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DIRECT TESTIMONY
OF
NICKI VAN VONNO, AICP
ON BEHALF OF MARTIN COUNTY, FLORIDA

TO
THE STATE OF FLORIDA
PUBLIC SERVICE COMMISSION
RE: APPLICATION OF BLUEFIELD UTILITIES, LLC
TO OPERATE A WATER AND WASTEWATER UTILITY
IN MARTIN AND ST. LUCIE COUNTIES, FLORIDA

DOCKET NO. 090459-WS

COM 5
APA
ECR 7
GCL 1
RAD 1
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CLK Ct. RAR

DOCUMENT NUMBER CASE

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FPSC-COMMISSION CLERK

1 Q. **Please state your name.**

2 A. Nicki Belville van Vonno.

3 Q. **Where are you currently employed?**

4 A. Martin County, a political subdivision of the State of Florida.

5 Q. **What is your employment address?**

6 A. 2401 S.E. Monterey Road, Stuart, Florida 34996.

7 Q. **What is your position?**

8 A. I am the Growth Management Director for Martin County.

9 Q. **How long have you held this position?**

10 A. Since 1999.

11 Q. **Briefly summarize your duties as Growth Management Director.**

12 A. As Growth Management Director, I am responsible for implementing and interpreting the
13 Comprehensive Growth Management Plan in accordance with the requirements of the State of
14 Florida Growth Management Act. I am also responsible for the oversight of the following
15 activities: review and processing of Comprehensive Plan amendments, including text and land
16 use amendments; the review of various development and zoning applications to ensure
17 compliance with the Martin County Growth Management Comprehensive Plan and Land
18 Development Regulations (LDRs); the drafting and implementation of land development
19 regulations; and oversight of activities related to environmental and LDR compliance matters.

20 The Martin County Growth Management Department includes the Comprehensive Planning
21 Division which oversees all long range planning activities. The Development Review Division
22 manages the review of all site plan and other development review applications to ensure that
23 all applications are in compliance with the Martin County Growth Management Comprehensive
24 Plan and Land Development Regulations (LDRs). The Environmental Division's mission is to

1 preserve and maintain the environmental resources of the County through participation in the
2 development review process, and environmental compliance activities.

3 **Q. Briefly summarize your professional background as a planner.**

4 A. I received a Masters degree in City Planning from the Georgia Institute of Technology in 1982. I
5 have more than 20 years experience in planning and growth management in the State of Florida.
6 I have been a member of the American Institute of Certified Planners (AICP) since 1991. I have
7 been employed by the Martin County Board of County Commissioners as a planner since 1988.

8 **Q. I will hand you a document marked as Exhibit NVV-1. Do you recognize this document?**

9 A. Yes, it is a copy of my resume as last updated.

10 **Q. Are you sponsoring any other exhibits in this case?**

11 A. Yes, Sections of the Martin County Comprehensive Growth Management Plan. Section 4.4.,
12 Policy L.1.A of the Future Land Use Element; Sections 10.4.A.1.f., 10.4.A.1k. and 10.4.A.3.a,
13 of the Sanitary Sewer Element; Policy 11.5.A.3.a, of the Potable Water Services Element;
14 Section 4.4.M.1, of the Future Land Use Element regarding agricultural development; and Figure
15 4.5 the Urban Service Boundary Map, which have been marked as composite Exhibit NVV-2.
16 Also the Exhibit marked NVV-3 is a letter written by Mike McDaniel from the Department of
17 Community Affairs dated January 7, 2010 to Patti Daniel, Public Services Commission.

18 **Q. Are you familiar with the Application of Bluefield Utilities, LLC which has filed with the Florida
19 Public Service Commission?**

20 A. Yes.

21 **Q. How are you familiar with it?**

22 A. I have reviewed the Application and related materials.

23 **Q. Based on your review of Bluefield's Application, can you describe the utilities proposed
24 location relative to Martin County?**

1 A. The application contains a map that illustrates the property within Martin County that is subject
2 to the application. The property is approximately 2,300 acres. It is adjacent to the St. Lucie
3 County border in northwestern Martin County. The area is outside of the County's Urban
4 Service Districts and is agricultural in nature.

5 Q. **Do you know who owns the property where Bluefield proposes to locate?**

6 A. According to the application, Evans Properties, Inc. County staff also verified that statement on
7 the Property Appraiser's website.

8 Q. **What is the land use designation for this territory in the Martin County Comprehensive
9 Growth Management Plan?**

10 A. The area is outside of the County's Urban Service Districts and the area is agricultural in nature.
11 The land use designation for the Bluefield parcel in Martin County is Agricultural which allows
12 agricultural activities and other activities that are supportive to or do not impact agricultural
13 activities. The density allowed by the Future Land Use Designation is one unit per 20 acres.
14 The zoning is A-2, Agricultural District. The purpose of both the land use and zoning is to provide
15 and protect an environment for agriculture.

16 Q. **Is there a need for central water and sewer utility service in the proposed Bluefield utility
17 service area in Martin County?**

18 A. No, there is no need for central water and sewer utility service in the proposed Bluefield's Utility
19 service area. An aerial view of the property indicates that there are no existing households in
20 the area. In addition the certification of the service area by the Public Service Commission
21 would be inconsistent with Martin County's Comprehensive Growth Management Plan. As
22 such, it is my further opinion that granting Bluefield's application would not be in the public
23 interest.

24 Q. **What provisions of Martin County's Comprehensive Growth Management Plan are you relying**

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A. Section 4.4., Policy L. 1. A. of the Future Land Use Element states: "The County shall restrict expansion of urban public facilities and services to the urban service districts designated within this Growth Management Plan in order to preserve agricultural lands and provide maximum protection to the farmer from encroachment by urban uses. This policy will be accomplished by the implementation of Primary and Secondary Urban Service Districts and the careful evaluation of residential and nonresidential land use applications during the planning period in order to prevent an unreasonable surplus of such uses and to protect agricultural lands." Consistent with this policy are also policies in two other chapters of the Plan that further protect the County's Agricultural lands. Policies 10.4.A.1.f., 10.4.A.1.k. and 10.4.A.3.a. of the Sanitary Sewer Service Element that addresses the provision of sanitary sewer service; and Policy 11.5.A.3.a. of the Potable Water Services Element that addresses the provision of potable water services.

Lastly, Section 4.4.M.1. of the Future Land Use Element provides the County's policies for agricultural development. It states: "This designation is intended to protect and preserve areas of agricultural soils for agriculturally related uses realizing that food and commodity production is an essential industry and basic to the economic diversity of the County. In addition, the major portion of agricultural lands are far removed from urban service districts and cannot be converted to urban use without substantial increases in cost of providing, maintaining, and operating dispersed supportive services."

