

**ORDINANCE NO. 02-2015**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ABANDONING THAT 0.49 ACRE PORTION OF THE EAST JASMINE DRIVE RIGHT OF WAY LOCATED EAST OF FEDERAL HIGHWAY AND TERMINATING AT LAKESHORE DRIVE, DESCRIBED AS AVENUE "J", ACCORDING TO THE PLAT OF KELSEY CITY RECORDED IN PLAT BOOK 8, PAGES 15 AND 35; PROVIDING FOR THE RECORDING OF THE ORDINANCE IN THE PUBLIC RECORDS OF PALM BEACH COUNTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the right-of-way now known as East Jasmine Drive was originally dedicated as Avenue J pursuant to the Plat of Kelsey City; and

**WHEREAS**, the Plat of Kelsey City showing this right-of-way was recorded in Plat Book 8, Pages 15 and 35, of the public records of Palm Beach County, Florida; and

**WHEREAS**, the legal description and sketch of the right-of-way to be abandoned is attached hereto and incorporated herein as **Exhibit "A"** (the "Property"); and

**WHEREAS**, the Property is located east of Federal Highway and terminates at Lakeshore Drive in the Town of Lake Park, Florida (the "Town"); and

**WHEREAS**, as part of the expansion of the Earl Stewart Toyota vehicle sales dealership, the owner of the properties north and south of the Property, Earl Stewart LLC and Commercial Investments LLC (the "Applicant"), have submitted an application to request that the Property be abandoned so that the properties can be aggregated and incorporated into the Earl Stewart Toyota Planned Unit Development; and

**WHEREAS**, the Applicant is required to pay the Town the fair market value of the Property within 90 days of the approval of this Ordinance; and

**WHEREAS**, the Applicant has provided the Town with “Letters of No Objection from AT&T, Florida Power & Light, Comcast Cable, Florida Public Utilities, and the Seacoast Utility Authority, indicating that the abandonment would not adversely affect utility service efficiency, or preclude the future provision of public or private utility services; and

**WHEREAS**, the Town Commission has determined that the proposed abandonment furthers the public health, safety and welfare of the Town’s residents; and

**WHEREAS**, the Town Commission has determined that the application to abandon the Property meets the criteria for abandoning rights-of-way as set forth in Section 72-4 of the Town Code.

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

**Section 1. Recitals.** The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

**Section 2. Abandonment of right-of-way.** The Town Commission hereby determines that the Applicant has demonstrated by clear and convincing evidence that the right-of-way is not required for the public’s use and convenience. In making this determination the Commission specifically finds: (a) The abandonment does not deprive any business or individual of a reasonable means of ingress and egress to that business’ or individual’s property;

(b) The abandonment will not adversely affect utility service efficiency, or preclude the future provision of public or private utility services;

(c) The abandonment will not reduce adjacent property values; and

(d) The abandonment will not eliminate the potential use of property which has been dedicated for a public purpose, including, but not limited to, pedestrian or vehicular access, recreation, environmental preservation, or stormwater management.

**Section 3. Conditions.** The proposed abandonment of the Property is subject to the Applicant meeting all of the conditions associated with the Development Order for the Property as set forth in Resolution 14-05-15.

**Section 4. Recording.** Upon compliance with the conditions of Section 3, above, the Applicant shall record the abandonment in the public records of Palm Beach County. After the recorded Ordinance has been returned to the Applicant, the Applicant shall forward a copy of the Ordinance with the recording information on to the Community Development Department.

**Section 5. Failure to pay.** In the event the Applicant does not make payment of the fair market value as appraised within 90 days of the effective date of this Ordinance, the abandonment shall be null and void.

**Section 6. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 7. Repeal of Laws in Conflict.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 8. Effective Date.** This Ordinance shall take effect immediately upon adoption.

