

RESOLUTION 54-12-04

**A RESOLUTION OF THE TOWN COMMISSION
OF THE TOWN OF LAKE PARK, FLORIDA
AMENDING AND SUPERSEDING RESOLUTION
11-03-04 APPROVING A SITE PLAN AND
CONDITIONAL USE FOR A MIXED-USE
DEVELOPMENT KNOWN AS ONE PARK PLACE;
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Park Avenue, LLC ("Owner"), owns property generally located at the northeast corner of the intersection of Park Avenue and 9th Street ("subject property"); and

WHEREAS, the subject property is bounded by Park Avenue to the south, 9th Street to the west, 8th Street to the east, and an alley right-of-way to the north and also includes the westernmost parcel north of the alley on the same Block more particularly described in Exhibit "A," attached hereto and incorporated by reference; and

WHEREAS, the subject property is zoned Park Avenue Downtown District (PADD); and

WHEREAS, on March 17, 2004, the Town Commission previously approved a Site Plan for the subject property subject to conditions as set forth in Resolution 11-03-04; and

WHEREAS, a neighboring property owner challenged the approval of the Site Plan by filing two (2) lawsuits (the "lawsuits"), styled;

- A. Joanna Kelly Arline v. Town of Lake Park, Florida
and One Park Avenue, LLC
Case No. 502004CA004027XXXXMB AY, and
- B. Joanna Kelly Arline v. Town of Lake Park
Case No. 502004CA004033XXXXMB AE; and

WHEREAS, as part of the settlement of the lawsuits, the Town agreed to process modified site plan and conditional use applications, and to conduct a public hearing regarding same; and

WHEREAS, the Owner has submitted a modified Site Plan for a mixed use project consisting of 40 residential units together with offices, a restaurant, and retail uses (the "Project"); and

WHEREAS, the Owner has proposed, as part of the Project, the conditional uses of a restaurant and residential units (with home occupations); and

WHEREAS, at a quasi-judicial hearing, the Commission considered the evidence presented by staff, the Owner, other interested parties, and members of the public regarding the Project's consistency with the Town's Comprehensive Plan, and whether it meets the Town's Land Development Regulations;

NOW THEREFORE,

Section 1: The whereas clauses are incorporated herein as true and correct.

Section 2. The Town Commission hereby approves the Site Plan application of Park Avenue, LLC, and conditional uses of residential units (including home occupation), and a restaurant for the subject property.

Section 3. The approval of the Site Plan and the conditional use, is subject to the following conditions:

1. Prior to the issuance of the first building permit, the Site Plan shall incorporate thereon all conditions of approval.
2. The Owner, its successors and assigns, shall be responsible for complying with and maintaining all conditions of this approval.
3. Prior to the issuance of the first building permit, the Owner shall submit final plans for the Project, which provide for compliance with all conditions stated herein. The final plans shall be subject to the Department of Community Development's review and approval.
4. Prior to the issuance of the first building permit the Owner shall submit a Unity of Title, which shall be subject to the review and approval of the Town Attorney. Once approved by the Town Attorney, the Owner shall record the unity of title and cause a copy of the recorded instrument to be returned to the Town.
5. The subject property shall be built in one (1) phase.
6. The Owner shall have (1) year to secure a building permit from the Department. If the Owner fails to secure a building permit in that time, all previous approvals shall become null and void.

7. No signs shall be permitted on the northern, eastern and western elevations of the building.
8. Any conditional uses (other than those which are approved herein), shall be subject to a separate review of the Planning and Zoning Board and the approval of the Town Commission.
9. All mechanical equipment on top of or around the exterior of the building shall be screened from view.
10. The building height shall be limited to three stories with no portion of the building to exceed 38 feet (measured from ground level grade to the bottom of the eave of all roofs). The air conditioning equipment, stairwells, and elevators shall not exceed 45 feet (measured from the ground level grade).
11. Only residential condominium units shall be permitted on the third floor (not to exceed 20 condominium units). The Owner may develop residential and/or commercial offices on the second floor. If residential units are incorporated into the second floor, there shall be a maximum of 20 residential units. In any event, the Project shall not exceed 40 residential units. The Owner shall provide for a mixture of commercial offices/retail and a restaurant uses (with limited outdoor seating) on the ground floor.
12. The Owner may exchange up to 5% of the above allocated uses for the Project subject to the review and approval of the Department. Any proposed changes to the mix of uses, which exceeds 5%, shall be subject to review by the Planning and Zoning Board and approval by Town Commission. Any proposed conditional use shall be subject to further review (see condition 8).
13. The Owner is prohibited from assigning any parking places to businesses or residents of the Project along public streets.
14. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan so that the minimum loading space dimensions are met.
15. The Project's gated ingress and egress shall be open so as to permit public access between the hours of 6:00 AM and 12:00 midnight. The gates shall only be closed to the general public during the hours of 12:01 AM to 6:00 AM. Prior to issuance of the first building permit the Owner shall provide additional detail

on the Site Plan showing the entry and exit features that permit drivers (such as employees arriving early or departing late), destined to the site within these hours to access the site.

