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October 26, 2007

VIA HAND DELIVERY

Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED
07 OCT 26 PM 1:41
COMMISSION
CLERK

Re: PSC Docket 070109-WS; In re: Application for amendment of Certificates 611-W and 527-S to extend water and wastewater service areas to include certain land in Charlotte County by Sun River Utilities, Inc. (f/k/a MSM Utilities, LLC).

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket is the original and fifteen (15) copies of the Notice of Filing of the Direct Testimony of Jeffrey C. Ruggieri, on behalf of Charlotte County, Florida.

- CMP _____
- COM 3 _____
- CTR 1 _____
- ECR 1 _____
- GCL 1 _____
- OPC _____
- RCA _____
- SCR _____
- SGA _____
- SEC _____
- OTH _____

Enclosures
cc: Martin S. Friedman (by U.S. Mail)
Ralph Jaeger (by hand delivery)
Martha Young Burton (by U.S. Mail)

Sincerely,

AKERMAN SENTERFITT

Todd D. Engelhardt

DOCUMENT NUMBER-DATE

09784 OCT 26 08

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for amendment of
Certificates 611-W and 527-S to extend
water and wastewater service areas to
include certain land in Charlotte County,
Florida by Sun River Utilities, Inc. (f/k/a
MSM Utilities, LLC)

Docket No. 070109WS

NOTICE OF FILING

Applicant, Charlotte County, by and through its undersigned attorneys, hereby gives notice of filing in the above-referenced docket the Prefiled Direct Testimony of Jeffrey C. Ruggieri, on behalf of Charlotte County, Florida.

Respectfully submitted this 26th day of October, 2007



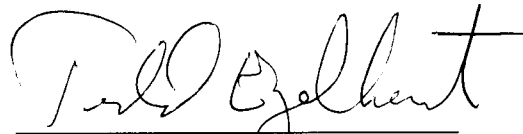
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106 East College Avenue, Suite 1200
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Attorneys for Charlotte County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Charlotte County's Notice of Filing has been furnished by U.S. Mail to the following on the 26th day of October, 2007:

Martin S. Friedman, Esq.
Robert C. Brannan, Esq.
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
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Phone: 850-877-6555
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Office of General Counsel
Florida Public Service Commission
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Todd D. Engelhardt

09784 OCT 26 5

FPSC-COMMISSION CLERK

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DIRECT TESTIMONY OF JEFF RUGGIERI
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
ON BEHALF OF
CHARLOTTE COUNTY, FLORIDA
DOCKET NO. 070109-WS

DOCUMENT NUMBER-DATE
09784 OCT 26 5
FPSC-COMMISSION CLERK

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.
2 A. Jeffrey C Ruggieri, Charlotte County, 1800 Murdock Circle Room 201B, Port
3 Charlotte FL, 33948.
4 Q. BY WHOM ARE YOU EMPLOYED AND WHAT POSITION DO YOU
5 HOLD?
6 A. I am employed by the Charlotte County BCC as the Planning Services Manager.
7 Q. PLEASE DESCRIBE YOUR DUTIES AND RESPONSIBILITIES IN THAT
8 POSITION.
9 A. Management of current and long range planning staff and department, including:
10 administration, interpretation and amendment of the Charlotte County
11 Comprehensive Plan; also, through the County Zoning Official, administration,
12 interpretation and amendment of the Charlotte County Zoning Atlas.
13 Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL
14 EXPERIENCE.
15 A. I have a Bachelor's Degree in Marine Affairs from the University of Rhode Island
16 (1992), and a Masters Degree in City Planning from the Georgia Institute of
17 Technology (1999). I have approximately ten years of professional experience in
18 land development and current/long range planning from both the public and private
19 sectors.
20 Q. ARE YOU SPONSORING AN EXHIBIT IN THIS CASE?
21 A. Yes, I am sponsoring Exhibit No. JCR-1, which consists of the Objective 2.7; Policies
22 1.1.10, 1.3.1, 1.4.5, 2.2.22, 2.7.1, 2.7.10 of the Future Land Use Element and Policies
23 9.1.1 and 9.1.4 of the Potable Water and Sanitary Sewer Element of the Charlotte
24 County Comprehensive Plan.

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Q. FROM CHARLOTTE COUNTY'S PERSPECTIVE, WHY IS THE PLANNING FOR EXTENSION OF WATER AND WASTEWATER SERVICE SO CRITICAL TO THE GROWTH MANAGEMENT OBJECTIVES CONTAINED IN THE COUNTY'S COMPREHENSIVE PLAN?

A. The over-platting of land has made achieving growth management objectives very difficult. For the most part, development has followed the extension of potable water lines in Charlotte County. Therefore, the provision of infrastructure appears to be the most effective tool for directing where, when, and at what intensity development will proceed. The growth management strategy within the comprehensive plan utilizes the provision of infrastructure as the primary tool for managing growth and development in Charlotte County. It is referred to as the Urban Service Area strategy.

