

Land Use and Zoning Workshop  
Agricultural Use and Exemptions



# Land Use and Zoning Workshop

## Agricultural Use and Exemptions

- Background:
  - Citizens from Fort White and surrounding areas have expressed concern about location of a chicken farming operation near the Town of Fort White and Santa Fe River.
  - Citizens and Commissioners share concern that no notice was required prior to construction of chicken houses at project site.
  - Multiple meetings with public input and comments from Commission and counsel
  - This workshop was suggested to review options to address citizen and Commissioner concerns



# Land Use and Zoning Workshop

## Agricultural Use and Exemptions



Approximately 1.2 miles from Santa Fe River  
Approximately 1 mile from Town of Fort White



# Land Use and Zoning Workshop

## Agricultural Use and Exemptions

- Issues
  - Does the County have the power to regulate agricultural activities? If so, which activities?
  - If the County has regulatory power, are there limits to that power?
  - If the County has regulatory power, what scheme should be implemented?
  - If a process or policy is implemented, will public concerns be sufficiently addressed?



# Land Use and Zoning Workshop

## Agricultural Use and Exemptions

- Does the County have the power to regulate Agricultural Activities?
  - Land Use
    - Zoning
  - Structures
    - Building Code



# Land Use and Zoning Workshop

## Agricultural Use and Exemptions

- Land Use - A-3 Zoning

LDR 4.5.5: *Permitted principal uses and structures within Agriculture-3 districts.*

- 1. All agricultural activities (except intensive agricultural uses as defined in section 2.1 herein within high groundwater aquifer recharge areas as defined within the county's comprehensive plan), including the raising of livestock and poultry, the production of dairy and poultry products (but not including livestock or poultry slaughter-houses), the cultivation of field crops and fruits and berries, forestry, in accordance with the comprehensive plan, apiculture, and similar uses; provided, that no structure used for housing of animals or any **commercial feed lot operation** shall be located within 300 feet of any lot line, and no structure used for housing domestic animals shall be located within 100 feet of any lot line.



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## Agricultural Use and Exemptions

- Land Use - A-3 Zoning

LDR 4.5.5: *Permitted principal uses and structures within Agriculture-3 districts.*

- 2. The processing, storage, and sale of agricultural products and commodities which are raised on the premises (but not including livestock or poultry slaughterhouses); provided that no building used for these activities shall be located within 300 feet of any side or rear lot line.
- 3. Single-family dwellings.
- 4. Mobile homes.
- 5. Plant nurseries and greenhouses.



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- Land Use - A-3 Zoning

LDR 4.5.5: *Permitted principal uses and structures within Agriculture-3 districts.*

- 6. Homes of six or fewer residents which otherwise meet the definition of a "community residential facility."  
(See section 4.2).
- 7. Public elementary and middle schools. (See sections 4.2 and 14.13.)
- 8. Churches and other houses of worship.
- 9. Cemeteries not requiring licensure of the State of Florida.
- 10. Landscape services including yard maintenance firms.



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## Agricultural Use and Exemptions

- Intensive Agricultural Defined (Sec. 2.1)

**Intensive agriculture** means those farming and agricultural operations or uses requiring an industrial waste or wastewater permit from the Florida Department of Environmental Regulation. Existing agricultural activities as of the date of adoption or subsequent amendment of these land development regulations will not be required to obtain a special use permit from the county for those existing agricultural activities, except as provided herein. Expansion or change of existing agricultural activities after the date of adoption or subsequent amendment of these land development regulations for which an industrial waste or wastewater permit is required from the state for that expansion or change will also require a special use permit from the county, unless the expansion or change is required by the state to maintain the same livestock population of the activity as existed on the date of adoption or subsequent amendment of the land development regulations.



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## Agricultural Use and Exemptions

- Special Use Permitting – Intensive Agriculture  
Sec. 14.12. - Special permits for intensive agricultural uses.

No new intensive agricultural activities as defined in section 2.1 of these land development regulations shall be conducted in any agricultural or environmentally sensitive zoning district without first obtaining a special use permit for such activities from the board of county commissioners.



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## Agricultural Use and Exemptions

- Prior to granting such special use permit, the board shall make the following findings:
  - a. That no part of the activity is to be conducted in areas of high recharge to the Florida [Floridan] aquifer;
  - b. That if a waste water management system is required by any appropriate regulatory agency, the waste water management system will be designed by the soil conservation service or will be the equivalent of a system designed by the soil conservation services of a licensed professional engineer;
  - c. That the facility will use available best management practices to reduce flies and other insects;
  - d. That the activity will not be located within any environmentally sensitive areas as defined by the county's comprehensive plan;
  - e. That the activity will not substantially impact the existing groundwater quality or quality of aquifer recharge areas; and
  - f. Other factors which the board may consider relevant and appropriate to the public health and safety of the citizens of the county.



