

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



TOWN OF LOXAHATCHEE GROVES
Unified Land Development Code Review Committee
Thursday, May 16, 2013 at 5:30 p.m.
Central Palm Beach County Chamber of Commerce
13901 Southern Blvd., Loxahatchee, Florida 33470

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

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

TENTATIVE
SUBJECT TO REVISION

PUBLIC NOTICE/AGENDA

Public Comment will be taken after each Agenda item

1. OPENING

- a. Call to Order – *Chair Standish*
- b. Roll Call – *Town Clerk Eichhorn*
- c. Approval of Agenda

2. MINUTES: Approval of ULDC Review Committee Minutes for: April 18, 2013

3. REGULAR AGENDA

a. New Business

1. Comments regarding: Commercial Equine operations relative to Special Exception Use Permits (*Keith Harris*)

b. Old Business

1. ULDC Section 50-010 – Excessive Noise
2. Review of ULDC Articles:
 - Article 75 Nonconforming Uses, Structures and Plots
 - Article 170 Special Exception Uses

3. CLOSING & ADJOURNMENT

**The next meeting of the Unified Land Development Code Review Committee will be held on
June 20, 2013 @ 5:00 p.m.**

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.



UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE

2. MINUTES: Approval of ULDC Review Committee Minutes for: April 18, 2013

Mayor David Browning, Seat 4
Vice Mayor Ronald D. Jarriel, Seat 1
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MINUTES

1. OPENING

- a. Call to Order – *Chair Standish*

Chair Standish called the meeting of the Unified Land Development Code Review Committee to order at 5:05 p.m.

- b. Roll Call – *Town Clerk Eichhorn*

Upon roll call, all Committee members were found to be present. Also present were Town Manager Mark Kutney, Town Planning Consultant Jim Fleischmann, Town Planning Technician Braeden Garrett, and Town Clerk Susan Eichhorn.

**MINUTES OF THE UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE MEETING
HELD ON APRIL 18, 2013**

c. Approval of Agenda

Motion: Committee Member Voren made a motion to approve the Agenda. The motion was seconded by Committee Member Hyslop. The motion passed 5/0.

Discussion took place regarding the request from Mr. Keith Harris to address the Committee. It was determined that Mr. Harris would speak at the time special exceptions were discussed.

2. MINUTES: Approval of ULDC Review Committee Minutes for: January 10, 2013; February 21, 2013; March 21, 2013.

Motion: Committee Member Hyslop made a motion to approve the minutes as listed in the Agenda. The motion was seconded by Committee Member Ryan. The motion passed 5/0.

3. REGULAR AGENDA

a. New Business

1. ULDC Section 50-010 – Excessive Noise

Town Manager Kutney requested that this item is tabled to be addressed at the next meeting. There were several noise issues currently, and staff would like to discuss that section of the Code with the Committee, in order to have a more appropriate noise section.

Committee Member Voren said that he would like to include in that discussion the issue of private nuisances versus public nuisances.

Town Manager Kutney explained that was not necessarily a code provision. That was a policy. Right now, the policy was if a complaint is received, it is looked into by the Code Officer.

Committee Member Ryan stated that nuisance was an issue that needs to be addressed, and the code standards need to be addressed as well.

Motion: Committee Member Ryan made a motion to table discussion of Section 50-010 of the ULDC to the next ULDC meeting. The motion was seconded by Committee Member Hyslop. The motion passed 5/0.

b. Old Business

**MINUTES OF THE UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE MEETING
HELD ON APRIL 18, 2013**

1. Definitions – Art. 10 - ULDC

Town Manager Kutney advised that Committee Member Ryan had provided information regarding definitions, and staff will digest them and will bring them back at the next meeting to discuss.

Discussion took place regarding definitions. Town Manager Kutney referred to the Florida 2012 Definition Index, however, he explained that this will not do what was expected. All it did was list terms as to how they were defined in a particular statute. A definition may be particular to one statute; it depended on the definition and the term.

In response to Chair Standish, Town Manager Kutney explained that local rules could not overturn State Statutes.

Chair Standish commented that there was confusion in the community as far as definitions and Statutes, especially concerning bona fide age.

Town Planning Consultant Fleischmann explained that there were numerous terms in the ULDC that are not defined at the State level, and where there is no reference in State Statutes.

