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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2016 - 02

A ZONING ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA; REZONING 1.36 ACRES LOCATED AT 21700 S. TAMIAMI TRAIL, FROM MIXED PLANNED DEVELOPMENT TO COMMERCIAL PLANNED DEVELOPMENT FOR THE DEVELOPMENT OF UP TO 15,000 SQUARE FEET OF COMMERCIAL USES, INCLUDING FAST FOOD, AND INCLUDING CONDITIONS OF DEVELOPMENT; APPROVING CERTAIN DEVIATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Estero WAS, filed an application to rezone a 1.36 acre parcel from Mixed Use Planned Development to Commercial Planned Development with one (1) deviation for the development of up to 15,000 square feet of commercial uses, including fast food; and

WHEREAS, the subject property is located at 21700 S. Tamiami Trail Estero, FL (Strap number 33-46-25-E3-28001.0000); and

WHEREAS, a public hearing was held on December 15, 2015 by the Village of Estero Planning and Zoning Board which gave full consideration to the evidence available and recommended approval with conditions of the request (The record consists of the December 07, 2015 staff report prepared by Community Development, the evidence presented at the hearing on file with the Village Clerk and the testimony of interested parties).

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

Section 1. Request

The Village Council of Estero hereby _____ the applicant's request to rezone the property from Mixed Use Planned Development to Commercial Planned Development, to allow the development of up to 15,000 square feet of commercial uses, with the following conditions and deviation.

Section 2. Conditions and Deviation

1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the one-page Master Concept Plan entitled "ESTERO WAS MINOR CPD" stamped received August 18, 2015 except as modified by the conditions below.

47 The development is limited to a maximum of 15,000 square feet of total floor area.

48
49 This development must comply with all requirements of the Land Development Code
50 (LDC) at time of local Development Order Approval, except as may be granted by
51 deviation as part of this planned development. If changes to the Master Concept Plan
52 are subsequently pursued, appropriate approvals will be necessary.
53

54 2. Uses and Site Development Regulations

55 The following limits apply to the project and uses:

56
57 a. Schedule of Uses

58 The approved Schedule of Uses for this development is found in Exhibit
59 A

60
61 b. Site Development Regulations

62 The approved Property Development Regulations are found in Exhibit
63 B.
64

65 3. Open Space

66 As committed on the Master Concept Plan, the minimum required open space is 0.27
67 acres.
68

69 4. Buffer

70 If a fast food restaurant is constructed, the existing buffer needs to be enhanced to meet
71 the standards of LDC Section 34-1353.
72

73 5. Vehicular/Pedestrian Impacts

74 Approval of this rezoning request does not address mitigation of the project's vehicular
75 or pedestrian traffic impacts. Additional conditions consistent with the LDC may be
76 required to obtain a local development order.
77

78 6. Comprehensive Plan Consistency

79 Approval of this rezoning does not guarantee local development order approval.
80 Future development order approvals must satisfy the requirements of the
81 Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map
82 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial
83 standards for site area, including range of gross floor area, location, tenant mix and
84 general function, as well as all other Comprehensive Plan provisions.
85

86 7. Concurrency

87 Approval of this rezoning does not constitute a finding that the proposed project meets
88 the concurrency requirements set forth in LDC Chapter 2 and the Comprehensive Plan.
89 The developer is required to demonstrate compliance with all concurrency
90 requirements prior to issuance of a local development order.
91

92 8. Solid Waste Management

93 As part of any local development order approval for vertical development, the
94 development order plans must include facilities in compliance with LDC Section 10-
95 261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and
96 recyclables. The minimum area required for, and specific locations of, these facilities
97 will be reviewed at the time of local development order application.
98

99 9. Direct Access

100 No direct access is allowed to US 41.
101

102 10. Sidewalks and Interconnections

103 Sidewalks and pedestrian interconnections will be constructed at the time of the
104 Development Order.
105

106 11. Construction Trailer

107 The temporary construction trailer must obtain a permit and must be located on the
108 western portion of the site.
109

