

ORDINANCE NUMBER: 93-09

**AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA,  
REZONING LANDS AS DESCRIBED HEREINAFTER FROM PRESENT ZONING  
CLASSIFICATION OF CG TO PLANNED SPECIAL DEVELOPMENT.**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY,  
FLORIDA:

SECTION 1. That, as requested by Southern Centers Associates and Apple South, Inc., in their application with supporting documents for zoning change, dated October 15, 1992, (and as amended on November 4, 1992) (hereinafter the "PSD Application"), the zoning classification of the lands described on the attached Exhibit "A" is hereby changed from CG to Planned Special Development.

SECTION 2. That development of the lands within this PSD shall proceed in accordance with the PSD Application and supporting documents which are a part of zoning file number R-PSD-92-021 and which are incorporated by reference into and made a part of this ordinance, and as supplemented by the provisions of this ordinance. In the case of conflict between the Application or supporting documents, and the below described provisions of the ordinance, the below described provisions shall prevail.

SECTION 3. The two (2) pole signs to be located within Phases I and II shall not exceed fifty feet (50') in height.

SECTION 4. The applicants reserve the right to make minor modifications to the footprints of the proposed buildings so long as the minor modifications do not result in an increase in the total square footage of the proposed buildings. The applicants further reserve the right to modify the approved site plan and entrance design to satisfy the requirements of the St. Johns County Public Works Department and any other regulatory agency having jurisdiction over the project.

SECTION 5. That the need and justification for approval of the PSD had been considered in accordance with Section 11-10-04 of the St. Johns County Zoning Ordinance and the St. Johns County Comprehensive Plan, whereby:

(a) The rezoning is consistent with development of property in the area and is compatible with the desired future development of the area, and;

(b) The proposed intensity of development is consistent with the uses allowable by the mixed use designation within the Comprehensive Plan; and

(c) At the public hearing on November 19, 1992, St. Johns County Planning and Zoning Agency recommended approval by unanimous vote.

SECTION 6. That all roads and parking areas within the project, either public or private, shall be constructed to approved county standards.

SECTION 7. That all easements required for drainage purposes shall be granted to the county at no cost, upon county's request.

SECTION 8. All buildings code, zoning ordinance and other land use and development regulations of St. Johns County, as may be amended from time to time shall be applicable to this development, except those permitting variances and special exceptions and except to the extent that they conflict with specific provisions of the approved development plan or PSD ordinance. Modification to approved development plans by variance or special exception shall be prohibited.

SECTION 9. This project shall comply with the standards, policies and requirements in effect at the time of final approval and permitting of this project for development, including any successor or new policies, financing mechanism, plans and ordinances adopted by St. Johns County after the date of the Planned Special Development ordinance approval, including, without limitation, any concurrency management programs adopted pursuant to Florida Statutes 163.3202(2)(g), as amended, and objective J.01.05 of the St. Johns County Comprehensive Plan dated September 14, 1990, including, any amendments or successor policies of land development regulations adopted to implement Florida Statutes 163.3203(2)(g).

SECTION 10. The zoning official is authorized to issue zoning clearances allowed by zoning classification as rezoned hereby.

SECTION 11. This ordinance shall take effect immediately upon receipt of official acknowledgment of the Department of State to the Clerk of the Board of County Commissioners of St. Johns County, Florida, that the same has been filed.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 9 day of February, 1993.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: Luiza Balzavage

P.U.D. OFF. REC.  
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Attest: Carl "Bud" Markel, Clerk

By: Irma Parretti  
Deputy Clerk

Adopted February 9, 1993

Meeting BCC Regular

Effective February 22, 1993

EXHIBIT "A"

A PART OF THE G.W. PERPALL GRANT, SECTION 41, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT A FLORIDA D.O.T. NAIL AND WASHER AT THE INTERSECTION OF THE CENTERLINE OF THE SOUTHBOUND LANE, U.S. HIGHWAY NO. 1, AND THE CENTERLINE OF STATE ROAD NO. 312, AS SHOWN ON FLORIDA D.O.T. RIGHT OF WAY MAP, SECTION NO. 78002-2902, SHEET 3 OF 13 (SAID POINT OF INTERSECTION LYING 98.00 FEET EAST OF THE WESTERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY NO. 1); RUN THENCE SOUTH 89°54'15" EAST, ALONG SAID CENTERLINE OF S.R. NO. 312, A DISTANCE OF 123.78 FEET; THENCE AT RIGHT ANGLES TO SAID CENTERLINE, SOUTH 00°05'45" WEST, A DISTANCE OF 100.00 FEET TO THE SOUTHERLY LINE OF S.R. NO. 312; THENCE ALONG THE SOUTHERLY LINE OF SAID S.R. NO. 312 AS SHOWN ON SAID D.O.T. RIGHT OF WAY MAP AND AS DESCRIBED AND RECORDED IN O.R. VOLUME 234, PAGE 623 OF THE PUBLIC RECORDS OF SAID COUNTY, SOUTH 89°54'15" EAST, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE SOUTH 00°08'00" WEST, A DISTANCE OF 450.01 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 176.49 FEET; THENCE SOUTH 00°08'00" WEST, A DISTANCE OF 466.20 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 362.75 FEET; THENCE SOUTH 00°08'00" EAST, A DISTANCE OF 232.00 FEET; THENCE NORTH 89°52'00" WEST, A DISTANCE OF 310.00 FEET; THENCE NORTH 00°08'00" EAST, A DISTANCE OF 684.49 FEET; THENCE NORTH 89°54'15" WEST, A DISTANCE OF 429.28 FEET TO THE POINT OF BEGINNING, CONTAINING 8.79 ACRES MORE OR LESS. (SAID 7.78 ACRES SAID AS DESCRIBED IN O.R. VOL. 577, PG. 117.)

