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**VILLAGE OF ESTERO, FLORIDA  
ZONING  
ORDINANCE NO. 2021-10**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, CONSIDERING A REZONING FROM AGRICULTURE (AG) TO ESTERO PLANNED DEVELOPMENT (EPD) FOR A 19.53-ACRE PARCEL ON THE WEST SIDE OF VIA COCONUT, SOUTH OF CORKSCREW ROAD; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Stephanie Miller Trust; CP Land Investment, LLC; Wildcat Hollow, LLP; MM Estero FL, LLC; and Seymour Pond 28, LLC, represented by Stacy Hewitt, Banks Engineering, Inc. (the “Applicant”), filed for a rezoning on eight properties located on the west side of Via Coconut between Corkscrew Road and Williams Road at 21650 & 21750 Via Coconut Road, and 21331, 21350, and 21351 Happy Hollow Lane (“Property”) for a project known as **Via Coconut EPD**; and

**WHEREAS**, the Property STRAP numbers are 34-46-25-E4-0100C.0170; 33-46-25-E2-U1971.2349; 33-46-25-E3-U1971.2299; 33-46-25-E3-U1969.2320; 33-46-25-EE2-U1963.2334; 33-46-25-E3-U1973.2285; 33-46-25-E2-U1967.2334; and 33-46-25-E2-U1967.2342, and the Properties are legally described in Exhibit A attached hereto; and

**WHEREAS**, the Applicant requested a rezoning from Agriculture (AG) to Estero Planned Development (EPD) (Case number DCI 2019-E003); and

**WHEREAS**, the Applicant is requesting a mixed-use development of 330 multi-family apartment dwelling units, 29,600 square feet of commercial use, and 10,000 square foot church or alternative commercial use; and

**WHEREAS**, the Applicant has requested deviations; and

**WHEREAS**, a public information meeting was held on January 21, 2021 at the Planning and Zoning Board; and

**WHEREAS**, a meeting to discuss the Pattern Book was held on January 22, 2021 at the Design Review Board, as required by the Land Development Code for Estero Planned Development zoning; and

43           **WHEREAS**, at a duly noticed public hearing held on August 24, 2021 at which time the  
44 Planning, Zoning and Design Board reviewed the request and continued the rezoning request to  
45 September 14, 2021; and

46  
47           **WHEREAS**, at a continued public hearing held on September 14, 2021 the Planning,  
48 Zoning and Design Board recommended approval with conditions of the rezoning request; and

49  
50           **WHEREAS**, a duly noticed first reading was held before the Village Council on  
51 September 22, 2021; and

52  
53           **WHEREAS**, a duly noticed second reading and public hearing was held before the  
54 Village Council on October 20, 2021, at which time the Village Council gave consideration to  
55 the evidence presented by the Applicant and the Village staff, the recommendations of the  
56 Planning, Zoning, and Design Board and the comments of the public.

57  
58           **NOW, THEREFORE**, be it ordained by the Village Council of the Village of Estero,  
59 Florida:

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61           **Section 1.**     **Rezoning.**

62  
63           The Village Council approves with conditions the rezoning from Agriculture (AG) to  
64 Estero Planned Development (EPD) to allow for up to 330 apartment dwelling units,  
65 29,600 square feet of commercial mixed uses, and a 10,000 square foot church or 10,000  
66 square feet of commercial use, subject to the following conditions.

67  
68           **Section 2.**     **Conditions.**

69  
70           1.     Master Concept Plan

71  
72                     Development of this project must be consistent with the Master Concept Plan  
73 (MCP) titled “Via Coconut Master Concept Plan”, dated September 15, 2021.

74  
75           2.     Development Parameters

76  
77                     This project is limited to a maximum of 330 multi-family dwelling units, 29,600  
78 square feet of commercial use, and a 10,000 square foot church or 10,000  
79 additional square feet of commercial or office use. Uses must be consistent with  
80 the Schedule of Uses below.

