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RESOLUTION NO. 01-01-09

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING RESOLUTION 54-12-04 WHICH APPROVED A SITE PLAN FOR A MIXED-USE DEVELOPMENT KNOWN AS ONE PARK PLACE, TO ALLOW FOR THE CONSTRUCTION OF THE PROJECT IN TWO PHASES; PROVIDING FOR A PHASING SCHEDULE WITH REVISED SQUARE FOOTAGE ALLOCATIONS BY USE FOR EACH PHASE; AND APPROVING A REVISED LANDSCAPE PLAN FOR THE PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Park Avenue, LLC, a Florida limited liability company is the fee simple owner (the "Owner") of a 1.694± acre parcel of real property, the legal description of which is attached hereto, and incorporated herein as **Exhibit "A"** (the "subject property"); and

WHEREAS, the subject property is generally located at the northwest corner of Park Avenue and 8th Street in the Town of Lake Park, Florida ("Town"); and

WHEREAS, the Ahrens Companies, by and through, Gregory Celantano as the authorized agent for the Owner (the "Applicant"), has submitted an application to the Town requesting approval of an amendment to the original site plan ("Site Plan") for the subject property; and

WHEREAS, Resolution 54-12-04 authorized the construction of a mixed-use development project, known as One Park Place, subject to conditions of approval as set forth in the Resolution; and

WHEREAS, the Applicant has requested that the Site Plan be amended to authorize a Phasing Schedule for construction of the approved mixed-use development project and to modify the previously approved Landscape Plan (the Application); and

WHEREAS, Town Staff and the Town of Lake Park's Planning and Zoning Board have reviewed the Application, and have presented their respective recommendations to the Town Commission; and

WHEREAS, the Town Commission conducted a quasi-judicial public hearing to consider the Application, and has evaluated the evidence presented by Town Staff, the Applicant, the Owner, and other interested parties and members of the public, as to

1 whether the proposed amendments the Application is consistent with the Town's
2 Comprehensive Plan; and

3 **WHEREAS**, in addition, the Town Commission also considered the evidence
4 presented by Town Staff, the Applicant, the Owner, and other interested parties and
5 members of the public, as to whether the proposed amendments to the Site Plan comply
6 with the Town's Land Development Regulations; and

7 **WHEREAS**, the Town Commission has determined that the conditions
8 incorporated herein, are necessary in order for the Application to be consistent with the
9 Town's Comprehensive Plan and to comply with the Town's Land Development
10 Regulations; and

11 **WHEREAS**, the conditions as set forth below shall be binding on, and apply to
12 the Applicant, the Owner, and their successors and/or assigns.

13 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION**
14 **OF THE TOWN OF LAKE PARK:**

15 **Section 1.** The whereas clauses are incorporated herein as the findings of fact
16 and conclusions of law of the Town Commission.

17 **Section 2.** The Town Commission hereby approves the Application amending
18 the Site Plan for the mixed-use development project to authorize a Phasing Schedule;
19 provide revised square footage allocations by use for each Phase; and to amend the
20 previously approved Landscape Plan subject to the following conditions:

21 1) The Owner shall install all improvements on the subject property in compliance
22 with the original approved architectural and building elevations and floor plans,
23 engineering plans, irrigations plans, statement of use, traffic study on file with the
24 Town's Community Development Department, and which shall also include the
25 following revised Site Plan and Landscape Plans and Drawings:

26 a) Site Plan, referenced as sheets "Sheet SP-101 of SP-102", dated 12-08-08,
27 prepared by Don Boitnott, the Project architect of record, received and
28 dated by the Town's Community Development Department
29 ("Department") on 12-08-08.

30 b) Landscape Plan, references as sheets "Sheet LP 201 through LP-209"
31 dated 11-14-08, prepared by William A. Flint II, the Project landscape

1 architect of record, received and dated by the Town's Community
2 Development Department on 12-08-08.

3 2) Any revisions to the Site Plan, Landscape Plan, Elevations, Signage, Statement of
4 Use, or other details submitted as part of this Application, including but not
5 limited to, the location of the proposed improvements, and/or additional, revised,
6 or deleted colors, materials, or structures, shall be submitted to the Department for
7 its review and approval.

8 3) Any condition which requires the re-submittal of final plans shall be subject to the
9 Department's review and approval.

10 4) Upon submittal of final plans and prior to the issuance of any development
11 permits, the Owner shall:

12 a) Revise the Landscape Plan to show that the rear landscaping shall be
13 continued through to the western portion of the subject property to provide
14 a buffer to the residents and owners of property located to the rear of the
15 subject property; provide continuous hedging along the rear property line
16 which shall be maintained at a minimum height of 60 inches; provide
17 continuous hedging along the parking area which shall be maintained at a
18 minimum height of 48 inches ; and provide a notation that all other and/or
19 additional hedging to be located on the subject property shall be
20 maintained at a minimum height of 42-46 inches.

