



CITY OF FORT PIERCE, FLORIDA

City Commission Meeting

Agenda Item # _____

Commission Meeting November 2, 2009

To: The Honorable Mayor and Members of the City Commission

Through: David L. Recor, City Manager

From: Matthew G. Margotta, Director of Community Development

Re: **Request for Site Plan Extension**
Newberry Fields
Southwest Corner of Okeechobee Road and Jenkins Road

Date: October 26, 2009

ISSUE(S): Approval of a 3-year site plan extension.

- SUMMARY:**
- On November 3, 2008, the City Commission approved the site plan to construct a 383,605 square foot development that will consist of 8 buildings.
 - The anchor tenant for the development will be a Target retail store.
 - Several off-site improvements will be constructed as part of the development and include:
 - 4-Laning Jenkins Road south of S.R. 70
 - Signalizing the north project entrance
 - Northbound turn lanes at Jenkins and S.R 70.
 - A fair share contribution totaling \$156,687 will be provided to the County for traffic impacts to Kings Highway and Orange Avenue prior to issuance of a building permit.
 - Fair Share Contributions for traffic impacts to U.S. Highway 1 and Crossroads Parkway will be provided to the City at the November 2, 2009 City Commission meeting.
 - Site work is expected to commence toward the end of 2011 with buildings completed by 2013.
 - The extension is requested due to the poor economic conditions.

FISCAL IMPACT: The improvements to the property would increase the assessed value and property tax revenue and provide sales tax revenue.

RECOMMENDATION: Approve a 3-year Site Plan extension

ALTERNATIVES: Deny the Site Plan extension, or, consider a different term.

RESPONSIBLE STAFF: David Carlin, Assistant Director of Planning

ATTACHMENTS: Request Letter, City Commission Minutes 9-3-08, Application, Location/Aerial Map, Zoning Map.

Paul D'Arelli
954.712.5131
pdarelli@bergersingerman.com

October 8, 2009



Mr. David Carlin
Assistant Director of Planning
City of Fort Pierce
P.O. Box 1480
Fort Pierce, FL 34954-1480

Re: Newberry Fields

Dear David,

This letter is to follow up on ongoing correspondence between the City and our client, ECHO Real Estate Services Company, regarding the concurrency and development agreement matters pertaining to the proposed Newberry Fields project. As you know, the Development Agreement for the project has been in limbo pending resolution of the offsite concurrency payment demanded by the County and we would like to bring it to closure. Also, given the passage of time since approval of the development order, we would like to request an extension of that approval at this time.

In terms of the payment required by the County to which our client previously objected, our client has since agreed to make the \$156,687 payment towards the construction of improvements to the intersection of Kings Highway and Orange Avenue. There was previous dialogue between Mr. Haney and the County about the desire to make that payment upon the issuance of a certificate of occupancy rather than building permit; however, Mr. Haney has since agreed instead to make the payment upon the issuance of building permit. We are hopeful that this should resolve any issues with the County such that the County will dismiss its lawsuit upon the City's approval and execution of the Development Agreement.

Regarding the Development Agreement, there has been some confusion regarding the term of the concurrency approval as it relates to the development order. It is my understanding that your last letter to Mr. Haney indicated that the concurrency approval could not extend beyond the date of the development order for the site plan, which is one year. However, we believe that the City Code contemplates that concurrency approvals can indeed vest concurrency for up to 5 years, with anything beyond 3 years subject to conditions in the Development Agreement for renewal as follows:

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Sec. 22-218. ... (d) *Development agreements.* Upon approval by the city commission an applicant may enter into a development agreement with the city pursuant to the provisions of F.S. § 163.3220-3242, in conjunction with the approval of a development order or a certificate of concurrency. The effect of the development agreement shall be to bind the parties pursuant to the terms and conditions of the development agreement and the certificate of concurrency in order to insure that adequate public facilities are available to serve the proposed development concurrent with the impact of the development on the public facilities. Development agreements may address conditional development order approvals and conditions for renewal of the certificate of concurrency beyond three (3) years; provided that the duration of any certificate of concurrency shall not exceed five (5) years.

It was always our understanding that concurrency would in fact be vested for the duration of the Development Agreement, which was previously proposed to be 10 years. However, in light of the code limitation above, we do now understand that the Development Agreement could not vest concurrency for more than 5 years. Our reading of Section 22-218 allows the City Commission to approve a concurrency certificate for a 3-year period in a Development Agreement. The Development Agreement can also specify renewals beyond the 3-year period, up to 5 years.

One of the reasons for a developer to enter into a Development Agreement in the first instance is to obtain some level of certainty that the commitments that are being made for funding improvements will provide some level of certainty into the future beyond the standard development approval expiration period. Providing that certainty is exactly why the Code provides for a Development Agreement to approve a concurrency certificate for up to a 5-year term.

At this time we are respectfully requesting that we be placed on the City Commission meeting agenda for consideration of the following:

1. Approval of the Development Agreement with the same terms as previously approved together with (a) the \$156,687 payment towards the construction of improvements to the intersection of Kings Highway and Orange Avenue upon the issuance of a building permit and (b) concurrency certificate approval for 3 years; and
2. Approval of a 3-year extension to the development order for the site plan consistent with the concurrency approval on account of poor general economic conditions.

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Thank you for your continuing assistance with this project David. Please call me at (954) 712-5131 to discuss.

Sincerely,

BERGER SINGERMANN



Paul D'Arelli

cc: Mr. Bruce Haney
Mr. Mark Freeman
Mr. Ken Metcalf

would not have been able to afford to buy houses. She is just so very proud to be a small part of the group who brought that to fruition. They found the financing for people, they helped them with the applications, they built the homes. She was out there the day they had the ribbon cuttings and people were just in tears, people who thought they would never be able to own homes. So she knows there are a lot of things that government does wrong, because she is the first one complaining. But they have made some fine efforts in that type of thing and she is very proud of the work that the FPRA has done and she is looking forward to being able to expand that work throughout the new FPRA area.

City Clerk Steele introduced the following resolution by title only:

RESOLUTION NO. 08-48

"A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, ADOPTED PURSUANT TO s.163.360(1), FLORIDA STATUTES (2007); MAKING FINDINGS; DETERMINING CERTAIN DEFINED AREAS TO BE SLUM AREAS, BLIGHTED AREAS, AND TO POSSESS SHORTAGE OF HOUSING AFFORDABLE TO RESIDENTS OF LOW OR MODERATE INCOME, INCLUDING THE ELDERLY OR A COMBINATION THEREOF; DESIGNATING SUCH DEFINED AREA AS APPROPRIATE FOR **COMMUNITY REDEVELOPMENT**; PROVIDING AN EFFECTIVE DATE."

