



TOWN OF LOXAHATCHEE GROVES

PLANNING AND ZONING

COMMITTEE MEETING AGENDA

Thursday, December 18, 2014

Chair Dennis Lipp

Vice- Chair Robin Crawford

Board Member Lawrence Corning

Board Member Grace Joyce

Alternate Member Veronica Close

Alternate Member Byrnes Guillaume

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



Town of Loxahatchee Groves
Planning & Zoning Board/LPA Meeting
Thursday, December 18, 2014 at 7:00 p.m.

Central Palm Beach County Chamber of Commerce – West Office
13901 Southern Boulevard, Loxahatchee Groves, FL 33470

**TENTATIVE -
SUBJECT TO
REVISION**

Chair Dennis Lipp
Vice-Chair Robin Crawford
Board Member Lawrence Corning
Board Member Grace Joyce
Alternate Member #1 Veronica Close
Alternate Member #2 Byrnes Guillaume

Town Manager William F. Underwood, II
Town Clerk Janet K. Whipple
Town Planning Technician Braeden Garrett
Town Planning Consultant Jim Fleischmann

The Planning & Zoning Board meets predominately on the 2nd Thursday of each month subject to the filing of applications. It also acts as the Local Planning Agency (LPA). Items for each body are noted on the agenda.

PUBLIC NOTICE/AGENDA

1. OPENING

- a. Call to Order & Roll Call
- b. Approval of Agenda

2. MINUTES - NONE

3. CONVENE REGULAR PORTION OF PLANNING AND ZONING MEETING

4. OLD BUSINESS

- a. Recommendation to Council: Unified Land Development Code (ULDC) Wildlife Regulation Revisions.

5. NEW BUSINESS

- a. Recommendation to Council: Moratorium along the Okeechobee Boulevard Corridor.
- b. Recommendation to Council: Loxahatchee Groves Commons Site Plan Approval.

6. COMMENTS FROM THE BOARD

7. ADJOURN REGULAR PORTION OF PLANNING AND ZONING MEETING

8. CONVENE LOCAL PLANNING AGENCY PORTION OF THE MEETING

9. OLD BUSINESS

- a. Discussion: Okeechobee Boulevard Future Land Use Element text amendments

10. NEW BUSINESS:

- a. Selection of January 2015 Meeting Date.

11. COMMENTS FROM THE BOARD

12. ADJOURN LOCAL PLANNING AGENCY PORTION OF MEETING

13. COMMENTS FROM THE BOARD

14. ADJOURNMENT

*The next Planning and Zoning Board Meeting is tentatively scheduled for January 8, 2015
at 7:00 p.m.*

Comments Cards: Anyone from the public wishing to address the P&Z Board 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 in 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 P&Z Board 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.



Item 4.a.

OLD BUSINESS

Wildlife Regulations

Loxahatchee Groves Planning & Zoning Board Agenda Item Report

Meeting Date: December 18, 2014

Prepared By: Jim Fleischmann, Town Planning Consultant

Subject: Wildlife regulation ULDC revisions

A. Background/History:

Issue Statement: Due to the existence of current State regulations regarding captive wildlife, and an opinion from the Assistant General Council to the Florida Fish and Wildlife Conservation Commission which limits local government control, the Town Council directed staff to prepare ULDC revisions to insure that there is no conflict with state regulatory authority over the matter.

Potential Actions: (1) Approve proposed Wildlife ULDC revisions; (2) deny proposed Wildlife ULDC revisions; or (3) approve proposed Wildlife ULDC revisions subject to conditions.

B. Current Activity:

Staff prepared a draft of proposed ULDC revisions which was presented to the Town Council at its August 14, 2014 meeting. With minor changes to the Staff proposal, the Town Council has forwarded the proposed ULDC revisions to the Planning and Zoning Board (PZB) for review and comment. The PZB Voted to continue discussion at its December 18, 2014 meeting to additional time to review background information that was not included in its Agenda package. Staff has included the additional materials.

C. Attachments:

1. Proposed ULDC revisions to Sections 10-15. "*Definitions*", 20-010 (B). "*Animals and Livestock*", Section 20-015. "*Permitted Uses*" (AR District), Section 25-015. "*Permitted Uses*" (Commercial Low and Commercial Low Office Districts), Section 40-015 "*Permitted Uses*" (Conservation District), Section 80-45. "*Exhibition of Class I and Class II Wildlife*", and Section 80-50. "*Aviculture*".
2. Florida Fish and Wildlife Conservation Commission (FFWCC) Office of the General Counsel opinion regarding local regulation of captive wildlife.
3. E-Mail correspondence between Town Attorney Cirullo and the FFWCC
4. Florida Statutes Sections 379.3761 and 379.762
5. Florida Administrative Code (FAC) Section 68A-1.002 and Chapter 688A-6.

Funding provided by Town Council direction to Town Attorney to perform work.

E. Recommended Action:

Staff recommends approval of the proposed ULDC revisions.

Section 10-015. - Definitions.

Wildlife pets. Shall include only those animals listed, categorized and regulated under Florida Statutes Section 379.3761: "Exhibition or sale of wildlife; fees; classifications" and Florida Administrative Code Chapter 68A-6: "Wildlife as Personal Pets". that have been designated as endangered species, threatened species, or species of special concern by the State of Florida or federal government, and are permitted in private ownership by the Florida Fish and Wildlife Conservation Commission. This definition shall not include any dangerous or poisonous animal of the reptile or amphibian species.

Section 20-010. - General provisions.

The following requirements shall apply to the Agricultural Residential (AR) Zoning District.

(B) Animals and livestock. The breeding raising, and/or keeping of animals and livestock as an accessory use to a permanent dwelling shall be subject to the following standards:

(1) *Number.* The number of animals and livestock permitted shall be based on parcel size as follows.

a. *Livestock.* Four livestock, not including swine, are permitted per every one acre of land, except that parcels of at least five acres are permitted eight livestock per every acre of land and parcels over ten acres in size shall have no limit to the number of livestock per acre.

b. *Small domesticated farm animals.* Fifteen (15) small domesticated animals are permitted per every one-half (1/2) acre of land.

c. *Large domesticated farm animals.* Two (2) large domesticated animals are permitted per every one (1) acre of land.

d. *Poultry.* Parcels under one acre shall be limited to four (4) birds per every one-quarter (1/4) acre.

e. *Swine.* One (1) swine is permitted per property of one (1) acre or greater, except for pot bellied pigs, which shall be considered livestock.

f. *Wildlife pets.* Ten wildlife pets are permitted on properties of five acres or greater provided that the wildlife pets are permitted and licensed by the State of Florida.

permitted on a property.

Section 20-015. - Permitted uses.

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

Principal Uses	Agricultural Residential (AR)
Single Family Dwelling	Permitted
Mobile Home	Permitted w/Special Exception Category B
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception Category A
Essential Services	Permitted
Commercial Equestrian Operations	Permitted
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception Category A
Aviculture	Permitted subject to Article 80 See Note 1 below
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80
Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted w/Special Exception Category A
Outdoor Events	Permitted subject to Article 80 and to a Special Exception Category A
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception Category A
Rodeo Events	Permitted w/Special Exception Category A

Note 1: The exhibition of wildlife pets is preempted by state law and regulated by the State of Florida. See Sections 379.3761 and 379.62, Florida Statutes and Florida Administrative Code Chapter 68A-6.

Accessory Uses	Agricultural Residential (AR)
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception Category B
U-Pick Farms	Permitted w/Special Exception Category B
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80
Veterinarian Services	Permitted
Private Kennels	Permitted
Private Stables	Permitted

Plots located in the Commercial Low and Commercial Low Office zoning districts may be used for one or more the following uses.

Principal Uses	Commercial Low (CL)	Commercial Low Office (CLO)
Adult Entertainment	Permitted subject to Article 20	Not Permitted
Arcade, Video	Permitted	Not Permitted
Automobile Repair Garage	Permitted	Not Permitted
Bank or Financial Institution	Permitted	Permitted
Bar, Lounge, Tavern or Pub	Permitted	Not Permitted
Barber Shop, Beauty or Nail Salon	Permitted	Not Permitted
Pool Hall	Permitted	Not Permitted
Car Wash, Self-Service or Automated	Permitted	Not Permitted
Catering or Food Service Delivery	Permitted	Not Permitted
Child Care Center	Permitted	Not Permitted
Commercial Animal Manure Management	Not Permitted	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80	Not Permitted
Convenience Store	Permitted	Not Permitted
Dance/Night Club	Permitted	Not Permitted
Day Labor Hiring Center	Permitted w/Special Exception Category A	Not Permitted
Delicatessen	Permitted	Not Permitted
Theater or Auditorium	Permitted	Not Permitted
Dry Cleaning or Laundry Service	Permitted	Not Permitted
Employment Agency	Not Permitted	Not Permitted
Essential Services and Utilities	Permitted	Permitted
Exhibition of Wildlife Pets	Permitted subject to Article 80 – See Note 2 below	Not Permitted – See Note 2 below
Gasoline Station	Permitted	Not Permitted
Shooting Range	See Note 1 below	See Note 1 below
Archery Range	Permitted subject to Article 80	Not Permitted
Hotel	Permitted	Not Permitted
Holiday Wayside Stand	Permitted subject to Article 80	Permitted subject to Article 80
Laboratory (e.g., medical, dental, research)	Permitted	Permitted
Offices (e.g. business, professional, medical)	Permitted	Permitted
Package Liquor, Beer or Wine Store	Permitted	Not Permitted
Outdoor Events	Permitted subject to Article 80 and to a Special Exception Category B	Permitted subject to Article 80 and to a Special Exception Category B
Retail Plant or Produce Sales	Permitted	Not Permitted
Restaurant, Fast Food	Permitted	Not Permitted
Restaurant, Full Service	Permitted	Permitted
Restaurant, Take Out	Permitted	Permitted
Retail Services	Permitted	Not Permitted
Retail Store	Permitted	Not Permitted

Principal Uses (continued)	Commercial Low (CL)	Commercial Low Office (CLO)
Commercial Recreation (e.g. batting cages, rink)	Permitted	Not Permitted
Veterinary Clinic or Hospital	Permitted	Not Permitted
Warehouse, Self Storage	Permitted	Not Permitted
Wireless Communication Facilities	Permitted	Permitted
Adult Day Care	Permitted	Permitted
Schools, Public or Private	Permitted	Not Permitted
Gym or Fitness Center	Permitted	Permitted

Note 1: The regulation of guns and shooting ranges is preempted by state law and regulated solely by the State of Florida. See Sections 790.33 and 790.333, Florida Statutes.

Note 2: The exhibition of wildlife pets is preempted by state law and regulated by the State of Florida. See Sections 379.3761 and 379.62, Florida Statutes and Florida Administrative Code Chapter 68A-6.

Section 40-015. - Permitted uses.

Plots located in the Conservation zoning district may be used for one or more of the following specified uses.

Principal Uses	Parks and Recreation
Natural open Space	Permitted
Passive Park	Permitted
Walking and Biking Trail	Permitted
Wildlife Observation	Permitted - See Note 1 below

Note 1: The exhibition of wildlife pets is preempted by state law and regulated by the State of Florida. See Sections 379.3761 and 379.62, Florida Statutes and Florida Administrative Code Chapter 68A-6.

Section 80-045. - Exhibition of Class I and Class II Wildlife.

Individuals providing care and permanent habitat for Class I and Class II Wildlife that have been abused, neglected or otherwise need sanctuary may request a license from the Town to allow limited exhibition of said wildlife, subject to the provisions of this section.

(A) For purposes of this section only, exhibition of wildlife shall be defined as a public or private showing of Class I and Class II wildlife for financial or other consideration.

(B) For purposes of this section, Class I and Class II wildlife are defined pursuant to Chapter 68-A6, F.A.C., as amended.

(C) The property on which the animals are kept shall have a minimum plot size of five acres and a minimum plot width and length of 300 feet and must conform with all of the minimum requirements established in the Florida Administrative Code.

(D) No wildlife exhibition license may be issued for a location that is within 1,000 feet of another licensed wildlife exhibitor.

(E) Signage is not permitted.

(F) The owner of the animals must hold a USDA, Animal Welfare Act, Class C Exhibitor License and a Florida Fish and Game Conservation Commission Class I or II (as applicable) License, and must live on the property on a permanent basis.

(G) The owner of the animals shall maintain 501(C)(3) non-profit status for the specific purpose of caring and providing habitat for the wild animals.

(H) All wildlife habitat areas shall be surrounded by a minimum of a six foot high barrier/fence to prevent unauthorized access. The wildlife habitat areas shall also be fully screened from all property lines to a height of six feet through the use of landscape materials or opaque fence materials.

(I) Public premises liability coverage in the amount of \$1,000,000.00 shall be maintained at all times. The policy must name the Town as an additional insured and must be issued by an insurance company authorized by the Florida Department of Insurance to do business in the State of Florida. The Town Attorney must approve the policy.

(J) The number of wild animals on the property shall be limited to three per acre.

(K) At no time shall the property be unattended and without the presence of someone licensed to handle wild animals, or with at least six months experience working under the jurisdiction of the licensee's Federal and State licenses when the owner of the animal(s) is away from the premises.

(L) All parking shall be accommodated on-site, and shall be screened from view along all property lines adjoining any private or public street, or residential plot. Parking areas shall be set back at least 25 feet from any residential plot line. Parking areas need not be paved.

(M) Public admission shall be by appointment only, and shall be limited to 40 people on the property at any given time, except that groups from educational institutions arriving by bus shall be limited to 100 people, and that special events with attendance greater than that provided for herein may be held up to 12 times per year, provided the owner notifies the Town Clerk's Office in writing at least five days prior to the event. The notification shall state the date and hours, nature of the event, and maximum number of people expected.

(N) Noise levels, including noises resulting from public admission, shall not exceed the limits set forth in Section 50-010, "Excessive Noise."

(O) Noise abatement. Wildlife habitat areas shall be designed, constructed and located using noise abatement measures (e.g., locating wildlife which excessively screech, howl, or make loud noises away from property lines; maintaining a thick, vegetated buffer along property lines) to help ensure that noise levels do not exceed the limits set forth in Section 50-010, "Excessive Noise."

(P) Upon determination that an application for an exhibition of Class I and Class II wildlife license satisfies the criteria of this section, the Town shall notice property owners within 1,000 feet of the subject property, by certified mail, that an application for a wild animal habitat license will be administratively approved and issued ten days from the mailing date indicated on the notice, unless a written objection is received by the Town Clerk within the ten day period.

(Q) Upon satisfying all of the conditions for licensure, a license under this section shall be issued administratively unless the Town receives written objection from a noticed property owner within the ten day response period. In the case of a timely objection, the application for licensure shall be scheduled for the next available Town Council agenda as an advertised public hearing. After hearing the testimony of affected property owners, the Town Council may approve, approve with conditions, or deny the application for licensure based upon consideration of the following criteria:

(1) That the use is compatible with the existing natural environment and other properties in the vicinity;

(2) That there will be adequate provision for safe traffic movement, both vehicular and pedestrian, in the area which will serve the use;

(3) That there are adequate setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust and other potential nuisances; and,

(4) That the land area is sufficient, appropriate and adequate for the use as proposed. Conditions placed upon the license by Town Council may supplement the requirements of this section contained in provisions (A) through (O).

(R) Licenses are valid only to the person named on the license and shall not be transferable.

(S) Upon a second violation of any one or more provisions of this section within a 24 month period, as determined pursuant to the Town's code enforcement procedures, the Town shall notify the licensee, by certified mail, of its intent to revoke the license. The licensee or designee may initiate an appeal of the revocation by filing written notice of intent to appeal with the Town Clerk's Office no later than 15 days from receipt of the Town's notice of intent to revoke the license. The license will be administratively

revoked should the licensee not file an appeal within the allotted time. The Town Clerk shall schedule the appeal for the next available Town Council meeting. In determining the existence of extenuating factors contributing to the code violation(s), Council may uphold the revocation or continue the license with any conditions Council may deem appropriate to protect the public health, safety and welfare.

(T) Nothing within this section shall be construed to prevent the Town Council from revoking the license at any time, provided that after conducting an advertised public hearing on the matter, a supermajority of council members make a determination that the licensed activity no longer satisfies the criteria for licensure.

(U) All exhibition of Class I and Class II wildlife shall occur on a parcel that has a land use designation of Commercial Low.

Section 80-050. -- Aviculture.

Permits for aviculture, as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" may be issued in the Agricultural Residential (AR) zoning district subject to the following:

(A) Minimum plot size requirements:

(1) Two acres for 40 to 200 birds.

(2) Five acres for 201 or more birds.

(B) Breeder:

(1) The minimum plot size shall be two acres; and

(2) Shelters, cages and accessory structures shall be set back a minimum of 50 feet from all property lines; and

(3) Outdoor shelters and cages shall be contained to specific areas of the plot and completely screened from view from adjacent properties with a visual barrier. Such barriers may include natural vegetation, landscaping, fencing or other opaque structures; and

(4) The breeder shall locate birds that excessively screech, chirp, crow or make loud noises away from residential properties to the maximum extent possible; and

(5) The care, licensing, registration and inspections shall be as required by applicable regulations; and

(6) Any avicultural endeavor shall comply with Article 50, "Public Nuisances," of this Code.



FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
OFFICE OF THE GENERAL COUNSEL

MEMORANDUM

To: FWC Captive Wildlife Program
Through: James V. Antista, General Counsel *James V. Antista*
From: Carla J. Oglo, Assistant General Counsel *Carla J. Oglo*
Date: May 17, 2007
Re: LOCAL ORDINANCES AND THE REGULATION OF CAPTIVE WILDLIFE

This memorandum addresses the applicability of local ordinance and zoning codes to the regulation of captive wildlife. For purposes of this memorandum, the term captive wildlife means wildlife regulated under Rule 68A-6, F.A.C.

Background

As the population of Florida grows and urban sprawl consumes rural Florida, captive wildlife facilities which were originally on fairly rural land are now found amidst urban and suburban development. Local governments are concerned about the proximity of captive wildlife to people and, based on a relatively few cases of escape, believe in stronger local control over captive wildlife. These concerns are prompting local governments to consider adopting ordinances and zoning codes which directly regulate captive wildlife or to consider zoning codes which directly define the appropriate neighborhoods for the possession of captive wildlife. Both the local governments and those who have captive wildlife facilities are looking to the Florida Fish and Wildlife Conservation Commission (FWC) for guidance as to whether or not, or to what extent, these ordinances and zoning codes may be enacted consistent with the authority granted to the FWC by the Florida Constitution. In order to address this issue, it is necessary to understand some history about regulation of captive wildlife in Florida.

FWC's predecessor agency, the Game and Fresh Water Fish Commission, did not always have constitutional authority over all captive wildlife. In 1960, the Florida Supreme Court held that the then Game and Fresh Water Fish Commission had the authority to regulate *ferae naturae* or untamed animals in the wild, but the agency did not have the authority to regulate ownership of the animals once they became the property of someone, especially non-native animals. Barrow v. Holland, 125 So.2d 749 (Fla. 1960). In response to this issue, the Legislature enacted section 372.921 and 372.922 to authorize GFC to regulate captive wildlife, including wildlife possessed as pets or for exhibition or sale.

In 1974, the Florida Constitution was amended to empower GFC to "exercise the regulatory and executive powers of the State with respect to wild animal life and freshwater aquatic life." Article IV, Section 9, of the Florida Constitution. This constitutional provision has been interpreted to mean that GFC has constitutional authority over all fish and wildlife whether in the wild or in captivity. Charles River Laboratories, Inc. v. Florida Game and Fresh Water Fish

Commission, DOAH Case No. 96-2017, affirmed at 717 So.2d 1003 (Fla. 1st DCA 1998). In 1998, the citizens of Florida voted to amend the state constitution in order to create the Florida Fish and Wildlife Conservation Commission which continued the grant of constitutional authority to the commission regulated all wildlife. The authority of FWC to regulate captive wildlife as part of its constitutional authority is no longer in question. Miramar v. Bain, 429 So.2d 40 (Fla. 4th DCA 1983) and Haddock & Greyhound Breeders Assn. of Fla. v. Florida Game and Fresh Water Fish Commission, DOAH Case No. 86-3341RP (decided May 19, 1997). Furthermore, FWC rules take precedence over legislative enactments which conflict with those rules. Whitehead v. Rogers, 223 So.2d 330 (Fla. 1969); Beck v. Game and Fresh Water Fish Commission, 33 So.2d 594 (Fla. 1948); State ex rel. Griffin v. Sullivan, 30 So.2d 919 (Fla. 1947) and Price v. City of St. Petersburg, 29 So.2d 753 (Fla. 1947).

Chapter 372, Florida Statutes is now considered to be in aid of FWC's constitutional authority by providing the authority for license fees and penalties for violations of FWC rules on captive wildlife. Rule Chapter 68, Florida Administrative Code provides the administrative rules relating to captive wildlife and Rule 68A-5.004, F.A.C. provides for suspension or revocation of licenses for a violation of the rules. This licensing and permitting program has extensive regulations regarding standards for possessing, housing, feeding, transporting, exhibiting, transferring, caring or selling animals. These regulations involve inspecting the property before the permit is issued. These regulations ensure both the safe and humane treatment of the animals and the public health safety and welfare. In 2007, the Legislature, in response to the escape of Burmese python into the Everglades National Park and to assist FWC in dealing with other reptiles of concern, enacted HB 1505 which provides for enhanced penalties for repeat offenders of captive wildlife violations and for repeat offenders. Both the statutes and the rules are providing a comprehensive and uniform state licensing and permitting process for the possession, exhibition and sale of captive wildlife.

Local government and captive wildlife

Formerly, Rule 68A-6.0022(5)(a)5.b, F.A.C. required appropriate neighborhoods for wildlife. It states:

5. Facility Requirements:

b. In order to assure public safety, Class I and Class II wildlife shall only be kept in appropriate neighborhoods and, accordingly, facilities that house such wildlife shall meet the requirements of this rule subsection. Compliance with these requirements is a necessary condition for licensure. For purposes of this subsection, a "facility" means the site at which Class I or Class II carnivores are kept or exhibited. Applicants shall submit documentation verifying that the construction of the facility, its cages and enclosures is not prohibited by county ordinances and, if within a municipality, municipal ordinance.

This rule has been replaced by Rule 68A-6.003, F.A.C., to be effective January 1, 2008. The rule deletes the appropriate neighborhood provision and states in pertinent part:

68A-6.003 Facility and Structural Caging Requirement for Class I, II and III Wildlife.

(2) In order to assure public safety, the facilities for the housing of Class I and Class II wildlife shall meet the requirements of this rule. Compliance with these requirements is a necessary condition for licensure. For the purposes of this rule, a "facility" means the site at which Class I or Class II wildlife are kept or exhibited. Applicants shall submit documentation verifying that the construction of the facility, its cages and enclosures are not prohibited by county ordinance and, if within a municipality, municipal ordinance.

5. Zoning:

Facilities housing the following Class I wildlife may not be located on property within an area zoned solely for residential use. Changes in zoning subsequent to the issuance of the license or permit shall not be disqualifying provided the license is maintained in a current and valid status.

- a. Primates (all listed species)
- b. Cats (all listed species)
- c. Bears (family *Ursidae*)
- d. Elephants (family *Elephantidae*)
- e. Rhinoceros (family *Rhinocerotidae*)
- f. Hippopotamuses (family *Hippopotamidae*)
- g. Cape Buffalos (*Syncerus caffer caffer*)

(c) Exemptions:

The following Class I and Class II wildlife are exempt from the facility requirements as listed above:

1. Permits authorizing possession of infants only including:
 - a. Class I or Class II carnivores until they reach 25 pounds or six (6) months of age, whichever comes first, provided written documentation is available to verify the age of the animal, the animal is marked or otherwise identifiable, and the animal is provided space for exercise on a daily basis;
 - b. Class I and II primates until they reach the age of twelve (12) months, provided written documentation is available to verify the age of the animal, the animal is marked or otherwise identifiable, and the animal is provided space for exercise on a daily basis.
2. Crocodylians four (4) feet in length or less.
3. Cats: Ocelots (*Leopardus pardalis*), Servals (*Leptailurus serval*), Caracals (*Caracal caracal*), Bobcats (*Lynx rufus*), African golden cats (*Profelis aurata*), Temminck's golden cats (*Profelis temmincki*), and Fishing cats (*Prionailurus viverrina*).
4. Non-human primates: Uakaris (*genus Cacajao*), Bearded sakis (*genus Chiropates*), and Guenons (*genus Cercopithecus*) not including De Brazza's monkey (*Cercopithecus neglectus*), Blue monkey (*Cercopithecus mitis*), Preuss's monkey (*Cercopithecus preussi*) or any other non-human primate of the genus *Cercopithecus* which exceeds the normal adult weight of fourteen (14) pounds.

(d) Any Class I or Class II wildlife exempt from meeting the facility requirements of this rule must meet the following:

1. Class I wildlife shall not be possessed in any multi-unit dwellings or on any premises consisting of less than one quarter acre of land area.
2. Class II wildlife shall not be possessed in multi-unit dwellings unless the dwelling in which they are housed is equipped with private entrance, exit and yard area.
3. A fence sufficient to deter entry by the public, which shall be a minimum of five (5) feet in height, shall be present around the premises wherein Class I or Class II animals are housed or exercised outdoors.

(e) The above requirements shall be effective January 1, 2008, but shall not apply to those facilities licensed to possess captive wildlife species prior to that date. After January 1, 2008, those licensees that desire to expand their inventory to include a family of Class I or Class II species not previously authorized at their facility location shall comply with the requirements here in. Requests to upgrade wildlife classification authorizations shall be considered new applications for license purposes.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.921, 372.922 FS. History--New 8-1-79, Amended 6-21-82, Formerly 39-6.03, Amended 6-1-86, 7-1-90, 7-1-92, 2-1-98, Formerly 39-6.003, Amended 1-1-08.

City of Miramar v. Bain, 429 So.2d 40 (Fla. 4th DCA 1983) held that and state that the local governments are not authorized to adopt ordinances relating to captive wildlife which conflict with the authority of FWC. See also, Attorney General Opinion 2002-23 (March 15, 2002). These opinions also state that FWC has exclusive authority to enact rules and regulations

CH 68A-6 80-045
WOODS
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governing wildlife. This means that local governments cannot directly regulate captive wildlife, even if the local ordinance is more restrictive than the FWC rules and regulations and even if FWC has no rules or regulations that apply to that particular area. But the District Court of Appeal in City of Miramar v. Bain recognized that local government had some sphere of control to determine "appropriate neighborhoods" and commented about Rule 68A-6.02 (then the "appropriate neighborhood rule" and predecessor to recently repealed Rule 68A-6.0022) as follows:

We construe Rule 68A-6.02(5)(c) to mean that prior to issuance of a permit, applicants must demonstrate to the Commission that they can provide satisfactory caging facilities without violation of existing city or county building and zoning regulations. This construction provides for harmonious blending of the Commission's permit requirements and city and county building and zoning regulations. It also insures that wildlife will only be maintained in appropriate neighborhoods.

City of Miramar v. Bain at 43.

Under the City of Miramar v. Bain decision, the Fourth District Court recognized that local government could adopt a comprehensive land use plan, zoning code or building code that would ensure that permitted wildlife is maintained in suitable neighborhoods or locations as long as those regulations do not discriminate against captive wildlife. Under the former rule, FWC could give deference to these building codes and zoning ordinance to determine the "appropriate neighborhood" for wildlife. However, the new rule deletes the appropriate neighborhood language and, in our view renders the City of Miramar v. Bain language, as to local government sphere of local control over wildlife through zoning, inapplicable.

The new rule, to be effective January 1, 2008, offers no deference to local government to determine appropriate neighborhoods for wildlife; therefore, there is no authority under FWC rules for local governments to determine appropriate neighborhoods for wildlife. FWC interprets Rule 68A-6.003 to only allow local government to control the structural requirements of buildings, that is, the building or facility must meet the requirements of the building code. The new rule further states that Class I captive wildlife may not be possessed in areas zoned "residential only"; other Class I and II wildlife which are exempt from facility requirements (small cats and small primates) may not be possessed in "multi-unit dwellings". It has become a common occurrence for local governments to attempt to regulate some aspect of captive wildlife, which requires FWC to, on ad hoc basis, deal with draft local ordinances on captive wildlife. We hope this memorandum will help local government better understand the role of the state in regulation of captive wildlife and captive wildlife facilities.

* Key
BUILDING
SECTION
60-50
MAY
NEED
EN.

The following are examples of some local actions or ordinances that FWC believes are either authorized or unauthorized by the Article IV, Section 9, Florida Constitution and FWC rules thereto.

Types of actions or ordinances which are authorized

- Local government can establish "residential use only" zoning, which can in effect prohibit certain kinds of Class I wildlife. Local governments are authorized to regulate the abatement of public nuisances such as poor sanitation or noise that may be associated with the keeping of wildlife provided the ordinance does not distinguish between nuisances from animals and nuisances from other sources.

Local government can control structural requirements of buildings and if a property owner wants to build a structure for their animals, the structure must comply with local building codes. Local government can regulate the building of the structures as long as it does not distinguish between structures for wildlife and structures for other purposes.

Local government can regulate commercial activity provided that captive wildlife is not discriminated against through this regulation.

Local government may regulate the possession and discharge of firearms within municipal boundaries (FWC requests that portions of Wildlife Management Areas within municipalities be exempted from such restrictions).

