

1 **11.03.05** **APPEALS**

2 **A.** **PERSONS ENTITLED TO INITIATE APPEAL**

3 An appeal may be initiated by any person, officer, board, or bureau of St. Lucie
4 County aggrieved by any order, decision, determination, or interpretation of any
5 administrative official of St. Lucie County with respect to the provisions of this
6 Code.

7 **B.** **APPEALS OF DECISIONS OF ADMINISTRATIVE OFFICIAL**

8 **1.** **Authority**

9 Appeals of any order, decision, determination, or interpretation by any
10 administrative official or designee shall be heard and decided by one (1) of
11 the following appellate boards or officers, according to the procedures and
12 standards set forth in subsection (2) below, *Appeals Procedure*:

13 **a.** **County Administrator**

14 Appeals of decisions by any St. Lucie County Administrative Official
15 or designee with respect to the following provisions shall be heard
16 and decided by the County Administrator or designee:

17 **1.** **Adequate Public Facilities (Chapter V)**

18 **2.** **Determination of Required Vegetation Chapter 11 and**
19 **Section 6.00.05)**

20 **3.** **Vested Rights (Chapter 11)**

21 **b.** **Environmental Control Board**

22 Appeals of decisions by any administrative official with respect to
23 the following provisions shall be heard and decided by the
24 Environmental Control Board:

25 **1.** **Sea Turtle Protection (Section 6.04.02)**

26 **2.** **Coastal Area Protection (Section 6.02.01)**

27 **3.** **Wastewater & Sewage Disposal Compliance (Sections**
28 **7.08.03 and 11.03.03(l)**

29 **4.** **Native Upland Habitat Protection (Section 6.04.01)**

30 **c.** **Board of Adjustment**

1 Appeals of decisions by any administrative official or designee with
2 respect to any of the provisions of this Code except those
3 enumerated in subsections (B)(1)(a) and (b) above shall be heard
4 and decided by the Board of Adjustment.

5 2. Appeals Procedure

6 a. Filing of Appeal

7 A Notice of Appeal shall be filed with the appropriate County Official
8 or designee within thirty (30) calendar of the rendition of the order,
9 decision, determination, or interpretation subject to an appeal,
10 specifying the grounds for the appeal. Upon receipt of the Notice of
11 Appeal, the appropriate County Official or designee shall prepare
12 the record for appeal, notify the appellate board or officer of the
13 Notice of Appeal, and establish a time and place at which time the
14 appellate board or officer will hear the appeal.

15 b. Effect of Filing and Appeal

16 The filing of a Notice of Appeal shall stay any proceedings in
17 furtherance of the action appealed, unless the appropriate County
18 Official or designee certifies to the appellate board or officer that, by
19 reason of certain facts, a stay would pose an imminent peril to life
20 or property; in such case the appeal will not stay further
21 proceedings except by a restraining order.

22 c. Record

23 The record to be considered on the appeal shall be all written
24 materials considered during the initial decision, any additional
25 written material submitted by the appellant to St. Lucie County, and
26 any testimony considered on the public hearing of the appeal.

27 3. Public Hearing

28 a. Time

29 The appellate board or officer shall hold a public hearing on the
30 appeal within a reasonable time after a Notice of Appeal is filed by
31 the appellant.

32 b. Notification

33 1. Appeal public hearings by the Board of Adjustment and the
34 Environmental Control Board shall conform to the public
35 notification requirements in Chapter 11, *Public Hearing*
36 *Notification.*

1 2. Appeal hearings by the County Administrator shall not be
2 subject to the public notification requirements set out in
3 Chapter 11, *Public Notification*.

4 3. The appellant shall be notified by the appropriate County
5 Official or designee of the time, date, and place of the public
6 hearing by certified mail, return receipt requested a minimum
7 of ten (10) calendar days before the date of the public
8 hearing.

9 c. Appeal Standards

10 The appellate board or officer shall reverse the order, decision,
11 determination, or interpretation only if there is substantial
12 competent evidence in the record that an error was made in the
13 decision, determination, or interpretation being appealed that fails
14 to comply with the requirements of this Code.

15 d. Appellate Board or Officer has powers of officer making original
16 decision

17 In so modifying the decision, determination, or interpretation, the
18 appellate board or officer shall be deemed to have all the powers of
19 the officer from whom the appeal is taken, including the power to
20 impose reasonable conditions.

21 e. Form of Decision

22 The appellate board's or officer's decision shall be in writing, and
23 include findings of facts and the application of those facts to the
24 relevant standards or provisions in the Code.

25 f. Notification of Decision

26 The appropriate County Official or designee shall mail the decision
27 of the appellate board or officer to the appellant after the decision.

28 C. APPEALS OF APPELLATE DECISIONS OF COUNTY ADMINISTRATOR

29 1. General

30 An appellant may appeal any appellate decision made by the County
31 Administrator to the Board of County Commissioners by filing a Petition of
32 Appeal with the appropriate County Official within thirty (30) calendar days
33 of the date of the rendition of the decision. The petition shall include a
34 written notice stating the grounds of the appeal.

35 2. Place Appeal on Agenda

1 The appropriate County Official or designee shall place the Notice of
2 Appeal on the Board of County Commissioners agenda, and forward the
3 record of the matter that is on appeal.

4 3. Record

5 a. The record considered by the Board of County Commissioners
6 shall be the record considered by the County Administrator or
7 designee.

8 4. Notice

9 The appellant shall be provided reasonable notice of the time, date, and
10 place of the public hearing by certified mail, return receipt requested, and
11 invited to attend and participate in the public hearing.

12 5. Hearing on Appeal

13 The Board of County Commissioners shall review the Petition of Appeal at
14 a public meeting within thirty (30) calendar days from the date the petition
15 was filed with the appropriate County Official or designee. At the hearing,
16 the Board shall provide the appellant an opportunity to identify the grounds
17 for the appeal and the basis for the County Administrator's or designee
18 error, based on the record. To the extent relevant, the County
19 Administrator or a representative, other County staff involved in the
20 decision, and the appellant shall be allowed to respond, based on the
21 record. After the presentations, and based on the record and the
22 testimony heard at the hearing, the Board of County Commissioners shall
23 make a decision affirming, modifying, or reversing the decision of the
24 County Administrator or designee, based on the standards in subsection
25 (C)(6) below, *Appellate Standards*.

26 6. Appellate Standards

27 To reverse a decision of the County Administrator or designee, the Board
28 of County Commissioners shall find there is a clear and demonstrable
29 error in the application of the facts in the record to the provisions or
30 standards in the Code to be applied in making the decision.

31 7. Form of Decision

32 The Board of County Commissioners decision shall be in writing, and
33 include findings of fact and the application of those facts to the relevant
34 standards or provisions in the Code.

35 8. Decision Final

1 The Board of County Commissioners decision shall be final for the
2 purpose of administrative appeals.

3 **D. APPEALS OF DECISIONS OF THE BOARD OF ADJUSTMENT,**
4 **ENVIRONMENTAL CONTROL BOARD, OR THE BOARD OF COUNTY**
5 **COMMISSIONERS**

6 Any person aggrieved by a decision of the Board of Adjustment, Environmental Control
7 Board, or the Board of County Commissioners may appeal, within thirty (30) calendar
8 days after rendition of such decision, petition for certiorari review to the Circuit Court in
9 the Nineteenth Judicial Circuit in and for St. Lucie County.

10

11 **11.03.06 LAND USE AND DISPUTE RESOLUTION SPECIAL MASTER REVIEW**
12 **PROCESS**

13 **A. GENERALLY**

14 This Section establishes St. Lucie County's procedures for the initiation, conduct,
15 and conclusion of a Special Master proceeding as provided for under Section
16 70.51, Florida Statutes, the Florida Land Use and Environmental Dispute
17 Resolution Act.

