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Sharon R. Bock, CLERK & COMPTROLLER

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2013-02**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN, FOR LAND OWNED BY MAGIC PROPERTIES V, LLC, CONSISTING OF 5.0 ACRES MORE OR LESS, LOCATED AT 13710 OKEECHOBEE BOULEVARD; SOUTH SIDE OF OKEECHOBEE BOULEVARD APPROXIMATELY 0.25 MILES WEST OF "F" ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, On March 19, 2008, a citizen Code Enforcement Complaint was filed with the Town regarding a potential violation of the Palm Beach County Unified Land Development Code (County ULDC) concerning the operation of a landscape maintenance business (i.e. Valley Crest) on a parcel not properly zoned for such an activity; and

**WHEREAS**, a Notice of Violation (Code Enforcement No. 08-67) was issued to the owner (Magic Properties V LLC) of the subject property, located at 13710 Okeechobee Boulevard, on August 7, 2008; and

**WHEREAS**, on September 10, 2008, the Town of Loxahatchee Groves Code Enforcement Special Magistrate, in an Order Finding Violation, directed the property owner to comply with Sections of the County ULDC cited in the Notice of Violation; and

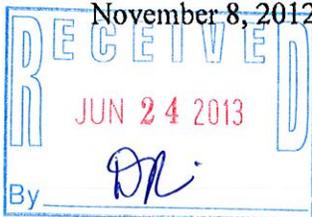
**WHEREAS**, in response to the Special Magistrate's Order, the property owner submitted a Site Plan Approval Application to the Town for a "Nursery/Landscape Maintenance" use in order to address the Order Finding Violation; and

**WHEREAS**, the Town Council, as the governing body of the Town of Loxahatchee Groves, Florida ("Town"), pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to site plans for development on property within the Town; and

**WHEREAS**, the Council, pursuant to Article 2 (Development Review Process) of the Town of Loxahatchee Groves Unified Land Development Code is authorized and empowered to consider, approve, approve with conditions or deny site plans; and

**WHEREAS**, the notice and hearing requirements, as provided for in Article 2 of the Town of Loxahatchee Groves Unified Land Development Code have been satisfied; and

**WHEREAS**, the Town Planning and Zoning Board (P&Z Board), at its meeting of November 8, 2012, deferred consideration of the Valley Crest Site Plan Application; and



**WHEREAS**, the P&Z Board, at its January 10, 2013, meeting, recommended denial based on four issues: 1) outdoor storage; 2) buffering requirements; 3) handicapped parking; and 4) loading spaces.

**WHEREAS**, subsequent to the Town P&Z Board meeting of January 10, 2013, the applicant revised the proposed Valley Crest Site Plan to address the reasons for the P&Z Board recommendation of denial; and

**WHEREAS**, the Valley Crest Site Plan Application, Control No. SP 2012-01, was presented to the Town Council at a quasi-judicial public hearing conducted on March 5, 2013; and

**WHEREAS**, the Town Council has considered the evidence and testimony presented by the applicant and other interested parties and the recommendations of Town staff and Town P&Z Board; and

**WHEREAS**, this approval is subject to Article 2.E (Monitoring) of the Town of Loxahatchee Groves Unified Land Development Code (Town ULDC) and other provisions requiring that development commence in a timely manner.

**NOW, THEREFORE**, be it resolved by the Town Council of the Town of Loxahatchee Groves as follows:

**Section 1.** Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

**Section 2.** The Town Council has considered the findings in the staff report and Town Planning and Zoning Board recommendation and makes the following findings of fact:

1. This Site Plan is consistent with the purposes, goals, objectives and policies of the Town of Loxahatchee Groves Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Site Plan, as presented in Exhibit C hereto, complies with relevant and appropriate portions of applicable local land development regulations. This Site Plan, along with conditions of approval, as adopted and presented in Exhibit D hereto, complies with standards imposed on it by all other applicable provisions of the Town ULDC. The Town Council finds the conditions, as presented in Exhibit D hereto, to be reasonable, and rationally related to the proposed development, and consistent with the Town's character.
3. This Site Plan and Statement of Use, as presented in Exhibit C hereto, along with conditions of approval, as adopted and presented in Exhibit D hereto, are compatible as defined in the Town ULDC; provided that the use is compatible with the County ULDC, with which the Applicant was ordered to comply by the Town's Code Enforcement Special Magistrate, and generally consistent with the uses and character of the land

surrounding and in the vicinity of the land proposed for development.

4. The proposed design, with conditions as adopted and presented in Exhibit D hereto, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Site Plan and Statement of Use as presented in Exhibit C hereto, along with conditions of approval, as adopted and presented in Exhibit D hereto, minimize environmental impacts, including but not limited to water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.
6. This Site Plan and Statement of Use, as presented in Exhibit C hereto, along with conditions of approval, as adopted and presented in Exhibit D hereto, will result in logical, timely and orderly development patterns.