110 12. Fast Food Restaurant

111 The fast food restaurant is limited to “in line” only (no drive-thru allowed).
112

113 13. Outdoor Seating

114 Outdoor seating is limited to seating in conjunction with a Group III restaurant.
115

116 14. Alcohol Consumption

117 Consumption on premises is allowed for a Group III restaurant. Outdoor seating and
118 service of alcohol is limited as follows: a) the outdoor seating will not face US 41; b)
119 the consumption on premises for the outdoor seating will be limited to the hours of 11
120 a.m. to 12 a.m. (midnight); and c) there will be no live amplified music located outdoors
121 in conjunction with the consumption on premises.
122

123 15. Deviation

124 The deviation from Section 34-2020(b) parking requirements for non-residential uses
125 to allow a 5% reduction to required parking spaces based on the provision of a
126 continuous path for bicycle and pedestrian facilities identified on the
127 Bikeways/Walkways Facility Plan is approved, subject to the Design Review Board
128 approving the connections, location and bike rack location at the time of the
129 Development Order.
130

131 **Section 3. Findings and Conclusions**

132 Based upon an analysis of the application and the standards for approval of planned
133 development rezonings, the Village Council makes the following findings and
134 conclusions:
135

- 136 1. The applicant has justification for the rezoning to Commercial Planned Development
137 (CPD) by demonstrating compliance with the Comprehensive Plan, the Land
138 Development Code, and other applicable codes and regulations, as conditioned.

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2. The requested zoning to Commercial Planned Development (CPD), as conditioned:
- a. Meets all performance and locational standards set forth for the potential uses allowed by the request; and
 - b. Is consistent with the densities, intensities and general uses set forth in the Comprehensive Plan; and
 - c. Is compatible with existing or planned uses in the surrounding area, as conditioned; and
 - d. The request will not adversely affect environmentally critical areas or natural resources.
3. Although as conditioned, there will be additional trips generated by the development, approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
4. Urban services, as defined in the Comprehensive Plan will be available and adequate to serve the proposed land use.
5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviation, as conditioned, will preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

Section 4. Exhibits

The following Exhibits are attached to this ordinance and incorporated by reference:

- EXHIBIT A Schedule of Uses
- EXHIBIT B Site Development Regulations

Section 5. Effective Date

This ordinance shall take effect immediately upon adoption.

PASSED on first reading this ____ day of _____, 2016.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this ____ day of _____, 2016.

Attest: **VILLAGE OF ESTERO, FLORIDA**

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By: _____

Kathy Hall, MMC
Village Clerk

By: _____

Nicholas Batos
Mayor

Reviewed for legal sufficiency:

By: _____

Nancy Stroud, Esq.
Land Use Attorney

Vote:	AYE	NAY
Mayor Batos	_____	_____
Vice Mayor Levitan	_____	_____
Councilmember Boesch	_____	_____
Councilmember Brown	_____	_____
Councilmember Errington	_____	_____
Councilmember Ribble	_____	_____
Councilmember Wilson	_____	_____

EXHIBIT A:

Schedule of Uses

Accessory Uses and Structures (See Note 1 below)
Administrative Offices
Animals: Clinic (with outdoor pens/kennels, enclosures, and dog runs prohibited)
ATM (automatic teller machine)
Auto Parts Store – without installation facilities
Banks and Financial Establishments: Groups I and II
Boat Parts Store, without installation
Broadcast Studios
Business Services, Group I
Clothing Stores, general
Clubs:
 Commercial
 Fraternal, membership organization
 Private
Computer and Data Processing Services
Consumption on Premises (LDC Section 34-1261 et seq.) ~~Indoor-only~~ (in conjunction with
 Group III restaurants) as further limited by zoning conditions
Cultural Facilities
Day Care Center, Child, Adult
~~Drive-through Facility for any Permitted Use~~
~~Entrance Gates and Gatehouse~~
Essential Services
Essential Service Facilities, Group I
~~Excavation: Water retention~~
~~Fences, Walls~~
~~Food and Beverage Service, Limited~~
Food Stores: Group I
Hardware store (limited to a maximum of 10,000 square feet)
Health Care Facilities: Groups I, II and III
Hobby, Toy and Game Store
Household and Office Furnishings, Groups I and II (Household use as limited by the LDC
 and Office use is limited to businesses like Kinko's, Office Depot, Office Max or
 other like business. Large newspaper printing facilities are prohibited.)
Insurance Companies
Laundry or Dry Cleaning: Group I
Lawn and Garden Supply Stores
Library
Medical Office
Nonstore Retailers, all groups
Package Store (~~In conjunction with a multiple-use occupancy complex only; free-standing
 stores are prohibited~~)
Paint, Glass and Wallpaper
Parks: Groups I and II
Parking Lot: Accessory (see Note 1 below)

