

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

**June 8, 2011**

The meeting was called to order by Councilwoman Uria, President of the City Council.

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Councilman Tingom.

The Pledge of Allegiance followed.

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**ITEMS SUBMITTED BY THE MAYOR**

Mayor Bendekovic welcomed Representative Franklin Sands.

Representatives Franklin Sands and Hazelle Rogers presented a Tribute from the Legislature in recognition of former Mayor Rae Carole Armstrong.

Rae Carole Armstrong accepted the presentation and thanked Representatives Sands and Rogers.

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Mayor Bendekovic introduced Dave and Candace Ericks, who will provide an update on the legislative issues.

Mr. Ericks stated that the Cities did well this year. A few mandates were passed down and nothing could be done about them. They will go back in September and have two weeks of Committee meetings in October and November and one week in December and then go back in January 2012 because of redistricting. This year the Legislature has to do two things; pass the budget and redistrict.

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Representative Rogers came tonight in support of the lobbyists and their efforts in Tallahassee; they have fought hard for the Cities and projects. She thanked everyone for their support. She recognized her Legislative Assistant, Patricia Amerlian (sic).

Representative Sands advised that they work with the Ericks during the session; they are highly professional and are very focused on the needs of the City.

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Mayor Bendekovic introduced Captain Ezzard Lebow, who was awarded the Elizabeth Jordan EMS Educator of the Year for 2011; it was awarded by the Broward County EMS Council and was presented at the 15<sup>th</sup> Annual First There First Care EMS Conference held at Seminole Hard Rock Hotel in Hollywood, Florida. She presented him with the Award for the Educator of the Year.

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Mayor Bendekovic stated that Andor, our K9, is retiring; his replacement will be K9 Rudie.

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Congratulations were offered to Lisa Huriash, Sun Sentinel reporter and the proud mother of Arianna, born on April 11, 2011.

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Jim Romano, Director of Parks and Recreation, made the following announcements:

- Summer camp begins on Monday, June 13, 2011.
- Children's Group horse riding lessons will be held on Thursdays at the Equestrian Center between 5:00 p.m. and 6:00 p.m.
- Fourth of July parade entries will be accepted until Friday, June 17.
- Plantation Central Park will be hosting a two-day flag football tournament, featuring high school players, on Friday, June 17 and Saturday, June 18, 2011 between 8:00 a.m. and 8:00 p.m. each day.
- Father's Day Brunch will be at the Plantation Preserve on June 19, 2011 between 9:00 a.m. and 3:00 p.m.

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Mayor Bendekovic made the following announcements:

- The Wine, Jazz & Taste of Plantation will be on Saturday, June 18, 2011 at 6:30 p.m. at the Renaissance Hotel.
- The Farmer's Market has been a huge success; 25 vendors are at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.
- The "Then & Now" exhibit at the Historical Museum has been extended through September 2011.
- A City of Plantation Photo Contest is open to amateur photographers. Photos will be accepted through July 15, 2011. Winners will be included in the 2012 Plantation calendar.

Mayor Bendekovic wished all of the fathers a Happy Father's Day and her oldest son a Happy Birthday!

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## **CONSENT AGENDA**

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 21.

Mr. Lunny read the Consent Agenda by title.

3. Request for authorization to continue to purchase sodium hypochlorite (chlorine bleach) from Allied Universal Corporation, piggybacking the Palm Beach County Bid for the period of June 19, 2011 through September 19, 2011, without any increase (\$.696/gallon full truckload) or (\$.819/gallon less-than-full truckload). (Budgeted – Utilities)
4. Request for authorization to extend the Utilities Department's lift station maintenance contact with Butler National Services, Inc. for the surveillance, maintenance and rehabilitation of the City's wastewater lift stations from July 1, 2011 through June 30, 2012. (Budgeted – Utilities)
5. Request for authorization to issue a work authorization to Hazen & Sawyer, PC in the amount of \$64,700 for design and permitting services for a concentrate booster pump station and start-up by-pass at the East Water Treatment Plant. (Budgeted – Utilities)
7. Public Hearing and First Reading of an ordinance pertaining to the subject of Human Resources; changing the title of the "Assistant to Mayor" position to "Chief Administrative Officer"; codifying the title and authority inherent in the Chief Administrative Officer position; instructing and authorizing the Code Editor to conform the Code so as to reflect the change; providing a savings clause; and providing an effective date therefor.

### **Resolution No. 11263**

9. **RESOLUTION** for the appointment of a Design, Landscape and Construction Management Director for the City of Plantation's Design, Landscape and Construction Management Department fixing the initial annual compensation to be paid for said Executive position; and the appointment of an individual to said Executive position. (Ezzeddine)

### **Resolution No. 11264**

10. **RESOLUTION** of the City Council of the City of Plantation, Florida appointing Thomas D. Sclafani as Special Magistrate for the processing of certain Code violations as identified in Chapter 6 of the City of Plantation Code of Ordinances, pursuant to Section 162.02 of the Florida Statutes, and City Code Section 6-4.1; providing a savings clause; providing an effective date therefor.

### **Resolution No. 11265**

11. **RESOLUTION** of the City Council of the City of Plantation, Florida appointing Craig P. Rogers as Special Magistrate for the processing of certain Code violations as identified in Chapter 6 of the City of Plantation Code of Ordinance, pursuant to Section 162.02 of the Florida Statutes, and City Code Section 6-4.1; providing a savings clause; providing an effective date therefor.

- Resolution No. 11266**  
12. **RESOLUTION** confirming a Plantation City Special Assessment Lien for the City's cost to repair or replace sidewalks at 801 NW 72 Terrace. (Michel)
- Resolution No. 11267**  
13. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 330 NW 48 Terrace. (Dormeovil)
- Resolution No. 11268**  
14. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 4785 NW 3 Street. (Dunmore)
- Resolution No. 11269**  
15. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 10090 NW 13 Street. (Tepps)
- Resolution No. 11270**  
16. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 280 Holloway. (Kotchi)
- Resolution No. 11271**  
17. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 9886 NW 6 Court. (Hoggard)
- Resolution No. 11272**  
18. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 19 – June 1, 2011 for the Plantation Gateway Development District.
- Resolution No. 11273**  
19. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 19 – June 1, 2011 for the Plantation Midtown Development District.
- Resolution No. 11274**  
20. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 19 – June 1, 2011.
- Resolution No. 11275**  
21. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 19 – June 1, 2011 for the City of Plantation Community Redevelopment Agency.
22. Request to approve a purchase of an upgrade to Microsoft Dynamic Software at a price of \$43,900.

***Motion by Councilman Tingom, seconded by Councilwoman Stoner, to approve tonight's Consent Agenda as printed. Motion carried on the following roll call vote:***

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

**NOTE:** Mayor Bendekovic voted affirmatively on Item No. 21.

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**Ordinance No. 2455**

6. **Second and Final Public Hearing of an ORDINANCE** pertaining to the subject of Comprehensive Planning; recapturing the previously approved 227 flexibility units, and reassigning up to 227 flexibility units to the following described property located in Flex Zone 75, so as to permit the construction of up to 227 multi-family dwelling units without amending the City Comprehensive Future Land Use Plan; property lying in Section 9 , Township 50 South, Range 41 East, and described as Jacaranda Parcel 816, as recorded in Plat book 114, Page 9, of the Public Records of Broward County, Florida, less out parcels 1, 3, 4, 7, 9 and 11, commonly known as "The Fountains" and generally located at the southeast corner of SW 78th Avenue and SW 6th Street, providing findings, providing a savings clause, and providing an effective date therefor.

Attorney Bill Laystrom was present on behalf of American Land and Granvil Tracey (sic). During the last meeting with the site plan Council tasked him with meeting with the Fire Department regarding the fire truck issue. He met with the Fire Department at which time they discussed different funding mechanisms; however, no resolution has been made as to what the contribution would be. He has talked with his client about going through their proposed site plan and taking certain things out, which are what he calls extras. He still believes that the 25 to 35-year-old fire truck serves not only Midtown but most of Plantation; it is not a unique vehicle for their project. Mr. Laystrom feels that a new fire truck is needed and Fire Chief Harris was very adamant that this is something that has been held back from the capital budget. He urged City Council to consider any kind of a funding mechanism whether it be Midtown working on the cost. If you look at the tax revenues generated potentially from this project you are probably looking at between \$275,000 and \$290,000. There are also two other projects coming online for that same amount and in a year and quarter the fire truck would be paid just by taxes generated by those projects. A bond issue is another option. This is the type of thing that services the City or a bond supported by the Midtown taxes or just a Midtown assessment within their taxing ability so that Midtown can be served by the fire truck. They are very concerned as the developer is getting this dropped on them as they go through the development process late in the process when they have already committed to a fountain and other things added to the building to make it more attractive to staff. It is very difficult for them to have this type of issue. He requested that the City Council consider the other funding mechanisms as part of the budget process. They will continue to talk to the Fire Department if suggested and perhaps some things can be saved out of the project but they will be things that the City wants to keep.

Councilwoman Uria commented that she did not think the motion on that item included the project being contingent upon that.

Mayor Bendekovic disagreed with Mr. Laystrom. During the Review Committee a contribution for a vehicle was mentioned and it is not too late in the process. She feels that this is an investment for all of Plantation but it is really an investment for Midtown. This has been discussed and Council would appreciate you coming back

with some kind of a figure. She stated that Council requested a dialogue at the last meeting in order to discuss figures.

Mr. Laystrom is not saying the request is not needed. He will continue the dialogue but wanted to make sure that this was not something that would hold up their permit.

Councilwoman Uria indicated that the only thing stated was that there would be a discussion; however, it was not contingent upon a dollar figure. This will be revisited later this evening with another project. As she recalled, the flex units and the site plan were approved but there was no dollar amount stated.

Mr. Lunny advised that it takes two hearings to approve and if Council decides to make it a requirement they are more than free to do so tonight. If you chose not to make it a requirement and say it is not contingent there is no ability or leverage that staff would have to come up with a number.

***Motion by Councilman Jacobs, seconded by Councilwoman Stoner, to approve the Second and Final Hearing of Ordinance #2455. Motion carried on the following roll call vote:***

Ayes: Tingom, Jacobs, Stoner, Uria

Nays: None

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**Resolution No. 11276**

8. **RESOLUTION** pertaining to the subject of Human Resources; approving the form of Public Employment Contracts with the City Senior Tennis Pro and City Tennis Pro; authorizing the Administration to make minor changes to the documents hereby approved as may be deemed necessary prior to signing same; providing findings; providing a savings clause; and providing an effective date therefor.

A memorandum dated May 4, 2011 to Mayor Bendekovic and Members of the City Council with copies to Daniel W. Keefe, Assistant to the Mayor, James Romano, Director of Parks and Recreation, Robert Cooper and Lowell Coffman from Donald J. Lunny, Jr., City Attorney follow:

A. Introduction

This item is sponsored by the Administration and by the Parks and Recreation Department.

The sponsoring Departments asked that this Memorandum note that the Plantation Tennis Program's excellent reputation is in no small measure due to the efforts of the City and its Tennis Staff to promote this unique aspect of Plantation's community identity. Indeed, the long-term strengths of the Veltri Tennis Center and Plantation Pro Shop will continue to be its programs, members, and Staff values. For thirty years, the goal of the Tennis Staff has been to provide excellent service at reasonable rates. All City fees and Pro Shop fees for camps, clinics, lessons and stringing are kept in the bottom one-third of similar facilities in the tri-county area. All requests for refunds are honored promptly and the emphasis by the Staff is always on serving the customer's needs. Every effort is made to encourage play at the tennis facility and promote the city. The strong partnership between the City and the Tennis Staff has been tangibly recognized by the recent expansion of Plantation's Tennis Program to include not only the Saviano High Performance Tennis Academy, but also the Orange Bowl Junior Classic.

## B. Background

As the Council may know, the City's public employment contract with Mr. Cooper was signed in May of 1981, and has not been formally reviewed or amended since that date. Because of the former Agreement's age, the Legal Department requested that Mr. Cooper obtain an Ethic Commission Opinion confirming that the essential and continuing terms of the agreement remain consistent with the State's ethics laws, and an Opinion to this effect has been received. Given our review of the Opinion, the Legal Department is recommending that the City enter into a Public Employment Contract with the acting assistant tennis pro, Mr. Coffman, as Mr. Coffman's tennis related functions are similar to Mr. Cooper's functions. Therefore, Mr. Cooper is proposed to be called the "Senior Tennis Pro", and Mr. Coffman is to be called the "Tennis Pro."

## C. Senior Tennis Pro Agreement

The Senior Tennis Pro's Agreement has been revised to reflect the current relationship of the parties. To that end, the "high points" of the revised agreement are:

- a. It reflects the fact that the facilities supervised by the Senior Tennis Pro have substantially expanded from their original description in 1981;
- b. It is better organized to set forth the basic duties and responsibilities for which Mr. Cooper is paid a salary, and the additional duties and responsibilities for which he is able to keep other earned revenues;
- c. It more clearly states that only Mr. Cooper's salary for basic services is pensionable (the 1981 agreement recognized his status as a full time employee for pension benefits);
- d. It contains certain updated provisions which more clearly reflect Mr. Cooper's status as an exempt employee for purposes of not being subject to overtime compensation;
- e. It expressly authorizes Mr. Cooper to form a corporate entity for the provision of the services called for in the agreement as allowed by the Opinion;
- f. The Agreement retains the Council's right (enjoyed since 1981) to impose a franchise fee (however, provisions have been added to explain that in view of the fact any franchise fee should need to be passed along to participants, the fact that participants already pay user fees to the City, and the fact the City and Senior Tennis Pro are still attempting to keep participant costs as low as possible, neither party has determined to request a franchise fee);
- g. The Senior Tennis Pro's duties and responsibilities have changed over the course of the prior Agreement's performance, and so it is proposed that the Senior Tennis Pro's additional compensation also change.
  - a. In 2002, the Senior Tennis Pro and Administration decided to further promote Plantation's tennis culture by creating the Plantation Tennis Tournament Corporation, a Florida Not for Profit Corporation which has been recognized by the Internal Revenue Service as a 501(c)(3) tax exempt organization<sup>1</sup>. While Mr. Cooper's contract would have allowed him to keep net revenues from three (3) sanctioned Tennis Tournaments per year, he and the Administration informally agreed that the Corporation would secure and operate up to three sanctioned tournaments; consequently, the Administration is advised that Mr. Cooper does not receive any direct or indirect compensation from the Corporation for any of his time or efforts in connection with the Corporation's Tournaments. The Senior Tennis Pro will ensure that the City receives a copy of the Corporation's financial statement and tax return, annually.

