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

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

49           **Section 1. Request**

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

58           **Section 2. Conditions and Deviation**

59           **1. Master Concept Plan/Development Parameters**

60           The development of this Parcel 1 project must be consistent with the one-page Master  
61 Concept Plan entitled “ESTERO WAS MINOR CPD” stamped received March 29,  
62 2016, except as modified by the conditions below.  
63

64           The development is limited to a maximum of 15,000 square feet of total floor area on  
65 Parcel 1.  
66

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

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

76           **2. Uses and Site Development Regulations**

77           The following limits apply to the project and uses:  
78

79           a.       **Schedule of Uses**

80           The approved Schedule of Uses for this development is found in Exhibit  
81 A  
82

83           b.       **Site Development Regulations**

84           The approved Property Development Regulations are found in Exhibit  
85 B.  
86

87           **3. Open Space**

88           As committed on the Master Concept Plan, the minimum required open space on Parcel  
89 1 is 0.27 acres.  
90  
91  
92

- 93 4. Buffer  
94 If a fast food restaurant is constructed on Parcel 1, the existing buffer needs to be  
95 enhanced to meet the standards of LDC Section 34-1353.  
96
- 97 5. Vehicular/Pedestrian Impacts  
98 Approval of this amendment does not address mitigation of the project’s vehicular or  
99 pedestrian traffic impacts. Additional conditions consistent with the LDC may be  
100 required to obtain a local development order. Parcel 1 will pay its proportionate fair  
101 share of a traffic light at Pelican Sound Drive and U.S. 41 if the light is warranted.  
102
- 103 6. Comprehensive Plan Consistency  
104 Approval of this amendment does not guarantee local development order approval.  
105 Future development order approvals must satisfy the requirements of the  
106 Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map  
107 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial  
108 standards for site area, including range of gross floor area, location, tenant mix and  
109 general function, as well as all other Comprehensive Plan provisions.  
110
- 111 7. Concurrency  
112 Approval of this amendment does not constitute a finding that the proposed project  
113 meets the concurrency requirements set forth in LDC Chapter 2 and the Comprehensive  
114 Plan. The developer is required to demonstrate compliance with all concurrency  
115 requirements prior to issuance of a local development order.  
116
- 117 8. Solid Waste Management  
118 As part of any local development order approval for vertical development, the  
119 development order plans must include facilities in compliance with LDC Section 10-  
120 261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and  
121 recyclables. The minimum area required for, and specific locations of, these facilities  
122 will be reviewed at the time of local development order application.  
123
- 124 9. Direct Access  
125 No direct access is allowed to US 41 for Parcel 1.  
126
- 127 10. Sidewalks and Interconnections  
128 Sidewalks and pedestrian interconnections depicted on the Parcel 1 MCP will be  
129 constructed at the time of development pursuant to an approved Development Order.  
130
- 131 11. Construction Trailer  
132 The temporary construction trailer must obtain a permit and must be located on the  
133 western portion of the Parcel 1 site.  
134
- 135 12. Fast Food Restaurant  
136 The fast food restaurant for Parcel I is limited to “in line” only (no drive-thru allowed).  
137 An additional buffer will be required pursuant to the Land Development Code.

138 13. Outdoor Seating

139 Outdoor seating for Parcel 1 is limited to seating in conjunction with a Group III  
140 restaurant.

142 14. Alcohol Consumption

143 Consumption on premises for Parcel 1 is allowed for a Group III restaurant. Outdoor  
144 seating and service of alcohol is limited as follows: (a) the outdoor seating will not  
145 face US 41; (b) the consumption on premises for the outdoor seating will be limited to  
146 the hours of 11:00 a.m. to 12:00 p.m. (midnight); and (c) there will be no live or  
147 amplified music located outdoors in conjunction with the consumption on premises  
148 after midnight.

150 15. Deviation

151 The deviation from Section 34-2020(b) parking requirements for Parcel 1 non-  
152 residential uses to allow a 5% reduction to required parking spaces based on the  
153 provision of a continuous path for bicycle and pedestrian facilities identified on the  
154 Bikeways/Walkways Facility Plan is approved, subject to the Design Review Board  
155 approving the connections, location and bike rack location at the time of the  
156 Development Order.

