

Mayor David Browning, Seat 4  
Vice Mayor Jim Rockett, Seat 2  
Council Member Tom Goltzené, Seat 5  
Council Member Ronald D. Jarriel, Seat 1  
Council Member Ryan Liang, Seat 3



**TOWN OF LOXAHATCHEE GROVES**  
Unified Land Development Code Review Committee  
Wednesday, January 30, 2013 at 7:00 p.m.  
Central Palm Beach County Chamber of Commerce  
13901 Southern Blvd., Loxahatchee, Florida 33470

Committee Member Katie Davis  
Committee Member Beck Hyslop  
Committee Member John Ryan  
Committee Member Virginia Standish  
Committee Member Howard Voren

Town Manager Mark Kutney  
Town Clerk Susan Eichhorn  
Town Planner Jim Fleischmann  
Town Planning Technician Braeden Garrett

TENTATIVE  
SUBJECT TO REVISION

**PUBLIC NOTICE/AGENDA**

**1. OPENING**

- a. Call to Order – *Town Manager Kutney*
- b. Roll Call – *Town Clerk Eichhorn*

**2. REGULAR AGENDA**

- a. Election of Chair and Vice Chair
- b. Presentation of Legal Requirements – *Town Attorney Stacey Weinger*
- c. Overview of Committee Functions – *Town Manager Kutney*
- d. Setting of Next Meeting Date and Time
- e. Review of ULDC Articles:
  - 1. Article 170 Special Exception Uses

2. Article 75 Nonconforming Uses, Structures and Plots

3. PUBLIC COMMENT

4. CLOSING & ADJOURNMENT

**The next meeting of the Unified Land Development Code Review will be held on**  
\_\_\_\_\_ *(This will be included on all future agendas)*

**Comments Cards:** Anyone from the public wishing to address the ULDCRC must complete a Comment Card before speaking. This must be filled out completely with your full name and address and given to the Town Clerk. During the meeting, before public comments, you may only address the item on the agenda which is being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of the ULDCRC with respect to any matter considered at this meeting 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 included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.

**Article 170**

**SPECIAL EXCEPTION USES**

- Section 170-005. Purpose.
- Section 170-010. Applicability.
- Section 170-015. Supplemental application requirements.
- Section 170-020. Special exception use procedures.
- Section 170-025. Special exception use review standards; Town Council action.
- Section 170-030. Modification of special exceptions.
- Section 170-035. Expiration of special exceptions.
- Section 170-040. Effect of approval or denial.

170:1



**Section 170-005. Purpose.**

Special exception uses may be compatible with the other land uses permitted in a zoning district but, because of their unique characteristics and potential impacts on the surrounding neighborhood and the Town as a whole, require individual review of their location, design, configuration, and/or operation in order to ensure that the use is appropriate at a particular location.

**Section 170-010. Applicability.**

This article specifies the procedure processing and disposition of applications for special exception uses as set forth in the schedule of district regulations.

**Section 170-015. Supplemental application requirements.**

In addition to the general application requirements, the applicant shall provide the following materials:

- (A) The existing and proposed use of the property
- (B) The existing use, zoning, and land use designations of lands within 1,500 feet of the subject property
- (C) A site plan meeting the requirements of Article 155, "Site Plans."
- (D) Any other information as may be required for a determination of the nature of the proposed use and its consistency with the criteria for the approval of a special exception use.

**Section 170-020. Special exception use procedures.**

(A) Public notice shall be made in accordance with Article 115, "Public Hearing Notices."

(B) All special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Council. The paragraphs will automatically re-letter once (B) is deleted.

(C) Special exception uses are matters that are quasi-judicial in nature as defined by Section 120-020: "Ex parte communications on quasi-judicial proceedings prohibited." All matters that are defined as quasi-judicial in nature shall utilize the quasi-judicial hearing procedures set forth therein. The petitioner shall bear the burden of providing competent substantial evidence that the special exception use should be granted.

**Section 170-025. Special exception use review standards; Town Council action.**

(A) The Town Council shall review the application to determine whether the special exception use complies with the following standards:

- (1) That the use will not cause a detrimental impact to the value of existing contiguous uses, uses in the general area, and to the zoning district where it is to be located.

§ 170-025 LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE

- (2) That the use will be compatible with the existing uses on contiguous property, with uses in the general area and zoning district where the use is to be located and compatible with the general character of the area, considering population density, design, scale and orientation of structures to the area, property values and existing similar uses or zoning.
- (3) That adequate landscaping and screening are provided to buffer adjacent uses from potential incompatibilities.
- (4) That adequate parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
- (5) That the use will not have a detrimental environmental impact upon contiguous properties and upon properties located in the general area or an environmental impact inconsistent with the health, safety and welfare of the community.
- (6) That the use will not have a detrimental effect on vehicular, pedestrian or equestrian traffic, or parking conditions, and will not result in the generation or creation of traffic inconsistent with the health, safety and welfare of the community.
- (7) That the use will not utilize turning movements in relation to its access to public roads or intersections, or its location in relation to other structures or proposed structures on or near the site that would be hazardous or a nuisance.
- (8) That the use will not have a detrimental effect on the future development of contiguous properties or the general area, according to the Comprehensive Plan.
- (9) That the use will not result in the creation of incompatible noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses, uses located on contiguous properties, uses in the general area and the zoning in the vicinity due to its nature, duration, direction or character.
- (10) That the use will not overburden existing public services and facilities.

(B) The Town Council may deny the application, approve it, or approve it with conditions. In issuing its decision to grant a special exception, the Town Council may place more restrictive requirements and conditions on applicants than are provided in the code when the conditions are based upon site considerations and its use, and the potentially resulting impacts upon the surrounding area or zoning district where the subject property is located.

**Section 170-030. Modification of special exceptions.**

(A) If the applicant wishes to amend a special exception use approval, the proposed amendment shall be processed and reviewed in accordance with the procedures set forth in this article for new special exception uses.

**Section 170-035. Expiration of special exceptions.**

(A) The Town Council may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both; provided, that in the absence of such time limit, a special exception approval shall expire unless:

- (1) The applicant submits all development permit applications and construction drawings (if applicable) that are necessary to establish the special exception use within 12 months of Town Council approval, and
- (2) The applicant obtains all necessary development permits (including payment of all fees) within 18 months of Town Council approval; and
- (3) The development permits remain valid until the project is complete; and
- (4) The conditions and limitations of the special exception are satisfied.

