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Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
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TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2013-05

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE VALLEY CREST SITE PLAN AMENDMENT, 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, on March 5, 2013, adopted Resolution 2013-02 approving the Site Plan Approval Application to the Town for a "Wholesale Nursery Principal Use and a Landscape Service Accessory Use; and.

WHEREAS, General Condition 5 of Resolution 2013-02 required the applicant to file, within six months, a Site Plan Amendment Application requesting the approved Wholesale Nursery Principal Use and Landscape Service Accessory Use to be deleted and replaced by a Landscape Service Principal Use; and

WHEREAS, in response to General Condition 5 of Resolution 2013-02, the property owner submitted Site Plan Amendment Application SPA 2013-01 to the Town for a Landscape Service Principal Use; 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 June 13, 2013 recommended approval of the Valley Crest Site Plan Amendment Application SPA 2013-01; and

WHEREAS, the Valley Crest Site Plan Amendment Application SPA 2013-01, was presented to the Town Council at a quasi-judicial public hearing conducted on July 2, 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 Amendment 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 Amendment, 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 Amendment 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 Amendment 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 Amendment 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 Amendment Control No. SPA 2013-001 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 amended site plan, 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.

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RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 2nd day of July, 2013.

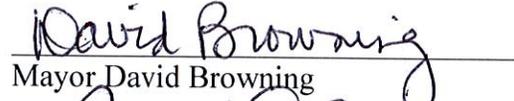
ATTEST


TOWN CLERK

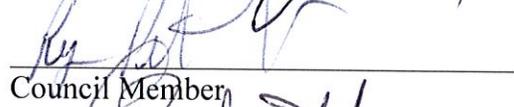
APPROVED AS TO LEGAL FORM:

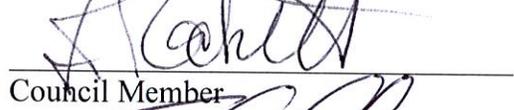

Town Attorney

TOWN OF LOXAHATCHEE GROVES,
FLORIDA


Mayor David Browning


Vice Mayor


Council Member


Council Member


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

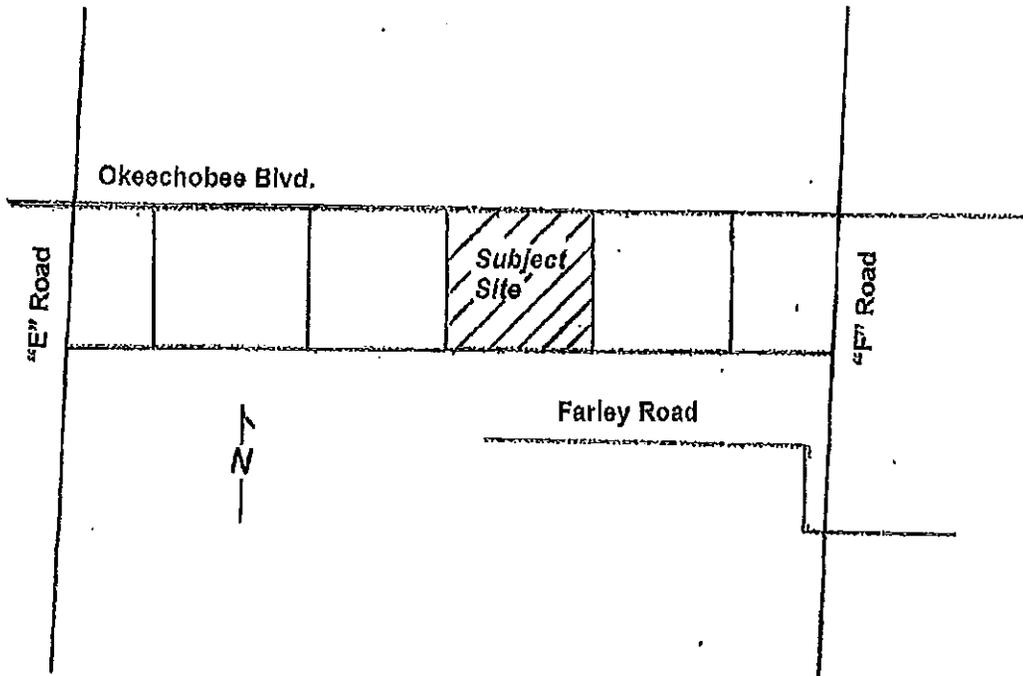
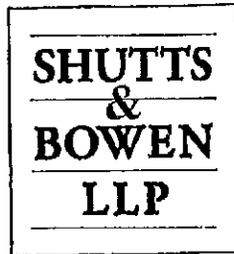


