

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

**DATE CRITICAL
Blue Sheet No. 20051274**

1. ACTION REQUESTED/PURPOSE: Direct an ordinance creating the Portico 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: Adopts an ordinance to establish the Portico Community Development District pursuant to the petitioned request of Taylor Woodrow Communities at Portico, L.L.C.

3. MANAGEMENT RECOMMENDATION:

4. Departmental Category: 04

C12B

5. Meeting Date:

09-20-2005

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 Appeals	Ordinance Admin. Code		Department Division
Public Walk-On	Other		County Atty's Office Land Use
			By: <i>John J. Fredyma</i> John J. Fredyma, Asst. Cty Atty

9. Background: Taylor Woodrow Communities at Portico, L.L.C., a Florida limited liability company, has petitioned the Lee County Board of County Commissioners to adopt an ordinance establishing a Uniform Community Development District in accordance with the Uniform Community Development District Act of Florida, Chapter 190, Florida Statutes ("Act"). Section 190.005(2) sets forth the "exclusive and uniform method for the establishment of a Community Development District of less than 1,000 acres in size." This establishment "shall be pursuant to an ordinance adopted by the County Commission having jurisdiction over the majority of the land in the area in which the district is to be located . . ."

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

(continued on second page)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services	County Manager/P.W. Director
					Analyst <i>RR 9/6</i>	Risk <i>9/16/05</i>
					Grants <i>RR 9/6</i>	Mgr. <i>9/18/05</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

9/6/05 2PM

RECEIVED BY COUNTY ADMIN:	<i>RR</i>
COUNTY ADMIN FORWARDED TO:	

Blue Sheet #20051274

Page No. 2

Subject: Portico Uniform Community Development District

The proposed Portico Community Development District is located on approximately 589 acres, more or less, of land located in Lee County. The land area is bounded on the West by Buckingham 320 Residential Planned Development (RPD), on the East by the Hawks Haven RPD, on the South by the Buckingham 320 RPD and Lehigh Acres, and on the North by vacant land and the Hawks Haven RPD. The property is located in Sections 33 and 34, Township 43 South, Range 26 East. Portico 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 Portico 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 Portico 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. Thomas R. Spence
 - b. Jeffrey M. Riopelle
 - c. Marc I. Spencer
 - d. Michelle M. Campbell
 - e. Ann S. Cohen
3. Names the district: Portico Community Development District

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

Attachments:

- 1. Proposed Ordinance establishing the Portico Community Development District**
- 2. Staff Report**

LEE COUNTY ORDINANCE NO. 05-_____

AN ORDINANCE ESTABLISHING THE PORTICO 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, Taylor Woodrow Communities at Portico, L.L.C., has petitioned the Lee County Board of County Commissioners to establish THE PORTICO 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 Portico 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 Portico 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 Portico 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. Thomas R. Spence 877 Executive Drive Center West
Suite 205
St. Petersburg, Florida 33702-2472

2. Jeffrey M. Riopelle 877 Executive Drive Center West
Suite 205
St. Petersburg, Florida 33702-2472

3. Marc I. Spencer 877 Executive Drive Center West
Suite 205
St. Petersburg, Florida 33702-2472

4. Michelle M. Campbell 877 Executive Drive Center West
Suite 205
St. Petersburg, Florida 33702-2472

5. Ann S. Cohen 877 Executive Drive Center West
Suite 205
St. Petersburg, Florida 33702-2472

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

Upon the effective date of this Ordinance, the proposed Portico 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 Portico 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 Portico 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 Portico 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 Portico 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 OCTOBER, 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

EXHIBIT A



SINCE 1946



PORTICO BOUNDARY

PARCEL LYING IN SECTIONS 33 AND 34, TOWNSHIP 43 SOUTH, RANGE 26 EAST LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN THE SECTIONS 33 AND 34, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, SAID TRACT OR PARCEL IS FURTHER DESCRIBED AS FOLLOWS:

