



AGENDA

Lake Park Town Commission
Town of Lake Park, Florida
Regular Commission Meeting
Wednesday, January 7, 2009, 7:30 p.m.
Lake Park Town Hall
535 Park Avenue

Desca DuBois	—	Mayor
Edward Daly	—	Vice-Mayor
G. Chuck Balius	—	Commissioner
Jeff Carey	—	Commissioner
Patricia Osterman	—	Commissioner
.....		
Maria V. Davis	—	Town Manager
Thomas J. Baird, Esq.	—	Town Attorney
Vivian M. Lemley	—	Town Clerk

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the Town Commission, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. *Persons with disabilities requiring accommodations in order to participate in the meeting should contact the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.*

A. **CALL TO ORDER**

B. **INVOCATION**

C. **PLEDGE OF ALLEGIANCE**

D. **ROLL CALL**

E. **ADDITIONS/DELETIONS - APPROVAL OF AGENDA**

F. **PROCLAMATION(S):**

- Badcock Furniture Home Furniture & More – Atilus Family Support
- Thomas Masters, Mayor of Riviera Beach – Atilus Family Support

G. **PUBLIC and OTHER COMMENT**

This time is provided for audience members to address items that **do not** appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so speakers may be announced. Please remember, comments are limited to a **TOTAL** of three minutes.

H. **COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:**

- I. **CONSENT AGENDA:** All matters listed under this item are considered routine and action will be taken by one motion. There will be no separate discussion of these items unless a Commissioner or person so requests, in which event the item will be removed from the general order of business and considered in its normal sequence on the Agenda. Any person wishing to speak on an Agenda item is asked to complete a public comment card located on either side of the Chambers and given to the Town Clerk. Cards must be submitted before the item is discussed.

For Approval:

1. Resolution No. 02-01-09 Establishing the General Election Tab 1
2. Resolution No. 03-01-09 Submitting the 2009/2010 Community Development Block Grant for Lake Shore Drive Stormwater Improvements Project Tab 2

J. **PUBLIC HEARING(S):**

ORDINANCE ON FIRST READING:

3. ORDINANCE NO. 01-2009 Mariner's Key Text Change Amendment Tab 3
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE, CHAPTER 76, ARTICLE IV, SECTION 76-122 ENTITLED "CONSTRUCTION IN LAKE WORTH" TO ELIMINATE CERTAIN OUTDATED REGULATORY PROVISIONS, AND TO PROVIDE UPDATED REGULATIONS IN AN ATTEMPT TO FACILITATE FUTURE ORDERLY DEVELOPMENT WITHIN THE TOWN ALONG THE LAKE WORTH WATERWAY WHICH IS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THE TOWN'S COMPREHENSIVE PLAN AND IS ALSO IN COMPLIANCE WITH STATE AND FEDERAL REGULATIONS GOVERNING CONSTRUCTION IN NAVIGABLE WATERWAYS, INCLUDING THE LAKE WORTH WATERWAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

4. ORDINANCE NO. 02-2009 Submitting to Referendum a Charter Amendment Relating to Run-Off Elections Tab 4
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, SUBMITTING TO REFERENDUM AN AMENDMENT TO ARTICLE XVI, SECTION 17, OF THE TOWN CHARTER ENTITLED "RUN-OFF" TO ELIMINATE RUN-OFF ELECTIONS IN INSTANCES WHERE ANY ONE CANDIDATE FOR A PARTICULAR OFFICE FAILS TO RECEIVE A MAJORITY OF THE VOTES CAST AT A TOWN ELECTION; ESTABLISHING THE DATE OF MARCH 10, 2009 FOR THE REFERENDUM; PROVIDING FOR A BALLOT TITLE AND SUMMARY; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR REFERENDUM CANVASSING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

**K. QUASI-JUDICIAL HEARING:
RESOLUTION(S):**

**5. Resolution No. 01-01-09 Ahrens Amendment to Site Plan Tab 5
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.**

L. ADJOURNMENT:

Proclamation

**Town of Lake Park Town Commission
Agenda Request Form**

Meeting Date: **January 7, 2009**

Agenda Item No. *Proclamation*

- | | |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input type="checkbox"/> DISCUSSION |
| <input type="checkbox"/> ORDINANCE ON FIRST READING | <input type="checkbox"/> BID/RFP AWARD |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | <input type="checkbox"/> CONSENT AGENDA |

PROCLAMATION

SUBJECT: Atilus family support

RECOMMENDED MOTION/ACTION: Issue Proclamation recognizing Badcock Home Furniture & More for contribution

Approved by Town Manager *Vivian Lemley* Date: *12/31/08*
for Maria Davito

Name/Title _____ Date of Actual Submittal _____

Originating Department: Mayor	Costs: \$ N/A Funding Source: Acct. #	Attachments: Proclamation
Department Review: <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Recreation _____ <input checked="" type="checkbox"/> Town Clerk <i>VML</i> <input checked="" type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case DD Please initial one.

Summary Explanation/Background: John Barber, owner of the local Badcock Home Furniture & More donated and entire house full of furniture to the Atilus family following the untimely death of their husband and father at the Mayor's request.

PROCLAMATION

RECOGNIZING AN OUTSTANDING BUSINESS OWNER AND CORPORATE CITIZEN

WHEREAS, the W. S. Badcock Corporation was founded in 1904; and

WHEREAS, the W. S. Badcock Corporation is one of the largest privately-owned home furniture retailers in the United States; and

WHEREAS, the local Badcock Home Furniture & More has been in business since 1998 in a store owned by John Baber and located at 1409 10th Street in the Town of Lake Park, Florida; and

WHEREAS, when recently asked to help a local family in distress, John Baber and the Lake Park Badcock Home Furniture & More were unhesitant in their willingness to help by generously donating an entire house of furniture to a Lake Park family who suffered the loss of their husband, father, and sole provider; and

WHEREAS, the Commissioners of the Town of Lake Park and I want to acknowledge the overwhelming compassion of John Baber and his Staff at the Lake Park Badcock Home Furniture & More.

NOW, THEREFORE, on behalf of the Town Commission, Staff, and Citizens of the Town of Lake Park, I, Mayor Desca DuBois, do hereby recognize John Baber and his Staff at the Lake Park Badcock Home Furnishings & More for their outstanding Corporate Citizenship.

IN WITNESS WHEREOF, I have hereto set my hand and caused the official Seal of the Town of Lake Park, Florida to be affixed this 17th day of December, 2008.

By: _____
Mayor Desca DuBois

ATTEST:

Vivian M. Lemley, Town Clerk

Town of Lake Park Town Commission
Agenda Request Form

Meeting Date: January 7, 2009

Agenda Item No. *Proclamation*

- | | |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input type="checkbox"/> DISCUSSION |
| <input type="checkbox"/> ORDINANCE ON FIRST READING | <input type="checkbox"/> BID/RFP AWARD |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | <input type="checkbox"/> CONSENT AGENDA |

PROCLAMATION

SUBJECT: Atilus family support

RECOMMENDED MOTION/ACTION: Issue Proclamation recognizing Thomas Masters, Mayor of Riviera Beach for assistance and support of efforts to help the Atilus family

Approved by Town Manager *Vivian Lemley* **Date:** *12/31/08*
Sor Maria Davis

Name/Title _____ Date of Actual Submittal _____

Originating Department: Mayor	Costs: \$ N/A Funding Source: Acct. #	Attachments: Proclamation
Department Review: <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Recreation _____ <input checked="" type="checkbox"/> Town Clerk <i>VMC</i> <input checked="" type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case DD Please initial one.

Summary Explanation/Background: Thomas Masters, Mayor of Riviera Beach, helped facilitate translation for the Mayor to speak with the Atilus family in the immediate aftermath of the shooting, and also helped Mayor DuBois orchestrate the donation of goods and services for the family.

PROCLAMATION

RECOGNIZING AN ACTIVIST AND HUMANITARIAN

WHEREAS, Thomas Masters is the Mayor of Riviera Beach, an activist, and humanitarian; and

WHEREAS, Mayor Masters has clearly stated that “not enough is being done about violence and crime, and addressing the issues of importance to the ordinary citizen;” and

WHEREAS, Mayor Masters immediately responded to a call for help to translate and facilitate discussions between myself, as Mayor of Lake Park, and the devastated family of Fresnel Atilus, a man whose life was tragically ended while he worked to support his family; and

WHEREAS, Mayor Masters further gave generously of his time and energies to help the Mayor of Lake Park arrange donations of goods and services needed by the family during the initial crisis and its immediate aftermath; and

WHEREAS, the Commissioners of the Town of Lake Park and I want to acknowledge the willing assistance and expertise provided by Mayor Masters in helping our community bring some degree of stability to this family.