(B) It shall be the responsibility of the property owner to ensure that a special exception approval does not expire.

(C) The Town Council may grant an extension if the applicant submits the extension request within 13 months of the date of Town Council approval and the applicant can demonstrate good cause for the delay. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors beyond the control of the applicant.

**Section 170-040. Effect of approval or denial.**

(A) The use for which a special exception has been granted by the Town Council shall not be commenced by the owner, his or her agent or lessee until such time as the decision is deemed to be final (i.e., all appeal times have expired) and all of the improvements stipulated in the grant of special exception necessary for the orderly use of the property have been accomplished.

(B) Approval of a special exception use shall run with the use once established (i.e., not expired or revoked) unless otherwise stipulated as a condition of approval.

(C) Upon denial of an application for a special exception use, there shall be a two year waiting period before any applicant may submit an application for the same or substantially similar application and for the same property as that which was initially denied.

(D) Whenever the Town Council has taken action to approve a special exception use, the commission shall not consider any application to modify the conditions of approval for a period of 12 months from the date of such action, unless the commission waives the time period in order to prevent injustice.



## SPECIAL EXCEPTION USES ANALYSIS

The purpose of this report is to analyze the Town's special exception approval process, including uses and procedural requirements, in order to assist the Town Council in potentially streamlining application requirements and approval procedures

### A. SPECIAL EXCEPTION USES

Special exception uses, due to their unique characteristics and potential impacts upon neighboring uses or the Town, require individual review of their location, design, configuration and/or operation in order to insure that they are appropriate at a particular location.

The purpose of requiring special exception approval for certain uses is to insure compatibility with neighboring uses and other uses allowed within a given zoning district. A list of uses determined by the Town to require special exception approval, by Town zoning district, is presented in Table 1. **(NOTE: Mobile Homes are permitted uses in the AR Zoning District, subject to special exception approval, per Town Ordinance 2011-008).**

### B. SPECIAL EXCEPTION APPLICATION AND PROCESSING REQUIREMENTS

In order to obtain special exception approval, the following application requirements must be met.

**1. General Application Requirements:** All applications for approvals under the Town's Unified Land Development Code (ULDC) must meet the general application requirements of Article 110-025: Minimum Required Information for All Applications. In order to meet this requirement, staff has prepared a General Application form (Ref: Attachment A).

**2. Special Exception Application Requirements:** In addition to the general application requirements, special exception applications must provide the following:

- The existing and proposed use of the property (also required in the General Application).
- The existing use, zoning, and land use designations of lands within 1,500 feet of the subject property.

- A site plan meeting the requirements of Article 155-010: Submission Requirements (Ref: Item 3 below).
- Any other information as may be required for a determination of the nature of the proposed use and its consistency with the criteria for approval of a special exception use (Ref: Section 170-025: Special Exception Use Review Standards; Town Council Action).

**TABLE 1**  
**Special Exception Uses by Zoning District (Article 170 of the ULDC)**

<b>Zoning District</b>	<b>Special Exception Use</b>	<b>Note</b>
<b>Agricultural Residential</b>	Non-Profit Community Recreational Facility	Principal Use
	Commercial Equestrian Operations	Principal Use
	Retail Nursery	Principal or Accessory Use
	Rescued Animal Care	Principal Use
	Outdoor Events*	Principal Use
	Wireless Communication Facilities	Principal Use
	Mobile Homes	Principal Use
	U-Pick Farms	Accessory Use
<b>Commercial Low</b>	Day Labor Hiring Center	Permitted Use
	Outdoor Events*	Permitted Use subject to Section 80-025 of the ULDC
<b>Commercial Low Office</b>	Outdoor Events*	Permitted Use subject to Section 80-025 of the ULDC
<b>Institutional and Public Facilities</b>	Private Service Club or Lodge	Permitted Use
	Wireless Communication Facilities	Permitted use
	Day Labor Hiring Center	Accessory Use
<b>Parks and Recreation</b>	NA	NA
<b>Conservation</b>	NA	NA

\* - Outdoor Event – "A carnival, circus, concert, festival, commercial promotion, show, competition, sale and other similar types of events, as well as any outdoor activity that is not a permitted principal or accessory outdoor use of the premises shall be classified as an outdoor event. Outdoor events shall also include permitted accessory uses of a scale, intensity or frequency that exceeds the customary and incidental scale, intensity or frequency of the given accessory use." (page 21 of the ULDC).

In order to comply with special exception application requirements, staff has prepared a Special Exception Application form (Ref: Attachment B).

Procedures for the approval of a special exception by the Town Council are included in Section 170-020 of the ULDC, including:

- The various Town disciplines, water control district, fire marshal, etc. shall review the application.
- The Town Council shall conduct a duly noticed (Ref: Article 115 of the ULDC) quasi-judicial public hearing on the application prior to considering its approval.

### **3. Site Plan Application Requirements:**

Per Section 170-015(C) of the ULDC, all special exception applications must include a site plan meeting the requirements of Section 155-010. Site plan applications must provide substantial information, including the following major items:

- Property survey;
- Vehicular and pedestrian circulation systems;
- Adjacent public and private rights-of-way and easements;
- Indication of existing native vegetation to be preserved;
- Geometry of all paved areas
- Location of all drainage features
- Schematic water, sewer, paving and drainage plan;
- Landscape plan;
- Parking facility and street lighting plan;
- Floor plans and elevations.

In order to comply with site plan application requirements, staff has prepared a Site Plan Approval Application form (Ref: Attachment C).

Per Section 155-010 of the ULDC, the Town Manager may waive a submittal requirement if, in his opinion, it is not necessary for the proper evaluation of a

proposed site plan due to the limited scope of the proposal or the existence of previously submitted information that satisfies a submittal requirement. Procedures for the approval of a site plan by the Town Council are included in Section 155-015 of the ULDC, including:

- The various Town disciplines, water control district, fire rescue, etc. shall review the application;
- The Town Council shall conduct a duly noticed (Ref: Article 115 of the ULDC) quasi-judicial public hearing on the application prior to its approval.

