

**MEETING OF THE CITY COUNCIL
PLANTATION, FLORIDA**

May 9, 2012

The meeting was called to order by Councilman Tingom, President of the City Council.

1. Roll Call by City Clerk:

Councilmember:	Ron Jacobs Robert A. Levy Lynn Stoner Peter S. Tingom Sharon Moody Uria
Mayor:	Diane Veltri Bendekovic
City Attorney:	Donald J. Lunny, Jr.

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2. The invocation was offered by Councilman Tingom.

The Pledge of Allegiance followed.

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3. Approval of Minutes of Meeting – September 21, 2011

4. Approval of Minutes of Meeting – October 12, 2011

5. Approval of Minutes of Meeting – October 26, 2011

The Minutes of the City Council meetings of September 21 and October 26, 2011 were approved as presented.

The minutes for October 12, 2011 are being redone and will be submitted at a later date.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic introduced Christina Saint Bryn Carr (sic) and her dog, Tatiana (sic). Tatiana was nominated for the American Humane Society Association Hero Dog Award after she saved Christina's life. In order to win, Tatiana has to receive the most votes. Mayor Bendekovic requested that everyone go online at Herodogawards.org and vote for Tatiana in the Hearing Dog category.

Mayor Bendekovic introduced other services dogs present in support of Tatiana.

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Sharon Kent, Assistant Director of Parks and Recreation, made the following announcements:

- Tinsel Town Cabaret is this Friday, May 11, 2012 at 7:30 p.m. at Volunteer Park.
- Summer Camp will run from June 11, 2012 through August 3, 2012. Registration forms are available. Day camps for ages 5-10 are located at Central Park, Kennedy Community Center and Volunteer Park. Adventure Camp, ages 12-14 will be at Central Park. For the second year in a row we are offering an on site day camp at Jim Ward Community Center, which can be paid by the day or by the week. Specialty camps include Share a Pony at the Equestrian Center; Veltri Tennis Camp; Don Law Golf Academy for Children at the Plantation Preserve; and the Drama and Music Theater camp at Jim Ward Community Center.

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Mayor Bendekovic read a Proclamation designating the week of May 20 – May 26, 2012, as *National Public Works Week* in the City of Plantation.

Frank DeCelles, Director of Public Works, accepted the proclamation.

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Resolution No. 11485

6. **RESOLUTION** of Appreciation to Diane Scull for 11 years of dedicated service to the City of Plantation.

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve Resolution No. 11485. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom
Nays: None

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Mayor Bendekovic introduced Pat Hind, President of the Plantation Women’s Club.

Ms. Hind introduced Gloria Merritt, Chairman of the Plantation Women’s Club. They presented the following contributions:

- Mr. DeCelles accepted a donation of \$2,000 to Public Works for equipment.
- Captain Ramirez accepted a donation of \$2,000 for the Bike Program, \$500 for the Binky Project and \$750 for the Police Explorers.
- Tanis Bell and Ms. Arrue (sic), Art and Graphics teacher, from Plantation High School accepted a donation of \$3,000 for new computers.

- Jason Zimbeck (sic), head of Drama Program at South Plantation High School, accepted a donation of \$2,000 for the Drama Club. A donation of \$1,000 for the Horticulture Program at South Plantation High School was also accepted.

Councilman Tingom announced that Jason Zimbeck was “Teacher of the Year” for South Plantation this year.

Ms. Hind and Ms. Merritt continued with the following contributions:

- Sergeant Wendt and Chief Harrison of the Police Department accepted a donation of \$1,000 for two sirens for two K-9 unit cars. A donation of \$500 for infrared strobe lights for the vests of the handlers for the dogs was also accepted.
- Bobby Beret (sic) accepted a donation of \$500 for Speaking Hands.
- Joel Gordon, Fire/Rescue Battalion Chief of the Fire Department, accepted a donation of \$7,000 for a forcible entry door system.

Mayor Bendekovic thanked all of the ladies of the Plantation Women’s Club for all of their support.

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Mayor Bendekovic made the following announcements:

- The Plantation Farmer’s Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.
- The Summer Reading Program theme is “Visit the Library for Summer Fun Activities”.

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Mayor Bendekovic introduced and welcomed Florida Senator Nan Rich. She made the following comments with regard to the 2012 session:

- The session started early this year because of redistricting.
- Attempts by Legislative leadership to push a right wing agenda through the process by a super majority ran into some resistance and was witnessed.
- As the leader in the Senate of the Democrats over the last two years, it has been quite rewarding to see that the Senate still has a good amount of collegiality where we can work together on issues and we form coalitions to help either pass good public policy or prevent what is considered to be bad public policy.
- As required by the Constitution, the Florida Legislature approved new State, Legislative and Congressional Districts. The State Supreme Court has approved the State Legislative Districts, although, it took the State Senate two tries to come up with a plan that would pass. The Justice Department has also signed off on the maps, as required by the Voting Rights Act.
- A law suit has been filed by several public interest groups that allege the Congressional maps do not comply with the Fair District Amendments to the Constitution and it remains to be seen how those law suits will turn out. Over 63% of voters in 2010 passed the Fair District Amendments #5 and #6 that put standards into our Constitution for the first time so the Court had something to go by.
- The maps for the November election and the August primaries will be what they are now. There is one particular district in the Congressional map that she believes is Unconstitutional; it is the district out of Duval County that runs all the way down to Orlando.
- This year there were several areas that were supposed wins according to the Governor’s office.

- While there is \$840 million more in the budget this year for K to 12 than there was last year, this amount still does not make up for the \$1.3 billion that was cut the year before. We are spending \$904 less per student than we did in 2005. This is not the investment we need to prepare Florida children for success or to ensure that we have the educated work force needed to attract the types of businesses to our State to provide high skills and high paying jobs. When school districts have to cut one of the first areas they look at is the Arts. Many children stay in school because of the special programs and it is very unfortunate that some of those are being cut.
- Higher education is one of the best ways to effectively turn around the economy and create jobs; it is an economic engine in our State. Once again, higher education was target; \$300 million was cut from the budgets of Florida's Public Universities in reserves and operating funds in order to balance the State budget. As a result, University students and their families will again face a hike in tuition and Bright Future Scholarships have been reduced.
- There was \$100 million passed and given to corporations for incentives, which she supported; however, she is concerned about the fact that there is no transparency or accountability for those dollars. A recent study shows that money in many states would have been better spent improving schools to create a highly skilled work force. As of three jobs promised; only one of the jobs actually materializes. What Florida has done, which hopefully the Legislature is working to correct, is that when a corporation does not come up with a number of jobs they have promised and they have received the money, that money needs to come back to the State of Florida and in many cases it has not.
- A couple of the wins were Kid Care, which is the Federal State partnership to enroll children in health care whose families cannot afford it. For several years she has tried to pass a proposal that would permit eligible State employees to enroll their children in Kid Care. There is a 70/30 match to Kid Care. For every dollar spent 70% comes from the Federal Government and we pay 30%. What happens with this legislation is that the State will save money and will provide health care for thousands of children who are without. There are currently about 500,000 children in this state who do not have health insurance and we are the third highest of any state in the nation.
- The other area of focus is independent living; those are the children aging out of our foster care system. These kids have had a rough life and when they are ready to age out by the age of 18, 70% of them have not graduated from high school. We have an Independent Living Program, as do all states, and our program has gone to age 23 because of the fact that most children have not graduated by the time they are 18. They have to get their GED or graduate and then they first go into a vocational, college or university program. There was a big thrust on the House side to drop the age to 21 this year. She fought extremely hard and had a Bill that passed the Senate 40 to 0, again showing the ability of the Senate to work together. They were finally able, in a conforming Bill, to make sure that the age stayed at 23, which she believes is extremely important.
- Some of the bad things stopped were through the coalition, like prison privatization, which would mean less prison guards that are 24/7 jobs. We defeated the Bill 21 to 19.
- The other Bill that was critical for the public schools was the Parent Trigger Bill. This was an attempt by for profit charter management companies to take over public schools. Again, we were able to defeat that Bill.
- One of her greatest disappointments is the one sided approach that the leadership of the Legislature has followed to balance the State budget. Rather than cut critical services again and again, University funding and Medicaid, the leadership could have taken a stand for good principals over partisanship.
- We have been rejecting millions of dollars of Federal money because Florida is involved in a law suit against the Affordable Care Act. Many of the states involved in that law suit are taking every dime that the Federal Government puts out to augment their health care and we should be doing the same. We have turned away millions of dollars for a program called "Money Follows the Person", which helps to

keep frail elderly out of nursing homes; we have turned away money for the “Maternal Infant Early Childhood Home Visiting Program” and many others. They are taxpayer dollars and we deserve to be able to draw down and not be a donor state. This week \$21 million came to the State of Florida for Community Help Centers and the reason we were able to get that money was because sometimes the Federal Government does not put it through the State Legislature and the Governor’s Office and they go directly either to State Universities or municipalities, Counties or Community Health Centers in this case. This is something that needs to be changed.

- She believes that no one is in favor of raising taxes but there is something called fairness in a tax structure. When taxes are being applied to one part of the population and not the other is what should be looked at.

Ms. Rich announced that this was her last year in the Florida Senate. She is going to run for Governor in 2014 on the Democratic side.

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Councilwoman Uria announced that next Tuesday, May 15, 2012, is the National Police Officer’s Memorial Day.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 20.

Item No. 13 was pulled for discussion.

Mr. Lunny read the Consent Agenda by title.

7. Approve Plantation Place Condo having a “Community Yard Sale” in their parking lot for their residents on Saturday, May 19, 2012 from 8:00 a.m. until 2:00 p.m.
8. Request for authorization to utilize the State of Florida, partnering with the University of Florida contract for Laboratory and Safety supplies and equipment with Fisher Scientific LLC. (Budgeted – Utilities)
9. Request for approval for a purchase order in favor of Reynolds Inliner LLC in the amount of \$24,300, to rehabilitate sanitary sewer mains at NW 69th Avenue and Cypress Road and locations on Balsam Terrace. (Budgeted – Utilities)
10. Request for authorization to continue participation in the Southeast Florida Co-Operative Bid to supply aggregates top soil and sand from Tenex Enterprises, Inc., Austin Tupler, Inc. and Soil Tech Distributers from July 3, 2012 through July 2, 2013. (Budgeted – Utilities)
11. Request for authorization of an emergency purchase order to Jackson Land Development, Inc. in the amount of \$38,125.94 for the replacement of a sanitary sewer manhole at SW 3rd Court and SW 58th Avenue. (Budgeted – Utilities)

12. Approve First Amendment of the Agreement with Limousines of South Florida, Inc. to continue to lease three trolleys to City of Homestead.

Resolution No. 11486

14. **RESOLUTION** amending the By-Laws of the Plantation Gateway Development District.

Resolution No. 11487

15. **RESOLUTION** amending the By-Laws of the Plantation Midtown Development District.

Resolution No. 11488

16. **RESOLUTION** pertaining to the subject of the City Parks and Recreation Advisory Board; amending the composition of the Board members; amending the scheduled meeting dates of the Board; providing a savings clause; and providing an effective date therefor.

Resolution No. 11489

17. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 19 – May 2, 2012 for the Plantation Gateway Development District.

Resolution No. 11490

18. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 19 – May 2, 2012 for the Plantation Midtown Development District.

Resolution No. 11491

19. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 19 – May 2, 2012.

Resolution No. 11492

20. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period April 19 – May 2, 2012 for the City of Plantation's Community Redevelopment Agency.

Motion by Councilwoman Uria, seconded by Councilman Tingom, to approve tonight's consent agenda as printed. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom

Nays: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 20.

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Mr. Lunny read Item No. 13.

13. Award contract for Jim Ward Community Center Playground grass renovation project to Eagle Enterprises, Inc. in the amount of \$84,000. (Budgeted – Community Development Block Grant)

A memo dated May 2, 2012, to Diane Veltri Bendekovic, Mayor, from Danny Ezzeddine, A1A, Director of Design, Landscape & Construction Management, follows:

On April 23, 2012, the City of Plantation had solicited a Request for Proposal for the Playground Grass Renovation Project at Jim Ward Community Center. On May 1, 2012, the City received one (1) response for \$84,000 from Eagle Enterprises, Inc.

After reviewing and evaluating the proposal with Jim Romano, Parks & Recreation Director, and due to time sensitivity to meet the requirements of the Community Development Block Grant deadline, I am recommending that the City Council award a contract to Eagle Enterprises, Inc. for the amount of \$84,000 subject to final review by Administration and Legal Departments.

Funds are available from Community Development Block Grant.

Should you have any questions, please contact me.

Councilwoman Uria pulled this item because of \$84,000 for grass. This is a grant; this is CDBG money, so we have to take it. If we do not take the money someone else will get it. The other issue is that there was only one response for the bid and there is no drawing. If someone asked where this grass is going all she could say is, "The playground". Additional information is needed. Councilperson Stoner has requested that more information be provided on items like this.

Mr. Ezzeddine advised that this is not just grass; it is a safety surface for the playground area at Plantation Woods. It was his understanding that this surface was requested at a community meeting. After the request Parks and Recreation went to Priscilla Richards in search of a grant and the grant came through Planning and Zoning. We received the grant and have a time limit; therefore, the project went out to bid. It is the whole assembly, not just the grass.

Motion by Councilwoman Uria, seconded by Councilman Levy, to approve Item No. 13. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom

Nays: None

Councilman Levy concurred with Councilwoman Uria. This did not give us the information provided above. The Community Development Block Grant program is limited as to where funds can be used by census tracks and income. If the funds are not used we can keep them for three years and then we have to give it back to the Federal government. We have three years to use each year's portion; we are an entitlement city which entitles us because of our population being over 50,000.

Mr. Ezzeddine indicated that the chips are being replaced with safety grass and equipment.

In response to Councilwoman Uria, Mayor Bendekovic advised that the bid came in lower than anticipated so we had some additional funds.

Mr. Leeds stated that we are spending some money in Lauderdale West; we are spending money at Veteran's Park. He does not know when the three years started on the money Council is voting on tonight so he does not know whether this is new money in the system or money that is a year or two old. He urged Council to approve it because we do not know how long we can hold onto it. The Department of Housing and Urban Development changes their rules from time and they have been doing so more. We have an opportunity and as Councilman

Levy, said, it can only be spent in certain areas. Some of the funds are allocated in this community and some in Lauderdale West.

Councilperson Stoner commented that sufficient information is not being provided for Council or the public. She would also like a little more detail on the scope. She requested that Mr. Ezzeddine use his discretion while providing backup. With regard to the time line on available funds, when she receives a memo that says, "Due to time sensitivity" she thinks there should be communication as to where it is.

In response to Councilperson Stoner, Mr. Leeds advised that he keeps track of the time line of the available funds. He does not know the time line and cannot tell without going back to his office whether we are one or two years into the time line or whether it is new money. He stated that the City Council approved this work when they approved the Consolidated Plan/Community Development Action Plan around May or June of last year. It is not a new project and is a part of a menu of things that Council approved. Because the Council approved it, we have proceeded with construction. Mr. Ezzeddine's time issue is because HUD is extremely demanding; they will only pay the money if the work is done within a very narrow timeframe and it is not negotiable. Mr. Leeds indicated that they have known about the deadline and have been working very hard to meet it because if we do not meet it we have to give the money back.

Councilman Levy noted that we are in the 36th year of the CDBG program and they go by those timeframes when they do it. The 37th year proposal could be provided because we can forecast how we are going to use the money and it might help in the planning process.

Mr. Leeds stated that they can do that in the future; when the new Community Development Block Grant program, it will be very specific on that suggestion.

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item No. 21.

Resolution No. 11493

21. **RESOLUTION APPROVING A NON-EXCLUSIVE BUS BENCH FRANCHISE WITH THE GFWC PLANTATION WOMAN'S CLUB, INC.**

A memo dated May 3, 2012, to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

As the Council may know, the GFWC Plantation Woman's Club ("Club") has operated a Bus Bench Franchise for many years. Franchise expires on May 31, 2012 and is subject to a one (1) year extension upon approval by the City Council. The Administration has been advised by the Club's bench vendor, Bench Ads of Plantation, Inc. (the "Vendor"), that as a result of new ADA requirements, it will need to modify some benches and make changes to access ways for some benches. Instead of a one (1) year Franchise extension, the Vendor has requested the Club, and the Club has requested the City, to extend the Franchise for a five (5) year period so that it would expire on May 31, 2017, and still remain subject to an extension for one (1) year, if the extension is then approved by City Council.

The Club has requested that its Franchise be extended, and has asked that the matter be placed before City Council. The City must decide whether to extend the Franchise. The Mayor recommends extending the Franchise in accordance with the changes recommended in Part 1 B below (which have been agreed to by the Club).

1. Discussion

A. If the City desires to not approve extending the Franchise, then the City would need to decide:

1. Whether it wishes to retain benches for the public's use in connection with mass transit **without** advertising revenue. If this is desired, the City would need to purchase the Vendor's equipment. It should be noted that the Administration's budget projections for the upcoming fiscal year will require that new expenditures be offset by new revenue sources.
2. Whether it wishes to retain benches for the public's use in connection with mass transit **and retain** advertising revenue. If this is desired, the City would need to decide whether to operate the program or contract directly for the program. If the City determined to operate the program, it would need to purchase the Vendor's equipment and then decide whether to use employee resources to manage the advertising effort, or whether to seek proposals to do so. Contracting directly for the program with the existing Club Vendor would allow the City to not spend resources in conducting a competitive procurement or in trying to operate a program without having the requisite business expertise or contacts to do so, and would allow the program to continue without temporary disruption given the upcoming expiration at month's end.

B. If the Council determines to approve extending the Franchise consistent with the City's long standing history and practice of allowing the Woman's Club to have the Franchise, the following changes are recommended by the Administration and have been accepted by the Club:

1. Financial. Given the City's current financial outlook, the Administration recommends that the Franchise's financial structure be changed.

As the Council may know, the Club negotiates with the Vendor how much the Vendor is required to pay the Club for the Franchise, and the Club makes various donations to the City and to other civic or charitable endeavors. Attached to the memorandum as Exhibit "A" is a compilation of the Club revenues and donations to Plantation over the recent past. The Vendor has advised the Administration that it has paid the Club \$54,437.16 in 2009, \$57,953.44 in 2010, and \$61,759.52 in 2011, for a total of \$174,150. As the elected officials are aware, the Club "donates" to various City endeavors from time to time, and these donations are a significant portion of the money the Club receives from the Franchise.

The Administration recommends that the Franchise Agreement expressly require that donations continue at a minimum level of 68% of the Club's revenue. This money would be offered in grants to Plantation for such projects as the Club deems appropriate and the City Council may accept. If the Club does not expend the minimum grant requirement for any given Franchise Year, the Club would be required to deliver a check to the City for the shortfall, which would be deposited into the City's General Fund.

This change would result in the City realizing the following revenues over the next five (5) Franchise Years, and the Extension (if granted later by Council), based on the Vendor's guaranteed revenue to the Club, as follows:

Year	Vendor's Guaranteed Revenue to Club	Club Grant Obligation to Plantation
1	\$ 64,200	\$ 43,656
2	\$ 64,200	\$ 43,656
3	\$ 64,800	\$ 44,064
4	\$ 64,800	\$ 44,064
5	\$ 65,400	\$ 44,472
Ext.	\$ 65,400	\$ 44,472
Total	\$388,800	\$264,384

2. Recognize approved bench locations. As the Council may recall, the Vendor requested the City to allow certain benches to remain in place even though they should have been required to be removed as the City implemented its bus shelter and street furniture program.

The documents now reflect that the benches approved in the past for these locations can remain.

3. Clarification on City bench purchase rights. As Council may recall, all benches were significantly upgraded when the last Franchise was signed. The City can acquire the benches at the end of the current Franchise based upon a purchase price of equal to their remaining depreciated value of the benches using a straight line method over a five (5) year period. All the new benches had to be installed within one hundred eighty (180) days of the Franchise Agreement's effective date. Given that, it is proposed to extend the Franchise, a provision has been added to recognize that as of June 1, 2012 only one and a half (1.5) years of depreciation are left on the benches, such that on and after January 2014 no consideration will be required should the City wish to purchase them at the Franchise's expiration. The provision includes an option to purchase trash receptacles that the Vendor installed, and if a bench is replaced or refurbished, the five (5) year depreciation period for the bench purchase option would reapply to the affected bench.
4. Legal Changes. When the Franchise was last renewed, the Bench Vendor was an affiliate of the prior vendor. As a result, the City required a financial guarantee of the Vendor's performance from the parent entity, and the affiliate was required to indemnify the City and Club from any tort exposure that existed under the parent entity's prior franchise. At the present time, the former parent entity is an inactive business organization. The Bench Vendor has requested that the guarantee no longer be required and the indemnity be eliminated given: (i) the Bench Vendor's an organizational five year track record with the City under the current franchise, (ii) its principal's longer history with the program (Mr. Flutie), (iii) the fact that the parent is an inactive business organization, (iv) a docket search for the 17th Judicial Circuit Court and Broward County Court disclosing no active tort litigation concerning accidents or injuries related to the Plantation Program against "Bench Ads, Inc." (the former vendor), and (v), the fact that most tort claims have a four-year limitations period and the prior franchise covered a five-year period. The City understands that the Club has consented or will consent to these changes. The Administration and

Legal Department did not object to these requests and have made changes to the Franchise Agreement to reflect their approval.

