

FILED FOR RECORD
P.D. SHORE

2010 MAR 31 PM 2: 50

MANATEE COUNTY ZONING ORDINANCE

CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

**PDPI-09-13(Z)(P) – PATRON HOLDINGS/FB ENERGY – SOLAR BIOMASS INTEGRATED
POWER PLANT (DTS #20090275)**

FILED
2010 MAR 23 PM 3: 24
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF 47.92 ± ACRES, AT 11551 AND 11805 US 41 NORTH, FROM PDEZ (PLANNED DEVELOPMENT ENCOURAGEMENT ZONE) TO THE PDPI (PLANNED DEVELOPMENT PUBLIC INTEREST) ZONING DISTRICT; RETAINING THE PDEZ ZONING DISTRICT ON PROPERTY LOCATED WEST OF THE RAILROAD TRACK (1.40± ACRES); APPROVING A PRELIMINARY SITE PLAN ON 49.32 ± ACRES FOR THE DECLARED USE OF AN ELECTRICITY GENERATING FACILITY USING BIOMASS FUELS (HEAVY UTILITY USE), WITH ACCESSORY BUILDINGS TOTALING 28,400 SQUARE FEET; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL CONSISTENT WITH ORDINANCE NO. 09-31 (I.E. PLAN AMENDMENT NO. PA-09-08); SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Patron Holdings, LLC (the "Applicant") filed an application to rezone approximately 47.92 acres described in Exhibit "A", attached hereto, (the "property") from PDEZ (Planned Development Encouragement Zone) to the PDPI (Planned Development Public Interest), zoning district; retaining the PDEZ zoning district on property located west of the railroad track (1.40 ± acres); and

WHEREAS, the applicant also filed a request for a Preliminary Site Plan on 49.32 ± acres for the Declared Use of an Electricity Generating Facility using biomass fuels and solar energy, with accessory buildings totaling 28,400 square feet (the "project") on the property; and

WHEREAS, The property is currently zoned PD-EZ Planned Development Encouragement Zone with an approved General Development Plan for Area C by Ordinance No. PDEZ-08-21(Z)(G)(R) and the intensity of use for the PD-EZ Zone is to have those uses that are the most intensive to be generally located on lands closest to Port Manatee. (Sec. 603.21.6.5 LDC); and,

WHEREAS, the property is the subject of a Comprehensive Plan Amendment PA-09-08, as adopted by Ordinance No. 09-31 to change the Future Land Use Classification from IL Industrial –Light to P/SP(1) Public/Semi Public (1) FLUC and retaining the option for light industrial uses as provided for in the IL Industrial – Light FLUC ; and,

WHEREAS, Comprehensive Plan Amendment PA-09-08, as adopted by Ordinance No. 09-31, has not become effective, such that the effective date of this rezone ordinance is made contingent upon said comprehensive plan amendment becoming effective; and,

WHEREAS, the applicant also filed a request for Special Approval for a project in the Coastal High Hazard Overlay District and in the Coastal Planning Area; and

WHEREAS, the applicant also filed a request for Specific Approval for alternatives to Sections 715.3.1(g), 722.1.2.1, and 722.1.4.3; and

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

WHEREAS, the Manatee County Planning Commission, after due public notice, held a public hearing on February 11, 2010 to consider the rezone, Preliminary Site Plan, Special Approval, and Specific Approval applications, received the staff recommendation 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 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 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, 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 from PDEZ (Planned Development Encouragement Zone) to the PDPI (Planned Development Public Interest), zoning district; retaining the PDEZ zoning district on property located west of the railroad track (1.40 ± acres).

B. The Board of County Commissioners held duly noticed public hearings on February 23, 2010 and March 16, 2010, regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements of Manatee County Ordinance No. 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 No. 89-01, the 2020 Manatee County Comprehensive Plan, subject to Comprehensive Plan Amendment PA-09-08, as adopted by Ordinance No. 09-31 becoming effective.

D. For the purposes of granting Special Approval, the Board finds that the project, as detailed on the Preliminary Site Plan and as conditioned herein, will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities in accordance with Sec. 605, LDC.

E. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 715.3.1, the Board finds the public purpose and intent of the LDC regulation is satisfied to an equivalent degree because the drive aisle will be screened from US 41 with a 110' wide berm.

F. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 722.1.2.1, the Board finds that if the applicant files an application to vacate the existing portion of Armstrong Road within the Project boundaries and relocates Armstrong Road as proposed in Stipulation B. 1, the dedication and construction of a replacement right-of-way along the southern boundary of the rezoned property would serve a public purpose to at least an equivalent degree as the existing Armstrong Road . ,

G. Notwithstanding the failure of this plan to comply with the requirements of LDC Section 722.1.4.3, the Board finds that not providing the sidewalk meets the intent of the regulation because the design is consistent with the existing industrial character of the surrounding area.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved depicting an electricity generating facility using biomass fuels and solar energy , with accessory buildings totaling 28,400 sq. ft, on the property identified in Exhibit "A:" subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. The facility shall not be fired by coal or petroleum based products.
2. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section 850-245-6333 or 800-847-7278, as well the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources.