18 **B. INTENT**

19 1. It is the intent of St. Lucie County that the Special Master process be a
20 speedy, inexpensive and simple method for property owners and
21 regulators to settle land use and environmental permitting and
22 enforcement disputes. To that end, property owners and regulators
23 should meet face-to-face, in a non-adversarial atmosphere, to resolve
24 disputes without the need for formal representation.

25 2. Negotiations assisted by a Special Master will enable a property owner
26 and regulators to exert more control over their dispute, allowing the parties
27 to shape a resolution rather than having one (1) imposed. The Special
28 Master and the parties should exercise maximum flexibility to adapt these
29 procedures to the circumstances of each particular case, consistent with
30 the requirements of state law and due process.

31 **C. STANDARDS OF CONDUCT FOR PARTIES AND PARTICIPANTS**

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

1 D. PRE-INITIATION MEETING

2 Prior to filing a formal Request for Relief under this section, an owner may by
3 letter request an informal meeting with the County Administrator or designee to
4 discuss alternatives to the filing of the Special Master proceeding. The County
5 Administrator or designee shall conduct such a meeting as expeditiously as
6 possible and shall include County staff familiar with the regulations at issue.

7 E. INITIATION OF THE SPECIAL MASTER PROCEEDING

8 1. Filing of Request for Relief

9 a. In order to initiate a Special Master Proceeding an owner or a
10 Special Master, to the extent provided for under Section 70.51(11),
11 Florida Statutes, must file two (2) copies of a Request for Relief
12 with the Office of the County Administrator. The Request for Relief
13 must be filed within thirty (30) calendar days after receipt of a Final
14 Development Order or Notice of Governmental Action.

15 b. Within fifteen (15) calendar days of receipt of the Request for Relief
16 filed pursuant to subsection (E)(1)(a) above, the County
17 Administrator or a designee shall forward the request to a Special
18 Master selected pursuant to Section 11.03.06(F)(2), *Special Master*
19 *Selection*. This time period may be extended by agreement of the
20 parties.

21 c. There shall be no initial filing or application fee required with the
22 submission of a Request for Relief; however, as provided for under
23 subsection (2) below, *Request for Relief, Required Application*
24 *Contents*, each party shall be equally responsible for the cost of
25 providing for the Special Master. The parties shall be responsible
26 for their own costs associated with the presentation or defense of
27 their position. All costs incurred by the participating parties through
28 the Special Master proceedings are nonrecoverable.

29 2. Request for Relief; Required Application Contents

30 Any Request for Relief filed against St. Lucie County pursuant to this
31 Section, and Section 70.51, Florida Statutes, shall be in a form provided
32 by St. Lucie County and shall, at a minimum, contain the following:

33 a. Identification of the property at issue and the Future Land Use Map
34 designation and Official Zoning Atlas designation.

35 b. A brief statement of the owner's proposed use of the property.

- 1 c. A copy of the Final Development Order or the documentation of an
2 enforcement action at issue must be attached to the Request for
3 Relief
- 4 d. A summary of the Final Development Order or description of the
5 enforcement action that the owner feels is unreasonable or unfairly
6 burdens the use of the property. .
- 7 e. A brief statement of why the Final Development Order or
8 enforcement action is unreasonable or unfairly burdens the use of
9 the property and the proposed use of the property.
- 10 f. A certificate of service showing the parties required by Section
11 70.51, Florida statutes, including the local government entity, have
12 been served with copies of the Request for Relief.
- 13 g. Any other additional information the Special Master requests in the
14 interest of gaining a complete understanding of the Request for
15 Relief.

16 3. Notice of Filing

- 17 a. Concurrently with the forwarding of the Request for Relief to the
18 Special Master, St. Lucie County shall serve, by United States Mail
19 or hand delivery, a notice of filing of the Request for Relief to:
- 20 1. Owners of all real property contiguous to the applicant's property at
21 the address shown on the latest County tax roll, and
- 22 2. Any substantially affected person who submitted oral or written
23 testimony of a substantive nature that stated with particularity an
24 objection to or support for any development order or enforcement
25 action at issue.
- 26 b. In lieu of providing a complete copy of the Request for Relief, the
27 notice of filing may contain any information necessary for the
28 recipient to secure a copy of the Request for Relief.
- 29 c. Any failure to notice potential participants shall be cured by posting
30 of notices of the Special Master Proceeding in a location established
31 by the Board of County Commissioners for that purpose.

32 F. SPECIAL MASTER

33 1. Special Master Qualifications and Restrictions

34 The Board of County Commissioners shall appoint no less than three (3)
35 Special Masters who shall qualify as such under the provisions of this

1 Section and Section 70.51, Florida Statutes. A Special Master shall be a
2 resident of the State of Florida, and possess experience and expertise in
3 mediation and at least one (1) of the following disciplines and a working
4 familiarity with the others: land use and environmental permitting, land
5 planning, land economics, local and state government organization and
6 powers, and the law governing the same. A Special Master is not required
7 to be a member of the Florida Bar.

8 2. Special Master Selection

9 a. St. Lucie County shall include in the Request for Relief form
10 provided to the owner, a pre-approved list of Special Masters and
11 instructions for objecting to any person named on the list.

12 b. The parties shall mutually agree on a Special Master.

13 c. Selection of a Special Master from a Pre-approved listing shall be
14 done as follows:

15 1. The Special Master may be selected from the list of
16 approved Special Masters provided with the Request for
17 Relief form. Unless an owner objects to a Special Master in
18 the owner's Request for Relief, those Special Masters not
19 objected to be deemed acceptable to the owner. St. Lucie
20 County will select one of them, at random, as the Special
21 Master to consider the Request for Relief.

22 2. If the Owner objects to all of the persons on the approved
23 Special Master list, St. Lucie County shall be allowed
24 additional, time to secure a mutually acceptable Special
25 Master.

26 d. If there is no agreement among the parties on the selection of a
27 Special Master:

28 1. Each party may select one (1) person qualified as a Special
29 Master who, together, shall select a candidate.

30 2. If the parties cannot agree on that candidate, the Special
31 Master shall be randomly selected by the Florida Growth
32 Management Conflict Resolution Consortium from a list of
33 qualified candidates maintained by them for that purpose.

34 e. Where St. Lucie County has been joined by a Special Master
35 pursuant to Section 70.51(11), Florida Statutes, the County shall not
36 unreasonably refuse to abide by the choice of a Special Master by
37 the original parties.

1 3. Agreements with the Special Master

2 In order to promote a non-adversarial Special Master Proceeding, the
3 parties should enter into an agreement with the Special Master that
4 provides for the following:

5 a. Agreement by the Special Master and the parties that the Special
6 Master will not be called as an expert witness in any related
7 subsequent or concurrent judicial proceeding.

8 b. Agreement by both parties that the Special Master's
9 Recommendation and related materials are inadmissible in any
10 related subsequent or concurrent judicial proceeding except to the
11 extent that a certificate of completion of the process will be
12 available to certify that the Special Master process has been
13 completed.

14 c. Agreement by both parties and the Special Master that the Special
15 Master will not be called to appear before the Board of County
16 Commissioners or any administrative or judicial tribunal with
17 respect to the written recommendation or any aspect of the
18 proceeding.

19 d. Agreement by both parties and the Special Master that the Special
20 Master will not voluntarily furnish notes or other related material to
21 any person, tribunal, or proceeding.

