

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2021 - 07

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING AN AMENDMENT TO THE VILLAGE OF ESTERO COMPREHENSIVE PLAN TO AMEND POLICY PSF-1.5.10, POLICY FLU 1.37. AND POLICY FLU-1.2.3 TO CLARIFY PERMISSIBLE SCHOOL LOCATIONS AND TO AMEND THE FUTURE LAND USE MAP FOR A 68.5-ACRE PROPERTY DESCRIBED IN EXHIBIT "A" FROM WETLANDS AND VILLAGE NEIGHBORHOOD 2 TO PUBLIC FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village Comprehensive Plan became effective on November 21, 2019; and

WHEREAS, the Applicant, School District of Lee County, provided a legal description "Exhibit A – Legal Description" of property subject to the requested Village Comprehensive Plan Map Amendment (Exhibit "A"); and

WHEREAS, the Applicant seeks to amend three Comprehensive Plan to clarify text related to the location of public schools within the Village Land Use Categories, as shown on the proposed text entitled "Proposed Text Amendment" (Exhibit "B"); and

WHEREAS, the Applicant seeks to amend the Future Land Use Map from Wetlands and Village Neighborhood 2 to Public Facilities for a 68.5-acre property identified by STRAP Number 26-46-25-E4-U2186.2435 and located as shown on the proposed map entitled "Future Land Use Map Amendment" (Exhibit "C"); and

WHEREAS, the Village Planning and Zoning Board, sitting as the Local Planning Agency, held a duly noticed public hearing on December 15, 2020 at which time the Board continued the hearing, and requested additional information; and

WHEREAS, the Village Planning and Zoning Board, at a continued public hearing held on January 19, 2021 recommended approval of the Comprehensive Plan Text Amendment and Map Amendment; and

WHEREAS, the Village Council, at a duly noticed meeting, held a Public Hearing for Transmittal on May 26, 2021 and considered the Staff report, the recommendation of the Village Planning and Zoning Board and the comments of the public, and voted to approve the

transmittal of the Text Amendment and Map Amendment to the State Land Planning Agency and other review agencies as provided in Section 163.3184, Florida Statutes; and

WHEREAS, the Village Council held a final public hearing on July 14, 2021 to consider the comments of the State Land Planning Agency and the public.

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

Section 1. Recitals.

The foregoing “Whereas” clauses are hereby ratified and incorporated as a part of this Ordinance.

Section 2. Adoption of the Comprehensive Plan Amendment.

The Village Council adopts on second reading the Comprehensive Plan Text Amendment and Amendment to the Future Land Use Map, incorporated and made a part of this Ordinance as Exhibit “B”.

Section 3. Transmittal.

The Village Manager or his designee shall transmit the adopted Comprehensive Plan Amendment and other materials as required by statute to the State Land Planning Agency and other reviewing agencies as provided by Section 163.3184, Florida Statutes.

Section 4. 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 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. Effective Date.


This ordinance shall take effect upon adoption at second reading, except that the effective date of the Comprehensive Plan Amendment shall be thirty-one (31) days after the State Land Planning Agency notifies the Village that the plan amendment package is complete or, if timely challenged, thirty-one (31) days after the state Land Planning Agency, or the

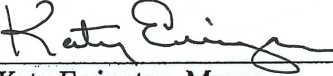
91 Administration Commission enters a final order determining the adopted Plan Amendment to
92 be in compliance.

93
94 **PASSED** on first reading this 26th day of May, 2021.

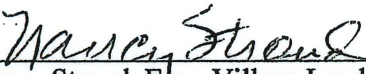
95
96 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
97 Florida this 14th day of July, 2021.

98
99 Attest: **VILLAGE OF ESTERO, FLORIDA**

100
101
102 By: 
103 Carol Sacco, Village Clerk

By: 
Katy Errington, Mayor

104
105
106 Reviewed for legal sufficiency:

107
108
109 By: 
110 Nancy Stroud, Esq., Village Land Use Attorney

111
112
113
114
115 Vote: AYE NAY
116 Mayor Errington X ____
117 Vice Mayor McLain X ____
118 Councilmember Ribble X ____
119 Councilmember Fiesel X ____
120 Councilmember Boesch X ____
121 Councilmember Ward X ____
122 Councilmember Wilson Absent ____

123
124
125 Exhibit A: Legal Description
126 Exhibit B: Text Amendment Language
127 Exhibit C: Future Land Use Map Amendment

EXHIBIT A – LEGAL DESCRIPTION

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of Section 26, Township 46 South, Range 25 East and further bounded and described as follows:

Starting at a concrete monument marking the Southwest corner of said Section 26; thence N89°40'25"E along the South line of said Section 26 for 80.01 feet to an intersection with the Easterly right-of-way line of Corlico Road (80.00 feet wide) as described in Official Records Book 1739 at Page 778 and the point of beginning of the herein described parcel; thence continue N89°40'25"E along said South line for 1502.04 feet; thence N01 °18'15"W for 288.57 feet; thence N89°40'25"E parallel with said South line for 1356.53 feet to an intersection with the Westerly right-of-way line of Interstate 75; thence N12°26'53"W along said right-of-way line for 131.19 feet; thence N13°47'53"W along said right-of-way line for 499.25 feet; thence N18°17'53"W along said right-of-way line for 1587.24 feet; thence West for 545.58 feet; thence S23°29'06"E for 677.63 feet; thence South for 621.50 feet; thence West for 1957.82 feet to an intersection with the aforesaid Easterly right-of-way line of Corlico Road; thence S01 °18'46"E along said right-of-way line for 1182.03 feet to the Point of Beginning.