Local government may control the use of local government-owned property and facilities and prohibit or regulate exhibitions thereon, so long as the regulation is directed to behaviors which may be addressed under local police power, and does not regulate wildlife.

Local government can require persons engaged in occupations to comply with registration requirements. This might require a captive wildlife facility to disclose and describe the captive wildlife in possession.

Action or ordinances which are not authorized

Local government is prohibited by the constitution, statute and rules from prohibiting the possession, breeding or sale of captive wildlife.

Local government cannot establish zoning classifications which expressly regulate or prohibit possession of wildlife. Local government cannot prohibit the possession of Class I or II wildlife in zoning classifications such as mixed use residential or commercial.

Article 80

Local government may not regulate in the area of taking, possession, transportation or sale of wildlife, even if the ordinance is more restrictive, and even if there is no specific FWC rule dealing with that particular issue. These areas are preempted by FWC rules and regulations.

Local government may not regulate in the areas of hunting or fishing, even if the ordinances are more restrictive than FWC rules and regulations, and even if there is no specific FWC rule dealing with that particular issue. These areas are preempted by FWC's rules and regulations.

Local governments that create their own captive-wildlife permitting and regulatory systems are in conflict with Article IV, Section 9. If the ordinance gives the locality the authority to deny a permit for the possession of captive wildlife regulated by FWC, that permitting system would be in conflict with FWC's authority unless the ordinance is in the form of a registration program that allows a person to possess wildlife if authorized by FWC, provided that possessors of captive wildlife must register with local government.

Conclusion

The Florida Constitution, FWC rules and those Florida Statutes in aid of the Commission provide authority for comprehensive and uniform state-wide regulation and control of captive wildlife by FWC. The Florida Courts have upheld FWC's exclusive authority in this area. Local government regulatory authority in the area of captive wildlife is limited. This governing structure is designed to provide state-wide regulation of captive wildlife without overlapping or conflicting local ordinances.

Subject: Florida Fish and Wildlife Commission General Counsel
From: Mike Cirullo (MCirullo@cityatty.com)
To: mkutney@loxahatcheegrovesfl.gov,
Cc: lrmijim@bellsouth.net; JHorowitz@cityatty.com;
Date: Friday, July 25, 2014 11:19 AM

Mark, as we discussed and I reported at the July 1, 2014, Council meeting, I spoke with FWC Assistant General Counsel, Carla Oglo, who authored the May 17, 2007, Memorandum. She confirmed that the guidelines set forth in the 2007 Memo would remain as guidelines for the Town to use when reviewing our ULDCs as to potential conflicts with FWC preemption. The main point of emphasis is that the Town should not single out a use that is regulated by the FWC; but at the same time any general regulations that apply across the board and do not distinguish uses regulated by the FWC should be acceptable. I have reviewed Jim Fleischman's June 30, 2014, memorandum, and agree that the recommended changes would conform the ULDCs to FWC preemption. Note that the Town's definition of aviculture does not include the retail aspect of that use. The FWC preemption of the retail aspect of aviculture is the subject of a pending Federal Court Appeal by Orange County, which is likely not to be decided until mid to late next year.

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379.3761 Exhibition or sale of wildlife; fees; classifications.

(1) In order to provide humane treatment and sanitary surroundings for wild animals kept in captivity, no person, party, firm, association, or corporation shall have, or be in possession of, in captivity for the purpose of public display with or without charge or for public sale any wildlife, specifically birds, mammals, amphibians, and reptiles, whether native to Florida or not, without having first secured a permit from the commission authorizing such person, party, firm, association, or corporation to have in its possession in captivity the species and number of wildlife specified within such permit; however, this section does not apply to any wildlife not protected by law and the rules of the commission. No person, party, firm, association, or corporation may sell any wild animal life designated by commission rule as a conditional or prohibited species, Class I or Class II wildlife, reptile of concern, or venomous reptile in this state, including a sale with delivery made in this state, regardless of the origin of the sale or the location of the initial transaction, unless authorized by the commission.

(2) The fees to be paid for the issuance of permits required by subsection (1) shall be as follows:

(a) For not more than 25 Class I or Class II individual specimens in the aggregate of all species, the sum of \$150 per annum.

(b) For over 25 Class I or Class II individual specimens in the aggregate of all species, the sum of \$250 per annum.

(c) For any number of Class III individual specimens in the aggregate of all species, the sum of \$50 per annum.

The fees prescribed by this subsection shall be submitted to the commission with the application for permit required by subsection (1) and shall be deposited in the State Game Trust Fund.

(3) An applicant for a permit shall be required to include in her or his application a statement showing the place, number, and species of wildlife to be held in captivity by the applicant and shall be required upon request by the Fish and Wildlife Conservation Commission to show when, where, and in what manner she or he came into possession of any wildlife acquired subsequent to the effective date of this act. The source of acquisition of such wildlife shall not be divulged by the commission except in connection with a violation of this section or a regulation of the commission in which information as to source of wildlife is required as evidence in the prosecution of such violation.

(4) The provisions of this section relative to licensing for exhibition do not apply to any municipal, county, state, or other publicly owned wildlife exhibit or any traveling zoo, circus, or exhibit licensed under chapter 205.

(5) This section shall not apply to the possession, control, care, and maintenance of ostriches, emus, rheas, and bison domesticated and confined for commercial farming purposes, except those kept and maintained on hunting preserves or game farms or primarily for exhibition purposes in zoos, carnivals, circuses, and other such establishments where such species are kept primarily for display to the public.

(6)A person who violates this section is punishable as provided in s. 379.4015.
History.—s. 1, ch. 67-290; s. 84, ch. 79-164; s. 2, ch. 93-223; s. 590, ch. 95-148;
s. 173, ch. 99-245; s. 33, ch. 2002-46; s. 9, ch. 2003-151; s. 2, ch. 2005-210; s.
164, ch. 2008-247; s. 39, ch. 2009-86; s. 4, ch. 2010-185.
Note.—Former s. 372.921(1)-(3), (7), (8).

379.3762 Personal possession of wildlife.

(1)It is unlawful for any person or persons to possess any wildlife as defined in this act, whether native to Florida or not, until she or he has obtained a permit as provided by this section from the Fish and Wildlife Conservation Commission.

(2)The classifications of types of wildlife and fees to be paid for permits for the personal possession of wildlife shall be as follows:

(a)Class I—Wildlife which, because of its nature, habits, or status, shall not be possessed as a personal pet.

(b)Class II—Wildlife considered to present a real or potential threat to human safety, the sum of \$140 per annum.

(c)Class III—All other wildlife not included in Class I or Class II, for which a no-cost permit must be obtained from the commission.

(3)Any person, firm, corporation, or association exhibiting or selling wildlife and being duly permitted as provided by s. 379.304 shall be exempt from the fee requirement to receive a permit under this section.

(4)This section shall not apply to the possession, control, care, and maintenance of ostriches, emus, rheas, and bison domesticated and confined for commercial farming purposes, except those kept and maintained on hunting preserves or game farms or primarily for exhibition purposes in zoos, carnivals, circuses, and other such establishments where such species are kept primarily for display to the public.

(5)A person who violates this section is punishable as provided in s. 379.4015.
History.—s. 1, ch. 74-309; s. 9, ch. 91-134; s. 3, ch. 93-223; s. 591, ch. 95-148; s.
174, ch. 99-245; s. 34, ch. 2002-46; s. 10, ch. 2003-151; s. 3, ch. 2005-210; s.
165, ch. 2008-247; s. 40, ch. 2009-86; s. 14, ch. 2010-185.
Note.—Former s. 372.922(1), (2), (5)-(7).

68A-1.002 Regulation of Wild Animal Life and Freshwater Aquatic Life in the State.

All freshwater aquatic life in the waters within the jurisdiction of the State of Florida, whether such waters or the lands upon which such waters occur are privately owned or otherwise, is subject to the regulation of the Commission. All wild animal life within the jurisdiction of the State of Florida, whether such wild animal life is privately owned or otherwise, is subject to the regulation of the Commission. The Commission shall regulate migratory birds consistent with the laws of the United States governing the conservation and protection of all migratory birds.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 8-1-79, Amended 6-21-82, Formerly 39-1.02, Amended 4-12-98, Formerly 39-1.002.

**CHAPTER 68A-6
WILDLIFE AS PERSONAL PETS**

68A-6.0011	Possession of Wildlife in Captivity; Permit Requirements
68A-6.002	Categories of Captive Wildlife
68A-6.0021	Possession or Transfer of Class I Wildlife as Personal Use Wildlife
68A-6.0022	Possession of Class I, II, or III Wildlife in Captivity; Permit Requirements
68A-6.0023	General Regulations Governing Possession of Captive Wildlife; Public Contact; Transfer of Wildlife and Record Keeping Requirements
68A-6.0024	Commercialization of Wildlife; Bonding or Financial Responsibility Guarantee
68A-6.0025	Sanctuaries; Retired Performing Wildlife and Identification
68A-6.003	Facility and Structural Caging Requirement for Class I, II and III Wildlife
68A-6.004	Standard Caging Requirements for Captive Wildlife
68A-6.0041	Exceptions to Standard Caging Requirements for Captive Wildlife
68A-6.0042	Elephant Rides
68A-6.005	Transportation Requirements for Wildlife; Caging Requirements for Performing and Non-Performing Animals
68A-6.006	Dealing in Exotic or Pet Birds: Records
68A-6.007	Possession, Transportation, Exhibition and Caging Venomous Reptiles and Reptiles of Concern
68A-6.0071	Record Keeping and Reporting Requirements
68A-6.0072	Identification of Non-Native Venomous Reptiles and Reptiles of Concern; Escape

68A-6.0011 Possession of Wildlife in Captivity; Permit Requirements.

(1) Except as otherwise provided in this Title, no person shall possess any native or non-native wildlife in captivity except as authorized by permit issued in accordance with Section 379.3761 or 379.3762, F.S., and as provided in this chapter.

(2) The provisions of this chapter shall not apply to entities operating solely as research facilities, which are registered and regulated as such in accordance with Animal Welfare Act (7 U.S.C. 2131, et. seq.) and regulations promulgated thereunder, provided the following requirements are met:

(a) Such facilities must maintain on premises a detailed research proposal which shall state with particularity the research objectives, methodology, and study duration, and outline planned safeguards to assure proper containment of the wildlife. Maintain an annual record of progress toward the research project objectives. Such research proposal and record of progress shall be available for inspection upon request of Commission personnel.

(b) Such facilities housing wildlife must maintain such wildlife in cages or enclosures which meet the structural requirements as specified in Rule 68A-6.003, F.A.C.

(3) The provisions of this chapter shall not apply to persons possessing the following non-native wildlife species exclusively for the purpose of production of meat, skins or hides, feathers or progeny thereof, and not for personal possession or public display or exhibition:

- (a) Ostrich
- (b) Cassowary
- (c) Rhea
- (d) Emu
- (e) Bison

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3761, 379.3762 FS. History—New 6-21-82, Amended 7-5-84, Formerly 39-6.011, Amended 6-1-86, 5-10-87, 4-13-88, 12-19-89, 7-1-90, 4-20-93, Formerly 39-6.0011, Amended 8-27-09.

68A-6.002 Categories of Captive Wildlife.

(1) The Commission hereby establishes the following categories of wildlife including their taxonomic successors and subspecies thereof:

- (a) Class I:
 - 1. Chimpanzees (*genus Pan*)
 - 2. Gorillas (*genus Gorilla*)
 - 3. Gibbons and Siamangs (family Hylobatidae)

4. Drills and mandrills (*genus Mandrillus*)
5. Orangutans (*genus Pongo*)
6. Baboons (*genus Papio*)
7. Gelada baboons (*genus Theropithecus*)
8. Snow leopards (*Panthera uncia*)
9. Leopards (*Panthera pardus*)
10. Jaguars (*Panthera onca*)
11. Tigers (*Panthera tigris*)
12. Lions (*Panthera leo*)
13. Bears (family Ursidae)
14. Rhinoceros (family Rhinocerotidae)
15. Elephants (family Elephantidae)
16. Hippopotamuses (family Hippopotamidae)
17. Cape buffalos and Gaur (family Bovidae)
18. Crocodiles (except dwarf and Congo) (family Crocodylidae)
19. Gavials (family Gavialidae)
20. Black caimans (*Melanosuchus niger*)
21. Komodo dragons (*Varanus komodoensis*)
22. Hyenas and Aardwolf (family Hyaenidae)
23. Cougars, panthers (*Puma concolor*)
24. Cheetahs (*Acinonyx jabatus*)

(b) Class II:

1. Howler monkeys (*genus Alouatta*)
2. Uakaris (*genus Cacajao*)
3. Mangabeys (*genus Cercocebus*)
4. Guenons (*genus Cercopithecus*)
5. Patas monkeys (*genus Erythrocebus*)
6. Vervet, Grivet or Green monkeys (*genus Chlorocebus*)
7. Sakis (*genus Chiropotes* and *Pithecea*)
8. Guereza monkeys (*genus Colobus*)
9. Idris (*genus Indri*)
10. Macaques and Celebes black apes (*genus Macaca*)
11. Langurs (*genus Presbytis*)
12. Douc langurs (*genus Pygathrix*)
13. Snub-nosed langurs (*genus Phinopithecus*)
14. Proboscis monkeys (*genus Nasalis*)
15. Serval (*Leptailurus serval*)
16. European and Canadian lynx (*Lynx lynx*)
17. Bobcats (*Lynx rufus*)
18. Caracals (*Caracal caracal*)
19. African golden cats (*Profelis aurata*)
20. Temminck's golden cats (*Profelis temmincki*)
21. Fishing cats (*Prionailurus viverrina*)
22. Ocelots (*Leopardus pardalis*)
23. Clouded leopards (*Neofelis nebulosa*)
24. Wolves, coyotes, jackals (family Canidae)
25. Indian dholes (*Cuon alpinus*)
26. African hunting dogs (*Lycaon pictus*)
27. Wolverines (*Gulo gulo*)

28. Honey badgers (*Mellivora capensis*)
29. American badgers (*Taxides taxus*)
30. Old World badgers (*Meles meles*)
31. Binturongs (*Arctictis binturong*)
32. Dwarf crocodiles (*Osteolaemus tetraspis*)
33. Alligators, caimans (family Alligatoridae)
34. Ostrich (*Struthio camelus*)
35. Cassowary (*Casuarius spp.*)
36. Giraffe and Okapi (family Giraffidae)
37. Tapir (family Tapiridae)
38. Wild cattle; forest, woodland and aridland antelope; and similar species of non-native hoofstock (family Bovidae)

Such non-native hoofstock to include: Forest buffalo, Banteng, Anoa, Waterbuck, Wildebeest, Hartebeest, Eland, Kudu, Nilgai, Bongo, lechwe, Roan and Sable antelope, Sitatunga, Bontebok, Blesbok, Topi, Kob, Addax, Oryx, Gemsbok, and other wild species of the family Bovidae which are of similar size, habits and nature.

(c) Class III: All other wildlife not listed herein, except those for which a permit is not required pursuant to Rule 68A-6.0022, F.A.C.

(d) Hybrids resulting from the cross between wildlife and domestic animal, which are substantially similar in size, characteristics and behavior so as to be indistinguishable from the wild animal shall be regulated as wildlife at the higher and more restricted class of the wild parent.

(2) Except as provided in Rule 68A-6.0021, F.A.C., Class I wildlife shall not be possessed for personal use.

(3) Persons possessing any captive wildlife for purposes of public display or sale shall obtain a permit as specified in Section 379.3761, F.S.

(4) Persons possessing Class II wildlife as personal use wildlife shall purchase a permit as provided in Section 379.3762, F.S.

(5) Persons possessing Class III wildlife as personal use wildlife shall obtain a no-cost permit from the Executive Director.

(6) Fox, skunks, bats, raccoons, or whitetail deer taken from the wild shall not be possessed as personal use wildlife and shall be possessed only in accordance with permits issued under Rules 68A-9.002, 68A-9.006, F.A.C., or Section 379.3761, F.S.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 12-3-79, 6-4-81, 6-21-82, Formerly 39-6.02, Amended 6-1-86, 7-1-90, 7-1-92, 9-15-96, Formerly 39-6.002, Amended 8-27-09.

68A-6.0021 Possession or Transfer of Class I Wildlife as Personal Use Wildlife.

(1) Any Class I wildlife possessed for personal use on August 1, 1980, shall be eligible for a permit in accordance with the provisions for Class II wildlife. Any Class II wildlife possessed as personal use wildlife in accordance with Section 379.3762, F.S., that is uplisted to Class I upon the effective date of Rule 68A-6.002, F.A.C., shall be eligible for a permit in accordance with the provisions of Class II wildlife. No other Class I wildlife shall be transferred or kept for personal use.

(a) All Class I wildlife possessed for personal use in accordance with the provisions for Class II Wildlife, shall be permanently identified by means of tattoo, brand, passive integrated transponder (PIT tag), photographic identification, or other method that clearly and permanently identifies that particular specimen so as to be distinguished from other specimens of the same species.

1. For photographic identification the photograph of the specimen must include sufficient distinguishing characteristics (marks, scars, and patterns, etc.) to enable that particular specimen to be distinguished from other specimens of the same species.

2. Record of identification including PIT tag numbers where applicable, along with information about the specimen being identified (species, method of identification, specimen name or number, gender and age) must be maintained in the possessor's records for as long as the specimen is possessed. Such records shall be made available for inspection, upon request, of commission personnel. A copy of such record shall be provided to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, upon annual renewal of the license issued in accordance with Section 379.3761, F.S., and authorizing possession of such wildlife.

(b) Effective Date: All permanent identification requirements in this rule shall not take effect until January 1, 2010.

(2) Persons possessing Class I wildlife for personal use shall comply with all provisions of this chapter relating to the personal use of wildlife.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 379.3711, 379.372, 379.3761, 379.3762 FS. History—New 6-21-82, Formerly

68A-6.0022 Possession of Class I, II, or III Wildlife in Captivity: Permit Requirements.

(1) Permits to possess wildlife in captivity, issued pursuant to Section 379.3761 or 379.3762, F.S., and the provisions of this chapter, shall authorize the keeping of captive wildlife, of the type and number specified in applications approved by the Commission, in accordance with law and Commission rules. Captive wildlife maintained under permit shall, unless otherwise authorized, be maintained only at the facility specified in the permit application and approved by the Commission.

(2) No permit shall be required to possess the following wildlife for personal use, unless possession of a species is otherwise regulated by other rules of the Commission:

- (a) Reptiles or amphibians (nonvenomous, unprotected)
- (b) Gerbils, hedgehogs
- (c) Honey possums, sugar gliders
- (d) Shell parakeets
- (e) Rats and mice
- (f) Canaries
- (g) Moles; shrews
- (h) Rabbits
- (i) Squirrels; chipmunks
- (j) Ferrets (domestic; European)
- (k) Lovebirds
- (l) Guinea pigs
- (m) Cockatiels
- (n) Hamsters
- (o) Parrots
- (p) Finches
- (q) Myna birds
- (r) Toucans
- (s) Doves; ringed, ruddy, and diamond
- (t) Button quail
- (u) Prairie dogs
- (v) Chinchillas

(3) No permit shall be required for the sale of poultry, hamsters, guinea pigs, domestic rats and mice, gerbils, or chameleons (Anolis).

(4) No permit shall be issued to any person to possess Class III wildlife for exhibition, sale or personal use unless such person can meet the following requirements:

(a) Be 16 years of age or older.

(b) Application for permits to possess Class III wildlife for personal use shall include the satisfactory completion of a questionnaire developed by the Commission that assesses the applicant's knowledge of general husbandry, nutritional, and behavioral characteristics. Such information shall be documented on the Personal Use Application and Questionnaire form FWCDLE 621 (01/07), which is adopted and incorporated herein by reference. Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at www.myfwc.com/permits.

(c) Applicants for permits to possess capuchin, spider, or woolly monkeys shall meet the age, experience and examination requirements for authorization to possess Class II wildlife.

(d) Be able to provide satisfactory caging facilities as required in the standard caging requirements, Rule 68A-6.004, F.A.C., within 30 days of notification of tentative approval for a permit.

(e) Ensure that the conditions under which the wildlife will be held shall not constitute a threat to the public or to the animal.

(5) Qualification requirements for a permit to possess Class I or Class II wildlife:

All applicants shall qualify for permits as follows:

(a) Age Requirement: Applicants to possess Class I or Class II wildlife shall be at least 18 years of age.

(b) Applicants shall not have been convicted of any violation of captive wildlife regulations or venomous reptile or reptile of concern regulations involving unsafe housing of wildlife or that could potentially endanger the public; any violation involving the illegal commercialization of wildlife; any violation involving cruelty to animals; or any violation involving importation of wildlife within three (3) years of the date of application.

(c) Experience Requirement for Class I permits:

1. Applicants shall demonstrate no less than one (1) year of substantial practical experience (to consist of no less than 1000 hours) in the care, feeding, handling and husbandry of the species for which the permit is sought, or other species, within the same biological family (except crocodylians which shall be in the same biological order; ratites which shall be in the same biological sub-order; and cougars, panthers or cheetahs which shall remain at the genus level), which are substantially similar in size, characteristics, behavior, habits, care and nutritional requirements to the species for which the permit is sought.

2. For purposes of demonstrating compliance, applicants shall submit documentation of such experience, including:

a. A description of the specific experience acquired.

b. The dates and times the experience was obtained and the specific location(s) where acquired.

c. References of no less than two (2) individuals, no more than one of which may be a relative of the applicant, having personal knowledge of the applicant's stated experience. One of these references must be licensed by the commission for wildlife of the same family and the same or higher class for which the applicant is seeking authorization or a representative of a professional organization or governmental institution. Examples of such organizations or institutions include, but are not limited to, universities, public service agencies, zoological associations, herpetological societies and veterinarians.

d. Additional documentation may include records of prior permits for the keeping of captive wildlife, employment records, and any other competent documentation of the requisite experience.

3. Documented educational experience in zoology or other relevant biological sciences, obtained at the college or technical school level or above, may substitute for up to six months or 500 hours of the required experience.

4. Providing false information to document the applicant's experience, by the applicant or any reference, is prohibited as provided in Sections 837.012 and 837.06, F.S.

(d) Experience and examination requirements for Class II permits:

1. Applicants may qualify for a permit for Class II wildlife by documenting one year of experience (to consist of no less than 1000 hours) as defined in subparagraphs 68A-6.0022(5)(c)1.-4., F.A.C., above. If the applicant is unable to document such experience, as an alternative, the applicant may take a written examination. The successful completion of a written examination for the particular species or family, administered by the Division of Law Enforcement, together with the documentation of not less than 500 hours of substantial practical experience (with documentation and compliance procedures as noted in subparagraphs 68A-6.0022(5)(c)1.-4., F.A.C., above) in the care, feeding, handling and husbandry of the species or family for which the permit is sought may be substituted for the one-year/1,000-hour requirement. Upon receipt of an application, the Commission shall notify the applicant of the time and place of the next examination. Applicant scoring at least 80 percent correct on the examination shall be deemed as meeting the examination requirement for the particular species or family.

2. The above requirements shall not apply to applicants for permits to possess ostriches, rheas, emus, cassowaries or coyotes when possessed for purposes other than public exhibition or personal use.

3. The above requirements shall not apply to applicants for permits to possess American alligators in accordance with Section 379.3751, F.S.

4. The above requirements shall not apply to applicants for permits to possess species of the family *Bovidae* in accordance with Sections 379.3711 and 379.3712, F.S.

(e) Any licensed corporation applying for a permit or authorized to possess Class I or Class II wildlife must have qualified personnel responsible for the care of such wildlife. The corporation must provide documentation of experience for at least one person. Such person shall comply with the requirements defined in subparagraphs 68A-6.0022(5)(c)1.-4. and (d)1., F.A.C., above. Such documentation of experience shall be submitted to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, and subject to approval upon initial application and upon each instance of change in qualified person.

(f) Any person authorized pursuant to Section 379.3761, F.S., to exhibit or sell Class I wildlife shall obtain and maintain a current and valid USDA license, where applicable, pursuant to the Animal Welfare Act and Animal Welfare Regulations of Title 9 CFR. Such USDA license shall be obtained within 180 days of initial licensing by the Florida Fish and Wildlife Conservation

Commission. Failure to obtain and maintain a current and valid USDA license may result in denial or revocation of any Class I authorizations issued by the Florida Fish and Wildlife Conservation Commission.

(6) Except as otherwise provided, applicants for permits to possess wildlife in captivity shall specify the location of the facility at which the wildlife shall be kept or possessed. Prior to the issuance of a permit for Class I, Class II, or Class III capuchin, spider or woolly monkeys such facility shall be inspected and approved by Commission personnel prior to the issuance of the permit.

(7) Disaster and Critical Incident Plans: Applicants for permits to possess wildlife in captivity as authorized pursuant to Sections 379.3761 or 379.303, F.S., or the provisions of this chapter shall document in writing a course of action to be taken in preparation for disasters or critical incidents. Such course of action shall be documented on the Captive Wildlife Critical Incident/Disaster Plan form FWCDLE_619 (06/09), which is adopted and incorporated herein by reference. Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at www.myfwc.com/permits. This form shall consist of two parts. Part A of form FWCDLE_619 shall be submitted at the time of initial application or renewal; and Part B shall be retained in the permittee's files at the facility location and be made available for inspection upon request of Commission personnel and the director of the local emergency management agency for the county where the facility is located.

(a) Provisions of this subsection shall apply to permittees maintaining captive wildlife in Florida.

(b) For permittees where the facility is located out of state, the provisions of this subsection shall apply when such permittee is in travel status with Class I or Class II wildlife. In this instance Part B must accompany the Class I or Class II wildlife while in travel status in Florida and shall describe the course of action to be taken in the event of a critical incident or natural disaster in Florida.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3761, 379.3762 FS. History--New 7-1-90, Amended 7-1-90, 7-1-91, 2-1-98, Formerly 39-6.0022, Amended 4-30-00, 1-1-08, 8-27-09, 7-8-10.

68A-6.0023 General Regulations Governing Possession of Captive Wildlife; Public Contact; Transfer of Wildlife and Record Keeping Requirements.

(1) No person shall maintain captive wildlife in any unsafe or unsanitary condition, or in a manner which results in threats to the public safety, or the maltreatment or neglect of such wildlife.

(2) Caging Requirements:

(a) All wildlife possessed in captivity shall, except when supervised and controlled in accordance with subsection (3) hereof, be maintained in cages or enclosures constructed and maintained in compliance with the provisions of Rules 68A-6.003, 68A-6.004 and 68A-6.007, F.A.C.

(b) Cages or enclosures housing captive wildlife shall be sufficiently strong to prevent escape and to protect the caged animal from injury, and shall be equipped with structural safety barriers to prevent any physical contact with the caged animal by the public, except for contacts as authorized under subsection (3) of this rule. Structural barriers may be constructed from materials such as fencing, moats, landscaping, or close-mesh wire, provided that materials used are safe and effective in preventing public contact.

(c) All cages or enclosures less than 1,000 square feet shall be covered at the top to prevent escape (except paddocks, reptile enclosures and habitats specified below). Class I or Class II wildlife shall not be kept in uncovered enclosures that are less than 1,000 square feet, except as specified in Rule 68A-6.004, F.A.C. All outdoor enclosures for non-native venomous reptile species and reptiles of concern shall be topped with close-meshed wire or an equivalent barrier to provide additional security as specified in Rule 68A-6.007, F.A.C. For the purpose of this section, the following definitions apply:

1. Paddocks: Areas enclosed by fencing, railing or other Commission-approved structures which allow animals to graze or browse.

2. Reptile enclosures: Areas encompassed by smooth walls or other Commission-approved materials which provide safe keeping of venomous and non-venomous snakes, crocodilians and other reptiles.

3. Open air habitats or moated areas: Areas enclosed by Commission-approved fences, walls, or moats which provide safe keeping of species specified in Rule 68A-6.004, F.A.C.

(d) Caging considered unsafe or otherwise not in compliance herewith shall be reconstructed or repaired within 30 days after notification of such condition. In the event such condition results in a threat to human safety or the safety of the wildlife maintained therein, the wildlife maintained therein shall, at the direction of the Commission, be immediately placed in an approved facility, at the expense of the permittee, owner, or possessor, until such time as the unsafe condition is remedied. In instances where wildlife is seized or taken into custody by the Commission, said permittee, owner, or possessor of such wildlife shall be responsible for

payment of all expenses relative to the animal's capture, transport, boarding, veterinary care, or other costs associated with or incurred due to such seizures or custody. Such expenses shall be paid by said permittee, owner, or possessor upon any conviction or finding of guilt of a criminal or noncriminal violation, regardless of adjudication or plea entered, of any provision of Chapter 379 or 828, F.S., or rules of the Commission, or if such violation is disposed of under Section 921.187, F.S. Failure to pay such expenses shall be grounds for revocation or denial of permits to such individuals to possess wildlife.

(3) Unconfined captive wildlife shall be maintained under rigid supervision and control, so as to prevent injuries to members of the public. No captive wildlife shall be tethered outdoors unsupervised. To provide for public safety, all wildlife shall be tethered or controlled in such a manner as to prevent physical contact with the public and a structural safety barrier, as provided in paragraph (2)(b) above, must be present to prevent physical contact with unconfined Class I or Class II wildlife except in instances where public contact is allowed in paragraph (3)(a) below.

(a) Public contact and exhibition.