### **C. SUMMARY AND RECOMMENDATIONS**

A list of all uses requiring special exception approval, by zoning district, is presented in Table 1. From Table 1, special exception uses are either defined as principal, permitted or accessory uses, depending upon the zoning district. The following is a district-by-district summary of special exception uses:

#### **1. Agricultural Residential (AR) District:**

- Principal Use: Non-Profit Community Recreational Facility; Commercial Equestrian Operation; Rescued Animal Care; Outdoor Event; Mobile Home; and Wireless Communication Facility.
- Accessory Use: U-Pick Farm.
- Principal or Accessory Use: Retail Nursery.

#### **2. Commercial Districts (CL and CL-O):**

- Permitted Use: Day Labor Hiring Center; Private Service Club or Lodge; and Wireless Communication Facility.
- Permitted Use Subject to Conditional Use Criteria: Outdoor Event.
- Accessory Use: None.

#### **3. Institutional and Public Facilities (INST):**

- Permitted Use: Private Service Club or Lodge; Wireless Communication Facility.
- Accessory Use: Day Labor Hiring Center.

In order to obtain approval of a special exception use, three Town applications must be completed and filed: General Application (Ref: Attachment A); Special Exception Approval Application (Ref: Attachment B); and Site Plan Approval Application (Ref: Attachment C). In addition, certain special exception uses (i.e. outdoor events) must comply with the conditional use approval criteria in Article 80 of the ULDC.

Both the General Application and Special Exception Application are relatively routine and simple to complete, requiring basic information on the property, owner, applicant, agent, and proposed use.

The Site Plan Application, including its required attachments, is complex and can require a substantial amount of time and expense to prepare. However, depending upon the nature of the application, the Town Manager has the ability, under certain circumstances, (Ref: Section 155-010 of the ULDC) to waive specific requirements potentially resulting in considerable savings of time and money.

According to the ULDC, both special exceptions and site plans must be approved by the Town Council, following a staff review and duly noticed quasi-judicial public hearings. Time and expense can be saved by advertising both the special exception and site plan hearings in a single legal ad, and conducting two separate hearings at the same meeting. Further, both applications will be reviewed by the newly created Planning and Zoning Board.

The purpose of a special exception approval is to require a review of the location, design, configuration and operation of a use in order to insure that it is appropriate at a particular location and compatible with neighboring uses within a given zoning district.

It is appropriate to categorize special exception uses based upon their potential impacts upon neighboring properties, including traffic impacts, environmental concerns, hours of operation, compatibility, etc.

#### 1. Potential High Impact Uses

Most of the uses listed in Table 1, due to their potential impacts, should require a complete Special Exception review, including: Non-Profit Community Recreational Facility; Commercial Equestrian Operation; Retail Nursery (principal use); Rescued Animal Care; Wireless Communication Facility; Day Labor Hiring Center (permitted use); and Private Service Club or Lodge.

#### 2. Potential Low Impact Uses

Other uses listed in Table 1, including Mobile Home (principal use), Retail Nursery (accessory use), U-Pick Farms (accessory use), and Day Labor Hiring

Center (accessory use), due to their potential to generate lesser impacts, can be subjected to a modified Special Exception review and approval process. The modified process may include reduced site plan submittal requirements, as directed by the Town Manager, and a modified review and approval process.

### 3. Outdoor Event Uses

An Outdoor Event (i.e. limited to a maximum duration of three consecutive days by Section 80-025(l) of the ULDC) currently requires Special Exception approval consistent with the conditional use requirements of Section 80-25: Outdoor Event Permits of the ULDC. Per page 21 of the ULDC, the definition of Outdoor Event is as follows:

"A carnival, circus, concert, festival, commercial promotion, show, competition, sale and other similar types of events, as well as any outdoor activity that is not a permitted principal or accessory outdoor use of the premises shall be classified as an outdoor event. Outdoor events shall also include permitted accessory uses of a scale, intensity or frequency that exceeds the customary and incidental scale, intensity or frequency of the given accessory use."

Due to the range and scale of potential activities that may fall under this umbrella definition, it may be appropriate to create a special permit approval process, as opposed to requiring Special Exception approval of all outdoor events. An example special permit process could classify outdoor events as follows:

- Class A – Outdoor events that are anticipated to have minimal impacts upon surrounding uses. Such permits could be approved administratively, by the Town Manager following a review and recommendation by the Planning and Zoning Board.

In order to qualify for a Class A Special Permit, an outdoor event sponsor would need to certify to the following: No signage shall be installed or erected on site indicating the event; no buildings, tents or similar structures are proposed; no electrical, plumbing or similar utility connections are required to service the event; and no sanitary facilities are proposed; facilities shall be available on site within an existing improved structure.

Uses potentially requiring a Class A Special Permit include: Art, antique and craft shows; block parties or other neighborhood events; grand opening sales; outdoor fund raising events; outdoor religious ceremonies; sports tournaments; etc.

- Class B - Outdoor events that may potentially have significant impacts upon surrounding uses. Such permits would be approved by the Town Council following a review and recommendation by the Planning and Zoning Board. Class B events would need to comply with the requirements of Section 80-025: Outdoor Event Permits of the ULDC.

All outdoor events, with the exception of those qualifying for a Class A permit would require Class B approval.

Based upon the above analysis, the following general recommendations are offered:

- Maintain the current Special Exception approval process for the potential high impact uses identified above.
- Consider modifying the Special Exception approval process for the potential low impact uses identified above.
- Consider implementing a special permit approval process for outdoor event uses similar to the one discussed above.

