



Thursday
February 21, 2019
7:00 pm

Town of Southwest Ranches Comprehensive Plan Advisory Board Meeting Agenda

Town Hall
13400 Griffin Road
Southwest Ranches, FL 33330-2628

Board Members

Steve Breitreuz
Stephanie Cawein
Josh Dykes
Jason Halberg
Newell Hollingsworth
George Morris
Robert Sirota

Council Liaison

Bob Hartmann

Staff Liaison

Emily Aceti

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Public Comment: Items relating to the Comprehensive Plan but not on the agenda
5. Old Business
 - A. Approval of minutes for January 2019
 - B. Excuse absences
 - C. Nursery Ordinance
 - D. Industrial Use
6. New Business
7. Board Member / Staff Comments and Suggestions
8. Items for Next Meeting
9. Adjournment

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS BOARD OR COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND

EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.



Town of Southwest Ranches
Comprehensive Plan Advisory Board
Meeting Minutes

January 17, 2019
7:00 PM

Town Hall
13400 Griffin Road

Call to Order

Roll Call

Steve Breitkreuz - Present
Stephanie Cawein - Present
Josh Dykes - Absent
Jason Halberg - Present
Newell Hollingsworth - Present
George Morris – Present
Robert Sirota – Present

Also Present: Bob Hartmann, Council Member; Dee Schroder, Council Member;
Council Member Gary Jablonski; Emily Aceti, Town Staff; Jeff Katims, Town
Planner; Robert Solera

Pledge of Allegiance

Motion: To nominate Steve Breitkreuz for Chair.

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>									

Motion: To nominate George Morris for Vice Chair.

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>									

Motion: To nominate Stephanie Cawein as recording secretary.

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>									

Discussion: Presentation by Russell Muniz - Advisory Handbook

Motion: To approve the November meeting minutes.

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>	<i>NH</i>	<i>GM</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Motion: To excuse Josh Dykes' absence.

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>	<i>NH</i>	<i>GM</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Motion: To change "person" to "legal entity."

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Failed</i>	<i>NH</i>								

Motion: Delete second half of J1a: [*and must obtain a certificate of use for the retail sale of cottage foods on the property*]

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>	<i>GM</i>	<i>SC</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>N</i>	<i>Y</i>	<i>Y</i>

Motion: To extend the meeting 15 minutes.

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>	<i>JH</i>	<i>GM</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Motion: The Chair request the Town Council to defer this item to a future date.

Result	1st	2nd	SB	SC	JD	JH	NH	GM	RS
<i>Passed</i>	<i>NH</i>	<i>SB</i>	<i>Y</i>	<i>Y</i>	<i>Abs</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>	<i>Y</i>

Items for Next Meeting:

- Old Business: Nursery Ordinance
- New Business: Procedure for the discussion and inclusion of changes to the Comp Plan.

Meeting Adjourned at 9:15 PM

1 **ORDINANCE NO. 2019 -**

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2
3 **AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES,**
4 **FLORIDA PERTAINING TO THE REGULATION OF COMMERCIAL**
5 **PLANT NURSERIES AS A SPECIAL EXCEPTION USE; AMENDING**
6 **THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND**
7 **DEVELOPMENT CODE (“ULDC”) BY AMENDING SECTION 10-30,**
8 **“TERMS DEFINED;” AMENDING ARTICLE 45, “AGRICULTURAL**
9 **AND RURAL DISTRICTS,” SECTIONS 045-030, “GENERAL**
10 **PROVISIONS” AND 045-050, “PERMITTED AND PROHIBITED**
11 **USES;” AMENDING ARTICLE 60, “COMMUNITY FACILITY**
12 **DISTRICT,” SECTION 060-030, “PERMITTED AND PROHIBITED**
13 **USES;” AMENDING ARTICLE 100, “APPLICATION SUBMITTAL**
14 **AND NOTICE PROCEDURES,” SECTIONS 100-020, “GENERAL**
15 **APPLICATION REQUIREMENTS,” 100-030, “MINIMUM REQUIRED**
16 **CONTENT FOR ALL PUBLIC HEARING NOTIFICATIONS,” AND**
17 **100-060, “MAIL NOTICE REQUIREMENTS FOR PUBLIC**
18 **HEARINGS;” CREATING ARTICLE 112, “SPECIAL EXCEPTION**
19 **USES;” AMENDING CHAPTER 8, “EMERGENCY MANAGEMENT” OF**
20 **THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION;**
21 **PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY;**
22 **AND, PROVIDING FOR AN EFFECTIVE DATE.**

23
24 **WHEREAS,** the Town of Southwest Ranches (“Town”) was founded to preserve
25 its rural character and the rural lifestyle of its residents; and

26 WHEREAS, property owners using their property for bona fide agricultural uses
27 may seek to diversify their farm income through the production and retail sale of
28 cottage foods on their property; and

