



STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS  
NOTICE OF INTENT TO FIND THE  
CITY OF FORT MYERS  
COMPREHENSIVE PLAN AMENDMENTS IN COMPLIANCE  
DOCKET NO. 03-1-NOI-3603-(A)-(I)

The Department gives notice of its intent to find the Amendments to the Comprehensive Plan for the City of Fort Myers adopted by Ordinance No. 3119 on May 19, 2003, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted City of Fort Myers Comprehensive Plan Amendments and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Fort Myers City Hall, Planning Department, 2<sup>nd</sup> Floor, 2200 Second Street, Fort Myers, Florida 33901.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Amendments to the City of Fort Myers Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice, and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and a copy mailed or delivered to the local government. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

If a petition is filed, other affected persons may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.

-s-Charles Gauthier, AICP

Chief, Bureau of Local Planning

Department of Community Affairs

Division of Community Planning

2555 Shumard Oak Boulevard

Tallahassee, Florida 32399-2100



**LEE COUNTY**  
SOUTHWEST FLORIDA

**BOARD OF COUNTY COMMISSIONERS**

(941) 479-8309

Writer's Direct Dial Number: \_\_\_\_\_

Bob Janes  
District One

January 23, 2003

Douglas R. St. Cerny  
District Two

Ray Judah  
District Three

Ray Eubank, Administrator  
Florida Department of Community Affairs  
Division of Community Planning  
Bureau of Local Planning  
2555 Shumard Oak Boulevard  
Tallahassee, FL. 32399-2100

Andrew W. Coy  
District Four

John E. Albion  
District Five

Donald D. Stilwell  
County Manager

James G. Yaeger  
County Attorney

Re: Amendments to the Lee Plan  
Adoption Submission Package (DCA No. 02-2) for the 2001/2002 Regular Comprehensive  
Plan Amendment Cycle

Diana M. Parker  
County Hearing  
Examiner

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.011, this submission package constitutes the adopted 2001/2002 Regular Comprehensive Plan Amendment Cycle to the Lee Plan (DCA No. 01-1), known locally as CPA 2001-09, CPA 2001-10, CPA 2001-11, CPA 2001-12, CPA 2001-15, CPA 2001-18, CPA 2001-22, CPA 2001-23, CPA 2001-24, CPA 2001-27, CPA 2001-28, CPA 2001-31, CPA 2001-32, CPA 2001-33, and CPA 2001-35. The adoption hearing for these plan amendments was held at 9:30 am on January 9, 2003.


Included with this package, per 9J-11.011(5), are three copies of the adopted amendments, supporting data and analysis, and the following seven adopting ordinances: Ordinance No. 03-01, Ordinance No. 03-02, Ordinance No. 03-03, Ordinance No. 03-04, Ordinance No. 03-05, Ordinance No. 03-06, and Ordinance No. 03-07. Also included, per F.S. 163.3184(7) and (15), is the required sign in form allowing a courtesy informational statement to interested citizens. By copy of this letter and its attachments I certify that this amendment has been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT), the Department of Environmental Protection, the Florida Department of State, the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

The initial staff reports for the proposed amendments were sent to the DCA with a transmittal cover letter dated September 19, 2002. All amendments previously reviewed by the Department in this current cycle of amendments were adopted by the Board of County Commissioners. Changes have occurred in CPA 2001-12, CPA 2001-10, CPA 2001-27, and CPA 2001-28. CPA 2001-12 has been revised since the time of transmittal. The connection between Three Oaks Parkway and Oriole Road has been revised and has been coordinated with the adjacent property owners. One revision to CPA 2001-10 was made in response to comments raised by the Department in the ORC Report. The Board of County Commissioners adopted the amendment with the deletion of Policy 21.9,

regarding the protection of mangroves on Captiva Island. The Board has directed staff to look further into applying such a policy county wide. In amendment CPA 2001-27 a new Objective and Policy have been added to the Community Facilities and Services Element of the Lee Plan regarding the incorporation of green infrastructure into the surface water management systems of proposed developments as well as providing definitions for green infrastructure and flow-way in the Glossary. Since transmittal, staff has met with the public and state agencies on issues raised at the Transmittal hearing. Staff has revised the transmitted language as a result of those meetings. The revisions to the subject amendment were sent to the DCA for review on November 8, 2002 prior to the issuance of the ORC Report and were adopted by the Board. CPA 2001-28 has added a new table reflecting the new 2003/2007 fiscal year to the CIP. The Board of County Commissioners adopted CPA 2001-12, CPA 2001-10, CPA 2001-27, and CPA 2001-28 with the noted changes.

If you have any questions, or if I can be of any assistance in this matter, please feel free to call me at the above telephone number.

Sincerely,  
**DEPT. OF COMMUNITY DEVELOPMENT**  
**Division of Planning**



Paul O'Connor, AICP  
Director

All documents and reports attendant to this adoption are also being sent, by copy of this cover, to:

David Burr  
Interim Director  
Southwest Florida Regional Planning Council

Mike Rippe, District Director  
FDOT District One

Executive Director  
South Florida Water Management District

Plan Review Section  
Department of Environmental Protection

Florida Department of State

Florida Fish and Wildlife Conservation Commission

The Department of Agriculture and Consumer Services, Division of Forestry

**Charlie Green**  
**Clerk of Circuit Court**  
**Lee County, Florida**

STATE OF FLORIDA

COUNTY OF LEE

I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing, is a true and correct copy of Ordinance No. 03-04, adopted by the Board of Lee County Commissioners, at their meeting held on the 9th day of January, 2003.

Given under my hand and seal, at Fort Myers, Florida, this 15th day of January, 2003.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By *Michèle B Cooper*  
Deputy Clerk



FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM  
CODRS CODING FORM

COUNTY: Lee

COUNTY ORDINANCE #: 03-02

(e.g., 93-001)

PRIMARY KEYFIELD

DESCRIPTOR: Comprehensive Planning

SECONDARY KEYFIELD

DESCRIPTOR: Land Use Planning

OTHER KEYFIELD

DESCRIPTOR: Planning

ORDINANCE DESCRIPTION: 2001/2002 Lee Plan Amendment

(25 Characters Maximum Including Spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT #1: 89-02, as amended AMENDMENT #2: \_\_\_\_\_

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL #1: \_\_\_\_\_ ; REPEAL #3: \_\_\_\_\_  
REPEAL #2: \_\_\_\_\_ ; REPEAL #4: \_\_\_\_\_

(Others Repealed: List All That Apply): \_\_\_\_\_

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: \_\_\_\_\_

KEYFIELD 1 CODE: \_\_\_\_\_ KEYFIELD 2 CODE: \_\_\_\_\_

KEYFIELD 3 CODE: \_\_\_\_\_

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(Others Repealed: List All That Apply): \_\_\_\_\_

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: \_\_\_\_\_  
KEYFIELD 1 CODE: \_\_\_\_\_ KEYFIELD 2 CODE: \_\_\_\_\_  
KEYFIELD 3 CODE: \_\_\_\_\_

LEE COUNTY ORDINANCE NO. 03-04  
(Consent Ordinance)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE LAND USE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED ON THE CONSENT AGENDA DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND MAPS; PURPOSE AND SHORT TITLE; LEGAL EFFECT; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "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; and,

WHEREAS, the Lee County Board of County Commissioners, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ( "LPA") held public hearings pursuant to Chapter 163, Part II, Florida Statutes, and the Lee County Administrative Code on March 25, April 22, July 22, and August 26, 2002; and,

WHEREAS, the Board of County Commissioners, pursuant to Florida Statutes and the Lee County Administrative Code held a public hearing for the transmittal of the proposed amendments on September 4 and 5, 2002. At those hearings the Board approved a motion to send, and did later send, the proposed amendment to the Florida Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the transmittal hearings on September 4 and 5, 2002, the Board



announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on November 22, 2002; and,

WHEREAS, the Board moved to adopt the proposed amendments to the Lee Plan set forth herein during its statutorily prescribed public hearing for the plan amendments on January 9, 2003.

**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 series of public hearings to consider proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the certain amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as amended, will continued to be the "Lee Plan." **This ordinance may be referred to as the "2001/2002 Regular Comprehensive Plan Amendment Cycle Consent Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2000/2001 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE (Consent Agenda Items)

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on January 9, 2003, known as: CPA2001-11, CPA2001-15, CPA2001-22, CPA2001-23, CPA2001-24, CPA2001-31, CPA2001-32, CPA2001-33, and CPA2001-35. The aforementioned amendments amend the text of the

Lee Plan including the Future Land Use Map series, the Transportation Map series, and the tables of the Lee Plan. A brief summary of the content of those amendments is set forth below:

**CPA 2001-11**

Amend the Future Land Use Element, Policy 1.2.2, the Airport Commerce descriptor policy, to broaden the allowable uses and to establish relationships and criteria for those uses.

**CPA 2001-15**

Amend the Future Land Use Map series, Map 1, by updating the Conservation Lands land use categories.

**CPA 2001-22**

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.

**CPA 2001-23**

Evaluate and amend the Future Land Use Map series, Map 20, the Agricultural Overlay and Goal 9, Agricultural Land Uses, and its subsequent objectives and policies.

**CPA 2001-24**

Update Table 2(b), Recommended Operational Improvements on Constrained Roads.

**CPA 2001-31**

Amend Policy 80.1.7 of the Conservation and Coastal Management Element by updating the policy to reflect a new percentage for replacement values and revising the target date when development regulations will require implementation of this policy.

**CPA 2001-32**

Amend the Intergovernmental Coordination Element and the Community Facilities Element to bring the elements into compliance with the provisions of F.S. Chapter 163.3177

**CPA 2001-33**

Amend the Build Back Policy of the Procedures and Administration Element by replacing references to the term "cost" with the term "value."

