



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING
and
COMPREHENSIVE PLAN AMENDMENT HEARING
AGENDA

Wednesday, September 5, 2018

9:30AM

DCI2017-00026
Z-18-012

JOEL BLVD & NORTH AVE CPD

CPA2018-00007

PUBLIC FACILITIES/CONSERVATION LANDS – TRANSMITTAL

CPA2017-00006

CONSERVATION AND COASTAL MANAGEMENT - TRANSMITTAL

CPA2017-00007

WATER DEPENDENT OVERLAY - TRANSMITTAL

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

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, September 5, 2018. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers at 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Economic Opportunity:

CPA2017-00006 Conservation and Coastal Management: Amend Lee Plan goals, objectives, and policies currently within Goals 101-115, 117, 118, 121, 122, 124, 125, and 127 to align provisions within Lee Plan with the Board of County Commissioners strategic policy priority of preservation, water quality, and flood management. The amendments will also reduce redundancies; align with state statutes; and, provide better organization of the Lee Plan.

CPA2017-00007 Water Dependent Overlay: Amend policies and objectives in Goal 8, 128, and 158 of the Lee Plan to clarify the definitions of Water-Dependent Overlay, water-dependent uses, and marine-dependent uses, and to allow for greater flexibility of uses in the Water-Dependent Overlay. In addition, data will be moved from Map 1, Page 2: Special Treatment Areas and Map 2: San Carlos Island Map 12: Water-Dependent Overlay Zones to locate the Water-Dependent Overlay designation zones onto a single map series.

CPA2018-00007 Public Facilities/Conservation Lands: Amend the Lee Plan Future Land Use Map to designate 31 +/- acres from Conservation Lands (Uplands and Wetlands) to Public Facilities and to designate 44.5 +/- acres from Density Reduction/Groundwater Resource (DR/GR) and Wetlands to Conservation Lands (Uplands and Wetlands).

This transmittal hearing is the first step in a two step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Economic Opportunity's review of the application.

Documentation for the Proposed Comprehensive Plan Amendment is available at <https://www.leegov.com/dcd/planning/cpa>. 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.

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

Lee County will not discriminate against individuals with disabilities. To request an accommodation, contact Joan LaGuardia, (239) 533-2314, Florida Relay Service 711, or ADArequests@leegov.com, at least five business days in advance.

CPA2017-00007

**WATER-
DEPENDENT
OVERLAY**

Summary Sheet

Water-Dependent Overlay, CPA2017-07

Purpose:

- Provide organized and streamlined language,
- Better explain the prioritization of shoreline land uses in Lee County,
- Clarify the purpose of the Water-Dependent Overlay,
- Define incentives for water-dependent uses in the Water-Dependent Overlay, and
- Provide an approval process for changing a water-dependent use to a non-water-dependent use.

The proposed amendments also provide a more user friendly Water-Dependent Overlay Map Series and relocate appropriate marina design criteria to the Land Development Code (LDC).

Public Comments:

There was no public comment concerning the proposed amendments at the LPA Hearing.

LPA Motion:

A motion was made to approve staff's recommendation with the exception of Policy 8.2.12. The motion was passed 6 to 0.

VOTE:

DENNIS CHURCH	<u>AYE</u>
FRANK FEENEY	<u>AYE</u>
JAMES INK	<u>AYE</u>
KRISTINE SMALE	<u>AYE</u>
STAN STOUDE	<u>AYE</u>
JUSTIN THIBAUT	<u>AYE</u>
HENRY ZUBA	<u>ABSENT</u>

Staff Response to LPA Motion:

Staff disagrees with the LPA motion to remove Policy 8.2.12 from the amendments to be transmitted for state review.

The requirement to locate marina support facilities on uplands is not new, and is located in existing Policy 128.6.5 which is proposed to be deleted because it will duplicate proposed Policy 8.2.12. In addition, the requirement assures consistency with Chapter 163 of the Florida Statutes, which require the Lee Plan to eliminate or mitigate adverse impacts to coastal resources and protect against coastal flooding.

Staff Recommendation:

Staff recommends that the BoCC *transmit* the proposed amendments as provided in Attachment 1.



Representative:

Department of
Community
Development

Location:

County Wide

Amended

Elements:

Future Land Use
Element

Conservation
and Coastal
Element

Attachments:

Map 1, Page 2
Map 2
Map 12

Hearing Dates:

LPA: 5/21/2018
LPA: 7/23/2018
TRN: 9/5/2018

REQUEST

Amend policies and objectives in Goals 8, 128, and 158 of the Lee Plan to clarify the definitions of Water-Dependent Overlay, water-dependent uses, and marine-dependent uses, and to allow for greater flexibility of uses in the Water-Dependent Overlay. In addition, data will be moved from Map 1, Page 2: Special Treatment Areas and Map 2: San Carlos Island to Map 12: Water-Dependent Overlay Zones to locate the Water-Dependent Overlay designations zones onto a single map series.

SUMMARY OF CHANGES

The proposed amendments will provide organized and streamlined language, explain the prioritization of shoreline land uses in Lee County, clarify the purpose of the Water-Dependent Overlay, define incentives for water-dependent uses in the Water-Dependent Overlay, and provide an approval process for changing a water-dependent use to a non-water-dependent use. The proposed amendments also provide a more user friendly Water-Dependent Overlay Map Series and relocate appropriate marina design criteria to the Land Development Code (LDC).

Amendments to streamline the Lee Plan:

- Goal 8 and Goal 128 will be combined by relocating policies from Goal 128 to Goal 8 and deleting redundant policies.
- Move Water-Dependent Overlay points from Map1, Page 2 and Map 2 to Map 12.

Relocate regulatory language to LDC:

- Relocate provisions found in Objective 128.6: Marina Design Criteria and its related policies to the LDC. These provisions are regulatory in nature and are more appropriately located in the LDC.

Amendments to clarify existing policies:

- Make distinction between the Water-Dependent Overlay, water-dependent uses, and marine-dependent uses through the reorganization of Goals 8 and 128.
- Move the process required to approve non-water-dependent uses in the Water-Dependent Overlay to its own policy.

Proposed policies:

- Provide incentives in the Water-Dependent Overlay to encourage a variety of water-dependent uses, with flexibility to react to market demands and allow for more predictable redevelopment of existing marinas.
- Provide for administrative relief from development regulations in the LDC in order to promote the continued operation of water-dependent land uses and facilities in the Water-Dependent Overlay.

RECOMMENDATION

Staff recommends that the Board of County Commissioners **transmit** the proposed amendment based on the analysis and findings in this staff report.

PART 1
BACKGROUND INFORMATION

The siting of marinas has long been an important issue throughout the coastal regions of Florida. Marinas, docks, fish-houses, fishing piers and other types of uses require a location on the water. Likewise, Lee County’s fishing industries depends heavily on sufficient access to water. It is important to identify and promote these sites based on their location in order to balance the displacement of water-dependent uses with other uses that are non-water-dependent.

Goal 8 of the Lee Plan addresses Marine-Oriented Land Uses and the Lee Plan Glossary defines Water-Dependent Uses and Water-Related Uses. These terms are defined as follows in the Lee Plan:

WATER-DEPENDENT USES - Land uses for which water access is essential and which could not exist without water access.

WATER-RELATED USES - Land uses that might be enhanced by proximity to the water but for which water access is not essential.

Lee County’s Water-Dependent Overlay (WDO) was initially adopted by Ordinance 89-02 in 1989 as part of the 1989 Lee Plan. The WDO was intended to protect water-dependent land uses from incompatible or pre-emptive land uses. The WDO was added to the Future Land Use element of the Lee Plan in Policy 1.7.5 as a specific type of Special Treatment Area. There are 41 locations included within the WDO which had existing water-dependent uses as of March 1, 1989 (the date Ordinance 89-02 was adopted). The two properties that were added after the initial adoption of the WDO – Rialto Harbor Docks (Ord. 91-19), and Bob and Annie’s Boatyard (Ord. 08-05) – were required to demonstrate that they had water-dependent uses that existed prior to the date the Water-Dependent Overlay was adopted (March 1, 1989). Properties in the WDO are as follows:

Name (as of date of adoption)	Ordinance #	Planning Area
Whidden's Marina	1989-02	Boca Grande
Millers Marina	1989-02	Boca Grande
Knight Brothers	1989-02	Boca Grande
Port Boca Grande	1989-02	Boca Grande
Hansen Marine Ways	1989-02	Caloosahatchee Shores
Coastal Marine Mart	1989-02	Caloosahatchee Shores
FPL Port Facilities	1989-02	Caloosahatchee Shores
Marina 31	1989-02	Caloosahatchee Shores
Timmy's Nook	1989-02	Captiva
Bayside Villas Marina	1989-02	Captiva
South Seas Plantation	1989-02	Captiva
Getaway Marina	1989-02	N/A
Burnt Store Marina	1989-02	N/A
Mullock Creek Marina	1989-02	N/A
Deep Lagoon Marina	1989-02	N/A
Pier 50 at Punta Rassa Marina	1989-02	N/A

Hideaway Yacht Club	1989-02	N/A
Scottie's North Bay Marina	1989-02	North Fort Myers
Harbor Village Marina	1989-02	North Fort Myers
Coon Key Marina	1989-02	North Fort Myers
Island Club Marina	1989-02	North Fort Myers
Owl Creek Boat Works	1989-02	North Olga/NE Lee
One-O-Seven Marina	1989-02	Olga/Caloosahatchee Shores
Johnnie's Fisheries	1989-02	Pine Island
Pineland Maria	1989-02	Pine Island
Harbor Hideaway	1989-02	Pine Island
Dobby's Place	1989-02	Pine Island
Four Winds Marina	1989-02	Pine Island
Quality Seafood Inc.	1989-02	Pine Island
Snook Inn	1989-02	Pine Island
Jug Creek	1989-02	Pine Island
St. James Fish Co.	1989-02	Pine Island
Lee County's Fisherman Co-op	1989-02	Pine Island
San Carlos Marina	1989-02	Pine Island
Bob Comb's Fish	1989-02	Pine Island
Lee County's Fisherman Co-op	1989-02	Pine Island
North of Main Street	1989-02	San Carlos Island
Matanzas Pass Bridge	1989-02	San Carlos Island
South of Main (SCI)	1989-02	San Carlos Island
Rialto Harbor Docks	1991-19	Alva
Bob & Annie's Boatyard	2008-05	Pine Island

In addition to the ordinances identified in the table above, there have been two ordinances amending WDO boundaries and one ordinance removing a property from the WDO as follows:

- Ordinance 93-25 (PAM92-19) was to:

“Amend the Future Land Use Map series, Map 12, Water Dependent Overlay Zone, to reflect the area rezoned to CM (Marine Commercial District) as the Water Dependent Overlay Zone in Section 01, Township 43 South, Range 22 East, Burnt Store Marina.”

- Ordinance 03-04 (CPA2001-22) was to:

“Amend the Future Land Use Map Series, Map 12, the Water Dependent Overlay (WDO) Zones, by evaluating and updating the status of the overlay areas and the Goals Objectives, and Policies that pertain to the WDO.”

This ordinance made revisions to the boundaries of Four Winds Marina, Harbor Hideaway, Hideaway Yacht and Racquet Club, Deep Lagoon Marina, and Getaway Marina.

- Ordinance 02-03 (CPA2000-02) was in part to:

“Amend Map 12 of the Future Land Use Map Series to delete the Boca Grande Pass Marina from the Water Dependent Overlay (WDO) zone.”

PART 2 STAFF DISCUSSION AND ANALYSIS

On November 17, 2015, the Board of County Commissioners provided direction for staff to complete a coordinated planning review to identify Lee Plan amendments that: better align with the BoCC strategic planning initiatives; streamline; eliminate potential liabilities; reduce redundancy and conflict within and between Lee Plan Goals; and, relocate regulatory provisions to the Land Development Code and procedures to the administrative codes. Based on this direction, staff identified and presented potential amendments to the Board at the May 3, 2016 Board Work Session which included amendments to the WDO. These proposed amendments specifically aim to streamline, reduce redundancies and conflicts within the Lee Plan, clarify the intent of the WDO, and allow incentives in the LDC for properties within the WDO.

The WDO identifies properties that are that have historically been used for water-dependent uses and puts the public on notice that water-dependent uses should be anticipated at those locations. The purpose of the WDO is discussed in Lee Plan Policy 1.7.5, Goal 8, Goal 12, and Goal 128. While Goal 12 is specific to the WDO on San Carlos Island, the other provisions address the general characteristics of the WDO. Goals 8 and 128 also address water-related land uses, water-dependent land uses, marine facilities, and marine-oriented land uses with minor variations.

The use of multiple and sometimes interchangeable terms throughout Goal 8 and Goal 128 have created confusion about how to interpret and apply the different Lee Plan provisions. The multiple areas of the Lee Plan containing Goals, Objectives, and Policies concerning water-dependent land uses also create unnecessary duplication. The proposed amendments will combine Goals 8 and Goals 128 which will allow for: streamlining of redundant language; clarification of what approvals are necessary to allow non-water-dependent uses in the WDO; and, removal of unnecessary cross-references. Goal 12, specific to San Carlos Island, will be evaluated and amended as needed as part of a future amendment.

PART 3 PROPOSED LEE PLAN AMENDMENTS (Also see Attachment 1)

TEXT AMENDMENTS

The following section provides a summary and overview of the proposed amendments, including the intent of the each of the objectives in Goal 8 and how Goal 128 will be integrated. Amendments to the text are provided in strike-thru/underline format in Attachment 1. Within Attachment 1, an explanation for each amendment is provided below each revised Goal, Objective and Policy.

Policy 1.7.5: Clarify intent and establish standards for expansion of the WDO.

Amendments to Policy 1.7.5 will: clarify the WDO is a designation for properties that had water-dependent land uses at the time the WDO was created, and allow expansion of water-dependent land uses currently in the WDO; allow Lee Plan amendments to expand the WDO for water-dependent uses that existed prior to the date the WDO was adopted (March 1, 1989). There are also additional amendments which remove redundant language.

Goal and Objective 8.1: Clarify and relocate policies from Goal 128 to Goal 8.

Goal 8 and Objective 8.1 address providing sufficient and appropriate land for water-dependent land uses. These amendments clarify the need for sufficient land for these uses, protection of shorelines for water-dependent uses, and encouragement for Future Urban Areas with non-wetland shorelines to develop water-dependent uses.

Objective 8.2: Clarify and relocate policies from Goal 128 to Goal 8.

Objective 8.2 and its subsequent policies deal with the locations of marina facilities. These were moved from Objective 128.5, Marine Facilities Siting Criteria, and provided that the county will evaluate criteria for new and expanded marinas, other wet slip facilities, dry slip facilities with launches, and boat ramps by requiring these projects to go through a review process, and requiring certain physical features nearby.

Objective 8.3: Clarify and relocate policies from Goal 128 to Goal 8, and add new provisions that will 1) allow a water-dependent use to switch to another with an administrative process, and 2) allow for administrative relief from development regulations (such as setbacks) for developments containing water dependent uses within the WDO. Objective 8.3 and subsequent policies address the WDO. The proposed amendments help clarify when and how non-water-dependent uses may be approved in the WDO and provide new provisions (proposed Policies 8.3.4 and 8.3.5) that support techniques in the Land Development Code to encourage continued water-dependent land uses within the WDO.

