

RESOLUTION NO. 41-10-13

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING RESOLUTIONS 20-05-10, 40-11-11, AND 09-06-12 TO EXTEND A PERMIT TO AUTHORIZE COMMERCIAL INVESTMENTS, LLC DOING BUSINESS AS EARL STEWART TOYOTA TO CONTINUE THE TEMPORARY USE OF A LOT IT OWNS FOR THE STORAGE OF ITS VEHICLE INVENTORY WHICH INCLUDES AN OFFICE TRAILER UPON THE PROPERTY FOR USE AS A VEHICLE SALES OFFICE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Commercial Investments, LLC, d/b/a Earl Stewart Toyota (Applicant) acquired the properties formerly known as the Journey's Inn hotel and the El Colonial restaurant; and

WHEREAS, in May of 2010, the Applicant requested permission from the Commission to demolish the buildings on the property and to use it for the temporary storage of vehicles and the placement of a *temporary* sales trailer; and

WHEREAS, pursuant to Resolutions 20-05-10, 40-11-11, and 09-06-12 (jointly and severally these Resolutions shall be referred to as a *temporary* Development Order), the Town Commission approved a demolition permit authorizing the Applicant to permanently demolish the Journey's Inn hotel and El Colonial restaurant buildings and authorized the Applicant to use its property for the temporary storage of its vehicles and to temporarily place a trailer upon it to be used as a vehicle sales office for a *temporary* period of time; and

WHEREAS, the legal description of the Applicant's property which is the subject of the temporary Development Order is: KELSEY CITY LTS 1 TO 11 INC /LESS W 20 FT RD R/W/ & LTS 12 TO 22 INC BLK 121. PCN 36-43-42-20-01-121-0010 (the subject property); and

WHEREAS, in accordance with the temporary Development Order, the Applicant has filled the subject property with crushed asphalt and has graded it; and

WHEREAS, in accordance with the temporary Development Order, the Town Commission authorized the Applicant to temporarily use the subject property for the storage of vehicles; and

WHEREAS, pursuant to Resolution 20-05-10 the Applicant was required to plant 18 perimeter trees around the subject property; and

WHEREAS, the Applicant has complied with this condition of the temporary Development Order; and

WHEREAS, Resolution 20-05-10 established an expiration date of April 30, 2012 for the use of the subject property for temporary vehicular storage; and

WHEREAS, Resolution 40-11-11 authorized the Applicant to place a trailer on the subject property for use as a temporary used vehicle sales office; and

WHEREAS, Resolution 40-11-11 established an expiration date of April 30, 2012 for the continued use of the subject property for the storage of vehicles and the maintenance of a trailer for use as a used vehicle sales office; and

WHEREAS, the Applicant did not submit an application for a site plan on or before the expiration date as required by Resolution 40-11-11; and

WHEREAS, pursuant to Resolution 09-06-12 the Applicant requested and the Commission approved an extension of the use of the subject property for the temporary storage of the Applicant's vehicle inventory and to maintain its trailer on the subject property for its temporary use as a used vehicle sales office; and

WHEREAS, Resolution 09-06-12 established an expiration date of October 1, 2013 for the continued use of the subject property for the storage of vehicles and the maintenance of a trailer as a used vehicle sales office; and

WHEREAS, the Applicant did not submit an application for a site plan on or before December 31, 2012 as required by Resolution 09-06-12; and

WHEREAS, the Applicant has continued the temporary use of the subject property for the temporary uses authorized by Resolution 09-06-12 beyond the October 1, 2013 provision, and has not submitted an application for a site plan; and

WHEREAS, the Applicant is requesting another extension of time to submit an application for a site plan and is requesting that it be permitted to continue the temporary use of the subject property until a site plan has been submitted, or March 31, 2014, whichever comes first; and

WHEREAS, the Applicant is also requesting an extension of the time specified in the previous development order to submit a complete site plan package which depicts the proposed expansion of the dealership to March 31, 2014.

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

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

Section 2. The Town Commission hereby requires that the Applicant submit a site plan which depicts the expansion of the vehicle sales use.

Section 3. The Town Commission hereby amends the Development Order to authorize the continued temporary use of the subject property for the storage of vehicles and the use of a trailer as a used car sales office.

Section 4. The continued temporary use of the subject property is subject to the following conditions:

- A. Permit Duration. The Applicant shall submit a site plan application for the subject property which meets all of the criteria required by the Town Code, together with the appropriate application fee on or before March 31, 2014.
- B. Office Trailer. Provided the Applicant submits an application for a site plan together with the required fee, and the application is deemed to be a complete application by the Community Development Department on or before March 31, 2014, the Applicant may continue to maintain the trailer for use as a used vehicles sales office until December 31, 2014.
- C. Storage of Vehicles. Provided the Applicant submits an application for a site plan together with the required fee, and the application is deemed to be a complete application by the Community Development Department on or before March 31, 2014, the Applicant may continue the use of the subject property for the storage of its vehicle inventory until December 31, 2014.
- D. This approval is subject to **the Applicant entering into an Agreement, attached hereto as Exhibit "A", which requires the Applicant to provide the Town with a Cashiers' check in the amount of \$ 30,000 within seven (7) business days of the effective date of this Resolution. The Applicant agrees that its failure to meet any of the conditions pertaining to the temporary use of its property on or before March 31, 2014, shall automatically entitle the Town to the \$ 30,000 in funds deposited by the Town into its PNC bank account.**
- E. Advertising. Earl Stewart Toyota shall only advertise their facility as being located in the Town of Lake Park. There shall be no advertisements that state or imply that Earl Stewart Toyota is located in North Palm Beach or Northern Palm Beach.