II. Conclusion

This matter is now ready for the Council's consideration as an Administrative Item. A Resolution approving the revised and extended Franchise Agreement is attached. Changes to the existing documents have been shown in blue line.

Mayor Bendekovic thanked Pat Hind, Barbara Flutie and Glenn Flutie. Discussion on both the Bus Bench Agreement and the Franchise Agreement have been going on for several months. Both parties requested compromises and she assured that there was not a negative tone throughout any of the meetings. Unfortunately, some chose to place a different spin on the contract negotiations and that was such a disservice to not only the City of Plantation, but also to the women who give back to this community. This is the Bus Bench Agreement as well as signatures of both parties, stating that they are in agreement with both the Franchise Agreement and the Bus Bench Agreement. This is not finalized until Council reviews this. She recommended giving them the five-year contract with a renewal of one year.

In response to Councilperson Stoner, Mr. Lunny advised that it would be all right for her vote even though she is a member of the club.

Mayor Bendekovic commented that this is a decade old Franchise Agreement.

Councilperson Stoner requested clarification on the Bus Bench Agreement, Page 8, Paragraph 20. She suggested that Barbara Flutie also be included as a key person.

Mr. Lunny did not have any objection. It was not contemplated to exclude her; this is a historical remnant.

Councilwoman Uria questioned whether it should read Mr. Glenn Flutie or the company's representative.

Councilperson Stoner would specifically like to see Barbara's name and then it could be amended further down the road.

Mr. Lunny stated that assuming the ladies have no objection; it is not really our issue.

In response to Councilperson Stoner, Mr. Lunny advised that the definition of a Plantation contribution is strictly to the corporation.

Mayor Bendekovic commented that even though all of the monies go out to different organizations, the check has to be written directly to the City of Plantation. Monies to the Historical Museum are separate from the City so that contribution will not count. She assured that records will be kept of direct and indirect contributions.

In response to Councilperson Stoner, Mr. Lunny indicated that with regard to the City terminating the Franchise Agreement without cause, the City is defined as a corporation. The City acts in two ways, one is by the governing body of the City, which is the Council and Mayor each acting together. The Council and the Mayor could, by a Resolution that gets passed, terminate this Franchise Agreement. Alternatively, the Mayor through her Chief Executive powers, can terminate the Franchise Agreement because she administers all contracts on

behalf of the City. The City is the one that can terminate the contract; it does not say exactly how the City terminates a contract.

Councilman Levy stated that he would assume that Council would vote representing the City rather than just leave it up to one person in the City to make that decision.

Mr. Lunny commented that there may be instances when a public discussion is not desirable. It is not necessarily a wise business practice to always have terminations by a public discussion and public vote. In this case, this is slightly different than the norm and he has no objection one way or the other.

Councilperson Stoner agreed with Mr. Lunny. This is a special instance; this is a special group who has developed all of their time to extending help to others, whether it is specifically in the City or within the City. She would like to see the termination portion tightened.

Mayor Bendekovic advised that this is not about the Women's Club; this is about a business deal that happened decades ago with another Administration. We have many clubs in the City that warrant recognition but this club was the one that started this venture and that is why this partnership is what it is today.

Councilperson Stoner stated that when you can give 120 days and it is over and the Council has no say in it; she is not so sure that is in the spirit of what we are trying to accomplish.

Mr. Lunny explained that if someone says that a contract is terminated in 90 days and there is a strong disagreement, that item can be brought back before Council and they can require a vote and see if the termination remains. The Council and the Mayor need to be cognizant of the different powers you exercise and in this case, he would agree that it is not a classic contractual relationship; it is a little different.

Councilwoman Uria indicated that the agreement is coming to Council for approval. She understood Mr. Lunny to say that the governing body is the Mayor and City Council or the Mayor has the authority.

Mr. Lunny advised that five of you are members of a common Council and that common Council has the power to move resolutions, which govern the City's administrative business, and the mayor has a vote privilege and a veto privilege. The Mayor is also the Chief Executive Officer of the City and executes all of the City's business. Whenever a matter says that the City can terminate for convenience or the City can take legal action, there are two ways that that occurs. It can either occur with the Mayor executing her Charter authority and executing a decision on the contract individually and alone or the matter can be executed publicly at a public meeting by resolution with each Council member voting in accordance with your prerogatives. He did not perceive the word "City" to mean an exclusion of the Council and only the Mayor because that is not the way it works. When the Councilperson said that she would prefer that the Council only make these decisions he made the comment that one would normally make just to advise that on different types of contracts you may not want to have that.

Councilperson Stoner commented that the addition of the words "By resolution" can be done.

Mr. Lunny stated that he would add those words if that is the wish of the Council.

Councilman Jacobs indicated that he is not going to oppose it but he does not think it is the best decision.

Dennis Conklin, resident, noted that this item also includes trash receptacles. He thinks this is a good deal.

Councilwoman Uria questioned why “By City” or “By resolution” be added.

Councilman Tingom agreed with Councilman Jacobs; he did not think it was a good idea. It would take away the administrative power, which could be difficult.

Councilman Levy commented that there may be a change in Administration and there may be somebody who says they are terminating the contract and then the Council has no say.

Councilman Tingom advised that we do have the power because there is 120 days in which time the resolution can be worked out. It is his understanding that the Mayor and the Plantation Women’s Club have agreed to everything in the contract as it is and he believes we should proceed in passing it.

Councilman Levy indicated that as long as this Council has a say in the matter in any dissolution of the contract; that we will have a say if we choose to.

Mr. Lunny stated that he can write in a call up privilege so the Mayor can terminate and if one of the Council members has an issue it can be put on an agenda and it would not become effective until after that.

Councilman Jacobs suggested a notification requirement to Council. If the Mayor decides to terminate the contract the Mayor is required to notify Council within writing within ten days of termination.

Mr. Lunny noted that would allow time to position the matter if there is a problem.

Councilman Levy stated that as long as it has that option he is fine with it as it reads.

Councilwoman Uria concurred.

Motion by Councilman Levy, seconded by Councilwoman Uria, to approve the contract adding Barbara Flutie as a key person and notification to the Council in writing within ten calendar days if the Mayor unilaterally terminates the contract at any time without cause. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom
Nays: None

* * * * *

Mr. Lunny read Item No. 22.

22. DISCUSSION CONCERNING PLANTATION COMMUNITY CENTER.

A memorandum dated May 4, 2012, to Mayor Bendekovic and Members of City Council, from the Legal Department, follows:

I. Introduction

This agenda item is sponsored by the Administration.

II. Background

As the Council members are aware, the Administration has been seeking direction from the Council concerning the Plantation Community Center. The various presentations made to the Council demonstrate that this City-owned asset needs repair. Additionally, the presentations have demonstrated that the Building has less functional utility compared to a building having a more modern design and layout. When this topic was last addressed by the City Council, the Administration was requested to obtain proposals (to present to Council) of the Building's repair. It is conceivable, depending on the dollar amounts of the competitive proposals received, that the Council might decide to: (i) accept a proposal and repair the Building, (ii) demolish the structure and incorporate the building footprint area into passive park until the site is redeveloped in the future, (iii) demolish the structure and rebuild it with a different design concept than that which was previously presented to the City Council, (iii) not repair the Building and close it, or (iv) take some other action.

Prior to the last City Council meeting, it became apparent that persons who are affiliated with the Broward County Historical Commission began a "positioning effort", ostensibly designed to assert control towards preserving the building, and thus reduce the options available to the City's governing body to manage this asset. In response to these efforts, the Mayor emphasized that no final decisions concerning the building had been made by the City Council, and that the City Council should be the governing body that makes these decisions.

III. Discussion

Most recently, the Mayor received the attached correspondence from the Broward County Planning Council which advises that the Planning Council is *"is processing an application from the Broward County Historical Commission staff to place the Plantation Community Center, located at 5555 Northwest 5th Street, on the Broward County Cultural Resource map Series-Historic Sites Map"*.

This is a required step for the building becoming designated as a "Historical and Cultural Resource Site". The Planning Council's Notice Letter ("BCPC Notice Letter) seeks a formal response by May 25, 2012. the "application" attached to the BCPC Notice Letter is dated June 2007 and seems to have been prepared by the Broward Trust for Historic Preservation, Inc. This corporation is not a governmental agency. A corporate records search for the State of Florida discloses that Steven Glassman of Ft. Lauderdale, Florida is a Vice President and Director of the Corporation. Mr. Glassman is also a member of the County Historical Commission. Mr. Glassman appeared in front of the City Council, urging the building's preservation, and advised that his company could not provide financial resources to repair the building. The minutes of the Historical Commission for either February or March do not reflect that such Commission ever reviewed and approved the "application" filed with the Planning Council for submission to the Planning Council.

The Planning Council Staff advises that the process to place the Plantation Community Center on the Broward County Cultural Resource Map Series-Historic Sites Map is similar to a Comprehensive Plan Map Change. The Planning Council considers *applications* to add properties to the Broward County Cultural Resource Map Series-Historic Sites Map, and makes recommendations which are considered by the County Commission. The County Commission makes the ultimate decision considering whether the site is added. The process of placing the site on the Broward County Cultural Resource Map Series-Historic Sites Map is a legislative one.

One legal consequence of being placed on the Broward County Cultural Resource Map Series-Historic Sites Map is that the site will become clearly subject to Broward County Comprehensive Plan Objective 9.08.00 which states:

“OBJECTIVE 9.09.00 PROTECTION OF HISTORIC RESOURCES

Protect historic resources within Broward County from deterioration or loss.

- POLICY 9.08.01 The Broward County Land Use Plan and local land use plans shall map and maintain a current list of historically, architecturally and archaeologically significant properties and address the protection of these historic resources.
- POLICY 9.08.02 Local land use plans shall ensure the protection of historic resources.
- POLICY 9.08.03 Local governments with historic resources should implement programs which preserve and/or rehabilitate historic resources through techniques such as historic preservation ordinances building code provisions and tax incentives.
- POLICY 9.08.04 Local governments shall coordinate their historic resource protection activities with applicable State and Federal laws.
- POLICY 9.08.05 Broward County and its local governments shall consider the impacts of land use plan amendments on historic resources.

The County Comprehensive Plan defines “Historic Resources, as follows:

HISTORIC RESOURCES – means all areas, districts or sites containing properties listed on the Florida Master Site File, the National Register of Historic Places, or designated by a local government as historically, architecturally, or archaeologically significant”.

Arguably, all future land development and regulatory activity relative to this site would be subject to the above provisions of the Broward County Comprehensive Plan if the site is placed on the Broward County Cultural Resource Map Series-Historic Sites Map. In addition, third parties would have statutory rights to challenge City actions if they believe that future City actions are inconsistent with such Broward County Comprehensive Plan provisions. If ever the City decides to reposition the property for some other municipal purpose or decides to surplus the site and return it to the private sector, these additional County land use considerations will affect the City’s ability to do so without addressing, and possibly seeking a further amendment of the Broward County Comprehensive Plan or the Broward County Cultural Resource Map Series-Historic Sites Map.

As stated above, the second significant consequent of placing the site on the Broward County Cultural Resource Map Series-Historic Sites Map is that it qualifies the Plantation Community Center to be *further considered* as a Historical Cultural Resource Site. Since the Historical Commission appears to be motivated to initiate proceedings that affect the City’s property, it is reasonable to expect that this process will also be pursued. If the site is designated as a Historical Cultural Resource Site, the County’s law would prevent the Building Official from issuing Plantation any permits for new construction, demolition, alteration, rehabilitation, signage or any other physical modification of the building, without prior issuance of a Certificate of Appropriateness by the Broward County Historical Commission. In addition, the City would be required to maintain the building. As indicated below, the County Commission would need to conduct a quasi-judicial hearing prior to designating a site as a Historical Cultural Resource Site, and in this regard, the County Historical Commission is required to conduct an advisory, criteria based review of the application pursuant to an advertised hearing. The Historical Commission can initiate an application for the site to be designated as a Historical Cultural Resource Site.

2. Specific Observations

1. The governing body of Plantation has not, as of this writing, authorized an application to have the Plantation Community Center Site placed on the Broward County Cultural Resource Map Series-Historic Sites Map. The governing body of Plantation has not authorized any application that would cause the site to be designated as a Historical Cultural Resource Site.
2. As of this writing, the site is not on the Florida Master Site File, or the National Register of Historic Places, although the City is advised that the site may be eligible for consideration for such listings. The minutes of the County Historical Commission's February 8, 2012 meeting disclose that the Historical Commission may also be pursuing one or both of these designations in addition to making the application to the Broward County Planning Council.
3. Questions exist as to whether the Plantation Community Center Site could meet the County's substantive, ordained requirements for designation as a Broward County Historical Cultural Resource Site; however, Plantation is not the governing authority that makes this determination.

A. Applicable Substantive Law.

- (1) Section 5-333(a), Broward County Code sets forth the requirements that must be satisfied before a property qualifies for this designation. This subsection reads as follows:

(a) The designation of real property as a Historical Cultural Resource Site shall be made by the Board of County Commissioners following a quasi-judicial public hearing. Before a site may be designated as a Historical Cultural Resource Site, the Board shall make a finding that the real property meets the following criteria in subsections (1) and (2) below:

(1) The site meets at least one (1) of the criteria in a. and, in addition, one (1) of the criteria in b. or c. below:

a. Age of site:

1. The site is more than fifty (50) years old and is a particularly significant reminder of the County's origins and early history.
2. The site is less than fifty (50) years old, was a military facility, or is a site of overwhelming historical significance to the County, State or Nation.
3. The site is a "pioneer" site representing the first building constructed in a community.

b. Architecture:

1. The site is identified as the work of a master builder, designer, or architect whose individual work has influenced the development of the County, State or Nation.

2. A structure recognized for the quality of its architecture or design which embodies distinguishing characteristics of an architectural style, period or method of construction.
3. A structure exhibiting distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials. This may include either sites with unique or unusual exterior or interior architectural appearance, design or feature, or is an outstanding example of architecture typical to Broward County. These styles include, but are not limited to, Frame Vernacular, Masonry Vernacular, Neo-Classical, Bungalow, Mediterranean Revival, Art Moderne (Art Deco), and Hybrid Mediterranean Revival-Art Moderne.

c. Importance of site:

1. The site has or had a significant community function, such as a government, business, religious or educational building providing a notable reminder of the cultural, economic, or historical heritage of Broward County or South Florida.
2. It is the site of an important event, movement or activity relating directly to the history of Broward County or South Florida.
3. The site is identified with a person or persons who significantly contributed to the history of the County, State or Nation.

- (2) The site has been recommended and approved for designation or is designated on the Broward County Land Use Plan Map Series as a Cultural Resource/Local Area of Particular Concern 0 Historical Site pursuant to the criteria contained within the Broward County Land Use Plan.

B. The application sent to the City by the Broward County Planning Council indicates that the building was completed in 1963 and thus, the building is less than 50 years old at the present time. Ms. Richards stated at the City Council's prior Workshop that the building was not a military facility, and was not the first building constructed in Plantation. Therefore, the Broward County Code will require that the Plantation Community Center Site be "*a site of overwhelming historical significance to the County, State or Nation*" (emph. supp.) before it can be designated as a Historical Cultural Resource Site.

In oral remarks before the City Council the night that the matter was considered at Workshop, Ms. Richards called into question whether the property has "overwhelming historical significance" to the County, State or Nation. Among other things, Ms. Richards noted that no fort was ever built there, no treaties were signed there, no Indian Mounds are located there, and the property was never the site of any significant cultural/social event affecting the Nation, State, or the County, or that marked a watershed moment in history (indeed the County was organized almost a half a Century before the building was built). Ms. Richards also noted that the building is not a "pioneer building" of the City in that the site was constructed after the City had, by annexations, grown to exceed its original size by Three Hundred Percent (300%). During a substantial part of the County's formative years, the site was located in the undeveloped "sticks"

of Broward County. There are no significant battles known to have ever been fought there. Importantly, the Historical Commission has previously never asked the City to physically Mark the Building or Site with any monument or plaque reflecting any claimed historical significance, and the Building and Site is not physically Marked with a monument or plaque at this time.

The application attached to the Broward County Planning Council Notice Letter contains no factual statements whatsoever that disclose *why* the applicant believes the site is of “*overwhelming historical significance to the county, State or Nation.*” Instead, the application emphasizes the architectural characteristics outlined in Section 5-533(a)(1)b., Broward County Code. This is a different and independent legal consideration than the provision of Section 5-333(a)(1)a. The County Code is clear that *regardless* of its architectural characteristics or who designed the building, a site must nevertheless have “*overwhelming historical significance to the County, State or Nation*” in order to be designated as a Historical Cultural Resource Site.

4. The County Law concerning the designation of properties as a Historical Cultural Resource Site applies to property and buildings being considered for this purpose when the County Commission decides to advertise a public hearing concerning an application. Thus, when, as and if the County Commission directs the publication of such notice, the City’s unfettered ability to exercise all options concerning this property will become constrained.
5. It is unfortunate that the Historical Commission did not formally invite Plantation to its meeting of February 7, 2012 when the Commission apparently decided to propose acting in a manner that affects the City’s valuable property rights. In the very least, good governance practices dictate that before one governmental agency takes official action that materially affects another’s property rights, reasonable advance formal notice of the particular date, time, and place of the public meeting at which such action is proposed to occur is appropriate. The minutes of the February 7, 2012 County Historical Commission meeting are attached. Among other things, there are statements in the minutes (from Plantation activist resident and Commissioner, Betty Cobb) that reports indicate the building is “in great shape”. The minutes reflect that Ms. Cobb distributed a report of a structural engineer “indicating that the building was safe”. The City’s Professional Staff disagree with any assessment that the building “is in great shape”, and have stressed to the City Council that the engineer report referenced by Ms. Cobb cannot be relied upon by the City because the City did not engage the professional to write the report. The City’s Professional Staff have also emphasized that it obtained a different report from a different engineering professional.

IV. Direction Requested

It would seem that the Council’s options are as follows:

1. Oppose the Historical Commission’s application to place the Plantation Community Center on the Broward County Cultural Resource map Series-Historic Sites Map. As stated above, this initial step in the process is legislative. Responding to this option may be in the form of:
 - a. Political Opposition by citizens and elected officials;
 - b. Staff Opposition (with or without some legal support);
 - c. Legal Opposition (this will also entail the need for expert witness testimony);
 - d. Some combination of the above.

As of this writing, the Administration does not know whether the Historical Commission has ever before sought to assert control over and require the preservation and maintenance of a municipal asset despite a City's possible objection.