- b. In 2010, Mr. Cooper was instrumental in attracting to Plantation the Saviano High Performance Tennis Academy (“SHPT”). The SHPT agreement has affected the Senior Tennis Pro by both increasing his supervisory responsibilities and decreasing his revenues as a result of SHPT’s court utilization (and the consequent decrease in court utilization for lesson and clinic revenues for the Senior Tennis Pro).

The Administration and the Senior Tennis Pro evaluated these changes last year and informally determined that the Senior Tennis Pro’s compensation would be changed by the City agreeing to assign to Mr. Cooper 50% of the franchise fee revenue the City would have otherwise received from the SHPT Non-exclusive Facilities Agreement, but only if, as, and when same is due payable after the revised Senior Tennis Pro Agreement is approved.<sup>2</sup>

#### D. Tennis Pro Agreement

Mr. Coffman’s public employment agreement is similar, but simpler than Mr. Cooper’s. The primary differences are:

1. Mr. Cooper will continue to be responsible for the Pro Shop under the Senior Tennis Pro Agreement;
2. The Tennis Pro will be a secondary point person employee for the Corporation with respect to its Tournaments (unlike Mr. Cooper’s contract, however, Mr. Coffman does receive compensation from the Corporation for acting as a Tournament Director);
3. The Tennis Pro’s supervisory and management functions will be consistent with the Senior Tennis Pro’s overall program of activity.

#### E. Conclusion

If any of you have any questions or comments about the business aspects of this matter, please feel free to call Mr. Romano or Mr. Cooper. If any of you have any questions or comments concerning the legal aspects of this matter, please call me. The Resolution and proposed form of Agreements are now ready for consideration as Consent Agenda Items.

<sup>1</sup> The Corporation’s purpose is to promote, foster and support the sport of tennis through sponsoring Tournaments and amateur competition among residents of the City of Plantation, and others. The Corporation has funded improvements to the City’s Tennis Facilities, and has been beneficial in attracting quality tournaments.

<sup>2</sup> The City currently obtains \$60,000 from SHBT per fiscal year.

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Councilwoman Stoner suggested that this item be Workshopped; there is quite a bit of information and questions and she believes we might be well served by having a Workshop with staff.

Mayor Bendekovic advised that this item was deferred from May 11, 2011. She explained that the Council has received memos dated May 4, 2011 from Attorney Donald Lunny, Jr., a resolution, an exhibit of a Senior Tennis Pro Public Agreement, an exhibit B, the Tennis Pro Public Employment Agreement and 16 additional documents; an original Agreement for Professional Services, Commission on Ethics Opinion dated October 27, 2011, City Compensation Report for Bob Cooper, City Compensation for Lowell Kaufman, Certificate of Insurance, Plantation Pro Financial Statement, Plantation Pro Shop Corporate Tax Return, 2010 Individual Tax

Return Bob Cooper, etc. Council has had plenty of time to review the documents, as has been the practice in the past, if there were questions you can always go to a Department Head or anyone in the City and sit with either Dan Keefe or Attorney Lunny to discuss. There is not a need to delay this for another month and to Workshop it; all of the questions can be answered tonight and we can dialogue. She did not believe a Workshop is necessary at this time. She did not agree with Councilwoman Stoner's suggestion and thinks this has been delayed longer than it should have been.

Councilman Tingom mentioned that Golf Pros at the Plantation Preserve teach lessons on the side or develop side contracts; band directors do this and tennis people do the same type of thing. This contract is very reasonable in light of what goes on. Mr. Cooper has come forth and has served our City well; he thinks we should move on it tonight.

Councilwoman Uria did not feel that anyone was saying that Mr. Cooper has not served our City well. This is a contract that is from 1981 that we might want to discuss. There is additional information; however, Council members cannot talk to each other, as they would break Sunshine violations. This might be a discussion that we might want to look at to see the future of our Tennis Center; someone might have some other ideas. She has no problem Workshopping this item next week.

Councilwoman Stoner concurred with Councilwoman Uria and stated that this is not about what Mr. Cooper has brought to the table. It is a 30-year-old agreement and she thinks that an in depth conversation about where we want to go with the program might be an opportunity to look at different models that might be in place. We have a similar model in place for the golf course and it may be something that we want to consider. After having something in place for 30 years we owe it to our residents to explore a different model and the only way to do that is to Workshop this item.

Mayor Bendekovic disagreed and commented that Council can have the same dialogue tonight. We have a public private hybrid that is the envy of Broward County. We currently have a contract with Mr. Cooper and it is still intact. She indicated that the contract would have more up to date language but says the same thing that we have had for the past 30 years. She emphatically stated that she is not going to go along with a Workshop.

***Motion by Councilman Tingom to approve Item 8. There was no second to the motion.***

Councilman Jacobs stated that he would prefer to discuss this item further. Because Councilman Levy was not at the meeting he is stuck as a swing vote. If four Council members vote and two say yes and two say no then the Mayor has to vote and she has said that this item should be addressed tonight. Councilman Tingom also said this item should be addressed tonight and then there are two Council members who say the item should be Workshopped. He does not think there is that much involved in the discussion.

Councilwoman Uria believed it would be best to Workshop the item.

Councilwoman Stoner indicated that this program, as it exists, is the envy of every other tennis pro in the County to have this arrangement and this is not the model that exists throughout the County. The new contract has a change of Mr. Cooper receiving 50% of the Saviano fee that the City presently collects. We are not just approving the existing contract; we are adding another \$30,000 back to Mr. Cooper. This is a program that should be grossing the City over \$650,000 per year according to conversations she has had with other municipalities and pros. Currently all we are getting is \$60,000 for Mr. Saviano. We have a program that we are not taking full advantage of; this model is not appropriate for 2011 and forward. What worked 30 years ago was still a good deal and served the City well but we are in a different time and place and we need to reconsider how

we are going to do business in this City. If this continues Mr. Cooper is basically the highest paid City employee.

Mayor Bendekovic advised that Mr. Cooper earns \$31,000 per year at his job that is pensionable.

Councilwoman Stoner commented that Mr. Cooper's last tax return off of the Plantation Pro Shop was \$267,000 for the year. If he is filing something incorrect that is another problem. There is also additional money going to the Foundation. There are many layers on this and that is why she believes a different model should be discussed and how it is working. In order to have an open conversation about possibilities and what best works for the City in a financial manner would best be done at a Workshop; there are a lot of questions about how this is working or not working.

Mayor Bendekovic indicated that the money going to the Foundation is returned to the City.

Councilman Jacobs believes that Councilwoman Stoner's points could be addressed. Essentially the concern is the amount of money the City is receiving.

In response to Councilwoman Uria, Councilman Jacobs stated that Councilwoman Stoner believes the model is no good; therefore, the conclusion is that she wants to change the model. He feels that some of the numbers mentioned may not be correct or maybe misunderstood and it should be discussed at this meeting. If we want to look at different models then the item should be Workshopped.

Councilwoman Uria is interested in looking at different models. If we took the time to put a Task Force together to look at PAL we should take the time to Workshop this and look at the model. Perhaps there is a different model and she has no problem with Mr. Cooper's contract as far as continuing but she is not sure this is the right model.

Councilman Tingom would like to hear from Mr. Cooper.

Mr. Lunny pointed out that Section 10 is a termination privilege at will with 30 days notice. If the Council wants to somehow reform the program at such a future meeting you can and then determine that you no longer wish to have this contract.

Mr. Cooper started with the City of Plantation 30 years ago and his agreed upon contract was \$100 per week and as the program grew and as the facility succeeded, according to the contract, he was able to become more successful. He believes that was a very ingenious way of putting together a contract. He referenced comments made by Councilwoman Stoner and stated that the \$264,000 reflected on his corporate tax return is the gross revenue that was taken in by Plantation Pro Shop. From that \$264,000 he paid all of the employees and all costs of goods; therefore, that was not his taxable income for the year 2010. His tax return stated that he earned \$104,000. There is about a \$150,000 deficit at the Tennis Center and he was in pursuit of finding additional revenue in an attempt to minimize that amount; we bring in about \$165,000 to the City for court fees, light fees and membership. Under the terms of his original contract, he could have taken the \$60,000 Saviano money and put it into the Plantation Pro Shop; however, he liked to share it with the City because it was a good share of money and he believed that \$30,000 could go against the running deficit. He needed the other \$30,000 to compensate his employees; he is bringing a competing program into the facility and there is a potential that the tennis players and other people who work at Plantation Pro Shop will lose revenue and he wanted to hire another part-time pro to boost the program. His idea for \$30,000 of the Saviano money was to put it back into their program.

In response to Councilwoman Uria, Mr. Cooper stated that \$60,000 per year is estimated for the Saviano contract. His original idea was to give \$30,000 to the City; however, somehow it turned out that the City is returning the \$30,000. The original intent was that he would split the money with the City. The prices have always been kept very low at the Tennis Center and they have always been in the bottom third of prices they charge for tennis lessons, summer camps, clinics, etc. They have never wanted financial constraints be a factor. The Plantation Tournament Tennis Committee or the Foundation was an idea he had about nine years ago. All of the money made by the Foundation has either been spent on many uses at the Tennis Center, it has been given to different charities and \$10,000 was given for the resurfacing of the Community Center; he has not made \$1 from the Tennis Committee.

Councilman Tingom questioned whether Mr. Cooper was aware of other models that are significantly different, better or worse than these.

Mr. Cooper indicated that he is aware of numerous other models, none of which can produce the types of product that we have been able to produce for our residents. We are the envy of Broward County and are probably the finest public Tennis Center in the State of Florida. He does not know whether any of the models work as well as ours.

Councilwoman Stoner advised that this was not about Mr. Cooper and what has been accomplished; it is about the possibility of someone submitting a proposal that may be a different and better model for the City on a financial end. What worked 30 years ago is not really working today; there are many aspects of the 30-year-old contract that do not appear to have been complied with. There is too much inconsistency from the beginning until the present. This is how we can come back to something that is fair for everyone, including the City, and generate some revenue that should be coming to the City and not everybody else.

Mr. Cooper concurred with Councilwoman Stoner.

In response to Councilman Jacobs, Mr. Cooper stated that he is going to follow the contract.

Councilman Jacobs commented that he could support having a discussion about a better model in a Workshop but he is not supporting having a Workshop to discuss this contract. He feels the contract is fine and since it can be cancelled within 30 days he does not believe there is any risk to the City to go ahead with the contract.

In response to Councilwoman Uria, Mr. Cooper stated that the approval of this contract does not help or hinder any type of relationship with Saviano, as far as a partnership, other than the 50% he receives. If the contract were disapproved, financially the contract would be cancelled and whatever was performed was performed; it would not be returned, it would be performed.

Mr. Lunny advised that Mr. Cooper will receive the 50% right away retroactive to only May 11, 2011 because when it was continued Council said that the delay would not prejudice the money after that date.

Councilperson Stoner requested clarified that Councilman Jacobs and Councilman Tingom want to approve a new contract that approves \$30,000 per year from the City to pay to an employee and his additional company that he is running rather than leave the existing contract while we Workshop a new model.

Councilman Jacobs and Councilman Tingom concurred.

Councilwoman Uria believed that since a contract is in place the item could be Workshopped next week.

***Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve the contract and Workshop the model for the Tennis Center. Motion carried on the following roll call vote:***

Ayes: Tingom, Jacobs, Mayor Bendekovic  
Nays: Stoner, Uria

Mayor Bendekovic advised that she would bring this item back for a Workshop in the near future.

Councilwoman Uria indicated that a motion could be made for a Workshop.

***Motion by Councilperson Stoner to Workshop this item next Wednesday. There was no second to the motion.***

Mayor Bendekovic indicated that she is not available on that date; it was an off day and we are currently on the summer schedule. At this time she could not provide a date but stated that she would take it under consideration, study it and get back with Council promptly.

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## **ADMINISTRATIVE ITEMS**

### **23. ANNUAL REAPPOINTMENT/ RATIFICATION OF BOARD AND COMMITTEE MEMBERS.**

Councilwoman Uria announced that all of her Board appointments are the same.

Councilman Jacobs made the following appointments:

- Vivian Henderson – Library Board
- Kingsley Smith – Nuisance Abatement Board
- Corey Meckes – Parks and Recreation with Dennis Foster as an Alternate.
- Katie Edwards – Planning and Zoning
- Ron Kall – Unsafe Structures Board

Councilwoman Stoner made the following appointments:

- Shawn O'Brien – Board of Adjustment
- Michael Brennan – Educational Advisory Board
- Kim Zimmerman – Landscape Planning and Review Board
- Ann Long – Library Board
- Andrew Jacobs – Nuisance Abatement Board
- Jayne Flanigan – Parks and Recreation with Betty Cobb as an Alternate and Alan Forgea as rotating seat.
- Darren Bodore – Planning and Zoning with Adam Armaganian as an Alternate and Jerry Fadgen as rotating seat.
- Chris Zimmerman – Plantation Gateway
- Owen Duke – Plantation Midtown
- Joshua Polsky – Unsafe Structures Board with Michael Wild as rotating seat.

Councilman Tingom made the following appointments:

- Tim Hawkins – Board of Adjustment
- Tanis Mac-Kay Bell – Educational Advisory Board and Julie Kasper as rotating seat.
- Pam Krauss – Landscape Planning and Review Board
- Judy Holland – Library Board
- Frank Rabinowitz – Nuisance Abatement Board
- Ozell White – Parks and Recreation Board with Robert Horland as an Alternate
- Dan Austin – Planning and Zoning Board
- Dwight Brady – Plantation Gateway
- Randy Dekler – Plantation Health Facilities
- Steven Kamelhair – Plantation Midtown
- Melvin Scott – Unsafe Structures Board with Gene Herman as rotating seat.

In response to Mayor Bendekovic, Councilwoman Uria indicated that she has not appointed anyone for Councilperson Stoner’s previous position.

Mayor Bendekovic made the following appointments:

- Pat Roberts – Parks and Recreation
- Michael Seay – Board of Adjustment
- Denise Horland – Educational Advisory Board
- Carol Mordas – Landscape Planning and Review Board with Dr. Derek Burch as rotating seat.
- Sally Finlen – Library Board
- O’Neil Chin – Planning and Zoning Board with Erik Anderson as Alternate
- Mike Hooley – Plantation Gateway
- Karen Ramos – Plantation Health Facility Authority
- Jim Inkelbarger – Plantation Midtown and Connie Stankivicz as rotating seat.
- Ron Kall – Unsafe Structures Board

In response to Councilwoman Uria, Ms. Slattery advised that one motion would suffice in order to ratify the Unsafe Structures and the Nuisance Abatement Boards.

