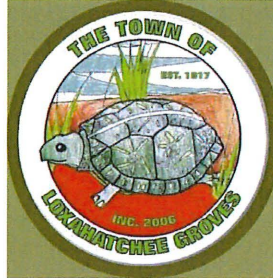


**TOWN OF LOXAHATCHEE GROVES**  
TOWN HALL CHAMBERS  
PLANNING AND ZONING BOARD

**AGENDA**

**January 26, 2023 – 5:30 to 6:30 P.M.**



**William Ford Chairmen (Seat 1)**  
**Audrey Friedrich (Seat 3)**  
**William Bell Vice Chairman (Seat 5)**

**Brett Raslowitz (Seat 2)**  
**Neil O'Neal III (Seat 4)**

**Administration**

Town Manager Francine Ramaglia  
Town's Planning Consultant, Jim Fleishmann  
Town Clerk, Lakisha Q. Burch

**Civility:** Being "civil" is not a restraint on the First Amendment right to speak out, but it is more than just being polite. Civility is stating your opinions and beliefs, without degrading someone else in the process. Civility requires a person to respect other people's opinions and beliefs even if he or she strongly disagrees. It is finding a common ground for dialogue with others. It is being patient, graceful, and having a strong character. That's why we say "Character Counts" in Town of Loxahatchee. Civility is practiced at all Town meetings.

**Special Needs:** In accordance with the provisions of the American with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall within three business days prior to any proceeding, contact the Town Clerk's Office, 155 F Road, Loxahatchee Groves, Florida, (561) 793-2418.

The Planning & Zoning Board meets on the 3<sup>rd</sup> or 4<sup>th</sup> Thursday of each month subject to the filing of applications. It also acts as the Local Planning Agency (LPA).

**CALL TO ORDER**

**OPENING**

- 1. Call to Order & Roll Call**
- 2. Approval of Agenda**

**2. Public Comments**

**REGULAR AGENDA**

**1. Tetrault Historical Legacy Approval**

**2. Public Comments**

**COMMITTEE MEMBER COMMENTS**

**SET NEXT MEETING DATE**

**ADJOURN PLANNING AND ZONING BOARD**

## **TOWN OF LOXAHATCHEE GROVES**

**January 26, 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 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 Waste Processing Facility (Florida Department of Environmental Protection registration) and Yard Trash Processing Facility (Florida Department of Health Transfer or Recycling Facility) use 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). The applicant proposes to add manure to its Transfer Station services. Manure is to be collected and then shipped to Greenway Organics, a 75 acre farm, for processing.

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 Nelson Tetrault and Eric Tetrault purchased Subject Property from Charles H. Windbauer on March 21, 2001.

**Project Location:** Southwest corner of Okeechobee Boulevard and "F" Road. The street address is 13538 Okeechobee Boulevard.

**Size of 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, existing use, according to the Applicant, is receipt of vegetation and yard trash from local businesses which is used to grind and make mulch and soil.

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.

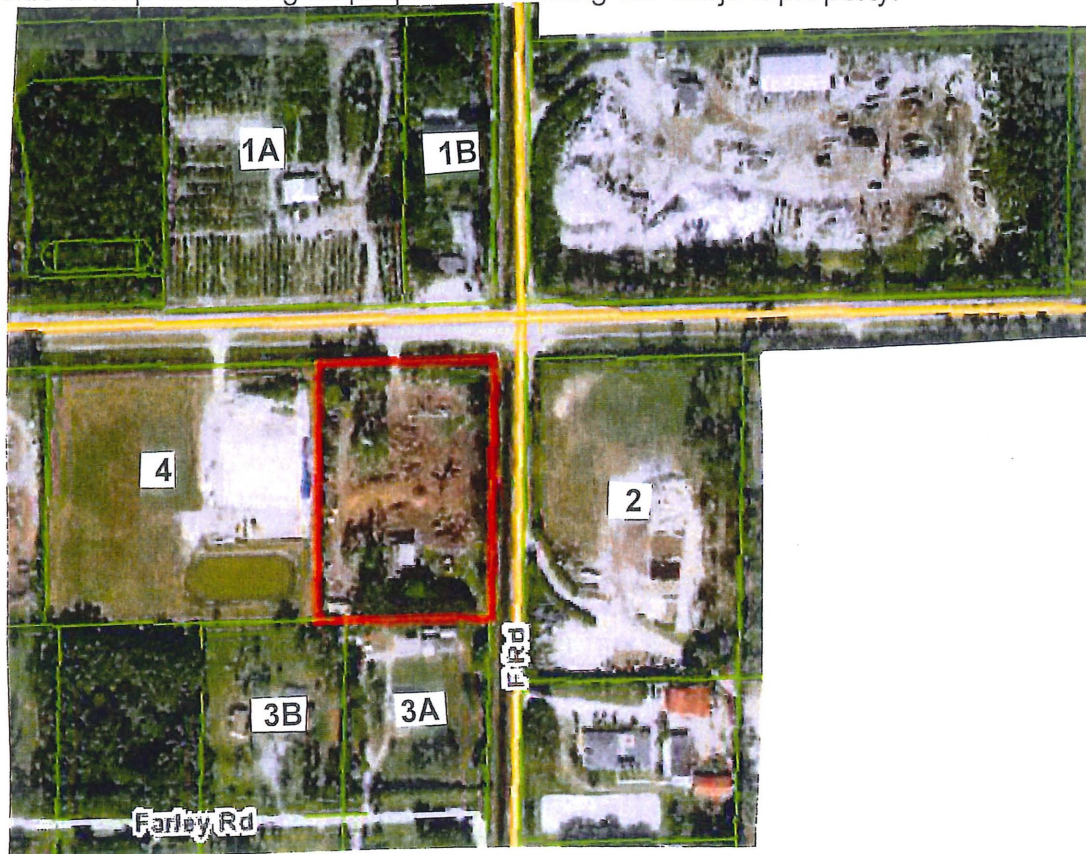
**Abutting Properties:** Brief descriptions and locations of abutting properties are presented on Exhibit 1. Properties in the vicinity are summarized as follows:

