

FILED FOR RECORD  
R. B. SHORE

ORDINANCE NO. 09-31

2009 AUG 20 PM 3:13

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

**AN ORDINANCE OF MANATEE COUNTY, FLORIDA, REGARDING COMPREHENSIVE PLANNING, AMENDING THE MANATEE COUNTY COMPREHENSIVE PLAN; PROVIDING A PURPOSE AND INTENT; PROVIDING FINDINGS; PROVIDING FOR AN AMENDMENT TO THE FUTURE LAND USE MAP OF THE MANATEE COUNTY COMPREHENSIVE PLAN FROM IL INDUSTRIAL-LIGHT TO P/SP(1) PUBLIC/SEMI PUBLIC(1) FUTURE LAND USE CLASSIFICATION; MAINTAINING ALL OVERLAYS AS APPLICABLE; PROVIDING FOR A DECLARED USE AS AN ELECTRICITY GENERATING FACILITY USING BIOMASS FUELS AND MAINTAINING THE OPTION FOR LIGHT INDUSTRIAL USES AS PROVIDED FOR IN THE FORMER IL INDUSTRIAL-LIGHT FUTURE LAND USE CATEGORY FOR THESE LANDS LOCATED WEST OF US 41 NORTH AT 11551 AND 11805 US 41 NORTH; CONSISTING OF 44.35± ACRES; AND PROVIDING FOR AN ASSOCIATED TEXT AMENDMENT TO THE GENERAL INTRODUCTION – SPECIAL PLAN INTERPRETATION PROVISIONS OF THE MANATEE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 125, Florida Statutes empowers the Board of County Commissioners of the County of Manatee to prepare and enforce comprehensive plans for the development of the county; and

**WHEREAS**, Sections 163.3161 through 163.3215, Florida Statutes, titled the Local Government Comprehensive Planning and Land Development Regulation Act, (the "Act") empowers and requires the County (a) to plan for the county's future development and growth, (b) to adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the county, (c) to implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations, and (d) to establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of said Act; and

**WHEREAS**, Manatee County Ordinance No. 89-01, as amended, was adopted pursuant to general law for the purpose of providing a framework for land use and development in the unincorporated area of Manatee County, and established the Manatee County Comprehensive Plan; and

**WHEREAS**, Application PA-09-08 initiated by the Applicant is a request for a map amendment to the Future Land Use Map Series of the Future Land Use Element and a text amendment to Section D – Special Plan Interpretation Provisions of the General Introduction Chapter of the Manatee County Comprehensive Plan, consistent with Chapter 163, Part II, Florida Statutes; and

**WHEREAS**, Application PA-09-08 includes the acreage generally described on the map attached hereto as Exhibit A and more specifically, legally described under the two parcel identification numbers in Exhibit A and comprises all acreage owned by the Applicant within the two subject parcel identification numbers, such acreage being subject to exact survey and may increase or decrease accordingly; and

**WHEREAS**, at a duly noticed public hearing, the Manatee County Planning Commission, as the County's Local Planning Agency, as established by Ordinance 90-01, considered Application PA-09-08 to amend the Comprehensive Plan, in order to more adequately address Manatee County's future development and growth; and

**WHEREAS**, the minimum statutory and plan administration requirements for public participation for the adoption of this Ordinance and the amendment of the County's Comprehensive Plan provided herein, have been met or exceeded; and

**WHEREAS**, on April 16, 2009, the Manatee County Planning Commission, after due public notice, held a public hearing to consider the amendment, and forwarded its recommendation to the Board of County Commissioners as required by law; and

**WHEREAS**, after due public notice, the Board of County Commissioners of Manatee County received and considered the recommendation of the Manatee County Planning Commission, and held a public hearing on April 21, 2009, to consider the transmittal of the proposed amendment to the Florida Department of Community Affairs as the State Land Planning Agency in accordance with Sec. 163.3184, F.S.; and

**WHEREAS**, the State Land Planning Agency by letter dated June 29, 2009, transmitted their Objections, Recommendations, and Comments Report on the amendment to the Comprehensive Plan; and

**WHEREAS**, said amendment to the Comprehensive Plan was revised as appropriate in view of the report of the State Land Planning Agency; and

**WHEREAS**, pursuant to Section 163.3184, Florida Statutes, on August 11, 2009, the Board of County Commissioners of Manatee County, Florida held another public hearing, with due public notice having been provided, to consider adoption of said the proposed amendment to the Comprehensive Plan; and

**WHEREAS**, the Board of County Commissioners further considered all oral and written comments received during the public hearings, including appropriate changes to the technical support document as needed, the recommendations of the Planning Commission, and objections, recommendations, and comments of the State Land Planning Agency; and