**CPA 2001-35**

Review all elements of the Lee Plan, and replace, where applicable, references to the Lee County Regional Water Supply Authority with Lee County Utilities or the Division of Natural Resources in conjunction with the County taking over the responsibilities of the Water Supply Authority.

The corresponding Staff Reports and Analysis, along with all attachments for these amendments 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: 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 FIVE: 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 SIX: INCLUSION IN CODE, CODIFICATION, 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 renumbered or relettered 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 or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Albion, who moved its adoption. The motion was seconded by Commissioner Janes, and, when put to a vote, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Aye
John Albion	Aye

DONE AND ADOPTED this 9<sup>th</sup> day of January 2003.

ATTEST:  
CHARLIE GREEN, CLERK

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY: Michelle S. Cooper  
Deputy Clerk

BY: Ray Judah  
Chairman

DATE: 1/9/03

Approved as to form by:

Donna Marie Collins  
Donna Marie Collins  
County Attorney's Office



**CPA 2001-22  
BoCC SPONSORED  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**BoCC Adoption Document**

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(239) 479-8585*

**January 9, 2003**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA 2001-22**

Text Amendment

Map Amendment

	<b>This document contains the following reviews:</b>
✓	<b>Staff Review</b>
✓	<b>Local Planning Agency Review and Recommendation</b>
✓	<b>Board of County Commissioners Hearing for Transmittal</b>
✓	<b>Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report</b>
✓	<b>Board Of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: July 2, 2002

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

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

**2. REQUEST:**

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.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**1. RECOMMENDATION:**

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment.

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

- Lee County economic prosperity, in part, has historically been dependent on sufficient access to water and water dependent activities such as commercial fishing, freight, and recreational uses.

- The proposed amendment clarifies the exact location, extent, and current status of the WDO zones.
- The proposed amendment will help conserve limited waterfront areas for those uses that require such space.
- Lee Plan Map 12, the WDO zones map, does not reflect the current conditions in many WDO zones or past changes in their boundaries.
- Staff has acquired improved mapping software since the last maps of the WDO zones were created.
- Some of the WDO zones have undergone significant development since their creation.
- The proposed amendment will further Lee Plan Objective 8.1, 98.1, 98.2, and 98.4 by identifying possible water dependent uses within the WDO zones.
- The WDO zones on San Carlos Island are addressed by Map 2, not Map 12.
- Existing Lee Plan Goals, Objectives, and Policies sufficiently address WDO zones.

### **C. BACKGROUND INFORMATION**

Marinas, boat-docking facilities, and other water-access sites are a limited commodity in Lee County. Public access to water resources is essential to the County's economic prosperity. Marinas, docks, fish-houses, fishing piers and other types of uses actually require location on the water. Likewise, Lee County's fishing industry depends heavily on sufficient access to water. It is important to identify and preserve these sites in order to prevent the displacement of water-dependent uses by other land uses such as residential or non-water-dependent commercial and industrial uses.

The Water Dependent Overlays were adopted by ordinance 89-02 in 1989 as part of the 1989 Lee Plan. The overlays were intended to protect marine-oriented land uses from incompatible or preemptive land uses. In 1991, Lee Plan Amendment PAM89-04 added the Rialto Harbor WDO zone and PAM90-20 amended the FPL power plant WDO zone. In 1992 PAM91-16 added the Weeks Fish Camp to the WDO zones. In 1993, PAM92-19 amended the WDO zone in the Burnt Store Marina. In 2001, CPA2000-02 deleted the Boca Grande Pass Marina WDO zone from page 1 of map 12. Since their adoption, varying levels of development have occurred within the WDO zones. Much of this development is residential in nature or otherwise non-water dependent. In addition, the cartographic software employed by the County has significantly improved. The older maps currently used in the Lee Plan would be improved through remapping with the newer software.

The Lee Plan Glossary defines Water Dependent Uses as land uses for which water access is essential and which could not exist without water access. Several Lee Plan Objectives and policies address WDO zones. The WDO zones were added to the Future Land Use element of the Lee Plan in Policy 1.7.5 as a specific type of Special Treatment Area. Goal 8 gives some protection to water-dependent uses by mandating the rezoning of specific uses to marine zoning districts. In the Conservation and Coastal Management element, Goal 98 seeks to preserve the marine-oriented nature of the shoreline. The goal addresses protection of water-dependent commercial and industrial land uses. Objectives 98.1 and 98.2 contain policies outlining the location of WDO zones and reiterating the mandate to rezone these areas to marine zoning districts

These are the Goals, Objectives, and Policies that concern the WDO zones:



**GOAL 1: FUTURE LAND USE MAP** To maintain and enforce a Future Land Use Map showing the proposed distribution, location, and extent of future land uses by type, density, and intensity in order to protect natural and man-made resources, provide essential services in a cost-effective manner, and discourage Urban Sprawl.

**OBJECTIVE 1.7: SPECIAL TREATMENT AREAS.** Designate on the Future Land Use Map, as overlays, special treatment areas that contain special restrictions or allowances in addition to all of the requirements of their underlying categories.

**POLICY 1.7.5:** The Water-Dependent 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.

**GOAL 8: MARINE-ORIENTED LAND USES.** To designate prime locations for marine-oriented land uses and protect them from incompatible or pre-emptive land uses.

**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.

**GOAL 98: SHORELINE MANAGEMENT.** To encourage the maintenance and development of water-dependent shoreline uses and to avoid their displacement by non-water-dependent uses.

**OBJECTIVE 98.1: COMMERCIAL WATER-DEPENDENT USES.** The County will continue to monitor and implement its program to enhance and protect commercial water-dependent uses.

**POLICY 98.1.1:** 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.

**POLICY 98.1.2:** The Future Land Use Map will designate water-dependent overlay zones over existing commercial fishing, port and docking sites and commercial marinas to protect their rights to rebuild and expand and to prevent their conversion to non-water-dependent uses without a public hearing.

**OBJECTIVE 98.2: INDUSTRIAL WATER-DEPENDENT USES.** The County will continue to monitor and implement its program to enhance and protect industrial water dependent uses.

***POLICY 98.2.1: 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.***

***POLICY 98.2.2: The County will maintain an inventory of all industrial water-dependent facilities, including name, location, and STRAP number of the facility. This inventory will be updated as needed.***

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

The majority of the WDO zones are defined as being 150 feet landward of the shoreline within the parcel or parcels designated on Map 12 or to include the entire parcel, if it is less than 150 feet in depth. However, some of the WDO zones are uniquely defined and their definitions are listed alongside the map of the relevant parcels. Therefore, Map 12 designates entire parcels whenever possible even though the WDO may only be a part of the parcel. In some cases, development within a single parcel includes both water-dependent and non-water-dependent uses. In such cases, the WDO zone may follow other boundaries such as zoning district lines. Many of the designated parcels contain vacant or undeveloped land. In these cases, the vacant land is left in the WDO zone in order to encourage future development to be in the form of water-dependent uses.

The WDO zones on San Carlos Island are not addressed by the proposed amendment. This amendment is concerned with Lee Plan Map 12. The San Carlos Island WDO zones are addressed on Lee Plan Map 2 which is not a part of the proposed amendment.

The proposed amendment is not intended to address local marina issues on Pine Island. Staff believes that this amendment is of a technical mapping nature. Other, ongoing issues concerning the Pine Island marinas are beyond the scope of this amendment at this time.

In evaluating each WDO zone, staff used two main criteria. First, whether the site contains water-dependent uses. Second, what portions (if any) of the site have been altered to non-water-dependent uses and how significant the change is. These were determined using aerial photography, site visits and data from the Lee County Property Appraiser. Third, was whether the change in the WDO zone was compelling enough to warrant a change in Map 12. Based on these criteria staff recommends the following changes:

#### **Map 12, Page 2**

Amend the Four Winds Marina WDO to follow the CM zoning district boundary. The commercial portion of the site was rezoned to CM in 1991, leaving the rest of the site in the C-2 zoning district. The non-commercial portion of the site is developed with condominiums, an allowable use in C-2 zoning. It is inappropriate to maintain the WDO on residential development.

Amend the Harbor Hideaway WDO to include parcel 30-43-22-07-0000B.0010. This vacant parcel is zoned CM, abuts the WDO, and is used by Harbor Hideaway for boat and boat trailer storage.

Boat storage is an ancillary use for the site. These factors make inclusion in the WDO appropriate. Additionally, the WDO would help to preserve a vacant, waterfront parcel for water dependent uses.

**Map 12, Page 8**

Amend the Hideaway Yacht and Racquet Club WDO. The parcel that originally defined the Hideaway Yacht and Racquet Club WDO has been subdivided and developed with residential uses. Portions of the original parcel remain as common elements such as road rights of way and the marina. The WDO zone should be restricted to those areas that are zoned CM to reflect these uses. In addition, the name of the WDO should be amended to "Water's Edge At Peppertree Point." This is the name of the Residential Planned Development that was created in the WDO and is the publicly used name for the Marina.

Amend the Deep Lagoon Marina WDO to follow current parcel lines. The parcels in the Deep Lagoon Marina WDO have been combined since its creation. Now, the WDO is part of a single-parcel marina CPD. Further, the marina was approved by resolution Z-99-13 to put water dependent uses in the majority of the new, combined parcel.

**Map 12, Page 9**

Amend the Burnt Store Marina WDO to follow the CM zoning district within the WDO parcel(s) as originally proposed by Lee Plan Amendment PAM92-19. A large portion of the water front is now developed with residential uses. The remaining undeveloped portions of the WDO parcel will also be developed with residential uses. This change in the WDO zone was originally created by Lee Plan amendment PAM92-19 but subsequent mapping did not reflect the change.

