

**CPA2008-09  
FUTURE SEWER SERVICE AREAS MAP  
UPDATE  
BoCC SPONSORED AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**BoCC Public Hearing Document  
For The  
March 3, 2010 Adoption Hearing**

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**Lee County Planning Division  
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**February 17, 2010**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2008-09**



Text Amendment



Map Amendment

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

PREPARATION DATE: August 17, 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 7, Lee County Utilities Future Sewer Service Areas. Evaluate adding areas outside the current Future Service Area and removing areas within the Future Service Area 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 7, Lee County Utilities Future Sewer Service Areas.

The recommended action expands the Future Sewer Service Areas by adding the following:

- the remaining upland areas on Pine Island,
- the G + H Hut property,
- Island Beach Club – Black Island,
- 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 in the City of Fort Myers that are currently served by Lee County Utilities

The recommended action contracts the Future Sewer Service Areas by removing the following:

- The portion of “Shadow Wood at the Brooks Unit 15” located in Section 35 Township 46 South Range 25 East.
- Properties located in the Forest Utilities Inc. franchise area including the Jamaica Bay West Associates, Ltd. property which receives bulk wastewater service from Forest Utilities, Inc.
- Areas that have been annexed into the City of Fort Myers and areas adjacent to the City of Fort Myers where agreements have been made with Fort Myers to serve the area.
- Areas north of the Caloosahatchee River east of Interstate 75 not currently served by Lee County Utilities.

## **2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- Lee County Utilities is currently providing service outside of the Future Sewer Serve Areas depicted on Map 7 of the Lee Plan.
- Other local Utility Franchises have expanded their service areas into areas currently shown on Map 7 as part of the Lee County Utilities Future Service Area.
- The City of Fort Myers has annexed areas that were shown on Map 7 but not currently served by Lee County Utilities.
- The Hut Restaurant is under a DEP consent order to rectify their failing sewage system. An existing state owned sewer main that feeds into the Lee County Utility sewer system runs along the Hut property. The property owner is currently negotiating with the state to gain access to this line.
- Septic systems and package plants located on Pine Island have been reportedly degrading the quality of the Pine Island Sound and Matlacha Aquatic Preserves.
- The new “Coastal Rural” land use category encourages the “clustering” of residential units to preserve greater amounts of natural habitat and agricultural operations. Providing an alternative to septic systems and package plants could enhance these policies.

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## **C. BACKGROUND INFORMATION**

The Lee County Utilities Future Sewer Service Areas (Lee Plan Map 7) was first adopted as part of the 1989 Lee Plan. PAT 92-32 amended Policy 34.1.1 (Policy 56.1.1) 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 PAM99-05 (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 Gulf Coast Center and Tice Fire Station sites within the Lee County Utilities Future Sewer Service Areas. This amendment added language to Objective 17.3 allowing central sewer service within the Buckingham “Rural Community Preserve” to properties identified on Map 7 as Future Sewer Service Areas. In 1996 The State of Florida installed an 8” sewer main along Buckingham Road to serve the Gulf Coast Center site. This line is currently under utilized by this facility. On October 18<sup>th</sup> 2007, the Southwest Regional Planning Council passed a resolution with specific recommendations and guidelines to be considered by governmental jurisdictions in

Southwest Florida for the regulation and control of treated wastewater discharges containing nitrogen and/or phosphorus (Wastewater Package Plant Resolution).

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

The purpose for this amendment is to adjust the Lee County Utilities (LCU) Future Sewer Service Areas (Map 7) 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. Two changes to the service areas are proposed in the "Non-Urban Area" of Lee County due to environmental issues from onsite wastewater treatment systems. 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) and where another utility has been granted a franchise expansion from the Florida Public Service Commission.

### **FUTURE SEWER SERVICE AREA CONTRACTIONS**

The Brooks development is currently served from the Bonita Springs Utilities. A portion of one of the Brooks communities extends into the LCU future service area. This area is proposed to be removed from Map 7.

The Forest Utilities Wastewater Franchise area was expanded in June of 2006 to include the Laurel Oaks subdivision and in the future will include the Jamaica Bay development. There are also areas along Hendry Creek that are in the Forest Utilities Franchise area that are incorrectly depicted on map 7. These areas are proposed to be removed from the LCU future service areas map.

Since the last major update to the LCU Future Sewer Service Areas (Map 7), the City of Fort Myers annexed nearly 6,000 acres of land. During the annexation process, most of these areas were transferred from LCU to the City of Fort Myers for the provision of utilities. The Belle Vue and Dunbar annexations included an agreement for LCU to continue providing service to areas that were currently served and the City of Fort Myers to provide new service where no county service existed. It was agreed that the Laredo Lakes area annexed in March 2005 will be provided sewer service from Lee County Utilities. One "clean-up" change within the City of Fort Myers is the "Precinct 51" annexation area. The City of Fort Myers purchased the existing LCU infrastructure in October 1997 and the area should have been included in the contraction areas in PAM 99-05. Removing these areas within the City of Fort Myers are warranted changes to the Future Sewer Service Areas.

