BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2445-2020

AN ORDINANCE OF THE CITY OF STUART, FLORIDA AMENDING ORDINANCE NO. 1601-97, WHICH ASSIGNED COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) ZONING TO AN 11.42 ACRE PARCEL OF LAND LOCATED ON THE SOUTH SIDE OF SE MARKET PLACE EAST OF U.S. HIGHWAY ONE, BEING MORE FULLY DESCRIBED BY EXHIBIT "A" ATTACHED; PROVIDING FOR MASTER SITE PLAN APPROVAL, DEVELOPMENT CONDITIONS, A TIMETABLE FOR DEVELOPMENT AND MANDATORY PLATTING FOR A 4.02 ACRE PORTION OF ANNEXED PARCEL #F21 TO ACCOMMODATE 24,000 SQUARE FEET OF COMMERCIAL DEVELOPMENT KNOWN AS LAKESIDE MARKET PLACE CPUD; DECLARING THE PROPOSED DEVELOPMENT TO BE CONSISTENT WITH THE CITY'S COMPREHENSIVE PLAN; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR A SEVERABILITY CLAUSE; ACCEPTANCE BY THE APPLICANT; AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, on April 13, 1998, the City Commission annexed an 11.4-acre parcel of land known as #F21 thru the adoption of Ordinance No. 1599-97; and

WHEREAS, on August 24, 1998, the City Commission further provided a Future Land Use designation of Commercial and zoning district of CPUD to said land thru the adoption of Ordinance No. 1600-97 and Ordinance No. 1601-97, respectively; and

WHEREAS, a portion of the parcel remains undeveloped and vacant; and

WHEREAS, the Local Planning Agency heard this agenda item on June 18, 2018, and provided recommendation of approval to the City Commission; and

WHEREAS, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by William J. Mathers (Agent) of Mathers Engineering Corp.; and

WHEREAS, an application for a major amendment to Ordinance 1601-97 was properly filed on behalf of the petitioner, Daniel Lawrence of D. Lawrence Properties LLC, Osiris Ramos of Market Place at Stuart Condominium Assoc. Inc. and OK of Martin County, LLC.

WHEREAS, the property is legally described as set forth in an 'Exhibit A' to this ordinance; and

WHEREAS, the Applicant has 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 approval of this CPUD amendment; and

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 CPUD development will be in harmony with surrounding properties and their anticipated development;

NOW THEREFORE, BE IT ORDAINED 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.

SECTION 2: The legal description of the property is set forth in **Exhibit 'A'** attached hereto and made a part hereof by reference. A Boundary Survey depicting the Property is attached hereto as **Exhibit 'B'** and made a part hereof by reference. The conditions of development attached hereto as **Exhibit 'C'** and made a part hereof by reference, and each shall constitute one of the development documents.

SECTION 3: 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 the development conditions, and shall supplement any earlier approvals:

A. **Boundary Survey by Christian Fenex and Associates, LLC, dated 08.08.18 with tree and pond update on 03.05.19.**
B. **Site Plan, Sheet 1 of 1 by Mathers Engineering Corporation, dated November 2019, and revised on 1.23.20, 6.8.20, and 6.24.20.**
C. **Landscape Plan, Sheets LA1 thru LA5, by Doug Fitzwater, Landscape Architect, dated 10.13.19, and revised on 4.19.20.**
D. **Architectural Site Plan & Elevations, Sheets SD-1 thru SD-4, by Ahern and Associates, PA, dated 8.26.19.**
E. **Lighting Plan, Sheets SD-5 by Ahern and Associates, PA, dated 1.22.20.**
F. **Environmental Assessment, by Saskowsky and Associates, Inc. dated 1.13.20**

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 aforesaid Development Documents. The failure of the Developer to complete development, or to comply

with the Development Documents, or with any term or condition of development set forth in this ordinance, 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 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 Developer to seek administrative or judicial redress.

SECTION 5: 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 any or all 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 6: All ordinances or parts of ordinances in conflict with this ordinance or any part thereof are hereby repealed to the extent of such conflict. If any provision of this ordinance conflicts with any prior contractual provision between the City and the developer of the site, this ordinance shall prevail.

SECTION 7: 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 8: This ordinance and agreement shall be effective upon the adoption by the City Commission, and proper execution by the Owner.