**Map 12, Page 10**

Amend the Getaway Marina WDO to include the three parcels to the north of the existing WDO parcel. The three parcels to the north of the WDO parcel are part of the marina, providing parking on the land portions and docking slips along the waterline. The parcels are listed as vacant commercial by the Property Appraiser. As they are now, these parcels could be converted to non-water dependent uses without a public hearing. By including them in the WDO zone, there is a much greater chance of preserving them for water-dependent uses. The parcels to the south of Getaway Marina are a mix of water-dependent and non-water-dependent uses. As such it would be inappropriate to include the parcels to the south of the marina in the WDO zone.

**Coastal Issues**

The proposed amendment would help preserve the limited water access points within Lee County. It will also preserve the amount of land available to water-dependent land uses such as fishing piers, marinas, boat docks, fish houses, and others.

**Transportation**

The Lee County 2020 transportation plan, to a certain extent, already estimates the impact of future development in WDO zones on traffic in the county. However, the effect of future coastal development upon transportation issues will have to be addressed on a case by case basis. Future

developments will be required to address their impacts on the area road network during the development order process, usually through a traffic impact study.

### **Emergency Services**

Future development in the WDO zones could increase the demand on emergency services. This increased demand would be addressed by the County prior to the issuance of a development order. Increased demand would require mitigation measures by the developer.

### **Hurricane Evacuation**

Sections 2-481 through 2-486 of the Lee County Land Development Code address hurricane preparedness. Hurricane preparedness impacts and mitigation are determined by the number of residential and hotel/motel units in a development. WDO policies discourage residential use on waterfront property by rezoning those areas to CM and IM zoning districts. These districts restrict residences to caretaker houses and hotel/motels to special exception only. Therefore, WDO zones help reduce the hurricane evacuation impact on the County's road network.

### **Utilities**

Increased development in the WDO zones could increase the demand upon water and sewer utilities. Lee plan Standard 11.1 requires that any commercial or industrial use that exceeds 30,000 square feet would be required to connect to a public water system. Likewise, Lee Plan Standard 11.2 requires that any development that generates over 5,000 gallons of sewage per day must connect to a sanitary sewer system. Any future development in the WDO zones that meet these criteria will be required to install the necessary infrastructure during the development order process.

### **Environmental Concerns**

Future development within WDO zones will be required to address environmental concerns on a case by case basis. The developer will follow standard mitigation measures for any environmental impacts caused by future development as required by the Lee Plan and the Lee County Land Development Code.

### **Development Intensity**

Suitable water access points are an increasingly rare commodity in Lee County and the WDO zones help to preserve them for those uses that cannot be placed inland. The proposed amendment does not effect the amount of waterfront development. Instead, it influences the type of waterfront development, encouraging water-dependent uses. Therefore, the proposed amendment does not affect development intensity.

### **Residential Density**

The WDO zones are intended to limit residential uses in waterfront parcels. Lee Plan Objective 8.1 mandates reclassifying water-dependent uses to marina zoning districts. These districts do not permit residential uses beyond caretaker residences. In order to create residential development in a WDO zone, an applicant would be required to have a public meeting before the Board of County

Commissioners to remove the WDO designation. Then, the property in question would have to be rezoned to a zoning district that permitted residential uses. Therefore, the proposed amendment would help limit residential uses in waterfront parcels.

#### **Historic Preservation**

There are some historic structures known to be within WDO zones although Lee County does not have an exclusive inventory of historic properties in WDO zones. Any identified historic structures within a WDO zone will be addressed on a case by case basis. Standard historic preservation procedures per Chapter 22 of the Land Development Code and Chapter IX of the Lee Plan will be used within the WDO zones.

#### **B. CONCLUSIONS**

This amendment addresses 40 WDO zones. Of this 40, 6 are proposed for amendment. The remaining zones do not present compelling reasons for amendment. This amendment addresses Map 12 only. The WDO zones on San Carlos Island are addressed by Map 2 and therefore are beyond the scope of this amendment. Likewise, ongoing marina issues on Pine Island are beyond the scope of this amendment. The proposed amendment will clarify and update the WDO zones in Lee County. This will correct scrivener's errors as well as remove inconsistencies and outdated information from Map 12. The amendment will also help preserve increasingly rare water access and water dependent land uses within the county. As currently codified, the Lee Plan Goals, Objectives, and Policies sufficiently address WDO zones.

#### **C. STAFF RECOMMENDATION**

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment.

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

DATE OF PUBLIC LPA HEARING: July 22, 2002

**A. LOCAL PLANNING AGENCY REVIEW**

Staff gave a brief presentation. Staff stated that the amendment was of a technical nature and did not address Lee Plan Policies. One LPA member stated that the amendment appeared to be simply "cleaning up."

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

**1. RECOMMENDATION:**

The LPA recommend that the Board of County Commissioners transmit the proposed amendments to Map 12 of the Lee Plan Map series.

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

The LPA accepted the findings of fact as advanced by staff.

**C. VOTE:**

<b>NOEL ANDRESS</b>	<u>          <b>AYE</b></u>
<b>MATT BIXLER</b>	<u>          <b>AYE</b></u>
<b>SUSAN BROOKMAN</b>	<u>          <b>AYE</b></u>
<b>RONALD INGE</b>	<u>          <b>AYE</b></u>
<b>GORDON REIGELMAN</b>	<u>          <b>AYE</b></u>
<b>ROBERT SHELDON</b>	<u>          <b>AYE</b></u>
<b>GREG STUART</b>	<u>          <b>ABSENT</b></u>

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

DATE OF ADOPTION HEARING: September 4, 2002

**A. BOARD REVIEW:** The Board of County Commissioners provided no discussion concerning the proposed plan amendment. This item was approved on the consent agenda.

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

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment.
  
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

**C. VOTE:**

**JOHN ALBION**

\_\_\_\_\_  
**AYE**  
\_\_\_\_\_

**ANDREW COY**

\_\_\_\_\_  
**ABSENT**  
\_\_\_\_\_

**BOB JANES**

\_\_\_\_\_  
**AYE**  
\_\_\_\_\_

**RAY JUDAH**

\_\_\_\_\_  
**AYE**  
\_\_\_\_\_

**DOUG ST. CERNY**

\_\_\_\_\_  
**AYE**  
\_\_\_\_\_

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

DATE OF ORC REPORT: November 22, 2002

**A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:**

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

**B. STAFF RESPONSE**

Adopt the amendment as transmitted.



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

DATE OF ADOPTION HEARING: January 9, 2003

**A. BOARD REVIEW:** The Board of County Commissioners provided no discussion concerning the proposed plan amendment.

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

1. **BOARD ACTION:** The Board of County Commissioners voted to adopt the proposed plan amendment. This item was approved on the consent agenda.
  
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff.

**C. VOTE:**

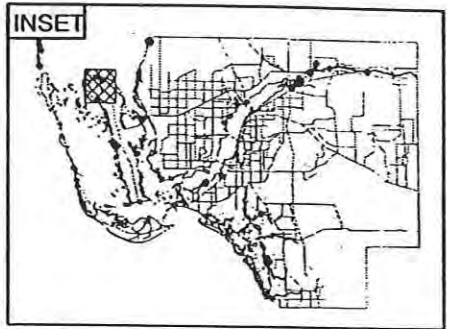
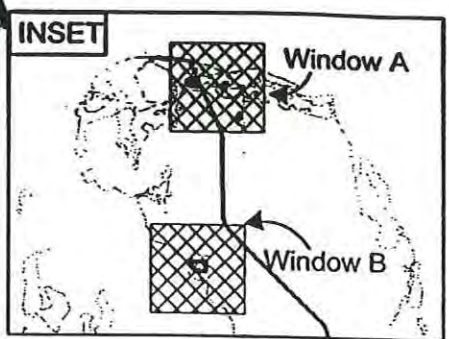
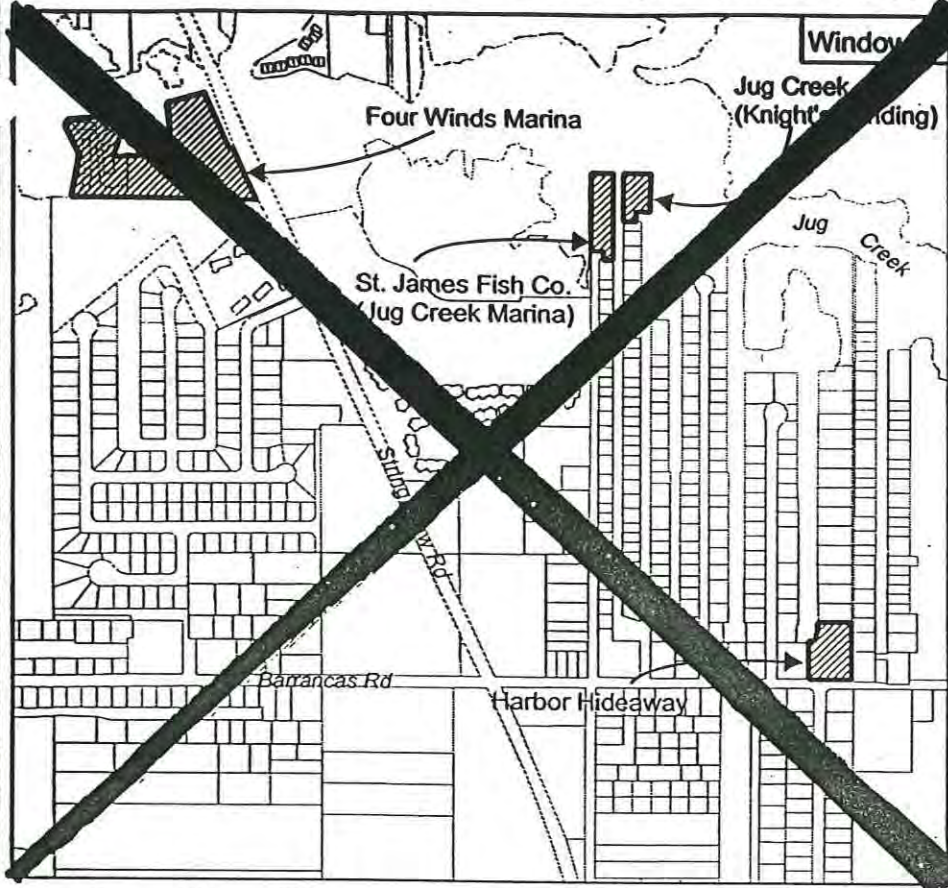
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<b>ANDREW COY</b>	<u>          </u> <b>AYE</b>
<b>RAY JUDAH</b>	<u>          </u> <b>AYE</b>
<b>BOB JANES</b>	<u>          </u> <b>AYE</b>
<b>DOUG ST. CERNY</b>	<u>          </u> <b>AYE</b>