***Motion by Councilman Tingom, seconded by Councilwoman Uria, to ratify the Unsafe Structure and Nuisance Abatement Boards. Motion carried on the following roll call vote:***

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

\* \* \* \* \*

**LEGISLATIVE ITEMS - None.**

\* \* \* \* \*

**QUASI-JUDICIAL CONSENT AGENDA – None.**

\* \* \* \* \*

## QUASI-JUDICIAL ITEMS

Mr. Lunny read item no. 24 by title.

### **Resolution No. 11277**

24. **RESOLUTION** APPROVING A 21,100-SQUARE-FOOT PACKAGE STORE AS A CONDITIONAL USE TO BE LOCATED IN A SPI-3 ZONING DISTRICT ON PROPERTY LYING IN SECTION 9, TOWNSHIP 50 SOUTH, RANGE 41 EAST AND DESCRIBED AS A PORTION OF JACARANDA PARCEL 816, AS RECORDED IN PLAT BOOK 114, PAGE 9 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND GENERALLY LOCATED ON THE SOUTHWEST CORNER OF UNIVERSITY DRIVE AND SW 6<sup>TH</sup> STREET (THE FOUNTAINS); PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

-AND-

REQUEST FOR APPROVAL FOR A SITE PLAN MODIFICATION FOR TOTAL WINE LOCATED AT 801 SOUTH UNIVERSITY DRIVE.

A Staff Report dated June 8, 2011 to the City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST #1:** Conditional use approval to allow a 21,100-square-foot package store.

**REQUEST #2:** Site plan modification approval for Retail G at The Fountains.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; Conditional use/site plan application; Planning and Zoning Board Meeting *draft* minutes of May 3, 2011; Landscape Planning Review Board Meeting minutes of April 25, 2011; Advisory Board for the Disabled Meeting minutes of April 25, 2011; and Review Committee Meeting minutes of February 22, 2011.

**PLANNING AND ZONING BOARD:** Recommendation of **APPROVAL** subject to staff comments as noted in *draft* minutes (6/0; May 3, 2011).

**LANDSCAPE PLANNING REVIEW BOARD:** Recommendation of **APPROVAL** subject to comments as noted in minutes (6/0; April 25, 2011).

**ADVISORY BOARD FOR THE DISABLED:** Recommendation of **APPROVAL** subject to comments as noted in minutes (6/0; April 25, 2011).

**REVIEW COMMITTEE;** No objection to the project proceeding for further review (February 22, 2011).

### **ANALYSIS:**

City Council approved a master plan modification for the Fountains Shoppes of Distinction on May 7, 2008, proposing demolition of 153,134 square feet of the existing center which included the movie theater together with the north and central east/west wings (A and B) and reconstruction of approximately 172,209 square feet of

retail space including a 109,060-square-foot, two-story Kohl's Department store. A subsequent City Council approval on October 28, 2009, modified the plan for proposed Retail A and B, approved demolition of the Village Marketplace and adjacent stores and approved development of a 50,600-square-foot Dick's Sporting Goods.

The 2009 site plan modification included a 20,000-square-foot planned location for Retail G on the south side of Marshall's and north of the central park area. The applicant is seeking master plan, site plan, elevation, and landscape plan modification approval to increase the Retail G square footage from 20,000 square feet to 22,313 square feet to accommodate two tenants. The interior space next to Marshall's will encompass 21,058 square feet with a planned occupancy by "Total Wine". The remaining 1,255-square-foot retail space abutting the park does not have a proposed tenant at this time.

"Total Wine" conducts retail sales of beer, wine, and liquor together with wine tasting and education classes. The proposed establishment is classified as a package store which requires conditional use approval in the SPI-3 zoning district. The review of a conditional use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code, which is attached hereto as Exhibit "A".

**STAFF COMMENTS:**

**PLANNING:** No comments.

**ZONING:**

1. Remove the center column from the tower element at the east end of the south elevation so that the south elevation matches the design of the east elevation (except there will be brick above the awnings and the open area will be to the right). Begin the brick arches under the arcade at the north end of Retail G1.
2. At the southeast corner of the building, facing east, the sidewalk shall be reduced to 12.29' and the landscape pedestrian area increased to 11.1' wide. The colored concrete pattern may require adjustment.
3. Prior to submittal of a building permit, the parking calculations must be revised to incorporate the parking changes associated with the recently approved site plan for Midtown 24 – Phase 2. Staff has met with the application to discuss these changes and has no objection to this plan moving forward for City Council consideration.
4. Note on Plan: Shopping carts for Total Wine must be stored inside the store.
5. Contact the Engineering Department regarding the need for vacation of easements.

**TRAFFIC CONSULTANT:** No objection.

**ENGINEERING DEPARTMENT:**

1. Please show the crosswalk in the southwest corner as well as the ramp and markings. The civil plans show the curb connection to the existing ramp area but the Site Plan is not clear. Please make sure both plan sets match. Sheet SP-002 shows the ramps for the crosswalk to the north of the crosswalk and not in the paver brick crossing. This sheet does not match sheets C-3 and C-4. Comment not addressed. Response says it is not part of plan. If so, then show as existing and not new.

**Permit Comments**

1. The erosion and sedimentation control plan does not show the construction entrance or the gravel pit. Please revise to include those details.
2. The construction gate, when included, must be a minimum of 25 feet from edge of pavement and open in.
3. A demo plan and permit will be required with a building permit.
4. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.

5. Please provide drainage calculations, signed and sealed by a professional engineer, registered in the State of Florida; as well as approval from OPWCD.

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 Old Plantation Water Control District (OPWZCD) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review. 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.

**LANDSCAPE ARCHITECTURE:**

1. Prior to the commencement of work please meet with staff to discuss existing site conditions, tree relocations, etc.
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.

**BUILDING DEPARTMENT:** No objection.

**UTILITIES:**

Respondent agreed to all previous comments and will address them at the appropriate juncture.

**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.
2. Acceptance of as-built drawings and Certified Stormwater Inspection Report will be required prior to issuance of a Certificate of Occupancy.

**WASTE MANAGEMENT:**

Sorry this does not look safe for the driver, he would have to back out of a blind area where he cannot see anything.

**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.

*An application for site plan amendment reflecting the proposed use was submitted simultaneous with the request of conditional use approval.*

Staff concurs. A revitalized master plan for the Fountains was approved by City Council in 2008. The applicant is requesting approval to modify the existing master plan to accommodate the proposed 22,313-square-foot building modification.

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.

*The previously approved site plan for the Fountains, which was determined by the City Council to be consistent with the Master Plan for Plantation Midtown, depicted and included the retail space to be occupied by the proposed Total Wine Store as "Retail G". The proposed site plan amendment to accommodate the Total Wine has the store in substantially the same footprint as the previously approved Retail "G" building and will in fact increase consistency with the Master Plan by adding additional small shop retail adjacent to the outdoor plaza area. The small shop adjacent to the outdoor plaza will activate the plaza and create a more vibrant pedestrian area. (See Central Plantation conceptual Master Plan, Subdistrict, and Prototype Plans: "The South Village site plan includes: A lively, pedestrian-friendly mixed-use environment centered on a new east-west axis featuring buildings framing an attractively landscape civic plaza.").*

Staff concurs. The center is currently in the final state of a massive revitalization project. The revitalization project is compatible with the existing general plan for developments located within the SPI-3 District.

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 immediate "neighborhood" surrounding the proposed Total Wine store is the mixed use Fountains project itself and the Midtown District. The one-story retail store will be in harmony and consistent with the bulk and scale other low rise commercial structures in the vicinity. The adjacent Fountains Residences were introduced into an existing retail shopping center and a retail wine store would be compatible in impact with other types of permitted retail use that would be characteristic of a shopping center. Traffic and parking demands from the proposed conditionally approved wine store would be consistent with the traffic and parking demands of any other permitted retail use in the proposed space. There currently does not exist a similar wine superstore use in the Midtown District and the proposed use would meet the demand of the residents looking for a wide variety of wines and beers at superior values in a single location who currently have to shop outside of the area for same. The proposed wine store would complement and add to the diversification of the mixed-use environment in the Fountains which is primarily characterized by clothing and sporting goods as major retailers.*

Staff concurs. Package stores are a compatible use with other retail stores, offices and restaurant uses found in most mixed-use centers. A traffic study was not provided. Total Wine was a part of the overall center's traffic study.

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 proposed conditional use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood. The Fountains is a mixed use shopping center in the City's emerging Midtown District which is ideally suited to accommodate a retail wine store. The Total Wine store will be an amenity to those that live, work and shop in the vicinity as opposed to having an adverse impact. All activities associated with the retail store will be conducted indoors and will cause no objectionable noise, vibration, fumes, odor, dust, glare, or physical activity.*

Staff concurs.

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 Total Wine store will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood. Alcohol sales already occur in the neighborhood at grocery stores such as Publix and Whole Foods and those operations have similarly not proven detrimental to the neighborhood. Wine tasting classes will be offered in a controlled environment with no sales or providing of alcohol to minors.*

Staff concurs.

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.

*Adequate public facilities exist to accommodate the proposed Total Wine store together with existing and proposed uses in the area. Retail sales of wine and beer will not place a demand on public facilities greater than any other permitted retail activity that could occur in this location.*

Staff concurs.

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

*The proposed conditional use will comply with all other specific standards in the City Code, including obtaining any necessary liquor license.*

Staff: The applicant has provided documentation demonstrating compliance with Section 3-3 which requires a minimum separation of 1,000 feet between package stores and hospitals, houses of worship, schools, parks and day care centers.

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

*The proposed Total Wine store is approximately 21,058 square feet as reflected on the site plan amendment that is being processed concurrent with the conditional use approval.*

Staff: Should the applicant desire to expand in the future, the conditional use will need to be amended to address the increased square footage.

---

Paul D'Arelli, Attorney, was present on behalf of the Fountains developers, Diversified Realty. He was sworn and understood the rules of the hearing.

Mr. D'Arelli explained that this is Phase 4 of the redevelopment of the Fountains Shopping Center. The Residences was Phase 1, which led to the retail portion of the project starting with Kohl's then the modification to the center part of the shopping center, which included Dick's Sporting Goods and the small shop retail. This request is for some clean up of the last phase, which was the Retail G building, which was identified and already approved on the previous site plan approval when the Dick's Sporting Goods came through as a junior anchor store in the location that the Total Wine is being presented; however, it was identified in the phasing plan to be constructed when a tenant was secured. This tenant has been secured and has committed to come to Plantation. They will be locating adjacent to the Marshalls store pending approval. They will also provide an additional retail bay as a "carve out" of the Total Wine space in response to staff's concerns and suggestions that we find a better way to activate the park space.

In response to Councilman Tingom, Mr. D'Arelli advised that the trash area would be screened and not visible. They have worked closely with staff to be sure that area is appropriately screened.

Councilwoman Uria referenced the Waste Management comment that says, "Sorry, this does not look safe for the driver, he would have to back out of a blind area where he cannot see anything."

Mr. D'Arelli indicated that this has been resolved.

Michael Pierce, project manager with CPH Engineers, was present. The civil engineer with Craven Thompson met on May 5, 2011 with Carlos Manzanarus (sic) and they approved the concept for the dumpster access and fire truck access. He provided e-mail clarification.

Mayor Bendekovic commented that there is a lot of excitement with Total Wine coming into the Fountains.

Mr. D'Arelli referenced Zoning comment #1. When they met with Planning and Zoning during the previous submission there was a request to extend a corner tower element of Retail G1 out by ten feet to the south and 30 feet to the west. That area has been extended and it really activates the corner plaza. It was always anticipated to be some sort of café or restaurant. The design is consistent with the rest of the Center. They respectfully disagree with the request in comment #1, which is to remove the center column. The column repeats in Phase 3; there is an archway. They have spent a lot of time working with staff to make sure that the arch element stays in the design.

Mr. Leeds advised that he did not have a problem deleting comment #1.

Zury (sic) Rodriguez, with Crown Liquors of Broward, was present. She stated that she has been a retailer in Broward County since 1955 and the issue was for the benefit of small businesses in our community. The model of Total Wine is that they come into the community aggressively, level out the small businesses that are in competition by putting their prices way below costs and once they run the small businesses away they raise their costs.

Shiv Vagray (sic), manager of Davie Discount Liquors, was present. He concurred with Ms. Rodriquez and commented that Total Wine undermines small business people.

Richard Patel, owner of a cigar bar in the Fountains, expressed concern that he cannot compete with Total Wine's low prices. From what he has heard from police officials in Fort Lauderdale, Total Wine actually increases the crime rate because low prices equal unwanted people purchasing liquor, wine and beer.

Phil Armstrong, Vice President of Real Estate for Total Wine. He did not apologize for offering low prices and great service and selection. He stated that Total Wine has a very aggressive policy on sales to minors and they have done over 60 million transactions nationwide with zero sales to minors. The idea that their store attracts an element of crime or reduces anything in a shopping center is not true. They have a great business and hire first class people who are trained well. They are pleased to have the opportunity to do business in Plantation and believe that they will be a great addition to the business community.

Josh Ragano (sic), resident, indicated that to have 0% sales to minors has to be grossly negligent; if that many transactions are done that means you are perfect and no one is perfect. The only place he can think of in Plantation to have a drink and smoke is Macabi Cigars located in the Fountains and he believes that Total Wine will eventually put them out of business. It would be a shame to allow a big box company to come in and take over when they could go to another location.

Councilwoman Uria stated that Total Wine appears to be a great community partner and she does not think that they want to put anyone out of business.

Councilman Jacobs questioned whether a market study was done and if so, he requested information about the market analysis.

Mr. Armstrong advised that Total Wine has two existing stores in Broward County. They have viewed the western side of the County as a potential opportunity. They looked at several locations and settled on the DDR property, believing that it would be a good opportunity due to the income levels, demographics, the existing shopping patterns and compatible retail.

In response to Councilman Jacobs, Mr. Armstrong indicated that they look at competition stores that are considered comparable. They felt the competition was significant but felt they could do business in this location.