81  
82           3.     Maximum Building Height

83  
84                     59 feet (four stories) for Residential Buildings A, B, and E  
85                     55 feet (three stories) for Buildings C and D  
86                     35 feet for Buildings C-1 and C-2

87 38 feet for Building F  
88 Maximum height includes architectural features

89  
90 4. Uses and Site Development Regulations

91  
92 The following uses and limits apply to the project:

93  
94 a. Schedule of Uses

- 95  
96 Accessory uses per Land Development Code  
97 Animal Clinic (no outdoor dog runs)  
98 Banks & Financial institutions  
99 Bar (will require a public hearing at Planning, Zoning and Design Board  
100 (PZDB) for Development Order)  
101 Broadcast Studio, Commercial Radio &  
102 Television Cinemas and theaters  
103 Cleaning & Maintenance Services  
104 Clubs, lodges, or community-oriented associations  
105 Community Gardens  
106 Consumption on Premises (in conjunction with restaurants with outdoor  
107 COP must be in compliance with Conditions 22 and 23. Any other  
108 outdoor COP will require a public hearing at the PZDB for  
109 Development Order) Also see Condition 23.  
110 Contractors and Builders Group I  
111 Convenience Food and Beverage Store without gas service  
112 Counseling, nonresidential  
113 Cultural Facility, noncommercial  
114 Day Care Center  
115 Drugstore  
116 Dwelling  
117 Live-Work (located in Main Street area)  
118 Multiple-Family  
119 Single-Family (existing only)  
120 Grocery store or food market  
121 Hardware Store  
122 Household and Office Furnishings  
123 Insurance Companies  
124 Dryclean & Laundry Services  
125 Library  
126 Medical or dental lab  
127 Models: Model Unit  
128 Nature Center  
129 Newspaper/periodical publishing establishment  
130 Non-store Retailers

- 131 Office, General Business
- 132 Office, Medical
- 133 Outpatient Care Facilities
- 134 Parcel & Express Services
- 135 Package Store
- 136 Park, Village, County, or State
- 137 Personal Services Group I
- 138 Pet Services
- 139 Photofinishing Laboratory
- 140 Place of Worship
- 141 Post Office
- 142 Printing & Publishing (books, printing, cards, etc.)
- 143 Recreation Facilities, Indoor
- 144 Rental or Leasing Establishment
- 145 Repair Shop, Household
- 146 Research & Development Laboratories
- 147 Restaurant, Convenience
- 148 Restaurant, Fast casual or Fast food (no drive through)
- 149 Restaurant, Standard
- 150 Retail Sales Group I
- 151 Signs in compliance with LDC Chapter 6
- 152 Storage: Indoor Only (accessory)
- 153 Studios (artists, interior decorators, modeling, photographers, painters,
- 154       potters, recording, sculptors, etc.)
- 155 Used Merchandise Stores
- 156 Utility, Minor
- 157 Vocational or Trade School

158

159       b. Property Development Regulations

- 160
- 161       Minimum Lot Area:                 7,500 square feet
- 162       Minimum Lot Width:             100 feet
- 163       Minimum Lot Depth:             75 feet
- 164       Minimum Building Separation:   15 feet (only in locations as shown on
- 165   Master Concept Plan)
- 166       Maximum Lot Coverage:         50%
- 167       Maximum Height:                 4 stories/59 feet to top of architectural
- 168   features (46'4" to midpoint between eave
- 169   and ridge)
- 170
- 171

172	<u>Minimum Building Setbacks:</u>	
173	Street, Principal & Accessory:	
174	Via Coconut Point:	1-2-story: 20 feet minimum
175		3-story: 30 feet minimum
176		4-story: 65 feet minimum
177	Main Street Connector:	5 feet minimum, 38 feet maximum
178	Happy Hollow Lane:	20 feet minimum
179		
180	Side:	15 feet Principal & Accessory (none
181		internal to the PD)
182		
183	Rear:	15 feet Principal/5 feet Accessory (none
184		internal to the PD)
185		
186	Waterbody:	0 feet Principal & Accessory
187		
188	Minimum Open Space:	35%
189		

