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**VILLAGE OF ESTERO, FLORIDA
ZONING
ORDINANCE NO. 2021-02**

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**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, CONSIDERING A
REZONING FROM AGRICULTURE (AG-2) TO ESTERO
PLANNED DEVELOPMENT (EPD) FOR A .73-ACRE
PARCEL AT THE INTERSECTION OF CORKSCREW
ROAD AND HAPPY HOLLOW LANE; PROVIDING FOR
CONFLICTS; PROVIDING FOR SEVERABILITY; AND
PROVIDING AN EFFECTIVE DATE.**

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WHEREAS, Joseph Pavich, Jr. and Jennifer Sassi, represented by Fred Drovdllic, Waldrop Engineering, Inc. (the “Applicant”), filed for a rezoning on two properties located at 8910 Corkscrew Road and 21256 Happy Hollow Lane (“Property”) for a project known as **Pavich EPD**; and

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WHEREAS, the Property STRAP numbers are 33-46-25-E2-U1960.2366 and 33-46-25-E2-U1960.2363, and the Properties are legally described in Exhibit A attached hereto; and

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39
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WHEREAS, the Applicant requested a rezoning from Agriculture (AG-2) to Estero Planned Development (EPD) (Case number DCI 2019-E002); and

WHEREAS, the Applicant is requesting an 8,000 square foot commercial mixed-use building, and 950 square feet of exterior breezeway for café seating; and

WHEREAS, the Applicant has requested several deviations; and

WHEREAS, a public information meeting was held on May 21, 2019 at the Planning and Zoning Board; and

WHEREAS, a meeting to discuss the Pattern Book was held on June 26, 2019 at the Design Review Board, as required by the Land Development Code for Estero Planned Development zoning; and

WHEREAS, at a duly noticed public hearing held on September 15, 2020 the Planning and Zoning Board continued the rezone request for additional consideration; and

Words that have been added are underlined in red. Words that have been deleted are ~~stricken through~~.

41 **WHEREAS**, at a continued public hearing held on December 15, 2020 the Planning
42 and Zoning Board recommended approval with conditions of the rezoning request; and

43
44 **WHEREAS**, a duly noticed first reading was held before the Village Council on
45 February 17 3, 2021; and

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47 **WHEREAS**, a duly noticed second reading and public hearing was held before the
48 Village Council on March 3, 2021, at which time the Village Council gave consideration to
49 the evidence presented by the Applicant and the Village staff, the recommendations of the
50 Planning and Zoning Board and the comments of the public.

51
52 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,
53 Florida:

54
55 **Section 1.** **Rezoning.**

56
57 The Village Council approves with conditions the rezoning from Agriculture (AG-2)
58 to Estero Planned Development (EPD) to allow for up to 8,000 square feet of
59 commercial mixed uses including office, retail, and café, and up to 950 square feet of
60 breezeway area for outdoor café seating, subject to the following conditions.

61
62 **Section 2.** **Conditions.**

63
64 1. Master Concept Plan

65 Development of this project must be consistent with the Tiered Development Plan
66 (TDP) titled “Tiered Development Plan, Pavich Estero PD”, stamped “Received
67 January 4, 2021”.

68
69 2. Development Parameters

70 This project is limited to a maximum of 8,000 square feet of commercial mixed uses
71 and 950 square feet of outdoor seating area. Uses must be consistent with the Schedule
72 of Uses below. The project must contain a mix of uses such as office, retail, or food
73 service. The site is not permitted for solely one type of use based upon the requirements
74 of Estero Planned Development zoning. The mix of uses will be demonstrated at time
75 of development order for at least 2 different uses.

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77 3. Maximum Building Height

78 45 feet (including architectural features)

79
80 4. Lot Recombination

81 Prior to a Development Order being issued for this project, a lot recombination must
82 be approved.

Words that have been added are underlined in red. Words that have been deleted are ~~stricken~~
through.

