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**VILLAGE OF ESTERO, FLORIDA**

**ORDINANCE NO. 2015 - 21**

**A ZONING ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA; REZONING 21.36 ACRES LOCATED AT 9201 AND 9301 CORKSCREW ROAD, FROM COMMERCIAL PLANNED DEVELOPMENT TO RESIDENTIAL PLANNED DEVELOPMENT FOR THE VOLUNTEERS OF AMERICA CONTINUING CARE/ASSISTED LIVING PROJECT, WITH A MAXIMUM 340 BEDS AND MAXIMUM BUILDING HEIGHT OF 45 FEET, AND INCLUDING CONDITIONS OF DEVELOPMENT; APPROVING CERTAIN DEVIATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Gulf Care, Inc. dba Gulf Coast Village, filed an application to rezone a 21.36 acre parcel from Commercial Planned Development to Residential Planned Development with deviations for an assisted living, independent living and continuing care facility with a maximum of 340 beds for the project known as Volunteers of America; and

**WHEREAS**, the subject property is located at 9201 and 9301 Corkscrew Road, Estero (Strap numbers 34-46-25-E1-U1986.2380 and 34-46-25-E1-U2011.2380); and

**WHEREAS**, a public hearing was held on November 17, 2015 by the Village of Estero Planning and Zoning Board which gave full consideration to the evidence available and recommended approval with conditions of the request (The record consists of the November 10, 2015 staff report prepared by Community Development, the evidence presented at the hearing on file with the Village Clerk and the testimony of interested parties).

**NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero, Florida:

**Section 1. Request**

The Village Council of Estero hereby \_\_\_\_\_ the applicant's request to rezone the property from Commercial Planned Development to Residential Planned Development, to allow a maximum of 340 beds of assisted living/independent living/continuing care with buildings not to exceed 45' in height with the following conditions and deviations.

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**Section 2. Conditions and Deviations**

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the one-page Master Concept Plan entitled “ESTERO CONTINUING CARE RETIREMENT COMMUNITY” stamped received OCTOBER 20, 2015 except as modified by the conditions below.

This development must comply with all of the requirements of the Land Development Code (“LDC”) at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

This rezoning allows a maximum of 340 beds/units of assisted living/independent living/continuing care (hereinafter referred to as assisted living) beds/units in any combination or configuration so long as the density does not exceed 128 standard dwelling units per LDC Sec. 34-1494 and LDC Sec. 34-1414(c) - as of the date of this Zoning Resolution approval. Commercial use is limited to 15,000 square feet.

Resolution Z-05-038 Galleria at Corkscrew CPD is null and void as a result of this zoning action, and is superseded by this zoning resolution.

Zoning Resolution Z-05-039 Design Parc CPD remains in full force and effect except as amended herein. In the event of any inconsistency between this zoning ordinance and zoning resolution Z-05-039 then the conditions and deviations approved in this ordinance shall prevail.

2. Uses and Site Development Regulations

The following limits apply to the project and uses:

Schedule of Uses

Residential

Accessory Uses and Structures

Accessory Commercial Support Uses, limited to a maximum of 2,500 square feet of floor area for each use. Must include a minimum of one of the following accessory commercial uses:

Banks and Financial Institutions, Group I (including ATM)

Barber or Beauty Shop

Business Services, Group I – limited to catering for on-site events

Convenience Store – (no self-service fuel pumps, not freestanding, located internal to site)

