

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO AMEND THE  
BOUNDARY OF THE RIVERS EDGE  
COMMUNITY DEVELOPMENT DISTRICT

---

Case No. 16-4689

REPORT TO THE FLORIDA  
LAND AND WATER ADJUDICATORY COMMISSION

D. R. Alexander, Administrative Law Judge of the Division of Administrative Hearings (DOAH), conducted a local public hearing in this case on November 1, 2016, at the Riverton Amenity Center in St. Johns, Florida.

APPEARANCES

For Petitioner: Jennifer L. Kilinski, Esquire  
Hopping Green & Sams, P.A.  
Post Office Box 6526  
Tallahassee, Florida 32314-6526

STATEMENT OF THE ISSUE

The issue presented in this proceeding is whether the Amended and Restated Petition to Amend the Boundary of the Rivers Edge Community Development District (Amended Petition) meets the applicable criteria in chapter 190, Florida Statutes, and Florida Administrative Code Chapter 42-1. The purpose of the local public hearing was to gather information in anticipation of quasi-legislative rulemaking by the Florida Land and Water Adjudicatory Commission (Commission).

PRELIMINARY STATEMENT

On July 6, 2016, the Rivers Edge Community Development District (District) filed its Amended Petition and exhibits with the Commission requesting that the Commission amend rule 42FFF-1.002 by removing 2,499.74 acres from its boundaries. After contraction, the District will contain 1,676.79 acres. The land within the District is located entirely within the incorporated limits of St. Johns County (County). The County elected not to hold an optional public hearing within 45 days of the filing of the Amended Petition. On August 18, 2016, the Secretary of the Commission certified that the Amended Petition contained all required elements and referred it to DOAH to conduct a local public hearing, as required by section 190.005(1)(d).

Notice of the public hearing was published in accordance with section 190.005(1)(d). At the local public hearing, the District presented the testimony, live and written, of James A. Perry, employed by Governmental Management Services, LLC, and accepted as an expert in special district consulting, financial analysis, and management; Ryan P. Stillwell, P.E., employed by Prosser, Inc., and accepted as an expert in land development projects and community development district construction and engineering; and Jason Sessions, Chairman of the District. District Exhibits A through J were accepted in evidence. One member of the public, Marsha Bailey, attended the hearing and

offered testimony. No written comments were submitted after the local hearing. See Fla. Admin. Code R. 42-1.012(3).

A one-volume Transcript of the hearing has been prepared. The District filed a proposed report of findings and conclusions, which has been considered in the preparation of this Report.

#### Overview of the District

1. Petitioner is seeking the adoption of an amendment to rule 42FFF-1.002 to remove 2,499.74 acres from the District's boundary, as described in the Amended Petition. After contraction, the District will contain 1,676.79 acres.

2. The majority of the Contraction Parcel (the area being removed) is presently owned by Mattamy Rivertown, LLC, and one parcel within the Contraction Parcel is owned by the County. Mattamy Rivertown, LLC, has provided written consent to the proposed amendment of the District's boundaries. Pursuant to sections 190.003(14) and 190.005(1)(a)2., consent of the County is not required.

3. The sole purpose of this proceeding was to consider the amendment of the District boundary as proposed by Petitioner. Information relating to the managing and financing of the service-delivery function of the Amended District was also considered. Because sections 190.046 and 190.005 provide the statutory criteria to be considered, this Report summarizes the

pertinent and material evidence relating to each relevant section of the statutes.

SUMMARY OF THE RECORD

Factors Set Forth in Section 190.005(1)(e), Florida Statutes

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

4. Exhibit A consists of the Amended Petition and exhibits as filed with the Commission. Mr. Perry testified that he is familiar with the Amended Petition and generally described the exhibits.

5. He also testified that he had prepared, or had others prepare under his supervision, Exhibit 9 to Exhibit A, the Statement of Estimated Regulatory Costs (SERC).

6. Finally, Mr. Perry testified that the contents of the Amended Petition and the exhibits attached thereto were true and correct to the best of his knowledge.

7. Mr. Stilwell testified that he is familiar with the Amended Petition and that he prepared, or had others prepare under his supervision, certain of the Amended Petition exhibits. Mr. Stilwell generally described the Amended Petition exhibits that he prepared, including Exhibits 1, 3, 4, and 7 to Exhibit A. Finally, he testified that these exhibits were true and correct to the best of his knowledge.

