

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

June 22, 2011

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

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – February 23, 2011

4. Approval of Minutes of Meeting – March 9, 2011

The minutes of the City Council meetings for February 23, 2011 and March 9, 2011 were approved as printed.

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ITEMS SUBMITTED BY THE MAYOR

Mark Hyatt and his son, Matthew, were present. Mr. Hyatt explained that he has display called “Hyatt Extreme Christmas”. They collect donations for the Broward County Humane Society and for the City of Plantation. He presented a donation on behalf of Hyatt Extreme Christmas in the amount of \$750 to the Parks & Recreation Department.

Jim Romano, Parks & Recreation Director, thanked Mr. Hyatt for the donation.

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Mayor Bendekovic read a Proclamation designating July 2011 as *Parks & Recreation Month* in the City of Plantation.

Mr. Romano, Parks & Recreation Director, accepted the proclamation.

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Mr. Romano, Parks & Recreation Director, made the following announcements:

- The Independence Day parade will be held on Monday, July 4, 2011 at 9:00 a.m. A free concert will begin at 7:30 p.m. and fireworks will begin at 9:00 p.m.
- On Friday, July 15, 2011 between 7:00 p.m. and 9:00 p.m. the Parks & Recreation Department is hosting the annual “Daddy Daughter Sock Hop”. The ages are between 6 and 12 years old and it is \$20 per couple.

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Mayor Bendekovic made the following announcements:

- The Election Connection will be coming to Plantation City Hall on Friday, July 1, 2011 between 10:00 a.m. and 3:00 p.m.
- The re-launch of the Farmers’ Market at Volunteer Park has been a huge success. They are there every Saturday between 9:00 a.m. and 2:00 p.m.
- The Then and Now Exhibit at the Plantation Historical Museum has been extended through September 2011.
- The City of Plantation photo contest is open to amateur photographers; photographs will be accepted through July 15, 2011.

Mayor Armstrong presented Service Awards to the following employees:

Ron Ackerman	Parks & Recreation	30 years
Robert Cooper	Parks & Recreation	30 years
*Hector Arroyo-Mendez	Parks & Recreation	25 years
Kenneth Boyce	Parks & Recreation	25 years
Antonio Martins	Fire	15 years
Rodolfo Gabor	Fire	10 years
Daniel Keefe	Administration	10 years
Byron (Wes) Lockard	Parks & Recreation	10 years
Jack Takacs	Parks & Recreation	10 years
Morange Cherfrere	Public Works	5 years
Off. Mitchell Fraska, III	Police	5 years
Andrew Jackson	Utilities	5 years
*Off. Kyle Mastrianni	Police	5 years
*Off. Justin Miller	Police	5 years
Margie Moale	Human Resources	5 years
Hugo Paiz	Landscape	5 years
Lisa Purser	Fire/Rescue	5 years
Ivette Reyes	Information Tech	5 years
*Tomas Velez	Public Works	5 years

*Unable to Attend

Congratulations were offered.

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Mayor Bendekovic commented on the placement of the 911/World Trade Center artifact. Public Works will build a foundation and Danny Ezzeddine is preparing a design and placement for it at the Firefighters' memorial. A plaque will also be placed on the foundation.

In response to Councilperson Stoner, Mayor Bendekovic advised that there was a \$25 charge for the delivery of the artifact.

Councilman Levy suggested mentioning Dennis Conklin somewhere on the plaque since this was his request and his continued perseverance.

Mr. Conklin declined but thanked Councilman Levy.

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CONSENT AGENDA

Item No's. 6, 12, 13, 14, 17, 18 and 20 were removed and voted on separately.

As a Commissioner of the CRA, Mayor Bendekovic had a voting privilege on Item No. 33.

Mr. Lunny read the Consent Agenda by title.

5. Permission for Rick Case Hyundai to have a promotional event from Thursday, June 30 through Monday, July 4, 2011.
7. Approve yearly maintenance for Hansen application in the amount of \$43,785.
8. Request for approval of final reconciliation Change Order #1 to Work Authorization #0910-03 to Winningham & Fradley, Inc. for engineering work associated with the Plantation Park Phase E Water Main Replacement Project in the amount of \$19,835.29. (Budgeted – Utilities)
9. Request for authorization to execute a one-year contract for the purchase of water treatment membranes from Dow Water & Process Solutions in accordance with RFP #024-11. (Budgeted – Utilities)
10. Request for the purchase and installation of switchgear for a bypass generator at the Regional Wastewater Treatment Plant in the amount of \$120,655, payable to Edwards Electric Corporation. (Budgeted – Utilities)
11. Request for the purchase of a polymer dilution system for the Regional Wastewater Treatment Plant in the amount of \$20,048.75 from AMJ Equipment Corporation. (Budgeted – Utilities)

Ordinance No. 2456

15. Second and Final Hearing of ORDINANCE pertaining to the subject of Animal Control; amending Chapter 4 of the Code of Ordinances of the City of Plantation, Florida in order to amend and update regulations concerning dangerous dogs.

Ordinance No. 2457

16. Second and Final Hearing of ORDINANCE of the City of Plantation, Florida pertaining to the subject of growth management; clarifying the City's use variance procedures; amending the City's minor development approval process so as to expedite various approvals which can be made without the City governing body's advance consideration; clarifying and revising the regulations for accessory buildings and structures; amending the regulations that apply to fences and walls; codifying the City's procedures and regulations for the assignment of Local Activity Center (LAC) residential units; revising regulations that apply to the Review Committee; amending the Sign Code so as to reference the limited special exceptions that may be approved administratively; amending the definition of the word "logo" for purposes of the sign code; amending the Landscape Code to appropriately cross reference the changes made by this ordinance; increasing the setback regulations in single family residential districts for structures in excess of 25 feet in height; clarifying and amending the requirements and procedures for vacating and releasing public interests in public streets and public rights-of-way; revising regulations that apply to the closure or relocation of private streets or private rights-of-way and allowing an administrative approval of such matters in certain circumstances; making other miscellaneous amendments to clarify how the growth management regulations are administered and enforced; providing a savings clause, and providing an effective date therefor.

Resolution No. 11278

19. **RESOLUTION** approving that certain Interlocal Agreement between Broward County and the City of Plantation for emergency/non guaranteed supplemental support for Building Code services; having the appropriate City Officials execute same and authorizing the City Administration or City Attorney to make minor revisions thereto; and providing an effective date therefor.

Resolution No. 11279

21. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 1023 NW 85 Terrace. (Taylor)

Resolution No. 11280

22. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 9303 West Sunrise Boulevard. (Drews)

Resolution No. 11281

23. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 331 NW 49 Avenue. (Sally)

Resolution No. 11282

24. **RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 10551 NW 10 Court. (Divino)

Resolution No. 11283

25. **RESOLUTION** demanding that Broward County remit payment to the City for all costs incurred by the City as a result of the County's disproportionate public safety E911 dispatch system.

Resolution No. 11284

26. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors special assessment as evidenced by and levied pursuant to prior Resolution Nos. 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an Ad Valorem Folio Number of 5041 01 02 1090; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Rameau)

Resolution No. 11285

27. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors special assessment as evidenced by and levied pursuant to prior Resolution Nos. 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an Ad Valorem Folio Number of 5041 01 02 1450; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Duncanson)

Resolution No. 11286

28. **RESOLUTION** of the City of Plantation pertaining to the subject of a municipal special assessment; reinstating a delinquent Westgate Lake Manors special assessment as evidenced by and levied pursuant to prior Resolution Nos. 9321, 9322, 9382 and 10090 (the "Assessment Resolutions") on property legally described in this resolution and having an Ad Valorem Folio Number of 5041 01 02 0191; changing the terms of the municipal special assessment's repayment (for such described property only) as part of such reinstatement making other findings and provisions appropriate for such reinstatement; providing a savings clause; and providing an effective date therefor. (Whitter)

Resolution No. 11287

29. **RESOLUTION** supporting a Florida Department of Environmental Protection petition on numeric nutrient criteria filed with the US Environmental Protection Agency requesting that the EPA rescind their January 14, 2009 determination that federally imposed numeric nutrient criteria are necessary in the State of Florida; providing and effective date therefor.

Resolution No. 11288

30. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 2 through June 15, 2011 for the Plantation Gateway Development District.

Resolution No. 11289

31. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 2 through June 15, 2011 for the Plantation Midtown Development District.

Resolution No. 11290

32. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 2 through June 15, 2011.

Resolution No. 11291

33. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 2 through June 15, 2011 for the City of Plantation's Community Redevelopment Agency.

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

Ayes: Stoner, Tingom, Jacobs, Levy, Uria

Nays: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 33.

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Mr. Lunny read Item No. 6.

6. Approve payment of \$21,360.44 to the IRS for employment taxes from 2009.

A memorandum dated June 22, 2011 to Mayor and Members of City Council from Daniel W. Keefe, Assistant to the Mayor, follows:

REQUEST: Approve payment of \$21,360.44 to the IRS for employment taxes from 2009.

ANALYSIS: The City was notified that the IRS would be conducting an audit on City employment taxes in March. The IRS has reviewed several employment tax issues including:

- Contract instructors.
- City provided employee uniforms.
- Clothing allowance.

The IRS audit determined there is liability for Federal employment taxes in the amount of \$21,360.44 from 2009. Staff negotiated acceptance of the audit in exchange for no audit of 2010 or the first half of 2011 and the implementation of revised employment tax procedures effective July 1, 2011. The revised procedures include:

- Contract instructors (recreation instructions) will be required to incorporate or obtain a local business tax license.
- Employees will be required to pay income tax on the value of City issued uniforms that could otherwise be worn for everyday use (pants and shorts issued to Parks & Recreation and Public Works staff).
- City issued shirts, tee-shirts and jackets will be imprinted with additional identification to make the items not suitable for everyday use when off duty.
- Police officers will be taxed for uniform allowances.
- City employee policies regarding uniforms have been updated to reflect these changes.

