

ORDINANCE NO. 2014 - 030

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2  
3 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF  
4 PALM BEACH COUNTY, FLORIDA AMENDING THE 1989  
5 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17,  
6 AS AMENDED; AMENDING THE FUTURE LAND USE ATLAS (FLUA)  
7 FOR THE SITE SPECIFIC AMENDMENT **MINTO WEST**  
8 **AGRICULTURAL ENCLAVE (LGA 2014-007)** MODIFYING PAGES  
9 40, 41, 47 AND 48 OF THE FLUA FOR AN APPROXIMATELY  
10 3,788.601 ACRE PARCEL OF LAND, GENERALLY LOCATED EAST  
11 AND WEST OF SEMINOLE PRATT WHITNEY ROAD, SOUTH OF 60TH  
12 STREET NORTH AND NORTH OF 50TH STREET NORTH AND  
13 SYCAMORE, AND WEST OF 140TH AVENUE NORTH, BY CHANGING  
14 THE FUTURE LAND USE DESIGNATION ON 53.17 ACRES FROM  
15 RURAL RESIDENTIAL, 1 UNIT PER 10 ACRES (RR-10), TO  
16 AGRICULTURAL ENCLAVE (AGE), AND MODIFYING CONDITIONS  
17 OF APPROVAL PREVIOUSLY ADOPTED BY ORDINANCE 2008-019  
18 ON 3,735.43 ACRES OF LAND WITH AN EXISTING AGE FUTURE  
19 LAND USE, AND ESTABLISHING CONDITIONS ON THE ENTIRE  
20 3,788.60 ACRES; THE INTRODUCTION AND ADMINISTRATION,  
21 FUTURE LAND USE AND TRANSPORTATION ELEMENTS (TO MODIFY  
22 REFERENCES, POLICIES AND REGULATIONS REGARDING THE  
23 **AGRICULTURAL ENCLAVE** FUTURE LAND USE DESIGNATION AND  
24 RURAL PARKWAYS); AND TO MODIFY THE MAP SERIES (TO  
25 REVISE MAPS REGARDING THE AGRICULTURAL ENCLAVE,  
26 INCLUDING TO IDENTIFY 53.17 ACRES AS A LIMITED URBAN  
27 SERVICE AREA ON THE SERVICE AREAS MAP LU 2.1 AND THE  
28 MANAGED GROWTH TIER SYSTEM MAP LU 1.1, AND TO REVISE  
29 RURAL PARKWAYS ON THE THOROUGHFARE RIGHT OF WAY  
30 IDENTIFICATION MAP TE 14.1);  
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32 AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR  
33 REPEAL OF LAWS IN CONFLICT; PROVIDING FOR  
34 SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989  
35 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE  
36 DATE.  
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38 **WHEREAS**, on August 31, 1989, the Palm Beach County Board of  
39 County Commissioners adopted the 1989 Comprehensive Plan by  
40 Ordinance No. 89-17;

41 **WHEREAS**, the Palm Beach County Board of County Commissioners  
42 amends the 1989 Comprehensive Plan as provided by Chapter 163, Part  
43 II, Florida Statutes; and

44 **WHEREAS**, Section 163.3184(2)(a), Florida Statutes, provides  
45 that comprehensive plan amendments shall follow the expedited state  
46 review process except as set forth in Section 163.3184(2)(b) and  
47 (c), Florida Statutes; and

48 **WHEREAS**, the Palm Beach County Board of County Commissioners  
49 have initiated amendments to several elements of the Comprehensive  
50 Plan in order to promote the health, safety and welfare of the  
51 public of Palm Beach County; and

52 **WHEREAS**, the proposed amendments meet the requirements of  
53 Section 163.3184(3)(a), Florida Statutes, to be processed through

1 the expedited state review process, and are being processed through  
2 the expedited state review process; and

3 **WHEREAS**, the Palm Beach County Local Planning Agency conducted  
4 its public hearings on August 8, 2014 to review the proposed  
5 amendments to the Palm Beach County Comprehensive Plan and made  
6 recommendations regarding the proposed amendments to the Palm Beach  
7 County Board of County Commissioners pursuant to Chapter 163, Part  
8 II, Florida Statutes; and

9 **WHEREAS**, the Palm Beach County Board of County Commissioners,  
10 as the governing body of Palm Beach County, conducted a public  
11 hearing pursuant to Chapter 163, Part II, Florida Statutes, on  
12 August 27, 2014 to review the recommendations of the Local Planning  
13 Agency, whereupon the Board of County Commissioners authorized  
14 transmittal of proposed amendments to the state land planning agency  
15 and review agencies pursuant to Chapter 163, Part II, Florida  
16 Statutes; and

17 **WHEREAS**, Palm Beach County received a letter from the state  
18 land planning agency dated October 2, 2014 stating that the agency  
19 had identified no comments related to important state resources and  
20 facilities within the Agency's authorized scope of review that will  
21 be adversely impacted by the amendment contained in this ordinance  
22 if adopted; and

23 **WHEREAS**, on October 29, 2014 the Palm Beach County Board of  
24 County Commissioners held a public hearing to consider adoption of  
25 the amendments; and

26 **WHEREAS**, the Palm Beach County Board of County Commissioners  
27 has determined that the amendments comply with the requirements of  
28 the Community Planning Act.

29 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
30 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

31 **Part I. Amendments to the 1989 Comprehensive Plan**

32 Amendments to the 1989 Comprehensive Plan are hereby adopted  
33 and attached to this Ordinance in Exhibits 1 through 4:

- 34 **1. Future Land Use Atlas pages 40, 41, 47 and 48** are amended as  
35 follows:

1       **Application:**       **Minto West Agricultural Enclave (LGA 2014-007)**

2       **Amendment:**       Amending the future land use designation on 53.17  
3                           acres from Rural Residential, 1 Unit Per 10 Acres  
4                           (RR-10), to Agricultural Enclave (AGE), and  
5                           modifying conditions of approval previously adopted  
6                           by Ordinance 2008-019 on 3,735.43 acres of land  
7                           with an existing age future land use designation,  
8                           and establishing conditions on the entire 3,788.60  
9                           acres;

10       **Location:**       Generally located on the east and west of Seminole  
11                           Pratt Whitney Road, south of 60th Street North and  
12                           north of 50th Street North and Sycamore, and west  
13                           of 140th Avenue North,

14       **Size:**            3,788.601 total acres approximately,

15       **Conditions:**     Development of the site shall be subject to the  
16                           conditions of approval shown in Exhibits 1, 3 (Conceptual Plan), and  
17                           4 (Implementing Principles & Strategies), and the Site Data and TTD  
18                           Pod Limitation Tables provided in the Conceptual Plan and  
19                           Implementing Principles & Strategies.

20       2.    **Text and Map Series Amendments,** to modify elements and maps as  
21            follows:

22       A.    Introduction and Administration Element, to revise the statutory  
23            reference to the Agricultural Lands and Practices Act,

24       B.    Future Land Use Element, to revise the Agricultural Enclave FLU  
25            policies and implementing provisions,

26       C.    Transportation Element, to revise the Rural Parkways policies  
27            and implementing provisions,

28       D.    Map Series, Managed Growth Tier System Map LU 1.1 to add land to  
29            the Minto West Agricultural Enclave Limited Urban Service Area,

30       E.    Map Series, Service Areas Map LU 2.1 to add land to the Minto  
31            West Agricultural Enclave Limited Urban Service Area,

32       F.    Map Series, Thoroughfare Right Of Way Identification Map TE  
33            14.1, revise depictions of rural parkways,

34       3.    Conceptual Plan, to delete the Callery Judge-Groves Conceptual  
35            Plan and to adopt the Minto West Conceptual Plan, and

1 4. Implementing Principles, to delete the Callery Judge Groves New  
2 Urbanism Implementing Principles and to adopt the Minto West  
3 Implementing Principles & Strategies,

4 **Part II. Repeal of Laws in Conflict**

5 All local laws and ordinances applying to the unincorporated  
6 area of Palm Beach County in conflict with any provision of this  
7 ordinance are hereby repealed to the extent of such conflict.

8 **Part III. Severability**

9 If any section, paragraph, sentence, clause, phrase, or word  
10 of this Ordinance is for any reason held by the Court to be  
11 unconstitutional, inoperative or void, such holding shall not affect  
12 the remainder of this Ordinance.

13 **Part IV. Inclusion in the 1989 Comprehensive Plan**

14 The provision of this Ordinance shall become and be made a  
15 part of the 1989 Palm Beach County Comprehensive Plan. The Sections  
16 of the Ordinance may be renumbered or re-lettered to accomplish  
17 such, and the word "ordinance" may be changed to "section,"  
18 "article," or any other appropriate word.

19 **Part V. Effective Date**

20 The effective date of this plan amendment, if the amendment is  
21 not timely challenged, shall be 31 days after the state land  
22 planning agency notifies the County that the plan amendment package  
23 is complete. If timely challenged, this amendment shall become  
24 effective on the date the state land planning agency or the  
25 Administration Commission enters a final order determining this  
26 adopted amendment to be in compliance. No development orders,  
27 development permits, or land uses dependent on this amendment may be  
28 issued or commence before it has become effective. If a final order  
29 of noncompliance is issued by the Administration Commission, this  
30 amendment may nevertheless be made effective by adoption of a  
31 resolution affirming its effective status, a copy of which  
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resolution shall be sent to the state land planning agency.

**APPROVED AND ADOPTED** by the Board of County Commissioners of  
Palm Beach County, on the 29th day of October, 2014.

ATTEST: PALM BEACH COUNTY, FLORIDA,  
SHARON R. BOCK, CLERK & COMPTROLLER BY ITS BOARD OF COUNTY COMMISSIONERS

By [Signature] Deputy Clerk By [Signature] Priscilla A. Taylor, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

[Signature]  
COUNTY ATTORNEY

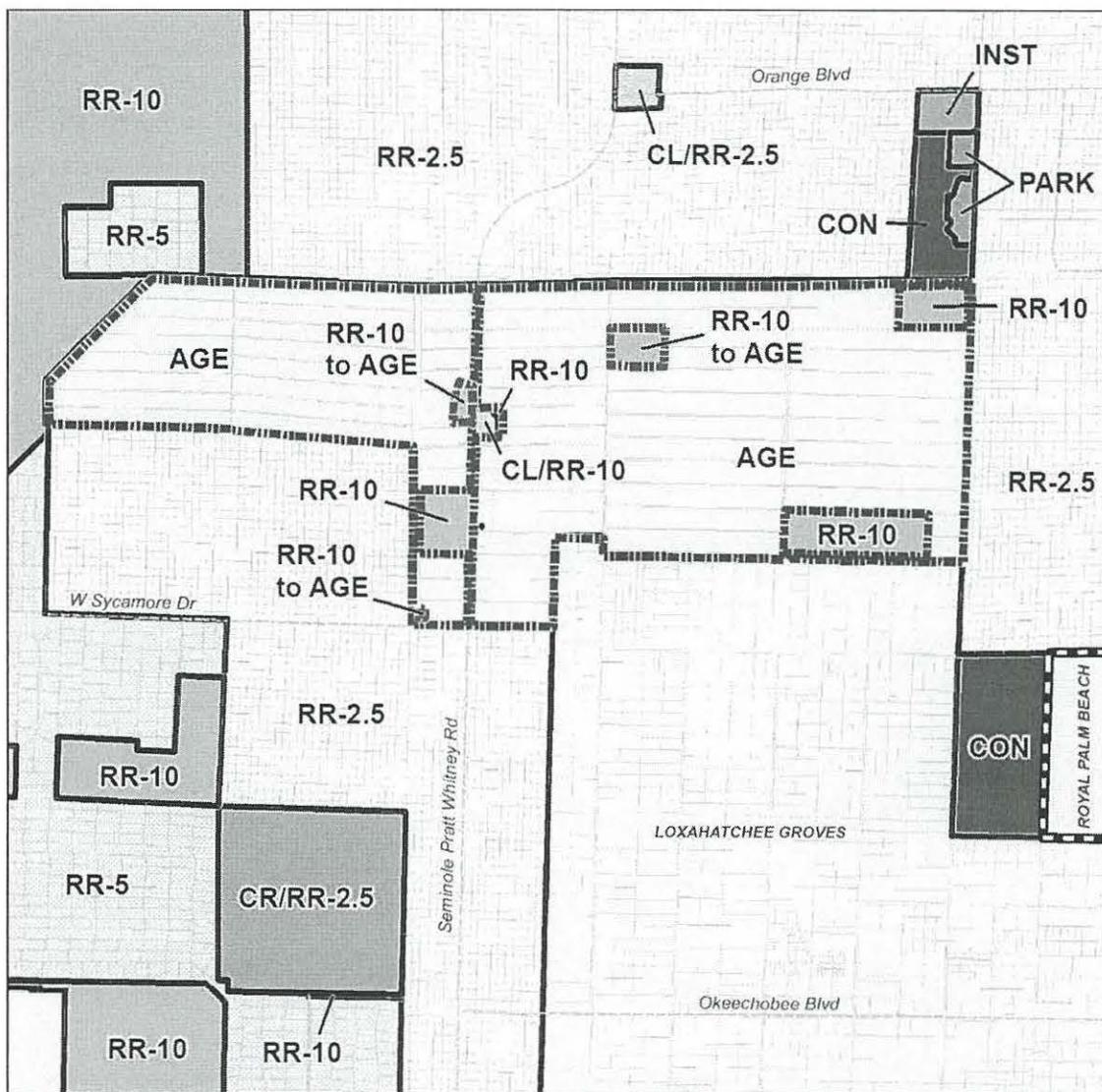
Filed with the Department of State on the 3rd day of  
November, 2014.

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## EXHIBIT 1

A. Future Land Use Atlas pages 40, 41, 47 and 48 are amended as follows:

<b>Amendment No.:</b>	<b>Minto West Agricultural Enclave (LGA 2014-007)</b>
<b>Amendment:</b>	From Rural Residential, 1 unit per 10 acres (RR-10) to Agricultural Enclave (AGE) on 53.17 acres; to modify conditions of approval on 3,735.43 acres with AGE future land use; and to apply conditions of approval, inc. Conceptual Plan and Implementing Principles, on the entire site.
<b>Location:</b>	East and west of Seminole Pratt Whitney Blvd., south of 60th St. N. and north of 50th St. N. and Sycamore, and West of 140th Avenue North
<b>Size:</b>	3,788.601 total acres approximately
<b>Property No.:</b>	AGE Future Land Use (Ord. 2008-019): 00-40-43-01-00-000-1010; 00-40-43-01-00-000-1020; 00-40-43-02-00-000-1010; 00-40-43-02-00-000-9000; 00-40-43-03-00-000-1020; 00-40-43-03-00-000-1030; 00-40-43-12-00-000-1000; 00-40-43-12-00-000-1020; 00-40-43-12-00-000-3030; 00-41-43-05-00-000-1030; 00-41-43-05-00-000-1040; 00-41-43-06-00-000-1010; 00-41-43-06-00-000-1020; 00-41-43-07-00-000-1000; 00-41-43-07-00-000-1010; 00-41-43-08-00-000-1010; 00-41-43-08-00-000-1020; RR-10 Future Land Use: 00-40-43-01-00-000-7030; 00-41-43-06-00-000-3010; 00-40-43-12-00-000-7010;



**Conditions:** To modify conditions adopted by Ord. 2008-019 with the added text underlined and deleted text struck out.

- A. Maximum gross density is ~~0.80 du/acre (2,996 maximum units)~~ 1.20 DU/acre (4,546 maximum units); no additional density bonuses are permitted;
- B. ~~No more than 115 building permits for residential units shall be issued to the Gallery Judge-Groves Agricultural Enclave within the first five (5) years following effective date of the Plan Amendment; and~~  
Non-residential uses shall be limited to the following maximum intensities:
- 500,000 square feet of Commercial uses
  - 450,000 square feet of Commercial Office uses
  - 1,050,000 square feet of Light Industrial and Research and Development uses defined as those that are not likely to cause undesirable effects upon nearby areas; these uses shall not cause or result in the dissemination of excessive dust, smoke, fumes, odor, noise, vibration, or light beyond the boundaries of the lot on which the use is conducted
  - 200,000 square feet of Civic uses
  - 150 room Hotel
  - 3,000 student College/University
- C. Development of the site must conform with the Site Data table, the Conceptual Plan and the ~~Guiding-Implementing~~ Principles.
- D. The Zoning development order shall include the provision of at least 10% of the residential units shall be provided as workforce housing.
- E. The Zoning development order shall include provisions requiring the project to address regional drainage and/or water supply needs: providing at least 160 cfs discharge (1"/day) on peak, and a flowage easement for 250 acres of lake, and/or other equivalent solutions.
- F. The Conceptual Plan and Implementing Principles require that:
- The Conceptual Plan establishes a maximum of 15% of Enclave may be developed under the PUD-Residential Pod standards;
  - The Conceptual Plan depicts the location of Rural Parkways; and
  - The Implementing Principles establish provisions consistent with the "Transect Zone" definition in the Plan.
- G. The Zoning development order shall include a "Transect Plan" which further details the Transect Zones and sub-zones, demonstrating full compliance with all relevant policies, the Conceptual Plan and Implementing Principles.
- H. To ensure a balanced development with a diversity of uses: at the time of rezoning and any subsequent development order amendments, the project shall include a phasing plan and/or conditions of approval requiring minimum non-residential uses to be concurrent with residential uses, unless all non-residential uses are built-out.
- I. The Property Owner shall widen Seminole Pratt Whitney Road from Seminole Ridge High School to north of the M Canal from a two lane facility to a four lane facility by December 31, 2018.

