

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(K)
7-22-03

ORDINANCE NO. **03-175**

ORDINANCE GRANTING PETITION OF WESTBROOK HOMES, GENERAL PARTNERSHIP ("WESTBROOK" OR "PETITIONER") FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING SPICEWOOD COMMUNITY DEVELOPMENT DISTRICT ("DISTRICT"); PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; 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, Westbrook Homes, General Partnership ("Westbrook" or "Petitioner") has petitioned for the establishment of the Spicewood 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

C.D. SPICEWOOD CDD ORDINANCE
8/12/03

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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 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 services and facilities to the area that will be served by the District; and

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

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excuted declaration of restrictive covenants pledging among other things to provide initial purchasers of individual residential parcels with notice of liens and assessments applicable to such parcels, with certain remedial rights vesting in the purchasers of such parcels 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, 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 Spicewood Community Development District over the real property described in Exhibit A attached hereto, which was filed by Westbrook Homes, a Florida General Partnership, on April 18, 2003 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 (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.

C D SPICEWOOD CDD ORDINANCE
6/10/2003

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

- Harold Eisenacher
- David Webber
- Russel Barnes
- Mark Bidwell
- Claudia Feldman

Section 5. The name of the District shall be the "Spicewood Community Development District."

Section 6. The Spicewood 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 Spicewood 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 Spicewood 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 Spicewood Community Development District the special powers authorized pursuant to Section 190.012 (1), Florida Statutes and Sections 190.012 (2)(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

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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 dated , 2003, and submitted to the Board of County Commissioners in connection with the petition.

Section 10. All bonds issued by the Spicewood 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 Spicewood 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 Spicewood 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 Spicewood 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.

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Section 14. This Board hereby accepts that Declaration of Restrictive Covenants dated _____, 2003 as proffered by the owners of the lands within the jurisdiction of the Spicewood Community Development District, in connection with the petition submitted by Westbrook Homes, a Florida General Partnership 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: JUL 22 2003

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

JAC

Joni Armstrong Coffey

Exhibit A**LEGAL DESCRIPTION**

The South $\frac{1}{2}$ of the N.E. $\frac{1}{4}$ of Section 19, Township 56 South, Range 40 East, Miami-Dade County, Florida.
LESS therefrom the West 50 feet reserved for Right-of-Way.

And all that portion of S.W. $\frac{1}{4}$ of the N.W. $\frac{1}{4}$ of Section 20 Township 56 South, Range 40 East, Miami-Dade County, Florida; lying Westerly of the Westerly Right-of-Way Line of the Florida's Turnpike (State Road 821) as shown in the Right-of-Way Map, Section 87005-2305, State of Florida Department of Transportation, dated March 1970.

LESS:

A portion of land lying in the N.E. $\frac{1}{4}$ of Section 19, Township 56 South, Range 40 East, Miami-Dade County, Florida. Being more particularly described as follows:

Begin at the S.W. Corner of the N.E. $\frac{1}{4}$ of said Section 19; thence N00deg19min47secW along the West Line of the N.E. $\frac{1}{4}$ of said Section 19, for a distance of 522.22 feet; thence N89deg40min13secE, departing at right angle from the last described course, for a distance of 836.00 feet; thence S00deg19min47secE, along a line parallel with and 836.00 feet East of the West Line of the N.E. $\frac{1}{4}$ of said Section 19 for a distance of 516.63 feet to its intersection with the South Line of the N.E. $\frac{1}{4}$ of said Section 19; thence S89deg17min12secW along the South Line of the N.E. $\frac{1}{4}$ of said Section 19 for a distance of 836.02 feet to the Point of Beginning. Less the West 50.00 feet thereof.

All of the above described parcel containing 3,385,369.35 or 77.72 Acres, more or less.