Q. In your professional opinion, would the certification of a proposed water and wastewater Utility on the property owned by Evans Properties, LLC, as proposed in Bluefield's Application, conform to or violate the Martin County Comprehensive Growth Management Plan?

A. In my professional opinion, the certification of a proposed water and wastewater utility in the proposed Bluefield Utility service area, and the proposed provision of central water and sewer

1 service to the proposed Bluefield Utility service area would be inconsistent with Martin County's
2 Comprehensive Growth Management Plan.

3 **Q. Is there a state agency that oversees a county's comprehensive plan?**

4 **A.** Yes, the Florida Department of Community Affairs.

5 **Q. What role does the Florida Department of Community Affairs play in the comprehensive
6 planning of county governments?**

7 **A.** The Florida Department of Community Affairs is the state land planning agency. They are
8 charged with oversight of the State of Florida Growth Management Act and the compliance of
9 local jurisdictions with the provisions of the Act.

10 **Q. Do you know if the Department of Community Affairs has reviewed Bluefield's application to
11 the Public Service Commission?**

12 **A.** Yes, they have.

13 **Q. How do you know that?**

14 **A.** During my review of the application and related documents, I saw mention of a Department of
15 Community Affairs letter on this matter. I now understand that the PSC requests such review of
16 proposed water and wastewater applications for consistency with the local government's
17 comprehensive plan.

18 **Q. Have you reviewed the opinion issued by the Department of Community Affairs on Bluefield's
19 Application?**

20 **A.** Yes.

21 **Q. I am handing you what is marked as Exhibit NVV-3. Is this the document you reviewed?**

22 Yes. Mike McDaniel, Bureau Chief of The Florida Department of Community Affairs issued this
23 opinion letter on January 7, 2010 stating, among other things, that "the location of these
24 facilities will encourage premature urbanization premature urbanization of the rural area,

1 thereby undermining the integrity of the urban service area and increasing the potential for
2 sprawl patterns of development." This type of land use pattern would not be
3 consistent with the requirements of the State Growth Management Act and the provisions
4 contained in the Martin County Comprehensive Growth Management Plan. The letter also cites
5 numerous provisions of the Martin County Growth Management Plan with which Bluefield's
6 application does not comply.

7 Q. **Do you have a professional opinion regarding the letter identified as Exhibit NVV-3?**

8 A. Yes.

9 Q. **What is that opinion?**

10 A. In my professional opinion, I concur with the concerns expressed and the conclusions reached
11 by the Florida Department of Community Affairs in their letter dated January 7, 2010.

12 Q. **Generally, can the County allow development that is inconsistent with the County's adopted
13 Comprehensive Growth Management Plan?**

14 A. No.

15 Q. **Why?**

16 A. State law, as well as the adopted Martin County Comprehensive Growth Management
17 Plan and Land Development Regulations (LDRs) of the County, require all future development to
18 be consistent with the Comprehensive Growth Management Plan.

19 Q. **If a development is allowed to go forward which is inconsistent with Martin County's
20 Comprehensive Growth Management Plan, do you have any professional opinion on how that
21 may affect the public interest?**

22 A. Yes.

23 Q. **And what is that opinion?**

24 A. Local governments are charged with adopting Comprehensive Plans to manage future growth

1 and development within their jurisdiction. The planning process is quite comprehensive. It
2 provides consistency and reliability. One of the keystones of the process is public facility
3 planning. The planning process provides ample opportunities for public involvement and in
4 Martin County, the County's residents are fully engaged in the comp plan process. The issue of
5 the provision of water and sewer services has been quite controversial in the past in Martin
6 County. Martin County's Plan has been reviewed extensively on this matter and undergone legal
7 challenges as well. Through this extensive public process, the County's Plan clearly identifies the
8 areas where development is planned and where agricultural uses are to be maintained. The
9 certification of this utility would be contrary to the public interest, as expressed in the County's
10 Plan.

11 **Q. Is Bluefield's proposed service area an area where agricultural uses are to be maintained?**

12 **A. Yes.**

13 **Q. Please provide Martin County's definition of Urban Sprawl.**

14 **A. Urban sprawl is defined in the County's Plan as "continuous uncoordinated development that
15 does not provide or properly plan for concentration of more intense uses and the efficient and
16 Economical provision of public services." Urban Sprawl is typically characterized by leap frog
17 development which is defined in the County's Plan as "developments located beyond the fringe
18 of urban development shown on Figure 4-5, the Urban Service Boundary Map, where the
19 planned provision of urban services cannot be assured in a cost effective manner and where
20 community planning goals would be adversely affected."**

21 **Q. Please describe the problems that will be caused by Urban Sprawl.**

22 The premature conversion of agricultural and rural land to suburban and urban uses can
23 negatively impact the character of the area and lifestyle of the existing residents.

24 Scattered development patterns are expensive to serve with the necessary public services

1 and facilities. The demand for services to support these populations tend to be costly to the
2 public and inefficient from a delivery standpoint.

3 Q. **In your professional opinion, if Bluefield Utility receives a certificate to provide water and**
4 **wastewater utility at the location proposed in its application, would this promote urban**
5 **sprawl?**

6 A. In my professional opinion, it would promote urban sprawl. The provision of water and
7 wastewater facilities and services in a rural area will encourage development that is
8 not compatible with existing land uses in terms of density, intensity and land use type.

9 Q. **Has Martin County received any request from a landowner within the proposed service area**
10 **to modify the Martin County Comprehensive Plan?**

11 A. No, not to my knowledge.

12 Q. **After your review of Bluefield's application and the Direct Testimony of Ron Edwards, the**
13 **Manager of Bluefield Utilities, LLC and President and Chief Executive Officer of Evans**
14 **Properties, Inc., its parent company and owner of the majority of the property within the**
15 **proposed service area, do you think that you have been given sufficient information**
16 **regarding the applicant's intentions to be able to form an opinion as to whether approval of**
17 **the application would comply with other provisions of the Martin County Comprehensive**
18 **Plan?**

19 A. No, I do not.

20 Q. **Can you give me an example?**

21 A. For instance, the applicant has stated that Evans Properties proposes to utilize these utility
22 services for a variety of ventures. Working with South Florida Water Management District has
23 been mentioned several times. The application is remarkably vague. No specifics have been

1 provided to enable Martin County to make a full determination of the compliance of those
2 proposals with the Martin County Growth Management Comprehensive Plan. For instance,
3 without a clear understanding of the applicant's intentions it is impossible to analyze whether or
4 not the applicant will comply with various chapters of the Plan: Chapter 4, Future Land Use
5 Element; Chapter 10, Potable Water Services Element; Chapter 11, Sanitary Sewer Service; and
6 Chapter 13, Drainage and Natural Aquifer Recharge Element.