1. General: All Class I, II or III wildlife that will be used for contact with the public shall have been evaluated by the exhibitor to insure compatibility with the uses intended. All wildlife shall be exhibited in a manner that prevents injuries to the public and the wildlife. The exhibitor shall take reasonable sanitary precautions to minimize the possibility of disease or parasite transmission which could adversely affect the health or welfare of citizens or wildlife. When any conditions exists that results in a threat to human safety, or the welfare of the wildlife, the animal(s) shall, at the direction of a Commission officer, be immediately removed from public contact for an interval necessary to correct the unsafe or deficient condition.

2. Class I wildlife shall only be permitted to come into physical contact with the public in accordance with the following:

a. Full contact: For the purpose of this section, full contact is defined as situations in which an exhibitor or employee handler maintains proximate control and supervision, while temporarily surrendering physical possession or custody of the animal to another. Full contact with Class I wildlife is authorized only as follows:

I. Class I cats (Felidae only) that weigh not more than twenty-five (25) pounds;

II. Chimpanzees, orangutans, and gorillas that are not less than six (6) months of age and weigh not more than twenty-five pounds;

III. Gibbons and siamangs not less than four (4) months of age and not more than two (2) years of age;

IV. Elephants as approved in Rule 68A-6.0042, F.A.C.

b. Incidental contact: For the purpose of this section, incidental contact is defined as situations in which an exhibitor or employee handler maintains control, possession and supervision of the animal while permitting the public to come into contact with it. Incidental contact with Class I wildlife is authorized only as follows:

I. Class I carnivores except cheetahs and cougars that weigh not more than 40 pounds;

II. Chimpanzees, orangutans, and gorillas that are not less than six (6) months of age and weigh not more than 40 pounds;

III. Gibbons and siamangs that are not less than four (4) months of age: no maximum poundage or age limit;

IV. Elephants;

V. Incidental contact with other Class I wildlife must be approved in writing by the Commission prior to the use of the wildlife for incidental contact with the public. Factors to be considered when approving such contact are found in subparagraph (3)(a)1.

3. Public contact or handling intervals for Class I wildlife shall be limited as to frequency, intensity, and duration so that such handling will not adversely affect the health, welfare, or safety of the animals, nor expose the public to injury.

(4) Any condition which results in wildlife escaping from its enclosure, cage, leash, or other constraint, or which results in injury to any person, shall be considered a violation of subsection 68A-6.0023(1), F.A.C., hereof.

(5) Sanitation and Nutritional Requirements:

(a) Sanitation, water disposal, and waste disposal shall be in accordance with all applicable local, state, and federal regulations.

(b) Water: Clean drinking water shall be provided daily. Any water containers used shall be clean. Reptiles and amphibians that do not drink water from containers and those in an inactive season or period shall be provided water in a manner and at such intervals as to ensure their health and welfare. All pools, tanks, water areas and water containers provided for swimming, wading or drinking shall be clean. Enclosures shall provide drainage for surface water and runoff.

(c) Food: Food shall be of a type and quantity that meets the nutritional requirements for the particular species, and shall be provided in an unspoiled and uncontaminated condition. Clean containers shall be used for feeding.

(d) Waste: Fecal and food waste shall be removed daily from inside, under, and around cages and stored or disposed of in a manner which prevents noxious odors or pests. Cages and enclosures shall be ventilated to prevent noxious odors.

(e) Cleaning and maintenance: Hard floors within cages or enclosures shall be cleaned a minimum of once weekly. Walls of cages and enclosures shall be spot cleaned daily. The surfaces of housing facilities, including perches, shelves and any furniture-type fixtures within the facility, shall be cleaned weekly, and shall be constructed in a manner and made of materials that permits thorough cleaning. Cages or enclosures with dirt floors shall be raked a minimum of once every three days and all waste material shall be removed. Any surface of cages or enclosures that may come into contact with animal(s) shall be free of excessive rust that prevents the required cleaning or that affects the structural strength. Any painted surface that may come into contact with wildlife shall be free of peeling or flaking paint.

(6) No person shall possess any wildlife requiring a permit for personal use, or any wildlife for sale or exhibition, without documentation of the source and supplier of such wildlife. Possessors of such wildlife must maintain an accurate record of changes in inventory including acquisitions and sales or transfers of all wildlife. Possessors of Class I or Class II wildlife must also maintain an accurate record of all births and deaths. Such records shall be open to inspection upon request by commission personnel.

(a) Records of births or deaths must include the date of the birth or death and the quantity and species of each birth or death. For the purposes of this section "birth" shall be defined as the initial hatch or live birth date for the clutch or litter.

(b) Records of acquisition must include the date of acquisition; quantity and species of wildlife acquired; name and complete address of the supplier and permit or license identification number of the supplier where applicable.

(7) It shall be unlawful for any person to buy, sell, or transfer any wildlife to or from an unpermitted entity within Florida. No person shall sell or transfer wildlife without documenting such sale or transfer. The record of sale or transfer must be entered in the transferor's records and made available for inspection upon request of Commission personnel for a period of three years after the sale or transfer.

(a) Records of sale or transfer shall include the date of sale or transfer; quantity and species of wildlife sold or transferred; name and complete address of the recipient; and permit or license identification number of the recipient where applicable.

(b) Records of sale or transfer are not required for wildlife that may be possessed for personal use without a permit as specified in paragraphs 68A-6.0022(2)(a)-(v), F.A.C., unless such record keeping requirements are otherwise regulated by other rules of the Commission.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.1025, 379.303, 379.304 FS. History—New 7-1-90, Amended 2-1-98, Formerly 39-6.0023, Amended 8-27-09.

68A-6.0024 Commercialization of Wildlife; Bonding or Financial Responsibility Guarantee.

(1) Because the possession of wildlife in accordance with Section 379.3761, F.S., is commercial in nature any person permitted to possess wildlife per Section 379.3761, F.S., except hobbyist possessors of Class III wildlife, shall demonstrate consistent and sustained commercial activity in the form of exhibition or sale of such authorized wildlife. For the purposes of this section a "hobbyist" is defined as one whose primary purpose for possession of such Class III wildlife is personal enjoyment but may occasionally exhibit or sell such wildlife. Consistent and sustained commercial activity may be demonstrated by the following examples of business procedures including, but not limited to:

- (a) A regular media advertising campaign, or Internet Web site;
- (b) Signs, billboards or flyers advertising commercial wildlife services or operations;
- (c) Regular business hours during which the premises is open for commercial activity.
- (d) Written business is conducted on printed letterhead, indicating the name of the company or business;
- (e) Documented exhibition of wildlife to the public, with or without a charge;
- (f) Sale of wildlife including any lesser acts thereof as defined in Rule 68A-1.004, F.A.C.

(2) It is unlawful to exhibit venomous reptiles to the public without having posted a performance bond as listed below.

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission shall be submitted at the time of initial license application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the performance bond expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850) 414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301. The terms of the performance bond shall include the following:

1. The exhibitor shall indemnify and save harmless the injured party if an injury occurs or other damage results from exhibited reptiles.

2. The exhibitor shall fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) In lieu of a surety bond, a person may submit a cash bond to the Florida Fish and Wildlife Conservation Commission to satisfy the performance bond requirement. Such payment shall be in the sum of \$10,000 and may be in the form of cash, cashier's check, or certified check. In the instance of a check, such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the exhibitor in instances of non-issuance or denial of the initial license application; or the exhibitor has submitted a request for refund to include a notarized statement that they no longer exhibit venomous reptiles.

(c) The performance bond will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury occurs or other damage results from exhibited reptiles and the exhibitor fails to indemnify and save harmless the injured party; or

2. The exhibitor fails to fully comply with all laws of the state and rules of the commission governing the capturing, keeping, possessing or exhibiting of venomous reptiles.

(d) The exhibition of venomous reptiles in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000 is prohibited.

(3) It is unlawful to possess Class I wildlife without having guaranteed financial responsibility. The following methods of payment will satisfy the financial responsibility requirement:

(a) A valid performance bond payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000, in compliance with and as noted in paragraph 68A-6.0024(1)(a), F.A.C., above. The terms of the performance bond shall include the following:

1. The possessor shall indemnify and save harmless the injured party if an injury to the public occurs, including accidental death, or other property damage occurs from the Class I wildlife.

2. The possessor shall indemnify and save harmless the Florida Fish and Wildlife Conservation Commission for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of Class I wildlife.

3. The performance bond shall be for the duration of not less than the duration of the licensing period.

(b) Cash, cashier's check, or certified check in the sum of \$10,000. In the instance of a check such instrument shall be made payable to the Florida Fish and Wildlife Conservation Commission. Such cash bond shall be refunded to the possessor of Class I wildlife in instances of non-issuance or denial of the initial license application; or the possessor has submitted a request for refund to include a notarized statement that they no longer possess Class I wildlife.

(c) Irrevocable letter of credit issued by a bank, savings and loan, credit union or other similar state or federally chartered financial institution, payable to the Florida Fish and Wildlife Conservation Commission in the sum of \$10,000.

(d) In lieu of the \$10,000 financial responsibility guarantee any person possessing Class I wildlife may maintain comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate as shall protect the possessor of Class I wildlife from claims for damage for personal injury, including accidental death, as well as claims for property damage which may arise. The insurance policy shall be for a duration of not less than the duration of the licensing period. A current Certificate of Insurance evidencing proof of insurance maintained by the possessor of Class I wildlife in such amounts as required by this section, including terms, coverage and expiration date, shall be submitted at the time of initial application and upon renewal. The licensee shall notify the Florida Fish and Wildlife Conservation Commission in writing within 5 calendar days if the insurance policy expires, is cancelled or revoked, or for any other reason becomes invalid. The notification in writing may be delivered by fax at (850) 414-8212, or by mail or hand delivery to Florida Fish and Wildlife Conservation Commission, Office of Licensing and Permitting, 2590 Executive Center Circle, Suite 200-Berkley Building, Tallahassee, Florida 32301.

(e) The performance bond or financial responsibility guarantee in the sum of \$10,000, or any portion thereof, will be forfeited to the Florida Fish and Wildlife Conservation Commission if:

1. An injury to the public, including accidental death, or other property damage results from Class I wildlife and the possessor of such Class I wildlife fails to indemnify and save harmless the injured party; or

2. Class I wildlife is taken into custody or seized by commission personnel. In instances where Class I wildlife is seized or taken into custody by the Commission the permittee shall be responsible for payment of all expenses relative to the capture, transport, boarding, veterinary care, or other costs associated with or incurred due to seizure or custody of the wildlife.

(f) The possession of Class I wildlife in the absence of a current and valid performance bond, payable to the Florida Fish and Wildlife Conservation Commission, in the sum of \$10,000, or a financial responsibility guarantee in the sum of \$10,000, or a current and valid comprehensive general liability insurance with minimum limits of \$2 million per occurrence and \$2 million annual aggregate is prohibited.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304, 379.305, 379.373, 379.374 FS. History—New 2-1-08, Amended 8-27-09, 6-7-10, 12-6-10.

68A-6.0025 Sanctuaries; Retired Performing Wildlife and Identification.

(1) Only a corporation that is licensed in accordance with Section 379.3761, F.S., and exempt from taxation under section 501(a) of the Internal Revenue Code and described in sections 501 (c)(3) and 170(b)(1)(A)(vi) of such code, may operate a wildlife sanctuary for captive wildlife. For the purposes of this section a “wildlife sanctuary for captive wildlife” is defined as a facility established for the sole purpose of providing lifetime care for unwanted or infirmed captive wildlife. Such wildlife sanctuary for captive wildlife shall be operated in compliance with the provisions of Chapter 68A-6, F.A.C., and this section.

(a) Each wildlife sanctuary for captive wildlife must maintain and have available for inspection proof of current status as a Florida registered not-for-profit corporation and proof of current exemption from taxation under section 501(a) of the Internal Revenue Code and described in sections 501 (c)(3) and 170(b)(1)(A)(vi) of such code.

(b) Acts which perpetuate the commercial trade in wildlife, including the trade, sale, offering for trade or sale, breeding except as authorized herein, or buying of captive wildlife or parts thereof, by any such wildlife sanctuary for captive wildlife are prohibited.

(c) Full or incidental contact between the public and such captive wildlife as defined in subparagraphs 68A-6.0023(3)(a)2.-3., F.A.C., is prohibited.

(d) All wildlife maintained by such sanctuary for captive wildlife shall be permanently identified by means of tattoo, brand, passive integrated transponder (PIT tag), photographic identification, or other method that clearly and permanently identifies that particular specimen so as to be distinguished from other specimens of the same species.

1. For photographic identification the photograph of the specimen must include sufficient distinguishing characteristics (marks, scars, and patterns, etc.) to enable that particular specimen to be distinguished from other specimens of the same species.

2. Record of identification including PIT tag numbers where applicable, along with information about the specimen being identified (species, method of identification, specimen name or number, gender and age) must be maintained in the possessors records for as long as the specimen is possessed. Such records shall be made available for inspection, upon request, of commission personnel. A copy of such record shall be provided to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, upon annual renewal of the license issued in accordance with Section 379.3761, F.S., and authorizing possession of such wildlife.

(e) Rare, endangered or otherwise protected specimens of wildlife may be transferred for breeding purposes in instances where such breeding program clearly enhances the survival potential of the species.

(f) Any sanctuary possessing Class I wildlife as listed in Rule 68A-6.002, F.A.C., must meet the bonding or financial responsibility guarantee requirements of paragraphs 68A-6.0024(3)(a)-(f), F.A.C.

(2) Any person licensed in accordance with Section 379.3761, F.S., who possesses performing wildlife that due to its age or physical condition may no longer perform, may retain such retired performing wildlife for the purposes of providing lifetime care for said wildlife. Such retired performing wildlife shall be permanently identified and records maintained and submitted as prescribed in subparagraphs (1)(d)1.-2., above.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.921 FS. History—New 8-27-09, Amended 12-6-10.

68A-6.003 Facility and Structural Caging Requirement for Class I, II and III Wildlife.

(1) In addition to the standard caging requirements set forth in Rule 68A-6.004, F.A.C., Class I and Class II animals shall be caged in accordance with the following requirements:

(a) All cages or enclosures of Class I and Class II wildlife, and Class III capuchin, spider and woolly monkeys, except

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paddocks, approved open air habitats, or outdoor reptile enclosures shall be equipped with a safety entrance. A safety entrance is defined as a protected, secure area that can be entered by a keeper that prevents animal escape and safeguards the keeper, or a device that can be activated by a keeper that prevents animal escape and safeguards entry. Such entrances shall include: A double-door mechanism, interconnecting cages, a lock-down area, or other comparable devices, subject to Commission approval, that will prevent escape and safeguard the keeper. Safety entrances shall be constructed of materials that are of equivalent strength as that prescribed for cage construction for that particular species.

(b) All cages or enclosures constructed of chain link or other approved materials shall be well braced and securely anchored at ground level to prevent escape by digging or erosion. Cages shall be constructed using metal clamps, ties or braces of equivalent strength as the material required for cage construction for the particular species. Cages or enclosures using the ground as flooring must meet the following requirements:

1. For enclosures housing wildlife that exhibits a behavior of digging or burrowing:

Enclosures shall have a footer or bottom apron constructed of concrete, chainlink or equivalent strength material as specified in this rule for the housing of such wildlife. The footer must be a depth of 3 feet. In the instance of a bottom apron, the bottom apron must be securely attached to the bottom of the enclosure fencing or wall and extend inward into the enclosure a minimum of 3 feet. The bottom apron must be buried to prevent injury to the captive wildlife in the enclosure.

2. For enclosures affected by erosion:

Measures must be taken to stop the erosion. Such measures may include, but are not limited to, a footer or bottom apron as described above or other measures capable of ensuring the structural integrity of the enclosure and preventing the escape of the captive wildlife.

(2) In order to assure public safety, the facilities for the housing of Class I and Class II wildlife shall meet the requirements of this rule. Compliance with these requirements is a necessary condition for licensure. For the purposes of this rule, a "facility" means the site at which Class I or Class II wildlife are kept or exhibited, except for those locations where the standard caging requirements are exempted under Rules 68A-6.0041 and 68A-6.005, F.A.C. Upon receipt of an initial application regarding Class I or Class II wildlife, the Florida Fish and Wildlife Conservation Commission shall notify the county or municipality wherein the proposed facility is to be located of a pending application. Current licensees that desire to expand their inventory to include a family of Class I or Class II species not previously authorized at their facility location shall comply with the requirements herein. Requests to upgrade wildlife classification authorizations shall be considered initial applications for license purposes. Applicants shall complete and submit a Facility Location Information form, FWCDLE_616IV (09-10), which is adopted and incorporated herein by reference. Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at www.myfwc.com/permits.

(a) Notification of escapes: Any person authorized to possess any Class I wildlife as listed pursuant to Rule 68A-6.002, F.A.C., must report any escapes from the primary caging or enclosures or the approved facility location; or other enclosure, cage, leash or other constraint when wildlife is away from such approved facility location, to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement. Such reporting shall occur immediately upon discovery of the escape. Any person authorized to possess Class I wildlife shall maintain a list of the current contiguous land owners or neighbors in Part B of the Captive Wildlife Critical Incident/Disaster Plan form FWCDLE_619 (06/09), as required in subsection 68A-6.0022(7), F.A.C. Such list shall include the name, address and contact phone number for contiguous land owners or neighbors. For the purposes of this section a "contiguous land owner or neighbor" shall mean the current resident for all properties sharing a common boundary with the facility location. The entire width of a dedicated roadway shall be considered sharing a common boundary in instances of a dedicated roadway between neighboring properties.

(b) Notwithstanding other requirements of this rule, facilities licensed pursuant to this section may be transferred through will, trust or probate proceedings to a lawful heir and such facilities may remain in the same location. Said heir must be qualified to receive the classifications of wildlife applied for and shall complete applications for licenses to receive same. The transfer shall not occur until a final on-site inspection is conducted by Commission personnel and the license is approved and issued.

(c) Facility requirements:

1. Property ownership/lease:

a. The facility shall be constructed on property owned or leased by the applicant. If leased the lease shall be for a term of not less than one (1) year from date of application. Such lease shall be subject to initial and annual review and approval by the commission as a condition of said lease.

b. If the property is leased, the lessee must have exclusive rights to occupy, possess and use the property with no restrictions that could prevent the lessee from adhering to the eligibility requirements for licensure with no other in holdings or easements.

c. The existence of any such lease restrictions or termination of the lease shall result in the denial or revocation of the license or permit.

★ 2. Land area:

a. Class I wildlife: The facility shall not be constructed on less than five (5) acres.

b. Class II wildlife: The facility shall not be constructed on less than two and one-half (2 1/2) acres.

c. The total facility shall not be comprised of more than two (2) parcels of land whether leased, owned or a combination of leased or owned parcels. If more than one parcel, the adjacent parcels must have a minimum of 100 feet common linear boundary.

3. Buffer zones:

✂ The facility shall contain a "buffer zone" of not less than thirty-five (35) feet between the caged wildlife and the facility property line.

4. Perimeter fencing:

a. Class I wildlife: The cages of the facility shall be bounded by a fence of not less than eight (8) feet high.

b. Class II wildlife: The cages of the facility shall be bounded by a fence of not less than eight (8) feet high, or as an alternative, a fence of not less than six (6) feet high, with a 2-foot, 45 degree, inward angle overhang.

c. All vertical fencing and inward angle overhang fencing of the perimeter fence shall be constructed of 11 1/2 gauge chain link or equivalent.

(d) Exemptions:

The following Class I and Class II wildlife are exempt from the facility requirements of subparagraphs (2)(c)1.-4., as listed above:

1. Permits authorizing possession of infants only including:

a. Class I or Class II carnivores until they reach 25 pounds or six (6) months of age, which ever comes first, provided written documentation is available to verify the age of the animal, the animal is marked or otherwise identifiable, and the animal is provided space for exercise on a daily basis:

b. Class I and II primates until they reach the age of twelve (12) months, provided written documentation is available to verify the age of the animal, the animal is marked or otherwise identifiable, and the animal is provided space for exercise on a daily basis.

2. Crocodilians four (4) feet in length or less.

3. Cats: Ocelots (*Leopardus pardalis*), Serval (*Leptailurus serval*), Caracals (*Caracal caracal*), Bobcats (*Lynx rufus*), African golden cats (*Profelis aurata*), Temminck's golden cats (*Profelis temmincki*), and Fishing cats (*Prionailurus viverrina*).

4. Non-human primates: Uakaris (*genus Cacajao*), Sakis (*genus Chiropotes and Pithecea*), and Guenons (*genus Cercopithecus*) not including Patas monkeys (*genus Erythrocebus*), De Brazza's monkey (*Cercopithecus neglectus*), Blue monkey (*Cercopithecus mitis*), Preuss's monkey (*Cercopithecus preussi*) or any other non-human primate of the genus *Cercopithecus* which exceeds the normal adult weight of fourteen (14) pounds.

(e) Any Class I or Class II wildlife exempt from meeting the facility requirements of subparagraphs (2)(c)1.-4., of this rule must meet the following:

1. Class I wildlife shall not be possessed in any multi-unit dwellings or on any premises consisting of less than one quarter acre of land area.

2. Class II wildlife shall not be possessed in multi-unit dwellings unless the dwelling in which they are housed is equipped with private entrance, exit and yard area.

3. A fence sufficient to deter entry by the public, which shall be a minimum of five (5) feet in height, shall be present around the premises wherein Class I or Class II animals are housed or exercised outdoors.

(f) The above facility requirements relating to land area, buffer zones, and perimeter fencing, shall be effective January 1, 2008, but shall not apply to those facilities licensed to possess captive wildlife species prior to that date. After January 1, 2008, those licensees that desire to expand their inventory to include a family of Class I or Class II species not previously authorized at their facility location shall comply with the requirements herein. Requests to upgrade wildlife classification authorizations shall be considered new applications for license purposes.

(3) Additional requirements for specific species shall be as follows:

(a) Group I – Chimpanzees (over 50 pounds), gorillas, orangutans.

1. Outdoor facilities – Cage construction materials shall consist of steel bars, two-inch galvanized pipe, masonry block or their

strength equivalent.

2. Indoor facilities – Potential escape routes shall be equipped with steel bars, two-inch galvanized pipe or equivalent in rooms where the wildlife is maintained.

(b) Group II – Chimpanzees (up to 50 pounds), drills, mandrills, baboons, snow leopards, jaguars, tigers, lions, bears.

1. Outdoor facilities – Cage construction materials shall consist of not less than nine-gauge chain link or equivalent.

2. Indoor facilities – Potential escape routes shall be equipped with wire or grating of not less than nine-gauge or equivalent.

(c) Group III – Rhinoceros, elephants, hippopotamus, cape buffalos, gaur.

Indoor and outdoor facilities – Construction materials shall consist of steel bars, masonry block or equivalent.

(d) Group IV – Crocodiles, gavials, alligators, caimans, komodo dragons.

Outdoor facilities – Bounded by a fence at least five feet in height of not less than 11 1/2 gauge chain link or equivalent.

(e) Group V – Gibbons, siamangs, patas monkeys, howler monkeys, uakaris, mangabeys, guenons, sakis, guereza monkeys, celedes black apes, indris, macaques, langurs, proboscis monkeys, spider monkeys, woolly monkeys, and capuchin monkeys, leopards, cougars, clouded leopards, cheetahs, ocelots, servals, lynx, bobcats, caracals, African golden cats, Temminck's golden cats, fishing cats, wolves, coyotes, jackals, Indian dholes, African hunting dogs, aardwolves, binturongs, and Old World badgers.

1. Outdoor facilities – Construction material shall consist of not less than 11 1/2 gauge chain link or equivalent.

2. Indoor facilities – Potential escape routes shall be equipped with wire or grating not less than 11 1/2 gauge or equivalent.

(f) Group VI – Wolverines, honey badgers, American badgers, and hyenas.

1. Outdoor facilities – Cage construction materials shall consist of not less than 9 gauge chain link or equivalent.

2. Indoor facilities – Potential escape routes shall be equipped with wire or grating of not less than 9 gauge chain link or equivalent.

(g) Group VII – Ostrich, cassowary.

Outdoor facilities – Bounded by a fence of at least six feet in height of not less than 11 1/2 gauge chain link or equivalent.

(h) Group VIII – Class III mammals (except spider, woolly, and capuchin monkeys) and Varanidae (except Komodo dragon), giraffe, okapi, tapir, wild cattle, forest, woodland and aridland antelope; and similar species of non-native hoofstock (family Bovidae). Such non-native hoofstock to include: Forest buffalo, Banteng, Anoa, Waterbuck, Wildebeest, Hartebeest, Eland, Kudu, Nilgai, Bongo, lechwe, Roan and Sable antelope, Sitatunga, Bontebok, Blesbok, Topi, Kob, Addax, Oryx, Gemsbok, and other wild species of the family Bovidae which are of similar size, habits and nature.

1. Outdoor facilities – Cage construction materials shall consist of not less than 14-gauge wire or strength equivalent material.

2. Indoor facilities – Rooms may serve as enclosures provided that:

a. Construction materials equal or exceed the strength equivalent for outside caging.

b. Potential escape routes are secured, or the animal is supervised to ensure against escape.

c. The size of the room(s) equals or exceeds that required for cages and enclosures in Rule 68A-6.004, F.A.C.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.3761, 379.3762 FS. History—New 8-1-79, Amended 6-21-82, Formerly 39-6.03, Amended 6-1-86, 7-1-90, 7-1-92, 2-1-98, Formerly 39-6.003, Amended 1-1-08, 1-8-08, 8-27-09, 11-8-10, 12-6-10.

68A-6.004 Standard Caging Requirements for Captive Wildlife.

(1) No captive wildlife shall be confined in any cage or other enclosure which contains more individual animals, or is smaller in dimension than as specified in this section, or is not equipped as specified in this section, except as defined in Rule 68A-6.0041, F.A.C., or as authorized in accordance with the following:

Requests for deviations from standard caging or enclosure requirements may be granted to allow for different size configuration (length, width and height) if the required square footage is adequate and if the locomotory needs of the animal(s) are not compromised. Wet or dry moats may be substituted for the required fencing for retaining some species of wildlife. Any proposed deviations from the standard caging or enclosure requirements, or proposals to use wet or dry moats to substitute for fencing, or proposals to use open air habitats except as provided herein, must be approved in writing by the Commission prior to the use of the cage or enclosure for housing animals.

(2) Definitions: Where specified in this section, wildlife cages and enclosures shall be equipped to provide for the protection and welfare of the animals. Such equipment includes, but is not limited to:

(a) Shelter, nest box or den: A structure that protects captive wildlife from the elements (weather conditions). Such structures

may vary in size depending on the security and biological needs of the species. They are particularly described as follows:

1. Shelter: A structure which shall provide protection from the elements and from extremes in temperature that are detrimental to the health and welfare of the animal. When vegetation and landscaping is available to serve as protection from the elements, access to a shelter shall also be provided during inclement weather conditions. Such shelter shall be attached to or adjacent to the paddock, habitat, or enclosure.

2. Nest box or den: An enclosed shelter that provides a retreat area within, attached to, or adjacent to a cage or enclosure of specified size, which shall provide protection from the elements and from extremes in temperature that are detrimental to the health and welfare of the animal.

(b) Elevated platform or perching area: A surface or structure, either natural or manmade, positioned above the floor, or above the grade level of the cage or enclosure, that will provide a resting area for the animal(s).

(c) Original floor area: The total square footage required for the initial number of animals specified. For example, this is calculated by finding the new total area required for 4 squirrel monkeys when the original floor area equals 20' for 1 or 2 animals (4' x 5' x 5' high). For each additional animal, there is an increase in cage or enclosure size by 25 percent of original floor area. For two additional monkeys: $25\% \times 20' \times 2 \text{ animals} = 10'$; add 10' to 20' = 30 total square feet of floor area required for 4 monkeys. New cages or enclosures can be 6' x 5' x 5' high, or any width/length dimension that equals or exceeds the increased cage or enclosure space.

(d) Gnawing and chewing items: Natural or artificial materials that provide for the health of teeth, so as to, keep teeth sharp, wear down enamel and promote general oral hygiene. Gnawing items include, but are not limited to, logs and trees. Chewing items include, but are not limited to, woody stems, knuckle bones, and rawhide objects; suitability dependent upon species.

(3) Primates: Additional cage or enclosure requirements for primates: In addition to requirements of this section, each cage or enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, boxes, balls, mirrors or foraging items.

(a) Prosimians:

1. Small (e.g., bush babies, loris, potto, angwantibo, tarsiers, and mouse, dwarf, forked, marked, and sportive lemurs)

a. For one or two animals, a cage 3 feet by 3 feet, 4 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and nest box(es) that will accommodate all animals in the enclosures simultaneously. Each cage shall also have climbing apparatus.

2. Medium (e.g., lemurs: ruffed, cata, true, gentle, avahi, aye-aye)

a. For one or two animals, a cage 4 feet by 5 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and nest box(es) that will accommodate all animal(s) in the enclosure simultaneously. Each cage shall also have climbing apparatus.

3. Large (e.g., sifakas, indris).

a. For one or two animals, a cage 6 feet by 6 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and nest box(es) that will accommodate all animal(s) in the enclosure simultaneously. Each cage shall also include climbing apparatus.

(b) New World Monkeys:

1. Tamarins and Marmosets.

a. For one or two animals, a cage 3 feet by 3 feet, 4 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and nest box(es) that will accommodate all animal(s) in the enclosure simultaneously. Each cage shall also include climbing apparatus.

