

Lee County Board of County Commissioners
Agenda Item Summary

DATE CRITICAL
Blue Sheet No. 20021377

1. **REQUESTED MOTION:**

ACTION REQUESTED: To adopt and enact an ordinance, with staff recommended conditions, to establish a Uniform Community Development District (UCDD) to be known as the Cascades Estero Community Development District ordinance.

WHY ACTION IS NECESSARY: An ordinance adopted by the BOCC is the exclusive means to establish a UCDD of less than 1,000 acres in size.

WHAT ACTION ACCOMPLISHES: Creates an independent special district that provides an alternative method to manage and finance basic services for community development.

2. **DEPARTMENTAL CATEGORY:** 04
COMMISSION DISTRICT #5 *5:00 #7*

3. **MEETING DATE:** *12-10-2002*

4. **AGENDA:**

 CONSENT
 ADMINISTRATIVE
 APPEALS
 PUBLIC
 WALK ON
TIME REQUIRED:
15 Minutes

5. **REQUIREMENT/PURPOSE:**
(Specify)
 STATUTE Ch. 190, F.S.
 ORDINANCE
 ADMIN. CODE
 OTHER

6. **REQUESTOR OF INFORMATION:**
A. COMMISSIONER
B. DEPARTMENT County Atty's Office
C. DIVISION Land Use
BY: *John J. Fredyma*
 John J. Fredyma, Asst. Cty Atty

7. **BACKGROUND:** Cascades by Levitt and Sons, LLC has petitioned the Lee County Board of County Commissioners to adopt an ordinance establishing a Community Development District in accordance with the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes ("Act"). Section 190.005(2) sets forth the "exclusive and uniform method for the establishment of a Community Development District of less than 1,000 acres in size." This establishment "shall be pursuant to an ordinance adopted by the County Commission having jurisdiction over the majority of the land in the area in which the district is to be located . . ."

A community development district is a local unit of special purpose government created in accordance with the Act and limited to the performance of those specialized functions authorized by the Act for the delivery of urban community development services. The Act provides an alternative streamlined method for financing the construction, maintenance and operation of major infrastructures necessary for community development. Once a community development district has been established, it serves as an infrastructure management tool that ultimately relieves existing county taxpayers of the financial burden of providing urban services to the landowners in the district.

(continued on second page)

8. **MANAGEMENT RECOMMENDATIONS:**

9. **RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>DMC</i>	OA <i>RK 11/27</i>	OM <i>11/27</i>	RISK <i>11/26/02</i>	GC <i>11-26-02</i>	<i>11-26-02</i>

10. **COMMISSION ACTION:**
 APPROVED
 DENIED
 DEFERRED
 OTHER

CO. ATTY.
FORWARDED
TO, CO. ADMIN.
11/26/02 2:20 PM

RECEIVED BY
CO. ATTY ADMIN. *RK*
11/26/02
2:50 PM
COUNTY ADMIN.
FORWARDED TO: *DS*
11/26 50

The proposed Cascades Estero Community Development District is located on approximately 162.3 acres of land located wholly within the jurisdictional boundaries of Lee County. The land area is bounded on the north by Koreshan Boulevard; on the south by Broadway Street East; on the east by the Rookery Pointe Subdivision; and on the west by the Cypress Bend RV Resort and Seaboard Coast Line (f/k/a C.S.X.) Railroad. The property is located in Sections 27 and 28, Township 46 South, Range 25 East. The Cascades Estero Community Development District will be granted the power to finance, fund, plan, establish, acquire, construct or re-construct, enlarge or extend, equip, operate and maintain systems and facilities for the following basic infrastructure: water management; water supplies; sewer and wastewater management; bridges or culvert; district roads; streetlights; conservation areas; and other projects within and outside the district boundary for which a Development Order may be issued.

The creation of the Cascades Estero Community Development District is not a development order within the meaning of Chapter 380, F.S. All county planning, environmental and land development laws, regulations and ordinances will apply to the development of land within the proposed Cascades Estero Community Development District, and the District can take no action that is inconsistent with those regulations.

In accordance with Section 190.005(1)(f), F.S., the proposed ordinance:

1. Establishes the external boundaries of the district.
2. Names the five persons designated to be the initial members of the Board of Supervisors. These members are as follows:
 - a. Elliott M. Weiner
 - b. Alfred G. West
 - c. Tom Damiano
 - d. Harry T. Sleek
 - e. Jeffery Hoyos
3. Names the district: Cascades Estero Community Development District

The proposed ordinance is reviewed and considered by the Executive Regulatory Oversight Committee on November 13, 2002.

Planning Staff has recommended approval of the Petition, but has included a requested condition that should be made part of the Board's approval, should the Board decide to endorse the request:

Any and all agreements for the sale of property within the boundaries of the Cascades Estero Community Development District must include the disclosure statement required in Section 190.048, Florida Statutes, for the initial sale of the property. This requirement applies to the initial seller of the property as well as all subsequent sellers, successors and assigns for the life of the Verandah West Community Development District.

A copy of the Petition is available for review at the Department of Community Development.

- Attachment: 1.) FAIS Form
- 2.) Proposed Ordinance establishing the Cascades Estero Community Development District (Draft 1)
 - 3.) Petition for Establishment of a Community Development District (copy)
 - 4.) Lee County Planning Staff's Analysis dated October 15, 2002

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE:**

Cascades Estero Development District

**II. Fiscal Impact on County Agencies/County Funds.
(This section to be completed by Division of Budget Services)**

- A. What is estimated Demand? (Develop Indicators) N/A
- B. What is estimated Workload? (Develop Indicators) N/A
- C. What are estimated costs?

	<u>1st Year \$'s</u>		<u>2nd Year \$'s</u>	
	<u>Existing</u>	<u>New</u>	<u>Existing</u>	<u>New</u>
Personnel	N/A		N/A	
Fringe	N/A		N/A	
Operating	N/A		N/A	
Capital Outlay	N/A		N/A	
Total	N/A		N/A	

- D. List the anticipated revenues to cover costs identified in II, C, above. If a fee is to be charged, answer the following:
 - 1. What is the basis (rationale) for the fee? N/A
 - 2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? N/A
- E. Give a brief narrative analysis of the information contained in II, A-D, above.

No significant impact. The Ordinance authorizes establishing a UCDD (Uniform Community Development District) that will manage and finance basic infrastructure and service for the district.

/ajb @ 10/11/01

LEE COUNTY ORDINANCE NO. 02- __

AN ORDINANCE ESTABLISHING THE CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT; NAMING THE DISTRICT; PROVIDING FOR THE AUTHORITY OF THE ORDINANCE; ESTABLISHING AND DESCRIBING THE EXTERNAL BOUNDARIES OF THE COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; ESTABLISHING THE INITIAL POWERS OF THE COMMUNITY DEVELOPMENT DISTRICT; ESTABLISHING THE STATUTORY PROVISIONS GOVERNING THE COMMUNITY DEVELOPMENT DISTRICT; ESTABLISHING AN ADDITIONAL CONDITION IMPOSED ON THE COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Cascades by Levitt and Sons, LLC has petitioned the Lee County Board of County Commissioners to establish the CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT, a Uniform Community Development District (UCDD), pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes; and

WHEREAS, the Lee County Board of County Commissioners, after proper published notice, conducted a local public information-gathering ordinance hearing as required by law and finds as follows:

1. The petition is complete in that it meets the requirements of §190.005(1)(a), Florida Statutes; and all statements contained within the petition are true and correct.
2. The Lee County Executive Regulatory Oversight Committee has reviewed and approved the petition for establishment of the proposed district.
3. The costs to the County and government agencies from establishment of the district are nominal. There is no adverse impact on competition or employment from district establishment. The persons affected by establishment are the future landowners, present landowners, Lee County and its taxpayers, and the State of Florida. There is a net economic benefit flowing to these persons from district establishment as the entity to manage and finance the statutory services identified. The impact of district establishment

and function on competition and the employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not adopting the ordinance, is as economically viable as establishing the district. Methodology is set forth in the economic impact statement on file. The statement of estimated regulatory costs of this petition on district establishment is adequate.

4. Establishment of the proposed district, whose charter is consistent with §§190.006 - 190.041, Florida Statutes, was created by general law, is not inconsistent with the local Comprehensive Plan of Lee County or the State Comprehensive Plan.

5. The area of land within the proposed district is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developed as one functional interrelated community.

6. The district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.

7. The community development services and facilities of the district will be compatible with the capacity and uses of existing local and regional community development services and facilities.

8. The area that will be served by the district is amenable to separate special district government.

9. The proposed district, once established, may petition the Board of County Commissioners for consent to exercise one or more of the powers granted by charter in §190.012(2), Florida Statutes.

10. Upon the effective date of this Ordinance, the proposed Cascades Estero Community Development District will be duly and legally authorized to exist and exercise all of its general and special powers as limited by law; and has the right to seek consent from Lee County for the grant of authority to exercise special powers in accordance with F.S. 190.012(2), without question as to the district's continued right, authority and power to exercise its limited powers as established by this ordinance.

11. All notice requirements of law were met and complete notice was timely given.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: DISTRICT NAME AND LEGAL DESCRIPTION

The community development district herein established will be known as the Cascades Estero Community Development District. A copy of the legal description of the community development district is attached as Exhibit "A" and incorporated herein by reference.

SECTION TWO: AUTHORITY FOR ORDINANCE

This Ordinance is adopted pursuant to §190.005(2), Florida Statutes, and other applicable provisions of law governing county ordinances.

SECTION THREE: ESTABLISHMENT OF COMMUNITY DEVELOPMENT DISTRICT

The Cascades Estero Community Development District is hereby established within the boundaries of the real property located in Lee County, Florida, and described in Exhibit "A" attached hereto and incorporated by reference.

