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**VILLAGE OF ESTERO, FLORIDA
COMPREHENSIVE PLAN AMENDMENT
ORDINANCE NO. 2016 - 15**

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**AN ORDINANCE OF THE VILLAGE COUNCIL OF
THE VILLAGE OF ESTERO, FLORIDA,
APPROVING AN AMENDMENT TO THE VILLAGE
TRANSITIONAL COMPREHENSIVE PLAN TO ADD
POLICY 19.3.4 PROVIDING FOR THE OPTION TO
CONVERT A COMMERCIAL PLANNED
DEVELOPMENT OF NOT MORE THAN 5.5 ACRES
WITHIN THE URBAN COMMUNITY FUTURE LAND
USE DESIGNATION AND MIXED-USE OVERLAY TO
A RESIDENTIAL PLANNED DEVELOPMENT WHEN
COMBINED WITH AN EXISTING ADJACENT
RESIDENTIAL PLANNED DEVELOPMENT UNDER
CERTAIN CONDITIONS FOR A DENSITY NOT TO
EXCEED EIGHT DWELLING UNITS PER GROSS
ACRE ACROSS THE RESULTING RESIDENTIAL
PLANNED DEVELOPMENT COMPRISED OF BOTH
PARCELS; PROVIDING FOR TRANSMITTAL
PURSUANT TO STATE STATUTE; PROVIDING FOR
CONFLICTS; PROVIDING FOR SEVERABILITY;
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Village of Estero Charter provides that the Lee County Comprehensive Plan existing as of the date of the Village incorporation shall be the Village of Estero Transitional Comprehensive Plan (“Comprehensive Plan”); and

WHEREAS, the Urban Community Future Land Use designation currently provides for a maximum density of six units per acre; and

WHEREAS, in certain limited circumstances the Village Council in its discretion may find that it is in the interest of the public health, safety and welfare to encourage redevelopment of underutilized commercial lands zoned as Commercial Planned Development by providing an option to convert those lands to residential uses at higher residential densities than six dwelling units to the acre but not to exceed eight dwelling units per acre, when combined with an existing adjacent Residential Planned Development; and

WHEREAS, the Village of Estero Planning and Zoning Board conducted a workshop on July 19, 2016, to consider an amendment to the Comprehensive Plan for this purpose; and

WHEREAS, the Village of Estero Planning and Zoning Board, sitting as the Local Planning Agency, held a duly advertised public hearing on October 11, 2016 and made a recommendation to the Village Council regarding the proposed Comprehensive Plan amendment; and

48 **WHEREAS**, the Village Council conducted a duly advertised public hearing and first
49 reading on November 16, 2016, and considered the recommendations of the Village of Estero
50 Planning and Zoning Board and comments of the public, and passed the proposed
51 amendment on first reading; and
52

53 **WHEREAS**, the Village Council passed the amendment on first reading and
54 transmitted it to the Florida Land Planning Agency and other agencies which reviewed it as
55 provided in Section 163.3184, Florida Statutes; and
56

57 **WHEREAS**, the Village Council conducted a duly advertised public hearing and
58 second reading on January 4, 2017; and
59

60 **WHEREAS**, the Village Council finds that it is in the best interest and welfare of the
61 Village that the proposed amendment to the Comprehensive Plan, as contained on
62 Attachment A and made a part hereof, be adopted on second reading and transmitted to the
63 Florida Land Planning Agency and other reviewing agencies as provided in Section
64 163.3184, Florida Statutes.
65

66 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,
67 Florida:
68

69 **Section 1. Recitals**
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71 The foregoing "Whereas" clauses are hereby ratified and incorporated as a part of this
72 Ordinance.
73

74 **Section 2. Amendment of the Village of Estero Transitional Comprehensive**
75 **Plan**
76

77 The amendment to the Village of Estero Transitional Comprehensive Plan as
78 proposed in Attachment A is hereby approved. Attachment A is incorporated and made a
79 part of this Ordinance.
80

81 **Section 3. Transmittal**
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83 The Village Manager or his designee shall transmit the amendment and other
84 materials as required by statute ("the plan amendment package") to the State Land Planning
85 Agency and review agencies as provided by Section 163.3184, Florida Statutes.
86

87 **Section 4. Conflict**
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89 All sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of
90 Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance shall
91 be repealed to the extent of such conflict upon the effective date of this Ordinance.
92
93
94

Section 5. Severability

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

Section 6. Effective Date

This Ordinance shall be effective upon and adoption by the Village Council at second reading, except that the effective date of the amendment to the Village of Estero Comprehensive Plan (Attachment A) shall be thirty-one (31) days after the State Land Planning Agency notifies the Village that the plan amendment package is complete. If timely challenged, the amendment becomes effective when the State Land Planning Agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

PASSED on first reading the 16th day of November, 2016.

PASSED AND APPROVED on second reading this 4th day of January, 2017.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC, Village Clerk

By: Nicholas Batos
Nicholas Batos, Mayor

Approved as to form and legal sufficiency:

By: Nancy Stroud
Nancy Stroud, Esq., Village Land Use Attorney

Vote:	AYE	NAY
Mayor Batos	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Mayor Levitan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Boesch	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Brown	<u>Absent</u>	<input type="checkbox"/>
Councilmember Errington	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Councilmember Ribble	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Councilmember Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ATTACHMENT A
ORDINANCE NO. 2016-15
SECOND READING

POLICY 19.3.4: Encourage re-development of underutilized commercial lands by providing an option to convert those lands to residential uses at higher residential densities within the Urban Community future land use designation and Mixed-Use Overlay in a manner consistent with Policies 19.1.1.c, 19.1.1.d, 19.1.3.e, 19.2.1.i and 19.3.2. This Policy allows for the conversion of a parcel zoned Commercial Planned Development (“CPD Parcel”) of not more than 5.5 acres in size to a Residential Planned Development (“RPD”) when combined with an existing adjacent RPD (“Existing RPD Parcel”) provided the Resulting Project (“the project resulting from the combination of the Existing RPD and CPD Parcels”) is consistent with the following requirements:

- a. The CPD Parcel shall be zoned CPD before November 16, 2006;
- b. The CPD Parcel shall have two sides immediately adjacent to and physically abutting the Existing RPD Parcel;
- c. The proposed development on the CPD Parcel shall be consistent with and integrated into the residential development on the Existing RPD Parcel and the Resulting Project shall be operated as a single project under common control pursuant to a Declaration of Covenants approved by the Village land use attorney; and
- d. The total number of residential units for the Resulting Project shall not exceed 140% of the approved number of residential units for the Existing RPD Parcel. The residential units shall be calculated by multiplying that percentage by the approved number of residential units for the Existing RPD Parcel to generate the total number of units available for the Resulting Project. For example, if the Existing RPD Parcel is authorized for 168 units, the total number of residential units for the Resulting Project shall be calculated by multiplying 140% by 168 units to render a maximum total of 235 units for the Resulting Project.
- e. The density on the Resulting Project shall not exceed eight dwelling units per gross acre (8 du/gross acre).
- f. The Resulting Project shall be within 660-feet of approved commercial development measured from the Resulting Project’s closest property line to the commercial development’s closest property line.

All conversions of a CPD Parcel to an RPD Parcel under this Policy are subject to the following review requirements:

- a. The conversion shall be part of an application to rezone the CPD Parcel to an RPD; and
- b. Approval for the conversion of the CPD Parcel to an RPD is at the Council’s discretion and is dependent on a determination that such a conversion is compatible and consistent with the Existing RPD Parcel and with the rezoning approval criteria set forth in the Land Development Code.