Q. PLEASE EXPLAIN HOW THE URBAN SERVICE AREA STRATEGY IS USED TO MANAGE GROWTH AND DEVELOPMENT WITHIN THE COUNTY.

A. Urban service areas are locations within Charlotte County representing an outer limit for areas that will receive higher levels of publicly funded infrastructure and services within the comprehensive plan's period until 2020. The Urban Service Area Overlay District corresponds to the land area needed to support the county's population as projected in the year 2020. In this manner, the Urban Service Area strategy serves as the technique by which land uses are allocated in the Comprehensive Plan.

Specific criteria are needed for evaluating and determining the proper time and location to adjust the urban service area. As mandated by the Comprehensive Plan, the following information should be evaluated when making decisions regarding adjustments to the urban service area:

- 1 (1) Percentage of buildout including analysis of density and intensity. Has the
2 Planning Analysis Zone (PAZ) reached the density threshold for
3 reclassification? Will the development intensity impact adjoining PAZs?
- 4 (2) Established growth patterns. Will adjustment represent a sequential growth
5 pattern?
- 6 (3) Location in proximity to existing urban infrastructure and services. Is the
7 adjacent PAZ being developed or has it received substantial development?
8 Where are existing infrastructure and services and can they be extended
9 efficiently?
- 10 (4) Development trends. What trends have occurred in the surrounding area in
11 the last several years? Do they warrant a change?
- 12 (5) Population projections. Is there enough land for development to meet the
13 needs of the future population? Does the county wish to channel growth in a
14 certain direction?
- 15 (6) Infrastructure funding. How will infrastructure be funded? Is there sufficient
16 funding to support development within the PAZ? How much funding is
17 needed?
- 18 (7) Concurrency. Are concurrency levels being met in developing areas prior to
19 designating more locations for development? How will this adjustment affect
20 concurrency in the surrounding PAZs? How will levels of service be
21 maintained?
- 22 (8) Geographic features. Are there geographic features, such as water or publicly
23 owned lands that prevent adjustments in this location?
- 24 (9) United States Census data and locally generated demographic information.
25 Do demographic data indicate that adjustments need to be made to sub-areas?

1 (10) Data and analysis provided for the local area market condition (such as real
2 estate and development trends or market research information).

3 Utility providers are encouraged not to extend services outside the Urban Service
4 Area Overlay District boundary, and new certifications should not be permitted
5 outside the boundary. Exceptions should only be made for self-supporting
6 developments, such as Developments of Regional Impact or for proposals that meet
7 the standards for "new towns" as defined by Chapter 163, Part II, Florida Statutes and
8 Rule 9J-5, Florida Administrative Code.

9 **Q. ARE YOU FAMILIAR WITH THE TERRITORY THAT SUN RIVER
10 UTILITIES, INC. IS REQUESTING TO BE ADDED TO THEIR PSC
11 CERTIFICATED TERRITORY IN THIS PROCEEDING?**

12 A. Yes, I am familiar with area.

13 **Q. WHERE IS THE PROPOSED TERRITORY LOCATED AND WHAT IS THE
14 LAND USE DESIGNATION FOR THIS TERRITORY IN THE COUNTY'S
15 COMPREHENSIVE PLAN?**

16 A. The area is located in Rural Service Area of West County and outside the Urban
17 Service Area. The proposed extension area is currently zoned Agricultural Estates
18 (AE) and has a Future Land Use category of Agriculture. Currently the land is
19 entitled to develop at one unit per 10 acres

20 **Q. DOES THE PROVISION OF WATER AND WASTEWATER SERVICE TO
21 THE TERRITORY SUN RIVER PROPOSES TO SERVICE CONSTITUTE
22 URBAN SPRAWL?**

23 A. Rule 9J-5.003(134)(c), Florida Administrative Code, characterizes "urban sprawl", in
24 part, as "The creation of areas of urban development or uses which fail to maximize
25 the use of existing public facilities or the use of areas within which public services are

1 currently provided." Adding the provision of water and wastewater service to the
2 territory Sun River utilities proposes to service would constitute urban sprawl.
3 Expanding the utility service to areas outside of the county's urban service area
4 would promote additional development in excess of demonstrated need to substantial
5 areas of rural Charlotte County. Furthermore, the expansion of Sun River's
6 certificated area would fail to maximize existing and future public facilities and
7 services. Finally, the expansion would allow for land use patterns which would
8 disproportionately increase the cost in time, money, and energy, of providing and
9 maintaining facilities and services, including roads, potable water, sanitary sewer,
10 storm water management, law enforcement, education, health care, fire and
11 emergency response and general government.

12 **Q. DO YOU HAVE AN OPINION AS TO WHETHER THE SUN RIVER**
13 **PROPOSED EXTENSION OF ITS SERVICE TERRITORY IS**
14 **INCONSISTENT WITH CHARLOTTE COUNTY'S COMPREHENSIVE**
15 **PLAN?**

16 A. It is very clear that the proposed Sun River extension is inconsistent with the
17 applicable Goals, Objectives, and policies of Charlotte County's Comprehensive
18 Plan.