Goal 12

No changes are proposed at this time to the WDO located in San Carlos Island.

Goal 128

Goal 128 will be deleted and, where not duplicative, incorporated into Goal 8 and into the Land Development Code.

MAP AMENDMENTS

Below is a description of the change and the reason for the amendment. There are no substantive changes due to proposed map amendments. The current and proposed maps are provided in Attachment 1.

Map 1, Page 2: Special Treatment Areas

The Water-Dependent Overlay symbols will be relocated to Map 12 and creates an index sheet for the Water-Dependent Overlay map series.

Map 2: San Carlos Island, Water-Dependent Overlay Zones

Map 2 will be deleted because it duplicates Map 1 and Map 12 (as proposed to be amended). All future land use and WDO designations will be retained.

Map 12: Water Dependent Overlay

The Water-Dependent Overlay symbols will be removed from Lee Plan Map 1, Page 2 and added to Map 12, Page 1 in order to create an index page for the Water-Dependent Overlay map series. Water-Dependent Overlay areas within incorporated areas will be removed. In addition, Map 12 will be formatted for ease of use and reflection of improved mapping technology; there are no proposed substantive changes to Map 12.

PART 4 CONCLUSION

The proposed amendments are consistent with and not duplicative of current Lee Plan goals, objectives, and policies. The proposed amendments explain the prioritization of shoreline land uses in Lee County, clarify the purpose of the WDO, define incentives for water-dependent uses in the WDO, and provide an approval process for changing a water-dependent use to a non-water-dependent use. Additionally, the proposed amendments will help to:

- streamline the Lee Plan by removing redundant language;
- provide a more user friendly Water-Dependent Overlay Map (Map 12);
- provide better organization of the Lee Plan by putting provisions related to water-dependent land uses in one location; and,
- Relocate appropriate design criteria to the Land Development Code.

Staff recommends that the Board of County Commissioners ***transmit*** the proposed amendments based on the analysis and findings in this staff report.

**PART 5
LOCAL PLANNING AGENCY**

DATE OF PUBLIC HEARING: May 21, 2018

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation for the proposed amendment which covered consistency with the Lee Plan, Board direction, and staff recommendation. Following staff's presentation, members of the LPA asked questions about changes to the text and maps. Staff responded that the changes were primarily restructuring and clarification, however, new incentives are proposed for properties within the Water-Dependent Overlay.

Three members of the public addressed the LPA concerning the proposed amendments. There was concern that the proposed amendments would impact San Carlos Island and they requested additional time for public review. Members of the LPA asked staff about public outreach and staff stated that normal amendment procedures were followed.

Following public comment, members of the LPA asked additional questions about the incentives for the Water-Dependent Overlay and how properties may be impacted. Staff responded that the intent of the incentives is to allow for market flexibility with the water dependent use. It will make it less burdensome in instances where someone wants to convert from one water dependent use to another.

B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to direct staff to contact property owners within the Water-Dependent Overlay regarding the amendments and to bring the amendments back to the July LPA hearing. The motion was passed 5 to 1.

VOTE:

DENNIS CHURCH	AYE
FRANK FEENEY	ABSENT
JAMES INK	AYE
CHRISTINE SMALE	AYE
STAN STOUWER	AYE
JUSTIN THIBAUT	AYE
HENRY ZUBA	NAY

C. STAFF RESPONSE TO LPA MOTION:

Staff sent certified letters to notify owners and representatives of properties within the Water-Dependent Overlay of the proposed changes. Staff received four calls with questions or requesting additional information about potential impacts on their individual parcels.

DATE OF PUBLIC HEARING: July 23, 2018

A. LOCAL PLANNING AGENCY REVIEW:

Staff provided a brief presentation to provide the LPA an update for public outreach and reiterated the staff recommendation. Following staff's presentation, members of the LPA asked questions about changes to the text and maps. Staff responded that the changes were primarily restructuring and clarification, however, new incentives are proposed for properties within the Water-Dependent Overlay.

Three members of the public addressed the LPA concerning the proposed amendments. There was concern that the proposed amendments would impact San Carlos Island. Members of the LPA asked staff about how the proposed amendments would impact San Carlos Island. Staff responded that the amendments would not impact San Carlos Island and that development within the Water-Dependent Overlay would still be required to demonstrate consistency with the Lee Plan's Goal 12 and the Future Land Use Map.

Following public comment, members of the LPA asked additional questions about the incentives for the Water-Dependent Overlay and how properties may be impacted. Staff responded that the intent of the incentives is to allow for market flexibility with the water dependent use. It will make it less burdensome in instances where someone wants to convert from one water dependent use to another.

B. LOCAL PLANNING AGENCY RECOMMENDATION:

A motion was made to approve staff's recommendation with the exception of Policy 8.2.12. The motion was passed 6 to 0.

VOTE:

DENNIS CHURCH	AYE
FRANK FEENEY	AYE
JAMES INK	AYE
KRISTINE SMALE	AYE
STAN STOUWER	AYE
JUSTIN THIBAUT	AYE
HENRY ZUBA	ABSENT

C. STAFF RESPONSE TO LPA MOTION:

Staff disagrees with the LPA motion to remove Policy 8.2.12 (provided below) from the amendments to be transmitted to the state reviewing agencies:

POLICY ~~128.5.11~~ 8.2.12: ~~Proposed boat access facilities must demonstrate that the site has~~ Adequate uplands area must be available to support the required development infrastructure for proposed boat access facilities and all associated to provide support parking, dry storage, or other support facilities for all activities proposed on site without damaging or removing wetlands or ~~Rare and Unique Uplands systems.~~

The requirement to locate marina support facilities on uplands is not new. The proposed policy is intended to streamline and clarify the Lee Plan by combining Policies 128.5.11 and 128.6.5. Policy 128.6.5, which is proposed to be deleted because it will duplicate the proposed policy, is as follows:

POLICY 128.6.5: All Parking, dry storage, and non-water-dependent facilities must be built on existing uplands.

The existing Lee Plan language and staff recommended amendments are consistent with Chapter 163 of the Florida Statutes, which require principles to eliminate or mitigate adverse impacts to coastal resources and protection against coastal flooding.

The proposed amendment will clarify that marina support facilities include parking and dry boat storage and help to streamline the Lee Plan.

Staff recommends that the Board of County Commissioners **transmit** the proposed amendments as identified in Attachment 1.

Text Amendments:

POLICY 1.7.5: The Water-Dependent ~~o~~Overlay zone designates shoreline areas where priority will be granted to water-dependent land uses. ~~Specific requirements are detailed for such zones on San Carlos Island under Goal 12, in the Greater Pine Island area under Goal 14, and for other areas in Lee County in the Conservation and Coastal Management Element.~~ (Amended by Ordinance No. 94-30, 00-22)

GOAL 8: ~~MARINE-ORIENTED~~ WATER-DEPENDENT LAND USES. To provide sufficient land in appropriate locations for water-dependent ~~designate prime locations for marine-oriented land uses and protect them from incompatible or pre-emptive land uses.~~

- **Revise for clarity and create better distinction between the Water-Dependent Overlay and water-dependent land uses in general.**

~~OBJECTIVE 8.1:~~ Existing marinas, fish houses, and port facilities indicated on the Future Land Use Map as having water dependent overlay zones will be reclassified by the county to commercial and industrial marine zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water dependent uses without a public hearing. (See Map 12) (Ordinance No. 94-30, 00-22)

- **Delete objective. Lee County staff does not recommend rezoning private properties within the Water-Dependent Overlay to commercial and industrial marine zoning categories. Other aspects of the Water-Dependent Overlay and existing Objective 8.1 are incorporated into proposed Objective 8.3.**

~~OBJECTIVE 8.2:~~ All development approvals for marine-oriented land uses must also comply with requirements in the Ports, Aviation and Related Facilities sub-element, Objective 128.5: Marine Facilities Siting Criteria, and Objective 128.6: Marina Design Criteria. (Ordinance No. 94-30, 00-22, 07-09)

- **Delete unnecessary cross references.**

~~GOAL 128~~OBJECTIVE 8.1: SHORELINE MANAGEMENT. To encourage the maintenance, redevelopment and development of water-dependent shoreline land uses and to avoid their displacement by non-water-dependent land uses.

- **Revise for clarity.**

~~POLICY 128.1.3~~ 8.1.1 – The county will ~~e~~Encourage the maximum use of dry boat storage by multi-slip docking facilities as opposed to wet slips to minimize impacts from

dredging required to accommodate wet slips. when reviewing rezoning and/or development of regional impact applications. (Amended by Ordinance No. 00-22)

- **Revise for clarity.**

POLICY ~~128.3.3~~ 8.1.2: - Renumber

POLICY ~~128.6.2~~ 8.1.3: - Renumber

POLICY ~~128.6.11~~ 8.1.4: - Renumber

POLICY ~~128.4.3~~ 8.1.5: - Renumber

OBJECTIVE ~~128.5~~ 8.2: MARINE FACILITIES LOCATIONS SITING CRITERIA.

~~The county will consider~~ To enforce the following criteria in evaluating requests policies for new and expanded marinas, ~~other~~ wet slip facilities, dry slip facilities with launches, and boat ramps in order to make efficient use of limited shoreline locations and to minimize environmental impacts. (Amended by Ordinance No. 00-22, 07-09)

- **Revise for clarity.**

POLICY ~~128.5.1~~ 8.2.1: - Renumber

POLICY ~~128.5.2~~ 8.2.2: - Renumber

POLICY ~~128.5.3~~ 8.2.3: - Renumber

POLICY 8.2.4: Marinas are encouraged in areas that have historically been used for water-dependent land uses in an effort to minimize impacts to the environment.

- **Clarify that Lee County prefers use of existing marine facilities over creation of new marine facilities to minimize impacts to the environment.**

POLICY ~~128.5.5~~ 8.2.5: - Renumber

POLICY ~~128.5.6~~ 8.2.6: Proposed boat access facilities and expansion of existing facilities will be evaluated in accordance with the most recently adopted Lee County Manatee Protection Plan (MPP), ~~dated June 17, 2004 and approved by the Board of County Commissioners on June 29, 2004. Specifically, Section 8 of the MPP, Marine Facility Siting Requirements,~~ The MPP will be used to determine the appropriate number of slips ~~as defined by the MPP~~ for each new project or allowable expansion. (Amended by Ordinance No. 00-22, 07-09)

- **Revise for clarity and remove specific dates where appropriate.**

POLICY ~~128.5.7~~ 8.2.7: Boat access facilities, including multi-slip docking facilities and boat ramps should avoid which would disturbing or destroying wetlands or grassbeds, ~~must demonstrate a pressing need for the proposed facility and If wetlands or grassbeds are destroyed the boat access facility must provide for continued use by the general public.~~ (Amended by Ordinance No. 07-09)

- Revise for clarity by removing undefined terms.
- Updated following LPA hearing based on recommendation from County Attorney's Office.

POLICY ~~128.5.8~~ 8.2.8: - Renumber

POLICY ~~128.6.15~~ 8.2.9: - Renumber

POLICY ~~128.5.9~~ 8.2.10: - Renumber

POLICY ~~128.5.10~~ 8.2.11: - Boat access facilities construction in dead-end canals are discouraged due to difficulty in meeting prohibited unless compliance with state water quality standards can be demonstrated. (Amended by Ordinance No. 07-09)

- Revise for clarity.

POLICY ~~128.5.11~~ 8.2.12: Proposed boat access facilities ~~must demonstrate that the site has a~~ Adequate uplands area must be available to support the required development infrastructure for proposed boat access facilities and all associated to provide support parking, dry storage, or other support facilities for all activities proposed on site without damaging or removing wetlands or Rare and ~~u~~Unique ~~u~~Uplands systems. (Amended by Ordinance No. 00-22, 07- 09)

- Revise for clarity.

POLICY ~~128.5.12~~ 8.2.13: Rezoning and DRI ~~a~~Applications for boat access facilities will be evaluated in the context of cumulative impacts on manatees and marine resources. (Amended by Ordinance No. 00-22, 07-09)

- Revise for clarity.

POLICY ~~128.6.14~~ 8.2.14: - Renumber

OBJECTIVE 8.3: WATER-DEPENDENT OVERLAY: To give priority to water-dependent land uses on non-wetland shoreline properties within the Water-Dependent Overlay.

- Create specific objective for the Water-Dependent Overlay for easier understanding and implementation. Policies for the Water Dependent Overlay currently include Policy 1.7.5, Objective 8.1, Policy 128.1.1, Policy 128.1.2, Policy 128.2.1, and Policy 128.4.1.

POLICY 8.3.1: The Water-Dependent Overlay, shown on Map 12, includes non-wetland shoreline land with water-dependent land uses, such as commercial fishing, port and docking facilities, and commercial and industrial marinas, existing on March 1, 1989.

- Provide a definition for the Water-Dependent Overlay.

POLICY 8.3.2: Requests to expand the Water-Dependent Overlay must demonstrate one of the following:

- To expand the Water-Dependent Overlay immediately adjacent to property that is currently within the Water-Dependent Overlay, the applicant for a map amendment must demonstrate compatibility with surrounding uses and connectivity to existing water-dependent land uses through a concurrent planned development rezoning including both the existing and proposed Water-Dependent Overlay areas.
 - To add new properties to the Water-Dependent Overlay that are not adjacent to existing Water-Dependent Overlay properties, the applicant for a map amendment must demonstrate compatibility with surrounding uses and consistency with Objective 8.2 and subsequent policies through a concurrent planned development rezoning.
- Provide review criteria for expansion of the overlay if requested.

POLICY 8.3.3: The Water-Dependent Overlay is a tool to encourage continued water-dependent land uses on properties historically used for water-dependent land uses and to protect the right to rebuild and expand water-dependent land uses in areas where water-dependent land uses might otherwise be deemed not compatible with adjacent residential uses.

- Clarify the purpose of the Water-Dependent Overlay.

POLICY 8.3.4: Maintain criteria in the Land Development Code to allow the conversion of one water-dependent land use to another water-dependent land use within the Water-Dependent Overlay without a public hearing.

- Provide new development incentives for properties within the Water-Dependent Overlay that are intended to achieve the overlay's purpose.

POLICY 8.3.5: For properties within the Water-Dependent Overlay, provide opportunities in the Land Development Code for administrative relief from property development regulations for upland development related to water-dependent land uses.

- Provide new development incentives for properties within the Water-Dependent Overlay that are intended to achieve the overlay's purpose.

POLICY 8.3.6: Within the Water-Dependent Overlay, the conversion of water-dependent land uses to non-water-dependent land uses or water-related uses must be approved through a public hearing to ensure compatibility with surrounding uses, and land and water based resources.

- Clarify process for converting water-dependent land uses within the overlay to non-water-dependent land uses.