**Section 3.** The Town of Loxahatchee Groves Unified Land Development Code requires that the action of the Town Council of Loxahatchee Groves be adopted by resolution. Therefore, the Town Council of the Town of Loxahatchee Groves approves the Valley Crest Site Plan, Control No. SP 2012-001 for the parcel of land legally described in EXHIBIT "A", attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT "B", attached hereto and made a part hereof. A copy of the site plan and statement of use subject to the approved conditions presented in Exhibit D, is attached hereto as Exhibit C and made a part hereof.

**Section 4.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

**Section 6.** This Resolution shall become effective upon adoption.

*[The remainder of this page intentionally left blank.]*

**RESOLVED AND ADOPTED** by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 5<sup>th</sup> day of March, 2013.

ATTEST:

  
\_\_\_\_\_  
TOWN CLERK

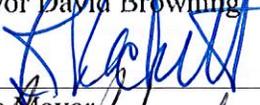
APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
Town Attorney

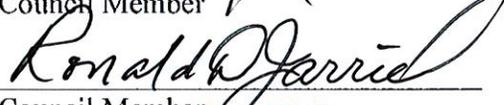


TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

  
\_\_\_\_\_  
Mayor David Browning

  
\_\_\_\_\_  
Vice Mayor

  
\_\_\_\_\_  
Council Member

  
\_\_\_\_\_  
Council Member

  
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Council Member

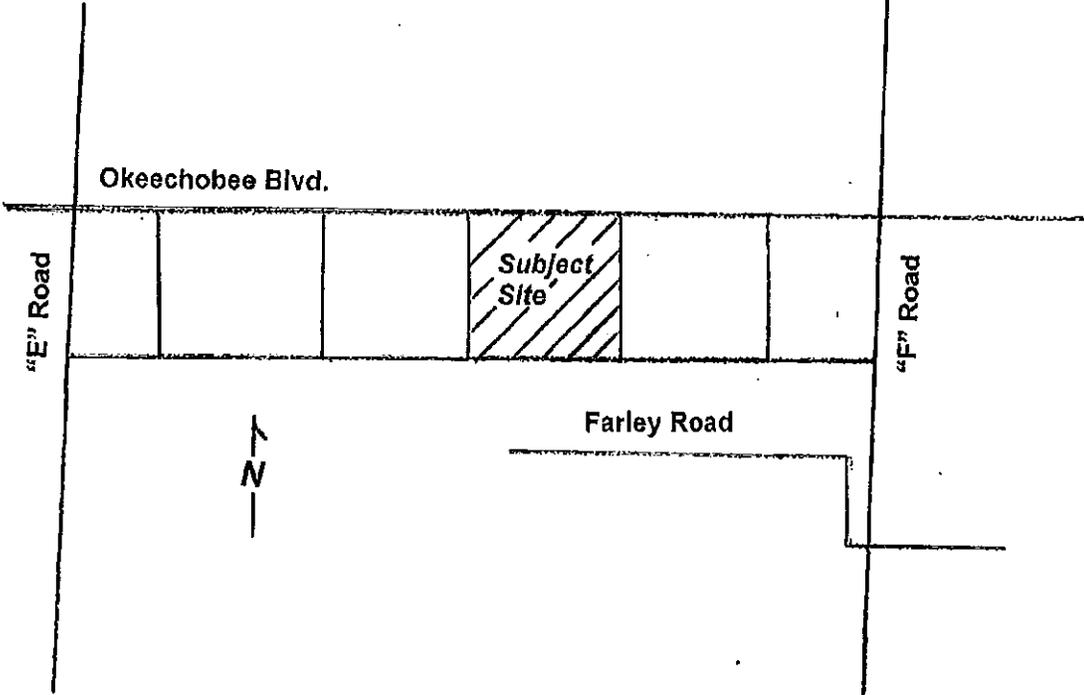
**EXHIBIT A**

**LEGAL DESCRIPTION**

THE WEST 487.68 FEET OF TRACT 10, BLOCK "E", LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

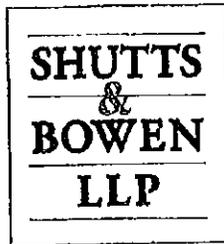
PARCEL CONTROL NUMBER: 41-41-43-17-01-510-0030

**EXHIBIT B**  
**VICINITY SKETCH**



**EXHIBIT C**  
**VALLEY CREST SITE PLAN**  
**AND**  
**STATEMENT OF USE**





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PARTNER  
(305) 415-9437 Direct Telephone  
(305) 415-9837 Direct Facsimile