Motion was made by Commissioner Coke, seconded by Commissioner Sessions, that Resolution No. 08-48 be adopted.

Those voting in favor of the adoption of Resolution No. 08-48 were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: None.

Mayor Benton said they will sit down and chat with the County before they progress further down the road on this.

The next item on the Agenda was Public Hearing on Application for Site Plan Review submitted by Cornerstone Fort Pierce Development LLC for construction of **Newberry Fields Shopping Center** at 2721-2785 South Jenkins Road; said property zoned C-3, General Commercial Zone.

Mr. David Carlin, Interim Assistant Director of Planning, said tonight they have before them probably one of the biggest retail developments to come into the City of Fort Pierce. Staff is certainly very excited to be a part of this process. Before he gets into the specifics of that, he would like to take time to personally thank both City and County staffs who reviewed this project and all the time and effort that went into it, including folks from Kimley-Horn, the applicant's representatives, Mr. Paul D'Arelli, Mr. Ken Metcalf, and Mr. Bruce Haney, the owner. It is a collaborative effort to go through the Development Review process. He will apologize in advance if his comments are a little longer than normal because this is a larger development that requires a little bit more review and analysis. The applicant is requesting Site Plan approval to construct a 383,605 square foot retail shopping center. It will be located at the southwest corner of Jenkins Road and Okeechobee Road. The anchor tenant for the development will be Target. It will also include prospective tenants such as Dick's Sporting Goods, Marshall's, Bed Bath & Beyond, and PetSmart. The vacant 51.18-acre parcel is zoned C-3, General Commercial Zone, with a Future Land Use of CG, Commercial General. The property to the north is also zoned C-3, General Commercial, and occupied by an existing commercial establishment. The properties to the east consist of unincorporated St. Lucie County R-4, E-2, and R-2. The property to the south is C-3, General Commercial. I-95 abuts the property to the west. The project will be developed in two phases. Phase 1 will consist of constructing eight buildings that will total 313,000 square feet and Phase 2 will consist of constructing two additional buildings that will total 70,000 square feet. Six out-parcels will also be created along the front of Jenkins Road. Since it is unknown when those out-

parcels will be developed, site plan review and concurrency determinations will be done independently at the time each respective parcel is developed. The architectural plans specify the buildings will range in height from 25 to 29 feet. Buildings will incorporate facade improvements, enhancements such as mock storefronts utilizing window treatments, color banding, scupper drains, and stucco grids to accentuate the walls. The subject development does comply with the Design Review Guidelines. In addition, this subject property will also incorporate sustainable environmentally friendly products such as low mercury light bulbs, recycled building materials, high efficiency plumbing fixtures, and white reflective roof membranes, to name a few. Signage for the proposed development for this retail center will include two main ground signs along Jenkins Road which will extend to a height of 20 feet. In addition, a high-visibility ground sign will extend to 80 feet tall and will be constructed along the western property boundary near Interstate 95. This height is allowed by the code under the special sign district requirements. Both signs comply with dimensions for the zoning district and the colors for the proposed sign are architecturally compatible with the subject development building. At this point Paul Williams will go over some of the landscaping improvements that will be done as part of this development.

Mr. Paul Williams, Urban Forester, said this aerial photograph shows the existing trees on the property. The entire property historically was an agricultural area to grow fruit crops and other vegetable types, so they can see that more than 90% of the property was in agricultural use prior to this development. The landscaping plan includes 818 new trees as required by code. These trees will include a variety of species that are of xeriscape nature that when they become established will need less irrigation. These include Green Buttonwood, Silver Buttonwood, East Palatka Holly, Dahoon Holly, Live Oak, Cabbage Palm, Magnolia, and Sweetgum. The 874 inches of trees that are to be removed were basically left over from the two homesteads that were on the site and were pretty much connected to that agricultural area. Under tree mitigation there are three options in their City Code. Option 1 is a recommendation to preserve as many trees as possible. There is credit for that mitigation when trees are preserved. If the trees cannot be preserved for whatever reason, Option 2 is to plant trees additionally to the ones required by City Code. A half credit is given for those trees to offset the mitigation. The final option, Option 3, is for those areas where additional trees cannot be planted; and it allows all property to be developed by paying into the tree fund to offset tree mitigation. Staff brings that to their attention because the applicant has offered \$25,000 to be paid into the City tree fund to offset the mitigation that the 874 inches would require. City Code shows that the number would be \$174,800 at this time.

Commissioner Alexander asked is he saying that is what he has in his budget already, \$174,000?

Mr. Williams said if they utilize the code that is in the books today, that is the amount that would be required for the mitigation for the 874 inches of trees.

Commissioner Alexander asked what do they do with the tree fund?

Mr. Williams said the tree fund is set up to enhance beautification projects throughout the City of Fort Pierce and to go toward the maintenance of existing beautification projects.

Commissioner Coke asked she sees there are going to be 874 inches of trees removed? Of the 818 new trees that are being planted, how many inches of trees that represents?

Mr. Williams said that represents approximately - and that is in the mitigation plan - 1,600 inches.

Commissioner Coke said now she is confused. They are taking out 874 inches and they are planting approximately 1,600 inches. Would that 1,600 inches not count toward that 874 inches?

Mr. Williams said the way the City Code is written is that the 818 trees are required by code to meet code if it was a vacant lot without any trees. The lot, the large size it is with those two separate areas, because of the size of the trees there is 874 inches of trees to be mitigated. So the 818 trees are required by Code regardless if they are trees or not.

Commissioner Coke asked what he is saying is the 818 trees, according to the way the Code is, they are not counting those towards the 874 inches being removed?

Mr. Williams said no.

Commissioner Coke asked have they ever contemplated a project of this magnitude before? Because it seems to her that they ought to be a lot happier, rather than having 874 inches worth of trees - and she loves the trees, don't get her wrong - but they are giving them twice as many inches of trees. So in her mind that should satisfy that requirement.

Mayor Benton asked are a lot of those trees, the 874 inches, Live Oaks versus Water Oaks or Laurel Oaks?

Mr. Williams said that is a very good observation. 75% of the trees are Laurel Oaks. Those are a one generational tree and has an approximate age of 100 years old. 25% of the trees are Live Oaks, which could live up to 1,000 years. So the majority of trees are the shorter-lived trees.

