

**Lee County Board Of County Commissioners
Agenda Item Summary**

**DATE CRITICAL
Blue Sheet No. 20051208**

1. ACTION REQUESTED/PURPOSE: Direct an ordinance creating the Verandah East Community Development District to public hearing on October 25, 2005 at 9:30 a.m., or as soon thereafter as possible.

2. WHAT ACTION ACCOMPLISHES: Verandah Development, LLC, has petitioned the Board to establish the Verandah East community Development District.

3. MANAGEMENT RECOMMENDATION:

4. Departmental Category: 04

C/2A

5. Meeting Date:

09-13-2005

6. Agenda:

7. Requirement/Purpose: (specify)

8. Request Initiated:

<input checked="" type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Statute	Chapter 190, F.S.	Commissioner	
	Administrative		Ordinance		Department	County Atty's Office
	Appeals		Admin. Code		Division	Land Use
	Public		Other		By:	<i>John J. Fredyma</i>
	Walk-On					John J. Fredyma, Asst. Cty Atty

9. Background: Verandah Development, 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 Page 2)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>Timothy Lewis</i>	Analyst	Risk	Grants	Mgr	<i>[Signature]</i>
					<i>RK 8/30</i>	<i>5/31/05</i>	<i>9/21/05</i>	<i>[Signature]</i>	

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

CO. ATTY.
FORWARDED TO:
ADH/A
9/21/05

RECEIVED BY	<i>[Signature]</i>
COUNTY ADMIN	<i>[Signature]</i>
FORWARDED TO:	<i>[Signature]</i>
	<i>5/31/05</i>
	<i>7/2/05</i>

The proposed Verandah East Community Development District is located on approximately 652 acres of land located in Lee County. The land area is bounded on the north by Palm Beach Boulevard (a/k/a State Road 80); on the south by single-family and vacant lands; on the east by Buckingham Road; and on the west by the Verandah West UCDD. The property is located in Sections 28, 29, 32, and 33, Township 43 South, Range 26 East. The Verandah East 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 Verandah East 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 Verandah East 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. Dennis Church
 - b. Vincent O. Barraco
 - c. Jim Carroll
 - d. Marsha Stachler
 - e. Timothy S. Becker
3. Names the district: Verandah East Community Development District

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

Attachments:

1. **Proposed Ordinance establishing the Verandah East Community Development District**
2. **Staff Report**

LEE COUNTY ORDINANCE NO. 05- _____

AN ORDINANCE ESTABLISHING THE VERANDAH EAST 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 ADDITIONAL CONDITIONS IMPOSED ON THE COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Verandah Development, LLC, has petitioned the Lee County Board of County Commissioners to establish THE VERANDAH EAST 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 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.

3. 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.

4. 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.

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

6. 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.

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

8. 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.

9. Upon the effective date of this Ordinance, the proposed Verandah East 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.

10. 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 Verandah East 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 Verandah East 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. | Dennis Church | 4429 Tarpon Avenue
Bonita Springs, FL 34134 |
| 2. | Vincent O. Barraco | 6729 Kestrel Circle
Fort Myers, FL 33912 |
| 3. | Jim Carroll | 17490 Stepping Stone Drive
Fort Myers, FL 33912 |
| 4. | Marsha Stachler | 41904 Bonaire Circle
Fort Myers, FL 33908 |
| 5. | Timothy S. Becker | 2643 Hunters Ridge Drive
Bonita Springs, FL 34135 |

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

Upon the effective date of this Ordinance, the proposed Verandah East 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 Verandah East Community Development District will be governed by the provisions of Chapter 190, Florida Statutes,

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

The Verandah East Community Development District will also be subject to the following additional conditions:

1. Any and all agreements for the sale of property within the boundaries of the Verandah East 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 East 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 _____
Tammy Hall _____
John E. Albion _____

DULY PASSED AND ADOPTED THIS _____ DAY OF _____, 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

