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ORDINANCE NO. 98-025

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DEPARTMENT OF
TALLAHASSEE
COUNTY

AN ORDINANCE OF THE COUNTY OF SARASOTA RELATING TO PROTECTION MEASURES FOR THE MYAKKA RIVER AND IMPLEMENTATION OF THE SARASOTA COUNTY COMPREHENSIVE PLAN; PROVIDING FINDINGS; PROVIDING FOR THE ADOPTION OF THE MYAKKA RIVER PROTECTION PLAN; PROVIDING DIRECTION TO PROCESS AMENDMENTS TO COUNTY ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. Findings. The Board of County Commissioners of Sarasota County, hereinafter referred to as the Board, makes the following findings:

1. The Legislature of the State of Florida enacted the Myakka River Wild and Scenic Designation and Preservation Act (the "Act") which is presently contained in Part III, Chapter 258, Florida Statutes (1997).
2. Pursuant to the Act, the corridor of land surrounding and beneath the Myakka River between River Mile 7.5 and River Mile 41.5 has been designated as a Florida Wild and Scenic River (the "Myakka River"), and more particularly described as that portion of the Myakka River located between State Road 780 in Sarasota County and the Sarasota-Charlotte County line. Further, the "Wild and Scenic Protection Zone" means the area which extends 220 feet landward from the river area.
3. The Act provides for the permanent preservation of the Myakka River by way of development of a plan for permanent administration by agencies of state and local government.
4. The Act requires the State of Florida, Department of Environmental Protection (the "Department") and a Coordinating Council created by the Department, to jointly develop a management plan for the Myakka River.
5. In May 1990, the "Myakka Wild and Scenic River Management Plan" was approved by the Governor and Cabinet in accordance with the Act.
6. In 1991, Chapter 150 Florida Administrative Code entitled "Myakka River Wild and Scenic River Rule" was established for the purposes of implementing the Myakka Wild and Scenic River Management Plan.

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7. The Act requires that the Department of Environmental Protection and the Department of Community Affairs enter into an agreement with Sarasota County that includes guidelines and performance standards for regulating proposed activities in the Myakka River Wild and Scenic Protection Zone.
8. On December 16, 1997, the Board adopted a State-Local Agreement (the "Agreement") establishing interagency coordination for administering rules and regulations pertaining to the Myakka River Wild and Scenic Protection Zone in accordance with the Act. The Act requires that within one (1) year after the Agreement is adopted, necessary ordinances, land development regulations and Comprehensive Plan Goals, Policies and Objectives shall be adopted and/or amended by Sarasota County in conformance with the Agreement.
9. On July 17, 1993, Sarasota County Comprehensive Plan Amendment RU-14 was challenged in the case styled, Maynard Hiss v. Department of Community Affairs, Sarasota County, et al. Case No. 93-4217GM.
10. On March 15, 1994, the Board approved a Settlement Agreement in the Hiss case which required the Board to establish an advisory board, to adopt a Myakka River Protection Ordinance containing a plan and continue its efforts in carrying out the terms of the State-Local Agreement.
11. Resolution No. 94-236, adopted by the Board on September 20, 1994, established the "Myakka River Planning Advisory Board".
12. On December 11, 1997, the Board approved, with modifications, the recommendations of the Myakka River Protection Plan (the "Plan"), in accordance with the Settlement Agreement.
13. It is necessary to enact this Ordinance setting forth adoption of the Plan and assisting in the implementation of Apoxsee, the Sarasota County Comprehensive Plan.
14. As identified in the Plan, Apoxsee, the Sarasota County Comprehensive Plan, contains a number of Goals, Policies and Objectives for protecting the Myakka River consistent with the requirements of the Act; thus, Apoxsee shall not require any additional amendments thereto.
15. The Board, sitting as the Sarasota County Land Development Regulations Commission, has reviewed the proposed ordinance provided herein and has found that the ordinance is consistent with the Sarasota County Comprehensive Plan, as amended.

Section 2: Adoption of Myakka River Protection Plan. The Board of County Commissioners, after having conducted a public hearing on this matter and having made the findings specified above, hereby accepts delivery and adopts the Myakka River Protection Plan, attached as Exhibit A, in compliance with the Settlement Agreement and the State-Local Agreement.

Section 3: Direction to Process Amendments. The Board of County Commissioners hereby directs staff to process amendments, consistent with provisions of the Act, to minimize potential adverse physical and visual impacts on resource values in the river area and to minimize adverse impacts on private landowners use of land for residential purposes, as they apply to the following County ordinances:

- (a) County Ordinance No. 75-38, as amended, commonly referred to as the Zoning Ordinance.
- (b) County Ordinance No. 81-12, as amended, commonly referred to as the Land Development Regulations.
- (c) County Ordinance No. 81-60, as amended, commonly referred to as the Earthmoving Ordinance.
- (d) County Ordinance No. 83-44, as amended, commonly referred to as the Tree Protection Ordinance.

Section 5. Severability. If any provision of this ordinance is for any reason finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions.

Section 6. Effective Date. This ordinance shall take effect immediately upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 24th day of December, A.D., 1998.

BOARD OF COUNTY COMMISSIONERS OF
SARASOTA COUNTY, FLORIDA

By: [Signature]

Chairman

ATTEST:

KAREN E. RUSHING, Clerk of
the Circuit Court and Ex-
Officio Clerk of the Board of
County Commissioners of
Sarasota County, Florida.

By: [Signature]

Deputy Clerk

THE MYAKKA RIVER PROTECTION PLAN

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THE MYAKKA RIVER PROTECTION PLAN

BACKGROUND

Sarasota County Resolution No. 94-236 states that the primary function of the Myakka River Planning Advisory Board (MRPAB) is to provide recommendations to the Sarasota County Board of County Commissioners on how to protect the heritage and enhance the integrity and resources of the Myakka River. The recommendations are to address the development, administration, implementation and updating of a Myakka River Protection Ordinance. The Ordinance shall contain a plan that includes the following:

- (A) Identification of important natural and cultural resources and attributes;
- (B) Goals, objectives, and policies applicable to the planning area that incorporate relevant goals and objectives of the Myakka Wild and Scenic River Management Plan and Apoxsee (Sarasota County's Comprehensive Plan);
- (C) Regulations pertaining to land use and land activities;
- (D) Planning tools, programs and strategies to implement the goals and objectives referred to in (B) above; and
- (E) Public facility plans.

(A) MYAKKA RIVER RESOURCE VALUES AND ATTRIBUTES

The State of Florida's Myakka Wild and Scenic River Management Plan was accepted in May, 1990 by the Governor and Cabinet. Section 4 of the Management Plan describes resource values, issues, and problems as identified by the Myakka River Management Coordinating Council and work groups during the preparation of the Plan. The major resource values and attributes have been briefly summarized below. These values and attributes have been endorsed by the MRPAB.

Economic resource values focus on agricultural activity with other components including land development, transportation, and mining activity. Agricultural activity may involve crop production, citrus, and sod farming while livestock grazing takes place on improved and unimproved pasture/rangeland. The economic elements most closely related to the river itself are commercial fishing, sport fishing, and commercial boat touring.

Scenic resource values associated with the Myakka River include its vista as seen from the river and its bank. The visual components vary from narrow river reaches with associated hardwood forests to wide open lake panorama. A predominant River experience is the

overall wilderness corridor with its many changing characteristics and spontaneous observations.

Recreational resource values center upon resource-based recreational activities and opportunities and as such these features are concentrated for the most part along the river and its banks. The primary recreation activities which are water-dependent include fishing, boating, and canoeing. Water-related activities associated with the River are camping resorts, picnicing, hiking and bicycling.

Cultural and historic resource sites of the Myakka River watershed provide present and future residents and tourists with educational destinations. These destinations emphasize the unique character of communities through the preservation and restoration of historic structures. A number of historically significant structures occur within the boundaries of the Myakka River State Park, and the majority of the River corridor within the County has been identified as an archaeological sensitivity zone.

Geologic resource values occurring along the Myakka River corridor include two springs, Warm Mineral Springs and Little Salt Springs. A sinkhole called Deep Hole is located in the southwest corner of Lower Myakka Lake and bluffs dominate the banks along several segments of the River.

Water resource values include the following three components: water quality, the quantity of the freshwater discharge, and the time distribution of the discharge. The River is designated in the Florida Administrative Code as Class I waters and has an Outstanding Florida Water and Wild and Scenic River designation. The River's tributaries and sub-basins provide additional factors in water quality and quantity.

Terrestrial ecology resource values comprise all of the plants and animals associated with the uplands and wetlands of the Myakka River corridor. Included would be various flatwoods, prairies, scrub, hammock, wetlands and swamp. These resource values deal with the plants and animals at individual, species community, and ecosystem levels. There are a variety of listed species of both plants and animals that occur throughout the corridor.

Aquatic ecology resource values are embodied in the biotic communities and aquatic habitats of the River which include ecological, recreational, and commercial. Fisheries consider the freshwater sport fish caught in the lakes and upper reaches of the River while saltwater recreational and commercial fishing occurs further south of I-75 within the more estuarine segments of the corridor.