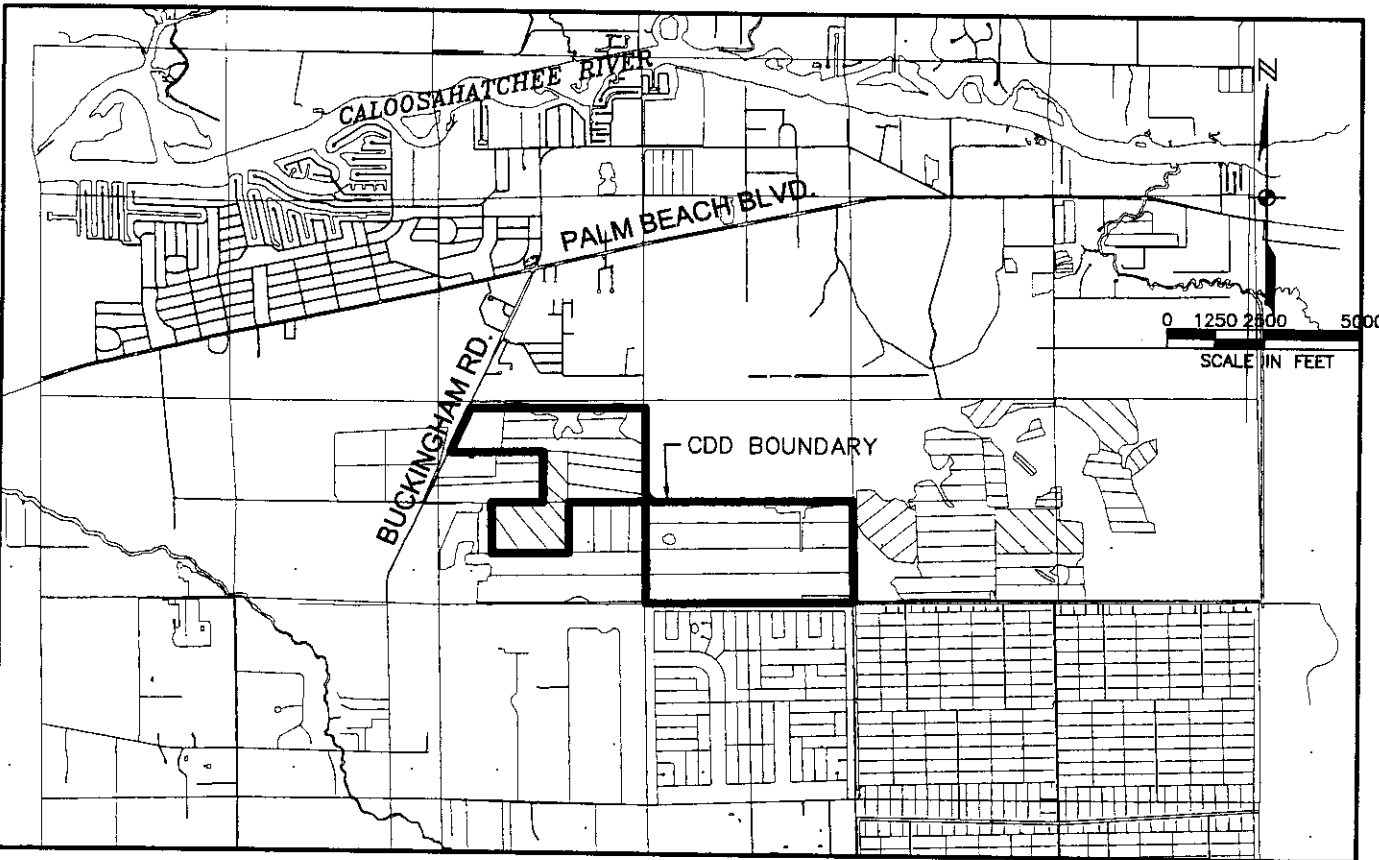
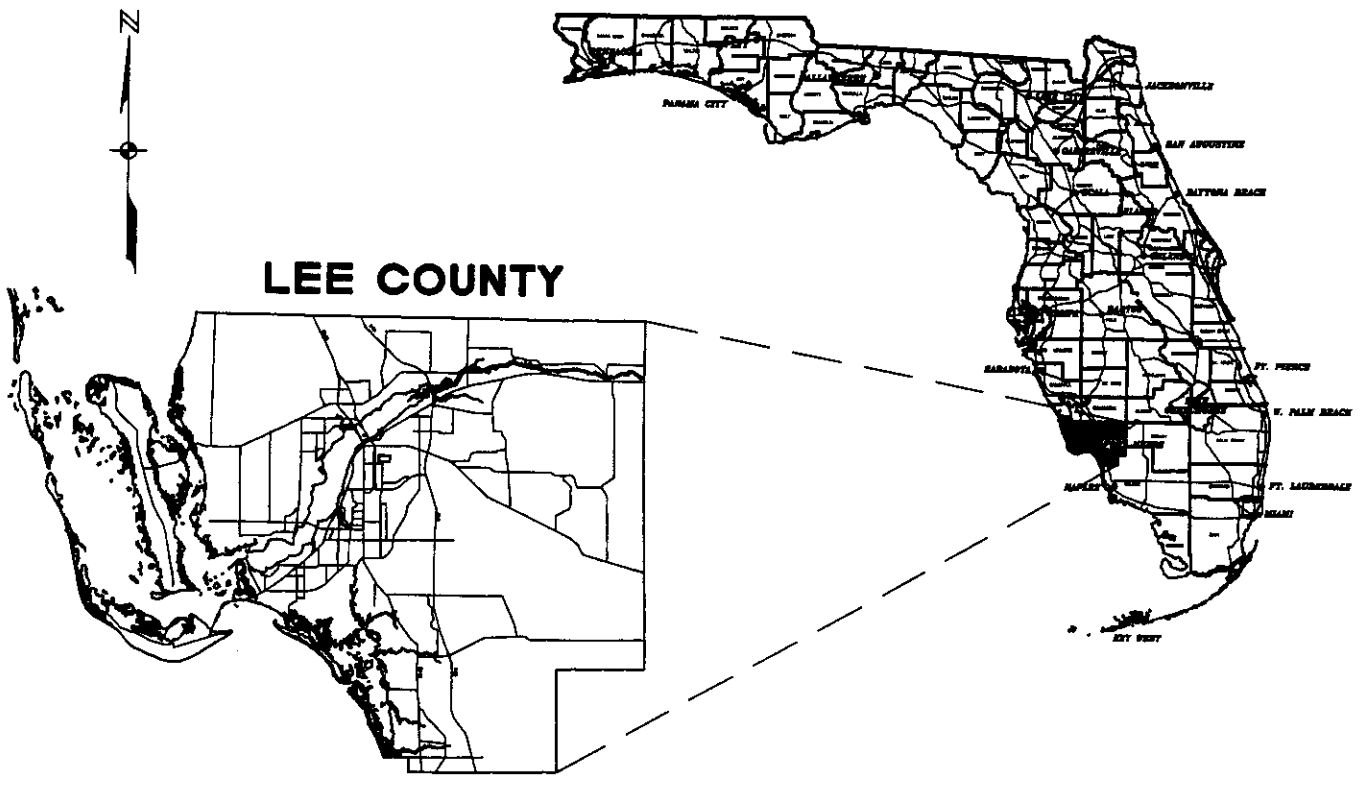
COMMENCING AT THE NORTHWEST CORNER OF SECTION 33 RUN NORTH 89°18'19" EAST ALONG THE NORTHERLY LINE OF SAID SECTION FOR A DISTANCE OF 924.94 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT OF WAY LINE OF BUCKINGHAM ROAD (STATE ROAD 80-S); THENCE SOUTH 24°23'10" WEST ALONG SAID RIGHT OF WAY LINE FOR A DISTANCE OF 203.15 FEET; THENCE SOUTH 89°10'16" WEST, FOR A DISTANCE OF 22.11 FEET TO THE POINT OF BEGINNING.

