

AGRICULTURE AND RURAL AREA STUDY

FINAL RECOMMENDATION

TASK 2(D)

MIAMI-DADE COUNTY, FLORIDA

SUBMITTED BY:

FREILICH, LEITNER & CARLISLE

1150 One Main Plaza

4435 Main Street

Kansas City, Missouri 64111

Phone: (816) 561-4414 Fax: (816) 561-7931

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I. INTRODUCTION AND OVERVIEW

This Report represents the Consulting Team’s final recommended approach to preserving agriculture and rural open space in south Miami-Dade County. The recommendations set forth herein will:

- (1) protect agricultural lands from premature conversion to non-agricultural uses, preserving significant agricultural and rural open space in perpetuity;
- (2) facilitate operational adjustments needed to retain a viable agricultural economy; and
- (3) ensure that those who benefit from agriculture and rural open space preservation share in the costs of preservation and that these costs are not placed solely on agricultural land owners.

The stated goal of the Agriculture and Rural Area Study (“the Study”) was to identify methods for retaining “agriculture and rural land uses through the enhancement of the economic viability of commercial agriculture in Miami-Dade County.”¹ In pursuance of that goal, the Study included the following three Work Tasks:

Task One: Inventory and Analysis

Task Two: Agriculture and Rural Area Retention and Promotion Strategies

Task Three: Public Involvement and Interagency Coordination

In Task One, the Team developed an inventory of background data and maps that reflected the current state of environmental and agricultural practices in the Study Area. Task One also included an economic outlook for agriculture in Miami-Dade County and identified direct agricultural support uses and complementary rural land uses that are currently allowed or may be considered within the Study Area. Finally, the Team developed a public sector fiscal impact analysis that summarized and compared the fiscal impacts of three alternative development scenarios, which are defined as follows:

Rural Residential Scenario: current, predominantly agricultural land use pattern at a density of one unit/five acres; with no meaningful mechanism for preserving significant agricultural lands or rural open space;

Suburban Residential Scenario: a predominantly residential suburban buildout with an average density of 4.5 units/acre, reflecting continued conversion of the Study Area to suburban uses, with no meaningful mechanism for preserving significant agricultural lands; and

Preferred Development Scenario: recommended by the Team; reflects existing densities and development expectations, but incorporates meaningful techniques for preserving agricultural lands and facilitating agriculture’s transition to the modern economic and political climate.

Task Two of the Study focused on specific strategies that Miami-Dade County may use for retention and promotion of agriculture and rural lands. The Team collected, analyzed,

¹ SCOPE OF SERVICES (Appendix A to Contract No. 000091, Agriculture and Rural Area Study, Miami-Dade County, Florida), at 1.

and presented information on economic strategies that might be used to strengthen the competitiveness of Miami-Dade County's agricultural community.² The Team developed reports that identify and describe the range of tools typically employed by communities around the country to protect rural areas.³ The Team then narrowed these preservation tools and presented a case study of five specific communities that have employed techniques that may be useful in Miami-Dade County.⁴

The Team has reviewed all plans and reports relevant to agriculture and rural open space preservation being prepared by other entities since 1990. These studies were summarized in a comprehensive report and provided to the Citizens Advisory Committee and all members of the Consulting Team for their consideration throughout.⁵ Finally, the Team conducted a Visioning and Design Charrette in December 2002 and held numerous public workshops to disseminate information and to advance a collective vision to address future physical and economic characteristics of the Study Area.

The Team has worked extensively with the Citizen's Advisory Committee (CAC), the public, and various governmental agencies. The Team has reported its activities to the CAC and has received the benefit of their input throughout. In fact, the success of the Study is due in large part to the CAC's diligence in carefully and thoughtfully reviewing numerous drafts and reports and providing its comments to the Team. This Report represents the culmination of these tasks and the Team's final recommended approach.

The reports developed pursuant to each Work Task have informed the Team throughout the Study and the recommendations set forth herein are tailored to the specific needs of Miami-Dade County and its agricultural economy and rural community. To that end, this report presents recommendations in pursuance of the following objective for Task 2(d):

Based upon information developed in all prior tasks, develop and issue study recommendations containing a coordinated and balanced array of economic, regulatory, and institutional strategies to: 1) promote the economic viability of local agricultural production; 2) enhance retention of land for viable agricultural production; and 3) as appropriate, in the context of the projected amount and types of future agricultural activity, recommend additional agriculturally supportive land uses and criteria, or non-agricultural development policies and strategies.⁶

The recommendations set forth in this Report reflect the principle that preservation of agriculture and rural open lands is important to the County's future and that the burden of ensuring meaningful preservation should be borne, at least in part, by the community as a whole and not only by property owners within the Study Area. This "guiding principle" began to emerge upon the completion of an economic analysis prepared by the University of Florida's Institute of Food and Agricultural Sciences (the "UF Report"). The report

² The resulting report, "Agricultural Economic Development Strategies," is attached hereto as Appendix A.

³ The resulting report, "Analysis of Agricultural Land Retention Strategies," is attached hereto as Appendix B.

⁴ The resulting report, "Analysis of Rural Land Uses," is attached hereto as Appendix C.

⁵ The resulting report, "Related Studies Coordination," is attached hereto as Appendix D

⁶ SCOPE OF SERVICES, *supra* note 1 at 14.

paints a telling picture of agriculture and its future as a viable economic contributor in Miami-Dade County. During the Visioning and Design Charrette, the views of a broad range of interests from around the County were expressed. Input received during the Charrette process also helped shape the approach recommended herein and the guiding principle behind it.

The following represents the six (6) major components of the Team's final recommendation:

1. a funded Purchase of Development Rights (PDR) Program;
2. a proportionate Open Space Mitigation Fee on new development;
3. a restructured Severable Use Rights (SUR) program;
4. limited residential development within the Study Area consistent with historic annual rates;
5. hiring for the position of a new Rural Communities Coordinator; and
6. interim restrictions on building permit issuance within the Study Area to preserve the status quo and to implement the Team's recommendation.

Each of these are discussed in detail in this Report. Additional recommendations also are set forth in support of these six major recommendations.

Given the significance of the economic outlook for agriculture in Miami-Dade County, a summary of the findings of the UF Report is presented in the section below. Following that brief discussion is an overview of the Visioning and Design Charrette and, finally, an articulation of the principles that led to the final recommendation of a "Preferred Development Scenario" for the Study Area.

II. THE UNIVERSITY OF FLORIDA REPORT

A. Overview

The UF Report summarized the major issues confronting Miami-Dade County agriculture as follows:

1. *Globalization of markets:* Economic globalization and trade liberalization will continue. Agricultural producers and business firms must engage in multi-national product/supply and marketing strategies to transcend international boundaries. As certain imports take a larger share of domestic markets, some U.S. growers and shippers, depending upon their product specializations, may be unable to survive.
2. *Level the playing field:* The agricultural community must seek to "level the international playing field" with respect to trade policies, environmental regulations, food safety and phytosanitary policies, and farm worker protection.
3. *Exotic pests:* The continuous importation of exotic pests is detrimental to the agricultural industry. This problem is foremost a border integrity issue and

should be dealt with by the U.S. government. Proactive efforts also should be made to reduce the pest infestation at the point of origin.

4. *Flood Control and water management:* Flood control and water management must be better understood and administered. Flooding resulting from Everglades restoration efforts should be closely monitored and minimized and better topographic and hydrological data are essential. More efficient irrigation practices should be researched and implemented.
5. *Production technologies:* Unique production technologies must be patent-protected so they cannot be duplicated in the international community.
6. *Technological developments:* Further scientific research is essential to address continuing problems created by conflicting environmental and labor regulations and trade policies. The agricultural community must press for additional funding and research.
7. *Weather and market information:* The federal government should provide and improve the dissemination of weather and market information to help farmers make effective investment and operating decisions.
8. *Marketing:* Improved marketing can help growers and shippers rise above the fiercely competitive commodity type markets. Improved product standards, branded product identities, and market development strategies that better target desired market segments may be able to compensate for limited economies of scale and higher production costs.
9. *Collaboration:* Despite the great diversity of farm sizes and types in Miami-Dade County, the various groups must cooperate to identify common goals that will generate widespread support and collaborative action.
10. *Land value:* Population growth and urban development are inevitable in Miami-Dade County and the continuing demand for non-agricultural lands has resulted in major land price increases. Thus only one-fourth of land values in the Study Area reflect agricultural returns while the other three-fourths reflect anticipated non-agricultural or residential/agricultural uses. Given low financial returns in the agricultural industry, landowners will be motivated to convert agricultural land to higher-valued uses.
11. *Preservation of agricultural lands:* Agricultural preservation programs shall include purchase of agricultural lands with a low-cost or subsidized lease program or a purchase of conservation easements programs. Whatever methods are chosen, every effort must be made to protect individual property rights and equitable administration of the programs.
12. *Review and revision of local regulations:* The Agricultural Practices Study Advisory Board should initiate a systematic review of all local regulations, fees and permits that reduce profitability to the agricultural industry or create barriers. Any barriers should be removed or modified to reduce the adverse impacts.

13. *Communication and coordination with County government:* The Agricultural Practices Advisory Committee and the County should improve coordination and communication regarding proposed regulations that affect owners of agricultural lands.⁷

The UF Report concludes that the fundamental nature of agriculture in Miami-Dade County is changing. Overall economic output, earnings, and total production have decreased steadily since the early 1990s, failing to recover fully from the impacts of, among other things, Hurricane Andrew and passage of the North American Free Trade Agreement (NAFTA). Within the industry, row crops face the most devastating outlook, while ornamentals and nurseries look more optimistic. Miami-Dade growers are facing increased competition from Mexico where environmental requirements are less demanding and production costs are significantly lower than in Miami-Dade County. The potential for trade with Cuba in the coming years creates an even more uncertain picture for the County's agricultural producers.

Farm sizes in the Study Area continue to shrink, reflecting a shift towards small farm operations where five to ten acre parcels are put into agricultural production. In the UF Report, IFAS noted that farms of less than ten (10) acres in size represent nearly 60% of all farms, but only 4% of all agricultural lands.⁸ These operations are highly inefficient on a per acre basis. IFAS further noted that although small operators share some common goals and lifestyles with traditional large operators, they lack a sufficient commitment of resources to generate the level of economic input historically generated by large farm operations. Many small operators, amounting to about 47% of all farm operators in 1997, rely on "off-farm" incomes. The average age of the farming population is steadily increasing.⁹ In 1997, a full one-third of all operators were over the age of 65 and less than 6% were under 35. Available lands for agricultural production have also decreased steadily in recent decades.¹⁰

The UF Report concludes that large farming operations, particularly those given to vegetable and major tropical fruit production, "are facing serious economic challenges," and further characterizes its "long-term prognosis" as "increasingly grim."¹¹ UF predicts that continued agricultural activity will shift away from direct production towards "agribusiness activities associated with sourcing, import and transportation logistics and distribution."¹² The Report notes, however, that this shift towards service-based agribusiness activities does not necessarily foretell a decline in the "economic impact of

⁷ University of Florida: Institute of Food and Agricultural Studies, MIAMI-DADE COUNTY AGRICULTURAL LAND RETENTION STUDY: SUMMARY AND RECOMMENDATIONS xiii-xv (Robert L. Degner, Thomas J. Stevens, III, & Kimberly Morgan eds., April 2002) (unpublished report, on file with Miami-Dade County Department of Planning and Zoning).