SECTION FOUR: DESIGNATION OF INITIAL MEMBERS OF THE BOARD OF SUPERVISORS

The following five persons are designated to be the initial members of the Board of Supervisors:

1. Elliott M. Weiner 7777 Glades Road, Suite 410
Boca Raton, FL 33434
2. Alfred G. West 7777 Glades Road, Suite 410
Boca Raton, FL 33434
3. Tom Damiano 7777 Glades Road, Suite 410
Boca Raton, FL 33434
4. Harry T. Sleek 7777 Glades Road, Suite 410
Boca Raton, FL 33434
5. Jeffery Hoyos 7777 Glades Road, Suite 410
Boca Raton, FL 33434

**SECTION FIVE: INITIAL POWERS OF
THE COMMUNITY DEVELOPMENT DISTRICT**

Upon the effective date of this Ordinance, the proposed Cascades Estero Community Development District will be duly and legally authorized to exist and exercise all of its powers in accordance with §§190.011 and 190.012(1), Florida Statutes, subject to any conditions imposed herein; and has the right to seek consent from Lee County for the grant of authority to exercise additional special powers in accordance with §190.012(2), Florida Statutes.

**SECTION SIX: STATUTORY PROVISIONS GOVERNING
THE COMMUNITY DEVELOPMENT DISTRICT**

The Cascades Estero Community Development District will be governed by the provisions of Chapter 190, Florida Statutes,

**SECTION SEVEN: ADDITIONAL CONDITION IMPOSED ON THE
COMMUNITY DEVELOPMENT DISTRICT**

The Cascades Estero Community Development District will also be subject to the following additional condition:

1. Any and all agreements for the sale of property within the boundaries of the Cascades Estero Community Development District must include the disclosure statement required in Section 190.048, Florida Statutes, for the initial sale of the property. This requirement applies to the initial seller of the property as well as all subsequent sellers, successors and assigns for the life of the Cascades Estero Community Development District.

SECTION EIGHT: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other Lee County ordinance or other applicable law, the more restrictive will apply. If any phase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion.

SECTION NINE: EFFECTIVE DATE

This Ordinance becomes effective upon filing with the Office of the Secretary of the Florida Department of State.

THE FOREGOING ORDINANCE was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

ROBERT P. JANES _____
DOUGLAS R. ST. CERNY _____
RAY JUDAH _____
ANDREW W. COY _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED THIS _____ DAY OF _____, 2002.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

DESCRIPTION SKETCH

(Not a Boundary Survey)

LEGAL DESCRIPTION

CASCADES AT ESTERO - OVERALL BOUNDARY

A parcel of land lying in Section 27 and Section 28, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

BEGINNING at the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of said Section 28; run thence S.89°14'28"E., along the North line of said Northeast 1/4, 18.92 feet; thence along the South Right-of-Way line (150 feet wide) of Koreshan Boulevard as recorded in Official Records Book 2183, Page 3484 of the Public Records of Lee County, Florida for the following four courses: 1) S.86°13'11"E., 739.30 feet to a point on a curve; 2) Easterly, 1244.23 feet along the arc of a curve to the left having a radius of 11,575.00 feet and a central angle of 06°09'32" (chord bearing S.89°17'23"E., 1243.63 feet) to a point of tangency; 3) N.87°37'51"E., 1825.31 feet to a point of curvature; 4) Easterly, 148.25 feet along the arc of said curve to the right having a radius of 16,925.00 feet and a central angle of 00°30'07" (chord bearing N.87°52'55"E., 148.24 feet) to a point on the East line of the North 1/2 of the Northwest 1/4 of said Section 27; thence S.00°38'50"E., along said East line, 1235.47 feet to a point on the South line of the North 1/2 of the Northwest 1/4 of said Section 27; thence S.88°24'32"W., along said South line, 827.43 feet to a point on the East line of the West 1/2 of the East 1/2 of the West 1/2 of the Southeast 1/4 of the Northwest 1/4 of said Section 27; thence S.00°43'42"E., along said East line, 1252.16 feet to a point on the proposed North Right-of-Way line of Broadway East; thence along said proposed North Right-of-Way line for the following two (2) courses: 1) S.87°48'27"W., 741.88 feet; 2) S.89°12'05"W., 580.09 feet to a point on the West line of the East 1/2 of the East 1/2 of the West 1/2 of the Southwest 1/4 of the Northwest 1/4 of said Section 27; thence N.00°49'15"W., along said West line, 610.95 feet to a point on the South line of the Northwest 1/4 of the Southwest 1/4 of the Northwest 1/4 of said Section 27; thence S.89°01'30"W., along said South line, 330.68 feet; thence S.88°21'53"W., along the South line of the Northerly 1/4 of the Northwest 1/4 of said Section 27, 165.36 feet; thence N.89°56'55"W., along the South line of the North 1/2 of the Southeast 1/4 of the Northeast 1/4 of said Section 28, 597.20 feet to a point on the East Right-of-Way line (130-foot Right-of-Way) of Seaboard Coast Line Railway as recorded in Deed Book 66, Page 374 of the Public Records of Lee County, Florida and to a point on a curve; thence along said East Right-of-Way line for the following two courses: 1) Northerly, 1030.23 feet along the arc of said curve to the left having a radius of 2929.90 feet and a central angle of 20°08'48" (chord bearing N.22°28'25"W., 1024.93 feet) to a point of tangency; 2) N.32°32'49"W., 658.87 feet to a point on the West line of the Northeast 1/4 of the Northeast 1/4 of said Section 28; thence N.00°42'39"W., along said West line, 426.84 feet to the POINT OF BEGINNING.

Containing 162.34 acres, more or less.

SURVEYOR'S NOTES

1. Reproductions of this drawing are not valid without the original signature and raised seal of Florida Licensed Surveyor and Mapper.
2. This sketch does not represent a Boundary Survey.
3. Subject to easements, reservations, and restrictions of record.
4. Bearings shown hereon are based upon fixing the North Line of the Northwest 1/4 of Section 27, Township 46 South, Range 25 East, Lee County, Florida, as N.87°37'51"E.

SEE SHEET 2 OF 2 FOR DESCRIPTION SKETCH.

SURVEYOR'S CERTIFICATE

This certifies that a sketch of the heron described property was made under my supervision and meets the Minimum Technical Standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Judith H. McCarrier
 Judith H. McCarrier
 FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6021

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

CERTIFICATE OF AUTHORIZATION NO. LB 148

PREPARED BY: **HEIDT & ASSOCIATES, Inc.**
 Tampa + Fort Myers

CIVIL ENGINEERING
 PLANNING
 SURVEYING
 ENVIRONMENTAL PERMITTING
 LANDSCAPE ARCHITECTURE

Fort Myers Office
 3800 Colonial Boulevard, #200
 Fort Myers, Florida 33912
 Phone: 239-482-7275
 FAX: 239-482-2103

CASCADES AT ESTERO - OVERALL BOUNDARY

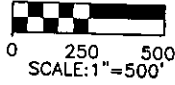
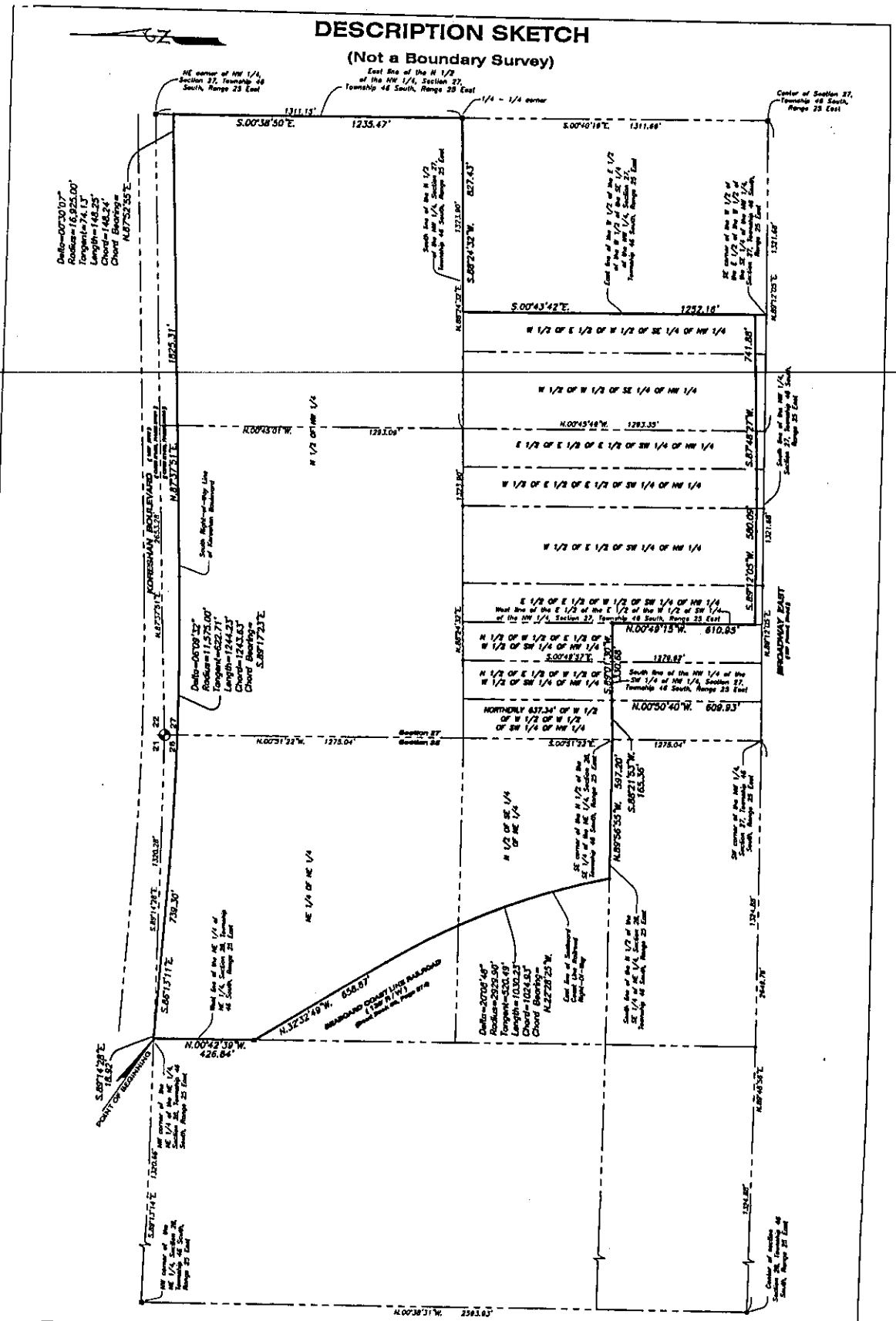
Revised: _____
 Prepared For: **Levitt and Sons, Inc.**

Dwn. JHM	Ch. _____	DWG: CAS_ALL_SKETCH.DWG
Date: 05-31-02	Order No.: LEV-11-058	
SECTIONS 27 & 28, TOWNSHIP 46S, RANGE 25E LEE COUNTY, FLORIDA		

SHEET 1 OF 2

DESCRIPTION SKETCH

(Not a Boundary Survey)



SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION.
SEE SHEET 1 OF 2 FOR SURVEYOR'S NOTES.