# Attachment 1

## Existing Map 12

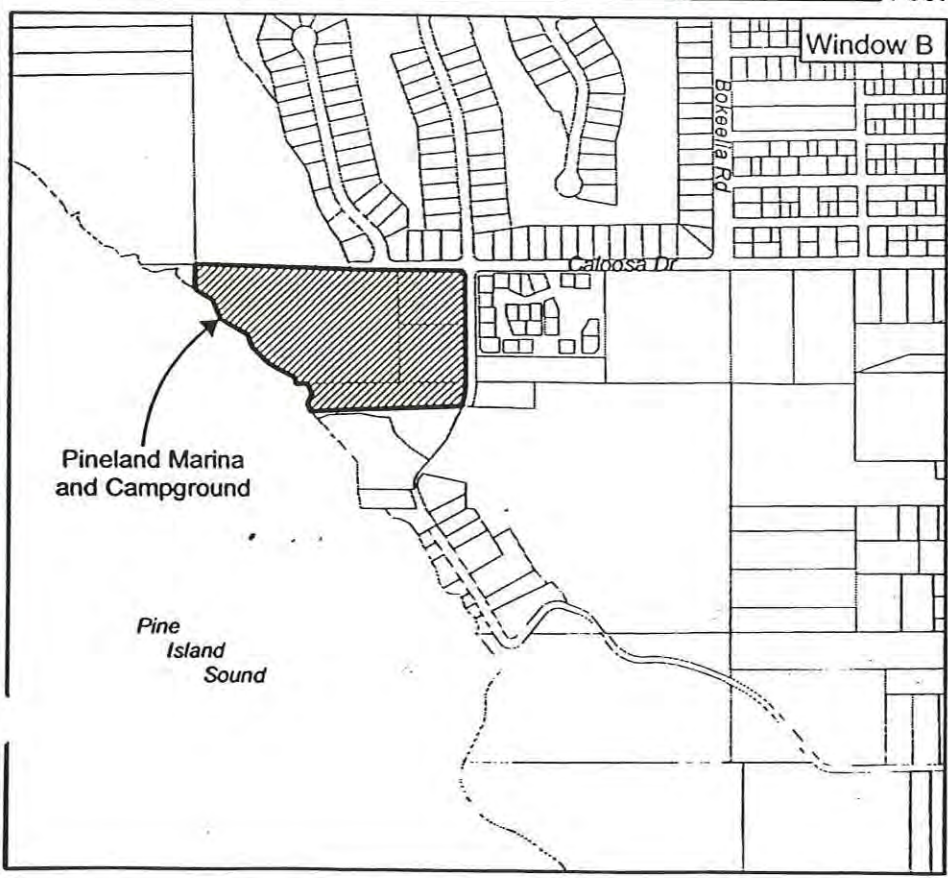
(Note: maps proposed for amendment crossed out)

# MAP 12 WATER-DEPENDENT OVERLAY ZONES



**List of STRAPS**

- Four Winds Marina
- 30-43-22-00-00027.0020
- 30-43-22-14-00000.1010
- 30-43-22-14-00000.1020
- 30-43-22-14-00000.1030
- 30-43-22-14-00000.1040
- 30-43-22-14-00000.1050
- 30-43-22-14-00000.1060
- 30-43-22-14-00000.2010
- 30-43-22-14-00000.2020
- 30-43-22-14-00000.2030
- 30-43-22-14-00000.2040
- 30-43-22-14-00000.2050
- 30-43-22-14-00000.2060
- 30-43-22-16-00000.00CE
- 30-43-22-16-00000.000A
- 30-43-22-16-00003.3010
- 30-43-22-16-00003.3020
- 30-43-22-16-00003.3030
- 30-43-22-16-00003.3040
- 30-43-22-16-00003.3050
- 30-43-22-16-00003.3060
- 30-43-22-16-00004.4010
- 30-43-22-16-00004.4020
- 30-43-22-16-00004.4030
- 30-43-22-16-00004.4040
- 30-43-22-16-00004.4050
- 30-43-22-16-00004.4060
- 30-43-22-16-00005.5010
- 30-43-22-16-00005.5020
- 30-43-22-16-00005.5030
- 30-43-22-16-00005.5040
- 30-43-22-16-00005.5050
- 30-43-22-16-00005.5060



- St. James Fish Co.  
(Jug Creek Marina)
- 30-43-22-02-0000A.0010
- Jug Creek  
(Knight's Landing)
- 30-43-22-02-0000B.0010
- Harbor Hideaway
- 30-43-22-18-00000.001A
- Pineland Marina and Campground
- 07-44-22-00-00001.0000
- 07-44-22-00-00002.0000
- 07-44-22-00-00002.0020

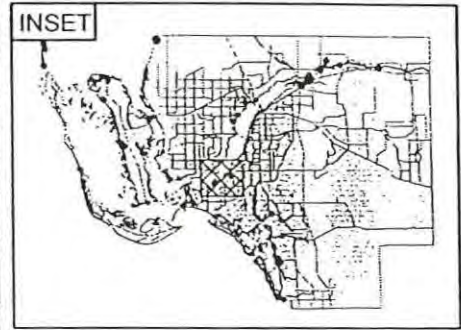
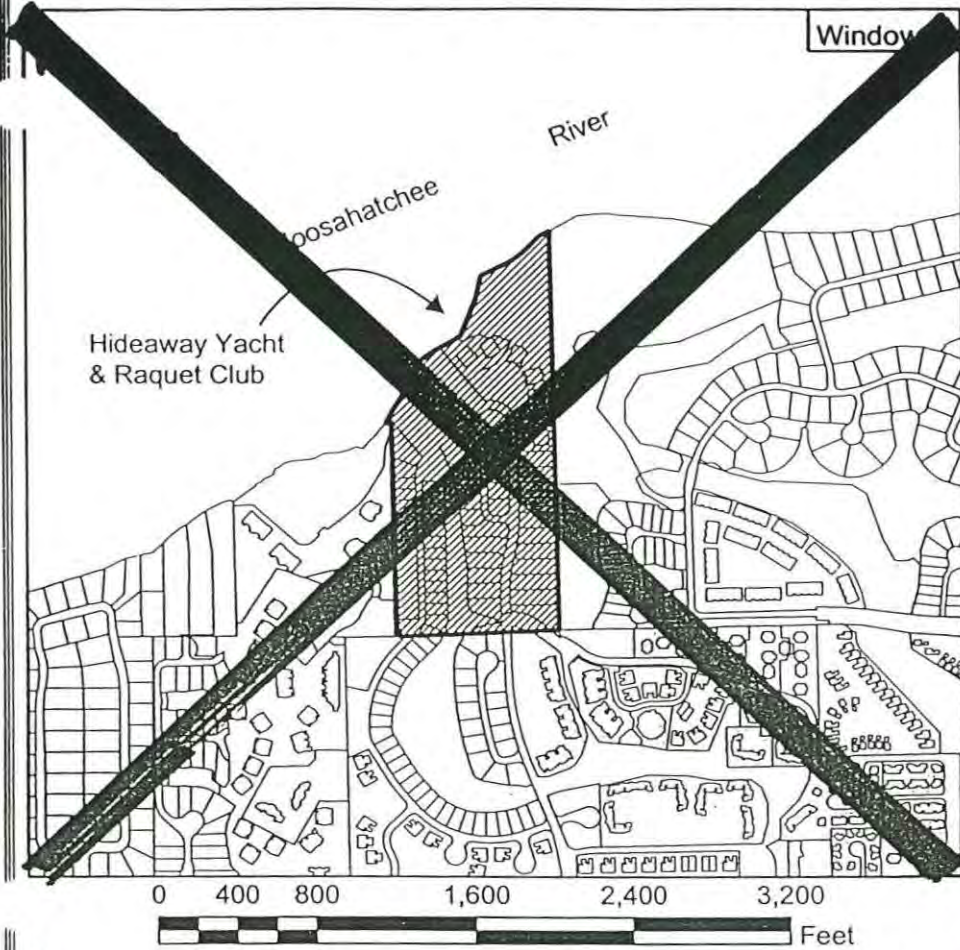
The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



