

Agenda Item #: **4E**

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

CONTINUED FROM 11/15/05

Meeting Date: 12/20/05 Consent Regular
 Workshop Public Hearing

KIN 4-1

Department: **Planning, Zoning and Building Department**
Submitted By: **Planning, Zoning and Building Department**
Submitted For: **Planning Division**

*MC opposed
MEMs ds.*

I. EXECUTIVE BRIEF

Ord. 2005-063

Motion and Title: Staff recommends a motion **TO NOT ADOPT:** AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" TO THIS ORDINANCE COMPRISING OF APPROXIMATELY 46 ACRES: NAMING OF THE INITIAL MEMBERS OF THE BOARD; ESTABLISHING THE NAMING OF THE DISTRICT AS VISTA COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Summary: The BCC has been petitioned to grant the establishment of the Vista Community Development District (CDD) by Westbrooke Homes to finance, construct, operate and maintain surface water management systems, water and wastewater collection and distribution infrastructure, and other permitted public improvements and facilities authorized by the Act. Chapter 190.005(2)(c) indicates that the County Commission shall "consider the record of the public hearing and the factors set forth in paragraph (1)(e) in making its determination to grant or deny a petition for the establishment of a community development district." The Planning Division has found this petition to be inconsistent with the following statutory factors: the CDD is not sufficiently contiguous to be considered one functionally interrelated community; the CDD has not been proven to be the best alternative available to deliver community services and facilities to the area served by the District; and the area served by the District is not amenable to a separate special-district government. Staff recommends denial of the petition. (BB, District 2)

Background and Policy Issues: Chapter 190, F.S., also known as the "Uniform Community Development District Act of 1980" (the Act), contains criteria for establishing, assigning powers, and providing limits to the operation and duration of independent districts in order to manage and finance basic community development services. The Act indicates that proposed Community Development Districts (CDDs) of less than 1,000 acres shall be created by County ordinance based upon a determination of applicable facts, as established in the Act.

Initially, the BCC expressed concern over the establishment of CDDs citing unease over limited disclosure requirements, the use of CDD funds for offsite improvements and the additional taxation imposed on residents buying into a community within a CDD. For a period of time the BCC directed staff to deny residential CDDs. As of March 2004, the BCC has given direction to staff to continue reviewing CDD petitions on a case-by-case basis. Petition reviews must comply with State criteria, comply with the disclosure conditions established by the BCC, and ensure that offsite improvements are not included in the obligations of future CDD residents.

- Attachments:**
- 1. Map
 - 2. Staff Report
 - 3. Proposed Ordinance (If BCC chooses to approve the petition)

Recommended by: *[Signature]* 10/21/05
 Executive Director **Date**

Approved By: *[Signature]* 11/8/05
 Deputy County Administrator **Date**

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2006	2007	2008	2009	2010
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====

ADDITIONAL FTE
POSITIONS (Cumulative) _____

Is Item Included In Current Budget? Yes _____ No _____
Budget Account No.: Fund _____ Agency _____ Org. _____ Object _____
Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

There is no fiscal impact associated with this item

C. Departmental Fiscal Review: *BYC*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

[Handwritten signatures and dates]
 _____ 11-1-05
 OFMB JK 11/1/05
 _____ 11/2/05
 Contract Dev. and Control _____ 11/2/05

B. Legal Sufficiency:

[Handwritten signature]

 Assistant County Attorney

C. Other Department Review:

 Department Director

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT OVER THE REAL PROPERTY LEGALLY DESCRIBED ON EXHIBIT "A" TO THIS ORDINANCE COMPRISING OF APPROXIMATELY 46 ACRES: NAMING OF THE INITIAL MEMBERS OF THE BOARD; ESTABLISHING THE NAMING OF THE DISTRICT AS VISTA COMMUNITY DEVELOPMENT DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICTS; 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 development; and

WHEREAS, Westbrooke Homes, a Florida general partnership ("Petitioner"), has petitioned Palm Beach County, Florida (the "County"), to grant the establishment of the Vista Community Development District (the "District"); and

WHEREAS, a public hearing has been conducted by the Board of County Commissioners of Palm Beach County, Florida (the "Board"), in accordance with the requirements and procedures of Section 190.005(1)(d), Florida Statutes; and

WHEREAS, all statements contained within the petition have been found to be true and correct; and

WHEREAS, the creation of the District is not inconsistent with any applicable element or portion of the effective Palm Beach County Comprehensive Land Use Plan, as amended; 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 District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area; 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 District desires to levy special assessments on purchasers of benefited land within the District to pay for infrastructure constructed and/or acquired by the District; and

WHEREAS, the District shall acquire or construct potable water and wastewater facilities in accordance with the County's Water Utilities Department's standards and procedures to

1 enable the County to provide potable water and wastewater services to the District; and

2 **WHEREAS**, the District does not have any zoning or development permitting power and
3 the establishment of the District is not a development order; and

4 **WHEREAS**, all applicable planning and permitting laws, rules, regulations and policies
5 control the development of the land to be serviced by the District; and

6 **WHEREAS**, the Board has considered the record of the public hearing and has decided
7 that the establishment of the District is the best alternative means to provide certain basic
8 services to the community; and

9 **WHEREAS**, the Board finds that the District shall have the general powers described in
10 Section 190.011, Florida Statutes.