29 WHEREAS, the Town recognizes the need to provide a definition for cottage
30 foods and to modify Section 045-050 of the zoning code to allow for the retail sale of

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New text is underlined and deleted text is ~~stricken~~

1 cottage foods produced from farm products grown on the property as an accessory use
2 provided that the property owner obtains a certificate of use for the retail sale of
3 cottage foods; and

4 **WHEREAS**, the Town recognizes the community's need for construction trade
5 businesses that provide services to the public for the installation, removal and
6 maintenance of nursery stock; and

7 **WHEREAS**, the Town Council finds it necessary to establish a definition for
8 commercial landscape maintenance operations and to establish regulations to ensure
9 that such use is located and operated in a manner that is compatible with the
10 surrounding neighborhood and avoids the creation of a nuisance; and

11 **WHEREAS**, plant nurseries may seek to diversify their existing bona fide
12 agricultural operations on their property by adding land uses not recognized or
13 protected as bona fide agriculture such as retail sales and commercial landscape
14 maintenance operations; and

15 **WHEREAS**, existing plant nurseries that wish to use a portion of their property
16 for retail sales or commercial landscape maintenance operations should be afforded an
17 opportunity to use their property for these accessory uses, provided that the zoning
18 district allows for these accessory uses, and that the property owner obtains a
19 certificate of use and a special use exception permit for such use; and

20 ~~WHEREAS, a property owner who wishes to use all of the property for~~
21 ~~commercial landscape maintenance operations may do so, provided that the zoning~~
22 ~~district allows for this conditional use and that the property owner has obtained a~~
23 ~~certificate of use by January 1, 2019 and a special use exception permit by January 1,~~
24 ~~2020.~~

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1 WHEREAS, the Town Council finds it necessary to establish that any person
2 engaged in plant nursery retail sales or a commercial landscape maintenance operation
3 on the effective date of this Ordinance is using their property for a nonconforming use
4 that will be deemed unlawful after January 1, 2022. A property owner who wishes to
5 continue using the property for plant nursery retail sales or commercial landscape
6 maintenance operations must obtain a certificate of use pursuant to Section 005-120 by
7 December 1, 2018, and must obtain a Special Use Exception Permit by December 31,
8 2021 or discontinue the unlawful use by January 1, 2019; and

9 WHEREAS, the Town Council, sitting as the Local Planning Agency, has
10 reviewed the contents of this Ordinance at a duly noticed public hearing on _____ and
11 has issued its recommendation to the Town Council, finding that the Ordinance is
12 consistent with the adopted comprehensive plan.

13 **NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE**
14 **TOWN OF SOUTHWEST RANCHES, FLORIDA:**

15 Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed
16 as being true and correct, and are hereby incorporated herein and made a part hereof.

17 Section 2. Section 10-30, "Terms Defined" is hereby amended as
18 follows:

19 * * *

20 *Commercial Landscape Maintenance Operation.* The term "commercial
21 landscape maintenance operation" means a person engaged in the installation,
22 removal and maintenance of plants-and plant products on other properties.

23 * * *

24 *Cottage foods.* The term "cottage foods" means the preparation of farm
25 products in an unlicensed kitchen that are sold directly to consumers without a
26 permit from the Florida Department of Agriculture and Consumer Services and in
27 compliance with Chapter 500.80, Florida Statutes. The term does not include
28 products sold wholesale.

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1 * * *

2 *Farm product.* The term “farm product” means any plant or animal useful
3 to humans and includes, but is not limited to, any product derived therefrom.

4 * * *

5 *Landscape materials.* The term “landscape materials” means items sold by a
6 plant nursery at that are accessory to plants and plant products, including
7 stepping stones, river rocks, cap rocks, tree-bracing kits, mulch, top soil, and
8 fertilizer. The term does not include lawn furniture, picnic tables, rocking chairs,
9 outdoor fire pits, grilles, monuments, decorative fountains, hot tubs, Jacuzzis,
10 rugs, statues, gazebos and playground equipment.

11 * * *

12 *Plant nursery.* The term “nursery” means any grounds or premises on or in
13 which nursery stock is grown, propagated, or held for sale or distribution, except
14 where aquatic plant species are tended for harvest in the natural environment,
15 owned and operated by a person that has a valid certification of registration from
16 the Florida Department of Agriculture and Consumer Services for the sale and
17 distribution of any nursery stock.

18
19 *Nursery stock.* The term “nursery stock” means all plants, trees, shrubs,
20 vines, bulbs, cuttings, grafts, scions, or buds grown or kept for or capable of
21 propagation or distribution.

