

ORDINANCE NO. 2022 - 023

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE FUTURE LAND USE ELEMENT (TO ESTABLISH THE **ESSENTIAL HOUSING (EH) FUTURE LAND USE DESIGNATION** TO ALLOW FOR HIGHER RESIDENTIAL DENSITIES IN THE AGRICULTURAL RESERVE TIER WITH ASSOCIATED CHANGES TO RESIDENTIAL POLICIES); AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17; and

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

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

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

**WHEREAS**, the proposed amendments meet the requirements of Section 163.3184(3)(a), Florida Statutes, to be processed through the expedited state review process, and are being processed through the expedited state review process; and

**WHEREAS**, the Palm Beach County Local Planning Agency conducted its public hearing on April 8, 2022, to review the proposed amendment to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendment to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

**WHEREAS**, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on May 4, 2022, to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendment to the state land planning agency and review agencies pursuant to Chapter 163, Part II, Florida Statutes; and

**WHEREAS**, Palm Beach County received a letter from the state land planning agency dated June 15, 2022, for Round 22-03 ESR (County Round 22-B) stating that the agency had identified no comments related to important state resources and facilities within the Agency's

1 authorized scope of review that will be adversely impacted by the amendment contained in  
2 this ordinance if adopted; and

3 **WHEREAS**, on August 25, 2022, the Palm Beach County Board of County  
4 Commissioners held a public hearing to consider adoption of the amendment; and

5 **WHEREAS**, the Palm Beach County Board of County Commissioners has determined  
6 that the amendment complies with the requirements of the Community Planning Act.

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

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

10 Amendments to the 1989 Comprehensive Plan are hereby adopted and attached to  
11 this Ordinance in Exhibit 1:

12 **A. Future Land Use Element**, to establish the Essential Housing (EH) Future Land Use  
13 Designation for higher densities in the Agricultural Reserve Tier and

14 **B. Future Land Use Element**, to revise Agricultural Reserve policies for clarification;

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

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

19 **Part III. Severability**

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

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

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

28 **Part V. Effective Date**

29 The effective date of this plan amendment, if the amendment is not timely challenged,  
30 shall be 31 days after the state land planning agency notifies the County that the plan  
31 amendment package is complete. If timely challenged, this amendment shall become  
32 effective on the date the state land planning agency or the Administration Commission enters  
33 a final order determining this adopted amendment to be in compliance. No development  
34 orders, development permits, or land uses dependent on this amendment may be issued or  
35 commence before it has become effective. If a final order of noncompliance is issued by the

1 Administration Commission, this amendment may nevertheless be made effective by adoption  
2 of a resolution affirming its effective status, a copy of which resolution shall be sent to the  
3 state land planning agency.

4 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm Beach

5 County, on the 25th day of August, 2022.

6 ATTEST  
7 JOSEPH ABRUZZO, CLERK  
8 & COMPTROLLER

PALM BEACH COUNTY, FLORIDA,  
BY ITS BOARD OF COUNTY COMMISSIONERS

9  
10 By [Signature]  
11 Deputy Clerk

By [Signature]  
Robert S. Weinroth, Mayor

12  
13 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

14  
15 By [Signature]  
16 County Attorney

17  
18 Filed with the Department of State on the 1st day of September, 2022.

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## Exhibit 1

### A. Future Land Use Element, Essential Housing Future Land Use Designation

**REVISIONS:** To establish a new future land use designation called Essential Housing for higher densities in the Agricultural Reserve Tier. The added text is underlined, and the deleted text ~~struck out~~.

#### 1. REVISED OBJECTIVE 1.5 The Agricultural Reserve Tier

*Omitted for brevity*

**Objective:** Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to primarily low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.

### Residential

#### 2. REVISED Policy 1.5-h: Residential uses shall be permitted within the Agricultural Reserve Tier as further regulated by the Unified Land Development Code. Consistent with the provisions of Future Land Use Policy 2.1-b and Table 2.2.1-g.1, Residential Future Land Use Designation Maximum Density, the land shall be allowed to develop as follows:

1. Within the Agricultural Reserve future land use designation with Agricultural Reserve zoning, the maximum density is one dwelling unit per five acres;
2. Within the Agricultural Reserve Tier with a Planned Development zoning, the maximum future land use densities are as follows, with density calculated for the total land area and clustered onto the development area of the projects.
  - a. Agricultural Reserve future land use designation with AgR-PUD zoning, the maximum density is up to one dwelling unit per acre;
  - b. Commercial Low future land use designation with an underlying AGR FLU and TMD or MUPD zoning, the maximum density is up to one dwelling unit per acre;
  - c. Multiple Land Use future land use designation with MUPD zoning, the underlying future land use density pursuant to Policy 1.5.1-s;
  - d. Essential Housing future land use designation with 60/40 AGR-PUD, MUPD or TMD zoning, the maximum density is 8 units per acre.

#### 3. NEW POLICY 1.5-h-1: Any future land use amendment requesting the EH FLU shall be accompanied by a concurrent zoning application in order to demonstrate that the proposal meets the requirements of Policy 1.5.1-j and the design, scale, and character requirements of the Tier.

#### 4. NEW POLICY 1.5.1-t: Land designated EH FLU shall be permitted in an Agricultural Reserve Multiple Use Planned Development (AgR-MUPD), or an Agricultural Reserve Traditional Marketplace Development (AgR-TMD) at a density of up to 8 units per acre, provided that the project size, preserve area and other minimum requirements for a 60/40 AGR PUD with EH FLU are met.

#### 5. **REVISED Policy 1.5.1-a:** In order to preserve and enhance agricultural activity, environmental and water resources, open space, and sustainable development within the Agricultural Reserve Tier, all new residential, commercial, industrial, and/or mixed use developments shall be developed as an Agricultural Reserve Planned Development that contributes to the fulfillment of these objectives by meeting the preserve area requirements, subject to the provisions of this Element, with the exception of 1) Residential subdivisions predating the Ag Reserve Tier and those that are subdivided at 1 unit per 5 acre density; 2) pre-existing commercial sites identified in Policy 1.5-i which develop at the square footages identified within the Policy; and 3) the sites which received an industrial future land use designation as part of the adoption of the 1989 Comprehensive Plan. The following Planned Development Districts (PDDs) are available in the AGR Tier, subject to eligibility requirements:



80/20 Agricultural Reserve Planned Unit Development (80/20 AgR PUD)  
60/40 Agricultural Reserve Planned Unit Development (60/40 AgR PUD)  
Agricultural Reserve Multiple Use Planned Development (AgR MUPD)  
Agricultural Reserve Traditional Marketplace Development (AgR TMD)

**6. Residential Planned Developments**

**REVISED Policy 1.5.1-b:** A residential AgR PUD in the AgR Tier shall require the following:

1. that the development area be compact, contiguous, and arranged as a unified whole and appropriately buffered so as not to interfere with the continued or future function of the preserve area. For this purpose, a meandering or intrusion of the development area into the preserve area would only be considered in an equestrian community;
2. that the development area be situated adjacent to other existing, planned, or projected development areas.
3. that the development area provide an appropriate buffer between non-agricultural uses and adjacent agricultural uses to ensure that new non-agricultural uses do not adversely affect agricultural uses. When golf courses and similar amenities are provided in the development area, they shall be situated to serve as a buffer between non-agricultural uses and agricultural uses, though water features shall not have to be located adjacent to the buffers of the development;
4. that preserve areas not be regarded as part of any development lot;
5. that preserve areas be used only for agriculture or open space uses;
6. that any structures built within preserve areas be for agricultural uses only (as further specified in the ULDC), and shall be considered common resources of the development's residents or agricultural users;
7. that the dedication requirements (e.g. civic use) and calculations for land uses (e.g. non-residential pods) be based only upon the development area; and
8. that the development area use native or drought tolerant species for at least 60% of any landscape requirement; and
9. that the preserve area be subject to an agricultural conservation easement in favor of Palm Beach County or deeded to the County. In addition, if the preserve area is contiguous to the development area, it shall be shown on the PUD Master Plan as a Preserve Area.

**7. 80/20 Agricultural Reserve Planned Unit Development Option**

**REVISED Policy 1.5.1-h:** An 80/20 AgR-PUD shall require the following

1. a minimum of 40 contiguous acres, with a future land use designation of Agricultural Reserve (AGR);
2. that the buildable area be contained in one compact area and not exceed 20 percent of the gross acreage. Land dedicated as rights-of-way for the County's Thoroughfare System, land allocated for the internal street system, and water areas required for on-site drainage retention may be deducted from the 80 percent; however, in no event shall the buildable area be increased to greater than 25 percent of the gross acreage;
3. that the remainder of the gross acreage be maintained in agriculture, passive recreation or other open space use, except that water features may only be considered within the preserve area if the feature is designated by the South Florida Water Management District as a Water Preserve Area (WPA). No other open space or recreational use that is intensive in nature, such as a golf course; or, which would interfere with the future practice of agriculture on the subject property; or continued practice of agriculture on adjacent properties shall be permitted; and
4. that the preserve area be held in common ownership and control by an HOA or other party for access by, and on behalf of, residents of the AgR-PUD or agricultural users, and operate under common management of an HOA or third party.

**8. 60/40 Agricultural Reserve Planned Unit Development Option**

**REVISED Policy 1.5.1-i:** A 60/40 AgR PUD with a future land use designation of Agricultural Reserve (AGR) shall require the following:

1. a minimum of 250 acres exclusive of right-of-way as shown on the Thoroughfare Identification Map;
2. that the development area be contained in one compact area and not exceed 40 percent of the gross acreage less right-of-way as shown on the Thoroughfare Identification Map. The development area shall contain uses normally associated with a PDD such as the street system, water retention areas, water amenity areas, active recreational areas (including golf courses), open space, which is integral to the PDD, and civic center sites;
3. the development area and the protected area need not be contiguous;
4. that the development area shall be situated east of State Road 7 with frontage on either State Road 7, State Road 806 (Atlantic Avenue), State Road 804 (Boynton Beach Boulevard), Clint Moore Road, Lyons Road extending north of Boynton Beach Boulevard or Lyons Road extending south of Atlantic Avenue and Acme Dairy Road extending south of Boynton Beach Boulevard to the L-28 canal. Other roadways may be added to this list, by Plan amendment, consistent with the goal of preservation and perpetuation of agriculture in the Agricultural Reserve Tier;
5. the development area shall not be situated west of State Road 7; and
6. that the preserve area shall consist of, at least, 60 percent of the gross acreage less right-of-way identified on the Thoroughfare Identification Map and be maintained in agriculture, passive recreation or other open space use. The preserve area shall:
  - a) contain a minimum area of 150 acres; and;
  - b) be utilized for crop production, pasture, equestrian purposes, retained as fallow land, or serve water management purposes per one or more of the following:
    - 1) designated by the South Florida Water Management District (SFWMD) as either a Water Preserve Area, or certified by SFWMD as serving regional water management purposes; or
    - 2) to serve regional water management purposes as certified by the Lake Worth Drainage District (LWDD). Lands owned by LWDD as of May 5, 2021 shall be limited to lands adjacent to existing preserve areas and limited to a maximum 276.509 acres of preserved area identified in Zoning Application PDD/DOA 2021-0122. For the purposes of this provision, adjacent includes lands separated from existing preserves by lands owned by LWDD. Any changes to the LWDD-owned lands provisions above shall require approval by at least five members of the Board of County Commissioners; or
    - 3) for water management purposes not directly related to the 60/40 AgR-PUD if approved by the Department of Environmental Resources Management, and managed for environmental resource values.
  - c) Accessory agricultural structures such as barns and pump structures shall be permitted.
  - d) Agricultural support uses such as processing facilities, and the like shall not be accommodated in the protected area of an AgR-PUD, unless the parcel meets the criteria provided in Policy 1.5-h; nor shall new residential uses be accommodated thereon except for farm worker quarters as described in Future Land Use Policy 1.5.1-k and Housing Policy 1.4-d or grooms quarters as described in Future Land Use Policy 1.5.1-k; and
  - e) that in cases of preserve areas that are contiguous to the associated development area, these preserves be held in common ownership and control by an HOA or other party for access by, and on behalf of, residents of the AgR-PUD or agricultural users, and operate under common management of an HOA or third party.

9. **60/40 AgR Planned Unit Development with Essential Housing FLU**

**NEW POLICY 1.5.1-j: A 60/40 AgR-PUD with a future land use designation of Essential Housing shall require the following:**

1. a minimum of 30 acres exclusive of right-of-way as shown on the Thoroughfare Identification Map;
2. that the development area be contained in one compact area and not exceed 40 percent of the gross acreage less right-of-way as shown on the Thoroughfare Identification Map. The development area shall contain uses normally associated with a PDD such as the street system, water retention areas, water amenity areas, active recreational areas (including golf courses), open space, which is integral to the PDD, and civic center sites;
3. the development area and the protected area need not be contiguous;
4. that the development area shall be situated with frontage on either: State Road 806 (Atlantic Avenue), extending from ½ mile west of Lyons Road (Half-mile Road), to Florida's Turnpike; or, State Road 804 (Boynton Beach Boulevard), extending from ½ mile west of Lyons Road, to Florida's Turnpike;
5. a minimum of 25% of all units to be provided as workforce housing units onsite, evenly distributed among 4 income categories for households ranging from 60% to 140% of area median income, and subject to the requirements of Article 5.G.1 of the Unified Land Development Code.
6. that the development have buildings that vary in the number of stories when the number of units exceeds two-hundred.
7. that the preserve area shall consist of, at least, 60 percent of the gross acreage less right-of-way identified on the Thoroughfare Identification Map and be maintained in agriculture, passive recreation or other open space use. The preserve area shall:
  - a) contain a minimum area of 18 acres; and,
  - b) be utilized for crop production, pasture, equestrian purposes, retained as fallow land, or serve water management purposes per one or more of the following:
    - 1) designated by the South Florida Water Management District (SFWMD) as either a Water Preserve Area, or certified by SFWMD as serving regional water management purposes; or
    - 2) to serve regional water management purposes as certified by the Lake Worth Drainage District (LWDD) . Lands owned by LWDD as of May 5, 2021 shall be limited to lands adjacent to existing preserve areas and limited to a maximum 276,509 acres of preserved area identified in Zoning Application PDD/DOA 2021-0122. For the purposes of this provision, adjacent includes lands separated from existing preserves by lands owned by LWDD. Any changes to the LWDD-owned lands provisions above shall require approval by at least five members of the Board of County Commissioners; or
    - 3) for water management purposes not directly related to the 60/40 AgR-PUD if approved by the Department of Environmental Resources Management, and managed for environmental resource values.
    - 4) for stormwater management purposes directly related to the development area, provided that the stormwater management feature:
      - a) is located in preserve area located contiguous to the development area;
      - b) is limited to no more than 10% of the total project preserve area;
      - c) is designed with enhanced environmental features and managed in a manner that promotes sustainability and improved water quality;
      - d) is privately maintained; and,
      - e) if public access is to be provided:
        - 1) any vehicular parking is accommodated in the development area;
        - 2) parking is provided in the preserve area only for bicycles and other non-vehicular modes, and for golf carts; and
        - 3) an easement is recorded providing for public access.
  - c) Accessory agricultural structures such as barns and pump structures shall be permitted.
  - d) Agricultural support uses such as processing facilities, and the like shall not be accommodated in the protected area of an AgR-PUD, unless the parcel meets the criteria provided in Policy 1.5-h; nor shall new residential uses be accommodated thereon except for farm worker quarters as described in

Future Land Use Policy 1.5.1-k and Housing Policy 1.4-d or grooms quarters as described in Future Land Use Policy 1.5.1-k; and

- e) that in cases of preserve areas that are contiguous to the associated development area, these preserves be held in common ownership and control by an HOA or other party for access by, and on behalf of, residents of the AgR-PUD or agricultural users, and operate under common management of an HOA or third party.
- f) Community vegetable gardens, as defined in the Unified Land Development Code, shall be permitted in the preserve area.
- g) The exchange of preserve areas shall be prohibited.
- h) Implementing provisions may include monitoring requirements for compliance with workforce housing requirements.

10. **REVISED Policy 1.5.1-f:** Nonresidential land uses, limited to those uses which the County allows in residential developments within the Urban/Suburban Tier, may be allowed as a pod within the development area of a ~~residential~~ AgR-PDUD master plan, provided that the nonresidential uses are situated to serve the residents of the AgR-PDUD as opposed to the general public. If the nonresidential land uses are government uses, such as fire stations, libraries, etc., they are not required to be situated to serve only the residents of the AgR-PDUD.

11. **REVISED Policy 1.5.1-k:** To accommodate farm worker housing or grooms quarters, some density may be retained on the preserve areas of a 60/40 AgR-PUD Agricultural Reserve Planned Development Districts (AgR-PDDs). Such housing may be located on these preserve areas at the following densities:

- 1. Farm worker quarters – a minimum site size of 25 acres per Housing Policy 1.4-d and a maximum density of one unit per acre, provided such units are clustered onto a single compact area of the preserve area and are restricted to occupancy by farm workers.
- 2. Grooms quarters - the number of grooms quarters shall be based upon the number of stalls in the preserve area with a maximum of 20 grooms quarters allowed with no density requirement. For 60/40 AgR-PDD PUD Preserve Areas seeking more than 20 grooms quarters, the allowable density of the development area shall be decreased by one unit for each grooms quarter to a maximum reduction of one-half of the number of dwelling units associated with the preserve area property.

All such agricultural support housing shall require that density be left on the site of the preserve area at the time the 60/40 AgR-PDD PUD is platted.

12. **REVISED** **Table 2.2.1-g.1**

**Residential Future Land Use Designation Maximum Density**

Future Land Use Designation		Dwelling Units per Gross Acre <sup>5</sup>
Agricultural Reserve	AGR	0.20 / 1 <sup>3</sup>
<u>Essential Housing</u>	<u>EH</u>	<u>8<sup>6</sup></u>
<i>Balance of table omitted for brevity...</i>		

6. See Agricultural Reserve Policy 1.5.1-t.

13. **REVISED** **Table 2.2.1-j.1**  
**Residential Future Land Use - Zoning Consistency<sup>1</sup>**

Future Land Use Designation	Consistent Zoning	
	Zoning District	Planned Development
Agricultural Reserve	AGR	AGR-PUD
<u>Essential Housing</u>	-	<u>60/40 PUD; MUPD; TMD</u>
<i>Balance of table omitted for brevity...</i>		

**TABLE III.C  
FUTURE LAND USE DESIGNATION BY TIER**

Future Land Use	FLU Category	Tier				
		Urban/Sub & Glades USA	Exurban	Rural	Ag Reserve	Glades RSA <sup>1</sup>
<u>Essential Housing</u>	<u>EH</u>	---	---	---	<u>X</u>	---

*Balance of table omitted for brevity...*

**B. Future Land Use Element, Ag Reserve Policy Clarification and Updates**

**REVISIONS:** To clarify and update provisions of the Agricultural Reserve Tier, and delete obsolete language. The added text is underlined, and the deleted text ~~struck out~~.

- REVISED Policy 1.5.1-e:** Property owners located along a designated rural parkway in the Agricultural Reserve Tier shall receive credit for the parkway easement as a portion of their required preserve area ~~as described in Future Land Use Policy 1.5.1-d without regard to the minimum contiguous acreage requirement for the preserve area of an~~ of the AgR-PDD established in Future Land Use Policies 1.5.1-i and 1.5.1-m.
- DELETED Policy 1.5.1-j:** ~~The preserve area of a 60/40 AgR PDD shall be subject to an agricultural conservation easement in favor of Palm Beach County or deeded to the County. In addition, if the preserve area is contiguous to the development area, it shall be shown on the AgR PDD Master Plan as a Preserve Area.~~
- REVISED Policy 1.5.1-o:** The preserve area of an 60/40 AgR-TMD shall be subject to an agricultural conservation easement in favor of Palm Beach County or deeded to the County. In addition, if the preserve area is contiguous to the development area, it shall be shown on the AgR-TMD Master Plan as a Preserve Area.



