

Memorandum



Date: (Public Hearing 05-17-05)
October 19, 2004

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

Agenda Item No. 5(C)

From: George M. Burgess
County Manager

Subject: Ordinance Creating the Vizcaya in Kendall
Community Development District

05-95

RECOMMENDATION

It is recommended that the Board adopt the attached ordinance creating the Vizcaya in Kendall 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

Kendall Land Development, L.L.C., owner of the Vizcaya in Kendall Development, has filed an application to create the Vizcaya in Kendall CDD in connection with said development. Vizcaya in Kendall is a 160.27 acre mixed use development lying wholly within unincorporated Miami-Dade County, in the area bounded by S.W. 88th Street on the north, S.W. 96th Street on the south, S.W. 167th Avenue on the east and S.W. 172nd Avenue on the west. The CDD is designed to provide a financing mechanism for community infrastructure, services and facilities, along with certain ongoing operations and maintenance for the Vizcaya in Kendall Development. The development plans for the lands within the proposed CDD include construction of 1,256 residential units, 22,499 square feet of retail, 132,000 square feet of commercial, and 11.12 acres of civic use or school site, with associated roadway, storm drainage and water and sewer facilities estimated to cost approximately \$43.2 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 Kendall Land Development, L.L.C. In accordance with Florida Statute 190, Kendall Land Development, L.L.C., 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 Chairman Joe A. Martinez
and Members, Board of County Commissioners

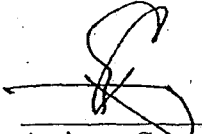
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This Board is authorized by the Florida Constitution and the Miami-Dade County Home Rule Charter to establish governmental units such as the CDD within Miami-Dade County and to prescribe such government's jurisdiction and powers.

This development's roadways are a mix of private and public, and will be maintained by an HOA or CDD or Miami-Dade County. A special taxing district shall be created to maintain this development's lakes, access tracts, swales and landscape tracts and common elements should the HOA or CDD fail to maintain these facilities.

FISCAL IMPACT

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



Assistant County Manager

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MEMORANDUM

(Revised)

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

DATE: May 17, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 5(C)

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(C)
05-17-05

ORDINANCE NO. 05-95

ORDINANCE GRANTING PETITION OF KENDALL LAND DEVELOPMENT, L.L.C., ("KLD, L.L.C." OR "PETITIONER") FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING VIZCAYA IN KENDALL 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, Kendall Land Development, L.L.C., ("KLD, L.L.C." or "Petitioner") has petitioned for the establishment of the Vizcaya in Kendall Community Development District (the "District"); and

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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 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 executed 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 Vizcaya in Kendall Community Development District over the real property described in Exhibit A attached hereto, which was filed by Kendall Land Development, L.L.C., on September 14, 2004, 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).

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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:

Jan Ickovic

John Evasius

Evan Rabinowitz

Jorge Rosello

Jose Boschetti

Section 5. The name of the District shall be the "Vizcaya in Kendall Community Development District."

Section 6. The Vizcaya in Kendall 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 Vizcaya in Kendall 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 Vizcaya in Kendall 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 Vizcaya in Kendall 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

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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 Vizcaya in Kendall 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 Vizcaya in Kendall 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 Vizcaya in Kendall 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 Vizcaya in Kendall 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

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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 Vizcaya in Kendall Community Development District, in connection with the petition submitted by Kendall Land Development, L.L.C., 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.

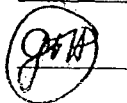
Section 17. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: MAY 17 2005

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Gerald T. Heffernan

LEGAL DESCRIPTION:

The N.E. 1/4 of Section 6, Township 55 South, Range 39 East, Miami-Dade County, Florida, less and excepting therefrom that portion dedicated to Miami-Dade County for Right of Way Map recorded in Plat Book 76, at Page 33, of the Public Records of Miami-Dade County, Florida, as the same is located and measured by the map of survey prepared by A.R. Toussaint and Associates, Inc., under order Number 8849 dated June, 1989, a copy of which is attached to the Partial Final Judgment labelled Exhibit "A" and by reference incorporated into said Partial Final Judgment done and ordered in chambers at Miami Miami-Dade County, Florida on August 22, 1989, filed under Court Record 86-24085 CA (14), as recorded in Official Records Book 14242 Page 0597, of the Public Records of Miami-Dade County, Florida.