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DATE: January 12, 2010
TO: Dorothy E. Menasco, Chief Deputy Commission Clerk, Office of Commission Clerk
FROM: Patricia Brady, Regulatory Analyst IV, Division of Economic Regulation *pb*
RE: Docket No. 090445-WS, Application for original certificates for proposed water and wastewater system in Indian River, Okeechobee, and St. Lucie Counties by Grove Land Utilities, LLC

Please add the attached e-mail letter dated January 7, 2010, from Mike McDaniel on behalf of the Department of Community Affairs (DCA), to Patti Daniel, Commission staff. The attachment is in response to Patti Daniel's November 12, 2009, request for DCA's comments with regard to the above referenced docket. Thank you.

Attachment

cc: Robert Simpson, ECR
Ralph Jaeger, GCL

DOCUMENT NUMBER-DATE
00294 JAN 13 2
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STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
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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. 090445-WS, Application for Original Certificates for Proposed Water and Wastewater System in Indian River, Okeechobee, and St. Lucie Counties by Grove Land Utilities, LLC

Dear Ms. Daniel:

The Department completed its review of the Grove Land Utilities, LLC application to the Public Service Commission for original certificates for a proposed water and wastewater system in Indian River, Okeechobee, and St. Lucie Counties. The service boundaries of the proposed utility includes 5,628 acres in northeast Okeechobee County, 3,823 acres in southwest Indian River County, and 1,757 acres in northwest St. Lucie County for a total of 11,208 acres. The service area is comprised of a scattered, disconnected pattern of parcels, ranging from a low of 431 acres for phase 1 in St. Lucie County to a high of 3,232 acres for phase 2 in Okeechobee County. The Future Land Use Map (FLUM) designation for all of the property is Agriculture, with a density of 1 unit per 10 acres in Okeechobee and Indian River Counties, 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 1,295 single family homes, which is consistent with the maximum density permitted by the FLUM designation for the properties.

The Department identified urban sprawl as an issue of concern. Indian River and St. Lucie Counties utilize an urban service area which is intended to preserve an efficient and compact land use pattern. Okeechobee County utilizes urban FLUM designations which direct the location of urban uses. 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 1,295 single family homes on 5 or 10 acre lots. The existing low density land use 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 Grove Land Utilities proposal is therefore an inefficient use of infrastructure that would result in a premature

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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 Grove Land Utilities application for consistency with these comprehensive plans.

Okeechobee County

Future Land Use Element (FLUE) Objective L1 notes that the Future Land Use designations are intended to "encourage an efficient pattern of development and discourage sprawl." Several GOPs emphasize that urban uses are intended to be located within FLUM categories that support urban uses and that contain the infrastructure needed to accommodate such development (see FLUE Objective L7 and FLUE Policy L1.1, L1.2, L1.8, L1.11, L2.1, L7.1, and L10.1). FLUE Policy L1.10 notes that the Agriculture FLUM designation protects agricultural land, identifies land that is not needed to serve projected growth, has minimal road access, has no public sewer or water service, and is intended to be held in reserve for future needs. FLUE Policy L4.1 emphasizes redevelopment and renewal. Similarly, FLUE Objective L10 and FLUE Policy L7.4 promote innovative land development techniques to use public facilities in the most efficient manner possible.

Infrastructure Policy S2.2 and Capital Improvements Element (CIE) Policy F1.4 provide criteria for evaluating and prioritizing capital projects. Based on the information in the application, it cannot be determined whether these criteria have been met. For example, both policies place first priority on projects needed for public health and safety, then on projects which increase efficiency, and finally on projects which are logical facility extensions. Also, Objective S3 notes that the County will work with utility providers to increase the availability of public supply potable water and sanitary sewer facilities in urbanized and urbanizing areas of the county. The Capital Improvements Element also addresses infrastructure at CIE Goal F, which states that the County will provide public facilities "in a manner which protects investments in existing facilities, maximizes the use of existing facilities, and promotes orderly growth."

