

**ORDINANCE NO. 2008-45**

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, DISCONTINUING A TEMPORARY MORATORIUM ON CERTAIN 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 SEVERABILITY; AND PROVIDING AN EFFECTIVE 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**, in 2005, the Board 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**, in September, 2005, the Board enacted Ordinance No. 2005-85, providing for a temporary moratorium on certain building permits in the subject area for the purpose of preserving the status quo pertaining to residential construction activity so that the Board would have an appropriate opportunity to explore and determine feasible financing and engineering; and

**WHEREAS**, Ordinance No. 2005-85, and subsequent extensions allowed for exceptions to the moratorium which one or more applicants applied for and took advantage of; and

**WHEREAS**, Ordinance No. 2005-85 originally, and as extended, allowed for substantial building activity benefiting the subject area; and

**WHEREAS**, in February 2006, the Board enacted Ordinance No. 2006-15, creating the Summer Haven Municipal Service Taxing Unit (“MSTU”) and authorized the MSTU to annually levy ad valorem taxes within the MSTU to provide road construction, beach erosion control and renourishment services, facilities and programs, administrative, legal and other expenses pertaining to the MSTU; and

**WHEREAS**, prior to the Board collecting funds through the MSTU, the County authorized funding pertaining to a beach erosion control study for the purposes of Summer Haven; and

**WHEREAS**, during the period of the temporary moratorium, the County devoted significant activity to the subject area pertaining to beach renourishment, reasonable maintenance under the circumstances; and

**WHEREAS**, the County, through contract with Post Buckley Schuh & Jernigan (“PBS&J”) contracted for and received a beach engineering study providing engineering data and financial construction estimates; and

**WHEREAS**, significant among the findings of the PBS&J study was the identification of a shoreline envelope with a seaward edge and a landward edge. While periodic erosion within the envelope has occurred, there is no indication that the erosion will advance to the point where it will generally and permanently overwhelm the upland portion of the subject area; and

**WHEREAS**, access to the properties in the subject area has not changed significantly since the enactment of Ordinance No. 2005-85 in September 2005; and

**WHEREAS**, Building Code requirements pertaining to safety have become more stringent since the enactment of the moratorium in 2005 and now better protect the public; and

**WHEREAS**, one or more property owners from the subject Summer Haven area have addressed the Board and indicated that they do not want a new road built, that they are aware of the environmental and beach erosion circumstances of the Summer Haven area, but are willing to build in the area accepting those circumstances; and

**WHEREAS**, there is disagreement among various property owners of the subject Summer Haven area as to whether the area should be fully accessible or left more remote, or to what extent any possible engineering remedy to the subject area would be, including associated costs for the benefited property owners; and

**WHEREAS**, the Board is now in a position to more appropriately weigh the factors of public safety, beach erosion characteristics, historical access issues, and risk management pertaining to construction of dwelling units in the subject area.

**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, hereby finds, determines and declares the following:

Having duly weighed the balance between the risk associated with constructing dwelling units and certain other structures in the described Summer Haven area, with the property owners’ desire to build dwelling units and other certain structures in the face of the unique environment, erosion, access, and public safety issues that, with appropriate property owner acknowledgment and acceptance of the associated risks and access issues, the Board is willing to recognize and accept the desire of property owners to more fully develop the subject area.

Section 2. Temporary Moratorium Repealed. The temporary moratorium on certain building permits determined by Ordinances No. 2005-85 and No. 2006-15, and subsequently relaxed through Ordinance No. 2007-75 is hereby repealed.

Section 3. The County Administrator is authorized and directed to require conditions, including but not limited to, acknowledgements, releases, assumptions of risk, hold harmless agreements, and related documents, as a prerequisite to building permit approval, containing legal safeguards. The County Administrator shall base said conditions on ensuring that there is appropriate property owner acknowledgement of and acceptance of the risks associated with building in an erosion prone area. Said acknowledgement and acceptance of risk documents shall be in a form approved by the County Attorney Office, and shall contain legal safeguards used by local governments to manage building and access risks in the context of natural conditions.


Section 4. Severability. If any word, phrase, or provision of this Ordinance is found to be unlawful or unenforceable, the remaining words, phrases, and provisions of this Ordinance shall remain in effect.

Section 5. Effective Date.

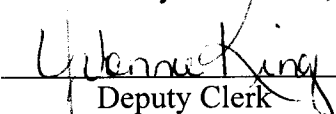
A. This Ordinance shall be effective upon its proper filing with the Department of State of Florida.

**PASSED AND ENACTED** by the Board of County Commissioners of St. Johns County, State of Florida, this 2nd day of September, 2008.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By:   
Thomas G. Manuel, Chairman

ATTEST: Cheryl Strickland, Clerk

By:   
Deputy Clerk

Rendition Date: 09/05/08

Effective Date: 09-09-08



# The St. Augustine Record

PUBLISHED EVERY MORNING SUNDAY THRU SATURDAY  
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,  
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **KAREN J BRANNON**

who on oath says that she is an Employee 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 **TEMPORARY MORATORIUM BLDG PERMITS**

was published in said newspaper **AUG 23, 2008.**

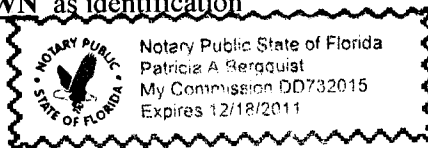
Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post 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 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 **25<sup>th</sup>** day of **AUGUST 2008.**

by *Karen J Brannon* who is personally known to me  
or who has produced **PERSONALLY KNOWN** as identification

*Patricia A Bergquist*

(Signature of Notary Public)  
PATRICIA A BERGQUIST



(Seal)

## NOTICE OF PUBLIC HEARING BY THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS

COPY OF ADVERT NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, will hold a public hearing on Tuesday, September 2, 2008 at 9:00 a.m. in the County Auditorium at the County Administration Complex, 4020 Lewis Speedway (County Road 16-A) and U.S.1 North, St. Augustine, Florida, to consider adoption of the following ordinance:

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, DISCONTINUING A TEMPORARY MORATORIUM ON CERTAIN 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 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 prior to the public hearing.

Interested parties may appear at the public 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 a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 823-2505 at the County Administration Building, 4020 Lewis Speedway, 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 hearing.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA  
CHERYL STRICKLAND,  
ITS CLERK  
By: Yvonne King,  
Deputy Clerk  
L2434-8 Aug 23, 2008