22 * * *

23
24 ~~*Plant nursery.* The term “plant nursery” means a person that has a valid~~
25 ~~certification of registration from the Florida Department of Agriculture and~~
26 ~~Consumer Services for the sale and distribution of any nursery stock.~~

27
28 *Plants and plant products.* The term “plants and plant products” means
29 trees, shrubs, vines, forage and cereal plants, and all other plants and plant
30 parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs,
31 seeds, wood, lumber, and all products made from them.

32
33 *Plant nursery retail sales.* The term “plant nursery retail sales” means a
34 plant nursery that sells plants and plant products or landscape materials directly
35 to the public at a specific location with established hours of operation. The term
36 does not include the sale of plants grown on the property for wholesale to a
37 broker or other person for resale.

1 * * *

2 *Special exception use.* The term, "special exception use" means a use with
3 one or more characteristics that may be incompatible with the permitted uses
4 and intended character of a particular zoning district, and which therefore
5 requires special review and consideration to ensure that each instance of the
6 proposed use is appropriately sited, designed and operated within the zoning
7 district.

8
9 *Special exception use permit.* The term "special exception use permit" means
10 a resolution of the Town Council authorizing a special exception use on a specific
11 property, including terms and conditions of such authorization.

12 * * *

13
14 *Yard trash* means vegetative matter resulting from landscaping maintenance,
15 land clearing operations and any other offsite source, and includes materials
16 such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree
17 stumps, and associated rocks and soils.

18
19 **Section 3.** Article 45, "Agricultural and Rural Districts," Section 045-030,
20 "General Provisions" is hereby amended as follows:

21 * * *

22 (J) Sale of farm products and incidental plant nursery products.

23 (1) Farm products grown, raised or cultivated may be sold on the
24 same plot for wholesale without a special use exception permit.

25 a. Persons engaged in the sale of cottage foods must comply
26 with Ch. 500.80, Florida Statutes ~~and must obtain a certificate~~
27 ~~of use for the retail sale of cottage foods on the property.~~

28 (2) A plant nursery may sell materials that are customarily
29 incidental to the installation, maintenance, and use of such
30 plant products with a special use exception permit.

31 a. By way of example, the following are classified as
32 incidental materials: stepping stones, river rocks, railroad
33 ties, ponds, mulch, topsoil, fertilizer, and tree-bracing kits.

34 b. By way of example, the following are not incidental
35 materials: lawn furniture, including benches and picnic
36 tables, gazebos, decorative fountains, statues, recreational

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1 and playground equipment, pools and hot tubs, household
2 goods, and rugs.

- 3 c. The outdoor display of incidental landscape materials must
4 be screened from the view of adjacent properties.

5 (3) The following are requirements of all special exception use permits for
6 plant nurseries with incidental retail sales, ~~unless the applicant receives~~
7 ~~a unanimous vote of the five (5) members of the town council to waive~~
8 ~~or modify a requirement for a particular application based upon unique~~
9 ~~circumstances of approval:~~

- 10 a. The applicant must possess an active agricultural classification
11 from the Property Appraiser on the plant nursery for which the
12 special exception use permit for incidental retail sales is sought
13 ~~the entire portion of the property being considered~~, pursuant to
14 Chapter 193.461, Florida Statutes, as may be amended from time
15 to time.
- 16 b. The applicant must possess a valid certificate of registration from
17 the Florida Department of Agriculture and Consumer Services.
- 18 c. The applicant shall make an application for a special use
19 exception permit using the form prescribed by the Town and shall
20 provide the following information to demonstrate how the
21 incidental retail sales will be conducted in a manner that is
22 consistent with the character of the surrounding neighborhood
23 and will not create a nuisance: hours of operation; detailed site
24 plan that addresses building size, location, screening and
25 adequate parking for employees and patrons including
26 handicapped parking, restrooms, ingress and egress of vehicular
27 traffic, setbacks from the street and adjacent properties, outdoor
28 equipment screening or storage, and screening of items for retail
29 sale stored outside.
- 30 d. Paved driveway aprons deemed suitable by the town engineer are
31 required to prevent degradation of adjacent street surfaces.
- 32 e. The applicant shall demonstrate how stormwater will be retained
33 onsite or appropriately conveyed, as applicable, in compliance
34 with the requirements of this chapter and the applicable drainage
35 district standards.
- 36 f. The property shall adequately buffer and screen abutting
37 residential uses and streets, to the satisfaction of the Town

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1 Council, from the vehicular use areas and portions of the property
2 associated with retail sales, including any portion of the nursery
3 periphery where retail customers have access.

- 4 g. The property shall comply with the outdoor lighting regulations
5 in Article 95, and the sign regulations in Article 70.

6 (4) The following are minimum guidelines for plant nurseries with
7 incidental retail sales. The Town Council may grant a Special Exception
8 Use Permit that does not follow one or more of the guidelines based
9 upon unique operational, locational or other circumstances pertaining
10 to the proposed use.

