

**MANATEE COUNTY ZONING ORDINANCE
PDMU-11-08(Z)(G) – TREES DIRECT, LLC DTS#20110165**

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 APPROXIMATELY 85.54 ACRES ON THE NORTH SIDE OF MENDOZA ROAD AND EAST SIDE OF I-75 AT 5500 37TH STREET EAST, ELLENTON, FROM A-1 (SUBURBAN AGRICULTURE-ONE DWELLING UNIT PER ACRE) TO THE PDMU (PLANNED DEVELOPMENT MIXED USE) ZONING DISTRICT; APPROVING A GENERAL DEVELOPMENT PLAN FOR TWO DEVELOPMENT SCENARIOS (TRADITIONAL AND MIXED USE DEVELOPMENT) WITH A TRADE-OFF MATRIX THAT INCLUDES A MAXIMUM OF: 500 MULTI-FAMILY UNITS WHICH, MAY INCLUDE A 120-BED RESIDENTIAL CARE FACILITY (EQUALS 20 UNITS), AND COMMERCIAL/OFFICE USE(S) OF UP TO 150,000 SQUARE FEET; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING A LEGAL DESCRIPTION, AND PROVIDING AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2012 DEC 17 PM 3:04

FILED

WHEREAS, Trees Direct, LLC (the "Applicant") filed an application to rezone approximately 85.54 acres described in Exhibit "A", attached hereto, (the "property") from A-1 (Suburban Agriculture-one dwelling unit per acre) to the PDMU (Planned Development Mixed Use) Zoning District; and

WHEREAS, the applicant also filed a General Development Plan application for two development scenarios (traditional and mixed use development) with a trade-off matrix that includes a maximum of: 500 multi-family units which, may include a 120-bed residential care facility (equals 20 units), and commercial/office use(s) of up to 150,000 square feet (the "project") on the property; and

WHEREAS, the applicant also filed a request for Special Approval for: 1) a project exceeding a gross density of 4.5 dwelling units per acre in the RES-6 Future Land Use Category (FLUC); 2) a project exceeding a net residential density of six (6) dwelling units per acre in the RES-6 FLUC; 3) a mixed use project in the RES-6 FLUC; 4) a non residential project exceeding 30,000 square feet of gross building area in the RES-6 FLUC; 5) a project in an Entranceway; and 6) a project adjacent to a perennial stream; and

WHEREAS, Planning staff recommended approval of the rezone, General Development Plan, and Special Approval, 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 November 8, 2012 to consider the rezone, General Development 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 unit per acre) to the PDMU (Planned Development Mixed Use) zoning district.

B. The Board of County Commissioners held a duly noticed public hearing on December 6, 2012, 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 Manatee County Comprehensive Plan.

D. For the purposes of granting Special Approval, the Board finds that the project, as detailed on the General Development Plan and as conditioned herein, will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

Section 2. GENERAL DEVELOPMENT PLAN. The General Development Plan is hereby approved for two development scenarios (traditional and mixed use development) with a trade-off matrix that includes a maximum of: 500 multi-family units which, may include a 120-bed residential care facility (equals 20 units), and commercial/office use(s) of up to 150,000 square feet upon the property subject to the following Stipulations:

STIPULATIONS

A. DESIGN AND LAND USE CONDITIONS

1. An overall layout of the residential portion of the project if planned as the “traditional development” option or the entire project, if planned as the “mixed use” option, shall be submitted with the future Preliminary and Final Site Plan submittals for administrative review and approval.
2. All roof mounted H.V.A.C. mechanical equipment shall be screened with a solid parapet wall or other noise deflecting materials, which shall be consistent with the construction materials of the main building, so as not to be visible from adjacent roads or residences. Roof mounted equipment shall be placed in the front half of the building, away from the residential development. This shall be approved with the Final Site Plan.
3. All dumpsters shall be screened with building materials matching the principal buildings on site.
4. Tractor trailer or semi-trucks involved in deliveries to the rear of the buildings (or side if it faces residential development shall be restricted to the hours between 7:00 a.m. and 10:00 p.m. During the period of time between 10:00 p.m. and 7:00 a.m., there shall be no delivery, loading or unloading of tractor trailers or semi-trucks; use of forklifts or other loading or unloading devices; and running of truck or trailer motors, or other refrigeration devices installed thereon.
5. If the multi-family use converts to single-family detached residences administratively, then minimum lot sizes shall be 40'x100', 50'x120 and 70'x120'. Setbacks shall be as follows:

Front: 25'*/20'

Side: 6' (50' wide lots) & 7.5' (70' wide lots)

Rear: 15'

*Corner lots shall provide a 25-foot setback from the garage to the property line adjacent to a street and a 20-foot setback from the structure (non-garage) to the property line adjacent to the other street.