⁸ *Id.* at 10.

⁹ *Id.* at 51.

¹⁰ Miami-Dade County Department of Planning and Zoning, URBAN AND AGRICULTURAL LAND USE TRENDS & PROJECTIONS 1985, 1994, 2000, 2025, 2050, at 2 (Oct. 9, 2002)(unpublished report, on file with the Miami-Dade County Department of Planning and Zoning).

¹¹ University of Florida, *supra* note 7, at 52-53 ("The economic returns to operators and landlords are currently insufficient to keep large acreages of row crops and grove land in agriculture, and the long-term prognosis is increasingly grim.").

¹² *Id.* at 55.

agriculturally-related activities in terms of employment generation and contribution to local GDP...”.¹³ Finally, the UF Report describes, consistent with anecdotal evidence, significant increases in land values as the pressure for conversion to non-agricultural uses continues to press in on lands that are increasingly less profitable for traditional agricultural production.

B. Citizens’ Advisory Committee Report

The CAC, which provided its input and comments to the Team throughout the Study, was comprised of representatives of various stakeholder and interest groups from the Study Area. The CAC members, and the organization or interest group represented by each, are listed below:

Craig Wheeling, Chair
Lime & Avocado Industry Representative

Ron Weeks, Vice Chair
Nursery Industry Representative

Ivonne Alexander
Agricultural Land Leasing Industry Representative

John Alger
Row Crop Industry Representative

Santiago Garcia
Farm Labor Representative

April Gromnicki
National Audubon Society Representative

Noble Hendrix
Tree Crop Representative

Santiago Iglesias
Miami-Dade Agri-Council Representative

Bill Losner
Agri-banking Representative

Philip Marraccini, Jr.
Aquaculture Representative

Cooper McMillan
Redland Citizens’ Association Representative

¹³ *Id.* at 56.

Reed Olszack
Agribusiness Representative

James Pierce
Homestead/Florida City Chamber of Commerce

Brent Probinsky
Sierra Club Representative

Karsten Rist
Redland Conservancy Representative

Erik Tietig
Nursery Industry Representative

The CAC developed an “executive summary” that reflected generally the view of the CAC members on a number of issues, many of which were directly addressed in the UF Report. The CAC recommended that:

1. any changes in land development regulations should not restrict farmers’ ability to sell their land when the agriculture industry is in decline;
2. the County not burden low-margin farm operators with endless plans and committee meetings;
3. growth management programs recognize the importance of farm profitability;
4. the growth management plan maximize land values while retaining the land’s rural character and environmental sustainability;
5. the road network must be improved and flooding be addressed;
6. urban sprawl be recognized as a threat to the viability of agriculture; and
7. an agricultural liaison position should be created within the County Mayor’s Office (At the 1998 Miami-Dade County Economic Summit, a recommendation was made that the County create and fund such a position. To date, this position has not been created.).

III. VISIONING AND DESIGN CHARRETTE

The purpose of the Charrette was to conduct a “visioning process” involving all community interests in order to develop a collective vision addressing the physical, economic, and planning characteristics of the Study Area. The Team developed a Charrette report that includes presentations, site scenarios, existing conditions, results of the roundtable session, and final recommendations. Of particular importance are the results of the roundtable session, which integrate the input of the community members, with the Team’s reports and CAC suggestions. The Charrette process resulted in the identification of the following five overarching goals:

1. Maintain a sustainable agribusiness industry.

2. Maintain and ensure the character of the rural area and lifestyle and to maintain the existing Urban Development Boundary.
3. Maintain investment value of all Study Area land.
4. Promote environmental sustainability.
5. Prepare, approve and implement a comprehensive plan amendment.

Charrette participants developed draft “goals, objectives, and policies that the County should consider in amending the Comprehensive Plan and adopting the preferred development scenario. These goals, objectives, and policies are attached to this Report as Appendix E.

IV. GUIDING PRINCIPLES

Based on its initial data and background assessments – including the UF Report, the recommendations that resulted from the Charrette process, and its ongoing interaction with the CAC - the Team’s observation was that as traditional means of agricultural production are becoming less viable and current owners are seeking alternative economic uses for their lands, strong community support exists for the perpetual preservation of these lands, even at the expense of a significant countywide monetary commitment.¹⁴

Miami-Dade County’s population is projected to grow from 2.25 million in 2000 (a 16% increase over 1990) to approximately 3.2 million people by 2030.¹⁵ Continued growth will demand that the County provide increased public facility and service capacity, including roads, schools, water and wastewater treatment, parks and open space. Increased land values reflect the fact that the demand for agricultural lands for conversion to non-agricultural uses is intensifying. Miami-Dade County clearly is at a fork in the road.

The decision facing the County is whether new growth will be (a) directed inward towards already built-up areas with existing facilities or (b) allowed to sprawl outward and consume lands currently in agricultural production.

The latter option is not only antithetical to the stated goal of the Study itself, but is also inconsistent with the results of a survey of County residents conducted by Douglas Krieger as part of this Study. First, the intent of the Study, by its original terms, was “to retain agriculture and rural land uses,” and “to enhance the [agricultural] industry’s economic viability.”¹⁶ Second, Mr. Krieger’s survey demonstrated a strong willingness on the part of residents countywide to preserve the rural component of the County’s economy and lifestyle.

The Team was faced with the following question:

Is there a regulatory balance that would provide property owners a return on their investment equal to or in excess of the reasonable return under a

¹⁴ See generally, Douglas Krieger, NON MARKET VALUES ASSOCIATED WITH AGRICULTURAL AND RURAL LANDS IN MIAMI-DADE COUNTY (draft submitted March 26, 2003) (unpublished report, on file with Miami-Dade County Department of Planning and Zoning).

¹⁵ University of Florida, *supra* note 7, at 86.

¹⁶ See SCOPE OF SERVICES, *supra* note 1, at 1.

suburban development alternative, while at the same time preserving important open space and rural lands?

The Team determined that, as a threshold matter, the goals of the Study and the enhancement of the agricultural industry could not be achieved unless agriculture's most crucial asset – the land – is protected. The Team further recognized that in order to protect these lands, one of two options would have to be exercised: either widespread downzoning of existing lands or the voluntary removal of a significant number of development rights from the Study Area.

The former option effectively would place the burden of retaining agricultural lands and rural open space solely on property owners within the Study Area, resulting in significantly decreased property values and development expectations. The latter option, on the other hand, would distribute more evenly the burden of preserving the agricultural/rural component of the County among all who would benefit – both the property owners in the Study Area and the residents at large. Indeed, this approach is consistent with that initially contemplated when the Study began: “that this study and any potential resulting ordinances, shall not have an adverse effect on the value of or use of property in the study area.”¹⁷

The recommendations set forth in this Report allow for the protection of as much as 75% of the Study Area as agricultural and rural open space while the County transitions from a predominately production-based agricultural economy to one that is increasingly service-based; and the guiding principle remains as follows:

that the entire County benefits from the reasonable preservation of the Study Area – both economically and culturally – and for that reason, the burden of the proposed preservation efforts should be shared proportionately by all residents.

The Preferred Development Scenario proposed herein sets forth an equitable and legally-defensible means of enhancing and protecting agricultural activities in the Study Area and of preserving significant rural open space for the benefit of all County residents in perpetuity.

V. DEVELOPMENT SCENARIOS

The Team initially developed two build-out models of the Study Area in order to establish a continuum along which to identify a final recommended approach. The analysis undertaken to determine the valuation and disposition of development rights was performed by Team member Planning Works, and is attached hereto as Appendix F. These two scenarios are described as follows.

A. Rural Residential Scenario

The Rural Residential Scenario assumed the Study Area would be developed at the current one unit per five acres, with some agricultural uses remaining on both large and small parcels. At these densities, the projected build-out population under the Rural

¹⁷ *Id.*

Scenario indicates that the Study Area could accommodate approximately 38,308 new residents and about 13,489 new housing units. This additional growth would rely on on-site wastewater systems instead of hooking up to the existing centralized sanitary wastewater system. The Rural Scenario also assumes that while some neighborhood-scale retail and service development will occur, no significant commercial or employment centers will develop in the Study Area. Current conditions generally reflect the Rural Scenario.

B. Suburban Residential Scenario

The Suburban Residential Scenario assumed a development pattern dominated by detached single-family residential subdivisions, but also including some multi-family units with an overall density of 4.5 dwelling units per acre. The Suburban Scenario would necessitate the expansion of the Urban Development Boundary (UDB) to accommodate a population increase of 254,619 residents and 89,654 new dwelling units that would be served by the centralized sanitary wastewater system. Similar to the Rural Scenario, no significant employment would be added to the Study Area under the Suburban Scenario.

As a result of its extensive background analysis, demographic assessment, and policy assessments, as well as the ongoing input of the CAC, the Team developed a third development scenario, termed the “Preferred Development Scenario,” which reflects an approach that will not only preserve rural lands, but also will ensure a reasonable return to land owners within the Study Area. It is defined as follows:

C. Preferred Development Scenario

The Preferred Development Scenario is based on the Study Area’s current one unit/five acre density projections, but assumes that significantly fewer units would be built in the Study Area than are presumed under the Rural and Suburban Scenarios, resulting in the vast retention of viable farm lands and rural open space. Unlike the Rural and Suburban scenarios, the Preferred Development Scenario assumes that 75% of remaining development rights (10,117 of the existing 13,489) would be either purchased and extinguished or transferred into the urban areas of the County. After buildout, the resulting gross density would be approximately one unit for each twenty acres within the Study Area.

Based fundamentally on the establishment of a Purchase of Development Rights program and a restructuring of the existing Severable Use Rights program, the Preferred Development Scenario contemplates a one unit to five acre development pattern consistent with existing zoning. However, the Preferred Development Scenario will preserve approximately seventy-five percent (75%) of existing agricultural lands within the Study Area. While the total number of units – and the public facilities necessary to serve those units – is greatly reduced under the Preferred Development Scenario, costs for development right acquisition and land protection are implicated under this scenario.

Team member Tischler & Associates conducted a fiscal impact assessment of each of the three scenarios to determine the implications of each on the County’s ability to provide

the public services and schools required to serve future development within the Study Area. The results of the fiscal impact assessment are discussed in the following section.