NOW, THEREFORE, on behalf of the Town Commission, Staff, and Citizens of the Town of Lake Park, I, Mayor Desca DuBois, do hereby recognize Mayor Thomas Masters for his calm and compassionate service to the Town and the Atilus family in helping to ameliorate their anxiety during this extraordinarily difficult time.

IN WITNESS WHEREOF, I have hereto set my hand and caused the official Seal of the Town of Lake Park, Florida to be affixed this 17th day of December, 2008.

By: _____
Mayor Desca DuBois

ATTEST:

Vivian M. Lemley, Town Clerk

Consent Agenda

TAB 1

**Town of Lake Park Town Commission
Agenda Request Form**

Meeting Date: January 7, 2009

Agenda Item No. *Tab 1*

- | | |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> ORDINANCE ON SECOND READING | <input type="checkbox"/> DISCUSSION |
| <input type="checkbox"/> ORDINANCE ON FIRST READING | <input type="checkbox"/> BID/RFP AWARD |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | <input checked="" type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> PRESENTATION/PROCLAMATION | |

SUBJECT: Establishing a General Election

RECOMMENDED MOTION/ACTION: Establishing the time and place of a General Election to be held on Tuesday, March 10, 2009 for the purpose of electing Commissioners for Seats A and C.

Approved by Town Manager

W. Davis

Date:

12/29/08

Vivian Lowly

12/29/08

Name/Title

Date of Actual Submittal

Originating Department: Town Clerk	Costs: \$ 0.00 Funding Source: Acct. #	Attachments: Resolution 01-01-09
Department Review: <input type="checkbox"/> Attorney _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____	<input type="checkbox"/> Grants _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Public Works _____ <input type="checkbox"/> Recreation _____ <input checked="" type="checkbox"/> Town Clerk <i>VML</i> <input type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <i>VML</i> Please initial one.

Summary Explanation/Background: Staff recommends approval/adoption of Resolution No. 01.01.09 which establishes the date, time and place of the Lake Park General Election.

RESOLUTION NO. 02-01-09

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ESTABLISHING THE TIME AND PLACE OF A GENERAL ELECTION TO BE HELD ON TUESDAY, MARCH 10, 2009 FOR THE PURPOSE OF ELECTING COMMISSIONERS FOR SEAT A AND C FOR THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA; ESTABLISHING THE QUALIFYING/FILING PERIOD FOR SUCH GENERAL ELECTION AS TUESDAY JANUARY 27, 2009 THROUGH TUESDAY FEBRUARY 10, 2009 AT NOON; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AS FOLLOWS;

Section 1. A General Election shall be held and is hereby declared to be held in the Town of Lake Park, Palm Beach County, Florida, between the hours of 7:00 a.m. and 7:00 p.m. on Tuesday, the 10th day of March, 2009, for the purpose of electing a Commissioner for Seat A and C to the Town Commission of the Town of Lake Park.

Section 2. Tuesday, January 27, 2009 at 12:00 noon, is hereby designated as the opening date for those interested persons in qualifying as Commissioner for Seat A and C for the General Election to be held on Tuesday, March 10, 2009; and establishing Tuesday, February 10, 2009 at 12:00 noon as the closing date for candidates to file with the Town of Lake Park for the March 10, 2009 General Election.

Section 3. At least thirty (30) days before Tuesday, February 10, 2009, but not more than forty five (45) days before Tuesday, March 10, 2009, the Town Clerk of the Town of Lake Park ("Town") shall post in three (3) conspicuous places in the Town, one of which shall be at the door of Town Hall, the notice of the General Election, and the offices and vacancies on the Town Commission to be filled;

Section 4. The Palm Beach County Supervisor of Elections or his designee is hereby designated as a member of the Town's Canvassing Board, enabling the designee to represent the Town of Lake Park at the Logic and Accuracy ("L&A") testing of the voting equipment prior to the General Election. The Supervisor of Elections Office is also hereby requested to prepare absentee ballots for the Town of Lake Park, to be distributed to those

electors who are those unable to vote on the day of the General Election. The Supervisor of Elections Office is hereby requested to count the absentee ballots and include Lake Park in his canvassing advertisement.

Section 5. This Resolution shall take effect immediately upon adoption.

TAB 2

**Town of Lake Park Town Commission
Agenda Request Form**

Meeting Date: January 7, 2009

Agenda Item No. *Tab 2*

- | | |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> RESOLUTION |
| <input type="checkbox"/> ORDINANCE ON FIRST READING | <input type="checkbox"/> ORDINANCE ON SECOND READING |
| <input type="checkbox"/> BID/RFP Award | <input type="checkbox"/> DISCUSSION |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM | <input checked="" type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other: | |

SUBJECT: Submitting the 2009/2010 Community Development Block Grant

RECOMMENDED MOTION/ACTION: Approve resolution to submit application to fund the Lake Shore Drive Project

Approved by Town Manager *W. Davis* **Date:** *12/30/09*

Virginia Martin, Grants Writer
Name/Title

December 30, 2009
Date of Actual Submittal

Originating Department: Grants	Costs: \$ Funding Source: Acct. #	Attachments: Resolution
Department Review: <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____	<input type="checkbox"/> Fire Dept _____ <input checked="" type="checkbox"/> Grants <u><i>GM</i></u> <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____	<input type="checkbox"/> PBSO _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Town Clerk _____ <input checked="" type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case <u><i>GM</i></u> : Please initial one.

Summary Explanation/Background: The Town of Lake Park has an Interlocal Agreement with Palm Beach County Housing and Community Development to write and obtain funding from the US Department of Housing and Urban Development for entitlement communities in Palm Beach County. Lake Park can use these funds for any qualified purpose to improve the community's quality of life, neighborhoods, and housing stock. Staff recommends that this year's allocation be used to help move the Lake Shore Drive stormwater improvement project forward.

RESOLUTION NO. 03-01-09

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING ALL FUNDS ALLOCATED BY PALM BEACH COUNTY HOUSING AND COMMUNITY DEVELOPMENT TO THE TOWN OF LAKE PARK FROM CDBG FUNDS BE USED TOWARD THE LAKE SHORE DRIVE STORMWATER IMPROVEMENT PROJECT.

WHEREAS, the Town of Lake Park (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town of Lake Park is an eligible entitlement community with a signed Interlocal Agreement with Palm Beach County; and

WHEREAS, the project falls under two of the three categories of eligible activities as defined by HUD, in as much as the Lake Shore Drive Stormwater Improvement Project will:

- (1) benefit low and moderate income persons;
- (2) meet a community development need of particular urgency.

WHEREAS, the Lake Shore Drive Stormwater Improvement Project lies entirely within a public area that is used by and available to the entire community and the general public for recreation.

NOW, THEREFORE, BE IT RESOLVED by the Town Commission of the Town of Lake Park, Florida:

SECTION 1. The Town Commission authorizes and directs the Town Manager to submit the CDBG grant application;

SECTION 2. All funds derived from this grant will be used toward completion

of the Lake Shore Drive Stormwater Improvement Project.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

TAB 3

**Town of Lake Park Town Commission
Agenda Request Form**

Meeting Date: January 7, 2009

Agenda Item No. *Tab 3*

- PUBLIC HEARING
 - Ordinance on Second Reading
 - Public Hearing

- RESOLUTION
- DISCUSSION

ORDINANCE ON FIRST READING

BID/RFP AWARD

GENERAL APPROVAL OF ITEM

CONSENT AGENDA

Other:

SUBJECT: A text amendment to Section 76-122 Construction in Lake Worth that will update the existing language that has been in place since 1966 and is now obsolete

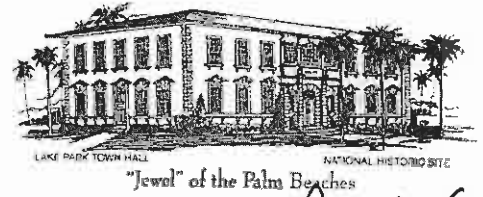
RECOMMENDED MOTION/ACTION: Approval

Approved by Town Manager *W. Davis* Date: *12/29/08*

Originating Department: Community Development	Costs: \$ N/A Funding Source: Acct #	Attachments: Staff report Ordinance
Department Review: <input type="checkbox"/> Town Attorney <input type="checkbox"/> Community Affairs <input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input checked="" type="checkbox"/> Town Clerk <i>VML 12/23/08</i> <input type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or _____ Not applicable in this case _____ Please initial one.

