



## COMPREHENSIVE PLAN AMENDMENT STAFF REPORT AMENDMENT ROUND 15-2

---

**BCC TRANSMITTAL PUBLIC HEARING, JULY 30, 2015**

### I. General Data

---

**Project Name:** Agricultural Reserve Contiguity Requirements for Preserves  
**Element:** Future Land Use Element  
**Project Manager:** Maria Bello, Senior Planner  
**Staff Recommendation:** Staff recommends *approval* based on the findings and conclusions presented in this report.

### II. Item Summary

---

**Summary:** This proposed amendment would revise the Future Land Use Element provisions regarding contiguity requirements for preserves associated with Agricultural Reserve 60/40 planned residential developments. Currently the plan requires preserve parcels less than 150 acres in size to be contiguous to other preserves or conservation areas that aggregate to at least 150 acres. This amendment will eliminate this requirement in order to allow free-standing preserve areas of less than 150 acres.

In addition, this amendment will clarify a different, unrelated use of the term "contiguous" in a separate section of the policy, and correct a policy reference.

**Assessment:** The proposed amendment would offer an additional option for smaller parcels, consistent with the 1 du/ac density option currently afforded to eligible parcels. The proposed amendment would allow smaller, isolated parcels to become eligible to be preserves which, while not the intent of the original provisions when adopted, could facilitate the perpetuation of small-scale agricultural operations in the area, both existing and new. The proposed amendment would likely result in additional preserves beyond what could occur under current conditions. The units transferred do not represent additional units, as these were anticipated in the conceptual Master Plan prepared for the Agricultural Reserve.

### III. Hearing History

---

**Local Planning Agency: *Denial***, motion by Thomas Dennis, seconded by Armand Grossman, passed in a 12-0 vote at the June 12, 2015 public hearing. This was a substitute motion to a prior motion to approve the staff recommendation, by Sandra Greenberg, seconded by Lori Vinikoor. The PLC discussion included concerns regarding potential implications from the amendment, including the potential swap of existing large preserves for smaller preserves and potential incompatibilities resulting from agricultural uses on isolated preserves near residential uses, and that the amendment may be premature considering the potential amendment to accommodate farm residences. The PLC indicated that these and other ramifications should be more thoroughly considered prior to proceeding with this amendment. Two members of the public spoke in support, and nine members of the public spoke in opposition, including representatives of organizations. Two documents were submitted for the record, and are attached in Exhibit 6 (a letter from 1000 Friends of Florida and a document

**Board of County Commissioners Transmittal Public Hearing:**

**State Review Agency Comments:**

**Board of County Commissioners Adoption Public Hearing:**

T:\Planning\AMEND\15-2\Reports-Agendas\2-BCCTran\3-B-1\_15-2\_Text-AGR-Contiguity\_Rpt.docx

## **IV. Background**

---

This amendment is one result of a year-long “Roundtable” process directed by the Board of County Commissioners (BCC) to consider changes to Agricultural Reserve (AGR) provisions proposed by a group of property-owners in early 2014. At a subsequent workshop in March 2015, the BCC considered the input received during the Roundtable process and directed staff to proceed with several different actions, including this proposed amendment. Additional information regarding the Roundtable process is found on the Planning Division Agricultural Reserve webpage: [http://www.pbcgov.com/pzb/Planning/ag\\_reserve/ag\\_reserve.htm](http://www.pbcgov.com/pzb/Planning/ag_reserve/ag_reserve.htm), including a list of all items directed by the BCC at that workshop. Some of these additional items may also result in amendments to the AGR provisions of the Comprehensive Plan in future amendment rounds.

## **V. Intent**

---

This amendment would revise requirements for AGR 60/40 Planned Residential Developments (PRDs) to eliminate the contiguity requirement for preserve areas associated with these developments. The intent of this amendment is to allow parcels smaller than 150 acres that are not adjacent to existing preserves or conservation areas to become eligible as potential preserves, by eliminating the requirement that smaller parcels comprising the 60% preserve area for 60/40 PRDs be contiguous to other lands that aggregate to 150 acres and have a conservation or preserve status. This amendment does not propose changes for preserve areas associated with “80/20” PRDs or Traditional Marketplace Developments (TMDs).

The amendment also includes a minor change to clarify a different use of the term “contiguous” in the Comprehensive Plan AGR policies, when used to refer to preserve areas located adjacent to development areas. A second minor change is included to correct a policy reference which is in error.

The specific changes in strike out and underline format are provided in Exhibit 1.

## VI. Data and Analysis

---

### A. Amendment to Clarify Use of “Contiguous” Term

In the AGR provisions, the term “contiguous” is used in several different contexts. One use of the term relates to location requirements for small preserves for 60/40 PRDs, which must be located ‘contiguous’ to other preserves. That ‘contiguity requirement’ is the subject of the majority of this report.

Another use of the term relates to the location of preserves relative to the PRD *development area*. The term is used in this way in Policy 1.5.1-i, in paragraphs 3 and 6d:

**Policy 1.5.1-i:** *A 60/40 AgR-PDD shall require the following:*

*(portions omitted for brevity)*

3. *the development area and the protected area need not be contiguous;*
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:*
  - d) *that in cases of contiguous preserve areas, 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-PDD or agricultural users, and operate under common management of an HOA or third party.*

The proposed amendment, reflected in Exhibit 1, includes a minor change to clarify this use of the term “contiguous.” The amendment will clarify that “contiguous” in paragraph 6d relates to the location of preserves adjacent to development areas. This portion of the amendment is unrelated to the proposed changes to the contiguity requirements for 60/40 PRD preserves. The intent of this minor change is to avoid confusion in the interpretation and application of this AGR PRD provision.