22 4. Special Master Review Fees

23 a. The Special Master shall be entitled to receive reasonable
24 compensation for the time spent in hearing, reviewing and deciding
25 any Request for Relief that is presented to the Special Master. The
26 Special Master shall also be entitled to receive reimbursement for
27 any expenses related to the review of the Request for Relief. The
28 Board of County Commissioners shall include as part of the
29 standards of conduct an outline of reasonable expenses and
30 compensation to be provided to the Special Master.

31 b. The Special Master may require in any agreement that the parties,
32 where not otherwise prohibited by law, provide a deposit of funds to
33 secure payment of the Special Master's fees and expenses.

34 G. CONDUCT OF THE SPECIAL MASTER PROCEEDING

35 1. Request to Participate in Proceedings

36 Within twenty-one (21) calendar days after receipt of the Request for
37 Relief, any candidate for participant status may request from the Special

1 Master permission to participate in the proceeding. These persons may be
2 permitted to participate in the hearing to the extent allowed under Section
3 70.51(12), Florida Statutes.

4 2. Filing of Response

5 As required under this Section, the County Administrator or designee shall
6 file a Response to the Request for Relief, as provided for in Section
7 70.51(16), Florida Statutes.

8 3. Sufficiency Hearing; Request to be Dropped as a Party

9 a. Prior to any hearing on the merits of the Request for Relief, the
10 Special Master may conduct a hearing on whether the Request for
11 Relief should be dismissed pursuant to Section 70.51(8), Florida
12 Statutes.

13 b. At any time the Special Master may conduct a hearing on any request to
14 be dropped as a party pursuant to Section 70.51(16)(c), Florida Statutes.

15 4. Notice and Timing of Special Master Proceeding

16 a. As required under the provisions of Section 70.51(15), Florida
17 Statutes, the Special Master shall convene a Special Master
18 Proceeding on the Request for Relief within forty-five (45) calendar
19 days of his receipt of the Request for Relief, unless a different date
20 is agreed to by all parties to the proceedings.

21 b. The hearing shall be conducted in St. Lucie County.

22 c. Notice of the hearing shall be provided by the Special Master to all
23 parties, participants, and other persons who have requested such
24 notice at least forty (40) calendar days prior to the scheduled
25 hearing date. All notices shall include the place date and time of
26 the hearing.

27 d. The cost of preparing and filing the initial two (2) copies of the
28 Request for Relief shall be borne by the owner bringing forward the
29 Request for Relief.

30 e. The cost of preparing and filing the Response to the Request for
31 Relief shall be borne by St. Lucie County.

32 f. The Special Master's expenses in providing notice shall be borne
33 equally by the parties or as is otherwise established in the Special
34 Master agreement.

1 g. Notice to all parties and other persons who have requested such
2 notice shall contain a reference number and date of filing of the
3 Request for Relief and instructions for obtaining further information
4 regarding the Request for Relief.

5 5. Subpoena Powers of the Special Master

6 a. The Special Master is empowered to subpoena witnesses.

7 b. The Special Master may subpoena any nonparty witness in the
8 State the Special Master determines will aid in the disposition of the
9 Request for Relief.

10 c. A subpoena issued by a Special Master may require the witness to
11 bring all necessary documents (or things)

12 d. A party requesting the subpoena of a nonparty witness shall make
13 such request in writing to the Special Master.

14 e. Parties subpoenaing witnesses shall be responsible for paying fees
15 and mileage in the amount as provided under Florida law for
16 witnesses in civil cases.

17 f. The Special Master shall provide notice of all witnesses
18 subpoenaed to any party requesting such notice.

19 g. Service of subpoenas shall be made in the manner provided for by
20 the Florida Rules of Civil Procedure.

21 h. The witnesses of either party that are present for the hearing or are
22 on standby or available on call are not to be excused by either party
23 without the concurrence of the other party or the Special Master.

24 6. Conduct of the Special Master Proceeding

25 a. General

26 In all respects the conduct of a Special Master proceeding is to be
27 informal and open to the public. The parties are not required to be
28 represented by an attorney at the public hearing. The object of the
29 hearing is to focus attention on the governmental action giving rise
30 to the Request for Relief, whether and the extent to which it is
31 unreasonable or unfairly burdens the use of the property at issue,
32 and if so, to explore alternatives to the Final Development Order or
33 enforcement action and other regulatory or other initiatives by the
34 governmental entity that would provide appropriate relief.

35 b. Example Framework

1 The Special Master Proceeding may consist of facilitation sessions,
2 testimony sessions, any combination of those, or any form of
3 information gathering and sharing that the Special Master deems
4 appropriate under the circumstances. Even though not required by
5 these regulations, a general framework for a formalized process
6 that is not binding on any party or the Special Master is outlined
7 below.

8 1. Facilitation Sessions

9 a. In all respects, the facilitation discussions shall be
10 informal and open to the public. The discussions shall
11 operate at the direction and under the supervision of
12 the Special Master. The object of the facilitation
13 sessions is to focus attention on the governmental
14 action giving rise to the Request for Relief, whether
15 and the extent to which it is unreasonable or unfairly
16 burdens the use of the property at issue, and if so, to
17 explore alternatives to the Final Development Order or
18 enforcement action and other regulatory or other
19 initiatives by the governmental entity that would
20 provide appropriate relief in ways that are consistent
21 with the public interest.

22 b. If variances or other types of adjustments to the Final
23 Development Order or enforcement action are
24 considered, the Special Master shall afford participants
25 a reasonable opportunity to address the impacts of
26 such alternatives on their substantial interests.

27 c. Any time after commencement of the presentation of
28 evidence in the hearing, the Special Master may
29 recess the public hearing and presentation of evidence
30 to recommence a facilitation session.

31 2. Testimony Sessions

32 a. In all respects, the testimony sessions shall be
33 informal and open to the public. The testimony
34 sessions shall operate at the direction and under the
35 supervision of the Special Master. The testimony shall
36 focus on the governmental action giving rise to the
37 Request for Relief, whether and the extent to which it
38 is unreasonable or unfairly burdens the use of the
39 property at issue, and if so, to explore alternatives to
40 the Final Development Order or enforcement action
41 and other regulatory or other initiatives by the

1 governmental entity that would provide appropriate
2 relief in ways that are consistent with the public
3 interest. Testimony may be taken from all participants.
4 The witnesses do not need to be sworn, however it is
5 recommended. All witnesses are subject to cross-
6 examination. The Special Master may ask questions
7 directly of any witness. Formal rules of evidence are
8 not to be followed; however, fundamental due process
9 shall be provided to all parties.

10 b. If variances or other types of adjustments to the
11 development order or enforcement action are
12 considered, the Special Master shall afford participants
13 a reasonable opportunity to address the impacts of
14 such alternatives on their substantial interests.

15 c. Any time after commencement of the presentation of
16 evidence in the hearing, the Special Master may
17 recess the hearing and presentation of evidence to
18 recommence a facilitation session.

19 c. Procedures for Hearing and Presentation of Evidence

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

27 H. SPECIAL MASTER RECOMMENDATION

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

30 I. RESPONSE TO SPECIAL MASTER'S RECOMMENDATION

31 1. Settlement Agreement

32 At any time during the Special Master Proceeding, the property owner and
33 St. Lucie County may enter into a settlement agreement or other
34 agreement as to the permissible use of the owner's land. Such an
35 agreement shall be incorporated into the Special Master's
36 recommendation.

37 2. General

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

8 a. Forms of Relief Available

9 1. Without limitation, relief may be in the form of exemptions or
10 variances from the applicable ordinances, including this
11 Code, as long they conform to state and federal law.

12 2. Relief may be conditional in nature. Such conditional relief
13 must be analyzed to determine if the conditions under which
14 it is granted are consistent with the purpose and intent of the
15 subject regulations and the applicable comprehensive plan.