***Motion by Councilman Jacobs, seconded by Councilperson Stoner, to approve Resolution No. 11277, as well as staff comments. Motion carried on the following roll call vote:***

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

\* \* \* \* \*

25. AN ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF COMPREHENSIVE PLANNING; RECAPTURING THE PREVIOUSLY APPROVED 534 FLEXIBILITY UNITS, AND REASSIGNING UP TO 321 FLEXIBILITY UNITS, TO THE FOLLOWING DESCRIBED PROPERTY LOCATED IN FLEX ZONE 74 SO AS TO PERMIT THE CONSTRUCTION OF UP TO 321 MULTI-FAMILY DWELLING UNITS WITHOUT AMENDING THE CITY COMPREHENSIVE FUTURE LAND USE PLAN; PROPERTY LYING IN SECTION 16, TOWNSHIP 50 SOUTH, RANGE 41 EAST, AND DESCRIBED AS TRACT A, ACCORDING TO THE PLAT OF STILES PLANTATION, AS RECORDED IN PLAT BOOK 177 AT PAGES 53 THRU 55 INCLUSIVE OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. GENERALLY LOCATED AT THE NORTHWEST CORNER OF STATE ROAD 84 AND UNIVERSITY DRIVE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AND EFFECTIVE DATE THEREFOR.

And

REQUEST FOR SITE PLAN, ELEVATIONS AND LANDSCAPE PLAN APPROVAL FOR ONE PLANTATION PLACE LOCATED AT 1349 SOUTH UNIVERSITY DRIVE.

A Staff Report dated June 8, 2011 from the Planning, Zoning and Economic Development Department follows:

**REQUEST #1:** Request for assignment of 321 residential flexibility units.

*Staff Comment: The apartment site plan does generally meet the criteria set out in Section 19-67(c) of the Plantation Land Development Code to justify the allocation of flexibility units. (See Attachment "A")*

**REQUEST #2:** Master Plan, site plan, elevation and landscape plan approval for retail, restaurant, auto repair, office, and multi-family residential development.

*See staff comments below.*

**WAIVER REQUESTS:**

Please note items indicated with an asterisk\* are waiver requests from SPI-3 Midtown District design and site plan requirements. *Staff comments are italicized.*

- 1) From: Section 20-73(b), which requires payment of park impact fees prior to City Council approval;  
To: Allow payment of park impact fees at time of building permit issuance.
- 2) From: Section 27-624\*, which requires density to be calculated based on "equivalent site area" when the residential use is allocated to one portion of the site;  
To: Increase the allowable density based on the equivalent site area from 93 dwelling units to 321 dwelling units.

*Applicant's justification is based on the assumption that the apartment and shopping center sites function as a single master-planned, integrated, mixed-use development. As stated in this report,*

*staff's position is that these are two unrelated development sites that happen to be located next to one another.*

- 3) From: Section 27-724(c)(1)(ii)\*, which requires the building mass to occupy at least 50% of the "B" street (SW 78<sup>th</sup> Avenue) frontage.  
To: Building mass occupies no portion of the "B" street.

*Applicant's justification is based on incorrect information.*

- *Applicant states the townhouses were removed "at the request of the P and Z Board". This P and Z Board made no motion to remove the townhouses. The P and Z Board moved only to deny the project; motion failed 3-3.*
- *Staff concurred with the removal of the townhouses with the objection of reducing density and lot coverage to allow for*
  - *Additional landscaping adjacent to the apartment towers.*
  - *Allow for a reduction in required parking consistent with staff's 6% parking reduction, not 10% as requested by the applicant.*

*In part because the applicant increased density by six units, the plan is still short on landscaping and parking.*

- 4) From: Section 27-626(b)(1)\* which requires the primary building façade for the apartment towers to be located adjacent to the front street (SW 78<sup>th</sup> Avenue);  
To: Locate the apartment towers in the center of the south 1/3 of the site.
- 5) From: Section 27-747(c), which requires a minimum loading zone length of 45 feet.  
To: Allow 36-foot long loading zones.
- 6) From: Section 27-747(d), which requires six loading zones based on the number of residential dwelling units;  
To: Allow two loading zones for the residential component.
- 7) From: Section 27-623(d)(2)(i)\*, which requires sidewalk on a "B" street to be 8' in width.  
To: Allow the sidewalks in the retail component to remain 5' in width and to construct some areas of the sidewalk in the residential component at 7' in width.
- 8) From: Section 27-624(d)(1)\*, which limits the lot coverage for a 12-story building to 17%.  
To: Increase the lot coverage to 27.8%.

*If approved, this waiver allows the applicant to exceed the maximum SPI-3 lot coverage by 63%. This indicates the proposed apartment complex is too large for the apartment site.*

*Applicant's justification is based on the assumption that the apartment and shopping center sites function as a single master-planned, integrated, mixed-use development. As stated in this report, staff's position is that these are two unrelated sites that happen to be located next to one another.*

- 9) From: Section 27-624(d)(1)\*, which limits the floor area ratio for a 12-story building to 1.26

(total building floor area cannot exceed 126% of the parcel size);  
To: Increase the floor area ratio to 1.49 (149% of the parcel size).

*As stated in this report, staff's position is that these are two unrelated development sites that happen to be located next to one another. Waiver Nos. 8 & 9 indicate the proposed apartment building "mass" is too large for the apartment site.*

*Applicant's justification is based on the assumption that the apartment and shopping center sites function as a single master-planned, integrated, mixed-use development. Staff disagrees.*

10) From: Section 27-625\*, which requires 650 parking spaces for the residential component;  
To: Reduce the required parking to 586 parking spaces, or a 10% parking waiver.

- **PLEASE NOTE:** *The applicant's architectural plans (Page 4-1.1) misrepresent SPI-3 parking requirements. The table indicates 489 spaces are required; when the SPI-3 code requires 650 spaces. Staff has requested on at least two occasions the parking calculations table be revised. Applicant has yet to review the parking calculations consistent with code.*
- *Staff has recommended a 6% parking reduction (from 650 to 611 spaces). This is based on the following staff reduced parking criteria:*

*1BR: 1.5 spaces per unit  
2 BR: 2.0 spaces per unit  
3BR: 2.0 spaces per unit  
Guests: 1.0 space for each 7 apartment units*

*Staff's recommendation is 25 spaces more than provided by the applicant, but 39 spaces less than required by the SPI-3 code. In lieu of providing additional parking, staff will accept a reduction in dwelling units to meet the staff recommended parking standards.*

- *Applicant argues that the proposed freestanding apartment is an urban type use and need only meet parking requirements similar to urban areas such as Downtown Fort Lauderdale, Miami Beach, or Miami. The Central Plantation Conceptual Master Plan, City Comprehensive Plan, and SPI-3 zoning do not propose that Midtown be developed at such high intensities or densities as these other cities.*
  1. *Downtown Fort Lauderdale, Downtown Miami, and Miami Beach allow high-rise (20 – 30+ stories) and very high-density (50 to 100+ units per acre depending on the City development). Midtown SPI-3 zoning allows no more than 25 units per acre and 12 stories in height.*
  3. *Miami Beach provides significant public on-street parking and off-street public parking. At the same time, Miami Beach is known for having substantial parking deficits due to very low or non-existent required private off-street parking.*
  3. *Downtown Fort Lauderdale and Miami have extensive county and local transit options not currently available in Midtown at this time. Miami has Metrorail and*

*Metro Mover. Fort Lauderdale is in the process of establishing a continuous shuttle circulator to service the downtown area.*

- *Applicant argues he is providing more parking than Veranda and Midtown 24. This is not correct. Veranda and Midtown 24 both provide structured parking as an integral part of the apartment building plus shared retail parking as part of each mixed-use, master planned development. The shared parking allows Veranda and Midtown 24 to each provide more parking than provided in the proposed site plan.*
- 11) From: Section 13-40(c)(4), which requires landscape medians between double parking bays to have a minimum of 10' in green area, not including curbing.  
To: 10' wide median required in the center of the residential one-way drive – 8' has been provided.
  - 12) From: Section 13-40(c)(3), which requires landscape islands or medians to be provided to separate parking bays from major internal access drives and have a minimum width of 10' in green area, not including curbing.
  - 13) From: Section 13-40(5)(a), which requires one interior landscape island be provided every fifth space in multi-family residential developments.  
To: Provide on the average one island every 8<sup>th</sup> space (a loss of approximately 32 islands).
  - 14) From: Section 13-40(f), which requires large shade trees be installed in all parking areas at a maximum spacing of 40' on-center.  
To: Three trees required in the tenant outparcel at the NE entrance – one provided.  
32 large shade trees required in the residential parking lot islands – zero provided.
  - 15) From: Section 13-41(b), which requires landscape pedestrian zones to 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: Building 02 – Proposed Restaurant:  
13' required along the eastern lpz – 0' provided.  
13' required along the northern lpz – 0' provided.  
  
To: Building 04 & Building 05a – New Retail:  
44'-66' required along the northern facade – 5' – 9' has been provided.  
44'-66' required along the southern façade – 6' – 9' has been provided.  
44'-66' required along the western façade – 12' – 20' has been provided.  
  
To: Building 12 – Multi-family residential:  
44'-66' required along the northern façade – 5' – 8' has been provided.  
44'-66' required along the southern façade – 6' – 9' has been provided.  
44'-66' required along the western facade – 9' – 20' has been provided.  
44' – 66' required along the eastern façade – 6' has been provided.

To: Building 16 – Proposed Pool & Club House:  
10' required along the western façade – 0' provided.

*Building 11 and 12 (Apartment Complex): Applicant's justification for the minimal landscape pedestrian zone is based on the assumption that the apartment and shopping center sites function as a single master-planned, integrated, mixed-use development. Staff's position is that the proposed plan is suburban in character, not well integrated, and separates the apartment site to the north from the retail center to the south. Staff feels this project does not meet the codes or the intent of the Midtown (SPI-3) zoning district.*

16) From: Section 13-41(c), which requires one tree to be installed in the landscape pedestrian zone for each 30 lineal feet, or fraction thereof, of façade width.

To: Building 02 – Proposed Restaurant:  
Four trees required along the eastern lpz – 0 provided.  
Three trees required along the northern lpz – two provided.

To: Building 04 & Building 05a – New Retail:  
Three trees required along the eastern lpz – two proposed lpz.  
Seven trees required along the southern – one proposed.

To: Building 10 – Proposed Retail:  
Three trees required along the eastern lpz – two provided (3 palms = 1 tree).

To: Building 11 Multi-family residential:  
Nine trees required along the northern lpz – eight provided (3 palms = 1 tree).  
Nine trees required along the southern lpz – four provided (3 palms = 1 tree).

To: Building 12 Multi-family residential:  
Nine trees required along the northern lpz – five provided (3 palms = 1 tree).  
Four trees required along the eastern lpz – two provided.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; site plan application; Planning and Zoning Board Meeting minutes of May 3, 2011; Planning and Zoning Board Meeting minutes of February 1, 2011; Landscape Planning Review Board Meeting minutes of January 24, 2011; Advisory Board for the Disabled Meeting minutes of January 24, 2011; and Review Committee Meeting minutes of October 26, 2010.

**PLANNING AND ZONING BOARD:** Motion to recommend denial **FAILED** (3/3; Armaganian, Bellis, and Lethbridge dissenting). Motion to move forward to City Council with the understanding that the Planning and Zoning Board's decision was split on the vote. (6/0; February 1, 2011). The Planning and Zoning Board confirmed their February 1<sup>st</sup> vote on May 3, 2011.

**LANDSCAPE PLANNING REVIEW BOARD:** **APPROVAL** subject to staff comments (7/0; January 24, 2011).

**ADVISORY BOARD FOR THE DISABLED:** **APPROVAL** subject to staff comments (7/0; January 24, 2011).

**REVIEW COMMITTEE: APPROVAL** subject to staff comments. (7/0; October 26, 2010).

**BACKGROUND AND ANALYSIS:**

The City Council adopted the Conceptual Master Plan for Plantation Midtown in November 2003, which includes the area generally lying between University Drive and Pine Island Road, south of Cleary Boulevard and north of State Road 84. The conceptual master plan envisioned redevelopment of the district with integrated mixed uses and provided for an increase in mass and bulk with structured parking. The plan evaluated existing land uses, created sub districts for detailed study, evaluated prototype site plans to determine the impacts of private development, estimated the timeframe for build out, evaluated mobility and transit, established capital improvement needs, and created timeframes for plan implementation.

The proposed site plan is located in the “South Business District” which includes the land area south of Peters Road between SW 78<sup>th</sup> Avenue and the Cornerstone Office Park. Within the “South Business District”, the conceptual plan suggested redevelopment of the older shopping centers along University Drive and an added residential floor area of approximately 140,000 square feet with an estimated total unit count of 120 units. The prototype site plan within the master plan envisioned development of the two hotel sites on the southern 1/3 of the property and redevelopment of the existing shopping center for commercial use.

The capital improvements plan associated with Plantation Midtown anticipated development of approximately 1050 units in the first ten years (2003-2012). Infrastructure improvements have begun at the north end of the district with the redevelopment of American Expressway and planning activities are underway for the Greenway Plan on the north side of Broward Boulevard. Staff is concerned that needed infrastructure will not be in place to support the substantial number of units requested at the south end of the district.

The City Council adopted Ordinance 2320 on May 12, 2004, which created development regulations for properties within the SPI-3 zoning district designation.

The zoning regulations promote transformation of the District from a predominantly suburban development pattern into a denser and more active mixed-use activity center characteristic of traditional town center environments. A central goal of the master plan is to establish a better, more coherent internal street network within the District.

The SPI-3 regulations classify the streets in Plantation Midtown according to their suitability for human-scaled, pedestrian-friendly street life and contain design elements such as a designated “build to line”, stepped back building facades, and the elimination of surface parking lots fronting certain designated streets. The desired result is a fairly uniform, visually pleasing streetscape with development of both sides of the street in a consistent manner. Incentives for increased development are included in the SPI-3 regulations to entice development patterns consistent with the vision for the designated street and to break up larger redevelopment tracts into smaller urban blocks. The subject site abuts SW 78<sup>th</sup> Avenue which is a designated “B” street.

In 2006, the City Council approved a mixed-use development containing 574 condominium apartments, 75,000 square feet of office and retail, and restaurant floor area to accommodate 964 seats. The 2006 plan contemplated a master planned, mixed-use community (both vertical and horizontal mixed) sharing a common traffic circulation system.