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

September 1, 2022

Honorable Joseph Abruzzo  
Clerk of the Circuit Court and Comptroller  
Palm Beach County  
301 North Olive Avenue  
West Palm Beach, Florida 33401

Attn: Biaggia Jenkins

Dear Honorable Joseph Abruzzo:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2022-023, which was filed in this office on August 29, 2022.

Sincerely,

Anya Owens  
Program Administrator

ACO/wlh



## COMPREHENSIVE PLAN AMENDMENT STAFF REPORT AMENDMENT ROUND 22-B

### FINAL REPORT, AUGUST 25, 2022

#### I. General Data

<b>Project Name:</b>	<b>Agricultural Reserve Essential Housing Future Land Use Designation</b>
<b>Element:</b>	<b>Future Land Use Element</b>
<b>Project Manager:</b>	Maria Bello, Principal Planner
<b>Staff Recommendation:</b>	Staff recommends <b>approval</b> based on the findings and conclusions presented in this report.

#### II. Item Summary

**Summary:** This proposed County Initiated amendment would revise the Future Land Use Element to create a new Future Land Use (FLU) designation for the Agricultural Reserve (AGR) Tier only, and make related changes. Specifically, this amendment proposes to:

- Establish a new residential Future Land Use designation, **Essential Housing**, to facilitate higher-density residential development including multifamily in the AGR Tier; establish requirements for location, frontage, minimum size, and required percentages of preserve area and of workforce housing for the Essential Housing FLU designation; and, remove obsolete policies and clarify language in existing policies.

**Assessment:** The objective of the Agricultural Reserve is to “*preserve and enhance agricultural activity, environmental and water resources.*” Toward this objective, several development types have been implemented, including the low-density 60/40 AGR PUD, and the traditional marketplaces intended to provide services for residents and farmworkers in the AGR Tier. Other uses have introduced additional employment, including a hospital, several schools, and several industrial sites. Given the low-density development pattern in the AGR Tier, there are limited housing opportunities for most people employed in these workplaces. Creating a higher-density category with both a significant workforce housing requirement and a preserve requirement helps to address this imbalance while continuing to support the preservation objective, and helps to create livable communities while recognizing unique characteristics of the area. Locating that higher-density, compact development on major corridors in proximity to the marketplaces limits trips and facilitates transit access. Workforce housing in the AGR Tier also furthers the County objectives of dispersing workforce housing and addressing the housing needs of lower income households. Staff recommends **approval**.

### III. Hearing History

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**Local Planning Agency: *Approval*,** motion by Glenn Gromann, seconded by Angella Vann, passed in a 6 to 1 vote (with Cara Capp dissenting) at the April 8, 2022 public hearing. Under discussion, the Commission members asked questions about the density for the proposed future land use designation, utilizing preserve parcels for water management, the requirement for two housing types, and the ability for the preserve areas to be reassigned to another development area. Two members of the public, representing 1,000 Friends of Florida and the Sierra Club Loxahatchee Group, spoke in opposition stating that high density and workforce housing is not appropriate in the Agricultural Reserve Tier. Three members of the public spoke in support stating that workforce housing is needed in the County and requested modifications to delete the two housing type requirements and to allow water management tracts within preserve areas.

*Following the Planning Commission, Staff added text to Exhibit 1 to require two housing types for projects over 200 units, which was inadvertently omitted.*

**Board of County Commissioners Transmittal Public Hearing: *Transmit*,** motion by Commissioner Marino, seconded by Commissioner Sachs, passed in a 6 to 0 vote (with Commissioner Bernard absent) at the May 4, 2022 public hearing. The Board discussed uses permitted in preserve areas, and number of housing units approved in the Agricultural Reserve marketplaces and anticipated by the Master Plan. Fifteen members of the public spoke in support, including a representative of the Coalition of Boynton West Residential Associations, most citing the need for workforce housing and expressing support for modifications to the text to include a farm-to-table restaurant and water quality enhancement features in the preserve area. Five members of the public spoke in opposition, including representatives of 1,000 Friends of Florida and the Sierra Club, citing the impacts of the proposed increase in density.

**State Review Agencies:** The State Land Planning Agency reviewed this amendment under Round 22 -03ESR and issued a letter dated June 15, 2022 stating that the Agency had no comment on the proposed amendment. The Treasure Coast Regional Planning Council provided comments stating that the “Council recognizes the lack of affordable/workforce housing in the County” and that the County “should require that more than the proposed 25% of the units be affordable so that the declared purpose of the new FLU designation is achieved.”

**Changes subsequent to Transmittal:** Following Board transmittal, Staff added text to Exhibit 1 to reflect changes associated with the Reserve at Atlantic amendment adopted July 28, 2022, to better align EH with the existing 60/40 PUD option in consultation with the Zoning Division, to allow for storm water management features in preserve areas if certain criteria are met, and to incorporate additional affordability requirements for EH projects.

**Board of County Commissioners Adoption Public Hearing: *Adopt with modifications*,** motion by Commissioner McKinlay, seconded by Commissioner Marino, passed in a 5 to 2 vote (with Mayor Weinroth and Commissioner Bernard dissenting) at the August 25, 2022 public hearing. The modifications adopted include the text reflected in Exhibit 1 shown in double underline and double strikethrough to allow for storm water drainage features in preserve areas (up to 10% and if contiguous to development area) as well as minor changes proposed by staff for clarification. The Board discussed changes proposed by staff after transmittal to expand the workforce housing requirement from 25 to 35% with the addition of the 40-60% area median income range. However, the Board did not concur and those changes are not included in the adopted Exhibit 1. The Board expressed support for limited storm water drainage features in preserve areas if contiguous to the development area. The Board also discussed the need for



workforce housing throughout the County, and whether preserve areas would be required onsite. Seven members of the public spoke in opposition to the amendment, including representatives of 1,000 Friends of Florida and the Sierra Club, citing concerns regarding the proposed density and the impact on the purpose of the Agricultural Reserve. Fifteen members of the public spoke in support of the amendment as originally transmitted, including representatives of the Coalition of Boynton West Residential Associations (COBWRA) and the Boynton Agricultural Reserve Communities (BARC) group, and some expressed support for the inclusion of text allowing for storm water drainage features. **Ord. 2022-023.**

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#### IV. Intent

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This proposed amendment is intended to implement the Board direction provided on November 3, 2021, to develop a new, higher-density option in order to facilitate workforce housing in the AGR Tier. On February 2, 2022, the Board formally initiated a text amendment to the Comprehensive Plan for staff to proceed with the review and analysis of the proposed amendment. Based on Board discussion, the amendment addresses criteria for the minimum size, maximum density, minimum preserve and workforce housing requirements, as well as locational requirements reflecting Board discussions on roadway frontage and reasonable proximity to the marketplaces for access to employment and services. The amendment also includes updates to existing AGR Tier policies, removing obsolete provisions and clarifying others.

#### V. Background

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**History of the Agricultural Reserve and Residential Development Options.** The AGR Tier is an area of the County with unique, limited development options. These limitations are intended to further the objective of the AGR Tier, as stated in Objective 1.5.

***OBJECTIVE 1.5, The Agricultural Reserve Tier.*** *Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.*

The area was first designated as the “Reserve” in the 1980 Comprehensive Plan, with an emphasis on preservation of agriculture. Residential development options were limited to 1 unit per 5 acres, or 1 unit per acre in an “80/20” planned development that limited the buildable area to 20%. The Reserve was also designated as a sending area for transfer of development rights.

The Comprehensive Plan adopted in 1989 adjusted the boundaries and renamed the area the “Agricultural Reserve.” The Plan maintained the prior development options, but also called for a study to determine the long-term viability of agriculture. Following completion of the study, the County adopted policies to enhance agriculture, including a Purchase of Agricultural Conservation Easements (PACE) program, and adopted a framework for future development to be applied if the PACE program was not implemented and funded. These amendments were found not in compliance by the state review agency, stating that the inclusion of a plan for future development was inconsistent with the agricultural preservation objective of the Agricultural Reserve. The settlement of these non-compliance issues resulted in the elimination of the future development framework, and the addition of the 60/40 planned development option in 1995, as a means to promote preservation.

**Bond Issue and Master Plan.** In the late 1990’s the Board contemplated a bond issue to fund the fee-simple purchase of lands in the Agricultural Reserve, to replace the PACE program which had not been successful. In 1998, the Board directed development of a Master Plan for the Agricultural Reserve, to depict for voters the potential outcome if a bond were to be approved. The bond issue was approved by voters in 1999, and in the same year the Agricultural Reserve was designated as a Tier in the Managed Growth Tier System within the Comprehensive Plan. The Board ultimately did not adopt the Master Plan, but adopted amendments to the

Comprehensive Plan in 2001 incorporating some of the recommendations of the final Master Plan. With regard to residential development options, the Comprehensive Plan retained the prior development options, and allowed for residential density to be included in the two marketplace developments that were recommended by the Master Plan.

**Master Plan Recommendations for Higher-density Residential Development.** In addition to the recommendations to continue the low density and clustered residential development options already available in the Agricultural Reserve, the consultants hired to develop the Master Plan also addressed the provision of residential in several other recommendations:

**Traditional Marketplaces:** The consultants recommended that residential uses be encouraged in the two traditional marketplaces that were proposed for the area of Boynton Beach Boulevard and Lyons Road, and Atlantic Avenue and Lyons Road. The consultants recommended that the County permit the use of one residential dwelling unit per acre in addition to the nonresidential uses allowed in these areas, provided that the residential units were vertically integrated with the nonresidential uses. The consultants noted that this type of incentive would encourage affordable housing in the Agricultural Reserve and reduce traffic in the mixed use centers. When the recommendations were reviewed by the Board, the Board directed that no density bonuses be allowed in the mixed use centers. When the Comprehensive Plan was amended in 2001 to implement many of the Master Plan recommendations as approved or modified by the Board, the policies enabling the traditional marketplaces permitted residential at one unit per acre.

Subsequently, the two traditional marketplaces were developed. Both include residential components: 73 units at Delray Marketplace, and 34 units at Canyons Town Center; however, these units have not been constructed and there is no requirement that they be built or be income restricted if built.

**Economic Development Centers:** The consultants recommended that residential also be permitted as part of the two Economic Development Centers proposed to accommodate industrial uses in the Agricultural Reserve. These were proposed for two locations, within 1/4 mile of the Turnpike interchanges at Boynton Beach Boulevard and at Atlantic Avenue. The Board did not concur with this recommendation and directed that no new Industrial designations be permitted in the Agricultural Reserve. As a result, the Economic Development Center concept was not implemented.

**Unit Types:** The consultants' recommendations for code changes also included a broader recommendation regarding unit types that should be permissible in the Agricultural Reserve:

*10. None of the following residential unit types should be prohibited:*

- a) Apartments above shops*
- b) Apartments in buildings*
- c) Row houses/Townhouses*
- d) Accessory Dwelling units*
- e) Guest Cottages*
- f) Single Family Detached Houses*
- g) Adult Congregate Care Facilities*

All of the unit types listed in the consultant's recommendation are permitted in the AGR Tier, either in the AGR FLU, in the AGR Planned Developments, or in the traditional marketplaces. To date, however, only single family dwellings have been developed; a Comprehensive Plan

amendment to permit a Congregate Living Facility has been transmitted and is scheduled for adoption public hearing in April 2022.

**Current Residential Development Options in the Agricultural Reserve.** The base residential density in the Agricultural Reserve is 1 unit per 5 acres. There are approximately 1,200 acres in this development pattern in the AGR Tier, often with homes and on-site agricultural operations. More than 30 residences with agricultural operations on site have chosen to participate in the Agricultural Reserve Farm Residence Preserve option that the Board adopted in 2016, enabling all but one acre of the parcel to be placed under a conservation easement, and the associated development rights to be transferred to a 60/40 AGR-PUD.

Toward the stated objective of preserving the AGR Tier primarily for agricultural use, two additional residential development options are offered that are unique to this area of the County:

- **80/20 AGR Planned Unit Development:** 1 dwelling unit per 1 acre, with a minimum of 40 contiguous acres. Units are to be clustered onto 20% of the land area, and the balance preserved as agriculture, passive recreation, or other open space use.
- **60/40 AGR Planned Unit Development:** 1 dwelling unit per acre, with a minimum of 250 acres. Units are clustered onto 40% of the land area, and the balance preserved as agriculture, passive recreation, or other open space use. The preserved portion can be provided in multiple parcels, which need not be contiguous to one another nor to the development area; the development area must be located east of State Road 7.

The majority of the residential development in the Tier has been through 60/40 AGR Planned Unit Developments (PUD). Nearly 11,000 units have been approved in this form. The resulting net density of the 60/40 AGR PUD development areas is 2.5 units per acre (the clustered density on the development portion of the AGR PUD). These 60/40 AGR-PUDs have been developed exclusively with detached single-family or zero lot line units. The preserve areas resulting from these developments total nearly 7,500 acres.

In February 2022, the Board initiated a Comprehensive Plan amendment to consider allowing specific AGR 60/40 PUDs to use lands currently within the Indian Trails Grove approved development (located in the Rural Tier) to fulfill the 60/40 preserve requirements, and to allow these development areas and associated institutional uses to be located west of State Road 7. As part of this development proposal, the applicant is proposing a total of 250 workforce housing units, comprising 130 townhouses and 120 multifamily units. Public hearings to consider adoption of these amendments are anticipated in the fall of 2022.

One development used the 80/20 AGR PUD option, but did not use all of its available density and developed with single-family homes. As noted above, the two marketplaces that have been developed in the Tier were each approved with a residential component based on plan policies that allow for residential at one unit per acre in the marketplaces: 73 units at Delray Marketplace, and 34 units at Canyons Town Center. These units have not been built.

**Amendments Proposing Density Increases in the Agricultural Reserve.** Since the adoption of the Master Plan implementing policies in 2001, several privately proposed future land use amendments have included multi-family residential components, as summarized below:

- **Morning Star Multiple Land Use.** This private text and future land use amendment proposed to change the future land use designation for 50.99 acres of land from AGR to Multiple Land Use with Commercial Low and High Residential, 8 Units per Acre (MLU with CL & HR-8). The

site is located on the north side of Atlantic Avenue, between Starkey Road and the Turnpike. The applicant proposed to develop the site with retail uses, a hotel, a congregate living facility, and 360 residential units with 40% provided as workforce housing. The proposal included no preserve area. This amendment was withdrawn by the applicant prior to the July 2017 Board transmittal hearing.

- **Boynton Technology Park.** This private amendment proposed text changes to allow the Economic Development Center (EDC) future land use in the Agricultural Reserve Tier. The intent was to develop a multiple use project on a 140 acre site located on the north and south sides of Boynton Beach Boulevard, adjacent to the Florida's Turnpike. The proposal included a large industrial park, a hotel, and 420 dwelling units (based on 3 units per acre). A total of 40% of the units were to be provided as workforce housing units and a total of 5% of the units as for-sale workforce housing units to be built on-site. The proposal included no preserve area. The initiation of this amendment was denied by the Board on June 29, 2020.
- **Boynton Park Plaza.** This private text and future land use amendment proposed to change the future land use designation on 47.21 acres of land from AGR to Multiple Land Use with Industrial and High Residential, 12 Units per Acre (MLU with IND & HR-12). The intent was to develop industrial uses and 376 multifamily units. No preserve area was proposed. The text initiation application was withdrawn in May of 2021.
- **Ag Reserve Multiple Land Use.** This private text and future land use amendment proposed to change the future land use designation on 39.29 acres, located at the southeast corner of Boynton Beach Boulevard and Acme Dairy Road, from AGR to Multiple Land Use with Commercial Low and Medium Residential, 5 units per acre (MLU with CL and MR-5). The amendment also proposed to enable the use of Transfer of Density Rights and Workforce Housing Program bonus density and make other changes in order to develop 432 residential units, commercial uses, and light industrial uses. A reduced preserve area acreage, and additional preserve area uses were also proposed. The initiation of this amendment was denied by the Board on May 5, 2021.
- **Reserve at Atlantic.** This private text and future land use amendment ~~is in~~ was adopted ~~processed~~ in Amendment Round 22-A, ~~proposing to change~~ ing the land use on 59.46 acres from AGR to Multiple Land Use, with Institutional and Public Facilities, AGR, and High Residential, 8 units per acre (MLU with INST/AGR/8). The applicant proposes to develop a day care center and up to 480 residential rental units, with a minimum of 25% of the units to be workforce housing on site. ~~The applicant is proposing and with development on 40% of the total project acreage, and preservation of 60%. The development area is located at the southeast corner of Atlantic Avenue and Half Mile Road. The preserve comprises one parcel located on Lyons Road, approximately one-half mile north of Atlantic Avenue, and several smaller parcels adjacent to the development area. The amendment was transmitted on November 3, 2021, and will be scheduled for the public hearing to consider adoption.~~ adopted concurrent with the zoning hearing for the project on July 28, 2022.

## **VI. Proposed Amendment**

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This proposed amendment would create a new Future Land Use Designation to allow for higher density development, including multi-family, in appropriate locations in the Agricultural Reserve Tier. The proposed amendment includes eligibility criteria for use of the new designation, including locational criteria, workforce housing and preserve requirements. The proposed amendment also updates and clarifies some existing policy language.

## **VII. Data and Analysis**

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This section provides data and analysis, including an examination of consistency with the Comprehensive Plan, and information related to the parameters discussed by the Board at its November 3<sup>rd</sup>, 2021 discussion.

### **1. Consistency with the Comprehensive Plan**

This proposed amendment relates to several provisions of the Future Land Use Element and the Housing Element of the Comprehensive Plan.

