

ORDINANCE NO. 2022 - 024

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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 **COMMERCE FUTURE LAND USE DESIGNATION** FOR LIGHT INDUSTRIAL USES, INCLUDING ALLOWING THE DESIGNATION WITHIN THE URBAN SUBURBAN TIER; AND ESTABLISHING ASSOCIATED POLICIES FOR THIS DESIGNATION IN THE AGRICULTURAL RESERVE TIER); 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 March 11, 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, 2021, for Round 22-03 ESR (County Round 22-B) stating that the agency had

1 identified no comments related to important state resources and facilities within the Agency's
2 authorized scope of review that will be adversely impacted by the amendment contained in
3 this ordinance if adopted; and

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

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

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

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

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

13 **A. Future Land Use Element**, to establish a new future land use designation called
14 Commerce for light industrial uses and

15 **B. Future Land Use Element**, to establish Commerce FLU within the Agricultural
16 Reserve Tier;

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

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19 County in conflict with any provision of this ordinance are hereby repealed to the extent of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

21 **Part III. Severability**

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

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

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

30 **Part V. Effective Date**

31 The effective date of this plan amendment, if the amendment is not timely challenged,
32 shall be 31 days after the state land planning agency notifies the County that the plan
33 amendment package is complete. If timely challenged, this amendment shall become
34 effective on the date the state land planning agency or the Administration Commission enters
35 a final order determining this adopted amendment to be in compliance. No development

1 orders, development permits, or land uses dependent on this amendment may be issued or
2 commence before it has become effective. If a final order of noncompliance is issued by the
3 Administration Commission, this amendment may nevertheless be made effective by adoption
4 of a resolution affirming its effective status, a copy of which resolution shall be sent to the
5 state land planning agency.

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

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

8 ATTEST:
9 JOSEPH ABRUZZO, CLERK
10 & COMPTROLLER

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

11
12 By 
13 Deputy Clerk

By 
Robert S. Weinroth, Mayor

14
15 APPROVED AS TO FORM AND LEGAL SUFFICIENCY

16
17 By 
18 County Attorney

19
20 Filed with the Department of State on the 1st day of September, 2022.

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Exhibit 1

A. Future Land Use Element, Commerce Future Land Use Designation

REVISIONS: To establish a new future land use designation called Commerce for light industrial uses. The added text is underlined, and the deleted text ~~struck out~~.

2.2.4 Industrial

1. **REVISED Policy 2.2.4-c: Industrial Future Land Use Designations.** The ~~three Industrial and Economic Development Center~~ Industrial Future Land Use Designations. The ~~three Industrial and Economic Development Center~~ future land use designations are intended to accommodate industrial uses which are defined as uses engaged in the manufacturing, assembly, processing, research and development, wholesale distribution, or storage of products, related uses and services, including Office of an Industrial Nature (as defined by the Introduction and Administration Element).

1. **Industrial.** The Industrial (IND) future land use designation allows the full range of industrial activities ranging from light to heavy industry.
2. **Economic Development Center.** The Economic Development Center (EDC) future land use designation is intended to accommodate employment opportunities, research parks, and Employment Centers (as defined by the Introduction and Administration Element). Properties with an EDC designation are intended to be developed as planned developments in order to promote internal circulation and buffering from surrounding land uses. Industrial uses allowed ~~within EDC~~ shall be limited to those that demonstrate Light Industrial characteristics.
3. **Commerce.** The Commerce (CMR) future land use designation is intended to accommodate light industrial uses to provide an option for low-trip generating non-residential and/or employment generating uses on arterial roadways. Industrial uses allowed shall be limited to those that demonstrate Light Industrial characteristics.

Remainder of policy relocated to New Policy 2.2.4-e

2. **REVISED Policy 2.2.4-d: Industrial Uses.** Industrial uses shall be considered either Light or Heavy as defined below.

Light Industrial. Light industrial development's typical operation is not likely to cause undesirable effects, danger or disturbance upon nearby areas and typically does not create negative impacts on immediately adjoining uses. These uses typically do not cause or result in the dissemination of dust, smoke, fumes, odor, noise, vibration light, or other potentially objectionable effects beyond the boundaries of the lot on which the use is conducted. Examples of Light Industrial uses include: storage, warehouse, research, laboratories, dispatch, landscape service, flex space, media production, and light manufacturing and processing.

Heavy Industrial. Heavy industrial development's typical operation may cause or result in the dissemination of dust, smoke, fumes, odor, noise, vibration, or light, or other potentially objectionable effects beyond the boundaries of the lot on which the use is conducted. These effects will be minimized through the application of performance standards established in the Unified Land Development Code. Heavy industrial uses ~~can~~ include those that engage in the processing, manufacturing, or storage of flammable, hazardous, or explosive materials or products, or processes which potentially involve hazardous or commonly recognized offensive conditions. Examples of heavy industrial uses include, but are not limited to, salvage and junkyards, storage of regulated substances, asphalt and concrete mixing and product manufacturing, heavy manufacturing, construction and demolition recycling, and equestrian waste management.

3. **REVISED Policy 2.2.4-e. Additional Allowable Uses in Industrial Designations.** In addition to the industrial uses, the land uses listed below are allowable within the Industrial ~~type and Economic Development Center~~ future land use designations as permitted by the ULDC.
1. Mining, subject to the limitations included in Objective 2.3 entitled "Mining and Excavation";
 2. Parks and Recreation;
 3. Commercial Recreation including but not limited to, tenants within industrial buildings, such as indoor sports, fitness, gymnastics, karate studios, and dance studios;
 4. Conservation;
 5. Institutional and Public Facilities;
 6. Transportation, Utility, and Communication Facilities;
 7. Non-residential agricultural uses;
 8. Caretakers' quarters;
 9. Uses and structures accessory to a permitted use;
 10. Flex space. Flex space allows each use to be a flexible percentage of the uses allowed in the Use Matrix per the applicable FLU, typically with 70% of the total floor area for uses demonstrating light industrial characteristics and 30% for retail, office and display areas for products manufactured and/or distributed on site.
 11. Commercial uses pursuant to one or more of the following:
 - a. Industrial (IND) future land use allows vehicular based Commercial uses of an industrial nature that have impacts similar to industrial uses such as auto repair and the like, including Office of an Industrial Nature, and accessory commercial uses which are incidental and subordinate to the primary industrial use, and Office of an Industrial Nature;
 - b. Commercial uses in Commerce and Economic Development Center are limited to accessory commercial uses, which are incidental and subordinate to the primary industrial use, and Office of an Industrial Nature;
 - c. Retail gasoline and/or fuel sales shall be limited to the Industrial (IND) future land use designation as accessory to an industrial use, or part of a commercial pod in a Planned Industrial Park Development;
 - d. Commercial uses within Planned Industrial Park Developments pursuant to FLUE Policy 4.4.7-a; and
 12. Residential uses within a Planned Industrial Park Developments pursuant to FLUE Policy 4.4.7-a.
4. **NEW Policy 2.2.4-f:** All requests for new industrial type future land use designations shall front an arterial roadway or have access to an arterial roadway through an existing commercial or industrial site. Arterial roadways are depicted on Map Figure TE 3.1, Functional Classification of Roads, unless otherwise identified within this element.

5. **REVISED**

**TABLE 2.2-e.1,
Maximum Floor Area Ratios (FARs) For Non-Residential Future Land Use Categories and
Non-Residential Uses**

(unaltered rows omitted for brevity)

Future Land Use	FLU Category	Tier				
		Urban/Suburb	Exurban	Rural	Ag Reserve	Glades
Industrial	IND	.45-.85 ⁹	not allowed	not allowed	.45	.45
	EDC	.45-.85 ⁹	not allowed	not allowed	not allowed	not allowed ¹¹
	CMR	.45-.85 ⁹	not allowed	not allowed	.45 ⁹	not allowed
Commercial Recreation		.50	not allowed	.05	.05	.05

Notes:

1. to 8. Omitted for brevity
9. Industrial and self-storage uses may be approved for up to .85 FAR in the industrial future land use designations the Urban Suburban Tier, and self-storage uses may be approved for up to .65 FAR in the commercial future land use designations in the Agricultural Reserve Tier on sites that meet the Major Intersection Criteria in the ULDC (see also FLUE Policy 1.5-p).
10. to 11. Omitted for brevity

6. **REVISED Policy 2.2-f:** Table 2.2-f.1 establishes the consistent non-residential zoning and planned development districts for the Non-Residential Future Land Use Designations.

Table 2.2-f.1
Non-Residential Future Land Use - Zoning Consistency^{1, 2}
(unaltered rows omitted for brevity)

Future Land Use Designation	Consistent Zoning	
	Zoning District	Planned Development
Industrial	IL, IG	MUPD, PIPD
Economic Dev. Center	IL	MUPD, PIPD
<u>Commerce</u>	<u>IL</u>	<u>MUPD</u>
Commercial Recreation	CRE	MUPD, RVPD

Notes:

1. The Public Ownership (PO) zoning district is allowed in all future land use designations.
2. Within the Glades Tier, the AP and AR districts are consistent with all future land use designations, excluding Conservation. Within all Tiers, AR is consistent with all non-residential future land use designations, excluding Conservation.
3. & 4. *Omitted for brevity*

7. **REVISED** **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 ¹
<i>Unaltered text omitted for brevity</i>						
Industrial	IND	X	---	---	X	---
	EDC	X	---	---	---	---
	<u>CMR</u>	<u>X</u>	---	---	<u>X</u>	---
<i>Unaltered text omitted for brevity</i>						

1. Within the rural towns of Lake Harbor and Canal Point, the following additional future land use designations shall be allowed: Residential from RR-2.5 through MR-5; CL; CL-O; IND; EDC; and INST.
2. Within the Glades Area Protection Overlay, 138.31 acres of EDC future land use designation is allowed.

B. Future Land Use Element, Commerce FLU within the Agricultural Reserve Tier

REVISIONS: To establish requirements for industrial future land use designations in the Agricultural Reserve Tier. The added text is underlined, and the deleted text ~~struck-out~~.

Industrial

1. **NEW Policy 1.5-v: Industrial.** The County shall foster employment opportunities in the Agricultural Reserve Tier by allowing light industrial uses at appropriate locations to provide a balance of land uses for current and new residents of the Tier. All new future land use amendments requesting industrial type uses in the Agricultural Reserve Tier shall meet the following requirements:

1. Limited to the Commerce (CMR) future land use designation;
2. Located with frontage and access on State Road 7 (north of Rio Grande Avenue), Atlantic Avenue, Boynton Beach Boulevard or have access to these roadways through an existing commercial or industrial site. Sites located west of State Road 7 must share a common border with a property with commercial or industrial future land use;
3. Be accompanied by a concurrent zoning application and conceptual site plan in order to demonstrate that the proposal meets the design, scale, and character requirements of the Tier;
4. Have a minimum of 3 acres and a maximum of 50 acres (with the exception of lands dedicated to rights of way); and
5. Preserve shall be required for Commerce sites utilizing Light Industrial, Multiple Use Planned Development, or Planned Industrial Park Development zoning pursuant to FLUE Policy 1.5.1-q and subject to the following:
 - a. The preserve area requirements shall be based upon the acreage over 16 acres, shall be a minimum of 40% of the total land area over 16 acres, and allow water management tracts in preserve areas contiguous to the development area that provide enhanced environmental features and improved water quality as demonstrated through the future land use amendment process.

Commercial

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 and office uses allowed within the Commerce future land use designation are not subject to the commercial cap.

SUB-OBJECTIVE 1.5.1 Planned Developments

To achieve the goal of farmland protection and agricultural perpetuation, unique planned development options, which ensure the preservation of significant open space may be permitted.

2. **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.



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. 2022-024, 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

Project Name: Commerce Future Land Use Designation
Element: Future Land Use Element
Project Manager: Lisa Amara, Zoning Director
Staff Recommendation: Staff recommends *approval* 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 establish a new industrial future land use designation and make related changes. Specifically, this amendment proposes to:

- Establish a third industrial future land use designation called Commerce (CMR) for light industrial uses, including establishing consistent zoning districts and a concurrent zoning requirement.
- Establish location, frontage, and access requirements for all industrial future land use designations in the Urban/Suburban Tier.
- Establish policies to limit industrial future land use in the Agricultural Reserve Tier to the new CMR future land use designation, and to establish location, frontage, access, and preserve requirements.

Assessment: This amendment proposes to establish a new future land use designation specifically for light industrial uses. The new Commerce (CMR) FLU will allow the Board to review and consider proposed light industrial uses to ensure that each project is appropriately located and compatible with adjacent land uses, and ensure that the approval does not introduce heavy industrial uses, which may not be appropriate at the particular location. As with the other industrial future land use designations, the new CMR future land use will be allowed in the Urban/Suburban Tier and not within the Rural and Exurban Tiers. This amendment also proposes to establish policy guidance for industrial uses in the Agricultural Reserve Tier by establishing location requirements and limiting to the new CMR designation. Based on Board direction, the amendment includes two options for the proposed preserve requirements: either for sites over 16 acres consistent with commercial designations or for sites over 50 acres. This amendment will require implementing revisions to the ULDC.