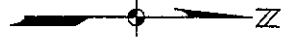
By: _____
Deputy Clerk

By: _____
Chairman

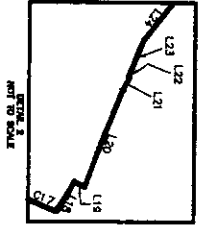
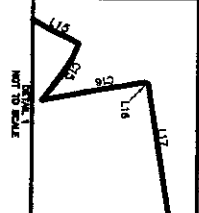
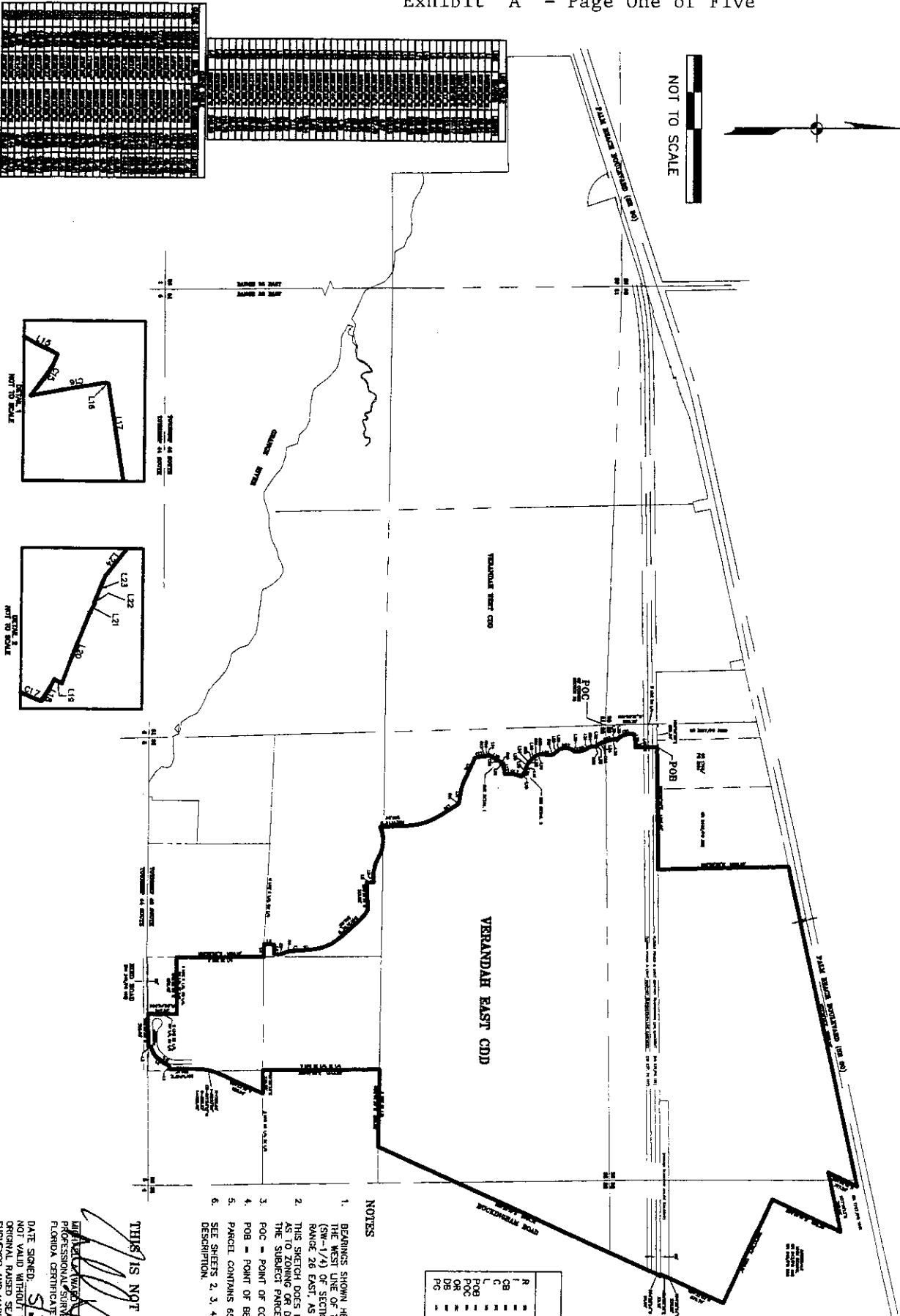
APPROVED AS TO FORM:

By: _____
Office of County Attorney

S:\044600\CDD\VECCO NEW 042605.dwg (VECCOEX11) DSH Jun 03, 2005 - 11:04am



NOT TO SCALE



LEGEND	
R	= RADIUS
I	= DELTA ANGLE
CB	= CHORD BEARING
C	= CHORD
L	= ARC LENGTH
POB	= POINT OF BEGINNING
POC	= POINT OF COMMENCEMENT
OR	= OFFICIAL RECORD BOOK
DB	= DEED BOOK
PC	= PAGE

- NOTES
1. BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF THE SOUTHWEST QUARTER (SW-1/4) OF SECTION 28, TOWNSHIP 43 SOUTH, RANGE 26 EAST, AS BEARING N 01° 26' 33" W.
 2. THIS SKETCH DOES NOT MAKE ANY REPRESENTATION AS TO ZONING OR DEVELOPMENT RESTRICTIONS ON THE SUBJECT PARCEL.
 3. POC = POINT OF COMMENCEMENT
 4. POB = POINT OF BEGINNING
 5. PARCEL CONTAINS 652.58 ACRES MORE OR LESS.
 6. SEE SHEETS 2, 3, 4 AND 5 FOR LEGAL DESCRIPTION.

THIS IS NOT A SURVEY

[Signature]

DATE SIGNED: 5/27/05

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER NOT VALID WITHOUT LEGAL DESCRIPTION SHEETS 2, 3, 4 AND 5.

DATE: APRIL 2005

PROJECT NO.: 20044600

FILE NO.: 32-43-26

SCALE: NOT TO SCALE

SHEET: 1 OF 5

JOHNSON
ENGINEERING

2158 JOHNSON STREET
P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE (239) 334-0046
FAX (239) 334-3661
E.B. #642 & L.B. #642

VERANDAH EAST CDD
(REVISED)

PARCEL LYING IN
SECTIONS 28, 29, 32 & 33
TOWNSHIP 43 SOUTH, RANGE 26 EAST
LEF COUNTY, FLORIDA

REVISION 04/28/05



April 26, 2005

VERANDAH EAST CDD
(REVISED)**PARCEL LYING IN
SECTIONS 28, 29, 32 AND 33, TOWNSHIP 43 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA**

A tract or parcel of land lying in Sections 28, 29, 32 and 33, Township 43 South, Range 26 East, Lee County, Florida, being more particularly described as follows:

From the southwest corner of Section 29, Township 43 South, Range 26 East run N 01° 29' 31" W along the west line of the Southwest Quarter (SW-1/4) of said section for 589.75 feet to an intersection with the north line of a Florida Power and Light Company Transmission Line Easement as recorded in Deed Book 230, page 106, in the Public Records of Lee County, Florida; thence run N 89° 02' 25" E along said north line and the south line of lands described in Official Record Book 3217, page 3959 and the south line of lands described in Official Record Book 1763, page 3164, of said public records for 265.34 feet to the Point of Beginning.