Mayor Benton said the Live Oaks are his concern. He knows the Water Oaks in 50 years are looking pretty bad and are on their way out usually. But the Live Oaks can live it seems forever.

Commissioner Coke asked is the Mayor saying if this developer wants to just wait 50 years, 75% of those trees would be dead and they wouldn't be asking for mitigation for them?

Mayor Benton said there would be a lot more little ones growing underneath them, but a lot of those trees would be on their way out versus the Live Oaks. That is why he wanted to ask, because the Live Oaks to him are very important, but the Water Oaks are a dime a dozen.

Mr. Carlin said one thing they can contemplate as they go forward with the LDR Rewrite, this may be a provision they may want to consider as part of amending or updating. That would be something they could certainly entertain if the Commission wants them to look at that issue, how to update the LDR's to maybe allow for planted trees to offset mitigation trees for these types of scenarios. He also would like to point out that the northern driveway access point, where Mr. Williams showed them the area where there are the trees, was required to be shifted further south as a result of the number of trips that were generated from this. That relocation of the driveway kind of made its way into this particular area of wooded trees. So on the original design the impact may not have been to the extent of what it is now as a result of the driveway changing.

Commissioner Coke said so they would have left the trees where they were theoretically or possibly left some of them, were it not for the fact that they were required by code to move the driveway access.

Mr. Carlin said the driveway access was the spacing from Jenkins Road and Okeechobee Road. Because of the number of trips coming out here, there is a stacking requirement. The County looks at all those variables. So the driveway entrance did shift to the degree and nature of what extent the number of trees impacted would have changed somewhat.

Commissioner Coke asked what is going to be the County's taxable value on this project when it is built and what will be the City's tax income from this? It has to be some place in this project. Does Mr. Anderson already know?

Mr. Doug Anderson, County Administrator, said that is up to the Property Appraiser.

Commissioner Alexander asked is there an existing driveway there now?

Mr. Carlin said if they take a look at the aerial photo, it shows what appears to be some type of single-family home or residence. That driveway is not to his knowledge the exact location where this connection point is. But certainly that driveway certainly is not going to be able to accommodate what is going to be happening there. So he doesn't want him to get confused.

Commissioner Alexander said he just doesn't want it to seem that they are against this project.

Mr. Carlin said absolutely not.

Commissioner Alexander asked last year they gave an okay on this same location, did they not?

Mr. Carlin said no. They were considering a property to the south. To the south of the property line is another development called Jenkins Field, it was a rezoning.

Commissioner Alexander asked last year, didn't they have a proposal for a Target to come in?

Mr. Carlin said a conceptual plan had been submitted to the City. He doesn't know if it had made it through the entire process. But it has been under review for well over a year.

Commissioner Alexander said it was a presentation. It has taken the developer over a year to bring in a project that is much needed for the City of Fort Pierce? He told his wife there was a Target coming to Fort Pierce and she was so elated. Now they are talking about two or three years later?

Mr. Carlin said the development review process is certainly one that is complex when there are issues that are substantial in nature.

Commissioner Alexander said he doesn't want to continue to be anti-business in the City of Fort Pierce. A beautiful project like this, they are trying not to cut corners, but he needs to know. He is looking at this Staff recommendation. So continue with his presentation.

Mr. Carlin said next he is going to talk about site access and this might help them better understand the different configurations involved. Based on this layout, three access points will serve the development. The primary access point will be on the north, the middle entrance, and the last entrance to the south. The northern entrance will be the primary access point which will allow unrestricted movements and has signalization. The middle entrance will also allow unrestricted movements, but it won't have signalization. The south entrance will be primarily used for truck access and deliveries, and it will be primarily right-in and right-out movements. There will be three entrances in this development.

Commissioner Alexander said he heard him say signalization. Who is that? That is on behalf of the developer?

Mr. Carlin said the signalization will be installed prior to the issuance of any Certificate of Occupancy for this development. The Developers Agreement that they will also consider tonight identifies all of those improvements required of this developer. So there will be full signalization installed at the primary entrance. Several modifications will be made to the lane configurations. The north entrance is where the signalization will be occurring. This

entrance will provide several different turning movements - a northbound left-turn lane into the development, a southbound right-turn lane into the development, a southbound through-lane, an eastbound left-hand turn movement, and an eastbound right-hand turn lane. That is just the north project entrance. The middle entrance will consist of a northbound left-hand turn movement into the development, a southbound right-hand turn, an eastbound left-hand turn, and a right-hand turn eastbound combination lane. The last entrance to the project, located at the south, is to be used primarily for truck deliveries and access deliveries to the different stores within the project. It will consist primarily of right-in and right-out turn movements or an eastbound right-turn lane. Based on these improvements and those lane configurations, the north entrance will operate at a Level of Service B, the middle entrance will operate at a Level of Service D, and the south entrance will operate at a Level of Service B. Additional road improvements will also consist of modifying the intersection of Okeechobee Road and Jenkins Road. Basically they will have a four-lane configuration from Jenkins Road down to the south project boundary. That configuration will consist of various left-hand and right-hand turning movements. The FDOT is also completing improvements to Okeechobee Road from other developments. They will be widening Okeechobee Road to six lanes from Kings Highway to Jenkins Road in order to improve the level of service. FDOT will also be making improvements to the intersection on the north side in addition to another development that will be constructing a southbound right-hand turn lane. All of these improvements that have been identified will be completed at the time a Certificate of Occupancy is granted. The Development Agreement outlines those different variables. This slide shows what the lane configuration will look like at the intersection of Okeechobee Road and Jenkins Road, the four-laning of that intersection. It lists the dual left-hand turn lanes for northbound, a right-hand turn lane, and a center through lane for traveling north. So the improvements are quite extensive to handle the amount of traffic that will be generated by this development. A traffic impact study conducted by the applicant's representative did indicate that 12,307 net new daily trips would be generated by the proposed development. Of those, 265 AM net new peak trips and 1,150 net new PM peak trips would be generated. Based on the number of trips that were generated by this development, the traffic analysis was required to encompass an area of five miles within to study the roadways in that area. Since the development will generate impacts based on that radius study, there will be a fair-share requirement for the traffic impacts onto U.S. Highway #1. The applicant has provided a proportionate fair share number for those impacts and it is identified in the Development Agreement that that fair share contribution will be provided. Additionally the applicant will also be providing a contribution for the unimproved section of Crossroads Parkway due to traffic generated by the development that will utilize from Kings Highway to approximately the La Quinta Hotel. That road is unimproved and the applicant will be providing a contribution in the effort to improve that road to bring it up to City standards. Additionally, they have impacts that occur at Kings Highway and Orange Avenue. The County indicated that traffic generated by this development will impact this intersection, which operates at a deficient level of service. Approximately 92 trips will impact this intersection. There is intersection improvements currently under consideration that total a substantial number, which is roughly \$8.7 million. That improvement to the intersection includes dual left-hand turn lanes, center through-lanes, and dedicated right-hand turn lanes. Based on the information from the applicant's traffic consultant, if they are required to pay a fair share contribution, it is going to be in the ballpark of \$156,000. The applicant has indicated that the fair share requirement is not applicable to this particular intersection of Kings Highway and Orange Avenue because it is outside of City limits. The applicant has asserted that the City and County do not have the authority to subject a development application within unincorporated areas with either the City or County level of service standards for the roadway links. But it should be noted that in their Concurrency Management ordinance, Section 22-219 of the City Code, it does require coordination with FDOT and County when it references mitigation including the transportation facilities maintained by FDOT and the County or another jurisdiction that it relied on for concurrency determinations. Additionally, they have sections within the Comprehensive Plan that also specify coordination with the County and FDOT as it governs proportionate fair share contributions and mitigation. They do have those provisions in the Concurrency Management Element and the Capital

