

## Background on Diocese shoreline stabilization permit

In 1997, FDEP and several other units of government agreed upon a map series that would roughly describe the “River Area”, a term with a unique legal definition used nowhere else in the state of Florida. These maps represented the state’s best attempt to map *that corridor of land beneath and surrounding the Myakka River from river mile 7.5 to river mile 41.5, together with a corridor including the maximum upland extent of wetlands vegetation as determined by the former Department of Environmental Regulation pursuant to chapter 403 and chapters 17-3 and 17-312, F.A.C.*

Because of the scale of the maps, and the information available the time, it’s inevitable that the maps were not completely accurate, so annotations on the maps made it clear that the actual boundary of the River Area should be established through on-site verification. Myakka Rule 62D-15 that required the DEP do the jurisdictional determination necessary to do determine the River Area, which would prevent an applicant with a bias or interest in the outcome to perform the delineation.

You’ll recall the proposal to stabilize the shoreline at the Diocese property was discussed briefly at our May meeting. Then, in October, after discussion, two motions were made and adopted: to send a letter on behalf of the Council to the South District Regulatory Office to ask that their standards for permitting be: 1) consistent for all permit requests and (2) consistent with the goals of the Myakka Wild and Scenic River legislation and rule. Then another motion passed directing Jono Miller to send a letter to the Sarasota County Board of Commissioners to ask the DEP Southern District Office to make a presentation to the Council regarding how they interpret or apply criteria for public interest regarding requests to stabilize the shoreline of the Myakka River in the Wild and Scenic Designation. Both requests were sent.

Council members will remember defining the River Area was an issue in contention in 2019 when owners of Bob Johnson’s former riverfront home at 1400 N. Jackson Rd. had to seek permission to install shoreline protection (the building could not be moved landward). The 1997 map suggested the River Area might be a quarter of a mile wide there in that location. After much debate, DEP and Sarasota County agreed the wetland River Area was much broader than suggested by the Mean High Water Line (MHWL) or the “Safe Upland Line.”

As stated in the Act, DEP should determine the maximum extent of wetland delineating the River Area. The record suggests that didn’t happen in a recent Diocese case. Instead, DEP accepted the tidally influenced Mean High Water Line as determined by others as the extent of the River Area, not the extent of the wetland delineation, despite having taken a different approach at 1400 N. Jackson Rd. and despite a state statute and rule requiring that if there are wetlands landward of the MHWL, the River Area would extend that far.