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(B) GOALS DEVELOPED BY THE MRPAB:

The MRPAB established 4 general goals which are listed below. The corresponding objectives from the Myakka Wild and Scenic River Management Plan and the goals, objectives, and the objectives and policies from Sarasota County's Comprehensive Plan, Apoxsee, which support each of these 4 goals have also been identified.

GOAL 1 Protect and maintain native habitats (in particular wetlands and hammocks) and other plant communities along the River;

Myakka Wild and Scenic River Management Plan

Objective 1: To protect, enhance and maintain the unique and irreplaceable values, functions, diversity and benefits of the natural resources along the Myakka River;

Apoxsee

Environment Policy 1.3.5: "By 1999, the County shall adopt and implement an ordinance that contains siting, design and construction criteria for marinas, boat ramps, and other boat facilities to minimize impacts on estuarine waters and the endangered west indian manatee. The expansion of existing boating facilities in suitable areas shall occur over the construction of new facilities. New and expanded motorized boating facilities shall not be located in or adjacent to areas of significant manatee habitat and travelways as defined by said ordinance. No new motorized boating facilities shall be allowed, at a minimum, within the Pansy Bayou and the Warm Mineral Springs and Creek."

Environment Policy 5.2.3.: "Enact ordinances and/or amend existing ordinances that protect the Myakka River, and consider the results of ongoing study and management efforts by various organizations, agencies, and County Departments (for example, the Myakka River Management Coordinating Council, the Department of Environmental Protection sponsored Myakka River Basin Study, and the County's Myakka River Downstream Studies). In accordance with Section 258.501(6)(a), Florida Statutes, development which affects the designated "wild and scenic protection zone" of the Myakka River shall meet standards which conform to or are more stringent than standards developed pursuant to Section 258.501, Florida Statutes, the "Myakka River Wild and Scenic Designation and Preservation Act", including standards found in the Myakka Wild and Scenic Management Plan accepted by the Governor and Cabinet on May 22, 1990, and to be included in the State-Local Agreement for Managing the Myakka River Wild and Scenic Protection Zone."

Environment Objective 5.4: "To identify, manage, and protect all ecological communities and wildlife, especially critical habitats and endangered, threatened, and species of special concern identified in official federal, State, or international treaty lists."

Environment Policy 5.4.1: "Continue to review development proposals for consistency with the 'Principles for Evaluating Development Proposals in Native Habitats' as required by the Land Development Regulations (Ordinance No. 81-12, as amended)."

Environment Policy 5.4.2: "The County will continue to work with State and federal agencies regarding the development and implementation of protection guidelines relating to threatened and endangered species. By July 1, 2000, the County Natural Resources Department shall prepare a plan to adopt and allow the County to enforce guidelines adopted by State and federal agencies or specific authorizations granted by State and federal agencies that protect listed species occurring within the County. Unless precluded by State and federal law, the County may adopt more stringent requirements when deemed appropriate."

Environment Policy 5.4.3: "Require development order applicants to consult with the appropriate agencies and to use recognized sampling techniques to identify endangered, threatened, and species of special concern."

Environment Policy 5.4.6: "Development in areas of critical manatee habitat shall not adversely impact the manatee."

Environment Policy 5.5.2: "The Future Land Use Map Series shall be revised to show the location of areas of high ecological value as identified by staff and approved by the Board of County Commissioners."

Environment Policy 5.5.3: "Develop mechanisms to acquire, physically link natural areas into a contiguous system or otherwise protect environmentally significant lands through a voluntary program and coordinate County resources with existing State programs such as the Conservation and Recreation Land (CARL) Program, the Save Our Rivers (SOR) Program, and with groups such as the Nature Conservancy and the Trust for Public Lands. Priority should be given to acquiring and otherwise protecting properties which are adjacent to or in close proximity to existing preservation areas, with emphasis on maintaining opportunities for a regional greenways system that may include a mix of flow ways, areas subject to flooding, native habitats, recreational trails and wildlife corridors."

Environment Policy 5.5.4: "Sarasota County shall immediately establish additional incentives for landowners to protect the naturally beneficial features of the lands identified as having high ecological value pursuant to Policy 5.5.2, rather than emphasizing reliance upon regulatory police power authority. These additional incentives shall utilize a full range of techniques as appropriate (including, but not limited to, tax incentives, and provisions for variable lot sizes in Rural Areas)."

Environment Policy 5.5.10: "Protect the natural diversity, processes and functions of natural communities in the Myakka River State Park and Oscar Scherer State Park from development impacts by coordination with Florida Department of Environmental Protection and Southwest Florida Water Management District to maintain and enhance soils, groundwater, surface and subsurface waters, shorelines, vegetative communities and wildlife habitats within these management areas."

Environment Policy 5.5.11: "Native habitats set aside in preservation and conservation areas shall be managed in accordance with resource management plans which are subject to review and approval by the County through the development review process, to ensure maintenance of the functions and values of these native habitats."

Environment Policy 5.5.12: "Policy 2.1.2 of the Future Land Use Chapter shall include Map 21: 'Figure 2-10: Areas of High Ecological Value in Unincorporated Sarasota County' as part of the Future Land Use Map Series."

Environment Policy 5.5.13: "By 1998, additional criteria for off-site mitigation and mitigation alternatives will be developed for consideration by the Board of County Commissioners. These alternatives would be allowed to offset wetland impacts provided that there is not a net loss in total wetland acreage (i.e., all wetland acreage impacted shall be mitigated)."

Environment Policy 5.6.1: "The County shall promote the conservation of native vegetation removed during land-clearing and utilize this resource for transplanting and revegetation."

Environment Policy 5.6.5: "Where practical, invasive and nuisance plants will be removed from new developments and County-owned property and replaced with native or other appropriate ornamental species."

Environment Policy 5.6.6: "During the development review process, encourage the private sector to preserve natural vegetation, to relocate native vegetation that cannot be preserved and remove invasive and nuisance plants."

Environment Policy 5.6.7: "Pursue an interdepartmental/interagency approach to the development of management plans and/or guidelines for County-owned Public Conservation/Preservation Lands and the native areas within parks in order to protect, maintain, and restore, where necessary, native habitats. Previously approved management plans shall be considered in the implementation of this Policy."

Environment Policy 5.7.3: "Educational materials shall be made available to developers, homeowners, and other interested citizens concerning proper

maintenance, management, restoration, and development in natural areas (for example, pamphlets about habitat creation, endangered species, management of development ponds, shoreline and dune vegetation, xeriscape, water conservation, and the Street Tree Program)."

Environment Policy 5.7.4: "The County shall use Integrated Pest Management (I.P.M.) in all of its operations to set an example and encourage citizens to use these least toxic management methods to control pests."

Myakka River Principles V.B

2. Management Guidelines:

- * a. Prohibit dredging and filling in the Myakka River
- * b. Implement a "wild and scenic protection zone" for new construction, unless otherwise vested by a prior development order approval. By July 1, 1997, the Sarasota County Board of County Commissioners shall adopt an ordinance establishing the guidelines and performance standards to apply in managing the "wild and scenic protection zone". (RU-30, Ord. 97-061, July 8, 1997)
- * c. Strive to reduce pollution entering the Myakka River. All new construction adjacent to the River and within a semi-rural or urban designation shall connect to a County-approved central service for wastewater treatment. (RU-14, Ord. 93-033, May 11, 1993)
- * d. Closely monitor the effects of phosphate mining and other potentially detrimental land uses.
- * e. Establish a special conservation management area that includes the Myakka River and appropriate lands adjacent to the River to ensure the future conservation of the Myakka River and its watershed.

Freshwater Wetlands Principles VI.A (refer to Apoxsee)

Mesic Hammocks Principles VII.A (refer to Apoxsee)

Section 4(b) of the Tree Protection Ordinance No. 83-44, as amended: The County does not require any tree permit for the removal of Brazilian pepper, melaleuca, Australian pine, carrotwood; and china-berry.

Invasive Plant Species Ordinance No. 90-01, as amended: The County prohibits the importation, sale, propagation and planting of Brazilian pepper, melaleuca, Australian pine, carrotwood, Chinese tallow and beach naupaka.

GOAL 2 Protect the floodplain functions and values of the River;

Myakka Wild and Scenic River Management Plan

Objective 5: To minimize urban and suburban encroachment and resultant adverse impacts upon the river and allow appropriate land uses within the watershed;

Objective 6: To provide for the regulation, control, and distribution of public access to the Myakka River where necessary to protect and enhance the resource values of the river area;

Objective 7: To minimize the disturbances to natural resources of the Myakka River from river-related recreational uses;

Objective 8: To protect archaeological/historical sites from adverse impacts associated with development, vandalism, and artifact collecting; and

Objective 9: To expand the knowledge and data base of the archaeological/historical resources in the Myakka River vicinity and in the watershed.

Apoxsee

Environment Policy 2.1.2.: "Continue to prohibit dredge and fill activities in the Gulf of Mexico, bays, rivers, and streams of the County except to maintain existing drainage canals, existing or future County-approved navigation channels and beach renourishment projects, and silt or obstruction removal, when environmentally sound. The dredging of new navigation channels other than those just described shall be prohibited."

Future Land Use Goal 1: "Preserve, protect and restore the integrity of the natural environment, historic and archeological resources, and preserve agricultural uses consistent with resource protection."

