BEFORE THE CITY COMMISSION

CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2418-2019

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 CPUD 'COMMERCIAL PLANNED UNIT DEVELOPMENT' TO A PARCEL OF LAND TOTALING 1.22 ACRES, OWNED BY KPL HOLDINGS LLC, LOCATED AT 2580 SE WILLOUGHBY BLVD., BEING MORE FULLY DESCRIBED IN EXHIBIT 'A' ATTACHED; ESTABLISHING 'THE HOPE CENTER FOR AUTISM' COMMERCIAL PLANNED UNIT DEVELOPMENT (CPUD) CONSISTING OF AN EXISTING LIGHT INDUSTRIAL/OFFICE BUILDING IN THE B-4 LIMITED BUSINESS/MANUFACTURING ZONING DISTRICT; ALLOWING FOR THE RELOCATION OF A CHARTER ELEMENTARY SCHOOL TO SAID LOCATION; PROVIDING FOR APPROVAL OF A MASTER 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 K.P.L. Holdings, LLC of a 1.22-acre parcel of developed land located in phase one of the Willoughby Business Park on a privately maintained road west of Willoughby Blvd; and

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

WHEREAS, the Local Planning Agency board held a properly noticed hearing at a regularly scheduled meeting to consider amending the city's official zoning map and approving a master site plan for the existing office/warehouse building to be used as a charter school; and

WHEREAS, on October 28, 2018, the City Commission held a properly noticed hearing at a regularly scheduled City Commission to consider the application by the contract purchaser of the property, amending the city's official zoning map and approving a master site plan, 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 within three hundred (300) feet of the proposed location; 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, 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, this CPUD 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 are 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:

1. **Master Site Plan, Sheet 1 or 1, by Lucido & Associates, dated 08.13.19.**
2. **Boundary Survey, by Betsy Lindsay, Surveying and Mapping, Sheet 1 of 1, dated 08.22.2019.**
3. **Landscape Plan, Landscape Details, and Landscape Specifications, by Lucido & Associates, Sheets 1, 2, & 3 of 3, dated 09.16.19.**

SECTION 2: The Zoning designation of the subject property shall be established as "CPUD" Commercial 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 this 28th day of October 2019.

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
REBECCA BRUNER, MAYOR				
EULA R. CLARKE, VICE MAYOR				
KELLI GLASS LEIGHTON, COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				
MIKE MEIER, COMMISSIONER				

ADOPTED on second and final reading this _____day of _____, 2019.

ATTEST:

_____ _____
MARY R. KINDEL REBECCA BRUNER
CITY CLERK MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL MORTELL
CITY ATTORNEY

CITY'S ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____day of _____, 2019, by REBECCA BRUNER, Mayor, and Mary Kindel, City Clerk, respectively, of the City of Stuart, Florida, a Florida municipal corporation.

_____ _____
Notary Public, State of Florida, at large

My 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 COMMERCIAL 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 COMMERCIAL 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:

KPL Holdings LLC, a Florida limited liability company

_____

By: _____
Klaus P. Luloh, Manager

Print Name: _____

_____

Print Name: _____

OWNER'S ACKNOWLEDGMENT

The above Ordinance, Acceptance and Agreement was acknowledged before me this _____ day of_____, 2019, by Klaus P. Luloh, Manager of KPL Holdings, LLC, a Florida limited liability company, on behalf of the Company.

Personally Known ____ OR Produced Identification ____ Type of Identification Produced

_____

_____
Notary Public, State of Florida, at large
My Commission Expires:

Notary Seal

Exhibit A – Legal Description

LOT 7 WILLOUGHBY BUSINESS PARK According to the map or plat thereof as recorded in Plat Book 14, Page(s) 80, Public Records of Martin County, Florida.

EXHIBIT B – LOCATION MAP



EXHIBIT C – DEVELOPMENT CONDITIONS

Approved Plans and Documents (Exhibit D)

1. The Hope Center for Autism project and use thereof shall comply with the following drawings.
    a. **Master Site Plan, Sheet 1 or 1, by Lucido & Associates, dated 08.13.19.**
    b. **Boundary Survey, by Betsy Lindsay, Surveying and Mapping, Sheet 1 of 1, dated 08.22.2019.**
    c. **Landscape Plan, Landscape Details, and Landscape Specifications, by Lucido & Associates, Sheets 1, 2, & 3 of 3, dated 09.16.19**

Prior to Issuance of Site Permits

2. Applicant shall provide a digital boundary survey and civil plan prior to the issuance of any site permits.
3. Final Development plans and/or Construction Drawings and Building Plans shall be submitted, reviewed, and approved by the City prior to the issuance of any Development Permits.
4. Civil Plans shall be reviewed and approved by all applicable City departments prior to the issuance of a site permit.
5. 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.

Development and Site Construction

1. Except as otherwise set forth in the Hope Center for Autism project CPUD, 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. In the event of any conflict in the provisions of Exhibit 'C' Development Conditions and attached exhibits, Exhibit 'C' shall prevail.

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

5. Construction activity shall be limited from 7.00 am to 6:00 pm Monday – Saturday.

6. Any existing infrastructure, sidewalk or private property that is damaged during construction shall be repaired or replaced prior to the issuance of a Certificate of Occupancy.

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

8. Not less than 32.0% of the CPUD shall be pervious area as depicted on the Master Site Plan by Lucido and Associates as described in Exhibit C.

Landscaping

9. The common buffer and other common areas shall be provided with landscaping with an irrigation system of sufficient capacity to maintain the landscaping in a healthy growing condition.

10. "Hat racking" of trees is prohibited on the property.

11. The City's landscape inspector shall have the opportunity to inspect all trees and/or landscape material with the landscape architect prior to installation.

Allowable Uses

12. The following uses shall be permitted:
    a. Charter School

Prohibited

13. No temporary or modular buildings are permitted on the property except for permitted temporary construction/leasing trailers.
14. Billboards are prohibited on the property.
15. Banners and any other sign or advertising device not in accordance with the City's Land Development Regulations are prohibited.