



PLANNING DIVISION

M E M O R A N D U M



LEE COUNTY

SOUTHWEST FLORIDA

to: Board of County Commissioners

from: Paul O'Connor, AICP, Director, Division of Planning
POC

subject: Lee County's 2001/2002 Regular Comprehensive Plan Amendment Cycle

date: December 23, 2002

Attached are the agenda and staff reports for the public hearing to be held beginning at 9:30 A.M. on Thursday, January 9th, 2003. This is an adoption hearing for the 2001/2002 Comprehensive Plan Amendment Cycle. The Board of County Commissioners transmitted the 2000/2001 Lee Plan amendments to the State for review on September 19, 2002. The Department of Community Affairs (DCA) issued its Objections, Recommendations and Comments (ORC) Report on November 22, 2002. The DCA did not pose any objections or recommendations to any of the 15 transmitted amendments. The DCA did provide one comment regarding CPA2001-10, the Captiva Island Community Planning Effort. The comment points out that proposed Policy 21.9, which states that "mangroves on Captiva Island should be protected," is vague and should be revised to establish guidelines on how they should be protected. Per the DCA's comment, staff is proposing modified language in order to satisfy the Captiva residents desire to further protect mangroves on the island.

Three other amendments have been revised to reflect recent updates that have occurred since the transmittal hearing. The next revised amendment is CPA2001-12, which adds a specific access management plan to Policy 1.3.8 for Alico Road in the vicinity of the I-75 interchange, and adds the maps of the specific access management plans to the Future Land Use Map series. 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.

CPA2001-28, which amends the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program, has also been revised to reflect the latest tables approved by the Board at the budget meetings. The changes to the tables occurred after the plan amendment transmittal hearings and are updated in the attached staff report..

The final amendment that is being modified since the transmittal hearing is CPA2001-27. This amendment adds a new Objective and Policy 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 been meeting with the public and state agencies on issues raised at the Transmittal hearing. Staff has revised the proposed language in the attached staff report 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.

Other than these 3 amendments that will require modifications as noted above, the remaining documents were simply updated to reflect that there were no objections, recommendations, or comments by the DCA.

If you have any questions regarding the adoption hearing, do not hesitate to call me at 479-8309.

cc: *Donald Stilwell, County Administrator*
Mary Gibbs, Director, Department of Community Development
Minutes
Lee Cares
Tim Jones, Assistant County Attorney
Donna Marie Collins, Assistant County Attorney
Janet Watermeier, Director, Economic Development
Dave Loveland, DOT
Diana Parker, County Hearing Examiner
Wayne Daltry, Smart Growth Director

**January 9, 2003
9:30 A.M.
AGENDA**

- 1. Call to order; Certification of Affidavit of Publication**
- 2. Community Plan Agenda**
- 3. Public Comment on Consent Agenda**
- 4. Consent Agenda:**
 - **Items to be pulled for discussion by the Board**
 - **Motion to approve the balance of items**
 - **Consideration of items pulled for discussion**
- 5. Adopt the following ordinance which adopts the consent agenda items:**

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.

- 6. Administrative Agenda**
- 7. Adjourn**

COMMUNITY PLAN AGENDA

A. CPA 2001-10

Amend the Lee Plan to incorporate the recommendations of the Captiva Island Community Planning effort, establishing a Goal and subsequent Objectives and Policies specific to the Captiva Island community.

B. Adopt the following ordinance which adopts CPA 2001-10:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-10 (PERTAINING TO THE CAPTIVA ISLAND COMMUNITY PLAN) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

C. CPA 2001-09

Amend the Future Land Use Element text of the Lee Plan to incorporate the recommendations of the Bayshore Steering Committee, establishing a Vision Statement, Goal and subsequent Objectives and Policies specific to the Bayshore Community.

D. Adopt the following ordinance which adopts CPA 2001-09:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-09 (PERTAINING TO THE BAYSHORE COMMUNITY PLAN) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

E. CPA2001-18

Amend the Future Land Use Element of the Lee Plan, text and Future Land Use Map series to incorporate the recommendations of the Greater Pine Island Community Planning effort, establish a new Vision Statement, establish a revised Goal 14, amend subsequent Policies specific to Greater Pine Island, amend Objective 1.4 "Non-Urban Areas" by establishing a new "Coastal Rural" future

land use category and amend the Future Land Use Map series to reclassify from "Outlying Suburban" to "Coastal Rural" 157 acres of agricultural land between Bokeelia and September Estates and to reclassify all "Rural" designated land to "Coastal Rural."

F. Adopt the following ordinance which adopts CPA2001-18:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-18 (PERTAINING TO THE GREATER PINE ISLAND COMMUNITY PLAN) APPROVED DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND FUTURE LAND USE MAP; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

CONSENT AGENDA

A. 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.

B. CPA 2001-15

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

C. 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.

D. 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.

E. CPA 2001-24

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

F. 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.

G. 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

H. 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."

I. 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.

ADMINISTRATIVE AGENDA

A. CPA 2001-12

Modify Policy 1.3.8 to create specific access management plans for Alico Road, Bonita Beach Road, and Lockett Road in the vicinity of I-75 (follow-up to PAT 99-27). In addition, include access management maps in the Future Land Use Map series.

B. Adopt the following ordinance which adopts CPA 2001-12:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-12 (PERTAINING TO THE CREATION OF SPECIFIC ACCESS MANAGEMENT PLANS FOR ALICO ROAD, BONITA BEACH ROAD, AND LUCKETT ROAD IN THE VICINITY OF I-75 AND TO INCLUDE ACCESS MANAGEMENT MAPS IN THE FUTURE LAND USE MAP SERIES) APPROVED DURING THE COUNTY'S 2001/2002 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT AND ACCESS MANAGEMENT MAPS; PURPOSE AND SHORT TITLE; LEGAL EFFECT OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

C. CPA 2001-27

Amend Community Facilities and Services Element, Goal 40: Coordinated Surface Water Management and Land Use Planning on a Watershed Basis to add a new Objective and Policy regarding incorporation of green infrastructure into the surface water management systems of proposed developments, and provide definitions for green infrastructure and flow-way in the Glossary.

D. Adopt the following ordinance which adopts CPA 2001-27:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-27 (PERTAINING TO THE ADDITION OF A NEW OBJECTIVE AND POLICY UNDER GOAL 40 REGARDING THE INCORPORATION OF GREEN INFRASTRUCTURE INTO THE SURFACE WATER MANAGEMENT SYSTEMS OF PROPOSED DEVELOPMENTS AND TO THE ADDITION OF TWO DEFINITIONS TO THE GLOSSARY FOR "GREEN INFRASTRUCTURE" AND "FLOW-WAY") APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

E. CPA 2001-28

Amend the Capital Improvements Element (Tables 3 & 4) to reflect the latest adopted Capital Improvement Program.

