

TOWN OF LOXAHATCHEE GROVES

RESOLUTION NO. 2016-42

RECEIVED  
JUL 12 2016  
BY: V. Walton

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, APPROVING THE TRACTOR SUPPLY COMPANY SIGN VARIANCE, FOR THE LAND OWNED BY ATANTIC LAND INVESTMENTS, CONSISTING OF 21.73 ADRES MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND "B" ROAD, IN LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT "A" TO THIS RESOLUTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council, as a governing body of the Town of Loxahatchee groves, Florida ("Town"), pursuant to the authority vesting in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to variances from land development regulations for development on property within the Town; and.

**WHEREAS**, the Town Council, pursuant to Section 105-010 (Authority) of the Town of Loxahatchee Groves Unified Land Development Code (ULDC) is granted the authority to permit a variance to the provisions of the ULDC related to: (1) height; (2) yards; (3) parking and loading; (4) landscaping and buffers; (5) separation of uses; (6) plot coverage; and/or (7) such other provisions of the Code which do not specifically prohibit such requests; and.

**WHEREAS**, the notice and hearing requirements, as provided for in Article 115 (Public Hearing Notices) of the Town of Loxahatchee Groves Unified Land Development Code have been satisfied; and

**WHEREAS**, the Town Planning and Zoning Board (P&Z Board), at its meeting on May 19, 2016, recommended approval of the Tractor Supply Company Application VA2016-02; and

**WHEREAS**, the Tractor Supply Company Application VA 2016-02 was presented to the Town Council as a quasi-judicial public hearing conducted on June 21, 2016; and

**WHEREAS**, the Town Council has considered the evidence and testimony presented by the Applicant and other interested parties and the recommendations of Town Staff and Town P&Z Board; and

**WHEREAS**, this approval is subject to Section 105-030 (time limits) of the Town of Loxahatchee Groves Unified Land Development Code (Town ULDC) and other provisions requiring that development commence in a timely manner.

**NOW, THEREFORE**, be it resolved by the Town Council of the Town of Loxahatchee Groves as follows:

**Section 1.** Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

**Section 2.** The Town Council has considered the analysis and findings of the report entitled "Town Council Agenda Item Report Tractor Supply Company Sign Variance 2016-02:" dated June 21, 2016, and Town Planning and Zoning Board recommendation, and makes the following findings:

1. VA 2016-02 is a request to increase the maximum sign face of a non-anchor tenant wall sign of 36 sq. ft. to a maximum sign face of 99 sq. ft. for the Tractor Supply Company tenant of Loxahatchee Groves Commons shopping center.
2. VA 2016-02, as amended by the Town Council during the hearing, complies with the relevant and appropriate portions of applicable Town of Loxahatchee Groves land development regulations, including Section 105-010(B) and 105-010(C).
3. The Applicant has demonstrated, based upon responses to the requirements of Section 105-020 (considerations for variances) of the Town of Loxahatchee Groves land development regulations, that a variance to permit a sign of up to 74 sq. ft. is not contrary to the public interest.

**Section 3.** The Town of Loxahatchee Groves Unified Land Development Code requires that the action of the Town Council of Loxahatchee Groves be adopted by resolution. Therefore, the Town Council of the Town of Loxahatchee Groves approves the Tractor Supply Company Variance Application VA 2016-02, as amended to permit a sign of up to 74 sq. ft., for the parcel of land legally described in Exhibit A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in Exhibit A, attached hereto and made a part hereof.

**Section 4.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

**Section 6.** This Resolution shall become effective upon adoption.

Council Member MCLENDON offered the foregoing resolution. Council Member JARRIEL seconded the motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
DAVIS BROWNING, MAYOR	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TOM GOLTZENÉ, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> <i>recused</i>
RON JARRIEL, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RYAN LIANG, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TODD MCLENDEN, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

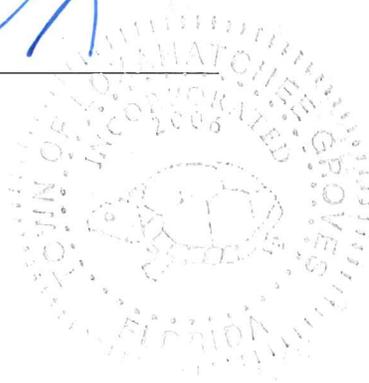
**RESOLVED AND ADOPTED** by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 21<sup>st</sup> day of JUNE 2016.