Payment is interest and penalty free due to the fact that the City did not knowingly underreport the employment tax liability and has agreed to take future corrective action.

RECOMMENDATION: Approve payment of \$21,360.44 to the IRS.

Councilwoman Stoner questioned whether Mr. Keefe indicated that the IRS was not going to pursue any other audits of this nature beyond this particular period.

Mr. Keefe advised that they are not going to go beyond 2009, 2008 or 2007; going forward to 2010. That was a verbal conversation that was confirmed via e-mail. The agreement was that the agent was only going to look at 2009 if we complied and then new procedures were set for the two or three areas we needed to remedy.

Councilwoman Stoner stated we still have exposure for those additional years until we get something in writing from them.

Mr. Keefe has an e-mail confirming this.

Motion by Councilwoman Stoner, seconded by Councilman Levy, to approve Item No. 6. Motion carried on the following roll call vote:

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

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12. Award bid for FDOT West Sunrise Boulevard median enhancement from University Drive to the lowest qualified bidder, Landscapes of Distinction, in the amount of \$36,743.

A memorandum dated June 17, 2011 to Diane Veltri Bendekovic, Mayor, from Danny Ezzeddine, AIA, Director of Design, Landscape & Construction Management, follows:

RE: FDOT West Sunrise Boulevard Median Enhancement: University Drive to NW 65th Avenue

On June 13, 2011, the City of Plantation had solicited a Request for Quotation for the West Sunrise Median Enhancement from University Drive to NW 65th Avenue. On June 16, 2011, we received three (3) responses ranging from \$36,743 to \$51,795 with Landscapes of Distinction, being the lowest responsive bidder.

After reviewing and evaluating the quotations, and due to time sensitivity to meet the requirement of Florida Department of Transportation grant deadline, I am recommending that the City Council award a contract to lowest qualified bidder, Landscapes of Distinction, for the amount of \$36,743 subject to final review by Administration and Legal Departments.

Funds totaling \$20,000 are available from Florida Department of Transportation grant and the balance from Tree Leaf Program.

Should you have any questions, please contact me.

Councilperson Stoner pulled this item. The only things she saw in the budget related to Tree Leaf and Street Tree.

In response to Councilperson Stoner, Mr. Ezzeddine clarified that this is not a matching grant for the \$20,000. The balance is coming from the GE program. The street program is different than the Tree Leaf program. The Tree Leaf program is a fund supported by non-conforming use of certain applications and this fund is reserved for an application such as for certification and additional planting.

Councilwoman Uria stated that \$16,000 is coming from Tree Leaf and \$20,000 is from the grant. Robert Knox, resident, questioned why the City of Plantation does not have property where they can grow their own trees and not have to go to great expenditures to place trees. He referenced available land behind Volunteer Park. An employee could be hired to take care of the nursery for a year.

Mr. Ezzeddine advised that they will consider the suggestion.

Councilwoman Uria concurred that there is a lot of area where trees could be planted.

In response to Councilman Levy, Mr. Ezzeddine indicated that if somebody cuts a tree in Plantation they have to replace it. In using the Broward County Mitigation Program, the City of Plantation has saved approximately \$140,000.

Motion by Councilperson Stoner, seconded by Councilman Tingom, to approve Item No. 12. Motion carried on the following roll call vote:

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

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Ordinance No. 2458

13. Second and Final hearing of ORDINANCE of the City of Plantation pertaining to the subject of Human Resources; changing the title of the “Assistant to Mayor” position to “Chief Administrative Officer”; codifying the title and the 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.

A memorandum dated June 1, 2011 to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

RE: Ordinance pertaining to the subject of Human Resources

This Ordinance changes the “Assistant to Mayor” title to “Chief Administrative Officer”. This is recommended because the revised title better reflects the position’s authority. Provisions have been included to explicitly reference the position’s authority to sign contracts, sign releases, make concessions during various negotiations, effect orders and payments, act on behalf of the City under the Mayor’s supervision, and execute many other duties of the position.

This Ordinance is now ready for First Reading. Because this topic has been recently reviewed by the City Council, I have requested the City Clerk to place the Ordinance on the Consent Agenda.

Mr. Lunny read Ordinance No. 2458 by title.

Councilperson Stoner pulled this item. She concurs with the title change and requested clarification as to how granting authority to the Chief Administrator Officer to negotiate and execute contracts would work since Council approval is required for contracts. There are some notes that she is not sure should be part of the duties. She believes the description is vague and Mr. Keefe has explained that he basically performs all of these functions on a regular basis. She wants to be certain as to what is allowed without Council approval.

Mr. Lunny advised that some contract changes only relate to population and they do not come to Council anymore. Other contracts such as purchases and sales of property are always brought to Council as well as franchise agreements.

Councilperson Stoner indicated that there are some professional service agreements that do not come before Council. She noted that an addendum was recently signed for our lobbyist which did not come before Council. According to what she read in the ordinance, an addendum can only be done that contains a 30-day termination clause, which this does not.

Mr. Lunny stated that the Chief Administrator Officer would not be signing any notes that evidence municipal indebtedness without the City's approval by resolution in advance. He suggested deleting notes. The Officer will sign deeds such as tax deeds.

Councilperson Stoner believed that the deeds should be clarified so no other conveyance documents will be executed.

Mr. Lunny suggested saying, "Deeds under programs". If the concern is that the Chief Administrative Officer is doing unauthorized things there are some programs that the Council has approved. He noted that we could say, "Has the specific authority to do these things under programs approved by the Council or pursuant to programs approved by the Council". The desire is to avoid having to ask someone to attest to a specific program every time the Chief Administrative Officer tries to do something.

Councilperson Stoner believes it is our responsibility to make sure that the parameters are set forth for whatever occasion and that goes to clarifying some of this.

Councilman Levy commented that adding "Within Council parameters" might incorporate Councilperson Stoner's thoughts.

Councilwoman Uria agreed and noted that the description is vague; it could be interpreted as very broad.

Mr. Lunny indicated that it was his intention to be broad. He questioned whether Council would accept, "The Chief Administrative Officer has specific authority to negotiate and execute contracts, liability indemnifications, licenses, agreements, deeds, notes, satisfaction of releases of liens, or claims or interests in property" and before the semi colon, "Under such programs or other authority as are approved by the City Council".

Councilperson Stoner commented that it would help until getting to the next semi colon and believes that the clarification should be at the end of the paragraph so it applies to all tasks, not just one specific section of tasks.

Mr. Lunny questioned what happens if the Chief Administrative Officer is doing something delegated by the Mayor. He read the sentence that says, "Most of the time when you are making, administering and performing

legal undertakings” and suggested deleting the word “making” and saying, “Administer and perform legal undertaking” so it assumes that the undertaking is already in affect and then “Making decisions binding upon the City during various types of negotiations or legal proceedings”. There are times in legal proceedings where direction is received from the Mayor or Mr. Keefe. He could say something like, “Repeat the language” and say, “Within such programs as are approved by Council or the Mayor”.

Councilwoman Uria questioned whether it would be better to add a sentence that says when the Chief Administrative Officer can do certain things.

In response to Councilperson Stoner, Mr. Lunny advised that he was trying to codify a general description in order to avoid having to say, “Yes, he has the authority to do this”. He requested that instead of having a scripture of Council or Mayor approval in each instance that it be under such programs.

In response to Councilperson Stoner, Mr. Lunny stated that “program” is not a defined term.

Mr. Lunny indicated if the ordinance is defined too much it will inhibit the individual from doing what he is currently doing.

Councilperson Stoner does not disagree but does not want to insert a term that is not defined and not regularly used versus and/or within Council parameters, which she believes is more all inclusive.

Councilman Tingom commented that it was his understanding that the intent is to allow the Chief Administrative Officer to perform certain duties, as the Mayor performs certain administrative functions and has the right to execute contracts without direct Council approval. The last sentence comes close to saying that he acts as a delegated authority person to execute those contracts at the direction of the Mayor. He is acting on behalf of the Mayor and in the normal course of business it is a much smoother way of operating the government rather than bringing so many items before Council. He suggested the end say that “The Chief Administrative Officer shall perform the above duties and tasks as directed by the Mayor and/or the City Council”.

Councilwoman Uria reiterated that this description is very broad and vague. In her opinion, it needs to be reworded.

Mr. Lunny requested Council consider the following, “The Chief Administrative Officer has the specific authority, under such programs as may be approved by the City governing body; and all of those things would be pursuant to those programs”.

Mr. Keefe commented that there are several programs and settlement agreements that do not come before Council.

Mr. Lunny noted that the settlement agreements would be as delegated by the Mayor.

Mayor Bendekovic stated that the changes need to be done at this meeting due to the fact that Mr. Keefe is leaving and this position must be posted within the next month. She would appreciate if this could be defined and move forward.

Mr. Lunny believes that the word “programs” is a word that gives sufficient latitude to allow the individual to carry on as currently done and yet allows the appropriate considerations and authority that the Council normally gives.

Kingsley Smith, resident, was present. He questioned why the public was not given a chance to speak and stated that stated that many years ago there was a similar discussion. He also questioned the roles and responsibilities of the new Officer and whether they should have legal training.

Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve Ordinance No. 2458 with Mr. Lunny's clarification of the language. Motion carried on the following roll call vote:

Ayes: Stoner, Tingom, Jacobs, Levy, Uria

Nays: None

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Ordinance No. 2459

14. Second and Final hearing of 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 75 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 an effective date therefor. (One Plantation Place)

Mr. Lunny read the ordinance by title.

In response to Councilman Tingom, Mr. Laystrom advised that the number of units are being reduced to 321 and the density will come down. The waivers were granted and he was going to speak about some elevation issues. Mr. Laystrom did recall saying that he would look to enhance the elevation on the eastern side of the building. There was a discussion about that and after talking with Mr. Leeds, he is willing to provide a voluntary enhancement to that elevation and will carry it over to the west elevation, which is an additional item that has been agreed to outside of the approval given to the site plan. One other unrelated issue has to be addressed regarding participation for a traffic signal if one is ever warranted at SW 80th Avenue and Peters Road.