- 11 a. The property ~~should~~ has frontage on, and exclusively access to,
12 an arterial roadway.
- 13 b. The property ~~should have~~ has a minimum plot size of five (5)
14 acres.
- 15 c. Parking of passenger vehicles ~~should be~~ is limited to patrons and
16 not more than one (1) personal passenger vehicle for each
17 employee or worker who have driven to the site, and who are
18 engaged in onsite work for the entire time that the vehicle is
19 parked on the plot.
- 20 d. The property ~~shall~~ should provide at least ten (10) paved off-
21 street parking spaces
- 22 e. No business ~~shall~~ should be conducted before 7:00 a.m. and after
23 6:00 p.m.

24 (V) Commercial landscape maintenance operations.

25 (1) Commercial landscape maintenance operations are permitted as an
26 accessory use to a plant nursery provided that the owner obtains a special
27 use permit and that the use is incidental to the plant nursery's primary use
28 of the premises for the cultivation of plants.

29 (2) The following are requirements of all special exception use permits for
30 commercial landscape maintenance operations incidental to plant nurseries.

- 31 a. The landscape maintenance business must be located on the same
32 premises as the plant nursery to which it is an accessory use. The
33 nursery must possess an active agricultural classification from the
34 Property Appraiser and a valid certificate of registration from the
35 Florida Department of Agriculture and Consumer Services.

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- 1 b. The applicant shall make an application for a special ~~use~~ exception use
2 permit using the form prescribed by the Town and shall provide the
3 following information to demonstrate how the incidental commercial
4 landscape maintenance operation will be conducted in a manner that is
5 consistent with the character of the surrounding neighborhood and will
6 not create a nuisance, cause premature wear of Town streets or create
7 traffic congestion during times of fleet ingress and egress through the
8 neighborhood where the nursery is located; hours of operation; the
9 number of landscape maintenance trucks that will operate from the
10 property; the method of fueling the trucks; detailed site plan that
11 addresses building size, location, screening and adequate provision of
12 parking for employees, including the number of employee vehicles to
13 be parked, handicapped parking, restrooms, ingress and egress of
14 vehicular traffic, setbacks from the street and adjacent properties, fuel
15 storage, the location and screening of areas for the storage of ~~and~~
16 outdoor equipment ~~screening or storage, trucks, and materials such~~
17 that the storage is undetectable from abutting residential properties
18 and streets.
- 19 b. The applicant must obtain all local, state and federal permits and
20 insurance for the on-site storage of fuel for the trucks or equipment
21 used in the commercial landscape maintenance operation.
- 22 c. Storage, recycling or processing ~~The applicant may not store, recycle~~
23 ~~or otherwise process of any vegetative debris or yard trash on the~~
24 ~~property is prohibited.~~
- 25 d. Mulching or grinding of yard ~~trash waste~~ is not permitted.
- 26 ~~e. The use of air curtain incinerators is not permitted unless the Town~~
27 ~~Council approves it as part of the conditions to the issuance of the~~
28 ~~special use permit. Air curtain incinerators used in connection with a~~
29 ~~commercial landscape maintenance operation must be in permitted~~
30 ~~and accordance with all local, state and federal laws. Air curtain~~
31 ~~incinerators may not be used on properties with fewer than five (5)~~
32 ~~acres.~~
- 33 e. The parking and storage of equipment, machinery and trucks that are
34 not owned or leased by the applicant or are not used solely in the
35 commercial landscape maintenance operation is prohibited.
- 36 g. **Onsite** Fueling is prohibited within any public or private street right-of-
37 way. All fueling tanks must have all required licenses from Broward
38 County.

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- 1 h. Paved driveway aprons deemed suitable by the town engineer are
2 required to prevent degradation of adjacent street surfaces.
- 3 i. The property shall adequately buffer abutting residential uses and
4 street lines to the satisfaction of the Town Council from the vehicular
5 use areas and portions of the property associated with the commercial
6 landscape maintenance operation, including but not limited to worker
7 parking and commercial vehicle and equipment parking.
- 8 j. The property shall comply with the outdoor lighting regulations in
9 Article 95, and the sign regulations in Article 70.
- 10 k. All special exception use permits granted in whole or in part for
11 commercial landscape maintenance operations shall establish a specific
12 limit as to the number of commercial vehicles that may be used for the
13 commercial landscape maintenance operation.
- 14 (3) The following are minimum guidelines for commercial landscape
15 maintenance operations accessory to a plant nursery. The Town Council
16 may grant a Special Exception Use Permit that does not follow one or more
17 of the guidelines based upon unique operational, locational or other
18 circumstances pertaining to the proposed use.
- 19 a. The property should ~~has~~ frontage ~~on~~, and exclusive access ~~to~~, an
20 arterial roadway.
- 21 b. The property should have ~~has~~ a minimum plot size of five (5) acres.

