

ORDINANCE 98- 31

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 APPROXIMATELY 177 ACRES; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT AS THE WINSTON TRAILS COMMUNITY DEVELOPMENT DISTRICT (EAST); DESIGNATING THE POWERS OF THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; 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, Winston Trails Development Corporation, a Florida corporation ("Petitioner") has petitioned Palm Beach County, Florida (the "County") to grant the establishment of the Winston Trail Community Development District (East) (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, the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the areas without overburdening the County and its taxpayers; 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 water, wastewater and drainage 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 District shall construct potable water and wastewater facilities in accordance with the County's Water Utilities Department's standards and procedures to enable County to provide potable water and wastewater services to the District; and

WHEREAS, the District desires to levy special assessments on purchasers of benefitted land within the District to pay for infrastructure constructed by the District; and

WHEREAS, the area that will be served by the District is amenable to separate special district government; and

WHEREAS, the Board has considered the record of the public hearing and has decided that the establishment of the Winston Trails Community Development District (East) is the best alternative means to provide certain basic services to the community; and

WHEREAS, the Board finds that the Winston Trails Community Development District (East) shall have the general powers described in Section 190.011, Florida Statutes, and that it is in the public interest of all the citizens of the County that the District have such general powers.

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

Section 1: The petition to establish the Winston Trails Community Development District (East) over the real property described in Exhibit "A" attached hereto, which was filed by Winston Trails Development Corporation on May 27, 1998, and which Petition attached as Exhibit "B", is hereby granted.

Section 2: The external boundaries of the District shall be as depicted on the location map attached hereto and incorporated herein as Exhibit "C".

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

- | | |
|---------------|---|
| Dan Paesant | 1187 Camillia Island Dr., Westin, Florida 33326 |
| Robyn Henoch | 1745 N.W. 4th Avenue, #10, Boca Raton, FL 33432 |
| James O'Brien | 7468 Mahogany Bend Court, Boca Raton, FL 33434 |
| Mike Grammen | 6066 Town Colony Drive, #1212, Boca Raton, FL 33433 |
| Ken Arnesen | 4461 N.E. 17th Terrace, Fort Lauderdale, FL 33334 |

Section 4: The name of the District shall be the "Winston Trails Community Development District (East)."

Section 5: The District is created for the purposes set forth in and prescribed in the petition, Exhibit "B".

Section 6: The Board hereby grants to the Winston Trails Community Development District (East) 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 the County to grant such general powers.

Section 7: Pursuant to Section 190.005 (2) (d), Florida Statutes, the charter for the Winston Trails Community Development District (East) shall be Sections 190.006 through 190.041, Florida Statutes.

Section 8: Pursuant to Section 190.048, F.S., each contract for the sale of real estate in the District shall include in the contract, the language in 190.048 and include a signature line for purchaser's signature.

Section 9: Notwithstanding Section 7 as set forth hereinabove, Petitioner, acting on behalf of the landowner of the property encompassing the District, shall enter into a Standard Potable Water and Wastewater Development Agreement with the County for the provision of water and wastewater to said District. Petitioner shall enter into said Agreement prior to construction of any water or wastewater facilities. Petitioner shall pay all fees and charges as set forth in said Agreement and shall abide by all terms and conditions therein including, but not limited to, constructing the water and wastewater facilities in accordance with the Water Utilities Department's Uniform Policies and Procedures; providing the County with appropriate easements for said facilities; and providing the County with a deed to said water and wastewater facilities at no cost to County. Palm Beach County's Water Utilities Department shall operate and maintain said water and wastewater facilities and provide water and wastewater service upon receipt of all fees and charges, upon completion of construction, and upon receipt of said deed.

Section 10: The District is solely responsible for the implementation of special assessments upon benefitted property within the District's external boundaries and shall provide notice of said special assessments to all prospective purchasers of said property.

Section 11: If any clause, or other part of 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 12: All Sections or parts of sections of the Code of Ordinances, all ordinances or parts thereof and all resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 13: This ordinance shall take effect upon filing with the Department of State, per Section 125.66, Florida Statutes.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this _____ day of AUG 18 1998, 1998.

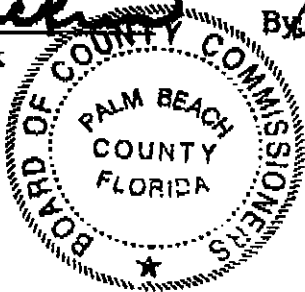
ATTEST:
DOROTHY H. WILKEN, CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: *Dinda C. Hickman*
Deputy Clerk

By: *[Signature]*
Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



By: *[Signature]*
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 26th day of August, 1998.

