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**APPROVED BY COUNCIL
SEPTEMBER 20, 2018**

**FINAL ACTION AGENDA/MINUTES
VILLAGE COUNCIL ZONING HEARINGS**

**Village of Estero Council Chambers
9401 Corkscrew Palms Circle
Estero, FL 33928
June 27, 2018 9:30 a.m.**

- 1. OPENING EXERCISES:** (Includes call to order, roll call, pledge of allegiance, announcements, proclamations, and ceremonial presentations)

Call to Order: 9:30 a.m.

Pledge of Allegiance: Led by Mayor Boesch.

Invocation: Pastor Phil McMillan from Living Waters Church.

Roll Call: Present: Mayor Jim Boesch - District 5, Vice Mayor Bill Ribble - District 1, Councilmember Howard Levitan - District 2, Councilmember Jon McLain - District 3, Councilmember Katy Errington - District 4, Councilmember Nick Batos - District 6, and Councilmember Jim Wilson - District 7.

Also present: Village Manager Steve Sarkozy, Village Land Use Council Nancy Stroud, Assistant to Village Manager Kyle Coleman, Finance Director Lisa Roberson, Community Development Director Mary Gibbs, and Village Clerk Kathy Hall.

Public Comment on Non-Agenda Items:

Marvin Hancock, Pelican Landing Community Association, concern regarding stop sign additions outside of their gate; he was referred to Community Development staff.

Charles Dauray, Estero Historical Society, reminder of the traditional gathering on 4th of July at the cottage at 10:00 a.m.

Robert King, Bella Terra, representing ECCL, addressed road study.

Kathy Hudson, Riverwoods, requested that Council eliminate the invocation at the beginning of Council meetings and spoke regarding separation of church and state.

Council Comments: Mayor Boesch and Councilmember Levitan addressed Ms. Hudson's comments. Councilmember Levitan entered a statement for the record from Pastor Rollins titled "Village of Estero Statement on Freedom of Worship and Separation of Church and State."

2. ORDINANCE FIRST READING – AMENDING THE TRANSITIONAL LAND DEVELOPMENT CODE – ROAD IMPACT FEES

Ordinance No. 2018-09 An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Transitional Land Development Code, Chapter 2, Article VI, Impact Fees, Division 2, Roads Impact Fees, by Amending Section 2-264(B) Definitions, Section 2-266, Computation of Amount, and Revising the Roads Impact Fee Schedule to Update the Calculations of the Full Costs; Amending Section 2-258 Benefit District Established; Providing for Permit Submittal and Issuance; Providing for Conflict; Providing for Severability; and Providing an Effective Date

Mayor Boesch introduced the ordinance and stated that the second reading and public hearing would take place on July 11, 2018, at which time public comments would be permitted. The title of Ordinance No. 2018-09 was read by Village Clerk Hall.

Community Development Director Gibbs provided a brief presentation and addressed key points that included the May 23, 2018 Council workshop; the countywide study recently completed by Lee County's consultant, Duncan Associates; impact fees were updated in 2015; and highlights of Ordinance No. 2018-09. She also noted the ordinance effective date of October 9, 2018, due to the requirement to provide 90-day notice.

Questions or Comments: Councilmember Batos requested that staff research outstanding credits. Ms. Gibbs noted that staff was in the process of the research.

Motion: Move to pass first reading of Ordinance No. 2018-09.

Motion by: Councilmember Levitan

Seconded by: Vice Mayor Ribble

Action: Passed first reading of Ordinance No. 2018-09.

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

3. ORDINANCE FIRST READING – AMENDING THE TRANSITIONAL LAND DEVELOPMENT CODE – PARK IMPACT FEES

Ordinance No. 2018-10 An Ordinance of the Village Council of the Village of Estero, Florida, Amending the Transitional Land Development Code, Chapter 2, Article VI, Impact Fees, Divisions 3 and 4, Regional and Community Parks Impact Fees, by Amending Sections 2-306 and 2-346 Computation of Amount, and Revising the Parks Impact Fee Schedule to Update the Calculations of the Full Costs; Combining Regional and Community Parks into a Unified Parks Impact Fee; Amending Sections 2-308 and 2-348 Benefit District Established; Providing for Conflict; Providing for Severability; and Providing an Effective Date

Mayor Boesch introduced the ordinance and stated that the second reading and public hearing would take place on July 11, 2018, at which time public comments would be permitted. The title of Ordinance No. 2018-10 was read by Village Clerk Hall.

