

March 5, 1997
Final Draft

ORDINANCE 97- 16

ST. JOHNS COUNTY, FLORIDA ESTABLISHING PROCEDURES FOR THE INITIATION, CONDUCT, CONCLUSION AND COST ASSESSMENT FOR SPECIAL MASTER PROCEEDINGS AS AUTHORIZED UNDER CHAPTER 95-181 LAWS OF FLORIDA, THE FLORIDA LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION ACT. THIS ORDINANCE PROVIDES DEFINITIONS; STANDARDS OF CONDUCT OF PARTIES AND PARTICIPANTS; PRE-INITIATION MEETINGS; FORM AND MANNER OF FILING REQUESTS FOR RELIEF; SPECIAL MASTER QUALIFICATIONS; SPECIAL MASTER FEES, COSTS AND EXPENSE ASSESSMENT; SPECIAL MASTER SELECTION; SUFFICIENCY HEARINGS; NOTICE OF HEARINGS; SUBPOENA POWERS; PROCEEDING CONDUCT; FACILITATION SESSIONS; HEARING AND PRESENTATION OF EVIDENCE; OFFERS OF COMPROMISE; SETTLEMENT; FORMS OF RELIEF; SPECIAL MASTER RECOMMENDATION; RESPONSE TO SPECIAL MASTER RECOMMENDATION; RIPENESS DECISION; TIME REQUIREMENTS AND FURNISHING COPIES; CONSOLIDATION; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of St. Johns County, Florida that:

Section 1. Purpose. This ordinance establishes St. Johns County procedures for the initiation, conduct and conclusion of a Special Master proceeding under Chapter 95-181 Laws of Florida, the Florida Land Use and Environmental Dispute Resolution Act.

- 1.1 It is the intent of the St. Johns County that the Special Master process be a speedy, inexpensive, and simple method for Owners and the County to settle land use and environmental permitting and enforcement disputes. To that end, Owners and the County should meet face-to-face, in a non-adversarial atmosphere, to resolve disputes without the need for formal representation.
- 1.2 Negotiations assisted by a Special Master will enable an Owner and the County to exert more control over their dispute, allowing the parties an opportunity to shape a resolution rather than having one imposed. The Special Master and the parties should exercise maximum flexibility to adapt these procedures to the exigencies of each particular case, consistent with the requirements of state law and due process.

March 5, 1997
Final Draft

Section 2. Definitions. The following definitions shall be applicable to this Ordinance:

- 2.1 "County" means St. Johns County, Florida.
- 2.2 "Board" means the Board of County Commissioners of St. Johns County, Florida.
- 2.3 "Owner" means a person with a legal or equitable interest in real property who filed an application for a development permit for the property in St. Johns County at the state, regional, or local level and who received a development order, or who holds legal title to real property that is subject to an enforcement section of St. Johns County.
- 2.4 "Participant" means:
 - 2.4.1 A person holding title to land contiguous to the Owner's property, who has been accepted by the Special Master as a participant in the proceeding; or
 - 2.4.2 A substantially affected person who submitted oral or written testimony, sworn or unsworn, of a substantive nature which stated with particularity support for or objections to the development order or enforcement action in a prior proceeding, including a public hearing, and who has been accepted by the Special Master as a participant in the proceeding.
- 2.5 "Party" or "parties" shall include the Owner, the County and any other governmental entity made a party to the proceeding by the Special Master upon application of the Owner, the County or any other governmental entity.
- 2.6 "Person" includes individuals, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.
- 2.7 "Special Master Proceeding" means any combination of facilitation sessions, formal or informal hearings, of a public nature authorized under this Ordinance.

Section 3. Standards of conduct for Parties and Participants.

Standards of conduct for parties and participants may be adopted by the Board, by resolution, and shall govern the proceedings unless waived or altered in the Special Master contract.

Section 4. Pre-initiation Meeting.

Prior to filing a formal request for relief under this ordinance, the Owner may by letter request an informal meeting with the County Administrator to discuss alternatives to the filing of the Special Master proceeding. The County Administrator shall conduct such a meeting as expeditiously as possible and shall include technical staff familiar with the regulations at issue. If an informal meeting request is made, the deadline for filing a formal request for relief shall be tolled up to the time of the meeting but in no case for more than twenty (20) days.