#### ***Future Land Use Element – Agricultural Reserve***

##### ***OBJECTIVE 1.5 The Agricultural Reserve Tier***

**Objective:** *Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.*

**Policy 1.5-n:** *The County shall ensure a sustainable development pattern is achieved in the Agricultural Reserve by allowing commercial uses while ensuring that the supply of commercial square footage does not exceed the demand of the farm workers and residents of the Tier. The County may approve a maximum of 1,015,000 square feet of commercial uses (retail, service and office) within the Tier. Self-storage uses are not subject to the commercial cap.*

**Policy 1.5.1-m:** *Agricultural Reserve Commercial and Mixed Use Planned Developments. All commercial and mixed use Planned Developments are intended to provide one or more uses in a manner that is compatible with the scale and character of the surrounding residential uses and designed to promote a sense of place. The commercial and mixed use Planned Developments provide uses that can include shopping, entertainment, business, services, employment, cultural, civic, schools, places of worship, government services, and/or housing opportunities in a manner that increases a sense of community by creating a stronger pedestrian orientation through design, placement and organization of buildings connected to a common public space, while dispersing parking and respecting and maintaining the character of the surrounding area. The commercial and mixed use Planned Developments are intended to provide neighborhood and community serving scaled uses. Regional and large-scale big-box uses are not permitted.*

#### ***Future Land Use Element – General***

**FLUE, C. County Directions.** *The Future Land Use Element was created and has been updated based on input from the public and other agencies through citizen advisory committees, public meetings, interdepartmental reviews, and the Board of County Commissioners. All contributed to the generation of the long-term planning directions, which provide the basis for the Goals, Objectives and Policies of the Future Land Use*

*Element. These directions reflect the kind of community the residents of Palm Beach County desire.*

- 1. Livable Communities.** *Promote the enhancement, creation, and maintenance of livable communities throughout Palm Beach County, recognizing the unique and diverse characteristics of each community. Important elements for a livable community include a balance of land uses and organized open space, preservation of natural features, incorporation of distinct community design elements unique to a given region, personal security, provision of services and alternative transportation modes at levels appropriate to the character of the community, and opportunities for education, employment, health facilities, active and passive recreation, and cultural enrichment.*

#### **OBJECTIVE 1.1      Managed Growth Tier System**

**Policy 1.1-a:** *The County shall develop and implement strategies for each unique community and/or geographic area based upon common characteristics, including physical development patterns and service provision, and shall map the location of each Tier on the Managed Growth Tier Map located in the Comprehensive Plan Map Series.*

#### **SUB-OBJECTIVE 1.1.1      Climate Change**

**Policy 1.1.1-f:** *Palm Beach County shall consider the use of mitigation strategies to increase energy efficiency and conservation, and to reduce greenhouse gas emissions. These could include, but are not limited to, land use and transportation strategies such as encouraging compact residential development, providing incentives for mixed use and redevelopment that maximize internal trip capture, clustering residential densities along transit routes, improving access to transit, improving non-motorized movement, requiring interconnectivity among adjoining parcels, and providing incentives for green building methods.*

#### **2.2.1 Residential**

**Policy 2.2.1-b:** *Areas designated for Residential use shall be protected from encroachment of incompatible future land uses and regulations shall be maintain to protect residential areas from adverse impacts of adjacent land uses. Non-residential future land uses shall be permitted only when compatible with residential areas, and when the use furthers the Goals, Objectives, and Policies of the Plan.*

### **Housing Element**

*It is the GOAL of Palm Beach County to facilitate the provision of an adequate supply of safe, sanitary and affordable housing to meet the needs of the County's residents, with special attention to the needs of very low, and low income households in addition to special needs populations.*

#### **OBJECTIVE 1.5 Concentrations of Affordable Housing**

*The County shall make adequate provisions to enable the public, private and not-for-profit sectors to provide affordable housing, and shall support the distribution of housing for very low, low, moderate and middle income households, to avoid undue concentrations of very low and low income housing throughout the County through the Workforce Housing Program and the Affordable Housing Program.*

**Staff Assessment:** The objective of AGR Tier, to “*preserve and enhance agricultural activity, environmental and water resources*,” has long been established in the Comprehensive Plan. Over the last four decades, several development types have been implemented as a means of achieving that objective, including the low-density residential 60/40 AGR PUD, and the traditional marketplaces that are intended to provide services for the residents and farmworkers in the AGR Tier. Other development approvals in the AGR Tier have introduced additional employment, including a hospital, several schools, and several industrial uses. According to 2018 U.S. Census data, there are approximately 7,300 persons employed in the Agricultural Reserve, with 77% reporting an annual ~~monthly~~ income of less than \$40,000.

Given the low-density development pattern in the AGR Tier, and the approved multifamily units that have never been built in the marketplaces, there are virtually no housing opportunities for most persons employed in these workplaces. According to Property Appraiser data, the median sales price of homes on less than one acre in the AGR Tier was \$880,000. Less than 3% of homes sold for under \$500,000, and more than 38% sold for over \$1,000,000. Creating a higher-density category with both a significant workforce housing requirement and a preserve requirement will help to address this imbalance while continuing to support the preservation objective. Locating that higher density development on major corridors and in proximity to the marketplaces implements the County’s climate change strategies relating to compact development, trip capture and transit access. Allowing for workforce housing in the AGR Tier also furthers the Housing Element objective to disperse workforce housing and addressing the housing needs of lower income households, and the County Direction to create livable communities that recognize the unique characteristics of each community.

## **2. Parameters for Higher Density Development in AGR Tier**

The following section examines key considerations in implementing the Board’s November 3, 2021 direction, and proposes parameters for the amendment.

**Workforce Housing Requirement and Percentage:** The Agricultural Reserve Tier has been exempt from the County’s Workforce Housing Program (WHP) since the program was established in 2006; as a result, there are currently no workforce housing units in the AGR Tier. Given the maximum available density of 1 unit per acre, no higher-density housing that could facilitate more attainable housing prices or rents has been developed in the AGR Tier. As noted above, the two marketplace developments included approval of 107 multi-family units, but these have not been built, and are not required to be built or to be income restricted.

There are also limited opportunities for workforce and affordable housing in the area surrounding the AGR Tier. The FLU designations surrounding the AGR Tier are predominantly in the range of LR-1 to MR-5. There are some areas designated HR-8 along Boynton Beach Boulevard, but these are primarily east of Military Trail, and the majority are large-scale planned residential communities with a variety of housing types, but with limited high density components. Most predate the workforce housing program requirements. Some areas designated as HR-12 east of the AGR Tier along Atlantic Avenue have been developed as retirement communities, not viable for most workforce households. The closest rental developments to the Boynton Town Center are the Wellington Club (204 units, 154 workforce), located on SR 7 approximately 5.8 miles north, and The Florida Club (264 units, 0 workforce), located east of the Turnpike south of Boynton Beach Boulevard. The closest rental developments to the Delray Marketplace are at Atlantic Commons (395 units, 13 workforce units), located east of the Turnpike on Atlantic Avenue, and the Gables Palma Vista complex (189 units, 0 workforce) located 7.3 miles south on SR 7.



The February 2021 Affordable Housing Needs Assessment commissioned by the Palm Beach County Housing Leadership Council, and prepared by the Florida International University Jorge M. Perez Metropolitan Center, identified the need for additional attainable housing in Palm Beach County. Key findings include:

- *The majority (57%) of Palm Beach County workers are employed in low-wage service sector occupations with hourly wages equivalent to 40-60% of the County's median household income (MHI); the County's median household income in 2018 was \$59,943 according to the U.S. Census' American Communities Survey.*
- *Most of the top ten occupations in Palm Beach County earn wages below 80% of the MHI, including the top four occupations - Office & Administrative Support Occupations, Sales & Related Occupations, Food Prep & Serving Related Occupations, and Transportation & Material Moving Occupations.*
- *With 56.6 percent of renter households cost-burdened, Palm Beach County is one of the most unaffordable places to live in the US.*
- *There are more than 97,000 cost-burdened renter households in Palm Beach County, of which nearly 53% are "severely" cost-burdened; an estimated 91% of renter households with incomes between \$20,000-\$34,999 are cost-burdened;*
- *Palm Beach County's \$418,000 median single-family sale price (November 2020) is unaffordable to 80% of County households, precluding all buyers in the low-to-moderate income range (50-120% of MHI) and all buyers in the middle-income (121-140% of MHI) range, and affordable only to households earning 220% and above the County's MHI.*
- *The \$1,890 monthly average rent (second quarter, 2020) for a two-bedroom apartment creates substantial affordability gaps for renters in all household income categories, with the largest gaps in the low-to-moderate income (50-120% of MHI) ranges; the average rent is more than double the rent affordable to households in the low-income (50-80% of MHI) range.*
- *From 2014-2018, Palm Beach County has lost, due to market appreciation, an annual average of 13,419 units affordable to potential owner households earning less than 140% of the median household income (\$83,929) and 3,748 units affordable to renters earning less than 120% of the median household income (\$50,668).*
- *Projected population and employment estimates indicate Palm Beach County's future housing demand will continue to be substantially weighted towards renter households in the "very low" to "moderate" household income categories.*

Since the publication of this needs assessment, housing prices have continued to increase. The median sales price of single-family homes in January 2022 was \$526,000, an increase of more than 25% over the November 2020 median sales price of \$418,000 used in the needs assessment.

In the Urban/Suburban Tier, the County's WHP requires a specific percentage of workforce housing for projects using their adopted FLU designation, and offers density bonuses in exchange for a higher percentage of workforce housing. The workforce obligation for these developments can range from 2.5% to more than 20%, depending on the amount of density bonus and other options selected by the developer. However, when projects also seek additional density through

an amendment to the FLU designation, based on past Board direction, staff recommends conditions of approval for those proposed amendments, to require a larger minimum percentage to be provided as workforce housing on-site: at least 25% for multi-family, 20% for townhouses, and 10% for single-family developments. In light of current trends in the local rental market, staff recommends that the required percentage be increased to 35%, to also include units for households with incomes at 40-60% of area median income, which is not addressed by Workforce Housing Program requirements. An EH project would be required to provide price and income-restricted units distributed evenly among 5 income categories ranging from 40% of area median income to 140% of area median income: 40 to <60%, 60 to <80%, 80 to <100%, 100 to <120%, and 120 to 140%. In 2022, this represents an income range of \$36,120 to \$126,420. This change is also consistent with a comment received from the Treasure Coast Regional Planning Council, that if possible the County should require that more than the proposed 25% of the units be affordable.

**Recommended Workforce Housing for EH: a minimum requirement of 35 25% of units provided on-site** as workforce housing units for households in 5 income categories ranging from 40% of area median income to 140% of area median income. The on-site requirement is consistent with the Board's stated intent to facilitate workforce housing in the AGR Tier, in proximity to the marketplaces, rather than permitting the workforce units to be provided off-site or addressed through an in lieu fee. Requiring a significant percentage of units as workforce housing is consistent with the Board's direction to recommend a higher percentage when density increases are sought through the amendment process. Although the workforce obligation and the on-site disposition would be established by this amendment, the resulting workforce housing units would be subject to the other applicable requirements of the County's Workforce Housing Program, such as income restrictions, pricing, affordability periods, compatibility of exteriors, etc.

**Locational Requirement:** Board discussion in October and November 2021 focused on locating any higher density or multi-family development in proximity to the two existing marketplaces in the Agricultural Reserve, located at Boynton Beach Boulevard and Lyons Road, and at Atlantic Avenue and Lyons Road. The stated intent was to locate housing in areas that would best serve employees of the marketplaces, to facilitate pedestrian or bicycle access to the marketplaces, and to limit vehicle trips on the area roadways; a distance of ¼ mile is generally considered an acceptable walking distance. Locations proximate to the marketplaces would also be generally consistent with the recommendations of the Master Plan, which recommended that units be accommodated in the market places and in the economic development centers proposed for the areas adjacent to the two Turnpike interchanges, at Boynton Beach Boulevard and Atlantic Avenue. Finally, locating the units near the marketplaces is also generally consistent with the concept of reducing transportation costs for cost-burdened households. As cited in the Palm Beach County Housing Leadership Council's "Affordable Housing Needs Assessment" completed in February 2021, Palm Beach County's median monthly housing costs, as a percentage of household monthly income, is 40 percent; however, when transportation costs are combined with housing costs, the percentage of household income increases to 66 percent, far above the acceptable 45 percent affordability threshold.

**Recommended Locational Criteria for EH:** parcels located with **frontage** along:

- **Atlantic Avenue**, extending from ½ mile west of Lyons Road (Half-mile Road), to Florida's Turnpike; and,
- **Boynton Beach Boulevard**, extending from ½ mile west of Lyons Road, to Florida's Turnpike.

This is in keeping with the Board's discussion of locating the higher density and multifamily units in proximity to the marketplaces, and the concepts proposed in the Master Plan.

**Preserve Requirement:** All planned residential development options in the Agricultural Reserve have a preserve requirement, ranging from 60 to 80%. The developer sets aside a portion of the site, or secures additional land area in the AGR Tier, in order to meet the preserve requirement and further the objective of the AGR Tier, to *"preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier."* Preserve area uses are limited to those that are consistent with this objective.

**Recommended Preserve Requirement for EH: a 60% preserve requirement.** This is consistent with the objective of the Agricultural Reserve, and consistent with the minimum required for the 60/40 Planned Unit Development pattern predominant in the Agricultural Reserve. As with the 60/40 Planned Unit Development, the preserve areas need not be adjacent to the development areas. An additional recommendation is to expand preserve uses to **allow the "Community Vegetable Garden"** use as defined in the Unified Land Development Code: *A plot of land used primarily as a vegetable garden which is cultivated and harvested by a group of residents from the surrounding area.* Because the density transferred from the EH preserves will be higher than the density transferred from other PUDs in the AGR Tier, a further recommendation is to **prohibit the exchange or swapping of EH preserve areas.**

**Density:** Board discussion in November 2021 cited the Uptown Boca (Johns Glades West) multi-family project recently developed on Glades Road in west Boca Raton as an example of the type of project whose density and form would be desirable for higher-density development in the AGR Tier. The Uptown Boca project is a mixed use development that includes rental apartments as well as retail, dining and entertainment uses. The complex includes 456 units, located on 18.24 acres of the 37.99 acre site. The density of the residential component is 25 units to the acre. This density is consistent with the density of other projects recently approved and under development on major corridors in the unincorporated Urban Suburban Tier, including:

Development	Location	Density (Units/Acre)
Banyan Ridge	Belvedere Rd, east of Turnpike	22
Lenox	US 1, north of PGA Blvd.	22.4
Pine Ridge	SR 80, east of Jog Rd	25
Fount	Okeechobee Blvd., west of Haverhill Rd.	25.6

Overall, multifamily projects with a workforce housing component in the unincorporated Urban/Suburban Tier have an average density of 19 units per acre.

Applying the 60/40 density clustering mechanism, a density of 8 units per acre applied to the entire project area would yield a net density 2.5 times higher, or 20 units per acre, reflecting the density transfer from the 60% preserve portion to the 40% development area. This net density is generally consistent with the density range of the projects cited in the Board discussion.

**Recommended Density for EH: a density of 8 units per acre** applied to the entire project area. While the focus of the Board's discussion was multi-family housing, the developer always has the option to provide a range or mix of unit types and tenures, including for-sale units such as townhomes and zero lot line units, as well as rental or for-sale multi-family housing. Given the potential number of units that could be developed in a single project under the EH FLU designation, an additional recommendation is to **require a second unit type** when the number of units exceeds 200 units. Under current code provisions for planned

residential development, the second unit type is triggered when the number of units exceeds 300 and the project size exceeds 100 acres. To ensure compatibility with adjacent agricultural uses, the Unified Land Development Code typically requires a minimum of 50' of separation between residential structures and any agricultural uses. Minimum separations between existing residential development and the developments resulting from the EH FLU would also be addressed through setback and buffer requirements in the Unified Land Development Code; additional or expanded requirements can be imposed by the Board as conditions of approval when approving an amendment for the EH FLU, based on the site-specific circumstances.

**Minimum Size:** The Uptown Boca project cited in Board discussion in November 2021 has a residential component comprising approximately 18 acres. Other recent projects similar in character, such as Lenox, were developed on sites ranging from 11 to 36 acres. Overall, multi-family projects with a workforce housing component average 13.6 acres.

**Recommended Minimum Size for EH:** a minimum overall size of 30 acres. This would result in a minimum development area of 12 contiguous acres, consistent with the typical size of the projects identified as desirable, and allow for the 60% preserve area. As with the standard 60/40 AGR PUD option, the preserve area would not be required to be contiguous to the development area, and could be provided throughout the AGR Tier.

**Potential Sites and Implementation Method:** Based on the proposed locational/frontage requirements, there are currently five properties without development approvals that are of sufficient size to accommodate the proposed minimum size of 30 acres. These are depicted in Exhibits 2 and 3 and listed below:

Location/Frontage:	Parcel	Size
Boynton Beach Blvd.	North of Boynton Beach, west of Turnpike	47.22
	South of Boynton Beach, west of Turnpike	92.42
	South of Boynton Beach, west of Turnpike	39.4
Atlantic Ave.	North of Atlantic, west of Turnpike	50.14
	South of Atlantic, east of Half Mile*	39.77
		<b>268.95      Total</b>

\* part of 22-A FLUA Amendment to MLU transmitted Nov 2021

If the listed parcels were to be developed fully using this designation and providing the 60% preserves on site, then the maximum number of units would be 2,152 (269 acres x 8 du/ac). If each parcel used only the minimum acreage required for this designation, then the resulting maximum number of units would be 1,200 (5 sites x 30 acres x 8 du/ac).

If sufficient off-site preserves were to be secured, allowing these sites to be used solely as development areas, there would be the potential for a maximum of 5,379 units could result (269 acres x 8 du/ac x 2.5). Two additional parcels of 19 and 29.5 acres could also become eligible as development areas, if off-site preserves could be secured. These total 48.5 acres and would account for an additional 970 units, if off-site preserves could be secured and if the entire acreage were used for the development area (48.5 acres x 8 du/ac x 2.5).

It should be noted that there are also several other parcels, currently under conservation easements and serving as preserves for AGR 60/40 PUDs, which would also meet the criteria for size and location/frontage, if these preserves were to be replaced with preserves elsewhere in the Agricultural Reserve and the conservation easements removed. The preserve areas are also shown on Exhibits 2 and 3.

The number of higher density or multi-family units that could result from use of the EH FLU could represent a significant percentage of all dwelling units that could be developed in the AGR Tier. However, it is unlikely that all eligible parcels will pursue and be approved as EH, particularly in light of the newly-proposed Commerce FLU which is under consideration for many of the same eligible locations. Even if all eligible sites were to develop as EH, this is unlikely to represent a saturation of demand, given that there are currently no existing higher density or multi-family units in the AGR Tier available to serve the workforce, there are limited options in the surrounding area, and rapidly increasing housing and rental prices.

**Recommended Implementation Method for EH:** EH established as a **FLU designation, available only in the AGR Tier.** Through this method, the Board retains full legislative discretion in approving or denying any eligible application for the EH FLU designation, and has the benefit of data and analysis as well as the two public hearings required in the amendment process. The EH FLU would be implemented through zoning options, as either a type of 60/40 planned residential development, or could be incorporated into a mixed use zoning such as Mixed Use Planned Development (MUPD), provided that the minimum requirements for size and preserve area for the EH FLU were met. An additional recommendation is to **require a concurrent zoning application**, so that the site-specific conditions can be considered, and appropriate conditions applied when necessary, such as separation distances from surrounding uses and height limitations.

## **E. ULDC Implications**

This proposed amendment will result in revisions to the ULDC to implement the new EH FLU designation, including allowing for a 60/40 AgR-PUD option reflecting the requirements outlined in this amendment.

## **VIII. Public and Municipal Review**

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**Intergovernmental Plan Amendment Review Committee (IPARC):** Notification was sent to the County’s Intergovernmental Plan Amendment Review Committee (IPARC), a clearing-house for plan amendments, on March 16, 2022. At the time of the printing of this report, no calls or written objections to the amendment had been received. In addition, an email to interested parties of the Agricultural Reserve was sent on March 30, 2022. Correspondence received through the public hearing process will be provided in Exhibit 4.

## **IX. Assessment and Conclusions**

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The objective of Agricultural Reserve is to “*preserve and enhance agricultural activity, environmental and water resources.*” Toward this objective, several development types have been implemented, including the low-density 60/40 AGR PUD, and the traditional marketplaces intended to provide services for residents and farmworkers in the AGR Tier. Other uses have introduced additional employment, including a hospital, several schools, and several industrial sites. Given the low-density development pattern in the AGR Tier, there are limited housing opportunities for most persons employed in these workplaces. Creating a higher-density category with both a significant workforce housing requirement and a preserve requirement helps to address this imbalance while continuing to support the preservation objective, and helps to create livable communities while recognizing unique characteristics of the area. Locating the higher-density, compact development on major corridors in proximity to the marketplaces limits trips and facilitates transit access. Workforce housing in the AGR Tier also furthers the County objectives

of dispersing workforce housing and addressing the housing needs of lower income households. Staff recommends **approval**.

### **Attachments**

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Exhibit 1 – Proposed revisions in <del>strike-out</del> and <u>underline</u> format	E-1
Exhibit 2 – Map of Boynton Beach Corridor	E-9
Exhibit 3 – Map of Atlantic Avenue Corridor	E-10
Exhibit 4 – Correspondence Received	E-11

## Exhibit 1

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### A. **Future Land Use Element**, Essential Housing Future Land Use Designation

**REVISIONS:** To establish a new future land use designation called Essential Housing. The added text is underlined, and the deleted text ~~struck out~~. Changes following the transmittal public hearing and approved in the adoption of this amendment are indicated in ~~double strike through~~ and double underline.

#### 1. **OBJECTIVE 1.5 The Agricultural Reserve Tier**

*Omitted for brevity*

**Objective:** Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to primarily low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.