190 5. Connectivity

191  
 192 Pedestrian and road connections to the railroad right-of-way and Happy Hollow  
 193 Lane will be provided at time of local development order. Need for a crosswalk  
 194 will be determined at time of development order. At time of development order,  
 195 the applicant will also evaluate Happy Hollow Lane to determine if a turnaround  
 196 or cul-de-sac is needed.  
 197

198 6. Radio Enhancement

199  
 200 The owner or owner’s representative shall conduct an assessment model at the  
 201 time of development order to determine if the minimum radio signal’s strength for  
 202 the fire department communication is in compliance with NFPA1:11.10, NFPA  
 203 1221:11.3.9, standards for inbound and outbound signal strength and quality. If  
 204 minimum signal strength is not available, the applicant shall install radio  
 205 enhancement in the building.  
 206

207 7. No Blasting or Pile Driving

208  
 209 No development blasting or pile driving is permitted as part of this project.  
 210

211 8. Utilities

212  
 213 The project will be developed with underground utilities, including electric. The  
 214 project must be connected to centralized potable water service and centralized  
 215 sewer service at time of development order.

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9. Pattern Book

The project must be consistent with the Pattern Book entitled “Via Coconut Pattern Book” dated September 15, 2021. The Pattern Book is not conceptual. Photographic images may be illustrative, but development must be in substantial compliance with the Pattern Book, including a consistent architectural, landscape and signage theme for all commercial and residential development.

Specific details such as: parking lot screening from Via Coconut between Buildings E and F, trellis/knee wall, buffer or similar items; additional urban streetscape, pedestrian activity areas along Main Street; addition of bike rack at fishing pier with potential “no parking” paint or signage on Via Coconut Point; and ensure the variation of contrasting building colors to differentiate buildings, will be evaluated as part of Development Order Approval.

At a minimum, the Development Order plan must demonstrate the following:

- White paint limited to trim and cornices;
- Dark bronze paint for all metallic features and fascias of roofline; and
- No less than three (3) different shades of taupe paint color on each facade, including: Pavilion Beige, Natural Linen, Loggia, Tavern Taupe, or White Flour; and
- In no case shall either White Flour or Natural Linen (together) be more than 20% of each façade; and
- In no case shall Pavilion Beige or Tavern Taupe be less than 20% of each façade.

10. Median Landscaping

The applicant has offered to install and maintain median landscaping on Via Coconut from the proposed new entrance to Estero Community Park to Williams Road. Applicant will work with the Village Public Works staff to develop an acceptable palette. Time of installation will be determined by the Village.

11. Buffers

As part of local development order approval for the project, the development order plans must demonstrate buffering consistent with the Master Concept Plan and the Pattern Book which show enhanced buffers and landscaping, as well as compliance with the Land Development Code. As part of local development order approval, all required buffer plantings must be 100% native vegetation.

259 The buffer along the west property line will consist of an enhanced “A” buffer, 10  
260 feet wide, with 4 trees per 100 linear feet and a single hedge row 36” tall at time  
261 of planting.

262  
263 12. Public Gathering Areas and Public Park

- 264  
265 a. The applicant shall provide details regarding the improvements associated with  
266 the Public Gathering Areas at the time of the first development order.  
267  
268 b. The 1-acre± park will be constructed and donated to the Village as part of the  
269 first development order, subject to review and approval of the Village attorney.

270  
271 13. Concurrency

272  
273 Approval of this rezoning does not constitute a finding that the proposed project  
274 meets the regulatory concurrency requirements set forth in the Land Development  
275 Code and the Comprehensive Plan. The developer is required to demonstrate  
276 compliance with mandatory concurrency requirements prior to issuance of a local  
277 development order.

278  
279 14. Project Phasing

280  
281 The project will be phased to ensure that commercial uses and public amenities  
282 are developed concurrently with residential uses to ensure the mixed use nature of  
283 the development.