## Legal Description

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### **DESCRIPTION :**

Sections 1, 2, and 3, Township 43 South, Range 40 East; EXCEPTING from said Section 3, that part thereof lying North of the following described line; BEGINNING at a point on the West line of said Section 3, and 1343.16 feet Northerly of the Southwest corner of Section 3; thence run Northeasterly along the South line of Canal "M" right-of-way a distance of 4096.52 feet, more or less, to a point on the North line of said Section 3; said point being 2447.94' Westerly of the Northeast corner of said Section 3.

### **ALSO:**

Section 12, less the East 1/2 of the Southeast 1/4 thereof. All in Township 43 South, Range 40 East, Palm Beach County, Florida.

### **ALSO:**

Sections 5, 6 and the North 1/2 of Sections 7 and 8, in Township 43 South, Range 41 East, less the North 250 feet of said Section 5 and 6, conveyed to the City of West Palm Beach by Deed dated July 26, 1956, and recorded September 25, 1956, in Deed Book 1156, Page 58, for Canal "M" right-of-way, which deed was corrected in part by a corrective quit-claim deed dated October 7, 1963, and filed October 8, 1963, in O.R. Book 924, Page 965, Palm Beach, County, Florida.

### **LESS AND EXCEPT:**

The School District of Palm Beach County parcel, recorded in O.R. 14566, Page 1779, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

The School District of Palm Beach County parcel, recorded in O.R. 9169, Page 136, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

The School District of Palm Beach County parcel, recorded in O.R. 9232, Page 1206, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

Silver Lake Enterprises, Inc. parcel, recorded in O.R. 14034, Page 1119, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

Silver Lake Enterprises, Inc. parcel, recorded in O.R. 14676, Page 953, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

Silver Lake Palm Beach, LLC parcel, recorded in O.R. 15391, Page 754, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

Seminole Pratt-Whitney Road parcels, recorded in O.R. Book 1544, Page 378, O.R. Book 10202, Page 430 and O.R. Book 10289, Page 488, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

Grove Market Place parcel, recorded in O.R. Book 10113, Page 1668, of the Public Records of Palm Beach County, Florida.  
and;

### **LESS AND EXCEPT:**

Grove Market Place retention parcel, recorded in O.R. Book 10101, Page 452, of the Public Records of Palm Beach County, Florida.  
and;

**LESS AND EXCEPT:**

Seminole Water Control District parcel, recorded in Official Records Book 2902, Page 1351, of the Public Records of Palm Beach County, Florida.  
and;

**LESS AND EXCEPT:**

**DESCRIPTION:** A strip of land 80 feet wide lying in Section 1, Township 43 South, Range 40 East, Palm Beach County, Florida, and being more particularly described as follows:

**COMMENCE** at the Northwest corner of Section 1, Township 43 South, Range 40 East; Thence S.00°59'07"W. along the West boundary of said Section 1, a distance of 349.11 feet to a point on the Southerly boundary of M-Canal, a 250 foot wide City of West Palm Beach right of way, recorded in Deed Book 1156, Page 58, of the Public Records of Palm Beach County; said point also being the **POINT OF BEGINNING**; Thence Easterly along said Southerly boundary of M-Canal, as found monumented, the following two (2) courses: 1) S.87°46'28"E., 370.84 feet; 2) N.88°36'57"E., 1,406.04 feet to the West right of way line of Seminole-Pratt Whitney Road, a 100 foot wide right of way, recorded in Official Records Book 1544, Page 378, and Road Plat Book 4, Page 34, both of the Public Records of Palm Beach County Florida; Thence S.01°42'52"W. along said West right of way line, a distance of 80.12 feet to a point on a line 80.00 feet south of and parallel with said Southerly boundary of M-Canal, said parallel line also being the south line of the M-Canal Road Easement, an 80 foot wide City of West Palm Beach Easement, recorded in said Deed Book 1156, Page 58; Thence Westerly along said south line of the M-Canal Road Easement the following two (2) courses: 1) ; S.88°36'57"W., a distance of 1,404.23 feet; 2) N.87°46'28"W., a distance of 371.63 feet to said West boundary of Section 1; Thence N.00°59'07"E along said West boundary of Section 1, a distance of 80.02 feet to the **POINT OF BEGINNING**.

**THE ABOVE ALSO BEING DESCRIBED AND BASED UPON FIELD SURVEY, AS FOLLOWS:**

**PARCEL 1**

**DESCRIPTION:** A parcel of land lying in Sections 1, 2, 3, and 12, Township 43 South, Range 40 East, Palm Beach County, Florida, and being more particularly described as follows:

**COMMENCE** at the Northwest corner of said Section 1, run thence along the West boundary of said Section 1, S.00°59'07"W., 429.13 feet to a point on the Southerly boundary of M-Canal Road Easement, an 80 foot wide City of West Palm Beach Easement, recorded in Deed Book 1156, Page 58, of the Public Records of Palm Beach County, said point also being the **POINT OF BEGINNING**; thence along said Southerly boundary of M-Canal Road Easement, the following two (2) courses: 1) S.87°46'28"E., 371.63 feet; 2) N.88°36'57"E., 1,404.23 feet to the West right of way line of Seminole-Pratt Whitney Road, a 100 foot wide right of way, recorded in Official Records Book 1544, Page 378, and Road Plat Book 4, Page 34, both of the Public Records of Palm Beach County Florida; thence along said West right of way line, S.01°42'52"W., 3,336.40 feet to the Northerly most corner of additional right of way for Seminole-Pratt Whitney Road, recorded in Official Records Book 10289, Page 488, of the Public Records of Palm Beach County, Florida; thence along the West right of way line of said additional right of way for Seminole-Pratt Whitney Road, the following three (3) courses: 1) S.02°59'15"W., 540.13 feet; 2) S.01°42'52"W., 280.00 feet; 3) S.00°26'29"W., 540.13 feet to a point on aforesaid West right of way line of Seminole-Pratt Whitney Road, recorded in Official Records Book 1544, Page 378, and Road Plat Book 4, Page 34; thence along said West right of way line, the following two courses: 1) S.01°42'52"W., 5,032.98 feet to a point of curvature; 2) Southerly, 0.81 feet along the arc of said curve to the left having a radius of 22,968.61 feet and a central angle of 00°00'07" (chord bearing S.01°42'49"W., 0.81 feet) to the agreed upon and monumented South boundary of Section 12, as surveyed by K.C. Mock and referenced in Road Plat Book 6, Page 136, of the Public Records of Palm Beach County Florida; thence along said agreed upon and monumented South boundary of Section 12, as surveyed by K.C. Mock and referenced in aforesaid Road Plat Book 6, Page 136, N.89°12'49"W., 501.96 feet to the Southeast corner of Seminole Improvement District parcel retained in Official Records Book 14742, Page 1196, and as described in Indian Trail Water Control District Easement Deed, recorded in Official Records Book 2902, Page 1351, both of the Public Records of Palm Beach County, Florida; thence along the East, North, and West boundary of said Seminole Improvement District parcel retained in Official Records Book 14742, Page 1196, and as described in Indian Trail Water Control District Easement Deed, recorded in Official Records Book 2902, Page 1351, in respective order, the following three (3) courses: 1) along a line lying 1,090.00 feet East of and parallel with the agreed upon and monumented West boundary of Section 12, as surveyed by K.C. Mock and referenced in aforesaid Road Plat Book 6, Page 136,

N.00°29'31"E., 60.00 feet; 2) along a line lying 60.00 feet North of and Parallel with aforesaid agreed upon and monumented South boundary of Section 12, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, N.89°12'49"W., 640.01 feet 3) along a line lying 450.00 feet East of and parallel with aforesaid agreed upon and monumented West boundary of Section 12, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, S.00°29'31"W., 60.00 feet to aforesaid agreed upon and monumented South boundary of Section 12, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, also being the Southwest corner of aforesaid Seminole Improvement District parcel retained in Official Records Book 14742, Page 1196, and as described in Indian Trail Water Control District Easement Deed, recorded in Official Records Book 2902, Page 1351; thence along said agreed upon and monumented South boundary of Section 12, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, N.89°12'49"W., 450.01 feet to the agreed upon Southwest corner said Section 12, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136; thence along aforesaid agreed upon and monumented West boundary of Section 12, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, and per Sketch of Survey prepared by S.P. Musick dated March 5, 1965 and referenced in Official Records Book 5863, Page 1155, and Official Records Book 8434, Page 1410, both of the Public Records of Palm Beach County, Florida, N.00°29'31"E., 5,166.68 feet to the agreed upon and monumented Southeast corner of Section 2, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, and per said Sketch of Survey prepared by S.P. Musick dated March 5, 1965 and referenced in said Official Records Book 5863, Page 1155, and said Official Records Book 8434, Page 1410; thence along the agreed upon and monumented South boundary of said Section 2, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, and per said Sketch of Survey prepared by S.P. Musick dated March 5, 1965 and referenced in said Official Records Book 5863, Page 1155, and said Official Records Book 8434, Page 1410, N.85°08'43"W., 5,338.63 feet to the agreed upon Southeast corner of Section 3, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, and per said Sketch of Survey prepared by S.P. Musick dated March 5, 1965 and referenced in said Official Records Book 5863, Page 1155, and said Official Records Book 8434, Page 1410; thence along the agreed upon and monumented South boundary of said Section 3, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, and per said Sketch of Survey prepared by S.P. Musick dated March 5, 1965 and referenced in said Official Records Book 5863, Page 1155, and said Official Records Book 8434, Page 1410, N.88°35'25"W., 5,305.73 feet to the West boundary of aforesaid Section 3, Township 43 South, Range 40 East; thence along said West boundary of Section 3, as found monumented, N.01°02'29"E., 1,369.21 feet to the Easterly boundary of aforesaid M-Canal, a 250 foot wide City of West Palm Beach right of way, recorded in aforesaid Deed Book 1156, Page 58; thence along said Easterly boundary of M-Canal, a 250 foot wide City of West Palm Beach right of way, recorded in said Deed Book 1156, Page 58, as found monumented, N.44°59'32"E., 4,057.61 feet, to the North boundary of aforesaid Township 43 South, Range 40 East, as re-established by John T. Pickett in 1955 and referenced in aforesaid Road Plat Book 6, Page 136; thence along said North boundary of Township 43 South, Range 40 East, as re-established by John T. Pickett in 1955 and referenced in said Road Plat Book 6, Page 136, also being along a line lying 80.00 feet South of and parallel with aforesaid Southerly boundary of M-Canal, a 250 foot wide City of West Palm Beach right of way, recorded in aforesaid Deed Book 1156, Page 58, S.87°46'28"E., 7,799.26 feet to aforesaid West boundary of Section 1 and the **POINT OF BEGINNING**.

#### **LESS AND EXCEPT FROM PARCEL 1:**

The School District of Palm Beach County parcel, recorded in O.R. 14566, Page 1779, of the Public Records of Palm Beach County, Florida.

#### **TOGETHER WITH:**

#### **PARCEL 2:**

**DESCRIPTION:** A parcel of land lying in Sections 1 and 12, Township 43 South, Range 40 East, and in Sections 5, 6, 7, and 8, Township 43 South, Range 41 East, Palm Beach County, Florida, and being more particularly described as follows:

**COMMENCE** at the Northwest corner of said Section 1, run thence along the West boundary of said Section 1, S.00°59'07"W., 349.11 feet to a point on the Southerly boundary of M-Canal, a 250 foot wide City of West Palm Beach right of way, recorded in Deed Book 1156, Page 58, of the Public Records of Palm Beach County; thence along said Southerly boundary of M-Canal, as found monumented, the following five (5) courses: 1) S.87°46'28"E., 370.84 feet; 2) N.88°36'57"E., 1,506.19 feet to a point on the East right of way line of Seminole-Pratt Whitney Road, a 100 foot wide right of way, recorded in Official Records Book 1544, Page 378, and Road Plat Book 4, Page 34, both of the Public Records of Palm Beach County Florida, said point also being the **POINT OF BEGINNING**; 3) continue N.88°36'57"E., 3,785.92 feet; 4) along

a line lying 250.0 feet South of and parallel with aforesaid Section 6, Township 43 South, Range 41 East, S.89°48'53"E., 5,270.08 feet; 5) along a line lying 250.0 feet South of and parallel with aforesaid Section 5, Township 43 South, Range 41 East, N.88°40'55"E., 5,270.77 feet to the East boundary of said Section 5, Township 43 South, Range 41 East; thence along said East boundary of Section 5, Township 43 South, Range 41 East, S.01°54'46"W., 5,428.97 feet to the Southeast corner thereof, also being the Northeast corner of aforesaid Section 8, Township 43 South, Range 41 East; thence along the East boundary of the North 1/2 of said Section 8, Township 43 South, Range 41 East, S.02°00'06"W., 2,713.58 feet to the East 1/4 corner of said Section 8, Township 43 South, Range 41 East; thence along the South boundary of said North 1/2 of Section 8, Township 43 South, Range 41 East, as found monumented and occupied, N.88°32'08"W., 4,963.38 feet to the East boundary of Silver Lake Enterprises, Inc. Parcel 1B, recorded in Official Records Book 14034, Page 1119, of the Public Records of Palm Beach County, Florida; thence along the East, North, and West boundary of said Silver Lake Enterprises, Inc. Parcel 1B, in respective order, the following three (3) courses: 1) along a line lying 324.98 feet East of and parallel with the West boundary of aforesaid North 1/2 of Section 8, Township 43 South, Range 41 East, N.02°13'06"E., 50.00 feet; 2) along a line lying 50.00 feet North of and parallel with aforesaid South boundary of the North 1/2 of Section 8, Township 43 South, Range 41 East, N.88°32'08"W., 275.00 feet; 3) along a line lying 50.00 feet East of and parallel with aforesaid West boundary of the North 1/2 of Section 8, Township 43 South, Range 41 East, S.02°13'06"W., 50.00 feet to aforesaid South boundary of the North 1/2 of Section 8, Township 43 South, Range 41 East; thence along aforesaid South boundary of the North 1/2 of Section 8, Township 43 South, Range 41 East, as found monumented and occupied, N.88°32'08"W., 50.00 feet to the West 1/4 corner of said North 1/2 of Section 8, Township 43 South, Range 41 East, also being a point on the East boundary of the North 1/2 of aforesaid Section 7, Township 43 South, Range 41 East; thence along said East boundary of the North 1/2 of Section 7, Township 43 South, Range 41 East, S.02°10'05"W., 65.55 feet to the South boundary of said North 1/2 of Section 7, Township 43 South, Range 41 East, as found monumented and occupied, also being called out as the East-West quarter section line of said Section 7 per Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan), recorded in Official Records Book 2330, Page 1076, of the Public records of Palm Beach County, Florida; thence along said South boundary of the North 1/2 of Section 7, Township 43 South, Range 41 East, as found monumented and occupied, also being called out as the East-West quarter section line of said Section 7 per said Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan), N.89°11'37"W., 5,208.43 feet to the East line of aforesaid Section 12, as called out in said Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan), ; thence along said called out East line of Section 12, per said Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan), N.01°28'15"E., 486.67 feet to the East-West Quarter Section line of said Section 12, as called out in said Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan); thence along said East-West Quarter Section line of Section 12, as called out in Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan), N.88°16'09"W., 1,406.28 feet to the West line of the East Quarter of Section 12, as called out in said Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan); thence along said West line of the East Quarter of Section 12, as called out in Final Judgment (Case No.: 73 1016 CA (L) 01 MacMillan), S.01°22'47"W., 2,572.97 feet to the agreed upon and monumented South boundary of said Section 12, as surveyed by K.C. Mock and referenced in Road Plat Book 6, Page 136, of the Public Records of Palm Beach County Florida; thence along said South boundary of Section 12, as surveyed by K.C. Mock and referenced in said Road Plat Book 6, Page 136, N.89°12'49"W., 2,389.96 feet to aforesaid East right of way line of Seminole-Pratt Whitney Road, a 100 foot wide right of way, recorded in Official Records Book 1544, Page 378; thence along said East right of way line of Seminole-Pratt Whitney Road, N.01°42'52"E., 5,449.92 feet to the South right of way line of Persimmon Street, recorded in Official Records Book 10202, Page 430, of the Public Records of Palm Beach County, Florida; thence along the South and East right of way lines of said Persimmon Street, in respective order, the following two (2) courses: 1) S.88°17'08"E., 646.56 feet; 2) N.01°42'52"E., 80.00 feet to the Southeast corner of GROVE MARKET PLAT, according to the plat thereof recorded in Plat Book 82, Page 67, also being the Southwest corner of Seminole Water Control District parcel, recorded in Official Records Book 10101, Page 452, of the Public Records of Palm Beach County, Florida; thence along the South boundary of said Seminole Water Control District parcel, recorded in Official Records Book 10101, Page 452, S.88°17'08"E., 140.00 feet to the Southeast corner thereof; thence along the East boundary of said Seminole Water Control District parcel, recorded in Official Records Book 10101, Page 452, N.01°42'52"E., 797.74 feet to the Northeast corner thereof; thence along the North boundary of said Seminole Water Control District parcel, recorded in Official Records Book 10101, Page 452, S.88°47'12"W., 437.96 feet to the Northwest corner thereof; thence along the Westerly boundary of said Seminole Water Control District parcel, recorded in Official Records Book 10101, Page 452, S.43°17'08"E., 45.79 feet to the Northeasterly corner of aforesaid GROVE MARKET PLAT; thence along the North boundary of said GROVE MARKET PLAT, and the North right of way line of additional right of way for Seminole-Pratt Whitney Road, recorded in aforesaid Official Records Book 10202, Page 430, N.88°17'08"W., 381.55 feet to aforesaid East right of way line of Seminole-Pratt Whitney Road, a 100 foot wide right of way, recorded in Official Records Book 1544, Page 378; thence along

said East right of way line of Seminole-Pratt Whitney Road, N.01°42'52"E., 3,541.19 feet to the **POINT OF BEGINNING.**

**LESS AND EXCEPT FROM PARCEL 2:**

The School District of Palm Beach County parcel, recorded in O.R. 9169, Page 136, of the Public Records of Palm Beach County, Florida.  
and;

**LESS AND EXCEPT FROM PARCEL 2:**

The School District of Palm Beach County parcel, recorded in O.R. 9232, Page 1206, of the Public Records of Palm Beach County, Florida.  
and;

**LESS AND EXCEPT FROM PARCEL 2:**

Silver Lake Enterprises, Inc. parcel, recorded in O.R. 14034, Page 1119, of the Public Records of Palm Beach County, Florida.  
and;

**LESS AND EXCEPT FROM PARCEL 2:**

Silver Lake Enterprises, Inc. parcel, recorded in O.R. 14676, Page 953, of the Public Records of Palm Beach County, Florida.  
and;

**LESS AND EXCEPT FROM PARCEL 2:**

Silver Lake Palm Beach, LLC parcel, recorded in O.R. 15391, Page 754, of the Public Records of Palm Beach County, Florida.