III. Hearing History

Local Planning Agency: Approval of the Commerce future land use designation in the Urban/Suburban Tier, motion by Dagmar Brahs, seconded by Glenn Gromann, passed in a 12 to 0 vote at the March 11, 2022 public hearing. **Denial of the Commerce future land use designation in the Agricultural Reserve Tier**, a motion for approval with modifications by Kiley Harper-Larsen, seconded by Glenn Gromann failed in a 6 to 6 vote (with Barbara Roth, Lori Vinikoor, Dagmar Brahs, Sara Pardue, Marcia Hayden and Rick Stopek dissenting) at the March 11, 2022 public hearing. The failure to pass an affirmative vote resulted in a denial. The motion included the reduction of the minimum acreage to 4 acres and a preserve requirement for sites 16 acres and greater. An initial motion for approval with modifications (to reduce the minimum acreage to 3 acres) by Kiley Harper-Larsen failed for a lack of second. A second motion to approve with a recommendation for preserve requirement for sites 16 acres and greater, by Penny Pompei, seconded by Glenn Gromann, failed in a 5 to 7 vote (with Barbara Roth, Lori Vinikoor, Dagmar Brahs, Sara Pardue, Kiley Harper-Larsen, Rick Stopek, and Eric Royal dissenting).

Under discussion, Commission members deliberated the acreage needed for industrial uses, the appropriateness of the Commerce FLU on the west side of State Road 7, and tightening of language for the Agricultural Reserve Tier. One member of the public spoke in support of the new future land use within the Urban/Suburban Tier stating that it is needed and long overdue. Six members of the public including the Representatives of Sierra Club Loxahatchee Group and 1000 Friends of Florida spoke in opposition to the new future land use in the Agricultural Reserve Tier stating the impact of climate change and need to protect agriculture in the Tier. Ten members of the public spoke in support of light industrial uses in the Tier and requested modifications to extend the location criteria west of State Road 7 on Atlantic Avenue, reduce minimum site size to 3 acres, and allow for preserve requirement for sites 50 acres or greater.

Board of County Commissioners Transmittal Public Hearing: Transmit the Commerce future land use designation in the Urban/Suburban Tier, motion by Commissioner Sachs, seconded by Commissioner Marino passed in a 7 to 0 vote at the May 4, 2022 public hearing. **Transmit with modifications the Commerce future land use designation in the Agricultural Reserve Tier**, motion by Commissioner Sachs, seconded by Commissioner Bernard, passed in a 5 to 2 vote (with Vice Mayor Weiss and Commissioner McKinlay dissenting) at the May 4, 2022 public hearing. The motion included modifications to reduce the minimum acreage to 3 acres and to require a preserve for sites over 50 acres to allow a broader range that may be narrowed at adoption. The changes are shown in Exhibit 1-B in double underline and double strikethrough. Under discussion, the Board expressed preliminary support for the new future land use designation and policies in the Ag Reserve Tier, and directed staff to continue dialogue with interested parties and property owners on the topics presented between transmittal and adoption.

Under public comment, 18 members of the public spoke on the item. Eleven members of the public spoke in support of the amendment, although several requested modifications to the minimum acreage, allowing west of SR7, and increasing preserve requirements from 16 to 50 acre sites. Seven members of the public including representatives of Sierra Club Loxahatchee Group and 1000 Friends of Florida spoke in opposition citing the need to preserve the land in the Ag Reserve for agriculture and that the area was not appropriate for industrial or regional uses. Representatives from the Coalition of Boynton West Residential Associations (COBWRA), Save Agriculture Reserve for Agriculture (SARA), the Alliance of Delray Residential Associations, Inc. expressed concern for the amendment in the Agricultural Reserve Tier, and commented on the need to refine some of the policy language, restrictions, and requirements for this language, often citing their written comments (attached in Exhibit 3).

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 Florida Department of Transportation (FDOT) provided technical comments (see Exhibit 3) stating that the County should consider capping the industrial acreage or square feet of development and prohibit or limit distribution, warehouse, and wholesale uses. FDOT also stated that they support the Commerce FLU on sites initially specified for Employment Centers in the Ag Reserve Master Plan. The Treasure Coast Regional Planning Council provided comments 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”.

Changes subsequent to Transmittal: As stated at the transmittal hearing, staff continued to review comments submitted by interested parties at the transmittal hearing. Subsequently, the proposed language for adoption has been modified to incorporate many of the changes suggested. These changes consist of: capping Commerce sites at a maximum of 50 acres, requiring access to the identified roadways, allowing on sites west of SR7 on Atlantic and Boynton if adjacent to an existing commercial or industrial future land use, not allowing Commerce south of Rio Grande Avenue on SR7, correcting an oversight regarding the commercial cap, and to eliminate distribution facilities as an allowable use. Staff is proposing modifications to the preserve requirements transmitted considering the newly proposed 50 acre cap on individual sites.

Board of County Commissioners Adoption Public Hearing: *Adopt with modifications*, motion by Commissioner Kerner, seconded by Commissioner Sachs, passed in a 4 to 3 vote (with Vice Mayor Weiss, Commissioner Bernard and Commissioner McKinlay dissenting) at the August 25, 2022 public hearing. The modifications include accepting the staff modifications between transmittal and adoption as presented in the published staff report, and the addition of number 5 to Policy 1.5-v as shown in double underline and double strikethrough. The added language require 40% preserve areas on Commerce sites in the Ag Reserve that are greater than 16 acres, with the first 16 acres being exempt, and allowing stormwater management within the preserve area contingent upon a demonstrated environmental benefit and improved water quality. Board discussion centered on the Agricultural Reserve Tier language, including preserve requirements and the location of sites that would be eligible for the Commerce future land use, including whether to exclude parcels south of Rio Grande Avenue on State Road 7. Twelve members of the public spoke in opposition to Commerce in its entirety, including 1,000 Friends of Florida, the Sierra Club Loxahatchee Group citing the stated goals of the Agricultural Reserve and impact to the equestrian community. Fifteen members of the public, including representatives of the Coalition of Boynton West Residential Associations (COBWRA) and Alliance of Delray Residential Associations spoke in support the amendment subject to modifications related to the location criteria, access and preserve requirements. **Ord. 2022-024.**

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IV. Intent

The intent of this amendment is to revise the Future Land Use Element to establish a new industrial future land use designation and make related changes. Specifically, this amendment proposes to:

- Establish a third industrial future land use designation called Commerce (CMR) for light industrial uses, including establishing consistent zoning districts and a concurrent zoning requirement.
- Establish location, frontage, and access requirements for all industrial future land use designations in the Urban/Suburban Tier.
- Establish policies to limit industrial future land use in the Agricultural Reserve Tier to the new CMR future land use designation, and to establish location, frontage, access, and preserve requirements.

V. Background

A. Industrial Future Land Use Background

There are currently two industrial future land use designations within the Comprehensive Plan.

- The Industrial (IND) future land use designation was created in 1989 for lands “*primarily used for manufacturing, assembly, processing, research and development and wholesale distribution and storage of products.*” This designation allows the full range of industrial uses ranging from light to heavy.
- The Economic Development Center (EDC) future land use designation created in 1999 which is only allowed in the Urban/Suburban Tier. The designation is intended to accommodate employment opportunities, research parks, and employment centers. This is distinguished from the traditional industrial designation as it allows for larger, “campus-like” industrial uses to further economic development in the County.

Unlike commercial future land use designations, there are no location requirements for the industrial future land use designations, except that the Comprehensive Plan does not allow industrial future land use in the Rural and Exurban Tiers.

B. Industrial in the Agricultural Tier

The Agricultural Reserve Tier is an area of the County with specific limitations on development options in the Comprehensive Plan that were largely established to implement the Agricultural Reserve Master Plan. The Master Plan was completed in 1999 and implemented through the adoption of Comprehensive Plan policies in 2001. The purpose of the Tier is captured 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 Tier was formally designated as the Agricultural Reserve in the 1980 Comprehensive Plan with an emphasis on the preservation of agriculture. In 1998, the BCC directed development of a Master Plan for the Agricultural Tier which established a goal to *preserve and enhance agricultural activity and environmental and water resources in the Agricultural Reserve, and produce a master development plan compatible with these goals.* The BCC did not adopt the Master Plan, but adopted amendments to the Comprehensive Plan in Round 01-1 incorporating the majority of the recommendations of the final Master Plan. The surrounding area has therefore stayed primarily in agricultural uses and low density single-family residential with limited commercial uses serving the Tier.

In 2015, the Agricultural Reserve was the subject of a year-long “Roundtable” process directed by the BCC to consider changes to policies in the Tier. At the March 2015 Workshop, the BCC considered the input received during the Roundtable process and directed staff to proceed with specific actions and Plan amendments. One of the outcomes of the Roundtable was to process County initiated map and text amendments to address inconsistencies and find solutions to existing commercial and non-residential uses and services that pre-dated the Agricultural Reserve’s provisions.

1. Agricultural Reserve Master Plan Industrial Recommendations

At the time of the creation of the Agricultural Reserve Master Plan, the consultants recommended that industrial uses be allowed in the Agricultural Reserve, using the Economic Development Center future land use designation. The consultants identified two locations, within 1/4 mile of the Florida Turnpike interchanges with Boynton Beach Boulevard and Atlantic Avenue, as appropriate locations for these Economic Development Centers. The consultants recommended requiring developers set aside preserve areas in the same 60/40 ratio of preserve area to open space as the Traditional Marketplace, which had locations identified at the intersections of Lyons Road with Boynton Beach Boulevard and Atlantic Avenue. The Master Plan Phase II Report recommended that the two employment centers shared a maximum of 330,000 square feet of industrial development between the two locations, and that there be an additional 245,000 square feet of office park uses in the Tier. Master Plan Phase II, Section 4.3.4.5 Economic Centers, states that allowing employment centers in the Tier would provide the following:

- *“A greater variety in job opportunities for the residents of the Ag Reserve than are likely to be found elsewhere in the Ag Reserve. These opportunities could reduce traffic impacts outside of the Ag Reserve.*
- *A location for businesses that can offer farmers a second job if they need to supplement their income.*
- *Light industrial uses in two locations that will have the least negative impact on agricultural uses.”*

The Consultants identified the following uses as appropriate within the Employment Centers:

Automobile Rentals	Laboratories
Auto Repair, Detailing, Paint and Body Shop	Landscaping Services
Bottling Plant	Light Fabrication
Brewery	Lumber yards
Broadcasting Stations for Radio or TV	Machine or Welding Shops
Cabinet Working and Carpentry	Mini Warehouse/Self-Storage
Catering Services	Motion Picture production Studios
Contractor's Storage Yards	Ornamental Metal Workshops
Farm Equipment Repair	Printing Shops
Glass Installation Services	Technical Trade Schools
Gun Clubs, Enclosed	Utility Work Centers, Power & Communications

The staff recommendation in the Addendum supported this concept, stating: *“The Plan should be amended to acknowledge the ability to utilize the Economic Development Center category for industrial uses in the locations recommended by the Consultant.”*

2. Agricultural Reserve Industrial Policies – Board Direction

Upon the conclusion of the Master Planning effort, the BCC did not concur with the consultant’s recommendations on industrial land use, and directed that no new industrial future land use designations be permitted in the Agricultural Reserve. Consequently, the 2001 Comprehensive Plan amendment to adopt policies implementing the Master Plan did not establish any policies for new industrial lands. The only provision was related to the .45 floor area ratio for the 64 acres of land with industrial future land use that predated the Master Plan, and were located along the north and south sides of Atlantic Avenue, east of SR-7.

More recently, the BCC on May 5, 2021, transmitted a land use amendment request for industrial in the Tier, known as Sunflower Light Industrial (LGA 2021-016). Under discussion of the item, the BCC directed staff to explore the concept of a new light industrial future land use designation and to return for a workshop to discuss additional industrial future land uses in the Tier. Following the transmittal of the Sunflower amendment, staff prepared the following draft list of Industrial uses in the ULDC Use Matrix separated by ‘light’ and ‘heavy’ categories based upon language in the Comprehensive Plan, as listed below.

