

**RESOLUTION NO. 49-12-15**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING RESOLUTION 14-05-15 AND 14-05-03 THE DEVELOPMENT ORDER FOR THE EARL STEWART TOYOTA PLANNED UNIT DEVELOPMENT; PROVIDING FOR THE AMENDMENT OF SECTION 2 TO ADD CONDITION 1.J AND 1.K PERTAINING TO THE BUS SHELTER DESIGN; PROVIDING FOR THE AMENDMENT OF CONDTION 19 TO REQUIRE THE PLAT TO SHOW AN ACCESS EASEMENT TO THE BUS SHELTER AND THE LANDSCAPING ASSOCIATED THEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Urban Design Kilday Studios, is the authorized agent (“Applicant”) for Earl Stewart LLC and Commercial Investments LLC, (collectively referred to herein as “Owner”); and

**WHEREAS**, the Owner owns the property legally described in Exhibit “A” which is attached hereto and incorporated herein; and

**WHEREAS**, the Owner has proposed a three phased expansion and redevelopment of its vehicle dealership, known as Earl Stewart Toyota; and

**WHEREAS**, on behalf of the Owner, the Applicant previously submitted applications for a Site Plan and the Special Exception Use of “motor vehicle sales”, an Abandonment of the 0.49 acre portion of East Jasmine Drive, a Future Land Use Map designation assignment for East Jasmine Drive and a Rezoning of 1017 Federal Highway as well as the assignment of zoning for East Jasmine Drive (collectively referred to as the “Applications”); and

**WHEREAS**, the Commission approved a Development Order which governs the Earl Stewart Planned Unit Development (EST PUD); and

**WHEREAS**, the Owner proposes to amend condition 1 of the EST PUD to incorporate the plans for the design of the required Bus Shelter;

**WHEREAS**, the Owner proposes to amend condition 19 to add the requirement that the Plat show an easement providing the public with access to the Bus Shelter; and

**WHEREAS**, the Town Commission has conducted a quasi-judicial hearing to consider the proposed amendment to the Development Order; and

**WHEREAS**, at this hearing, the Town Council considered the evidence presented by the Town Staff, the Applicant, the Owner, and other interested parties and members of the public, regarding the proposed amendments to the EST PUD Development Order.

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

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

**Section 2.** The Town Commission hereby approves an amendment to the EST PUD Development Order as shown below:

1. The Owner shall develop the Site consistent with the following Plans:
  - a. Master Site Plan/Site Plans and Architectural/Phasing Plans referenced as sheets SP-1; PH-1 (SP-1, A-2.0, A3.0, A4.0, A4.1), PH-2 (SP-1, A-2.0, A3.0, A4.0), and PH-3 (SP-1, A-2.0, A3.0, A4.0, A4.1, A5.0, A5.1); signed and sealed 08-04-15 and prepared by Glidden Spina & Partners; received and dated by the Department of Community Development on 08-07-15.
  - b. Landscape Plans and Irrigation Plans referenced as sheets LP-1 through LP-7, and IR-1 through IR-4; signed and sealed 08-07-15, prepared by Urban Design Kilday Studios; received and dated by the Department of Community Development on 08-07-15.
  - c. Survey referenced as drawing #D14-032; signed and sealed 3-26-14 and prepared by Lidberg Land Surveying; received and dated by the Department of Community Development on 08-07-15.
  - d. Shadow Study referenced as sheet A-6; prepared by Glidden Spina & Partners on 09-23-14; received and dated by the Department of Community Development on 08-03-15.
  - e. Sign Plan referenced as sheet PH-3-SIGN; signed and sealed 08-04-15 and prepared by Glidden Spina & Partners; received and dated by the Department of Community Development on 08-07-15.
  - f. Photometric Plans referenced as sheets PH-1 (E-1 through E-3); signed and sealed 08-05-15 and prepared by Smith Engineering Consultants, Inc.; received and dated by the Department of Community Development on 08-07-15.
  - g. Conceptual Engineering Plans referenced as drawings #1443PRE (sheets 1 of 2, and 2 of 2); signed and sealed 02-17-15 and prepared by McLeod, McCarthy & Associates; received and dated by the Department of Community Development on 08-07-15.
  - h. Auto-Turn Analysis referenced as sheet ATA-1 and ATA-2 prepared by Urban Design Kilday Studios and received and dated by the Department of Community Development on 08-07-15.
  - i. Color/Material Board sheet prepared by Glidden Spina & Partners on 05-20-15; received and dated by the Department of Community Development on 08-07-15.
  - j. Bus Shelter Plan revisions identified on revised sheets SP-1 and LP-1 through LP-6, identifying the bus shelter location and surrounding landscaping details, signed and sealed 11-24-15 and prepared by Urban Design Kilday Studios, received by the Department of Community Development on 11-24-15.
  - k. Bus Shelter Design details referenced as sheets BS-1 and BS-2, prepared by Glidden Spina & Partners and received by the Department of Community Development on 11-24-15.

