

February 14, 2017 - Work Session
Agenda Item #3

Subject

Right-of-Way Use Ordinance Amendment

Briefings

None

Contact and/or Presenter Information

Sia Mollanazar, P.E., Deputy Director - Engineering Services, Public Works Dept.
Ext. 7487

Action Requested

Information presented to update the Board of County Commissioners on the status of the Right-of-Way Permitting Code Revision.

Enabling/Regulating Authority

N/A

Background Discussion

The nationwide proliferation of small cell and distribution antenna system (DAS) structures has caused the need to update the County's right-of-way permitting regulations to address the unique characteristics of these systems. The adopted Resolutions 16-147 and Resolution 17-18 address a moratorium on DAS applications, allowing time to develop this revised ordinance. The Resolutions expire on March 11, 2017.

County Attorney Review

Formal Written Review (Opinion memo must be attached)

Explanation of Other

Reviewing Attorney

D'Agostino

Instructions to Board Records

None

Cost and Funds Source Account Number and Name

N/A

Amount and Frequency of Recurring Costs

N/A

Manatee County Government Administrative Center
Manatee Room, Fourth Floor
9:00 a.m. - February 14, 2017

Attachment: [Res 16-147 moratorium.pdf](#)

Attachment: [Res 17-18 moratorium.pdf](#)

RESOLUTION 16-147

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, ESTABLISHING A TEMPORARY CESSATION OF ACCEPTANCE OF RIGHT-OF-WAY PERMIT APPLICATIONS FOR INSTALLATION OF SMALL CELL AND DISTRIBUTED ANTENNA SYSTEM (DAS) STRUCTURES PENDING REVISION OF THE COUNTY'S CODE TO PROPERLY ADDRESS THE SITING AND INSTALLATION OF THESE STRUCTURES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Manatee County owns and/or controls, and manages lands designated as rights-of-way; and

WHEREAS, traditionally governmental rights-of-way have been utilized for, among other uses, the placement of public and private utility systems and structures so as to facilitate the delivery of utility services and maintenance of utility systems; and

WHEREAS, Manatee County Code § 2-28-21 et seq. contains the County's current Rights-of-Way Management Code; and

WHEREAS, this regulatory structure has not been revised since its adoption in 2008, a period where wireless communications services were provided to consumers via large cell towers; and

WHEREAS, since that time, industry and technological changes and advances have resulted in an alternative method of delivery of wireless communications services generally known as "small cell" and "distributed antennae systems" (DAS) which involve the placement of much shorter, but more numerous poles and related infrastructure, to provide such services to residential and other areas where tower placement is not feasible due to regulatory or other restrictions; and

WHEREAS, the Board of County Commissioners for Manatee County (the Commission) finds that the County's rights-of-way are a limited resource, already facing crowding in certain areas, and that this vital resource must be properly managed both for current utility needs and for planned or expected future utility expansion, maintenance and safety needs; and

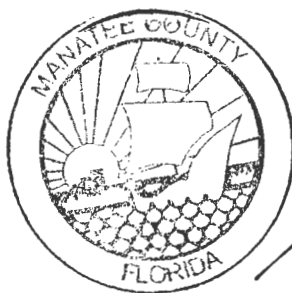
WHEREAS, the Commission finds that its current Rights-of-Way Management Code does not sufficiently address this new technology and that until the Code is revised so as to properly create regulations and standards to address applications to utilize the

County's rights-of-way for the installation of small cell and DAS facilities, the County should not accept right-of-way applications for such uses.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida:

1. The County's Rights-of-Way Management Division shall cease acceptance of applications for right-of-way permits to construct or install in the County's rights-of-way any wireless small cell or DAS communications system until the County Commission adopts amendments to the County Code to adequately regulate the standards which will apply to such facilities, or until midnight Friday, February 10, 2017, or until the Commission otherwise rescinds this Resolution, whichever of these earliest occurs.
2. The County Administrator and County Attorney are hereby directed to work diligently to develop such ordinances as may be required to ensure that the Manatee County Code properly regulates small cell and DAS facilities, including application, installation, maintenance and removal requirements, so as to facilitate the provision of effective wireless communications services to the County's citizens and businesses, while also ensuring the safety, aesthetic, financial and infrastructure planning needs of the County.
3. If any section, subsection, sentence, clause or provision of this Resolution is held invalid, same shall be severable and the remainder of this Resolution shall not be affected by such invalidity, such that any remainder of the Resolution shall withstand any severed provision.
4. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED with a quorum present and voting this 13th day of September, 2016.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: _____
Chairperson