Summary Explanation/Background: The existing Section 76-122 was originally written in 1966 prior too many of today's water construction regulations. The Section is outdated and needs to be rewritten to conform to today's requirements and regulations. Since any construction request is required to go through a multi-layer rigorous review at the county, region, state and federal level it seems redundant to have Town regulations that duplicate or are at odds with the other authorities. By requiring the appropriate county, region, state and federal permits the Town can be assured that any permit request will be properly reviewed.

**Town of Lake Park
Community Development Department**



Meeting Date: January 7, 2009

Patrick Sullivan, AICP, Director

[Handwritten signature]
12/23/08

To: Town Commission

Re: Code Text Amendment

**Applicant: Cotleur & Hearing, Inc.
Owner: Lake Park Owner LLC**

Re: Application for text amendment to Section 76-122 (Construction in Lake Worth)

SUMMARY

Town Staff was approached by Lake Park Owner LLC, owner of Mariner's Key at 901 Lakeshore Drive about the need to update Section 76-122 that provides for the regulation of construction in Lake Worth. The original code Section was adopted in 1966 prior too many of today's state and federal regulations. In order for Applicants to construct within Lake Worth, and abide by state and federal environmental regulations, Code Section 76-122 should be amended to allow more flexibility and facilitate the approval process with other governing agencies. Construction in Lake Worth must receive permits from state and federal regulating agencies. Requests for such construction will go through a long and vigorous permitting process regardless of any regulations required by the Town. In addition, such state and federal review will supersede any Town regulations. It therefore seems reasonable and more efficient to have the Town depend on the state and federal permit process to determine the conditions and placement of any construction in the lake.

The purpose of this amendment is to help the Town make certain that our waterfront is developed in a manner consistent with all state and federal regulations and to provide for a consistent, timely and efficient review. The amendment will:

1. Remove reference to specific outdated regulations such as location and dimension requirements for piers and similar waterway structures which are inconsistent with state and federal environmental regulations, and consequently permit piers, T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles thereby not discriminating against parcels that are not as wide as other parcels;
2. Mandate waterway construction review and approval by the state and other required agencies; and
3. Require the appropriate state agencies AND the U.S. Army Corps of Engineers to review and approve waterway construction in Lake Worth.

(See exact Text Amendment on Page 2 and Page 3)

The amendment is consistent with the Comprehensive Plan. High-density residential uses are encouraged along the shoreline parcels of Lake Worth. These parcels, under Element Seven of the Coastal Management Chapter of the Comprehensive Plan, encourage multifamily uses to engage in recreation with the waterfront, and recognizes that private docks extend waterward into the Lake along this shoreline. The Coastal Management element states that there are no natural resources endangered within the northern part of the Lake Worth coast line.

After reviewing this request, staff feels that this Code Text Amendment allowing more flexibility with the construction of pier type structures in Lake Worth, will render the process consistent with state and federal

procedures and regulations. This change is also consistent with the Comprehensive Plan's long term goals for this area. Staff is recommending APPROVAL.

Sec. 76-122. Construction in the Lake Worth ~~waterway~~.

All piers, docks or other approved structures to be constructed lakeward of the bulkhead line of the ~~town in~~ Lake Worth ~~waterway~~, as recorded in Plat Book 27, page 1, public records of Palm Beach County, Florida, shall meet the following regulations and requirements:

(1) The design of any pier to be constructed under the provisions of this section shall be performed by an engineer licensed registered in the state, and detailed construction drawings shall be submitted bearing the certification and seal of such engineer. Any building, covering or superstructure located on or over any pier, dock or other approved structure to be constructed lakeward of the bulkhead line, as set forth above, shall comply with all building code provisions in force at the time of construction, including requirements for permits, inspections and construction detail.

(2) No permit for any pier shall be issued by the town until the proposed installation has been granted a Department of the Army permit from the United States Army Corps. of Engineers for construction in navigable waters, together with a current and unexpired written and approval for the proposed installation issued by the Trustees of the Internal Improvement Fund, and a current and unexpired written approval for the proposed installation from either the Florida Department of Environmental Protection and/or the South Florida Water Management District, and a copy of all such current and unexpired permits and approvals has been received by the town. Nothing contained in this section shall be construed to affect the rights or obligations connected with spoil areas located in the Lake Worth ~~waterway~~, within 100 feet lakeward of the bulkhead line referred to above and the granting of a permit by the town does not release the applicant from personally determining what, if any, effects such spoil areas may have upon any construction done in accordance with this section.

(3) ~~No pier shall extend beyond a line 100 feet lakeward from and parallel to the bulkhead line of the town, as recorded in Plat Book 27, page 1, of the public records of Palm Beach County, Florida. T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles may be installed provided that the proposed structure to be constructed and installed in the Lake Worth waterway complies with the design and permitting criteria set forth herein above.~~

(4) ~~The centerline of all piers shall be on a uniform alignment approximately perpendicular to the centerline of the main reach of Lake Shore Drive.~~

(5) ~~Piers may be constructed with "L" heads of 25 feet or "T" heads of 50 feet. A finger pier shall not exceed 25 feet in length and a maximum of six feet and a minimum of three feet in width. It shall not extend channelward beyond the main pier.~~

(6) ~~No point on any pier shall be closer than 50 feet to either side property line projected along a line parallel to the pier centerline or closer than 100 feet to any part of another pier.~~

(7) ~~All piers shall be constructed with all major components including piling, beams, decks, etc., constructed of reinforced concrete. Piers shall have a maximum width of ten feet and a minimum width of six feet.~~

(8) ~~Dolphin or mooring posts may be installed adjacent to piers, provided they are not located more than 35 feet from any point on the pier.~~

SEC. 76-122 CONSTRUCTION IN LAKE WORTH
TEXT AMENDMENT TO CODE OF ORDINANCES
JUSTIFICATION STATEMENT

INTRODUCTION

On behalf of the applicant, Lake Park Owner LLC, we are requesting a text amendment to modify the code of ordinances of the Town of Lake Park. The specific section of the code to be amended is Section 76-122 Construction in Lake Worth within Article IV Lakeward Construction of Chapter 76 Waterways. The purpose of the amendment is to help the Town make certain that their waterfront is developed in a fashion consistent with all state and federal regulations, allowing the town to benefit from this additional over site. The proposed text will add language that will require one of two state agencies to review and approve waterway construction in Lake Worth. The amendment would mandate waterway construction review and approval by the state and other required agencies. The amendment will also remove reference to inconsistent location and dimension requirements for piers and similar waterway structures

PROJECT CONTACT**Cotleur & Hearing, Inc.**

Donaldson Hearing / Alessandria Kalfin

1934 Commerce Lane, Suite 1

Jupiter, FL 33458

Phone: (561) 747-6336 x 128

Fax: (561) 747-1377

E-mail: akalfin@cotleur-hearing.com**REQUEST**

The applicant is proposing to remove text in section 76-122 that defines the specific location and dimensions of piers. The elimination of this text will let the Town better abide by State regulations and will authorize state and federal agencies to be responsible for waterway construction review and approval. The new text will permit piers, T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles in Lake Worth for additional parcels along the waterfront. This is important because currently many parcels along Lake Worth cannot have these types of uses along their lake property line due to outdated setback and dimension regulations. The current regulations discriminate against parcels that are not as wide as other parcels. The subject waterfront parcels meet the zoning lot dimension requirement but are not permitted to have docks.

EXISTING AND PROPOSED TEXT

Chapter 76 Waterways

Article IV Lakeward Construction

Section 76-122. Construction in Lake Worth

All piers, docks or other approved structures to be constructed lakeward of the bulkhead line of the town in Lake Worth, as recorded in Plat Book 27, page 1, public records of Palm Beach County, Florida, shall meet the following regulations and requirements:

(1) The design of any pier to be constructed under the provisions of this section shall be performed by an engineer licensed ~~registered~~ in the state, and detailed construction drawings shall be submitted bearing the certification and seal of such engineer. Any building, covering or superstructure located on or over any pier, dock or other approved structure to be constructed lakeward of the bulkhead line, as set forth above, shall comply with all building code provisions in force at the time of construction, including requirements for permits, inspections and construction detail.