11 **WHEREAS**, the exercise by the District of any powers other than the powers set forth in
12 Sections 190.011 and 190.012(1), Florida Statutes, shall require consent by the Board of
13 County Commissioners of Palm Beach County by ordinance or resolution.

14 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
15 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA:**

16 **Section 1. ESTABLISHING A COMMUNITY DEVELOPMENT DISTRICT:**

17 The Petition to establish the Vista Community Development District over the real
18 property described in Exhibit "A" attached hereto, which was filed by Westbrooke Homes, on
19 January 28, 2005 and which Petition is on file at the Office of the County Administrator, is
20 hereby granted.

21 **Section 2.** The external boundaries of the District shall be as depicted on the location
22 map attached hereto and incorporated herein as Exhibit "B."

23 **Section 3. NAMING OF THE INITIAL MEMBERS OF THE BOARD:**

24 The initial members of the Board of Supervisors shall be as follows:

25 Harold L. Eisenacher
26 David Webber
27 Russell Barnes
28 Claudia Feldman
29 Diana Ibarria
30

31 **Section 4. ESTABLISHING THE NAMING OF THE DISTRICT:**

32 The name of the District shall be "Vista Community Development District."

33 **Section 5. DESIGNATING THE PURPOSE OF THE DISTRICT:**

34 The District is created for the purposes set forth in and prescribed in the petition.

35 **Section 6. DESIGNATING THE POWERS OF THE DISTRICT:**

1 The Board hereby grants to the District all general powers authorized pursuant to
2 Section 190.011, Florida Statutes, and hereby finds that it is in the public interest of citizens of
3 the County to grant such general powers.

4 **Section 7.** Notwithstanding Section 6 as set forth hereinabove, Petitioner, as the
5 contract purchaser or the District, shall enter into a Standard Potable Water and Wastewater
6 Development Agreement with the County for the provision of water and wastewater facilities.
7 Petitioner shall pay all fees and charges as set forth in said Agreement and shall abide by all
8 terms and conditions therein including, but not limited to, constructing or acquiring the water and
9 wastewater facilities in accordance with the Water Utilities Department's Uniform Policies and
10 Procedures; providing the County with appropriate easements for said facilities; and providing
11 the County with a deed to said water and wastewater facilities at no cost to the County. Palm
12 Beach County's Water Utilities Department shall operate and maintain said water and
13 wastewater facilities and provide water and wastewater service upon receipt of all fees and
14 charges, upon completion of construction and upon receipt of said deed.

15 **Section 8.** Pursuant to Section 190.004(4), Florida Statutes, the charter for the District
16 shall be Sections 190.006 through 190.041, Florida Statutes, including the special powers
17 provided by Section 190.012(1), Florida Statutes. The exercise by the District of powers set
18 forth in Section 190.012(2) shall require consent by the Board of County Commissioners. Such
19 consent shall only be provided by resolution or ordinance after specific petition to the Board.

20 **Section 9.** The District is solely responsible for the implementation of special
21 assessments upon benefited property within the District's internal boundaries. The Petitioner, its
22 successors and assignees shall provide notice of said special assessments to all prospective
23 purchasers of said property.

24 **Section 10.** The Petitioner, its successors and assignees shall provide full disclosure of
25 the public financing and maintenance of improvements undertaken by the District. This
26 disclosure shall include a statement in bold print that special assessments imposed by the
27 District will appear in the tax bill. This disclosure shall meet the requirements of Section
28 190.048, F.S., as amended from time to time, and shall be included in every contract for sale
29 and in every recorded deed from the Petitioner. The District shall record a notice of
30 assessments in the Public Records both before and after any Bond sale.

31 **Section 11.** The Petitioner, its successors and assignees shall disclose the fact that the
32 development is located in a special taxing district and that a special assessment will be
33 assessed on the tax roll against all property owners within the District. This information shall be
34 in **BOLD** type in any sales brochures, in any sales information, on the front page of the

1 Declaration of Restrictive Covenants creating the Property Owner Association or Homeowner
2 Association, and on a 24" by 36" sign which shall be posted at all times at the entrance to the
3 sales office of the development providing the following disclosure:

4 "If you purchase a unit in this development you will be subject to additional costs. A
5 special assessment and or taxes will be added to your tax bill. This non-ad valorem tax
6 assessment will be in addition to all other property taxes and assessments. This cost is
7 estimated at \$102.00 per month or \$1224.00 per year and will be levied to pay debt service on
8 the bonds issued by the District and administrative costs."

9 **Section 12.** The Petitioner, its successors and assignees shall provide all the
10 disclosure statements required in Sections 10 and 11 above in a separate page as part of the
11 contract for purchase and sale of property within the District. The potential purchaser must sign
12 this page.