~~**GOAL 128**~~ – Renumbered to Objective 8.1 and modified

~~**OBJECTIVE 128.1: COMMERCIAL WATER-DEPENDENT USES.**~~ The county will continue to monitor and implement its program to enhance and protect commercial water-dependent uses. (Amended by Ordinance No. 00-22)

~~**POLICY 128.1.1:**~~ Commercial and government-operated multi-slip docking facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to marina zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing. (Amended by Ordinance No. 00-22)

~~**POLICY 128.1.2**~~ – Renumbered to Objective 8.4 and modified

~~**POLICY 128.1.3**~~ – Renumbered to Policy 8.1.1

~~**POLICY 128.1.4:**~~ The county will maintain an inventory of all multi-slip docking facilities, including the name, location, and STRAP number of the facility, and, as feasible, the number of wet and dry storage spaces, boat ramp lanes, and other services provided. This inventory will be updated as needed. (Amended by Ordinance No. 00-22)

~~**OBJECTIVE 128.2: INDUSTRIAL WATER-DEPENDENT USES.**~~ The county will continue to monitor and implement its program to enhance and protect industrial water-dependent uses. (Amended by Ordinance No. 00-22)

~~**POLICY 128.2.1:**~~ Industrial water-dependent facilities indicated on the Future Land Use Map as having water-dependent overlay zones will be reclassified by the county to industrial marine zoning categories to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing. (Amended by Ordinance No. 00-22)

~~**POLICY 128.2.2:**~~ The county will maintain an inventory of all industrial water-dependent facilities, including the name, location, and STRAP number of the facility. This inventory will be updated as needed. (Amended by Ordinance No. 00-22)

~~**OBJECTIVE 128.3: SHORELINE MANAGEMENT.** By 1990 the county will have developed a shoreline management plan. The program will be submitted to the Board of County Commissioners for formal consideration. (Amended by Ordinance No. 00-22)~~

~~**POLICY 128.3.1:** County staff will compile and continuously update inventory of various shoreline uses by distinctive geographic shoreline areas. (Amended by Ordinance No. 00-22)~~

~~**POLICY 128.3.2:** County staff will compile a document analyzing and synthesizing the information in the inventory of shoreline uses by geographic areas. (Amended by Ordinance No. 00-22)~~

POLICY 128.3.3 – Renumbered to Policy 8.1.2

~~**OBJECTIVE 128.4: CRITERIA FOR PRIORITIZING SHORELINE USES.** Priority will be given to new and substantially expanded shoreline land uses as indicated in the following policies. (Amended by Ordinance No. 00-22)~~

~~**POLICY 128.4.1:** In water dependent overlay zones, the special provisions contained under Goal 8 of the Future Land Use element will also apply (see also Policies 128.1.1, 128.1.2, and 128.2.1). (Amended by Ordinance No. 00-22)~~

~~**POLICY 128.4.2:** In all other non-wetland shoreline areas, water dependent land uses will have priority over water related uses and water related land uses that provide some form of water access to the public will be encouraged, particularly when the site has previously provided water access to the public. (This policy will not be interpreted as a prohibition of new land uses which are only water related, but instead as a reminder of the diminishing opportunities for water access in Lee County and the desirability of maintaining and increasing such access.)~~

- ~~• Water dependent uses: Land uses are those for which water access is essential and which could not exist without water access.~~
- ~~• Water related uses: Land uses that might be enhanced by proximity to the water, but for which water access is not essential. (Amended by Ordinance No. 00-22)~~

POLICY 128.4.3 – Renumbered to Policy 8.1.5 and modified

~~**OBJECTIVE 128.5 – Renumbered to Objective 8.2**~~

~~**POLICY 128.5.1 – Renumbered to Policy 8.2.1**~~

~~**POLICY 128.5.2: – Renumbered to Policy 8.2.2**~~

~~**POLICY 128.5.3: – Renumbered to Policy 8.2.3**~~

~~**POLICY 128.5.4:** Boat access facilities must be consistent with the following recommendations of the DNR Blue Ribbon Marina Committee (Final Report, January 1983):~~

- ~~• Priority should be given to the expansion of existing facilities, if environmentally sound, over new facilities.~~
- ~~• Marinas are encouraged in previously disturbed areas and in areas that have historically been used for marina-related activities.~~
- ~~• Marinas should be located as close as possible to boating demand.~~
- ~~• Marinas should be encouraged where adequate uplands are available to develop related support activities and to allow for possible future expansion.~~
- ~~• Location of marinas in highly productive marine habitats should be discouraged.~~
- ~~• Location of marinas in or near well-flushed, deep water areas should be encouraged.~~
- ~~• Impacts upon state designed manatee sanctuaries should be considered. Particular marina locations or design features which threaten manatees in these sanctuaries should be discouraged. (Amended by Ordinance No. 00-22, 07-09)~~

~~**POLICY 128.5.5** – Renumbered to Policy 8.2.5~~

~~**POLICY 128.5.6** – Renumbered to Policy 8.2.6 and modified~~

~~**POLICY 128.5.7:** – Renumbered to Policy 8.2.7 and modified~~

~~**POLICY 128.5.8:** – Renumbered to Policy 8.2.8~~

~~**POLICY 128.5.9:** – Renumbered to Policy 8.2.10~~

~~**POLICY 128.5.10:** – Renumbered to Policy 8.2.11 and modified~~

~~**POLICY 128.5.11:** – Renumbered to Policy 8.2.12 and modified~~

~~**POLICY 128.5.12:** – Renumbered to Policy 8.2.13 and modified~~

~~**OBJECTIVE 128.6: MARINA DESIGN CRITERIA.** The county will utilize the following criteria in evaluating the design of new marinas (or expansion of wet slip facilities at existing marinas) in order to minimize negative impacts; detailed regulations on these subjects may be contained in the county's development regulations. (Amended by Ordinance No. 00-22)~~

- ~~• Will be implemented through the LDC.~~

~~**POLICY 128.6.1:** Boat maintenance activities in new or expanded marina sites must be located as far as possible from open water bodies in order to reduce contamination of water bodies by toxic substances common to boat maintenance. Runoff from boat maintenance activities must be collected and treated prior to discharge. (Amended by Ordinance No. 00-22)~~

- Will be implemented through the LDC.

POLICY 128.6.2: - Renumbered to Policy 8.1.3

~~**POLICY 128.6.3:** Fuel and/or oil containment facilities or contingency plans is required at all new marina sites and in marina expansion proposals. (Amended by Ordinance No. 00-22)~~

- Will be implemented through the LDC.

~~**POLICY 128.6.4:** All marinas serving the general public or live aboards must provide pump-out facilities if sanitary sewer service is available.~~

- Will be implemented through the LDC.

~~**POLICY 128.6.5:** All parking, dry storage, and non-water dependent facilities must be built on existing uplands.~~

- Will be implemented through the LDC.

~~**POLICY 128.6.6:** Marinas and multi-slip docking facilities must prepare hurricane plans with the assistance of the county which describe measures to be taken to minimize damage to marina sites, neighboring properties, and the environment; this hurricane plan is subject to county approval. (Amended by Ordinance No. 00-22)~~

- Will be implemented through the LDC.

~~**POLICY 128.6.7:** Fueling facilities associated with marinas must be designed to preclude spills and must be prepared to contain any spills which reach the water. (Amended by Ordinance No. 00-22)~~

- Will be implemented through the LDC.

~~**POLICY 128.6.8:** Marina design must incorporate natural wetland vegetative buffers near the docking area and in ingress/egress areas for erosion and sediment control, runoff purification, and habitat purposes. (Amended by Ordinance No. 00-22)~~

- Will be implemented through the LDC.

~~**POLICY 128.6.9:** New fuel facilities must be located on the uplands of a marina site. Proper use and maintenance of fuel pump hoses and other fueling equipment is required. (Amended by Ordinance No. 00-22)~~

- Will be implemented through the LDC.

~~**POLICY 128.6.10:** Piling construction and other non-dredge and fill techniques shall be utilized where possible to minimize habitat destruction.~~

- Will be implemented through the LDC.

~~**POLICY 128.6.11:** - Renumbered to Policy 8.1.4~~

~~**POLICY 128.6.12:** To reduce dredging, docks should extend to naturally deep waters when possible. County regulations will specify the criteria for such extensions. (Amended by Ordinance No. 00-22)~~

- Delete. Duplicates 8.2.8

~~**POLICY 128.6.13:** Dry storage of small boats should be encouraged, with dry storage structures located inland as far as feasible.~~

- Delete. Duplicates 8.1.1

~~**POLICY 128.6.14:** - Renumbered to Policy 8.2.14~~

~~**POLICY 128.6.15:** - Renumbered to Policy 8.2.9~~

~~**POLICY 128.6.16:** Expansion of dry storage capabilities will be strongly encouraged to reduce dredging. (Amended by Ordinance No. 00-22)~~

- Delete. Duplicates 8.1.1

~~**OBJECTIVE 128.7:** The Regional Planning Council will be the lead agency addressing the need for adequate sites for water dependent uses on a regional basis.~~

~~**POLICY 128.7.1:** The county will cooperate with the Regional Planning Council in addressing the need for water dependent sites on a regional basis.~~

~~**POLICY 158.4.7:** Lee County will encourage the retention of the agricultural and commercial fishing industries as described in Goals 8, 9, 121, 122, 128, and their associated objectives and policies of the Lee Plan. (Amended by Ordinance No. 00-22)~~

- Remove out-of-date cross reference.

XII. Glossary

WATER-BASED RECREATION AREA - An area that has within its boundaries a body of salt or freshwater, shoreline frontage, or access to a shoreline where ~~water-related~~ facilities such as boat ramps, docks, fishing piers, and beach areas for swimming can be located.

WATER-DEPENDENT LAND USES - ~~Land u~~Uses for which ~~water~~ access to tidally influenced water is essential and ~~which could not exist without water access~~ must consist of boat access facilities and support facilities.

- Boat access facilities include boat ramps and other launches, docks, and piers.
- Support facilities include parking (vehicle/trailer), dry boat storage, ship store, fueling facilities (storage/dispensers), boat yard and repair areas or other accessory uses.

A restaurant with a multi-slip docking facility is not considered a water-dependent land use if the restaurant is the only support facility. Support facilities without a boat access facility are not considered water-dependent land uses.

WATER-RELATED LAND USES – ~~Land A~~ uses that might be enhanced by being located in proximity to the water but for which water access is not essential.

Map Amendments:

Map 1, Page 2: Special Treatment Areas (Update)

- The Water-Dependent Overlay symbols will be relocated to Map 12 in order to create an index sheet for the Water-Dependent Overlay.


Map 2: San Carlos Island, Water-Dependent Overlay Zones (Delete)

- Map 2 will be deleted because it duplicates Map 1 and Map 12 (as proposed to be amended). All data will be retained in the Lee Plan.

Map 12: Water Dependent Overlay (Update)




- The Water-Dependent Overlay data will be removed from Lee Plan Map 1, Page 2 and added to Map 12, Page 1 in order to create an index page for all of the Water-Dependent Overlay areas. Water-Dependent Overlay areas in incorporated areas will be removed. In addition, Map 12 will be formatted for ease of use and reflection of improved mapping technology; there are no proposed substantive changes to Map 12.

SPECIAL TREATMENT AREAS


 Water Dependent Overlay
See Maps 2 and 12 for Details

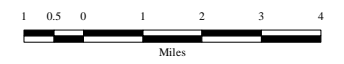
Adopted by ORD 89-02, 1/31/1989
Amended by Ords. 91-19, 92-35, 00-22, 02-03, 08-05

Community Planning Areas

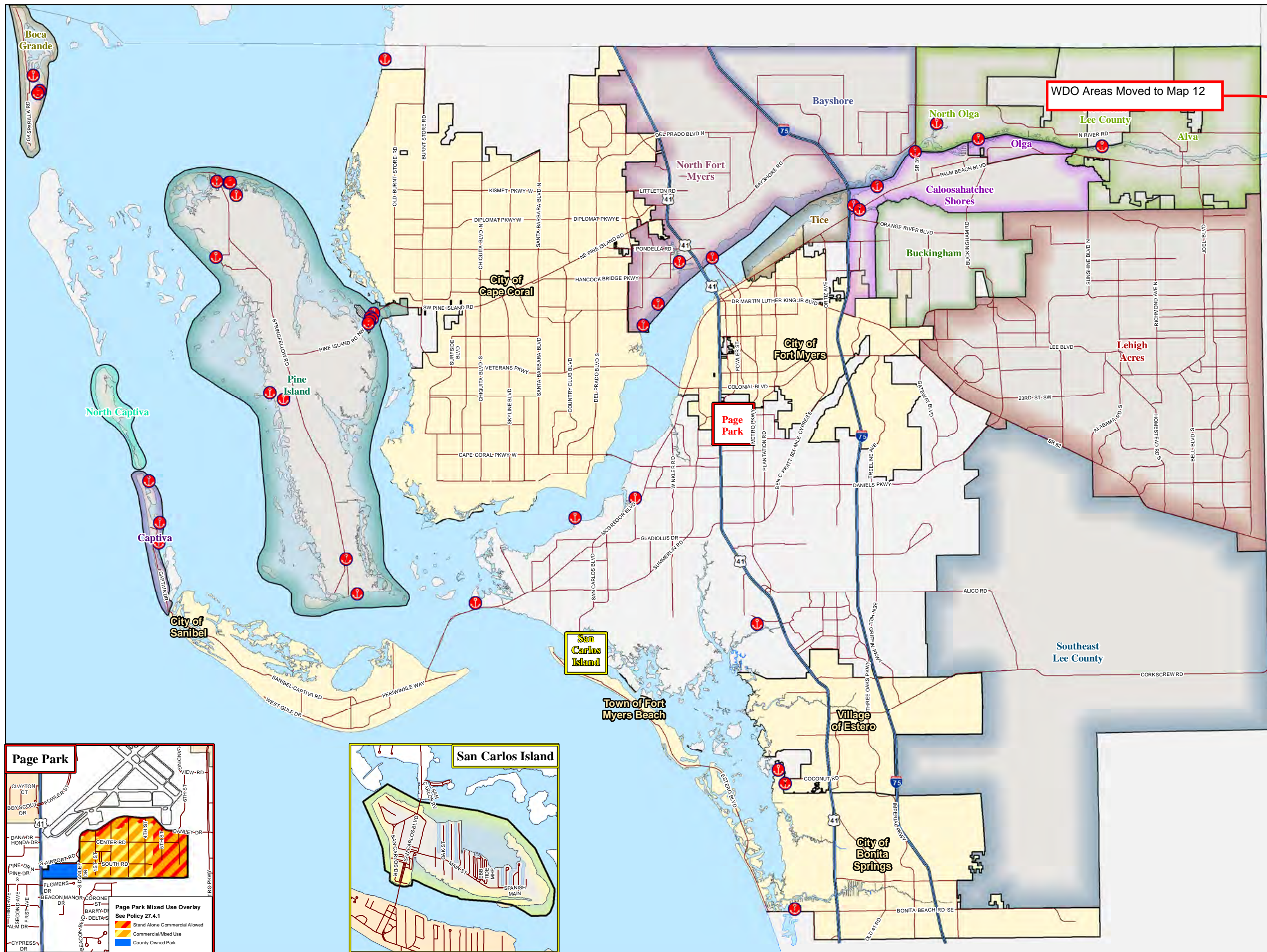
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-  Boca Grande - Goal 22
-  Buckingham - Goal 17
-  Caloosahatchee Shores - Goal 21
-  Olga - Goals 29, 21
-  Captiva - Goal 13
-  Greater Pine Island - Goal 14
-  Lehigh Acres - Goal 32
-  North Captiva - Goal 25
-  North Fort Myers - Goal 28
-  Northeast Lee County - Goal 34
-  Alva - Goals 34, 26
-  North Olga - Goals 34, 35
-  Page Park - Goal 27
-  San Carlos Island - Goal 12
-  Southeast Lee County - Goal 33
-  Tice - Goal 23

