

**PETITION TO AMEND LEE COUNTY ORDINANCE 18-21, AS MODIFIED BY ORDINANCE 20-10, TO
MODIFY THE BOUNDARIES OF THE ESPLANADE LAKE CLUB UNIFORM COMMUNITY DEVELOPMENT
DISTRICT**

**STAFF ANALYSIS
DEPARTMENT OF COMMUNITY DEVELOPMENT**

Request

The Esplanade Lake Club Uniform Community Development District (District) submitted the attached petition to change the District's boundaries.

The Petitioner requests that the Lee County Board of County Commissioners grant the petition to add 46.293± acres to the District boundary. Upon approval, the District will include approximately 843.374± acres of land and is located within Lee County, Florida. The property being added to the existing District, as part of this amendment, is located entirely within unincorporated portions of Lee County, Florida.

The land area is generally located west of Ben Hill Griffin Parkway and south of Alico Road. The approximate location and configuration of the proposed District appears in **Exhibit 1** of the petition. The metes and bounds description of the existing District boundary is provided in **Exhibit 2** the petition. The metes and bounds description of the proposed expansion area is shown in **Exhibit 3** of the petition, and the complete amended metes and bounds description of the amended District boundary is shown in **Exhibit 4** of the petition.

The existing District originally consisted of 778.903± acres and was subsequently modified by Lee County Ordinance 20-10 to increase the size to 797.081± acres. Approval of this Petition would result in an addition of 46.293± acres. This represents a cumulative increase in land area of 64.471± acres, or 8.28%. This is less than a cumulative net total greater than 50 percent of the land in the initial district and is less than 1,000 cumulative acres.

Therefore, the Petition will be processed in accordance with 190.046(1)(a) Florida Statutes which requires that in addition to the requirements in 190.046, the Petition must include the information contained in 190.005(1)(a)(1) and 190.005(1)(a)(8) *Florida Statutes*.

The Petition contains the following as required:

- If the petitioner seeks to expand the district, the petition shall describe the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan. [190.046(1)(a), F.S.]
- A description of the land to be added or deleted. [190.046(1)(d)(5)F.S.]
- A metes and bounds description of the external boundaries of the District. [190.005(1)(a)(1), F.S.]
- The cumulative net total of boundary change [190.046(1)(e)(2)F.S.]
- A statement of estimated regulatory costs in accordance with the requirements of s. 120.541. [190.005(1)(a)(8) F.S.]
- Written consent of the landowners. [190.046(1)(g) F.S.]

The Esplanade Lake Club UCDD is a Uniform Community Development District created pursuant to Chapter 190, *Florida Statutes*. It was duly and legally authorized to exist and exercise all its general and special powers, as limited by law, in Lee County Ordinance 18-21 on September 18, 2018. Approval allowed the District to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for parks and facilities for indoor and outdoor recreational, cultural, and educational uses and security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars.

Lee County Ordinance 18-21 was subsequently modified by Lee County Ordinance 20-10 which modified the District boundary to add approximately 18.151± acres bringing the District total acreage to 797.081± acres.

The lands being added to the existing boundary are owned by several different owners. Each landowner has provided their written consent in the Petition, see **Exhibit 6**.

UCDD Overview

Florida law (Chapter 190, *Florida Statutes*) authorizes the establishment of the UCDD by the Lee County Board of County Commissioners. Only a county commission may establish a UCDD in an unincorporated area with a size less than 2,500 acres.

Uniform Community Development Districts (UCDDs) serve their property owners and residents as independent units of local special purpose government. They operate independent of the county government and the Lee County Board of County Commissioners in the provision of certain services. While UCDDs operate as units of local government, they do not have all the powers of a city government or a county government. For example, they do not have police powers or zoning authority.

A UCDD serves a governmental and public purpose by financing, providing, and managing certain basic infrastructure systems, facilities, and services for the use and enjoyment of the general public. Only property owners within the UCDD are assessed through the District for these improvements within its boundaries.

Some of the powers of a UCDD include the ability to create, operate, and maintain water management systems, water supply, sewers, wastewater systems, effluent disposal systems, bridges, culverts, and roads within the District. With the consent of the Board of County Commissioners, a UCDD may also exercise additional powers, such as the creation, operation, and maintenance of parks and recreational facilities, fire prevention and control, educational buildings, security systems, mosquito control, and waste collection and disposal.

Contraction and expansion of an established UCDD must be consistent with *Florida Statutes* Section 190.046. The process specified in Section 190.046, *Florida Statutes*, for establishing, terminating, contracting, or expanding a UCDD addresses only factors material to managing and financing the facilities and service delivery functions of the District. The statute treats matters concerning permitting or planning of the development as not material and not relevant to this process. Regardless of the powers and duties of the District, all land development projects within the District must still abide by the county's local government comprehensive plan and local land development regulations.