284  
285 Phasing is as follows:

286  
287 A minimum of three commercial buildings (C, C1, C2 or D), park donation and  
288 one public amenity (linear park south of Main Street or linear park north of Main  
289 Street) must receive a certificate of compliance prior to issuance of a certificate of  
290 compliance for a second residential building. Fourth commercial building and  
291 remaining public amenities must receive a certificate of compliance prior to  
292 issuance of a certificate of compliance for the third residential building. A  
293 certificate of compliance for the third residential building will not be issued until  
294 50% of the square footage of the constructed commercial buildings is occupied or  
295 has an executed lease by non-residential establishments.

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15. Green Building Standards, Residential Impact Standards, and Hurricane Preparedness

The applicant will provide sufficient information at the time of development order to demonstrate compliance with Green Building Standards (LDC 5-8), Residential Impact Standards (5-13), and compliance with the Hurricane Preparedness (LDC 7-5).
  16. Land Development Code (LDC)

Where the Village LDC is referenced in these conditions of approval for implementation of the condition at the time of development order, the LDC in effect at the time of the development order shall be applicable. Any subsequent amendments to the local development order shall require compliance with the Land Development Code in effect at the time.
  17. Incentive Offerings

The Applicant’s incentive offerings, and the time by which each offering must be completed, are incorporated into this zoning approval as part of the Master Concept Plan and Pattern Book.
  18. Billboard Removal

The applicant has agreed to remove the billboard located in the northwest section of the project along Corkscrew Road. The billboard must be removed prior to any transfer of property to the Village or as part of the first development order for the project, whichever occurs first.
  19. Maintenance

The Applicant will maintain in good condition in perpetuity the linear park, pocket park, dog park, lake and filter marsh, and the median landscaping of Via Coconut Point Road from the proposed new entrance to Estero Community Park to Williams Road. The Via Coconut Point Road median landscaping must be constructed prior to the issuance of a Certificate of Occupancy of the first residential building unless the Public Works Director determines a different timeframe. The linear park, pocket park, and dog park must be constructed prior to occupancy of Building E as shown on the Master Concept Plan.
  20. Building Construction

Buildings will be constructed of concrete block, and all buildings greater than 2 story will contain elevators.



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21. Construction Traffic Management Plan

A Construction Traffic Management Plan shall be submitted with the Development Order application indicating construction hours of operation, and access, equipment and staging details. The Plan shall designate a contact person for construction issues, such as noise, dust, etc.

22. Outdoor Consumption on Premises

Outdoor seating in conjunction with consumption on premises of alcoholic beverages for restaurants is permitted in locations shown on the master concept plan and at the restaurant building C1 abutting the water feature and Via Coconut. Prior to local development order approval, any outdoor seating areas in conjunction with consumption on premises must demonstrate compliance with the following:

- a. The development order site plan must show the proposed location and square footage of the outdoor seating area in compliance with above locations.
- b. Outdoor Consumption on Premises is limited to 10 a.m. to 11 p.m. Sunday through Thursday, and 10 a.m. to 12 am., Friday and Saturday.
- c. The site plan must identify noise mitigation measures, including building orientation, perimeter plantings, water fountains, and/or other sound reducing materials to ensure the development will be in compliance with the County Noise Ordinance, as amended.
- d. For the purposes of this condition, outdoor seating shall be defined as roofed or non-roofed areas of a restaurant which are not enclosed.

23. Outdoor Entertainment/Live Music

Outdoor entertainment or live music for restaurant, bar or similar use will require a public hearing at PZDB for development order. This approval does not prohibit the owner from obtaining a Temporary Use Permit, or a special event permit.

24. Leases

Applicant has offered, and the Village has accepted, that all rental leases for the project must require minimum 6-month leases.

