

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

*K/6 6-0 M. abs.
To Adopt.*

2003-053

Meeting Date: 10/21/03 Consent Regular
 Workshop Public Hearing

Department: Planning, Zoning and Building

Submitted By: Planning

Submitted For:

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends a motion **TO NOT ADOPT:** AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" TO THIS ORDINANCE COMPRISING OF APPROXIMATELY 52.34 ACRES; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT AS CYPRESS LAKES COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

Summary: The BCC has been petitioned to grant the establishment of the Cypress Lakes Community Development District (CDD) to finance and construct community services for a residential development to be located on the west side of State Road 7 between Lake Worth and Lantana roads. The proposed services include water distribution and wastewater systems, surface water management, and other minor facilities. After a thorough review, the Planning Division has found the petition for the proposed CDD to be insufficient and inconsistent with recent policy direction by the BCC. Staff is thus recommending denying the petition. (BB, District 3)

Background and Policy Issues: Chapter 190, Florida Statutes, states that the creation of a Community Development District (of less than 1,000 acres) shall be accomplished through the enactment of a BCC ordinance after a public hearing. The statutes require the County to make a determination to grant or deny the petition based on several factors including comprehensive plan consistency as spelled out in Sec. 190.005.E.1-6, F.S.

At a BCC Workshop held on September 24, 2002, the Board expressed strong concerns regarding the proliferation of special districts in the County and the overburden to County taxpayers, particularly to low and moderate income residents, resulting from the additional taxes or assessments imposed by CDDs and other special districts. At the end of the workshop, the Board provided direction to staff to limit the approval of CDDs to non-residential projects and to projects that promote mixed used developments that work as functional, interrelated communities, as required in the statutes. The Board also directed staff to include additional and detailed disclosure requirements in the adopting ordinance of CDDs allowed by the Board, and to monitor the implementation of the disclosures and any other conditions stipulated in the adopting ordinance through the Monitoring Section of the Planning, Zoning and Building Department. For a detailed analysis of the petition see the attached staff report.

- Attachments:**
- 1. Staff Report
 - 2. Proposed Ordinance

Recommended by: *Richard Allen* *9/24/03*
 Executive Director Date

Approved By: *W. Baker* *10/16/03*

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	20 <u>04</u>	20 <u>05</u>	20 <u>06</u>	20 <u>07</u>	20 <u>08</u>
Capital Expenditures	___	___	___	___	___
Operating Costs	___	___	___	___	___
External Revenues	___	___	___	___	___
Program Income (County)	___	___	___	___	___
In-Kind Match (County)	___	___	___	___	___
NET FISCAL IMPACT	==	==	==	==	==
# ADDITIONAL FTE POSITIONS (Cumulative)	___	___	___	___	___

Is Item Included In Current Budget? Yes ___ No X
 Budget Account No.: Fund ___ Agency ___ Org. ___ Object ___
 Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact associated with this item

C. Departmental Fiscal Review:



III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

H. Bergeron 30 Sept 03
 OFMB
 11/13/03
 2/25/03
 9/24/03

Ann. J. Jacobson 10/31/03
 Contract Dev. and Control
 6/20/03 10/3/03

B. Legal Sufficiency:

[Signature] 10/8/03
 Assistant County Attorney

C. Other Department Review:

 Department Director

ORDINANCE 2003- 053

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2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA
5 ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT
6 OVER THE REAL PROPERTY LEGALLY DESCRIBED ON
7 EXHIBIT "A" TO THIS ORDINANCE COMPRISING OF
8 APPROXIMATELY 52.34 ACRES; NAMING THE INITIAL
9 MEMBERS OF THE BOARD OF SUPERVISORS OF THE
10 DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT AS
11 CYPRESS LAKES COMMUNITY DEVELOPMENT DISTRICT;
12 DESIGNATING THE PURPOSE OF THE DISTRICT;
13 DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING
14 FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN
15 CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