**ATTACHMENT A  
2011 GENERAL APPLICATION FORM**

Town of Loxahatchee Groves, Florida  
14579 Southern Blvd., Suite 2 Loxahatchee Groves, FL 33470 (561) 793-2418

**I. General Data**

<b>Project Name:</b>	
<b>Parcel Control No(s).</b>	
<b>Request</b>	
<b>Acres</b>	
<b>Location</b>	
<b>Date Received</b>	
<b>General Control No. (Assigned By Staff)</b>	

**II. Site Data**

<b>Current Land Use</b>	
<b>Current FLU</b>	
<b>Current Zoning</b>	
<b>Proposed Land Use</b>	
<b>Proposed FLU</b>	
<b>Proposed Zoning</b>	
<b>Street Address</b>	
<b>Frontage</b>	
<b>Plat, Subdivision, Lot of Record</b>	

**III. Owner Information**

	<b>Owner A</b>	<b>Owner B</b>	<b>Owner C</b>
<b>Name</b>			
<b>Address</b>			
<b>City, State, Zip</b>			
<b>Phone Number</b>			
<b>Fax Number</b>			
<b>E-Mail Address</b>			

**IV. Applicant Information (If Other Than Owner)**

	<b>Owner A</b>	<b>Owner B</b>	<b>Owner C</b>
<b>Name</b>			
<b>Address</b>			
<b>City, State, Zip</b>			
<b>Phone Number</b>			
<b>Fax Number</b>			
<b>E-Mail Address</b>			
<b>Type (Lessee, Contract Purchaser, Other)</b>			

**V. Agent Information**

<b>Name</b>	
<b>Organization/Company</b>	
<b>Address</b>	
<b>City, State, Zip</b>	
<b>Phone Number</b>	
<b>Fax Number</b>	
<b>E-Mail Address</b>	
<b>Relationship to Property</b>	

**VI. Required Attachments**

- 
- A. Legal Description, Warranty Deed, and Parcel Control Numbers (PCNs)**
  - B. Certified and Sealed Survey Dated Within Two Years**
  - C. Applicant's Ownership Affidavit**
  - D. Agent Consent Form Indicating All Applications Being Represented**
  - E. Disclosure of Ownership Interests**
  - F. List of Supplemental Applications**

**ATTACHMENT B  
SPECIAL EXCEPTION APPROVAL APPLICATION 2011**

<b>Town Of Loxahatchee Groves, Florida 14579 Southern Boulevard, Suite 2 Loxahatchee Groves, Florida 33470 (561) 793-2418</b>	<b>Project Name:</b>
	<b>Date Received:</b>
	<b>Application Number:</b>
	<b>Fee Paid:</b>
	<b>Fee Receipt No.:</b>

**I. General Data**

<b>Parcel Control Number(s):</b>	
<b>Request</b>	
<b>Acres</b>	
<b>Location</b>	
<b>Project Control Number – By Staff</b>	

**II. Site Data**

<b>FLU Designation</b>	
<b>Existing Land Use</b>	
<b>Zoning Designation</b>	
<b>Proposed Use</b>	
<b>Street Address</b>	
<b>Frontage</b>	
<b>Plat, Subdivision, Legal Lot of Record</b>	

**VI. Required Attachments (to be determined at pre-application meeting)**

- A. Applicant's Notice Affidavit and Property Appraiser Information List**
- B. Detailed Description of the Proposed Use**
- C. Existing use, FLU and zoning of properties within 1,500 feet**
- D. Site Plan Requirements**
- F. Other**

**ATTACHMENT C  
SITE PLAN APPROVAL APPLICATION 2011**

<b>Town Of Loxahatchee Groves, Florida 14579 Southern Boulevard, Suite 2 Loxahatchee Groves, Florida 33470 (561) 793-2418</b>	<b>Project Name:</b>
	<b>Date Received:</b>
	<b>Application Number:</b>
	<b>Fee Paid:</b>
	<b>Fee Receipt No.:</b>

**I. General Data**

<b>Parcel Control Number(s):</b>	
<b>Request</b>	
<b>Acres</b>	
<b>Location</b>	
<b>Project Control Number – By Staff</b>	

**II. Site Data**

<b>FLU Designation</b>	
<b>Existing Land Use</b>	
<b>Zoning Designation</b>	
<b>Proposed Use</b>	
<b>Lot Coverage Ratio</b>	
<b>Percent Impervious</b>	
<b>Street Address</b>	
<b>Frontage</b>	
<b>Plat, Subdivision, Legal Lot of Record</b>	

**IIIA. Adjacent Land Use Summary**

<b>Adjacent Uses</b>	<b>Existing Use</b>	<b>FLU</b>	<b>Zoning</b>
<b>North</b>			
<b>South</b>			
<b>East</b>			
<b>West</b>			

<b>IIIB. Adjacent Land Use Additional Details (If necessary)</b>	
<b>North</b>	
<b>South</b>	
<b>East</b>	
<b>West</b>	

**VI. Public Facilities Information**

<b>A. Traffic Information - Traffic Concurrency Reservation In Attachment J</b>
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<b>B. Mass Transit Information</b>	
<b>Nearest Palm Tran Route(s)</b>	
<b>Nearest Palm Tran Stop</b>	

<b>C. Potable Water &amp; Wastewater Information – Provide Comment Letter(s)/Agreements in Attachment J</b>	
<b>Potable Water &amp; Wastewater Providers</b>	
<b>Nearest Water &amp; Wastewater Facility, type/size</b>	

<b>D. Drainage Information - Provide Drainage Statement in Attachment J</b>
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<b>E. Fire Rescue - Provide Comment Letter in Attachment J</b>	
<b>Nearest Station</b>	
<b>Distance to Site</b>	
<b>Response Time</b>	
<b>Effect on Resp. Time</b>	

<b>F. Environmental Resources</b>	
<b>Surface Water</b>	
<b>Vegetation Inventory</b>	<b>Provide in Attachment F</b>
<b>Significant habitats or species</b>	<b>Provide in Attachment F</b>
<b>Possible pollutants</b>	
<b>Flood Zone</b>	<b>Provide in Attachment B</b>
<b>Wellfield Zone</b>	<b>Provide in Attachment B</b>

**G. Historic Resources - Provide Comment Letter in Attachment I**

<b>H. Public Schools – Residential Only: School Board Letter to be obtained by Town</b>			
	<b>Elementary</b>	<b>Middle</b>	<b>High</b>
<b>Name</b>			
<b>Address</b>			
<b>City, State, Zip</b>			
<b>Distance</b>			

**VI. Required Attachments (to be determined at pre-application meeting)**

- A. Applicant's Notice Affidavit and Property Appraiser Information List**
- B. Certified and Sealed Survey Dated Within Two Years**
- C. Site Plan**
- D. Engineering Plans**
- E. Architectural Plans**
- F. Landscape Plans**
- G. Parking Facility Lighting Plan and Street Lighting Plan (if applicable)**
- H. Compatibility Mitigation Measures (non-residential only)**
- I. School Concurrency Form (to be attached upon receipt)**
- J. Infrastructure Service Provider Letters, Agreements, Service Reservations**

## SPECIAL EXCEPTION RECOMMENDATIONS

The purpose of this report is to analyze the Town's special exception approval process, including uses and procedural requirements, in order to assist the Town Council in potentially streamlining application requirements and the approval process.