The core of the project consisted of a large shared (six-story) parking garage attached to a ten-story residential tower facing SW 78<sup>th</sup> Avenue to the west and a two-level retail/office center facing east towards University

Drive. A second ten-story residential tower was provided at the southwest corner of the site, also facing SW 78<sup>th</sup> Avenue. The site plan also included four additional freestanding buildings plus the relocated McDonalds restaurant directly abutting University Drive. All of the buildings in the development were connected by an interior roadway that functioned like a public street, including on-street parking. While the top three floors of the large central garage were reserved for the unit owners, the bottom three floors were open to the public, including guests and residents of the adjacent apartment building.

## **CURRENT PROPOSAL**

The apartment complex is zoned SPI-3 and is bound by an existing shopping center to the north, State Road 84 to the south, University Drive to the east, and SW 78<sup>th</sup> Avenue to the west. The existing shopping center is also zoned SPI-3 and is bound by vacant land to the north (proposed apartment tower site), State Road 84 to the south, University Drive to the east, and SW 78<sup>th</sup> Avenue to the west.

The applicant is requesting approval of a new site plan, elevation, and landscape plan which proposes to demolish and rebuild portions of the existing shopping center and relocate the existing fast food restaurant (McDonald's) to the northeast corner of the shopping center site. The plan also contemplates a separate freestanding apartment complex including 12-story rental apartment towers (containing 321 units), and a four-story parking garage on the southern 1/3 of the site. Unlike the previously approved 2006 site plan which contained integrated mixed-uses including retail, office, restaurant, and residential uses, the present plan is suburban in character, not well integrated, and separates the non-residential uses to the north and residential uses to the south.

The current site plan includes two development sites (see below) that happen to be located next to each other. Unlike Veranda and Midtown 24 the two sites have no physical relationship to one another and do not constitute a mixed-use, master-planned development.

- a) Two 12-story freestanding rental apartment tower buildings containing 321 dwelling units and a four-story parking garage containing approximately 60% of the provided spaces (40% is provided in surface parking areas). The applicant has provided cross section drawings indicating the parking garage will not be visible from westbound I-595 or University Drive. The drawings indicate this is due in part to the height of the southbound University flyover ramp to eastbound I-595. Applicant indicates the ramp will obstruct all view of the parking garage, which contains no design features. Unless the City requests an architect to confirm these findings, staff cannot verify the accuracy of the drawings.

Please note the 12-story towers will be the most visible buildings in the City based on their close proximity to the intersection of University Drive and I-595. These buildings will help define the public's perception of Plantation in terms of the architectural quality. The apartment buildings are expected to have a life expectancy of 40+ years.

- The apartment complex is gated, restricted and separated from the adjacent shopping center.
- The apartment complex and shopping center share no common traffic circulation system.
- The apartment buildings exceed the floor area ratio (building mass) and building lot coverage (building footprint); suggesting the project is too large for the site.

- b) The second site is an existing stand-alone shopping center containing multiple buildings and outparcels such as an IHOP, McDonalds, and others. In the phasing plan, the applicant proposes to construct the apartment complex before the shopping center.

The new site plan proposal does not meet SPI-3 design criteria, including the absence of an internal street network, build to line setbacks for the primary building, and articulated and stepped back building facades. The failure to meet the minimum SPI-3 requirements does not allow the maximum allocation of 25 units per gross acre as was provided on the original plan.

As a freestanding apartment building on a separate parcel, the SPI-3 Code limits density to fewer than 100 units. In addition, the plan does not meet the flex unit allocation criteria to justify assignment of flex units, including but not limited to the requirement that the project meets or exceeds zoning and landscape standards. As indicated in the technical analysis, this project requires a significant number of zoning and landscape waivers.

**STAFF COMMENTS:**  
**PLANNING AND ZONING:**

Planning:

1. The proposed residential use is inconsistent with the Commercial land use designation unless (a) the City authorizes the use of flexibility or reserve units, or (b) the applicant submits a comprehensive land use plan amendment.
  - a. The applicant requested the assignment of flexibility units. The allocation of flex units is addressed in Section 19-67 (Intent and Purpose) and Section 19-67(b) and (c) of the City. The applicant has responded as provided responses to (c).
  - b. Demonstrate that the project complies with the “quality housing criteria” listed in Section 19-67(a) and as required by Section 19-67 (c) (k). Initial review indicates that the applicant does not qualify with respect to the following items. Revise plans and application accordingly.
  - c. The applicant has provided responses (see Attachment A) to Section 19-67(c)(1), “Policy considerations to be reviewed when utilizing the various types of City flexibility”. In some cases, the applicant’s responses are not on point or are not based on current information. Staff’s comprehensive review and analysis (also Attachment A) does not support the allocation of flex units.
  - d. The allocation of flexibility units is intended to be performance based, and as such, the site plan shall be consistent with the Midtown Master Plan. Based on the following, the proposal is not consistent with the Midtown Plan:
    - i. The proposed site plan is located in the “South Business District” which includes the land area south of Peters Road between SW 78<sup>th</sup> Avenue and the Cornerstone Office Park. Within the “South Business District”, the conceptual plan suggested redevelopment of the older shopping centers along University Drive and a residential floor area of approximately 140,000 square feet with an estimated total unit count of 120 units.
    - ii. The prototype site plan within the master plan envisioned development of the two hotel sites on the southern 1/3 of the property and redevelopment of the existing shopping center for commercial use. Based on the proposed site plan, the project is inconsistent with the Central Plantation Conceptual Master Plan.

- e. The applicant has submitted an application for flex unit allocation. The previously approved flex unit allocation of 534 units will terminate upon approval of a new flex unit allocation of 321 units if permitted in accordance with the Future Land Use Element and SPI-3 Zoning.
2. If the allocation of 321 flex units is approved, the applicant shall amend the plat note accordingly.
3. City park impact fees will be required for the residential dwelling units prior to City Council approval. The park impact fee form is available in the Planning Department. Staff has no objection to payment of City park impact fees prior to issuance of any building permits.
4. The applicant has requested that park fees be reserved for improvements within or abutting the subject site. Section 20-73(b) of the City Code does not allow park impact fee funds to be used on private property.
5. This request must undergo a local concurrency review for parks, water, sewer, streets, drainage, and solid waste. It is our understanding that the form has not yet been signed by the Engineering Department.

Zoning:

1. Phasing:
  - a. The phasing plan (Sheet A-1.7) proposes construction of the residential component first, relocation and construction of McDonald's second, and demolition and renovation of the existing shopping center as the final stage. No timeline or phasing commitment is proposed as part of the application package.
2. Retail in General:
  - a. Staff requested the plans be revised to show "real brick" in lieu of brick veneer. The applicant has provided a sample of brick veneer material. Staff's position is that the color of the veneer sample is not an attractive substitute for real brick. If this project is approved, staff requests authority to modify the color of the brick veneer so as to more closely resemble real brick.
3. Building 06, 07, and 08:
  - a. The previous submittal included a planned breezeway between buildings 6 and 7 which provide access from the parking on the west side of the center to the front of the center. Staff recommended a raised parapet feature (similar in size to the planned breezeway addition at Building 5) be provided to draw attention of the additional parking availability to the public. When told of this request, this applicant deleted the breezeway entirely. The third breezeway is needed to provide safer and proper access between the front and rear parking area. Staff recommends the breezeway and will accept without the requested parapet feature.
4. Residential Site Plan In General:
  - a. Provide the equivalent site area calculation for the residential component. Based on the site plan layout, the allowable density for the site is subject to the "equivalent site area calculation" found in Sections 27-624. Staff estimates the total density allowed pursuant to this calculation to be approximately 93 units. *Applicant has requested a waiver.*
  - b. The intent of the SPI-3 zoning district, found in Section 27-620, is to promote transformation of the District from a predominately suburban development pattern into a denser and more active mixed-use activity center characteristic of traditional town center environments. The density and intensity of development is outlined in the Central Plantation Conceptual Master Plan, Comprehensive Plan, and the Midtown SPI-3 zoning district. The SPI-3 zoning district limits floor area ratio (building mass), lot coverage (building footprint), and residential density for stand-alone apartment buildings that are not part of a master planned, well-integrated, mixed-use development. Based on the design of the apartment complex, the project exceeds all three measures.

- c. A central goal is to establish human-scaled, pedestrian-friendly street life by requiring design elements such as a designated “build to line”, stepped back building façade, and the elimination of surface parking lots fronting on certain designated streets. SW 78<sup>th</sup> Avenue is a “B” street requiring a 10-20’ build to line and building façade that steps back a minimum of 20’ once the building height exceeds 45’. Landscaping should concentrate on enhancing the streetscape experience and shading the pedestrian areas.

The apartment towers are located in the center of the site and are surrounded by surface parking with as little as 5’ to 7’ of landscape area separating car bumpers from ground floor patios. Staff believes this minimal amount of landscaping between a parking space and an apartment patio is not in keeping with the quality residential development encouraged in the City of Plantation.

**TRAFFIC CONSULTANT:** Below are staff comments for the May 2011 PZB review which remain current. The applicant has submitted a response dated March 24, 2011 addressing earlier staff comments provided to the applicant in February 2011. Consequently, the applicant’s response does not address the current staff comments. The traffic study is a threshold item that is a determining factor for staff execution of the Concurrency Report as it applies to traffic LOS. Staff cannot execute the project Concurrency Report for traffic LOS and cannot support the project for City Council approval until the current staff comments are addressed and resolved.

2. Please show the correct lane geometry for the Peters Road/Publix/Whole Foods access.
3. The existing and proposed land uses need to be broken out by use. The tire store, restaurants, retail and residential.
4. The square feet and units need to match the submitted plans. The number of residential units has changed, which needs to be incorporated in the study.
5. The trip generation needs to detail the existing and proposed uses including the land use code (LUC), the square feet and units, the equations (with copies of the ITE trip generation pages included) total site traffic and the splits for entering and exiting.
6. The 40% pass-by is too high. The previous study did not include pass-by but included a small percent for internalization. Please see Engineering to discuss.
7. The trip distribution percentages differ from the previous study which used TAZ zones for both residential and commercial. Please see Engineering to discuss the distribution.
8. All of the HCS analyses should be using the total intersection PHF for each approach instead of each approach PHF. This determination is based on NCHRP 599 which states:
  - Use the total entering volume to determine the peak 15-minute interval and the peak hour. Subsequently, compute an overall intersection PHF. This approach yields the correct total volume during the peak 15-minute time period, but may underestimate or overestimate the demands for the individual approaches and/or movements.
  - Use the total approach volume to determine the peak 15-minute interval and the peak hour. Subsequently, compute individual approach PHFs. Thus, a four leg intersection would have four PHFs and a T-junction would have three PHFs. This approach, while used in practice (and perhaps encouraged by the HCM methodology), is fundamentally flawed in that it assumes that the individual approaches peak during the same time period, which rarely occurs. The result is a high likelihood of overestimating the total volume during the peak 15-minute time period.
  - Use the movement volume to determine the peak 15-minute interval and the peak hour. Subsequently, compute individual movement PHFs. Thus, a four-leg intersection with left-through right movements would have 12 PHFs. This approach is also fundamentally flawed in

that it assumes that the individual movements peak during the same time period, which is extremely rare. The result is a very high likelihood of overestimating the total volume during the peak 15-minute time period.

8. The signalized intersection analysis assumes an actuated timing plan. During the peak hour the signal is operating as part of the system which would be semi-actuated timing plan.
9. The signalized intersection timing should include yellow and all red for all phases as indicated in the systems timing plan.
10. Please provide the full report for the signalized intersection.

The two-way stop control intersections do not include the 2% heavy vehicle factor, please include.

**ENGINEERING DEPARTMENT:** Below is a chronology of staff comments from previous staff reviews for DRC and PZB which remain current. The applicant has submitted responses dated March 24, 2011 used to address the earlier staff comments. Consequently, the applicant's responses do not address the current staff comments.

1. Dumpster doors may not open into the drive aisle. The curb extension by the McDonalds dumpster is too short; please extend to the length of the doors (DRC). **Response states that this has been fixed. However, when measured (based on the detail provided), the dumpster doors throughout the site still open into the drive aisles, please revise as requested (Feb PZB). Second response says that the detail was corrected. It still appears to show a six (6)-foot door in a 5'8" space. So to resolve this, please note that at time of construction the gates may not extend into the drive aisle. If they do, at time of construction, they will have to be relocated before the permit will be finalized (May PZB).**
2. Please relocate the dumpster by Building 02 as this location is in conflict with vehicles and pedestrians. It could be located in the same manner as the McDonalds dumpster (DRC). ***The applicant still does not want to move the dumpster. As commented previously, in order for the dumpster to remain as proposed, please provide the City with a hold harmless agreement (May PZB).***
3. The islands abutting the residential exit driveway must be the same length, please revise. **Please show how the gates will be positioned. The gate must be at least 100 feet from the edge of the pavement. Please provide more detail (Feb PZB). The gates are still not clear and appear to be 50 feet from edge of pavement which does not meet the queuing standard for this size residential community. Please provide signed and sealed documentation that there will be no stacking of vehicles in the right-of-way (May PZB).**
4. Please provide all necessary civil details, i.e. Type "D" curb, pavement section, etc. (DRC). ***Please provide the City standard detail for the fire lane as the detail provided may not be applicable in all cases (May PZB).***
5. Sheet SE1 of 8 shows a utility easement underneath the Goodyear Tire Store building. Please verify that the easement has been vacated or vacate it as part of this project. **The applicant's response states that the easement will be vacated as part of this project. The vacation must be completed prior to CO (Feb PZB). Comment will remain as a reminder (May PZB).**

#### **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. Any existing drainage system that remains will be required to be cleaned and certified as to its condition.
5. Please provide drainage calculations, signed and sealed by an engineer registered in the State of Florida as well as Old Plantation Water Control District (OPWCD) approval.

**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 Old Plantation Water Control District (OPWCD) and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review. 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.

