

**NOTICE OF PROPOSED AMENDMENT TO THE  
LEE COUNTY COMPREHENSIVE LAND USE PLAN  
(ADOPTION HEARING)**

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of a proposed amendment to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, November 16, 2016. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt an ordinance amending the Lee Plan as follows:

**CPA2015-00005, Bay Harbour Marina Village Small Scale Amendment:**

The request is to Amend Lee Plan Map 1, Page 1, the Future Land Use Map, to change the future land use category for a 7.58 acre property from Industrial Development and Suburban to Central Urban. Amend Lee Plan Map 1, Page 6, Special Treatment Areas, to add the subject property to the Mixed Use Overlay.

This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing. Persons with disabilities who need an accommodation to participate in the public hearing should contact Janet Miller at 239-533-8583 or [jmiller@leegov.com](mailto:jmiller@leegov.com). To ensure availability of services, please request accommodation as soon as possible but preferably five or more business days prior to the event. Persons using a TDD may contact Janet Miller through the Florida Relay Service, 711.

**CPA2015-00005**

**BAY HARBOUR  
MARINA VILLAGE**

**Summary Sheet**  
**Bay Harbour Marina Village, CPA2015-05**  
**Privately Sponsored Small-Scale Amendment**

**Request:**

Amend Lee Plan Map 1, Page 1, the Future Land Use Map, to change the future land use category for a 7.58 acre property from Industrial Development and Suburban to Central Urban. Amend Lee Plan Map 1, Page 6, Special Treatment Areas, to add the subject property to the Mixed Use Overlay.

**LPA Motion:**

A motion was made to recommend that the BoCC *not adopt* the proposed amendment. The motion was called and passed 5-2.

<b>NOEL ANDRESS</b>	<u>AYE</u>
<b>TIMOTHY BROWN</b>	<u>AYE</u>
<b>DENNIS CHURCH</b>	<u>AYE</u>
<b>JIM GREEN</b>	<u>AYE</u>
<b>RICK JOYCE</b>	<u>AYE</u>
<b>DAVID MULICKA</b>	<u>NAY</u>
<b>GARY TASMAN</b>	<u>NAY</u>

**Staff Recommendation:**

Staff continues to recommend the Board of County Commissioners *adopt* the proposed amendments to the Lee Plan.

**Public Concerns:**

Sixteen members of the public provided comments to the LPA concerning the proposed amendment, both for and against the proposed amendment. Reasons for support included economic impact, clean up of a blighted property, and housing opportunities for employees. Concerns included losing industrial lands on San Carlos Island, additional traffic, and compatibility with the surrounding developments.

**Back-up Materials:**

Please note, back-up materials are available at the following link:

<http://www.leegov.com/dcd/planning/cpa/compplansearch?case=CPA2015-00005 OR PA2015-05>

LEE COUNTY ORDINANCE NO. \_\_\_\_

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN TO ADOPT A SMALL SCALE AMENDMENT (CPA2015-00005) PERTAINING TO BAY HARBOUR MARINA VILLAGE; PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN MAP 1, THE FUTURE LAND USE MAP; LEGAL EFFECT OF THE “LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY; INCLUSION IN CODE, CODIFICATION AND SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (“*Lee Plan*”) Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners (“*Board*”); and

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6, provide an opportunity for private individuals to request amendment to the Future Land Use Map through a small scale amendment public hearing process; and

WHEREAS, the Local Planning Agency (“*LPA*”) held a public hearing on the adoption of the proposed amendment on December 14, 2015. At that hearing the LPA found the proposed amendment to be consistent with the Lee Plan and recommended that the Board adopt the amendment; and

WHEREAS, the Board held a public hearing for the adoption the proposed amendment on November 16, 2016. At that hearing, the Board approved a motion to adopt proposed amendment CPA2015-00005 pertaining to Bay Harbour Marina Village, amending Map 1 of the Lee Plan, the Future Land Use Map. The subject property consists of seven parcels located on San Carlos Island, on the north side of Main Street, east of San Carlos Boulevard. The property is approximately 7.58 acres and has three different zoning designations: Light Industrial (IL), Marine Industrial (IM) and Commercial (C-2). The property is currently used as a self storage facility.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

## **SECTION ONE: PURPOSE, INTENT AND SHORT TITLE**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a public hearing to review a proposed small scale amendment to the Future Land Use Map Series of the Lee Plan. The purpose of this ordinance is to adopt the amendment to the Lee Plan discussed at that meeting and later approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." This amending ordinance may be referred to as the "Bay Harbour Marina Village (CPA2015-00005)".

## **SECTION TWO: ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN FUTURE LAND USE MAP SERIES, MAP 1**

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to the Future Land Use Map Series, Map 1, the Future Land Use Map to change the future land use category for a 7.58 acre property from Industrial Development and Suburban to Central Urban. Amend Lee Plan Map 1, Page 6, Special Treatment Areas, to add the subject property to the Mixed Use Overlay. The subject parcel is located at 1195 Main Street, Fort Myers Beach, FL 33931. The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan.

## **SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"**

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## **SECTION FOUR: MODIFICATION**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

## **SECTION FIVE: GEOGRAPHIC APPLICABILITY**

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## **SECTION SIX: SEVERABILITY**

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

## **SECTION SEVEN: INCLUSION IN CODE, CODIFICATION AND SCRIVENERS' ERROR**

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be re-numbered or re-lettered and the word "ordinance" may be changed to "section," "article" or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent may be authorized by the County Manager, or his designee, without need of a public hearing, by filing a corrected or re-codified copy with the Clerk of the Circuit Court.

## **SECTION EIGHT: EFFECTIVE DATE**

The small scale Lee Plan amendment adopted by this ordinance will be effective 31 days after adoption unless challenged within 30 days after adoption. If challenged within 30 days after adoption, the small scale amendment to the Lee Plan will not be effective until the Florida Department of Economic Opportunity or the Administrative Commission issues a final order determining the small scale amendment is in compliance with Florida Statutes, Section 163.3184. No development orders, development permits or land uses dependent on this amendment may be issued or commence before the amendment has become effective.

Commissioner \_\_\_\_\_ made a motion to adopt the foregoing ordinance, seconded by Commissioner \_\_\_\_\_. The vote was as follows:

John E. Manning	_____
Cecil L Pendergrass	_____
Larry Kiker	_____
Brian Hamman	_____
Frank Mann	_____

DONE AND ADOPTED this 16<sup>th</sup> day of November, 2016.

ATTEST:  
LINDA DOGGETT, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
\_\_\_\_\_, Chair