P.U.D. OFF. REC. PAGE 266  
BOOK D

# The St. Augustine Record

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

STATE OF FLORIDA,  
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared \_\_\_\_\_  
SHERRY R. FREE who on oath says that she is

ACCOUNTING CLERK \_\_\_\_\_ of the St. Augustine Record, a

daily newspaper published at St. Augustine in St. Johns County, Florida: that  
the attached copy of advertisement, being a \_\_\_\_\_

NOTICE OF PUBLIC HEARING \_\_\_\_\_

\_\_\_\_\_ in the matter of \_\_\_\_\_

HEARING ON JANUARY 12, 1993 \_\_\_\_\_

\_\_\_\_\_ in the \_\_\_\_\_ Court,

was published in said newspaper in the issues of \_\_\_\_\_

December 11, 1992 \_\_\_\_\_

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 has heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the attached 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 Zoe Ann Johns

this 11th day of December

A.D. 19 92

Zoe Ann Johns  
(SEAL) 8/22/93 Notary Public

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## COPY OF ADVERTISEMENT

NOTICE IS HEREBY GIVEN THAT THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AT ITS REGULAR MEETING ON THE 12 DAY OF JANUARY 1993 AT 3:00 PM IN THE COUNTY AUDITORIUM, COUNTY ADMINISTRATION BUILDING, LEWIS SPEEDWAY (COUNTY ROAD 16-A) AND U.S. #1 NORTH, ST. AUGUSTINE, FLORIDA, WILL CONSIDER THE PASSAGE OF THE FOLLOWING ORDINANCE:

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM THE PRESENT ZONING CLASSIFICATION OF CG TO PSD.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

SECTION 1. Pursuant to the application of Southern Centers Assoc. and Apple South, Inc. owners of the following described land, zoning classification of CG on the following described lands:

EXHIBIT "A"

A PART OF THE G.W. PERPALL GRANT, SECTION 41, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT A FLORIDA D.O.T. NAIL AND WASHER AT THE INTERSECTION OF THE CENTERLINE OF THE SOUTHBOUND LANE, U.S. HIGHWAY NO. 1, AND THE CENTERLINE OF STATE ROAD NO. 312, AS SHOWN ON FLORIDA D.O.T. RIGHT OF WAY MAP, SECTION NO. 78002-282, SHEET 1 OF 3 (SAID POINT OF INTERSECTION LYING 98.00 FEET EAST OF THE WESTERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY NO. 1); RUN

THENCE SOUTH 89°54'15" EAST, ALONG SAID CENTERLINE OF S.R. NO. 312, DISTANCE OF 123.98 FEET; THENCE AT RIGHT ANGLES TO SAID CENTERLINE, SOUTH 00°54'48" WEST, A DISTANCE OF 100.00 FEET TO THE SOUTHERLY LINE OF S.R. NO. 312; THENCE ALONG THE SOUTHERLY LINE OF SAID S.R. NO. 312 AS SHOWN ON SAID D.O.T. RIGHT OF WAY MAP AND AS DESCRIBED AND RECORDED IN O.R. VOLUME 234, PAGE 623 OF THE PUBLIC RECORDS OF SAID COUNTY, SOUTH 89°54'15" EAST, A DISTANCE OF 500.00 FEET TO THE POINT OF BEGINNING.

THENCE CONTINUE SOUTH 00°08'00" WEST, A DISTANCE OF 450.01 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 176.49 FEET; THENCE SOUTH 00°08'00" WEST, A DISTANCE OF 466.20 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 562.75 FEET; THENCE NORTH 00°08'00" EAST, A DISTANCE OF 232.00 FEET; THENCE NORTH 89°52'00" WEST, A DISTANCE OF 310.00 FEET; THENCE NORTH 00°08'00" EAST, A DISTANCE OF 684.49 FEET; THENCE NORTH 89°54'15" WEST, A DISTANCE OF 429.28 FEET TO THE POINT OF BEGINNING, CONTAINING 8.79 ACRES MORE OR LESS (BEING THE SAME LANDS AS DESCRIBED O/R VOL. 277, PG. 177.)

IS HEREBY CHANGED TO: PSD, Planned Special Development in accordance with supporting documents in file no. R-PSD-92-021.

SECTION 2. Nothing herein contained shall be deemed to impose conditions, limitations or requirements not applicable to all other land in zoning district wherein said lands are located.

SECTION 3. The Building Department is authorized to issue construction permits allowed by zoning classification as rezoned hereby.