### A. Uses Requiring Special Exception Approval

A list of uses that require special exception approval, by Town zoning district, is presented in Table 1. (NOTE: Mobile Homes are permitted uses in the AR Zoning District, subject to special exception approval, per Town Ordinance 2011-008). Special Exception approval requirements and procedures are included in ULDC Article 170.

**Table 1  
Special Exception Uses by Zoning District**

Zoning District	Special Exception Use	Note
<b>Agricultural Residential</b> (ULDC Section 20-015)	Non-Profit Community	Principal Use
	Recreational Facility	
	Commercial Equestrian Operations	Principal Use
	Retail Nursery	Principal or Accessory Use
	Rescued Animal Care	Principal Use
	Outdoor Events	Principal Use
	Wireless Communication Facilities	Principal Use
	Mobile Homes	Principal Use
	U-Pick Farms	Accessory Use
	Day Labor Hiring Center	Permitted Use
<b>Commercial Low</b> (ULDC Section 25-015)	Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC
		Permitted Use subject to Section 80-025 of the ULDC
<b>Commercial Low Office</b> (ULDC Section 25-015)	Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC
		Permitted Use subject to Section 80-025 of the ULDC
<b>Institutional and Public Facilities</b> (ULDC Section 30-015)	Private Service Club or Lodge	Permitted Use
	Wireless Communication Facilities	Permitted use
	Day Labor Hiring Center	Accessory Use
<b>Parks and Recreation Conservation</b>	NA	NA
	NA	NA

Special exception uses, due to their unique characteristics and potential impacts upon neighboring uses or the Town, require individual review of their location, design, configuration and/or operation in order to insure that they are appropriate at a particular location.

The purpose of a special exception approval is to require a review of the location, design, configuration and operation of a use in order to insure that it is appropriate at a particular location and compatible with neighboring uses within a given zoning district.

Most of the uses listed in Table 1, due to their potential impacts, should require a complete Special Exception review, including: Non-Profit Community Recreational Facility; Commercial Equestrian Operation; Retail Nursery (principal use); Rescued Animal Care; Wireless Communication Facility; Day Labor Hiring Center (permitted use); and Private Service Club or Lodge.

Other uses listed in Table 1, including Mobile Home (permitted principal use), Retail Nursery (accessory use), U-Pick Farms (accessory use), and Day Labor Hiring Center (accessory use), due to their potential to generate lesser impacts, can be subjected to an expedited Special Exception review and approval process. The modified process may include reduced site plan submittal requirements, as directed by the Town Manager, and a modified review and approval process.

Per Ordinance 2011-008, mobile homes in the Agricultural Residential (AR) District are permitted as principal uses, subject to special exception approval. A mobile home is defined (ULDC 10-015) as a structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Mobile homes may also be used for permitted accessory uses in the AR District, including Accessory Dwelling, Groom's Quarter and Caretaker's Quarter. Per Section 20-015 of the ULDC, these uses do not require special exception approval.

Based upon the above, key characteristics of a mobile home include: transportable in one or more sections, minimum 8-feet in width, designed to be used as a dwelling unit, and contains plumbing, heating, air-conditioning and electrical systems. Any structure without all of these characteristics would not be classified a mobile home under the ULDC. Only a structure meeting these characteristics and determined to be the principal use of a property would need Special Exception approval.

An Outdoor Event is defined as a carnival, circus, concert, festival, commercial promotion, show, competition, sale and other similar type of event. Further, any other outdoor activity that is not a permitted principal or accessory outdoor use is also classified as an outdoor event.

Outdoor events require different levels of approval depending upon which zoning district they are located, as follows:

1. Agricultural Residential (AR) district: Permitted use requiring Special Exception approval.
2. Commercial Low (CL) and Commercial Low Office (CL-O) districts: Permitted use requiring Special Exception and compliance with ULDC Article 80: Conditional Uses.
3. Institutional and Public Facilities (INST) and Parks and Recreation (PARKS) districts: Permitted use requiring compliance with ULDC Article 80: Conditional Uses.

## **B. Special Exception Requirements and Procedures**

**1. Application Requirements:** Applications must meet the general application requirements of ULDC Article 110-025: Minimum Required Information for All Applications. In addition to the general application requirements, an applicant must meet the following supplemental application requirements: Special Exception application requirements of ULDC Article 170-015; and Site Plan application requirements (i.e. required as part of a Special Exception application).

The General and Special Exception applications are relatively routine and simple to complete, requiring basic property, owner, applicant and agent information and a description of the proposed use.

The Site Plan Application, including its required attachments, is complex and can require a substantial amount of effort to prepare. However, depending upon the nature of the application, the Town Manager may, under certain circumstances (Ref: ULDC Section 155-010) waive specific requirements resulting in considerable savings.

ULDC Section 110-015 provides for an optional pre-application meeting with Town staff. Site plan application requirements waivers may be granted at, or as a result of, the pre-application meeting. However, in order to allow staff adequate time to prepare for a pre-application meeting, it is recommended that all applicants be required to file a Zoning Confirmation Request Form (copy attached) prior to the meeting.

**2. Review and Approval Process:** A Special Exception application will be reviewed by the new Planning and Zoning Board (recommendation only) and the Town Council (approval or denial). Public notice is required, per ULDC Article 115-010, as follows: Newspaper notice, mail notification of properties

within a 1,000 foot radius, posting of signs on the property, and a Town Council public hearing prior to taking action. Town Council action may be by resolution or ordinance.

Under the Town's cost-recovery policy, an applicant is responsible for the following public notice costs: Legal ad for a public hearing, mail notification of neighboring property owners, and the cost of producing and posting signs on the subject property.

Under ULDC Section 120-015, Special Exceptions are determined to be quasi-judicial matters, regardless of whether a final decision is made by the Town Council or a board or committee.