13 **Section 13.** An affidavit of compliance shall be submitted annually to Palm Beach
14 County Monitoring Section beginning on November 1, 2006 until all units have been sold,
15 outlining the number of units sold, providing samples of the documents used in the closing
16 process and certifying compliance with the disclosure requirements contained in this ordinance.
17 The County shall have the right to audit the records of the Petitioner, its successors and
18 assignees upon 10 days written notice to verify the compliance with the disclosure requirements
19 of this ordinance. Failure to comply with the disclosure requirements in this ordinance shall be a
20 violation of a county ordinance and shall be punishable as provided by law, including but not
21 limited to enforcement procedures established in Article 14 of the Unified Land Development
22 Code.

23 **Section 14. PROVIDING FOR SEVERABILITY:**

24 If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any
25 reason held by any court of competent jurisdiction to be unconstitutional, inoperative or void,
26 such holding shall not affect the remainder of this Ordinance.

27 **Section 15. REPEAL OF LAWS IN CONFLICT:**

28 All local laws and ordinances applying to Palm Beach County in conflict with any
29 provision of this Ordinance are hereby repealed to the extent of the conflict.

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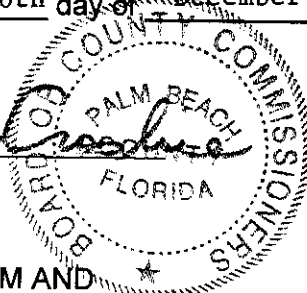
1 **Section 16. PROVIDING FOR AN EFFECTIVE DATE:**

2 This ordinance shall take effect upon filing with the Department of State.

3 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
4 County, Florida, on this 20th day of December, 2005.

5 ATTEST:

6 By: Judith [Signature]
7 Deputy Clerk
8
9
10



11 PALM BEACH COUNTY, FLORIDA, BY ITS
12 BOARD OF COUNTY COMMISSIONERS
13 [Signature]
14 Tony Masfotti, Chair
15 Commissioner John F. (Jeff) Koons

16 APPROVED AS TO FORM AND
17 LEGAL SUFFICIENCY

18 By: [Signature]
19 County Attorney

20 EFFECTIVE DATE: Filed with the Department of State, State of Florida, on the 23rd day of
21 December, 2005 at _____ m.

**Petition
For Creation Of**

**VISTA COMMUNITY
DEVELOPMENT DISTRICT**

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF PALM BEACH COUNTY, FLORIDA

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

PETITION

Westbrooke Homes, a Florida general partnership (the "Petitioner"), hereby petitions the Board of County Commissioners of Palm Beach 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, Petitioner states:

1. The proposed District (as defined below) is located within the unincorporated area of Palm Beach County, Florida. Exhibit 1 depicts the general location of the proposed District, which is in County Commissioner District #2 (Commissioner Koons). The proposed District covers approximately 46 +/- acres of land. The metes and bounds description of the external boundaries of the District is set forth on Exhibit 2. The real property within the boundaries of the proposed District consists of parcels # 4, 5 and 6 within the Vista Center located on the Northeast corner of Jog Road and Okeechobee Blvd.

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. The current owners of the property comprising the District is the Petitioner and Carlex Residential II, LLC, a Florida limited liability company.

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

Harold L. Eisenacher
David Webber
Russell Barnes
Claudia Feldman
Diana Ibarria

4. The proposed name of the community development district to be established is the Vista 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 and the estimated cost of constructing the services, based on available data, is shown on Exhibit 5. This is a good faith estimate, but is not binding on the Petitioner or the District and is subject to change.

7. The future general distribution, location and extent of public and private uses within the District are limited to residential sites, recreation and open or green space. The proposed uses are consistent with the future land use plan element of the Palm Beach County Comprehensive Plan. The future land use map of the Palm Beach County Comprehensive Plan designates the land area within the legal description of the property to be serviced by the proposed District as residential. The proposed District lies within of the Urban Service Boundary Area. The future land use map is shown on Exhibit 6. The Petitioner intends that the District will finance (i) surface water management and control systems, including required earthwork, (ii) water distribution and wastewater collection and transmission facilities, (iii) mitigation, (iv) other permitted public improvements and community facilities authorized by the Act, and (v) related incidental costs.

The proposed District consists of parcels 4, 5 and 6 within the Vista Center. The Vista Center was approved by Palm Beach County on February 19, 1985 for a Planned Industrial Parks District ("PIPD"). Parcels 4, 5 and 6 were originally reserved for industrial uses. Pursuant to Resolution No. R-2003-1987.1 adopted by the County on December 4, 2003 (herein the "Development Order Amendment"), the zoning petition with respect to converting such parcels to residential use (498 residential units).

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, and the additional power listed in Section 190.012(2)(a), Florida Statutes, and Section 190.012(2)(b), Florida Statutes (but only with respect to water mains and fire plugs).

10. Copies of all correspondence and official notices should 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 Palm Beach County Comprehensive Land Use Plan.