Light Industrial	Heavy Industrial
Data and Information Processing	Equestrian Waste Management
Manufacturing & Processing (light)	Gas and Fuel, Wholesale
Medical or Dental Laboratory	Heavy Industry
Multi-Media Production	Machine or Welding Shop
Research & Development	Recycling Center or Plant
Distribution	Manufacturing & Processing (heavy)
Warehouse	Salvage or Junk Yard
Wholesaling	Towing Service or Truck Stop

Subsequently, the Board adopted the Sunflower amendment on July 28, 2021, with additional conditions and subsequently adopted the Las Farms (LGA 2022-001) amendment on February 2, 2022, with the same conditions, which are shown below:

1. Uses shall exclude heavy industrial uses which engage in the basic processing, manufacturing, or storage of flammable, hazardous, or explosive materials or products, or processes which potentially involve hazardous or commonly recognized offensive

conditions as described in Future Land Use Element Policy 2.2.4-d of the Palm Beach County Comprehensive Plan; and

2. Uses identified as Commercial in Article 4 of the Unified Land Development Code are prohibited on the site, with the exception of Landscape Service, Self-Service Storage, and accessory uses.

At the October 26, 2021 Agricultural Reserve workshop and continuation on November 3, 2021, the Board expressed support for a new Commerce FLU within the Tier that would be limited to light industrial uses. On February 2, 2022, the Board initiated a text amendment to the Comprehensive Plan for staff to proceed with the review and analysis of the proposed amendments.

3. Industrial FLUA Amendments in the Agricultural Reserve

As previously mentioned, there are 64 acres of industrially designated properties fronting the south and north sides of Atlantic Avenue east of State Road 7. These parcels pre-date the Master Plan. Since the adoption of the Master Plan implementing policies in 2001, the County has processed several privately proposed future land use amendments for industrial, as summarized below.

- **Homrich Commercial (LGA 2016-019).** In 2016, the BCC adopted an amendment to the Future Land Use Atlas on a 13.44-acre site with Agricultural Reserve (AGR) future land use to Commercial Low (CL) with underlying Industrial (IND). A voluntary condition of approval limited development of the site to a maximum of 29,400 square feet of Commercial and 197,100 square feet of Light Industrial uses. Staff recommendation for denial was based in part on a lack of a comprehensive analysis and policy direction considering appropriate locations, uses, extent, and intensity established for new industrial uses in the Tier.
- **West Atlantic Industrial (LGA 2017-017).** The West Atlantic Industrial amendment was privately proposed, and requested to change the future land use designation on a 2.51 acres parcel from AGR future land use to IND/AGR. The site is located on the south side of Atlantic Avenue, approximately 1,100 feet west of Lyons Road. Staff recommended denial due to lack of policy direction for new industrial in the Tier and since the establishment of industrial uses mid-block on a small, isolated parcel would not be compatible with surrounding agricultural uses. At the June 16, 2017 public hearing, the Planning Commission recommended denial in a 10 to 1 vote. The amendment was denied by the BCC at the July 26, 2017 Transmittal Hearing.
- **Boynton Technology Park Text (2020).** This privately proposed text amendment for initiation was requesting to allow the Economic Development Center (EDC) future land use in the Tier as a multiple use commercial, industrial and residential Planned Industrial Park Development (PIPD), increase the commercial cap and to allow for 3 units per acre with no preserve requirement and including a workforce housing requirement. The 140 acre site is located on the north and south sides of Atlantic Avenue, adjacent to the Florida's Turnpike. At the June 12, 2020 public hearing, the Planning Commission recommended denial of initiation in an 11 to 2 vote. The text initiation was withdrawn by the Applicant prior to the June 29, 2020 BCC Transmittal Hearing.
- **Boynton Parc Plaza Text (2021):** This privately proposed text amendment for initiation was requesting to allow the Multiple Land Use future land use designation with Industrial

and High Residential, 8 units per acre (MLU, IND/8) in the Tier; provide exemption from preserve requirements; add policy language for a Workplace, Employment & Economic Devilmnt in the Tier; and, add a requirement for workforce housing. The associated FLUA requested to change the future land use from Agricultural Reserve (AGR) to Multiple Land Use with underlying Industrial and High Residential, 8 units per acre (MLU, IND/8). The 47.21-acre site is located on the north side of Boynton Beach Boulevard, west of Florida's Turnpike. At the April 9, 2021 public hearing, the Planning Commission recommended denial of initiation in a 13 to 0 vote. The application was withdrawn by the applicant prior to the May 5, 2021 BCC Transmittal Hearing.

- **Star Key Industrial (LGA 2021-015).** This privately proposed text and future land use amendment was withdrawn by the applicant on September 30, 2021, prior to the scheduling of a Planning Commission hearing. The applicant proposed to change the future land use designation for 50.99 acres of land to change from the AGR future land use designation to IND/AGR in order to develop industrial uses, with a maximum potential of .45 floor area ratio (999,506 square feet). The site is located on the north side of Atlantic Avenue, between Starkey Road and the Turnpike. The Zoning application (PDD-2021-00445) requested Planned Industrial Park (PIPD) zoning and was submitted in 2021.
- **Sunflower Light Industrial (LGA 2021-016).** The application proposed a future land use amendment for 8.19 acres of land from the AGR future land use designation to IND/AGR in order to develop industrial uses, with a maximum potential of .45 floor area ratio (160,540 square feet). The site is located on the west side of State Road 7, approximately .25 miles south of Atlantic Avenue. The Board adopted the amendment on July 28, 2021 with conditions of approval limiting the site to:
 1. Uses shall exclude heavy industrial uses which engage in the basic processing, manufacturing, or storage of flammable, hazardous, or explosive materials or products, or processes which potentially involve hazardous or commonly recognized offensive conditions as described in Future Land Use Element Policy 2.2.4-d of the Palm Beach County Comprehensive Plan; and
 2. Uses identified as Commercial in Article 4 of the Unified Land Development Code are prohibited on the site, with the exception of Landscape Service, Self-Service Storage, and accessory uses.
- **Las Farms (LGA 2022-001).** On February 2, 2022, the BCC adopted a future land use amendment request for 6.95 acres of land from the AGR future land use designation to IND/AGR in order to develop industrial uses, with a maximum potential of .45 floor area ratio (136,234 square feet). The site is located on the west side of State Road 7, approximately .5 miles north of Boynton Beach Boulevard. The amendment includes the same conditions of approval as Sunflower Light Industrial above.
- **West Atlantic Industrial Fina (2022-018).** This privately proposed FLUA amendment was submitted in November 2021. The applicant is requesting to change the future land use designation on the 10.11 acre site from AGR to IND/AGR including the same conditions adopted in the Sunflower Light application. The site is located north of Atlantic Avenue, approximately one half mile west of State Road 7. This amendment is scheduled for the May 4, 2022 BCC Transmittal public hearing.

VI. Data and Analysis Summary

This section provides data and analysis, including an examination of consistency with the Comprehensive Plan.

A. Industrial Land Uses in Palm Beach County

There are approximately 21,000 acres of industrially designated land in Palm Beach County, of which approximately 69%, or 14,683 acres, are located within Unincorporated County. Table 1 outlines the unincorporated industrial future land uses.

Table 1. Industrial Future Land Uses

Future Land Use	Total Acres	Urban Suburban	U/T Overlay	Ag Reserve	Glades - Urban	Glades
Industrial	13,541	1,909	8,441	79	3,049	63
Underlying Industrial	681	518	147	13	3	0
Economic Dev. Center	461	63	260	0	0	138
Total	14,683	2,490	8,848	92	3,052	201

Source: 2021 Existing Land Use layer, Future Land Use layer

Industrial lands in unincorporated Palm Beach County largely fall into four geographic locations. All but 3% of the industrial land, or 383 acres, is located within one of these four areas.

- **United Technology Corporation (Pratt-Whitney) Protection Overlay.** Approximately 6,700 of the 8,848 acres in the Overlay are set aside as preserve lands.
- **Glades.** Of the 3,052 acres in the Glades Urban Suburban Tier, approximately 1,600 acres are part of the Sugar Cane Cooperative Protection Overlay. The rural community of Lake Harbor holds approximately 63 acres.
- **Southern/Turnpike.** The Southern Boulevard and Florida Turnpike area, including up to the Vista Center, contain approximately 1,600 acres.
- **Blue Heron/I-95.** Approximately 230 acres of industrial land use are located east of I-95 in the Blue Heron Boulevard area surrounded by municipalities.

B. Proposed Amendment

This amendment is comprised of several interconnected components, each of which is discussed separately below and corresponds with the specific strike out and underline changes to the Comprehensive Plan shown in **Exhibits 1-A and 1-B**.

1. Proposed Commerce (CMR) Future Land Use Designation

This amendment proposes to establish a new industrial future land use designation called Commerce (CMR) to facilitate the review and consideration of newly proposed light industrial uses. The new future land use will allow the Board to review and consider proposed light industrial uses to ensure that each project is appropriately located and compatible with adjacent land uses, and ensure that the approval of an industrial type future land uses does not introduce heavy industrial uses, which may not be appropriate at the particular location.

- **Establishing the CMR designation.** This amendment proposes the new CMR future land use designation for the Urban Suburban Tier and Agricultural Reserve Tier seeking light industrial uses. The Comprehensive Plan defines ‘light’ and ‘heavy’ industrial uses; however, these terms are not carried forward into specific future land use designations. The Industrial future land use designation allows all industrial uses, as does the Economic Development Center designation. The new CMR future land use designation will establish an opportunity for light industrial uses in appropriate locations in order to allow employment based uses at suitable locations along major thoroughfares while protecting adjacent residences from more intense uses. As with the existing industrial designations, the new CMR future land use will be allowed in the Urban Suburban Tier and not allowed in the Exurban and Rural Tiers.
- **Agricultural Reserve Industrial.** This amendment proposes to allow the new CMR future land use designation in the Agricultural Reserve Tier and limit new industrial future land use requests to this new designation. As previously stated, since 2016 there are have been seven requests for land use amendments seeking industrial future land use amendments in the Agricultural Reserve Tier. As there are no policies in the Plan directing the appropriate locations, extent, intensity and uses for industrial in the Tier. Therefore, this amendment includes policy guidance for future amendments including location requirements limiting the designation to major corridors. The amendment includes two options for the proposed 60% preserve requirement: either for sites over 16 acres consistent with the commercial designations or for sites over 50 acres. There have been no changes to the percentage of preserve requirements for residential planned developments in the Tier since initially established with the settlement agreement in 1995, predating the Master Plan. However, in 2016, the Board established a policy exemption so that commercial sites less than 16 acres are not required to provide a preserve. Staff is recommending the 16-acre threshold as there are no unique attributes to industrial development that provide a basis for abandoning the preserve requirements established by the Board for non-residential development in the Tier.

C. Consistency with the Comprehensive Plan - General

This proposed amendment will further several provisions in the Future Land Use Element of the Comprehensive Plan, including the items listed below. Unrelated language is omitted for brevity.

FLUE, Introduction. Seven broad principles guide sustainable land use planning and development:

- (2) Prevent urban sprawl through establishing urban development areas and encouraging urban revitalization and redevelopment;
- (6) Promote sustainable economic development initiatives in the County to diversify its economic base and enhance the quality of life of current and future County generations.

Staff Assessment: With regards to Principal 2, the new CMR future land use designation will allow new light industrial uses to be approved in urban areas thereby encouraging infill. With regards to Principal 6, this amendment will support sustainable economic development initiatives in the County to diversify its economic base.

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.*
- 2. Growth Management.** *Provide for sustainable communities and lifestyle choices by: (a) directing the location, type, intensity, timing and phasing, and form of development that respects the characteristics of a particular geographical area; (b) requiring the transfer of development rights as the method for most density increases; (c) ensuring smart growth, by protecting natural resources, preventing urban sprawl, providing for the efficient use of land, balancing land uses; and, (d) providing for facilities and services in a cost efficient timely manner.*
- 4. Land Use Compatibility.** *Ensure that the densities and intensities of land uses are not in conflict with those of surrounding areas, whether incorporated or unincorporated.*

Staff Assessment: This proposed amendment will further the three County Directions shown above by establishing criteria for light industrial uses in the Urban/Suburban Tier and in the Agricultural Reserve Tier to allow employment based uses at suitable locations along major thoroughfares, ensuring land use compatibility. The introduction of the Industrial (IND) future land use designation can open up a site to a long list of allowable uses, including very intense industrial uses as provided in Exhibit 2. In addition, within the Urban/Suburban Tier, the Economic Development Center (EDC) future land use designation is intended for larger, “campus” like industrial users. Therefore, the new CMR FLU will foster additional opportunities for smaller, low-trip generating light industrial and/or employment generating uses.