8. Mr. Sessions testified that he is familiar with the Amended Petition and that he coordinated the execution of the Consent to the Amendment of the Boundaries of the Rivers Edge Community Development District. Mr. Sessions also testified that the contents of the Amended Petition and its exhibits were true and correct to the best of his knowledge.

9. Petitioner has demonstrated that the Amended Petition and its exhibits are true and correct.

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

10. Mr. Stilwell reviewed the proposed District boundary in light of the requirements of the State Comprehensive Plan found in chapter 187.

11. The State Comprehensive Plan "provides long-range policy guidance for the orderly social, economic and physical growth of the State" by way of 25 subjects, goals, and numerous policies. §§ 187.101 and 187.201, Fla. Stat. Mr. Stilwell identified Subject Nos. 15, 17, and 25 as particularly relevant.

12. Subject 15, Land Use, recognizes the importance of locating development in areas that have the resources, fiscal abilities, and service capacity to accommodate growth. Mr. Stilwell testified that the Amended District is not

inconsistent with this provision because it will continue to have the fiscal capability to provide a wide range of services and facilities to a population in a designated growth area.

13. Subject 17, Public Facilities, calls for the protection of existing public facilities and the timely, orderly, and efficient planning and financing of new facilities. Mr. Stilwell testified that the removal of the Contraction Parcel from the boundary of the District will not have an impact on the District's existing public facilities and services, and no new facilities or services are planned to be constructed, acquired, or otherwise provided by the Amended District.

14. Subject 25, Plan Implementation, calls for systematic planning capabilities to be integrated into all levels of government throughout the State, with particular emphasis on improving intergovernmental coordination and maximizing citizen involvement.

15. Mr. Stilwell testified that the Amended District is not inconsistent with any applicable provisions of the State Comprehensive Plan.

16. Mr. Stilwell also reviewed the Amended District in light of the requirements in the County Comprehensive Plan.

17. Chapter 190 prohibits a community development district from acting in any manner inconsistent with the local government's comprehensive plan. Mr. Stilwell testified that

the Amended District would not be inconsistent with any applicable provision of the County Comprehensive Plan.

18. Petitioner has demonstrated that the Amended District will not be inconsistent with an applicable provision of the State Comprehensive Plan or County Comprehensive Plan.

C. Whether the area of land within the Amended District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated community.

19. The Amended District will include 1,676.79 acres, located entirely within the incorporated limits of the County.

20. Mr. Perry testified that the Amended District has sufficient land area, is sufficiently compact and contiguous to be developed, and has in fact been developed, as one functional, interrelated community, and the boundary amendment has no impact on that functionality.

21. Mr. Stilwell testified that the area of land within the District was originally developed as a planned community. The developer of the lands within the Amended District has developed the Amended District as the core of the development as one interrelated community. Further, the Amended District is currently operating as a functionally related community, even prior to the proposed elimination of the Contraction Parcel from the District boundary. As a result, the Amended District

remains of sufficient size, compactness, and contiguity to function as one interrelated community.

22. Petitioner has demonstrated that the Amended District will be of sufficient size, sufficiently compact, and sufficiently contiguous to be developed as a single functionally interrelated community.

D. Whether the Amended District remains the best alternative available for delivering community development services and facilities to the area that will be served by the Amended District.

23. The District has constructed and/or acquired, or intends to construct and/or acquire, extensive public facilities within the Amended District. The District currently does not provide any facilities or services within the Contraction Parcel. There are certain offsite improvements, which include: (a) State Road 13 roundabout improvement maintenance; (b) County Road 244 landscape enhancement maintenance; and (c) certain of the Amended District's surface water management systems that support County Road 244 and therefore continue to benefit the Contraction Parcel. Accordingly, after the boundary amendment, the Cost Share Agreement for Roadway and Surface Water Management System Maintenance Services executed by the District and Mattamy Rivertown, LLC, will become effective and will provide funding to the Amended District for the Landowner's



share of the shared offsite improvements' operation, maintenance, repair, and replacement.