CERTIFICATE OF AUTHORIZATION NO. LB 148

PREPARED BY: **HEIDT & ASSOCIATES, Inc.**
Tampa + Fort Myers

CIVIL ENGINEERING
PLANNING
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LANDSCAPE ARCHITECTURE

Fort Myers Office
3800 Colonial Boulevard, #200
Fort Myers, Florida 33912
Phone: 239-482-7276
FAX: 239-482-2103

CASCADES AT ESTERO - OVERALL BOUNDARY

Revised:
Prepared For: **Levitt and Sons, Inc.**

SHEET 2 OF 2

Dwn. JHM	Ch.	DWG: CAS_ALL_SKETCH.DWG
Date: 05-31-02	Order No.: LEV-11-058	
SECTIONS 27 & 28, TOWNSHIP 46S, RANGE 25E LEE COUNTY, FLORIDA		

COUNTY COMMISSION
LEE COUNTY, FLORIDA

IN RE: PETITION FOR PROPOSED ORDINANCE
PURSUANT TO SECTION 190.005(2), FLORIDA STATUTES, TO ESTABLISH
THE CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT

PETITION FOR ESTABLISHMENT OF A
COMMUNITY DEVELOPMENT DISTRICT

On its own behalf, and through its undersigned attorney, Cascades by Levitt and Sons, LLC, a Florida limited liability company (the "Petitioner"), being the owner of one hundred percent (100%) of the property (the "Property") legally described on Exhibit A annexed hereto and made a part hereof, located in unincorporated Lee County, Florida (the "County"), hereby petitions the **BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA** (the "Commission") in accordance with Section 190.005(2) of the Uniform Community Development Act of 1980, Chapter 190, Florida Statutes (the "Act") to establish a community development district comprising the Property (the "District") pursuant to the Act and other applicable law, and in support thereof, hereby attests as follows:

1. That Petitioner is a Florida limited liability company with its principal place of business at 7777 Glades Road, Suite 410, Boca Raton, Florida 33434.
2. That the land area to be served by the proposed District comprises approximately 162.3 acres. All lands in the proposed area are located wholly within the jurisdictional boundaries of the County.
3. That annexed hereto as Exhibit A and made a part hereof is a metes and bounds description of the external boundaries of the proposed District. No real property within the external boundaries of the proposed District is to be excluded therefrom.
4. That annexed hereto as Exhibit B and made a part hereof is evidence of the written consent to the establishment of the proposed District by the owner of one hundred percent (100%) of the real property to be included in the District.

ADD 2002-00075

RECEIVED

JUN 10 2002

5. That the following five (5) persons shall be the initial members of the Board of Supervisors of the proposed District, each of whom is a resident of the State of Florida and a citizen of the United States, and each of whom shall serve in that office until replaced by elected members as provided in Section 190.006 of the Act:

- a. Elliott M. Weiner
777 Glades Road, Suite 410
Boca Raton, Florida 33434
- b. ~~Alfred G. West~~
777 Glades Road, Suite 410
Boca Raton, Florida 33434
- c. Tom Damiano
777 Glades Road, Suite 410
Boca Raton, Florida 33434
- d. Harry T. Sleek
777 Glades Road, Suite 410
Boca Raton, Florida 33434
- e. Jeffery Hoyos
777 Glades Road, Suite 410
Boca Raton, Florida 33434

ADD 2002-00075

6. That the name of the proposed District is the "Cascades Estero Community Development District."

7. That annexed hereto as Exhibit C and made a part hereof is a map of the proposed District showing current major trunk water mains and sewer interceptors and outfalls if in existence.

8. That annexed hereto as Exhibit D and made a part hereof, based upon available data, is a good faith estimate of the timetable for construction of the proposed District's systems, services and facilities and the estimated cost of constructing the same, both of which estimates are subject to change.

9. That annexed hereto as Exhibit E and made a part hereof is a designation of the future general distribution, location, and extent of public and private uses of land proposed for the area within the proposed District by the future land use plan element of the effective local government comprehensive plan.

10. That annexed hereto as Exhibit F and made a part hereof is a statement of estimated regulatory costs in accordance with the requirements of Section 120.541, Florida Statutes.

RECEIVED

JUN 10 2002

COMMUNITY DEVELOPMENT

11. That the creation of the proposed District is not inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.

12. That the Property to comprise the proposed District is of sufficient size, compactness, and contiguity to be developable as one functional interrelated community.

13. That the creation of the proposed District presents the best alternative available for delivering the community development facilities and services to the Property that will be served by the proposed District.

14. That the community development facilities and services of the proposed District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.

15. That the Property to comprise the proposed District is amenable to separate special-purpose government.

16. That all statements contained within this Petition are true and correct.

In addition, Petitioner requests that the Commission consent to the District's exercise of the powers set forth in Sections 190.012(2) (a), (b), (c), (d) and (e) of the Act, thereby enabling the District to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for (1) parks and facilities for indoor and outdoor recreational, cultural and educational uses; (2) fire prevention and control, including water mains and plugs, (but excluding fire stations, fire trucks and other vehicles and equipment); (3) school buildings and related structures, which may be leased, sold or donated to the school district, for use in the educational system, when authorized by the district school board; (4) security, including, but not limited to, guardhouses, fences and gates, electronic intrusion detection systems, and patrol cars, when authorized by proper governmental agencies; except that the District may not exercise any police power, but may contract with the appropriate local general-purpose government agencies for an increased level of such services within the District boundaries; and (5) control and elimination of mosquitoes and other arthropods of public health importance. The foregoing powers shall be in addition, and supplemental, to the powers, which the District is, entitled to exercise pursuant to Chapter 190, Florida Statutes.

WHEREFORE, Petitioner, Cascades by Levitt and Sons, LLC, a Florida limited liability company, hereby respectfully requests the Commission to:

A. Direct its staff to notice, as soon as practicable, a local public non-emergency hearing pursuant to the requirements of Section 190.005(2)(b), (c) and (e) of the Act to consider whether to grant the petition for the establishment of the proposed District and to enact an ordinance establishing the proposed District.

ADD 2002-00070

RECEIVED

JUN 10 2002


B. Grant the petition and enact an ordinance pursuant to the Act and other applicable law, creating a community development district comprised of the Property to be known as the "Cascades Estero Community Development District."

C. Contemporaneously with enacting the ordinance referred to above, adopt a resolution authorizing the District to exercise certain supplemental powers as described herein.

RESPECTFULLY SUBMITTED this 29 day of May, 2002.

CASCADES BY LEVITT AND SONS, LLC

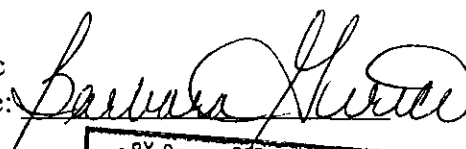
By: Levitt and Sons, LLC, Managing Member

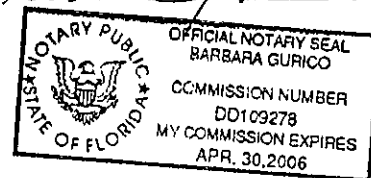


Jeffery Hoyos, Senior Vice-President

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 29 day of May, 2002, by Jeffery Hoyos, the Senior Vice-President of Levitt and Sons, LLC, the Managing Member of CASCADES BY LEVITT AND SONS, LLC, who is personally known to me or produced _____ as identification.

