

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION FOR RULE)
CREATION - BARTRAM SPRINGS) Case No. 02-1343
COMMUNITY DEVELOPMENT)
DISTRICT.)
_____)

REPORT TO THE FLORIDA LAND AND WATER
ADJUDICATORY COMMISSION

Pursuant to Section 190.005(1)(d), Florida Statutes,
Donald R. Alexander, Administrative Law Judge, conducted a
public hearing on May 31, 2002, in Jacksonville, Florida, for
the purpose of taking testimony and public comment and
receiving exhibits on the Petition of SouthStar Development
Partners, Inc. to establish the Bartram Springs Community
Development District.

APPEARANCES

For Petitioner: Cheryl G. Stuart, Esquire
Brian A. Crumbaker, Esquire
Hopping, Green & Sams, P.A.
Post Office Box 6526
Tallahassee, Florida 32314-6526

STATEMENT OF THE ISSUE

The issue is whether the establishment of the Bartram
Springs Community Development District meets the applicable
criteria set forth in Chapter 190, Florida Statutes.

PRELIMINARY STATEMENT

This case began on February 28, 2002, when Petitioner, SouthStar Development Partners, Inc., requested the Florida Land and Water Adjudicatory Commission to adopt a rule to establish the Bartram Springs Community Development District. The proposed rule is attached to this Report as Appendix C. The matter was forwarded to the Division of Administrative Hearings on April 1, 2002, with a request that an Administrative Law Judge conduct a public hearing. By Notice of Hearing dated April 12, 2002, a public hearing was scheduled in Jacksonville, Florida, on May 31, 2002.

Petitioner presented four witnesses and offered into evidence Petitioner's Exhibits 1-8, which were admitted without objection. The names and addresses of the witnesses are listed in Appendix A attached to this Report, and the exhibits are listed in Appendix B. No other persons or entity presented any witnesses or exhibits. No members of the public provided any comments.

The Transcript of the local public hearing was filed with the Division of Administrative Hearings on June 11, 2002. The original Transcript and hearing exhibits are transmitted with this Report.

FINDINGS OF FACT

Based upon all of the evidence, the following findings of fact are determined:

A. Overview

1. Petitioner, SouthStar Development Partners, Inc., is seeking the adoption of a rule by the Florida Land and Water Adjudicatory Commission (Commission) to establish a community development district proposed to consist of approximately 1,025 acres located within the boundaries of the City of Jacksonville (City). The City is a consolidated government which has jurisdiction over and extends territorially to the limits of Duval County. The proposed name for the new District is the Bartram Springs Community Development District (the District).

2. There are no parcels within the external boundaries of the proposed District which are to be excluded from the District.

3. The estimated cost of the infrastructure facilities and services which are presently expected to be provided to the lands within the District was included in the Petition.

4. The sole purpose of this proceeding was to consider the establishment of the District as proposed by Petitioner.

B. Summary of Evidence and Testimony

a. Whether all statements contained within the Petition have been found to be true and correct.

5. Petitioner's Composite Exhibit 1 consists of the Petition and its attachments as filed with the Commission. Mr. J. Thomas Gillette, III, regional manager for north Florida for Petitioner, testified that he had reviewed the contents of the Petition and approved its findings. Mr. Gillette also generally described certain of the attachments to the Petition. Finally, Mr. Gillette testified that the Petition and its attachments were true and correct to the best of his knowledge.

6. Mr. Douglas C. Miller, a professional engineer with England, Thims & Miller, Inc., testified that he had assisted in the preparation of portions of the Petition and its attachments. Mr. Miller also generally described certain of the attachments to the Petition which he or his office had prepared. Finally, Mr. Miller testified that the attachments to the Petition prepared by England, Thims & Miller, Inc., and admitted into evidence, were true and correct to the best of his knowledge.

7. Dr. Henry H. Fishkind, president of Fishkind & Associates, Inc., testified that he had prepared Exhibit 11 to the Petition, the Statement of Estimated Regulatory Costs

(SERC). Dr. Fishkind also testified that the SERC submitted as Attachment 11 to Petitioner's Composite Exhibit 1 was true and correct to the best of his knowledge.

8. The Petition included written consent to establish the District from the owners of one hundred percent of the real property located within the lands to be included in the proposed District. Mr. Gillette also testified that the ownership of the lands to be included within the proposed District had not changed.