ATTEST:

Virginia M Walton  
Virginia Walton, Town Clerk

APPROVED AS TO LEGAL FORM:

[Signature]  
Town Attorney



TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

David Browning  
Mayor David Browning

Tom Goltzene  
Vice Mayor Tom Goltzene

Ronald Jarriel  
Council Member Ron Jarriel

Ryan Liang  
Council Member Ryan Liang

Todd McLendon  
Council Member Todd McLendon

**EXHIBIT A**

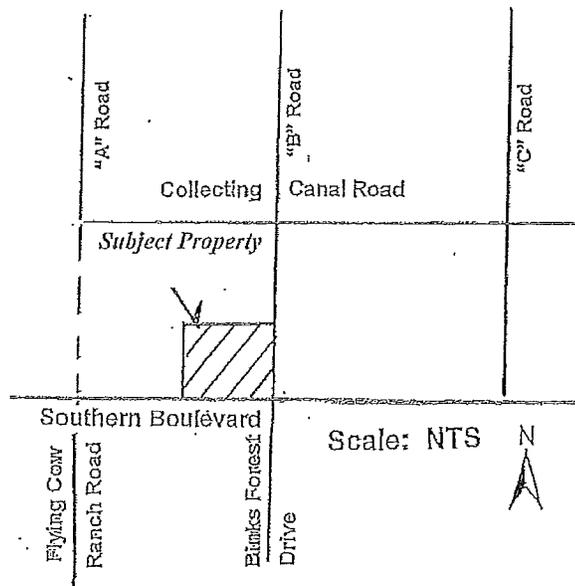
**LEGAL DESCRIPTION AND LOCATION MAP**

**The following Legal Description is applicable to Resolution 2016-42:**

Parcel Control Number: 41-41-43-31-09-000-0020

Tract A, of LOXAHATCHEE GROVES COMMONS, according to the plat thereof as recorded in Plat Book 121, Pages 95-98, Public Records of Palm Beach County, Florida

**LOCATION MAP**



**ATTACHMENT 1**  
**TRACTOR SUPPLY VARIANCE STAFF REVIEW AND FINDINGS**

Per ULDC Section 150-020 of the ULDC, a variance will not be contrary to the public interest if the Applicant has demonstrated, by competent and substantial evidence, that each of five review criteria is met. The five criteria and the Applicant's responses are presented below:

**A. Criterion 1:** That special conditions and circumstances exist which are unique to the property, or the intended use of the property, that do not generally apply to other properties in the same zoning district.

**1. Applicant's Response:** The Tractor Supply store sits about 400 feet back off the main road (SR 80). A larger building sign is needed for prospective customers to find the store. The sign size allowed by code (36 sq. ft.) would not be seen from the road and would be a detriment to customers trying to locate the store. The enhanced size would enable them to identify the facility and allow them time to make a safe turn into the parking lot.

**2. Staff Review:** Poor visibility from passing traffic on Southern Boulevard, due to the limited maximum wall sign dimensions in relation to the 380-foot setback, is cited as the primary reason for the variance. The circumstances were created as a result of the developer's decision to build a shopping center of 94,000 sq. ft. and the design of the shopping center itself, with all parking in front of the retail tenants. Special circumstances do not result from any unique circumstances surrounding the property itself.

**B. Criterion 2:** That any alleged hardship is not self-created, is not self-created by any person having an interest in the property and is not the result of mere disregard for, or ignorance of, the provisions of the Code, but is instead the result of one or more of the special condition(s) found above.

**1. Applicant's Response:** The proposed sign is typical for Tractor Supply Company and needed to properly identify the property and be seen from the road. It will be in harmony with the proposed use, the building architecture and the surrounding commercial uses.

**2. Staff Review:** The applicant states that the combination of the extensive store frontage and building setback distance from Southern Boulevard (approximately 380 feet), would not allow adequate visibility from passing vehicles. The ULDC requires a minimum front yard setback of 50 feet in the CL zoning district, while the Tractor Supply Company is setback approximately 380 feet from Southern Boulevard. The setback greatly exceeds the ULDC requirement; however, the location decision was made by the Applicant. As a result, it is concluded that the "visibility hardship" was known and therefore self-created at the time a location decision was made.

**C. Criterion 3:** That literal interpretation of the Code would deprive the applicant of reasonable use of the property, in that the applicant would be deprived of rights commonly enjoyed by properties in the same zoning district, and would thereby cause an unnecessary and undue hardship.

**1. Applicant's Response:** The sign size allowed by code would not be seen from the road, therefore not allowing new prospective customers to find the store, and could jeopardize the success of Tractor Supply Company. Due to the large building frontage the larger sign is more proportionate and more aesthetically correct for the building size.

**2. Staff Review:** The size and dimensions of the property allow substantial flexibility to design projects in compliance with ULDC standards. Therefore, a different design could have increased visibility from Southern Boulevard for a code-compliant sign. Therefore, reasonable use of the property has not been denied. However, classification as a non-anchor tenant for the purposes of the sign code can be interpreted as an undue hardship. Classified as an anchor tenant, the Applicant will not be deprived of the right to design a project in compliance with the ULDC in a manner commonly enjoyed by similar properties in the same zoning district. A 60 sq. ft. wall sign could be permitted as an anchor tenant without the need for a variance.