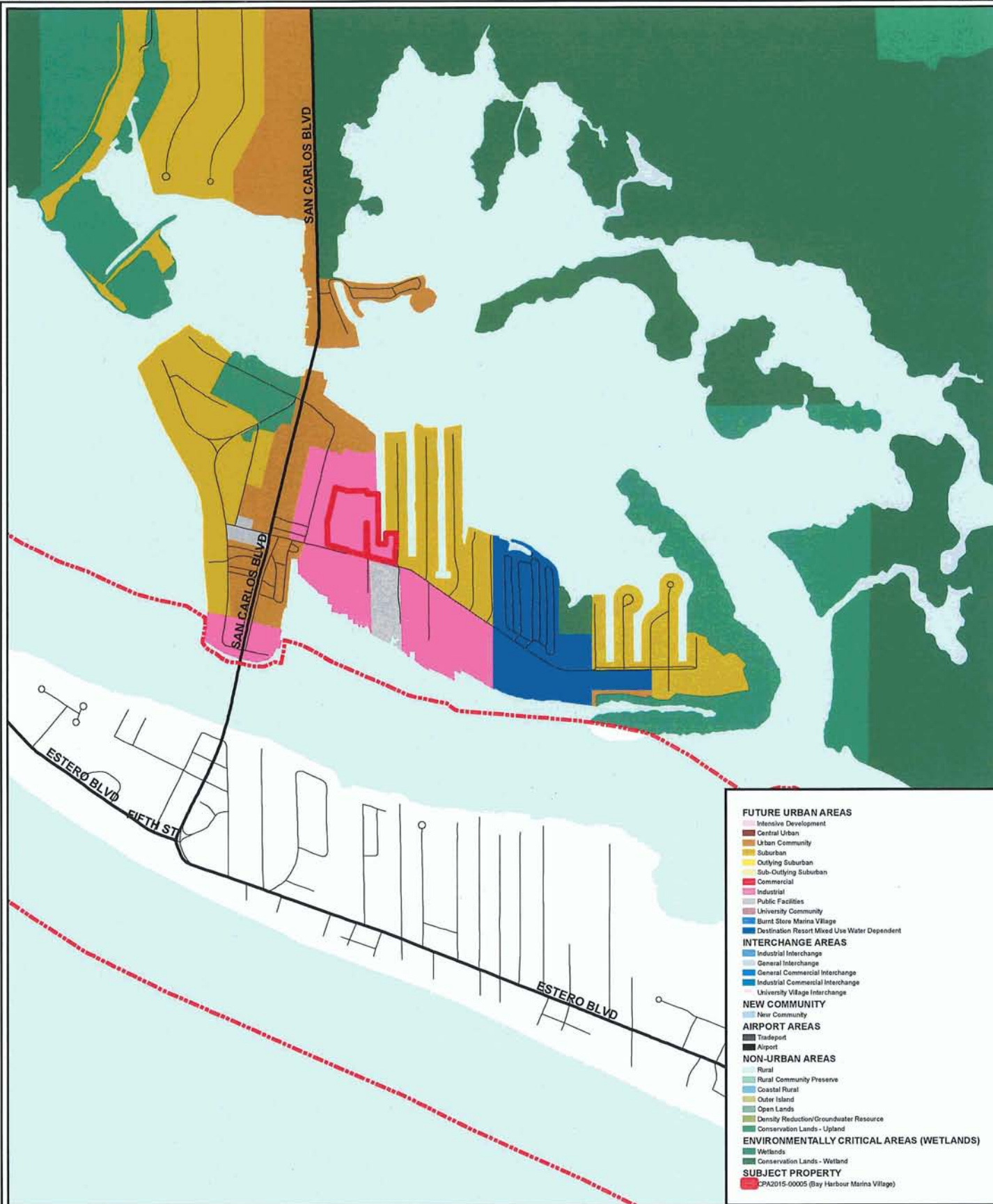
DATE: \_\_\_\_\_

Approved as to Form for the  
Reliance of Lee County Only

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Michael D. Jacob  
Managing Assistant County Attorney  
Lee County Attorney's Office

Exhibit A: Future Land Use Map 1, Page 1, Existing  
Exhibit B: Future Land Use Map 1, Page 1, Proposed  
Exhibit C: Future Land Use Map 1, Page 6, Proposed Mixed Use Overlay



- FUTURE URBAN AREAS**
- Intensive Development
  - Central Urban
  - Urban Community
  - Suburban
  - Outlying Suburban
  - Sub-Outlying Suburban
  - Commercial
  - Industrial
  - Public Facilities
  - University Community
  - Blurred Store Marina Village
  - Destination Resort Mixed Use Water Dependent
- INTERCHANGE AREAS**
- Industrial Interchange
  - General Interchange
  - General Commercial Interchange
  - Industrial Commercial Interchange
  - University Village Interchange
- NEW COMMUNITY**
- New Community
- AIRPORT AREAS**
- Interairport
  - Airport
- NON-URBAN AREAS**
- Rural
  - Rural Community Preserve
  - Coastal Rural
  - Outer Island
  - Open Lands
  - Density Reduction/Groundwater Resource
  - Conservation Lands - Upland
- ENVIRONMENTALLY CRITICAL AREAS (WETLANDS)**
- Wetlands
  - Conservation Lands - Wetland
- SUBJECT PROPERTY**
- CPA2015-00005 (Bay Harbour Marina Village)