SECTION 4. This Ordinance shall take effect immediately upon receipt of official acknowledgment of the office of the Secretary of State to the Clerk of the Board of County Commissioners, that same has been filed.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: s/ Carl "Bud" Aarkel its clerk

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the meeting or hearing, he will need a record of the proceedings, and for such purpose he 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 all hearing impaired persons: Anyone planning to attend this meeting and needs the services of an interpreter, please contact David Halstead, ADA Coordinator at (904) 823-2205 at least 5 days prior to date of this meeting.

L496, Dec. 11, 1992

COPY OF ADVERTISEMENT

NOTICE OF A CONTINUED PUBLIC HEARING BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA. NOTICE IS HEREBY GIVEN THAT THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AT ITS REGULAR MEETING ON THE 9th day of February 1993 AT 6:01 PM in the County Auditorium, County Administration Building, Lewis Speedway, County Road 16-A and U.S. #1 North, St. Augustine, Florida, will consider the following request which was continued from the meeting of January 12, 1993: PASSAGE OF THE FOLLOWING ORDINANCE: AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM THE PRESENT ZONING CLASSIFICATION OF CG TO PSD. BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA.

SECTION 1. Pursuant to the application of Southern Centers Assoc. and Apple South Inc. owners of the following described land, zoning classification of OR, Open Rural to the following described lands: EXHIBIT "A"

A PART OF THE G.W. PERPALL GRANT, SECTION 41, TOWNSHIP SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR POINT OF REFERENCE, COMMENCE AT A FLORIDA D.O.T. NAIL AND WASHER AT THE INTERSECTION OF THE CENTERLINE OF THE SOUTHBROOK LANE, U.S. HIGHWAY NO. 1, AND THE CENTERLINE OF STATE ROAD NO. 312, AS SHOWN ON FLORIDA D.O.T. RIGHT OF WAY MAP, SECTION NO. 78002-2502, SHEET 3 OF 13 (SAID POINT OF INTERSECTION LYING 98.00 FEET EAST OF THE WESTERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY 1); RUN THENCE SOUTH 89°54'15" EAST, ALONG SAID CENTERLINE OF S.R. NO. 312, A DISTANCE OF 123.98 FEET; THENCE AT RIGHT ANGLES TO SAID CENTERLINE, SOUTH 00°08'00" WEST, A DISTANCE OF 100.00 FEET TO THE SOUTHERLY LINE OF S.R. NO. 312; THENCE ALONG THE SOUTHERLY LINE OF SAID S.R. NO. 312 AS SHOWN ON SAID D.O.T. RIGHT OF WAY MAP AND AS DESCRIBED AND RECORDED IN O.R. VOLUME 234, PAGE 623 OF THE PUBLIC RECORDS OF SAID COUNTY, SOUTH 89°54'15" EAST, A DISTANCE OF 500.00 FEET TO THE POINT OF BEGINNING. THENCE CONTINUE SOUTH 00°08'00" WEST, A DISTANCE OF 450.01 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 176.49 FEET; THENCE SOUTH 00°08'00" WEST, A DISTANCE OF 466.20 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 542.75 FEET; THENCE NORTH 00°08'00" EAST, A DISTANCE OF 232.00 FEET; THENCE NORTH 89°52'00" WEST, A DISTANCE OF 429.28 FEET TO THE POINT OF BEGINNING, CONTAINING 8.79 ACRES, MORE OR LESS. (BEING THE SAME LANDS AS DESCRIBED IN O.R. VOL. 577, PG. 117).

IS HEREBY CHANGED TO PSD, Planned Special Development in accordance with supporting documents in file No. R-PSD-92-023.

SECTION 2. Nothing herein contained shall be deemed to impose conditions, limitations or requirements not applicable to all other land in zoning district wherein said lands are located.

SECTION 3. The Building Department is authorized to issue construction permits allowed by zoning classification as rezoned hereby.

SECTION 4. This Ordinance shall take effect immediately upon receipt of office acknowledgment of the office of the Secretary of State to the Clerk of the Board of County Commissioners, that same has been filed.

BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA By /s/ Carl "Bud" Markel Its Clerk

If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the meeting he will need a record of the proceedings, and for such purpose he 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 all hearing impaired: Anyone planning to attend a meeting and needing an interpreter should contact David...

The St. Augustine Record

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

STATE OF FLORIDA, COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared SHERRY R. FREE ACCOUNTING CLERK who on oath says that she is 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 CONTINUED PUBLIC HEARING

in the matter of MEETING ON FEBRUARY 9, 1993

in the Court,

was published in said newspaper in the issues of January 20, 1993

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 has heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, Florida, for a period of one year next preceding the first publication of the attached 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 publication in the said newspaper.

Sworn to and subscribed before me ZOE ANN MOSS

this 22nd day of January

A.D. 19 93

Zoe Ann Moss Notary Public



EXHIBIT "B"

APPLE SOUTH, INC., A GEORGIA CORPORATION  
1607 Laurens Road, Suite 110  
Greenville, South Carolina 29607  
Telephone no.: (706) 342-4552

SOUTHERN CENTERS ASSOCIATES  
3701 Gault Ocean Drive  
Fort Lauderdale, Florida 33308  
Telephone no.: (407) 561-9305

This is a joint application which is being filed by Apple South, Inc., a Georgia corporation, as the proposed purchaser and developer of Phase I and by Southern Centers Associates, a Florida General Partnership, as the owner of Phases II and III. Phases II and III will be developed by the owner or a subsequent purchaser from the owner.