16 a. Conditions may be initial, after satisfaction of which the
17 settlement is implemented, or

18 b. Conditions may be ongoing, the failure of which serve
19 to vacate the settlement and to divest the owner or the
20 owner's successors in interest of any rights
21 thereunder.

22 c. Any relief granted shall address the appropriateness of
23 relief, allowing St. Lucie County to fashion that form of
24 relief necessary to equitably address the legitimate
25 concerns of the property owner while at the same time
26 protecting the legitimate interests of the citizens of the
27 County. Such decisions shall be guided by the criteria
28 established in Section 70.51(18), Florida Statutes.

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

32 J. SPECIAL MASTER RECOMMENDATION

33 1. General

34 If an acceptable solution is not reached by the parties after the Special
35 Master's Proceeding, the Special Master shall consider the facts and
36 circumstances set forth in the Request for Relief and any responses and
37 other information produced at the hearing in order to determine whether

1 the action by the governmental entity or entities is unreasonable or unfairly
2 burdens the property at issue.

3 2. Time

4 Within fourteen (14) calendar days after the conclusion of the hearing, the
5 Special Master shall prepare and file a written recommendation with all
6 parties.

7 3. Notify Department of Legal Affairs

8 Upon receipt of the Special Master recommendation, the County
9 Administrator or designee shall notify the Department of Legal Affairs as
10 required by law.

11 K. RESPONSE TO SPECIAL MASTER'S RECOMMENDATION

12 Within forty-five (45) calendar days of the receipt of the Special Masters
13 Recommendation, the Board of County Commissioners, in consultation with
14 other governmental entities participating in the proceeding, shall respond to the
15 Special Master's Recommendation by:

16 1. Accepting Recommendation

17 Accepting the recommendation of the Special Master.

18 2. Modifying Recommendation

19 Modifying the recommendation of the Special Master

20 3. Rejecting Recommendation

21 Rejecting the recommendation of the Special Master.

22 4. Notify Department of Legal Affairs

23 Within fifteen (15) calendar days of determining the specific action to be
24 taken on the Special Recommendation, the County Administrator or
25 design shall notify the Department of Legal Affairs of St. Lucie County's
26 decision, as required by law.

27 L. RIPENESS DECISION

28 1. General

29 If the Board of County Commissioners accepts the Special Master's
30 Recommendation or modifies it and the owner rejects the acceptance or
31 modification, or if St. Lucie County rejects the Special Master's
32 Recommendation, St. Lucie County must issue a Ripeness Decision

1 within thirty (30) calendar days of the date of rejection. The Ripeness
2 Decision shall describe as specifically as possible the use or uses
3 available to the subject real property.

4 2. Length of Proceeding

5 The procedures established under this Section, and as further directed
6 under Section 70.51, Florida Statutes, may not continue for more than one
7 hundred and sixty-five (165) days after the filing of Request for Relief,
8 unless the period is extended by agreement of the parties.

9 3. Other

10 A decision describing the available uses constitutes the last prerequisite to
11 judicial proceedings, unless the owner has initiated a proceeding under
12 Section 120.57, Florida Statutes.

13 M. MISCELLANEOUS PROVISIONS

14 1. Time Requirements and Furnishing Copies

15 a. How Furnished

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

21 b. Facsimile

22 Any document that must be submitted, or any copy that must be
23 furnished to the Special Master, a party or a participant, may be
24 submitted or furnished by facsimile transmission. Documents
25 submitted and copies furnished by facsimile transmission will be
26 deemed submitted or furnished to the recipient on the date
27 transmitted as shown on the recipient's copy, if the copy is
28 complete.

29 c. Plainly Identify Parties

30 All documents must plainly identify the parties or participant parties
31 to whom copies have been furnished.

32 d. Rules

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

1 e. Document Received After 5:00 pm
2 Any document received after 5:00 pm shall be filed as of 8:00 am
3 on the next regular business day.

4 2. Consolidation

5 a. Consolidation may Occur on Mutual Agreement of Parties

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

13 b. Parties Must Mutually Agree on Special Master

14 In the event that the parties agree to consolidate related Special
15 Master Proceedings into one (1) proceeding, the parties must jointly
16 agree to selection of a Special Master. The Special Masters
17 involved should maintain an open and professional relationship with
18 each other, and each has an obligation to inform the others
19 regarding the consolidation.

20 11.03.06 INTERPRETATIONS

21 A. PURPOSE AND APPLICABILITY

22 This Section establishes a procedure whereby Code users may seek an
23 interpretation of any of this Code's provisions, including an interpretation whether
24 a specific use is deemed to be within a use classification permitted in a particular
25 zoning district.

26 B. PROCEDURE

27 1. Initiation

28 A Written Interpretation may be requested by the Board of County
29 Commissioners, any review board, any resident or landowner of
30 unincorporated St Lucie County, or any person having a contractual
31 interest in land in unincorporated St. Lucie County.

32 2. Submission of Interpretation Request

33 Before a Written Interpretation is provided by the appropriate County
34 Official or designee, an Interpretation Request shall be submitted to the

1 appropriate County Official or designee, in writing, in a form established
2 by the appropriate County Official or designee and made available to the
3 public, along with a nonrefundable fee.

4 3. Determination of Completeness

5 Within twenty (20) calendar days after an Interpretation Request is
6 submitted, the appropriate County Official or designee shall determine
7 whether it is complete pursuant to Chapter 11, *Determination of*
8 *Completeness*.

9 4. Interpretation by the Appropriate County Official

10 Within forty (40) calendar days after the Interpretation Request is
11 determined complete, the appropriate County Official or designee shall
12 review and evaluate the application in light of this Code, the
13 Comprehensive Plan, and any other relevant documents; consult with the
14 County Attorney or designee and other staff, as necessary; and render a
15 Written Interpretation.

16 5. Provide Written Interpretation to Person Making Request

17 A copy of the Written Interpretation shall be provided to the person making
18 the Interpretation Request by the Appropriate County Official or designee.

19 6. Appeal

20 The person making the Interpretation Request may appeal the Written
21 Interpretation of the appropriate County Official to the Board of Adjustment
22 pursuant to Section 11.03.05, *Appeals*.

23 C. OFFICIAL RECORD OF INTERPRETATIONS

24 The appropriate County Official or designee shall file and maintain the Written
25 Interpretation in the Official Record of Interpretations, which shall be available for
26 public inspection, upon reasonable request, during normal business hours, in the
27 office of the appropriate County Official or designee.

28 **11.03.08 VESTED RIGHTS**

29 **A. ZONING CONFORMANCE**

30 It is the intent of this Section to set forth the regulations necessary to implement
31 an Official Zoning Map that is consistent with the Future Land Use Element of the
32 St. Lucie County Comprehensive Plan and that implements this Code. The
33 regulations provide the process for the comprehensive rezoning of St. Lucie
34 County in accordance with the mandate of Section 163.3182, et. seq., Florida
35 Statutes (1989). Recognizing the impact of this process on the citizens of St.

1 Lucie County, it is a fundamental objective of this Section to provide for effective
 2 public participation in the Zoning Conformance process. In the preparation and
 3 amendment of the proposed Official Zoning Map, it is intended that County staff
 4 recognize, to the extent feasible, existing zoning and land uses that are
 5 consistent with the Future Land Use Map of the St. Lucie County Comprehensive
 6 Plan. It is the further intent of this Section to provide separate processes for the
 7 determination of vested rights.