2. Squirrels, titis, owls, talapoins and similar sized monkeys.

a. For one or two animals, a cage 4 feet by 5 feet, 5 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching areas and nest box(es) that will accommodate all animals in the enclosure simultaneously. Each cage shall also have climbing apparatus.

3. Medium-sized New World monkeys (e.g., capuchins, sakis, uakaris).

a. For one or two animals, a cage 6 feet by 6 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and shelter(s) that will accommodate all animals in the enclosure simultaneously. Each cage shall also have climbing apparatus.

4. Large arboreal monkeys (e.g., howlers, spiders, woolly, woolly spider)

a. For one or two animals, a cage 6 feet by 6 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and shelter(s) that will accommodate all animal(s) in the enclosure simultaneously. Each cage shall also have horizontal climbing apparatus.

(c) Old World Monkeys:

1. Macaques, guenons, mangabeys, patas, langurs, colobus, proboscis, simakobu, snub-nosed, and similar sized monkeys.

a. For one or two animals, a cage 6 feet by 8 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and shelter(s) that will accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus.

2. Baboons, mandrills and drills.

a. For one or two animals, a cage 10 feet by 8 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and shelter(s) that will accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus.

(d) Apes:

1. Gibbons and siamangs.

a. For one or two animals, a cage 8 feet by 10 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and shelter(s) that will accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus.

c. Wet or dry moats may be substituted for the required fencing provided prior Commission written approval has been obtained. For island exhibits, wet moats shall be used that are no less than 24 feet wide, with 50 percent of the water having a depth twice the height of the tallest animal.

2. Chimpanzees and orangutans.

a. For one animal under 50 pounds, a cage 8 feet by 6 feet, 6 feet high. For each additional animal double the original floor area. For one or two animals over 50 pounds, a cage 20 feet by 12 feet, 8 feet high. For each additional animal, increase cage size by 50 percent of original floor area.

b. Each cage shall have perching area(s) and shelter(s) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus.

c. Wet or dry moats may be substituted for the required fencing provided prior Commission written approval has been obtained. For island exhibits, wet moats shall be used that are no less than 24 feet wide, with 50 percent of the water having a depth twice the height of the tallest animal.

3. Gorillas.

a. For one or two animals, a cage 28 feet by 24 feet, 10 feet high. For each additional animal, increase cage size by 50 percent of original floor area.

b. Each cage shall have a platform(s) large enough to accommodate all animals simultaneously; such platform(s) shall be elevated three feet. Each cage shall also have shelter(s) large enough to accommodate all animals in the enclosure simultaneously.

c. Wet or dry moats may be substituted for the required fencing provided prior Commission written approval has been obtained. For island exhibits, wet moats shall be used that are no less than 24 feet wide, with 50 percent of the water having a depth twice the height of the tallest animal.

(4) Carnivores and Certain Omnivores with Similar Requirements:

(a) Wild felines.

In addition to requirements of this section, each cage or enclosure shall be equipped with a shelter(s)/nest box(es) large enough to accommodate all the animals in the enclosure simultaneously. Each enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, boxes, balls, bones, barrels, drums, rawhide, pools, etc.

1. African and Asian lions; tigers.

a. For one or two animals, a cage 24 feet by 10 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animal(s) simultaneously. Each cage shall have a claw log, unless the animal(s) front claws have been removed.

c. Outdoor cages over 1,000 square feet (uncovered) shall have vertical jump walls at least 10 feet high, with a 2-foot, 45 degree, inward angle overhang, or jump walls at least 12 feet high, without an overhang. The inward angle fencing shall be made of the same material as the vertical fencing. Wet or dry moats may be substituted for the required fencing provided prior Commission written approval has been obtained.

2. Jaguars, leopards, and cougars.

a. For one or two animals, a cage 20 feet by 10 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have a claw log, unless the animal(s) front claws have been removed.

c. Outdoor cages over 1,000 square feet (uncovered) for cougars shall have vertical jump walls at least 10 feet high, with a 4-foot, 45 degree, inward angle overhang. Leopards and jaguars shall not be kept in uncovered enclosures except in facilities with wet or dry moats, which have been previously approved in writing by the Commission.

3. Lesser cats (e.g., bobcats, lynx, ocelots, caracal, serval, margay, fishing cats, jungle cats, Teminick's cats, golden cats)

a. For one or two animals, a cage 12 feet by 6 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have a claw log, unless the animal(s) front claws have been removed.

4. Small cats (e.g., Geoffroy's cats, jaguarundis, leopard cats, wildcats (*Felis silvestris*), mountain cats, pampas cats, marbled cats, pallas' cats, sand cats, oncilla/tiger cats, black-footed cats, flat-headed cats, kodkods, rusty-spotted cats).

a. For one or two animals, a cage 6 feet by 6 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have a claw log, unless the animal(s) front claws have been removed.

5. Cheetahs.

a. For one or two animals, a cage 40 feet by 20 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously.

(b) Bears.

In addition to the requirements of this section, each cage or enclosure shall be equipped with a shelter(s) that shall accommodate all animals in the enclosure simultaneously. Each enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to boxes, balls, bones, barrels, drums, climbing apparatus, foraging items, etc.

1. Black bears, Asiatic, sloth, spectacled.

a. For one animal, a cage 20 feet by 20 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) for resting. Each cage shall have a 4 foot by 6 foot pool of water, 3 feet deep.

2. Sun bears.

a. For one animal, a cage 20 feet by 10 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) for resting. Each cage shall have a 3 foot by 4 foot pool of water, 2 feet deep.

3. Brown bears (e.g., European, grizzly, Kodiak) and polar bears.

a. For one animal, a cage 24 feet by 32 feet, 10 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) for resting. Each cage shall have a 6 foot by 10 foot pool of water, 4 feet deep, except for polar bears, which shall have a 10 foot by 10 foot pool, 5 feet deep.

(c) Raccoons, coati-mundis, olingos, kinkajous, ringtail (cacomistles).

In addition to the requirements for this section, each cage or enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, boxes, balls, mirrors, climbing apparatus, foraging items, etc.

1. For up to two animals, a cage 6 feet by 8 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

2. Each cage shall have perching area(s) and nest box(es) that will accommodate all animals in the enclosure simultaneously.

(d) Pandas (red).

In addition to the requirements for this section, each cage or enclosure shall be provided with an environment or devices that allow for temperature regulation necessary to ensure the well-being of the species. Each cage or enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, climbing apparatus, foraging/browse items, pools of water, etc.

1. For one animal, a cage 10 feet by 10 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

2. Each cage shall have perching area(s) that will accommodate all animals in the enclosure simultaneously.

3. Shelter must be provided at all times to protect animals from excessive heat.

(e) Badgers, weasels and polecats, skunks, fishers, ferrets, otters, wolverines, minks, martins, civets, genets, mongoose, and binturong.

In addition to the requirements for this section, each cage or enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, boxes, balls, PVC tubing, etc. Each cage shall have a shelter(s)/den(s)/nest box(es) that will accommodate all animals in the enclosure simultaneously.

1. Small (e.g., ferrets, weasels, polecats, skunks).

a. For one or two animals, a cage 5 feet by 4 feet, 3 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

b. Each cage shall be equipped with chewing items.

2. Arboreal (e.g., martins, fishers, genets, small or medium civets).

a. For one or two animals, a cage 6 feet by 4 feet, 6 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

b. Each cage shall be equipped with perching areas, climbing apparatus, and chewing items.

3. Medium (e.g., badger).

a. For one or two animals, a cage 6 feet by 6 feet, 4 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

b. Each cage shall have chewing items and an area of sufficient depth to provide for digging.

4. Large (e.g., wolverine, binturong, African civet).

For one or two animals, a cage 10 feet by 10 feet, 6 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

5. Aquatic (e.g., common river otters, sea otters, giant river otter). For sea otters, specifications will be as required by Federal regulations, incorporated herein by reference as found in Title 9 C.F.R., Chapter I Part 3, Subpart E.

a. For one or two animals, a cage 10 feet by 10 feet, 6 feet high. For each additional animal, increase the cage size by 25 percent of original floor space.

b. Each cage shall have a 8 foot by 4 foot pool of water, 2.5 feet deep. For each additional animal, increase pool size by 25 percent of original pool area. Dry resting areas shall be provided.

(f) Rodents.

In addition to the requirements for this section, each cage or enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, boxes, balls, PVC tubing, browse, etc. Each cage shall have shelters or nest box(es) that will accommodate all animals in the enclosure simultaneously.

1. Small aquatic rodents (e.g., Florida water rat, muskrat).

a. For one or two animals, a cage 4 feet by 6 feet, 4 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

b. Each cage shall have a pool of water, 2 feet by 2 feet, 1 foot deep.

c. Each cage shall have gnawing items.

2. Medium aquatic rodents (e.g., nutria, mountain beaver).

a. For one or two animals, a cage 8 feet by 6 feet, 4 feet high. For each additional animal, increase the cage size by 25 percent of original floor space.

b. Each cage shall have a pool of water, 3 feet by 2 feet, 2 feet deep.

c. Each cage shall have gnawing items.

3. Large aquatic rodents (e.g., capybara, beaver).

a. For one or two animals, a cage 10 feet by 10 feet, 6 feet high. For each additional animal, increase the cage size by 25 percent of original floor space.

b. Each cage shall have a 6 foot by 8 foot pool of water, 3 feet deep. For each additional animal, increase the pool size by 25 percent of original floor area.

c. Each cage shall have gnawing items.

4. Large rodents (e.g., porcupines, cavies, paca, pacarana, agoutis).

a. Cavies, paca, pacarana, agoutis and similar sized ground dwelling rodents.

(I) For one or two animals, a cage 6 feet by 4 feet, 3 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

(II) Each cage shall have gnawing items.

b. South and North American porcupines.

(I) For one to two animals, a cage 8 feet by 6 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have gnawing items, perching areas and climbing apparatus.

c. Old World porcupines (e.g., crested, bush tailed, and similar sized animals).

(I) For one to two animals, a cage 8 feet by 8 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have gnawing items and browse. Each cage shall also have perching areas and climbing apparatus except for crested porcupines.

5. Squirrels and tree shrews.

a. Arboreal squirrels/tree shrews.

(I) For up to two animals, a cage 4 feet by 4 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have climbing apparatus and gnawing items.

b. Terrestrial squirrels.

(I) Small prairie dogs, chipmunks.

(A) For up to two animals, a cage 3 feet by 3 feet, 2 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

(B) Each cage shall have gnawing items.

(II) Large (e.g., marmots, ground hogs).

(A) For up to two animals, a cage 4 feet by 4 feet, 4 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

(B) Cage floors shall have an area of sufficient depth that provides for digging. Each cage shall have gnawing items.

(g) Wild rabbits, hares, and picas.

1. For up to two animals, a cage 6 feet by 4 feet, 3 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

2. Each cage shall have gnawing items.

(h) Wild Canids.

In addition to the requirements of this section, each cage or enclosure shall be equipped with a shelter(s)/ den(s) that shall accommodate all the animals in the enclosure simultaneously. Each enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to boxes, balls, bones, barrels, drums, rawhide, pools, etc.

1. Foxes, small (e.g., Fennec, kit).

a. For one or two animals, a cage 6 feet by 4 feet, 4 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously.

2. Foxes (e.g., red, grey, Arctic, bat eared, bush dogs).

a. For one or two animals, a cage 8 feet by 6 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously.

3. Wolves (e.g., gray wolf, except red wolf, maned wolf, hyenas, African wild dogs, Cape hunting dogs).

a. For one or two animals, a cage 20 feet by 10 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously.

c. Outdoor cages over 1,000 square feet (uncovered) shall have vertical jump walls at least 8 feet high, with a 45 degree inward angle overhang 2 feet wide or, jump walls 10 feet high without an overhang.

4. Coyotes, jackals, Asian wild dogs, red wolf, dingoes.

a. For one or two animals, a cage 20 feet by 8 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have an elevated platform(s) that shall accommodate all animals in the enclosure simultaneously.

c. Outdoor cages over 1,000 square feet (uncovered) shall have vertical jump walls at least 8 feet high with a 45 degree, inward angle overhang 2 feet wide or, jump walls 10 feet high without an overhang.

(i) Marsupials.

In addition to requirements of this section, each enclosure shall be equipped with a shelter(s) or nest box(es) that shall accommodate all the animals in the enclosure simultaneously. When vegetation or landscaping is available to serve as protection from the elements, access to a shelter shall also be provided during inclement weather conditions. Such shelter shall be attached to or adjacent to the paddock, habitat, or enclosure. Each paddock, habitat, or enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, browsing and grazing material.

1. Kangaroo (e.g., red, grey).

For one or two animals, a paddock enclosing 625 square feet, 8 feet high. For each additional animal, increase the cage by 25 percent of original floor area.

2. Walleroos and large wallabies (e.g., rock wallabies, and similar sized species).

For one or two animals, a paddock enclosing 500 square feet, 8 feet high. For each additional animal, increase the cage by 25 percent of original floor area.

3. Hare wallabies, forest wallabies (e.g., dama, potorros, rat kangaroos, and similar sized species).

For one or two animals, a paddock enclosing 100 square feet, 6 feet high. For each additional animal, increase the cage by 25 percent of original floor area.

4. Tree kangaroos (arboreal).

a. For one or two animals, a cage or enclosure 10 feet by 8 feet, 8 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus.

5. Ringtail opossums, gliders, pygmy possums, brushtail possums, cuscus, bandicoots.

a. Small (e.g., pygmy opossums).

(I) For one or two animals, a cage or enclosure 2 feet by 2 feet, 4 feet high. For each additional animal, increase cage size by 25 percent of original floor space.

(II) Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have a horizontal climbing apparatus.

b. Gliders (e.g., sugar glider, Family Petauridae).

(I) For one or two animals, a cage or enclosure 4 feet by 4 feet, 4 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have a horizontal climbing apparatus.

c. Ringtail possums (Family Pseudocheiridae).

(I) For one or two animals, a cage or enclosure 4 feet by 3 feet, 3 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have a horizontal climbing apparatus.

d. Cuscuses and brushtail possums (Phalangeridae).

(I) For one or two animals, a cage or enclosure 4 feet by 4 feet, 4 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have a horizontal climbing apparatus.

e. Bandicoots.

For one or two animals, a cage or enclosure 4 feet by 3 feet, 3 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

6. Marsupial carnivores (Dasyuridae).

a. Small (e.g., 3 striped marsupial mouse).

For one or two animals, a covered cage or enclosure 1 foot by 2 feet, 1 foot high. For each additional animal, increase cage size by 25 percent of original floor area.

b. Large (e.g., Tasmanian tiger cat, Tasmanian devil, marsupial cat).

For one or two animals, a cage or enclosure 4 feet by 6 feet, 4 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

7. American (New World) opossums/possums and honey possum.

a. Small (e.g., mouse opossums, honey possum: *Tarsipes rostratus*).

(I) For one or two animals, a cage or enclosure 2 feet by 2 feet, 2 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus.

b. Large (e.g., American, yapok, four-eyed, woolly, bushy-tailed, and similar sized animals).

(I) For one or two animals, a cage or enclosure 4 feet by 4 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

(II) Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus.

8. Wombats.

For one or two animals, a cage, enclosure, or paddock 10 feet by 10 feet, 6 feet high. For each additional animal, increase cage size by 25 percent of original floor area.

9. Koalas.

Indoor facilities with natural light sources such as windows and skylights shall be provided. Temperature extremes shall be avoided. The ambient temperature shall not be lower than 550 F nor exceed 850 F.

a. For one or two animals, a cage, or enclosure, 8 feet by 10 feet, 8 feet high. For each additional animal, increase cage size by

25 percent of original floor area.

b. Each cage shall have perching area(s) and horizontal climbing apparatus.

c. Shade must be provided at all times and such animals must be protected from the heat.

(j) Hedgehogs, tenrecs, and solendons.

1. For one or two animals, a cage 2 feet by 2 feet, 2 feet high. For each additional animal, increase the cage length by 50 percent.

2. Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously.

(k) Edentates (e.g., armadillos, pangolins, anteaters, sloth).

1. All armadillos except giant armadillo.

a. For one or two animals, a cage or enclosure, 4 feet by 4 feet, 4 feet high. For each additional animal, increase the cage length by 25 percent.

b. Cage floors shall include an area of sufficient depth to provide for digging. Each cage shall be provided with a den(s) that shall accommodate all animals in the enclosure simultaneously.

2. Giant armadillo.

a. For one or two animals, a cage 10 feet by 12 feet, 6 feet high. For each additional animal, increase the cage length by 25 percent.

b. Cage floors shall include an area of sufficient depth to provide for digging. Each cage shall be provided with a den(s) that shall accommodate all animals in the enclosure simultaneously.

3. Pangolin.

a. For one or two animals, a cage 10 feet by 10 feet, 8 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

b. Cage floors shall include an area of sufficient depth to provide for digging. Climbing apparatus shall be provided for arboreal species. A pool or tub of water shall be provided that shall accommodate the animal(s). Each cage shall be provided with a den(s) that shall accommodate all animals in the enclosure simultaneously.

4. Anteaters and aardvarks.

a. Small anteaters.

(I) For one or two animals, a cage 8 feet by 8 feet, 6 feet high. For each additional animal, increase the cage length by 25 percent.

(II) Cage floors shall include an area of sufficient depth to provide for digging. Climbing apparatus shall be provided for arboreal species. Each cage shall be provided with arboreal nest box(es) that shall accommodate all animals in the enclosure simultaneously.

b. Giant anteaters and aardvarks.

(I) For one or two animals, a cage 10 feet by 12 feet, 6 feet high. For each additional animal, increase the cage size by 25 percent of original floor area.

(II) Cage floor shall include an area of sufficient depth to provide for digging. Climbing apparatus shall be provided for arboreal species. Each cage shall be provided with a den(s) that shall accommodate all animals in the enclosure simultaneously.

5. Sloth (e.g., two-toed and three-toed).

In addition to the requirements for this section, each cage or enclosure shall have an accessible device to provide physical stimulation or manipulation compatible with the species. Such device shall be noninjurious, and may include, but is not limited to, natural or artificial trees, tree limbs, etc. Each cage shall have a shelter(s) or den(s) or nest box(es).

a. For one or two animals, a cage 4 feet by 6 feet, 8 feet high. For each additional animal, increase the cage length by 25 percent.

b. Each cage shall have perching area(s) and nest box(es) that shall accommodate all animals in the enclosure simultaneously. Each cage shall have horizontal climbing apparatus large enough to accommodate all animals in the enclosure simultaneously.

(l) Bats.

1. Bats with a wingspread from 2-6 feet.

a. For up to 6 animals, an enclosure 21 feet by 21 feet, 6 feet high. Each enclosure shall be designed to encourage uninterrupted flight by incorporating a center structure to impede cross flights. The available flight area shall be no less than 1.5 times the wingspread of the largest bat in the enclosure. The center structure may incorporate nest boxes, feeding stations, trees, resting

shelves, perches, columns, etc. For each additional animal, increase the enclosure size by 15 percent of the original floor area.

b. Each cage shall have perching areas and nest box(es) that shall accommodate all animals in the enclosure simultaneously.

Each cage shall have climbing apparatus.

2. Bats with a wingspread less than 2 feet.

a. The enclosure shall be large enough to permit aerial maneuvering within the enclosure.

b. Each cage shall have perching areas and nest box(es) that shall accommodate all animals in the enclosure simultaneously.

Each cage shall have climbing apparatus.

(m) Odd- and even-toed animals.

In addition to the enclosure requirements for this paragraph, each enclosure shall have a shelter(s).

1. Equids (e.g., zebras, asses) and large non-cursorial bovids (e.g., wild cattle, African buffalo, bison).

For one or two animals, a paddock enclosing 1,250 square feet, 6 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

2. Cervids (deer family) and cursorial bovids (antelope).

a. Large (e.g., elk, sambar, red deer, sable antelope, eland, wildebeest, and deer and antelope of similar size).

For one or two animals, a paddock enclosing 1,250 square feet, 8 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

b. Medium (e.g., white-tailed, fallow, axis, sika, pronghorn, deer and antelope of similar size).

For one or two animals, a paddock enclosing 800 square feet, 8 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

c. Small (e.g., roe, dikdik, muntjac, brocket, pudu, Chinese water deer, musk deer, deer and antelope of similar size).

For one or two animals, a paddock enclosing 450 square feet, 5 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

3. Camelids (e.g., vicuna and guanaco).

a. For one or two animals, a paddock enclosing 800 square feet, 6 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

b. Giraffes, okapi.

For one or two animals, a paddock enclosing 1,500 square feet, 8 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

4. Tapirs.

a. For one or two animals, a paddock enclosing 500 square feet, 6 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

b. Each enclosure shall have a pool of water, 60 square feet, 3 feet deep, equipped with a ramp or steps. For each additional animal, increase pool surface area by 25 percent of original area.

5. Wild swine (Suidae) and peccaries.

For one or two animals, a paddock enclosing 200 square feet, 4 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

6. Wild goats/sheep (Caprinae) (e.g., musk ox, goral, serow, takin).

For one or two animals, a paddock enclosing 500 square feet, 8 feet high. For each additional animal, increase paddock by 25 percent of the original footage.

(n) Elephants.

1. Non-performance.

For one animal in a non-performing static facility, a paddock enclosing 1,500 square feet, 6 feet high, with access to a shelter. For each additional animal, increase paddock size by 50 percent of the original area. Elephants which are tethered within such enclosure shall be provided with daily unrestrained movement periods, unless daily tethering is necessary due to the following situations:

a. Elephant needs restraining due to a training period;

b. Elephant is aggressive toward people or other animals in the compound;

c. Elephant is undergoing medical treatment or research;

d. Elephant is restrained for security or breeding purposes;

e. Constant tethering shall not exceed 14 days without a written justification from a veterinarian. Tethering shall permit normal

postural movement of the elephant.

2. Performing.

a. For one performing animal, a paddock enclosing not less than 700 square feet, 6 feet high, with access to a shelter. For each additional performing animal, increase paddock size by 50 percent of the original area. Elephants may be tethered in such enclosure; however, such restraint shall permit normal postural movements.

b. No facility shall utilize the performing elephant paddock dimensions prior to written approval by the Commission. To obtain such approval, the permittee shall provide written documentation to the Commission of exercise intervals and scheduled performances. The exercise intervals shall be of such frequency, intensity and duration as to provide for the health and welfare of the animal over an extended period. Such information shall be verifiable by Commission personnel through inspections.

c. When not kept in a paddock, performing, or being exercised, elephants shall either be (1) tethered, or (2) enclosed by an electric fence under the direct, on site, supervision of at least one qualified trainer/handler (see Rule 68A-6.0042(2), (3)(c), F.A.C.), in an area not accessible to the public.

(o) Rhinos.

1. For one animal, a paddock enclosing 1,500 square feet, 5 feet high. For each additional animal, increase the paddock by 50 percent of original paddock area.

2. Access to a shelter shall be provided.

(p) Hippopotamus (e.g., Nile and pygmy).

1. Nile.

a. For one animal, a paddock enclosing 1,500 square feet, 5 feet high, with a pool of water, 120 square feet, 5 feet deep, equipped with a ramp or steps. For each additional animal, increase paddock and pool surface area by 50 percent of original area.

b. Access to a shelter shall be provided.

2. Pygmy.

a. For up to two animals, a paddock enclosing 600 square feet, 4 feet high, with a pool of water 80 square feet, 3 feet deep, equipped with a ramp or steps. For each additional animal, increase paddock and pool surface area by 25 percent of original area.

b. Access to a shelter shall be provided.

(q) Reptiles and amphibians.

1. Reptiles.

In addition to requirements for this section, each enclosure shall be provided with an environment or devices that allow for temperature regulation necessary to ensure the well-being of the species. The environment or devices shall be non-injurious, and may include, but are not limited to ambient temperature, hot rocks, artificial lights, natural sunlight and heat strips. Each enclosure shall be provided with a non-injurious substrate, including but not limited to gravel, newspaper, processed wood shavings, rocks, sand, or indoor-outdoor carpet. Arboreal species of snakes or lizards shall be provided with a perch of sufficient height to allow for such specimen to perch or bask without any portion of its body or tail touching the floor, sides or roof of the enclosure. Enclosure sizes for all snakes or lizards shall be based on the total length of the longest specimen in the enclosure.

a. Snakes and glass lizards.

(I) Snakes, except as otherwise provided, and glass lizards:

For up to two specimens, a cage or enclosure having a perimeter equal to the length of the longest specimen, the width of the cage shall be ten inches or not less than 30 percent of the length of the longest specimen which ever is greater, and enclosure shall not be required to exceed 3 feet. For each additional specimen, increase perimeter by 10 percent.

(II) Blood pythons or large constrictors that exceed 12 feet upon maturity: Boas, pythons, or anacondas.

(A) Specimens up to 5 feet in length.

For up to two specimens, a cage or enclosure 2.5 feet by 1 foot. For each additional specimen increase perimeter by 10 percent. Constrictors of this size possessed for exhibition or sale are exempt from this minimum cage requirement but shall meet the requirements as indicated for snakes and glass lizards.

(B) Specimens 5 feet to 12 feet in length.

For up to two specimens, a cage or enclosure with a perimeter equal to 1.25 times the length of the longest specimen. The width of the cage shall not be less than 30 percent of the length of the longest specimen and shall not be required to exceed 3 feet. For each additional specimen, increase perimeter by 10 percent.

(C) Specimens greater than 12 feet in length.

For up to two specimens, a cage or enclosure with a perimeter equal to the length of the longest specimen. The width of the cage shall not be required to exceed 3 feet. For each additional specimen, increase perimeter by 10 percent.

b. Lizards (other than glass lizards).

(I) Lizards up to 6 inches in length. For one or two lizards, a cage or enclosure 12 inches by 8 inches, 6 inches high. For each additional lizard, increase enclosure size by one inch in length and width.

(II) Lizards 7 to 12 inches in length.

For one or two lizards, a cage or enclosure 20 inches by 10 inches, 12 inches high. For each additional lizard, increase size by two inches in length and width.

(III) Lizards 13 to 24 inches in length.

For one or two lizards, a cage or enclosure 30 inches by 12 inches, 12 inches high. For each additional lizard, increase size by three inches in length and width.

(IV) Lizards 25 to 36 inches in length.

For one or two lizards, a cage or enclosure 48 inches by 16 inches, 20 inches high. For each additional lizard, increase size by 10 inches or 25 percent in length and width.

(V) Lizards 37 inches to 6 feet in length.

For one or two lizards, a cage or enclosure 6 feet by 3 feet, 4 feet high. For each additional lizard, increase size by 25 percent of the original floor area.

(VI) Lizards over 6 feet in length.

For one or two lizards, a cage or enclosure 9 feet by 6 feet, 4.5 feet high. For each additional lizard, increase the size by 25 percent of original floor area.

c. Turtles, Tortoises and box turtles.

Each enclosure for turtles, tortoises and box turtles shall have a pool of water. The pool area shall equal no less than two (2) times the shell width by two (2) times the shell length. For turtles, other than tortoises and box turtles, such pool shall allow submersion of the largest turtle. For soft-shelled turtles, a non-abrasive pool bottom is required. Enclosure and pool sizes for all turtles, tortoises and box turtles shall be based upon the size of the largest specimen in the enclosure.

(I) Turtles (other than tortoises and box turtles):

For one or two turtles, an enclosure with an area at least five times the shell length by two times the shell width of the largest turtle. The pool area shall equal no less than two times the shell width, by two times the shell length of the largest turtle. A dry resting area equal to the size of the shell of the largest turtle shall be provided. For each additional specimen, increase original floor area and pool area by 10 percent.

(II) Tortoises and box turtles:

For one or two tortoises or box turtles, an enclosure with a floor area 10 times the shell size of the largest specimen in the enclosure. For additional specimens, the combined area covered by all their bodies shall not exceed 50 percent of enclosure area.

d. Crocodylians.

(I) For one animal, an enclosure of sufficient size to permit moving and turning both on a dry area and in a pool of water, the water being of sufficient depth to permit submersion.

(II) For additional animals, the combined area covered by all their bodies shall not exceed 50 percent of enclosure area.

e. Amphibians. Aquatic amphibians shall be kept in water filled tanks, or aquaria. Semi-aquatic amphibians shall be kept in enclosures, tanks, or aquaria, with a water area and a dry area that shall permit moving and turning. Both the dry area and the water area shall provide room to accommodate all animals in the enclosure simultaneously.

(r) Birds. Perching birds shall be provided with a perch of a diameter sufficient to prevent the meeting of the bird's claws, and of sufficient height to prevent floor contact. Perches and perching areas shall be sufficient to accommodate all birds in the enclosure simultaneously. Perches shall be constructed in a manner and of materials that provide for effective cleaning or replacement to insure the health of the birds. Enclosures shall be provided with shelter(s).

1. Psittacine and small Passerines

a. Large (e.g., large cockatoos, large macaws, including Palm cockatoos, green-winged and similar sized birds).

For one or two birds, a cage providing space sufficient to permit perching without the tail feathers touching the floor and provide for head clearance with normal posturing, with a minimum cage dimension to allow full extension of both wings. These measurements shall be based on the largest bird in the enclosure. For each additional bird, increase perimeter by 25 percent.

