

1 VILLAGE OF ESTERO, FLORIDA

2  
3 ORDINANCE NO. 2016 - 02

4  
5 A ZONING ORDINANCE OF THE VILLAGE  
6 COUNCIL OF THE VILLAGE OF ESTERO,  
7 FLORIDA; REZONING 1.36 ACRES LOCATED AT  
8 21700 S. TAMAMI TRAIL, FROM MIXED PLANNED  
9 DEVELOPMENT TO COMMERCIAL PLANNED  
10 DEVELOPMENT FOR THE DEVELOPMENT OF UP  
11 TO 15,000 SQUARE FEET OF COMMERCIAL USES,  
12 INCLUDING FAST FOOD, AND INCLUDING  
13 CONDITIONS OF DEVELOPMENT; APPROVING  
14 CERTAIN DEVIATIONS; PROVIDING FOR  
15 CONFLICT; PROVIDING FOR SEVERABILITY;  
16 AND PROVIDING AN EFFECTIVE DATE.

17  
18 WHEREAS, Estero WAS, filed an application to rezone a 1.36 acre parcel from Mixed  
19 Use Planned Development to Commercial Planned Development with one (1) deviation for  
20 the development of up to 15,000 square feet of commercial uses, including fast food; and  
21

22 WHEREAS, the subject property is located at 21700 S. Tamiami Trail Estero, FL  
23 (Strap number 33-46-25-E3-28001.0000); and  
24

25 WHEREAS, a public hearing was held on December 15, 2015 by the Village of Estero  
26 Planning and Zoning Board which gave full consideration to the evidence available and  
27 recommended approval with conditions of the request (The record consists of the December  
28 07, 2015 staff report prepared by Community Development, the evidence presented at the  
29 hearing on file with the Village Clerk and the testimony of interested parties).  
30

31 NOW, THEREFORE, be it ordained by the Village Council of the Village of Estero,  
32 Florida:  
33

34 **Section 1. Request**

35 The Village Council of Estero hereby \_\_\_\_\_ the applicant’s request to rezone  
36 the property from Mixed Use Planned Development to Commercial Planned Development, to  
37 allow the development of up to 15,000 square feet of commercial uses, with the following  
38 conditions and deviation.  
39

40 **Section 2. Conditions and Deviation**

41  
42 1. Master Concept Plan/Development Parameters

43 The development of this project must be consistent with the one-page Master Concept  
44 Plan entitled “ESTERO WAS MINOR CPD” stamped received August 18, 2015 except  
45 as modified by the conditions below.  
46

47 The development is limited to a maximum of 15,000 square feet of total floor area.

48

49 This development must comply with all requirements of the Land Development Code  
50 (LDC) at time of local Development Order Approval, except as may be granted by  
51 deviation as part of this planned development. If changes to the Master Concept Plan  
52 are subsequently pursued, appropriate approvals will be necessary.

53

54 2. Uses and Site Development Regulations

55 The following limits apply to the project and uses:

56

57 a. Schedule of Uses

58 The approved Schedule of Uses for this development is found in Exhibit  
59 A

60

61 b. Site Development Regulations

62 The approved Property Development Regulations are found in Exhibit  
63 B.

64

65 3. Open Space

66 As committed on the Master Concept Plan, the minimum required open space is 0.27  
67 acres.

68

69 4. Buffer

70 If a fast food restaurant is constructed, the existing buffer needs to be enhanced to meet  
71 the standards of LDC Section 34-1353.

72

73 5. Vehicular/Pedestrian Impacts

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

77

78 6. Comprehensive Plan Consistency

79 Approval of this rezoning does not guarantee local development order approval.  
80 Future development order approvals must satisfy the requirements of the  
81 Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map  
82 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial  
83 standards for site area, including range of gross floor area, location, tenant mix and  
84 general function, as well as all other Comprehensive Plan provisions.