6. A 40-foot wide buffer shall be shown on the Preliminary and Final Site Plans and installed between the residential and commercial components. The buffer shall contain an eight-foot high decorative wall/fence, or a five-foot high berm with a minimum three-foot high decorative wall/fence on top of the berm. The wall/fence, or berm and wall/fence, shall be constructed generally in the center of the buffers. Landscaping shall be planted on the interior and exterior sides of the wall/fence, or berm and wall/fence in accordance with planting standards in LDC Section 715 (2 canopy trees and 33 shrubs per 100 linear feet).

7. For either traditional or mixed-use option, a 15-foot wide landscape buffer, containing one row of canopy trees (2-1/2" caliper, 10 ft. tall, 4 ft. spread and placed 35 ft. on center), shall be installed along the north property line. Lots shall not be platted through this buffer.
8. Prior to Preliminary/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*
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 Unless protected by some performance equivalent measure to achieve; Ldn # 65 dBA, Leq design hour # 65 dBA, or L10 design Hour # 68 dBA
NOISE REDUCTION REQUIRED*
Sound attenuating barriers shall be provided between the residential units and the noise source. 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. Buildings shall be positioned to maximize the distance between the residential units and the noise source.

* 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 Environment and Energy.

A minimum 100-foot wide landscaped roadway buffer shall be shown on the Preliminary and Final Site Plans and provided along I-75 adjacent to single-family detached residential lots. The buffer width for multi-family units along I-75 will be based on the findings of the noise study and planned noise mitigation techniques.

The 100-foot wide single-family detached residential buffer shall contain a noise mitigating feature such as a decorative wall, fence, or berm, or combination. The

type of screening needed is to be determined based on the results and recommendations of the noise study at Final Site Plan stage. A fence or wall shall be constructed generally in the center of the buffer. Enhanced landscaping shall be planted on the exterior side of the wall along I-75, adjacent to residential structures.

All walls and fences within the I-75 buffer 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.

B. ENVIRONMENTAL PLANNING

1. 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 or issuance of the first Certificate of Occupancy.
2. No lots shall be platted through post-development wetlands, wetland buffers or upland preservation areas.
3. The project shall be designed so that no temporary wetland buffer impacts, other than those allowed by Section 719.11.1.2 of the LDC, are required in areas that contain native desirable vegetation. This shall be reviewed and approved by the Environmental Planning Division with Preliminary or Final Site Plan.
4. All proposed mulch nature trails, board walks and shade structures located in wetland buffers and areas where native vegetation is to remain shall be designed in a manner that minimizes impacts to trees or areas of significant vegetation and in accordance with Section 719 of the LDC, if applicable.
5. The Preliminary/Final Site Plan shall identify wildlife connections between preservation areas severed by roadway construction. Oversized culverts, rumble strips or wildlife crossing signage may be required for wildlife connections and shall be approved with the Preliminary/Final Site Plan.
6. Existing native vegetation located within any required landscape buffer shall be preserved to the greatest extent possible. There shall be no overhead or underground power lines, swales, or stormwater facilities within any proposed landscape buffer containing desirable native vegetation with the exception of limited crossings.
7. Tree barricades for trees to be preserved shall be located at the drip line, unless approved by the Environmental Division of the Building and Development Services Department. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the drip line shall remain undisturbed. The following activities are prohibited within the drip line of preserved trees: machinery and vehicle travel or parking; underground utilities; filling or excavation; storage of construction materials. The tree protection barricades shall consist of chain link fence (new or used) with a minimum 5' height, unless otherwise approved by the Environmental Division of the Building and Development Services Department.

8. 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.
9. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the Environmental Planning Division 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.

C. TRANSPORTATION

1. A boulevard roadway which will meet current county roadway design standards shall be provided from 60th Avenue East, through the project, to the portion of the project that will contain the 101st residential unit. The intent is for the boulevard roadway to provide two (2) means of access for a project containing more than 100 residential units. This boulevard roadway shall be approved by the Public Works Department, Traffic Management Service Center, with the Preliminary/Final Site Plan.
2. Prior to Final Plat or Preliminary/Final Site Plan approval (where no plat is required) for the 101st residential lot/unit, a 20-foot wide stabilized based emergency access shall be constructed from the subject project, across 60th Avenue East towards the east, and connect with either Broad River Run or New Paris Way. This access shall be gated on the subject parcel. The emergency access shall be approved by the Building & Development Services Department with the Preliminary/Final Site Plan.

