

MANATEE COUNTY ZONING ORDINANCE  
PDR-04-14(P) – AEGIS REALTY INC. / RIVA TRACE

2006 AUG 21 PM 2: 36

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF  
MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT,  
APPROVING A PRELIMINARY SITE PLAN FOR 86 LOTS FOR SINGLE-  
FAMILY RESIDENCES ON APPROXIMATELY 41.2 ACRES; GENERALLY  
LOCATED WEST OF I-75, EAST OF THE FUTURE ROAD AND BRIDGE  
CONNECTION BETWEEN HONORE AVENUE AND TARA BOULEVARD, AND  
SOUTH OF THE BRADEN RIVER, BRADENTON; SUBJECT TO  
STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH  
FINDINGS; GRANTING SPECIAL APPROVAL FOR A PROJECT: (1)  
ADJACENT TO A PERENNIAL STREAM; 2) PARTIALLY WITHIN THE  
COASTAL HIGH HAZARD OVERLAY; 3) PARTIALLY WITHIN THE 25-YEAR  
FLOODPLAIN; 4) WITHIN THE WATERSHED PROTECTION – EVERS  
OVERLAY DISTRICT; 5) WITHIN THE SPECIAL TREATMENT OVERLAY  
DISTRICT; AND 6) IN THE ENTRANCEWAY; GRANTING SPECIFIC  
APPROVAL FOR ALTERNATIVES TO SECTIONS 907.9.1.3, 907.9.3.1, AND  
907.9.4.2 OF THE LAND DEVELOPMENT CODE; PROVIDING A LEGAL  
DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN  
EFFECTIVE DATE.

CLERK OF THE COUNTY COURT  
MANATEE COUNTY, FLORIDA

2006 AUG 17 AM 9: 27

FILED

**WHEREAS**, Aegis Realty, Inc. (the "Applicant") has filed an application for a Preliminary Site Plan for approximately 41.2 acres described in Exhibit "A", attached hereto, (the "Property") for 86 lots for single-family residences; and

**WHEREAS**, the Applicant has also request Specific Approval for alternatives to Section 907.9.1.3, 907.9.3.1, and 907.9.4.2 of the LDC; and

**WHEREAS**, the Applicant has also requested Special Approval for a project: 1) adjacent to a perennial stream; 2) partially within the Coastal High Hazard Overlay; 3) partially within the 25-year floodplain; 4) within the Watershed Protection – Evers Overlay District; 5) within the Special Treatment Overlay District; and 6) in the Entranceway; and

**WHEREAS**, Planning Department staff recommended approval of the Preliminary Site Plan, Specific Approval, 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 25, 2006 to consider the Preliminary Site Plan application, received the staff's 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 Preliminary Site Plan, Specific Approval, and Special Approval applications consistent with the Manatee County Comprehensive Plan and to satisfy the criteria for approval in the Manatee County Land Development Code, recommended approval of the application, subject to the stipulations contained in the staff report; and

**WHEREAS**, the Board finds that the public purpose and intent of Sections; 907.9.1.3 of the LDC regulations have been satisfied to an equivalent degree by the project design since an emergency tie is provided, 907.9.3.1 have been satisfied to an equivalent degree by the project design since emergency vehicles will have adequate access, and 907.9.4.2 have been satisfied to an equivalent degree by project design because emergency vehicles can turn around without going to the end of the road.

**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, 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 a Preliminary Site Plan as it relates to the real property described in Exhibit "A" of this Ordinance.

B. The Board of County Commissioners held a duly noticed public hearing on August 3, 2006 regarding the proposed Preliminary Site Plan 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 the public hearing.

C. Notwithstanding the failure of the site plan to comply with the following LDC Sections the Board finds that the public purpose and intent the LDC regulations have been satisfied to an equivalent degree for Sections 907.9.1.3 by the project design since and emergency tie is provided, 907.9.3.1 by the project design since emergency vehicles will have adequate access and 907.9.4.2 by project design because emergency vehicles can turn around without going to the end of the road.