VI. FISCAL IMPACT ASSESSMENT BY SCENARIO

The Fiscal Impact Assessment (FIA) performed by Tischler and Associates examines the relationship between the revenues generated by new growth under each scenario and the costs new growth will bring to bear to meet the relative demand for new public services and facilities.¹⁸ The FIA takes into consideration the cost of new growth on Miami-Dade County and the School Board over a twenty-three year period, 2002-2025, based on the projected population, housing units, and employees generated under each scenario. The findings in this regard were as follows:

Exhibit 1: Residential and Nonresidential Impacts, by Scenario

Population, Housing, & Employment	Scenario		
	Rural	Suburban	Preferred
Population			
<i>Population in Study Area</i>	37,037	236,675	9,576
<i>Population diverted into UDB</i>	-	-	20,959
Total	37,037	236,675	30,535
Housing Units			
<i>Housing Units in Study Area</i>	13,041	83,336	3,372
<i>Housing Units diverted into UDB</i>	-	-	7,380
<i>PDRs extinguished</i>			2,737
Total	13,041	83,336	13,489
Employment			
<i>Retail Employment</i>	522	3,333	430
<i>Retail Square Footage</i>	156,494	1,000,035	129,024

Applying these anticipated impacts by scenario, the FIA estimates the likely impact on public and school facilities under each assumption, on both an annual average and a cumulative basis. All three scenarios result in a net cumulative deficit as set forth in the following table.

¹⁸ For a complete discussion of the FIA, refer to the following two studies prepared by Team member Tischler & Associates: RURAL AND AGRICULTURAL AREAS STUDY FISCAL IMPACT ANALYSIS (draft submitted February 25, 2003) (unpublished report, on file with Miami-Dade County Department of Planning and Zoning); and FISCAL EVALUATION OF PREFERRED SCENARIO FOR THE RURAL AND AGRICULTURAL AREAS STUDY (June 16, 2003) (unpublished report, on file with Miami-Dade County Department of Planning and Zoning). These studies are appended to this Report as Appendix G & H respectively.

Exhibit 2: Cumulative Net Fiscal Impacts, by Scenario

Services	Projected Revenue from New Growth	Projected Expenditures on New Growth	Fiscal Impact
Rural Scenario			
<i>Miami-Dade County</i>	\$311,498,000	\$422,875,000	-\$111,377,000
<i>School District</i>	\$439,615,000	\$487,770,000	-\$48,155,000
Combined	\$751,113,000	\$910,645,000	-\$159,532,000
Suburban Scenario			
<i>Miami-Dade County</i>	\$1,990,495,000	\$2,400,747,000	-\$410,252,000
<i>School District</i>	\$3,165,911,000	\$3,670,679,000	-\$504,768,000
Combined	\$5,156,406,000	\$6,071,426,000	-\$915,020,000
Preferred Scenario			
<i>Miami-Dade County</i>	\$260,322,000	\$578,748,000	-\$318,426,000
<i>School District</i>	\$389,604,000	\$477,628,000	-\$88,024,000
Combined	\$649,926,000	\$1,056,376,000	-\$406,450,000

The cumulative deficit under the Rural Scenario would be almost \$160 million, while under the Suburban Scenario, the County and School Board could expect deficits to reach a cumulative \$915 million. The deficit under the Suburban Scenario is almost six times as great as under the Rural Scenario because of the magnitude of residential development under the Suburban model, which would involve the expansion of the existing UDB and significantly increased demands on government services, particularly schools.

The Preferred Development Scenario results in a net deficit over the twenty-three year period of approximately \$406 million, less than one half of the projected deficit under the Suburban Scenario. Even though the Preferred Development Scenario contemplates only about one-quarter of the units (3,372) being built in the Study Area as under the Rural Scenario (which projects 13,041 additional units), the additional costs associated with the Preferred Scenario are due almost entirely to securing a general obligation bond that would fund the PDR program. In order to present conservative cost estimates, the FIA assumes a general obligation bond funded entirely by existing residents is passed to fund the Purchase of Development Rights program described below.

As is discussed in Section VII(B)(3)(b), the Preferred Development Scenario also calls for the implementation of an open space mitigation fee that would provide an alternative revenue source for either securing a revenue bond or purchasing development rights directly. If the implementation program is funded by mitigation fees only, the capital costs and projected deficits under the Preferred Scenario would be significantly diminished. However, it is likely that mitigation fee revenues alone will not be sufficient to preserve significant portions of the Study Area without some regulatory limitations on allowable density. Given the dual objectives of protecting the property owner's ability to retain the value of lands within the Study Area – either through continued agricultural operations or the PDR/SUR mechanisms discussed below – and to preserve the unique rural component of the Study Area, the Team recommends implementation of the Preferred Development Scenario. Though more costly than the status quo (the Rural Scenario) in the near term, the Preferred Scenario represents an equitable and reasonable

means of protecting the agricultural and rural interests within the Study Area and preserving the benefits the entire community gains from its perpetuation.

VII. RECOMMENDATIONS FOR IMPLEMENTING THE PREFERRED DEVELOPMENT SCENARIO

The following represents the Teams' final recommendation for implementing the Preferred Development Scenario. The set of tools necessary to effectuate this scenario is diverse and integrated; each tool must be utilized in order to achieve the goals of the Study. The Team's recommended "Preferred Development Scenario" reflects the dual principal that, as the Study Area transitions from its historic production-based economy driven by row crops to a service-based economy, it is important to retain an agricultural/rural component within the economy and society of Miami-Dade County. In order to protect the significant investments of farmers and the reasonable expectations of all property owners in the Study Area, the Team recognized that the burden of preserving the agricultural/rural component should be borne by the community at large and should not fall solely on current owners of property within the Study Area.

The success of the Preferred Development Scenario hinges on the successful implementation of a broad purchase and transfer of development rights program discussed in subsections B & C below. Subsection A, however, first gives an overview of how remaining development rights within the Study Area will be distributed under the Preferred Development Scenario. The scenario has three distinct components, each requiring a unique implementation approach: (1) the purchase and extinguishment of development rights; (2) the transfer of development rights out of the Study Area; and (3) limited residential development within the Study Area consistent in number with historic trends.

A. Allocation of Existing Development Rights from the Study Area

The Preferred Development Scenario recognizes that, based on the recommended and existing zoning of one unit per five acres, approximately 13,489 development rights remain on agricultural lands within the Study Area and sets out a policy for the eventual disposition of these rights. The Team recommends that 75% of these rights be purchased or transferred and that 25%, amounting to approximately 3,372 dwelling units, be reserved for development within the Study Area. These remaining 3,372 units will be developed as a mix of traditional five-acre estates, which would accommodate the demand for small farm operations, and of conservation subdivisions that preserve significant open space on the development site.

1. Purchase of Development Rights

Under a Purchase of Development Rights (PDR) program, the government purchases and extinguishes development rights from prioritized zones within the Study Area. These purchases are effectuated by securing conservation easements on agricultural and rural vacant land. The landowner continues to own the land and may continue to use it for agricultural or open space purposes as provided for under the easement. PDR programs involve an expenditure of government revenue often derived from bond issues for the

purchase of development rights from agricultural and open space lands. Additionally, state, federal, and non-profit conservation organizations can purchase development rights or provide funding for local or non-profit conservation efforts.

The government's purchase of merely the development rights attached to the land is much less expensive than outright fee simple acquisition. If, after selling development rights to the government, a property owner wishes to sell the remaining fee to another individual, he or she may sell the land for agriculture or open space subject to the terms of the conservation easement that runs with the land. The development right, once purchased by the government or a conservation organization, may either be extinguished or resold to developers of land in urban parts of the County. However, the Team recommends against the resale of these rights in order to ensure the viability of the Severable Use Rights program, which is discussed below.

2. Severable Use Rights

Under the County's existing SUR Program,¹⁹ landowners within designated East Everglades Area of Critical Environmental Concern "sending areas" can sell their development rights to developers who will exercise them in urbanized "receiving areas" in order to increase the density of development. In Section VII(C) of this Report, the Team recommends several important changes to the structure of the existing SUR program to increase participation rates within the context of the Preferred Development Scenario.

3. Developed Lots

Finally, development rights that are not purchased or transferred will be developed within the Study Area at one unit per five acre densities. The Team recommends that the 1:5 units/acre density be retained in order to preserve existing rights and values for Study Area property owners. Residential development will be permitted within the Study Area at rates generally consistent with historic trends (estimated to be between 73 and 111 residential building permits between 1994 and 2001)). The Preferred Development Scenario calls for the projected marginal increase in demand to be redirected into existing urban areas.

This recommendation depends on the successful implementation of a viable and properly-funded PDR and SUR program. Again, in order to retain agriculture as a viable economic component within Miami-Dade County, the Team recommends that not more than 25% of the remaining development rights – about 3,372 units – be allowed for actual development. These remaining units should be permitted over time at rates generally consistent with the adopted land use policies set forth in the Miami-Dade Comprehensive Development Master Plan, historic trends, and any policies or regulations adopted pursuant to this study.

¹⁹ See MIAMI-DADE COUNTY ORDINANCES 33B-41, et seq.

B. Recommended Structure for Purchase of Development Rights Program

The Preferred Development Scenario contemplates a PDR program whereby eligible property owners could petition the County for voluntarily sale of their development rights as a transaction independent of any proposed residential development activity. Douglas Krieger's Report and the results of the Charrette indicate that the community is receptive to the development of a voluntary PDR program to protect open space and agricultural lands.²⁰ These programs are generally popular with farmers because government purchase of the owner's right to develop specific parcels of land enables the farmer to capture the economic value from the land, while preserving all other rights of ownership, including the continued right to farm and retain agricultural profits.

As discussed in the Team's Report titled "Analysis of Rural Land Uses," PDR programs have been very successful throughout the country in preserving agricultural lands. (See Appendix C) In a typical PDR program, the government or a non-profit agency purchases the owner's right to develop their land for non-agricultural purposes, leaving the land available for agriculture in perpetuity or, infrequently, for a specific amount of time.²¹ The price of the development right is generally equal to the diminution in the market value of the land resulting from the removal of the development rights, or the difference between the value of the land for agricultural uses and the land's development value.²²

The following subsections address the Team's key recommendations regarding the necessary components in the PDR program.

1. Area-Prioritization for Purchase of Development Rights

Since the County will not have sufficient funds to purchase all development rights that remain in the Study Area, the PDR program will prioritize Study Area lands according to their desirability for purchase based on the appropriateness of the subject parcel for continued agricultural use.

During the Study, the Team drafted development suitability criteria for determining which lands within the Study Area were most appropriate for conversion to non-agricultural uses. These suitability criteria will guide the development of the Prioritization Factors to be used in the PDR program and other programs recommended as part of the Preferred Scenario. However, the Team has also developed some Preliminary Prioritization Factors and a scoring system that may be used in implementing the PDR program. These factors are attached as Appendix I.

Finalization of the Prioritization Factors will be the product of a separate planning analysis and public input process. However, the County should consider the following factors in determining which lands are most appropriate for expenditure of limited PDR funds: existing and future development pressure, location in relation to the UDB,

²⁰ Douglas Krieger, *supra* note 14.

