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**VILLAGE OF ESTERO, FLORIDA
ZONING
ORDINANCE NO. 2024-11**

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, APPROVING WITH CONDITIONS AN AMENDMENT TO THE ESTERO PLANNED DEVELOPMENT (EPD) FOR A 20-ACRE PARCEL ON THE WEST SIDE OF VIA COCONUT, SOUTH OF CORKSCREW ROAD; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Estero 5, LLC, (the “Applicant”), filed an amendment to the EPD zoning on eight properties located on the west side of Via Coconut between Corkscrew Road and Williams Road at 8990 Corkscrew Road, 21650 & 21750 Via Coconut Point, and 21331, 21350, and 21351 Happy Hollow Lane (“Property”) for the 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-E2-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 property was rezoned by Village Council from Agriculture (AG) and Parks and Community Facilities (PCF) to Estero Planned Development (EPD) (Case number DCI2019-E003) on October 20, 2021; and

WHEREAS, the approval was for a mixed-use development of 330 multifamily apartment dwelling units, 29,600 square feet of commercial use, and 10,000 square foot church or alternative commercial use; and

WHEREAS, the property has not been developed and the applicant is requesting revisions to the Master Concept Plan, Pattern Book, and deviations, but the basic project parameters (residential units, commercial square footage) remain the same; and

WHEREAS, a public information meeting was held on February 13, 2024 at the Planning Zoning and Design Board; and

WHEREAS, at a duly noticed public hearing held on July 9, 2024, 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 18, 2024; and

44 **WHEREAS**, a duly noticed second reading and public hearing was held before the Village
45 Council on October 2, 2024, at which time the Village Council gave consideration to the evidence
46 presented by the applicant and the Village staff, the recommendations of the Planning, Zoning,
47 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.** **Approval.**

53
54 The Village Council approves the amendment to the Estero Planned Development (EPD),
55 subject to the following conditions.

56
57 **The Conditions of Ordinance No. 2021-10 are superseded by this action and are null**
58 **and void.**

59
60 **Section 2.** **Conditions.**

61
62 1. Master Concept Plan

63
64 Development of this project must be consistent with the Master Concept Plan (MCP)
65 titled “Via Coconut Master Concept Plan”, dated April 16, 2024.

66
67 2. Development Parameters

68
69 This project is limited to a maximum of 330 multi-family dwelling units, 29,600
70 square feet of commercial use, and a 10,000 square foot church or 10,000 additional
71 square feet of commercial or office use. Uses must be consistent with the Schedule
72 of Uses below.

73
74 3. Maximum Building Height

75
76 59 feet (four stories) for Residential Buildings A, B, and E
77 45 feet (two stories) for Buildings C and D
78 35 feet for Buildings C-1 and C-2
79 38 feet for Building F
80 Maximum height includes architectural features

81
82 4. Uses and Site Development Regulations

83
84 The following uses and limits apply to the project:
85
86

- 87 a. Schedule of Uses
88
89 Accessory uses per Land Development Code
90 Animal Clinic (no outdoor dog runs)
91 Banks & Financial institutions
92 Bar (will require a public hearing at Planning, Zoning and Design Board
93 (PZDB) for Development Order)
94 Broadcast Studio, Commercial Radio & Television Cinemas and theaters
95 Cleaning & Maintenance Services
96 Clubs, lodges, or community-oriented associations
97 Community Gardens
98 Consumption on Premises (in conjunction with restaurants with outdoor COP
99 must be in compliance with Conditions 22 and 23. Any other outdoor COP
100 will require a public hearing at the PZDB for Development Order) Also
101 see Condition 23.
102 Contractors and Builders Group I
103 Convenience Food and Beverage Store without gas service
104 Counseling, nonresidential
105 Cultural Facility, noncommercial
106 Day Care Center
107 Drugstore
108 Dwelling
109 Live-Work (located in Main Street area)
110 Multiple-Family
111 Single-Family (existing only)
112 Grocery store or food market
113 Hardware Store
114 Household and Office Furnishings
115 Insurance Companies
116 Dryclean & Laundry Services
117 Library
118 Medical or dental lab
119 Models: Model Unit
120 Nature Center
121 Newspaper/periodical publishing establishment
122 Non-store Retailers
123 Office, General Business
124 Office, Medical
125 Outpatient Care Facilities
126 Parcel & Express Services
127 Package Store
128 Park, Village, County, or State
129 Personal Services Group I
130 Pet Services
131 Photofinishing Laboratory
132 Place of Worship