Community Development Director Gibbs provided a brief presentation and addressed key points that included the May 23, 2018 Council workshop; the countywide study recently completed by Lee County's consultant, Duncan Associates; and highlights of Ordinance No. 2018-10. She also noted the ordinance effective date of October 9, 2018, due to the requirement to provide 90-day notice and that the fees do not apply to commercial.

Land Use Counsel Stroud noted a text addition to Section 2 of the ordinance, a copy of which was provided in the Council desk packet.

Motion: Move to pass first reading of Ordinance No. 2018-10 and include the text addition to Section 2 that was provided by Legal Counsel Stroud: "Section 2. Amendment to LDC Chapter 2, Article IV. Sections 2-306, 2-308, 2-346 and 2-348 are amended as follows, with strike-through identifying deleted text and underline identifying added test:".

Motion by: Councilmember McLain

Seconded by: Councilmember Errington

Action: Passed first reading of Ordinance No. 2018-10 and the text addition to Section 2 provided by Legal Counsel Stroud will be included: "Section 2. Amendment to LDC Chapter 2, Article IV. Sections 2-306, 2-308, 2-346 and 2-348 are amended as follows, with strike-through identifying deleted text and underline identifying added test:".

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

4. ORDINANCE FIRST READING - AMENDING CERTAIN PROVISIONS OF THE TRANSITIONAL LAND DEVELOPMENT CODE - TREE PROTECTION

Ordinance No. 2018-07 An Ordinance of the Village Council of the Village of Estero, Florida, Amending Certain Provisions of the Transitional Land Development Code Chapter 14, Article V, Tree Protection, to Remove the Permit Exemption for the Removal of Protected Trees from Lots Zoned for Single-Family Residential Use and to Add Certain Permit Requirements Regarding the Same; Providing a Severability Clause; Providing for Conflicts; and Providing an Effective Date

Mayor Boesch introduced the ordinance and stated that the second reading and public hearing would take place on July 11, 2018, at which time public comments would be permitted. The title of Ordinance No. 2018-07 was read by Village Clerk Hall.

Community Development Director Gibbs provided a brief explanation that included the exception in the Code for single family lots, 5 acres or less in size. Ms. Gibbs noted that the entire tree ordinance was included in the desk packet. She also noted that the ordinance addresses protection on single-family residential property only, a permit for

removal would be required, and there would need to be a legitimate reason for tree removal.

Questions or Comments: Vice Mayor Ribble and Councilmembers Levitan, Batos, Errington, and Mayor Boesch. Discussion included a situation regarding several trees in Pelican Landing; live oaks as street trees in older gated communities; rationale for the ordinance; the existing single family exemption; reference to the Estero Community Plan; 8 trees removed on one of the streets in Pelican Sound; concern regarding wording in the ordinance; taking away rights of the people; the need to fully understand what the people want in their communities; the Planning and Zoning Board wanted the ordinance tabled; holding a workshop; questions related to single family and condominium as well as homes that were part of a business; replacement of trees that come down during a storm; clear cutting activity; it was up to the Council whether to send the ordinance back to the Planning and Zoning Board; and Councilmembers could provide recommended revisions to the ordinance.

Motion: Move to pass first reading of Ordinance No. 2018-07 and hold second reading and public hearing on July 11, 2018.

Motion by: Councilmember Levitan

Seconded by: Vice Mayor Ribble

Action: Passed first reading of Ordinance No. 2018-07 and second reading and public hearing will be held on July 11, 2018.

Vote: (Roll call vote)

Aye: Councilmembers Levitan, McLain, Errington, Wilson, Vice Mayor Ribble and Mayor Boesch

Nay: Councilmember Batos

Abstentions:

5. ZONING ORDINANCE SECOND READING / PUBLIC HEARING – TRACT F-3 OF PARCEL 6 OF UNIVERSITY HIGHLANDS

Zoning Ordinance No. 2018-06 An Ordinance of the Village Council of the Village of Estero, Florida, Approving with Conditions a Zoning Amendment to Permit the Conversion of Retail and Office Space to Self-Storage Space for a Proposed 90,000 Square Foot 3-Story Self-Storage Facility, on Tract F-3 of University Highlands Mixed Use Planned Development, Approving a Deviation for Height of Architectural Features for Property Located at Tidewater Key Boulevard and Ben Hill Griffin Parkway in the Village of Estero, Florida, and Comprising Approximately 2 Acres in the Planned Development; Providing for Conflicts; Providing for Severability; and Providing an Effective Date

Mayor Boesch opened the public hearing and Village Clerk Hall read the title of Zoning Ordinance No. 2018-06. Mayor Boesch asked whether the ordinance had been properly advertised; Village Clerk Hall responded affirmatively. Mayor Boesch provided an explanation of the quasi-judicial procedures. Audience and staff intending to testify were sworn in by Village Clerk Hall.