16 WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes to
17 provide an alternative method to finance and manage basic services for community
18 development; and

19 WHEREAS, Westbrooke Homes, a Florida general partnership ("Petitioner"), has
20 petitioned Palm Beach County, Florida (the "County"), to grant the establishment of the Cypress
21 Lakes Community Development District (the "District"); and

22 WHEREAS, a public hearing has been conducted by the Board of County Commissioners
23 of Palm Beach County, Florida (the "Board"), in accordance with the requirements and
24 procedures of Section 190.005(1)(d), Florida Statutes; and

25 WHEREAS, all statements contained within the petition have been found to be true and
26 correct; and

27 WHEREAS, the creation of the District is not inconsistent with any applicable element or
28 portion of the effective Palm Beach County Comprehensive Land Use Plan, as amended; and

29 WHEREAS, the area of land within the District is of sufficient size, is sufficiently compact
30 and is sufficiently contiguous to be developable as one functional interrelated community; and

31 WHEREAS, the creation of the District is the best alternative available for delivering the
32 community development services and facilities to the area that will be served by the District; and

33 WHEREAS, the District will constitute a timely, efficient, effective, responsive and
34 economic way to deliver community development services in the area; and

35 WHEREAS, the proposed services and facilities to be provided by the District will be
36 compatible with the capacity and uses of existing local and regional community development
37 services and facilities; and

38 WHEREAS, the area that will be served by the District is amenable to separate special
39 district government; and

40 WHEREAS, the District desires to levy special assessments on purchasers of benefited
41 land within the District to pay for infrastructure constructed and/or acquired by the District; and

1 special powers provided for in Section 190.012(1), Florida Statutes, Section 190.012(2)(a),
2 Florida Statutes, and Section 190.012(2)(b), Florida Statutes, but only with respect to water
3 mains and fire plugs.

4 **Section 7.** Notwithstanding Section 6 as set forth hereinabove, Petitioner, as the
5 contract purchaser or the District, shall enter into a Standard Potable Water and Wastewater
6 Development Agreement with the County for the provision of water and wastewater facilities.
7 Petitioner shall pay all fees and charges as set forth in said Agreement and shall abide by all
8 terms and conditions therein including, but not limited to, constructing or acquiring the water and
9 wastewater facilities in accordance with the Water Utilities Department's Uniform Policies and
10 Procedures; providing the County with appropriate easements for said facilities; and providing
11 the County with a deed to said water and wastewater facilities at no cost to County. Palm
12 Beach County's Water Utilities Department shall operate and maintain said water and
13 wastewater facilities and provide water and wastewater service upon receipt of all fees and
14 charges, upon completion of construction and upon receipt of said deed.

15 **Section 8.** Pursuant to Section 190.004(4), Florida Statutes, the charter for the District
16 shall be Sections 190.006 through 190.041, Florida Statutes, including the special powers
17 provided by Section 190.012(1), Florida Statutes, Section 190.012(2)(a), Florida Statutes, and
18 Section 190.012(2)(b), Florida Statutes, but only with respect to water mains and fire plugs. The
19 exercise by the District of any other special powers set forth in Section 190.012(2) shall require
20 consent by the Board of County Commissioners. Such consent shall only be provided by
21 resolution or ordinance after specific petition to the Board.

22 **Section 9.** The District is solely responsible for the implementation of special
23 assessments upon benefited property within the District's internal boundaries. The Petitioner, its
24 successors and assigns and shall provide notice of said special assessments to all prospective
25 purchasers of said property. Special assessments payable by homeowners in the District will
26 not be used to pay for the financing or cost of improvements located outside the boundaries of
27 the District.