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 13th day of July 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 MICHAEL J. MEIER

CITY CLERK 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 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: D. Lawrence Properties 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 ☐ online notarization, this _____ day of _____, 2020, by _____

Personally Known OR Produced Identification
Type of ID Produced _____

Signature of Notary Public: _____
Commission Expires:

Notary Seal:

WITNESSES: Market Place at Stuart Condominium Assoc. Inc.

_____

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 ☐ online notarization, this _____ day of _____, 2020, by _____

Personally Known OR Produced Identification
Type of ID Produced _____

Signature of Notary Public: _____
Commission Expires:

Notary Seal:

WITNESSES: OK of Martin County, 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 ☐ online notarization, this _____ day of _____, 2020, by _____

Personally Known OR Produced Identification
Type of ID Produced _____

Signature of Notary Public: _____
Commission Expires:

Notary Seal:

EXIBIT "A"

Legal Description

Unit# 2Legal Description

A parcel of land lying in Lot B, The Exposition, according to the map or plat thereof, as recorded in Plat Book **9, Page** 17, of the Public Records of Martin County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Lot B, The Exposition; Thence South 23 degrees 12 minutes 20 seconds East along the East line of said Lot B, a distance of 81.00 feet; Thence South 66 degrees 47 minutes 40 seconds West, a distance of 10.00 feet to the Point of Beginning; Thence South 23 degrees 12 minutes 20 seconds East, a distance of 80.00 feet; Thence South 66 degrees 47 minutes 40 seconds West, a distance of 115.00 feet; Thence North 23 degrees 12 minutes 20 seconds West, a distance of 80.00 feet; Thence North 66 degrees 47 minutes 40 seconds East, a distance of 115.00 feet to the Point of Beginning.

Being also known as Unit# 2, of MarketPlace At Stuart, a condominium, according to the Declaration of Condominium thereof, as recorded January 17, 2019, in Official Records Book 3037, Page 405, of the Public Records of Martin County, Florida, and any amendments and supplements thereto, together with its undivided share in the common elements and the limited common elements appurtenant thereto.

AND Unit# 3 Legal Description

A parcel of land lying in Lot B, The Exposition, according to the map or plat thereof, as recorded in Plat Book 9, Page 17, of the Public Records of Martin County, Florida, being more particularly described as follows:

Commence at the Northeast corner of said Lot B, The Exposition; Thence South 23 degrees 12 minutes 20 seconds East along the East line of said Lot B, a distance of 316 . feet; Thence South 66 degrees 47 minutes 40 second West, a distance of10.00 feet to the Point of Beginning; Thence South 23 degrees 12 minutes 20 seconds East, a distance of 80.00 feet; hence South 66 degrees 47 minutes 40 seconds West, a distance of 115.00 feet; Thence North 23 degrees 12 minutes 20 seconds West, a distance of 80.00 feet; Thence North 66 degrees 47 minutes 40 seconds East r...a distance of 115.00 feet to the Point of Beginning.

Being also known as Unit# 3, of Market Place At Stuart, a condominium, according to the Declaration of Condominium thereof, as recorded January 17, 2019, in Official Records Book 3037, Page 405, of the Public Records of Martin County, Florida, and any amendments and supplements thereto, together with its undivided share in the common elements and the limited common elements appurtenant thereto.

These units are subject to The Declaration of Protective Covenants for Stuart Business Park recorded in O.R. Book 450, Page 945, of the Public Records of Martin County, Florida, as amended, it being the intent to reimpose same.