7 Q. Do you have an opinion on whether or not the Public Service Commission should grant the
8 requested certification?

9 A. In my opinion the Public Service Commission has no clear information on all of the applicant's
10 intended uses and the Public Service Commission should not certificate this area until it has an
11 application that clearly demonstrates the applicant's intentions.

12 End of Testimony.

13 Dated this 8 day of October, 2010

14 Nicki B. van Vonno

15 Nicki Belville van Vonno,

16 STATE OF FLORIDA

17 COUNTY OF MARTIN

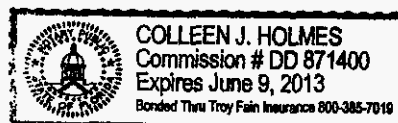
18 The foregoing instrument was sworn to and acknowledged before me this 8th day of October,
19 2010, by Nicki van Vonno, who is personally known to me, and who has taken an oath.

20
21 (SEAL)

22 Colleen J. Holmes

23 Notary Public

My Commission Expires:



NICKI BELVILLE VAN VONNO, AICP
15 S. Ridgeview Road
Stuart, Florida 34996
(772) 221-8641

EXPERIENCE

DIRECTOR, October, 1999 – Present
Martin County Growth Management Department
2401 SE Monterey Road, Stuart, Florida

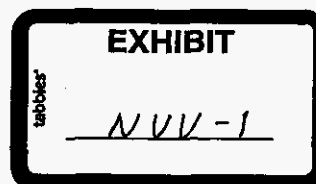
Responsible for the Martin County Growth Management Department. Manages a departmental budget of approximately \$1,687,763 while supervising 14 staff members working in the following areas: comprehensive planning, development review, and environmental planning. Streamlined the Development Review process in Martin County, by automating the review process, implementing changes to the Code that reduced duplicative and confusing requirements, and establishing on-line access for applicants and the public. Managed the 2008 Evaluation and Appraisal Report (EAR) and EAR-based plan amendments to update the County's Comprehensive Plan. Managed special studies on rural lands. Assisted on County Economic Development activities including targeted site inventories, expedited review of development applications and developing revisions to County Codes to reduce impediments and encourage targeted industries. Directed activities related to the Sustainable Communities Model Program. Developed and implemented an Interlocal Agreement with the City of Stuart and the Martin County School Board. The Sustainable Vision Program, the School Siting Agreement and other departmental activities have resulted in five awards from the National Association of Counties.

COMPREHENSIVE PLANNING ADMINISTRATOR, May, 1993 – September, 1999
Martin County Growth Management Department
2401 SE Monterey Road, Stuart, Florida

Responsible for the Comprehensive Planning Division of the Martin County Growth Management Department. Supervised six planners working in the following areas: comprehensive planning, housing and redevelopment, and concurrency management. Duties included managing the County's comprehensive plan amendment process; preparing the 1997 Evaluation and Appraisal Report (EAR) of the County's plan and EAR based plan amendments; administering the Indiantown Community Trust Fund grant program, the SHIP housing program and the Arts in Public Places Program; managing the County's Land Acquisition Program's application process and grants administration for the acquisition of environmentally sensitive or recreational lands; and overseeing the update of the Land Development Code. Have written plan amendments, grant applications, and various Land Development ordinances. Also managed the Artificial Reef Program for one year.

SENIOR PLANNER, March, 1990 – May, 1993
Martin County Growth Management Department, Stuart, Florida

In addition to the Comprehensive Planning responsibilities listed below, coordinated all aspects of Indiantown Housing Study, including management of the consultants, preparation and presentation of the study to review and advisory bodies, and ongoing implementation of the study results; acted as staff liaison for the Indiantown Task Force and the Affordable Housing Task Force; responsibilities included the coordination of the Committees' meetings and work programs, research, and development of the committees' final reports; developed the County SHIP program, including the preparation of the Affordable Housing Program ordinance and the County's first Local Housing Assistance Plan, and development of the application materials and contracts with vendors.



PLANNER II, October, 1988 – March, 1990
Martin County Growth Management Department, Stuart, Florida

Responsible for the Public Facilities elements during the development of the County's 1990 Comprehensive Growth Management Plan: Sanitary Sewer, Potable Water, Drainage, and Solid and Hazardous Waste, including overseeing the consultants who prepared the initial drafts, editing and revising the elements and presenting the elements to the Local Planning Agency and to the Board of County Commissioners. Assumed responsibility for the Housing Element; coordinated the formatting of the entire Plan prior to final printing; prepared staff reports and recommendations on County Land Use amendment requests.

PLANNER/PROJECT SUPERVISOR, August, 1986 – September, 1988
Area Agency on Aging of Broward County, Inc.
5345 N.W. 35th Avenue, Fort Lauderdale, Florida

In addition to the planning responsibilities listed below, coordinated all aspects of the construction of a HUD 202 Housing project, the 123 Hillmont Gardens; wrote and administrated a community development block grant application that resulted in the construction of a senior center addition; wrote two successful UMTA vehicle grant applications; managed special grant projects including a two year HHS grant and a Florida General Revenue Grant, and developed Medicare Response, a volunteer program that provides free Medicare counseling.

PLANNER, June 1983 – August, 1986
Area Agency on Aging of Broward County, Inc.

Developed the Agency's Area Plan annually and monitored the Agency's achievement of Plan objectives; and coordinated the Agency's request for Proposals process, including writing RFPs, conducting bid conferences, supervising the evaluation of proposals and developing recommendations for the award of contracts.

FELLOW, Design Arts Program, October, 1982 – March, 1983
National Endowment for the Arts.
Washington, D.C.

Prepared drafts of requests for proposals, and assisted with grants review panels.