E-MAIL ADDRESS:  
dcoviello@shutts.com

December 31, 2012

**VIA E-MAIL**

Mr. Mark Kutney, Town Manager  
Town of Loxahatchee Groves  
14579 Southern Boulevard, Suite 2  
Loxahatchee Groves, Florida 33470

Re: **13710 Okeechobee Boulevard ("Property") – Site Plan Approval (SP-12-1)**  
**REVISED STATEMENT OF USE**

Dear Mr. Kutney:

As you know, this firm represents the owner of the Property, Magic Properties V, LLC (the "Owner"), in connection with the above referenced site plan approval application. Below is a revised Statement of Use describing the use of each building, fuel pumps and vegetative waste storage, including location and dimensions, as shown on the revised Site Plan prepared by H&L Consultants dated March 7, 2012 and revised to December 31, 2012.

**I. Statement of Use:**

ValleyCrest Companies, the parent company of the Owner, is the largest landscape services company in the nation, offering landscape design, installation and maintenance. The facility located at the Property will serve as a wholesale nursery (principal use) and landscape service (accessory use) facility serving the greater Palm Beach County area.

**A. Structures:**

The existing structures on the Property as shown on the Site Plan will be utilized as follows:

Office Building (2,166 square feet) – this structure serves as the main office for the facility and includes general office space, conference areas and an employee lounge.

1500 Miami Center • 201 South Biscayne Boulevard, Miami, Florida 33131 • ph 305.358.6300 • fx 305.381.9982 • www.shutts.com

MIAMI PORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM

Maintenance Building (2,200 square feet) – this structure serves as the primary area for minor repairs and maintenance of the landscape and nursery equipment utilized in connection with both the landscape service and wholesale nursery components of the business.

Storage Building adjacent to Office (860 square feet) – this structure serves as storage for both the landscape service and wholesale nursery components. It also includes employee areas.

Storage Buildings to the rear of the Property (1,691 square feet and 235 square feet) - the structures serve as storage for both the landscape service and wholesale nursery components, including storage of fertilizers and other chemicals.

B. Vegetative Waste Storage Area (Management Plan):

The vegetative waste storage area consists of a dedicated area of the Property where vegetative waste material generated primarily by the landscape service business is dropped-off on a daily basis from job sites within Palm Beach County. The material, entirely free of non-organics, consists primarily of palm tree fronds and tree branches, as well as grass clippings. A separate fee for removal and disposal of the material from job sites is not charged to customers.

The "vegetative waste storage area" as shown on the Site Plan has been reduced in size from 100 feet by 200 feet to 100 feet by 100 feet with a maximum height of 15 feet, and complies with all Palm Beach County fire prevention requirements. Specifically, a minimum of 20 feet clearance is provided for emergency and fire vehicular access. Further, there is an approved water supply capable of delivering 1,000 gallons per minute within 1,000 feet of the vegetative waste storage area (i.e., the existing fire hydrant on Okeechobee Boulevard).

Within the size limitations described above, the unprocessed material remains on the Property for approximately 90 days. During this time, the natural composting of the finer material is significant. After 90 days, a grinder is brought on the Property and used to chip the larger tree branches. To minimize dust and avoid any impact to surrounding property, a vertical grinder is used. Moreover, the grinding is limited to 4 times a year. On those particular days, the grinder will be operated during the hours of 9:00 a.m. to 5:00 p.m., and will not be operated on weekends.

Once the material is composted and/or chipped, it is deposited on the Property within the nursery area. Due to the size of the Property, and the nursery area in particular (i.e., 2.5 acres), on-site use of the material is feasible.

C. Fuel Tank/Pump:

The Property contains a fuel tank/fuel pump located in the center of the Property, which provides fuel to the landscape maintenance vehicles. The fuel tank/pump is setback greater than 20 feet from the boundary of the Property, and will be completely screened from view by a continuous solid opaque hedge a minimum of 4 feet in height.