FROM SAID POINT OF BEGINNING RUN NORTH 89°10'16" EAST, FOR A DISTANCE OF 4,489.91 FEET; THENCE SOUTH 00°50'15" EAST, FOR A DISTANCE OF 2,250.05 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT CURVE; THENCE RUN SOUTHEASTERLY ALONG AN ARC OF A CURVE TO THE RIGHT OF RADIUS 240.00 FEET (DELTA 06°55'14") (CHORD BEARING SOUTH 48°34'00" EAST) (CHORD 28.97 FEET) FOR A DISTANCE OF 28.99 FEET; THENCE SOUTH 45°06'23" EAST, FOR A DISTANCE OF 156.71 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG AN ARC OF A CURVE TO THE RIGHT OF RADIUS 240.00 FEET (DELTA 21°30'24") (CHORD BEARING SOUTH 34°21'11" EAST) (CHORD 89.56 FEET) FOR A DISTANCE OF 90.09 FEET; THENCE NORTH 89°15'30" EAST, FOR A DISTANCE OF 5,100.79 FEET; THENCE SOUTH 00°59'28" EAST, FOR A DISTANCE OF 2,654.48 FEET; THENCE SOUTH 89°04'55" WEST, FOR A DISTANCE OF 5,290.35 FEET; THENCE NORTH 00°47'28" WEST, FOR A DISTANCE OF 2,670.74 FEET; THENCE SOUTH 88°59'10" WEST, FOR A DISTANCE OF 1,980.78 FEET; THENCE SOUTH 00°41'08" EAST, FOR A DISTANCE OF 1,333.22 FEET; THENCE SOUTH 89°02'54" WEST, FOR A DISTANCE OF 1,988.34 FEET; THENCE NORTH 00°56'52" WEST, FOR A DISTANCE OF 1,331.03 FEET; THENCE NORTH 88°59'10" EAST, FOR A DISTANCE OF 1,334.18 FEET; THENCE NORTH 00°39'01" WEST, FOR A DISTANCE OF 1,321.78 FEET; THENCE SOUTH 89°09'28" WEST, FOR A DISTANCE OF 2,391.80 FEET; THENCE NORTH 24°23'10" EAST, FOR A DISTANCE OF 1,263.86 FEET TO THE POINT OF BEGINNING.