16. Prior to the first building permit, the Owner shall revise the Site Plan to provide a six (6) foot chain link (black or green aluminum) fence along the east, west and north elevations of the site.
17. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan to provide details and elevations for the proposed covered parking structures, and shall indicate the color specifications (and color chips) and material listings for the vehicle canopy along the northern property line.
18. Prior to issuance of the first building permit, the Owner shall provide on both the Landscaping and the Signing and Pavement Marking plans sight distance triangles at the access connection(s) to 9th Street and 8th Street, per FDOT Index 546.
19. Prior to the issuance of the first building permit, the Owner shall revise the photometric plan to provide complete light fixture details, pole and mounting details, fixture specifications for all proposed light fixture types, and adjust the lighting layout and photometric plan to achieve one footcandle maintained.
20. Prior to the issuance of the first building permit, the Owner shall provide detailed, colored, dimensioned site signage, and shall indicate the signage locations on the final plans.
21. Prior to the first building permit, the Owner shall revise the proposed dumpster detail to show gates constructed of pressure treated wood, IPEA wood, or recycled plastic lumber painted to match the structure.
22. Prior to the issuance of the first building permit, the Owner shall submit a final landscape plan certified by the landscape architect of record that the plans are in accordance with all applicable Town Codes.
23. Prior to the issuance of the first certificate of occupancy, the Owner shall provide certification by the Project's landscape architect of record that the installation complies with the approved landscape plans on-site and off-site. As to Lot 23, the easterly seven feet of the parcel shall be landscaped with only sod.

24. Prior to the issuance of the first building permit, the Owner shall provide irrigation shop drawings indicating the capability of meeting the required 70 gpm by the irrigation contractor, well driller and approved by the Landscape Architect.
25. Prior to the issuance of the first building permit, the Owner shall revise the site data on the Site Plan, to indicate the required setbacks for the east and west boundaries of the property.
26. Prior to the issuance of the first building permit, the Owner shall:
 - a) Demonstrate that there is adequate water quality and storage to serve the Project, and shall submit such additional calculations as may be required to verify same.
 - b) Resolve any and all conflicts between water and storm, and storm and sewer.
 - c) Submit as-builts, which reflect that the minimum calculated exfiltration is provided less the breaks.
 - d) Provide existing information for outfall structure located on 9th Street, and show the pipe size and length from the detention area to this structure.
 - e) Provide elevations of the mitered end sections shown as 10.0', and shall resolve inconsistencies in the elevations shown for the dry detention area.
 - f) Verify the location of section B-B on the drainage plan sheet (sheet 103).
 - g) Resolve any and all utility conflicts in the alley.
27. Prior to the issuance of the first building permit, the Owner shall provide a traffic equivalency statement indicating that the number of trips generated by the revised Project is equal to or less than the traffic generated by the previously approved project. Further, the Owner shall provide documentation from Palm Beach County Traffic Division approving the equivalency statement, and confirming that the Project complies with the County's Traffic Performance Standards.
28. Prior to the issuance of the first building permit, the driveway offset (connecting to 9th Street) shall be redesigned to utilize a radius to gradually transition into the offset, rather than use a sharp angular change in alignment. A note shall be provided on the Site Plan identifying the radius used to transition into the horizontal alignment change.

29. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan such that the two-way driveway connection, along the east side of the site, complies with the Town Code.
30. Prior to the issuance of the first building permit, the Owner shall revise the Site Plan to detail the proposed pavement markings for a typical handicap parking space per the 2004 FDOT Index 17346.
31. Prior to the issuance of the first building permit, the Owner shall revise its plans to demonstrate that the handicap parking signs meet the standards established in the 2004 FDOT Index 17355, specifically FTP-21-04 (the larger sign) and FTP-22-04. These sign specifications should be explicitly shown in a detail.
32. In the event that a water main or alleyway improvements are required to service the Project, the costs of any such requirement shall be borne by the Owner.

Section 5. The Town Commission hereby approves the following waivers:

1. A reduction of the side-corner setback to zero feet (the code requires five feet).
2. A reduction of the minimum stall width to nine feet (the Code requires a minimum of ten feet).
3. A waiver permitting the develop of 40 residential units, provided, however, 20 units shall be limited residential with home office use provisions, or office use only.
4. A waiver of the required eight foot high alley screening wall at the northern, (back) portion of the property. Instead, the Owner shall buffer the portion of the alleyway abutting its boundary line with landscaping and a six foot chain link (black or green aluminum) fence. Additionally, the Owner shall provide for a twelve inch compacted sub-base of the alley, sod the alley with flortam sod, and install irrigation.

Section 6: This Resolution is effective upon adoption.

The foregoing RESOLUTION was offered by Vice Mayor Balius, who moved its approval. The motion was seconded by Commissioner Garretson, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	X	
VICE MAYOR CHUCK BALIUS	X	
COMMISSIONER PAUL GARRETSON	X	
COMMISSIONER ED DALY	X	
COMMISSIONER JEFF CAREY	X	

The Mayor thereupon declared Resolution No. 54-12-04 duly passed and adopted this 1st day of December, 2004.

TOWN OF LAKE PARK, FLORIDA

BY: 
Mayor Paul Castro

ATTEST:


Stephanie Thomas
Town Clerk

Approved as to form and legal sufficiency


Thomas J. Baird, Town Attorney

(Town Seal)

EXHIBIT A
Legal Description of Subject Property

Lots 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 and 42, 43, 44, 45, and 46, Block 7, Kelsey City, now know as Lake Park, according to the map of plat thereof as recorded in Plat Book 8, page 34, Public Records of Palm Beach, County, Florida.

Together with an easement for storm water retention granted by the Town of Lake Park to Park Avenue, LLC, dated April 17, 2003, which shall encumber Lot 23, Block 7, Kelsey City, now known as Lake Park, according to the map of plat thereof as recorded in Plat Book 8, page 34, Public Records of Palm Beach County, Florida; said easement recorded April 18, 2003 in Official Record Book 15082, page 0585.