EXIBIT "B" <u>Boundary Survey</u>

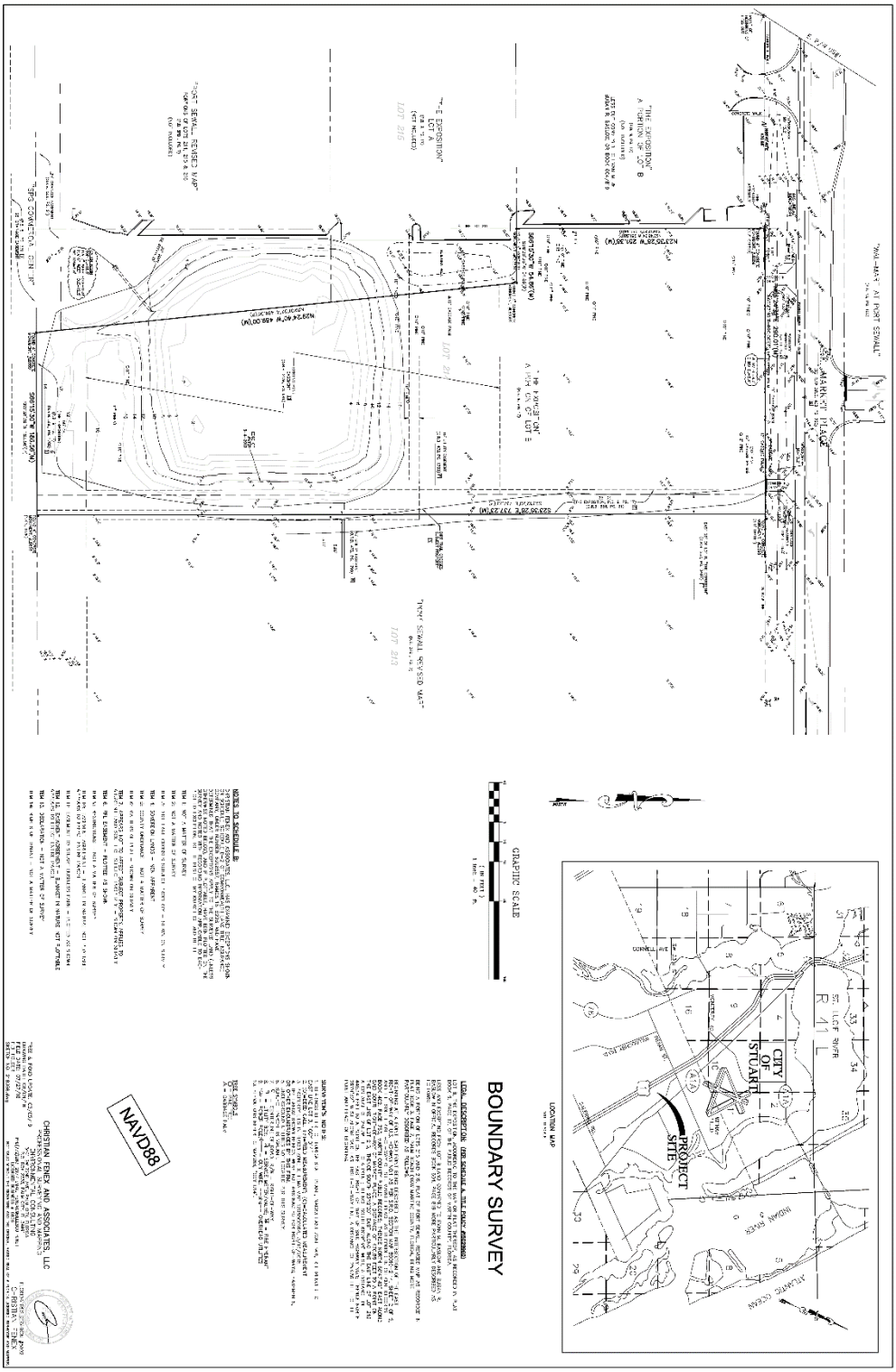


EXHIBIT "C"

DEVELOPMENT CONDITIONS

Approved Plans and Documents

1. The project and the use thereof shall comply with the following drawings:

   A. Boundary Survey by Christian Fenex and Associates, LLC, dated 08.08.18 with tree and pond update on 03.05.19.
   B. Site Plan, Sheet 1, by Mathers Engineering Corporation, dated November 2019, 2019, and revised on 1.23.20, 6.8.20, and 6.24.20.
   C. Landscape Plan, Sheets LA1 thru LA5, by Doug Fitzwater, Landscape Architect, dated 10.13.19, and revised on 4.19.20
   D. Architectural Site Plan & Elevations, Sheets SD-1 thru SD-4, by Ahern and Associates, PA, dated 8.26.19.
   E. Lighting Plan, Sheets SD-5 by Ahern and Associates, PA, dated 1.22.20.
   F. Environmental Assessment, by Saskowsky and Associates, Inc. dated 1.13.20

2. Any modifications to the Master CPUD 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 a public hearing.

3. CPUD standards regarding circulation, parking, utilities, drainage, open space and all other applicable standards shall apply as described in the LDR except as modified in this and any future ordinance.

Landscaping

4. All landscape areas shall be provided with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition.

5. The City's landscape inspector shall have the opportunity to inspect all trees and/or landscape material with the landscape architect prior to installation. The developer shall bear the pass-thru fee for landscape consulting fees not to exceed $1,500.00.

6. 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.