Laundry or Dry Cleaning, Group I and II

Restaurants, Group II and III

89 Administrative Office  
 90 Assisted Living Facility – See dwelling units below  
 91 Clubs, private  
 92 Community Garden per LDC Sec. 34-1716  
 93 Continuing Care Facility – See dwelling units below  
 94 Consumption on Premises, limited to indoors. Locations limited to restaurants,  
 95 and to those areas shown as common areas and civic space on the approved  
 96 master concept plan. Outdoor consumption on premises will require approval  
 97 through an amendment to the RPD (public hearing required)  
 98 Dwelling Units:  
 99 Assisted Living Facility, Independent Living Facility, Continuing Care  
 100 Facility, Maximum 340 beds. See Condition #1 above  
 101 Essential Services  
 102 Essential Services Facilities, Group I  
 103 Excavation, Water Retention  
 104 Fences, Walls  
 105 Health Care Facilities, Group I, II, and III – accessory for on-site  
 106 patient/resident care only.  
 107 Home Occupation  
 108 Independent Living Facility, See dwelling units above  
 109 Medical Office – (15,000 square feet maximum per the Master Concept Plan)  
 110 Model Units and Real Estate Sales (See Condition #4)  
 111 Parking Lot, Accessory – includes covered parking per the Master Concept Plan  
 112 Recreational Facilities, Private, On Site (accessory to assisted living only)  
 113 Recreational Facilities, Indoor (accessory to assisted living only)  
 114 Residential Accessory Uses and Structures  
 115 Signs: Per Chapter 30 and Chapter 33 of the Land Development Code

116  
 117 Minimum Lot Areas and Dimensions

118  
 119 Assisted Living including Amenities and Recreation

120 Lot Size: 10,000 square feet  
 121 Lot Width: 100 feet  
 122 Lot Depth: 100 feet

123  
 124 Minimum Setbacks

125 Street 25 feet (public)/5 feet (private)

126 Also see Deviations #2 and #6

127 Side 15 feet

128 Rear 20 feet

129 Water body 20 feet

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 131 All Accessory Uses: Per the LDC  
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Minimum Building Separation: 20 feet  
Building Height: 45 feet/3 stories (whichever is less)  
Maximum Lot Coverage: 45 percent

3. No Blasting

No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.

4. Model Units/Real Estate Sales

A. Model units are limited to a maximum of 4.

B. Real estate sales are limited to recreational facilities/administrative offices and within model units.

C. Real estate sales will be limited to the sale of lots or units within the development only.

D. Hours of operation for model units and real estate sales in the residential area are limited to Monday through Sunday 8 a.m. to 8 p.m.

E. No dry models are permitted.

5. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

6. Vehicular/Pedestrian Impacts

Approval of this rezoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Land Development Code may be required to obtain a local development order.

7. Plan Consistency/Concurrency

Approval of this rezoning does not guarantee local development order approval, or issuance of a Concurrency Certificate. Future development order approvals must satisfy the requirements of the Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with all other Comprehensive Plan provisions.

8. Utilities

Water and sewer services are available to the site, and this development must connect to those services as part of any local development order for the site for vertical construction.

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- 9. Lighting  
Lighting of the subject property must be in compliance with LDC Section 33-16 and Section 34-625 utilizing a maximum height of 20 feet for structures. All lighting must be architecturally designed and complementary to the buildings where the lighting is located.
  
- 10. Development Parameters  
Development must include a unified “Old Florida” architectural theme for all buildings.
  
- 11. Signage  
The development of the subject property must include a unified, common signage plan and graphic theme throughout the project. The signage and graphic design theme must be reviewed and approved by Village of Estero staff or Design Review Board, as applicable, prior to the issuance of a local development order.
  
- 12. Pedestrian-Friendly Design  
The development must be designed with all of the following design elements:
  - A. Traffic calming measures within internal roadways, which may include but not be limited to: speed bumps or tables, if approved by the Village and Fire District, raised pedestrian crossings, street trees and pedestrian-friendly landscaping; street furniture or the use of pavers and contrasting materials within the roadways.
  - B. Sidewalks must be provided at all entrance points and provide connections to the existing sidewalk system on Corkscrew Road, or future sidewalk systems on Via Coconut.
  - C. An internal sidewalk network connecting the uses within the development on the approved Master Concept Plan.
  - D. Pedestrian crosswalk south across Corkscrew Road from western edge of property near Via Coconut/Sandy Lane.
  
- 13. Open Space  
The overall project must provide a minimum of 8.5 acres of open space in substantial compliance with the approved Master Concept Plan.
  