(2) No permit for any pier shall be issued until the proposed installation has been granted a Department of the Army permit for construction in navigable waters and approval by the Trustees of the Internal Improvement Fund and either the Florida Department of Environmental Protection or South Florida Water Management District has been received. Nothing contained in this section shall be construed to affect the rights or obligations connected with spoil areas located in Lake Worth ~~within 100 feet lakeward of the bulkhead line referred to above~~ and the granting of a permit by the town does not release the applicant from personally determining what, if any, effects such spoil areas may have upon any construction done in accordance with this section.

(3) ~~No pier shall extend beyond a line 100 feet lakeward from and parallel to the bulkhead line of the town, as recorded in Plat Book 27, page 1, of the public records of Palm Beach County, Florida.~~ T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles may be installed provided they comply with the design and permitting criteria above.

(4) ~~The centerline of all piers shall be on a uniform alignment approximately perpendicular to the centerline of the main reach of Lake Shore Drive.~~

(5) ~~Piers may be constructed with "L" heads of 25 feet or "T" heads of 50 feet. A finger pier shall not exceed 25 feet in length and a maximum of six feet and a minimum of three feet in width. It shall not extend channelward beyond the main pier.~~

(6) ~~No point on any pier shall be closer than 50 feet to either side property line projected along a line parallel to the pier centerline or closer than 100 feet to any part of another pier.~~

(7) ~~All piers shall be constructed with all major components including piling, beams, decks, etc., constructed of reinforced concrete. Piers shall have a maximum width of ten feet and a minimum width of six feet.~~

(8) ~~Dolphin or mooring posts may be installed adjacent to piers, provided they are not located more than 35 feet from any point on the pier.~~

PROPOSED TEXT

Chapter 76 Waterways

Article IV Lakeward Construction

Section 76-122. Construction in Lake Worth

All piers, docks or other approved structures to be constructed lakeward of the bulkhead line of the town in Lake Worth, as recorded in Plat Book 27, page 1, public records of Palm Beach County, Florida, shall meet the following regulations and requirements:

- (1) The design of any pier to be constructed under the provisions of this section shall be performed by an engineer licensed in the state, and detailed construction drawings shall be submitted bearing the certification and seal of such engineer. Any building, covering or superstructure located on or over any pier, dock or other approved structure to be constructed lakeward of the bulkhead line, as set forth above, shall comply with all building code provisions in force at the time of construction, including requirements for permits, inspections and construction detail.
- (2) No permit for any pier shall be issued until the proposed installation has been granted a Department of the Army permit for construction in navigable waters and approval by the Trustees of the Internal Improvement Trust Fund and either the Florida Department of Environmental Protection or South Florida Water Management District has been received. Nothing contained in this section shall be construed to affect the rights or obligations connected with spoil areas located in Lake Worth and the granting of a permit by the town does not release the applicant from personally determining what, if any, effects such spoil areas may have upon any construction done in accordance with this section.
- (3) T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles may be installed, provided they comply with the design and permitting criteria above.

CONSISTENCY WITH COMPREHENSIVE PLAN

Element Seven, Coastal Management, of the Comprehensive Plan outlines goals, objectives, and policies that are to restrict activities that would damage or destroy coastal resources. On page 7.7, the plan recognizes the high density residential uses located along the 3,500 linear feet of shoreline on Lake Worth. The plan also recognizes that private docks extend waterward into the Lake along this shoreline. The plan discusses, at the time, an 11.5-acre vacant high density tract located at the northern end of the coastal area, immediately south of the Town limits and acknowledges the 200-multifamily units were expected to be developed. The plan then goes on to encourage these multifamily uses to engage in recreation with the waterfront. Furthermore, the Coastal Management element states that there are no natural resources endangered within the northern part of the Lake Worth coast line.

CONCLUSION

The applicant would like to modify section 76-122 of the Lake Park Code of Ordinances. The proposed amendment will help the Town make certain that their waterfront is developed in a fashion consistent with all state and federal regulations, allowing the town to benefit from this additional over site, and to permit all parcels along the waterfront of Lake Worth to construct a pier type structure. The request is consistent with the Comprehensive Plan as well as the long term goals and objectives of the Town. The applicant looks forward to working with staff on this text amendment to ensure the code is consistent with the goals and intent of the town.

ORDINANCE NO. 01-2009

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE, CHAPTER 76, ARTICLE IV, SECTION 76-122 ENTITLED "CONSTRUCTION IN LAKE WORTH" TO ELIMINATE CERTAIN OUTDATED REGULATORY PROVISIONS, AND TO PROVIDE UPDATED REGULATIONS IN AN ATTEMPT TO FACILITATE FUTURE ORDERLY DEVELOPMENT WITHIN THE TOWN ALONG THE LAKE WORTH WATERWAY WHICH IS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THE TOWN'S COMPREHENSIVE PLAN AND IS ALSO IN COMPLIANCE WITH STATE AND FEDERAL REGULATIONS GOVERNING CONSTRUCTION IN NAVIGABLE WATERWAYS, INCLUDING THE LAKE WORTH WATERWAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida ("Town") is a duly constituted municipality having the power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town has previously adopted provisions in Chapter 76 of the Town Code pertaining to waterways in general, which include Article IV pertaining to lakeward construction, and Section 76-122 entitled "Construction in Lake Worth" which contains provisions governing the regulation of certain construction activities within the navigable waterway commonly known as "Lake Worth"; and

WHEREAS, at the request of Lake Park Owner LLC, which is the entity that is the owner of the Mariner's Key residential development located at 901 Lakeshore Drive in the Town, Town staff reviewed the provisions of Town Code Section 76-122; and

WHEREAS, Town staff has determined that Code Section 76-122 was adopted in 1966, which was prior to the enactment of many of the current state and federal regulations

governing construction in navigable waterways, including but not limited to the Lake Worth waterway, which is partially located within the Town's boundaries; and

WHEREAS, applicants wishing to conduct construction within the Lake Worth waterway must not only comply with the provisions of chapter 76 of the Town Code, but also must abide by more stringent state and federal environmental protection rules and regulations and apply for and obtain applicable permits from state and federal regulatory authorities; and

WHEREAS, Town staff has concluded that based on the current regulations set forth in Town Code Section 76-122, this Section should be amended to allow for more flexibility in development along and in the Lake Worth waterway, and to streamline the local approval process at the Town level, with improved coordination with other permitting entities whose regulatory jurisdiction within the Lake Worth waterway generally supercedes the regulatory authority of the Town; and

WHEREAS, to accomplish these objectives, Town staff has recommended that certain amendments to Town Code Section 76-122 be adopted which will assist the Town in protecting the development of the Town's Lake Worth waterfront in a manner that is consistent with applicable state and federal regulations, as well as to provide for a consistent, timely, and efficient review process at the local Town level; and

WHEREAS, specifically Town staff has recommended to the Town Commission that Section 76-122 be amended to delete all references to certain outdated regulations, such as location and dimension requirements for piers and similar waterway structures which are inconsistent with state and federal environmental regulations; and

WHEREAS, as a result of the proposed amendments to Section 76-122, piers, T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles may be permitted by the Town without discriminating against certain parcels that are not as wide as other parcels; and

WHEREAS, in addition Town staff has recommended that Section 76-122 be amended to require mandatory waterway construction review and approval by state and federal agencies and entities with regulatory jurisdiction, and to also require that the applicable regulatory state and federal agencies, including but not limited to, the United States Army Corps of Engineers, review and approve all proposed waterway construction to be located within the Lake Worth waterway which is within the corporate limits of the Town; and

WHEREAS, Town staff has further determined that the proposed text amendments to Town Code Section 76-122 will be consistent with the Town's adopted Comprehensive Plan in that the development of high-density residential uses are encouraged along the shoreline parcels of the Lake Worth waterway, and in addition, Element Seven of the Coastal Management Chapter of the Comprehensive Plan encourages multifamily uses to engage in recreation along the Town's waterfront; and

WHEREAS, the Coastal Management Chapter of the Town's adopted Comprehensive Plan also recognizes that private docks extend water ward into the Lake Worth waterway along the Lake Worth shoreline within the Town, but notes that there are no

natural resources which are endangered within the Town's portion of the northern area of the Lake Worth coastline; and

WHEREAS, the Town Commission has reviewed the recommendations of the Town staff, and has determined that amending Chapter 76, Article IV, Section 76-122 of the Town Code will provide a more efficient and effective review process which is consistent with current state and federal law, and also that the proposed amendments to Code Section 76-122 are necessary to further the public health, safety, and general welfare.