28 **Section 10.** The Petitioner, its successors and assigns shall provide full disclosure of
29 the public financing and maintenance of improvements undertaken by the District. This
30 disclosure shall include a statement in bold print that special assessments imposed by the
31 District will appear in the tax bill. This disclosure shall meet the requirements of Section
32 190.048, F.S., as amended from time to time, and shall be included in every contract for sale.
33 Every recorded deed from the Petitioner and any deed resulting from the subsequent
34 conveyance of the subject property shall include the disclosure and acknowledgment of the

1 special assessments by the grantee. The District shall record a notice of assessments in the
2 Public Records after any bond sale setting forth the maximum annual special assessment to be
3 paid in connection with such bonds.

4 **Section 11.** The Petitioner, its successors and assigns shall disclose the fact that the
5 development is located in a special taxing district and that a special assessment will be
6 assessed on the tax roll against all property owners within the District. This information shall be
7 in **BOLD** type in any sales brochures, in any sales information, on the front page of the
8 Declaration of Restrictive Covenants creating the Property Owner Association or Homeowner
9 Association, and on a 24" by 36" sign which shall be posted at all times at the entrance to the
10 sales office of the development providing the following disclosure:

11 "If you purchase a unit in this development you will be subject to additional costs. A
12 special assessment and or taxes will be added to your tax bill. This non-advalem tax
13 assessment will be in addition to all other property taxes and assessments. This cost is
14 estimated at \$100 per month or \$1,200 per year and will be levied to pay debt service on the
15 bonds issued by the District."

16 **Section 12.** The Petitioner, its successors and assigns shall provide all the disclosure
17 statements required in Sections 10 and 11 above in a separate page as part of the contract for
18 purchase and sale of property within the District. The potential purchaser must sign this page.

19 **Section 13.** An affidavit of compliance shall be submitted annually to Palm Beach
20 County Monitoring Section beginning on November 1, 2003 until all units have been sold,
21 outlining the number of units sold, providing samples of the documents used in the closing
22 process and certifying compliance with the disclosure requirements contained in this ordinance.
23 The County shall have the right to audit the records of the Petitioner, its successors and assigns
24 upon 10 days written notice to verify the compliance with the disclosure requirements of this
25 ordinance. Failure to comply with the disclosure requirements in this ordinance shall be a
26 violation of a county ordinance and shall be punishable as provided by law, including but not
27 limited to enforcement procedures established in Article 14 of the Unified Land Development
28 Code.

29 **Section 14.** If any section, paragraph, sentence, clause, phrase or word of this
30 Ordinance is for any reason held by any court of competent jurisdiction to be unconstitutional,
31 inoperative or void, such holding shall not affect the remainder of this Ordinance.

32 **Section 15.** All local laws and ordinances applying to Palm Beach County in conflict
33 with any provision of this Ordinance are hereby repealed to the extent of the conflict.

34

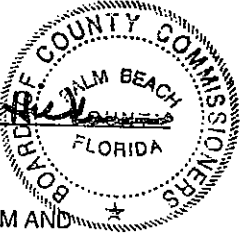
1 **Section 16.** This ordinance shall take effect upon filing with the Department of State.

2 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
3 County, Florida, on this 21st day of October, 2003.

4 ATTEST:

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By: *Diane C. [Signature]*
Deputy Clerk



PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS
[Signature]
Karen T. Marcus, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: *[Signature]*
County Attorney

EFFECTIVE DATE: Filed with the Department of State, State of Florida, on the 18 day of
November _____, 2003 at _____ m.

4B

PALM BEACH NEWSPAPERS, INC.
The Palm Beach Post
2751 S. Dixie Hwy., West Palm Beach, FL 33405
Phone: (561) 820-3106 Fax: (561) 820-4340

Legal Advertising Invoice

Account # 721381
Ad # 595781
Description: Cypress Lakes
Size: 2 x 10 = 20 "
Amount: \$2,608.80
Published: Sept. 26, Oct. 3, 10, & 17, 2003

Advertising Deadlines

<u>Publish</u>	<u>Deadline</u>
Monday	Friday 3PM
Tuesday	Friday 3PM
Wednesday	Monday 3PM
Thursday	Monday 3PM
Friday	Wednesday 3PM
Saturday	Thursday 3PM
Sunday	Thursday 3PM