Mr. Leeds indicated that he met with Mr. Laystrom and still does not have a plan that shows him the difference between what is on the current plan and what is being proposed as the architectural enhancement. This is voluntary but he cannot tell the difference at this time. There are no dimensions in the plan that show how far the eyebrows will stick out. He does not know what to approve when they come in for a Building permit and he wants to be sure that whatever he approves is exactly what Council decided to approve. Elevations are needed to show whether the eyebrows will stick out more. They are very small along the west elevation and according to the plan they scale about a foot and along the east they scale about three or four feet. He needs a working drawing with dimensions; a rendering will not give the information to show the difference.

Councilman Tingom referenced the last item, "Mr. Stiles also made a commitment to develop the shopping center at a simultaneous time with the development of the residential units". He questioned whether permits have been pulled and whether that is in fact going to occur simultaneously.

Mr. Laystrom stated that he cannot pull permits until after this meeting. They intend to pull permits and the McDonalds project will probably go first and then permits will be pulled for residential. A meeting will have to be scheduled with Mr. Sabouri regarding closure of parts of the shopping center to roll through the construction and at the same time protect the public that will be going into the Center. They are planning to build simultaneously from start to finish as fast as they can. As previously discussed, the shopping center will take longer because of the stages of approval.

Mr. Leeds commented that this is a policy decision; it is up to the Council in terms of the timing of the project. Currently there is no condition that says the apartment permit cannot be issued until the applicant submits the shopping center permit. If the apartment permit is submitted first it will be approved for Zoning if it meets all the requirements.

Mr. Laystrom advised that Mr. Stiles previously made a commitment that he will build these at the same time and now that he is not present there is an implication. There will be demolition for McDonalds and he questioned whether that is a building permit or a demolition permit. He believes that it is all right as long as they are proceeding with both projects.

Councilman Tingom would like to see something with the changes.

Mr. Leeds emphasized that he has no desire in terms of the timing of this building. Unless a specific condition is put in, he is going to allow the project to move along at whatever pace it does.

Mr. Laystrom indicated that they agreed to extend the eyebrows voluntarily an additional one foot. He and Mr. Leeds scaled four feet and it will be going to five feet on the east elevation. During that conversation, it was agreed that they would do additional eyebrow extensions on the west elevation to look like the elevations on the east; they will be four to five feet wide. He also committed to Jim Inklebarger, management to the west of their site at the Park of Commerce, that they would provide a contribution to a future traffic light if it is ever warranted at the corner of SW 80th Avenue and Peters Road. They would calculate that because they need to put that money up now for their own financing. Mr. Inklebarger was told that they would pay based on the peak hour trips for their project and they will calculate that based on a traffic signal being \$200,000. They will either put the money in his trust account or the City's account. It is a five-year commitment; therefore, the funds come back to them if the light is not done in five years. The only difference is that as their units go down so do the trips, which will reduce the contribution.

Councilman Tingom commented that this will be very visible from I-595 and University Drive and he wants to be sure that the City has a good appearance.

Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve Ordinance No. 2459 on second reading. Motion carried on the following roll call vote:

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

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Mr. Lunny read Items No.'s 17 and 18.

17. Resolution adopting the City's Community Development Block Grant (CDBG) FY 2011-2012 Action Plan; providing for severability; and providing for an effective date.

A memorandum dated June 22, 2011 to Mayor and City Council from Laurence Leeds, Director, and Lisa Zelch, Principal Planner, follows:

On June 9, 2010, City Council approved the FY 2010-2014 Consolidated Plan for Community Development Block Grant (CDBG) funds, which was submitted to and approved by the U.S. Department of Housing and Urban Development (HUD) on October 7, 2010. The Consolidated Plan is prepared by staff, approved by Council, and submitted to HUD every five years.

Each year, staff prepares an annual Action Plan for City Council approval. This plan must be consistent with the Five Year Consolidated Plan. The FY 11/12 Action Plan includes the following:

- 1) \$257,720 for minor home repair,
- 2) \$43,765 for capital improvement to Jim Ward Park, and
- 3) \$69,571 for public service programs.

Please note that in order to pay for the full list of Park East improvements (see memo from P&R); it is necessary to amend the FY 10/11 Action Plan. This process is described in the next agenda item. As always, each of the capital programs requires HUD approval.

As required by Federal regulations, the City held two public hearings to receive citizen input, and established a 30-day period for review of the draft Action Plan.

Councilperson Stoner pulled Items No.'s 17 and 18. She recalled a discussion at the Budget Workshop regarding the City's contributions to non-profits. In looking at the list, she questioned whether we have addressed how many citizens in the City are actually benefiting from the contributions. She understands that names cannot be received; however, we can receive numbers of residents who are receiving the contributions. One in particular is Fair Housing seminars, brochure distribution and outreach and she has not seen any of the seminars. Part of the discussion was providing an audited financial statement, which Mr. Leeds has indicated that he has on some of them. She expressed concern that if this is approved this is what we are committed to and we do not get to discuss it again as to whether or not we should be making these contributions.

In response to Mayor Bendekovic, Mr. Leeds advised that there was a Committee that included Grant Coordinators from Administration, the Fire Department and Police Department. It also included Lisa Zelch, Principal Planner in Planning and Patrick Haggerty, Community Block Grant Coordinator. We are talking about Community Block Grant Funds from the Department of Housing and Urban Development; these are not City funds. The statement from the applicant we have from this organization called Housing Opportunities Project for Excellence; the City Council has approved this for at least the past five, six or seven years prior to him joining the City. The application says that they anticipate a project serving 200 residents in the upcoming fiscal year. The audit that was submitted and dated August 2010 indicates that they are a 5013c, not for profit.

In response to Councilperson Stoner, Mr. Leeds indicated that even though they indicated that they were hoping to serve 200, we do not know what they have done in the past year. We could request that information.

Councilperson Stoner questioned why we would want to continue the contributions if our residents are not being served by them. One is an event that is supposed to reach out to the entire community, which hopefully there would have been notice for and we would have all known about it and promoted it. She is concerned that we are being mindful of putting the dollars in the right hands that specifically benefit the City of Plantation.

Mr. Leeds stated that he and the Committee apparently felt that this particular organization had serviced the City in the past and they were satisfied with that condition being met. He did not attend a specific outreach event in the City.

Councilperson Stoner suggested revisiting all of the organizations, not just one. Perhaps the criteria needs to be adjusted a little when evaluating the organizations.

Mr. Leeds stated that these do not have to be approved until the criteria are adjusted and the information needed can be provided.

In response to Councilwoman Uria, Mr. Leeds advised that the organizations submit an audit.

Councilwoman Uria believed that one thing to review is how much money goes to administrative costs. She is not in favor of giving more money to an organization where 80% or 90% of the monies go to administrative costs; she wants the money to go to the people and feels that criteria should be reviewed and listed in the audit.

Mr. Leeds indicated the question is whether Council wants to approve or defer this item, reconvene the Committee, review administrative costs and review documentation of past service.

In response to Mr. Leeds, Lisa Zelch, Principal Planner, planned this meeting in case it got deferred. We have one month before we have to make some type of submittal to the County.

In response to Mr. Leeds, Councilperson Stoner believed the organizations need to provide current business licenses to be sure that they are active corporations. She looked up one particular organization and could not find it anywhere.

Councilwoman Uria questioned whether we need to go back on Item #18 because this was 2010/2011. This item does not consider the monies that are going to the non-profits.

Mr. Leeds explained that there are two separate resolutions. The resolution that deals with the public service agencies is Item #17, which is approving the 2011/2012 action plan. The amendment, which is Item #18, amends the 2010/2011 and we are reallocating monies that were not used during that year; however, it cannot be done until it is updated. Some of that money will be used for projects in this calendar year.

Ms. Zelch clarified for HOPE; a lot of times the acronym is not on SunBiz or any of those other types of organizations, she believes it is Housing Opportunities for Project Excellence. It is an organization that is funded by HUD separately and it also ensures that the City is certified for our firm by its housing, which is a huge certification for us to keep for obtaining CDBG funds.

Councilperson Stoner looked that up and it was not there.

In response to Councilwoman Uria, Ms. Zelch advised that they have the average score sheets but not the individual score sheets.

Councilman Levy referenced the reports that the Aging and Disability Resource Center sends on a regular basis, formerly known as the Area Agency on Aging. They send detailed statistics on exactly how many people they have served in the City, exactly what the cost was, how much they use the donation from the City and multiply it with other funding both from the County and from the Feds and how much it generates back to this City. He would like to use that as a model; for them to provide a similar type of information so we know we are getting the best for our dollars. There is no doubt that what is provided to them they bring back in about four fold in services and programs.

Mr. Leeds stated that he is familiar with the organization but not with what they send. He noted that their report can be used as a template.

In response to Mayor Bendekovic, Mr. Leeds explained that HUD is going through a change; there was a major reduction in funding, he believes 16%, and they have their own set of requirements. Sometimes a person may qualify one year and not the next year.

Mayor Bendekovic commented that the tutorial program we had was the same year after year and it cannot be funded again because of the criteria. There must be some kind of a change in a program. There were a few other programs that were pulled because of that. Her concern is what kind of benefits the residents are getting.

Kingsley Smith, resident, referenced Item #17 and noted that he spends a lot of time with the CDBG money in the City. He has worked with all of the Officers and has attended a number of meetings. He did not know that the 2009/2010 money was coming back to be spent in Park East. In his opinion, he believes that there are enough funds to do all of the projects. Some type of arrangement needs to be made between the Parks and Recreation Department and the Parks and East Homeowner's Association. He questioned whether any other funds are available from the CDBG besides the 2011/2012 and the 2010/2011 that are left or earmarked.

Councilwoman Uria advised that it looks like \$357,000 is being allocated to the Jim Ward Community Center and with the 2011/2012 funds almost another \$44,000 is being allocated to the Jim Ward Community Center. She is not aware of anymore money other than what is listed.