EDUCATION

MASTER'S DEGREE IN CITY PLANNING, September 1982
Georgia Institute of Technology, School of Architecture
Atlanta, Georgia

Academic Distinctions: GPA of 3.4, Outstanding Student of the Year, 1982

BACHELOR OF ARTS IN SPEECH AND ENGLISH, June, 1976
Marshall University of Huntington, West Virginia

Academic Distinctions: GPA of 3.59, MU Theatre Award, 1976

SPEECHES/PRESENTATIONS

American Planning Association Annual Conference, Spring, 2008
Los Vegas NV
County Leadership for Regional Collaboration:
Models for Solving Intergovernmental Issues, Roads and Schools

Planning Officials Training, 2005

University of Florida
Port St. Lucie, Florida
Speaker on Comp Planning

Watershed in Transition 2004 Symposium, January, 2004

South Florida Water Management District/Florida Department of Environmental Protection
Environmental Enhancement: Land Acquisition in Martin County

Regional Rural Land Symposium, December, 2003

Treasure Coast Regional Planning Council
Port St. Lucie, Fl
The Current Situation: Martin County

Land Use Law Conference, May, 2001

CLE International
Tampa, Florida
Sustainable Communities: Experiences with Smart Growth

Florida American Planning Association, Annual Conference, Fall, 2001

Orlando, Florida
School Overcrowding: Is there a Growth Management Solution?
Presentation on the Martin County School Siting Interlocal Agreement

American Planning Association, Annual Conference, Spring, 2000

New York, New York
Post Offices and Redevelopment

Martin County, Visioning Program, Fall/Winter, 1998

Stuart, Florida
Martin County Comprehensive Plan

PROFESSIONAL AFFILIATIONS

American Institute of Certified Planners – Member since July, 1991

National Association of County Planners – Board Member, 2006-2008

American Planning Association (APA) – Member, Small Town and Rural Planning and County Planning Divisions

FUTURE LAND USE ELEMENT

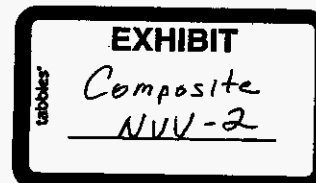
§ 4.4

- (3) Provide basic industry which is likely to serve as a desirable priming action for attracting additional industry compatible with the County's economic goals and objectives as in the Economic Element of this Growth Management Plan.
- (4) Contribute a net revenue to the Martin County government and thus enhancing the fiscal capability of the County.
- (5) Conserve the County's natural resources and public facilities by generating minimal adverse impacts on groundwater and potable water resources, the transportation system, the solid waste system, or other natural resources or community facilities.

4.4.L. *Goal (agricultural lands)*. Martin County shall fairly and equitably preserve agricultural lands by enhancing and protecting appropriate and productive lands for agricultural uses.

1. *Objective*. By July 1990, Martin County's Land Development Regulations shall set forth procedures to ensure that the agrarian character of agricultural lands is preserved and that other methods are provided to maintain the economic viability of agriculture.
 - a. *Policy*: The County shall restrict expansion of urban public facilities and services to the urban service districts designated within this Growth Management Plan in order to preserve agricultural lands and provide maximum protection to the farmer from encroachment by urban uses.

This policy will be accomplished by the implementation of Primary and Secondary Urban Service Districts and the careful evaluation of residential and nonresidential land use applications during the planning period in order to prevent an unreasonable surplus of such uses and to protect agricultural lands.
 - b. *Policy*: The County shall encourage the use of management practices for soil conservation which best minimize erosion and protect those attributes which make the soil productive.
 - c. *Policy*: The County shall permit congregate housing for agricultural farm workers, as consistent with the Housing Element of this Growth Management Plan. This congregate housing for agricultural farm workers would be considered in conjunction with Housing Service Zones, section 6.4.A.4.c. of the Housing Element. Development regulations shall be established to accommodate this use in areas established as Housing Service Zones.
2. *Objective*. Martin County shall monitor and evaluate new innovations and management practices for preserving agricultural farmlands while protecting the property rights of farmers, and prepare a report by January, 2000/2001, for the purpose of determining the applicability of these concepts to Martin County.
 - a. *Policy*: At a minimum, the following innovations shall be investigated:
 - (1) Fiscal incentives such as differential assessments for reducing burdensome property taxes.



§ 4.4 MARTIN COUNTY COMPREHENSIVE GROWTH MANAGEMENT PLAN

- (2) Transferable Development Rights (TDR's) which compensate the owners of preserved land for the loss of their rights to develop.
- (3) Voluntary agricultural districts coupled with benefits and assurances to improve the conditions of farming.

4.4.M. *Goal (allocation of land use).* Martin County shall allocate land use indicated on the Year 2005 Land Use Map in order to provide for compatibility with existing development, consistency with the Capital Improvements Element, protection of natural resources, and implementation of the adopted level of service standards.

1. *Objective.* By July, 1990, Martin County will revise the Land Development Regulations as necessary to implement the policies for land use allocation.

- a. *Policies (Agricultural development).* The Land Use Map identifies those lands within Martin County which are allocated for agricultural development. This designation is intended to protect and preserve areas of agricultural soils for agriculturally related uses realizing that food and commodity production is an essential industry and basic to the economic diversity of the County. In addition, the major portion of agricultural lands are far removed from urban service districts and cannot be converted to urban use without substantial increases in cost of providing, maintaining, and operating dispersed supportive services. The allocation of agricultural land is furthered by Goal 4.4.L. in this section.

The further intent of the agricultural designation is to protect agricultural land from encroachment by urban or even low density residential development. Such development impacts the natural environment and may cause such potential adverse impacts as erosion, run-off, sedimentation and flood damage, all of which render the impacted land less adaptive to agricultural productivity. Residential development in the agricultural area is restricted to one single-family residence per gross 20-acre tract. In order to further avoid activities that adversely impact agricultural productivity on agricultural lands as designated on the Land Use Map, no development shall be permitted which divides landholdings into lots, parcels or other units of less than 20 gross acres. Acreage may be split for bona fide agricultural uses into parcels no smaller than 20 gross acres. Residential subdivisions must be platted and provide for all necessary services. Residential subdivisions at a density or intensity of greater than one single-family dwelling unit per 20 gross acre lot shall not be allowed.

Within agriculturally designated lands, the agriculture zoning districts shall provide definitive policy regarding development options. All such provisions of agricultural zoning districts shall be consistent with the Comprehensive Growth Management Plan. Limited residential and other uses directly related and supportive to agriculture or which would not jeopardize the integrity of the agricultural purpose of the district are permitted.

- (1) *Congregate housing for farmworkers.* Residential development for housing farmworkers is provided for as a conditional use pursuant to section 4.4.L.1.c. of this Element. Agricultural zoning shall provide a policy for implementing this provision.

SANITARY SEWER SERVICES ELEMENT

§ 10.4

f. *Policy:* The extension of sanitary sewer lines and expansion of plant capacity shall be coordinated with the projected demand for service as established in the Future Land Use Maps, Chapter 4. To assure consistency of efficient service provision with the established land use pattern, the following determinations must be made:

- (1) Extension of service is proposed to an area delineated as a Primary Urban Service District or is proposed to an area delineated as a Secondary Urban Service District. Both the Primary and Secondary Urban Service Districts are designated on Figure 4-5, Urban Service Boundaries;

Editor's note—Figure 4-5 is on file in the office of the Martin County Growth Management Department.