F. Adopt the following ordinance which adopts CPA 2001-28:

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE "LEE PLAN," ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT CPA2001-28 (PERTAINING TO TABLES 3 AND 4 OF THE CAPITAL IMPROVEMENT ELEMENT) APPROVED 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 OF "THE LEE PLAN"; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

LEE COUNTY ORDINANCE NO. 03- _____
(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 _____, who moved its adoption. The motion was seconded by Commissioner _____, and, when

put to a vote, the vote was as follows:

Robert P. Janes

Douglas St. Cerny

Ray Judah

Andrew Coy

John Albion

DONE AND ADOPTED this 9th day of January 2003.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

BY: _____
Chairman

DATE: _____

Approved as to form by:

Donna Marie Collins
County Attorney's Office

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

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
January 9th Adoption Hearing

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

November 22, 2002

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

Text Amendment Map Amendment

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

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:

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

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

RAY JUDAH

BOB JANES

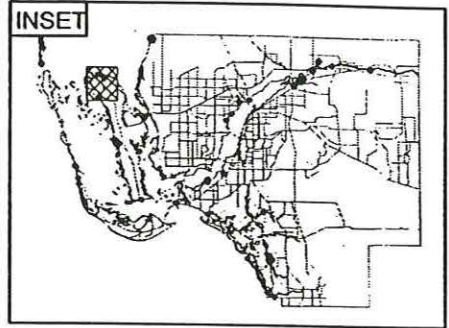
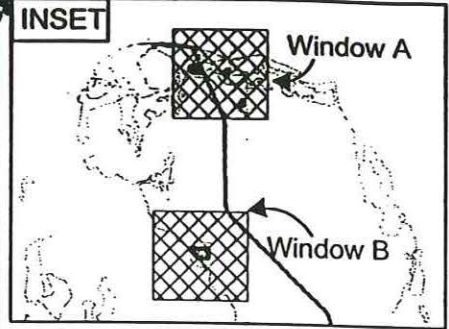
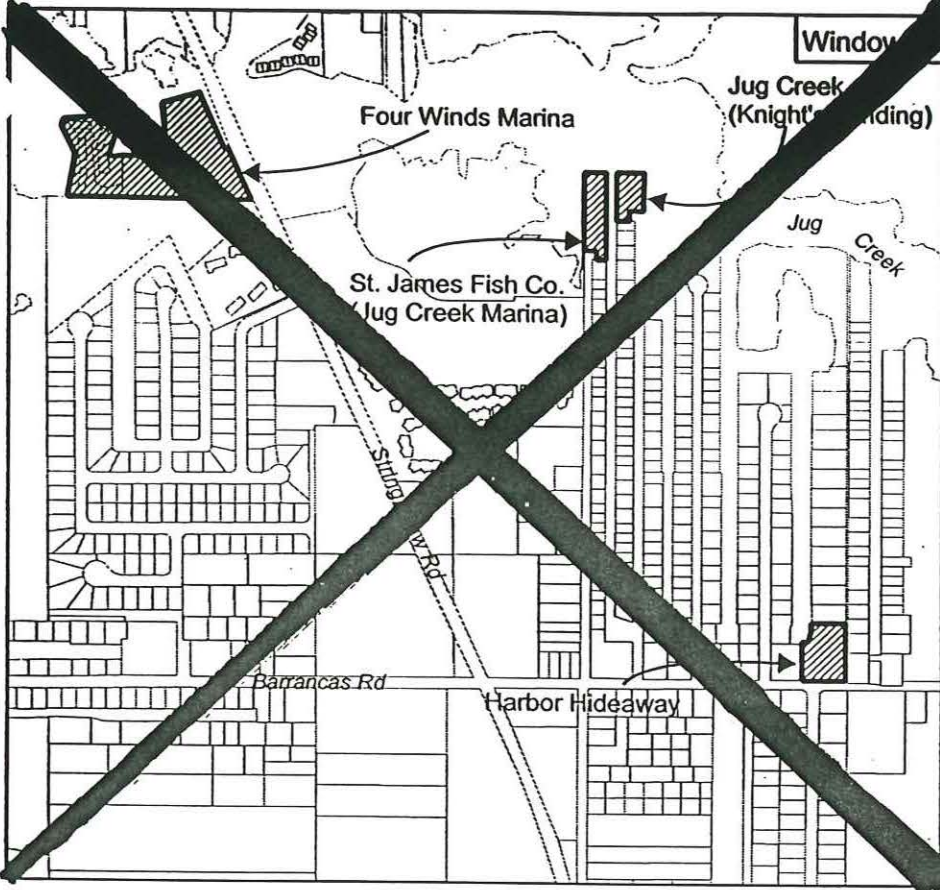
DOUG ST. CERNY

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

**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

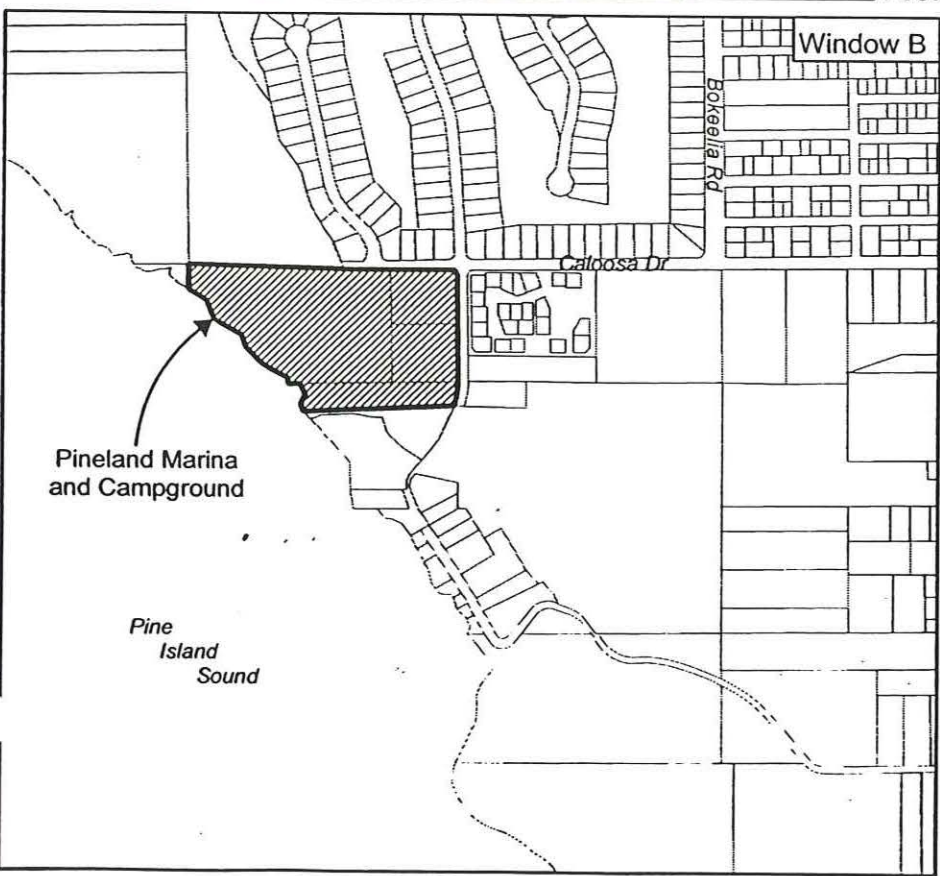
Pineland Marina and Campground
07-44-22-00-00001.0000
07-44-22-00-00002.0000
07-44-22-00-00002.0020

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.