Containing: 3,788.601 acres more or less.

**Exhibit 2**  
**Proposed Text and Map Series Amendments to be adopted**

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**A. Introduction and Administration Element, Minto West Agricultural Enclave**

**REVISIONS:** To revise the statutory reference to the Agricultural Lands and Practices Act. The revisions are numbered below, and shown with the added text underlined and deleted text with ~~strikethrough~~.

1. **REVISE AGRICULTURAL ENCLAVE DEVELOPMENT** – Has the meaning given it in s. 163.3164(~~334~~), Florida Statutes pursuant to 163.3162(~~54~~), Florida Statutes.
2. **REVISE TRANSECT ZONE (T-ZONE)** – one of several areas of the County either within the Priority Redevelopment Areas of the Urban Redevelopment Area regulated by a form-based code, or an Agricultural Enclave regulated by a ~~Conceptual Plan~~ and ~~implementing Principles~~ that establish a range of densities and intensities and that demonstrate compliance with S. 163.3162(~~54~~), Florida Statutes. Transect zones are administratively similar to the land use designations and their corresponding zoning districts in conventional codes, except that in addition to the building use, density, height, and setback requirements, other elements of the intended habitat are integrated including those of the private lot and building and public frontage. General New Urbanism transect classifications (from highest to lowest density/intensity) are: urban core, urban center, general urban, sub-urban, rural, and natural.

**B. Future Land Use Element, Minto West Agricultural Enclave**

**REVISIONS:** To revise the Agricultural Enclave FLU policies and implementing provisions. The revisions are numbered below, and shown with the added text underlined.

OBJECTIVE 2.2 Future Land Use Provisions - General

2.2.5 Agricultural

1. **REVISED Policy 2.2.5-d:** The County shall recognize Agricultural Enclaves pursuant to Florida Statutes section 163.3162(~~54~~) by assigning the Agricultural Enclave (AGE) Future Land Use Designation through a Future Land Use Amendment process in accordance with the procedures set forth in Florida Statutes Chapter 163 for Agricultural Enclaves. An AGE site specific amendment that incorporates appropriate new urbanism concepts and supports balanced growth may occur in the Rural Tier and may exceed rural densities and intensities. To the extent an AGE site specific amendment conflicts with the policies of the Rural Tier, the site specific amendment approval shall be governed by this policy and policies 2.2.5-e, 2.2.5-f, and 2.2.5-g. The site specific plan amendment ordinance adopting an Agricultural Enclave future land use shall include a Conceptual Plan and ~~implementing Principles~~ that ~~establish and the range of densities and intensities and that demonstrate compliance with s. 163.3162(~~54~~), Florida Statutes.~~ The Conceptual Plan shall include a Site Data table establishing an overall density and intensity for the project consistent with the requirements of s. 163.3162(~~5~~), Florida Statutes, as well as minimum and/or maximum percentages for the acreages of the Transects shown on the Plan and other binding standards. The Conceptual Plan and Implementing Principles can only be revised through the Future Land Use Atlas amendment process. All development orders must be consistent with the adopted ~~Conceptual Plan~~ and ~~implementing Principles~~. Bona fide agricultural uses shall be permitted until such time as a specific area of the Enclave physically converts to the uses permitted by such development orders. Agricultural uses shall be permissible after conversion to the extent indicated on the Conceptual Plan. Outparcels lying within and surrounded by a qualifying agricultural enclave may also be assigned the AGE Future Land Use Designation.
2. **REVISED Policy 2.2.5-e:** The Agricultural Enclave ~~Conceptual Plan~~ shall include a series of transect zones which act as the essential elements of the project and allow the clustering of the density to promote a variety of neighborhoods and housing types and to act as transition areas between the Enclave and adjacent existing communities. An Agricultural Enclave shall be developed utilizing the Traditional Town Development Zoning District to demonstrate the appropriate new urbanism concepts. Each Agricultural Enclave shall include at least one Neighborhood Zone and one Village Center. The Agricultural Enclave Traditional Town Development shall be comprised of the following pods: Traditional Neighborhood Developments, Traditional Marketplace Developments, Employment Centers (as Multiple Use Planned Developments), may also include limited

Planned Unit Developments, as well as incorporating significant open space outside of the pods to further clustering and to promote compatibility with surrounding uses. Each neighborhood pod may be developed according to the appropriate transect zones based on the density/intensity assigned on the eConceptual pPlan and Implementing Principles. An interconnected network of streets shall link each development area together to form neighborhoods and an organized transportation network that allows for pedestrian and bicycle circulation. The following transect zones and other components are permitted:

- **Natural Transect** - shall consist of active recreation, pastures, greenspace within rural parkways and open space including agriculture, preservation, conservation, wetlands, passive recreation, greenways, landscaping, landscape buffers, water management tracts, and wellfields. A minimum of ~~40~~55% of the Enclave total acreage shall be within this transect. All entitlement density associated with the Natural Transect may only be transferred to another transect within the Agricultural Enclave. The Natural Transect shall define the boundaries of an Agricultural Enclave except where the Enclave abuts schools or commercial areas. The Natural Transect may also be located throughout the Enclave to provide open space and connectivity within and between neighborhoods.
  - **Rural Parkway** – The Conceptual Plan shall recognize Thoroughfare Right-of-Way Identifycation Map roadways within the Enclave as corridors that act as regional connectors of neighborhoods and zones within the project and connecting to the surrounding communities by designating these roadways as Rural Parkways as indicated in Transportation Element Policy 1.4-g. These corridors shall be designed with opportunities for alternate modes of transportation such as pedestrian pathways, bike lanes and equestrian trails. Only the greenspace portions of rural parkways shall contribute to the minimum Natural Transect requirements.
  - **Natural Transect Open Space** – Open lands and landscape buffers shall include linked public ~~or private~~ pedestrian, bicycle and equestrian trails, ~~when possible~~ and shall be used to define and connect different neighborhoods and zones, as well as providing a surrounding greenbelt for the overall Agricultural Enclave. The linked open space network shall be available for passive recreation, and enable potential future connections to regional trails and linked open space networks. The Conceptual Plan shall include appropriate separations and buffering from the surrounding existing communities. A minimum of a ~~400~~200-foot separation edge ~~will~~shall be provided from any adjacent parcels not wholly surrounded by the Agricultural Enclave, with the separation edge averaging at least 400 feet in width.
  - **Water** – A portion of the the Natural Transect of an AGE shall be allocated to address any or all of the following: 1) regional deficiencies concerning stormwater management; 2) regional water supply solutions; 3) opportunities for environmental mitigation and restoration. The purpose is to provide a public benefit by addressing regional issues beyond the boundaries of a designated Agricultural Enclave. Land within the Natural Transect allocated to address this policy, may be set aside for other uses consistent with the Natural Transect until such time when the land is utilized to provide this benefit.
- ~~Rural Transect – The Rural Transect shall consist of sparsely settled lands including managed woodlands, agricultural lands, and equestrian estates. A range of very low densities from one unit per 20 acres to a maximum of one unit per two acres is permitted. Equestrian Centers, accessory commercial recreation facilities associated with the equestrian centers, and Neighborhood and Village Centers are permitted within this Transect zone. A minimum of 20% and a maximum of 25% of the Enclave total acreage shall be within this Transect.~~
- **Sub-urban Transect** – consists of ~~low-to-moderate~~ density residential areas with some potential for the mixing of uses. The Sub-urban Transect shall develop at an overall gross density ranging between one unit per two acres to six dwelling units per acre. An interconnected network of streets shall link each sub-zone together to form cohesive neighborhoods and an organized transportation network that allows for bicycle and pedestrian circulation. Each neighborhood shall have a gathering space, such as a green or park, connected by a network

of streets that will allow most residents to live within a 5-10 minute walk of a green space. A maximum of up to 40% of the Enclave total acreage shall be within this Transect. Notwithstanding the provisions of the Sub-Urban Transect, any portion of residential development proposed to be located within 660 feet of the perimeter edge of the AGE shall be developed at a residential density that corresponds to the adjacent development density. The Sub-urban Transect shall consist of the following sub-zones:

- **Neighborhood Edge** – The Neighborhood Edge Zone shall be developed at a minimum gross density of one unit per two acres and a maximum gross density of one unit per acre. Neighborhood Edge Zones shall comprise a maximum of 20% of the Agricultural Enclave total acreage. The Neighborhood Edge Zone shall be adjacent the Natural Transect, Neighborhood General Zone or the Neighborhood Center Zone.
- **Neighborhood General** – The Neighborhood General Zone shall be developed at a minimum gross density of 1 unit per acre and a maximum gross density of 35 units per acre, and may include small-scale, neighborhood-serving uses where appropriate. Neighborhood General Zones shall comprise a maximum of 30% of the Agricultural Enclave total acreage. The Neighborhood General Zone may abut the Natural Transect, Rural Transect, or the Neighborhood Edge and Neighborhood Center Zones of the Sub-urban Transect, and the Urban Transect.
- **Neighborhood Center** – The Neighborhood Center shall contain a minimum gross density of 4 units per acre, and shall contain a minimum of 20% of the Enclave's units. Neighborhood Centers shall be pedestrian-friendly, incorporate residential uses integrated in mixed-use buildings, which enfront publicly accessible open spaces, and shall be linked to the adjacent residential neighborhoods through pedestrian and vehicular interconnections. ~~The A mixed-use component shall be designed as a Traditional Marketplace Development, or utilize the Neighborhood Center~~ utilizing the provisions of a Traditional Neighborhood Development in the ULDC. Those portions of the Neighborhood Center Zone not developed as a TMD or TND Neighborhood Center, shall be located within a ¼ mile (5 minute walk) radius to commercial, mixed-uses, public spaces, or schools to encourage alternative modes of transportation. Neighborhood Center Zones shall comprise no more than 10% of the land area of the entire Agricultural Enclave. The Neighborhood Center Zone may abut the Neighborhood General Zone, Urban Transect, or the Natural Transect where it consists of a Rural Parkway, and arterial roadways.
- ~~Village Center~~ – ~~A portion of the Neighborhood Center Zone may be designated as a Village Center. The Village Center shall be designed as a Traditional Marketplace Development, a pedestrian-friendly retail and office development. The Village Center shall incorporate some residential uses integrated in mixed use buildings and shall be linked to the adjacent residential areas through pedestrian and vehicular interconnects.~~
- **Urban Transect** – shall consist of the most intense components of the Agricultural Enclave including a majority of the non-residential uses designed as a Town Center and an Employment Center. The Urban Transect shall be centrally located within the Agricultural Enclave, and generally adjacent to an arterial thoroughfare. Up to 10% of the total acreage of the Agricultural Enclave may be assigned to the Urban Transect. Residential uses in the Urban Transect may utilize up to 20% of the total units for the Enclave, not to exceed 12 units per acre, and shall be located proximate to Neighborhood Center Zones. The Urban Transect may abut the Sub-urban Transect's Neighborhood Center and Neighborhood General Zones, the Natural Transect, and arterial roadways.
  - **Town Center** – The Urban Transect shall include a Town Center. The Town Center shall be a Traditional Marketplace Development, a pedestrian-friendly predominantly retail and office development oriented to streets and useable open spaces. The Town Center shall incorporate some residential uses vertically integrated in mixed-use buildings and shall have pedestrian and vehicular connectivity with the adjacent residential neighborhoods of the Sub-urban Transect.

- Employment Center – The Urban Transect shall also include an Employment Center. The Employment Center shall be a Multiple Use Planned Development or other appropriate Traditional Development District. The Employment Center is to accommodate office, light industrial uses, research and development, and other value-added activities and support uses; therefore limited commercial, hotels, colleges/universities, may be included to support its major function as a regional employment center and to implement effective mobility strategies.
3. **REVISED Policy 2.2.5-gf:** ~~The Agricultural Enclave shall be rezoned through one of the following options: • The Agricultural Enclave shall be rezoned to an Agricultural Enclave Traditional Town Development including a Traditional Market Development and a Master Plan shall be submitted at the time of the rezoning application. The Master Plan shall be submitted in compliance with the Unified Land Development Code (ULDC) and the Technical Requirement Manual. (relocated from Policy 2.2.5-i) The Agricultural Enclave Traditional Town Development shall incorporate Design Standards, appropriate new urbanism concepts and shall include the following:~~
- Neighborhood Design – Neighborhoods shall be based on a street design that fosters alternate modes of transportation such as pedestrian pathways, bike lanes and/or equestrian trails. Neighborhoods shall consist of low-to-moderate-density residential areas, which may include the mixing of uses. Neighborhoods shall contain centrally located gathering places, and major buildings.
  - Internal Street Network – Sub-urban and Urban Transects shall be developed to provide connectivity between neighborhoods, schools, employment, civic, and retail uses where appropriate. Streets shall be configured to provide efficient circulation systems for pedestrians, non-motorized vehicles and motorists, and serve to functionally integrate the various activities in each zone. Streets and squares that are internal to the neighborhoods should be designed to be a safe, comfortable, and interesting environment to the pedestrian. All components of the site design, streetscape, and architecture shall contribute to the composition and definition of streets and public spaces.
  - Civic & Recreation – Appropriately scaled concentrations of civic, recreational, and institutional uses shall be distributed in proximity to the individual neighborhoods and within Natural, Sub-urban and Urban Transect zones. Civic sites and gathering places shall be located at important sites to reinforce community identity. A range of parks, from tot-lots and village greens to ball fields and passive parks should be distributed within or near residential neighborhoods.
  - Community Vision – Comprised of graphic depictions and written descriptions, the intended community vision shall guide the character of the project and address compatibility within the AGE and also the surrounding area. This shall include architecture, landscape, urban design, and other necessary components of public spaces and streets. These shall allow for individual variety without affecting visual and functional compatibility, consistent with the intended character within the AGE, and to ensure a cohesive, coordinated design over the build-out of the Traditional Town Development.
  - ~~A single development order or series of individual development orders consistent with:~~
    - a. ~~The Conceptual Plan and implementing principles required in Policies 2.2.5-d and 2.2.5-e;~~
    - b. ~~New Urbanism Design Guiding Principles of the Ordinance adopting the Future Land Use Atlas Amendment establishing the Agricultural Enclave.~~
4. **NEW Policy 2.2.5-g:** Within an Agricultural Enclave, Utilities uses may be allowed within any Transect Zone, subject to special siting criteria set forth in the Unified Land Development Code, the Zoning Master Plan, or as identified on the adopted Conceptual Plan. The placement of utility uses in residential areas shall be controlled through the ULDC to ensure the protection of existing and planned residential areas from adverse impacts of the facility.
5. **DELETE (relocated to Policy 2.2.5-f) Policy 2.2.5-i:** ~~At the time of rezoning of any portion of an Agricultural Enclave, the application will include design requirements including the following new urbanism concepts:~~

~~▲ **Neighborhood Design** — Neighborhoods within the Sub-urban Transect shall be based on a street design that fosters alternate modes of transportation such as pedestrian pathways, bike lanes and/or equestrian trails. Neighborhoods shall consist of low to moderate density residential areas, which may include the mixing of uses. Neighborhoods shall contain centrally located gathering places, and major buildings.~~

~~▲ **Internal Street Network** — Sub-urban Transects shall be developed with enhanced connectivity, such as providing connectivity between neighborhoods, schools, civic uses, and retail uses where appropriate. Streets shall be configured to provide efficient circulation systems for pedestrians, non-motorized vehicles and motorists, and serve to functionally integrate the various activities in each zone. Streets and squares that are internal to the neighborhoods should be designed to be a safe, comfortable, and interesting environment to the pedestrian.~~

~~▲ **Civic & Recreation** — Appropriately scaled concentrations of civic and institutional activity shall be distributed in proximity to the individual neighborhoods and within Natural, Rural and Sub-urban Transect zones. Civic sites and gathering places shall be located at important sites to reinforce community identity. A range of parks, from tot lots and village greens to ball fields and passive parks should be distributed within or near neighborhoods.~~

~~▲ **Water Systems** — The water retention systems shall be designed to provide connectivity with the open spaces and buffers where appropriate.~~

**6. REVISED Policy 3.3-a:** The Limited Urban Service Area: The following are designated as Limited Urban Service Areas: *(unaltered text omitted for brevity)*

6. an Agricultural Enclave pursuant to Policy 2.2.5-d Florida Statute section 163.3162(5).