EXHIBIT "C"

A rezoning to PSD to allow for commercial development of the Property is appropriate, as the Property is currently zoned Commercial General (CG); designated commercial under the Comprehensive Plan; located on a four (4) lane highway and surrounded by other properties which are zoned and utilized for commercial purposes. The above facts constitute clear and convincing evidence of the appropriateness of the requested rezoning and commercial usage of the Property. Additionally, a rezoning to PSD is a requirement of the concurrency exemption previously granted for the Property by the Board of County Commissioners.

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ADDITIONAL INFORMATION AND MATERIALS REQUIRED BY  
ARTICLE 8-A PLANNED SPECIAL DEVELOPMENT, PSD

1. Agreement of Applicants.

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The applicants, agree to:

(a) Proceed with the proposed project in accordance with the adopted Planned Special Development and such conditions and safeguards as may be set by the Board of County Commissioners in such Ordinance;

(b) Produce a written statement of a proposal for completion of such project according to plans approved by such Ordinance and for continuing operation and maintenance of such area, functions and facilities; and

(c) Bind their successors in title to any commitments made in this application.

2. Exhibits.

Applicants attach hereto the following exhibits:

(a) A site plan of the subject property depicting the location of the proposed buildings, parking areas, detailed circulation system, open space, landscaping and drainage facilities.

(b) A metes and bounds survey of the subject property.

(c) The Final Decision on Application for Concurrency Exemption for the property dated August 13, 1991 (the "Concurrency Exemption").

(d) A letter dated August 25, 1992, from the Public Works Department of the City of St. Augustine confirming that water and sewer service is available.

3. Proposed Plan of Development.

The proposed PSD will be developed in three (3) phases.

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(a) Phase I will consist of an Applebee's restaurant which will be developed on Parcel 1, a 1.56 acre parcel fronting on State Road 312. The Applebee's restaurant will contain 5,734 square feet of floor area and be capable of serving up to two hundred (200) persons. Alcoholic beverages will be sold for on-premises consumption. The sale of such alcoholic beverages is permitted by Section 7-16-13 of the Zoning Code as the proposed restaurant has the ability to serve two hundred (200) persons, contains over 4,000 square feet and therefore is exempt from the "beverage zone" separations requirements.

(b) Phase II shall consist of a restaurant to be located on Parcel 2, a 1.72 acre parcel located contiguous to Parcel 1 and fronting on State Road 312. The proposed occupant is "Outback". The restaurant on Parcel 2 will contain 7,036 square feet of floor area and be capable of serving two hundred (200) persons. Alcoholic beverages will be sold for on-premises consumption. The sale of such alcoholic beverages is permitted by Section 7-16-13 of the Zoning Code as the proposed restaurant has the ability to serve two hundred (200) persons, contains over 4,000 square feet and therefore is exempt from the "beverage zone" separations requirements.

(c) Phase III shall consist of the balance of the property (approximately 5.51 acres) and will be reserved for future development. Development of Phase III shall be subject to the approval of a major modification to the PSD, which modification will include a list of the proposed uses, a detailed site plan of Phase III depicting the location of the proposed buildings, parking areas, detailed circulation system, open space, landscaping and drainage facilities and such other documents

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and information as may be required by Section 8-A of the St. Johns County Zoning Ordinance, in effect at the time of submittal of the modification.

4. Height of Structures.

The height of the restaurant buildings to be constructed on Phases I and II shall not exceed twenty feet (20'). Each phase (I and II) will contain a pole supported sign which shall not exceed sixty feet (60') in height. The sixty foot (60') pole supported sign on Phase I includes the Applebee's trademark, a red apple of a height of five feet (5'), at the very top. The requested height of sixty feet (60') is appropriate because it is permissible under both the existing CG zoning classification and sign ordinance and there are many other signs of the same height in the immediate area. The requested height of sixty feet (60') is necessary in this location so that the signs will be visible to persons traveling north and south on U.S. I. The height of the buildings and structures in Phase III will be established at the time of approval of the major modification to the PSD, but shall not exceed thirty five feet (35') unless additional height is authorized by the major modification.

5. Signage.

In addition to the two (2) pole supported signs specified in paragraph 4 above, the restaurants in Phases I and II will have signage on the buildings which complies with the requirements of the St. Johns County Sign Ordinance, Ordinance 90-9 (the "Sign Ordinance"). In addition, the restaurants in Phases I and II shall have temporary signs of a size not exceeding five feet by eight feet (5' x 8') advertising the

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opening of the restaurants and the hiring of employees. These temporary signs will remain in place for a period not to exceed thirty (30) days as permitted by the Sign Ordinance.

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6. Ingress and Egress.

Ingress and egress to Phases I and II shall be provided by two (2) entrances off of the common driveway located east of Scotty's (the "Common Driveway"). The driveways into Phases I and II shall be located a minimum of sixty five (65') south of the intersection of the Common Driveway and the right-of-way of State Road 312.

7. Water and Sewer.

Water and sewer, including water for fire protection, will be provided by the City of St. Augustine.

