

**AGENDA ITEM SUMMARY SHEET**  
**VILLAGE COUNCIL MEETING**  
**September 4, 2019**

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**Agenda Item:**

First Reading of Ordinance 2019-27  
Ordinance amending Resolution Z-03-032 for Burger King review

**Description:**

The applicant is requesting amendments to the Estero Town Center Commercial Planned Development to construct a Burger King fast food restaurant on 1.435 acres in the 32.96-acre commercial project located in the southeast quadrant of the intersection of Corkscrew Road and Three Oaks Parkway. A fast food restaurant is allowed in the current zoning on this lot but the amendment is needed for deviations and the location of the drive-thru. The County Resolution, Z-03-032, limits Fast Food Restaurants to no more than one freestanding fast food restaurant.

The County resolution would allow the drive-thru within 5 feet of Corkscrew Road. This application seeks to modify this requirement by providing a new cross-section for the drive-thru facility. The new cross section accommodates a Type D buffer between Corkscrew Road and the proposed drive-thru with the result that the closest the drive thru will be to Corkscrew Road is twenty feet, not five feet.

A Public Information Meeting for this application was held at the February 19, 2019 Planning and Zoning Board.

The application was reviewed at the Planning and Zoning Board meeting on July 16, 2019, and they recommended approval as conditioned by staff.

**Action Requested:**

Pass first reading.

**Financial Impact:**

Minor cost associated with advertising the ordinance.

**Attachment:**

1. Ordinance No. 2018-27
2. Staff Report

# ATTACHMENT 1

## VILLAGE OF ESTERO, FLORIDA ZONING ORDINANCE NO. 2019 - 27

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5       **A ZONING ORDINANCE OF THE VILLAGE COUNCIL**  
6       **OF THE VILLAGE OF ESTERO, FLORIDA;**  
7       **AMENDING THE COMMERCIAL PLANNED**  
8       **DEVELOPMENT ZONING FOR TRACT B, PHASE 2 AT**  
9       **ESTERO TOWN CENTER CPD FOR THE**  
10       **DEVELOPMENT OF A BURGER KING FAST FOOD**  
11       **RESTAURANT ON 1.435 ACRES IN THE 32.96-ACRE**  
12       **COMMERCIAL PROJECT LOCATED IN THE**  
13       **SOUTHEAST CORNER OF THE INTERSECTION OF**  
14       **CORKSCREW ROAD AND THREE OAKS PARKWAY**  
15       **AND INCLUDING CONDITIONS OF DEVELOPMENT;**  
16       **APPROVING DEVIATIONS; PROVIDING FOR**  
17       **CONFLICT; PROVIDING FOR SEVERABILITY; AND**  
18       **PROVIDING AN EFFECTIVE DATE.**  
19

20       **WHEREAS**, Bravoflorida, LLC, filed an application to amend the Commercial Planned  
21 Development Zoning to add a new cross-section to the design guidelines and standards  
22 approved as part of Zoning Resolution Z-03-032 and three (3) deviations for the development  
23 of a **Burger King** fast food restaurant with drive-thru on 1.435 acres; and  
24

25       **WHEREAS**, the subject property (Tract B, Phase 2) is located at 21301 Town  
26 Commons Drive, Estero, Florida (Strap Number 35-46-25-E1-3300B.0000); and  
27

28       **WHEREAS**, the Property legal description is attached; and  
29

30       **WHEREAS**, the subject property is located within a Commercial Planned Development  
31 (CPD) known as Estero Town Center which was approved by Resolution Z-03-032; and  
32

33       **WHEREAS**, a public information meeting was held for this application at the Planning  
34 and Zoning Board on February 19, 2019; and  
35

36       **WHEREAS**, the Planning and Zoning Board considered the application at its meeting  
37 on July 16, 2019 and recommended approval with conditions of the request except for Deviation  
38 3; and  
39

40       **WHEREAS**, a duly noticed first reading was held before the Village Council on  
41 \_\_\_\_\_, 2019 and;  
42

43       **WHEREAS**, a duly noticed second reading and public hearing was held before the  
44 Village Council on \_\_\_\_\_, 2019 at which time the Village Council gave

45 consideration to the evidence presented by the applicant and the Village staff, the  
46 recommendations of the Planning and Zoning Board, and the comments of the public.