- 14. Heritage Trees  
Development order landscape plans must retain the two existing heritage oak trees located along Corkscrew Road to be preserved as part of a completed project.
  
- 15. Cross Access Easement  
The cross access easement must be recorded at the time of local Development Order.

216 16. Landscape  
217 The applicant will landscape the dry detention area along Corkscrew Road unless  
218 prohibited by the Department of Transportation.  
219

220 17. Pedestrian Crossing  
221 A pedestrian crossing will be provided in the northeast corner of the site, and must be  
222 shown on the site plan.  
223

224 18. Wall  
225 The wall along the north property line must be maintained in acceptable condition in  
226 perpetuity.  
227

228 **Deviation Requests**

229  
230 Deviation #1 is approved, granting relief from LDC 10-416(d)(6 )which requires if roads,  
231 drives or parking areas are located less than 125 feet from a residential single-family  
232 subdivision, a solid wall or wall/berm combination must be provided not less than 8 in height  
233 to be constructed not less than 25 feet from the abutting property line and landscaped (between  
234 the wall and the abutting property) with a minimum of five trees, and 18 shrubs per 100 linear  
235 feet, to allow instead a solid wall or combination berm and solid wall not less than eight feet  
236 in height to be constructed not less than 15 feet from the abutting property line to the north and  
237 landscaped (between the wall and abutting property) with a double staggered row hedge  
238 maintained at 60 inches and 10 trees per 100 linear feet.  
239

240 Deviation #2 is approved, granting relief from LDC Section 33-406 requiring a maximum 25-  
241 foot street setback in the Corkscrew Main Overlay district, to allow a setback of 110 feet along  
242 Corkscrew Road for the buildings as shown on the Master Concept Plan.  
243

244 Deviation #5 is approved, with the following condition, granting relief from LDC Section 34-  
245 2015(2)d. which requires exiting vehicles to leave a parking lot in a forward motion, to allow  
246 for parking as depicted on the master concept plan.  
247

248 If vehicles back directly onto an internal access way, the posted speed limit of the  
249 access way must be 25 miles per hour or less, and the access way must be designed so that  
250 traffic calming devices are provided per Lee County Administrative Code AC-11-14. The  
251 design and location of traffic calming devices will be to the satisfaction of the Village of Estero  
252 staff.  
253

254 Deviation #6 is approved, granting relief from LDC Section 33-403 which requires that  
255 buildings on corner lots be designed with a maximum setback of 25 feet from each adjacent  
256 right of way, to allow a setback of 185 feet from Sandy Lane and 110 feet from Corkscrew  
257 Road.  
258

259 Deviation #7 is approved, granting relief from LDC Section 34-2192(b)(5) which requires all  
260 parking lots, access streets, and drives to be a minimum of 75 feet from the right of way, to  
261 instead allow parking lots, access streets, and drives to be set back to a minimum of 50 feet  
262 from the right of way as shown on the master concept plan.

263

264 Deviations 3, 4, and 8 were withdrawn by the Applicant.

265

266 **Section 3. Findings and Conclusions**

267 Based upon an analysis of the application and the standards for approval of planned  
268 development rezonings, The Village Council makes the following findings and  
269 conclusions:

270

271 1. The applicant has justification for the rezoning to Residential Planned Development  
272 (RPD) by demonstrating compliance with the Comprehensive Plan, the Land  
273 Development Code, and other applicable codes and regulations, as conditioned.

274

275 2. The requested zoning to Residential Planned Development (RPD), as conditioned:

276

277 a. Meets all performance and locational standards set forth for the potential uses  
278 allowed by the request; and

279 b. Is consistent with the densities, intensities and general uses set forth in the  
280 Comprehensive Plan; and

281 c. Is compatible with existing or planned uses in the surrounding area, as  
282 conditioned; and

283 d. The request will not adversely affect environmentally critical areas or natural  
284 resources.

285

286 3. Although there will be additional trips generated by the development, approval of the  
287 request will not place an undue burden upon existing transportation or planned  
288 infrastructure facilities and the site will be served by streets with the capacity to carry  
289 traffic generated by the development.