- 83 5. Uses and Site Development Regulations
84 The following uses and limits apply to the project:
85
86 a. Schedule of Uses
87 Accessory Uses and Structures
88 Administrative Offices
89 Art Galleries and Studios
90 Bait and Tackle Shop
91 Business Services: Group I
92 Contractor and Builders: Group I
93 Consumption on Premises – In conjunction with a restaurant. Any Outdoor
94 Seating will require further approval as to hours of operation as specified in
95 the LDC
96 Food Stores: Group I
97 Essential Services
98 Essential Service Facilities: Group I
99 Excavation: Water Retention – No Blasting
100 Fences, Walls
101 Gift and Souvenir Shop
102 Hobby, Toy, and Game Shops
103 Insurance Companies
104 Nonstore Retailers: All Groups
105 Offices, Including Medical and Health Care Facilities, Group III
106 Parking Lot, Accessory
107 Personal Services: Groups I and II (Laundry Drop-off/Pick-up, Beauty Spas
108 Health Clubs and Spas, Barbershops, and Beauty Shops limited to 2,000 square
109 feet)
110 Real Estate Sales Office
111 Restaurants: Groups I and II
112 Signs, in compliance with the LDC, except where deviation permits alternative
113 Social Services: Group I
114 Specialty Retail Shops: Groups I and II
115 ~~Temporary Uses~~
116
117 b. Building Setback Requirements for Corkscrew Road Overlay
118
119 Minimum Lot Area - .73 acres
120 Maximum Lot Coverage - 60%
121 Minimum Lot Width - 100 feet
122 Minimum Lot Depth - 100 feet

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123 Street /Front (Corkscrew Road) - 25 feet
124 Street/Side (Happy Hollow) - 10 feet
125 Side - 10 feet
126 Rear Principal - 25 feet
127 Rear Accessory - 5 feet
128 Maximum Height - 45 feet
129

130 6. Estero Fire Rescue

131 Radio Enhancement: The owner or owner’s representative shall conduct an assessment
132 model at the time of development order to determine if the minimum radio signal’s
133 strength for the fire department communication is in compliance with NFPA1:11.10,
134 NFPA 1221:11.3.9, standards for inbound and outbound signal strength and quality. If
135 minimum signal strength is not available, the applicant shall install radio enhancement
136 in the building.
137

138 7. No Blasting

139 No development blasting is permitted as part of this project.
140

141 8. Utilities

142 The project must be connected to centralized potable water service and centralized
143 sewer service.
144

145 9. Pattern Book

146 The project must be consistent with the Pattern Book dated March 2021, including the
147 building colors. ~~date stamped “Received December 1, 2020”, except that the Pattern~~
148 ~~Book must be revised prior to second reading so that the predominant color is not gray~~
149 ~~or white.~~
150

151 10. Buffers

152 As part of local development order approval for the project, the development order
153 plans must demonstrate buffering consistent with the Master Concept Plan, the Land
154 Development Code, and the Pattern Book. As part of local development order approval,
155 all required buffer plantings must be 100% native vegetation.
156

157 11. Public Gathering Area

158 The applicant shall provide details regarding the trellis and outdoor furniture associated
159 with the Public Gathering Areas at the time of Development Order. This area must be
160 open to the public from dawn to dusk daily.
161

162 12. Concurrency

163 Approval of this rezoning does not constitute a finding that the proposed project meets
164 the regulatory concurrency requirements set forth in the Land Development Code and

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the Comprehensive Plan. The developer is required to demonstrate compliance with mandatory concurrency requirements prior to issuance of a local development order.

13. Lee County Development Order

A Lee County Type ‘D’ Limited Development Order (LDO) will be required for the offsite improvements within the County maintained right-of-way.

14. 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, the LDC in effect at the time of the development order shall be applicable.

15. Turn Lane Analysis

Evaluation of the necessity of a right-turn lane on Corkscrew Road at Happy Hollow Lane shall be required at the time of Development Order.

16. Railroad Right-of-Way

If the railroad right-of-way adjacent to this property becomes open to the public, then a Type D buffer must be installed on the west side of the property, with an access connecting to the bike rack area on this site.

Section 3. Deviations

- 1. A Deviation from LDC Table 34-2020(b), Minimum Required Spaces for Multiple-Use Development to permit a 5% reduction in the required spaces due to multi-modal access as the property abuts the bikeway/sidewalk on Corkscrew Road. Determination of the required number of parking spaces will be reviewed at Development Order.

Deviation 1 is approved.

- 2. A Deviation from LDC Section 33-351, Landscaping Buffer Table, which requires a 20-foot buffer, to allow for a variable buffer from 10 to 16 feet as shown on the Tiered Development Plan.

Deviation 2 is approved.

- 3. A Deviation from LDC Section 33-385(a)(3) which requires a commercial sign be located on the frontage of the primary access to the site, to allow for the monument sign to be located on Corkscrew Road.

Deviation 3 is approved

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207 4. A Deviation from LDC Section 33-385(a)(3) which requires a 15-foot setback from
208 any street right-of-way or easement to allow for a monument sign 10 feet from any
209 street right-of-way or easement, rather than the required 15 feet.

210
211 Deviation 4 is approved.

212
213 5. A Deviation from LDC Section 34-2192(a) which requires a 20-foot setback from
214 Happy Hollow Lane, to allow a 10-foot setback as shown on the Tiered
215 Development Plan.