LEE COUNTY  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING

Map Generated December 2015

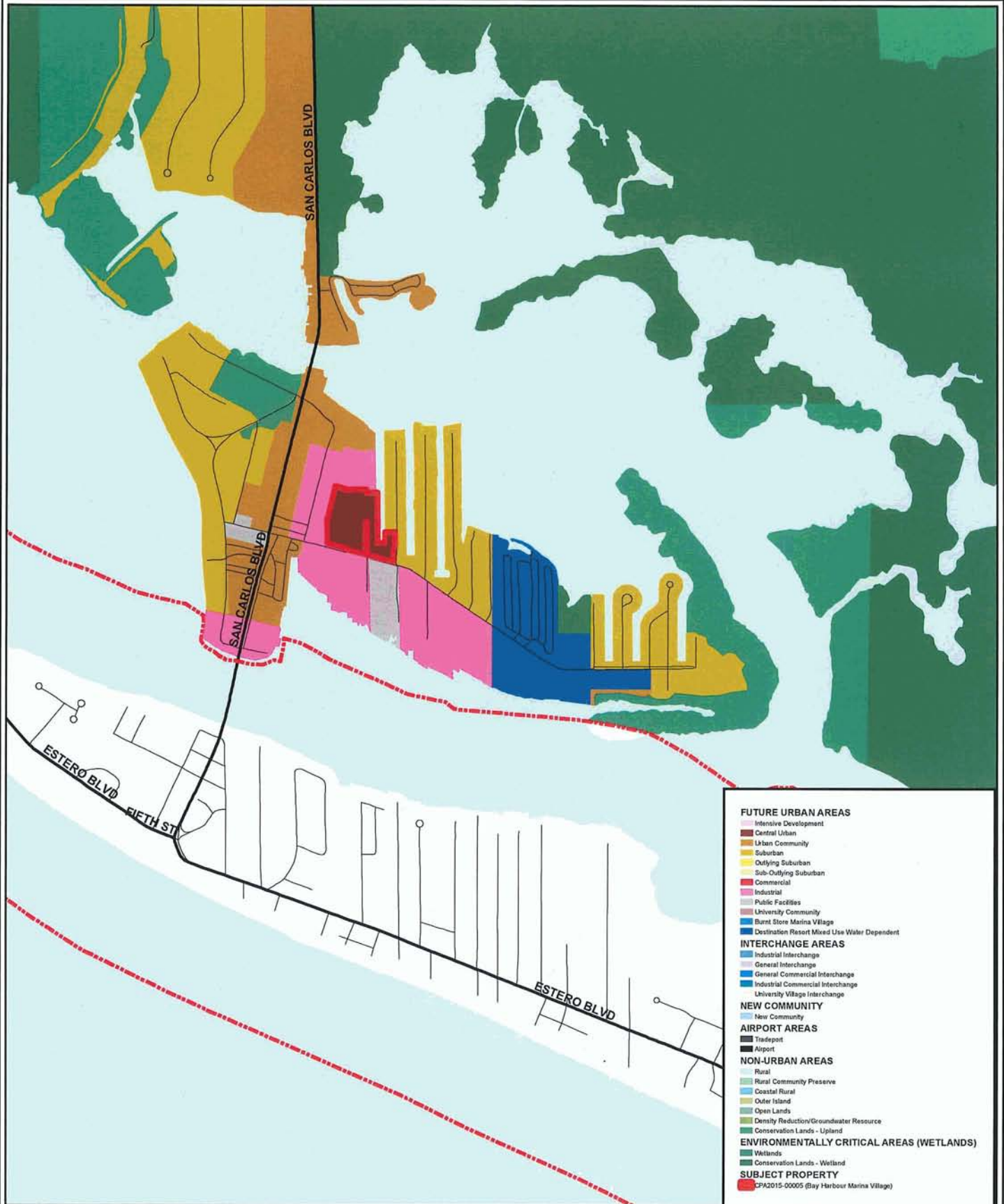


CPA2015-00005 - Bay Harbour Marina Village

EXHIBIT A

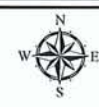
EXISTING LEE PLAN  
FUTURE LAND USE MAP





**LEE COUNTY**  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING

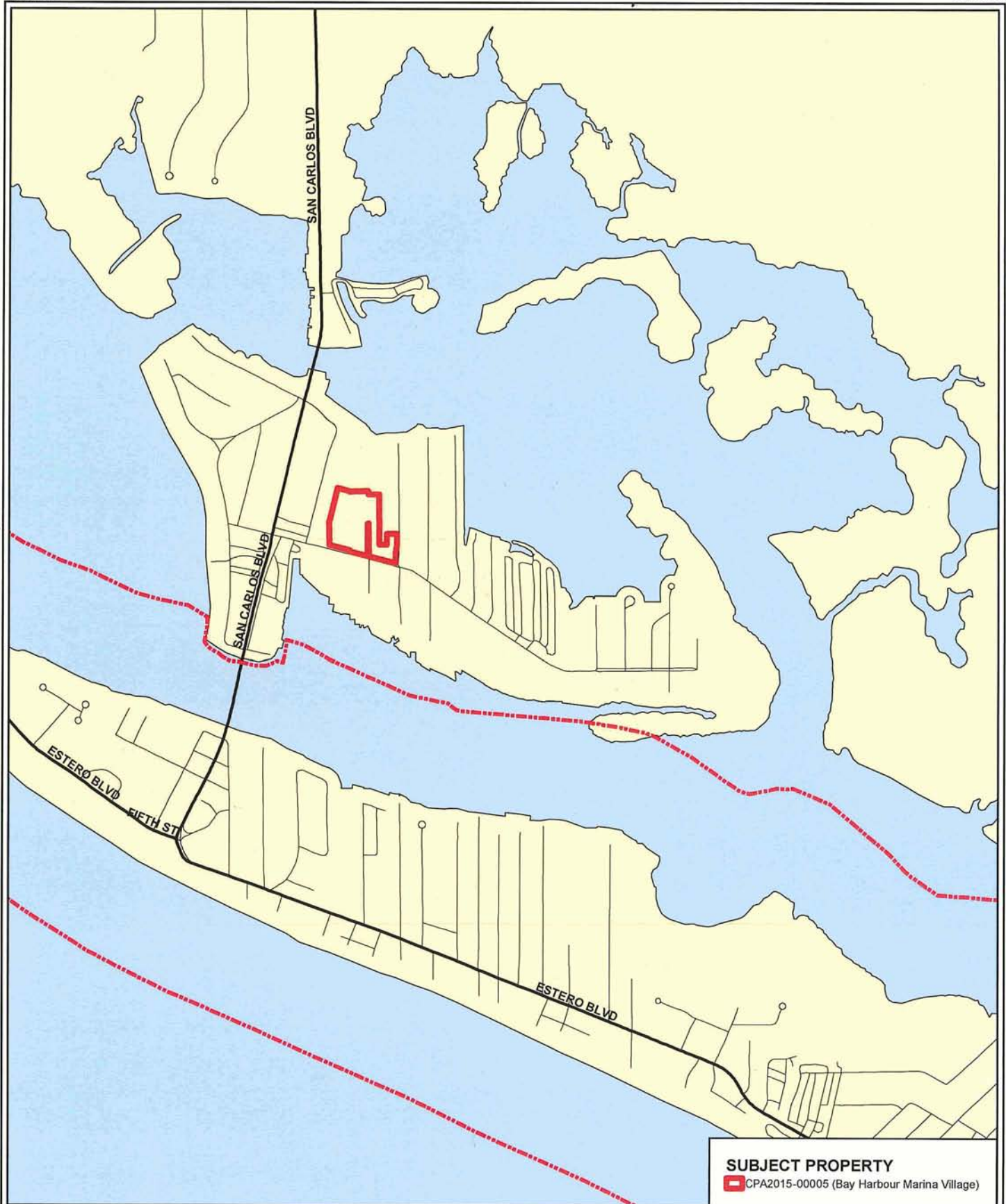
Map Generated December 2015




**CPA2015-00005 - Bay Harbour Marina Village**

**EXHIBIT B**

**PROPOSED LEE PLAN  
FUTURE LAND USE MAP**



**SUBJECT PROPERTY**  
 CPA2015-00005 (Bay Harbour Marina Village)

**LEE COUNTY**  
 SOUTHWEST FLORIDA  
 DIVISION OF PLANNING

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Map Generated December 2015



**CPA2015-00005 - Bay Harbour Marina Village**

**EXHIBIT C**

**PROPOSED LEE PLAN  
 MIXED USE OVERLAY MAP**



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**COMPREHENSIVE PLAN  
AMENDMENT**

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**CPA2015-05  
BAY HARBOUR MARINA VILLAGE  
SMALL SCALE AMENDMENT**

**Privately Sponsored Amendment**

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**Staff Report for  
BoCC Adoption Hearing**

**11/16/2016**

**LEE COUNTY  
DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING SECTION**

**STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2015-05**

Text Amendment

Map Amendment

This Document Contains the Following Reviews	
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PUBLICATION DATE: December 4, 2015

**PART I  
APPLICATION SUMMARY**

**A. PROJECT NAME:** Bay Harbour Marina Village

**B. APPLICANT/REPRESENTATIVES:**

Southern Comfort Storage, LLC, represented by James Ink of Inkwerks, Inc.

**C. AMENDMENT REQUESTS:**

Amend Lee Plan Map 1, Page 1, the Future Land Use Map, to change the future land use category for a 7.58 acre property from Industrial Development and Suburban to Central Urban. Amend Lee Plan Map 1, Page 6, Special Treatment Areas, to add the subject property to the Mixed Use Overlay.

**D. STAFF RECOMMENDATION:**

Staff recommends that the Board of County Commissioners **adopt** the proposed amendments as identified in Attachment 1 (Lee Plan Map 1, Page 1), and Attachment 2 (Lee Plan Map 1, Page 6).



## **PART II PROJECT SUMMARY**

### **SUBJECT PROPERTY**

The subject property consists of seven parcels located on San Carlos Island, on the north side of Main Street, east of San Carlos Boulevard. The property is approximately 7.58 acres and has three different zoning designations: Light Industrial (IL), Marine Industrial (IM) and Commercial (C-2). The property is currently used as a self storage facility.

### **SURROUNDING PROPERTIES**

To the north and west of the subject property are commercial and industrial uses, mainly for warehousing and distribution. South of the property across Main Street are industrial marina uses. This includes the San Carlos Isle Maritime Park, a Lee County owned Community Facility Planned Development. To the east of the subject property are residential uses consisting mainly of mobile homes with some single family residences.

Approximately one-quarter mile to the east, located on both the north and south sides of Main Street, is the approved project known as Ebtide. This property is on approximately 36 acres and includes: a 450 unit hotel with a 75,000 square foot convention center; 271 multi-family residential units; 10,000 square feet of commercial office; 85,000 square feet of commercial retail; and an existing marina. This project has a maximum building height of 230 feet.

The subject property and the properties to the north, south, and west are also within the Industrial Development future land use category. The property to the southeast owned by Lee County, across Main Street, is in the Public Facilities future land use category. To the east of the subject property the land is designated as Suburban.

### **CURRENT FUTURE LAND USE CATEGORY**

The subject property is currently located in the Industrial Development future land use category as depicted on Lee Plan Map 1, the Future Land Use Map. It has been designated Industrial Development since the Lee Plan was first adopted in 1984. The Industrial Development category is defined by Lee Plan Policy 1.1.7. Rather than supporting a wide variety of uses, this category is limited to primarily industrial uses and supporting ancillary uses. The currently approved development on the subject property is consistent with this category. Policy 1.1.7 is reproduced below:

**POLICY 1.1.7:** The Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail,

highway); industrial levels of water, sewer, fire protection, and other urban services; and locations that are convenient for employees to reach. Whereas, the other Future Urban Areas will include a broad combination of residential, commercial, public and limited industrial land uses, the Industrial Development area is to be reserved mainly for industrial activities per se, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, properly buffered recreational uses (except where precluded by airport hazard zone regulations) and office complex (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New limerock mining and fill dirt operations must be approved through the Mine Excavation Planned Development rezoning process in accordance with the Lee County Land Development Code. The 14± acre parcel redesignated by CPA2006-14 from the Suburban to the Industrial Development future land use category, located north of Bayshore road and south of ACL Railroad right of way in Section 20, Township 43 South, Range 25 East will have a maximum Floor Area Ratio of 0.3. The 138± acres redesignated by CPA2008-07 from the Central Urban and Urban Community categories to the Industrial Development future land use category, within the Lehigh Acres Planning Community, will have a maximum Floor Area Ratio of 1.0. Retail and commercial service uses supporting neighboring industrial uses are allowed if the following criteria are met:

1. Retailing and/or wholesaling of products manufactured or directly related to that manufactured on the premises;
2. Commercial uses are integrated into the primary R&D/Industrial development; or,
3. Commercial service and retail uses may not exceed 20% of the total acreage within the Industrial Development areas per each Planning Community.