*(unaltered text omitted for brevity)*

The LUSA shall be depicted on the Service Areas Map in the Map Series upon designation through a Plan amendment. The official boundaries of each LUSA shall be depicted on the Service Areas Map in the Map Series. Within a designated Agricultural Enclave, the ULDC provisions governing the Agricultural Enclave and the Urban/Suburban Tier shall apply consistent with Policies 2.2.5-d, 2.2.5-e, 2.2.5-f and 2.2.5-g, and the site specific Agricultural Enclave amendment as adopted by the BCC.

**7. REVISED Policy 3.5-d:** The County shall not approve a change to the Future Land Use Atlas which:

- 1) results in an increase in density or intensity of development generating additional traffic that significantly impacts any roadway segment projected to fail to operate at adopted level of service standard "D" based upon the MPO's 2025 Long Range Transportation Plan dated March 18, 2002. Significant impact shall be as defined in Table 3.5 -1.

**TABLE 3.5-1  
Significant Impact**

Net Trip Generation**	Distance
1 - 50	No significant impact
51 - 1,000	Only address directly accessed link on first accessed major thoroughfare*
1,001 - 4,000	One (1) mile*
4,001 - 8,000	Two (2) miles*
8,001 - 12,000	Three (3) miles*
12,001 - 20,000	Four (4) miles*
20,001 - up	Five (5) miles*

\* A project has significant traffic: (1) when net trips increase will cause the adopted LOS for FIHS or SIS facilities to be exceeded; and/or (2) where net trip increase impacting roads not on the FIHS or SIS is greater than one percent (1%) for volume to capacity ratio (v/c) of 1.4 or more, two percent (2%) for v/c of 1.2 or more and three percent (3%) for v/c of less than 1.2 of the level of service "D" capacity on an AADT basis of the link affected up to the limits set forth in this table. The laneage shall be as shown on the MPO's 2025 Long Range Transportation Plan dated March 18, 2002.

\*\* When calculating net trip increase, consideration will be given to alternative modes of transportation (i.e. bicycle lanes, bicycle paths, bus lanes, fixed rail, and light rail facilities) in reducing the number of net trips. These alternative modes must either be operating at the time of the change to the Future Land Use Atlas or be included in both the Transportation Element (Mass Transit) and the Capital Improvement Element of the Comprehensive Plan.

or; results in a project that fails Test 2 regulations adopted to implement TE Policy 1.1-b.

This policy shall not be applicable to an Agricultural Enclave adopted pursuant to Policy 2.2.5-d Florida Statutes section 163.3162(5).

**8. REVISED**

**TABLE III.C.1  
RESIDENTIAL CATEGORIES & ALLOWED DENSITIES**

Category	Dwelling Units Per Gross Acres			
	Maximum	Standard <sup>1</sup>	Minimum	Entitlement <sup>2</sup>
<i>Unaltered text omitted for brevity</i>				
Agricultural Enclave <sup>6</sup>	---	---	---	---
<i>Unaltered text omitted for brevity</i>				

1. to 5. are unaltered and omitted for brevity

6. The density of an Agricultural Enclave shall be determined utilizing the provisions of Policy 2.2.5-d s. 163.3162(5), Florida Statutes, and shall be clearly indicated in the Site Data of the adopted Conceptual Plan for each Agricultural Enclave.

9. REVISED

**TABLE III.C.2  
Maximum Floor Area Ratios (FARs) For Non-Residential Future Land Use Categories  
and Non-Residential Uses**

Future Land Use	FLU Category	Tier				
		Urban/Suburb	Exurban	Rural	Ag Reserve	Glades
<i>Unaltered text omitted for brevity</i>						
Agriculture	<u>AGE</u>	<u>not allowed</u>	<u>not allowed</u>	<u>See note<sup>9</sup></u>	<u>Not allowed</u>	<u>Not allowed</u>
<i>Unaltered text omitted for brevity</i>						

**Notes:**

1. to 8. are unaltered and omitted for brevity

9. The intensity of an Agricultural Enclave shall be determined utilizing the provisions of Policy 2.2.5-d, and shall be clearly indicated in the Site Data of the adopted Conceptual Plan for each Agricultural Enclave.

**C. Transportation Element, Minto West Agricultural Enclave**

**REVISIONS:** To revise the Rural Parkways policies and implementing provisions. The revisions are numbered below, and shown with the added text underlined.

1. **REVISED Policy 1.4-q:** The Rural Parkway concept is established ~~To protect the rural character of roadways outside of the Urban/Suburban Tier, and those roadways identified on the Conceptual Plan of an Agricultural Enclave designated pursuant to FLUE Policies 2.2.5-d and 2.2.5-e the County hereby establishes the Rural Parkway concept.~~ Rural Parkways shall accommodate future transportation planning needs to ensure that the cross-section and alignment of the roads preserves the rural residential lifestyle, sense of place and quality of life of the adjacent areas. For properties fronting on rural parkways, a portion of the designated Right-of-Way may be retained in private ownership provided that the property owner dedicates a parkway easement to Palm Beach County for non-vehicular pathways. Such dedications shall only be required when consistent with the criteria contained in Transportation Policy 1.4-d. The following roadway segments are hereby designated as Rural Parkways: *(unaltered text omitted for brevity)*

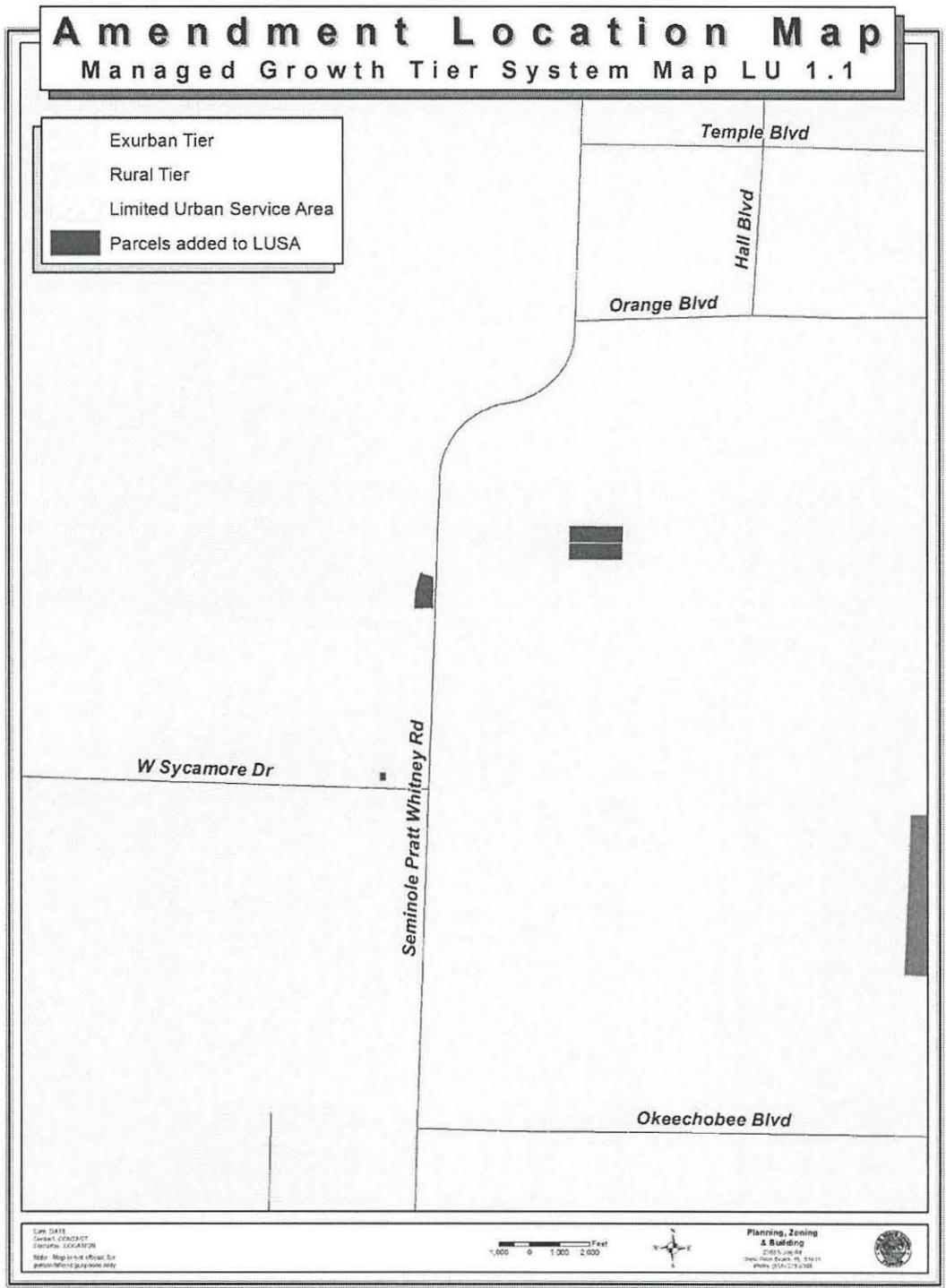
Within a designated Agricultural Enclave:

3. Persimmon Boulevard, from 140th Avenue North to approximately 3,700 feet east of Seminole Pratt Whitney Road (as measured along the centerline, and not located within an Urban or Sub-urban Transect), a 50 foot easement on each side in order to accommodate multipurpose pathways landscaped with at least 70% native vegetation, shall be required. No walls or signs shall be allowed within the parkway easements. However, a pair of context-sensitive community identification monuments may be permitted provided they are more than 400 feet from the terminus of the parkway easement, subject to approval by the Planning Director.
4. 140th Avenue North from ~~Persimmon Boulevard~~ from the municipal boundary of Loxahatchee Groves to 60th Street North, a 50 foot easement on the west side in order to accommodate a multipurpose pathways landscaped with at least 70% native vegetation, shall be required. No walls or signs shall be allowed within the parkway easements.
5. The future "Town Center Parkway" within the Agricultural Enclave, from 60th Street North to approximately 2,500 feet east of Seminole Pratt Whitney Road (as measured along the centerline, and not located within an Urban or Sub-urban Transect), a 50 foot easement on each side in order to accommodate multipurpose pathways landscaped with at least 70% native vegetation, shall be required. No walls or signs shall be allowed within parkway easements. However, a pair of context-sensitive community identification monuments may be permitted provided they are more than 400 feet from the terminus of the parkway easement, subject to approval by the Planning Director.

6. Seminole Pratt Whitney Road from Sycamore Drive to Persimmon Boulevard, and from 1,400 feet south of 60th Street North to 60th Street North, an 80 foot easement on each side in order to accommodate multipurpose pathways landscaped with at least 70% native vegetation, shall be required. No walls or signs shall be allowed within the parkway easements. However, for each segment, a pair of context-sensitive community identification monuments may be permitted provided they are more than 400 feet from the terminus of the parkway easement, subject to approval by the Planning Director. "Entrance signs" for a District Park located adjacent to the rural parkway easement may also be allowed within the rural parkway easement, subject to the approval by the Planning Director.
  
7. 60th Street North from 140th Avenue North to the M-canal crossing at 59th Lane North, a 50 foot easement on the south side in order to accommodate a multipurpose pathway landscaped with at least 70% native vegetation, shall be required. No walls or signs shall be allowed within the parkway easements.

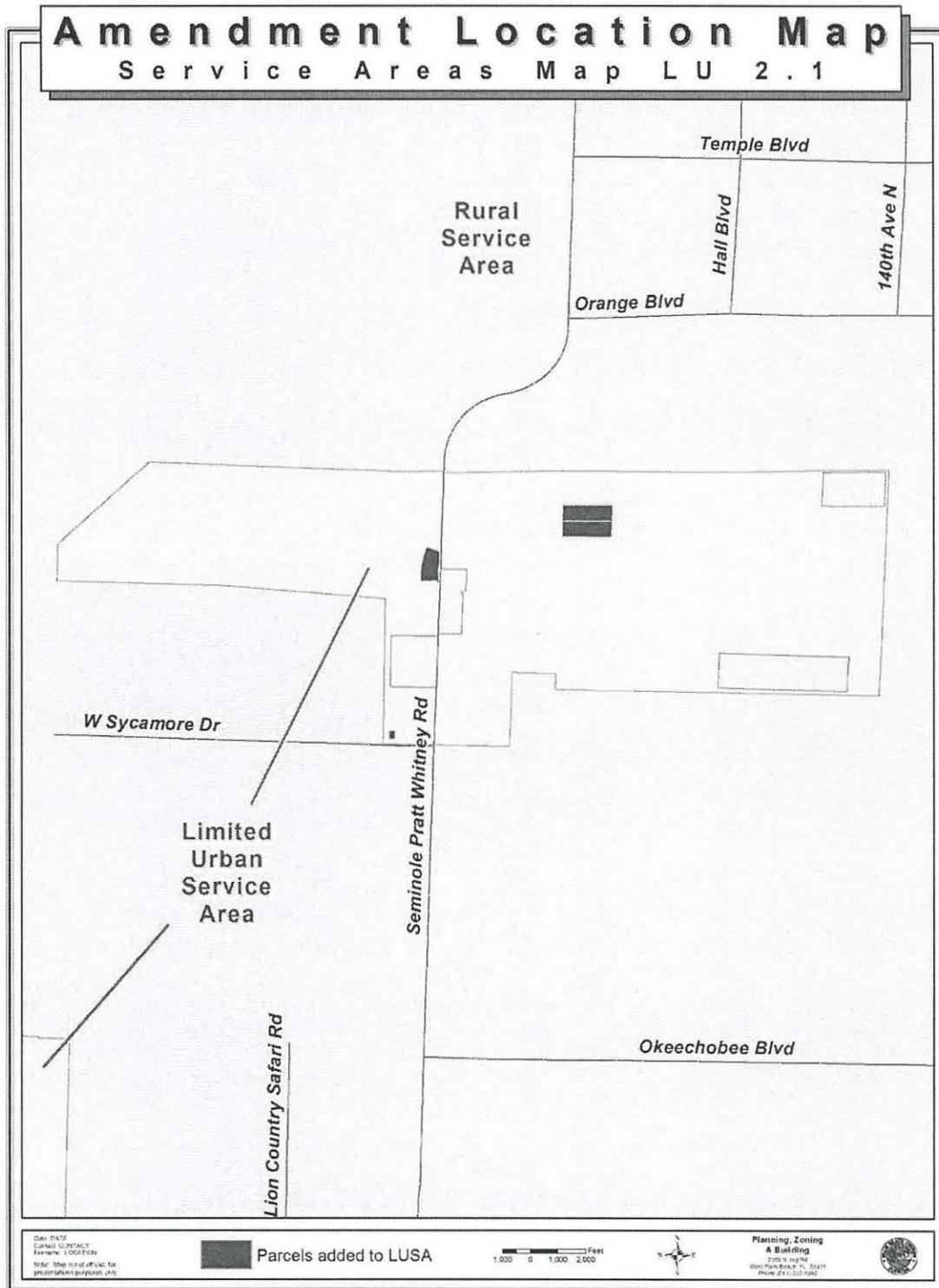
D. Map Series, Managed Growth Tier System Map LU 1.1, Minto West Agricultural Enclave

REVISIONS: To add land to the Minto West Agricultural Enclave Limited Urban Service Area.



