

**PAT 96-31
BoCC SPONSORED
EAR ADDENDUM AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

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June 3, 1998

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
PAT 96-31**

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

STAFF REPORT PREPARATION DATE: June 5, 1997

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

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

2. REQUEST:

Consider the adoption of a new policy in the Community Facilities and Services Element, under Objective 31.1, calling for the evaluation of the need to provide potable water service to existing residential development that utilize well water and are on septic systems.

B. BACKGROUND INFORMATION

This amendment was initiated by the Evaluation and Appraisal Report Addendum Report as adopted by the Board of County Commissioners on February 1, 1996. This report contained the following:

1. POTABLE WATER SUPPLY

A. LEVEL OF SERVICE

Preliminary discussions with the representatives of a potable water provider have indicated that, in one particular areas of the county, property served by individual wells and septic systems could face contamination problems. These developed areas were approved prior to the adoption of the Lee Plan and the standards that require new development of similar densities to have potable

water systems. At this time the preliminary data has not been fully evaluated by staff. However, staff is concerned that there are no specific guidelines in the Lee Plan to address this situation.

Recommendation: *Initiate an amendment to investigate the feasibility of establishing a level of service for potable water service for existing development that is located in specific geographic areas which are contained in franchised or certificated water service areas.*

The inclusion of this recommendation was the result of a representative of Gulf Utilities approaching the LPA with an appendix of a report prepared for Gulf Utilities. This report, entitled "Water Line Improvement for San Carlos Park," provides data on well testing in San Carlos Park. This representative wanted to draw the LPA's attention to Policy 31.1.3 which allows a private utility "to set a minimum acceptable level of service...within their respective franchised or certificated areas." This representative stated that "We're talking about a standard along the lines that once the density of this area reaches more than two and a half units per acre, then they have to be hooked up to central water to avoid this health problem that we see developing." The LPA moved the incorporation of the examination of a distinct level of service standard for portions of Gulf Utilities' service area within the preplatted areas of San Carlos Park.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Add a new Lee Plan Policy under Objective 31.1 that calls for a study to evaluate the need to provide potable water service to existing residential development that utilize well water and are on septic systems. The recommended language is:

POLICY 31.1.10: By 2005, the county shall conduct a study to determine the appropriateness of requiring all existing residential developments at a density equal to or in excess of 2.5 dwelling units per acre to connect to a potable water system, if available. The study shall address the issue of health related problems and will include the collection and analysis of well samples to determine if there is an immediate health problem as well as a cost benefit analysis. This study shall include recommendations regarding which pre-platted communities and subdivisions should be required to connect to a potable water system, if available.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Lee Plan requires new residential developments that exceed 2.5 dwelling units per gross acre to connect to a public or "community" water system. The Lee Plan does not specifically require that existing platted residential developments be connected to public or "community" potable water systems. There is a potential for a health problem in existing residential developments that are on wells and septic systems.

D. LPA RECOMMENDATIONS

The LPA passed a motion 5-0 recommending a modified version of new Policy 31.1.10. This LPA recommended new policy language is as follows with strikeouts from the original staff recommended language:

Policy 31.1.10: By 2005, the county shall conduct a study to determine the appropriateness of requiring all certain existing residential developments at a density equal to or in excess of 2.5 dwelling units per acre to connect to a potable water system, if available. The study shall address the issue of health related problems and will include the collection and analysis of well samples to determine if there is an immediate health problem as well as a cost benefit analysis. This study proposal shall include recommendations regarding which pre-platted communities and subdivisions should be required to connect to a potable water system, if available.

The LPA passed a motion 4-0 that recommends that the Gulf Utilities recommended language for Policy 70.1.3.1 be tabled pending completion of the study referred to on the first motion with respect to this issue, and be brought back to the LPA for consideration after that study with new amended or proposed language addressing the issue.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Lee Plan Standard 11.1, Water, requires that "Any new residential development that exceeds 2.5 dwelling units per gross acre...must connect to a public water system (or a "community" water system as that is defined by Chapter 17-22, F.A.C.)." The Lee Plan thus requires new residential developments that exceed this threshold density to connect to a potable water source. Goal 11 provides that this standard must be met prior to issuance of a county development order. The Lee Plan does not specifically require that existing platted residential developments be connected to public or "community" potable water systems.

