

Date Critical ✓

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20061260

1. ACTION REQUESTED/PURPOSE: Direct a non-emergency ordinance creating the Portofino Springs Community Development District to public hearing on November 14, 2006 at 9:30 a.m.

2. WHAT ACTION ACCOMPLISHES: Allows response to Prime Homes at Portofino Springs' petition by providing a forum to evaluate the appropriateness of the request. If adopted, the ordinance will create an independent Special District capable of financing and servicing the basic services within the District boundary.

3. MANAGEMENT RECOMMENDATION: Approve

4. Departmental Category: *C12C* **5. Meeting Date:** October 10, 2006 @ 9:30 a.m.

6. Agenda:		7. Requirement/Purpose: (specify)			8. Request Initiated:	
<input checked="" type="checkbox"/> Consent	<input type="checkbox"/>	<input checked="" type="checkbox"/> Statute	<input type="checkbox"/> Ch. 190 F.S.	Commissioner		
<input type="checkbox"/> Administrative	<input type="checkbox"/>	<input type="checkbox"/> Ordinance	<input type="checkbox"/>	Department		County Attorney's Office
<input type="checkbox"/> Appeals	<input type="checkbox"/>	<input type="checkbox"/> Admin. Code	<input type="checkbox"/>	Division		Land Use
<input type="checkbox"/> Public	<input type="checkbox"/>	<input type="checkbox"/> Other	<input type="checkbox"/>	By: <i>[Signature]</i>		
<input type="checkbox"/> Walk-On	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Robert D. Spickerman Assistant County Attorney		

9. Background: Prime Homes at Portofino Springs has petitioned the Lee County Board of County Commissioners to adopt an ordinance establishing a Uniform Community Development District (UCDD) 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

(Continued on second page)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>[Signature]</i>	Analyst	Risk	Grants	Mgr.	
				<i>[Signature]</i>	RK 9/27	9/27	RK 9/27	9/27	HS 9/27/06

11. Commission Action:
 Approved
 Deferred
 Denied
 Other

CO. ATTY. FORWARDED TO CHAIRMAN
9/27/06 9:30 am

RECEIVED BY COUNTY ADMIN: *[Signature]*
9-27-06 9:30 AM
COUNTY ADMIN FORWARDED TO: *[Signature]*
9/28/06
9 AM

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.

The proposed Portofino Springs CDD is located on approximately 16.98 acres of land located to the East of Bass Road, between Gladiolus Drive and Summerlin Road. The land area is bounded on the north by the Laguna Lakes Community Development District; on the south by Park Royal Drive and undeveloped property; on the east by multi-family homes; and on the west by Bass Road. The property is located in Section 33, Township 45 South, Range 24 East. The Portofino Springs 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; and other projects within and outside the district boundary for which a Development Order may be issued. Additional powers for recreation and security systems will be requested sometime in the future.

The creation of the Portofino Springs 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 Portofino Springs 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. Linda Socolow
 - b. Alessandra Stevens
 - c. John Nelson
 - d. Lorraine Vanella
 - e. Geovanna Fortier
3. Names the district: Portofino Springs Community Development District

PLEASE NOTE: F.S. §125.66 does not require a 5:00 p.m. public hearing to provide for adoption of this ordinance. However, if it is the Board's preference, this public hearing may be scheduled for consideration on the November 14, 2006, 5:00 p.m. public hearing agenda.

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

Attachment:

Proposed ordinance establishing the Portofino Springs Community Development District

ORDINANCE NO. ____

AN ORDINANCE ESTABLISHING PORTOFINO SPRINGS COMMUNITY DEVELOPMENT DISTRICT; PROVIDING A DISTRICT NAME; SETTING FORTH THE AUTHORITY FOR ADOPTING THE ORDINANCE; ESTABLISHING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESIGNATING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; ESTABLISHING THE GOVERNING DISTRICT CHARTER AS FLORIDA STATUTES CHAPTER 190; PROVIDING FOR NOTICE TO SUBSEQUENT PURCHASERS; PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Prime Homes at Portofino Springs, Ltd. has petitioned the Board of County Commissioners to establish PORTOFINO SPRINGS COMMUNITY DEVELOPMENT DISTRICT; and

WHEREAS, the 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 Section 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 must be in accordance with the general law as set forth in Sections 190.006 -190.041, Florida Statutes, 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 Section 190.012(2), Florida Statutes.

9. Upon the effective date of this Ordinance, the proposed Portofino Springs 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

The community development district herein established will be known as Portofino Springs Community Development District.

SECTION TWO: AUTHORITY FOR ORDINANCE

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

**SECTION THREE: ESTABLISHMENT OF
COMMUNITY DEVELOPMENT DISTRICT**

Portofino Springs Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference.

SECTION FOUR: DESIGNATION OF INITIAL BOARD MEMBERS

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

1. Linda Socolow
5555 Anglers Avenue #16B
Ft. Lauderdale, FL 33312
2. Alessandra Stevens
5555 Anglers Avenue #16B
Ft. Lauderdale, FL 33312
3. John Nelson
5555 Anglers Avenue #16B
Ft. Lauderdale, FL 33312
4. Lorraine Vanella
5555 Anglers Avenue #16B
Ft. Lauderdale, FL 33312
5. Geovanna Fortier
5555 Anglers Avenue #16B
Ft. Lauderdale, FL 33312

SECTION FIVE: STATUTORY PROVISIONS GOVERNING DISTRICT

Portofino Springs Community Development District will be governed by the provisions of Chapter 190, Florida Statutes.