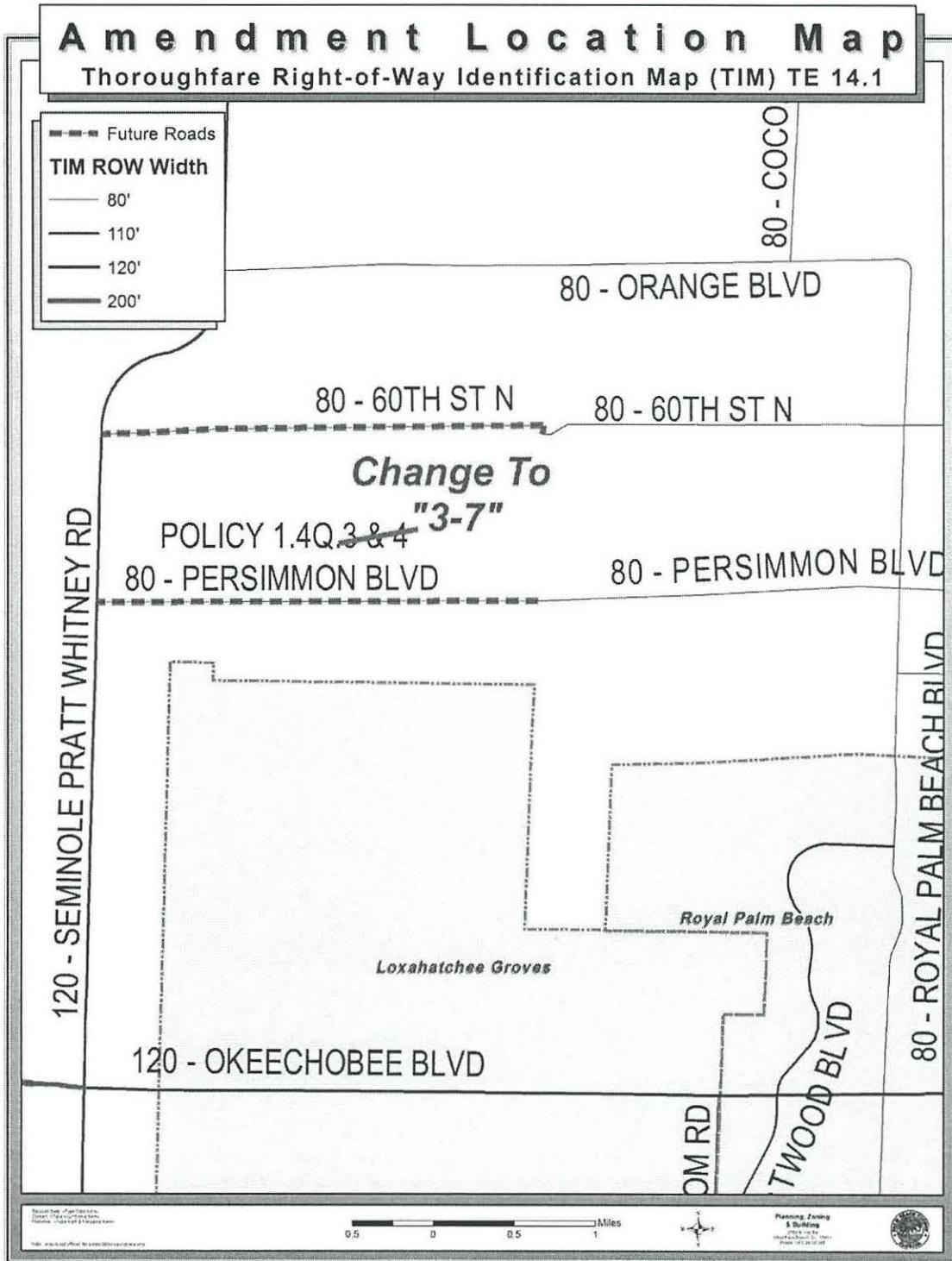
E. Map Series, Service Area Map LU 2.1, Minto West Agricultural Enclave

REVISIONS: To add land to the Minto West Agricultural Enclave Limited Urban Service Area.



F. **Map Series, Thoroughfare Right Of Way Identification Map TE 14.1, Minto West Agricultural Enclave**

**REVISIONS:** To revise depictions of rural parkways the Thoroughfare Identification Map.







## **Exhibit 4**

### **Implementing Principles & Strategies to be adopted**

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#### **Minto West Implementing Principles**

The Implementing Principles are an accompaniment to the Minto West Conceptual Plan to ensure the implementation of appropriate values of the region within the Agricultural Enclave, while allowing flexibility during subsequent zoning and site planning.

#### **Balance the Western Communities**

Currently, the western communities include a vast amount of residential units and a minimal amount of consumer services. Minto West will provide long-desired commercial, employment, and recreational opportunities to achieve a more balanced mix of land uses within the western communities. Minto West proposes intensity increases, which will allow for viable commercial development including employment opportunities to serve the residential densities on the property and within the surrounding area. Minto West moves in the direction of accomplishing the County's goal of addressing the land use imbalance in the area as reflected in numerous County initiated studies and planning efforts. As such, the Minto West continues to direct future development to an appropriate location, specifically to address the need for balanced growth, the provision of services and employment opportunities. By providing needed employment and commercial uses to serve residents within the entire central western communities, Minto West will alleviate, rather than exacerbate, the existing urban sprawl pattern development, thereby addressing an identified County planning need.

#### **Connecting the Communities**

Minto West will promote walkable and connected communities and provides for compact development, where appropriate, and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

#### **Provide a Town Center**

Minto West will provide long-desired commercial, employment, and recreational opportunities to achieve a more balanced mix of land uses within the western communities in a town center setting. Minto West's proposal to increase nonresidential intensity will set the stage for an economic development center that will continue to encourage a functional mix of uses. The workplace and commercial uses will become a great resource for the surrounding residential community, limiting the east-west trips that are created today along the major corridors.

#### **Implement Traditional Neighborhood Design**

Residential neighborhoods shall be based on a street design that fosters alternate modes of transportation such as pedestrian pathways and/or bicycle lanes. Neighborhoods shall be designed with character and clearly defined gathering places, with many residences within walking distance of such places.

#### **Provide for Civic and Recreation Opportunities**

Appropriately scaled concentrations of civic and institutional activity shall be distributed in proximity to each residential neighborhood. Civic sites and gathering places shall be located at important sites to reinforce community identity. A range of parks from tot-lots and village greens, to regional parks and passive parks, which will be distributed within or near neighborhoods. Each neighborhood will include appropriately scaled civic and recreation spaces to meet the needs of the communities' residents. The majority of the more active recreational uses will occur just west of Seminole Pratt Whitney Road and on the eastern portion of the property, as shown on the Conceptual Plan.

#### **Design Neighborhoods with Housing Variety**

Minto West shall include a variety of neighborhood types allowing for a variety of housing types and lot sizes. The Minto West Conceptual Plan depicts the general locations of residential neighborhoods. The specific location, densities and number of dwelling units will be determined during the approval of the Master Plan and specific Site Plans, not to exceed the overall density permitted for the parcel. Generally, lower density residential areas will occur towards the edges of the property, with higher density development approaching Seminole Pratt Whitney Road. Additionally, factors such as proximity to schools, civic and recreation areas, or the Town Center will result in clustering of densities to further pedestrian accessibility.

### **Create an Internal Street Network**

The Minto West Enclave shall be developed with enhanced connectivity between neighborhoods, schools, civic uses, and retail uses where appropriate. The Minto West Conceptual Plan provides for a hierarchy of streets connecting with the County's Thoroughfare Roads, which provides for circulation and access from the neighborhoods both to the Thoroughfare Roads as well as between individual neighborhoods, schools, and the Town Center. Excluding roadways identified on the County's Thoroughfare Map, streets shall be designed in a pedestrian-friendly manner with appropriate street cross sections for slow travel speeds. Streets and squares internal to the neighborhoods will be safe, comfortable, and interesting to the pedestrian where appropriate. Properly configured, they encourage walking and will enable neighbors to know each other and their communities.

### **Build Corridors**

Persimmon Boulevard and Seminole Pratt Whitney Road are corridors that act as connectors of neighborhoods and districts within Minto West and surrounding communities. These corridors shall be designed as rural parkways with opportunities for alternate modes of transportation such as pedestrian pathways, bike lanes, and equestrian trails where appropriate.

### **Provide for Separation of and Buffering to Adjacent Neighborhoods**

Minto West shall include appropriate separations and buffering from the surrounding existing communities. The Minto West Conceptual Plan depicts appropriate buffers around the entire property. These buffer areas will not only provide physical separation, but will contain features such as trails and landscape enhancement areas for the use of existing and future residents. Additionally, density considerations around the perimeter will ensure compatibility with the surrounding community.

### **Maintain Agricultural Uses**

Agricultural Enclaves are encouraged to maintain agricultural uses and activities. For that reason, incremental conversion of Agricultural Enclaves to nonagricultural use is permitted. The property shall be rezoned to an Agricultural Enclave Traditional Town Development, with an accompanying Master Plan, consistent with the Conceptual Plan and these Implementing Principles. The County Planning, Zoning & Building Department will maintain records of the total density and/or intensity approved to ensure that the total approved units do not exceed the maximum density and/or intensity granted in accordance with the FLUA amendment and Conceptual Plan. The conceptual plan provides areas within the Natural Transect that may be used as open space including continued and new agricultural use.

### **Respect the Natural Environment**

The development shall respect environmental stewardship consistent with the goals of the Central Western Communities. As the proposed amendment site contains no natural environmental features, it reflects environmentally sound land use planning by directing growth away from environmentally sensitive areas. In addition, large open space areas and water features provide an opportunity for significant environmental enhancement where today no such features exist. There are no native and natural habitat features on the property. However, through the development of the site, a large amount of vegetation, lakes, and other natural features will be created.

Minto West may also include or incorporate lands for environmental mitigation or restoration.

### **Be a Good Neighbor**

It is important to ensure the involvement of the surrounding community and receive input from the existing residents in the neighborhoods that are within close proximity to Minto West. Although not everyone's wishes can be granted, the underlying themes and their vision for the area should be considered and included in the design process. Some of these themes include providing separation at the edges of the property and also designing lower density residential communities in these areas as well, more consistent with the adjacent neighborhoods.

## **Implementing Strategies**

In order to effectively implement the above principles, the following strategies are employed that work in conjunction with the zoning regulations. All development shall be consistent with these strategies.

### **Perimeter Buffer**

To provide the separation from the existing communities, respect their location, character, and way of life, an extensive buffer campaign is necessary. Three generalized buffer conditions exist on the perimeter edge of the Minto West Agricultural Enclave: adjacent to existing residential uses; adjacent to existing non-residential uses; adjacent to existing agricultural uses. Each of these conditions requires a different approach to address the unique considerations involved. This is further complicated by the desire to provide connectivity and pathways as

equestrian trails, rural parkways, and greenways that link Minto West to their surroundings, particularly other trail and recreational systems. The Rural Parkway are described within the Comprehensive Plan, and their requirements are enumerated in detailed conditions of approval with the zoning approval. These may be carried forward in the Design Standards as a reference to inform other perimeter buffers for a consistency of appearance.

Generally perimeter buffers shall at a minimum be at least 50 feet in width, use at least 70% native landscape materials, and use a selection that approximates a natural community that would be reasonably expected to occur in this portion of the County based on the existing conditions of the site. Trees, pines, palms, shrubs, and groundcover should be chosen for their ability to provide both visual interest and variety, but also be arranged in such a way to provide visual opacity to obscure views into Minto West from the perimeter edge. These should be planted in a "naturalistic" scheme, designed to use minimal irrigation and need little maintenance once established. Pathways and equestrian and other trails are permissible so long as their inclusion does not affect the visual opacity of the perimeter buffer. No walls, fences, or other signage may be permitted within the perimeter buffer. Additional details shall be provided in the Design Standards, consistent with these provisions.

There are also several existing parcels within Minto West that are not included in the development. These include existing agriculture, several public schools, a commercial center, and a packing plant, as well as other structures associated with minor utilities. These are not intended to be buffered from the Minto West project. Rather, they should be treated as previous phases of development and should be integrated and incorporated into the overall scheme to the greatest extent practicable, while also ensuring that existing and future residents are protected from any nuisances or other deleterious factors that merit additional separation or buffering.

#### **Natural Transect**

The Natural Transect comprises the majority of the area within the Minto West project by design. It encompasses the buffers, designated rural parkways, trails, greenways, lands in agricultural uses, regional and site water management, environmental mitigation, large recreation parcels, and any other remaining Open Space not allocated to a developable area (Sub-urban or Urban Transect, developed as a TMD, TND, MUPD, PUD or Private Civic Pod). The Natural Transect is to be located in locations generally consistent with those depicted on the adopted Conceptual Plan, and as further detailed in the subsequent zoning approvals.

The Natural Transect should be a contiguous and continuous planform interrupted only by major roadways that connect to the perimeter boundaries of Minto West. It is intended to both connect and separate the different development areas of the Sub-urban and Urban Transects within Minto West, and separate these development areas from the existing Western Communities. In positioning the Natural Transect prominently at the edges, it is anticipated that Minto West can provide linked open space and linkages to existing and future planned trails in the region.

The Natural Transect shall be a minimum 200 feet in width from the perimeter edge. All instances of the Natural Transect shall be at least 50 feet wide at the narrowest part, otherwise they may not be eligible for inclusion as Natural Transect.

#### **Housing Mix**

Minto West will accommodate a variety of housing within its boundaries. However, these may be varied based on affordability, appearance, lot configuration, and are not required to vary within a development pod, so long as the overall Minto West features a variety of housing types consistent with the Implementing Principles.

**AGR Conceptual Plan Site Data Table**

Transect	Acres				Dwelling Units				Density		Non-Residential		Use (Max. Other)
	Min. %	Max. %	Min. Ac.	Max. Ac.	Min. %	Max. %	Min. DU	Max. DU	Min. du/ac.	Max. du/ac.	Min. s.f.	Max. s.f.	
Natural	55%	--	2083.73		--	0%	--	0	--	0	--	--	
Sub-urban	--	40%		1,515.44	--		--	4546	0.5	8	--	200,000	Public & Private Civic
N. Center	--	10%		378.86	20%	--	909	--	4	8	0	0	
N. General	--	30%		1136.58	--	--	--	--	4	5	0	0	
N. Edge	--	20%		757.72	--	--	--	--	0.5	1	0	0	
Urban	--	10%		378.86	--	20%	--	909		12	0	2 mil.	150 room Hotel 3000 Student College

**Ag Enclave TTD Pod Limitations**

District/ Pod	Corresponding Transect	Land Area		Dwelling Units		Intensity	
		Min.	Max.	Min.	Max.	Min.	Max.
TNDS*	Sub-Urban	15%	40%	60%	100%		10%
TMDS	Urban		5%		20%	30%	100%
MUPDS	Urban		5%		0%		70%
PUDS	Sub-Urban		15%		40%		1%
Open Spaces / Rec.	Natural	55%			0%		0%

\* Dwelling units within a TND may be one of housing type, provided the TND complies with the minimum and maximum densities of the Suburban Transect subzones and all other provisions of the district.

## Callery-Judge Groves New Urbanism Guiding Principle to be deleted

The agricultural enclave legislation (F.S. 163.3162) requires parcels larger than 640 acres to include appropriate new urbanism concepts in order to discourage urban sprawl while protecting landowner rights. This would include such things as clustering, mixed-use development and the creation of rural village and city centers. The conceptual plan and set of policies below include new urbanist concepts and meet the intent of the Statute, while allowing for flexibility in the creation of the subsequent Zoning Master Plans.

- ~~**Design Fundamentals**~~—The Village Center, the districts, the neighborhoods, and the corridors are the essential elements of the project that form identifiable areas. The physical definition of streets and gathering spaces shall be key elements during the rezoning process. The Callery Judge Grove Conceptual Plan has been designed to allow for a long-term conversion from existing agricultural uses to residential or commercial uses as the economy and market dictates. Individual neighborhoods will be developed incrementally with specific design standards and details adopted at the time of development approvals including a variety of design standards which include new urbanism elements listed herein.
  
- ~~**Transects, Zones & Clustering**~~—Transects and Zones generally emphasize a special single use, and shall follow the principles of neighborhood design when possible. The Callery Judge Grove Conceptual Plan clusters density into three districts, with the overwhelming majority of the density of the property to the east side of Seminole Pratt-Whitney Road to provide for better efficiency of infrastructure and services and a variety of neighborhoods. Three general areas are established with an arrangement of densities and intensities reflective of their location within the Enclave. The areas are defined by the County's Planned Thoroughfare network which bisect the property north to south (Seminole Pratt Whitney Road) and east to west (Persimmon Boulevard). The design of the areas allows for accommodation of the County's large width Thoroughfare Roads with appropriate buffers from the neighborhoods while providing a network of local streets within and between each neighborhood. Each area will be further subdivided into Transects, Zones and individual neighborhoods that may incorporate the additional new urbanist principals listed herein.
  - ~~**Rural Transect**~~—The Rural Transect is intended to be an equestrian zone and is restricted to the area west of Seminole Pratt Whitney Road. It is characterized by “horse hamlets” with predominately multi-acre lots which are large enough for equestrian activities and small-scale agriculture. Roads are detailed as country lanes and lots would be developed mostly as gracious estates with rustic outbuildings. Equestrian centers will make the horse lifestyle an option even for those who have one of the very few smaller lots at the center of the “horse hamlets”. Commercial recreational facilities and a Village Center may also be located within this area.
  
  - ~~**Sub-urban Transect, Neighborhood Edge Zone and Neighborhood General Zone**~~—This zone to the east of Seminole Pratt Whitney Road contains lower density residential areas, with the possibility of small-scale, neighborhood-serving retail. There are larger lots at the neighborhood edge zone, though generally not as large as those found in the equestrian zone. Each neighborhood will have a green or park, and a network of streets will allow most residents to live within a 5-10 minute walk of a green space.
  
  - ~~**Sub-urban Transect, Neighborhood Center Zone**~~—A sub-area within the Sub-urban Transect is designated Neighborhood Center Zone. Areas designated Neighborhood Center Zone are located within appropriate walking distances of schools and markets. These areas shall contain a minimum gross density of 4 units/acre. A minimum of 20% of the Enclave's units will be clustered within this zone type.
  