#### **Residential**

#### 2. **NOTE: The following policy reflects changes pursuant to the Reserve at Atlantic amendment adopted July 28, 2022.**

**Policy 1.5-h:** Residential uses shall be permitted within the Agricultural Reserve Tier as further regulated by the Unified Land Development Code. Consistent with the provisions of Future Land Use Policy 2.1-b and Table 2.2.1-g.1, Residential Future Land Use Designation Maximum Density, the land shall be allowed to develop as follows:

1. Within the Agricultural Reserve future land use designation with Agricultural Reserve zoning, the maximum density is one dwelling unit per five acres;
2. Within the Agricultural Reserve Tier with a Planned Development zoning, the maximum future land use densities are as follows, with density calculated for the total land area and clustered onto the development area of the projects.
  - a. Agricultural Reserve future land use designation with AgR-PUD zoning, the maximum density is up to one dwelling unit per acre;
  - b. Commercial Low future land use designation with an underlying AGR FLU and TMD or MUPD zoning, the maximum density is up to one dwelling unit per acre;
  - c. Multiple Land Use future land use designation with MUPD zoning, the underlying future land use density pursuant to Policy 1.5.1-s.
  - d. Essential Housing future land use designation with 60/40 AgR-PUD, MUPD or TMD zoning, the maximum density is 8 units per acre.

3. **NOTE:** *The following policy is no longer proposed for adoption, as the subject matter is addressed through proposed changes to policy 1.5-h above.*

~~**NEW POLICY:** Residential uses shall be permitted within the Agricultural Reserve Tier under the Essential Housing land use designation as further regulated by the Unified Land Development Code. Consistent with the provisions of Future Land Use Policy 2.1-b and Table 2.2.1-g.1, Residential Future Land Use Designation Maximum Density, the land shall be allowed to develop at a density of up to eight dwelling unit per acre (8DU/AC) if the property meets the requirements for an Essential Housing 60/40 Planned Unit Development (60/40 EH PUD) as described in Future Land Use Sub-Objective 1.5.1.~~

4. **NEW POLICY 1.5-h-1:** Any future land use amendment requesting the EH FLU shall be accompanied by a concurrent zoning application in order to demonstrate that the proposal meets the requirements of Policy 1.5.1-j and the design, scale, and character requirements of the Tier.
5. **NOTE:** *The following policy reflects additional changes to remove portions now addressed by Policy 1.5-h as revised pursuant to the Reserve at Atlantic amendment adopted July 28, 2022.*

~~**NEW POLICY 1.5.1-t:** Residential uses Land designated EH FLU shall be permitted in an Agricultural Reserve Multiple Use Planned Development (AgR-MUPD), or an Agricultural Reserve Traditional Marketplace Development (AgR-TMD) as described in Future Land Use Sub-Objective 1.5.1, in which case the density shall be determined by the Future Land Use Designation. Land designated AgR FLU may be developed at a density of up to 1 unit per acre. Land designated EH FLU may be developed at up to 8 units per acre, provided that the minimum requirements for project size, percentage of preserve area, percentage of workforce housing, and locational criteria for an Essential Housing 60/40 Planned Unit Development (60/40 EH PUD) and other minimum requirements for a 60/40 AgR PUD with EH FLU are met as described in Future Land Use Sub-Objective 1.5.1.~~

6. **Policy 1.5.1-a:** In order to preserve and enhance agricultural activity, environmental and water resources, open space, and sustainable development within the Agricultural Reserve Tier, all new residential, commercial, industrial, and/or mixed use developments shall be developed as an Agricultural Reserve Planned Development that contributes to the fulfillment of these objectives by meeting the preserve area requirements, subject to the provisions of this Element, with the exception of 1) Residential subdivisions predating the Ag Reserve Tier and those that are subdivided at 1 unit per 5 acre density; 2) pre-existing commercial sites identified in Policy 1.5-i which develop at the square footages identified within the Policy; and 3) the sites which received an industrial future land use designation as part of the adoption of the 1989 Comprehensive Plan. The following Planned Development Districts (PDDs) are available in the AGR Tier, subject to eligibility requirements:

80/20 Agricultural Reserve Planned Unit Development (80/20 AgR PUD)  
60/40 Agricultural Reserve Planned Unit Development (60/40 AgR PUD)  
~~60/40 Essential Housing Planned Unit Development (60/40 EH PUD)~~  
Agricultural Reserve Multiple Use Planned Development (AgR MUPD)  
Agricultural Reserve Traditional Marketplace Development (AgR TMD)



**7. Residential Planned Developments**

**Policy 1.5.1-b:** A residential AgR PUDD in the AgR Tier shall require the following:

1. that the development area be compact, contiguous, and arranged as a unified whole and appropriately buffered so as not to interfere with the continued or future function of the preserve area. For this purpose, a meandering or intrusion of the development area into the preserve area would only be considered in an equestrian community;
2. that the development area be situated adjacent to other existing, planned, or projected development areas.
3. that the development area provide an appropriate buffer between non-agricultural uses and adjacent agricultural uses to ensure that new non-agricultural uses do not adversely affect agricultural uses. When golf courses and similar amenities are provided in the development area, they shall be situated to serve as a buffer between non-agricultural uses and agricultural uses, though water features shall not have to be located adjacent to the buffers of the development;
4. that preserve areas not be regarded as part of any development lot;
5. that preserve areas be used only for agriculture or open space uses;
6. that any structures built within preserve areas be for agricultural uses only (as further specified in the ULDC), and shall be considered common resources of the development's residents or agricultural users;
7. that the dedication requirements (e.g. civic use) and calculations for land uses (e.g. non-residential pods) be based only upon the development area; ~~and~~
8. that the development area use native or drought tolerant species for at least 60% of any landscape requirement-; and
9. that the preserve area be subject to an agricultural conservation easement in favor of Palm Beach County or deeded to the County. In addition, if the preserve area is contiguous to the development area, it shall be shown on the PUD Master Plan as a Preserve Area.

**8. 80/20 Agricultural Reserve Planned Unit Development Option**

**Policy 1.5.1-h:** An 80/20 AgR-PUDD shall require the following

1. a minimum of 40 contiguous acres, with a future land use designation of Agricultural Reserve (AGR);
2. that the buildable area be contained in one compact area and not exceed 20 percent of the gross acreage. Land dedicated as rights-of-way for the County's Thoroughfare System, land allocated for the internal street system, and water areas required for on-site drainage retention may be deducted from the 80 percent; however, in no event shall the buildable area be increased to greater than 25 percent of the gross acreage;
3. that the remainder of the gross acreage be maintained in agriculture, passive recreation or other open space use, except that water features may only be considered within the preserve area if the feature is designated by the South Florida Water Management District as a Water Preserve Area (WPA). No other open space or recreational use that is intensive in nature, such as a golf course; or, which would interfere with the future practice of agriculture on the subject property; or continued practice of agriculture on adjacent properties shall be permitted; and

4. that the preserve area be held in common ownership and control by an HOA or other party for access by, and on behalf of, residents of the **AgR-PUD** or agricultural users, and operate under common management of an HOA or third party.

9. **60/40 Agricultural Reserve Planned Unit Development Option**

**Policy 1.5.1-i:** A 60/40 AgR PUD with a future land use designation of Agricultural Reserve (AGR) shall require the following:

1. a minimum of 250 acres exclusive of right-of-way as shown on the Thoroughfare Identification Map, ~~with a future land use designation of Agricultural Reserve (AGR);~~
2. that the development area be contained in one compact area and not exceed 40 percent of the gross acreage less right-of-way as shown on the Thoroughfare Identification Map. The development area shall contain uses normally associated with a PDD such as the street system, water retention areas, water amenity areas, active recreational areas (including golf courses), open space, which is integral to the PDD, and civic center sites;
3. the development area and the protected area need not be contiguous;
4. that the development area shall be situated east of State Road 7 with frontage on either State Road 7, State Road 806 (Atlantic Avenue), State Road 804 (Boynton Beach Boulevard), Clint Moore Road, Lyons Road extending north of Boynton Beach Boulevard or Lyons Road extending south of Atlantic Avenue and Acme Dairy Road extending south of Boynton Beach Boulevard to the L-28 canal. Other roadways may be added to this list, by Plan amendment, consistent with the goal of preservation and perpetuation of agriculture in the Agricultural Reserve Tier;
5. the development area shall not be situated west of State Road 7; and
6. that the preserve area shall consist of, at least, 60 percent of the gross acreage less right-of-way identified on the Thoroughfare Identification Map and be maintained in agriculture, passive recreation or other open space use. The preserve area shall:
  - a) contain a minimum area of 150 acres; and,
  - b) be utilized for crop production, pasture, equestrian purposes, retained as fallow land, or serve water management purposes per one or more of the following:
    - 1) designated by the South Florida Water Management District (SFWMD) as either a Water Preserve Area, or certified by SFWMD as serving regional water management purposes; or
    - 2) to serve regional water management purposes as certified by the Lake Worth Drainage District (LWDD). Lands owned by LWDD as of May 5, 2021 shall be limited to lands adjacent to existing preserve areas and limited to a maximum 276.509 acres of preserved area identified in Zoning Application PDD/DOA 2021-0122. For the purposes of this provision, adjacent includes lands separated from existing preserves by lands owned by LWDD. Any changes to the LWDD-owned lands provisions above shall require approval by at least five members of the Board of County Commissioners; or
    - 3) for water management purposes not directly related to the **60/40 AgR-PUD** if approved by the Department of Environmental Resources Management, and managed for environmental resource values.

- c) Accessory agricultural structures such as barns and pump structures shall be permitted.
- d) Agricultural support uses such as processing facilities, and the like shall not be accommodated in the protected area of an **AgR-PDUD**, unless the parcel meets the criteria provided in Policy 1.5-h; nor shall new residential uses be accommodated thereon except for farm worker quarters as described in Future Land Use Policy 1.5.1-k and Housing Policy 1.4-d or grooms quarters as described in Future Land Use Policy 1.5.1-k; and
- e) that in cases of preserve areas that are contiguous to the associated development area, these preserves be held in common ownership and control by an HOA or other party for access by, and on behalf of, residents of the **AgR-PDUD** or agricultural users, and operate under common management of an HOA or third party.

**10. 60/40 AgR Planned Unit Development with Essential Housing FLU**

**NEW POLICY 1.5.1-j: A 60/40 AgR-PUD with a future land use designation of Essential Housing ~~PUD~~ shall require the following:**

1. a minimum of 30 acres exclusive of right-of-way as shown on the Thoroughfare Identification Map, ~~with a future land use designation of Essential Housing (EH);~~
2. that the development area be contained in one compact area and not exceed 40 percent of the gross acreage less right-of-way as shown on the Thoroughfare Identification Map. The development area shall contain uses normally associated with a PDD such as the street system, water retention areas, water amenity areas, active recreational areas (including golf courses), open space, which is integral to the PDD, and civic center sites;
3. the development area and the protected area need not be contiguous;
4. that the development area shall be situated with frontage on either: State Road 806 (Atlantic Avenue), extending from ½ mile west of Lyons Road (Half-mile Road), to Florida's Turnpike; or, State Road 804 (Boynton Beach Boulevard), extending from ½ mile west of Lyons Road, to Florida's Turnpike;
5. a minimum of 25% of all units to be provided as workforce housing units onsite, evenly distributed among 4 income categories for households ranging from 60% to 140% of area median income, and subject to the requirements of Article 5.G.1 of the Unified Land Development Code.
6. that the development have buildings that vary in the number of stories ~~a second unit type be provided~~ when the number of units exceeds two-hundred.
67. that the preserve area shall consist of, at least, 60 percent of the gross acreage less right-of-way identified on the Thoroughfare Identification Map and be maintained in agriculture, passive recreation or other open space use. The preserve area shall:
  - a) contain a minimum area of 18 acres; and,
  - b) be utilized for crop production, pasture, equestrian purposes, retained as fallow land, or serve water management purposes per one or more of the following:
    - 1) designated by the South Florida Water Management District (SFWMD) as either a Water Preserve Area, or certified by SFWMD as serving regional water management purposes; or

- 2) to serve regional water management purposes as certified by the Lake Worth Drainage District (LWDD) . Lands owned by LWDD as of May 5, 2021 shall be limited to lands adjacent to existing preserve areas and limited to a maximum 276.509 acres of preserved area identified in Zoning Application PDD/DOA 2021-0122. For the purposes of this provision, adjacent includes lands separated from existing preserves by lands owned by LWDD. Any changes to the LWDD-owned lands provisions above shall require approval by at least five members of the Board of County Commissioners; or
- 3) for water management purposes not directly related to the 60/40 ~~EH~~ AgR-PUD if approved by the Department of Environmental Resources Management, and managed for environmental resource values.
- 4) for stormwater management purposes directly related to the development area, provided that the stormwater management feature:
  - (a) is located in preserve area located contiguous to the development area;
  - (b) is limited to no more than 10% of the total project preserve area;
  - (c) is designed with enhanced environmental features and managed in a manner that promotes sustainability and improved water quality;
  - (d) is privately maintained; and,
  - (e) if public access is to be provided:
    - (1) any vehicular parking is accommodated in the development area;
    - (2) parking is provided in the preserve area only for bicycles and other non-vehicular modes, and for golf carts; and
    - (3) an easement is recorded providing for public access.
- c) Accessory agricultural structures such as barns and pump structures shall be permitted.
- d) Agricultural support uses such as processing facilities, and the like shall not be accommodated in the protected area of an ~~60/40 EH~~ AgR-PUD, unless the parcel meets the criteria provided in Policy 1.5-h; nor shall new residential uses be accommodated thereon except for farm worker quarters as described in Future Land Use Policy 1.5.1-k and Housing Policy 1.4-d or grooms quarters as described in Future Land Use Policy 1.5.1-k; and
- e) that in cases of preserve areas that are contiguous to the associated development area, these preserves be held in common ownership and control by an HOA or other party for access by, and on behalf of, residents of the ~~60/40 EH~~ AgR-PUD or agricultural users, and operate under common management of an HOA or third party.
- f) Community vegetable gardens, as defined in the Unified Land Development Code, shall be permitted in the preserve area.
- g) The exchange of preserve areas shall be prohibited.
- h) Implementing provisions may include monitoring requirements for compliance with workforce housing requirements.

11. **NOTE: the following policy is no longer proposed for adoption as the subject matter has been addressed through a proposed addition to the above policy.**

~~**NEW POLICY:** The exchange of preserve areas associated with a 60/40 EH PUD shall be prohibited.~~

12. **Policy 1.5.1-f:** Nonresidential land uses, limited to those uses which the County allows in residential developments within the Urban/Suburban Tier, may be allowed as a pod within the development area of a ~~residential~~ **AgR-PDUD** master plan, provided that the nonresidential uses are situated to serve the residents of the **AgR-PDUD** as opposed to the general public. If the nonresidential land uses are government uses, such as fire stations, libraries, etc., they are not required to be situated to serve only the residents of the **AgR-PDUD**.
13. **Policy 1.5.1-k:** To accommodate farm worker housing or grooms quarters, some density may be retained on the preserve areas of ~~a 60/40 AgR PUD or 60/40 EH PUD Agricultural Reserve Planned Development Districts (AgR-PDDs)~~. Such housing may be located on these preserve areas at the following densities:
1. Farm worker quarters – a minimum site size of 25 acres per Housing Policy 1.4-d and a maximum density of one unit per acre, provided such units are clustered onto a single compact area of the preserve area and are restricted to occupancy by farm workers.
  2. Grooms quarters - the number of grooms quarters shall be based upon the number of stalls in the preserve area with a maximum of 20 grooms quarters allowed with no density requirement. For ~~60/40 AgR-PDD PUD or 60/40 EH AgR-PUD~~ Preserve Areas seeking more than 20 grooms quarters, the allowable density of the development area shall be decreased by one unit for each grooms quarter to a maximum reduction of one-half of the number of dwelling units associated with the preserve area property.

All such agricultural support housing shall require that density be left on the site of the preserve area at the time the 60/40 AgR-~~PDD PUD or 60/40 EH AgR-PUD~~ is platted.

14. **Table 2.2.1-g.1**  
**Residential Future Land Use Designation Maximum Density**

Future Land Use Designation		Dwelling Units per Gross Acre <sup>5</sup>
Agricultural Reserve	AGR	0.20 / 1 <sup>3</sup>
<u>Essential Housing</u>	<u>EH</u>	<u>8<sup>6</sup></u>
Balance of table omitted for brevity...		

6. See Agricultural Reserve Policy # 1.5.1-t.

15.

**Table 2.2.1-j.1  
Residential Future Land Use - Zoning Consistency<sup>1</sup>**

Future Land Use Designation	Consistent Zoning	
	Zoning District	Planned Development
Agricultural Reserve	AGR	AGR-PUD
<u>Essential Housing</u>	-	<u>60/40 EH PUD; MUPD; TMD</u>
<i>Balance of table omitted for brevity...</i>		

16.

**TABLE III.C  
FUTURE LAND USE DESIGNATION BY TIER**

Future Land Use	FLU Category	Tier				
		Urban/Sub & Glades USA	Exurban	Rural	Ag Reserve	Glades RSA <sup>1</sup>
<u>Essential Housing</u>	<u>EH</u>	---	---	---	<u>X</u>	---
<i>Balance of table omitted for brevity...</i>						

#### **B. Future Land Use Element, Clarifications and Updates**

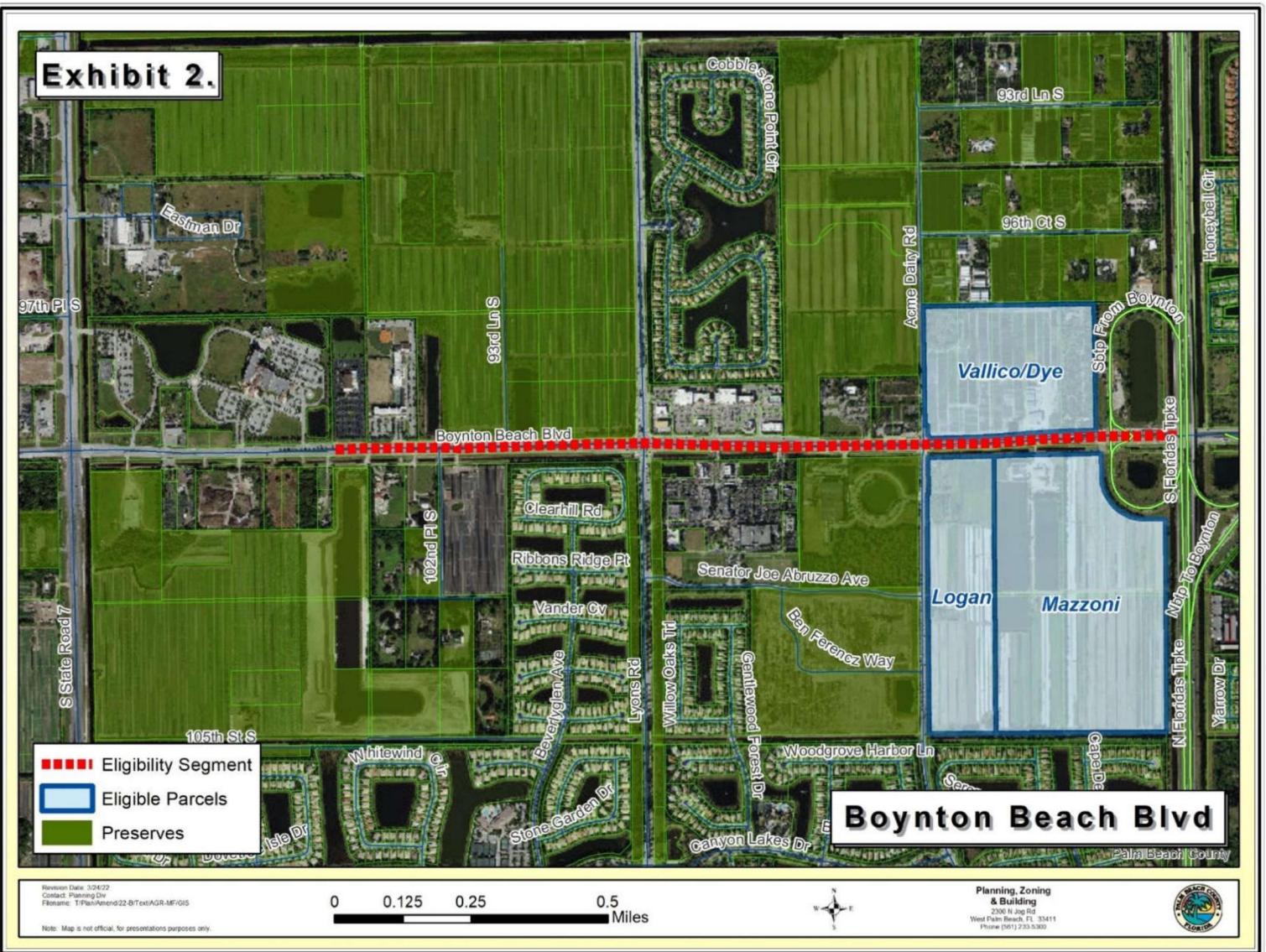
**REVISIONS:** To clarify and update provisions of the Agricultural Reserve Tier, and delete obsolete language. The added text is underlined, and the deleted text ~~struck out~~.