19 **Q. WOULD YOU GIVE THE REASONS FOR YOUR OPINION?**

20 A. As previously explained, the County's primary growth management tool is an urban
21 service area strategy that uses public infrastructure and services as a means for
22 directing the timing, location, and intensity of development. The comprehensive plan
23 is very clear in its intention that the conversion of agricultural lands to more intensive
24 uses must occur in accordance with either the Urban Service Area Strategy, Rural
25 Community concept, New Community concept, or Development of Regional Impact

1 process. At this point Sun River has neither submitted the required information for
2 amendment of the Urban Service Boundary as required by the comprehensive plan
3 nor submitted a request for any land use change in the proposed certificated area.
4 Thus, at this point it is premature to amend the Urban Service Boundary without the
5 requisite analysis that should accompany the change.

6 **Q. WHAT IS THE COUNTY'S PROCESS FOR A CHANGE IN LAND**
7 **DESIGNATION OR REZONING OF PROPERTY WITHIN THE COUNTY?**

8 A. Any land owner in the county can apply for a future land use amendment, a rezoning
9 or a combination of both. Each application is reviewed for consistency with all goals,
10 objectives and policies of the County's Comprehensive Plan as well as many other
11 performance criteria such as compatibility with surrounding areas, and the impact to
12 public facilities, including parks, water and wastewater, fire, police, schools and solid
13 waste facilities.

14 Any application or proposal that is found to impact established minimum Level of
15 Service (LOS) standards is required to mitigate all impacts that cause the deficiency.

16 After land use entitlements are obtained any applicant requesting more than six
17 residential units or more than 6,000 square feet of non-residential building must
18 submit for site plan approval through the county's Development Review Committee
19 (DRC) process.

20 **Q. WHAT IS THE COUNTY'S DEVELOPMENT REVIEW COMMITTEE**
21 **(DRC)?**

22 A. The DRC is a recommending body and votes under a quasi-judicial process. Five
23 representative members of different County departments make up the DRC review
24 committee, including the Zoning, Land Development Engineering, Fire Prevention,
25 Utilities, and Traffic Engineering departments. Each project is reviewed for

1 compliance with all applicable LOS standards and land development regulations
2 during the review period.

3 **Q. HAS THERE BEEN A REQUEST FROM ANY LAND OWNERS IN THE SUN**
4 **RIVER PROPOSED AMENDMENT TERRITORY FOR REZONING OR**
5 **FUTURE LAND USE AMENDMENTS?**

6 A. As of October 26, 2007, there has been no formal request and, in fact, no request to
7 meet and discuss a proposal for land use change.

8 **Q. ARE YOU AWARE OF ANY TRAFFIC CONCERNS THAT WOULD**
9 **RESULT FROM DEVELOPMENT IN THE SUN RIVER PROPOSED**
10 **AMENDMENT TERRITORY?**

11 A. The portion of US Highway 17 adjacent to this site is currently functioning above the
12 minimum Level of Service criteria established by Charlotte County. All proposed
13 developments along this corridor will be reviewed for their impact to the
14 transportation system and their impact on the existing Level of Service. Any
15 development that drops the LOS of US Highway 17 below the adopted standard
16 would be required to either make the improvements necessary to bring the road back
17 to the adopted LOS or would be required to pay into the County Proportionate Fair
18 Share system for funding roadway improvements.

19 **Q. IS THE COUNTY IN THE PROCESS OF REVISING AND UPDATING ITS**
20 **COMPREHENSIVE PLAN?**

21 A. Yes. The current comprehensive plan has a planning horizon ending in 2010. The
22 county will be required to update the comprehensive plan by November of 2010. The
23 county has begun the process for a re-write of the comprehensive plan. In fact, on
24 October 15, 2007 the Request for Qualifications (RFQ) for the new comprehensive
25 plan was posted for bid on the County's purchasing website.

1 **Q. WHAT IS THE TIMELINE FOR COMPLETING THE PROCESS OF**
2 **UPDATING THE COMPREHENSIVE PLAN?**

3 A. The following is a list of important dates concerning the selection of the
4 comprehensive plan consultant:

- 5 10/15/2007 Posted Notice of Project Availability
- 6 10/29/2007 Pre-Submittal meeting
- 7 11/20/2007 Proposal due date
- 8 12/03/2007 Professional Services Committee short lists firms

9 The process will begin in January of 2008. We plan to transmit the new
10 Comprehensive Plan to the Department of Community Affairs in January of 2010.
11 The DCA will then have 60 days in which to issue an Objections, Recommendation,
12 and Comment (ORC) Report.

13 **Q. WILL GROWTH AND DEVELOPMENT IN THE SUN RIVER PROPOSED**
14 **TERRITORY BE ADDRESSED IN THE NEW COMPREHENSIVE PLAN?**

15 A. Yes. A major component of the new comprehensive plan will be the creation of a
16 'Rural Lands Development Strategy'. This strategy will address development issues
17 in rural east county and provide policy direction to guide growth in this area. Due to
18 the high degree of public input involved, the comprehensive planning process is the
19 best medium to analyze how to accommodate growth in the eastern portion of the
20 county in order to avoid unwanted land development patterns, such as sprawl, and the
21 impacts associated with them.

