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**VILLAGE OF ESTERO, FLORIDA  
ZONING  
ORDINANCE NO. 2020-03**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, APPROVING WITH CONDITIONS A REZONING FROM AGRICULTURE (AG-2) TO COMMERCIAL PLANNED DEVELOPMENT WITH DEVIATIONS, TO ALLOW A COMMERCIAL DEVELOPMENT ON PROPERTY LOCATED AT 8111 BROADWAY EAST, EAST OF U.S. 41 AND NORTH OF ESTERO UNITED METHODIST CHURCH CONSISTING OF APPROXIMATELY 1 ACRE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, SUZUKI FAMILY TRUST represented by Veronica Martin, TDM Consulting, Inc. (the “Applicant”), filed an application for a rezoning from Agriculture (AG-2) to Commercial Planned Development (CPD) for a property located at 8111 Broadway East, known as the **Old Post Office**, Estero, FL, consisting of approximately 1.07 acres (the “Property”); and

**WHEREAS**, the Property STRAP number is 28-46-25-E2-U1923.2494, and the Property is legally described in Exhibit A attached hereto; and

**WHEREAS**, the Applicant requested a rezoning from Agriculture (AG-2) to Commercial Planned Development District (CPD) (Case number DCI2019-E001); and

**WHEREAS**, the Applicant is requesting 4,800 square feet of various commercial uses within the existing building; and

**WHEREAS**, the Applicant has requested several deviations; and

**WHEREAS**, a noticed public information meeting was held on March 19, 2019 at the Planning and Zoning Board; and

**WHEREAS**, at a duly noticed public hearing held on November 19, 2019, the Planning and Zoning Board recommended approval with conditions of the rezoning request, including deviations; and

**WHEREAS**, a duly noticed first reading was held before the Village Council on DATE; and

**WHEREAS**, a duly noticed second reading and public hearing was held before the Village Council on \_\_\_\_\_, 20\_\_, at which time the Village Council gave

46 consideration to the evidence presented by the Applicant and the Village staff, the  
47 recommendations of the Planning and Zoning Board and the comments of the public.  
48

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

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52 **Section 1. Rezoning.**  
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54 The Village Council approves with conditions the rezoning of the Property from  
55 Agriculture (AG-2) to Commercial Planned Development District (CPD), to allow  
56 commercial use as outlined below, and subject to the following conditions and  
57 deviations.  
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59 **Section 2. Conditions.**  
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61 1. Master Concept Plan  
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63 Development of this project must be consistent with the Master Concept Plan  
64 (MCP) titled “8111 Broadway East”, dated May 6, 2020 and stamped “Received  
65 June 4, 2020”, except as modified by the conditions below.  
66

67 2. Development Parameters  
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69 Development is permitted at a maximum as follows:  
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- 71 • 4,800 square feet of commercial use  
72

73 3. Maximum Building Height  
74

75 35 feet (including architectural features)  
76

77 4. Impact Fees  
78

79 Any new use will pay the appropriate impact fees at building permit issuance.  
80

81 5. Uses and Site Development Regulations  
82

83 The following uses and setbacks apply to the project:  
84

85 a. Schedule of Uses  
86

87 Accessory Uses and Structures  
88 Administrative Offices  
89 Animals: Clinic Only

90	ATM (Automatic Teller Machine)
91	Broadcast Studio, Commercial Radio and Television
92	Business Services, Groups I & II (excluding Automobile Auctions On-Site)
93	Cleaning and Maintenance Services
94	Clothing Stores, General
95	Consumption on Premises (limited to indoor in conjunction with a restaurant only)
96	Contractors and Builders, Group I
97	Day Care Center, Child, Adult
98	Essential Services
99	Essential Service Facilities, Group I
100	Fences, Walls
101	Food Stores, Group I
102	Gift and Souvenir Shop
103	Hardware Store
104	Health Care Facilities, Group III
105	Hobby, Toy, and Game Shops
106	Household and Office Furnishings, Groups I & II
107	Insurance Companies
108	Lawn and Garden Supply Stores
109	Medical Office
110	Non-Store Retailers, all groups
111	Paint, Glass and Wallpaper
112	Personal Services, Groups I, II, III, & IV (excluding Massage Establishments,
113	Massage Parlors, Escort Services, Palm Readers/Fortune Tellers, and Tattoo
114	Parlors)
115	Pet Services
116	Pet Shop
117	Place of Worship
118	Plant Nursery
119	Real Estate Sales Office
120	Rental or Leasing Establishments, Groups I & II
121	Repair Shops, Groups I & II
122	Research and Development Laboratories, Group II
123	Restaurants, Groups I, II, & III (outdoor seating is not permitted without a zoning
124	amendment)
125	Retail and Wholesale Sales (when incidental and subordinate to a principal use)
126	Signs in Accordance with the Land Development Code
127	Social Services, Group I
128	Specialty Retail Shops, Groups I, II, III, & IV (excluding Ammunition and
129	Firearms Sales)
130	Storage, Indoor and Open (see conditions)
131	Studios
132	Used Merchandise Stores, Group I (excluding Pawn Shops)
133	Variety Store

