

RESOLUTION NO. 28-04-07

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING A LANDSCAPE PLAN AND LANDSCAPE MITIGATION PLAN SUBJECT TO CONDITIONS OF APPROVAL FOR THE BEV SMITH FORD AUTOMOBILE DEALERSHIP LOCATED ON A 5.9 ACRE PARCEL AT 1210 NORTHLAKE BLVD. AT THE SOUTHEAST CORNER OF NORTHLAKE BOULEVARD AND OLD DIXIE HIGHWAY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Bev Smith Inc. d/b/a Bev Smith Ford is the owner (“Owner”) of real property consisting of 5.9 acres located at the southeast corner of Northlake Blvd. and Old Dixie Highway in the C-1 and Northlake Blvd. Overlay District with a street address of 1210 Northlake Blvd (“property” or “site”), within the Town of Lake Park (“Town”); and

WHEREAS, Gentile, Holloway, O’Mahoney & Associates, Inc, as agent for the Owner has filed an application (“Application”) for approval of a landscape plan with landscape mitigation for the Bev Smith Ford automobile dealership located on the property; and

WHEREAS, the property’s legal description is contained in **Exhibit “A”** and its general location is shown on **Exhibit “B”** both of which are attached hereto and incorporated herein; and

WHEREAS, on February 1, 2006 the Town Commission approved the site plan for the Owner’s redevelopment of it’s automobile dealership on the site; however the site plan did not include a landscape plan; and

WHEREAS, a condition of the site plan approval as set forth in Resolution No. 02-01-06 required a landscape plan be submitted for review and recommendation by the Town’s Planning and Zoning Board with final approval by the Town Commission; and

WHEREAS, the verbatim text of the two conditions of approval relating to the landscape plan are as follows:

1) **This Resolution does not include an approval for the landscape plan. The landscape plan shall be presented to the Planning and Zoning Board for review and recommendation prior to it being heard by the Town Commission for final approval. The landscape plan shall have received final approval by the Town Commission, all landscaping and irrigation improvements installed onsite, and/or any monetary compensation due to lack of full landscaping compliance prior to issuance of the Certificate of Occupancy.**

2) **The Applicant will submit a new Landscape Plan that more closely adheres to the requirements as set forth in the Town of Lake Park's Code of Ordinances and pay the Town for those required plantings they are unable to install onsite as outlined within the Code of Ordinances.**

WHEREAS, on or about January 16, 2007, the Applicant supplemented its Application and landscape plan with a request for landscape waivers as provided in Appendix A, Section 4-4 of the Northlake Boulevard Overlay District ("NBOZ") Regulations, and also proposed mitigation as provided in Section 78-253 of the Code in the amount of \$7,000.00; and

WHEREAS, the Applicant's mitigation proposal was rejected by Town Staff because the proposal was based on a deficiency of 28 trees at a "one to one" rate as opposed to two times the requirement as set forth in the Code which would require \$39,400.00 in mitigation instead of \$7,000.00; and

WHEREAS, on March 5, 2007, the Town's Planning and Zoning Board reviewed the Application and recommended approval of the landscape plan with conditions which require revisions to the landscape plan to add additional plantings, and which also require the Owner to contribute \$17,500.00 for off-site mitigation; and

WHEREAS, the conditions recommended by the Planning and Zoning Board are acceptable to Town Staff, and therefore, both Town Staff and the Planning and Zoning Board recommended approval of the landscape plan and mitigation as set forth in the Town's staff report, subject to the conditions set forth herein; and

WHEREAS, the Town Commission has considered the evidence at a duly noticed quasi-judicial hearing on the Application, presented by Town Staff, the Applicant, the Owner, and other interested parties and members of the public, regarding the Application's consistency with the Town's Comprehensive Plan, whether the landscape plan meets the criteria set forth in Town Code Sections 78-251 thru 254, and whether the landscape plan and mitigation meet the Town's Land Development Regulations, and

WHEREAS, the Town Commission has determined that the conditions as set forth herein, are necessary for the landscape plan to be consistent with the Town's Comprehensive Plan and to meet the Town's Land Development Regulations; and

WHEREAS, the Owner, and its successors and assigns shall be subject to the conditions contained in Section 2.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1: The whereas clauses are incorporated herein as true and correct as the findings of fact and conclusions of law of the Town Commission.