Improvements Element of the Comprehensive Plan. It should be noted that the Concurrency Management system is really designed to insure that public facilities are available to serve the development at the time of the impacts of the development. Furthermore, Section 22-218 of the City Code specifies that no development order can be issued unless adequate public facilities are available to serve the development concurrent with the impacts of the development on such public facilities. Based on the City Code requirements and the Comprehensive Plan policies, the development is obligated to mitigate the impacts to Kings Highway and Orange Avenue by paying a proportionate fair share contribution.

Commissioner Alexander said again, this development seems like he has done a two-step to try to come here to Fort Pierce and they are asking him to do a fair share to Orange Avenue and Kings Highway. He can understand if he was speaking of Jenkins Road and Edwards Road, because that is going to become a future headache for them. And they can ask him to go all the way to Orange Avenue? He says it is in the mitigation, right?

Mr. Carlin said yes. Just to follow up on that, this was a comment generated by the County that said the traffic generated by this development will impact this intersection, it will occur. Their ordinances is crafted such that they require coordination with FDOT and the County to mitigate on transportation facilities.

Commissioner Alexander asked does he have knowledge of whether the Bent Creek or the other buildings with residents coming out there, are they doing a fair share?

Mr. Carlin said Bent Creek was originally approved in the County. The City annexed that. So he is not sure what...

Commissioner Alexander asked did they do a fair share?

Mr. Carlin said he is not aware of whether or not the County requested a fair share on that project.

Commissioner Alexander asked all the new complexes they are building out there next to Sammy Gaines and all, they did a fair share?

Mr. Carlin said any new development that has come in under the proportionate... It all depends on where their traffic goes and the radius. If they only have a radius of impact of one mile, then they are required to study the links within that intersection. Other developments have been before this Commission where the fair share requirement or the concurrency was applicable, then there would be a fair share requirement.

Commissioner Sessions asked are they talking about the contribution toward a fair share with regards to that intersection? What does that mean? Maybe he can understand where the developer is coming from in terms of dollars and cents.

Mr. Carlin said what a fair share requirement means is that if there is an improvement that is on the books to improve an intersection, whatever the cost may be, and that intersection is not functioning at an acceptable level of service, then the applicant is required to mitigate impacts to that intersection vis-a-vis constructing an improvement. Or if there is an improvement already contemplated, they can pay into the pot to help facilitate and make that improvement possible.

Commissioner Sessions asked does he have an anticipated dollar amount, a cost?

Mr. Carlin said the anticipated dollar amount that was provided by the applicant's traffic consultant was approximately \$156,000. That number was provided by the applicant and he believes the County has also concurred as a representative figure on that.

City Manager Recor said so the proportionate fair share was \$156,000 of a total cost of \$8.7 million based on the number of trips that would be effected in that intersection.

Commissioner Alexander said he can understand that. What his confusion is, why is it that they can't have this applicant be concerned about Jenkins Road and Edwards Road, than he is sending him off to Orange Avenue and Kings Highway? He doesn't see that.

City Manager Recor said it is based on the traffic study and where the traffic is anticipated to come from.

Commissioner Alexander asked does he not think the traffic is going to Jenkins Road?

City Manager Recor said it doesn't matter what Mr. Recor thinks. They had a traffic study a couple of weeks ago that told them that 30% was going to go east into the ocean on A1A. He thinks Staff does review these traffic impact studies with a good fine tooth comb and questions the judgments...

Commissioner Alexander said that is the only reason he is bringing it up is because he knows Jenkins Road, everybody uses that, and Edwards Road now.

City Manager Recor said but the traffic study identifies where the traffic is going to come from.

Mayor Benton said he had the discussion with County Commissioner Craft. Folks from Lakewood Park are going to come down Kings Highway. At first he was told they were looking at Okeechobee Road and Kings Highway. But in his opinion, they will probably get off I-95 at Orange Avenue to go to the shopping center when it is finished. But there will be people from Vero Beach, there will be people from Lakewood Park, from the north County. That is what the experts are saying.

Commissioner Alexander said that doesn't make sense.

Mayor Benton said to avoid Okeechobee Road. He thinks most people would because of the congestion already. It is the easy route.

Commissioner Alexander said he has to divulge he has met with these individuals. And he thinks they are bending over backwards. He surely doesn't hope they make them bend over forward to bring in a project here.

Commissioner Coke asked there is going to be signalization put on this road, who is paying for that?

Mr. Carlin said the applicant will be installing signalization.

Commissioner Coke asked what is his fair share of that? And did Mr. Carlin not say a couple of slides back here that they were going to four-lane a road with turns?

Mr. Carlin said yes.

Commissioner Coke asked how much is that going to cost?

Mr. Carlin said he doesn't have the exact dollar figures on what that costs. The applicant can certainly give that to them.

Commissioner Coke said \$2.65 million or something along those lines. She is remembering from back two weeks ago when she spoke to them.

Mr. Carlin said because Jenkins Road is not functioning at an acceptable level of service, those improvements are required. The County has been intimately involved from day one

on what those improvements should be. And part of it was to have the lane configuration as they see tonight including the signalization. If that signalization wasn't there...