134 Warehouse, Private  
135 Wholesale Establishments, Groups III & IV

136  
137 b. Building Setback Requirements

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139 Front/Street (South) – 25 Feet  
140 Rear (North) – 20 Feet  
141 Side (East) – 16 Feet  
142 Side (West) – 20 Feet

143  
144 6. Hours of Operation

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146 Hours of Operation are limited to 7 a.m. to 10 p.m. Monday through Saturday and  
147 8 a.m. to 6 p.m. on Sunday.

148  
149 7. Open Storage

150  
151 Open storage is only permitted in the parking lot north of the proposed fence and  
152 gate that crosses the parking lot depicted on the Master Concept Plan and must be  
153 enclosed and shielded as required by the Land Development Code. Barbed wire is  
154 not permitted and must be removed from the fence.

155  
156 8. Estero Fire Rescue

157  
158 An Auto Turn Analysis for Fire Apparatus must be completed prior to the issuance  
159 of the development order. If the Auto Turn Analysis shows Fire Department access  
160 issues, then the building must have a fire sprinkler system installed.

161  
162 A Fire Hydrant must be installed within 400 feet of building, as per code.

163  
164 Radio Enhancement: Prior to the issuance of a Development Order, the owner or  
165 owner’s representative shall conduct an assessment model to determine if the  
166 minimum radio signals’ strength for the fire department communication is in  
167 compliance in accordance with NFPA 1: 11.10, NFPA 1221: 11.3.9, standards for  
168 inbound and outbound signal strength and quality. If minimum signal strength is  
169 not available, the applicant must install radio enhancement in the building.

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171 9. No Blasting

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173 No development blasting is permitted as part of this project.

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10. Utilities - Sewer

This development must connect to sanitary sewer service as soon as service is available as required by the Village Land Development Code. The owner or assign of the property will be subject to any special assessment district or similar mechanism for provision of central sewer identified by the Village or sewer provider.

Annual septic tank inspections must be conducted and submitted to the Village Community Development Director to ensure that the septic system is functioning properly.

The uses will be reviewed at time of Development Order to ensure that the septic system has adequate capacity to accommodate the proposed use.

11. Pattern Book

The development must be consistent with the Pattern Book “The Old Estero Post Office” date stamped “Received May 6, 2020”.

12. Sidewalk & Pedestrian Connections

Sidewalks and pedestrian connections must be provided consistent with the Pattern Book and Land Development Code.

Prior to issuance of the Development Order Certificate of Compliance an executed public easement shall be submitted for the sidewalk on Broadway East.

13. Buffers

As part of local development order approval, the development order plans must demonstrate buffering consistent with the Master Concept Plan, the Land Development Code, and the Pattern Book. As part of local development order approval, all required buffer plantings must be 100% native vegetation.

14. Broadway East Buffer Plan and East Buffer Wall

- a. A 20-foot wide Type D buffer will be installed along Broadway East as shown on the Master Concept Plan.
- b. The final design of the 8-foot wall and placement must address how the proposed preservation of pines in this area will be achieved so that there is no damage or destruction of the existing native trees.

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15. Open Space & Indigenous Preserve

Development order plans must depict open space in compliance with the approved Master Concept Plan open space calculations table.

16. Vehicular/Pedestrian Impacts

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

17. Concurrency

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

18. Solid Waste Management

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

19. Land Development Code (LDC)

Where the Village LDC is referenced in these conditions of approval for implementation of the condition at the time of development order issuance, the LDC in effect at the time of the local development order shall be applicable.

