

**MANATEE COUNTY ZONING ORDINANCE
PDR-15-01(Z)(P) – SOHO MENDOZA, LLC/WILLOW HAMMOCK
DTS# 20150012 MEPS #387**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE NO. 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE) RELATING TO ZONING WITHIN THE UNINCORPORATED AREA, PROVIDING FOR THE REZONING OF APPROXIMATELY 147.93 ACRES FROM A-1 (SUBURBAN AGRICULTURE-ONE DWELLING UNIT PER ACRE) TO THE PDR (PLANNED DEVELOPMENT RESIDENTIAL) ZONING DISTRICT; APPROVING A PRELIMINARY SITE PLAN FOR 299 LOTS FOR SINGLE-FAMILY DETACHED RESIDENCES ON THE WEST SIDE OF I-75 AND NORTH SIDE OF MENDOZA ROAD, AT 5000 37TH STREET EAST, ELLENTON; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING A LEGAL DESCRIPTION, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, SOHO Mendoza, LLC (the “Applicant”) filed an application to rezone approximately 147.93 acres described in Exhibit “A”, attached hereto, (the “property”) from A-1 (Suburban Agriculture – one dwelling units per acre) to the PDR (Planned Development Residential) zoning district; and

WHEREAS, the applicant also filed a Preliminary Site Plan for 299 lots for single-family detached residences (the “project”) on the property; and

WHEREAS, the applicant also filed a request for Special Approval for a project: 1) exceeding a gross density of two dwelling units per acre in RES-3 Future Land Use Category (FLUC); 2) a project in a designated Entranceway; and 3) adjacent to a perennial stream; and

WHEREAS, Building and Development Services staff recommended approval of the rezone, Preliminary Site Plan and Special 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 May 14, 2015 to consider the rezone, Preliminary Site Plan and Special 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 A-1 (Suburban Agriculture – one dwelling units per acre) to the PDR (Planned Development Residential) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on June 4, 2015 regarding the proposed Official Zoning Atlas Amendment described herein in accordance with the requirements 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 the Manatee County Comprehensive Plan.

D. For the purposes of granting Special Approval, the Board found 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.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 299 lots for single-family detached residences upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS:

1. All other applicable state permits shall be obtained before commencement of the development.
2. The Notice to Buyers 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 to inform prospective homeowners of:
 - a) The presence of neighboring agricultural uses, which may possibly include pesticides and herbicides and may have odors and noises associated with such uses.
 - b) The presence of traffic noises from I-75.
 - c) There is a 170’ wide Florida Power and Light Easement (FPL) which traverses the central part of the site from east to west.
 - d) There is a railroad tract further north of the FPL easement.

3. All walls and fences within the buffers shall be measured from the finished grade of the adjacent road or lot (exclusive of any swales), whichever is greater. This requirement shall be verified with a cross-section detail on the Final Site Plan.
4. Prior to Final Site Plan approval, a noise analysis shall be done based on the potential ten-lane configuration of I-75 and anticipated traffic in 2025.

Manatee County noise level criteria for residential properties

MANATEE COUNTY NOISE STIPULATION
<p>No residential dwelling units shall be allowed in areas where the exterior noise level is; Ldn > 65 dBA: Leq design hour > 65 dBA: or L10 design Hour > 68 dBA</p> <p>Unless protected by some performance equivalent measure to achieve; Ldn # 65 dBA, Leq design hour # 65 dBA, or L10 design hour # 68 dBA</p>
NOISE REDUCTION REQUIRED*
<p>Sound attenuating barriers shall be provided between the residential units and the noise source.</p> <p>Living areas shall be located and designed in a manner which orients the living areas and outdoor activity areas away from the noise source. Living areas include bedrooms, lanais, and florida rooms.</p> <p>Buildings shall be positioned to maximize the distance between the residential units and the noise source.</p>

*For more detailed information see “The Noise Guidebook – A Reference document for implementing the Department of Housing and Urban Development’s Noise Policy”, prepared by the Environmental Planning Division, Office of Environmental and Energy.

B. ENVIRONMENTAL CONDITIONS:

1. Use of the existing vegetation within the 100’ roadway buffer abutting I-75 shall be reviewed and approved with the Final Site Plan. Vegetation proposed for preservation shall be adequately protected and shall not consist of Nuisance Exotic Vegetation. The buffer shall contain vegetation, either by preservation or planting, meeting the minimum requirements of LDC Section 715 and 737.
2. A Conservation Easement for the areas defined as post-development jurisdictional wetlands/wetland buffers and upland preservation areas shall be dedicated to the County prior to or concurrent with Final Plat approval.

3. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.
4. A Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with Section 519 of the LDC.
5. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the County for review and approval prior to Final Site Plan approval. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing).
 - GPS coordinates (latitude/longitude) of the well.
 - The methodology used to secure the well during construction (e.g. fence, tape).
 - The final disposition of the well - used, capped, or plugged.
6. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.

C. STORMWATER CONDITIONS:

1. All fill within the 100 Year Floodplain shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. The 100 year compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation), except as provided below. The applicant must demonstrate either:
 - The available storage volume above the 25 Year Design High Water Level of any proposed compensation requirement

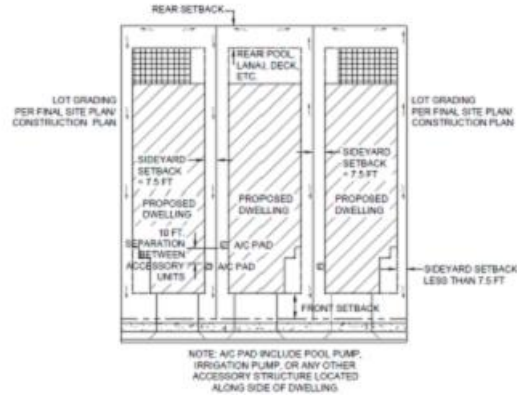
-or-

 - Provide a stormwater routing model that utilizes reverse flow from Government Hammock into the on-site lakes during a 100 year, 24 hour storm event the volume of stormwater that backfeeds into the on-site lakes will be credited as floodplain compensation volume.

