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STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

May 4, 2007

RECEIVED 0900
07 MAY 10 AM 9:03
COMMISSION
CLERK

Ms. Ann Cole, Commission Clerk
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850


RE: PSC Docket No. 070109-WS; Application for Amendment of Certificates Nos. 611-W and 527-S to extend water and wastewater service area in Charlotte County by MSM Utilities, LLC.

Dear Ms. Cole:

The Department of Community Affairs ("Department") has completed its review of the MSM Utilities, LLC application to the Florida Public Service Commission for an expansion of its water and wastewater service area in Charlotte County. The Department evaluated the proposed utility service extension for compliance with the Charlotte County Comprehensive Plan.

Growth management concerns, related to consistency with the Charlotte County Comprehensive Plan, have been identified by the Department. The proposed service area is located beyond the designated Urban Service Boundary. Therefore, the extension of utilities to this location is inconsistent with the Charlotte County Comprehensive Plan.

Attached, for your consideration, is the staff memorandum reviewing the proposed utility service. If you have any questions, please contact Suzanne K. Lex, Community Planner, at (850)-922-0047.

Sincerely,

Mike McDaniel, Chief
Office of Comprehensive Planning

Attachment: Staff Memorandum PSC Review MSM Utilities

MM/skl

Cc: Tom Scott, Planner III, Charlotte County Community Development Department

DOCUMENT NUMBER-DATE
03902 MAY 10 8
FPSC-COMMISSION CLERK



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
 Governor

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 Secretary

MEMORANDUM

TO: Mike McDaniel, Chief, Office of Comprehensive Planning *MDM*

THROUGH: *Bill Pable*, AICP, Regional Planning Administrator

FROM: Suzanne K. Lex, Community Planner *SKL*

RE: Public Service Commission Utilities Expansion Application
 MSM Utilities, LLC (Charlotte County) PSC Docket No. 070109-WS

DATE: May 1, 2007

Background:

MSM Utilities, LLC has applied to the Public Service Commission to extend water and wastewater utilities in the northern part of Charlotte County. The applicant states there is an immediate and growing need for potable water and wastewater service in the proposed service territory. The land within the proposed service territory is adjacent to US 17, and *is contiguous but outside of the northern boundaries* of the Charlotte County Urban Service Area. Currently, in this area, roadway improvements are underway to widen US 17 from a two-lane to a four-lane highway. It is anticipated that the need for the utilities will be generated from the increased commercial, residential and industrial development that will accompany the roadway improvements generating infill into this area.

The application states the extension will initially serve 250 to 500 water Equivalent Residential Connections (ERCs). In the application, the utility states they have both the financial and technical ability to render reasonably sufficient, adequate, efficient service.

The County's adopted Evaluation and Appraisal Report (EAR) states the County will revise their Infrastructure Element to include a 10 year work plan for the building of water supply facilities that may be identified by Charlotte County Utilities. This is not an area which Charlotte County Utilities had identified to expand service, and the County has objected to an incremental expansion of the Urban Service Boundary. The County wants to encourage development of higher density, residential, commercial and industrial uses to be directed so that

2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100
 Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
 Internet address: <http://www.dca.state.fl.us>

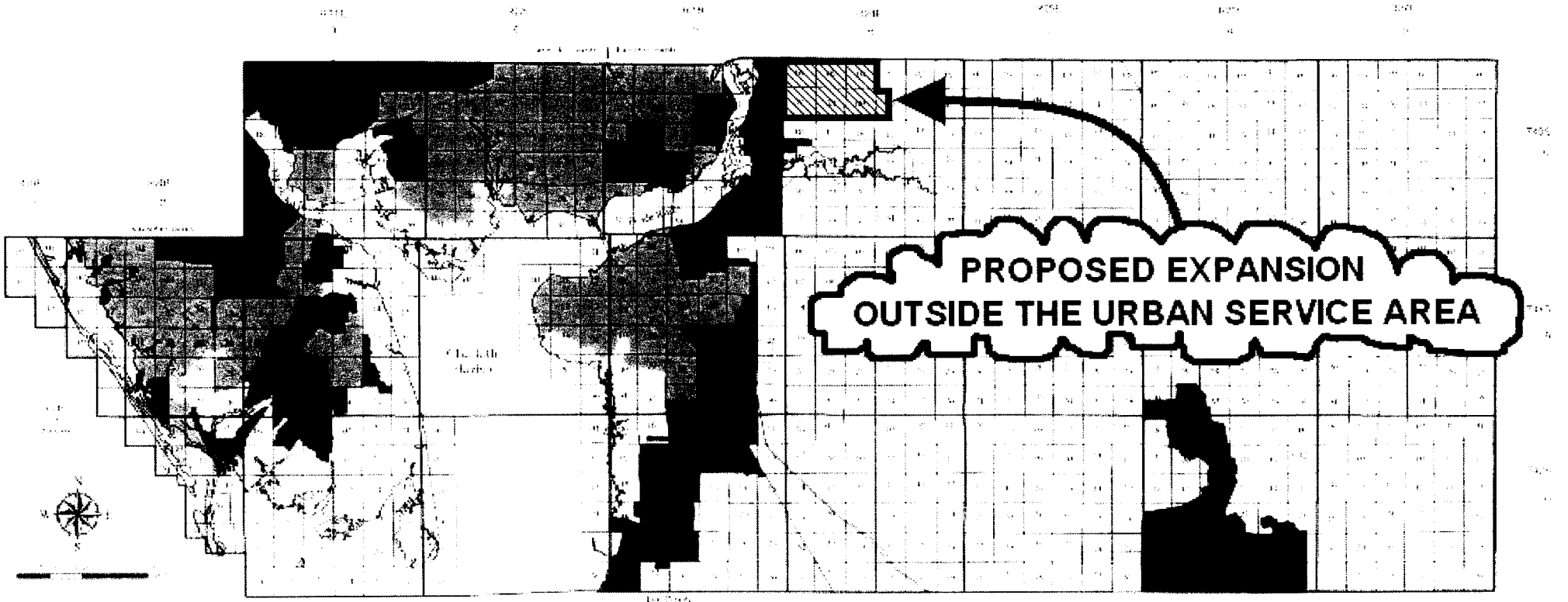
at such time as public facilities may be provided they can be done so in an efficient and economical manner. The expansion of services outside the designated service area is not consistent with the County's Comprehensive Plan.


