

**MANATEE COUNTY ORDINANCE**  
**PDC-05-40(P)(R) – EAST ELLENTON ENTERPRISES, INC. / HUNGRY HOWIE'S**

2007 OCT 22 AM 8:31

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE NO. PDC-05-40(P) PERTAINING TO APPROXIMATELY 1.265 ACRES ON THE SOUTH SIDE OF US 301 AT 5912 18<sup>TH</sup> STREET EAST AND 1812 60<sup>TH</sup> AVENUE EAST, ELLENTON IN THE PDC (PLANNED DEVELOPMENT COMMERCIAL) ZONING DISTRICT; APPROVING A REVISED PRELIMINARY SITE PLAN AND RESTATING THE APPROVAL OF THE PRELIMINARY SITE PLAN APPROVED PURSUANT TO ZONING ORDINANCE PDC-05-40(P) ON JANUARY 4, 2007; AMENDING STIPULATION 10 REGARDING OFF-SITE INTERSECTION IMPROVEMENTS; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING EFFECTIVE DATE.

CLERK OF THE CIRCUIT COURT  
OF MANATEE CO. FLORIDA

2007 OCT - 8 PM 2:24

FILED

**WHEREAS**, East Ellenton Enterprises, Inc. (the "Applicant") requested an amendment to the Zoning Ordinance approved on January 4, 2007 pertaining to property on the south side of US 301 at 5912 18<sup>th</sup> Street East and 1812 60<sup>th</sup> Avenue East, Ellenton in the PDC (Planned Development Commercial) zoning district, this property being more specifically described in Exhibit "A", attached hereto; and

**WHEREAS**, the revision amends Stipulation 10 regarding off-site intersection improvements; and

**WHEREAS**, the Board of County Commissioners of Manatee County held a public hearing on September 27, 2007 after due notice, considered the criteria set forth in the Manatee County Land Development Code, and approved the amendment to the Zoning Ordinance.

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

**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 an amended Zoning Ordinance, 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 had received and considered the report of the Manatee County Planning staff 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 September 27, 2007, regarding the amended Zoning Ordinance.

- C. Notwithstanding the failure of the site plan to meet the requirements of LDC Section 715.3.1(d)e, the Board finds that the purpose and intent of the LDC Regulations have been satisfied to an equivalent degree as shown on the Preliminary Site Plan and as conditioned herein.
- D. The Board hereby finds that the Project will have no significant detrimental impacts on natural resources, adjacent land uses, or public facilities.

**Section 2. AMENDMENT OF JANUARY 2007 ZONING ORDINANCE APPROVAL:**

The approval of the Preliminary Site Plan approved pursuant to Zoning Ordinance No. PDC-05-40(P) for the property described in Exhibit "A" is hereby amended and restated subject to the following stipulations:

**STIPULATIONS**

1. Existing wells shall be kept in a watertight manner and be protected during all construction activities.
2. Open burning shall be prohibited for any land clearing associated with the development of this project.
3. All building facades shall exhibit an aesthetically attractive appearance. Exterior building materials shall consist of brick, architectural precast concrete panels, architectural masonry units, split face block, glass, stucco, ceramic tile, stone, wood, or similar material. Painted or exposed corrugated metal shall not be permitted facing any roadway or adjacent property. The applicant shall verify compliance with this provision prior to Final Site Plan approval and Certificate of Occupancy.
4. All roof mounted H.V.A.C. equipment, loading areas, and dumpsters for all uses shall be screened from view from US 301 and 18<sup>th</sup> St. E. Building elevations showing the methods of screening shall be provided with the Final Site Plan.
5. All signs shall comply with the requirements of Section 737. No pole or other freestanding signs shall be allowed for this project. Details shall be provided with the Final Site Plan.
6. All deliveries and loading shall be prohibited between 10 p.m. and 7 a.m.
7. No outdoor speakers shall be allowed on this site.
8. The north and south roadway buffers shall be planted with 2 canopy trees (min. 3" cal.), 2 understory trees (min. 2" cal.), and 33 shrubs (min. 3 ft. in height) per 100 l.f. of buffer. The rows of canopy and understory trees shall be planted in two staggered rows with at least 20 ft. between canopy trees. This shall be shown on the Final Site Plan.
9. The east perimeter parking lot buffer shall contain 2 canopy trees (min. 3" cal.), 2

understory trees (min. 2" cal.), and 33 shrubs (min. 3 ft. in height) per 100 l.f. of buffer. The rows of canopy and understory trees shall be planted in two staggered rows with at least 20 ft. between canopy trees. This shall be shown on the Final Site Plan.

10. The project shall construct the following traffic improvements. All improvements shall be completed before a C. O. is issued.

- a(1) US 301/60th Avenue East intersection – Extend the eastbound (west approach to southbound) right turn lane by 49 feet.

- a(2) US 301/60th Avenue East intersection – Extend the westbound (east approach to southbound) left turn lane by 213 feet.

- b. Agree to take part in a multi-development Developer's Agreement, when created, to fund the improvements necessary for that segment of US 301 based on the project impact of four vehicles in the PM peak hour.

- c. The site will implement Transportation Demand Management measures that require employees, delivery vehicles, and Hungry Howie's company owned vehicles to use 18<sup>th</sup> and 19<sup>th</sup> Streets to bypass the intersection of US 301 and 60<sup>th</sup> Ave. E. that is deficient.

These improvements must be shown on revised final site plan and/or construction drawings.

**Section 3. SPECIAL AND SPECIFIC APPROVALS.** Special Approval is hereby granted for a project in 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. Specific Approval is hereby granted for alternatives to Sections 715.3.1(d) & (e) of the Land Development Code, as shown on the Preliminary Site Plan approved pursuant to Section 2 hereof.

**Section 4. 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 sentence, section, clause, or other such 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 5. 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.

(Signature block on the next page)

**Section 6. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon filing in the Office of the Secretary of State in Tallahassee, Florida.

**PASSED AND DULY ADOPTED**, by the Board of County Commissioners of Manatee County, Florida on the 27<sup>th</sup> day of September, 2007.

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

BY:   
Chairman



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

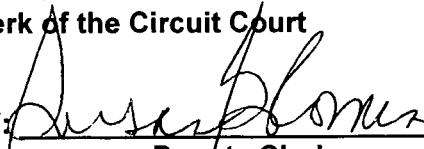
BY:   
Deputy Clerk

EXHIBIT "A"

LEGAL DESCRIPTION.

Unit 2 of A&H ELLENTON, A LAND CONDOMINIUM, as per Declaration of Condominium recorded in Official Records Book 2009, Page 881 of the Public Records of Manatee County, Florida and as per plat recorded in Plat Book 33, Page 75 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 1st day of  
October, 2007  
R.B. SHORE  
Clerk of Circuit Court  
By: g. Colorado D.C.



## FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

**KURT S. BROWNING**  
Secretary of State

October 11, 2007

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

FILED FOR RECORD  
R. B. SHORE

2007 OCT 22 AM 8:34

CLERK OF THE CIRCUIT COURT  
MANATEE CO. FLORIDA

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 October 3, 2007 and certified copies of Manatee County Ordinance Nos. 07-66, PDR-06-71(P), PDC-05-40(P)(R), PDMU-99-02(P), PDMU-97-05(P)(R3), Z-06-14, 07-30, Z-06-16, Z-07-01, Z-07-10, PDR-06-10(Z)(P), PDMU-06-80(G) and PDR-06-08(Z)(P) which were filed in this office on October 8, 2007.

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

Sincerely,

Liz Cloud  
Program Administrator

LC/lbh  
Enclosures

### DIRECTOR'S OFFICE

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