ATTEST: ANGELINA COLONNESO
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: Amanda L. Colonnese
Deputy Clerk

RESOLUTION 17-18

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, EXTENDING RESOLUTION 16-147 TWENTY-NINE DAYS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on September 13, 2016, Manatee County adopted Resolution 16-147, a temporary cessation of acceptance of right-of-way permit applications for installation of small cell and distributed antenna system (DAS) structures pending revision of Manatee County's Code of Ordinances to properly address the siting and installation of these structures; and

WHEREAS, Resolution 16-147 compelled the County's Right-of-Way Management Division to cease accepting applications for right-of-way permits to construct or install in the County's right-of-way any wireless small cell or DAS communications system until adoption of amendments to the County Code applicable to such facilities, until Friday, February 17, 2017, or until the rescission of Resolution 16-147, whichever occurred first; and

WHEREAS, additional time is needed to accomplish the objectives of Resolution 16-147.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Manatee County, Florida, that:

1. Resolution 16-147 is hereby extended twenty-nine (29) days.
2. Accordingly, the County's Right-of-Way Management Division shall continue to cease accepting applications for right-of-way permits to construct or install in the County's right-of-way any wireless small cell or DAS communications system until the Board adopts amendments to the Code to adequately regulate the standards which will apply to such facilities, or until midnight on Saturday, March 11, 2017, or until the Commission otherwise rescinds Resolutions 16-147 and 17-18, whichever occurs first.
3. All other provisions of Resolution 16-147 that are not inconsistent with Resolution 17-18 shall remain in full force and effect.
4. This Resolution shall take effect immediately upon its adoption.

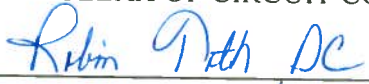
DULY ADOPTED with a quorum present and voting, this 24th day of January, 2017.



**BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA**

By: 
Chairperson **Betsy Benac**

ATTEST: ANGELINA COLONNESO
CLERK OF CIRCUIT COURT AND COMPTROLLER

By: 
Deputy Clerk

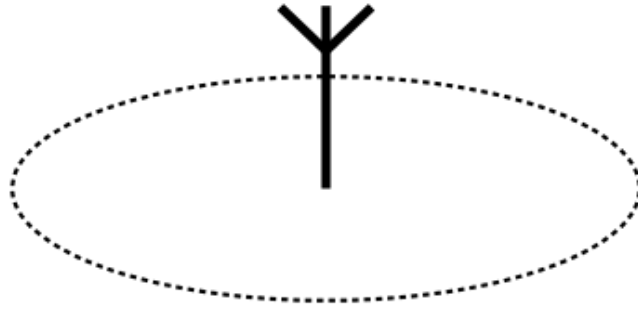
Right-of-Way Use Ordinance

Work Session

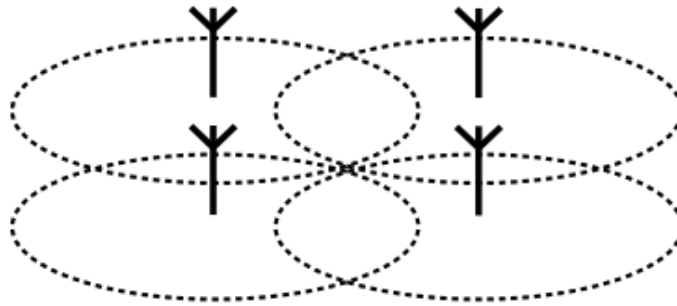
Manatee County Public Works Department

February 14, 2017

- **DAS** – Acronym for a Distributed Antenna System (also referred to as oDAS, with the “o” standing for outdoor installations). A network of antennas and equipment enclosures usually attached to poles in the public right-of-way.



single antenna



distributed antenna system

- Minimize the visual and aesthetic effects of wireless telecommunications facilities through appropriate design, screening and location standards

- Encourage the siting of wireless telecommunications facilities at locations and in a manner such that potential adverse effects to the County and its residents are minimal in order to insure harmony and compatibility with surrounding land uses

- Encourage the installation of wireless telecommunications facilities at locations where other such facilities already exists

- Encourage the location and collocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic and public safety impacts.