From said Point of Beginning continue N 89° 02' 25" E along said line and along the south line of lands described in Official Record Book 2449, page 953, of said public records for 1,416.03 feet; thence run N 01° 29' 33" W along the east line of said lands described in Official Record Book 2449, page 953 for 1,502.56 feet to an intersection with the southeasterly right-of-way line of Palm Beach Boulevard (State Road 80); thence run N 77° 10' 13" E (75.00 feet southeasterly of and parallel with the centerline of State Road 80) along said southeasterly right-of-way line for 3,785.98 feet; thence run S 24° 33' 10" W along the westerly line of lands described in Official Record Book 1797, page 1141, of said public records for 377.20 feet; thence run N 77° 10' 13" E along the southerly line of said lands for 700.86 feet; thence run S 24° 33' 10" W along the westerly line of lands described in Official Record Book 643, page 499 and Official Record Book 646, page 663, of said public records for 882.33 feet; thence run S 65° 27' 20" E along the southerly line of said lands for 1,320.81 feet to an intersection with the northwesterly right-of-way line of Buckingham Road (100 feet wide); thence run S 24° 32' 53" W along said right-of-way line for 576.76 feet; thence continuing along said right-of-way line, run S 24° 29' 54" W for 220.89 feet to an intersection with a line 50.00 feet north of (as measured on a perpendicular) and parallel with the centerline of said Florida Power and Light Company Transmission Line Easement; thence run N 89° 02' 25" E along said line for 22.15 feet; thence run S 24° 29' 54" W along said northwesterly right-of-way line of Buckingham Road (60 feet wide) for 88.69 feet; thence run S 24° 23' 10" W continuing along said northwesterly right-of-way line for 3,484.76 feet to an intersection with the north line of the Southeast Quarter (SE-1/4) of said Section 32; thence run N 89° 46' 39" W along said north line for 893.56 feet; thence run S 00° 41' 52" E along the west line of the Northeast Quarter (NE-1/4) of said

Southeast Quarter (SE-1/4) for 1,343.62 feet; thence run N 89° 36' 23" E along the south line of said fraction for 270.55 feet to an intersection with said westerly right-of-way line of Buckingham Road (60 feet wide); thence run S 24° 23' 10" W along said right-of-way line for 533.98 feet to a point of curvature; thence run southerly along an arc of said curve to the left, having a radius of 730.00 feet (delta 25° 37' 58") (chord bearing S 11° 34' 12" W) (chord 323.87 feet) for 326.59 feet to a point of tangency; thence run S 01° 14' 47" E along the westerly right-of-way line of Buckingham Road (60 feet wide) for 292.11 feet; thence run S 88° 59' 59" W along a line 240.00 feet north of and parallel with (as measured on a perpendicular) the north right-of-way line of Bird Road (50 feet wide) for 38.99 feet to an intersection with a non-tangent curve; thence run southwesterly (25.00 feet southeasterly and concentric with a proposed right-of-way 50 feet wide) along an arc of said curve to the right, having a radius of 200.00 feet (delta 23° 20' 16") (chord bearing S 27° 50' 42" W) (chord 80.90 feet) for 81.46 feet to a point of tangency; thence run S 39° 30' 50" W for 90.84 feet to a point of curvature; thence run southwesterly (25.00 feet southeasterly and concentric with said proposed right-of-way) along an arc of said curve to the right, having a radius of 200.00 feet (delta 40° 51' 59") (chord bearing S 59° 56' 50" W) (chord 139.65 feet) for 142.65 feet to an intersection with a non-tangent line; thence run S 01° 14' 47" E parallel with said westerly right-of-way line of Buckingham Road for 32.26 feet to an intersection with the north right-of-way of Bird Road; thence run S 88° 59' 59" W along the northerly right-of-way line of Bird Road as described in Deed Book 242, page 118, of said public records for 380.56 feet; thence run N 00° 34' 58" W along the west line of the Southeast Quarter (SE-1/4) of the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) of said Section 32 for 327.62 feet; thence run S 89° 09' 03" W along the south line of the North Half (N-1/2) of the Southwest Quarter (SW-1/4) of the Southwest Quarter (SW-1/4) of the Southeast Quarter (SE-1/4) of said section for 659.45 feet; thence run N 00° 28' 09" W along the west line of the Southeast Quarter (SE-1/4) of said section for 1,018.10 feet; thence run N 87° 48' 58" W along the north line of the South Half (S-1/2) of the Southwest Quarter (SW-1/4) of said section for 147.62 feet; thence run N 02° 11' 02" E for 113.43 feet; thence run N 89° 55' 48" E for 107.17 feet to an intersection with a non-tangent curve; thence run northerly along an arc of said curve to the left, having a radius of 195.00 feet (delta 44° 01' 21") (chord bearing N 07° 13' 26" W) (chord 146.17 feet) for 149.83 feet to a point of reverse curvature; thence run northerly along an arc of said curve to the right, having a radius of 100.00 feet (delta 26° 03' 50") (chord bearing N 16° 12' 12" W) (chord 45.10 feet) for 45.49 feet; thence run N 03° 10' 17" W for 123.30 feet to an intersection with a non-tangent curve; thence run northerly along an arc of said curve to the left, having a radius of 1,772.51 feet (delta 04° 34' 59") (chord bearing N 06° 02' 11" W) (chord 141.74 feet) for 141.78 feet to an intersection with a non-tangent curve; thence run northwesterly along an arc of said curve to the left, having a radius of 615.00 feet (delta 35° 19' 02") (chord bearing N 24° 51' 32" W) (chord 373.11 feet) for 379.09 feet; thence run N 42° 31' 02" W for 265.63 feet to a point of curvature; thence run northwesterly along an arc of said curve to the left, having a radius of 465.01 feet (delta 19° 59' 43") (chord

