

TO: Town Council Members

FROM: Jim Fleischmann, Town Planning Consultant

DATE: August 28, 2023

SUBJECT: Tetrault Historical Legacy Application

Background

Section 75-035 “*Historical Legacy Uses as of October 1, 2006*” of the ULDC, addresses uses that were in existence as of October 1, 2006 and not contained in the table of permitted uses in the Agricultural Residential (AR) zoning district. Such uses, referred to as "Historical Legacy Uses", may be allowed to continue subject to meeting the criteria established in ULDC Section 75-035. Compliance with these criteria is discussed in the attached staff report.

The application was initially discussed by the Planning and Zoning Board (PZB) at its meeting on January 26, 2023. Based upon questions and discussion at that meeting, PZB voted to continue further consideration of the Application until such time that a complete package of support and documentation for the request is provided. In response to that request, a revised Staff Report, including updated support documentation was included in the Agenda Package for the July 20, 2023 PZB Meeting. At that meeting, the PZB recommended, by a 3 – 1 vote, assignment of a Yard Trash Processing Facility Historical Legacy designation to the property located at 13538 Okeechobee Boulevard subject to conditions necessary to insure consistency with the ULDC and neighborhood compatibility included in the Tetro Land Development and Construction LLC Historical Legacy Affidavit. Specific conditions discussed by the PZB at the July 20, 2023 meeting include approval of a site plan and landscape plan.

Critical Requirements

Among the several requirements in ULDC 75-030, the following are the most important considerations as they relate to this Application. Additional detail is presented in the Staff Report and Attachments:

1. ULDC Section 75-035 (C): The use is located on a property either: (1) owned by a resident with a homestead exemption within the Town; or (2) located on a separate property within the Town, either contiguous or non-contiguous to the homesteaded property. In either case, the homestead exemption must have been in effect since October 1, 2006.

Palm Beach County Property Appraiser (PAPA) data state that Donald Tetrault and SherryTetrault currently own an adjacent property (13537 Farley Road) which is assigned a 2023 Homestead Exemption. Further, the PAPA data confirms that the Homestead Exemption has been in effect since 2006. The duration of the Homestead Exemption was confirmed by PAPA staff.

2. ULDC Section 75-035 (A): Proof demonstrating that the proposed Historical Legacy Use was in existence on the property (13538 Okeechobee Boulevard) as of October 1, 2006.

An FDEP 2006 Yard Trash Processing Facility (WACS Facility 95230) registration demonstrates that the use was in existence on the property (13538 Okeechobee Boulevard) at that time.

3 ULDC Section 75-035 (C): The business shall have been in continuous operation within the Town since October 1, 2006.

An FDEP Registration as Yard Trash Processing Facility (Water Assurance Compliance System - WACS - Facility 95230), located at 13538 Okeechobee Boulevard was filed in 2006.

WACS Facility 95230 Yard Trash Processing Facility registrations for 2006 to 2022 (valid through August 1, 2023) are listed in records of the Florida Department of Environmental Protection (FDEP) and/or the Palm Beach County Health Department (PBCHD). FDEP and PBCHD, the designated Solid Waste Enforcement and Compliance Agency for Palm Beach County since 2013, confirm that the facility has been in operation at 13538 Okeechobee Boulevard since 2001.

One or more of four corporate entities (Big Orange Land Development and Construction Company, Mulch City, Tetro Land Development, Inc. and Tetro Land Development and Construction, Inc.) filed Annual Reports with the Florida Division of Corporations from 2006 – 2023 indicating the principal address as 13538 Okeechobee Blvd. However, it should be noted that the WACS Facility Registration is tied to the property address, not the owner or its address.

Staff Recommendation:

Staff recommends that the Town Council determine that the Subject Property, located at 13538 Okeechobee Boulevard, satisfies the requirements of ULDC Section 75-030 for a Historical Legacy designation as a Yard Trash Processing Facility. Further, Staff recommends approval of Resolution 2023-12 assigning the Historical Legacy designation subject to conditions included therein.

Enclosures:

1. Staff Report Updated to August 28, 2023
2. Supplemental Information: Tetro Historical Legacy Application dated July 3, 2023
3. Resolution 2023-12
4. Staff Report Attachments

A - Articles of Incorporation and Secretary of State Annual Reports for Big Orange Land Development and Construction Company, Mulch City, Inc., Tetro Land Development, Inc., and Tetro Land Development and Construction, LLC.

B - Florida Department of Environmental Protection (FDEP) Application for a Yard Trash Processing Facility located at 13538 Okeechobee and Annual Registrations, including Annual Reports.

C - Aerial Photographs, Property Appraiser records and Warranty Deeds for 13537 Farley Road and 13538 Okeechobee Boulevard. Town Business Tax Receipts.

D - Corporate history for Big Orange Land Development and Construction, Inc., Mulch City, Inc., Tetro Land Development, Inc., and Tetro Land Development and Construction, LLC.