### B. Amendment to Correct Policy Reference

Policy 1.5.1-e enables properties along designated rural parkways within the AGR to receive preserve area credit for the parkway easement on the property. This policy includes a reference to minimum contiguous reference requirements established in two other policies, Policy 1.5.1-i and Policy 1.5.1-l. The first reference is correct, linking to the provisions for a 60/40 PRD. The second reference, however, is incorrect. The referenced policy relates to management plans for golf courses:

**Policy 1.5.1-l:** *The Unified Land Development Code shall require that any golf course, which is constructed in the Agricultural Reserve Tier as a part of a 60/40 AgR-PDD have a management plan, which at a minimum, shall contain the following:*

1. *an integrated pest management plan designed to prevent contamination of ground and surface water from pesticides, herbicides, and fertilizers;*
2. *a water quality and quantity monitoring plan with emphasis on impacts to adjacent wetlands and surface waters;*
3. *best management practices which, at a minimum, identify procedures to be followed for the construction, irrigation, operation, and maintenance of the golf course; and*

4. *a landscape plan utilizing only native or drought tolerant species for all landscape requirements.*

The correct reference should be to Policy 1.5.1-m, addressing provisions for TMDs, which have minimum contiguity requirements for their associated preserves:

**Policy 1.5.1-m: An Agricultural Reserve Traditional Marketplace Development (AgR-TMD)** shall require the following:

*(portions omitted for brevity)*

4. *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. Up to 10 percent of the preserve area may be located within the development area for use as open space or public greenspace. Any portion of the preserve area not located within the development area:*
  - a) *may be contiguous with the developed area; and/or it may be noncontiguous with the developed area, in which case it shall have a common boundary with other lands that aggregate to a total of 150 acres and 1) have a future land use designation of Conservation; and/or 2) that are designated as an Agricultural Reserve Preserve; and/or 3) that have had the development rights removed and remain in some type of open space.*

This amendment would replace the policy number with the correct reference. The amendment would not change contiguity or other requirements for TMD preserves.

## **C. Amendment to Revise Contiguity Requirements for 60/40 Preserves**

### **1. The 60/40 Planned Residential Development Option and Proposed Changes**

The AGR is designated in the Comprehensive Plan as an area to be preserved primarily for agriculture. Additional background information regarding the AGR provisions and current development options is provided in **Exhibit 2**. The various development options available are intended to either have a low impact on agriculture, or to contribute toward the objective of agricultural preservation in the AGR by requiring that a portion of the property be preserved.

The 60/40 PRD option requires a minimum of 250 acres; a maximum of 1 unit per acre, calculated over the entire acreage, is to be concentrated on 40% of the land area, with the remaining 60% of the land set aside in preservation through a conservation easement. The development portion must be located east of SR 7. The preserve area need not be contiguous to the development area, and can occur anywhere in the AGR. The preserve parcel (60%) for a 60/40 project would be at least 150 acres; it can be a single parcel, or it can comprise multiple smaller parcels totaling the required 60%, provided that each contributing preserve parcel is contiguous to (shares a common boundary with) other properties which are in conservation or preservation status and total at least 150 acres.

This 60/40 planned development option involves the shifting of units from the 'preserve' portion to the 'development' portion of the project, so that 100% of the units are concentrated on 40% of the land area. This is separate and distinct from the Transfer of Development Rights (TDR) program, wherein units can be transferred (in private

transactions) from parcels in the AGR and other “sending areas” to designated “receiving areas” in the Urban/ Suburban Tier. No change to the TDR program is proposed in this amendment.

Among the proposals made by AGR property-owners in March 2014 was the elimination of the size/contiguity requirement for preserves associated with 60/40 PRDs, so that parcels less than 150 acres in size that are not contiguous to preserves or conservation areas would become eligible to sell development rights and become preserve areas for 60/40 PRDs. This proposed change has been described by affected property-owners as a means to:

- enhance the viability of agriculture, by affording property-owners the opportunity to benefit from the sale of development rights while continuing with agricultural or other related uses consistent with preserve status.
- address an unintended consequence of the 60/40 provisions that has become evident as the area builds out: through no fault of their own, some smaller, willing property-owners are prevented from selling development rights and having their property become a preserve, because the neighboring property-owner is unable or unwilling to place their own property in preserve status, thereby preventing contiguity
- correct a perceived unfairness in the 60/40 provisions for owners of smaller properties compared to larger properties, as smaller properties do not enjoy the benefit of the 1 du/ac density enjoyed by the larger property-owners unless additional criteria are met.

## **2. Application of Contiguity Requirements**

Contiguity requirements for 60/40 preserves have been in place since the adoption of the 60/40 provisions in 1995. As originally adopted, these provisions required the preserve parcel to be both a single contiguous protected area of at least 150 acres, and to have a common boundary with other agricultural lands, fallow land, or land projected to otherwise be in an open space land use. The intent of the requirement was achieve the preservation of larger-scale parcels that would be suitable and available for row crop cultivation. It was also intended that, by requiring contiguity, agricultural operations would occur in concentrated areas, limiting the impacts of these operations on the surrounding development, and limiting the impacts of development on the farming operations.

As part of the incorporation of the Managed Growth Tier System into the Comprehensive Plan in 1999, the Agricultural Reserve Tier was created, and in 2001 additional provisions for the area were adopted following completion of a BCC-directed conceptual Master Plan for the AGR. This included modifying requirements for the preserve areas of 60/40 developments, to allow for multiple smaller parcels to comprise the required 60% provided that each component was contiguous to land in a preservation or conservation status totaling at least 150 acres.

The 60/40 option has been the most-used development option in the AGR. These projects have occurred essentially in the areas anticipated in the Master Plan (See **Exhibit 3** for a side-by-side comparison of the conceptual master plan and the locations of existing land uses in the AGR). To date, sixteen 60/40 projects have been approved, encompassing approximately 11,500 acres. These projects are approved for 9590 units, and will result in nearly 7,000 acres of preserves. Preserves for these projects comprise a combination of small and large parcels, in some cases adjacent to the development area but often located elsewhere in the AGR (**Exhibit 4**). Increasingly, as the availability of uncommitted lands in

the AGR has diminished, smaller parcels have been used more often for preserves. According to property appraiser data, slightly more than half of the preserve areas associated with 60/40 planned developments have an agricultural use; the balance may be in open space or conservation use.

Presently, about 244 parcels totaling 2700 acres, or about 13% of the AGR, have no development approval. (**Exhibit 5**). Of these parcels, approximately 60% are not contiguous to properties that are in a preservation or conservation status. These 146 parcels are therefore currently not eligible to sell development rights and become preserves for 60/40 planned developments, though eligibility could occur in the future if adjacent parcels were to become preserves. These parcels are located throughout the AGR, but are concentrated in an area just west of the Turnpike and north of Boynton Beach Boulevard, and another area along Lyons Road south of Atlantic Avenue. Of these parcels, about three-quarters presently have an agricultural classification on some portion or all of parcel, as determined by the Property Appraiser. This classification reflects that the qualifying portion of the property has a bona fide commercial agricultural use, and its taxable value is based on its ability to generate income. Preserve parcels are not required to be in agricultural use or have an agricultural classification.