### **LANDSCAPE ARCHITECTURE:**

*This project does not meet the codes or concepts of the Midtown (SPI-3) district, as evidenced by the multitude of waiver requests and staff comments. The quality of space that was sought in the Midtown plan is gravely lacking; the proposed plan is suburban in character and not well integrated. Staff is concerned that without the proper design and special elements, the pedestrian portion of the project, which includes the residential as well as the retail, will be unsuccessful. Landscaping should concentrate on enhancing the streetscape experience and shading the pedestrian, with larger consolidation of green space into usable parks and plaza areas. The project does not invite the pedestrian to stroll – the connections from the residential to the retail are weak and do not provide a positive “urban” experience.*

#### Site Plan:

1. Staff requests the 21 parking spaces (or a portion of) to the north of Building 11 and the 20 parking spaces (or a portion of) to the south of Building 12 be deleted to provide, at a minimum a 5' sidewalk and 13'-16' landscape area adjacent to the 12-story buildings to improve the pedestrian experience.
2. Terminal islands are to be a minimum of 10' wide, not including curbing.
3. medians shall be provided between double parking bays, must be curbed, and have a minimum width of 10' in green area not including curbing.
4. Medians shall be provided to separate parking bays from major internal access drives and must have a minimum width of 10' in green area not including curbing.
5. Landscape islands are required every 5<sup>th</sup> space in multi-family residential development – plans submitted propose one island every 8<sup>th</sup> space.
6. 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 ½ the height of the proposed or 10' whichever is greater (paved areas in the lpz may not constitute more than 5' of the required lpz). Landscape pedestrian zones are not met throughout the proposed residential or retail parcels.
7. 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.

Building 01 – Proposed McDonalds:

Multiple landscape waivers were previously granted by City Council in April of 2006 to provide for the relocation of McDonald's within the existing retail center. As there are no significant changes with regards to the site plan layout or landscape plan staff will not require the applicant to request re-approval for waivers specific to McDonalds.

No additional comments.

Building 02-Proposed Restaurant:

1. Required landscape pedestrian zones have not been met:
  - a. 13' required along the eastern lpz – 0' provided.
  - b. 13' required along the northern lpz – 0' provided.  
*Waiver requested.*
2. Required tree counts have not been met in the landscape pedestrian zones:
  - a. Four trees required along the eastern lpz – zero provided.
  - b. Three trees required along the northern lpz – two provided.  
*Waiver requested – staff requests mitigation for required trees.*

Building 03 – Existing Goodyear Tire:

No comments.

Building 04 & Building 05a – New Retail & Building 05b – Existing Retail:

1. Required landscape pedestrian zones have not been met:
  - a. Ten-foot required along the southern lpz – four-foot provided.  
*Waiver requested.*
2. Required tree counts have not been met in the landscape pedestrian zones of Buildings 4 and 5a.
  - a. Three trees required along the eastern lpz – two proposed.
  - b. Seven trees required along the southern lpz – one proposed.  
*Waiver requested – staff requests mitigation for required trees.*

Building 06, 07 & 08 – Proposed Retail:

No comments.

Building 09-Existing Retail & Building 10 – Proposed Retail:

1. Required landscape pedestrian zones have not been met:
  - a. Ten-foot required along the northern lpz – four-foot provided.  
*Waiver requested.*
2. Required tree counts have not been met in the landscape pedestrian zones:
  - a. Three trees required along the eastern lpz – two provided (three palms = 1 tree)  
*Waiver requested – staff requests mitigation for required trees.*

Buildings 11 & 12 – Proposed Residential Apartments:

1. Submitted plans show a 5'-7' median between the existing drive aisle and adjacent proposed parking spaces; codes requires a ten-foot minimum median, inside curb to inside curb. *Waiver required.*
2. Required landscape pedestrian zones have not been met throughout the residential community: 44'-66' required.

Building 11:

- a. 44'-66' required along the northern façade – 5' - 9' provided.
- b. 44'-66' required along the southern façade – 6'9 - 9' provided.
- c. 44'-66' required along the western façade – 12' – 20' provided.

*Waiver requested.*

Building 12:

- a. 44'-66' required along the northern façade – 5' – 8' provided.
- b. 44'-66' required along the southern façade – 6' - 9' provided.
- c. 44'-66' required along the eastern façade – 6' provided.
- d. 44'-66' required along the western façade – 9'-20' provided.

*Waiver requested.*

3. Required tree counts have not been met throughout the landscape pedestrian zones; one tree is required every 30 lineal feet.

Building 11:

- a. Nine trees required along the northern façade – eight provided (three palms = 1 tree)
- b. Nine trees required along the southern facade – four provided (three palms = 1 tree)

*Waiver requested – staff requests mitigation for required trees.*

4. Per City codes planting islands shall be provided at a minimum of every fifth space in multi-family residential developments – overall proposed plans show an average of one planting island every eight spaces. *Waiver requested – staff requests mitigation for required trees.*

Proposed Pool & Club House:

5. Required tree counts have not been met throughout the landscape pedestrian zone; one tree is required every 30 lineal feet.
6. Required landscape pedestrian zones have not been met:
  - a. Ten-foot required along the western façade – zero-foot provided.

*Waiver requested.*

**BUILDING DEPARTMENT:** No objections.

**FIRE DEPARTMENT:**

1. Show location of Fire Command room in each building.
2. Each building shall be its own individual building and shall meet the requirements of high rise on its own.
3. This project adversely effects the operation of the Fire/Rescue Department; a substantial contribution to the purchase of special Fire Equipment, including but not limited to Aerial Apparatus and Special High-Rise Fire equipment may be needed.
4. Must have direct access to the fire command room from the outside of the building.
5. All building shall provide Radio communications as set forth in Florida Fire Prevention Code 2007 edition, NFPA 1, 11.3.1.3.
6. Any portion of any building over a drive aisle shall have a clearance of 13.5 feet.

7. Provide the following fire lanes:
  - a. Retail
    - Drive aisle east of building 10 on both sides.
    - All flat curbs west of retail 2.
    - Flat area and rounded corner southwest of tire store.
    - North side of building 8.
    - Entire west side of parking area along the west by dumpsters.
    - West side of building 6.
    - South and west corner of building 5B.
    - South side of drive aisle across from buildings 5A & B.
    - East side of building 4.
    - Flat area north of tire store.
  - b. Residence
    - Center circle on both sides.
    - Bull nose and both sides of center circle at the entrance.
    - South of entry gate on west side.
    - Southwest corner of building 12.
    - Northwest corner of building 11.
    - Both sides of crosswalk area on north side of building 11.
    - North side of main exit gate.
8. Provide sufficient hydrants at high rise building to provide the requested fire flow.
9. Fire hydrant placement shall be determined during the utility plan submission. Many of the hydrant locations will need to be changed and moved.
10. Fire Department connections shall be by building and shall be in an area designated by the Fire Department. To be determined at time of Utility plan submittal.
11. All buildings in the residential phase are to be provided with fire sprinklers.
12. All previously agreed to comments shall be complied with.

**POLICE DEPARTMENT:**

1. Parking Garage, Access Control Gate and all access control points must be designed to allow the Police immediate and unrestricted access to all common areas of the facility. *Applicant shall submit permit drawings to the Police Department for review at time of Building Department review.*
2. Tennis/Basketball Court must meet minimum lighting standards for a High Risk activity area (4-5 Fc) as recommended by the IESNA. The Police Department recommends that the lights shut down before 10:00 p.m. unless there is a special event approved and supervised by the facility management.
3. There should be emergency alert systems within the Tennis/Basketball court activity area. This alert system should provide the person in need immediate contact with a designated person of responsibility within the facility and/or the 911 emergency systems. The alert system will be activated by a touch screen or button and will not deactivate until the receiving person hangs up.
4. The access control points of the Tennis/Basketball activity area should have locking devices that only allow authorized users within the area. The access points should provide a stored record of those authorized users who entered and exited and the times and date of those events.
5. The Tennis/Basketball activity area should be monitored by the use of a motion activated CCTV system that provides a recorded record of activity with the capability of a good color rendition and night visibility. The CCTV system must clearly provide all users with the knowledge they are being monitored by the use of signage or strobe light indicators. The CCTV system must provide authorized users with a realistic expectation of safety and response of assistance.

**PUBLIC WORKS:** No comments.

**RECREATION DEPARTMENT:**

1. Recommend the elimination of one of the residential buildings 13-16, (Bldg 16 is probably the most suitable), to provide open space, playground and park area.
  - *PZED comment: Based on the proposed lot coverage of the apartment towers and the extensive use of surface parking, little land is available to accommodate the P&R Department's recommendation.*
2. Recommend attachment to the trail from the northeast and southwest corners of the property. Current attachments are in the middle of the parking lot and not conducive to use.

**UTILITIES:**

1. \$231.43 balance in Utilities Cost Recovery Account. Applicant must provide receipt or check copy for \$2,000 deposit marked for Utilities Expenses to project cost recovery account.
2. Respondent agreed to all other previous comments and will act on them at the appropriate juncture.

**O.P.W.C.D.**

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. Acceptance of as-built drawings and Certified Stormwater Inspection Report will be required prior to issuance of a Certificate of Occupancy.

**WASTE MANAGEMENT:**

Gates look okay; enclosures should be 12' x 12' with two six-foot gates and stoppers. Double enclosure 24' x 12' with four six-foot gates and stoppers.

**ATTACHMENT A**

The applicant is required to respond to the criteria set out in Section 19-67(c) of the Plantation Land Development Code regarding the utilization of flexibility. Both the applicant and staff have provided responses, the latter in *italics*.

1. Whether there is a change in population, socio-economic factors, or physical development of property near or affecting the subject property, which change was unforeseen or unanticipated, and which change has created a present problem or opportunity that justifies utilizing the flexibility;

Applicant's response: The proposed mixed-use development is located next to substantial commercial and office development including Plantation's major office parks as well as the I-595/University Drive transportation corridor and is the southern terminus of the City's new Midtown zoning district. Many of these facilities have been added since the original development of the site many years ago as a strip shopping center. This has caused a substantial and unanticipated change affecting the subject property. This creates a present opportunity to apply flexibility units to establish residential development near such facilities and to upgrade the commercial and office uses planned for the subject property.

Staff response: *Based on 2010 census, there has been almost no increase in the City population since 2000. During this time period:*

- No new development has been constructed on the subject parcel or adjoining properties.
- No new residential development has been constructed in South Midtown (south of Peters Road).

As such, there is no basis to assign flexibility units based on the criteria.

2. Whether the project as proposed offers significant benefits not otherwise available to the City if the City's land development regulations were otherwise followed (for example, does the planning, design, and development of the property exceed the minimum otherwise required land development requirements in terms of reserving appropriate open space, development themes, taking advantage of natural and manmade conditions or environments, controlling pedestrian and vehicular traffic systems, substantially intensifying landscaping or providing landscape contributions to the City, improving or maintaining public infrastructure or giving the City a contribution in aide of infrastructure improvements or maintenance, exceeding setbacks and building separations, and reflecting an orderly and creative arrangement of buildings and land uses as appropriate);

Applicant's response: With the approval of this project, the City of Plantation will realize several goals and objectives outline in the City of Plantation Comprehensive Plan. The project will bring new housing units to this district and provide a community to support the nearby commercial and office development. The applicant has devoted a substantial amount of time working with the City's master plan for the area.

The site plan provides for safe and efficient movement of pedestrian and vehicular traffic. It reflects an orderly and creative arrangement of buildings and land uses that interact with each other internally and externally providing the building block for redevelopment along University Drive and the southern end of the Midtown corridor.

Staff response: *The plan does not meet the intent of the SPI-3 Zoning Code, fails to meet minimum landscape and parking requirements, and exceeds maximum density, lot coverage, or floor area requirements.*

1. *The plan requires a significant number of zoning and landscape waivers.*
2. *The intent of the SPI-3 zoning district (Section 27-620) is to promote transformation of the District from a predominantly suburban development pattern into a denser and more active mixed-use activity center characteristic of traditional town center environments. A central goal is to establish human-scaled, pedestrian-friendly street life by requiring design elements such as a designated "build to line", stepped back building façade, and the elimination of surface parking lots fronting on certain designated streets. In this case, the plan does meet the intent of the SPI-3 Zoning District and requires 11 waivers to the site and design requirements, including but not limited to the following:*
  - SW 78<sup>th</sup> Avenue is a "B" street. SPI-3 requires that the apartment towers front SW 78<sup>th</sup> Avenue and provide a 10' – 20' build to line and building façade that steps back a minimum of 20' once the building height exceeds 45'. The apartment towers are located in the middle of the site and do not provide the required 20-foot step back at 45-foot height.*
  - The apartment project exceeds the floor area ratio (building mass), lot coverage (building footprint), and maximum density, the latter based on the plan design and layout.*
  - The plan does not meet minimum parking requirements.*
  - The plan does not meet minimum landscape requirements.*

- v. *The applicant has not offered a contribution in aid of infrastructure.*
- vi. *The plan does not provide a creative arrangement of building and uses, including but not limited to the following:*
  - 1. *The landscape pedestrian zone is severely deficient. For example, the ground floor balconies will be separated from the bumpers of parked cars by as little as 5' to 7'.*
  - 2. *The recreation center is located in a separate building located between the two apartment towers. In both Veranda and Midtown 24, the recreation facilities are incorporated into the apartment towers, again consistent with the compact, integrated urban development form articulated in the SP03 Ordinance and Central Plantation Conceptual Master Plan.*
  - 3. *The parking structure contains only 60% of the provided parking. The remaining 40% of the parking spaces are located in surface parking fields that do not provide Code-required landscaping.*
- 3. *The apartment complex is a gated community and is physically separated from the adjacent shopping center.*
  - 4. *The plan provides no pedestrian or vehicular connectivity associated with an integrated mixed-use development. The single gated pedestrian walkway leading from the apartment lot to the rear of the adjacent shopping center lot does not constitute pedestrian integration.*

*The project fails to offer benefits expected of a project exceeding the minimum standards of the City Code. Based on this, the flex unit assignment is not justified.*

- 3. The extent to which the project contributes to the tax base, adds employment, and provides other positive economic impacts;

Applicant's response: At the present time, the site is extremely outdated and in need of major renovation. The proposed residential development will also add significant tax revenues to the City. The project will meet the goal to add new housing in this area. The office and commercial components of this development will upgrade the employment base which in turn will benefit other retail, restaurant and service businesses within the area.