E. Email correspondence from FDEP and a historical records listing for FDEP and PBCHD WACS ID 95230 registrations – 13538 Okeechobee Blvd. from 2001 to 2022

TOWN OF LOXAHATCHEE GROVES
January 26, 2023; Revised: May 7, 2023; May 30, 2023; August 28, 2023

TETRAULT HISTORICAL LEGACY
CATEGORY B SPECIAL EXCEPTION APPLICATION SE 2023-01

A. INTRODUCTION

Section 75-035 "*Historical Legacy Uses as of October 1, 2006*" of the ULDC, addresses uses that were in existence as of October 1, 2006 and not contained in the table of permitted uses in the Agricultural Residential (AR) zoning district. Such uses, referred to as "Historical Legacy Uses", may be allowed to continue subject to following:

1. An Applicant has the burden of proof to demonstrate that the use was in existence on the property as of October 1, 2006;

2. An Applicant must apply for a Category B Special Exception pursuant to Section 170-010(B) of the ULDC; and

3. A Historical Legacy use must comply with either of the following criteria:

- Be located on a property owned by a resident with a homestead exemption within the Town; or
- Be located on a separate property within the Town, either contiguous or non-contiguous to the homesteaded property.

In either case, the business owner's homestead exemption shall have been in effect and the business shall have been in continuous operation within the Town since October 1, 2006;

4. The use does not present a threat to public health or safety;

5. The property upon which the use is located is not currently the subject of a Town code enforcement action, with the exception of a property containing a use that qualifies for a Historical Legacy Category B Special Exception;

6. The owner-operator has submitted an affidavit that:

- Certifies compliance with items 1 - 4 above.
- Limits the continued operation of the use to both the Parcel Control Number (PCN) and operator.
- Commits not to diversify the existing business.
- Agrees that no signs visible from the road which advertise or promote the use will be erected on the property.
- Agrees to maintain, and provide a copy to the Town, an active annual local business tax receipt.
- Acknowledges that, in the event of the transfer of the property to a new owner the right to operate the use shall cease.

- Acknowledges that, in the event of the owner's loss of his or her homestead exemption, the right to operate the use shall cease.
- Agrees to conditions imposed by Town Staff including, but not limited to, access, parking, hours of operation, noise generation, location of the business activities upon the property, number of on-site employees, clients or customers allowed, deliveries, waste disposal, proof of insurance, etc. and

7. The owner-operator has undergone a review and inspection by the Town to determine compliance with items 1 – 6, above.

Per ULDC Section 170-025 (C) the Town Manager may deny a Category B application, approve it, or approve it with conditions. All Special Exception Category B approvals by the Town Manager are placed on Consent Agenda for Town Council acceptance.

Per Section 170-025 (E) denial of a Category B Special Exception by the Town Manager may be appealed to the Town Council. In this case, the applicant must file a written request for appeal within thirty (30) days of receipt of the written denial by the Town Manager.

In addition, the Town Manager may determine that a potential Category B Special Exception is most appropriately processed as a Category A Special Exception, in which case the final decision will be made by the Town Council.

B. APPLICATION REQUEST

The Applicant has requested Category B Special Exception approval to continue the existing Yard Trash Processing Facility (Florida Department of Environmental Protection and Palm Beach County Health Department registration) use for the purpose of processing and recycling yard trash on the property located at 13538 Okeechobee Boulevard (Subject Property) pursuant to Section 75-035 "Historical Legacy Uses as of October 1, 2006" of the Loxahatchee Groves Unified Land Development Code (ULDC).

Per the Town Manager's determination, the Application is to be processed, including review by the Planning and Zoning Board and public notice requirements, as a Category A Special Exception to be considered by the Town Council.

C. DESCRIPTION OF THE PROPERTY

Subject Property Address and Parcel Control Number (PCN): 13538 Okeechobee Boulevard; 41-41-43-17-01-510-0010.

Project Name: Tetrault Category B Special Exception: Determination of Historical Legacy status.

Applicant: Tetro Land Development and Construction, LLC.

Agent: Donald Nelson. Tetrault, Manager, Tetro Land Development and Construction, LLC.

Owner: Donald Nelson Tetrault whose mailing address is 13537 Farley Road, Loxahatchee Groves, FL 33470 per the Palm Beach County Property appraiser. Donald Tetrault and Sherry Tetrault purchased said property from Don S. Interlandi on December 12, 2005.

Project Location: Southwest corner of Okeechobee Boulevard and “F” Road. The street address is 13538 Okeechobee Boulevard. . Donald Nelson Tetrault and Eric Tetrault purchased Subject Property from Charles H. Windbauer on March 21, 2001.

Size of Subject Property: 3.21 acres.

FLU Map Designation: RR 5 - Rural Residential 5.