- Encourage the location of wireless telecommunications facilities in areas where the adverse impact on the community is minimal

- The wireless facilities installed on utility poles are primarily **intended** to serve customers of wireless carriers licensed by the FCC to operate in the County such as AT&T Mobility, Sprint, T-Mobile and Verizon Wireless, etc.

- The actual antenna on the utility poles belongs to companies such as USA fiber, Crown Castle (NextG), ExteNet Systems, and Mobilitie, etc; these company are the **owners** of the facilities.

- Generally, there will only be one wireless facility on each pole. It is possible, however, that a single wireless facility on a utility pole could serve more than one carrier.

- The ordinance will not allow new poles county wide, except for the two designated map areas.
- The Ordinance would only allow new wood poles to replace existing poles.

- A typical wireless facility on a utility pole consists:
 - 1-antennas
 - 2- equipment boxes.

- The antennas will be mounted either at the top of the pole or on side arms
- The equipment boxes will be attached to the pole.
- The equipment boxes typically include an electric meter, a disconnect switch, and computers to control the antennas.



Manatee County Public Works



Manatee County Public Works









WYOMING ST
WYOMING ST

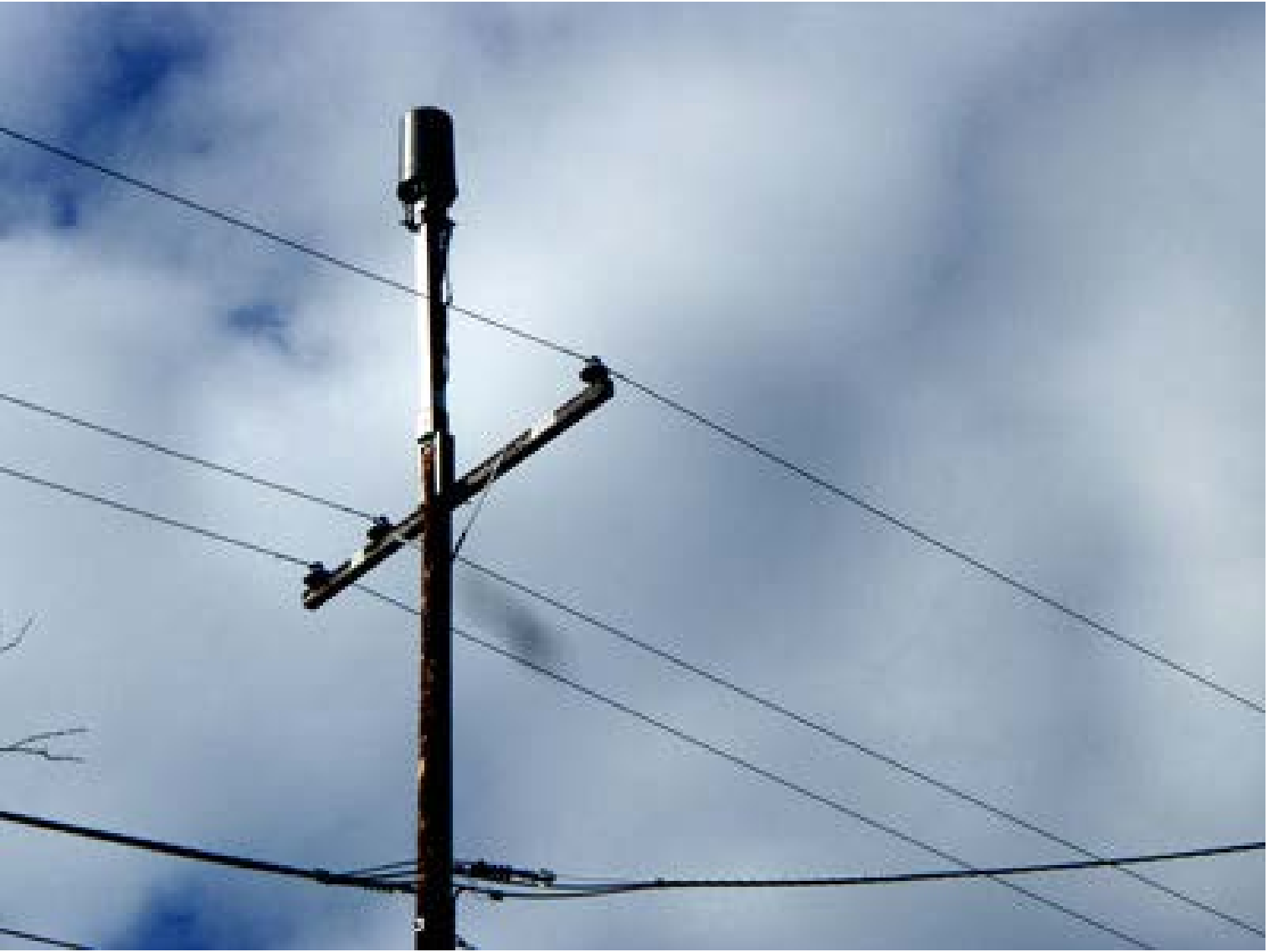


Manatee County Public Works



Manatee County Public Works







Manatee County Public Works











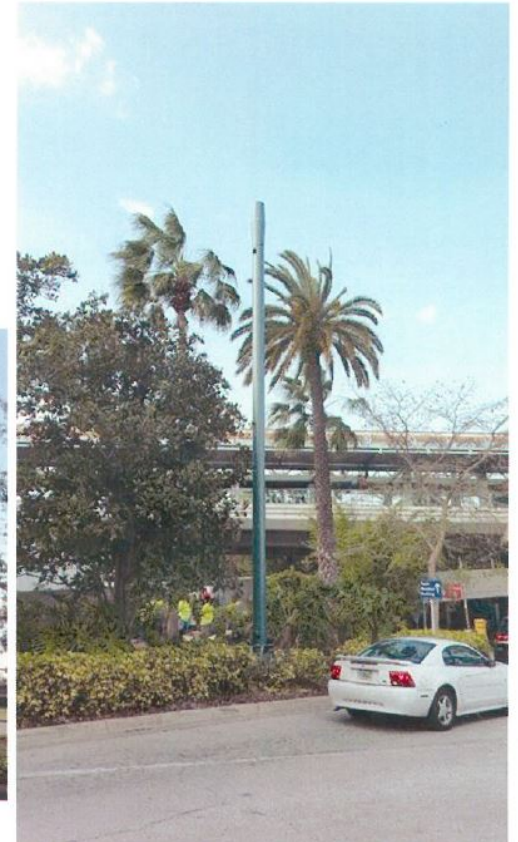








Representative Installations in Orlando, Florida



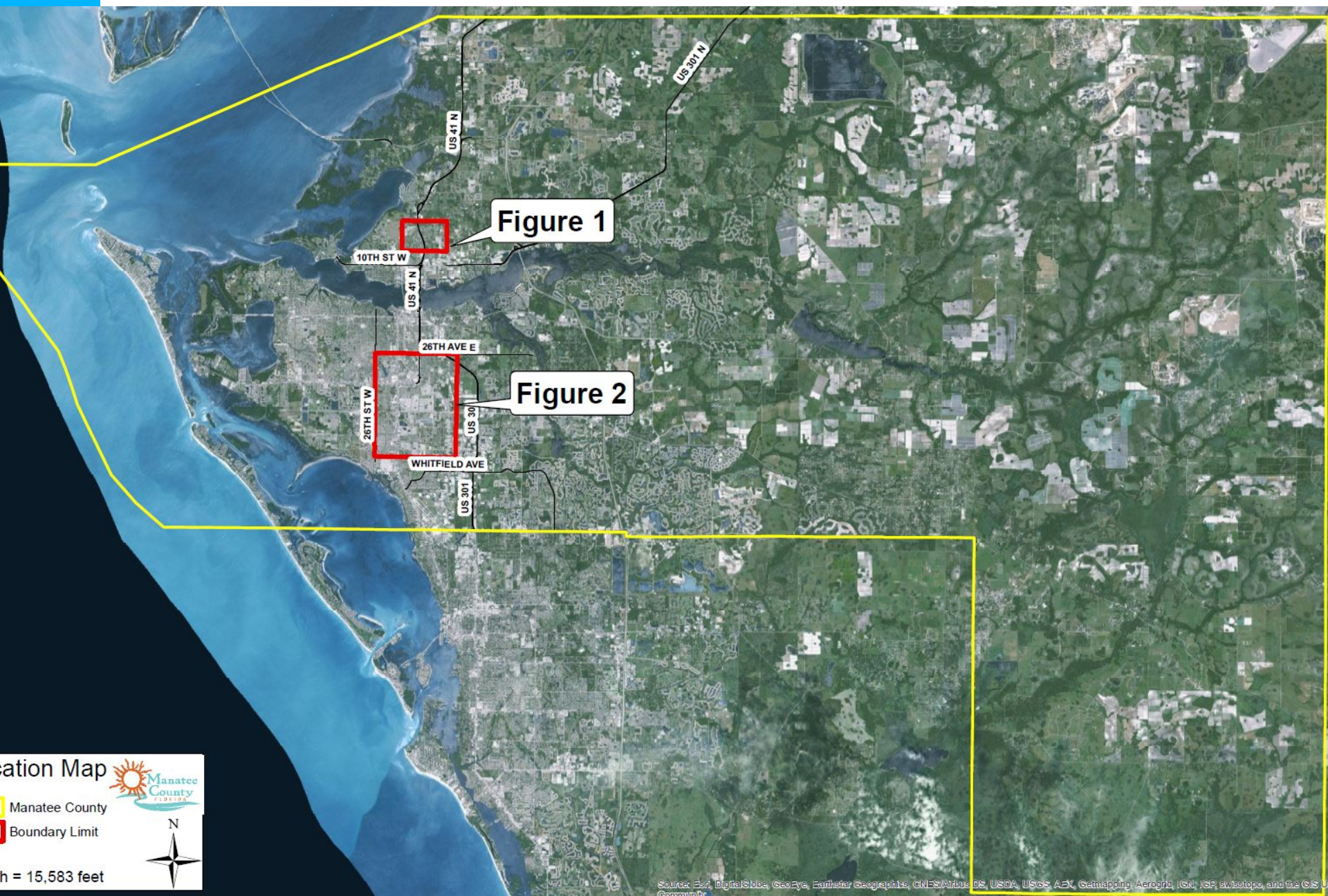


Figure 1

Figure 2

Location Map



- Manatee County
- Boundary Limit



Scale = 15,583 feet



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, SFP, swisstopo, and the GIS User Community