Conclusion:

Staff has identified several growth management issues related to the County's Comprehensive Plan and proposed service area, as this expansion of services is not contemplated by Charlotte County Utilities. Although the current application is based on 250-500 ERCs to serve the area, the application contemplates future unspecified development. Given that this area is not targeted for infill and development as part of the Urban Service Area, and the lack of infrastructure within the development area, I recommend that the Department object to this proposed utility service area.



Urban Service Area Overlay



 Infill Area

Infill Areas are those areas which have already experienced development or are scheduled for future development. In order for an area to be designated as Infill, it must have a relatively high population density, a high density of existing infrastructure and infrastructure are concentrated within these areas, and include central potable water and wastewater treatment, road and drainage construction and maintenance, public education facilities, police, fire, and higher level emergency and emergency medical services.

 Suburban Area

Suburban Areas are for the most part, undeveloped, platted lands and parcels, however, they are scattered homes and businesses located in the Urban Service Area with a population density as low as planned to be. Because the majority of development is concentrated in Infill Areas, these Infill Areas become more fully developed, and will exist for additional developable land that need will be filled by subdividing land located in Suburban Areas as Infill Areas.



"Scott, Tom"
<Tom.Scott@charlottefl.com>

04/26/2007 03:43 PM

To <Suzanne.Lex@dca.state.fl.us>

cc "Burton, Marty" <Marty.Burton@charlottefl.com>, "Kesner, Terri" <Terri.Kesner@charlottefl.com>, "Pearson, Jeff" <Jeff.Pearson@charlottefl.com>, "Brown, Bob"

bcc

Subject MSM Proposed Utility Area Overlaid on the Urban Service Area Map (Charlotte County)

Suzanne,

Per your request, I am providing you with a map of the proposed MSM utilities certificated area overlaid onto our existing Urban Service Area Map.

As we discussed, the proposed expansion is *outside* both the Infill Areas and Suburban Areas of our Urban Service Area.

Please don't hesitate to contact me should you need anything more.

Regards

Tom Scott

Planner III

Phone: 941-764-4152

Email: tom.scott@charlottefl.com

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.



***** MSM & USA Overlay.JPG

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**STATE OF FLORIDA
BEFORE THE PUBLIC SERVICE COMMISSION**

**In re: APPLICATION OF MSM UTILITIES, LLC,
FOR AMENDMENT OF CERTIFICATES
611-W AND 527-S TO EXTEND WATER AND
WASTEWATER SERVICE AREAS TO INCLUDE
CERTAIN LAND IN CHARLOTTE COUNTY**

Docket No. 070109

**OBJECTION OF THE BOARD OF COUNTY COMMISSIONERS OF
CHARLOTTE COUNTY, FLORIDA, TO THE APPLICATION OF MSM
UTILITIES, LLC, FOR AMENDMENT OF CERTS 611-W AND 527-S
TO EXTEND WATER AND WASTEWATER SERVICES AREAS TO
INCLUDE CERTAIN LAND IN CHARLOTTE COUNTY AND
REQUEST FOR FORMAL HEARING.**

The BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, (hereinafter referred to as the "Board"), hereby files this Objection to the Application of MSM Utilities, LLC, (hereinafter referred to as "Applicant"), for an Amendment of Certificates 611-W and 527-S to extend certain land in Charlotte County and Request for Formal Hearing, and states that:

1. This objection relates to the Application of MSM Utilities, LLC for an Amendment of Certificates 611-W and 527-S to extend certain land in Charlotte County filed February 8, 2007 (hereinafter referred to as the "Application").