The Law firm of Humphrey & Knott is representing Gulf Utility in this matter. This firm has provided staff with a report titled "Water Line Improvement for San Carlos Park." This report has a section titled "Hydrogeologic Conditions of the San Carlos Park Area as Related to Public Water Supply Needs," which provides data on well testing in San Carlos Park. The report provides an Executive Summary that states the following:

The use of shallow water-table aquifer wells for water supply and septic tank wastewater disposal systems in areas with a high housing density presents a significant and ever increasing health risk. The presence of fecal coliform bacteria in domestic water supply wells in San Carlos Park has been documented. Considering the small lot sizes in San Carlos Park and the projected number of wells and septic tanks at buildout, it is only a matter of time until additional wells become contaminated, resulting in potentially serious health risks. These compelling health risks dictate that the residents of the entire San Carlos Park community be provided with potable water.

The report further provides that "The large number of septic tank systems in the San Carlos Park area creates the potential for viral and bacterial contamination of the shallow groundwater." The report further provides that "A review of Lee County HRS records shows that newly constructed domestic wells in the San Carlos Park area commonly fail to pass bacterial clearance tests and have to go through a number of disinfections before acceptable bacterial levels can be measured."

The report states that 100 homes in the area were randomly sampled to determine if bacterial contamination of shallow wells is currently a problem. A total of 17 of the samples "either tested positive for the presence of coliform bacteria or had bacteria levels that were too numerous to count." The report further provides that "Upon retesting, the presence of coliform bacteria was confirmed in 13 of the samples and of these 13 samples, 4 tested positive for E. coli which is a fecal coliform type bacteria."

In response to this asserted health threat, the representative of Gulf Utilities has proposed the following language to be included in the Capital Improvements Element:

Policy 70.1.3.1 (new second paragraph)

All existing proposed residential developments at a density equal to or in excess of two (2) units per acre, and all existing and new single-family dwelling units on lots less than or equal to 20,000 square feet that are located within the Gulf Utilities franchise area, the boundaries of which are shown on map _____, must connect to the Gulf Utilities potable water system.

Planning staff has had verbal discussions with staff of the HRS Lee County Public Health Unit. HRS staff has also forwarded to planning staff copies of correspondence and HRS staff memos to their file concerning the San Carlos Park well samples collected by Gulf Utilities. The HRS staff have concluded, based on the data submitted to date, that no immediate health problem exists in San Carlos Park. HRS staff has also expressed concern about the method of collecting and transporting the samples. For example a memo to HRS files contained the following discussion:

The samples were brought to our office laboratory in a cooler with ice, but no racks. The samples were laying in the cooler in a random fashion subject to leakage from the bags and subject to the water and ice which surrounded them. The Gulf Utility courier was notified that the manner in which the samples were collected and transported could affect the bacteria results obtained. He said he was told to collect 100 samples from San Carlos wells and deliver them to the laboratory for analysis.

Planning staff concludes that there is a potential for a health problem to exist at some point in the future, but an immediate health problem has not been proven to exist. Planning staff believes that more data with sound collection and sampling techniques is needed to establish whether or not there is a health problem.

Planning staff also maintains that if this is an issue in San Carlos Park, these conditions might exist in other pre-platted communities and numerous smaller subdivisions.

B. CONCLUSIONS

The Lee Plan requires new residential developments that exceed 2.5 dwelling units per gross acre to connect to a public or "community" water system. The Lee Plan does not specifically require that existing platted residential developments be connected to public or "community" potable water systems. There is a potential for a health problem to exist some time in the future in existing residential developments that are on wells and septic systems.

C. STAFF RECOMMENDATION

Planning staff recommends that the Lee Plan be amended by adding a new policy, under Objective 31.1, that calls for an evaluation of the need to provide potable water service to existing residential development that utilize well water and are on septic systems. For specific language see Part I, C.1. of this report.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: June 12, 1997

A. LOCAL PLANNING AGENCY REVIEW

The LPA had a discussion concerning the study time frame as contained in the staff recommended language. Several members expressed concern that the 2005 time frame is a long way off. Representatives from Gulf Utilities, Inc., provided a presentation on their recommended language. These representatives discussed the 1995 study that the company commissioned. One representative stated that they would like to see the LPA and the County Commission recommend that the staff and the Utilities and the Health Department and the Fire Department all cooperate on a really solid study, ...and then within six months come back with a very definite recommendation..." One LPA member stated the applicant's assertion that in the final analysis when the data has been collected, then what is needed is a Lee Plan amendment requiring mandatory hookups. The San Carlos Fire Chief added that the Fire Department is willing to give its services and staff to help support the study because it is a life safety issue in that area.

The LPA passed a motion 5-0 asking the Health Department to help design the re-study to be directed by Gulf Utilities. The LPA strongly encourages the Health Department to cooperate with Gulf Utilities to conduct the necessary studies to protect ground water and potable water resources in San Carlos Park.