Staff response:

Apartment Complex:

- *Development of the property will contribute significantly to the tax base since it is currently vacant.*
- *Only a limited number of full time jobs will be created to maintain the apartment complex, substantially less than an office building with half the floor area.*

Renovated Shopping Center:

- *Some tax base increase is expected since the future shopping center will include some new buildings and design improvements. At the same time, the floor area is about the same as exists today so the extent of increase is difficult to determine.*
- *Some increase in retail and restaurant employment is anticipated as the vacancy rate for the redeveloped shopping center should decrease. At the same time, the floor area is about the same as exists today so the extent of employment increase is difficult to determine.*

4. The extent to which the project impacts public services (e.g., fire, EMS, school, police, water, wastewater, and other services), and generates negative secondary effects of odors, fumes, noise, traffic, or crime;

Applicant's response: The project will not adversely impact local services. Water and sewer service is available to the site and Plantation has sufficient capacity to service the project, (315 multi-family dwelling units). Existing police, fire and EMS service will be more than adequate to serve the project. Given the existing development at the site there will be no increased secondary effects such as odors, noise, traffic or crime. The existing outdated shopping center creates a much greater risk of odor and crime. Applicant intends to renovate the existing shopping center as part of its redevelopment plan. The traffic generation from this new residential development will increase over the existing use, but the reduced size of the commercial project will reduce traffic impacts as well. Further, the residential use adjacent to commercial use and the offices to the west will result in some vehicular trips turning into pedestrian trips.

Staff response: *Based on the most recent information, fire and engineering departments have not confirmed if project impacts have been mitigated. It is unclear if the applicant has agreed to comply with Police Department conditions, Parks and Recreation Condition No. 2, and Utility requirements. Discussion of flex unit allocation is premature until the above departments confirm that project impacts have been mitigated.*

5. The extent to which the property has potential to be developed in a desirable manner under its present land use and zoning scheme without the application of flexibility and whether such foreseeable development is or is not more beneficial to the community;

Applicant's response: The property is an aging shopping center. The site could physically be developed with only additional retail and office use. However, given the size of the parcel, the impact of a retail only use would result in an excessive amount of retail, given that University Drive is lined with retail stores. The application of flexibility units is warranted to inject a reasonable number of residents into the district to compliment and utilize the existing and potential commercial base. Further, residential will help to utilize the transportation system, adjacent office parks, and adjacent retail centers.

Staff response: *The property has the potential to be developed under its present commercial land use designation and SPI-3 zoning regulations without the allocation of flex units. Both office and commercial development are permitted without flex unit allocations.*

6. The nature and types of uses surrounding the subject property and whether the development proposal is compatible and compliments those uses;

Applicant's response: The proposed residential component of this development is the use most able to compliment the transportation system, existing office parks and the proposed mixed use office and retail projects within the Midtown corridor. It is compatible with the intensity of nearby retail and office use and will provide the desired mix of residential and commercial use.

Staff response: *The apartment site plan compliments and is compatible to the extent that it does not negatively affect the surrounding areas.*

7. Specific goals, objectives or policies of the City comprehensive plan and other City plans that are consistent or inconsistent with the development proposed;

Applicant's response: The project addresses the Housing Element of the Comprehensive Plan Objective 1.1 which indicates that the City of Plantation shall continue to assist the private sector in providing 7,866 additional housing units. Policy 1.6.1(a) indicates the compatibility of existing and future uses by primary considerations in the review approval of land use amendments. These policies apply similarly to the assignment of flexibility units.

Staff response:

*Applicant's response is incorrect. Housing Element Objective 1.1 states the City shall assist the private sector in providing 4,032 dwelling units by 2012 (not 7,866 units as stated by applicant). The 4,032 units can be accommodated in other locations subject to City Code compliance and comprehensive plan consistency. Please note the 4,032 units do not take existing vacant units into consideration.*

**Future Land Use Element:**

*Policy 1.18.1: Adopted land development regulations shall implement innovative land planning and site design to encourage mixed-use multi-story development. The project is inconsistent with this policy as no mixed-use multi-story development is provided. The proposed apartment site plan is inconsistent with this policy.*

*Policy 1.18.2 Redevelopment Plans that include Plantation Gateway/CRA or Midtown shall be implemented by reviewing and comparing the comprehensive plan against the Central Plantation (Midtown) Conceptual Plan. The proposed freestanding, suburban-style apartment site plan is inconsistent with the Central Plantation (Midtown) Conceptual Plan.*

*Policy 1.19.4: The City through its land development regulations shall promote multi-story commercial/office/residential mixed-use development and multi-story office use development in the Plantation Gateway and Midtown Districts. The proposed project is inconsistent with this policy as the apartment plan is not a multi-story commercial/office/residential mixed-use development as defined in the land development regulations.*

**Central Plantation Master Plan**

*The Central Plantation Conceptual Master Plan (South Business Sub-District) proposes to "reinforce the strength of this area as a regional office market by selective redevelopment and strategic infill on sites where surface parking can be consolidated into parking garage structures".*

*The master plan goes on to recommend a "net increase in office development of 1.4 million square feet as well as a net increase in residential development of 140,000 square feet, or approximately 120 units." The applicant proposes 321 units and 363,272 square feet of residential development, exceeding Midtown Plan requirements.*

*Based on the above items, allocation of flex units is not justified.*

8. The extent to which the type of flexibility proposed to be utilized will remain available for future use by the City under this section's requirements and under any possible regulatory scheme;

Applicant's response: The County flexibility ordinance allows cities within Broward County to inter-mix land-use types within County guidelines. There is no current plan at the City or County to eliminate the assignment of flexibility units although the County continues to regulate such assignments.

Staff response: *Flex units will only be available if unused flex units from the 2006 allocation revert back to the City flex unit pool and are available to be allocated to other sites.*

9. The extent to which the utilization of flexibility serves or does not serve the public's health, safety, or welfare;

Applicant's response: The City has conducted an extensive area wide study of the Midtown corridor and concluded that the addition of housing units in the corridor would encourage redevelopment of the corridor. By improving the corridor and stimulating redevelopment, the health, safety and welfare of neighboring residents will be improved.

Staff response: *Based on the applicant's apartment site plan, the allocation of flex units does not serve the public's health, safety, or welfare:*

- *The apartment plan is inconsistent with:*
  - *Policy 1.19.4 of the Future Land Use Element of the Comprehensive Plan.*
  - *South Business Sub-District development metrics indicated in the Central Plantation Conceptual Master Plan.*
- *The apartment plan fails to meet zoning and parking requirements.*
- *The apartment plan exceeds the allowable density, maximum floor area and maximum floor area ratio allowed in the SPI-3 district for a stand-alone apartment complex.*
- *The apartment plan fails to meet the minimum parking lot landscape requirements.*

*Based on the above items, allocation of flex units is not justified.*

10. The future land use and needs of the community; and

Applicant's response: The City area wide study clearly indicates a need for additional residential units such as these.

Staff response: *The Central Plantation Conceptual master Plan (South Business Sub-District) proposes to "reinforce the strength of this area as a regional office market by selective redevelopment and strategic infill on sites where surface parking can be consolidated into parking garage structures". The master plan goes on to recommend a "net increase in residential development of 140,000 square feet, or approximately 120 units."*

*The applicant proposes 321 units and 363,272 square feet of residential development, exceeding the Midtown Plan allocation. As such, there is no justification for additional flex units requested by applicant.*

11. Such other policy considerations that may not be set forth above but which are nonetheless considered by the City governing body to be reasonable and appropriate under the circumstances.

Applicant's response: The City is moving forward on a new plan for the Midtown corridor. This corridor is a prime location to take a major step in changing the course of development in the corridor. The site is large enough to allow mixed-use development. The incorporation of a mixed-use project will enhance the value of neighborhood retail properties.

Staff response: *Applicant's statement is incorrect. The City is not moving forward on a new plan for Plantation Midtown. The Midtown Plan completed in 2002/2003 is still the effective plan.*

*The apartment site plan is not consistent with a well-integrated, mixed-use development, as follows:*

- a. *40% of the parking spaces are provided in surface parking areas; consuming an excessive amount of open space.*
- b. *The plan provides no pedestrian connectivity to the office complex to the west (across SW 78<sup>th</sup> Avenue) or the Whole Foods Shopping Center to the north (across SW 13<sup>th</sup> Place).*
- c. *The proposed SW 78<sup>th</sup> Avenue sidewalk is of substandard width.*

*The apartment complex does not provide individual tenant storage space.*

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Mr. Lunny read the title of the ordinance. He stated that there is an option of reading the whole report or accepting it as is and dealing with it as part of the hearing.

Councilwoman Uria believed that the report could be accepted as is.

This will be a Public Hearing and First Reading of an Ordinance of the City of Plantation pertaining to the subject of Comprehensive Planning, recapturing the previously approved 534 flexibility units and reassigning up to 325 flexibility units to the following described property located in Flex Zone 75 so as to permit the construction of up to 321 multi-family dwelling units without amending the City Comprehensive Future Land Use Plan, the property lies in Section 16, Township 50 South, Range 41 East and is described as Tract A according to the Plat of Stiles Plantation, as recorded in Plat Book 177, Pages 53 – 55, inclusive of the Public Records of Broward County, Florida, generally located at the northwest corner of State Road 84 and University Drive; providing findings, providing a savings clause and providing an effective date therefor.

Mr. Lunny indicated that for purposes of the record, the Council has the staff report dated June 8, 2011, along with the exhibits, and is accepting that as indicative of the waivers and discussion without requiring him to re-identify them.

Mr. Lunny advised that an ordinance that awards flex was not included in the agenda packages. It is written as part of the staff report that says the applicant is seeking a flex award and a site plan approval; it was advertised for tonight; therefore, he needs to read the title of the ordinance for Council to consider the flex. Same as the prior matter, if Council approves the site plan, it would be contingent upon approving a second reading of the ordinance in the future. If Mr. Laystrom has no objection, the ordinance is a legislative matter and requires, as

part of the policy considerations, site plan like review, and we normally consolidate a site plan as part of that legislative discussion.

Mr. Laystrom concurred.

Mayor Bendekovic, Councilman Jacobs, Councilman Tingom and Councilwoman Uria made Jennings Disclosures and stated that they have had discussion with numerous parties. Councilperson Stoner stated that she spoke with Mr. Laystrom via telephone.

Mr. Leeds referenced a typographical error in the staff report on the first page. It should say that the application for flex units plan *does not* meet the criteria to justify the allocation of the 321 flex units.

Mr. Laystrom was present on behalf of the applicant. He provided a brief presentation. The project has been repositioned. He explained that they will get rid of the front wing of the shopping center as well as the patio and will replace it with landscaping and parking. They are taking away square footage from the retail and adding landscaping and parking. They are proposing to relocate the McDonalds, which is a critical part of the redevelopment. McDonalds has its own lease which is about to expire in 2014. They have to be moved from the middle of the site so the balance of the site can be redeveloped for mixed use in the future, which is their intent and goal. The McDonalds will be relocated from its existing location forward to University Drive and at the same time the access road that is currently on SW 13<sup>th</sup> Street will be moved west to create more stacking distance between University Drive and queing into the site. It also creates the concept of a general drive through the entire property from north to south. There will be two spine roads; north to south and then east to west. They want to move the McDonalds, redo the shopping center and then start the residential component, as the market for the residential projects are there. Financing is already in place for the residential and to relocate the McDonalds. McDonalds has to be moved first; therefore, the new McDonalds has to be built with a relocated entrance prior to closing the existing McDonalds and at the same time begin the demolishing to the shopping center. Throughout this process the Vignetos will be moved to the back portion of the Center, IHOP will become part of the u-shape, McDonalds will be moved forward, the demolition will be done and Kinkos will be completely redone and move in line, leaving the middle outparcel just south of McDonalds for redevelopment as a restaurant pad. They are looking at a number of national chains. When looking at the retail project and the old B-3 Landscape Pedestrian Zones and islands it does not meet the Code and never did; as far as he is concerned it is an existing situation. Mr. Laystrom is bringing in redevelopment; he has brought the project up to Code and has left the parking lot as is because it would have to be completely rebuilt. He is sprucing up the property and making sure the irrigation system works; therefore, there is a list of waivers between landscape islands and Landscape Pedestrian Zones. The shopping center is being improved as they are getting ready for redevelopment as well as reducing square footage and adding parking. The McDonalds will be slightly smaller, from 4,400 square feet to 3,900 square feet. He reminded Council that there will be a double drive-thru so the stacking capacity will double from what it is just by creating double menu boards.

Mayor Bendekovic expressed concern with the phasing and questioned whether there is some agreement that says whenever a residential area is constructed that part of the retail is done. She does not want any down time with any of the retail or restaurants.

Mr. Laystrom stated that they are trying to build it all at the same time; however, he could not tell how long it would take to get a permit, build and move into the new McDonalds; however, he will commit that all permits for retail are pulled at the same time that the residential is pulled. They are also going to start pulling the demo permits and begin relocating tenants as quickly as possible in order to demo the front portion of the building. They anticipate that the overall retail portion will take 30 months and they are committed in whatever form that

they will start that process and keep it going on continuously through completion. At the same time there is a much longer process with the residential. It is a much larger construction and the permits alone will take a significantly longer time than the McDonalds. They are on parallel tracks. The only thing he has had difficulty with is that he could be either three months ahead or behind on the final CO's; either the residential CO or the retail CO, but commits that he can hold one up for the other, as there will be \$75 million in the ground. He suggested reporting to Council every three months in case there is some concern. Prudential, which is their partner, requires them to redo the shopping center; the last thing they want is a third of their units on the north side of the tower to be looking at the unbuilt shopping center or the shopping center that is under construction. There will be what is called "stage construction". Some businesses will move right away and others will move later. The rehab includes the facades. The Fire Department has a number of requirements to upgrade. In 2005 one of the things they had to have was a safe plan while the public is there; therefore, they may only be able to do a portion of the rear retail at any one time so that the Departments do not feel there is a danger to the public.

Councilman Tingom commented that the 2005 plan that had ten stories and that is being increased to 140 feet for all stories, which will rise about 50 feet above I-595.

In response to Councilman Tingom, Mr. Laystrom advised that they are going to keep 321 flex units and return the difference between 321 and 534, which are about 220 units back to the pool. Those units will not be used in the future. They have been requested by staff to consider future redevelopment five to ten years out, at which time he might come back and ask for the units. They do not believe that residential is going to be appropriate on the balance of the site; they believe it will probably be a mixture of commercial and office stacked up. The design has changed since the original plan in 2005; the concept has not. There was always residential to the south; it was a combination of residential and a hotel at that time and now it is residential. It is apartments and was apartments back then but there was also another 200 units that were basically where the McDonalds is currently located. There was a lot of discussion at the Planning and Zoning Board meeting regarding whether or not the townhomes that were originally located along NW 78<sup>th</sup> Avenue and whether this was a "B" road and whether they needed to be up against the road. A consensus would be that they decided to take them out; the market was not there from their perspective and from staff's perspective they would add landscaping to that area instead. With regard to density; their position has always been that it is not going to be a higher density. This is basically a horizontal mixed use similar to the Veranda and what is at Midtown 24 and that is the commercial which they own that is directly adjacent and being used for the purpose of density. It is interconnected; the idea of the mixed use is that you do not get in your car. They have actually reduced the density over the entire site. The size of the units compared to Midtown 24 is smaller; they are consistent with the sizes in Phase 2. With Veranda the Phase 1 was a condominium so those units were larger than the units they are proposing. Phase 2 will come more in line with what is called the apartment market versus the condominium market.

