that all private property rights are given an opportunity for adequate dispute resolution, if required by law and requested by the property owner.~~

~~Where a development order is disputed as being unreasonable or unfairly burdensome by a property owner, the use of the relief in F.S. § 70.051 is specifically encouraged as a means of identifying and resolving any unreasonable or unfair burden on the use of an owner's property.~~

~~The relief to which an owner may be entitled shall be the following:~~

~~a) Granting of a permit for development consistent with the relief recommended by a special magistrate, or as otherwise agreed upon by the property owner and the city;~~

~~b) Development approved pursuant to the protections in F.S. § 70.051 shall be consistent with all other objectives and policies of the Comprehensive Plan and Land Development Code.~~