²¹ American Farmland Trust, *SAVING AMERICAN FARMLAND: WHAT WORKS* 83 (1997).

²² Frank Schnidman, Michael Smiley & Eric G. Woodbury, Lincoln Institute for Land Policy, *Retention of Land for Agriculture: Policy Practice and Potential in New England*, 18 (1990).

environmental sensitivity, property aggregation, parcel size, and distance from transportation, sewer, and water facilities. The City of Virginia Beach, Virginia has included similar prioritization criteria in its PDR ordinance, a copy of which is attached to this Report as Appendix J.

Interestingly, one might expect it best to purchase development rights from less expensive property in the western-most portions of the Study Area since they represent lands with the least development potential in the short-term. Even though removal of development rights from these more remote areas might be less expensive initially, price should not be the overriding factor for prioritization. By purchasing or allowing the transfer of these rights first, the County would risk losing the eastern lands to development, thereby defeating one of the purposes of a PDR and SUR programs.

It will be important that adopted Prioritization Factors reflect the numerous ongoing regulatory and purchasing programs being implemented by other regional, state, and federal agencies in the Study Area. For example, the federal government may identify certain lands for purchase due to flooding or drought conditions resulting from its Everglades restoration efforts. The County's Prioritization Factors will reflect these programs to avoid duplication and inefficiencies in its PDR program.

Final Prioritization Factors will be based on an area-specific economic and planning analysis that applies the selected criteria, based on adopted County policies regarding the Study Area.

2. Development Right Valuation and Prioritization

The value of development rights within the Study has been estimated at an average of \$47,500/right for purposes of developing the Preferred Development Scenario.²³ The value of these rights will vary based on a number of factors, including proximity to the UDB and the relative cost of improving the land. At the time of the program's implementation, the County will adopt a procedure for valuing development rights proposed for purchase. The traditional method for doing so is through professional appraisals, but the County also should employ a point system based on the Prioritization Factors discussed above. While development rights from high-priority lands may be purchased at a premium, those attached to low-priority lands would be discounted accordingly.

3. Funding Sources

Clearly, the most critical component in a viable PDR program is securing a dedicated source of money to fund the purchase of a significant number of development rights. Though the challenge of securing these funds can be daunting, many communities have surmounted it. A number of these are discussed in the Team's report titled "Analysis of Rural Land Uses," attached hereto as Appendix C.

The Preferred Development Scenario calls for the purchase of about 2,737 development rights in order to protect about 13,684 acres of land, or 20% of the Study Area. The Team recommends a two-pronged approach to financing this component of the Preferred

²³ See Appendix F, subsection D.

Development Scenario. First, the County will pursue a bond measure of at least \$130 million, the proceeds from which would be spent solely on the purchase and maintenance of open space lands demanded by current and future residents. The bond will be secured by either or both the general taxing authority and revenues derived from the institution of the open space mitigation fee program discussed below. Second, the County will pursue funding sources at the state and federal levels that may allow the purchase of development rights over and above those purchased with bond revenue.

a. Bond Issue

Team member Douglas Krieger conducted a survey of Miami-Dade County citizens in order to assess the extent to which residents value and are willing to pay for the preservation of agricultural and open space lands in the Study Area.²⁴ The results of the survey indicate that residents place a value on retaining the rural nature of the Study at approximately \$130 million. Although there are indications that the value of these lands to residents is significantly higher than this amount, the Team has taken a conservative approach to this debt measure and believes reasonable public support exists for a \$130 million bond. By issuing a bond, monies will be available in the near term without having to wait for grant monies and mitigation fee monies to accrue to sufficient amounts to begin purchasing development rights. Although opportunities for state and federal PDR funds exist, requests from local governments far exceed available funds making these sources unreliable as the sole means for purchasing development rights from the Study Area.

The rationale for the bond measure is that the benefit of retaining agricultural land accrues to all members of Miami-Dade County, including those who reside in urban areas. The benefits of preserving this rural component have been both economic and social. In addition to the millions of dollars the agricultural industry generates in production, earnings, and employment, Miami-Dade County residents also place significant non-economic value on the rural nature of the Study Area. It is important then, particularly if the traditional agricultural economy of South Dade continues the transition identified in the UF Report, that the community as a whole bears part of the burden of retaining this unique rural component of Miami-Dade County. While some of the mechanisms described below shift that burden to developers within the Study Area or to state and federal sources, there appears to be significant support from County residents to share in the cost of preserving significant lands within the Study Area.

The most reliable source of funding the PDR program will be by the proceeds from a general obligation bond issue. However, if the general obligation bond measure fails, the County should consider a revenue bond to be secured by open space mitigation fee revenues as described in the following section. If the community is unwilling to support an open space bond of either type, then the PDR component of the Preferred Development Scenario will have to rely on the other funding sources discussed here, primarily the open space mitigation fee. It should be noted that if the bond measure fails,

²⁴ Interviews conducted by Douglas Krieger in 2002 indicate that the public places a non-market value of between \$78 and \$183 million on existing agricultural lands, which suggests support for public financing of land preservation. See Krieger, *supra* note 14, at 13-14.

the fiscal impact of the Preferred Development Scenario would be significantly less than that described in Section VI above.

b. Open Space Mitigation Fee

As new development, both residential and nonresidential, occurs within the Study Area, valuable open space lands are consumed, simultaneously reducing available open space and increasing the need for additional preserved open space. The Preferred Development Scenario calls for the implementation of a mitigation fee program that would require future development to offset its impact on existing open space and its demand for additional preserved open space. The mitigation fee program will be coordinated with the PDR program and fees will be used to generate monies to purchase development rights from within the Study Area. If the County issues a general obligation bond to generate the bulk of the funds for the PDR program, then mitigation fee revenues will augment that program. However, should the bond measure fail, mitigation fee revenues will serve as the primary funding source for purchasing development rights, either by revenue bond or direct purchases.

Mitigation fees have been used successfully by communities across the country, including Yolo County and the City of Davis in California.²⁵ The general mechanics of mitigation fees are discussed in the Team's report titled "Analysis of Agricultural Land Retention Strategies." (See Appendix B) The open space mitigation fee will be charged against new development that occurs within the Study Area, which by its very nature consumes the County's limited supply of remaining open space and agricultural lands. Mitigation fee ordinances for the City of Davis and Yolo County, California are attached hereto as Appendix K.

Although the details of the mitigation program will need to be finalized as part of a separate planning and ordinance development process, a general overview of the concept is provided here. First, the County will identify the open space within the Study area most critical for preservation and will identify these lands in the Comprehensive Development Master Plan. This prioritization process will be consistent with the Prioritization Factors discussed above.

Second, the mitigation fee will be charged against all development within the Study Area, unless the development preserves open space on the development site by way of a permanent conservation easement. As with traditional impact fees, the mitigation fee will be proportionate in amount to the actual impact of the proposed development on remaining open space in the area. Conservation subdivisions, with smaller development lots and with permanently protected lands on-site, consume less open space than traditional five-acre subdivisions, and therefore would either be charged a reduced mitigation fee or would be exempt from the requirement altogether. The ability to bypass the mitigation fee requirement would depend on whether the on-site open space was identified for preservation based on the adopted Prioritization Factors.

The mitigation fee will offset the adverse impacts of development on remaining open space as well as the demand that development creates for additional preserved open

²⁵ See Appendix C, at 22-26.

space. Fee amounts will be tied to a sliding scale based on the proportionate impact of the proposed development on open space.

The fiscal impact assessment for the Preferred Development Scenario does not take into account this potential revenue source because the amount of the mitigation fee is unknown at this time. Indeed, in order to withstand legal scrutiny, mitigation fee amounts can be determined and adopted only following the development of a fee study that assesses the proportionate impact of development on the County's limited supply of remaining open space. The fiscal impact of implementing the Preferred Development Scenario will be diminished to the extent that the mitigation fee program is implemented at amounts that reflect the actual proportionate impact development has on available open space in the Study Area.

c. Federal funding

In addition to the fixed sources of revenue identified above, the County will coordinate with federal agencies to secure available funds for the PDR program. The Farm and Ranch Lands Protection Program (FRPP), initially created as the Farmland Protection Program in 1996, was authorized by the Farm Security and Rural Investment Act of 2002. FRPP funds, administered by the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture, are available to the County, among others, as matching funds to purchase development rights from farm and ranch properties.

Grants of up to fifty percent (50%) of the total cost of purchased development rights can be provided under this program, with the remaining 50% provided by the County or a private land trust. The County would become eligible for FRPP funds once a qualified farm applied for PDR funds under the County's adopted farm protection program, like the PDR program proposed here. At that point, the County could apply to the NRCS State conservationist for PDR matching funds.

Since 1996, this federal program has contributed about \$5.6 million collectively to the St. John's River Water Management District, the City of Gainesville, and the Nature Conservancy to preserve over 7,400 acres of farm and ranch land in Florida. However, in 2001, requests for FRPP funds from the state of Florida amounted to \$9.6 million, more than one-third of the total FRPP funds available nationwide. While the County should seek FRPP matching funds, the amount of money to be secured and the unpredictable nature of the competitive grant process make it unreliable as the sole source of funding for the County's PDR program.

d. State Funding

In 2001, the Florida Legislature adopted the "Florida Rural and Family Lands Protection Act" to provide participating landowners several options for protecting ranch and timberlands. The Department of Agriculture and Consumer Services will cooperate with landowners who wish to preserve their lands and who avail themselves of either of the following alternatives:

- (1) purchase of traditional permanent conservation easements;
- (2) purchase of less restrictive rural land protection easements;

- (3) purchase of agricultural protection easements, which are 30-year restrictions on development and subdivision with an option for the state to buy the land; or
- (4) pay farmers to manage their lands in a manner that will protect wildlife and improve wildlife habitat and water resources under a permanent conservation easement.

Departing somewhat from traditional programs of this sort, the Act includes a range of protection alternatives and gives property owners the flexibility to choose which preservation program best suits their needs. However, the program remains unfunded.

During the 2003 session, the Florida Legislature considered a bill to fund the Rural Lands Program Trust Fund. Though it passed the Senate, the bill failed to pass the House. The state Department of Agriculture and Consumer Services continues to develop the framework for the program, but its effectiveness clearly depends on adequate funding. This year's proposed budget allocation was \$10 million to be spent statewide. Again, the County should pursue these funds should they eventually become available, but they cannot be relied upon as the sole source for funding the PDR program.

e. Documentary Stamp Tax

A real estate transfer tax is a tax on the value of all real estates transfers that can be used to fund a PDR program. Florida has a real estate transfer tax program, called the documentary stamp tax, and a portion of the revenue is allocated to Florida Forever and to the Land Acquisition Trust Fund.²⁶ Some of those monies are allocated for the purchase of open space for conservation purposes. State law gives certain counties the power to impose local documentary stamp taxes for the limited purpose of endowing the Housing Assistance Loan Trust Fund.²⁷ Miami-Dade County is the only county that has a local documentary stamp tax,²⁸ but state law would not allow the revenues to fund agricultural preservation. Therefore, the County should work with state government to secure funds for the PDR program from the state documentary stamp tax and to revise state law to allow revenues from the local documentary stamp tax to be allocated for purposes of agriculture and rural lands preservation.

f. Not-for-Profit Assistance

Not-for-profit organizations, like the Trust of Public Land (TPL), offer assistance to communities like Miami-Dade County that are establishing PDR programs. In recent years, TPL has assisted counties across the country in securing necessary funding, including ballot measures in support of bond issues. At times, non-profit organizations have funds available to purchase development rights to secure conservation easements. However, as is the case with the governmental agencies discussed above, demand for these funds far outstrips their availability and they do not constitute a reliable source of funding for the County's PDR program. A partnership with TPL and other not-for-profit

²⁶ FLA. STAT. §201.02.

