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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.

45 Section 2. Conditions and Deviations

46
47 1. Master Concept Plan/Development Parameters

48
49 The development of this project must be consistent with the one-page Master Concept
50 Plan entitled “ESTERO CONTINUING CARE RETIREMENT COMMUNITY” last
51 revised October 20, 2015, stamped received ~~OCTOBER 20,~~ December 18, 2015 except
52 as modified by the conditions below.

53
54 This development must comply with all of the requirements of the Land Development
55 Code (“LDC”) at the time of local development order approval, except as may be
56 granted by deviations approved as part of this planned development.

57
58 This rezoning allows a maximum of 340 beds/units of assisted living/independent
59 living/continuing care (hereinafter referred to as assisted living) beds/units in any
60 combination or configuration so long as the density does not exceed 128 standard
61 dwelling units per LDC Sec. 34-1494 and LDC Sec. 34-1414(c) - as of the date of this
62 Zoning Resolution approval. Commercial use is limited to 15,000 square feet.

63
64 Resolution Z-05-038 Galleria at Corkscrew CPD is null and void as a result of this
65 zoning action, and is superseded by this zoning resolution.

66
67 Zoning Resolution Z-05-039 Design Parc CPD remains in full force and effect except
68 as amended herein. In the event of any inconsistency between this zoning ordinance
69 and zoning resolution Z-05-039 then the conditions and deviations approved in this
70 ordinance shall prevail.

71
72 2. Uses and Site Development Regulations

73 The following limits apply to the project and uses:

74 Schedule of Uses

75 Residential

76 Accessory Uses and Structures

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

80 Banks and Financial Institutions, Group I (including ATM)

81 Barber or Beauty Shop

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

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

85 Laundry or Dry Cleaning, Group I and II

86 Restaurants, Group II and III

89
90 Administrative Office
91 Assisted Living Facility – See dwelling units below
92 Clubs, private
93 Community Garden per LDC Sec. 34-1716
94 Continuing Care Facility – See dwelling units below
95 Consumption on Premises, limited to indoors. Locations limited to restaurants,
96 and to those areas shown as common areas and civic space on the approved
97 master concept plan. Outdoor consumption on premises will require approval
98 through an amendment to the RPD (public hearing required)
99 Dwelling Units:
100 Assisted Living Facility, Independent Living Facility, Continuing Care
101 Facility, Maximum 340 beds. See Condition #1 above
102 Essential Services
103 Essential Services Facilities, Group I
104 Excavation, Water Retention
105 Fences, Walls
106 Health Care Facilities, Group I, II, and III – accessory for on-site
107 patient/resident care only.
108 Home Occupation
109 Independent Living Facility, See dwelling units above
110 Medical Office – (15,000 square feet maximum per the Master Concept Plan)
111 Model Units and Real Estate Sales (See Condition #4)
112 Parking Lot, Accessory – includes covered parking per the Master Concept Plan
113 Recreational Facilities, Private, On Site (accessory to assisted living only)
114 Recreational Facilities, Indoor (accessory to assisted living only)
115 Residential Accessory Uses and Structures
116 Signs: Per Chapter 30 and Chapter 33 of the Land Development Code
117
118 Minimum Lot Areas and Dimensions
119
120 Assisted Living including Amenities and Recreation
121 Lot Size: 10,000 square feet
122 Lot Width: 100 feet
123 Lot Depth: 100 feet
124
125 Minimum Setbacks
126 Street 25 feet (public)/5 feet (private)
127 Also see Deviations #2 and #6
128 Side 15 feet
129 Rear 20 feet
130 Water body 20 feet
131
132 All Accessory Uses: Per the LDC

133
134 Minimum Building Separation: 20 feet
135 Building Height: 45 feet/3 stories (whichever is less)
136 Maximum Lot Coverage: 45 percent
137

138 3. No Blasting

139 No development blasting is permitted as part of this project unless approved at a
140 subsequent public hearing as an amendment to the planned development.
141

142 4. Model Units/Real Estate Sales

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

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

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

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

150 E. No dry models are permitted.
151

152 5. Concurrency

153 Approval of this rezoning does not constitute a finding that the proposed project meets
154 the concurrency requirements set forth in LDC Chapter 2 and the Comprehensive Plan.
155 The developer is required to demonstrate compliance with all concurrency
156 requirements prior to issuance of a local development order.
157

158 6. Vehicular/Pedestrian Impacts

159 Approval of this rezoning request does not address mitigation of the project's vehicular
160 or pedestrian traffic impacts. Additional conditions consistent with the Land
161 Development Code may be required to obtain a local development order.
162

163 7. Plan Consistency/Concurrency

164 Approval of this rezoning does not guarantee local development order approval, or
165 issuance of a Concurrency Certificate. Future development order approvals must
166 satisfy the requirements of the Planning Communities Map and Acreage Allocation
167 Table, Map 16 and Table 1(b), be reviewed for, and found consistent with all other
168 Comprehensive Plan provisions.
169

170 8. Utilities

171 Water and sewer services are available to the site, and this development must connect
172 to those services as part of any local development order for the site for vertical
173 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 light 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. The renderings must be reviewed by the Estero Design Review Board who will make a recommendation to the Village Council.