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

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

Section 2. Chapter 76, Article IV, Section 76-122 entitled "Construction in Lake Worth" is hereby amended to read as follows:

Sec. 76-122. Construction in the Lake Worth waterway.

All piers, docks or other approved structures to be constructed lakeward of the bulkhead line of the ~~town in~~ Lake Worth waterway, as recorded in Plat Book 27, page 1, public records of Palm Beach County, Florida, shall meet the following regulations and requirements:

(1) The design of any pier to be constructed under the provisions of this section shall be performed by an engineer licensed and registered in the state, and detailed construction drawings shall be submitted bearing the certification and seal of such engineer. Any building, covering or superstructure located on or over any pier, dock or other approved structure to be constructed lakeward of the bulkhead line, as set forth above, shall comply with all building code provisions in force at the time of construction, including requirements for permits, inspections and construction detail.

(2) No permit for any pier shall be issued by the town until the proposed installation has been granted a ~~Department of the Army~~ permit from the United States Army Corps. of Engineers for construction in navigable waters, together with a current and unexpired written and approval for the proposed installation issued by the Trustees of the Internal Improvement

Ffund, and a current and unexpired written approval for the proposed installation from either the Florida Department of Environmental Protection and/or the South Florida Water Management District, and a copy of all such current and unexpired permits and approvals has been received by the town. Nothing contained in this section shall be construed to affect the rights or obligations connected with spoil areas located in the Lake Worth waterway, within 100 feet lakeward of the bulkhead line referred to above and the granting of a permit by the town does not release the applicant from personally determining what, if any, effects such spoil areas may have upon any construction done in accordance with this section.

~~(3) No pier shall extend beyond a line 100 feet lakeward from and parallel to the bulkhead line of the town, as recorded in Plat Book 27, page 1, of the public records of Palm Beach County, Florida. T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles may be installed provided that the proposed structure to be constructed and installed in the Lake Worth waterway complies with the design and permitting criteria set forth herein above.~~

~~(4) The centerline of all piers shall be on a uniform alignment approximately perpendicular to the centerline of the main reach of Lake Shore Drive.~~

~~(5) Piers may be constructed with "L" heads of 25 feet or "T" heads of 50 feet. A finger pier shall not exceed 25 feet in length and a maximum of six feet and a minimum of three feet in width. It shall not extend channelward beyond the main pier.~~

~~(6) No point on any pier shall be closer than 50 feet to either side property line projected along a line parallel to the pier centerline or closer than 100 feet to any part of another pier.~~

~~(7) All piers shall be constructed with all major components including piling, beams, decks, etc., constructed of reinforced concrete. Piers shall have a maximum width of ten feet and a minimum width of six feet.~~

~~(8) Dolphin or mooring posts may be installed adjacent to piers, provided they are not located more than 35 feet from any point on the pier.~~

Section 3. 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 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered to accomplish

Ord. # 01-2009

Page 6 of 6

such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

TAB 4

**Town of Lake Park Town Commission
Agenda Request Form**

Meeting Date: January 7, 2009 Agenda Item No. Tab 2

- | | |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING
<input type="checkbox"/> Ordinance on Second Reading
<input type="checkbox"/> Public Hearing

<input checked="" type="checkbox"/> ORDINANCE ON FIRST READING

<input type="checkbox"/> GENERAL APPROVAL OF ITEM

<input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION

<input type="checkbox"/> DISCUSSION

<input type="checkbox"/> BID/RFP AWARD

<input type="checkbox"/> CONSENT AGENDA |
|---|---|

SUBJECT: Submitting to Referendum a Charter Amendment Relating to Run-Off Elections

RECOMMENDED MOTION/ACTION:

Approved by Town Manager *W. J. Davis* Date: 12/30/08

Name/Title Date of Actual Submittal

Originating Department: <p style="text-align: center;">Town Manager</p>	Costs: \$ _____ Funding Source: Acct. # _____	Attachments: Ordinance _____
Department Review: <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case _____: Please initial one.

Summary Explanation/Background: At the request of the Town Commission staff reviewed the Town Charter and recommended various amendments to the Charter. One recommendation was to eliminate run-off elections due to the expense of said elections. The Town Attorney provided the attached ordinance which provides for the referendum question.

Staff reviewed the video of the Commission's deliberations regarding this amendment and was unable to ascertain if consensus was reached to submit to referendum the amendment to the charter to eliminate run-off elections.

In order for a referendum question to be placed on the March 2009 ballot, two readings of an ordinance outlining the ballot question must be approved prior to February 1, 2009. In an abundance of caution, the attached ordinance was drafted by the Town Attorney in the event that the Town Commission wishes for a referendum question to be placed on the March ballot.

ORDINANCE NO. 02-2009

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, SUBMITTING TO REFERENDUM AN AMENDMENT TO ARTICLE XVI, SECTION 17, OF THE TOWN CHARTER ENTITLED "RUN-OFF" TO ELIMINATE RUN-OFF ELECTIONS IN INSTANCES WHERE ANY ONE CANDIDATE FOR A PARTICULAR OFFICE FAILS TO RECEIVE A MAJORITY OF THE VOTES CAST AT A TOWN ELECTION; ESTABLISHING THE DATE OF MARCH 10, 2009 FOR THE REFERENDUM; PROVIDING FOR A BALLOT TITLE AND SUMMARY; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR REFERENDUM CANVASSING; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a Charter for the Town of Lake Park, Florida ("Town") was created and adopted pursuant to Laws of Florida, Chapter 57-1865; and

WHEREAS, pursuant to §166.021, Fla. Stat. (2007), the Town has the governmental, corporate and proprietary powers to enable it to conduct municipal government; and

WHEREAS, pursuant to §166.021(4), Fla. Stat. (2007), the Town Charter may be amended through the Town's exercise of its authority, including the amendment of those portions of its Charter which require a referendum, provided that a majority of the electors in a referendum affirmatively vote to amend the Charter; and

WHEREAS, §166.031, Fla. Stat. (2007), authorizes the governing body of a municipality, to submit proposed amendments to the Charter of the municipality in the form of an ordinance to the electors of the municipality; and

WHEREAS, §100.342, Fla. Stat. (2007), requires that the Town publish two (2) notices in two (2) different newspapers of general circulation in Palm Beach County, evidencing the Town's intention to hold a referendum to determine whether a majority of the qualified electors of the Town, approve of the proposed amendment to the Town Charter; and

WHEREAS, pursuant to §100.342, Fla. Stat. (2007), the first notice shall be published in the fifth week prior to the referendum, and the second notice shall be published in the third week prior to the week in which the election or referendum is to be held; and

WHEREAS, the Town Commission deems it to be appropriate for the good governance of the Town, to conduct a referendum ("Referendum") on the question of whether the Run-off elections as now required by Section 17 of Articles XVI of the Town Charter should be eliminated.

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

Section 1. Referendum declared. A Referendum is hereby called for and shall be held in the Town of Lake Park, Florida on the 10th day of March 2009, to determine whether or not a majority of the electors voting in the Referendum, support the proposed Amendment to the Town Charter, as shown in Section 5 of this Ordinance.

Section 2. Ballot title. The ballot title which is the subject of this Referendum, and by which the proposed Charter Amendment is to be commonly referred to or spoken of, shall be captioned as: "Town of Lake Park, Florida Charter Amendment".

Section 3. Conduct of Referendum. The Supervisor of Elections of Palm Beach County, Florida, shall determine polling locations or places and all qualified electors

of the Town of Lake Park, Florida who vote in the Referendum shall vote at those designated polling places. The polls shall be opened on the date of the Referendum on the proposed Town of Lake Park, Florida Charter Amendment from 7:00 a.m. until 7:00 p.m. on the same day. Only the duly qualified electors of the Town of Lake Park, Florida shall be permitted to vote on this Referendum question.