²⁷ FLA. STAT. §201.031.

²⁸ MIAMI-DADE COUNTY ORDINANCES 29-7 (1993).

organizations will facilitate the successful implementation of the Preferred Development Scenario.

The County will need to decide the appropriate role for non-profit agencies to play in the implementation of the Preferred Development Scenario. As is discussed in Section VIII(A), the Team recommends that a new County position, the Rural Communities Coordinator, assume primary responsibility for administering the Preferred Development Scenario programs. Non-profit organizations like the TPL nonetheless may play a vital role in the program.

Non-profit involvement may include coordination of preservation efforts without an official stake in the County's program or they may participate more fully. For example, non-profits such as The Nature Conservancy are often asked to co-sign as holders of conservation easements to ensure that easements are held in perpetuity and are not subject to release by the local government as political will shifts over time. Land trusts may play an even more active role in negotiating the transfer or purchase of development rights, and actually act on behalf of the County when these transactions with farmers occur. Land trusts that include on their boards growers and other members of the agricultural industry will find increased participation and trust within the agricultural community.

g. Funding Summary

The critical component of the Preferred Development Scenario, and what distinguishes it from the Rural and Suburban scenarios, is the removal of a great number of development rights from the Study Area via voluntary purchase or transfer. The PDR component will require a dedicated funding source that is secure and that can be accessed relatively quickly. The Team recommends that a reasonable bond measure, undertaken for this specific purpose, is the best alternative for such funding. However, the County may offset some of the costs associated with retiring the bond by implementing a proportionate-share open space mitigation fee as described above. The extent of a mitigation fee offset cannot be determined until a proper study is completed that measures that proportionate impact that development within the Study Area will have on remaining open space and agricultural lands. Finally, alternative sources of funding also should be pursued to augment the PDR program. As is described above, these sources are varied and limited in terms of the amount of funds ultimately available. Nonetheless, they are available and should be incorporated as one of several funding mechanisms that support the PDR program.

C. Recommended Amendments to Existing Severable Use Rights Program

The County's existing SUR program has successfully accomplished the transfer of a significant number of development rights from the East Everglades area to lands within the UDB. The stated intent of the existing program, however, has been to protect and preserve certain environmentally-sensitive areas and to protect water supply and aquifer recharge. Under the Preferred Development Scenario, the program will be restructured to effectuate the specific policies of agriculture and rural area protection. As is noted above, it is unlikely that the County will be able to secure sufficient funds to purchase all

remaining development rights within the Study Area. Therefore, in order to avoid widespread density decreases or, alternatively, the loss of valuable farmlands and open space, the Preferred Scenario requires significantly greater participation in the SUR program than currently exists.

Participation in both the PDR and the SUR programs is completely voluntary on the part of Study Area property owners. Therefore, the program must be structured to give farmers an incentive to transfer their rights instead of exercising them through development. That incentive will exist only if the market rate for a development right reasonably approximates the per-unit return property owners could achieve if they developed their property. The following subsections set forth techniques that will be employed to ensure that adequate demand – and therefore adequate sales prices – for severable use rights exists within the structure of an amended SUR program. A sample transferable development rights ordinance from Montgomery County, Maryland is attached hereto as Appendix L.

1. Sending Areas

The Preferred Development Scenario requires several important amendments to the current SUR program with respect to the existing sending areas. First, the Study Area should be reevaluated to expand the eligibility for transfer of development rights beyond the areas of the East Everglades currently designated (Management Areas 1, 3B, and 3C). This will have two important, and somewhat contradictory, effects on the viability of the SUR program. While it will advance agriculture and rural preservation goals by expanding the areas that may be preserved, it will increase significantly the supply of severable use rights on the market. Unless this increase in supply is met by an increase in demand, the price of the SUR will fall and property owners within the Study Area will be disinclined to sell their rights.

Second, the existing 1:5 base density should be retained in the administration of the SUR program. The Preferred Development Scenario does not entail any down-zoning of property, which will help to maintain the current value of land and to eliminate landowner perceptions, which may otherwise be raised, that SURs amount to down zoning. However, the rates at which densities may be transferred should be adjusted upward to encourage voluntary transfers. For example, while property owners within a certain sending area may be allowed to develop at one unit for every five acres, properties sending SURs will be “upzoned” to allow a transfer at one-and-a-half or twice the number of dwelling units they could develop.

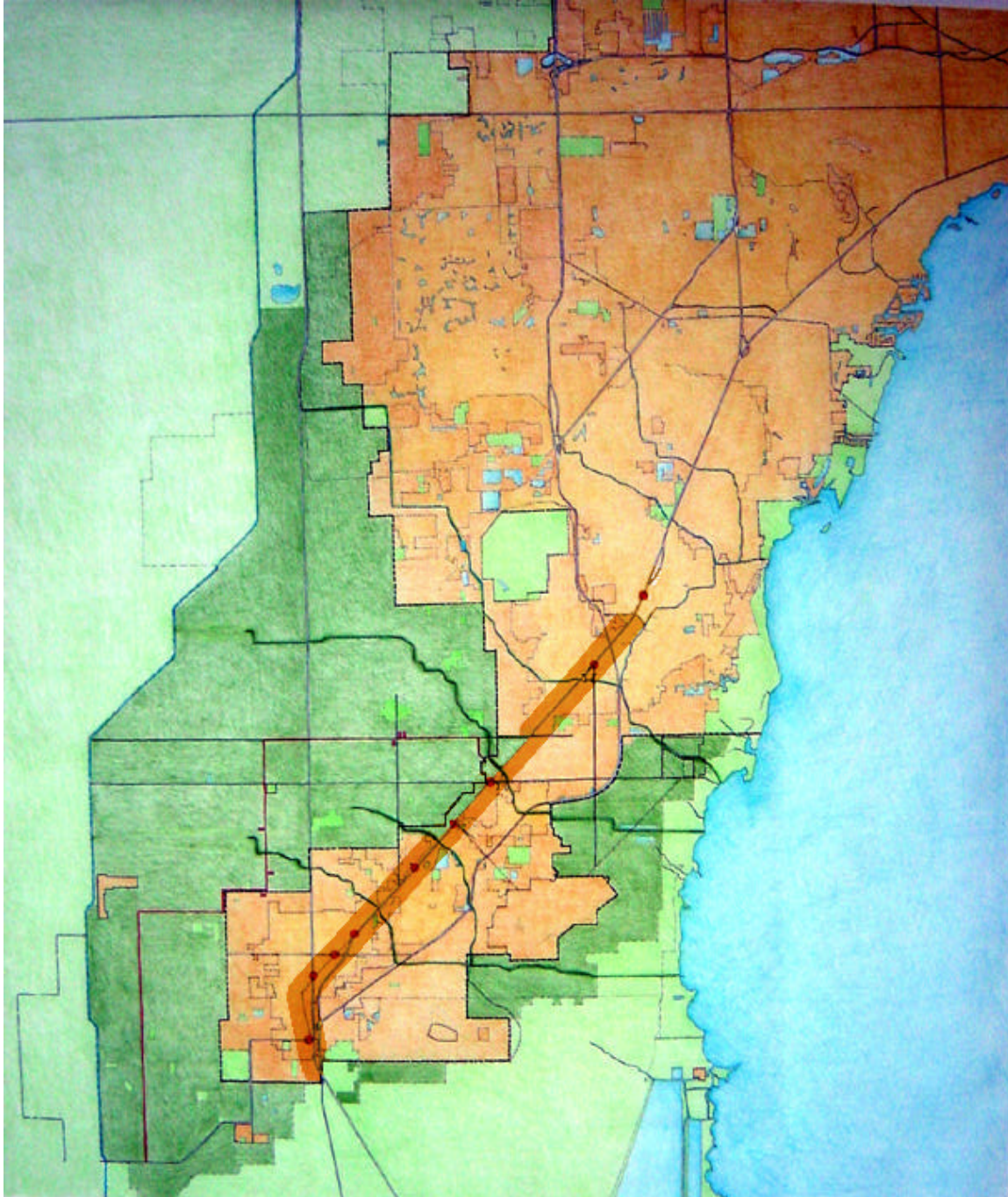
Third, sending areas should be prioritized consistent with the Prioritization Factors discussed above and set forth at Appendix I to this Report. For example, those lands that are most critical to rural open space preservation and the perpetuation of the emerging agricultural economy should be identified as such and transfers of rights from those lands should be encouraged. For example, if development nearer the existing UDB is most desirable, transfer ratios and area prioritizations should reflect that policy objective. On the other hand, if the County decides to preserve land near the UDB as a buffer, then these properties will be targeted for transfer.

As is the case with the new PDR program, the objective of the restructured SUR program is for property owners to receive a return on their development rights that is roughly equal to the difference between the land's agricultural value and its developed value. The recommended adjustments to the sending areas will be counterbalanced by appropriate off-setting adjustments to the structure of the receiving areas.

2. Receiving Areas

In addition to the stated goals of agriculture and rural area preservation, the SUR program offers a unique opportunity for the County to advance some of its most important urban objectives and policies. Implementation of the Preferred Development Scenario will not occur in a vacuum, but rather will occur within the broader context of the greater Miami-Dade region. A successful SUR program, augmented in the Study Area by the new PDR program, will link the County's rural and urban components and, as a matter of policy, will reflect the unique needs that each demands.

The Preferred Development Scenario requires that certain areas within the UDB be identified as appropriate for receiving density over that allowed under current zoning. For example, transit-oriented developments along the U.S. 1 corridor slated for higher intensity commercial and residential development should be eligible for increased densities and intensities by way of SURs transferred from the Study Area. For example, the Miami-Dade Transit Agency has undertaken several joint public-private developments near designated transit stops. Under the Preferred Development Scenario, any increased densities associated with these programs will have to derive from SURs transferred from the Study Area. The following map was used at the Visioning and Design Charrette and is illustrative of how transportation corridors and nodes may be designated as receiving areas for SURs transferred from the Study Area into the UDB.