Per ULDC Section 120-010(K), a quasi-judicial matter is defined as a proceeding resulting in a decision impacting a limited number of persons or property owners, or identifiable parties and interests, where the decision is contingent upon facts arrived at from distinct alternatives presented at a hearing, and where the decision is based on the application of policy rather than setting of policy. From this definition, the final decision-making body must conduct a public hearing on the matter prior to rendering its decision.

### **C. Recommendations**

**1. Create Special Exception Categories:** The purpose of a Special Exception approval is to require a review of the location, design, configuration and operation of a use in order to insure that it is appropriate at a particular location and compatible with neighboring uses within a given zoning district.

It is appropriate to categorize special exception uses based upon their potential impacts upon neighboring properties, including traffic generation, environmental concerns, hours of operation, compatibility, etc. Most of the uses listed in Table 1, due to their potential impacts, should undergo a complete Special Exception review.

Other uses listed in Table 1, including mobile home (principal use) and Retail Nursery, U-Pick Farms, and Day Labor Hiring Center as accessory uses, due to their potential to generate lesser impacts, can be subjected to a modified review and approval process.

Outdoor Events, due to their limited duration, and potentially wide range of short-term impacts, should be addressed separately from other Special Exception categories.

Based upon the above discussion, it is recommended that the following three Special Exception categories be created:

- Category A – Potential High Impact Special Exceptions.
- Category B – Potential Low Impact Special Exceptions.
- Category C – Temporary Events.

Recommended categories of special exceptions, by zoning district, are presented in Table 2.

**Table 2  
Recommended Special Exception Categories by Zoning District**

<b>Zoning District</b>	<b>Special Exception Use</b>	<b>Special Exception</b>
<b>Agricultural Residential</b> (ULDC Section 20-015)	Non-Profit Community Recreational Facility (Principal Use)	Category A
	Commercial Equestrian Operations (Principal Use)	Category A
	Retail Nursery (Principal Use)	Category A
	Wireless Communication Facilities (Principal Use)	Category A
	Rescued Animal Care (Principal Use)	Category A
	Retail Nursery (Accessory Use)	Category B
	Mobile Home (Principal Use)	Category B
	U-Pick Farms (Accessory Use)	Category B
	Outdoor Events (Principal Use)	Category C
	<b>Commercial Low</b> (ULDC Section 25-015)	Day Labor Hiring Center (Permitted Use)
Outdoor Events (Subject to Section 80-025)		Category C
<b>Commercial Low Office</b> (ULDC Section 25-015)	Outdoor Events (Subject to Section 80-025)	Category C
<b>Institutional and Public Facilities</b> (ULDC Section 30-015)	Private Service Club or Lodge (Permitted Use)	Category A
	Wireless Communication Facilities (Permitted Use)	Category A
	Day Labor Hiring Center (Accessory Use)	Category A
<b>Parks and Recreation</b>	NA	NA
<b>Conservation</b>	NA	NA

**2. Simplify Special Exception Application:** In order to simplify and streamline the Town's approval process, particularly for uses with fewer or short-term potential impacts, the following actions are recommended to expedite the preparation of Special Exception applications:

- Require all potential applicants to complete a Zoning Confirmation Request Form (Ref: Exhibit 1) and staff to provide a written response, including a determination of the applicable Special Exception category.
- Temporary events applicants who certify to the following will not be required to obtain a Category C Special Exception: No overnight signage on-site; no overnight buildings, tents or similar structures; no electrical, plumbing or similar utility connections; no proposed sanitary facilities – facilities must be currently available on-site; no overnight parking; and trash and garbage will be policed and removed on the day of the event.
- Based upon the staff response to a Zoning Confirmation Request Form, convene a pre-application meeting with the applicant.
- Determine application waivers to be granted at the pre-application meeting and confirm in writing or request additional information in order to make a later determination.
- Include completed Zoning Confirmation Request Forms, staff responses and a summary of application waivers as information items on Town Council agendas.

**3. Revise Public Notice Requirements:** Special Exception A applicants will continue to be required to meet all current public notice requirements. Revise ULDC Section 115-010. Table of Public Notice Requirements as presented in Table 3, including the following revisions:

- Special Exception B applicants will receive an administrative approval; however, abutting property owners will be notified and the application and approval documentation will be posted at the Town administrative offices.
- Special Exception C applicants will continue to be required to meet previous public notice requirements, with the exception that written notice will be limited to abutting property owners.

**4. Code Revisions:** To implement the above recommendations, the following ULDC code revisions are proposed (NOTE: Additions are underlined and deletions are struck through):

**Section 120-015: Quasi-judicial matters.**

(D) Category A and Category C Special Exceptions

**Section 170-010: Applicability.**

This Article specifies the procedure processing and disposition of applications for special exception uses as set forth in the schedule of district regulations, and categorized as follows:

(A) Category A – Potential High Impact Special Exceptions.

(B) Category B – Potential Low Impact Special Exceptions. The Town Manager, based upon his initial assessment of potential impacts, may determine that a potential low impact special exception is most appropriately processed as a potential high impact special exception.

(C) Category C – Temporary Events. Temporary events applicants who certify to the following shall not be required to obtain a Category C Special Exception:

- (1) No overnight signage on-site.
- (2) No overnight buildings, tents or similar structures.
- (3) No electrical, plumbing or similar utility connections.
- (4) No proposed sanitary facilities-facilities must be currently available on-site.
- (5) No overnight parking.
- (6) Trash and garbage shall be policed and removed daily.

**Section 170-015: Supplemental application requirements.**

(B) For Category A Special Exceptions, The the existing use, zoning and land use designations of lands within fifteen hundred feet (1,500) of the subject property. For Category B and Category C Special Exceptions, the existing use, zoning and land use designations of lands abutting the subject property.

(C) A For Category A and Category C Special Exceptions, a site plan meeting the requirements of Article 155, "Site Plans". For Category B Special Exceptions, a zoning confirmation letter from the Town Manager stating that all applicable provisions of the code are satisfied.

**Section 170-020: Special exception use procedures.**

(B) All Category A and Category C special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Council. The paragraphs will automatically re-letter once B is deleted. Category B special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Manager and notification of the Town Council.

(C) Category A and Category C Special special exception uses are matters that are quasi-judicial in nature as defined by Section 120-020: "Ex parte communications on quasi-judicial proceedings prohibited". All matters that are defined as quasi-judicial in nature shall utilize the quasi-judicial hearing procedures set forth therein. The petitioner shall bear the burden of providing competent substantial evidence that the special exception use should be granted.

