

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: PETITION TO ESTABLISH Case No. 17-5529
THE BIG ISLAND COMMUNITY
DEVELOPMENT DISTRICT

REPORT TO THE FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION

Pursuant to notice, Francine M. Ffolkes, Administrative Law Judge of the Division of Administrative Hearings (DOAH), conducted a local public hearing in this case on November 13, 2017, in St. Augustine, Florida. The purpose of the local public hearing was to take testimony, public comment, and receive exhibits on the Petition to Establish the Big Island Community Development District (District). This Report is prepared and submitted to the Florida Land and Water Adjudicatory Commission (Commission) for its consideration of whether to adopt a rule establishing the proposed District.

APPEARANCES

For Petitioner: Jennifer Kilinski, Esquire
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STATEMENT OF THE ISSUE

The issue in this proceeding is whether the Petition to establish the Big Island Community Development District

(Petition) meets the applicable criteria in chapter 190, Florida Statutes (2017), and Florida Administrative Code Chapter 42-1.

PRELIMINARY STATEMENT

On September 27, 2017, the Petitioner, White's Ford Timber, LLC (Petitioner), filed its Petition and exhibits with the secretary of the Commission. The Petition and exhibits, along with the requisite filing fee, was also filed with St. Johns County, Florida. The proposed District is located entirely within St. Johns County, covering approximately 5,701 acres. St. Johns County elected not to hold an optional public hearing on the Petition.

In addition, the Commission notified the Department of Economic Opportunity (DEO), which reviews the Petition for compliance with DEO programs and responsibilities. On October 6, 2017, the secretary of the Commission certified that the Petition contained all required elements and forwarded it to DOAH to conduct the local public hearing required under section 190.005(1)(d), Florida Statutes.

Notice of the local public hearing was published in accordance with section 190.005(1)(d). At the local public hearing conducted on November 13, 2017, the Petitioner presented the testimony, live and written, of John G. Metcalf, the Petitioner's manager; Craig A. Wrathell, accepted as an expert in district management and financial analysis; and Douglas C.

Miller, a registered professional engineer, accepted as an expert in land development projects. The Petitioner's Exhibits A through I were accepted in evidence. No members of the public attended the local public hearing and no written comments were submitted after the hearing. See Fla. Admin. Code R. 42-1.012.

The Transcript of the local public hearing, with exhibits, was filed with DOAH on December 6, 2017. The Petitioner filed a proposed report of findings and conclusions, which was considered in the preparation of this Report.

FINDINGS

1. The Petition is for adoption of a rule establishing the District, as described in the Petition. The proposed District is located entirely within St. Johns County (the County) covering approximately 5,701 acres. The site is generally located north of State Road 16, south of County Road 210, west of Interstate 95 and east of County Road 16A.

2. The lands within the proposed District are owned by the Petitioner. There is one parcel within the external boundaries of the proposed District that is excluded. The Petitioner is the owner of the excluded parcel and has provided written consent to the establishment of the District.

3. The purpose of this proceeding was to consider the establishment of the proposed District. This included consideration of information relating to the managing and

financing of the service-delivery function of the proposed District. This Report summarizes the evidence relating to each relevant statutory requirement in section 190.005.

SUMMARY OF THE RECORD

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

4. Exhibit A consists of the Petition and its exhibits as filed with the Commission. Mr. Metcalf testified that he is familiar with the contents of the Petition and its exhibits, which are true and correct to the best of his knowledge. Mr. Miller testified that he is familiar with the Petition's contents, and that he prepared or supervised preparation of Exhibits 1, 2 and 4 through 6 to the Petition. Mr. Wrathell testified that he is familiar with the Petition's contents, and that he prepared or supervised the preparation of Exhibit 7 to the Petition.

5. The Petitioner demonstrated that 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.

6. Mr. Miller reviewed the proposed District establishment in light of the requirements of the State Comprehensive Plan found in chapter 187, Florida Statutes. The Plan provides long-range policy guidance for the orderly social, economic, and

physical growth of the state by way of 25 subjects, goals, and policies. Mr. Miller identified Subject Nos. 15-Land Use, 17-Public Facilities and 25-Plan Implementation, as particularly relevant.

7. Subject No. 15 of the State Comprehensive Plan recognizes the importance of locating development in areas that have the fiscal abilities and service capacity to accommodate growth. Because the proposed District will have the fiscal capability to provide infrastructure services and facilities to a population in a designated growth area, it is not inconsistent with this goal.