**D. Criterion 4:** The Variance proposed is the minimum variance that will make possible the reasonable use of the property and it will not confer on the applicant any special privilege that is denied to any other properties in the same zoning district.

**1. Applicant's Response:** Granting the proposed variance will allow for the tenant to install signage typical for their program and allow them to sufficiently advertise their business. The proposed sign size is the minimum standard sign size for the Tractor Supply program. The larger sign is needed to make customers aware of the new store and would be beneficial to the success of Tractor Supply Company.

**2. Staff Review:** The ULDC currently permits a maximum sign face on a non-anchor tenant wall sign of 36 sq. ft., while the Applicant proposes to increase the sign face to 99 sq. ft.; a 175% increase in the sign face. The applicant has provided no data to substantiate that an increase of this magnitude is the minimum necessary to sufficiently advertise their business.

**E. Criterion 5:** That the granting of the variance will be in harmony with the general intent and purpose of the Code and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

**1. Applicant's Response:** Same as Criterion 2, above. The proposed sign is typical for Tractor Supply Company and needed to properly identify the property. It will be in harmony with the proposed use, the building architecture and the surrounding commercial uses.

**2. Staff Review:** Per Section 90-005(C) *Compatibility of the ULDC*, signs should be made compatible with the overall objectives of the Comprehensive Plan by ensuring compatibility with surrounding land uses. ULDC sign standards have been designed to insure compatibility. The Applicant has not demonstrated how approval of the 63 sq. ft. Variance will maintain compatibility insured by ULDC standards.

**Town of Loxahatchee Groves, Florida**  
**Town Council Agenda Item Report**  
**Tractor Supply Company Variance VA 2016-02 (Resolution 2016-42)**

**PREPARED BY:** | Jim Fleischmann

**June 21, 2016**

**SUBJECT:** Increase the size of the sign face of the Tractor Supply Company wall sign above the maximum allowed by the Town Code .

**1. BACKGROUND/HISTORY**

**History:** A Commercial Low Planned Unit Development (CL/PUD) zoning designation was assigned the Loxahatchee Groves Commons shopping center located at the northwest corner of Southern Boulevard and “B” Road by Town Council Ordinance 2013-09 (February 17, 2015). The Site Plan, including a 19,097 sq. ft. Agricultural Indoor Sales Building and a 16,009 sq. ft. associated outdoor sales/display/storage area, was approved by the Town council (Resolution 2015-05) at the same meeting. The shopping center is currently under construction.

**Problem Statement:** The Town Council should consider the Applicant’s variance request to increase the sign face of the wall sign to a size greater than the maximum the ULDC currently permits. Per the Application, the ULDC currently permits a maximum sign face on a non-anchor tenant wall sign of 36 sq. ft., while the Applicant proposes to increase the sign face to 99 sq. ft.

**Problem Solution:** A variance will not be contrary to the public interest if the Applicant has demonstrated, by competent and substantial evidence, that each of five review criteria in ULDC Section 150-020 is satisfied (Ref: Attachment 1). In order to recommend approval of the proposed variance, the Town Council should find that the application meets each of the five criteria.

**2. CURRENT ACTIVITY**

The Applicant has prepared Variance Application VA 2016-01 which staff has reviewed to make a recommendation as to whether or not the five ULDC Section 150-020 criteria are satisfactorily addressed. It is Staff’s opinion that the five criteria have not been satisfied. However, staff finds that the Tractor Supply Company building and sales/display/storage area (i.e. a total of 35,106 sq. ft. of commercial space) should be considered an anchor tenant in the Loxahatchee Groves Commons shopping center and a sign permit application should be submitted to allow a 60 sq. ft. anchor tenant wall sign.

Following a review of the Application, Staff finds that the Applicant has not demonstrated, by competent and substantial evidence, that each of five review criteria in ULDC Section 150-020 has been satisfied and therefore recommends denial of Variance Application VA 2016-01.

The Planning and Zoning Board (PZB), at its meeting on May 19, 2016 recommended approval of the Tractor Supply Company Variance Application 2016-02 by a 4 – 0 vote.

PZB recommended Town Council consideration of approval based upon its conclusion that the ULDC is deficient in its recognition of the larger signage needs of beneficial large-scale shopping centers that are set back at substantial distances from the road, provided that Town aesthetics are not compromised.

**3. ATTACHMENTS**

1. Staff Analysis: Variance Application 2016-02.
2. Resolution 2016-42

**4. FINANCIAL IMPACT**

Work on this project is funded by Applicant's Cost Recovery Account

**5. RECOMMENDED ACTION**

1. Denial of Resolution 2016-42, as recommended by Staff; or
2. Approval of Resolution 2016-42, as recommended by the Planning and Zoning Board.

Staff further finds that a sign permit application may be submitted and processed for a 60 sq. ft. sign face anchor tenant wall sign.