Zoning Map Designation: AR – Agricultural Residential

Existing Use: Palm Beach County Property Appraiser (PAPA) Use Code – 0100 Single Family. The property has a Single-Family Use Code; however, the existing use, according to Applicant, is receipt of vegetation and yard trash from local businesses which is used to grind and make mulch and soil for delivery to off-site users.

Two structures, a total of 1,110 sq. ft., are located on Subject Site. The structures are a shed, used as an office, and a pole barn used for storage and equipment repairs.

Abutting Properties: Brief descriptions and locations of abutting properties are presented on Exhibit 1. Properties in the vicinity are summarized as follows:

1. North (north side of Okeechobee Blvd.) – 5 acre and a 1.9 acre properties each of which is assigned an AG – Wholesale Nursery Use Code by the Palm Beach County Property Appraiser (PAPA).
2. East (east of F Rd.) - 5 acre property assigned a Vacant Use Code by PAPA.
3. South – two 2-acre properties owned by the Applicant of Subject Property assigned Single-Family Use Codes by PAPA.
4. West - a 5 acre property assigned an AG – Grazing Use Code by PAPA.

The owners of each of these properties have been notified of the proposed Historical Legacy designation of Subject Site.

E. STAFF REVIEW

Applicant has requested Category B Special Exception approval of Historical Legacy Use status to continue the existing Yard Trash Processing Facility with a valid Florida Department of Environmental Protection (FDEP) and Palm Beach County Health Department (PBCHD) registration.

Documentation to meet the requirements of ULDC Section 75-035 *Historical Legacy Uses as of October 1, 2006* and support the Application is summarized in Table 1.

EXHIBIT 1
Existing Use, Future Land Use and Zoning of Abutting Properties

A. Provide a map illustrating all properties abutting the subject property.



B. Complete the following table for each property identified in Task A.

Map Ref	Address/ Parcel Control Number	Existing Use	Future Land Use	Zoning Designation
1.A	13667 Okeechobee 41-41-43-17-01-512-0010	TMZ Land Holdings 6900 AG-Nursery	RR 5	AR
1B	No Address Okeechobee 41-41-43-17-01-512-0030	Alan Zolghadar 6900 AG-Nursery	RR 5	AR
2	No Address Okeechobee 41-41-43-17-01-613-0020	Dustin & Jamie Erdle 0000 Vacant	RR 5	AR
3A	13537 Farley Road 41-41-43-17-01-528-0010	Donald & Sherry Tetrault 0010 Single-Family	RR 5	AR
3B	13579 Farley Road 41-41-43-17-01-528-0020	Donald & Sherry Tetrault 0010 Single-Family	RR 5	AR
4	13640 Okeechobee 41-41-43-17-01-510-0020	SPROK136, LLC 0000 Vacant	RR 5	AR

Source: Palm Beach County Property Appraiser data.

TABLE 1: Support Documents

Requirement	Applicant's Response
<p>ULDC Section 75-035 (A): Proof demonstrating that the proposed Historical Legacy Use was in existence on the property as of October 1, 2006.</p>	<p>Florida Limited Liability Company Annual Report from 2006 indicating the place of business at 13538 Okeechobee Boulevard. (See Attachment A). FDEP 2006 Yard Trash Processing Facility Application and Annual Processing Report. (See Attachment B).</p>
<p>ULDC Section 75-035 (B): The Applicant shall apply for a Category B Special Exception pursuant to ULDC Section 170-010(B).</p>	<p>An application for a Category B Special Exception was filed The Town Manager elected to have the application processed as a Category A Special Exception.</p>
<p>ULDC Section 75-035 (C portion): The use is located on a property owned by a resident with a homestead exemption or a separate contiguous or non-contiguous property within the Town. In either case, the homestead exemption must have been in effect since October 1, 2006.</p>	<ol style="list-style-type: none"> 1. A submitted Warranty Deed documents the sale of 13537 Farley Road to Donald Tetrault and Sherry Tetrault on December 12, 2005 (Reference Attachment C). 2. PAPA data indicate that Donald Tetrault and SherryTetrault currently own 13537 Farley Road which is assigned a 2023 Homestead Exemption. Further, PAPA data confirms that the Homestead Exemption has been in effect since 2006. (Reference Attachment C) The duration of the Homestead Exemption was confirmed by PAPA staff. 3. The proposed Historical Legacy use is located on a contiguous property (13538 Okeechobee Boulevard) owned by Donald Tetrault (Reference Attachment C).
<p>ULDC Section 75-035 (C balance): The business shall have been in continuous operation within the Town since October 1, 2006.</p>	<ol style="list-style-type: none"> 1. Subject Property (13538 Okeechobee Blvd.), currently owned by Donald N. Tetrault, was initially sold to Donald J and Eric Tetrault on March 21, 2001. (Reference Attachment C). PAPA Property Cards from 2006 to 2022 indicate the owner of Subject Property to be Donald N. Tetrault or Donald N. and Eric Tetrault (Ref: Attachment C). 2. An FDEP initial Application and Annual FDEP and/or Palm Beach County Health Department WACS ID 95230 Registrations from 2006 to 2022 of the Yard Trash Processing Facility located at 13538 Okeechobee Blvd. are confirmed in Attachment B.