Section 2: The Town Commission hereby approves the landscape plan with mitigation for the Bev Smith Ford dealership property, subject to the following conditions of site plan approval:

CONDITIONS OF APPROVAL:

1. The Owner shall provide financial mitigation pursuant to Town Code Section 78-253. The Owner shall pay the Town of Lake Park the amount of Twenty Six Thousand, Eight Hundred and Forty Dollars (\$26,840.00) to be used for landscaping public lands within the Town, including but not limited to, public parks and road rights-of-way. Payment of the foregoing mitigation funds shall be made by the Owner within 14 calendar days of the effective date of this Resolution.

2. Upon submittal of final landscape plans and prior to the issuance of a certificate of occupancy or any other development order, the Owner shall revise the landscape plans to:
 - (a) Provide a note on the site plan that east wall will be painted.
 - (b) Require that all Foxtails planted along Northlake Blvd. shall be triple headed.
 - (c) Improve the south side wall with painted trees, the design of which shall be subject to the review and approval of the Community Development Director.
 - (d) Require that all Magnolias planted on the site shall be D. D. Blanchard variety.
 - (e) Painting of the east and south side walls shall be completed no later than 12 months from the effective date of this Resolution.
3. All landscape islands shall incorporate the installation of mounding of native soils a minimum of six inches (6") above the top of curb. Any trees planted under FP&L power lines are required to comply with the FP&L Right Tree Right Place guidelines.
4. All landscaping shall be properly maintained. The Owner shall provide a one year replacement warranty for all new landscape materials from time of issuance of the Certificate of Occupancy. Any plant materials that are replaced during the initial warranty period shall be subject to an additional one year warranty. It shall be the responsibility of the property owner to replace any and all dead or dying landscape material and it shall be a violation of the landscape plan approval if the Owner fails to maintain the landscaping required as part of the landscape plan approval. In such event, the Owner and/or tenant shall be subject to code enforcement proceedings for failure to comply with this condition of the landscape plan approval.
5. Prior to issuance of the Certificate of Occupancy or any other development order, the Owner shall provide certification from the Landscape Architect of record that the plant installations on site are in accordance with the plans approved by the Town Commission.
6. Within thirty (30) days of the effective date of this Resolution, the Applicant shall provide the Town's Community Development Director with revised landscape plans that meet the conditions of approval and shall be referenced as sheets LP-1, LP-2 prepared by Gentile, Holloway, O'Mahoney & Associates who is the Landscape Architect of record which when received by the Department of Community Development shall be date stamped and marked as final.
7. Upon re-submittal of final plans, the Community Development Department shall review all conditions of approval for compliance by the Owner. Furthermore, any condition which is established by, or is associated with the resubmittal of final plans, shall be subject to the Department's review and approval.

8. Any revisions to the landscape plan as approved subject to these conditions, shall be submitted to the Community Development Department and shall be subject to its review and approval, unless the Town Code requires Town Commission approval.

Section 3: This Resolution together with Resolution 02-01-06 which is incorporated herein by reference shall constitute the Final Development Order governing the development of the Owner's property.


Section 4: This Resolution shall become effective upon adoption.

The foregoing Resolution was offered by Commissioner Balius, who moved its adoption. The motion was seconded by Commissioner Carey, and upon being put to a roll call vote, the vote was as follows:

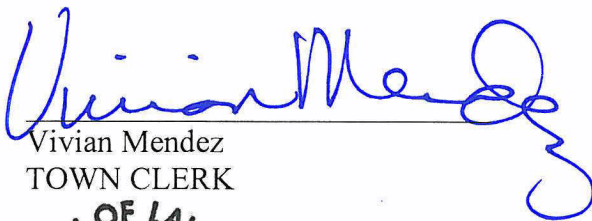
	AYE	Absent	NAY
MAYOR PAUL W. CASTRO	_____		_____
VICE-MAYOR ED DALY	X _____		_____
COMMISSIONER CHUCK BALIUS	X _____		_____
COMMISSIONER JEFF CAREY	X _____		_____
COMMISSIONER PATRICIA OSTERMAN	X _____		_____

The Town Commission thereupon declared the foregoing Resolution NO. 28-04-07 duly passed and adopted this 4 day of April, 2007.

