

**CPA2008-08
FUTURE WATER SERVICE AREAS MAP
UPDATE
BoCC SPONSORED AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

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March 3, 2010

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2008-08**



Text Amendment



Map Amendment

This Document Contains the Following Reviews:	
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
✓	Board of County Commissioners Hearing for Adoption

PREPARATION DATE: August 18, 2009

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT/REPRESENTATIVE:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

2. REQUEST:

Update Lee Plan Map 6, Lee County Utilities Future Water Service Areas. Evaluate adding areas outside of the current Future Water Service Areas where service has been extended and removing areas within the Future Water Service Areas that are served by other Utility entities.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends the Board of County Commissioners transmit the proposed amendment to Map 6, Lee County Utilities Future Water Service Areas. (Attachment 1) The recommended action adds the following:

- West Bay Club and the remainder of Section 05 Township 47 South Range 25 East not in the Bonita Springs Utilities Franchise Area.
- The remainder of the Southwest Florida International Airport property owned by Lee County.
- Areas within the City of Fort Myers that are currently served by Lee County Utilities.
- The North Fort Myers Utilities office north of the Del Prado Extension.

The recommended action also removes the following:

- The portion of “Shadow Wood at the Brooks Unit 15” located in Section 35 Township 46 South Range 25 East.
- Areas that have been annexed into the City of Fort Myers that are not served by Lee County Utilities or where agreements have been made for the City of Fort Myers to provide service.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Lee County Utilities is currently providing service outside of the Future Water Service Areas depicted on Map 6 of the Lee Plan.
- Other local Utility Franchises have expanded their service areas into the areas currently shown on Map 6 as part of the Lee County Utilities Future Water Service Areas.
- The City of Fort Myers has annexed areas that were shown on Map 6 but not currently served by Lee County Utilities.

C. BACKGROUND INFORMATION

The Lee County Utilities Future Water Service Areas (Lee Plan Map 6) was first adopted as part of the 1989 Lee Plan. PAT 92-32 amended Policy 31.1.1 (Policy 53.1.1) to reflect that the intent of the map is to show areas where Lee County Utilities will ensure service availability when needed rather than where service will be provided regardless of demand. On November 1, 2000, the Lee County Board of County Commissioners adopted PAM99-04 (Ordinance 00-22) which amended the map to reflect changes in conditions due to utility acquisitions, expansions, and annexations. The map was amended by Lee County Ordinance 03-19 (CPA2002-00011) to include the majority of the Buckingham Community Planning area within the Lee County Utilities Future Water Service Areas.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The purpose for this amendment is to adjust the Lee County Utilities (LCU) Future Water Service Areas (Map 6) to more accurately reflect the areas of service (current and future). The adjustments to the map will include additions of areas where service is currently provided directly or indirectly by Lee County Utilities, and areas where new service may be provided within the “Future Urban Area” of Lee County. The service areas map is being contracted in areas where service is or will be provided by the City of Fort Myers (due to annexations) or where another utility is currently serving the property. (Attachment 1)

FUTURE WATER SERVICE AREA CONTRACTIONS

Many areas with the city limits of the City of Fort Myers are proposed for removal from the Future Water Service Area. This is result of many annexations since the last major update of Map 6 in 2000. These areas were primarily undeveloped at the time of annexation and no expenditures for utility infrastructure had been made. At the time of annexation, the responsibility for potable water service was given to the City of Fort Myers. This included the annexations of 10631 Metro, Parker Daniels, Waterman Daniels, Pelican Preserve, I-75/Luckett Road, Heritage Lakes 305, and Heritage Lakes 317. The annexations of the Dunbar and Belle Vue areas were more complex with regards to utility service. Properties that had existing Lee County Utility (LCU) service or accessible infrastructure continue to be served by LCU while other properties were transferred to the city for service. There are two additional areas in the Page Field airport area that are proposed to be removed from Map 6. The area north of Page Field Commons and the area north of Airport Road west of Fowler St. These areas have existing water service provided by the City of Fort Myers and should not be depicted on the Lee County Utilities Future Water Service Areas map.

There are two proposed contractions to the Future Water Service Areas map outside of the City of Fort Myers. The portion of “Shadow Wood at the Brooks Unit 15” located in Section 35 Township 46 South Range 35 East is currently provided potable water service from Bonita Springs Utilities. The entire Brooks development is served by Bonita Springs Utilities. Finally, the Royal Hawaiian Club Condominiums on Pondella Road within the city limits of Cape Coral is served by the city and should not be depicted on the Lee County Utilities Future Water Service Areas map.

FUTURE WATER SERVICE AREA EXPANSIONS

Expansion within the “Future Urban Areas”

The proposed additions to the Future Water Service Areas map include areas within the City of Fort Myers that have existing LCU service, portions of the Bayshore Community, the River Forest Island subdivision, the remaining Southwest Florida International Airport property, and the West Bay Club development. The West Bay Club development is, for the most part, already depicted on Map 7. Historically, the northern edge of the Bonita Springs Utilities franchise area has been Williams Road (also the northern line of Township 47 East). The West Bay Club extends south of Williams Road and was split by this line. The entire project has existing service provided by LCU.