- b. Medium (e.g., medium-sized parrots, lorries and large conures including Amazons, Patagonian and similar sized birds).
For one or two birds, a cage 18 inches by 18 inches, 2 feet high. For each additional bird, increase perimeter by 25 percent.
- c. Small (e.g., parrots, cockatiels, lorries and parakeets).
For up to four birds, a cage 1 foot by 2 feet, 10 inches high. For each additional bird, increase perimeter by 25 percent.
- d. Very-small (e.g., canaries, finches, and similar-sized birds (except hummingbirds)).
For up to 2 birds, a cage 8 inches by 8 inches, 8 inches high. For each additional bird, increase perimeter by 25 percent.
- e. Hummingbirds and sunbirds.
For up to 5 birds, a cage 4 feet by 2 feet by 2 feet. For each additional bird, increase original floor area by 10 percent.
- f. Small and medium passerine birds (e.g., jays, doves, pigeons, starlings and other similar-sized birds).
For up to two birds, a cage 3 feet by 2 feet, 3 feet high. For each additional bird, increase perimeter by 25 percent.
- g. Large passerine (e.g., ravens, crows, magpies, small hornbills and similar-sized birds).
For up to two birds, a cage 4 feet by 4 feet, 6 feet high. For each additional bird increase original floor area by 25 percent.
- h. Ground hornbills, Indian great hornbills, crowned pigeons and similar sized birds.
(I) For up to three birds, a cage having 144 square feet of floor area, 6 feet high, with a perch elevated 4 feet above the floor.
(II) For each additional bird, increase cage original floor area by 25 percent.
- 2. Waterfowl.
 - a. Small to Medium (e.g., green-winged teal, mallard and similar sizes ducks, geese)
(I) For up to four birds, a cage with 75 square feet of land area and 7.5 square feet of water area.
(II) For each additional adult bird, increase enclosure and pool size by 25 percent.
 - b. Large (e.g., geese, swans, and similar size)
(I) For up to four birds, an enclosure with 150 square feet of land and 15 square feet of water area.
(II) For each additional adult bird, increase enclosure and pool size by 25 percent.
- 3. Eagles, hawks, owls, vultures, toucans and toucanets
 - a. For each bird, an enclosure 2 wingspreads by 3 wingspreads. The roof shall be of sufficient height to permit bird to perch erect on the highest perch.
 - b. For each additional bird, increase cage length by 50 percent and width by 25 percent.
 - c. Birds of prey used for falconry demonstrations shall be kept as specified in paragraph 68A-9.005(4), F.A.C.
- 4. Large ground-dwelling (e.g., Congo peafowl, Javan peafowl, curassows, wild turkeys, brush turkeys (moundbuilders), large grouse, capricali, and sage hen) (exhibit only)
 - a. For up to five birds, a cage having 144 square feet of floor, 6 feet high, with the perch elevated 4 feet above the floor.
 - b. For each additional bird, increase original floor area by 10 percent.
- 5. Lesser game birds (e.g., pheasants, wild guinea fowl, tragopans, snowcocks, partridge, grouse, chachalacas, guans) (exhibit only)
 - a. For up to five birds, a cage having 100 square feet of floor, 6 feet high, with the perch elevated 30 inches.
 - b. For each additional bird, increase original floor area 10 percent.
- 6. Quail (e.g., bob-white quail, scaled quail, button quail, and other species) (exhibit only)
 - a. For a pair, a cage 2 feet by 2 feet, 1 foot high.
 - b. For each additional animal, increase original floor area by 10 percent.
- 7. Wading birds (e.g., flamingos, ibises, spoonbills, herons, egrets, cranes, storks and their allies) and certain shore birds (plovers and sandpipers)
 - a. For up to five, a cage of 144 square feet, with a wading pool of water covering 14 square feet.
 - b. For each additional bird, increase original floor area by 25 percent.
- 8. Diving, skimming fish-eaters (e.g., pelicans, cormorants, anhinga, frigate birds, gannets, boobies, albatrosses, sheerwaters, petrels, sheepbills)
 - a. For up to two birds, a cage of 144 square feet, one half of which will be a pool of water, 18 inches deep.
 - b. For each additional bird, increase original paddock area by 25 percent.
- 9. Penguins (e.g., Humboldts, Emperor, King, Jackass, etc.), puffins, murre, auks
 - a. Puffins, murre, auks
For up to two birds, a cage of 100 square feet, one half of which shall be a pool of water, three feet deep. For each additional animal,

increase original floor area and pool size by 25 percent.

b. Penguins-large (e.g., Emperor, King, and southernmost species).

For up to two birds, a cage of 100 square feet, one half of which shall be a pool of water, three feet deep with flowing water, 55-degree Fahrenheit or less. For each additional animal, increase original floor area and pool size by 25 percent.

c. Penguins-small (e.g., Humboldts, blackfoot and northernmost species).

For up to two birds, a cage of 80 square feet, one half of which shall be a pool of water, two feet deep. For each additional bird, increase original floor area and pool size by 25 percent.

10. Ratites (e.g., ostrich, rhea, emu, cassowary)

a. For one or two birds, a paddock enclosing 500 square feet, four feet high (six feet for ostriches) with an attached shaded, protected area.

b. For each additional bird, increase original paddock area by 25 percent.

(5) Effective date: All cage and enclosure requirements in this rule shall not take effect until January 1, 2008.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304 FS. History—New 8-1-79, Amended 6-22-80, 6-4-81, Formerly 39-9.03, Amended 6-21-82, Formerly 39-6.04, Amended 5-10-87, 4-13-88, 7-1-90, 9-1-90, 4-14-92, 2-1-98, Formerly 39-6.004, Amended 1-1-08, 8-27-09.

68A-6.0041 Exceptions to Standard Caging Requirements for Captive Wildlife.

Wildlife may be temporarily housed in cages or enclosures smaller than the sizes set forth in Rule 68A-6.004, F.A.C., only under the following circumstances:

(1) For transport and for performing and non-performing animals as specified in Rule 68A-6.005, F.A.C.

(2) Wildlife being held for sale by those persons properly licensed pursuant to Section 379.3761 or 379.3711, F.S., or for veterinary care, or quarantine may be temporarily housed or caged in smaller cages or enclosures for a period not to exceed 60 days. With written notification to the Commission, this period may be extended in circumstances where a licensed veterinarian has certified that a longer holding period is medically necessary in the interests of the health, safety and welfare of the subject animals or the public. Medical records concerning all animals for which an extension of the 60-day period is obtained shall be maintained at the facility and shall be made available for inspection, upon request, by Commission personnel. The caging or enclosure of all wildlife temporarily held under this section shall not be smaller than that required for the caged animal to stand up, lie down, and turn around without touching the sides of the enclosure or another animal. All wildlife thus caged or housed shall be permanently marked or their enclosures shall be permanently marked, so as to be traceable to written records indicating the date the wildlife was placed in temporary holding. Such records shall be maintained and made available for inspection by Commission personnel. Commission personnel shall direct dealers to mark wildlife temporarily if, upon inspection, there is no record indicating the date the wildlife was placed in temporary holding.

(3) The standard caging requirements, as defined in Rule 68A-6.004, F.A.C., except for the fencing requirements, shall not apply to facilities possessing ratites (ostriches, rheas, emus, and cassowaries) for propagation purposes only and not for public exhibition or as personal pets. Facilities possessing bison for propagation purposes only and not for public exhibition or as personal pets are exempt from the standard caging requirements, as defined in Rule 68A-6.004, F.A.C.

(4) Newborn and juvenile mammals may be temporarily kept in enclosures below the standard caging requirements and are exempted from the facility requirements of subparagraphs 68A-6.003(2)(e)1.-2., F.A.C., and structural strength requirements, Rule 68A-6.003, F.A.C., as follows:

(a) Newborn mammals may be kept in incubation and rearing facilities. Nursing young may be maintained with their parents with no increase in required cage size for the adult animal for up to twelve weeks, provided that documentation is available to show the age of the young. Such time may be extended with a veterinarian's statement, showing that such size cage is required for the continued health and welfare of the animals until a certain date.

(b) Juvenile mammals may be kept in enclosures that meet or exceed the size specification in subsection (2) of this section provided that:

1. Written documentation is available to verify the age of the animal.
2. The animal is marked or otherwise identifiable.
3. The animal shall be provided space for exercise on a daily basis.
4. Cages that meet the standard caging requirements shall be provided for Class I and Class II carnivores when they reach 25

pounds or six months of age, whichever comes first. Class III carnivores shall be provided cages that meet the standard caging requirements at six months of age. Class I, II, and III primates shall be provided cages that meet standard caging requirements at twelve (12) months of age.

(5) Hatchling/fledgling birds and newborn reptiles and amphibians may be held in enclosures that allow for normal postural movements and social adjustments that ensure the health and sanitary needs of the animals.

(6) Birds held temporarily for exhibit only and not for sale may be kept in show cages or enclosures for a maximum of three (3) days, provided that, such birds have sufficient space for perching without touching the sides, top, or bottom of the cage and the health and sanitary needs of the birds are met. Water shall be available in the show cages at all times.

(7) Reptiles and amphibians held temporarily for herptile shows, expositions, and exhibits may be kept for a maximum of three (3) days in enclosures that allow for normal postural movements and social adjustments and that ensure the health and sanitary needs of the animals.

(8) Cages or enclosures for mobility-impaired animals shall meet standard caging requirements, unless it can be demonstrated that such cage or enclosure, or its required accessories, are detrimental to the health or welfare of the animal. In such cases, written documentation by a veterinarian confirming the need for such exemption shall be maintained by the permittee and made available to Commission employees upon request.

(9) For animals held at exotic animal auctions, flea markets, and animal swap meets, said animals may be kept in enclosures that meet the size requirements of subsection (2) provided that such wildlife is maintained in accordance with paragraphs (9)(a)-(g) below. The owner of said wildlife shall be responsible for the welfare of such animals, unless such wildlife is consigned to an auctioneer or other sales representative, at which time the consignee shall be responsible.

(a) Wildlife shall be transported and held in non-injurious enclosures, under conditions that provide fresh air without injurious drafts, and shall be provided protection from the elements.

(b) Wildlife shall be protected from temperature extremes that could be detrimental to the health and welfare of the animals.

(c) Birds and mammals shall be watered at least twice during each twelve hour period.

(d) Fecal and food waste shall be removed from the wildlife's enclosures daily.

(e) Wildlife held in the same enclosures shall be kept in compatible groups.

(f) Wildlife cages/enclosures shall not be stacked over other cages/enclosures unless excreta is prevented from entering lower cages/enclosures.

(g) Sick or injured wildlife shall be afforded prompt veterinary treatment.

The owner of said wildlife shall be responsible for the welfare of such animals, unless such wildlife is consigned to an auctioneer or other sales representative, at which time the consignee shall be responsible.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.302, 379.303, 379.3711FS. History—New 7-1-90, Amended 7-1-92, 2-1-98, Formerly 39-6.0041, Amended 8-27-09.

68A-6.0042 Elephant Rides.

(1) No person, firm, or corporation shall use elephants for rides without first obtaining special authorization. Such authorization shall be affixed to the authorized entity's license issued under Section 379.3761, F.S., as provided in this section.

(2) Qualifications for Elephant Ride Authorization.

(a) Safety record: Applicants for elephant ride authorization shall include in their initial application or application renewal, information that will identify, by drawings and/or photographs, the animal(s) that will be used in the rides. The application, or application renewal, shall also include a certified statement on the complete safety record of the animal(s). No elephant that has caused a serious injury or death to a handler, trainer, member of the public, or other person within five years prior to application, shall be used for rides. Incidents that occurred prior to the five-year period may be reviewed by the Commission for possible exclusion of the elephant for rides, in accordance with the following factors:

1. The circumstances surrounding the injuries caused by the elephant.
2. The seriousness or extent of injuries, or number of individuals affected.
3. The number of incidents in which the elephant was involved.

The Commission shall have final approval authority regarding the use of elephants authorized for rides following consideration of the above factors. In addition, if an elephant(s) is involved in a safety incident subsequent to the approval of the application, but prior to entering the State of Florida, or while performing in the state, Commission law enforcement personnel may direct the animal

to be removed from all exhibition activities until the conclusion of the investigation or prosecution.

(b) Safeguards: Applicants shall provide documentation of safeguards to insure public safety. This documentation shall include:

1. An emergency plan for protecting the public that specifies what to do in case of elephant incidents; where tranquilizing equipment or firearms are kept; who is to use tranquilizing equipment, and when they shall be used to capture, control, or destroy escaped or out-of-control animals.

2. Such equipment, and an employee trained in the use of such equipment, shall be on the premises at all times that such wildlife is in a public contact situation.

(c) Experienced supervision: All elephant rides shall be supervised by a minimum of one qualified handler and one assistant. Applicants shall provide documentation that the handler has had not less than six months of experience in elephant handling. Such handler and assistant shall be in the immediate presence of the elephant at all times when the elephant is in a position to be in direct contact with the public. Applicants shall include the names of handlers and the experience documentation in their initial application, and in their renewal application thereafter.

(d) Barriers: A protective physical barrier shall be present between the elephant and the public at all elephant ride sites. Such barrier shall prevent bystanders from touching the animal. Applicants shall include in their application package photos or drawings of barriers they intend to use and a description of materials used to construct such barriers.

Rulemaking Authority Art. IV, Sec. 9, Fla Const. Law Implemented Art. IV, Sec. 9, Fla Const. History--New 2-1-98, Formerly 39-6.0042.

68A-6.005 Transportation Requirements for Wildlife; Caging Requirements for Performing and Non-Performing Animals.

(1) No person shall import, export, transport, ship or deliver in interstate or intrastate commerce any container or package containing any live wildlife unless each container or package bears, in a conspicuous place on the outside, a tag with both the name and address of the shipper and consignee and the exact contents of the package. The exact content of the package shall include an accurate and legible list by species scientific name, common name and number of each species included in the entire shipment.

(2) General requirements for transporting wildlife in vehicles. This rule subsection applies to all Class I, all Class II and all Class III animals except those listed in subsection 68A-6.0022(2), F.A.C. No vehicle shall be used in transporting any wildlife except as follows:

(a) Vehicles shall be equipped to provide fresh air without injurious drafts and adequate protection from the elements to all animals.

(b) The animal traveling area shall be free of engine exhaust fumes.

(c) Fecal and food wastes shall be removed from the animal quarters daily.

(d) Animal cages shall have openings for emergency removal of wildlife.

(e) Wildlife in transport shall be protected from extremes in temperature that could be detrimental to the health and welfare of the animal.

(f) Wildlife transported in the same cage area shall be in compatible groups.

(g) Wildlife must be transported in a cage or enclosure. The cage or enclosure must be labeled "Live Animal" and list the number of specimens and common and scientific name of the wildlife. For wildlife that is transported in a trailer or compartment of a trailer, a label stating "Live Animal" must be affixed to the trailer access or loading door and the list containing the number of specimens and common and scientific name of the wildlife must be maintained in the vehicle. The animal's cage or enclosure shall be as follows:

1. Be of sufficient strength and security to prevent escape.

2. Large enough to ensure that each specimen has sufficient space to turn, stand erect, and lie naturally. Provided, however that certain species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the animals, their handlers, or other persons. Elephants shall be tethered during transport (except nursing young).

(h) Wildlife shall not be placed in enclosures over other specimens unless each enclosure is fitted with floor which prevents excreta from entering lower enclosures.

(i) Wildlife shall be watered twice daily and fed daily.

(3) Mobile Exhibits – Performing Animals. No mobile exhibit shall utilize the performing animal caging dimensions prior to approval by the Commission. To obtain such approval, the permittee shall provide written schedules to the Commission of wildlife

exercise intervals and scheduled performances. The exercise intervals shall be of such frequency, intensity and duration as to provide for the health and welfare of the animal over an extended period, provided that the animals shall not be caged without exercise or performances for more than a 72-hour period. Performing and exercise information shall be verifiable by Commission personnel through inspections. Performing animals used in mobile exhibits shall not be confined in any cage or enclosure that is smaller in dimension; or is not equipped as follows:

(a) Class I and Class II Carnivores (i.e., lions, tigers, jaguars, leopards, pumas, bears, hyenas, wolves).

For a single animal, a cage which shall permit the animal to turn or stand on all fours with head clearance, and confined in such a manner so that no animal can injure another. For Class I animals, cages shall be constructed of steel, case hardened aluminum, alloy, or strength equivalent material. If bars are used, bars shall be spaced no more than 2 inches apart. For Class II animals, cage construction shall not be less than 11 1/2 gauge chain link or strength equivalent material. Cages of Class I and Class II animals that the public can access, shall be equipped with a physical barrier, which is made of a material to prevent the public from coming in contact with the animals. All cages shall have secure locking devices.

(b) Primates, Class I and Class II. For a single animal, a cage which shall permit the animal to turn and stand erect with head clearance, confined in such a manner so that no animal can injure another. For Class I animals, cages shall be constructed of steel, case hardened aluminum, alloy or strength equivalent material. If bars are used, bars shall be spaced no more than 2 inches apart. For Class II animals, cage construction shall not be less than 11 1/2 gauge chain link or strength equivalent material. Cages of Class I and Class II animals that the public can access, shall be equipped with a physical barrier, which is made of a material to prevent the public from coming in contact with the animals. All cages shall have secure locking devices.

(c) Elephants. When not performing or being exercised, elephants shall either be:

1. Securely tethered.

2. Enclosed by an electric fence, under the supervision of at least one qualified handler in accordance with paragraph 68A-6.0042(2)(c), F.A.C., and in an area not accessible to the public.

(d) Class III Animals. For a single animal, a cage which shall permit the animal to turn and stand on all fours, or stand erect, with head clearance, confined in such a manner so that no animal can injure another.

(e) Time limitation on smaller travel caging allowed for housing performing animals. For performing wildlife possessed by traveling zoos and other traveling acts, wildlife shall be housed in cages or enclosures that meet or exceed the specifications as provided in Rule 68A-6.004, F.A.C., whenever such wildlife is housed in such travel cages or enclosures for more than 90 days. Performing wildlife shall not be kept in cages or enclosures below the size required by the standard caging requirements for more than a total of 90 days out of each 120 day period. Such mobile exhibits shall provide an itinerary of planned exhibition times and locations with annual renewal applications.

(4) Mobile Exhibits – Non-Performing Animals. Non-performing wildlife in mobile exhibits shall not be confined in any cage or enclosure that is smaller in dimension or is not equipped as follows:

(a) Class I and Class II Carnivores (i.e., lions, tigers, jaguars, leopards, pumas, bears, hyenas, wolves).

For a single animal, the cage length shall be double the body length (excluding tail), with a width that is equal to the body length, and a height that permits the animal to stand on all fours with head clearance. For two or more animals kept together, add one-third more cage length for each additional animal. For Class I animals, cages shall be constructed of steel, case hardened aluminum, alloy or strength equivalent material. If bars are used, bars shall be spaced no more than 2 inches apart. For Class II animals, cage construction shall not be less than 11 1/2 gauge chain link or strength equivalent material. Cages of Class I and Class II animals that the public can access, shall be equipped with a physical barrier, which is made of a material to prevent the public from coming in contact with the animals. All cages shall have secure locking devices.

(b) Primates. All cages shall be well ventilated and shall have secure locking devices. Each cage shall have an overhead pull bar and a seat. For two or more animals kept together, add one-third more cage length for each additional animal. For Class I animals, cages shall be constructed of steel, case hardened aluminum, alloy or strength equivalent material. If bars are used, bars shall be spaced no more than 2 inches apart. For Class II animals, cage construction shall not be less than 11 1/2 gauge chain link or strength equivalent material. Cages of Class I and Class II animals that the public can access, shall be equipped with a physical barrier, which is made of a material to prevent the public from coming in contact with the animals.

1. Gorillas. For a single animal, a cage 8 feet by 8 feet, with a height at least 2 feet over the standing height of the animal.

2. Orangutan. For a single animal, a cage 7 feet by 7 feet, with a height at least two feet over standing height of the animal.

3. Adult chimpanzee. For a single animal, a cage 6 1/2 feet by 6 1/2 feet, with a height at least two feet over standing height of

the animal.

4. Chimpanzees up to 50 pounds and macaques. For a single animal, a cage 5 feet by 5 feet, with a height at least two feet over standing height of the animal.

(c) Elephants. For one animal in a non-performing capacity, a paddock that is double the body length in length and equal to the body length in width. For two or more animals kept together, increase square footage by one third for each additional animal. Other than for exercise periods, elephants not kept in a paddock shall either be:

1. Securely tethered.

2. Enclosed by an electric fence under the direct, on-site supervision of a least one qualified handler in accordance with paragraph 68A-6.0042(2)(c), F.A.C., and in an area not accessible to the public.

(d) Class III animals (except reptiles). For a single animal, the cage length shall be double the body length (excluding tail), with a width that is equal to the body length, and a height that will permit the animal to stand on all fours, or stand erect, with head clearance. For two or more animals kept together, add one third more cage length for each additional animal.

(e) Time limitation on smaller travel caging allowed for housing non-performing animals. For non-performing wildlife possessed by traveling zoos and other traveling acts, wildlife shall be housed in standard cage specifications as provided in Rule 68A-6.004, F.A.C., whenever such wildlife is present in such travel cages or enclosures for more than 45 days. Non-performing wildlife shall not be kept in cages or enclosures below the size required by the standard caging requirements for more than a total of 45 days out of each 90 day period. Such mobile exhibits shall provide an itinerary of planned exhibition times and locations with annual renewal applications.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304 FS. History--New 8-1-79, Amended 6-22-80, 6-4-81, Formerly 39-9.03, Amended 6-21-82, Formerly 39-6.05, Amended 5-10-87, 2-1-98, Formerly 39-6.005, Amended 8-27-09, 6-7-10.

68A-6.006 Dealing in Exotic or Pet Birds: Records.

(1) Any person engaging in the business of breeding or the purchase or sale of exotic birds or birds customarily kept as pets shall be licensed as provided in Section 379.3761, F.S.

(2) Any person who sells or transfers any live non-native bird to another shall maintain documentation for a period of 24 months following such sale or transfer. Such documentation shall include:

(a) The name and complete address of the recipient.

(b) The date of sale or transfer.

(c) The number and species of birds sold.

(3) All records of sales or transfers shall be open to inspection by Commission personnel and to authorized agents of state or federal public health agencies.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 379.303, 379.304, 379.3762 FS. History--New 6-21-82, Formerly 39-6.06, 39-6.006.

68A-6.007 Possession, Transportation, Exhibition and Caging Venomous Reptiles and Reptiles of Concern.

(1) Any person who keeps, possesses, exhibits or sells any venomous reptiles or reptile of concern shall comply with Sections 379.303, 379.304, 379.305, 379.372, 379.373, 379.374 and 379.3761, F.S., and the provisions of subsection 68-5.002(4), F.A.C., and this rule. The following reptiles, including their taxonomic successors, subspecies or hybrids thereof, are designated as reptiles of concern: None listed at this time.

(2) General qualifications: Applicants for authorization to possess venomous reptiles or reptiles of concern shall:

(a) Be at least 18 years old at the time of application.

(b) Not have been convicted of any violation of venomous reptile or reptile of concern or captive wildlife regulations involving unsafe housing of wildlife or that could potentially endanger the public; any violation involving the illegal commercialization of wildlife; any violation involving cruelty to animals; or any violation involving importation of wildlife within three (3) years of the date of application.

(c) Shall specify the location of the facility at which the venomous reptiles or reptiles of concern shall be maintained. Facilities for venomous reptiles shall be inspected and approved by Commission personnel prior to the issuance of the permit and placement of animals at the facility location.

(3) Experience requirements: Applicants for authorization to possess venomous reptiles or reptiles of concern shall meet the following experience requirements.

(a) Venomous reptiles: Any person or entity not currently permitted to possess or exhibit venomous reptiles must qualify for a permit by meeting the following criteria:

1. Applicants shall demonstrate no less than one (1) year of substantial practical experience (to consist of no less than 1,000 hours) in the care, feeding, handling and husbandry of the species or other species within the same biological family which are similar in characteristics and care to the species for which the permit is sought. For the purposes of demonstrating compliance, applicants shall submit documentation of such experience including:

a. A description of the specific experience acquired.

b. The dates the experience was obtained and the specific location(s) where acquired.

c. References of no less than two (2) individuals, no more than one of which may be a relative of the applicant, having personal knowledge of the applicant's stated experience. One of these references must be licensed by the commission for venomous reptiles of the same family for which the applicant is seeking authorization or a representative of a professional organization or governmental institution. Examples of such organizations or institutions include, but are not limited to, universities, public service agencies, zoological associations, herpetological societies and veterinarians.

d. Additional documentation may include records of prior permits for the keeping of venomous reptiles, employment records, and any other competent documentation of the requisite experience.

2. If the applicant is unable to document such experience, as an alternative the applicant may take a written examination. The successful completion of a written examination for the particular species or family, administered by the Division of Law Enforcement, together with the documentation of not less than 500 hours of substantial practical experience in the care, feeding, handling and husbandry of the species or family for which the permit is sought may be substituted for the one year/1,000-hour requirement. Applicants scoring at least 80 percent correct on the examination shall be deemed as meeting the examination requirement for the particular species or family.

3. Providing false information to document the applicant's experience, by the applicant or any reference, is prohibited as provided in Sections 837.012 and 837.06, F.S.

4. Any licensed corporation authorized to do business in Florida may apply for a permit or other authorization to possess venomous reptiles. Such corporation must have qualified personnel responsible for the care of such venomous reptiles. The corporation must provide documentation of experience for at least one person. Such person shall comply with the requirements defined in paragraphs 68A-6.007(2)(a)-(b) and subparagraphs (3)(a)1.-3., F.A.C., above. Such documentation of experience shall be submitted to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, and subject to approval upon initial application and upon each instance of change in qualified personnel.

(b) Reptiles of concern: On or after January 1, 2008, any person or entity not currently permitted to possess reptiles of concern must qualify for a permit by including with the application a satisfactorily completed questionnaire developed by the Commission that assesses the applicant's knowledge of general husbandry, nutritional, and behavioral characteristic of the reptile of concern to be possessed.

(4) Facility requirements: All persons licensed to keep, possess, or exhibit venomous reptiles or reptiles of concern shall provide safe, secure and proper housing for said reptiles in cases, cages, pits or enclosures. It shall be unlawful for any person whether licensed or not to keep, possess, or exhibit any venomous reptile or reptile of concern in any manner not approved as safe, secure and proper by the Florida Fish and Wildlife Conservation Commission. Venomous reptiles or reptiles of concern shall be kept in cages, cases, pits or enclosures of the following specifications:

(a) Cage may be constructed of a variety of materials including: plate glass of at least one-quarter inch thickness, break-resistant plastic of similar strength, concrete reinforced with wire, sheet metal, molded fiberglass, plywood or interlocking lumber that has been treated to be impervious to moisture and is not less than one-half inch in thickness, or other materials which provide equivalent stability and security against escape and unauthorized intrusion. Cages and doors to cages shall be sealed. The doors of each cage shall be securely locked by a device operated by a key, combination, key card or other locking device approved by the commission to prevent unauthorized intrusion.

(b) A room or out building may contain venomous reptiles or reptiles of concern in cages that are not locked provided that such a room or out building is locked by a device operated by a key, combination, key card or other locking device approved by the Commission to prevent unauthorized intrusion, is inaccessible to unauthorized personnel, is constructed and maintained as to be

escape-proof, and has been inspected and approved as conforming to these rules by Commission personnel prior to use. Any out building so used must be of strong construction with concrete or other suitable flooring and securely anchored to the ground. Such building shall be clearly posted at point of entry with a sign stating "Danger – Venomous Reptiles" or in the instance of nonvenomous reptiles of concern a sign stating "Danger – Dangerous Reptiles."

(c) Outdoor open-topped enclosures:

1. For venomous reptiles native to the United States, the floors of outdoor cages shall be of concrete or masonry construction at least two inches in thickness. Sides shall be of similar construction, at least eight inches in thickness, or strength equivalent, with a minimum height of four feet above the floor of the enclosure. Outdoor enclosures need not have concrete or masonry flooring if the enclosure meets the following additional specifications:

a. The enclosure shall have concrete or masonry walls, at least eight inches in thickness, or strength equivalent.

b. The enclosure shall have footers made of concrete, or strength equivalent, extending not less than three feet below the grade level, outside the perimeter.

c. The corners of enclosure shall be designed or guarded to prevent the escape of reptiles by climbing.

d. All landscaping of the enclosure shall be arranged to insure that vegetation or other structures do not allow for the escape of reptiles.

2. Entrance doors shall be kept securely locked on all outdoor enclosures to prevent escape and unauthorized intrusion and the enclosure shall be equipped with barriers to prevent visitors from falling into enclosures that are constructed below ground level.

3. For venomous reptile species and reptiles of concern not native to the United States, all outdoor enclosures shall be topped with close-meshed wire or an equivalent barrier to provide additional security.

4. Enclosures shall meet the minimum standard caging size requirements as specified in Rule 68A-6.004, F.A.C.

(5) Facilities housing venomous reptiles shall maintain bite or exposure protocols for the species of venomous reptiles possessed and have a visible cage enclosure identification system identifying the venomous reptiles housed or maintained on the premises.

(a) Bite or Exposure Protocol: Facilities or premises where venomous reptiles are housed or maintained shall have posted on the premises a venomous reptile bite protocol. Such protocol shall include: identification of the species by common and scientific name, emergency contact information, type of antivenin required for treatment of bites or exposures from the species housed or maintained, a plan of action to be taken in the event of a bite or exposure, and location of antivenin if stored on premises. In lieu of antivenin on premises contact information shall be provided for an antivenin bank or medical facility that maintains antivenin for the species possessed. Such protocol shall be clearly visible and posted in the room, building or other structure and in close proximity to where venomous reptiles are housed or maintained.