**WHEREAS**, the Board of County Commissioners has determined that the amendments to the Comprehensive Plan set forth herein are necessary to implement the requirements of Section 163, Part II, Florida Statutes; and

**WHEREAS**, the intent and purpose of the P/SP(1) Future Land Use Classification is to recognize major facilities, which may have adverse aesthetic or welfare impacts on adjacent property; and

**WHEREAS**, an applicant requesting the P/SP(1) Future Land Use Classification is required to declare a specific use for the subject property and the Applicant has stated a declared use of an electricity generating facility using biomass fuels and solar energy, as described in the Application; and

**WHEREAS**, the Applicant has submitted with its Application information and analysis on the compatibility of the proposed uses with surrounding development; and

**WHEREAS**, prior to any development occurring upon the subject property, under the P/SP(1) Future Land Use Classification, a rezoning to Planned Development with an accompanying preliminary site plan will be required to be submitted to the Board of County Commissioners with stipulations to address potential compatibility issues; and

**WHEREAS**, in exercise of this authority, the Board of County Commissioners of Manatee County has determined it necessary and desirable to adopt this Ordinance to effect the amendment of the Comprehensive Plan to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present deficiencies and deal effectively with future problems that may result from the use and development of land within Manatee County; and

**WHEREAS**, the Technical Support Document for the Manatee County Comprehensive Plan includes background material and justification for the amendment to the Comprehensive Plan; and

**WHEREAS**, all applicable requirements of general law and local law have been followed, and the proceedings have been conducted pursuant to the Act, and the Plan Format and Administration Section of the Manatee County Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Manatee County that:

**Section 1. Purpose and Intent:** This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in Sections 163.3161 through 163.3215, Florida Statutes, and Chapter 125, Florida Statutes, as amended.

**Section 2. Findings:** The recitals set forth in the whereas clauses above are true and correct and are hereby adopted as findings by the Board for the adoption of this Ordinance. Based upon the findings made relative to the proposed map amendment to the Future Land Use Element and the text amendment to the General Introduction Chapter of the Comprehensive Plan, it has been determined that the existing Future Land Use Map designation and General Introduction text sought to be amended are no longer in the best interest of the public and should be amended as described in D.5.4 of Section 3 below.

**Section 3. Text Amendment:** The Manatee County Comprehensive Plan, Ordinance 89-01, is hereby amended to adopt the revision to the General Introduction Chapter:

Section D – Special Plan Interpretation Provisions – to add a new Subsection to D.5 Specific Property-Development conditions applicable to the property described in Exhibit A attached hereto and made a part hereof by reference. The text amendment

as set forth below has additions indicated by underlining and deletions by ~~strikeout~~.

#### D.5.2 Specific Property – Development Conditions

##### D.5.1 Ordinance 08-06 (PA-08-06)

\* \* \*

##### D.5.2 Ordinance 08-07 (PA-08-05)

\* \* \*

##### D.5.3 Ordinance 09-06 (PA-09-04)

\* \* \*

##### D.5.4 Ordinance 09-31 (PA-09-08)

The property located on the west side of US 41 at 11551 and 11805 US 41 North and designated as P/SP(1) Public/Semi Public(1) on the Future Land Use Map, pursuant to Manatee County Ordinance No.09-31 and Comprehensive Plan Amendment No. PA-09-08, shall be limited to an electricity generating facility using only biomass fuels, and solar energy retaining the light industrial uses as provided for in the former IL Industrial-Light Future Land Use Category applicable to this site. The electric power generating facility shall not be fired by coal or petroleum based products. This property, if developed as an electric power generating facility using biomass fuels and solar energy, shall be subject to the following:

1. Storm water Management. All necessary storm water management facilities shall be designed and constructed in compliance with all State, Water Management District, and County laws, codes, and standards and requirements.
2. Hydrology. The hydrology of downstream surface waters shall be maintained by matching predevelopment discharge flows.
3. Flooding. All new development within the limits of the one hundred year floodplain and all areas seaward of the five foot mean sea level topographic contour shall meet the requirements and standards of the Comprehensive Plan and Land Development Code. Special consideration and design shall be given to flood proofing required for hurricane storm water surges that may impact this site.
4. Wetlands. Wetlands shall be preserved and protected to enhance their functions of water quality improvement, water as a renewable resource, recreational value, and beneficial use to man, birds, and animals. Performance of this stipulation shall be in compliance with all applicable State and County laws, codes, standards and requirements.
5. Habitat and wildlife protection. An appropriate amount of land and water shall be set aside to protect habitat and provide habitat for both plant and animal species. Such land or water may include wetlands and required buffers and storm water management facilities. Performance of this stipulation shall in accordance with all applicable State and County laws, codes, standards and requirements.