Town Manager Kutney explained that one of the reasons staff had considered doing a white paper was for issues like bona fide ag, since there was not one piece of legislation on that. It needs to be clarified and it needs to be something that is in writing, so that it is clearly understood.

Committee Member Voren commented that there were plenty of places where the Right to Farm Act was mentioned without mentioning best management practices. The Right to Farm Act was there prior to the best management clause. The best management practices are specifically there as to whether or not an agricultural practice is a nuisance. Committee Ryan said that when the Town Attorney was present at the first Committee meeting he said that the Right to Farm benefits depended on best management practices. Further discussion took place regarding the Right to Farm Act.

Under Section 10-015: The Committee made the following determinations:

Completely enclosed building. A building separated on all sides from adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls pierced only by windows ~~and normal~~ and/or entrance or exit doors.

Development. Added to list to re-word.

District. Added to list to re-word.

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Dwelling. Added to list to re-word. Define more specifically.

Dwelling, single-family. Add to list to re-word.

Dwelling unit. Added to list to re-work.

Equestrian. Added to list to re-word.

Equipment, farm and land cultivation. Remove from definitions.

Family. Added to list to re-word.

Family day care home. Add to list to re-word.

Farm and land cultivation equipment. Added to list to re-word. The word “plot” should be changed to parcel or plat, as does the word “plot” in many other of the definitions.

Garage, private. An accessory building with enclosed walls or portion of a single-family dwelling designed or used for inside parking of self-propelled private passenger vehicle by the occupants of the dwelling.

Governmental facilities. Added to list to re-word.

Guest cottage. Delete definition.

Home occupation. Added to list to re-word.

Home office. Added to list to re-word.

Household pet. Added to list to re-word.

Kitchen, ~~complete~~. Strike word “complete”.

Mobile home: Added to list to re-word. Possibly take mobile home out of Dwelling definition.

Nonconforming ~~plot~~. Strike word “plot” and substitute with lot or parcel.

Nonresidential ~~plot~~. Strike word “plot” and substitute with lot or parcel.

Nonresidentially zoned land. Possibly strike this definition.

Not-for-profit corporation. Added to list to re-word. Consider adding language that it shall be a 501(c) operation.

Parking facility, full circulation. Added to list to re-word.

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HELD ON APRIL 18, 2013**

Parking facility, partial circulation. Added to list to re-word.

Plot. Change “plot” to lot or parcel. This would apply to all definitions with the word plot.

Residential enterprise. Added to list to re-word.

Setback. The word “plot” should be removed, and substituted with “lot”.

Setback line. The word “plot” should be removed, and substituted with “lot”.

Shopping center outparcel. Reconsider word “plot”.

Site plan. Added to list to re-word. Needs more detail.

Trailer: Added to list to re-word.

Vehicle, commercial. All items listed under that definition should be put together in one group under one general heading.

Wildlife, pets. Added to list to re-word.

The Committee also noted that there was a definition needed for lawn and landscape maintenance business, and suggested consideration of adding a definition for an adult living facility.

Town Manager Kutney noted that there were several items that would need to be added under the definition section:

Adjacent or Adjoining
Aquifer
Berm
Best Management Practices
Block
Boundary
Certificate of Occupancy
Density (net or gross)
Gross/Net Acreage
Landscape

Public Comment:

**MINUTES OF THE UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE MEETING
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Todd McLendon, 3481 D Rd.: Commented that special exceptions need to be looked at on an individual basis, and that commercial equestrian should not be a special exception. It fits in every single square inch of this Town and it should not be a special exception.

Keith Harris, 2580 C Rd.: Commented regarding Business Tax Receipts for commercial stable permits.

2. Review of ULDC Articles:

- Article 75 Nonconforming Uses, Structures and Plots

Town Manager Kutney provided a brief review of Article 75. He advised that he would provide more detail at the next meeting.

- Article 170 Special Exception Uses

Town Planning Consultant Jim Fleischmann addressed Article 170 and reviewed the material provided in the Agenda back-up. Discussion took place regarding special exception uses by zoning district. He explained that he had reviewed all uses that require special exception approval, and that he had suggested three special exception categories, A – Full Special Exception Review, B – Abbreviated Special Exception Review, and C – Temporary Events, based on potential impacts. He then reviewed the recommendations for simplifying the special exception application and approval process, and the ULDC code revisions that would be necessary to implement the recommendations. It was determined that it would be helpful to have a document with the existing text altered with strike throughs and underlines, to indicate the changes.