9. The Petition and its exhibits are true and correct.

b. Whether the establishment of the District is inconsistent with any applicable element or portion of the State Comprehensive Plan or of the effective local government comprehensive plan.

10. Mr. Gary R. Walters, a land planner and president of Gary Walters & Associates, reviewed the proposed District in light of the requirements of the State Comprehensive Plan found in Chapter 187, Florida Statutes. Mr. Walters also reviewed the proposed District in light of the requirements of the City of Jacksonville Comprehensive Plan.

11. The State Comprehensive Plan "provides long-range policy guidance for the orderly social, economic and physical growth of the State" by way of twenty-six subjects, and numerous goals and policies. From a planning perspective, two subjects of the State Comprehensive Plan apply directly to the

establishment of the proposed District, as do the policies supporting those subjects.

12. Subject 16, Land Use, recognizes the importance of locating development in areas with the fiscal ability and service capacity to accommodate growth. The proposed District will have the fiscal ability to provide services and facilities and help provide infrastructure in a fiscally responsible manner in an area which can accommodate development within the City.

13. Subject 26, Plan Implementation, provides that systematic planning shall be integrated into all levels of government, with emphasis on intergovernmental coordination. The proposed District is consistent with this element of the State Comprehensive Plan because the proposed District will systematically plan for the construction, operation, and maintenance of the public improvements and the community facilities authorized under Chapter 190, Florida Statutes, subject to and not inconsistent with the local government comprehensive plan and land development regulations. Additionally, the District meetings are publicly advertised and are open to the public so that all District property owners and residents can be involved in planning for improvements. Finally, Section 189.415, Florida Statutes, requires the District to file and update public facilities

reports with the local governments, which they may rely upon in any revisions to the local comprehensive plan.

14. Dr. Fishkind reviewed the proposed District in light of the requirements of the State Comprehensive Plan and found that from a financial perspective, two subjects of the State Comprehensive Plan apply directly to the establishment of the proposed District, as do the policies supporting those subjects.

15. Subject 18, Public Facilities, provides that the state shall protect substantial investments in public facilities and plan for and finance new facilities to serve residents in a timely, orderly, and efficient manner. The proposed District will be consistent with this element because the District will plan and finance the infrastructure systems and facilities needed for the development of lands within the District; it will be a stable, perpetual unit of local government and will be able to maintain the infrastructure servicing the lands within the District; and it will allow growth within the District to pay for itself at no cost to the City.

16. Subject 21, Governmental Efficiency, provides that governments shall economically and efficiently provide the amount and quality of services required by the public. The proposed District will be consistent with this element because

the proposed District will economically and efficiently finance and deliver those public services and facilities as needed by the District's residents and property owners. The proposed District will be professionally managed, financed, and governed by those whose property directly receives the benefits of the services and the facilities provided.

Creating a District does not burden the general taxpayer with the costs for the services or facilities inside the proposed District.

17. Based on the testimony and exhibits in the record, the proposed District will not be inconsistent with any applicable element or portion of the State Comprehensive Plan.

18. The City of Jacksonville Comprehensive Plan contains various elements which are supported by numerous goals and objectives. Mr. Walters testified that portions of three of these elements were relevant when determining whether or not the proposed District was inconsistent with the local comprehensive plan.

19. Within the Future Land Use Element are Goals and Objectives which are targeted to effectively manage growth in areas designated to accommodate future development and provide services in a cost-efficient manner. The proposed District is consistent with this plan element. The development within the proposed District is part of a Chapter 380, Florida Statutes,

Development Order, which states that the "development is consistent with the local comprehensive plan and local land development and zoning regulations." The Development Order itself specifically notes that a community development district may be established. The proposed District is a recognized vehicle to provide the necessary services and facilities to the lands within the boundaries of the proposed District consistent with the City of Jacksonville Comprehensive Plan's objective of coordinating land uses with urban services delivery.

20. The goal of the Intergovernmental Coordination Element is to establish processes among various governmental, public, and private entities to coordinate development activities, preservation of the quality of life, and the efficient use of available resources. The proposed District will assist in the coordination process by providing and maintaining community infrastructure in a way that is not inconsistent with the plans and activities of related public and private agencies.

21. The Capital Improvements Element is intended to provide necessary infrastructure in a timely and orderly manner. The proposed District will expand the areas within the City that receive infrastructure in a manner consistent

with the Development Order for the area and the City of Jacksonville Comprehensive Plan.