24. Mr. Perry testified that to date, the District has been the mechanism used to plan, finance, construct, operate, and maintain the public facilities and services within the existing District. The District commenced construction of the entirety of the facilities and services needed to serve the Amended District in 2008 and is nearing completion of those facilities contemplated. The District is currently providing the associated maintenance and operation of those facilities, and the Amended District will allow for the continued operation of the facilities and services to the lands within its boundaries. Accordingly, the Amended District is the best alternative to provide such facilities and services to the area to be served.

25. Mr. Stilwell testified that due to the fact that the existing District has provided community development facilities and services effectively and efficiently to the areas served from the date the District was established in 2008, the District has proven in the past that it is the best alternative available. Even after contraction, the Amended District is capable of continuing to efficiently finance and oversee the operation and maintenance of necessary capital improvement within the community.

26. Mr. Sessions additionally testified that Mattamy Rivertown, LLC, or a successor in interest or assignee(s), will fund the cost of the construction of the infrastructure, facilities, and services needed to accommodate the development of such property. After construction, the infrastructure and facilities within the Contraction Parcel may be conveyed by the owner to the County, another unit of government, or to an applicable homeowners' association for ownership and maintenance, as is appropriate depending on the type of infrastructure or facilities that are actually constructed.

27. Petitioner has demonstrated that the Amended District remains the best alternative available for delivering community development services and facilities to the area that will be served by the Amended District.

E. Whether the community development services and facilities of the Amended District will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

28. Mr. Perry testified that the services and facilities of the Amended District are identical to those provided by the existing District, and thus are not incompatible with the capacity and use of existing local or regional community development services and facilities.

29. Mr. Stilwell testified that the services and facilities to be provided by the Amended District are not incompatible, and in fact remain fully compatible, with the capacities and uses of the existing local or regional community development facilities, and with those provided by the existing District.

30. Petitioner has demonstrated that the community development services and facilities of the Amended 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 Amended District is amenable to separate special-district government.

31. Mr. Perry testified that the removal of the Contraction Parcel will not affect the ability of the Amended District to operate as a separate special-district government, and that while contracting the boundaries of the existing District will limit the area to be served by the government already in place, it will not change the way the special-district government is operating either now or in the future.

32. Mr. Stilwell testified that even with the elimination of the Contraction Parcel from the existing District, the area within the Amended District remains large enough to comprise its own community with individual facility and service needs. Moreover, the Amended District will continue to constitute an

efficient mechanism for providing the necessary capital infrastructure improvements, and ongoing operation and maintenance thereof, to directly serve the development within its boundary. Finally, special-district governance is appropriate for the Amended District because it provides a mechanism whereby long-term maintenance obligations can be satisfied by the persons actually using the facilities and services.

33. Petitioner has demonstrated that the area that will be served by the Amended District is amenable to separate special-district government.

G. Other requirements imposed by statute or rule.

34. Chapter 190 and rule chapter 42-1 impose specific requirements regarding the petition and other information to be submitted to the Commission.

#### Elements of the Petition

35. The Commission has certified that the Amended Petition meets all of the requirements of sections 190.046(1)(f) and 190.005(1)(a).

#### Statement of Estimated Regulatory Costs (SERC)

36. Section 190.005(1)(a)8. requires the petition to include a SERC, which meets the requirements of section 120.541. The Amended Petition includes a SERC attached as Exhibit 8.

37. Mr. Perry explained the purpose of the SERC, the economic analysis presented therein, and the data and methodology used in preparing the SERC.

38. The SERC contains an estimate of the costs and benefits to all persons directly affected by the proposed rule to amend the boundaries of the District -- the State and its citizens, the County and its citizens, and property owners within the existing District and the Contraction Parcel.

39. Beyond administrative costs related to the rule amendment, the State and its citizens will only incur modest costs from contracting the District's boundary as proposed. Specifically, State staff will process, analyze, and conduct public hearings on the Amended Petition. Those activities will utilize the time of the staff and State officials. However, these costs to the State are likely to be minimal.

40. As with the existing District, the ongoing costs to various State entities related to the Amended District relate strictly to the receipt and processing of various reports that the Amended District is required to file annually with the State and various entities. However, the costs to the State agencies that will receive and process the Amended District's reports will be minimal and is already a requirement for the existing District. The Amended District is only one of many governmental subdivisions required to submit various reports to the State.

Additionally, pursuant to section 189.018, the Amended District will pay an annual fee to the Department of Economic Opportunity to help offset such processing costs.