	3. The FDEP and PBCHD accessible data bases, including annual records of WACS ID 95230 (i.e. 13538 Okeechobee Boulevard) is presented in Attachment E. Regardless of the cited corporate, entity, the same WACS ID is cited as the business location (i.e. 13538 Okeechobee Boulevard).
ULDC Section 75-035 (D): The use does not pose a threat to public health or safety.	There are no public health or safety Code Violations on file with the Town. The Facility has an Operating Permit as a Yard Trash and Processing Facility with the Florida Department of Environmental Protection Annual reports and periodic inspections are required. Recent inspections by the PBCHD (i.e. 2020 and 2021) reported no environmental issues.
ULDC Section 75-035 (E):The property upon which the use is located is not currently the subject of a Town code enforcement action	According to Town of Loxahatchee Groves Code Enforcement staff, the Subject Property is not the subject of a Town Code Enforcement action.
ULDC Section 75-035 (F):The owner-operator has submitted an Historical Legacy Affidavit	An Affidavit. (Refer to Exhibit 2) has been submitted.

Documentation to meet the requirements of ULDC Section 75-035 *Historical Legacy Uses as of October 1, 2006* and support the Application is presented in Attachments A – E which are summarized in Table 2.

TABLE 2
List of Attachments

Attachment	Attachment Title and Contents
A	Articles of Incorporation and Secretary of State Annual Reports for Big Orange Land Development and Construction Company, Mulch City, Inc., Tetro Land Development, Inc., and Tetro Land Development and Construction, LLC
B	Florida Department of Environmental Protection (FDEP) Application for a Yard Trash Processing Facility located at 13538 Okeechobee Boulevard and Annual Registrations, including Annual Reports
C	Aerial Photographs, Property Appraiser records and Warranty Deeds for 13537 Farley Road and 13538 Okeechobee Boulevard. Town Business Tax Receipts.
D	Corporate history for Big Orange Land Development and Construction, Inc., Mulch City, Inc., Tetro Land Development, Inc., and Tetro Land Development and Construction, LLC.
E	Email correspondence from FDEP and a historical records listing for WACS ID 95230 – 13538 Okeechobee Blvd. from 2001 to 2022

A summary of the Applicant's statements of compliance with Special Exception Review Standards is presented in Table 3.

TABLE 3
Compliance with Special Exception Review Standards

Standard	Applicant's Response
That the use will not cause a detrimental impact to the value of existing contiguous uses, uses in the general area, and to the zoning district where it is to be located.	The use is not changing in any means considering we have been there for over 20 years and there have been no detrimental impacts on the area or land values.
That the use will be compatible with the existing uses on contiguous property, with uses in the general area and zoning district where the use is to be located and compatible with the general character of the area, considering population density, design, scale and orientation of structures to the area, property values and existing similar uses or zoning.	The use is the same. Nothing is changing and with the increased density and population this is greatly in need in our community.
That adequate landscaping and screening are provided to buffer adjacent uses from potential incompatibilities.	As illustrated in Exhibit 3 Sketch Plan, a landscaping plan and screening to buffer the property will be provided.
That adequate parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.	The property has plenty of room for loading and unloading parking as well and there is only one way in and out so will not pose any issues with traffic. We have been there for over 22 years with no traffic issues.
That the use will not have a detrimental environmental impact upon contiguous properties and upon properties located in the general area or an environmental impact inconsistent with the health, safety and welfare of the community.	That the use will not have a detrimental environmental impact upon contiguous properties and upon properties located in the general area or an environmental impact inconsistent with the health, safety and welfare of the community.
That the use will not have a detrimental effect on vehicular, pedestrian or equestrian traffic, or parking conditions, and will not result in the generation or creation of traffic inconsistent with the health, safety and welfare of the community	That the use will not have a detrimental effect on vehicular, pedestrian or equestrian traffic, or parking conditions, and will not result in the generation or creation of traffic inconsistent with the health, safety and welfare of the community

**TABLE 3 (continued)
Compliance with Special Exception Review Standards**

That the use will not utilize turning movements in relation to its access to public roads or intersections, or its location in relation to other structures or proposed structures on or near the site that would be hazardous or a nuisance.	We do use a public road, Okeechobee Blvd. but should not hinder traffic.
That the use will not have a detrimental effect on the future development of contiguous properties or the general area, according to the Comprehensive Plan.	It should not affect anything.
That the use will not result in the creation of incompatible noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses, uses located on contiguous properties, uses in the general area and the zoning in the vicinity due to its nature, duration, direction or character.	We only work during normal business hours 7 a.m. to 5 p.m. and we are doing nothing different.
That the use will not overburden existing public services and facilities	No need of expansion.