(b) The area of land within the proposed District is of sufficient size and is sufficiently compact and contiguous to be developed as one functional interrelated community. This is evidenced by the Development Order Amendment which covers all three (3) parcels. The proposed District is within the PIPD and the County's regulations on property development for residential PIPD are governed by the County's PUD regulations. The County's PUD regulations are consistent and harmonious with the criteria necessary to establish a community development district.

(c) The community development services of the District will be compatible with the capacity and uses 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 (i) 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, (ii) the Act authorizes a community development district to acquire infrastructure improvements previously constructed by the Petitioner or allows for a community development district to, in the first instance, construct such infrastructure improvements, (iii) the timing for the creation of the proposed District and the issuance of special assessment bonds is compatible with the timing for the construction and acquisition of such infrastructure improvements which will result in direct benefit to the landowners and their assigns within the District, (iv) establishment of a community development district in conjunction with a comprehensive planned community, as proposed, allows for a more efficient use of resources as well as providing the opportunity for new growth to pay for itself, and (v) establishment of the District will provide a perpetual entity capable of making reasonable provisions for the operation and maintenance of many of the District services and facilities.

(e) The area that will be served by the District is amenable to separate special-district government.

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 and the policies of the County. Attached hereto as Exhibit 8 is the undertaking of the Petitioner with respect to additional disclosure which will be provided in connection with any special assessment bonds to be issued by the District.

WHEREFORE, Petitioner respectfully requests the Board of County Commissioners of Palm Beach County, Florida to:

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

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

Respectfully submitted this 28th day of January, 2005.

WESTBROOKE HOMES, a Florida general partnership, as Petitioner

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

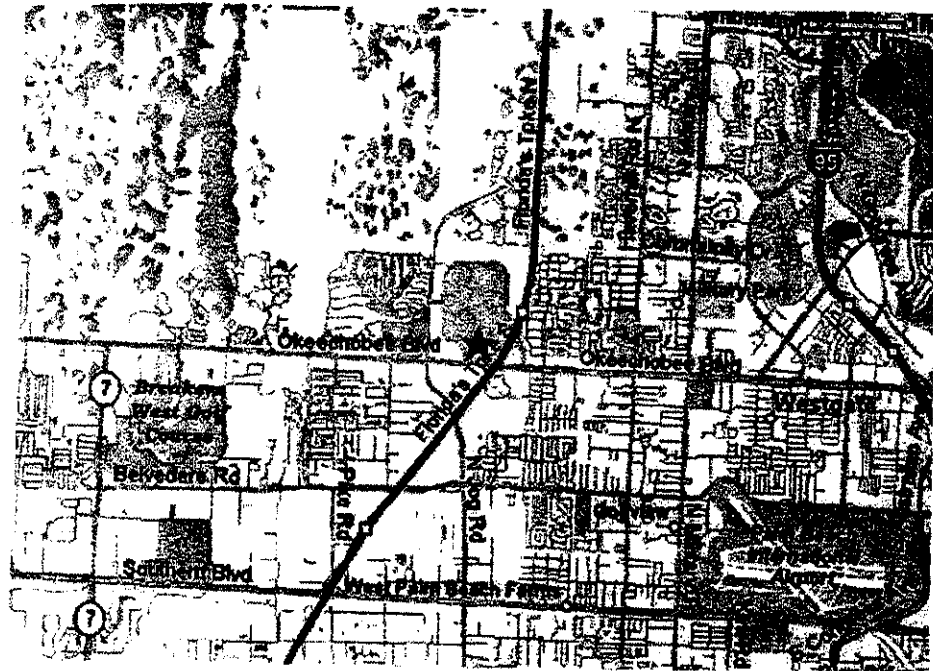
By: 
David Webber
Vice President

Vista Community Development District

EXHIBITS

Exhibit 1	Location Map
Exhibit 2	Legal Description
Exhibit 3	Consents and Proofs of Ownership
Exhibit 4	Construction Timetable
Exhibit 5	Good Faith Cost Estimate
Exhibit 6	Future Land Use Map from the Palm Beach County Comprehensive Plan
Exhibit 7	Statement of Estimated Regulatory Costs
Exhibit 8	Disclosure Undertaking

Exhibit 1



LOCATION MAP

EXHIBIT 2

LEGAL DESCRIPTION

PARCEL 4 OF VISTA CENTER OF PALM BEACH PLAT 1, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 61, PAGES 118 TO 121 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 9.857 ACRES, MORE OR LESS.

BEING ALL OF PARCEL 5 OF VISTA CENTER OF PALM BEACH PLAT 3 AS RECORDED IN PLAT BOOK 68, PAGES 128-134 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 15.306 ACRES, MORE OR LESS.

BEING ALL OF PARCEL 6 OF VISTA CENTER OF PALM BEACH PLAT 3 AS RECORDED IN PLAT BOOK 68, PAGES 128-134 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 20.611 ACRES, MORE OR LESS.