- NOTE:** *Policy 1.5.1-d is no longer proposed for deletion, as the policy was retained and revised in the Reserve at Atlantic amendment adopted July 28, 2022.*
- Policy 1.5.1-e:** Property owners located along a designated rural parkway in the Agricultural Reserve Tier shall receive credit for the parkway easement as a portion of the ~~if~~ required preserve area ~~as described in Future Land Use Policy 1.5.1-d without regard to the minimum contiguous acreage requirement for the preserve area of an~~ of the AgR-PDD established in Future Land Use Policies 1.5.1-i and 1.5.1-m.
- ~~**Policy 1.5.1-j:** The preserve area of a 60/40 AgR-PDD shall be subject to an agricultural conservation easement in favor of Palm Beach County or deeded to the County. In addition, if the preserve area is contiguous to the development area, it shall be shown on the AgR-PDD Master Plan as a Preserve Area.~~
- Policy 1.5.1-o:** The preserve area of an 60/40 AgR-TMD shall be subject to an agricultural conservation easement in favor of Palm Beach County or deeded to the County. In addition, if the preserve area is contiguous to the development area, it shall be shown on the AgR-TMD Master Plan as a Preserve Area.



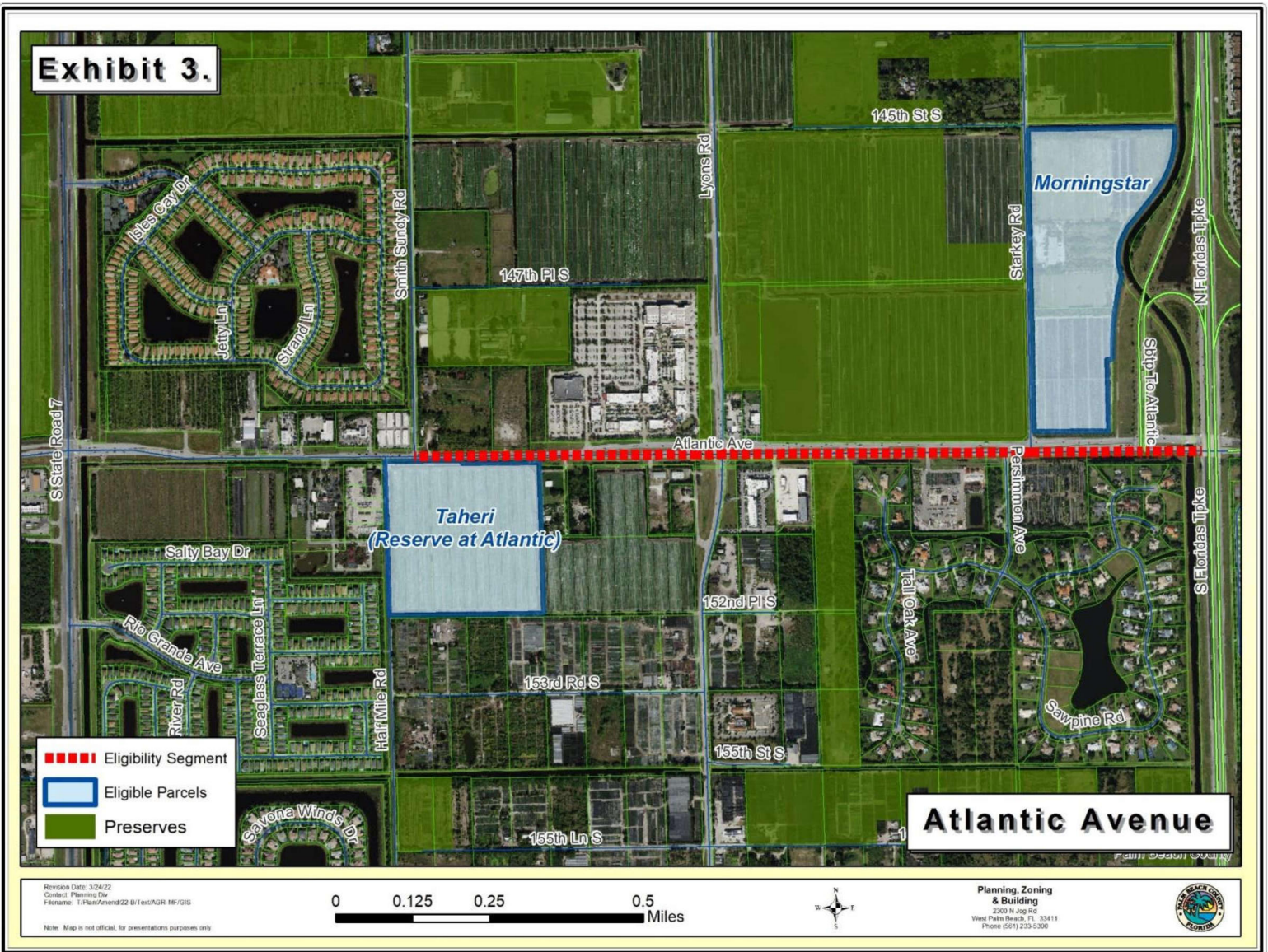
## Exhibit 2

### Map of Boynton Beach Boulevard Corridor





# Exhibit 3 Map of Atlantic Avenue Corridor





## Exhibit 4 Correspondence

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### Correspondence provided at the Planning Commission Hearing

Agenda Items: III.A.3 and III.B.1



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April 7, 2022

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Submitted via email:

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*Re: April 8, 2022, Planning Commission; Public Comments Agenda Items III.A.3 and III.B.1*

Dear Planning Commissioners:

On behalf of our clients, 1000 Friends of Florida ("1000 Friends") and Sierra Club Loxahatchee Group ("Sierra Club"), please kindly accept these comments to the Planning Commission and include them in the public record for the upcoming April 8, 2022, meeting regarding the following Agenda Items: III.A.3, West Atlantic Industrial Fina (LGA 2022-018) and III.B.1, Agricultural Reserve Multifamily – Essential Housing FLU Text.

1000 Friends is a statewide 501(c)(3) smart growth advocacy nonprofit organization with a substantial number of members that live and work in Palm Beach County. Similarly, Sierra Club is a national 501(c)(3) grassroots environmental organization with the Loxahatchee Group comprised of a substantial number of members that live and work in Palm Beach County.

The members of both non-profit environmental organizations advocate for preservation of agricultural resources that are a much-needed buffer for the environmental vitality of the communities without encroachment of increased high-density residential, commercial, mixed-uses, and industrial uses.

All members of these organizations residing within Palm Beach County are afforded the protections of the Palm Beach County Comprehensive Plan and will be directly affected by any amendments passed altering the Agricultural Reserve Tier.

### ***The Agricultural Reserve Tier Must Remain Preserved***

Palm Beach County, supported by its residents, has carved out a unique tier unlike any other in South Florida, the Agricultural Reserve Tier (Ag Reserve), that has development regulations set in place in order to preserve agricultural lands, environmental and water resources, and open space for the immediate benefit of the County and for future generations to come by “limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier.” Objective 1.5 FLUE.

However, time and time again this Commission is presented with requests from developers and landowners to grant exceptions and alterations to these specific regulations without consideration of the environmental consequences of expanding density and intensity beyond those anticipated in the creation of this Tier. This is a fundamental departure from the long-standing principles set out in the Comprehensive Plan for the preservation of the Ag Reserve. The law is clear that a comprehensive plan is to act as a “a constitution for all future development,” *Machado v. Musgrove*, 519 So.2d 629, 631 (Fla. 3d DCA 1987), and is to be enforced by citizens and not the State. *Pinecrest Lakes, Inc. v. Shidel*, 795 So. 2d 191, 199 (Fla. 4th DCA 2001).

There must be a reckoning of the importance of the Ag Reserve and the benefits inured to the County residents as a whole, rather than any obligation that this Commission may feel to any one individual landowner or developer that seeks to modify the founding principles for their own gain. Despite the “justifications” of applicants, sustainable growth within the Ag Reserve ***does not necessitate modifying*** the Comprehensive Plan to accommodate additional densities and intensities. The founding principles of the Ag Reserve, and the associated bond paid for by the residents of the County to secure the preservation lands, require an ***unwavering dedication to the purpose and intent of this unique Tier***.

The Ag Reserve provides great benefits to Palm Beach County by (1) buffering detrimental impacts from development on water quality, (2) improving flood control, (3) engaging in highly beneficial carbon sequestration that reduces air pollution and mitigates climate change, and (4) providing wildlife habitat for native flora and fauna, as well as threatened and endangered species, and a safe haven for transient and migratory wildlife.

Most importantly, the Ag Reserve is situated just east of the Arthur R. Marshall Loxahatchee National Wildlife Refuge (“Loxahatchee Refuge”), which supports more than 100 jobs, provides the County with nearly \$2 million in sales tax revenue, and spans 145,189 acres of the northern Everglades and cypress swamp. The ecological and economic benefits of the Refuge have been a motivating factor in County Planning Staff attempting to draw a hard line in the sand by recommending denial of any industrial uses and high-density residential PUDs ***west of SR 7***.

This Commission in the past has taken these concerns to heart and recommended denial of applications that would essentially modify the purpose of preserving the Ag Reserve right out of the Comprehensive Plan. We urge you to remain steadfast on these principles and deny the applications discussed in greater detail herein.

**III. A. 3**  
***Privately Proposed Text Amendment***  
***West Atlantic Industrial Fina (LGA 2022-018)***

The property at issue in the West Atlantic Industrial Fina application is located on 10.11 acres, half a mile *west* of SR 7, less ***than one mile from the Loxahatchee Refuge, surrounded on all sides by preserve parcels***, some of which abut conservation lands. The applicant is requesting an amendment to change the future land use designation from Agricultural Reserve (AG) to Industrial with an underlying Agricultural Reserve (IND/AGR) with conditions for light industrial. On the parcel sits a single-family residential home and agricultural storage, which is the subject of code enforcement violations, and is presently allowed up to ***66,059 square feet of agricultural uses***. The proposed amendment would allow up to ***198,178 square feet of light industrial uses***, require a *Subdivision Variance* for its rezoning request, and result in an increase in traffic of 224 net daily trips and 125 AM and 112 PM net peach hour trips, which is the *maximum potential allowed*.



County Planning Staff has recommended denial, as it has consistently recommended on all applications for industrial uses in the Ag Reserve, based upon a number of reasons depicted in the thorough Staff Report, including, but not limited to:

1. The applicant “does not adequately justify the request”;
2. County staff is “unable to determine if the proposed amendment ... would further County Directions, including respecting the characteristics of the area, aiding the management growth in the Tier, or contributing to the support or enhancement of agriculture.”;
3. The “introduction of Industrial future land use on this parcel would contribute to incompatibilities with the surrounding agricultural land uses and agricultural preservation intended for the Tier.”;
4. A “lack of a comprehensive analysis and policy direction for considering appropriate locations, uses, extent, and intensity for new industrial uses in the Tier.”

West Atlantic Industrial Staff Report pp. E-4, E-5, E-8 *respectively*.

Staff also notes that due to the “sensitive agricultural and environmental considerations in the Tier, and the extensive land use planning in the Tier to date, it is appropriate for any new industrial use designations be considered only as part of an overall, comprehensive approach.” *Id.* at p. 10.

It is important to note that prior applicants have taken the approach of requesting exemptions for their properties, claiming that it is only a sliver of the Tier, yet applications currently before the Commission and those undoubtedly to come look at the expansion of industrial uses above and beyond the vacant 64 acres grandfathered in as a precedent for approval. This very “death by a thousand cuts” has been a resounding warning by 1000 Friends and Sierra Club for years. It is time to take a hard stance and ensure that the Comprehensive Plan requiring the preservation of the Ag Reserve is not rendered meaningless.

Most concerning are the applicant’s own justifications and belief regarding the character of the Ag Reserve that clearly demonstrate a fundamental departure from the founding principles of the Comprehensive Plan. The applicant cites to “numerous changes recently,” such as the increase to the commercial cap, residential projects that have changed the “characteristics of State Road 7 within the Agricultural Reserve,” and the recently approved light industrial uses with the Sunflower Light Industrial and Las Farms Industrial approvals / transmittals. West Atlantic Industrial Staff Report pp. E-15, E-16.

The applicant then goes on to state with conviction, in clear contradiction to everything that the Ag Reserve has been implemented to prevent:

***These changes indicate the Agricultural Reserve has continued to change from a rural agricultural area to a suburban community with a growing population that needs various services and goods within proximity of their homes.***

*Id.* at p. E-16.



Finally, the applicant notes that twenty (20) years have passed since the Ag Reserve policies were incorporated in the Comprehensive Plan and the Tier is nearly “built out,” with only a total of 5% of the Tier not entitled for development or preservation. The mere fact that there remains a small percentage of land that can neither be developed nor utilized as a preserve for development does not devoid those properties of value in the Tier under the current regulations of the Comprehensive Plan, i.e. single family residential, agricultural uses, open space, and water resources.

Furthermore, the requirement to adhere to the regulations governing the land to which one knowingly purchased and now is prevented from utilizing or selling for a purpose not authorized by these governing regulations is not a valid cause for altering the principles of the Comprehensive Plan protecting the Ag Reserve Tier.

The danger of a pro-development mindset that will place the needs of a landowner and/or developer above that of the general public that will benefit from open space cannot be overstated. Time and time again, the Commission has been advised that *vacant land is not land waiting to be developed*; there are so many ecological benefits discussed herein that can be lost were a property to be exempted from the principles of the Ag Reserve in contradiction to the very constitution governing the Tier.

The Ag Reserve Tier has achieved the preservation of acreage that would otherwise have been overdeveloped and the environmental benefits forever lost. There is no expiration of the Ag Reserve once it is “built out.” There is still a need to maintain the integrity of the Tier to ensure that all that has been preserved is not degraded by increased densities and intensities of uses inappropriate for this unique agricultural area endowed with environmental and water resources and open spaces to act as a rural “safe haven” and environmental buffer from the urban and suburban tiers.

Developers should not look to the Ag Reserve for exemptions from the fundamental preserve and density requirements unique to this Tier. “Balanced growth” does not mandate that the guiding policies and objectives of the Comprehensive Plan be displaced; rather, smarter, and more sustainable, development must be achieved in conformity with the regulations already set forth to protect the Ag Reserve Tier.

*1000 Friends and Sierra Club respectfully request that the Planning Commission adopt the Planning Staff’s recommendation of denial, and issue a recommendation to the County Commissioners to deny the West Atlantic Industrial application.*

**III. B. 1**  
**County Proposed Text Amendment**  
***Agricultural Reserve Multifamily – Essential Housing FLU Text***

1000 Friends and Sierra Club agree that there is a need for *affordable housing* in Palm Beach County, yet disagree that the introduction of an Essential Housing designation to facilitate higher-density residential development with workforce housing for multifamily units in the Ag Reserve is appropriate. A resolution to the housing crisis must not result in inconsistent density and intensity in the Ag Reserve that would make it more like the Urban / Suburban Tier.

The purpose of the Ag Reserve is to *preserve unique farmland and wetlands in order to enhance agricultural activity, environmental and water resources, and open space, by limiting uses to agriculture, conservation, low density residential development, and non-residential uses which serve the needs of farmworkers and residents of the Ag Reserve Tier.*

To effectuate this purpose, the current density for the Ag Reserve is 1 unit per 5 acres, unless the parcel is located in a PUD (250 acres for a 60/40 preserve or 40 acres for a 80/20 preserve) or Traditional Marketplace, then the allowance is 1 unit per 1 acre. However, farm residences and grooms quarters are exempt from the 1 unit to 5 acres restrictions for residential development in the Ag Reserve and can be located on the bona fide agricultural property / preserve.

Whereas, the proposal for Essential Housing would allow for a density of 8 units per acre, a minimum of 30 acres, with a 60/40 preserve requirement, and limited to an area near the two existing marketplaces, in exchange for 25% on site “workforce housing” units that would be regulated according to the County’s Workforce Housing Program and “generally target households having 60% to 140% of Area Median Income, which was \$80,200.00 in 2021.”<sup>1</sup>

There are a number of concerns that will be addressed in turn. First, the density of 8 units per acre could potentially be compounded by the use of off-site preserves, resulting in a parcel that could have an allowable 2,152 units to jump up to 5,379 units at a 2.5 increased density rate. Second, Staff notes that there is a possibility of removing conservation easements on preserves for existing PUDs to be developed while replacing those preserves elsewhere in the Tier. This could result in lower quality preserves.

Third, workforce housing is not the same as affordable housing, and unfortunately many farmworkers will still fall short of the Area Median Income to afford the proposed units. It is not disputed that Palm Beach County needs more affordable housing, but a workforce housing program is simply inappropriate for the Ag Reserve as it does not support the agricultural community and increased densities. The County would be better served focusing on public transportation for workers to come into the Ag Reserve rather than altering the Ag Reserve to accommodate incompatible residential densities.

There are other options approved in the Ag Reserve for diverse housing units. For example, the Essential Housing Staff Report mentions, multiple times, the multifamily units that have already been approved in two traditional marketplaces, specifically 73 units at Delray Marketplace and 34 units at Canyons Town Center. However, as noted by Staff, these units have not been constructed and there is no requirement that they be built. These units were intended to provide an opportunity for housing types and prices located in mixed use areas, yet have not been utilized.

Finally, the increased densities and intensities could alter the character of the Ag Reserve Tier. Staff has taken great care to limit the designation to a certain area, yet the impact may be felt Tier-wide as there will be increased traffic, roadway mortality of wildlife, development construction that could impact local water and environmental resources, and an overall loss of agricultural lands and the benefits of open spaces that have been discussed herein.

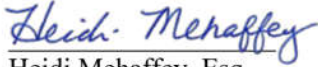
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<sup>1</sup> <https://discover.pbcgov.org/pzb/planning/Projects-Programs/WorkforceHousingProgram.aspx> (last visited April 7, 2022)

*1000 Friends and Sierra Club respectfully request that the Planning Commission issue a recommendation to the County Commissioners to deny the Agricultural Reserve Essential Housing Future Land Use Designation application.*

Thank you for your time and consideration of these comments.