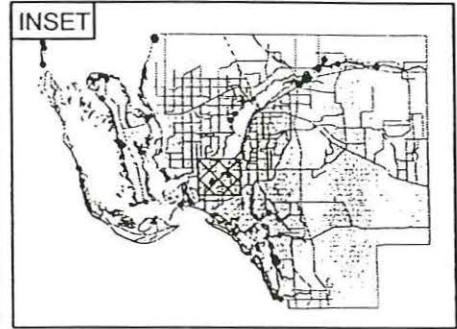
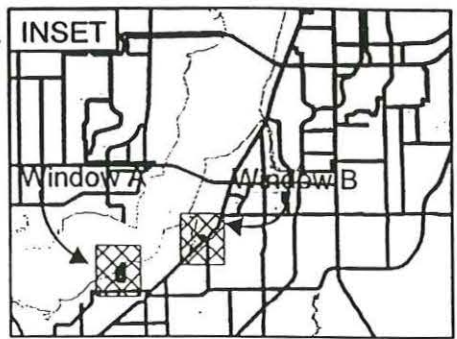
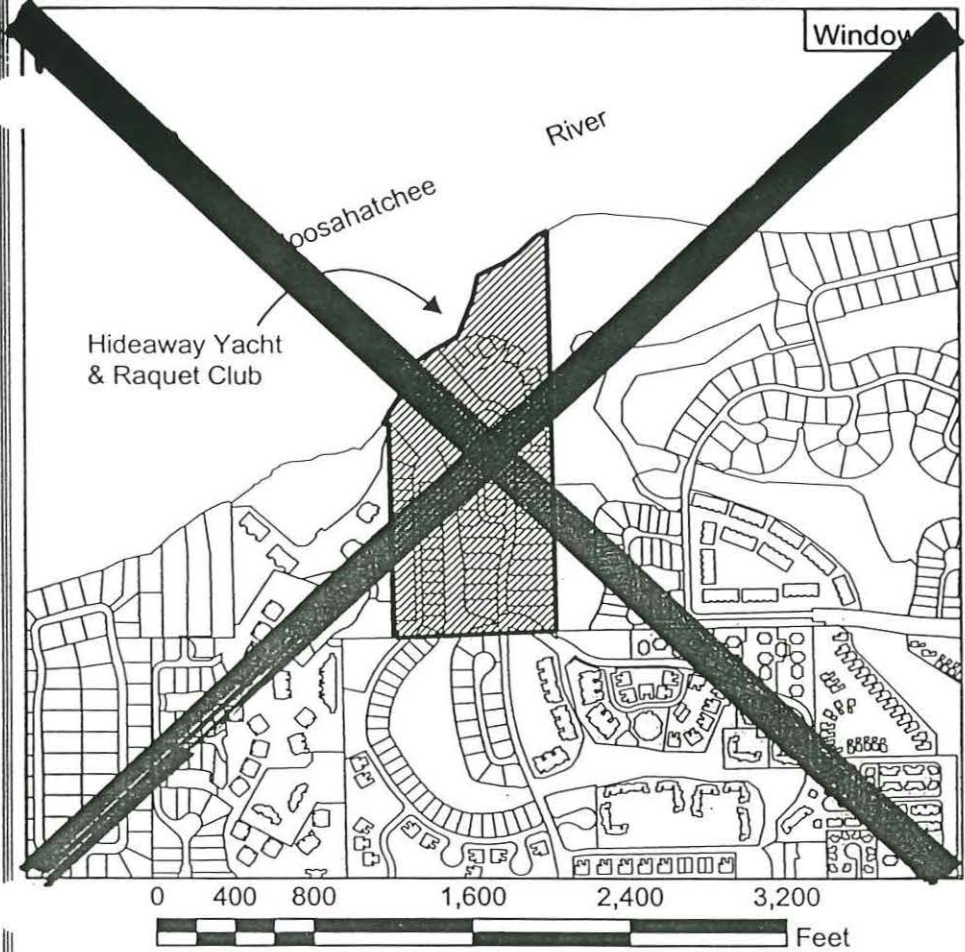


LEE COUNTY
SOUTHWEST FLORIDA
DIVISION OF PLANNING

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
25-45-23-33-00000.0000A
25-45-23-33-00000.00CE
25-45-23-33-Building A through G

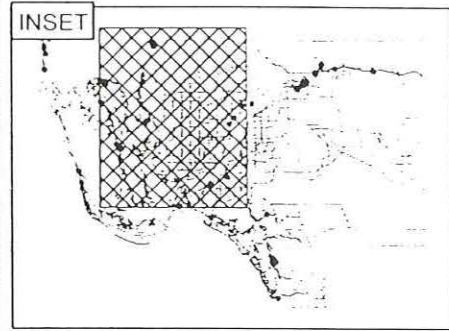
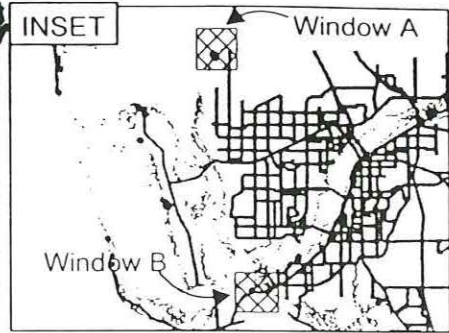
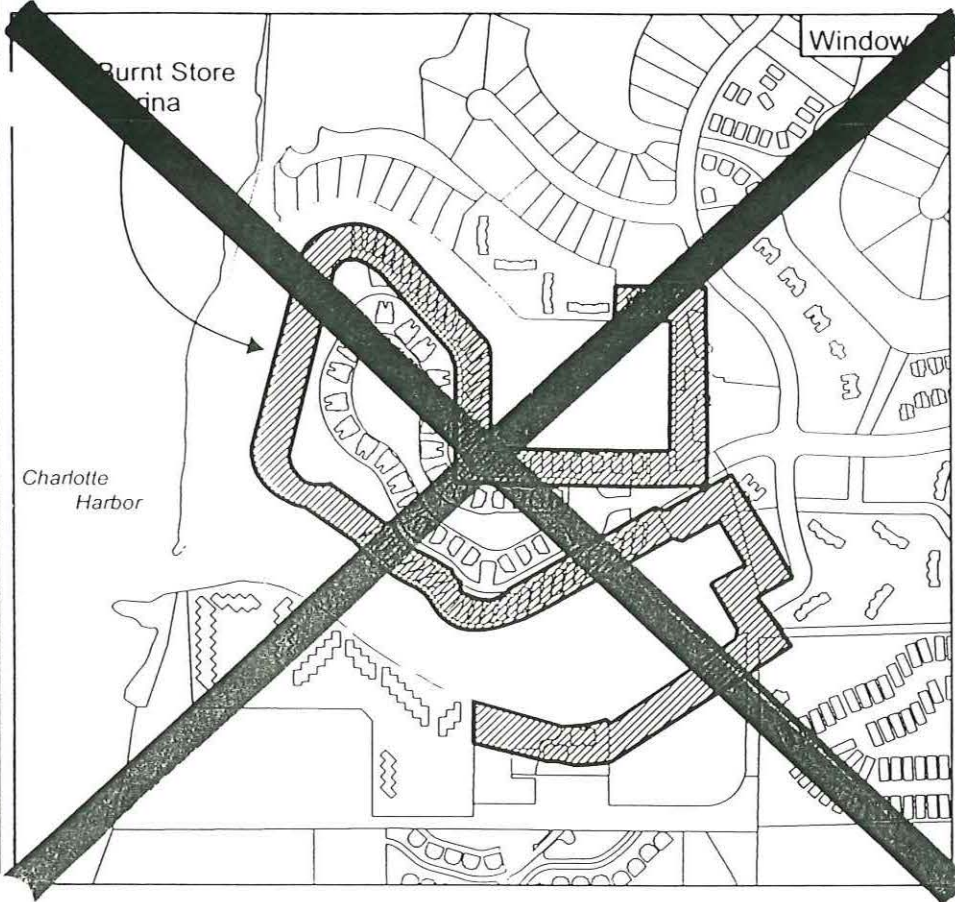


