

**ORDINANCE NO. 2007-75**

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, EXTENDING A MORATORIUM ON BUILDING PERMITS WITHIN A PORTION OF THE PARTICULAR AREA OF ST. JOHNS COUNTY KNOWN AS SUMMER HAVEN (BLOCKS 3 THROUGH 65); MAKING FINDINGS OF FACT; PROVIDING FOR EXCLUSIONS TO THE MORATORIUM; PROVIDING RELATED REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE AND AN EXPIRATION DATE.

**WHEREAS**, the Board of County Commissioners ("Board") of St. Johns County, Florida is entrusted with the responsibility to establish reasonable ordinances, policies and regulations to further the general public health, safety and welfare of the community; and

**WHEREAS**, the Board has heard evidence pertaining to the effects of repeated storm events resulting in erosion and requiring repeated repairs to a portion of the particular area of St. Johns County known as Summer Haven (Blocks 3-65, Map Book 1, Page 155); and

**WHEREAS**, the Board finds that preserving the status quo pertaining to construction activity in the subject area is rationally related to the County's objective of protecting the general public health, safety, and welfare of the community; and

**WHEREAS**, the Board finds that Blocks 3-65, although each distinct, all present a difficult environment for fire/rescue, and other emergency services; and

**WHEREAS**, a temporary building moratorium does not rise to the level of a regulatory taking if the moratorium is rationally related to advancing a legitimate public purpose. See *WCI Communities, Inc. v. City of Coral Springs*, 885 So.2d 912 (Fla. 4<sup>th</sup> DCA 2004); and

**WHEREAS**, the St. Johns County extension of a temporary moratorium in this instance is for a public purpose (public health, safety and welfare) that is in a higher degree than was found lawful in the recent *WCI Communities* case; and

**WHEREAS**, other jurisdictions have prohibited building of residential structures in areas vulnerable to erosion caused by storms and close proximity to the ocean, and have recognized the danger to rescue personnel and the greater need to protect public health, safety and welfare. See *Gove v. Zoning Board of Appeals of Chatham*, 444 Mass. 754 (2005); and

**WHEREAS**, when legislation is passed that does not target a protected class, the rational basis test is applied; and

**WHEREAS**, in the present instance, there is no legally recognized special "protected class;" and

**WHEREAS**, under the rational basis test, judicial review gives great deference to legislation; and

**WHEREAS**, public health, safety and welfare is a legitimate public purpose recognized by Florida courts; and

**WHEREAS**, restricting construction of new dwelling units significantly reduces the likelihood of incidents of public health, safety and welfare emergencies in comparison to restricting other uses; and

**WHEREAS**, on September 13, 2005, the Board enacted Ordinance No. 2005-85, imposing a moratorium on building permits within a portion of the particular area of St. Johns County known as Summer Haven (Blocks 3-65), with the proviso that the moratorium may be extended by ordinance if reasonably required to meet the health, safety and welfare of the subject area; and

**WHEREAS**, on September 26, 2006, the Board enacted Ordinance No. 2006-114, which extended the moratorium imposed by Ordinance No. 2005-85.

**NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of St. Johns County, Florida as follows:

Section 1. Findings and Statement of Intent. The Board of County Commissioners of St. Johns County, Florida (the "Board") hereby finds, determines and declares the following:

- A. Due to repeated storm events, resulting erosion and required repeated repairs, there are increasing public safety concerns pertaining to placing more residents or additional construction into the moratorium subject area.
- B. The subject area has unique characteristics due to its history, proximity to water bodies, and property features that distinguish the subject area from other portions of the County in terms of roadway erosion problems.
- C. St. Johns County is actively investigating the feasibility of financing options that could best support appropriate engineering, permitting, and construction activities, to improve access reliability and public safety in the subject area.

Section 2. Moratorium Extended. The temporary moratorium is hereby extended on the approval of building permits for activities in the subject area, except as excluded from the moratorium in Section 3. For activities that are excluded from the moratorium, the County Administrator may require conditions including, but not limited to, hold-harmless agreements, as a prerequisite to building permit approval.