**Attachments: Exhibit "A"- Legal description & sketch of the Property depicting its general location.**

Exhibit "A"

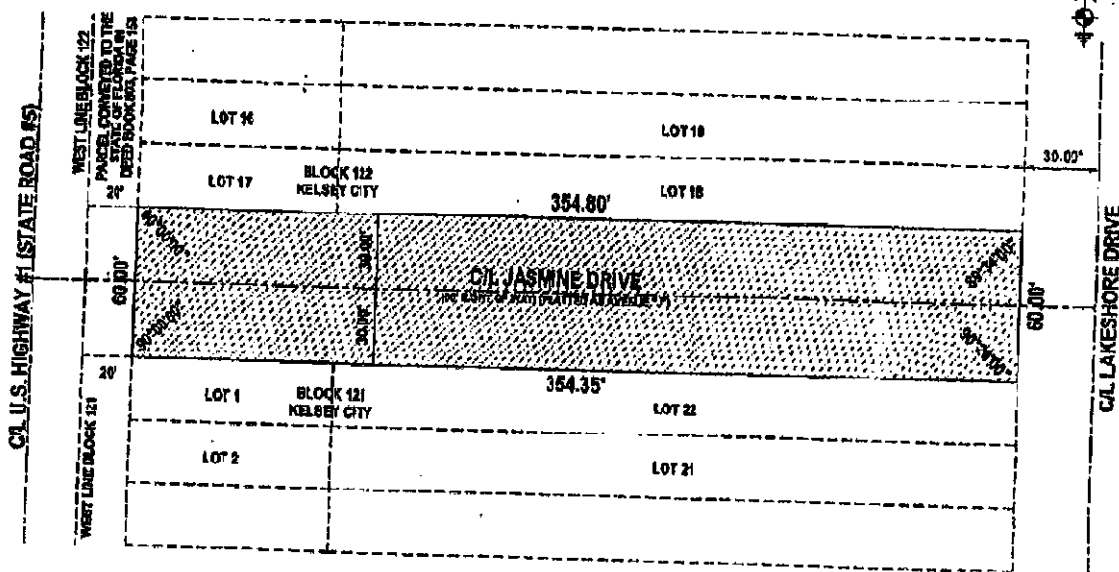
LEGAL DESCRIPTION & SKETCH

**LEGAL DESCRIPTION ( Proposed Jasmine Drive Abandonment )**

A portion of the existing right of way known as Jasmine Drive and shown as Avenue "J", KELSEY CITY, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, at Plat Book 8, Pages 15 and 35, and more particularly described as follows:

Bounded on the South by the North line of Block 121, said KELSEY CITY; Bounded on the North by the South line of Block 122, said KELSEY CITY; Bounded on the East by the West right of way line of Lake Shore Drive (a 60 foot right of way), said Kelsey City; Bounded on the West by the East right of way line of U.S. Highway # 1 (State Road # 5) as conveyed to the State of Florida in Deed Book 803, Page 158, Public Records of Palm Beach County.

CONTAINING IN ALL, 21,275 SQ. FT. AND/OR 0.49 ACRES.



Upon First Reading this 20 day of May, 2015, the foregoing Ordinance was offered by Commissioner Flaherty, who moved its approval. The motion was seconded by Commissioner O'Rourke and being put to a vote, the result was as follows:

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

**PUBLISHED IN THE PALM BEACH POST THIS 7 DAY OF June, 2015**

Upon Second Reading this 19 day of August, 2015, the foregoing Ordinance, was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

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

The Mayor thereupon declared **Ordinance No.** 02-2015 duly passed and adopted this 19 day of August, 2015.

TOWN OF LAKE PARK, FLORIDA  
 BY: James DuBois  
 Mayor, James DuBois

ATTEST:  
Vivian Mendez  
 Town Clerk, Vivian Mendez  
 (Town Seal)  
 TOWN OF LAKE PARK  
 SEAL

Approved as to form and legal sufficiency:  
Thomas J. Baird  
 Town Attorney, Thomas J. Baird

FLORIDA