The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



Map Generated August 5, 2001

MAP 12 WATER-DEPENDENT OVERLAY ZONES

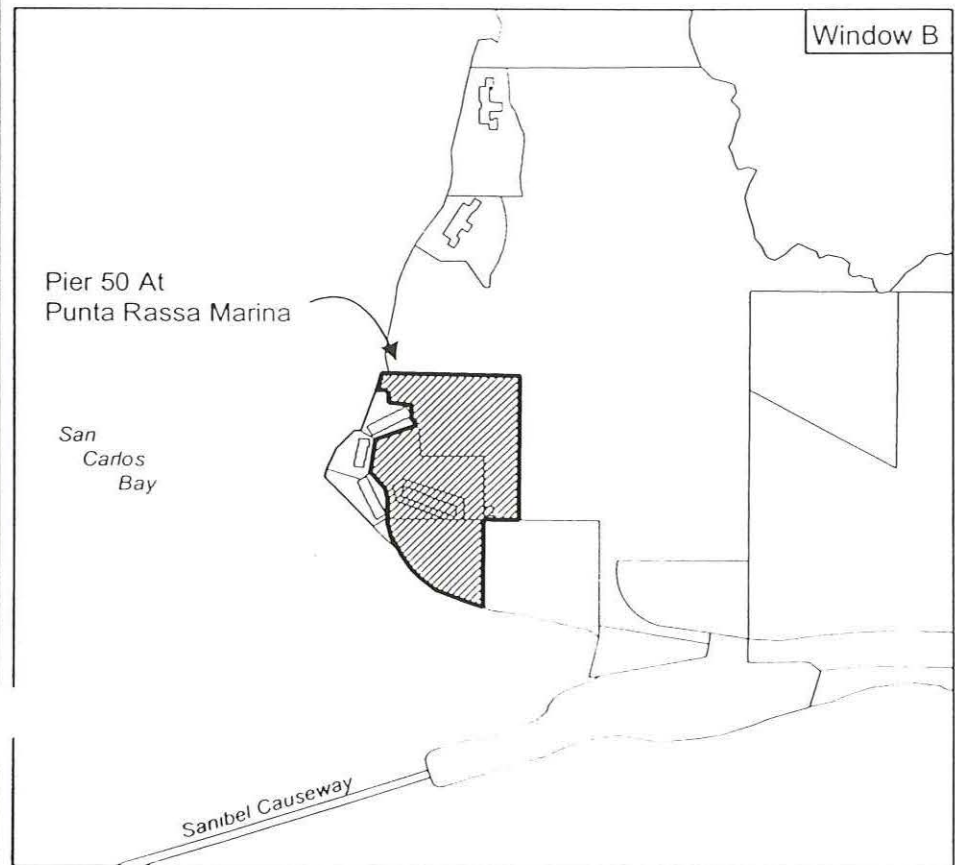


List of STRAPS

- Burnt Store Marina**
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 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
 01-43-22-10-00000.1010-1060, 2010-2060, 3010-3060
 01-43-22-10-00000.4010-4060, 5010-5060, 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

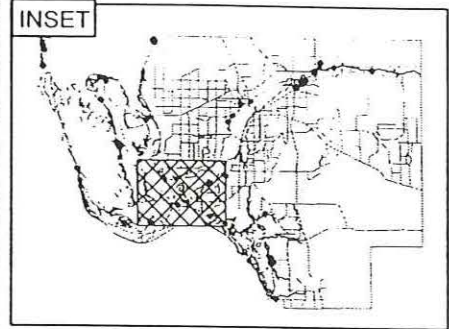
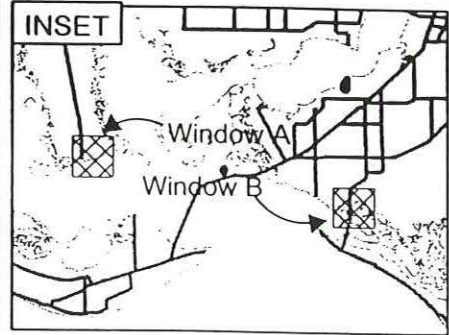
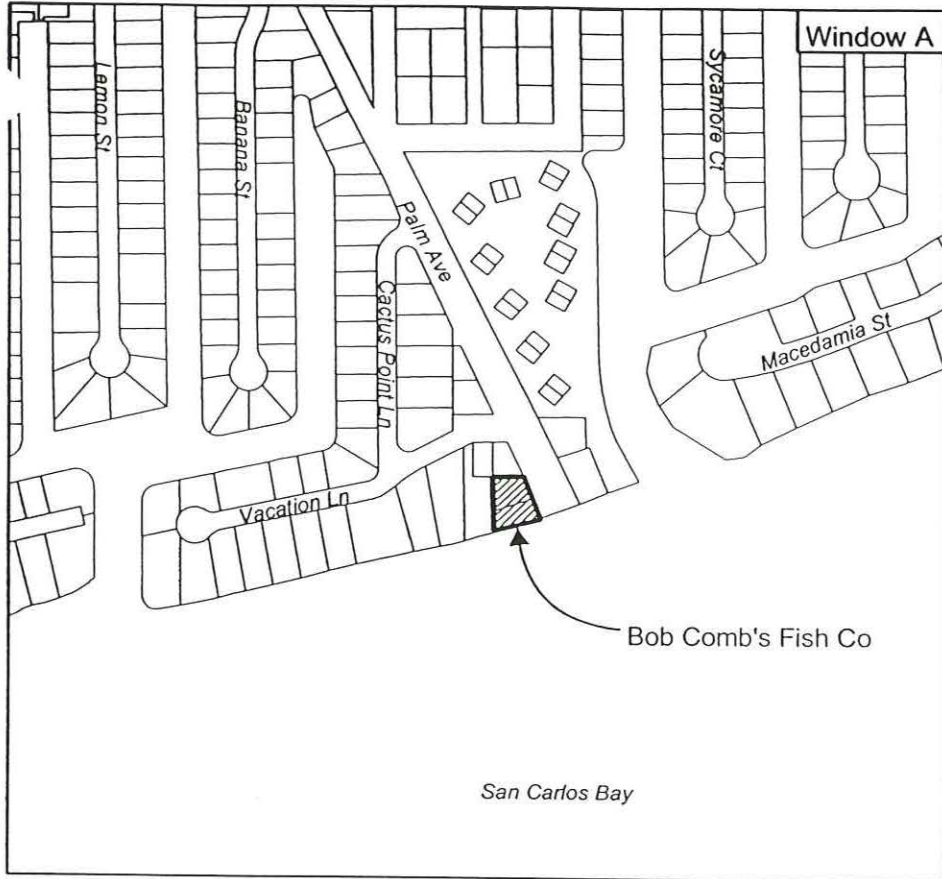
The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