Future Land Use Objective 1.1: "To protect environmentally sensitive lands, conserve natural resources, protect floodplains, maintain water quality, and open space, and conserve and protect historic and archeological resources."

Future Land Use Policy 1.1.1.: "All development proposals must conform to the appropriate portions of the Environment Chapter's Primary Components and Guiding Principles before such proposals can be considered to be consistent with the Future Land Use Plan."

Future Land Use Policy 1.1.3.: "The designated County Coastal High Hazard Area shall include the evacuation zone for a Category 1 hurricane, as established in the regional hurricane evacuation study."

Future Land Use Policy 1.1.4.: "Residential development within the adopted Coastal High Hazard Area shall conform to the following:

In the event that a residential structure located within the adopted Coastal High Hazard Area is voluntarily destroyed, or destroyed by natural forces, the redevelopment of said property must conform to the underlying zoning;

The provisions of this Policy shall not be construed as restricting the rebuilding of a single family residence on an existing lot-of-record, provided that such property meets all requirements pertaining to construction in the Coastal High Hazard Area;

In the event that natural forces render a property located in the Coastal High Hazard Area unbuildable, or reduce the development potential of a property as allowed by the prior acreage and the underlying zone district, utilization of the Transfer of Development Rights concept will be encouraged. Development Rights, in such cases, shall be determined based upon pre-disaster conditions; ..."

Future Land Use Policy 1.1.6.: "No development order shall be issued which would permit development in 100-year floodplains, as designated on Federal Emergency Management Agency Flood Insurance Rate Maps or adopted County flood studies, or on floodplain associated soils, defined as Soils of Coastal Islands, Soils of the Hammocks, Soils of Depressions and Sloughs, and Soils of the Floodplains and shown in Figure 2-2, that would adversely effect the function of the floodplains or that would degrade the water quality of water bodies associated with said floodplains in violation of any local, State, or federal regulation, including water quality regulations."

Future Land Use Policy 1.1.7.: "Sarasota County will coordinate efforts to acquire public lands for conservation, preservation, and open space."

Future Land Use Policy 1.1.8.: "Provide for the adequate buffering of Public Conservation Lands from potentially incompatible adjacent land uses."

Future Land Use Policy 1.1.9.: "Any new Public Conservation and Preservation Area, preserved/acquired pursuant to Policy 5.5.2. and Policy 5.5.3. of the Environment Chapter, shall have all buffering and land use compatibility strategies incorporated to the extent feasible and finalized prior to the closing."

Future Land Use Policy 1.1.10.: "Normal management practices associated with maintaining and restoring native habitats such as controlled burning within public and private Conservation/Preservation areas shall be permitted."

Future Land Use Policy 1.1.11.: "All development and redevelopment shall be consistent with the Primary Components of the Historic Preservation Chapter."

Recreation and Open Space Policy 1.1.5.: "Recreational uses implemented on the Pinelands Reserve and the T. Mabry Carlton, Jr. Memorial Reserve shall be limited to activities which are ecologically benign, non-consumptive and resource-based."

Recreation and Open Space Objective 1.2: "To ensure that recreational lands and facilities are compatible with surrounding land uses and the natural environment in accordance with the Environment Chapter, through the year 2010."

Recreation and Open Space Policy 1.2.4.: "Encourage conservation and ecologically sensitive management of undeveloped lands for their environmental, recreational and open space value through acquisition and during development review processes."

Recreation and Open Space Policy 1.3.4.: "Develop greenway policy designed to establish strategies regarding the coordinated identification, protection, and management of linear open space connectors in cooperation with private land owners."

Environment Goal 4: "To lessen the impact of a destructive storm on human life, public facilities, private structures, and coastal natural resources in Sarasota County."

Environment Objective 4.3: "To limit additional public investment in order to restrict further concentrations of population in the Coastal High Hazard Area."

Environment Policy 4.3.1.: "The construction or reconstruction of County funded facilities or infrastructure in the Coastal High Hazard Areas shall be prohibited except for passive recreation facilities and those necessary to ensure public health and safety."

Environment Policy 4.3.2.: "Utilize the County's power of eminent domain and regulatory authority to relocate threatened and/or damaged structures and infrastructure landward of the Coastal High Hazard Area. Consistent with the availability of budgeted funds, purchase property for relocation."

Environment Policy 4.3.3.: "Special High Hazard taxing zones, as necessary, will be created to help pay for the relocation landward of the Coastal High Hazard Area, the reconstruction, and/or protection of storm damaged public infrastructure and facilities, and shelters, to ensure public health and safety."

GOAL 3 Maintain the water quality and water quantity of the River.

Myakka Wild and Scenic River Management Plan

Objective 2: To protect and/or enhance the surface and groundwater resource values of the Myakka River, including protection and enhancement of water quality and designated uses, and protection and restoration of optimal quantity and timing of freshwater discharge;

Objective 3: To preserve, protect and restore natural aquatic habitat necessary for the continued healthy existence of aquatic populations and communities within the Myakka River;

Apoxsee Public Facilities Goal 1: "Sanitary sewer service shall be provided to Sarasota County residents through the continual evolution of a centralized regional wastewater collection and treatment system, and shall be provided in a safe, clean, efficient, economical, and environmentally sound manner, concurrent with urban development."

Public Facilities Objective 1.1: "Continue to correct existing wastewater facility deficiencies, and coordinate the acquisition, extension, and construction of, or increase in the capacity of, facilities to meet future needs."

Public Facilities Policy 1.2.1: "The County shall consider adoption of an ordinance requiring mandatory connection to available public and private central wastewater systems. The requirements of such an ordinance may be more stringent than those contained in Chapter 381, Florida Statutes, as the same may be amended."

Public Facilities Policy 1.2.2: "The County shall continue to require new development to connect to central wastewater systems consistent with the requirements contained in Land Development Regulations based on the size of the development and distance to the existing system, the available capacity in the system, and the utility's rules allowing connection to the system."

Public Facilities Policy 1.5.2: "Issuance of development orders for any site proposing to utilize an on-site wastewater treatment and disposal system shall be contingent upon demonstration of compliance with applicable federal, State and local permit requirements. Soil surveys shall be required for on-site wastewater treatment and disposal system permits. No individual on-site systems shall be permitted where soil conditions indicate that the system would not function without degrading water quality or where land alterations necessary to accommodate the system would interfere with drainage and floodplain functions."

Environment Policy 5.2.6: "Require Best Management Practices, as provided in the County's Earthmoving Ordinance, for conversion of native habitat to agricultural land uses, consistent with State and federal recommended standards, to reduce pesticides, fertilizer and soil erosion."

GOAL 4 Minimize the visual intrusion of land use improvements within the River corridor.

Myakka Wild and Scenic River Management Plan

Objective 4: To coordinate with local, regional, state, and federal agencies in the use and regulation of land management practices that protect the quality of the Myakka River and its tributaries;

Apoxsee

Environment Policy 5.6.1: "The County shall promote the conservation of native vegetation removed during land-clearing and utilize this resource for transplanting and revegetation."

Environment Policy 5.6.5: "Where practical, invasive and nuisance plants will be removed from new developments and County-owned property and replaced with native or other appropriate ornamental species."

Environment Policy 5.6.6: "During the development review process, encourage the private sector to preserve natural vegetation, to relocate native vegetation that cannot be preserved and remove invasive and nuisance plants."

Section 4(b) of the Tree Protection Ordinance No. 83-44, as amended: The County does not require any tree permit for the removal of Brazilian pepper, melaleuca, Australian pine, carrotwood, and china-berry.

Invasive Plant Species Ordinance No. 90-01, as amended: The County prohibits the importation, sale, propagation and planting of Brazilian pepper, melaleuca, Australian pine, carrotwood, Chinese tallow and beach naupaka.

The following Objectives have been prepared by staff from the recommendations developed by the MRPAB. The Objectives have been grouped into the respective sections (C), (D), or (E) to provide consistency with the format of the Plan identified on page A - 1.

(C) REGULATIONS PERTAINING TO LAND USE AND LAND ACTIVITIES:

Objective A: To preserve and encourage the growth of native plants along the Myakka River.

Implementation Actions:

1. The County should encourage the removal of nuisance and invasive vegetation along the River.
2. The County should continue to require removal of nuisance and invasive plants from development sites.

Background: This objective is addressed under Apoxsee Environment policies 5.6.5. and 5.6.6. and associated ordinances.

On July 1, 1997, the Board adopted and reinstated the following language into the LDR:

"The authority granted by approval of the preliminary subdivision plans includes necessary clearing and grubbing for construction of access areas and installation of pollution control measures required during the construction phase only. No clearing or grubbing of the land in any way shall occur in conjunction with proposed land development prior to preliminary plan approval or prior to installation of protection devices pursuant to Sections B2.1.i and j, Development Improvements Technical Manual Section C.4.f. and Subdivision Technical Manual Sections A.1.c. and B.4.e.6. No trees shall be removed without first obtaining a tree removal permit pursuant to Ordinance No. 83-44. All nuisance and/or exotic plants shall be removed from site during clearing and grubbing operation."