As depicted on Lee Plan Map 2, San Carlos Island, the eastern portion of the subject property is within the Water-Dependent Overlay. Policy 1.7.5 defines the Water-Dependent Overlay as those shoreline areas where priority will be granted to water-dependent land uses such as marinas or boat ramps. This Overlay is intended to prevent the conversion of uses, which require access to the water, to non-water-dependent uses. The subject property will remain in the Water-Dependent Overlay. Development of property within the Water-Dependent Overlay is discussed in Objective 128.1 and 128.4 of the Conservation and Coastal Management Element. Consistency of the proposed amendments with Policy 1.7.5 and Objectives 128.1 and 128.4 is discussed in Part III of this staff report.

### **PROPOSED FUTURE LAND USE CATEGORY**

The proposed amendment will designate the subject property Central Urban. Lee Plan Objective 1.1 describes the County's future urban lands as areas intended to "provide for a full range of urban activities." Under Objective 1.1, the Central Urban future land use category is described in Lee Plan Policy 1.1.3 as follows:

**POLICY 1.1.3:** The Central Urban areas can best be characterized as the "urban core" of the county. These consist mainly of portions of the city of Fort Myers, the southerly portion of the city of Cape Coral, and other close-in areas near these cities; and also the central portions of the city of Bonita Springs, Iona/McGregor, Lehigh Acres, and North Fort Myers. This is

the part of the county that is already most heavily settled and which has or will have the greatest range and highest levels of urban service--water, sewer, roads, schools, etc. Residential, commercial, public and quasi-public, and limited light industrial land uses (see Policy 7.1.6) will continue to predominate in the Central Urban area with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate. This category has a standard density range from four dwelling units per acre (4 du/acre) to ten dwelling units per acre (10 du/acre) and a maximum density of fifteen dwelling units per acre (15 du/acre).

The Central Urban Future Land use Category is the second most intense category in the Lee Plan; the first being Intensive Development. A variety of uses are permitted in this category and developments that are mixed-use are encouraged. The types of uses that can be accommodated, in addition to industrial uses, include commercial retail, commercial office uses, and residential. The Central Urban category clearly supports a greater mix of uses.

The proposed amendments also include adding the subject property to the Mixed Use Overlay as identified on Lee Plan Map 1, page 6. The Mixed Use Overlay is described in Goal 4 of the Lee Plan. The mix of uses allowed in the Central Urban future land use category are consistent with the applicable objectives and policies of Goal 4, as discussed in Part III of the Staff Report.

### **PART III STAFF ANALYSIS**

#### **Consistency with the Lee Plan**

The applicant is requesting the Central Urban future land use category to accommodate a mixed use project that includes multi-family residential units. This proposal is consistent with the definition of the Central Urban category found in Policy 1.1.3 (provided above), as the Central Urban category is intended to contain a mix of uses normally found in urban areas, which may include light industrial uses.

#### **Lee Plan Planning Communities Map and Table 1(b)**

The proposed development is consistent with the provisions of Lee Plan Table 1(b). The subject property is located within the "Iona-McGregor" planning community. Table 1(b) allocates a total of 375 acres for residential use in the Central Urban future land use category portion of the Iona-McGregor planning community. There are currently 360 acres of Central Urban existing in Iona-McGregor, leaving 15 acres available. The applicant is requesting residential development on approximately 7.58 acres; therefore, the request is consistent with Table 1(b). At the time of development order, the applicant will have to demonstrate consistency with Policy 1.7.6(2), which states:

2. Project reviews for development orders must include a review of the capacity, in acres, that will be consumed by build out of the development order. No development order, or extension of a development order, will be issued or approved if the project acreage, when added to the acreage contained in the updated existing land use database, exceeds the

limitation established by Table 1(b), Acreage Allocation Table regardless of other project approvals in that Planning Community. For limerock mining in Planning Community #18, see special requirements in Policy 33.1.4 regarding industrial acreages in Table 1(b).

Lee Plan Goal 2 addresses growth management. Objective 2.1 seeks to create contiguous and compact growth patterns in order to preclude sprawl and reduce additional demands on infrastructure. Objective 2.2 intends to direct growth to areas that already possess sufficient infrastructure to support additional development. By developing a mixed-use – industrial, commercial, and residential – project in this location, the proposed amendment is consistent with these objectives. Policy 2.12.3 encourages development within the Central Urban future land use category to be of mixed-use design. The proposed amendments are consistent with this policy since the Central Urban future land use category allows multiple types of uses and the policies implementing the Mixed Use Overlay promote mixed-use developments.

### **Mixed-Use Overlay**

As previously stated, the applicant is requesting to amend Map 1, Page 6 to add the subject property to the Mixed-Use Overlay. Lee Plan Objective 4.3 states, in part, that:

Development, redevelopment, and infill rezonings located within the Mixed Use Overlay that utilize the Mixed Use Planned Development (MPD) zoning category and that incorporate the following Mixed Use, New Urbanism, Traditional Neighborhood Development (TND), and Transit Oriented Development (TOD) criteria will be allowed to use the area of commercial, office, light industrial, natural water bodies and other non-residential uses in their density calculations.

Lee Plan Objective 4.2 and its subsequent policies help to identify areas that are appropriate for inclusion in the Mixed-Use Overlay. Below is a discussion of the policies that are relevant to consider as part of this plan amendment:

Policy 4.2.1 provides preference for locating the Mixed-Use Overlay where there is proximity to: public transit; education facilities; recreation opportunities; and, existing residential and employment opportunities. The subject property is approximately 500 feet east of LeeTran Route 400 (the Beach Trolley) which runs along San Carlos Boulevard between mainland Lee County and the Town of Fort Myers Beach. The Lee County School District has also stated that there is adequate capacity to serve the proposed development. The property is also in close proximity to existing recreational, residential, and employment opportunities.

Policy 4.2.2 states that the Mixed-Use Overlay will not intrude into established single family neighborhoods. There are two mobile home residential communities located on Main Street, between the subject property and San Carlos Boulevard. These two communities were developed prior to the adoption of the Lee Plan and have densities that are higher than the maximum that could be allowed on the subject property. In addition, at the east end of San Carlos Island, is a wide variety of uses that have either been built or approved including residential, industrial, restaurants, seafood markets,



marinas, retail, and public facilities. Therefore, the proposed location of the Mixed-Use Overlay is consistent with Policy 4.2.2.

Policy 4.2.4 states that the Mixed Use Overlay may be included within the Coastal High Hazard Area when unique public benefits exist – such as, providing workforce housing near employers on barrier islands (if transit is available). As previously stated, the subject property is within 500 feet of an existing transit route. Due to the relatively high cost of housing in Lee County’s coastal areas, providing housing that is affordable to service providers is important to the growth of Lee County. This affects not only teachers, police, and fire people, but also the workers that support the recreational boating, commercial fishing and tourism industries that are located in the Town of Fort Myers Beach, San Carlos Island, and nearby areas on the mainland. In addition to the proposed amendments to the Lee Plan, the applicant has also filed a concurrent request for rezoning (DCI2015-00015) and bonus density (REZ2015-00009). The application for bonus density states that the proposed development will provide workforce housing. The subject property is an appropriate location for the Mixed-Use Overlay, and therefore is consistent with Objective 4.2 of the Lee Plan.