Adopted by Ord. 89-02, 1/31/1989
Amended by Ord. Nos. 02-02, 03-01, 03-02, 03-04, 03-21, 07-09, 08-05, 09-07, 09-08, 09-09, 09-10, 09-11, 10-16, 11-14, 11-21, 11-24, 17-10, 17-23

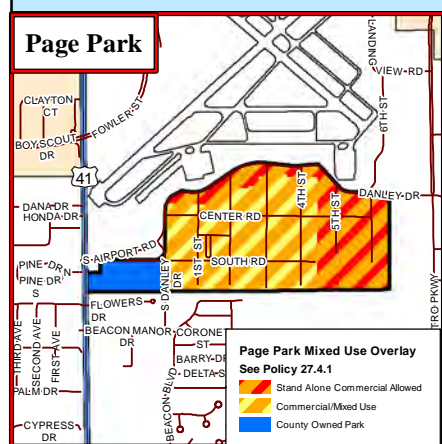
 City Limits



Map Generated: February 2018
City Limits current to date of map generation



WDO Areas Moved to Map 12



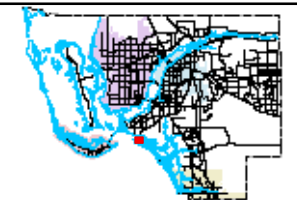
SAN CARLOS ISLAND

Water-Dependent Overlay Zones

WDO Areas Moved to Map 12, Page 6

Legend

- Water Dependent Overlay Zone**
 - At the Foot of the Matanzas Pass Bridge
 - North of Main Street
 - South of Main Street
- Future Land Use Designations**
 - Urban Community
 - Suburban
 - Industrial
 - Public Facilities
 - Destination Resort Mixed Use Water Dependent
 - Wetlands
 - Conservation Lands - Wetland
- Additional Information**
 - Parcels
 - City Limits



LEE COUNTY
SOUTHWEST FLORIDA
DIVISION OF PLANNING



0 165 330 660 990 1,320
Feet

Map Generated: July 2010
City Limits and Parcel Boundaries
current to date of map generation

Adopted 1/3/1989
Ordinance No. 89-02

Future Land Use Map
Amended by Ord Nos. 09-15, 10-10

Lee Plan Map 2

Map 12 Series (Water Dependent Overlay)

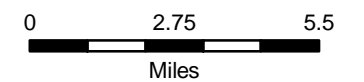
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- Map 12, Page 5 – Data has been reformatted.
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WATER DEPENDENT OVERLAY

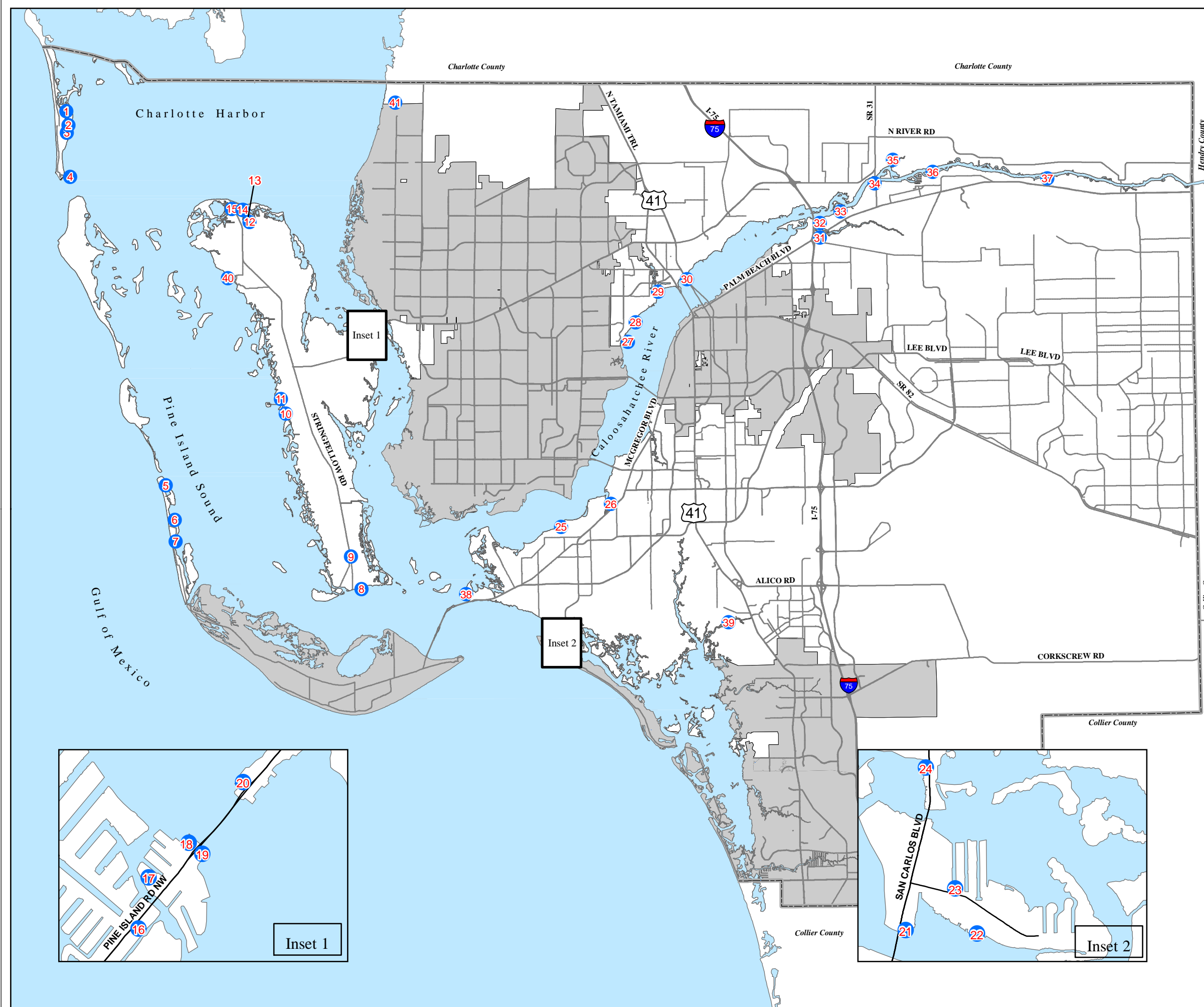
- # Water Dependent Overlay
- City Limits

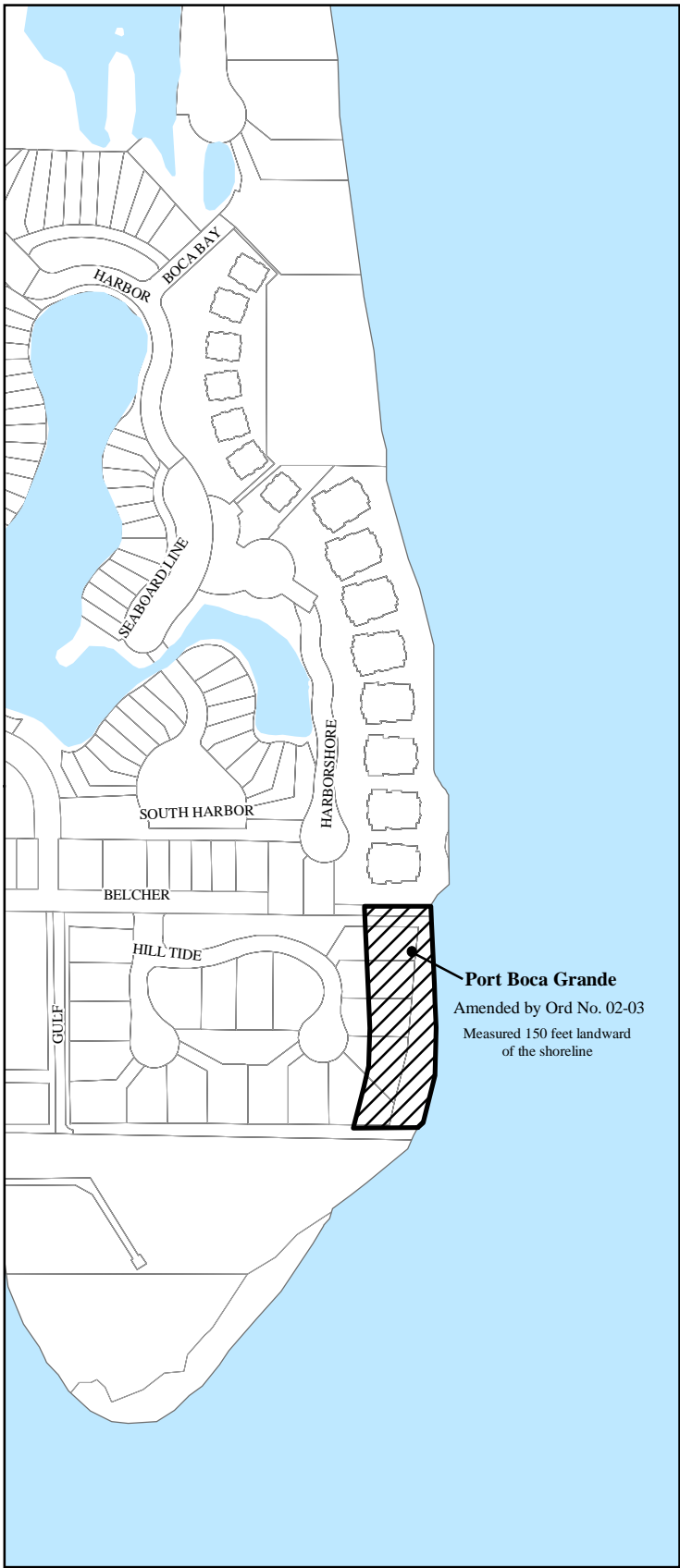
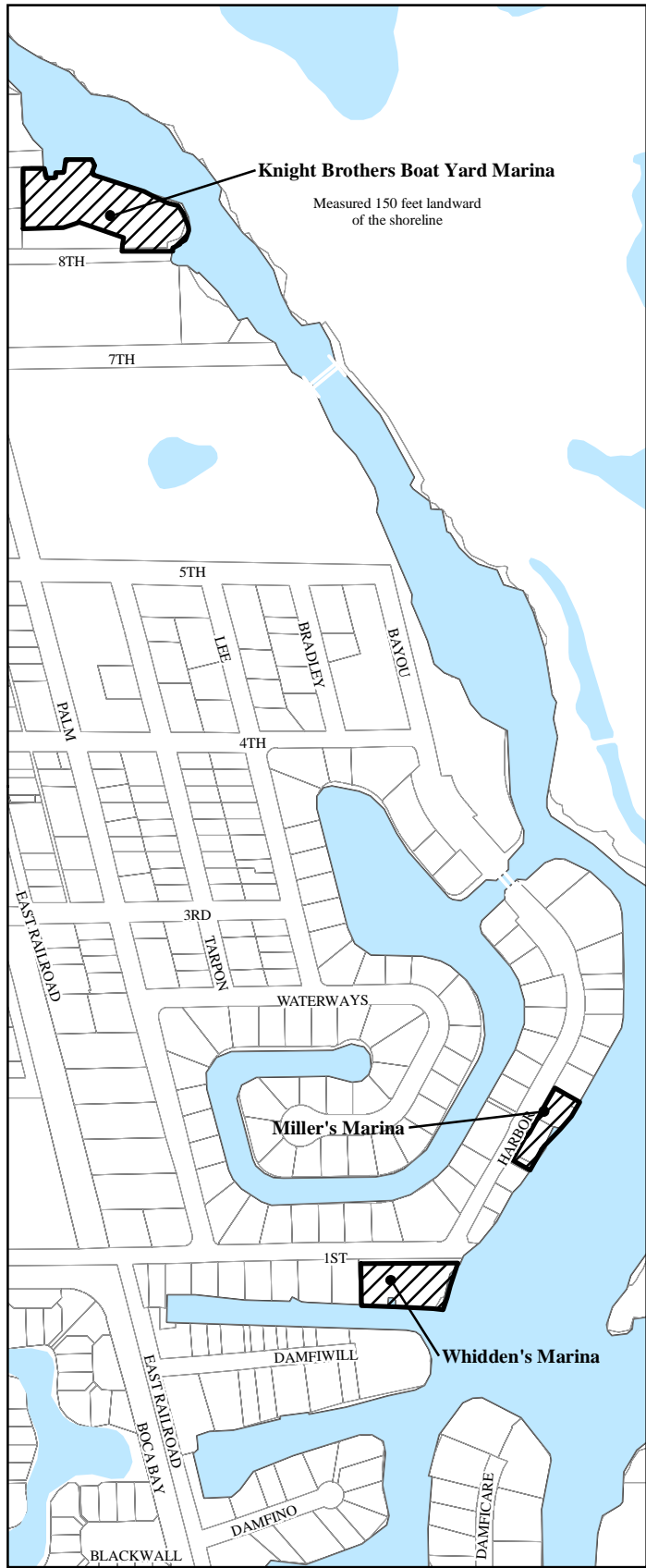
Index	Name	Page Number
1	Knight Brothers Boat Yard Marina	2
2	Miller's Marina	2
3	Whidden's Marina	2
4	Port Boca Grande	2
5	South Seas Plantation	3
6	Bayside Villas Marina	3
7	Timmy's Nook	3
8	Bob Comb's Fish Co.	4
9	Bob & Annie's Boatyard	4
10	Johnnie's Fishiers	4
11	Lee County Fisherman's Co-op	4
12	Harbor Hideaway	5
13	Jug Creek	5
14	St. James Fish Co.	5
15	Four Winds Marina	5
16	Lee County Fisherman's Co-op	5
17	Quality Seafood Inc.	5
18	Dobby's Place	5
19	Snook Inn	5
20	San Carlos Marina	5
21	Matanzas Pass Bridge	6
22	South of Main Street	6
23	North of Main Street	6
24	Getaway Marina	6
25	Hideaway Yacht Club	6
26	Deep Lagoon Marina	6
27	Harbor Village Marina	7
28	Island Club Marina	7
29	Coon Key Marina	7
30	Scottie's North Bay Marina	7
31	Coastal Marine Mart	8
32	Hansen Marine Ways	8
33	FPL Port Facilities	8
34	Marina 31	8
35	Owl Creek Boat Works	8
36	One-O-Seven Marina	9
37	Rialto Harbor Docks	9
38	Pier 50 @ Punta Rassa Marina	10
39	Mullock Creek Marina	10
40	Pineland Marina	11
41	Burnt Store Marina	11