Section 3. Exclusions. In addition to activities allowed under the existing Florida Building Code currently in effect, including repairs and alterations that do not increase the

existing footprint or square footage of the building, the following described activities are also hereby excluded from this moratorium:

- A Building permits for new structures, other than structures designed to function as dwelling units.
- B. Building Permits for the repair of existing structures, when the cost of repair does not exceed fifty percent (50%) of the value of the structure as listed by the St. Johns County Property Appraiser, as of the date this Ordinance is enacted.
- C. Building permits for construction in areas that are determined by the County Administrator to have fully compliant access, and are reasonably likely to remain having fully compliant access for the next ten (10) years.

Section 4. Effective Date.

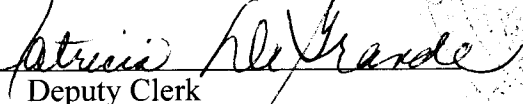
- A. This Ordinance shall be effective upon its proper filing with the Department of State of Florida.
- B. The moratorium shall remain in effect until the County receives, finds feasible, and implements a Summer Haven Infrastructure Financing Plan, and infrastructure reasonably required to meet the health, safety and welfare of the subject area to the reasonable satisfaction of the County Commission is in place, but no later than midnight on October 1, 2008, with the proviso that the Board, may by ordinance(s), terminate all or portions of the moratorium at such sooner time(s) as the Board determines that the public need for a moratorium on such portion(s) no longer exists; and the proviso that this moratorium may be extended by ordinance if reasonably required to meet the health, safety and welfare of the subject area.

**PASSED AND ENACTED** by the Board of County Commissioners of St. Johns County, State of Florida, this 18<sup>th</sup> day of September, 2007.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By:   
Ben Rich, Chairman

ATTEST Cheryl Strickland, Clerk

By:   
Deputy Clerk

Rendition Date: 9-21-07

Effective Date: 09-26-07

# The St. Augustine Record

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

COPY OF ADVERTISEMENT

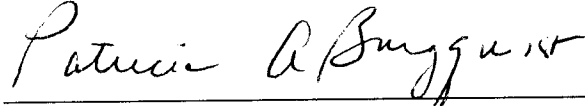
STATE OF FLORIDA,  
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **CHARLES BARRETT**  
who on oath says that he is an 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 **DISPLAY ADVERTISEMENT**  
in the matter **NOTICE SJC BCC USE OF LAND**  
was published in said newspaper in the issues of **AUGUST 24, 2007**.

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, for a period of one year preceding  
the first publication of the copy of advertisement; and affiant further says that  
he 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 27<sup>TH</sup> day of **AUGUST, 2007**.

by  who is personally known to me  
or who has produced **PERSONALLY KNOWN** as identification.

  
(Signature of Notary Public)



Patricia A. Bergquist  
My Commission DD27599  
Expires December 18, 200

(Seal)

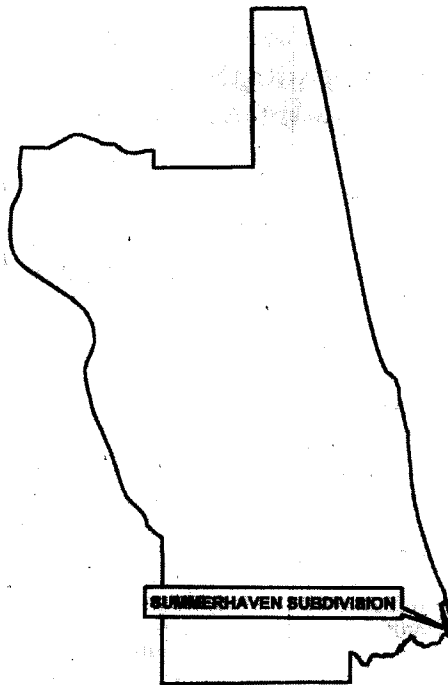
PATRICIA A. BERGQUIST

# NOTICE

## OF PUBLIC HEARINGS OF THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS ON ESTABLISHMENT OF ORDINANCE/REGULATIONS AFFECTING THE USE OF LAND