Notary Public
Printed Name: 



RECEIVED

JUN 10 2002

EXHIBIT A

LEGAL DESCRIPTION/METES AND BOUNDS DESCRIPTION

RECEIVED

JUN 10 2002

COMMUNITY DEVELOPMENT

DESCRIPTION SKETCH

(Not a Boundary Survey)

ADD 2002-00075

LEGAL DESCRIPTION CASCADES AT ESTERO - OVERALL BOUNDARY

A parcel of land lying in Section 27 and Section 28, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

BEGINNING at the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of said Section 28; run thence S.89°14'28"E., along the North line of said Northeast 1/4, 18.92 feet; thence along the South Right-of-Way line (150 feet wide) of Korshan Boulevard as recorded in Official Records Book 2183, Page 3484 of the Public Records of Lee County, Florida for the following four courses: 1) S.86°13'11"E., 739.30 feet to a point on a curve; 2) Easterly, 1244.23 feet along the arc of a curve to the left having a radius of 11,575.00 feet and a central angle of 06°09'32" (chord bearing S.89°17'23"E., 1243.63 feet) to a point of tangency; 3) N.87°37'51"E., 1825.31 feet to a point of curvature; 4) Easterly, 148.25 feet along the arc of said curve to the right having a radius of 16,925.00 feet and a central angle of 00°30'07" (chord bearing N.87°52'55"E., 148.24 feet) to a point on the East line of the North 1/2 of the Northwest 1/4 of said Section 27; thence S.00°38'50"E., along said East line, 1235.47 feet to a point on the South line of the North 1/2 of the Northwest 1/4 of said Section 27; thence S.88°24'32"W., along said South line, 827.43 feet to a point on the East line of the West 1/2 of the East 1/2 of the West 1/2 of the Southeast 1/4 of the Northwest 1/4 of said Section 27; thence S.00°43'42"E., along said East line, 1252.16 feet to a point on the proposed North Right-of-Way line of Broadway East; thence along said proposed North Right-of-Way line for the following two (2) courses: 1) S.87°48'27"W., 741.88 feet; 2) S.89°12'05"W., 580.09 feet to a point on the West line of the East 1/2 of the East 1/2 of the West 1/2 of the Southwest 1/4 of the Northwest 1/4 of said Section 27; thence N.00°49'15"W., along said West line, 610.95 feet to a point on the South line of the Northwest 1/4 of the Southwest 1/4 of the Northwest 1/4 of said Section 27; thence S.89°01'30"W., along said South line, 330.68 feet; thence S.88°21'53"W., along the South line of the Northerly 1/4 of the Northwest 1/4 of said Section 27, 165.36 feet; thence N.89°56'55"W., along the South line of the North 1/2 of the Southeast 1/4 of the Northeast 1/4 of said Section 28, 597.20 feet to a point on the East Right-of-Way line (130-foot Right-of-Way) of Seaboard Coast Line Railway as recorded in Deed Book 66, Page 374 of the Public Records of Lee County, Florida and to a point on a curve; thence along said East Right-of-Way line for the following two courses: 1) Northerly, 1030.23 feet along the arc of said curve to the left having a radius of 2929.90 feet and a central angle of 20°08'48" (chord bearing N.22°28'25"W., 1024.93 feet) to a point of tangency; 2) N.32°32'49"W., 658.87 feet to a point on the West line of the Northeast 1/4 of the Northeast 1/4 of said Section 28; thence N.00°42'39"W., along said West line, 426.84 feet to the POINT OF BEGINNING.

Containing 162.34 acres, more or less.

SURVEYOR'S NOTES

1. Reproductions of this drawing are not valid without the original signature and raised seal of Florida Licensed Surveyor and Mapper.
2. This sketch does not represent a Boundary Survey.
3. Subject to easements, reservations, and restrictions of record.
4. Bearings shown hereon are based upon fixing the North Line of the Northwest 1/4 of Section 27, Township 46 South, Range 25 East, Lee County, Florida, as N.87°37'51"E.

JUN 10 2002

SEE SHEET 2 OF 2 FOR DESCRIPTION SKETCH.

SURVEYOR'S CERTIFICATE

This certifies that a sketch of the hereon described property was made under my supervision and meets the Minimum Technical Standards set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 61G17-8, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Judith H. McCarrier
Judith H. McCarrier
FLORIDA PROFESSIONAL SURVEYOR & MAPPER NO. 6021

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFICATE OF AUTHORIZATION NO. LB 148

PREPARED BY: **HEIDT & ASSOCIATES, Inc.**
Tampa • Fort Myers



CIVIL ENGINEERING
PLANNING
SURVEYING
ENVIRONMENTAL PERMITTING
LANDSCAPE ARCHITECTURE

Fort Myers Office
3800 Colonial Boulevard, #200
Fort Myers, Florida 33912
Phone: 239-482-7275
FAX: 239-482-2103

CASCADES AT ESTERO - OVERALL BOUNDARY

Revised:

Prepared For: **Levitt and Sons, Inc.**

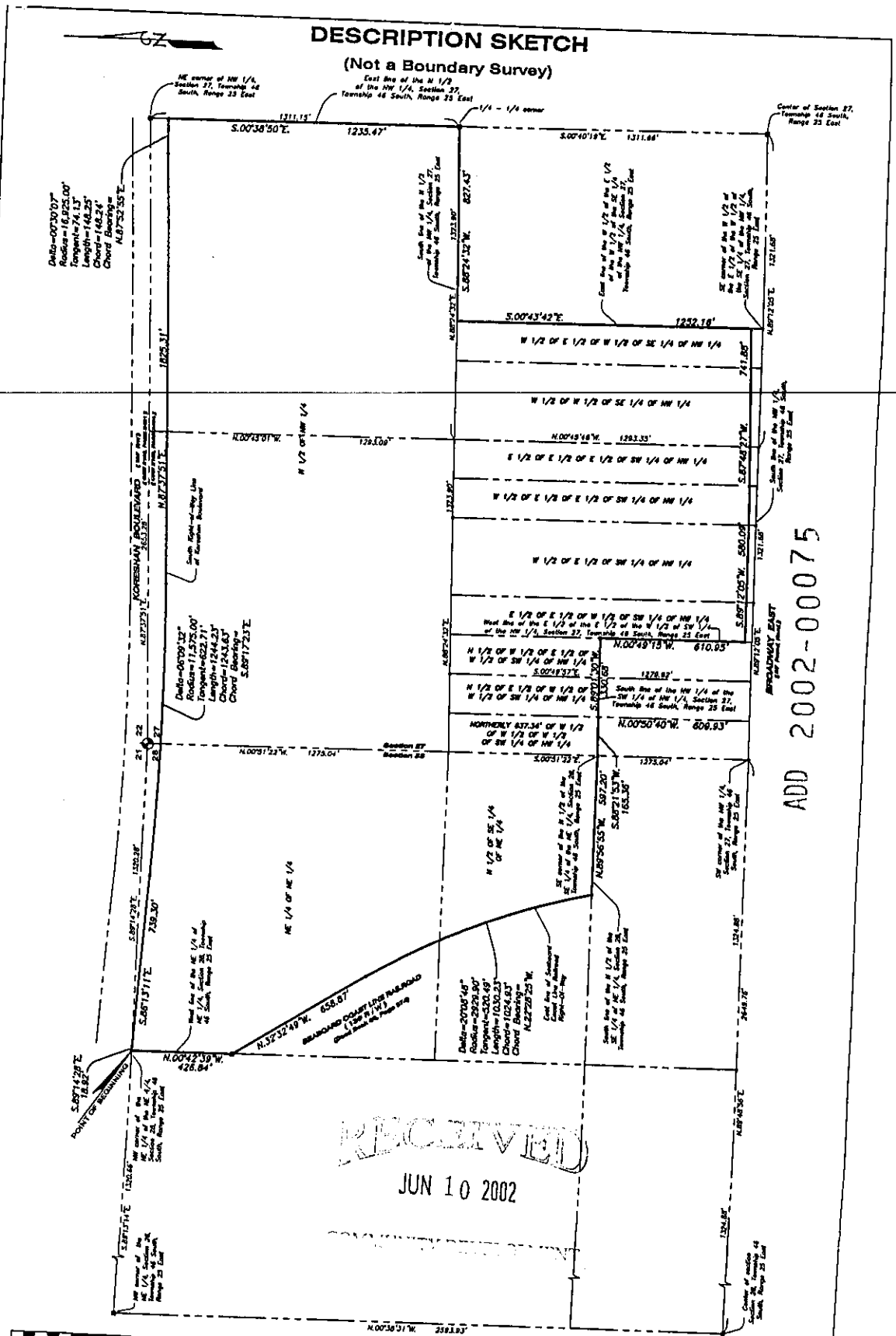
SHEET 1 OF 2

Dwn. JHM	Ck.	DWG: CAS_ALL_SKETCH.DWG
Date: 05-31-02	Order No.: LEV-11-058	

SECTIONS 27 & 28, TOWNSHIP 46S, RANGE 25E
LEE COUNTY, FLORIDA

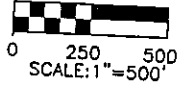
DESCRIPTION SKETCH

(Not a Boundary Survey)



ADD 2002-00075

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JUN 10 2002



SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION.
SEE SHEET 1 OF 2 FOR SURVEYOR'S NOTES.

CERTIFICATE OF AUTHORIZATION NO. LB 148

PREPARED BY: **HEIDT & ASSOCIATES, Inc.**
Tampa ♦ Fort Myers

CIVIL ENGINEERING
PLANNING
SURVEYING
ENVIRONMENTAL PERMITTING
LANDSCAPE ARCHITECTURE

Fort Myers Office
3800 Colonial Boulevard, #200
Fort Myers, Florida 33912
Phone: 239-482-7275
FAX: 239-482-2103

CASCADES AT ESTERO - OVERALL BOUNDARY			
Revised:			
Prepared For: Levitt and Sons, Inc.			
Dwn. JHM	Ck.	DWG: CAS_ALL_SKETCH.DWG	
Date: 05-31-02	Order No.: LEV-11-058		
SECTIONS 27 & 28, TOWNSHIP 46S, RANGE 25E LEE COUNTY, FLORIDA			

SHEET 2 OF 2

EXHIBIT B

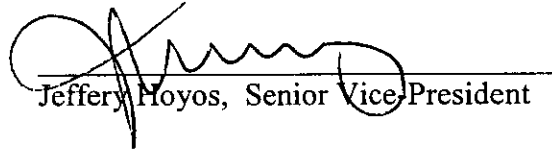
EVIDENCE OF WRITTEN CONSENT OF OWNER'S
CONSENT TO ESTABLISHMENT OF CASCADES ESTERO COMMUNITY
DEVELOPMENT DISTRICT

Cascades by Levitt and Sons, LLC a Florida limited liability company ("Owner"), hereby certifies that it is the owner of certain property located in Lee County, Florida, more particularly described on Schedule A hereto (the "Property"). By signing below, the Owner hereby gives its full consent to the establishment by Lee County, Florida of the **CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT** (the "District") in accordance with Section 190.005, Florida Statutes, and to the inclusion of the Property within the boundaries of the proposed District. The Property comprises 100% of the property to be included within the boundaries of the proposed District.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand this 29 day of May, 2002.