85

86 7. Concurrency

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

91

92

93 8. Solid Waste Management

94 As part of any local development order approval for vertical development, the  
95 development order plans must include facilities in compliance with LDC Section 10-  
96 261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and  
97 recyclables. The minimum area required for, and specific locations of, these facilities  
98 will be reviewed at the time of local development order application.  
99

100 Deviation Requests

101  
102 A request to deviate from the Village of Estero Transitional Land Development Code  
103 (LDC) Section 34-2020(b), parking requirements for non-residential uses to allow a  
104 5% reduction to required parking spaces based on the provision of a continuous for  
105 bicycle and pedestrian facilities identified on the Bikeways/Walkways Facility Plan,  
106 pursuant to LDC Section 34-2020(c)(3).  
107

108 The applicant should consider withdrawing this request as it can be reviewed at the  
109 time of local development order application. Otherwise, the deviation is recommended  
110 for denial because there is insufficient information at this time to justify the request.  
111

112 Section 3. Findings and Conclusions

113 Based upon an analysis of the application and the standards for approval of planned  
114 development rezonings, The Village Council makes the following findings and  
115 conclusions:  
116

- 117 1. The requested zoning to Commercial Planned Development (CPD), as conditioned:  
118  
119 a) The requested CPD zoning, as conditioned, complies with the Land Development  
120 Code and Comprehensive Plan.  
121  
122 b) The requested CPD zoning, as conditioned, is consistent with the general Suburban  
123 uses set forth in the Comprehensive Plan.  
124  
125 c) The requested CPD zoning, as conditioned, is compatible with existing or planned  
126 uses in the surrounding area.  
127  
128 d) Approval of the requested CPD zoning will not place an undue burden upon  
129 existing transportation or planned infrastructure facilities and will be served by  
130 streets with the capacity to carry traffic generated by the development.  
131  
132 e) The subject property does not have any environmentally critical areas and natural  
133 resources that will be adversely impacted by approval of the zoning.  
134  
135 f) Urban services are available and adequate to serve the proposed land uses.  
136  
137 g) The deviation request is premature and should be denied without prejudice to  
138 consideration at the time of development order review.

139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173

**Section 4. Exhibits**

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

- EXHIBIT A Schedule of Uses
- EXHIBIT B Site Development Regulations

**Section 5. Effective Date**

This ordinance shall take effect immediately upon adoption.

**PASSED** on first reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

**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

### Schedule of Uses

Accessory Uses and Structures (See Note 1 below)  
Administrative Offices  
Animals: Clinic (with outdoor pens/kennels, enclosures, and dog runs prohibited)  
ATM (automatic teller machine)  
Auto Parts Store – without installation facilities  
Banks and Financial Establishments: Groups I and II  
Boat Parts Store, without installation  
Broadcast Studios  
Business Services, Group I  
Clothing Stores, general  
Clubs:  
    Commercial  
    Fraternal, membership organization  
    Private  
Computer and Data Processing Services  
Consumption on Premises (LDC Section 34-1261 et seq.) Indoor only (in conjunction with restaurants)  
Cultural Facilities  
Day Care Center, Child, Adult  
Drive-through Facility for any Permitted Use  
Entrance Gates and Gatehouse  
Essential Services  
Essential Service Facilities, Group I  
Excavation: ~~Water retention~~  
Fences, Walls  
Food and Beverage Service, Limited  
Food Stores: Group I  
Hardware store (limited to a maximum of 10,000 square feet)  
Health Care Facilities: Groups I, II and III  
Hobby, Toy and Game Store  
Household and Office Furnishings, Groups I and II (Household use as limited by the LDC and Office use is limited to businesses like Kinko's, Office Depot, Office Max or other like business. Large newspaper printing facilities are prohibited.)  
Insurance Companies  
Laundry or Dry Cleaning: Group I  
Lawn and Garden Supply Stores  
Library  
Medical Office  
Nonstore Retailers, all groups  
Package Store (In conjunction with a multiple-use occupancy complex only; free-standing stores are prohibited)  
Paint, Glass and Wallpaper  
Parks: Groups I and II  
Parking Lot: ~~Accessory (see Note 1 below)~~