- (2) The extension of service is proposed to provide sanitary sewers to land uses defined in the Future Land Use Element, section 4.4.G.1., as commercial or higher intensity institutional (other) or industrial uses as well as residential development exceeding a density of two units per gross acre, or where lot sizes or other factors make septic tanks inappropriate;
- (3) The extension of service shall be made only after engineering and fiscal assessment of the optimum use of existing facilities and sanitary sewer systems; and
- (4) The orderly extension of sanitary sewer service and plant capacity expansion does not adversely impact the provision of service in the Urban Service District, does not promote urban sprawl, provides for the efficient use of land and maximizes the use of existing facilities. Such a finding shall be made upon a complete staff assessment.

g. *Policy:* Sanitary sewer lines may be extended from the Primary Urban Service District to serve the following facilities, as described within the Jonathan Dickinson State Park Unit Management Plan:

River Campground (45 sites);
Boat ramp restroom;
Dump station;
Picnic area restrooms (3);
Concession building;
Environmental education and research center;
Cabins (12);
Staff residences (3);
Boy Scout Camp facilities;
Girl Scout Camp facilities;
Pine Grove Campground;
Camp Pavilion;
Ranger Station; and
Administrative/Maintenance Complex.

SANITARY SEWER SERVICES ELEMENT

§ 10.4

wastewater plant by 50 percent. The cost of constructing the lines and plant must be certified by a Florida licensed engineer and approved by the County. For proposed developments outside the service area of a government-owned or investor-owned sewerage system, the nearest system shall be the system with collection and/or force mains closest to the property.

- (5) The developer provides:
 - (a) A design of the interim system acceptable to the County.
 - (b) A permit, if required, from the Florida Department of Environmental Regulation and any other agency with regulating powers over wastewater systems.
 - (c) An agreement that the developer or his successor in title shall connect to Martin County utilities, or such other utility system as the County may designate, within six months of the County's written demand to do so and to pay all then current capital facility charges and costs of connecting to the government-owned or investor-owned sewerage system. Demand to connect by the County may be made at any time when the lines of a government- or investor-owned utility are within 150 feet of the developer's property.
- (6) In no case shall an interim system be allowed within the primary urban service district unless a plan exists for extension of the regional system within 15 years. For the secondary urban service district, the County will adopt a policy which discourages the proliferation of interim package systems, contains criteria for approval of such systems which are more stringent than those criteria in the primary urban service district and does not require the County to connect such systems to central wastewater services where such connections would be inefficient or too costly.
- k. *Policy:* Package treatment plants shall be prohibited except within the:
 - (1) Primary and secondary urban service districts.
 - (2) Expressway Oriented Transient Commercial Service Center Districts.
 - (3) Reserved.
 - (4) Reserved.
 - (5) Seven Js Industrial Area.
- l. *Policy:* For privately-owned facilities, existing deficiencies that are threats to health and safety shall be corrected prior to development orders granted by the County allowing additional connections to the private systems. The determination of such threats will be coordinated with the DEP. The DEP will continue to take the lead role in inspection and reporting of deficiencies for private systems. Privately-owned systems must also demonstrate sufficient capacity to meet level of service (LOS) for proposed, committed and existing connections prior to development orders allowing additional connections.

§ 10.4 MARTIN COUNTY COMPREHENSIVE GROWTH MANAGEMENT PLAN

wastestreams prior to discharge to the public wastewater treatment facility. This program is necessary to ensure proper maintenance and operation of the facility and maintenance of effluent and sludge standards.

- j. *Policy:* In 1993, the County shall conduct a pilot program to determine the economic feasibility and business and public response to the conversion of dewatered sludge to compost and subsequent use as a soil amendment (e.g., fertilizer). This program should consider the dual benefits of reduction in landfill space and synthetic fertilizers needed.
 - k. *Policy:* Martin County shall use treated wastewater effluent for irrigation purposes. The County shall establish a percentage amount of the average daily current flow of effluent produced by all County-owned systems according to the following schedule for staged increased use of irrigation quality effluent:
 - 20 percent by 1995
 - 50 percent by 2000
 - 80 percent by 2005
 - l. *Policy:* Martin County shall investigate Federal or State grants and other revenue sources that will subsidize the cost of sanitary sewer services to existing areas that need such service.
3. *Objective.* Adopt the following criteria for the extension of necessary public facilities which maintain adopted level of service standards and promotes compact urban development.
- a. *Policy:* The extension of sanitary sewer lines and expansion of treatment plant capacity shall be based upon the projected demand for service as established in the Future Land Use Maps, Chapter 4. To assure consistency of efficient service provision with the established land use pattern, the following determinations must be made:
 - (1) The adopted level of service standards will be maintained and adequate capacity is available as determined by an analysis of the current and future population growth within the existing service area and the proposed area to be served;
 - (2) Extension of public sanitary sewer facilities shall be limited to those areas identified within the Future Land Use Element of this plan, as an established urban service district as shown on Figure 4-5, Urban Service Districts and as permitted in sections 4.4.G. and 4.5.A.2.e., CGMP;
 - (3) It would be practical, feasible and cost-efficient to provide the service in a longterm expansion program;
 - (4) Extension would be in the public interest;
 - (5) Priority shall be given to projects located within the Primary Urban Service District for provision of wastewater service; and

SANITARY SEWER SERVICES ELEMENT

§ 10.4

- (6) No extension of service within the Secondary Urban Service District shall occur without the approval of the Board of County Commissioners.
- b. *Policy:* Expansion of public service areas shall be based on ability to serve new customers in a cost-effective manner without jeopardizing levels of service for present and future customers within existing service areas.
- c. *Policy:* The County shall, through the Development Review Committee (DRC) and building permit process, ensure that adequate facility capacity exists, or will be provided, concurrent with development in order to maintain the level of service standards as specified in section 10.4.A.2.e. DRC staff will provide an analysis of facility capacity based on adopted levels of service and projected need as a result of the development activity.
- d. *Policy:* As part of the staff analysis and DRC process, additional considerations, such as possible limitations in water supply, related water quality problems and wastewater effluent or sludge disposal problems, shall be evaluated in reviewing future development proposals, including appropriate density allocations.
- e. *Policy:* All development within the County's sewer service areas shall donate needed sanitary sewer collection lines, all lift stations, force mains and appurtenances along with suitable easements. In addition, all development shall pay all applicable capital facility costs at the time service is provided by the County. This policy shall be implemented by:
- (1) The formation of special assessment districts;
 - (2) The execution of a standard developers agreement; or
 - (3) The execution of an interim agreement in accordance with Policy 10.4.A.1.i.
- f. *Policy:* If, at the time an owner of property requests the County to provide wastewater service to the owner's property, it is necessary to install a transmission line which will provide service to that owner's property, the County will allow a portion of the capital facility charge as a credit towards the transmission line construction.
- g. *Policy:* In order to encourage developers to provide sewer capacity in excess of their particular project's needs, the County shall consider cost recovery agreements. Cost recovery shall be considered if the construction of the facility has a cost in excess of the proportion of the capital facility charge to be credited to the developer. The owner and the County shall apply credit towards the capital facility charges (CFC) in accordance with the CFC credit policy in effect at the time.
- h. *Policy:* Wastewater system improvements shall be located, designed and installed in a manner which is cost-effective, functional, responsive to the specific waste water service needs of existing and planned future land uses within the service area and compatible with surrounding natural systems. The extension of wastewater mains shall be aligned and installed in a manner which prevents undue