Section 5. Request for Relief.

5.1 Filing of Request for Relief

5.1.1 In order to initiate a Special Master Proceeding as provided for in this Ordinance an Owner must file two copies of a Request for Relief (give a specific location, specific cause for relief and specific relief sought). The request for relief must be filed within 30 days after receipt of the order or notice of government action, unless such time has been tolled as a result of a request for an informal meeting.

5.1.2 Within 10 days of receipt of the Request for Relief filed under this Ordinance the County Administrator or his/her designee shall forward the request to a Special Master selected pursuant to Section 6, below. This time period may be extended by mutual agreement of the parties.

5.2 Notice of Filing

5.2.1 Concurrently with the forwarding of the Request for Relief to the Special Master, the County shall serve, by U. S. Mail or hand delivery, a notice of filing the Request for Relief to :

5.2.1.1 Owners of real property contiguous to the applicant's property at the address shown on the latest County tax roll; and,

5.2.1.2. Any substantially affected person who submitted oral or written testimony of a substantive nature which stated with particularity an objection to or support for any development order or enforcement action at issue.

5.2.2 In lieu of providing a complete copy of the Request for Relief, the notice of filing shall contain any information necessary for the recipient to secure a

copy of the Request for Relief.

- 5.2.3 Any failure to notice potential participants shall be cured by posting of notices of the Special Master Proceeding in a location established by the Board for that purpose.

Section 6. Special Master.

6.1 Special Master Qualifications and Restrictions.

The Board shall appoint no less than three Special Masters who shall be residents of Florida and possess experience and expertise in mediation and at least one of the following disciplines and a working familiarity with the others: land use and environmental permitting, land planning, land economics, local and state government organization and powers, and the law governing the same.

6.2 Special Master Fees, Costs and Expenses.

All fees, costs and expenses of the Special Master shall be borne in equal shares by the County and the Owner or Owners participating in the proceeding.

6.3 Special Master Selection.

The County shall include in the Request for Relief form provided to the Owner a pre-approved list of Special Masters and instructions for objecting to any person named on the list.

- 6.3.1 The parties may mutually agree on a Special Master. Where the County has been joined by a Special Master, the County shall not unreasonably refuse to abide by the choice of a Special Master by the original parties.

6.3.2 Selection from Pre-approved Listing

- 6.3.2.1. The Special Master may be selected from the lists of approved Special Masters provided with the Request for Relief form. Unless a property Owner objects to a Special Master in the property Owner's Request for Relief, those Special Masters not objected to are deemed acceptable to the Property Owner. The County will select one of them, at random, as the Special Master to consider the Request for

Relief.

6.3.2.2. If the Property Owner objects to all of the persons on the approved Special Master list, the County shall be allowed additional time to secure a mutually acceptable Special Master.

6.3.3 If there is no agreement among the parties:

6.3.3.1. Each party may select one person qualified as a Special Master who, together, shall select a candidate. If the parties cannot agree on that candidate, the Special Master shall be randomly selected by the Florida Growth Management Conflict Resolution Consortium from a list of qualified candidates maintained by them for that purpose; or

6.3.3.2. The Special Master shall be randomly selected by the Florida Growth Management Conflict Resolution Consortium from a list of qualified candidates maintained by them for that purpose.

Section 7. Conduct of the Special Master Proceeding.

7.1 Request to Participate in Proceedings.

Within 21 days after receipt of the Request for Relief, any candidate for participant status may request from the Special Master permission to participate in the proceeding. These persons may be permitted to participate in the hearing to the extent allowed under law.

7.2 Filing of Response.

The County Administrator or his/her designee shall file within fifteen days following the filing of a request for relief, a Response to the Request for Relief. The response shall state in reasonable detail the position of the County regarding the issues alleged by the Owner. The response shall include a brief statement explaining the public purpose of the regulations upon which the development order or enforcement action is based.

