

BAY CREEK DISTRICT ORDINANCE

LEE COUNTY ORDINANCE NO. 93-33

AN ORDINANCE ESTABLISHING THE BAY CREEK COMMUNITY DEVELOPMENT DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; NAMING THE DISTRICT; PROVIDING FOR STATUTORY PROVISIONS GOVERNING THE DISTRICT; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Westinghouse Bayside Communities, Inc. has petitioned the Board of County Commissioners to establish the BAY CREEK COMMUNITY DEVELOPMENT DISTRICT; and

WHEREAS, the Board of County Commissioners, after proper published notice, conducted a public hearing as required by law and finds as follows:

1. The petition is complete in that it meets the requirements of Section 190.005(1)(a), Florida Statutes; and all statements contained within the petition are true and correct;

2. The costs to the County and government agencies from establishment of the district are nominal. There is no adverse impact on competition or employment from district establishment. The persons affected by establishment are the future landowners, present landowners, Lee County and its taxpayers, and the State of Florida. There is a net economic benefit flowing to these persons from district establishment as the entity to manage and finance the statutory services identified. The economic impact statement of the petitioner on district establishment is

adequate.

3. Establishment of the proposed district is consistent with the local comprehensive plan of Lee County and is consistent with the State Comprehensive Plan.

4. That the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as one functional interrelated community.

5. That the district is one of the best alternatives available for delivering community development services and facilities to the area that will be serviced by the district.

6. 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.

7. That the area that will be served by the district is amenable to separate special district government.

8. That upon the effective date of this Ordinance, the proposed Bay Creek Community Development District shall be duly and legally authorized to exist and to exercise all of its general and special powers as limited by law; and that consent by Lee County in any future ordinance to any special power in Section 190.012(2), Florida Statutes, does not in any way revisit the questions of establishment of the district and its authority and power to exercise its limited powers under law.

9. All notice requirements of law were met and complete notice was timely given.

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

SECTION ONE: AUTHORITY FOR ORDINANCE

This ordinance is adopted pursuant to required notice and procedures and authority of Section 190.005(2), Florida Statutes, and other applicable provisions of law governing county ordinances.

SECTION TWO: ESTABLISHMENT OF THE BAY CREEK

COMMUNITY DEVELOPMENT DISTRICT

The Bay Creek Community Development District is hereby established within the boundaries of the real property described in Exhibit "A" attached hereto and incorporated by reference.

SECTION THREE: DESIGNATION OF INITIAL BOARD MEMBERS

The following five persons are herewith designated to be the initial members of the Board of Supervisors:

1. Jerry H. Schmoyer
9200-1010 Bonita Beach Road, Bonita Springs, FL 33923
2. Douglas Schwartz
9200-101 Bonita Beach Road, Bonita Springs, FL 33923
3. Katherine Green
9200-101 Bonita Beach Road, Bonita Springs, FL 33923
4. Jack Story
9200-101 Bonita Beach Road, Bonita Springs, FL 33923
5. David Crawford
9200-101 Bonita Beach Road, Bonita Springs, FL 33923

SECTION FOUR: DISTRICT NAME

The community development district herein established shall be known as the Bay Creek Community Development District.

SECTION FIVE: STATUTORY PROVISIONS GOVERNING DISTRICT

The Bay Creek Community Development District shall be governed by the provisions of Chapter 190, Florida Statutes, and the Board of County Commissioners shall not adopt any ordinance which will expand, modify or delete any provisions the Uniform Community Development District Charter as set forth in Chapter 190, Florida Statutes.

SECTION SIX: CONFLICT AND SEVERABILITY

In the event this ordinance conflicts with any other ordinance of Lee County or other applicable law, the more restrictive shall apply. If any phrase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION SEVEN: EFFECTIVE DATE

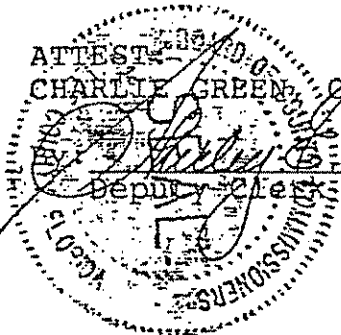
This ordinance shall become effective upon receipt of notice from the Secretary of State that this ordinance has been filed with the Secretary of State.

The foregoing ordinance was offered by Commissioner Ray Judah who moved its adoption. The motion was seconded by Commissioner Douglas St. Cerny and, being put to a vote the vote was as follows:

JOHN MANNING	Aye
RAY JUDAH	Aye
DOUGLAS ST. CERNY	Aye
FRANKLIN B. MANN	Aye
JOHN ALBION	Aye

PASSED AND DULY ADOPTED by the Board of County Commissioners of Lee County, Florida, this 3rd day of November, 1993.

ATTEST
CHARLIE GREEN, CLERK



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: Ray Judah
Vice-Chairman

APPROVED AS TO FORM

By: D. Mullins
Office of the County Attorney

(7927)

Charlie Green
Clerk Of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

I, Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that acknowledgment has been received from the Secretary of State on this 9th day of November, 1993, at 10:36 a.m., of the filing of Lee County Ordinance No. 93-33 duly adopted by the Board of Lee County Commissioners, at their meeting held on the 3rd day of November, 1993 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 9th day of November, 1993.

CHARLIE GREEN,
Clerk of Circuit Court

BY: 

Deputy Clerk

APPENDIX A

February 12, 1993

DESCRIPTION

SPRING CREEK
COMMUNITY DEVELOPMENT DISTRICT
BOUNDARY

SECTION 21, T. 47 S., R. 25 E.
LEE COUNTY, FLORIDA

A tract or parcel of land located in Section 21, Township 47 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

BEGINNING at the northwest corner of said Section 21 run N 88°38'34" E along the north line of the northwest quarter (NW¼) of said Section for 2627.98 feet to the northeast corner of said northwest quarter (NW¼);

THENCE run N 89°16'54" E along the north line of the northeast quarter (NE¼) of said Section for 1289.43 feet to an intersection with the west right-of-way line of Tamiami Trail (U.S. 41) as recorded at Official Record Book 1000, Page 85, Public Records, Lee County, Florida;

THENCE run along said west right-of-way line for the following three (3) courses:

1) S 00°06'50" E for 261.81 feet,

2) S 02°58'35" E for 100.12 feet,

3) S 00°06'50" E for 3750.00 feet to an intersection with the approximate center line of Spring Creek;

THENCE run along said center line for 1845 feet more or less to an intersection with the east line of the southwest quarter (SW¼) of said Section;

THENCE run N 00°51'38" W along the east line of said southwest quarter (SW¼) for 755.61 feet more or less to the northeast corner of said southwest quarter (SW¼);

THENCE run S 88°52'47" W along the north line of said southwest quarter (SW¼) for 600.01 feet;

THENCE run S 00°51'38" E along a line that is parallel, as measured at right angles, to the east line of said southwest quarter (SW¼) for a distance of 828.48 feet to the intersection with the approximate center line of said Spring Creek;

THENCE run along said center line for 3733 feet more or less to an intersection with the west line of said southwest quarter (SW¼);

THENCE run N 00°38'18" W along the west line of said southwest

quarter (SW $\frac{1}{4}$) for a 734.93 feet to the southwest corner of said
northwest quarter (NW $\frac{1}{4}$);
THENCE run N 00°35'34" W along the west line of said northwest
quarter (NW $\frac{1}{4}$) for 2659.37 feet to said POINT OF BEGINNING.

Subject to easements, restrictions and reservations of record;
Containing 313.00 acres more or less.

(7927)

BAYCREEK IMPROVEMENT DISTRICT

