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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2022 - 10

**AN ORDINANCE OF THE VILLAGE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, CONSIDERING A
ZONING AMENDMENT AND DEVIATIONS FOR
ESTERO TOWN CENTER COMMERCIAL PLANNED
DEVELOPMENT, PROVIDING FOR CONFLICTS;
PROVIDING FOR SEVERABILITY; AND PROVIDING
AN EFFECTIVE DATE.**

WHEREAS, Amstin LLC and Bright Work Real Estate, represented by Dan Delisi, Delisi, Inc. (the “Applicant”), filed for a zoning amendment to the Commercial Planned Development on property located at 10081 Estero Town Commons Place; and

WHEREAS, the Property STRAP Number is 35-46-E1-3300B.0010; and

WHEREAS, the Applicant is requesting a **Wawa** Convenience Food and Beverage Store with Gas, and a fast-food restaurant in Village Area 2 of the shopping plaza; and

WHEREAS, the Wawa would be located at the site of the closed Ruby Tuesday restaurant which would be demolished; and

WHEREAS, the applicant is also requesting to modify the conditions in Lee County Zoning Resolution Z-03-032 to allow fast-food restaurant on an additional parcel along Corkscrew Road; and

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

WHEREAS, at a duly noticed public hearing held on July 12, 2022, the Planning, Zoning and Design Board reviewed the request and recommended approval with conditions; and

WHEREAS, a duly noticed first reading was held before the Village Council on September 21, 2022; and

WHEREAS, a duly noticed second reading and public hearing was held before the Village Council on October 5, 2022, at which time the Village Council gave consideration to the evidence presented by the Applicant and the Village staff, the recommendations of the Planning, Zoning and Design Board, and the comments of the public.

46 **NOW THEREFORE, BE IT ENACTED BY THE VILLAGE COUNCIL OF**
47 **THE VILLAGE OF ESTERO, FLORIDA, THAT:**
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49 **Section 1.** **Rezoning**

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51 The Village Council approves with conditions the zoning amendment to the
52 Commercial Planned Development (CPD), subject to the following conditions:
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54 **Section 2.** **Conditions**

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56 1. Master Concept Plan

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58 Development of this project must be consistent with the Master Concept Plan
59 (MCP) titled “Estero Town Center”, stamped “Received Date May 3, 2022”, except as
60 modified by the conditions below. The project is approved on the eastern portion of
61 Tract B, Estero Town Commons.
62

63 2. Previous Approvals

64
65 The previous approvals contained in Resolution Number Z-03-032,
66 ADD2005-00156, ADD2005-00235, ADD2006-00163, and ADD2007-00017,
67 including conditions and deviations, remain in effect except as modified by the
68 conditions and deviations contained in this approval. The Schedule of Uses and
69 building heights for the site must be in accordance with Resolution Z-03-032.
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71 3. Traffic Signal

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73 The developer, successor or assigns (owner) of the northeast parcel in Village
74 Area 2 is responsible for their proportionate share of the cost of signalization at the
75 intersection of Corkscrew Road and Estero Town Commons Place, prior to issuance of
76 any development order.
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78 4. Parking

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80 All handicap parking spaces must meet required standards and be located
81 immediately adjacent to the entrance of the building.
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83 5. Utilities

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85 Water and sewer services are available to the site, and this development must
86 connect to those services as part of any local development order for the site.
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88 6. Replat

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90 Prior to issuance of a development order a re-plat of Tract B must be submitted,
91 reviewed, and approved by the Village Council.

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7. Outdoor Display/Storage

Ice machines and propane tanks must be located adjacent to the south side of the building, as shown in the Pattern Book, to provide screening from Corkscrew Road.

8. Pattern Book

Development must be in substantial compliance with the “Estero Town Center CPD Pattern Book Addendum I,” stamped Received May 18, 2022, except that the gas station canopy shown in the Pattern Book must be revised to comply with the Land Development Code.

Details of the public gathering area must be provided as part of the Development Order.

9. Sidewalk & Pedestrian Connections

Sidewalks and pedestrian connections must be provided consistent with the Pattern Book and Land Development Code.

Additionally, a pedestrian crosswalk must be installed at the existing full access entry to the site.

10. Buffers

As part of local development order approval, the development order plans must demonstrate buffering consistent with the Master Concept Plan, the Land Development Code, the Pattern Book, and any approved deviations.

As part of local development order approval, all required buffer plantings must be 100% native vegetation.

All buffer plantings required by the LDC will be required in all buffers even when deviations may be granted to reduce the width of the buffer.

11. Amend Resolution Z-03-032 – Fast-Food (PZDB Recommendation)

Condition 14 of Resolution Z-03-032 is amended as follows:

14. Limitations on Fast-Food Restaurants in Village Areas abutting Corkscrew Road:

- a) No more than Only one freestanding fast-food restaurant (as defined in LDC §34-2) is permitted;
- b) No more than one fast food restaurant is permitted in a multi-occupancy building.