41. It is not anticipated that the County will incur costs in reviewing the Petition, as the District remitted a \$15,000.00 filing fee to the County to offset any such costs.

Additionally, the County will not be required to hold any public hearings on the matter, and in fact declined to hold a public hearing on the matter. As with the existing District, the County will not incur any quantifiable ongoing costs resulting from the ongoing administration of the Amended District.

42. The costs of petitioning for a boundary amendment to the District will be paid entirely by the majority owner of the Contraction Parcel, Mattamy Rivertown, LLC, pursuant to a funding agreement with the District. Additionally, the Amended District is an independent unit of local government and all administrative and operating costs incurred by the District relating to the financing and construction of infrastructure are borne entirely by the District and its landowners. The Contraction parcel is not subject to special assessments imposed by the District for the payment of debt service and/or operations and maintenance expenses.

43. Petitioner has demonstrated that the SERC meets all requirements of section 120.541.

### Other Requirements

44. Petitioner has complied with the provisions of section 190.005(1)(b) in that the County was provided a copy of the Amended Petition and was paid the requisite filing fee prior to Petitioner filing the Amended Petition with the Commission.

45. Section 190.005(1)(d) requires Petitioner to publish notice of the local public hearing in a newspaper of general circulation in the County for four consecutive weeks prior to the hearing. The notice was published in a newspaper of general paid circulation in the County, The St. Augustine Record, on October 4, 11, 18, and 25, 2016.

### Public Comment During Hearing

46. Only one member of the public, Marsha Bailey, attended the hearing and provided testimony at the hearing. Her comment received during the hearing revolved around issues not relevant to the proceeding.

47. Ms. Bailey testified that she is concerned about the effect the amendment of the boundaries would have on the property located on the St. Johns River waterfront. She wanted to object to the development of those lands. However, this hearing was not the proper forum for those objections.

### CONCLUSIONS

48. This proceeding is governed by sections 190.005 and 190.046 and rule chapter 42-1.

49. The proceeding was properly noticed pursuant to section 190.005(1)(d) by publication of an advertisement in a newspaper of general paid circulation in the County and of general interest and readership once each week for the four consecutive weeks immediately prior to the hearing.

50. Petitioner has met the requirements of section 190.005(1)(a) regarding the submission of the Amended Petition and satisfaction of the filing fee requirements.

51. Petitioner bears the burden of establishing that the Amended Petition meets the relevant statutory criteria set forth in section 190.005(1)(e).

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

53. All statements contained within the Amended Petition are true and correct.

54. The amendment of the District's boundaries is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the effective County Comprehensive Plan.

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

56. The Amended District remains the best alternative available for delivering community development services and



facilities to the area that will be served by the Amended District.

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

58. The area to be served by the Amended District remains amenable to separate special district government.

59. Based on the record evidence, the Amended Petition satisfies all of the statutory requirements and, therefore, there is no reason not to grant Petitioner's request for amendment of its boundaries.

DONE AND ORDERED this 30th day of November, 2016, in Tallahassee, Leon County, Florida.



---

D. R. ALEXANDER  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675  
Fax Filing (850) 921-6847  
[www.doah.state.fl.us](http://www.doah.state.fl.us)

Filed with the Clerk of the  
Division of Administrative Hearings  
this 30th day of November, 2016.

COPIES FURNISHED:

Cynthia Kelly, Secretary  
Florida Land and Water  
Adjudicatory Commission  
Room 1801, The Capitol  
Tallahassee, Florida 32399-0001

John P. "Jack" Heekin, General Counsel  
Office of the Governor  
Room 209, The Capitol  
Tallahassee, Florida 32399-0001  
(eServed)

James W. Poppell, General Counsel  
Department of Economic Opportunity  
The Caldwell Building, MSC 110  
107 East Madison Street  
Tallahassee, Florida 32399-4128  
(eServed)

Barbara R. Leighty, Clerk  
Transportation and Economic  
Development Policy Unit  
Room 1801, The Capitol  
Tallahassee, Florida 32399-0001  
(eServed)

Jennifer L. Kilinski, Esquire  
Hopping Green & Sams, P.A.  
Post Office Box 6526  
Tallahassee, Florida 32314-6526  
(eServed)