**EXHIBIT 3-A
AFFIDAVIT OF OWNERSHIP AND CONSENT
TO THE CREATION OF THE
VISTA COMMUNITY DEVELOPMENT DISTRICT**

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

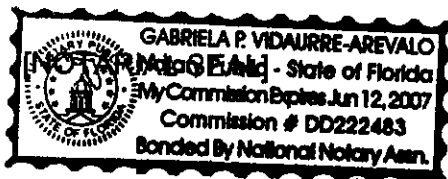
On this 28th day of January, 2005, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, David Webber, who, after being duly sworn, deposes and says:

1. Affiant, David Webber, an individual, is a Vice President of Westbrooke Companies, Inc., a Delaware corporation (the "Company").
2. The Company is the general partner of Westbrooke Homes, a Florida general partnership (herein, the "General Partnership").
3. The General Partnership is the owner of the following described property, to wit:
See Exhibit "A" attached hereto (the "Property").
4. Affiant, David Webber, hereby represents that he has full authority to execute all documents and instruments on behalf of the General Partnership, including the Petition before the Board of County Commissioners of the Palm Beach County, Florida, to enact an ordinance to establish the Vista Community Development District (the "Proposed CDD").
5. The Property represents a portion of the real property to be included in the Proposed CDD.
6. Affiant, David Webber, on behalf of the General Partnership, as the sole owner of the Property in the capacity described above, hereby consents to the establishment of the Proposed CDD.

FURTHER, AFFIANT SAYETH NOT.

David Webber
David Webber

Subscribed and sworn to before me this 28th day of January, 2005, by David Webber, a Vice President of Westbrooke Companies, Inc., a Delaware corporation, the general partner of Westbrooke Homes, a Florida general partnership, who personally appeared before me, is personally known to me or produced Fla. DL #W160-166-44-321-0 as identification.



Notary: *Gabriela P. Vidurre*
Print Name: _____
Notary Public, State of Florida
My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 4 OF VISTA CENTER OF PALM BEACH PLAT 1, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 61, PAGES 118 TO 121 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 9.857 ACRES, MORE OR LESS.

BEING ALL OF PARCEL 6 OF VISTA CENTER OF PALM BEACH PLAT 3 AS RECORDED IN PLAT BOOK 68, PAGES 128-134 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 20.611 ACRES, MORE OR LESS.

EXHIBIT 3-B
AFFIDAVIT OF OWNERSHIP AND CONSENT
TO THE CREATION OF THE
VISTA COMMUNITY DEVELOPMENT DISTRICT

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

On this 26 day of January, 2005, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, JAMES CARR, who, after being duly sworn, deposes and says:

1. Affiant, James Carr, an individual, is the manager of Carlex Residential II, LLC, a Florida limited liability company (the "Company").
2. The Company is the owner of the following described property, to wit:

See Exhibit "A" attached hereto (the "Property").
3. Affiant, James Carr, hereby represents that he has full authority to execute all documents and instruments on behalf of the Company, including all documents and instruments relating to the Petition before the Board of County Commissioners of the Palm Beach County, Florida, to enact an ordinance to establish the Vista Community Development District (the "Proposed CDD").
4. The Property represents a portion of the real property to be included in the Proposed CDD.
5. Affiant, James Carr, on behalf of the Company, as the sole owner of the Property in the capacity described above, hereby consents to the establishment of the Proposed CDD.

FURTHER, AFFIANT SAYETH NOT.

James Carr

Subscribed and sworn to before me this 26th day of January, 2005, by James Carr, the Manager of Carlex Residential II, LLC, a Florida limited liability company, who personally appeared before me, is personally known to me or produced _____ as identification.



Notary: Teresa A Smutny
Print Name: Teresa A. Smutny
Notary Public, State of Florida
My Commission Expires: 7-8-05

EXHIBIT A
Legal Description

**BEING ALL OF PARCEL 5 OF VISTA CENTER OF PALM BEACH PLAT 3
AS RECORDED IN PLAT BOOK 68, PAGES 128-134 OF THE PUBLIC
RECORDS OF PALM BEACH COUNTY, FLORIDA.**

