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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; AMENDING THE CAMARGO TRUST MPD ZONING RESOLUTION Z-98-029 AND ITS MASTER CONCEPT PLAN, AS AMENDED BY RESOLUTION Z-04-068, FOR REZONING 1.36 ACRES THEREIN LOCATED AT 21700 S. TAMIAMI TRAIL, 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 Partners, LP, 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 (Parcel 1) is located at 21700 S. Tamiami Trail Estero, FL (Strap number 33-46-25-E3-28001.0000); and

WHEREAS, the subject property is located within a Mixed Use Planned Development (MPD) known as the Camargo Trust MPD which was approved by Resolution Z-98-029, as subsequently amended; 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); and

WHEREAS, a duly noticed first reading was held on February 24, 2016, and a second reading and public hearing were held on March 9, 2016 by the Village Council of the Village of Estero, which hearing was continued to a date certain, March 23, 2016; and

WHEREAS, the Village Council of the Village of Estero finds it more appropriate to amend the existing MPD, with conditions, rather than rezone the subject property to a

44 Commercial Planned Development zoning district. The Village Council intends that the
45 amendment to the MPD does not create a precedent for future MPDs or MPD amendments
46 where residential and commercial areas are proposed to be separated.

47
48 **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,
49 Florida:

50
51 **Section 1. Request**

52
53 The Village Council of Estero hereby denies the applicant's request to rezone the
54 subject property from Mixed Use Planned Development to Commercial Planned Development,
55 but instead approves an amendment to the Camargo Trust MPD to allow the development of
56 up to 15,000 square feet of commercial uses on Parcel 1, with the following conditions and
57 deviation. Except as modified for Parcel 1, the project must be consistent with all requirements
58 of Zoning Resolution Z-98-029 as amended by Z-04-068, and its Master Concept Plan, as have
59 been amended from time to time.

60
61 **Section 2. Conditions and Deviation**

62
63 1. Master Concept Plan/Development Parameters

64 The development of this Parcel 1 project must be consistent with the one-page Master
65 Concept Plan entitled "ESTERO WAS MINOR CPD" stamped received August 18,
66 2015 except as modified by the conditions below.

67
68 The development is limited to a maximum of 15,000 square feet of total floor area on
69 Parcel 1.

70
71 Development of Parcel 1 must be in compliance with the Design Guidelines attached
72 to Zoning Resolution Z-04-068 as Exhibit D. The front and back of the building will
73 both be treated as primary facades.

74
75 This development must comply with all requirements of the Land Development Code
76 (LDC) at time of local Development Order Approval, except as may be granted by
77 deviation as part of this planned development. If changes to the Master Concept Plan
78 are subsequently pursued, appropriate approvals will be necessary.

79
80 2. Uses and Site Development Regulations

81 The following limits apply to the project and uses:

82
83 a. Schedule of Uses

84 The approved Schedule of Uses for this development is found in Exhibit
85 A.
86

- 87 b. Site Development Regulations
88 The approved Property Development Regulations are found in Exhibit
89 B.
90
- 91 3. Open Space
92 As committed on the Master Concept Plan, the minimum required open space on Parcel
93 1 is 0.27 acres.
94
- 95 4. Buffer
96 If a fast food restaurant is constructed on Parcel 1, the existing buffer needs to be
97 enhanced to meet the standards of LDC Section 34-1353.
98
- 99 5. Vehicular/Pedestrian Impacts
100 Approval of this ~~rezoning request~~ amendment does not address mitigation of the
101 project's vehicular or pedestrian traffic impacts. Additional conditions consistent with
102 the LDC may be required to obtain a local development order. Parcel 1 will pay its
103 proportionate fair share of a traffic light at Pelican Sound Drive and U.S. 41 if the light
104 is warranted.
105
- 106 6. Comprehensive Plan Consistency
107 Approval of this ~~rezoning~~ amendment does not guarantee local development order
108 approval. Future development order approvals must satisfy the requirements of the
109 Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map
110 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial
111 standards for site area, including range of gross floor area, location, tenant mix and
112 general function, as well as all other Comprehensive Plan provisions.
113
- 114 7. Concurrency
115 Approval of this ~~rezoning~~ amendment does not constitute a finding that the proposed
116 project meets the concurrency requirements set forth in LDC Chapter 2 and the
117 Comprehensive Plan. The developer is required to demonstrate compliance with all
118 concurrency requirements prior to issuance of a local development order.
119
- 120 8. Solid Waste Management
121 As part of any local development order approval for vertical development, the
122 development order plans must include facilities in compliance with LDC Section 10-
123 261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and
124 recyclables. The minimum area required for, and specific locations of, these facilities
125 will be reviewed at the time of local development order application.
126
- 127 9. Direct Access
128 No direct access is allowed to US 41 for Parcel 1.
129