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; roundabouts, street furniture or the use of pavers and contrasting materials within the roadways.
- B. Sidewalks must be provided on Corkscrew Road and Sandy Lane and at all entrance points and to provide connections to the existing sidewalk system on Corkscrew Road, or and future sidewalk systems on Via Coconut/Sandy Lane.
- C. An internal sidewalk network connecting the uses within the development on the approved Master Concept Plan.
- D. Pedestrian crosswalk to be constructed 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.

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15. Cross Access Easements

The cross access easements must be recorded at the time of local Development Order.

16. Landscape

The applicant will landscape the dry detention area along Corkscrew Road unless prohibited by the Lee County Department of Transportation. The landscape plan is subject to approval by Village staff and Design Review Board. The applicant will plant trees to provide shade, along the sidewalks on Sandy Lane and Corkscrew Road. Specifications will be subject to approval of Village staff and Design Review Board.

17. Pedestrian Crossing

A pedestrian crossing will be provided in the northeast corner of the site to Estero River Estates, and must be shown depicted on the site plan and must be shown on the site plan a recorded plat.

18. Wall

The wall along the north property line must be verified for structural integrity and height, and maintained in acceptable condition in perpetuity.

19. Driveways

The internal driveways will be open to the public and will not be gated.

Deviation Requests

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

Condition: The dumpster must be relocated further south to the service area, and the parking on the north side of the buildings must be covered to minimize noise to the adjacent property.

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

259 Deviation #5 is approved, with the following condition, granting relief from LDC Section 34-
260 2015(2)d. which requires exiting vehicles to leave a parking lot in a forward motion, to allow
261 for parking as depicted on the master concept plan.
262

263 Condition: If vehicles back directly onto an internal access way, the posted speed limit
264 of the access way must be 25 miles per hour or less, and the access way must be
265 designed so that traffic calming devices are provided per Lee County Administrative
266 Code AC-11-14. The design and location of traffic calming devices will be to the
267 satisfaction of the Village of Estero staff.
268

269 Deviation #6 is approved, granting relief from LDC Section 33-403 which requires that
270 buildings on corner lots be designed with a maximum setback of 25 feet from each adjacent
271 right of way, to allow a setback of 185 feet from Sandy Lane and 110 feet from Corkscrew
272 Road.
273

274 Deviation #7 is approved, granting relief from LDC Section 34-2192(b)(5) which requires all
275 parking lots, access streets, and drives to be a minimum of 75 feet from the right of way, to
276 instead allow parking lots, access streets, and drives to be set back to a minimum of 50 feet
277 from the right of way as shown on the master concept plan.
278

279 Deviations 3, 4, and 8 were withdrawn by the Applicant.
280

281 Section 3. Findings and Conclusions

282 Based upon an analysis of the application and the standards for approval of planned
283 development rezonings, The Village Council makes the following findings and
284 conclusions:
285

- 286 1. The applicant has justification for the rezoning to Residential Planned Development
287 (RPD) by demonstrating compliance with the Comprehensive Plan, the Land
288 Development Code, and other applicable codes and regulations, as conditioned.
289
- 290 2. The requested zoning to Residential Planned Development (RPD), as conditioned:
291
 - 292 a. Meets all performance and locational standards set forth for the potential uses
293 allowed by the request; and
 - 294 b. Is consistent with the densities, intensities and general uses set forth in the
295 Comprehensive Plan; and
 - 296 c. Is compatible with existing or planned uses in the surrounding area, as
297 conditioned; and
 - 298 d. The request will not adversely affect environmentally critical areas or natural
299 resources.
- 300
- 301 3. Although there will be additional trips generated by the development, approval of the
302 request will not place an undue burden upon existing transportation or planned

303 infrastructure facilities and the site will be served by streets with the capacity to carry
304 traffic generated by the development.
305

- 306 4. Urban services, as defined in the Comprehensive Plan will be available and adequate
307 to serve the proposed land use.
308
- 309 5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.
310
- 311 6. The recommended conditions to the master concept plan and other applicable
312 regulations provide sufficient safeguards to the public interest.
313
- 314 7. The recommended conditions are reasonably related to the impacts on the public's
315 interest created by or expected from the proposed development.
316
- 317 8. The deviations as conditioned, will preserve and promote the general intent of the LDC
318 to protect the public health, safety and welfare.
319
- 320 9. The project sufficiently complies with Village of Estero Resolution No. 2015-22, in
321 that the project demonstrates principles of compact, walkable, transit supportive, mixed
322 use development, with an emphasis on employment, housing and recreation uses.
323

324 **Section 4. Exhibits**

325 The following Exhibits are attached to this ordinance and incorporated by reference:
326

327 EXHIBIT A Legal Description

328 EXHIBIT B Master Concept Plan stamped received October 20, 2015- December 18,
329 2015.
330

331 **Section 5. Effective Date**

332 This ordinance shall take effect immediately upon adoption.
333

334 **PASSED** on first reading this 16th day of December, 2015.
335

336 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
337 Florida this ____ day of _____, 2016.
338

339 Attest:

VILLAGE OF ESTERO, FLORIDA

340
341 By: _____

By: _____

342 Kathy Hall, MMC
343 Village Clerk

Nicholas Batos
Mayor

344
345 Reviewed for legal sufficiency:
346

347

348

By: _____

349

Nancy Stroud, Esq.

350

Land Use Attorney

351

352

Vote:

AYE

NAY

353

Mayor Batos

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Vice Mayor Levitan

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Councilmember Boesch

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Councilmember Brown

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Councilmember Errington

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Councilmember Ribble

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Councilmember Wilson

DRAFT