



**BOARD OF COUNTY COMMISSIONERS ZONING HEARING
AMENDMENTS TO THE AGENDA
OCTOBER 27, 2022**

COMMENTS

C. PLANNING DIRECTOR

ADD-ON: Ag Reserve Conservation Easement Templates

SUMMARY: The item before the Board is to establish new Agricultural Reserve Conservation Easement Templates for Agricultural Reserve Multiple Use Planned Development (AGR-MUPD) project preserves.

MOTION: To establish new conservation easement templates for Agricultural Reserve Multiple Use Planned Developments (AGR-MUPDs).

E. ASSISTANT COUNTY ADMINISTRATOR

ADD-ON: Impact Analysis for Residential Development West of SR7/441



MEMORANDUM

Department of Planning, Zoning & Building

2300 North Jog Road
West Palm Beach, FL 33411-2741
(561) 233-5000

Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractors Certification 233-5525
Administration Office 233-5005
Executive Office 233-5228
www.pbcgov.com/pzb



Palm Beach County Board of County Commissioners

- Robert S. Weinroth, Mayor
Gregg K. Weiss, Vice Mayor
Maria G. Marino
Dave Kerner
Maria Sachs
Melissa McKinlay
Mack Bernard

County Administrator

Verdenia C. Baker

"An Equal Opportunity Affirmative Action Employer"

TO: The Honorable Robert Weinroth, Mayor, and Members of the Board of County Commissioners
FROM: Kevin Fischer, AICP, Planning Director
DATE: October 27, 2022
RE: Agricultural Reserve MUPD Conservation Easement Template

Item: The item before the Board is to establish new Agricultural Reserve Conservation Easement (CE) templates for Agricultural Reserve Multiple Use Planned Development (AGR-MUPD) project preserves.

Background: Conservation Easements for Agricultural Reserve preserves are required by Comprehensive Plan policies and subsequent development order conditions specific to each zoning approval. Historically, the Board of County Commissioners approves Conservation Easements in a standardized form or template for use in specific conditions and developments. Currently, there are templates for AGR-PUDs, AGR-TMDs, and Rural Parkways for those types of developments. Although the Board previously established policy regarding AGR-MUPDs in the Agricultural Reserve in 2016, there are no corresponding Conservation Easement templates for AGR-MUPDs. Recent land use approvals in the Agricultural Reserve Tier for projects that employ the AGR-MUPD zoning district necessitate the establishment of these new AGR-MUPD easement templates to accommodate new development. Proposed are new conservation easement templates for AGR-MUPDs for preserves and for those rural parkway preserves adjacent to the Lyons Road right-of-way between Boynton Beach Boulevard and Atlantic Avenue. For more information, please contact Bryan Davis, Principal Planner by phone at (561) 233-5308 or by email bmdavis@pbcgov.org.

Motion: To establish new conservation easement templates for AGR-MUPDs.

Attachments

- c: Verdenia C. Baker, County Administrator
Patrick W. Rutter, AICP, Assistant County Administrator
Ramsay J. Bulkeley, Esq., Executive Director, PZB
Lisa Amara, Zoning Director, PZB
Darren Leiser Esq., Assistant County Attorney

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PROJECT:

Control Number:

Preserve Parcel Names:

PCN:

CONSERVATION EASEMENT

Agricultural Reserve Multiple Use Planned Development Preserve Parcel

This Conservation Easement (“Easement”) is given this _____ day of _____, 20___, by *(insert name and address of Grantor)* (“Grantor”) to Palm Beach County, a political subdivision of the State of Florida, 301 North Olive Avenue, West Palm Beach, Florida 33401 (“Grantee”). The term “Grantor” shall include any successor or assign of Grantor and all subsequent owners of the Property, and the term “Grantee” shall include any successor or assign of Grantee.

WITNESSETH

WHEREAS, Grantor is the owner of that certain real property situated in Palm Beach County, Florida, being _____ *(insert number of acres)* acres more or less, and specifically described in attached Exhibit “A” (the “Property”); and

WHEREAS, Grantor has agreed to allow the Property to be designated a Preservation Area pursuant to Article 3, Chapter E, Section 3.F.2 of the Palm Beach County Unified Land Development Code (the “Code”); and

WHEREAS, such designation of the Property as a Preservation Area is in connection with and on behalf of development of the project known as *(insert project name)* (the “Project”) and is required in order for the Project to meet the AGR MUPD criteria as stated in the Code, Future Land Use Element Objective 1.5 of the Palm Beach County Comprehensive Plan (“the Comp Plan”), and Resolution No. R-*(insert resolution #)* (the “Resolution”) Condition of Approval *(insert condition letter & #)*.

NOW, THEREFORE, in consideration of the above, and the mutual covenants, terms, conditions, and restrictions stated herein, Grantor hereby grants, conveys, creates, and establishes a conservation easement under Article 3, Chapter E, Section 3.F.2 of the Code to, for, and in favor of Grantee upon the Property of the nature and character and to the extent hereinafter set forth, which shall run with the land and be binding on Grantor, and shall remain in full force and effect forever.