### **Water-Dependent Overlay**

As previously stated, portions of the property are within the Water-Dependent Overlay. Policy 1.7.5 defines the Water-Dependent Overlay as those shoreline areas where priority will be granted to water-dependent land uses. Lee Plan Objective 128.1 and Policy 128.4.2 identify specific requirements of the Water-Dependent Overlay that are intended to prevent the conversion of water-dependent uses by other forms of development.

The Lee Plan amendments proposed by the applicant do not inhibit the location of water-dependent uses on the subject site. The Central Urban future land use category allows for a wide variety of uses including wet and dry boat storage and limited light industrial uses. These uses are consistent with the intent of the Water-Dependent Overlay. Adding the subject property to the Mixed-Use Overlay will allow future development of the subject property to also include water-related uses, as defined by Policy 128.4.2, that can help financially support the water-dependent uses. The concurrent request to rezone the property to MPD includes both water-dependent and water-related uses. Because the proposed Lee Plan amendments will not inhibit (and will potentially enhance the ability to continue) water-dependent uses on the subject property, the amendments do not conflict with Lee Plan Objective 128.1 and Policies 1.7.5 and 128.4.2.

### **Residential Land Uses**

Policy 5.1.2 prohibits residential development where physical hazards exist, or require the density and design to be adjusted accordingly. The applicant worked with Lee County Public Safety staff to develop a site design, including minimum elevations for habitable areas. The proposed development will be designed to be consistent with this policy and will be reviewed for consistency at time of zoning and development order.

Policy 5.1.3 directs high density residential uses to locate near employment and shopping centers. As previously mentioned in the discussion of the Mixed-Use Overlay the subject property is approximately 500 feet east of LeeTran Route 400 and is in close proximity to existing recreational, residential, and employment opportunities. Amending the Future Land Use Map to designate the property Central Urban is consistent with Policy 5.1.3

Policies 105.1.2, 105.1.4, and 105.1.5 encourage low or reduced density on islands or within the Coastal High Hazard Area. The applicant has consulted with Public Safety staff about the design criteria that must be met by the proposed development in order to mitigate the risks of locating residential uses in the Coastal High Hazard Area. The applicant is proposing a site design that will address the danger of storm events. This site design will be reviewed as part of the concurrent rezoning case to ensure that it adequately addresses projected storm hazards.

This is also consistent with 109.1.5 of the Lee Plan which provides criteria that must be met in order to increase density within the coastal high hazard areas, as follows:

***POLICY 109.1.5: Comprehensive plan amendments that increase density within coastal high hazard areas must meet one of the following criteria in accordance with Section 163.3178(9), F.S.:***

- 1. The proposed amendment will not exceed a 16 hour out of county hurricane evacuation time for a category 5 storm event; or*
- 2. Maintain a 12 hour evacuation time to shelter for a Category 5 storm event and ensure shelter space is available to accommodate the additional residents of the development allowed by the proposed comprehensive plan amendment; or*
- 3. Provide appropriate mitigation to satisfy the provisions of either of the previous two paragraphs, which may include without limitation, the payment of money, contribution of land, or construction of hurricane shelters and transportation facilities. The developer must enter into a binding agreement to memorialize the mitigation plan prior to adoption of the plan amendment.*

In addition to the previously mentioned minimum habitable floor elevation of 25.7 feet above sea level (NAV), the applicant has also worked with Lee County Public Safety to propose a shelter. The concurrent zoning should be conditioned with the minimum floor elevation and shelter as proposed by the applicant. This will help to mitigate for the increased density within the coastal high hazard area consistent with Policy 109.1.5.

Goal 110 also deals with hazard mitigation for new and existing development. The two policies relevant to this amendment, Policies 110.1.3 and 110.1.4, require the applicant to formulate an emergency preparedness plan and inform the residents about it. This will also be addressed during the rezoning case.

The proposed amendment is also consistent with the Lee Plan Housing Element. Policy 135.1.9 encourages a mix of residential uses through the planned development process

and the Future Land Use Map. Upon being designated Central Urban, the applicant is proposing a multi-family residential use in a community that is currently characterized by single family and mobile home residences. This mix of residential uses will be consistent with Policy 135.1.9.

Policy 135.4.12 seeks to locate workforce housing at sites in advantageous locations for workers. The proposed amendment will provide additional opportunities for workforce housing units to locate much closer to employment sites in the Town of Fort Myers Beach and on San Carlos Island, where the cost of housing is relatively high. The amendment will allow for development consistent with this Policy.

The proposed amendment also conforms to Policy 135.9.7 which seeks to locate residential development within existing urban areas in order to prevent premature urbanization. The location of the subject property is in an urbanized area. This mix of housing types is also consistent with Lee Plan Policy 158.1.9 of the Economic Element. This policy looks to create diversity in housing types for the economic health of Lee County.

### **Removing Land from the Industrial Development Category**

The proposed amendment would remove 7.58 acres of land from the Industrial Development future land use category. In general, the County prefers to preserve land in this category in order to reduce potential weakening of the County's economic base. However, in this instance, removing the subject property from the Industrial Development category will support and strengthen the economic base of this area of Lee County as demonstrated by the following:

1. The Master Concept Plan submitted with the concurrent zoning case demonstrates that the uses allowed under the Industrial Development future land use category will be retained on the subject site. The proposed development will add residential uses to the existing mix without removing commercial or industrial uses.
2. The proposed Central Urban future land use category allows for industrial uses in addition to commercial and residential uses. Future development will not be precluded from including industrial uses by being designated Central Urban.
3. The subject property is also proposed to be included in the Mixed-Use Overlay. This facilitates the inclusion of residential units into the development while also maintaining industrial uses.
4. The subject property will remain in the Water-Dependent Overlay which supports and encourages development of uses that are allowable in both the Central Urban and the Industrial Development future land use categories.
5. If, in the future, the property was developed with only residential uses, its relatively small size will not have a substantial impact on the amount of industrial designated land within Lee County.

### **Transportation/Traffic Circulation Impacts**

In a memo dated November 5, 2015, Lee County DOT staff stated:

*We have reviewed the above application which requests the land use designation of approximately 7.58 acres be changed from Industrial to Central Urban. The existing FLUM designation of land uses, 75,000 square feet of industrial uses could be built in the subject area. The proposed land uses designation would allow 113 residential dwelling units and 75,000 square feet of commercial uses to be built in the subject area. The transportation level of service (LOS) analysis provided by the applicant indicates San Carlos Blvd from Estero Blvd to Main St and Estero Blvd from Voorhis St to Center St will operate at LOS "F" with and without the proposed project both in the year 2020 (short range) and in the year 2035 (long range).*

*This project will access on Main St which is a collector maintained by County. Estero Blvd is an arterial maintained by County and San Carlos Blvd is an arterial maintained by State. There are existing sidewalks on Main St, San Carlos Blvd and Estero Blvd.*

The proposed amendments were reviewed in relation to Lee Plan Goals, Objectives, and Policies that address transportation. Goal 39 of the Transportation Element includes Policy 39.1.4 which helps to identify appropriate locations for high-density residential developments. Policy 39.1.4 is as follows:

**Policy 39.1.4:** Main access points from new development will not be established where traffic is required to travel through areas with significantly lower densities or intensities (e.g. multifamily access through single-family areas, or commercial access through residential areas) except where adequate mitigation can be provided.

The proposed plan amendments will allow development with a residential density of approximately 15 units per acre plus commercial uses. The main access for the subject property is from San Carlos Boulevard via Main Street. There are two mobile home residential developments between the subject property and San Carlos Boulevard on Main Street that traffic from the proposed development will have to pass. These mobile home residential developments were approved prior to the adoption of the Lee Plan with densities of approximately 16 and 23 units per acre – higher than the density requested on the subject property. Therefore, traffic will not be required to travel through areas with significantly lower densities. The request is consistent with Policy 39.1.4.