22
23 * * *

24 **Section 4.** Article 45, "Agricultural and Rural Districts," Section 045-050,

25 "Permitted and Prohibited Uses" is hereby amended as follows:

26 Sec. 045-050. – Permitted, accessory, conditional, special exception and
27 prohibited uses.

28 Plots in rural and agricultural districts may be used for one (1) or more of
29 the uses that are specified below as being permitted or conditionally permitted
30 uses. Special exception uses require town council approval pursuant to article
31 112:

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1

Key to abbreviations:				
P=Permitted use	NP=Not permitted	C=Conditional use	SE=Special exception use	
Permitted Principal Uses	A-1	A-2	RE	RR
One single-family detached dwelling on a lot of record	P	P	P	P
Nonprofit neighborhood social and recreational facilities	P	P	P	P
Cemetery (subject to section 045-030(U))	P	NP	NP	NP
Community residential facilities (subject to section 045-030(S))	P	P	P	P
Sale of farm products for wholesale (subject to section 045-030(J))	P	P	P	P
Farm-product retail sales (subject to section 045-030(J))	SE	SE	SE	SE
Essential services (subject to section 045-030(K))	P	P	P	P
Fish breeding (commercial and noncommercial)	P	P	P	P
Keeping, breeding of animals (subject to section 045-030(F))	P	P	P	P
Commercial equestrian operations	P	P	P	P
Veterinary clinics (no overnight stay or animal runs)	P	P	NP	NP
Veterinary hospitals	NP	P	NP	NP
Kennels, commercial boarding and breeding	NP	P	NP	NP
Cannabis-related uses	NP	NP	NP	NP
Wireless communication facilities (subject to article 40, "Telecommunication Towers and Antennas.")	P	P	P	P
Commercial landscape maintenance operations <u>incidental to a plant nursery</u> (subject to section 045-030(V))	SE	SE	SE	SE
Sale of cottage food products for retail (subject to section 045-030(J))	P	P	P	P
Retail Sale of Items Incidental to Plant Product Sales (subject to section 045-030(J))	SE	SE	SE	SE

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<i>Permitted accessory uses to a single-family dwelling</i>				
Detached guesthouse (subject to section 045-030(G))	P	P	P	P
Exhibition of Class I and Class II wildlife (subject to section 035-070 pertaining to conditional uses)	C	C	NP	C
Keeping, breeding of animals (subject to section 045-030(F))	P	P	P	P
Yard sales (subject to section 035-060 pertaining to conditional uses)	C	C	C	C
Home offices (subject to section 035-030 pertaining to conditional uses)	C	C	C	C
Family day care homes	P	P	P	P
Cannabis-related uses	NP	NP	NP	NP
Accessory structures and uses, other	P	P	P	P

1 **Section 5.** Article 60, "Community Facility District," Section 060-030, "Permitted
2 and Prohibited Uses" is hereby amended as follows:

3 Sec. 060-030. – Permitted, accessory, conditional, special exception and prohibited
4 uses.

5
6 Permitted uses in the community facility district shall be limited to those uses
7 specified as permitted or conditionally permitted uses in the master use list. Special
8 exception uses require town council approval pursuant to article 112. All permitted
9 uses shall be governmentally owned (public) or operated, or not-for-profit, unless
10 otherwise specified. Uses are subject to applicable provisions of section 060-090,
11 "Limitations of uses." Specific subsection references are included in the following master
12 use list:

13
14 Master Use List

P=Permitted use	C=Conditional use	A=Accessory use only	SP=Special exception use	NP=Not permitted
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15

Use	
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Accessory dwelling (see section 060-090(A))	A
Agricultural uses (subject to section 060-020(I), "Animals")	P
Cannabis-related uses	NP
Cemeteries (see section 060-090(B))	P
Cemeteries accessory to a place of worship (see section 060-090(B))	A, C
Civic center, incl. library, museum, art gallery and other such exhibitions	P
Community residential facilities (see section 060-090(C))	P
Day care or preschool, accessory to place of worship or primary school only	A
Essential services	P
Fire protection facilities	P
Funeral home accessory to a cemetery	A
Governmental administration offices	P
Outdoor events (see section 035-040, "Outdoor event permits")	C
Parks, public	P
Places of worship (see section 060-060, 060-090(D) and 060-090(E))	P
Farm product and plant nursery retail sales (subject to article 45, section 045-030(J))	SE
Police protection facilities	P
School, primary and secondary, public or private (see section 060-090 (D))	C
Commercial landscape maintenance operations <u>incidental to a plant nursery</u>	SE
Wireless communication facilities (see article 40, "Telecommunication Towers and Antennas")	P

1
2 **Section 6.** Article 100, "Application Submittal and Notice Procedures,"
3 Section 100-020, "General Application Requirements," is hereby amended as
4 follows:

5 * * *

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1 (C) *Traffic study.* Applications for plan amendment, site plan, special exception
2 use, variance, or rezoning that could result in an increase in the density or
3 intensity of permitted uses, specifically excluding any variance for one (1)
4 single-family residence, shall submit to the town a traffic study assessing
5 the proposed development's vehicular, pedestrian and bicycle access; on-
6 site circulation; parking; any proposed roadway or easement vacations or
7 road closures, whether permanent or temporary for construction purposes;
8 and off-site roadway impacts, including net traffic impact and traffic impact
9 within adjacent neighborhoods. The traffic study shall utilize the most
10 current edition of the Institute of Transportation Engineers' Trip Generation
11 manual and shall use generally accepted methodologies. The town
12 administrator may waive any or all of the traffic study requirements upon
13 consideration of a report issued by the town's zoning department
14 determining that the study or any portion thereof is not necessary based
15 upon the location, intensity of use. and other facts specific to an
16 application.

17
18 **Section 7.** Article 100, "Application Submittal and Notice Procedures,"
19 Section 100-030, "Minimum Required Content For All Public Hearing
20 Notifications," is hereby amended as follows:

21 * * *

22 (C) *Sign notices.* The petitioner shall be responsible for posting a sign along
23 each property line of the subject property with street frontage for the
24 following applications: land use plan amendments, zoning map
25 amendments, variances, special exception uses, and site plans. The notice
26 shall be posted so as to be visible from each public right-of-way abutting
27 the subject property, and shall be at least six (6) square feet in area. The
28 sign shall state the nature of the request and the phone number to call for
29 further information. The town administrator shall provide the applicant with
30 the specific language required to appear on the sign for each application.
31 The petitioner shall provide proof of the sign posting no later than one (1)
32 business day following the posting date required by section 100-040,
33 "Timing of public notice." Proof shall consist of one (1) or more photographs

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1 of the sign placed upon the site, as necessary to demonstrate the location
2 of the real property upon which the sign is posted, and the exact location of
3 the sign upon the property. A notarized affidavit, signed by the petitioner or
4 sign company responsible for posting the sign, shall accompany the
5 photographs. Other proof may be provided if acceptable to the town
6 administrator. If the applicant fails to submit the affidavit, processing of the
7 application shall cease until such affidavit is received. The sign shall be
8 removed by the applicant within five (5) working days after the application
9 receives final disposition. The sign shall be exempt from all sign and permit
10 regulations.

11
12 **Section 8.** Article 100, "Application Submittal And Notice Procedures," Section
13 100-060, "Mail Notice Requirements For Public Hearings" is hereby amended as follows:

14 * * *

15 (B) *Prescribed distances for notification.* Properties located within the distances
16 prescribed in subsections (B)(1) through (B)(5) of the section shall be
17 notified by mail of any of the following pending application types:

- 18 (1) *Variances:* One thousand five hundred (1,500) feet, except that
19 variance requests from minimum distance separations required by the
20 ULDC shall be noticed using the same distance as the request for
21 variance.
- 22 (2) *Rezoning:* One thousand five hundred (1,500) feet.
- 23 (3) *Future land use plan map amendments:* One thousand five hundred
24 (1,500) feet.
- 25 (4) *Site plans:* One thousand five hundred (1,500) feet.
- 26 (5) *Appeal of administrative decisions:* One thousand five hundred (1,500)
27 feet.
- 28 (6) *Plats and waiver of plats:* One thousand five hundred (1,500)
29 feet.
- 30 (7) *Special exception uses:* One thousand five hundred (1,500) feet.

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Section 9. Article 112, "Special Exception Uses" is hereby created as

follows:

ARTICLE 112. -SPECIAL EXCEPTION USES.

Sec. 112-010. Purpose.

This article establishes the procedures and requirements for review of applications to establish special exception uses.

Sec. 112-020. Applicability.

Uses identified in zoning district regulations as special exception uses shall be established only after submittal of an application for special exception use and approval by the town council.

Sec. 112-030. - Procedure.

- (A) *Filing of petition.* Applications for special exception use shall be filed on forms provided by the Town and shall be submitted to the Town Administrator. The property owner must be the applicant for the special exception use. The applicant as owner must be the operator of the use unless otherwise provided in the special exception use permit.
- (B) *Review and scheduling of petition for public hearing.* Upon receipt of a completed application and processing fee, and upon receipt of any additional documentation that the town may request, the Town Administrator shall review the application and prepare a report which, at a minimum, details the facts and circumstances pertaining to the requested special exception use. Upon completion of such report, the application shall be duly advertised and scheduled before the Town Council, at the next available regular council meeting that considers quasi-judicial items.
- (C) *Notice.* Notice shall be provided pursuant to the requirements in Article 100 pertaining to special exception uses.
- (D) *Application fee.* There shall be an application fee deposit for each application in an amount set by the town administrator. The petitioner shall be responsible for all costs associated with petition processing plus costs incurred by the town.