1. Purpose. The purpose of this Easement is to support, preserve and perpetuate bona fide agricultural and open space uses of the Property, and to preserve any environmentally significant upland or wetland habitats located on the Property.
2. Permitted Uses. Grantor may use the Property for:

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- a. Crop production, pasture, equestrian uses, or fallow land;
- b. Construction and maintenance of accessory structures essential to the uses listed in subsection 2a., above, such as barns, stables, pumps, and pump houses, but specifically excluding agricultural support structures such as processing facilities, which are prohibited;
- c. Maintenance and occupation of security/caretaker, or grooms quarters, provided that any applicable special permit is obtained for such use, and requisite density exists on the Property for such use;
- d. Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District (“SFWMD”): to serve regional water management purposes as certified by either Lake Worth Drainage District or SFWMD, or for water management purposes not directly related to the Project if approved by the Palm Beach County Department of Environmental Resources Management (“ERM”) and managed for environmental resource values;
- e. Wetland restoration and maintenance, or bona fide agriculture as defined by the Code; and
- f. Those other activities authorized within the protected area of an AGR-PDD consistent with the most current uses permitted by the Code and consistent with applicable provisions of the Comprehensive Plan.

3. Prohibited Uses. Any use of or on the Property that is not specifically listed or included in Section 2, above, or that is inconsistent with agricultural, environmentally significant uplands or wetlands, or open space preservation is prohibited by this Easement. The following uses are prohibited on the Property:

- a. Agricultural support uses such as processing facilities, farmworker housing and the like shall not be accommodated in the protected or preservation area of the AGR-PUD; nor shall new residential uses, other than security/caretakers quarters and grooms quarters, be accommodated thereon; and
- b. No residential units or farm residences (whether existing or proposed) shall be allowed within the preserve area.

4. Rights of Grantee. To accomplish the purpose of this Easement, the following rights are conveyed to Grantee by this Easement:

- a. To enter upon the Property at reasonable times, at Grantee’s sole risk, in order to monitor Grantor’s compliance with, and otherwise enforce the terms of this Easement provided that such entry shall be upon reasonable notice to Grantor and shall not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor; and
- b. To enjoin any activity on or use of the Property that is inconsistent with this Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

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5. Exotic Plant Removal. Grantor shall maintain the Property free and clear of all prohibited and invasive non-native plant species (“Exotics”), as defined in the Code and the most current Florida Environmental Pest Plant Council Category I Plant List, as required by a condition of approval for the Project. Grantor shall remove all Exotics from the Property and thereafter maintain the Property free of Exotics pursuant to the Exotic Vegetation Management Removal Plan approved by ERM.
6. Wetlands (if applicable). The parties acknowledge and agree that wetlands have been identified on the Property as described and depicted on attached Exhibit B (the “Wetlands”). Grantor shall preserve and maintain the Wetlands in the same condition that existed as of the date of this Easement (with the exception of the removal of exotic plants), subject to natural growth or decline. Any human-caused alteration of the Wetlands shall be a violation of this Easement.
7. Native Uplands (if applicable). The parties acknowledge and agree that significant native upland vegetation has been identified on the Property as described on attached Exhibit C (the “Uplands”). Grantor shall preserve and maintain the Uplands in the same condition that existed as of the date of this Easement (with the exception of the removal of exotic plants), subject to natural growth or decline. Any human-caused alteration of the Uplands shall be a violation of this Easement.
8. Access. No right of access by the general public is conveyed or restricted by this Easement.
9. Operation and Upkeep. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.
10. Enforcement. Enforcement of the terms, conditions, and restrictions of this Easement shall be at the reasonable discretion of Grantee and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee’s rights hereunder. No third party shall have the right to enforce this Easement.
11. Warranties. Grantor hereby warrants and represents that Grantor is lawfully seized of the Property in fee simple and has good right and title to grant and convey this Easement to Grantee, and that the Property is free and clear of any mortgage, lien, or other encumbrance that may impair the enforceability of the Easement.
12. Construction. The parties expressly acknowledge and agree that this Easement is the result of mutual arms-length negotiations, and that this Easement shall not be construed more strongly against either party regardless of who was responsible for preparing, drafting or transcribing the Easement.
13. Severability. If any provision of this Easement or the application thereof is found to be invalid, the remaining provisions of the Easement shall not be affected as long as the purpose of the Easement is protected.

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14. Amendment. This Easement may be amended, altered, released, or revoked only by written agreement between the parties, their successors or assigns, which shall be filed in the public records of Palm Beach County, Florida.

15. Notices. All notices or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail addressed to the appropriate party or successor.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms conditions restrictions and purpose imposed by this Easement shall be binding upon Grantor and shall continue as a servitude running in perpetuity with the Property.

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IN WITNESS WHEREOF, Grantor and Grantee have executed this Conservation Easement this _____ day of _____, 20__.

GRANTOR:

(insert name of grantor)

Witness signature

By: _____

Witness printed name

Its: _____

Witness signature

Witness printed name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, on this _____ day of _____, 20__, by _____, the *(insert title)* of *(insert corporation name)*, on behalf of said corporation, who is personally known to me or who has produced a valid driver's license as identification.

NOTARY SEAL:

Notary Public

Print Notary Name

My Commission Expires: _____

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Approved as to Form and
Legal Sufficiency

Assistant County Attorney

T:\Planning\AgReserve\Conservation Easement Forms\2022 revisions\2022 Agenda Item\Conservation Easement - AGR MUPD - No
Recourse.doc

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EXHIBIT "A"
(insert preserve name)

1. Insert legal description.
2. Insert overall location map as to where the preserve is located in the Ag. Reserve.
3. Insert a map of the preserve area with boundaries of conservation easement.

