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**VILLAGE OF ESTERO, FLORIDA
ZONING
ORDINANCE NO. 2021-12**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, APPROVING WITH
CONDITIONS AN AMENDMENT TO THE WEST BAY
CLUB RESIDENTIAL PLANNED DEVELOPMENT TO
INCREASE THE ALLOWED HEIGHT IN POD 5,
LOCATED WEST OF US 41 AT THE END OF WILLIAMS
ROAD; PROVIDING FOR CONFLICTS; PROVIDING
FOR SEVERABILITY; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, West Bay Hill, LLC represented by Laura DeJohn of Johnson Engineering, Inc., (the “Applicant”), filed an application for an amendment to the West Bay Club Residential Planned Development (RPD) zoning to increase the maximum building height in development area Pod 5 for a proposed 88-unit high-rise building located west of US 41 at the end of Williams Road, Estero, FL, consisting of approximately 5-acres (the “Property”); and

WHEREAS, the Property STRAP number is 06-47-25-E2-07MF1.0000 and legally described as:

“All of Tract MF-1 and Tract LK 5-2 according to the plat of West Bay Club as recorded in Plat Book 62, Page 79 through 111 of the public records of Lee County Florida”; and

WHEREAS, the property is a part of the West Bay Club RPD approved by Lee County in Resolution Z-96-005, as amended most recently by Resolution Z-05-010; and

WHEREAS, the applicant applied for an amendment to zoning resolution Z-05-010 to modify Deviation 9 to revise the maximum height for Development Area Pod 5 from 20 stories over parking to 23 stories over parking, increasing the height from the maximum 220 feet to 270 feet plus an additional 20 feet for rooftop equipment, and to make corresponding changes to the Property Development Table; and

WHEREAS, at a duly noticed public hearing held on September 28, 2021, the Planning, Zoning and Design Board recommended approval with conditions; and

WHEREAS, a duly noticed first reading was held before the Village Council on November 3, 2021; and

WHEREAS, a duly noticed second reading and public hearing was held before the Village Council on November 17, 2021, at which time the Village Council gave consideration

46 to the evidence presented by the Applicant and the Village staff, the recommendations of the
47 Planning, Zoning and Design Board and the comments of the public.

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

51
52 **Section 1. Rezoning.**

53
54 The Village Council approves with conditions the amendment for the West Bay Club
55 Development Area Pod 5, subject to the following conditions.

56
57 **Section 2. Conditions.**

- 58
59 1. Deviation 9 of Zoning Resolution Z-05-010 is amended to allow a maximum height
60 for Development Area Pod 5 of 23 stories over parking, not to exceed 270 feet (with
61 an additional 20 feet for rooftop equipment). The Property Development
62 Regulations Table of the Master Concept Plan is revised to show the number of
63 habitable floors as 23. All other conditions of prior Zoning Resolutions remain in
64 effect except for Deviation 9 for Pod 5.
65
66 2. The maximum number of units is limited to 88.
67
68 3. Pod 5 is limited to one high rise building and must provide a minimum of 60% open
69 space.
70
71 4. Ninety percent of the required parking in Pod 5 must be provided under the
72 principal building structure to limit the impacts of impervious areas created by open
73 parking lots.
74
75 5. The project must be consistent with the Pattern Book titled “The Island at West Bay
76 – Estero, Florida, Pattern Book – 10.01.2021”. The Pattern Book is not conceptual.
77 Photographic images may be illustrative, but the development must be in
78 substantial compliance with the Pattern Book, including architecture. Minor
79 variations of details or colors will be evaluated as part of development order
80 approval.
81
82 6. The building footprint shall be generally consistent with the shadow study imagery
83 depicted in the Pattern Book to ensure that there are no negative impacts to
84 residences.
85
86 7. Solid waste details, hurricane preparedness requirements, green building standards,
87 protected species and tree survey, and construction traffic management plan will be
88 further reviewed at time of development order.

- 89 8. An independent, professional, geotechnical engineer with direct experience in
90 South Florida high-rise construction will be retained to provide building foundation
91 recommendations. Their report will be based on multiple borings within the future
92 tower footprint that represents the soil profile in the ground. Their report will be
93 signed and sealed by a licensed engineer and submitted for the foundation design
94 to both the applicant’s contractor and the Village prior to approval of a building
95 permit.
96
97 9. Non-reflective glass will be used in the building design.
98

99 **Section 3. Findings and Conclusions.**

100
101 Based upon an analysis of the application and the standards for approval in the Land
102 Development Code, and the conditions of approval, the Council finds and concludes as
103 follows:
104

- 105 1. The applicant has provided sufficient justification for the zoning amendment
106 through demonstrating compliance with the Comprehensive Plan, the Land
107 Development Code, and other applicable codes.
108
109 2. The application with the proposed conditions is compatible with existing uses in
110 the surrounding area.
111
112 3. Approval of the request will not place an undue burden upon existing transportation
113 or planned infrastructure facilities.
114
115 4. Urban services will be available and adequate to serve the proposed use.
116
117 5. The request will not adversely affect environmentally critical areas and natural
118 resources, which are already protected through the zoning and by other agency
119 permits.
120
121 6. The proposed use was previously approved for this vacant site, and as conditioned
122 is appropriate at the subject location.
123

124 **Section 4. Exhibits.**

125
126 The following exhibits are attached to this Ordinance and incorporated by reference:
127

- 128 Exhibit A Master Concept Plan (4 pages) titled “West Bay Club RPD/CPD”
129 stamped received by Village of Estero October 15, 2021
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131 Exhibit B Pattern Book titled “The Island at West Bay – Estero, Florida, Pattern
132 Book 10.01.2021”

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Section 5. Severability.

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

Section 5. Effective Date.

This Ordinance shall take effect immediately upon adoption.

PASSED on first reading this 3rd day of November, 2021.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida on second reading this 17th day of November, 2021.

Attest:

VILLAGE OF ESTERO, FLORIDA

By: _____
Carol Sacco, Village Clerk

By: _____
Katy 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	_____	_____