2. Construction on the Site is permitted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and 8am to 6pm on Saturday, except holidays, unless otherwise approved in writing by the Community Development Director.
3. Delivery of vehicles to the Site shall not be made before 7am or after 7pm.
4. The hours of operation of the *customer-only* car wash component are limited to 8am-7pm, Monday through Saturday.
5. Vehicles shall be serviced completely indoors and service is permitted within the hours of operation Monday through Sunday.
6. The use of a public address or outdoor speaker system is prohibited.
7. Any proposed disruption to the normal flow of traffic, entry/exit streets or parking areas within the rights of way of North Federal Highway, East Ilex Drive, Palmetto Drive, or Lakeshore Drive during the construction of the Site, shall be subject to the review and approval of the Community Development Department (the Department).
8. The Owner shall maintain all landscaping on the Site so long as the Site is operated pursuant to this Resolution or subsequent Resolutions amending same. The Owner shall promptly replace any and all expired or dying landscaping shown on the approved Site Plan and Landscaping Plan.
9. The hedge material around the proposed parking garage structure for Phase 3 and within the north, south, east property landscape buffers shall be shall be maintained at a minimum five-foot height.
10. The Owner shall maintain safe pedestrian passages at each of the Site's entrances.
11. The Owner shall ensure that any and all contractors working on the Site use commonly accepted practices to reduce airborne dust and particulates during construction.
12. The dumpster/trash compactor areas shall be screened as noted on the Site Plan and kept closed at all times. All dumpsters shall be acquired from the approved franchise supplier for the Town.
13. Prior to the issuance of a Certificate of Occupancy for Phase 1, the Owner shall provide certification from the Landscape Architect of record that the plant installations on the Site are in accordance with the approved Site Plan and the Landscaping Plan.
14. Prior to the issuance of a building permit, the Owner shall have received approval of the Plat for the Site for the overall maintenance and ownership of the Site.
15. Prior to the issuance of a building permit for Phase 1, the Owner shall submit to the Department copies of any permits it has obtained from other governmental agencies,

including but not limited to Palm Beach County Health Department, Palm Beach County Land Development Division, South Florida Water Management Division, the State of Florida Department of Environmental Protection, and the Florida Department of Transportation (FDOT).

16. Any revisions to the approved Site Plan, Landscape Plan, architectural elevations, signs, Statement of Use, photometric plan, or other details submitted as part of the Application, including, but not limited to, the location of the proposed improvements or additional, revised, or deleted colors, materials, or structures, shall be submitted to the Department of Community Development, and shall be subject to its review and approval.
17. All drainage construction work shall comply with FDOT standards for North Federal Highway and the Town's future reconstruction design plans for Lakeshore Drive. The drainage construction work and reconstruction of Lakeshore Drive shall be subject to the review and approval of the Town Engineer and the Director of the Department of Public Works.
18. The Owner shall install signs around the Site, specifically at the Palmetto Drive/Federal Highway, East Ilex Drive/Federal Highway intersections, and interior to the property with proximity to the Lakeshore Drive driveway entrance, indicating that "Transport truck traffic is prohibited along Lakeshore Drive".
19. Prior to November 2015, the Owner shall submit its proposed design for a bus shelter on Federal Highway. The bus shelter design shall be subject to the review and approval of Palm Tran and the Town Commission. The Owner shall secure any necessary FDOT permits. ~~Prior to November 2015,~~ The Owner shall ~~show~~ **submit** an access easement granting the Town access on the Plat which grants the public a right of access to the Bus Shelter and upon the Bus Shelter property. The easement shall be subject to the review and approval of the Town Attorney.
20. The Site shall be developed in three Phases pursuant to the Plans described in condition of approval #1, as follows:

Phase 1

- ➔ **Commencement of Development:** January 2016
- ➔ **Completion:** (1) Removal of Used Car trailer from South parking lot - 5 months (by June 2016) from commencement of Phase 1 ; (2) Building shell, 3<sup>rd</sup> floor administration, office interiors, uses car sales office interiors, service department interiors, site work, landscaping and parking lot improvements – 14 months (by March 2017) from the commencement of Phase 1