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EXHIBIT “B”
(Wetlands)

1. Include exhibit “B” if there are wetlands.
2. Insert legal description.
3. Insert survey with the location of the wetlands.

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EXHIBIT “C”
(Native Uplands)

1. Include exhibit “C” if there are native uplands.
2. Insert legal description.
3. Insert map with the location of the native uplands.

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This instrument was prepared by,
record and return to:

(Space Reserved for Clerk of Court)

PROJECT:
Control Number:
Preserve Parcel Names:
PCN:

LYONS ROAD RURAL PARKWAY PRESERVE AREA EASEMENT

(Insert preserve parcel name and development project name)

(a _____ Acre Parcel)

This *(Insert name of Rural Parkway)* Rural Parkway Preserve Area Easement ("Easement") is made as of the _____ day of _____, 20____, by *(insert name and mailing address of Grantor)* ("Grantor") in favor PALM BEACH COUNTY, FLORIDA, a political subdivision of the State of Florida, with a mailing address of 301 North Olive, Suite 601, West Palm Beach, Florida, 33401 Attn: County Attorney ("Grantee").

Whereas, the real property located in Palm Beach County, Florida to be designated hereunder as a rural parkway easement for the purpose of preserving open space land uses and as described on attached Exhibit A (the "Property") constitutes the "preservation area" for that certain AGR-MUPD known as *(insert project name)* Project approved under Palm Beach County Board of County Commission Petition No. *(insert petition #)* (the "Project") and adopted pursuant to Resolution No. R-*(insert resolution #)* (the "Resolution"); and

Whereas, the Resolution rezoned the Property to an Agricultural Reserve Multiple Use Planned Development ("MUPD") and the Property is part of the *(insert name of Parkway Preserve Area)* as conditioned in the Resolution.

NOW, THEREFORE, in consideration of the above, and the mutual covenants, terms, conditions, and restrictions stated herein, Grantor hereby grants, conveys, creates, and establishes a conservation easement under Article 3, Chapter E, Section 3.F.2 of the Code to, for, and in favor of Grantee upon the Property of the nature and character and to the extent hereinafter set forth, which shall run with the land and be binding on Grantor, and shall remain in full force and effect forever.

1. **Purpose.** The purpose of this Easement is to preserve and perpetuate open space use of the Property. However, Grantor in no way guarantees that any specific use of the Property will continue in perpetuity, except that the Property will continue to be used for purposes consistent with the restrictions set forth below. This Easement runs with the land and shall be binding upon subsequent owners of the Property. It shall be perpetual unless released by Grantee.

2. **Permitted Uses:** The following activities and uses are permitted on the Property:

- a. Landscaping consisting of ___% native trees and palms, and ___% native shrubs for the minimum required trees, palms, and shrubs;
- b. A multipurpose path and an equestrian path;
- c. Undulating berms, no taller than five feet;
- d. Benches/pedestrian gathering area – at least one (1) pedestrian gathering area shall be provided along this frontage;
- e. A ten (10) foot utility easement located adjacent to the *(Insert name of right of way)* right-of-way;
- f. A bus stop easement with a bus shelter;
- g. Drainage/utility easements may only be permitted which transverse (run perpendicular to) the *(Insert name of Rural Parkway)* Rural Parkway Easement to place drainage/utilities in the developable portion of the developable portion of the MUPD;
- h. Other drainage easements may be permitted in the Rural Parkway Easement for the purposes of draining the Rural Parkway, subject to approval by the County Engineering Department and the Planning Division
- i. Maintenance and upkeep of the Property area;
- j. Irrigation piping, pumps, electrical systems, lighting elements, and lighting fixtures necessary to irrigate and illuminate the Property area and landscape materials planted therein;
- k. Vehicular and pedestrian interconnects traversing the Property area to provide ingress and egress to the developable or preservation portion of the MUPD; and
- l. Such other uses as are permitted within the *(Insert name of Rural Parkway)* Rural Parkway pursuant to the Comprehensive Plan or the Code.

3. **Prohibited Uses.** The following activities and uses are prohibited on the Property:

- a. Walls;
- b. Signs;
- c. Structures except for: a bus shelter; benches or pedestrian gathering area; and water fountains each as approved by the Palm Beach County Planning Division; and
- d. Such other uses as are prohibited within the Rural Parkway Preserve Area pursuant to the Comprehensive Plan or the Code.

4. **Rights of Grantee.** To accomplish the purposes of this Easement, the following rights are conveyed to Grantee by this Easement:

- a. To preserve and protect the open space nature of the Property;
- b. To enforce the terms and conditions of this Easement;

- c. To enter upon the Property at reasonable times, at Grantee's sole risk, in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement, provided that (i) such entry shall be upon reasonable notice to Grantor, (ii) Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property, and
- d. To prevent any activity on or use of the Property that is inconsistent with the purposes of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

5. **Miscellaneous.** This Easement is in favor of and solely enforceable by Grantee. There shall be no third-party enforcement rights. Grantor consents that venue for such enforcement actions shall lie exclusively in the Circuit Court of the Fifteenth, Judicial Circuit, in Palm Beach County, Florida. In any litigation, each party shall be responsible for its own attorneys' fees and costs. The Grantor shall have the continual obligation to maintain the Property (the "Maintenance Obligation") until such time as: (i) the Property is conveyed to the County by deed; (ii) Grantor and the Grantee enter into a separate agreement wherein the Grantee assumes the Maintenance Obligation; or (iii) Grantor, with Grantee's prior written consent, assigns the Maintenance Obligations to an affiliate of the Grantor or the homeowners association of the Development Area (the "Assignee"). Title insurance for this Easement shall be provided to Grantee by Grantor at Grantor's sole cost and expense subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. The Grantor shall enter into a maintenance agreement for the Property with Palm Beach County prior to the issuance of the first certificate of occupancy for any residential unit within the Development Area of the MUPD.