25. Public Easements

Public easements must be provided for public amenities/public easement areas identified on Pattern Book page 6 including Main Street, the linear park north of Main Street, the linear park south of Main Street, the dog park, the pocket park,

386 and the potential public seating areas at the time of construction certification of  
387 each improvement, and subject to approval by the Village Attorney.  
388

389 **Section 3. Deviations**

- 390  
391 1. Former request from Land Development Code (LDC) 10-416(c)(2)c. to allow  
392 minimum 10-foot internal landscape areas. All required internal landscape areas  
393 area now proposed to meet the minimum 18-foot dimension.  
394

395 WITHDRAWN  
396

- 397 2. A request to deviate from Land Development Code (LDC) 5-411.D.5. which states  
398 that no code required trees or shrubs may be located in any utility or drainage  
399 easement to allow code required plantings where the drainage easement for the  
400 filter marsh by Building E abutting Via Coconut Point conflicts with the buffer.  
401

402 APPROVED, limited to the filter marsh abutting Building E.  
403

- 404 3. A request to deviate from Land Development Code (LDC) 5-408.I.6. which states  
405 hardened shoreline structures may comprise up to 20 percent of an individual lake  
406 shoreline; to allow hardened shoreline structures to comprise up to 40 percent.  
407

408 APPROVED for those portions of the lake that abut Buildings A & B and the pool  
409 area between those buildings. The equivalent littoral shelf design will be reviewed  
410 at time of development order.  
411

- 412 4. A request to deviate from Land Development Code (LDC) 7-601.F.1. which  
413 requires 20-foot wide lake maintenance easements to allow no lake maintenance  
414 easement areas along Via Coconut Point and to allow the lake maintenance access  
415 areas as shown on the master concept plan.  
416

417 APPROVED adjacent to buildings, pool area, and parking lots as depicted on  
418 Master Concept Plan.  
419

- 420 5. A request to deviate from Land Development Code (LDC) 7-206.G.3.A.1(b) which  
421 requires a setback for water retention of 50 feet from collector roads to allow a  
422 water retention setback of 30 feet from Via Coconut Point.  
423

424 APPROVED as shown on the Master Concept Plan, and with the non- mountable  
425 curb features.  
426

- 427 6. A request to deviate from Land Development Code (LDC) 10-416(d)(6) which  
428 requires a wall setback 25 feet from the property line or a hedge setback 20 feet  
429 from the property line when roads, drives or parking areas are located less than 125

430 feet from an existing single-family residential lot; to allow an alternate Type C  
431 Buffer enhancement with the wall setback 15 feet from the property line.

432

433 WITHDRAWN

434

435 7. A request to deviate from Land Development Code (LDC) 5-201.1. non-residential  
436 parking requirement to allow 29,600 SF of commercial uses to provide 1 parking  
437 space per 450 square feet and to allow the place of worship to provide 1 parking  
438 space per 5 seats and a total of 8 amenity parking spaces.

439

440 APPROVED for reduction in parking. If a church is not developed, parking will be  
441 evaluated per code requirement for the alternative use.

442

443 8. A request to deviate from Land Development Code (LDC) Appendix C Section  
444 B.14.A.1. and illustration Appendix D Section D.1. which requires 24-foot  
445 pavement for Category A private local streets to allow 11-foot travel lanes or 22-  
446 foot pavement on the proposed Main Street (connecting street) as shown on the  
447 MCP. Minimum right-of-way widths shall not apply.

448

449 APPROVED limited to the “Main Street”.

450

451 9. A request to deviate from Land Development Code (LDC) 3-707.H.3.A and Figure  
452 3-707.T.3 which provides typical cross-sections of connecting streets to allow the  
453 proposed Main Street (connecting street) as shown on the MCP;

454

- 455 • From 10.5-foot travel lanes to all 11-foot travel lanes;
- 456 • Add 5-foot bike lanes;
- 457 • From 7.5-foot parking dimension to allow 8-foot parking dimension;
- 458 • From 14-foot sidewalk with tree wells to allow two 8 foot sidewalks 13.5-foot  
459 planting strip.

460

461 APPROVED limited to the “Main Street”. Sidewalk and landscaping may be  
462 adjusted at time of development order pursuant to condition 9.

463

464 10. A former request to deviate from Land Development Code (LDC) 34-2013(a) and  
465 34-2015(2)d to allow back out parking along the proposed Main Street connector  
466 road.