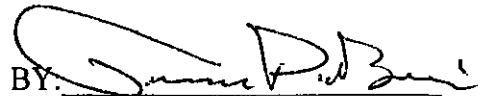
Section 3. This Resolution shall take effect upon adoption.

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

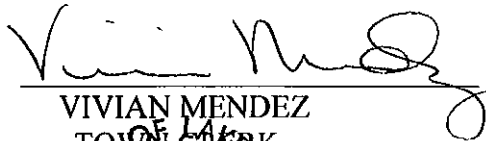
	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	<u> </u>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	<u> </u>
COMMISSIONER ERIN FLAHERTY	<u>/</u>	<u> </u>
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	<u> </u>
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	<u> </u>

The Town Commission thereupon declared the foregoing Resolution NO. 41-10-13 duly passed and adopted this 16 day of October, 2013.


TOWN OF LAKE PARK, FLORIDA

BY: 
JAMES DUBOIS
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK
TOWN OF LAKE PARK
SEAL
(TOWN SEAL)
FLORIDA

Approved as to form and legal sufficiency:

BY: 
THOMAS J. BAIRD
TOWN ATTORNEY

Earl Stewart Toyota



9/13/13

To Whom It May Concern:

Earl Stewart Toyota respectfully requests an amendment to the existing Resolution and a temporary extension of our existing building permit for 1025 US1 in Lake Park, FL.

Specifically:

- An extension date for the submittal of plans for the expansion of the dealership to December 31st, 2013
- An expiration date for the storage lot and office trailer of December 31st, 2014

Please feel free to contact us with any questions or comments. Thank you very much; we greatly appreciate your consideration.

Sincerely,



Earl D. Stewart III

EXHIBIT "A"

Agreement to Extend the Temporary Uses of Property Without Site Plan Approval

This Agreement to *Extend the Temporary Uses of Property Without Site Plan Approval* (Agreement) is entered into between the Town of Lake Park, Florida (Town), and the owner of certain real property, Commercial Investments LLC, aka Earl Stewart Toyota (Owner), this ___ day of October, 2013.

WITNESSETH

WHEREAS, the Town is a municipal corporation of the state of Florida with such power and authority as conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, by Resolution, the Town and the Owner have previously agreed that the Owner may make certain temporary uses of its property legally described as:

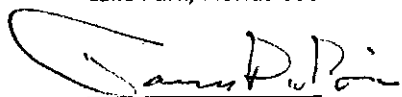
KELSEY CITY LTS 1 TO 11 INC /LESS W 20 FT RD R/W/ & LTS 12 TO 22 INC BLK 121
(the Property)

before obtaining a Development Order authorizing the development of the Property in accordance with a site plan which legally authorizes the Owner to use and develop its property consistent with the Town Code.

NOW THEREFORE, the parties agree as follows:

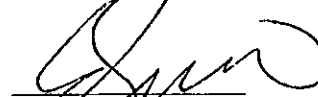
1. The persons signing this Agreement have the authority to enter into it and bind the respective parties to the terms contained herein.
2. Within seven calendar days following the effective date of Resolution 41-10-2013 (the Resolution), a copy of which is attached hereto and incorporated herein, the Owner shall deliver a cashier's check to the Town in the amount of Fifty Thousand and no/100 Dollars (\$30,000.00) to secure the timely performance of all obligations as set forth in Resolution (the "Funds"). The Town shall deposit the Funds into the Town's regular general revenue account at PNC Bank (f/k/a) National City Bank, in Lake Park, Florida. The Town shall separately account for the Funds, which shall be segregated in the Town account.
3. If the Applicant fails to timely comply with any of the obligations of Resolution 41-10-2013, the Owner agrees that the Town shall be entitled to keep any and all remaining Funds.
4. In addition, the Owner shall have 30 days from either December 31, 2014 if a complete site plan application is submitted by March 31, 2014 or 30 days from March 31, 2014 if the site plan application is not submitted or deemed incomplete by the Community Development Department, to remove the sales trailer and the vehicles parked on the Property and sod throughout.
5. This Agreement may be enforced by either party, and in such case, the prevailing party shall be entitled to recover its attorney fees and costs.

Town of Lake Park
535 Park Avenue
Lake Park, Florida 33043



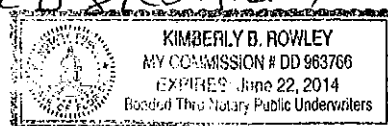
James Dubois, Mayor

Commercial Investments LLC
1025 U.S. Highway-1
Lake Park, Florida 33403



Earl D. Stewart, Manager/Member

EARL D. STEWART



Kimberly B. Rowley 10/23/13