Greenberg Traurig, P.A.
Stephen Sanford
777 S. Flagler Drive, #300 East
West Palm Beach, FL 33401

NO. 595/81

NOTICE OF PUBLIC HEARING CONCERNING THE ESTABLISHMENT OF THE CYPRESS LAKES COMMUNITY DEVELOPMENT DISTRICT IN PALM BEACH COUNTY, FLORIDA, BY THE BOARD OF COUNTY COMMISSIONERS.

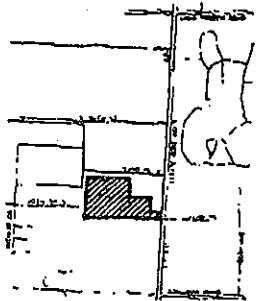
Notice is hereby given that on October 21, 2003, at 9:30 A.M., or soon thereafter, the Palm Beach County Board of County Commissioners (the "Commission"), will consider an ordinance entitled:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" TO THIS ORDINANCE COMPRISING APPROXIMATELY 52.34 ACRES, NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT, ESTABLISHING THE NAME OF THE DISTRICT AS THE CYPRESS LAKES COMMUNITY DEVELOPMENT DISTRICT, DESIGNATING THE PURPOSE OF THE DISTRICT, DESIGNATING THE POWERS OF THE DISTRICT, PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS, PROVIDING FOR AN EFFECTIVE DATE

at a public hearing to be held at:

Palm Beach County Governmental Center
Jane Thompson Memorial Chambers - 6th Floor
301 North Olive Avenue
West Palm Beach, Florida 33401

to inform the public about the elements of the petition to form a community development district in Palm Beach County. The information presented at this hearing will be used by the Commission in granting or denying the petition (as set forth in Section 190.005(2), Florida Statutes ("FS")) and also to afford the petitioner, affected units of local government, and the general public a fair and adequate opportunity to appear at the hearing and present oral and written comments (submitted to the Commission at or before the public hearing) relevant to the creation of the Cypress Lakes Community Development District (the "CDD"). The proposed CDD is located on approximately 52.34 acres of land within the unincorporated area of Palm Beach County, Florida, generally west of U.S. Highway 44, north of the Lake Worth Drainage District 13th Canal, south of 52nd Place South, and east of the Lake Worth Drainage District S7 Canal as shown on the map below.



If adopted, the ordinance would create a community development district and designate the land area served. The creation of such a district pursuant to Chapter 190, FS, is not a land development authorization or approval. All planning, permitting and other regulatory requirements pertaining to development within the land area shall be adhered to pursuant to general or special law or applicable local ordinance.

The CDD is designed to serve the needs of its home-owners by financing, constructing, operating and maintaining a portion of the infrastructure and community facilities needed by district residents, including the surface water management and control systems, including but not limited to required earth work and landscaping; water distribution and wastewater collection and transmission facilities, and related incidental costs. The estimated cost to provide the CDD infrastructure described above is approximately \$1,610,000. The CDD will make use of non-ad valorem assessments levied on all property owners in the district for bond retirement, maintenance, etc. These CDD assessments will be over and above County taxes. The County does not levy the non-ad valorem assessments described above. The full text of the "STATEMENT OF ESTIMATED REGULATORY COSTS FOR THE PROPOSED CYPRESS LAKES COMMUNITY DEVELOPMENT DISTRICT" can be reviewed, copied or procured at the office of the County Planning Director as noted below.

The specific legal authority for this action is Sections 190.004 and 190.005, FS. For further information, contact the office of Isaac Moyas, Palm Beach County Planning Director, 100 Australian Avenue, West Palm Beach, 5th floor, FL 33406 or 561-233-5300. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at this hearing and present oral or written comments on the petition.