Respectfully,



Heidi Mehaffey, Esq.  
Robert N. Hartsell, P.A.  
Fla. Bar No. 118806

CC: 1000 Friends of Florida  
Sierra Club Loxahatchee Group

## Correspondence provided at the BCC Transmittal Hearing

Item: 3.C.3

### *Alliance of Delray Residential Associations, Inc.*

10290 West Atlantic Avenue #480504  
Delray Beach, FL 33448  
Phone: 561.495.4694  
www.allianceofdelray.com



- *Serving more than 100 Communities between the Everglades and the Ocean in south Palm Beach County.*
- *Working Toward Sustainable Development*
- *Applying Resilience Thinking to Our Natural Resources*

April 25, 2022

Board of County Commissioners  
301 N. Olive Avenue Ste. 1201  
West Palm Beach, FL 33401

Re: Essential Housing Future Land Use Designation in the Agricultural Reserve

Dear Commissioners:

The Alliance of Delray Residential Associations applauds you and Staff in your efforts to address housing needs of the workforce and lower income households by creating a County Initiated Amendment which would revise the Future Land Use Element Essential Housing future land use designation in the Agricultural Reserve.

The location criteria appear appropriate since the Atlantic Avenue and Boynton Beach Boulevard corridors continue from the Urban/Suburban tier into the Agricultural Reserve. The Comprehensive Plan reflects the efforts to keep density low in the Agricultural Reserve, especially west of State Road 7/441. This policy supports transitioning development from higher to lower density as new construction nears the sensitive preserve lands in the most western areas.

Phase II Master Plan Graphic Status Quo Potential Build-out							
	Total	1 No. of BB	2 South of BB	3 Central	4 Atlantic	5 Far So. AA	6 Clint Moore
Single Family	7,280	1,680	1,840	-	1,040	2,080	640
Townhouse	4,200	1,440	720	-	1,680	360	-
Apartments	2,520	600	600	-	1,320	-	-
<b>Units</b>	<b>14,000</b>	<b>3,720</b>	<b>3,160</b>	<b>-</b>	<b>4,040</b>	<b>2,440</b>	<b>640</b>
Retail	502,440	125,000	125,000	-	250,000	2,440	-
Offices over shops	375,030	93,758	93,758	-	187,515	-	-
Office Park	244,970	122,485	122,485	-	-	-	-
<b>Commercial</b>	<b>1,122,440</b>	<b>341,243</b>	<b>341,243</b>	<b>-</b>	<b>437,515</b>	<b>2,440</b>	<b>-</b>
Industrial Park	330,000	-	165,000	-	165,000	-	-
<b>Total Non-Res</b>	<b>1,452,440</b>	<b>341,243</b>	<b>506,243</b>	<b>-</b>	<b>602,515</b>	<b>2,440</b>	<b>-</b>

A review of Staff recommendations appears to not provide a "cap" for the increase in density. To avoid unintended consequences of the change in policy, it may be appropriate to establish a limit on the number of multifamily units. There was originally an expected number of 14,000 units with total buildout of the Tier (see chart) and infrastructure within the Agricultural Reserve planned for that number. It would be prudent to consider a cap on the number of multifamily units so buildout would occur commensurate with infrastructure improvements.

Thank you for your continued essential/workforce/affordable housing initiatives in Palm Beach County.  
Sincerely,

*Lori Vinikoor*

Dr. Lori Vinikoor, President

Cc Verdenia Baker, County Administrator; Patrick Rutter, Assistant County Administrator; Ramsay Bulkeley, PZ&B Executive Director; Whitney Carroll, PZ&B Deputy Executive Director; Lisa Amara, Zoning Director; Kevin Fischer, Interim Planning Director, Mayor Bob Weinroth; Vice-Mayor Gregg Weiss; Commissioners Mack Bernard, Dave Kerner, Maria Marino, Melissa McKinlay, Maria Sachs.

#### OFFICERS AND DIRECTORS OF THE ALLIANCE:

Lori Vinikoor, President

Arnie Katz, Executive Vice President Norma Arnold, Vice President Allen Hamlin, Vice President Ken Markowitz, Vice President  
Carol Klausner, Secretary Deborah Borenstein, Treasurer

Directors: Rob Cuskaden Paul Finkelstein York Freund Carol Klausner Phyllis Levine Evelyn Spielholz Susan Zuckerman

Assistants to the President: Rose DeSanto John Gentithes Rhoda Greifer Joel Vinikoor

Chairman of the Board: Bob Schulbaum Legal Counsel: Joshua Gerstin



# BOYNTON AGRICULTURAL RESERVE COMMUNITIES

CANYON LAKES • CANYON ISLES • CANYON SPRINGS • CANYON TRAILS  
COBBLESTONE CREEK • VALENCIA RESERVE • VALENCIA COVE • VALENCIA BAY

May 3, 2022

VIA EMAIL ONLY ([BCC-AllCommissioners@pbcgov.org](mailto:BCC-AllCommissioners@pbcgov.org))

Board of County Commissioners  
301 N. Olive Avenue  
Suite 1201  
West Palm Beach, FL 33401

Re: Agricultural Reserve Essential Housing Designation

Dear Commissioners,

For close to a year, we have been meeting with developers who intend to build in the Ag Reserve. We heard loud and clear at your workshop when your body stated certain large parcels located on Boynton Beach Blvd between Lyons and the Turnpike were too valuable in location to leave empty. Since then, we have been engaged in dialogue with developers who have those lands under contract to have them present projects to you which would have community support. Our goal is simple. Any new project built in our backyard should have elements and program uses which directly benefit the current surrounding residents.

The current draft of language essentially manufactures a density of 8du/acre and allow it at only 2 specific locations in the Ag Reserve, one of them being BBB and Acme Dairy. That is in our backyards, so we have very strong opinions as to what is appropriate there. We've had multiple meetings the development groups with those properties under contract and have been having productive dialogue with them as to what uses could be programmed to meet needs of the residents, while allowing the developers to build projects that are financially sustainable. The Butters/Channing group is under contract for 47 acres on the northeast corner of Acme and BBB. They have a plan for essential housing, as well as a plan for commerce on the site. Also present on the site in the preserve area is room for a working farm and an associated farm to table restaurant concept with an established and proven operator. This is the exact thing the Commissioners spoke at length about during the workshop. This is Agri-tourism in an Agri-hood by definition. It's of benefit to all the residents who would surround it and indeed provides a positive enhancement to our community. Moreover, it makes our residents having to accept this additional density more palatable, as at least we are getting something in return. water retention in the preserve areas, we would say quite simply that it already happens in areas of the county. We believe there are water retention in preserve areas in certain county parks. Water and preserve areas can be synonymous when done correctly and thoughtfully. Our residents are big on passive parks out here. Places like Green Cay are a wonderful example of using water and wetlands in a responsible manner while incorporating an amenity residents can enjoy. These are the types of things we are trying to accomplish out here for our folks.

Our intention is not to suggest changes for the entire Ag Reserve, as each parcel and area is different. We are focusing our current efforts on BBB from Lyons east to TPK. We heard the message at the Ag Reserve workshop. These parcels were identified by the Commissioners as valuable land that must be developed, in some instances for the good of the county as a whole. We believe this is why the county chose these specific locations to implement its Essential Housing program and try and cure the affordable housing crisis that exists not just in the Ag Reserve, but throughout the county. We are willing to do our part. All we are asking for is equity. If special rules are going to be drafted to allow additional density to be created for these locations, then we believe there ought to also be a mechanism to have these special site-specific Essential Housing rules include an allowance for a Farm to Table Restaurant, as well as a portion of water retention where appropriate in the preserve parcel.

Since no county staff initiated meetings or focus groups were held out here for our almost 10,000 residents, we are trying all we can to effectively communicate our positions so they may be heard and understood. We respectfully ask you to consider the point of view of those of us who live in direct proximity to these areas. The decisions you make will impact not only our property values, but our quality of life for generations to come.

Respectfully,

Neil Ambrosio	Director, Canyon Lakes HOA
Todd Andersen	President, Canyon Lakes HOA
Nick Bieber	President, Canyon Isles HOA
Mark Miller	President, Canyon Springs HOA
Ryan Anderson	President, Canyon Trails HOA
Iette Sykes	President, Cobblestone Creek HOA
Jeffrey Schepp	President, Valencia Reserve HOA
Kenneth Albert	President, Valencia Bay HOA
Debi Stoller	President, Valencia Cove HOA

Cc: All HOA Boards

Items: 3.A.2  
3.C.2  
3.C.3



ROBERT N. HARTSELL, P.A.  
61 N.E. 1st Street, Suite C  
Pompano Beach, Florida 33060  
(954) 778-1052  
[www.Hartsell-Law.com](http://www.Hartsell-Law.com)

May 3, 2022

Board of County Commissioners  
301 N. Olive Avenue  
West Palm Beach, 33401

Submitted via email:

[RWeinroth@pbcgov.org](mailto:RWeinroth@pbcgov.org); [DKerner@pbcgov.org](mailto:DKerner@pbcgov.org); [MMarino@pbcgov.org](mailto:MMarino@pbcgov.org); [GWeiss@pbcgov.org](mailto:GWeiss@pbcgov.org);  
[MSachs@pbcgov.org](mailto:MSachs@pbcgov.org); [MMcKinlay@pbcgov.org](mailto:MMcKinlay@pbcgov.org); [MBernard@pbcgov.org](mailto:MBernard@pbcgov.org); [KFischer@pbcgov.org](mailto:KFischer@pbcgov.org);  
[RBulkeley@pbcgov.org](mailto:RBulkeley@pbcgov.org); [dleiser@pbcgov.org](mailto:dleiser@pbcgov.org); [sastone@pbcgov.org](mailto:sastone@pbcgov.org)

*Re: May 4, 2022, Transmittal Hearing; Public Comments*

Dear Mayor Weinroth and Board of County Commissioners:

On behalf of our clients, 1000 Friends of Florida (“1000 Friends”) and Sierra Club Loxahatchee Group (“Sierra Club”), please accept these comments and include them in the public record for the upcoming May 4, 2022, Transmittal Hearing regarding the following Agenda Items: *3.A.2 West Atlantic Industrial Final (LGA 2022-009)*; *3.C.2. Commerce Future Land Use Designation Text*; and *3.C.3. Agricultural Reserve Essential Housing Future Land Use Designation Text*.

1000 Friends is a statewide 501(c)(3) smart growth advocacy nonprofit organization with a substantial number of members that live and work in Palm Beach County. Similarly, Sierra Club is a national 501(c)(3) grassroots environmental organization with the Loxahatchee Group comprised of a substantial number of members that live and work in Palm Beach County.

The members of both non-profit environmental organizations advocate for preservation of agricultural resources that are a much-needed buffer for the environmental vitality of the communities without encroachment of increased high-density residential, commercial, mixed-uses, and industrial uses. All members of these organizations residing within Palm Beach County are afforded the protections of the Palm Beach County Comprehensive Plan and will be directly affected by any amendments passed altering the Agricultural Reserve Tier.

### ***Request for Additional Time to Present Public Comments***

As you may be aware, 1000 Friends has been actively following and participating in Palm Beach County-wide planning for decades and specifically engaged in planning the Agricultural Reserve (Ag Reserve) since its inception. By invitation, 1000 Friends participated as a stakeholder in the Ag Reserve Workshop in 2015 resulting in a directive from the Board of County Commissioners upon which all future Ag Reserve planning would be based, and the Sierra Club was specifically invited by Commissioner Sachs to present recommendations for the October 26, 2021, Workshop regarding the Agricultural Tier. 1000 Friends and Sierra Club have consistently provided planning expertise and local knowledge to the Commission on many occasions regarding the Ag Reserve, and will continue to do so.

Legal counsel for 1000 Friends and Sierra Club will be present at the May 4, 2022, Transmittal Hearing to offer expertise and advocate for the preservation of the original intention of the Ag Reserve while balancing sustainable and smart land planning. We respectfully request the opportunity to make comments during the meeting, and engage in discussion if requested with Commissioners, in excess of the general three-minute comment time period afforded to the general public.

***We respectfully ask for, at a minimum, five minutes per each agenda item discussed herein, and will ensure that comments are succinct and beneficial to the Commission and community during this public process.***

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### ***Importance of Protecting the Ag Reserve Tier Status Quo***

Palm Beach County, supported by its residents, has carved out a unique tier unlike any other in South Florida, the Agricultural Reserve Tier (Ag Reserve), that has development regulations set in place in order to preserve agricultural lands, environmental and water resources, and open space for the benefit of the County as a whole by “limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier.” Objective 1.5 FLUE.

The Ag Reserve Tier was recently nationally applauded by the well-respected organization, Flood Science Center, noting that its success was not only related to its “acquisition program,” but also “the county's regulatory processes,” such as the developmental restrictions and preserve requirements that should be strictly adhered to. Notably, the regulatory lay out of the Tier was recognized as “an important factor in the protection of natural areas and the maintenance of the county's natural resources.”<sup>1</sup>

The Flood Science Center praised the County, but also cautioned that there is a continuing need to keep up these regulatory processes:

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<sup>1</sup> <https://floodsciencecenter.org/products/crs-community-resilience/success-stories/palm-beach-county-florida/> (last visited May 3, 2022).

The destruction and degradation of native biological communities through various forms of land alteration, water table lowering and reduction of the quality of water entering these areas are the major threats to the county's native plant and animal populations. ***Once lost, the plant and animal species diversity, groundwater recharge capacity, and recreational and educational opportunities are irretrievable.*** The decline in health and natural diversity of Palm Beach County's natural resources ***signals the need for continual protection and restoration efforts*** through the adjustment of water supply schedules, improved methods of controlling stormwater runoff quality, and the prevention of the spread of prohibited invasive non-native vegetation.<sup>2</sup>

Despite this, time and time again this Commission is presented with requests from developers and landowners to grant exceptions and alterations to these specific regulations ***without consideration of the environmental consequences*** of expanding density and intensity beyond those anticipated in the creation of this Tier. This is a fundamental departure from the long-standing principles set out in the Comprehensive Plan for the preservation of the Ag Reserve. The law is clear that a comprehensive plan is to act as a "a constitution for all future development," *Machado v. Musgrove*, 519 So.2d 629, 631 (Fla. 3d DCA 1987), and is to be enforced by citizens and not the State. *Pinecrest Lakes, Inc. v. Shidel*, 795 So. 2d 191, 199 (Fla. 4th DCA 2001).

There must be a reckoning of the importance of the Ag Reserve and the benefits inured to the County residents as a whole, rather than any obligation that this Commission may feel to any one individual landowner or developer that seeks to modify the founding principles for their own gain. Despite the "justifications" of applicants, sustainable growth within the Ag Reserve ***does not necessitate modifying*** the Comprehensive Plan to accommodate additional densities and intensities.

The founding principles of the Ag Reserve, and the associated bond paid for by the residents of the County to secure the preservation lands, require an ***unwavering dedication to the purpose and intent of this unique Tier***. There is an ongoing environmental crisis that can no longer be ignored and each individual must take responsibility locally. The purpose of the Ag Reserve has always been to allow open spaces to act as a buffer from the rest of the County's urban activities.

The Ag Reserve provides great benefits to Palm Beach County by (1) buffering detrimental impacts from development on water quality, (2) improving flood control, (3) engaging in highly beneficial carbon sequestration that reduces air pollution and mitigates climate change, and (4) providing wildlife habitat for native flora and fauna, as well as threatened and endangered species, and a safe haven for transient and migratory wildlife.

Most importantly, the Ag Reserve is situated just east of the Arthur R. Marshall Loxahatchee National Wildlife Refuge ("Loxahatchee Refuge"), which supports more than 100 jobs, provides the County with nearly \$2 million in sales tax revenue, and spans 145,189 acres of the northern Everglades and cypress swamp. The ecological and economic benefits of the Refuge have been a motivating factor in County Planning Staff attempting to draw a hard line in the sand by recommending denial of any industrial uses and high-density residential PUDs ***west of SR 7***.

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<sup>2</sup> *Id.* (emphasis added).



It is the duty of each Commissioner, as public servants, to consider these comments and fully evaluate the repercussions of modifying the Comprehensive Plan before taking any actions that could be detrimental to the very core of the Ag Reserve Tier. County Commissioners have taken these concerns to heart in the past and we ask that you again deny applications that would essentially modify the purpose of preserving the Ag Reserve right out of the Comprehensive Plan. We urge you to remain steadfast on these principles and deny the applications discussed in greater detail herein.

### 3. A. 2. West Atlantic Industrial Fina (LGA 2022-018)

County Staff and the Planning Commission (in an 8-1 vote) have both recommended that this Commission **deny** this proposed FLU Amendment, questioning the suitability of the site, which is surrounded by preserve parcels, as well as the unknown intensity and use proposed for the site. The property at issue in the West Atlantic Industrial Fina application is located on 10.11 acres, half a mile **west of SR 7, less than one mile from the Loxahatchee Refuge, surrounded on all sides by preserve parcels**, some of which abut conservation lands.

The applicant is requesting an amendment to change the future land use designation from Agricultural Reserve (AG) to Industrial with an underlying Agricultural Reserve (IND/AGR) with conditions for light industrial. On the parcel currently sits a single-family residential home and agricultural storage, which is the subject of code enforcement violations, and is presently allowed up to **66,059 square feet of agricultural uses**. The proposed amendment would allow up to **198,178 square feet of light industrial uses**, require a *Subdivision Variance* for its rezoning request, and result in an increase in traffic of 224 net daily trips and 125 AM and 112 PM net peak hour trips, which is the *maximum potential allowed*.



County Planning Staff has recommended denial, as it has consistently recommended on all applications for industrial uses in the Ag Reserve, based upon a number of reasons depicted in the thorough Staff Report, including, but not limited to:

1. The applicant “does not adequately justify the request”;
2. County staff is “unable to determine if the proposed amendment ... would further County Directions, including respecting the characteristics of the area, aiding the management growth in the Tier, or contributing to the support or enhancement of agriculture.”;
3. The “introduction of Industrial future land use on this parcel would contribute to incompatibilities with the surrounding agricultural land uses and agricultural preservation intended for the Tier.”;
4. A “lack of a comprehensive analysis and policy direction for considering appropriate locations, uses, extent, and intensity for new industrial uses in the Tier.”

22-B Amendment Staff Report – West Atlantic Industrial pp. E-4, E-5, E-8 *respectively*.

Staff also notes that due to the “sensitive agricultural and environmental considerations in the Tier, and the extensive land use planning in the Tier to date, it is appropriate for any new industrial use designations be considered only as part of an overall, comprehensive approach.” *Id.* at p. 10.

It is important to recognize that prior applicants have taken the approach of requesting exemptions for their properties, claiming that it is only a sliver of the Tier, yet applications currently before the Commission and those undoubtedly to come look at the expansion of industrial uses above and beyond the vacant 64 acres grandfathered in as a precedent for approval. ***This very “death by a thousand cuts” has been a resounding warning by 1000 Friends and Sierra Club for years.*** It is time to take a firm stance and ensure that the Comprehensive Plan requiring the preservation of the Ag Reserve is not rendered meaningless.

Most concerning are the applicant’s own justifications and belief regarding the character of the Ag Reserve that clearly demonstrate a fundamental departure from the founding principles of the Comprehensive Plan. The applicant cites to “numerous changes recently,” such as the increase to the commercial cap, residential projects that have changed the “characteristics of State Road 7 within the Agricultural Reserve,” and the recently approved light industrial uses with the Sunflower Light Industrial and Las Farms Industrial approvals / transmittals. West Atlantic Industrial Staff Report pp. E-15, E-16.

The applicant then goes on to state with conviction, in clear contradiction to everything that the Ag Reserve has been implemented to prevent:

***These changes indicate the Agricultural Reserve has continued to change from a rural agricultural area to a suburban community with a growing population that needs various services and goods within proximity of their homes.***

*Id.* at p. E-16.

Finally, the applicant notes that twenty (20) years have passed since the Ag Reserve policies were incorporated in the Comprehensive Plan and the Tier is nearly “built out,” with only a total of 5% of the Tier not entitled for development or preservation. *Id.* at p. E-17.