CONTAINING 25,663,578 SQUARE FEET OR 589.15 ACRES, MORE OR LESS.

S:/044590/PORTICO-BOUNDARY-DESCRIPTION.DOC

N:\2004\4590\drawing\CDD-exhibit\4590-general location map.dwg (Cover) WEB May 17, 2005 - 11:37am



LATITUDE 26°41'46", LONGITUDE -81°43'02"

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

LOCATION MAP
EXHIBIT 1

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
MAY, 2005	20044590	33-43-26	As Shown	1

ANALYSIS OF
THE PORTICO
PETITION TO ESTABLISH A
UNIFORM COMMUNITY
DEVELOPMENT DISTRICT

Prepared for
BOARD OF COUNTY COMMISSIONERS

by
LEE COUNTY DIVISION OF PLANNING

August 19, 2005

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INTRODUCTION

Taylor Woodrow Communities at Portico, 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

Taylor Woodrow Communities at Portico, L.L.C., hereafter called "Petitioner", is a Florida limited liability company with its principal place of business located at 8430 Enterprise Circle, Suite 100, Bradenton, Florida, 34202-4108 and whose manager is Taylor Woodrow Homes Florida, Inc.

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 five hundred and eighty nine (589±) acres of land located in Lee County, Florida and lying within Sections 33 and 34, Township 43 South, Range 26 East. The property is located South of Palm Beach Boulevard (S.R. 80) and East of Buckingham Road 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 of the petition. The land area is bounded on the West by the Buckingham 320 RPD, on the North by vacant land and the Hawks Haven RPD, on the East by the Hawks Haven RPD, and on the South by the Buckingham 320 RPD and Lehigh Acres. 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 Portico 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 16, 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 8, 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 1.1.6 of the Lee Plan, the Outlying 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 Portico 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 District 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 Portico 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 Portico Community Development District.

RECOMMENDATION

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

Thomas R. Spence
Jeffrey M. Riopelle
Marc I. Spencer
Michelle M. Campbell
Ann S. Cohen

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