Required Open Space and Native Preserve Area

7. Not less than 25% of the CPUD shall be Open Space as defined in the City Land Development Regulations. Required Open Space may include native vegetation areas and landscape buffers between the CPUD and adjacent property; however, other required landscaping shall not count towards the open space requirement. In the event less than 25% of the CPUD is comprised of native vegetation area, then all the existing native vegetation area shall be maintained as part of the required open space.

8. Excluding wetlands defined by the South Florida Water Management District, not less than 29.3% of the total development site shall remain as Open Space.

Tree Mitigation

9. The landscape plan shall be reviewed again during site permit review to verify that on-site plantings meet Tree mitigation requirements per Section 5.05.02 of the City's Land Development Code.

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 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.

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

14. The lake after improvements that have been permitted by SFWMD will be given easement to the Stuart Business Parks Association for maintenance. The project's drainage system will be designed and permitted (SFWMD) to comply with conditions, peak discharge rates, water quality requirements, etc., as outlined in the Stuart Business Park Master Stormwater Plan prepared by A.J. Hydro Engineering, Inc.

Development and Construction

15. 'Hat racking' of trees is prohibited on the property.

16. Developer shall acquire a curb-cut permit from City for the connection from SE Market Place into the development.

17. The developer is responsible for designing and constructing sanitary sewer for the development site.

18. Construction activity shall be limited from 7:00 am to 6:00 pm Monday - Saturday.

19. Any backflow prevention devices and above ground utilities shall be delineated on the landscape plans during final site plan review and shall be out of view or screened from the public right-of-way.

20. 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 in order to reduce dust generated on-site.

21. Lighting poles in the parking areas shall not exceed 25' in height. Lighting poles in the pedestrian areas shall not exceed 15' in height. Prior to issuance of a vertical building permit, a photometric plan with details shall be submitted and reviewed and all site lighting shall comply with a plan acceptable to the City.

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

23. Building addresses and/or numbers shall be in plain view and shown on each building plan submitted at the time of building permit application in accordance with the City Code and shall be consistent with the sign plan.

24. Any sidewalk damaged during construction of latter phases shall be repaired or replaced prior to the issuance of a Certificate of Occupancy for the first building of the affected phase.

25. Temporary or freestanding storage units are prohibited on the property once construction is complete.

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

27. A minimum 8-foot wide sidewalk is required to be built along SE Market Place and connect to an internal 6-foot sidewalk system. All buildings and structures shall have an on-site walkway connection with the off-site sidewalk system.

28. No trailers prefabricated or modular structures shall be permitted except on a temporary basis to assist in development and with rentals and sales of realty within the CPUD. Such trailers or structures shall be removed within thirty days of a direction to do so issue by the City Development Director. Failure to remove such a trailer or structure accordingly shall be deemed a violation of the City Code.

29. Subject to the provisions of the LDR, the Developer shall comply with all requirements of the City Comprehensive Plan and of the LDR including but not limited to, planned unit development regulations applicable to the Property at time of permitting.

Development Timetable

30. Timetable for development shall be as follows:

TIMETABLE OF DEVELOPMENT	
Site and building permit application deemed sufficient for permit review under city codes and standards.	**August 31, 2021**
Final Certificate of Occupancy for all site and building improvements.	**January 1, 2023**

Allowable Uses

31. The following uses shall be permitted
    Auto sales, repair and servicing (enclosed)
    Boat storage, dry (enclosed)
    Governmental buildings
    Cold storage
    Commercial nursery or tree farm
    Community garden (refer to supplemental standards in Section 2.06.08) LDR
    Dry-cleaning plants
    Farm equipment and supplies sales establishment

Industrial, low-impact
Newspaper or publishing plants
Places of public assembly
Public facilities and services
Repair services
Retail, non-intensive
Warehousing, provided such use does not generate nuisance impacts.

Prohibited

32. No temporary or modular buildings are permitted on the property except for permitted temporary construction/leasing trailers.

33. Billboards are prohibited on the property.

34. Banners and any other sign or advertising device not in accordance with the City's Land Development Regulations are prohibited, except as may be permitted by this CPUD.

35. No vehicles shall be displayed or stored within the public right-of-way at any time.

Signage

36. The Lakeside Market Place monument fronting SE Market Place shall be limited to 10'-0**"** in height and shall be set back 10' from the property line. A unified sign plan, for all three buildings shall be reviewed and approved at the time of civil plan approval demonstrating compliance with the LDR for signs, as to number, location, size, height, lighting, and materials with a unified theme throughout the development.

Platting

37. Plat approval per Section 11.01.04. A shall occur prior to a certificate of occupancy being issued.