F. STAFF REVIEW AND INSPECTION OF SUBMITTED DOCUMENTS

Staff review criteria, to be used in rendering a recommendation regarding the proposed Historical Legacy Use, are included in ULDC Section 75-035 (A) to (F). The following represents the staff review;

1. Section 75-035 (A) The applicant shall have the burden of proof to demonstrate that the use was in existence on the property as of October 1 2006.

A Mulch City Florida Limited Liability Company Annual Report from 2006 indicating the place of business at 13538 Okeechobee Boulevard. (See Attachment A). and an FDEP 2006 Yard Trash Processing Facility Application and Annual Processing Report. (See Attachment B).

2. Section 75-035 (B) The applicant shall apply for a Category B Special Exception pursuant to Section 170-010(B) of this Code.

The Applicant has applied for Category B Special Exception approval to continue the existing Yard Waste Processing Facility. The Town Manager has directed that the application be processed as a Category A Special Exception.

3. Section 75-035 (C) The historical legacy use is located on a separate property within the Town, contiguous to the homesteaded property. The business owner's homestead exemption shall have been in effect and the historical legacy business shall have been in continuous operation within the Town since October 1, 2006.

The Applicant has provided Palm Beach County Property Appraiser (PAPA) information indicating a Tax Year 2023 Homestead Exemption on the property owned by Donald and Sherry Tetrault and located at 13537 Farley Road and its continued existence since 2006 (See

In addition, the Applicant has provided the following documentation of the existence of the business from 2006 to 2023:

- Corporation Annual Reports for Big Orange Land Development & Construction, Inc. (2004 to 2010); Mulch City, Inc., (2002 to 2010); Tetro Land Development, Inc. (2011); and Tetro Land Development & Construction, LLC (2012 to 2023). The business location for Mulch City, Inc., Tetro Land Development, Inc., and Tetro Land Development & Construction, LLC is identified as 13538 Okeechobee Boulevard, Loxahatchee Groves from 2006 to 2023 (See Attachment A)
- FDEP Registration as Yard Trash Processing Facility WACS ID 95230 in 2006 and Annual Reports for the Yard Trash Processing Facility for 2007 to 2022 (valid through August 1, 2023). The Florida Department of Environmental Protection. Palm Beach County Health Department, agent for FDEP, confirmed that the use has been in operation since 2001. (See Attachment B).

4. Section 75-035 (D) The use does not present a threat to public health or safety.

No instances of threats to public health or safety have been reported to the Town during the course of the operation of the business. Further, there are no active code violations being processed by the Town on the property. In order to continue operation, the use must comply with the operational features and equipment necessary to maintain a clean and orderly operation requirement of Florida Administrative Code Chapter 62-709 (See Attachment E) Periodic inspection reports were conducted in 2011, 2014, 2018, 2020 and 2021. A single violation was noted for a late submittal of the Annual Registration in 2011 (See Attachment E).

5. Section 75-035 (E) The property upon which the use is located is not currently the subject of a Town code enforcement action.

Per Town Staff, the Subject Property is not currently the subject of a code violation. An Order Finding Violation was drafted in 2008; however, there is no record of it being recorded with the Palm Beach County Clerk of Courts.

6. Section 75-035 (F) The owner-operator has submitted an affidavit (See: Exhibit 2): (1) certifying compliance with Sections (A)—(E) above (2) limiting the continued operation of the use to both the Parcel Control Number (PCN) and

operator; (3) agreeing not to diversify the existing business; (4) agreeing that no signs visible from the road which advertise or promote the use will be erected on the property; (5) agreeing to maintain, and provide a copy to the Town, an active annual local business tax receipt; (6) acknowledging that, in the event of the transfer of the property to a new owner the right to operate the use shall cease; (7) acknowledging that, in the event of the owner's loss of his or her homestead exemption on the property, the right to operate the use shall cease; and (8) agreeing to conditions imposed by Town Staff including, but not limited to, access, parking, hours of operation, noise generation, location of the business activities upon the property, number of on-site employees, clients or customers allowed, deliveries, waste disposal, proof of insurance, etc.

The Applicant has submitted the required Affidavit (Refer to Exhibit 2).

Based upon the documentation submitted by the Applicant, supplemented by the above research and inspection, Staff finds: (1) the business, assigned WACS ID 95230, has been in continuous operation in Loxahatchee Groves at 13538 Okeechobee Boulevard since October 1, 2006; (2) Donald N. Tetrault, Manager of Tetro Land Development & Construction, Inc, has maintained a residence with a Homestead Exemption at 13537 Farley Road since October 1, 2006; and (3) the review criteria established in ULDC Section 75-035 have been satisfied.

F. STAFF RECOMMENDATION

Staff finds the Application in compliance with the standards listed in ULDC Section 75-035 *Historical Legacy Uses as of October 1, 2006*. Therefore, Staff recommends that the Town Council approve Resolution 2023-12 assigning a Yard Trash Processing Facility Historical Legacy designation to the property located at 13538 Okeechobee Boulevard including conditions necessary to insure consistency with the ULDC and neighborhood compatibility.