  - ~~**Village Center**~~—Village Centers, which will have a composite total of 235,000 sf of non-residential area are characterized by single-story commercial buildings or mixed-use buildings with retail on the ground floor and office space above. Village Centers shall be developed in conformance with the County's adopted standards for Traditional Marketplace Developments. Immediately adjacent to these areas are Neighborhood Center Zones (except for any Village Center in the Rural Transect) whose street networks and trails are connected so that some residents may access the center on foot or bicycle. Additional commercial and community-serving uses may also be located in the Neighborhood Center zone.

- **Natural Transect** — This zone shall consist of active recreation, pastures, greenspaces of rural parkways and open space including agriculture, greenways, preservation, conservation, wetlands, pastures, active and passive recreation, landscaping, landscape buffers, water management tracts, and wellfields. The Natural Transect shall provide separation as well as interconnectivity to Natural Transect areas within and between neighborhoods of the Rural and Suburban Transects. This portion of the Natural Transect is not depicted on this conceptual plan. The Natural Transect shall cumulatively comprise a minimum of 40% of the overall land area. Ownership and management of these lands can be via property owner association(s), homeowner association(s), non-profit organization(s), and/or special district or other government agency.
- **Neighborhood Design** — Neighborhoods shall be based on a street design that fosters alternate modes of transportation such as pedestrian pathways, bike lanes and/or equestrian trails. Neighborhoods shall be designed with character and clearly defined gathering places, with many residences within 10-minute walking distance of such places. The Gallery Judge Grove Conceptual Plan provides character sketches and text committing the development of the individual neighborhoods to appropriate scales built around common greens or parks. Different neighborhoods will be designed using unique themes accommodating the demographic profile of the new residents. Additionally, the Unified Land Development Code permits the construction of limited commercial services which may be constructed in the center or adjacent to these neighborhoods.
- **Civic & Recreation** — Appropriately scaled concentrations of civic and institutional activity shall be distributed in proximity to the individual neighborhoods. Civic sites and gathering places shall be located at important sites to reinforce community identity. A range of parks, from tot lots and village greens to ball fields and passive parks, should be distributed within or near neighborhoods. Each Transect or Zone will include appropriately scaled civic and recreation spaces to meet the needs of the communities' residents. The Rural Transect will provide for larger spaces and trails appropriate to equestrian activities and uses. The Sub-urban Transect will include civic and recreation uses such as ball parks, tot lots, recreation centers and passive parks. The Gallery-Judge Grove Conceptual Plan recognizes the significant east-west distance of Persimmon Boulevard and has, therefore, sited an additional commercial/civic area in the eastern area to accommodate residents in this portion of the project. The Natural Transect's open lands and landscape buffers shall include pedestrian access and equestrian trails when possible and shall be used to define and connect different neighborhoods and districts. Palm Beach County requires the allocation of a minimum 2% land area for civic uses. The County has determined a potential future need for a Community Park (25-30 acres) and a Fire-Rescue Station (3-5 acres). The School District has also identified a potential future need for up to a 30 acres for a potential school site. The Conceptual Plan depicts the general locations of these uses. Palm Beach County and the owner of the property shall enter into an Agreement which provides for determination of need, final configuration, and timing of dedication of these sites prior to the approval of the first development order. Any remaining Civic Dedications needed to meet the minimum 2% land area shall be located in the Sub-urban Transect and allocated to meet residential needs throughout the project determined at the time of individual development approvals.
- **Neighborhood and Housing Variety** — The overall project shall include a variety of neighborhood types allowing for a variety of housing types and lot sizes. The Gallery-Judge Grove Conceptual Plan provides for a range of densities which in turn will provide for a variety of densities, lot sizes and housing types. Additionally, factors such as proximity to schools, civic and recreation areas, or the Village Center will result in clustering of densities to make use of pedestrian accessibility.
- **Corridors** — Persimmon Boulevard and Seminole Pratt Whitney Road are corridors that act as regional connectors of neighborhoods and districts within the project and connecting to the surrounding communities. These corridors shall be designed with opportunities for alternate modes of transportation such as pedestrian pathways, bike lanes and equestrian trails where appropriate.
- **Internal Street Network** — The Gallery Judge Enclave shall be developed with enhanced connectivity, such as providing connectivity between neighborhoods, schools, civic uses, and retail uses where appropriate. The Gallery Judge Grove Conceptual Plan provides for a hierarchy of streets connecting with the County's Thoroughfare Roads which provides for circulation and access from the neighborhoods both to the Thoroughfare Roads as well as between individual neighborhoods, schools, and the

Village Center. Excluding roadways identified on the County's Thoroughfare Map, streets shall be designed in a pedestrian-friendly manner for slow travel speeds. Streets and squares internal to the neighborhoods should be safe, comfortable, and interesting to the pedestrian where appropriate. Properly configured, they encourage walking and enable neighbors to know each other and protect their communities.

- ~~**Separation of and Buffering**~~—The project shall include appropriate separations and buffering from the surrounding existing communities. The Callery Judge Grove Conceptual Plan depicts appropriate buffers around the entire property. These buffer areas will not only provide physical separation, but will contain features such as trails and landscape enhancement areas for the use of the project's residents. Additionally, the Conceptual Plan recognizes that lot size considerations around the perimeter will ensure compatibility with the surrounding community.
- ~~**Implementation**~~ – Agricultural Enclaves are encouraged to maintain agricultural uses and activities. For that reason, incremental conversion of Agricultural Enclaves to non-agricultural uses is permitted. A range of densities is affixed to each area by the Conceptual Plan. Portions of each area may be re-zoned individually. At the time each portion of the Enclave is re-zoned through the DRO Process, the County Planning, Zoning & Building Department will maintain records of the total density and/or intensity approved to ensure that the total approved units does not exceed the maximum density and/or intensity granted in accordance with the process governed by Section 163.3162(5), Florida Statue.

Site Data Table				
Transect	Percent of Total Acreage		Units/Square Footage	
	Minimum	Maximum	Minimum	Maximum
Natural	40%	NA	0	0
Rural	20%	25%	150	300
Sub-urban	0%	40%	—	—
–Edge & General	0%	35%	2,096	2,246
–Center	0%	20%	600	NA
Civic Sites	2%	NA	0	0
Village Centers	NA	NA	235,000 sf	235,000 sf



**FLORIDA DEPARTMENT OF STATE**

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

November 3, 2014

Honorable Sharon R. Bock  
Clerk and Comptroller  
Palm Beach County  
301 North Olive Avenue  
West Palm Beach, Florida 33401

Attention: Gretel Sarmiento, Administrative Specialist II

Dear Ms. Bock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2014-030, which was filed in this office on November 3, 2014.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY

ALERTS OF PBC, INC., PATRICIA D.  
CURRY, ROBERT SCHUTZER, AND  
KAREN SCHUTZER,

Petitioners,

vs.

DOAH CASE NO. 14-5657GM

PALM BEACH COUNTY.

Respondent,

and

MINTO PBLH, LLC,

Intervenor.

DEPARTMENT OF ECONOMIC OPPORTUNITY  
FILING AND ACKNOWLEDGEMENT  
FILED, on this date, with the designated  
Agency Clerk, receipt of which is hereby  
acknowledged.

*Kate Zimmer* 7/7/15  
Agency Clerk Date

**FINAL ORDER**

This matter was considered by the Director for the Division of Community Development, within the Department of Economic Opportunity (“Department”) following receipt of a Recommended Order issued by an Administrative Law Judge (“ALJ”) of the Division of Administrative Hearings (“DOAH”).

**Background**

This is a proceeding to determine whether amendments to the Palm Beach County Comprehensive Plan, adopted by Ordinance No. 14-030 on October 29, 2014 (the “Plan Amendments”), are in compliance as defined in section 163.3184(1)(b), Fla. Stat.<sup>1</sup> The Plan Amendments amend portions of the Future Land Use Map, the Future Land Use Element, the

<sup>1</sup> References to the Florida Statutes are to the 2014 version of the statutes.

Transportation Element, and the Introduction and Administration portions of the Comprehensive Plan as it relates property owned by Intervenor Minto PBLH, LLC (“Minto”).

#### **Role of the Department**

The Plan Amendments were adopted under the expedited state review process pursuant to section 163.3184(3), Fla. Stat., and were challenged by Alerts of PBC, Inc., Patricia D. Curry, Robert Schutzer, and Karen Schutzer (“Petitioners”) in a petition timely filed with DOAH. The Department was not a party to the proceeding. The ALJ’s Recommended Order recommends that the Plan Amendments be found in compliance, therefore the ALJ submitted the Recommended Order to the Department pursuant to section 163.3184(5)(e). The Department must either determine that the Plan Amendments are in compliance and enter a Final Order to that effect, or determine that the Plan Amendments are not in compliance and submit the Recommended Order to the Administration Commission for final agency action.

#### **Standard of Review of Recommended Order**

Pursuant to the Administrative Procedure Act, an agency may not reject or modify the findings of fact in a recommended order unless the agency first determines from a review of the entire record, and states with particularity in its final order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. §120.57(1)(l), Fla. Stat. Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. *Id.*

Absent a demonstration that the underlying administrative proceeding departed from essential requirements of law, “[a]n ALJ’s findings cannot be rejected unless there is no competent, substantial evidence from which the findings could reasonably be inferred.” *Prysi v. Department of Health*, 823 So. 2d 823, 825 (Fla. 1st DCA 2002) (citations omitted). In determining whether

challenged findings of fact are supported by the record in accord with this standard, the agency may not reweigh the evidence or judge the credibility of witnesses, both tasks being within the sole province of the ALJ as the finder of fact. *See Heifetz v. Department of Business Regulation*, 475 So. 2d 1277, 1281-1283 (Fla. 1st DCA 1985). If the evidence presented in an administrative hearing supports two inconsistent findings, it is the ALJ's role to decide the issue one way or the other. *Heifetz* at 1281.

The Administrative Procedure Act also specifies the manner in which the agency is to address conclusions of law in a recommended order. The agency in its final order may reject or modify the conclusions of law over which it has substantive jurisdiction. When rejecting or modifying a conclusion of law, the agency must state with particularity its reasons for rejecting or modifying such conclusion of law and must make a finding that its substituted conclusion of law is as or more reasonable than that which was rejected or modified. §120.57(1)(l), Fla. Stat. *See also, DeWitt v. School Board of Sarasota County*, 799 So. 2d 322 (Fla. 2nd DCA 2001).

The label assigned to a statement is not dispositive as to whether it is a finding of fact or a conclusion of law. *Kinney v. Dept. of State*, 501 So. 2d 129 (Fla. 5th DCA 1987); *Goin v. Comm. on Ethics*, 658 So. 2d 1131 (Fla. 1st DCA 1995). Conclusions of law labeled as findings of fact, and findings of fact labeled as conclusions of law, will be considered as a conclusion or finding based upon the statement itself and not the label assigned.

#### **Department's Review of the Recommended Order**

The Department has been provided copies of the parties' pleadings, the documentary evidence introduced at the final hearing, and a five-volume transcript of the proceedings. Petitioners timely filed exceptions to the Recommended Order on May 1, 2015. Respondent and Intervenor timely filed a Joint Response to Petitioners' Exceptions on May 8, 2015.

**Ruling on Petitioners' Exceptions to the Recommended Order****A - Exception 1: Agricultural Enclaves Section 163.3164, Florida Statutes**

In Exception 1, Petitioners take exception to Paragraph 25 (a finding of fact) and Paragraphs 73 and 74<sup>2</sup> (conclusions of law) and contend that the ALJ should have determined that the Plan Amendments were not "in compliance" with sections 163.3162 and 163.3164. Petitioners also contend that the Plan Amendments exceed the density and intensity of the limitations established in an Agricultural Enclave pursuant to section 163.3214.

**1- Jurisdiction to consider compliance with sections 163.3162 and 163.3164, Florida Statutes**

Petitioners take exception to the finding of fact in Paragraph 25 and the conclusion of law in Paragraph 73 because the ALJ did not make an "in compliance" determination on whether the Plan Amendments were in compliance with sections 163.3162 and 163.3164. However, as conceded by Petitioners in Exception 1 on page 4, neither sections 163.3162 nor 163.3164 are included within the definition of "in compliance" located within section 163.3184(1)(b). Specifically, "in compliance" is defined as:

"In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

Section 163.3184(1)(b), Florida Statutes.

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<sup>2</sup> Petitioners state in the text that they take exception to Paragraph 23 and Paragraph 70. However, in the excerpt of the Recommended Order, they reference Paragraphs 23, 73, and 74. As it relates to Paragraph 23, Petitioners instead quote Paragraph 25, including its header. Additionally, all arguments raised with respect to the finding of fact concern Paragraph 25 (consistency with section 163.3164) and not Paragraph 23 (map amendments.) Given Petitioners' arguments and references, the Department finds that Exception 1 encompasses Paragraph 25 and not Paragraph 23.

Furthermore, Petitioners' citation to Paragraph 70 appears to be in error in that Paragraph 70 concluded that Petitioners were affected persons with standing to challenge. Given Petitioners' argument, their excerpt of the Recommended Order showing Paragraphs 73 and 74, and the unlikelihood that they would be challenging their own standing, the Department finds that Exception 1 encompasses Paragraphs 73 and 74.

Consideration of sections 163.3162 and 163.3164 are not part of an “in compliance” determination by section 163.3184(1)(b)’s explicit terms, and are therefore not a proper part of a plan amendment challenge. *See e.g. Dibbs v. Hillsborough County*, 2013 Fla. Div. Adm. Hear. 2013 WL 6699969 (DEO F. O. No. DEO-13-071-C issued December 10, 2013) (finding that statutes not listed within section 163.3184(1)(b) are beyond the scope of an “in compliance” determination); *Cemex Construction Materials Florida, LLC et. al. v. Lee County*, 2012 Fla. Div. Adm. Hear. 2012 WL 605891 (DEO F.O. No. DEO-12-029 issued March 30, 2012) (finding that inconsistency with sections 337.0261(3) or 1613.161(10) could not form the basis for a compliance determination because section 163.3184(1)(b) does not include those statutes in the definition of “in compliance.”)

Petitioners have not demonstrated that the finding of fact in Paragraph 25 is not supported by competent substantial evidence in the record and, furthermore, there is competent substantial evidence in the record to support the ALJ’s finding of fact in Paragraph 25.

Petitioners’ exception to the finding of fact in Paragraph 25 is DENIED.

As explained above, the Department agrees with the ALJ’s conclusion of law that section 163.3184(1)(b) does not contain either section 163.3162 or 163.3164, so that consistency with those statutes as it relates to an “in compliance” determination in the hearing was not relevant. A substituted conclusion of law would not be as or more reasonable than the ALJ’s conclusion of law in Paragraph 73 of the Recommended Order.

Petitioners’ exception to the conclusion of law in Paragraph 73 is DENIED.

2 - Whether the Plan Amendments exceed the limitations on an Agricultural Enclave

Petitioners also take exception to Paragraph 74 and reargue that the Plan Amendments do not comply with the requirements of sections 163.3162 and 163.3164 as they relate to the

Agricultural Enclave designation. As the ALJ sets forth in Paragraph 11, the Agricultural Enclave designation for the Property has been in effect since 2008. The ALJ is also clear in pointing out in Paragraph 17 that:

Many of the issues raised and the arguments made by Petitioners fail to acknowledge or distinguish the 2008 Amendments that address future development of the Property. In several respects, as discussed below, the 2008 Amendments already authorize future development of the Property in a manner which Petitioners object to....

Even more clearly, the ALJ sets forth in Paragraph 26 that the Property is already designated an Agricultural Enclave in the Comprehensive Plan. Petitioners take no exception to these findings of fact, of which there is substantial competent evidence in the record, which support the conclusion of law reached in Paragraph 74.

In addition to the findings of fact noted above, Petitioners did not take exception to the conclusion of law in Paragraph 75, which plainly states that:

The 2008 Amendments are part of the existing Comp Plan and are not subject to review or challenge in this proceeding. See §163.3184(9)(a), Fla. Stat. (2007) (providing third parties 21 days following publication of a notice of intent to find in compliance to challenge plan amendments.

In support of Exception 1 as it relates to the Agricultural Enclave designation, Petitioners rely on expert testimony as the basis to overturn the ALJ's determination. It can be inferred that the ALJ considered Petitioners' experts' testimony, but did not assign the weight that Petitioners believe should be given to the testimony.

Where there is competent substantial evidence in the record to support the ALJ's findings of fact, of which there is here, the Department is unable to reweigh evidence or judge the credibility of witnesses, both tasks being within the sole province of the ALJ as the finder of fact. *See Heifetz*, 475 So. 2d at 1281-1283. Further, based on the supporting findings of fact and the conclusion of law reached in Paragraph 75, there is not a conclusion the Department could reach that would be

as or more reasonable than the ALJ's conclusion of law in Paragraph 74 of the Recommended Order.

Petitioners' exception to the conclusion of law in Paragraph 74 is DENIED.

**B – Exception 2: The term “appropriate new urbanism concepts” lacks meaningful and predictable standards, vests unbridled discretion and is void for vagueness**

In Exception 2, Petitioners take exception to Paragraphs 20-22 (findings of fact) and Paragraph 80 (a conclusion of law) and contend that the term “appropriate new urbanism concepts” as used in the Plan Amendments lacks meaningful and predictable standards, is void for vagueness, or unconstitutionally vests unbridled discretion to approve developments without meaningful and predictable standards.