D. STORMWATER

1. The developer shall provide a drainage easement to Manatee County to accept stormwater for that portion of the 60th Avenue East Extension to build-out condition located within the project boundaries. The developer shall design and construct the stormwater capacity for that portion of the future four-lane divided roadway within the project area and such design and construction shall be included in the SWFWMD permit documentation. Impact fee credits shall be available to the property owner for any such construction of additional stormwater capacity attributable to the future four-lane divided highway, with the final amount to be determined in accordance with the requirements of Chapter 8 of the LDC.

Section 3. SPECIAL APPROVAL. Special Approval is hereby granted for: 1) a project exceeding a gross density of 4.5 dwelling units in the RES-6 Future Land Use Category (FLUC); 2) a project exceeding a net residential density of six (6) dwelling units per acre in RES-6 FLUC; 3) a mixed use project in the RES-6 FLUC; 4) a non residential project exceeding 30,000 square feet of gross building area in the RES-6 FLUC; 5) a project in an Entranceway; and 6) a project

adjacent to a perennial stream. 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 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 unit per acre) 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 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 6th day of December, 2012.

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

BY: 
John R. Chappie, Chairman

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



BY: 
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

MANATEE COUNTY PARCEL ID# 745010509:

BEG AT THE NE COR OF THE NW1/4 OF SEC 4, TWN 34 S, RNG 18E; TH S 00 DEG 25 MIN 40 SEC E A DIST OF 1944.00 FT; TH 2 89 DEG 34 MIN 20 SEC W A DIST OF 214.48 FT; TH N 00 DEG 25 MIN 40 SEC W A DIST OF 1312.38 FT; TH S 89 DEG 34 MIN 20 SEC W, A DIST OF 840.17 FT; TH N 10 DEG 15 MIN 18 SEC W A DIST OF 221.53 FT; TH N 63 DEG 25 MIN 30 SEC E A DIST OF 944.61 FT TO A PT ON THE N LN OF SD SEC 4; TH S 89 DEG 44 MIN 42 SEC E ALONG SD N LN, A DIST OF 244.60 FT TO THE POB, CONT 18.22 AC M/L, ALSO TOGETHER WITH: BEG AT THE NE COR OF THE NW1/4 OF SEC 4, TWN 34S, RNG 18E; TH S 00 DEG 25 MIN 40 SEC E A DIST OF 1944.00 FT FOR THE POB; TH S 00 DEG 25 MIN 40 SEC E A DIST OF 1056.00 FT; TH S 89 DEG 34 MIN 20 SEC W A DIST OF 120.00 FT; TH N 00 DEG 25 MIN 40 SEC E A DIST OF 1045.00 FT; TH S 89 DEG 34 MIN 20 SEC W A DIST OF 120.00 FT; TH N 00 DEG 25 MIN 40 SEC W A DIST OF 1056.00 FT; TH N 89 DEG 34 MIN 20 SEC E A DIST OF 120.00 FT TO THE POB, CONT 2.9 AC M/L (1779/1826), LESS THAT PART OF OR 1990/5556 DESC AS FOLLOWS: A TRACT OF LAND LYING IN SEC 4, TWN 34S, RNG 18E; TH S 00 DEG 25 MIN 47 SEC E, ALG W LN OF SD NE1/4, A DIST OF 2651.59 FT TO NE COR OF LOT 5, EICHENBERGER HEIRS ESTATES, A SUB PER PLAT REC IN PB 2, PG 71; TH CONT S 00 DEG 24 MIN 47 SEC E, ALG E LN OF SD LOT 5, A DIST OF 333.56 FT; TH N 89 DEG 50 MIN 55 SEC W, A DIST OF 120.0 FT; TH N 00 DEG 25 MIN 47 SEC W, A DIST OF 1896.38 FT; TH S 89 DEG 41 MIN 23 SEC E, A DIST OF 60.0 FT; TH N 00 DEG 25 MIN 47 SEC W, A DIST OF 1089.06 FT TO INTERSECTION WITH N LN OF NW1/4 OF SD SEC 4; TH S 89 DEG 43 MIN 38 SEC E, ALG SD N LN A DIST OF 60.0 FT TO POB. PI#7450.1050/9

MANATEE COUNTY PARCEL ID# 745010059:

BEG AT THE NE COR OF NW1/4 OF SEC 4; TH S 00 DEG 25 MIN 40 SEC E, A DIST OF 2651.32 FT TO THE SE COR OF OF NW1/4 OF SD SEC 4; TH S 00 DEG 25 MIN 40 SEC E, A DIST OF 660.51 FT ALG THE W LN OF SE1/4 OF SD SEC 4; TH S 89 DEG 54 MIN 55 SEC E, A DIST OF 392.76 FT; TH CONT S 89 DEG 54 MIN 55 SEC E, A DIST OF 25.00 FT TO C/L OF GOVT HAMMOCK CANAL; TH FOLLOWING THE SINUOSITIES OF SD CANAL THE FOLLOWING FOUR COURSES: S 58 DEG 45 MIN 51 SEC E, A DIST OF 26.01 FT; TH S 39 DEG 19 MIN 15 SEC E, A DIST OF 284.17 FT; TH S 29 DEG 01 MIN 55 SEC E, A DIST OF 305.04 FT; TH S 38 DEG 15 MIN 49 SEC E, A DIST OF 183.48 FT TO THE NLY R/W LN OF MENDOZA RD; TH N 89 DEG 33 MIN 51 SEC W, A DIST OF 646.01 FT TO INTERSECT WITH THE WLY R/W LN OF I-75; TH NLY, WLY & NLY ALG SD R/W LN, THE FOLLOWING SIX COURSES: N 00 DEG 18 MIN 31 SEC E, A DIST OF 23.04 FT; TH N 84 DEG 59 MIN 02 SEC W, A DIST OF 852.88 FT; TH N 89 DEG 41 MIN 29 SEC W, A DIST OF 325.25 FT; TH N 00 DEG 39 MIN 49 SEC E, A DIST OF 1976.88 FT TO THE P.C. OF A CURVE TO THE LEFT WHOSE RADIUS PT LIES S 87 DEG 06 MIN 22 SEC W, A DIST OF 7784.44 FT; TH NLY ALG THE ARC OF SD CURVE, A DIST OF 1002.34 FT THRU A C/A OF 07 DEG 22 MIN 39 SEC; TH N 10 DEG 16 MIN 18 SEC W, A DIST OF 466.28 FT TO THE SLY R/W LN OF SCL RR; TH N 63 DEG 25 MIN 30 SEC E, ALG SD R/W LN, A DIST OF 944.61 FT THE NLY LN OF SD SEC 4; TH S 89 DEG 44 MIN 42 SEC E, ALG SD N LN, A DIST OF 244.60 FT TO THE POB, CONT 91.11 AC M/L, LESS AND EXCEPT: BEG AT THE NE COR OF THE NW1/4 OF SEC 4, TWN 34S, RNG 18 E; TH S 00 DEG 25 MIN 40 SEC E A DIST OF 1944.00 FT; TH S 89 DEG

34 MIN 20 SEC W A DIST OF 214.48 FT; TH N 00 DEG 25 MIN 40 SEC W A DIST OF 1312.38 FT; TH S 89 DEG 34 MIN 20 SEC W, A DIST OF 840.17 FT; TH N 10 DEG 15 MIN 18 SEC W A DIST OF 221.53 FT; TH N 63 DEG 25 MIN 30 SEC E A DIST OF 944.61 FT TO A PT ON THE N LN OF SD SEC 4; TH S 89 DEG 44 MIN 42 SEC E ALONG SD N LN, A DIST OF 244.60 FT TO THE POB, CONT 18.22 AC M/L, AND LESS AND EXCEPT: BEG AT THE NE COR OF THE NW1/4 OF SEC 4, TWN 34S, RNG 18E, TH S 00 DEG 25 MIN 40 SEC E A DIST OF 1944.00 FT FOR THE POB; TH S 00 DEG 25 MIN 40 SEC E A DIST OF 1056.00 FT; TH S 89 DEG 34 MIN 20 SEC W A DIST OF 120.00 FT; TH N 00 DEG 25 MIN 40 SEC W A DIST OF 1056.00 FT; TH N 89 DEG 34 MIN 20 SEC E A DIST OF 120.00 FT TO THE POB, CONT 2.9 AC M/L (1779/1829) PI#7450.1005/9



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 14th day of December, 2012
R.B. SHORE
Clerk of Circuit Court
By: [Signature] D.C.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 17, 2012

RECEIVED

JAN 02 2012

BOARD RECORDS

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

Attention: 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 December 14, 2012 and certified copies of Manatee County Ordinance Nos. PDMU-06-30(G)(R), PDMU-11-08(Z)(G), PDMU-11-12(G), AND 12-28, which were filed in this office on December 17, 2012.

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

Sincerely,

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

Liz Cloud
Program Administrator

LC/elr

Enclosure