In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.

3. A Hurricane / Hazmat Plan shall be prepared by the applicant and approved by the County and Fire District prior to Final Site Plan approval.

B. TRANSPORTATION CONDITIONS:

1. The Developer shall, prior to issuance of first CO or commencement of use, either;
 - Dedicate sufficient right-of-way to increase the existing Armstrong right-of-way to a minimum width of fifty feet (50') and improve this road to County standards, as generally depicted on Sheet CPA-001 of the Preliminary Site Plan.

OR

- Applicant may file an application to vacate existing Armstrong Road. The applicant may vacate the existing Armstrong Road right-of-way and dedicate a replacement right-of-way along the south boundary of the property. The width of the replacement right-of-way shall not exceed eighty-four feet (84'). The developer shall construct a twenty-four foot (24') wide stabilized shell road within said right-of-way. The developer shall be responsible for obtaining authorization from CSX for a public rail crossing and a permit from FDOT for access to U. S. 41 from the relocated right-of-way.

C. INFRASTRUCTURE CONDITIONS:

1. A permit for the water distribution system is required from the Health Department prior to start of construction.

D. STORMWATER CONDITIONS:

1. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan along Chapman Drain within the project boundaries from the south property line to the northern top of bank. Manatee County is only responsible for maintaining the free flow of drainage through these systems.
2. The developer shall provide a drainage easement to Manatee County to accept stormwater for the construction of the realignment of Armstrong Road. The developer shall design and construct the stormwater capacity for the construction

of the realignment of Armstrong Road and such design and construction shall be included in the SWFWMD permit documentation. Treatment and attenuation is permitted within roadside swales.

E. BUFFERS:

1. The roadway buffer along US 41 shall be in substantial compliance to that shown on the Preliminary Site Plan. The Planning Director may approve minor modifications to the buffer, if deemed appropriate at time of Final Site Plan review.

F. ENVIRONMENTAL CONDITIONS:

1. Approved copies of all required state and federal permits shall be provided to the County prior to Final Site Plan approval.
2. Any hazardous waste will be contained within buildings, structures, tanks or other containment areas that are specifically designed in accordance with the Florida Building Code to control the migration of containment materials and will be handled in accordance with all applicable LDC regulations pertaining to flood zones.

G. Other:

1. Fire Department approval shall be required prior to Final Site Plan approval.

Section 3. AMENDMENT OF THE OFFICIAL ZONING ATLAS. The Official Zoning Atlas of Manatee County (Ordinance No. 90-01, the Manatee County Land Development Code) is hereby amended by changing the zoning classification of the property identified in Exhibit "A" herein from PDEZ (Planned Development Encouragement Zone) to the PDPI (Planned Development Public Interest), zoning district; retaining the PDEZ zoning district on property located west of the railroad track (1.40 ± acres) 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 Official Zoning Atlas....

Section 4. SPECIAL AND SPECIFIC APPROVALS. Specific Approval is hereby granted for alternatives to Sections 715.3.1(g), 722.1.2.1, and 722.1.4.3 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 here by granted for a project in the Coastal High Hazard Area Overlay District and in the Coastal Planning Area. 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.

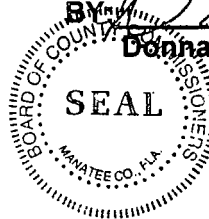
Section 6. CODIFICATION. Pursuant to § 125.68(1), Florida Statutes, this ordinance is not required to be codified. Therefore, the Clerk shall not transmit the ordinance for codification.

Section 7. EFFECTIVE DATE. This ordinance shall not become effective until such time as the companion Comprehensive Plan Amendment PA-09-08, as adopted by Ordinance no. 09-31, becomes effective.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 16th day of March, 2010.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY: 
Donna G. Hayes, Chairman



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

BY: 
Deputy Clerk

Exhibit "A"

Legal Description

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 ¼ of the SW ¼ 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 18th day of

March, 2010

R.B. SHORE
Clerk of Circuit Court

By: Maggie Hamilton D.C.

FILED FOR RECORD
R. B. SHORE

2010 MAR 31 PM 2: 50



CLERK OF THE CIRCUIT COURT
MANATEE CO. FLORIDA

CHARLIE CRIST
Governor

FLORIDA DEPARTMENT of STATE

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

March 25, 2010

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

Attention: Ms. Maggie Hamilton, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letters dated March 18, 2010 and certified copy of Manatee County Ordinance No. PDPI-09-13(Z) (P), which was filed in this office on March 23, 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
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COMMUNITY DEVELOPMENT
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STATE ARCHIVES OF FLORIDA
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LEGISLATIVE LIBRARY SERVICE
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RECORDS MANAGEMENT SERVICES
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ADMINISTRATIVE CODE AND WEEKLY
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