### **Natural Resources**

As part of the July 9, 2015 sufficiency letter to the applicant, Natural Resources staff expressed the following concern:

*Through the years when the site was self storage units, there were many hobbyist and unlicensed businesses manufacturing fiberglass boat components, repairing various types of engines (from auto and boat), and performing painting of boat bottoms and vehicles out of the units. They were inspected and found to not have any documentation of proper disposal of the waste from these operations. The site did have various areas of discharge, assumed to be from the dumping of these types of chemicals along the fence lines. Please provide us with any Environmental Audits*

*performed prior to the site being redeveloped. The year of the environmental audit should have been around 2006 or 2007.*

The applicant has responded to this concern by stating that they will provide a storm water management plan, operations plan, and increased open space. These measures are intended to address Natural Resources staff concerns and will be part of the rezoning process. Natural Resources, Marine Services staff have also noted that the proposed marina use is consistent with previously approved development and the Manatee Protection Plan.

### **Environmental Review**

An Environmental review of the boundary survey and current and historical aeriels revealed the site was cleared, filled and partially developed prior to the 1980s. A majority of the structures have since been demolished and any remaining vegetation (mostly exotics) has been cleared. The site does not contain any wetlands. The site is disturbed from the improvements for Compass Rose Marina. Compass Rose Marina obtained both United States Army Corp of Engineer (USACOE) Permit and Florida Department of Environmental (FDEP) permits for a marina; however, the marina improvements were not completed. The dry boat storage facility and wet slips are similar size and configuration to previous approvals; therefore, no additional impacts are anticipated for endangered species such as manatee or smalltooth sawfish.

The previous marina site design was evaluated for consistency with the Manatee Protection Plan (MPP). The MPP indicated this area as "Preferred". The MPP indicates "Preferred" as projects that may allow unrestricted development (as it pertains to boat slips), since they represent a relatively low risk to manatees. The site will comply will comply the standard manatee conditions for any in-water improvements. The site connects the Estero Bay Aquatic Preserve, which includes smalltooth sawfish habitat.

Since the site is not changing the current configuration of the wet slips or increasing the number of dry slips, it is compliant with Lee Plan policies 107.4.1 For Endangered Species and more specifically Objective 107.7. The improvements to the site will provide stormwater management which is consistent with Goal 108 for Estuarine Habitat. The marina location is consistent with Objective 128.5 for Marine Facilities Siting Criteria.

### **Transit**

The subject property is approximately 500 feet east of LeeTran Route 400 (the Beach Trolley) which runs along San Carlos Boulevard between mainland Lee County and the Town of Fort Myers Beach. In a letter dated June 23, 2015, LeeTran staff stated that the subject property is within the one-quarter mile service area for fixed service and the three-quarter mile area for paratransit service.

### **Police**

In a letter dated August 17, 2015, Sheriff's Office personnel state that the proposed development does not affect the ability of the Office to provide core services at this time.

**Fire and Emergency Medical Services (EMS)**

Both fire service and emergency medical services are being provided by the Fort Myers Beach Fire District. A letter from the District dated June 22, 2015 states that, at this time, services and facilities are sufficient to provide service to the proposed development.

**School Impacts**

In a letter dated June 16, 2015, Lee County School District staff stated that there is sufficient capacity for elementary and middle school seats within the Concurrency Service Area (CSA). There is insufficient capacity within the CSA for high school seats, but there is sufficient capacity within the contiguous CSA.

**Solid Waste**

In a letter date August 18, 2015, Solid Waste staff stated that the division is capable of providing service to the proposed development. Solid waste generated at the site will be disposed of at the Lee County Resource Recovery Facility and the Lee-Hendry Landfill.

**Utilities**

In a letter dated June 16, 2015, Lee County Utilities staff stated that there is currently sufficient capacity to provide potable water and sanitary sewer service to the proposed development. Potable water service will be provided through the Green Meadows Water Treatment Plant. Sewer service will be provided by the Fort Myers Beach Wastewater Treatment Plan.

## PART IV FINDINGS OF FACT AND RECOMMENDATION

### Findings of Fact:

- The applicant submitted an application to amend the Future Land Use Map on June 18, 2015.
- The subject property has been designated in the Industrial Development future land use category since the adoption of the Lee Plan in 1984.
- The Central Urban Future Land Use Category is compatible with the subject property's location.
- The proposed amendments are consistent with the intent of the Water-Dependent Overlay.
- The subject property has access to Main Street, a collector road.
- The local transportation network is projected to function at LOS "F" with or without the proposed amendment in the year 2020.
- The subject property is an appropriate location for the Mixed-Use Overlay.
- The applicant has requested 38 work force housing bonus density units for their residential development through concurrent zoning cases REZ2015-09 and DCI2015-15.
- Removing the subject property from the Industrial Development future land use category to a category that will allow for a mix of uses, including industrial, will support and strengthen the economic base of this area of Lee County.
- The subject property is 7.58 acres, which is considered a small scale amendment by Florida Statutes. Its relatively small size will not have a substantial impact on the amount of industrial designated land within Lee County.

### Recommendation:

Staff recommends that the Board of County Commissioners **adopt** the proposed amendments.

## **PART IV - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: December 14, 2015

### **A. LOCAL PLANNING AGENCY REVIEW:**

Staff gave a brief overview of the proposed amendment and recommended that it be adopted.

Following the staff presentation the applicant's representatives gave an overview of the project. Their presentation indicated that the "Industrial" classification is limited to industrial uses and that the purpose of the plan amendment is to allow for residential uses and commercial uses in addition to the industrial uses on the subject property. The applicant's representatives discussed additional details of the request including a review of the subject property, surrounding uses, economic use of the property, and transportation impacts. They noted that a companion rezoning is also pending.

One member of the LPA noted that the property was designated as a water dependent overlay and that those areas have special protection. The applicant responded that proposed project would maintain the existing water dependent uses.

Members of the LPA also asked about transportation impacts of the project and if intersection improvements were planned. The applicant's representatives responded that this type of review was typically done at the zoning phase of the development.

One member of the LPA asked how the traffic analysis accounted for the 200 public parking spaces within the proposed parking garage. The applicant responded that the 200 spaces are intended to be open to the public for those going to the beach. The traffic associated with the 200 public parking spaces would be reviewed in terms of intersection analysis, etc. once the project gets into the zoning and development order processes.

Members of the LPA had a discussion about the impact of the 200 public parking spaces. The applicant reminded the LPA that what is before them today is the request to change from "Industrial" to "Central Urban," and that the specific design of the project would be discussed in the zoning case.

Following this, one member of the LPA requested clarification about the analysis that was used to determine consistency with the Lee Plan on Page 4 of the staff report.



Staff clarified that this paragraph is introductory to the entire analysis of consistency with surrounding future land use categories and uses on the island as well as an analysis of applicable Lee Plan provisions. Staff reiterated that the density range that is allowed in the Central Urban Future Land Use category is consistent with the densities already existing on the Island as many of the densities on the Island are higher than would be permitted today because they have existed before the Lee Plan was adopted in 1984.

One member of the LPA asked how the proposed amendment would affect Lee County's population accommodation. Staff stated this analysis was completed as part of Table 1(b) and that no amendments are needed to accommodate the additional units.

Another member of the LPA asked about transportation impacts to the surrounding road network and was concerned that this project would cause issues for the people who live in the area. He asked what the County's plans were to help mitigate this issue.

Staff responded that the details of the traffic analysis would be part of the development order and zoning processes. In terms of specific mitigation requirements, it was mentioned that the Ebtide project had a requirement to upgrade the condition of Main Street to a Class A standard and to add sidewalks. There is an expectation that this project will be held to the same standard as it moves forward. In addition, State DOT is preparing an analysis for San Carlos Boulevard. They are considering the addition a dedicated trolley lane and other improvements to San Carlos Boulevard. Staff feels the current request by this applicant is supportable.

Sixteen members of the public provided comments to the LPA concerning the proposed amendment. Some of the members of the public were in favor of the proposed amendment. Others expressed concern about losing industrial lands on San Carlos Island, additional traffic, and compatibility with the surrounding developments.

Some members of the LPA expressed concern about adding density within the Coastal High Hazard Area. Staff noted that the critical evacuation routes would not be exceeded because the residents would be evacuating north bound off the Island area. The traffic constraints on San Carlos Boulevard are south bound in the other direction.

