

FILED FOR RECORD  
R. B. SHORE

2010 JUN 23 PM 4:00  
**MANATEE COUNTY ZONING ORDINANCE**  
**2010-06-28(Z)(P) – CHAMAX, LLC/SWEETWATER PRESERVE**

CLERK OF THE CIRCUIT COURT  
MANATEE COUNTY, FLORIDA

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS**  
**MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT**  
**AMENDING THE OFFICIAL ZONING ATLAS OF MANATEE COUNTY;**  
**ORDINANCE 90-01 (THE MANATEE COUNTY LAND DEVELOPMENT CODE)**  
**RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING**  
**FOR THE REZONING OF APPROXIMATELY 824.15 ACRES NORTH OF**  
**BUCKEYE ROAD, WEST OF INTERSTATE 75, AND EXTENDING NORTH TO**  
**THE HILLSBOROUGH COUNTY LINE FROM THE A (GENERAL**  
**AGRICULTURE) ZONING DISTRICT TO THE PDMU (PLANNED**  
**DEVELOPMENT MIXED USE) ZONING DISTRICT; APPROVING A**  
**PRELIMINARY SITE PLAN FOR 1,719 RESIDENTIAL UNITS CONSISTING OF:**  
**833 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES, 678 LOTS FOR**  
**SINGLE-FAMILY ATTACHED RESIDENCES, 208 MULTI-FAMILY UNITS,**  
**150,000 SQUARE FEET OF COMMERCIAL SPACE, AND A 208-ACRE PUBLIC**  
**PARK; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL;**  
**SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION;**  
**PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.**

FILED  
2010 JUN 18 AM 10:19  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

**WHEREAS**, Chamax, LLC (the "Applicant") has filed a rezone application to rezone approximately 824.15 acres described in Exhibit "A", attached hereto, (the "Property") from A (General Agriculture) zoning district to the PDMU (Planned Development Mixed Use) zoning district; and

**WHEREAS**, the Applicant has also filed a Preliminary Site Plan application for 1,719 residential units consisting of: 833 lots for single-family detached residences, 678 lots for single-family attached residences, 208 multi-family units, 150,000 square feet of commercial space, and a 208-acre public park (the "Project") to be located upon the Property; and

**WHEREAS**, the Applicant has also filed four requests for Special Approval for: 1) a mixed-use project in the UF-3 Future Land Use Category; 2) exceeding 1 d.u. per acre in the UF-3 Future Land Use Category; 3) in an entranceway; and 4) exceeding 30,000 square feet of non-residential uses; and

**WHEREAS**, the Applicant has also filed a request for Specific Approval for an alternative to Land Development Code Section 710.1.5; and

**WHEREAS**, the Planning Staff has recommended approval of the rezone, Preliminary Site Plan, Special Approval, and Specific Approval applications, subject to the stipulations contained in the Planning Staff report; and

**WHEREAS**, the Manatee County Planning Commission, after due public notice, held public hearings on March 8, 2007 and May 13, 2010 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific Approval applications, received the Planning Staff's recommendations and considered the criteria for approval in the Manatee County Comprehensive Plan and the Land Development Code; and

**WHEREAS**, the Manatee County Planning Commission, as the County's Local Planning Agency, found the rezone, Preliminary Site Plan, Special Approval, and Specific Approval applications consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Manatee County Land Development Code and recommended approval of the applications, subject to the stipulations contained in the Planning Staff report.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:**

**Section 1. FINDINGS OF FACT.** The recitals set forth above are true and correct and are hereby adopted as findings by the Board of County Commissioners.

The Board of County Commissioners of said County, after considering the testimony, evidence, documentation, application for amendment of the Official Zoning Atlas, the recommendation and findings of the Planning Commission, as well as all other matters presented to the Board at the public hearing hereinafter referenced, hereby makes the following findings of fact:

A. The Board of County Commissioners has received and considered the report of the Manatee County Planning Commission concerning the application for Official Zoning Atlas Amendment as it relates to the real property described in Exhibit "A" of this Ordinance from the A (General Agriculture) zoning district to the PDMU (Planned Development Mixed Use) zoning district.