1 (E) *Public hearing procedure.* The town council shall hear the application
2 pursuant to the town's quasi-judicial procedures set forth in article 105.

3 (F) *Burden of proof under quasi-judicial procedures.* In making a presentation,
4 the petitioner shall bear the burden of demonstrating by competent
5 substantial evidence that the evidence on the record demonstrates that the
6 special exception use should be granted.

7 (G) *The vote.* A special exception may be granted upon receiving five (5)
8 affirmative votes of the town council.

9 (H) *Recordation.* The Town Council's decision concerning any special exception
10 use application shall be recorded in the public records of the county.

11
12 Sec. 112-040. Review criteria.

13 A special exception use shall be granted only when the Town Council determines
14 that the use together with sufficient safeguards established in the special
15 exception use permit, will be congruous and in harmony with the uses,
16 improvements and character of the surrounding area, such that it will not
17 create or foster undesirable health, safety or aesthetic ~~effects~~ conditions, or
18 otherwise constitute a disruption that detracts from the peaceful enjoyment or
19 value of surrounding and nearby properties arising from any of the following:

- 20 (a) Density or intensity of use
- 21 (b) Scale of use and improvements
- 22 (c) Placement, design and orientation of functions and improvements
- 23 (d) Hours of operation
- 24 (e) Aesthetics
- 25 (f) Noise
- 26 (g) Vibration
- 27 (h) Dust
- 28 (i) Fumes and emissions
- 29 (j) Odor
- 30 (k) Glare
- 31 (l) Nighttime lighting
- 32 (m) Shadow effect
- 33 (n) Vehicular traffic generation including vehicle type, site access and
34 circulation
- 35 (o) Drainage
- 36 (p) Impact on adjacent properties
- 37 (q) Parking

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- 1 (r) Fueling of vehicles and equipment
- 2 (s) Number of employees
- 3 (t) Outdoor storage
- 4 (u) Other conditions, effects or impacts that may be applicable

5

6 Sec. 112-050. Effect of approval.

7 (A) A special exception use permit, issued pursuant to the requirements of this
8 article, grants to the applicant the right to develop and/or utilize the subject
9 premises in accordance with the terms and conditions contained in the
10 resolution approving the special exception use, unless otherwise provided in
11 such resolution.

12 (B) Operation of an approved special exception use shall not be commenced
13 until the Town has verified that all conditions of approval applicable to the
14 establishment of the use have been satisfied, and has issued a certificate of
15 use.

16 (C) Approval of a special exception use shall run with the property owner once
17 established (i.e., not expired or revoked), and shall not be transferable.

18 (D) Representations made in the application and on the record at the public
19 hearing shall be part of the conditions of approval of such use, whether or
20 not such representations are incorporated into the special exception use
21 permit.

22

23 Sec. 112-060. Expiration of special exception uses.

24 (A) *Expiration.* All special exception use approvals shall expire unless the
25 applicant obtains a certificate of use from the town within one hundred
26 eighty (180) days of the date of approval, unless otherwise provided in the
27 special exception use permit. A certificate of use shall not be issued unless
28 all conditions of special permit use approval pertaining to the establishment
29 of the use have been satisfied.

30 (B) *Due diligence.* It shall be the responsibility of the applicant to ensure that a
31 special exception permit does not expire.

32 (C) *Extensions.* The Town Administrator may grant a single extension of not
33 more than six (6) months upon written request from the applicant, prior to
34 expiration, that includes a demonstration of good cause for the delay. Good
35 cause may include, but shall not be limited to, delay caused by
36 governmental action or inaction or other factors beyond the control of the

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1 applicant. The Town Administer may grant subsequent extensions of not
2 more than six (6) months each only upon demonstration of delay caused by
3 governmental action or inaction, or other factors beyond the control of the
4 applicant.

- 5 (D) *Discontinuance.* If, for any reason, the special exception use ceases or is
6 discontinued for a period of six (6) or more months, the premises shall not
7 thereafter be used for that special exception use without the subsequent
8 approval of a new special exception use application in accordance with this
9 article.

10
11 Sec. 112-070. Modification of approved special exception use.

12 Applicant-initiated amendments to an approved special exception use shall be
13 processed and reviewed in accordance with the procedures and standards set
14 forth in this article for new special exception uses.

15
16 Sec. 112-080. Inspections.

17 All premises for which the Town has granted a special exception use permit are
18 subject to inspection by the Town on a periodic basis, but not less than annually,
19 to ensure compliance with all requirements of this article and conditions of
20 approval.

21
22 Sec. 112-090. Revocation.