Commissioner Coke asked the applicant is paying, what is their fair share of that, 100%?

Mr. Carlin said percentage-wise, yes. That is his understanding.

Commissioner Coke asked are they going to put up a sign that nobody, unless they are going to Newberry Fields, is allowed to drive on that road? Because if not, then it can't be 100%. She understands road improvements are necessary. She understands signalization is necessary. That is the \$2.65 million.

City Manager Recor said in all fairness, the difference between projects that are eligible for fair share contributions are those projects that are identified in their Capital Improvements Element where they have, based on the Level of Service Standard that is specified in the Comprehensive Plan, that it would have an impact on. That is the difference. Only projects that are identified in the City's CIE are eligible for fair share contributions. The traffic improvements that were required as part of the development to Jenkins Road and Okeechobee Road are impacts related to this development.

Commissioner Coke said she guesses the reason she is having a problem with this is because her credit cards are in her purse waiting to go shopping. And it seems to her for \$156,000 and \$123,000 more for trees, they are nickeling and diming the development.

City Manager Recor said that is precisely why it is here. Staff has worked with the applicant. Staff has worked very closely with Mr. Haney and his development team. That is why this project is here. They did not draw a line in the sand and say they are not going to bring this to the Planning Board or to the City Commission until these issues are resolved. There are some questions. The Commission has some discretion. So that is why it is here. These are the two remaining issues.

Commissioner Coke said that is wonderful. Because she wants to be sure that everybody knows that she would much prefer to do her Christmas shopping in St. Lucie County and spend her tax dollars right here and pay sales tax here, than Martin or Indian River Counties.

Mr. Carlin said Staff is recommending approval, with the condition that those two issues are contemplated by the Commission - the landscaping and the traffic. The Commissioners can contemplate whether or not certain provisions are applicable and which ones aren't. But Staff is recommending approval of this and those are the two issues that they have before them to consider tonight.

Mayor Benton said in the County, they will offer up incentives for jobs. He sees over 200-plus jobs here and they have a State College just a mile down the road. A lot of students will be looking for a job in a place like this. Couldn't they say that the inches for trees could be alleviated for jobs. At a time when the economy is the way it is, this is an incentive. They have to get creative here. Instead of cash...

City Attorney Schwerer said unfortunately, the answer to that is no. But what they can do is look to their Code provisions if they are speaking strictly of trees and they can make their own determination on whether or not the applicant has presented to them a valid argument the way the Code should be interpreted is that the mitigation requirements are met by the number of trees that they are going to be putting on to this site as new trees. That is certainly within their discretion to look at it in that light. But it would not be proper for them to make arbitrary substitutions for jobs because there is no evidence before them, there is no facts on which that could be supported. Looking strictly at the Code, they have some discretion there. Mr. Williams and Mr. Carlin would tell them that. He thinks they are both nodding their heads yes.

Mayor Benton asked when it comes to the numbers at Kings Highway and Orange Avenue, do they have any discretion there?

City Attorney Schwerer said that is a little more difficult question. The applicant has indicated that they do not believe the City has jurisdiction to impose County requirements. That is a debatable point. His staff have looked at the Code. He doesn't want to go through a dissertation. They have met with Mr. Carlin and Mr. Recor. His staff researched this. The spirit and intent of the code and the concurrency requirements and the development review process would make it reasonable to construe that they certainly could, if this Commission wants to, impose the County's concurrency requirements there for that intersection. That is an intersection that he might point out will most likely be in the City limits within the next couple of years based on what they have seen. There are a number of annexations that are going to be occurring in that corridor that City Staff is currently working on. That will be a City intersection and it is within their retail service area. So if they do not require a fair share contribution now, what will happen is... That project is in the CIE. It will cause additional projects that are permitted to pay perhaps a disproportionate share of the intersection improvements, because that is something that the County will need to build.

Mayor Benton asked because the intersection of Kings Highway and Orange Avenue is 25% developed, the other 75% undeveloped, wouldn't it be appropriate, as they are doing here on Jenkins Road, require as development occurs there to have them pay for the majority of the changes there in improvements?

Mr. Carlin said that is certainly something to take into consideration. The development climate has changed. The project that was originally contemplated for the \$8.7 million or whatever it is, those figures might be somewhat outdated with the construction costs changing with the way the economy is. So there are some variables in here that they may need to contemplate as it pertains to that particular intersection improvement.

Mayor Benton said he is just trying to use common sense. He just wants to let everyone know they are doing everything they can do to bring people here to shop. He thinks if they can make some changes to some areas that are further away that are somewhat developed, like that corner.

Commissioner Coke said it seems to her probably five or six years ago the Economic Development Council via Don Root brought a proposed project to them on South U.S. #1 that never came to fruition and asked the Commission to give a tax abatement for a certain number of dollars per year based on the number of jobs generated. She is personally looking to move forward with this. She doesn't want the County to be out their \$156,000 and she doesn't want to see Mr. Williams cry about his trees. So if they are going to be creative and think outside the box, if six years ago they were going to give a tax break based on the call center, the number of jobs they were bringing, etc. after it was built, why they can't work a similar deal here. If they are supposed to bring 200 jobs, they give x-number of dollars of tax credit that would be equal to the trees and the fair share. So that way the County is happy, Mr. Williams is happy, and the developer is not out the money.

Mayor Benton said he would agree.

Commissioner Alexander said he would agree.

Mayor Benton declared a Public Hearing in session and asked if anyone in the audience wished to be heard.

Mr. Paul D'Arelli said he is an attorney with the law firm of Greenberg Traurig, their office is at 401 East Las Olas Boulevard in Fort Lauderdale. He was here over a year ago when they presented the Conceptual Plan for the Target. They did appreciate the strong voice of

support by this Commission for bringing that tax base and shopping opportunity to the City of Fort Pierce. He is joined here tonight by Mr. Bruce Haney, who is principal owner of the property, and also Ken Metcalf, who is Director of Planning from their Tallahassee office and who has been working very closely on this project. He thought it important for Mr. Metcalf to be here for some of this discussion on this concurrency issue because he spent 15 years at the Department of Community Affairs where he was in charge of comprehensive planning for the region that ran from Indian River County south, so he is very knowledgeable in how concurrency interpretations are to be read. This is going to be a substantial benefit for the City of Fort Pierce in terms of the tax dollars that are going to be generated. The value that Mr. Haney whispered in his ear as Commissioner Coke was asking what the taxable value would be, they expect the value of the property to be approximately \$70 million. The know full assessment usually doesn't happen at full value and he is not sure what their millage rate is. But at least somewhere north of \$1 million of ad valorem will be generated by the project, shared by the various taxing entities. In addition, there will be approximately \$5 million of sales tax that will be generated annually from this project; and between 500 and 1,200 jobs, depending on how many are full time and how many are part time. So it is going to be a substantial benefit for the City. They do very much want to thank City Staff for all the diligent work they have been giving to this project. It has not been easy.