22 **Q. IS IT YOUR POSITION THAT IT IS PREMATURE TO GRANT THIS**
23 **EXPANSION OF TERRITORY TO SUN RIVER?**

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1 A. In my opinion, based on the goals, objectives, and polices of Charlotte County's
2 1997-2010 Comprehensive Plan and applicable ordinances, it is premature to grant
3 this expansion of the territory to Sun River.

4 The expansion is in direct conflict with the Comprehensive Plan; Objective 2.7;
5 Policies 1.1.10, 1.3.1, 1.4.5, 2.2.22, 2.7.1, 2.7.10 of the Future Land Use Element and
6 Policies 9.1.1 and 9.1.4 of the Potable Water and Sanitary Sewer Element of the
7 Charlotte County Comprehensive Plan.

8 Furthermore, the Comprehensive plan describes the process for amending the Urban
9 Service Boundary and the analysis required to make an amendment. To date no
10 request and no analysis have been submitted.

11 Most concerning however is the fact that no change of land use entitlements has been
12 requested for the area in question. Current land use allows development at a base
13 density of 1 unit per 10 acres. To increase the density beyond this base any applicant
14 proposing to develop in the proposed expansion area would be required to submit a
15 future land use map amendment, accompanying rezoning, and a transfer of
16 development units (TDU) for any unit above 1 unit per 10 acres. The current TDU
17 ordinance prohibits any transfer of density units to areas in the rural service area
18 unless done in conjunction with a DRI, New Community, or Rural Community as
19 defined by the County's comprehensive plan. As a result, at this point in time there is
20 no mechanism to increase density above 1 unit per 10 acres in the proposed expansion
21 area and furthermore, it is prohibited by ordinance.

22 This request for expansion is premature, the execution of which would contribute to
23 'urban sprawl' as defined by Florida Administrative Code. The county has numerous
24 prohibitions against the expansion of utilities outside the existing Urban Service Area
25 and has ordinances in place that prohibit any increases in density in the Rural Service

1 Area. The Community Development Department has just issued an RFQ seeking
2 qualified consultant(s) to assist staff in the creation of a new, innovative and creative
3 comprehensive plan based on public interaction and comment. A comprehensive
4 strategy for managing development in rural east county will be created as part of this
5 process. The new comprehensive plan will be transmitted to the Department of
6 Community Affairs for an Objections, Recommendation, and Comment (ORC)
7 Report in January of 2010.

8 In conclusion, allowing the expansion of Sun River and any appended development
9 associated with it would require major policy changes made by the county. The new
10 comprehensive plan will generate policy recommendations based on public
11 engagement, interaction and input. As such, the correct venue to discuss these county
12 wide policy changes is during the creation of the new comprehensive plan which will
13 provide clear guidance on the build-out options provided to rural east county.

14 **Q. ARE YOU AWARE THAT THE PSC COULD AWARD THIS TERRITORY**
15 **TO SUN RIVER OVER THE COUNTY'S OBJECTION?**

16 A. Yes, I am aware that Florida law requires the PSC to consider the comprehensive
17 plans of local governments, but does not require the PSC to follow them. In other
18 words, as I understand, the PSC has discretion.

19 **Q. DO YOU BELIEVE THAT THE PSC SHOULD FOLLOW THE**
20 **COMPREHENSIVE PLAN?**

21 A. Absolutely.

22 **Q. WHY DO YOU TAKE THAT POSITION?**

23 A. The story of growth in Florida is one of real estate development, some good and some
24 bad. For decades Florida, its resources and citizens were often victims of helter
25 skelter development until such time as the Florida Legislature wisely imposed

1 requirements on local governments for comprehensive planning and established the
2 Department of Community Affairs to oversee the process. Charlotte County, along
3 with other counties, establish comprehensive plans at considerable public expense.
4 Citizens of our county, both corporate and private, expend their own resources in the
5 comprehensive plan process and develop a reasonable right to rely on its provisions.
6 Indeed, many substantial public and private investments are based upon a reliance on
7 its provisions. The comprehensive plan is the result of a great deal of effort by the
8 good citizens of this county and their elected leaders to establish a governmental
9 policy that we hope and believe provides a rational plan for both the development and
10 the preservation of our quality of life in Charlotte County.

11 **Q. WHAT RESULT DO YOU BELIEVE WOULD OCCUR IF THE PSC WERE**
12 **TO EFFECTIVELY IGNORE THE COMPREHENSIVE PLAN?**

13 A. I have full confidence in the PSC's ability to discharge their duties insofar as the
14 regulation of utilities. I also believe that the provisions of Section 367.045, Florida
15 Statutes, notwithstanding, the Legislature entrusted comprehensive planning to the
16 counties with oversight in the Department of Community Affairs. The effect of
17 granting the application, which is pending in this case, is to run roughshod over the
18 hard work of both the county that developed the plan and of the DCA's review
19 thereof; to effect a squander of the considerable investment of resources, both public
20 and private, that were dedicated to the development and approval of the
21 comprehensive plan; and to violate the good faith reliance on the comprehensive plan
22 by investors, both public and private.