6. **Construction Timing.** Construction of the Rural Parkway shall commence prior to the issuance of the Certificate of Occupancy for the [redacted] (25%) unit in the Development Area of the Project. Construction of the Rural Parkway shall be completed prior to the issuance of the Certificate of Occupancy for the [redacted] (50%) unit in the Development Area of the Project.

7. **Grantee's Remedies.** Grantee may bring an action at law or in equity in Palm Beach County Circuit Court to enforce the terms of this Easement, to enjoin the violation, if necessary, by temporary or permanent injunction, or to recover any damages to which it may be entitled for violation of the terms of this Easement. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violation of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement may be inadequate and that Grantee shall be entitled to injunctive relief as described in this paragraph, which shall be cumulative and shall be in addition to all remedies now or hereafter existing law or in equity.

8. **Exotic Plant Removal.** Grantor acknowledges and agrees that the Property is required to be maintained free and clear of All Prohibited and Invasive Non-Native Plant Species (Exotics) as defined in the most current Section 14.A. of the Code and the most current Florida Environmental Pest Plant Council (EPPC), Category I Plant List (target species) and as required by a condition of approval in the Resolution. Exotics shall be initially removed and such removal thereafter maintained on the Property by Grantor pursuant to the Exotic Vegetation Management Removal Plan approved by the Department of Environmental Resources Management.

9. **Forbearance/Waiver.** Any forbearance on behalf on the Grantee to exercise its rights in the event of failure of Grantor to comply with the provisions of this Easement shall not be deemed or construed to be a waiver of the Grantee's rights hereunder in the event of any subsequent failure by the Grantor to comply.

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10. **Warranties.** Grantor hereby warrants and represents that the Grantor is seized of the property in fee simple and has good right and title to grant and convey this Easement to the Grantee and that the Property is free and clear of any mortgage, liens or other encumbrances that may impair the enforceability of this Easement, other than those certain mortgages (the "Mortgages") held by the following:

(Insert mortgage information, including OR book and page numbers)

all of the Public Records of Palm Beach County, Florida, which Mortgages are subordinate, or shall be subordinated to the rights conferred by, this Easement.

11. **Grantee Responsibility.** Grantee shall have no responsibility or obligation to maintain the Property, nor shall Grantee have any right to use of the Property absent specific contractual rights.

12. **Costs and Liabilities.** If the Grantee is ever required to pay damages resulting from personal injury or property damage that occurs on the Property, except under Section 4(c) hereof, Grantor shall indemnify and reimburse the Grantee for these payments, as well as for reasonable attorneys fees and other expenses of defending itself, unless the Grantee or any of it's agents have committed a deliberate act that is determined by a court to be the sole cause of the injury or damage.

13. **No Partnership.** Nothing herein shall constitute or be construed to be or create a partnership or joint venture between Grantor and Grantee.

14. **Notices.** All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or Federal Express, or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services or Federal Express, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designated the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitutes binding notice given to such party:

to Grantee: Robert Weisman, County Administrator
 Palm Beach County
 301 Olive Avenue
 West Palm Beach, FL 33401

with a copy to:

 Planning Director
 Planning, Zoning and Building
 100 Australian Avenue
 West Palm Beach, FL 33406

to Grantor:

Any party may from time to time change the address to which notice under this Easement shall be given such party, upon three (3) days prior notice to the other parties.

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15. **Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be construed to effect the purposes of this Easement and the policy and purposes of the Comp Plan. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. The parties expressly acknowledge and agree that this Easement and all provisions hereto are the result of mutual arms-length negotiations between the parties hereto, and accordingly the parties expressly covenant and agree that this Easement shall not be construed more strongly against any party hereto regardless of who was responsible for its actual transcription, drafting or preparation.

16. **Entire Agreement.** This Easement (including the Exhibits hereto and any written amendments thereto, executed by all parties), constitutes the entire Easement, and supersedes all prior Easements and understandings, oral and written, between the parties with respect to the subject matter hereof. This Easement may not be amended or modified except by an instrument in writing signed by the parties to this Easement.

17. **Headings.** The section and other headings contained in this Easement are for reference purposes only and shall not affect the meaning or interpretation of this Easement.

18. **Recordation.** Grantee shall record this instrument in a timely fashion in the Official Records of Palm Beach County, Florida, and may re-record it at any time as may be required to preserve its rights in this Easement.

19. **Lake Worth Drainage District.** Nothing contained herein shall effect the rights, title, interests, easements and rights-of-way of record of the Lake Worth Drainage District existing as of the date of recordation of this Easement provided such rights, title, interest, easements and right-of-way of record are utilized in accordance with the statutory authority granted to the Lake Worth Drainage District pursuant to F.S. Chapter 298 and Special Act 98-525. As required, pursuant to Section 298.301, F.S., Lake Worth Drainage District's activities as they may relate to this Easement must be consistent with the Comp Plan.

20. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to person or circumstances other than those as to which it has found to be invalid, as the case may be, shall not be effected thereby.

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IN WITNESS WHEREOF, Grantor and Grantee have executed this Easement as of the date set forth above.

Witnesses:

GRANTOR: *(Insert Grantor's Name)*

Witness signature

By: _____

Witness printed name

Its: _____

Witness signature

Witness printed name

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, on this _____ day of _____, 20____, by _____, the *(insert title)* of *(insert corporation name)*, on behalf of said corporation, who is personally known to me or who has produced a valid driver's license as identification.

NOTARY SEAL

Notary Public

Print Notary Name

My Commission Expires: _____

Approved as to Form and
Legal Sufficiency

Assistant County Attorney

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EXHIBIT "A"
(insert preserve name)

1. Insert legal description.
2. Insert overall location map as to where the preserve is located in the Ag. Reserve.
3. Insert a map of the preserve parcel with boundaries of conservation easement.

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PROJECT:

Control Number:

Preserve Parcel Names:

PCN:

CONSERVATION EASEMENT

Agricultural Reserve Multiple Use Planned Development Preserve Parcel

This Conservation Easement (“Easement”) is given this _____ day of _____, 20__, by *(insert name and address of Grantor)* (“Grantor”) to Palm Beach County, a political subdivision of the State of Florida, 301 North Olive Avenue, West Palm Beach, Florida 33401 (“Grantee”). The term “Grantor” shall include any successor or assign of Grantor and all subsequent owners of the Property, and the term “Grantee” shall include any successor or assign of Grantee.

WITNESSETH

WHEREAS, Grantor is the owner of that certain real property situated in Palm Beach County, Florida, being _____ *(insert number of acres)* acres more or less, and specifically described in attached Exhibit “A” (the “Property”); and

WHEREAS, Grantor has agreed to allow the Property to be designated a Preservation Area pursuant to Article 3, Chapter E, Section 3.F.2 of the Palm Beach County Unified Land Development Code (the “Code”); and

WHEREAS, such designation of the Property as a Preservation Area is in connection with and on behalf of development of the project known as *(insert project name)* (the “Project”) and is required in order for the Project to meet the AGR MUPD criteria as stated in the Code, Future Land Use Element Objective 1.5 of the Palm Beach County Comprehensive Plan (“the Comp Plan”), and Resolution No. R-*(insert resolution #)* (the “Resolution”) Condition of Approval *(insert condition letter & #)*.

NOW, THEREFORE, in consideration of the above, and the mutual covenants, terms, conditions, and restrictions stated herein, Grantor hereby grants, conveys, creates, and establishes a conservation easement under Article 3, Chapter E, Section 3.F.2 of the Code to, for, and in favor of Grantee upon the Property of the nature and character and to the extent hereinafter set forth, which shall run with the land and be binding on Grantor, and shall remain in full force and effect forever.

1. Purpose. The purpose of this Easement is to support, preserve and perpetuate bona fide agricultural and open space uses of the Property, and to preserve any environmentally significant upland or wetland habitats located on the Property.
2. Permitted Uses. Grantor may use the Property for:

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- a. Crop production, pasture, equestrian uses, or fallow land;
- b. Construction and maintenance of accessory structures essential to the uses listed in subsection 2a., above, such as barns, stables, pumps, and pump houses, but specifically excluding agricultural support structures such as processing facilities, which are prohibited;
- c. Maintenance and occupation of security/caretaker, or grooms quarters, provided that any applicable special permit is obtained for such use, and requisite density exists on the Property for such use;
- d. Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District (“SFWMD”): to serve regional water management purposes as certified by either Lake Worth Drainage District or SFWMD, or for water management purposes not directly related to the Project if approved by the Palm Beach County Department of Environmental Resources Management (“ERM”) and managed for environmental resource values;
- e. Wetland restoration and maintenance, or bona fide agriculture as defined by the Code; and
- f. Those other activities authorized within the protected area of an AGR-PDD consistent with the most current uses permitted by the Code and consistent with applicable provisions of the Comprehensive Plan.

3. Prohibited Uses. Any use of or on the Property that is not specifically listed or included in Section 2, above, or that is inconsistent with agricultural, environmentally significant uplands or wetlands, or open space preservation is prohibited by this Easement. The following uses are prohibited on the Property:

- a. Agricultural support uses such as processing facilities, farmworker housing and the like shall not be accommodated in the protected or preservation area of the AGR-PUD; nor shall new residential uses, other than security/caretakers quarters and grooms quarters, be accommodated thereon; and
- b. No residential units or farm residences (whether existing or proposed) shall be allowed within the preserve area.