8 1. Consistency Matrix

9 The Consistency Matrix, set forth as Table 11.03.08, shall be used to
 10 determine consistency of the existing zoning districts in the Zoning Code
 11 with the Future Land Use Element of the St. Lucie County Comprehensive
 12 Plan. Any zoning district that is not consistent with the Future Land Use
 13 Map of the St. Lucie County Comprehensive Plan according to the
 14 Consistency Matrix, shall not be applied for, permitted, or approved. All
 15 requests for changes in zoning districts shall also be required to meet the
 16 standards of review set out in this Code as determined by the Board of
 17 County Commissioners that are consistent with the Future Land Use
 18 Element of the St. Lucie County Comprehensive Plan.

TABLE 11.03.08: ST. LUCIE COUNTY

LAND USE CATEGORY/ZONING DISTRICT

COMPATABILITY CHART

<u>LAND USE</u> <u>CATEGOR</u> <u>Y</u>	<u>ZONING DISTRICT</u>															
	<u>AG-</u> <u>5</u>	<u>AG-</u> <u>2.5</u>	<u>AG-</u> <u>1</u>	<u>R/C</u>	<u>AR-</u> <u>1</u>	<u>RE-</u> <u>1</u>	<u>RE-</u> <u>2</u>	<u>RS-</u> <u>2</u>	<u>RS-</u> <u>3</u>	<u>RS-</u> <u>4</u>	<u>RM</u> <u>-5</u>	<u>RM</u> <u>H-5</u>	<u>RM</u> <u>-7</u>	<u>RM</u> <u>-9</u>	<u>RM</u> <u>-11</u>	<u>RM</u> <u>-15</u>
<u>AG-5</u>	X															
<u>AG-2.5</u>	X	X														
<u>AG-1</u>	X	X	X													
<u>RE</u>	X	X	X	X	X	X										
<u>RS</u>	X	X	X	X	X	X	X									
<u>RU</u>			X	X	X	X	X	X	X	X	X	X				

TABLE 11.03.08: ST. LUCIE COUNTY

LAND USE CATEGORY/ZONING DISTRICT

COMPATABILITY CHART

<u>LAND USE</u> <u>CATEGOR</u> <u>Y</u>	<u>ZONING DISTRICT</u>															
	<u>AG-</u> <u>5</u>	<u>AG-</u> <u>2.5</u>	<u>AG-</u> <u>1</u>	<u>R/C</u>	<u>AR-</u> <u>1</u>	<u>RE-</u> <u>1</u>	<u>RE-</u> <u>2</u>	<u>RS-</u> <u>2</u>	<u>RS-</u> <u>3</u>	<u>RS-</u> <u>4</u>	<u>RM</u> <u>-5</u>	<u>RM</u> <u>H-5</u>	<u>RM</u> <u>-7</u>	<u>RM</u> <u>-9</u>	<u>RM</u> <u>-11</u>	<u>RM</u> <u>-15</u>
<u>RM</u>			X	X	X	X	X	X	X	X	X	X	X	X		
<u>RH</u>				X			X	X	X	X	X	X	X	X	X	X
<u>R/</u>	X			X												
<u>Cpub</u>																
<u>COM</u>	X	X	X													
<u>IND</u>	X	X	X													
<u>P/F</u>	X	X	X	X												
<u>T/U</u>	X	X	X	X												
<u>MXD</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
<u>SD</u>	X	X	X	X												
<u>HIST</u>	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

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TABLE 11.03.08: ST. LUCIE COUNTY

LAND USE CATEGORY/ZONING DISTRICT

COMPATABILITY CHART

<u>LAND USE CATEGORIES</u>	<u>ZONING DISTRICT</u>															
	<u>CN</u>	<u>CO</u>	<u>CG</u>	<u>IL</u>	<u>IH</u>	<u>IX</u>	<u>U</u>	<u>I</u>	<u>RF</u>	<u>RVP</u>	<u>HIRD</u>	<u>PUD</u>	<u>PNR</u> <u>D</u>	<u>PMU</u> <u>D</u>		
<u>AG-5</u>						X	X	X	X			X	X			
<u>AG-2.5</u>						X	X	X	X			X	X			
<u>AG-1</u>						X	X	X	X			X	X			
<u>RE</u>						X		X	X		X	X	X	X		
<u>RS</u>						X		X	X		X	X	X	X		
<u>RU</u>						X		X	X		X	X	X	X		
<u>RM</u>						X		X	X		X	X	X	X		
<u>RH</u>						X		X	X		X	X	X	X		
<u>R/C</u>								X	X		X	X	X	X		
<u>Cpub</u>								X	X							
<u>COM</u>	X		X			X	X	X	X	X	X		X	X		
<u>IND</u>			X	X	X	X	X	X	X				X	X		
<u>P/F</u>							X	X	X	X		X		X		
<u>T/U</u>			X	X	X	X	X	X	X				X	X		
<u>MXD</u>																
<u>SD</u>							X	X	X			X	X	X		
<u>HIST</u>								X	X		X	X	X	X		
1: Limited to a maximum of 10 acres per parcel																
2: See Future Land Use Element of the St. Lucie County Comprehensive Plan for zoning restrictions/options.																

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2. Comprehensive Rezoning Required

Any zoning district that is inconsistent with the St. Lucie County Comprehensive Plan shall be subject to a comprehensive zoning district amendment (rezoning) in order to bring it into compliance with the St. Lucie County Comprehensive Plan.

3. Notice of Zoning Conformance

Notice of the public hearings for the comprehensive rezoning shall be published in accordance with Section 125.66(5)(b), Florida Statutes.

B. DETERMINATION OF VESTED RIGHTS

In recognition of the fact that certain land development rights of property owners may be vested with respect to the St. Lucie County Comprehensive Plan and this Code, this Section sets forth a procedure for the determination of vested rights. Any person claiming vested rights to develop property shall make application for a Vested Rights Special Use Permit pursuant to this Section.

1. Determination of Vested Rights

a. An application for a Vested Rights Special Use Permit shall be approved and a Vested Rights Special Use Permit issued if an applicant has demonstrated rights that are vested under the standards of subsection (3) below, *Standards for Vested Rights*. Possession of a Vested Rights Special Use Permit shall enable a permittee to complete the development approved under such permit up to and through issuance of appropriate certificates of occupancy, subject to the limitations set forth in subsection (5) below and subject to compliance with such laws and regulations against which the development is not vested.

b. An application for Vested Rights Special Use Permit may be submitted to the appropriate County Official or designee after the effective date of this Code.

c. An application for a Vested Rights Special Use Permit shall be filed by August 1, 1991. Except as provided in subsection (4) below, failure to file an application within the required period will constitute an abandonment of any claim to vested rights. Judicial relief will not be available unless administrative remedies set forth in this Section are exhausted, including the appeal of a vested rights determination to the Board of County Commissioners.

1 d. Notwithstanding the provisions of subsection 1.(C) above, the
2 Board of County Commissioners may, in extraordinary
3 circumstances, allow a property owner to submit an application
4 after the one (1) year deadline where such extension is
5 necessary to avoid undue hardship to the property owner.

6 2. Application for a Vested Rights Special Use Permit

7 a. An application for Vested Rights Special Use Permit shall
8 be submitted to the appropriate County Official or design
9 on forms provided by the appropriate County Official or
10 designee. After receipt of the application, the appropriate
11 County Official or designee shall determine whether it is
12 complete within twenty (20) calendar days. Insufficient
13 applications shall be returned to the applicant specifying
14 the deficiencies. The appropriate County Official or
15 designee shall take no further action on the application
16 unless the deficiencies are remedied.