Objective B: To protect wildlife and water quality within the Myakka River protection zone.
(See related Objective H on page A - 20)

Implementation Actions:

1. The County should prohibit storage of hazardous materials within the River Area and Protection Zone of the Myakka River. The language of the Myakka River Protection Ordinance should address the prohibition of new facilities for the bulk storage, handling or processing of hazardous substances, and

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underground and above ground petroleum product storage facilities and other regulated substances within the River Area and Protection Zone.

2. The County should process an amendment to the Zoning Ordinance to establish a prohibition of any new facilities for the bulk storage (see page A - 36 for the definition of bulk storage), handling or processing of regulated substances within the Myakka River Protection Zone.

Background: A precedent has been set by the County for imposing a prohibition on such facilities through the adoption of the Initial Wellhead Water Resources Protection Ordinance No. 92-079. The proposed regulation will exclude substances in original containers for retail purposes and those routinely used in residences and business establishments. Existing businesses along the River having underground tanks used for fuel distribution are already regulated under State and local requirements. Gasoline used for lawn mowers and boats, insecticidal soap, detergents, and boric acid roach traps would not be regulated under this proposed Ordinance. The information exchange and education efforts under Objective M (page A - 25) could recommend proper storage of these items elevated above the flood level. Changes to the Zoning Ordinance should take into account, and be consistent with, existing regulations governing the handling and processing of regulated substances as they relate to existing regulated uses.

Objective C: To promote measures for new structures such that the scenic natural vistas and natural sound environment of the Myakka River are protected.

Implementation Actions:

1. The County should process an amendment to the Zoning Ordinance to address setback requirements and new supplementary regulations for accessory structures as follows:
 - a. New single-family residential development (including accessory structures) occurring on large acreage lots (minimum lot size of 5 acres), should be located no closer than one hundred and fifty feet from the landward boundary of the River Area. The County Staff shall examine for consideration by the Board the effectiveness of less burdensome setback alternatives, such as measuring the proposed 150-foot setback from the bank of the river. A variance process from these setback requirements would be established to address any hardship cases. Structures that have an underlying support which raises the residential living unit above the 100 year floodplain that have been involuntary destroyed shall be allowed to rebuild on the same footprint. Additionally, the amendment will provide that those

existing lots-of-record that do not meet this new standard shall not be prohibited from development so long as such development occurs consistent with Section 5.2 of the Zoning Ordinance;

- b. New cluster residential development and non-residential development (including accessory structures) should not be located within the River Protection Zone, provided however, that clustering may be permitted as long as it does not result in multi-family type structures and remains as single family detached units;
 - c. New supplementary regulations for accessory structures associated with existing development within the River Protection Zone should be adopted to ensure that any shield constructed for noise producing mechanical equipment complies with the federal floodplain protection standards; and
 - d. New supplementary regulations should be developed for new accessory structures (e.g., satellite dishes) not to be located in a waterfronting yard of a primary structure that fronts the River or without adequate buffering.
2. The Board of County Commissioners adopted a transmission tower ordinance No. 98-001 on April 7, 1998, whereby transmission towers shall be prohibited within the Myakka River Protection Zone designated on the Apoxsee Future Land Use Map. In addition, towers will be setback a distance 7 times the proposed tower height from the protection zone and Public Conservation/Preservation areas.

Background: The proposed 150 foot setback for residential development represents a balance between the statutory provisions "to minimize potential adverse physical and visual impacts on resource values in the river area and to minimize adverse impacts on private landowners use of land for residential purposes"(Section 258.501(5)(c)12, Florida Statutes). In response to this directive, the Myakka River Management Coordinating Council undertook a study to define visual, or scenic, resource values in the river area, to identify concerns related to those values and to recommend action strategies that would minimize adverse impact on those values.

The study, conducted by Hunter Services, Inc. included an extensive investigation of the visual corridor along the length of the Myakka River included in the wild and scenic river designation. Hunter Services defined the river's visual corridor based on field observations as between 150 and 2,220 feet, with an average of 220 feet. The highest priority concerns associated with the scenic resource value were identified as follows:

- Increased development within the viewshed, particularly in presently pristine areas;
- The quality of existing development and related improvements along the river;
- The intrusion of tall structures which impact substantial portions of the river corridor; and
- Artificial light as it relates to the disruption of stargazing, wilderness experiences, and plant and animal life.

The Myakka Wild and Scenic River Management Plan that was adopted by the Myakka River Management Coordinating Council and subsequently, on May 22, 1990, accepted by the Governor and Cabinet included the following two major actions designed to address the issue related to protecting the scenic resource values of the river:

- "that a 'wild and scenic protection zone' be created as a supplemental buffer area extending 220 feet on each side of the river, as measured from the landward edge of the river area." This recommendation was embodied in legislation revising the Act in 1990.
- Action 1.8 which reads as follows: "Sarasota County should revise its habitat-based regulatory programs to include protection of wetlands and hammock vegetation specifically along the Myakka River. The County should revise language in Apoxsee to provide for regulation of existing upland vegetation at a minimum of 220 feet wide to be required around all wetlands/surface waters that are contiguous to the designated Myakka River area. Apoxsee should also be revised with language that provides for special protection to wetland-fringing hammocks that are contiguous to the wetlands and/or surface waters along the designated Myakka River area from river mile 7.5 to river mile 41.5."

Existing County regulations, as set out in the "Principles for Evaluating Development Proposals in Native Habitats" require minimum buffers of upland vegetation with a width of 30 feet around wetlands and 50 feet when such buffers include areas of mesic hammock. The Zoning Ordinance requires a 50 foot setback for waterfront yards. County regulations also require a setback of 100 feet for all onsite septic tanks (or other OSTDS's) from rivers, streams and canals. Acceptance of the recommendation contained in Action 1.8 of the Management Plan could, therefore, be construed to represent a considerable extension of buffers along the Myakka River.

The Board of County Commissioners adopted Amendments RU-14 in February 1994 and RU-30 in July 1997 through which language was incorporated into Apoxsee (Environment Policy 5.2.3.) consistent with the requirements of the Act. The policy calls for the enactment of ordinances or amendment of "existing ordinances that

protect the Myakka River." It specifically states, "In accordance with Section 258.501(6)(a), Florida Statutes, development which affects the designated 'wild and scenic protection zone' of the Myakka River shall meet standards which conform to or are more stringent than standards developed pursuant to [the Act]..., including standards found in the Myakka Wild and Scenic Management Plan accepted by the Governor and Cabinet on May 22, 1990..."

On December 16, 1997, the Board of County Commissioners adopted the State-Local Agreement for Administering the Myakka River Wild and Scenic River Protection Zone, including the provision requiring the County to "adopt an ordinance that sets forth the County's legal responsibilities, activities that will be regulated, and procedures for regulating activities in the Protection Zone. If necessary, the County shall amend the County's land development regulations and other appropriate ordinances within one year after the adoption date of this Agreement so that regulations that affect the Protection Zone conform to, or are more stringent than, the Act, the [Management] Plan and this Agreement."

Thus, prior to the consideration of proposed Ordinance No. 98-025, a higher level of protection, i.e., increased upland buffers, has been consistently anticipated through enactment of amendments to Chapter 258 establishing the Protection Zone by the Legislature, acceptance of the Management Plan by the Governor and Cabinet and adoption of Environment Policy 5.2.3. by the Board. In its consideration of the issue of increased setbacks for residential structures with the Protection Zone, however, the MRPAB clearly stated that it was not its intent to render existing lots completely unbuildable within the Protection Zone. The recommended 150 foot setback is intended to strike a balance between the requirement stated in Action 1.8 of the Management Plan that could be construed as a mandatory 220 foot buffer, i.e., the entire Protection Zone, and the statutory provision "to minimize adverse impacts on private landowners' use of land for residential purposes."

Unless otherwise provided by law, the Myakka River Wild and Scenic River Rule section 16D-15.005(5) prohibits constructing, erecting, or installing any form of structure not related to a water-dependent activity, and section 16D-15.005(8) specifically prohibits the construction of new marinas. Section 16D-15.006(2)(d) of the Rule provides a permitting process for constructing, installing, expanding, or renovating marinas, landings, boat ramps, docks, mooring buoys, pilings, dolphins, decks, or piers. The proposed changes to the Zoning Ordinance to prohibit new non-residential development within the Protection Zone are intended to acknowledge existing uses and be consistent with the permitting requirements contained in the River Rule.

Additional recommendations for researching setback requirements related to septic tanks and associated drainfields are discussed in Section (E) Public Facility Plans on

page A - 26. The recommendations for new development and accessory structures should be sufficient to block noise traveling towards the River.

The recommended changes to the Zoning Ordinance will not consider the replacement and maintenance of an accessory structure associated with an existing residential dwelling, such as replacing an old air conditioner with a new one. The proposed changes, instead, would affect redevelopment. If a dwelling has sustained damage more than fifty percent of the replacement cost at the time of destruction, the reconstruction, including all electrical devices, must be elevated above the 100-year flood elevation (not including submersible pumps) to meet federal flood protection standards. Any structural screening, such as a deck railing, must be of sufficient integrity and strength to withstand wind loadings. Current regulations also require accessory uses and structures to be located in rear yards of residential dwellings which may face the River.