Should any person decide to appeal any decision made by the Commission, he or she will need a record of the proceedings and may need to ensure that a verbatim record of the proceedings is made, which record must include testimony and evidence upon which the appeals may be based.

In accordance with the Americans with Disabilities Act, persons with disabilities needing special assistance accommodations to participate in the proceeding should contact Mr. Isaac Moyas, no later than five (5) days prior to the hearing at telephone number (561) 233-5300 for assistance, if hearing impaired, telephone the Florida Relay Service Numbers at (800) 955-8771 (TDD) or (800) 955-8700 (VOICE) for assistance.

By: Westbrook Homes

PUBLISH: Sept. 26, Oct. 3, 10 & 17, 2003

THE PALM BEACH POST
Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Tracey Diglio, who on oath says that she is Telephone Sales Supervisor of The Palm Beach Post, a daily and Sunday newspaper published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising, being Notice in the matter of Cypress Lakes was published in said newspaper in the issues of September 26, October 3, 10 & 17, 2003. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/her has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper

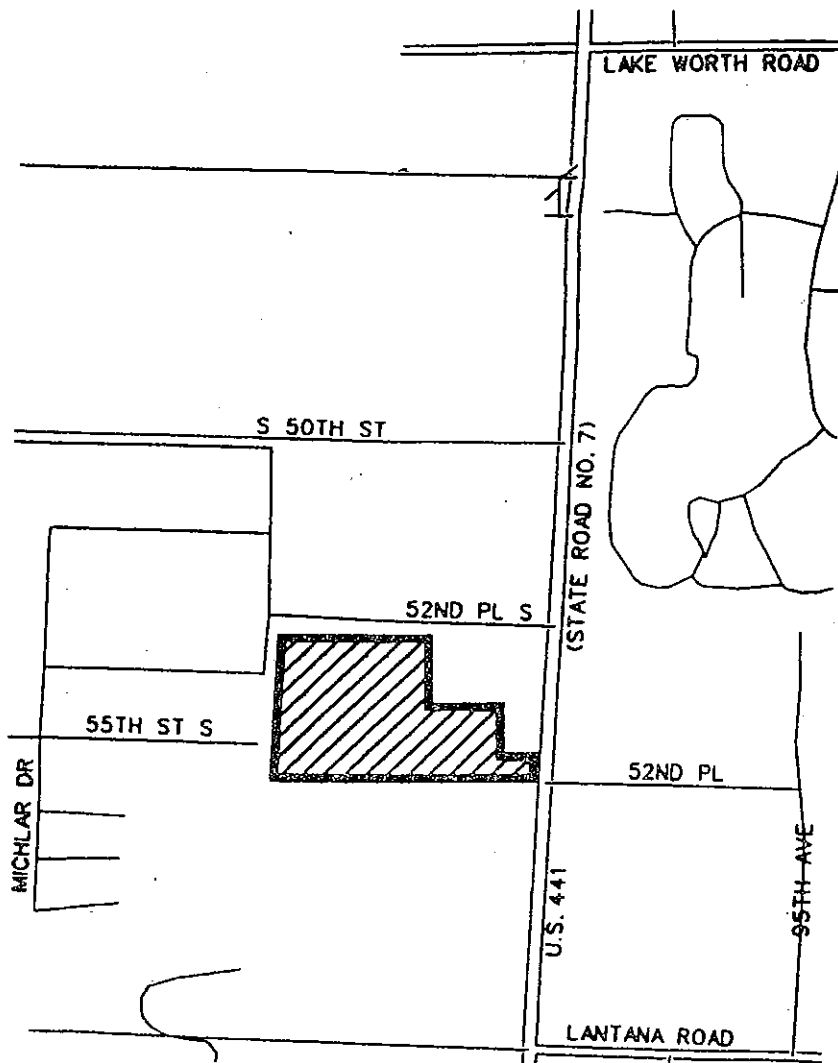
Tracey Diglio

Sworn to and subscribed before this 17th day of October, A.D. 2003

[Signature]