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 side of F Road – a 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.

**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<br>41-41-43-17-01-512-0010      | TMZ Land Holdings 6900<br>AG-Nursery           | RR 5            | AR                 |
| 1B      | No Address Okeechobee<br>41-41-43-17-01-512-0030 | Alan Zolghadar<br>6900 AG-Nursery              | RR 5            | AR                 |
| 2       | No Address Okeechobee<br>41-41-43-17-01-613-0020 | Dustin & Jamie Erdle<br>0000 Vacant            | RR 5            | AR                 |
| 3A      | 13537 Farley Road<br>41-41-43-17-01-528-0010     | Donald & Sherry Tetrault<br>0010 Single-Family | RR 5            | AR                 |
| 3B      | 13579 Farley Road<br>41-41-43-17-01-528-0020     | Donald & Sherry Tetrault<br>0010 Single-Family | RR 5            | AR                 |
| 4       | 13640 Okeechobee<br>41-41-43-17-01-510-0020      | SPROK136, LLC<br>0000 Vacant                   | RR 5            | AR                 |

Source: Palm Beach County Property Appraiser data.

### **E. STAFF REVIEW**

The 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) registration and a Miscellaneous Solid Waste Operating Permit from the Palm Beach County Health Department (PBCHD). The Applicant proposes to include manure processing services to its existing registration.

Documentation submitted by the Applicant necessary 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.

**TABLE 1**  
**Submitted Support Documents**

| <b>Requirement</b>                                                                                                                                                                                                                                                                                                    | <b>Applicant's Response</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Proof demonstrating that the proposed Historical Legacy Use was in existence on the property as of October 1, 2006.                                                                                                                                                                                                   | Florida Limited Liability Company Annual Reports from 2006 to 2022 indicating the place of business at 13538 Okeechobee Boulevard.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 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 and the business shall have been in Continuous operation within the Town since October 1, 2006. | <p>1. Palm Beach County Property Appraiser data indicate that Subject Property (13538 Okeechobee Boulevard) is currently owned by Donald Tetrault.</p> <p>2. Palm Beach County Property Appraiser data indication that the contiguous property to the south of Subject Property (13537 Farley Road) is currently owned by Donald Tetrault and is assigned a Homestead Exemption.</p> <p>3. Subject Property was sold to Donald J and Eric Tetrault on March 21, 2001. The adjacent property to the south was sold to Donald and Sherry Tetrault on December 12, 2005.</p> |
| The use does not pose a threat to public health or safety.                                                                                                                                                                                                                                                            | There are no 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 Health and a Yard Transfer or Recycling Facility registration with the Palm Beach County Health Department. Annual inspections are required. No environmental issues have been identified.                                                                                                                                                                                                                |

**TABLE 1 (continued)**  
**Submitted Support Documents**

|                                                                                                           |                                                                                                                                    |
|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| 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, the Subject Property is not the subject of Town Code Enforcement action. |
| The owner-operator has submitted an Historical Legacy Affidavit                                           | The owner-operator has submitted the Affidavit.                                                                                    |

Documentation by the Applicant to meet the requirements of ULDC Section 75-035 *Historical Legacy Uses as of October 1, 2006* and support the Application is presented in Table 3.