B. The Board of County Commissioners held duly noticed public hearings on April 5, 2007, May 24, 2007, June 12, 2007, July 24, 2007, September 6, 2007, September 27, 2007, November 1, 2007, December 6, 2007, January 3, 2008, March 30, 2010, April 27, 2010, and June 3, 2010 regarding said proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance 90-01, the Manatee County Land Development Code, and has further considered the information received at said public hearing.

C. The proposed amendment to the Official Zoning Atlas regarding the property described in Exhibit "A" herein is found to be consistent with the requirements of Manatee County Ordinance 89-01, the 2020 Manatee County Comprehensive Plan.

D. Notwithstanding the failure of the Preliminary Site Plan to meet the requirements of Section 710.1.5 of the LDC, the Board hereby finds in accordance with Section 603.3.2 of the LDC that the public purposes of these regulations are satisfied to an equivalent or greater degree by the Preliminary Site Plan as proposed by the applicant because the parking areas are kept away from the entrances and high traffic areas of the neighborhoods in order to provide a safer traffic situation.

**Section 2. PRELIMINARY SITE PLAN.** The Preliminary Site Plan is hereby APPROVED for 1,719 residential units consisting of: 833 lots for single-family detached residences, 678 lots for single-family attached residences, 208 multi-family units, 150,000 square feet of commercial space, and 208-acre Public Park upon the Property subject to the Stipulations set out below:

## **STIPULATIONS**

### **1. Commercial**

- A. A Preliminary Site Plan for the 15.5 acre commercial site shall be submitted to the Board of County Commissioners for approval unless developed pursuant to a Gateway Overlay Master Plan approved by the Manatee County Board of County Commissioners. The Board's review shall be to determine appropriate uses, compatibility, design quality, and relationship to adjacent properties.

### **2. Residential**

- A. Front yard setback for all single-family residences shall be 25' to the garage portion of the structure. The remaining habitable portion of the structure may be set back 20'. The front yard setback for structures with side loaded garages shall be 20'.
- B. A 5-foot wide paved pedestrian way shall be constructed from the multi-use trail in Tract 2 (north side of Lot 57) to the adjacent Newport Isles project connecting to the proposed pedestrian system in that project.
- C. The maximum number of units in the project shall be 1,719. If the alternative for the main project access to Buckeye Road is provided through Newport Isles, then the maximum number of units shall be 1,681.

### **3. Environmental**

- A. An updated study shall be provided, consistent with Policy 3.3.2.3 of the Comprehensive Plan, for threatened and endangered plant and animal species prior to Final Site Plan approval. A Management Plan or permit, approved by the appropriate State or federal agency, shall be provided to the Planning Department for any listed species found on-site, prior to Final Site Plan approval.
- B. Prior to each Final Plat approval, a Conservation Easement for the areas defined as post-development jurisdictional wetlands; wetland buffers, and upland preservation areas lying within the bounds of each Final Plat shall be dedicated to the County, with the exception of upland preservation area NE-1.
- C. Upland preservation area NE-1 shall remain in an undisturbed state with the exception of nuisance exotic removal and limited clearing for passive recreation uses. Impacts to upland preservation area NE-1 may be required in order to construct Piney Point Road and future I-75 interchange.

### **4. Stormwater and Drainage**

- A. Any fill within the 100-year floodplain of Curiosity Creek shall be compensated by the creation of an equal or greater storage volume above seasonal high water

table. 100-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation), unless stormwater modeling is performed and approved otherwise.