Mayor Bendekovic commented that O'Neil Chin and Erroll Brown met with Jim Romano, Parks and Recreation Director, regarding the lighting. These funds can only be used in certain areas of the City and most of the funds have gone to Lauderdale West or Park East.

In response to Mayor Bendekovic, Mr. Romano indicated that the presentation made to the Park East Homeowner's Association regarding the CDBG funds for the Jim Ward Community Center listed approximately \$59,000 for basketball lighting, \$65,500 for tennis court lighting, the existing fitness trail was expanded with new fitness station for a cost of \$46,277, replaced the crumbled tire surface under the existing playground, which is the safety surface, for a cost of \$72,000 and included a security camera system throughout the inside and outside of the building for a cost of \$35,000. During a subsequent meeting with Mr. Brown and Mr. Stalley (sic), they asked about the possibility of adding some walkway lighting similar to what is in other parks along the pathway. He believes there were 14 or 16 poles at about a cost of \$125,000.

In response to Mayor Bendekovic, Mr. Leeds advised that there were only 25 to 27 participants at the seminar.

Erroll Brown, resident, was present. He stated that he met with Mr. Romano to discuss programs that Park East has been requesting for a long time. He thanked the City for the Jim Ward Community Center and for the resurfacing of the basketball court. He looks forward to the lighting.

Motion by Councilperson Stoner, seconded by Councilman Tingom, to DEFER Item No. 17 until the July 13, 2011 meeting. Motion carried on the following roll call vote:

Ayes: Stoner, Tingom, Jacobs, Uria
Nays: Levy

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Resolution No. 11292

18. **RESOLUTION** amending the City's Adopted Community Development Block Grant 2010-2011 Action Plan; providing for severability; and providing for an effective date.

A memorandum dated June 22, 2011 to Mayor and City Council, from Laurence Leeds, Director, and Lisa Zelch, Principal Planner, follows:

Subject: Amendment to CDBG 2010/2011 Annual Action Plan:
Resolution approving an amendment to the Community Development Block Grant (CDBG) FY 10/11 Annual Action Plan.

On June 9, 2010, the City Council approved the FY 10/11 Action Plan as part of the FY 10/14 Consolidated Plan for Community Development Block Grant (CDBG) funds. The FY 10/11 Action Plan included funding for the following:

- 1) Capital improvements (road reconstruction) within the Park East Neighborhood, and
- 2) Public social services available to income-qualified residents citywide.

The road project was completed using other funding (including one-time CDBG-R funds), and as such, \$382,266 for road reconstruction was made available for other projects in FY 11/12. Use of these funds in FY 11/12 requires amending the FY 10/11 Action Plan.

In addition to the HUD required citizen participation plan (two public meetings at City Hall), the Parks and Recreation Department attended an HOA meeting in Park East and requested specific capital improvements. A total of \$357,235.12 from FY 10/11 will be required to complete these improvements, pending HUD approval.

In addition to above, funds for FY 02/03 were set aside for capital improvements in the Lauderdale West Neighborhood. Improvements are needed in Veterans Park, which services this community.

Motion by Councilman Tingom, seconded by Councilman Levy, to approve Resolution No. 11292. Motion carried on the following roll call vote:

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

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Resolution No. 11293

20. **RESOLUTION** approving that first amendment to agreements for disaster response and recovery services between the City of Plantation, Bergeron Emergency Services, Crowder-Gulf Joint Venture, Inc., and DRC Emergency Services; directing the Mayor to execute same; giving the Administration and Legal Departments the ability to make minor changes and providing an effective date therefor.

Mr. Lunny read Resolution No. 11293.

This item was pulled by Councilperson Stoner. She advised that the contract was out as an RFP and to her knowledge it has not been withdrawn. It has already been shortlisted and as far as she is aware, the shortlisted firms entered in good faith into negotiations. The addendum submitted is an addendum to a non-existing contract that expired in December 2010.

Mr. Lunny explained that the City determined for various reasons not to conclude the procurement documents and to reject all proposals, which then left the City in a position where the storm season was beginning. The City then decided to execute amendments and as part of them extended terms of contracts through December 31, 2011 so that the City would have coverage during the storm season while it proceeded to go out and re-competitively procure these services. There was nothing improper in his judgment in what occurred and it was necessary in order to protect the public.

Councilperson Stoner questioned the reasons it was pulled; nothing informal has been submitted and the people these agreements are being extended to were not even in the top three.

Mr. Lunny indicated that a writing was prepared by Mr. Keefe, which he reviewed and approved, that indicated that the City was rejecting all proposals and had determined to re-procure the contract. There were various reasons why staff did not have a confidence level in the result. He would be happy to discuss those findings outside of a public meeting.

Councilperson Stoner stated that the addendum submitted is not actually an addendum to the existing contract; the language was changed in the contract.

Mr. Lunny advised that he amended the contract in a way that he had to in order to extend the contractual services to cover a term where, if he didn't do so, the City would be without contractual coverage for the tropical cyclone season while Mr. Keefe and the Administration moved forward.

Councilperson Stoner noted that the changes have nothing to do with the dates of the contract. They were given a period, which she understands for default; however, there is no longer a 30-day termination period. The language says that we would agree to terminate it by entering a written termination agreement; therefore, we no longer have a 30-day termination clause in this contract. She questioned who will negotiate what determines the contract.

Mr. Lunny believes the contract on paragraph 3.7 says, "Either party may terminate without cause by giving the other 30 days advance written notice" and there is a restriction in terms of termination in that if we have an event we have contract coverage during that event.

Councilperson Stoner commented that there is conflicting language when saying we can agree to terminate in some other fashion.

Mr. Lunny indicated that it is customary to say that you can have a termination without cause, you have a termination for cause with a consequence, or two parties can mutually agree to terminate in some other fashion. In his judgment that is appropriate and we had to do what was needed to protect the public.

Councilperson Stoner questioned whether the people received notification that the RFP was withdrawn and delayed.

Mr. Lunny advised that they received notification that the City has rejected all proposals.

In response to Mr. Lunny, Councilperson Stoner feels that the City was in active negotiations with the people that were initially shortlisted.

Mr. Lunny indicated that circumstances came to light were we had no confidence in what occurred. He reiterated that he would be happy to discuss this at a different time. He is not willing to discuss it on the record unless the entire Council requires him to do so.

Councilperson Stoner stated that for her, part of the procurement process is the transparency of the process.

Mr. Lunny noted that it was a transparent process but he does not wish to reveal the position of the City at this time. He advised that all proposals were rejected, Mr. Keefe wrote a letter and there were reason why the City took that position in which he was involved. This was the perceived best way and only option the Administration had to protect the public while they went out to re-procure these services, which Mr. Keefe has indicated in his memo.

In response to Councilperson Stoner, Mr. Keefe was not sure of the exact date; he believed it was some time last month.

Councilperson Stoner advised that the information she received a few weeks ago on the RFP did not include that letter.

Mr. Keefe commented that in the RFP language the City can reject for any reason or no reason and they took that option. He would be happy to discuss this but off the record.

In response to Councilperson Stoner, Mr. Keefe indicated that our decision was to have the protection for this storm season. The people who were shortlisted cannot put something into place because all of the proposals were rejected.

In response to Councilwoman Uria, Mr. Lunny stated that circumstances came to light through the procurement process and what occurred that they had no confidence in the outcome; that the integrity of the process was such that we did not have a sufficient level of confidence to recommend anyone. We were left with certain alternatives and the Administration felt this was the best alternative and he was tasked to assist them to accomplish that, which he did.

Councilman Jacobs advised that it would probably be in the best interests of the City if each Council member met privately with Mr. Lunny to determine what happened. His concern is the appearance; this whole thing has the appearance that something improper was done or is being done by the City. It looks as if the City went out, got the bids, rejected them all and then used those numbers to contract with the other people. We have to trust staff and if he would have known that he could meet with Mr. Lunny prior to meeting he would have to find out

what was going on. He questioned whether there was anything that staff could do to make Council more comfortable with the fact that this was all done properly.

Mr. Lunny understands the perception; however, there was nothing that could be done about the timing. He stated that Administration has announced in Mr. Keefe's memorandum that this was intended only to cover a period of time until he can re-procure this service.

Councilman Jacobs gave Mr. Lunny the benefit of the doubt and was willing to go along with staff's recommendation.

Councilperson Stoner commented that we are out of contract for six months and being out for another 30 days is not an additional exposure.

Motion by Councilperson Stoner, that the contract not be signed and a new RFP be put on the street. There was no second to the motion.

Councilman Jacobs indicated that perhaps the timing factor could be addressed. He questioned how long the process will take. Most of the storms start in September so we would be all right if we did 60 days.

Mr. Keefe advised that we are working on redoing the RFP and the scoring matrix. It will probably be 30 to 60 days before it is ready. It has to be put out for 30 days and there has to be an evaluation period. It will be done as soon as possible but it will not cover us during the storm season.

Councilman Levy stated that the first named storm usually comes out around July 9th; however, major storms do not happen until September.

Councilwoman Uria concurred that the perception is not what we want.

In response to Mayor Bendekovic, Mr. Keefe advised that an RFQ will be done. It will take another 30 days to get it finalized, it would have to go on the street for at least 30 days and it will take at least 30 days to go through the responses, make an evaluation and bring it back to Council.

Councilman Levy commented that he was looking at a 210 watt generator for \$1,345 per hour; how many could we buy for one days worth of renting one. These are pretty astronomical figures and they have us over the barrel because it is an emergency situation. He would want to review that prior to voting. He questioned whether there is a way of doing something temporarily that would keep us covered until the proposal gets done.

Mr. Lunny indicated that it is his understanding that these terms are slightly more favorable in a business sense generally than the existing terms. It is the intent that as soon as the procurement is finished we are going to terminate these contracts and sign the new one. It was intended to provide coverage for this interim period.

