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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2018 - 02

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, DENYING ZONING
AMENDMENTS AND DENYING A BUILDING HEIGHT
DEVIATION FOR TRACTS C AND D WITHIN THE SHOPPES
AT COCONUT TRACE COMMERCIAL PLANNED
DEVELOPMENT FOR PROPERTY LOCATED AT 22951 AND
22961 LYDEN DRIVE IN THE VILLAGE OF ESTERO,
FLORIDA AND COMPRISING APPROXIMATELY 3.54
ACRES; PROVIDING FOR CONFLICTS, PROVIDING FOR
SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, The Shoppes at Coconut Trace Commercial Planned Development
(CPD) was approved by Lee County Resolution Z-03-011 to permit various commercial uses
on the CPD which comprises approximately 11.39 acres; and

WHEREAS, in 2005 the Coconut Trace CPD was administratively amended by ADD
2005-00034 to permit reconfiguration of parcels and other minor changes; and

WHEREAS, in 2004 Lee County approved a development order to clear Tracts C
and D within the Coconut Trace CPD, and said tracts have been cleared and filled, and
buffers installed on US 41, Lyden Drive and Cerise Drive; and

WHEREAS, because the Village of Estero is now incorporated the Coconut Trace
CPD is now under the jurisdiction of the Village of Estero; and

WHEREAS, the applicant, Estero Parcel CD, LLC, on behalf of Naples Community
Hospital, Inc. ("Applicant") applied for an amendment to the CPD for approval of a
freestanding emergency department with no restriction on the hours of operation, a deviation
to the CPD design standards to allow placement of certain service facilities closer to US 41,
and a deviation to allow architectural elements to exceed 45 feet; and

WHEREAS, the STRAP numbers are: 09-47-25-E2-3500B.00C0 and 09-47-25-E2-
3500B.00D0; and

WHEREAS, the Applicant applied for development order approval on April 8, 2017
(DOS2017-E004); and

WHEREAS, the Applicant presented development order plans to the Design Review
Board at an informational meeting on April 26, 2017; and

45 **WHEREAS**, on July 26, 2017 the Applicant presented revised plans to the Design
46 Review Board at a public hearing, at which time the Design Review Board denied the
47 development order; and
48

49 **WHEREAS**, Applicant filed an appeal of the DRB denial to the Village Council on
50 August 2, 2017, and withdrew the appeal in part on August 2, 2017 and in total on September
51 22, 2017; and
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53 **WHEREAS**, the public information meeting was held for this application at the
54 Planning and Zoning Board on November 14, 2017; and
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56 **WHEREAS**, the Planning and Zoning Board considered the application at its
57 meeting on January 16, 2018 and recommended denial of the requests; and
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59 **WHEREAS**, a duly noticed first reading was held before the Village Council on
60 March 7, 2018; and
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62 **WHEREAS**, a duly noticed second reading and public hearing was held before the
63 Village Council on March 21, 2018, at which time the Village Council gave consideration to
64 the evidence presented by the Applicant and the Village staff, the recommendations of the
65 Planning and Zoning Board and the comments of the public.
66

67 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,
68 Florida:
69

70 **Section 1. Zoning Amendments.**
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72 The Village Council denies the amendments to the CPD zoning with the following
73 findings.
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75 **Section 2. Findings and Conclusions.**
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77 The Village Council finds that the amendments do not comply with the Comprehensive
78 Plan and Land Development Code based on the substantial competent evidence
79 provided at Village quasi-judicial hearings.
80

81 **Section 3. Deviations.**
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83 The Village Council finds that the deviations do not comply with the Comprehensive
84 Plan and Land Development Code based on the substantial competent evidence
85 provided at Village quasi-judicial hearings.
86

87 **Section 4. Exhibits.**
88

89 The following exhibit is attached to this Ordinance and incorporated by reference:

Exhibit A Master Concept Plan

Section 5. Conflicts.

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

Section 6. 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 7. Effective Date.

This Ordinance shall be effective immediately upon adoption.

PASSED on first reading this 7th day of March, 2018.

DENIED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 21st day of March, 2018.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC, Village Clerk

By: James R. Boesch
James R. Boesch, Mayor

Reviewed for legal sufficiency:

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

Vote:	AYE	NAY
Mayor Boesch	<u>✓</u>	<u> </u>
Vice Mayor Ribble	<u>✓</u>	<u> </u>
Councilmember Batos	<u>✓</u>	<u> </u>
Councilmember Errington	<u>✓</u>	<u> </u>
Councilmember Levitan	<u>✓</u>	<u> </u>
Councilmember McLain	<u>✓</u>	<u> </u>
Councilmember Wilson	<u>✓</u>	<u> </u>

EXHIBIT A

Master Concept Plan