**Section 170-025: Special exception use review standards. Town Council action.**

(A) The Town Council shall review the ~~application~~ Category A and Category C applications to determine whether the special exception use complies with the following standards. The Town Manager shall review the ~~application~~ Category B applications to determine whether the special exception use complies with the following standards, as applicable.

(B) The Town Council may deny the ~~application~~ a Category A or Category C application, approve it, or approve it with conditions. In issuing its decision to grant a Category A or Category C special exception, the Town Council may place more restrictive requirements and conditions on applicants than are provided in the code when conditions are based upon site considerations and its use, and the potentially resulting impacts upon the surrounding area or zoning district where the subject property is located.

**Section 170-035: Expiration of special exceptions.**

(A) The Town Council, in the case of a Category A or Category C special exception, and the Town Manager, in the case of a Category B special exception, may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both; provided that in the absence of such a time limit, a special exception approval shall expire unless:

- (1) The applicant submits all development permit applications and construction drawings (if applicable) that are necessary to establish the special exception use within twelve (12) months of Town Council approval, or Town Manager approval, as applicable, and
- (2) The applicant obtains all necessary development permits (including payment of all fees) within 18 months of Town Council approval, or Town Manager approval, as applicable, and

(C) The Town Council, in the case of a Category A or Category C special exception, and the Town Manager, in the case of a Category B special exception, may grant an extension if the applicant submits the extension request within thirteen (13) months of the date of Town Council or Town Manager approval and the applicant can demonstrate good cause for the delay. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors beyond the control of the applicant.

**Section 170-040: Effect of approval or denial.**

(A) The use for which a special exception has been granted by the Town Council or Town Manager shall not be commenced by the owner, his or her agent or lessee until such time as the decision is deemed to be final (i.e., all appeal times have expired) and all of the improvements stipulated in the grant of special exception necessary for the orderly use of the property have been accomplished.

**Table 3 Proposed Revisions  
ULDC Section 115-010. Table of Public Notice Requirements**

<b>Section 115-010: Table of public notice requirements</b>						
<b>Application Type</b>	<b>Required Public Hearings</b>	<b>Timing of Notice (number of days prior to public hearing that notice must be given)</b>	<b>Newspaper Notice Format</b>	<b>Mail Notice Radius</b>	<b>Sign Posting Required</b>	<b>Other Notice</b>
Administrative Appeal	Town Council	10 days	Standard Ad	Applicant Only	No	Posting at Town Hall
Variance	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception A	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception B	<u>Not Required</u>	<u>Not Required</u>	<u>Not Required</u>	<u>Abutting Properties</u>	<u>None</u>	<u>Posting at Town Hall</u>
Special Exception C	Town Council	<u>10 days</u>	<u>Standard Ad</u>	<u>Abutting Properties</u>	<u>Yes</u>	<u>Posting at Town Hall</u>
Site Plan	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Plat	Town Council	10 days	Standard Ad	Within 1,000 feet	No	Posting at Town Hall
Rezoning initiated by the property owner	Local Planning Agency	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (first reading)	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (second reading)	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall

Rezoning initiated by the City for fewer than 10 contiguous acres	Local Planning Agency Town Council	10 days 30 days	Not Required Standard Ad	Not Required All owners of property proposed for rezoning shall be notified	No No	Posting at Town Hall Posting at Town Hall
Rezoning initiated by the City for more than 10 contiguous acres	Local Planning Agency	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council (first reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall
Amendments to the Unified Land Development Code (ULDC)	Town Council (second reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall
	Local Planning Agency	10 days	No	Not Required		Posting at Town Hall
	Town Council (first reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall
	Town Council (second reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall

Land use map amendment (small scale per Section 163.3187(1)(c) F.S.)	Local Planning Agency	See Sec. 166.041(3)9(c)2	Yes	Posting at Town Hall			
	Town Council (first reading)				10 days	Yes	Posting at Town Hall
Land use plan amendment (not small scale)	Town Council (second reading)	See Sec. 166.041(3)9(c)2	Yes	Posting at Town Hall			
	Local Planning Agency				10 days	Yes	Posting at Town Hall
	Town Council (first reading)				See Sec. 166.041(3)9(c)2	Yes	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2	Yes	Posting at Town Hall			



**Article 75**

**NONCONFORMING USES, STRUCTURES AND PLOTS**

- Section 75-005. Purpose and intent.
- Section 75-010. Uses and structures existing as of October 1, 2006.
- Section 75-015. Determination of a nonconformity.
- Section 75-020. Nonconforming uses.
- Section 75-025. Nonconforming structures.
- Section 75-030. Nonconforming plots of record.
- Section 75-035. Uses as of October 1, 2006.

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**Section 75-005. Purpose and intent.**

The purpose and intent of this article is to regulate and limit the development and continued existence of lawfully established uses, structures and plots established on or after October 1, 2006, that do not conform to the requirements of these regulations. The provisions of this article are designed to generally curtail substantial investment in nonconformities and bring about their eventual elimination in order to preserve the integrity of these regulations. Any nonconforming use, structure or plot that does not conform to the requirements of this Code and that lawfully existed as of the effective date of these regulations, and any use, structure or plot that has become nonconforming as a result of the adoption of these regulations or any subsequent amendment hereto may be continued or maintained only in accordance with the terms of this article as well as all other provisions in this Code pertaining to nonconformities. Where a period of time is specified in this article, or in any other article of this Code, for the removal or discontinuance of nonconforming structures or uses, said period shall be computed from the effective date of such reclassification or change of regulations.

**Section 75-010. Uses and structures existing as of October 1, 2006.**

Notwithstanding other provisions contained in this article, all uses, structures and plots of land that were legal and conforming to the Palm Beach County Unified Land Development Code as of October 1, 2006, shall be deemed to be legal and conforming to these regulations, as may be amended from time to time. The existence of uses and structures, as well as their legality and their conformity to the Palm Beach County Unified Land Development Code as of October 1, 2006, shall be subject to verification by the Town Council, and the burden of proof shall be borne by the property owner. If, however, such use is abandoned for a period of 180 consecutive days or more, the use of the property shall be required to conform to all other provisions of these regulations.