### **3. Impact of Proposed Amendment**

If the proposed amendment were adopted, 146 parcels that are currently not eligible to be preserves could become eligible with regard to contiguity; however, a number of these parcels have uses which are not allowed on preserves, including some residences, and in these cases the parcel, or a portion of the parcel, would remain ineligible to become a preserve unless the use were discontinued. Under current conditions, the anticipated impact of the proposed amendment is that 133 parcels would become eligible in whole or in part, and that these parcels would yield 1041 transferrable units, and a corresponding 1041 acres of preserves. The large majority are east of SR7. These range in size from less than an acre to 94 acres, with approximately 85% of the individual parcels under 10 acres in size. **Exhibit 5** provides a generalized depiction of parcels which are currently not contiguous to preserve areas, and which could become eligible through the proposed amendment.

Although the proposed amendment would eliminate the contiguity requirement for parcels smaller than 150 acres, parcels proposed for preserves would continue to be subject to Unified Land Development Code requirements that preserve parcels and any remaining portion of a lot used to create a preserve must meet the minimum property development regulations of the AGR zoning district. This means that a minimum lot size of 5 acres and minimum lot dimensions will apply, except to non-conforming legal lots of record.

#### **a. Potential Impacts on Agriculture**

The intent of requiring a larger minimum acreage in exchange for the use of this development pattern was to promote the preservation of larger parcels that could continue to be available for row crops, including vegetable farming. As shown in Exhibit 4, many large parcels have been preserved as part of 60/40 developments, though some have subsequently been replaced with a combination of smaller parcels that met the eligibility criteria. However, Comprehensive Plan AGR policies do not specifically identify row crop or vegetable farming as the preferred agricultural activity, and Policy 1.5-d commits the County to promote development of opportunities for alternative and niche crops. The County's Agricultural Extension office anticipates that row crop

cultivation acreage will continue to decline in the AGR, due both to residential development, and to the acquisition of lower cost acreage outside of the County.

The parcels that would become eligible pursuant to this proposed amendment are parcels which would have been eligible to be preserves if a neighboring parcel had been designated as a preserve parcel or placed in a conservation use, thereby allowing for the required contiguity. These property-owners have not been able to participate in the 60/40 development option which is the predominant development pattern in the AGR. It is not possible to predict the extent of future participation nor the decisions that will be made by each newly-eligible property-owner should the proposed amendment be adopted; however, some potential impacts can be anticipated.

As noted above, approximately 85% of parcels that would be affected by the proposed amendment are under 10 acres in size, and more than half of those are smaller than 5 acres. Smaller sized parcels are more typically used for nurseries, for niche crops that are grown on a small scale, and for equine uses. The proposed amendment could increase the viability of existing agricultural operations on these smaller parcels by generating funds from the sale of development rights that can then be used to enhance the profitability of the agricultural operation, through debt retirement or equipment purchases, for example. In doing so, it may help to preserve the two small “communities” of small-scale agricultural operators that remain in the AGR. It may also have the effect of facilitating access to farmland for equine uses or small-scale agricultural operators, who may be able to better afford the purchase or lease of the property from which development rights have been eliminated. To the extent that this change may increase the number of parcels that are in agricultural use, however, issues of incompatibility with any adjacent residential uses may arise. The proposed amendment may also have the effect of encouraging further swaps of larger existing preserves, freeing those to become development areas, by replacing them with smaller parcels less suitable for row crops.

#### **b. Potential Impact on Unit Totals**

Plan provisions enacted for the AGR did not guarantee that all parcels would be able to participate in the 60/40 or 80/20 residential development options, which allow a density of 1 unit per acre. Instead, eligibility criteria including use, size, and contiguity were adopted, and property-owners could opt to participate if and when their properties met the eligibility criteria. Under the Plan provisions, parcels that did not meet the eligibility criteria were anticipated to develop with an AGR use or residential at a density of 1 unit per 5 acres, or to participate in a TDR transaction. This was deemed to be an acceptable set of options for property-owners that did not meet the eligibility criteria for the higher-density option; the higher density option was reserved for those properties that met the criteria, because they offered the opportunity for larger preserves, toward the public purpose of agricultural preservation

However, in terms of the number of units anticipated to develop in the AGR, data associated with the development scenarios in the 1999-2000 master planning effort indicate that most undeveloped parcels in the AGR were assumed to participate in a 60/40 or 80/20 development option, at the 1 unit per acre density. Unit projections associated with the conceptual Master Plan assumed that all property not already developed, in an approved subdivision, publicly owned, or to be purchased with public funds, would develop at one unit per acre, yielding approximately 14,000 additional units

beyond what was existing in 1999. Therefore, this proposed amendment will not increase the number of units anticipated for the AGR in the Master Plan.

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

### **1. Consistency with County Directions**

**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.*

**2. Growth Management.** *Provide for sustainable communities and lifestyle choices by: (a) directing the location, type, intensity and form of development that respects the characteristics of a particular geographical area; (b) ensuring smart growth, by protecting natural resources, preventing urban sprawl, providing for the efficient use of land, balancing land uses; and, (c) providing for facilities and services in a cost efficient timely manner.*

**10. Design.** *Promote the concept of design to direct development, in rural and urban areas. Design is used to prepare and implement policies and plans that guide the physical development of the built environment and make such development functional, orderly, efficient, visually pleasing, environmentally sound, economically viable and supportive of generally accepted community goals.*

**11. A Strong Sense of Community.** *Encourage citizen involvement, neighborhood spirit, and local pride in the County, and a commitment to working constructively on community problems.*

**15. Agricultural and Equestrian Industries.** *Support and enhance agriculture and equestrian-based industries.*

**Staff Assessment:** This proposed amendment will promote the above listed County Directions, in that the changes to the 60/40 planned development provisions will allow the further extension of a desired pattern in the AGR that balances preservation and development. For small parcels that become eligible and opt to become preserves, these changes can help to enhance the sense of agricultural community, and provide opportunities for new agricultural and equestrian activities, especially on a small scale.

### **2. Consistency with Managed Growth Tier System**

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

*Palm Beach County shall implement the Managed Growth Tier System strategies to protect viable existing neighborhoods and communities and to direct the location and timing of future development within 5 geographically specific Tiers to:*

*1. Ensure sufficient land, facilities and services are available to maintain a variety of housing and lifestyle choices, including urban, suburban, exurban, and rural living;*

2. *Preserve, protect, and improve the quality of natural resources, environmentally sensitive lands and systems by guiding the location, type, intensity, and form of development;*
3. *Accommodate future growth but prohibit further urban sprawl by requiring the use of compact forms of sustainable development;*
4. *Enhance existing communities to improve or maintain livability, character, mobility, and identity;*
5. *Facilitate and support infill development and revitalization and redevelopment activity through coordinated service delivery and infrastructure upgrades;*
6. *Protect agricultural land for farm uses, including equestrian uses;*
7. *Strengthen and diversify the County's economic base to satisfy the demands of the population for employment growth, and provide opportunities for agricultural operations and employment centers; and,*
8. *Provide development timing and phasing mechanisms in order to prioritize the delivery of adequate facilities and services to correct deficiencies in existing communities and accommodate projected growth in a timely and cost effective manner.*

**Staff Assessment:** The proposed amendment contributes to the furthering of several aspects of this objective, including enhancing existing communities, protecting agricultural land, and providing opportunities for agricultural operations.