D. Consistency with Urban/Suburban Tier Policies

FLUE, Objective 1.1, OBJECTIVE 1.2 Urban/Suburban Tier– Urban Service Area

General: This tier is expected to accommodate the bulk of the population and its need for employment, goods and services, cultural opportunities, and recreation. It supports a variety of lifestyle choices, ranging from urban to residential estate; however, the predominant development form in the unincorporated area is suburban in character. The older, communities are primarily in municipalities, within approximately 2 miles of the Atlantic Ocean. Most of the neighborhoods within the tier are stable and support viable communities. However, due to the period in which many of the coastal communities were built and the County's efforts to keep pace with rapid growth in its western areas, some of the eastern areas did not receive a full complement of urban services. If the County is to meet its primary goal to create and maintain liveable communities, balance growth throughout the County, protect natural resources and provide a variety of lifestyle choices beyond the long term planning horizon, it is imperative that land, services and facilities be used efficiently and effectively.

Objective: Palm Beach County shall plan to accommodate approximately 90% of the County's existing and projected population through the long-range planning horizon within the Urban/Suburban Tier. The Urban/Suburban Tier shall include all land within the Urban Service Area, as depicted on the Service Areas Map in the Map Series. These areas have a development pattern generally characterized as urban or suburban, considering the intensity and/or density of development. The Urban/Suburban Tier shall be afforded urban levels of service.

Policy 1.2-a: Within the Urban/Suburban Tier, Palm Beach County shall protect the character of its urban and suburban communities by:

1. Allowing services and facilities consistent with the needs of urban and suburban development;
2. Providing for affordable housing and employment opportunities;
3. Providing for open space and recreational opportunities;
4. Protecting historic, and cultural resources;
5. Preserving and enhancing natural resources and environmental systems; and,
6. Ensuring development is compatible with the scale, mass, intensity of use, height, and character of urban or suburban communities.

Policy 1.2-b: Palm Beach County shall encourage and support sustainable urban development, including restoration, infill and adaptive reuse.

Staff Assessment: This proposed amendment will further this objective and policies above by promoting the efficient use of land within the Urban/Suburban Tier by establishing policy language to create a third industrial future land use designation specifically for light industrial uses. The new CMR FLU will provide an additional option for industrial development that allows for low-trip generating non-residential and/or employment generating uses. The proposed amendment also promotes compatibility of these uses by protecting adjacent residences from more intense "heavy" industrial uses.

E. Consistency with the Agricultural Reserve Tier Policies

Future Land Use Element Objective 1.1, Managed Growth Tier System, states that “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....”

OBJECTIVE 1.5 The Agricultural Reserve Tier

- 1. 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.

Staff Analysis: The primary objective of the Agricultural Reserve Tier is the preservation of agricultural and environmental lands, while allowing for development in a planned manner that is consistent with the Master Plan and associated policies within the Comprehensive Plan that direct the locations and amounts of allowable development. Currently there are no policies in the Plan directing the appropriate locations, extent, intensity and uses for industrial in the Tier. Therefore, the new CMR future land use will provide policy guidance for future requests for industrial including location requirements limiting the designation to major corridors, prohibiting heavy industrial uses, and requiring the provision for a preserve area for sites greater than 16 or 50 acres.

This amendment will support the above referenced provisions in the Comprehensive Plan. There are no inconsistencies with the policies in the Comprehensive Plan.

F. ULDC Implications

This proposed amendment will result in revisions to the ULDC to Articles 3 and 4 of ULDC to revise applicable zoning districts for consistency with the new CMR future land use designation. In addition, the ULDC shall be revised to separate the current industrial uses into ‘light’ and ‘heavy’ sections, and separate the types of commercial uses into sections.

VII. Public and Municipal Review

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 February 18, 2022. In addition, an email to interested parties of the Agricultural Reserve was sent on March 4, 2022. Correspondence received through the public hearing process will be provided in Exhibit 3.

VIII. Assessment and Conclusions

This amendment proposes to establish a new future land use designation specifically for light industrial uses. The new Commerce (CMR) FLU will allow the Board to review and consider proposed light industrial uses to ensure that each project is appropriately located and compatible with adjacent land uses, and ensure that the approval does not introduce heavy industrial uses, which may not be appropriate at the particular location. As with the other industrial future land use designations, the new CMR future land use will be allowed in the Urban Suburban Tier and not within the Rural and Exurban Tiers. This amendment also proposes to establish policy guidance for industrial uses in the Agricultural Reserve Tier by establishing location requirements and limiting to the new CMR designation. The proposed Agricultural Reserve Tier policies would establish preserve requirements for sites over 16 acres consistent with the commercial designations, or over 50 acres. This amendment will require implementing revisions to the ULDC.

Attachments

Exhibit 1 – Proposed revisions in strike-out and <u>underline</u> format	E-1
Exhibit 2 – Industrial Use Matrix	E-7
Exhibit 3 – Correspondence	E-10

Exhibit 1-A

A. Future Land Use Element, Commerce Future Land Use Designation

REVISIONS: To establish a new future land use designation called Commerce for light industrial uses. The added text is underlined, and the deleted text ~~struck out~~.

2.2.4 Industrial

1. **REVISED Policy 2.2.4-c: Industrial Future Land Use Designations**. The three Industrial ~~and Economic Development Center~~ future land use designations are intended to accommodate industrial uses which are defined as uses engaged in the manufacturing, assembly, processing, research and development, wholesale distribution, or storage of products, related uses and services, including Office of an Industrial Nature (as defined by the Introduction and Administration Element).

1. **Industrial.** The Industrial (IND) future land use designation allows the full range of industrial activities ranging from light to heavy industry.
2. **Economic Development Center.** The Economic Development Center (EDC) future land use designation is intended to accommodate employment opportunities, research parks, and Employment Centers (as defined by the Introduction and Administration Element). Properties with an EDC designation are intended to be developed as planned developments in order to promote internal circulation and buffering from surrounding land uses. Industrial uses allowed ~~within EDC~~ shall be limited to those that demonstrate Light Industrial characteristics.
3. **Commerce.** The Commerce (CMR) future land use designation is intended to accommodate light industrial uses to provide an option for low-trip generating non-residential and/or employment generating uses on arterial roadways. Industrial uses allowed shall be limited to those that demonstrate Light Industrial characteristics.

Remainder of policy relocated to New Policy 2.2.4-e

2. **REVISED Policy 2.2.4-d: Industrial Uses.** Industrial uses shall be considered either Light or Heavy as defined below.

Light Industrial. Light industrial development's typical operation is not likely to cause undesirable effects, danger or disturbance upon nearby areas and typically does not create negative impacts on immediately adjoining uses. These uses typically do not cause or result in the dissemination of dust, smoke, fumes, odor, noise, vibration light, or other potentially objectionable effects beyond the boundaries of the lot on which the use is conducted. Examples of Light Industrial uses include: storage, warehouse distribution, research, laboratories, dispatch, landscape service, flex space, media production, and light manufacturing and processing.

Heavy Industrial. Heavy industrial development's typical operation may cause or result in the dissemination of dust, smoke, fumes, odor, noise, vibration, ~~or~~ light, or other potentially objectionable effects beyond the boundaries of the lot on which the use is

conducted. These effects will be minimized through the application of performance standards established in the Unified Land Development Code. Heavy industrial uses ~~can~~ include those that engage in the processing, manufacturing, or storage of flammable, hazardous, or explosive materials or products, or processes which potentially involve hazardous or commonly recognized offensive conditions. Examples of heavy industrial uses include, but are not limited to, salvage and junkyards, storage of regulated substances, asphalt and concrete mixing and product manufacturing, heavy manufacturing, construction and demolition recycling, and equestrian waste management.

3. **REVISED Policy 2.2.4-e. Additional Allowable Uses in Industrial Designations.** In addition to the industrial uses, the land uses listed below are allowable within the Industrial ~~type and Economic Development Center~~ future land use designations as permitted by the ULDC.
1. Mining, subject to the limitations included in Objective 2.3 entitled "Mining and Excavation";
 2. Parks and Recreation;
 3. Commercial Recreation including but not limited to, tenants within industrial buildings, such as indoor sports, fitness, gymnastics, karate studios, and dance studios;
 4. Conservation;
 5. Institutional and Public Facilities;
 6. Transportation, Utility, and Communication Facilities;
 7. Non-residential agricultural uses;
 8. Caretakers' quarters;
 9. Uses and structures accessory to a permitted use;
 10. Flex space. Flex space allows each use to be a flexible percentage of the uses allowed in the Use Matrix per the applicable FLU, typically with 70% of the total floor area for uses demonstrating light industrial characteristics and 30% for retail, office and display areas for products manufactured and/or distributed on site.
 11. Commercial uses pursuant to one or more of the following:
 - a. Industrial (IND) future land use allows vehicular based Commercial uses of an industrial nature that have impacts similar to industrial uses such as auto repair and the like, including Office of an Industrial Nature, and accessory commercial uses which are incidental and subordinate to the primary industrial use, and Office of an Industrial Nature;
 - b. Commercial uses in Commerce and Economic Development Center are limited to accessory commercial uses, which are incidental and subordinate to the primary industrial use, and Office of an Industrial Nature;
 - c. Retail gasoline and/or fuel sales shall be limited to the Industrial (IND) future land use designation as accessory to an industrial use, or part of a commercial pod in a Planned Industrial Park Development;
 - d. Commercial uses within Planned Industrial Park Developments pursuant to FLUE Policy 4.4.7-a; and
 12. Residential uses within a Planned Industrial Park Developments pursuant to FLUE Policy 4.4.7-a.

4. **NEW Policy 2.2.4-f:** All requests for new industrial type future land use designations shall front an arterial roadway or have access to an arterial roadway through an existing commercial or industrial site. Arterial roadways are depicted on Map Figure TE 3.1, Functional Classification of Roads, unless otherwise identified within this element.

5. **REVISED**

**TABLE 2.2-e.1,
Maximum Floor Area Ratios (FARs) For Non-Residential Future Land Use Categories and Non-Residential Uses**

(unaltered rows omitted for brevity)

Future Land Use	FLU Category	Tier				
		Urban/Suburb	Exurban	Rural	Ag Reserve	Glades
Industrial	IND	.45-.85 ⁹	not allowed	not allowed	.45	.45
	EDC	.45-.85 ⁹	not allowed	not allowed	not allowed	not allowed ¹¹
	<u>CMR</u>	<u>.45-.85⁹</u>	<u>not allowed</u>	<u>not allowed</u>	<u>not allowed</u>	<u>not allowed</u>
Commercial Recreation		.50	not allowed	.05	.05	.05

Notes:

- 1. to 8. Omitted for brevity
- 9. Industrial and self-storage uses may be approved for up to .85 FAR in the industrial future land use designations the Urban Suburban Tier, and self-storage uses may be approved for up to .65 FAR in the commercial future land use designations in the Agricultural Reserve Tier on sites that meet the Major Intersection Criteria in the ULDC (see also FLUE Policy 1.5-p).
- 10. to 11. Omitted for brevity

6. **REVISED Policy 2.2-f:** Table 2.2-f.1 establishes the consistent non-residential zoning and planned development districts for the Non-Residential Future Land Use Designations.

**Table 2.2-f.1
Non-Residential Future Land Use - Zoning Consistency^{1, 2}**

(unaltered rows omitted for brevity)

Future Land Use Designation	Consistent Zoning	
	Zoning District	Planned Development
Industrial	IL, IG	MUPD, PIPD
Economic Dev. Center	IL	MUPD, PIPD
<u>Commerce</u>	<u>IL</u>	<u>MUPD</u>
Commercial Recreation	CRE	MUPD, RVPD

Notes:

- 1. The Public Ownership (PO) zoning district is allowed in all future land use designations.
- 2. Within the Glades Tier, the AP and AR districts are consistent with all future land use designations, excluding Conservation. Within all Tiers, AR is consistent with all non-residential future land use designations, excluding Conservation.
- 3. & 4. Omitted for brevity

7. REVISED

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 ¹
<i>Unaltered text omitted for brevity</i>						
Industrial	IND	X	---	---	X	---
	EDC	X	---	---	---	---
	CMR	X	---	---	---	---
<i>Unaltered text omitted for brevity</i>						

1. Within the rural towns of Lake Harbor and Canal Point, the following additional future land use designations shall be allowed: Residential from RR-2.5 through MR-5; CL; CL-O; IND; EDC; and INST.
2. Within the Glades Area Protection Overlay, 138.31 acres of EDC future land use designation is allowed.

Exhibit 1-B

B. Future Land Use Element, Commerce FLU within the Agricultural Reserve Tier

REVISIONS: To establish requirements for industrial future land use designations in the Agricultural Reserve Tier. The added text is underlined, and the deleted text ~~struck out~~.

