

# Memorandum



**Date:** November 15, 2005  
**To:** Honorable Chairperson Joe A. Martinez  
and Members, Board of County Commissioners

Agenda Item No. 5(B)

**From:**   
George M. Burgess  
County Manager

OFFICIAL FILE COPY  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
DADE COUNTY, FLORIDA

**Subject:** Ordinance Creating the  
Villa Portofino West  
Community Development District

105-204

## RECOMMENDATION

It is recommended that the Board adopt the attached Ordinance creating the Villa Portofino West Community Development District (CDD) in the City of Homestead, pursuant to the authority granted by the Miami-Dade County Home Rule Charter for the purposes set forth in Chapter 190 of the Florida Statutes, subject to acceptance of the declaration of restrictive covenants running with the lands within the jurisdiction of the CDD. The City of Homestead has approved the creation of the Villa Portofino West CDD by Resolution No. R-2005-07-97.

## BACKGROUND

Prime Homes at Villa Portofino West, Ltd. and Prime Homes at Villa Portofino West Commercial, Ltd., owners of the Villa Portofino West and Portofino Plaza developments, have filed an application to create the Villa Portofino West CDD in connection with said developments. Villa Portofino West and Portofino Plaza are proposed 22.2 acre residential and commercial developments lying wholly within the City of Homestead, in an area bounded by SW 312 Street (Campbell) on the north, Canal C-103 Right-of-Way on the south, Theoretical SW 159 Avenue on the west and SW 157 Place on the east. The CDD is designed to provide a financing mechanism for development infrastructure, facilities, and services, along with certain ongoing operations and maintenance for the Villa Portofino West and Portofino Plaza developments. The development plans for the lands within the proposed CDD include construction of 211 townhomes and 100,000 Sq. Ft. of commercial/retail building, with associated roadway, earthwork, storm drainage and water and sewer facilities estimated to cost approximately \$4.355 million. A detailed summary of CDD elements, as well as their cost and anticipated lack of fiscal impacts to government agencies, is presented in the attached application submitted by Prime Homes at Villa Portofino West, Ltd. and Prime Homes at Villa Portofino West Commercial, Ltd. In accordance with Florida Statute 190, the petitioners have paid a filing fee of \$15,000 to the County.

Honorable Chairperson Joe A. Martinez  
and Members, Board of County Commissioners  
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A declaration of restrictive covenants has been submitted consistent with the requirements of Resolution R-413-05 adopted by the Board on April 5, 2005. The restrictive covenant provides for notice in the public records of the projected taxes and assessments to be levied by the CDD, individual prior notice to the initial purchaser of a residential lot or unit within the development and provisions for remedial options to initial purchasers whose contract for sale did not include timely notice of the existence and extent of CDD liens and special assessments.

This Board is authorized by the Florida Constitution and the Miami-Dade County Home Rule Charter to establish governmental units such as the CDD within Miami-Dade County and to prescribe such government's jurisdiction and powers.

This development includes private roads that are to be maintained by Homeowner Associations or the CDD. With the City's approval, a special taxing district may be created to maintain this development's infrastructure such as private roadways, private area storm drainage, and landscape should the CDD be dissolved or fail to fulfill its maintenance obligations. The special taxing district will remain dormant until such time as the City of Homestead requests Miami-Dade County to activate it.

**FISCAL IMPACT**

The creation of the Villa Portofino West Community Development District will have no fiscal impact on Miami-Dade County.

 11/7/05  
\_\_\_\_\_  
Assistant County Manager

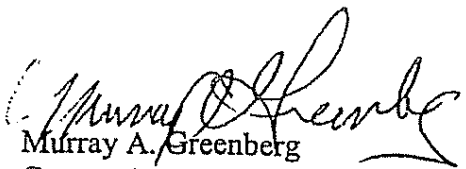


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** November 15, 2005

**FROM:**   
Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No. 5(B)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 5(B)  
11-15-05

ORDINANCE NO. 05-204

ORDINANCE GRANTING PETITION OF PRIME HOMES AT VILLA PORTOFINO WEST, LTD., AND PRIME HOMES AT VILLA PORTOFINO WEST COMMERCIAL, LTD., ("PRIME HOMES" OR "PETITIONER") FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING VILLA PORTOFINO WEST COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT"); PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; ACCEPTING PROFFERED DECLARATION OF RESTRICTIVE COVENANTS; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND AN EFFECTIVE DATE