### **3. Consistency with Agricultural Reserve Policies**

**Objective 1.5:** *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.*

**Staff Assessment:** The proposed amendment represents a change to the adopted provisions for 60/40 PDR preserves, but is generally consistent with the objective of the AGR and to preserve and enhance agricultural activity within the AGR area.

## **E. Unified Land Development Code Implications**

This proposed amendment would require revisions to “Sec.3.E.2.F.3.e Contiguity” of the Unified Land Development Code.

## VII. Public and Municipal Review

---

The Comprehensive Plan Intergovernmental Coordination Element **Policy 1.1-c** states that *“Palm Beach County will continue to ensure coordination between the County’s Comprehensive Plan and plan amendments and land use decisions with the existing plans of adjacent governments and governmental entities.....”*

**A. Intergovernmental Coordination:** Notification of this amendment was sent to the Palm Beach County Intergovernmental Plan Amendment Review Committee (IPARC) for review on June 3, 2015. This amendment applies only to future land use designations in unincorporated County. At the time of the printing of this report, no calls or written requests for information or objections to the amendment had been received.

**B. Other Notice:** Two comments and materials had been received prior to July 6, 2015, and are provided in Exhibit 6. Additional comment materials will be added to the exhibits as they are received.

## VIII. Conclusion and Recommendation

---

The proposed amendment would revise Comprehensive Plan policies relating to 60/40 PUDs, specifically the preserve requirements. The objective of the change is to facilitate the transfer of development rights between parcels, resulting in additional areas of development and preservation beyond what can occur under current conditions and provisions.

Parcels that are not eligible under current policy have the option of AGR uses or residential development at 1 unit per 5 acres, as well as TDRs. The proposed amendment would offer an additional option for these parcels, consistent with the density option afforded to eligible parcels. The proposed amendment would result in additional preserves beyond what could occur under current conditions. The units transferred do not represent additional units, as these were anticipated in the master plan. The proposed amendment would allow smaller, isolated parcels to become eligible to be preserves which, while not the intent of the original provisions when adopted, could facilitate the perpetuation of small-scale agricultural operations in the area, both existing and new.

The two additional components of the amendment are minor changes to clarify and correct text.

Staff recommends **approval** of this amendment.

### Attachments

---

Exhibit 1 – Proposed changes in strike out and underline format	E - 1
Exhibit 2 – Background: Agricultural Reserve and Comprehensive Plan Provisions	E - 3
Exhibit 3 – Map: Comparison of Master Plan and Current Land Uses	E - 5
Exhibit 4 – Map: Public-Owned Lands and PDDs	E - 6
Exhibit 5 – Map: Parcels without Development Approvals	E - 7
Exhibit 6 – Comments Received	E - 7

## Exhibit 1

---

### A. Future Land Use Element, Agricultural Reserve Tier

#### A.1. REVISE FLUA 60/40 Planned Development Option Section, Policy 1.5.1-i

**REVISIONS:** To revise the preserve requirements for 60/40 planned developments, and to clarify a different use of the term “contiguous.” The added text is underlined, and the deleted text ~~struck out~~.

#### 60/40 Planned Development Option

**Policy 1.5.1-i:** A 60/40 AgR-PDD 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 ~~contiguous~~ area of 150 acres; or and,
  - b) ~~shall have a common boundary with other lands that aggregate to a total of 150 acres and 1) have a future land use designation of Conservation; and/or 2) that are designated as an Agricultural Reserve Preserve; and/or 3) that have had the development rights removed and remain in some type of open space; and~~
  - c) ~~be~~ utilized for crop production, pasture, equestrian purposes, retained as fallow land or, if designated by the South Florida Water Management District as a Water Preserve Area, or to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water Management District, or for water management purposes not directly related to the 60/40 AgR-PDD if approved by the Department of Environmental Resources Management, managed for

environmental resource values. Accessory agricultural structures such as barns and pump structures shall be permitted. Agricultural support uses such as processing facilities, and the like shall not be accommodated in the protected area of an AgR-PDD, 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

- bd) that in cases of ~~contiguous~~ 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-PDD or agricultural users, and operate under common management of an HOA or third party.

## A.2. REVISE FLUA Planned Developments Section, Policy 1.5.1-e

**REVISIONS:** To correct a policy reference. The added text is underlined, and the deleted text ~~struck out~~.

**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 AgR-PDD established in Future Land Use Policies 1.5.1-i and ~~4.5.1-i~~ 1.5.1-m.

## Exhibit 2

---

### **Background: Agricultural Reserve and Comprehensive Plan Provisions**

The Agricultural Reserve (AGR) today covers approximately 22,000 acres of unincorporated land west of the Turnpike and north of the Broward County line. The Agricultural Reserve is the warmest winter vegetable area along the US eastern seaboard, and crops include peppers, cucumbers, squashes, eggplant, lettuce, green beans, tomatoes, okra, cabbage, peas, herbs, and niche crops such as organic farming or Asian vegetables. Tropical and sub-tropical nursery products are also raised in this area.

In 1980, the “Reserve” area was established for the first time in the County’s Comprehensive Plan, in an area previously designated for residential estate development. The emphasis was on preservation of agriculture, given the identified characteristics of the area and its productivity. Limited options were offered for development (subdivisions at 1 unit per 5 acres, or “80/20” planned residential developments (PRDs) at 1 unit per acre, requiring a minimum of 40 acres and 80% of the land to be preserved), or the transfer of development rights (at 4 units per 5 acres) to projects outside the Reserve.

With the adoption of the County’s current Comprehensive Plan in 1989, name of the area was changed to “Agricultural Reserve”; however, the long-term viability of agriculture in the area was under debate, and a moratorium was enacted until a study could be completed to evaluate the issue.