Exhibit B

Copy of Petition

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA**

IN RE: AN ORDINANCE TO ESTABLISH)
THE SPICEWOOD COMMUNITY)
DEVELOPMENT DISTRICT)

PETITION

Petitioner, **WESTBROOKE HOMES**, a Florida general partnership, hereby petitions the Board of County Commissioners of Miami-Dade County, Florida, pursuant to the "Uniform Community Development District Act of 1980," Chapter 190, Florida Statutes, as amended and supplemented (herein, the "Act"), specifically this Petition is made pursuant to Section 190.005(2) of the Act, to establish a community development district with respect to the lands described herein. In support of the Petition, Westbrooke Homes (herein, the "Petitioner") states:

1. The proposed District (as defined below) is located within the unincorporated area of Miami-Dade County, Florida. Exhibit 1 depicts the general location of the proposed District. The proposed District covers approximately 74.64 acres of land. The metes and bounds description of the external boundaries of the District is set forth on Exhibit 2. There is no real property within the proposed District which is to be excluded from the District.

2. Attached to this Petition as Exhibit 3 and made a part hereof is the written consent to the establishment of the District by the owners of 100% of the real property to be included in the District.

3. The five persons designated to serve as initial members of the Board of Supervisors of the proposed District are as follows:

Name

- Harold Eisenacher
- David Webber
- Russell Barnes
- Mark Bidwell
- Claudia Feldman

4. The proposed name of the District to be established is Spicewood Community Development District ("the District").

5. There are no existing major trunk water mains, sewer interceptors or outfalls.

6. The proposed timetable for the construction of District services is shown on Exhibit 4-A and the estimated cost of constructing the services, based on available data, is shown on Exhibit 4-B. This is a good faith estimate but is not binding on the Petitioner and the District and is subject to change.

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7. The future general distribution, location and extent of public and private uses within the District are limited to residential sites and open or green space. The proposed uses are consistent with the future land use plan element of the Miami-Dade County Comprehensive Plan. The future land use map of the Miami-Dade County Comprehensive Plan designates the land area within the legal description of the land to be serviced by the proposed District as low density. The future land use map is shown on Exhibit 5. The Petitioner intends that the District will finance (i) surface water management and control systems, including, but not limited to earth work and landscaping, (ii) water distribution and wastewater collection and transmission facilities, (iii) roadway improvements, (iv) public parks, (v) acquisition of certain lands and (vi) related incidental costs (collectively, the "Public Infrastructure"). Exhibit 6 depicts the Public Infrastructure to be dedicated by the District to Miami-Dade County and the Public Infrastructure to be owned and maintained by the District.

The proposed District is coterminous with that certain subdivision entitled "Cristians Subdivision" (herein, the "Subdivision"). The Development Order for the Subdivision was approved on December 11, 2002 by Miami-Dade County Resolution No. R-CZAB15-29-03d permits development of the subject property with up to 477 dwelling units comprised of 255 single family units and 222 townhome units. The development order permits the single family units with lot coverage of 45% and permits the townhome units to have lot coverage of 47%.

8. Exhibit 7 is a statement of estimated regulatory costs prepared in accordance with the requirements of Section 120.541, Florida Statutes.

9. Petitioner hereby requests that the proposed District be granted the right to exercise all powers provided for in Section 190.012(1), Florida Statutes.

10. The Petitioner is Westbrooke Homes, a Florida general partnership. The Petitioner is acting on behalf of itself as a landowner, which owns 100 percent of the real property to be included within the proposed District. Petitioner will develop the land with the District, including the construction of the Public Infrastructure which will be acquired by the District. Copies of all correspondence and official notices should also be sent to: Stephen D. Sanford, Esq., c/o Greenberg Traurig, P.A., 777 South Flagler Drive, Suite 300 East, West Palm Beach, Florida 33401; (561) 650-7945.

11. The property within the proposed District is amenable to operating as an independent special district for the following reasons:

(a) Establishment of the District and all land uses and services planned within the proposed District are consistent with applicable elements or portions of the effective Miami-Dade County Comprehensive Development Master Plan, as amended.