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

**WHEREAS**, Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter grants the Miami-Dade County Board of County Commissioners the authority to exercise all powers and privileges granted to municipalities and counties by the laws of this State; and

**WHEREAS**, Article VIII, Section 6(1) of the Florida Constitution provides for exclusive County Charter authority to establish all governmental units within Miami-Dade County and to provide for their government and prescribe their jurisdiction and powers; and

**WHEREAS**, Prime Homes at Villa Portofino West, Ltd., and Prime Homes at Villa Portofino West Commercial Ltd., ("PRIME HOMES" or "Petitioner") has petitioned for the establishment of the Villa Portofino West Community Development District (the "District"); and

**WHEREAS**, a public hearing has been conducted by the Miami-Dade County Board of County Commissioners in accordance with the requirements and procedures of Section 190.005(2)(b), Florida Statutes, and the applicable requirements and procedures of the Miami-Dade County Home Rule Charter and Code; and

**WHEREAS**, the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development facilities and services in the area, thereby providing a solution to the County's planning, management and financing needs for delivery of capital infrastructure therein without overburdening the County and its taxpayers; and

**WHEREAS**, the Board of County Commissioners finds that the statements contained in the Petition are true and correct; and

**WHEREAS**, the creation of the District is not inconsistent with any applicable element or portion of the State comprehensive plan or the Miami-Dade County Comprehensive Development Master Plan; and

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

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

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

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

**WHEREAS**, the owner of the property that is to be developed and served by the community development facilities and services to be provided by the District has submitted an executed declaration of restrictive covenants pledging among other things to provide initial purchasers of individual residential units with notice of liens and assessments applicable to such units, with certain remedial rights vesting in the purchasers of such units if such notice is not provided in a timely and accurate manner; and

**WHEREAS**, having made the foregoing findings, after a public hearing, the Miami-Dade County Board of County Commissioners wishes to exercise the powers bestowed upon it by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter in the manner provided by Chapter 190, Florida Statutes; and

**WHEREAS**, because the proposed District is located wholly within the municipal boundaries of the City of Homestead, the City is in a position to be well informed regarding the merits of this District; and

**WHEREAS**, the City of Homestead has consented to the creation of the District within the municipal boundaries subject to certain conditions that the petitioner shall have to satisfy; and the Board of County Commissioners desires to establish the District; and

**WHEREAS**, based on the written consent of the City of Homestead, the Miami-Dade County Board of County Commissioners finds that the District shall have those general and special powers authorized by Sections 190.011 and 190.012, Florida Statutes, and set forth herein, and that it is in the public interest of all of the citizens of Miami-Dade County that the District have such powers.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. The Petition to establish the Villa Portofino West Community Development District over the real property described in Exhibit A attached hereto, which was filed by Prime Homes at Villa Portofino West, Ltd., and Prime Homes at Villa Portofino West Commercial Ltd., on August 5, 2005, and which Petition is on file at the Office of the Clerk of the Board, is hereby granted. A copy of the Petition is attached and incorporated herein as Exhibit B.

Section 3. The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated herein as Exhibit C.

Section 4. The initial members of the Board of Supervisors shall be as follows:

- Linda Socolow
- Lorraine Vanella
- Erika Tobar
- Gertrude Esson
- Nancy Villaman

Section 5. The name of the District shall be the "Villa Portofino West Community Development District."

Section 6. The Villa Portofino West Community Development District is created for the purposes set forth in Chapter 190, Florida Statutes, pursuant to the authority granted by Section 1.01(A)(21) of the Miami-Dade County Home Rule Charter.

Section 7. Pursuant to Section 190.005(2)(d), Florida Statutes, the charter for the Villa Portofino West Community Development District shall be Sections 190.006 through 190.041, Florida Statutes.

Section 8. The Miami-Dade County Board of County Commissioners hereby grants to the Villa Portofino West Community Development District all general powers authorized pursuant to Section 190.011, Florida Statutes, and hereby finds that it is in the public interest of all citizens of Miami-Dade County to grant such general powers.

Section 9. The Miami-Dade County Board of County Commissioners hereby grants to the Villa Portofino West Community Development District the special powers authorized pursuant to Section 190.012(1), Florida Statutes and Sections 190.012(2)(a)(d) and (f), (except for powers regarding waste disposal), Florida Statutes and Section 190.012(3), Florida Statutes, and hereby finds that it is in the public interest



of all citizens of Miami-Dade County to grant such special powers; provided that the District's exercise of power under Section 190.012(1)(b), Florida Statutes, pertaining to water, waste water and reuse water services shall be pursuant to that Declaration of Restrictive Covenants submitted to the Board of County Commissioners in connection with the petition.