EXHIBIT 2

HISTORICAL LEGACY AFFIDAVIT

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority personally appeared DONALD NELSON TETREAU who after being duly sworn says:

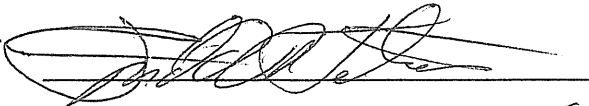
1. I am over the age of 18 years old.
2. I am the owner of property in the Town of Loxahatchee Groves that is the subject of an application for Historical Legacy and has an address of 13538 Okeechobee Blvd Loxahatchee Fl 33470 and PCN of _____ (Subject Site).
3. The use(s) identified in the application for Historical Legacy and listed here have been in existence on the Subject Site since prior to October 1, 2006 and have been in continuous operation through the date of the application (Subject Uses).

Subject Uses: recycling yard for yard debris
and transfer station

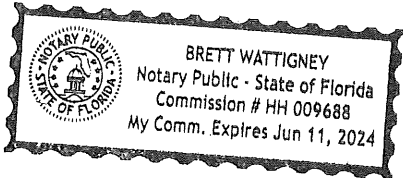
4. The Subject Site is also my homestead property and I have claimed a homestead exemption on the Subject Site continuously since prior to October 1, 2006; OR
 In addition to owning the Subject Site, I am also the owner of property located in the Town of Loxahatchee Groves with an address of 13537 Fawcett Rd box fl 33470, which is my homestead property and I have claimed a homestead exemption on this property continuously since prior to October 1, 2006.
5. The Subject Uses do not present a threat to public health or safety.
6. The Subject Site is not currently the subject of a Town code enforcement action. This does not include any potential code enforcement action regarding the Subject Uses.
7. The continued operation of the Subject Uses shall be limited to the Subject Site and the current operator, _____.
8. The Subject Uses and the related business shall not be diversified.
9. No signs visible from the road which advertise or promote the Subject Uses shall be erected on the Subject Site.
10. I will maintain an active annual Local Business Tax Receipt through the Town of Loxahatchee Groves for the Subject Uses on the Subject Site.
11. If ownership of the Subject Site is transferred to a new owner, the Subject Uses on the Subject Site shall cease.

- 12. If the property identified in paragraph 4 herein is no longer my homestead property and subject to homestead exemption, the Subject Uses on the Subject Site shall cease.
- 13. The Subject Uses on the Subject Site, to the extent approved by the Town, are subject to Conditions of Approval which are recorded with the approval and shall be implemented and maintained.
- 14. Any of the Subject Uses on the Subject Site that are not approved by the Town shall cease immediately.
- 15. This Affidavit shall be recorded in the public records of Palm Beach County, Florida to provide notice to future purchasers of the limitations of the Subject Uses on the Subject Site.

FURTHER AFFIANT SAYETH NAUGHT.


 Print Name: Donald Nelson Tetreault

SWORN TO AND SUBSCRIBED before me by means of physical presence this 14th day of May, 2023 by Donald Tetreault, who is personally known to me or who has produced Drivers License as identification and who did take an oath.



Brett Wattigney
 Notary Public
Brett Wattigney
 Notary Public Printed
 My Commission Number: HH 009688
 My Commission Expires: 6/11/2024

TO: Town of Loxahatchee Groves Planning and Zoning Board

FROM: Elizabeth V. Lenihan, Town Attorney

DATE: July 3, 2023

SUBJECT: Supplemental Information: Tetro Historical Legacy Application

Background

The following additional information and options are provided for discussion and consideration by the Board with regard to the application for Historical Legacy designation on the property located at 13538 Okeechobee Boulevard (“Subject Property”) pursuant to Sec. 75-035, ULDC.

Whether the Historical Legacy use complies with Sec. 75-035(C), ULDC. Specifically, whether the business has been in continuous operation within the Town since October 1, 2006.

Sec. 75-035(C), ULDC, reads as follows:

A historical legacy use shall comply with either of the following criteria:

- (1) Be located on a property owned by a resident with a homestead exemption within the Town; or
- (2) be located on a separate property within the Town, either contiguous or non-contiguous to the homesteaded property.

In either case, the business owner's homestead exemption shall have been in effect and the historical legacy business shall have been in continuous operation within the Town since October 1, 2006.

The applicant has provided corporate documentation and Yard Trash Processing Facility Registration records for the entities Big Orange Land Development and Construction Company, Mulch City, Inc., Tetro Land Development, Inc., and Tetro Land Development and Construction, LLC to establish that this criterion has been met. There are a few matters for the Board to consider related to the continuous operation of the business.

1. Is the operation under different business entities operated by the same individual(s) or family to be considered as one business for the purposes of meeting the criteria?
2. Is the documentation provided sufficient to prove continuous operation?
3. Is the documentation provided sufficient to prove the business was in continuous operation within the Town?