D. The proposed Preliminary Site Plan 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.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby approved for 86 lots for single-family residences subject to the Stipulations below. The Board hereby grants Special Approval for a project: 1) adjacent to a perennial stream; 2) partially within the Coastal High Hazard Overlay; 3) partially within the 25-year floodplain; 4) within the Watershed Protection – Evers Overlay District; 5) within the Special Treatment Overlay District; and 6) in the Entranceway; and Specific Approval for alternatives to Sections 907.9.1.3, 907.9.3.1, and 907.9.4.2 of the Land Development Code, with the following stipulations:

STIPULATIONS:

A. DESIGN AND LAND USE CONDITIONS:

1. A nature trail shall be provided as shown on the Preliminary Site Plan. The trail may be constructed as a boardwalk, with mulch, or other material as approved by the Planning Department, Building Department, and Stormwater Management Division of the Transportation Department.
2. Prior to Final Site Plan approval a noise analysis shall be done based on the potential 10 lane configuration of I-75 and anticipated traffic in 2025.

**Manatee County noise level criteria for residential properties**

<b>MANATEE COUNTY NOISE STIPULATION*</b>
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
<b>NOISE REDUCTION REQUIRED*</b>
Sound attenuating barriers should 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.

3. All two story homes built within the second story 64 dBA or higher noise contour levels (Lots 52-71) must include additional attenuation in the second story construction in addition to that of normal construction in order to meet the Ldn 45 dBA interior sound level identified by the EPA as sufficient to protect health and welfare.
4. The landscape buffer along the east perimeter, adjacent to I-75, shall include a 50' wide buffer, noise barrier wall, and landscaping to reduce the impacts of the noise from the traffic along I-75 and to address Stipulation A.2 above. At time of Final Site Plan, if the County determines additional measures are required to mitigate the noise impacts (pursuant to Stipulation A.2 above), the applicant shall detail the necessary measures to achieve compliance on the Final Site Plan. The buffer, including the wall and landscaping, shall be installed or bonded prior to first Final Plat. The wall shall be in place and tested by the design noise consultant to ensure compliance with Stipulation A.2 prior to issuance of any building permits (with the exception of model homes).
5. A 15 foot wide landscape buffer shall be provided along the south. This buffer shall be planted with canopy trees, understory trees, and evergreen shrubs in accordance with the following:
  - a. Canopy Trees.
    - (i) 3 canopy trees (3 inch caliper as measured 6 inches from the base of the tree) per 100 linear feet,
    - (ii) 12' high in height, and
    - (iii) 5' spread.
  - b. Understory evergreen trees. Six (6) understory evergreen trees per 100 linear feet of buffer, or fraction thereof, which meet the following minimum standards:
    - (i) one and one-half (1.5) inch caliper,
    - (ii) six (6) feet in height, and
    - (iii) three (3) foot spread.
  - c. Evergreen shrubs. Thirty three (33) evergreen shrubs per 100 linear feet of buffer, or fraction thereof, which meet the following minimum standards:
    - (i) 30 inches in height.

The buffer shall include a 6' high fence or wall. The landscaping shall be planted on the exterior of the wall in an informal, staggered manner. The buffer shall be entirely planted (not bonded) prior to the first Final Plat.
6. A 20' wide landscape buffer shall be provided along the west perimeter of the

site. This buffer shall be planted with canopy trees, understory trees, and evergreen shrubs in accordance with the following:

- a. Canopy Trees.
  - (i) 3 canopy trees (3 inch caliper as measured 6 inches from the base of the tree) per 100 linear feet,
  - (ii) 12' high in height, and
  - (iii) 5' spread.
- b. Understory evergreen trees. Six (6) understory evergreen trees per 100 linear feet of buffer, or fraction thereof, which meet the following minimum standards:
  - (i) one and one-half (1.5) inch caliper,
  - (ii) six (6) feet in height, and
  - (iii) three (3) foot spread.
- c. Evergreen shrubs. Thirty three (33) evergreen shrubs per 100 linear feet of buffer, or fraction thereof, which meet the following minimum standards:
  - (i) 30 inches in height.