LEE COUNTY
 COLLEGE WEST FLORIDA
 DIVISION OF PLANNING

Map Generated August 5, 2001

MAP 12 WATER-DEPENDENT OVERLAY ZONES



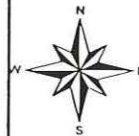
List of STRAPS

Bob Comb's Fish Co.
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Getaway Marina
13-46-23-00-00027.0000



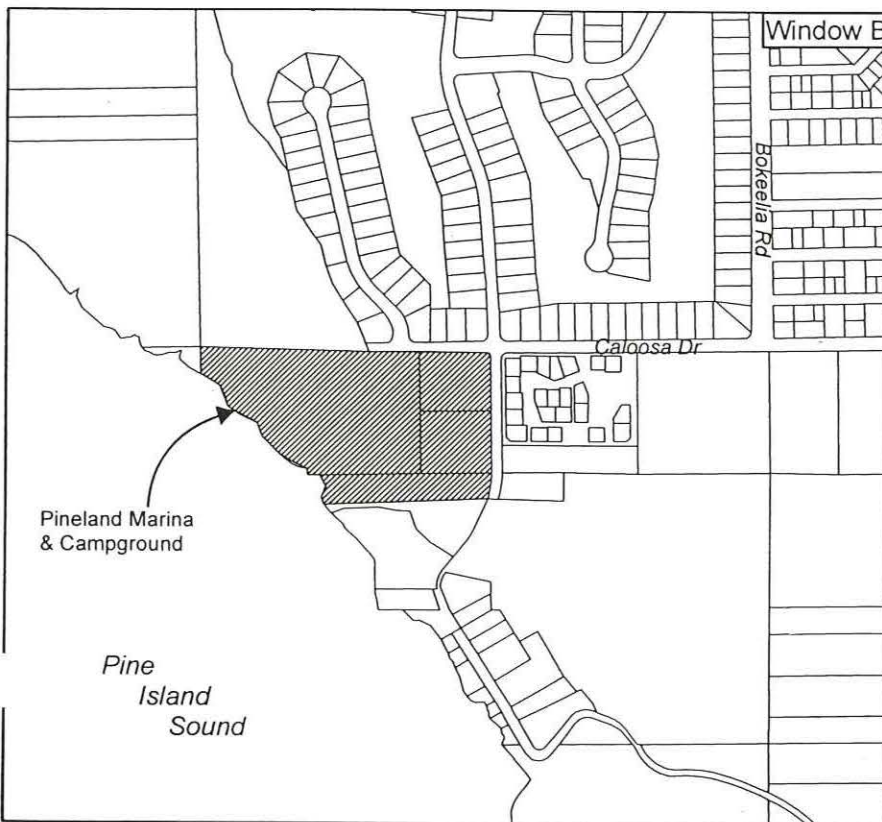
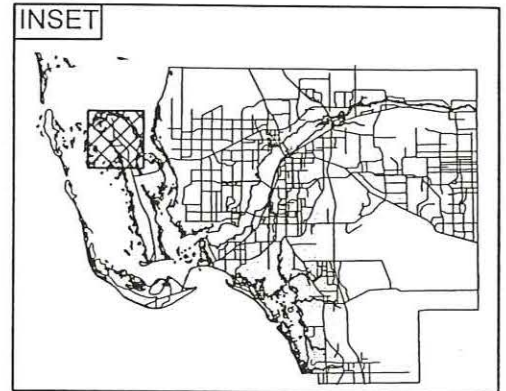
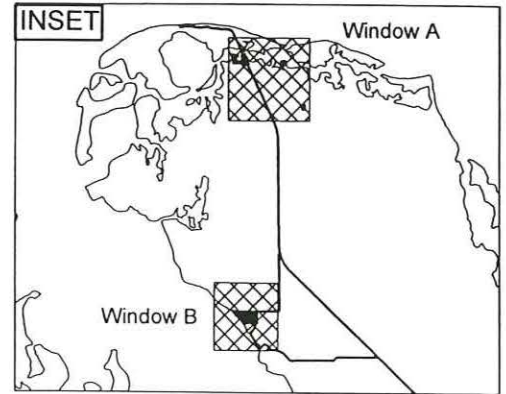
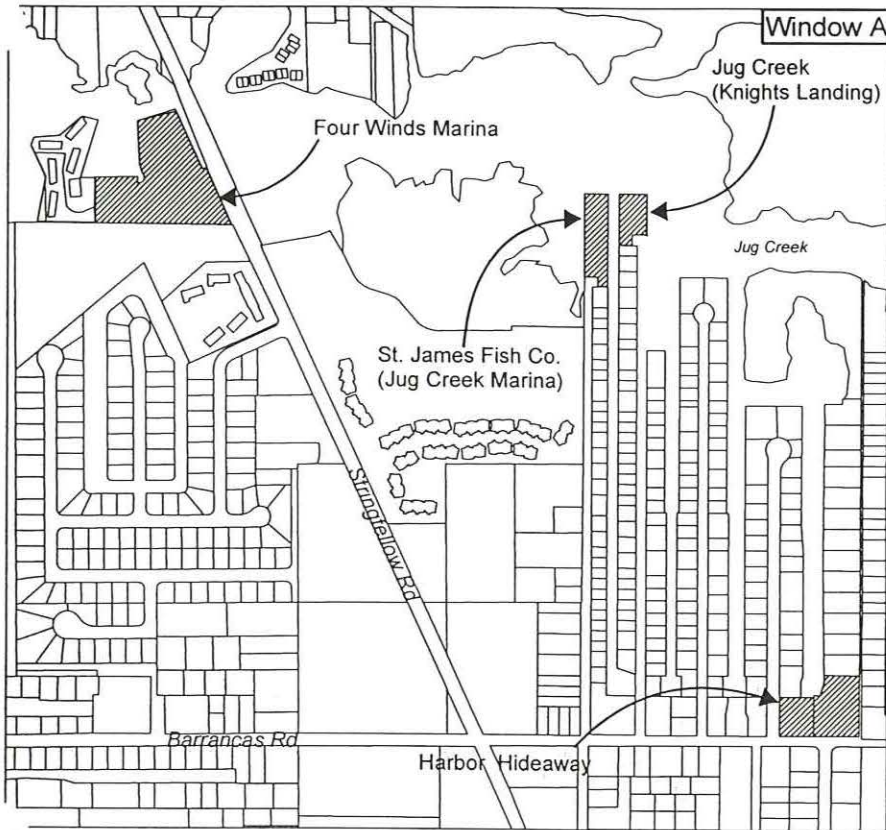
The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