23 (A) The Town council may revoke or modify a special exception use permit or
24 modify its terms of approval after conducting a public hearing that is
25 noticed pursuant to the requirements in Article 100 for special exception
26 uses upon any of the following occurrences:

- 27 (1) Failure to adhere to the representations made in the application and to
28 the terms and conditions of the approval.
- 29 (2) A repeat violation as defined in sec. 2-149 of this code.
- 30 (3) Code violation that is not remedied within the timeframe the town has
31 allotted.
- 32 (4) ~~A third~~ Violations of three (3) this code provisions within any five (5)
33 year period.

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1 (B) Upon any of the foregoing instances, the Town Administrator shall refer the
2 matter to the Town Council for public hearing, with written notice given to
3 the special exception use permit holder and the general public as provided
4 in Article 100 for special exception uses. At the conclusion of the hearing,
5 the Town Council may modify the terms of the permit or revoke the permit.

6 (C) Upon revocation of special exception use permit, the town shall not process
7 any subsequent application for the same property or by the same applicant
8 for twelve (12) months.

9
10 Sec. 112-100. Status of special exception uses established without town council
11 approval pursuant to this article.

12 When a use that was established as permitted by right (a permitted use or use
13 indicated by a "P" in a particular zoning district), and the ULDC is later amended
14 to designate the use as a special exception use, that use shall be considered a
15 lawful special exception use. Town council approval pursuant to this article is
16 required before any expansion of the use outside of the plot or portion thereof
17 occupied by the use as of the date the ULDC is amended to designate the use as
18 a special exception use.

19 **Section 10.** Chapter 8, Emergency Management, of the Code of Ordinances is
20 hereby amended as follows:

21 Sec. 8-1. - Authority of town administrator.

22 (a) The town administrator is hereby designated as the town's emergency
23 coordinator, and is hereby granted the authority to create and implement a
24 disaster plan for the town and to declare a "state of local emergency" in
25 the event of an emergency affecting the limits of the town, when the
26 administrator, in his sole judgment, determines that the magnitude and
27 extent of damages will necessitate outside assistance.

28 (b) The town administrator is granted such authority as may be necessary to
29 direct and coordinate the development of the emergency management
30 mitigation, preparedness and response operations, as well as the
31 performance of public work and to take such other actions as may be
32 deemed necessary and appropriate to protect the safety, health and
33 welfare of the residents of the town.

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1 (c) As part of the authority granted herein, the Town Administrator may
2 permit the use of air curtain incinerators on plant nurseries with five (5) or
3 more acres of property after a Presidential or Gubernatorial state of
4 emergency declaration resulting from a tropical cyclone. Such approval
5 shall be contingent upon Broward County's authorization pursuant to its
6 code of ordinances, which provides for the use of air curtain incinerators
7 under declared emergencies.

8 **Section 11: Non-conforming Uses.** Any person engaged in plant nursery
9 retail sales or a commercial landscape maintenance operation on the effective date of
10 this Ordinance shall be deemed to be a legal non-conforming use through **December**
11 **31, 2021**, provided that such property owner obtains a certificate of use pursuant to
12 Section 005-120 by **December 1, 2018**. Failure to obtain a certificate of use by
13 **December 31, 2018**, shall render such use to be unlawful. Provided that a property
14 owner has obtained a certificate of use by **December 1, 2018**, such property shall be
15 deemed to be a legal non-conforming use through **December 31, 2021**. Any property
16 owner desiring to extend the term of their plant nursery retail sales or commercial
17 landscape operation thereafter must obtain a Special Use Exception Permit by
18 **December 31, 2021**, or such use thereafter shall be deemed to be unlawful.

19 **Section 12: Codification.** The Town Clerk shall cause this ordinance to be
20 codified as a part of the ULDC during the next codification update cycle.

21 **Section 13: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or
22 parts of Resolutions in conflict herewith, be and the same are hereby repealed to the
23 extent of such conflict.

24 **Section 14: Severability.** If any word, phrase, clause, sentence or section of
25 this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof
26 shall not affect the validity of any remaining portions of this Ordinance.

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1 **Section 15: Effective Date.** This Ordinance shall take effect immediately
2 upon passage and adoption.

3 **PASSED ON FIRST READING** this ___ day of _____, 2019 on a motion made
4 by _____ and seconded by _____.

5 **PASSED AND ADOPTED ON SECOND READING** this ___ day of _____,
6 2019, on a motion made by _____ and seconded by
7 _____.

8

9	McKay	_____	Ayes	_____
10	Fisikelli	_____	Nays	_____
11	Jablonski	_____		
12	Schroeder	_____	Absent	_____
13	Hartman	_____	Abstaining	_____
14				

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16

17

18

Doug McKay, Mayor

19 ATTEST:

20

21

Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

23

24 Approved as to Form and Correctness:

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1 Keith Poliakoff, J.D., Town Attorney

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