- B. Drainage easements shall be dedicated to Manatee County and be shown on Final Site Plans and Final Plats along all drainage conveyance ditches, creeks, and natural sloughs within the project boundaries. In addition, a Drainage-Maintenance Access Easement shall be provided along at least one side of all drainage conveyance ditches, creeks, and natural sloughs. Drainage-Maintenance Access Easements shall be on clear and level ground, free of obstructions including landscaping. Manatee County is only responsible for maintaining the free flow of drainage through these systems. Homeowner's documents shall include a statement that Manatee County has no obligation regarding drainage conveyance ditches, creeks, and natural sloughs to maintain, change, improve, clean, repair natural erosion, restore the natural changes in the course of the stream bed, or correct any other condition not caused by the County.
- C. Routing and modeling of the existing conditions shall be provided with the Drainage Model and Construction Plan for all natural drainage systems within and surrounding this project taking into consideration all wetland storage and ground depressions.
- D. The applicant shall provide an easement to Manatee County to allow stormwater from the roadway expansion of Buckeye Road to the south and Piney Point Road (referred to as the Port Connector Road on the Preliminary Site Plan) to the north to drain into the stormwater retention ponds located on the site plan along the property fronting each of these respective roads (provided same does not result in additional land devoted to stormwater ponds) and to allow the County the ability to create an additional treatment and attenuation capacity of each stormwater pond at the expense of Manatee County to receive additional stormwater from the paved rights of way. The form of the stormwater easement shall be submitted to the County Attorney for approval as to the form prior to recording in the Public Records and prior to Final Site Plan approval.

## **5. Transportation**

- A. Manatee County has required the applicant and other developers with projects in the vicinity to (1) design, finance, donate; and build infrastructure, public facilities, and services, (2) share or jointly use infrastructure, facilities, and services, and (3) coordinate development plans for interconnectivity between development projects in order to benefit the public interest, and plan and implement a county-coordinated land-planning effort for the area of the County in which this project is located. The applicant shall file an application for a Development Agreement (LDA) in order to obtain an extended CLOS for the project and detail the responsibilities of the applicant in regard to the funding and construction of public infrastructure.

By adoption of this zoning ordinance by the Board of County Commissioners, the applicant does not receive any entitlement to any extended CLOS beyond the term that is allowed by Sec. 510, Land Development Code without an LDA. The Board of County Commissioners reserves complete discretion to approve, approve with modifications, or deny approval of any future LDA.

Until such LDA is approved, staff is only authorized to issue a Certificate of Level of Service for 150 dwelling units, this amount having been determined as not having any traffic impacts that require mitigation. Staff is further authorized to maintain the application for a CLOS in its current place in line for a period of one year from the date of approval of this ordinance. This LDA shall be presented to the Board of County Commissioners for action within one year.

This LDA shall include provisions for the monitoring of transportation impacts and a mechanism for adjusting the timing and priority of the transportation improvements required in the LDA to maintain Adopted Level of Service standards.

- B. Prior to Final Plat approval for the 1,000<sup>th</sup> lot or unit, the applicant shall provide access to the project, in addition to the boulevard access to Buckeye Road, either through the Newport Isles project or to Piney Point Road. In order to achieve the Newport Isles alternative means of access, the applicant shall submit to Manatee County an agreement between the property owner of the Newport Isles project and the owner of the Sweetwater Preserves project prior to the first Final Site Plan approval containing commitments for a perpetual non-exclusive easement for public right-of-way purposes in accordance with specifications approved by the Public Works Department. This agreement shall be approved as to form by the County Attorneys office and recorded by the applicant in the public records of Manatee County. It shall be binding upon the successors of subsequent property owners of both Newport Isles project and the Sweetwater Preserves project.
- C. A five-foot wide sidewalk shall be provided along the Buckeye Road frontage with the first Final Plat approval. This sidewalk shall terminate at the shoulder pavement for the bridge. Final design shall be addressed with the Construction Plans.
- D. The applicant shall dedicate to Manatee County a 30-foot wide Greenway Trail in conjunction with the development of connecting trails in adjacent parcels. The Greenway Trail shall be within the 50' greenbelt buffer along the south side of Piney Point Road, as shown on the Preliminary Site Plan. Applicant shall be entitled to recreational impact fee credits, as allowed by Manatee County Code for all acreage dedicated or conveyed to Manatee County for the Greenway Trail. In addition, applicant shall be entitled to impact fee credits for all construction costs associated with construction of this trail. If the project does not develop as intended, Manatee County has the option of requesting dedication or conveyance of a 30 foot strip to use as a Greenway Trail. The owner shall be entitled to