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

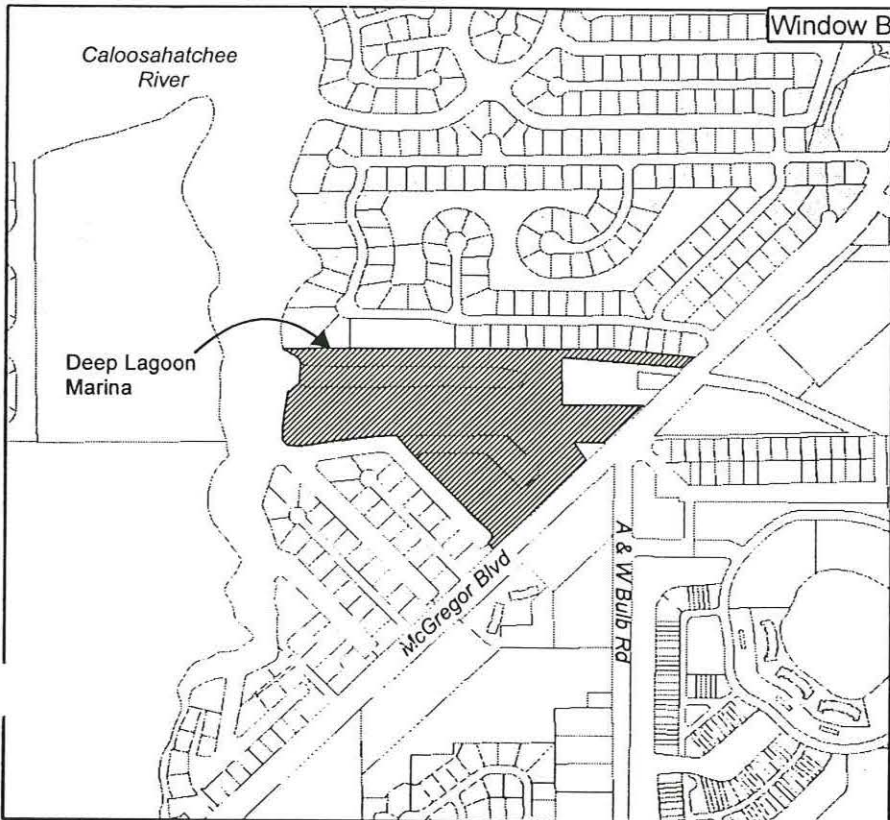
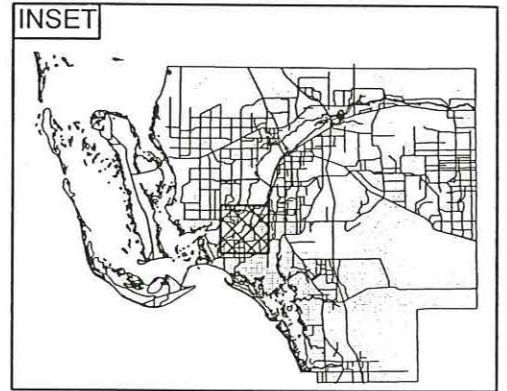
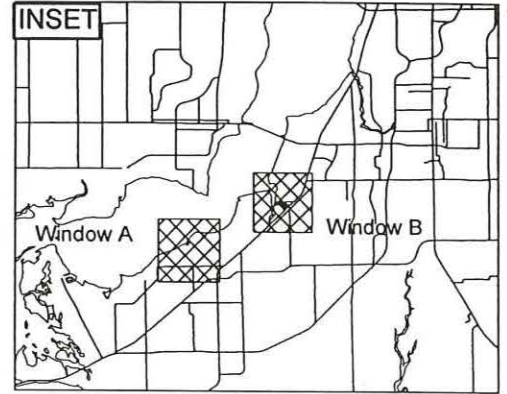
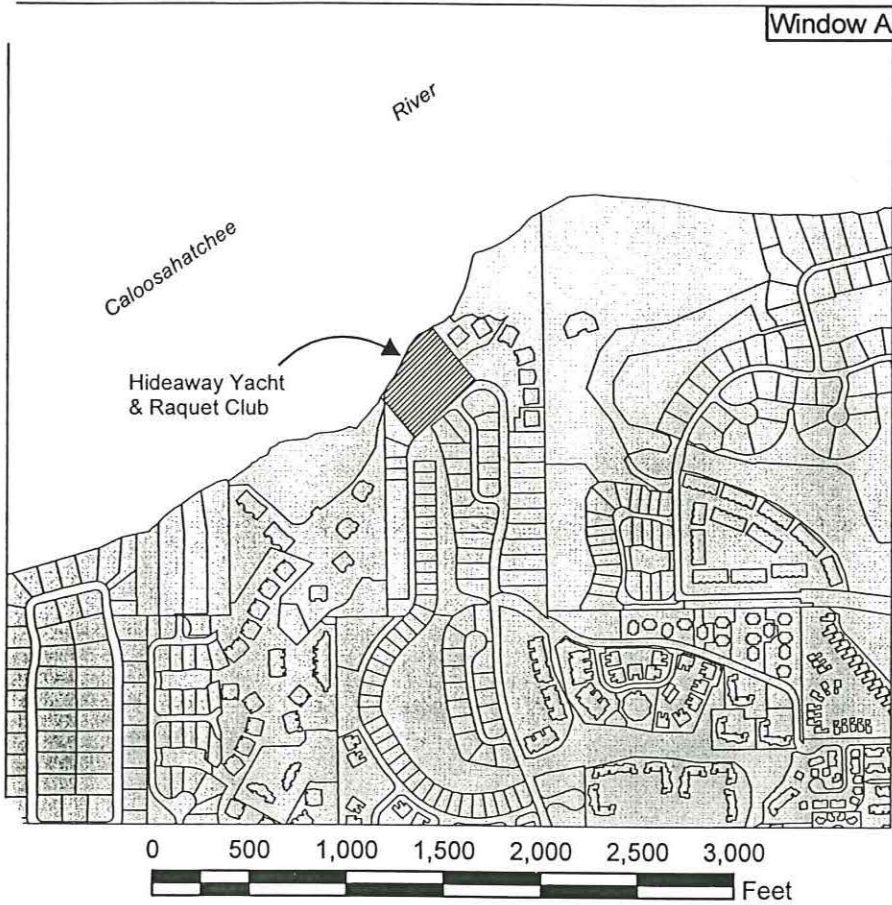
The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



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.