Section 10. All bonds issued by the Villa Portofino West Community Development District pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 11. No bond, debt or other obligation of the Villa Portofino West Community Development District, nor any default thereon, shall constitute a debt or obligation of Miami-Dade County, except upon the express approval and agreement of the Miami-Dade Board of County Commissioners.

Section 12. Notwithstanding any power granted to the Villa Portofino West Community Development District pursuant to this Ordinance, neither the District nor any real or personal property or revenue in the district shall, solely by reason of the District's creation and existence, be exempted from any requirement for the payment of any and all rates, fees, charges, permitting fees, impact fees, connection fees, or similar County rates, fees or charges, special taxing districts special assessments which are required by law, ordinance or County rule or regulation to be imposed within or upon any local government within the County.

Section 13. Notwithstanding any power granted to the Villa Portofino West Community Development District pursuant to this Ordinance, the District may exercise

the power of eminent domain outside the District's existing boundaries only with the prior specific and express approval of the Board of County Commissioners of Miami-Dade County.

Section 14. This Board hereby accepts that Declaration of Restrictive Covenants as proffered by the owners of the lands within the jurisdiction of the Villa Portofino West Community Development District, in connection with the petition submitted by Prime Homes at Villa Portofino West, Ltd., and Prime Homes at Villa Portofino West Commercial Ltd., and approved herein.

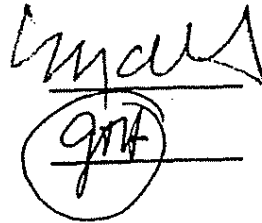
Section 15. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 16. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be excluded from the Code of Miami-Dade County.

Section 17. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: NOV 15 2005

Approved by County Attorney as to form and legal sufficiency:

The image shows two handwritten signatures. The top signature is in cursive and appears to be 'M. ...'. Below it is a signature 'GTH' enclosed in a circle, with a horizontal line drawn through the circle.

Prepared by:

Gerald Heffernan

Exhibit A

LEGAL DESCRIPTION

EXHIBIT A

VILLA PORTOFINO WEST COMMERCIAL  
LEGAL DESCRIPTION

PARCEL B

A portion of AMENDED PLAT OF SECTION 1 COCOAPALM VILLAGE, according to the plat thereof, as recorded in Plat Book 35 at Page 4 of the Public Records of Miami-Dade County, Florida, also being located in the NE ¼ of Section 17, Township 57 South, Range 39 East, Miami-Dade County, Florida, being more particularly described as follows;

Commence at the Northeast corner of the NE ¼ of said Section 17; thence run S02°24'21"E along the East line of the NE ¼ of said Section 17 for 110.00 feet to the Southerly right of way line of Campbell Drive (SW 312<sup>th</sup> Street); thence run N87°49'00"W along the said Southerly right of way line of Campbell Drive for 253.81 feet to a point of cusp of a public right of way dedicated to the City of Homestead, Florida, as recorded in Official Records Book 22419 at Page 1421 of the Public Records of Miami-Dade County, Florida also being the Point of Beginning; thence run Southeasterly along the arc of a circular curve to the right, having for its elements a radius of 25.00 feet and a central angle of 85°24'39" for 37.27 feet to a point of tangency; thence run S02°24'21"E for 42.32 feet to a point of curvature; thence run Southeasterly, Southerly and Southwesterly along the arc of a circular curve to the right, having for its elements a radius of 90.00 feet and a central angle of 42°01'01" FOR 66.08 feet to a point of tangency; thence run S39°39'40"W for 100.02 feet to a point of curvature; thence run Southwesterly, Southerly and Southeasterly along the arc of a circular curve to the left, having for its elements a radius of 170.00 feet and a central angle of 42°04'01" for 124.82 feet to a point of tangency; thence run S02°24'21"E for 284.63 feet (the last 6 courses being along the Westerly right of way line of said City of Homestead right of way); thence departing from said right of way line run S89°12'25"W for 169.98 feet; thence run S02°24'21"E for 107.34 feet; thence run S89°12'25"W for 117.83 feet to a point of intersection with circular curve, whose radius point bears N63°01'37"E from said point of intersection, said circular curve also being Easterly right of way line of South Florida Water Management Districts Canal C-103-1; thence run Northwesterly along the said Easterly right of way line of Canal C-103-1, being the arc of a circular curve to the right, having for its elements a radius of 340.00 feet and a central angle of 25°40'04" for a distance of 152.32 feet to a point of tangency; thence run N01°18'45"W along the said Easterly right of way line of Canal C-103-1 for 585.33 feet to a point of intersection with the said Southerly right of way line for Campbell Drive, thence run S87°49'00"E along the said Southerly right of way line of Campbell Drive for 104.13 feet; thence departing said Southerly right of way line of Campbell Drive run S02° for 5.81 feet to a point of curvature; thence run Southeasterly, Southerly and Southwesterly along the arc of a circular curve to the right, having for its elements a radius of 54.50 feet and a central angle of 61° for 58.10 feet to a point of tangency; thence run S58°40'17"W for 9.92 feet to a point of curvature; thence