2. Oppose the expected future efforts of the Historical Commission to designate the building as a Historical Cultural Resource Site. Since this application requires a quasi-judicial review, responding to this option may be in the form of:
 - a. Opposition by citizens willing to testify before the County Commission, including elected officials;
 - b. Staff Opposition only (i.e. with or without legal support);
 - c. Legal Opposition (this will also entail the need for expert witness testimony);
 - d. Some combination of the above.
3. Support the efforts of the Historical Commission on this matter.
4. Establish a municipal Historical Preservation Ordinance and Historic Commission. The City could establish its own historic preservation law and a municipal Historical Commission, but the City's law would need to be at least as strict as that of the County's before being effective. The Administration's budgetary presentations for the upcoming fiscal year do not include any expansion of the City's human resources or of the City's governmental apparatus, except where absolutely necessary.
5. Evaluate donating or selling the site. As stated above, the building's utilization is constrained by its design and layout, and does not generate material revenue in relation to its costs. If the site becomes affected with historical designations as described in this memorandum, future buyers will need to understand that the legal constraints affecting the site will apply regardless of ownership. Among the factors that might be relevant to an evaluation of this option are: (i) how to define the portion of the site that would be subject to sale or donation (given that the Plantation Community Center is bounded by the new recreational project to the west, (ii) how access, parking and other common site amenities would be allocated between users (assuming the City would retain a portion of the overall park property, (iii) whether and to what extent the Plantation Community Center Parcel are affected by grant title restrictions, and (iv) whether there is a realistic chance that significant external funding can be obtained for the repair or purchase of the site (in this regard: (a) the Broward Trust for Historic Preservation, Inc. has advised the City Council (through Mr. Glassman's statement at the City Council meeting) that such organization has no funds for repair, and (b) the March meeting minutes of the Historical Commission reflect a statement by Commissioner Betty Cobb to the other Historical Commission members that the Plantation Historical Society (in which she is also active) has raised money for years for the Plantation Community Center renovation; however, the Administration has been advised by the Historical Society that no funds have been collected for this purpose, and (c) Mayor Bendekovic sent a letter on March 1, 2012 to the Broward County Mayor indicating that if the County wished to take over the responsibility of the structure, the City would offer an Interlocal Agreement for this purpose.
6. Moot the apparent controversy. Unfortunately, the aggressive actions of the Historical Commission have forced an evaluation of whether the City should try to "moot" the Historical Commission's action by immediately demolishing the structure. Among the factors that might be

considered in evaluating this option are: (i) the current poor condition of the building, (ii) neighborhood re-vitalization, (iii) a new building's increased utility because of modern functionality considerations, (iv) the building's lack of crime prevention through environmental design considerations, (v) the fact that the building's operating costs will greatly exceed its projected revenues over the foreseeable future, (vi) whether the City's governing body wishes to retain all of the City's future options concerning the property (for future Mayors and Council members), (vii) whether any other governmental or quasi-governmental agency will at its expense purchase and maintain the site, (viii) the costs of demolition, (ix) the costs and effort required to respond to the Historical Commission's actions, and (x), the business concern that the longer demolition is delayed in the face of the Historical Commission's continued actions, the greater the legal risk that if the site is demolished it may need to be re-built as near as possible in accordance with whatever microfilmed building plans the City may still retain, if administrative and legal proceedings are instituted and continue, and if the City is unable to demonstrate after all administrative and legal proceedings are concluded that the building or site does not have either "*overwhelming historical significance to the County, State, or Nation*" or is not otherwise a "*Historic Resource*".

7. Do nothing.

8. Do something else.

The Administration seeks direction.

1. The Historical Commission's minutes for February indicate that the Historical Commission's motion was to "*prepare*" a Resolution for an application, and the minutes for March indicate that Mr. Glassman "found in the archives of the Broward Trust for Historic Preservation" an application. An objective observer might well conclude that these statements evince an intent on the part of the Historical Commission to review and approve a proposed Resolution and application before same is filed with the Planning Council; however, neither set of minutes reflect the Historical Commission's actual review or approval of the filed "application" *before* it was filed with the Planning Council. Notably, the April 4, 2012 Historical Commission minutes on page 4 disclose that when asked what the status was of the several Historical Commission's actions in February, the Director of the Broward County Library reported that "*he had followed up on the Board's wishes with the Broward County elected officials, and had received direction not to proceed.*" At this point, it is uncertain whether the current, real party in interest (the *true* "applicant", so to speak) is the Broward Trust for Historic Preservation Inc. (of which Mr. Glassman is a fiduciary and for which a Court docket search discloses two cases in which the corporation was involved since 2000 (one of which listed the corporation as a plaintiff and the City of Ft. Lauderdale as a defendant) or the County Historical Commission (of which Mr. Glassman is a member). It is assumed that the "applicant" before the Planning Council is the County Historical Commission.

2. An excerpt of the County's law concerning Certificates of appropriateness is as follows:

"General Criteria and Guidelines for Granting Certificates of Appropriateness: In approving or denying applications for certificates of appropriateness for alterations, new construction, relocation or demolition, the local Historical Commission shall use the following general guidelines:

(1) The affect of the proposed modification to the Historical Cultural Resource Site.

- (2) The extent to which the historic and architectural significance, architectural style, design, arrangements, texture, materials and color of the Historic Cultural Resource Site will be affected.
- (3) Whether denial of a certificate of appropriateness would deprive the property owner of all reasonable beneficial use of such property.
- (4) Whether the plans may be reasonably carried out by the applicants.
- (5) Whether the plans comply with *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (Revised 1983), and *The Secretary of the Interior's Standards for Historic Preservation Projects with Guidelines for Applying the Standards* (1985).
- (6) *Additional Guidelines Relating to Alterations:* In approving or denying applications for certificates of appropriateness for alterations, in addition to the criteria listed in subsection (d) above, the local Historical Commission shall determine:
 - (1) The extent to which the distinguishing original qualities or character of a building, structure or site and its surrounding environment will be retained. Whenever possible, historic material or distinctive exterior architectural features will not be removed or altered.
 - (2) Whether the proposed alterations change, destroy, or affect any exterior architectural feature upon which said alterations are to be performed.
 - (3) Whether the alterations will protect, enhance or perpetuate the structure, building or site.
 - (4) If replacement of an architectural feature is necessary, whether the new material will be compatible with the material being replaced in composition, design, color and texture.
 - (5) Whether distinctive stylistic features or examples of craftsmanship which characterize a building, structure or site will be preserved.
 - (6) Whether every reasonable effort is being made to protect and preserve archaeological resources which are adjacent to, or may be affected by, any alterations, rehabilitation, restoration or reconstruction project.
- (7) *Additional Guidelines Relating to New Construction:* In approving or denying applications for certificates of appropriateness for new construction, the local Historical Commission shall use the following guidelines, in addition to the criteria listed in subsection (d) above, in order to determine that:
 - (1) The height of the proposed building is visually compatible with adjacent or surrounding buildings or structures.
 - (2) The width of the proposed building is visually compatible with the height of the building, as well as with adjoining or surrounding buildings or structures.

- (3) The open space area between the proposed building, and adjoining or surrounding buildings or structures, is visually compatible.
- (4) The materials, textures and colors of the façade of the proposed building or structure are compatible with the predominant materials used in adjacent or surrounding buildings or structures to which it is visually related.
- (5) Appurtenances of a building or structure, such as walls, wrought iron fences, landscaping, or building facades shall be visually compatible with the building or structure to which it is visually related.

3. Section 5-537, Broward County Code provides:

“Sec. 5-537 – Maintenance of historical cultural resource sites.

- (a) Every owner of an historical cultural resource site shall maintain and keep in good repair:
 - (1) All of the exterior portions of such buildings or structures;
 - (2) All interior portions which if not maintained may cause the building or structure to deteriorate or to become damaged or otherwise to fall into a state of disrepair; and
 - (3) If the site is also designated as an archaeological cultural resource site, the owner shall be required to maintain the property in such a manner so as not to adversely affect the integrity of the archaeological cultural resource site.
- (b) The local Historical Commission may refer violations of this section to the appropriate division of the local government having jurisdiction for enforcement proceedings relating to any building or structure designated as an historical cultural resource site in order to preserve such building or structure in accordance with the purpose and intention of this article.
- (c) The requirements of this section shall be in addition to any and all requirements of the local government having jurisdiction and the South Florida Building Code that require buildings or structures to be maintained in good repair.

4. Section 5-535(b) and (c) Broward County Code indicates that:

- “(b) Any person, or the Historical Commission upon its own motion, may make application to the Historical Commission for consideration of real property or a structure as a Historical Cultural Resource Site. Upon receipt of a completed application for consideration of a site, the Historical Commission shall schedule a public hearing to discuss the application’s eligibility as a Historical Cultural Resource Site pursuant to the criteria contained in subsection 5-533(a) of the Broward County Code of Ordinances. The owner of the property, as shown on the Broward County tax roll, or other person or entity which the Historical Commission has actual notice is the owner of the property, shall be notified that his or her property is under consideration for designation as a Historical Cultural Resource Site. Such notice shall include the date, time, and place of the public hearing, the location of the property under consideration, the criteria used to determine the designation of the property, and the effect of the designation on lands classified as Historical

Cultural Resource Sites. Notice shall be delivered via certified mail, return receipt requested, or hand delivery, no later than fifteen (15) days prior to the date of the public hearing.

- (c) The Historical Commission shall be required to provide its written recommendation regarding a proposed Historical Cultural Resource Site to the Board of County Commissioners no later than thirty (30) days following the original date of its first public hearing on a Historical Cultural Resource Site. Said recommendation shall include an evaluation of the site, structure, or real property in relation to the criteria contained in subsection (5-533(a)). If the Board of County Commissioners does not receive a recommendation from the Historical Commission as provided for in this section, the Board of County Commissioners may consider the proposed Historical Cultural Resource Site without a recommendation from the Historical Commission.

5. Ms. Richards stated that the building was not started until after the City had completed its first round of municipal annexations and has significantly expanded.

6. Subsections 5-533(b) and (c), Broward County Code, provide:

- “(b) The Board of County Commissioners shall by resolution direct the County Administrator to publish and mail or hand deliver a notice of hearing to consider designation of a site as a Historical Cultural Resource Site. Notice of hearings to be held by the Board of County Commissioners to consider designation of a site as a Historical Cultural Resource Site shall be published in a newspaper of general circulation in Broward County, shall state that the property is under consideration for designation as a Historical Cultural Resource Site, and shall include the time, date, and place of the hearing and location of the property under consideration. Additional notice shall be given to the property owners, and to the local government having jurisdiction, by mail or hand delivery at least fifteen (15) days prior to the hearing date. Such notice shall state that the property is under consideration for designation as a Historical Cultural Resource Site and shall include the time, date and place of the hearing, the location of the property under consideration, the criteria used to determine the designation of the property, and the effect of its designation on lands classified as a Historical Cultural Resource Site. For purposes of this notification, an owner of property shall be deemed to be the person who is shown as the owner on the tax rolls of the Broward County Property Appraiser unless the Broward County Environmental Protection Department (EPD) has actual notice that a person or entity other than the person or entity shown on the tax roll is the owner. In such case, the notice shall be mailed to the person or entity known to be the owner.

- (c) With five (5) days following the date a notice is mailed to the property owner pursuant to subsection (b) above, or upon hand delivery, the real property under consideration shall be subject to the provisions of this article until the public hearing, provided that the public hearing date is no later than forty-five (45) days from the date of the notice. A copy of this article shall be included with such notice. This provision shall not apply retroactively to sites designated during the same public hearing at which this article is adopted. In the event the Board of County Commissioners grants a request for continuance or deferral at the public hearing, the Board shall make a determination as to whether the provisions of this ordinance shall continue to apply during the period of the continuance or deferral. If the Board of County Commissioners does not designate the property as a Historical Cultural Resource Site at the public hearing, the property shall no longer be subject to the provisions of this article.

Mr. Lunny explained that a memorandum was received from David Baber on the date of the meeting, which was distributed to Council. The first point was as of this writing the site is not on the Florida Master Site File and the memorandum prepared was reviewed by the City's staff. It was his understanding that this site was not on the Florida Master Site File. As Mr. Baber points out, there was an application, which was attached to his memorandum, to put it on the Florida Site Map and that application was signed by the Broward Historical Trust, Inc. Mr. Lunny does not know whether Plantation ever authorized the Broward Historical Trust to take any action with respect to the City's property with respect to the State Map. We will find that out and report later whether this action was authorized by the Council or the Mayor. The second point was that Section 3.1, Mr. Lunny's statement of one legal consequence of being on the Broward County Historical Map Series is that the site will become subject to Broward County Comprehensive Plan policies. Mr. Baber then states that the mere fact that the site is listed on the State File automatically puts it on the County map. Mr. Lunny disagrees because it is not yet on the County map and when and if it is put on the County map then it will be subject to those policies. It is a candidate for that and the application that the Mayor received on April 24, 2012 from the Broward County Planning Council indicated, by letter of the Planning Council, that the Historical Commission had requested that the Planning council put it on the map. The third point in Mr. Baber's letter is to acknowledge that the Historical Commission did not approve the application that was given to the Broward County Planning Council for the purpose of changing the County map. As indicated in his memorandum, that application was prepared by a company called the Broward Trust for Historic Preservation, Inc. This could mean everything if we choose to take an action against that company or against the companies efforts or the Historical Commissions efforts to control how this property is going to be managed or it could be nothing if Council decides that they are happy with the asset becoming designated as a Historical Cultural Resource Site or subject to the County Comprehensive Plan provision. Mr. Lunny was requested by Administration to, in a very short time period, to try to put something together for Council to consider so that you could tell us what you wished be done about this. Despite the letter writing that says, "We want to be friendly", these are steps that are taken with a purpose and you can either decide to oppose that or you can decide to go along with it. As indicated last time, the decision was simply to repair the structure.

Mayor Bendekovic advised that from the start she has been very transparent and has provided all of the information. This is a Council decision not anyone else's decision. This is the residents' money and we should be responsible on how to spend it and what to do with it. For somebody to try to circumvent this Council, she thinks it is an injustice and she does not appreciate it. We need a response for them; whether to oppose it or go along with it. This has cost us a lot of staff time and legal fees. Administration is doing what Council requested, we are going out for an RFP for the specs to repair the structure.

Councilman Jacobs stated that he recalled the last discussion having a consensus of three members to get more accurate information about the cost to repair the building. After talking to residents in the area they would like the building to be demolished and build something better. In his opinion, the building is ugly, it is a bad use of space, it is not serving the community and it has no historical value; it has some minor architectural value. He is fine with finding out what it will cost to repair the building. He agreed with the Mayor and does not believe that the Council should be told what to do and gave direction to oppose what is being done by the Broward Trust.

Mayor Bendekovic indicated that she has spoken with several County Commissioners and if and when it comes to them they will come out and do a tour. In speaking with Commissioner Lieberman, she mentioned that she has some discretionary funds, but they are only for capital purposes and she is more than willing to share some of those funds, depending on the cost of the RFP.

Councilperson Stoner commented that while she appreciates the two entities offering assistance, she believes it is a little premature given that Council has requested to see numbers for repairs.

In response to Councilperson Stoner, Mr. Lunny advised that we have been asked to be as wise as possible in the expenditure of funds and try only to accomplish the City's mission. This is not the City's mission; this is an influence that has put us in a position that we have to react to. The first thing to decide is whether to oppose it and the second thing is to decide how to oppose it. Will it be political, staff, legal, or some other option? The most expensive and most aggressive response is the legal one but perhaps there can be a combination. If Council wishes to ask the Planning Council to cease its consideration, ask the State of Florida to take this designation that someone else filed and void it because it was not something that we sanctioned, if that turns out to be true, and then work on it through an elected or political basis, that would be fine. In his opinion, this is becoming somewhat orchestrated and things are being said in terms of who is doing what that needs to be investigated thoroughly and met vigorously. This is a community asset, it is not private property. He personally does not believe that it meets the test for being a Historic Cultural Resource Site and he is sure that we can get experts that will agree; however, Council may wish to repair the building and treat it that way.

Mayor Bendekovic noted that we have to have a response to them by May 25, 2012.

In response to Councilperson Stoner, Mr. Lunny stated that the question is, "Did the City authorize the Broward Trust for Historic Preservation to make the application to the State of Florida?", not whether the Trust, as a public interest group, did that on its own. If we did not ask them, then we would still have the ability to say to the State of Florida, "We are the land owners and we do not want it designated that way anymore; take it off, we did not approve this". Apparently the Trust has the power to ask the Broward County Planning Council to approve this. The letter to the Planning Council implies that it comes from the Historical Commission and was signed by an employee of the County that works for the Historical Commission through the library system and now we know that the Historical Commission never approved that application and this was also filed by the Trust. He is not saying that they did not have an independent legal ability to ask for this; it is just that they were not authorized by this City to do it as our agent; that is the distinction.

Councilperson Stoner indicated that she does not want them to be made out to be the bad person if they were functioning within the parameters of their powers.

Mr. Lunny stated, in his judgment, the Historical Commission should not sanction, changing or doing anything that affects a City's valuable property rights without notice and a hearing and an opportunity to attend and indicating to a City that they are about ready to do this. It is his view, under County law; the Historical Commission is not authorized to file this application without the County Commission's advance consent. He knows that they feel differently about that and if we end up in a case that issue will be determined to see whether they were acting in a road capacity. He does not even think this was the Historical Commission; he thinks it is a couple of people. First, Council needs to decide what they want and if it matters whether this is designated and if it is designated you have to realize that there are some other persons controlling it; either your own local entity or a County entity. If it does matter and want to oppose this so you can make all of the decisions, it can be done.

Councilman Tingom advised that he is opposed to relinquishing control of this property to any other entity other than this body and the citizens of our community. He concurred with Councilman Jacobs about opposing this particular resolution.

Councilwoman Uria commented that her concern is what is best for the residents and how we get the "most bang for our buck". She believes that we could repair the building; however, she would like to look at the numbers. If this does get designated there are not a lot of funds available; Federal and State funds have dried up. She likes the history and what we have tried to create. We need to continue on the path we are going and this may go away. It may not go away if we decide to tear the building down and start over.

In response to Mayor Bendekovic, Councilwoman Uria thinks that going forward is our way of opposing it and she does not want to spend more money on the logistics of trying to do this. She suggested writing a letter to the entities and say, "We are going forward".

Mr. Lunny indicated that it is clear that the course of conduct has been taken and will be pursued and he thinks that simple letter writing is not enough. He believes that Council will have to go to meetings and prepare for presentations; not necessarily authorizing the filing of a lawsuit; you may need to respond to one. Council may have to be very active at the Planning Council stage at this moment; active in terms of what is done with the State list, active in terms of repealing resolutions that are going to be used against us for a different purpose, and more active opposition needs to be evaluated rather than just writing a letter because this is a proceeding.

Councilman Levy referenced Section 5-35(b) of the Broward County Code says, "Any person or the Historical Commission, upon its own motion, may make application to the Historical Commission for consideration of real property or structure as a Historical Cultural Resource Site. Upon receipt of that application for consideration, the Historical Commission shall schedule a public hearing to discuss the application's eligibility as a Historical Cultural Resource Site pursuant to the criteria contained in subsection ...". It further says, "The owner of the property as shown on the Broward County Tax Roll or other person or entity, which the Historical Commission has actually noticed is the owner of the property, shall be notified that his or her property is under consideration for designation as a Historical Cultural Resource Site. Such notice shall include the date, time, and place of the public hearing, the location of the property under consideration, the criteria used to determine the designation of the property and the effect of the designation on lands classified as Historical Cultural Resource Sites. Notice shall be delivered by certified mail return receipt requested or hand delivery no later than 15 days prior to the date of the public hearing".

In response to Councilman Levy, Mr. Lunny advised that we never received notice because that is a different proceeding; that is to designate the property as a Historical Cultural Resource Site where the Commission can make its own obligation or another person can. The letter we received is an application to the Broward County Planning Council to put this site on the County Historic Resource Map so that it becomes subject to the County Comprehensive Plan provisions and that is one of two required steps for them designating it as a Historical Cultural Resource Site. As to that first action, the very first action on the County level, the Historic Commission vote in the minutes says, "We would like to have you prepare a resolution", which, to him means bring it back with an application. Instead, an application was filed under the aegis of the Commission, which was not a Commission application and the Broward County Planning Council is asking what we want to do. With regard to the dates of 2007 and 2009, Mr. Lunny would like to find out how this was done without us knowing. He does not know if these were done by the Trust or whether we requested the Trust to prepare these or whether the Trust prepared these and then we authorized the Trust to file these on the City's behalf or whether the Trust did it independently. He knows as to this last action that the City did not authorize anyone asking the Broward County Planning Council to take this action; this was someone else.

Councilman Levy stated that as the owner's defacto of the property, to have someone else decide that they are going to do this on property that we own is reprehensible and he certainly would urge that we oppose this for that reason. We have agonized over this for a long time and have come up with various possibilities; it is a very touchy subject and there are many people on one side saying preserve it and on the other side saying it is not worth it; do it over.

Motion by Councilman Levy, seconded by Councilman Tingom, to oppose Item No. 22. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom
Nays: None

In response to Councilwoman Uria, Mayor Bendekovic advised that she is having another discussion with Commissioner Lieberman tomorrow but she has the figures. We do not know how the RFP will come back but hopefully she will be able to help us.

Councilman Jacobs clarified the motion and commented that he would oppose it in anyway that Administration deems necessary but being sensitive to the fact that we do not have a lot of money to spend on it.