CASCADES BY LEVITT AND SONS, LLC

By: Levitt and Sons, LLC, Managing Member

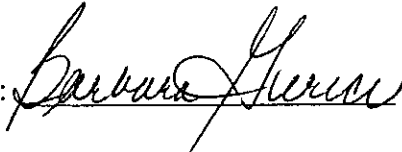

Jeffery Hoyos, Senior Vice-President

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

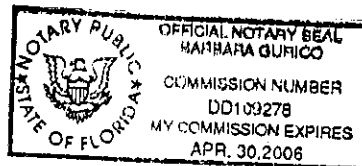
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The foregoing instrument was acknowledged before me this 29 day of May, 2002, by Jeffrey Hoyos, the Senior Vice-President of Levitt and Sons, LLC, the Managing Member of CASCADES BY LEVITT AND SONS, LLC, who is personally known to me or produced _____ as identification.

Notary Public
Printed Name:



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FTL:812479:3

COMMUNITY DEVELOPMENT

EXHIBIT C

MAP OF PROPOSED DISTRICT

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COMMUNITY DEVELOPMENT

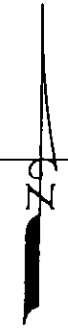
EXHIBIT C ADD 2002-00015

CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT

Water, Sewer & Outfalls

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COMMUNITY DEVELOPMENT

EXISTING
12" FORCE MAIN

EXISTING
16" WATER MAIN

KORESHAN BOULEVARD

PROJECT SITE

SEABOARD

RAILROAD

DRAINAGE
OUTFALL
STRUCTURE

BROADWAY STREET

EXISTING
10" WATER MAIN

EXISTING
8" WATER MAIN

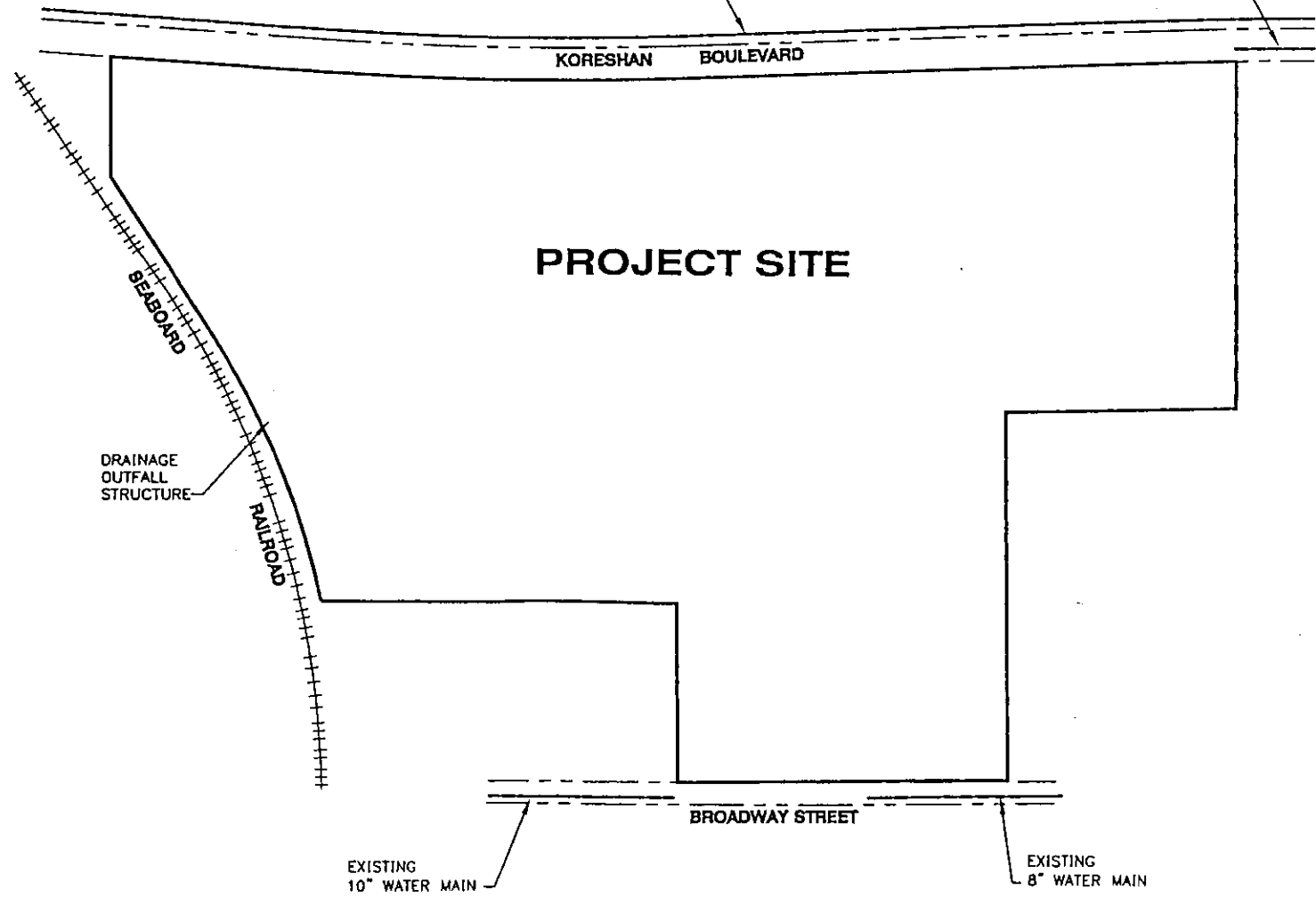


EXHIBIT D

PROPOSED CONSTRUCTION TIMETABLE AND ESTIMATED COSTS

ADD 2002-00075

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COMMUNITY DEVELOPMENT

CASCADES ESTERO SERVICES DISTRICT
Good Faith, Non-binding Construction Costs Estimate and Timetable
EXHIBIT D

	Estimated Construction Costs	Estimated Completion Date
Earthwork	\$ 2,644,000	3rd qtr 2003
Stormwater Management	3,315,000	50% 1st qtr 2003 Balance as Pod are developed
Utilities	3,432,000	25% 2nd qtr 2003 Balance as Pod are developed
Public Roads	405,000	4th qtr 2003
Public Off-Site Improvements	2,006,000	2nd qtr 2003
Wetland Mitigation	180,000	3rd qtr 2003
Total	<u>\$ 11,982,000</u>	

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COMMUNITY DEVELOPMENT

EXHIBIT E

**DESIGNATION OF THE FUTURE GENERAL DISTRIBUTION, LOCATION AND
EXTENT OF PUBLIC AND PRIVATE USES OF LAND PROPOSED FOR THE AREA
WITHIN THE PROPOSED DISTRICT**

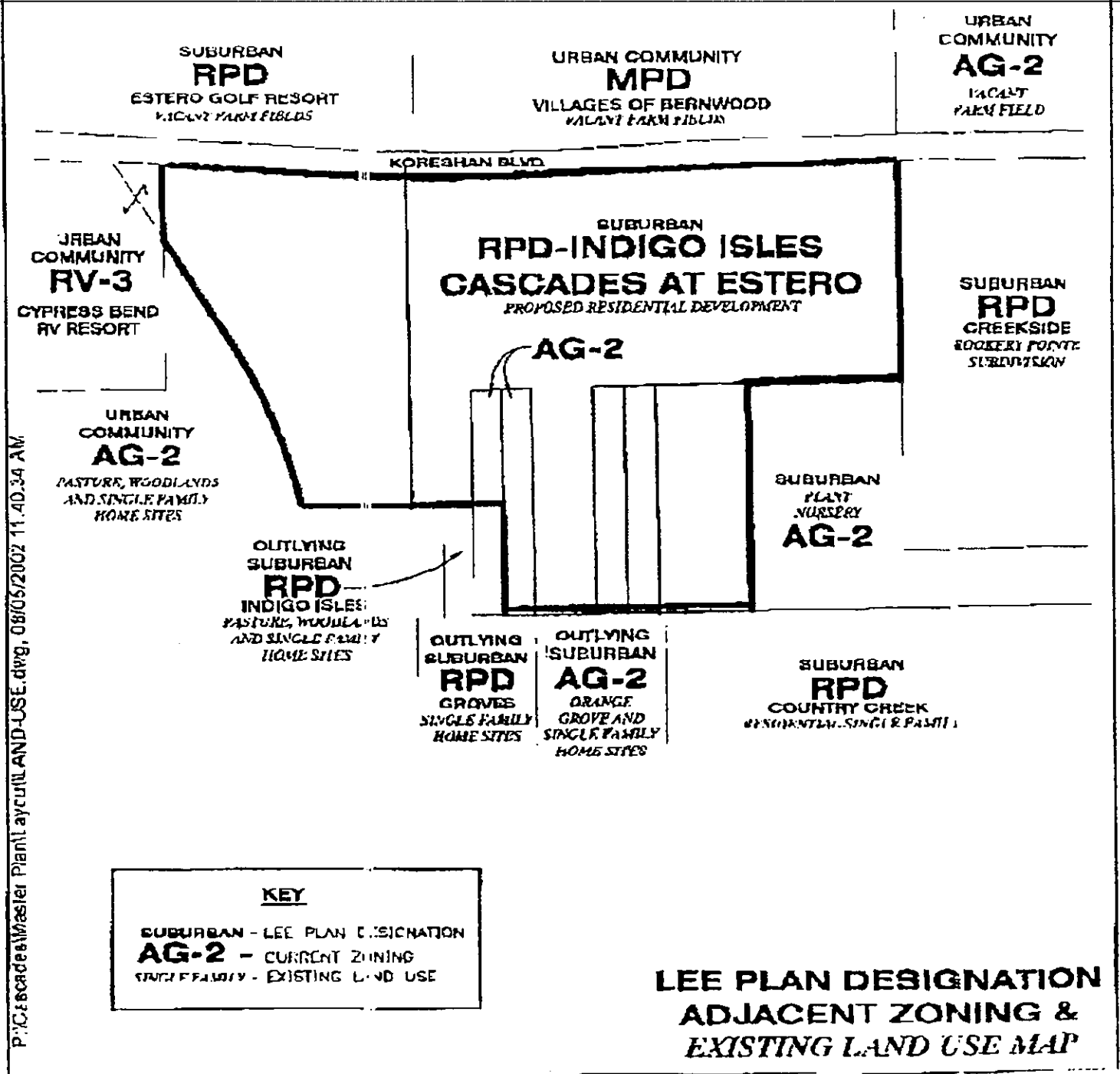
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COMMUNITY DEVELOPMENT