17 b. Within thirty (30) calendar days after receipt of a completed
18 application for a Vested Rights Special Use Permit, the
19 appropriate County Official or designee shall review and
20 evaluate the application in light of all of the criteria in this
21 Section. Based on the criteria, the appropriate County
22 Official or designee shall approve, approve with conditions
23 or deny the application for Vested Rights Special Use
24 Permit. The determination shall be in writing and shall
25 include findings of fact for each of the applicable criteria.

26 3. Standards for Vested Rights

27 An application for a Vested Rights Special Use Permit shall be
28 approved if the applicant has demonstrated all of the following:

29 a. The applicant:

30 1. As to vesting for the Comprehensive Plan, owned the
31 property proposed for development on January 9, 1990,
32 St. Lucie Comprehensive Plan;

33 2. As to vesting for this Code adopted to implement the
34 Comprehensive Plan, owned the property on August 1,
35 1990;

36 3. As to vesting for any Comprehensive Plan amendments
37 adopted to implement the provisions of the proposed
38 Compliance Agreement between St. Lucie County and
39 Florida Department of Community Affairs (FDCA)

- 1 approved by the Board of County Commissioners on, (the
2 "Compliance Agreement"), owned the property prior to the
3 date of such amendment; or
- 4 4. Entered into a contract or option to purchase the property
5 on or before such date; or
- 6 5. Presents facts such that it would be inequitable, unjust or
7 fundamentally unfair to deny an application for a Vested
8 Rights Special Use Permit where the applicant acquired
9 ownership after such date; and
- 10 b. There was a valid, unexpired act of an agency or authority of St.
11 Lucie County other than an existing future land use map
12 designation or an existing zoning designation upon which the
13 applicant reasonably relied in good faith; and
- 14 c. The applicant, in reliance upon the valid, unexpired act of
15 government, has made a substantial change in position or has
16 incurred extensive obligations or expenses; and
- 17 d. It would be inequitable, unjust or fundamentally unfair to destroy
18 the rights acquired by the applicant. In making this determination,
19 St. Lucie County shall consider a number of factors, including but
20 not limited to:
- 21 1. Whether construction or other development activity has
22 commenced and is continuing in good faith.
- 23 2. Whether the expense or obligation incurred cannot be
24 substantially utilized for a development permitted by the St.
25 Lucie County Comprehensive Plan and Code.
- 26 e. The following are not considered development expenditures or
27 obligations in and of themselves:
- 28 1. Expenditures for legal and other professional services that
29 are not related to the design or construction of
30 improvements.
- 31 2. Taxes paid.
- 32 3. Expenditures for acquisition or the financing costs of the
33 land.
- 34 4. Presumptive Vesting
- 35 a. Final Development Orders:

- 1 1. Notwithstanding the criteria set forth in Section
2 11.03.08(B)3 above, possession of a valid unexpired Final
3 Development Order shall presumptively vest the
4 development approved under such permit:
- 5 a. for the purposes of the Comprehensive Plan if the
6 Final Development Order was issued prior to
7 January 9, 1990;
- 8 b. for purposes of this Code adopted to implement
9 the Plan and the adequate public facilities
10 regulations in Chapter V if the Final Development
11 Order was issued prior to August 1, 1990; and,
- 12 c. for purposes of any Comprehensive Plan
13 amendments adopted pursuant to a Compliance
14 Agreement if the final development order was
15 issued prior to such amendments.
- 16 2. Such valid approvals or permits shall, in and of
17 themselves, constitute sufficient evidence of compliance
18 with the standards set forth in Section 11.03.08(B)3.
19 Verification of such approvals or permits shall be made
20 by the appropriate County Official or designee. If
21 verified, the appropriate County Official or designee shall
22 issue the Vested Rights Special Use Permit.
- 23 b. Building Permit Applications for a Single-Family Residence on
24 a Lot of Record:
- 25 Building Permit applications for a single-family residence on a
26 lot of record shall be presumptively vested from the provisions
27 of the Comprehensive Plan, the Land Development Code and
28 the adequate public facilities regulations in Chapter V. A
29 Building Permit application for a single-family residence on a lot
30 of record shall not be subject to the limitations set out in Section
31 11.03.08(B)5.
- 32 c. Developments of Regional Impact Adopted on or Before August
33 1, 1990:
- 34 1. Any lawfully issued and effective Final Development Order for a
35 Development of Regional Impact adopted on or before August 1,
36 1990, shall automatically qualify for a Vested Rights Special Use
37 Permit unless the Development Order:
- 38 a. indicates otherwise;

- 1 b. expires according to its terms;
- 2 c. has not expired according to its terms and
3 construction authorized by the Development Order
4 has not commenced within five (5) years of the
5 adoption date of the development order; or,
- 6 d. fails to address an issue listed in the Development
7 Order, in which event the provisions of the St. Lucie
8 County Comprehensive Plan and this Code shall
9 apply only to that issue that was not addressed but
10 shall not apply to other issues specifically addressed
11 in the Development Order; or,
- 12 e. is invalidated in whole or in part.
- 13 2. In lieu of Section 11.03.08(B)(5) and (2) below, such vesting shall
14 continue until development approved in the Development Order is
15 complete or until the development order has expired or is
16 invalidated. Any substantial deviation after August 1, 1990, shall
17 cause those development rights that are the subject of such
18 deviation to become subject to the St. Lucie County
19 Comprehensive Plan and this Code.
- 20 3. The approved Final Development Order for a Development of
21 Regional Impact shall, in and of itself, constitute sufficient evidence
22 of compliance with the standards set forth in Section 11.03.08(B)3.
23 Verification of such approvals or permits shall be made by the
24 appropriate County Official or designee. If verified, the appropriate
25 County Official or designee shall issue the Vested Rights Special
26 Use Permit.
- 27 5. Limitations on Determination of Vested Rights
- 28 a. Upon the expiration of five (5) years after the issuance of a
29 Vested Rights Special Use Permit, the issuance of
30 development permits for the property subject to the Vested
31 Rights Special Use Permit shall be subject to the
32 requirements of all current regulations. The foregoing, the
33 Vested Rights Special Use Permit may set forth an
34 extension of the five (5) year period upon Finding by the
35 Board of County Commissioners of the necessity for an
36 extension of such time period.
- 37 b. Commencing with the expiration of two (2) years after the
38 issuance of a Vested Rights Special Use Permit, an annual
39 report shall be submitted to the appropriate County Official
40 or designee by the developer or owner of the subject

1 property. Annual reports shall be submitted on forms
2 provided by the appropriate County Official or designee and
3 shall be due on each annual recurrence of the permit
4 issuance date. The annual report shall evidence that
5 development has commenced and is continuing in good
6 faith. Significant physical development or receipt by the
7 applicant of one (1) or more of the following types of permits
8 or approvals in each reporting year shall constitute sufficient
9 evidence for the subject year:

- 10 1. Building Permit:
- 11 2. Site Plan Approval or not more than one (1) renewal of each
12 Site Plan Approval;
- 13 3. Final Plan Approval for a Planned Development;
- 14 4. Final Plat Approval;
- 15 5. Such other permits or approvals as shall evidence that
16 development has commenced and is continuing in good
17 faith.

18 Failure to proceed with significant physical development activity or
19 to obtain one (1) of the foregoing approvals or permits in any
20 reporting year, or failure to file an annual report when due, shall
21 cause the development subject to the Vested Rights Special Use
22 Permit to become subject to the requirements of the adequate
23 public facilities regulations in Chapter V. A determination by the
24 appropriate County Official or designee of a permittee's failure to
25 proceed may be appealed to the County Administrator or designee.
26 In addition, the County Administrator or designee may grant an
27 extension of time to file the required annual report upon a showing
28 of good cause by the applicant, or successor, that strict
29 enforcement would cause undue hardship because of
30 circumstances beyond the applicant's or successor's control.
31 Requests for extensions shall be submitted to the County
32 Administrator or designee thirty (30) calendar days prior to the due
33 date for the annual report.