Phase 2

- ➔ **Commencement of Development:** February 2017

- ➔ **Completion:** 8 months (by October 2017) following commencement of Phase 2  
(Interior demolition of existing showroom and administrative offices, construction of new showroom and sales offices)

Phase 3

- ➔ **Commencement of Development:** 18 months (by April 2019) from completion of Phase 2
  - ➔ **Completion:** (Garage and site improvements) 18 months from start of construction of Phase 3, but no later than October 2020.
21. Within 90 days of the effective date of Ordinance No. 02-2015 the Owner shall pay the Town the appraised value approved by the Town Commission of the abandoned portion of the East Jasmine Drive right-of-way. Within five business days of the Owner's payment to the Town for the Property, the Applicant shall cause to be removed, at no cost to the Town, the traffic signs along East Jasmine and Lakeshore Drive, and return these signs to the Town's Department of Public Works.
  22. The Owner shall reconstruct the east and west sides of East Jasmine Drive adjacent to Lakeshore Drive and North Federal Highway.
  23. Prior to the issuance of the building permit for Phase 1, the Owner shall submit a copy of all permits from all appropriate permitting authorities to the Community Development Department.
  24. Prior to the issuance of the building permit for Phase 1, the Owner shall provide AT&T with a utility easement sufficient to permit AT&T to maintain the facilities as well as 2-4" PVC conduits crossing East Jasmine Drive within the utility easement. The Owner shall submit a fully executed copy of this easement prior to the issuance of the building permit for Phase 1.
  25. The Owner shall remove the FPL street lights, poles within, or adjacent to East Jasmine Drive.
  26. The Owner shall pay fees incurred by the Town associated with the review of the Application as authorized by Section 51-6 (c) of the Town Code within 10 days of the receipt of any invoices received from the Town. The Owner's failure to reimburse the Town these fees within 10 days of the Town's delivery of an invoice to the Owner may result in the suspension of any further review of plans, permitting or construction activities, and may result in the revocation of any approved Development Orders.
  27. If at any time after the effective date of this Resolution, noise emanating from the car wash exceeds the plainly audible standard established by the Town Code, the Applicant shall

implement such further measures as may be necessary to mitigate the noise from the car wash such that it is within the range provided for in the Code.

28. Vehicle transport trucks entering or leaving the Site are prohibited from doing so via Lakeshore Drive and E. Ilex Drive. The Applicant shall install signage clearly prohibiting vehicle transport trucks from entering or leaving the Site via Lakeshore Drive and E. Ilex Drive. Any violation of this condition shall subject the Applicant to a proceeding before the Town's Code Enforcement Magistrate. The violations shall be treated as the Applicant's irreparable or irretrievable violation pursuant to § 162.09 (2) (a), Fla. Stat. and the Applicant shall be subject to the maximum fine specified therein.
29. Prior to the approval of a Plat for the Site, the Applicant shall submit revised architectural plans as agreed to at the quasi-judicial hearing on this Resolution which would include, at a minimum, the extension of the trellis' and changes to the colors of eastern elevation stairway.
30. The Applicant shall provide way finding signage throughout the Site to direct transport trucks and vehicles to the appropriate entrances and exits consistent with the site plan and condition 28.

**Section 3:** The Owner, the Applicant and their successors and assigns shall be subject to the conditions set forth herein.

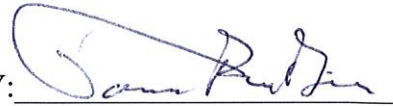
**Section 4.** This Resolution shall become effective upon adoption.

The foregoing Resolution was offered by Commissioner O'Rourke who moved its adoption. The motion was seconded by Vice-Mayor Glas-Castro 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. 49-12-15 duly passed and adopted this 16 day of December, 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"**

**LEGAL DESCRIPTION**

BEING A REPLAT OF STEWART TOYOTA, AS RECORDED IN PLAT BOOK 100, PAGES 148 AND 149, AND  
A REPLAT OF PORTIONS OF LOTS 1 THROUGH 11, BLOCK 121, ALL OF LOTS 12 THROUGH 22, BLOCK 121,  
AND A PORTION OF AVENUE J (NOW KNOWN AS JASMINE STREET), AS SHOWN ON KELSEY CITY, AS RECORDE  
IN PLAT BOOK 8, PAGES 15 AND 35, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA  
LYING IN SECTION 21, TOWNSHIP 42 SOUTH, RANGE 43 EAST