impact fee credits for any requested conveyance or dedication. Manatee County may eliminate all or part of the Greenway Trail among this project and adjacent parcels in consideration of changes in land development, port-related activities, and a possible port-connector road. To the extent the Trail is eliminated within this Project, no dedication would be required, and no impact fee credits would be granted therefor. Alternatively, Manatee County and the developer may modify the plans for the Greenway Trail within this Project. Prior to preparation of construction plans for the trail, the applicant shall obtain an approval from the County to proceed with eligibility for impact fee credits.

- E. Prior to the first Final Plat (or Final Site Plan if platting is not required) approval, right-of-way for Buckeye Road (to achieve a half right-of-way of 75 feet) shall be dedicated to the county. The right-of-way for Piney Point Road (including the interchange) shall be shown on all future Final Site Plans adjacent to Piney Point Road. Developer is on notice that this roadway may not be constructed and if constructed that access to this roadway from Sweetwater Preserve Blvd. may not be allowed. This right-of-way shall be dedicated to the County or the State of Florida, as applicable, within 90-days of the County delivering notice to the Developer that the Port Connector Road has been fully funded. Developer is not required to dedicate this right-of-way for no consideration. If it is acquired by the County or State, the right-of-way for Piney Point Road shall be paid for in conformance with the laws of Florida and the Land Development Code, as applicable. The obligation to show the right-of-way on future submittals shall terminate if the County or State has not received funding for the roadway on or before April 1, 2018. The Developer is under no obligation to fund or construct Piney Point Road and associated stormwater and wetland mitigation areas. Nothing shall prohibit the acquisition of right-of-way by a public agency
- F. Prior to the first Final Site Plan or Construction Drawing approval for the area north of the 2<sup>nd</sup> traffic circle from Buckeye Road for the Sweetwater project, the proposed alignment of the north/south road with Piney Point Road shall be submitted to the Public Works Department for approval. If the intersection is determined by the County to be substantially modified from the location shown on the approved Preliminary Site Plan, an amended Preliminary Site Plan for that portion of the Sweetwater project north of the traffic circle shall be submitted for administrative approval. The site modification due to this realignment shall take tree preservation and design quality into consideration.

## **6. General Conditions**

- A. The Notice to Buyers or Tenants shall be included in the Declaration of Covenants and Restrictions, and in a separate addendum to the sales contract, and in the Final Site Plan shall include language informing prospective homeowners of the following:
  - 1. Future commercial development at the northeast corner.

2. The future Piney Point Road will be an arterial roadway with significant truck traffic along the north boundary of the project, as shown on the approved Preliminary Site Plan.
3. The public community park in the eastern portion of the site.
4. The inter-neighborhood pedestrian tie to Newport Isles, as shown on the approved Preliminary Site Plan.
5. The inter-neighborhood roadway to Newport Isles, as shown on the approved Preliminary Site Plan.
6. The future interchange of Piney Point Road and I-75.
7. The potential for light industrial development of the project.

**Section 3. AMENDMENT OF THE OFFICIAL ZONING ATLAS.** The Official Zoning Atlas of Manatee County, Ordinance 90-01, the Manatee County Land Development Code, is hereby amended by changing the zoning district classification of the Property described in Exhibit "A" incorporated herein by reference, from the A (General Agriculture) zoning district to the PDMU (Planned Development Mixed Use) zoning district and the Clerk of the Circuit Court, as Clerk to the Board of County Commissioners, as well as the Planning Department, are hereby instructed to cause such amendment to the said Official Zoning Atlas.