Councilperson Stoner suggested making it a three-month contract.

Mr. Lunny stated that could be done. Mr. Keefe has indicated that he will address this as soon as reasonably possible.

Councilman Jacobs commented that you have to trust staff; if they say we need six months instead of three but they will try to get it done in three, then either we trust them or we don't.

Councilperson Stoner participates in this process on a regular basis. She disagrees that it takes that long to put it together and put it out. People are prepared to resubmit.

Mr. Laystrom was present on behalf of the one of the RFP responders and was on the list to be approved. He commented that Mr. Lunny is correct; you do not have to a reason for rejecting all of the proposals. With that said, proposals were submitted in October and were evaluated in February. The responders were then told that the City wanted to recount the points and qualifications in the criteria. Again, without reason, the responders were rejected entirely and the City has indicated that it looks like an RFQ to qualify will be done prior to the RFP. His client spent nine months and thousands of dollars and now the numbers are going to be re-shopped. He stated that it would be nice to give a response; even if it is informally in some way. He concurred that the City does need protection.

Councilwoman Uria indicated that this does not make us look very good; however, we cannot do without coverage.

Councilman Jacobs commented that we are going to lose our credibility in the market place; people are not going to want to work with us with RFP's. This should not happen again.

Mr. Lunny advised that people reject bids all the time in public procurements and start over; it is not unusual. There were circumstances that came to light that caused him to take the very best options available and sometimes those legal actions are not such that discussion is appropriate.

Councilman Jacobs feels that Council should defer to Mr. Lunny and to staff and trust them to do the right thing.

Councilwoman Stoner suggested giving staff until the end of July to send out the RFP.

Mayor Bendekovic indicated that the intent was to get the RFQ and the RFP out prior to December or sooner and that is why the contract was done for a six-month period.

Mr. Lunny stated that he would be happy to discuss any questions from Council outside of the meeting.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Resolution No. 11293 as presented. Motion carried on the following roll call vote:

Ayes: Tingom, Jacobs, Levy, Uria

Nays: Stoner

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ADMINISTRATIVE ITEMS - None.

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LEGISLATIVE ITEMS

Mr. Lunny read the ordinance by title.

Ordinance No. 2460

34. SECOND AND FINAL HEARING OF ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF ZONING; AMENDING THE LISTS OF PERMITTED, CONDITIONAL AND PROHIBITED USES IN THE I-LP LIGHT INDUSTRIAL ZONING DISTRICT; AMENDING SITE DEVELOPMENT CRITERIA AND REGULATIONS FOR THE I-LP ZONING DISTRICT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated June 16, 2011 to Mayor Bendekovic and Members of City Council, from Donald J. Lunny, Esq., City Attorney, follows:

RE: Changes to the I-LP Light Industrial Zoning District for Second Reading

The proposed Ordinance's "high points" as revised after First Reading are set forth in this memorandum. Part I of this memorandum represents resolved matters, and Part II of this memorandum (starting on page 4) represents areas that may or may not need further refinement. Consequently, I have requested the City Clerk to place the Ordinance's Second Reading on the agenda as a Legislative Item.

PART I

Legislative Topics Staff Believes Are Now Resolved

1. The Industry Group requested that the Ordinance be changed to allow governmental administrative services as a permitted use.

The Council directed that the ordinance be revised so as to allow "government administrative services" to be considered on a Use Variance basis.

This change has been made by deleting "government administrative services" as a prohibited use on page 12 (line 512), and by clarifying the business listing for "business and professional offices and government offices" on page 4 (lines 157 and 158).

1. The Industry Group requested that the Ordinance be changed to expand the list of permissible schools to include tutoring schools, computer schools, and day care facilities.

The Council directed that tutoring schools, computer schools, and day care centers be included within the lists of other allowed schools, and that day care facilities have a 1,000-foot separation requirement.

These changes are on page 5 (lines 193-230).

3. The Industry Group requested that the Ordinance be changed to allow personal services.

The Council directed that personal services (e.g. barber and hair salons, spa and nail centers, one-on-one fitness personal training (no classes) be allowed as a conditional use only in buildings providing a 1/200 parking space build out, and further limited to not collectively exceed 15% of the building's gross square feet.

1. The Industry Group requested that the Ordinance be changed so as to expressly permit private utilities (other than franchised providers) as a permitted use.

The Council approved making this use conditional.

The Ordinance has been amended on page 10 (line 427) to add "facilities for private utilities" as a listed conditional use.

1. Two changes were requested as to "sameness determinations."

The draft Ordinance allowed the PZED Director to approve uses that "are not on the list" so to speak, provided the Director determines that the proposed use is a technology based industry use. The draft also expressly stated that appeals would be considered by the Board of Adjustment.

The Industry Group requested that the Ordinance be changed so as to allow these "sameness determinations" for any use similar to any permitted use, and Staff agreed to remove references to the Board of Adjustment so that there would not be a redundant provision in the I-LP zoning district regulations (however, appeals from these determinations would still be considered by such Board pursuant to other portions of the City's Code).

The Council approved of these requests and proposals.

Consequently, subsection 27-541(f) on page 17 (lines 722-738) has been revised.

1. The Industry Group proposed that the proposed aesthetic standards in the Ordinance be modified.

For building facades that face Sunrise Boulevard, the Industry Group wanted the minimum percentage requirement for Class I components decreased from 25% to 10%; and for building facades that front on other public rights-of-way in the District, the Industry Group accepted a minimum percentage requirement for Class I components being decreased from 10% to 5%.

These changes were approved by Council.

The changes appear on page 16 (lines 686-690).

1. The Industry Group wanted some assurance that existing buildings would be "grandfathered" such that they would not need to comply with all of the Ordinance's new aesthetic requirements.

The Council approved this request.

Consequently, the following language has been added to page 17 (lines 709-713):

“Buildings existing within the I-LP zoning district on June 22, 2011 shall not need to comply with the requirements of paragraph (3) or (4) a, b, or f above until if ever, as a result of the application of the Florida Building Code, the building must be improved to meet all of such Code’s then current requirements.”

The provisions of 4 c. and d., which are excluded from the above, will not permit either: (i) exterior walls constructed with metal panels or metal buildings, or (ii) corrugated metal roofs visible from the building exterior (however, standing seam metal roofs shall be allowed).

1. The Industry Group requested several changes related to car sales and leasing.

Pursuant to the Council’s direction:

- a. “Internet sales or leasing of automobiles” where the cars are being sold are inventoried entirely off-site or within a fully enclosed warehouse on site” is now a permitted use. This change appears on page 6 (lines 239-243).
 - b. “Automobile leasing or sales in buildings providing at least one parking space per each 200 square feet of gross floor area” has been added as a conditional use. The draft states that a maximum of six (6) automobiles being inventoried exterior to the premises can be approved by the Director, and any number in excess of this amount shall be considered by the City’s governing body. These changes appear on page 10 (lines 429-434).
1. Finally, the list of prohibited uses was modified on page 11 (lines 464 and 465) to indicate that the sale or leasing of automobiles would be prohibited unless allowed as indicated above.

PART II

Outdoor Storage - - a legislative Topic that did not seemingly enjoy a consensus among the members of the Council, and where changes are now proposed by Staff after being directed to “go back to the chalkboard”.

1. **The Industry Group requested that the Ordinance be changed so as to allow I-LP property to have significant vehicle “outdoor storage” – to the point where parking lots could be rented for this purpose and used for heavy vehicle storage.**

Staff expressed significant concern that this would not be conducive to transforming the Industrial Park into a Technology Park, and allowing parking lots to be rented for storage yards will not promote investment in building improvements over the long term.

Generally, while it was apparent that some of the members of the Council maintained reservations about these requests, they also expressed a desire to be pro-active only for the recessionary period.

Mr. Lunny advised that he had some conversations with representatives of The Industry Group and some suggested changes which staff has no objection to. These conversations occurred yesterday and they help this process; therefore, they are not in the memo. His notes may not have been corrected on Page 3 of the memorandum, Item 8B. What was desired was automobile leasing only, not automobile leasing or sales. With the permission of The Industry Group, we are proposing to change the operative language so that it is "Automobile leasing" only and to delete the word "Or sales" and the "Second subject to" on line 429. In the memorandum, Pages 5D and 6B, regarding Sunset provisions for the small and heavy vehicles. Rather than having December 31, 2016 as the Sunset, it is proposed to make the Sunset December 31, 2015 for both. The Industry Group has asked that the City Clerk be directed to calendar a discussion sometime in October 2015 so Council can determine whether to extend the Sunset provision. On Page 5, Item B1B, "Hedge installed on the opposite side of the wall", they have asked for "Outside" and staff is fine with that. Mr. Lunny stated that he was specifically requested by the Council not to use the word "Visual screening" in the context of the wall or fence and particularly with the heavy vehicles he pointed out that there were some concerns that the large vehicles could have a chain link fence and a small planting that would be six feet high upon maturing. The Industry Group is not opposed to having the concept of visual screening if Council will allow that to be put back in and they have said that the fence can be opaque. Mr. Lunny would propose language similar to the vehicle screening ordinance that we have elsewhere in the City, which would be "That the fence would be wood, metal, PVC or similar rigid material constructed to visually screen 80% of its surface area". One remaining area of discussion about the type of fence is that they wanted to know whether sliding a vinyl runner through the chain link would be acceptable to Council and they were told that he did not know, as that is not acceptable in other areas of the City. He believes that is the only remaining issue.

Emerson Allsworth, attorney, represents a couple of property owners and this ordinance has been a year and a half in the making, trying to improve the economics of the area. He commended Mr. Lunny and Mr. Leeds for working with them and for their cooperation. There was a conference call yesterday, at which time this was reviewed in detailed. All of the suggested changes are in concurrence; they do not have anything else to add.