23 **Q. WHAT ACTION BY THE PSC IN THIS CASE DO YOU BELIEVE SERVES**
24 **THE PUBLIC INTEREST?**

1 A. The PSC should recognize that the approval of this application is adverse if not fatal
2 to the comprehensive plan insofar as it applies to the territory in question. It should
3 recognize that the comprehensive plan is the rational and lawful means by which the
4 county protects its resources and citizens where development is concerned, and
5 consequently, it should deny this application in all of its aspects.

6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 A. Yes, it does.

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CCU Goals, Objectives and Policies

Potable Water and Sanitary Sewer

Goal 9: Charlotte County will encourage public and private utility companies (utilities) to provide well-designed and economically efficient systems of potable water and sanitary sewer service that maximizes the use of existing facilities to meet the needs of a growing population, while protecting the natural environment.

Objective 9.1: Charlotte County and the utilities serving the county shall assure the provision of potable water and sanitary sewer services to new and existing development in conjunction with previously certified areas and the Urban Service Area strategy through the planning ~~timeframe of 2010~~ horizons established within the comprehensive plan.

Policy 9.1.1: Utilities are encouraged to extend central potable water and sanitary sewer services to Infill Areas in accordance with the Urban Service Area strategy. Such extensions will represent sequential extensions of service.

Policy 9.1.2: In the case of a utility which provides both central potable water and sanitary sewer service, the utility is encouraged to extend potable water and sanitary sewer lines concurrently. As an exception to this policy, lines may be extended separately if the service area is primarily composed of one type of service line and is located at a distance from which it would be economically inefficient to require concurrent extensions.

Policy 9.1.3: In the case of utilities which provide both central potable water and sanitary sewer service, the certified area for one service will not be extended to an area unless the certified area for the other service is also extended to the same location.

Policy 9.1.4: Certified areas will not be extended or expanded for potable water or sanitary sewer service outside of Infill Area boundaries. Exceptions shall be made in the case of New Communities or

Developments of Regional Impact in West County, Mid County, or South County or Rural Communities in East County; or in the case of where a utility(s) shall provide both central potable water and sanitary sewer service in a tandem manner within the Urban Service Area Overlay District.

Policy 9.1.5: Utilities which have an approved certification to provide service shall serve their approved areas in accordance with the certification.

Policy 9.1.6: When it is necessary for potable water or sanitary sewer lines to be extended through a Rural Service Area in order to provide service to lands located within another Urban Service Area, the extension of such transmission lines shall not be construed as justification for development at urban intensities in the Rural Service Area adjacent to the extended infrastructure.

Policy 9.1.7: Landowners of new development within the Infill area or previously certified area where central potable water or sewer service is not available, may elect to use wells and septic systems but will be required to connect to a central potable water or sewer service when it becomes available and within 365 days upon written notification by the utility provider.

Objective 9.2: Charlotte County, in making land use decisions, shall utilize the availability of central potable water and sanitary sewer service.

Policy 9.2.1: New lots platted within Charlotte County served by a septic system shall have a minimum lot area consistent with the requirements of the more stringent of Chapter 10D-6, *Florida Administrative Code*, or local ordinance.

Policy 9.2.3: Water and sewer availability will not necessarily provide justification for development approval.

Objective 9.3: Charlotte County shall protect its existing and future potable water supplies, such as the Peace River, and wellhead locations in order to continue using those natural resources for drinking water purposes.

Policy 9.3.1: Charlotte County will evaluate the effects of development on wellheads for all proposed land uses within delineated cones of influence for all central potable water supply wellheads used for public consumption. Where a cone of influence is not determined, all proposed development within 1,500 feet of the wellhead will be evaluated. Land uses in which

- a. infrastructure and services can be incrementally extended in a financially feasible manner or a private developer will pay the full cost if not publicly funded;
- b. the proposed land area is adjacent, or in close proximity, to an existing Infill Area;
- c. population growth and development trends warrant an increase in size; and
- d. existing Infill Areas have reached significant buildout to warrant expansion into new locations.

Policy 1.1.9: Charlotte County will levy various fees to ensure that new development pays the marginal cost of developing the capital facilities to provide new services and infrastructure.

Policy 1.1.10: Criteria for amending the Urban Service Area boundary include (i.e., converting rural service area to urban service area lands):

- a. the proposed expansion is contiguous to the Urban Service Area (except for self-supporting development approved as either a New Community or Development of Regional Impact);
- b. proposed land uses are compatible or provide sufficient buffering from existing, adjacent uses;
- c. an enforceable agreement exists for the extension of central potable water and sanitary sewer service into the proposed expansion area; and
- d. the proposed expansion will not interfere with agriculture or conservation activities; and
- e. the proposed expansion does not constitute urban sprawl or promote the expansion of urban sprawl in surrounding areas.