290

291 4. Urban services, as defined in the Comprehensive Plan will be available and adequate  
292 to serve the proposed land use.

293

294 5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.

295

296 6. The recommended conditions to the master concept plan and other applicable  
297 regulations provide sufficient safeguards to the public interest.

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299 7. The recommended conditions are reasonably related to the impacts on the public's  
300 interest created by or expected from the proposed development.

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- 8. The deviations as conditioned, will preserve and promote the general intent of the LDC to protect the public health, safety and welfare.
  
- 9. The project sufficiently complies with Village of Estero Resolution No. 2015-22, in that the project demonstrates principles of compact, walkable, transit supportive, mixed use development, with an emphasis on employment, housing and recreation uses.

**Section 4. Exhibits**

The following Exhibits are attached to this ordinance and incorporated by reference:

- EXHIBIT A Legal Description
- EXHIBIT B Master Concept Plan stamped received October 20, 2015

**Section 5. Effective Date**

This ordinance shall take effect immediately upon adoption.

**PASSED** on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Attest: **VILLAGE OF ESTERO, FLORIDA**

By: \_\_\_\_\_  
Kathy Hall, MMC  
Village Clerk

By: \_\_\_\_\_  
Nicholas Batos  
Mayor

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
Nancy Stroud, Esq.  
Land Use Attorney

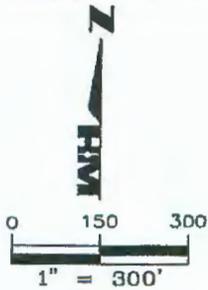
Vote:	AYE	NAY
Mayor Batos	_____	_____
Vice Mayor Levitan	_____	_____
Councilmember Boesch	_____	_____
Councilmember Brown	_____	_____
Councilmember Errington	_____	_____
Councilmember Ribble	_____	_____
Councilmember Wilson	_____	_____

# EXHIBIT A

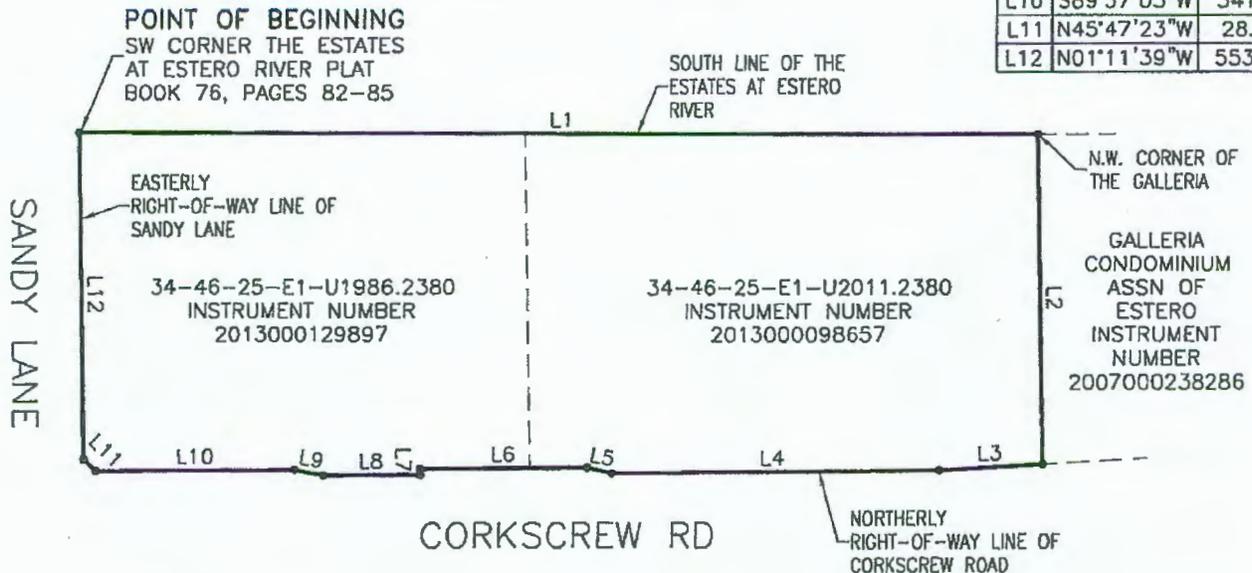
\\hm-data\HMDATA-SV2\2014\2014078\DW\SA\SKETCH AND DESCRIPTION\P1-P2 Combined.dwg Tab: Layout1 Jun 22, 2015 - 10:12am Plotted by: RickKeruff