8. Stormwater Retention.

Stormwater run-off from Phases I, II and III will be directed to the existing retention pond shown on the site plan within Phase III.

All owners of individual parcels within the Property shall be granted a non-exclusive easement to drain into the retention pond.

9. Commencement and Completion of Development.

Development of the Applebee's restaurant and of the restaurant in Phase II shall be commenced and completed prior to March 1, 1994. Commencement and completion dates for Phase III shall be established at the time of approval of the major modification to the PSD. Provided, any development which occurs after March 1, 1994, shall be subject to compliance with existing County concurrency regulations. For purposes of

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this paragraph development of each phase shall commence upon the issuance of any permits required by any state agency and a clearance sheet by St. Johns County for the particular phase.

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10. Placement of Fill.

The development of Phases I and II shall include the placement of fill to an elevation authorized by existing federal and state permits, if placement of such fill is in compliance with such federal and state permits and is permissible under existing County regulations.

11. Site Coverage.

The total ground to be occupied by the restaurant buildings in Phases I and II and by any future buildings constructed in Phase III shall not exceed thirty-five percent (35%) of the applicable phase and the impervious surface coverage shall not exceed seventy five percent (75%) for all phases. The site coverage for Phase III shall be established at the time of approval of the major modification to the PSD.

12. Parking and Loading Spaces.

The applicants have provided sufficient parking and loading spaces within Phases I and II to meet the requirements of Section 9-3, St. Johns County Zoning Ordinance. The total number of parking spaces is noted on the site plan. Sufficient parking is available within each of the first two (2) phases to satisfy the requirements for the particular phase. The parking requirement for Phase III shall be established at the time of approval of the major modification.

13. Setbacks.

The setbacks for the buildings and structures to be developed in Phases I and II are shown on the site plan. These are minimum setbacks which may be increased but not decreased, at the option of the applicants.

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14. Fire Hydrants.

The applicants shall install fire hydrants, or such alternate fire protection as may be approved by the County Fire Marshall, within each phase of the PSD.

15. Landscaping.

The applicants shall comply with the applicable portions of the St. Johns County Green Law and land clearing ordinance. The dumpster pad will be properly screened from view by an opaque barrier.

16. Temporary Construction Trailer.

A temporary construction trailer may be installed within the area identified as the temporary staging area for Phases I and II shown on the site plan during construction of Phases I and II and shall be removed as required by the terms of Section 7-11-1 of the zoning code.

17. Justification.

The proposed Planned Special Development is a specific and creative approach to development of land and will allow St. Johns County to control the development of this commercially zoned property. Moreover, the PSD is required by the terms of the concurrency exemption previously granted by the Board of County Commissioners.

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18. Savings Clause.

This project shall comply with the standards, policies and requirements in effect at the time of final approval and permitting of this project for development.

This project shall comply with the standards, policies and requirements in effect at the time of final approval and permitting of this project for development, including any successor or new policies, financing mechanisms, plans and ordinances adopted by St. Johns County after the date of the Planned Special Development Ordinance approval, including, without limitation, any concurrency management programs adopted pursuant to Florida Statute 163.3203(2)(g), as amended, and Objective J.01.05 of the St. Johns County Comprehensive Plan dated September 14, 1990, including any amendments or successor policies of land development regulations adopted to implement Florida Statute 163.3202(2)(g).

WHEREFORE, the applicants respectfully request approval of this Planned Special Development application.

I HEREBY CERTIFY that the above information is true and correct to the best of my knowledge.

UPCHURCH, BAILEY and UPCHURCH, P.A.

By: John D. Bailey, Jr.  
JOHN D. BAILEY, JR.  
Post Office Drawer 3007  
St. Augustine, Florida 32085-3007  
Tel. No.: (904) 829-9066

Attorneys for Applicants

St. Johns County, Florida  
Board of County Commissioners

No. 91-CE-5

RE: Southern Centers Associates  
Appeal From Concurrency  
Review Committee Decision

P.U.D. OFF. REC.  
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FINAL DECISION ON  
APPLICATION FOR CONCURRENCY EXEMPTION

Background

This matter came before the St. Johns County (County) Board of County Commissioners (Board) on an appeal by Southern Centers Associates (SCA) of the Concurrency Review Committee's (Committee) May 23, 1991 decision granting in part and denying in part the SCA's Application for a concurrency exemption. The Board heard testimony and argument on the appeal on July 16, 1991 and August 6, 1991.

SCA, in its application for a concurrency exemption determination, claims that it has vested rights in 8.79 acres, legally described on Exhibit A and illustrated on Exhibit B (the Property). The application, considered by the Committee on May 8, 1991, was granted in part, exempting a maximum of 15,000 square feet of retail space from review under the County Concurrency Management Ordinance (CMO). The remainder of the application, for which no site plan was submitted, was denied. See Committee's decision dated May 23, 1991.

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its brief submitted 12, 1991, SCA argue it is entitled to vested rights to proceed with the development of the entire 8.79 acres and that the County is equitably estopped from applying the CMO to the Property. In addition, during the July 16, 1991 hearing, SCA offered additional information to the Board on development of the entire 8.79 acres. The hearing was continued to August 6, 1991 to allow County staff an opportunity to review the additional information. Prior to the August 6, 1991 hearing, SCA offered conditions to address concerns raised by County staff members. At the hearing, the staff recommended approval of the application with the following conditions:

-Uses to be developed on the Property shall be limited to those listed as permitted uses under the County's CG zoning classification and any uses permitted by exception pursuant to an approved Planned Special Development ordinance (PSD), provided such uses generate no more than 2,800 average daily trips, as defined in the trip generation table contained in the CMO.