Objective 1.2 (Concurrency): ~~Charlotte County will employ a Concurrency Management System to ensure that appropriate Levels of Service identified within this comprehensive plan are achieved or maintained. will require the availability of services concurrent with the impacts of development, as provided by Section 163.3177(10)(h), F.S. Decisions regarding the location, extent and intensity of future land use in Charlotte County, particularly urban-type expansion, will ensure consistency with the type of uses and development established within each designated Urban and Rural Service Area. Future land use decisions will also be based on the physical constraints and financial feasibility of providing areas with services at levels of service (LOS) that meet or exceed the minimum standards adopted in the Comprehensive Plan.~~

Policy 1.2.2 1: Charlotte County will maintain a Concurrency Management System, as adopted in the Capital Improvements Element, to ensure that development orders and ~~or~~ building permits are issued on the condition that adequate public facilities and services meet or exceed minimum LOS standards specified in the various elements of this Plan. ~~are available to serve new development when its impact occurs.~~

Policy 1.2.2 2: New development will not reduce urban infrastructure and services below the Level of Service standards adopted by Charlotte County in this comprehensive plan.

Policy 1.2.3: Charlotte County will implement Land Development Regulations providing that Levels of Service will must be sufficient prior to the issuance of a certificate of occupancy.

Policy 1.2.4: ~~Charlotte County will not approve proposed comprehensive plan or rezoning amendments which would reduce levels of service below the adopted standards scheduled in the Capital Improvements Element.~~ Within the time frame provided by Section 163.3202(1), F.S. the Community Development and Construction Services Departments will ensure that development orders will be based on the County's ability to maintain minimum levels of service, and will coordinate with other agencies in administering the Concurrency Management System to ensure that the necessary public facilities and services are available at the adopted Level of Service concurrent with the impacts of development.

Policy 1.2.5: The following options shall apply in an area with facilities and services that do not meet minimum Levels of Service required by concurrency:

- a. Projects may be phased to maintain minimum Level of Service standards concurrent with the development; and/or
- b. A Developer may pay their proportionate share cost of improvements, if such facilities are identified in the Capital Improvements Program in accordance with Charlotte County's Proportionate Share Mitigation Ordinance.

Objective 1.3 (Infrastructure and Services): Charlotte County will use the location and timing of infrastructure and services to direct growth in an orderly and efficient manner.

Policy 1.3.1: Charlotte County's provision of infrastructure and services shall be guided by the following service areas, which are listed by level of priority:

First priority - Infill Areas.

Second priority - Suburban Areas.

Third priority - Rural Service Areas.

Policy 1.3.2: In certain instances, Charlotte County may provide higher levels infrastructure and services to areas regardless of the Urban Service Area designation in order to protect the public health, safety, and welfare or at the request and capital outlay of citizens within an area.

Objective 1.4 (Platted Lands Strategy): Recognizing that Charlotte County has a supply of platted lands which is greater than the long-term need, the county shall reduce the total number of platted vacant lots ~~by a minimum of 1% of vacant platted lots per year~~ within the West, Mid, East and South County planning areas by a minimum of 1% during the planning period (2010) by January 1, 2005 of this Plan.

Policy 1.4.1: Charlotte County will work with its legislative delegation and other communities to create an action plan to identify workable solutions to statewide platted lands issues. The County may apply to the State and Federal governments for funding to assist in resolving the problems associated with platted lands. Funding sources shall include the state's ~~Conservation and Recreational Lands (CARL), Preservation 2000,~~ Florida Forever, Florida Communities Trust, Southwest Florida Water Management District, and various other programs.

Policy 1.4.2: Charlotte County will encourage the reduction of platted lots through the following measures:

- a. assembly and de-platting of lots by private interests for re-platting and eventual development or other purposes;
- b. public acquisition of platted lands for preservation, restoration, recreation, viable habitat for listed species, or outdoor education using public funds as appropriate and available; or
- c. consider selective acquisition of individual lots by Charlotte County for use in property assembly, lot swaps, or transfers of density ~~or development rights~~ units where such facilitates a public need such as the provision of infrastructure or urban services.

Policy 1.4.3: ~~By December 1, 1998,~~ Charlotte County will bear the costs for deplatting of lands within targeted areas if a density reduction occurs as a result of the deplatting and will create an administrative deplatting process. As part of this process, the county will develop target areas for prioritization of deplatting efforts.

Policy 1.4.4: ~~By December 1, 1998~~ 2008, Charlotte County will review its impact fee schedule in order to develop a series of graduated impact fees in order to encourage development in Infill locations. The graduated impact fee schedule will reflect the true cost of infrastructure provision.

Policy 1.4.5: Charlotte County will employ a transfer of ~~development rights~~ density units program whereby the development rights of property may be severed in perpetuity or until designation as an Infill Area and transferred to locations which are more appropriate for urban development. The transfer of ~~development rights~~ density units program will establish criteria for sending zones ~~from which development rights will be severed and transferred to receiving zones~~ and receiving zones.