Question 1

The proposed Historical Legacy use of Yard Trash Processing Facility has been operated on the Subject Property by several business entities over the years. The documentation provided by the applicant shows this corporate history, including the incorporator(s) and officers and directors of each entity. The Board should discuss whether due to the apparent ownership interests in the various business entities, these entities may all be considered in meeting the criteria.

Question 2

The proposed Historical Legacy use of Yard Trash Processing Facility has been operated on the Subject Property for many years. The documentation provided by the applicant shows the history

of registration with the Department of Environmental Protection for this use. There is at least one year when the Department of Health, instead of the Department of Environmental Protection, issued the registration. The Department of Environmental Protection has produced a historical records listing for the Subject Property which indicates there was a break in the continuous operation and an explanatory email. The Board should discuss whether the documentation provided is sufficient to prove continuous operation.

Question 3

The proposed Historical Legacy use of Yard Trash Processing Facility has been operated on the Subject Property by several business entities over the years. The documentation provided by the applicant shows this corporate history, including the principal and mailing address of each entity; some of which are not within the Town. The Board should discuss whether the documentation provided is sufficient to prove the business has been in continuous operation within the Town.

Recommended Action

While staff has recommended that the application meets the criteria, the Board should determine whether the facts presented related to each of the three questions above, meet the requirements of Section 75.035(C), ULDC, that “the historical legacy business shall have been in continuous operation within the Town since October 1, 2006”.

TOWN OF LOXAHATCHEE GROVES

RESOLUTION 2023-12

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ASSIGNING THE LAND OWNED BY DONALD NELSON TETRAULT, CONSISTING OF 3.21 ACRES MORE OR LESS, LOCATED AT THE SOUTHWEST CORNER OF OKEECHOBEE BOULEVARD AND F ROAD LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED IN EXHIBIT “A” TO THIS RESOLUTION AN HISTORICAL LEGACY DESIGNATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council, as the governing body of the Town of Loxahatchee Groves, Florida (“Town”), pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to the assignment of an Historical Legacy designation for development on property within the Town; and

WHEREAS, the Council, pursuant to Article 75 (Nonconforming Uses, Structures and Plots), Section 75-035 (Historical Legacy Uses as of October 1, 2006) and Article 175 (Special Exception Uses) of the Town of Loxahatchee Groves Unified Land Development Code is authorized and empowered to consider, continue, continue with conditions or deny applications for Historical Legacy designation; and

WHEREAS, the notice and hearing requirements, as provided for in Article 115 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 of July 10, 2023 recommended approval of the assignment of a Yard Trash Processing Facility Historical Legacy designation subject to conditions necessary to ensure consistency with the ULDC and neighborhood compatibility; and

WHEREAS, the Tetrault Historical Legacy Application was presented to the Town Council at a quasi-judicial public hearing conducted on September 5, 2023; 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

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 findings in the staff report dated August 26, 2023 and Town Planning and Zoning Board recommendation and makes the following findings of fact:

1. The assignment of an Historical Legacy designation to the property located at 13538 Okeechobee Boulevard, as legally described in Attachment A hereto, is consistent with Policy 1.11.2 of the Future Land Use Element of the Town of Loxahatchee Groves Comprehensive Plan, as it allows a legacy use to continue.
2. The assignment of an Historical Legacy designation to the property located at 13538 Okeechobee Boulevard, as legally described in Attachment A hereto, is consistent with the standards and requirements of ULDC Section 75-035 *Historical Legacy Uses as of October 1, 2006*.
3. This Historical Legacy Affidavit (Affidavit) Application complies with relevant and appropriate portions of applicable Town of Loxahatchee Groves land development regulations, including Section 75-035 (F). This Affidavit, along with the Conditions of Approval, as adopted and presented in Exhibit C hereto, complies with standards imposed on it by all other applicable provisions of the Town ULDC. The Town Council finds the conditions, as presented in Exhibit C hereto, to be reasonable, and rationally related to the Historical Legacy development, and consistent with the Town's character.
4. This Historical Legacy Application along with Conditions of Approval, as adopted and presented in Exhibit B hereto, are compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for Historical Legacy designation.
5. The Conditions of Approval as adopted and presented in Exhibit B hereto, minimize adverse effects, including visual impact and intensity of the Historical Legacy use on adjacent lands.
6. This Historical Legacy Application along with Conditions of Approval, as adopted and presented in Exhibit B hereto, minimize environmental impacts, including but not limited to water, air, storm water management, wildlife, vegetation, wetlands, noise and the natural functioning of the environment.

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 Historical Legacy designation 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, and Conditions of Approval attached hereto as Exhibit B and made a part hereof.

Section 4. The approval is subject to Section 150-030 (Time Limits) of the town of Loxahatchee Groves Unified Land Development code and other provisions requiring that development commence in a timely manner.