158 16. Public Gathering Space

159 If the building on Parcel 1 is a single-use building, an additional public gathering space  
160 will be provided and generally located in the outdoor seating and drive-thru area. The  
161 design must be reviewed and accepted by the Design Review Board.

163 **Section 3. Findings and Conclusions**

164 Based upon an analysis of the application and the standards for approval of planned  
165 development amendments, the Village Council makes the following findings and  
166 conclusions:

- 167
- 168 1. The applicant has justification for the MPD amendment by demonstrating compliance  
169 with the Comprehensive Plan, the Land Development Code, and other applicable codes  
170 and regulations, as conditioned.
  - 171
  - 172 2. The MPD amendment, as conditioned:
    - 173
    - 174 a. Meets all performance and locational standards set forth for the potential uses  
175 allowed by the request; and
    - 176 b. Is consistent with the densities, intensities and general uses set forth in the  
177 Comprehensive Plan; and
    - 178 c. Is compatible with existing or planned uses in the surrounding area, as  
179 conditioned; and
    - 180 d. The request will not adversely affect environmentally critical areas or natural  
181 resources.
  - 182

- 183 3. Although as conditioned, there will be additional trips generated by the development,  
184 approval of the amendment will not place an undue burden upon existing transportation  
185 or planned infrastructure facilities and the site will be served by streets with the  
186 capacity to carry traffic generated by the development.  
187  
188 4. Urban services, as defined in the Comprehensive Plan will be available and adequate  
189 to serve the proposed land use.  
190  
191 5. The proposed use or mix of uses, as conditioned, is appropriate at the subject location.  
192  
193 6. The recommended conditions to the concept plan and other applicable regulations  
194 provide sufficient safeguards to the public interest.  
195  
196 7. The recommended conditions are reasonably related to the impacts on the public's  
197 interest created by or expected from the proposed development.  
198  
199 8. The deviation, as conditioned, will preserve and promote the general intent of the LDC  
200 to protect the public health, safety and welfare.  
201

202 **Section 4. Exhibits**

203 The following Exhibits are attached to this ordinance and incorporated by reference:  
204

- 205 EXHIBIT A Schedule of Uses  
206 EXHIBIT B Site Development Regulations  
207

208 **Section 5. Effective Date**

209 This ordinance shall take effect immediately upon adoption.  
210

211 **PASSED** on first reading this 24<sup>th</sup> day of February, 2016.  
212

213 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,  
214 Florida this 23<sup>rd</sup> day of March, 2016.  
215

216 Attest:

**VILLAGE OF ESTERO, FLORIDA**

217  
218  
219 By: Kathy Hall  
220 Kathy Hall, MMC  
221 Village Clerk  
222

By: Nicholas Batos  
Nicholas Batos  
Mayor

223 Reviewed for legal sufficiency:

224  
225  
226 By: Nancy Sfroud  
227 Nancy Sfroud, Esq.  
228 Land Use Attorney

		AYE	NAY
229	Vote:		
230	Mayor Batos	<u>✓</u>	<u>    </u>
231	Vice Mayor Levitan	<u>✓</u>	<u>    </u>
232	Councilmember Boesch	<u>✓</u>	<u>    </u>
233	Councilmember Brown	<u>✓</u>	<u>    </u>
234	Councilmember Errington	<u>✓</u>	<u>    </u>
235	Councilmember Ribble	<u>✓</u>	<u>    </u>
236	Councilmember Wilson	<u>✓</u>	<u>    </u>



## 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

Computer and Data Processing Services

Consumption on Premises (LDC Section 34-1261 et seq.) (in conjunction with Group III restaurants) as further limited by zoning conditions

Cultural Facilities

Day Care Center, Child, Adult

Essential Services

Essential Service Facilities, Group I

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

Paint, Glass and Wallpaper

Parks: Groups I and II

Parking Lot: Accessory (see Note 1 below)

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: 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

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)

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)

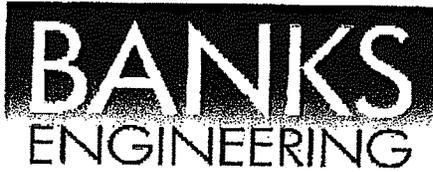
Used Merchandise Stores: Groups I and II

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))

**RECEIVED**  
AUG 18 2015  
COMMUNITY DEVELOPMENT  
DCI 2015-00016

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