22. Based on the evidence in the record, the proposed District will not be inconsistent with any applicable element or portion of the local Comprehensive Plan, and will in fact further the goals provided.

23. The Florida Department of Community Affairs (DCA) reviewed the Petition for compliance with its various programs and responsibilities. After conducting a review of the petition for consistency with the approved Development Order and Comprehensive Plan, the DCA concluded that the Petition for the Establishment of the Bartram Springs Community Development District was not inconsistent with either the Comprehensive Plan or Development Order.

c. Whether the area of land within the proposed district is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

24. Testimony on this criterion was provided by Messrs. Miller, Walters, and Fishkind. The proposed District will include approximately 1,025 acres, located within the borders of the City.

25. All of the land in the proposed District is part of a planned community included in the Bartram Park Development of Regional Impact (the DRI).

26. Functional interrelation means that each community purpose has a mutual reinforcing relationship with each of the community's other purposes. Each function requires a management capability, funding source, and an understanding of the size of the community's needs, so as to handle the growth and development of the community. Each function must be designed to contribute to the development or the maintenance of the community.

27. The size of the District as proposed is approximately 1,025 acres. From a planning perspective, this is a sufficient size to accommodate the basic infrastructure facilities and services typical of a functionally interrelated community. The proposed facilities can be provided in an efficient, functional, and integrated manner.

28. Compactness relates to the location in distance between the lands and land uses within a community. The community is sufficiently compact to be developed as a functionally inter-related community. The compact configuration of the lands will allow the District to provide for the installation and maintenance of its infrastructure in a long-term, cost-efficient manner.

29. Petitioner is developing all of the lands within the District as a single master-planned community. All of these lands are governed by the DRI issued by the City.

30. From planning, economics, engineering, and management perspectives, the area of land to be included in the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as a single functionally interrelated community.

d. Whether the proposed district is the best alternative available for delivering community development services and facilities to the area that will be served by the proposed district.

31. It is presently intended that the District will construct or provide certain infrastructure improvements as outlined in the Petition.

32. Installation and maintenance of infrastructure systems and services by the proposed District is expected to be paid through the imposition of special assessments. Use of such assessments will ensure that the real property benefiting from District services is the same property which pays for them.

33. Two alternatives to the use of the District were identified. First, the City might provide facilities and services from its general fund. Second, facilities and services might be provided by some private means, with maintenance delegated to a property owners' association or a home owners' association.

34. The District is preferable to these alternatives at focusing attention on when, where, and how the next system of infrastructure will be required. This results in a full utilization of existing facilities before new facilities are constructed and reduces the delivered cost to the citizens being served.

35. The District will construct certain infrastructure and community facilities which will be needed by the property owners and residents of the project. Expenses for the operation and maintenance of the facilities the District retains are expected to be paid through maintenance assessments to ensure that the property receiving the benefit of the district services is the same property paying for those services.

36. Only a community development district allows for the independent financing, administration, operations, and maintenance of the land within such a district. Only a community development district allows district residents to ultimately completely control the district. The other alternatives do not have these characteristics.

37. From an engineering perspective, the proposed District is the best alternative to provide the proposed community development services and facilities to the land included in the proposed District because it is a long-term,

stable, perpetual entity capable of maintaining the facilities over their expected life.

38. From planning, economic, engineering, and special district management perspectives, the proposed District is the best alternative available for delivering community development services and facilities to the area that will be served by the District.

e. Whether the community development services and facilities of the proposed district will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

39. The services and facilities proposed to be provided by the District are not incompatible with uses and existing local and regional facilities and services. The District's facilities and services will not duplicate any existing regional services or facilities. None of the proposed services or facilities are presently being provided by another entity for the lands to be included within the District.

40. Therefore, the community development services and facilities of the proposed district will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.

f. Whether the area that will be served by the district is amenable to separate special-district government.

41. As cited previously, from planning, economic, engineering, and special district management perspectives, the

area of land to be included in the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed and become a functionally interrelated community. The community to be included in the District has a need for certain basic infrastructure systems, and the proposed District provides for an efficient mechanism to oversee the installation of these improvements.

42. From planning, engineering, economic, and management perspectives, the area that will be served by the District is amenable to separate special-district government.

g. Other requirements imposed by statute or rule.

43. Chapter 190, Florida Statutes, and Chapter 42-1, Florida Administrative Code, impose specific requirements regarding the petition and other information to be submitted to the Commission.

