

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

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A PRELIMINARY SITE PLAN FOR A 120 SEAT 3,500 SQUARE FOOT RESTAURANT ON APPROXIMATELY 1.265 ACRES; GENERALLY LOCATED ON THE SOUTH SIDE OF U. S. 301 AT 5912 18TH STREET EAST AND 1812 60TH AVENUE EAST, ELLENTON; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, East Ellenton Enterprises, Inc. (the "Applicant") has filed an application for a Preliminary Site Plan for approximately 1.265 acres described in Exhibit "A", attached hereto, (the "Property") for a 120 seat 3,500 square foot restaurant; and

WHEREAS, the Applicant has also requested Special Approval for a project in the Coastal Planning Area; and

WHEREAS, the Applicant has also requested Specific Approval for alternatives to Sections 715.3.1(d) & (e), and

WHEREAS, Planning Department staff recommended approval of the 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 public hearings on September 14, 2006, October 12, 2006, November 9, 2006, and December 14, 2006 to consider the Preliminary Site Plan, the Special Approval, and the Specific Approval applications, 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, Special Approval and the Specific 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.

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 duly noticed public hearings on October 5, 2006, December 7, 2006, and January 4, 2007 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. The proposed Preliminary Site Plan, Special Approval, and the Specific Approval applications, 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.

D. Notwithstanding the failure of the site plan to meet the requirements of LDC Section 715.3.1(d), the Board finds that the purpose and intent of the LDC Regulations have been satisfied to an equivalent degree because of the provision of a median and additional landscaping.

E. Notwithstanding the failure of the site plan to meet the requirements of LDC Section 715.3.1(e), the Board finds that the purpose and intent of the LDC Regulations have been satisfied to an equivalent degree because of the provision of additional trees and landscaping as stipulated.

Section 2. PRELIMINARY SITE PLAN. The Preliminary Site Plan is hereby APPROVED to allow a 120 seat 3,500 square foot restaurant subject to the stipulations set out below. The Board hereby GRANTS Special Approval for a project in Coastal Planning Area subject to the stipulation set out below. The board hereby GRANTS Specific Approval for alternatives to Sections 715.3.1(d) & (e) of the Land Development Code, with 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 18th 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 which shall be shown with the Final Site Plan submittal. All improvements shall be completed before a C. O. is issued.
 - a. Extend the right-turn lane at the US 301/60th Avenue East intersection by 150 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 18th and 19th Streets to bypass the intersection of US 301 and 60th Ave. E. that is deficient.

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 sentence, section, 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. 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.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida on the 4th day of January, 2007.

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

BY: 

Chairman

First Vice



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

BY: 

Deputy Clerk

EXHIBT "A"
LEGAL DESCRIPTION OF THE PROPERTY

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.