- a. Sending ~~z~~Zones shall may include only the Tropical Storm and Category 1 Hurricane Storm Surge zones; any property containing historic, archeological, or environmentally sensitive resources; land being utilized for a bona fide agricultural use; lots or parcels of substandard size or dimension which were legally platted prior to 19992; platted lots within the Suburban section of the Urban Service Area which are not served by water or sewer and are not within the boundaries of any utility company's 5-year Capital Improvement Program for extension of water or sewer; or land within the Urban Service Area which has an approved residential final plat or DRC residential final site plan which does not utilize the full developable density and which was approved subsequent to January 1, 2004. ~~Resource Conservation and Preservation~~

- ~~Future Land Use Map locations, Suburban and Rural Areas identified in the Urban Service Area strategy, locations within the Special Surface Water Protection Overlay District, and any property containing historical, archeological, or environmentally sensitive resources.~~
- b. Receiving zZones shall include property within the Urban Service Area that is designated on the include Medium Density Residential and High Density Residential Future Land Use Map locations, New Communities, Rural Communities, and areas specified within a resource management plan developed consistent with the Natural Resources and Coastal Planning Element as Low Density Residential, Medium Density Residential, High Density Residential, Rural Estate Residential, Village Residential, Limited Development, or which contains a Mixed Use designation. Prior to the approval of a petition to increase density, all of the necessary facilities and services, except roadway infrastructure, must be in place or the subject of a binding executed agreement which requires the facilities to be completed prior to the issuance of a certificate of occupancy; roadway infrastructure must be in place or under construction within three years of the issuance of a building permit. Receiving Zones must be environmentally suitable for development; environmentally sensitive lands within the Receiving Zone must be preserved in perpetuity.
- c. In keeping with the policies within this plan that direct population density away from coastal areas, amendments to the Future Land Use Map or Zoning Atlas petitions that would create or allow an increase in density within the Tropical Storm and Category 1 Hurricane Storm Surge zones (Coastal High Hazard Area) are prohibited unless the density is transferred from an equivalent Storm Surge zone or one of greater hazard intensity; there shall be no transfer of density from an "AE" flood zone into a "V" flood zone. (The requirement for density from equivalent areas is waived for property located in the Charlotte Harbor CRA, but the density must still be transferred from property located in the Tropical Storm or Category 1 Hurricane Storm Surge zones.) The Sending Zone(s) must be identified and included with the Receiving Zone amendment application as part of the supporting documentation so that the impacts of the proposed transfer can be evaluated, and the transfer of density must be approved concurrent with the adoption of the amendment. Impacts will be evaluated in terms of evacuation clearance times and the availability of sufficient shelter capacity. The transfer of density must maintain or improve evacuation clearance times. In order to utilize the Sending Zone density, the FLUM and/or Zoning designation of the Sending Zone must have been amended or be concurrently amended to show the reduction in density, and/or the Plat must be vacated.
- d. Except as indicated in c. above, the following shall apply as to the timing of the transfer of density:
- transfers of density must occur concurrent with any plan amendment petition that automatically increases density, unless accompanied by a rezoning to Planned Development;
 - transfers of density must occur concurrent with and any rezoning that increases density and which does not utilize a Planned Development; and,

- for any rezoning, which increase density and utilizes a Planned Development, the transfer of density ~~may~~ must occur no later than prior to preliminary plat of or final DRC approval.

Policy 1.4.6: Charlotte County will encourage private enterprise to work towards solutions to the platted lands problem through participation in state land acquisition programs such as Conservation and Recreational Lands (CARL), Florida Communities Trust, Florida Forever, Florida Communities Trust, Southwest Florida Water Management District, and various other programs such as administrative deplattings.

Policy 1.4.7: Charlotte County will facilitate the re-assembling of platted parcels by plat vacation and other means legally available.

Objective 1.5: To ensure the availability of suitable land for public and utility services and facilities necessary to support proposed development.

Policy 1.5.1: Public and utility services and facilities shall be allowed in all Future Land Use Map designations.

Policy 1.5.2: Public and utility services and facilities shall be developed in compliance with applicable design standards and with buffers and setbacks in order to protect adjacent land uses from activities conducted on such public and utility sites. The design and construction of such facilities shall protect natural resources and environmental sensitive areas.

Objective 1.6 (Future Land Use coordination): The location and intensity of development shall coincide with the availability of facilities and services and with appropriate topography and soil conditions.

Policy 1.6.1: Development orders, building permits, and certificates of occupancy shall be issued in accordance with the Concurrency Management System to ensure that the necessary public facilities and services are available, at the adopted Level of Service, concurrent with the impacts of development.

Policy 1.6.2: Availability of facilities and services shall be measured by the adopted levels of service standards.

Objective 1.7: The location and intensity of development shall be determined by appropriate topography and soil conditions.

Policy 2.2.17: Industrial uses will be buffered from incompatible adjacent land uses by means such as vegetative, natural, or opaque barriers. The Land Development Regulations will provide appearance standards for buffering techniques.

Policy 2.2.18: The following classifications shall be used to designate agricultural lands

Agriculture

These lands are designated for agricultural activities and are located primarily within the Rural Service Area. Agricultural lands may not exceed a maximum residential density of one (1) dwelling unit per ten (10) acres within the Rural Service Area and one (1) dwelling unit per one (1) acre within the Urban Service Area. Uses on land designated as such include: single-family residential dwelling units, ranching, crop farming including citriculture, silviculture, aquaculture, and row crops, and extractive industries.