44. The Commission has certified that the Petition to Establish the Bartram Springs Community Development District meets all of the requirements of Section 190.005(1)(a), Florida Statutes.

45. The SERC contains an estimate of the costs and benefits to all persons directly affected by the proposed rule to establish the District -- the State of Florida and its citizens, the City and its citizens, Petitioner, and consumers.

46. Beyond administrative costs related to rule adoption, the State and its citizens will only incur minimal costs from establishing the District. These costs are related to the incremental costs to various agencies of reviewing one additional local government report. The proposed District will require no subsidies from the State. Benefits will include improved planning and coordination of development, which is difficult to quantify but nonetheless substantial.

47. Administrative costs incurred by the City related to rule adoption will be modest. These modest costs are offset by the \$15,000 filing fee required to accompany the Petition to the City.

48. Residents within the District will pay non-ad valorem or special assessments for certain facilities. Locating within the District is voluntary. Generally, District financing will be less expensive than maintenance through a property owners' association or capital improvements financed through developer loans. Benefits to residents within the community development district will include a higher level of public services and amenities than might otherwise be available, completion of District-sponsored improvements to the area on a timely basis, and a larger share of direct control over community development services and facilities within the area.

49. Section 190.005(1)(a), Florida Statutes, requires a petition to include a SERC which meets the requirements of Section 120.541, Florida Statutes. The Petition filed herein contains a SERC. It meets all requirements of Section 120.541, Florida Statutes.

50. Petitioner has complied with the provisions of Section 190.005(1)(b)1., Florida Statutes, in that the City was provided four copies of the Petition and was paid the requisite filing fee.

51. Section 190.005(1)(d), Florida Statutes, requires the Petitioner to publish notice of the local public hearing in a newspaper of general circulation in Duval County for four consecutive weeks prior to the hearing. The notice was published in a newspaper of general paid circulation in Duval County (The Florida Times Union) for four consecutive weeks on May 3, May 10, May 17, and May 24, 2002.

CONCLUSIONS OF LAW

52. This proceeding is governed by Chapters 120 and 190, Florida Statutes, and Chapter 42-1, Florida Administrative Code.

53. The proceeding was properly noticed pursuant to Section 190.005, Florida Statutes, by publication of an advertisement in a newspaper of general paid circulation in Duval County and of general interest and readership once each

week for the four consecutive weeks immediately prior to the hearing.

54. Petitioner has met the requirements of Section 190.005, Florida Statutes, regarding the submission of a petition and satisfaction of filing fee requirements.

55. Petitioner bears the burden of establishing that the petition meets the relevant statutory criteria set forth in Section 190.005(1)(e), Florida Statutes.

56. All portions of the Petition and other submittals have been completed and filed as required by law.

57. All statements contained within the Petition as corrected and supplemented at the hearing are true and correct.

58. The establishment of the District is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the effective City of Jacksonville Comprehensive Plan.

59. The area of land within the proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

60. The proposed District is the best alternative available for delivering community development services and facilities to the area that will be served by the District.

61. The community development services and facilities of the proposed District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities.

62. The area to be served by the proposed District is amenable to separate special district government.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Florida Land and Water Adjudicatory Commission, pursuant to Chapters 120 and 190, Florida Statutes, and Chapter 42-1, Florida Administrative Code, establish the Bartram Springs Community Development District, as requested by Petitioner, by formal adoption of the proposed rule attached to this Report as Appendix C.

DONE AND ENTERED this 19th day of June, 2002, in Tallahassee, Leon County, Florida.

DONALD R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
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1230 Apalachee Parkway
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Filed with the Clerk of the
Division of Administrative Hearings
this 19th day of June, 2002.

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APPENDIX A

Petitioner's Witnesses at Hearing

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Jacksonville, Florida 32256-6101

Douglas C. Miller, P.E.
England, Thims & Miller, Inc.
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Gary R. Walters
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12 Crooked Tree Trail
Ormond Beach, Florida 32174-4338

Dr. Henry H. Fishkind
Fishkind & Associates, Inc.
11869 High Tech Avenue
Orlando, Florida 32817-1490

APPENDIX B

List of Petitioner's Exhibits

<u>Exhibit Number</u>	<u>Exhibit Description</u>
1	Petition with attachments
2	Notice of Receipt of Petition
3	Division of Administrative Hearings Referral Letter
4	Department of Community Affairs Transmittal Letter
5	Department of Community Affairs Review Letter
6	Ordinance 2000-451-E
7	State Comprehensive Plan
8	<u>The Florida Times Union</u> Proof of Publication

APPENDIX C

Text of Proposed Rule

CHAPTER 42___-1

BARTRAM SPRINGS COMMUNITY DEVELOPMENT DISTRICT

- 42___-1.001 Establishment.
- 42___-1.002 Boundary.
- 42___-1.003 Supervisors.