Ultimately, in 1995, the Board of County Commissioners adopted new provisions for the AGR, based on some of the recommendations of these studies and input from affected parties. These included an additional development option (“60/40”) requiring a minimum of 250 acres. This option required a minimum of 150 acres (60%) of preserve area, with development at 1 unit per acre to be clustered on 40% of the land. Preserve areas under this option were not required to be contiguous to the development area, and the development portion was limited to areas east of SR7. The moratorium was lifted in 1995 allowing all the development options to proceed.

Among the other provisions enacted in 1995 was the establishment of a Purchase of Agricultural Conservation Easements program, to enable the County purchase of development rights from agricultural lands in the AGR. This program met with little success, which eventually led to a recommendation for a bond issue for funding to acquire lands instead of conservation easements. In preparation for the bond referendum, the BCC authorized the development of a conceptual Master Plan for the AGR. The Master Plan reflected and refined the available residential development options, and introduced limited commercial development in the form of traditional marketplace developments (TMDs).

In 1999 Palm Beach County voters approved a referendum authorizing a \$150 million bond issue to purchase agricultural and environmentally sensitive lands. Close to 2,400 acres were purchased with bond proceeds. In 1999, the County also adopted the Managed Growth Tier System, which included an Agricultural Reserve Tier; in 2001, additional elements from the AGR conceptual Master Plan such as the TMDs were incorporated into the Agricultural Reserve Tier provisions.

Today, most properties within the area are designated AGR and as such are permitted to develop a number of agricultural-related uses. New commercial development is limited to two

TMDs and a commercial-low office development, at specified locations. The Comprehensive Plan also outlines several residential development options:

- Private Transfer of Development Rights to designated receiving areas outside the Agricultural Reserve, at 1 unit per acre
- Residential subdivisions, at 1 unit per 5 acres
- PRDs at a density of 1 unit per acre, clustered on either 20% or 40% of the land area, with the balance preserved as open space or agriculture.

Approximately 53% of the Agricultural Reserve (11,800 acres) has been approved under the PRD or options. An additional 1,200 acres of the AGR is approved for residential subdivisions which are largely built-out. To date, nearly 10,200 dwelling units are approved (within the PRDs and subdivisions) of which approximately 5,400 units have been built, and 4,800 are approved but as yet unbuilt. Approximately 13% (2,776 acres) of the area remains available for uses as allowed under the AGR future land use designation, including agriculture; some of these parcels are also eligible for the other development options available.

The implementation of the PRD and TMD options has yielded about 7,000 acres of preserve areas secured with conservation easements. Just over half of this land is in use for agriculture, and the remainder is used for conservation purposes. Approximately 2,400 are in County ownership through Bond-funded acquisitions to preserve agricultural and environmentally sensitive lands; other lands have also been purchased by the County, primarily for future parks. Approximately three-fourths of County-owned lands are in agricultural use. In total, government agencies own approximately 8,700 acres within the AGR, most located west of SR 7. The largest government land owner is the South Florida Water Management District, with nearly 4,000 acres. A total of 12,430 acres or approximately 56% of lands have been preserved for agricultural preservation, water management and open space.

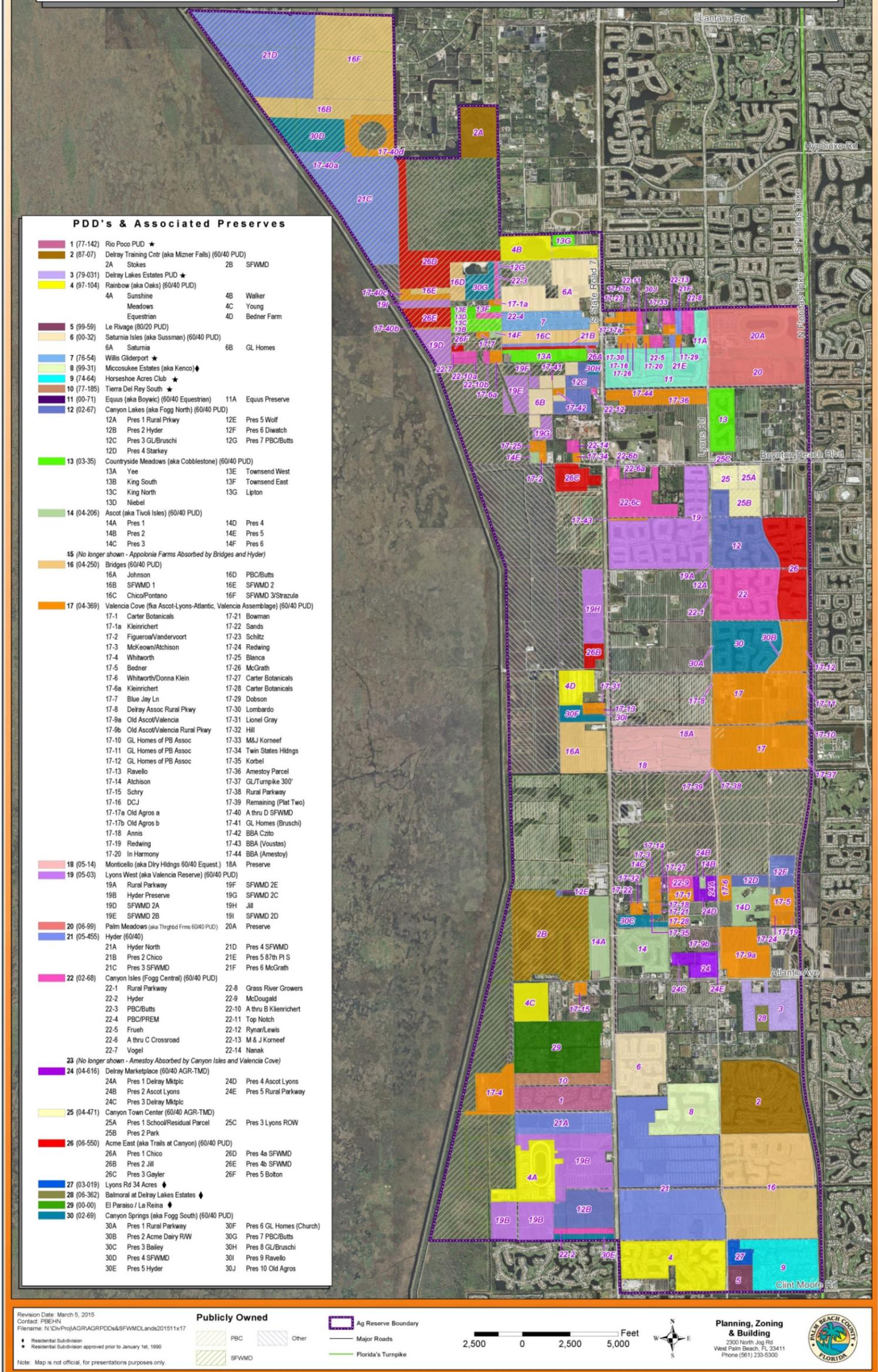
# Comparison: Master Plan and Current Land Uses