CONTAINING 15.306 ACRES, MORE OR LESS

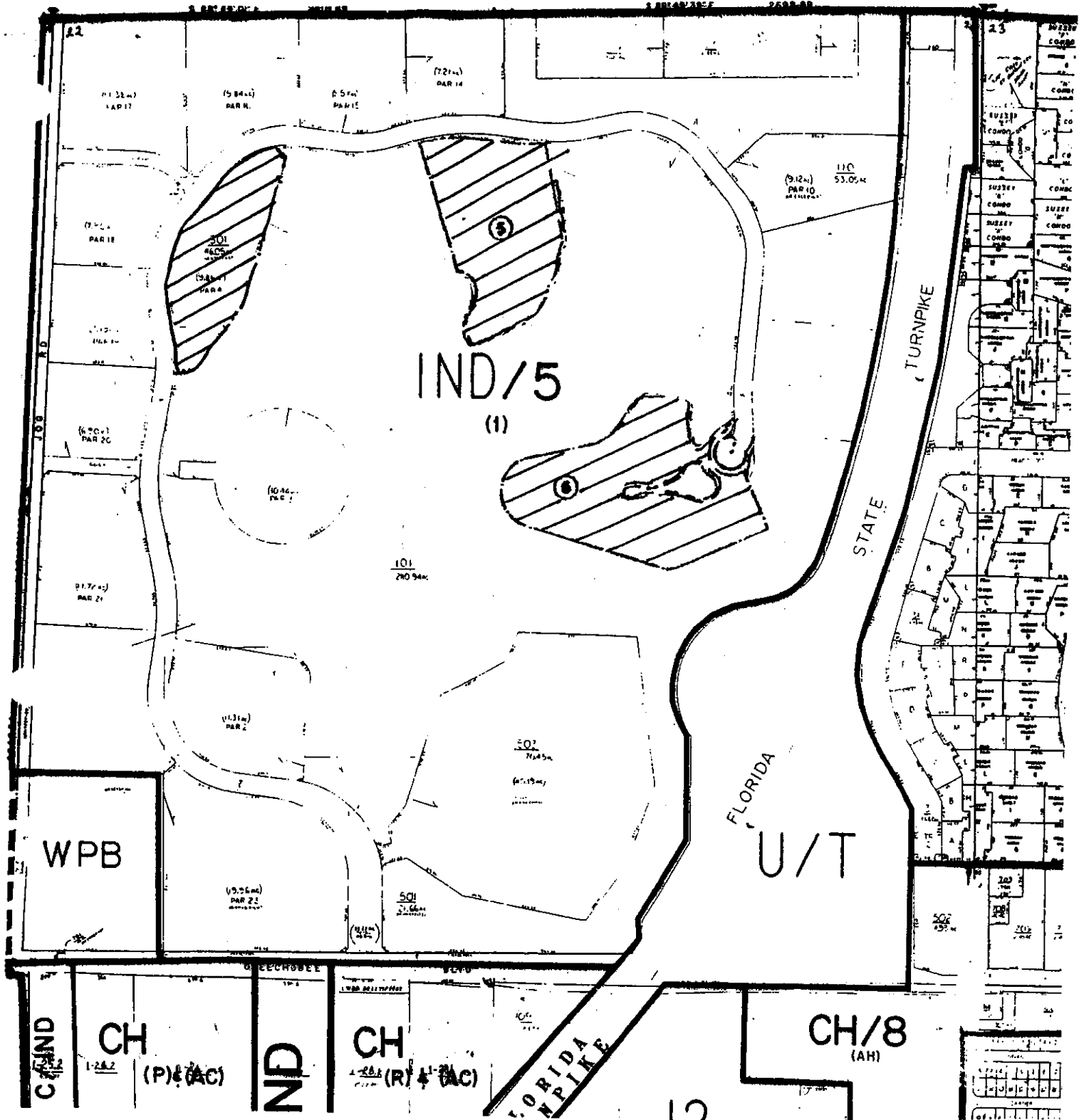
EXHIBIT 4
VISTA COMMUNITY DEVELOPMENT DISTRICT
ESTIMATED CONSTRUCTION TIME TABLE

	<u>Start</u>	<u>Finish</u>
Earthwork	November, 2004	April, 2005
Water and Sewer	March, 2005	September, 2005
Stormwater	March, 2005	September, 2005
Mitigation	November, 2004	September, 2005

EXHIBIT 5
VISTA COMMUNITY DEVELOPMENT DISTRICT
GOOD FAITH COST ESTIMATE

Water and Sewer System	\$1,632,250
Stormwater Drainage	2,626,250
Mitigation	<u>808,000</u>
Total	<u>\$5,066,500</u>

Exhibit 6



Future Land Use Atlas of Palm Beach County

AUGUST 1989

57



SUBJECT PROPERTY (Land Use Designation: Industrial/5 dwelling units per acre)

Exhibit 7

VISTA COMMUNITY DEVELOPMENT DISTRICT

STATEMENT OF ESTIMATED REGULATORY COSTS

January, 2005

Prepared by

Special District Services, Inc.
11000 Prosperity Farms Road, Suite 104
Palm Beach Gardens, Florida 33410

(561) 630-4922 Phone
(561) 630-4923 Fax

STATEMENT OF ESTIMATED REGULATORY COSTS

1.0 Introduction

1.1 Purpose and Scope

This Statement of Estimated Regulatory Costs ("SERC") supports the petition to establish the Vista Community Development District ("District"). The District comprises approximately 46+/- acres of land (Parcels 4, 5 & 6 of the Vista Center) located in the unincorporated area of Palm Beach County, Florida. The limitations on the scope of this SERC are explicitly set out in Section 190.002(2) (d), F.S. (governing community development district establishment) as follows:

"That the process of establishing such a district pursuant to uniform general law shall be fair and based only on factors material to managing and financing the service delivery function of the district, so that any matter concerning permitting or planning of the development is not material or relevant."

1.2 Overview of Vista Community Development District

The District is designed to provide district infrastructure, services, and facilities along with their operations and maintenance to Parcels 4, 5 & 6 within the Vista Center which is planned for a total of 498 residential condominium units within the boundaries of the District.

1.3 Requirements for Statement of Estimated Regulatory Costs

Section 120.541(2), F.S. (1997), defines the elements a statement of estimated regulatory costs must contain:

(a) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule.