LPA Recommendation concerning proposed new Policy 31.1.10

The LPA passed a motion 5-0 recommending a modified version of new Policy 31.1.10. This LPA recommended new policy language is as follows:

Policy 31.1.10: By 1999, county staff shall formulate the study proposal to determine the appropriateness of requiring certain existing residential developments at a density equal to or in excess of 2.5 dwelling units per acre to connect to a potable water system, if available. The study shall address the issue of health related problems and will include the collection and analysis of well samples to determine if there is an immediate health problem as well as a cost benefit analysis. This study proposal shall include recommendations regarding which pre-platted communities and subdivisions should be required to connect to a potable water system, if available.

The LPA passed a motion 4-0 that recommends that the Gulf Utilities recommended language for Policy 70.1.3.1 be tabled pending completion of the study referred to on the first motion with respect to this issue, and be brought back to the LPA for consideration after that study with new amended or proposed language addressing the issue.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

- 1. RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit this amendment with the modified language.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The LPA accepted the findings of fact as advanced by the staff.

C1. VOTE: Concerning proposed new Policy 31.1.10

CARRON DAY	ABSENT
RICHARD DURLING	AYE
EARL HAMILTON	AYE
RONALD INGE	AYE
BILL SPIKOWSKI	AYE
GREG STUART	AYE
MATT UHLE	ABSTAINED

C2. VOTE: Concerning tabling proposed new language for Policy 70.1.3.1

CARRON DAY	ABSENT
RICHARD DURLING	AYE
EARL HAMILTON	AYE
RONALD INGE	AYE
BILL SPIKOWSKI	ABSTAINED
GREG STUART	AYE
MATT UHLE	ABSTAINED

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

DATE OF TRANSMITTAL HEARING: November 5, 1997

A. BOARD REVIEW: One member of the public, president of Gulf Utilities Company, addressed this issue. This member of the public urged the Board to address the language in the amendment, tighten it up and get a study that the Board can act on or not act on if that's what the results show, but this doesn't solve the problem; this puts off a problem that needs to be addressed. One Board member expressed concern over the perception that could be generated by requiring Gulf Utilities to participate in any study. The president of Gulf Utilities added a point of clarification that they have no interest in participating in the study; they want the health department to design an appropriate study. Another Board member added that "...if indeed there's contamination of the wells in this particular area, then clearly regional sewer will help to address alleviating that problem. I would submit that we ought to include a potable water system and a sewer system...central sewer needs to be given a strong consideration to alleviate that problem." The Board added "sewer" to the proposed policy through the motion. The modified language that the Board voted to transmit is as follows:

Policy 31.1.10: By 1999, county staff shall formulate the study proposal to determine the appropriateness of requiring certain existing residential developments at a density equal to or in excess of 2.5 dwelling units per acre to connect to a potable water or sewer system, if available. The study shall address the issue of health related problems and will include the collection and analysis of well samples to determine if there is an immediate health problem as well as a cost benefit analysis. This study proposal shall include recommendations regarding which pre-platted communities and subdivisions should be required to connect to a potable water or sewer system, if available.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board voted to transmit this amendment with the modifications noted above. The policy which the Board transmitted is as follows:

Policy 31.1.10: By 1999, county staff shall formulate the study proposal to determine the appropriateness of requiring certain existing residential developments at a density equal to or in excess of 2.5 dwelling units per acre to connect to a potable water or sewer system, if available. The study shall address the issue of health related problems and will include the collection and analysis of well samples to determine if there is an immediate health problem as well as a cost benefit analysis. This study proposal shall include recommendations regarding which pre-platted communities and subdivisions should be required to connect to a potable water or sewer system, if available.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board accepted the findings of fact as advanced by staff and the LPA.

C. VOTE:

JOHN ALBION	AYE
ANDREW COY	AYE
RAY JUDAH	AYE
JOHN MANNING	AYE
DOUG ST. CERNY	AYE

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

DATE OF ORC REPORT: February 5, 1998

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The DCA had no objections, recommendations, or comments concerning this amendment.

B. STAFF RECOMMENDATION

Adopt the amendment as transmitted.

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

\ DATE OF ADOPTION HEARING: May 27, 1998

A. BOARD REVIEW: The Board provided no discussion on this amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board voted to adopt this amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	AYE
ANDREW COY	AYE
RAY JUDAH	AYE
JOHN MANNING	AYE
DOUG ST. CERNY	ABSENT