~~Garage, public parking~~

~~Temporary~~

Personal Services:

Group I, limited to – ATM's

Barbershops and Beauty Shop

Clothing Alterations and Repair including Dressmakers,  
Seamstresses and Tailors

Laundry Agents (wherein the establishment may do its own  
Pressing and finish work but not the laundering or dry  
Cleaning which is performed elsewhere)

Photo Agents (wherein drop-off and pickup film services are  
provided but the actual processing and developing is  
done elsewhere)

Shoe Repair Services (wherein shoe repair or shoe shining  
for Individual customers is performed)

Group II, limited to - Beauty spas

Health clubs or spas

Reducing or slenderizing salons

Steam or Turkish baths

Group III, limited to -Artificial limbs

Crutches

Hearing aids

Hospital beds

Optical supplies

Orthopedic supplies

Wheelchairs

Pet Services (outdoor pens, enclosures, and dog runs are prohibited)

Pet Shop (outdoor pens, enclosures, and dog runs are prohibited)

Pharmacy

Post Office

Real Estate Sales Office

Recreational Facilities: Commercial: ~~Groups II and IV~~ Health Club only

Religious Facilities

Rental or Leasing Establishment (All storage must be indoor and outdoor display is  
prohibited):

Group I, limited to - Beach chairs, umbrellas, and similar facilities

Bicycles

~~Moped and scooters~~

~~Passenger care pickup and drop off (no maintenance or  
repairs and limited storage)~~

Group II, limited to - Appliances

Bicycles

Costumes

Furniture

Garden equipment

Movies, videotapes and similar home entertainment

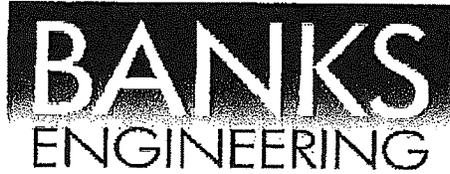
Party and banquet supplies

Tools and equipment primarily for home use

Repair Shops: Groups # I and II  
Research and Development Laboratories: Groups II and IV  
Restaurant, Fast Food (subject to LDC Section 34-1353 if standalone)  
Restaurants: Groups I, II and III  
Schools: Commercial  
Signs in accordance with LDC Chapter 30  
Social Services: Group I  
Specialty Retail Shops: Groups I, II, III and IV (no outdoor storage or display permitted)  
Studios  
~~Temporary Uses (limited solely to temporary contractor's office and storage shed)~~  
Used Merchandise Stores: Groups I and II  
Variety Store  
Wholesale Establishments: Group III

Note 1: All accessory uses, ~~including accessory parking~~, must be located on the same tract, parcel, outparcel, or lot where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel, outparcel, or lot.

**EXHIBIT B**



Professional Engineers, Planners & Land Surveyors

**Estero WAS Minor CPD**

**DCI2015-00016**

**Property Development Regulations**

**Minimum Lot Area and Dimensions:**

Area: 1.36 acres  
Width: 190 feet  
Depth: 270 feet

**Minimum Setbacks:**

Street: 25 feet  
Side: 15 feet  
Rear: 20 feet

Accessory Use and Structure setbacks must comply with LDC Section 34-1171 et seq. and 34-2194.

Maximum Lot Coverage: 60 percent

Maximum Building Height: 45 feet

Minimum Building Separation: Minimum building separation is the greater of either the minimum required setbacks or one-half the sum of the height of the buildings. (LDC Section 34-935(e)(4))

**RECEIVED**  
AUG 18 2015  
COMMUNITY DEVELOPMENT  
DCI 2015-00016

• SERVING THE STATE OF FLORIDA •