**TABLE 2**  
**Compliance with Special Exception Review Standards**

| <b>Standard</b>                                                                                                                                                                                                                                                                                                                                                      | <b>Applicant's Response</b>                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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 stated in the Section F Sketch Plan, we will provide a landscaping plan and screening to buffer the property.                                                                                                      |
| 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.                                                                                                                               | The use does not pose any public health threat or safety issues. We are approved by the Health Department since beginning in 2000.                                                                                    |

**TABLE 2 (continued)**  
**Compliance with Special Exception Review Standards**

|                                                                                                                                                                                                                                                                                                                           |                                                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| 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                                                                     | No. We have been doing it here for over 22 years with no issues and no complaint.                  |
| 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.                                                                                                                                                              | No. 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. | No. 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 FINDINGS***

Key considerations in rendering a recommendation on the Application include the following:

1. The business owner must reside on a property located within the Town having a Homestead Exemption in his name. Further, the Homestead Exemption must have been in effect since October 1, 2006. To document compliance with this requirement, the Applicant has provided Palm Beach County Property Appraiser (PAPA) information indicating a Tax Year 2022 Homestead Exemption on the property owned by Donald and Sherry Tetrault and located at 13537 Farley Road. Further, a Warranty Deed dated December 12, 2005 substantiates the sale of the property to Donald and Sherry Tetrault. .

2. The business shall have been in continuous operation within the Town since October 1, 2006. To document compliance with this requirement, the Applicant has provided the following items:

- For Profit Corporation Annual Reports for Mulch City, Inc., (2006 to 2010); 2012 Articles of Incorporation for Tetro Land Development & Construction, Inc. (Tetro); and For Profit Corporation Annual Reports for Tetro (2014 – 2022). The business location for both corporations is identified as 13538 Okeechobee Boulevard, Loxahatchee Groves.
- Palm Beach County Business Tax Receipts (BTRs) for Fiscal Years 2018 through 2022, inclusive. The BTRs are made out in the name of Tetro Land Development and Construction, LLC for a land clearing, recycling and excavating businesses. The business location is identified at 13538 Okeechobee Boulevard, Loxahatchee Groves.
- FDEP Registration as a Yard Trash Processing Facility in 2006 and Annual Reports for the Yard Trash Processing Facility for 2007 -2009, 2011 – 2015, and 2017 – 2021. The Palm Beach County Health Department, agent for FDEP, confirmed that the facility has been in operation since 2001, subject to compliance with Florida Administrative Code Section 62-709.320 *General Provisions for Registrations*.
- FDEP Air Pollution Inspection reports for Fiscal Years 2016, 2018, 2021 and 2022. The reports are issued to Tetro Land Development and Construction, LLC located at 13538 Okeechobee Boulevard.

Based upon the documentation submitted by the Applicant, Staff finds: (1) the business, in the name of Mulch City or Tetro Land Development & Construction, Inc. has been in continuous operation in Loxahatchee Groves at 13538 Okeechobee Boulevard since October 1, 2006; and (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.

#### ***F. STAFF RECOMMENDATION***

Based upon a finding of compliance with the standards listed in Section 75-035 *Historical Legacy Uses as of October 1, 2006*. of the ULDC, That the Planning and Zoning Board recommend assignment of a Historical Legacy designation as a Yard Trash Processing Facility to the property located at 13538 Okeechobee Boulevard subject to conditions necessary to insure consistency with the ULDC and neighborhood compatibility included in the attached Tetro Land Development and Construction LLC Historical Legacy Affidavit.

## EXHIBIT 2 - Historical Legacy Affidavit

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority personally appeared Donald Nelson Tetraault who after being duly sworn says:

As witnessed by my signature, I do hereby affirm that said property located at the following address - 13538 Okeechobee Blvd. (Subject Property) - is being used as a solid waste processing facility (Historical Legacy Use). I further certify and swear to the following:

1. Structures and all items, including all equipment, vehicles, machinery and materials stored within the structures or on the premises shall be used only for Historical Legacy Use purposes on Subject Property;
2. If the structures or premises are used for any other purpose, than as described above, a code violation will occur.
3. No signs visible from the road which advertise or promote Subject Use shall be erected on Subject Property;
4. Owner shall maintain an active annual Historical Legacy Use Local Business Tax Receipt.
5. In the event of the transfer of ownership of Subject Site to a new business owner, the right to operate Historical Legacy Use on Subject site shall cease;
6. In the event of Owner's loss of his homestead exemption on the property located at 13537 Farley Road, Loxahatchee Groves, Florida 33470, the right to operate Historical Legacy Use on Subject Site shall cease; and
7. Additional Conditions imposed by the Town Council of Loxahatchee Groves shall be implemented and maintained.

I assume full responsibility as Owner, and will be personally responsible to ensure compliance with the requirements of this Affidavit.

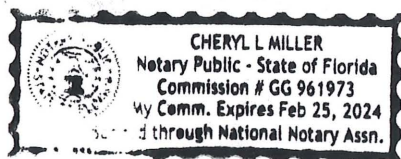
Donald N. Tetraault  
Print Name

[Signature]  
Signature

1/23/23  
Date

The foregoing instrument as acknowledged before me by Donald Tetraault who is (personally known to me) or (has produced) \_\_\_\_\_ as identification and who did take oath.

### NOTARY SEAL/STAMP



[Signature]  
NOTARY PUBLIC, State of Florida