EXHIBIT C
VALLEY CREST AMENDED SITE PLAN
AND
STATEMENT OF USE



DAVID J. COVIELLO
PARTNER
(305) 415-9437 Direct Telephone
(305) 415-9837 Direct Facsimile

E-MAIL ADDRESS:
dcoviello@shutts.com

May 20, 2013

VIA U.S. MAIL AND 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") – Amendment to 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 amendment to 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 March 18, 2013.

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 landscape service 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.

Maintenance Building (2,200 square feet) – this structure serves as the primary area for minor repairs and maintenance of the landscape service equipment.

Storage Building adjacent to Office (860 square feet) – this structure serves as storage for the landscape service business. 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 additional storage for the landscape service business, 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 to be screened from the right-of-way by a landscaped berm where vegetative waste material generated 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 is 100 feet by 100 feet with a maximum height of 10 feet, and is setback a minimum of 50 feet from the property line. The storage area 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 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. Due to the size of the Property, 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 service vehicles. The fuel tank/pump is setback greater than 20 feet from the boundary of the Property, and is screened from view.

Mr. Mark Kutney
May 20, 2013
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If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

SHUTTS & BOWEN LLP



David J. Coviello

Enclosures

cc: Jim Fleishmann, Town Planner
Magic Properties V, LLC

MIADOCs 7642121 1

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

MIAMI FORT LAUDERDALE WEST PALM BEACH ORLANDO TAMPA TALLAHASSEE AMSTERDAM

**EXHIBIT 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 (Valley Crest Site Plan and Statement of Use) of Resolution 2013-05. The approved Site Plan is dated March 18, 2013. The approved Statement of Use is dated May 20, 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 a 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 rear property lines; however, any additional future principal or accessory buildings shall observe a 50 foot setback.

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.
4. Landscape buffers shall be maintained as follows:
 - a. A 20 foot right-of-way buffer along the Okeechobee Boulevard frontage;
 - b. 15 foot incompatibility buffers along the western and southern property lines;
and
 - c. A 5 foot compatibility buffer along the eastern property line.
5. The Vegetative Waste Storage Area shall be screened from view from Okeechobee Boulevard by a landscaped berm.

EXTERIOR LIGHTING

1. Exterior lighting shall be directional in nature to avoid overspill and glare onto adjacent properties.

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 landscape service use.
 - b. Vegetative waste operations shall consist solely of importing, temporary storage, decomposing, vertical grinding and on-site use or licensed off-site disposal of recycled materials.
 - c. Fees shall not be charged to import unprocessed vegetative waste materials to the on-site Vegetative 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.
 - d. Outdoor storage of unprocessed vegetative waste shall be limited to the 100 foot x 100 foot Vegetative 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 Okeechobee Boulevard.
 - 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 12 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, as opposed to vegetative waste processed for reuse, is prohibited.
3. Temporary outdoor storage of other non-debris items shall only be allowed when incidental to the permitted principal use 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 adequately screened from view from Okeechobee Boulevard, as determined by Town staff. Fuel storage tanks shall be equipped with a "shut-off switch" to prevent an accidental fuel spill during the times that the business is closed. Further, fuel storage tanks shall include a spill containment berm to prevent potential damage from a spill.
2. The on-site private individual well shall be monitored once per year, during the February to March period, in order to detect any contamination from the fuel storage tank. A copy of the annual monitoring report shall be forwarded to the Town in order to determine if any corrective actions are necessary.
3. 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 need not be screened provided that they are maintained in the current location, as illustrated on the approved Site Plan. Containers shall be screened from view by a solid opaque enclosure if they are moved from the current location. 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.

PUBLIC SAFETY

1. A Knox Box shall be continuously maintained at the main entry gate for use in case of emergency by Palm Beach County Fire Rescue and Sheriff.

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 May 20, 2013 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. Issuance of a stop work order and/or a cease and desist order; denial or revocation of a building permit or 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.