Second, the County must analyze the demand for density currently brought to bear by the market and determine its relationship to current allowable densities. If current allowable densities are higher than what the market demands in a given receiving area, then there will be little demand for SURs from the Study Area. On the other hand, if market pressure exists for densities greater than those allowed by current zoning, then the demand for SURs will support its viability. However, a specific market analysis must be completed to ensure that the demand for SURs is commensurate with the supply being created under the Preferred Development Scenario.

Base densities within priority receiving areas may need to be adjusted downward in order to create adequate demand for development rights from the Study Area. As an alternative, increased allowable densities, accomplished only by transferred SURs, may be appropriate if the market will support it. In fact, Douglas Krieger's survey indicated a willingness on the part of County residents to accept higher densities, particularly near the existing UDB. There are several steps that the County must take to stabilize this demand or augment it. These are discussed below.

3. Additional Recommendations

First, the County should seek the cooperation of incorporated municipalities to designate certain lands within their boundaries as receiving areas for SURs. This will create additional urban demand for SUR density. If, in the alternative, municipalities offer developers increased densities through zoning or annexations, without the requirement that SURs be transferred, then those municipalities effectively will create competition that will diminish the effectiveness of the SUR program.

Second, any alternative means of increasing on-site density, other than by participation in the SUR program must be discouraged. Developers who are able to achieve higher densities through rezonings, variances, or annexations will have no incentive to participate in the SUR program and its viability will be thrown into question. As a matter of policy, the County should not increase densities within the UDB where the transfer of SURs is available in order to address the dual purpose of shifting future growth into established urban areas and preserving rural and agricultural lands within the Study Area. Furthermore, the County should designate areas within the UDB, if not the entire UDB, into which SURs may be transferred as-of-right; without further approvals to allow an increase in density. If the purchaser of an SUR faces regulatory obstacles to using those rights within the UDB, then he or she may be deterred from participating in the program. The County should amend its land development regulations to provide for discrete and reasonable transfers into the UDB that require no further approval at the time of development.

Third, although some communities that undertake PDR programs will sell purchased rights back into designated receiving areas, the Team recommends against this approach in Miami-Dade County. Doing so would increase the supply of rights that could be transferred into the UDB and would tend to drive the price of SURs down, creating a disincentive for property owners within the UDB to transfer their rights or unnecessarily depressing their potential return. Although the County will forego a potential revenue source by extinguishing purchased rights, the overall effectiveness of the recommended program will offset the impact of this potential revenue opportunity.

Finally, the County should amend the Comprehensive Development Master Plan and the Land Use Plan map to specify that the UDB as it currently exists should be stabilized in order to implement the Preferred Development Scenario. As it is currently drafted, the Plan contemplates an expansion, into a designated Urban Expansion Area, between 2005 and 2015. However, expansion of the UDB within this timeframe will create competition for available density and will significantly undermine the SUR program. Future population growth within the UDB should be accomplished through the transfer of development rights from the Study Area into the UDB, as opposed to upzonings or

expansion of the UDB. This recommendation is consistent with public input at the Visioning and Design Charrette. (See Appendix E; Goal 2, Objective 2)

The Comprehensive Plan should be amended to set forth a timeframe within which the UDB will not be expanded and to establish specific criteria to be met in order to expand the boundary after that timeframe expires. For example, expansion of the UDB may be appropriate only where increased density is achieved through a transfer of SURs from the Study Area into the area proposed for expansion. Once the Preferred Development Scenario is fully implemented the County should reevaluate the need for additional urbanized lands and assess whether future growth requires an expansion of the UDB.

D. Development of 25% of Remaining Units within the Study Area

The Preferred Development Scenario contemplates that residential building permits will continue to be issued as the Study Area builds out, generally at a number and rate equal to historic levels of development; amounting to the development of approximately 25% of the remaining development rights in the area. In implementing the Scenario, the County will need to determine whether a portion of these remaining rights should be developed as conservation, or “clustered,” subdivisions as an alternative to the traditional five-acre estate. Section 2. below describes how a conservation subdivision ordinance would be structured should the County elect to include this alternative in its preservation program.

1. Five-Acre Estates

Proper subdivision design standards will be adopted so that some traditional five-acre estates can continue to be developed in the Study Area. A reasonable level of this development type will respond to the market’s demand for small agricultural lots and will preserve the scale and type of residential development that historically has occurred in the Study Area. The lifestyle demanded by residential users on five-acre parcels generally is consistent with ongoing larger agricultural operations and creates a lesser likelihood of agricultural/residential conflict. Furthermore, consistent with the opinions expressed at the Charrette, limiting future residential development to rural densities will allow the existing UDB to be stabilized and existing rural levels-of-service to be maintained.²⁹

2. Conservation Subdivisions

a. Generally

Conservation subdivisions, as an alternative to the five-acre estate, involve the grouping of units on the least sensitive portions of the property so that significant open space is preserved on the development site itself. A conservation subdivision ordinance would

²⁹ Although some roads within the Study Area are badly damaged and, in some instances, are causing significant damage to certain delicate subtropical fruits and vegetables during transport, the Team recommends against any capacity-enhancing improvements to roads or any other major public facilities within the Study Area. Such improvements would contravene the Preferred Development Scenario and would have the potential effect of directing higher density development into the Study Area than is appropriate.

preserve open lands while still allowing for some development and significant economic return for the property owner. Appendix M to this Report includes a sample conservation subdivision ordinance that has been adopted by Athens-Clarke County, Georgia.

Although, there are many types of conservation programs throughout the country, from clustering of commercial and residential uses into a rural center, to clustering of several residences on large parcels of land, the Team's recommendation for Miami-Dade County is in the nature of the latter. The goal is not to create urban-like centers within the Study Area, but rather to allow individuals who own large parcels of land to cluster residential units in order to maximize existing development potential and open space preservation. The program will maintain the existing 1:5 on-site density; the only change being where the residences will be located on the parent parcel, not how many will be developed. Conservation subdivisions that include amenities operated by and for its residents such as horse stables, pool complexes, or orchards also can be developed under a properly drafted ordinance and may encourage the use of this type of development option.

b. Major Components

The conservation subdivision ordinance will address the following major issues: application procedures, minimum "parent-parcel" size; overall density; infrastructure requirements; design standards (lot size and setback, road frontage, etc.); conservation easements; and maintenance and enforcement requirements.³¹ The ordinance also will include prioritization of lands appropriate for the clustering technique consistent with the Preliminary Prioritization Factors discussed above and set forth at Appendix I to this Report. The conservation subdivision ordinance also will be linked to the purchase and transfer of development rights programs discussed herein.

c. Agricultural/Residential Conflicts

The potential for agricultural/residential conflicts are greater under the conservation subdivision than under the five-acre estate scenario. Residents of subdivisions with smaller lots, not familiar with agricultural practices and lifestyles, understandably will be concerned about pesticide applications and other externalities inherent to agricultural operations. Farmers, also understandably, will be concerned that these conflicts will result in complaints and nuisance suits filed by residents unfamiliar with this component of the rural experience.

The "Florida Right to Farm Act," adopted in 1979, prohibits farms in operation for a year or more from being declared either a public or private nuisance, except under very limited circumstances.³² In order to enjoy protection under the act, however, a farm must comply with "generally accepted agricultural and management practices." Although very little litigation has occurred under the act, in 1990, the Second District Court of Appeals

³¹ Gary Pivo, Robert Small, & Charles Wolfe, *Rural Cluster Zoning: Survey and Guidelines*, LAND USE LAW & ZONING DIGEST 4. (September 1990); ROBERT H. FREILICH & MICHAEL M. SCHULTZ, *MODEL SUBDIVISION REGULATIONS* (American Planning Association 1995).

³² See FLA. STAT. §823.14.

recognized explicitly that the right-to-farm law was “intended to preserve productive land for agricultural purposes and to protect the established farmer from demands of sprawling urban development.”³³

The conservation subdivision ordinance will require sufficient forested buffers on the residential site (at least 150 feet in width) to minimize noise, odor, dust, and chemical intrusion. Buffers provide additional environmental benefits by reducing water runoff from fields and by blocking suspended chemicals, pathogens, and sediment from reaching protected water bodies. The landowner of clustered development would be responsible for the installation and maintenance of the buffer. Further, the landowner must comply with the requirements of the state and local right-to-farm and required disclosure laws, which require a signed acknowledgment of adjacent farm operations and the possibility of incompatibility. Enforcement of the local disclosure requirement suffers from a lack of enforcement, which should be addressed.

d. Public Facility Provision

Conservation subdivisions, although characterized by lots of fewer than five-acres, will not be served by central water and sewer and other suburban-level infrastructure. Furthermore, the County’s adopted level-of-service (LOS) standards for other public facilities, like roads and parks, which provide for lower LOS in the rural areas, should be maintained within the Study Area. The presence of a limited number of conservation subdivisions within designated areas of the Study Area will not necessitate the expansion of the UDB.

E. Building Permit Allocation System

The Preferred Development Scenario will include a point system whereby the development rights anticipated for development within Study Area, whether as conventional estates or as conservation subdivisions, will be issued pursuant to a rational and sequenced allocation system. The intent of the building permit allocation system is to ensure that the opportunity to develop a portion of the 3,372 units available under the Preferred Development Scenario is available to all property owners within the Study Area. Furthermore, a reasonable allocation system will ensure that development does not outpace the County’s ability to preserve designated open space thorough its PDR/SUR program. Building permits will be issued at a rate roughly equal to historic trends. The County estimates that between 73 and 111 residential building permits were issued in the Study Area each year from 1994 to 2001.³⁴

If build out of the Study Area is allowed to occur at a pace significantly greater than these historic rates, rural property owners will be discouraged from participating in the PDR and SUR programs. The Preferred Development Scenario assumes that demand for units within the Study Area will increase steadily with each passing year. In fact, property owners within the Study Area have indicated that the rate of building permit issuance within the area has increased in recent years. Imposing a reasonable limitation on the number of annual permits issued within the Study Area will create an incentive to

³³ See *Pasco County v. Tampa Farm Service, Inc.*, 573 So.2d 909 (2nd DCA 1990).

³⁴ Miami-Dade County Department of Planning and Zoning, *supra* note 10, at 6-7.

participate in the SUR program and will divert this increased demand into the UDB and away from agricultural areas.

Under a building permit allocation system, points will be assigned, and permits issued, based on criteria that will include, among other things, the proposed location for development, environmental factors, suitability criteria developed pursuant to this Study, eligibility for participation in the PDR and SUR programs, and other Prioritization Factors that are reasonably related to the implementation of adopted County policies. (See Appendix I)

F. Interim Development Regulations

In order to ensure the successful implementation of the Preferred Development Scenario, the County should adopt reasonable interim development regulations, limited in duration, which will preclude widespread residential development within the Study Area while required amendments to the Comprehensive Development Master Plan and the land development regulations are completed. As is discussed herein, the Preferred Development Scenario contemplates the development of only 3,372 dwelling units within the Study Area and the purchase or transfer of the remaining 10,117.