**Section 3. Deviations.**

1. A Deviation from LDC Section 34-935(b)(1), Property Development Regulations, which requires a 20-foot building setback to the east property line to permit a 16-foot building setback to the east property line. Deviation 1 is approved.
2. A Deviation from LDC Section 34-935(b)(2), Property Development Regulations, which requires that parking or internal roads or drives be located in this case a minimum of 20 feet from the east property line to permit the existing driveway and parking lot to be 15 feet from the east property line. Deviation 2 is approved.

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3. A Deviation from LDC Section 33-351, Landscaping Buffers, which requires a Type C buffer to be a minimum of 20 feet wide with 10 trees and 30 shrubs per 100 linear feet with an 8-foot high solid wall to permit a 15 foot wide Type C buffer along the east property line with the wall located 10 feet from the property line, to permit the building to act as the “wall” for 80 linear feet, and to permit the “wall” to be made of PVC or similar material. Deviation 3 is approved.
  4. A Deviation from LDC Section 33-118, Interconnections and Shared Access, which requires that adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic and that all adjacent parking lots must connect to permit that the subject site not provide a vehicular interconnection or shared access to the adjacent property to the north and west. Deviation 4 is approved.
  5. A Deviation from LDC Section 34-1742(b), Construction of Fences, which requires that all fences and fence walls on each property be of uniform materials, design, and color to permit both the existing chain link fence and proposed buffer wall and gate to be of different materials, design, and color than the existing chain link fence. Deviation 5 is approved.
  6. A Deviation from LDC Section 10-285, Connection Separation, which requires a connection separation distance of 330 feet on Collector roads to permit a connection separation distance of 265± feet to the nearest residential driveway to the east and 298± feet to U.S. 41 to the west. Deviation 6 is approved.

291 **Section 4. Findings and Conclusions.**

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293 Based upon an analysis of the application and the standards for approval in the Land  
294 Development Code, and the conditions of approval, the Council finds and concludes as  
295 follows:  
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1. The applicant has provided sufficient justification for the zoning amendment by demonstrating compliance with the Comprehensive Plan, the Land Development Code, and other applicable codes.
  2. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities.
  3. The application with the proposed conditions is generally compatible with existing or planned uses in the surrounding area.
  4. Urban services will be available and adequate to serve the proposed use with the exception of sanitary sewer service. Approval is conditioned that when this service is available, the subject site will connect to sanitary sewer service.

- 310 5. The request will not adversely affect environmentally critical areas and natural  
311 resources.  
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313 6. The proposed uses, with the proposed conditions, are appropriate at the subject  
314 location.  
315  
316 7. The recommended conditions provide sufficient safeguards to the public interest  
317 and are reasonably related to impacts on the public’s interest created by or expected  
318 from the proposed development.  
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320 8. The deviations recommended for approval:  
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322 a. Enhance the planned development; and  
323 b. Preserve and promote the general intent of the LDC to protect the public, health,  
324 safety and welfare.  
325

326 **Section 5. Exhibits.**

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328 The following exhibits are attached to this Ordinance and incorporated by reference:  
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- 330 Exhibit A Legal Description  
331 Exhibit B Master Concept Plan titled “8111 Broadway East Master Concept Plan”  
332 stamped “Received June 4, 2020”  
333 Exhibit C Pattern Book titled “Old Estero Post Office Pattern Book” stamped  
334 “Received May 6, 2020”  
335

336 **Section 6. Severability.**

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338 Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance  
339 subsequent to its effective date be declared by a court of competent jurisdiction to be  
340 invalid, such decision shall not affect the validity of this Ordinance as a whole or any  
341 portion thereof, other than the part so declared to be invalid.  
342

343 **Section 7. Effective Date.**

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345 This Ordinance shall take effect immediately upon adoption.  
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347 **PASSED** on first reading this 17th day of June, 2020.  
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349 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
350 Florida on second reading this \_\_\_\_\_day of \_\_\_\_\_, 2020.  
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Attest:

**VILLAGE OF ESTERO, FLORIDA**

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

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

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
Nancy E. Stroud, Village Land Use Attorney

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