2. The Board is the governing body of Charlotte County, Florida, a county affected by the Application.

3. This Objection has been timely filed for purposes of the Board requesting a public hearing on the Application, pursuant to Section 367.045(4), Florida Statutes, in that 30 days has not passed since the mailing of actual notice or publication of the Application to the Board.

4. The Board raises the following objections to the Application filed by Applicant:

- a. The Board and the citizens of Charlotte County would be "substantially affected" by the requested service area extension, as defined by Section 367.045(4), Florida Statutes.
- b. The water and wastewater service area expansion proposed by Applicant represents an illegal encroachment into Charlotte County's utility service area, in that it would extend Applicant's certificated service area into Charlotte County Water and Sewer District No. 2, established by the Board in Resolution No. 2003-190 pursuant to its power as a home rule county and Chapter 153.08, Florida Statutes.
- c. In addition, the Application for extension of water and wastewater service areas is inconsistent with Charlotte County's Comprehensive Plan which provides that planning for extension of potable water and sanitary sewer will influence new development:

"Planning for the extension of these services should therefore be considered an integral part of Charlotte County's Urban Service Area strategy identified in the Future Land Use Element."

Charlotte County Comprehensive Plan 1997 – 2010, Chapter 4. Infrastructure Element, p. 4-102

- d. The planned expansion areas are outside of the County's Urban Service Area, thus constituting urban sprawl:

"New Facilities will be located within previously developed or developing urban areas to discourage urban sprawl"

Charlotte County Comprehensive Plan 1997 – 2010, Chapter 4. Infrastructure Element, p. 4-121

- e. Granting of the proposed expansion would weaken the effectiveness of Charlotte County's planning and guidelines for future development and growth consistent with the Comprehensive Plan adopted by the Board of County Commissioners.
5. Wherefore, the Board requests the following relief:
- a. That the Public Service Commission deny the Application;
 - b. That a copy of the Application, and all supporting documents, be forwarded to the Board, c/o Bruce Loucks, Charlotte County Administrator, 18500 Murdock Circle, Port Charlotte, Florida 33948-1094;
 - c. That pursuant to Rule 25-22.029, F.A.C., the Public Service Commission issue a Notice of Proposed Agency Action concerning the Application; and
 - d. If necessary, the Public Service Commission hold a public hearing on the Application in order that the Board may protect the citizens of Charlotte County, such public hearing to be in Charlotte County, Florida, pursuant to Section 367.045(4), Florida Statutes.

Respectfully submitted,

Martha Young Burton
Assistant County Attorney
Fla. Bar #398179
Attorney for Charlotte County, Florida
Charlotte County Attorney's Office
18500 Murdock Circle
Port Charlotte, FL 33948-1094
(941) 743-1330

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon the attached Service List by Overnight Federal Express Mail to Ann Cole and Robert C. Brannan, Esq. and by U.S. Mail to Ralph Jaeger, Esq., and MSM Utilities, LLC, this 15th day of March, 2007.

Martha Young Burton

SERVICE LIST

Ms. Ann Cole, Chief
Division of Records and Reporting
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Ralph Jaeger, Esq.
General Counsel Office
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

MSM Utilities, LLC
5660 Bayshore Road, Suite 36
North Fort Myers, FL 33917-3046

Robert C. Brannan, Esq.
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pine Drive
Tallahassee, FL 32301

**STATE OF FLORIDA
BEFORE THE PUBLIC SERVICE COMMISSION**

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Martha Young Burton
Assistant County Attorney
Fla. Bar #398179
Attorney for Charlotte County, Florida
Charlotte County Attorney's Office
18500 Murdock Circle
Port Charlotte, FL 33948-1094
(941) 743-1330

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I hereby certify that a true and correct copy of the foregoing was served upon the attached Service List by Overnight Federal Express Mail to Ann Cole and Robert C. Brannan, Esq. and by U.S. Mail to Ralph Jaeger, Esq., and MSM Utilities, LLC, this 15th day of March, 2007.

Martha Young Burton

SERVICE LIST

Ms. Ann Cole, Chief
Division of Records and Reporting
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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General Counsel Office
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5660 Bayshore Road, Suite 36
North Fort Myers, FL 33917-3046

Robert C. Brannan, Esq.
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pine Drive
Tallahassee, FL 32301

DATE

FILE NOTES

MSM Utility

4/26

Plassee in Community
Tom Scott -> County objection

Not consistent -> finding not in
compliance with Comprehensive
Plan

Map accurate rep. of area -

Finding & letter from Charlotte County

Spoke with Tom Walder on April 22, 2007
about an extension until week of 4/30/07.
Wanted to investigate further.