

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. R-2008-002

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING ZONING APPLICATION Z-2006-00271 (CONTROL NO. 2005-393 OFFICIAL ZONING MAP AMENDMENT TO A COMMUNITY COMMERCIAL ZONING DISTRICT APPLICATION OF AKRAM AYESH BY MILLER LAND PLANNING (LOXAHATCHEE RETAIL CENTER))

WHEREAS, the Town Council, as the governing body of the Town of Loxahatchee Groves (hereinafter referred to as the “Town”), Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Town of Loxahatchee Groves Unified Land Development Code (Ordinance 2003-067), as amended, have been satisfied; and

WHEREAS, Zoning Application Z-2006-00271 was presented to the Town Council at a public hearing conducted on January 8, 2008; and

WHEREAS, the Town Council has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendation of the various review agencies and the recommendation of the Town staff; and

WHEREAS, the Town Council has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Town’s Comprehensive Plan as adopted by the Town’s Charter;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Town of Loxahatchee Groves Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Town of Loxahatchee Groves Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment including but not

limited to water, air, stormwater, management, wildlife, vegetation, wetlands, and the natural functioning of the environment;

- 5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
- 6. This official zoning map amendment (rezoning) complies with Article 2.F, (Adequate Public Facilities) of the Town of Loxahatchee Groves Unified Land Development Code; and
- 7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b of the Town of Loxahatchee Groves Unified Land Development Code requires that the action of the Town Council be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, that Zoning Application Z-2006-00271, the application of Akram Ayesh by Miller Land Planning, agent for an Official Zoning Map Amendment from the Agricultural Residential and the General Commercial Zoning Districts to the Community Commercial Zoning District on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 8, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 7th day of February, 2008.

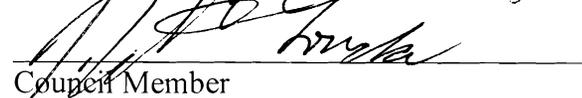
TOWN OF LOXAHATCHEE GROVES,
FLORIDA

ATTEST:


TOWN CLERK or Authorized Representative

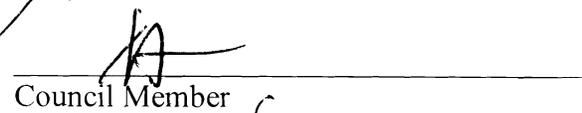

Mayor David Browning


Vice Mayor


Council Member

APPROVED AS TO LEGAL FORM:


Office of the Town Attorney


Council Member


Council Member

SSG:DNT:js

EXHIBIT A

LEGAL DESCRIPTION

PARCEL: 1

A PARCEL OF LAND IN TRACT 8 AND 9, BLOCK "I", LOXAHATCHEE GROVES, AS RECORDED IN PLAT BOOK 12, PAGE 29, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PARCEL CONTAINING 2.72 ACRES INCLUDING ROAD EASEMENT, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE INTERSECTION OF THE EAST LINE OF TRACK 8, BLOCK "I", OF SAID LOXAHATCHEE GROVES, WITH THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO: 80 (SOUTHERN BOULEVARD); RUN THENCE NORTHERLY, ALONG THE LINE BETWEEN TRACT 8 AND 9 OF SAID BLOCK "I", A DISTANCE OF 150 FEET TO THE POINT OF BEGINNING; THENCE RUN EASTERLY, A DISTANCE OF 99.35 FEET TO A POINT; THENCE RUN NORTHERLY, A DISTANCE OF 499.73 FEET TO THE CENTERLINE OF SAID PRIVATE ROAD; THENCE RUN WESTERLY, A DISTANCE OF 99.35 FEET TO THE EAST LINE OF SAID TRACT 8, BLOCK "I"; THENCE CONTINUE WESTERLY A DISTANCE OF 138.51 FEET TO A POINT; THENCE RUN SOUTHERLY, A DISTANCE OF 499.73 FEET TO A POINT; THENCE RUN EASTERLY, A DISTANCE OF 138.51 FEET TO THE POINT OF BEGINNING. SUBJECT TO EASEMENT FOR ROAD PURPOSES OVER THE NORTH 30 FEET THEREOF.