In response to Councilman Jacobs, Mr. Lunny explained that one draft said that outdoor storage of construction vehicles and what are considered heavy vehicles could be screened with a wall or a fence and a hedge and the words used were "Visually screen it". Some of the Council members said they did not want the words "Visually screening", specify what the fence and the wall will be. He was also requested what the height of the hedges were at maturity or at planning. This draft proposes that the fence or wall would be six feet high and it would be one or the other and that the plantings would be on the opposite side of the vehicle storage area and could be planted at maturity so they would grow six feet high. This is only to screen outdoor storage of the heavy vehicles. Concerns were expressed about what type of fence is preferred. He advised that it could be a chain link fence with a planting so it would take a couple of years to screen and that is when the question came up as to whether the fence could be changed to be opaque. They also discussed shadowboxing and vinyl slats. This is the only area that needs direction from Council.

Councilman Jacobs is familiar with two types of walls; a concrete block wall and a prefabricated wall, which is a lot like a fence.

Mr. Lunny believed that either would be accepted. He does not know of any wall that is not solid. Words like "solid wall" or a fence that is a certain type could be added.

Councilman Jacobs commented that we are looking for permitted fences and whether we are going to allow a chain link fence, a wooden fence, or a PVC fence.

Councilwoman Uria stated that all the fences will be screened with landscaping.

Mr. Lunny indicated that some are concerned about the growth period. The purpose is to determine how to screen the fences in an appropriate time and also to secure them.

Councilman Jacobs concern about using a chain link fence with inserts is that they do not last very long and the start to look bad unless they are well maintained. He would prefer to allow a chain link fence with landscaping in front and for a while you will be able to see through the fence. If the property owner wants more screening that is their prerogative and they can spend more money on taller landscaping or choose a different fence. He is not sure whether anyone would opt for a wooden shadowbox fence in this type of environment.

In response to Councilman Jacobs, Mr. Lunny advised that there are code provisions that prevent the use of barbed wire or razor wire on the top of the fence.

Mayor Bendekovic questioned whether vinyl coating has ever been considered. We have had the black and green coated fences. The vinyl coating is much more aesthetically pleasing.

Mr. Laystrom suggested saying that the fence has to be vinyl coated.

Mr. Lunny referenced Page 8, line 327, and noted that is what we are talking about. He said a solid masonry wall and a fence were not specified.

Councilperson Stoner questioned how solid wall was defined; CVS block is hollow, not solid. It is solid when it is finished because of the stucco on the outside.

Mr. Laystrom advised that the City has always taken the position that both the precast and the block are considered solid. It is a visual issue, not a construction issue.

Mr. Lunny noted that he would be happy to add the word "solid finish". He believed that specifying certain types of fences and saying "If it is chain link it should be vinyl coated" would be sufficient.

Motion by Councilperson Stoner, seconded by Councilman Tingom, to approve Ordinance #2460 on second reading. Motion carried on the following roll call vote:

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

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 35 by title.

Resolution No. 11294

35. **RESOLUTION** APPROVING A 2,964-SQUARE-FOOT BANK WITH A 991-SQUARE-FOOT DRIVE THRU CANOPY AS A PERMITTED CONDITIONAL USE, TO BE LOCATED IN THE B-7Q (PLANNED COMMERCIAL DEVELOPMENT) ZONING DISTRICT, PROPERTY DESCRIBED AS TRACT "C" OF THE JACARANDA PARCEL 325 PLAT, LYING IN SECTION 32, TOWNSHIP 49 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 98, PAGE 24 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND LOCATED AT 1800 NORTH PINE ISLAND ROAD (AT THE NE CORNER OF PINE ISLAND ROAD AND WEST SUNRISE BOULEVARD), AND PROVIDING AN EFFECTIVE DATE THEREFOR. (TD BANK)

-AND-

SITE PLAN, ELEVATION AND LANDSCAPE PLAN APPROVAL FOR TD BANK LOCATED AT 1800 NORTH PINE ISLAND ROAD.

A staff report dated June 22, 2011, from the Planning, Zoning and Economic Development Department follows:

REQUEST #1: Consideration of a request for a conditional use approval to allow a 2,997-square-foot bank with three drive-thru lanes.

REQUEST #2: Consideration of a request for a site plan, elevation and landscape plan approval.

WAIVER REQUEST:

1. From: Section 27-657, which requires parking areas to be setback a minimum of 40 feet from the right-of-way of Sunrise Boulevard.
To: Reduce the required setback for parking from 40 feet to 19.1 feet.

Staff supports this waiver in order to avoid the removal of several large canopy trees on the north side of the site.

2. From: Section 13-41(b), which requires landscape pedestrian zones to extend the full width of each facade which abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.
To: 11.75' required along the northern façade – 0' provided.
3. From: Section 13-41 (c), which requires one tree to be installed in the landscaped pedestrian zone for each 30 lineal feet, or fraction thereof, of façade width?
To: 3 trees required along the northern façade – 0 provided.
To: 3 trees required along the southern facade - 2 provided.
To: 2 trees required along the western façade – 1 provided.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; Conditional use/site plan application; Landscape Planning Review Board Meeting minutes of February 28, 2011; Advisory Board for the Disabled Meeting minutes of February 28, 2011; and Review Committee Meeting minutes of January 25, 2011.

PLANNING AND ZONING BOARD RECOMMENDATION: Recommendation of **APPROVAL** subject to staff comments and waivers (June 7, 2011).

REVIEW COMMITTEE: **NO OBJECTION** to the project moving forward for further review (January 25, 2011).

LANDSCAPE PLANNING REVIEW BOARD: Recommendation of **APPROVAL** subject to staff comments (7/0; February 28, 2011).

ADVISORY BOARD FOR THE DISABLED: Recommendation of **APPROVAL** subject to staff comments (7/0; February 28, 2011).

ANALYSIS:

The subject site is 1.1 acres in area and currently developed as a gas station with fuel pumps, mini mart, and automated car wash. The station has been closed since the summer of 2010. The site is bound by commercial uses to the north, south, and west, together with office uses to the east.

The applicant proposes demolition of the existing gas station and construction of a 2,967-square-foot TD Bank with three drive-thru lanes. The building has a contemporary design of scored stucco, decorative cornices, metal seam awnings and brick accent walls. Required parking for the use is 15 spaces with 20 spaces being provided.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning: No objections.

Zoning:

1. Section 27-657 requires parking to be setback from Sunrise Boulevard a minimum of 40 feet. Proposed parking is shown with a 19.1-foot setback from Sunrise Boulevard.
Waiver request submitted.
2. Provided parking is five spaces over the minimum code requirement. Staff recommends one-two spaces be removed from the group of eight spaces fronting Pine Island Road.
3. Wall signage is limited to a maximum area of 60 square feet on the south elevation and 30 square feet on the west elevation.
4. Remove all signage from plan.

TRAFFIC CONSULTANT: See Engineering comments.

ENGINEERING DEPARTMENT:

All previous comments have not been addressed. If this project is approved by City Council, the Engineering

Department will require all outstanding comments to be addressed on the site plan before it is stamped as the approved site plan of record and done prior to submittal for permitting.

1. Please provide the approval letter from Broward County for the driveway connection changes. ***The Broward County letter has been submitted. Broward County is requesting a permit for the driveway work. The City will require a copy of an approved permit prior to the issuance of an Engineering permit.***
2. Per the City detail the fire lane may not be a part of the drive aisle. As shown, the driveway width will be 22 feet, exclusive of the fire lane. Please revise the fire lane to be a painted curb. ***Comment not addressed at this submittal.***
3. The ramp for the disabled parking must be separate from the concrete edge that stops the vehicle. As shown, the wheel of the vehicle will be in the ramp. Please revise to separate the ramp and the curb. ***Comment not addressed at this submittal.***
4. The pedestrian signs must be located for the direction of vehicular travel. As shown, they are both on the same side of the drive aisle; please revise. ***Comment not addressed at this submittal.***
5. The truck wash area is not the right dimension. Please provide the detail from the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual. ***Comment not addressed at this submittal.***
6. Please provide the location of the construction fence and gate access. The gates must be a minimum of 25 feet from the edge of the pavement and swing in. ***Comment not addressed at this submittal.***

Traffic Study Comments:

The traffic study and queuing analysis will be accepted due to the low trip generation and an acceptable queue based on 100% volumes. Please note, for future reference, that the pass-by percentage is not acceptable as the data derived is 18-23 years out of date.

Permit Comments – Submitted permit will not be reviewed again until Site Plan approval.

1. An erosion and sedimentation control plan will be required. ***Please meet with Engineering to discuss.***
2. A demo plan and permit will be required with a building permit.
3. A Maintenance of Traffic (MOT) plan will be required. ***Please meet with Engineering to discuss.***
4. Please provide drainage calculations, signed and sealed by a professional engineer, registered in the State of Florida, as well as approval from OPWCD. ***Stormwater calculations need revisions; please set up a meeting with Engineering to discuss.***

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:

- 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.

Site Plan:

1. City Code 13-41(b) requires landscape pedestrian zones to extend the full width of each façade abutting a parking or vehicular use area; the minimum width shall be half the height of the proposed building (paved areas in the lpz may not constitute more than five feet of the required lpz).
 - a. 11.75' lpz required along the northern façade – 0' provided.
Waiver requested – applicant agrees to mitigate for code required trees.

Planting Plan:

1. A minimum of one tree is required every 30 lineal foot, or fraction thereof, of facade width (3 palms = 1 tree):
 - a. 3 trees are required along the northern landscape pedestrian zone – 0 trees have been provided.
 - b. 3 trees are required along the southern landscape pedestrian zone – 2 trees have been provided.
 - c. 2 trees are required along the western landscape pedestrian zone - 1 tree has been provided.
Waiver requested.
2. Staff is concerned with the maintenance of the large areas of planting beds throughout the site; staff suggests pathways incorporated through the beds for purposes of mulching, hedging, weed control. *Staff acknowledges the use for LEED certification.*
3. Staff is concerned with the proposed use of Zoysia “Empire” sod as this specie of sod requires additional maintenance with regards to mowing and fertilizing; staff would prefer the use of St. Augustine sod. *Staff acknowledges the use for LEED certification.*
4. Staff is concerned with plans submitted for irrigation throughout the property; an irrigation system with 100% drip irrigation coverage typically requires a higher level of maintenance with regards to clogged heads from mulch, sod, etc. and is typically not conducive to use on commercial properties. *Staff acknowledges requirements for LEED certification.*
5. Please meet with staff regarding required tree removal and relocation permits prior to permitting.

