

ORDINANCE NO. 15-35

THE BOARD OF COUNTY COMMISSIONERS

AN ACT TO BE ENTITLED

AN ORDINANCE ESTABLISHING THE BOUNDARIES OF THE CHAPEL CREEK COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTERS 189 AND 190, FLORIDA STATUTES; PROVIDING FOR AUTHORITY AND POWER OF THE DISTRICT; PROVIDING FOR POWERS AND DUTIES OF THE DISTRICT; PROVIDING FOR THE BOARD OF SUPERVISORS OF THE DISTRICT; PROVIDING FOR THE DISTRICT BUDGET; PROVIDING FOR FUNCTIONS OF THE DISTRICT; PROVIDING FOR MISCELLANEOUS PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Maconi-Crosland Chapel Creek, LLC (the Petitioner), has petitioned the Pasco County Board of County Commissioners (the County) to adopt an ordinance establishing the boundaries of the Chapel Creek Community Development District (the District) pursuant to Chapter 190, Florida Statutes; and,

WHEREAS, the County, in determining whether to establish the district boundaries, has considered and finds that all statements contained in the Petition to Establish the Chapel Creek Community Development District (the Petition) are true and correct; and,

WHEREAS, the County has considered and finds that the establishment of the District is not inconsistent with any applicable element or portion of the State of Florida Comprehensive Plan or the Pasco County Comprehensive Plan; and,

WHEREAS, the County has considered and finds that the area of land within the District is a sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as a functional interrelated community; and,

WHEREAS, the County has considered and finds that the District is the best alternative for delivering the community development services and facilities to the area that will be served by the District; and,

WHEREAS, the County has considered and finds that the community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and,

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

WHEREAS, a duly noticed public hearing on the Petition was held prior to the adoption of this ordinance establishing the boundaries of the District.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida, as follows:

SECTION 1. AUTHORITY AND POWER OF THE DISTRICT

a. There is hereby established the District, the external boundaries of which is described in Attachment A, Exhibit 2, and incorporated herein, which shall operate in accordance with the

Uniform Community Development District Act of 1980 and those requirements as set forth in Florida Statutes, Chapters 189 and 190.

b. The establishment of the District shall not affect any requirements for governmental approval of any construction within the District. Any Development of Regional Impact requirements and all State and local development regulations shall apply. Planning, environmental, and land development regulations shall apply to all development and construction within the District regardless of who undertakes the activity. Further, the District shall not have the authority to adopt a comprehensive plan, building code, or land development code.

c. The District shall have no eminent domain powers outside its boundaries without first obtaining the expressed written approval of the Board of County Commissioners.

d. The District shall comply with all applicable provisions of Chapter 189, Florida Statutes, including, but not limited to, the requirement that a "Public Facilities Report" be made and submitted to the County in accordance with Section 189.415, Florida Statutes.

SECTION 2. POWERS AND DUTIES OF THE DISTRICT

The exclusive charter for the District shall be the uniform community development district charter as set forth in Florida Statutes 190 which includes, but is not limited to, the following:

a. The District shall provide financial reports to the Department of Banking and Finance in the same form and in the same manner as all other political subdivisions, including the County.

b. The District shall fully disclose information concerning the financing and maintenance of real property improvements undertaken by the District. Such information shall be made available to all existing and prospective residents of the Community Development District and the County.

c. All contracts for the initial sale of real property and residential units within the District shall disclose to the buyer the existence of the District and the District's authority to levy taxes and assessments. Both the text and the placement of the text in the contract of sale must appear as mandated by law.

d. The District shall have the authority to pledge only the District's funds, revenues, taxes, and assessments to pay the District's short-term indebtedness.

e. All bonds issued by the District shall be secured by a trust agreement between the District and a corporate trustee or trustees.

f. In the event of a default on District Bonds, the obligations of the District shall not constitute a debt or obligation of the County, any municipality, or the State.

g. The District shall be subject to the Florida Constitution provision requiring approval of ad valorem taxes by referendum; the millage rate for such taxes shall be limited by statute. In addition to the millage cap, the aggregate principal amount of general obligation bonds outstanding at any one (1) time shall not exceed thirty-five (35) percent of the assessed value of the property within the District.