Commissioner Sessions said as he can see, the consensus of this Commission is to bring him into the City of Fort Pierce. To expedite things, to make this a reality, could he tell them what it would take in order to make him happy so they can make this a reality?

Mr. D'Arelli said he will get right to the two points. One is to approve the reduction in the tree mitigation to a \$25,000 contribution, which they think is very reasonable. When they talk about the trees, there is a lot of discussion about the inches of the trees. What it doesn't really focus on is they are taking out 43 trees and they are putting in over 800 trees. So the focus on inches is a little misleading. They think they are meeting the intent of the Code with their mitigation. The second is they object to the roadway contribution requirement that the County is asking for at Kings Highway and Orange Avenue. This really, in their opinion, isn't a matter of discretion. They are doing \$2.6 million of improvements at Jenkins Road, well beyond their fair share in developing more capacity than their project will ever need, but they are building that out. They have no issue with that. But the contribution the County is requesting is not within the jurisdiction of the City to require or the County to require. They have provided a legal memorandum to the City Attorney on October 3rd. Although there are policies within the City Code and the City Comp Plan that talk about intergovernmental coordination with FDOT and County roads, those have to be read under a concept called *pari materia*, which basically means they have to read provisions harmoniously. State law under Chapter 163, which is the enabling legislation, says that a municipality shall exercise authority under this act for the total area under its jurisdiction. That is where the concurrency regulations flow from, it is the area under their jurisdiction. They then have to read those other code provisions about intergovernmental coordination to say yes, they will coordinate with the County and with FDOT, but only for those roadway segments within the City jurisdiction. So if there is a County road or the FDOT road like U.S. #1 where they are making a fair share, that is proper, it is within their jurisdiction. They can't go beyond that. They can look beyond that limit only for their traffic analysis when they take the five-mile loop, but they can't require mitigation. They are very comfortable in that legal position.

Commissioner Coke said let's back up and they won't even go into how well she likes attorneys. She really doesn't see that it is to the Developer's best interest or the City's best interest to try to get bogged down on what Mr. D'Arelli thinks is legal or what the County thinks is legal or what the City thinks is legal. Because she is telling them, she has that credit card in her purse and she is ready to shop.

Mr. D'Arelli said to cut to the chase, the reduction in the landscape fund and the elimination of the contribution to Kings Highway and Orange Avenue.

Commissioner Coke asked can they look at it in a different way? Because if they say reduction of the landscape thing, that man sitting next to him is going to cry. If they say no fair share mitigation, the man back there with the yellow tie on is going to cry. But if they say they will give them a tax break of \$306,000, which is the equivalent of what those two figures are, does that not serve the same purpose and it gets them where they can move forward tonight? Instead of this attorney talking to the City Attorney and talking to the County's Attorney, and it will be next year she will still be waiting for the same thing.

Mr. D'Arelli said he would have to defer to the client. He would imagine there is some difference in terms of having to front end the payment to the County and the payment to the tree fund as opposed to a credit in the future.

Mr. Bruce Haney, Managing partner of ECHO Real Estate Services, Pittsburgh, Pennsylvania, said in answer to the question, this is a strange way in which real estate deals are done. All their leases are done on what are called triple nets. So if the abatement of taxes is a real estate tax they are abating or a payroll tax, that benefit will go directly to his tenants and not to him.

Commissioner Coke asked didn't they set up an economic development thing with Mr. Beach?

Mayor Benton said they don't have any incentives similar to St. Lucie County. What the County does, the jobs have to be a certain amount; and these jobs probably wouldn't fit in those guidelines. That is why he said this would put a lot of students to work that are right down the road, they have a State College now. To him, it just makes a lot of sense in this economy.

Commissioner Coke asked what about a job creation tax?

Mr. Haney said the question is, who does that credit go to? Because he is not employing anybody. It is Target and Marshall's and Ross and PetSmart.

Commissioner Coke said but if he hadn't built the building, they couldn't employ anyone.

Mr. Haney said that is correct. But again, it is more semantics and how they structure it. Obviously they will take the credits if they can get them.

Commissioner Coke asked can they leave that to the attorneys?

City Attorney Schwerer said it is not going to work because the ad valorem real estate taxes are built into his leases, his tenants pay that, he doesn't get the credit. He is going to feel a lot more comfortable from a legal standpoint, and he thinks the attorney standing next to the developer would too, if the Commission simply exercises its jurisdiction. If they feel that the tree mitigation is met, if they feel that the road impacts do not need to be paid, simply just rule that way. He is a little more comfortable with that. They have no information before them and there is no substantial competent evidence in front of them, whether testimony from the developer or the staff, to even go into tax credits. They don't have that analysis, they don't have the ability to do that. So he is comfortable, if they want to waiver the tree mitigation funds and the waiver of the road impact... He is more comfortable with that legal position than the tax mitigation.

Mr. Haney said perhaps another way to think about it is if the City was willing to give some type of refund, that always could be given at some point later to the County to assist that share out of the ad valorem.

City Attorney Schwerer said that would be complicated to draw that up in a Development Agreement.

Commissioner Coke said Mr. Anderson will put it on his list for them to discuss at the January meeting.

Mr. Haney said his final point is another item that is not on the Agenda and it is not an item for approval tonight, but just for information. There is a desire to expand the shopping center in the future by 20,000 to 30,000 square feet, provided they are able to get a binding letter from the State Department of Community Affairs that they are not a DRI (Development of Regional Impact). In order to secure that binding letter, the State Department of Community Affairs has asked them to have the City just acknowledge in the CIE that the developer is paying for Jenkins Road. If they will put that in the CIE, then the State Department can acknowledge that.

Commissioner Alexander said give the City Manager a call on that.

Mr. Haney said that will be in the future. He just wanted to give them information as to why they will be back in the future.