POTABLE WATER SERVICES ELEMENT/WATER SUPPLY PLAN § 11.5

county jurisdiction of the SFWMD, as well as State standards. The SFWMD reported a 100 gpd per capita demand (utility provided) in their May, 1987, Martin County water resource assessment.

- (3) The minimum water delivery rate for any single fire hydrant shall be 500 gallons per minute. Additionally, the minimum pressure in any point within a water distribution system shall be 20 psi. Assuming a maximum day demand and commercial fire flow demands, the goal is 60 psi, at all times.
 - g. *Policy:* In order to ensure available capacity of the regional water system, Martin County shall begin design of essential improvements when the system reaches 70 percent of the total rated capacity. When the system reaches 80 percent of total rated capacity, construction shall begin and no additional reservations shall be made at 90 percent of rated capacity unless construction is underway. When the system reaches 100 percent of total rated capacity, no additional connections shall be made.
 - h. *Policy:* The County will monitor LOS standards for potable water service. The results shall be reported in the annual report on LOS for all County services. Level of service will be monitored by review of prior 12-month monthly operating reports as submitted to the FDEP. Existing plant capacities, less current flows, less equivalent residential connections reserved shall equal available capacity for new connections.
 - i. *Policy:* The Utilities Department shall review all development proposals, plans and specifications to ensure that water transmission systems meet County minimum standards, are consistent with the County's efforts at consolidation and do not reduce levels of service below acceptable levels. An increase in the land development fee may be proposed as part of the amended ordinance in order to provide for utilities review.
3. *Objective.* Establish criteria for the extension of necessary public facilities which maintain adopted level of service standards and discourage urban sprawl.
 - a. *Policy:* The extension of potable water lines and expansion of treatment plant capacity shall be based upon the projected demand for service as established in the Future Land Use Maps, Chapter 4. To assure consistency of efficient service provision with the established land use pattern, the following determinations must be made:
 - (1) The adopted level of service standards will be maintained and adequate capacity is available as determined by an analysis of the current and future population growth within the existing service area and the proposed area to be served;
 - (2) Extension of public potable water facilities shall be limited to those areas identified within the Future Land Use Element as an established urban service district as shown on Figure 4-5, Urban Service Districts and as permitted in sections 4.4.G. and 4.5.A.2.e., CGMP;
Editor's note—Figure 4-5 is on file in the office of the Martin County Growth Management Department.

§ 11.5 MARTIN COUNTY COMPREHENSIVE GROWTH MANAGEMENT PLAN

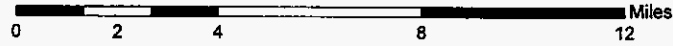
- (3) It would be practical, feasible and cost-efficient to provide the service in a long-term expansion program;
 - (4) Extension would be in the public interest;
 - (5) Priority shall be given to projects located within the Primary Urban Service District for provision of water service; and
 - (6) No extension of service within the Secondary Urban Service District shall occur without the approval of the Board of County Commissioners.
- b. *Policy:* Expansion of public service areas shall be based on ability to serve new customers in a cost-effective manner without jeopardizing levels of service for present and future customers within existing service areas.
 - c. *Policy:* The County shall ensure that adequate facility capacity exists or will be provided concurrent with development in order to maintain adopted level of service standards. DRC staff will provide an analysis of facility capacity based on adopted levels of service and projected need as a result of the development activity.
 - d. *Policy:* As part of the staff analysis, additional considerations, such as possible limitations in water supply and related water quality problems, shall be evaluated in reviewing future development proposals, including appropriate density allocations.
 - e. *Policy:* All development within established potable water service areas shall donate needed water distribution lines and pay all applicable capital facility costs at the time of service provision by the County. This policy shall be implemented by: a) the formation of special assessment districts; or b) the execution of a standard developers agreement; or c) the execution of an interim agreement in accordance with the Land Development Regulations of Martin County, Florida.
 - f. *Policy:* If, at the time an owner of property requests the County to provide water service to the owner's property, it is necessary to install a transmission line which will provide service to that owner's property, the County will allow a portion of the capital facility charge as a credit towards the transmission line construction.
 - g. *Policy:* In order to encourage developers to provide potable water capacity in excess of their particular project's needs, the County shall consider cost recovery agreements. Cost recovery shall be considered if the construction of the facility has a cost in excess of the proportion of the capital facility charge to be credited to the developer. The owner and the County shall apply credit towards the capital facility charges (CFC) in accordance with the CFC credit policy in effect at the time.
 - h. *Policy:* All public and private water system improvements shall be located, designed and installed in a manner which is cost-effective, functional, responsive to fire protection needs of existing and planned future development and compatible with surrounding natural systems. The extension of water mains shall be



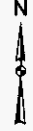
Martin County

Urban Service District - Figure 4-5

File Name: UrbanServiceDistrict.mxd
Created By: Brady Kasper (2080)
Print Date: Aug 11, 2008, Updated March 2, 2010