Mr. Fleischmann addressed the outline submitted by Committee Member Voren regarding historical legacy uses, and suggested that those uses could become a Category B Special Exception, which would be an administrative approval by staff, with the requirements for the application determined by staff at the initial meeting. Committee Member Ryan suggested that on page 11 of the recommendations, Item (B) include in the last line of the first paragraph the language, after the word notification “and no objection by any member of the Town Council.” Town Manager Kutney stated that staff would be conferring with the Town Attorney on the language.

At this time, Mr. Fleischmann received feedback from each of the committee members, and this item would then be continued under Old Business on the next ULDC Review Committee meeting.

Committee Member Voren: The main thing is special exceptions for multiple uses – i.e., the outdoor event at the church over on Okeechobee permit needs to be simplified, so that it is a conditional use for five years or something like that.

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Committee Member Ryan: A good simplification was on page 59 where the Town Manager can administratively waive certain requirements of the special exception process and modify them to suit certain circumstances.

Chair Standish: Concerned about costs of a special exception. Suggested another section, a Category D, that would relieve the burden on some of the agricultural areas.

Town Planning Consultant Fleischmann advised that the individual committee members could email the Town Manager with any questions on special exceptions, which could then be passed on to Mr. Fleischmann, so that he could prepare material for the next meeting.

Keith Harris, 2580 C Rd.: Commented that, for the record, he was speaking as a private citizen. He commented on the special exception use permit and that he found great exception with commercial equine operation included in that category. After brief discussion, it was determined that Mr. Harris would speak at the next ULDC Review Committee meeting in this regard.

3. CLOSING & ADJOURNMENT

It was the consensus of the ULDCRC that the next meeting would be held at 5:30 p.m. on May 16, 2013.

There being no further business, the Unified Land Development Code Review Committee meeting was adjourned at 9:15 p.m.

**These minutes were approved by the ULDC Review Committee
On May 16, 2013**

Susan Eichhorn
Town Clerk

Virginia Standish
Committee Chair

(SEAL)

***The next meeting of the Unified Land Development Code Review Committee will be held on
May 16, 2013 @ 5:30 pm.***



UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE

3. NEW BUSINESS: Comments regarding Special Exception Use Permits relative to Commercial Equine

(back-up not provided)



UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE

3. OLD BUSINESS 1.: Review of ULDC Section 50-010 – Excessive Noise

Section 50-010. - Excessive noise.

- (A) The following are prohibited in the Town in that such activities create excessive noise.
 - (1) Any use, activity or operation which generates a sound level of 55 dB or greater on any surrounding property between the hours of 7:00 a.m. and 10:00 p.m.
 - (2) Any use, activity, or operation which generates a sound level of 50 dB on any surrounding property between the hours of 10:00 p.m. and 7:00 a.m.
 - (3) Any use, activity or operation that creates a sound level in excess of the foregoing limits for more than ten percent of any time period of not less than ten minutes, shall be a violation of these regulations.
- (B) Sound Level Measurement Compliance shall be determined using a Type 2 or equivalent sound level meter using the A Weighting Scale in accordance with the standards of the American National Standards Institute (ANSI). All measurements shall be made with a sound meter at the required structural setbacks of the property of the landowner filing the complaint.
- (C) The following exceptions apply:
 - (1) Outdoor events (operating with a valid permit)
 - (2) Government sanctioned activities (e.g., parades, Town celebrations)
 - (3) Temporary, Portable Generators used only during periods of electrical power outages in utility distribution systems maintained by the utility service provider.
 - (4) Sound generated from motor vehicles legally operating on any public right-of-way regulated by F.S. ch. 316, (Uniform Traffic Control Law).



UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE

3. OLD BUSINESS 2.: Review of ULDC Article 75 – Nonconforming Uses, Structures and Plots

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.

75:1

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.