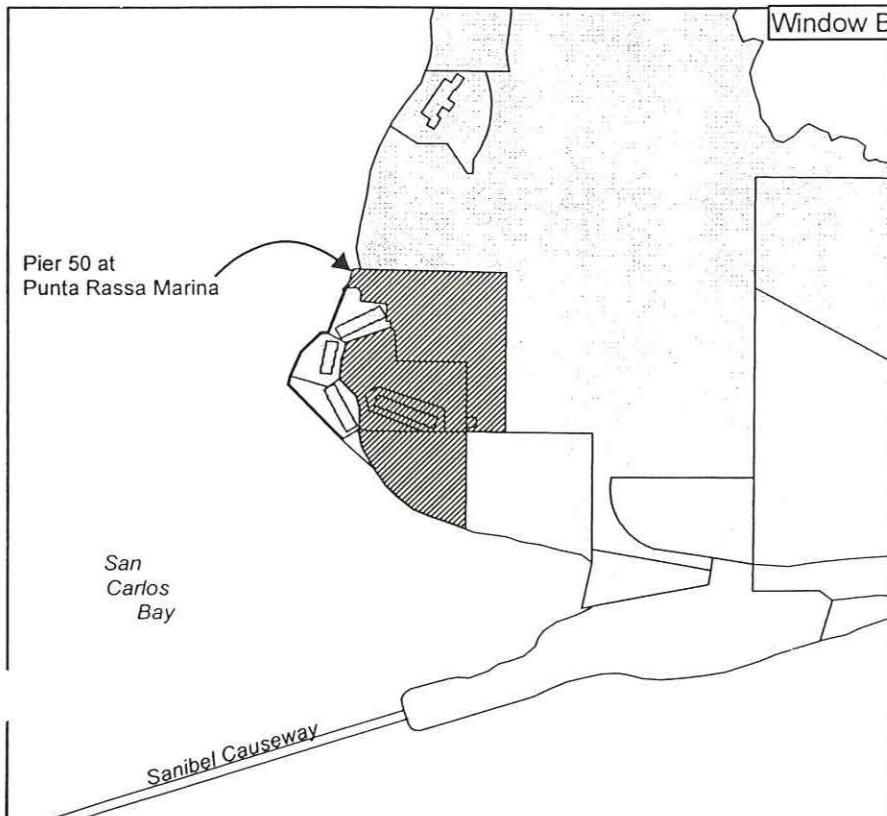
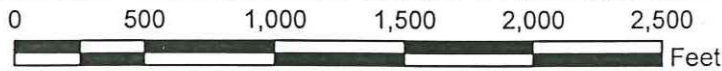
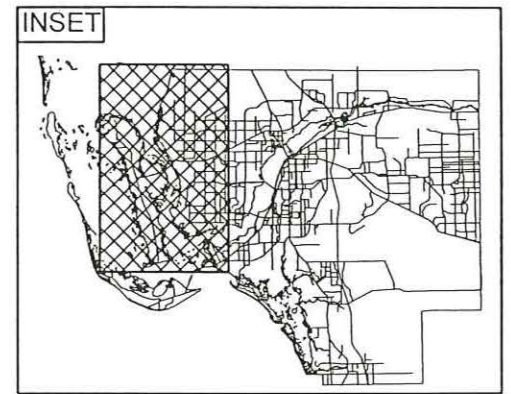
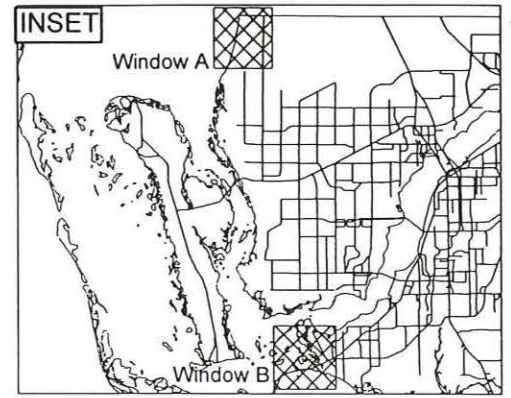
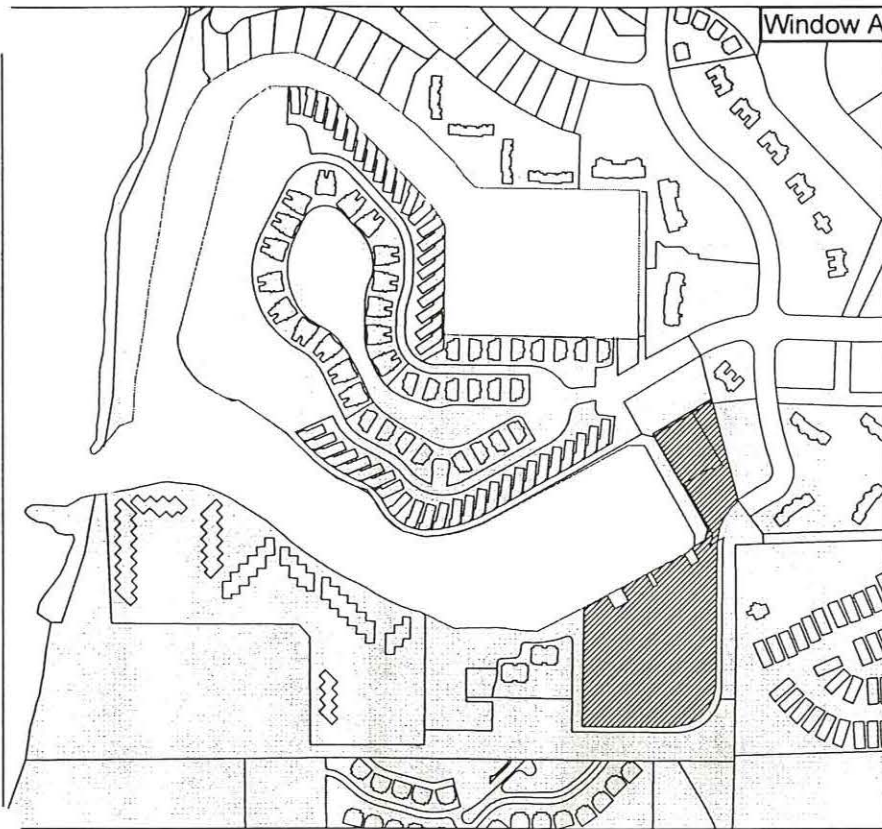
The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