Garage, public parking

~~Temporary~~

Personal Services:

Group I, limited to - ATM's

Barbershops and Beauty Shop

Clothing Alterations and Repair including Dressmakers,
Seamstresses and Tailors

Laundry Agents (wherein the establishment may do its own
Pressing and finish work but not the laundering or dry
Cleaning which is performed elsewhere)

Photo Agents (wherein drop-off and pickup film services are
provided but the actual processing and developing is
done elsewhere)

Shoe Repair Services (wherein shoe repair or shoe shining
for Individual customers is performed)

Group II, limited to - Beauty spas

Health clubs or spas

Reducing or slenderizing salons

Steam or Turkish baths

Group III, limited to - Artificial limbs

Crutches

Hearing aids

Hospital beds

Optical supplies

Orthopedic supplies

Wheelchairs

Pet Services (outdoor pens, enclosures, and dog runs are prohibited)

Pet Shop (outdoor pens, enclosures, and dog runs are prohibited)

Pharmacy

Post Office

Real Estate Sales Office

Recreational Facilities: Commercial: ~~Groups II and IV~~ Health Club only

Religious Facilities

Rental or Leasing Establishment (All storage must be indoor and outdoor display is
prohibited):

Group I, limited to - Beach chairs, umbrellas, and similar facilities

Bicycles

~~Moped and scooters~~

~~Passenger car pickup and drop-off (no maintenance or repairs
and limited storage)~~

Group II, limited to - Appliances

Bicycles

Costumes

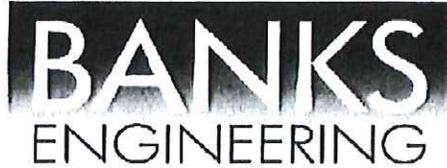
Furniture

Garden equipment

Movies, videotapes and similar home entertainment

Party and banquet supplies
Tools and equipment primarily for home use
Repair Shops: Groups I and II
Research and Development Laboratories: Groups II and IV
Restaurant, Fast Food (subject to LDC Section 34-1353 if stand alone)
Restaurants: Groups I, II and III
Schools: Commercial
Signs in accordance with LDC Chapter 30 and 33
Social Services: Group I
Specialty Retail Shops: Groups I, II, III and IV (no outdoor storage or display permitted)
Studios
Temporary Uses (limited solely to temporary contractor's office and storage shed)
Used Merchandise Stores: Groups I and II
Variety Store
Wholesale Establishments: Group III

Note 1: All accessory uses, including accessory parking, must be located on the same tract, parcel, outparcel, or lot where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel, outparcel, or lot.



Professional Engineers, Planners & Land Surveyors

Estero WAS Minor CPD

DCI2015-00016

Property Development Regulations

Minimum Lot Area and Dimensions:

Area: 1.36 acres
Width: 190 feet
Depth: 270 feet

Minimum Setbacks:

Street: 25 feet
Side: 15 feet
Rear: 20 feet

Accessory Use and Structure setbacks must comply with LDC Section 34-1171 et seq. and 34-2194.

Maximum Lot Coverage: 60 percent

Maximum Building Height: 45 feet

Minimum Building Separation: Minimum building separation is the greater of either the minimum required setbacks or one-half the sum of the height of the buildings. (LDC Section 34-935(e)(4))

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AUG 18 2015
COMMUNITY DEVELOPMENT
DCI 2015-00016

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EXHIBIT B