The buffer shall include a 6' high fence or wall. The landscaping shall be planted on the exterior of the wall in an informal, staggered manner.

7. Existing native vegetation shall be preserved to meet screening requirements, unless otherwise approved by the Planning Department.
8. No lots shall be platted through any greenbelt, landscape buffer, retention pond, wetland, or wetland buffer.
9. No detention or retention ponds shall be constructed within landscape buffers or greenbelts.
10. The developer is put on notice that the County and School Board are required to establish school concurrency. Until such time as the details of that program are adopted, this approval does not guarantee capacity under the terms of the future program, to the extent school concurrency is legally applicable to the project.
11. No construction traffic shall utilize the emergency access to Meeting Street.
12. 75% of trees exceeding 24" dbh or greater shall be preserved and identified as such on the Final Site Plan.
13. Open burning shall be prohibited during any land clearing associated with the development of the project of this site.

**B. ENVIRONMENTAL CONDITIONS:**

1. Tree barricades for trees to be preserved shall be located at the drip line unless otherwise approved by the Planning Department. The drip line shall be defined as the outer branch edge of the tree canopy. The area within the tree barricades shall remain undisturbed. The following activities are prohibited within the barricades 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 or other material as approved by the Planning Department.
2. Prior to the first Final Site Plan approval, the site shall be re-evaluated for gopher tortoises, and a Wildlife Management Plan for gopher tortoises shall be approved by the U.S. Fish and Wildlife Service (FWS) or the Florida Fish and Wildlife Conservation Commission and be submitted to the Planning Department for review.
3. The developer shall provide an updated study, 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, 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.
4. A Construction Wafer Quality Monitoring Program shall be submitted to the Planning Department for review and approval with the Final Site Plan submittal.
5. If an approved third-party entity for gopher tortoise relocation is available to relocate on-site gopher tortoises at such third-party entity's expense, the developer shall request approval for such third-party relocation, subject to permitting of agencies having jurisdiction. The Developer shall be allowed to proceed with incidental take permits if such third-party entity is not available or such permits cannot be procured.

**C. FLOODPLAIN MANAGEMENT AND DRAINAGE CONDITIONS:**

1. A no-rise permit will be required for all encroachment within the FEMA 100-year floodway of the Braden River. Any existing or proposed structures within the floodway shall be modeled.
2. Any fill within the 25-year or 100-year floodplains of the Braden River shall be compensated by the creation of an equal or greater storage volume above seasonal high water table. 100-year and 25-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation).
3. The existing 25-year flood elevation along the Braden River shall be utilized as tailwater condition.

4. All residential lots shall be located outside of the post-development 25-year floodplain.
5. This project shall be required to reduce the calculated pre-development flow rate by twenty-five percent (25%) for all stormwater outfall flow directly or indirectly into Braden River. Modeling shall be used to determine pre- and post development flows.
6. This project shall be required to provide 150% water quality treatment for Braden River.
7. The Drainage Model and Construction Plan shall demonstrate that no adverse impacts will be created to neighboring residents surrounding the site in respect to drainage routing, grading, and runoff.
8. 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.
9. The easement width for public and private pipe systems as described in Stormwater Management Design Manual shall be no less than 15 feet wide.
10. The applicant shall be responsible for any adverse impacts created to neighboring residents surrounding the site in respect to drainage routing, grading, and site runoff.

**D. INFRASTRUCTURE CONDITIONS:**

1. Effluent reuse is not permitted within the Watershed Overlay District. The lowest quality water possible shall be used for irrigation. In-ground irrigation using Manatee County public potable water supply shall be prohibited throughout the project, including on individual lots. Prior to Final Site Plan approval applicant shall specify source of irrigation on site plan.
2. Prior to Final Site Plan approval the Engineer of Record or Architect must provide documentation to prove that concurrency has been met relative to fire flow per Policy 9.6.1.4 of the Comprehensive Plan.
3. All waste water manhole rims, service clean-outs, lift station wet well, and valve vault covers that are within the 100 year floodplain shall be set 12 inches above the 25 year floodplain elevation or 4 inches above the 100 year floodplain elevation, whichever is higher.
4. All public roads within the 100 year floodplain shall be above the flood elevation set by the FEMA flood zone maps. This shall be depicted on the Final Site Plan and Construction Plans.