Councilman Tingom mentioned that the side of the wall does not have a lot of features to it and he questioned whether it would be possible to add some type of features to that.

Mr. Laystrom indicated that the further back you go the more blank the wall looks. They would be willing to consider any suggestions to dress it up. They have twice redone this elevation to accommodate staff.

Larry Freedman, architect for the residential portion, was present. He explained that there are three different portions; the center portion will be equivalent to 14 to 15 feet further out than the back portions. A mast, eyebrows and molding has been added on the east section, along with an introduction of various color schemes. There is also a lot of variation in the roof heights; the heights range anywhere from 4 feet to 20 feet.

In response to Councilman Tingom, Mr. Freedman stated that there are 331 units and 586 parking spaces.

Mr. Leeds advised that 586 parking spaces do not meet the City Code. He has suggested a 6% reduction below Code and the applicant is requesting a 10% reduction, which is an additional 25 spaces. He is recommending a waiver that he believes is reasonable.

In response to Councilman Tingom, Mr. Laystrom indicated that there are 55 landscape waivers and he believes they have met those requirements. If they are told to go back and do extra landscaping on the shopping center he will meet with staff to come up with suggestions. The only areas that were deficient on the shopping center are the ones currently existing; he is taking away square footage and adding landscaping. The percentage is going to go up; the number of trees is going to go up. The previously approved plan was for very similar landscaping. With regard to the residential landscaping, there were one or two issues outside of the norm. The number one issue staff raised was the Landscape Pedestrian Zone adjacent to the buildings; that is the green area directly against the building. That green area varies from five to ten feet. On a B-3 property the standard Landscape Pedestrian Zone needs to be one-half the height of the building, which would be 70 feet and would basically eliminate the entire north and south parking lots. They are willing to review landscaping; however, it would require them to reduce parking and staff has indicated that parking is a significant concern. He suggested that in order to provide assurance that there is sufficient parking, they have a multi use including a tennis court multi use on the parking garage itself and they thought they would create a "call provision". Basically they would set that aside and it would provide approximately 25 to 30 additional parking spaces and if the City thought there was a parking problem that area could be restriped in order to provide the additional parking needed. With regard to financing with Prudential, a letter could be provided by the Second Reading.

Councilman Tingom believes that the building is too tall and he does not want it sticking out into the gateway to our City. He is not convinced that the flat wall will have nice features to it.

Mr. Laystrom referenced the Renaissance Hotel and noted that there is a waiver that allows it to go to 118 to 121 feet versus 140 feet for this project. This project has a roadway that is roughly 40 to 50 feet tall adjacent to it. From a perspective standpoint there is not that much difference. The units they get from having the 12 stories, which is within the Code allowance, allows them to have the ability to fund all of the amenities on the first floor. All of the apartment projects need enough units in order to cover the cost of the common area features. He did request the architects to review what might be done.

Councilperson Stoner commented that Stiles is known for this type of project; this is their expertise where they deal with landlord type tenant issues and moving people around and accommodating tenants. Their designs have always been at the top of the list. We need to remember that on the phasing issue, while you may submit simultaneously, that does not mean the permits will be issued simultaneously. She knows that Stiles is particularly conscious about utilizing local businesses.

In response to Councilperson Stoner, Mr. Laystrom advised that the value of the project is \$75 million. They anticipate the tax revenues to all governmental agencies to be well over \$1 million and they believe the City's taxes will be about \$270,000 to \$280,000. Small businesses and minority businesses are very important to Stiles and Prudential requires that this is a green building.

Mayor Bendekovic questioned whether this would remain under the management of Mr. Stiles and Prudential.

Mr. Laystrom indicated that the building will be under the ownership of Mr. Stiles and Prudential. He noted that they do hire professional management.

Terry Stiles, owner, advised that this will be a core asset for Prudential; which means this will be a long term hold for them. This has been earmarked as one of the better locations identified in South Florida. Prudential does not like to fail; they are not just a money partner; they actually come in with an operating team that analyzes our operating expenses, the way it is built, what kind of amenities, what kind of finishes there are; they are requesting stone countertops versus mica countertops. This will be a quality facility. A comment was made that this will be marketed to students; that is not the case; this will be marketed for professionals and will be in the top tier rental area in the \$2 to \$2.05 per foot per month; this will not be cheap place to live.

In response to Mayor Bendekovic, Mr. Stiles indicated that the key factor for rental apartments and the success of rental apartments is the location, the availability of people willing to rent, what kind of professionalism surrounds the area, and access to amenities to things other than what are provided. Access and visibility is also an important factor for rental apartment complexes due to the fact that typically 20% to 25% of the residents are turned around per year. There will not be signs on the building. This is a great place for marketing and in looking at the demographics this location is ideal. Mr. Stiles stated that Cohen, Freeman and Insonova are one of the top architects in the rental apartment field. Their own architectural group, Stiles Architectural Group, is designing the shopping center. In 2005 when the project was designed they were putting residential on top of retail. In going through the country at this time, that is not proven to be a totally successful product type due to the conflicts of uses, odors, deliveries and garbage on top. This affects the railways and the occupancy rate. Currently there is not a market for the retail and that market is not created just by putting apartments on top. It is believed that moving McDonalds will enhance the traffic. A sense of place will be created with the new Center; currently you have to drive around the McDonalds and there is no traffic flow. The old Fed Ex facility will turn into a restaurant zone, the two end caps will be restaurant zones and in line there will still be Vignetos and IHOP. This is a fully secured facility with a gated entry gate. There will be card access with video surveillance. This will be a very safe environment for single women to live in. They will not be pulling permits; it is not like they are purchasing the shopping center, they already own it. This project is very important; they cannot finally remain as a dead Center. Prudential's requirement is that they do not want a residential project next to a failed shopping center. The rear of the buildings will be matched so they do not look like the typical back end of a shopping center. There is an interconnecting link between the residential and the retail project with security access through a gate. He gave his commitment that this will be built together; they will be two different projects but will be simultaneously built.

Councilman Jacobs referenced the 16 waivers in the backup. Assuming the waivers were granted, would this be all right if passed subject to staff comments.

In response to Councilman Jacobs, Mr. Laystrom advised that he is extremely familiar with the staff comments. The only comment he wants to discuss is the fire truck mentioned in comment #15.

In response to Councilman Tingom, Mr. Laystrom stated they have looked at the east elevation and have a couple of quick thoughts.

Councilman Tingom responded and stated that his concern was that the plans which Council was given were dramatically different. Rules are put into place so people will have a good place to live and when the rules are bent or waivers are granted sometimes it works out and sometimes it does not.

Mr. Lunny indicated that one option would be to approve the first reading of the ordinance because nothing will be effective until the second reading.

Councilwoman Uria commented that in her opinion, this project is better than the first project.

***Motion by Councilman Jacobs, seconded by Councilperson Stoner, to approve Item No. 25 without comment #15. Motion carried on the following roll call vote:***

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

\* \* \* \* \*

**COUNCILMEMBERS' COMMENTS**

Mayor Bendekovic provided an update on the Jacaranda Country Club.

- April 6, 2011 - Informational meeting with approximately 200 to 300 residents.
- April 26, 2011 - Meeting with the Jacaranda Country Club owners.
- May 3, 2011 - Meeting with a group of Jacaranda Country Club residents.

During the April 26, 2011 meeting the traffic reconfiguration was discussed and she explained to them about the residential opposition. Residents asked what a resolution of the problem would be and Mayor Bendekovic responded that removal of cameras, agreement for irrigation, no traffic reconfiguration, landscape issues resolved and the response with the individuals was no. They took off all of the previous commitments on the table, which was the drainage, irrigation, encroachment and they said possibility of increasing camera coverage. Police Chief Harrison was at the meeting and discussed the trespassing and how the Police Department was handling. Mayor Bendekovic indicated that she felt that this issue needed to be resolved and that the only ones winning in this issue were the attorneys.

Mayor Bendekovic did not attend the May 25, 2011 meeting; however, Dan Keefe, Lisa Bernstein, Brett Butler and the Jacaranda Engineer plus Attorney Bill Laystrom did. At that time, the City shared ideas suggesting the benefits for the property adjustments; in other words, for the roadway. Ideas of converting the present road; ideas were received and cost estimates are needed. They are going to go back to Scratch Golf to determine what the costs would be on some of those ideas; the City did not design it but provided suggestions. We are waiting for a response from Mr. Laystrom as to whether they are going to concur with some of our ideas. We are following through with legislative ordinances, including ordinances for cameras; however, there are some things we have to get through legally.

\* \* \* \* \*

Mayor Bendekovic wished everyone a Happy Father's Day.

\* \* \* \* \*

**PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS**

In response to Elliot Weinfeld (sic), resident, Mr. Romano advised that permits are required to play on Plantation soccer fields due to the cost of maintenance of the fields. He indicated that the City has an agreement with PAL in which we get revenue but they do not pay for the fields. Soccer can be played anywhere in the City without a fee as long as it is not on the Bermuda grass. Mr. Romano suggested that Mr. Weinfeld contact Plantation Central Park and they will provide a list of facilities that can be used for soccer and if needed, they will set up

some cones. There will not be goals at the other facilities. He emphasized that anything organized will have to pay a rental fee for the field.

Mayor Bendekovic stated that fields are provided; he just does not like the fields being provided.

Councilman Jacobs commented that the cost of maintaining the fields is paid for from many different places not just from ad valorem taxes and grants; it is also paid for in part by user fees. The way the City has decided to approach this is not the only way but that is the way we do it. The objection is valid and we can look into changing it but it has been done this way for a long time.

Mr. Romano indicated that these fees were enacted 15 to 20 years ago and everybody understands that if they want to use one of our athletic fields for whatever recreational activity, there is a rental fee.

\* \* \* \* \*

Dennis Conklin, resident, discussed the elections. He was disappointed by the paragraph that suggests waiting until 2016 and requested that Council not delay and capture another two potential cycles of savings from March municipal elections in Plantation.

Mr. Conklin mentioned a conversation he overheard about another City's defined benefit pension plan. They were saying they were going to have to change plans because their employees are not happy because they are not funded and the taxpayers are not happy because they are not going to put out any more money for the liability of having to pay the end cost. He commended Council for looking at everything and not just phases.

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## **WORKSHOPS**

### **26. DISCUSSION CONCERNING CHANGE OF MUNICIPAL ELECTIONS TO NOVEMBER.**

Mayor Bendekovic advised that this was sponsored by her to take into consideration the cost factor and the voter turnout. She elected to bring this to a Workshop and believes that Councilwoman Uria had also been inquiring. In seeing the numbers for the municipal election in 2011 they were \$115,179.72. The voter turnout was also provided; 22% turned out for the Mayor's election in 1999 and not even half of that turned out during the municipal election. She suggested changing our election from March due to financial reasons.

In response to Mayor Bendekovic, Ms. Slattery indicated that if we had gone with a November election the cost would have been 92¢ per vote. If there is an election in 2016 that means we will all serve out our terms. If Council chooses not to do that it fine with her. Everyone was elected for a certain term and if elections are held any sooner it would take away from each one of the terms.

Councilman Jacobs provided some reasons why the election date should not change. The cost of running a campaign to run for City Council is mostly done by mailing, and if the election were moved to November the number of people to send mail to would quadruple. A \$20,000 to \$25,000 campaign would then cost close to \$100,000. As a community, we have the opportunity to have people run for office without having a big bank roll and when it is made such a big money campaign the parties are going to want to be involved, or will have to be involved in someway in the background. It will make it very difficult for people to run. The consequences of

the cost to run going so high are profound. The main reasons to change the date is the cost and because voter turnout is not so high. Voter turnout does not concern him; people have a right not to vote as much as to vote. Regarding the cost, the Supervisor of Elections wants to address the costs because so much of the cost is employees. He believes that eventually there will be some type of internet voting. He feels that Council should wait instead of quickly changing something so important. The City of Plantation spends money on things we think the City should provide its citizens. He believes that the elections in March fit that class and that the benefits of a March election are something that we should continue even if it costs something.

Councilman Tingom concurred with Councilman Jacobs. If the month is changed he feels that it would discourage people, because of costs, to run for election. We should all have contestant elections; it is good to have a healthy competition. He believes that moving to November will ensure incumbency wins and it is much easier for people to have an election year on their merits in a March election because the basic services affect our residents more than anything else. As Councilman Jacobs said, the voter turnout is not always indicative of what it really happening. Candidates in the last election raised \$357,000+ and that is a lot of money for someone to run for a local office. He thinks the costs should be less than that and the only way to keep those costs down is to stay away from a November cycle. He is in favor of leaving the elections where they are.

Councilperson Stoner believes that Councilman Jacobs and Councilman Tingom made some good points. She is all about saving money and she does not care if her name is at the bottom of the ballot. People will find Plantation if they want to. The thought of someone else wanting to participate in the process and having to raise closer to \$100,000 is overwhelming and a large deterrent not to step in. There are not any other officers or elections available where someone could truly step in on a grass roots level. She believes that the opportunity should exist and not make the process one that favors an incumbent. She has mixed feelings and questioned how many Cities have November or March.

Ms. Slattery advised there are currently 14 Cities that have decided to move to November; there are 31 Cities in Broward County.

Councilwoman Uria thinks as time goes on the Cities that stay in March will pay more and more.

Councilman Jacobs indicated that Supervisor of Elections wants to address the costs. He suggested making an agreement to revisit this at some time certain in the future and give it a little time.

Mayor Bendekovic commented that it was fine to give it some time and see what Dr. Snipes comes up with.

In response to Mayor Bendekovic, Ms. Slattery advised that there is a State Law that says, "You cannot consolidate a precinct unless there are less than 25 voters in that precinct". That is what Dr. Snipes is looking at. The State Legislature needs to get involved in this because this is going on throughout the State.

The consensus was to give this some time and revisit in the future.

\* \* \* \* \*

Meeting adjourned at 10:40 p.m.

\_\_\_\_\_  
Sharon Uria, 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