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, at regular meetings on Tuesday, September 4, 2007 at 9:00 a.m. and Tuesday, September 18, 2007 at 5:30 p.m. will consider extending St. Johns County Ordinance No. 2006-114 which extended a temporary moratorium on issuance of building permits in the Summer Haven area, Blocks 3 through 65. Ordinance No. 2006-114 extended previous Ordinance No. 2005-85. The Board of County Commissioners may also consider other options, including but not limited to possibly amending the ordinance or allowing it to expire, and any other options available. The public hearings will be held in the County Auditorium at the County Administrative Complex, 4020 Lewis Speedway (County Road 16-A and U.S. 1 North), St. Augustine, Florida, to consider adoption of the following proposed ordinance:

**AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, EXTENDING A MORATORIUM ON BUILDING PERMITS WITHIN A PORTION OF THE PARTICULAR AREA OF ST. JOHNS COUNTY KNOWN AS SUMMER HAVEN (BLOCKS 3 THROUGH 65); MAKING FINDINGS OF FACT; PROVIDING FOR EXCLUSIONS TO THE MORATORIUM; PROVIDING RELATED REGULATIONS; AND ESTABLISHING AN EFFECTIVE DATE AND AN EXPIRATION 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 prior to the said public hearings. Please take note that the proposed ordinance is subject to revision prior to the hearing or adoption. All parties having any interest in said ordinance will be afforded an opportunity to be heard at the public hearings.

If a person decides to appeal any decision made with respect to any matter considered at the hearings, such person 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 a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 209-0650 at the St. Johns County Courthouse, 4010 Lewis Speedway, Room 276, St. Augustine, FL 32084. For hearing impaired individuals: Telecommunication Device for the Deaf (TDD): Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of the meeting.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA  
CHERYL STRICKLAND, ITS CLERK  
By: Yvonne King, Deputy Clerk

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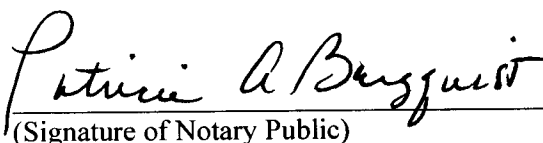
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that the attached copy of advertisement, being a **DISPLAY ADVERTISEMENT**  
in the matter **SJC LAND USE SUMMERHAVEN**  
was published in said newspaper in the issues of **SEPTEMBER 10, 2007**.

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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, for a period of one year preceding  
the first publication of the copy of advertisement; and affiant further says that  
he 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 **10TH** day of **SEPTEMBER, 2007**.

by  who is personally known to me  
or who has produced **PERSONALLY KNOWN** as identification.

  
(Signature of Notary Public)



Patricia A. Bergquist  
My Commission DD275991  
Expires December 18, 2007

(Seal)

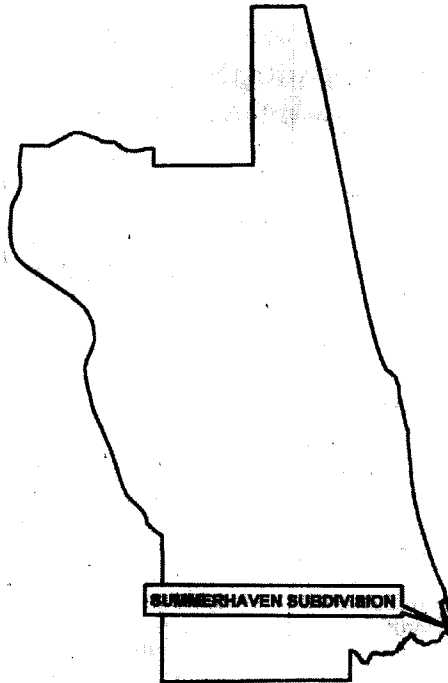
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