TOWN OF LAKE PARK, FLORIDA


BY: 
 PAUL W. CASTRO
 MAYOR

ATTEST:


 Vivian Mendez
 TOWN CLERK



Approved as to form and legal sufficiency:

BY: 
 THOMAS J. BAIRD
 TOWN ATTORNEY

ATTACHMENT A

LEGAL DESCRIPTION

A PARCEL OF LAND IN A PORTION OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 20, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST (NW) CORNER OF SAID SECTION 20, SAID CORNER BEING IN THE CENTERLINE OF RIGHT OF WAY OF LAKE PARK WEST ROAD, AS NOW LAID OUT AND IN USE (STATE ROAD NO. 809-A) AS SHOWN ON SAID RIGHT OF WAY MAP OF STATE ROAD 809-A, SHEET 3 OF 3, DATED APRIL 1950; THENCE RUN SOUTH 88 DEGREES 04'04" EAST (ALL BEARINGS ARE RELATIVE TO SAID RIGHT OF WAY MAP OF STATE ROAD NO. 809-A) ALONG SAID CENTERLINE OF RIGHT OF WAY A DISTANCE OF 1145.90 FEET TO A POINT BEING ON THE NORTHERLY PROLONGATION OF THE EASTERLY RIGHT OF WAY LINE OF OLD DIXIE HIGHWAY AS NOW LAID OUT AND IN USE; THENCE RUN SOUTH 14 DEGREES 31'24" EAST ALONG SAID SOUTH RIGHT OF WAY LINE OF SAID STATE ROAD 809-A AND THE EASTERLY RIGHT OF WAY LINE OF OLD DIXIE HIGHWAY AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE ON THE PRECEDING DESCRIBED COURSE AND SAID EASTERLY RIGHT OF WAY LINE OF OLD DIXIE HIGHWAY A DISTANCE OF 537.19 FEET TO A POINT; THENCE RUN SOUTH 88 DEGREES 04'00" EAST A DISTANCE OF 200.00 FEET TO A POINT; THENCE RUN SOUTH 14 DEGREES 31'24" EAST A DISTANCE OF 104.27 FEET TO A POINT; THENCE RUN SOUTH 88 DEGREES 04'00" EAST A DISTANCE OF 188.13 FEET TO A POINT IN THE WESTERLY RIGHT OF WAY LINE OF THE FLORIDA EAST COAST RAILWAY CO.; THENCE RUN NORTH 20 DEGREES 31'04" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE A DISTANCE 676.36 FEET TO A POINT IN THE SOUTH RIGHT OF WAY LINE OF SAID STATE ROAD NO. 809-A; THENCE RUN NORTH 89 DEGREES 53'17" WEST ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 311.72 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL.

TOGETHER WITH:

THE SOUTH 100 FEET OF THE WEST 200 FEET OF THAT PART OF THE NORTH QUARTER (N 1/4) OF THE NORTHWEST QUARTER (NW 1/4), SECTION 20, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, LYING BETWEEN THE WESTERLY RIGHT-OF-WAY OF THE FLORIDA EAST COAST RAILROAD AND THE EASTERLY RIGHT-OF-WAY OF OLD DIXIE HIGHWAY.