For purposes of this section, the term "*abandoned*" shall mean the willful and intentional discontinuance of a use, and shall not include any discontinuance resulting from a natural disaster.

**Section 75-015. Determination of a nonconformity.**

The Town Council shall make a determination as to the existence of a nonconformity based upon evidence furnished by the applicant for the determination. Town staff may make use of affidavits and investigation as necessary, however, the applicant shall bear the burden of proof that the property is entitled to nonconforming status.

The question as to whether a nonconforming use exists shall be a question of fact, and the determination of Town staff may be appealed pursuant to the procedures of Article 145, "Administrative Appeals."

**Section 75-020. Nonconforming uses.**

(A) *Extension of nonconforming use of structure.* The nonconforming use of a structure may be extended throughout any part of the structure clearly designed for such use but not so used at the effective date of the ordinance that created the nonconforming use. Any nonconforming use that occupied a portion of a structure not originally designed or intended for such use shall not be extended to any other part of the structure or any other structure on the plot.

(B) *Extension of nonconforming use of land.* The nonconforming use of land shall not be extended or moved to any area on the plot not so used at the effective date of the ordinance that created the nonconforming use.

(C) *Repair, alteration, enlargement of structures used for nonconforming uses.* No structure utilized for a nonconforming use shall be enlarged, extended or structurally altered, unless the use is changed to one which complies with the provisions of this Code, provided that repairs and maintenance may be carried out in any one year period in an amount not to exceed 25 percent of the assessed value of the structure for that year, and further provided that such work does not increase the cubical content of the structure nor the floor area devoted to the nonconforming use, nor increase the number of dwelling units. Improvements specifically required by this Code, for example, bringing the site into compliance with Article 85, "Landscaping," shall be exempt from this subsection. Nothing herein shall prevent compliance with applicable laws or statutes relative to the safety and sanitation of a structure occupied by a nonconforming use.

(D) *Discontinuation of nonconforming use of land.* If for any reason a nonconforming use of land ceases or is discontinued for a period of more than six months, the land shall not thereafter be used for a nonconforming use. Maintenance of a local business tax receipt for the nonconforming use shall not in and of itself be considered proof that the use has been in continuous operation.

(E) *Discontinuation of nonconforming use of a structure.* If for any reason the nonconforming use of a structure ceases or is discontinued for a period of six months or more, the structure shall not thereafter be used for a nonconforming use. Maintenance of a local business tax receipt for the nonconforming use shall not in and of itself be considered proof that the use has been in continuous operation.

(F) *Reconstruction.* If any structure in which there is a nonconforming use is damaged by fire, flood, explosion, collapse, wind, war, other catastrophe, or demolition to such an extent that the cost of rebuilding, repair and reconstruction will exceed 51 percent of the current county tax-assessed value of the structure, it shall not be again reconstructed and used except in full conformity with the regulations of the zoning district in which it is located.

(G) *Uses that are nonconforming due to density.* Uses that become nonconforming due to adoption of density requirements in this Code may be repaired, replaced, or restored to the same density despite any event where the structure is damaged, destroyed or redeveloped so as to require substantial improvement.

#### **Section 75-025. Nonconforming structures.**

(A) *Additions, extensions or alterations of nonconforming structures.* Any additions, extensions or alterations to such existing nonconforming structures shall comply with all applicable provisions of this Code.

(B) *Reconstruction.* In the event any nonconforming structure is damaged or destroyed by fire, flood, explosion, collapse, wind, war, other catastrophe, or demolition, such that the cost of repair or replacement would exceed 51 percent of the current county tax-assessed value of the structure, the structure and its associated on-site improvements shall not be reconstructed unless the structure and its associated on-site improvements will be in conformance with all requirements of this Code, except that nonconforming single-family dwelling units on residential plots, inclusive of accessory pools and structures over 250 square feet permanently located on slabs, may be reconstructed to the same dimensional requirements as the original structure, provided the original foundation is to be utilized.

(C) *Discontinuance of use.* If the use of a nonconforming structure for a conforming nonresidential use ceases for any reason for a period of six months or more, the structure shall not thereafter be occupied, unless the structure and accessory plot improvements comply with all Code requirements. Maintenance of an occupational license for the nonconforming use shall not in and of itself be considered proof that the use has been in continuous operation.

**Section 75-030. Nonconforming plots of record.**

(A) A nonconforming plot of record may be used for any use permitted by the zoning district within which the plot is located, provided the plot complies with all development standards except for required plot size and dimensions, and provided that specific uses required to have different plot area or dimensional requirements than generally required for other uses within the same zoning district, shall not be permitted on a nonconforming plot of record that does not comply with said plot size and dimensional requirements, unless the Town grants a variance for the size, setback, or dimensional requirement pursuant to the procedures and standards of Article 150, "Variances."

(B) In order to ensure the reasonable use of property, the revised development standards shall apply to nonconforming lots of record as follows:

- (1) *Setbacks.* Setbacks for new development or redevelopment of a primary structure on a nonconforming plot of record may be reduced as follows:
  - a. *Nonconforming plots of one acre or less:* All required setbacks may be reduced by 50 percent.
  - b. *Nonconforming plots of between one and five acres:* All required setbacks may be reduced by 25 percent.
- (2) *Plot coverage.* The combined area of all buildings and roofed structures on a nonconforming plot of record may be increased as follows:
  - a. *Nonconforming plots of one acre or less:* Maximum plot coverage may be increased by five percent of plot area.
  - b. *Nonconforming plots of between one and two acres:* Maximum plot coverage may be increased by two percent of plot area.

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- (3) *Pervious area.* The minimum pervious area for new development and redevelopment of a nonconforming plot of record may be reduced as follows:
  - a. *Nonconforming plots of less than one acre:* Required pervious area may be reduced by an additional five percent of plot area.

**Section 75-035. Uses as of October 1, 2006.**

Certain uses that were in existence as of October 1, 2006 are not contained in the table of permitted uses for the Agricultural Residential (AR) zoning district, but may allowed to continue to exist, subject to following:

- (A) The applicant shall have the burden of proof to demonstrate that the use was in existence as of October 1, 2006; and
- (B) The applicant shall apply for a Special Exception; and
- (C) The application for the Special Exception shall be filed within eight months of the effective date of these regulations.