***The mere fact that there remains a small percentage of land that can neither be developed nor utilized as a preserve from development does not devoid those properties of value in the Tier under the current regulations of the Comprehensive Plan, i.e. single family residential, agricultural uses, open space, and water resources.***

Furthermore, the requirement to adhere to the regulations governing the land to which one knowingly purchased and now is prevented from utilizing or selling for a purpose not authorized by these governing regulations is not a valid cause for altering the principles of the Comprehensive Plan protecting the Ag Reserve Tier.

The danger of a pro-development mindset that will place the needs of a landowner and/or developer above that of the general public that will benefit from open space cannot be overstated. Time and time again, the Commission has been advised that *vacant land is not land waiting to be developed*; there are so many ecological benefits discussed herein that can be lost were a property to be exempted from the principles of the Ag Reserve in contradiction to the very constitution governing the Tier.

The Ag Reserve Tier has achieved the preservation of acreage that would otherwise have been overdeveloped and the environmental benefits forever lost. ***There is no expiration of the Ag Reserve once it is “built out.”***

There is still a need to maintain the integrity of the Tier to ensure that all that has been preserved is not degraded by increased densities and intensities of uses inappropriate for this unique agricultural area endowed with environmental and water resources and open spaces to act as a rural “safe haven” and environmental buffer from the urban and suburban tiers.

Developers should not look to the Ag Reserve for exemptions from the fundamental preserve and density requirements unique to this Tier. “Balanced growth” does not mandate that the guiding policies and objectives of the Comprehensive Plan be displaced; rather, smarter and more sustainable development must be achieved in conformity with the regulations already set forth to protect the Ag Reserve Tier.

***Accordingly, 1000 Friends and Sierra Club respectfully request that Board of County Commissioners follow the recommendation of the Planning Commission and Staff and DENY the West Atlantic Industrial application.***

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### ***3. C. 2. Commerce Future Land Use Designation Text***

The Planning Commission recommended that the Commerce Future Land Use Designation be *denied* via a failure to pass an affirmative vote. There were numerous concerns voiced by the Planning Commission and public as to why this designation is not appropriate in the Ag Reserve. Specifically, there have already been requests to continue the Commerce frontage *west* of SR 7; there is no cap of commerce uses proposed; and no discussion of regional versus local uses when the Ag Reserve is specifically set aside to serve the needs of the residents and farming communities.

Historically, industrial uses in the Ag Reserve were limited to 64 acres of land with industrial designation that predated the Master Plan and fronted the north and south sides of Atlantic Avenue east of State Road 7. The Board of County Commissioners considered recommendations for the additional of industrial uses above and beyond those grandfathered into the Tier years ago, and found it to be detrimental to the Tier, thereby *specifically directing that no new industrial future land use designations be permitted in the Ag Reserve.*

However, in direct opposition to this directive, which was set in place to ensure that development did not run afoul of Objective 1.5, industrial uses in the Ag Reserve have since expanded to 92 acres. The introduction of a Commerce FLU in the Ag Reserve will secure additional expansion of a use that was not contemplated in the Ag Reserve during its inception. *In order to ensure that the Ag Reserve does not evolve into the Suburban or Urban Tiers, there must be a line drawn in the sand.*

1000 Friends and Sierra Club concur with the Treasure Coast Regional Planning Council, which expressed valid concerns in relation to the Sunflower Industrial application that the allowance of light industrial into the Ag Reserve could reduce the potential for agricultural related uses and “degrades the integrity of the process used to guide development activity in the Agricultural Reserve by creating yet another ‘special case’ revision to the general rules.”

There are a number of issues and concerns that must be taken into consideration and fully evaluated prior to the upheaval of the Comprehensive Plan to make way for additional industrial uses in the Ag Reserve, which will be addressed in turn as follows.

#### ***(1) Preserve the Remaining Agricultural Lands and Fully Implement Objective 1.5***

Objective 1.5 of the Future Land Use Element of the Palm Beach County Comprehensive Plan created the Agricultural Reserve Tier to govern land use development in the “unique farmland and wetlands” under the guiding objectives of the Master Plan and states in pertinent part:

Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.

The Ag Reserve is at the precipice of being built out, with the remaining agricultural lands being developed for commercial or residential purposes at an alarming rate and in exchange for less preservation. There seems to be a fallacy that the Tier has an expiration and when that is reached the remaining land is up for grabs to the highest bidder and the most skilled lobbyists to advocate for “change” beneficial to their land use desires.

Applicants for text amendments have consistently cited a reduction in farming operation as justification for opening up these lands for development. However, this is simply a red herring, as smaller farming operations can still be viable through evolving farming techniques such as greenhouses, or growing more sustainable and compact crops, such as hemp. The decline of farms, or the desire to farm, does not necessitate the decrease of requirements to preserve such lands as open space or environmental and water resources.

Objective 1.5 should be implemented in full, and simply because a land may not be actively farmed does not mean that it is less deserving of preservation; as discussed herein, there are so many environmental benefits to serve the residents of the Ag Reserve and that have a net gain for the County.

The Commerce FLU amendment seeks to introduce industrial uses in the Tier where there is not a need nor justification for such uses. The Comprehensive Plan was crafted and amended specifically to leave the option of additional industrial uses off the table. There will be no benefit to the Ag Reserve to allow it now; it will only contribute to the degradation of the Ag Reserve.

A Commerce designation in the Ag Reserve will create another special case revision to the long-standing principles set in place to distinguish this unique Tier from the urbanized tiers and surrounding counties, and will remove such applications out of the Commissioners’ and public hearing sphere for a mere checklist of requirements that can result in unintended degradation of the Ag Reserve.

### ***(2) Requiring Less Preservation is the Anthesis of the Ag Reserve Principles***

The Commerce designation proffers two options for preserve requirements: either for sites over 16 acres consistent with commercial designations or for sites over 50 acres. The very proffer of waiving preservation requirements for anything less than 50 acres is troubling and a clear motivation for developers to step in and utilize open space for commerce as is evidenced by the support from JMorton Planning and Landscape Architecture.

At the Planning Commission, County Staff advised that there was no mathematical basis for this proposal and that it was a “policy issue.” It must be noted that the Ag Reserve has already clearly spoken on the issue of policy as it mandates the preservation (i.e. *“the perpetual maintenance of areas in their original state”*) not only of agricultural lands, but also environmental and water resources, and open space. In fact, the Ag Reserve was created with an overall framework that recognized preservation of open space “was more efficient and could better accommodate a variety of public, agricultural, equestrian, and environmental uses when it consisted of large areas.” Exemptions reducing acreage requirements work in opposition to this concept.

Rather than opening up this land, and reducing preservation requirements, the County should focus on acquisition of lands to remain preserved, converted to green open space, including parks with equestrian trails, wetland restoration, additional tree canopy of natural plants such as cypress, etc. to assist with water quality, carbon sequestration, and buffering the County's environmentally sensitive areas, and return the Ag Reserve Tier to its unique farmland and wetlands composition rather than sprawling developments situated throughout.

***(3) A Commerce Designation in the Ag Reserve is not restricted to Local Uses***

The Commerce FLU amendment does not restrict the uses and leaves it open for regional rather than solely local uses. Objective 1.5 specifically restricts development to low-density uses that specifically serve the needs of the residents and farming community in the Ag Reserve. If the Commerce uses in the Ag Reserve allow for regional uses, it can greatly exceed the intensity of the uses, increase the traffic flow to the Commerce designed property, and create hardships for the residents and farming community in the Ag Reserve, rather than service their needs.

***(4) The Commerce FLU Designation would allow Industrial Uses West of SR 7***

New Policy 1.5-v: Industrial, which would allow industrial uses in the Ag Reserve, would limit the uses to locations "Fronting State Road 7;" between Florida's Turnpike and SR 7 off Atlantic Avenue or Boynton Beach Boulevard; or have access to these roadways through an existing commercial or industrial site." *Staff Report*, Exhibit 1-B, p. E-5.

There is no prohibition of allowing industrial uses *west* of State Road 7, and during the Planning Commission hearing on this proposal, County Staff advised that they have already received requests to continue the frontage requirements *west* of SR 7. Even more concerning, there have been approvals of industrial uses west that could be used as a precedent for creating an industrialized corridor in an area that has historically been utilized for agricultural uses and agri-business facilities as a buffer from high residential and industrial uses to maintain the integrity of the environmental resources nearby.

Objective 1.5 has clearly stated that environmental and water resources would be best preserved were development "concentrated east of SR7 ... in order to protect the environmentally sensitive lands within and surrounding the Loxahatchee National Wildlife Refuge," as well as ensure that growth is clustered appropriately where infrastructure and services already exists in order to "reduce [] costs and impacts on taxpayers," and finally, new development should occur as "planned developments with a preserve area."

Allowing for an entire designation unanticipated, and even rejected, within the Ag Reserve to be implemented with the uncertainty of an evaluation on the detriment to important environmental and water resources is offensive to the founding principles of the Ag Reserve.

The Ag Reserve is at risk of phasing out agricultural lands in favor of high-density residential, increased commercial, minuscule or elimination of preserve requirements, and low-industrial sectors. To allow for the continued increase of density and intensity beyond the original intention of the Comprehensive Plan would nullify the very spirit of the Ag Reserve and would mutate the environmentally sensitive and rural lands into an urbanized area indistinguishable from the rest of Palm Beach County.

Accordingly, 1000 Friends of Florida and Sierra Club Loxahatchee group respectfully request that the Board of County Commissioners **DENY the application for a Commerce FLU Designation.**

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### **3. C. 3. Agricultural Reserve Essential Housing Future Land Use Designation Text**

1000 Friends and Sierra Club agree that there is a need for *affordable housing* in Palm Beach County, yet disagree that the introduction of an Essential Housing designation to facilitate higher-density residential development with workforce housing for multifamily units in the Ag Reserve is appropriate. A resolution to the housing crisis must not result in inconsistent density and intensity in the Ag Reserve that would make it more like the Urban / Suburban Tier.

The purpose of the Ag Reserve is to *preserve unique farmland and wetlands* in order to *enhance agricultural activity, environmental and water resources, and open space, by limiting uses to agriculture, conservation, low density residential development, and non-residential uses which serve the needs of farmworkers and residents of the Ag Reserve Tier.*

To effectuate this purpose, the current density for the Ag Reserve is 1 unit per 5 acres, unless the parcel is located in a PUD (250 acres for a 60/40 preserve or 40 acres for a 80/20 preserve) or Traditional Marketplace; then the allowance is 1 unit per 1 acre. However, farm residences and grooms' quarters are exempt from the 1 unit to 5 acres restrictions for residential development in the Ag Reserve and can be located on the bona fide agricultural property / preserve.

Whereas, the proposal for Essential Housing would allow for a density of 8 units per acre, a minimum of 30 acres, with a 60/40 preserve requirement, and limited to an area near the two existing marketplaces, in exchange for 25% on site "workforce housing" units that would be regulated according to the County's Workforce Housing Program and "generally target households having 60% to 140% of Area Median Income, which was \$80,200.00 in 2021.<sup>3</sup> Additionally, the proposal would require a second housing type for any development that exceeded 200 units.

It must be noted that prior to the Planning Commission hearing this item, a great number of members had to leave the meeting, resulting in the proposal presented to, and voted on by, a mere seven (7) members. There were a number of concerning requests by pro-development public comments, specifically, that the requirement for a second housing type be kept at the 300-unit ratio as required in the urban / suburban tiers, rather than the 200 units proposed, and that the water retention be included in the 60% preserve area, thus opening up more space for development.

There are a number of concerns that will be addressed in turn. First, the density of 8 units per acre **results in a net density of 20 units per acre**, and could potentially be compounded by the use of off-site preserves, resulting in a parcel that could have an allowable 2,152 units to jump up to 5,379 units at a 2.5 increased density rate. This density is comparable to the urban and suburban tiers, and is wholly inconsistent with the Ag Reserve.

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<sup>3</sup> <https://discover.pbcgov.org/pzb/planning/Projects-Programs/WorkforceHousingProgram.aspx> (last visited April 7, 2022)

Second, Staff notes that there is a possibility of removing conservation easements on preserves for existing PUDs to be developed while replacing those preserves elsewhere in the Tier. This could result in lower quality preserves. Furthermore, if the retention was allocated in the 60% preserve, instead of as its own separate requirement for water retention, it severely reduces the open space on the property resulting in a greater density of residential clustering.

Third, workforce housing is not the same as affordable housing, and unfortunately many farmworkers will still fall short of the Area Median Income to afford the proposed units. It is not disputed that Palm Beach County needs more affordable housing, but a workforce housing program is simply inappropriate for the Ag Reserve as it does not support the agricultural community and increased densities. The County would be better served focusing on public transportation for workers to come into the Ag Reserve rather than altering the Ag Reserve to accommodate incompatible residential densities.

There are other options approved in the Ag Reserve for diverse housing units. For example, the Essential Housing Staff Report mentions, multiple times, the multifamily units that have already been approved in two traditional marketplaces, specifically 73 units at Delray Marketplace and 34 units at Canyons Town Center. However, as noted by Staff, these units have not been constructed and there is no requirement that they be built. These units were intended to provide an opportunity for housing types and prices located in mixed use areas, yet have not been utilized.

Finally, the increased densities and intensities could alter the character of the Ag Reserve Tier. Staff has taken great care to limit the designation to a certain area, yet the impact may be felt Tier-wide as there will be increased traffic, roadway mortality of wildlife, development construction that could impact local water and environmental resources, and an overall loss of agricultural lands and the benefits of open spaces that have been discussed herein.

There would be unintended consequences were this proposal to move forward that would eviscerate the principles of the Ag Reserve and result in an incompatible increase in density and intensity of uses.

*Accordingly, 1000 Friends and Sierra Club respectfully request that the Board of County Commissioners **DENY the Agricultural Reserve Essential Housing Future Land Use Designation application.***

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## CONCLUSION

The Palm Beach County Board of Commissioners has the unique opportunity and responsibility of preserving the vast majority of remaining natural resources and open space in the tri-counties. This Commission has always had the foresight to protect the County's resources that not only provide ecological and economic benefits today, but also protect the environmentally sensitive areas for generations to come as **once these areas are gone, they are gone forever.**

We urge you to deny the applications discussed here as they are not in furtherance of the founding principles of the Comprehensive Plan for the Ag Reserve Tier.

Thank you for your time and consideration of these comments.

Respectfully,

A handwritten signature in blue ink that reads "Heidi Mehaffey". The signature is written in a cursive style and is positioned above a horizontal line.

Heidi Mehaffey, Esq.  
Robert N. Hartsell, P.A.  
Fla. Bar No. 118806

CC: 1000 Friends of Florida  
Sierra Club Loxahatchee Group

**Correspondence Provided at BCC Adoption Hearing on 8/25/22**

***Alliance of Delray Residential Associations, Inc.***

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- *Serving more than 100 Communities between the Everglades and the Ocean in south Palm Beach County.*
- *Working Toward Sustainable Development*
- *Applying Resilience Thinking to Our Natural Resources*

August 21, 2022

Palm Beach County Board of County Commissioners  
301 North Olive Avenue Suite 1201  
West Palm Beach, Florida 33401

Re: August 25, 2022 Agenda Item K.11. Agricultural Reserve Essential Housing Future Land Use Designation Text

Dear Commissioners:

The Alliance of Delray supports the Essential Housing Future Land Use Designation (FLU) text as approved for transmittal by the Planning Commission (LPA) on 4/8/22 and the Board of County Commissioners (BCC) on 5/4/22.

There are two concerns in reviewing the added language in the Staff Report for the August 25, 2022 BCC meeting.

1. The required percentage of workforce housing is increased from 25% to 35%. This appears to be a significant departure from what was transmitted. The Alliance respectfully disagrees with the Treasure Coast Regional Planning Council's suggestion to "require more than the proposed 25% of the units be affordable so that the declared purpose of the new FLU designation is achieved." The Alliance submits that County efforts over the past several years and especially since the October 26, 2021 Workshop have achieved the goal of bringing workforce housing to the Agricultural Reserve in harmony with the ratio of Workforce Housing (WHP) units in projects within the adjacent Urban/Suburban Tier

2. Adding a fifth category of income to the workforce housing units in the proposed Essential Housing FLU is in contravention to the County's WHP categories. It appears that the WHP categories with AMI's ranging from 60% to 140% and the affordable housing program criteria with a lower range beginning at 40% are being merged.

*Alliance suggestions:*

- *Approve 25% workforce housing. If an increase above the 25% is sought, it should return through the planning process and researched for possible amendments to all Tiers.*
- *Maintain the integrity of the Workforce Housing Program criteria. If a lower income category is plausible, it should return through the planning process and be researched for possible incorporation into the text for all Tiers.*

Sincerely,

*Lori Vinikoor*

Dr. Lori Vinikoor, President

**OFFICERS AND DIRECTORS OF THE ALLIANCE:**

Lori Vinikoor, *President*

Annie Katz, *Executive Vice President* Norma Arnold, *Vice President* Allen Hamlin, *Vice President* Ken Markowitz, *Vice President*  
Carol Klausner, *Secretary* Deborah Borenstein, *Treasurer*

*Directors:* Rob Cuskaden Paul Finkelstein York Freund Carol Klausner Phyllis Levine Evelyn Spielholz Susan Zuckerman

*Assistants to the President:* Rose DeSanto John Gentithes Rhoda Greifer Joel Vinikoor

*Chairman of the Board:* Bob Schulbaum *Legal Counsel:* Joshua Gerstin





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August 24, 2022

Board of County Commissioners  
301 N. Olive Avenue  
West Palm Beach, 33401

Submitted via email:

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*Re: August 25, 2022, Zoning Hearing; Public Comments*

Dear Mayor Weinroth and Board of County Commissioners:

On behalf of our clients, 1000 Friends of Florida (“1000 Friends”) and Sierra Club Loxahatchee Group (“Sierra Club”), please accept these comments and include them in the public record for the upcoming August 25, 2022, Zoning Hearing regarding the following: *Consent Agenda E. 7-9 Lake Worth Drainage District and GL Homes removal of conservation easements and addition of preserves of drainage canals; Regular Agenda K. 11. Agricultural Reserve Essential Future Land Use Designation Text; and K. 12. Commerce Future Land Use Designation Text.*

1000 Friends is a statewide 501(c)(3) smart growth advocacy nonprofit organization with a substantial number of members that live and work in Palm Beach County. Similarly, Sierra Club is a national 501(c)(3) grassroots environmental organization with the Loxahatchee Group comprised of a substantial number of members that live and work in Palm Beach County.

The members of both non-profit environmental organizations advocate for preservation of agricultural resources that are a much-needed buffer for the environmental vitality of the communities without encroachment of increased high-density residential, commercial, mixed-uses, and industrial uses. All members of these organizations residing within Palm Beach County are afforded the protections of the Palm Beach County Comprehensive Plan and will be directly affected by any amendments passed altering the Agricultural Reserve Tier.



***Request for Additional Time to Present Public Comments***

As you may be aware, 1000 Friends has been actively following and participating in Palm Beach County-wide planning for decades and specifically engaged in planning the Agricultural Reserve (Ag Reserve) since its inception. By invitation, 1000 Friends participated as a stakeholder in the Ag Reserve Workshop in 2015 resulting in a directive from the Board of County Commissioners upon which all future Ag Reserve planning would be based, and the Sierra Club was specifically invited by Commissioner Sachs to present recommendations for the October 26, 2021, Workshop regarding the Agricultural Tier. 1000 Friends and Sierra Club have consistently provided planning expertise and local knowledge to the Commission on many occasions regarding the Ag Reserve, and will continue to do so.