Personally known or Produced Identification _____
Type of Identification Produced _____

Exhibit A



LOCATION MAP

NOT TO SCALE

Exhibit B

LEGAL DESCRIPTION

KNOW ALL MEN BY THESE PRESENTS THAT ENGLE HOMES/PALM BEACH, INC., A FLORIDA CORPORATION, OWNERS OF THE LANDS SHOWN HEREON, BEING A REPLAT OF ALL OF TRACTS 11, 14, AND 15 AND A PORTION OF TRACTS 12, 13, AND 18, IN BLOCK 35, OF PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 45-54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND SHOWN HEREON AS "CYPRESS LAKES PRESERVE P.U.D.", AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA; THENCE NORTH $01^{\circ}27'15''$ EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 2574.02 FEET; THENCE SOUTH $89^{\circ}00'51''$ WEST, ALONG THE SOUTH LINE OF SAID TRACT 16 AND THE EASTERLY PROLONGATION THEREOF, A DISTANCE OF 222.21 FEET TO THE WEST RIGHT-OF-WAY LINE OF U.S. 441 (STATE ROAD NO. 7) AS RECORDED IN OFFICIAL RECORDS BOOK 10507, PAGE 1304, OF SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH $89^{\circ}00'51''$ WEST, ALONG THE SOUTH LINE OF SAID TRACTS 16, 15, 14, AND 13, A DISTANCE OF 2388.69 FEET; THENCE NORTH $02^{\circ}03'40''$ EAST, ALONG A LINE 80 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE EAST ONE-HALF OF SAID SECTION 36, A DISTANCE OF 1288.36 FEET; THENCE NORTH $89^{\circ}01'23''$ EAST, ALONG A LINE 25 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 12 AND 11, A DISTANCE OF 1342.75 FEET; THENCE SOUTH $01^{\circ}07'08''$ EAST, ALONG THE EAST LINE OF SAID TRACT 11, A DISTANCE OF 834.59 FEET; THENCE NORTH $89^{\circ}00'55''$ EAST, ALONG THE NORTH LINE OF SAID TRACT 15, A DISTANCE OF 680.51 FEET; THENCE SOUTH $01^{\circ}07'53''$ EAST, ALONG THE EAST LINE OF SAID TRACT 15, A DISTANCE OF 459.72 FEET; THENCE NORTH $89^{\circ}00'51''$ EAST, ALONG A LINE 200 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF TRACT 16, A DISTANCE OF 302.48 FEET; THENCE SOUTH $01^{\circ}28'08''$ WEST, ALONG SAID WEST RIGHT-OF-WAY LINE OF U.S. 441, A DISTANCE OF 49.52 FEET; THENCE SOUTH $01^{\circ}28'24''$ WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 150.66 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, AND CONTAIN 52.342 ACRES, MORE OR LESS.

**FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM
CODRS CODING FORM**

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (904)-488-8427 or Suncom 278-8427.

COUNTY: (Palm Beach) COUNTY ORDINANCE # (2003-053)
(e.g., 83-001)

PRIMARY KEYFIELD DESCRIPTOR: (Planning)

SECONDARY KEYFIELD DESCRIPTOR: (Zoning Classification)

OTHER KEYFIELD DESCRIPTOR: (Cypress Lakes)

ORDINANCE DESCRIPTION: (Community Dev. Dist.)
(25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: (_____); AMENDMENT # 2: (_____)

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: (_____); REPEAL # 3: (_____);
 REPEAL # 2: (_____); REPEAL # 4: (_____);

(Others repeat list all that apply)

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: (_____)

KEYFIELD 1 CODE: (_____) KEYFIELD 2 CODE: (_____)

KEYFIELD 3 CODE: (_____)



COMMUNITY DEVELOPMENT DISTRICT PETITION CONSISTENCY REVIEW

Proposed Name:	Cypress Lakes Community Development District
Item Before the Board:	To hold a public hearing to grant or deny a petition to establish a Community Development District pursuant to Chapter 190, Florida Statutes
Meeting Date:	BCC Public Hearing, October 21, 2003
Project Manager:	Gustavo Goya, Planner I
MOTION: To <i>recommend denying</i> the proposed petition.	