Betty Cobb, resident, indicated that this was the Broward Trust for Preservation. She went back about 18 years when several people wanted to tear the building down and put in a gymnasium. A petition was done saying that residents did not want the gymnasium; they wanted to save the building for historical reasons. Being listed with the State and put on the map does not hold the Council to anything. She thinks that Council is making a great to do about nothing and running up a lot of legal bills. She clarified that she is not on the Broward Trust; she is on the Broward Historical Commission. It paves the way for things such as grants. If the City does not have a City Preservation Board then another entity can do it and this is the Broward Trust for Historic Preservation.

Councilman Levy mentioned the memo from David Beber and noted that one legal consequence of being placed on the Broward County Cultural Resource Sites Map will cause the site to become subject to the Broward County Comprehensive Plan Objective 9.08.00. The basis for this assertion appears to be based on the definition of Historic Resources from the County Comprehensive Plan included on Page 3. There is a consequence if this happens; we then get another layer of bureaucracy that has to be included in any decision making and that takes some of the options out of our hands because the Broward County Commission will get involved. In his opinion, he does not want that to happen.

Councilwoman Uria advised that we can move forward and apply for these designations at a later time if we choose.

Mayor Bendekovic commented that when you take the power out of the Council's hands it is something to make do over.

Kathy Motto, resident thanked Council for opposing this item. She noted that she would love to have a new community center.

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LEGISLATIVE ITEMS

Mr. Lunny read Item No. 23.

- 23. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF CODE ENFORCEMENT; PROVIDING FOR REVISIONS TO REFLECT STATUS OF CODE ENFORCEMENT BOARD; UPDATING NOTICE PROCEDURES CONSISTENT WITH STATE LAW; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated May 9, 2012, to Mayor Bendekovic and Members of City Council, from Quentin E. Morgan, Assistant City Attorney, follows:

As the elected officers may recall, a workshop was held regarding City Boards and Committees. The Code Enforcement Board had previously been functionally eliminated and the Council authorized the City Clerk to process this Ordinance to reflect same.

The attached Ordinance maintains the statutory based qualifications and organization of a Code Enforcement Board but makes the use of the Code Enforcement Board a function of privilege by the City. The Ordinance also reflects changes made in the Legislature to Code Enforcement notices.

This Ordinance is now ready for consideration at First Reading.

Mr. Lunny read an amended title for the Ordinance as follows:

An Ordinance pertaining to the subject of Code Enforcement providing for revisions to reflect status of Code Enforcement Board making other changes to the Code Enforcement process, updating notice procedures consistent with State law, providing a savings clause and providing an effective date therefor.

Mr. Lunny explained that the reason for the change in the title is that this Ordinance was authorized by the Council some time ago to show that the Code Enforcement Board is enactive and not to meet anymore. Recently the Administration had a meeting with the Police Department and they were trying to come up with more cost effective suggestions on how to handle old fines that are still on the books and out of compliance. He made a suggestion to the Police Department and they are considering that suggestion. If that suggestion is acceptable to the Police Department, he would like to present it to Council for Second Reading and by changing the title in the fashion it gives him the option to do so without having to do a separate Ordinance and a new enactment. He would like to leave the title as is and when it comes back there will either be a proposal to discuss or not.

Motion by Councilwoman Uria, seconded by Councilman Jacobs, to approve the Ordinance as written with possible changes prior to the Second Reading. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom

Nays: None

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 24 and the three principle waivers.

24. REQUEST FOR SITE PLAN MODIFICATION APPROVAL OF MERIDIAN LOCATED AT 551 NORTH STATE ROAD 7 AND ZONED SPI-2.

A Staff Report dated May 9, 2012, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST: Consideration of a request for a site plan modification with waivers.

WAIVER REQUESTS:

1. From: Section 27-613.4(a), which requires a front yard setback of 80 feet;
To: To reduce the required front yard setback to 61.9 feet.
2. From: Section 27-613.4(a), which requires a rear yard setback of 25 feet;
To: To reduce the required rear yard setback to 21.7 feet.
3. From: Section 27-616(e)(i)(a), enhancement requirements/authorized waivers.
Landscape pedestrian zones shall extend the full width of each façade which abuts a parking or vehicular use area; the minimum width of such landscape zone shall be 10' in the front and 5' on the side and rear.
 - *5' required along the western façade – 3' provided.*
 - *5' required along the southern façade – 3' provided.*
 - *10' required along the eastern facade – 0' provided.*One tree shall be installed in this zoned per each 30 lineal feet or fracture thereof of façade width.
 - *5 trees required along the northern façade – 0 provided.*
 - *5 trees required along the southern façade – 0 provided.*
 - *2 trees required along the eastern façade – 0 provided.*

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; and site plan application.

ANALYSIS:

The subject site is approximately a .95-acre site and developed with a 5,772-square-foot commercial building previously utilized as a restaurant. The site is bound on the north by a used car dealership, on the south by a service station, on the east by State Road 7, and on the west by a medical office building. The structure is currently vacant and the site derelict.

The applicant proposes improvements to the existing building that include a 2,146-square-foot addition and extensive modifications to the building elevations. The applicant is requesting front yard and rear yard setback waivers to accommodate the building expansion.

The applicant is proposing to subdivide the building into four (4) medical offices, each with exterior access. Forty-five parking spaces are required (after allowable Gateway reductions) and 51 parking spaces provided.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. Per Section 20-61, this request must undergo a local concurrency review for parks, water, sewer, streets, drainage, and solid waste. The standard single-page form is available in the Planning and Zoning Department. The applicant must present the form to the appropriate City departments for sign off prior to City Council consideration.

Zoning:

1. The front yard setback of the proposed building addition is located at 61'11" in lieu of the 80' required by Section 27-613.4(a). A waiver has been requested.
2. The rear of the building is located at 21 feet. Section 27-613.4(a) requires the rear setback to be a minimum of 25 feet. A waiver has been requested.
3. Building finishes shall be in compliance with the "Plantation Tropical Design Guideline" color palette. Exterior painting of commercial structures requires a permit from the Building Department and color selection approval from the Planning and Zoning Department.
4. Dumpster and dumpster gates to be painted to match the building (wall) color.

TRAFFIC CONSULTANT: See Engineering.

ENGINEERING DEPARTMENT:

1. The previously approved site plan includes a fully paved drive aisle at the rear of the building to accommodate Fire Department access. This is an existing site condition. The proposed site plan reflects a 12' paved drive aisle with landscape strips to either side. Access for Fire Department vehicles is now called into question. *The applicant has provided the department with an April 27, 2012 letter acknowledging this condition and agreeing to either leave the existing condition as is or proceed with the proposed 12' wide drive aisle, subject to Fire Department determination.*
2. Please revise the existing site plan sheet A-1 of 5 as needed to reflect dimensioning of drive aisle widths, location of existing curbing, etc. *The applicant has provided the department with a letter dated April 27, 2012 agreeing to revise existing site plan sheet A-1 of 5 as required.*
3. The site plan is not provided in an engineering scale as required. Engineering will not be able to thoroughly review the plans until they are provided in the correct scale. *The applicant has provided the department with a letter dated April 27, 2012 agreeing to provide a revised site plan in engineering scale 1' = 20'.*
4. Please provide the ADA accessible route to the building so Engineering may review the route as it relates to traffic circulation. *The applicant has provided the department with a letter dated April 27, 2012 agreeing to revise the site plan as necessary to clarify an ADA compliant accessible route to the building.*
5. The dumpster doors extend into the drive aisle as shown on the plan. Please revise or relocate. *The applicant has provided the department with a letter dated April 27, 2012 agreeing to relocate the dumpster enclosure footprint as needed to eliminate encroachment of the dumpster gates into the drive aisle.*
6. In a letter provided to the department dated April 27, 2012, the applicant agrees it shall address comments 1 through 5 above to the Department's satisfaction prior to making application for Building Department permits.

Permit Comments:

1. An erosion and sedimentation control plan will be required. Please meet with Engineering to discuss.
2. A demo plan will be required with a building permit.
3. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.
4. Drainage for the site shall comply with applicable sections of Chapter 9 of the City Code of Ordinances. Drainage calculations will need to be submitted, signed and sealed by a professional engineer registered in the State of Florida.

Note: A detailed review of the civil drawings has not been performed at this time. If the site plan application is approved by City Council, a thorough engineering review will be performed at the time of application for construction permits. Surface water management permit(s) through the Environmental Protection Department

(EPD) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review. The applicant may/will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

1. Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department prior to the issuance of a Building permit. Please contact Diana at 954-797-2248 directly to obtain required permits.
2. If you would like the comments forwarded to you via e-mail, please call our administrative secretary, Judy McBride at 954-585-2360 or e-mail her at jmcbride@plantation.org.

Site Plan:

1. From: Section 27-617(e)(i)(a), enhancement requirements/authorized waivers.
Landscape pedestrian zones shall extend the full width of each façade which abuts a parking or vehicular use area; the minimum width of such landscape zone shall be 10' in the front and 5' on the side and rear.
 - *5' required along the western façade – 3' provided.*
 - *5' required along the southern façade – 3' provided.*
 - *10' required along the eastern façade – 0' provided.**Waiver requested.*
2. Staff does not support the removal of two existing landscape islands along the northern perimeter where mature, healthy trees currently exist; there is a surplus of parking on this site above code requirement.

Planting Plan:

1. A minimum of one tree is required every 30 lineal foot, or fraction thereof, of façade width (3 palms = one tree):
 - *5 trees are required along the northern façade – 0 have been provided.*
 - *5 trees are required along the southern façade – 0 have been provided.*
 - *2 trees are required along the eastern façade – 0 have been provided.*
2. Screen above ground utilities on the planting plan, including FPL boxes, etc. Please make a note to this effect on plans.
3. Please use caliper in lieu of DBH.
4. Perimeter hedge should be a minimum of 30" in height as per City codes.
5. Under specifications on the Plant List please note that all trees will be field grown/balled and burlaped.
6. Please do not use variegated Pittosporum; Pittosporum has not been performing well in Plantation.
7. Please include the City of Plantation notes.
8. City staff will verify all trees proposed "to be removed or relocated". All proposed trees "to be removed" must be mitigated for s per City codes; tree mitigation will be above and beyond code-required trees on the property. All trees to be removed require ISA tree appraisals for mitigation purposes as per City codes.
9. Please clarify the proposals to remove existing, healthy, Pink tabebuia trees (#31, 47, and 54; Silver buttonwood trees (#1 and 11); and Solitaire palm (#49-53).
10. Please include the condition as well as heights of trees/palms of all existing trees and palms.

11. Please add the current City of Plantation City Notes available online: www.plantation.org/landscape/details-notes.html; please keep the “General Notes” on the landscape plans.
12. Please include details for palm and tree relocation as well as a watering schedule.
13. A pre-planting meeting with the Department of Landscape Architecture is required before any planting commences on the project; please note on plans.

BUILDING DEPARTMENT:

The ADA accessible route from the public right-of-way indicates it is off site. The route is to be contained with the property lines.

FIRE DEPARTMENT: No objections as to only the request for the site plan modification.

1. The applicant is aware that conditions may arise upon review of the required permitting signed/sealed plans.
2. See Fire Department letter dated 4/27/12.

POLICE DEPARTMENT: No comments.

UTILITIES:

No objection; however, the following comments apply to the site plan.

1. Prior to a Building Permit or Business License being issued, the following must be provided:
 - Capacity Charges must be paid in FULL.
 - Contact; Danny Pollio if you have any questions, 954-797-2159.
2. Maintain all utilities and utilities easements for water and wastewater system access.
3. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked “FINAL”.

O.P.W.C.D.: No comments.

WASTE MANAGEMENT:

1. The enclosure needs to be 12’ by 12’ with the enclosure doors opening at a 90-degree angle.
2. Enclosure gates need to have gate stoppers to prevent the gate from closing while driver is servicing the container.

Mr. Leeds explained that this is a former restaurant located on State Road 7 just north of the Texaco Station; it is a little less than one acre. The proposal is an adaptive reuse of the property, changing it from a vacant drive-thru restaurant to a medical office. From a Planning perspective they have no objection to waiver requests #1 and #2, which deal with Zoning, and there is no objection to approval if the applicant agrees to the conditions.

Ronald Kall, architect, was present.

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve Item No. 24, subject to conditions and waivers. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom
Nays: None

Councilperson Stoner referenced sheet #2 of five on the sketches and it appears that there is only 12 feet between curb to curb.

Mr. Kall advised that the building exists in the rear and they are going to enclose the corner. Initially, he was trying to add some additional landscaping but the Fire Department prefers that it stays as it is now so they can bring their vehicles back there. Their vehicle will not go through the 12 feet so they are going to go back to what it was initially, which is about 18 feet and some inches.

Mr. Kall indicated that they agree to all of the conditions and they do not have any problems with Fire Department comments.

In response to Mr. Leeds, Councilman Jacobs clarified that the motion is to include all conditions and waivers.

Mr. Kall commented that he said medical and it will probably be medical but that was to be sure there is enough parking. He would like it stated that this is an office building opposed to a medical building.

Councilman Tingom stated that if it is changed it would be a conditional use.

Mr. Leeds advised that a medical office is a permitted use as is a general professional office.

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25. CONTINUED REQUEST FOR SITE PLAN, ELEVATION AND LANDSCAPE PLAN APPROVAL FOR RENAISSANCE CHARTER SCHOOL LOCATED AT 6701 WEST SUNRISE BOULEVARD.

The attorney and client requested that this item be deferred to June 13, 2012.

Motion by Councilman Jacobs, seconded by Councilman Levy, to defer Item No. 25 to June 13, 2012. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom
Nays: None

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Mr. Lunny read Item No. 26 and the waivers.

26. CONSIDERATION OF REQUEST FOR CONDITIONAL USE AND SITE PLAN, ELEVATION AND LANDSCAPE PLAN APPROVAL FOR RIVERWALK AT LAGO MAR. PROPERTY LOCATED AT 13000 WEST BROWARD BOULEVARD AND ZONED PRD-8Q.

A Staff Report dated May 9, 2012, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST #1: Conditional use approval to allow 64 fee-simple townhomes in a PRD-8Q district.

REQUEST #2: Site plan, elevation, and landscape plan approval for Riverwalk at Lago Mar.

WAIVER REQUESTS:

1. From: Section 27-689(c), which requires the building to be setback from the north and west property line a distance equal to 45' (1 ½ times the building height).
To: Reduce the required setback from 45' to 27.8' along the west property line; and
To: Reduce the required setback from 45' to 40' along the north property line.
2. From: Section 27-742(b), which requires each parking space to have a minimum width of 9 feet;
To: Allow a 16-foot driveway width for two-car (townhouse) parking.
3. From: Section 27-742(e), which requires two-way drive aisles to have a minimum width of 25 feet.
To: Reduce the drive aisle width to 24 feet.
4. From: Section 27-747, which requires two off-street loading zones.
To: Eliminate the requirement for off-street loading zones.

LANDSCAPE WAIVER REQUESTS:

1. From: Section 13-41(a)(b), pedestrian zones along building facades.
Landscape pedestrian zones shall extend the full width of each façade that abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structures' wall height.

To: a) 15' required along the southern façade of buildings 1 & 13 – 0' provided.
b) 15' required along the western façade of buildings 2, 3, 4, 5, 9 & 14 – 0' provided.
c) 15' required along the eastern façade of buildings 6, 7, 8, 11, and 12 – 0' provided.
d) 15' required along the northern façade of building 10 – 0' provided.

Waivers requested – staff does not object to waiver requests; the lack of required area is in relation to the individual parking spaces (driveways) and associated garages. Staff requests the proposed trees in the planting islands in these areas be planted at a minimum height of 14'.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; conditional use/site plan application; Planning and Zoning Board minutes of March 6, 2012; Landscape Planning Review Board minutes of March 6, 2012; and Review Committee meeting minutes of December 20, 2011.

PLANNING AND ZONING BOARD RECOMMENDATION: APPROVAL subject to staff comments (6/1; March 6, 2012)

LANDSCAPE PLANNING REVIEW BOARD: APPROVAL subject to staff comments. (5/0; March 6, 2012)

REVIEW COMMITTEE RECOMMENDATION: No objection to the project moving **FORWARD** for further review (December 20, 2011).

ANALYSIS:

The subject site is approximately 8.3 acres in area, zoned PRD-8Q, and is currently vacant. The site is bound by Broward Boulevard to the north, SR 84/I-595 to the south, single family residential uses to the east, and commercial uses to the west. A rezoning and site plan for Caprizi (24 townhomes and 48 garden apartments) was approved by City Council on August 23, 2006. However, this project was not built and the site plan subsequently expired. The new site plan contains only townhouses, which are more compatible with the adjoining single-family homes to the east.

The applicant is requesting conditional use, site plan, elevation, and landscape plan approval to construct 64 two-story townhomes comprised of ten four-unit buildings, and four six-unit buildings. Where applicable, the review of a Conditional Use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code, attached hereto as Exhibit "A".

A swimming pool with a pool pavilion will be located on the west side of the community entrance. The community will be secured with a combination of a six-foot wall along Broward Boulevard and a six-foot aluminum picket fence along the east and west sides. An eight-foot wall will be provided along the south side abutting SR 84/I-595. Gated access from Broward Boulevard with a call box is also planned.

Required parking based on 36 three-bedroom units and 28 four-bedroom units is 176 spaces with 236 spaces provided. The three-bedroom units will have an oversized single-car garage and the four-bedroom units will have two-car garages. Both units will have two-car driveways. Sixteen guest spaces are provided in various locations throughout the community.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. Thank you for paying the park impact fees prior to City Council without asking for a waiver!

Zoning:

In General:

1. Homeowner Association documents shall be reviewed and approved by the City Attorney prior to issuance of a building permit. A trust account with a minimum balance of \$2,000 must be opened before the City Attorney initiates his review. Within the Association documents, please include language that:
 - a) Prohibits garage conversions, exterior storage structures, or fencing material (for individual unit

owners.

- b) Addresses material and location limitations for patio enclosures.
- c) States that sanitation facilities shall be serviced no less than two times per week.

Site Plan:

1. Section 27-689(c) requires building to be setback from the north and west property line a distance equal to 1 ½ times the building height. *A waiver has been requested.*

Drive aisles and parking areas:

1. Section 27-742(b) requires each parking space to be a minimum of nine feet in width. The townhouse driveways are shown as 16' in width. *A waiver has been requested.*
2. Section 27-742(e) requires two-way access aisles to be a minimum of 25 feet. The drive aisles are shown at 24'. *A waiver has been requested.*

Loading Zones:

1. Section 27-747 requires two off-street loading zones. *A waiver has been requested.*

Lighting:

1. Provide a fixture detail of the coach lights and/or wall fixtures proposed for each unit for staff approval prior to submittal of building permits.

Details:

1. Provide a six-foot concrete wall with solid gates enclosing the lift station.

Easements:

1. Easement vacations must be completed prior to issuance of a CO.

TRAFFIC CONSULTANT:

The Broward County Trafficways amendment application for the removal of a portion of Broward Boulevard and Commodore Drive from the Broward County Trafficways Plan has been sent to Broward County. The vacations of road right-of-way and road easement for the project are dependent on the acceptance and approval of the amendment application. These must be completed prior to the issuance of a permit.

ENGINEERING DEPARTMENT:

1. Please show that all stop bars are a minimum of five (5) feet from the crosswalk. Internal bar is too close to crosswalk, please revise.
Response states: **THE STOP BAR WILL BE ADJUSTED SO THAT IT WILL BE FOUR FEET AT THE CLOSED EDGE TO THE CROSSWALK.** Accepted.
2. Please show all parallel spaces as being a minimum of ten feet from the crosswalks. Response says "Comment acknowledged". Please address comment and correct on plans.

Response states: **THE FINAL SITE PLAN AND FINAL ENGINEERING PLANS WILL SHIFT THE PARALLEL PARKING SPACES FOR TEN-FOOT CLEARANCE AS REQUESTED.** Accepted.

3. Please provide the City standard detail for disabled parking. Please add City standard detail as requested, not "a detail".

4. Please verify that the fire truck can make turns through the entrance/exit lanes coming from Broward Boulevard and the internal roadway. As shown, the truck will hit the curbs. Please meet with Engineering to discuss. As shown, the fire truck cannot make it into the site.

Response states: **WE HAVE CONFIRMED THAT THE FIRE TRUCK ACCESS THROUGH THE MAIN ENTRANCE AND AROUND THE INTERIOR OF THE SITE IS SUFFICIENT. THE LINES SHOWN ON THE GRAPHIC OVERLAPPING THE GUTTER PORTION OF THE CURB ARE ONLY THE TRUCK OVERHANG AND NOT THE WHEELS.** Accepted.

