BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2424-2020

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, AMENDING THE EXISTING SECTION 11.01.00 OF CHAPTER XI ENTITLED "PROCESSING OF PLAN APPLICATIONS" TO AMEND THE REVIEW BOARD PROCEDURES FOR PROPOSALS THAT INVOLVE URBAN PLANNED UNIT DEVELOPMENT LOCATED WITHIN THE COMMUNITY REDEVELOPMENT AREA; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

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WHEREAS, the purpose of this Land Development Code amendment is to support the objectives of the City's Land Development Code to assign the Community Redevelopment Board the review of development projects utilizing amendments to the Urban Code; and

WHEREAS, the purpose of this Land Development Code amendment is to establish review procedures for major amendments to existing Urban Planned Unit Development agreements within the designated community redevelopment area; and

WHEREAS, the Land Planning Agency reviewed the proposed amendments to the Land Development Code at a public hearing on 12th December 2019 and

WHEREAS, the City Commission duly scheduled, advertised, and held a public hearing on January 13th 2020, to consider this ordinance and provide for full public participation in the Land Development Code amendment process.

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

SECTION 1: The Stuart Land Development Code is hereby amended as follows:

Chapter XI - PROCESSING OF PLAN APPLICATIONS

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11.01.00. - PROCESSING OF PLAN APPLICATIONS

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Sec. 11.01.09. - Zoning map change application including planned unit development (PUD).

A. *General.* The term "rezoning" refers to a change in the zoning district designation for a parcel or parcels as reflected by the city zoning map. Designated zoning districts within the city are:

1. R-1A Residential.
2. R-1 Residential.
3. R-2 Residential.
4. R-3 Residential.
5. B-1 Business.
6. B-2 Business.
7. B-3 Business.
8. B-4 Limited Business/Manufacturing.
9. P Public Service.
10. I Industrial.
11. H Hospital.
12. PUD Planned Unit Development:
    a. Residential (RPUD);
    b. Commercial (CPUD);

c. Public Service (PSPUD);

d. Industrial (IPUD);

e. Mixed Use (MXPUD).

f. Urban (UPUD).

13. Urban Code District:

a. Urban General (UG);

b. Urban Center (UC);

c. Urban Neighborhood (UN);

d. Urban Highway (UH);

e. Urban Waterfront (UW).

14. East Stuart District:

a. Business and Mixed Use (BMU);

b. General Residential and Office (GRO);

c. Single-family and Duplex (SFD).

15. S.E. Ocean Boulevard Overlay.

Note: Pursuant to section 5.03.02.B., an impact to a wetland is prohibited unless the mitigation requirements of that chapter and each of the criteria are satisfied. Further, the proposed impact must be made in the context of a planned unit development (PUD) agreement.

Note: Pursuant to section 5.05.02.A.2.c., when no practical alternative exists to locating structures on the site to accommodate a historic tree, a PUD may be applied for to consider the removal and replacement of a historic tree.

B. *Pre-application conference required.* Prior to filing for a rezoning, the developer shall meet with the city development director and city staff to discuss the development review process and to be informed of which staff members to confer with about the application. No person may rely upon any comment concerning a proposed rezoning, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

C. *Application submittal requirements.* Application forms for a rezoning shall be available from the city development department. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation and embossed with the corporate seal. Only for a rezoning to a planned unit development (PUD), a concept plan may be submitted as an option to a site plan; however, the applicant will be required to submit a site plan for approval by the city commission prior to submitting an application for a development permit.

D. *Compliance review procedures.* After receipt of the application, the development department shall follow the review and compliance procedures as set out in section 11.01.01 of this Code. The development director will prepare a staff report and recommendation for consideration by the designated advisory board concerning whether the rezoning application complies with the requirements of the Code. The designated advisory board will be:

a. The Local Planning Agency (LPA) if the application is located outside of the defined Community Redevelopment Area (CRA), or
b. The Community Redevelopment Board (CRB) if the application is located within the defined Community Redevelopment Area (CRA).

E. The development director will prepare a staff report and recommendation for consideration by the designated advisory board ~~local planning agency~~ concerning whether the application complies with the requirements of the Code.

F. *Public hearing notice.* Notice of the public hearing shall be provided by mailing and by posting the subject property. Requirements for notice of public hearings can be found in section 11.02.00 of this Code.

G. *Advisory Board public hearing.*

1. At the public hearing, the advisory board shall hear from all interested parties regarding whether the rezoning application complies with the requirements this Code and the Comprehensive Plan. The advisory board shall consider the application, the written comments of each responding department, consultant, and agency as well as the compliance recommendation of the development department.

2. In formulating its recommendation to the city commission, the advisory board shall consider the following criteria:

   a. The existing land use pattern;

   b. The possible creation of an isolated district unrelated to adjacent and nearby districts;

   c. The population density pattern of the area and possible increase or overtaxing of the load on public facilities such as schools, utilities and streets;

   d. The possible overloading of the city's sewage collection, treatment and disposal facilities:

   e. The possible overloading of the city's drainage system;

   f. The existing district boundaries in relation to existing conditions on the subject property;

   g. The existence of changed or changing conditions which make the passage of the proposed rezoning necessary or appropriate;

   h. The impact of the proposed rezoning upon living conditions in the adjacent neighborhood;

   i. The impact of the rezoning upon the flow of light and air to adjacent areas;

   j. The impact of the proposed rezoning upon property values in the adjacent area;

   k. The impact of the proposed rezoning upon improvement or development of adjacent property in accordance with existing regulations; and

   l. The existence of other adequate sites in the city for the proposed use in districts already permitting such use.