- 133 Post Office
- 134 Printing & Publishing (books, printing, cards, etc.)
- 135 Recreation Facilities, Indoor
- 136 Rental or Leasing Establishment
- 137 Repair Shop, Household
- 138 Research & Development Laboratories
- 139 Restaurant, Convenience
- 140 Restaurant, Fast casual or Fast food (no drive through)
- 141 Restaurant, Standard
- 142 Retail Sales Group I
- 143 Signs in compliance with LDC Chapter 6
- 144 Storage: Indoor Only (accessory)
- 145 Studios (artists, interior decorators, modeling, photographers, painters, potters,
- 146 recording, sculptors, etc.)
- 147 Used Merchandise Stores
- 148 Utility, Minor
- 149 Vocational or Trade School

b. Property Development Regulations

- 152
- 153 Minimum Lot Area: 7,500 square feet
- 154 Minimum Lot Width: 100 feet
- 155 Minimum Lot Depth: 75 feet
- 156 Minimum Building Separation: 15 feet (only in locations as shown on
- 157 Master Concept Plan)
- 158 Maximum Lot Coverage: 50%
- 159 Maximum Height: 4 stories/59 feet to top of architectural
- 160 features (46'4" to midpoint between eave
- 161 and ridge)

Minimum Building Setbacks:

- 162
- 163
- 164
- 165 Street, Principal & Accessory:
- 166 Via Coconut Point: 1-2 story: 20 feet minimum
- 167 3 story: 30 feet minimum
- 168 4 story: 65 feet minimum
- 169 Main Street Connector: 5 feet minimum, 38 feet maximum
- 170 Happy Hollow Lane: 20 feet minimum
- 171
- 172 Side: 15 feet Principal & Accessory (none internal
- 173 to the PD)
- 174
- 175

176	Rear:	15 feet Principal/5 feet Accessory (none
177		internal to the PD)
178		
179	Waterbody:	0 feet Principal & Accessory
180		
181	Minimum Open Space:	35%
182		

183 5. Connectivity

184
 185 Pedestrian and road connections to the railroad right-of-way and Happy Hollow Lane
 186 will be provided at time of local development order. Need for a crosswalk will be
 187 determined at time of development order. At time of development order, the applicant
 188 will also evaluate Happy Hollow Lane to determine if a turnaround or cul-de-sac is
 189 needed.

191 6. Radio Enhancement

192
 193 The owner or owner’s representative shall conduct an assessment model at the time
 194 of development order to determine if the minimum radio signal’s strength for the fire
 195 department communication is in compliance with NFPA 1:11.10, NFPA 1221:11.3.9,
 196 standards for inbound and outbound signal strength and quality. If minimum signal
 197 strength is not available, the applicant shall install radio enhancement in the building.

199 7. No Blasting or Pile Driving

200
 201 No development blasting or pile driving is permitted as part of this project.

203 8. Utilities

204
 205 The project will be developed with underground utilities, including electric. The
 206 project must be connected to centralized potable water service and centralized sewer
 207 service at time of development order.

209 9. Pattern Book

210
 211 The project must be consistent with the Pattern Book entitled “Via Coconut Pattern
 212 Book” dated April 19, 2024. The Pattern Book is not conceptual. Photographic
 213 images may be illustrative, but development must be in substantial compliance with
 214 the Pattern Book, including a consistent architectural, landscape and signage theme
 215 for all commercial and residential development.

216
 217 Specific details such as: parking lot screening from Via Coconut between Buildings
 218 E and F such as trellis/knee wall, buffer or similar items; additional urban streetscape,
 219 pedestrian activity areas along Main Street; addition of bike rack at fishing pier with
 220 potential “no parking” paint or signage on Via Coconut Point; and ensure the

221 variation of contrasting building colors to differentiate buildings, will be evaluated
222 as part of Development Order Approval.

223
224 At a minimum, the Development Order plan must demonstrate the following:

- 225
- 226 • White paint limited to trim and cornices;
- 227 • Dark bronze paint for all metallic features and fascias of roofline; and
- 228 • No less than three (3) different shades of taupe paint color on each facade,
229 including: Pavilion Beige, Natural Linen, Loggia, Tavern Taupe, or White Flour;
230 and
- 231 • In no case shall either White Flour or Natural Linen (together) be more than 20%
232 of each façade; and
- 233 • In no case shall Pavilion Beige or Tavern Taupe be less than 20% of each façade.