The Southwest Florida International Airport is currently served by LCU. PAM/T 99-02 was approved in the same plan amendment cycle as PAM 99-04. This amendment changed the future airport expansion area from the “DR/GR” category to the “Airport” Future Land Use designation.

Since this area was not already within the “Future Urban Area” it did not get depicted on the proposed Map 6 in PAM 99-04. The airport has since been expanded and is currently served by Lee County Utilities.

Some areas with the city limits of the City of Fort Myers are proposed for addition to the Future Water Service Areas map. Water service to numerous properties within the city limits is currently provided by Lee County Utilities. Generally, these areas had connected to the LCU system prior to annexation into the City of Fort Myers. This includes areas within the Dunbar, Belle Vue, and Ortiz Avenue areas. Other areas within the city include the Alliance of the Arts property at the southeast corner of McGregor Blvd and Colonial Blvd, the Horizon Apartments and Tanglewood Elementary School at the intersection of Boy Scout Road and Summerlin Road, Metro Marketplace and Parkway Plaza on Metro Parkway, and Southern Self Storage, the Hess Market, McGregor Baptist Church, Colonial Center, Christ Community Church, and Brothers Lighting all located south of Colonial Blvd east of Metro Parkway. All of these properties have existing LCU potable water infrastructure most of which has been installed from more than 10 years. These areas are all proposed to be depicted on Lee Plan Map 6, the Lee County Utilities Future Water Service Areas map.

The River Forest subdivision in the Fort Myers Shores Community has been connected to Lee County Utilities since it was initially developed in the 1960’s. The island portion of this neighborhood was erroneously excluded from the original Lee Plan Lee County Utilities Future Service Areas map and should be added to Map 6.

The North Fort Myers Utilities office located on the north side of the Del Prado Blvd extension east of US 41 is also proposed to be added to Map 6.

Expansion within the “Non-Urban Areas”

Lee County Utilities currently provides potable water service within the “Non-Urban Areas” (Density Reduction / Groundwater Resource and Rural categories) in the Bayshore Community. There is an existing water main primarily serving the neighborhoods in the “Sub-Outlying Suburban” areas off Nalle Rd that extends north into the “DRGR” area from Veronica Blvd to Nalle Grade Rd/Quail Hollow Rd. This water main existed prior to the adoption of the Lee Plan in 1984 and the Future Service Areas Maps in 1989. An existing transmission line runs along Durrance Rd from the North Fort Myers Water Treatment Plant to Bayshore Rd. Connections have been made to this transmission line to provide service to properties in the “Rural” Land Use category. Additionally, areas north of Bayshore Road in the “Rural” category have been allowed to “tap” into the existing water mains running along Bayshore Rd. that provide service to the “Future Urban Areas” in of the Lee County Utilities Future Service Areas north of the Caloosahatchee River. The North Fort Myers Water Treatment Plant is the primary source of potable water for the Future Urban Areas North of the river from State Road 31 to the Cape Coral city limits. A water main also runs north from the Bayshore Rd transmission line to serve the Lee County Civic Center which is in the “Public Facilities” land use category. This line also provides potable water service to the Timberbend subdivision which is located in the “Rural” land use category, platted in 1983, and began developing prior to the adoption of the Lee Plan. This neighborhood was provided service by Lee County Utilities prior to the adoption of the Future Water Service Areas map. Lee County Utilities staff has proposed adding these “Non-Urban Areas” to the Lee County Utilities Future Water Service Areas, Map 6 to reflect the existing

conditions of service provided by LCU. (See Attachment 2) Planning staff disagrees with this recommendation.

The Planning staff recommendation for not including the “Non-Urban Areas” on the Future Water Service Areas map is based on Lee Plan Objective 2.3, Policy 1.4.1, Policy 1.4.5, and Policy 95.1.1.

OBJECTIVE 2.3: PUBLIC PROVISION OF INFRASTRUCTURE. The Capital Improvements Program will give the highest priority to the planning, programming, and construction of urban services and facilities in the existing developed areas where facilities are inadequate. Next priority will be given to service expansions in existing developed areas, followed by further expansion into other portions of the Future Urban Areas. Sufficient land will be identified and protected for utility facilities that will be necessary to support the proposed level of development. Other infrastructure planning priorities are contained in Policy 38.2.4 and Policy 95.1.1. (Amended by Ordinance No. 94-30, 00-22)

POLICY 1.4.1: The Rural areas are to remain predominantly rural--that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre). (Added by Ordinance No. 97-17, Amended by Ordinance No. 98-09, 00-22, 07-12)

POLICY 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed. Land uses in these areas must be compatible with maintaining surface and groundwater levels at their historic levels. Permitted land uses include agriculture, natural resource extraction and related facilities, conservation uses, publicly-owned gun range facilities, private recreation facilities, and residential uses at a maximum density of one dwelling unit per ten acres (1 du/10 acres). Individual residential parcels may contain up to two acres of Wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetland areas.