12. Amend ADD2006-00163 (Monument Sign)

Administrative Amendment ADD2006-00163 is further amended to allow for one monument sign in accordance with the Pattern Book.

Section 3. Deviations

1. Deviations 1 and 2B of Resolution Z-03-032 remain in full force and effect.

2. Deviation 2A seeks relief from LDC §34-2192(b)(5) and LDC §34-1047 (now Section 3-803 of the Estero LDC for the Corkscrew Road Overlay) requirement that all parking lots, access streets, and drives be setback a minimum of 75 feet from the Corkscrew Road right-of-way, to allow parking to be located no closer than 30 feet from the right-of-way in the specified locations and in accordance with the proposed Design guidelines (attached as Exhibit D) and 20 feet for the parcel on the southwest corner of Corkscrew road and Estero Town Commons Place. Deviation 2 is approved subject to the following:

- a) the deviation allows no more than 300 feet of the Corkscrew Road frontage (with no more than 200 feet in any single location) for the proposed parking use; and
- b) The area subject to this deviation is buffered in accordance with the Estero Town Center Design Guidelines attached to Resolution Z-03-032 as Exhibit D.
- c) The landscape buffer for the parcel on the southwest corner of Corkscrew Road and Estero Town Commons Place must be buffered in accordance with the Pattern Book Addendum and consistent with Deviation #6 below.

3. Deviation 3 seeks relief from LDC Sections 4-215.C. and 5.707.D.1.d which require that the minimum distance between convenience stores with gas and super convenience stores with gas measured from the nearest points on any lot or parcel of land to be occupied by the use and any lots of existing or an approved convenience store with gas use shall be 500 feet, unless otherwise approved through deviation; to instead allow for a separation of 150 feet for the northeast parcel in Village Area #2.

Deviation 3 is approved.

4. Deviation 4 seeks relief from LDC Section 3-803.D which requires that buildings located on street corners have a maximum setback of 25 feet from each adjacent street, to instead allow for a maximum setback of 40 feet to Corkscrew Road only.

Deviation 4 is approved.

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5. Deviation 5 seeks relief from LDC Section 3-803.E. Note 1C. which requires that 40% of the building frontage is required at the setback, to instead allow for a reduction to 15%.

Deviation 5 is approved.

6. Deviation 6 seeks relief from LDC Section 5-412.C.3 which requires landscape buffers adjacent to external rights-of-way to be a minimum of 25 feet in width, to instead allow for a buffer width a minimum of 20 feet with the same required plantings and design.

Deviation 6 is approved.

7. Deviation 7 seeks relief from LDC Sections 4-215.B. and 5.707.D.6.a. which prohibits flat canopy roofs and requires roofs to have at least two slopes on the long sides and a roof detail change a minimum of every 50 feet, to instead allow for a sloped roof with an angled return at the low end and with the detailing as shown in the Pattern Book.

Deviation 7 is denied.

Section 4. Review Standards – 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 that the amendment:

1. Is consistent with and furthers the goals, objective, and policies of the Comprehensive Plan and all other Village adopted plans.
2. Is not in conflict with any portion of the LDC.
3. Addresses a demonstrated community need.
4. Is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.
5. Would result in a logical and orderly development pattern.
6. Would not adversely affect the property values in the area.
7. Would result in development that is adequately served by public facilities (road, potable water, wastewater, solid, waster, storm water, schools, parks, police, and fire and emergency medical facilities.

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- 8. Would not result in significantly adverse impacts on the natural environment – including, but not limited to water air, noise, storm water management, wildlife, vegetation, wetlands, environmentally critical area, and the natural functioning of the environment.
- 9. Is compatible with existing or planned uses in the surrounding area.

Section 5 Exhibits.

The following exhibits are attached to his Ordinance and incorporated by reference:

- Exhibit A Legal Description
- Exhibit B Master Concept Plan titled “Estero Town Center” stamped “Received May 2, 2022”
- Exhibit C Pattern Book titled “Estero Town Center CPD Pattern Book Addendum 2” stamped Received May 18, 2022.

Section 6 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 7 Effective Date.

This Ordinance shall take effect immediately upon adoption.

PASSED on first reading this 21st day of September, 2022.

PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of Estero, Florida this 19th day of October, 2022.

Attest: **VILLAGE OF ESTERO, FLORIDA**

By: _____
Carol Sacco, Village Clerk

By: _____
Katy Errington, Mayor

275 Reviewed for legal sufficiency:

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278 By: _____

279 Nancy E. Stroud, Village Land Use Attorney

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282 Vote: AYE NAY

283 Mayor Errington _____ _____

284 Vice Mayor McLain _____ _____

285 Councilmember Ribble _____ _____

286 Councilmember Fiesel _____ _____

287 Councilmember Boesch _____ _____

288 Councilmember Ward _____ _____

289 Councilmember Wilson _____ _____