Objective D: To ensure that any future roadway and bridge crossings of the Myakka River minimize environmental impacts. (See related Objective P, page A - 29)

Implementation Action: The County should process an amendment to the Earthmoving Ordinance to establish an exemption review for utilities, similar to that currently being done for new roadways and stormwater improvements, to ensure that such projects comply with the Myakka River protection measures contained in Apoxsee.

Background: An exemption review should be established to ensure that the utility project complies with the Myakka River protection measures contained in Apoxsee. The County Transportation Department anticipates a need for future bridge crossings, roadway and utility extensions for public use. Close coordination among the various agencies will be required to minimize environmental impacts. An exemption review for utilities similar to that currently being done for new roadways and stormwater improvements, may be established.

Objective E: To protect the Myakka River Protection Zone from incompatible land uses.

Implementation Actions:

1. The County should process an amendment to the Zoning Ordinance for each relevant zoning district that has been or may be applied to the river protection zone as follows:
 - a. Identify appropriate permitted uses and structures.
 - b. Identify permitted accessory uses and structures.
 - c. Identify prohibited uses and structures.

- d. Identify special exceptions.
- e. Establish a maximum height of structures.

(See the Appendix page A - 30 for a list of specific changes to the Zoning Ordinance endorsed by the MRPAB)

- 2. The County should process an amendment to the Earthmoving Ordinance to ensure consistency with the Myakka Wild and Scenic River Management Plan and establish setbacks for excavating and filling within the River Protection Zone.
- 3. The County should process an amendment to the Tree Protection Ordinance (and the County's Land Development Regulations) to prohibit clear-cutting within the River Area, consistent with the Myakka River Wild and Scenic River Area Rule (Section 16D-15.005(2) Florida Administrative Code)
- 4. The County should process an amendment to the Land Development Regulations (LDR) to ensure all new divisions of land, wholly or partially within the Myakka River Protection Zone, be subject to all provisions of the LDR.
- 5. The County should process an amendment to the LDR to establish "minor subdivision" standards for developments involving ten lots or less having a minimum lot size of 5 acres.

Background: Process an amendment to the Zoning Ordinance to establish an overlay zone, or otherwise modify applicable District regulations, to address appropriate permitted uses and structure in conformance with The Myakka Wild and Scenic River Management Plan (MWSRMP). The MWSRMP (refer to page 5-9) recommends that the following activities should be prohibited, except their appurtenant structures which may be permitted if they have no adverse visual or measurable adverse impacts to resource values in the river area:

- Landfills,
- Clear-cutting,
- Major new infrastructure facilities,
- Major activities that would alter historic water or flood flows,
- Multifamily residential development,
- Commercial and industrial development, and
- Mining and major excavations.

The County's Earthmoving Ordinance No. 81-60, as amended, should be revised to ensure consistency with the MWSRMP. In addition, process an amendment to the

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County's Tree Protection Ordinance No. 83-44 in order to prohibit clear-cutting within the River Area.

Process an amendment to the LDR to ensure that new developments involving the platting of watercourse buffers will be subject to the LDR subdivision standards by amending Section B1.1a of the LDR. The County currently exempts the creation of lots, five acres or larger, which abuts streets lawfully established before June 1, 1994. Exemptions for plats that may affect a watercourse, such as the Myakka River, should be eliminated. In addition, "minor subdivision" standards should be established to govern plats involving ten lots or less having a minimum lot sizes of 5 acres. For larger subdivisions, greater than 10 lots, the current LDR subdivision standards would apply to such developments.

(D) PLANNING TOOLS, PROGRAMS AND STRATEGIES TO IMPLEMENT THE GOALS AND OBJECTIVES REFERRED TO IN (B) ABOVE

Objective F: To protect wetlands and mesic hammocks adjacent to the Myakka River.

Implementation Action: Continue implementing the existing environmental principles and policies in Apoxsee. (Note: Also refer to proposed amendments to the Tree Protection Ordinance under Objective E #3 on page A - 18).

Background: This objective is addressed under existing Apoxsee Principles for Evaluating Development Proposals in Native Habitats and Policies.

Objective G: To protect the water quality and quantity of the Myakka River by ensuring that agricultural best management practices are implemented.

Implementation Action: Continue applying agricultural best management practices, as provided in the County's Earthmoving Ordinance, consistent with Environmental Policy 5.2.6 of Apoxsee.

Background: This objective is addressed under an Apoxsee policy. A procedure is already in place in the County's Earthmoving Ordinance (No. 81-60, as amended) to review new agricultural operations. Agricultural operations are regulated under this ordinance in the sense that permits are required unless exemption criteria are met. Those criteria include possession of a permit (or exemption) from the District and adherence to the Natural Resources Conservation Service's (NRCS) Policy for Protection of Wetlands for Agricultural Uses. That policy is a component of NRCS's best management practices. Furthermore, an exemption can only be issued if the agricultural entity obtains plan approval by the Agricultural Development Review Committee. The NRCS is represented on that committee. The members verify that

the project is bona fide agriculture and that the applicant proposes to follow accepted agricultural practices.

Objective H: To protect the water quality of the Myakka River from illegal dumping.

Implementation Actions:

1. The County should provide public information on the laws that prohibit dumping into the Myakka River.
2. The County should strictly enforce existing regulations.
3. The County, as part of its educational efforts for protecting native habitats, should promote the proper use of fertilizers, pesticides, and herbicides in accordance with instructions on labels and the County's Integrated Pest Management (I.P.M.) Program.

Background: More public information efforts would be helpful. The Sheriff's Department, in cooperation with the Construction and Property Standards Department and the Pollution Control Division, will increase enforcement of the existing rules. Proper applications of fertilizers, pesticides and herbicides are assumed to occur in accordance with instructions on labels and applying the County's I.P.M program. Apoxsee encourages educational efforts to address this topic. This objective is addressed under an existing Apoxsee Environment Policy 5.7.3. The Pollution Control Division designates any reported illegal dumping into the Myakka River that occurred recently as an urgent case and an inspection will be performed immediately by staff. Reported dumping that may have occurred a month ago will not be designated urgent. Water sampling is done in cases where there may be a contamination problem as determined by staff. Arrangements for such water-quality testing may be required of the responsible party. Proper clean-up measures and enforcement actions are taken should the test results indicate that State water quality standards have been violated.

Objective I: To preserve natural resource areas by acquiring from willing sellers, properties located along the Myakka River.

Implementation Actions:

1. The County should continue the established voluntary environmentally sensitive lands acquisition program for property located adjacent to the River.
2. The County should advocate parcels along the River for acquisition by the Southwest Florida Water Management District's Save Our Rivers Program

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that comply with the criteria approved by the County in identifying environmentally sensitive lands.

Background: In 1992, the Board established a protection program for environmentally significant lands within Sarasota County. The Board, in considering the recommendations from an advisory committee and Natural Resources Department staff, will adopt a protection priority list and determine appropriate measures for protection, including less-than-fee simple options. No property will be included on the protection priority list without the owner's consent in accordance with Sarasota County Ordinance No. 94-009.

The ecological selection criteria for determining environmentally significant lands were adopted by the Board and are contained in Resolution No. 92-272. These five criteria include rarity of species or habitat, connectedness, ecological quality, manageability, and importance to water resources. The MRPAB was concerned that small parcels may not be considered for acquisition purposes. The size of a parcel is addressed as a secondary factor under at least two of the five criteria established by the County: connectedness and manageability. A small size parcel may not be ranked high for connectedness since it may be isolated from significant corridors of native habitats or there may be a barrier to the dispersal of animals. A small parcel may be too vulnerable to external impacts from neighboring land uses and trespass. On-site management practices on small parcels may adversely impact adjacent lands due to the lack of sufficient buffers. Fire management on small parcels, if possible, may be difficult and can be inordinately expensive.

The rank assigned to parcels is determined by the presence of one or more attributes identified under the ecological selection criteria. The Environmentally Sensitive Lands Advisory Committee (ESLAC) and staff will consider any parcel nominated by property owners and citizens regardless of the size of the parcel. Relatively small parcels within the southern coastal portions of the County have been designated areas of high environmental significance, primarily due to the rarity of the on-site natural communities such as scrubby flatwoods and beach dune systems. Larger parcels along the Myakka River also have been designated which rank high under the criteria of connectedness, manageability, and importance to water resources. Some of these parcels also are designated under the Southwest Florida Water Management District's Save Our Rivers (SOR) Program.

Objective J: To protect natural resource areas by encouraging the use of and establishing additional incentives for owners of property located along the Myakka River.

Implementation Actions:

1. The County should implement a conservation easement program to create a

River corridor using less-than-fee simple methods, to acquire development rights of property owners and help protect River values.

2. The County should adopt a comprehensive plan amendment(s) which would transfer development credits from sites of high ecological value, floodprone areas, wetlands and mesic hammocks such as those along the River to other areas.

Background: The Environmentally Sensitive Lands Advisory Committee (ESLAC) and staff are considering all methods for environmentally sensitive lands protection including less-than-fee simple alternatives.