Permanent policies and regulations can be drafted and adopted within a relatively short period of time – perhaps as little as 18 months – although validation and issuance of the bond measure may take more time. A reasonable limitation on building permit issuance during this interim period will protect the integrity of the Study Area, facilitate the implementation of the Preferred Development Scenario, and ensure that County objectives are not thwarted by a race to development during the transition period. If development rights are allowed to vest during the planning process, the effectiveness of the recommendations set forth herein will be called into question.

The interim ordinance should include the following elements:

- (1) a limited duration of approximately eighteen to thirty-six months;
- (2) a requirement for the County to allocate appropriate resources to ensure the timely adoption of necessary Comprehensive Development Master Plan and land development regulation amendments;
- (3) delegation of responsibilities to County staff;
- (4) a plan for ensuring meaningful public participation in the development of such Plan and regulatory amendments;
- (5) identification of an appropriate growth policy for the interim period; and
- (6) the extent of agricultural land that can be developed during the interim period.

G. Required Amendments to the Comprehensive Development Master Plan

The Comprehensive Development Master Plan should be amended to explicitly provide for the implementation of the Preferred Development Scenario. Although it is

unnecessary to incorporate a separate Agricultural Element into the Plan,³⁵ the Preferred Development Scenario constitutes a significant policy undertaking that will affect a large portion of the remaining unincorporated portion of the County. As such, the County should incorporate specific goals, objectives, and policies into the “Land Use” and other appropriate elements that reflect the County’s preliminary planning process and its intent to implement the Preferred Development Scenario through duly adopted land development regulations as required under Chap. 163 of the Florida Statutes.

Specific amendments include, for example, specific policy direction that the Urban Development Boundary not be adjusted until the Preferred Development Scenario is fully implemented. The existing Plan contemplates urban expansion into the Urban Expansion Area between 2005 and 2015.³⁶ As is discussed herein, such an expansion would undermine the viability of the restructured SUR program that is critical to the success of the recommended program. Additionally, if the County elects to implement the conservation subdivision concept, the “Agriculture” component of the existing Land Use Element of the Plan should be amended to specifically recognize this policy. Contrary to the current policy, properly designed conservation subdivisions may include lots of less than five (5) acres on designated lands within the Study Area.³⁷ Finally, the policies necessary to implement a viable PDR and SUR program should be articulated within the text of the Plan. For example, administrative alternatives to participation in the SUR program to achieve desired densities within designated receiving areas should be explicitly prohibited by the Plan. Additionally, the factors for prioritizing development right acquisition and transfer should be developed during the comprehensive planning process and explicitly set forth in the amended Plan element.

VIII. ADDITIONAL RECOMMENDATIONS

The Team has identified several additional issues that are important to the agricultural industry and the interests of the Study Area.

A. Designated Rural Communities Coordinator

The Team recommends that the County add a full-time staff position to serve as a representative of and a liaison to the agricultural community and to help property owners in the Study Area to realize their goals regarding the long-term disposition of their land. The new position will be given sufficient authority to promote the projects, policies, and interests of all property owners in the Study Area. Among the general responsibilities that will be assigned to the Rural Communities Coordinator are the following:

- (1) Facilitate the transition of the Study Area – As the Study Area adjusts to the reality of the modern farm economy, the Rural Communities Coordinator will oversee the policies and programs implemented to facilitate that transition.

³⁵ Adoption of a distinct Agricultural Element was one of the recommendations made by Charrette participants.

³⁶ MIAMI-DADE COUNTY, COMPREHENSIVE DEVELOPMENT MASTER PLAN at I-45, I-46.

³⁷ *Id.* at I-47.

- (2) Staff to the Agricultural Practices Study Advisory Board – The existing Agricultural Practices Advisory Board (the “Ag. Practices Committee”) currently receives staff support from the Department of Planning and Zoning. Under the new program, the Rural Communities Coordinator will serve the Board directly and will act as liaison between the Board and the Department.
- (3) Administration of the PDR/SUR Program – The Rural Communities Coordinator will ensure that property owners affected by the implementation of the Preferred Development Scenario have access to the PDR/SUR program and can readily operate within its framework. The Rural Communities Coordinator will oversee the purchase and transfer of development rights and will assist property owners, urban developers, non-profit organizations, land trusts, and governmental entities in the operation of this program, including seeking funding for agriculture and open space preservation.
- (4) Implementation of the Comprehensive Development Master Plan - The Rural Communities Coordinator will oversee the amendments to and the administration of the Comprehensive Development Master Plan to ensure consistency between the adopted Plan policies and maps – including those adopted pursuant to the Preferred Development Scenario – and future regulatory measures and development approvals.
- (5) Liaison between Agriculture and the Department of Planning and Zoning – The Rural Communities Coordinator will act as a liaison between the property owners in the Study Area and the Department of Planning and Zoning. Staff and the Representative will coordinate regarding future planning and zoning activities that impact the Study Area.
- (6) Represent the Study Area in Intergovernmental Coordination Activities – The Rural Communities Coordinator will represent the interests of the Study before other local, state, regional, and federal agencies. The number of issues that arise in the discussion surrounding the future of agriculture is exceeded only by the number of agencies, governmental and private, attempting to address these issues. Thus far, the agricultural community has lacked specific representation in that discussion. From flooding to pest control, the interests of those living and working in the Study Area must be asserted and defended, as critical issues regarding growth and Everglades’ restoration are being resolved.
- (7) Development of Non-Traditional Agricultural Markets. The Rural Communities Coordinator will explore non-traditional agricultural markets and outlets for growers within the Study Area and will implement as appropriate (See §VIII(D), below).

The qualified applicant for the position of Rural Communities Coordinator will have requisite expertise in agricultural policy and economics, and will be familiar with the operation of the Florida system of Growth Management. The position should be held by someone able to represent the County at higher levels of discussion, including state- and

federal-level interests. In order to ensure that level of responsibility and authority, the position should be equal to a position of department head. Unlike the position of County Extension Director, which addresses research and day-to-day agricultural practices, the Rural Communities Coordinator will focus on land use and other issues including planning, development activities, flooding, rural/residential needs, and environmental concerns. If possible, the office of the Rural Communities Coordinator should be situated near other agriculture-oriented offices to take advantage of shared resources and common interests and to facilitate access by rural property owners.

Communities around the country that have found success in preserving agriculture and rural open space, typically have designated a particular person or board to handle the day-to-day administration of their program. The reason for this is two-fold. First, the separate position allows the proper attention to be paid to this critical component of the community and the economy. Although land use matters are incidentally at issue, agricultural practices require expertise. Second, in order for the tools recommended here – including the PDR, SUR, and conservation subdivision techniques – to be successfully implemented, those within the Study Area must have access to and be a part of its implementation. For example, if property owners do not feel that the process of selling and transferring development rights is accessible to them, they will be disinclined to participate in the program. Successful jurisdictions report that farmers in their communities feel as if they are owners and participants in the preservation program. Designating a full-time employee to serve as a representative of and liaison to the farming community will facilitate the successful implementation of the Preferred Development Scenario. Additional staffing may be required as the program develops, particularly if the County elects not to rely heavily on third-party non-profits or land trusts for support.

B. Supportive and Complementary Uses

The Comprehensive Development Master Plan currently states that “principal uses in [the Study Area] should be agriculture, uses ancillary to and directly supportive of agriculture such as packing houses, and farm residences.” During the Study, Team member Planning Works undertook an analysis of land uses that would support and/or complement agricultural operations within the Study Area. That analysis resulted in a table, entitled “Supportive and Complementary Uses to Agriculture and Agribusiness,” which categorizes a range of uses based on the Land Based Classification System, established by the American Planning Association, with supplemental uses added to reflect local zoning standards.

The table establishes a framework for evaluating the potential compatibility of various land uses with the diverse agricultural operations in Miami-Dade County. The compatibility of any use depends on site specific criteria, including the location of the use, its site design, and the characteristics of adjacent agricultural operations. Although changes to the existing land use scheme are not recommended as part of the Preferred Development Scenario, the County should use the table and analysis prepared during the Study should future shifts in policy or circumstance require reevaluation of the use scheme within the Study Area.

C. Agritourism

Agritourism means any agricultural activity that attracts people and encourages them to spend their leisure time and discretionary income on that activity.³⁸ Aside from a small number of pick-your-own operations and a fruit and spice park, Miami-Dade County has virtually no agritourism operations, something that has been successful in other parts of the country. According to the UF Report, this is due in part to the fact that agriculture in the Study Area relies on significant pesticide and chemical applications incompatible with tourism.³⁹ Nonetheless, agritourism may be appropriate for small farms, especially smaller tropical fruit operations and organic farms that operate without pesticides and chemicals.⁴⁰ An agritourism program must be geared toward improving the economic situation of farmers, not increasing regulatory burdens. Therefore, the Team recommends that the following policies be carefully crafted to avoid conflicts in uses and disruptions in commercial farming.

Numerous examples of businesses that are involved in agritourism exist around the country, including dairies, ranches, farms and processing plants that provide tours of their operations, wineries with tours and tasting rooms, dude ranches, pick-your-own produce farms and roadside stands. The County should consider establishing an integrated network of farm operations that could participate in event-based activities – perhaps on an annual basis – that would give residents and visitors an opportunity to become familiar with how agriculture works in the County and the significant role it plays in the economy and society of Miami-Dade. Under this scenario, with visitors present only infrequently, concerns with pesticide drift and even insurance requirements may be resolved. This approach would seek to promote agriculture locally, more than it would serve as a direct income generator. This type of promotion technique may augment the industry’s ability to successfully implement certain local direct marketing and production campaigns as described below.

D. Economic Incentives and Alternatives

Increasing the profitability of the agricultural community may be accomplished by encouraging the alternative agricultural practices and marketing techniques. The Team explored a number of these alternatives and compiled its findings, attached hereto at Appendix A. According to the UF Report, “Miami-Dade’s diverse commodity production incorporates a spectrum of traditional, specialty, exotic, gourmet, kosher, and organic varieties that appeal to an equally broad and wide-ranging population of existing and potential consumers.”⁴² Unfortunately, many local growers have a limited marketing program. On the bright side, the UF Report noted that growers are now willing to grapple with emerging marketing issues, including local grower’s groups, establishment of

³⁸ Michigan State University Extension, *Agricultural Tourism in Cochise County, Arizona Characteristics and Economic Impacts*, (visited February 21, 2003).

<http://www.msue.msu.edu/msue/imp/modtd/33839801.html>.

³⁹ University of Florida, *supra* note 7, at 84.