Section 4. Notice and advertising of the Referendum. The Town Clerk shall prepare and give notice of the proposed Charter Amendment by causing appropriate notice to be published in accordance with the provisions of §100.342, Fla. Stat. (2007), at least once each week during the third and fifth weeks preceding the week in which the Referendum to consider the proposed Charter Amendment is to be held. The publications shall be placed in the *Palm Beach Post* a newspaper of general circulation within the Town. The Town Clerk shall secure from the publisher of the newspaper, an appropriate affidavit of proof that the statutorily required Referendum notices have been duly published, as herein set forth and these two affidavits shall be part of the record of the Town Commission.

Section 5. Ballot summary. The ballot summary of the proposed Charter Amendment shall be:

SHALL ARTICLE XVI, SECTION 17, OF THE CHARTER OF THE TOWN OF LAKE PARK, FLORIDA ENTITLED "RUN-OFF" BE AMENDED TO ELIMINATE RUN-OFF ELECTIONS IN INSTANCES WHERE ANY ONE CANDIDATE FAILS TO RECEIVE A MAJORITY OF THE VOTES CAST AT A TOWN ELECTION FOR A PARTICULAR OFFICE AND TO PROVIDE THAT CANDIDATES SHALL BE ELECTED BY A PLURALITY VOTE ONLY?

YES _____ FOR APPROVAL OF AMENDMENT
NO _____ AGAINST APPROVAL OF AMENDMENT

Section 6. Charter amendment. In the event a majority of electors, voting in the Referendum vote affirmatively to amend Article XVI, Section 17 of the Town Charter, then said Article and Section, and all other Ordinances, Resolutions, policies and procedures adopted pursuant to this Section of the Charter, and all other measures in conflict, shall be amended to the extent of any conflict Article XVI, Section 17 of the Town of Lake Park, Florida Charter shall be amended as follows:

ARTICLE XVI – ~~REGISTRATION AND ELECTIONS~~ PLURALITY VOTING

Section 17. ~~Run-off~~ Plurality Voting

Whenever a general or special election is held to fill any elective office in the Town of Lake Park, the candidate receiving a majority of the greatest number of votes cast at such election to fill such office shall be declared to be duly elected. ~~; provided that in the event no candidate for a particular elective office shall receive a majority of the votes cast at such election to fill such office, then a run-off election shall be held two (2) weeks after the original or special election to elect a candidate to fill such office; provided further that in such event only the names of the two (2) candidates having received the greatest number of votes in the general or special election for such office shall be submitted to the voters and the one receiving the majority number of votes in such run-off election shall be declared to be duly elected to such office; provided further that should two (2) or more candidates receive an equal number of votes to any such office so that it cannot be determined which two (2) candidate has had received the greatest and the next greatest number of votes, then the names of all such candidates shall be submitted at the a-run-off election and the candidate receiving the greatest number of votes at such election would be declared elected to such office;~~

~~regardless of whether such candidate received a majority of the votes cast to fill such office.~~

Section 7. Canvassing. The election returns of the Referendum shall be canvassed in the manner provided by law, and the returns shall be certified to the Town Commission, which shall declare the result thereof. Upon canvassing the returns of the Referendum, the result of the Referendum shall be recorded in the minutes of the Town Commission in the manner prescribed by law.

Section 8. Severability. Should any section or provision of this Ordinance or any portion thereof, any sentence, paragraph, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part to be declared invalid.

Section 9. Codification. The provision of this Ordinance shall become and be made a part of the Charter for the Town of Lake Park.

Section 10. Repeal of laws in conflict. Ordinance No. 4-2002 and all other ordinances and resolutions of the Town of Lake Park, Florida, which are in conflict with any provisions of this Ordinance, are hereby repealed to the extent of such conflict.

Section 11. Effective date. This Ordinance shall take effect immediately upon adoption.

TAB 5

Town of Lake Park Town Commission Agenda Request Form

Meeting Date: December 17, 2008

Agenda Item No. *Tab 5*

- | | |
|--|---|
| <input checked="" type="checkbox"/> PUBLIC HEARING
<input type="checkbox"/> Ordinance on Second Reading
<input type="checkbox"/> Public Hearing
<input checked="" type="checkbox"/> Quasi Judicial Hearing
<input type="checkbox"/> ORDINANCE ON FIRST READING
<input type="checkbox"/> GENERAL APPROVAL OF ITEM
<input type="checkbox"/> Other: | <input checked="" type="checkbox"/> RESOLUTION
<input type="checkbox"/> DISCUSSION
<input type="checkbox"/> BID/RFP AWARD
<input type="checkbox"/> CONSENT AGENDA |
|--|---|

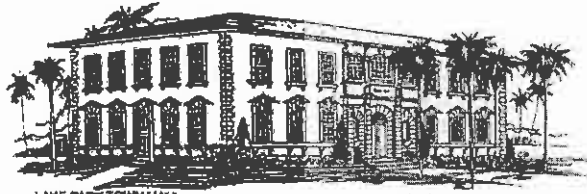
SUBJECT: Amendment to approved Site Plan of 12/01/04 under Resolution 54-12-04, for the addition of a phasing schedule and modifications to the approved landscaping.

RECOMMENDED MOTION/ACTION: Approval

Approved by Town Manager *W. Davis* Date: *12/10/08*

Originating Department: Community Development	Costs: \$ N/A Funding Source: Acct. #	Attachments:
Department Review: <input checked="" type="checkbox"/> Town Attorney <i>MB</i> <input type="checkbox"/> Community Affairs <i>MB</i> <input checked="" type="checkbox"/> Community Development <i>MB</i>	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
Advertised: Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ <i>MB</i> OR Not applicable in this case _____ Please initial one.

Summary Explanation/Background: A request by Mr. Gregory Celentano of Ahrens Companies ("Applicant") acting as agent for the property owner, Park Avenue L.L.C. ("Owner"), for the inclusion of a Phasing schedule to the originally approved Site Plan and the modification of the approved landscaping, all of which was approved on 12/01/04 under Resolution 54-12-04, for a mixed-use development ("Project"), located on a 1.694 acre parcel on the northwest corner of Park Avenue and 8th Street ("Site" or "Property"), within the Town's PADD zoning district. Please see staff report for further information.



"Jewel" of the Palm Beaches

**TOWN LAKE OF PARK
TOWN COMMISSION**
Meeting Date: December 17, 2008
Date Prepared: December 2, 2008

PLAN DESCRIPTION: Modification to approved Site Plan of 12/01/04 under Resolution 54-12-04, for the addition of a phasing schedule and modifications to the approved landscaping.

APPLICANTS REQUEST: A request by Mr. Gregory Celentano of Ahrens Companies ("Applicant") acting as agent for the property owner, Park Avenue L.L.C. ("Owner"), for the inclusion of a Phasing schedule to the originally approved Site Plan and the modification of the approved landscaping, all of which was approved on 12/01/04 under Resolution 54-12-04, for a mixed-use development ("Project"), located on a 1.694 acre parcel on the northwest corner of Park Avenue and 8th Street ("Site" or "Property"), within the Town's PADD zoning district.

STAFF RECOMMENDATION: APPROVAL of the Phasing Site Plan and landscape modifications subject to the conditions of approval as stated herein.

P&Z RECOMMENDATION: APPROVAL of the Phasing Site Plan and landscape modifications subject to conditions of approval 1 thru 21 with modifications to conditions (5) and (8), and (21) to include the following language:

(5) "(...) Rear landscaping must be continued to the western portion of the property to allow privacy to the homeowners in the rear, hedging along the rear must be maintained at a minimum of 60"; parking area maintenance height must be maintained at a height of 48"; all additional hedging on the property must be maintained at a height of 42"-46" (...)"

(8) "(...)There shall be a total of TWO dumpster locations on-site upon the completion of Phase 2. (...)"

(21) Phase 1 landscaping is required to include a combination of trees (minimum 8' in height) and hedges (minimum 30" at planting) just west of the Phase 1 western building wall, to break up the façade of the newly constructed building.

