

ORDINANCE NO. 04-12

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED IN EXHIBIT "A-2" TO THIS ORDINANCE COMPRISING APPROXIMATELY 370 ACRES; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT AS HERITAGE ISLE AT VIERA COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR 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 developments; and,

WHEREAS, Lennar Homes, Inc., a Florida corporation (the "Petitioner"), has petitioned Brevard County, Florida (the "County") to grant the establishment of Heritage Isle at Viera Community Development District (the "District"); and,

WHEREAS, a public hearing was conducted by the Board of County Commissioners of Brevard County, Florida (the "Board") in accordance with the requirements and procedures of Section 190.005(1)(d), Florida Statutes, as amended and supplemented; and,

WHEREAS, the District will constitute a timely, efficient, responsive and economical way to deliver community development services; and,

WHEREAS, the creation of the District is consistent with all applicable goals, objectives and policies of the Brevard County Comprehensive 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 functionally 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 the 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 District desires to levy special assessments on purchasers of benefited land within the District to pay for infrastructure constructed by the District; and,

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

WHEREAS, the District shall acquire or construct potable water and wastewater facilities in accordance with applicable standards and procedures of the Brevard County Water Resources Department; and,

WHEREAS, the District shall acquire or construct and maintain a stormwater management system in accordance with applicable standards and procedures of the Brevard County Regional Stormwater Utility Department; and,

WHEREAS, the District shall acquire or construct all public roads in accordance with applicable standards and procedures of the Brevard County Permitting and Enforcement Department; and,

WHEREAS, the District will not have any zoning or development permitting authority and the establishment of the District is not a development order; and,

WHEREAS, development of land within the District will be subject to all applicable land development regulations of Brevard County, Florida; and,

WHEREAS, the Board of County Commissioners held a public hearing on March 16, 2004 to consider the petition and decided that the Heritage Isle at Viera Community Development District is the best alternative means to provide certain basic public services to the community; and,

WHEREAS, the Board of County Commissioners finds that the Heritage Isle at Viera Community Development District shall have the powers described in Section 190.011, Florida Statutes, as amended and supplemented.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. The petition to establish Heritage Isle at Viera Community Development District over the real property described in Exhibit "A-2" attached hereto, which was filed by Lennar Homes, Inc. on October 10, 2003, and which Petition is on file at the Brevard County Planning and Zoning Office, is hereby granted.

Section 2. The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated as Exhibit "A-1".

Section 3. The initial members of the Board of Supervisors shall be as follows:

1. Walter D. Beeman, Jr.
2. Stewart Anderson
3. Shawn Rowell
4. Jerry Schafrath
5. Paul Martell

Section 4. The name of the District shall be "Heritage Isle at Viera Community Development District".

Section 5. The District is created for the purposes set forth in and prescribed in the Petition.

Section 6. The Board hereby grants to Heritage Isle at Viera Community Development District all general powers authorized pursuant to Section 190.011, Florida Statutes, as amended and supplemented and hereby finds that it is in the public interest of the citizens of the County to grant such general powers.

Section 7. The exclusive charter for the District shall be the uniform community development district charter set forth in sections 190.06 through 190.041, including the special powers provided by section 190.12, Florida Statutes (2003), as may be amended and supplemented.

Section 8. The District is solely responsible for the implementation of special assessments upon benefited property within the District's internal boundaries and shall provide notice of said special assessments to all prospective purchasers of said property.

Section 9. The District shall provide full disclosure of the public financing and maintenance of improvements undertaken by the District. This disclosure shall include a statement in bold print that special assessments imposed by the District will appear in the tax bill. This disclosure shall meet the requirement of Section 190.048, Florida Statutes, as amended and supplemented, and shall be included in every contract for sale and in every recorded deed.

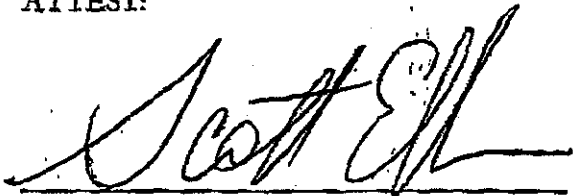
Section 10. If any clause, or other part or application of this ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications which shall remain in full force and effect.

Section 11. This ordinance shall take effect upon filing with the Department of State, per Section 125.66, Florida Statutes, as amended and supplemented.