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

Section 6. 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 7. This Resolution shall become effective upon adoption.

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

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Laura Danowski, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Robert Shorr, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Margaret Herzog, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marianne Miles, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Phillis Maniglia, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

RESOLVED AND ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 5th day of September 2023.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor Laura Danowski

Town Clerk

Vice Mayor Robert Shorr

Council Member Phillis Maniglia

APPROVED AS TO LEGAL SUFFICIENCY:

Council Member Margaret Herzog

Town Attorney

Council Member Marianne Miles

EXHIBIT A

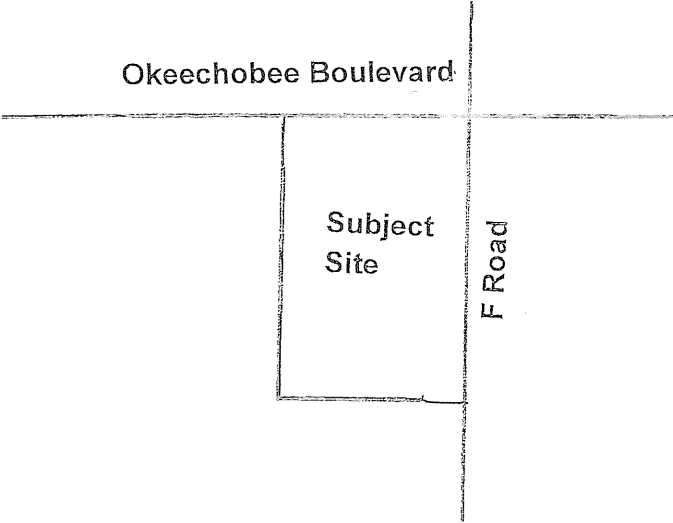
LEGAL DESCRIPTION AND LOCATION MAP

The following Legal Description is applicable to Resolution 2023-XX:

A. DESCRIPTION:

Tract 10, Less the West 10 Acres thereof, Block E, LOXAHATCHEE GROVES, according to the map or plat thereof as recorded in Plat book 12, Page 29, Public Records of Palm Beach County, Florida.

B. LOCATION MAP:



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EXHIBIT B – CONDITIONS OF APPROVAL

A. GENERAL

1. The Historical Legacy designation is effective only for the property located at 13538 Okeechobee Boulevard, Loxahatchee Groves Florida (the Site);
2. The Historical Legacy designation is effective only so long as the current owner of the Site, Donald Nelson Tetrault, continues to be the owner of the Site.
3. The Historical Legacy designation is effective only so long as the current operator Tetro Land Development and Construction, LLC, is the operator of the Site.
4. The Historical Legacy designation is effective so long as the current, Donald Nelson Tetrault, is the owner of and claiming homestead on the property located at 13537 Farley Road, Loxahatchee Groves, Florida.
5. The operator of the Site shall maintain an active annual Business Tax Receipt with the Town of Loxahatchee Groves for the historical legacy use on the Site.
6. Failure to comply with any of the conditions of approval stated herein at any time may result in: (a) loss of the historical legacy designation; (b) a requirement of the owner 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 (c) referral to the Code Enforcement Officer.

B. LAND USE AND SITE PLANNING

1. Historical Legacy development of the Site shall be limited to a Yard Trash Processing Facility with a valid annual Florida Department of Environmental Protection (FDEP) registration and Palm Beach County Health Department (PBCHD) permit for the operation of Source Separated Organics Processing (SOPF) Facility 65230. .
2. A site plan application depicting the historic legacy use of the Site consistent with ULDC Article 155 *Site Plans* shall be submitted for Town consideration within 6 months of the approval of Resolution 2023 – 12.
3. The use of the Site shall not be expanded outside of the historical legacy use area, as depicted in the site plan required per Condition B.2.
4. The Site and the related business shall be operated consistent with this Historical Legacy designation and shall not be diversified.

C. LAND CLEARING AND LANDSCAPING

1. A landscape plan consistent with ULDC Section 85-60 *Perimeter Landscape Buffer Requirements For Non-Residential/Non-Agricultural Perimeters* shall be included with the site plan application per Condition B.2. Perimeter buffer berms along the Okeechobee Boulevard and F Road frontages designed to a minimum height of 3 feet above the grade of the internal parking area and topped by a hedge shall be included in the landscape plan.
2. 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.
3. A Floodplain Development Application shall be filed with the Town Department of Public Works concurrent with any site work or permit required by Article 87 of the Unified Land Development code

D. ENVIRONMENTAL

1. The Owner shall request an environmental study of the Site on a yearly basis as part of the annual FDEP registration and PBCHD permit applications.
2. The results of any environmental inspections on the Site performed by the Palm Beach County Health Department shall be submitted to the Town for review.
3. Physical activities on the Site will occur during normal business hours only and dust will be controlled by watering trucks as needed.

E. SIGNS

1. No signs visible from the road which advertise or promote the use of the Site shall be erected on the Site.

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