

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2011-003**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING AN AMENDMENT TO THE TOWN OF LOXAHATCHEE GROVES CURRENTLY EFFECTIVE COMPREHENSIVE PLAN, IN ACCORDANCE WITH CHAPTER 163, SPECIFICALLY SECTION 163.3184, FLORIDA STATUTES, CONCERNING A LARGE-SCALE LAND USE PLAN AMENDMENT APPLICATION PROPOSED BY LAND DESIGN SOUTH, DESIGNATED AGENT FOR THE APPLICANT, ATLANTIC LAND INVESTMENTS, LLC, THE CONTRACT PURCHASER FOR PROPERTY OWNED BY ERNEST G. SIMON, AS TRUSTEE OF TRUSTS "A" AND "B" U/W/O ALEXANDER ABRAHAM SIMON TO CHANGE THE DESIGNATION OF THE SUBJECT USE OF LAND FROM RURAL RESIDENTIAL (1 DU PER 10 ACRES) TO MULTIPLE LAND USE (MLU) FOR THE PURPOSE OF INCORPORATING COMMERCIAL LOW, COMMERCIAL LOW-OFFICE, AND RURAL RESIDENTIAL 5 LAND USES WITHIN A UNIFIED DEVELOPMENT CONCEPT FOR FUTURE DEVELOPMENT OF PROPERTY ON 97 ACRES LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD, LOXAHATCHEE GROVES, FLORIDA (AMENDMENT 11-1.2A); PROVIDING FOR AMENDMENT TO THE COMPREHENSIVE PLAN TO REFLECT SUCH CHANGES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** provisions of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 require adoption of a comprehensive plan; and;

**WHEREAS,** the Town of Loxahatchee Groves, Florida, pursuant to the Local Government Comprehensive Planning Act, and in accordance with all of its terms and provisions, has prepared and adopted a Comprehensive Plan which has been submitted to, and found to be "in compliance" by, the State Department of Community Affairs (DCA); and;

**WHEREAS,** as a result of a pending administrative challenge to the Town's adopted comprehensive plan, the Town's adopted comprehensive plan has not yet become effective, and the currently effective plan is the Palm Beach County Comprehensive Plan; and,

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**WHEREAS**, since the adoption of Ordinance 2007-07 on November 20, 2007, the Town has had in place a moratorium on the processing and approval of development applications until the Town's adopted comprehensive plan becomes effective; and,

**WHEREAS**, on July 20, 2010, the Town Council approved Ordinance 2010-004, which extended the moratorium but permitted applications for land use amendments to the effective comprehensive plan to be transmitted to the DCA subject to the specific conditions, including that the applicants agree that the final approval and development of the proposed projects must be consistent with the Town's ultimately final, adopted Comprehensive Plan subsequent to the resolution of the pending administrative challenge; and,

**WHEREAS**, the DCA has advised the Town that any review of land use amendments transmitted to them prior to the Town's adopted comprehensive plan being in effect will be reviewed as an amendment to the Palm Beach County Comprehensive Plan, and once the Town's adopted comprehensive plan becomes effective the application will need to be reviewed based upon the Town's adopted comprehensive plan; and,

**WHEREAS**, the Applicant has requested that the Town review its land use amendment at this time, and has agreed to comply with the ultimately effective Town comprehensive plan, and with any DCA review requirements necessary to effectuate compliance with both the currently effective plan and the Town's adopted comprehensive plan once in effect; and,

**WHEREAS**, the Town Council believes that permitting the application to proceed at this time pursuant to the exception in the Town's moratorium, and to have the application reviewed for compliance with both the currently effective plan and the Town's adopted but not-yet-effective comprehensive plan through a separate ordinance, is in the best interest of the Town and the Applicant since the Applicant has committed to comply with the Town's ultimately

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effective comprehensive plan and any additional review requirements of the DCA to implement an amendment to the Town's adopted comprehensive plan; and,

**WHEREAS**, the Town's Planning Consultant recommends approval of the Land Use Amendment Application from the Rural Residential 10 Land Use Category to the Multiple Land Use Category, which would incorporate land uses for Commercial Low, Commercial Low-Office and Rural Residential 5 within the Applicant's Unified Development Concept, as set forth in a report to the Town Council in its capacity of both the Local Planning Agency and the governing body of the Town setting forth recommendations and conditions, which is incorporated herein; and,

**WHEREAS**, the Town's Planning Consultant recommends the transmittal of this Land Use Plan Amendment consistent with his recommendations, to the State of Florida Department of Community Affairs (DCA) and all other agencies having jurisdiction over the Amendment for their review; and,

**WHEREAS**, the Local Planning Agency of the Town of Loxahatchee Groves has also reviewed this Land Use Plan Amendment on February 1, 2011, the records of which are incorporated herein and made specific part thereof, and recommended that the Town Council formally transmit the Amendment to the DCA and all other jurisdictional agencies for their review; and,

**WHEREAS**, this Amendment will be transmitted to the DCA for review and all other agencies having jurisdiction over the Amendment for review and comments, all as provided by law; and,

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves has conducted public hearings on this Amendment to the Town of Loxahatchee Groves Comprehensive Plan;