-Development of the Property shall be limited to 30,000 square feet of floor area, and shall be pursued only under an approved PSD.

-The entrance off of Scotty's driveway shall be located a safe distance from the intersection of Scotty's driveway and State Road 312, as approved

P.U.D. OFF. REC.  
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by the Florida Department of Transportation and the County.

SCA also requested the insertion of language in the Board's final decision clarifying certain rights. The staff recommended the inclusion of the following provisions to address SCA's concerns:

-This decision shall not be construed to prohibit placement of fill on the Property to an elevation authorized by existing Federal and State permits if placement of such fill is in compliance with Federal and State permits and is permissible under existing County regulations or by action of the Board.

-Future development in excess of 30,000 square feet for the Property shall be approved subject to amendment of the PSD referred to above, and compliance with all concurrency requirements in existence at the time of the application for future development approval.

Findings of Fact

From the written record in this matter which includes SCA's appeal application with all supporting documents, and the Clerk's transcript of the remarks of John Bailey, Esquire, and Charlie Space on behalf of SCA at the July 16, 1991 hearing before the Board, the Board finds that the following activity has taken place on the Property:

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<u>Date</u>	<u>Activity</u>
1986	Acquisition of site by SCA (8.79 ares)
Summer, 1990	SCA decision to subdivide the parcel
September 14, 1990	Topographical survey obtained (8.79 acres)
October 22, 1990	Preliminary wetland assessment (8.79 acres)
November __, 1990	Nationwide fill permit for 8.79 acres from Corps of Engineers
November 13, 1990	Purchase and sale agreement of Partial Site
November 30, 1990	Geotechnical investigation of Partial Site
December __, 1990	Ward Koutnik and Associates retained for road improvements for access
December 3, 1990	Soil borings on Partial Site
January 14, 1991	Correspondence with Florida Department of Transportation regarding access
January 17, 1991	Execution of addendum to purchase and sale agreement, Partial Site
January 29, 1991	Grading and drainage plan for Partial Site
February 21, 1991	St. Johns River Water Management District permit for discharge facility for Partial Site (stormwater permit)
February 21, 1991	Negotiations with Scotty's regarding access to the site
March 4, 1991	Site plan for Partial Site

March 19, 1991

Preliminary assessment of site grades. No grading has started

April 11, 1991

As of this date, SCA claims expenditures of \$30,000 on site investigation, architectural design, engineering and permitting fees for entire site.

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Conclusions of Law

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Under Florida law, vested rights may be found when it is determined that a property owner acts in good faith on an affirmative act or omission of a governmental unit, and has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights acquired. The burden is on the applicant to establish vested rights, and the theory is applied on a case by case basis. Franklin City v. Leisure Properties, Ltd., 430 So. 2nd 475 (Fla. 1st DCA 1983).

The theory of vested rights is a doctrine of fairness which the County recognizes in its Concurrency Exemption Ordinance. Section 8.1, Ordinance No. 91-6. SCA, in its application on appeal, has met its burden of demonstrating entitlement to proceed with development of the Property without meeting the requirements of the CMO as long as it complies with the reasonable conditions set forth above at page 2.

ACCORDINGLY, THE BOARD DECIDES AS FOLLOWS:

1. A concurrency exemption for the entire 8.79 acres legally described in Exhibit A, which is incorporated and made a part hereof, and illustrated on Exhibit B, which

is incorporated and made a part hereof, is granted in accordance with the terms of this decision.

2. Development of the Property shall be subject to the following conditions:

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A. Uses to be developed on the Property shall be limited to those listed as permitted uses under the County CG zoning classification and any uses permitted by exception pursuant to an approved PSD, provided such uses generate no more than 2,800 average daily trips, as defined in the trip generation table contained in the CMO.

B. Development of the entire Property shall be limited to 30,000 square feet of floor area and shall be pursued only under an approved PSD.

C. The entrance off of Scotty's driveway shall be located a safe distance from the intersection of Scotty's driveway and State Road 312, as approved by the Florida Department of Transportation and the County.

3. This decision shall not be construed to prohibit placement of fill on the property to an elevation authorized by existing Federal and State permits if placement of such fill is in compliance with Federal and State permits and is permissible under existing County regulations or by action of the Board.

4. Future development in excess of 30,000 square feet

for the Property site shall be approved subject to amendment of the PSD referred to in paragraph (2)B above, and compliance with all concurrency requirements in existence at the time of application for future development approval.

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5. The exempt project remains subject to all governmental requirements relating to availability and adequacy of public facilities which were in effect prior to March 4, 1991, the effective date of Ordinance No. 91-6. See section 9.1, Ordinance 91-6.

6. The concurrency exemption determination granted herein shall have no effect on other governmental requirements applicable to the above-described property. See Section 9.2, Ordinance No. 91-6.