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

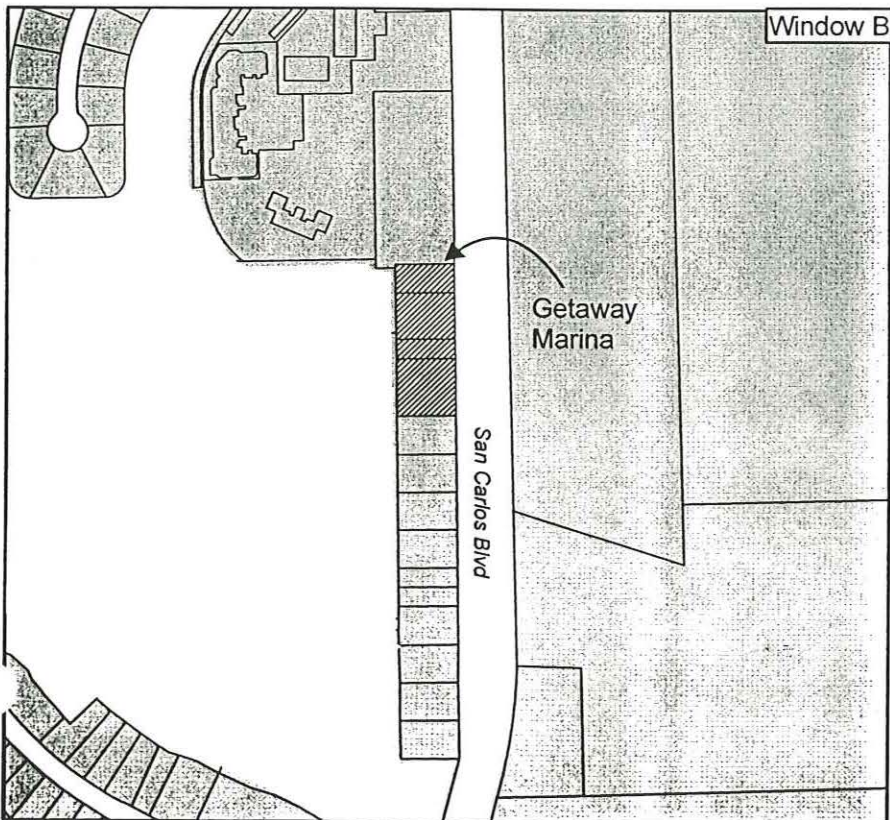
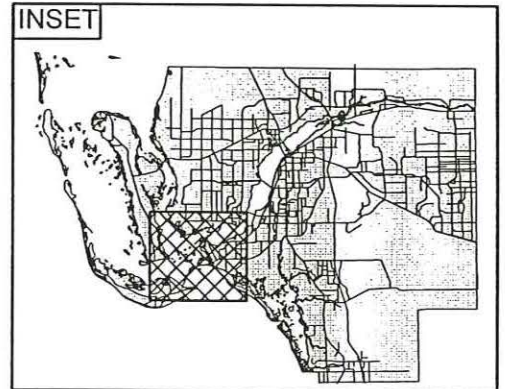
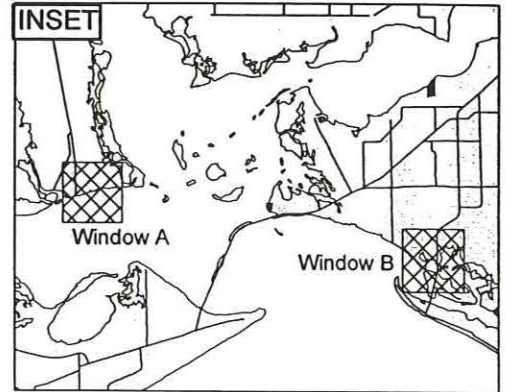
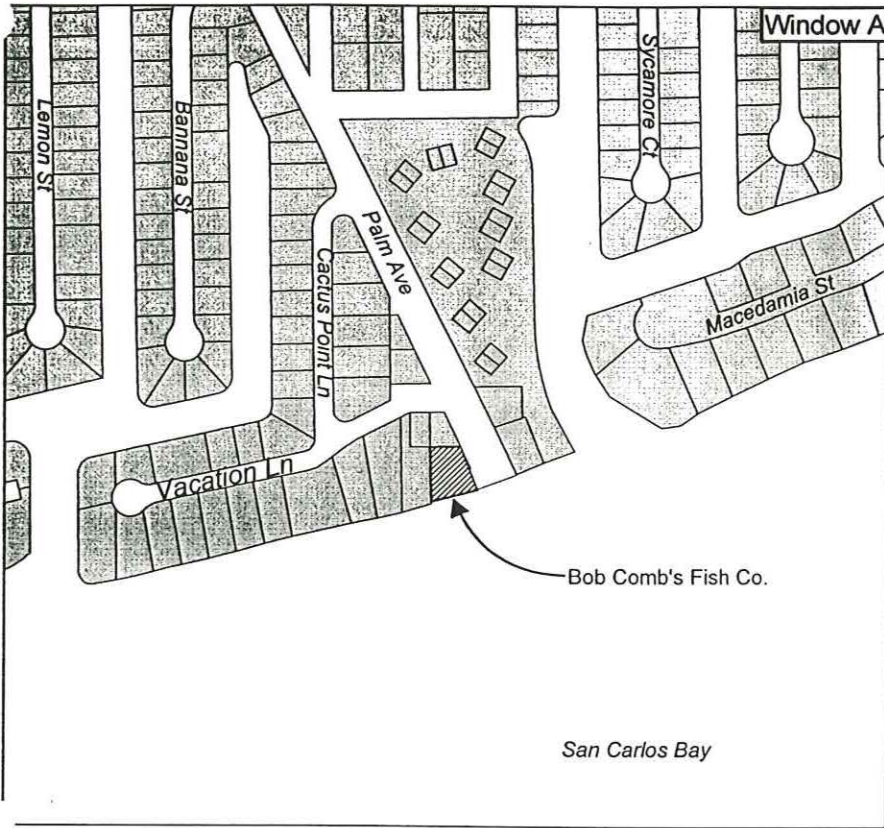
The Water Dependent Overlay Zone on the indicated parcel is defined as 150 feet landward of the shoreline or as landward to include the entire parcel, whichever is less.



Map generated June 12, 2002

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.



LEE COUNTY
SOUTHWEST FLORIDA
DIVISION OF PLANNING

Map generated June 13, 2002