⁴⁰ *Id.*

⁴² *Id.* at 80.

adequate grades and standards, country-of-origin labeling, state sponsored marketing programs, and direct sales facilities.⁴³

The UF Report and the Palm Beach County Agricultural Reserve Master Plan suggest a number of mechanisms to encourage marketing to appropriate local consumers. One strategy is to develop a “get fresh” campaign that stresses the availability of local produce and would benefit local growers by helping to ensure continuing economic viability.⁴⁴ A “Farmer to Chef” program would connect local chefs and farmers to discuss what grows locally and ways to promote locally grown products in restaurants.⁴⁵ The County Rural Communities Coordinator will assist growers in these initiatives by providing technical assistance and seeking out available funding. The County might also encourage the development of local consumer cooperatives which would buy directly from local farmers. The County could also develop a comprehensive network of farmers markets, expanding the list of existing markets, for example in Miami Beach, Coconut Grove, and Coral Gables, to include other communities in the County. Miami-Dade County could work with Broward County, which has virtually no productive farm land, to establish public markets there for Miami-Dade products. These are only a few of the non-traditional economic development strategies explored during the Study. The viability of each will need to be examined as the Preferred Development Scenario is fully implemented.

E. Environmental Issues

The task before the County of addressing the agricultural, environmental, and urban demands that face it in various parts of its jurisdiction is daunting. However, numerous organizations, representing both agricultural and environmental interests, have development “best management practices” (BMP) that address the interrelationships between agriculture and other important uses, including sensitive environmental resources. A number of these organizations have been identified and contacts provided in the Consulting Team’s report titled “Related Studies Coordination.” (See Appendix D) Among the issues the County must consider, regardless of the growth management program that ultimately is adopted or continued, are:

- (1) watershed separation standards for new residential development;
- (2) septic system management and educational materials for new residential owners;
- (3) the impact of pesticides on the existing environment, both built and natural, with particular focus on the unique needs of subtropical agriculture; and
- (4) the impact of rising groundwater levels within the Study Area as a result of the Everglades restoration efforts.

⁴³ *Id.*

⁴⁴ Palm Beach County Planning Division, PALM BEACH COUNTY AGRICULTURAL RESERVE MASTER PLAN 39 (Oct. 2000) (unpublished report, on file with Palm Beach County Planning Division).

⁴⁵ *Id.*

The environmental challenges facing the County are tied very closely to the agricultural preservation concerns that are the focus of this study. Much of farmland that will be preserved under the Preferred Development Scenario will serve the dual purpose of protecting habitat for critical species and natural systems.

F. Phytosanitary Issues

Any environmental assessment or policy approach should take into consideration the findings set forth in the UF Report regarding invasive pests.⁴⁶ There exists a very real threat to the industry as a result of pest infestation, the UF Report notes, for example, the lime industry as one case. Clearly, the continued use of pesticides will have to be weighed against their long-term impact on the natural environment.

The University of Florida Institute of Food and Agricultural Sciences (IFAS) recommends that farmers step up communication within the industry in order to share opinions and ideas for avoiding, fighting, or dealing with invasive pests.⁴⁷ Several organizations, including the USDA offer services in this regard. IFAS further recommends that local growers press for further research for a certification program that would verify that fruits are “non-hosts” for certain invasive pests.

G. Lobbying Effort at Federal-Level

Throughout the Study, the Team identified various economic and social impacts on the Study Area that originate beyond the borders of Miami-Dade County. For example, NAFTA and other international trade policies bear significantly on the Study Area and the farming community. Among the issues that deserve attention at the national and international levels is the gross disparity between the environmental laws imposed on growers in the United States versus those imposed on importing growers – if such laws exist at all. Federal laws should be strengthened not only to “level the playing field” between domestic and foreign competitors, but also to protect against invasive diseases, pests, and species that would damage the County’s sub-tropical plantings. These recommendations are consistent with other federal initiatives that are designed to prevent biological and chemical terrorism. After the tragedy of September 11th, additional steps to protect food supplies may be appropriate in the County.

Unfortunately, the solutions to the problems brought about by international policies such as these are beyond the scope of what can be accomplished by a highly localized Study like the one performed here.⁴⁸ Nonetheless, the County should maintain lobbying efforts and should continue to participate in the political processes that impact its agricultural interests. For example, local producers should join industry coalitions, such as NFACT, which is comprised of state departments of agriculture from Florida, New Mexico, Arizona, California, and Texas, to leverage political strength in a political environment that is increasingly global in nature.⁴⁹

⁴⁶ University of Florida, *supra* note 7, at 57-58 (characterizing the County’s exotic pest problem as “a foremost infrastructure (border security) issue”).

⁴⁷ *Id.* at 58.

⁴⁸ *Id.* at 53-57.

⁴⁹ *Id.* at 56; *see also* www.nfact.org.

H. Lobbying Effort at State-Level

At the state level, the County's influence is greater, however, and the Team has identified a number of issues that should be addressed at the state and regional levels. First, although the County has designated the expenditure of documentary surtaxes for affordable housing initiatives, it should consider pursuing state enabling legislation that would expand use of this type of tax to rural and agricultural preservation initiatives.

Second, the County should seek dedicated funding for the Florida Rural and Family Lands Protection Act. This Act marks a significant shift in state-level funding in support of agriculture and rural open space preservation. However, it has remained unfunded since its adoption in 2001. Currently, demands on state and local budgets are at historic levels. It is for that reason that the Team has recommended that the Preferred Scenario recommended here be funded by – and controlled by – the County through the issuance of bonds to pay for necessary open space. Nonetheless, funding for the Rural Lands Act should be pursued.

Third, in its report, the University of Florida described the ongoing and anticipated increase in problems associated with flooding of agricultural lands within the Study Area,⁵⁰ a problem that stems from ongoing restoration efforts in the Everglades. This effort will involve, among other things, the removal of approximately 240 miles of canals and levees and significant modifications to the Tamiami Trail. The result is likely to be that during periods of high rainfall, certain agricultural lands will flood, often with little or no warning. Conversely, restoration efforts may exacerbate dry or drought cycles on other lands. While some components of the agriculture industry, namely certain nurseries and ornamentals, can respond in the long-run to flooding issues, most of the industry is not as mobile and bears a significantly higher risk in the face of this uncertainty.

A major problem with assessing the extent of this problem and its potential solutions is the large number of agencies involved in the restoration effort. The Team recommends the County's formal participation, by way of the Rural Communities Coordinator, in the Everglades restoration discussion to ensure that these and other agricultural issues are properly addressed. An additional problem, as IFAS points out, is a gross lack of adequate hydrologic and topographic data for the area.

The Team recommends that property owners in the Study Area be represented by the County in the multi-jurisdictional restoration effort to ensure that agricultural interests are represented when planning efforts undertaken that will impact the Study Area. The unavailability of adequate topographic, hydrologic, and ownership data is perhaps the greatest hindrance to resolving the flooding issue and should be addressed in the near term.

⁵⁰ *Id.* at 59-60.

IX. CONCLUSION

The agricultural industry contributes and is expected to continue to contribute significantly to the economic health of Miami-Dade County. Preserving sufficient agricultural lands therefore is fundamental to enhancing and perpetuating a viable agricultural industry in the County. According to the UF Report, the total economic impact from all production and agriculture sales originating in Miami-Dade County exceeded \$1.07 billion dollars for the 1997-98 crop years.⁵¹ The agricultural industry is in transition from one traditionally based on direct production, and driven mainly by major row crops, to one based increasingly on certain fruits and nursery crops and service-based activities associated with sourcing, import, and distribution.

As this transition occurs within the industry, Miami-Dade County's population will increase by as much as thirty percent (30%).⁵² This convergence of demographic and economic influence is resulting in steady increases in agricultural land values and increased pressure for farmers in the Study Area to convert their land to non-agricultural uses. However, agriculture remains viable in Miami-Dade County and IFAS predicts that the transition may not necessarily be accompanied by a decline in its overall contribution to the local economy.⁵³ This Report, and the recommended 'Preferred Development Scenario,' describes an approach that will allow significant preservation of agriculture and rural lands while the farming industry adjusts to the current marketplace and economy. The Team has considered three different development scenarios in order to determine which will provide the most equitable means of preserving the farm lands necessary to enhance the County's transitioning agricultural economy. Both the Rural Scenario (continued, unchecked 1:5 development patterns) and the Suburban Scenario (unrestricted residential development at 4.5 units/acre) result in the ultimate elimination of the farmland necessary to support ongoing agricultural practices. Both scenarios would have the further effect of eliminating the rural/open lands that currently typify South Dade and that residents countywide value and wish to see protected.

The Team therefore recommends that the County adopt the Preferred Development Scenario, which will preserve approximately 75% of the agricultural lands remaining in the Study Area. The program is incentive-based and will protect the equity investment of property owners within the Study Area, spreading proportionately the costs of agriculture and rural open space among all who benefit from its preservation.

The major components of the Team's final recommendation are as follows:

1. a funded Purchase of Development Rights (PDR) Program;
2. a proportionate Open Space Mitigation Fee on new development;
3. a restructured Severable Use Rights (SUR) program;
4. limited residential development within the Study Area consistent with historic annual rates;
5. hiring for the position of a new Rural Communities Coordinator; and

⁵¹ *Id.* at 19.

⁵² *Id.* at 86.

⁵³ *Id.* at 55-56.

6. interim restrictions on building permit issuance within the Study Area to preserve the status quo and to implement the Team's recommendation.

Implementation of these six components will effectuate the transfer or purchase of about 75% of the remaining development rights within the Study Area. The remaining 25% (approximately 3,372 units) will be developed over a fifteen- to thirty-year period at a rate generally consistent with recent trends.

With an adequately funded PDR program in place, many growers who wish to continue farming – or who for other reasons wish to retain current undeveloped land holdings - will be able to petition the County for purchase of the development rights from their property. This will allow property owners within the Study Area to realize a return on their current investment while simultaneously protecting valuable agricultural lands and rural open space.

The restructured SUR program will increase further the value of development rights within the Study Area as well as the demand for these rights within the UDB, thereby encouraging their transfer out of the Study Area. As the population of Miami-Dade County continues to increase, so to will the demand for SURs as urban developers are required to transfer development rights from the Study Area in order to meet growing demands for units within the UDB. In fact, if future growth within the UDB is restricted to SURs, then development rights severed from the Study Area today will increase significantly in value and may represent an increasingly valuable future investment.

Should the bond issue proposed by the Team not pass, the remaining tools described herein can and should be implemented independently. In fact, the PDR program may be funded in part by mitigation fees and other funding sources discussed in this Report. However, without a dedicated and secure funding source equivalent to or exceeding the \$130 million bond issue recommended here, the ability to protect effectively agricultural and rural open space will be undermined significantly, leaving density reductions within the Study Area as the only viable option for widespread preservation.

The Preferred Development Scenario, driven by an adequately funded PDR/SUR program, will provide reasonable opportunities to property owners who wish to continue farming as well as those who wish to undertake some limited residential development. Although the Preferred Development Scenario involves a significant funding obligation on the County's part, the impact of that burden will expire within the next thirty years, while the development pattern that ensues will be permanent. If the Preferred Scenario is implemented in the manner recommended by the Team, this portion of Miami-Dade County will be preserved forever and will protect necessary agricultural lands, as well as the rural open space that current and future residents of Miami-Dade County demand.