(b) Cage Enclosure Identification System: Each cage or enclosure housing venomous reptiles shall be clearly marked with a card or sign clearly stating "Danger Venomous Reptile" and identifying the species contained therein by common and scientific name. Such card or sign shall be clearly visible. A card or sign shall accompany the venomous reptile when it is removed from the cage or enclosure for handling or transport purposes.

(c) Facilities with one or more licensee at the same facility location may not commingle their respective live venomous reptile or reptile of concern inventories. All cages or enclosures must be clearly identified or visibly marked with the name of the licensee or other identifier to facilitate inventory inspections.

(6) Inspection: Venomous reptiles or reptiles of concern held in captivity are subject to inspection by commission personnel. Commission personnel shall determine whether the said reptiles are securely, properly and safely housed. In the event that the reptiles are not safely housed, commission personnel shall report the situation in writing to the person possessing or exhibiting such reptiles. Failure of the possessor or exhibitor to correct the situation within 30 days after such written notice shall be grounds for revocation of the license or permit.

(7) No person except the licensee or his or her authorized employee shall open any cage, pit, or other container which contains venomous reptiles.

(8) Transporting: Any person transporting venomous reptiles shall comply with Section 379.372, F.S., and the provisions of this rule. Venomous reptiles shall be placed in a stout closely woven cloth sack, tied or otherwise secured. In lieu of a stout closely woven cloth sack, the venomous reptile may be contained in a trap or box of solid construction which is locked or otherwise secured. The sack, trap or box shall then be placed in a box. The box shall be of strong material in solid sheets, except for small air holes which shall be screened. Boxes containing venomous reptiles shall be prominently labeled "Danger – Venomous Reptiles."

(9) Disaster and Critical Incident Plans: Applicants for permits to possess venomous reptiles or reptiles of concern in captivity shall document in writing a course of action to be taken in preparation for disasters or critical incidents. Such course of action shall be documented on the Captive Wildlife Critical Incident/Disaster Plan form FWCDLE_619 (06/09), which is adopted and incorporated herein by reference. Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at www.myfwc.com/permits. This form shall consist of two parts. Part A of form FWCDLE_619 shall be submitted at the time of initial application or renewal; and Part B shall be retained on file at the facility location and be made available for inspection upon request of Commission personnel.

(a) Provisions of this subsection shall apply to permittees maintaining venomous reptiles or reptiles of concern in Florida.

(b) For permittees where the facility is located out of state, the provisions of this subsection shall apply when such permittee is in travel status with venomous reptiles or reptiles of concern. In this instance Part B must accompany the venomous reptile or reptile of concern while in travel status in Florida and shall describe the course of action to be taken in the event of a critical incident or natural disaster in Florida.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const., 379.373, 379.374 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304, 379.305, 379.372, 379.373, 379.374, 379.3761, 379.3762 FS. History—New 1-1-08, Amended 1-8-08, 8-27-09, 8-26-10.

68A-6.0071 Record Keeping and Reporting Requirements.

Any person who possesses any live venomous reptile or reptile of concern shall have a permit issued in accordance with Section 379.372, and if applicable Section 379.3761, F.S., and comply with Section 379.304, F.S., and the provisions of this rule, Rule 68A-6.007, F.A.C., and, if applicable, Rule 68A-6.0072, F.A.C.

(1) Record Keeping:

Possessors shall maintain an accurate record of all changes in inventory including births, deaths, acquisitions, sales and transfers of all venomous reptiles or reptiles of concern. Such records shall be kept on the licensed premises on a Captive Wildlife Inventory-Reptile form, FWCDLE_620IV-R (06/09), which is adopted and incorporated herein by reference. Forms may be obtained by submitting a request to: Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, or at www.myfwc.com/permits. Such records shall be open to inspection upon request by commission personnel.

(a) Records of births or deaths shall include the date of the birth or death; and the quantity and species of each birth or death. For the purposes of this section “birth” shall be defined as the initial hatch or live birth date for the clutch.

(b) Records of acquisition shall include the date of acquisition; quantity and species of reptiles acquired; method of identification and unique passive integrated transponder (PIT tag) number, if applicable, for each specimen; name and complete address of supplier; and license identification number of supplier where applicable.

(c) Records of sale or transfer shall include the date of sale or transfer; quantity and species of reptiles sold or transferred; method of identification and unique passive integrated transponder (PIT tag) number, if applicable, of each specimen sold or transferred; and the license identification number of the recipient where applicable.

(2) Reporting:

(a) Persons exhibiting or selling live venomous reptiles or reptiles of concern in accordance with Section 379.372 or 379.3761, F.S., shall complete a Captive Wildlife Inventory-Reptile form, FWCDLE_620IV-R (06/09), and submit same to Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, upon annual renewal of license and six months thereafter.

(b) Persons possessing any live venomous reptile or reptile of concern in accordance with Section 379.372, F.S., for personal use shall complete a Captive Wildlife Inventory-Reptile form, FWCDLE_620IV-R (06/09), and submit same to Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 South Meridian Street, Tallahassee, Florida 32399-1600, upon annual renewal of license and upon any instance of inventory change.

(c) Persons operating in accordance with Rule 68A-6.0011, F.A.C., are exempt from these reporting requirements.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.304, 379.305, 379.372, 379.373, 379.374 FS. History—New 1-1-08, Amended 1-8-08, 8-27-09.

68A-6.0072 Identification of Non-Native Venomous Reptiles and Reptiles of Concern; Escape.

(1) Any person who keeps or possesses any live reptile of concern; or who keeps or possesses for personal use any live venomous reptile not indigenous to Florida or any live reptile of concern, in accordance with Section 379.372 and 379.373, F.S., must permanently identify such reptile.

(a) Live venomous reptiles not indigenous to Florida shall be permanently identified by photographic identification or with a unique passive integrated transponder (PIT tag).

(b) Live reptiles of concern shall be permanently identified with a unique passive integrated transponder (PIT tag).

(c) Records of identification including PIT tag number where applicable, along with information about the specimen being identified (species, specimen name or number, gender, and age) must be maintained in the possessors records for as long as the specimen is possessed.

(2) For photographic identification the photograph of the specimen must include sufficient distinguishing characteristics (marks, scars, and patterns, etc.) to enable that particular specimen to be distinguished from other specimens of the same species.

(3) Passive integrated transponder (PIT tag) identification shall consist of the implantation of a unique PIT tag under the specimen's skin in a manner to maintain the PIT tag permanently in place.

(a) For snakes implantation shall be in specimens with a one (1) inch or greater diameter. The PIT tag shall be implanted in the back one-third (1/3) of the snake, forward of the anal plate.

(b) For lizards implantation shall be in the body cavity in close proximity to and forward of a rear leg or in a rear leg.

(c) The requirement pertaining to the location of the PIT tag implantation shall not apply to specimens implanted prior to acquisition of the animal or prior to the effective date of this rule.

(4) Exemption: Reptiles of concern being held for export by any person who possesses such reptile of concern in accordance with Sections 379.304 and 379.372, F.S., are exempt from the permanent identification requirement of this section for a period not to exceed 180 days provided such animals or their enclosures are permanently marked so as to be traceable to written records indicating the date such reptiles of concern were acquired.

(5) Any person authorized to possess any venomous reptile not indigenous to Florida or reptile of concern must report any escapes to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement immediately upon discovery of escape.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.303, 379.372, 379.373, 379.374, 379.3761, 379.3762 FS. History—New 1-1-08, Amended 1-8-08, 8-23-10.



Item 5.a.

NEW BUSINESS

Moratorium along Okeechobee Boulevard

Loxahatchee Groves Planning & Zoning Board Agenda Item Report
Meeting Date: December 18, 2014

Prepared By: Jim Fleischmann, Town Planning Consultant

Subject: Okeechobee Boulevard Moratorium Ordinance

A. Background/History: Following a recommendation by the Local Planning Agency (LPA), the Town Council, at its December 2, 2014 meeting, directed the Town Attorney to draft an ordinance declaring a 6-month moratorium on commercial future land use plan amendment applications on Okeechobee Boulevard. The purpose of the moratorium is to allow the Town an opportunity to review Comprehensive Plan policies related to commercial development.

Issue Statement: Consideration of the proposed Okeechobee Blvd. corridor Moratorium Ordinance.

Potential Actions: Recommend: (1) Approval; (2) denial; or (3) approval subject to revisions.

B. Current Activity:

Staff prepared a draft of proposed Moratorium Ordinance for review by the Planning and Zoning Board. Staff will submit proposed Ordinance to the Town Council for its consideration, along with a recommendation from the Planning and Zoning board.

C. Attachments:

Proposed Moratorium Ordinance.

D. Town Financial Impact:

None.

E. Recommended Action:

Staff recommends approval of the proposed Moratorium Ordinance.

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2015-

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR A MORATORIUM UNTIL MAY 31, 2015, ON THE PROCESSING AND REVIEW OF APPLICATIONS FOR AMENDMENTS TO THE TOWN'S COMPREHENSIVE PLAN, INCLUDING FUTURE LAND USE MAP AMENDMENTS AND TEXT AMENDMENTS, RELATING TO COMMERCIAL LAND USES ON PROPERTIES FRONTING ON OKEECHOBEE BOULEVARD WITHIN THE CORPORATE BOUNDARIES OF THE TOWN AS OF DECEMBER 2, 2014; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the requirements of Chapter 2006-328, Laws of Florida the Town Charter of the Town of Loxahatchee Groves, on October 10, 2006, the voters within the area of unincorporated Palm Beach County known as Loxahatchee Groves voted to incorporate as the Town of Loxahatchee Groves (the "Town"); and,

WHEREAS, one of the primary motivations of incorporation was to preserve the rural nature of the area in which the Town is located; and,

WHEREAS, the Town initially adopted its Comprehensive Plan in 2009; and,

WHEREAS, after an administrative challenge to the Town's Comprehensive Plan was dismissed, the Town's Comprehensive Plan became effective in August, 2011; and,

WHEREAS, since 2012, Palm Beach County has approved several significant projects in unincorporated areas of the County near the Town that could affect Okeechobee Boulevard; and,

WHEREAS, since the Town's Comprehensive Plan has come into effect, the Town has received and considered several applications for Land Use Amendments, as well as Text Amendments, to the Town's Comprehensive Plan, including for property fronting along Okeechobee Boulevard; and,

WHEREAS, during the review of the Land Use Amendments and Text Amendments received and reviewed by the Town since the Town's Comprehensive Plan came into effect, issues relating to consistency between language in the Comprehensive Plan and the preservation of the Town's rural character were identified by the Town Council and the Town's Planning and Zoning Board during the above referenced review; and,

WHEREAS, the Town expects continuing pressure to develop commercial uses along Okeechobee Boulevard within the Town which may threaten the Town's historical rural character and lifestyle; and,

WHEREAS, the Town's Planning Consultant has proposed text amendments for the Town's Comprehensive Plan, which has been reviewed by the Town's Planning and Zoning Board and Town Council, but which have not been approved and require additional time to develop and adopt; and,

WHEREAS, the adoption of a moratorium on the receipt and processing of applications for Land Use Applications and Text Amendments to the Town's Comprehensive Plan relating to commercial land uses on property fronting Okeechobee Boulevard will provide the Town with time to complete its review of the Comprehensive Plan, and adopt same; and,

WHEREAS, the Town Council believes that it is in the best interest of the Town, and its residents, to review the Town's Comprehensive Plan given the issues that have arisen, and to consider the need for amendments to the Town's Comprehensive Plan that will enhance the Comprehensive Plan's consistency with the Town's historical conditions and vision of remaining a rural area; and,

WHEREAS, the Town's Planning and Zoning Board considered this Ordinance at its

December 18, 2014, meeting and recommended that the Town Council approve the moratorium.

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

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Moratorium Imposed. The Town Council of the Town of Loxahatchee Groves hereby declares a moratorium as of December 2, 2014, for the time period specified in Section 4, on the processing and review of Land Use Amendments and Text Amendments to the Town's Comprehensive Plan relating to commercial land uses on property fronting Okeechobee Boulevard.

Section 3. Exceptions to Moratorium. The Town Council hereby declares that Amendments to the Town's Comprehensive Plan initiated by the Town shall be exempt from the Moratorium.

Section 4. Period of Moratorium. The Town Council of the Town of Loxahatchee Groves hereby declares that the moratorium shall be effective for the period through May 31, 2015, unless otherwise modified by the Town Council by ordinance.

Section 5. All Ordinances or parts of Ordinances in conflict herewith are repealed to the extent of such conflict.

Section 6. If any Section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 7. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS ___ DAY OF _____, 2015.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS ___ DAY OF _____, 2015.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

Janet K. Whipple, Town Clerk

Vice-Mayor Ron Jarriel

Council Member Tom Goltzené

Council Member Ryan Liang

Council Member Jim Rockett

APPROVED AS TO LEGAL FORM:

Office of the Town Attorney



Item 5.b.

NEW BUSINESS

Loxahatchee Groves Commons Site Plan Approval

Town of Loxahatchee Groves
Planning and Zoning Board PZB) Agenda Item Report
Agenda Item Loxahatchee Groves Commons Site Plan Application

Meeting Date: December 18, 2014

Prepared By: Jim Fleischmann, Town Planning Consultant

Subject: Loxahatchee Groves Commons Site Plan Application – SP 2014-02

A. Background/History:

Issue Statement: SP 14-02 is an application for site plan approval for the 21.73 acre Loxahatchee Groves Commons shopping center located at the northwest corner of Southern Boulevard and “B” Road.

B. Current Activity:

Site Plan approval is requested for consideration by the Town Council concurrent with a companion rezoning of the property from AR to CL/PUD. Rezoning Ordinance 2013-09 was approved by the Town Council on First Reading and is scheduled for consideration of Second Reading in January 2015.

C. Potential Actions: Recommend that the Town Council: (1) Approve SP 14-02; (2) Deny SP 14-02; or (3) Approve SP 14-02 subject to conditions.

D. Attachments: The Staff Summary Report, which contains a detailed review of both CPA 14-02, including a Staff recommendation.

E. Town Financial Impact:

None. Review of SP 14-02 is funded by the Town’s Cost Recovery system.

F. Recommended Action:

Staff recommends approval of SP 14-02 subject to the conditions listed on page 3 of the following Staff Summary Report.

**TOWN OF LOXAHATCHEE GROVES
PLANNING AND ZONING BOARD
December 18, 2014**

**AGENDA ITEM STAFF SUMMARY:
Loxahatchee Groves Commons Site Plan Review (SP 2014-2)**

A. Site and Applicant Information

Project Name	Loxahatchee Groves Commons Site Plan Approval
Project No.	SP 2014-02
Agent	Bob Bentz, Managing Partner, Joe Lelonek, Jeff Zito, Atlantic Land Investments LLC
Applicant	Big Dog Ranch Rescue, Inc.
Owner	Ernest G. Simon Trust
Parcel Control No.	41-41-43-31-09-000-0020
Location	Northwest corner of Southern Boulevard and "B" Road
Size (Acreage)	21.73 acres
Zoning	Commercial Low Planned Unit Development (CL/PUD)
Future Land Use	Commercial Low
Existing Use	Vacant/undeveloped
Approved Use	No prior approvals
Proposed Use	94,655 sq. ft. shopping center

B. Adjacent Properties (Existing Use, Future Land Use and Zoning)

LAND USE	NORTH	SOUTH	EAST	WEST
EXISTING USE	Vacant/ Undeveloped	Southern Boulevard followed by C-51 Canal	"B" Road followed by vacant/ Undeveloped	Vacant/ Undeveloped
APPROVED USE	Palm Beach State College campus	Southern Boulevard	Comprehensive Plan: 103,000 sq. ft. of retail, 44,000 sq. ft. of office and 128 CLF beds.	Palm Beach State College campus
FUTURE LAND USE	RR 5 (Rural Residential 5)	N/A	Multiple Land Use (MLU)	RR 5 (Rural Residential 5)
ZONING	AR (Agricultural Residential)	N/A	Multiple Land Use Planned Unit Development (MLU/PUD)	AR (Agricultural Residential)

C. Submitted Support Documents

ITEM	CONTENT
Site Plan	Tabular computations, location and height of structures, floor area by use, vehicular circulation system and connections to public r-o-w, adjacent public and private r-o-w, location of trash and garbage disposal system, location, dimensions, clearances and access of parking and loading areas, areas for emergency vehicles, location of drainage features, and location, size and design of signs.
Engineering Plans	Water and wastewater provider and drainage maintenance entity, traffic impact analysis, FDOT Pre-Application Letter, Drainage Statement, Preliminary Surface Water Management Calculations, Building and Structure Finish Floor Elevations, Schematic Paving and Stormwater Management Plans, Schematic Water and Sewer Plan, Existing Fire Hydrant Locations.
Architectural Plans	Floor Plans and Elevations for Grocer, Junior Anchor and Local Retail Spaces.
Service Provider Letters	Palm Beach County Water Utilities, South Florida Water Management District, Loxahatchee Groves Water Control District, Florida DOT.
Natural Features Inventory	Vegetation Inventory, Soils, Significant Habitats, Surface Waters and Wetlands
Landscape Plans	Tree Inventory, Mitigation Plan, Landscape Plan

D. Narrative Information

1. Property History

The 21.73 acre property, located at the northwest corner of Southern Boulevard and “B” Road in Loxahatchee Groves, consists of a single parcel. The property was originally a part of the 96.73 acre “Simon Property” which was assigned a Multiple Land Use (MLU) future land use designation by the Town in 2011 (Ref: Ordinance 2011-15) for the purpose of implementing a mixed-use development concept consisting of the following three land uses: Rural Residential 5 (RR 5), Commercial Low (CL) and Commercial Low Office (CL-O).

Subsequent to the MLU approval, Palm Beach State College (PBSC) entered into a contract with the owner to purchase a 75 acre portion of the parcel for the purpose of developing a PBSC branch campus. In order to allow the PBSC proposal to proceed, a Future Land Use Map amendment was approved by the Town (Ordinance 2012-04) rescinding the MLU future land use designation on the entire 96.73 acre property and assigning an RR-5 designation to 75 acres of the property (PBSC parcel) and a CL designation to the balance (21.73 acre subject site). This action allowed the PBSC branch campus (75 acres) and a shopping center (21.73 acres) to be developed on the 96.73 acre “Simon Property”.

In order to accommodate the sale of the 75 acre portion of the property to PBSC, it was necessary to split the 96.73 acre property. A boundary plat, approved by the Town in October 2012 (Resolution 2012-17) accomplished the lot-split.

An application for rezoning to Commercial Low Planned Unit Development (CL/PUD) was approved by the Town Council on First Reading of Ordinance 2013-09. Second reading of the ordinance is scheduled for December 2014 or January 2015.

2. Summary of Request

The Town's Planned Unit Development (PUD) ordinance requires a Conceptual Master Plan to be approved as part of the PUD. The Conceptual Master Plan consists of a 94,665 retail shopping center including the following mix of uses: Main Retail – 63,558 sq. ft.; Agricultural sales - 19,097 sq. ft; Drive-in Bank Outparcel – 4,000 sq. ft.; Fast-food Restaurant with Drive-thru Outparcel - 4,000 sq. ft.; and Retail Building Outparcel (4,000 sq. ft.) In addition, screened outdoor storage and display (16,000 sq. ft.) and unscreened display (3,400 sq. ft.) areas are proposed.

The following descriptions summarize the proposed development components:

- Major Anchor: Retail Grocery (46,031 sq. ft.)
- Minor Anchor: Agricultural Indoor Sales (19,097 sq. ft. building) + 16,000 sq. ft. enclosed outdoor storage and display area + 3,400 sq. ft. open outdoor display area)
- Inline Local Retail (17,527 sq. ft.)
- Three Outparcels (Fast-food – 4,000 sq. ft., + Bank – 4,000 sq. ft. + Retail – 4,000 sq. ft.)
- Other Features of Note: Preserve/Passive_Park (0.72 acres) + Lake Tract (5.40 acres) + Dry Retention Areas (0.94 acres) + Equestrian Trail + Connectivity with future Palm Beach College + "B" Road Improvements.

E. Staff Finding and Recommendation

Staff finds the proposed site plan consistent with the Town's Comprehensive Plan and land development regulations, subject to: (1) rezoning of the property to CL/PUD by the Town Council per Ordinance 2013-09, including the Final Conditions of Approval (Ref: Attachment B); and (2) the following additional conditions of approval:

1. The conditions of approval herein shall apply to the Owner, Applicant and their successors and assigns.

2. Development of the site is limited to the uses depicted and stated in Attachment A (Loxahatchee Groves Commons Site Plan and Statement of Use). The Site Plan is dated December 12, 2014. The Statement of Use is dated July 22, 2014. All modifications to the Site Plan or Statement of Use, with the exception of administrative approvals permitted under Section 155-005 of the ULDC, shall be approved by the Town Council unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

3. The Final Conditions of Approval in Town Ordinance 2013-09 are adopted and incorporated herein as Attachment B. Ordinance 2013-09 will assign a Commercial Low Planned Unit Development (CL/PUD) zoning designation to the site.

4. Prior to submittal of any building permit applications for processing by Palm Beach County, the Town Manager shall review and approve the following plans for consistency with the approved Site Plan: Site Plan, Landscape Plan, Floor Plans, and Photometric Plan.

5. Consistent with the Palm Beach County Mandatory Traffic Performance Standards criteria in place at the time of this approval, no building permits for the site shall be issued after December 31, 2017. A time extension for this condition may be approved by the Palm Beach County Engineer based upon an approved traffic study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

6. Any land clearing activities shall comply with the permit requirements of Article 87 "Native Tree Preservation, Soil Stabilization and Invasive Exotic Removal" of the Loxahatchee Groves Unified Land Development Code..

7. All parking and loading shall occur on site as indicated on the approved Site Plan.

8. Per Sections 05-040 and 90-070 of the ULDC, permits for all project signs shall obtained prior to building permit application.

9. Attached building identification signs shall be provided for each business with a maximum sign face of 4 sq. ft.

10. The number of monument signs shall be limited to the following:

- Three outparcel free-standing signs with a maximum sign face of 60 sq. ft.
- Three shopping center free-standing signs at the following locations: "B" Road entrance with a maximum sign face of 72 sq. ft.; Southern Boulevard entrance with a maximum sign face of 72 sq. ft.; and PBSC entrance off

of Southern Boulevard, located at the cross-access drive with a maximum sign face of 16 sq. ft.

Staff Review Summary

A. Adjacent Land Uses

Direction	Existing/Approved Uses	Potential Issues
North	Approved Palm Beach State College campus	None – Buffers, screening and connectivity to be provided
South	Southern Boulevard followed by the C-51 Canal	None – FDOT approved access improvements to be provided
East	“B” Road followed by approved MUPD: Groves Town Center - 103,000 sq. ft. of retail, 44,000 sq. ft. of office and 128 CLF beds.	None – B Road improvements to address drainage, access and connectivity issues
West	Approved Palm Beach State College campus	None – Buffers, screening and connectivity to be provided

B. Infrastructure Impacts

Infrastructure Service	Summary
Water/wastewater	Property can be served by County central water/wastewater along Southern Boulevard. Applicant currently coordinating a Standard Developers Agreement (SDA) with PBCWUD. An executed SDA will be presented to the Town within 30 days of Site Plan Approval by the Town
Surface Water Management	Drainage statement and Engineering Plans provided. The drainage system will consist of a dry detention areas, lakes, inlets and culverts. Legal positive outfall provided by discharge to the C-51 Canal. A control structure will regulate discharge to C-51 Canal to not exceed the 25-Year Storm, 3-Day Event criterion established by SFWMD.
Solid Waste Disposal	Solid Waste Authority letter confirms disposal capacity available. Applicant must execute contract with private hauler for collection.
Transportation	Palm Beach County Traffic Division has issued a TPS Review indicating that the proposed development meets the Traffic Performance Standards of Palm Beach County, subject to conditions which are incorporated within the Conditions of Approval. A Traffic Equivalency Letter has been supplied by the Applicant’s Engineer indicating that final Site Plan revisions will not generate additional traffic above previous approvals and therefore meet County TPS Standards.
Parks and Recreation	LOS Standards not Applicable – Commercial land use and zoning; however a 0.72 acre preserve/passive park and multi-use trails around the lake have been included in the Site Plan.
Public Schools	Not Applicable – Commercial land use and zoning
FIRE/EMS	Letter from Palm Beach County Fire/Rescue indicating an estimated response time less than the average for the nearest station.

C. Environment

Item	Summary
Natural Resources	<p>An Environmental Assessment Report (EAR) was prepared in June of 2012 by EW Consultants as part of Future Land Use Amendment Application 2012-01. No animal species listed as protected by federal, state or local environmental regulatory agencies, nor any signs of such animals were observed on the property.</p> <p>A majority of the first 300 feet into the property along the Southern Boulevard frontage was used for grazing and is not heavily vegetated. The portion further to the North includes an area native species and exotic plants primarily located where the 5.40 acre lake is planned to satisfy SFWMD regulations and buffer the PBSC property. A tree mitigation plan will be prepared pursuant to ULDC Article 87 to compensate for the removal of native vegetation</p>
Historical Resources	<p>An historical sites review was prepared by the Palm Beach County Archaeologist and independently by the Applicant. One known archaeological site (i.e. No. 8PB11426 -West Palm Beach Canal) is located on or within 500 feet of the subject property. If activities on the subject property impact the Canal, mitigation work may be required by the Florida Division of Historic Resources.</p>
Flood Zone	<p>Zone X-500, per Map # FLU 1.5 of the Comprehensive Plan . Zone X-500 is generally the area between the limits of the 100-year and 500-year flood.</p>

D. Comprehensive Plan and Zoning Consistency

Proposed SP 14-2 is consistent with the Comprehensive Plan

- The current Future Land Use Map designation of the property is Commercial Low
- The proposed (i.e. Ordinance 2013-010) Zoning Map designation of the property is Commercial Low/Planned Unit Development (CL/PUD).
- The proposed commercial shopping center is a permitted use within the Commercial Low (CL) zoning district subject to meeting the requirements of Article 25 "*Commercial Zoning Districts*" of the ULDC.
- Per the Staff Report supporting Ordinance 2013-010, the proposed commercial shopping center has met the PUD requirements, including Conceptual Master Plan, Statement of Use, Consistency with PUD Design Requirements, Statement of Intent to Subdivide, Justification of Proposed Waivers, Conceptual Driveway Permit, Market Study, and Environmental Assessment of Article 41 "*Planned Unit Development*".

E. Zoning Requirements: CL Zoning District Regulations

Regulation	Standard	Property Complies?
Minimum lot size	5 acres	Yes – 21.73 acres
Frontage and Access	ULDC Section 100-35: legal access from a publically dedicated street	Yes – Proposed access to both Southern Blvd. and “B” Road
Minimum frontage/width	200 feet	Yes – 1,022 ft. on Southern Blvd. and 771 ft. on “B” Road
Minimum depth	200 feet	Yes - 771 feet
Maximum Floor-Area-Ratio	0.10	Yes – 0.10
Maximum building and roofed structures lot coverage	25%	Yes – 10%
Front setback	50 feet	Yes – 80 feet
Side street setback	25 feet	Yes – 93 feet
Rear setback	50 feet	Yes – 299 feet
Minimum pervious area	30%	Yes – 44%
Maximum building height	35 feet	Yes – 35 feet maximum

F. ULDC Section 155-020: Substantive Requirements (Site Plan)

Criterion	Compliance
Section 150-020 (A) Conformance to the approved and/or recorded plat, if applicable	Property is in conformance with the Simon Trust Boundary Plat, Lot 2, approved by the Town (Resolution 2012-17).
Section 150-020 (B) Consistency with the Loxahatchee Groves Comprehensive Plan	Yes – Refer to Section D, above.
Section 150-020 (C) Conformance with the Town of Loxahatchee Groves ULDC	Yes – Refer to Section D, and E above and Section G, below.
Section 150-020 (D) Conformity with the water control district’s requirements and regulations.	Proposed drainage discharge to C-51 Canal. “B” Road R.O.W addressed in the “B Road Agreement”. No LGWCD issues.

G. ULDC Supplementary Requirements

1. ULDC Article 85: Landscape Plan Requirements

Requirement	Response
Section 85-025 (B) Plots of 2 acres or more shall preserve or create and maintain an ecological community of at least 3% of area of the property – 0.65 acres required	0.72 acres of preserve area/passive park provided. Meets code requirement.
Section 85-040 (D) (2) and (3) A tree survey, including trees to be removed or relocated, including proposed relocation sites	Tree inventory and tabular list provided
Section 85-040 (D) (7) The location, including height, caliper and canopy spread of all landscape materials	Provided in the Landscape Plan
Section 85-040 (E) Irrigation plan if irrigation system to be used	Provided in the Irrigation Plan
Section 85-050 (A) (1) No substances that prevent water percolation in areas not containing structures or paving	Provided in the Landscape Plan
Section 85-050 (A) (2) Primary structures treated with shrubs @ 2.5 foot height along 20% of the structure frontage	Provided in the Landscape Plan @ 40% of structure frontage.
Section 85-050 (C) Interior open space area defined and located @ 10% of the area of vehicular use areas, excluding landscape strip or perimeter buffers	Provided in the Landscape Plan @ 14%.
Section 85-050 (B) Meets interior open space tree and shrub requirements	Provided in the Landscape Plan – Exceeds requirement.
Section 85-050 (D) Dumpsters, mechanical equipment and electrical transformers screened	Provided in the Landscape Plan
Section 85-050 (E) Signs screened	Provided in the Landscape Plan
Section 85-050 (F) Existing vegetation credit requested and calculated	Credit calculated and credit requested by Applicant.
Section 85-055 (B) Landscape buffer along property line abutting AR District	N/A – Adjacent property to west and north – PBSC campus.
Section 85-050 (C) 15 foot vehicular use landscape strip (not counted as interior open space)	Provided per Site Plan drawing.
Section 85-050 (C) (1) Vehicular use landscape requirements	Provided in the Landscape Plan.
Section 85-065 Site distance requirements (Ref: ULDC Article 105)	Requirements met per Landscape Plan.