Adopted by Ord 89-02, 1/30/1989
 Amended by Ords 91-19, 92-35, 00-22, 02-03, 08-05





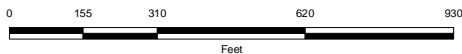
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Legend

-  Water Dependent Overlay
-  Parcels





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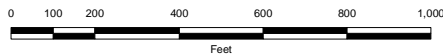
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Adopted by Ord No. 89-02



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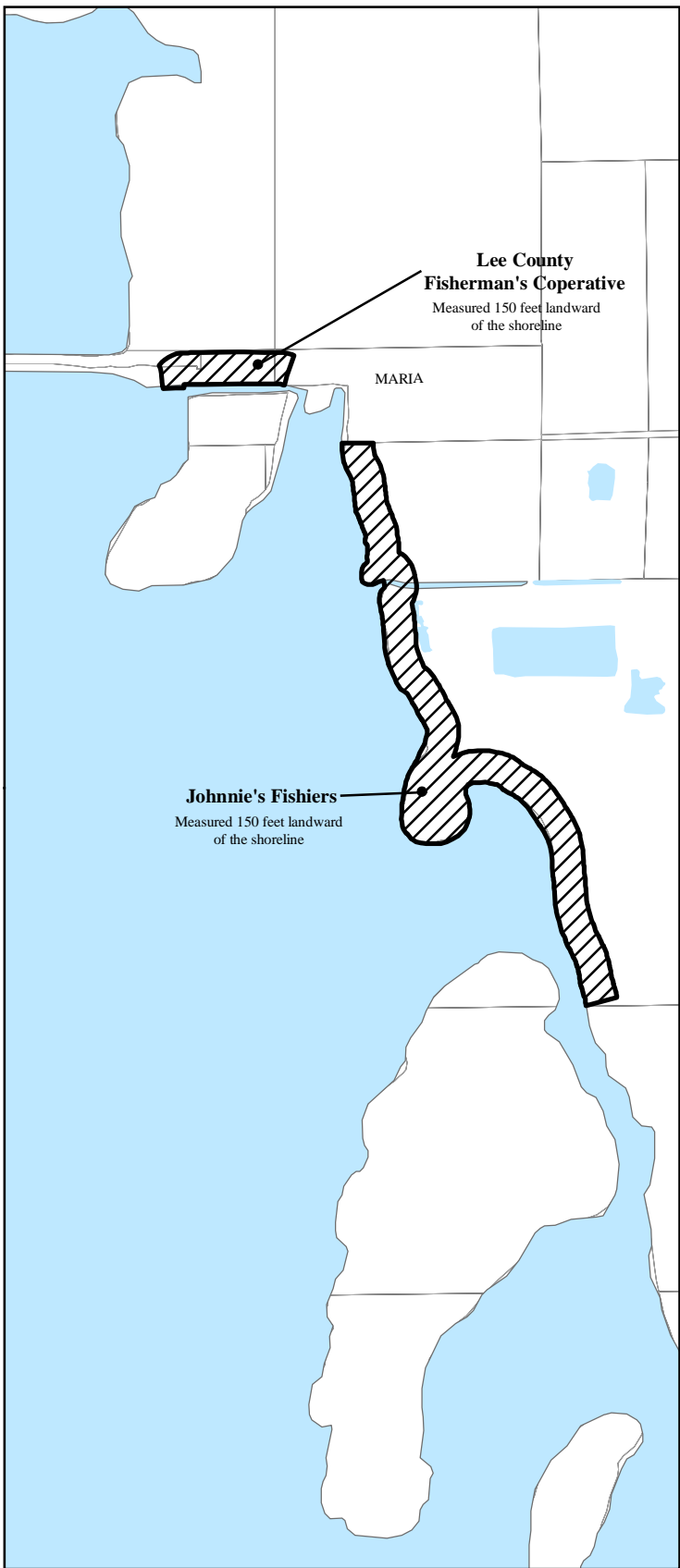
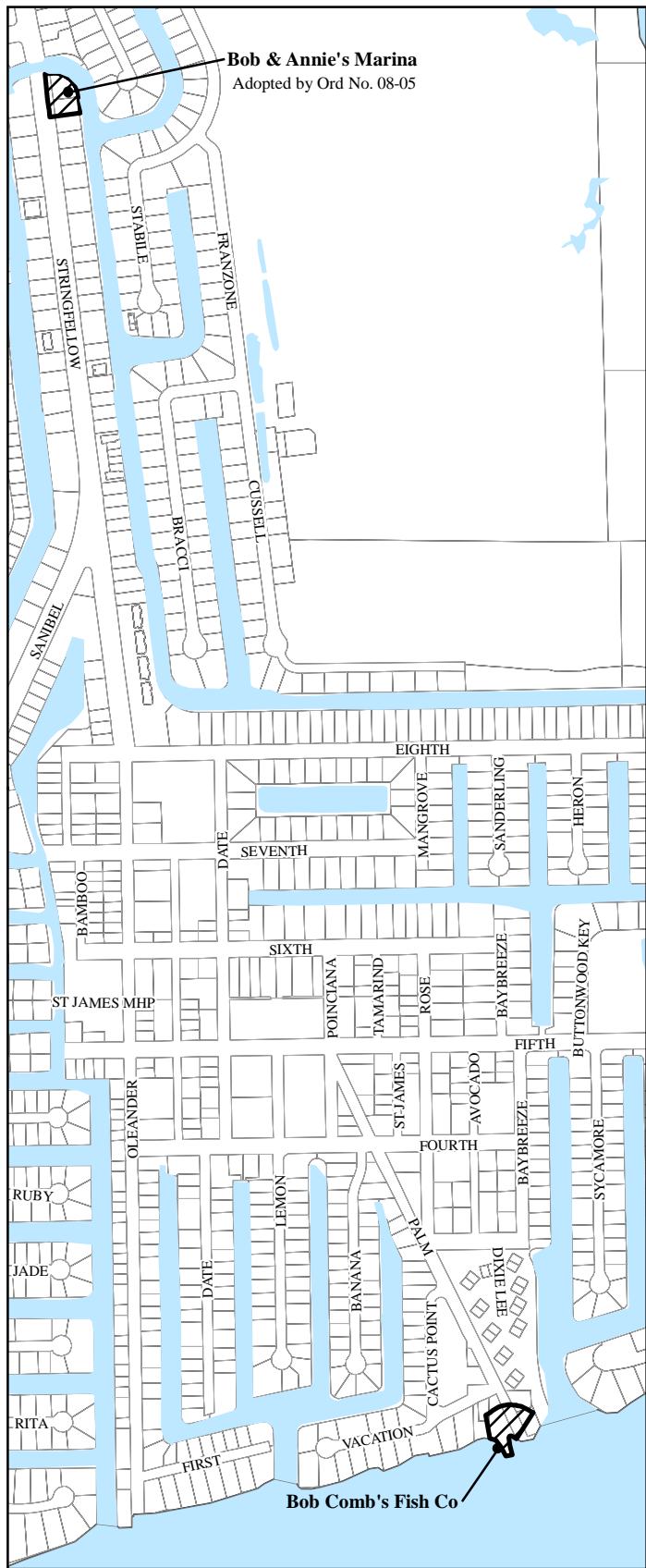
-  Water Dependent Overlay
-  Parcels





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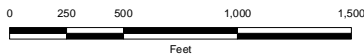
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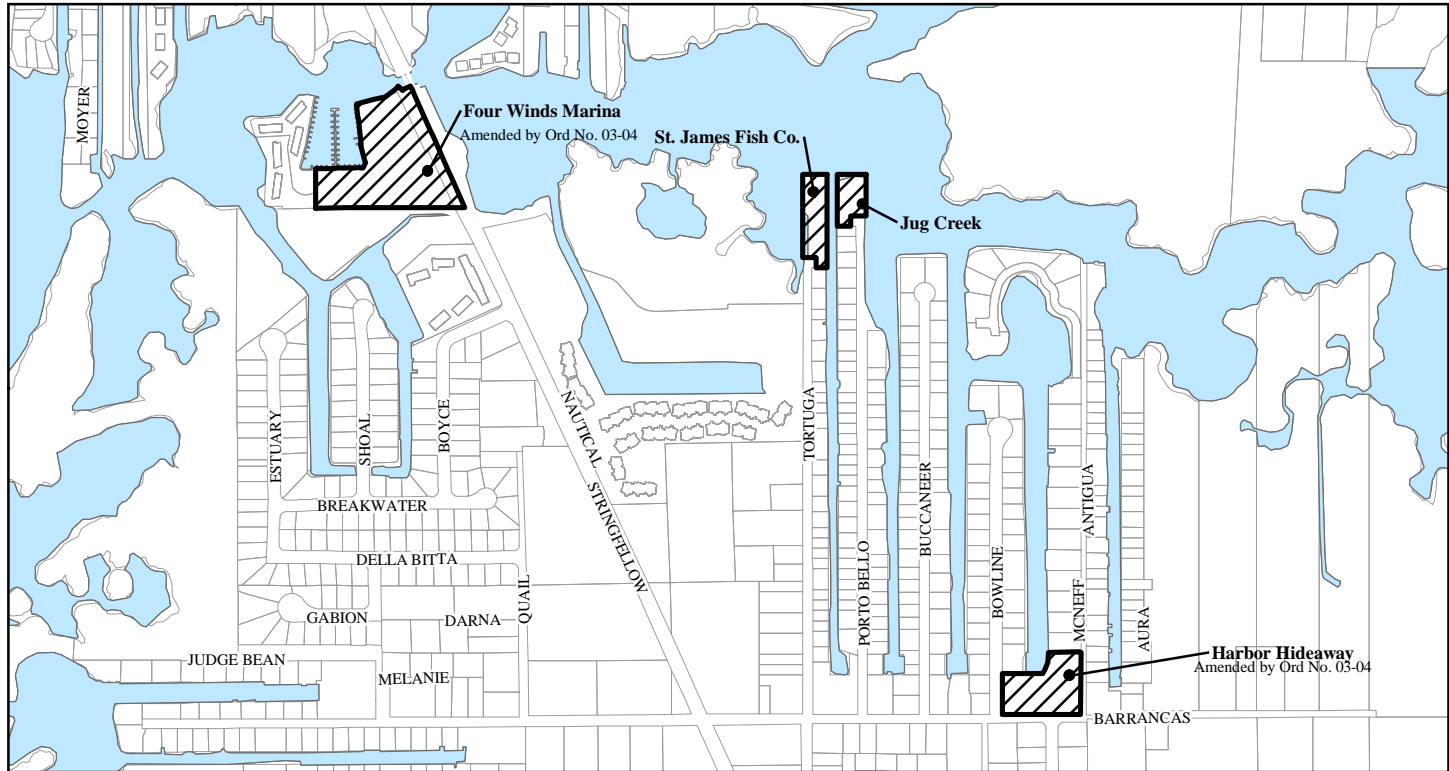
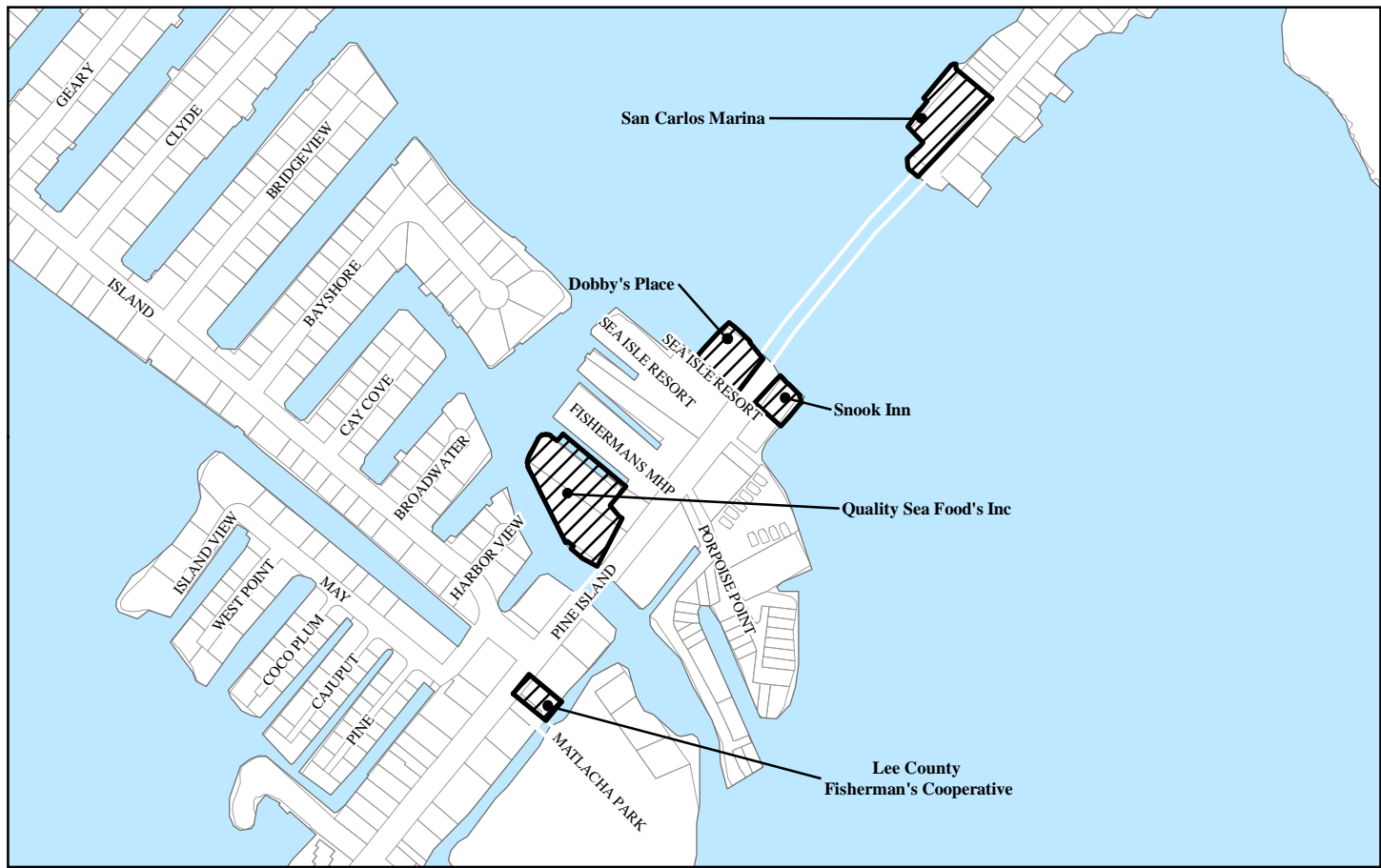
-  Water Dependent Overlay
-  Parcels