47  
48 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,  
49 Florida:

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51 **Section 1. Zoning Conditions.**

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53 The Village Council approves the zoning amendment with the conditions and deviations  
54 below:

55  
56 1. Site Plan

57 The development of the Fast Food Restaurant on Tract B must be substantially  
58 consistent with the Burger King Site Plan dated Revised August 16, 2019 stamped  
59 received August 16, 2019.

60  
61 The development must comply with all requirements of the Village of Estero's  
62 Transitional Land Development Code (LDC), except as may be granted by deviation  
63 as part of this planned development.

64  
65 2. Previous Approvals

66 The previous approvals (contained in Resolution Number Z-03-032, ADD2005-  
67 00156, ADD2005-00235, ADD2006-00163, and ADD2007-00017) including  
68 conditions and deviations, remain in effect except as modified by the conditions and  
69 deviations contained in this approval. The Schedule of Uses, building height, and  
70 property development regulations for the site must be in accordance with Resolution  
71 Z-03-032.

72  
73 3. Re-plat

74 Prior to a development order for the fast food restaurant being issued, a re-plat of  
75 Tract B must be submitted, reviewed, and approved by the Village Council.

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77 4. Transportation – Puente Lane Signal

78 Pursuant to a signalization agreement as a part of development order number  
79 DOS2002-00172, Estero Town Center is responsible for a proportionate share of the  
80 cost of the signalization of the intersection of Puente Lane and Corkscrew Road at  
81 such time as the required warrants for signalization are met (warrants have been  
82 met). The proportionate share payment must be made to the Village of Estero prior  
83 to issuance of a development order for this parcel.

84  
85 5. Pattern Book

86 The project design must be consistent with the Pattern Book, titled "Supplemental  
87 Pattern Book for Tract B, Estero Town Center, 21301 Town Commons Drive,  
88 Estero, FL", dated August 16, 2019, stamped received August 16, 2019. Buffers

- 89 must be provided consistent with the buffers depicted on the Site Plan as well as the  
90 Pattern Book.
- 91
- 92 7. Town Commons Drive Pedestrian Access
- 93 In addition to the pedestrian accesses depicted within the Pattern Book, an additional  
94 pedestrian sidewalk must be provided with the vehicular access to Town Commons  
95 Drive. This sidewalk must connect the sidewalk on Town Commons Drive to the  
96 proposed building.
- 97
- 98 8. Estero Town Commons Place Sidewalk
- 99 A sidewalk must be installed along the parcel frontage on the north side of Estero  
100 Town Commons Place and must be included in the initial Development Order for  
101 the site.
- 102
- 103 9. Base Flood Elevation
- 104 The finished first floor must meet base flood elevation at a minimum plus one foot  
105 of free board (AH flood zone – elevation 16.2 feet NAVD which includes 1 foot of  
106 freeboard).
- 107
- 108 10. Proposed Typical Section C-1
- 109 The proposed Fast Food Restaurant with drive thru must be developed consistent  
110 with Typical Section C-1 which is hereby incorporated into the Estero Town Center  
111 Design Guidelines and Standards (Resolution Z-03-032, Exhibit D).
- 112
- 113 11. Auto Turn Study
- 114 An auto turn study must be submitted, reviewed, and approved by the Estero Fire  
115 District prior to the Development Order for the site being approved.
- 116
- 117 12. No Blasting
- 118 No development blasting is permitted as part of the Burger King project.
- 119
- 120 13. Water and Sewer
- 121 Development of this project must connect to both public water and public sewer. At  
122 time of local Development Order, the developer must also demonstrate there is  
123 adequate water and sewer capacity to handle the proposed level of development.
- 124
- 125 14. State and Federal Permits
- 126 The approval of the proposed zoning amendment does not create any right on the  
127 part of the applicant to obtain a permit from a state or federal agency, all other  
128 applicable state or federal permits must be obtained before commencement of the  
129 development on the subject site.
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134 **Section 2. Deviations.**