CASCADES AT ESTERO CDD EXHIBIT E



P:\Cascades\Master Plan\l ayc\util AND-USE.dwg, 08/05/2002 11:40:34 AM

POLICY 1.1.4: The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, Fort Myers Beach, South Fort Myers, Bonita Springs, Pine Island, and Gasparilla Island. Although the Urban Communities have a distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6). Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). (Amended by Ordinance No. 94-30)

POLICY 1.1.5: The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed. (Amended by Ordinance No. 94-30)

POLICY 1.1.6: The Outlying Suburban areas are characterized by their peripheral location in relation to established urban areas. In general, these areas are rural in nature or contain existing low-density development. Some, but not all, of the requisite infrastructure needed for higher density development is generally planned or in place. It is intended that these areas will develop at lower residential densities than other Future Urban Areas. As in the Suburban areas, higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. The standard density range is from one dwelling unit per acre (1 du/acre) to three dwelling units per acre (3 du/acre). Bonus densities are not allowed. In the Outlying Suburban area in North Fort Myers east of I-75 and in the Buckingham area (see Goal 17), the maximum density permitted is two dwelling units per acre (2 du/acre). (Amended by Ordinance 91-19)

POLICY 1.1.7: The Industrial Development areas play an important role in strengthening the county's economic base and will become increasingly important as the county grows in size and urban complexity. To a great extent these are the areas to which Lee County must look for expanded job opportunities, investments and production opportunities, and a balanced and sufficient tax base. These areas have special locational requirements that are more stringent than those for residential areas, including transportation needs (e.g., air, rail, highway); industrial levels of water, sewer, fire protection, and other urban services; and locations that are convenient for employees to reach. Whereas the other Future Urban Areas will include a broad combination of residential, commercial, public, and limited industrial land uses, the Industrial Development area is to be reserved mainly for industrial activities per se, as well as for selective land use mixtures such as the combined uses of industrial, manufacturing, research, properly buffered recreational uses (except where precluded by airport hazard zone regulations), and office complexes (if specifically related to adjoining industrial uses) that constitute a growing part of Florida's economic development sector. New mineral extraction (mining) activities and fill dirt operations must be approved through the Industrial Planned Development rezoning process. Retail or wholesale of products manufactured or processed upon the premises may be allowed at a ratio of 1 square foot of commercial uses to 10 square feet of industrial use in association with a Planned



File 00/01
Admin

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

STEVEN M. SEIBERT
Secretary

March 8, 2002

The Honorable Bob Janes
Chairman, Lee County Board of County Commission
P. O. Box 398
Fort Myers, Florida 33901

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COMMUNITY AFFAIRS
MARCH 11 2002

Dear Chairman Janes:

The Department of Community Affairs (Department) has completed its review of the Comprehensive Plan Amendment adopted by (Ordinance No. 02-02 through 02-06; DCA No. 02-1) for Lee County as adopted on January 10, 2002, and determined that it meets the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance, as defined in Subsection 163.3184(1)(b), F.S. The Department is issuing a Notice of Intent to find the plan amendment, In Compliance. The Notice of Intent has been sent to the Fort Myers News Press for publication on March 11, 2002.

The Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the notice of intent pursuant to Section 163.3184(9), F.S. No development orders, or permits for a development, dependent on the amendment may be issued or commence before the plan amendment takes effect.

Please note that a copy of the adopted Lee County Comprehensive Plan Amendment, and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Lee County Planning Division, 1500, Munroe Street, 2nd Floor, Fort Myers, Florida 33901.

If this in compliance determination is challenged by an affected person, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), F.S. If you choose to attempt to resolve this matter through mediation, you must file the request for mediation with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation will not affect the right of any party to an administrative hearing.

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2152

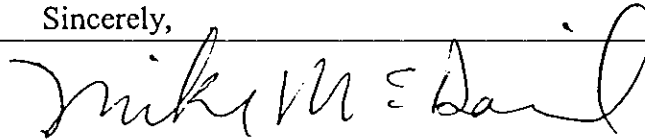
EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956

The Honorable Bob Janes
March 8, 2002
Page Two

If you have any questions, please contact Bernard O. Piawah, Planning Manager, or Roger Wilburn, Community Program Administrator, at (850) 487-4545.

Sincerely,



Mike McDaniel
Growth Management Administrator

MM/bp

Enclosure: Notice of Intent

cc: Mr. Wyane Daltry, Executive Director, Southwest Florida Regional Planning Council
Mr. Paul O'Connor, Lee County Planning Director

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND
LEE COUNTY
COMPREHENSIVE PLAN AMENDMENT
IN COMPLIANCE
DOCKET NO. 02-1- NOI-3601-(A)-(I)

The Department gives notice of its intent to find the Amendment to the Comprehensive Plan for Lee County, adopted by Ordinance Nos. 02-02 through 02-06 on January 10, 2002, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Lee County Comprehensive Plan Amendment and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Lee County Planning Division, 1500 Monroe Street, 2nd Floor, Fort Myers, Florida 33901.

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Amendment to the Lee County Comprehensive Plan is In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice, and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and a copy mailed or delivered to the local government. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

If a petition is filed, other affected persons may petition for leave to intervene in the proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.



Charles Gauthier, AICP
Chief, Bureau of Local Planning
Department of Community Affairs
Division of Community Planning
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

EXHIBIT F

STATEMENT OF ESTIMATED REGULATORY COSTS

ADD 2002-00015

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JUN 10 2002

COMMUNITY DEVELOPMENT

STATEMENT OF ESTIMATED REGULATORY COSTS

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1.0 Introduction

1.1 Purpose and Scope

COMMUNITY DEVELOPMENT

This statement of estimated regulatory costs ("SERC") supports the petition to establish the Cascades Estero Community Development District ("District"). The District comprises approximately 162.3 acres of land on which 583 dwelling units are planned for development. The limitations on the scope of this SERC are explicitly set out in Section 190.002(2)(d), F.S. (governing District formation or alteration) as follows:

"That the process of establishing such a district pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant (emphasis added)."

1.2 Overview of the Cascades Community Development District

The District is designed to provide community infrastructure, services, and facilities along with their operations and maintenance, to the Cascades development.

The development plan for the proposed lands within the District includes the construction of approximately 583 residential dwelling units. The community will consist of medium density, attached and detached residential units.

1.3 Requirements for the Statement of Estimated Regulatory Costs

Section 120.541(2), F.S. (1997), defines the elements a statement of estimated regulatory costs must contain:

"(a) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(b) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.

(c) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule. As used in this paragraph, "transactional

ADD 2002-00075

costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.

(d) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S. Lee County is not defined as a small County for purposes of this requirement.

(e) Any additional information that the agency determines may be useful.

(f) In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1) (a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.”

- 2.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the ordinance, together with a general description of the types of individuals likely to be affected by the ordinance.

As noted above, the Cascades community is a residential community designed for up to 583 total residential units. Formation of the District would put all of these households under the jurisdiction of the District.

- 3.0 Good faith estimate of the cost to state and local government entities, of implementing and enforcing the proposed ordinance, and any anticipated effect on state and local revenues.

- 3.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance

State Governmental Entities

The District consists of fewer than 1,000 acres, therefore Lee County is establishing entity under 190.005 (2), F.S. There will be only modest costs to various State governmental entities to implement and enforce the proposed formation of the District.

The modest costs to various State entities to implement and enforce the proposed ordinance relate strictly to the receipt and processing of various reports that the proposed District is required to file with the State and its various entities. Appendix A lists the reporting requirements. The costs to those State agencies that will receive and process the District's reports are very small, because the District is only one of many governmental units that are required to submit the

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various reports. Therefore, the marginal cost of processing one additional set of reports is inconsequential. Additionally, pursuant to section 189.412, F.S., the proposed district must pay an annual fee to the State of Florida Department of Community Affairs to offset such costs.

Lee County

The proposed land for the District is in Lee County and consists of fewer than 1,000 acres. Lee County and its staff will process, analyze, conduct a public hearing, and vote upon the petition to establish the District. These activities will absorb some resources.

These costs to the County are modest for a number of reasons. First, review of the petition to establish the District does not include analysis of the project itself. Second, the petition itself provides much of the information needed for a staff review. Third, local governments already possess the staff needed to conduct the review without the need for new staff. Fourth, there is no capital required to review the petition. Fifth, potential costs are off-set by the required filing fee. Finally, local governments routinely process similar petitions for land uses and zoning changes that are far more complex than is the petition to establish a community development district.

The annual costs to Lee County, because of the establishment of the District, are also very small. The proposed District is an independent unit of local government. The only annual costs the County faces are the minimal costs of receiving and reviewing the various reports that the District is required to provide to the County.

3.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on State or local revenues. The District is an independent unit of local government. It is designed to provide community facilities and services to serve the Cascades development project. It has its own sources of revenue. No State or local subsidies are required or expected.

In this regard it is important to note that any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any unit of local government. By State law debts of the CDD are strictly its own responsibility.

4.0 A good faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the ordinance.

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Table 1 provides an outline of the various facilities and services the proposed District may provide. The District plans to fund, own, operate and maintain the community's stormwater management system and wetland mitigation areas. The District will also plans to construct and finance onsite utilities and some off-site roadways. The utilities and off-site roadways will be conveyed to the to Lee County for operations and maintenance.