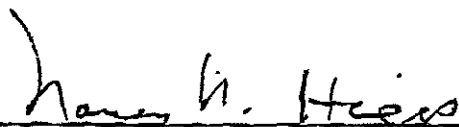
DONE, ORDERED AND ADOPTED in regular session, this sixteenth day of March, 2004.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Scott Ellis, Clerk


By: 
Nancy N. Higgs, Chairman

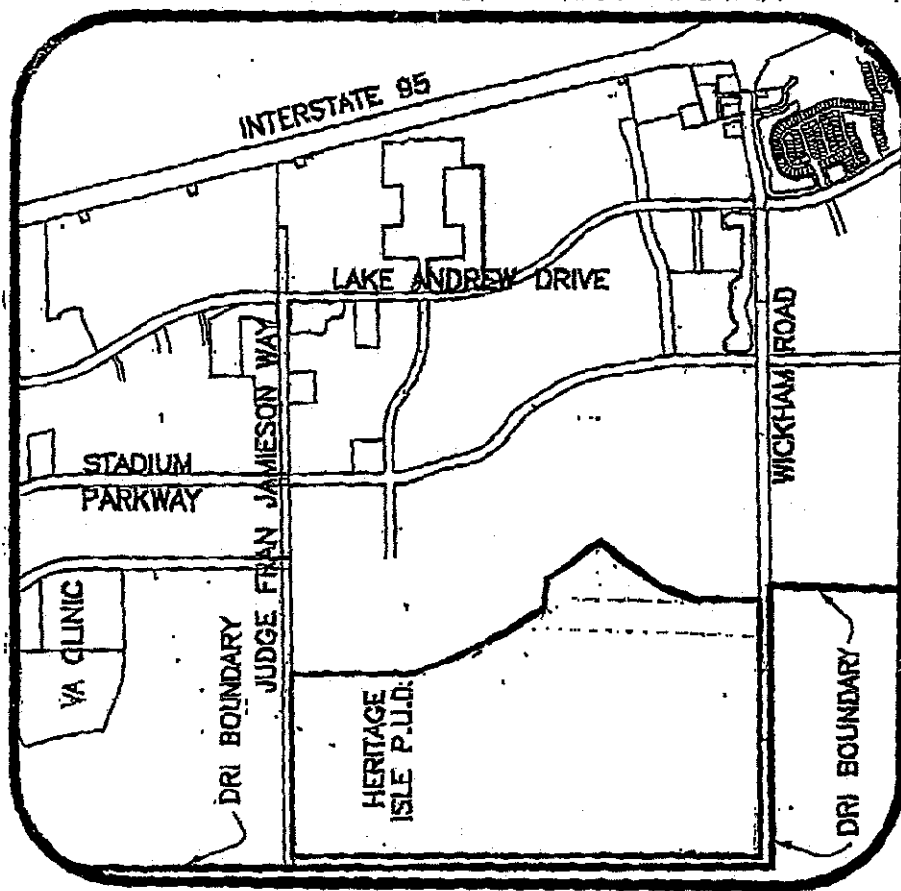
STATE OF FLORIDA
COUNTY OF BREVARD

Approved by the Board on March 16, 2004

This is to certify that the foregoing is a true and correct copy of Ordinance

04-12 witness my hand
and official seal this 19 day of
March 20 04

SCOTT ELLIS
Clerk Circuit Court
BY  D.C.



LOCATION MAP
N.T.S.

EXHIBIT "A-1"

DESCRIPTION OF HERITAGE ISLE AT VIERA COMMUNITY DEVELOPMENT DISTRICT

A parcel of land lying within Sections 5 and 8, Township 26 South, Range 36 East, Brevard County, Florida, more particularly described as follows:

From the Southeast corner said of Section 8; thence S89°15'13"W, along the South line of said Section 8 a distance of 1521.73 feet; thence N00°35'21"E, 82.39 feet, to a point on the future Northerly Right-of-Way line of Wickham Road (150' Right-of-Way) and the POINT OF BEGINNING; thence S89°08'33"W along said Northerly Right-of-Way line, 3659.02 feet to a point on the East Line of a 30' Force Main Easement (as described in O.R.B. 2909, pages 956-964, Public Records of Brevard County, Florida); thence N00°25'45"W along the East Line of said easement, 5226.36 feet; thence continue along the East Line of said easement N00°25'07"W, 1212.61 feet to a point on the future Southerly Right-of-Way line of Judge Fran Jamieson Way (120' Right-of-Way); thence N89°11'20"E along said Southerly Right-of-Way line, 2622.04 feet; thence S00°48'40"E, 1717.41 feet; thence S24°38'04"E, 949.67 feet; thence S30°40'08"E, 1054.41 feet; thence S84°40'28"E, 394.24 feet; thence S37°25'55"E, 892.27 feet; thence S37°23'24"W, 1016.59 feet; thence S19°11'37"W, 553.19 feet; thence S00°35'21"W, 858.53 feet, to the POINT OF BEGINNING; LESS the following described tract lying at the Southwest corner of the foregoing described land: From the Southwest corner of Section 8; thence N89°15'13"E along the South line of Section 8, a distance of 149.72 feet, thence N00°25'45"W, 75.28 feet, to a point on the future Northerly Right-of-Way line of Wickham Road (150' Right-of-Way) and a point on the East Line of a 30' Force Main Easement (as described in O.R.B. 2909, pages 956-964, official records of Brevard County, Florida); and the POINT OF BEGINNING; thence N00°25'45"W, along said easement 985.87 feet; thence N60°36'55"E, 22.71 feet; thence S00°25'35"E, 29.28 feet; thence S42°26'32"E, 25.03 feet; thence N60°36'55"E, 63.80 feet; thence N57°20'25"E, 50.13 feet; thence N42°29'34"E, 42.23 feet; thence N04°26'58"E, 49.65 feet; thence S89°35'58"E, 74.72 feet; thence S82°27'04"E, 97.13 feet; thence N79°04'55"E, 84.14 feet; thence S22°54'42"E, 74.06 feet; thence S21°12'56"E, 43.22 feet; thence N84°58'38"E, 35.00 feet; thence S79°21'33"E, 45.74 feet; thence S53°44'19"E, 61.89 feet; thence S55°43'06"E, 74.15 feet; thence S65°49'34"E, 30.07 feet; thence S63°18'50"E, 65.94 feet; thence S56°04'49"E, 41.92 feet; thence S54°19'57"E, 33.43 feet; thence N11°39'22"E, 54.74 feet; thence S54°19'57"E, 23.57 feet; thence S51°22'03"E, 79.47 feet; thence S09°40'46"W, 116.54 feet; thence S68°33'52"W, 83.66 feet; thence S58°48'26"W, 48.36 feet; thence S89°02'50"W, 42.90 feet; thence S35°31'25"E, 41.23 feet, to the point of a curve, concave Westerly, having a radius of 50.00 feet; thence Southeasterly along the arc of said curve to the right, a distance of 32.38 feet; through a central angle of 37°06'33" to the curve's end; thence S01°35'09"W, 183.63 feet; thence S00°51'27"E, 374.24 feet; thence S89°08'33"W, 741.44 feet, to the POINT OF BEGINNING.

EXHIBIT "A2"

BREVARD County

BOARD OF COUNTY COMMISSIONERS

FLORIDA'S SPACE COAST



BERNADETTE S. TALBERT, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999 Telephone: (321) 284-6970 Fax: (321) 284-6972

March 19, 2004

Liz Cloud, Bureau Chief
Department of State
Bureau of Administrative Code
The Collins Building
107 West Gaines Street, Suite L43
Tallahassee, Florida 32399-0250

Dear Ms. Cloud:

Re: Ordinance No. 04-12, Establishing Heritage Isle at Viera Community Development District

This is to correct my memorandum of March 18, 2004. The Board of County Commissioners, in regular session on March 16, 2004, adopted Ordinance No. 04-12, establishing Heritage Isle at Viera Community Development District. Enclosed are certified copies of the corrected Ordinance and Coding Form.

Please file same in your official records and advise this office of the official filing date.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Bernadette Talbert
Bernadette Talbert, Deputy Clerk

/s/

Encls. (2)

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STATE OF FLORIDA DEPARTMENT OF STATE

Division of Library and Information Services

I, Glenda E. Hood, Secretary of State of the State of Florida, do hereby certify that the above and foregoing is a true and correct copy of Brevard County corrected Ordinance No. 04-12, which was received in this office on March 24, 2004, pursuant to the provisions of Section 125.66, Florida Statutes, as shown by the records of this office.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
25th., day of March, A.D., 2004.



Glenda E. Hood

Secretary of State

DSDE 99. (3/03)