TOGETHER WITH:
PARCEL: 2

LOTS 8 AND 9, BLOCK "I", LOXAHATCHEE GROVES, A SUBDIVISION IN TOWNSHIP 43 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF ON THE FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 12, PAGE 29, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING ON THE EAST LINE OF LOT 8, BLOCK "I", OF LOXAHATCHEE GROVES, A SUBDIVISION IN TOWNSHIP 43 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 12, PAGE 29, AT THE INTERSECTION OF SAID EAST LINE OF LOT 8, BLOCK "I" WITH THE NORTH RIGHT-OF-WAY LINE OF FLORIDA STATE ROAD NO. 80; THENCE FROM THIS INTERSECTION RUN EASTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF FLORIDA STATE ROAD NO. 80, A DISTANCE OF 11.11 FEET TO A POINT, SAID POINT BEING THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, AND WHICH IS THE POINT OF BEGINNING; THENCE NORTHERLY PARALLELING THE EAST LINE OF LOT 8, BLOCK "I", A DISTANCE OF 150 FEET TO A POINT, THE NORTHEAST CORNER OF THE TRACT; THENCE WESTERLY, PARALLELING THE NORTH RIGHT-OF-WAY LINE OF FLORIDA STATE ROAD NO.80, 150 FEET TO A POINT, THE NORTHWEST CORNER OF THE TRACT; THENCE SOUTHERLY, PARALLELING THE EAST LINE OF LOT 8, BLOCK "I", 150 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF FLORIDA STATE ROAD NO.80, SAID POINT BEING THE SOUTHWEST CORNER OF THE TRACT; THENCE EASTERLY, ALONG THE NORTH RIGHT-OF-WAY LINE OF FLORIDA STATE ROAD NO. 80, 150 FEET TO THE POINT OF BEGINNING, THE SOUTHEAST CORNER OF THE TRACT, LESS THAT PART OF TRACT 8 IN BLOCK "I" OF LOXAHATCHEE GROVES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 12, PAGE 29 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL (2A)

COMMENCE AT THE NORTHWEST CORNER OF SECTION 32, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE SOUTH 01°21'04" WEST, ALONG THE WESTERLY SAID SECTION LINE, A DISTANCE OF 3415.35 FEET TO THE BASELINE OF SURVEY FOR THE STATE ROAD 80; THENCE SOUTH 88°26'59" EAST, A DISTANCE OF 1590.34 FEET; THENCE NORTH 01°33'01" EAST, A DISTANCE OF 50 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY FOR STATE ROAD 80 AND THE POINT OF BEGINNING; THENCE NORTH 01°50'45" EAST, A DISTANCE OF 120.0 FEET; THENCE NORTH 88°26'59" WEST, A DISTANCE OF 149.98 FEET; THENCE SOUTH 01°50'45" WEST, A DISTANCE OF 120.0 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY LINE FOR STATE ROAD 80; THENCE SOUTH 88°26'59" EAST, A DISTANCE OF 149.98 FEET TO THE POINT OF BEGINNING.

ALSO TOGETHER WITH:

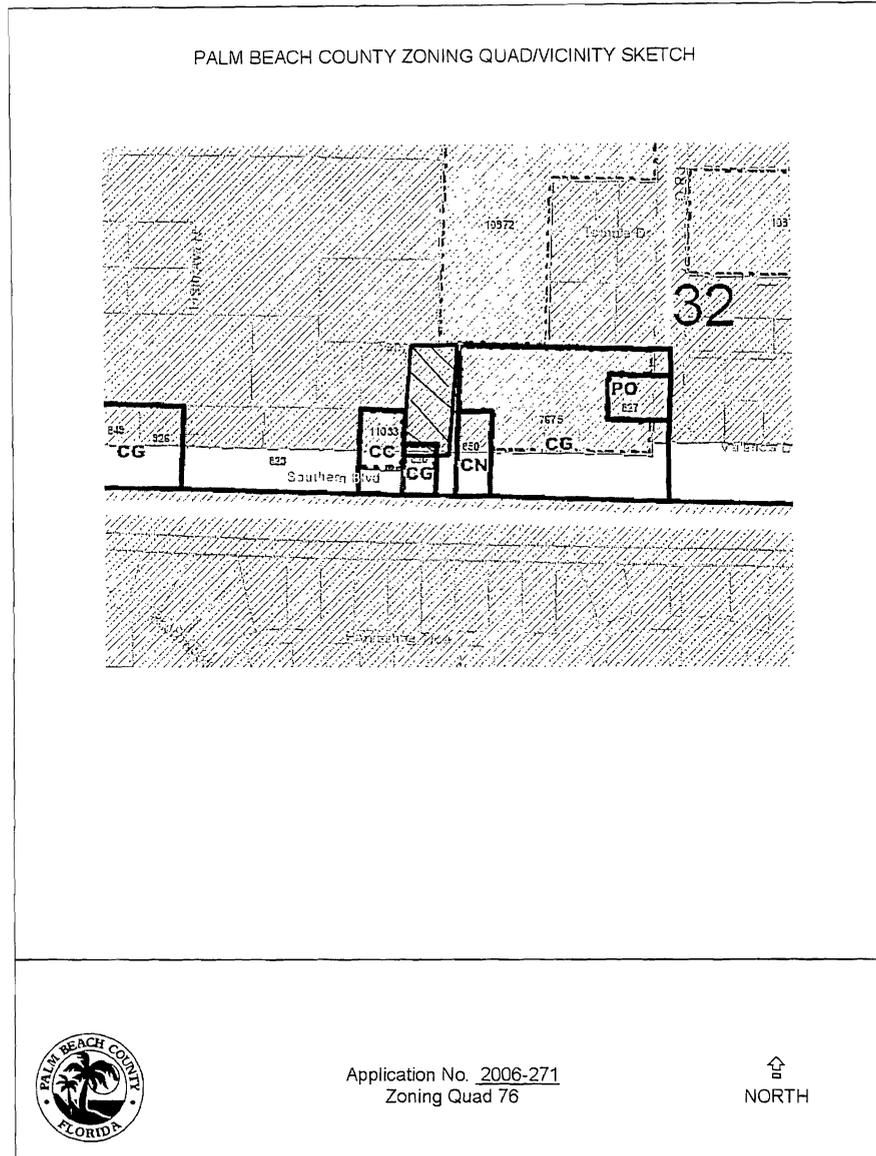
PARCEL(3)

A PARCEL OF LAND IN TRACT 9, BLOCK "I", LOXAHATCHEE GROVES, AS RECORDED IN PLAT BOOK 12, PAGE 29, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF SAID TRACT 9, BLOCK "I", WHICH CORNER IS ON THE NORTHERLY R/W LINE OF STATE ROAD NO. 80 (SOUTHERN BOULEVARD); RUN THENCE EASTERLY ON SAID R/W LINE, A DISTANCE OF 11.11 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN CONVEYED; THENCE CONTINUE EASTERLY ON THE SAME COURSE, A DISTANCE OF 88.24 FEET; THENCE RUN NORTHERLY, PARALLEL TO THE WEST LINE OF SAID TRACT 9, ANGLING 90°35'30" WEST TO NORTH, A DISTANCE OF 150.0 FEET; THENCE WESTERLY, PARALLEL TO SAID NORTHERLY R/W LINE OF STATE ROAD NO. 80 (SOUTHERN BOULEVARD), A DISTANCE OF 88.24 FEET; THENCE SOUTHERLY, A DISTANCE OF 150.0 FEET TO THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHTS-OF-WAY, AND COVENANTS OF RECORD. SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING A TOTAL OF 2.62 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