7.3. Sufficiency Hearing; request to be Dropped as a Party.

- 7.3.1 Prior to any hearing on the merits of the Request for Relief, the Special Master may conduct a hearing on whether the request for relief should be dismissed. Such hearing shall be based upon a request which includes a statement setting forth the facts and circumstances relevant to aid the Special Master in ruling on the request.
- 7.3.2 At any time the Special Master may conduct a hearing on any request to be dropped as a party provided that the request for such hearing includes a statement setting forth the facts and circumstances relevant to aid the Special Master in ruling on the request.
- 7.4 Notice and Timing of Special Master Proceeding.
 - 7.4.1 The Special Master shall, timely convene a Special Master proceeding on the request.
 - 7.4.2 The cost of preparing and filing the initial two copies of the request for relief shall be borne by the property Owner. The cost of preparing and serving copies of the request for relief on qualifying participants shall be borne equally by the parties.
 - 7.4.3 The cost of preparing and filing of the Response to the Request for Relief shall be borne by the County.
 - 7.4.4 The Special Master's expenses in providing notice shall be borne equally by the parties or as is otherwise established in the Special Master agreement.
 - 7.4.5 Notice to all parties and other persons who have requested such notice shall contain a reference number and date of filing of the Request for Relief and instructions for obtaining further information regarding the Request for Relief.
- 7.5 Subpoena Powers of the Special Master. A subpoena issued by a Special Master may require the witness to bring a document, file, exhibit, record or other information believed to be in his/her possession.
 - 7.5.1 A party requesting the subpoena of a nonparty witness shall make such request in writing to the Special Master.
 - 7.5.2 The Special Master shall only subpoena a witness that it believes will aid in

the disposition of the matter.

- 7.5.3 Parties subpoenaing witnesses shall be responsible for paying fees and mileage in the amount as provided for under Florida law for witnesses in civil cases.
- 7.5.4 The Special Master shall provide notice of any witnesses subpoenaed to any party requesting such notice.
- 7.5.5 Service of subpoenas shall be made in the manner provided for by the Florida Rules of Civil Procedure.
- 7.5.6 The witnesses of either party that are present for the hearing or are on standby or available on call are not to be excused by either party without the concurrence of the other party or the Special Master.

7.6 Conduct of the Special Master Proceeding.

The Special Master Proceeding may consist of facilitation sessions, testimony sessions, any combination of those or any form of information gathering and sharing that the Special Master deems appropriate under the circumstances. With that proviso, what follows is a general outline of a formalized process which is not binding on any party or the Special Master.

7.6.1 Facilitation Sessions.

- 7.6.1.1. In all respects, the facilitation discussions shall be informal and open to the public. The discussions shall operate at the direction and under the supervision of the Special Master. The object of the facilitation sessions is to focus attention on the impact of the governmental action giving rise to the request and to explore alternatives for relief that are consistent with the public interests.
- 7.6.1.2. As alternatives, if variances, and other types of adjustments to the development order or enforcement action are raised, the Special Master shall afford participants a reasonable opportunity to address the impacts of such alternatives on their substantial interests.

7.6.1.3. Any time after commencement of the presentation of evidence in the hearing, the Special Master may recess the hearing and presentation of evidence to recommence a facilitation session.

7.6.2 Procedures for Hearing and Presentation of Evidence.

The hearing shall be conducted under the direction and supervision of the Special Master. The Special Master shall decide all questions of procedure limited only by the need to afford reasonable due process. The Special Master shall determine the order of presentation of issues and information unless otherwise set forth in the Special Master agreement. It is the duty of the Special Master to proceed with all reasonable diligence.

7.7 Offer to Compromise.

At any time during the Special Master Proceeding a party may submit an offer of compromise.

7.8 Settlement.

7.8.1 At any time during the Special Master Proceeding, the Owner and the County may enter into a settlement agreement or other agreement as to the permissible use of the Owner's land.

7.8.2 A settlement agreement or other agreement as to the permissible use of the Owner's land may be executed by the property Owner or the party representative with authority to recommend a settlement directly to the Board of County Commissioners, subject to approval by the Board. Any settlement agreement containing such a condition shall not be binding on any party until approved by all parties, including the Board.