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## Agricultural Use and Exemptions

- Caution:
  - Florida Right to Farm Act (FS 823.14) may restrict County's ability to regulate Ag activities where there is a "bona fide farm operation" on land classified as agricultural land per FS 193.461.
  - Changes will be effective County-wide in all high recharge potential areas





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## Agricultural Use and Exemptions

- Structures/Improvements
  - Building Code
  - Fire Code



# Land Use and Zoning Workshop

## Agricultural Use and Exemptions

- Fla Stat 604.50

(1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations....

(2) As used in this section, the term:

(a) “Bona fide agricultural purposes” has the same meaning as provided in s. 193.461(3)(b).

(b) “Farm” has the same meaning as provided in s. 823.14.

...

(d) “Nonresidential farm building” means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.



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## Agricultural Use and Exemptions

- Bona fide agricultural purpose; consider:
  - a. The length of time the land has been so used.
  - b. Whether the use has been continuous.
  - c. The purchase price paid.
  - d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.
  - e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices.
  - f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.
  - g. Such other factors as may become applicable.



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## Agricultural Use and Exemptions

Fla Stat 553.73

(10) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

...

(c) Nonresidential farm buildings on farms.



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## Agricultural Use and Exemptions

- SUMMARY

A Non-Residential Farm Building is:

1. Non-residential and not to be used as a dwelling; and
2. Located on a “Farm” – the land, buildings, support facilities, machinery and other appurtenances used in the production of farm or aquaculture products; and
3. Used primarily for agricultural purposes; and
4. Either located on land that is an integral part of a farm operation or located on land that is classified as Agricultural



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## Agricultural Use and Exemptions

- Who is exempt:
  - Generally, the Landowner, although lessees and others may apply.
- Satisfaction of Requirement 4:
  - Verification of classification by Property Appraiser and confirmation that agricultural use is unchanged since classification, OR
  - Confirmation of “Farming Operation” as defined at Fla Stat 823.14



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## Agricultural Use and Exemptions

- Confirmation of “Farming Operation” as defined at Fla Stat 823.14
- “Farm operation” means all conditions or activities by the owner...which occur on a farm in connection with the production of farm, honeybee, or apiculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.
- Some jurisdictions require production of a business TIN or FEIN to prove existence of an “Operation” for commercial purposes



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## Agricultural Use and Exemptions

- Some jurisdictions use a “Permit Exemption Application” process to determine whether a permit should be required for a proposed non-residential agricultural building.
  - Application with affidavit file with Building and Zoning
  - Completeness reviewed administratively
  - Appeal to Planning and Zoning Board, then to Board of County Commissioners
  - Process could include right of affected property owners to appeal determination of exemption (Would require notice mechanisms)
- Building Permit exemption does not exempt structures from flood plain management or fire code



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## Agricultural Use and Exemptions

### CITIZEN INPUT

- Land use needs to be changed on top of the high recharge areas of the Florida Aquifer





# Land Use and Zoning Workshop

## Agricultural Use and Exemptions

### CITIZEN INPUT

- Define [set] animal threshold in AG-3 zoning (how many animals per acre is acceptable?) There is a discrepancy between Federal standard and State standard that defines CAFO. Create our own value on top of the high recharge for the Floridan Aquifer.



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## Agricultural Use and Exemptions

### CITIZEN INPUT

- Require a special exception for posting purposes to inform neighbors of land use changes. How much changes in land use would trigger a special exception? For instance from fallow lands to intensive agricultural or timber to animal husbandry. This special exception would be to have citizen engagement to protect their rural nature, property values, and drinking water supply. Also a posting would protect recreational, conservation, tourism uses in riversheds and springsheds.



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## Agricultural Use and Exemptions

### CITIZEN INPUT

- Redefine "intensive" in the language of these rules and codes.



# Land Use and Zoning Workshop

## Agricultural Use and Exemptions

### CITIZEN INPUT

- Change waste and wastewater requirement. As it stands today, the county relies on the DEP to issue or not (in our case) permits for waste or wastewater and that is the pivotal mechanism to allow or not an intensive agri-business from entering AG-3 Zoned neighborhood.



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### CITIZEN INPUT

- Design this Ordinance so that County has control over it's own authority. (impose Home Rule)



# Land Use and Zoning Workshop

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### CITIZEN INPUT

- County hire a permanent environmental attorney that “understands Land Use laws”.



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DISCUSSION