SECTION SIX: NOTICE TO SUBSEQUENT PURCHASERS

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

SECTION SEVEN CONFLICT OF 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 EIGHT: EFFECTIVE DATE

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

Commissioner _____ made a motion to adopt the foregoing ordinance, seconded by Commissioner _____. The vote was as follows:

ROBERT P. JANES _____

DOUGLAS ST. CERNY _____

RAY JUDAH _____

TAMMARA HALL _____

JOHN E. ALBION _____

DULY PASSED AND ADOPTED THIS _____ day of _____, 20__.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

EXHIBIT A
LEGAL DESCRIPTION
Property located in Lee County, Florida



INSTR # 6947314
OR BK 04849 Pgs 1681 - 1685; (15 pgs)
RECORDED 08/16/2005 03:24:10 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 129.00
DEED DOC 42,778.00
DEPUTY CLERK P Haywood

This Instrument Prepared By:
Jay A. Brett
SHEPPARD, BRETT, STEWART, HERSCH & KINSEY, P.A.
Attorneys at Law
9100 College Pointe Court
Fort Myers, Florida 33919

THIS WARRANTY DEED, made this 16 day of August, 2005,
between LEE HEALTH VENTURES, INC., a Florida Corporation, d/b/a HEALTHPARK
FLORIDA, whose mailing address is: 9800 South HealthPark Drive, Suite 350, Fort Myers,
Florida 33908, as Grantor, and PRIME HOMES AT PORTOFINO SPRINGS, LTD., a Florida
Limited Partnership, whose mailing address is: 21218 Saint Andrews Blvd., Suite 510, Boca
Raton, Florida 33433, as Grantee,

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WITNESSETH, that the Grantor, for and in consideration of the sum of TEN DOLLARS
AND OTHER GOOD & VALUABLE CONSIDERATION-----to it in hand paid by the Grantee,
the receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, its
heirs and assigns forever, the following described land, situate, lying and being in the County of
Lee, State of Florida, to-wit:

Lot 2, HEALTHPARK FLORIDA EAST SUBDIVISION, as recorded in Plat Book 68,
pages 17 through 22, of the Public Records of Lee County, Florida, LESS AND
EXCEPT the following parcel as described in Official Records Book 4076, page 4739:
(Official Records Book 4076, page 4739, Less Parcel)

A tract or parcel of land lying in Section 33, Township 45 South, Range 24 East, being a
part of Lot 2 as shown on the Plat of HEALTHPARK FLORIDA EAST, as recorded in
Plat Book 68, pages 17 through 22, Public Records of Lee County, Florida, which tract
or parcel is described as follows:

From the Northwest corner of said Lot 2, run S 01°02'25"E along west line of said Lot 2,
also being the east right of way line of Bass Road (150 foot wide) for 339.83 feet to the
point of beginning. From said point of beginning, run N 88°53'34"E departing said west
lot line and parallel with the north right of way line of Park Royal Drive as shown on
said Plat for 295.00 feet to an intersection with a line that bears N 01°02'25"W and is the
northerly prolongation of a jog in the northerly right of way line of said Park Royal
Drive; thence run S 01°02'25"E along said prolongation for 299.52 feet to the
northeasterly most corner of said jog of said right of way line; thence run the following
three courses and distances along said northerly right of way line: Run northwesterly
along the curved northerly right of way line of said Park Royal Drive to the left of radius
725.00 feet (Delta 05°55'19") (Chord Bearing N 88°08'47"W) (Chord 74.90 feet) for
74.93 feet to a point of tangency; thence run S 88°53'54"W for 190.16 feet to a point of
curvature; thence run northwesterly along the arc of a curve to the right of radius of
30.00 feet (Delta 90°04'01"). (Chord bearing N 46°04'25"W) (Chord 42.45 feet) for
47.16 feet to an intersection with the easterly right of way line of Bass Road and a point
of tangency; thence run N 01°02'25"W along said east right of way line also being the
west line of said Lot 2 for 265.62 feet to the point of beginning.

SUBJECT to Memorandum of Right of First Refusal, Memorandum of Limitation on Use, and Memorandum of Option, each of which are attached hereto as Exhibits "A", "B", and "C", respectively.

SUBJECT to taxes for the calendar year 2005.

Property Appraiser's Parcel Identification Number: 33-45-24-13-0000.0020

And the Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

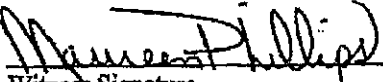
Signed, Sealed and Delivered
in Our Presence:

LEE HEALTH VENTURES, INC.,
a Florida Corporation, d/b/a
HEALTHPARK FLORIDA

By 
Douglas A. Dodson, President


Witness Signature

Jay A Brett
Printed Name of Witness

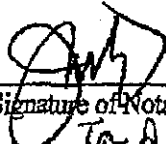

Witness Signature

Maureen Phillips
Printed Name of Witness

STATE OF FLORIDA

COUNTY OF LEE

Execution of the foregoing instrument was acknowledged before me this 12 day of August, 2005, by DOUGLAS A. DODSON, President of LEE HEALTH VENTURES, INC., a Florida Corporation, d/b/a HEALTHPARK FLORIDA, who is (✓) personally known to me or who has () produced _____ as identification.



Signature of Notary Public
Jay A Brett

Printed Name of Notary Public

Commission Notary Public
Commission Expires _____

JAY A. BRETT
MY COMMISSION # DD 054968
EXPIRES: September 4, 2005
Bonded Two Notary Public Underwriters