BUILDING DEPARTMENT:

No objections; previous comments have been addressed.

FIRE DEPARTMENT:

No objections as to this conditional use request as submitted.

POLICE DEPARTMENT:

1. All exterior lighting must conform to lighting standards by the IESNA for high risk areas (4-5Fc) primarily in the areas of the ATM machines.
2. The interior ATM must have a controlled access device permitting only authorized users inside the lobby area after hours. This area must be monitored by a CCTV system that provides recorded activity with good color rendition. The interior ATM is recommended to have an emergency notification system that provides users assistance in the event of a potential criminal event.
3. The parking area must have the number and design of handicapped parking as required by Ordinance # 2149.

PUBLIC WORKS:

No comments.

RECREATION DEPARTMENT:

No objection.

UTILITIES:

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

1. Prior to a Building Permit or Business License being issued, the following must be provided:
 - Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions, 954-797-2159.
2. Onsite improvements and equipment will be required at applicant's expense to support project.
3. Note, all plans do not disturb lift station antenna, contact Plantation Utilities to move antenna.

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. As-built drawings and acceptance by the district will be required prior to issuance of a Certificate of Occupancy.

WASTE MANAGEMENT:

Enclosure needs to be 12' x 12'; inside with two (2) six-foot gates and stoppers.

EXHIBIT A

CONDITIONAL USE:

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

The conditional use request submittal for the project includes a full set of sealed and sealed plans, including:

- A survey with existing conditions.
- The proposed site plan that correctly reflects the ingress and egress to the property, the proposed landscaping, parking, buffering, etc. of the property to buffer surrounding property from the proposed bank use, the square footage of the bank and drive-thru canopy.
- Floor plan of the proposed bank.
- Elevations of the proposed bank that identify the building materials to be utilized.

As illustrated in the foregoing plans, the project has been designed to comply with the City Code and the building is designed to be architecturally compatible with surrounding development. The building will be LEED certified as well.

Staff agrees.

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 property has a Commercial land use designation. The proposed financial institution would provide services and convenience to visitors, as well as the adjacent residential area, and serve the neighboring community and businesses in accordance with the Property's Commercial Land Use designation. The project is also consistent with the following Goals, Objectives, and Policies of the City's Comprehensive Plan:

- Future Land Use Goal 1, which supports and promotes orderly growth and development based on the needs of its residents, businesses, and visitors, while ensuring the availability of infrastructure.
- Future Land Use Objective 1.1, which supports development that is served by existing infrastructure, facilities, and urban services.
- Future Land Use Objective 1.8, and its supporting policies, which support providing a range of commercial development, including neighborhood, community, and regional centers, to serve the City's visitors, residents and businesses. The supporting policies also promote the location of commercial development as or near intersections of collector and arterial roadways and developing sites with quality landscaping and at a compatible scale.

Staff agrees.

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

The proposed bank use is in harmony with adjacent development, as the property is generally surrounded by one and two story commercial development, including retail, restaurant, and office uses. Directly north of the property is commercial development and an office complex. To the west of the property, across Pine Island Road, is a large shopping center. To the south of the property, across Sunrise Boulevard, is another bank with a drive-thru. To the east of the property, across a canal is commercial/industrial development (BellSouth Learning Center). The property is also within close proximity to multiple residential communities, many of which will utilize the services offered by the proposed bank. In addition, not only is the architectural design of the proposed bank building designed to be complimentary to the surrounding development; it is also designed to meet LEED certification standards.

The parking for the proposed bank use exceeds that required by Code, as a 2,967-square-foot bank is required to provide 15 parking spaces and the bank is proposing 20 parking spaces.

The traffic study and queuing analysis prepared by McMahon Associates, Inc. that accompanies this conditional use request concludes that the proposed bank use and location of said use will not create a traffic hazard or traffic nuisance. The traffic study also indicates that the project significantly reduces both the number of average daily and peak hour trips compared to that generated by the gas station and carwash use. The queuing analysis concludes that the drive-thru provides adequate stacking so as to not cause any traffic nuisance or vehicular

conflicts (i.e. congestion, backup, etc.) on site or the adjacent roadways. As shown on the proposed site plan, the layout provides for the safe movement/circulation of vehicles and pedestrians alike. The proposed layout also provides ingress and egress along Pine Island Road and Sunrise Boulevard, as well as internal cross-access drive with the property to the north. These access points are proposed in these locations to provide a safe and convenient access to the property from both arterials, thereby alleviating any potential onsite and offsite traffic congestion.

A market study/needs analysis is also being prepared in support of this conditional use request. Preliminary feedback concludes that there is a public need for a bank use in the area, not only to serve residents and patrons of the surrounding development but to also provide competition for the existing banks within proximity to the project.

Staff agrees. However, it should be noted that recently approved or under review are site plans for four additional bank sites that propose demolition of existing uses. Staff is monitoring the loss of certain uses such as gas stations that may create inconveniences for City residents if these uses continue to be replaced with other uses such as freestanding banks or pharmacies at prime locations.

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, glare or physical activity.

The project 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, odors, dust, glare or physical activity. The property is currently developed as a gas station and carwash. Prior to commencing development of the project the property will be remediated to clean up any environmental contamination created as a result of the existing use. The project is a more compatible use than the existing gas station and carwash, as no obnoxious odors, noises, chemicals or waste will be associated with the proposed use that are typically associated with gas stations and carwashes. Additionally, the bank has proposed a building that is LEED certified, as it prides itself on its Green Building techniques that are more environmentally sustainable and friendly.

Staff agrees.

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 project will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood. Rather, the bank is proposing a LEED certified building, thereby promoting, and encouraging the foregoing for the City as a whole, especially considering that green building and business practices are central to the bank's business model. The presence of such a corporate role model within the City is influential to residents, businesses and visitors alike, in addition to providing a needed commercial service to the community.

Staff agrees.

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.

The project will not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities and will not create a hazard by virtue of its site and location to residents, visitors, or workers in the neighborhood. The traffic study and queuing analysis prepared by McMahon Associates, Inc. concludes that there is adequate roadway capacity for the project and that the proposed bank use generates fewer trips than the existing gas station and car wash use on the property. The queuing analysis also concludes that the proposed drive-thru lanes provide sufficient stacking to avoid on and off-site vehicular conflicts. Further, the City is in the process of conducting its concurrency review for the project; however, considering that adequate public facilities and services are available for the gas station and car wash use, it is reasonable to assume that public services and facilities are available to serve the proposed bank use, as the bank use is a less intensive use and operates using green business practices, thereby lessening its demand on the foregoing.

Staff agrees.

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 meets all other specific standards set forth elsewhere in the City Code for the bank use. Specifically, the project complies with the City Code requirements for site development (Article XI, Section 27-688; internal PCD Standards) of the property, including parking, landscaping and buffering.

Three waivers are requested to which the staff has no objection.

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

As illustrated on the proposed site plan included with this conditional use request, the bank proposes a total of 3,958 square feet of bank use, which includes a 2,967-square-foot financial institution with a 991-square-foot drive-thru canopy.

Staff agrees.

Mr. Lunny read the significant waivers.

Councilwoman Uria referenced Engineering comment #5. The truck wash area and noted that it is not in the right dimension. She questioned whether the gas tanks were removed.

Mr. Butler advised that the truck wash area is temporary; it is an erosion sedimentation control measure, which is a necessary practice for them to comply with during construction.

Scott Backman, representative on behalf of the applicant, was present. He stated that the tanks have been removed. They are currently processing a remedial action plan through Broward County. All of the environmental issues are being addressed considering it is a former gas station site.

In response to Councilperson Stoner, Greg Nowack, property owner, indicated that an extensive remedial action plan has been done on the property. During the last quarter, in February, they met all levels to get a “No further action”, which means it is clean. They have since submitted for a “No further action” or a remediation

completion order from Broward County and then the State. There was ground water contamination. It was cleaned up and now they are below all State levels at this point. David Vanlaningham (sic), who runs the Department at Broward County, has to sign off on every plan prior to it being approved by the County.

Councilperson Stoner stated that no permits will be issued until the "No further action letter" is provided.

Councilman Tingom referenced Page 2 under the Engineering Department and noted that there are several comments that say these items have not been addressed. He questioned whether that has been corrected.

Mr. Backman advised that he and their engineer have spoken with Mr. Butler. All of the comments have been addressed on their plans; however, considering the interest of time from the Planning and Zoning Board meeting to this evening, the plans were not formally resubmitted back to the City. All of the comments will be addressed prior to Building permit.

Councilman Tingom questioned what it means when it says the data is 18 to 23 years old.

Mr. Butler explained that the criteria used in that study effort is old and they are bringing it to their attention for future reference. It did not have any great bearing on the outcome of the Engineering Department's decision and that was clarified in the comment. He mentioned the bold print listing the Engineering Department's position and stated if this item is approved and moved forward, they do have confidence that the applicant will have made the changes but they ask that the approved site plan of record reflect the changes prior to going to permit.

Councilwoman Uria mentioned the entrance on Pine Island Road and questioned whether it is an exit only.

Mr. Backman indicated it is a right in right out.

Councilperson Stoner questioned the term of the lease.

Mr. Backman advised that the lease is a 25 year initial term with a five-year option.

Mr. Backman referenced Zoning comment #2. This was discussed at the Planning and Zoning Board and he did speak with Mr. Leeds prior to the meeting. TD Bank is America's most convenient bank; one of the things it prides itself on the most is that there is always a space available for its customers. The bank has requested that they not give up the two spaces.