8. Policy 1 under Subject No. 15 promotes efficient development activities in areas that will have the capacity to service new populations and commerce. The proposed District will provide, in an efficient and focused manner over the long term, high-quality infrastructure facilities and services.

9. Subject No. 17 of the State Comprehensive Plan calls for protecting investments in existing public facilities and the timely, orderly, and efficient planning and financing of new public facilities. Establishment of the proposed District will further these goals.

10. Subject No. 25 of the State Comprehensive Plan calls for systematic planning capabilities to be integrated into all levels of government, with particular emphasis on improving

intergovernmental coordination and maximizing citizen involvement.

11. Policy 2 under Subject No. 25 seeks to ensure appropriate operational authority at every level of government to implement the policy directives in the State Comprehensive Plan. Chapter 190 provides the proposed District with operational authority to deliver basic community services and capital infrastructure without overburdening other local governments and their taxpayers. The proposed District will provide infrastructure systems and facilities for the acreage within the District without burdening the general body of taxpayers within St. Johns County.

12. Policy 3 under Subject No. 25 seeks to provide effective monitoring, incentive, and enforcement capabilities to ensure regulatory program requirements are met. Under section 189.08(2), Florida Statutes, the proposed District is required to submit public facilities reports, including annual updates, with the local general-purpose government. This facilitates an effective monitoring program of the District by the County.

13. Policy 6 under Subject No. 25 encourages citizen participation at all levels of policy development, planning and operations. The District will eventually transition to a

resident-elected Board of Supervisors, which must hold its meetings in the sunshine under chapter 286, Florida Statutes.

14. Policy 8 under Subject No. 25 encourages continual cooperation among communities to bring the private and public sectors together for establishing an orderly, environmentally, and economically sound plan for future needs and growth. The proposed District will be a vehicle to enhance cooperation in the provision of infrastructure between the private sector and the County.

15. The proposed District is not inconsistent with any applicable provision of the State Comprehensive Plan.

16. Mr. Miller also reviewed the proposed District for consistency with the requirements of the St. Johns County Comprehensive Plan. Mr. Miller testified that the proposed District would not be inconsistent with any applicable element or portion of the County Comprehensive Plan. In addition, chapter 190 prohibits any community development district from acting in an inconsistent manner with the local government's comprehensive plan.

17. The Petitioner demonstrated that the proposed District will not be inconsistent with any applicable element or portion of the State Comprehensive Plan or of the County Comprehensive Plan.

C. Whether 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.

18. The proposed District will include approximately 5,701 acres, located entirely within St. Johns County.

19. Mr. Wrathell and Mr. Miller testified that the proposed District facilities can be provided in an efficient, functional and integrated manner. The significant infrastructure needs for the area within the proposed District allows its development as a functionally interrelated community. The specific design allows provision of infrastructure in a cost-effective manner. The use of one development plan provides a contiguous and homogenous method of providing services to lands with the proposed District.

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

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

21. The proposed District will construct or provide certain infrastructure improvements to be paid for through the imposition of special assessments. This ensures that the real property and the residents benefiting from District services are

the ones who pay for them. The proposed District will have sufficient overall residential density to require all the necessary elements of infrastructure of a comprehensive community.

22. The proposed District is the best alternative to provide for the management and maintenance of various infrastructure improvements. As a special-purpose local government, the proposed District is a stable, long-term public entity capable of maintaining and managing the necessary infrastructure, facilities, and services. The limited purpose and scope of the proposed District, along with statutory safeguards, such as public notice, public hearings and access to records, ensures that the District is responsive to infrastructure needs.

23. The proposed District will construct certain infrastructure and community facilities needed by the property owners and residents. Expenses for operations and maintenance of the facilities will be paid through maintenance assessments. A community development district allows for the independent financing, administration, operations and maintenance of the land within the district and allows complete control by district property owners and residents.

24. There are three alternatives for providing the infrastructure for the necessary services and facilities besides

the proposed District. The first alternative, is for the County to build the entire infrastructure and assume responsibility for day-to-day oversight of construction, maintenance, and management of the proposed services and facilities for these lands. This alternative increases the burden on County staff, diverts resources from other County developments and projects, and indirectly forces the residents of the entire County to pay for these development improvements.