(b) The area of land within the proposed District that is part of a unified plan of development for a development plan that has been or will be approved by Miami-Dade County. The land encompassing the proposed District is of sufficient size and is sufficiently compact and contiguous to be developed as one functional interrelated community.

(c) The community development services of the District will be compatible with the capacity and use of existing local and regional community development services and facilities.

(d) The proposed District will be the best alternative available for delivering community development services to the area to be served because the District provides a

governmental entity for delivering those services and facilities in a manner that does not financially impact persons residing outside the District.

12. The Petitioner undertakes on behalf of the District that the District will provide full disclosure of information relating to the public financing and maintenance of improvements to real property to be undertaken by the District as required by Section 190.009, Florida Statutes of the Act.

WHEREFORE, Petitioner respectfully requests the Board of County Commissioners of Miami-Dade County, Florida to:


Hold a public hearing as required by Section 190.005(2)(b), Florida Statutes to consider the establishment of the Spicewood Community Development District and;

Adopt an ordinance pursuant to Chapter 190, Florida Statutes, granting this Petition and establishing the Spicewood Community Development District.

Respectfully submitted this 18th day of April, 2003.

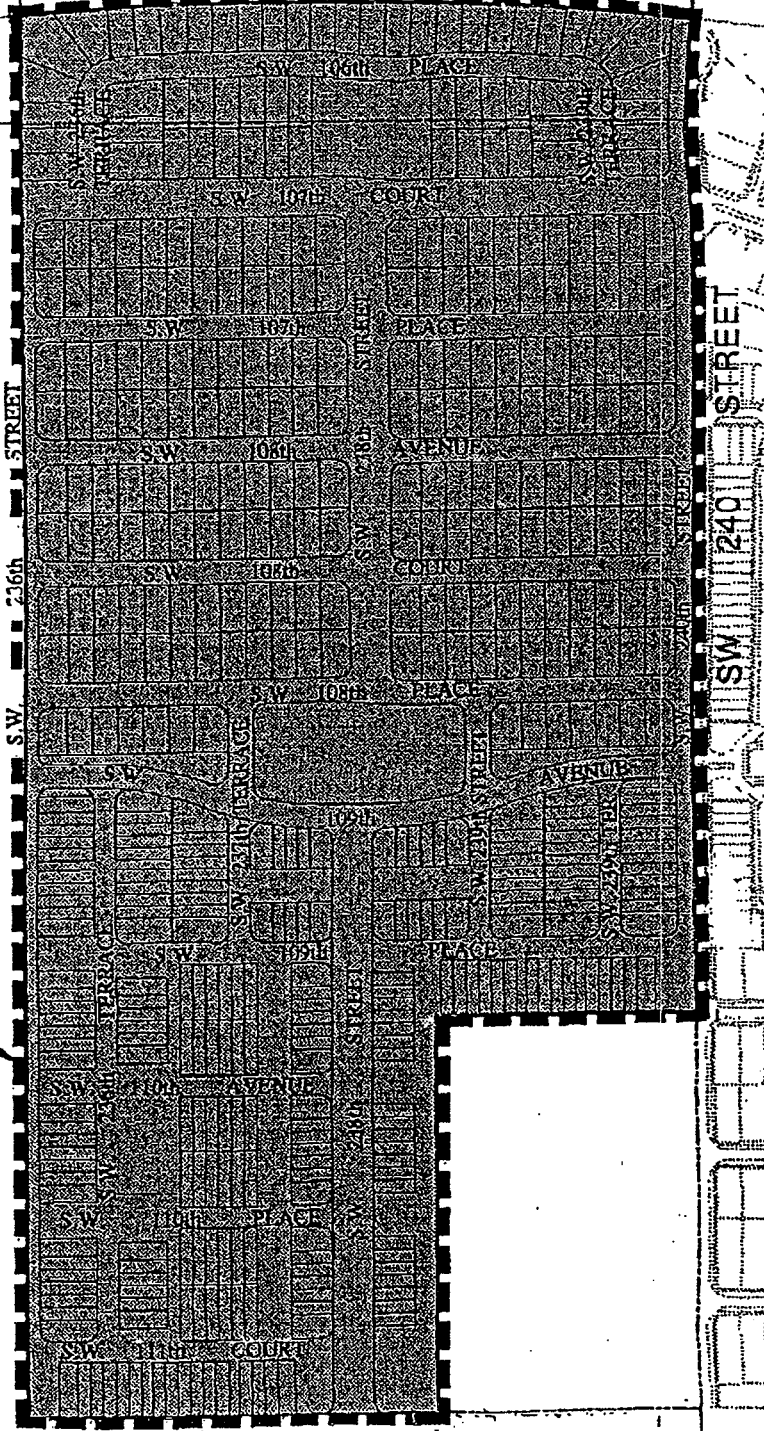
WESTBROOKE HOMES, a Florida general partnership, as Petitioner