WATER DEPENDENT OVERLAY

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Adopted by Ord No. 89-02

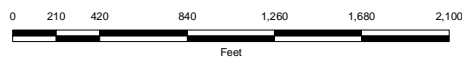


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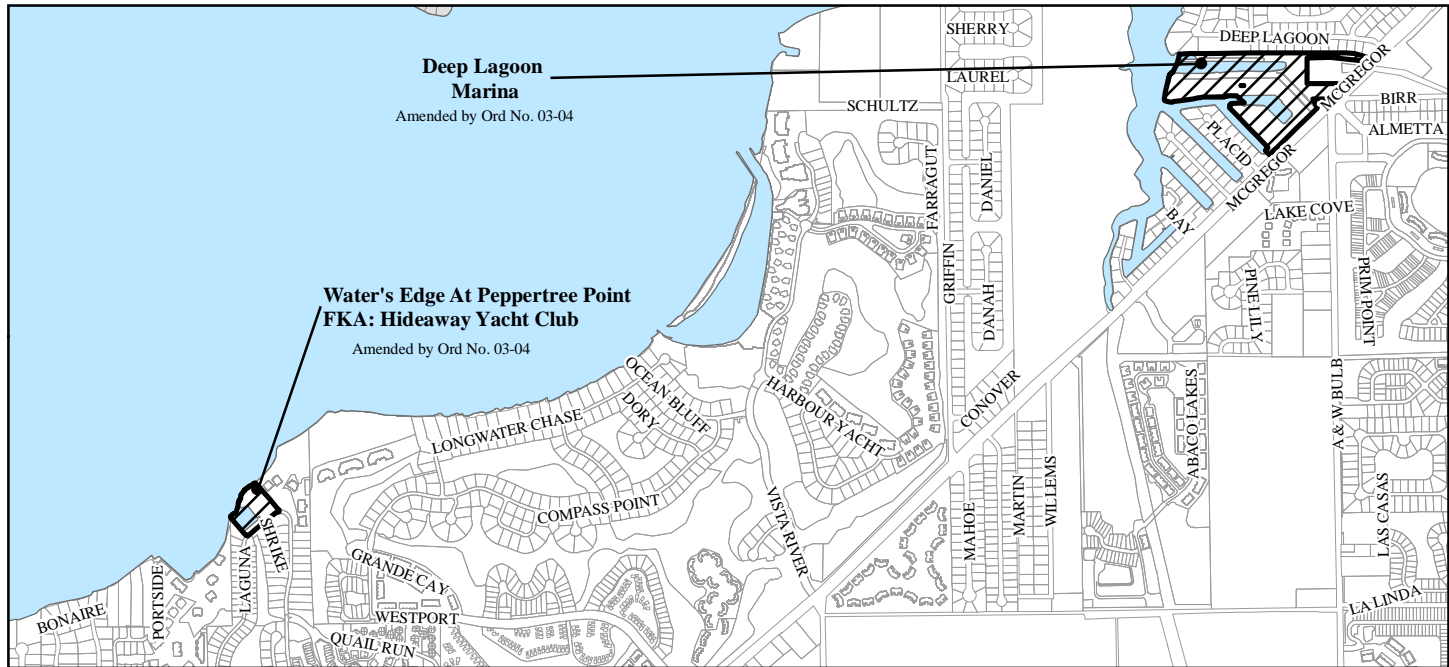
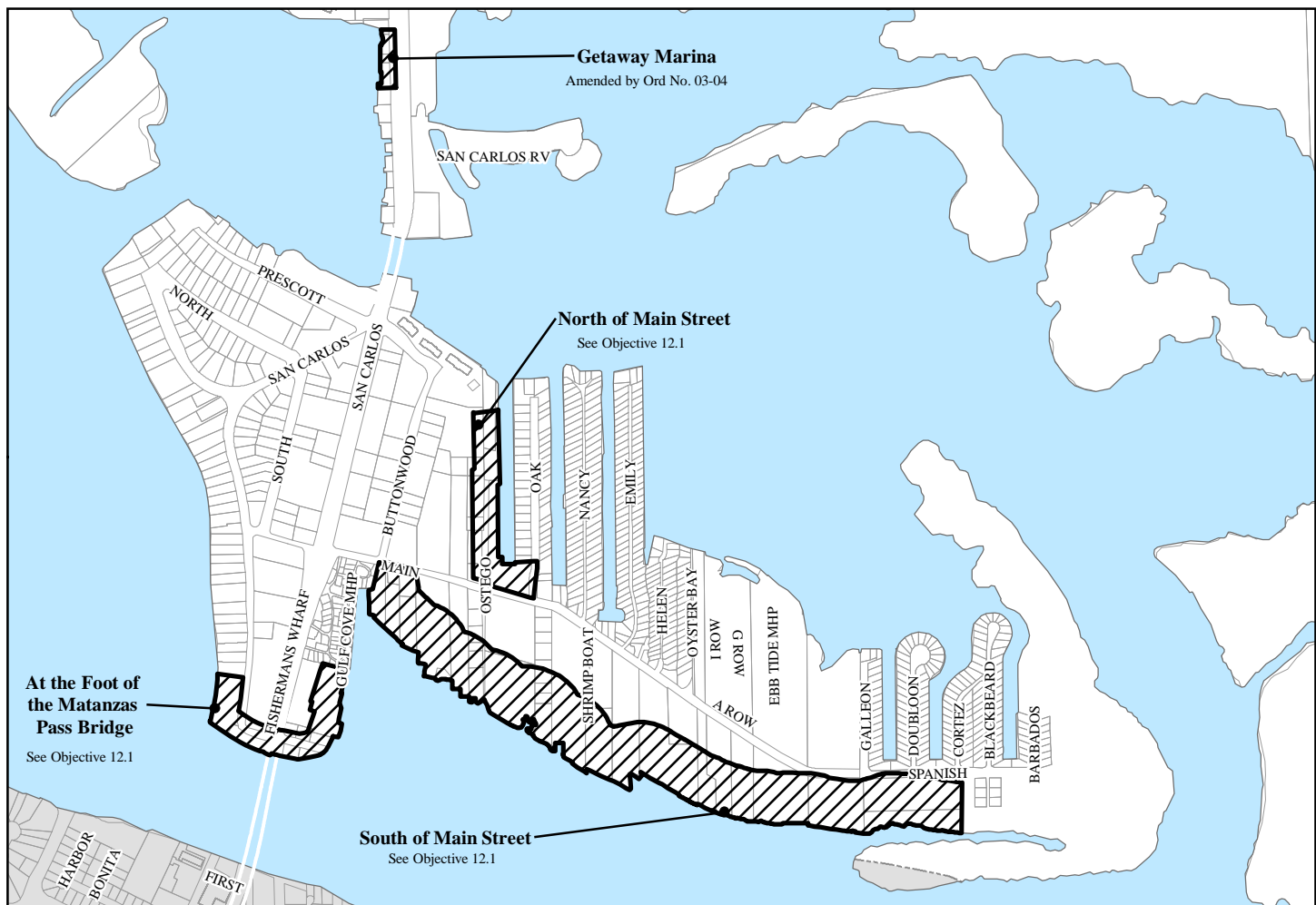
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Adopted by Ord No. 89-02

- Legend**
-  Water Dependent Overlay
 -  Parcels



Lee Plan Map 12






WATER-DEPENDENT OVERLAY

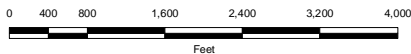
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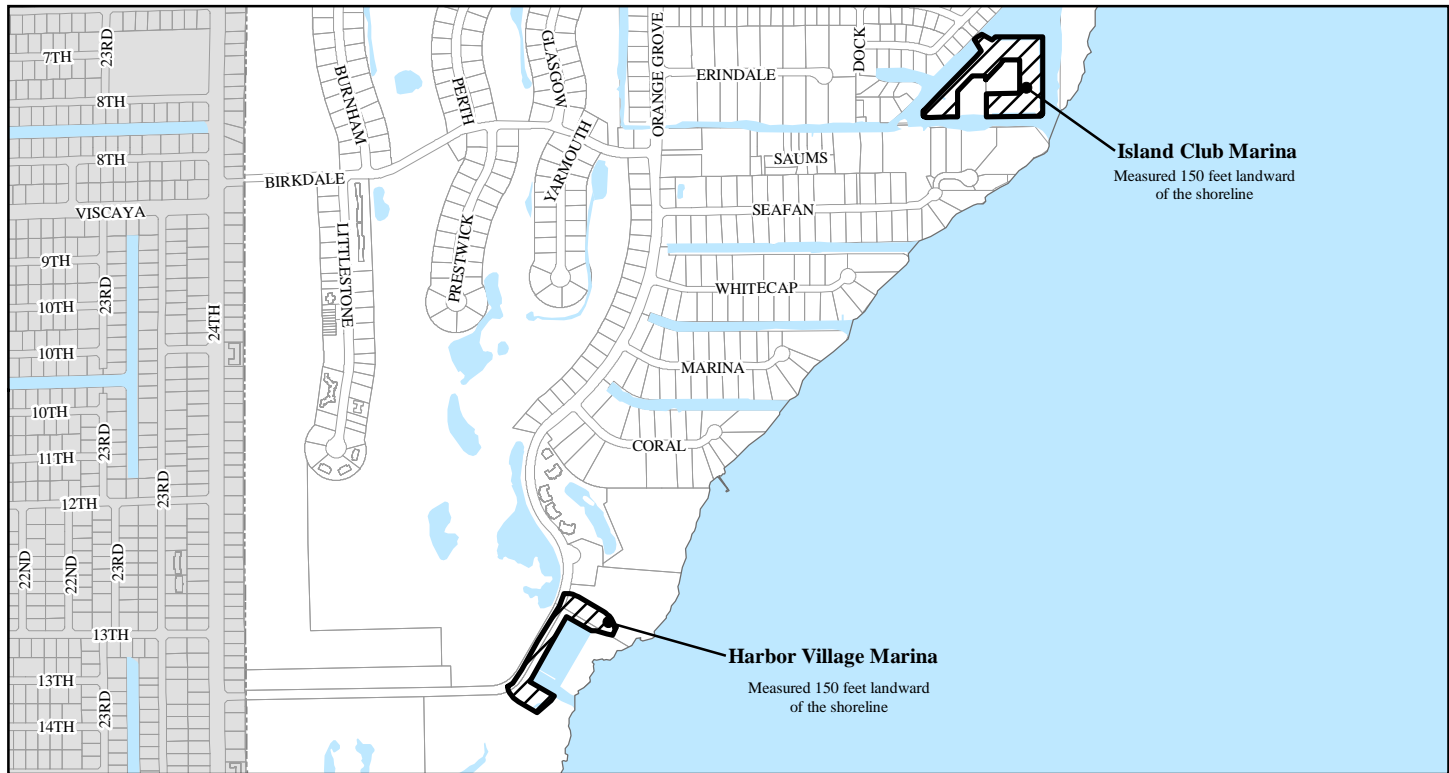
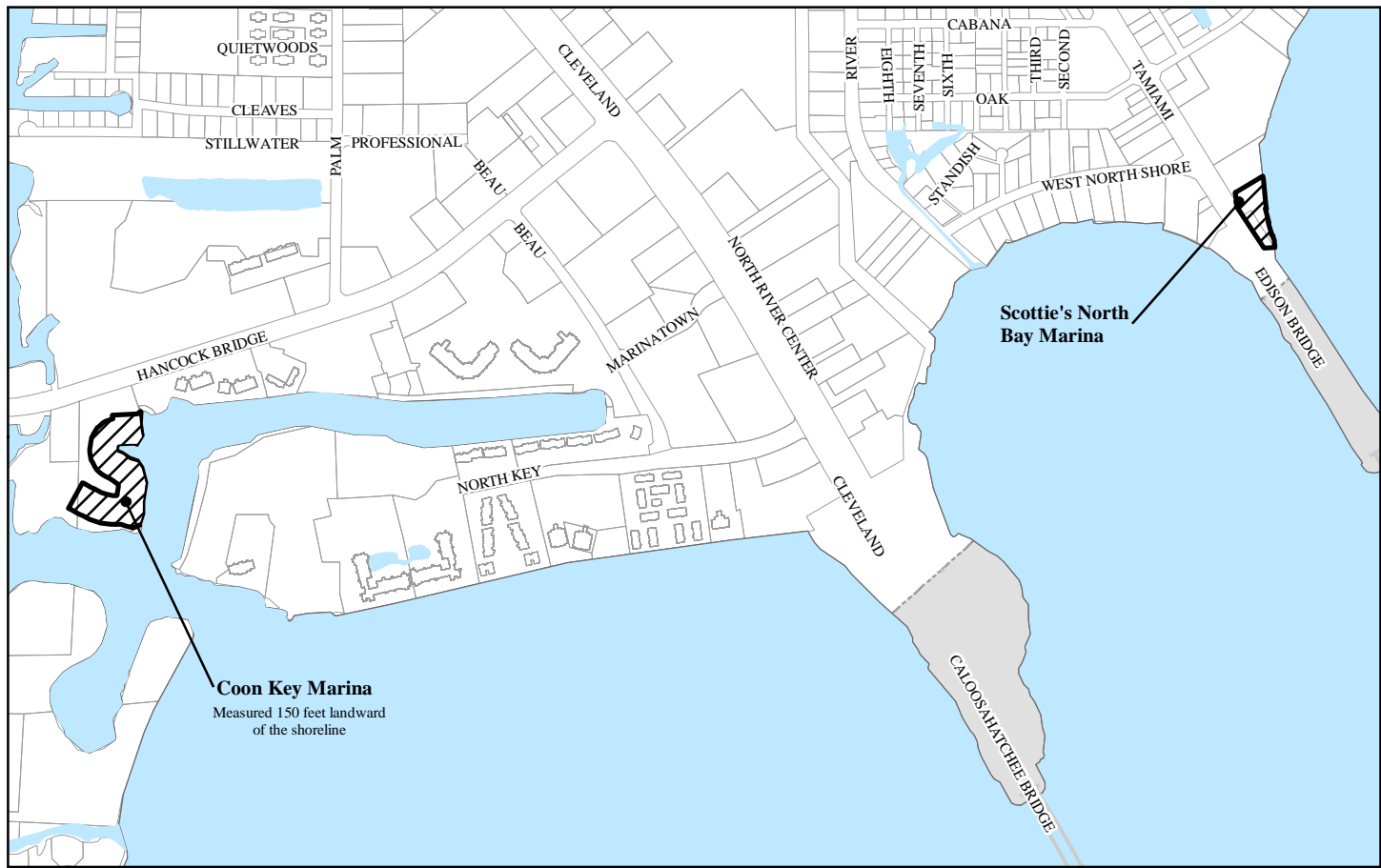
Adopted by Ord No. 89-02

Lee Plan Map 12
Page 6 of 11




Legend

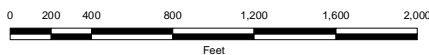
-  Water Dependent Overlay
-  Parcels
-  City Limits