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468 WITHDRAWN

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**Section 4. Findings and Conclusions.**

Based upon an analysis of the application and the standards for approval in the Land Development Code, and the conditions of approval, the Council finds and concludes as follows:

1. The applicant has provided sufficient justification for the zoning amendment by demonstrating compliance with the Comprehensive Plan, the Land Development Code, and other applicable codes.
2. The request with the proposed conditions will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
3. The request is consistent with the densities, intensities and general uses set forth in the Village of Estero Comprehensive Plan.
4. The proposed uses are compatible with existing or planned uses in the surrounding area and will be served by streets with the capacity to carry traffic generated by the development.
5. Urban services are available and adequate to serve the proposed use.
6. The request will not adversely affect environmentally critical areas and natural resources.
7. The mix of uses is appropriate at the subject location.
8. The deviations recommended for approval:
  - a. Enhance the planned development; and
  - b. Preserve and promote the general intent of the LDC to protect the public health, safety and welfare.
9. The proposed residential density and building height is appropriate given the public benefits provided by the incentive offers, meet the goals and objectives of the comprehensive plan, and comply with the general criteria for the EPD District.
10. The proposal, as conditioned, is consistent with the general criteria of the Estero Planned Development zoning district as follows:
  - a. Goals The mixed-use of the site will promote social vitality in the area and create a walkable community.

- 515                    b. Reasonable Standards The applicant has used physical form and the  
516                    relationship of the building with the landscaping and public space to meet the  
517                    Village Center goals.  
518  
519                    c. Accessibility Accessible public spaces are provided, and onsite  
520                    interconnections and connections with adjoining properties align with the  
521                    objectives of the Village Center.  
522  
523                    d. Streets A connected street network has been designed to allow for future  
524                    connections to the west and to Happy Hollow Lane.  
525  
526                    e. Street Design The street design includes pavers to delineate the entry, and  
527                    crosswalks in the commercial area will promote walkability.  
528  
529                    f. Lots and Blocks The linear site does not allow for a standard grid lot and  
530                    block layout but connectivity is proposed to the north and the west.  
531  
532                    g. The Visual Edge A visual edge is created by the landscaping and linear  
533                    park/sidewalk along Via Coconut Point.  
534  
535                    h. Architecture The building design and colors are consistent with the Village  
536                    architectural standards, and the massing of the buildings has been minimized  
537                    with the use of step backs, varying roof heights and facade fenestration.  
538  
539                    i. Quality of Buildings Concrete block construction is proposed, and elevators  
540                    will be in all building over two stories.  
541

542                    **Section 5       Exhibits.**

543  
544                    The following exhibits are attached to this Ordinance and incorporated by reference:

545  
546                    Exhibit A    Legal Description and Sketch  
547

548                    Exhibit B    Master Concept Plan titled “Via Coconut” dated September 15, 2021  
549

550                    Exhibit C    Pattern Book entitled “Via Coconut Mixed Use Development Pattern Book”  
551                    dated September 15, 2021.  
552

553                    **Section 6       Severability.**

554  
555                    Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance  
556                    subsequent to its effective date be declared by a court of competent jurisdiction to be  
557                    invalid, such decision shall not affect the validity of this Ordinance as a whole or any  
558                    portion thereof, other than the part so declared to be invalid.

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**Section 7      Effective Date.**

This Ordinance shall take effect immediately upon adoption.

**PASSED** on first reading this 22nd day of September, 2021.

**PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida on second reading this 20th day of October, 2021.

Attest:

**VILLAGE OF ESTERO, FLORIDA**

By: \_\_\_\_\_  
Carol Sacco, Village Clerk

By: \_\_\_\_\_  
Katie Errington, Mayor

Reviewed for legal sufficiency:

By: \_\_\_\_\_  
Nancy E. Stroud, Village Land Use Attorney

Vote:	AYE	NAY
Mayor Errington	_____	_____
Vice Mayor McLain	_____	_____
Councilmember Ribble	_____	_____
Councilmember Fiesel	_____	_____
Councilmember Boesch	_____	_____
Councilmember Ward	_____	_____
Councilmember Wilson	_____	_____