**Table 1. Cascades Community Development District
Proposed Facilities and Services**

FACILITY	FUNDED BY	O&M BY	OWNERSHIP
Stormwater Management	CDD	CDD	CDD
Wetland Mitigation	CDD	CDD	CDD
Public Roads	CDD	County	County
Utilities	CDD	Gulf Environmental Services, Inc.	Gulf Environmental Services, Inc.
Public Off-site Improvements	CDD	County	County

The petitioner has estimated the costs for providing the capital facilities outlined in Table 1. The cost estimates are shown in Table 2 below. Total costs for these facilities are estimated to be approximately \$11,982,000. To fund this construction program the District may issue special assessment or other revenue bonds estimated to total \$17,500,000. These would be repaid through non-ad valorem assessments levied on all properties in the District that may benefit from the District's capital improvement program as outlined in Table 1.

**Table 2. Summary of Estimated Capital Costs on a Fully Financed Basis
Cascades Community Development District (in \$000s)**

Category	Construction	Financed Cost
Stormwater Management	\$5,959,000	\$8,703,263
Wetland Mitigation	\$3,432,000	\$5,012,519
Public Roads	\$405,000	\$591,512
Utilities	\$3,432,000	\$2,929,811
Public Off-site Improvements	\$2,006,000	\$262,894
Total	\$11,982,000	\$17,500,000

Prospective future landowners in the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred through bond issuance. In addition to the levy of non-ad valorem assessments for debt

service, the District may also impose a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services.

It is important to note that the various costs outlined in Table 2 are typical for developments of the type contemplated. There is nothing peculiar about the District's financing that requires additional infrastructure over and above what would normally be needed. Therefore, these costs are not in addition to normal development costs. Instead, the facilities and services provided by the District are substituting in part for developer-provided infrastructure and facilities. Along these same lines, District-imposed assessments for operations and maintenance costs are similar to what would be charged by a property owners association common to most mixed-use developments.

Real estate markets are quite efficient, because buyers and renters evaluate all of the costs and benefits associated with various alternative locations. Therefore, market forces preclude developers from marking up the prices of their products beyond what the competition allows. To remain competitive the operations and maintenance charges must also be in line with the competition.

Furthermore, locating in the District by new residents is completely voluntary. So, ultimately, all owners and users of the affected property choose to accept the District's costs in tradeoff for the benefits that the District provides.

A Community Development District ("CDD") provides residents with the option of having higher levels of facilities and services financed through self-imposed charges. The District is an alternative means to finance necessary community services. District financing is no more expensive, and often less expensive, than the alternatives of a municipal service taxing unit (MSTU), a neighborhood association, county provision (directly or via a dependent special district), or through developer equity and/or bank loans.

It should be noted that occupants of the lands within the District will receive three major classes of benefits.

First, those residents and businesses in the District will receive a higher level of public services and amenities sooner than would otherwise be the case.

Second, a CDD is a mechanism for assuring that the community services and amenities will be completed concurrently with development of lands within the District. This satisfies the revised growth management legislation, and it assures that growth pays for itself without undue burden on other consumers. Establishment of the District will ensure that these landowners pay for the provision of facilities, services and improvements to these lands.

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COMMUNITY DEVELOPMENT

ADD 2002-00075

Third, a CDD is the sole form of governance which allows District landowners, through landowner voting and ultimately electoral voting for resident elected boards, to determine the type, quality and expense of District services they receive, provided they meet the County's overall requirements.

- 5.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.

There will be no impact on small businesses because of the formation of the District. ~~If anything, the impact may be positive. This is because the District~~ must competitively bid certain contracts. This affords small businesses the opportunity to bid on District work.

Lee County has an estimated population (not incarcerated) in 2002 that is greater than 75,000. Therefore the County is not defined as a "small" county according to Section 120.52, F.S.

- 6.0 Any additional useful information.

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the developer's engineer and other professionals associated with the developer.

Finally, it is useful to reflect upon the question of whether the proposed District is the best alternative to provide community facilities and services to the project. As an alternative to the District, Lee County could approve a dependent special district for the area, such as an MSBU or a special taxing district under Chapter 170, F.S. Either of these alternatives could finance the improvements contemplated in Table 1 in a fashion similar to the proposed District.

There are a number of reasons why a dependent district is not the best alternative for providing community facilities and services to Cascades. First, unlike the District, the alternatives would require Lee County to administer the project and its facilities and services. As a result, the costs for these services and facilities would not be sequestered to the land directly benefiting from them, as the case would be with the District. Administering a project of the size and complexity of the development program anticipated for Cascades is a significant and expensive undertaking.

Second, a District is preferable from a government accountability perspective. With a District, residents in the District would have a focused unit of government under their direct control. The District can then be more responsive to resident needs without disrupting other County responsibilities. ~~By contrast, if Lee~~

County were to establish dependent districts, then the residents of Cascades will take their grievances and desires to the County Commission meetings.

Third, any debt of a District is strictly the District's responsibility. While it may be technically true that the debt of a County-established, dependent, special district, is not strictly the County's responsibility, any financial problems that the special district may have will inevitably entangle the County. This will not be the case if a District is established.


Another alternative to the District would be for a property owner's association to provide the infrastructure, operations, and maintenance of community facilities and services. A District is superior to a POA for a variety of reasons. First, unlike a POA a District can obtain low cost funds from the capital markets. Second, the District can impose and collect its assessments along with other property taxes. Therefore, the District is far more assured of obtaining its needed funds than is a POA. Third, the proposed District is a unit of local government. Unlike a POA the District must abide by all governmental rules and regulations.

Fishkind & Associates certifies that this SERC meets the requirements for a SERC as set out in Chapter 120.541, F.S.

We have developed over 25 SERCs. Below is a listing of five of these.

- Urban Orlando Community Development District
- Marshall Creek Community Development District
- Cedar Hammock Community Development District
- Meditera Community Development District
- Brooks Community Development District

Prepared by:


Fishkind & Associates, Inc.

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COMMUNITY DEVELOPMENT

APPENDIX A
LIST OF REPORTING REQUIREMENTS

REPORT	FLORIDA STATUTE CITE	DATE
Annual Financial Audit	11.45	12 months after end of fiscal year
Annual Financial Report (AFR)	218.32	by March 31
TRIM Compliance Report	200.068	130 days after
Form 1 - Limited Financial Disclosure	112.3144	by July 1
Public Depositor	215	by November 15
Proposed Budget	218.34	by September 1
Public Facilities Report	189.415	March 1
Public Meetings Schedule	189.417	beginning of fiscal year
Bond Report	218.38	When issued
Registered Agent	189.417	30 Days after

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COMMUNITY DEVELOPMENT

ANALYSIS OF
THE CASCADES ESTERO
PETITION TO ESTABLISH A
UNIFORM COMMUNITY
DEVELOPMENT DISTRICT

Prepared for
BOARD OF COUNTY COMMISSIONERS

by
LEE COUNTY DIVISION OF PLANNING

October 15, 2002



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INTRODUCTION

Cascades by Levitt and Sons, L.L.C. has petitioned the Board of County Commissioners of Lee County, Florida to adopt an ordinance to establish a Uniform Community Development District (UCDD) and to designate the land area within which the UCDD may manage and finance basic infrastructure systems, facilities and services pursuant to the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes and Rule 42-1, Florida Administrative Code. The Uniform Community Development District Act was originally adopted in 1980. The act sets forth the procedure for the establishment of such a district, the district's powers and duties for public improvements and community facilities, and additional special powers that the district, after its establishment, may petition for.

If approved the district will be granted the power to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for the following basic infrastructure: water management; water supply, sewer, and waste water management; bridges or culverts; district roads; and other projects inside or outside the district boundary for which a Development Order is issued.

BACKGROUND

Cascades by Levitt and Sons, L.L.C., hereafter called "Petitioner", is a Florida limited liability company with its principal place of business located at 7777 Glades Road, Suite 410, Boca Raton, Florida, 33434 and whose Senior Vice-President is Jeffery Hoyos.

The Petitioner has petitioned the Board of County Commissioners of Lee County to adopt an ordinance establishing a Uniform Community Development District pursuant to the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes. The Uniform Community Development District Act was originally adopted in 1980. The act sets forth the procedure for the establishment of such a district and the district's powers and duties.

F.S. 190.005(2) sets forth the "exclusive and uniform method for the establishment of a community development district of less than 1,000 acres in size." This establishment "shall be pursuant to an ordinance adopted by the county commission having jurisdiction over the majority of the land in the area in which the district is to be located granting a petition for the establishment of a community development district."

The Petitioner proposes to establish a Uniform Community Development District on approximately one hundred and sixty two (162±) acres of land located in Lee County, Florida and lying within Sections 27 and 28, Township 46, Range 25 East. The property is located to the South of Koreshan Boulevard and to the North of East Broadway Street, approximately midway between U.S. 41 and Three Oaks Parkway in Estero. A map showing the land area to be served by the District and a metes and bounds description of

the external boundaries of the District is set forth in Exhibit A to the petition. The land area is bounded on the West by the Seaboard Coast Line Railroad tracks and developed and undeveloped land, on the North by Koreshan Boulevard, on the East by Creekside, a residential development and undeveloped property and on the South by East Broadway Street. There are no parcels within the external boundaries of the proposed District which are to be excluded from the District.

Adopting the ordinance and granting the petition would authorize the district, through its board of supervisors, to manage and finance certain basic infrastructure for the benefit of the landowners in the community. This infrastructure, or basic systems, facilities and services, under Section 190.012(1), F.S., includes four basic types: water supply; sewers and wastewater management; water control and management (drainage); and, roads, bridges and streetlights, as well as "other projects" as specified under Section 190.012(1)(f), Florida Statutes.