Mr. Mike Simone, North 6th Street, said regarding trees he doesn't believe they can do an inch by inch analysis. Because a large 100 year old oak tree will probably have a 100,000 times effect as far as photosynthesis goes to 800 or 1,600 small oak trees. These small trees will not be a factor until about 10 or 15 years. So to reduce the amount of trees required would be all right. But maybe the diameter of the trees, the ones they do plant, would be a better move in his opinion. Secondly, is there any way a requirement can be made to put on this development that a greater percentage of the products being sold are American made? They could put themselves on the map as a little city trying to get the trend that they make more of the products in this country than they are buying from China and India. Just something to think about down the road.

Mayor Benton said he guesses they will know tomorrow if things work out or not. A lot of things will be opening up in the future. Some things are out of their hands.

Ms. Arden Peck said she has a question on the parking area. To her it looks like the same old stuff they see at K-Mart. Is it going to be cut up nice and winding and trees, or is it going to be like K-Mart?

Mayor Benton said K-Mart came along long before they had their current code.

Mr. Carlin said this is not going to be the parking lot they see like the K-Mart they see down at the intersection of U.S. #1 and Virginia Avenue. There are landscaping islands here that meet the minimum requirements and probably exceeds the requirements in terms of internal landscaping requirements. Paul Williams has worked extensively with the applicant's representatives on this. So the answer to that question is, it will look very nice. And when the out-parcels are developed, they won't even really see the parking lot.

Mayor Benton said there is a nice landscape buffer on the south where they have Briargate Lane.

Mr. Haney said one other thing, just because he thinks it is an important thing to note as it relates to their landscaping. Their budget, actually they have had bids from several contractors, but their landscaping and irrigation cost for this project would be over \$700,000. So there is a large amount of landscaping and planting well over 800 trees is a large number.

Commissioner Coke said she would assume that whenever possible they will use local St. Lucie County/Fort Pierce people to do the work?

Mr. Haney said that is correct.

Commissioner Coke said they have wonderful landscape people, asphalt people, and construction people. And they really want to keep them employed.

Mr. Haney said he understands.

Mayor Benton said for the record, he has met with the applicant many times over the last year and a half. That has always been an emphasis they have put on things, to try to use local help when they can.

Seeing no one further and hearing no one wishing to be heard, Mayor Benton declared the Public Hearing closed.

Commissioner Coke asked when are they breaking ground if they get approval tonight? She wants it on the record loud and clear.

Mr. Haney said his understanding is their Development Agreement gets read tonight and at the next meeting, so it is the intention they will be under construction in the beginning of December.

Commissioner Coke asked can she bring her shovel out?

Mr. Haney said yes, they will have a groundbreaking.

Commissioner Alexander asked December 2008?

Mr. Haney said December of 2008. The shopping center would open March of 2010, that is the intention. Obviously with the state of the economy, there is always the risk that something could come up that could cause issues. But as of today they are anticipating, as long as they get the approvals and permits they need from the County and from the FPUA, that in the beginning of December. They have their financing in place. The equity is already there because they own the property.

Commissioner Sessions said he will make a motion to approve the Development Agreement to include the \$25,000 contribution toward the tree mitigation and to exclude the contribution for the intersection at Kings Highway and Orange Avenue.

Mr. Carlin said he just wanted to make sure Commissioner Sessions understands this is the Site Plan. The Development Agreement will be the next item. So tonight they are approving the Site Plan. They can still have that condition in there, but it is not for the Development Agreement, this particular hearing.

Motion was made by Commissioner Sessions, seconded by Commissioner Coke, to approve the Site Plan submitted by Cornerstone Fort Pierce Development LLC for construction of Newberry Fields Shopping Center at 2721-2785 South Jenkins Road.

Those voting in favor of the motion were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: None.

The next item on the Agenda was Public Hearing on the Development Agreement with Cornerstone Fort Pierce Development LLC for Newberry Fields Shopping Center at 2721-2785 South Jenkins Road. (A second Public Hearing will be held on November 17, 2008.)

Mr. David Carlin, Interim Assistant Director of Planning, said this is part of the application and consideration this evening (Site Plan for Newberry Fields). In accordance with Section 22-218(d) of the City Code, the applicant is proposing to enter into a Development Agreement that identifies the necessary improvements needed to satisfy concurrency requirements. Florida Statute 163.3220 requires two public hearings for a Development

Agreement. Tonight is the first one. The second one will come back for final approval on November 17th, which has already been scheduled for the next Commission meeting. Basically the Development Agreement has outlined the road improvements that will be completed by this particular developer. And what the Development Agreement does is it ties in when those improvements will be done. Specifically in this particular development, prior to the issuance of the first Certificate of Occupancy, they will see the road improvements. They will also see the signalization requirement included in there, as well as the fair share contributions. The Code requires all fair share contributions to be provided prior to the final issuance of the Development Order. Additionally, the Development Agreement outlines the square footage requirements for this particular development. Lastly, the Florida Statute specifies that any Development Agreement that is considered by the Commission must be consistent with the LDR in the Comprehensive Plan. Based on the consideration of this application tonight, the only change that will be made in Staff's position on this particular Development Agreement is that, as the Commission has just ruled, the fair share requirement will not be applicable for Kings Highway and Orange Avenue. So the Development Agreement as they have it tonight will be the final agreement in its final form. Staff is recommending approval.

Mayor Benton declared a Public Hearing in session and asked if anyone in the audience wished to be heard.

Seeing no one and hearing no one wishing to be heard, Mayor Benton declared the Public Hearing closed.

Motion was made by Commissioner Coke, seconded by Commissioner Alexander, to approve the Development Agreement with Cornerstone Fort Pierce Development LLC for Newberry Fields at 2721-2785 South Jenkins Road, with the condition to include a \$25,000 contribution toward the tree mitigation and to exclude a fair share contribution for the intersection of Kings Highway and Orange Avenue.

Those voting in favor of the motion were: Commissioners Alexander, Coke, Sessions, and Benton. Those opposed: None.

