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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2016 - 15

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 less than 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

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

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

54
55 **WHEREAS**, the Village Council finds that it is in the best interest and welfare of the
56 Village that the proposed amendment to the Comprehensive Plan, as contained on Attachment
57 A and made a part hereof, be passed on first reading and thereafter transmitted to the Florida
58 Land Planning Agency and other reviewing agencies as provided in Section 163.3184, Florida
59 Statutes.

60
61 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,
62 Florida:

63
64 **Section 1. Recitals**

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

68
69 **Section 2. Amendment of the Village of Estero Transitional Comprehensive**
70 **Plan**

71
72 The amendment to the Village of Estero Transitional Comprehensive Plan as proposed
73 in Attachment A is hereby passed on first reading. Attachment A is incorporated and made a
74 part of this Ordinance.

75
76 **Section 3. Transmittal**

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78 The Village Manager or his designee shall transmit the amendment and other materials
79 as required by statute (“the plan amendment transmittal package”) to the State Land Planning
80 Agency and review agencies as provided by Section 163.3184, Florida Statutes.

81
82 **Section 4. Conflict**

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84 All sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of
85 Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance shall
86 be repealed to the extent of such conflict upon the effective date of this Ordinance.

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90 **Section 5. Severability**

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

96

97 **Section 6. Effective Date**

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

106

107 **PASSED** on first reading this 16th day of November, 2016.

108

109 Attest:

VILLAGE OF ESTERO, FLORIDA

110

111
112 By: Kathy Hall
113 Kathy Hall, MMC, Village Clerk

By: Howard Levitan
Howard Levitan, Vice Mayor

114

115

116 Approved as to form and legal sufficiency:

117

118
119 By: Nancy Stroud
120 Nancy Stroud, Esq., Village Land Use Attorney

121

122

123 Vote:	AYE	NAY
124 Mayor Batos	<u>absent</u>	___
125 Vice Mayor Levitan	<u>✓</u>	___
126 Councilmember Boesch	<u>✓</u>	___
127 Councilmember Brown	<u>absent</u>	___
128 Councilmember Errington	___	<u>✓</u>
129 Councilmember Ribble	<u>✓</u>	___
130 Councilmember Wilson	<u>✓</u>	___

ATTACHMENT A
ORDINANCE NO. 2016-15
FIRST 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.