In support of Exception 2, Petitioners only rely on their expert planner's testimony concerning the term “appropriate new urbanism concepts.” Based on the Recommended Order, it can be inferred that the ALJ considered Petitioners' expert testimony, but did not assign it the weight that Petitioners believe it should have had. Furthermore, Petitioners have not demonstrated that the findings of fact are not supported by competent substantial evidence in the record.

To be clear, where there is competent substantial evidence in the record to support the ALJ's findings of fact for Paragraphs 20, 21, and 22. (T. 351-362, 470-471, 477-478, 557-558 just as an example), the Department is unable to reweigh evidence or judge the credibility of witnesses, both tasks being within the sole province of the ALJ as the finder of fact. *See Heifetz*, 475 So. 2d at 1281-1283.

Petitioners' exceptions to the findings of fact in Paragraphs 20, 21, and 22 are DENIED.

For the reasons expressed in the Department's ruling related to findings of fact 20, 21, and 22, a substituted conclusion of law would not be as or more reasonable than the ALJ's conclusion of law in Paragraph 80 of the Recommended Order.

Petitioners' exception as it relates to conclusion of law 80 is DENIED.

**C – Exception 3: Finding of Fact Paragraph 40**

In Exception 3, Petitioners take exception to Paragraph 40 (a finding of fact) and contend that the Acreage, a subdivision north of the property at issue in the Plan Amendments, is rural in character rather than suburban, and that the residential densities surrounding the perimeter of the property do not correspond with the density of the Acreage.

In support of Exception 3, Petitioners only rely on citations to the Comprehensive Plan and again on their expert's testimony concerning the character of the Acreage and the surrounding residential density. Based on the Recommended Order, it can be inferred that the ALJ considered Petitioners' expert testimony, but did not assign it the weight that Petitioners believe it should have had.

Additionally, in Paragraph 17 (to which Petitioners do not take exception), the ALJ found that:

Many of the issues raised and the arguments made by Petitioners fail to acknowledge or distinguish the 2008 Amendments that address future development of the Property. In several respects, as discussed below, the 2008 Amendments already authorize future development of the Property in a manner which Petitioners object to. In several respects, the types of impacts that Petitioners are concerned about are actually diminished by the Proposed Amendments from what is currently allowed under the 2008 Amendments.

Finally, Petitioners have not demonstrated that the finding of fact in Paragraph 40 is not supported by competent substantial evidence in the record.

Where there is competent substantial evidence in the record to support the ALJ's finding of fact for Paragraph 40 (T. 464-478, 488, 491-494, 563-564, and 557-58, as an example), the Department is unable to reweigh evidence or judge the credibility of witnesses, both tasks being within the sole province of the ALJ as the finder of fact. *See Heifetz*, 475 So. 2d at 1281-1283.

Petitioners' exception to the finding of fact in Paragraph 40 is DENIED.

**D – Exception 4: Transportation Improvements**

In Exception 4, Petitioners take exception to Paragraph 29 (a finding of fact) and Paragraphs 81 and 82 (conclusions of law) and contend that the roadway and transportation improvements needed to serve the increased density and intensity of the Property do not exist and are not contemplated by the Comprehensive Plan.

In support of Exception 4, Petitioners rely on the language of section 163.3177 and, yet again, expert testimony as the basis to overturn the ALJ's finding of fact in Paragraph 29. As was the case previously, it can be inferred that the ALJ considered Petitioners' experts' testimony, but did not assign the weight that Petitioners believe should be given to the testimony.

Petitioners have not demonstrated that the finding of fact in Paragraph 29 is not supported by competent substantial evidence in the record.

Where there is competent substantial evidence in the record to support the ALJ's findings of fact for Paragraph 29 (T.306-09, 316-329, 371, 420-430, 464-478, 488, 491-494, 501-504, 553-561, and 563-564, for example), the Department is unable to reweigh evidence or judge the credibility of witnesses, both tasks being within the sole province of the ALJ as the finder of fact. *See Heifetz*, 475 So. 2d at 1281-1283.

Petitioners' exception to the finding of fact in Paragraph 29 is DENIED.

Paragraph 81 is a conclusion of law, and more specifically is a recitation of the requirements of Section 163.3177(1)(f), Florida Statutes. There is no substituted conclusion of law that would be as or more reasonable than the recitation of the statute in the conclusion of law in Paragraph 81.

Petitioners' exception to the conclusion of law in Paragraph 81 is DENIED.

For the reasons expressed in the Department's ruling related to the finding of fact in Paragraph 29, a substituted conclusion of law would not be as or more reasonable than the ALJ's conclusion of law in Paragraph 82 of the Recommended Order.

Petitioners' exception as it relates to conclusion of law 82 is DENIED.

**E – Exception 5: Blanket Exemption from Rural Tier Policies**

In Exception 5, Petitioners take exception to Paragraphs 48-50 (findings of fact) and Paragraphs 80<sup>3</sup> and 85 (conclusions of law) and contend that the Plan Amendments create a blanket exemption for the Property from other portions of the Comprehensive Plan, making the Comprehensive Plan internally inconsistent, and creating a lack of meaning and predictable standards.

In support, Petitioners simply cite to provisions of the Comprehensive Plan and the Plan Amendments. They do not demonstrate that the findings of fact in the Recommended Order are not supported by competent substantial evidence, or give any citations to the record to support their contentions. Furthermore, the exception is yet another invitation to have the Department reweigh evidence. Where there is competent substantial evidence in the record to support the ALJ's findings of fact for Paragraphs 48, 49, and 50, which there is here, the Department is unable to reweigh evidence or judge the credibility of witnesses, both tasks being within the sole province of the ALJ as the finder of fact. *See Heifetz*, 475 So. 2d at 1281-1283.

Petitioners' exception to the finding of fact in Paragraphs 48, 49, and 50 are DENIED.

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<sup>3</sup> Petitioners state in the text that they take exception to Paragraph 81, which they previously took exception to in Exception 4. However, in the excerpt of the Recommended Order they reference Paragraph 83 but quote Paragraph 80 and its header. Given that Petitioners' argument is based on the language of Paragraph 80 (concerning meaningful and predictable standards), make no further arguments relating to the subject matter of Paragraph 81 (concerning data and analysis), and the excerpted language is from Paragraph 80, the Department finds that Exception 5 encompasses Paragraphs 48-50, 80, and 85 and that the internally inconsistent references to Paragraphs 81 and 83 were in error.

As it relates to the conclusions of law in paragraphs 80 and 85, specific comprehensive plan policies that limit the applicability of more general policies within identified areas create exceptions to the general policies, not inconsistencies. *See Floyd v. Bentley*, 496 SO. 2d 862, 864 (Fla. 2d DCA 1986) (“A special statute covering a particular subject matter is controlling over a general statutory provision covering the same and other subjects in more general terms; in such a situation the more narrowly-drawn statute operates as an exception to or qualification of the general terms of the more comprehensive statute.”)

For the reasons above and also expressed in the Department’s ruling related to the findings of fact 48, 49, and 50, substituted conclusions of law would not be as or more reasonable than the ALJ’s conclusions of law in Paragraphs 80 and 85 of the Recommended Order.

Petitioners’ exception to the conclusions of law in Paragraphs 80 and 85 are DENIED.

#### **Agency Modification to Conclusion of Law**

As previously stated, an agency may modify a conclusion of law over which it has substantive jurisdiction, but it must state with particularity its reasons for modifying the conclusion of law and must make a finding that its substituted conclusion of law is as or more reasonable than that which was modified. §120.57(1)(l), Fla. Stat. *See also, DeWitt v. School Board of Sarasota County*, 799 So. 2d 322 (Fla. 2nd DCA 2001).

Conclusions of law labeled as findings of fact, and findings of fact labeled as conclusions of law, will be considered as a conclusion or finding based upon the statement itself and not the label assigned. *Kinney v. Dept. of State*, 501 So. 2d 129 (Fla. 5th DCA 1987), and *Goin v. Comm. on Ethics*, 658 So. 2d 1131 (Fla. 1st DCA 1995).

Although labeled as a finding of fact, Paragraph 54 is more appropriately treated as a mixed finding of fact and conclusion of law. The ALJ first determined that the Plan Amendments were

not inconsistent with FLUE Policy 1.1-c of the County Comprehensive Plan, a finding of fact, then stated a conclusion of law that Evaluation and Appraisal Reviews are no longer required by state law.

The finding of fact is supported by competent substantial evidence. The conclusion of law, however, must be modified. The Department is the agency with substantive jurisdiction over Chapter 163 of the Florida Statutes, and more particularly section 163.3191. Although Evaluation and Appraisal Reviews are no longer specifically mandatory, section 163.3191 does require that local governments determine whether or not “plan amendments are necessary to reflect changes in state requirements in this part since the last update of the comprehensive plan, and notify the state land planning agency as to its determination.” However, any determination as to whether or not plan amendments are necessary after such a review is left up to the local government. The Plan Amendments are not inconsistent with FLUE Policy 1.1-c because during any review by the County pursuant to section 163.3191, it is still within their authority to determine whether an Evaluation and Appraisal Review is “necessary to reflect changes in state requirements in this part since the last update of the comprehensive plan.” This conclusion of law is as or more reasonable than the conclusion reached by the ALJ.

**ORDER**

Based on the foregoing, the Department adopts the ALJ's Recommended Order in its entirety (a copy of which is attached as Exhibit A and incorporated herein), subject to the modification for Paragraph 54, as the Department's Final Order and finds that the Plan Amendments adopted by Palm Beach County Ordinance No. 14-030 on October 29, 2014, are in compliance as defined in section 163.3184(1)(b), Florida Statutes.



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William B. Killingsworth, Director  
Division of Community Development  
Department of Economic Opportunity

**NOTICE OF RIGHT TO APPEAL**

THIS FINAL ORDER CONSTITUTES FINAL AGENCY ACTION UNDER CHAPTER 120, FLORIDA STATUTES. A PARTY WHO IS ADVERSELY AFFECTED BY FINAL AGENCY ACTION IS ENTITLED TO JUDICIAL REVIEW IN ACCORDANCE WITH SECTION 120.68, FLORIDA STATUTES, AND FLORIDA RULES OF APPELLATE PROCEDURE 9.030(B)(1)(c) AND 9.110.

TO INITIATE AN APPEAL OF THIS FINAL AGENCY ACTION, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT'S AGENCY CLERK, 107 EAST MADISON STREET, CALDWELL BUILDING, MSC 110, TALLAHASSEE, FLORIDA 32399-4128, WITHIN THIRTY CALENDAR (30) DAYS AFTER THE DATE THIS FINAL AGENCY ACTION IS FILED WITH THE AGENCY CLERK, AS INDICATED BELOW. A DOCUMENT IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED BY FLORIDA RULE OF APPELLATE PROCEDURE 9.900(a). A COPY OF THE NOTICE OF APPEAL MUST ALSO BE FILED WITH THE DISTRICT COURT OF APPEAL AND MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22(3), FLORIDA STATUTES.

AN ADVERSELY AFFECTED PARTY WAIVES THE RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH BOTH THE DEPARTMENT'S AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL.

**NOTICE OF FILING AND SERVICE**

I HEREBY CERTIFY that the above Final Order was filed with the Department's undersigned designated Agency Clerk and that true and correct copies were furnished to the persons listed below in the manner described on the 7<sup>th</sup> day of July, 2015.

Katie Zimmer, Agency Clerk  
 Department of Economic Opportunity  
 107 East Madison Street, MSC 110  
 Tallahassee, FL 32399-4128

**By US MAIL**

The Honorable Bram D. E. Canter Administrative Law Judge Division of Administrative Hearings The DeSoto Building 1230 Apalachee Parkway Tallahassee, FL 32399-6847	Ralf G. Brookes, Esq. 1217 East Coral Parkway Suite 107 Cape Coral, Florida 33904
Gary K. Hunter, Jr., Esq. Hopping, Green, and Sams, P.A. PO Box 6526 Tallahassee, Florida 32314	Tara Duhy, Esq. Lewis Longman and Walker, P.A. 515 North Flagler Dr. Suite 1500 West Palm Beach, Florida 33401
Amy Taylor Petrick, Esq. Palm Beach County Attorney's Office 301 North Olive Avenue Suite 601 West Palm Beach, Florida 33401	

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ALERTS OF PBC, INC., PATRICIA D.  
CURRY, ROBERT SCHUTZER, AND  
KAREN SCHUTZER,

Petitioners,

vs.

Case No. 14-5657GM

PALM BEACH COUNTY,

Respondent,

and

MINTO PBLH, LLC,

Intervenor.

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RECOMMENDED ORDER

The final hearing in this case was held on March 4 through 6, 2015, in West Palm Beach, Florida, before Bram D.E. Canter, Administrative Law Judge of the Division of Administrative Hearings ("DOAH").

APPEARANCES

For Petitioners: Ralf G. Brookes, Esquire  
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Cape Coral, Florida 33904

For Respondent: Amy Taylor Petrick, Esquire  
Palm Beach County Attorney's Office  
301 North Olive Avenue, Suite 601  
West Palm Beach, Florida 33401

For Intervenor: Gary K. Hunter, Jr., Esquire  
Vinette Godelia, Esquire  
Hopping, Green & Sams, P.A.  
Post Office Box 6526  
Tallahassee, Florida 32314

Tara W. Duhy, Esquire  
Lewis Longman & Walker, P.A.  
515 North Flagler Drive, Suite 1500  
West Palm Beach, Florida 33401

STATEMENT OF THE ISSUE

The issue to be determined in this case is whether the amendments to the Palm Beach County Comprehensive Plan ("the Comp Plan") adopted by the Board of County Commissioners of Palm Beach County by Ordinance No. 14-030 ("Proposed Amendments") are "in compliance," as that term is defined in section 163.3184(1)(b), Florida Statutes (2014).

PRELIMINARY STATEMENT

On October 29, 2014, Palm Beach County adopted Ordinance No. 14-030, which amended the Future Land Use Element ("FLUE"), text, and Map Series of the Comp Plan for a large tract of land in the western part of the County. Petitioners Alerts of PBC, Inc., Patricia D. Curry, Robert Schutzer, and Karen Schutzer filed a petition for hearing to challenge the Proposed Amendments. Later, they requested and were granted leave to amend their petition.

At the final hearing, Petitioners presented the testimony of Daryl Max Forgey, James Fleischmann, John Kim, and Jay Foy. Petitioners' Exhibit 1 was admitted into evidence.

Palm Beach County presented the testimony of Bryan Davis and George Webb. Palm Beach County's Exhibits 1, 3, and 7 were admitted into evidence.

Intervenor Minto PBLH, LLC ("Minto"), presented the testimony of John Carter, Donaldson Hearing, and Robert Pennock. Minto's Exhibits 1, 2, 6, 7, 11, 16, 17, 19, 21, 23, 24, and 27 were admitted into evidence.

Joint Exhibits 1, 3, 4, 5, 6, 8, 13, 21, 48, 51, and 55 were admitted into evidence.

The five-volume Transcript of the final hearing was filed with DOAH. The parties filed proposed recommended orders that were considered by the Administrative Law Judge in the preparation of this Recommended Order.

#### FINDINGS OF FACT

##### The Parties

1. Petitioner Alerts of PBC, Inc. ("Alerts"), is a Florida not-for-profit corporation doing business in Palm Beach County. Alerts made timely objections and comments to the County on the Proposed Amendments.

2. Petitioner Patricia Curry is a resident and landowner in Palm Beach County. Ms. Curry made timely objections and comments to the County on the Proposed Amendments.

3. Petitioner Robert Schutzer is a resident and landowner in Palm Beach County. Mr. Schutzer made timely objections and comments to the County on the Proposed Amendments.

4. Petitioner Karen Schutzer is a resident and landowner in Palm Beach County. Ms. Schutzer made timely objections and comments to the County on the Proposed Amendments.

5. Respondent Palm Beach County is a political subdivision of the State of Florida and has adopted the Comp Plan, which it amends from time to time pursuant to section 163.3184.

6. Intervenor Minto is a Florida limited liability company doing business in Palm Beach County. Minto is the owner of all of the 3,788.6 acres ("the Property") which are the subject of the Proposed Amendments, with the exception of two parcels totaling 40.04 acres, which are owned by the Seminole Improvement District. Minto appointed the board of supervisors of the Seminole Improvement District pursuant to state law.

#### Background

7. FLUE Objective 1.1 establishes a unique Managed Growth Tier System "to protect viable existing neighborhoods and communities and direct the location and timing of future

development." The Property is located in the County's Rural Tier and is bounded by Exurban Tier to the north and east.

8. North of the Property is a large subdivision known as the Acreage, which was described by Respondents as "antiquated" because it was developed in a manner that was common decades ago before modern community planning concepts and growth management laws. The Acreage is dominated by 1.25-acre residential lots, laid out in a grid pattern with few other uses.

9. Although the residents of the Acreage have a strong sense of community, it is apparently a matter of aesthetics, familiarity, and social intercourse, because the Acreage is not a community in the modern planning sense of providing a mix of uses where residents can live, shop, work, and play. It is a development pattern that is now discouraged by state law and the Comp Plan, because it is inefficient with respect to the provision and use of public services.