Other members of the LPA expressed support for the proposed amendment because it could: have a positive economic impact; take some of the congestion out of the Time Square area due to the public parking; allow for continued water-dependant uses; and, allow for a mixture of uses more compatible with the adjacent residential uses than the industrial uses that would be allowed in the existing Industrial Development future land use category.

**A motion was made to recommend that the Board of County Commissioners not adopt the proposed amendment because it is inconsistent with the Comprehensive Plan. The motion was called and passed 5-2.**

**B. SUMMARY OF LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT:**

**1. RECOMMENDATION:**

The LPA recommended that the Board of County Commissioners *not adopt* the amendment to the Lee Plan.

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

The LPA did not accept the basis and recommended findings of fact as advanced by staff.

**C. VOTE:**

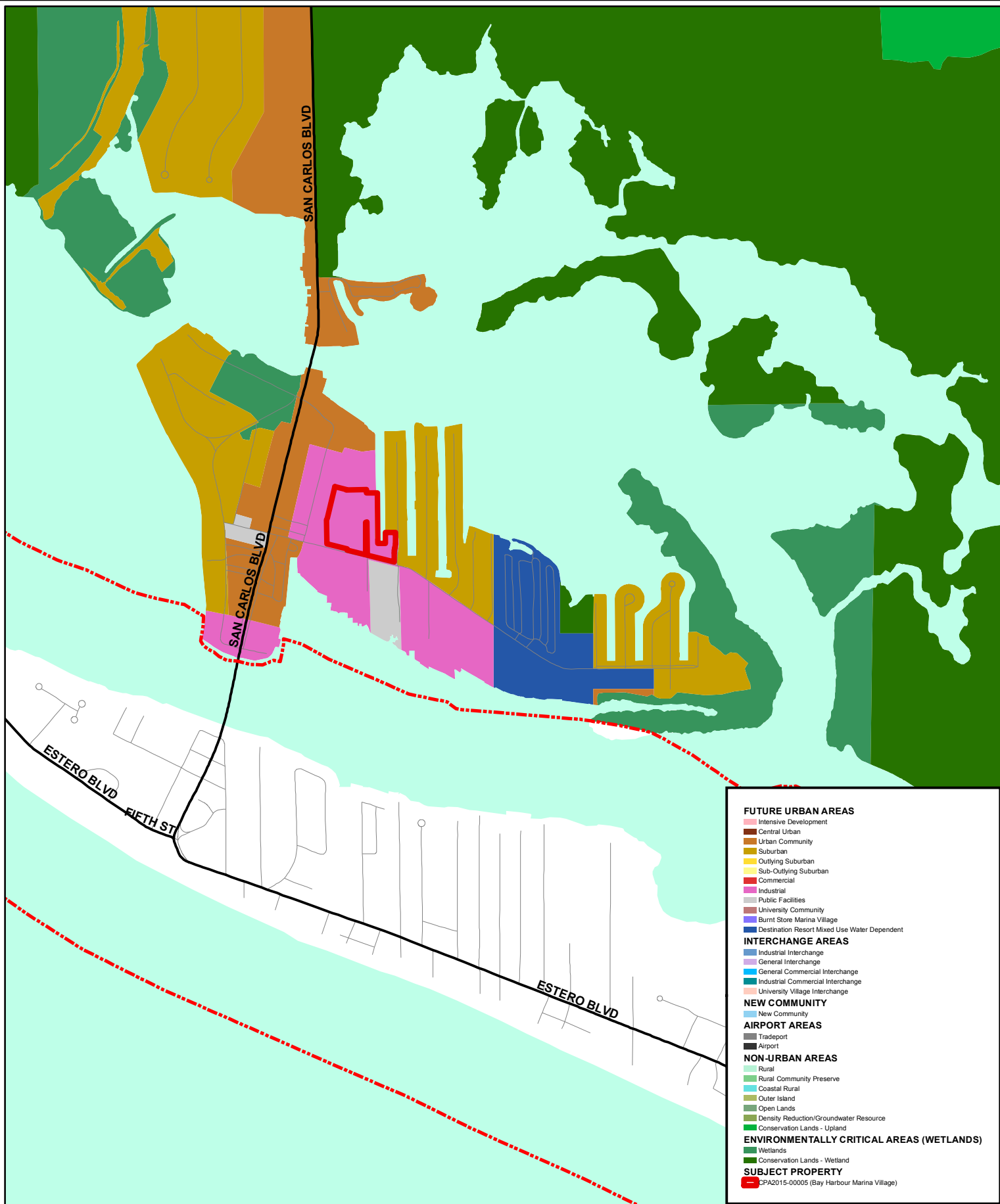
<b>NOEL ANDRESS</b>	<b>AYE</b>
<b>TIMOTHY BROWN</b>	<b>AYE</b>
<b>DENNIS CHURCH</b>	<b>AYE</b>
<b>JIM GREEN</b>	<b>AYE</b>
<b>RICK JOYCE</b>	<b>AYE</b>
<b>DAVID MULICKA</b>	<b>NAY</b>
<b>GARY TASMAN</b>	<b>NAY</b>

**D. STAFF RESPONSE TO LPA RECOMMENDATION:**

Staff continues to recommend the Board of County Commissioners *adopt* the proposed amendments to the Lee Plan for the following reasons:

- Due to the relatively small size of the property and the close proximity of residential uses, the Central Urban future land use category is more appropriate than the existing Industrial Development future land use category.

- Policy 109.1.5 allows for comprehensive plan amendments that increase density within the Coastal High Hazard Area to provide appropriate mitigation to help satisfy hurricane evacuation or shelter requirements. Mitigation requirements have been incorporated into Chapter 2, Article XI of the Land Development Code which is applicable to all residential developments requiring a development order within the Coastal High Hazard Area.
- The density allowed by the Central Urban future land use category, including the potential use of bonus density, is compatible and consistent with nearby residential uses.
- The proposed amendments to the Lee Plan would allow for development densities and intensities similar to the Ebtide Mixed Use Planned Development (MPD) further east on Main Street, without the use or creation of a new land use category.
- Affordable housing for Lee County's work force is an important issue for our coastal areas which are reliant on tourism, service, and marine industries.
- Providing housing that is affordable near employment opportunities in Lee County's coastal areas will reduce trip lengths for those employees, creating an overall benefit to Lee County's transportation network.
- The water dependent uses that were previously located on the site will be retained and incorporated into the property's redevelopment.



**FUTURE URBAN AREAS**

- Intensive Development
- Central Urban
- Urban Community
- Suburban
- Outlying Suburban
- Sib-Outlying Suburban
- Commercial
- Industrial
- Public Facilities
- University Community
- Burnt Store Marina Village
- Destination Resort Mixed Use Water Dependent

**INTERCHANGE AREAS**

- Industrial Interchange
- General Interchange
- General Commercial Interchange
- Industrial Commercial Interchange
- University Village Interchange

**NEW COMMUNITY**

- New Community

**AIRPORT AREAS**

- Tradeport
- Airport

**NON-URBAN AREAS**

- Rural
- Rural Community Preserve
- Coastal Rural
- Outer Island
- Open Lands
- Density Reduction/Groundwater Resource
- Conservation Lands - Upland

**ENVIRONMENTALLY CRITICAL AREAS (WETLANDS)**

- Wetlands
- Conservation Lands - Wetland

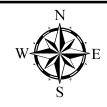
**SUBJECT PROPERTY**

- CPA2015-00005 (Bay Harbour Marina Village)