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- 136 1. Deviation 1 requests relief from LDC Section 34-2020, parking spaces, that requires
- 137 fast food restaurants to provide 13 spaces per 1000 square feet of total floor area to
- 138 permit 10 spaces per 1000 square feet of total floor area for the proposed fast food
- 139 restaurant. Deviation 1 is Approved subject to providing a shared parking agreement
- 140 (providing 10 additional parking spaces at a minimum) prior to the Development
- 141 Order being approved. The Development Order for the Burger King site must
- 142 provide 34 parking spaces on site at a minimum.
- 143
- 144 2. Deviation 2 requests relief from LDC Section 34-2021, drive-thru stacking
- 145 requirements, that requires restaurants to provide stacking to accommodate 10 cars
- 146 per service lane with a minimum of 5 spaces preceding the menu board, to permit
- 147 the drive-thru restaurant to provide a total of 7 spaces preceding the menu board for
- 148 the double – drive-thru and a total of 15 spaces in the two service lanes. Deviation 2
- 149 is Approved subject to pavement striping as approved by Village staff.
- 150
- 151 3. Deviation 3 requests relief from LDC Section 10-256(c)(2)e, bikeways and
- 152 pedestrian ways, that requires a sidewalk to be constructed when a property abuts a
- 153 local street, to permit no sidewalk to be installed adjacent to a portion of Tract B.
- 154 Deviation 3 was Withdrawn by the applicant.
- 155

156 **Section 3. Findings and Conclusions.**

157

158 Based upon an analysis of the application and the standards for approval of Planned

159 Development Amendments, the Village Council makes the following findings and

160 conclusions:

- 161
- 162 1. The applicant has provided sufficient justification for the zoning amendment by
- 163 demonstrating compliance with the Comprehensive Plan, the Land Development
- 164 Code, and other applicable codes.
- 165
- 166 2. Approval of the request will not place an undue burden upon existing transportation
- 167 or planned infrastructure facilities because there are interim improvements
- 168 underway at the I-75 interchange, and this project will not significantly impact the
- 169 interchange, or Corkscrew Road.
- 170
- 171 3. The application is generally compatible with existing or planned uses in the
- 172 surrounding area. The proposed use is set back a considerable distance from adjacent
- 173 residential uses.
- 174
- 175 4. Urban services will be available and adequate to serve the proposed use.
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- 177 5. The request will not adversely affect environmentally critical areas and natural
- 178 resources.

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- 6. The proposed use, with the proposed conditions, is appropriate at the subject location.
- 7. The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to impacts on the public’s interest created by or expected from the proposed development.

The deviations recommended for approval:

- a. Enhance the planned development; and
- b. Preserve and promote the general intent of the LDC to protect the public, health, safety and welfare.

**Section 4. Exhibits.**

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

- A. Site Plan
- B. Legal Description
- C. Pattern Book

**Section 5. Conflict.**

All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the Village or any of its officials and in conflict with this Ordinance are hereby repealed to the extent inconsistent herewith.

**Section 6. Severability.**

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**Section 7. Effective Date.**

This ordinance shall take effect immediately upon adoption.

**PASSED** on first reading this 4<sup>th</sup> day of September, 2019.

221 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
222 Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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

By: \_\_\_\_\_  
Bill Ribble, Mayor

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229 Reviewed for legal sufficiency:

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

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236	Vote:	AYE	NAY
237	Mayor Ribble	_____	_____
238	Vice Mayor Errington	_____	_____
239	Councilmember Batos	_____	_____
240	Councilmember Boesch	_____	_____
241	Councilmember Levitan	_____	_____
242	Councilmember McLain	_____	_____
243	Councilmember Wilson	_____	_____