25. The second alternative, is for a developer to provide the proposed improvements using private financing. This alternative, however, does not provide the guarantee of a long-term, consistent entity to oversee construction, maintenance, and management of the proposed services and facilities. Also, a private landowner is not subject to the same statutory safeguards of a community development district, such as public bidding on contracts and public access to meetings and documents.

26. The third alternative, is a commercial owner's association (Association). An Association is a more long-term and stable entity that may be capable of providing the necessary maintenance of dedicated improvements. However, an Association is not subject to the same statutory safeguards as the proposed District. Also, an Association cannot impose and collect

assessments in the same way as property taxes or District assessments.

27. The Petitioner demonstrated that 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 District will be incompatible with the capacity and uses of existing local and regional community development services and facilities.

28. The planned infrastructure improvements for the proposed District will connect to the County's existing systems in accordance with criteria, review and approval by the County. Mr. Wrathell and Mr. Miller testified that the proposed District's services and facilities are not incompatible with the capacity and uses of existing local or regional services or facilities.

29. The Petitioner demonstrated that 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.

30. The communities to be included in the proposed District have the need for certain basic infrastructure systems and the proposed District provides an efficient mechanism to oversee installation of these improvements. The evidence shows that from economic, planning, 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.

31. The Petitioner demonstrated that the area that will be served by the District is amenable to separate special-district government.

G. Other requirements imposed by statute or rule.

32. Chapter 190 and Florida Administrative Code chapter 42-1 impose specific requirements for the Petition and other information submitted to the Commission.

Elements of the Petition

33. The Commission certified that the Petition met all of the requirements of section 190.005(1)(a).

Statement of Estimated Regulatory Costs

34. Section 190.005(1)(a)8., requires the Petition to include a Statement of Estimated Regulatory Costs (SERC) that

meets the requirements of section 120.541, Florida Statutes. The SERC is an exhibit to the Petition. Mr. Wrathell explained the purpose of the SERC, the economic analysis presented, and the data and methodology used to prepare the SERC.

35. The SERC contains an estimate of the costs and benefits to all persons directly affected by the proposed rule establishing the District, the State of Florida and its citizens, the County and its citizens, and property owners within the District.

36. Once the District is established, the State of Florida and its citizens will incur only modest administrative costs to review the periodic reports required by chapters 189, and 190, and other law. Specifically, the State of Florida will review the annual financial report, annual audit, and public financing disclosures. To offset these costs, the Florida Legislature established a maximum fee of \$175.00 per year to DEO to pay the costs incurred by the Special District Information Program to administer the reporting requirements. The costs to the State of Florida are minimal and are covered by the annual fee the District is required to pay. No additional burden is placed on the State of Florida once the proposed District is established.

37. It is not anticipated that the County will incur costs in reviewing the Petition because the Petitioner remitted a \$15,000 filing fee to the County to offset any such costs.

Also, the County will not be required to hold any public hearings on the matter, and declined to hold an optional public hearing on the matter.

38. The costs of petitioning for establishment of the District will be paid entirely by the Petitioner. The District is an independent unit of local government. 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.

39. The Petitioner demonstrated that the SERC meets all requirements of section 120.541.

Other Requirements

40. The Petitioner provided the County with a copy of the Petition and paid the requisite filing fee, prior to filing the Petition with the Commission. See § 190.005(1)(b), Fla. Stat.

41. The Petitioner published 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 The St. Augustine Record on October 20 and 27, and November 3 and 10, 2017. See § 190.005(1)(d), Fla. Stat.

Public Comment During the Hearing

42. There were no members of the public in attendance at the hearing.

CONCLUSIONS

43. This proceeding is governed by chapters 120 and 190 and rule chapter 42-1.

44. The proceeding was properly noticed pursuant to section 190.005 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.

45. The Petitioner met the requirements of section 190.005 regarding the submission of the Petition and satisfaction of filing fee requirements.

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

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

48. All statements contained within the Petition are true and correct.

49. The establishment of the District is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the effective local Comprehensive Plan.

50. 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.

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

52. 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.

53. The area to be served by the District is amenable to separate special-district government.

54. Based on the record evidence, the Petition satisfies all of the statutory requirements and, therefore, there is no reason not to grant the Petitioner's request for establishment of the proposed District and to formally adopt a rule as requested by the Petitioner.

DONE AND ENTERED this 26th day of December, 2017, in Tallahassee, Leon County, Florida.



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Filed with the Clerk of the
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