5. Prior to Final Site Plan approval, the finish grading and drainage plans shall comply with Ordinance 06-16 and Resolution 06-15 respectfully.

**E. PUBLIC SAFETY AND TRANSPORTATION CONDITIONS:**

1. 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, and shall include language informing prospective homeowners in the project of: 1) the Hurricane Evacuation Plan approved by the Public Safety Department for this project; 2) the future bridge between Honore Avenue and Tara Boulevard; 3) the proximity of the project to I-75 and anticipated noise levels, 4) the future 10 lane configuration of I-75, and 5) expansion of Honore Avenue and limitation on future access to the project, and holding harmless FDOT and Manatee County for such matters.
2. Any gates or emergency access points within or to the project shall be accessible to emergency service providers by either a remote control or siren activated system, in accordance with Manatee County Ordinance 04-30. Prior to Final Site Plan approval, the applicant shall obtain written approval from EMS and the Fire Marshal approving the proposed system.
3. The design of the eyebrow at the east end of the project shall be designed in accordance with the LDC and be approved by Transportation and Planning Departments prior to Final Site Plan and Construction Plan approvals.
4. Prior to the issuance of a building permit for the first home in Riva Trace, other than the developer's model center, a new transportation concurrency analysis shall be required if (i) the existing, committed improvements by other to complete the connection of Honore Avenue from University Parkway to Lockwood Ridge Road have not been completed, or (ii) such existing commitments have been revoked, cancelled or repudiated.
5. At the request of the County the developer in lieu of required transportation improvements shall contribute funds. The purpose of the contribution is to minimize improvements to the roadway which would be eliminated by future action. The amount of the contribution shall be determined based on the cost of the required improvements for the project.
6. Prior to Final Site Plan and/or Construction Plan approval, the applicant shall conduct an updated access management plan to ensure adequate, safe access to Honore Avenue. Such access management plan shall be reviewed and approved by the Board of County Commissioners at a public hearing with mailed notice in a manner required for a rezoning application.

**Section 3. 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, sentence, clause, 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 4. 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 August, 2006.

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

BY: 

**Chairman**

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



BY: 

**Deputy Clerk**

EXHIBIT "A"  
LEGAL DESCRIPTION OF THE PROPERTY

That part of the South ½ of the NW ¼ of Section 25, Township 35 South, Range 18 East, lying West of State Road No. 93 (I-75) and South of the centerline of Braden river, more fully described as follows, to-wit:

Begin at a concrete monument, marking the SW corner of the NW ¼ of Section 25, Township 35 South, Range 18 East; thence South 89°16'09" East, along the South line of said NW ¼, 2638.43 feet to a concrete monument, marking the intersection with the Westerly R/W of State Road No. 93 (I-75); thence North 13°40'40" West, along said Westerly R/W 769.91 feet to a concrete monument on the Southerly Bank of the Braden River; thence continue North 13°40'40" West, 112.50 feet to the intersection with the centerline of said Braden River; thence North 39°40'41" West, along said centerline, 182.00 feet; thence North 50°40'41" West, along said centerline, 260.00 feet to the P.C. of a curve, concave to the South, having a radius of 190.00 feet; thence Westerly, along said centerline, and the arc of said curve, through a central angle of 84°00'00", 278.56 feet to the P.C.C. of a curve, concave to the Southeast, having a radius of 1280.00 feet; thence Southwesterly, along said centerline, and the arc of said curve, through a central angle of 16°23'39", 366.25 feet to the P.T. of said curve; thence South 28°55'40" West, along said centerline, 167.35 feet to the P.C. of a curve, concave to the Northwest, having a radius of 86.49 feet; thence Southwesterly, along said centerline, and the arc of said curve, through a central angle of 69°30'00", 104.91 feet to the P.T. of said curve; thence North 81°34'20" West, along said centerline, 169.88 feet to the P.C. of a curve, concave to the North, having a radius of 896.63 feet; thence Westerly, along said centerline, and the arc of said curve, through a central angle of 16°29'58", 258.20 feet to the P.R.C. of a curve, concave to the South, having a radius of 650.00 feet; thence Westerly, along said centerline, and the arc of said curve, through a central angle of 51°35'58", 585.38 feet to the P.T. of said curve; thence South 57°35'19" West, along said centerline, 155.00 feet to the P.C. of a curve, concave to the North, having a radius of 300.00 feet; thence Westerly, along said centerline, and the arc of said curve, through a central angle of 67°11'31", 351.82 feet to the intersection with the West line of said NW ¼; thence South 02°46'50" West, along the West line of said NW ¼, 96.89 feet to a concrete monument on the South Bank of said Braden River; thence continue South 02°46'50" West, 496.73 feet to the P.O.B., being and lying in the South ½ of the NW ¼ of Section 25, Township 35 South, Range 18 East, Manatee County, Florida.