**LEE COUNTY**  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING

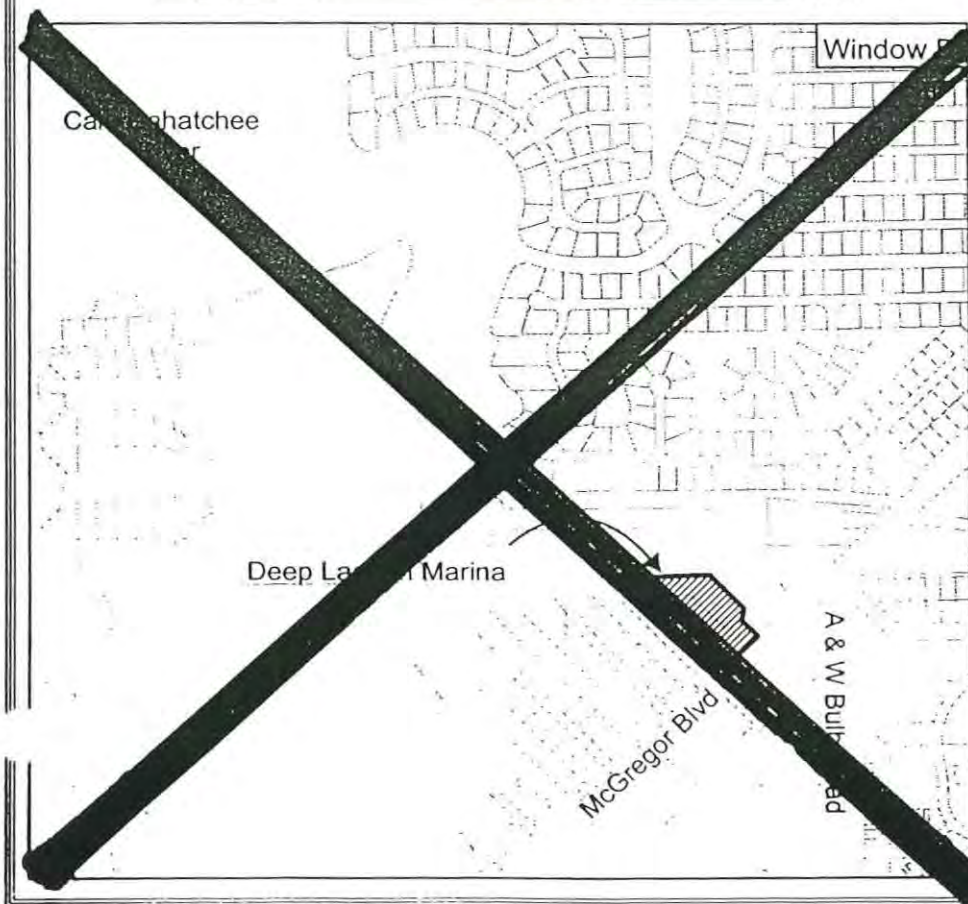
Map Generated August 5, 2001

# MAP 12 WATER-DEPENDENT OVERLAY ZONES



List of STRAPS

- Deep Lagoon Marina  
29-45-24-00-00011.002A
- Hideaway Yacht & Raquet Club  
25-45-23-00-00001.0000  
25-45-23-11-00000.0230-0340  
25-45-23-11-00000.0360-0520  
25-45-23-31-00000.0280-0450  
25-45-23-33-00000.000A  
25-45-23-33-00000.00CE  
25-45-23-33-Building A through G

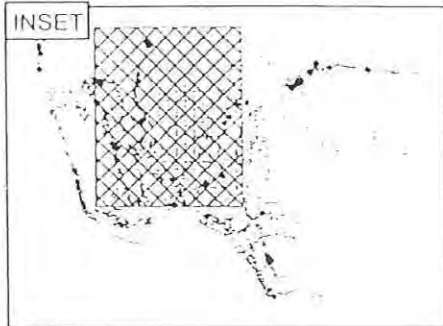
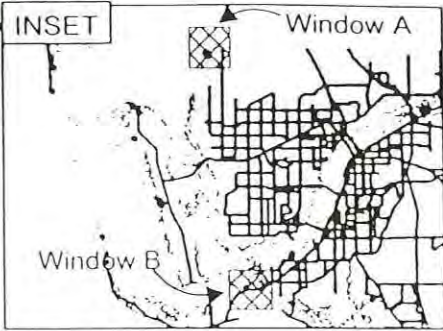
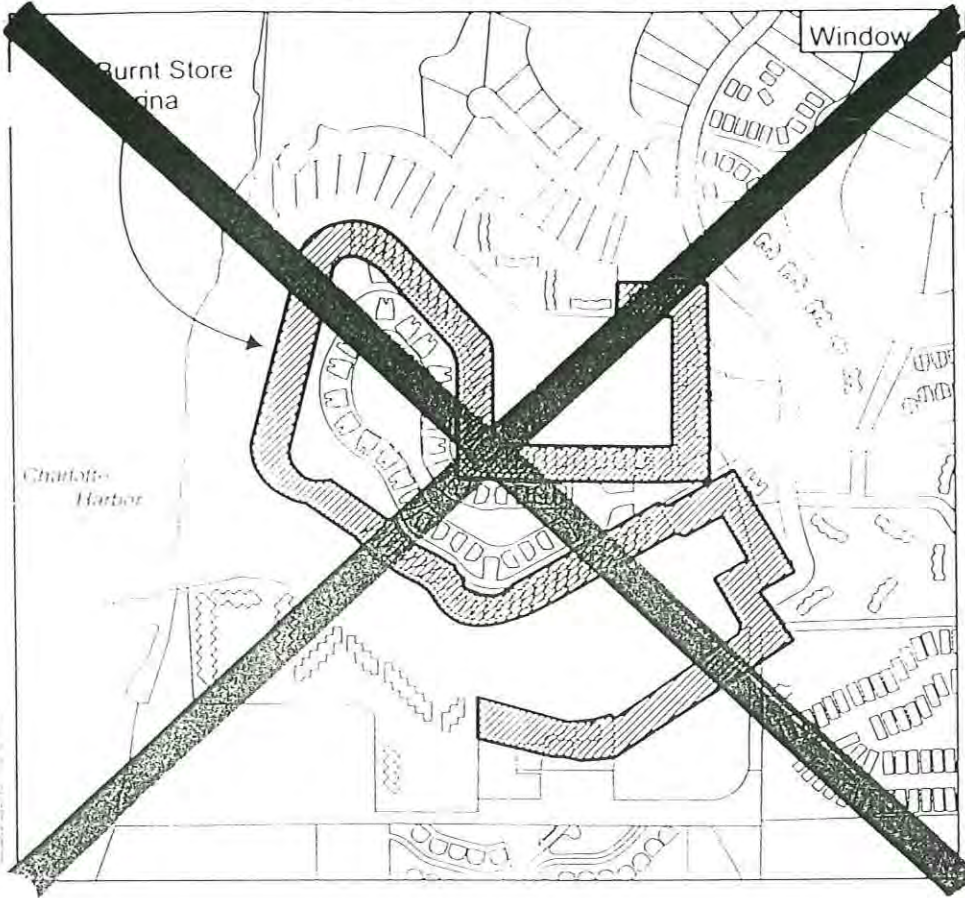


The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



Map Generated August 5, 2001

# MAP 12 WATER-DEPENDENT OVERLAY ZONES



List of STRAPS

- Burnt Store Marina  
 01-43-22-01-0000C 1000  
 01-43-22-02-00000 001A-C, 002A-C  
 01-43-22-02-00000 003A-C, 004A-C  
 01-43-22-02-00000 005A-C, 006A-C  
 01-43-22-02-00000 007A-C, 008A-C  
 01-43-22-04-00000 0010-0250  
 01-43-22-07-00000 1110-1180, 1210-1280, 1310-1380,  
 01-43-22-07-00000 000A, 00CE  
 01-43-22-07-00000 2110-2180, 2210-2280, 2310-2380  
 01-43-22-10-00000 1010-1050, 2010-2050, 3010-3050  
 01-43-22-10-00000 4010-4050, 5010-5050, 6010-6030  
 01-43-22-12-00000 000A, 00CE  
 01-43-22-12-00000 1101-1108, 1201-1208, 1301-1308  
 01-43-22-12-00000 1401-1408, 1501-1508, 1601-1608  
 01-43-22-12-00000 1701-1708, 1801-1804, 2101-2108  
 01-43-22-12-00000 2201-2208, 2301-2308, 2401-2408  
 01-43-22-12-00000 2501-2508, 2601-2608, 2701-2708  
 01-43-22-12-00000 2801-2804  
 01-43-22-15-00000 0010-0220

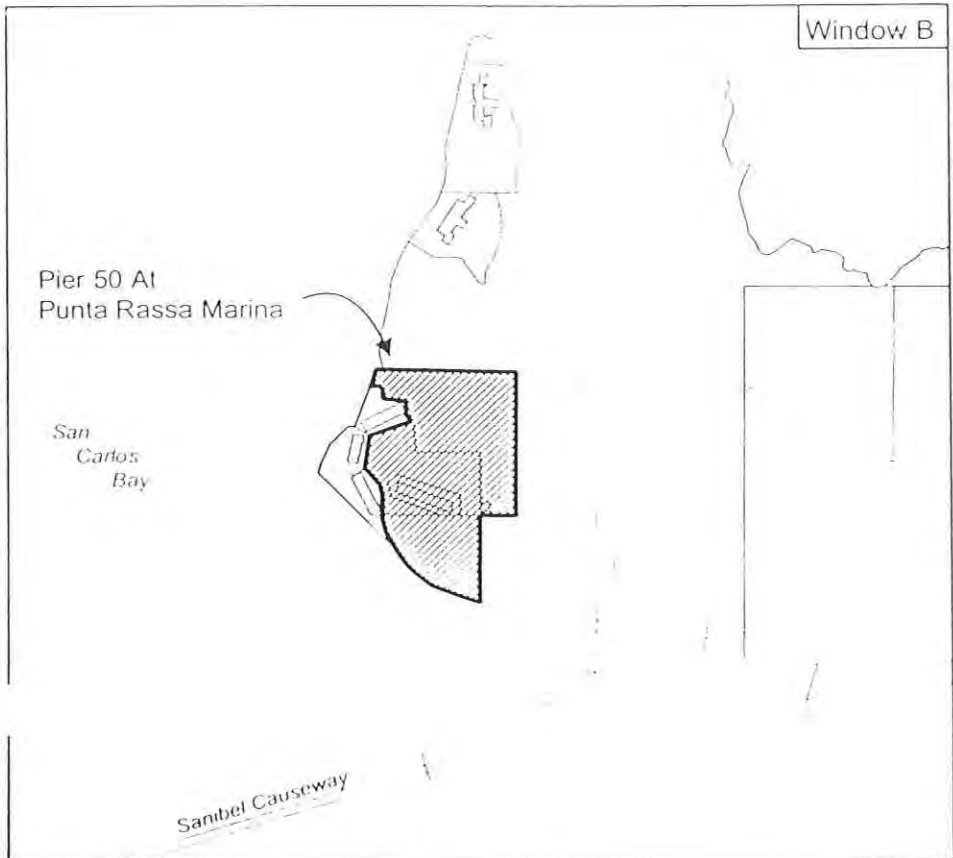
- Pier 50 at Punta Rassa Marina  
 09-46-23-00-00009 0000  
 09-46-23-00-00009 0010  
 09-46-23-00-00009 0020  
 09-46-23-00-00000 00CE  
 09-46-23-01-00000 00CE  
 09-46-23-01-00000 000A

The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.