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

IN RE: AN ORDINANCE TO ESTABLISH)
THE WINSTON TRAILS COMMUNITY)
DEVELOPMENT DISTRICT (EAST))

PETITION

Petitioner, **WINSTON TRAILS DEVELOPMENT CORPORATION**, a Florida corporation, 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, Winston Trails Development Corporation (herein, the "Petitioner") states:

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. The proposed District covers approximately 177 acres of land. The metes and bounds description of the external boundaries of the District is set forth on Exhibit 2. There is no real property within the external boundaries of the proposed District which is to be excluded from the District, other than the internal roads of the proposed District, which will be owned and maintained by the Winston Trails Foundation, Inc., a Florida not-for-profit corporation or neighborhood homeowner associations. There will not be any adverse impact to the public resulting from the exclusion of the internal roads of the proposed District.

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.

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

Name	Address
Dan Paesant	1187 Camillia Island Dr. Westin, Florida 33326
Robyn Henoch	1745 N.W. 4 th Avenue, # 10 Boca Raton, FL 33432
James O'Brien	7468 Mahogany Bend Court Boca Raton, FL 33434
Mike Grammen	6066 Town Colony Drive, #1212 Boca Raton, FL 334333
Ken Arnesen	4461 N.E. 17 th Terrace Fort Lauderdale, FL 33334

4. The proposed name of the District to be established is Winston Trails Community Development District (East) ("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-A and the estimated cost of constructing the services, based on available data, is shown on Exhibit 4-B. This is a good faith estimate but is not binding on the Petitioner and 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 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 land to be serviced by the proposed District as low residential 3. The future land use map is shown on Exhibit 5. The Petitioner intends that the District will finance (i) surface water management and control systems, (ii) water distribution and wastewater collection and transmission facilities, and (iii) related incidental costs.

The proposed District encompasses a portion of the Winston Trails Planned Unit of Development ("PUD"). The Development Order for the PUD was approved on February 28, 1989 by Palm Beach County Resolution No. R-89-344, and permits development of the subject property with up to 549 dwelling units. Resolution No. R-89-344 was subsequently amended on May 22, 1990, May 7, 1991, January 28, 1993,

December 6, 1993, October 27, 1994, September 28, 1995 and August 22, 1996 by Palm Beach County Resolution Nos. R-90-840, R-91-595, R-93-170, R-93-1545, R-94-1476, R-1321.7, R-96-1177 and R-96-1178, respectively.

8. Exhibit 6 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.

10. The Petitioner is: Winston Trails Development Corporation, whose address is 6101 Winston Trails Blvd., Lake Worth, FL 33463. Petitioner is the general partner of The Winston Trails, Ltd., a Florida limited partnership (the "Partnership"). The current owner of the properties comprising the proposed District is James J. O'Brien, as successor trustee under that certain Land Trust Agreement dated March 8, 1989, as amended (the "Trust"). The Partnership is the beneficiary of the Trust. Copies of all correspondence and official notices should also be sent to: Stephen D. Sanford, Esq., c/o Greenberg Traurig Hoffman Lipoff Rosen & Quentel, 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, as amended.

(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.

(c) The community development services of the District will be compatible with the capacity and use 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 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.

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 of the Act.

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(1)(d), Florida Statutes to consider the establishment of the Winston Trails Community Development District (East) and;

Adopt an ordinance pursuant to Chapter 190, Florida Statutes, granting this Petition and establishing the Winston Trails Community Development District.

Respectfully submitted this 27th day of May, 1998.

WINSTON TRAILS DEVELOPMENT CORPORATION, Petitioner

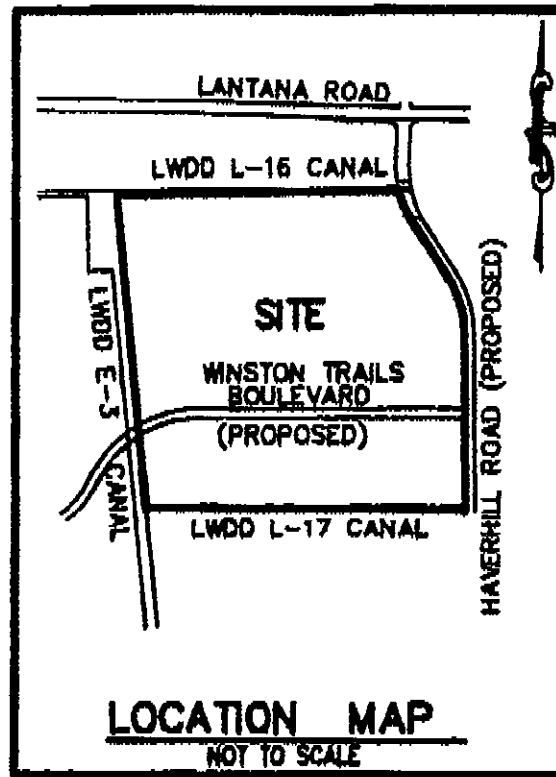
By: James J. [Signature]
Title: Vice President

Winston Trails Community Development District (East)

EXHIBITS:

- Exhibit 1** **Location Map**
- Exhibit 2** **Legal Description**
- Exhibit 3** **Consents and Proof of Ownership**
- Exhibit 4-A** **Construction Timetable**
- Exhibit 4-B** **Good Faith Cost Estimate**
- Exhibit 5** **Future Land Use Map from the Palm Beach County
Comprehensive Plan**
- Exhibit 6** **Statement of Estimated Regulatory Costs**

Exhibit C



LEGAL DESCRIPTION: PORTION OF WINSTON TRAILS P.U.D.