Disclosure of ex parte communications and conflicts of interest: Councilmember Levitan spoke with Village Land Use Counsel Stroud, Village Manager Sarkozy, and Community Development Director Gibbs. Councilmember McLain spoke with one neighbor. Councilmember Batos spoke with Community Development Director Gibbs. Councilmember Wilson met with the developer. Community Development Director Gibbs stated that she received a written communication from a resident.

Community Development Director Gibbs provided an explanation of the requested amendment. She noted that the applicant reached out to Grandezza residents and that staff asked that they reach out to Tidewater residents. Ms. Gibbs addressed conditions of approval, noted that staff believed a mini warehouse would be low impact, and addressed a revision to the Findings in the Zoning resolution that was provided in the desk packet: "1. This zoning amendment complies with the Village's Transitional Comprehensive Plan, and, without limitation, is consistent with the mixed use requirements found in Objection 4.3 thereof."

Questions or Comments: Councilmember Errington inquired regarding the name of the storage. Vice Mayor Ribble inquired regarding water runoff and addressed concerns.

Presentation/Information by:

Al Moscato, Principal, NM Development Group, LLC, stated that he works with University Highland Limited Partnership, provided ownership information, and addressed some of the questions from Council.

Charles Bassinet, Attorney, Henderson Franklin Law Firm, provided information via a PowerPoint Presentation of the Supplemental Pattern Book. He stated that some revisions had been made based on previous meetings. He spoke to: varied rooflines; tower on the east elevation at 47 ½ feet in height which caused the building to exceed 45 feet, requiring a deviation; other changes to the building; and site plan.

Continuing with the PowerPoint Presentation, Greg Diserio, Registered Landscape Architect, Dave Jones and Associates, addressed the building/landscape elevations; augmented landscaping; south and west to be enhanced with taller shrubs to help screen the first level.

Charles Bassinet, spoke regarding compliance with the zoning resolution and the proposed ordinance. He noted that they have been to the Design Review Board twice and would need to go one more time for final approval.

Neale Montgomery, Pavese Law Firm, addressed Condition 18 of the original resolution; the conversion table; agreement with communications from Village Land Use Counsel Stroud; and positive communications from Tidewater.

Questions or Comments: Councilmembers Levitan, Errington, Wilson, and Batos. Discussion included disclosures of ownership; impact fee credits; amount of time it will take for the landscape to look like what the Pattern Book indicated; why they chose not to install a 3-foot berm along Ben Hill Griffin Parkway; inquiry regarding setbacks indicated on Exhibit B; possibility of additional palm trees on the east side; exterior color; requiring trucks delivering fill to travel via Ben Hill Griffin Parkway to Alico Road to eliminate problems along Corkscrew Road; and stormwater management problems.

Public Comment: None.

Questions or Comments: Revisions to Ordinance No. 2018-06 were discussed.

Motion: Move to adopt Zoning Ordinance No. 2018-06 as revised: Section 1 Zoning Amendment - add wording in No. 8 Buffers and Landscaping: "Additional palm trees shall be added to the east elevation where they will not interfere with utilities." Section 3 Findings and Conclusions - add as No. 1: "This zoning amendment complies with the Village's Transitional Comprehensive Plan, and, without limitation, is consistent with the mixed use requirements found in Objective 4.3 thereof." Finding No. 3 (new No. 4) to read: "The application, as conditioned, is compatible with existing and planned uses in the surrounding area."

Motion by: Councilmember Levitan

Seconded by: Councilmember Ribble

Action: Adopted Zoning Ordinance No. 2018-06 as revised: Section 1 Zoning Amendment - add wording in No. 8 Buffers and Landscaping: "Additional palm trees shall be added to the east elevation where they will not interfere with utilities." Section 3 Findings and Conclusions - add as No. 1: "This zoning amendment complies with the Village's Transitional Comprehensive Plan, and, without limitation, is consistent with the mixed use requirements found in Objective 4.3 thereof." Finding No. 3 (new No. 4) to read: "The application, as conditioned, is compatible with existing and planned uses in the surrounding area."

Vote:

Aye: Unanimous (Roll call vote)

Nay:

Abstentions:

A motion to adjourn was made and duly passed.

6. ADJOURNMENT: 11:24 a.m.

ATTEST:

VILLAGE OF ESTERO, FLORIDA

By: Kathy Hall
Kathy Hall, MMC, Village Clerk

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