UNIFIED LAND DEVELOPMENT CODE REVIEW COMMITTEE

3. OLD BUSINESS 2.: Review of ULDC Article 170 – Special Exception Uses

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
Agricultural Residential (ULDC Section 20-015)	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
	Day Labor Hiring Center	Permitted Use
	Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC
Commercial Low Office (ULDC Section 25-015)	Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC
Institutional and Public Facilities (ULDC Section 30-015)	Private Service Club or Lodge	Permitted Use
	Wireless Communication Facilities	Permitted use
	Day Labor Hiring Center	Accessory Use
Parks and Recreation Conservation	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 but not limited to traffic generation, environmental concerns, hours of operation, noise, light, 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 an accessory use, due to their potential to generate lesser impacts, can be subjected to a modified review and approval process.

Outdoor Events, due to their potentially limited duration, and 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 – Full Special Exception review.
- Category B – Abbreviated Special Exception review.
- 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**

Zoning District	Special Exception Use	Special Exception
Agricultural Residential (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/Accessory Use)	Category C/ Category B
Commercial Low (ULDC Section 25-015)	Day Labor Hiring Center (Permitted Use)	Category A
	Outdoor Events (Subject to Section 80-025)	Category C
Commercial Low Office (ULDC Section 25-015)	Outdoor Events (Subject to Section 80-025)	Category C
Institutional and Public Facilities (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
Parks and Recreation	NA	NA
Conservation	NA	NA

2. Simplify Special Exception Application and Approval Process: 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 Special Exception approval: 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 administratively granted at the pre-application meeting and confirm in writing or request additional information in order to make a later determination.
- Special Exception B applicants may be approved administratively based upon a determination by the Town Manager that potential impacts do not require a full special exception review.
- 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 may be approved administratively; 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, ULDC code revisions (Refer to pages 10 – 12) are proposed (NOTE: Additions are underlined and deletions are struck through). Current ULDC language for sections to be revised is presented in Exhibit 2.

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

Section 115-010: Table of public notice requirements

Application Type	Required Public Hearings	Timing of Notice (number of days prior to public hearing that notice must be given)	Newspaper Notice Format	Mail Notice Radius	Sign Posting Required	Other Notice
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	<u>Town Council</u>	<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	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council	30 days	Standard Ad	All owners of property proposed for rezoning shall be notified	No	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	Posting at Town Hall
	Town Council (second reading)	10 days	Yes	Posting at Town Hall	Posting at Town Hall
Land use plan amendment (not small scale)	Local Planning Agency	See Sec. 166.041(3)9(c)2		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

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 – Full Special Exception Review.

(B) Category B – Modified Special Exception Review. The Town Manager, based upon his initial assessment of potential impacts, may determine that a potential Category B Special Exception is most appropriately processed as a Category A Special Exception.

(C) Category C – Temporary Events. Temporary events applicants who certify that the following temporary event activities or facilities will not occur on-site for a period exceeding twenty-four (24) consecutive hours shall not be required to obtain a Category C Special Exception:

- (1) Signage.
- (2) Buildings, tents or similar structures.
- (3) Electrical, plumbing or similar utility connections.
- (4) Sanitary facilities-facilities must be currently available on-site.
- (5) Overnight parking.

Further, the temporary event applicant shall certify that 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. The Town Manager may deny a Category B application, approve it, or approve it with conditions.

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.

**EXHIBIT 1
TOWN OF LOXAHATCHEE GROVES
ZONING CONFIRMATION REQUEST FORM**

Applicant Information

Name: _____ Address: _____

Phone Number: _____

FAX Number _____

E-Mail Address: _____

Property Information

Property Control Number: _____

Owner: _____

Property Address: _____

General Location: _____

Parcel Size (acres): _____; Frontage (feet); _____ Depth (feet): _____

Property Accessed From: _____

Attach Property Survey (if required by staff)

Request (Please Be Specific)

Staff Use

Date Received: _____; Staff Assigned: _____

Date of Staff Response (attach): _____

**EXHIBIT 2
TOWN OF LOXAHATCHEE GROVES
CURRENT CODE LANGUAGE**

Section 120-015. - Quasi-judicial matters.

For the purposes of this article, the following matters, regardless of whether the final determination is made by the Town Council or a board, shall be considered to be quasi-judicial:

- (A) Site plans.
- (B) Plats.
- (C) Conditional use approvals.
- (D) Special Exceptions.
- (E) Variances.
- (F) Administrative appeals.
- (G) Site-specific rezonings.
- (H) Any other matters the Town Attorney determines are subject to quasi-judicial hearing.

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.

(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.