5. Please move exit gate further north, to the end of island, to prevent vehicles from stopping in roadway to exit.

Response states: **WE WOULD REQUEST THAT THE GATE REMAIN AS SHOWN. MOVING THEM NORTH WILL CONFLICT WITH THE TURNAROUND MOVEMENT FOR VISITORS. ALSO PLEASE NOTE THAT TRAFFIC COMING FROM EITHER DIRECTION HAVE A STOP CONDITION. DEVELOPER WILL PROVIDE A HOLD HARMLESS LETTER TO THE CITY.**

Permit Comments:

Note: A detailed review of the civil drawings has not been performed at this time. If the site plan application is approved by City Council, a thorough engineering review will be performed at the time of application for construction permits.

1. An erosion and sedimentation control plan will be required and reviewed at time of permitting.
2. A Maintenance of Traffic (MOT) plan will be required. Please meet Engineering to discuss.
3. Drainage calculations will need to be submitted, signed and sealed by a professional engineer registered in the State of Florida.
4. Surface water management permit(s) through the Environmental Protection Department (EPD) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review.
5. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

DESIGN, LANDSCAPE AND CONSTRUCTION MANAGEMENT:

- Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape and Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.
- The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.
- If you would like the comments forwarded to you via e-mail, please call our administrative secretary, Judy McBride, at 954-585-2360 or e-mail her at jmcbride@plantation.org.

Site Plan:

1. Code requires landscape pedestrian zones to extend the full width of each façade abutting a parking or vehicular use area; the minimum width shall be half the height of the proposed or ten feet (paved areas in the lpz may not constitute more than five feet of the required lpz).
 - a) 15' required along the southern façade of buildings 1 & 13 – 0' provided.
 - b) 15' required along the western façade of buildings 2, 3, 4, 5, 9 & 14 – 0' provided.
 - c) 15' required along the eastern façade of buildings 6, 7, 8, 11 and 12 – 0' provided.
 - d) 15' required along the northern façade of building 10 – 0' provided.

Waivers requested – staff does not object to waiver requests; the lack of required area is in relation to the individual parking spaces (driveways) and associated garages. Staff requests the proposed trees in the planting islands in these areas be planted at a minimum height of 14'.

Planting Plan:

1. Staff recommends the planting of category one trees > 15' on-center throughout the site, (i.e. Live oak trees are proposed at 15' on-center behind buildings 3, 2, 1, etc.; Mahogany and Live oak trees are proposed at 15' on-center behind building 7; etc.)
2. All proposed trees "to be removed" must be mitigated for as per City codes; tree mitigation will be above and beyond code-required trees on the property. Staff will work with the developer with regards to the proposed tree removal and applicable mitigation.

BUILDING DEPARTMENT: No objections.

FIRE DEPARTMENT: No objections as to this conditional use and site plan approval request with the confirmation that the Fire Department comments to the Planning and Zoning Board meeting of March 6, 2012 were satisfactorily addressed by the attached applicant letter of March 26, 2012.

POLICE DEPARTMENT:

Applicant has acknowledged the following concerns by the Police Department which will require compliance to reduce crime opportunity: HOA agreement with the Police Department for traffic enforcement.

1. All access points of the property must allow immediate access by the Police.
2. Lighting must meet IESNA security lighting standards.
3. All common facilities must be equipped with adequate security enhancements.

UTILITIES: 4.25.12 All comments still apply. Applicant has acknowledged comments. No objection to the conditional use approval; however, the following comments apply to the site plan:

1. Prior to a Building Permit or Business license being issued, the following must be provided:
 - \$500 review fee must be submitted to the Utilities Department.
 - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
 - BCHD and BC EPD Permits must be approved.
 - Utilities Agreement must be executed.
 - Utilities Performance Bond must be posted.
 - Utility Easements must be executed.
 - Utility Inspection fees must be paid.
 - Capacity Charges must be paid in FULL.

- Contact: Danny Pollio if you have any questions, 954-797-2159.
- 2. Must provide receipt or check copy for \$2,000 deposit marked for Utilities Expenses to project cost recovery account.
- 3. Offsite and onsite improvements and equipment may be required at applicant's expense to support project.
- 4. Maintain all utilities and utilities easements for water and wastewater system access.
- 5. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".

O.P.W.C.D.: No comment.

WASTE MANAGEMENT:

- 1. If this is going to be residential collection service, Waste Management will be able to service the area. If blue bags service is going to be required in this area, our trucks can service the blue bags. The City specs for emergency vehicle such as Fire Department can access the street then Waste Management vehicles will also be able to access the streets.

EXHIBIT "A"

CONDITIONAL USE:

Where applicable, the review of a Conditional Use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code, attached hereto. The applicant is required to identify the following:

- 1. A binding and buildable site plan that allows the Council to determine the architectural features and buffering needed to protect the surrounding property.
A complete site plan package including architectural floor plans/elevations, landscape plans, schematic engineering, lighting and a detailed site plan have been previously submitted. The site plan shows all building locations with setbacks to perimeter property lines as well as access points with a complete vehicular and pedestrian circulation system.
- 2. The proposed conditional use will be consistent with the general plan for the physical development of the district including any master plan or portion thereof adopted by the Council.
This is a free standing tract and not a part of a larger planned development. It has; however, given consideration to surrounding existing land uses and zoning. Particular attention was given to the single-family residences to the east with a minimum 100' building setback as well as extensive landscape buffering.
- 3. The proposed conditional use will be in harmony with the general character of the neighborhood, considering population density, scale and bulk of any proposed structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. A present need for the conditional use must be demonstrated.
The proposed 64, two-story fee simple townhouse units provide an ideal land use transition from the shopping center to the west and the single-family homes to the east. With controlled vehicular access onto Broward Boulevard, the adequacy of roads will not create an impact. This has been demonstrated by the traffic study submitted separately. The previous site plan was approved for 72 units in three-story

buildings. This plan, with all two-story buildings, will be much more compatible with surrounding residential uses. An analysis of product demand was conducted by the sales and marketing team of Centerline Homes. The investigation included product type, amenities provided; square footages and sales price range.

4. The proposed conditional use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood, and will cause no objectionable noise, vibration, fumes, odor, dust or glare of physical activity.

The site plan package, previously submitted, has demonstrated a compatibility with the neighborhood through careful architectural design, building placement, landscaping and location of the streets. No objectionable noise, fumes, vibration, dust or glare will be created by the proposal. As a result, area property values should not be impacted.

5. The proposed conditional use will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood.

The above described demonstrated compatibility with surrounding existing neighborhoods will ensure the health, safety, security, morals and general welfare of area residents.

6. The proposed conditional use will not, in conjunction with existing development in the area and permitted development under existing zoning, overburden existing public services and facilities.

Public services and facilities will not be overburdened by the creation of 64 living units. It should be noted that the plan previously approved for this site proposed 72 units. This area of Plantation is largely built out. Those few opportunities for future development are controlled by the City's approved zoning and future land use maps.

7. The proposed conditional use shall meet all other specific standards that may be set forth elsewhere in the Code of Ordinances.

All applicable section of the City's Zoning and Land Development Codes are being met with this proposed plan. Density, building heights and vehicular access are important components of these standards and are within stated guidelines.

8. The proposed conditional use shall disclose the square feet of use sought for approval so that an adequate evaluation may be made.

The site plan proposed will contain 64, two-story townhouses. Two models are proposed and are described as follows:

MODEL A (36) 3 bedroom, 2.5 baths 1812 sq. ft. A/C 1.5 car garage

MODEL B (28) 3 bedroom, 2.5 baths 1883 sq. ft. A/C 2.0 car garage

The total square footage under air will be 117,956. This does not include garages or porches.

Mr. Lunny did a consolidated hearing also for the conditional use. The Resolution for the conditional use is "A Resolution approving 64 townhouse dwelling units, River Walk at Lago Mar, as a conditional use to be located in a PRD-8Q zoning district on property lying in Section 2, Township 50 South, Range 40 East, and described as Parcel B of the Sun Burst Properties Development, according to the Plat thereof recorded in Plat Book 125, Page 17 of the Public Records of Broward County, Florida, generally located on the south side of Broward Boulevard, approximately 400 feet east of Commodore Drive; providing for conditions and limitations on the allowed use; providing a savings clause and providing an effective date therefor.

Mayor Bendekovic announced that she spoke with Robert Stiegel years ago and recently about having a sales office situated on the property prior to construction.

Mr. Leeds indicated that a project was presented a few years ago; however, this is a considerably much better project, as it provides considerably more open space. It is located on the south side of Broward Boulevard and is almost as far west on Broward Boulevard as you can go before running into Commodore Drive. Directly across the street, to the left, is the entrance to the Lago Mar Country Club, directly west is a small commercial shopping center, and to the right across an existing drainage feature is a single-family subdivision and to the south is the multi urban use trail that runs parallel to the State Road 84 canal. There is no objection to the conditional use. This plan is not built out at maximum density so it is providing more open space. Planning has no objections to waivers #1, #2, #3 or #4. The 16-foot driveway for the two-car garage in item #2 is actually a minimum accessible standard when there is a townhouse because the door itself will probably only be 16 feet. If the full size were required we would have to require 18 feet, which would reduce the pervious area between each driveway. This is actually better for drainage. All four of the Zoning waivers are being supported. The landscape waiver request basically relates to pedestrian zones adjacent to buildings and the Design, Landscape and Construction Management Department do not object to the waiver. It has requested that the proposed trees and the planting islands in these areas be planted a minimum height of 14 feet. Many of the units in this product all have two-car garages. Some of the three-bedroom have what is called an oversized or a 1.5 car garage. The interior width for a one-car garage is 10.5 feet and a 17-foot wide garage has been provided, which is basically a one-car garage with a lot of storage room. This particular project was submitted prior to the request to modify the parking standards, which are the agenda for discussion. The applicant agrees to the conditions and those also include Engineering and Design, Landscape and Construction Management. There is no objection to approval of the conditional use and the site plan as well.

Jonathan Keith, Centerline Homes, was present. He explained that this is an 8.5-acre parcel that was originally 1 land used for 72 units; they are building 64 units; four and six-unit buildings ranging in size from 1,800 to 1,888 square feet in size. They worked together with staff and they agree with staff comments. They do not have a problem with the tree height; they have a problem with the potential species. They would like to have the ability to work with staff to come up with a tree species that would meet the height requirements. Currently they are looking for Ligustrums, which at 14 feet are very wide trees and these will be near driveway areas, which could make it difficult getting in and out of cars. They are looking to have a little more room in the driveways. They agree with staff comments and the conditions.

In response to Councilwoman Uria, Mr. Keith advised that there is a width of interior units and a door space or entrance space still has to be created in the front of the building. The outside units have side entries so it allows the frontage of the entire unit to be garage. They cannot do that with center or intermediate units; therefore, they went with the smaller garage. They added additional guest parking throughout the community and are 60 parking spaces above the minimum requirement.

Councilwoman Uria commented that she would like to have seen three-bedroom units with a two-car garage and a two-car driveway.

In response to Councilwoman Uria, Mr. Keith indicated that they were very successful in their Parkland project, which is an identical project, and the average sale price was around \$300,000. There are lot premiums and upgrades that can be applied to some of the units. They feel comfortable with an average price of \$300,000. With regard to master down units, they are more targeted for age restricted or active adult. All of the living facilities cannot be put on the first floor along with a spectacular master bedroom suite. In this case the living space is below and the bedroom spaces are on top. By doing so, they have offered a spectacular master bedroom

suite. If master bedroom suites were added on the first floor the units would have gotten so large that they would not have been able to fit on the site plan.

In response to Councilman Levy, Mr. Keith advised that they have reached out to the surrounding Homeowner's Associations on several occasions. They have also been in contact with the adjoining shopping center as well as the Master Association with Lago Mar.

Bob Rossi, past President of the Lago Mar Homeowner's Association and a board member on the Lago Mar Colony Drainage Association, was present. He expressed concern with storm water drainage and they must be assured that the impact will not affect the calculations that were put forth by FDOT when they put the pump system and the lakes in. If too much water is added the system could overflow; the system has never been tested due to the fact that I-595 has not been completed. The pumps have only been started to run them for maintenance.

Cliff Bauer, President of Lago Mar Colony Homeowner's Association, was present. They support the development. Their concerns have more to do with the City of Plantation making sure that the required conditions are met. He has met with Mr. Keith and Centerline seems to be a good organization. When the outflow system was designed for the Lago Mar Drainage Association it was clear that the codes of the County and the City were not followed in that area; they were sloped wrong and their engineer pointed out a number of inconsistencies with existing City and County codes.

Greg Wagner, with Lago Estates South Homeowner's Association, was present. Lago Estates South is an 18-home development to the east. Their main concern has been privacy due to the new development. Centerline Homes has been very generous since the beginning of the development process and have agreed to install a decorative fence and a hedge that they feel will protect their homeowners' privacy to the rear of their homes.

Brett Butler, City Engineer, commented that staff will be diligent to work with the applicant in a pre-permitting process to make certain that they demonstrate to the City staff that they have complied with our local drainage ordinance, that they pursue any and all outside jurisdictional approvals, and that they present their plan as the Colony has requested they do for their review and have their independent engineer review them.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Item No. 26 with all of the waivers as requested, granting authority to negotiate with the Design, Landscape & Construction Management Department as to tree species and heights. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom

Nays: None

In response to Councilperson Stoner, Mr. Keith indicated that they are aware that the City of Plantation has a color code ordinance; therefore, their sales and marketing people worked closely with staff to make sure that the colors chosen will match the pallets.

Resolution No. 11494

RESOLUTION APPROVING 64 TOWNHOUSE DWELLING UNITS (RIVERWALK AT LAGO MAR) AS A CONDITIONAL USE TO BE LOCATED WITHIN A PRD-8Q ZONING DISTRICT ON PROPERTY LYING IN SECTION 2, TOWNSHIP 50 SOUTH, RANGE 40 EAST AND DESCRIBED AS PARCEL "B" OF SUNBURST PROPERTIES DEVELOPMENT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 125, PAGE 17, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA (GENERALLY LOCATED ON THE SOUTH SIDE OF BROWAR BOULEVARD APPROXIMATELY 400

FEET EAST OF COMMODORE DRIVE). PROVIDING FOR CONDITIONS AND LIMITATIONS ON THE ALLOWED USE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Motion by Councilwoman Uria, seconded by Councilman Jacobs, to approve Resolution No. 11494. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom
Nays: None

* * * * *

Mr. Lunny read Item No.'s 27 and 28, which were head in tandem. Instead of reading the waivers for Item No. 27, he read staff objections. Waiver requests were read for Item No. 28.

27. REQUEST FOR SIGN SPECIAL EXCEPTION FOR WESTFIELD MALL LOCATED AT 8000 WEST BROWARD BOULEVARD.

A Staff Report dated May 9, 2012, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUESTS:

1. From: Section 22-34, which provides sign allowances for regional malls;
To: Allow an increase in sign area from 27 square feet (based on the last City Council approval) to 153 square feet at the southeast mall entrance; and
To: Allow an increase in sign area from 27 square feet (based on the last City Council approval) to 153 square feet at the southwest mall entrance.
No objection subject to conditions – See Executive Summary Component 1a.
2. From: Section 22-34(b), which allows regional malls one 64-square-foot ground sign for each road frontage over 70' of right-of-way width;
To: Allow an increase in ground sign area from 64 square feet to 186 square feet.
No objection subject to conditions – See Executive Summary Component 1 b.
3. From: Section 22-20(p), which limits the height of ground signs on roadways with six or more lanes to nine feet;
To: Allow an increase in the sign height to 14 feet.
No objection subject to conditions – See Executive Summary Component 1b.
4. From: Section 22-20(t), which limits the location of tenant panels on ground sign to the lower ½ (50%) of the sign face and requires the panels to be of matching color, size, and front.
To: Allow the tenant panels to occupy 70% of the sign face; and
To: Allow the tenant panels to have branding fonts.
No objection to increase in tenant panel area; Objection to branding fonts – See Executive Summary Component 1b.

5. From: Section 22-34(d), which allows anchors (stores having exterior access not through the mall) within regional malls to have a maximum of 200 square feet of wall signage on each building elevation;
To: Allow the theater to be considered an anchor for signage purposes; and
To: Allow an increase in wall sign area from 200 square feet to 665 feet for the southeast elevation (to include four signs – Cinema wall sign, Regal 12 blade sign, RPX logo, and Stadium canopy sign); and
To: Allow an increase in the wall sign area from 200 square feet to 479 square feet for the southwest elevation (to include three signs – Regal 12 blade sign, RPX logo, and Regal Stadium 12 canopy sign).
No objection subject to conditions and a maximum wall sign area of 416 square feet on the southwest elevation and a maximum wall sign area of 396 square feet on the southeast elevation – See Executive Summary Component 2a, 2c, and 2d.
6. From: Section 22-20(g), which limits logos to no more than 10% (20 square feet) of the allowable sign area;
To: Allow the “crown” logo to be 11.6% (23.2 square feet) of the allowable sign area.
No objection – See Executive Summary Component 2a.
7. From: Section 22-20(e), which prohibits signage on awnings or canopies;
To: Allow three canopy signs totaling 312 square feet in area.
No objection to one canopy sign located above the southeast mall entrance to the theater with a maximum sign area of 180 square feet – See Executive Summary Component 2b.
8. From: Section 22-20(f), which limits subordinate messages to no more than 15% (35 square feet) of the allowable sign area;
To: Allow two “RPX” signs totaling 42.8 square feet in area each.
No objection subject to a maximum sign area of 25 square feet each – See Executive Summary Component 2c.
9. From: Section 22-34(d), which allows anchors within regional malls to have a maximum of 200 square feet of wall signage on each building elevation;
To: Allow JC Penney to place a 146.8-square-foot wall sign on the northeast elevation of the proposed theater.
Objection – See Executive Summary Component 3a.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report and attachments; location map, aerials, Sign Special Exception application, and sign details.

ANALYSIS:

The subject site is 86.9 acres in area and developed with a regional mall encompassing approximately 1,055,860 square feet. The site is bound by Broward Boulevard to the north, University Drive to the east, and commercial uses to the south and west. The applicant is processing a concurrent request for site plan modification approval to construct a 57,164-square-foot (2,489-seat) movie theater, 16,270 square feet of additional restaurant/retail area and a 4,020 freestanding bank with drive-thru facilities.

The theater will be located on the south side of the mall between Macy’s and JC Penney. The new restaurant/retail area will be located abutting the west (food court) entrance between JC Penney and Dillard’s.

The freestanding bank will be located at the northwest corner of the University Drive/Federated Road intersection.

The applicant's special exception request contains three primary components:

1. To increase the size of two "Westfield" mall entrance wall signs and construct a large double sided ground sign with tenant panels for Westfield Broward;
2. To allow signage for the proposed theater to include one two-sided blade sign, three canopy signs and three wall signs, and
3. To allow one additional wall sign for JC Penney on the northeast elevation of the proposed theater.

PLEASE NOTE: Staff recommends reviewing this report in conjunction with the applicant's sign plan (attached) to fully understand the requested special exceptions.

Component 1 (the Mall):

- a. The applicant proposed to renovate the exterior elevations of two of the four mall entrances. The current entrances have architectural columns with wall signs centered between the existing columns. The planned exterior renovations to the southwest (food court) and southeast (theater) entrances eliminate the columns, add additional glazing, and create a large flat wall area above the canopy to place the new wall signs. The current signs are 27 square feet in area. The proposed signs are 153 square feet in area. It should be noted that City Council approved an increase in area from 15 to 27 square feet for the existing signs in these locations in 2009. See sign diagrams B-2 (existing and proposed southwest entrance), B-4 (existing southeast entrance), and B-7 (proposed southeast entrance).
- b. The applicant proposes to demolish an existing ground sign centrally located on the property fronting University Drive (due east of Macy's) that is code compliant (9 feet in height and 30.5 square feet in area) and replace it with a larger and taller ground directory sign with "Westfield Broward" and nine tenant panels. The two-sided sign is 14 feet in height, 23.75 feet wide, and 186 square feet in area (each side). The applicant also requests approval to allow the tenant panels to occupy more of the sign face than allowed by code and to use separate "branded fonts" in lieu of matching fonts for the tenant panels. See sign diagrams C-1 (existing and proposed).