2. ULDC Article 90 Signs

Allowed Signs	Response
Sections 05-040 Permits required and 90-070 Sign permit requirements	Condition of Approval
Section 90-040(B) Standards by sign type and zoning district (CL District shopping center or other multi-tenant center)	
(1) Mandatory attached building identification (i.e. address) sign : 1 per structure or business @ maximum sign face of 4 sq. ft.	Condition of Approval
(2) Attached awning sign (optional): Maximum 1 per structure or business @ maximum sign face of 4 sq. ft.	To be determined at the time of Sign Permit Application per ULDC Section 90-070 requirements.
(3a) Outparcel or individual stand-alone building wall sign(s): 1 per building, 2 if corner location @ maximum sign face of 18 sq. ft. to 36 sq. ft. Applies to Buildings D, E and F.	To be determined at the time of Sign Permit Application per ULDC Section 90-070 requirements.
(3b) Shopping Center attached building wall sign(s): 1 per tenant, 2 if corner location: Anchor tenants @ maximum sign face of 60 sq. ft.; other tenants sign face @ 18 sq. ft. to 36 sq. ft.	To be determined at the time of Sign Permit Application per ULDC Section 90-070 requirements. Major and Minor Anchor tenants = corner locations.
(4) Attached canopy sign: 1 per canopy or 2 per building which ever is less @ 16 sq. ft. to 24 sq. ft.	To be determined at the time of Sign Permit Application per ULDC Section 90-070 requirements.
(5a) Outparcel or individual stand-alone building free-standing monument or panel sign(s): Primary sign - 1 per building @ maximum sign face of 60 sq. ft.; Drive-thru secondary sign @ maximum sign face of 12 sq. ft. Applies to Buildings D, E and F.	3 Primary Signs allowed – 3 proposed. Condition limiting sign face to 60 sq. ft.
(5b) Shopping Center free-standing monument or panel sign(s): Primary sign - 1 per driveway: @ maximum sign face of 72 sq. ft.; Drive-thru and multi-tenant buildings secondary sign – 1 sign @ maximum o sign face of 12 sq. ft. Applies to Buildings A - F	3 Primary Signs allowed – 3 proposed. Condition limiting to 3 signs. Two with sign face maximum of 72 sq. ft. ("B" Road and Southern Boulevard driveway entrances); and one with sign face maximum of 16 sq. ft. (Cross-access off PBSC driveway entrance).
(6) Real Estate or Project Sign (to be removed after sale or project completion) 1 per street frontage @ maximum sign face of 12 sq. ft.	To be determined at the time of Sign Permit Application per ULDC Section 90-070 requirements.
Sections 90-065 Landscaping around signage to meet the requirements of Section 85-050 Landscape design for interior open space	Provided in the Landscape Plan.

3. Article 95 Parking and Loading

Requirement	Response
Section 95-010 Minimum parking space requirements – 474 spaces required. 11 handicap spaces required (Ref: Table 208.2 PBC ULDC – 2% of total)	541 spaces provided. 22 handicap spaces provided.
Section 95-025 Size of parking spaces – Standard space = 11' x 22.5". Handicap space = 14' x 22.5'	Waiver requested (required spaces) – 89 spaces @ 11' x 22.5' and 385 spaces @ 10' x 20'. Angled handicap spaces @ 12' + 5' ada space x 20'/36' (meets ADA requirements)
Section 95-050 Minimum loading space requirements (i.e. for uses that receive materials by truck).- 6 spaces	6 provided (2 @ Building A; 1 @Building B; 2 @ Building C; and 1 @ Building F
Section 95-070 Size of loading spaces – 12' x 45' with 14' vertical clearance	4 spaces @ 12' x 55'; 2 spaces @ 12' x 45'; and 1 space @ 12' x 25'.
Section 95-085 and 95-095 Minimum requirements (Queueing Spaces and) for drive-thru establishments and Queueing by-pass lane	Building A – 6 spaces; Building E – 15 spaces; Building F – 20 spaces. By-pass lanes provided. Meets ULDC requirements

I. Architecture (Discussion of Rural Vista Guidelines by Applicant)

The proposed development plans are consistent with the Rural Vista Guidelines as outlined below. The Applicant has carefully considered these guidelines and applied them, where applicable, to the various design elements throughout the project.

- Areas of materials applied to mimic wood lap siding on the building and signs
- Trim at corners of buildings
- Breaks at larger building walls using arcades, banding, dormers and projections
- Use of the continuous arcade (porch) to keep the human scale along the fronts of buildings
- Use of metal roofing where applicable
- Use of dormers, mansard and other vertical elements to bring down the scale of the buildings and break up the roof line
- Integration of complex window elements on buildings
- Screening of mechanical and service areas
- Signage structures mimicking the architecture of the buildings
- Split Rail Fence and Equestrian Path
- Proposed Native Landscape material where possible
- All exterior lighting is directed downward and contains shields to be contained within the property boundaries

J. Compatibility

An inventory of land uses adjacent to the 21.73 acre subject property is presented in Section B of this analysis. The adjacent property to the north and west is currently assigned a Future Land Use designation of Rural Residential 5 (density of one dwelling unit per five acres). However, the property is owned by Palm Beach State College and is the site of a proposed branch campus. The 16.4 acre parcel adjacent to the subject site to its east, at the northeast corner of Southern Boulevard and "B" Road, is a portion of the 90.32 acre proposed Groves Town Center. The property is assigned a Multiple Land Use land use designation and the Owner has filed an application for a MLU/PUD zoning designation including retail and office commercial and assisted living uses.

Compatible land uses are defined as those which are consistent with each other in that they do not create or foster undesirable health, safety, or aesthetic effects arising from direct association of dissimilar activities, including the impacts of intensity of use, traffic, hours of operation, aesthetics, noise vibration, smoke, hazardous odors, radiation, and other land use conditions.

To be compatible, it is not necessary that two uses have the exact same function (e.g. residential, commercial, institutional, etc.). Rather, compatibility is attained when uses do not adversely affect each other. Further, uses whose functions are different can compliment and support each other. For example, a residential use can help support a commercial use and, conversely, the commercial use can provide essential goods and services to residents and businesses of surrounding neighborhoods.

In addition, separation of uses, access management, buffering, screening, setback, height, landscaping, and incorporation of Rural Vista Guidelines design criteria can further enhance compatibility, and reduce the potential negative effects of functionally different land uses. Due to the size of the subject property, each of these techniques and directives can be used to insure compatibility with neighboring properties.

The Site Plan includes a large lake along the northern boundary of the project that will create an entry feature for Loxahatchee Groves Commons as well as the Palm Beach State College's B Road entrance.

The Site Plan indicates perimeter landscape buffers in order to insure compatibility with PBSC. In addition to perimeter buffers, the preliminary site plan includes landscape planting areas adjacent to the buildings that will compliment the architecture of each building.

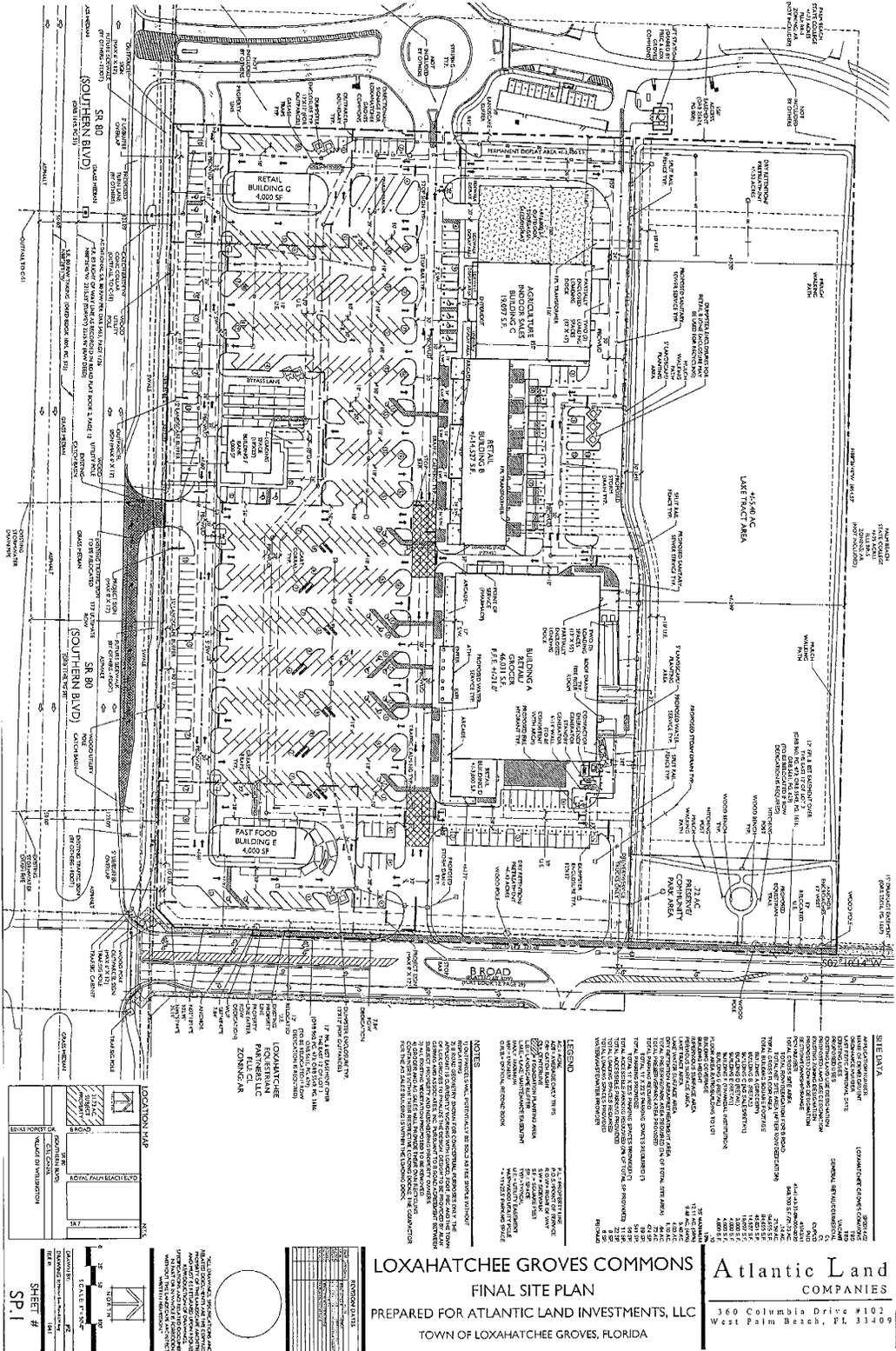
K. Development Review Committee (DRC) Comments

The following agencies were notified and requested to provide any comments regarding issues or concerns with the proposed Loxahatchee Groves Commons Site Plan:

Agency/Entity	Response/Comment
County Agricultural Extension Office	No response
PBC Sheriff's Department	No response
PBC Health Department	Response/No objections
Lox. Groves Water Control District	Response (verbal)/"B" Road r.o.w. to be dedicated to the Town. No drainage issues.
PBC Solid Waste Authority	Response/Comments but no objections
Keschavarz & Assoc. (Town Engineer)	Response/Comments but no objections
PBC Fire Rescue	No response
Simmons & White (Town Traffic Engineer)	Response/No objections

ATTACHMENT A

Loxahatchee Groves Commons Site Plan: SP 2014-02



LOXAHATCHEE GROVES COMMONS
FINAL SITE PLAN
 PREPARED FOR ATLANTIC LAND INVESTMENTS, LLC
 TOWN OF LOXAHATCHEE GROVES, FLORIDA

Atlantic Land
COMPANIES
 360 Columbia Drive #102
 West Palm Beach, FL 33409

Loxahatchee Groves Commons
 Site Plan (SP) Application 14-2
 December 11, 2014

Loxahatchee Groves Commons Site Plan: SP 2014-02

Statement of Use

Resubmitted July 22, 2014

APPLICANT'S STATEMENT OF USE

The request of the proposed amendment is to modify +/-21.73-acres from the current AR (Agricultural Residential) Zoning designation to Planned Commercial Development (PCD). Loxahatchee Groves Commons has been designed to enhance and preserve the rural character of the area and promote economic development in the Town through the placement and design of each proposed use.

Concurrent with this rezoning request is the creation of the Planned Commercial Development (PCD) district. The intent of the PCD district is to allow for creative use of land resulting in quality development. The PCD district will encourage ingenuity and imagination with an intent to promote sustainable development, creates logical street and transportation networks, preserves the natural environment, enhances the built environment, provides services to the community and minimizes impacts on the surrounding areas through the use of flexible and innovative land development techniques. The subject property has been designed to be consistent with the proposed PCD Zoning requirements.

The location for the requested PCD Zoning designation is the most appropriate location for commercial retail uses, as it is located at the corner of a major intersection with a State SIS roadway, and located across B Road from a proposed commercial and office project located on the east side of B Road. This will create a node of community-serving uses at a logical intersection. The planned western campus of the Palm Beach State College will wrap around the west and north sides of the site as well with cross access being proposed to the campus's main entrance from Southern Boulevard. In addition, B Road connects to Binks Forest Drive to the south. The proposed commercial retail uses have been designed to promote economic development and create jobs within the Town of Loxahatchee Groves.

The subject property has been designed to locate a lake tract along the northern boundary, adjacent to the future Palm Beach State College western campus and to cluster the uses along the high traffic area of Southern Boulevard. The applicant has previously made changes to the master plan pursuant to comments received at the Planning and Zoning Board Meetings. These changes addressed the two previous main concerns of parking space sizes and circulation. Further changes have evolved with the current layout which also further the ease of circulation, cross connection with the neighboring college, and access between users on the site.

One of the changes made was to relocate the community park to be adjacent to the lake and project entrance. The location has been modified slightly to help the circulation for the center, while keeping the park area in a prominent location. In addition, the applicant is also proposing an equestrian trail around the lake providing an additional amenity for the community. The applicant has also been working with their anchor tenants to provide safer access from B Road and better vehicular circulation throughout the property. Along with these changes, one of the most important changes was to create better visibility to

ensure the project is viable. This was accomplished by pulling the entire development and all buildings closer to Southern Blvd. The proposed revisions are being made to create a better site plan for the community and the customers who will be frequenting the proposed businesses.

All exotic vegetation will be removed from the subject property. In addition, the subject property has been designed with a 10' landscape buffer along the western boundary of the property and a 15' landscape buffer along the southern boundary of the property.

STATEMENT OF INTENT TO SUBDIVIDE

The subject property is consistent with the provisions of ULDC Article 41.1.E.4.b. The development plan has been designed to allow subdivision of the outparcels (Buildings D, E, F, & G) by fee title conveyance of these internal lots, upon approval of the Town Manager. Each of these outparcels have been designed to be consistent with the requirements of Article 41.1.E.4.b.

STATEMENT OF ACKNOWLEDGEMENT OF THE DELINEATION OF NATIVE VEGETATION TO BE PRESERVED

Pursuant to the Town's comprehensive plan and land development regulations, the applicant is proposing to cluster the commercial development on the +/-21.73-acres located at the corner of the intersection of B Road and Southern Boulevard. The majority of the first +/-300' into the property along the frontage of Southern Boulevard has been used for grazing thus is not heavily vegetated. However, the portion further into the development does include an area of pines, oaks, sabal palms, other native species and exotic plants such as Brazilian Pepper. This area lies mostly where the applicant is proposing a lake to be consistent with South Florida Water Management regulations such as compensating storage and retention requirements for the property which equates to approximately 6.5 acres of required area. The lake was located on the Northern third of the property to help buffer and transition into the PBSC property to the north and west. The applicant is proposing to cluster the commercial area as close to Southern Boulevard and B Road as possible to be consistent with the Town's comprehensive plan and land development regulations. It is important to note that most of the native plant material would fall under the retention area and thus not being suitable for preservation. The areas in and around the development area will also be re-graded to meet SFWMD drainage requirements and keep the site and off-site areas from flooding. Lastly, the applicant has provided several open space areas and perimeter buffer's where trees could be preserved however most of these areas are encompassed by brazilian pepper and not native vegetation. The applicants intends on removing all exotic vegetation from the open space areas and install new, healthy native vegetation and will utilize any existing sabal palms if they are able to be relocated from the proposed lake area.

BUFFER DETAIL FOR ANY PROPERTY LINE ADJACENT TO A RESIDENTIAL ZONING DISTRICT

This requirement is not applicable due to the commercial property bordering the future Palm Beach State College Property. The applicant has provided landscape buffers on the master plan/site plan which will be stripped of all exotic plant material and re-planted with native vegetation.

ATTACHMENT B
Loxahatchee Groves Commons CL/PUD
Conditions of Approval

Final Conditions of Approval of Ordinance 2013-09

A. GENERAL

1. The conditions of approval herein shall apply to the Owner, Applicant and their successors and assigns.

2. Final site plans shall conform to the Site Plan (Final Conceptual Master Plan) dated December 12, 2014 and the Statement of Use dated July 22, 2014 and included as Attachment J2 of the CL/PUD Rezoning Application REZ 2013-01, or amendments thereto approved by the Town Council. Any modifications to the approved Conceptual Master Plan or Statement of Use must be approved by the Town Council unless the proposed changes are required to meet conditions of approval or are required for compliance with the ULDC.

3. Any subdivision by fee title conveyance of an internal lot which is subject to a final site plan approval shall have received prior written approval by the Town Manager based upon the application of criteria contained in Section 41.1.E.4.b of the Town Unified Land Development Code.

4. Cross access shall be provided to the Palm Beach State College property, as indicated on the Final Conceptual Master Plan dated December 12, 2014, or amendments thereto approved by the Town Council.

5. Prior to submitting building permit approval application and all subsequent final site plan applications, the Applicant shall contact Palm Tran to obtain written confirmation regarding the need for a bus stop on Southern Boulevard. Palm Tran's response shall be included in the final site plan application(s).

B. LAND USE AND SITE PLANNING

1. Development of the site shall be limited to a maximum of 94,655 sq. ft. of commercial low uses consistent with the Final Conceptual Master Plan dated December 12, 2014.

2. Bars and night clubs are prohibited.

3. The initial site plan submitted for the development shall include the 5.40 acre Lake Tract Area and 0.72 acre preserve/passive park, including an equestrian trail as shown on the Final Conceptual Master Plan dated December 12, 2014.

4. Potentially objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, and compactors, etc.) shall be indicated on project site plans and screened from public view.

5. All on-site deliveries during construction shall be made from project entrances off of Southern Boulevard.

C. ENGINEERING

1. Consistent with Palm Beach County Mandatory Traffic Performance Standards criteria in place at the time of this approval, no Building Permits, for the site shall be issued after December 31, 2017. A time extension for this condition may be approved by the Palm Beach County Engineer based upon an approved traffic study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

2. An initial certificate of occupancy shall not be issued until construction is complete for a north approach exclusive left turn lane and shared through/right turn lane on B Road at Southern Boulevard. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements and the acquisition of all required permits.

3. An initial certificate of occupancy shall not be issued until construction is complete for a south approach left turn lane on B Road at the project's first access connection north of the terminus for the traffic separator. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements and the acquisition of all required permits.

4. An initial certificate of occupancy shall not be issued until construction is complete for east approach right turn lanes on Southern Boulevard at each of the project access connections. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements and the acquisition of all required permits.

5. B Road shall be constructed as a 2-lane paved roadway, including a traffic separator, from Southern Boulevard north to the B Road entrance to Palm Beach State College, according to the terms of the B Road Improvement Agreement dated December x, 2014 ("B Road Agreement") between the property owner, Palm Beach State College and the owner of the Groves Town Center property. Prior to becoming effective, the "B Road Agreement" shall be approved by the Loxahatchee Groves Town Council.

6. Funds in lieu of construction of B Road as a 2-lane OGEM roadway surface between the northern terminus of the 2-lane paved roadway, including Collecting Canal bridge/culvert improvements, to Okeechobee Boulevard, may be deposited in an escrow account according to the terms of the "B Road Agreement" between the property owner, Palm Beach State College and the owner of the Groves Town Center property. Construction of this section of "B" Road shall be subject to the requirements of the Town of Loxahatchee Groves.

7. Construction of paved road improvements cited in Condition C.5, above, shall be concurrent with the paving and drainage improvements for the site, Palm Beach State College, or Groves Town Center, whichever occurs first. Any and all costs associated with the construction shall be paid according to the terms established in the "B Road

Agreement". These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.

8. Construction pursuant to Condition C.6 shall be according to a schedule established by the Town. Any and all costs apportioned to the Project shall be paid to the Town of Loxahatchee Groves according to the terms established in the "B Road Agreement". Costs, assuming construction on the existing unpaved roadway section, shall include roadway design, permitting, construction and inspection.

9. Any future request to modify Condition C.1 must be based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

10. The northernmost project driveway along "B" Road shall be channelized and limited to right turn only traffic exiting the property.

11. Any future realignment of either of or both of the "B" Road access drives shall require approval by the Town's Consulting Engineer.

D. LAND CLEARING AND LANDSCAPING

1. Prior to any land clearing activities, the property owner shall comply with the permit requirements of the Loxahatchee Groves Native Tree Preservation, Soil Stabilization and Invasive Exotic Removal regulations (ULDC Article 87).

2. In conjunction with an initial site plan application for any development parcel or pod, the property owner shall submit a Landscape Plan application to the Town for review and approval pursuant to ULDC Article 85.

3. Prior to any land clearing activities, a wetlands determination shall be procured from the South Florida Water Management District and/or U.S. Army Corps of Engineers. Any proposed impacts upon jurisdictional wetlands shall require permits or authorizations from the South Florida Water Management district or U.S. Army Corps of Engineers.

4. Prior to the permitting of any land clearing, development or earthmoving activities, a Phase 1 Archaeological Survey of the property shall be completed.

5. Native plants shall be retained to the extent possible.

E. ROADWAY EQUESTRIAN TRAILS AND GREENWAYS

1. The equestrian trail depicted on the Final Conceptual Master Plan shall include a connector within the "B" Road right-of-way to facilitate cross-access with the Palm Beach County State College property.

2. As part of the joint traffic improvements effort detailed in Section C:

(a) Equestrian traffic control devices shall be installed as required in the "B Road Agreement" per Condition C.6.

- (b) "Local traffic only" signage shall be placed on "B" Road north of the Palm Beach State College entrance.
 - (c) The feasibility of adding signage on Okeechobee Boulevard directing westbound vehicles travelling to Palm Beach State College to turn south on Crestwood Boulevard or Folsom Road shall be addressed in the "B Road Agreement" per Condition C.5. If feasible, the applicant, along with Palm Beach State College and the owner of the Groves Town Center property shall share any associated costs of placing and constructing the signage.
3. Fencing shall be incorporated on the initial site plan to separate the equestrian trails from commercial buildings and parking areas, as necessary. Also, shade trees shall be incorporated along the trail route.
 4. Equestrian trails shall comply with the Town design and sign guidelines.

F. ARCHITECTURAL

Architectural elevations for initial buildings, as well as a theme for the entire Loxahatchee Groves Commons development, shall be submitted with the application for initial site plan approval. Elevations for subsequent buildings shall be reviewed and approved by the Town Manager for consistency with said architectural theme. The Town Manager may refer subsequent building elevations to the Town Council for approval if he determines that an inconsistency with the approved architectural theme is proposed. Elevations shall be designed to be consistent with the Town's Rural Vista Guidelines. Architecture in all development phases shall be consistent with the architectural elevations included as part of the initial site plan approval.

G. SIGNAGE

The Site Plan submittal for any development parcel or pod shall include a master sign program detailing the location, number, colors and size of proposed monument signage. All signage shall be reviewed during the sign permit review process.

H. PUD WAIVERS

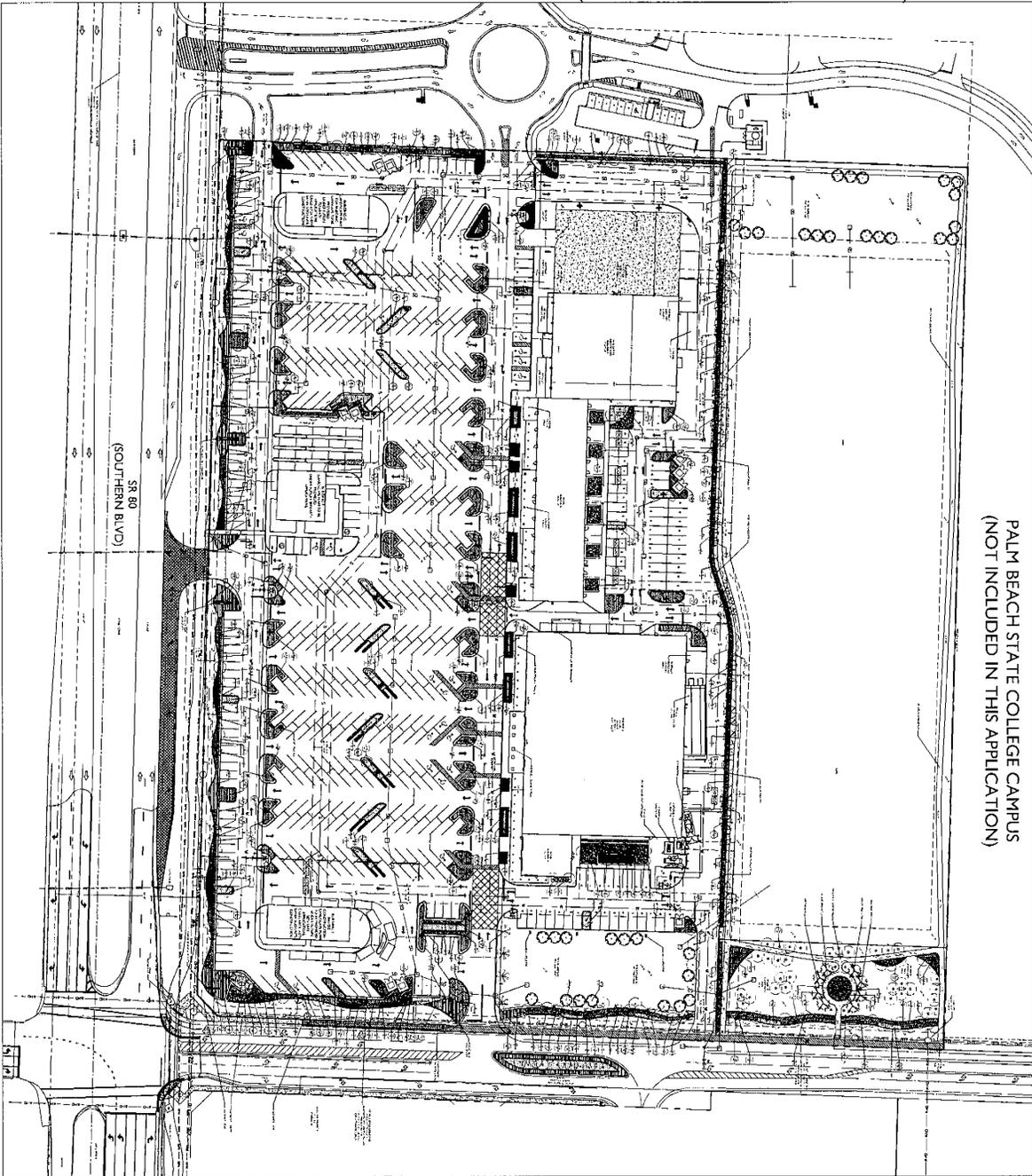
1. A waiver to Section 95-025: "*Size of parking spaces*" of the ULDC is granted, as follows: A minimum of eighty-six (86) spaces shall be provided at the standard parking space size of eleven feet by twenty-two and one-half feet (11.5' x 22') with twenty-eight foot (28') wide drive aisles. The balance of the spaces shall be provided at a minimum ten feet by twenty feet (10' x 20') with drive aisles twenty-six feet (26') in width.

2. A waiver to Section 25-010 (D) (1) "*Mobility and Storage*" of the ULDC is granted to allow outdoor display of merchandise for sale on a 24 hours per day basis only in the following locations: (a) The screened outdoor storage and display area adjacent to the Agricultural Indoor Sales Building (Building C); and (b) the unscreened

outdoor display area located to the west of the screened outdoor storage and display area located across the drive aisle.