- 34 c. All development subject to a Vested Rights Special Use Permit
35 must be consistent with the terms of the Development Order upon
36 which the Vested Rights Special Use Permit was based. Any
37 substantial deviation from a prior approval, except a deviation
38 required by governmental action, shall cause the development
39 involved to be subject to the policies and implementing decisions
40 and regulations set forth in all current regulations. The appropriate

1 County Official or designee shall determine whether a proposed
2 change is a substantial deviation in light of the following criteria:

- 3 1. Any change in use or intensity of use that would increase the
4 development's impacts on those public facilities subject to Chapter
5 V by more than five percent (5%) shall be presumed to be a
6 substantial deviation.
- 7 2. Any change in access to the project that would increase the
8 development's transportation impacts by more than five percent
9 (5%) on any road subject to Chapter V shall be presumed to be a
10 substantial deviation unless the access change would result in an
11 overall improvement to the transportation network.
- 12 3. A Vested Rights Special Use Permit shall apply to the land and is
13 therefore transferrable from owner to owner of the land subject to
14 the permit.
- 15 4. Anything in this Section to the contrary notwithstanding, a Vested
16 Rights Special Use Permit may be revoked upon a showing by the
17 County of a peril to public health, safety or general welfare of the
18 residents of St. Lucie County unknown at the time of approval.

19 **11.03.09 DEVELOPMENTS OF REGIONAL IMPACT**

20 A. **BINDING LETTER OF DETERMINATION FROM FDCA REQUIRED**

21 1. **General**

22 A developer shall be required to submit an application to and receive a
23 determination from the Florida Department of Community Affairs (FDCA)
24 as to whether or not proposed development is a Development of Regional
25 Impact (DRI) as defined in Section 380.06, Florida Statutes, under the
26 following circumstances:

- 27 a. Proposed Development At Numerical Threshold or Up to twenty
28 percent (20%) above threshold

29 The proposed development is at a presumptive numerical threshold
30 or up to twenty percent (20%) above a numerical threshold in the
31 guidelines and standards in Chapter 380, Florida Statutes, or
32 administrative rules promulgated there under; or

- 33 b. Proposed Development between Presumptive Numerical Threshold
34 and twenty percent (20%) below numerical threshold where the
35 appropriate County Official or designee in doubt about whether
36 location or magnitude will create substantial effect on more than
37 one (1) county

1 The proposed development is between a presumptive numerical
2 threshold and twenty percent (20%) below the numerical threshold,
3 and the appropriate County Official or designee is in doubt as to
4 whether the character or magnitude of the development at the
5 proposed location creates a likelihood that the development will
6 have a substantial effect on the health, safety or welfare of the
7 citizens of more than one (1) county.

8 c. Proposed Development between Presumptive Numerical Threshold
9 and twenty Percent (20%) below numerical threshold where the
10 appropriate County Official or designee determines character or
11 magnitude probably make it a Development of Regional Impact.

12 1. A proposed development between a presumptive numerical
13 threshold and twenty percent (20%) below the numerical
14 threshold, when the appropriate Director or designee
15 determines the character or magnitude of the proposed
16 development probably make it a Development of Regional
17 Impact (DRI).

18 2. Any person may appeal the County Officials determination
19 under this subsection to the Board of County Commissioners
20 by filing a written notice of intent to appeal with the
21 appropriate County Official or designee within twenty (20)
22 calendar days of the date of receipt of the appropriate County
23 Official or designee written determination.

24 B. REQUIREMENTS ON PROPOSED DEVELOPMENT PROJECTS WHEN
25 BINDING LETTER DETERMINATION REQUIRED

26 1. If a binding letter either is required or requested voluntarily, copy of
27 determination or decision to be provided to St. Lucie County

28 Any proposed development for which a Binding Letter of Determination is
29 required pursuant to Section 11.03.09(A), *Binding Letter of Determination*
30 *Required by the Florida Department of Community Affairs (FDCA),* or any
31 proposed development for which a binding letter of determination has
32 been sought by the landowner/developer shall provide St. Lucie County a
33 certified copy of the binding letter of determination issued by the Florida
34 Department of Community Affairs (FDCA) or any court judgment which
35 constitutes a final judgment entered as a result of an appeal from a final
36 order of the Florida Department of Community Affairs (FDCA) making a
37 determination on the Development of Regional Impact (DRI) status of a
38 proposed development, prior to submission of the next application for
39 development permit submitted for the development.

- 1 2. St. Lucie County not accept application for development permit for
2 proposed development required to gain binding letter of determination,
3 until final binding determination made

4 St. Lucie County shall not accept or process any applications for
5 Development Permits for any project or portion thereof, for which a binding
6 letter of determination is required pursuant to Section 11.03.09(A), *Binding*
7 *Letter of Determination Required by the Florida Department of*
8 *Community Affairs (FDCA), or for which a binding letter of determination is*
9 sought by the developer, until a final binding determination has been
10 made as to the Development of Regional Impact (DRI) status of the
11 project.

- 12 3. Conditions, restrictions, and limitations in binding letter that determines
13 project is not a Development of Regional Impact (DRI) shall be
14 incorporated into all development permits for the development project.

15 In instances where a proposed development project is determined not to
16 be a Development of Regional Impact (DRI), and that determination has
17 been made in part or in whole based upon various commitments or
18 limitations as to the development that will occur in the binding letter, the
19 commitments, limitations or conditions spelled out in the binding letter
20 determination shall be incorporated as conditions into all Development
21 Permits issued by St. Lucie County for the development, as if such
22 conditions were fully set out in each Development Permit.

23 C. REQUIREMENTS FOR PROPOSED DEVELOPMENT PROJECT
24 DETERMINED TO BE DEVELOPMENT OF REGIONAL IMPACT

25 If a proposed development project is determined to be a Development of
26 Regional Impact (DRI) or if the developer has waived the right to request a
27 binding letter of interpretation or otherwise agreed to the Development of
28 Regional Impact (DRI) status of the proposed development project, then the first
29 Development Permit sought from St. Lucie County for such development shall be
30 accompanied by an application for development approval seeking Development
31 of Regional Impact (DRI) review and approval as required in Section 380.06,
32 Florida Statutes, or the developer/landowner shall first seek Development of
33 Regional Impact (DRI) review for the development project. No final action will be
34 taken by St. Lucie County on any local application for development permit for
35 which Development of Regional Impact (DRI) approval is being sought until St.
36 Lucie County can concurrently act on the application for development approval
37 for Development of Regional Impact (DRI) and the local development permit.

38 D. PROPOSED MODIFICATION TO A DEVELOPMENT

- 39 1. Modification To Development Determined Not To Be Development Of
40 Regional Impact

1 In the event of a proposed modification to a development for which a
2 binding letter of interpretation has been received by St. Lucie County
3 indicating that the development was not a Development of Regional
4 Impact (DRI), the following shall apply.

- 5 2. Aggregated development results in proposed development at presumptive
6 numerical threshold or up to twenty percent (20%) above threshold

7 In the event the modification increases the size or scope of the
8 development so that when the proposed modification is aggregated with
9 the prior approved development that was determined not to be a
10 Development of Regional Impact (DRI), the aggregated development is at
11 a presumptive numerical threshold or up to twenty percent (20%) above a
12 numerical threshold in the guidelines and standards of Chapter 380.06,
13 Florida Statutes, or administrative rules promulgated thereunder, then the
14 developer shall be required to submit an application for a binding letter of
15 interpretation.