Discussion

The land within the existing District boundary is designated as University Community and Wetlands on the Lee Plan Future Land Use Map. The land proposed to be added to the UCDD is also designated as University Community and Wetlands on the Future Land Use Map and is zoned Mixed-Use Planned Development (MPD) and Agricultural (AG-2). The northeast expansion parcel is currently developed with single family dwelling units. Tract F6 and the FGCU Expansion Parcel are currently reserved for future development and are currently vacant. There will be UCDD infrastructure required for the development of the F6 and FGCU expansion parcels. The estimated costs for the construction of the infrastructure to serve the amended District is identified in **Exhibit 10** of the Petition.

The District will fund and construct all infrastructure and other community facilities. The District will own, operate, and maintain storm water management features, landscaping, irrigation systems, environmental maintenance, recreational facilities, parks and security. Landowners in the UCDD will continue to pay assessments levied by the District. The District will use the assessments to pay District debts (e.g., any bonds that financed infrastructure construction) and District expenses (e.g., operation and maintenance of its facilities and services).

Any action on the Petition does not set a precedent for future Uniform Community Development District requests and does not grant any entitlement for development of the site. Lee County reviews all submitted petitions dealing with UCDDs on a case-by-case basis in accordance with the criteria specified in Section 190.005(1)(e), *Florida Statutes*.

Review Factors 190.046 Florida Statutes:

Filing Fee of \$1,500: [190.046(1)(d)2,F.S.]

PAID.

THE PETITION MUST CONTAIN THE FOLLOWING:

- A. The petition shall describe the proposed timetable for construction of any district services to the area, the estimated cost of constructing the proposed services, and the designation of the future general distribution, location, and extent of public and private uses of land proposed for the area by the future land use plan element of the adopted local government local comprehensive plan. [190.046(1)(a)F.S.]

The services provided, timetable for construction and estimated cost of infrastructure for the expansion area is provided in Exhibit 10 and paragraph 7 of the Petition.

- B. Describe the land to be added and deleted. [190.046(1)(d)(5)F.S.]

See Petition Exhibit 3 describing the land to be added.

- C. A metes and bounds description of the external boundaries of the district. [190.005(1)(a)(1), F.S.]

See Petition Exhibit 4 describing the external boundaries of the amended UCDD.

- D. During the existence of a district initially established by county or municipal ordinance, the process to amend the boundaries of the district pursuant to paragraphs (a)-(d) shall not permit a

cumulative net total greater than 50 percent of the land in the initial district, and in no event greater than 1,000 acres on a cumulative net basis. [190.046(1)(e)(2), F.S.]

The Esplanade Lake Club originally contained 778.930± acres. Lee County Ordinance 18-21 was subsequently modified by Lee County Ordinance 20-10 which modified the District boundary to add approximately 18.151± acres bringing the District total acreage to 797.081± acres. Approval of this Petition would result an addition of 46.293± acres bring the District total acreage to 797.081± acres. This represents a 8.28% increase in land area and is also less than 1,000 acres on a cumulative net basis.

- F. Based upon available data, the proposed timetable for construction of the district services and the estimated cost of constructing the proposed services. These estimates shall be submitted in good faith but shall not be binding and may be subject to change. [190.005(1)(a)(6), F.S.]

See Petition paragraphs number 6 and 7 as well as Exhibits 9 and 10.

- G. Written consent of the landowners. [190.046(1)(f) F.S.]

See Petition Exhibit 6.

- H. A statement of estimated regulatory costs in accordance with the requirements of s. 120.541. [190.005(1)(a)(8)]

The petition includes a Statement of Estimated Regulatory Costs (SERC) as required by Section 190.005(1)(a)8 Florida Statutes. The statement must address the impact on small businesses, the entities affected by the District, and the cost to governments. The statement provided with the petition includes an adequate analysis as required by state law.

The District will generate nominal costs to the state and county governments for processing this petition. The petitioner paid an application fee to Lee County to compensate for these for the amended petition. The District will continue to pay the required annual Special District Filing Fee to offset any State costs related to oversight.

Small businesses will not suffer or enjoy significant impacts from this District. The District in its purchasing decisions will not vary from the same principles of cost, productivity and innovation that guide private enterprise. Additionally, the District is not likely to cause the award of contract to favor non-local providers any more than if the District did not exist based on the competitive bidding process to achieve the lowest cost/best value for services.

The establishment of the District will eventually affect the future property owners planned for the District. They will pay taxes and/or assessments to the District for the construction, maintenance, operation, and administration of District facilities and services within the District. Property ownership within the District is voluntary and all costs associated with the District are required to be disclosed to prospective purchasers prior to sale.

See Petition Exhibit 11.

Recommendation

Staff recommends **adoption** of the Petition to amend the boundary of the Esplanade Lake Club UCDD boundaries. Staff further recommends that any and all agreements for the sale of property within the boundaries of the Esplanade Lake Club UCDD must include the disclosure statement required in Section 190.048 *Florida Statutes*. This requirement applies to the initial seller of the property as well as all subsequent sellers, successors and assigns for the life of the Esplanade Lake Club UCDD.

Attachments:

- Location Map of District with proposed boundary
- Petition to Amend Lee County Ordinance 18-21 as modified by Lee County Ordinance 20-10, to modify the external boundaries of the district through expansion.