bearing N 52° 30' 54" W) (chord 161.46 feet) for 162.28 feet; thence run S 86° 19' 16" W for 313.52 feet; thence run N 03° 40' 44" W for 80.00 feet; thence run S 86° 19' 16" W for 62.65 feet to a point of curvature; thence run westerly along an arc of said curve to the right, having a radius of 385.00 feet (delta 32° 17' 34") (chord bearing N 77° 31' 57" W) (chord 214.13 feet) for 216.99 feet to a point of reverse curvature; thence run westerly along an arc of said curve to the left, having a radius of 440.00 feet (delta 50° 11' 04") (chord bearing N 86° 28' 42" W) (chord 373.19 feet) for 385.39 feet to an intersection with a non-tangent line; thence run N 02° 11' 14" W for 267.84 feet to a point of curvature; thence run northerly along an arc of said curve to the left, having a radius of 825.00 feet (delta 31° 14' 52") (chord bearing N 17° 48' 40" W) (chord 444.38 feet) for 449.94 feet; thence run N 33° 26' 06" W for 209.05 feet to a point of curvature; thence run northwesterly along an arc of said curve to the left, having a radius of 50.00 feet (delta 46° 45' 20") (chord bearing N 56° 48' 46" W) (chord 39.68 feet) for 40.80 feet to a point of tangency; thence run N 80° 11' 26" W for 152.50 feet to a point of curvature; thence run westerly along an arc of said curve to the right, having a radius of 375.00 feet (delta 15° 20' 39") (chord bearing N 72° 31' 07" W) (chord 100.13 feet) for 100.43 feet to a point of tangency; thence run N 64° 50' 47" W for 293.20 feet; thence run N 10° 36' 57" W for 93.21 feet to an intersection with a non-tangent curve; thence run northerly along an arc of said curve to the left, having a radius of 82.06 feet (delta 34° 41' 54") (chord bearing N 09° 49' 00" W) (chord 48.94 feet) for 49.70 feet to a point of reverse curvature; thence run northwesterly along an arc of said curve to the right, having a radius of 186.80 feet (delta 00° 45' 05") (chord bearing N 26° 47' 25" W) (chord 2.45 feet) for 2.45 feet; thence run N 10° 36' 57" W for 16.66 feet; thence run N 29° 41' 01" E for 163.13 feet to an intersection with a non-tangent curve; thence run southeasterly along an arc of said curve to the right, having a radius of 50.00 feet (delta 17° 40' 15") (chord bearing S 59° 39' 05" E) (chord 15.36 feet) for 15.42 feet to an intersection with a non-tangent curve; thence run northerly along an arc of said curve to the right, having a radius of 453.00 feet (delta 03° 00' 20") (chord bearing N 10° 35' 09" W) (chord 23.76 feet) for 23.76 feet; thence run N 29° 41' 01" E for 0.97 feet; thence run N 81° 00' 44" E for 127.40 feet to an intersection with a non-tangent curve; thence run northerly along an arc of said curve to the right, having a radius of 325.00 feet (delta 35° 03' 58") (chord bearing N 08° 32' 43" E) (chord 195.82 feet) for 198.91 feet; thence run N 62° 09' 30" W for 28.86 feet; thence run N 29° 41' 01" E for 10.01 feet; thence run N 68° 38' 44" W for 88.51 feet; thence run N 62° 09' 30" W for 12.14 feet; thence run S 30° 34' 08" W for 1.39 feet; thence run N 68° 38' 44" W for 32.92 feet; thence run N 52° 23' 15" W for 53.80 feet to a point of curvature; thence run northwesterly along an arc of said curve to the right, having a radius of 75.00 feet (delta 15° 59' 32") (chord bearing N 44° 23' 28" W) (chord 20.87 feet) for 20.93 feet; thence run N 36° 23' 42" W for 67.95 feet to a point of curvature; thence run northwesterly along an arc of said curve to the right, having a radius of 75.00 feet (delta 16° 23' 07") (chord bearing N 28° 12' 09" W) (chord 21.38 feet) for 21.45 feet; thence run N 20° 00' 36" W for 5.05 feet to a point of curvature; thence run northerly along