(b) A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state and local revenues.

(c) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the ordinance. As used in this paragraph, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, and the cost of monitoring and reporting.

(d) An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S. Palm Beach County is not defined as a small County for purposes of this requirement.

(e) Any additional information that the agency determines may be useful.

(f) In the statement or revised statement, whichever applies, a description of any good faith written proposal submitted under paragraph (1) (a) and either a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed ordinance.

“Note: the references to “rule” in the statutory requirements for the Statement of Estimated Regulatory Costs also apply to an “ordinance” under section 190.005(2) (a), Florida Statutes”. For the purposes of this report, the term “agency” means Palm Beach County.

2.0 A good faith estimate of the number of individuals and entities likely to be required to comply with the ordinance, together with a general description of the types of individuals likely to be affected by the ordinance.

The Vista Community Development District will serve land that comprises approximately 46 +/- acres of residential development to be made up of an estimated 498 residential condominium units. The estimated population of the District is 1250 +/- . It is anticipated that the majority of the property owners in the District will be individuals and families.

3.0 A good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues.

There is no state agency promulgating any rule relating to this project that is anticipated to effect state or local revenues.

3.1 Costs to Governmental Agencies of Implementing and Enforcing Ordinance

Because the results of adopting the ordinance is establishment of a local special purpose government, there will be no enforcing responsibilities of any other government entity, but there will be various implementing responsibilities which are identified with their costs herein.

State Governmental Entities

There will be only modest costs to various State governmental entities to implement and enforce the proposed establishment of the District. The District as established on the proposed land, will encompass under 1,000 acres, therefore, Palm Beach County is the establishing entity under 190.005(2), F.S. The modest costs to various State entities to

implement and enforce the proposed ordinance relate strictly to the receipt and processing of various reports that the District is required to file with the State and its various entities. Appendix A lists the reporting requirements. The costs to those State agencies that will receive and process the District's reports are very small, because the District is only one of many governmental units that are required to submit the various reports. Therefore, the marginal cost of processing one additional set of reports is inconsequential. Additionally, pursuant to section 189.412, F.S., the District must pay an annual fee to the State of Florida Department of Community Affairs which offsets such costs.

Palm Beach County

There will be only modest costs to the County for a number of reasons. First, review of the petition to establish the District does not include analysis of the project itself. Second, the petition itself provides much of the information needed for a staff review. Third, the County already possesses the staff needed to conduct the review without the need for new staff. Fourth, there is no capital required to review the petition. Fifth, the County routinely process similar petitions though for entirely different subjects, for land uses and zoning changes that are far more complex than is the petition to establish a community development district. Finally, the County may incur costs to monitor the additional disclosure requirements imposed on Community Development Districts, but those costs will be dependent upon the level of monitoring determined by County staff.

The annual costs to Palm Beach County, because of the establishment of the District, are also very small. The District is an independent unit of local government. The only annual costs the County faces are the minimal costs of receiving and reviewing the various reports that the District is required to provide to the County. However, the Petitioner has included a payment of \$15,000 to offset any expense the County may incur in the processing of this Petition, or in the monitoring of this District

3.2 Impact on State and Local Revenues

Adoption of the proposed ordinance will have no negative impact on state or local revenues. The District is an independent unit of local government. It is designed to provide infrastructure facilities and services to serve the development project and it has its own sources of revenue. No state or local subsidies are required or expected.

In this regard it is important to note that any debt obligations incurred by the District to construct its infrastructure, or for any other reason, are not debts of the State of Florida or any other unit of local government. In accordance with State law, debts of the District are strictly its own responsibility.

4.0 A good faith estimate of the transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the ordinance.

Table 1 provides an outline of the various facilities and services the proposed District may provide. The water and sewer utilities, stormwater drainage, wetlands mitigation and certain offsite improvements will all be funded by the District.

Table 1

PROPOSED FACILITIES AND SERVICES

FACILITY	FUNDED BY	O&M BY	OWNERSHIP BY
Stormwater Drainage System	CDD	CDD	CDD
Potable Water Supply System	CDD	County	County
Sanitary Sewer System	CDD	County	County
Mitigation	CDD	Northern*	Northern*

*Northern Palm Beach County Improvement District

The petitioner has estimated the costs for providing the capital facilities outlined in Table 1. The cost estimates are shown in Table 2 below. Total costs for those facilities, which may be provided, are estimated to be approximately \$5,066,500. The District may issue special assessment bonds to fund the costs of these facilities. These bonds would be repaid through non ad valorem special assessments levied on all properties in the District that may benefit from the District's infrastructure program as outlined in Table 2.

Prospective future landowners in the District may be required to pay non-ad valorem assessments levied by the District to secure the debt incurred through bond issuance. In addition to the levy of non ad valorem special assessments by various names for debt service, the District may also impose a non-ad valorem assessment to fund the operations and maintenance of the District and its facilities and services.