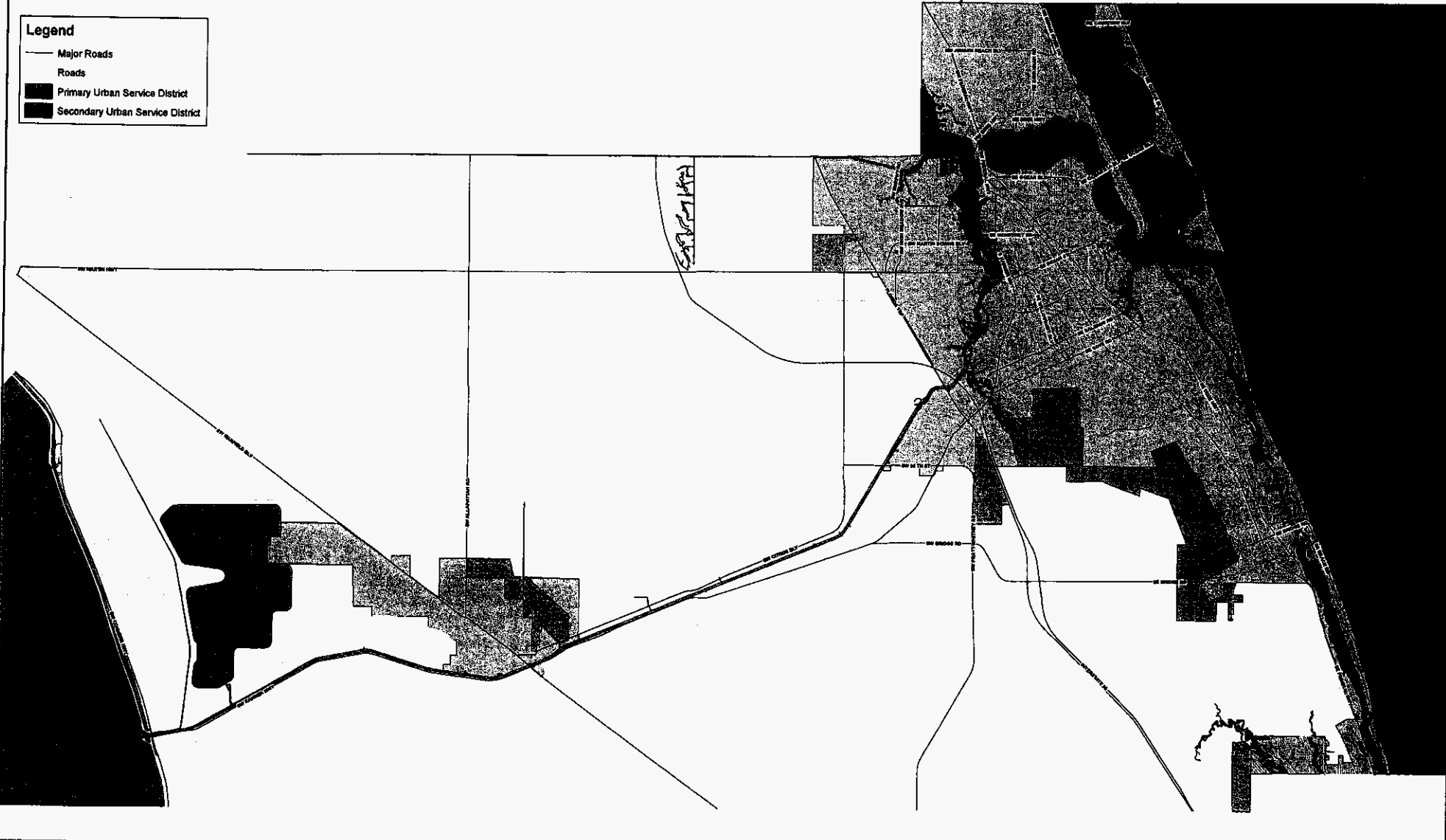


Disclaimer
The Geographic Information System Map Product, received from Martin County ("COUNTY") in fulfillment of a public records request is provided "as is" without warranty of any kind, and the COUNTY expressly disclaims all express and implied warranties, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The COUNTY does not warrant, guarantee, or make any representation regarding the use, or the results of the use, of the information provided to you by the COUNTY in terms of correctness, accuracy, reliability, timeliness or otherwise. The entire risk as to the results and performance of any information obtained from the COUNTY is entirely assumed by the recipient.



Legend

- Major Roads
- Roads
- Primary Urban Service District
- Secondary Urban Service District





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Bluefield Utilities
Exhibit NVV-3, Page 1 of 5

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

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Secretary

January 7, 2010

Ms. Patti Daniel
Public Utilities Supervisor
Bureau of Certification, Economics & Tariffs
Public Services Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: PSC Docket No. 090459-WS; Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Martin and St. Lucie Counties by Bluefield Utilities, LLC.

Dear Ms. Daniel:

Thank you for the opportunity to review the Bluefield Utilities, LLC application to the Public Service Commission for original certificates for proposed water and wastewater system and request for initial rates and charges in Martin and St. Lucie Counties. The service boundaries of the proposed utility include 2,325 acres in Martin County and 12,132 acres in St. Lucie County for a total of 14,457 acres. The service area is comprised of a scattered, disconnected pattern of sub-phases, ranging from a low of 81 acres for phase 3 in St. Lucie County to a high of 2,952 acres for phase 2 in St. Lucie County. The Future Land Use Map (FLUM) designation for all of the property is Agriculture, with a density of 1 unit per 20 acres in Martin County and 1 unit per 5 acres in St. Lucie County. The application focuses on the design capacity of the treatment plants and indicates that the utility could serve 2,259 single family homes. The Department of Community Affairs reviewed the application based on the need for service and consistency with the Comprehensive Plans of Martin and St. Lucie Counties.

The Department identified lack of need for service as an issue of concern. The proposed application for original certificates for proposed water and wastewater system and supporting information does not justify the need for the water and wastewater treatment facilities. The application packet included two letters, one from the President and one from the Vice President of Evans Properties, Incorporated. Both letters requested that Bluefield Utilities be allowed to provide potable water to properties owned by Evans Properties. In a letter from J. Emmett Evans, Vice President of Evans Properties, LLC included with the application, Mr. Evans identifies three offices, three shops, and a total of 13 employee houses that would benefit from the proposed service. In a letter from Ronald Edwards, President of Evans Properties, LLC is a statement "in addition to existing houses, shops and offices, that have a need for central service,

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EXHIBIT
NVV-3

FPSC-COMMISSION CLERK

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the need for higher intensity agricultural uses is evident as well as service for future planned development." No development plan is proposed and no land use changes have been submitted that justifies the need for central water and sewer service.

The Department identified urban sprawl as an issue of concern. Martin and St. Lucie Counties utilize an Urban Service District/Area, which is intended to preserve an efficient and compact land use pattern. While central potable water and sewer systems are needed to serve the higher densities and intensities of use located within an urban service area, these facilities are intended to serve a low density, rural pattern of development that permits 2,259 single family homes on 5 or 20 acre lots. The existing low density land uses do not justify the need for centralized water and sewer facilities and the location of these facilities will encourage premature urbanization of the rural area, thereby undermining the integrity of the urban service area and increasing the potential for sprawl patterns of development. The Bluefield Utilities proposal is therefore an inefficient use of infrastructure that would result in a premature conversion of agricultural land. The pertinent goals, objectives, and policies (GOPs) from each local government's comprehensive plans are discussed below. The GOPs were reviewed to evaluate the Bluefield Utilities application for consistency with the Martin and St. Lucie Counties comprehensive plans.