Component 2 (the theater):

- a. The planned construction of the theater includes an architectural "blade" for the placement of vertical signage at the southeast corner of the new building. Wall signage for "Regal 12" is planned by the applicant on both sides of the blade, each having a sign area of 190.4 square feet. The applicant also requests neon striping (prohibited by code) on the top and outer edge of the blade. See diagram B-5A.
- b. The applicant proposes three "Stadium" signs mounted on the top of the shade canopy; one located on the southeast elevation to the right of the blade sign, one located on the southwest elevation to the left of the blade sign, and one located above the southeast (theater) entrance. The canopy signs adjacent to the blade sign are each 66.3 square feet in area and the canopy sign at the mall entrance is 180 square feet in area. Canopy signs are prohibited by code. See diagrams B-7 and B-5B.
- c. The applicant proposes two subordinate wall signs; one located on the east elevation to the right of the blade sign and one located on the south elevation to the left of the blade sign. Each "RPX" sign is

42.8 square feet in area. Approval is needed to allow the subordinate “RPX” to occupy more area than allowed by code. See diagram B-5C.

- d. The applicant proposes one “Regal Cinema” wall sign with logo located on the north end of the east elevation totaling 366 square feet in area. Approval is also needed for the “crown” logo to occupy more area than allowed by code. See diagram B-8.

Component 3 (JC Penney)

- a. The applicant requests approval of a “JC Penney” wall sign located on the northeast side of the new theater building. The proposed sign is 146.8 square feet in area. See diagram B-6.

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code, attached hereto as Exhibit “A”.

EXECUTIVE SUMMARY: By definition, Westfield Broward is considered a regional mall for application of the sign code requirements.

Component 1 (the Mall):

The code does not allow wall signage at mall entrances. In lieu of wall signage at mall entrances, the code allows one ground sign, 64 square feet in area and a maximum of nine feet in height, fronting each road having a right-of-way width greater than 70 feet. Westfield Broward is allowed four ground signs.

- a. The current wall signs at all four mall entrances are 27 square feet in area. The proposed wall signs are 153 square feet in area (a 6x increase). Each of these signs will be comparable in size to the existing Macy’s wall signs. See sign diagrams B-2 (existing and proposed southwest entrance), B-4 (existing southeast entrance), and B-7 (proposed southeast entrance).

No objection subject to:

1. *The flat white canopy above the southwest entrance (food court) shall be replaced with a decorative curved canopy; and*
2. *No other wall signage (such as theater marquees) shall be permitted above the southeast entrance (theater).*

- b. The code allows four ground signs for the Mall, 9 feet in height and 64 square feet in area. The Mall currently has five ground signs, two of which are double the size allowed by code (located at the northeast and southeast corners of the site). The ground sign fronting University Drive (due east of Macy’s) is currently code compliant. The applicant proposed replacing this ground sign with a new Directory ground sign, 14 feet in height, 24 feet in width, and 186 square feet in area. The tenant panel area and proposed fonts also do not meet code. For reference, the ground signs at the Fountains are 15 feet in height, 27 feet wide, and 180 square feet in area. See sign diagrams C-1 (existing and proposed).

No objection, given this is the City’s only regional mall including over 1,000,000 square feet of floor area in a single building on an 87-acre site, subject to:

1. *The tenant panels be opaque white painted aluminum with push letters having matching color.*

Component 2 (the theater):

Each anchor tenant (having exterior access not through the mall) is allowed 200 square feet of sign area for each building elevation. The theater, by code, is not considered an anchor store as it does not have exterior access; therefore, acknowledging the theater as an anchor (for signage purposes only) and all exterior signage for the theater requires approval of a special exception.

Note: Overall, proposed signage for the theater is 665 square feet in area for the southeast façade and 396 square feet in area for the southwest façade for a total of 1,061 square feet of sign area (not including the proposed JC Penney sign).

- a. The architectural “blade” supporting the wall signage for “Regal 12” at the southeast corner of the theater building has a sign area of 190.4 square feet.
No objection subject to:
 1. *Elimination of the neon striping proposed to outline the blade. An alternate material may be considered if approved by Zoning staff; and*
 2. *The “stadium” canopy signage (each 66.3 square feet in area) adjacent to either side of the blade sign shall not be permitted.*
- b. The applicant proposed three “Stadium” signs mounted to the top of the shade canopy; one located on the east elevation to the right of the blade sign, one located on the south elevation to the left of the blade sign, and one located at the southeast (theater) entrance. The canopy signs adjacent to the blade sign are each 66.3 square feet in area and the sign at the mall entrance is 180 square feet in area.
No objection to allow one “Regal Stadium 12” canopy sign at the southeast mall entrance subject to:
 1. *The “stadium” canopy signage (each 66.3 square feet in area) adjacent to either side of the blade sign shall not be permitted.*
- c. The applicant proposes two subordinate wall signs; one located on the east elevation to the right of the blade sign and one located on the south elevation to the left of the blade sign. Each “RPX” sign is 42.8 square feet in area.
No objection subject to:
 1. *Reducing the subordinate “RPX” wall sign area to no more than 25 square feet in area; and*
 2. *No box type signage.*
- c. The applicant proposes one “Regal Cinema” wall sign with logo located on the north end of the east elevation totaling 366 square feet in area. Currently, Macy’s has three signs at 160 square feet in area each (based on permit records). Sears has three signs at approximately 300 square feet in area (based on staff observation). Dillard’s has three signs which are 48 square feet in area (based on staff observation).
No objection subject to:
 1. *Reducing the wall sign area to no more than 200 square feet in area and the “crown” logo to no more than five feet in diameter (for a total sign area of 220 square feet including the logo).*

Note: Overall, based on the staff recommendations, allowed wall and canopy signage for the theater will be 435 square feet in area for the southeast façade and 395 square feet in area for the southwest façade for a total of 830 square feet of wall and canopy sign area (not including the proposed JC Penney wall sign). The southeast façade would have the 190-square-foot blade sign with 25-square-foot RPX subordinate and 200-square-foot “Regal Cinema” wall sign with a 20-square-foot logo. The southwest façade would have the 190-square-foot blade sign with 25-square-foot RPX subordinate and 180-square-foot “Regal Stadium 12” canopy sign.

Component 3 (JC Penney):

- a. The applicant requests approval of a “JC Penney” wall sign located on the north side of the new theater building. The proposed sign is 146.8 square feet in area. JC Penny currently has five signs with two being approximately 200 square feet in area (based on staff observation) and three

being approximately 48 square feet in area (based on staff observation). Note: Should City Council elect to approve this sign, a sign easement document or change to the Mall's unified control document will be required.

Objection based on the following:

1. *JC Penney currently has five (5) wall signs.*
2. *JC Penney will be on the proposed directory monument fronting University Drive, if approved by City Council; and*
3. *The proposed JC Penney sign location is close to the proposed Regal Cinema wall sign (recommended by staff to be reduced to 220 square feet in area) and may create visual clutter.*

STAFF COMMENTS:

PLANNING AND ZONING:

1. Only signs B2, B4/B7, B-5A, B-5B, B-5C, B-6, B-7, B-8 and C-1 are subject to the special exception request. All other signs shown in the applicant's submittal are either existing to remain or code compliant.
2. The applicant's sign package reflects sign area calculations that are incorrect. Please refer to the square footages noted in the staff report for the correct sign areas as calculated by staff. Applicant shall correct sign areas in the permit drawings accordingly.

TRAFFIC CONSULTANTS: See Engineering.

ENGINEERING DEPARTMENT:

1. The location map shows D1, D2 and D3 in the roadway. Please provide an enlarged location map detailing the exact location.
2. The location map shows C1 and C2 within the University Drive right-of-way. Please provide an enlarged location map detailing the exact location.
3. The location map shows signs E1 and E2 in the sidewalk. Please provide an enlarged location map detailing the exact location.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT DEPARTMENT:

At time of permitting plans please submit landscape plans for all freestanding monument signs as per City codes.

UTILITIES: No objection.

The City of Plantation is not responsible for damage to signs or other improvements placed in rights-of-way or easements when damage occurs due to installation, maintenance, repair or replacement of utilities.

EXHIBIT "A"

SPECIAL EXCEPTION:

Where applicable, the review of a Special Exception request should include consideration of the criteria noted in Section 22-11 of the Land Development Code, attached hereto. The applicant is required to identify the following:

1. That special conditions and circumstances exist such as, but not limited to, building orientation, vehicular circulation or vision obstructions (not to include landscaping) that are peculiar to the land, structure, or building that create a site specific justification for the exception;

Response: *The addition of a Cinema at the proposed located represents visibility and awareness conditions to the proximity of highly traveled University Drive and Broward Boulevard. Proposed monuments on University Drive and Broward Boulevard along with the corner architectural theater b sign will promote interest and contribute to the growth and success of adjacent mall business.*

2. That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other property of lands, structures or buildings of similar character with identical special circumstances (nonconforming signs shall not be grounds for issuing sign special exceptions), or alternatively, that a special exception from the provisions of this Chapter is warranted and justified to protect, preserve, or enhance the City's tax base or to prevent or eradicate conditions of economic blight;

Response: *The proposed monument and wall signs will promote the introduction of a 12-screen cinema unique to the City of Plantation and will capture business that would otherwise travel outside of City limits.*

3. That the special conditions and circumstances do not result from the action of the applicant; New development of the Cinema and restaurants displaces existing mall signage.

Response: *Proposed signage is located to promote awareness of proposed and future development.*

4. That the sign special exception to be granted is the minimum measure needed to address the special conditions and circumstances that justify the special exception; and,

Response: *Promote commercial growth and interest in adjacent retail and future restaurants proposed for development.*

5. That the sign special exception will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood, or surrounding property, and will not otherwise be detrimental to safe and convenient use of nearby rights-of-way;

Response: *Proposed entry monument and wall signs will generate awareness of new theater, proposed retail, and restaurants. Architectural design considerations are in harmony with the intent of the Midtown master plan.*

6. That all other signage on the property is in substantial compliance with this Chapter, as applied.

Response: *Ten proposed signs will update the site master sign program recently approved by City Council.*

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28. CONSIDERATION OF REQUEST FOR A CONDITIONAL USE AND SITE PLAN, ELEVATION AND LANDSCAPE PLAN APPROVAL FOR WESTFIELD BROWARD. PROPERTY LOCATED AT 8000 WEST BROWARD BOULEVARD AND ZONED SPI-3. (MIDTOWN)

A Staff Report dated May 9, 2012, to City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST #1: Conditional use approval for a drive-thru (associated with PNC Bank) in the SPI-3 district.

REQUEST #2: Site plan, elevation and landscape plan approval for retail/restaurant/theater expansion at Westfield Broward.

ZONING WAIVER REQUESTS:

1. From: Section 27-621(d)(2), which requires the proposed development to comply with the SPI-3 district design requirements when building expansion a designated “B” street (Federated Roadway) in the SPI-3 Midtown District.
To: To deviate from the required build-to and design criteria applicable to a designated “B” street in the SPI-3 Midtown District.
2. From: Section 27-743, which requires parking be provided based on individual uses:
To: To utilize the “Shared Parking” calculation found in Section 27-743(36) of the code.

LANDSCAPE WAIVERS:

1. From: Section 13-40(b)(c)(4)(c)(f). Interior landscaping for parking areas:
 - Medians shall be provided between double parking bays, shall be curbed and shall have a minimum of 8’ in green area, not including curbing.
 - a. *8’ wide medians required throughout parking areas where improvements are proposed – 0’ has been provided.*
 - Large shade trees shall be installed in all parking areas at a maximum spacing of 40’ on-center.
 - b. *One tree per 40 lineal feet is required throughout parking areas where improvements are proposed – 0 trees have been provided.*

Staff requests mitigation of code required trees if waivers are granted.
2. From: Section 13-40(b)(3). Interior landscaping for parking areas.
 - Medians shall be provided to separate parking bays from major internal access drives and shall have a minimum width of 10’, not including curbing.
 - a. *10’ required in parking medians throughout parking areas where improvements are proposed - <10’ has been provided.*
 - Large shade trees shall be installed in all parking areas at a maximum spacing of 40’ on-center.
 - b. *One large tree (category 1) per 40 lineal feet is required throughout parking areas where improvements are proposed.*

Staff requests mitigation of required trees if waivers are granted.
3. From: Section 13-40(c)(5)(c). Interior landscaping for parking areas:
 - Where multiple perpendicular or angular parking spaces are provided to driveways, landscape islands will be preserved in green so as to break up the monotony of such parking and to minimize the hazards created thereby providing visual breaks to assist in seeing other pedestrian and vehicular traffic every eighth space.
 - a. *One island every eighth space required – one island every 12 – 16th space on average provided.*

- Large shade trees shall be installed in all parking areas.
 - b. One large shade tree (category 1) is required in all planting islands throughout parking areas where improvements are proposed.*

Staff requests mitigation of required trees if waivers are granted.

4. From: Section 13-40(b)(3). Interior landscaping for parking areas:

- Islands shall be provided to separate parking bays from major internal access drives and shall have a minimum width of 10', not including curbing (terminal islands).
 - a. 10' required in terminals throughout parking areas where improvements are proposed - <10' has been provided.*

5. From: Section 13-40(a) Interior landscaping for parking areas:

- In all zoning districts requiring review and approval of site plans, a total area of interior landscaping shall be provided in all off-street parking areas equal to not less than 15% of the total paved vehicular use area of the site, including all parking and circulation areas.
 - a. 15% interior landscape required - <15% interior landscaping proposed.*

If waivers are granted staff asks that the developer incorporate planting medians as well as staggered planting islands throughout the site where proposed improvements are to be made.

6. From: Section 13-41(a)(b)(c)(f):

- Landscape pedestrian zones shall extend the full width of each façade which abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.

Proposed Bank parcel:

- a. 14'3" required along the western façade – 0' provided.*
- One tree shall be installed in this zone per each 30 lineal feet, or fraction thereof, of façade width.
 - b. Three trees required along the western façade – 0 provided.*
 - c. Two trees required along the southern façade – 1 provided.*
 - d. Three trees required along the eastern façade – 2 provided.*

Staff requests the planting of required trees throughout landscape pedestrian zones.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; Conditional use/site plan application; Planning and Zoning Board meeting minutes of March 6, 2012; Landscape Planning Review Board meeting minutes of March 6, 2012; and Review Committee meeting minutes of December 20, 2011.

PLANNING AND ZONING BOARD RECOMMENDATION: **APPROVED** subject to staff comments. (7/0; March 6, 2012)

LANDSCAPE PLANNING REVIEW BOARD: **APPROVED** subject to staff comments. (5/0; March 6, 2012)

REVIEW COMMITTEE RECOMMENDATION: Motion to move item **FORWARD** for further review. (December 20, 2011)

ANALYSIS:

The subject site is 86.9 acres in area and developed with a regional mall encompassing approximately 1,055,860 square feet. The site is bound by Broward Boulevard to the north, University Drive to the east, and commercial

uses to the south and west. The applicant is requesting approval to construct a 57,164-square-foot (2,489-seat) movie theater, 16,270 square feet of additional restaurant/retail area, and a 4,020-square-foot freestanding bank with a drive-thru.

The theater will be located on the south side of the mall between Macy's and JC Penney. The new restaurant/retail area will be located abutting the west (food court) entrance between JC Penney and Dillard's. The freestanding bank will be located at the southeast corner of the site abutting the University Drive/Federated Road intersection.

The drive-thru associated with the bank requires conditional use approval. Responses to the conditional use criteria are attached hereto as Exhibit "A".

STAFF COMMENTS:

PLANNING AND ZONING:

Zoning:

In General:

1. A significant part of the planned construction is located on land not owned by the applicant. The applicant has provided letters of acknowledgement regarding the proposed changes from two of the three other property owners (Macy's and JC Penney). Acknowledgement from Dillard's is still required. The City Attorney will require additional documentation prior to approval of any development permits.
2. Provide a copy of the unified control documents, shared parking agreement, or reciprocal easement agreement, and any amendments thereto prior to approval of any development permits.
3. It is recommended that the applicant follow up with staff on Items 1 and 2 within one week of site plan approval to assure there is no delay in permitting.
4. Location or relocation of BCT and tram bus stops to be approved by PZED and the Police Department prior to theater certificate of occupancy.

Site Data:

1. Correct existing and proposed lot coverage calculation as per code, which is defined as follows: Lot coverage is the total area covered by buildings (the building footprint only) expressed as a percentage of the lot area. Code allows maximum lot coverage of 30% and staff estimates the proposed lot coverage to be approximately 20.4%. Therefore, the requested waiver from Section 27-624(d) is not needed.
2. Correct the pervious (open space) and impervious calculations. Reduce the square footage for building coverage (as noted in comment #1 above) and increase the pervious or impervious area proportionately. Code requires a minimum open space (pervious) area of 20% and staff estimates the proposed pervious area to be approximately 24.3%. Therefore, the requested waiver from Section 27-631(6) is not needed.

Site Plan (Mall Expansion):

1. The proposed mall expansion abuts Federated Roadway, a designated "B" street in the SPI-3 Midtown District. Section 27-621(d)(2) requires the proposed development to comply with the SPI-3 district requirements including, but not limited to, build-to street line requirements. A waiver has been requested. *Most of the improvements are additions or renovations to an existing regional shopping center located in the center of an 89-acre parcel continuing over 1,000,000 square feet in floor area. Based on the uniqueness of the parcel size and use, staff has no objection to this waiver insofar as it applies to the building additions.*

Elevations (Mall Expansion):

1. Section 27-626(b)(1)(iii) requires building entrances to be architecturally emphasized. The existing southwest (food court) and southeast mall entrances are well articulated and have travertine tile details and a metal overhead arched canopy. The current entrance design element is consistent with the code requirement.

EXISTING SOUTHWEST ENTRY

The proposed new southwest and southeast mall entries (the latter adjacent to the movie theatre entrance) are less articulated than the existing architecture. The proposed entries include a flat canopy with 13 feet of vertical clearance. Above each canopy is a flat vertical wall (split face block and stucco) measuring approximately 15' high x 55' wide. The applicant indicates the change to a less interesting design is based on "prospective tenant interest".

New Southwest (Food Court) Mall Entry: Staff has concerns about the lack of architectural detail at the new southwest mall entrance. When the applicant first submitted plans for Planning and Zoning Board review, he did not propose increasing the size of the existing wall sign (currently 27 square feet in area) above the mall entry. Subsequent to the Planning and Zoning Board review, the applicant submitted a special exception application to increase this wall sign nearly six times from 27 square feet to 153 square feet. If the City Council approves the proposed 153-square-foot wall sign, staff recommends the approval be subject to replacing the flat deck canopy with a canopy having a more substantial design to be approved by staff prior to submission of building permit drawings.

New Southeast Mall (Theatre) Entry: Staff has no objection to the new mall southeast entry elevation. This entry leads to the movie theatre entrance and has additional design features, including a curved canopy above the doorways, plus new landscaping. Staff has no objection (see Special Exception staff report) to increasing the wall sign above this entry from existing 27 square feet in area to the proposed 153 square feet based on the proposed additional architectural features at this location.

2. Plan Adjustment Committee or City Council approval will be required for each individual exterior retail/restaurant façade as it is submitted. Design criteria for the restaurant/retail area will be evaluated with each tenant submittal.

Drive aisles and parking areas:

1. Overall, the site has a surplus parking over the code requirement of 315 spaces.
2. Verify with the Building Department that the handicap parking, adjacent drive aisles widths, and access requirements are met for the entire site, not just the scope of work area.

Lighting:

1. The applicant has indicated that the existing light poles will be relocated and reused. However, should new poles be utilized, then the new poles will match the existing.

Details:

1. Please provide a total of four (4) Plainwell 72-inch metal benches and two Plainwell 30-inch diameter litter containers on the southwest side of the theater as previously shown on page C-9 of the Planning and Zoning Board submittal. This location is underneath the curved canopy between the mall/theater entrance and the theater exit doors.

Easements:

1. Easement vacations must be completed prior to issuance of a CO.

Signage:

1. Signage is not part of this review; however, the majority of signs shown within the site plan package do not meet City code requirements. Please see the Sign Special Exception application being concurrently processed.

TRAFFIC CONSULTANT: See Engineering.