The area north of Bayshore Road east of Interstate 75 has been incrementally added to the North Fort Myers Utilities Franchise Area. Three areas west of Nalle Road have existing Lee County Utility sewer service as does the Lee County Civic Center property. These four areas have not been included in the North Fort Myers Utility Franchise Area. This area of the Future Service Areas map is proposed to be amended to include only the four areas described above.

## **FUTURE SEWER SERVICE AREA EXPANSIONS**

### **Expansion within the “Future Urban Areas”**

#### *Areas currently served by Lee County Utilities.*

The West Bay Club development in Estero is currently served by Lee County Utilities. A portion of this development is not included on Map 7 and should be added to the Future Sewer Service Areas map. Likewise, the “Island Beach Club on Estero Bay” is connected to the Lee County Utilities system via Fort Myers Beach. The Southwest Florida International Airport is currently served by LCU. PAM/T 99-02 was approved in the same plan amendment cycle as PAM 99-05. 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 7 in PAM 99-05. The airport has since been expanded and is currently served by Lee County Utilities. Within the City of Fort Myers, the only additions to the Future Sewer Service Areas map are properties that currently have service available from LCU. This includes the Cedar Bend Condominium project, Tanglewood Elementary school, and the Horizons Apartment complex. There are also a few isolated parcels within the Dunbar area that have existing sewer service provided by Lee County Utilities. These areas are proposed to be added to Map 7.

#### *Areas not currently served by Lee County Utilities.*

On February 25, 2009, the Lee County Board of County Commissioners adopted an amendment to the Lee Plan Future Land Use Map (CPA2007-00056) which changed the land use designation on approximately 73 acres of land from “Central Urban”, “Suburban” and “Sub-Outlying Suburban” to “Commercial” – additional acreage (12±) was changed to the “Conservation Lands” categories. This new designation will only allow non-residential development and given its centralized location will require connections to a centralized wastewater treatment system facility. The property is located on the south side of Pine Island Road east of the City of Cape Coral corporate limits. The property abuts the current Lee County Future Sewer Service Areas on the southern side of the subject Future Land Use Map change. The site is not within the North Fort Myers Utilities Sewer Franchise Area. Existing Lee County Utility infrastructure is located nearby. This area is also proposed to be added to Map 7.

### **Expansion within the “Non-Urban Areas”**

The parcel of land located at 5150 Buckingham Road, more commonly known as the Hut restaurant, is located in the “Rural Community Preserve” within the boundaries of the Buckingham Community Planning area and the Buckingham Planning Community. The Lee Plan prohibits the extension of sewer facilities within the “Rural Community Preserve” outside of the areas depicted on Map 7.

*OBJECTIVE 17.3: SEWER AND WATER. In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Map 7 as Future Sanitary Sewer Service Areas, the existing Resource Recovery Facility, and the adjacent Lee County Parks and Recreation Facility.*

The Florida Department of Environmental Protection issued a consent order requiring the Hut property to connect to the existing wastewater line. The Lee County Board of County Commissioners adopted CPA2002-00011 on October 23, 2003 which added the Gulf Coast Center

site to the Future Sewer Service Areas map. This site is located in the Buckingham Community Planning area approximately .63 miles south of the Hut restaurant. The change to Map 7 reflected the existing sewer service that was allowed by the April 19, 1995 Interlocal Agreement between the State of Florida (Department of Children and Family Services) and Lee County (Lee County Utilities). In 1996, the State of Florida installed an 8" sewer line from the Gulf Coast Center site north along Buckingham Road to connect into the Lee County Utilities wastewater system. This line runs along the eastern property line of the Hut restaurant. The owners of C + H Hut Ltd are currently negotiating with the State of Florida to connect to this line allowing them to discontinue use of the failing onsite wastewater treatment system. The Hut restaurant is located on the south side of the Orange River, a tributary of the Calossahatchee River, and it flows through the Orange River Preserve and Manatee Park. Lee County purchased the Orange River Preserve property in March of 2002 and is exploring the possibilities of enhancing manatee viewing activities at the preserve. When the FPL plant was converted to a Natural Gas plant one issue was the impact on the winter manatee populations in the Orange River. Special efforts were made to maintain this area as a winter retreat for the manatee.

Before the connection to the existing sewer line can be made, the C + H Hut property must be depicted on the Future Sewer Service Areas map (Lee Plan Map 7). This property is proposed to be added to the Future Sewer Service Areas map.

The Future Urban Areas located along Stringfellow Blvd on Pine Island are currently depicted on the Future Sewer Service Areas map (Map 7). Lee County Utilities has current service in the areas of Pine Island Center south to St. James City. Presently, there is no sewer service provided north of Pine Island Center. There are 9 package plants in operation on Pine Island. These plants are spread throughout Pine Island and have a reported operating capacity of .2163 MGD. The remaining development is utilizing private septic systems. These private onsite systems pose potential threats to the quality of the aquatic preserves surrounding the island.