7. The concurrency exemption determination granted herein shall remain in effect until March 4, 1994, at which time it shall terminate, unless extended by the Board pursuant to Section 9.3, Ordinance No. 91-6. See Section 9.4.2., Ordinance No. 91-6.

8. This decision may be appealed to the Circuit Court, St. Johns County, by filing a petition for writ of certiorari with the Clerk of Courts within 30 days of the date of this decision.

Dated this 13 day of AUGUST 1991.

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St. Johns County Board  
of County Commissioners

By: [Signature]  
Chairman

Certificate Service

A copy of the foregoing has been provided to John B. Esquire, Esquire, Upchurch, Bailey & Upchurch, 780 North Ponce De Leon Boulevard., Saint Augustine, Florida, Post Office Drawer 3007, Saint Augustine, Florida 32085-3007, certified with return receipt requested, and to Kevin P. Buckley, Southern Centers Associates, 3701 Galt Ocean Drive, Ft. Lauderdale, Florida 33308, by U.S. Mail, this 5<sup>th</sup> day of August, 1991

Janet D. Stanham

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A PART OF THE G.W. PERPALL GRANT, SECTION 41, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT A FLORIDA D.O.T. NAIL AND WASHER AT THE INTERSECTION OF THE CENTERLINE OF THE SOUTHBOUND LANE, U.S. HIGHWAY NO. 1, AND THE CENTERLINE OF STATE ROAD NO. 312, AS SHOWN ON FLORIDA D.O.T. RIGHT OF WAY MAP, SECTION NO. 78002-2502, SHEET 3 OF 13 (SAID POINT OF INTERSECTION LYING 98.01 FEET EAST OF THE WESTERLY RIGHT OF WAY LINE OF SAID U.S. HIGHWAY NO. 1); RUN THENCE SOUTH 89°54'15" EAST, ALONG SAID CENTERLINE OF S.R. NO. 312, A DISTANCE OF 123.98 FEET; THENCE AT RIGHT ANGLES TO SAID CENTERLINE, SOUTH 00°09'43" WEST A DISTANCE OF 100.00 FEET TO THE SOUTHERLY LINE OF S.R. NO. 312; THENCE ALONG THE SOUTHERLY LINE OF SAID S.R. NO. 312 AS SHOWN ON SAID D.O.T. RIGHT OF WAY MAP AND AS DESCRIBED AND RECORDED IN O.R. VOLUME 234, PAGE 423 OF THE PUBLIC RECORDS OF SAID COUNTY, SOUTH 89°54'15" EAST, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE SOUTH 00°08'00" WEST, A DISTANCE OF 430.01 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 176.49 FEET; THENCE SOUTH 00°08'00" WEST, A DISTANCE OF 466.20 FEET; THENCE SOUTH 89°52'00" EAST, A DISTANCE OF 562.75 FEET; THENCE NORTH 00°08'00" EAST, A DISTANCE OF 232.00 FEET; THENCE NORTH 89°52'00" WEST, A DISTANCE OF 310.00 FEET; THENCE NORTH 00°08'00" EAST, A DISTANCE OF 484.49 FEET; THENCE NORTH 89°54'15" WEST, A DISTANCE OF 429.28 FEET TO THE POINT OF BEGINNING, CONTAINING 8.79 ACRES MORE OR LESS. (BEING THE SAME LANDS AS DESCRIBED IN O.R. VOL. 377, PG. 117.)

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EXHIBIT A



E COUNTY ROAD, (100' RW)

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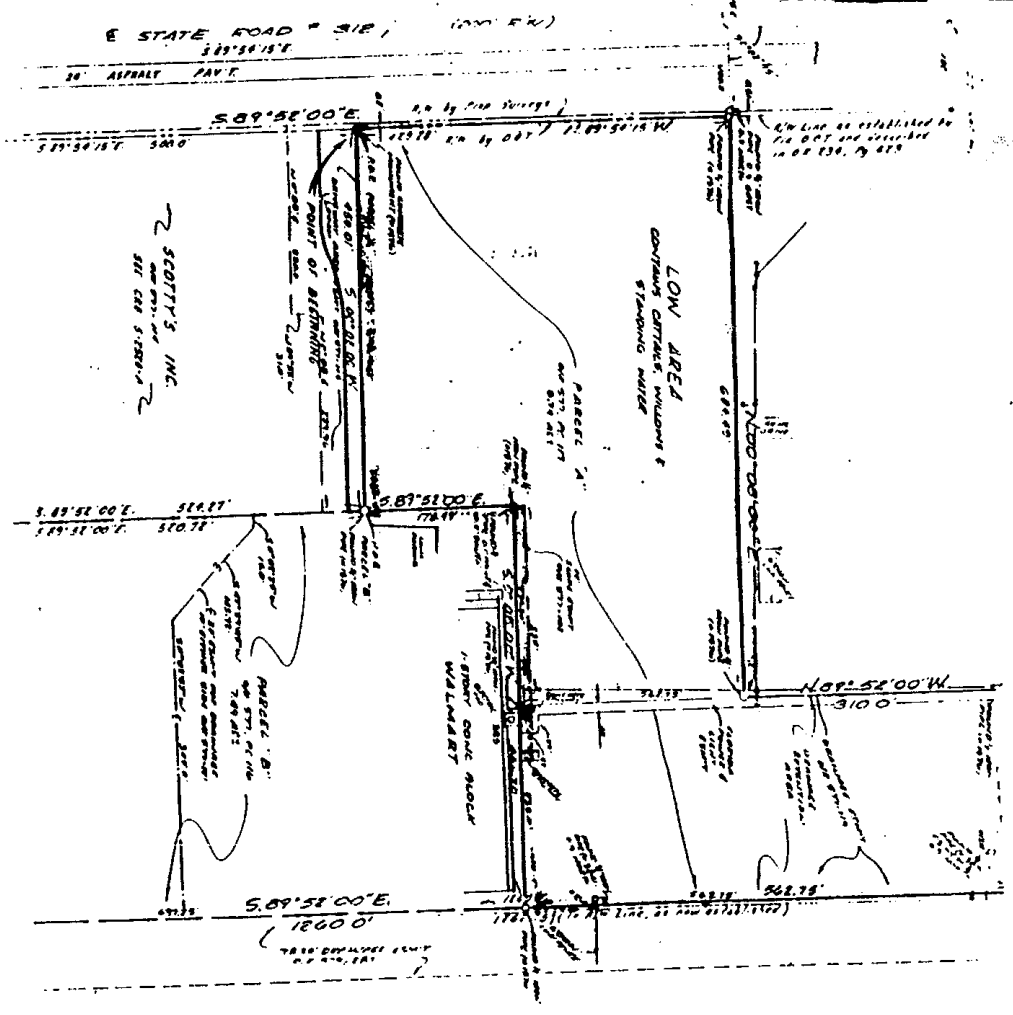