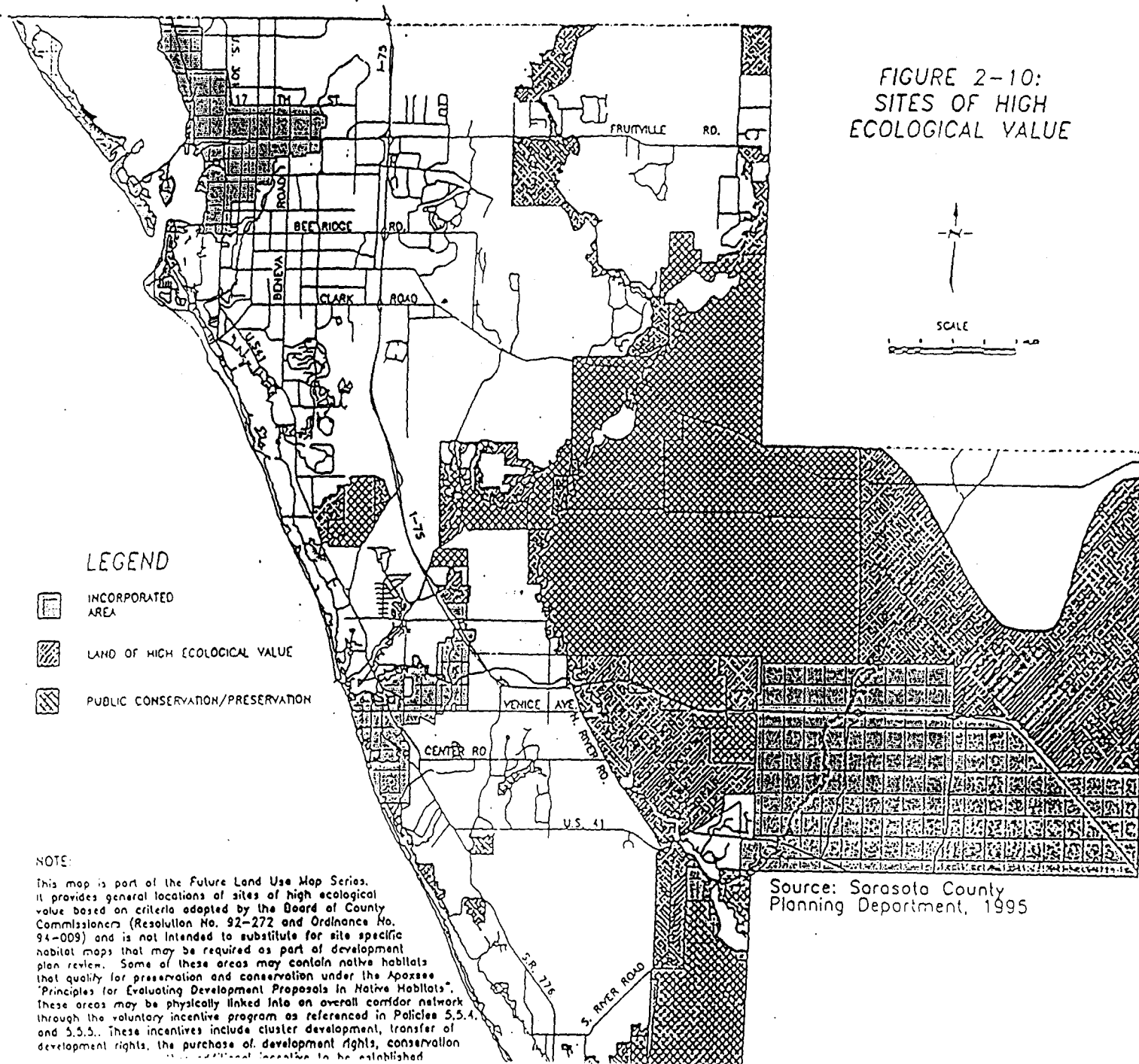
The MRPAB considered incentives for transferring development rights from areas along the River. An extra density bonus was considered by the MRPAB for the County's existing Transfer of Development Rights (TDR) program. The TDR alternative has been available for a number of years within the County. It has not proven successful since there is limited demand for the unit credits to be transferred to a receiving site. Most developments within designated Urban Areas do not meet the maximum density allowance under a given zoning district due to land use compatibility, environmental and infrastructure capacity issues. A bonus credit in most cases, may not serve as a true incentive.

An alternative incentive approach that is being recommended by the MRPAB which involves comprehensive plan amendments. Future Urban Area designations on the Apoxsee Future Land Use Map are intended to be the areas considered for future urban development when an extension of the Urban Service Area is warranted. There is a concern, however, that these Future Urban areas may be platted into five acre or greater residential parcels prior to receiving an Urban designation to accommodate future growth. Planning staff, in consultation with Natural Resources staff, prepared a comprehensive plan amendment proposal (RU-39) that allows transfer of development credits from sites of high ecological value (see attached Figure 2-10 of the Apoxsee Environment Chapter); areas of special flood hazard; Category 1 or Category 2 storm surge areas; or watercourses or slough systems, along with associated wetlands and mesic hammocks, to areas designated Future Urban Reserve. On June 9, 1998 the BCC adopted comprehensive plan amendment RU-39.

Conservation easements and in some cases, a 200-foot wide buffer would be required to protect these environmentally-sensitive and/or floodprone areas. A similar concept will be considered by staff as part of its planning effort for areas located east of I-75.

The majority of the areas along the Myakka River will qualify for development credits in exchange for preservation commitments.

MSC-NT



Objective K: To create, enhance, restore and preserve wetlands along the Myakka River by establishing off-site mitigation areas to meet State and other agency requirements.

Implementation Action: Support the County's development of additional criteria for off-site mitigation and mitigation alternatives by 1998 consistent with Environment Policy 5.5.13 of Apoxsee.

Background: The off-site mitigation areas must meet the County's existing and future mitigation requirements including the confinement of mitigation sites to flatwoods (except scrubby flatwoods), improved pasture or substantially disturbed areas and where the water table is still at sufficient levels to sustain wetland vegetation (refer to the Environmental Technical Manual of the LDR). During the calendar year 1998, staff will be preparing rule changes to establish additional criteria for mitigation options, including off-site mitigation.

Objective L: To notify future landowners along the Myakka River of the protection measures and requirements.

Implementation Actions

1. County Planning staff should designate on half-section sheets the boundaries of the River area and protection zone similar to that being done for areas within and in vicinity of public supply wells and wellfields pursuant to County Ordinance No. 92-079.
2. A notice should be sent to property owners identifying the existence of the River Area, the Protection Zone, the "Myakka River Wild and Scenic Management Plan", the "Myakka River Wild and Scenic Designation and Preservation Act" and other pertinent environmental regulations and protection measures. A governmental agency or another non-profit organization performing such a mailing may request the County Property Appraiser's Office to prepare a mailing list of property owners and this list may be updated on an annual basis.

Background: The County Planning Department maintains and updates information designated on half-section maps covering the unincorporated areas of the County. These maps are referenced by property owners and prospective buyers, and are used by commercial real estate interests. This has proven to be a successful tool in notifying property owners of wellhead protection requirements.

It is not feasible for the Property Appraiser to notify owners having property lying within the River area and/or protection zone. For instance, the property tax bill can

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not be physically modified and expanded to describe to the affected property owners all of the Myakka River requirements. Should a notification mailing be done by another agency or non-profit organization, the Property Appraiser's Office offered to provide assistance in confirming and updating a list of affected property owners on an annual basis.

When the Myakka River Protection Ordinance is brought before the Board of County Commissioners for public hearing, the property owners within and adjacent to the Protection Zone will be notified.

Objective M: To encourage the establishment of a homeowners/property owners association along the River for the purpose of information exchange and education.

Implementation Action: A neighborhood or a property owners association could be established to promote and protect the River values. Annual meetings could be held, possibly after River cleanup events, to encourage residents to participate in activities affecting the River. The MRPAB also recommended an annual mailing to provide information to the residents.

Background: Local government should not take the lead in this effort since the establishment and maintenance of other homeowners' associations throughout the County are civil matters and not of a regulatory nature. The County, however, has set a precedent in assisting the Clark Road Property Owners Association, as an implementing mechanism of the Clark Road Corridor Plan.

Objective N: To promote the long-term management of wildlife along the Myakka River.

Implementation Action: The County should prepare a long-range Wildlife Management Plan with three components: continue coordination with the management plans of other agencies; continue implementation of management plans for County-owned land including conservation easements; and prepare a listed species protection plan consistent with Environmental Policy 5.4.2 of Apoxsee.

Background: This objective is addressed under Apoxsee objectives and policies. Part of the MRPAB's recommendation has been completed since resource management plans (including management of native habitat to maintain and enhance wildlife utilization) have been approved and are being implemented by the County for the Carlton Memorial and Pinelands Reserves. These plans are coordinated and compatible with management plans developed by the State DEP (the Myakka River State Park) and the District (e.g., the Myakka Prairies).

On June 10, 1997, the Board of County Commissioners adopted a revision to Environment Policy 5.4.2 that a plan be prepared to allow the County to enforce

guidelines adopted by the State and federal agencies or specific authorizations granted by the State and federal agencies that protect listed species occurring within the County. Such a plan will improve the monitoring of listed species within development areas. In addition, the Board added a clarification to this policy such that more stringent requirements may be adopted by the County when deemed appropriate. The County, in consultation with the Florida Game and Fresh Water Fish Commission, will determine whether the local Habitat Conservation Plan will focus on a single species (Florida scrub jay) or involve multiple listed species.