I. REVIEW SUMMARY

A. BACKGROUND

Chapter 190, F.S., also known as the "Uniform Community Development District Act of 1980" (the Act), adopted procedures in the State Law for the use of independent districts as a reasonable alternative to the provision of urban services by a local government. The Act contains criteria for establishing, assigning powers, and providing limits to the operation and duration of independent districts in order to manage and finance basic community development services. The Act indicates that proposed Community Development Districts (CDDs) of less than 1,000 acres shall be created by County ordinance based upon a determination of applicable facts, as established in the Act.

At a BCC Workshop held on September 24, 2002, on CDDs, the Board expressed strong concerns regarding the proliferation of special districts in the County and the overburden to County taxpayers, particularly to low and moderate income residents, resulting from the additional taxes or assessments imposed by CDDs and other special districts. At the end of the workshop, the Board provided explicit direction to staff to limit the approval of CDDs to non-residential projects and to projects that promote mixed used developments that work as functional, interrelated communities, as required in the statutes. The Board also directed staff to include additional and detailed disclosure requirements in the adopting ordinance of CDDs allowed by the Board, and to monitor the implementation of the disclosures and any other conditions stipulated in the adopting ordinance through the Monitoring Section of the Planning, Zoning and Building Department.

B. THE PROPOSED COMMUNITY DEVELOPMENT DISTRICT

1. Petition Purpose and Summary

The purpose of the petition by Westbrooke Homes to establish the Cypress Lakes Community Development District is to finance (i) surface water management and control systems, including required earthwork, (ii) water distribution, wastewater facilities and transmission facilities, (iii) other permitted public improvements and community facilities authorized by the Act, and (iv) related incidental costs for the proposed residential development.

The CDD petition is being processed concurrent with an application to establish a residential planned unit development on 52.34 acres located in the west side of State Road 7 between Lake Worth and Lantana roads.

The complete text of the petition by Westbrooke Homes to establish the Cypress Lakes Community Development District can be viewed at the Planning Division or at the County Administration.

C. REVIEW OF THE FACTORS TO MAKE A DETERMINATION TO GRANT OR DENY THE PETITION AS SET FORTH IN CH. 190.005(1)(e)

Chapter 190.005(1)(e) lists six (6) factors that the County Commission shall consider in addition to the record of the public hearing in making a determination to grant or deny a petition for the establishment of a community development district. The following is a review of those factors and the findings made by staff on each factor:

- a. **Whether all statements contained within the petition have been found to be true and correct.**

The statements contained in the petition appear to be true and correct.

- b. **Whether the establishment of the district is inconsistent with any applicable element or portion of the state comprehensive plan or of the effective local government comprehensive plan.**

The establishment of the district is not inconsistent with the effective Comprehensive Plan of Palm Beach County. However, the Board of County Commissioners (BCC) has expressed strong concern regarding the proliferation of special districts in the County and their potential burden on County taxpayers, contrary to State policy in the Act which indicates "that the needless and indiscriminate proliferation, duplication, and fragmentation of local, general-purpose government services by independent districts is not in the public interest." To address these concerns the Board directed staff to limit the approval of CDD petitions to non-residential developments at a Workshop held on September 24, 2002.

- c. **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.**

A residential development might be functional, and depending on the design and interrelations with working, educational and recreational areas located in close proximity, it could be also an interrelated development. On the other hand, a functional and interrelated community is a compact and contiguous mixed-use development, where people can live, work, educate and recreate within the framework of the development. An example of mixed-use development, which is a functional interrelated community in a compact, contiguous setting, is the City Place, in West Palm Beach. The proposed residential development is an enclosed planned unit development that is not functionally interrelated to the surrounding community and is designed to maximize the number of units within the development to be built in several phases.