run Southwesterly, Southerly and Southeasterly along the arc of a circular curve to the left, having for its elements a radius of 29.50 feet and a central angle of  $59^{\circ}58'37''$  for a distance of 30.88 feet to a point of tangency; then run  $S01^{\circ}$  for 87.72 feet to a point of curvature; thence run Southeasterly along the arc of a circular curve to the left, having for its elements a radius of 14.50 feet and a central angle of  $91^{\circ}06'01''$  for 23.06 to a point of tangency, thence run  $N87^{\circ}35'39''E$  for 108.15 feet to a point of curvature; thence Northeasterly, Easterly and Southeasterly along the arc of a circular curve to the right, having for its elements a radius of 39.50 feet and a central angle of  $31^{\circ}57'14''$  for 22.03 feet to a point of tangency; thence run  $S60^{\circ}27'07''E$  for 80.07 feet to a point of intersection with a circular curve, whose radius point bears  $S66^{\circ}07'02''E$  from said point of intersection; thence run Northeasterly along the arc of a circular curve to the right, having for its elements a radius of 240.50 feet and a central angle of  $15^{\circ}46'43''$  for 66.23 feet to a point of tangency; thence run  $N39^{\circ}39'40''E$  for 100.02 feet to a point of curvature; thence run Northeasterly, Northerly and Northwesterly along the arc of a circular curve to the left, having for its elements a radius of 19.50 feet and a central angle of  $42^{\circ}04'01''$  for 14.32 feet to a point of tangency, then run  $N02^{\circ}24'21''w$  FOR 71.05 feet to a point on the said Southerly right of way line of Campbell Drive, thence run  $S87^{\circ}49'00''E$  along the said Southerly right of way line of Campbell Drive for 47.65 feet to the Point of Beginning.

## PORTOFINO VILLAS WEST

### DESCRIPTION

That portion of the unnumbered parcel on the plat of COCO PLUM VILLAGE, as recorded in Plat Book 35, Page 4, of the Public Records of Miami-Dade County, Florida, lying West of Canal C-103-1 right of way and North of Canal C-103-S right of way, LESS the North 5.00 feet for road, Section 17, Township 57 South, Range 39 East, Miami-Dade County, Florida, more particularly described as follows:  
Commence at the Northeast corner of Section 17, Township 57 South, Range 39 East; thence S89°12'00"W 774.88 feet along the centerline of the Southwest 312 Street (Campbell Drive) to a point; thence S1°18'45"E for 35.00 feet to the Point of Beginning; thence continue S1°18'45"E for 646.27 feet to the point of curvature of a circular curve to the left, said curve having a radius of 445.00 feet and a central angle of 33°33'54"; thence run Southeasterly along said curve for an arc distance of 260.69 feet to the point of reverse curve of a circular curve to the right, said curve having a radius of 200.00 feet and a central angle of 39°09'34"; thence run Southeasterly and Southerly along said curve for an arc distance of 136.69 feet to a point; thence S89°21'10"W for 25.00 feet; thence S0°38'50"E for 40.00 feet; thence N89°21'10"E for 17.40 feet to a point on a circular curve to the right, said curve having a radius of 200.00 feet and a central angle of 38°04'23"; thence run Southwesterly along said curve for an arc distance of 132.90 feet to a point; thence S54°02'21"W for 516.87 feet to a point on a circular curve to the right, having a radius of 235.00 feet and a central angle of 35°24'54"; thence run Southwesterly along said curve for an arc distance of 145.26 feet; thence run S89°27'15"W for 3.11 feet; thence North 02°05'38"W for 1508.05 feet; thence N89°12'00"E for 564.89 feet to the Point of Beginning.