A parcel of land situate in Section 2, Township 45 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Bounded on the North by the Lake Worth Drainage District L-16 Canal, bounded on the East by Haverhill Road (not physically open), bounded on the South by a line 60 feet North of the Lake Worth Drainage District L-17 Canal and bounded on the West by the Lake Worth Drainage District E-3 Canal.

Containing 177.78 acres of land, more or less.

February 27, 1998
P.A. 94157.00

EXHIBIT 11

East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the North One-Quarter (N 1/4) corner of said Section 2, thence South 00°25'27" East, along the West line of the Northeast One-Quarter (NE 1/4) of said Section 2, a distance of 30.00 feet to a point 20.00 feet South of and parallel with the North line of the Northwest One-Quarter (NW 1/4) of said Section 2, said point also being the POINT OF BEGINNING; thence North 89°24'02" East, departing said West line and along said parallel line, a distance of 0.06 feet to a point in the West line of the Northeast One-Quarter (NE 1/4) of said Section 2, said point also being 20.00 feet South of and parallel with the North line of the Northeast One-Quarter (NE 1/4) of said Section 2; thence North 89°24'48" East, along said Northeast One-Quarter (NE 1/4) of said Section 2, a distance of 2087.91 feet to a point in the West line of that certain Right-of-Way for Haverhill Road, as recorded in Official Record Book 8439, at Pages 1896 through 1898, Public Records of Palm Beach County, Florida, said point also being a point on a curve concave northeasterly (a radial line passing through said point bears South 75°58'15" West) having a radius of 893.69 feet; thence southeasterly, departing said parallel line and along said West Right-of-Way line, along the arc of said curve through a central angle of 18°40'29", a distance of 291.29 feet to a point in the West line of that certain Right-of-Way for Haverhill Road, as recorded in Official Book 8830, at Pages 1738 through 1742, Public Records of Palm Beach County, Florida, said point also being a point on a curve concave northeasterly (a radial line passing through said point bears South 80°42'17" West) having a radius of 894.92 feet; thence southeasterly, departing said West line and along said West Right-of-Way line, along the arc of said curve through a central angle of 02°51'40", a distance of 49.88 feet to the Point of Tangency; thence South 32°09'23" East, a distance of 541.76 feet to the Point of Curvature of a curve concave westerly having a radius of 914.92 feet; thence southerly along the arc of said curve through a central angle of 31°49'05", a distance of 508.08 feet to the Point of Tangency; thence South 00°20'19" East, a distance of 1535.69 feet to the South line of the Northeast One-Quarter (NE 1/4) of said Section 2; thence North 89°46'49" West, departing said West Right-of-Way of Haverhill Road line and along said South line, a distance of 2825.25 feet to the West line of the Northeast One-Quarter (NE 1/4) of said Section 2; thence North 89°46'47" West, departing said South line of the Northeast One-Quarter (NE 1/4) of said Section 2 and along the South line of the Northwest One-Quarter (NW 1/4) of said Section 2, a distance of 150.62 feet to the East line of the Lake North Drainage District E-3 Canal, as recorded in Official Record Book 2393, at Page 1133, and Official Record Book 6840, at Pages 382 through 383, Public Records of Palm Beach County, Florida; thence North 05°28'48" West, departing said South line and along said East line, a distance of 2761.31 feet; thence North 89°24'02" East, departing said East line, a distance of 402.96 feet to the Point of Beginning.

Containing 177.92 acres, more or less.

LESS AND EXCEPTING therefrom the following Palm Beach County Right-of-Way for Haverhill Road as recorded in Official Record Book _____, at Pages _____ through _____, Palm Beach County, Florida, being more particularly described as follows:

A parcel of land for road right-of-way purposes, situate in Section 2, Township 45 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follow:

Commencing at the northeast corner of said Section 2; thence South 00°20'19" East, along the East line of said Section 2, a distance of 1539.90 feet; thence South 89°39'41" West, departing said East line, a distance of 40.00 feet to a point on the West line of Haverhill Road as shown on the Haverhill Road Alignment Reservation Map, Palm Beach County Project No. 88506, Palm Beach County Drawing No. S-3-89-052, as recorded in Road Plat Book 7, pages 38 through 47, inclusive, also being Palm Beach County Drawing No. S-1-80-100, as recorded in Official Record Book 6370, pages 1333 through 1350, inclusive, said point being the POINT OF BEGINNING; thence South 00°20'19" East, along said West line, a distance of 498.06 feet; thence North 07°13'24" West, departing said West line, a distance of 125.13 feet; thence North 00°20'19" West, a distance of 312.32 feet; thence North 13°09'25" East, a distance of 64.27 feet to the POINT OF BEGINNING.

Said parcel containing 6085 square feet, 0.14 acres, more or less.