Legend

-  Water Dependent Overlay
-  Parcels
-  City Limits

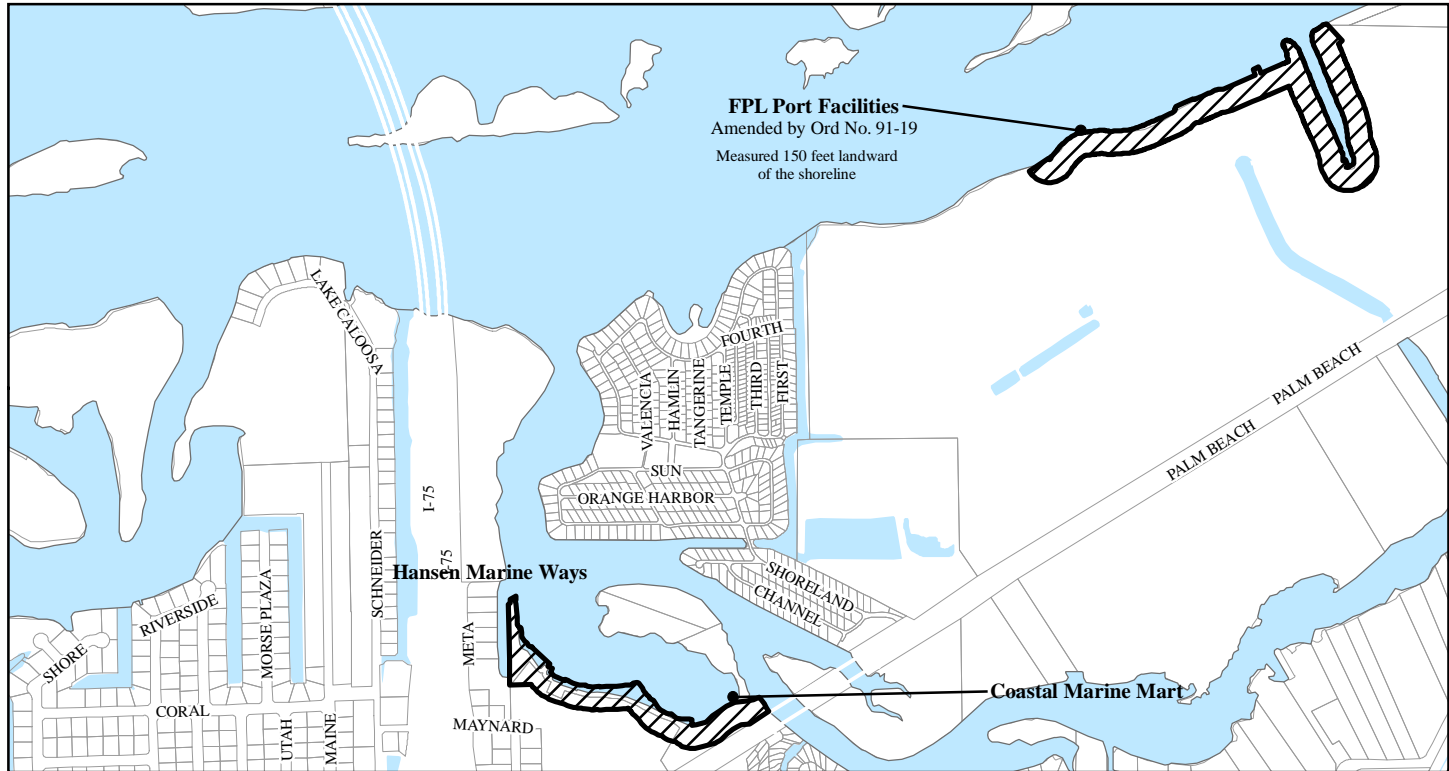
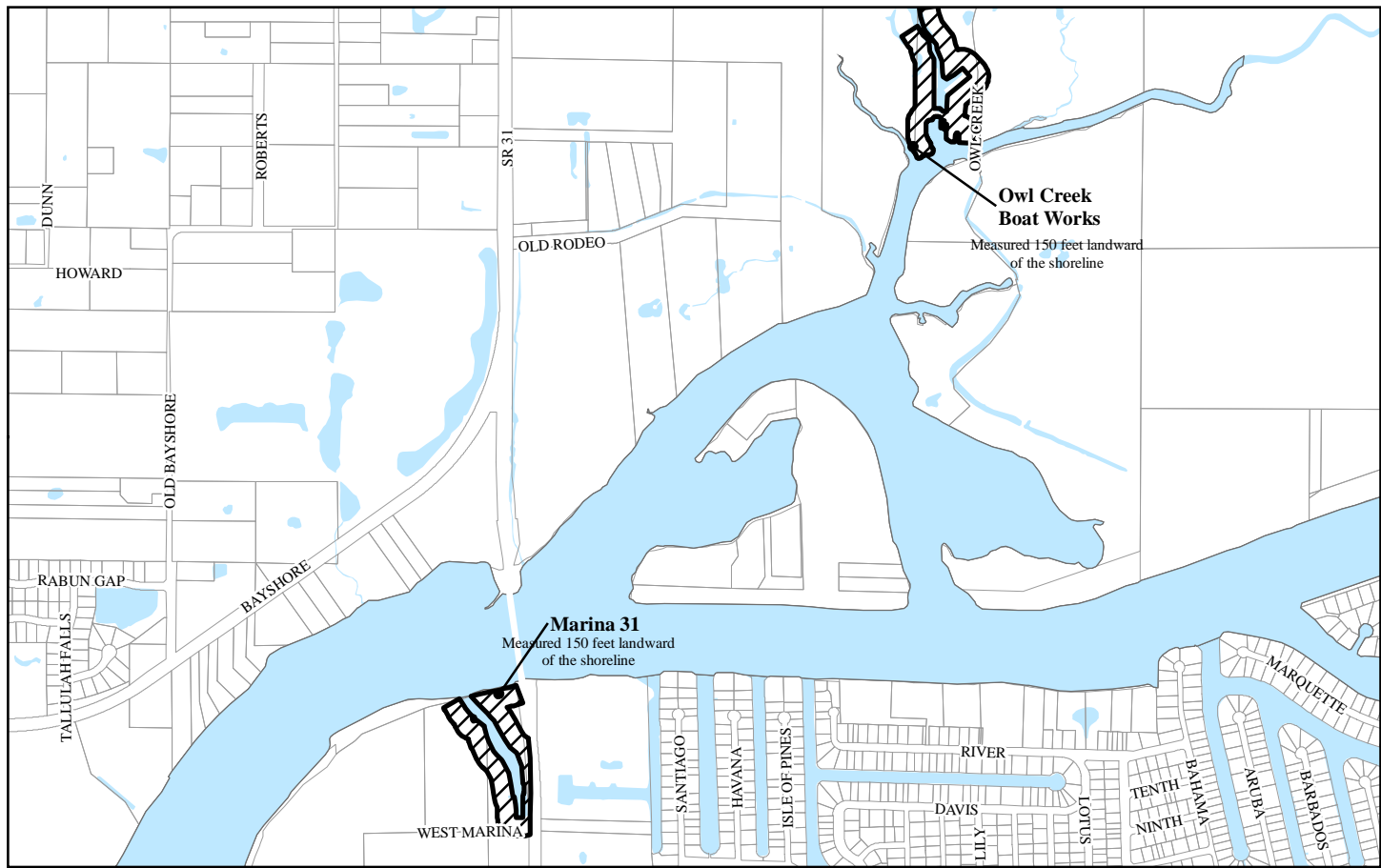


WATER DEPENDENT OVERLAY

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City Limits current to date of map generation

Adopted Ord No. 89-02

Lee Plan Map 12





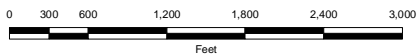
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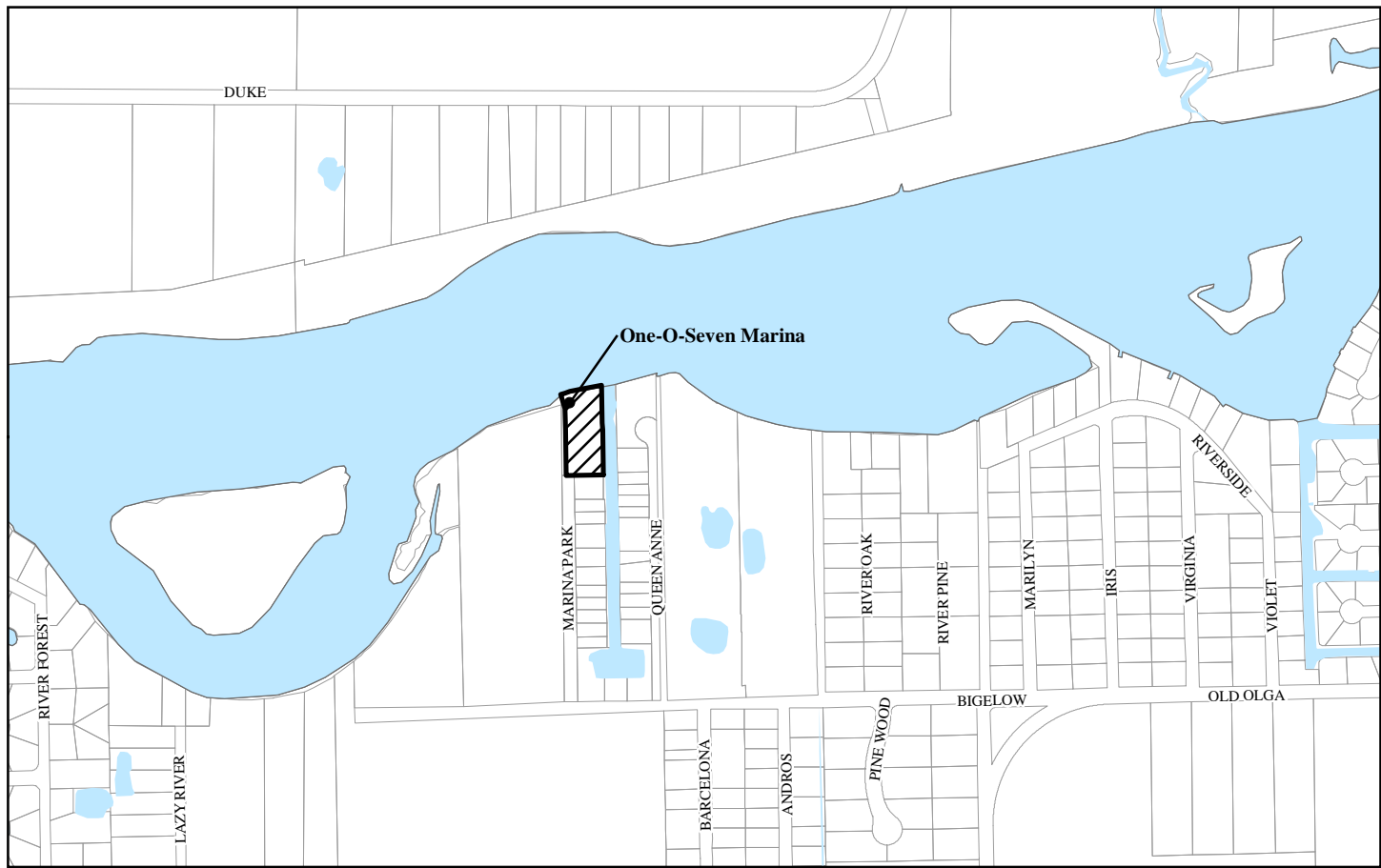
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Adopted by Ord No. 89-02

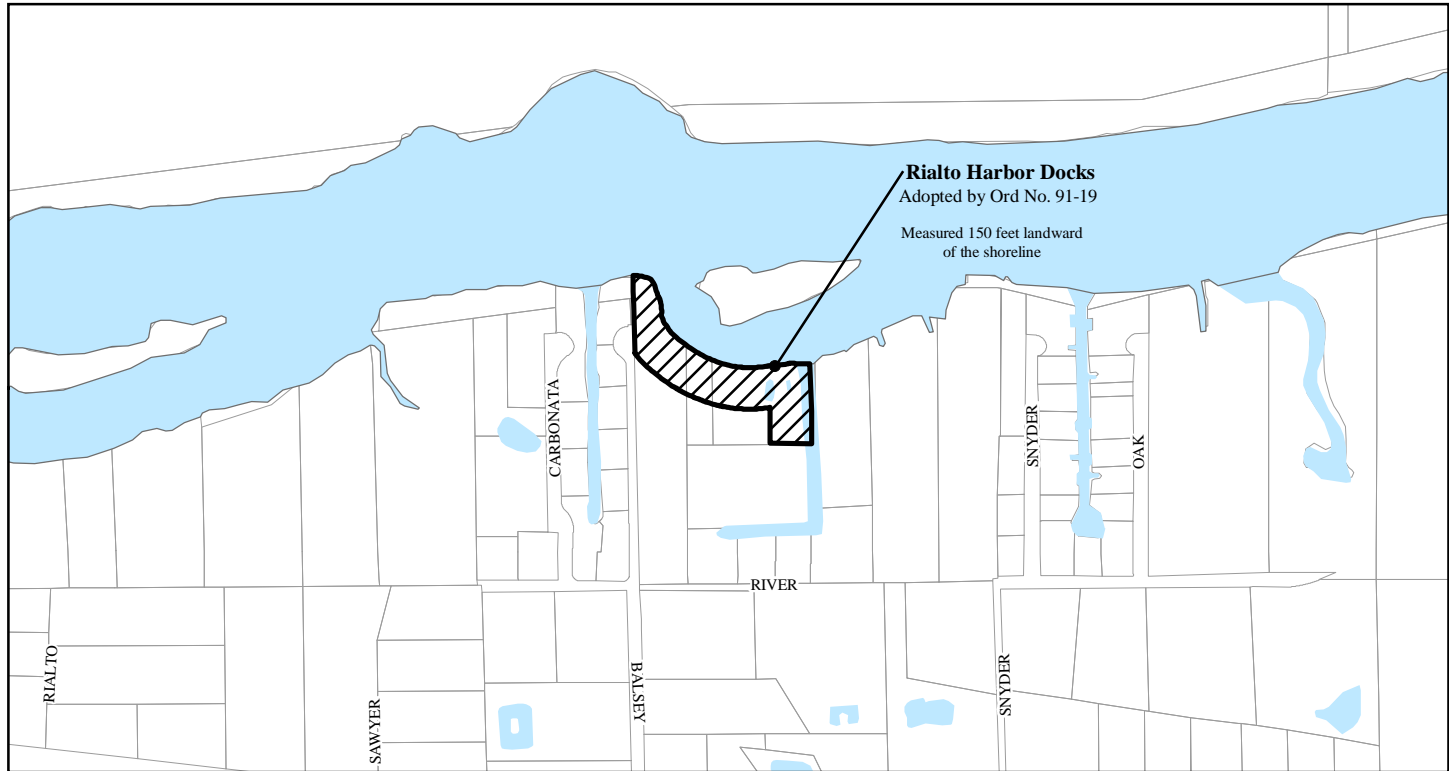
Legend

-  Water Dependent Overlay
-  Parcels





One-O-Seven Marina



Rialto Harbor Docks
Adopted by Ord No. 91-19

Measured 150 feet landward
of the shoreline





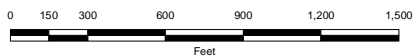
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OVERLAY**