ENGINEERING DEPARTMENT:

1. Sheet C-1 is missing. *Response states: C-1 is the cover sheet with index. Sheet C-1 is the first page of the civil section of the plan set, it should not be the cover of the entire plan set as the civil plans are a subset of the entire package, please revise.* Per phone conversation with Michael Pierce (CPH) the civil cover sheet will be revised and included in the main set of plans.
2. Sheet C-9. A mountable curb has been added. Please remove the "27" from the center of the curb area.
3. Please provide the fire truck radii throughout the proposed additions. *Response states: See new sheet C-25 for full fire truck access. The scale on Sheet C-25 is too small; please provide fire truck turning radii at a scale no smaller than 1" = 50'. The back turning radii does not work as shown. Please call Engineering to discuss.*
4. Sheet C-10. This sheet was modified with the new orientation of the bank. Please show all islands as being the same length as the parking spaces, please have all curb ends rounded, please show ALL signing and marking.
5. A traffic study prepared by a Florida licensed professional traffic consultant will be required. It will need to include the bank out parcel as well. The bank drive-thru will require a queuing analysis. The trip generation, as discussed, will need to include all of the new uses and new square footages. *Response states: Will comply and coordinate with Engineering prior to Council submission. So noted.* The traffic study has been submitted and is being reviewed. The only issues will be for internal circulation and are being addressed with the applicant and Engineering. It does not effect the City Council submission or City Council approval.

Permit Comments (required at time of submittal for permitting)

Note: A detailed review of the civil drawings has not been performed at this time. If the site plan application is approved by City Council, a thorough Engineering review will be performed at the time of application for construction permits.

1. Provide an erosion and sedimentation control plan and an FDEP approved Notice of Intent (NOI), if applicable.
2. A demo plan and permit will be required with a building permit.
3. Please provide an MOT for all phases of the project, prepared by a person certified to prepare the plans.
4. Please provide drainage calculations, signed and sealed by a professional engineer, registered in the State of Florida, as well as approval from OPWCD.
5. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

DESIGN, LANDSCAPE AND CONSTRUCTION MANAGEMENT:

1. Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape and Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.
2. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.
3. If you would like the comments forwarded to you via e-mail, please call our administrative secretary, Judy McBride, at 954-585-2360 or e-mail her at jmcbride@plantation.org.

Site Plan:

1. Medians shall be provided between double parking bays, shall be curbed and shall have a minimum of 8' in green are, not including curbing.
 - a. 8' wide medians required throughout parking areas where improvements are proposed – 0' has been provided.
Waivers requested: staff asks that the developer incorporate planting medians throughout the site where proposed improvements are to be made.
2. Medians shall be provided to separate parking bays from major internal access drives and shall have a minimum width of 10', not including curbing.
 - a. 10' required in parking medians throughout parking areas where improvements are proposed - <10' has been provided.
Waivers requested: staff asks that the developer incorporate planting medians throughout the site where proposed improvements are to be made.
3. Islands shall be provided to separate parking bays from major internal access drives and shall have a minimum width of 10', not including curbing (terminal islands).
 - a. 10' required in terminal throughout parking areas where improvements are proposed - <10' has been provided.
Waiver requested.
4. Where multiple perpendicular or angular parking spaces are provided to driveways, landscape islands will be preserved in green so as to break up the monotony of such parking and to minimize the hazards created thereby providing visual breaks to assist in seeing other pedestrian and vehicular traffic every eighth space.
 - a. One island every eight space required – one island every 12th – 16th space on average provided.
Waivers requested: Staff asks that the developer incorporate additional planting islands throughout the site where proposed improvements are to be made.
5. A total area of interior landscaping shall be provided in all off-street parking areas equal to not less than 15% of the total paved vehicular use area of the site, including all parking and circulation areas.
 - a. 15% interior landscape required - <15% interior landscaping proposed.
Waivers requested: Asks that the developer incorporate planting medians as well as staggered planting islands throughout the site where proposed improvements are to be made.
6. Landscape pedestrian zones shall extend the full width of each façade which abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.
Proposed Bank parcel:
 - a. 14'3" required along the western façade (drive-thru) – 0' provided.
Waivers requested: Staff has no objections to requested waiver.
7. Do not place lighting in landscape islands where trees are required by code; please do not place planting islands where there are existing light poles.

8. Light poles must be a minimum of 15' from any tree/palm planting to avoid interference as the trees mature.

Planting Plan:

Staff has a concern with the lack of green space throughout the parking areas where site improvements have been proposed. Staff requests the elimination of some parking spaces to include medians between some of the double parking bays as well as the addition of staggered planting islands throughout the site. (Possibly eliminating some of the shorter parking bays to minimize the impact this will have on desired parking spaces). It is the City's understanding that the parking ratio is above code requirements for this site.

1. Large shade trees shall be installed in all planting islands as well as terminal islands.
Waivers requested: If waivers are granted staff requests the mitigation of code required trees that are deficient throughout areas where improvements are proposed.
2. Large shade trees shall be installed in all parking areas at a maximum spacing of 40' on-center.
 - a. One tree per 40 lineal feet is required throughout parking areas where improvements are proposed in medians between double parking bays.
 - b. One large shade tree (category 1) is required in all planting islands throughout parking areas where improvements are proposed – category 2 trees have been proposed in some areas.
Waivers requested: If waivers are granted staff requests the mitigation of code required trees that are deficient throughout this site where improvements are proposed.
3. A minimum of one tree is required every 30 lineal foot, or fraction thereof, of façade width (three palms = one tree).

Proposed Bank site:

- a. Three trees required along the western façade – 0 provided.
- b. Two trees required along the southern façade – 1 provided.
- c. 43 trees required along the eastern façade – 2 provided.
Waivers requested: Staff requests the developer add code required trees along the southern and eastern façade where space allows; if waivers are granted staff requests the mitigation of code required trees that are deficient.

At time of permitting please address the following:

4. Under specifications on the Plant List please note that all trees will be field grown/balled and burlaped.
5. Please include caliper on all proposed trees. (i.e. Live oak trees)
6. As per codes, ground cover areas at the time of installation shall be planted with a minimum of 75% coverage with 100% coverage occurring within three months of installation. Please tighten the spacing where appropriate (i.e. Wax jasmine, 12" x 12" planted 12" on-center in lieu of 24" on-center etc.).
7. Please verify the proposed quantity of plant material; (i.e. the plant list proposes the use on only 1 Copperpod tree while the planting plan proposes the use of 20⁺ Copperpod trees).
8. Please clarify the comment "Contractor shall prune, shape..." under "Landscape Notes" #19.
9. Please confirm the proposed heights of Blueberry flax lilly, DT, (I believe you mean 30 inches (") in lieu of 30 feet (').
10. To help alleviate confusion please include a tag line next to the proposed tree/palm with key and quantity.
11. Please limit the use of the Robellini palms as they require a high level of maintenance with regards to fertilization.
12. Please correct the spelling of the scientific name for the Wild tamarind (*Lysiloma latisiquum*).
13. City staff will verify all trees proposed "to be removed or relocated". Staff will work with the developer with regards to the verification of trees and palms to be removed and relocated.

14. All trees to be removed or relocated require ISA tree appraisals for mitigation purposes as well as per City codes. Please submit at time of permitting.
15. Performance bonds based on ISA appraisals are required on all trees to be relocated.
16. All proposed trees "to be removed" must be mitigated for as per City codes; tree mitigation will be above and beyond code-required trees on the property. Staff will work with the developer regarding this matter as this project moves forward.
17. Please add the current City of Plantation City Notes available online: www.plantation.org/landscape/details-notes.html; please keep the "General Notes" on the landscape plans.
18. Please include details for palm and tree relocation as well as watering schedule.
19. A pre-planting meeting with the Design, Landscape and Construction Management Department is required before any planting commences on the project; please make a note to this effect on plans.

BUILDING DEPARTMENT:

Request #1 – No objection to conditional use.

Request #2 – No objection to site plan and elevations.

1. Complete architectural/structural drawings required for review to verify compliance with the 2007 FBC and the Florida Accessibility Code.

FIRE DEPARTMENT:

Applicant has agreed to comply with all previously stated requirements.

POLICE DEPARTMENT:

1. All parking lot lighting must conform to IESNA security lighting standards. Lighting standards will establish security for increased pedestrian traffic during evening theater activity.
2. In addition to the current one Plantation Police Detail Officer assigned to the Westfield Mall, Westfield shall provide an additional two Plantation Police Detail Officers assigned specifically to the Regal Theatre and environs, Friday and Saturday nights, from 7:00 p.m. to 2:00 a.m. or until 30 minutes after the final film has ended, which occurs last. The theater detail as specified shall continue for a period of six months. The Police Chief, after an evaluation of public safety at the theater during the initial six-month period, may modify the hours of operation or number of officers. The Police Chief, after completion of the initial six-month period, may:
 - a. Require the detail to continue based on the original staffing and hours, or
 - b. Require the detail to continue based on modified staffing and hours.

UTILITIES: 4.25.2012 All comments apply. No objection to the conditional use approval; however, the following comments apply to the site plan.

1. Prior to a Building Permit or Business License being issued, the following must be provided:
 - \$500 review fee must be submitted to the Utilities Department.
 - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
 - BCHD and BC EPD Permits must be approved.
 - Utilities Agreement must be executed.
 - Utilities Performance Bond must be posted.
 - Utility Easements must be executed.

- Utility Inspection fees must be paid.
 - Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions, 954-797-2159.
2. A pre-design meeting is required with the Utilities Department.
 3. Must provide receipt or check copy for \$2,000 deposit marked for Utilities Expenses to project cost recovery account.
 4. Offsite and onsite improvements and equipment will be required at applicant's expense to support project.
 5. Provide plan for vacating easements as necessary.
 6. Show all new and existing water and sewer lines and easements on landscaping and drainage plan.
 7. Maintain all utilities and utilities easements for water and wastewater system access.
 8. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".

O.P.W.C.D:

1. Old Plantation Water Control requires an acceptable drainage plan with retention and runoff calculations and a construction drawing prior to issuance of a building permit. Calculations are to include the master stormwater system and include an as-built of the existing features.
2. Acceptance of as-built drawings and Certified Stormwater Inspection Report will be required prior to issuance of a Certificate of Occupancy.

WASTE MANAGEMENT:

1. Applicant will be utilizing existing dumpsters on site.

EXHIBIT "A"

Where applicable, the review of a Conditional Use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code, attached hereto. The applicant is required to identify the following:

1. A binding and buildable site plan that allows the Council to determine the architectural features and buffering needed to protect the surrounding property.

Applicant: An application for site plan approval reflecting the proposed bank with drive-thru use was submitted simultaneous with the request for conditional use approval.

2. The proposed conditional use will be consistent with the general plan for the physical development of the district including any master plan or portion thereof adopted by the Council.

Applicant: "Bank" is a permitted use in the SPI-3 zoning district – it is only the drive-thru that is subject to conditional use approval. The proposed PNC Bank with drive-thru has been designed to be generally consistent with the Central Plantation Conceptual Master Plan both in terms of building placement and design. For example, in order to allow the building to engage the street edge, the building was oriented to place the drive-thru on the west side of the building to internalize it in the mall project rather than have it face the street frontage on Federated Road. In addition, the building boasts barrel tile roofs, decorative cornices and varied roof lines that are consistent with the criteria of the Master Plan. The

physical plan of development has already been well-established along University Drive to include outparcel restaurant and service uses on the perimeter of the larger retail centers.

3. The proposed conditional use will be in harmony with the general character of the neighborhood, considering population density, scale and bulk of any proposed structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. A present need for the conditional use must be demonstrated.

Applicant: The immediate "neighborhood" surrounding the proposed use includes the applicant's own retail mall and an additional mix of nearby retail, office and residential uses. The proposed bank with drive-thru would be similar in scale and bulk to other outparcel buildings located along University Drive, including the six outparcel buildings at the Fountains and Wells Fargo Bank at the corner of University Drive and Peters Road. At this time, there are not a significant number of banking options in Midtown along the University Drive corridor and the proposed tenant, PNC Bank, has determined that the area can support an additional bank. The proposed drive-thru is necessary to allow the proposed bank to compete effectively with other banks that enjoy a drive-thru (including Wells Fargo) and would provide a convenience to residents and building occupants in the area who prefer to do their banking without having to park and leave their vehicle, including patrons of the Broward Mall who could bank from their vehicle when arriving at or leaving the mall.

4. The proposed conditional use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood, and will cause no objectionable noise, vibration, fumes, odor, and dust or glare of physical activity.

Applicant: The proposed bank drive-thru will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood. The surrounding area is already characterized by a mix of compatible uses and the bank with drive-thru will be an amenity to those that live and work in the vicinity as opposed to having an adverse impact. In light of the existing high-traffic commercial nature of the area, a bank drive-thru would not create objectionable noise, vibration, fumes, odor, dust, or glare of physical activity.

5. The proposed conditional use will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood.

Applicant: A bank drive-thru will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood. On the contrary, an additional quality bank will be an asset to the residents and visitors of the neighborhood.

6. The proposed conditional use will not, in conjunction with existing development in the area and permitted development under existing zoning, overburden existing public services and facilities.

Applicant: Adequate public facilities exist to accommodate the proposed bank with drive-thru, just as they would exist to serve a bank without a drive-thru.

7. The proposed conditional use shall meet all other specific standards that may be set forth elsewhere in the Code of Ordinances.

Applicant: The bank with drive-thru will comply with all other specific standards in the City Code.

8. The proposed conditional use shall disclose the square feet of use sought for approval so that an adequate evaluation may be made.

Applicant: The proposed bank building is approximately 4,180 square feet. The canopy over the drive-thru area is approximately 870 square feet.

Mr. Leeds explained that one component of this project is to build a bank at the southeast corner of the mall, which is also the northwest corner of University Drive and Perimeter Road. Currently, there is a sign that says "Westfield Broward" at that location. He does not have an objection to the conditional use request.

Mr. Lunny read the resolution.

Resolution No. 11495

RESOLUTION APPROVING A THREE LANE DRIVE THRU FACILITY (ASSOCIATED WITH A 4,179 SQUARE FOOT PNC BANK) AS A PERMITTED CONDITIONAL USE TO BE LOCATED IN THE SPI-3 (PLANTATION MIDTOWN) ZONING DISTRICT, PROPERTY DESCRIBED AS A PORTION OF TRACT 3 OF THE BROWARD MALL AT PLANTATION PLAT, LYING IN SECTION 9, TOWNSHIP 50 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 91, PAGE 24, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND LOCATED AT 8000 WEST BROWARD BOULEVARD (MORE SPECIFICALLY AT THE NW CORNER OF UNIVERSITY DRIVE AND FEDERATED ROAD). PROVIDING FOR CONDITIONS AND LIMITATIONS ON THE ALLOWED USE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR. (WESTFIELD BROWARD)

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve Resolution No. 11495, approving the conditional use of the bank. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom
Nays: None

Mr. Leeds indicated that there are two Zoning waiver requests which staff has no objection to. There are approximately six landscape waivers and Mr. Ezzeddine, Director of Design, Landscape and Construction Management, has advised that he has no objection to the approval of the waivers provided the applicant mitigates the required trees during the building permit landscape plan review process.

In response to Councilman Jacobs, Mr. Leeds clarified that the applicant will compensate for loss of landscaping in one area in another area to the greatest extent reasonably possible. This would be a conversation to mitigate the loss somewhere else.

In response to Mr. Lunny, Mr. Leeds did not know if it would come back to Council if the applicant did not agree.

Mr. Leeds advised that the project has three components; the first is the bank; the second is the addition of a 2,500 seat movie theater, which will be located between Macy's and JC Penney; and the third component is the additional restaurant/retail area they are going to add to the entrance nearest the food court. This will go on the outer skin and they are looking at an additional 4,000 square feet. A restaurant/retail tenant has not yet been selected and when they come in for the tenant they will go through the Plan Adjustment Committee for approval of the building elevations. A lot of time has been spent trying to reach a meeting of the minds; this is a

significant project. There have been discussions involving all of the departments involved. Zoning staff has no objection provided the applicant meet all of the conditions in the staff report.

Councilman Tingom questioned whether access to the bank was considered. He noted that the restaurant was set on the afternoon side of the sun.

Mr. Leeds indicated that the bank will not have a separate driveway but there will be a drive-thru. With regard to the restaurant, extraordinary sun shield protection will be used; they will have to have tinted windows or people will sit outside and face the other way. This was not taken into consideration by landscaping.

Councilwoman Uria mentioned that there was some discussion about an arcade inside of the movie theater.

Mr. Leeds was not aware of an arcade; there are provisions regulating video machines inside a theater. That was not considered in this application.

Attorney Paul D'Arelli was present on behalf of the applicant.

In response to Councilwoman Uria, Mr. D'Arelli advised that they are anticipating police protection on the weekend evenings.

Mr. D'Arelli provided a brief presentation of the site plan. He stated that this site has been very challenging from a design perspective. Westfield owns the mall concourse and two pie-shaped pieces of the parking lot. The remainder of the land is owned by the anchor tenants; therefore, there is a very limited area in which improvements can be made which is why the movie theater projects from the south between the Macy's and JC Penney into one of the properties that they own. This is why they are somewhat challenged in meeting landscape and other requirements based on the existing developed condition of the parking lots and a limited opportunity to improve them because the scope of work are is physically constrained and the cooperation that is required amongst national anchor tenants is a very difficult proposition and negotiating consent to make improvements from one property to the other.

Clyde McKenzie with Westfield was present.

Mr. McKenzie explained that Westfield is an Australian owned company and they have 124 shopping centers worldwide. There are 55 centers within the United States, 44 centers in Australia and representation in New Zealand, United Kingdom, Italy and Brazil. The movie theater is about creating repeat visitation from the customers and building a family oriented shopping environment. They are not interested in providing a hang out for teens, they are interested in providing a venue for families and that is the reason why the entrance to the theaters is inside of the mall. Having a theater allows them to bring restaurants in the rear of the theaters and bring a quality offer of food to the center, which is sorely lacking at the mall. A lot of work needs to be done to improve the quality of the mix of tenants at the center. It is believed that there is a huge opportunity with this mall and they would like to use the theater as a catalyst to get moving.

Michael Pierce, engineer, was present.

Mr. Pierce indicated that there are three major components to the site plan; a restaurant on the west side, two restaurant components on the north and south sides with outdoor seating. They met with the Landscape Planning Review Board and with Ms. Berchielli on a number of occasions to discuss how landscape would affect the pedestrian zones and the outdoor café seating. A solution was palm trees; double and triple Montgomery palms

that would provide shading for those areas and also allow visibility to the future perspective tenants. The restaurants will be proposed as future Plan Adjustment Committee process; they have place holder elevations that will be built and as they acquire tenants they will come into each one of those spaces. There is also a bus stop and loading zone, which was previously there. They have met with BCT to keep the bus stop in that location. There is a connection through the mall. The interior retail spaces will be reconfigured and will provide a connection to the theater so customers can be dropped off at the restaurant and then go to the theater. The south side has been reconfigured. Westfield only owns a small portion of the parking lot to the south. They are refiguring that with 90 degree parking to face towards the theater, Macy's and JC Penney for direct access into the theater. There is a loading zone at the front entrance of the theater and an entrance to the theater on the inside of the mall. The third component is the bank, which is part of a conditional use. The drive-thru is on the west side and access is gained through Federated Road. The bank entrance faces University Drive and Federated Road.

Tom Walsh, architect, was present.

Mr. Walsh reviewed the development plan. The components of the project are the theater to the south and restaurants on the west. There is a connecting concourse that connects the theater and restaurants, which creates a more convenient shopping experience. They are creating a shopping loop from the center all the way around to the JC Penney Court. Currently, the mall dead-ends in two locations. The nice thing about the connecting concourse is that it helps distribute the parking and it will help to improve the Food Court. The synergy that the connecting concourse will create for the project is very important. To the west there is an existing entry at the Food Court and a new entry along with a new courtyard plaza area is being created. The restaurants will have outdoor dining spilling out to the courtyard. Awnings and consistent umbrellas are part of the criteria for tenants as they come in. The idea is to create a nice outdoor environment as well as a nice interior environment for the customers. The video arcade is a small open area, no more than 150 to 200 square feet, situated in the lobby with three or four machines. Even though there is a nice functional loading zone and unloading zone in front of the theater, there is a lot of room for people to move around. With the architecture they are creating at the new entry is more simple and contemporary than what is there today; it is more open and inviting. They want it to be more transparent. The canopy allows palm trees to grow up through it so landscaping is right at the front door. The ambiance is open, lush and friendly. Elements of the finishes of the existing entries were applied. The travertine stone at the base of the entries was applied to the base of the entry on the bottom of the wall; the horizontal articulation was applied with an alteration of textured masonry and smooth masonry; and also the sconces that flank the existing entry were used on the new entry, along with the aluminum entries. It was agreed to bow the canopy in order to provide a little more dynamic sense of space. In terms of the theater, they feel they have met the intent of the Midtown master plan architectural design element requirements. In addition, there is a lot of in and outs of the plan because of the way the theater plan is laid out. There is really no expansive areas of building façade that do not have relief in terms of the in and out of the façade; there is a lot of shade and shadow in the building. They have convinced Regal to create more movie posters that are more of a showroom window effect as well as add more canopy elements in the marquis. The Regal sign is a taller element and is a change in articulation in color and the Regal Cinema sign, which is a taller element, breaks the horizontal band along the top of the building.

