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STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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November 1, 2001

Mr. Bill Lowe, Assistant Division Director
Division of Regulatory Oversight
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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NOV 05 2001

Florida Public Service Commission
Division of Regulatory Oversight

Re: PSC Docket No. 011006-SU; Application By North Fort Myers Utility, Inc.
Amendment of Certification in Lee County

Dear Mr. Lowe:

The Department of Community Affairs has completed the review of the application by North Fort Myers Utility, Inc. to expand their certificated area in Lee County, Florida. The subject area is located east of Interstate 75 and west of U.S. 41, near Lee County's border with Charlotte County, specifically in Sections 4, 5, 6 and 7, Township 43 South, Range 24 East.

Summary of Review: The subject area is designated Open Lands in the Lee County's comprehensive plan (Lee Plan) which is considered non-urban as described by objective 1.4., of the Plan. This means that the area is not planned for urban development at this time. Open Lands is one of the least intensive land use designations in Lee County which allows one dwelling unit per ten acres (1 du/10 acres); except that a maximum density of one dwelling unit per five acres (1 du/5 acres) is permitted if the planned development process is used to prevent adverse impacts on environmentally sensitive lands. This subject area is extremely remote from public services and is characterized by agricultural and low-density residential uses.

The proposed expansion, if approved, has the potential to promote urban sprawl. The plan recognizes that the provision of infrastructure is one way of guiding development decisions. For example, Objective 2.3, Public Provision of Infrastructure, gives the highest priority to the planning, programming, and construction of urban services and facilities in the existing developed areas where facilities are inadequate and second priority to service expansions in existing developed areas, followed by further expansions into other portions of the Future Urban Areas. The Community Facilities and Services element of the plan provides similar guidance. For example, Lee Plan Goal 36: Sanitary Sewer Infrastructure, states that the County encourages

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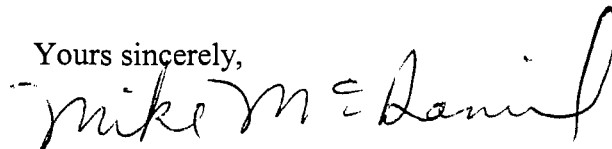
Mr. Bill Lowe, Assistant Division Director
November 1, 2001
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“the provision of sewer sanitary service and wastewater treatment and disposal throughout the future urban areas of the unincorporated areas.” Thus, the proposed expansion does not further the goals, objectives, and policies of the Lee Plan.

Lee County’s planning staff, in a letter of October 23, 2001, to the Department of Community Affairs (attached) is opposed to the proposed expansion for the reasons stated above. In addition, according to the County, all of section 7 and the west half of section 6 are contained in the Charlotte Harbor Flatwoods CARL Project Boundary which are relatively undisturbed forested pine flatwoods with agricultural zoning.

Thank you for the opportunity to review this proposal. If you have any questions concerning this matter, please call Bernard O. Piawah, Planning Manager, at (850) 922-1810.

Yours sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive style with a large, looping "M" and "D".

Mike McDaniel

Growth Management Administrator

MD/bp

Attachment

cc: Mr. Paul O'Connor, Lee County



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

October 23, 2001

Writer's Direct Dial Number: (941) 479-8309

Bob Janes
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Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

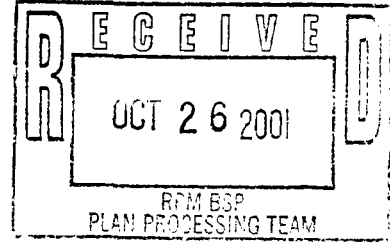
John E. Albion
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Donald D. Stilwell
County Manager

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County Attorney

Diana M. Parker
County Hearing Examiner

Bernard O. Piawah, Planning Manager
Department of Community Affairs
Division of Resource Planning and Management
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100



Dear Bernard:

It has come to my attention that the North Fort Myers Utility, Inc. has applied to the Florida Public Service Commission for an expansion of their service area. This expansion consists of two areas, one to the east of Interstate 75 and the other west of U.S. 41 near Lee County's border with Charlotte County. It is this latter expansion that is the subject of this letter. Planning staff is concerned that this expansion area, located in Sections 4, 5, 6 and 7, Township 43 South, Range 24 East, west of U.S. 41, is inconsistent with the provisions of the Lee County Comprehensive Plan, the Lee Plan.

The future land use designation of the properties in question is Open Lands. The Open Lands future land use category is considered a non-urban area, as described by Lee Plan Objective 1.4. As such these areas are "not anticipated for urban development at this time." Open Lands is one of the least intensive future land use designations and, as stated in the descriptor policy, "These areas are extremely remote from public services and are characterized by agricultural and low-density residential uses." The policy then states the allowable density in these areas "is one dwelling unit per ten acres (1 du/10 acres); except that a maximum density of one dwelling unit per five acres (1 du/5 acres) is permitted if the planned development process is used to prevent adverse impacts on environmentally sensitive lands."

One central tenant of the Lee Plan is to contain urban sprawl. The plan recognizes that the provision of infrastructure is one way of guiding development decisions. For example, Objective 2.3, Public Provision of Infrastructure, gives the highest priority to the planning, programming, and construction of urban services and facilities in the existing developed areas where facilities are inadequate and second priority to service expansions in existing developed areas, followed by further expansions into other portions of the Future Urban Areas. The Community Facilities and Services element of the plan provides similar guidance. For example, Lee Plan Goal 36: Sanitary Sewer Infrastructure, states that the County encourages "the provision of sewer sanitary service and wastewater treatment and disposal throughout the future urban areas of the unincorporated areas."

While the Lee Plan does not expressly prohibit the extension of a utility's franchise area into non-urban areas it is the County's policy that sewer service not be provided within these areas of the County.

In addition, all of section 7 and the west half of section 6 are contained in the Charlotte Harbor Flatwoods CARL Project Boundary. All of these lands are relatively undisturbed forested pine flatwoods with agricultural zoning.

If I can be of further assistance in this matter, do not hesitate to call me at the phone number listed above.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT



Paul O'Connor, AICP
Director of Planning

*cc: Mary Gibbs, AICP, Community Development Director
David Owen, Assistant County Attorney
Rick Diaz, Director of Utilities*