Legal counsel for 1000 Friends and Sierra Club will be present at the August 25, 2022 Zoning Hearing to offer expertise and advocate for the preservation of the original intention of the Ag Reserve while balancing sustainable and smart land planning. We respectfully request the opportunity to make comments during the meeting, and engage in discussion if requested with Commissioners, in excess of the general three-minute comment time period afforded to the general public. *See Hernandez-Canton v. Miami City Comm'n*, 971 So. 2d 829, 832 (Fla. 3<sup>rd</sup> DCA 2007) (holding that when the city commission was required to make 25 findings related to design review criteria, eight minutes allotted to developers *and* objectors (public citizens) for comments was too short).

***We respectfully ask for, at a minimum, five minutes per each agenda item discussed herein, and will ensure that comments are succinct and beneficial to the commission and community during this public process.***

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***Request for Party Status for August 31, 2022, Transmittal Hearing  
as it Pertains to AG / ITG Exchange***

1000 Friends and Sierra Club are interested parties that utilize the Arthur R. Marshall Loxahatchee National Wildlife Refuge and could be reasonably affected by the approval of the GL Homes Ag / ITG preserve land swap to be voted on at the August 31, 2022, Transmittal Hearing. As such, we respectfully request interested party status at the hearing to present testimony, evidence, and engage in questions to the applicant above and beyond the three minutes allotted to the general public. *Palm Beach Cty. Env't Coal. v. Fla. Dep't of Env't Prot.*, 14 So. 3d 1076 (Fla. 4<sup>th</sup> DCA 2009) (finding that an environmental group that used a national wildlife refuge for hiking and wildlife viewing had standing to challenge the Department of Environmental Protection's (DEP) proposed issuance of a permit to a utility for construction and operational testing of an underground injection well system at the energy center about 1000 feet away from the Arthur R. Marshall Loxahatchee National Wildlife Refuge; the group was concerned about impacts on water in refuge, and they presented evidence that they reasonably could have been affected by the proposed activities).

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### *Importance of Protecting the Ag Reserve Tier Status Quo*

Palm Beach County, supported by its residents, has carved out a unique tier unlike any other in South Florida, the Agricultural Reserve Tier (Ag Reserve), that has development regulations set in place in order to preserve agricultural lands, environmental and water resources, and open space for the benefit of the County as a whole by “limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier.” Objective 1.5 FLUE.

The Ag Reserve Tier was recently nationally applauded by the well-respected organization, Flood Science Center, noting that its success was not only related to its “acquisition program,” but also “the county's regulatory processes,” such as the developmental restrictions and preserve requirements that should be strictly adhered to. Notably, the regulatory layout of the Tier was recognized as “an important factor in the protection of natural areas and the maintenance of the county's natural resources.”<sup>1</sup>

The Flood Science Center praised the County, but also cautioned that there is a continuing need to keep up these regulatory processes:

The destruction and degradation of native biological communities through various forms of land alteration, water table lowering and reduction of the quality of water entering these areas are the major threats to the county's native plant and animal populations. ***Once lost, the plant and animal species diversity, groundwater recharge capacity, and recreational and educational opportunities are irretrievable.*** The decline in health and natural diversity of Palm Beach County’s natural resources ***signals the need for continual protection and restoration efforts*** through the adjustment of water supply schedules, improved methods of controlling stormwater runoff quality, and the prevention of the spread of prohibited invasive non-native vegetation.<sup>2</sup>

The Ag Reserve provides great benefits to Palm Beach County by (1) buffering detrimental impacts from development on water quality, (2) improving flood control, (3) engaging in highly beneficial carbon sequestration that reduces air pollution and mitigates climate change, and (4) providing wildlife habitat for native flora and fauna, as well as threatened and endangered species, and a safe haven for transient and migratory wildlife.

Most importantly, the Ag Reserve is situated just east of the Arthur R. Marshall Loxahatchee National Wildlife Refuge (“Loxahatchee Refuge”), which supports more than 100 jobs, provides the County with nearly \$2 million in sales tax revenue, and spans 145,189 acres of the northern Everglades and cypress swamp. The ecological and economic benefits of the Refuge have been a motivating factor in County Planning Staff attempting to draw a hard line in the sand by recommending denial of any industrial uses and high-density residential PUDs ***west of SR 7.***

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<sup>1</sup> <https://floodsciencecenter.org/products/crs-community-resilience/success-stories/palm-beach-county-florida/> (last visited August 24, 2022).

<sup>2</sup> *Id.* (emphasis added).

Increased densities and intensities threaten the progress that has been made with the Agricultural Reserve and the preservation of agriculture that has provided Palm Beach County with a sustainable food source for decades. There is a fallacy that changing circumstances necessitate modifications to the Ag Reserve never contemplated or flatly rejected by prior County Commissioners.

It is the duty of each Commissioner, as public servants, to consider these comments and fully evaluate the repercussions of modifying the Comprehensive Plan before taking any actions that could be detrimental to the very core of the Ag Reserve Tier. County Commissioners have taken these concerns to heart in the past and we ask that you again deny applications that would essentially modify the purpose of preserving the Ag Reserve right out of the Comprehensive Plan. We urge you to remain steadfast on these principles and deny the applications discussed in greater detail herein.

### ***CONSENT AGENDA ITEMS***

#### 7. PDD/DOA-2021-00122

##### Development Order to Add and Delete Preserve Lands

##### GL Homes utilization of Lake Worth Drainage Canals for Monticello ARG-PUD

#### 8. Z-2021-00121

##### Official Zoning Map Amendment to Rezone Amestoy AGR from Preserve to AGR

#### 9. Z-2021-00120

##### Official Zoning Map Amendment to Rezone Swaney AGR from Preserve to AGR

1000 Friends and Sierra Club have long raised concerns to the Commissioners regarding the allowance of developmental overreach in the Ag Reserve that summarily reduces, segregates, or altogether eliminates agriculture, conservation, and very low-density residential development in favor of higher density developments that are in direct contradiction to the spirit of the Ag Reserve. The very purpose of this Tier, composed of unique farmlands and wetlands, is to ensure preservation primarily for agricultural use.

The 60/40 preserve requirement has been a long-standing concession to allow development in areas that otherwise would be agricultural or low density residential at 1 unit per acre. This land development systematic plan ensures balance as conservation easements on these preserve areas are set in place to support, preserve and perpetuate bona-fide agricultural and open space uses of the subject parcel and to preserve any environmentally significant upland or wetland habitats, while allowing for development to support the farming community. *The preserve requirement should not allow developmental density increases in exchange for the preservation of an undevelopable parcel of land.*

1000 Friends and Sierra Club maintain that the Comprehensive Plan never intended for canal rights-of-ways to be utilized as a setoff due to the very nature of a canal as one for water management and not for the displacement of large areas of preserved lands. The request to remove restrictions on contiguous parcels of preserved areas in exchange for preserving canal rights-of-way from future development negates these very principles.

The exemption created for utilization of 260.129 acres of Lake Worth Drainage District canals as preserves for GL Homes developments that are already built out is a travesty and by no means a concession that is beneficial to the Ag Reserve, as the restoration of developmental rights on the preserve parcels will put them back into play for development or utilization as preserves for additional development in the Ag Reserve.

The Comprehensive Plan language requires the County to *preserve* the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier by limiting uses to *agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farm workers and residents of the Tier*.

Accordingly, 1000 Friends and Sierra Club respectfully request that Board of County Commissioners **DENY Consent Agenda Items E. 7-9.**

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## **REGULAR AGENDA ITEMS**

### ***K. 11. Agricultural Reserve Essential Housing Future Land Use Designation Text***

1000 Friends and Sierra Club agree that there is a need for *affordable housing* in Palm Beach County, yet disagree that the introduction of an Essential Housing designation to facilitate higher-density residential development with a percentage of units sold or rented for workforce housing is appropriate in the Ag Reserve. A resolution to the housing crisis must not result in inconsistent density and intensity in the Ag Reserve that would make it more like the Urban / Suburban Tier.

The purpose of the Ag Reserve is to *preserve unique farmland and wetlands* in order to *enhance agricultural activity, environmental and water resources, and open space, by limiting uses to agriculture, conservation, low density residential development, and non-residential uses which serve the needs of farmworkers and residents of the Ag Reserve Tier*.

To effectuate this purpose, the current density for the Ag Reserve is 1 unit per 5 acres, unless the parcel is located in a PUD (250 acres for a 60/40 preserve or 40 acres for an 80/20 preserve) or Traditional Marketplace; then the allowance is 1 unit per 1 acre. However, farm residences and grooms' quarters are exempt from the 1 unit to 5 acres restrictions for residential development in the Ag Reserve and can be located on the bona fide agricultural property / preserve. There is an allocation of multifamily residential units in the Traditional Marketplaces that the developers have failed to utilize, nor was there any contractual obligation to construct during the approval process.

Whereas, the proposal for Essential Housing would allow for an increase in density of 8 units per acre, a minimum of 30 acres, with a 60/40 preserve requirement, and limited to an area near the two existing marketplaces, in exchange for 35% on-site "workforce housing" units ranging from 40% to 140% of Area Median Income, which was \$90,300 as of July 2022.<sup>3</sup> Additionally, the proposal would require a second housing type for any development that exceeded 200 units.

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<sup>3</sup> <https://discover.pbcgov.org/pzb/planning/Projects-Programs/WorkforceHousingProgram.aspx> (last visited August 24, 2022)

There are a number of concerns that will be addressed in turn. First, the density of 8 units per acre **results in a net density of 20 units per acre**, and could potentially be compounded by the use of off-site preserves, permitting a total of 2,152 units to jump up to 5,379 units at a 2.5 increased density rate. This density is comparable to the urban and suburban tiers, and is wholly inconsistent with the Ag Reserve.

Second, Staff notes that there is a possibility of removing conservation easements on preserves for existing PUDs to be developed while replacing those preserves elsewhere in the Tier. This could result in lower quality preserves. Furthermore, if the water retention was allocated in the 60% preserve, instead of as its own separate requirement for water retention related to the development, it severely reduces the open space on the property resulting in a greater density of residential clustering. Staff has added in additional language that would allow for stormwater management directly related to the development to be allocated to 10% of the preserve requirement if it meets certain criteria. This proposal would allow for increased densities and intensities on the development area, in direct contrast to the well-established responsible land-use policy mandates that “landowners internalize the negative externalities of their conduct.” See *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).

Third, workforce housing is not the same as affordable housing, and unfortunately many farmworkers will still fall short of the Area Median Income to afford the proposed units. It is not disputed that Palm Beach County needs more affordable housing, but a workforce housing program is simply inappropriate for the Ag Reserve as it does not support the agricultural community and greatly increases densities far beyond what was contemplated in the Ag Reserve. The County would be better served focusing on public transportation for workers to come into the Ag Reserve rather than altering the Ag Reserve to accommodate incompatible residential densities.

There are other options approved in the Ag Reserve for diverse housing units, or opportunities for developers to create affordable housing outside the Ag Reserve Tier. For example, the Essential Housing Staff Report mentions, multiple times, the multifamily units that have already been approved in two traditional marketplaces, specifically 73 units at Delray Marketplace and 34 units at Canyons Town Center. However, as noted by Staff, these units have not been constructed and there is no requirement that they be built. These units were intended to provide an opportunity for housing types and prices located in mixed-use areas, yet have not been utilized.

Finally, the increased densities and intensities could alter the character of the Ag Reserve Tier. Staff has taken great care to limit the designation to a certain area, yet the impact may be felt Tier-wide as there will be increased traffic, roadway mortality of wildlife, development construction that could impact local water and environmental resources, and an overall loss of agricultural lands and the benefits of open spaces that have been discussed herein.

There will be unintended consequences if this proposal moves forward that will eviscerate the principles of the Ag Reserve and result in an incompatible increase in density and intensity of uses.

*Accordingly, 1000 Friends and Sierra Club respectfully request that the Board of County Commissioner **DENY the Agricultural Reserve Essential Housing Future Land Use Designation application.***

### ***K. 12. Title: Commerce Future Land Use Designation Text***

The Planning Commission recommended that the Commerce Future Land Use Designation be ***denied*** via a failure to pass an affirmative vote. There were numerous concerns voiced by the Planning Commission and public as to why this designation is not appropriate in the Ag Reserve. Specifically, there have already been requests to continue the Commerce frontage ***west*** of SR 7; there is no cap of commerce uses proposed, and no discussion of regional versus local uses when the Ag Reserve is specifically set aside to serve the needs of the residents and farming communities.

To address these concerns, after transmittal, County Staff has proposed capping Commerce sites at a maximum of 50 acres, ***but removing the requirement for any preserve despite the original proposal recommending a 60/40 preserve requirement on parcels exceeding 16 acres.*** This is the anthesis of the objectives, goals, and policies of the Comprehensive Plan governing the Ag Reserve. Furthermore, County Staff has proposed that Commerce be allowed ***west*** of SR 7 if adjacent to a commercial or industrial use, and has eliminated distribution centers, but allows warehouse and wholesale uses, which the Florida Department of Transportation has cited as a concern and opined that it would be inconsistent with the Policy of the Ag Reserve, “as proposed, since the uses could involve higher trip making and significant level of semi-tractor trailer truck trips that may cause ‘undesirable effects, danger or disturbance’ upon nearby areas and immediately adjoining uses.”

1000 Friends and Sierra Club concur with the Treasure Coast Regional Planning Council, which noted that the new land use “would reduce the potential for agricultural related uses” in the Tier and “the overall trend in the reduction of agricultural uses is of concern.” The Ag Reserve has been chipped away at for years, with the reduction of preserves, the continued segmentation of preserve parcels that were once contiguous, and increased densities and intensities that are encroaching on agricultural, open space, and environmental and water resources.

Historically, industrial uses in the Ag Reserve were limited to 64 acres of land with industrial designation that predated the Master Plan and fronted the north and south sides of Atlantic Avenue east of State Road 7. The Board of County Commissioners considered recommendations for the addition of industrial uses above and beyond those grandfathered into the Tier years ago, and found it to be detrimental to the Tier, thereby ***specifically directing that no new industrial future land use designations be permitted in the Ag Reserve.***

However, in direct opposition to this directive, which was set in place to ensure that development did not run afoul of Objective 1.5, industrial uses in the Ag Reserve have since expanded to 92 acres. The introduction of a Commerce FLU in the Ag Reserve will secure additional expansion of a use that was not contemplated in the Ag Reserve during its inception. ***In order to ensure that the Ag Reserve does not evolve into the Suburban or Urban Tiers, there must be a line drawn in the sand.***

There are a number of issues and concerns that must be taken into consideration and fully evaluated prior to the upheaval of the Comprehensive Plan to make way for additional industrial uses in the Ag Reserve, which will be addressed in turn as follows.



***(1) Preserve the Remaining Agricultural Lands and Fully Implement Objective 1.5***

Objective 1.5 of the Future Land Use Element of the Palm Beach County Comprehensive Plan created the Agricultural Reserve Tier to govern land use development in the “unique farmland and wetlands” under the guiding objectives of the Master Plan and states in pertinent part:

Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.

The Ag Reserve is at the precipice of being built out, with the remaining agricultural lands being developed for commercial or residential purposes at an alarming rate and in exchange for less preservation. There seems to be a fallacy that the Tier has an expiration, and when that is reached the remaining land is up for grabs to the highest bidder and the most skilled lobbyists to advocate for “change” beneficial to their land use desires.

Applicants for text amendments have consistently cited a reduction in farming operation as justification for opening up these lands for development. However, this is simply a red herring as farming is still viable in the Ag Reserve. Objective 1.5 should be implemented in full, and simply because a land may not be actively farmed does not mean that it is less deserving of preservation; as discussed herein, there are so many environmental benefits to serve the residents of the Ag Reserve and that have a net gain for the County.

The Commerce FLU amendment seeks to introduce industrial uses in the Tier where there is not a need, nor justification for such uses. The Comprehensive Plan was crafted and amended specifically to leave the option of additional industrial uses off the table. There will be no benefit to the Ag Reserve to allow it now; it will only contribute to the degradation of the Ag Reserve.

A Commerce designation in the Ag Reserve will create another special case revision to the long-standing principles set in place to distinguish this unique Tier from the urbanized tiers and surrounding counties, and will remove such applications out of the Commissioners’ and public hearing sphere for a mere checklist of requirements that can result in unintended degradation of the Ag Reserve.

***(2) Requiring No Preservation is the Anthesis of the Ag Reserve Principles***

The very proffer of waiving preservation requirements is troubling and a clear motivation for developers to step in and utilize open space for commerce. At the Planning Commission, County Staff advised that there was no mathematical basis for this proposal and that it was a “policy issue.” It must be noted that the Comprehensive Plan for the Ag Reserve has already clearly spoken on the issue of policy as it mandates the preservation (i.e. *“the perpetual maintenance of areas in their original state”*) not only of agricultural lands, but also environmental and water resources, and open space.



In fact, the Ag Reserve was created with an overall framework that recognized preservation of open space “was more efficient and could better accommodate a variety of public, agricultural, equestrian, and environmental uses when it consisted of large areas.” Exemptions removing acreage requirements work in opposition to this concept.

Rather than opening up this land, and reducing preservation requirements, the County should focus on acquisition of lands to remain preserved, converted to green open space, including parks with equestrian trails, wetland restoration, additional tree canopy of natural plants such as cypress, etc. to assist with water quality, carbon sequestration, and buffering the County’s environmentally sensitive areas, and return the Ag Reserve Tier to its unique farmland and wetlands composition rather than sprawling developments situated throughout.

***(3) A Commerce Designation in the Ag Reserve is not restricted to Local Uses***

The Commerce FLU amendment does not restrict the uses and leaves it open for regional rather than solely local uses. Objective 1.5 specifically restricts development to low-density uses that specifically serves of the needs of the residents and farming community in the Ag Reserve. If the Commerce uses in the Ag Reserve allow for regional uses, it can greatly exceed the intensity of the uses, increase the traffic flow to the Commerce designed property, and create hardships for the residents and farming community in the Ag Reserve, rather than service their needs.

***(4) The Commerce FLU Designation would allow Industrial Uses West of SR 7***

Objective 1.5 has clearly stated that environmental and water resources would be best preserved were development “concentrated east of SR7 ... in order to protect the environmentally sensitive lands within and surrounding the Loxahatchee National Wildlife Refuge,” as well as ensure that growth is clustered appropriately where infrastructure and services already exist in order to “reduce [] costs and impacts on taxpayers,” and finally, new development should occur as “planned developments with a preserve area.”

Allowing for an entire designation unanticipated, and even rejected, within the Ag Reserve to be implemented with the uncertainty of an evaluation on the detriment to important environmental and water resources is offensive to the founding principles of the Ag Reserve.

The Ag Reserve is at risk of phasing out agricultural lands in favor of high-density residential, increased commercial, minuscule or eliminated preserve requirements, and low-industrial sectors. To allow for the continued increase of density and intensity beyond the original intention of the Comprehensive Plan would nullify the very spirit of the Ag Reserve and would mutate the environmentally sensitive and rural lands into an urbanized area indistinguishable from the rest of Palm Beach County.

*Accordingly, 1000 Friends of Florida and Sierra Club Loxahatchee group respectfully request that the Board of County Commissioners **DENY the application for a Commerce FLU Designation.***

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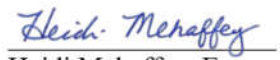
### Conclusion

The Palm Beach County Board of Commissioners has the unique opportunity and responsibility of preserving the vast majority of remaining natural resources and open space in the tri-counties. This Commission has always had the foresight to protect the County's resources that not only provide ecological and economic benefits today, but also protect the environmentally sensitive areas for generations to come as **once these areas are gone, they are gone forever.**

We urge you to deny the applications discussed here as they are not in furtherance of the founding principles of the Comprehensive Plan for the Ag Reserve Tier.

Thank you for your time and consideration of these comments.

Respectfully,

  
Heidi Mehaffey, Esq.  
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Fla. Bar No. 118806

CC: 1000 Friends of Florida  
Sierra Club Loxahatchee Group