BACKGROUND INFORMATION:

Applicant(s): Mr. Gregory Celentano of Ahrens Companies
Owner: Park Avenue L.L.C.
Address of Location: Northwest corner of Park Avenue and 8th Street
Lot Size: 1.694 acres
Zoning and Land Use: PADD/Downtown

Adjacent Zoning

North: R1-A
South: PADD
East: PADD
West: PADD

Adjacent Land Uses

North: Residential Single-Family
South: Office/Retail
East: Office/Residential
West: Office/Retail

CONSISTENCY OF SITE PLAN WITH THE COMPREHENSIVE PLAN

The proposed changes do not affect the overall intent of the goals, objectives and policies of the Town’s Comprehensive Plan. The proposed use, parking allocations, and public facility capacity is not being modified. The proposed changes keep the Project consistent with the Comprehensive Plan, with the exception of:

4.0 Traffic Circulation

Policy 2.2: The Town shall review all the proposed development and coordinate and cooperate with the responsible agencies for these improvements to bring them into compliance with the level of service (“LOS”) standards.

The Applicant received documentation from Palm Beach County confirming that the proposed 7,616 SF General Retail, 7,616 SF General Office, 5,000 SF High Turn-over Restaurant, and 40 Multi-Family residential units satisfied Traffic Performance Standards (TPS) and met traffic concurrency requirements when the project was originally approved. Given the new phasing schedule AND revised square footage allocations, Phase 1 is vested under this approval (having 9,806 sf retail/office; 1,250 restaurant; 20 residential units at 23,226 sf), prior to the first building permit being issued, an updated traffic letter from Palm Beach County confirming the aforementioned will be required for all new construction permits for Phase 2.

PROJECT DETAILS:

Building Site: The Site is located in the PADD Zoning District with a Downtown land use which is suitable for a Mixed-Use development as was originally approved and is being modified to include the following square footages for each phase:

🏠 Phase 1:

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

🏠 Phase 2:

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

Site Access: The Mixed-Use development is located on a 1.694 acre parcel on the northwest corner of 8th Street and Park Avenue. The site has two access points, one off of 8th Street for the proposed Phase 1 (as seen on the site plan), and another off of 9th Street for the proposed Phase 2.

Traffic: The Applicant received documentation from Palm Beach County confirming that the proposed 7,616 SF General Retail, 7,616 SF General Office, 5,000 SF High Turn-over Restaurant, and 40 Multi-Family residential units satisfied Traffic Performance Standards (TPS) and met traffic concurrency requirements **when the project was originally approved**. Given the new phasing schedule AND revised square footage allocations, Phase 1 is vested under this approval (having 9,806 sf retail/office; 1,250 restaurant; 20 residential units at 23,226 sf), **prior to the first building permit being issued, an updated traffic letter from Palm Beach County confirming the aforementioned will be required for all new construction permits for Phase2.**

Landscaping: The new landscape architect of record is Mr. William Flint III. The Applicant is proposing to minimize the overall height and quantity of plantings, while still meeting the minimum code requirements for landscaping. The following modifications to the approved plans outline some of the changes (*Applicant will further elaborate on any additional changes not specified below*):

- Phase 1 will include all landscaping for the eastern portion of the property, with three (3) Washingtonians on each side of the eastern entry in lieu of two (2) plus the Phoenix Palms;
- Until Phase 2 is built, the vacant western portion of the site will be Hydro seeded and include a 30” cocoplum hedge at planting, around the southern and western perimeters. Existing perimeter trees are to remain as is shown on sheet 203;
- Overall landscaping along Park Avenue is minimized in size and quantity, but still provides adequate buffering and will compliment the recent landscape modifications along Park Avenue that have just been completed by the Town;
- The temporary location of the dumpster at the center-point of the site, behind the courtyard on the north side, is proposed to be screened with a 30” cocoplum hedge at planting. This is NOT adequate. **All outdoor storage and trash collection sites require a minimum three-foot (36”) high hedge AND a structural barrier. The two dumpsters must be surrounded by a minimum three-foot (36”) hedge at planting AND a structural barrier;**
- Courtyard landscaping is minimized and some changes include → 8 heads of Paurotis Palm Clusters instead of 15; 48 Wax Jasmines instead of 48 with four 16’ royal palms around each landscape bed; 14 Ilex Cornuta instead of 20 at the front;
- Detention area landscaping is minimized and some changes include → 5 Hibiscus Florida Sunset instead of 12 Florida Sunset and 12 Single Yellow and 12 June Carol; three 10’ Cabbage Palm trees instead of White Orchid, Slash Pine, Sunshine Mimosa, and Geiger trees just to name a few;

All perimeter buffering is provided as required by the Code. **Any remaining minimum maintenance height of landscaping is to be recommended by the Board.** Applicant will elaborate on all other changes.

Drainage: The Applicant is not proposing any changes to the drainage. **Prior to the issuance of all future construction building permits for Phase 2, the Applicant must provide up-to-date copies of all required agency permits, including, but not limited to, permits from the South Florida Water Management District.** The Town’s civil engineer for this Project previously reviewed and approved all engineering plans and all code and Florida Building Code requirements.

Parking: The Applicant is not modifying the approved parking spaces. Fifty-one (51) spaces will remain in Phase 1 (inclusive of two handicap spaces), and forty-nine (49) spaces will be part of the proposed Phase 2 (inclusive of two handicap spaces).

Signage: Additional freestanding and/or monument signage will be reviewed at the time of building permit review.

Zoning: The zoning for the Site is PADD and it is consistent with the Comprehensive Plan.

Water/Sewer: No changes affecting water/sewer are being proposed. The Town's civil engineer for this Project previously reviewed and ascertained that there is sufficient available capacity to sustain the levels of service for potable water and for wastewater treatment set forth in the Town's comprehensive plan.

Design: No modifications are being proposed to the overall building design with the exception of the central courtyard facing Park Avenue, which has been built using an alternate design than what was approved. The as-built design is reflected on proposed sheet 204 of this submittal. **A revision page, as well as final as-builts reflecting the changes will need to be submitted to the Community Development Department.** Finally, the Applicant has also added pavers around the entire building, including steps and handicap ramps, and changed the 6' green chainlink to a 6' black chainlink fence along the back side of the property facing Greenbriar Drive. **Appropriate permits and revision pages are also required for these changes.**

STAFF COMMENTS:

Staff recommends **APPROVAL** of the Phasing Site Plans and Landscape Plans as revised, subject to the following conditions:

P&Z RECOMMENDATION: **APPROVAL** of the Site Plan and Landscape Plans as revised, subject to the following conditions:

1. Construction shall be allowed only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday only, unless otherwise approved by the Community Development Director.
2. Any disturbance of the public right of way along Park Avenue, 8th Street, 7th Street, or Greenbriar Drive shall require review and written approval from both the Public Works and Community Development Departments prior to any construction.
3. Any disruption to any of the nearby entrance/exit and parking areas along Park Avenue, 8th Street, 7th Street, or Greenbriar Drive shall require prior written approval from the Community Development Director.
4. Any disruption beyond the boundaries of the Site shall require the contractor to employ commonly accepted practices that ensures the safety and well being of the general public.
5. All approved landscaping shall be properly maintained. Plant height at the time of plant installation and plant maintenance height is reflected in the approved landscape plans. **Rear landscaping must be continued to the western portion of the property to allow privacy to the homeowners in the rear, hedging along the rear must be maintained at a minimum of 60"; parking area maintenance height must be maintained at a height of 48"; all additional hedging on the property must be maintained at a height of 42"-46".** The