21 b) Revise the Landscape Plan of the Site Plan to reflect that the Phase 1
22 landscaping must include a combination of trees (minimum 8' in height)
23 and hedges (minimum 30" at planting) which are to be located just west of
24 the Phase 1 western building wall, to break up the façade of the newly
25 constructed building.

26 c) Provide certification from the landscape architect of record that all plant
27 installations on the subject property are in compliance with the final
28 Landscape Plans approved by the Town Commission.

29 5) All approved landscaping shall be properly maintained. Plant height at the time
30 of plant installation and plant maintenance height is reflected in the approved
31 landscape plans. The Owner shall provide a minimum three-month replacement

1 warranty for all new landscape material, with the warranty to commence on the
2 date of the issuance of the final Certificate of Occupancy. The Owner is
3 responsible for replacing any and all dead or dying landscape material on the
4 subject property and otherwise comply with the requirements of the Town Code
5 pertaining to landscaping and property maintenance, failing which the owner
6 and/or any tenant(s) of the subject property shall be subject to code enforcement
7 action by the Town to ensure compliance with these conditions of approval and
8 the requirements of the Town Code.

9 6) Prior to the issuance of the Certificate of Occupancy, the Applicant shall provide
10 certification from the Landscape Architect of record that the plant installations on
11 Site are in accordance with the plans approved by the Town Commission.

12 7) The Project may be developed in two Phases with the following square footage
13 allocations by use:

14 **Phase 1:**

- 15 ▪ 9,806 sf (retail/office)
- 16 ▪ 1,250 sf (restaurant)
- 17 ▪ 23,226 sf (20 multi-family residential units)
- 18 ▪ 1,318 sf (storage/elevator/trash)
- 19 ▪ TOTAL of 51 parking spaces (inclusive of two
20 handicap spaces)

21 **Phase 2:**

- 22 ▪ 9,806 sf (retail/office)
- 23 ▪ 1,250 sf (restaurant)
- 24 ▪ 20,998 sf (20 multi-family residential units)
- 25 ▪ 1,317 sf (storage/elevator/trash)
- 26 ▪ 44 NEW parking spaces (inclusive of two handicap
27 spaces for a total of 95 spaces for both phases
28 combined)

29 8) Any disturbance of the public right of way along Park Avenue, 8th Street, 7th
30 Street, or Greenbriar Drive shall require review and written approval from both

- 1 the Public Works and Community Development Departments prior to the
2 commencement of any construction, excavation, demolition, or clearing.
- 3 9) Any disruption to any of the nearby entrance/exit and parking areas along Park
4 Avenue, 8th Street, 7th Street, or Greenbriar Drive shall require prior written
5 approval from the Community Development Director.
- 6 10) Safe and adequate pedestrian passage in front of the construction site along Park
7 Avenue, 8th Street, 7th Street, or Greenbriar Drive shall be maintained at all times.
- 8 11) Construction shall be allowed only between the hours of 7:00 a.m. and 7:00 p.m.,
9 Monday through Saturday only, unless otherwise approved in writing by the
10 Community Development Director.
- 11 12) Any disruption beyond the boundaries of the subject property shall require the
12 construction contractor(s) to employ commonly accepted practices that ensure the
13 safety and well being of the general public.
- 14 13) The Owner shall ensure that any and all contractor(s) and their agents and
15 employees working on the subject property use commonly accepted practices to
16 reduce airborne dust and particulates during all construction phases.
- 17 14) At the time the original Site Plan was approved by the Town, the Owner and
18 Applicant had previously received documentation from Palm Beach County
19 which confirmed that the following proposed Project uses and corresponding
20 square footages (“sf”):
- 21 (a) 7,616 sf of general retail;
22 (b) 7,616 sf of general office;
23 (c) 5,000 sf of high turn-over restaurant; and
24 (d) 40 multi-family residential units,
- 25 satisfied the County’s Traffic Performance Standards (“TPS”), and also met the
26 County’s traffic concurrency requirements when the original Site Plan for the
27 Project was approved by the Town. Because this Site Plan amendment includes
28 the approval of the Phasing Schedule and revised square footage allocations by
29 use, Phase 1 is now vested with 9,806 sf of retail/office; 1,250 sf of restaurant;
30 and 20 residential units totaling 23,226 sf. Prior to the issuance of any building or
31 development permit by the Town for any portion of Phase 2 of the Project, the

1 Owner and/or the Applicant must provide the Town with an updated traffic
2 concurrency letter from Palm Beach County, confirming that the revised square
3 footage allocations for the Project under the Phasing Schedule and revised square
4 footage allocations by use as set forth herein, meet the then-current TPS, as well
5 as the then-current traffic concurrency requirements of Palm Beach County.