POLICY 95.1.1: CAPITAL IMPROVEMENTS PROGRAM (CIP). The county will annually prepare and adopt a Capital Improvements Program showing all public facility development projects to be undertaken during the ensuing five-year period. The county will also annually evaluate and update this Capital Improvements element. The following policies will govern the development of the CIP:

b. Priorities for the CIP:

Where needs based on current and/or projected deficiencies exceed revenues projected to be available, projects will be included according to certain priorities which are listed below. In addition, these priorities will be considered in reviewing proposals to amend the CIP.

5. Projects that provide new or additional facility capacity for undeveloped Future Urban areas.

The objective of the Lee Plan is to direct growth into the “Future Urban Areas”. Both the “Rural” and “Density Reduction / Groundwater Resource” future land use designations are considered “Non-Urban” and should not be programmed to receive urban-type public services. When reviewing the five-year CIP, priority is given to “Projects that provide new or additional facility capacity for the undeveloped Future Urban Areas”. Allowing additional connections to the existing potable water infrastructure would consume capacity currently available for future development within the Future Urban Areas. No overriding public benefit has been identified to warrant the inclusion of these areas in the Lee County Utilities Future Water Service Areas, Map 6.

B. CONCLUSIONS

The proposed revisions to the Lee County Utilities Future Water Service Areas, Map 6 as proposed by planning staff will more accurately depict existing service provided by Lee County Utilities and the adopted Objectives and Policies of the Lee Plan. The proposed amendment adds areas that are currently provided service by Lee County Utilities within the “Future Urban Areas” of Lee County to the Future Water Service Areas, Map 6 and also remove areas that are or will be served by another utility provider.

C. STAFF RECOMMENDATION:

Planning staff recommends the Board of County Commissioners transmit the proposed amendment to Map 6, Lee County Utilities Future Water Service Areas. (Attachment 1) Should the Board desire adding the “Non-Urban Areas” as proposed by Lee County Utilities Staff, to Map 6, the areas are shown on Attachment 2.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

PUBLIC HEARING DATE. August 24, 2009

A. LOCAL PLANNING AGENCY REVIEW

Planning staff presented the amendment to the LPA outlining the areas recommended to be added to the Future Water Service Areas map and areas recommended to be removed from the Future Water Service Areas map. Staff also presented the additional areas the Lee County Utilities staff recommended to be added to the map. Staff explained that the recommended changes are in the "Future Urban Area" of the county and are primarily updates to reflect existing service providers. Staff further explained that the additional areas proposed by Lee County Utilities staff do currently have potable water service provided by Lee County Utilities but are located in the "Non-Urban Area" of the county. Staff explained that most of the infrastructure in this area pre-dated the adoption of the Lee Plan utility service areas maps. A member of the LPA asked why Planning Staff did not recommend adding the areas in Bayshore to the Future Water Service Areas map. Staff explained that the areas were located in the Rural and DRGR Future Land Use categories where minimal public facilities exist or are programmed. Two members of the LPA stated they agree with the concept of using the service area map as a planning tool to discourage sprawl and two members stated they disagreed with the idea. No public comment was given on this amendment. The motion was made to recommend the Board of County Commissioners transmit this amendment to the Department of Community Affairs. An LPA comment made about the scale of the included map attachments prompted staff to create attachment 3 to depict the changes at a larger scale.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit the proposed amendment.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA advances the findings of fact presented by staff.

C. VOTE:

NOEL ANDRESS	AYE
CINDY BUTLER	AYE
CARIE CALL	AYE
JIM GREEN	AYE
MITCH HUTCHCRAFT	NAY
RONALD INGE	NAY
CARLA JOHNSON	AYE

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: September 23, 2009

A. BOARD REVIEW: The proposed amendment was heard as part of the consent agenda. The Board of Commissioners provided no comment on the amendment. No member of the public spoke on the amendment.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board voted to transmit the proposed amendment as part of the consent agenda.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board of County Commissioners accepted the findings of fact as advanced by staff and the Local Planning Agency.

C. VOTE:

BRIAN BIGELOW	AYE
TAMMARA HALL	AYE
BOB JANES	ABSENT
RAY JUDAH	AYE
FRANK MANN	AYE

**PART V – DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: January 15, 2010

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

The Department of Community Affairs provided no objections, recommendations, or comments concerning this amendment.

B. STAFF RESPONSE:

Planning staff recommends that the Board of County Commissioners adopt the proposed amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: March 3, 2010

A. BOARD REVIEW: This plan amendment was approved as part of the consent agenda. The Board provided no discussion concerning the proposed plan amendment. No members of the public commented on the proposed amendment.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board of County Commissioners adopted the proposed plan amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board of County Commissioners accepted the finding of facts as advanced by Staff and the LPA.

C. VOTE:

BRIAN BIGELOW	AYE
TAMMARA HALL	AYE
BOB JANES	AYE
RAY JUDAH	AYE
FRANK MANN	AYE