7.8.2.1. Forms of Relief Available.

7.8.2.1.1 Without limitation, relief may be in the form of exemptions or variances from the applicable ordinances, including the Land Development Regulations.

7.8.2.1.2 Relief may be conditional in nature. Such conditional

relief must be analyzed to determine if the conditions under which it is granted are consistent with the purpose and intent of the subject regulations and the St. Johns County Comprehensive Plan.

- a. Conditions may be initial, after satisfaction of which the settlement is implemented, or
- b. Conditions may be ongoing, the failure of which serve to vacate the settlement and to divest the Owner or his/her successors in interest of any rights thereunder.

7.8.2.2. Any relief granted shall address the appropriateness of relief, allowing the County to fashion that form of relief necessary to equitably address the legitimate concerns of the property Owner while at the same time protecting the legitimate interests of the citizens of the County.

7.8.3. Where such settlement or other agreement has been entered into, the Special Master shall not thereafter render a recommendation on those matters covered by the agreement.

Section 8. Special Master Recommendation.

The Special Master shall prepare a recommendation as provided by law. The Special Master shall send a copy of the recommendation in each case as required by law. The County Administrator shall notify the Department of Legal Affairs as required by law.

Section 9. Response to Special Master's Recommendation.

The Board of County Commissioners, in consultation with other governmental entities participating in the proceeding, must respond to the Special Master's Recommendation in one of the following ways:

- 9.1 Accept the recommendation as submitted and proceed to implement it by development agreement, when appropriate, or by other method, in the ordinary course and consistent with the rules and procedures of the County.
- 9.2 Modify the recommendation and proceed to implement it by development agreement, when appropriate, or by other method consistent with the rules and procedures of St.

March 5, 1997
Final Draft

Johns County.

- 9.3 Reject the recommendation as submitted by the Special Master. Failure to act within 45 days is a rejection unless the period is extended by agreement of the Owner and the County.

Section 10. Ripeness Decision.

If the Board accepts the Special Master's recommendation or modifies it and the Owner rejects the acceptance or modification, or if the County rejects the Special Master's recommendation, the County must issue a written decision within 30 days that describes as specifically as possible the use or uses available to the subject real property.

Section 11. Miscellaneous Provisions.

11.1 Time Requirements and Furnishing Copies.

11.1.1 Any copy which must be furnished to the Special Master, a party or a participant may be sent by regular mail, postage prepaid, or by hand delivery to the recipient's last known address. A copy furnished by mail will be deemed furnished to the recipient upon being deposited in the mail.

11.2.2 Any document which must be submitted, or any copy which must be furnished to the Special Master, a party or a participant, may be submitted or furnished by facsimile transmission. Documents submitted and copies furnished by facsimile transmission will be deemed submitted or furnished to the recipient on the date transmitted as shown on the recipient's copy, if the copy is complete.

11.1.3 All documents must plainly identify the parties or participants to whom copies have been furnished.

11.1.4 The parties may adopt ground rules regarding computation of time in a Special Master agreement.

11.1.5 Any document received after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

11.2 Consolidation.

March 5, 1997
Final Draft

11.2.1 If there are separate matters which involve similar issues or identical parties, the Special Master may consolidate the matters, if the parties agree and it appears that consolidation would promote the speedy, efficient, and inexpensive resolution of the matters. If the separate matters are pending before different Special Masters, the parties may decide which Special Master will conduct the consolidated proceeding.

11.2.2 In the event that the parties agree to consolidate related Special Master proceedings into one proceeding, the parties must jointly agree to selection of a Special Master. The Special Masters involved should maintain an open and professional relationship with each other, and each has an obligation to inform the others regarding the consolidation.

Section 12. Severability.

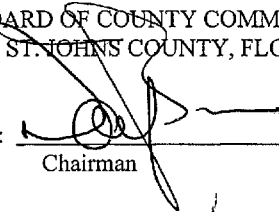
If any Section, Subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any Court of Competent Jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

Section 13. Filing of Ordinance; Effective Date.