Martin County

The Martin County Comprehensive Plan Future Land Use Element includes Section 4.4.G to "encourage urban development in urban service areas"; Policy 4.4.G.1.c. "to limit development of a use or intensity that requires public services to be permitted only within the Primary Urban Services District"; Policy 4.4.G.1.d. "to discourage individual utilities and to prohibit package treatment plants outside the Primary and Secondary Urban Service Districts"; Policy 4.4.G.1.i. "limits the provision of public services outside the Primary and Secondary Urban Service Districts to improvements that are necessary to remedy an existing deficiency"; Policy 4.4.G.2.h.(6) "prohibits properties lying outside either the Primary or Secondary Urban Service Districts from receiving utility service from a regional wastewater system"; Section 4.5.G. "prohibits areas outside the Primary and Secondary Urban Services Districts from connecting to either a regional utility or an interim water system"; Section 4.4.L. "restricts the expansion of urban public facilities and services to the urban service districts designated within the Plan in order to preserve agricultural lands and provide farmers with the maximum protection from urban encroachment"; and Policy 4.6.E.2. "preserves agricultural lands by restricting the expansion of urban services to areas adjacent to urban cores".

The Martin County Comprehensive Plan Sanitary Sewer Services Element includes Policy 10.4.A.1.j. that "prohibits package treatment plants outside the Primary and Secondary Urban Service Districts". The Martin County Comprehensive Plan Potable Water Element includes Section 11.5.3.a. that "establishes criteria for the extension of public facilities that discourage urban sprawl by limiting the expansion of public utilities to only the areas identified

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in the Future Land Use Element of the Comprehensive Plan" the Martin County Comprehensive Plan Drainage and Natural Groundwater Aquifer Recharge Element includes Section 13.4.6.a. "that establishes criteria for the extension of public facilities that discourage urban sprawl by limiting the expansion of public utilities to only the areas identified in the Future Land Use Element of the Comprehensive Plan".

St. Lucie County

The St. Lucie County Comprehensive Plan Future Land Use Element includes Objective 1.1.2 that calls for a compatible and coordinated land use pattern which establishes agriculture as the primary use outside of the urban service boundary and promotes retention of agricultural activities; Policies 1.1.2.4 and 1.1.2.5 envision the management of growth within the agricultural land use category "through the orderly delivery of services concurrent with the impacts of development" which will occur in "a rational and orderly manner"; Policy 1.1.4.1 discourages "the conversion of property in the agricultural and suburban areas to higher intensity urban uses"; Objective 1.1.5 discourages "the proliferation of urban sprawl"; while Policy 1.1.7.1 "encourages innovative land use development patterns"; Objective 1.1.12 and Policy 1.1.12.1 restrict higher densities and intensities of development to urban service areas, where public facilities are available; and Policy 1.1.12.3 establishes criteria for the location of public facilities that have not been met. For example, public facilities must maximize the efficiency of services provided, minimize their cost, and minimize their impacts on the natural environment.

The St. Lucie County Comprehensive Potable Water and Sanitary Sewer Sub-Elements are essentially identical. Therefore, unless otherwise noted, the citations in this paragraph refer to both elements. The elements note at Objectives 6A.1.1 and 6D.1.1 that the County shall provide potable water and sanitary sewer facilities that do not promote urban sprawl. Policies 6A.1.1.1 and 6D.1.1.1 emphasize that service areas will be determined on the basis of economy and efficient operation but will not promote leapfrog development. Similarly, Policies 6A.1.1.1b and 6D.1.1.1b indicate that service will be provided to the urban service area in "the most cost effective and efficient" manner. Policies 6A.1.3.2, 6D.1.3.1, and 6D.1.3.2 establish the priority for capital improvements. Finally, Policy 6D.1.4.2 in the Sanitary Sewer Sub-Element establishes limits for the use of on-site wastewater treatment systems, but insufficient information is provided in the application to determine if the criteria are met.

Conclusion

In conclusion, the Bluefield Utilities application would promote urban sprawl. As described below, several observations can be drawn from the above review of the GOPs.

- * A land use pattern of one house per either five or twenty acres does not support the need for centralized facilities.

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- Additional urbanization is encouraged by siting urban infrastructure in a rural area, thereby undermining the integrity of the urban service area and increasing the potential for sprawl patterns of development.
- The installation of a central water and wastewater facility outside of the urban service area defeats the intent of policies that emphasize that urban uses are intended to be located within the urban service area, which contains the infrastructure needed to accommodate such development.
- The application is not associated with specific development plans that demonstrate that policies related to the form of development are met to justify centralized water and wastewater facilities.
- Creating an 14,457 acre service area in a rural, agricultural area does not establish an efficient potable water and sanitary sewer system that promotes orderly, compact growth and development. Instead, it will promote an urban sprawl pattern of development and the premature conversion of agricultural land.
- The application does not demonstrate whether it meets the criteria for evaluating and prioritizing capital projects.

Applying the criteria outlined in the above goals, objectives, and policies to the Bluefield Utilities application, the proposed creation of a new service area would contribute to urban sprawl type development pursuant to Rule 91-5.006(5)(g), F.A.C., because it "promotes, allows or designates for development substantial areas of the jurisdiction to develop...in excess of demonstrated need", would result in the "premature...conversion of rural land to other uses", will result in a "land use pattern or timing which will disproportionately increase the cost in time, money and energy, of providing...law enforcement, education, health care, fire and emergency response, and general government", "fails to provide a clear separation between urban and rural uses", "discourages or inhibits in-fill of existing neighborhoods and communities", and "results in the loss of significant amount of functional open space".

The proposed application for the expansion of the water and wastewater service area for the Bluefield Utilities did not include any data and analysis to demonstrate that the proposed service area expansion was needed to meet approved development. Nor was information provided to indicate that the anticipated development is needed to meet projected growth demands in the area and that existing development opportunities are unavailable to meet that anticipated growth. In the absence of this data and analysis, this new service area will promote inefficient urban sprawl patterns of development.

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We very much appreciate the opportunity to comment on this application. If you have any questions or need additional information, please call Laura Regalado, Community Planner, for assistance, at (850) 922-3762.

Sincerely,



Mike McDaniel, Chief
Office of Comprehensive Planning

MM/ima

cc: Michael Minton, Dean, Mead, Minton & Zwemer
Michael J. Busha, Executive Director, Treasure Coast Regional Planning Council
Nicki van Vorno, AICP, Growth Management Director, Martin County
Mark Satterlee, AICP, Director, St. Lucie County Growth Management Department