4. Rights of Grantee. To accomplish the purpose of this Easement, the following rights are conveyed to Grantee by this Easement:

- a. To enter upon the Property at reasonable times, at Grantee’s sole risk, in order to monitor Grantor’s compliance with, and otherwise enforce the terms of this Easement provided that such entry shall be upon reasonable notice to Grantor and shall not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor; and
- b. To enjoin any activity on or use of the Property that is inconsistent with this Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

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5. No Recourse to Development Area. Grantor acknowledges and agrees that the Property constitutes the Preservation Area for the Project approved under the Resolution. Grantee acknowledges and agrees that, notwithstanding anything to the contrary, in the event of any violation or threatened violation of any of the terms of this Easement, Grantee shall have no recourse or remedy against the development area of the AGR-PUD approved under the Resolution (the "Development Area"), and Grantee's sole remedy or recourse for any such violation or threatened violation of this Easement shall be against Grantor and the Property and not the Development Area.

6. No Recourse to Preservation Area. Grantee acknowledges and agrees that the Property constitutes the Preservation Area for the Project approved under the Resolution. Grantee acknowledges and agrees that, notwithstanding anything to the contrary, in the event that the Development Area becomes in violation, or there is a threatened violation, of any applicable approvals for the Project, the Grantor shall have no liability whatsoever, and Grantee's sole remedy or recourse for any such violation or threatened violation shall be against the owner of the Development Area and not against the Grantor in the capacity as Grantor of this easement for the Preserve Property.

7. Exotic Plant Removal. Grantor shall maintain the Property free and clear of all prohibited and invasive non-native plant species ("Exotics"), as defined in the Code and the most current Florida Environmental Pest Plant Council Category I Plant List, as required by a condition of approval for the Project. Grantor shall remove all Exotics from the Property and thereafter maintain the Property free of Exotics pursuant to the Exotic Vegetation Management Removal Plan approved by ERM.

8. Wetlands (if applicable). The parties acknowledge and agree that wetlands have been identified on the Property as described and depicted on attached Exhibit B (the "Wetlands"). Grantor shall preserve and maintain the Wetlands in the same condition that existed as of the date of this Easement (with the exception of the removal of exotic plants), subject to natural growth or decline. Any human-caused alteration of the Wetlands shall be a violation of this Easement.

9. Native Uplands (if applicable). The parties acknowledge and agree that significant native upland vegetation has been identified on the Property as described on attached Exhibit C (the "Uplands"). Grantor shall preserve and maintain the Uplands in the same condition that existed as of the date of this Easement (with the exception of the removal of exotic plants), subject to natural growth or decline. Any human-caused alteration of the Uplands shall be a violation of this Easement.

10. Access. No right of access by the general public is conveyed or restricted by this Easement.

11. Operation and Upkeep. Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Property.

12. Enforcement. Enforcement of the terms, conditions, and restrictions of this Easement shall be at the reasonable discretion of Grantee and any forbearance on behalf of Grantee to

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exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder. No third party shall have the right to enforce this Easement.

13. Warranties. Grantor hereby warrants and represents that Grantor is lawfully seized of the Property in fee simple and has good right and title to grant and convey this Easement to Grantee, and that the Property is free and clear of any mortgage, lien, or other encumbrance that may impair the enforceability of the Easement.

14. Construction. The parties expressly acknowledge and agree that this Easement is the result of mutual arms-length negotiations, and that this Easement shall not be construed more strongly against either party regardless of who was responsible for preparing, drafting or transcribing the Easement.

15. Severability. If any provision of this Easement or the application thereof is found to be invalid, the remaining provisions of the Easement shall not be affected as long as the purpose of the Easement is protected.

16. Amendment. This Easement may be amended, altered, released, or revoked only by written agreement between the parties, their successors or assigns, which shall be filed in the public records of Palm Beach County, Florida.

17. Notices. All notices or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail addressed to the appropriate party or successor.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms conditions restrictions and purpose imposed by this Easement shall be binding upon Grantor and shall continue as a servitude running in perpetuity with the Property.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, Grantor and Grantee have executed this Conservation Easement this _____ day of _____, 20__.

GRANTOR:

(insert name of grantor)

Witness signature

By: _____

Witness printed name

Its: _____

Witness signature

Witness printed name

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, on this _____ day of _____, 20__, by _____, the *(insert title)* of *(insert corporation name)*, on behalf of said corporation, who is personally known to me or who has produced a valid driver's license as identification.

NOTARY SEAL:

Notary Public

Print Notary Name

My Commission Expires: _____

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Approved as to Form and
Legal Sufficiency

Assistant County Attorney

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EXHIBIT "A"
(insert preserve name)

1. Insert legal description.
2. Insert overall location map as to where the preserve is located in the Ag. Reserve.
3. Insert a map of the preserve area with boundaries of conservation easement.

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EXHIBIT “B”
(Wetlands)

1. Include exhibit “B” if there are wetlands.
2. Insert legal description.
3. Insert survey with the location of the wetlands.

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EXHIBIT “C”
(Native Uplands)

1. Include exhibit “C” if there are native uplands.
2. Insert legal description.
3. Insert map with the location of the native uplands.



**BOARD OF COUNTY COMMISSIONERS
ZONING MEETING**

THURSDAY OCTOBER 27, 2022

9:30 A.M. 6TH FLOOR

JANE M. THOMPSON MEMORIAL CHAMBERS

CALL TO ORDER

- A. Roll Call
- B. Opening Prayer and Pledge of Allegiance
- C. Notice
- D. Proof of Publication
- E. Swearing In
- F. Amendments to the Agenda
- G. Motion to Adopt the Agenda

POSTPONEMENTS/REMANDS/WITHDRAWALS AGENDA

CONSENT AGENDA

REGULAR AGENDA

OTHER DEPARTMENT ITEMS

COMMENTS

ADJOURNMENT

Web address: www.pbcgov.com/pzb/

Disclaimer: Agenda subject to changes at or prior to the public hearing.