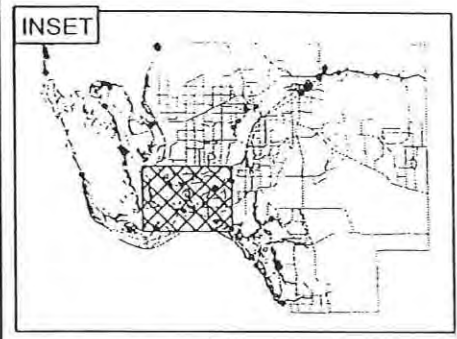
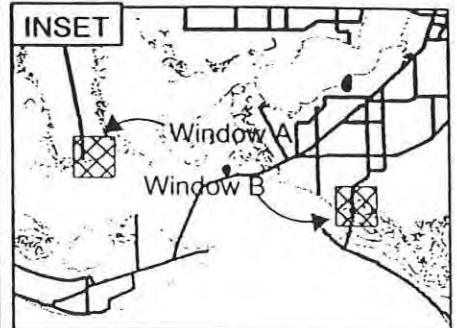
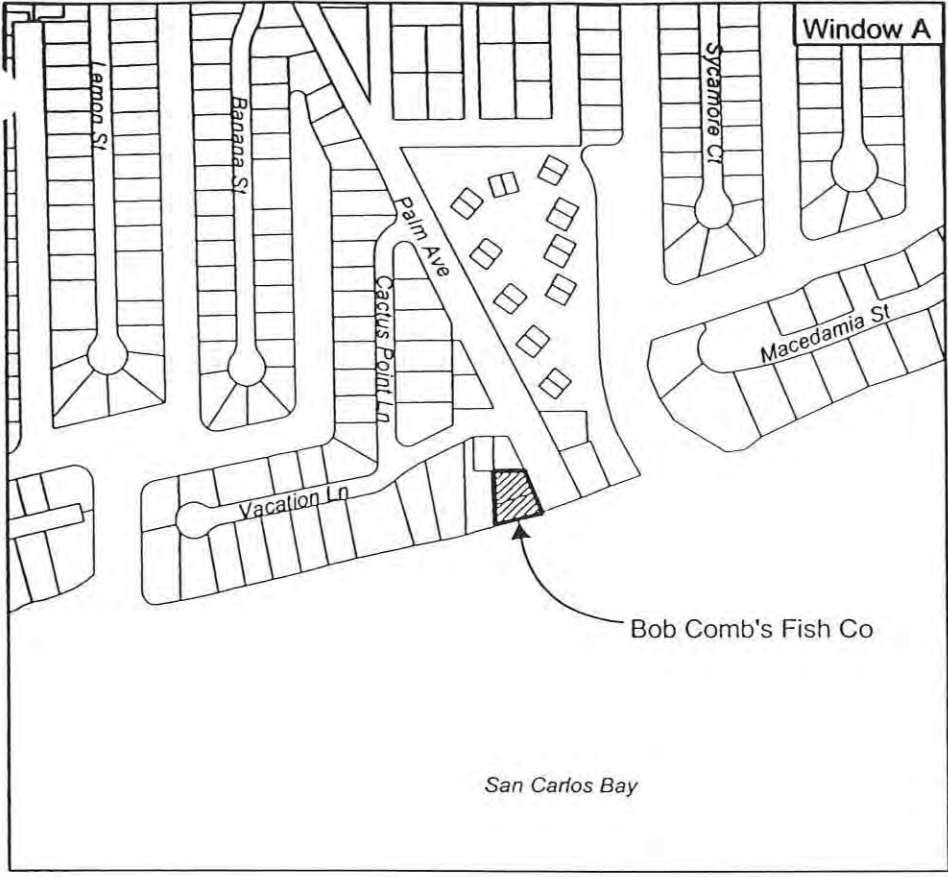


LEE COUNTY  
 DIVISION OF PLANNING

Map Generated August 5, 2001



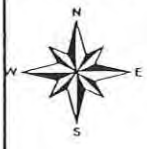
# MAP 12 WATER-DEPENDENT OVERLAY ZONES



- List of STRAPS
- Bob Comb's Fish Co.  
02-46-22-05-00494.0110
  - Getaway Marina  
13-46-23-00-00027.0000



The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



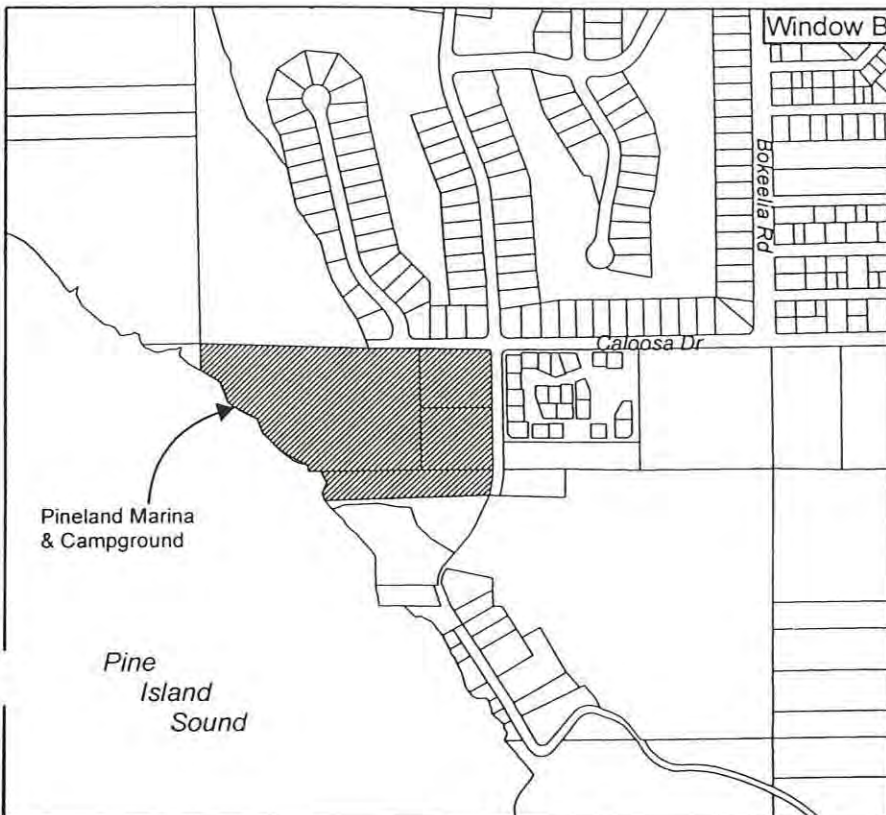
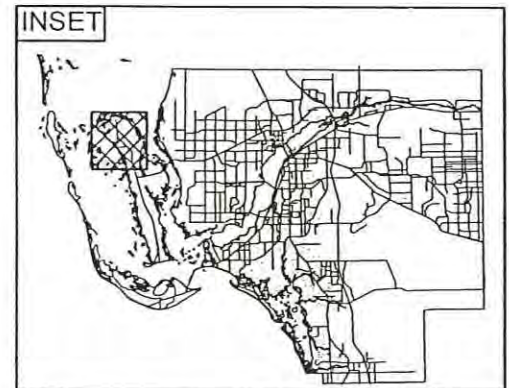
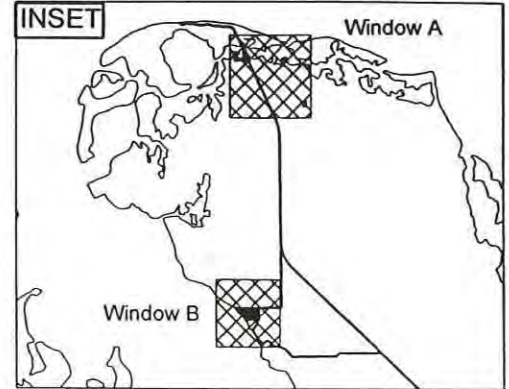
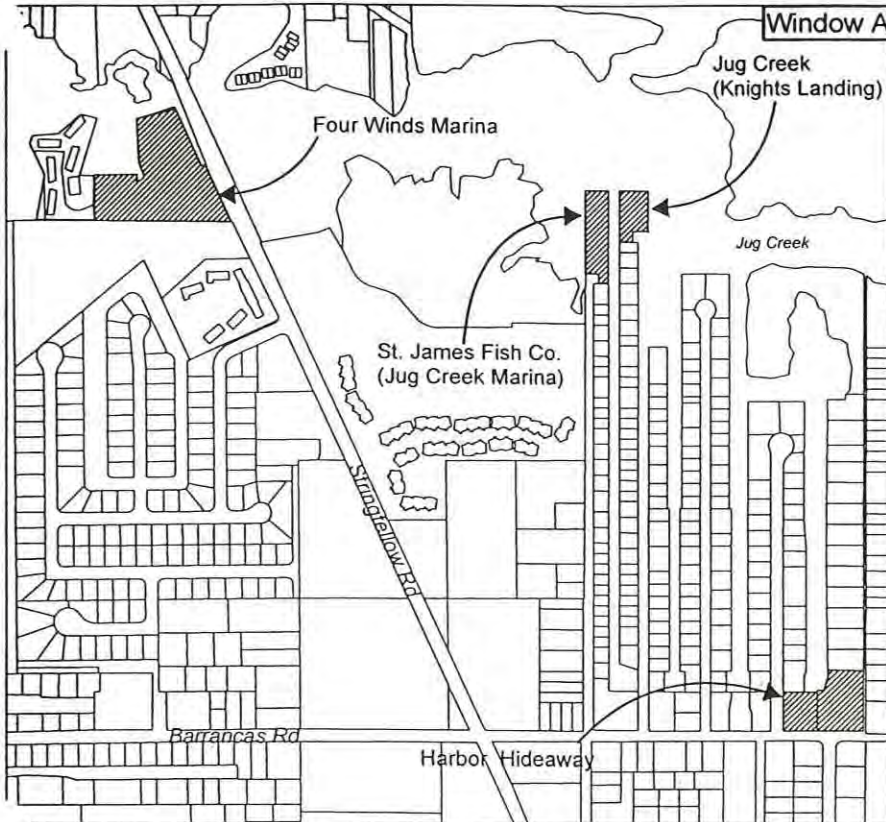
**LEE COUNTY**  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING

Map Generated August 5, 2001

Attachment 2  
Proposed Map 12

# Map 12

## Water Dependent Overlay Zones



- Four Winds Marina  
 30-43-22-00-00027.0020  
 30-43-22-14-00000.1010 to .1060  
 30-43-22-14-00000.2010 to .2060  
 30-43-22-16-00000.00CE  
 30-43-22-16-00000.000A  
 30-43-22-16-00003.3010 to .3060  
 30-43-22-16-00004.4010 to .4060  
 30-43-22-16-00005.5010 to .5060

St. James Fish Co.  
 (Jug Creek Marina)  
 30-43-22-02-0000A.0010

Jug Creek  
 (Knights Landing)  
 30-43-22-02-0000B.0010

Harbor Hideaway  
 30-43-22-18-00000.001A

Pineland Marina & Campground  
 07-44-22-00-00001.0000  
 07-44-22-00-00002.0000  
 07-44-22-00-00002.0020

The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.

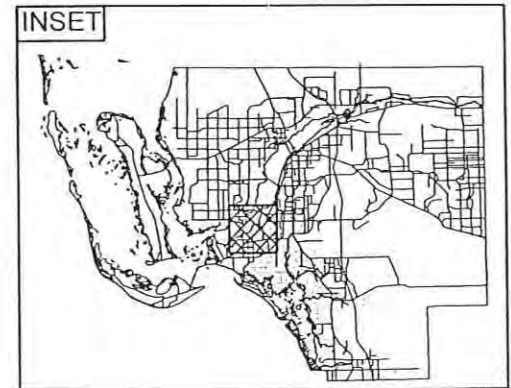
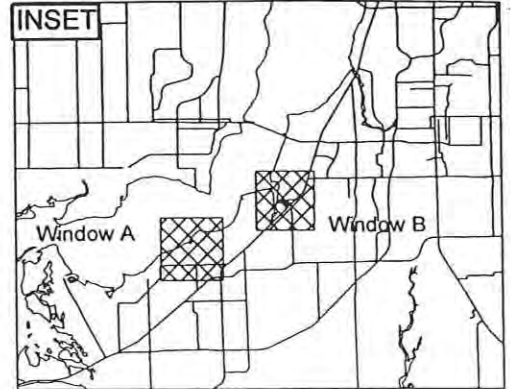
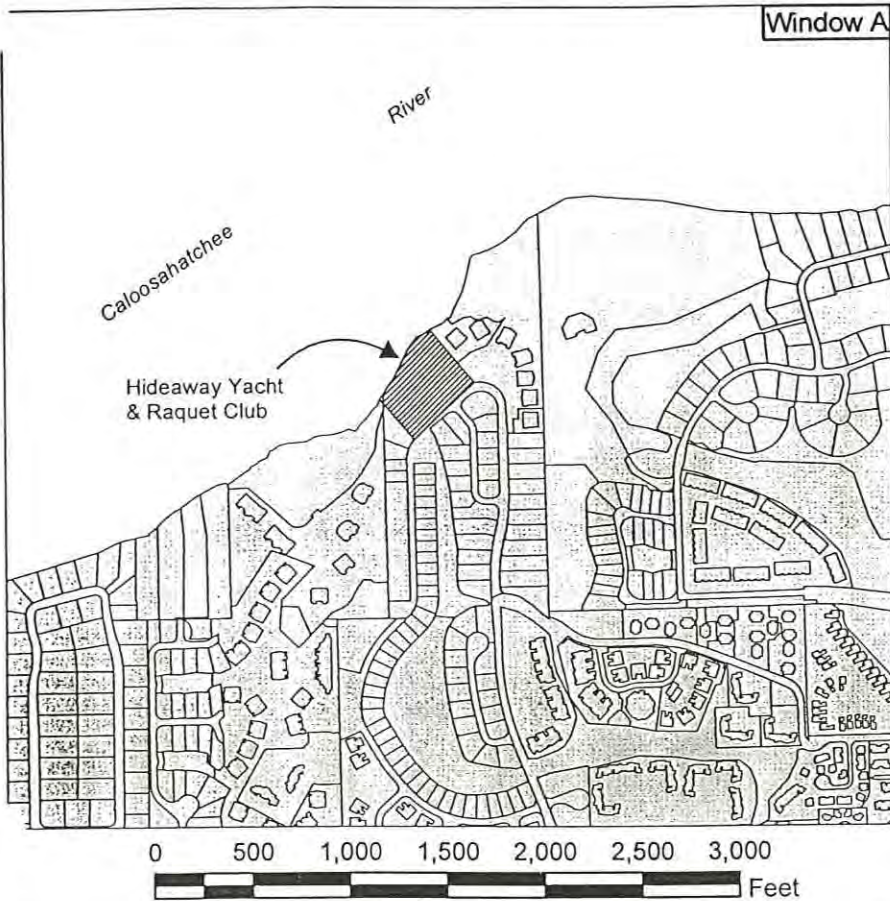


Map generated June 11, 2002



# Map 12

## Water Dependent Overlay Zones



### List of STRAPS

Deep Lagoon Marina  
29-45-24-00-00011002A

Hideaway Yacht & Raquet Club  
(Peppertree Point)  
25-45-23-00-00001.0000

NOTE: The map shows only those parts of the subject parcel that are zoned for marina use.

The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.

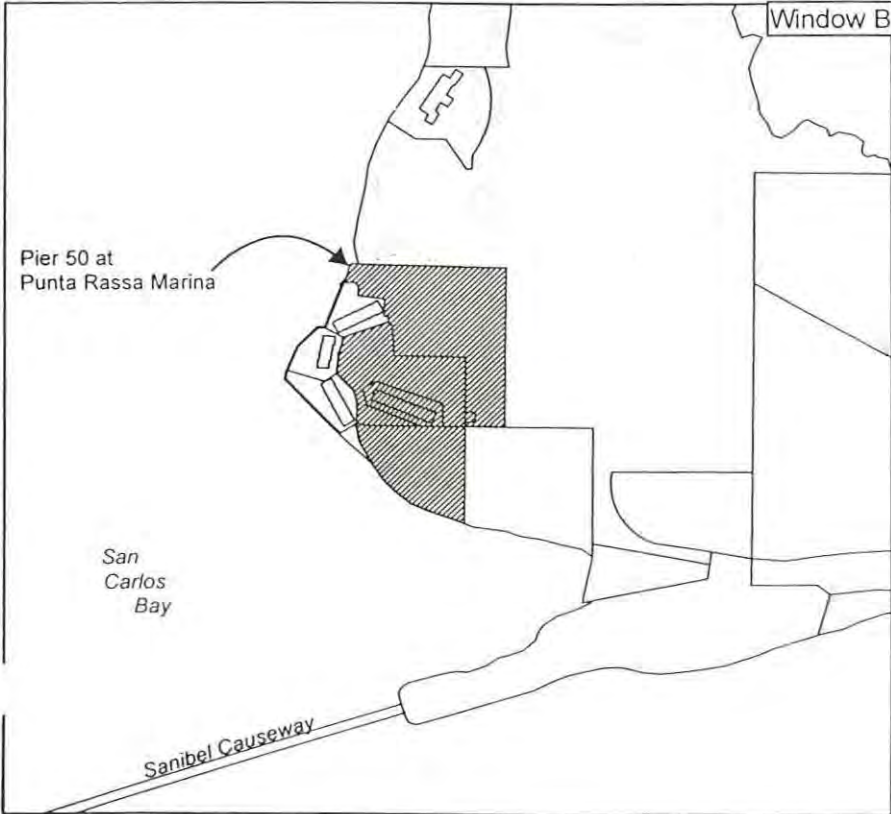
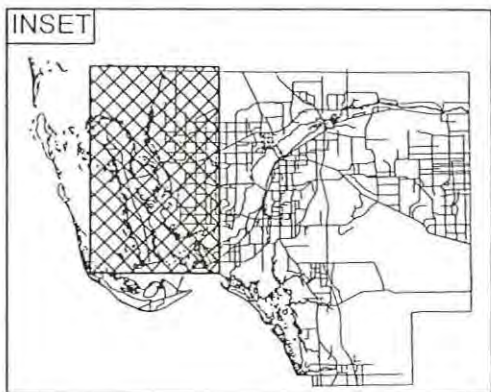
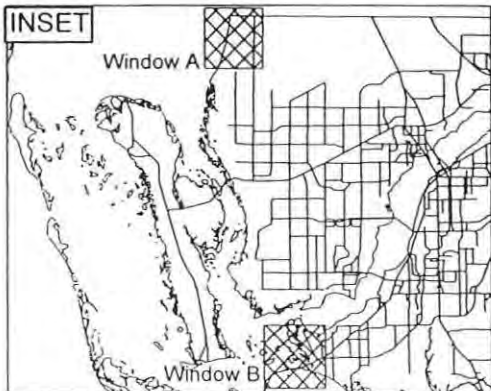
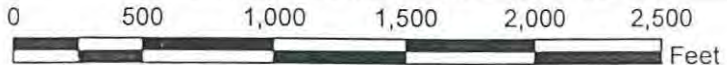
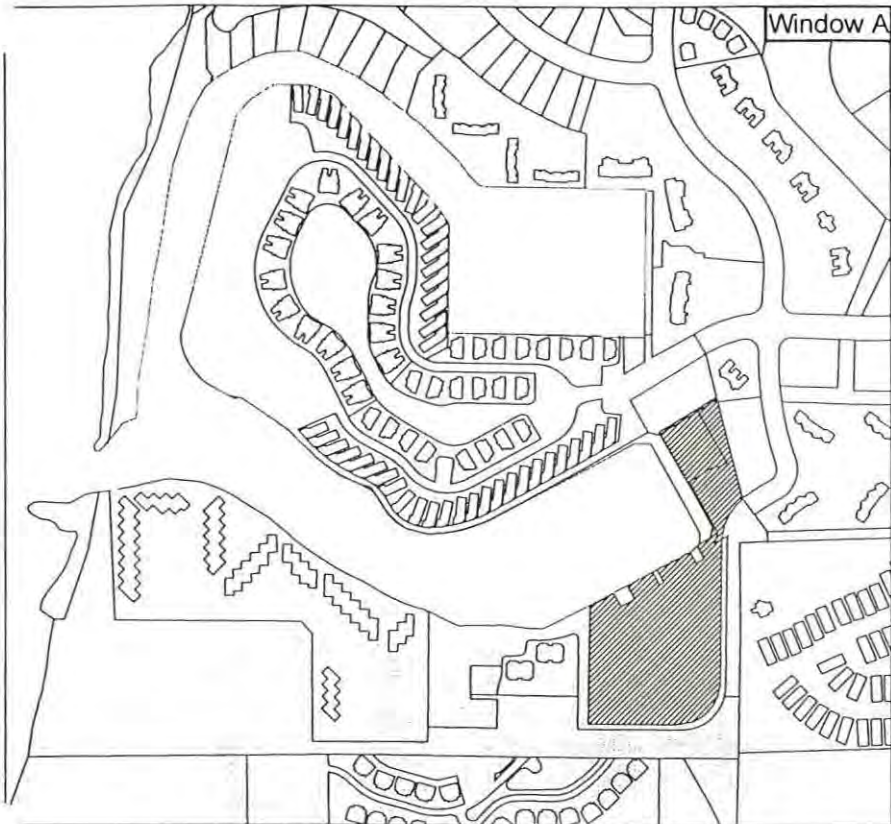