10. The Property and the Acreage are within a 57,000-acre area known as the Central Western Communities ("CWC"). The CWC has been the subject of extensive planning efforts by the County for many years to address land use imbalances in the area. There are many residential lots, but few non-residential uses to serve the residents.

11. In 2008, the previous owner of the Property, Callery-Judge Groves ("Callery"), obtained an Agricultural Enclave (AGE)

future land use designation for essentially the same area as the Property. The Comp Plan was amended to establish an AGE future land use designation, AGE policies, a conceptual plan of development, and implementing principles ("the 2008 Amendments").

12. Under the 2008 Amendments, the site was limited to 2,996 residential units and 235,000 square feet of retail and office uses. No development has been undertaken pursuant to the 2008 Amendments.

13. In 2013, the site was sold to Minto, which submitted a Comp Plan amendment application in November 2013, and a revised application in July 2014. On October 29, 2014, the County adopted the Proposed Amendments.

14. The Proposed Amendments change the future land use designation of 53.17 acres ("the outparcels") from RR-10 to AGE, and increase residential density to 4,546 units and increase intensity to two million square feet of non-residential uses, 200,000 square feet of civic uses, a 150-room hotel and a 3,000-student college, and revise the Conceptual Plan and Implementing Principles.

15. The Proposed Amendments would also revise text in the Introduction and Administration, Future Land Use, and Transportation Elements. The Map Series would be amended to add 53.17 acres to the Limited Urban Service Area on Map LU 1.1 and Map LU 2.1, and to identify new Rural Parkways on Map TE 14.1.

### Petitioners' Challenge

16. Petitioners contend the Proposed Amendments are not "in compliance" because they fail to establish meaningful and predictable standards; do not comply with the agricultural enclave provisions of section 163.3164(4); are not based upon relevant and appropriate data and analysis; promote urban sprawl; are incompatible with adjacent communities and land uses; and create inconsistencies within the Comp Plan.

17. Many of the issues raised and the arguments made by Petitioners fail to acknowledge or distinguish the 2008 Amendments that address future development of the Property. In several respects, as discussed below, the 2008 Amendments already authorize future development of the Property in a manner which Petitioners object to. In several respects, the types of impacts that Petitioners are concerned about are actually diminished by the Proposed Amendments from what is currently allowed under the 2008 Amendments.

### Meaningful and Predictable Standards

18. Petitioners contend that proposed FLUE Policies 2.2.5-d, 2.2.5-e, and 2.2.5-f, and Maps LU 1.1 and 2.1 fail to establish meaningful and predictable standards for the use and development of land and fail to provide meaningful guidelines for the content of more detailed land development and use regulations, in violation of section 163.3177(1).

19. The Proposed Amendments add more detail to the standards that were adopted in the 2008 Amendments. The Proposed Amendments establish substantially more direction for the future development of the Property than simply a land use designation and listing of allowed uses, which is typical in comprehensive plans.

20. Petitioners contend the Proposed Amendments lack adequate standards because they refer to the use of "appropriate new urbanism concepts," which Petitioners say is vague. New urbanism refers to land use planning concepts such as clustering, mixed-use development, rural villages, and city centers. See § 163.3162(4), Fla. Stat. (2014). In land use planning parlance, new urbanism creates more "livable" and "sustainable" communities.

21. The term "appropriate new urbanism concepts" used in the Proposed Amendments is the same term used in section 163.3162(4), dealing with the development of agricultural enclaves. There are many concepts that are part of new urbanism, which can be used in combination. Which concepts are "appropriate" depends on the unique opportunities and constraints presented by the area to be developed.

22. Use of the term "appropriate new urbanism concepts" in the Proposed Amendments adds detail to the future development

standards applicable to the Property. It does not create vagueness.

23. Petitioners contend the proposed amendments of Maps LU 1.1 and 2.1 do not provide meaningful and predictable standards and guidelines. However, the maps are only being amended to show that 53.17 acres of outparcels within the Property are being added to the existing Limited Urban Service Area. The map amendments do not diminish the meaningfulness or predictability of any standards in the Comp Plan.

24. The preponderance of the evidence shows the Proposed Amendments establish meaningful and predictable standards.

#### Agricultural Enclave

25. Petitioners contend the Proposed Amendments fail to meet the requirements for an agricultural enclave in section 163.3164. As explained in the Conclusions of Law, consistency with section 163.3164 is not a component of an "in compliance" determination.

26. Furthermore, the Property is already designated Agricultural Enclave in the Comp Plan.

#### Data and Analysis

27. Petitioners contend the amendment of the Limited Urban Service Area is not supported by relevant and appropriate data and analysis as required by section 163.3177(1)(f). The inclusion of the outparcels is logical and reasonable. It is

consistent with the Comp Plan policies applicable to Limited Urban Service Areas. It is supported by data and analysis.

28. Petitioners contend the increases in density and intensity allowed by the Proposed Amendments are not supported by data and analysis showing a need for the increases. However, the increases are supported by relevant and appropriate data and analysis, including population projections and extensive analysis of the need for non-residential uses in the CWC. Population projections establish the minimum amount of land to be designated for particular uses; not the maximum amount of land. See § 163.3177(1)(f)3., Fla. Stat (2014).

29. Petitioners make several claims related to the availability of public utilities and other services to the Property. The data and analysis show sufficient capacity for roads, transportation, schools, water supply, wastewater treatment, fire, emergency and police either already exists or is contemplated in the Comp Plan to accommodate the development authorized by the Proposed Amendments.

30. The preponderance of the evidence shows the Proposed Amendments are supported by relevant data and analysis.

#### Urban Sprawl

31. Petitioners contend the Proposed Amendments do not discourage the proliferation of urban sprawl. Urban sprawl is defined in section 163.3164(51) as "a development pattern

characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses.”

32. Petitioners contend the Property does not qualify for the presumption against urban sprawl under the criteria in section 163.3162(4), but Minto did not rely on that statutory presumption.

33. Petitioners contend the Proposed Amendments create five of the 13 primary indicators of urban sprawl set forth in section 163.3177(6)(a)9.:

Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

Fails to maximize use of existing public facilities and services.

Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law

enforcement, education, health care, fire and emergency response, and general government.

Fails to provide a clear separation between rural and urban uses.

34. The evidence presented on this issue by Petitioners was inconsistent with generally accepted land use planning concepts and principles. The Proposed Amendments do not promote urban sprawl. They go far to rectify existing sprawl conditions in the CWC.

35. Findings relevant to the five indicators have already been made above. Compatibility with adjacent uses is discussed below.

36. There are ample data and analysis which show the Proposed Amendments discourage urban sprawl. Respondents' characterization of the Proposed Amendments as the opposite of urban sprawl is not unreasonable.

37. The preponderance of the evidence shows the Proposed Amendments discourage the proliferation of urban sprawl.

#### Compatibility

38. Petitioners contend the Proposed Amendments are "incompatible with the lifestyle of the existing and surrounding communities and adjacent agricultural and other land uses."

39. Protection of Petitioners' lifestyle cannot mean that surrounding areas must remain undeveloped or must be developed in a similar suburban sprawl pattern. Land use imbalances in the

CWC are rectified by the Proposed Amendments while providing large buffers and a transition of land uses on the Property to protect adjacent land uses.

40. The Acreage is more accurately characterized as suburban rather than rural. Moreover, the Proposed Amendments include a conceptual plan and development guidelines designed to create a clear separation between urban uses on the Property and less dense and intense external uses. Residential densities near the perimeter of the Property would correspond to the density in the Acreage.

41. The proposed distribution of land uses and large open space buffers would not establish merely an adequate transition. They would provide substantial protection to adjacent neighborhoods. A person at the periphery of the Property would likely see only open space, parks, and low-density residential uses.

42. The distribution of land uses and natural buffers in the Proposed Amendments provide more protection for external land uses than the 2008 Amendments.

43. The more persuasive evidence presented indicates that Petitioners and other persons living near the Property would be beneficiaries of the Proposed Amendments because they could use and be served by the office, commercial, government, and recreational uses that will be available nearby.

44. The preponderance of the evidence shows the Proposed Amendments are compatible with adjacent land uses.

Internal Consistency

45. The Comp Plan's Introduction and Administration Element and FLUE contain statements of intent. They are not objectives or policies. Petitioners contend the Proposed Amendments are inconsistent with some of the statements.

46. Petitioners contend the Proposed Amendments are inconsistent with the Introduction and Administration Element statements discouraging growth to the west where services are not adequate, do not provide for orderly growth or the provision of facilities and services to maintain the existing quality of life in an economical manner, and do not recognize countywide growth management strategies or maintain the diversity of lifestyles. Findings that refute this contention have been made above.

47. Petitioners contend the Proposed Amendments are inconsistent with several general statements in FLUE Sections I A, I B, and I C. regarding respect for the character of the area, protection of quality of life and integrity of neighborhoods, prevention of "piecemeal" development, and efficient provision of public services. Findings that refute this contention have been made above.

48. Petitioners contend FLUE Policy 2.2.5-d allows land uses which are inconsistent with the policies applicable to the

Rural Tier in which the Property is located. In the proposed policy, the County exempts the Project from any conflicting Rural Tier policies that would otherwise apply.

49. Under the County's Managed Growth Tier System, the tiers are the "first level" land use consideration in the FLUE. Therefore, it would have been helpful to amend the Rural Tier section of the FLUE to indicate the exceptions to Rural Tier policies for agricultural enclaves, in general, or for the Property, in particular. Instead, the Proposed Amendments place the new wording about exceptions in the section of the FLUE dealing with agricultural land uses. However, as stated in the Conclusions of Law, where the exception is located in the comprehensive plan is not a consistency issue.

50. The County has shown there are unique considerations involved with the CWC that justify the exceptions. It also demonstrated that the Proposed Amendments would accomplish numerous objectives and policies of the Comp Plan that could not be accomplished without creating exceptions to some Rural Tier policies.

51. Petitioners contend the Proposed Amendments are inconsistent with FLUE Objective 1.1-3 because they encourage the proliferation of urban sprawl. That contention has been rejected above.

52. Petitioners contend the Proposed Amendments are inconsistent with FLUE Objective 1.1-6 because they do not protect agricultural land and equestrian uses. The evidence shows that agricultural and equestrian uses are enhanced by the Proposed Amendments over the existing provisions of the Comp Plan.

53. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 1.1-b, which addresses criteria re-designating a tier. This policy is not applicable because the Proposed Amendments do not re-designate a tier.

54. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 1.1-c, which requires the review of the tier system as part of each Evaluation and Appraisal review. Evaluation and Appraisal Reviews are no longer required by state law.

55. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 1.1-d, which states a tier shall not be re-designated if it would cause urban sprawl. This policy is not applicable because the Proposed Amendments do not re-designate a tier.

56. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 1.4-a, which requires the County to protect and maintain the rural residential, equestrian, and agricultural areas within the Rural Tier. The Proposed

Amendments and Conceptual Plan increase the level of protection for these uses over what is currently in the Comp Plan.

57. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 1.4-d, which generally prohibits subdividing parcels of land within the Rural Tier unless certain conditions are met. The Proposed Amendments do not subdivide any parcels.

58. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 1.4-k, which addresses the designation of "sending areas" for Transfer of Development Rights ("TDR"). This policy only applies to parcels with a RR20 future land use designation and there are no such parcels existing or that would be created by the Proposed Amendments.

59. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 1.4-l, which requires the County to provide rural zoning regulations for areas designated Rural Residential. The Property does not have any Rural Residential designations.

60. Petitioners contend the Proposed Amendments are inconsistent with FLUE Policy 2.4-b, which provides that the TDR program is the required method for increasing density within the County. The County applies this policy only to density increases in urban areas, because they are the only areas authorized to receive TDRs.

61. Petitioners contend the Proposed Amendments are inconsistent with FLUE Objective 2.1 and some related policies, which promote balanced growth. The preponderance of the evidence shows the Proposed Amendments will further this objective and its policies because they correct the current imbalance of land uses in the CWC and provide for a balanced mix of residential, agricultural, commercial, light industrial, office, recreation, and civic uses.

62. Petitioners presented no evidence to support their claim that Proposed Amendments would exceed the natural or manmade constraints of the area.

63. Petitioners presented no credible evidence that transportation infrastructure and other public services could not be efficiently provided to the Property. The data and analysis and other evidence presented show otherwise.

64. Petitioners contend there is no justification for the increased density and intensity authorized by the Proposed Amendments. There was ample justification presented to show the increases were needed to create a sustainable community where people can live, work, shop, and play.

65. Petitioners contend the Proposed Amendments are inconsistent with FLUE Objective 2.2 and some related policies, which require development to be consistent with land use designations in the Comp Plan. Petitioners' evidence failed to

show any inconsistencies. The Proposed Amendments are compatible with and benefit adjacent land uses, as found above.

66. Petitioners contend the Proposed Amendments fail to include "new urbanism" concepts as required by section 163.3164(4) and Policy 2.2.5-i. The evidence presented by Respondents proved otherwise.

67. Petitioners contend the Proposed Amendments are inconsistent with FLUE Objective 3 and some related policies, which address the provision of utilities and other public services. Petitioners presented no credible evidence to support this claim. The data and analysis and other evidence presented show that public services are available or planned and can be efficiently provided to the Property.

68. Petitioners argued the Proposed Amendments were inconsistent with several other FLUE policies generally related to compatibility with adjacent land uses and the provision of public services, all of which Petitioners failed to prove as explained above.

69. The preponderance of the evidence shows the Proposed Amendments would not create internal inconsistency in the Comp Plan.

## CONCLUSIONS OF LAW

### Standing

70. To have standing to challenge a comprehensive plan amendment, a person must be an "affected person" as defined in section 163.3184(1)(a). Petitioners are affected persons and have standing to challenge the Proposed Amendments.

71. Minto also qualifies as an affected person and has standing to intervene in this proceeding.

### Scope of Review

72. An affected person challenging a plan amendment must show that the amendment is not "in compliance" as defined in section 163.3184(1)(b):

"In compliance" means consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

73. The statutes listed in section 163.3184(1)(b) do not include section 163.3162 or section 163.3164, which address agricultural enclaves. Therefore, consistency with these statutes is not relevant to an "in compliance" determination.

74. Petitioners were allowed to proffer evidence in support of their claim that the Proposed Amendments do not comply with

sections 163.3162 and 163.3164 for purposes of appeal. Their evidence did not demonstrate non-compliance.

75. The 2008 Amendments are part of the existing Comp Plan and are not subject to review or challenge in this proceeding. See § 163.3184(9)(a), Fla. Stat. (2007) (providing third parties 21 days following publication of a notice of intent to find in compliance to challenge plan amendments).

Burden and Standard of Proof

76. As the parties challenging the Proposed Amendments, Petitioners have the burden of proof.

77. Palm Beach County's determination that the Proposed Amendments are in compliance is presumed to be correct and must be sustained if the County's determination of compliance is fairly debatable. See § 163.3184(5)(c)1., Fla. Stat. (2014).

78. The term "fairly debatable" is not defined in chapter 163. In Martin County v. Yusem, 690 So. 2d 1288, 1295 (Fla. 1997), the Supreme Court of Florida explained "[t]he fairly debatable standard is a highly deferential standard requiring approval of a planning action if a reasonable person could differ as to its propriety."

79. The standard of proof for findings of fact is preponderance of the evidence. § 120.57(1)(j), Fla. Stat. (2014).

Meaningful and Predictable Standards

80. Comprehensive plans must provide "meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations." § 163.3177(1), Fla. Stat. (2014). Petitioners failed to prove the Proposed Amendments violate this requirement.

Data and Analysis

81. Section 163.3177(1)(f) requires that all plan amendments be based on relevant and appropriate data and an analysis by the local government. The statute explains: "To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue." § 163.3177(1)(f), Fla. Stat. (2014).

82. Petitioners failed to prove the Proposed Amendments violate this requirement.

Urban Sprawl

83. Section 163.3177(6)(a)9. requires comprehensive plan amendments to "discourage the proliferation of urban sprawl" and sets forth 13 primary indicators of urban sprawl to be considered. Petitioners failed to prove the Proposed Amendments violate this requirement.

### Internal Consistency

84. Section 163.3177(2) requires the elements of a comprehensive plan to be internally consistent.

85. It is not uncommon for laws, whether in the form of statutes, rules, or policies of a comprehensive plan, to identify circumstances which are excepted from the application of the law. Creating an exception does not mean the law is in conflict with itself. The exceptions from some Rural Tier policies created by the Proposed Amendments for future development within an agricultural enclave do not create an internal inconsistency. The location of the exceptions in the section of the FLUE dealing with agricultural land uses does not change this conclusion because the Comp Plan must be considered and applied as a whole.

86. The Legislature has expressed its recognition of the need for innovative planning and development strategies to promote a diverse economy and vibrant rural and urban communities. See § 163.3168(1), Fla. Stat. (2014). The Proposed Amendments would effectively address this need.

### Summary

87. Palm Beach County's determination that the Proposed Amendments are in compliance is fairly debatable.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Economic Opportunity issue a final order determining the Proposed Amendments adopted by Palm Beach County Ordinance No. 2014-030 are in compliance.

DONE AND ENTERED this 17th day of April, 2015, in Tallahassee, Leon County, Florida.



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Filed with the Clerk of the  
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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.