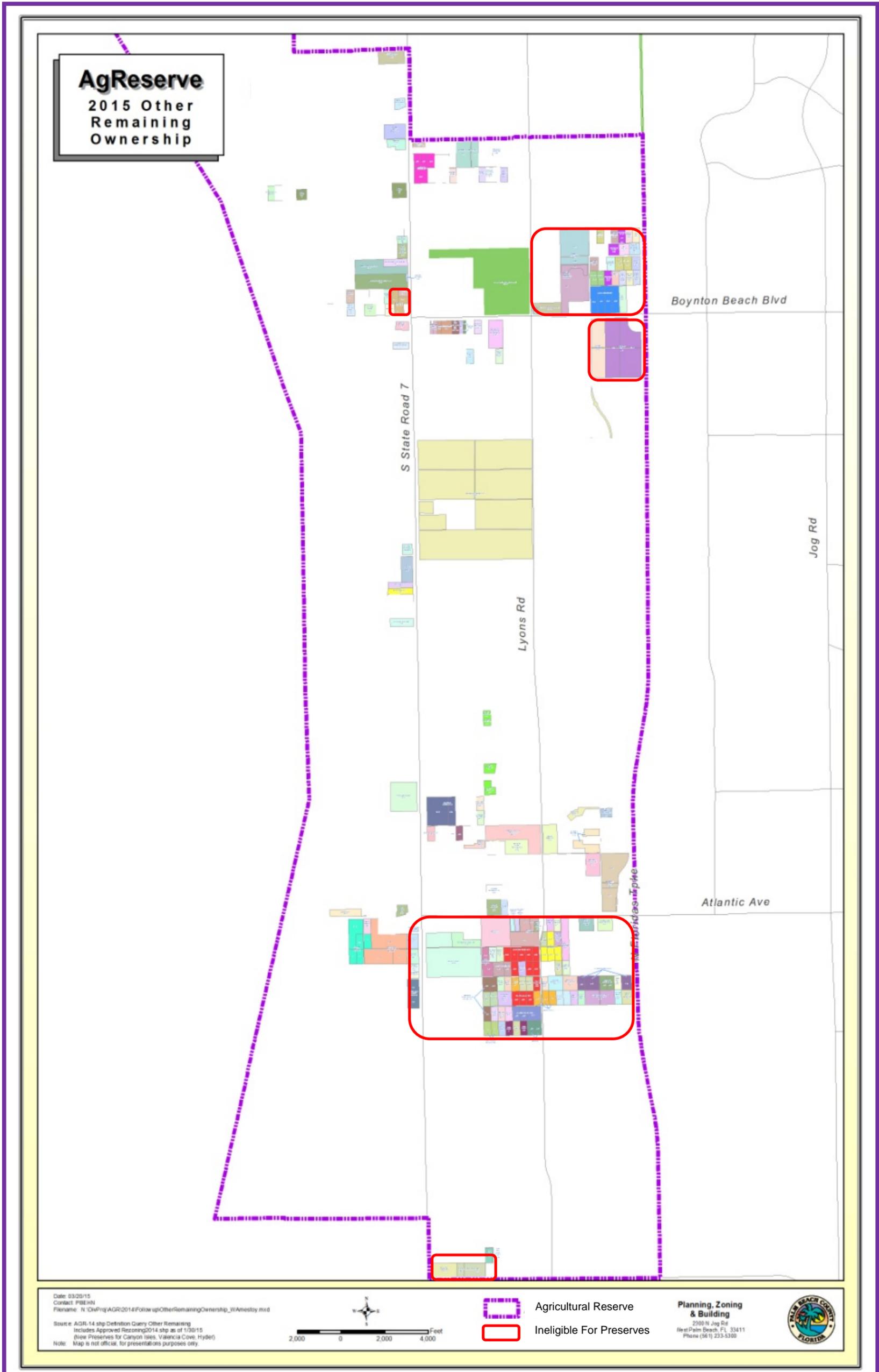
- Residential
- Agriculture/Preserves/Conservation
- Traditional Marketplace
- Office

# Agricultural Reserve

## Lands Committed to Publicly Owned Lands & PDD's 2015



**Exhibit 5: Parcels without Development Approvals (Ownership Symbolized by Color) and Generalized Areas Ineligible for Preserves (Affected by Proposed Amendment)**



**Exhibit 6**  
**Comments Received**

**From:** Jeff McDougald [eagleplants@yahoo.com]  
**Sent:** Thursday, June 04, 2015 6:00 PM  
**To:** Maria Bello  
**Subject:** Re: Courtesy Notice: Agricultural Reserve Contiguity Amendment

This will create an ugly patchwork throughout the area. The intent of AR was to grow outward from larger, existing preserve areas.  
You watch...

---

building better communities • saving special places

JUN -8 2015

C. Lorenzo  
Patricia  
Maria  
Isaac



June 5, 2015

Rebecca D. Caldwell  
2300 N. Jog Road  
West Palm Beach, FL 33411-2741  
Phone: (561) 233-5000  
Fax: (561) 233-5212  
Sent via email: RCaldwell@pbcgov.org

RE: Agricultural Reserve Revisions

Dear Ms. Caldwell:

1000 Friends of Florida (1000 Friends) is a statewide 501 (c)(3) smart growth advocacy nonprofit organization with a substantial amount of members that live and work in Palm Beach County. 1000 Friends has been actively following and participating in Palm Beach County planning programs for decades and specifically engaged in planning the Agricultural Reserve (Ag Reserve) since its inception. Most recently, in response to the County's request for participation in its workshop on issues pertaining to the Ag Reserve, 1000 Friends submitted comments through the Planning Division's website, provided our insight and expertise to the County Commission on February 11, 2015 and, through local counsel, made oral comments at your last agricultural preserve workshop on February 17, 2015. We submitted additional comments on March 20 prior to your Board of County Commissioner's ("BOCC") workshop meeting on March 24. We also directly participated in the March 24, 2015 workshop to discuss the issues and policies affecting the Ag Reserve. We were pleased that the BOCC chose to make a concerted effort to continue to protect the Ag Reserve while balancing the actual needs of the land owners. The BOCC recognized the intent of the voters that protecting these viable agricultural lands is a priority. To this extent the BOCC provided County planning staff the following direction:

Issue	Direction
Contiguity Requirement for Preserves	1. Return to the Board with appropriate language to revise the current requirements for preserve areas of 60/40 Planned developments, to eliminate the current requirement that a preserve property be at least 150 acres or be contiguous to preserved property totaling 150 acres.
Expand Preserve Area Uses	2. Amend the Unified Land Development Code (ULDC) to modify the 25,000 sq. ft. limitation for packing plants that are accessory to a bona fide agriculture in AGR preserve areas; and to allow community gardens, potting soil

1000 Friends of Florida P.O. Box 5948 • Tallahassee, FL 32314-5948 • HOME 850.222.6277 • FAX 850.222.1117  
Board of Directors Timothy Jackson, Chair, Victoria Tschinkel, Vice Chair, F. Gregory Barnhart, Secretary, Terry Turner, Treasurer  
Jim Nicholas, Roy Rogers, Mark Watts • Nathaniel P. Reed, Chairman Emeritus, Lester Abberger, Emeritus, Robert Davis, Emeritus, Earl Stames, Emeritus  
President Ryan Smart

www.1000friendsofflorida.org • friends@1000fof.org

Printed on recycled paper

	manufacturing, and produce stands in preserve areas.
Pre-existing Non Residential	3. Process County initiated map and text amendments to address inconsistencies and find solutions to existing commercial and non-residential uses and services that predated the Agricultural Reserve's provisions.
Ag Enhancement	4. Implement Agricultural Enhancement Strategies, such as: <ul style="list-style-type: none"> <li>• Install signs: <ul style="list-style-type: none"> <li>• Indicating designated Agricultural Reserve area.</li> <li>• Cautioning motorists of slow moving farm equipment and agricultural activities.</li> </ul> </li> <li>• Consider traffic flow patterns more conducive to farming operations.</li> <li>• Support PBC Young Farmer and Rancher organization.</li> <li>• Seek (solicit) sources to accept agricultural plastics more locally, thereby reducing transport expenditures for growers. These include plastic bedding (mulch), ground cover, shade cloth, chemical containers, and pots of various sizes.</li> <li>• Encourage and support agritourism where practical: <ul style="list-style-type: none"> <li>• Commodity centered festivals and events</li> <li>• Weddings on farms and nurseries</li> <li>• Tours for school children and the general public</li> <li>• Orchard tours</li> <li>• Wine tours/tastings at potential wineries</li> </ul> </li> </ul>
Farm Residence	5. Return to the Board with more information on possibility of allowing a farm residence on less than 5 acres, for purpose of selling development rights and preserving the balance of a property
Federal Regulations	6. Determine if the County's federal lobbying efforts can help the farmers with issues related to the USDA
Emerging Ag Uses	7. Bring back to the Board for policy direction any issues identified through applications and petitions for emerging uses, as these occur
Additional Commercial	8. Return to the Board with a recommendation on accommodating ancillary commercial uses on a very small scale within the Ag Reserve
Assistance to Farmers	9. Return with information regarding offering support for farmers experiencing difficulties

The intent of this letter is to provide assistance to the planning staff implement the directives of the BOCC. To this regard, 1000 Friends provides the following suggestions to

accommodate the BOCC Directives. The following suggestions should be in no way be considered either tacitly or expressly as a departure from our existing position that the Ag Reserve protections remain *status quo*.

Policy 1.5.1-i of the Palm Beach County Comprehensive Plan currently provides for development limitations for Agricultural Reserve Planned Development ("PDD") within lands designated as the Agricultural Reserve Tier in the Future Land Use Map ("FLUM"). Under the Comprehensive Plan PDD's may be developed on a minimum of 250 acres. 60/40 PDD currently requires developers set aside 60 percent (150 acres minimum) of the gross acreage to be maintained in agriculture, passive recreation or other open space use. How that acreage is allocated and used was the topic of discussion in the 2014-2015 Agricultural Reserve workshops.

### **BOCC Directive 1 - Contiguity Requirement Revisions**

Currently, the Comprehensive Plan contains a contiguity requirement. Contiguity as applied in the County's Comprehensive Plan is "physically touching." *1000 Friends of Florida v. Palm Beach County*, Case No. 06-4544GM (DOAH 2009). Currently, the 60 percent preserved area for a PDD must be a single contiguous parcel or have a common border with lands that remains undevelopable. Currently, Policy 1.5.1-I (6)(a-b) states:

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 contiguous area of 150 acres within the Agricultural Reserve Tier with all development rights removed; or,
- b) shall have a common boundary with other lands that aggregate to a total of 150 acres and 1) have a future land use designation of Conservation; and/or 2) that are designated as an Agricultural Reserve Preserve; and/or 3) that have had the development rights removed and remain in some type of open space; and ...

It has always been 1000 Friends position that contiguity and minimum size are fundamental requirements that are necessary to protect agriculture with the understanding that elimination of these requisites would encourage development of the reserve, fragment preserves, and discourage and quite possibly endanger the continued existence of farming by chipping away at the critical mass necessary for continued viable farming operations. However, 1000 Friends is willing to compromise and suggest the following revisions to Policy 1.5.1-I (6)(a-b).

- a) contain a minimum contiguous area of 75 acres within the Agricultural Reserve Tier with all development rights removed; or,
- b) shall have a common boundary with other lands that aggregate to a total of 150 acres and 1) have a future land use designation of Conservation; and/or 2) that are designated as an Agricultural Reserve Preserve; and/or 3) that have had the development rights removed and remain in some

type of open space; and ...

### **BOCC Directive 2 - Expand Preserve Area Uses**

1000 Friends is opposed to expanding the allowable commercial, industrial or institutional uses. In particular, neither landscape maintenance nor mulching production is compatible with farming operations. These operations are not appropriate where the lands preserved are protected for vegetable and/or row crops. This is also the reason that packing house limits should be retained, but we are willing to consider a case-by-case expansion if adequate criteria are in place. 1000 Friends **suggests the following revisions to Policy 1.5.1-I (6)(c):**

(c) be utilized for crop production, pasture, equestrian purposes, retained as fallow land, community gardens, potting soil manufacturing, and produce stands or, if designated by the South Florida Water Management District as a Water Preserve Area, or to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water Management District, or for water management purposes not directly related to the 60/40 AgR-PDD if approved by the Department of Environmental Resources Management, managed for environmental resource values: Accessory agricultural structures such as barns and pump structures shall be permitted. Agricultural support uses such as processing facilities, and the like shall not be accommodated in the protected area of an AgR-PDD, unless the parcel meets the criteria provided in Policy 1.5-h; nor shall new residential, commercial, industrial or institutional 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

and revise the County's ULDC Section 4.B.1.A.5.a Accessory Use as follows:

#### **Accessory Use**

A packing plant in the AP and AGR districts, or the Preserve Area of an AGR PUD, may be allowed as an accessory use to a related bona fide agriculture use on the same property, provided it does not exceed 25,000 square feet. **[Ord. 2012-027]** except on a justified case-by-case basis that is consistent with the AGR district.