## THIS IS NOT A SURVEY

LINE	BEARING	DISTANCE
L1	S89°50'12"E	1630.46
L2	S01°07'24"E	559.25
L3	S86°45'18"W	175.38
L4	S89°37'03"W	557.88
L5	N77°01'36"W	43.29
L6	S89°37'03"W	281.88
L7	S00°22'57"E	10.00
L8	S89°37'03"W	161.34
L9	N79°04'21"W	50.99
L10	S89°37'03"W	341.11
L11	N45°47'23"W	28.48
L12	N01°11'39"W	553.56



THE ESTATES AT ESTERO RIVER  
PLAT BOOK 76, PAGES 82-85

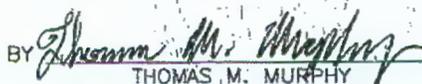


### LEGAL DESCRIPTION

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 34, TOWNSHIP 46 SOUTH, RANGE 25 EAST, SAID LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE ESTATES OF ESTERO RIVER, A SUBDIVISION RECORDED IN PLAT BOOK 76, PAGES 82 THROUGH 85 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF SAID SUBDIVISION RUN S89°50'12"E FOR A DISTANCE OF 1630.46 FEET, TO THE NORTHWEST CORNER OF THE GALLERIA, A CONDOMINIUM, DECLARATION RECORDED IN INSTRUMENT NUMBER 2007000238286, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG THE WEST LINE OF SAID GALLERIA RUN S01°07'24"E FOR A DISTANCE OF 559.25 FEET, TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF CORKSCREW ROAD (S.R. S-850); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, THE FOLLOWING NINE (9) DESCRIBED COURSES: 1) THENCE RUN S86°45'18"W FOR A DISTANCE OF 175.38 FEET; 2) THENCE RUN S89°37'03"W FOR A DISTANCE OF 557.88 FEET; 3) THENCE RUN N77°01'36"W FOR A DISTANCE OF 43.29 FEET; 4) THENCE RUN S89°37'03"W FOR A DISTANCE OF 281.88 FEET; 5) THENCE RUN S00°22'57"E FOR A DISTANCE OF 10.00 FEET; 6) THENCE RUN S89°37'03"W FOR A DISTANCE OF 161.34 FEET; 7) THENCE RUN N79°04'21"W FOR A DISTANCE OF 50.99 FEET; 8) THENCE RUN S89°37'03"W FOR A DISTANCE OF 341.11 FEET; 9) THENCE RUN N45°47'23"W FOR A DISTANCE OF 28.48 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SANDY LANE; THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SANDY LANE, RUN N01°11'39"W FOR A DISTANCE OF 553.56 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED. CONTAINING 930,474 SQUARE FEET OR 21.4 ACRES, MORE OR LESS.

HOLE MONTES, INC.  
CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY   
THOMAS M. MURPHY

P.S.M. #5628  
STATE OF FLORIDA

DRAWN BY: R.A.K.	DATE: 6/22/15
CHECKED BY: T.M.M.	DATE: 6/22/15
SEC-TWN-RGE: 34-46S-25E	SCALE: 1"=300'



950 Encore Way  
Naples, FL. 34110  
Phone: (239) 254-2000  
Florida Certificate of  
Authorization No.1772

SKETCH AND LEGAL DESCRIPTION

DRAWING NO. B-717B
PROJECT NO. 2014078
FILE NAME P1-P2 Combined.dwg