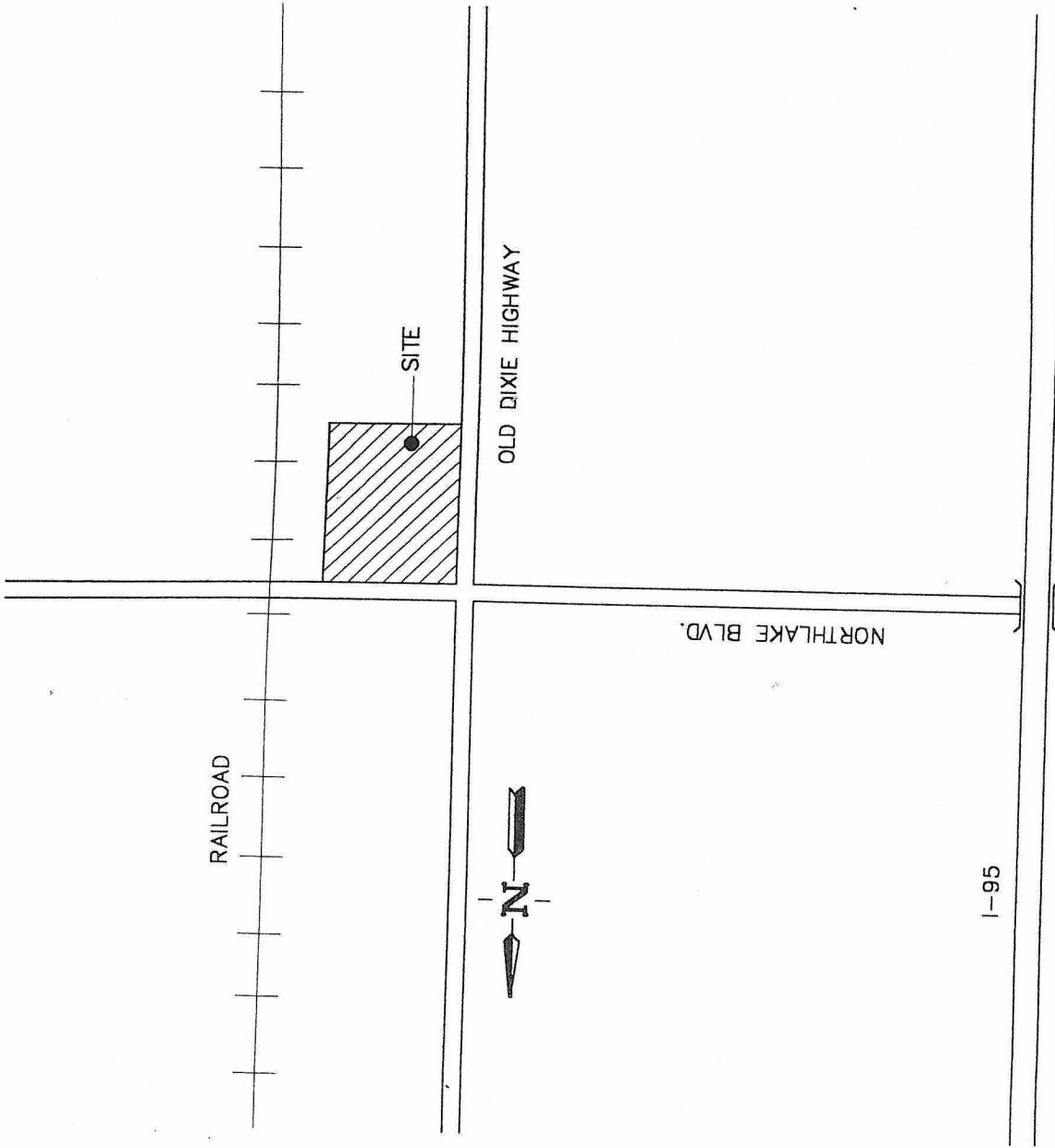
TOGETHER WITH:

PARCEL 1 LOT 103 OF NORTHLAKE BUSINESS PARK, LESS THAT PART OF LOT 103 LYING SOUTH OF A LINE 100 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF LOT 103 BETWEEN OLD DIXIE HIGHWAY AND FLORIDA EAST COAST RAILWAY RIGHT-OF-WAY, AS RECORDED ON THE PLAT OF NORTHLAKE BUSINESS PARK IN PLAT BOOK 30, PAGE 93 AND 94, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID LAND SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, AND ALSO LESS THAT PARCEL I AS DESIGNATED ON THE PLAT OF NORTHLAKE BUSINESS PARK, RECORDED IN PLAT BOOK 30, PAGES 93 AND 94 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2- A PARCEL OF LAND LYING IN THE SOUTH 1/2 OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, LYING BETWEEN SAID LOT 103 AND A LINE PARALLEL TO AND 100 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES, THE NORTH LINE OF SAID LOT 103 OF NORTHLAKE BUSINESS PARK, AS RECORDED IN PLAT BOOK 30, PAGES 93 AND 94 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALL TOGETHER CONTAINING 5.902 ACRES MORE OR LESS.

EXHIBIT "B"



LOCATION MAP

SCALE: N.T.S.