The Petitioner is also requesting additional powers under Section 190.012(2), F.S. These powers, as they have been requested by this petition, include the ability to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for parks and recreational facilities; fire prevention; school buildings; security; and mosquito control. According to Section 190.012(2), these additional powers may only be granted after a District has already been established. The County has, in past petitions, taken the position that these additional powers cannot be granted concurrently with the basic powers outlined under Section 190.012(1). The petitioner must file a separate petition to exercise the additional powers outlined under Section 190.012(2). This will involve the submittal of a new petition, the payment of an additional processing fee, the preparation of a separate staff report, and a public hearing before the Board of County Commissioners. Staff believes this interpretation is consistent with Section 190.012(2) of the Florida Statutes, as well as with past interpretations by the County regarding other UCDD petitions.

In order to provide the basic systems, facilities and services, the district has certain management and financing powers. However, these powers may be exercised only if the district complies with certain strict and detailed procedural requirements. These include: ethics in government; disclosure; conflict of interest requirements; noticed meetings; government-in-the-sunshine conduct; accounting and reporting requirements to various local and state agencies; consultants competitive negotiations procedures; competitive bidding procedures; and others. In addition to complying with these many procedural requirements, the district still may not manage and finance any of these services and facilities without a showing that development of the properties complies with all legitimate policies, constraints, authorities, controls or conditions on the development of the land, whether local, regional, state or federal in nature, and whether in the form of policies, laws, rules, regulations or ordinances. The district itself is not considered "development." Rather, the district is an alternative mechanism to assure the County and the landowners of the particular land in question that basic systems, facilities and services will be managed and financed in an efficient and economical way.

In order to provide these services, the district is also given certain eminent domain powers, within the very tight constraints summarized above, as well as the authority to require service charges, fees or taxes for the various services rendered, ranging from installation of capital facilities to long-term maintenance and repair. Without the County's consent by resolution, the aforementioned eminent domain power is limited to the boundaries of the district. The district may also issue non-ad valorem special assessment bonds, revenue and other user bonds, and general obligation bonds. However, no general obligation bonds can be issued without a referendum and without a showing that it will not exceed 35 percent of the assessed valuation of the property within the district.

Accordingly, if the County adopts the ordinance and establishes the district, the Cascades Estero Community Development District will then be an infrastructure management tool. This pinpointed responsibility can benefit the landowners with timely, efficient, reliable and flexible services. It serves as a concurrency management tool for the County, the landowners, the developer and, ultimately, the residents. In addition, the district would be a financing tool providing financial incentives for long-range and high quality service benefits to initial and subsequent landowners without burdening Lee County and its taxpayers.

Finally, such a district may not outlive its practical utility and usefulness. If it ceases to function it will automatically be disbanded by state law. If at any time during its existence Lee County determines by a non-emergency ordinance that it can provide any one of the district services in a more economical manner, over the long term, at lower cost with higher quality, Lee County may then take that service away from the district and provide the service itself.

THE PETITION

The statutes require that a petition be filed containing the following information:

- a metes and bounds description of the external boundaries of the district and the impact of the proposed district on property within the external boundaries of the district which is excluded from the district;
- the consent of the property owners;
- the designation of the initial members of the board of supervisors;
- the proposed name of the district;
- a map of the proposed district showing current major trunk water mains and sewer interceptors and outfalls if in existence;
- the proposed timetable and estimated cost of constructing the proposed services;

- the designation of the future general distribution, location, and extent of public and private uses of land; and,
- a statement of estimated regulatory costs.

Such a petition was received from the Petitioner by Lee County on June 10, 2002. In order to assist the Commission and its staff in reviewing the petition, supplemental materials were requested and were furnished by the Petitioner. The Petition and supplemental materials have been incorporated into this analysis. Planning staff's review of the petition finds the submittal to be sufficient.

FACTORS TO BE CONSIDERED

In accordance with F.S. 190, Lee County is required to consider the following six factors in making a determination to grant or deny a petition for the establishment of a community development district:

1. Whether all statements contained within the petition have been found to be true and correct.
2. Whether the creation of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.
3. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.
4. Whether the district is the best alternative available for delivering community development services and facilities to the area that will be served by the district.
5. Whether the community development services and facilities of the district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area that will be served by the district is amenable to separate special-district government.

The obligation of the Board of County Commissioners is to consider the six factors using the information in the petition and its attachments, any other documents and information that have been filed, including the expert documents. The key decisions to be made by the Board in establishing a district is simply whether it is a reasonable thing to do in view of the six factors which the law requires Lee County to analyze.

It should be noted that these factors are not specific criteria nor are they legal permit requirements or standards. Neither are they the basis for rendering any kind of final order or judgement. In accordance with F.S. 190.004(3) the creation of a community development district is not a development order with the meaning described in Chapter 380. All governmental planning, environmental, and land development laws, regulations, and ordinances apply to the development of the land within a community development district.

STAFF ANALYSIS OF FACTORS

Planning staff has reviewed the petition and accompanied materials. Following is staff's determination of the petition's applicability to each of the six factors.

Concerning Factor #1: Staff concludes that all statements contained within the petition are true and correct. This determination applies to the petition and all of its Exhibits. Concerning petition Exhibit F, staff agrees with the statement of estimated regulatory costs that there is no adverse impact on small businesses. In fact there could be positive impacts due to the opportunity for small businesses to bid on work within the district. Staff also concurs with the methodology employed in the statement of estimated regulatory costs.

Concerning Factor #2: Staff concludes that the creation and establishment of the district is not inconsistent with any applicable element or portion of either the state comprehensive plan or the Lee County local government comprehensive plan, the Lee Plan. In fact, the establishment of the district is affirmatively consistent with Section 187.201(21)(b)(2) F.S., which encourages restructuring political jurisdiction with the goal of greater efficiency. It is also consistent with Policy 1.1.5 of the Lee Plan, the Suburban future land use category. The request is consistent with Objective 2.2, Development Timing, which directs "new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created."

Concerning Factor #3: Planning staff has determined that the area of the land within the proposed district is of sufficient size, is sufficiently compact, and sufficiently contiguous to the developable as one functional interrelated community on the site.

Planning staff notes that the land area for the proposed UCDD does not match the land area of the underlying Residential Planned Development (RPD). Some property, approximately 2.3 acres, that was included in the RPD is not included in this application for a UCDD. Another 6.8 acres that was not included in the RPD, which is currently zoned AG-2, is included in this application. Staff only highlights this change in boundary to let the applicant know that additional public hearings will be required if an amendment to the RPD, to change it's boundaries to conform with the UCDD boundaries, is sought.

Concerning Factor #4: Planning staff has reviewed the three fundamental alternatives available for managing and financing those basic systems, facilities and services for the Cascades Estero development area. One alternative is for Lee County government to

directly provide those services by creating a dependent district or, by directly managing the infrastructure but financing it through a Municipal Services Taxing Unit (MSTU) or Municipal Services Benefit Unit (MSBU). The other alternative is purely private, through a homeowners' association, or through a private company or utility established by the landowners. The third alternative, the Uniform Community Development District, coincides the public policy interests and duties of local government with the private marketing interests and duties of private landowners.

Planning staff has reviewed these three alternatives with regard to the site and concludes that the establishment of a Uniform Community Development District is one of the best alternatives available for delivering community development services and facilities to the area that will be served by the district. Staff has further concluded that establishment of the district is compatible with the function of existing units of local government or that any issues have been or may be adequately addressed by interlocal agreement.

Concerning Factor #5: Staff has reviewed the issue of the capacity and uses of any existing local and regional community development services and facilities. Currently the subject area is located within the Gulf Environmental Services, Inc. water and sewer service areas. The establishment of the District will not create a conflict with this utility because it is the intent of the District to construct and then turn over ownership to Gulf Environmental Services, Inc. for operating and maintenance. It is also the District's intent to construct roadways and then turn over ownership to Lee County DOT for operating and maintenance. Other services and facilities such as water management and wetland mitigation will be funded and maintained by the district. There are no other Uniform Community Development District services or facilities being provided to the property.

Staff has determined that the community development services and facilities of the district will not be incompatible with the capacity and uses of the existing local and regional services and facilities which deal with community development.

Concerning Factor #6: Staff has reviewed the area in question and has determined that it is amenable to separate special district government.

ADDITIONAL ANALYSIS

As in previous reviews, staff has a concern that future purchasers of property or dwelling units within the proposed UCDD are aware that the property they are purchasing will be subject to additional assessments for public services and facilities, beyond those taxes and assessments levied by local governments. Section 190.048, Florida Statutes, contains a provision that requires that a buyer of an "initial" parcel, or the buyer of an "initial" residential unit within a UCDD be notified that the property or dwelling unit being purchased is subject to special assessments from the district. Second and third buyers of property or dwelling units, however, would not be notified that the property is subject to these special assessments. Staff believes that all future purchasers of property within a UCDD should be made aware that they will be subject to additional district assessments. Staff therefore

recommends that the disclosure statement provided in Section 190.048, Florida Statutes apply to all subsequent sales within the UCDD, and not just to the initial sale. Staff recommends the inclusion of the following language in the adopting ordinance of the proposed district:

Any and all agreements for the sale of property within the boundaries of the Cascades Estero Community Development District must include the disclosure statement required in Section 190.048, Florida Statutes, for the initial sale of the property. This requirement applies to the initial seller of the property as well as all subsequent sellers, successors and assigns for the life of the Cascades Estero Community Development District.

RECOMMENDATION

Planning staff recommends that the Board of County Commissioners adopt and enact the Ordinance establishing the Cascades Estero Uniform Community Development District. In accordance with Section 190.005(1)(f), F.S., the Ordinance enacts the following:

1. It establishes the external boundaries of the district which are set forth in ordinance Attachment A;
2. It names the five persons designated to be the initial members of the board of supervisors who shall be:

Elliott M. Weiner
Alfred G. West
Tom Damiano
Harry T. Sleek
Jeffery Hoyos
3. It establishes the name of the district which shall be: The Cascades Estero Community Development District.
4. It establishes the inclusion of the disclosure statement of Section 190.048, F.S. to subsequent land purchase agreements within the boundaries of the district.