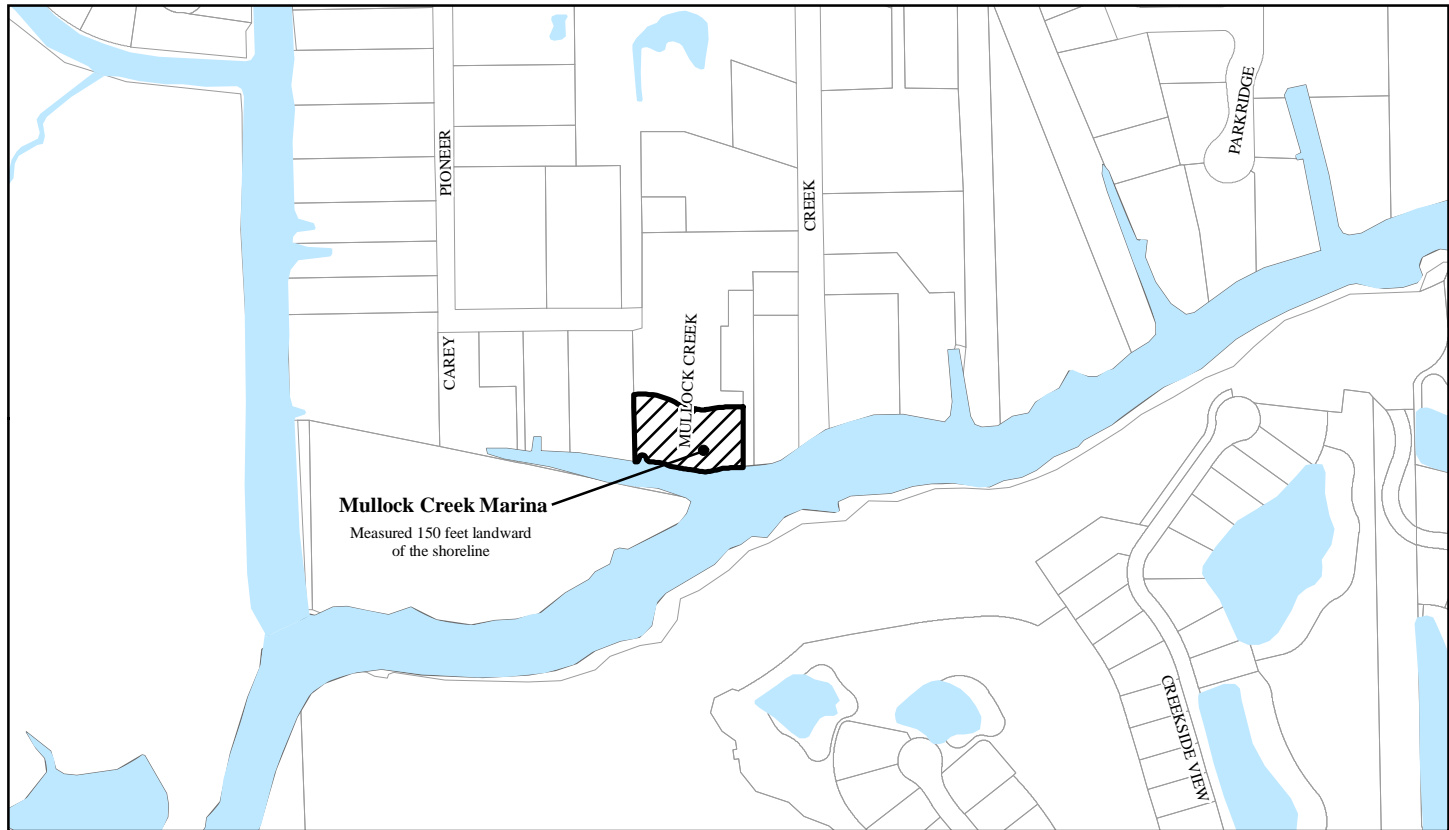
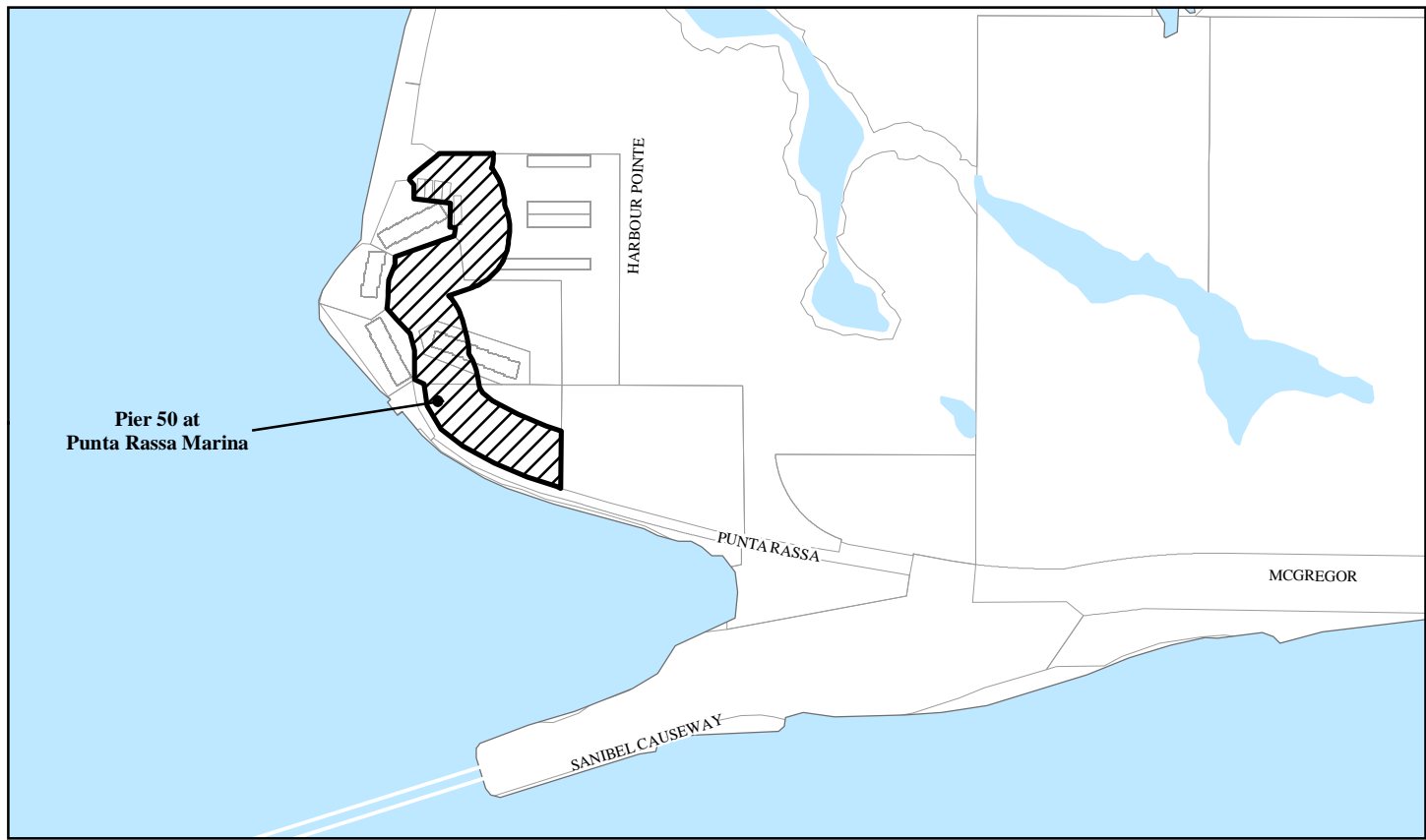
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Adopted by Ord No. 89-02

Legend

-  Water Dependent Overlay
-  Parcels





WATER DEPENDENT OVERLAY



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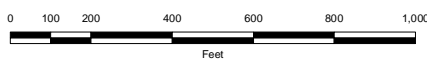
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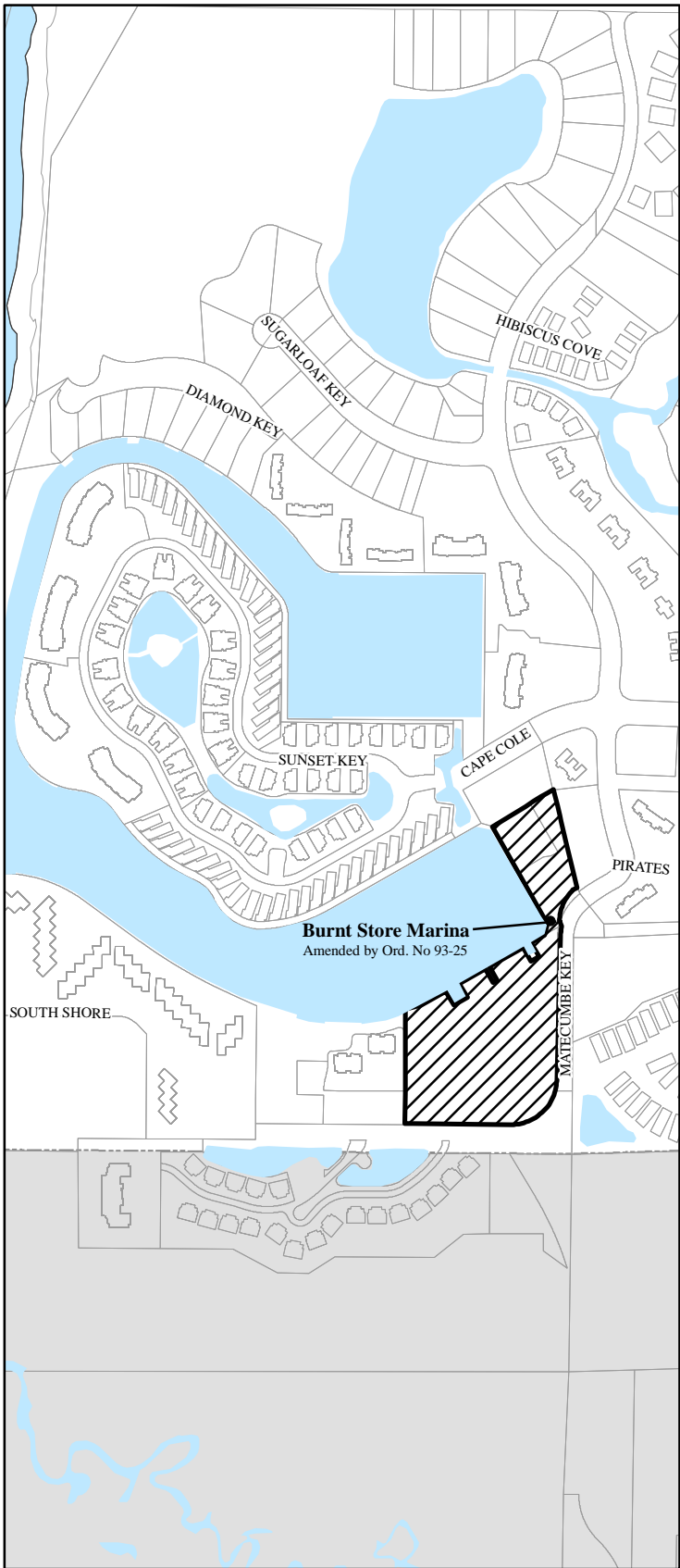
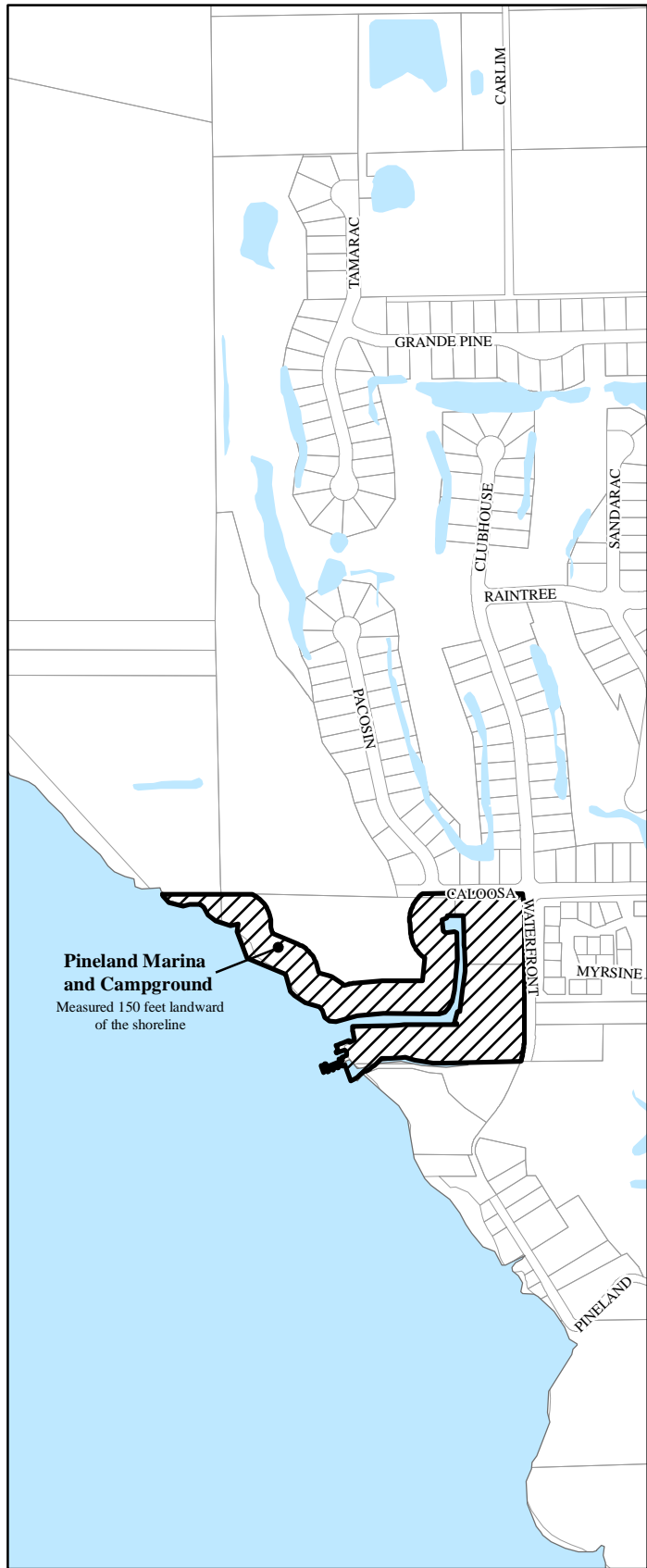
Lee Plan Map 12

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Legend

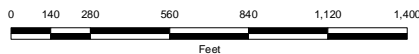
-  Water Dependent Overlay
-  Parcels





Legend

-  Water Dependent Overlay
-  Parcels
-  City Limits



WATER DEPENDENT OVERLAY

Map Generated: May 2018
City Limits current to date of map generation

Adopted by Ord No. 89-02