**Section 4. SPECIAL AND SPECIFIC APPROVALS.** Specific Approval is hereby granted for an alternative to Section 710.1.5 of the Land Development Code. The Specific Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof. Special Approval is hereby granted for a project: 1) a mixed-use project in the UF-3 Future Land Use Category; 2) exceeding 1 d.u. per acre in the UF-3 Future Land Use Category; 3) in an Entranceway, and 4) exceeding 30,000 Square Feet of non-residential uses. The Special Approval shall continue in effect and shall expire concurrent with the Preliminary Site Plan for the project approved pursuant to Section 2 hereof.

**Section 5. SEVERABILITY.** If any section, sentence, clause or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, clause, sentence, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

**Section 6. CODIFICATION.** Pursuant to §125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

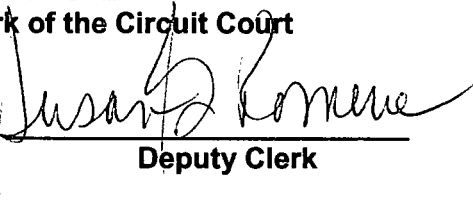
**Section 7. EFFECTIVE DATE.** This ordinance shall take effect immediately upon filing with the Office of the Secretary of State, Florida Department of State.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 3<sup>rd</sup> day of June, 2010.

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

BY:   
**Carol Whitmore, First Vice-Chairman**

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

BY:   
**Deputy Clerk**





**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**PARCEL C:**

BEGINNING at the Southwest corner of Section 2, Township 33 South, Range 18 East, thence run N.01°00'25"E., along the West line of said Section 2, a distance of 5523.53 feet; thence S.89°59'27"E., along the North line of said Section 2, a distance of 4939.94 feet to the Northeast corner of said Section 2; thence S.89°59'17"E., along the North line of Section 1, Township 33 South, Range 18 East, a distance of 3778.92 feet to the Northwesterly limited access right-of-way line of I-75 (State Road 93) FDOT Section 13075-2406; thence Southwesterly along said limited access right-of-way line the following three courses: S.60°35'19"W., a distance of 1186.64 feet to the beginning of a curve to the left whose radius point lies S.29°23'24"E., a distance of 7813.44 feet; thence Southwesterly along the arc of said curve to the left a distance of 3191.33 feet through a central angle of 23°24'07" to the end of said curve; thence S.37°12'19"W., a distance of 3602.66 feet; thence N.89°44'53"W. along the Southerly line of said Section 2, a distance of 3215.44 feet to the POINT OF BEGINNING.

Lying and being in Section 1 and 2, Township 33 South, Range 18 East, Manatee County, Florida.

AND

**PARCEL D:**

The North ½ of Section 11, Township 33 South, Range 18 East, Manatee County, Florida lying Northwesterly of Interstate 75 as described in Order of Taking recorded in O.R. Book 867, Page 368.

LESS right-of-way for Buckeye Road as recorded in Road Plat Book 5, Pages 1 through 82.



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 10th day of  
June .2010  
R.B. SHORA  
Clerk of Circuit Court  
By Agacoredo D.C.

FILED FOR RECORD  
R. B. SHORE

2010 JUN 23 PM 1:23

CLERK OF CIRCUIT COURT  
MANATEE COUNTY, FLORIDA  
**CHARLIE CRIST**  
Governor



## FLORIDA DEPARTMENT of STATE

STATE LIBRARY AND ARCHIVES OF FLORIDA

**DAWN K. ROBERTS**  
Interim Secretary of State

June 18, 2010

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 letters dated June 16, 2010 and certified copies of Manatee County Ordinance Nos. PDR-05-60 (Z) (P), PDMU-97-05 (P) (R4), PDMU-06-28(Z) (P) and Z-10-02, which were filed in this office on June 18, 2010.

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  
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dils.dos.state.fl.us>

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