Pursuant to Section 125.66, Florida Statutes., a certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This ordinance shall become effective upon filing of the ordinance with the Department of State.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, State of Florida, this 11th day of March, 1997.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
Chairman

ATTEST: Cheryl Strickland, CLERK

By: 
Deputy Clerk

Effective Date: March 21, 1997

The St. Augustine Record

PUBLISHED EVERY AFTERNOON MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA, COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared _____

Sandra D. Oliver

who on oath says that she is

Accounting Clerk

of the St. Augustine Record, a

daily newspaper published at St. Augustine in St. Johns County, Florida:

that the attached copy of advertisement, being a _____

Notice of Hearing

in the matter of Feb 25, 1997 5:30pm and March 11, 1997 1:30pm

in the _____ Court, was published in said newspaper in the

issues of Feb 10, 1997 and Scheduled for Feb 25, 1997

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 24 day of Feb, 1997,

by Sandra D. Oliver who is personally

Personally Known

known to me or who has produced _____ as

(Type of Identification)

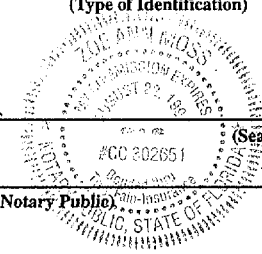
identification.

Zoe Ann Moss

(Signature of Notary Public)

Zoe Ann Moss

(Print, Type or Stamp Commissioned Name of Notary Public)



Ordinance Book 19 Page 312

AP17863

COPY OF ADVERTISEMENT

NOTICE OF PUBLIC HEARINGS OF THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS. NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, at its regular meeting on Tuesday, February 25, 1997 at 5:30 p.m. and on March 11, 1997 at 1:30 p.m. in the County Auditorium of the County Administration Complex, 4020 Lewis Speedway, County Road 16-A and U.S. 1 North, St. Augustine, Florida, will hold public hearings to consider passage of the following ordinance:

ORDINANCE NO. 97-01 AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA ESTABLISHING PROCEDURES FOR THE INITIATION, CONDUCT, CONCLUSION AND COST ASSESSMENT FOR SPECIAL MASTER PROCEEDINGS AS AUTHORIZED UNDER CHAPTER 35-181 LAWS OF FLORIDA, THE FLORIDA LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION ACT. THIS ORDINANCE PROVIDES DEFINITIONS, STANDARD OF CONDUCT OF PARTIES AND PARTICIPANTS, PRE-INITIATION MEETINGS, FORM AND MANNER OF FILING REQUESTS FOR RELIEF, SPECIAL MASTER QUALIFICATIONS, SPECIAL MASTER FEES, COSTS AND EXPENSE ASSESSMENT, SPECIAL MASTER SELECTION, SUFFICIENCY OF HEARINGS, NOTICE OF HEARINGS, SUBPOENA POWERS, PROCEEDING CONDUCT, FACILITATION SESSIONS, HEARING AND PRESENTATION OF EVIDENCE, OFFERS OF COMPROMISE, SETTLEMENT, FORM OF RELIEF, SPECIAL MASTER RECOMMENDATION, RESPONSE TO SPECIAL MASTER RECOMMENDATION, RIPENESS DECISION, TIME REQUIREMENTS AND FURNISHING COPIES, CONSOLIDATION, SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the St. Johns County Administration Complex, 4020 Lewis Speedway (CR 16A and U.S. #1), St. Augustine, Florida and may be examined by parties interested in or to the said public hearing. Interested parties may appear at the hearing and be heard with respect to the proposed ordinance.

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the public hearing, he/she will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing special accommodations are invited to interpret to participate in these proceedings should contact ADA Coordinator at (904) 824-2511 or of the County Administration Building, 4020 Lewis Speedway, St. Augustine, Florida 32085. For hearing impaired

Individuals with Telecommunication Device for the Deaf (TDD) 1-800-955-8770. Florida Relay 1-800-955-8770, no later than 5 days prior to the date of this hearing.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND
CLERK
By Irma Pacetti
Deputy Clerk
L187 Feb. 10, 25, 1997