Notwithstanding the fact that the remaining language limits the packaging plants to agricultural use on the property, the BOCC should consider some language to prevent an Okeelanta sugar mill sized processing plant in the Ag Reserve.

### **BOCC Directive 3 - Pre-existing Non Residential**

1000 Friends of Florida is of the opinion that the Comprehensive Plan and the ULDC have no inconsistencies with pre-existing uses within the Preserve Area. Policy 1.5-b is clear

that existing uses such as the Eternal Light Cemetery, Faith Farms, 4 Points Market, 3 Amigos Convenience Store, Fina Gas Station-Hey 4 U Trucking and Churches, Farm workers quarters and social facilities that existed prior to August 27, 2001 may continue but shall not expand current use unless approved by the Board of County Commissioners.

**BOCC Directive 4 - Ag Enhancement**

1000 Friends of Florida continues to agree with the Agricultural enhancement suggestions provided by the Board of County Commissioners. In addition, all real property purchasers sign an acknowledgement disclosure statement regarding the right to farm act. See Fla. Stat. 823.14.

**BOCC Directive 5 - Farm Residence**

The Board of County Commissioners requested additional information regarding reducing the current standard density to allow for dwelling units to be built on parcels smaller than 5 acres. To the extent that increased residential development within preserve areas is a potential outcome of this proposed change, it would be fundamentally inconsistent with the very purpose for which the Ag Reserve was established. Allowing any increased residential development within preserve areas would significantly undermine the public investment within the Ag Reserve by reducing the critical mass of preserved agricultural land, while increasing land use conflicts between agriculture and residential development. No additional residential uses should be allowed on preserve lands.

**BOCC Directive 6 - Federal Regulations**

1000 Friends agrees that the County must use all available legal means to assist the remaining farmers in the Reserve to maintain a viable agricultural operation. Lobbying the Federal Government certainly plays a role in that effort. However, currently the United States Department of Agriculture has a myriad of existing programs to assist small and medium size farmers. The existing programs include access to capital (Farm Storage Facility Loan Program, microloan program, and organic certification cost share program); risk management (Farm Bill crop insurance reductions); local market opportunities (Farm to School program which purchases locally grown food for schools, market updates, and a National Farmers Market Directory); land management (providing water and soil management assistance through the Natural Resource Conservation Service); food safety (through the Good Agricultural Practice Certification program); education resources and outreach (providing learning guides for small and medium size farmers); and other resources such as the Beginning Farmer and Rancher Development Program, Agriculture and Food Research Initiative (AFRI), Value Added Producer Grants, Farmers Market and Local Food Promotion Program (previously known as the Farmers Market Promotion Program), Know Your Farmer, Know Your Food Initiative, USDA's Strike Force for Rural Growth and Opportunity, the Socially Disadvantaged Groups Grant program (SDGG), the Rural Cooperative Development Grant Program (RCDG), and USDA Certification for Small and Very Small Producers of grass-fed beef.

**BOCC Directive 7 - Emerging Ag Uses**

The Board of County Commissioners has requested to be kept abreast and provide policy direction on any new and emerging issues arising in the reserve area. 1000 Friends will provide staff information available to it for that purpose to the extent that it is available.

**BOCC Directive 8 - Additional Commercial**

While the Board of County Commissioners has sought recommendation on accommodating ancillary commercial uses on a very small scale within the Reserve, 1000 Friends recommends that the amount of commercial land use be based on a demonstrated need. Staff analysis shows that there is already sufficient commercial and industrial land use within and adjacent to the Ag Reserve to meet the needs of existing and future residents as well as farm workers. There is no demonstrated need for additional commercial land use within the Reserve, nor has any data and analysis been provided that could support any increase. Creating additional commercial land use designations would undermine agriculture by segmenting farming operations, increasing traffic within and adjacent to farming areas, and increasing land use conflicts between farming and urban uses. Notwithstanding, 1000 Friends does not object to either the continued existing commercial uses in the reserve (BOCC Directive 3) or the new proposed commercial uses of community gardens, potting soil manufacturing, and/or produce stands and expanded packing plants. (BOCC Directive 2).

**BOCC Directive 9 - Assistance to Farmers**

1000 Friends of Florida firmly believes that the County has the means and the way to protect and maintain viable agriculture in the Reserve. The County has the resources available to provide assistance to both farmers and also assist those who choose not to farm to sell their land in the Reserve to somebody who is willing to carry on the tradition of farming in the County.

Thanking you for your time and consideration.

Sincerely,



Ryan Smart  
President  
1000 Friends of Florida

CC: Commissioner Berger: [MBerger@pbcgov.org](mailto:MBerger@pbcgov.org); Commissioner Valeche: [Valeche@pbcgov.org](mailto:Valeche@pbcgov.org); Commissioner Burdick: [PBurdick@pbcgov.org](mailto:PBurdick@pbcgov.org); Commissioner Abrams: [SAbrams@pbcgov.org](mailto:SAbrams@pbcgov.org); Commissioner McKinlay: [MMcKinlay@pbcgov.org](mailto:MMcKinlay@pbcgov.org); Commissioner Vana: [SVana@pbcgov.org](mailto:SVana@pbcgov.org); Charles Pattison, FAICP; Robert Hartsell, Esq.; Sarah Hayter, Esq.

*A document with the title below was submitted at the June 12, 2015 Planning Commission meeting. The document consists of "Record of Climatological Observations" taken at the Loxahatchee National Wildlife Refuge station from October 1, 1990 through March 31, 2015.*

**A QUARTER CENTURY OF  
NOAA SCIENTIFIC EVIDENCE THAT  
HARD FREEZES  
DO NOT OCCUR IN  
PALM BEACH COUNTY'S  
AGRICULTURAL RESERVE**

**As Documented By Daily Temperature Readings  
By the NOAA National Climate Data Center  
In the  
Loxahatchee National Wildlife Refuge**