Mr. Mark Kutney  
December 31, 2012  
Page 3

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

SHUTTS & BOWEN LLP



David J. Coviello

Enclosures

cc: Magic Properties V, LLC

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**ATTACHMENT D  
CONDITIONS OF APPROVAL**

**GENERAL**

1. Development of the site is limited to the uses approved by the Town of Loxahatchee Groves in Exhibit C (Site Plan) of Resolution 2013-02. The approved site plan is dated February 6, 2013. All modifications to the approved site plan must be approved by the Town Council unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.
2. The landscape service use is approved as an accessory use and shall remain operational only in conjunction with the wholesale nursery principal use.
3. None of the following activities shall take place on the site without first obtaining necessary approvals by or permits from the Town of Loxahatchee Groves: new construction of a structure or additions or improvements to an existing structure; paving or drainage improvements; existing vegetation removal; provision of central water and sewer facilities; erection of signs or outdoor lighting.
4. Existing accessory structures may be set back a distance of 25 feet from the side and rear property lines; however, any additional future principal or accessory buildings shall observe a 50 foot setback.
5. Within 6 months of the approval of the site plan by the Town Council, a revised site plan application shall be submitted to the Town deleting the Wholesale Nursery Principal Use and Landscape Service Accessory Use and proposing a Landscape Service Principal Use.
6. The final site plan approval resolution shall be recorded with the Palm Beach County Clerk of Courts at the expense of the applicant.

**ARCHITECTURAL REVIEW**

1. Not applicable.

**ENGINEERING**

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
  - A) No Building Permits for the site may be issued after December 31, 2013. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code.

2. Corridor Conveyance of Road Right of Way: Not Applicable
3. The Property owner shall construct the following: Not Applicable

**LAND CLEARING AND LANDSCAPING**

1. Any land clearing activities must comply with the Loxahatchee Groves Native Tree Preservation, Soil Stabilization and Invasive Exotic Removal regulations (Ordinance 2010-008).
2. Existing native vegetative along all property lines shall be maintained.
3. Prior to the issuance of any future building permit, the property owner shall submit a Landscape Plan application to the Town of Loxahatchee Groves for review and approval.

**EXTERIOR LIGHTING**

1. Not Applicable.

**PALM TRAN**

1. Not Applicable.

**PARKING AND LOADING**

1. All parking and loading shall occur on site as indicated on the approved site plan.

**SIGNS**

1. Not Applicable.

**USE LIMITATIONS**

1. Vegetative Waste Storage and Processing is permitted subject to the following:
  - a. Unprocessed vegetative waste shall be generated solely by the wholesale nursery and landscape service uses.
  - b. Vegetative waste operations shall consist solely of importing, temporary storage, decomposing, vertical grinding and on-site use or licensed off-site disposal of materials.
  - c. Fees shall not be charged to import unprocessed vegetative waste materials to the on-site Yard Waste Storage Area.
  - d. Outdoor storage of unprocessed vegetative waste material shall be limited to 90 days and the pile height of storage material shall be limited to a maximum of 10 feet. A minimum 20

feet of clearance shall be provided for emergency and fire vehicular access.

e. Outdoor storage of unprocessed vegetative waste shall be limited to the 100 foot x 100 foot Yard Waste Storage Area, as depicted on the approved site plan, which shall be set back a minimum of 50 feet from any property line and screened from view from a public road.

f. Chipping and mulching of vegetative waste shall only be performed by a “vertical grinder” on an “as-needed” basis, not to exceed a maximum of 4 times per year, during the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday. The vertical grinder shall not be permanently located on-site; rather it shall be imported to the site when needed from an off-site location.

2. Outdoor storage of debris, defined as an accumulation of material to be discarded, is prohibited.

3. Outdoor storage of other than vegetative waste shall only be allowed when incidental to the permitted principal and accessory uses of the property.

4. Operation of commercial vehicles over one ton rated capacity or gross vehicle weight of 10,000, including load, is prohibited from 7:00 p.m. to 6:00 a.m. daily.

5. The use of barbed wire is prohibited.

#### **UTILITIES AND SERVICES**

1. Above ground accessory fuel, gas or chemical storage tanks shall be setback a minimum of 20 feet from any property line and shall be completely screened from view by a continuous solid opaque hedge a minimum of 4 feet in height around the perimeter of the tank enclosure.

2. A minimum of one refuse container and one recycling container shall be provided. The refuse container shall be stored in a storage area and have a minimum dimension of 10 feet by 10 feet. Containers shall be screened from view by a solid opaque enclosure. The open end of the enclosure shall have an opaque gate which provides a minimum of 10 feet of clearance when open for service. All exposed exterior sides of the enclosure, other than the open end, shall be landscaped with one 36-inch high shrub planted 24 inches on center.

3. The existing septic tank shall be replaced and drain field repaired within 30 days of the approval of the site plan by the Town Council.

#### **PUBLIC SAFETY**

1. A Knox Box shall be installed at the entry gate for use in case of emergency.

#### **COMPLIANCE**

1. In granting this approval, the Town of Loxahatchee Groves relied upon the oral and written

representations, including the Revised Statement of Use dated December 31, 2012 drafted by applicant's agent Shutts Bowen LLP, of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Town Manager for review under the compliance condition of this approval.

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or

b. The revocation of the site plan approval; and/or

c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or

d. Referral to Code Enforcement Special Master.