LESS AND EXCEPT: A parcel of land located in the Southwest quarter of Section 26, Township 46 South, Range 25 East, Lee County, Florida, for road right-of-way purposes, being more particularly described as follows: Commence at a concrete monument marking the Southwest corner of the said Section 26; thence N89°40'25"E along the South line of said Section 26 for 80.01 feet to an intersection with the Easterly right-of-way line of Corilco Parkway (80.00 feet wide) as described in Official Records Book 1739 at Page 777 and also the Point of Beginning of the herein described parcel; thence N01 °18'46"W along said right-of-way line for 1182.03 feet; thence East for 20.02 feet; thence S01 °18'46"E for 572.50 feet; thence S03°17'52"E for 593.14 feet; thence S01 °17'52"E for 30.39 feet to a point on the South line of said Section 26; thence West for 40.65 feet back to the Point of Beginning.

LESS AND EXCEPT: A parcel of land located in the Southwest quarter of Section 26, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows: PARCEL #1: Commence at a concrete monument marking the Southwest corner of said Section 26; thence run N89°40'55"E along the South line of said Section 26 for 160.67 feet to the point of beginning of the herein described parcel; thence run N01 °17'52"W along the Easterly line of a 40 foot road easement parallel to the Easterly right-of-way line of Corlico Parkway right-of-way as shown on map (sheet 2 of 4) adopted by Lee County Board of County Commissioners Project 84-026, for 31.67 feet; thence run N03°17'52"W along said East line of a 40 foot road easement for 218.63 feet; thence run N89°40'55"E parallel with and 250 feet North of the South line of said Section 26 for 868.92 feet; thence run S00°19'05"E for 250.0 feet to the South line of said Section 26; thence run S89°40'55"W along said South line of said Section 26 for 857.02 feet to the Point of Beginning.

EXHIBIT B
TEXT AMENDMENT

PSF-1.5.10 Public educational facilities shall be considered for location within all future land use categories except Wetlands, Conservation, and Public Parks and Recreation. Notwithstanding the foregoing restriction, public educational facilities may be considered in Wetlands only if the Village Council determines that:

- A. The Village Council determines that the public educational facility provides a needed public school facility within the Village of Estero; and
- B. The site is appropriate for and receives a Comprehensive Plan amendment to Public Facilities category; and
- C. Prior to the Comprehensive Plan amendment, the site has received valid permits to fill the wetlands from the South Florida Water Management District and U.S. Army Corps of Engineers, as applicable; and
- D. No high or medium quality wetlands as defined by the Florida Department of Environmental Protection Unified Wetland Delineation Methodology (Chapter 62-340 F.A.C.) will be impacted; and
- E. Mitigation for loss of wetlands shall be provided (in addition to other agency requirements), and will include providing a public benefit additional to the provision of a needed school facility, such as additional open space or recreational facilities on site that are available for use by the public when approved by the Village Council at a public hearing.

FLU-1.3.7 Location of churches and schools may be considered in all future land use categories except for Wetlands, Conservation and Public Parks and Recreation, provided they shall not be established where traffic is required to travel through areas with significantly lower densities or intensities, except where adequate mitigation can be provided as determined acceptable through the public hearing process. Notwithstanding the above, schools may be considered in Wetlands subject to policy PSF 1.5.10.

FLU-1.2.3 WETLANDS. Wetlands are those lands that are identified as Wetlands on the Future Land Use Map in accordance with Florida Statute Section 373.019(27). If a Wetlands boundary on the Future Land Use Map is incorrect due to a clear factual error, or if an exact boundary is established per jurisdictional determination or Florida Statute Section 373.019, an administrative process may be used to establish the precise boundary of the Wetland.

- A. Uses: Permitted land uses in Wetlands consist of very low density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands, open space, and conservation that are compatible with wetland functions.
- B. Development type: Development in Wetlands must not adversely affect the ecological functions of wetlands. Notwithstanding A and B above, public educational facilities may be considered in wetlands with appropriate findings specified in Policy PSF-1.5.10.
- C. Density: The maximum density on Wetlands is one dwelling unit per twenty acres (1 du/20 acre).

- D. Notwithstanding C. above, to encourage the preservation of lands designated Wetlands in Planned Developments, density may be transferred from preserved Wetlands to uplands under common ownership within the Planned Development that are designated Village Neighborhood 1, Village Neighborhood 2, Transitional Mixed Use, or Urban Commercial. Density transferred from Wetlands as provided herein shall be calculated at three-fourths (75%) of the designated density for the uplands to which the density is transferred. Uplands to which density is transferred shall not include any impacted wetlands which are filled or otherwise converted into uplands pursuant to an Environmental Resource Permit issued by the South Florida Water Management District.

Further, a Residential Planned Development approved by Lee County prior to October 20, 2010 may be superseded by a Residential Planned Development to allow transfer of density from preserved wetlands to impacted wetlands within the Residential Planned Development at the standard density for uplands designated Village Neighborhood 1, conditioned upon the Village's finding that the development has sufficiently addressed adverse impacts to wetlands on the property.

EXHIBIT C

Future Land Use Map Amendment