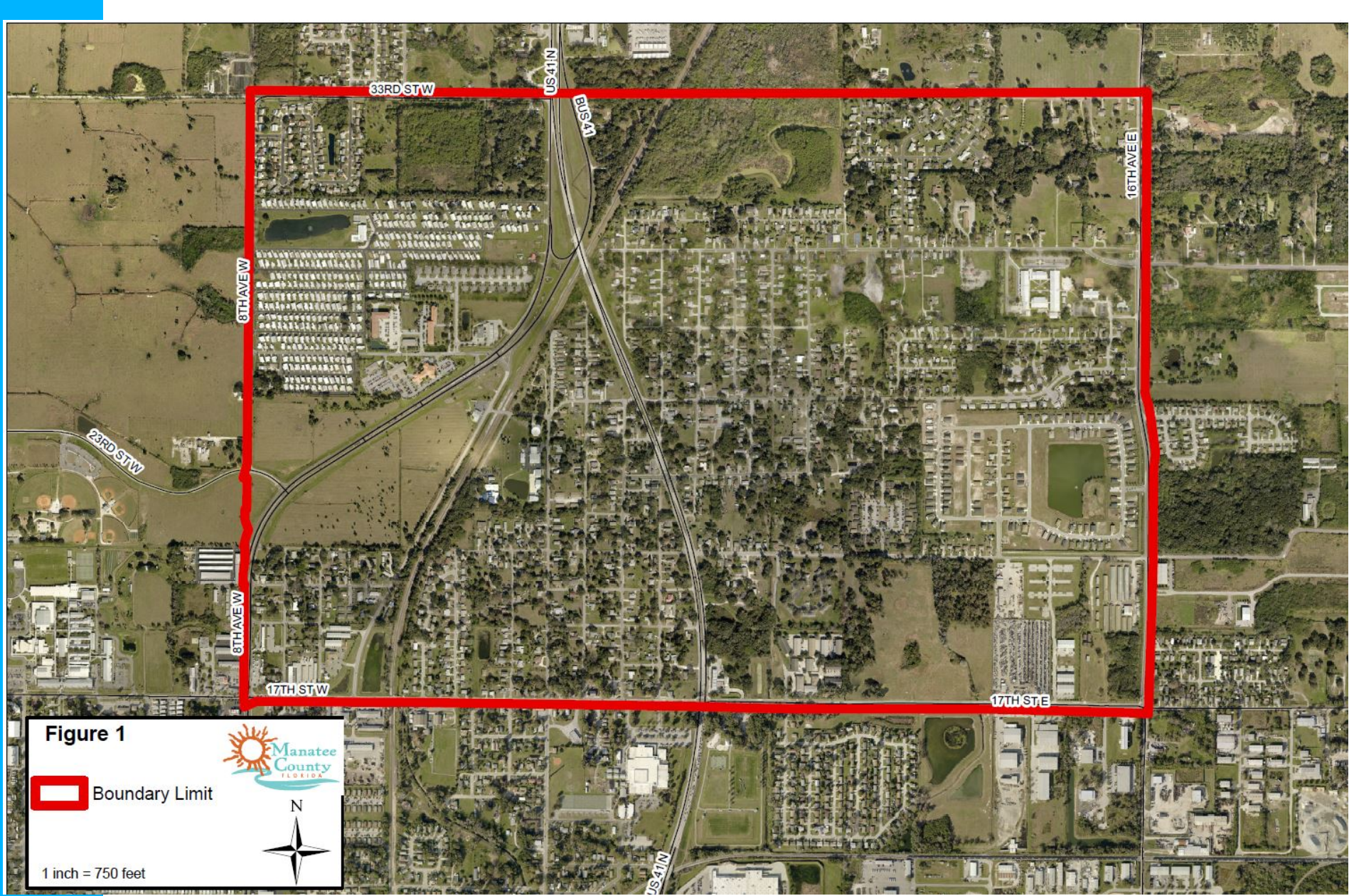


Figure 1



Boundary Limit



1 inch = 750 feet

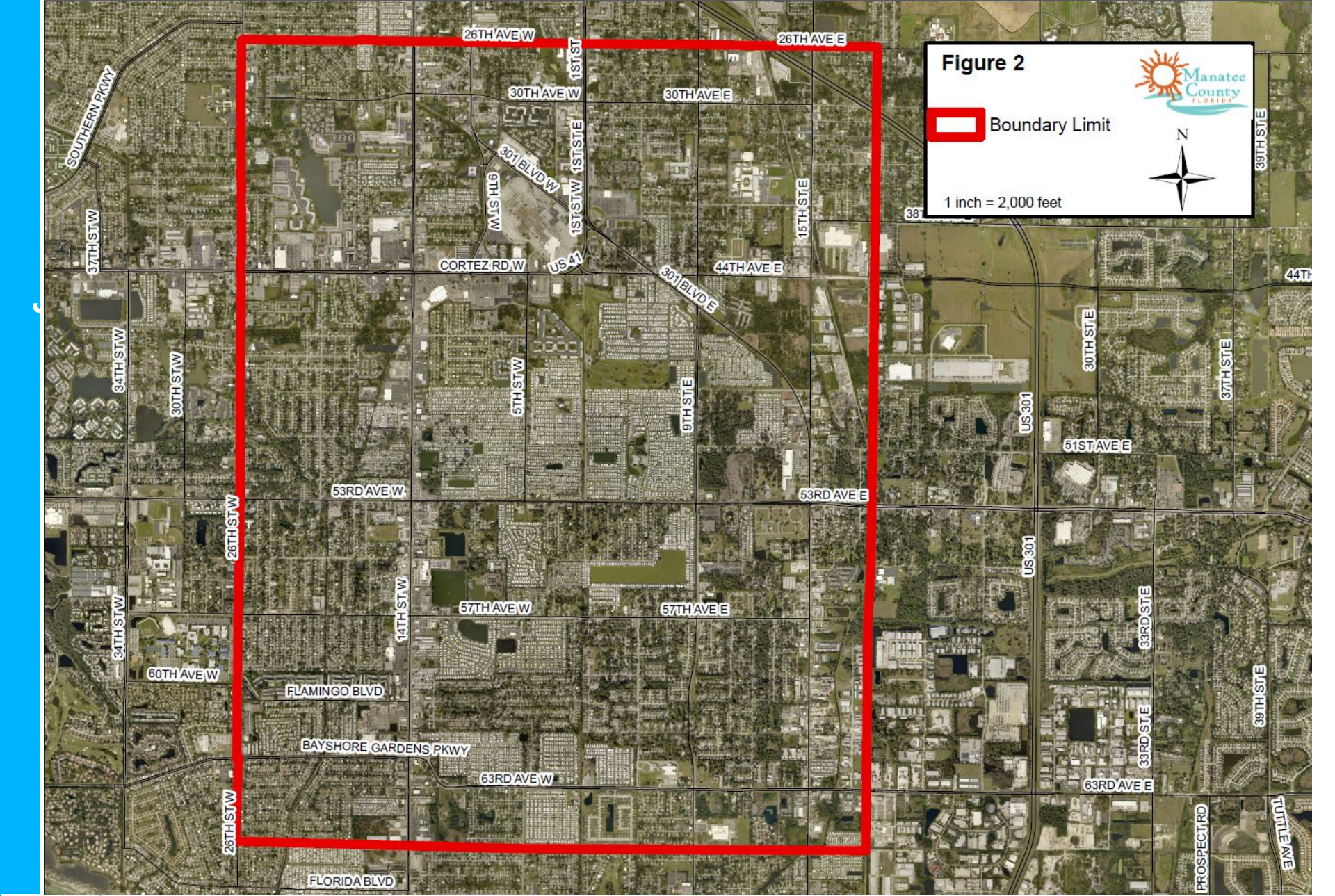



Figure 2



 Boundary Limit



1 inch = 2,000 feet

Criteria for permit issuance

- A new support structure in the right-of-way shall be permitted as long as:
 - Located within the boundary limits shown on Figures 1 or 2
- A major modification to an existing permitted and legally maintained light pole or utility pole in the right-of-way shall be permitted (collocation allowed)

Criteria for permit issuance

- All permit applications shall comply with county Public Works Standards.
- Set back a minimum of twenty-five (25) feet from all traffic signal poles
- Set back a minimum of fifteen (15) feet from any pedestrian ramps
- Set back a minimum 500 feet from any existing or proposed Advanced Traffic Management Systems field device
- Not located directly in front of a dwelling or residential structure
- Located on the legal boundary line between two adjacent lots.

Criteria for permit issuance

- The new support structure does not exceed 10 feet higher than existing structures within 1,000 foot radius or 45 feet above ground level, whichever is greater
- All accessory equipment, auxiliary equipment, equipment boxes and equipment cabinets are mounted on the structure at least 7 feet above ground
- The wireless facility and pole do not contain any commercial advertising thereon;

Questions