LEE COUNTY  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING

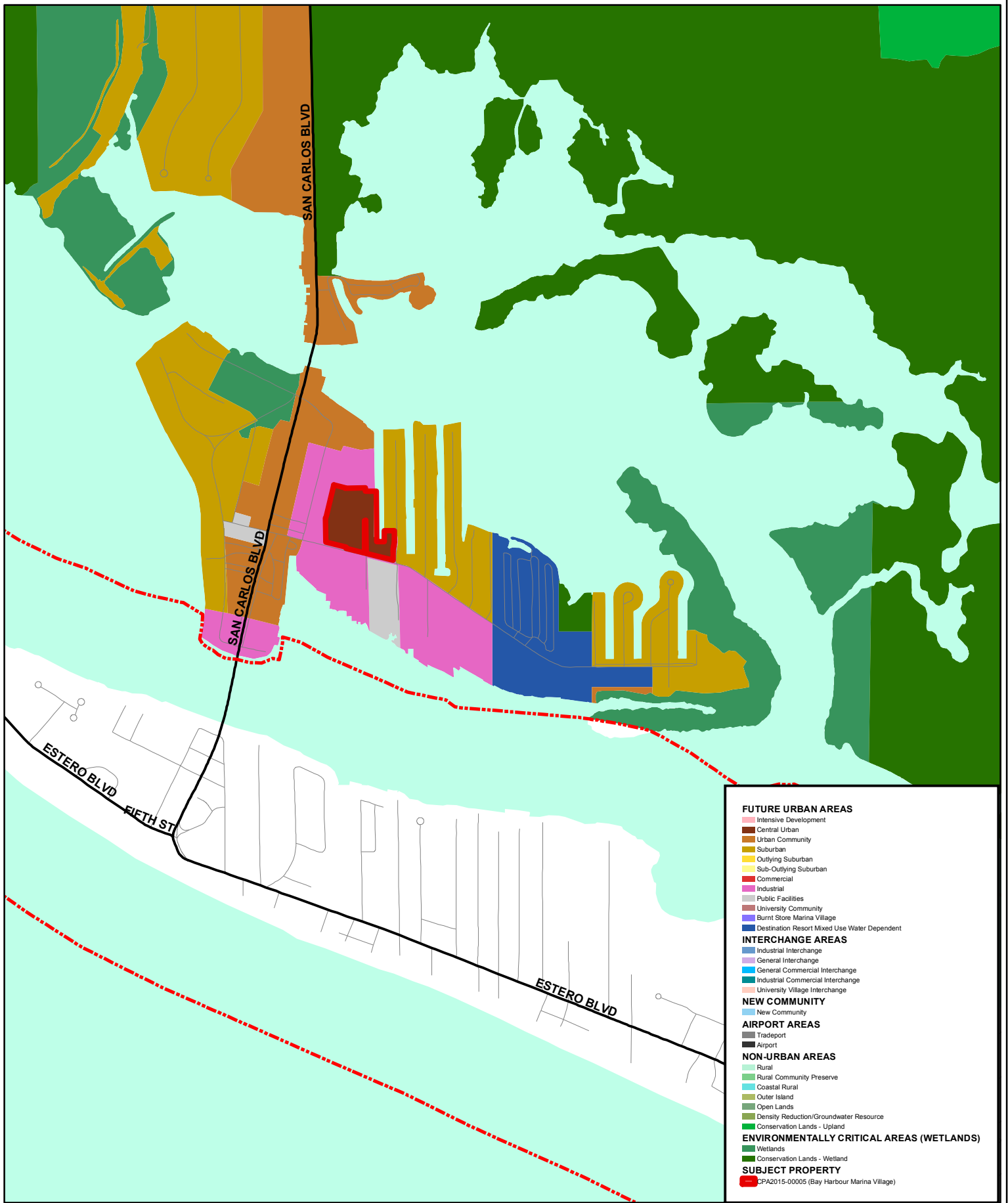
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# CPA2015-00005 - Bay Harbour Marina Village

## EXISTING LEE PLAN FUTURE LAND USE MAP



**FUTURE URBAN AREAS**

- Intensive Development
- Central Urban
- Urban Community
- Suburban
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- Sub-Outlying Suburban
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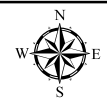
**ENVIRONMENTALLY CRITICAL AREAS (WETLANDS)**

- Wetlands
- Conservation Lands - Wetland

**SUBJECT PROPERTY**

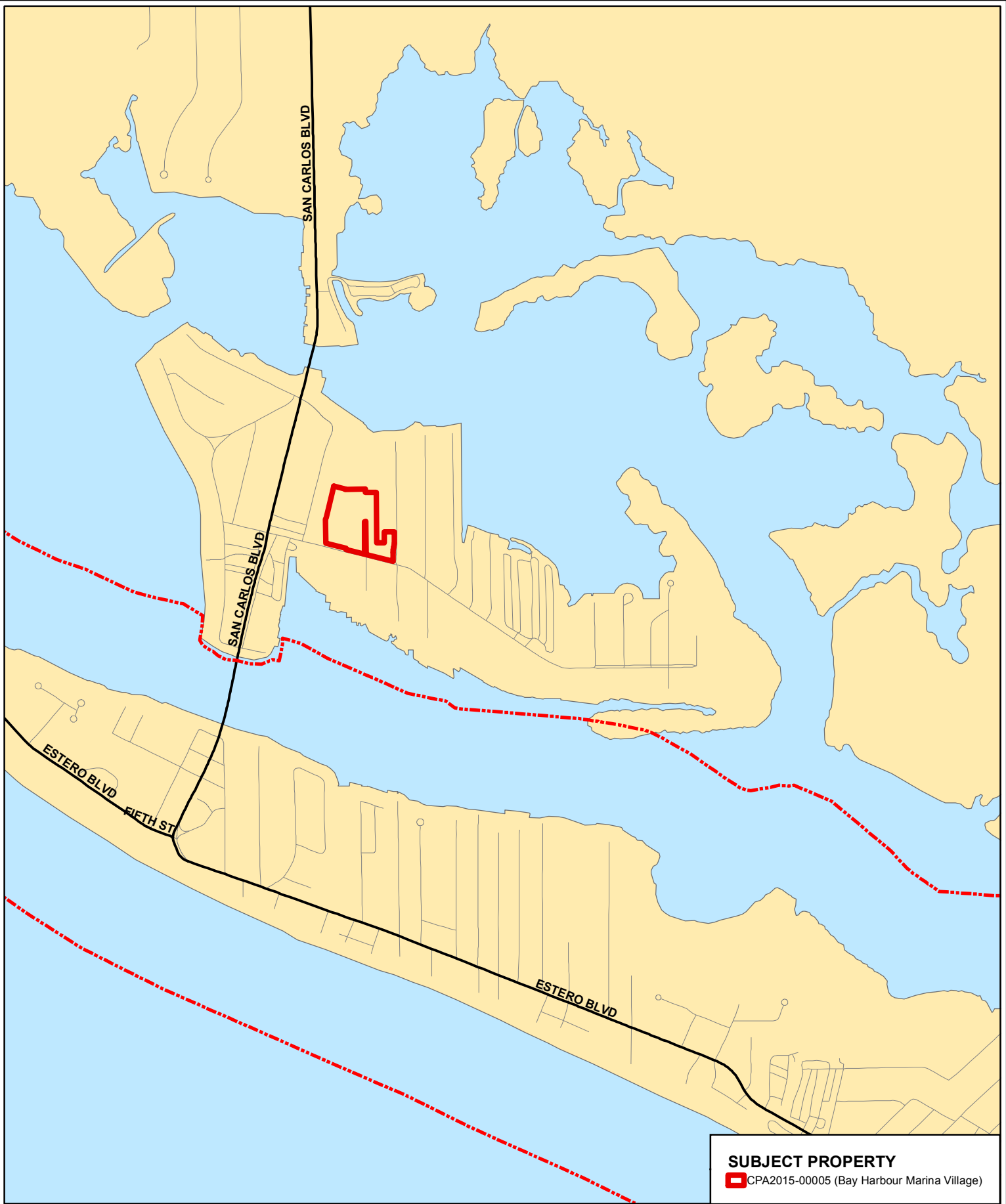
- CPA2015-00005 (Bay Harbour Marina Village)

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# CPA2015-00005 - Bay Harbour Marina Village

## PROPOSED LEE PLAN FUTURE LAND USE MAP



**SUBJECT PROPERTY**  
 CPA2015-00005 (Bay Harbour Marina Village)

**LEE COUNTY**  
 SOUTHWEST FLORIDA  
 DIVISION OF PLANNING



Map Generated December 2015



**CPA2015-00005 - Bay Harbour Marina Village**  
**PROPOSED LEE PLAN**  
**MIXED USE OVERLAY MAP**