

Division of Corporations

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## Florida Department of State

Division of Corporations  
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA**COR AMND/RESTATE/CORRECT OR O/D RESIGN****NEWBERRY CORPORATE SL, INC.**

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**ARTICLES OF AMENDMENT  
OF  
NEWBERRY CORPORATE SL, INC.**

THIS AMENDMENT was adopted on January 23, 2006 by written unanimous consent of all the members of the board of directors, in accordance with Florida Statutes Section 607.0821.

**WITNESSETH:**

WHEREAS, Newberry Corporate SL, Inc., a Florida corporation (the "Corporation"), is the general partner of Newberry SC Company, Ltd., a Florida limited partnership (the "Partnership"); and

WHEREAS, the Partnership is the owner of certain real property located in Alachua County, Florida, known as Newberry Crossing Shopping Center (the "Property"); and

WHEREAS, the Partnership wishes to obtain mortgage financing from Lehman Brothers Bank, FSB, (hereinafter the "Mortgage"); and

WHEREAS, in connection with, and as a condition of, the Mortgage, the Lender is requiring that the Corporation's Articles of Incorporation (the "Articles") be modified to provide restrictions on the activities of the Corporation for so long as the Mortgage is in effect; and

WHEREAS, in connection with this Amendment, Article II shall be deleted in its entirety and replaced as amended herein.

NOW, THEREFORE, pursuant to the provisions of Section 607.1006, Florida Statutes, this Florida profit corporation adopts the following Articles of Amendment to its Articles of Incorporation:

1. Article II of the Articles is hereby deleted in its entirety.

2. Notwithstanding anything to the contrary in the Articles, and any provision of law that otherwise so empowers the Corporation as the general partner of Partnership, for so long as the Mortgage is outstanding, the Corporation shall not undertake any of the following actions or permit Partnership to undertake such actions without the prior consent of the Lender:

- (i) merge, convert or consolidate with or into any other business entity or permit an asset sale;
- (ii) dissolve, wind up or liquidate or take any action, or omit to take any action, as a result of which the Corporation or Partnership would be dissolved, wound up or liquidated in whole or in part;
- (iii) engage in any business activity not described in this Amendment;
- (iv) amend or modify its organizational documents or cause the Partnership to amend or modify its organizational documents as long as the Mortgage is outstanding;

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- (v) transfer the Corporation's ownership interest in the Partnership, or the Partnership's interest in the Property, except as permitted in the Loan Documents; or
- (vi) withdraw as the general partner of the Partnership.

3. Notwithstanding anything to the contrary in the Articles, and any provision of law that otherwise so empowers the Corporation, for so long as the Mortgage is outstanding, the Corporation shall:

- (i) not own any asset or property other than incidental personal property necessary for the Corporation's ownership interest in the Partnership or the Partnership's ownership or operation of the Property;
- (ii) not engage in any business other than the ownership, management and operation of the Property, and other than acting as the general partner of the Partnership;
- (iii) require each director to consider the interests of the creditors of the Corporation in connection with all corporate actions;
- (iv) obtain the unanimous consent of the directors to file, or consent to the filing of, a *bankruptcy or insolvency petition or otherwise, institute insolvency proceedings, or to cause the Partnership to do so;*
- (v) maintain all of its books, records, financial statements and bank accounts separate from those of any other entities and file its own tax returns, unless required otherwise by applicable law;
- (vi) not commingle its funds or other assets with those of any affiliated entity or any guarantor of the Mortgage debt, or any other person;
- (vii) be, and at all times hold itself out to the public as a legal entity separate and distinct from any other entity (including any affiliated entity and any guarantor of the Mortgage debt), correct any known misunderstandings regarding its status as a separate entity, conduct business in its own name, not identify itself or any of its affiliated entities as a division or part of the other, and maintain and utilize separate stationery, invoices and checks;
- (viii) pay its own liabilities out of its own funds;
- (ix) do and cause to be done all things necessary to observe organizational formalities and preserve its existence;
- (x) not enter into any contract or agreement with any affiliated entity, or any guarantor pursuant to the Mortgage debt, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with third parties other than such party;
- (xi) pay the salaries of its own employees and maintain a sufficient number of employees in light of its contemplated business operations;
- (xii) not guaranty, become obligated for, or hold itself out to be responsible for the debts or obligations of any other person or entity, or the decisions or actions respecting the daily business or affairs of any other person or entity, or pledge its assets for the benefit of any other person or entity;

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- (xiii) not incur any indebtedness other than in Corporation's capacity as general partner of the Partnership or cause Partnership to incur any indebtedness other than Mortgage, and liabilities in the ordinary course of business in the operation and maintenance of the Property;
- (xiv) not acquire obligations or securities of its affiliated entities or shareholders;
- (xv) maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;
- (xvi) maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliated entity or any guarantor of the Mortgage debt, or any other person; and
- (xvii) to the extent applicable, allocate fairly and reasonably any overhead for shared office space.

4. This amendment does not provide for an exchange, reclassification, or cancellation of stock; and, the Articles of Incorporation and Bylaws do not require shareholder consent. Therefore, the Secretary of State is hereby requested to approve and file these Articles of Amendment in accordance with Chapter 607, Florida Statutes.

IN WITNESS WHEREOF, the undersigned has executed these Articles of Amendment as of the 23<sup>rd</sup> day of January, 2006.

[SIGNATURE PAGE TO FOLLOW]

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SIGNATURE PAGE TO ARTICLES OF AMENDMENT OF NEWBERRY CORPORATE SL, INC.

NEWBERRY CORPORATE SL, INC.  
a Florida corporation

By   
Steven Levin  
Its: President