6. Air Quality. All necessary air quality controls for dust, wind-blown debris, and odors shall be designed, constructed, and operated in compliance with all State and County laws, codes, and standards and requirements.
7. Buffers, landscaping, and Screening. Adequate buffers, landscaping, and screening shall be required to protect and enhance the community environmental, economic, and aesthetic quality.
8. Solid Waste. Temporary on-site storage, including separate storage of all hazardous wastes in suitable containers, shall be provided and arrangements shall be made for licensed haulers to transport all wastes generated to appropriate process or disposal sites.
9. Adverse impact performance. The electric power generating facility shall be conducted in a manner that complies fully with all applicable State and County laws, codes, standards and requirements.
10. Notwithstanding, the specificity of the foregoing, the above specific property development conditions shall be considered as minimal requirements and there may be additional stipulations approved applicable to this property as part of the rezoning to Planned Development Zone District and approval of the general development plan, preliminary site plan and final site plan, as applicable.

**Section 4. Map Amendment:** The Manatee County Comprehensive Plan, Ordinance No. 89-01, is hereby amended to change the Future Land Use Classification of the property described in Exhibit "A" hereto which is incorporated herein by reference, from the IL Industrial-Light Future Land Use Classification to the P/SP(1) Public/Semi Public(1) Future Land Use Classification maintaining all overlays as applicable, with a declared use as a electricity-generating facility using biomass fuels and solar energy and retaining light industrial uses as provided for in the former IL Industrial-Light Future Land Use Category applicable to this site. Such change shall be incorporated into the Future Land Use Map established and adopted as part of the County's Comprehensive Plan.

**Section 4. Severability:** If any part, section, subsection, or other portion of this Ordinance, or any application thereof to any person or circumstance is declared to be void, unconstitutional, or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be deemed severable, and the remaining provisions of this Ordinance, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

**Section 5. Effective Date:** This Ordinance shall take effect immediately upon the State Land Planning Agency, as defined in Section 163.3164, Florida Statutes, issuing a final order finding the Ordinance in compliance with Section 163.3184(9), Florida Statutes, or upon the Administration Commission issuing a final order finding the Ordinance to be in compliance if a petition challenging the finding of compliance by the Department of Community Affairs is filed with the Division of Administrative Hearing in accordance with Section 163.3184(10), Florida Statutes, whichever occurs first.

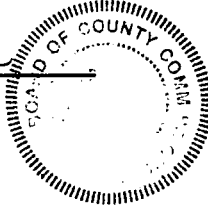
**PASSED AND DULY ADOPTED,** in open session, with a quorum present and voting this 11th day of August, 2009.