**AGENDA
PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

OCTOBER 27, 2022

CALL TO ORDER

- A. Roll Call - 9:30 A.M.
- B. Opening Prayer and Pledge of Allegiance
- C. Notice:

Zoning hearings are quasi-judicial in nature and must be conducted to afford all parties due process. The Board of County Commissioners has adopted Procedures for conduct of Quasi-Judicial Hearings to govern the conduct of such proceedings. The Procedures include the following requirements:

Any communication with commissioners, which occurs outside the public hearing, must be fully disclosed at the hearing.

Applicants and persons attending the hearing may question commissioners regarding their disclosures. Such questions shall be limited solely to the disclosures made at the hearing or the written communications made a part of the record at the hearing.

Any person representing a group or organization must provide documentation that the person representing the group has the actual authority to do so regarding the matter before the Commission.

Any person who wishes to speak at the hearing will be sworn in and may be subject to cross-examination.

The Applicant and County staff may cross-examine witnesses. Any other persons attending the hearing may submit cross-examination questions, including follow up questions, to the Mayor, who will conduct the examination. The scope of cross-examination is limited to the facts alleged by the witness in relation to the application.

Public comment is encouraged and all relevant information should be presented to the commission in order that a fair and appropriate decision can be made.

- D. Proof of Publication - Motion to receive and file
- E. Swearing In - County Attorney
- F. Amendments to the Agenda
- G. Motion to Adopt the Agenda

POSTPONEMENTS/REMANDS/WITHDRAWALS AGENDA

A. POSTPONEMENTS

B. REMANDS

C. WITHDRAWALS

END OF POSTPONEMENTS/REMANDS/WITHDRAWALS AGENDA

CONSENT AGENDA

REQUESTS TO PULL ITEMS FROM CONSENT

DISCLOSURES FOR THE CONSENT ITEMS

A. ZONING APPLICATIONS

1. [DOA/CA-2022-00117](#)

Title: a Development Order Amendment application of Atlantic Avenue Realty Associates, LLC, Vesnodevi Donut Corp. - Hitesh Patel by Insite Studio, Agent. Request: to reconfigure the Site Plan; to add and delete use; delete square footage; and, modify Conditions of Approval on 25.46 acres

Title: a Class A Conditional Use of Atlantic Avenue Realty Associates, LLC, Vesnodevi Donut Corp. - Hitesh Patel by Insite Studio, Agent.

Request: to allow a Type 1 Restaurant with drive-through on 0.83 acres

General Location: North side of Atlantic Avenue, approximately 795 feet east of Hagen Ranch Road (**Dunkin Donuts at Oriole Plaza**) (Control 1973-00039)

Project Manager: Timothy Haynes
Size: 25.46 acres +

BCC District: 5

Staff Recommendation: Staff recommends approval of the requests, subject to the Conditions of Approval as indicated in Exhibit C-1 and C-2.

Zoning Commission Recommendation: Recommended Approval of a Development Order Amendment, as amended by a vote of 6-0-0.

Zoning Commission Recommendation: Recommended Approval of a Class A Conditional Use, as amended by a vote of 6-0-0.

MOTION: To adopt a Resolution approving a Development Order Amendment to reconfigure the Site Plan; to add and delete use; delete square footage; and, modify Conditions of Approval, subject to the Conditions of Approval as indicated in Exhibit C-1.

MOTION: To adopt a Resolution approving a Class A Conditional Use to allow a Type 1 Restaurant with drive-through, subject to the Conditions of Approval as indicated in Exhibit C-2.

2. [DOA-2022-00216](#)

Title: a Development Order Amendment application of 5165 Homeland Plaza, LLC by Insite Studio, Agent.

Request: to reconfigure the Site Plan; add a building and square footage; and, modify Conditions of Approval on 9.26 acres

General Location: West side of State Road 7 approximately 1 mile south Lake Worth Road **(South Road Office MUPD)** (Control 2003-00036)

Project Manager: Timothy Haynes

BCC District: 6

Size: 9.26 acres ±

Staff Recommendation: Staff recommends approval of the request, subject to the Conditions of Approval as indicated in Exhibit C.

Zoning Commission Recommendation: Recommended Approval of a Development Order Amendment, as amended by a vote of 6-0-0.

MOTION: To adopt a Resolution approving a Development Order Amendment to reconfigure the Site Plan; add a building and square footage; and, modify Conditions of Approval, subject to the Conditions of Approval as indicated in Exhibit C.

3. [ZV/PDD-2021-01531](#)

Title: an Official Zoning Map Amendment application of 2154 Zip Code Property LLC by Schmidt Nichols, Agent.

Request: to allow a Rezoning from the General Commercial (GC) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 8.12-acres

General Location: East side of Military Trail, approximately 670 feet north of Okeechobee Boulevard. **(Okeechobee Commerce Park)** (Control 1994-00038)

Project Manager: Brenya Martinez

BCC District: 7

Size: 8.12 acres ±

Staff Recommendation: Staff recommends approval of the request, subject to the Conditions of Approval as indicated in Exhibit C-2.

Zoning Commission Recommendation: Approved a Type 2 Variance (with conditions) by a vote of 6-0-0.

