

**RESOLUTION NO. 03-01-15**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING RESOLUTIONS 20-05-10, 40-11-11, 09-06-12 AND 41-10-13 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, 09-06-12 and 41-10-13 (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**, pursuant to Resolution 41-10-13 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 41-10-13 established an expiration date of 30 days from December 31, 2014 if a completed site plan application was submitted by March 31, 2014, 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 submit a completed site plan application by March 31, 2014 thereby setting the expiration date to end of day January 30, 2015; and

**WHEREAS**, the Applicant is requesting another extension of time to receive site plan approval, receive all necessary construction permits and receive a Certificate of Occupancy for Phase I; and

**WHEREAS**, the Applicant is requesting an extension that is consistent with the issuance of the Certificate of Occupancy for Phase I, or January 31, 2016, whichever is sooner, for the storage of vehicles and the maintenance of a trailer as a used vehicle sales office.

**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 amends the temporary 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 3.** The continued temporary use of the subject property is subject to the following conditions:

- A. Permit Duration. The Applicant shall receive a Certificate of Occupancy of the Phase I improvements, or remove the storage of vehicles and office trailer by January 31, 2016, whichever comes first.
- B. This approval is subject to **the Applicant entering into a revised Agreement, attached hereto as Exhibit "A", for which the Town will keep the previously submitted Cashiers' check in the amount of \$ 30,000 as cash surety. The Applicant agrees that its failure to meet any of the conditions pertaining to the temporary use of its property, shall automatically entitle the Town to the \$ 30,000 in funds deposited by the Town into its PNC bank account.**
- C. 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 Rapoza and upon being put to a roll call vote, the vote was as follows:

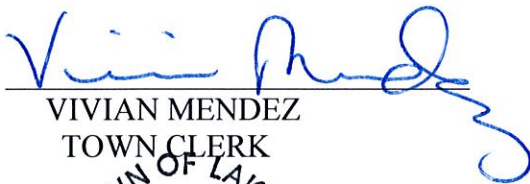
	AYE	NAY
MAYOR JAMES DUBOIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE-MAYOR KIMBERLY GLAS-CASTRO	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMISSIONER ERIN FLAHERTY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER MICHAEL O'ROURKE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMISSIONER KATHLEEN RAPOZA	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Town Commission thereupon declared the foregoing Resolution NO. 03-01-15 duly passed and adopted this 21 day of January, 2015.

TOWN OF LAKE PARK, FLORIDA

BY:   
JAMES DUBOIS  
MAYOR

ATTEST:

  
VIVIAN MENDEZ  
TOWN CLERK



Approved as to form and legal sufficiency:


BY:   
THOMAS J. BAIRD  
TOWN ATTORNEY

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 originally 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), on October 23, 2013 and now being re-entered into this \_\_ day of January, 2015.

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 Thirty 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.~~
4. The Owner shall have 30 days from the issuance of the Certificate of Occupancy for Phase 1, or no later than January 31, 2016, to remove the sales trailer from the Property. The Property will be improved in accordance with the site plan approved by the Town Commission.
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

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

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James Dubois, Mayor

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Earl D. Stewart, Manager/Member