Industrial

1. **NEW Policy 1.5-v: Industrial.** The County shall foster employment opportunities in the Agricultural Reserve Tier by allowing light industrial uses at appropriate locations to provide a balance of land uses for current and new residents of the Tier. All new future land use amendments requesting industrial type uses in the Agricultural Reserve Tier shall meet the following requirements:

1. Limited to the Commerce (CMR) future land use designation;
2. Located with frontage and access on ~~Fronting~~ State Road 7 (north of Rio Grande Avenue), Atlantic Avenue (from Florida's Turnpike to State Road 7), Boynton Beach Boulevard (from Florida's Turnpike to State Road 7), or have access to these roadways through an existing commercial or industrial site. Sites located west of State Road 7 must share a common border with a property with commercial or industrial future land use;
3. Be accompanied by a concurrent zoning application and conceptual site plan in order to demonstrate that the proposal meets the design, scale, and character requirements of the Tier; ~~and~~
4. Have a minimum of 3 acres and a maximum of 50 acres (with the exception of lands dedicated to rights of way); and
5. ~~For sites over 50 acres, be subject to the preserve percentage and use requirements of Policy 1.5.1-q;~~
5. Preserve shall be required for Commerce sites utilizing Light Industrial, Multiple Use Planned Development, or Planned Industrial Park Development zoning pursuant to FLUE Policy 1.5.1-q and subject to the following:
 - a. The preserve area requirements shall be based upon the acreage over 16 acres, shall be a minimum of 40% of the total land area, and allow water management tracts in preserve areas contiguous to the development area that provide enhanced environmental features and improved water quality as demonstrated through the future land use amendment process.

Commercial

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 and office uses allowed within the Commerce future land use designation are not subject to the commercial cap.

SUB-OBJECTIVE 1.5.1 Planned Developments

To achieve the goal of farmland protection and agricultural perpetuation, unique planned development options, which ensure the preservation of significant open space may be permitted.

2. **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.

3. **REVISED**

**TABLE 2.2-e.1,
Maximum Floor Area Ratios (FARs) For Non-Residential Future Land Use Categories and
Non-Residential Uses**

(unaltered rows omitted for brevity)

Future Land Use	FLU Category	Tier				
		Urban/Suburb	Exurban	Rural	Ag Reserve	Glades
Industrial	IND	.45-.85 ⁹	not allowed	not allowed	.45	.45
	EDC	.45-.85 ⁹	not allowed	not allowed	not allowed	not allowed ¹¹
	CMR	.45-.85⁹	not allowed	not allowed	.45⁹	not allowed
Commercial Recreation		.50	not allowed	.05	.05	.05

Notes:

1. to 8. *Omitted for brevity*

9. Industrial and self-storage uses may be approved for up to .85 FAR in the industrial future land use designations the Urban Suburban Tier, and self-storage uses may be approved for up to .65 FAR in the commercial future land use designations in the Agricultural Reserve Tier on sites that meet the Major Intersection Criteria in the ULDC (see also FLUE Policy 1.5-p).

10. to 11. *Omitted for brevity*

4. REVISED

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 ¹
<i>Unaltered text omitted for brevity</i>						
Industrial	IND	X	---	---	X	---
	EDC	X	---	---	---	---
	<u>CMR</u>	<u>X</u>	<u>---</u>	<u>---</u>	<u>X</u>	<u>---</u>
<i>Unaltered text omitted for brevity</i>						

1. Within the rural towns of Lake Harbor and Canal Point, the following additional future land use designations shall be allowed: Residential from RR-2.5 through MR-5; CL; CL-O; IND; EDC; and INST.
2. Within the Glades Area Protection Overlay, 138.31 acres of EDC future land use designation is allowed.

Exhibit 2 Industrial Uses

	AGR	IL	IG	IND/ MUPD	EDC	PIPD/ IL Pod	PIPD/ IG Pod	PIPD/ Com Pod
Agricultural uses								
Agriculture, bona fide	P	A	A					
Agriculture, Light Manufacturing	D	P	P					
Agriculture, Packing Plant	D	D	D					
Agriculture, Research/Development	D	P	P	P	P	P	P	
Agriculture, Sales & Service	B							P
Agriculture, Storage	P	P	P					
Agriculture, Transshipment	D	D	P	P	P	P	P	
Aviculture, Hobby Breeder	P	P	P					
Community vegetable garden	P	P	P					
Equestrian arena, commercial	D	B	B					
Farmer's Market	D	P	P			P	P	P
Nursery, retail	P	B	B					P
Nursery, wholesale	P	P	P			P	P	
Potting soil manufacturing	D	B	D					
Produce Stand	S	S	S					
Shadehouse	P	P	P					
Stable, commercial	D	D	D					
Stable, private	P							
Sugar mill or refinery			A				P	
Commercial uses								
Adult entertainment		D	D			D		D
Auction, indoor	P	P	P	P		P	P	P
Auction, outdoor	P	P	P	A		P	P	A
Car wash		D		P		P	P	P
Catering Service		P	P	P		D	D	P
Dispatching office		P	P	P		P	P	A
Dog day-care		P		P		P		D
Electric Vehicle Charging Station		D	D	D		D	D	D
Kennel, Commercial	B							D
Landscape maintenance service		P	P	P	D	P	P	P
Laundry services		A	A	A		A	A	P
Marina		P	P					A
Microbrewery		D	D	D	D	D	D	A
Repair and maintenance, Heavy		P	P	P		P	P	A
Repair and maintenance, Light		P	P	P		D	D	P
Repair services, limited		P		P		P		P

	AGR	IL	IG	IND/ MUPD	EDC	PIPD/ IL Pod	PIPD/ IG Pod	PIPD/ Com Pod
Self-service storage, Limited		D		D		D		D
Self-service storage, Multi-access		D		D		D		A
Vehicle Equip. sales & rental, Heavy		A		A		A		
Veterinary clinic	A	P						P
Vocational school		P	P	P	P	P		P
Industrial uses								
Contractor's storage yard		D	P	P	D	P	P	
Data Information Processing		P	P	P	P	P	P	P
Distribution Facility		D	D	P	P	P	P	D
Equestrian Waste Management		A	A	A				
Gas and fuel, wholesale		A	D	A			P	
Heavy industry		A	D	A		R	P	
Machine or welding shop		P	P	P		P	P	
Manufacturing and processing		P	P	P	A	P	P	D
Medical or dental laboratory		P	P	P	P	P		P
Multi-media production		P	P	P	P	P		P
Recycling center		A	P	A	D	P	P	A
Recycling plant		A	D	A		P	P	
Research & Development		P	P	P	P			A
Salvage or junk yard			A	A			R	
Towing service and storage		P	P	P		P		
Truck stop		A	A	A		R	R	
Warehousing		P	P	P	P	P	P	D
Wholesaling, general		P	P	P	P	P	P	D
Institutional, Public and civic uses								
Animal Shelter		A	D					
Assembly, nonprofit institutional	A							A
College or university				A				A
Crematory		A	A	A				A
Day care center, limited	D							D
Day care center, general	A							A
Funeral home		D	D	D				P
Government services	D	P	P	P	P	P	P	P
Homeless Resource Center		A		A				
Place of worship	D	D	D					D
School, elementary or secondary	A	A						A
Recreational uses								
Golf course		D		A		P	P	A
Park, Neighborhood infill		P	P					
Park, passive	P	P	P	P	P	P	P	P

	AGR	IL	IG	IND/ MUPD	EDC	PIPD/ IL Pod	PIPD/ IG Pod	PIPD/ Com Pod
Park, public		D	D	P				P
Shooting range, indoor		D	P	A		P	P	A
Transportation								
Airport			A	A	A	A	A	
Heliport or helipad		D	D	A	A	A	A	A
Landing strip			A	A	A	A	A	
Seaplane Facility			A	A	A	A	A	
Utility								
Chipping and mulching	D	B	D	B		B	D	
Composting facility	D	D	D	P		P	P	
Electric Distribution Substation	D	D	D	D	D	D	D	D
Electric power plant		A	A	A		A	A	A
Electric Transmission Substation	A	A	A	A	A	A	A	A
Utility, minor	D	D	D	D	D	D	D	D
Renewable Energy Solar Facility	D	D	D	D	D	D	D	D
Renewable Energy Wind Facility	A	A	A	A	A	A	A	A
Solid waste transfer station		A	B	A		P	P	A
Water or wastewater treat. plant		D	D	A		P	P	
Excavation								
Agricultural Excavation	A	A	A					
Type 1A Excavation	P							
Type 1B Excavation	D							
Type 2 Excavation	A	A	A	A	A	A	A	A
Type 3A Excavation		A	A					
Type 3B Excavation		A	A					

Key:

P – Permitted by Right

S – Subject to Special Permit Approval

D – Subject to DRO Approval

B – Conditional Use Class B, Subject to Zoning Commission Approval

A – Conditional Use Class A, Subject to BCC Approval

Blank – Prohibited use, unless stated otherwise within Supplementary Use Standards

Exhibit 3 Correspondence



March 2, 2022

Palm Beach County Planning Commission Members
C/O Kevin Fischer, Interim Planning Director
Planning Division
2300 N. Jog Road
West Palm Beach, Florida 33411

Re: New Commerce Future Land Use in Agriculture Reserve Tier

Dear Planning Commissioners and Interim Director Fischer:

We would like to thank you for supporting the initiation of a Comprehensive Plan Text amendment to create the Commerce Future Land Use designation and allowing that designation within the Agricultural Reserve. The creation of the Commerce Future Land Use designation in the AgR Tier is a result of the recognition that there is a need to provide for certain Industrial uses in the Agricultural Reserve. The Industrial designation, however, allows both heavy and light industrial uses; the proposed Commerce Future Land Use Designation would resolve that issue and could provide for the necessary use for the community. We have reviewed the information to date and spoke at the BCC hearing regarding on particular issues - the size of the property at which a preserve requirement would make sense. The key point is that having the land use designation only provides for the availability of the needed use if it can feasibly be developed. Therefore, as you evaluate the specifics of the Commerce text language, we respectfully request that you consider the following:

- 1) Need for Light Industrial Uses in Agriculture Reserve.** There is a recognition for the need for light industrial/commerce uses in the Agricultural Reserve. This is supported by data, particularly as logistics and community needs have changed recently. Throughout all of Palm Beach County, vacancy rates for the commerce related uses are at historical lows (+/-3%). In Delray Beach and the surrounding Western Palm County communities, the vacancy rate is even lower, (+/-1%). To understand the impacts of this issue, we asked Dr. David Menachof, an Associate Professor at the School of Business at Florida Atlantic University, to study the impacts to both consumers and the business community due to the lack of available inventory. His view is that the lack of industrial space has been exacerbated by the pandemic, which has driven a number of changes, including a shift to e-commerce, a need for greater localized inventories of medical supplies and equipment, and the ability for businesses to establish local operations to support the growth of the residential communities. Essentially his point is that this change has created a need for the proposed commerce related uses to support the local community. Additionally, to effectively support and maintain the agricultural base in the County, there is a need for modern distribution and short-term storage facilities (including modern cold storage) to be located near the current agriculture production facilities. Given the lack of such inventory, growers are forced to move produce to distant facilities which substantially increases costs, making continued operations in the Agricultural Reserve less viable.
- 2) Location. Location. Location.** The State Road 7/US 441 corridor is already an established essential north-south route for agricultural products and other goods. This transportation corridor links key points throughout the region and provides an important alternative local route west of the Florida Turnpike, meaning less traffic on Boynton Beach Blvd. and Atlantic Avenue. State Road 7/US 441 is the logical location for the new Commerce Future Land Use designation.

3910 RCA Blvd. Suite 1015 | Palm Beach Gardens, FL 33410 | 561.500.5060 | office@jmortonla.com email

- 3) **Regional vs. Local.** Effective light industrial facilities are typically located on mid-size sites (typically between approximately 40 to 50 acres). As mentioned, these facilities provide distribution for area hospitals, contractors, local businesses, and agricultural interests, among others. As an example, before the pandemic, medical supplies were routinely stored at regional warehouses and distribution facilities in distant locations, such as Atlanta and Dallas. The ability to source these supplies often requires a delivery time of 1-2 weeks. This has changed in the last two years as we have all realized that things can change in an instant and we need to have flexibility in communities to respond to those changing needs. For example, hospitals, medical, and long-term care facilities have revamped their strategy to require supplies be stored in near proximity to their facilities to prevent the shortages. This is part of the resiliency planning that each community must undertake and is evident throughout the country.
- 4) **Land Area.** In order to meet these community needs, a flexible plan of development is necessary for a viable project. Unlike other uses, such as residential and commercial, the commerce uses cannot be clustered into smaller lots or multi-story buildings. This creates a very difficult circumstance related to the 60/40 preservation requirement. Where a residential or commercial development maintains all of its development potential, an industrial commerce facility will lose 60% of its potential. This means that there will not be the opportunity to meet the needs of the community. In the AgR, 1 dwelling unit per acre can be clustered on 40% of the land area. The density on the 40% increases to finish 2.5 dwelling units per acre. This cannot be done for the commerce uses. The 60/40 requirement negatively impacts commerce development as proposed because these buildings are comprised of one-story structures. The ability to cluster 0.45 FAR of light industrial/commerce development on 40% of the property is impossible as developing multi-story structures is not feasible or practical. This loss of land means more than just the loss of square footage. It means that there is less ability to plan for a productive and useful facility. Additionally, the paved area surrounding the buildings must be able to accommodate automobile and delivery vehicle movements. By creating a preserve requirement on too small of an area, it will effectively keep the proposed necessary commerce uses from being available. For example, a 40-acre parcel of property would only have 16 acres of usable land, which means that the 16-acre property is exactly the same. However, neither is sufficient enough to provide the type of flexible building space and design to provide for what the community needs.