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and

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves has deemed it to be in the best interest of the citizens and residents of the Town of Loxahatchee Groves to adopt an Amendment to the Town’s currently effective plan, and to the Town’s Adopted Comprehensive Plan through the adoption of a separate ordinance, in accordance with Chapter 163, specifically Section 163.3184 Florida Statutes, concerning a Large-Scale Land Use Plan Amendment proposed by Atlantic Land Investments, LLC, the contract purchaser of property owned by Ernest G. Simon, as Trustee of Trusts “A” and “B” u/w/o Alexander Abraham Simon, represented by Land Design South, to change the designation of the subject use of land from Rural Residential (1 du/ 10 ac) in the currently effective plan to the Multiple Land Use Category as recommended by the Town’s Planning Consultant, to incorporate Commercial Low, Commercial Low-Office, and Rural Residential 5 Land Uses within a Unified Development Plan, to accommodate the future development on 97 acres of land, for the property located at the northwest corner of Southern Boulevard and “B” Road, Loxahatchee Groves, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA:**

**SECTION 1:** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Ordinance upon adoption hereof; all exhibits attached hereto or referenced herein are incorporated herein and made a specific part of this Ordinance.

**SECTION 2:** The Town Council has reviewed the application as the Local Planning Agency and the governing board of the Town, and finds the following:

1. The Amendment, as approved herein, is consistent with the goals, objectives and

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policies of the currently effective comprehensive plan;

2. The characteristics of the surrounding area and the characteristics included in the proposed development are compatible;

3. The Town of Loxahatchee Groves has the ability or will have the ability to provide necessary services for the additional demand for public facilities.

**SECTION 3:** That the Town Council approves and adopts the recommendations of the Town's Planning Consultant, which are incorporated herein.

**SECTION 4:** That the Land Use Plan Amendment to the certified Comprehensive Plan of the Town of Loxahatchee Groves (Amendment No. 11-1.2A) reviewed by the Town's Planning Consultant, the Town Council in its capacity as the Local Planning Agency, and approved by the Town Council in its capacity as the governing body of the Town, from Rural Residential (1 du/ 10 ac) in the currently effective plan to the Multiple Land Use Category, to include Commercial Low, Commercial Low-Office and Rural Residential 5, is hereby adopted, subject to the conducting of a Second and Final Public Hearing, and which shall become effective upon the expiration of a twenty-one (21) day appeal period subsequent to the publishing of a Notice of Intent to find in compliance by the DCA. This Amendment shall be construed as permitting a maximum of 91,476 sq. ft. of commercial retail, a maximum of 130,000 sq ft. of commercial office and 19 residential units on 97 acres of land, subject to the conditions of the Planning Consultant's Report, which is adopted and approved.

**SECTION 5:** That the Town's Planning Consultant is further authorized and directed to make the necessary textual changes to the Future Land Use element of the effective Comprehensive Plan, as well as the changes to the Future Land Use Map in the currently effective Comprehensive Plan in order to reflect the above-stated changes consistent with the

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recommendations of the Planning Consultant Report.

**SECTION 6:** As a condition precedent to the Town's consideration and transmittal of the Amendment, the Applicant has agreed that it will take all steps necessary to comply with the DCA review requirements to implement an amendment to both the current plan and the Town's Adopted Comprehensive Plan, and has agreed to comply with the Town's ultimately effective Adopted Comprehensive Plan (through separate ordinance), as well as the Town's Development Code. Based upon this agreement, the Town Council finds it is in the best interest of the Town to proceed with transmittal of the Application at this time notwithstanding that the Town's Adopted Comprehensive Plan is not in effect, and the Applicant shall be required to take all steps necessary to complete and effectuate the Amendment to the Town's Adopted Plan and to be in compliance with the Town's Adopted Comprehensive Plan, which may include, but not be limited to, processing amendments to this application or altering its proposed development in such a way as to conform with the Town's final Adopted Comprehensive Plan when in effect.

**SECTION 7:** All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 8:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 9:** This Ordinance shall become effective immediately upon the expiration of a twenty-one (21) day appeal period subsequent to the publishing of a Notice of Intent to find in compliance by the State of Florida Department of Community Affairs (DCA).

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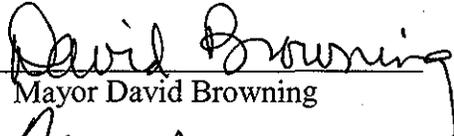
PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 1st DAY OF March, 2011.

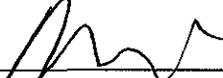
PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 5th DAY OF July, 2011.

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

ATTEST:

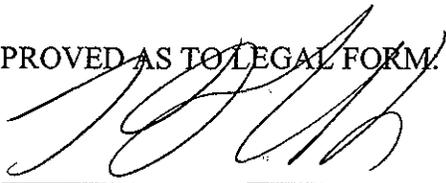
  
Ann Harper, Town Clerk

  
Mayor David Browning

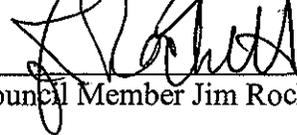
  
Vice Mayor Ryan Liang

  
Council Member Tom Goltzené

APPROVED AS TO LEGAL FORM.

  
Michael D. Cirullo, Jr., Town Attorney

  
Council Member Ron Jarriel

  
Council Member Jim Rockett