- Owner shall provide a minimum three-month replacement warranty for all new landscape material, with the warranty to commence on the date of the issuance of the final Certificate of Occupancy. The Owner is responsible for replacing any and all dead or dying landscape material on the Property and otherwise comply with the requirements of the Town Code pertaining to landscaping and property maintenance, failing which the owner and/or any tenant(s) of the Property shall be subject to code enforcement action by the Town to ensure compliance with these conditions of approval and the requirements of the Town Code.
6. Safe and adequate pedestrian passage in front of the construction site along Park Avenue, 8th Street, 7th Street, or Greenbriar Drive shall be maintained at all times.
 7. The Owner shall ensure that any and all contractor(s) and their agents and employees working on the Property use commonly accepted practices to reduce airborne dust and particulates during all construction phases.
 8. All dumpsters shall be enclosed as noted on the Site Plan and the dumpster enclosure doors shall be kept shut at all times. **There shall be a total of TWO dumpster locations on-site upon the completion of Phase 2. The dumpsters must be surrounded by a minimum three-foot (36") hedge at planting AND a structural barrier;**
 9. Prior to the issuance of the Certificate of Occupancy, the Applicant shall provide certification from the Landscape Architect of record that the plant installations on Site are in accordance with the plans approved by the Town Commission.
 10. Prior to the issuance of any building permit, copies of all other required, **unexpired** permits from other agencies including but not limited to Palm Beach County Health Department, Palm Beach County Land Development Division, South Florida Water Management Division and the State of Florida Department of Environmental Protection must be provided to the Town. As of January 1, 2009 the new Florida Prevention Code for Palm Beach County Fire, will apply to all building permits that are submitted for review.
 11. The Applicant received documentation from Palm Beach County confirming that the proposed 7,616 SF General Retail, 7,616 SF General Office, 5,000 SF High Turn-over Restaurant, and 40 Multi-Family residential units satisfied Traffic Performance Standards (TPS) and met traffic concurrency requirements **when the project was originally approved**. Given the new phasing schedule AND revised square footage allocations, Phase 1 is vested under this approval (having 9,806 sf retail/office; 1,250 restaurant; 20 residential units at 23,226 sf), although **all new construction permits for Phase 2, will require an updated traffic letter from Palm Beach County confirming the aforementioned**.
 12. The central courtyard facing Park Avenue has been built using an alternate design than what was originally approved. The as-built design is reflected on sheet 204 of this submittal. The 6' green chainlink fence is now being proposed as a 6' black chainlink on sheet 101. **Appropriate building permits, revision pages, as well as final as-builts reflecting these changes will need to be submitted to the Community Development Department to properly account for this change.**

13. All outdoor storage and trash collection sites require a minimum three-foot (36") high hedge AND a structural barrier.

14. All new construction permits for Phase 2, will require an updated traffic letter from Palm Beach County confirming the aforementioned.

15. The Phasing schedule reflects the following square footage allocations:

🏠 Phase 1:

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

🏠 Phase 2:

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

16. The Mixed-Use development shall be constructed in compliance with the original, approved Architectural Elevations, Engineering plans and Irrigation plan on file with the Community Development Department, and shall include the following revised site plans and landscape plans as noted below:

- a. Site Plan referenced as sheet 101 and 102 respectively, dated 12-08-08 prepared by Mr. Don Boitnott, who is the Architect of record, received and dated by the Department of Community Development on 12-08-08.
- b. Landscape plans referenced as sheets 201 through 209 and prepared by Mr. William A. Flint II who is the landscape architect of record 11-14-08, received and dated by the Department of Community Development on 12-08-08.

17. Any revisions to the site plan, landscape plan, architectural elevations, signs, statement of use, or other detail 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 Community Development Department and shall be subject to its review and

- approval, unless the Town Code or a condition of approval requires Town Commission approval.
18. The Owner or authorized agent shall initiate the bona fide and continuous development of **PHASE 2** of the property within 18 months from the effective date of development approval. Such development shall be completed within 18 months from the effective date of initiation of development as defined herein; unless there is a grant of extension as otherwise provided for in the Town of Lake Park Code Section 67-42 *Expiration of development approvals*.
 19. Cost Recovery. All fees and costs incurred by the Town in reviewing the Project and billed to the Applicant shall be paid to the Town within 10 days of receipt of an invoice from the Town. Failure by an Applicant to reimburse the Town within 10 days may result in the revocation of all previously issued development orders for the project and/or the cessation of the review of the Application until the Town is fully reimbursed.
 20. Within ninety (90) days of the effective date of the Resolution, the Applicant or Owner shall submit revised Development Plans to include the items as conditions. The Development Plans may be approved administratively by staff provided that: (1) all conditions are included on the Development Plans to the satisfaction of the Community Development Director, and (2) any exterior building modification(s) are architecturally consistent with the approved buildings. Should any of the aforesaid not be adequately satisfied, the revised Development Plans shall be reviewed and approved by the Town Commission as an amendment to the Site Plan. No building or land clearing permits shall be issued until the revised plans have been approved.
 21. **Phase 1 landscaping is required to include a combination of trees (minimum 8' in height) and hedges (minimum 30" at planting) just west of the Phase 1 western building wall, to break up the façade of the newly constructed building.**



November 14, 2008
Revised December 8, 2008

Mr. Patrick Sullivan , AICP
Community Development Director
535 Park Avenue
Lake Park, FL 33403

Hand Delivered

Re: ONE PARK PLACE - SITE PLAN RE-SUBMITTAL
Phasing and Landscaping Revisions
Park Avenue, Lake Park, FL

Dear Patrick:

We hereby submit application, as discussed, to separate this project into two phases, with Phase 1 relating to mainly the east side of the project and Phase 2 completing the west end to generally conform to the intent of the original approval.

As previously discussed, the present state of the economy has forced the owners to postpone the construction of the western building and the associated site work. The Phase 1 Site Plan (sheet 101) depicts all improvements proposed/constructed at this time. The Phase 2 Site Plan (sheet 102) shows the completion of the west building and parking lot, which finalizes the intent of the original approval.

The Phase 1 scope of work conforms to all Town of Lake Park requirements; including parking, loading, coverage, setbacks and minimum pervious ratios. This portion is constructed based on the originally approved plans. There are no changes to design in terms of paving, grading, drainage, water, sewer, gas or irrigation for this project. We have modified the fencing scope of work to encompass the eastern half only for security, with a relocated gate and dumpster enclosure on the west end of the new fence limit. The dumpster enclosure will be relocated to the original position in Phase 2. The fencing, including ornamental gates and fence, also will be relocated to the original position.

We feel it is also important to mention that we have enhanced the project by adding pavers around the entire building, including steps and handicap ramps. This will also apply to Phase 2.

1461 Kinetic Road, Lake Park, FL 33403-1911
Office (561) 863-9004 Fax (561) 863-9007
Contractor License # CBC006515
Architect License # AA26000694

Page 2
Mr. Patrick Sullivan
November 14, 2008
Revised December 8, 2008

Regarding landscaping, we have introduced new plans prepared by William Flint, Landscape Architect (he has designed several projects for us in the Town of Lake Park). We have discussed our revisions with Mr. Jeff Blakely. The new plans closely follow the original design intent in terms of materials used and we maintained almost all of the plantings in the same locations. The plans now reflect our Phasing changes, with an overall view and enlarged plans for the east and west portions as well as the core area, for both phases. In the rear parking areas, we feel we meet the intent of the code, basically keeping with Jeff's theme, but scaling down some material to code minimum. The Pigeon Plums and Sea Grapes remain the same. The east entry contains three (3) Washingtonians on each side in lieu of two (2) plus the Phoenix Palms.

In addition to the phasing changes, the owners are forced to scale back on some of the material types and sizes due to the difficult state of the economy. We feel the changes introduced do not sacrifice/detract from the intent of the original plans and we believe our proposed revisions meet or exceed the intent of the code (including P.A.D.D. enhancements).

As discussed and requested in the conditions from the Planning and Zoning Board Meeting held on December 1, the following changes have been made to the plans:

1. We now show the designated residential dumpster locations for both Phase 1 and 2.
2. For Phase 2, the Phase 1 dumpster enclosure shall remain as shown and a second permanent dumpster enclosure will be added in the original location.
3. We added a Cocoplum hedge and two Solitaire Palms along the west side of the core paver area to separate the seeded vacant area.
4. We continued the Seagrape hedge and Pigeon Plum trees along the entire northern buffer from 8th to 9th Street.
5. We fixed the type-O on the Solitaire Palms, now showing the proper designation of "PE".


Page 3
Mr. Patrick Sullivan
November 14, 2008
Revised December 8, 2008

6. We added the hedge height maintenance notes.
7. We now show the dumpster enclosure hedge planting height at 36".
8. We changed the Begonias in the core area to Pinwheel Jasmine since the shade was eliminated.

Thank you for your cooperation and please call if you have any questions.

Sincerely,

AHRENS COMPANIES


Gregory L. Celentano
Vice President

CC: Barbara Ahrens

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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.

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

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

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

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

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

30 **WHEREAS**, Town Staff and the Town of Lake Park’s Planning and Zoning
31 Board have reviewed the Application, and have presented their respective
32 recommendations to the Town Commission; and

33 **WHEREAS**, the Town Commission conducted a quasi-judicial public hearing to
34 consider the Application, and has evaluated the evidence presented by Town Staff, the
35 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

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.