Should you require any additional information or explanation, please do not hesitate to contact our office.

Sincerely,

JMorton Planning & Landscape Architecture, Inc.



Jennifer L. Morton, RLA, LEED AP
President

cc: Lisa Amara, Zoning Director
Stephanie Gregory, Principal Planner
Mark G. Levy, President BBX Capital Industrial
Brian M. Seymour, Esquire

Correspondence Provided at the Planning Commission Hearing

Agenda #: III.A.1



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March 10, 2022

Palm Beach County Planning Division
2300 N Jog Road
West Palm Beach, FL 33411-2741

Submitted via email:

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Re: March 11, 2022, Planning Commission Meeting; Commerce FLU in Ag Reserve

Dear Planning Commissioners:

On behalf of our clients, 1000 Friends of Florida (“1000 Friends”) and Sierra Club Loxahatchee Group (“Sierra Club”), please accept these comments to the Planning Commission and include them in the public record for the upcoming March 11, 2022, meeting regarding the following Agenda Item: *III.A.1 Commerce Future Land Use Designation.*

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.

IMPORTANCE OF PROTECTING THE AG RESERVE TIER STATUS QUO

The Agricultural Reserve Tier (Ag Reserve) is unique to Palm Beach County and is not solely for the benefit of its residents, but for the County as a whole. To wit: in preserving agricultural lands, environmental and water resources, and open space, pursuant to Objective 1.5, the Ag Reserve (1) reduces detrimental impacts from development on water quality, (2) improves flood control, (3) engages in highly beneficial carbon sequestration that reduces air pollution and mitigates climate change, (4) provides wildlife habitat for native flora and fauna, as well as threatened and endangered species, and a safe haven for transient and migratory wildlife, and (5) provides conservation land buffers between populated areas and the Arthur R. Marshall Loxahatchee National Wildlife Refuge.

Protecting the Ag Reserve ***does not necessitate modifying*** the Comprehensive Plan to accommodate additional growth, whether it be residential or commercial. The founding principles of the Ag Reserve, and the associated bond to secure the preservation lands, require an ***unwavering dedication to the purpose and intent of this unique Tier***.

The Palm Beach County Planning Commission 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 economic benefits today, but also protect the environmentally sensitive areas for generations to come as once these areas are gone, they are gone forever. 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.

III. A. 1. COMMERCE FUTURE LAND USE DESIGNATION

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. In 2015, the Board of County Commissioners considered recommendations for the additional of industrial uses above and beyond those grandfathered into the Tier, 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."

The Commerce FLU is a County initiative, and Planning Staff have advised that it will:

allow the Board to review and consider proposed light industrial uses to ensure that each project is appropriately located and compatible with adjacent land uses, and ensure that the approval does not introduce heavy industrial uses, which may not be appropriate at the particular location.

Comprehensive Plan Amendment Staff Report Amendment Round 22-B, p. 1 (“*Staff Report*”)

There are a number of issues 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, as well as concerns with the proposal by County Planning Staff before the Commission, 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 the designation in the Tiers other than the Ag Reserve to serve those communities. There is not a need, nor justification for, the additional inclusion of industrial uses in the Ag Reserve Tier. The Comprehensive Plan was crafted and amended specifically to leave the option off the table. There will be no benefit to the Ag Reserve to allow it now.

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 as is evidenced by the support from JMorton Planning and Landscape Architecture.

It must be noted that the Ag Reserve 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.” Piecemeal 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 and buffering, 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 could lead to Carte Blanche Approval

The Commerce FLU amendment does not clearly delineate which approval process will be required for applicants, be it a permit by right or conditional use subject to commission approval, but rather simply states that the amendment will “provide policy guidance for future requests for industrial including location requirements limiting the designation to major corridors, prohibiting heavy industrial uses, and requiring the provision for a preserve area for sites greater than 16 or 50 acres.” *Staff Report*, p. 11.

However, during the October 2021 Workshop, County Planning Staff reiterated many times that allowing for an industrial designation in the Ag Reserve would take the review process out of the hands of the Commissioners and into the Permitting Department to ensure that a checklist of requirements had been completed.

This carte blanche permitting process would remove the consideration of environmental impacts and sensitive lands that may surround proposed industrial uses in the Ag Reserve where the Comprehensive Plan did not anticipate any additional industrial uses would be incorporated.

(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 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 appropriate 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.


CONCLUSION

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.

For the reasons set forth herein, 1000 Friends of Florida and Sierra Club Loxahatchee group respectfully request that the Planning Commission recommend ***Denial of Initiating the Commerce FLU Designation.***

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



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- Paul Gellis
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- Philip Leslie
- Kenneth Sanden
- Dr. Richard Carrington

March 10, 2022

Ms. Lisa Amara
Palm Beach County PZB, Zoning Division
2300 N Jog Rd
West Palm Beach, FL 33411
Via Email: lamara@pbcgov.org

Re: March 11, 2022 Discussion about Ag Reserve Items

Dear Ms. Amara,

On behalf of our members, we would like to provide the following input about the 3/11/2022 Ag Reserve Discussion Items:

COBWRA understands and acknowledges the continued desire for developers to propose new development within the Ag Reserve, specifically ones that are industrial in use. We also understand and acknowledge property owner rights should they have a desire to sell their property and “cash out”. However, paramount to these discussions is ensuring future development occurs in a sensible and reasonable manner, of which great priority is given to protecting existing uses to include but not limited to equestrian businesses, agricultural operations and residential communities.

Specific to the proposed County Initiated text amendment, we offer our position on the following:

1. CMR Designation

- COBWRA supports CMR Guidelines 1 through 4 under new Policy 1.5v: Industrial.
- COBWRA does not support CMR Guideline 5 (Option 1 or Option 2). COBWRA’s preserve percentage is discussed in #2 noted below.

2. Maintain 60% Preserve Requirements

- COBWRA supports requiring this for sites over 10 acres, consistent with the commercial designations.
- COBWRA does not support allowing developments under 50 acres to not have a preserve requirement. This designation would be detrimental the Agricultural Reserve and would completely dismantle the uniqueness and quaintness of this area of Palm Beach County. This would essentially allow developers to pave over millions of square feet without setting aside land to offset their impact. We recognize the need for development, but this designation is NOT what this area of Palm Beach County was ever envisioned to be.

3. Limit Industrial Property Sizes

- COBWRA recognizes that very specific industrial uses, specific to their location and size, are meaningful to serve the residents and businesses of the Agricultural Reserve.

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Dagmar Brahs

Eugene Sokoloff

Paul Gellis

Al Miller

Philip Leslie

Kenneth Sanden

Dr. Richard

Carrington

We agree with the guidelines set forth for CMR, to include site specific locations, however, recommend limiting the property size to a maximum of 10 acres for small scale industrial development. This allows for sensible growth, while maintaining a proper scale for this area of Palm Beach County. Most importantly, this position would allow 4 of the 7 previously proposed private FLU amendments for industrial to fit the criteria for property size. Medium or Large-scale Light Industrial has no place in the Agricultural reserve and is simply incompatible with existing uses.

4. Light Industrial Uses that are Compatible for “CMR” / Ag Reserve

- COBWRA supports the following Light Industrial uses (attached) within the newly designated CMR/Ag Reserve, however, none of these uses should be permitted by right. The applicant must go through Planning Commission and BCC public hearing processes.
- These uses were reviewed one by one with the Boynton Ag Reserve Communities (BARC) at a roundtable meeting held in Canyon Lakes on September 28, 2021, generating consensus amongst representatives of the following 8 communities:
 - Canyon Lakes
 - Canyon Isles
 - Canyon Springs
 - Canyon Trail
 - Valencia Reserve
 - Valencia Cove
 - Valencia Bay
 - Cobblestone Creek

We look forward to working collaboratively and to providing additional suggestions during this process.

Most Sincerely,

Beth Rappaport

BETH RAPPAPORT, President

On behalf of the Coalition of Boynton West Residential Associations

PO Box 740814, Boynton Beach, FL 33474-0814 • 561-572-9151

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COBWRA REVIEW OF IL USES
 WITHIN "CMR" / AG RESERVE.
 USES THAT SHOULD BE
 PROHIBITED ARE CROSSED OUT.

Exhibit 2 Industrial Uses

	AGR	IL	IG	IND/ MUPD	EDC	PIPD/ IL Pod	PIPD/ IG Pod	PIPD/ Com Pod
Agricultural uses								
Agriculture, bona fide	P	A	A					
Agriculture, Light Manufacturing	D	P	P					
Agriculture, Packing Plant	D	D	D					
Agriculture, Research/Development	D	P	P	P	P	P	P	
Agriculture, Sales & Service	B							P
Agriculture, Storage	P	P	P					
Agriculture, Transshipment	D	D	P	P	P	P	P	
Aviculture, Hobby Breeder	P	P	P					
Community vegetable garden	P	P	P					
Equestrian arena, commercial	D	B	B					
Farmer's Market	D	P	P			P	P	P
Nursery, retail	P	B	B					P
Nursery, wholesale	P	P	P			P	P	
Potting soil manufacturing	D	B	D					
Produce Stand	S	S	S					
Shadehouse	P	P	P					
Stable, commercial	D	D	D					
Stable, private	P							
Sugar mill or refinery			A				P	
Commercial uses								
Adult entertainment		D	D			D		D
Auction, indoor	P	P	P	P		P	P	P
Auction, outdoor	P	P	P	A		P	P	A
Car wash		D		P		P	P	P
Catering Service		P	P	P		D	D	P
Dispatching office		P	P	P		P	P	A
Dog day-care		P		P		P		D
Electric Vehicle Charging Station		D	D	D		D	D	D
Kennel, Commercial	B							D
Landscape maintenance service		P	P	P	D	P	P	P
Laundry services		A	A	A		A	A	P
Marina		P	P					A
Microbrewery		D	D	D	D	D	D	A
Repair and maintenance, Heavy		P	P	P		P	P	A
Repair and maintenance, Light		P	P	P		D	D	P
Repair services, limited		P		P		P		P

ALREADY
HAVE ONE

	AGR	IL	IG	IND/ MUPD	EDC	PIPD/ IL Pod	PIPD/ IG Pod	PIPD/ Com Pod
Self-service storage, Limited		D		D		D		D
Self-service storage, Multi-access		D		D		D		A
Vehicle Equip. sales & rental, Heavy		A		A		A		
Veterinary clinic	A	P						P
Vocational school		P	P	P	P	P		P
Industrial uses								
Contractor's storage yard		D	P	P	D	P	P	
Data Information Processing		P	P	P	P	P	P	P
Distribution Facility		D	D	P	P	P	P	D
Equestrian Waste Management		A	A	A				
Gas and fuel, wholesale		A	D	A			P	
Heavy industry		A	D	A		R	P	
Machine or welding shop		P	P	P		P	P	
Manufacturing and processing		P	P	P	A	P	P	D
Medical or dental laboratory		P	P	P	P	P		P
Multi-media production		P	P	P	P	P		P
Recycling center		A	P	A	D	P	P	A
Recycling plant		A	D	A		P	P	
Research & Development		P	P	P	P			A
Salvage or junk yard			A	A			R	
Towing service and storage		P	P	P		P		
Truck stop		A	A	A		R	R	
Warehousing		P	P	P	P	P	P	D
Wholesaling, general		P	P	P	P	P	P	D
Institutional, Public and civic uses								
Animal Shelter		A	D					
Assembly, nonprofit institutional	A							A
College or university				A				A
Crematory		A	A	A				A
Day care center, limited	D							D
Day care center, general	A							A
Funeral home		D	D	D				P
Government services	D	P	P	P	P	P	P	P
Homeless Resource Center		A		A				
Place of worship	D	D	D					D
School, elementary or secondary	A	A						A
Recreational uses								
Golf course		D		A		P	P	A
Park, Neighborhood infill		P	P					
Park, passive	P	P	P	P	P	P	P	P