Furthermore, locating in the District by new property owners is completely voluntary. So, ultimately, all owners and users of the affected property choose to accept the non ad valorem special assessments as a tradeoff for the benefits and facilities that the District provides.

A community development district ("CDD") provides property owners with the option of having higher levels of facilities and services financed through self-imposed revenue. The District is an alternative means to manage necessary development services with related financing powers. District management is no more expensive, and often less expensive, than the alternatives of a municipal service taxing unit (MSTU), a property association, provision by the County, or through developer equity and/or bank loans.

In considering these costs it shall be noted that owners of the lands to be included within the District will receive three major classes of benefits.

First, landowners in the District will receive a higher long-term sustained level of public services and amenities sooner than would otherwise be the case.

Second, a CDD is a mechanism for assuring that the community services and amenities will be completed concurrently with development of lands within the District. This satisfies the current growth management legislation, and it assures that growth pays for

itself without undue burden on other consumers. Establishment of the District will ensure that these landowners pay for the provision of facilities, services and improvements to these lands.

Third, a CDD is the sole form of governance which allows District landowners, through landowner voting, to determine the type, quality and expense of District services they receive, provided they meet the County's overall requirements.

The cost impact on the ultimate landowners in the District is not the total cost for the District to provide infrastructure services and facilities. Instead, it is the incremental costs above what the landowners would have paid to install infrastructure via an alternative management mechanism. Given the low cost of capital for a CDD, the cost impact to landowners is negligible. This incremental cost of the high quality infrastructure provided by the District is likely to be fairly low.

Table 2

COST ESTIMATE FOR DISTRICT FACILITIES

	Cost Estimates
Stormwater Drainage System	\$ 2,626,250
Potable Water Supply System and Sewer System	\$ 1,632,250
Mitigation	\$ 808,000
Total	\$ 5,066,500

5.0 An analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.

There will be no impact on small businesses because of the establishment of the District. Palm Beach County has an estimated population in 2002 that is greater than 75,000; therefore the County is not defined as a "small" County according to Section 120.52, F.S, and there will accordingly be no impact on a small County because of the formation of the District.

6.0 Any additional useful information.

The analysis provided above is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the petitioner's engineer and other professionals associated with the petitioner.

**APPENDIX A
LIST OF REPORTING REQUIREMENTS**

REPORT	FL. STATUE CITATION	DUE DATE
Annual Financial Audit	11.45	within 45 days of audit completion, but no later than 12 months after end of fiscal year
Annual Financial Report	218.32	within 45 days of financial audit completion, but no later than 12 months after end of fiscal year; if no audit required, by 4/30
TRIM Compliance Report	200.068	no later than 30 days following the adoption of the property tax levy ordinance/resolution (if levying property taxes)
Form 1: Statement of Financial Interests	112.3145	within 30 days of accepting the appointment, then every year thereafter by 7/1 (by "local officers" appointed to special district's board); during the qualifying period, then every year thereafter by 7/1 (by "local officers" elected to special district's board)
Public Facilities Report	189.415	within one year of special district's creation; then annual notice of any changes; and updated report every 5 years, 12 months prior to submission of local government's evaluation and appraisal report
Public Meetings Schedule	189.417	quarterly, semiannually, or annually
Bond Report	218.38	when issued
Registered Agent	189.416	within 30 days after first meeting of governing board
Proposed Budget	189.418	prior to end of current fiscal year
Public Depositor Report	280.17	annually by 11/3

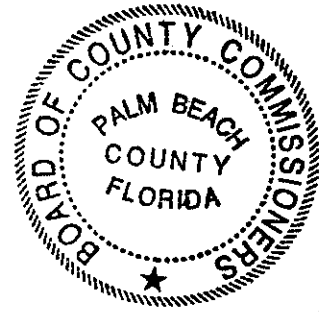
EXHIBIT 8
VISTA COMMUNITY DEVELOPMENT DISTRICT
DISCLOSURE UNDERTAKING

1. 24-inch by 36-inch sign posted at all times at the entrance of the sales office.
2. Separate addendum to purchase contract in addition to disclosure required under Section 190.048.
3. Disclosure as part of sales literature on price points page.
4. Disclosure on front page of declaration of restrictive covenants.
5. On every secondary sale a deed restriction will require that the transferee execute a special assessment acknowledgment prior to the recording of the new deed.
6. Record a notice of assessment after Bonds are sold.

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, SHARON R. BOCK, Clerk & Comptroller certify
this to be a true and correct copy of the original
filed in my office on DEC 20 2005

dated at West Palm Beach, FL on 1-19-2006

By: Charmaine Craig
Deputy Clerk




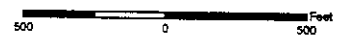
Map 1. Vista CDD Location Map

00-42-43-22-06-006-0000, 00-42-43-22-04-004-0000,
and 00-42-43-22-06-005-0000



Revision Date March 1, 2005
Contact: Gustavo A. Goya
Planning

 Vista CDD Pods



Planning, Zoning
& Building
100 Aqueduct Avenue
West Palm Beach, FL 33409
Phone (561) 233-5300



Note: Map is not official, for presentational purposes only.