6 15) The Project's central courtyard, which faces Park Avenue, was built with a
7 architectural design that did not comply with design that was originally approved
8 by the Town, and the as-built design is reflected on Landscape Plan, Sheet 204.
9 Instead of constructing the originally approved six-foot green chain-link fence,
10 the Owner has proposed to construct a six foot black chain-link, as depicted on
11 Landscape Plan, Sheet 101. The Owner shall obtain from the Town all required
12 building permits, final passing inspections, submit all necessary Site Plan revision
13 sheets, and all final as-builts plans and drawings, which reflect these changes to
14 the Department before any certificate of occupancy shall be issued by the Town.

15 16) All dumpsters shall be enclosed as noted on the Site Plan and the dumpster
16 enclosure doors shall be kept shut at all times. There shall be a total of two
17 dumpster locations on-site upon the completion of Phase 2. The dumpsters must
18 be surrounded by a minimum three foot hedge at planting and a structural barrier.
19 In addition, all other outdoor storage and trash collection sites shall have a
20 minimum three foot high hedge and a structural barrier.

21 17) Upon submittal of the final plans and prior to the issuance of any building or
22 development permit by the Town, the Owner and/or Applicant must provide the
23 Town with copies of all other required and unexpired permits from other
24 agencies, including but not limited to, the Palm Beach County Health Department,
25 Palm Beach County Land Development Division, South Florida Water
26 Management Division, and the State of Florida Department of Environmental
27 Protection. As of January 1, 2009 the new Florida Prevention Code for Palm
28 Beach County Fire, shall apply to all building permits for the Project that are
29 submitted to the Town for review.

30 18) The Owner or the Owner's authorized agent shall initiate the bona fide and
31 continuous development of PHASE 2 of the Project on the subject property

1 within 18 months from the effective date of this Resolution. All required
2 development shall be completed within 18 from the effective date of the initiation
3 of development as defined in the Town of Lake Park Code, Section 67-42
4 (*Expiration of development approvals*), unless an extension of time is granted in
5 accordance with the requirements of Code Section 67-42.

6 19) All fees and costs incurred by the Town in reviewing this Project, which are billed
7 to the Owner and/or Applicant, shall be paid in full to the Town within 10
8 calendar days of receipt of an invoice from the Town. The failure of an Owner to
9 fully reimburse the Town within 10 calendar days may result in the revocation by
10 the Town, of all previously issued development orders for the Project, including
11 but not limited to the Site Plan and any building permits issued by the Town, until
12 the Town is fully reimbursed.

13 20) Within 90 days of the effective date of this Resolution, the Owner and/or
14 Applicant shall submit revised fully revised development plans for the Project,
15 which shall include all of the afore-stated requirements as conditions of approval
16 of the amended Site Plan. The revised development plans may be approved
17 administratively by staff provided that: (1) all conditions are included on the
18 development plans to the satisfaction of the Community Development Director,
19 and (2) any exterior building modification(s) are architecturally consistent with
20 the approved buildings. In the event that the revised development plans fail to
21 meet or completely satisfy either or both conditions (1) or (2) set forth above in
22 this paragraph, the revised development plans shall be submitted for review and
23 consideration for approval by the Town Commission as a further amendment to
24 the Site Plan. No building or development permit of any kind, including but not
25 limited to, excavation, demolition, or land clearing permits, shall be issued by the
26 Town for the Project until the revised development plans have been received and
27 approved by the Town.

28 **Section 3.** This Resolution shall take effect upon adoption.

29 **Exhibit "A" - Legal Description of the subject property.**

30

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

	AYE	NAY
MAYOR DESCA DUBOIS	<u>✓</u>	___
VICE-MAYOR ED DALY	<u>✓</u>	___
COMMISSIONER CHUCK BALIUS	<u>✓</u>	___
COMMISSIONER JEFF CAREY	<u>✓</u>	___
COMMISSIONER PATRICIA OSTERMAN	<u>✓</u>	___

The Town Commission thereupon declared the foregoing Resolution NO. 01-01-09 duly passed and adopted this 21 day of January, 2009.

TOWN OF LAKE PARK, FLORIDA

BY: Desca Dubois
DESCA DUBOIS
MAYOR

ATTEST:

Vivian M. Lemley
VIVIAN M. LEMLEY
TOWN CLERK

TOWN OF LAKE PARK
TOWN SEAL
SEAL

FLORIDA

Approved as to form and legal sufficiency:

BY: Thomas J. Baird
THOMAS J. BAIRD
TOWN ATTORNEY

Exhibit "A"

LEGAL DESCRIPTION

Lots 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 46, 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.

Together with:

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, for Detention Area.