Zoning Commission Recommendation: Recommended Approval of an Official Zoning Map Amendment by a vote of 6-0-0.

MOTION: To adopt a Resolution approving an Official Zoning Map Amendment to allow a rezoning from the General Commercial (GC) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District, subject to the Conditions of Approval as indicated in Exhibit C-2.

4. [Z-2022-01017](#)

Title: an Official Zoning Map Amendment application of Lin Zheng by WGI Inc., Agent.
Request: to allow a Rezoning from the Residential Estate (RE) Zoning District to the Residential Transitional (RT) Zoning District on 4.77 acres

General Location: Approximately 258 feet south of the Northlake Boulevard and North Bates Road intersection (**North Bates Subdivision**) (Control 2017-00178)

Project Manager: Alex Biray

Size: 4.77 acres ±

BCC District: 1

Staff Recommendation: Staff recommends approval of the request subject to the Condition of Approval as indicated in Exhibit C.

Zoning Commission Recommendation: Recommended Approval of an Official Zoning Map Amendment by a vote of 6-0-0.

MOTION: To adopt a Resolution approving an Official Zoning Map Amendment to allow a Rezoning from the Residential Estate (RE) Zoning District to the Residential Transitional (RT) Zoning District, subject to the Condition of Approval in Exhibit C.

B. OTHER DEPARTMENT ITEMS

5. Title: Land Development Division, Agenda Item, [AB62144 Reiter Farm](#) Utility Easement Abandonment

SUMMARY: Adoption of this Resolution will eliminate the public dedication that is in conflict with development plans by Space Age Construction and Real Estate, Inc. (Petitioner). All reviewing agencies and utility service providers have approved this abandonment and the utility easement to be abandoned serves no present or future public purpose. The Petitioner requested the County clear the encumbrance to allow for the construction of a new single-family home. There are no utility service facilities located within the Abandonment Site.

BACKGROUND AND POLICY ISSUES: Hearings for abandonments pursuant to Section 177.101, Florida Statutes, are quasi-judicial hearings and are subject to the Palm Beach County Procedures for Conduct of Quasi-Judicial Hearings.

DISCLOSURE

Project Manager: Scott Cantor

Staff Recommendation: Staff recommends approval of the request.

MOTION: To adopt a Resolution abandoning any public interest in a 12-foot wide utility easement, being in a portion of Parcel "A" as described in the Affidavit of Waiver recorded in Official Record Book 33685, Page 158 (Abandonment Site), Public Records of Palm Beach County (County).

END OF CONSENT AGENDA

REGULAR AGENDA**A. ITEMS PULLED FROM CONSENT****B. DISCLOSURES FOR ITEMS PULLED FROM THE CONSENT AGENDA****C. ZONING APPLICATIONS****D. ULDC AMENDMENTS**

6. **Title:** [ULDC Revisions](#) - Electronic Message Signs and Transfer of Development Rights for Workforce Housing Units, Public Hearing Agenda Item

This item includes revisions to allow electronic display for signs for assembly-type institutional and civic uses, and will remove complexity and redundancy where appropriate. This item also includes revisions to the Transfer of Development Rights (TDR) Program, in order for workforce housing units resulting from the use of TDRs are subject to the same regulations as workforce housing units that result from the Workforce Housing Program (WHP). Unincorporated

Staff Recommendation: Staff recommends adoption of the Ordinance to amend the Unified Land Development Code.

LDRAB Recommendation: The LDRAB will meet on October 26, 2022. Staff will provide an update at the BCC hearing.

LDRC Determination: The LDRC will meet on October 26, 2022. Staff will provide an update at the BCC hearing.

MOTION: TO ADOPT AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 2003-067 AS AMENDED, AS FOLLOWS: REVISION FOR THE ELCTRONIC MESSAGE SIGNS, AMENDING ARTICLE 1 GENERAL PROVISIONS; ARTICLE 2 APPLICATION PROCESSESS AND PROCEDRUES; ARTICLE 8 SIGNAGE; AND TRANSFER OF DEVELOPMENT RIGHTS FOR WORKFORCE HOUSING UNITS, AMENDING ARTICLE 5 SUPPLEMENTARY STANDARDS; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND, AN EFFECTIVE DATE.

M. OTHER ITEMS

7. Title: [Electric Vehicle Charging Stations Policy Direction](#)

The item is before the Board is a presentation for direction on a County Initiated ULDC revisions to Electric Vehicle Charging Stations (EVCSs). Zoning staff proposes revisions to facilitate EVCSs by allowing approval through the building permit process rather than site plan approval, and eliminating the related 'use' in the ULDC Matrix. Under discussion, County staff will be seeking direction on whether the Board would like certain uses, including multifamily, retail, and office uses, to have a mandatory minimum number of EVCS to be required as part of the development review process.

END OF REGULAR AGENDA

OTHER DEPARTMENT ITEMS

A. PURCHASING CONTRACT

B. DEPARTMENT UPDATE

C. ENGINEERING ITEM

D. ADMINISTRATION

COMMENTS

A. COUNTY ATTORNEY

B. ZONING DIRECTOR

C. PLANNING DIRECTOR

D. EXECUTIVE DIRECTOR

E. ASSISTANT COUNTY ADMINISTRATOR

F. COMMISSIONERS

ADJOURNMENT