LOXAHATCHEE GROVES COMMONS LANDSCAPE PLAN

PALM BEACH STATE COLLEGE CAMPUS
(NOT INCLUDED IN THIS APPLICATION)

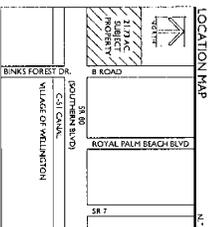


NOTES:

- ALL TREES THAT CONFLICT WITH LIGHT POLE LOCATIONS ARE TO BE ADJUSTED OR REMOVED.
- ALL TREES WITHIN THE RIGHT-OF-WAY SHALL REMAIN UNDISTURBED UNLESS OTHERWISE NOTED.
- ALL UTILITY BOXES/STRUCTURES TO BE SCREENED ON 3 SIDES BY APPROVED HEDGE OR FOLIAGE.
- ALL TREES WILL BE INSTALLED AT LEAST 3 FEET FROM THE HARDSCAPE DRIVEWAY, CURB, DRIVEWAYS, PATIOS, ETC., AND 15 FEET FROM A STRUCTURE.
- ALL PALM TREES WILL BE INSTALLED AT LEAST 3 FEET FROM HARDSCAPE DRIVEWAY, CURB, DRIVEWAYS, PATIOS, ETC., AND 15 FEET FROM A STRUCTURE.
- ALL PLANT MATERIAL TO BE INSTALLED SHALL CONFORM TO FLORIDA POWER AND LIGHT'S (FPL) RIGHT-OF-WAY GUIDELINES.
- ALL TREES AND LANDSCAPING SHALL BE FIELD LOCATED TO AVOID CONFLICT WITH EXISTING UTILITIES. LIGHT POLES, SIGNAGE, AND CABLE MAINTENANCE EQUIPMENT.
- ALL TREES SHOWN ON THIS PLAN ARE FOR GRAPHIC REPRESENTATION ONLY. TREE PLACEMENT IS BASED ON DESIGN REQUIREMENTS AND THE TREE SHOWN ON THESE PLANS IS INTENT TO ACCOMPANY THE SIZING AND PLACEMENT OF THE CONNECTORS WITH DRIVEWAYS AND UNDERGROUND UTILITIES. IN MANY CASES THE TREE SHALL BE LOCATED IN THE FIELD IN ACCORDANCE WITH THE PLANNING DESIGNER'S REASON.
- ADDITIONALLY, TREES ARE TO BE INSTALLED WITH A TEN FOOT (10') SEPARATION STATIONS. IF A TEN FOOT SEPARATION CANNOT BE ACHIEVED, THE TREE CAN BE REPLANTED WITH A DIFFERENT SPECIES. THE TREE SHALL BE FIELD LOCATED TO AVOID CONFLICT WITH DRIVEWAYS AND UNDERGROUND UTILITIES. IN MANY CASES THE TREE SHALL BE LOCATED IN THE FIELD IN ACCORDANCE WITH THE PLANNING DESIGNER'S REASON.
- ALL GROUND MOUNTED EQUIPMENT SHALL BE SCREENED.
- NO VERTICAL CONTRIBUTION ON PLANNING SHALL BE ALLOWED WITHIN THE DRAINAGE BASIN.
- ALL TREES SHALL BE TAGGED NO CLOSER THAN 15' TO A LIGHT POLE. ALL TAGS SHALL BE PLACED ON THE TRUNK.

DEVELOPMENT TEAM

- LAND PLANNING**
- LANDSCAPE ARCHITECTURE**
- ATLANTIC LAND MANAGEMENT**
- WEST PALM BEACH, FL 33409
- PH: 561.478.0115
- TRAFFIC CONSULTANT**
- ENVIRONMENTAL CONSULTANT**
- LAND DESIGN CONSULTANT/MANAGEMENT GROUP**
- 360 COLUMBIA DRIVE, SUITE 102
- WEST PALM BEACH, FL 33409
- PH: 561.478.0115
- ARCHITECT**
- WINNER & ASSOCIATES**
- 33 SE FOURTH STREET, SUITE 101
- BOCA RATON, FL 33432
- PH: 561.750.4111
- CIVIL ENGINEER**
- SURVEYOR**
- CAULFIELD AND WHEELER**
- 7801A W. PALMETTO PARK RD., 100A
- BOCA RATON, FL 33433
- PH: 561.372.1191
- PHOTOMETRIC CONSULTANT**
- MUNICIPAL LIGHTING SYSTEMS**
- 4020 S. 57TH AVE., #201
- LAKE WORTH, FL 33463
- PH: 561.671.1301

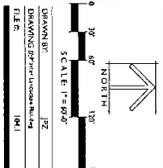


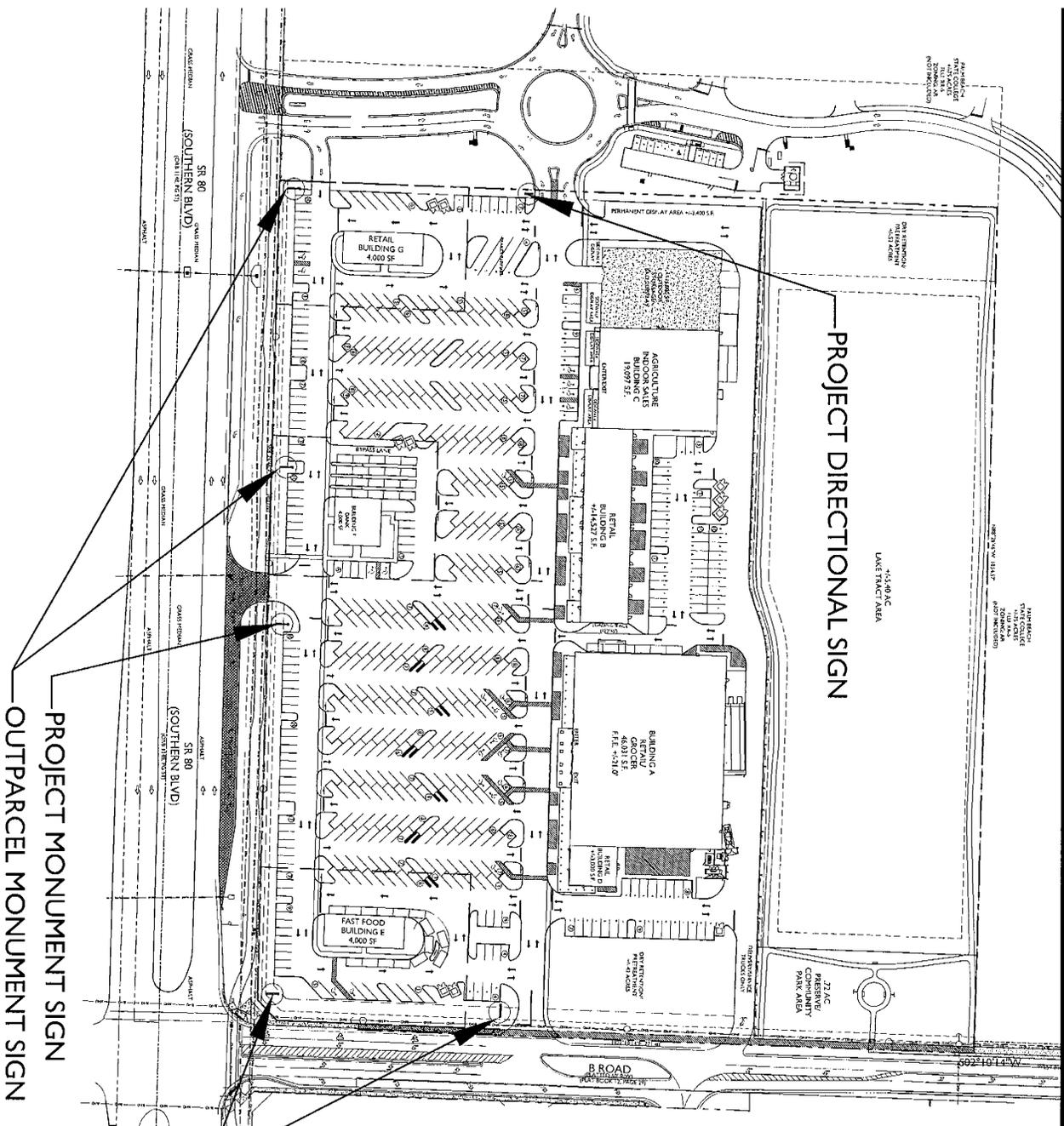
LOXAHATCHEE GROVES COMMONS
LANDSCAPE PLAN COVER SHEET
PREPARED FOR ATLANTIC LAND INVESTMENTS, LLC
TOWN OF LOXAHATCHEE GROVES, FLORIDA

Atlantic Land
COMPANIES
360 Columbia Drive #102
West Palm Beach, FL 33409

NO.	REVISION	DATE

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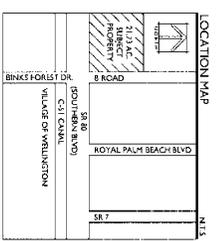
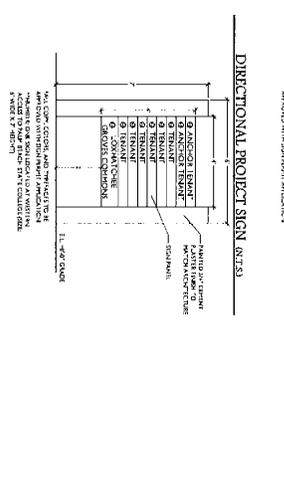
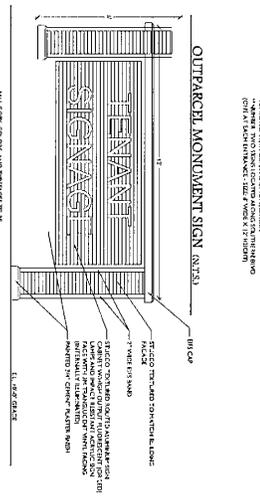
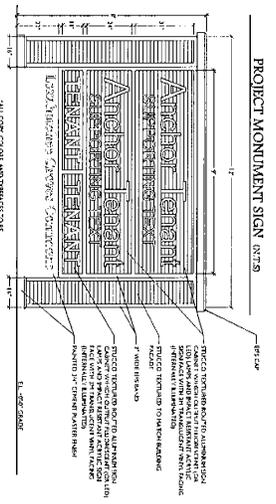




PROJECT MONUMENT SIGN
OUTPARCEL MONUMENT SIGN

PROJECT DIRECTIONAL SIGN

PROJECT MONUMENT SIGN
OUTPARCEL MONUMENT SIGN



REVISION	DATE	BY	DESCRIPTION
1	12/18/2014	PL	ISSUED FOR PERMIT
2	12/18/2014	PL	REVISED SIGN PLAN
3	12/18/2014	PL	REVISED SIGN PLAN
4	12/18/2014	PL	REVISED SIGN PLAN
5	12/18/2014	PL	REVISED SIGN PLAN
6	12/18/2014	PL	REVISED SIGN PLAN
7	12/18/2014	PL	REVISED SIGN PLAN
8	12/18/2014	PL	REVISED SIGN PLAN
9	12/18/2014	PL	REVISED SIGN PLAN
10	12/18/2014	PL	REVISED SIGN PLAN

LOXAHATCHEE GROVES COMMONS
FINAL MASTER SIGN PLAN
 PREPARED FOR ATLANTIC LAND INVESTMENTS, LLC
 TOWN OF LOXAHATCHEE GROVES, FLORIDA

Atlantic Land
 COMPANIES
 360 Columbia Drive #102
 West Palm Beach, FL 33409

SHEET #
SP.1



Item 9.a.

LPA OLD BUSINESS

Okeechobee Boulevard Future Land Use Element

Loxahatchee Groves Local Planning Agency Agenda Item Report
Meeting Date: December 18, 2014

Prepared By: Jim Fleischmann, Town Planning Consultant

Subject: Okeechobee Boulevard Non-Residential Land Use Policy

A. Background/History: The Council passed Ordinance 2012-06 to impose a moratorium of the receipt and processing of land use plan amendments to allow the Town an opportunity to review Comprehensive Plan policies related to non-residential development along Okeechobee Boulevard. The moratorium was extended by Ordinance 2012-10. A workshop was held on December 19, 2012 for Town land owners and residents to address the issue. The Town Council gave direction to staff to draft Comprehensive Plan amendments for both the Okeechobee Blvd. and Southern Blvd. corridors.

Issue Statement: Proposed Comprehensive Plan text amendments to the Future Land Use Element to include specific policies to address non-residential development along the Okeechobee Boulevard corridor. .

Potential Actions: (1) Approve proposed Future Land Use Element text amendments; (2) deny proposed Future Land Use Element text amendments ; or (3) proposed Future Land Use Element text amendments subject to revisions.

B. Current Activity:

Staff prepared a draft of proposed Future Land Use Element text amendments for review by the Local Planning Agency. The LPA reviewed the proposed amendments at its November 11, 2014 meeting and passed the following recommendation by a 5 – 0 vote:

That the Council enact a Zoning in Progress to allow the LPA time to further review and refine the staff proposal including, but not limited to, the following considerations in order to allow the development of an overall plan that meets community desires for the center of Town, including sustainability, maintenance of the Town’s character and incorporation of potential transportation changes:

1. Maximum square footage of commercial allowed.
2. Use of the concept of Transfer of Development Rights (TDR).
3. More specific definition of the types of commercial allowed.
4. How often, and under what circumstances, the maximum amount of allowed commercial space may be reviewed and updated in order to promote long- term consistency and continuity.
5. Include more specific definitions of terms.
6. Development of visuals and models of proposed commercial concepts.
7. Further refine the concept of Activity Center.
8. Modify proposed “Sunset” provisions.

Staff presented the draft Future Land Use Element text amendments to the Town Council at its meeting on December 2, 2014. Following a discussion and comments from the public, the Council voted to: (1) table the proposed amendments; (2) establish a moratorium Okeechobee Boulevard Commercial Land Use Plan amendment applications for a 6-month period; and (3) receive further direction from the Local Planning Agency by March 2015. The motion passed by a 5 – 0 vote of the Town Council

C. Attachments:

Proposed Future Land Use Element text amendments as presented to the Town Council at its December 2, 2014 meeting.

D. Town Financial Impact:

The Town Council initially authorized staff to develop an Okeechobee Boulevard non-residential land use policy. The authorization was expanded to include a similar policy for Southern Boulevard.. Authorized budgets (\$27,000) included allocations for one Okeechobee Boulevard workshop and two Southern Boulevard workshops.

E. Proposed Action:

Review and prioritize the Okeechobee Boulevard planning considerations identified by the Local Planning Agency review of the proposed text amendments at its November 11, 2014 meeting. Additional priority consideration may be included. LPA priorities will be used by Staff as the basis for revisions to the proposed text amendments.

**FUTURE LAND USE ELEMENT - OKEECHOBEE BOULEVARD
NON-RESIDENTIAL LAND USE ELEMENT TEXT AMENDMENTS**

1.17 Objective:

The Town shall encourage compatible, town-serving land uses by implementing the following sector planning policies to control the allocation, location, scale and timing of development approvals on properties with road frontage on Okeechobee Boulevard.

1.17.1 Policy:

In order to assist in retaining its current rural character, the Town shall support maintaining Okeechobee Boulevard as a two-lane section.

- a) In order to maintain its two-lane section, the Town shall support the implementation of traffic calming features, including but not limited to roundabouts and traffic signals, along the Okeechobee Boulevard corridor.
- b) Continue to work with Palm Beach County to define and program appropriate future roadway improvements that implement Town planning policy.
- c) Review and revise as appropriate the Town's sector planning policies if and when Okeechobee Boulevard improvements are incorporated within the County's Five-Year Transportation Improvement Program (TIP).

1.17.2 Policy:

Commercial development along Okeechobee Boulevard shall be limited to Activity Centers, Cottage Industries, and Individual Small Businesses (ISB), as follows.

- a) For the purposes of this Policy, an Activity Center shall consist of a node or center of activity located at an intersection, and including multiple businesses and/or uses. An Activity Center may consist solely of commercial uses or a combination of commercial, institutional, civic, and/or recreational uses. The commercial component of an Activity Center shall provide for the daily incidental retail and service needs of the surrounding residential area. An Activity Center may be assigned either a

Commercial Low (CL) or Commercial Low Office (CL-O) Future Land Use (FLU) designation, or a combination of Town Future Land Use categories regulated by a single site plan.

- b) For the purposes of this Policy, a Cottage Industry shall consist of a single business activity carried on within a principal homesteaded residence or within a structure accessory to a principal homesteaded residence where outside workers may be employed, customers may be received and the maximum floor-area-ratio of all non-residential uses shall not exceed 0.025). A Cottage Industry is assigned an RR-5 FLU designation and, by definition, does and shall not constitute urban sprawl or contribute to strip commercial development.
- c) For the purposes of this Policy, an Individual Small Business (ISB) is defined as a single commercial or service use oriented to serving the neighboring community where the maximum floor-area-ratio of all buildings shall not exceed 0.05). An ISB shall not constitute urban sprawl or contribute to strip commercial development. An ISB is assigned a CL, CL-O or INST FLU designation.

1.17.3: Policy:

An Activity Center shall comply with the following performance standards:

- a) Maximum parcel size: 10 acres_if a Commercial Low or Commercial Low Office component is included.
- b) Tenant mix: Multiple Town-oriented commercial businesses or a combination of the following non-residential uses; Town-oriented commercial, civic, cultural and/or recreational.
- c) Maximum Floor-Area-Ratio (F.A.R.): (a) Commercial only Activity Center – 0.05; (b) Mixed-Use Activity Center (i.e. combination of three or more of the following uses: commercial; institutional; civic; and/or recreational per the Town’s ULDC zoning district use tables) - 0.1 with commercial component not to exceed 0.075 F.A.R.

- d) An Activity Center with an F.A.R. exceeding 0,05 shall require a Category A Special Exception approval by the Town Council as part of the rezoning process.
- e) Maximum height: Two stories.
- f) Rear setback: 100 feet.
- g) Rural Vista Guidelines: Required.

1.17.4 Policy:

As long as Okeechobee Boulevard is maintained as a 2-lane segment, the total amount of Activity Center commercial low and commercial low office space along the corridor shall not exceed a maximum of 49,000 sq. ft. unless increased by the Town Council. The maximum Activity Center threshold shall be reviewed by the Town Council on an annual basis following a recommendation by the Planning and Zoning Board.

1.17.5 Policy:

Individual Small Businesses shall comply with the following performance standards:

- a) The size of an ISB use shall be no larger than the amount of space which will exceed the “insignificant impact” traffic generation threshold on Okeechobee Boulevard, as defined by a Palm Beach County Traffic Performance Standards (TPS) review, or its equivalent by the Town consulting engineer.
- b) An ISB use may include a residence as an accessory use to accommodate business owner or an employee household.
- c) The Activity Center commercial threshold of 49,000 sq. ft., as stated in Policy 1.16.4, shall not apply to ISB applications.

1.17.6 Policy:

The Town shall discourage an accumulation of vacant non-residential land use designations along the Okeechobee Boulevard corridor.

- a) Implement Future Land Use Amendment requirements and conditions of approval to supplement the sector planning program to insure appropriateness and timeliness of a Future Land Use Plan Amendment application.
 - 1) A market study documenting current and near-term future support for a proposed Activity Center shall be submitted.
 - 2) A Master Plan in conformance with the requirements of Section 41.3.C.2.b of the ULDC, including a TPS review by the County, or its equivalent by the Town consulting engineer, shall be a required component of an Activity Center or an ISB Future Land Use Amendment application.
 - 3) The Special Policy provisions of Objective 1.15 may be used to impose appropriate conditions of approval upon an Activity Center or ISB application necessary to address use, intensity, timing, compatibility and other relevant issues as determined by the Town Council.
 - 4) Enact and enforce a “sunset” review procedure tied to the Master Plan for approved Activity Center and ISB Future Land Use Amendments to insure timely project implementation.

11/20/2014 LPA
PowerPoint

Okeechobee Boulevard Non-Residential Land Use Policy

- Purpose: Consider proposed Future Land Use Element Text Amendments
- Proposed Amendments – Pages 18-22
- Background Material – Attachment A: Pages 23-69
- Corridor Defined

Many individual requests for background documents. Collected as many as I could find and attached so that you read as much background as you like. All background documents are not consistent, as they were prepared over a two-year period. I'll briefly go through some of the background material that I feel is most important to our discussions.

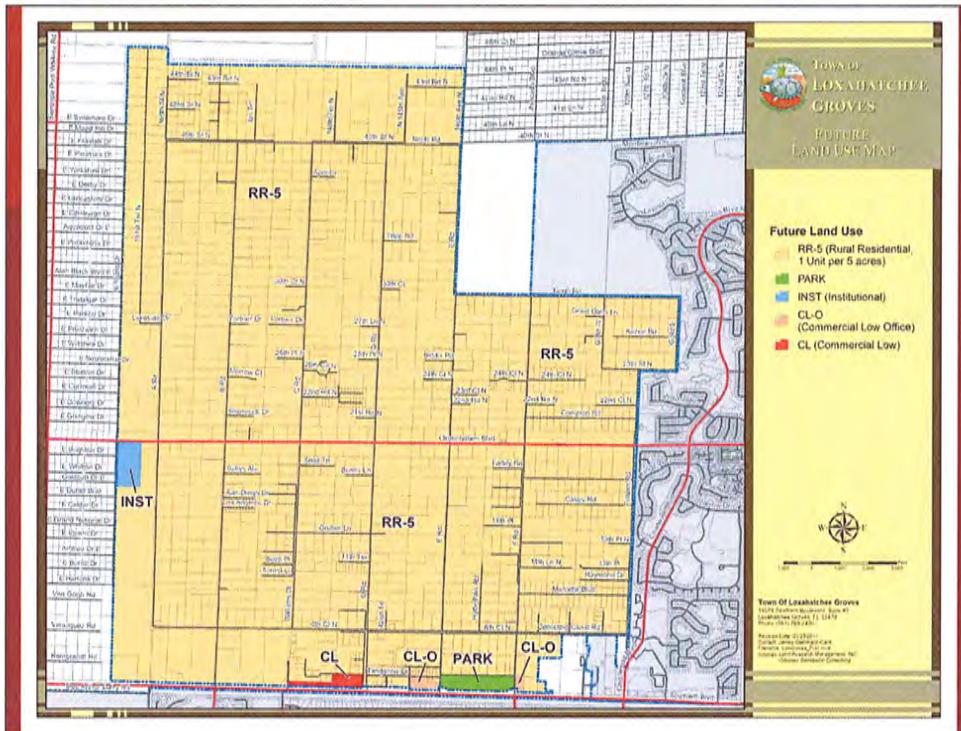
The Staff summary and recommendation of approval is presented on page 17 of your package

For the purposes of this effort, the corridor is defined as all properties currently fronting Okeechobee Boulevard.

Principal Tools

- FLU and Zoning Maps
- Comprehensive Plan Policies
- Land Development Code
 - Zoning District Regulations
 - Permitted Uses
 - Intensity Standards

The principal tools that the Town has available to control and regulate development are:



From this slide, the Future Land Use designation assigned to the entirety of the Okeechobee Blvd. corridor is Rural Residential with a density of 1 unit/5acres.

The Rural Residential land use category is established to accommodate: Single-family units, public schools and limited institutional and public facilities. Ag uses are to be compatible with a rural residential neighborhood.

The only use along the corridor with a use other than RR 5 is the elementary school, which is assigned an Institutional Use

A thorough inventory of the Town's Comprehensive Plan policies that relate to non-residential development presented in Attachment A-2

Background Material

- Corridor Definition
- Existing Land Use Summary

Land Use	Parcels	Acres	% Acres
Wholesale Nursery	30	189.7	42.7
Vacant	17	106.8	24.1
Institutional	11	89.9	20.3
Residential	13	52.6	11.9
Commercial	1	4.9	1.0
Totals	72	443.9	100.0

The Corridor is defined as consisting of all properties that currently front the north and south sides of Okeechobee Boulevard.

A detailed inventory of uses along the corridor using Property Appraiser land use codes is presented in Attachment A-1. This table is a summary of existing land uses along the corridor. Institutional consists of a public school, 7 churches, day-care center, fire station and a fraternal organization.

F.A.R. as a Tool to Limit Development

- F.A.R. Definition
 - Floor Area Definition
- Current F.A.R.s
 - AR District: 0.15
 - CL District: 0.10
 - CLO District: 0.20
 - Institutional District: 0.10
- Use of F.A.R. as only tool

Two of the primary tools currently available to the Town to regulate specific uses are the lists of permitted uses in each of the zoning districts and maximum floor-area-ratios allowed in each zoning district. A list of currently permitted uses in the Commercial Low and Commercial Low Office zoning districts is included in Attachment A-2

Floor-Area-Ratio is a measure of intensity of use. The ULDC defines FAR as “The total gross floor area of all buildings and structures on a parcel divided by the area of the parcel”. An FAR of 0.1 on a one acre parcel (43,560 sq. ft.) would allow a total floor area of 4,356 sq. ft. regardless of the number of stories.

Floor Area for the purposes of determining a floor-area-ratio is defined as “the total gross horizontal area of all the floors within the external perimeter of enclosing walls.”

There has been much discussion of reducing FARs as the sole tool to limit non-residential development on Okeechobee Boulevard. Discussion has focused on reducing the FAR to 0.05, or 50% of that currently allowed in the CL and Institutional Districts and 25% of that in the CLO District. Applying a 0.05 FAR to vacant acreage (107 acres) on the corridor would result in a potential of 233,046 sq. ft. of commercial low space. Further, if the wholesale nurseries (190 acres) were to convert to commercial low space, an additional 413,820 sq. ft. could result.

F.A.R. Survey

- Wholesale Nurseries
 - F.A.R. Range: 0.00 to 0.0344
- Residential
 - F.A.R. Range: 0.0067 to 0.0882
- Religious Institutions
 - F.A.R. Range: 0.0118 to 0.0819
- Other Institutional Uses
 - F.A.R. Range: 0.0208 to 0.0531
- Commercial
 - F.A.R.: 0.1652

As part of the discussion regarding the use of Floor-Area-Ratios to control development, the Council to complete an inventory of current FARs along the corridor. This slide summarizes the results of that study which is included in Attachment A-4.

Permitted Uses

- Commercial Low (CL)
- Commercial Low Office (CLO)

The 2 land use and zoning categories that are of primary interest are the CL and CLO

Uses currently permitted in the CL and CLO zoning districts are presented in Appendix A-2, pages A-26 and A27. Listed uses are either permitted, permitted subject to Special Exception review, or permitted under certain conditions that are listed in Article 80 of the ULDC. There are also uses listed that are not permitted.

Okeechobee Workshop Survey

- Potential Commercial Businesses
- Survey Results

The Town held two open workshops on Okeechobee Boulevard development; one in 2011 and a second in 2012. The best attended and most informative was the workshop held in 2011. A summary of the results of the workshop is presented in Attachment A-3, page A-28.

Okeechobee –Guiding Principles

- Implement a Sector Plan (Corridor) Planning Approach
- Discourage Strip Commercial & Accumulation of Vacant Commercial Parcels
- Provide Owners With Additional Opportunities Consistent With Town's Character
- Implement Procedures to Limit Intensity
- Okeechobee 4-Laning Will Alter Character
- Use Comp Plan Objective 1.15 to Impose Conditions

Based upon our review of Comp Plan Policies, the results of the 2 workshops and discussions with the Town Council, we drafted five guiding principles that we used to draft the proposed FLU Text amendments.

Proposed Amendments

- Add Objective 1.17 and six supportive policies to the Future Land Use Element
 - Objective 1.17: Encourage compatible, Town-serving uses by implementing sector planning principles to control the allocation, location, scale and timing of development approvals.

Policy 1.17.1

- Support maintaining Okeechobee as a 2-lane segment
 - Support implementing traffic control devices
 - Coordinate with the County to program appropriate future roadway improvements
 - Review sector planning policies if Okeechobee improvements are in the 5-Year TIP

Policy 17.2

- Commercial development limited to Activity Centers, Cottage Industries and Individual Small Businesses
 - Activity Center
 - Cottage Industry
 - Individual Small Business

Activity Center Characteristics

- Node or Center of Activity
 - Located at an Intersection
 - Solely Commercial or Combination of Uses
 - Serves daily retail and service needs
 - CL or CLO Land Use and Zoning

Cottage Industry Characteristics

- Single Business
 - Homesteaded Property
 - Home Occupation or Residential Enterprise
 - Outside Workers and Customers Allowed
 - Maximum F.A.R. =0.025
 - RR5 FLU and AR Land Use and Zoning

Individual Small Business (ISB) Characteristics

- A Single Commercial or Service Use Serving the Neighboring Community
 - Homestead Not Required
 - CL, CLO or Institutional FLU and Zoning
 - Maximum F.A.R = 0.05

Policies 1.17.3 and 1.17.4

- Activity Center Performance Standards
 - Maximum Size = 10 Acres
 - Tenants = Multiple commercial or a combination of commercial, civic, cultural or recreational
 - Maximum F.A.R.
 - Commercial Only = 0.05
 - Mixed-Use = 0.10 with commercial not to exceed 0.075
 - Special Exception Required if F.A.R greater than 0.05
 - Maximum Corridor Allocation of CL and CLO = 49,000 sq. ft. unless increased by Town Council
 - FLU Element Objective 1.15 may be used to impose conditions of approval

Policy 1.17.5

- Individual Small Business (ISB)
Performance Standards
 - Cannot exceed “insignificant impact” traffic generation
 - May include accessory residence
 - Not included in Activity Center 49,000 sq. ft. corridor maximum

Policy 1.17.6

- Discourage an accumulation of vacant Activity Center and ISB non-residential land use
 - Market Study required
 - Master Plan and TPS Review required
 - FLU Element Objective 1.15 may be used to impose conditions of approval
 - require “sunset” review of Master Plan

Questions and Comments