42___-1.001 Creation. The Bartram Springs Community Development District is hereby established.

Specific Authority 120.53(1), 190.005 F.S. Law Implemented 190.005 F.S. History-New

42___-1.002 Boundary. The boundaries of the District are as follows:

A portion of Sections 28, 29, 32 and 33, together with a portion of Section 48, of the Christopher Minchin Grant, all lying in Township 4 South, Range 28 East, Duval County, Florida, being more particularly described as follows:

For a Point of Reference, commence at the corner common to said Sections 32 and 33, Township 4 South, Range 28 East, said Duval County and Sections 4 and 5, Township 5 South, Range 28 East, St. Johns County, Florida, said corner also lying on the county line dividing said Duval and St. Johns Counties; thence North 89° 04' 41" East, along said county line, 3281.18 feet; thence North 00° 55' 19" West, departing said county line, 5.00 feet to the Point of Beginning.

From said Point of Beginning, thence South 89° 04' 41" West, 3281.22 feet to a point lying on the line common to said Sections 32 and 33; thence South 89° 33' 42" West, departing said common line, 699.85 feet to the Easterly limited access right of way line of State Road No. 9B, a variable width right of way as established on State Road Department Right of Way Map Section 72002-2513, dated 09-08-92; thence Northwesterly and Northeasterly, along said Easterly limited access right of way line, the following courses: (1) North 40° 25' 37" West, 2161.10 feet to the Point of Curvature of a curve, concave Northeasterly having a radius of 2744.79 feet; (2) along the arc of said curve, through a central angle of 14° 47' 23", an

arc length of 708.51 feet to the Point of Tangency of said curve, said arc being subtended by a chord bearing and distance of North 33° 01' 55" West, 706.55 feet; (3) North 25° 38' 14" West, 2143.97 feet to the Point of Curvature of a curve, concave Easterly having a radius of 1789.86 feet; (4) along the arc of said curve through a central angle of 37° 18' 23", an arc length of 1165.41 feet to a point on said curve, said arc being subtended by a chord bearing and distance of North 06° 59' 02" West, 1144.93 feet; (5) North 10° 17' 40" East, along a non-tangent bearing, 500.14 feet; (6) North 11° 40' 10" East, 1913.60 feet to a point lying on the Southerly line of the North 1/2 of said Section 29; thence North 88° 42' 41" East, departing said Easterly limited access right of way line and along last said line, 2914.25 feet to the Southwest corner of the Northwest 1/4 of said Section 28; thence North 89° 02' 27" East, along the Southerly line of the Northwest 1/4 of said Section 28, a distance of 233.49 feet to a point lying on the Westerly right of way line of the Florida East Coast Railroad, a 100 foot right of way as now established; thence South 41° 00' 02" East, along said Westerly right of way line, 1203.71 feet to a point lying on the Westerly line of the Easterly 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 28; thence South 00° 59' 05" East, departing said Westerly right of way line and along said Westerly line of the Easterly 1/4, a distance of 424.47 feet to the Southwest corner of said East 1/4 of the Northwest 1/4 of the Southwest 1/4; thence North 88° 54' 34" East, along the Southerly line of said East 1/4, a distance of 355.82 feet to a point lying on the aforementioned Westerly right of way line; thence South 41° 00' 02" East, along said Westerly right of way line, 6946.50 feet; thence South 81° 44' 38" West, departing said Westerly right of way line, 1239.95 feet; thence North 89° 51' 10" West, 1102.07 feet; thence South 10° 16' 03" West, 955.68 feet to the Point of Beginning. Containing 1025.40 acres, more or less.

Specific Authority 120.53(1), 190.005 F.S. Law Implemented 190.004, 190.005 F.S. History-New

42____-1.003 Supervisors. The following five persons are designated as the initial members of the Board of Supervisors: J. Thomas Gillette, III, L. Alfredo Rodriguez-Walling, Walter Kehoe, Thaddeus D. Rutherford, and Leo W. Johns.

Specific Authority 120.53(1), 190.005 F.S. Law Implemented 190.006(1) F.S. History-New.