Should the residents of the District impose ad valorem taxes upon themselves, such taxes shall be in addition to the County's and other ad valorem taxes and shall be assessed, levied, and collected in the same manner as the County's taxes.

h. Rates, fees, rentals, and other charges for any facilities or services of the District shall be established only after a noticed public hearing.

i. Within thirty (30) days after the effective date of this ordinance, the District shall record a Notice of Establishment of District Boundaries in the property records of the County, which the said notice shall include at least the legal description of the property within the District and the notice required to be given to buyers of property within the District.

SECTION 3. BOARD OF SUPERVISORS OF THE DISTRICT

a. The District Board of Supervisors shall exercise the powers and responsibilities granted to the District.

b. The members of the District's Board of Supervisors shall be residents of Florida and citizens of the United States. The names of the five (5) persons designated to be the initial members of the Board of Supervisors as supplied in the Petition is attached hereto as Attachment A, Exhibit 12, and incorporated herein.

c. After the Board of Supervisors shifts to being elected by the resident electors of the District, the supervisors shall also be residents and electors of the District.

d. Candidates for the District's Board of Supervisors seeking election to office by the qualified electors of the District shall be subject to the same campaign financing disclosure requirements and oath of office requirements as candidates for any other public office.

e. The compensation of each supervisor is limited to Two Hundred and 00/100 Dollars (\$200.00) per meeting (not to exceed Four Thousand Eight Hundred and 00/100 Dollars [\$4,800.00] per year), plus standard State travel and per diem expenses, unless a higher compensation is approved by a referendum of the residents of the District.

f. All meetings of the District's Board of Supervisors, which shall be held a minimum of four (4) times per year during evening hours, must be open to the public and governed by the Government-in-the-Sunshine requirements of Chapter 286, Florida Statutes.

g. The District's Board of Supervisors shall follow Chapter 120, Florida Statutes, procedures in adopting rules.

h. The records of the District's Board of Supervisors must be open for public inspection by any person at any reasonable time, pursuant to Chapter 119, Florida Statutes, and the said records shall be kept in the manner and in the place mandated by law.

SECTION 4. DISTRICT BUDGET

a. The District budget shall be adopted annually by the District's Board of Supervisors, and prior to approval by the said Board, shall be the subject of a duly noticed public hearing at which the said Board must hear all objections to the budget.

b. Proposed District budgets shall be submitted by the District's Board of Supervisors to the County at least sixty (60) days before adoption by the District's Board of Supervisors.

SECTION 5. FUNCTIONS OF THE DISTRICT

a. The District may exercise the general powers provided for in Sections 190.011, Florida Statutes.

b. The District may exercise the special powers provided for in Sections 190.012(1) and (3), Florida Statutes.

c. The powers and functions of the District do not replace, diminish, or obviate the applicability of any County ordinance to the property and the development of the said property, currently within the District, as described in Attachment A, Exhibit 2, and as the said District might be expanded or contracted.

SECTION 6. MISCELLANEOUS PROVISIONS

a. The County may require, based upon the numbers of residential units planned within the District, that the District's community facilities be used to accommodate the establishment of a polling place by the Pasco County Supervisor of Elections.

b. The County, at its option, may adopt a nonemergency ordinance providing for a plan for the transfer of a specific community development service from the District to the County. The plan shall provide for the assumption and guarantee of the District debt that is related to the service and shall demonstrate the ability of the County to provide the service as efficiently as the District at a level of quality equal to or higher than that actually delivered by the District and at charge equal to or lower than the actual charge by the District.

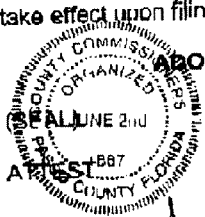
c. The Petition to Establish the Boundaries of the District is attached hereto in its entirety as Attachment A.

SECTION 7. SEVERABILITY

To the extent that any portion of this ordinance is in conflict with Chapter 100, Florida Statutes or any other Florida Statute, as amended, then the Florida Statutes shall govern, and the remainder of this ordinance shall be construed as not having contained such section, subsection, sentence, clause, or provision and shall not be affected by such holding.

SECTION 8. EFFECTIVE DATE

A certified copy of this ordinance shall be filed in the Office of the Secretary of State by the Clerk to the Board of County Commissioners within ten (10) days after adoption of this ordinance and shall take effect upon filing.