Mr. Leeds did not have an objection to deleting Zoning comment #2.

Motion by Councilperson Stoner, seconded by Councilman Jacobs, to approve Item #PP10-0026, TD BANK, located at 1800 North Pine Island Road, noting that Zoning comment #2 has been deleted, including the waivers and subject to staff comments. Motion carried on the following roll call vote:

Ayes: Stoner, Tingom, Jacobs, Levy, Uria

Nays: None

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Mr. Lunny read Item No. 36.

36. REQUEST FOR SITE PLAN MODIFICATION (PARKING WAIVER) FOR THE FOUNTAINS SHOPPING CENTER LOCATED AT 801 SOUTH UNIVERSITY DRIVE.

REQUEST: Consideration of request for a site plan modification (parking waiver) for the Fountains Shopping Center.

WAIVER REQUEST:

1. To reduce the required parking for the Fountains/Midtown 24 Shopping Center from 2,482 required parking spaces to 2,385 provided parking spaces (93-space reduction).

EXECUTIVE SUMMARY

Overall, 2,385 parking spaces are required for those portions of the shopping center owned by DDR and Midtown 24. Red Lobster, Olive Garden, Smokey Bones and the Medical Office Building are separately owned outparcels that provide their own parking. In 2006, the City Council approved the original DDR/Midtown 24 project with the following parking reductions:

- SPI-3 shared parking incentive: 12.5% reduction (300 spaces)
- SPI-3 interconnectivity incentive: 5% reduction (119 spaces)
- City Council Parking Waiver: 2.8% reduction (66 spaces)
- Total 2006 Reductions 20.3% (485 spaces)

DDR proposes to add three additional restaurants (total 11,000 square feet) requiring 93 additional spaces, the difference between required retail parking and restaurant requirements. The additional waiver will increase the overall site reduction to approximately 24%. Additional restaurants with outdoor seating contribute to the revitalization of a shopping center. However, additional parking demand will significantly reduce “close-by” parking during evenings (especially weekends) in the parking areas in front of Dick’s and Total Wine.

From a practical standpoint, PZED staff cannot determine if the 93-space deficit can be accommodated since portions of the shopping center remain vacant. Assuming sufficient unused parking is available in the Marshall’s parking field, the walking distances to restaurants will vary from 250 – 350 feet. (Based on past experience, parking in front of Dick’s will be very limited during peak restaurant hours). Also, as noted by Engineering (see below) the parking waiver may increase internal site congestion.

PZED staff has no recommendation on this request. City Council will need to determine if additional walking distances and the likelihood of greater internal traffic congestion justifies the benefits of additional dining establishments.

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

ANALYSIS:

The subject site is located on the west side of University Drive between SW 6th Street and SW 10th Street. On June 15, 2006, the City Council approved a mixed-use master plan of approximately 65 acres encompassing residential, retail, restaurant and office use within the SPI-3 Midtown District. Subsequent site plans approved between 2006 and 2011 approved demolition and reconstruction of approximately 55% of the center, 478 new rental apartment units in two 12-story towers (located in the former movie theatre parking lot), and a new east/west main street connecting University Drive to SW 78th Avenue flanked by commercial use buildings (A and B) on the north and south sides.

Pedestrian plazas and parks with pavilions have encouraged restaurants with outdoor seating within Retail Buildings A and B together with the retail area (G) on the north side of the park. The code requires parking based on the number of seats within a restaurant and requires additional parking for outdoor seating when the outdoor seating area size is greater than 10% of the restaurants interior floor area.

Overall, 2,385 parking spaces are required based on the existing uses within the master plan, incentives within the SPI-3 zoning district that allow for a reduction in required parking (419 spaces or approximately 17%), and previous waiver approvals (of 66 spaces). Currently, 2,389 spaces are provided based on the most recently approved site plans (Midtown 24 – Phase 2 and Total Wine – Retail G). DDR Southeast Fountains LLC anticipates approximately 11,000 square feet of additional restaurants with approximately 540 seats (indoors and outdoors). The additional parking needed to support the anticipated restaurants will increase the required parking for the center to 2,482 spaces resulting in the need for a 93-space parking waiver.

STAFF COMMENTS:

PLANNING AND ZONING:

1. While staff supports the revitalization of the center which includes restaurants with outdoor seating, staff anticipates the parking fields immediately adjacent to Retail A and B will have high occupancy rates during evenings and weekends. While parking will be available on the site, it may be located in remote areas of the center that will require patrons to walk above average distances to their dining destinations.
2. DDR Southeast Fountains LLC owns the main shopping center, which includes the following freestanding buildings, New Retail A and B (Lime Fresh), Vision Works, Duffy's, and Chili's. DDR also owns the unoccupied office area next to Sweet Tomatoes Restaurant. While Midtown 24 is separately owned, it has a shared parking agreement with DDR. Because DDR is requesting a parking waiver which could reduce available parking for Midtown 24, Midtown 24 is required to consent to the parking waiver, which they have done. The Medical Office Building, Red Lobster, Olive Garden and Smokey Bones are each separately owned, including their own parking areas.
3. The applicant has provided the existing parking calculations for the site but has not provided the proposed parking calculations for the site based on the requested parking waiver. Should City Council approve the requested parking waiver, updated parking calculations reflecting the increased restaurant uses must be provided prior to issuance of building permits.

ENGINEERING DEPARTMENT:

The proposed change of 11,105 square feet of retail to restaurant will not increase the overall PM peak hour vehicle trips to the site. The locations of the proposed restaurants may result in increased congestion at the site's internal intersections, especially the main intersection.

Paul D'Arelli, Attorney, was present on behalf of the property owner. He referred to this item as a clean-up item to the overall redevelopment plan. It was always anticipated that there would be some amount of restaurant use in the new Retail A and B buildings at the time the original site plan came through with the Dick's Sporting Goods and the new buildings. It just was not known what the break down would be; therefore, it was all designated as retail. In order to square up all of the parking counts in light of changes that have happened over the site, now knowing what will be for restaurant and retail mix. They want to bring some finality to the overall parking counts and squaring that up results in a reduction of 93 spaces. He clarified that they requested a 98-space waiver only because they thought that was the actual number; however, the staff report says 93.

Michael Pierce, project manager, was present. They spent a lot of time working out the parking counts and anticipated all of the future development for the projects that have been site plan approved. When coming up with the final numbers there were five deficit parking spaces. It is a 93-space reduction.

In response to Councilwoman Uria, Mr. Pierce stated that the request is for 98 parking spaces. There will be a little cushion because they are anticipating about 11,000-square-foot of restaurant space. Six of those would be restaurants, three in Retail A, three in Retail B, one anticipated in Retail G1.

Councilman Jacobs referenced comment #3 and questioned whether the applicant was aware of it.

Mr. Pierce advised that the plan will be modified to show the 98 spaces.

Motion by Councilman Jacobs, seconded by Councilwoman Uria, to approve Item No. 36, request for site plan modification (parking waiver) for THE FOUNTAINS SHOPPING CENTER, located at 801 South University Drive. Motion carried on the following roll call vote:

Ayes: Stoner, Tingom, Jacobs, Levy, Uria

Nays: None

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COUNCILMEMBERS' COMMENTS

Councilman Jacobs appointed Connie Freund to the Planning and Zoning Board and John Hagan to the Unsafe Structures Board.

Councilman Jacobs mentioned an e-mail about Broward beekeepers and whether Plantation is a beekeeper friendly City with regard to our ordinances. He did not look into this but was wondering whether we are beekeeper friendly and if we are not, should we be?

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Councilperson Stoner was honored to have been included in a business round table sponsored by the White House. The meeting was very insightful and across the board the two comments were lack of access to capital and regulations.

* * * * *

Councilman Tingom made the following comments:

- He thanked the Plantation Chamber of Commerce for hosting the Wine Jazz & Taste of Plantation at the Renaissance.
- He mentioned that the outsourcing of Summer Camp last year did not provide a quality program; however, he was pleased to report that everyone he has talked are extremely satisfied this year with the City running the program.
- He has attended almost all of the Advisory Board meetings and believes that the restructuring of the meetings has streamlined the process, reduced costs to the City and has made us more efficient in the way we operate our Advisory Boards.
- He appointed George Harrell as an alternate to the Planning and Zoning Board.

* * * *

Councilman Levy stated that all of his previous appointments to the Advisory Boards will remain.

Mayor Bendekovic commented that a regular and an alternate needed to be designated on the Parks and Recreation Board.

Councilman Levy appointed Deborah Generotti to the Parks and Recreation Board.

* * * * *

Mayor Bendekovic made the following comments:

- She mentioned the iPads and tutorials that were distributed to the Council members. There will be a seminar on July 13, 2011 at 7:00 p.m., in the Mayor's Conference Room.
- A reminder to everyone of the Budget Workshop that will be held in the Developmental Building downstairs conference room on June 29, 2011 at 6:30 p.m.
- She expressed thanks to the Plantation Chamber of Commerce for the Wine Jazz & Taste of Plantation.

* * * * *

Councilwoman Uria appointed Sandra Gracey to the Parks and Recreation Board and Michael Taussig to the Nuisance Abatement Board.

With regard to bees, on December 23, 2011 Councilwoman Uria had to call a gentleman to get rid of the bees in her barn. The first thing he said to do was to get the horse out of there; they will kill the horse. If you get stung by the African bee you will be stung by thousands and if stung the by the European bee you are stung by hundreds.

* * * * *

PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, was present. He stated that he is grateful for the World Trade Center artifact.

Mr. Conklin requested that the City repeal Resolution No. 10481. He read a Proclamation stating that 2011 is the Centennial Anniversary Year of the birth of Ronald Wilson Reagan, the 40th President of the United States of America. He suggested that NW 65th Avenue and NW 5th Street be renamed to Ronald Reagan Way.

Councilwoman Uria indicated that the Council would take the request into consideration.

* * * * *

WORKSHOPS – None.

* * * * *

Meeting adjourned at 10:45 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