(E) PUBLIC FACILITY PLANS

Objective O: To protect the surface and ground water quality of the Myakka River Area by installing appropriate sewage treatment measures.

Implementation Actions:

1. The County should investigate an innovative program whereby government would assume more of the costs related to central sewer hookup for property owners that keep development out of the Myakka River Protection Zone.
2. The County should research the scientific basis for the adoption of an ordinance, or process an amendment to an existing ordinance, such that new septic tanks and associated drainfields are setback landward for environmental reasons from the Myakka River Protection Zone. Other permitable "on-site sewage treatment and disposal systems" (OSTDS) may be considered within the protection zone. The County will also examine the cost of providing facilities (i.e. lift stations and transmission lines) versus the actual cost of purchasing the land. In addition, revise the County's Earthmoving Ordinance to allow permitable Type A fills for wastewater treatment mounds and pads but prohibit Type A fills for other activities in the Protection Zone.
3. The County should process an amendment to the LDR's such that platting of new lots along the Myakka River is prohibited where on-site sewage treatment and disposal systems can not be sited in accordance with the proposed restriction under No. 2.
4. The County should require central sewer connections for any proposed comprehensive plan amendment that would increase the density allowance in vicinity of the Myakka River Protection Zone. A proposed amendment would require evaluation in light of the other 4 requirements listed under this objective.

5. Support the County's application of existing regulations governing the construction and maintenance of on-site sewage treatment and disposal systems within rural residential lots.

Background: An investigation regarding #1 would be required in order to develop such an innovative program. A program which essentially provides incentives to property owners, in the form of financial subsidies, would require funding sources that are outside of the current enterprise fund structure.

Scientific research addressing environmental impacts would be necessary in order to support new regulations requiring that septic tanks and drainfields be set back from the Protection Zone. The MRPAB identified three reasons in recommending a prohibition of OSTDS within the Myakka River Protection Zone which involve the protection of water quality, avoidance of filling within the floodplains resulting from the construction of mounded systems, and avoidance of an aesthetic impact of mounded systems to the River.

Over the last 25 years, the County has maintained records of OSTDS failures. Some reported failures have occurred within properties located along the Myakka River. The rate, based on 25 years of records, is less than two failures per year within the Myakka River Protection Zone. Not all failures, however, are reported to the regulatory agencies. The incident of failure Countywide has been drastically reduced for those OSTDS's located within large lots and meeting standards adopted by the County in 1983. The 1983 standards have substantially reduced the incidence of OSTDS failures Countywide and increased the functional life for these systems which delay the need for repairs. A good repair to an old system within a large lot will have comparable treatment capacity to that of a new system according to County Health Department staff.

The County currently prohibits OSTDS on lots one-half acre or larger, which are located laterally within one hundred feet of the ordinary high water mark of non-tidal lakes, streams, canals, bays, rivers and ponds, or within one hundred feet of the mean high water line of tidal bodies or water, including bays and tidal portions of rivers, streams and canals (refer to Section 6.(1)(e) of Ordinance No. 83-083). In addition to setbacks, the County requires a minimum elevation for OSTDS above the water table elevation at the wettest season of the year. For lots platted on or after June 15, 1983, the required minimum elevation is thirty six inches between the highest expected water table elevation and the bottom infiltrative surface of the drainfield (refer to Section 3.(3)(m) of Ordinance No. 83-083). The setback and elevation requirements meet or exceed the State criteria for OSTDS (Chapter 10D-6, Florida Administrative Code).

According to the County Health Department, low-density residential development

relying on on-site sewage treatment and disposal systems is often the only practical means of dealing with wastewater disposal in rural areas. The County's Land Development Regulations (LDR) currently requires a central sewerage treatment system for all developments (commercial, industrial and residential) based on the total volume of sewage flow (in excess of two thousand gallons per day) or distance to a sewer connection having sufficient capacity, unless the development qualifies for an exemption. These exemptions are provided under Sections B.6.a. and E.1.b. of the LDR Subdivision and Development Improvements Technical Manuals, respectively. Two of the exemptions that affect residential development within the Myakka River study area (refer to Section B.6.a. of the LDR Subdivision Technical Manual) are as follows:

Subdivisions having a maximum number of fifteen lots and a minimum lot size of one acre or larger and a minimum average lot dimension of one hundred and fifty feet may be developed with private well and OSTDS upon compliance with the requirements of Sarasota County Ordinance No. 83-083 and Chapter 10D-6, F.A.C.

Subdivisions having a minimum lot size of five acres or larger may be developed with private well and OSTDS upon compliance with Ordinance No. 83-083 and Chapter 10D-6, F.A.C.

County Health Department staff has the professional opinion that current State and local regulations controlling the elevation, design and inspection of OSTDS, coupled with predominately large existing parcels within this region, render it unlikely that future OSTDS will have a negative public health impact on the Myakka River Area.

No immediate action is necessary regarding the implementation of recommendation #3 until the scientific research identified in recommendation #2 has been completed.

MRPAB recommendation #4 is consistent with the Myakka River Management Guideline V.B.2.c., that was adopted in Comprehensive Plan Amendment RU-14 as part of Apoxsee Principles for Evaluating Development Proposals in Native Habitats. Implementation of the provision must, however, take into consideration the provisions of Environmental Policy 4.3.1. related to limiting the funding of infrastructure within the Coastal High Hazard Area (CHHA).

County Health Department staff indicate that environmental impacts from nitrogen and other nutrients can best be addressed by the effective use of current zoning designations within the Myakka River Protection Zone proposed rezonings that increase densities to levels likely to produce environmental impacts. Comprehensive plan amendment RU-14 has been the only proposal in recent years to increase the density allowance in vicinity of the Myakka River Protection Zone. This adopted amendment redesignated lands lying south of I-75 and east of River Road from a

Rural to a Semi-Rural Area. A condition was imposed by the County such that development on this parcel must be served by a central sewerage treatment system.

The Myakka River forms the eastern boundary of the County's Curry Creek Service Area, which generally extends from the Laurel Road area on the north to the Center Road area on the south. Therefore, a significant portion of the Myakka River protection zone that lies on the west side of the river is contained within the Curry Creek Service Area. The planned sewer connections, along the west side of River Road, the eastern end of Laurel Road and along Border Road, that may be available to serve development within this portion of the protection zone are included in future phases of the Curry Creek master plan. These phases however, are not included in the County's current five-year capital improvements plan.

Objective P: To support efforts in co-locating linear facilities thereby minimizing impacts to the Myakka River.

Implementation Action: The County should recommend that new road and bridge crossings utilize existing routes and process an amendment to the Environment Chapter of Apoxsee to create a policy to utilize existing route crossings wherever possible. The County should continue to support the Myakka Conservancy's "Myakka River Basin Connectivity Project" which involves dialogue between stakeholders and Conservancy representatives, with support from other sources, to identify opportunities to co-locate linear facilities and consequently, minimize impacts to the River.

Background: County departments and other governmental agencies should co-locate facilities where possible, to reduce costs and minimize environmental impacts. The connectivity project has been completed and involved the development of planning strategies to avoid "parcelization" of lands within the Myakka River Basin due to infrastructure extensions and land uses. The three components of this project were: identify proposed linear facilities and major land use changes; expand contacts with major landowners and agencies within the Myakka River basin; and manage a dialogue between stakeholders that becomes, through Conservancy leadership and other sources of support in subsequent years, the vehicle to co-locate facilities and mitigate impacts.

APPENDIX

The following are permitted uses and structures that will be analysed by Planning staff for individual zoning districts or for an overlay zone as to whether they could be applied to the River Protection Area:

Public and private game preserves and wildlife management areas.

Publicly owned parks, campgrounds, passive recreation areas, and uses and structures appropriate for such activities.

Recreational trails and passive recreation areas on private lands.

Private camps (including day camps) for young people, such as boy or girl scout camp or church camp.

Private hunting and fishing camps.

Non-commercial and permitted piers, docks, and wharves in accordance with Sarasota County Ordinance No. 72-84 as amended.

One single family dwelling per lot or parcel. Such dwelling to be occupied by one family.

Home occupations. There shall not be evidence of business activity on the premises including the parking and storage of commercial vehicles (except where the primary household vehicle is used for commercial use), material storage, inordinate vehicular traffic, outside storage or advertising signs.

Agricultural uses, including accessory structures and uses incidental to agricultural activity, except otherwise addressed herein.

Artificial lakes and other excavations in accordance with Sarasota County Ordinance No. 81-60 as amended, involving up to 10,000 cubic yards of Type A fill.

Essential utility services.

Emergency services.

Commercial radio or television receiving dish, with or without a tower, provided that dish antennas are totally screened from view from the Myakka River area and shall not exceed 16 feet in height.

Temporary storage of recyclable materials.

Cemetery or mausoleum existing prior to the date of this amendment.