Indian River County

FLUE Objective 1 notes that the County will "have an efficient and compact land use pattern". Several GOPs emphasize that urban uses are intended to be located within the urban service area, which contains the infrastructure needed to accommodate such development (see FLUE Goal 1, FLUE Objectives 1 and 2, as well as FLUE Policies 1.11, 1.13, 1.15, 2.1, 2.2, and 2.3). FLUE Objective 4 and its policies encourage the concentration of urban uses, thereby discouraging sprawl and encouraging infill and redevelopment. FLUE Policy 6.1 notes that the County will "...not provide public services or facilities which would induce or encourage the development of agriculturally designated lands except..." for health and safety, agriculture planned developments, and other similar forms of development.

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GOPs in the Potable Water and Sanitary Sewer Sub-Elements are essentially identical. Therefore, the following citations refer to both elements. Goal 1 calls for an efficient potable water/sanitary sewer system that prevents degradation of existing resources, promotes orderly growth and development, and meets existing and projected demands. Policy 2.4 notes that the county shall provide service to areas determined to be a public health threat. Policies 5.2 and 5.7 (Policy 5.8 in the Sanitary Sewer Sub-Element) establish the criteria for evaluating and prioritizing capital projects. Based on the information in the application, it cannot be determined whether these criteria have been met. For example, Policy 5.2 in both elements places first priority on projects needed for public health and safety, then on projects which increase efficiency, and finally on projects which are logical facility extensions. Similarly, Policies 5.7 and 5.8 provide further evaluation criteria regarding location of facilities. Finally, Policy 6.1 notes that privately owned public water treatment plants or package treatment plants shall be allowed in areas of development outside of the Urban Service Area when such development meets the criteria of policies of the Future Land Use Element for... clustering of residential development within agricultural areas."

St. Lucie County

Several GOPs emphasize that urban uses are intended to be located within the urban service area, which contains the infrastructure needed to accommodate such development (see FLUE Objectives 1.1.1 and 1.1.7, and Policies 1.1.1.1, 1.1.5.1, 1.1.5.9, and 1.1.5.10). FLUE Objective 1.1.2 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." Likewise, FLUE 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". Also, FLUE Policy 1.1.4.1 discourages "the conversion of property in the agricultural and suburban areas to higher intensity urban uses". FLUE Objective 1.1.5 discourages "the proliferation of urban sprawl", while FLUE Policy 1.1.7.1 encourages innovative land use development patterns. Similarly, FLUE Objective 1.1.12 and FLUE Policy 1.1.12.1 restrict higher densities and intensities of development to urban service areas, where public facilities are available. FLUE 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.

GOPs in the Potable Water and Sanitary Sewer Sub-Elements are essentially identical. Therefore, unless otherwise noted, the citations in the paragraph below 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 6.A.1.1.1 and 6.D.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

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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 Grove Land 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 ten acres does not support the need for centralized facilities.
- 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 11,208 acre service area in a rural, agriculture 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.

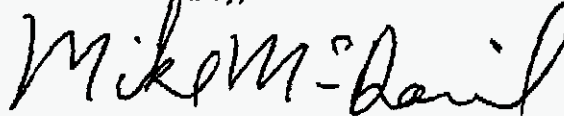
Applying the criteria outlined in the above goals, objectives, and policies to the Grove Land Utilities application, the proposed creation of a new service area would contribute to urban sprawl type development pursuant to Rule 9J-5.006(5)(g), F.A.C., because it "promotes, allows or designates for development 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".

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The proposed application for the expansion of the water and wastewater service area for the Grove Land 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, the new service area will promote inefficient urban sprawl patterns of development.

We very much appreciate the opportunity to comment on this application. If you have any questions or need additional information, please call Bill Pable, AICP, for assistance, at (850) 922-1781.

Sincerely,



Mike M. Daniel, Chief
Office of Comprehensive Planning

MM/bp

cc: Michael Minton, Dean, Mead, Minton & Zwemer
Patricia M. Steed, Executive Director, Central Florida Regional Planning Council
Michael J. Busha, Executive Director, Treasure Coast Regional Planning Council
Bill Royce, Director, Okeechobee County Planning Department
Bob Keating, Director, Indian River County Community Development Department
Mark Satterlee, AICP, Director, St. Lucie County Growth Management Department