234
235 10. Median Landscaping

236
237 The applicant has offered to install and maintain median landscaping on Via Coconut
238 from the proposed new entrance to Estero Community Park to Williams Road.
239 Applicant will work with the Village Public Works staff to develop an acceptable
240 palette. Time of installation will be determined by the Village.

241
242 11. Buffers

243
244 As part of local development order approval for the project, the development order
245 plans must demonstrate buffering consistent with the Master Concept Plan and the
246 Pattern Book which show enhanced buffers and landscaping, as well as compliance
247 with the Land Development Code. As part of local development order approval, all
248 required buffer plantings must be 100% native vegetation.

249
250 The buffer along the west property line will consist of an enhanced “A” buffer, 10
251 feet wide, with 4 trees per 100 linear feet and a single hedge row 36” tall at time of
252 planting.

253
254 12. Public Gathering Areas and Public Park

- 255
- 256 a. The applicant shall provide details regarding the improvements associated with
257 the Public Gathering Areas at the time of the first development order.
- 258
- 259 b. The 1-acre± park will be constructed and donated to the Village as part of the
260 first development order, subject to review and approval of the Village attorney.

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13. Concurrency

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

14. Project Phasing

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

Phasing is as follows:

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

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.

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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.

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:

- 351 a. The development order site plan must show the proposed location and square
352 footage of the outdoor seating area in compliance with above locations.
353
354 b. Outdoor Consumption on Premises is limited to 10 a.m. to 11 p.m. Sunday
355 through Thursday, and 10 a.m. to 12 a.m., Friday and Saturday.
356
357 c. The site plan must identify noise mitigation measures, including building
358 orientation, perimeter plantings, water fountains, and/or other sound reducing
359 materials to ensure the development will be in compliance with the County
360 Noise Ordinance, as amended.
361
362 d. For the purposes of this condition, outdoor seating shall be defined as roofed or
363 non-roofed areas of a restaurant which are not enclosed.
364

365 23. Outdoor Entertainment/Live Music
366

367 Outdoor entertainment or live music for restaurant, bar or similar use will require a
368 public hearing at PZDB for development order. This approval does not prohibit the
369 owner from obtaining a Temporary Use Permit, or a special event permit.
370

371 24. Leases
372

373 Applicant has offered, and the Village has accepted, that all rental leases for the
374 project must require minimum 6-month leases.
375

376 25. Public Easements
377

378 Public easements must be provided for public amenities/public easement areas
379 identified on Pattern Book page 6 including Main Street, the linear park north of Main
380 Street, the linear park south of Main Street, the dog park, the pocket park, and the
381 potential public seating areas at the time of construction certification of each
382 improvement, and subject to approval by the Village Attorney.
383

384 26. Drainage
385

386 The applicant will demonstrate legal authority at time of development order for the
387 drainage to discharge into the ditch at the railroad property, or will seek approval for
388 an alternate outfall, subject to approval of staff and Village attorney.
389

390 **Section 3. Deviations**
391

- 392 1. Former request from Land Development Code (LDC) 10-416(c)(2)c. to allow
393 minimum 10-foot internal landscape areas. All required internal landscape areas area
394 now proposed to meet the minimum 18-foot dimension.
395

396 WITHDRAWN

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 filter
400 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 at
410 time of development order.

411
412 4. A request to deviate from Land Development Code (LDC) 7-601.F.1. which requires
413 20-foot wide lake maintenance easements to allow no lake maintenance easement
414 areas along Via Coconut Point and to allow the lake maintenance access areas as
415 shown on the master concept plan.

416
417 APPROVED adjacent to buildings, pool area, and parking lots as depicted on Master
418 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 water
422 retention setback of 30 feet from Via Coconut Point.

423
424 APPROVED as shown on the Master Concept Plan, and with the non-mountable curb
425 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 from
429 the property line when roads, drives or parking areas are located less than 125 feet
430 from an existing single-family residential lot; to allow an alternate Type C Buffer
431 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 space
438 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 pavement
445 for Category A private local streets to allow 11-foot travel lanes or 22-foot pavement
446 on the proposed Main Street (connecting street) as shown on the MCP. Minimum
447 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 17-foot angled parking;
 - 458 • From 14-foot sidewalk with tree wells to allow 16.5-foot outdoor
459 seating/sidewalks area (sidewalks to be a minimum of 6 feet wide).

460
461 APPROVED limited to the “Main Street”. Sidewalk and landscaping may be adjusted
462 at time of development order pursuant to Condition 9.