The following are permitted accessory uses and structures that will be analysed by Planning staff as to whether they could be applied to the River Protection Area:

Uses and structures which:

Are customarily accessory and clearly incidental and subordinate to permitted or permissible uses and structures.

Do not involve the conduct of business on the premises, except as accessory to a permitted use.

Are located on the same lot as the permitted or permissible principle use or structure, or on a contiguous lot in the same ownership.

Are located no closer than 150 feet landward of the Myakka River area, except that gazebos shall be considered for exemption.

Are not of a nature likely to attract visitors in larger numbers than would normally be expected in a protected river area.

Do not involve operations or structures not in keeping with the intent of the river protection zone.

Provide for accessory uses and structures including private garages, tool houses, barns, non-commercial greenhouses, garden sheds, garden work centers, childrens' play areas and play equipment, private barbecue pits, private swimming pools and the like.

Provide for the keeping of horses or ponies for private riding use, provided that no private stable or shelter for the animals is located within the river protection zone and selective clearing for pasture creation occurs no closer than 220 feet landward of the Myakka River area.

The following are prohibited uses and structures that will be analysed by Planning staff as to whether they could be applied to the River Protection Area.

Any use of structure not specifically or provisionally permitted herein. Listed permitted or permissible uses do not include either as a principal or accessory use any of the following which are listed for emphasis:

Landfill.

Recycle facility, associated equipment, stockpiles, containers, and incinerators.

Public incinerator.

Wastewater treatment plant and effluent percolation disposal ponds.

Land application of septage.

Underground and above ground petroleum product storage facility.

Facility for the bulk storage, handling or processing of regulated substances including hazardous substances, except for those substances contained in vehicles, existing and new permitted pipelines, original containers for retail purposes such as fertilizers and cleaning fluids, and any other regulated substances routinely used in residences, offices, business establishments, and utilities.

Jails, detention facilities or work camps.

Manufacturing and industrial establishments.

Wholesale, warehouse or storage establishment.

Junk yard or automobile wrecking yard.

Sale of new or second-hand merchandise of whatsoever type or kind, except as accessory to a permitted use.

Contractor, construction, or equipment yard.

The parking and storage of trucks, buses, vans, tractors and trailers in excess of 5,000 lbs. vehicle empty weight, as listed on the vehicle registration form that are not used exclusively for agricultural purposes on the premises.

The outside parking, storage, service and/or repair of any unregistered or unlicensed vehicles except those operable vehicles that are permitted as incidental to permitted principal uses allowed in the river protection zone and located no closer than 220 feet landward of the Myakka River area.

The operation of a business is prohibited unless specifically permitted.

Private and public schools or libraries.

Governmental building.

Circus grounds, winter quarters or training quarters.

Aircraft landing field, including heliport.

Lighter-than-air aircraft operations, including launching and landing of hot-air and free balloons.

Mining.

Borrow pits.

Other earthmoving including fills, stockpiles, and removals of soil from premises unless an earthmoving permit is issued pursuant to the findings contained under Section 3.G. of Ordinance No. 81-60, as amended.

Discing or removing ground vegetation except to extent necessary for protection of roots of plants, unless a determination is made by the Board of County Commissioners, after report by the Natural Resources Department, that removal will not adversely affect control and conservation of water and other natural resources.

Plant nursery involving sales of plants, garden supplies and equipment.

Commercial greenhouse.

Retail and wholesale sales of agriculturally related supplies and equipment.

Structure for keeping and raising of livestock, poultry, exotic animals, and farm animals, including stockyards and feeding pens, is prohibited unless specifically permitted:

Slaughterhouse for livestock and poultry.

Livestock auction.

Commercial packing house for fruits and vegetables including citrus concentrate plant.

Milk processing plant.

Row crops or citrus groves.

Cutting and milling of timber including processing of forestry by-products.

Sale, service, and rebuilding of industrial water pumps and motors used for agricultural purposes.

Riding academy or commercial boarding stable.

Animal hospital, veterinary clinic, animal boarding place, fur farm and dog kennels.

Wild animal sanctuary.

Housing, including mobile homes, for farm or ranch labor.

Migrant labor camps.

Residential migrant housing.

Mobile or recreational vehicle park/campground except for those existing prior to the effective date of this amendment.

Multi-family housing.

Child care center.

Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, adult congregate living facilities (ACLF's), extended care facilities, patient family transient accommodations, and homes for orphans and the aged.

Golf course, including executive par-three and miniature golf courses and associated country clubs.

Seaplane landing.

Golf driving range.

Off-site signs.

Transmission tower.

Any use that is potentially dangerous, noxious, or offensive by reason of smoke, odor, noise, glare, fumes, gas, vibration, emission of particulate matter, threat of fire (except for prescribed burning) or explosion, interference with radio and television reception, radiation, or likely for other reason to be incompatible with the character

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of the Myakka River protection zone.

The following are special exceptions that will be analysed by Planning staff as to whether they could be applied to the River Protection Area:

(Permissible after Public Notice and Hearings by the Planning Commission and the Board of County Commissioners, see Section 20, "Special Exceptions.")

Commercial hunting and fishing camps.

Fish hatcheries.

Commercial fisheries.

Monastery, convent, house of worship and the like.

New cemetery, columbarium, mausoleum or expansion of these facilities, subject to all applicable state regulations and provided that no grave, monument or structure shall be located closer than twenty-five (25) feet to property lines and closer than 150 feet landward of the Myakka River area.

Private club.

Commercial piers, docks, and wharves in accordance with Sarasota County Ordinance No. 72-84 as amended.

One guest house and/or servants quarters for each permitted single family dwelling (see Section 28.72 of the Zoning Ordinance).

Dude ranch, provided no building for the housing of animals is allowed within the river protection zone.

Family or child day care home.

Outdoor field archery range, provided no clearing occurs closer than 150 feet landward of the Myakka River area.

Buildings over thirty-five (35) feet in height. Special exception will consider the following: the relation to the existing tree canopy; the vistas from the River; and the compatibility of the building materials.

Definitions of terms as they apply to the Myakka River Protection Plan:

"BULK STORAGE" within the Myakka River area and protection zone shall include facilities for the underground and above ground storage of flammable liquids and hazardous substances or wastes with a maximum capacity exceeding 500 gallons.

"HAZARDOUS SUBSTANCE OR WASTE" is a regulated substance or contaminant that has one or more of the following characteristics due to quality, concentration, or physical and chemical properties; ignitability, corrosivity, reactivity, EP toxicity, or toxicity, infectious characteristics, radioactivity, mutagenicity, carcogenicity, teratogenicity, bioaccumulative effect, or persistence (non-degradability) in nature that may cause significant harm to the human health and the environment.

"LANDFILL" is the spreading, covering, or burying of Type A, B, C or D fill within a County operated landfill.

"MYAKKA RIVER (OR RIVER) AREA" means that corridor of land beneath and surrounding the Myakka River from river mile 7.5 to river mile 41.5, together with a corridor of land including the maximum upland extent of wetlands vegetation as determined by the Department of Environmental Protection pursuant to Chapter 403, Florida Statutes, and Chapters 62-3 and 62-312, Florida Administrative Code.

"MYAKKA RIVER (OR RIVER) PROTECTION ZONE OR AREA" means the same as the "wild and scenic protection zone".

"PRESCRIBED BURNING" means the controlled application of fire under a pre-determined set of environmental parameters in coordination with the Florida Division of Forestry, to simulate the natural role of fire or to accomplish specific land management objectives.

"RECYCLE FACILITY" means any facility which recycles solid waste.

"RECYCLING" means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, processed, and reused or returned to use in the form of raw materials or products.

"REGULATED SUBSTANCE" is the elements and compounds and hazardous waste appearing in Code 40 of Federal Regulations, Chapter 1, table 302.4, and as may be amended and updated from time to time, and identified on a list maintained by the County Utilities Department pursuant to the Wellfield Protection Ordinance No 92-079.

"SEPTAGE" is all solid waste containing human feces or residuals of such which is generated by any industrial or domestic wastewater treatment plant, water supply treatment

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plant, air pollution control facility, septic tank, grease trap, portable toilet or related operation, or any other such waste having similar characteristics.

"TYPE A FILL" means earthen material essentially free of roots and other vegetative debris.

"TYPE B FILL" consists of concrete, rocks, broken asphalt, and other similar type inorganic and non-metallic materials.

"TYPE C FILL" consists of land-clearing debris.

"TYPE D FILL" consists of all other refuse not defined as Type A, B, or C fill, including but not limited to construction and/or demolition debris and garbage.

"WILD AND SCENIC PROTECTION ZONE" means an upland buffer that extends 220 feet on each side of the Myakka River wild and scenic designated river area (from river mile 7.5 to river mile 41.5) measured from the landward edge of the river area.

STATE OF FLORIDA
COUNTY OF SARASOTA
I HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE ORIGINAL FILES
IN THIS OFFICE WITNESS MY HAND AND OFFICIAL
STAMP THIS DATE 12/15/98
KAREN L. RUSHING, CLERK OF THE CIRCUIT COURT
COUNTY CLERK TO THE BOARD OF COUNTY
COMMISSIONERS, SARASOTA COUNTY, FLORIDA
By Nada Harris
DEPUTY CLERK

NOV-98