	AGR	IL	IG	IND/ MUPD	EDC	PIPD/ IL Pod	PIPD/ IG Pod	PIPD/ Com Pod
Park, public		D	D	P				P
Shooting range, indoor		D	P	A		P	P	A
Transportation								
Airport			A	A	A	A	A	
Helipport or helipad		D	D	A	A	A	A	A
Landing strip			A	A	A	A	A	
Seaplane Facility			A	A	A	A	A	
Utility								
Chipping and mulching	D	B	D	B		B	D	
Composting facility	D	D	D	P		P	P	
Electric Distribution Substation	D	D	D	D	D	D	D	D
Electric power plant		A	A	A		A	A	A
Electric Transmission Substation	A	A	A	A	A	A	A	A
Utility, minor	D	D	D	D	D	D	D	D
Renewable Energy Solar Facility	D	D	D	D	D	D	D	D
Renewable Energy Wind Facility	A	A	A	A	A	A	A	A
Solid waste transfer station		A	B	A		P	P	A
Water or wastewater treat. plant		D	D	A		P	P	
Excavation								
Agricultural Excavation	A	A	A					
Type 1A Excavation	P							
Type 1B Excavation	D							
Type 2 Excavation	A	A	A	A	A	A	A	A
Type 3A Excavation		A	A					
Type 3B Excavation		A	A					

Key:

P – Permitted by Right

S – Subject to Special Permit Approval

D – Subject to DRO Approval

B – Conditional Use Class B, Subject to Zoning Commission Approval

A – Conditional Use Class A, Subject to BCC Approval

Blank – Prohibited use, unless stated otherwise within Supplementary Use Standards

Correspondence Provided at the BCC Transmittal Hearing



Item: 3.C.2

MANAGING GROWTH AND QUALITY OF LIFE IN GREATER WEST BOYNTON SINCE 1981 Over 110 Member Communities

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Al Miller
Philip Leslie
Kenneth Sanden
Dr. Richard Carrington

April 18, 2022

Board of County Commissioners
301 North Olive Ave. Suite 1201
West Palm Beach, FL 33401
Via Email: BCC-AllCommissioners@pbcgov.org

Re: May 4, 2022 | Comp Plan Public Hearing 22A-2 Adoption/22-B Transmittal

Dear Mayor Weinroth, Vice Mayor Weiss, and Commissioners Marino, Kerner, Sachs, McKinlay, and Bernard,

We respectfully request your consideration regarding our positions on the following discussion points:

- Commerce centers +10 ac to follow 60/40 and include a conservation easement.
- Commercial and Industrial in the Ag Reserve is intended to serve the businesses and residents of the Ag Reserve. No commerce center to be +20 acres without additional acreage in the conservation preservation easement for the project and square footage on the size of buildings to be capped to avoid regional uses.
- Frontage to be defined as access in and out of a main road such as Boynton Beach Boulevard, West Atlantic Avenue, or 441.
- Light industrial to exclude include distribution centers, which generate significant truck traffic, congestion and pollution to be resolved with a cap of 50,000 SF.
- Adopting modern definitions for DC's and warehousing while creating new FLUs.
- Maintaining max of 35' height on all buildings.
- Clarify what uses under Exhibit 2 AGR/IL are permitted or prohibited when an applicant proposes CMR in the Ag Reserve, using an asterisk for uses in the IL column that would be considered under a CMR designation within the Ag Reserve. Ex. DISTRIBUTION FACILITY is allowed in IL, subject to DRO but should be prohibited in the Ag Reserve. No uses to be permitted by right and applicant to go through Planning Commission and BCC public hearing processes.
- Residential communities/equestrian uses to be preserved in the Ag Reserve.

Most Sincerely,
Beth Rappaport
BETH RAPPAPORT, President
On behalf of the Coalition of Boynton West Residential Associations

cc:
Mr. Patrick Rutter, Assistant County Administrator PRutter@pbcgov.org
Mr. Ramsay J. Bulkeley, Esq., Executive Director, PZ and B RBulkeley@pbcgov.org
Ms. Lisa Amara, Zoning Director LAmara@pbcgov.org
Ms. Stephanie Gregory, Principal Planner SGregor1@pbcgov.org

PO Box 740814, Boynton Beach, FL 33474-0814 • 561-572-9151

info@cobwra.org • www.cobwra.org • www.facebook.com/COBWRA • www.linkedin.com/company/cobwra

Stephanie Gregory

From: Joe O'Donnell <joe.odonnell1@gmail.com>
Sent: Tuesday, April 19, 2022 11:49 AM
To: Robert Weinroth S.; Gregg Weiss; Mack Bernard; Dave Kerner M.; Maria Marino G.;
Melissa McKinlay; Maria Sachs
Cc: Stephanie Gregory; Lisa Amara A.; Kevin Fischer; Maria Bello; 'Beth Rappaport';
firstvp@cobwra.org; nbrahs@gmail.com; Patrick Rutter; Ramsay Bulkeley
Subject: Commerce for light industrial uses, May 4 2022 BCC Meeting

***** Note: This email was sent from a source external to Palm Beach County. Links or attachments should not be accessed unless expected from a trusted source. *****

Comprehensive Plan Amendment
Commerce Future Land Use Designation

Dear Mayor Weinroth, Vice Mayor Weiss, Commissioners Bernard, Kerner, Marino, McKinlay and Sachs,

SARA (Save Agriculture Reserve for Agriculture) appreciates planning and zoning staff's efforts to define a new industrial land use designation, CMR Commerce for Light Industrial uses.

We do recommend the following points of clarification.

- 1) 60/40 preservation requirement for sites 10 AC and above is critical. Staff recommends 16 AC with an option for 50 AC, as proposed by a outside interested party. The 50 AC option is way too large. It would allow development of 49 AC with no preserve requirements. An example of unintended consequences is the proposed 1,000,000 SF distribution center at Atlantic and Starkey, that no one wanted, would have been acceptable.
- 2) Frontage for a CMR on SR7, Boynton Beach Blvd and Atlantic needs to be clarified to require access to and from site off the arterials (SR7, Boynton and Atlantic). Allowing the use of feeder roads for access defeats the purpose of limiting CMRs to arterials.
- 3) CMR should not include distribution centers as they generate significant truck traffic, air pollution and air pollution. In addition, the county is using very old definitions for distribution centers and warehousing while creating new FLUs. This is both dangerous and misleading to decision makers. This can be resolved by capping distribution centers and warehouses in Ag. Res. to 50,000 SF.

Properly done the CMR can help preserve the Ag. Res. and agriculture businesses that depend upon it. Implemented incorrectly and the intent of the Reserve will be lost.

Thank You

Joseph O'Donnell
On behalf of SARA

Alliance of Delray Residential Associations, Inc.

Item: 3.C.2

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 24, 2022

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

Re: Commercial Future Land Use Designation in the Agricultural Reserve

Dear Commissioners:

The Alliance of Delray Residential Associations is extremely concerned with the County Initiated Amendment which would revise the Future Land Use Element and establish a third industrial future land use Commerce (CMR) designation.

The Alliance understands the intent of the proposed change in policy to limit industrial future land use however, the location criteria is much too extensive to wit, the entire State Road 7 corridor, particularly State Road 7 between Atlantic Avenue and Clint Moore Road. Please see attached aerial which demonstrates that south of Atlantic Avenue, the corridor is 99% residential. There is only a small corner of Atlantic Avenue and State Road 7 that is designated industrial. There are three areas available for potential development (8 acres/6 acres/15 acres), all of which have been up for sale for years. The six acre site currently zoned AGR was sold in March 2022. The owner is proposing a logistics center which would share the entrance to Tierra Del Rey and contain several hundred thousand square feet of office, refrigerated storage, and truck parking. The 15 acre site just south of the six acre site is also zoned AGR and contains an equestrian facility. These sites located in the center of residential development and sharing entrances and roadways with a residential neighborhood do not warrant a change of land use to CMR which would allow for industrial uses that are not compatible with the residential community.

Please oppose the CMR land use designation south of Atlantic Avenue and consider other more transitional and compatible uses such as professional office and limited/general day care centers.

Sincerely,

Lori Vinikoor

Dr. Lori Vinikoor, President

Cc: Lauren D'Alora, President Dakota; Lance Huberman, President Saturnia Isles; Andrew Ripps, President Tierra Del Rey; Jay Pearlman, President Rio POCO; Stacy Bernstein, President The Oaks; Justin Hertzberg, President Seven Bridges; Jonas Steinberg, President Stonebridge Golf & country Club; 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:

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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



April 29, 2022

Palm Beach County Board of County Commissioners

RE: Commerce Land Use in Palm Beach County Agricultural Reserve

At the request of BBX Logistics and Suzanne and Joe Mulvehill, I have reviewed the need for the proposed Commerce land use category and related uses to be located in the Agricultural Reserve in West Delray Beach and how to make it most effective. There are several uses of such a facility, beyond traditional warehousing storage, that are important for the area. The proposed uses will be able to provide value-added and critical community goods and services, such as consolidation and sorting of consumer items for distribution in the immediate area, provisions of critical medical supplies (such as PPE), grocery delivery, cold storage for fresh fruits and vegetables, and light assembly (imagine having someone build your IKEA furniture or barbeque grill for you and bring it straight into your home ready to go). Many of these value-added services are part of what is called community-based distribution, also referred to as “Last-Mile” delivery.

“Last-Mile” delivery is becoming one of the most important aspects of a successful supply chain. According to the warehousing software firm Datex, fast, low-cost home delivery is no longer a “nice to have”, but rather a “need to have” essential. Suppliers need to have excellent distribution, a solid online presence, and the ability to execute same day delivery. The need for quick fulfillment continues to grow as direct to consumer and business demand require immediate satisfaction. This is important to consumers – whether retail/restaurant providers, hospitals, or direct to consumers in their homes – and therefore is required of suppliers. We see it happening throughout Palm Beach County and there is a need to fill in “gaps” in areas where there are homes and business but a lack of “last mile” facilities.

In Delray Beach, there is a severe shortage of space that can accommodate “last mile” needs. Cushman & Wakefield’s most recent market report indicates that of the total space, less than 1% was vacant in Delray Beach. For the county as a whole, they report that the vacancy rate specifically for warehousing and distribution was only 4.3%, much less than the healthy 10% vacancy rate that denotes market equilibrium.

I understand that there have been questions and concerns regarding a proposal that was made previously, though subsequently withdrawn, for a large-scale distribution facility that may have been an Amazon facility. A large-scale facility is not what is proposed in the Commerce category. The “last mile” facility is not the same as the large-scale distribution facilities, which require more land. This is because the “last mile” facility” is not typified by a constant stream of 18-wheelers coming in and out that is exemplified by large-scale distribution facilities. The large-scale facilities typically require a minimum of 50 acres of land to be viable. This stems largely from the need for so much land for the safe and efficient movement of so many large trucks coming in and out on a regular basis and the need for much more storage as they supply regionally or beyond (several hundred miles away). The facility was previously proposed, though later withdrawn, for the Morningstar Nursery property which is over that 50-acre threshold. That is not what is proposed in the policy you are now reviewing.

Unlike those large-scale distribution facilities, the “last mile” delivery has limited large trucks accessing it. Instead of a steady stream of trucks throughout the day, these facilities have limited large trucks that drop off supplies that are then stored for delivery in the neighborhood. These facilities generally receive

once a day or several times per week deliveries from a large-scale facility that services a large region of several hundred miles. The majority of the delivery vehicles you would see at a “last mile” facility would be something like the Ford Transit Cargo Van, a box truck, or smaller. Importantly, these are also becoming increasingly electric vehicles so that a quality “last mile” facility in the Agricultural Reserve area will also allow for these vehicles to be used within the range their charges will allow.

I have reviewed the two preserve options, one requiring 60% of the property to be unutilized if over 16 acres and the other if over 50 acres. In this case, to provide the needs for the area in the Agricultural Reserve, requiring preserve for properties over 50 acres is appropriate. A property of 16 acres – or even up to 40 acres if a 60% preserve is required because that would reduce the usable land to 16 acres – cannot create a significant enough opportunity for the community needs. To be most effective, the Commerce uses would be together on a property within buildings that could accommodate a variety of sizes and configurations for a variety of users to serve the community needs.

The proposed Commerce uses are activities which do not interfere with neighborhood amenity of adjacent residential areas. These uses are a neighborhood amenity, providing for local delivery of goods and services; for example, one-third of retail sales are happening online. In addition, farmers in the area, particularly the smaller farmers, will have the ability to utilize cold storage in a Commerce facility that could enhance their opportunity to continue to farm without having to store their product many miles away.

Healthcare is another example of how the neighborhood is served by an appropriately sized facility. In this case, the lack of nearby distribution facilities truly becomes a life and death situation. Hospitals and other healthcare facilities, including all of the medical offices depend on steady and timely deliveries of equipment and supplies, sometimes on short notice, that requires delivery within two hours. Standard overnight delivery would not be good enough. In addition, there has been a dramatic shift in healthcare services at home. US Centers for Medicaid and Medicare Service (CMS) recently estimated that home health spending would rise to \$173 billion in 2026 – In 2020, home health care spending reached \$123.7 billion, representing an approximate 40% increase by 2026. Looking specifically at the area of West Delray Beach, there are 9 hospitals West of the Turnpike close to SR7 within 30 minutes from the area. The latest census puts the over 65 population as 24.4% of the total, further supporting the need for a local “last mile” facility, as home health needs are expected to grow along with these existing important medical providers.