463
464 10. A request to deviate from Land Development Code (LDC) 5-204.A.3.(B) which
465 prohibits backout parking directly onto a road or accessory to allow angled backout
466 parking along the proposed Main Street connector road.

467
468 APPROVED limited to the “Main Street” area.

469
470 **Section 4. Findings and Conclusions.**

471
472 Based upon an analysis of the application and the standards for approval in the Land
473 Development Code, and the conditions of approval, the Council finds and concludes as
474 follows:

- 475
- 476 1. The applicant has provided sufficient justification for the zoning amendment by
477 demonstrating compliance with the Comprehensive Plan, the Land Development
478 Code, and other applicable codes.
 - 479
480 2. The request with the proposed conditions will meet or exceed all performance and
481 locational standards set forth for the potential uses allowed by the request.
 - 482
483 3. The request is consistent with the densities, intensities and general uses set forth in
484 the Village of Estero Comprehensive Plan.
 - 485
486 4. The proposed uses are compatible with existing or planned uses in the surrounding
487 area and will be served by streets with the capacity to carry traffic generated by the
488 development.

- 489 5. Urban services are available and adequate to serve the proposed use.
490
491 6. The request will not adversely affect environmentally critical areas and natural
492 resources.
493
494 7. The mix of uses is appropriate at the subject location.
495
496 8. The deviations recommended for approval:
497
498 a. Enhance the planned development; and
499
500 b. Preserve and promote the general intent of the LDC to protect the public health,
501 safety and welfare.
502
503 9. The proposal, as conditioned, is consistent with the general criteria of the Estero
504 Planned Development zoning district as follows:
505
506 a. Goals The mixed-use of the site will promote social vitality in the area and
507 create a walkable community.
508
509 b. Reasonable Standards The applicant has used physical form and the relationship
510 of the building with the landscaping and public space to meet the Village Center
511 goals.
512
513 c. Accessibility Accessible public spaces are provided, and onsite
514 interconnections and connections with adjoining properties align with the
515 objectives of the Village Center.
516
517 d. Streets A connected street network has been designed to allow for future
518 connections to the west and to Happy Hollow Lane.
519
520 e. Street Design The street design includes pavers to delineate the entry, and
521 crosswalks in the commercial area will promote walkability.
522
523 f. Lots and Blocks The linear site does not allow for a standard grid lot and block
524 layout but connectivity is proposed to the north and the west.
525
526 g. The Visual Edge A visual edge is created by the landscaping and linear
527 park/sidewalk along Via Coconut Point.
528
529 h. Architecture The building design and colors are consistent with the Village
530 architectural standards, and the massing of the buildings has been minimized
531 with the use of step backs, varying roof heights and facade fenestration.
532
533 i. Quality of Buildings Concrete block construction is proposed, and elevators
534 will be in all building over two stories.

535 **Section 5** **Exhibits.**

536
537 The following exhibits are attached to this Ordinance and incorporated by reference:

538
539 Exhibit A Legal Description and Sketch

540
541 Exhibit B Master Concept Plan titled “Via Coconut” dated April 16, 2024.

542
543 Exhibit C Pattern Book entitled “Via Coconut Pattern Book” dated April 19, 2024.

544
545 **Section 6** **Severability.**

546
547 Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance
548 subsequent to its effective date be declared by a court of competent jurisdiction to be
549 invalid, such decision shall not affect the validity of this Ordinance as a whole or any
550 portion thereof, other than the part so declared to be invalid.

551
552 **Section 7** **Effective Date.**

553
554 This Ordinance shall take effect immediately upon adoption.

555
556 **PASSED** on first reading this 18th day of September, 2024.

557
558 **PASSED AND ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero,
559 Florida on second reading this 2nd day of October, 2024.

560
561
562 Attest: **VILLAGE OF ESTERO, FLORIDA**

563
564
565 By: _____ By: _____
566 Carol Sacco, Village Clerk Jon McLain, Mayor

567
568
569 Reviewed for legal sufficiency:

570
571
572 By: _____
573 Nancy E. Stroud, Village Land Use Attorney

574
575
576

577	Vote:	AYE	NAY
578			
579	Mayor McLain	_____	_____
580	Vice Mayor Ribble	_____	_____
581	Councilmember Fiesel	_____	_____
582	Councilmember Fayhee	_____	_____
583	Councilmember Lopez	_____	_____
584	Councilmember Ward	_____	_____
585	Councilmember Zalucki	_____	_____