an arc of said curve to the right, having a radius of 75.00 feet (delta $23^{\circ} 36' 52''$) (chord bearing N $08^{\circ} 12' 10''$ W) (chord 30.69 feet) for 30.91 feet; thence run N $03^{\circ} 36' 16''$ E for 106.24 feet to a point of curvature; thence run northerly along an arc of said curve to the left, having a radius of 75.00 feet (delta $42^{\circ} 40' 27''$) (chord bearing N $17^{\circ} 43' 58''$ W) (chord 54.58 feet) for 55.86 feet; thence run N $39^{\circ} 04' 12''$ W for 70.36 feet; thence run N $29^{\circ} 34' 24''$ W for 7.13 feet to a point of curvature; thence run northerly along an arc of said curve to the right, having a radius of 145.00 feet (delta $66^{\circ} 17' 30''$) (chord bearing N $03^{\circ} 34' 21''$ E) (chord 158.56 feet) for 167.77 feet; thence run N $36^{\circ} 43' 06''$ E for 21.57 feet to an intersection with a non-tangent curve; thence run northerly along an arc of said curve to the left, having a radius of 223.22 feet (delta $35^{\circ} 04' 36''$) (chord bearing N $09^{\circ} 48' 21''$ W) (chord 134.53 feet) for 136.66 feet; thence run N $36^{\circ} 01' 16''$ W for 39.62 feet to a point of curvature; thence run northerly along an arc of said curve to the right, having a radius of 75.00 feet (delta $55^{\circ} 39' 36''$) (chord bearing N $08^{\circ} 11' 28''$ W) (chord 70.03 feet) for 72.86 feet; thence run N $19^{\circ} 38' 20''$ E for 11.85 feet to a point of curvature; thence run northerly along an arc of said curve to the left, having a radius of 5.00 feet (delta $61^{\circ} 14' 13''$) (chord bearing N $10^{\circ} 58' 47''$ W) (chord 5.09 feet) for 5.34 feet; thence run N $41^{\circ} 35' 53''$ W for 48.12 feet to a point of curvature; thence run northwesterly along an arc of said curve to the right, having a radius of 75.00 feet (delta $25^{\circ} 45' 59''$) (chord bearing N $28^{\circ} 42' 54''$ W) (chord 33.44 feet) for 33.73 feet; thence run N $15^{\circ} 49' 54''$ W for 25.91 feet; thence run N $17^{\circ} 58' 55''$ W for 88.96 feet; thence run N $10^{\circ} 46' 00''$ W for 31.95 feet; thence run N $28^{\circ} 31' 28''$ W for 13.92 feet; thence run N $39^{\circ} 07' 44''$ E for 29.04 feet to an intersection with a non-tangent curve; thence run northerly along an arc of said curve to the right, having a radius of 202.62 feet (delta $62^{\circ} 25' 39''$) (chord bearing N $19^{\circ} 39' 26''$ W) (chord 210.01 feet) for 220.77 feet; thence run N $78^{\circ} 54' 13''$ E for 116.78 feet; thence run S $79^{\circ} 59' 06''$ E for 37.36 feet; thence run N $00^{\circ} 57' 35''$ W for 248.06 feet to the Point of Beginning.