ADOPTED this 23rd day of August, 2005

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

[Signature]
JED PITTMAN, CLERK

[Signature]
PAT MULIERI, Ed.D., CHAIRMAN
APPROVED

AUG 29 2005

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
Office of the Pasco County Attorney

[Signature]
ATTORNEY

PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Honorable Chairman and Members of the Board of County Commissioners

DATE: 8/8/05 FILE: GM05-850

THRU: *[Signature]*
Bipin Parikh, P.E.
Assistant County Administrator
(Development Services)

SUBJECT: Adoption of Ordinance Establishing the Chapel Creek Community Development District
BCC Meeting Date: 8/23/05, 1:30 p.m., DC
Recommendation: Approval

FROM: *[Signature]*
LAW. Millard
Acting Zoning/Code Compliance Administrator

REFERENCES: CAC Planning Dist. 2
Comm. Dist. 1

It is recommended that the data herein presented be given formal consideration by the Board of County Commissioners (BCC).

DESCRIPTION AND CONDITIONS:

On March 31, 2005, Maconi-Crusland Chapel Creek, LLC, landowner, submitted a petition to the Growth Management Department to establish the Chapel Creek Community Development District (CDD) pursuant to the Uniform Community Development District Act of 1986, Florida Statutes, Chapter 190. Chapel Creek is located in East Pasco County, on the north side of Elland Boulevard, approximately 1,600 feet east of the intersection of Hendon Road and Elland Boulevard. The land area to be served by the district is a parcel of real property containing approximately 350.3 acres. The landowner, Maconi-Crusland Chapel Creek, LLC, has given written consent to establish the CDD. The proposed district is designed as an MPUD Master Planned Unit Development. The project is proposed to contain approximately 300 dwelling units and 70,000 square feet of professional offices per the petition.

A CDD is an independent special district authorized pursuant to Chapters 189 and 190, Florida Statutes, as a mechanism to manage and finance basic community development services. A CDD may issue bond anticipation notes, bonds, and levy and assess ad valorem taxes. The future residents and/or owners of land within the CDD then make the payments with revenue gained by the levy of special assessments and ad valorem taxes (a CDD is held to a three-mill cap) to retire the bonds and to pay the operating expenses of the CDD. A disclosure statement must be furnished to all buyers, and contracts for the sale of property within the CDD must contain information about the CDD.

A CDD under 1,000 acres in size are created by counties through ordinances which provide for general and special powers for public improvements and community facilities. Additional special powers may be conferred to an established CDD board for parks, recreation, fire prevention, schools, security, mosquito control, and waste collection and disposal. Once established, a CDD is a public agency and therefore is subject to financial disclosure, accountability, ethical practices, and the Sunshine Law requirements which apply to governmental entities.

Prior to adopting an ordinance granting a petition for the establishment of a CDD, the BCC shall consider the record of the public hearing and the following factors in making its determination to grant or deny a petition:

1. Whether all statements contained within the petition have been found to be true and correct.
2. Whether the establishment of the CDD is inconsistent with any applicable element or portion of the State comprehensive plan or of the adopted Pasco County Comprehensive Plan.
3. Whether the area of land within the proposed CDD is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.



4. Whether the CDD is the best alternative available for delivering community development services and facilities to the area that will be served by the CDD.
5. Whether the community development services and facilities of the CDD will be incompatible with the capacity and uses of existing local and regional community development services and facilities.
6. Whether the area that will be served by the CDD is amenable to separate special district government.

ALTERNATIVES AND ANALYSIS:

1. Adopt the ordinance establishing the Chapel Creek CDD.
2. Elect not to adopt the ordinance.
3. Recommend another course of action.

RECOMMENDATION AND FUNDING:

The Growth Management Department recommends that the BCC approve Alternative No. 1, adopt the attached proposed ordinance by roll-call vote, authorize the Chairman's signature on the same, and direct Secretarial Services to retain one original and to file a certified copy of the ordinance and the coding form with the Florida Department of State within ten days after enactment; to forward one certified copy to the County Attorney, New Port Richey; and to forward one original to the Growth Management Department, New Port Richey.

There will be no impact on the cost of housing.

No additional funding is required for this action.

ATTACHMENTS:

1. Ordinance Establishing the Chapel Creek CDD with Attachments (Two Originals)
2. Location Map

LWMGAS/gmv/chapelcreek33c/33c

APPROVED AGENDA ITEM FOR

DATE Aug 23 2005

BY [Signature]