- 130 10. Sidewalks and Interconnections
131 Sidewalks and pedestrian interconnections depicted on the Parcel 1 MCP will be
132 constructed at the time of the Development Order.
133
- 134 11. Construction Trailer
135 The temporary construction trailer must obtain a permit and must be located on the
136 western portion of the Parcel 1 site.
137
- 138 12. Fast Food Restaurant
139 The fast food restaurant for Parcel I is limited to “in line” only (no drive-thru allowed).
140
- 141 13. Outdoor Seating
142 Outdoor seating for Parcel 1 is limited to seating in conjunction with a Group III
143 restaurant.
144
- 145 14. Alcohol Consumption
146 Consumption on premises for Parcel 1 is allowed for a Group III restaurant. Outdoor
147 seating and service of alcohol is limited as follows: a) the outdoor seating will not face
148 US 41; b) the consumption on premises for the outdoor seating will be limited to the
149 hours of 11 a.m. to 12 a.m. (midnight); and c) there will be no live amplified
150 music located outdoors in conjunction with the consumption on premises.
151
- 152 15. Deviation
153 The deviation from Section 34-2020(b) parking requirements for Parcel 1 non-
154 residential uses to allow a 5% reduction to required parking spaces based on the
155 provision of a continuous path for bicycle and pedestrian facilities identified on the
156 Bikeways/Walkways Facility Plan is approved, subject to the Design Review Board
157 approving the connections, location and bike rack location at the time of the
158 Development Order.
159

160 **Section 3. Findings and Conclusions**

161 Based upon an analysis of the application and the standards for approval of planned
162 development amendments rezonings, the Village Council makes the following findings
163 and conclusions:
164

- 165 1. The applicant has justification for the MPD amendment ~~rezoning to Commercial~~
166 ~~Planned Development (CPD)~~ by demonstrating compliance with the Comprehensive
167 Plan, the Land Development Code, and other applicable codes and regulations, as
168 conditioned.
169
- 170 2. The MPD amendment ~~requested zoning to Commercial Planned Development (CPD)~~,
171 as conditioned:
172

- 173 a. Meets all performance and locational standards set forth for the potential uses
174 allowed by the request; and
175 b. Is consistent with the densities, intensities and general uses set forth in the
176 Comprehensive Plan; and
177 c. Is compatible with existing or planned uses in the surrounding area, as
178 conditioned; and
179 d. The request will not adversely affect environmentally critical areas or natural
180 resources.
181
182 3. Although as conditioned, there will be additional trips generated by the development,
183 approval of the ~~request~~ amendment will not place an undue burden upon existing
184 transportation or planned infrastructure facilities and the site will be served by streets
185 with the capacity to carry traffic generated by the development.
186
187 4. Urban services, as defined in the Comprehensive Plan will be available and adequate
188 to serve the proposed land use.
189
190 5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.
191
192 6. The recommended conditions to the concept plan and other applicable regulations
193 provide sufficient safeguards to the public interest.
194
195 7. The recommended conditions are reasonably related to the impacts on the public's
196 interest created by or expected from the proposed development.
197
198 8. The deviation, as conditioned, will preserve and promote the general intent of the LDC
199 to protect the public health, safety and welfare.
200

201 **Section 4. Exhibits**

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

203
204 EXHIBIT A Schedule of Uses

205
206 EXHIBIT B Site Development Regulations
207

208 **Section 5. Effective Date**

209 This ordinance shall take effect immediately upon adoption.
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PASSED on first reading this 24th day of February, 2016.

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

Attest: **VILLAGE OF ESTERO, FLORIDA**

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.

EXHIBIT B



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
DCI2015-00016

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