Relative to the comment regarding landscape waivers and mitigation for Landscape Comments #5 and #6, Mr. Walsh clarified that his understanding is that landscaping is actually a fee calculation that is done for a payment in lieu of trees that cannot be accommodated on site. They will work with the Design, Landscape and Construction Management Department to come up with an appropriate payment.

Mr. Pierce advised that they have met with Ms. Berchielli on a number of occasions and solutions have been offered; one of which is a monetary contribution to the City's tree fund; possibly putting trees into the City's parks or into the City's nursery.

With regard to the Planning and Zoning Site Data points #1 and #2, staff commented that it appears that two waivers are not needed on the open space calculation and on the lot coverage calculation. Mr. Walsh stated that their number showed that they were deficient; therefore, they paid and requested the waiver. Since they have paid for this, they would like Council to approve the waivers and the numbers will be squared up later.

Mr. Walsh referenced Planning and Zoning Comment #2 relating to drive aisles and parking areas. Westfield only owns a limited portion of the overall site that this condition would apply to their ownership, which is all they can control in terms of ensuring that there is compliance.

With regard to Traffic and Engineering Comment #5, Mr. Walsh indicated that a traffic study was submitted in accordance with the agreed upon methodology with the Engineering Department. Ms. Bernstein requested that they provide additional information subsequent to this Council meeting that would look at some of the internal circulation and if necessary, some direction signage may be provided inside in an attempt to direct people to the less impacted driveways for exit. They are more than willing to provide that information and will do so.

Mr. Walsh referenced Design, Landscape and Construction Management Planting Plan comment that says that staff has a concern with lack of green space. They are requesting elimination of some of the parking spaces to include more medians. He advised that they are in an existing constrained condition and are driving their inability to removing parking spaces is not the code but their reciprocal easement agreement with the other anchor tenants, which requires Westfield to maintain a parking standard above and beyond what City code requires. By a parking calculation on City code, they have surplus parking; from a legal restriction under the reciprocal easement agreement, they cannot touch those parking spaces.

The Police Department has requested the addition of two police officers on detail on Friday and Saturday nights for a period of six months. Westfield is agreeable to providing the two police officers for six months; however, they would like to modify the last part of the condition, which gives the Police Department the ability to modify that after a six-month period. They would like that to be a mutual discussion between Westfield and the Police Department. Security and ongoing operations are very important to Westfield but they feel that having an open ended condition that says at the end of six months the Police Department can modify could mean that they want to put ten officers out there and that may not be appropriate.

Mr. Lunny believes that the condition is very important to the Police Department to leave that the way it is and as a good working relationship with the company they want to be sure that the Police Chief's discretion in this regard is not compromised.

Mr. Walsh stated that they would not want to get into a situation where there is a sole discretion that does not have any standard of reasonableness to it.

Mr. Lunny advised that Council will agree that the Police Chief will be reasonable but they do not want to have a situation where the Chief and the sound exercise of his discretion believes that additional security or some change insecurity is appropriate and Westfield wants to negotiate that. That is not his understanding of the Police Department's desires in this regard.

Councilman Tingom indicated that there were a number of issues with the Movies at Sawgrass with large young crowds and the situation got on the bad side. A movie theater attracts young people and he agrees with Mr. Lunny that there needs to be some discretion. He believes that the Police Department has been very reasonable about things of this nature but to say that you can refuse to do it will not be helpful. As stated by earlier representatives, you want to create a family atmosphere. If that gets in control of misbehaving kids, the family atmosphere will be lost.

Chief Harrison commented that we have always had a great repour with Westfield. They met on May 2, 2012 and discussed this issue. He feels that starting out with two officers is reasonable. After six months he can assure that Westfield will be included in the discussion; he does not do an arbitrary number. He will do a statistical analysis of what the calls for service are and the effects of the theater itself. He needs to have that ability for public safety.

Mr. Pierce stated that would be fine.

Councilwoman Uria referenced Page TR-5 and noted that it shows 72 trees are removed and 94 trees relocated. She mentioned the Black Olive tree that is being relocated and requested that it be taken out.

Mr. Pierce advised that a lot of those trees are palm trees that will be placed in a holding area and reutilized on the building facades. The trees that are to be removed are poor trees. He and Ms. Berchielli walked the site and evaluated a lot of those trees along with an arborist. The trees that are to be removed are not worth relocating. Large trees that are being relocated are going to their final locations. With regard to the Black Olive tree, it is going into a location along University Drive where there are seven other Black Olive trees and they are filling in a gap.

In response to Councilwoman Uria, Mr. D'Arelli stated that based on Mr. Pierce's clarifications and discussions with Ms. Berchielli, he is all right with this.

Mr. Pierce indicated that they will work it out with the developer's agreement. There will be cost estimates for both Landscaping and Civil Engineering.

Motion by Councilwoman Uria, seconded by Councilman Jacobs, to approve Item No. 28, request for a conditional use and site plan, elevation and landscape plan approval for WESTFIELD BROWARD, property located at 8000 West Broward Boulevard, subject to staff comments and conditions and approving the requested waivers. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom

Nays: None

Mayor Bendekovic welcomes the opportunity to have the theater. She was going to mention the details with security because young people have a way of gathering. She would prefer that customers walk around and purchase from retail or eat rather than milling around. With regard to restaurants, she does not need another pizza restaurant; she would like an upscale restaurant. She referenced three lights on the building and questioned whether the lights could be placed on the southeast side of the theater.

In response to Mayor Bendekovic, Mr. McKenzie advised that their plan is to start construction early next year and it will probably take about 12 months. The target is to be open by Christmas in 2013. They have been trying to attract restaurants to the site but have not been successful as of yet; a lot of them are holding off for the

theater to be announced. They want to lift the scale and quality of food in the mall; however, it takes some effort to get the restaurants to the site. With regard to the lights, they will look at placing additional lights on the other side. Modern theaters like to have video games; they make money off of the concession area. They are finely balanced financial equations.

Councilman Jacobs requested that the motion be modified so that it is understood that Mr. D'Arelli's interpretation of all of the staff comments as he read them is the Council's understanding and approval, highlighting the Police Department comment that even though they objected to the comment they then modified the objection.

Mr. Leeds recommended adding a new condition to the motion; applicant to consider down lighting be added to the southeast theater elevation. In addition to the two zoning waivers, there will be a third zoning waiver for lot coverage and a fourth for pervious open space. Those will be added as waivers and will be approved by the City Council as well. Unless Mr. Ezzeddine has any objection, the mitigation description provided by the applicant relating to his conversation with Ms. Berchielli will be the options available through mitigation with staff. As he understands in speaking with Mr. Ezzeddine, he agreed if landscape mitigation cannot be resolved between the applicant and the staff then it will come back to the City Council. He noted that this is for the site plan, building elevation and landscape plan for the retail restaurant/theater.

Councilman Jacobs clarified that the recommendations will be added to the motion.

In response to Councilman Levy, Mr. D'Arelli did not believe that Regal would be providing the dining/movie option at this location. In a way that is a benefit, as it helps support the restaurants so they know they are not competing with the theater. They will have a special theater known as an RPX, which is an enhanced experience theater that has super sound, floor to ceiling screen, and enhanced leather seating.

Councilman Levy indicated that he did not see the marquis on the exterior of the building.

Mr. D'Arelli advised that they will not have a traditional type marquis with the changeable copy on it; they will have movie posters and a blade sign on the corner keeping a more streamlined aesthetic, which is the direction that movie theaters are going these days. The idea is to get people into the lobby area in front of the theater where there will be some new retail and kiosk experience to capture sales. It also allows, from a security standpoint, to have people inside of a controlled environment rather than in the parking lot. The reality today is that most people know what they are going to see based on checking movies and times on the Internet.

Mr. D'Arelli mentioned the sign special exception and noted that they are in agreement with most of the staff comments.

Mr. Pierce advised that one problem is the trees. The site is heavily treed and landscaped and provides some visibility challenges from the main arterial, being University Drive on the north/south, which drives the need for enhanced signage on the site. The Executive Summary starts on Page 4. In looking at the mall signs, staff is all right with sign B7 as presented. Staff is agreeable to the size of sign B2 but requested an arched canopy, which they are all right with. Sign C3 is not in need of a special exception; however, they are changing the sign by adding some tenant ID to indicate the anchor tenants and the movie theater. Sign C1 is a replacement of an existing sign on University Drive at the southern most entrance; staff objected to tenant branding on the sign and they are willing to agree with staff's comments and will use uniform lettering and will not put individual tenant branding.

In response to Councilman Tingom, Mr. Pierce stated that the sign will be consistent with the sign on the southwest corner of Broward Boulevard and University Drive as far as the brick work and coloration.

Mr. Pierce indicated that there is a cluster of signs in a similar location; signs, 5A, B and C, which are in the location of the theater marquis. The request submitted was for the blade sign on the corner with the Regal 12 and staff is agreeable to that. They requested that we not use a neon band around the tip and they have agreed to look for an alternative such as an LED lighting strip or something.

In response to Councilman Jacobs, Mr. Pierce believed the LED's would be behind some type of covering; they are not exposed. He believes that the City needs to think about the new technology in lighting and whether or not we want to regulate some of that.

Mr. Leeds feels like that is a good idea and we will look at the alternatives.

Mr. Pierce stated that staff is all right with the blade sign, B5A; they will not do the neon. The 5B signs had the word "stadium" on either side of the blade but staff thought that having the word "stadium" was excessive since "stadium" is near the entry by the Westfield sign; they have consented to remove "stadium" in those two locations on either side of the blade. Sign B4 is in the general location and is the Regal stadium sign they intend to keep and staff was fine with that.

In response to Councilman Jacobs, Mr. Pierce noted that sign B4 is on the canopy.

In response to Councilman Jacobs, Mr. Leeds advised that it is a prohibited sign but it is a sign that the applicant can request for a special exception to allow. Staff is allowing it on one canopy only, above the entrance to the theater and not in the two other locations and the applicant has agreed.

Mr. Pierce mentioned the RPX sign, sign B5C. Staff has requested that this sign be reduced in size from the proposed 42.8 square feet to 25 square feet. They request that they be able to maintain the 42.8 square feet as applied, given that is an emerging brand for them that is getting some brand recognition in the market place; it is their enhanced Regal premium experience theater and shrinking the size diminishes that branding opportunity.

In response to Councilman Jacobs, Mr. Pierce stated there is one on either side of the blade sign. They believe illuminating the stadium element on either side will reduce the clutter.

In response to Councilman Tingom, Mr. Pierce indicated that the material behind the sign is stucco.

Mr. Pierce referenced sign B8, which is on the corner of the theater on the east elevation; it is the Regal Cinema sign with their logo that is the crown. Staff has requested that the size of the sign be reduced from the proposed 366 square feet to 220 square feet. They are willing to reduce the size but would like to meet somewhere in the middle at 292 square feet. In light of the fact that they agreed to take off the word "stadium" on the portions next to the blade, instead of "cinema" they would like to put "stadium" on this sign so it would be Regal Stadium 12 instead of Regal Cinemas. With regard to sign B6, a JC Penney sign on the northeast side of the theater, it is important to them to know that there is visibility from the parking field when people go to Macy's and see JC Penney. They are agreeable in these difficult negotiations to allow the movie theater to protrude in between them and Macy's but the fact that it will somewhat block visibility eastward and a significant negotiating hurdle was that they want some opportunity to be seen from that eastward elevation. The reality is that the sign will not be seen from University Drive but once you are on the premises it is important to them to have identification to be seen from the Macy's parking field as you maneuver around the site otherwise there is no indication that there

is JC Penney until driving around the theater and maneuvering towards JC Penney. Staff opposes that and does not feel there is justification for an additional sign; however, it is extremely important to JC Penney. If we cannot come back and tell them that we the sign is not allowed we are at jeopardy of not having them amend the reciprocal easement agreement (REA). They have given their consent to process the application.

Councilman Jacobs questioned the current size of the sign they have now and what the proposed size will be. He suggested that the same size sign as on the other walls be used.

Mr. Pierce advised that this would be an additional sign.

Councilman Tingom understood why JC Penney would want that sign on the corner. He thinks it is appropriate; however, he is concerned with the proportion.

Mayor Bendekovic commented that the height does not look right; she would put it mid way.

Mr. Leeds indicated that JC Penney already has five signs, two are 200 square feet in area approximately and the other three are about 50 square feet in area. His understanding is that the Regal Cinema sign was going to be relatively close to the JC Penney sign. If both are approved, that would be 450 square feet of new signage on the wall. The only thing he is concerned about is the issue of clutter, which is subjective. The other issue is that Macy's will come in for another sign and whether they will request a larger sign. What he is hearing from Council is that there is not an objection to the JC Penney sign.

Councilman Jacobs clarified that there is not an objection to the JC Penney sign if it is not too high and not too large.

Councilman Tingom agreed.

Mr. Leeds advised that the RPX is up to Council; staff is recommending 25 square feet. He believes that they are in agreement with almost everything else.

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve the package as discussed, subject to allowing 42 feet for the requested RPX sign, two of the three stadium canopy signs have been removed, a change to the sign will say Regal Stadium 12, the compromised size for the Regal Cinema sign of 292 square feet, and the JC Penney sign will not exceed 146 square feet, along with Mr. D'Arelli's interpretations of the comments. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom

Nays: None

In response to Councilman Tingom, Mr. Leeds did not know whether the RPX sign is according to scale. They go based on the dimensions; it is supposed to be drawn to scale. He believes that the scale is correct.

With regards to the JC Penney sign, Councilman Jacobs noted that 42 feet would only be the logo, not the entire structure. He questioned whether that is an architectural feature that is added on.

Mr. Pierce stated that it is a logo on a stucco wall.

Mr. Leeds clarified that according to the plan, the B8 sign, which is the Regal sign, faces southeast and the JC Penney faces northeast. They are not on the same building elevation, it is a corner and one sign is on one side and one sign is on the other side.

Mr. D'Arelli advised that they are attempting to put some parameters on the sign. The sign can be lowered a panel but they are trying to identify how to scale that.

Mr. Leeds commented that two of the JC Penny signs are in the 180-200-square-foot range and the other three are about 50 square feet.

In response to Councilperson Stoner, Mr. McKenzie indicated that the value of the construction is about \$30 million. The lease with Regal is for 15 years.

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COUNCILMEMBERS' COMMENTS

Councilperson Stoner mentioned that TD Bank presented for an option of two separate sign exceptions two weeks ago. She was one of the "No" votes at that time. She has always been a huge proponent of businesses and an advocate in every way. After the fact she was a little uneasy with her decision; therefore, she decided to drive around the City and look at the signs. Within the last year there have been a lot of sign exceptions. The signs are in good shape and she did not find them offensive or outrageous. She thought about bring TD Bank back for a vote, but she hates to do so with possibly having a veto from the Mayor after the fact. She questioned whether there could be a discussion relating to signs; is the sign code too stringent? Is there a reason why it should be addressed versus all of the sign exceptions all the time?

Councilman Tingom believed it would be an appropriate discussion but not during Comments.

Councilperson Stoner suggested deferring the conversation to another time.

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Mayor Bendekovic reminded everyone that the Plant Awards will be on Friday at the Botanical Gardens at 10:00 a.m.

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Mayor Bendekovic wished everyone a Happy Mother's Day.

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Councilwoman Uria mentioned an emergency drill and questioned whether it was filmed so that other City's can see what we do.

Chief Harrison was not sure whether it was filmed to show other Cities for training.

* * * * *

Mr. Lunny read the Resolution.

RESOLUTION OF PLANTATION, FLORIDA, REPEALING CITY RESOLUTION NO. 10490; PROVIDING FINDINGS AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve the non-agenda item. Motion FAILED on the following roll call vote:

Ayes: Jacobs, Tingom

Nays: Levy, Stoner, Uria

Councilperson Stoner questioned whether we could accomplish what we asked for without repealing this Resolution.

Mr. Lunny believes the Resolution is being used as a predicate for a position of the City, which the City has not yet taken. That is because in an attachment to the Resolution, it is stated that the Plantation Community Center will be preserved. Council has not yet decided how and the manner in which it will be preserved and this Resolution is being cited by others in a manner that is contrary to a full and complete opposition.

Councilperson Stoner questioned whether it would be easier to remove the Community Center versus taking the whole thing out.

Mr. Lunny's advice is to repeal the Resolution.

Councilperson Stoner cannot support the Resolution. Council requested a basic stop; we want you on notice that we want you to stop; we want to handle everything ourselves.

Mr. Lunny clarified that he is encouraging the Council to repeal the Resolution as part of the opposition. The Council then decided to propose the matter, so he took that to mean to go ahead and prepare the Resolution. He questioned whether a modification would be proposed to adopt Councilperson Stoner's amendment and repeal the statements as to preservation.

Councilman Jacobs believes that it is only going to hurt us to have this.

Motion by Councilman Jacobs, seconded by Councilman Levy, to Modify Resolution No. 10490 to exclude any mention of the Plantation Community Center at Kennedy Park. Motion carried on the following roll call vote:

Ayes: Jacobs, Levy, Stoner, Uria, Tingom

Nays: None

The Resolution will read:

Resolution No. 11496

RESOLUTION PERTAINING TO THE SUBJECT OF HISTORIC PRESERVATION; AMENDING CITY RESOLUTION NO. 10490 SO AS TO DELETE THEREFROM (AND FROM THE ATTACHMENT THERETO) ANY REFERENCE OR MENTION OF THE PLANTATION COMMUNITY CENTER SO THAT

THIS BUILDING WILL NO LONGER BE SUBJECT THERETO; PROVIDING FINDINGS; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

* * * * *

PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, was present. He made the following comments:

- He requested that Council repeal the ICLEA Resolution No. 10481 through a non-agenda item.
- He requested that Council reconsider the automatic increase with regard to stormwater.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS

29. DISCUSSION CONCERNING PARKING AMENDMENTS.

Councilman Jacobs requested to table the Workshop to the May 23, 2012 meeting and get input from the business community prior to the meeting.

In response to Councilwoman Uria, Mr. Leeds advised that we have reduced the parking requirement for residential in Midtown. There are not currently any developments in the pipeline.

In response to Councilman Jacobs, Mr. Lunny indicated that there is zoning in progress only when Council determines that it wishes to employ that principal.

Councilwoman Uria wishes to employ the principal when it comes to the townhouses but she wants to add some things to that.

Mr. Lunny advised that if we are going to apply the principal tonight he would need to know the suggestions.

Councilwoman Uria questioned the square footage. In her opinion, the three and four-bedroom units should have a two-car garage with two side-by-side driveways instead of one. She believes there should be a standard size garage. She suggested making the garage for the one-bedroom townhouse 19' x 21'.

Mr. Leeds advised that three and four-bedroom require the same thing. When they drop down to two-bedrooms only a one-car or a one and a half car garage are required. He clarified that a 19' x 21' is a two-car garage, which is the minimum size.

In response to Councilwoman Uria, Mr. Leeds indicated that a 19' x 15' is a one car garage with some extra space for storage. It can be made larger; these numbers were discussed with a couple members of the development community. He is not adverse in making them larger.

Councilwoman Uria suggested a 20' x 22'; that is a nice two-car garage.

Mr. Leeds explained that as the size of a garage gets bigger, the open space on the project gets smaller; there is a trade off but it can be done.

In response to Mr. Lunny, Councilwoman Uria stated that a two-car garage should be 20' x 22'.

***Motion by Councilman Levy, seconded by Councilman Jacobs, to continue the meeting past 12:00 a.m.
Motion carried on the following roll call vote:***

Ayes: Levy, Stoner, Uria

Nays: Jacobs, Tingom

Mr. Leeds questioned whether they want to establish zoning in progress or just the townhouse garages.

Councilwoman Uria stated that was fine because this is coming up at the next meeting. The other Council members agreed.

Mr. Leeds advised that he will distribute the draft copies of the entire ordinance to some of the people who develop in the community as well as to the Chamber of Commerce and let them know that there will be a Workshop on May 23, 2012.

* * * * *

Meeting adjourned at 12:10 a.m.

Peter S. Tingom, President
City Council

ATTEST:

Susan Slattery
City Clerk

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed Minutes was received by the Office of the City Clerk and entered into the Public Record this _____ day of _____, 2012.

Susan Slattery, City Clerk