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

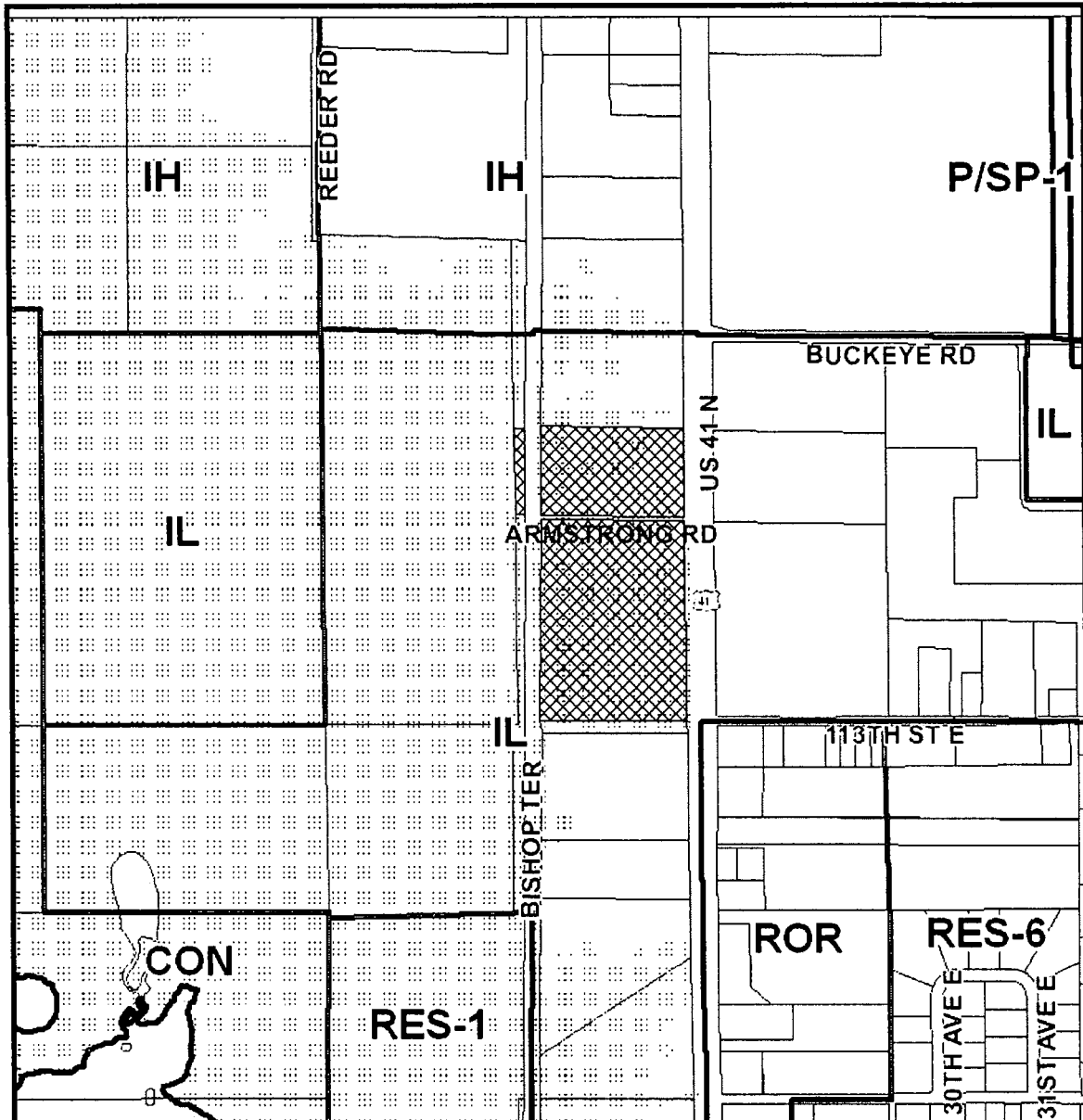
By: *Dr. Gwendolyn Y. Brown*  
Dr. Gwendolyn Y. Brown, Chairman

**ATTEST: R. B. SHORE**  
**Clerk of the Circuit Court**

By: *Susan L. Brown*  
Deputy Clerk



# Exhibit A



Parcel ID #(s) 600700059, 602400059

Project Name: FB ENERGY MANATEE FACILITY  
 Project #: PA-09-08 / ORD-09-31  
 DTS#: 20090092  
 Proposed Use: SOLAR BIOMASS POWER PLANT

S/T/R: Sec 7 Twn 33 Rng 18  
 Acreage: 44.35  
 Existing Zoning: A-1, PD-EZ  
 Existing FLU: IL  
 Overlays: NONE  
 Special Areas: NONE

CHH: Y  
 Watershed: NONE  
 Drainage Basin: TPA\_TERRA DIRECT  
 Commissioner: Larry Bustle

Manatee County  
 Future Land Use  
 Map Prepared 7/22/2009  
 1 inch = 950 feet

## Overlays:

CHHA

**EXHIBIT A**  
**Legal Descriptions**

**Parcel # 600700059**

Lot 18 John Piplack's Subdivision, as per plat thereof recorded in Plat Book 2, Page 87A, revised in Plat Book 2, Page 145, Less R/W for Tampa Southern RR R/W less lands in O.R. Book 1765, Page 6190, of the Public Records of Manatee County, Florida.

**Parcel # 602400059**

The SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 7, Township 33S, Range 18E, Less R/W for Tampa Southern RR R/W and less lands in O.R. Book 1765, Page 6190, of the Public Records of Manatee County, Florida.





STATE OF FLORIDA, COUNTY OF MANATEE  
This is to certify that the foregoing is a true and  
correct copy of the documents on file in my office.

Witness my hand and official seal this 13 day of  
August, 2007

R.B. SHORE  
Clerk of Circuit Court.

By: Robert J. Shore D.C.

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CLERK OF CIRCUIT COURT  
MANATEE CO. FLORIDA



## FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

**KURT S. BROWNING**  
Secretary of State

August 18, 2009

Honorable R. B. "Chips" Shore  
Clerk of Circuit Court  
Manatee County  
Post Office Box 25400  
Bradenton, Florida 34206

Attention: Ms. Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 12, 2009 and certified copies of Manatee County Ordinance Nos. PDMU-09-09 (Z) (G), 09-06 and 09-31, which were filed in this office on August 17, 2009.

As requested, one date stamped copy is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/srd  
Enclosure

### DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
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