As more and more sales move to omnichannel retailing involving online sales, the consumer is demanding to get their product faster and faster. Hyperlocal delivery which takes “last mile” to the next level is happening now. The ability to serve in hours rather than days is growing, adding to the demand for small to medium local distribution facilities (as opposed to the large-scale distribution facilities, which typically require 50+ acres and start at a size of approximately 1,000,000 square feet).

By allowing a last-mile facility of this size, particularly along State Road 7, traffic and travel time can also be reduced. East-West commercial traffic will be reduced, easing the strain on many of the main arteries such as Boynton Beach Boulevard and Atlantic Avenue. Unfortunately, the infrastructure for the commerce uses in the Agricultural Reserve has not kept up with the growth of residential communities. Boca Bridges, Lotus, The Bridges, Seven Bridges, Stone Creek Ranch, Dakota Delray, Valencia Sound, Valencia Reserve and The Fields are just a few of the new communities adding to the population living West of the Turnpike that are putting or will soon be putting additional stress on the commercial

infrastructure in that area. To have new communities but not allow local businesses infrastructure to locate close to this new population base in a feasible way is counter intuitive.

By approving the Commerce type uses in the Agricultural Reserve, you can fill a significant need in the area. To make this a viable opportunity, but still avoiding having large scale distribution facilities that require more land, a preserve requirement starting at 50 acres makes the most sense. It allows flexibility and varied opportunities for meeting the needs of the residents, restaurants, and retailers in the area, all while helping to reduce vehicle trips on the major roadways and encourage electric vehicle delivery.



David A Menachof
Associate Professor Supply Chain and Operations Management
Florida Atlantic University

Dr. David Menachof is Associate Professor of Supply Chain and Operations Management at Florida Atlantic University. He is Academic Program Director for the Master of Science in Supply Chain Management. Professor Menachof sits as a member of the Business Development Board of Palm Beach County's Distribution and Logistics Task Force. Prof. Menachof is a Fulbright Scholar, having spent a year in Odessa, Ukraine, and was on the designated list of Fulbright Scholars for Global Logistics.

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

May 3, 2022

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

Submitted via email:

RWeinroth@pbcgov.org; DKerner@pbcgov.org; MMarino@pbcgov.org; GWeiss@pbcgov.org;
MSachs@pbcgov.org; MMcKinlay@pbcgov.org; MBernard@pbcgov.org; KFischer@pbcgov.org;
RBulkeley@pbcgov.org; dleiser@pbcgov.org; 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.

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.”¹

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

¹ <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.²

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.***

² *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 polices 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.

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 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

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.**

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 2021.³ 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.

³ <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.***


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.
Robert N. Hartsell, P.A.
Fla. Bar No. 118806

CC: 1000 Friends of Florida
Sierra Club Loxahatchee Group

Correspondence provided prior to the BCC Adoption Hearing

Stephanie Gregory

From: Hymowitz, Larry <Larry.Hymowitz@dot.state.fl.us>
Sent: Friday, June 10, 2022 4:16 PM
To: DCPexternalagencycomments; Stephanie Gregory; kfischer@pbcgov.com
Cc: Krane, John; Fasiska, Christine; Gavin, Paul; Carver, Jennifer; Stephanie Heidt; vneilson@palmbeachtpa.org; Preston, Matt; Bush, Lois
Subject: Palm Beach County 22-3ESR - FDOT District Four Review Comments
Importance: High

Pursuant to Section 163.3184(3), Florida Statutes (F.S.), in its role as a reviewing agency as identified in Section 163.3184(1)(c), F.S., the Florida Department of Transportation (FDOT) reviewed the proposed Palm Beach County 22-3ESR comprehensive plan amendments.

FDOT is providing the following technical assistance comments consistent with Section 163.3168(3), Florida Statutes. These technical assistance comments will not form the basis of a challenge. These comments are intended to strengthen the County's comprehensive plan in order to foster a vibrant, healthy community and are designed to ensure consistency with the Community Planning Act in Chapter 163, Part II, F.S.

FDOT encourages early consultation and coordination with the Department in pursuing the comprehensive plan objectives of the County.

Technical Assistance Comments - Commerce Future Land Use Designation

Technical Assistance Comment #1

The Department has identified important state resources and facilities that may be adversely impacted by the amendment if adopted. These include the following state highway system facilities; State Road 7, State Road 804 (Boynton Beach Boulevard), State Road 806 (Atlantic Avenue), and the Florida's Turnpike interchanges at Boynton Beach Boulevard and Atlantic Avenue. No transportation analysis was included with the amendment to determine the amount of industrial development that can be sustained by the Agricultural Reserve Tier, consistent with long range transportation planning assumptions for traffic projections and the objectives of the Agricultural Reserve Master Plan, as documented in the Agricultural Reserve Tier of the Comprehensive Plan 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 nonresidential 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.

Resolutions for Technical Assistance Comment #1

1. The County should consider evaluating the carrying capacity of the Agricultural Reserve Tier to accommodate industrial development for consistency with Objective 1.5 and with the Palm Beach Transportation Planning Agency (TPA) Long Range Transportation Plan model socio economic data that forms the basis of determining future transportation needs and transportation facility project development programming priorities. This would involve establishing a cap on industrial acreage or square feet of development. Failure to accomplish this analysis prior to adoption of the amendment will result in piecemeal assessments of transportation impacts for

concurrency and impact fee purposes and will not capture the larger scale and longer-term transportation facilities needed to serve Agricultural Reserve development and the regional transportation network.

2. Coordination with FDOT, the Palm Beach Transportation Planning Agency, and the Treasure Coast Regional Planning Council is recommended prior to adoption of the amendment, to discuss the best approach to coordinating the inclusion of limited industrial development in the Agricultural Reserve and ensuring maximization of industrial land use compatibility with future planned transportation facilities and large scale County approved residential communities.

Technical Assistance Comment #2

REVISED Policy 2.2.4-c (Industrial Uses): Provides for the new Commerce (CMR) future land use designation. It is intended to accommodate industrial uses with light industrial characteristics to provide an option for low-trip generating non-residential and/or employment generating uses on arterial roadways. Some of the allowable uses in the County's ULDC (Unified Land Development Code) Use Matrix, including but not limited to distribution, warehouse and wholesaling, may be inconsistent with the revised policy.

REVISED Policy 2.2.4-d (Industrial Uses) provides a limited number of example light industrial uses, including distribution. However, the County's ULDC Use Matrix for light industrial also includes warehouse and wholesaling. Distribution, warehouse and wholesaling uses may not be consistent with this Policy, as proposed, since the uses could involve higher trip making and significant levels of semi-tractor trailer truck trips that may cause "undesirable effects, danger or disturbance" upon nearby areas and immediately adjoining uses.

Resolutions for Technical Assistance Comment #2

1. The County could eliminate, reduce, or mitigate transportation impacts from distribution, warehouse and wholesaling uses by limiting the acreage for these sites and encouraging light industrial uses that more characteristically will serve the residents and agricultural interests of the Agricultural Reserve Tier.
2. The Department supports the application of industrial uses to the new Commerce Center future land use category that were initially specified for Employment Centers in the Agricultural Reserve Master Plan. These uses are likely to minimize trips and trip lengths by serving the industrial needs of residential and agricultural uses in the Agricultural Reserve Tier.

The Department requests an electronic copy of all adopted comprehensive plan amendment materials, including graphic and textual materials and support documents.

We would like to discuss our comments with you and will reach out to you in the next week to get your availability for a meeting.

We appreciate hearing from the County prior to adoption of the amendment.

Thank you.

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

Alliance of Delray Residential Associations, Inc.

10290 West Atlantic Avenue #480504
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 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*



August 24, 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.12. Agricultural Reserve Commerce Future Land Use Designation

Dear Commissioners:

The Alliance of Delray voiced concerns over the location of the Commerce Future Land Use (CMR) designation in the Agricultural Reserve in letters dated April 24, 2022 and July 3, 2022. The letters included aerials demonstrating the residential nature of the Atlantic Avenue corridor between Atlantic Avenue and Clint Moore Road on State Road 7/441.

The Alliance appreciates Staff's efforts to further research the issue and engage with the residential communities that would be impacted if light industrial uses were to be approved along the corridor.

Please approve Staff's recommendation of "not south of Rio Grande" as appears in the table.

Thank you for your consideration in making most important decisions that impact the residents of Palm Beach County.

Sincerely,

Lori Vinikoor

Dr. Lori Vinikoor, President

	Staff Recommendation	Interested Parties Suggestions	Staff Tentatively Proposed Changes
Acreage	5 acres minimum	3 acres min (transmitted) 50 acres max	3 acres min (transmitted) <u>50 acres max</u>
Frontage	Frontage only (not access)	Frontage and access	Frontage <u>and access</u>
Roadways	SR7, Atlantic, Boynton <u>Not west of SR7</u>	SR7, Atlantic, Boynton	SR7, Atlantic, Boynton Contiguous west of SR7
SR7 / Atlantic	No limit	Not south of Atlantic	<u>Not south of Rio Grande</u>
Office	Not mentioned	---	<u>Continued from SR7</u> exempt office in CMR
Distribution	Allow Distribution	Not allow Distribution	<u>Not allow Distribution</u>
Distribution	No clear definition	Tighten Language	Working on text
Preserve Area	16 acres+ need preserve	10 acres+; 50 acres+ (transmitted)	First 16 acres not required to provide preserve, all acreage over 16 requires 60% preserve

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



August 23, 2022

Palm Beach County Board of County Commissioners
301 North Olive Avenue
West Palm Beach FL 33401

Submitted via email:

RWeinroth@pbcgov.org; DKoerner@pbcgov.org; MMarino@pbcgov.org; GWeiss@pbcgov.org;
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VBaker@pbcgov.org; KFischer@pbcgov.org; Lamara@pbcgov.org;

RE: Adoption of the Commerce Land Use and the AGR

Dear Mayor Weinroth and Board of County Commissioners:

On behalf of our client GoldCoast Logistics, please accept these comments in response to the latest revisions to the staff proposed language for the new Commerce Land Use and its applicability to property within the AGR. As we have discussed our client owns property in the AGR. The parcels have history of use, agriculture related use, as does some of its neighbors further south on 441.

The new language **now proposes to limit the ability to use the Commerce Land Use on parcels south of Rio Grande.** That decision was not based on current or historical use on these parcels. The language seems contrary to the intent and background information provided in the staff report on the Commerce Land Use and contrary to the consultant findings to have industrial uses in the AGR. Additionally, it seems to ignore these smaller property owners that are not pursuing residential use in the AGR.

Please take a moment to see the attached graphic that shows not only there are existing and pending uses that could benefit from the Commerce Land Use category. These smaller property owners should be encouraged to bring their parcels into the current regulations and operate within the intent of county policy for the AGR by utilizing the Commerce Land Use.

As the point of new policy is to assist in giving direction to the future of the area consistent with its history, why would this new limitation on the application of the Commerce Land Use be established?

As the new Commerce Land Use requires a land use plan amendment, re-zoning and site plan process to show a proposed Commerce Land Use project is appropriate for the AGR, what is lost in allowing the new category to apply on these parcels south of Rio Grande?

We would respectfully request that the prohibition of the Commerce Land Use south of Rio Grande be eliminated to afford these parcels the consideration of policy that continues the efforts to support the AGR intent within the full boundary of the AGR. Specifically, **eliminate the language (north of Rio Grande)** in Policy 1-5v Industrial 2. in Exhibit 1-B on page E-4 of the staff report.

Respectfully submitted,

Sharon J.
Merchant
Sharon J. Merchant, President
The Merchant Strategy

Digitally signed by Sharon J. Merchant
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Strategy, ou,
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Gold Coast Logistics
Existing Use West of 441/SR7
8.23.22

EJK Industrial
Pending IND Land
Use Application

Sunflower

Horse Stable

Delray Plaza

Valencia Center





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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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RBulkeley@pbcgov.org; dleiser@pbcgov.org; sastone@pbcgov.org; SGregor1@pbcgov.org

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. 3rd 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.

***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 Cnty. Env't Coal. v. Fla. Dep't of Env't Prot.*, 14 So. 3d 1076 (Fla. 4th 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).

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.”¹

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.²

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.***

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

² *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.

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 groomers' 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 2022.³ Additionally, the proposal would require a second housing type for any development that exceeded 200 units.

³ <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.***