On October 18, 2007 the Southwest Florida Regional Planning Council passed a resolution supporting the "reduction and elimination of surface water discharges from small wastewater treatment facilities". The resolution included numerous recommendations including: "No new package plants should be permitted on Barrier Islands, Bay Islands, Sound Islands, Pass Islands or the like." If followed, this recommendation would not allow new package plants on Pine Island.

The Lee County Board of County Commissioners adopted amendments to the Pine Island Plan in January of 2003. The amendments included a change of The Future Land Use Map for the areas designated "Rural" to a new designation "Coastal Rural". The "Coastal Rural" category has a base Lee Plan density of 1 unit per 10 acres compared to the "Rural" designation's 1 unit per acre density limit. The plan allows for a property owner to recapture all or part of the density allowed by the "Rural" category by clustering and preserving farm land and/or native habitat. To restore the 1 unit per acre density, a property owner would be required to restore 70% of the site with native habitat leaving only 30% available for residential development or an average lot size of 13,068 acres. Septic systems on this lot size are generally not encouraged. Currently, the only alternative to the septic systems for wastewater treatment is privately operated package plants which are contrary to the RPC resolution. The Land Development Code amendments adopted to implement the changes to the updated Pine Island Lee Plan policies further restricted the achievable densities within the "Coastal Rural" category. Now the maximum density, when preserving 70% of the property, is 1 unit per 2.7 acres. Residential lots of this size typically

utilize onsite septic systems. However, through clustering, lot sizes may still be smaller and this does not eliminate the potential degradation to the water quality from poorly maintained septic systems. It is important to recognize that adding the remaining upland areas on Pine Island to the Future Sewer Service Areas map (including those Future Urban Areas that are currently not depicted on Map 7) does not require Lee County Utilities to provide service to the entire island by 2030. Policy 56.1.1 states that areas depicted on this map may be served by Lee County Utilities if the demand warrants this service. The remaining upland areas on Pine Island are proposed to be added to the Future Sewer Service Areas map.

**B. CONCLUSIONS**

The proposed revisions to the Lee County Utilities Future Sewer Service Areas, Map 7 will more accurately depict existing service provided by Lee County Utilities. The proposed amendment will also add additional areas within the “Future Urban Areas” of unincorporated Lee County that are not within a private wastewater franchise area. The proposed change will also add “Non-Urban Areas” where environmental issues are concerned.

**C. STAFF RECOMMENDATION:**

Planning staff recommends the Board of County Commissioners transmit the proposed amendment to Map 7, Lee County Utilities Future Sewer Service Areas as shown on Attachment 1.

**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 Sewer Service Areas map and areas recommended to be removed from the Future Sewer Service Areas map. Staff distributed a revised attachment 1 that reflected correspondence received after the staff report was released but prior to the LPA meeting. Staff explained that most of the changes proposed are in the "Future Urban Area" of the county and are primarily updates to reflect existing service providers. Staff explained that most of the areas to be added have existing Lee County Utilities wastewater service and those areas to be removed had existing or committed service from an independent franchise or municipality. Staff explained that two areas that currently are not served by LCU are proposed to be added to the Future Sewer Service Areas map. The first area is on the south side of Pine Island Road directly east of the Cape Coral City limits. This site was designated "Commercial" by the North Fort Myers Community plan (CPA2007-00056). The second area is within the Buckingham Community and designated Rural Community Preserve. The property is the location of the Hut Restaurant which is a site that is currently under a DEP consent order to correct existing wastewater problems. Staff also explained that the original recommendation included adding all of the uplands on Pine Island to the service areas map. Prior to the LPA hearing, staff was made aware of commitments to have additional public meetings on Pine Island to discuss the change. Staff recommended to the LPA that these meetings should be held before the change was considered. One member of the public from Pine Island addressed the LPA and endorsed the staff updated recommendation. No additional public comment was made. The LPA had a brief discussion and made a motion to recommend transmittal of the staff recommendation to the Department of Community Affairs. An LPA comment made about the scale of the included map attachments prompted staff to create attachment 2 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:**

|                         |     |
|-------------------------|-----|
| <b>NOEL ANDRESS</b>     | Aye |
| <b>CINDY BUTLER</b>     | Aye |
| <b>CARIE CALL</b>       | Aye |
| <b>JIM GREEN</b>        | Aye |
| <b>MITCH HUTCHCRAFT</b> | Aye |
| <b>RONALD INGE</b>      | Aye |
| <b>CARLA JOHNSON</b>    | 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 and 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:**

|                      |               |
|----------------------|---------------|
| <b>BRIAN BIGELOW</b> | <b>AYE</b>    |
| <b>TAMMARA HALL</b>  | <b>AYE</b>    |
| <b>BOB JANES</b>     | <b>ABSENT</b> |
| <b>RAY JUDAH</b>     | <b>AYE</b>    |
| <b>FRANK MANN</b>    | <b>AYE</b>    |

**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:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**BRIAN BIGELOW**

**TAMMARA HALL**

**BOB JANES**

**RAY JUDAH**

**FRANK MANN**

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