-or-

 - Provide a stormwater routing model which utilizes a watershed study to demonstrate, in post-development condition, that no adverse impacts are created within the watershed with respect to flood stages, volume, or flow rates associated with the 100-year storm event.
2. A Drainage Easement shall be dedicated to Manatee County and be shown on the Final Site Plan and Final Plat along Government Hammock Drain and associated lateral drainage systems within the project boundaries. In addition, a 20 ft. wide Drainage-Maintenance Access Easement shall be provided from the top of bank of Government Hammock and associated lateral drainage systems. Manatee County is only responsible for maintaining the free flow of drainage through these systems.

3. Ten (10) feet separation shall be provided between accessory structures (i.e. Heat Pumps, A/C Handlers, pool pumps, etc.) along the side yards of properties with a side yard setback of less than 7.5 feet.



D. UTILITIES CONDITIONS:

1. Connection to the County wastewater system is required pursuant to the Manatee County Comprehensive Plan. The cost of connection, including the design, permitting and construction of off-site extensions of lines, shall be the responsibility of the Applicant. Such off-site extension shall be designed and constructed in accordance with the County’s Wastewater System Master Plan. The connection shall be designed, engineered and permitted by the Applicant consistent with Manatee County Public Works Standards and approved by County Engineer through the construction plans review process for the project.

Section 3. SPECIAL APPROVAL. Special Approval is hereby granted for a project: 1) exceeding a gross density of two dwelling units per acre in RES-3 Future Land Use Category (FLUC); 2) a project in a designated Entranceway; and 3) adjacent to a perennial stream. 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.

B. Section 4. 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 A-1 (Suburban Agriculture – one dwelling units per acre) to the PDR (Planned Development Residential) zoning district, and the Clerk of the Circuit Court, as Clerk to the Board of County Commissioners, as well as the Building and Development Services Department, are hereby instructed to cause such amendment to the Official Zoning Atlas.

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. STATE AND FEDERAL PERMITTING. The issuance of the local development permit by the County shall not create any liability on the part of the County in the event the applicant fails to obtain the required state or federal agency approvals or permits or fails to fulfill the obligations imposed by any state or federal agency or undertakes actions that result in a violation of state or federal law.

Section 8. 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 4th day of June, 2015.

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

BY: _____
Betsy Benac, Chairman

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

BY: _____
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL

A:

Beginning at the SW corner of the NW ¼ of Section 4, Township 34 South, Range 18 East; thence N00°27'24"W a distance of 1329.77 feet to the SW corner of the NW ¼ of the NW ¼ of said Section 4; thence continuing N00°27'24"W along the West line of said NW ¼ of NW ¼, a distance of 110.49 feet to the Southerly Right-of-Way line of the Seaboard Coastline Railroad; thence N63°25'30"E, along said Right-of-Way line, a distance of 1239.47 feet to the Westerly Right-of-Way line of State Road #93 (1-75); thence Southerly along said Westerly Right-of-Way line the following seven courses: S13°57'17"E, a distance of 520.12 feet; thence S10°08'59"E, a distance of 926.93 feet to the P.,C. of a non-tangential curve to the right whose radius point lies S85°37'49"W, a distance of 5555.58 feet; thence Southerly along the arc of said curve, a distance of 488.23 feet through a central angle of 05°02'07"; thence S00°41'03"W, a distance of 1302.39 feet; thence N89°41'21"W, a distance of 526.21 feet; thence S85°02'05"W a distance of 652.76 feet; thence S00°18'31"W, a distance of 20.19 feet to the Northerly maintained Right-of-Way line of Mendoza Road; thence N89°43'23"W, along said maintained Right-of-Way line, a distance of 199.51 feet to the West line of said Section 4; thence N00°26'28"W, a distance of 1285.51 feet to the Point of Beginning. Lying and being in Section 4, Township 34 South, Range 18 East, Manatee County, Florida.

PARCEL

B:

Beginning at the SW corner of Section 33, Township 33 South, Range 18 East; Thence N02°39'13"E, a distance of 2541.40 feet to the NW corner of the SW ¼ of said Section 33; thence N 89°18'11"E, along the North line of the SW ¼ of said Section 33, a Distance of 234.26 feet to the Westerly Right-of-Way line of State Road 93 (1-75) also being the intersection with a curve to the left whose radius point lies N79°55'13"E, a distance of 5903.58 feet; thence Southerly along the arc of a curve to the left also being said Right-of-Way line, a distance of 399.26 feet through a central angle of 03°52'30"; thence S13°57'17"E, along said Right-of-Way line, a distance of 1275.92 feet; thence S13°11'26"E, along said Right-of-Way line, a distance of 941.95 feet; thence S13°11'26"E, along said Right-of-Way line, a distance of 257.90 feet; thence S13°57'17"E, along said Right-of-Way line, a distance of 370.60 feet to the intersection with the Northerly Right-of-Way line of the Seaboard Coastline Railroad; thence S63°25'30"W, along said Northerly Right-of-Way line, a distance of 1226.15 feet to the West line of Section 4, Township 34 South, Range 18 East; thence N00°27'24"W, along said West line, a distance of 1163.59 feet to the Point of Beginning lying and being in Section 33, Township 33 South, Range 18 East and Section 4, Township 34 South, Range 18 East, Manatee County, Florida.