- 16 3. Aggregated development results in proposed development at presumptive
17 numerical threshold or up to twenty percent (20%) below threshold

18 In the event the modification increases the size or scope of the
19 development so that when the proposed modification is aggregated with
20 the prior approved development that was previously determined not to be
21 a Development of Regional Impact (DRI), that the aggregated
22 development is at a presumptive numerical threshold or twenty percent
23 (20%) below the numerical threshold, then the provisions of Section
24 11.03.09(A)(1)(b) shall apply.

25
26 **11.03.10** **COMPREHENSIVE PLAN AMENDMENTS**

27 A. COMPREHENSIVE PLAN TEXT AMENDMENTS AND FUTURE
28 LAND USE MAP AMENDMENTS

29 1. Purpose

30 The procedure for amendment of an adopted Comprehensive Plan
31 or Future Land Use Map shall be as set forth in section 163.3184
32 F.S. The following procedures set out local regulations intended to
33 implement the procedures of sections 163.3184 and 163.3187,
34 Florida Statutes (1989), as amended. In the event of any conflict
35 between the provisions of these local regulations and the
36 Comprehensive Plan amendment procedures in Florida Statutes,
37 the local regulations shall be interpreted and applied so as to
38 implement the amendment procedures of sections 163.3184 and
39 163.3187, Florida Statutes (1989), as amended.

1 The Comprehensive Plan may only be amended in such a way as
2 to preserve the internal consistency of the plan pursuant to section
3 163.3177(2), F.S. Corrections, updates, or modifications of current
4 costs which were set out as part of the Comprehensive Plan shall
5 not be deemed to be amendments. St Lucie County shall transmit
6 copies of any amendments of its adopted Comprehensive Plan to
7 the Florida Department of Community Affairs (FDCA).

8 2. Authority

9 The Board of County Commissioners may adopt an ordinance
10 amending the text of the St. Lucie County Comprehensive Plan or
11 adopt a resolution making an amendment to the Future Land Use
12 Map upon making a determination that the proposed amendment is
13 consistent with the goals, objectives and policies of the St. Lucie
14 County Comprehensive Plan and with all applicable portions of
15 Florida Statutes.

16 3. Initiation

17 An amendment to the text of the St. Lucie County Comprehensive
18 Plan or the Future Land Use Map may be proposed by the Board of
19 County Commissioners, the Planning and Zoning Commission, the
20 appropriate County Official or designee, or any landowner or
21 citizen of unincorporated St. Lucie County.

22 4. Procedures

23 Pursuant to section 163.3187 F.S., Comprehensive Plan
24 amendments may be submitted two times during any calendar
25 year. To inform the public of Comprehensive Plan amendment
26 timeframes, St. Lucie County will prepare and publish a schedule
27 each year, at least two months in advance of the required
28 application submittal date, for the Comprehensive Plan amendment
29 cycle.

30 1. Review and Recommendation by the appropriate County Official or
31 designee

32 2. Planning and Zoning Commission Recommendation

33 After submission of an application for a St. Lucie County
34 Comprehensive Plan text amendment or Future Land Use Map
35 Amendment, determination of its completeness, preparation of the
36 staff report and Ordinance, scheduling of the public hearing, and
37 publication of notice, the Planning and Zoning Commission shall
38 conduct a public hearing on the application pursuant to Chapter 11
39 Other Hearings. At the public hearing, the Planning and Zoning

1 Commission shall consider the application, the relevant support
2 materials, the staff report, testimony, and other evidence given at
3 the public hearing. After the close of the public hearing, the
4 Planning and Zoning Commission shall recommend to the Board of
5 County Commissioners to either transmit or deny the proposed
6 amendment based on a review consistent with subsection (5)
7 below, *Standards*.

8 3. Board of County Commissioners Transmittal Hearing

9 After receipt of the recommendation from the Planning and Zoning
10 Commission, the scheduling of the public hearings, and public
11 notification, the Board of County Commissioners shall conduct the
12 public hearing(s) on the proposed amendments pursuant to
13 Chapter 11, *Other Hearings*. At the public hearing(s), the Board of
14 County Commissioners shall consider the application, the relevant
15 support materials, the staff report, the Planning and Zoning
16 Commission recommendation, public testimony, and other
17 evidence given. At the conclusion of the public hearing(s), the
18 Board of County Commissioners shall transmit (for large scale and
19 text amendments), adopt (for small scale amendments) or deny the
20 amendment based on a review consistent with subsection (5)
21 below, *Standards*.

22 4. 'Florida Department of Community Affairs'(FDCA) Review

23 Within five (5) calendar days after the Board of County
24 Commissioners has determined which amendments will be
25 transmitted to the Florida Department of Community Affairs (FDCA)
26 for review, the appropriate County Official or designee shall
27 prepare a transmittal letter and copies of each amendment
28 approved for transmittal to Florida Department of Community
29 Affairs (FDCA). The transmittal letter shall contain a brief
30 description of all action taken to date and the contact person at St.
31 Lucie County familiar with the amendment request. The Florida
32 Department of Community Affairs (FDCA) has a period of ninety
33 (90) days to complete the review and comments on the proposed
34 amendments.

35 5. Board of County Commissioners Adoption Hearing

36 Within sixty (60) calendar days after receipt of the recommendation
37 from the Florida Department of Community Affairs (FDCA), the
38 Board of County Commissioners shall conduct the public hearing(s)
39 on the proposed amendments pursuant to Chapter 11, *Other*
40 *Hearings*. At the public hearing(s), the Board of County
41 Commissioners shall consider the application, the relevant support

1 materials, the staff report, the Planning and Zoning Commission
2 recommendation, public testimony, the recommendation from the
3 Florida of Community Affairs(FDCA) and other evidence given. At
4 the conclusion of the public hearing(s), the Board of County
5 Commissioners shall either adopt or deny the amendment based
6 on a review consistent with subsection (5) below, *Standards*.

7 6. Standards

8 The advisability of amending the text of the St Lucie County
9 Comprehensive Plan or the Future Land Use Map is a matter
10 committed to the legislative discretion of the Board of County
11 Commissioners and is not controlled by any one factor. In
12 determining whether to approve or deny a proposed amendment to
13 the text of the St. Lucie County Comprehensive Plan or the Future
14 Land Use Map, the Board of County Commissioners shall consider
15 the consistency of the proposed amendment with the intent of the
16 St. Lucie County Comprehensive Plan, Strategic Regional Policy
17 Plan, State of Florida Comprehensive Plan, Florida Statutes
18 Chapter, 163, and Rules 9J-5 and 9J-11, Florida Administrative
19 Code. In addition the following general land use factors shall be
20 considered:

21 1. The impact of the land use amendment on the traffic
22 circulation and street conditions in St. Lucie County;

23 2. The impact of the land use amendment on St. Lucie
24 County Utilities. For the purpose of this review, utilities
25 shall include public water, wastewater, and solid waste
26 facilities;

27 3. The impact of the land use amendment on the other
28 services and facilities which have established levels of
29 service such as drainage and parks;

30 4. The impact of the land use change on St. Lucie County
31 environmental quality. This shall include, but not be limited
32 to, an evaluation of the effects on environmentally sensitive
33 land, groundwater quality, flood control, existing vegetation
34 and agricultural land;

35 5. The impact of the proposed land use amendment upon any
36 particular need in St. Lucie County such as housing,
37 agricultural production, special commercial or industrial
38 needs, and other needs as applicable;

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6. Proximity and potential impact for other services such as educational facilities, police protection, fire protection, and emergency medical services;

7. Compatibility of proposed land uses with existing uses and land use designations of surrounding properties.