Ordinance No. L-53 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **8400 PICOS ROAD, PARCEL LOCATED ON THE SOUTHEAST CORNER OF PICOS ROAD AND FLORIDA TURNPIKE, PARCEL LOCATED ON THE NORTHEAST CORNER OF PICOS ROAD AND FLORIDA TURNPIKE, AND 10000 PICOS ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF." was placed on first reading and read by title only. (Owned by: State of Florida Board of Trustees of the Internal Improvement Trust Fund)

Ordinance No. L-54 entitled, "AN ORDINANCE EXTENDING THE TERRITORIAL LIMITS OF THE CITY OF FORT PIERCE, FLORIDA, TO INCLUDE PROPERTY LOCATED AT **933 SOUTH ROCK ROAD**; DIRECTING THE ST. LUCIE COUNTY PROPERTY APPRAISER TO ASSESS SAID PROPERTY AND PLACE IT ON THE CITY TAX ROLLS AS OF JANUARY 1, 2009; DIRECTING THE ST. LUCIE COUNTY TAX COLLECTOR TO COLLECT TAXES ON THE HEREIN DESCRIBED PROPERTY; CERTIFYING PUBLICATION OF THIS ORDINANCE; ZONING SAID LAND; ESTABLISHING THE FUTURE LAND USE DESIGNATION; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE



CITY OF FORT PIERCE COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

COMPREHENSIVE PLANNING ◊ DEVELOPMENT REVIEW
HISTORIC PRESERVATION ◊ URBAN DESIGN ◊ URBAN FORESTRY ◊ ZONING

APPLICATION FOR:

Complete Pages 1-3 and check all appropriate boxes

Non-Residential Site Plans

- Conceptual Site Plan
- 4,001 – 10,000 s.f. Site Plan
- 10,000 – 30,000 s.f. Site Plan
- > 30,000 s.f. Site Plan
- Resubmittal # _____

Residential Site Plans

- Conceptual Site Plan
- 21 to 50 Units
- 51 to 300 Units
- > 301 Units
- Development of Regional Impact (DRI)

Planned Development

- Prelim. Planned Unit Develop. (PUD)
- Final Planned Unit Develop. (PUD)
- Prelim Planned Unit Redevelop. (PUR)
- Final Planned Unit Redevelop. (PUR)
- Conceptual Plan

Subdivision

- Prelim 3-5 lots
- Prelim 5-50 lots
- Prelim >50 lots
- Final Plat
- Minor Replat >3 lots

Amendments

- Zoning Map Amendment
- Zoning Text Amendment
- Comprehensive Plan Map Amendment
- Comprehensive Plan Text Amendment
- Minor Amendment
- Major Amendment

Landscaping

- Landscape Permit
- Land Clearing Permit <2 acres
- Land Clearing Permit >2 acres
- Tree Removal Permit

- Tree Mitigation per inch DBH

Historic Preservation

- Certificate of Appropriateness
- Variance
- Appeal
- Designation/De-designation

Conditional Use

- New Construction
- No Construction

Annexation

- Voluntary
- Agreement

Abandonment

- Easement
- Right of Way

Variance

- Variance

Special Exception

- Special Exception

Alcohol Beverage Waiver of Distance

- Off-premises Consumption (2APS/3APS)
- On-premises Consumption (2COP)
- On-premises Consumption (4COP)

Other

- Appeal of administrative officer
- Concurrent Review
- Extension (Site Plan/PUD/R)
- Temporary Use
- Sidewalk Cafe
- Newsracks
- Telecommunications Tower
- Design Review
- Concurrency

Refer to <http://www.cityoffortpierce.com/html/planning.html> for applicable fees.

Applicant Information

Cornerstone Fort Pierce Development, LLC

By: Massachusetts Mutual Life Insurance Company, its priority member

Name of Owner(s): By: Cornerstone Real Estate Advisers LLC, it's agent

Signature of Owner [Signature]

Mailing Address: 180 Glastonbury Blvd., Suite 200

City: Glastonbury State: CT Zip: 06033

Phone # 860.368.2810 Fax: 860.368.2828

E-mail: mfreeman@cornerstoneadvisers.com

Name of Applicant/Business: Cornerstone Fort Pierce Development, LLC/Bruce E. Haney

Signature of Applicant: [Signature]

Mailing Address: 701 Alpha Drive

City: Pittsburgh State: PA Zip: 15238

Phone # 412.968.1664 Fax: 412.967.6141

E-mail: bruce.haney@echodevelopers.com

Name of Representative: Kimley-Horn Associates, Inc./Gab Henehan, P.E.

Signature of Representative: [Signature]

Mailing Address: 10521 S.W. Village Drive, Suite 103

City: Port St. Lucie State: FL Zip: 34987

Phone # 772.345.3800 Fax: 772.286.0138

E-mail: gabe.henehan@kimley-horn.com

Property Owner Information

This application and any application supplement will not be considered complete without the notarized signature of **all property owners of record**, which shall serve as an acknowledgment of the submittal of this application for approval. The property owner's signature below shall also serve as authorization for the above applicant or agent to act on behalf of said property owner.

Cornerstone Fort Pierce Development, LLC

By: Massachusetts Mutual Life Insurance Company, its priority member

By: Cornerstone Real Estate Advisers LLC, its agent

[Signature]
Property Owner Signature

Lawrence J. Boudreau, Vice President
Property Owner Name (Printed)

Mailing Address: 180 Glastonbury Blvd
Suite 200
Glastonbury, CT 06033

Phone: 860.368.2800
If more than one owner, please submit additional pages

STATE OF Connecticut, COUNTY OF Hartford
The foregoing instrument was acknowledged before me this 24 day of September, 2009

by Lawrence Boudreau who is personally known to me or who has produced
personally known as identification.

[Signature]
Signature of Notary

Karen L. Sandahl
Notary Public
My Commission Expires April 30, 2010
Type or Print Name of Notary

General Information

(Complete all relevant information)

Project Name: Newberry Fields

Site Address: 2785 S. Jenkins Road

Parcel ID Number(s): 2324-413-0000-000/9; 2324-414-0000-000/2; 2324-431-0001-000/2

Legal Description: See Attached

Description/Justification Request: Extension of site plan approval for the three year period

Property Size – (Acres): 51.12 Square Footage: 2,229,454

Zoning District: C-3 Future Land Use Designation: C-3 Existing Use: Vacant

Proposed Zoning: N/A Proposed Future Land Use N/A County Zoning/FLU N/A

Proposed Building Height: 35'

Residential

Single Family Multifamily ACLF PUD/R/Mixed

No. of residential units: Existing _____ Proposed: _____

No. of subdivided lots: Existing _____ Proposed: _____

Non-Residential

Square Footage: Existing None Proposed: 383,605

Landscape Information

Date work to begin: _____ Date work to be completed: _____

Contractor Information:

State Certification # _____ City Certification # _____

Other: _____

Historic Preservation Information

Historic District: N Y/N?

Contributing Site within the _____ Historic District

Non-contributing Site within the _____ Historic District

Individually Designated Site, City Commission Resolution # _____

Name of landmark: _____

New Addition New Roof Shutters Rehabilitation

Signage New Construction Demolition Relocation

R-4

E-2

R-2

C-3