216
217 Deviation 5 is approved.

218
219 6. A Deviation from LDC Section 34-935(b) which requires a 15-foot ~~feet~~ setback
220 ~~from~~ ~~from~~ development perimeter boundaries on the western property line, to allow
221 for buildings within 10 feet of the development perimeter boundaries.

222
223 Deviation 6 is approved.

224
225 **Section 4. Findings and Conclusions.**

226
227 Based upon an analysis of the application and the standards for approval in the Land
228 Development Code, and the conditions of approval, the Council finds and concludes as
229 follows:

- 230
- 231 1. The applicant has provided sufficient justification for the zoning amendment by
232 demonstrating compliance with the Comprehensive Plan, the Land Development
233 Code, and other applicable codes.
 - 234
 - 235 2. The request, with proposed conditions and deviations, will meet or exceed all
236 performance and locational standards set forth for the potential uses allowed by the
237 request.
 - 238
 - 239 3. The request is consistent with the densities, intensities and general uses set forth in
240 the Village of Estero Comprehensive Plan.
 - 241
 - 242 4. The proposed uses are compatible with existing or planned uses in the surrounding
243 area and will be served with streets with the capacity to carry traffic generated by
244 the development.
 - 245
 - 246 5. Approval of the request will not place an undue burden upon existing transportation
247 or planned infrastructure facilities.
 - 248

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- 249 6. Urban services are available and adequate to serve the proposed use.
250
251 7. The request will not adversely affect environmentally critical areas and natural
252 resources.
253 8. The mix of uses is appropriate at the subject location.
254
255 9. The recommended conditions provide sufficient safeguards to the public interest
256 and are reasonably related to impacts on the public's interest created by or expected
257 from the proposed development.
258
259 10. The deviations recommended for approval:
260
261 a. Enhance the planned development; and
262
263 b. Preserve and promote the general intent of the LDC to protect the public health,
264 safety and welfare.
265
266 11. The proposal, as conditioned, is consistent with the general criteria of the Estero
267 Planned Development zoning district as follows:
268
269 a. Goals The creation of the public amenity area will help create social vitality and
270 enhance the pedestrian experience along this section of Corkscrew Road.
271
272 b. Reasonable Standards The applicant has used physical form and the relationship
273 of the building with the landscaping and public space to meet the Village Center
274 goals.
275
276 c. Accessibility Accessible public spaces are proposed with the public amenity
277 area, breezeway, interconnection through the building, and the sidewalk along
278 Happy Hollow Lane.
279
280 d. Streets N/A due to size of project.
281
282 e. Street Design N/A due to size of project.
283
284 f. Lots and Blocks N/A due to size of project.
285
286 g. The Visual Edge A visual edge is created by the structure and landscaping from
287 the railroad corridor to Happy Hollow Lane. The proposed massing of the two-
288 story, 40-foot tall building has a hipped roof, awnings, and a shed roof between
289 the two building levels which define the edge.
290

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- 291 h. Architecture The Old Florida building design is consistent with the Village
292 architectural standards and though a departure from the nearby Mediterranean
293 style is an attractive building that will contribute to the framework of the Village
294 Center.
295 i. Quality of Buildings The structure should allow for adaptive reuse consistent
296 with the goals of the Village.

297

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Section 5.4 Exhibits.

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The following exhibits are attached to this Ordinance and incorporated by reference:

301

Exhibit A Legal Description and Sketch

302

303

304

Exhibit B Tiered Development Plan titled “Pavich EPD” and stamped “Received
305 January 4, 2021”

306

307

Exhibit C Pattern Book entitled “Pavich Estero PD-EPD Tier 1 Pattern Book” dated
308 March 2021 stamped “~~Received December 1, 2020~~”

309

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Section 6.5 Severability.

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312

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

316

317

Section 7.6 Effective Date.

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This Ordinance shall take effect immediately upon adoption.

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PASSED on first reading this 17th day of February, 2021.

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323

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero,
324 Florida on second reading this 3rd day of March, 2021.

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Attest:

VILLAGE OF ESTERO, FLORIDA

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By: _____
Carol Sacco, Village Clerk

By: _____
Bill Ribble, Mayor

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through.

333 Reviewed for legal sufficiency:

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335

336

337 By: _____

338 Nancy E. Stroud, Village Land Use Attorney

339

340

341	Vote:	AYE	NAY
342	Mayor Ribble	_____	_____
343	Vice Mayor Errington	_____	_____
344	Councilmember Levitan	_____	_____
345	Councilmember McLain	_____	_____
346	Councilmember Boesch	_____	_____
347	Councilmember Batos	_____	_____
348	Councilmember Wilson	_____	_____

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