By: WESTBROOKE COMPANIES, INC., a Delaware corporation and general partner

By: 
Name: David Webber
Title: Senior Vice President

HOMESTEAD EXTENSION
OF FLORIDA'S TURNPIKE

DISTRICT BOUNDARIES



SPICEWOOD

COMMUNITY DEVELOPMENT DISTRICT



EX. AT "C"

(COMM. 1999)
SECTION -56-40

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MEMORANDUM

 OFFICIAL FILE COPY
 CLERK OF THE BOARD
 OF COUNTY COMMISSIONERS

Agenda Item No. 4(K)

(Public Hearing 7-22-03)

 TO: Honorable Chairperson and Members
 Board of County Commissioners

DATE: June 17, 2003

 FROM: George M. Burgess
 County Manager

 SUBJECT: Ordinance Creating the
 Spicewood Community
 Development District

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RECOMMENDATION

It is recommended that the Board adopt the attached ordinance creating the Spicewood Community Development District (CDD) in unincorporated Miami-Dade County, 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.

BACKGROUND

Westbrook Homes, a Florida General Partnership, owner of the Spicewood Development, has filed an application to create the Spicewood CDD in connection with said development. Spicewood is a 74.64-acre residential development lying wholly within unincorporated Miami-Dade County, in the area bounded by Homestead Extension of Florida's Turnpike on the east, SW 112 Avenue on the west, S.W. 240th Street on the south and S.W. 236 Street on the north. The CDD is designed to provide a financing mechanism for community infrastructure, services and facilities, along with certain ongoing operations and maintenance for the Spicewood development. The development plans for the lands within the proposed CDD include construction of 255 single family units, and 222 townhouse units with associated roadway, storm drainage and water and sewer facilities estimated to cost approximately \$5.006 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 Westbrook Homes General Partnership. In accordance with Florida Statute 190, Westbrook Homes, General Partnership has paid a filing fee of \$15,000 to the County.

A declaration of restrictive covenants will be proffered at public hearing by the owner of the lands within the CDD jurisdiction, providing for notice in the public records of the projected taxes and assessments to be levied by the CDD, and providing for individual prior notice to the initial purchaser of a residential lot or unit within the development. The document shall also include provisions for remedial options to property owners whose contract for sale did not include timely notice of the existence and extent of CDD liens and special assessments.

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Honorable Chairperson and Members
Board of County Commissioners
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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 a mixture of public and private streets, the latter to be maintained by the CDD. A special taxing district shall be created to maintain this development's infrastructure such as roadways, storm drainage, water, sewer and landscape should the CDD be dissolved or fail to fulfill its maintenance obligations. This district will remain dormant until such time as Miami-Dade County determines that the CDD is not performing.

FISCAL IMPACT

The creation of the Spicewood Community Development District will have no fiscal impact on Miami-Dade County other than normal maintenance of public roads, drainage, and water and sewer facilities dedicated to the County.

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MEMORANDUM

(Revised)

03 175

TO: Honorable Chairperson and Members
Board of County Commissioners

DATE: July 22, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 4(K)

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