Containing 652.58 acres, more or less.

Bearings hereinabove mentioned are based on the west line of the Southwest Quarter (SW-1/4) of Section 29, Township 43 South, Range 26 East, Lee County, Florida, as bearing N $01^{\circ} 29' 31''$ W.

ANALYSIS OF
THE VERANDAH EAST
PETITION TO ESTABLISH A
UNIFORM COMMUNITY
DEVELOPMENT DISTRICT

Prepared for
BOARD OF COUNTY COMMISSIONERS

by
LEE COUNTY DIVISION OF PLANNING

August 9, 2005

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INTRODUCTION

Verandah Development, 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

Verandah Development, L.L.C., hereafter called "Petitioner", is a Florida limited liability company with its principal place of business located at 9990 Coconut Road, Suite 200, Bonita Springs, Florida, 34134 and whose manager is Resource Conservation Properties, Inc., with Katherine Green as the vice president.

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 six hundred and fifty two (652±) acres of land located in Lee County, Florida and lying within Sections 28, 29, 32, and 33, Township 43 South, Range 26 East. The property is located to the West of Buckingham Road and South of Palm Beach Boulevard (S.R.80) in the Fort Myers Shores Planning Community. 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 Exhibits 1 and 2 to the petition. The land area is bounded on the West by the Verandah West UCDD, on the North by Palm Beach Boulevard, on the East by Buckingham Road, and on the South by single family and vacant lands . 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.

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 Verandah East 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 24, 2005. 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 and any other documents and information that have been filed. 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 7, 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 be developable as one functional interrelated community on the site.

Concerning Factor #4: Planning staff has reviewed the three fundamental alternatives available for managing and financing those basic systems, facilities and services for the Verandah East 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 Lee County Utilities 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 Developer to construct and then turn over ownership to Lee County Utilities for operating and maintenance. Other services and facilities such as water management 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 Verandah East 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 East Community Development District.

RECOMMENDATION

Planning staff recommends that the Board of County Commissioners adopt and enact the Ordinance establishing the Verandah East 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:

Dennis Church
Vincent O. Barraco
Jim Carroll
Marsha Stachler
Timothy S. Becker

3. It establishes the name of the district which shall be: The Verandah East 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.

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT
DIVISION OF PLANNING

2005 AUG 15 AM 11:11
RECEIVED BY
LEE CO. ATTORNEY

DATE: August 12, 2005

TO: John Fredyma, Assistant County Attorney

FROM: 

Paul O'Connor, Director

RE: Verandah East UCDD

Planning staff has completed its review of the petition to establish the Verandah East Uniform Community Development District. Attached is the staff report being issued by the Lee County Division of Planning recommending approval of the establishment of the UCDD with the basic systems, facilities and services provided under Section 190.012(1), F.S.

Also attached is revised Exhibit 6 provided by the petitioner. The revised exhibit does not include recreation and parks as an item in the opinion of probable costs. A separate petition must be filed by the existing district after its establishment to obtain consent to exercise those powers listed in Chapter 190.012(2) Florida Statutes.

Planning staff is requesting that notice of any scheduled hearings or meetings concerning this petition be forwarded to us.

Exhibit 6

TABLE 2

Opinion of Probable Costs for the District Infrastructure

<u>ITEM</u>	<u>COST</u>	<u>ESTIMATED COMPLETION DATE</u>
<u>Infrastructure</u>		
Utilities	\$6,500,000	2009
Water Management	\$8,500,000	2007
Perimeter Landscaping	\$1,500,000	2007
Wetland Mitigation	\$600,000	2007
Off-Site Improvements	\$800,000	2006
Technical Fees	\$1,800,000	2009
Subtotal:	\$19,700,000	
<u>Land Acquisitions</u>		
Water Management	\$7,500,000	2009
Preserve	\$7,500,000	2005
Subtotal:	\$15,000,000	
<u>Grand Totals:</u>	<u>\$34,700,000</u>	