EXHIBIT B



# City of St. Augustine



St. Augustine, Florida

Public Works

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August 25, 1992

Mr. Timothy G. Martin  
Project Manager  
Apple South, Inc.  
Hancock at Washington  
Madison, GA 30650

**P.U.D. OFF. REC.**  
BOOK D PAGE 586

Re: City of St. Augustine  
Water and Sewer Service  
Project: Applebee's Grill and Bar  
Location: 255 S.R. 312  
Application No.: 92-0445

Dear Mr. Martin:

The Public Works Department of the City has reviewed your revised application of 8/21/92 for water and sewer service and hereby offers the following comments:

1. Water service is currently available.
2. Sewer service is currently available.
3. Fire system water is available.

A copy of your application is attached for your information and records.

It is specifically noted that our determination of availability of service at this time indicates only that the City's existing system is currently in proximity to your building/property and that treatment capacity currently exists; it is not to be construed as an offering of a commitment for service. A commitment will occur at the time that appropriate fees are determined and received by the City.

Furthermore, our above noted determination of availability relates only to this application; any change of application information or data will void this determination and will require a new application.

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In addition to the above determination, the following items are presented as supplemental information for your consideration:

COST ESTIMATES:

<u>Category</u>	<u>Water</u>	<u>Sewer</u>	<u>Fire System Water</u>
Inspection Fee	\$ 0	\$ 0	\$ 0
Tapping Fee	700	450	500
Line Extension	0	0	0
Construction Fee	10,540	7,483	0
Connection Fee	18,972	30,671	0
Backflow Preventer	200	0	1,000
Hydrant	0	0	0
Total	\$ 30,412	\$ 38,604	\$ 1,500

GENERAL INFORMATION

1. The City assumes all taps and services to be from the S.R. 312 right-of-way.
2. One 2-inch water meter is requested.
3. One fire hydrant is requested.
4. One 4-inch fire line is requested and a double detector check valve is required.
5. A double check valve backflow preventer is required on metered service.
6. The connection fees are based on one 200 seat restaurant and an 18 seat bar (10,540 gpd) at \$1.80/gallon and \$2.91/gallon for water and sewer respectively.
7. Construction fees are based on 10,540 gpd at \$1.00/gallon and \$0.71/gallon for water and sewer respectively.
8. The owner is responsible for all on-site utilities.
9. A grease trap is required for the restaurant as per St. Johns County specifications.

Mr. Timothy G. Martin  
August 25, 1992  
Page 3

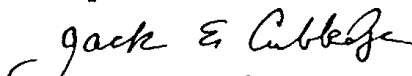
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10. The applicant will provide and maintain sufficient pump station and accessories to enter the City's force main.
11. The applicant is advised that future enhancements to said pump station may be required as down stream conditions change.
12. Shop drawings for said pump station shall be approved prior to construction.
13. The final site plan must be provided to the City prior to construction.

The above cost estimates are considered to be preliminary at this time and are subject to City rate ordinances and actual extension/installation costs. We have attempted to be as accurate as possible; however, until further information and details are available, these estimates cannot be guaranteed. No figures have been provided for deposits in the above estimates. This information will be provided by the City's Financial Services Department at the time of initiation of service, or upon the applicant's request.

If you wish to further discuss this application, please call our office at 825-1040. If you wish to proceed with these services, please call our office to schedule an appointment to pay the necessary fees outlined in this letter.

Very truly yours,

  
Jack E. Cubbedge  
Director, Public Works

JEC:ata

Attachment  
xc: Joseph Pomar, Jr., City Manager  
BDAC No. 92-0445

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