Policy 2.2.19: Charlotte County will encourage the bona fide practice of agriculture and will promote the conservation of agricultural lands to assure that the County experiences no substantial loss of agricultural productivity.

Policy 2.2.20: Agricultural lands illustrated on the Future Land Use Map will be generally located within Charlotte County's Rural Service Area. This policy will not be construed to prohibit the practice of bona fide agricultural uses within the Urban Service Area.

Policy 2.2.21: Charlotte County will preserve the economic viability of agricultural lands and will prevent the premature conversion of these lands to other uses.

Policy 2.2.22: Agricultural lands within Charlotte County may be converted to other uses when a demonstrated need has been established and it is determined that it does not constitute urban sprawl or promote urban sprawl in surrounding area. A conversion of agricultural land to more intensive urban uses must occur in accordance with the Urban Service Area strategy Rural Community or New Community concepts, or Development of Regional Impact.

Policy 2.2.23: Through the resources of the Agricultural Extension Service, Charlotte County will actively promote the conservation of bona fide agricultural uses, and will provide information to agricultural producers to improve production and methods.

Policy 2.2.24: The following classifications shall be used to designate lands which serve a broad variety of public purposes:

~~an applicable New Community shall occur prior to the first development activity within that New Community. This shall include appropriate action to reduce the intensity/density of the sending zone through encumbrance via easement transfer of deed to Charlotte County, state government, or federal government. New Community master development plans shall include a traffic circulation map and access management controls in order to protect the public safety.~~

~~Policy 2.6.15: New Community master development plans shall include a traffic circulation map and access management controls in order to protect the public safety.~~

Objective 2.7 (Rural Community Mixed Use): Conversion of rural lands within the East County planning area to more intensive uses may occur through the establishment of self-supporting "Rural Communities" which will provide residential and employment opportunities within the Rural Service Area.

Policy 2.7.1: Rural Communities will be developed according to a master development plan and will comprise a mixture of uses appropriate for a rural environment.

Policy 2.7.2: The designation of Rural Community Mixed Use on the Future Land Use Map shall be made by plan amendment. Plan amendments will contain a master development plan approved by the Board of County Commissioners identifying land uses, densities, and intensities; population projections; an evaluation of its urban sprawl potential; commitments to avoid or mitigate the potential for urban sprawl; and demonstration of how the Rural Community affects land and population within the Urban Service Area.

Policy 2.7.3: Approved Rural Communities shall be designated as a Rural Community Mixed Use District or Development of Regional Impact on the Future Land Use Map.

Policy 2.7.4: Residential development within Rural Communities will be limited to Rural Estate Residential uses as defined in this element ~~unless~~ with clustering and open space provisions ~~are~~ provided.

Policy 2.7.5: Commercial uses within Rural Communities are limited to Rural Commercial Centers as defined in this element. Rural Commercial Centers will serve the population of the rural residential uses and satisfy the internal shopping needs by being located in a central location of the development.

Policy 2.7.6: The master development plan for Rural Communities will incorporate land for open spaces around the perimeter forming a greenbelt providing a clear distinction from surrounding land uses. Open space may be dedicated to public use or designated for common use, such as hiking and

bridle trails. If designated for common use, the master plan will identify a management strategy and will set aside funds to support maintenance.

Policy 2.7.7: The clustering of uses within Rural Communities is allowed as part of a master plan. Clustered development requires utilization of infrastructure such as central wastewater facilities.

Policy 2.7.8: Rural Community master development plans shall include a traffic circulation map and access management controls in order to protect the public safety.

Policy 2.7.9: Rural Community proposals will include transfers of ~~development rights density units from targeted platted lands or environmentally sensitive areas identified in a resource management plan~~ as a component of a master development plan. The residential development potential of a Rural Community shall be achieved through transfer of development rights density units. Lands from which a transfer of development rights density units occur shall be encumbered through a recorded ~~easement covenant, or transfer of deed to Charlotte County, state government, or federal government~~. Transferred densities shall be at least a one-for-one transfer. ~~In addition, the following density bonuses shall apply:~~

- ~~a. an increase by 300% of the sending zone's underlying density for development rights transferred from 'A' and 'V' zones as defined by the Flood Insurance Rate Map (FIRM);~~
- ~~b. an increase by 200% of the sending zone's underlying density for development rights transferred from the Coastal High Hazard Area;~~
- ~~c. an increase by 150% of the sending zone's underlying density for development rights transferred from a jurisdictional wetland area to be preserved consistent with Policy 1.11.7 of the Natural Resources and Coastal Planning Element;~~
- ~~d. an increase by 150% of the sending zone's underlying density for development rights transferred from agricultural areas which will be maintained in an agricultural use.~~

Policy 2.7.10: Rural Communities shall contain a minimum of 500 gross acres with the following minimum and maximum land use percentages:

Land Use	Minimum Development Percentage	Maximum Development Percentage
Residential	50%	80%
Commercial/industrial	10%	25%
Recreation	5%	no maximum
Open space	5%	no maximum