Loxahatchee Retail

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses as approved by the Board of County Commissioners. The approved site plan is dated August 9, 2007. All modifications must be approved by the Town Council unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At the time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC, the Loxahatchee Groves Rural Vista Committee Guidelines for Non-Residential Projects and all applicable conditions of approval. ~~and shall reflect a design and character that is generally consistent with the facade elevations prepared by Steven Z. Epstein, Architect dated 19 December 2006.~~ Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

- a. No Building Permits for the site may be issued after January 1, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)
- b. Building Permits for more than 5700 gross leasable floor area shall not be issued until contract has been awarded for the widening of Forest Hill Boulevard as a 6 lane facility from Southern Boulevard to Wellington Trace plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

2. Prior to Final Site Plan approval by the Development Review Officer, the property owner shall record a cross access easement to the property owner to the east and a cross access easement to the property owner to the west as shown on the proposed site plan, subject to approval by the County Attorney and County Engineer. (DRO:ENG – Eng)

3. The Property owner shall:

- a. construct a right turn lane east approach on Southern Boulevard at the projects entrance road.
- b. remove the existing drive way to Southern Boulevard used by the existing food store to the east
- c. construct a paved shared access for this site and the food store to the east as required by the Florida Department of Transportation.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

Permits required by Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

d. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

4. Landscape Within the Median of Southern Boulevard

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Southern Boulevard . This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING:ENG – Eng)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING:ENG – Eng)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Southern Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING:ENG – Eng)

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. No grade changes, or the toe of proposed grade changes, shall occur within the dripline of existing native vegetation depicted to remain. (ONGOING:ERM - ERM)

ZONING – LANDSCAPING

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein, and all ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

2. A minimum of fifty percent (50%) of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

a. tree height: Fourteen (14) feet;

- b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
- c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
- d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE-Zoning)

3. All palms required to be planted on the property by this approval, shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE-Zoning)

4. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)

5. Field adjustment of fence and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty (20) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

PARKING

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property, except within designated loading and delivery areas. (ONGOING: CODE ENF - Zoning)

PLANNING

1. As required by conditions of approval for the FLUA amendment on this site (LGA 2004-00034), Ordinance No. 2004-069, development on the site shall comply with the following:

- a. The subject site shall be limited to retail and office uses that exhibit a strong pedestrian orientation through design, placement, and organization of buildings, open space, and dispersed parking; and
- b. The subject site shall provide pedestrian and vehicular connections to the existing non-residential development to the east of the site. (DRO/ONGOING: PLANNING - Planning)

2. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement, for the cross access connection, to the parcel to east (identified as Petition # 1979-240A, Loxahatchee Country Plaza) in a form acceptable to the County Attorney. (DRO: COUNTY ATTY - Planning)

3. Prior to the issuance of the Certificate of Occupancy or Certificate of Completion, whichever shall occur first, the property owner shall construct the vehicular and pedestrian cross access connection to the edge of the eastern property line. (CO/CC: MONITORING - Planning)

SIGNS

1. Freestanding sign fronting on Southern Boulevard shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point ~~ten (10) feet;~~ four (4) feet, two (2) inches;
- b. maximum sign face area per side - ~~eighty (80) square feet;~~ thirty three and one third (33.3);
- c. maximum number of signs - one (1); and
- d. style - monument style only. (ONGOING: BLDG - Zoning)

USE LIMITATIONS

1. Hours of operation for deliveries and loading activity shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday. (ONGOING: CODE ENF - Zoning)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING:PBCWUD – PBCWUD)

COMPLIANCE

1. In granting this approval, the Town Council of Loxahatchee Groves relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Town Council of Loxahatchee Groves for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Town Council to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Town Council decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)

This resolution will become effective when filed with the Clerk of the Town of Loxahatchee Groves.