LEE COUNTY  
SOUTHWEST FLORIDA  
DIVISION OF PLANNING

Map generated June 12, 2002

# Map 12

## Water Dependent Overlay Zones



List of STRAPS

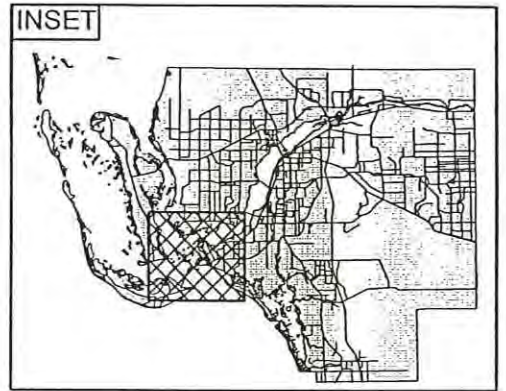
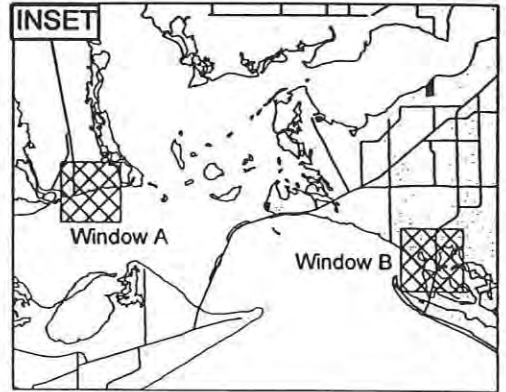
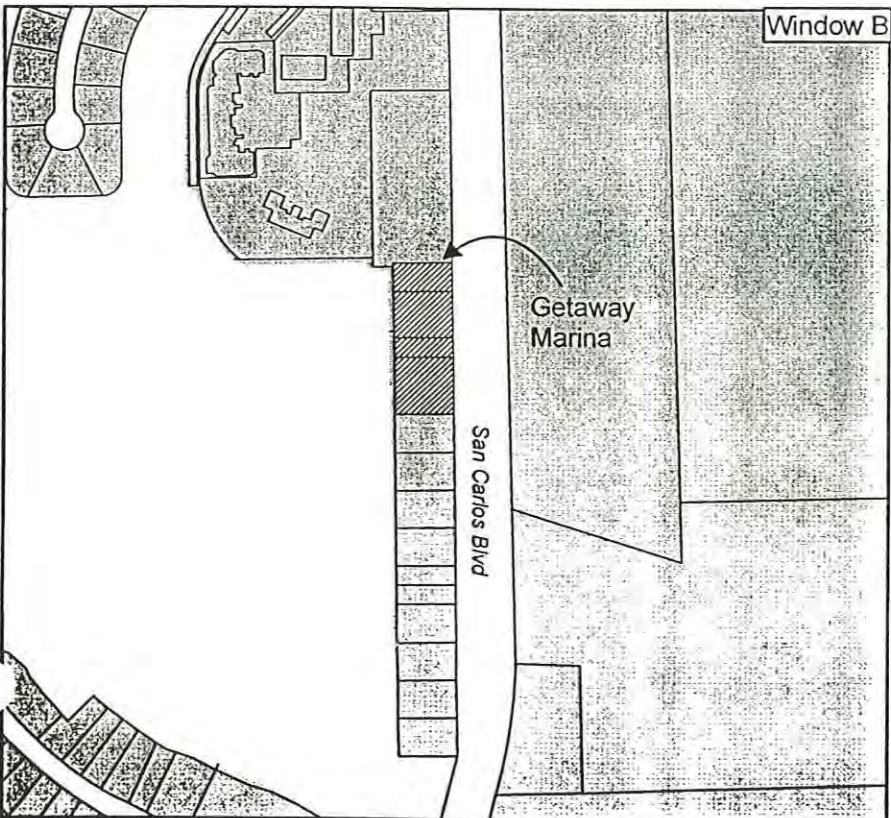
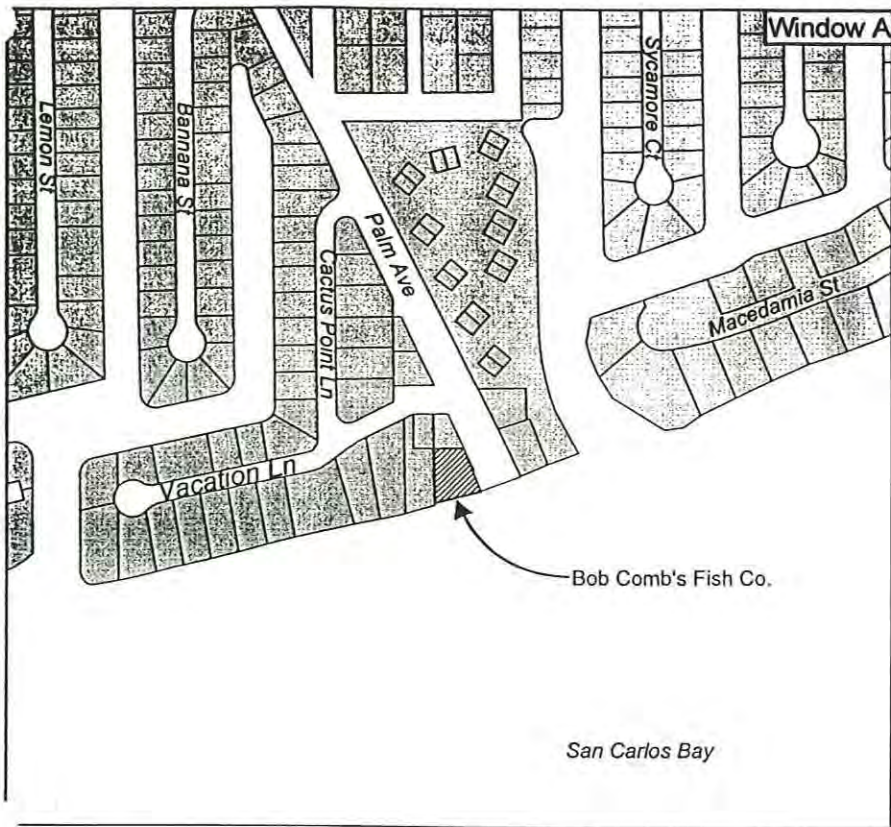
- Burnt Store Marina  
01-43-22-000000C0010  
NOTE: The map depicts only those parts of the subject parcel that are zoned for marina uses.
- Pier 50 at Punta Rassa  
09-46-23-00-00000.00CE  
09-46-23-00-00009.0000  
09-46-23-00-00009.0010  
09-46-23-00-00009.0020  
09-46-23-01-00000.00CE  
09-46-23-01-00000.000A

The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



# Map 12

## Water Dependent Overlay Zones



List of STRAPS

Bob Comb's Fish Co.  
02-46-22-05-00494.0110

Getaway Marina  
13-46-23-00-00007.0000  
13-46-23-00-00006.0000  
13-46-23-00-00006.0010  
13-46-23-00-00006.0020

The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



Map generated June 13, 2002