3. In recommending approval of a rezone application to a PUD zone district, the advisory board may recommend, and the city commission may approve a variation of the strict application of the land development requirements of this Code and may in lieu thereof impose suitable conditions to otherwise attain the objectives of those requirements.

H. *Report to the city commission.* The development director shall prepare a written report for submittal to the city commission, which includes the recommendation of the advisory board and set a time and place for a public hearing before the city commission.

I. *City commission public hearing notice.* Notice of the public hearing shall be provided by mailing and by posting the subject property. Requirements for notice of public hearings can be found in section 11.02.00 of this Code.

J. *City commission public hearing.*

1. Two hearings shall be conducted by the city commission to consider a proposed rezoning. Such hearings may be scheduled on the agenda of a regular city commission meeting but shall be held after 5:00 p.m. and shall be not less than ten calendar days apart.

2. The rezoning ordinance may be read by title only at the first hearing. The second hearing shall be quasi-judicial in nature. The rezoning ordinance may be adopted at the conclusion of the quasi-judicial hearing.

3. At the public hearing, the city commission shall hear from all interested parties regarding whether the rezoning application complies with the requirements of this Code and the Comprehensive Plan. The city commission shall consider the application, the written comments of each responding department, consultant, and agency, the compliance recommendation of the development department, the recommendation of the advisory board.

4. During the public hearing, the city commission may decide that additional information is necessary to complete its review and may continue the public hearing for this purpose. A continuance shall be to a time certain, shall not exceed 60 working days and shall be announced at the public hearing. Not more than one continuance shall be granted for this purpose.

5. At the conclusion of the public hearing, or within 30 working days thereafter, the city commission shall determine whether the application is in compliance with the requirements of this Code and the Comprehensive Plan. The city commission shall adopt an ordinance setting forth its determination.

6. The determination of the city commission shall be to either find the application:

   a. "In compliance" - In the event of a determination of in compliance, the rezoning shall be deemed approved;

   b. "In compliance subject to stated conditions or modifications" - In the event of a determination of in compliance subject to stated conditions or modifications, the applicant may submit a revised rezoning application with supporting documentation to the department within 45 working days which complies with said conditions and modifications. The development director shall review the plan for a finding of in compliance; or

   c. "Not in compliance" - In the event of a determination of not in compliance, the application shall be rejected and the specific reasons for such determination with reference to the requirements of this Code shall be stated in the resolution.

K. *Recordation.* Upon approval of an ordinance rezoning property, the ordinance together with any development conditions, agreements, covenants, maps, and illustrations shall be recorded in the public records of Martin County, Florida, at the expense of the applicant.

Sec. 11.01.10. - Planned unit development amendment application.

A. *General.*

Any major amendment to a previously adopted planned unit development zoning ordinance, including conditions, agreements, covenants, maps, and illustrations shall be processed as if the proposed amendment is a new rezoning application (see section 11.01.09).

Any minor amendment to a previously adopted planned unit development zoning ordinance including conditions, agreements, covenants, maps, and illustrations shall be processed as if the proposed amendment is a new rezoning application with the exception that review by the advisory board is not required. However, any modifications to the PUD final site plan, due to final engineering, that is less than five percent of the approved plan documents shall be processed administratively by the development department.

B. *Major amendment definition.*

1. A major amendment shall include:

   a. A change of two percent or more in the area of any land use designations shown on the site plan;

   b. Any change in the list of proposed uses;

   c. An increase in residential density of five percent or more;

   d. An increase in nonresidential building square footage of ten percent or more;

   e. A change in the boundary of the PUD district;

   f. A change in the site plan or approval regarding any area(s) set aside and designated for future development;

   g. Any other change determined by the city development director to have a potentially significant impact on city services or the surrounding neighborhood;

   h. Any modifications to the PUD final site plan, due to final engineering, that exceeds five percent of the approved plan documents for items, including, but not limited to, those affecting building footprint, building setbacks; density; building location; parking size, location and number; signage; drainage areas; and location of landscaping shall require further approval by the advisory board and city commission via a public hearing process. A written record of the modification shall be entered upon the original approval and maintained in the files of the city clerk.

C. *Minor amendment definition.*

A minor amendment is any amendment that is not a major amendment as defined above.

Any minor changes in or amendments to a PUD master development plan, a PUD final development plan or PUD agreement approved as part of a rezoning to a PUD district shall be processed as a new application for a PUD district zoning. Minor changes or amendments shall include:

   a. A change of two percent or less in the area of any land use designations shown on the final development plan;

   b. An increase in residential density of less than five percent;

   c. An increase in nonresidential building square footage of less than ten percent;

   d. An amendment to an originally approved timetable of development. Such an amendment may only be approved upon good cause shown to the city commission. Any contributions conditioned as part of the original PUD agreement shall be revisited upon application for timetable extension. A one-time timetable extension of 180 days may be granted by administrative variance in accordance with section 8.05.08 and does not require a new traffic concurrency review in accordance with section 4.02.03 of this Code.

D. *Recordation.* Upon approval of an ordinance amending a planned unit development, the ordinance together with any development conditions, agreements, covenants, maps, and illustrations shall be recorded in the public records of Martin County, Florida, at the expense of the applicant.

SECTION 2: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 3: 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 4: The provision of Sections 1 of this ordinance shall be codified.

SECTION 5: This ordinance shall take effect upon adoption

Passed on first reading the 13th day of January, 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				
KELLI GLASS LEIGHTON, 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