- d. **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.**

As indicated above in item b of this subsection, the Board is concerned with the proliferation of special districts and the overburden to the taxpayers. There are currently 65 special districts within the County boundaries, of which 12 are CDDs with 6 located in unincorporated County. The County and several municipalities have approved the majority of CDDs within the last four years. According to officials from the Department of Community Affairs, this increase in the use of CDDs is a statewide trend, but many of them are located in isolated areas of the state with no service providers, or in areas subject to revitalization projects, where CDDs are a better alternative. Most of the 75 districts in the County are also taxing districts, and several have overlapping boundaries, which result in the proliferation of taxing items in the tax bills for areas where jurisdictions overlap. Considering that the proliferation of special districts is contrary to State policy, the BCC directed staff to limit CDDs to non-residential ones. Under these circumstances the proposed district is not the best alternative for delivering community services to this residential development.

- e. **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.**

The infrastructure services and facilities for the proposed residential planned unit development are compatible with the capacity and uses of existing County infrastructure facilities.

- f. **Whether the area that will be served by the district is amenable to separate special-district government.**

Although the area might be amenable of separate special district government, the proliferation of special districts in the County is contrary to state policy and is of great concern. Additional residential CDDs could overburden taxpayers in the area, which is considered to have moderate to low-income residents.

D. ASSESSMENT AND CONCLUSIONS

Chapter 190, Florida Statutes, states that the creation of a Community Development District (of less than 1,000 acres) shall be accomplished through the enactment of an ordinance after a public hearing of the applicable governing body, in this case Palm Beach County. The Statutes require the County to make a determination to grant or deny the petition based on the factors analyzed on section C above, including consistency with the County's Comprehensive Plan, and considering the entire record of public hearing. The Planning Division, after reviewing the petition has found the petition to be insufficient, inconsistent with recent policy direction by the Board of County Commissioners limiting CDDs to non-residential ones, and contrary to State policy indicating that proliferation of special districts is not in the public interest, as demonstrated in section C above. Staff is thus recommending denying the petition.

E. ALTERNATIVE ACTIONS

The following courses of action are available to the Board:

1. Recommendation to *grant the creation of the CDD*;
2. Recommendation to *grant with modifications*; or
3. Recommendation of *denial*.

RECEIVED
DOROTHY H. WILKEN, CLERK
PALM BEACH COUNTY
OFFICE



NOV 21 PM 3:17
STATE OF FLORIDA
DEPARTMENT OF STATE

JEB BUSH
Governor

GLEND A. HOOD
Secretary of State

November 19, 2003

Honorable Dorothy H. Wilken
Clerk to Board of County Commissioners
Palm Beach County
Post Office Box 4036
West Palm Beach, Florida 33402-4036

Attention: John W. Dame, Chief Deputy Clerk

Dear Ms. Wilken:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated November 17, 2003 and certified copies of Palm Beach County Ordinance Nos. 2003-053 and 2003-054, which were filed in this office on November 18, 2003.

Please be advised that the Florida County Ordinance Data Retrieval System (CODRS) Coding Forms were not received for the above mentioned ordinances.

Sincerely,

Liz Cloud
Program Administrator

LC/mp

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be
true and correct copy of the original filed in my office
on November 24, 2003
DATED at West Palm Beach, FL on 12/3/03
DOROTHY H. WILKEN, Clerk
By: Glenda J. Harvey
BUREAU OF ADMINISTRATIVE CODES & DIVISION OF ELECTIONS
The Collins Building, Room L43 • 107 W. Gaines Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6282 • Facsimile: (850) 245-6282 • WWW: <http://www.dos.state.fl.us>
E-Mail: DivElections@mail.dos.state.fl.us