And more particularly described as follows:

Beginning at the Southwest corner of the NW ¼ of Section 25, Township 35 South, Range 18 East, thence run S 89°11'02" E along the South line of said NW ¼, a distance of 2639.36 feet to the Westerly limited access Right-of-Way line of I-75; thence N13°40'40" W along said Westerly limited access Right-of-Way line, a distance of 773.90 feet to the meander line running along the South bank of the Braden River; thence Westerly along said meander line the following seventeen courses; thence N 41°59'47" W, a distance of 238.63 feet; thence N 57°36'11" W, a distance of 107.52 feet; thence N 47°04'12" W, a distance of 173.52 feet; thence N 77°27'35" W, a distance of 134.37 feet; thence S 45°52'02" W, a distance of 165.78 feet; thence S 31°10'48"

W, a distance of 261.22 feet; thence S 05°29'58" W, a distance of 111.27 feet; thence S 43°41'39" W, a distance of 127.01 feet; thence N 84°16'36" W, a distance of 179.46 feet; thence N 88°36'19" W, a distance of 173.33 feet; thence N 70°37'55" W, a distance of 180.84 feet; thence N 75°07'07" W, a distance of 202.71 feet; thence S 71°21'40" W, a distance of 122.18 feet; thence S 53°05'44" W, a distance of 199.82 feet; thence S 74°34'26" W, a distance of 185.11 feet; thence N 80°29'40" W, a distance of 200.24 feet to the intersection with the West line of the NW ¼ of said Section 25; Thence S 02°46'35" W along said West line, a distance of 496.73 feet to the point of beginning. Lying and being in Section 25, Township 35 South, and Range 18 East.

Less land deeded to the County of Manatee as described in O.R. Book 1436, Page 7208.



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 14<sup>th</sup> day of August, 2006  
R.B. SHORE  
Clerk of Circuit Court  
By: G. Colorado D.C.



FILED FOR RECORD  
R. B. SHORE

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FLORIDA DEPARTMENT OF STATE

**Sue M. Cobb**

Secretary of State

DIVISION OF LIBRARY AND INFORMATION SERVICES

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

August 17, 2006

Honorable R. B. "Chips" Shore  
Clerk of 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 August 14, 2006 and certified copies of Manatee County Ordinance Nos. 06-54, PDR04-14(P), PDMU/PDR-05-63(P), PDPI-05-120(P), Z-05-21, Z-05-20, PDMU-05-43(Z)(P), PDC-05-32(P), PDO-03-50(G)(R), PDR-05-69(Z)(P), and PDC-03-61(P)(R), which were filed in this office on August 17, 2006.

As requested, one set of the date stamped copies are being returned for your records.

Sincerely,

A handwritten signature in black ink that reads "Liz Cloud".

Liz Cloud  
Program Administrator

LC/bpn

Enclosures

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