

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: December 6, 2022 | Consent | Regular
| Ordinance | Public Hearing
Department: Facilities Development & Operations
Department: Planning, Zoning and Building

I. EXECUTIVE BRIEF

Motion and Title: Staff requests Board direction: Regarding a potential text amendment to the County's Comprehensive Plan to allow for the development of the Brookside property in light of the restrictions that currently encumber the same.

Summary: On November 15, 2022, the Board of County Commissioners (Board) directed staff to provide a report on the history regarding the County's acquisition of the Brookside property and the required actions to, and potential consequences of, proceeding with a text amendment to the County's Comprehensive Plan (Comp Plan) to allow for development of the real estate holding. The Brookside property was originally acquired by the County in 2003 as part of the Agricultural Reserve Acquisition program. The property was sold in 2006, without development rights and with restrictions for conservation, agricultural and equestrian uses. The selling price reflected said limitations, resulting in approximately \$2M less in revenue when compared to the amount the County paid to acquire the property. The removal of development rights and the imposition of a conservation easement were deemed as guarantees to ensure attainment of the goals of the Agricultural Reserve land acquisition program. The property owner has indicated the intent to submit Comprehensive Plan amendments that would result in a 856 unit residential development including 25% workforce housing. If the Board directs staff to work with the applicant to allow them to submit the necessary applications to develop (or properly entitle) the property for development, the process would result in the item being considered by the Planning Commission in Fall 2023, with transmittal hearing by the Board in Fall 2023, and an adoption hearing by the Board in early 2024. (FDO Admin) Countywide (HJF)

Background & Policy Issues: In March 1999, Palm Beach County voters approved the Agricultural Reserve bond referendum which provided \$150M towards the establishment of a land acquisition program to protect environmentally sensitive lands, greenways, land for water resources, agricultural lands and open space. In May 2003, the Board approved the acquisition (through The Conservation Fund) from Brookside Tree Farm Limited Partnership of approximately 78 acres under the Agricultural Reserve (Ag Reserve) land acquisition program at a cost of \$5,163,432 (R2003-0199). Of the total acreage, 3 acres were acquired for the Lyons Road right-of-way with the remaining acreage going to the Ag Reserve program. At the time of acquisition, the property was being used as an in-ground nursery and it was County staff's intent to continue to lease it for nursery operations. However, as the Ag Reserve bond program progressed, a decision was made against leasing the property. Consistent with the 1999 bond referendum and to fund the Ag Reserve acquisition program, the County issued two tax-exempt general obligation bonds (GO bonds). The tax exempt status imposed limitations on the amount of revenue that could be derived from private parties and the rent payments were considered Private Activity Revenue. Hence, the decision not to lease the property was made as proceeding otherwise would have resulted in exceeding private activity bond limitations by year 2012. Refunding of the bonds with taxable bonds (i.e. not subject to Private Activity Revenue limitations) was identified as a feasible alternative, and County staff proceeded to draft a strategy towards implementation of a refunding plan. After several iterations with the participation of the County Land Acquisition Selection Committee (CLASC), bond counsel and County staff, among others, a refunding plan was agreed to by all parties which entailed entering into agreements that would cause the County to receive more revenue than allowed under the Private Activity Revenue limitations, after which the County would then have 90 days to issue taxable refunding bonds (as per United States Internal Revenue Service (IRS) regulations). **CONTINUED ON PAGE 3**

Attachments:

Location Map

Recommended By: [Signature] 11/23/2022
Department Director Date

Recommended By: [Signature] 11/23/2022
Department Director Date

Approved By: [Signature] 11/29/22
County Administrator Date

Background & Policy Issues: (Cont'd): In May 2006, County staff presented to the Board several agenda items all of which needed to be approved concurrently in order for the refunding program to be successfully implemented. One of said items was an agreement to sell the 75-acre Brookside property.

As per statutory requirement, the agreement to sell the Brookside property stemmed from a competitive process. The property was competitively advertised for purchase twice. A first request for proposals (RFP) was issued in November 2005 to sell the property to a qualified buyer for nursery or row crop production, and received only one proposal for \$1.05M which was deemed insufficient to accomplish the bond refund program. A second RFP was issued in April 2006 which incorporated into its proposal scoring framework the following three preferential uses as recommended by the CLASC: 1) nursery, 2) row crops and 3) equestrian. In order to generate interest in the property and receive proposals at prices which would exceed the revenue limitations, the RFP also established a minimum bid at the appraised value of \$3M and allowed any use permitted in the AGR zoning district, with the previously detailed preferences taken into consideration. Three (3) proposals were received, and on May 16, 2006 (agenda item 5E-4), County staff requested Board direction on the selection of the most responsive one. The three proposals were fairly close in the financial offer (i.e. \$75,000 separating the highest and lowest offers), the main difference was the uses proposed. The Board selected the proposal submitted by Richard Bowman, Steven Wolf, Jeff Snow and Scott Niebel (collectively the Bowman Group).

Approval of the agreement to sell was based on two key considerations: 1) all development rights were to be removed, and 2) the property would be subject to a conservation easement limiting its use to agricultural uses. The appraisals on which the minimum bid were based took into consideration said restrictions. As a result, in 2003, the County acquired the property from Brookside Tree Farm Limited Partnership for approximately \$5.2M and sold it three years later to Brookside States, LLC and Smith Sundry Estates, LLC (entities controlled by the original owner of the Brookside property) for approximately \$3.2M. That is, an approximately \$2M discount. The removal of development rights and the imposition of a conservation easement were deemed as guarantees to ensure attainment of the goals of the Ag Reserve land acquisition program.

For development on the Brookside property to be feasible, the conservation easement would need to be at least partially released, development rights would need to be assigned through a text amendment to the County's Comp Plan, and in County staff's opinion, additional compensation should be required from the current owners as their ability to acquire at a discounted price (back in 2006) was the result of the restrictions imposed on the property (which the owners now seek to remove).

If the Board were to initiate a text amendment to the Comp Plan in December 2022, the process would result in the item being considered by the Planning Commissions in Fall 2023, with transmittal hearing by the Board in November 1, 2023 and an adoption hearing by the Board in February 2024.

Attachment 1 Location Map

