

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

August 24, 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 Councilman Tingom.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – May 11, 2011

The minutes of the City Council meeting for May 11, 2011 was approved as presented.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic read a Proclamation designating Sunday, September 11, 2011, as *Patriot Day* in the City of Plantation.

Mayor Bendekovic presented Service Awards to the following employees:

*Sgt. Robert Mazer	Police	30 years
*Capt. Michael Price	Police	30 years
Lt. Allen Belanger	Police	25 years
Officer Philip Toman	Police	25 years
*Officer Steven Bowser	Police	20 years
Susan Graham	Utilities	20 years
Robert Murphy	Public Works	20 years
*Theresa Alexandrich	Code Enforcement	15 years
*Sidney Blige	Landscape	15 years

*Officer Craig Boermeester	Police	15 years
Officer Paul Fortunato	Police	15 years
Officer Allan Radziwon	Police	15 years
*Deborah Carpenter	Finance	10 years
John Montefusco	Information Technology	10 years
*John Reilly, III	Information Technology	10 years
Sgt. Jeffrey Schlegel	Police	10 years
*Officer Jennifer Tofexis	Police	10 years
Officer Jeffrey Beauregard	Police	5 years
Richard Chin	Utilities	5 years
*Jerilyn Cronin	Building	5 years
Matthew Goggins	Parks & Recreation	5 years
Jason Graham	Parks & Recreation	5 years
Marcus Hurt	Information Technology	5 years
*Jimmy Keelin	Utilities	5 years
*Deborah McKeever	Finance	5 years
*Jeffrey Pine	Parks & Recreation	5 years
Joel Walker	Parks & Recreation	5 years

*Unable to Attend

Congratulations were offered.

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Jim Romano, Parks & Recreation Director, made the following announcements:

- PAL registration will be held for soccer and roller hockey on Friday, August 26, 2011 between 6:00 p.m. and 9:00 p.m. and Saturday, August 27, 2011 between 9:00 a.m. and 2:00 p.m. at Plantation Central Park.
- The Cooper Super Tennis Series will be held at the Frank Veltri Tennis Center on Saturday, September 3, 2011 through Monday, September 5, 2011.
- The Annual Art Search for Grades K-12 runs in conjunction with Art in the Park. Entry forms are available between September 6, 2011 and October 14, 2011 at Plantation Central Park, the Community Center, Volunteer Park, Jim Ward Community Center and all Plantation schools.
- The Annual Youth Hot Shot Basketball Tournament will be held at Plantation Central Park Gymnasium on Friday, September 9, 2011 at 7:00 p.m. Registration begins on August 29, 2011 at Plantation Central Park and it is limited to 25 participants per group.

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Mayor Bendekovic made the following announcements:

- The Budget Workshop was changed to Wednesday, August 31, 2011 at 6:30 p.m.
- There will be a Public Redistricting meeting on Thursday, September 29, 2011 between 2:30 p.m. and 4:30 p.m. at the Government Center located at 1 University Drive in Plantation, Florida.
- The Broward County Energy Star Rebate Program will have two information sessions that are scheduled at the Broward County West Regional Library. Businesses may attend on Monday, August 31, 2011

between 6:30 p.m. and 7:30 p.m. and residents may attend on Tuesday, September 13, 2011 between 6:30 p.m. and 7:30 p.m.

- The Farmers Market is every Saturday at Volunteer Park between 8:00 a.m. and 2:00 p.m.
- The City is closed for Labor Day; Monday, September 5, 2011.
- We would like to have as many residents as possible sign up for Plantation Now; an electronic newsletter.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic had a voting privilege on Item No. 13.

Mr. Lunny read the Consent Agenda by title.

4. Request for approval to award a contract to Champion Controls, Inc. for repairs and calibration of flow meters and related devices at all three treatment facilities for an initial period of two years with two additional two-year elective extensions. (Budgeted – Utilities)
5. Request for approval of a work authorization in the amount of \$32,800 for engineering services by the Utilities Department's consulting engineers, Hazen & Sawyer, P.C., to prepare the Regional Wastewater Treatment Plant operations permit renewal and operations and maintenance performance report, as required by the Florida Department of Environmental Protection. (Budgeted - Utilities)
6. Request for authorization to waive competitive bidding for bio-solids transport and disposal and to enter into an agreement with H & H Liquid Sludge Disposal, Inc. for \$632.85/truckload until December 31, 2011. (Budgeted – Utilities)
7. Request to approve proposal from Accela for an upgrade to Permits Plus in the amount of \$430,642. (Budgeted – Designated Capital)

Ordinance No. 2463

8. Second and Final Reading of **ORDINANCE** pertaining to the subject of procurement; amending the City's procurement law so as to clearly implement the requirements of newly enacted Chapter 2011-140, Laws of Florida; providing definitions; implementing temporary exemptions from Public Records Law as provided under Chapter 2011-140, Laws of Florida; implementing exemptions from public meeting requirements for certain meetings as provided under Chapter 2011-140, Laws of Florida, (meetings at which negotiations are conducted, a vendor makes an oral presentation, a vendor answers questions, and at which team members discuss negotiation strategies, as part of a competitive procurement process); providing other miscellaneous clarifying changes to the City's procurement code; providing findings; providing a savings clause; and providing an effective date therefor.

Resolution No. 11321

9. **RESOLUTION** to apply for a Broward County Resource Recovery System Recycling Grant.

Resolution No. 11322

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 4 – August 17, 2011 for the Plantation Gateway Development District.

Resolution No. 11323

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 4 – August 17, 2011 for the Plantation Midtown Development District.

Resolution No. 11324

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 4 – August 17, 2011.

Resolution No. 11325

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period August 4 – August 17, 2011 for the City of Plantation's Community Redevelopment Agency.

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

Ayes: Stoner, Tingom, Jacobs, Levy, Uria

Nays: None

NOTE: Mayor Bendekovic voted affirmatively on Item No. 13.

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ADMINISTRATIVE ITEMS

14. **REQUEST FOR APPROVAL TO AWARD A CONTRACT FOR LABORATORY TESTING SERVICES BASED ON SEALED PROPOSALS OPENED ON AUGUST 2, 2011.**

A memorandum dated August 17, 2011, to the Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

On tonight's agenda is the Utilities Department's request to award a contract in connection with a sealed solicitation for Laboratory Testing Services. Since the proposals have not yet been opened for 30 days, they remain exempt from the public records law in accordance with newly adopted Chapter 2011-140, Laws of Florida. For this reason, the recommendation is being delivered in sealed envelopes and is confidential.

The listing of this item on the Council meeting agenda does not identify the name of the business entity to whom the Utilities Department is recommending the contract award be made, nor is the value of the contract to be listed. However, the subject of the topic is listed on the agenda. The matter is being placed on the agenda as an Administrative item because the Council has not yet approved the proposed ordinance implementing the new State Law. The recommendation is being made pursuant to a confidential memorandum. The City's web based agenda access program indicates that backup material for this item is not yet available in accordance with Chapter 2011-140, Laws of Florida.

The Legal Department suggests that if the Members of the Council wish to follow the recommendation of the Utilities Department, a motion be made as follows:

“I move the award of the contract for the Utilities Department Laboratory Testing Services in accordance with the Utilities Department memorandum dated August 17, 2011”.

If such motion passes, the matter will then be public and the Council President may then announce the identity of the business entity to whom the award has been made and disclose the procurement’s value. If the Council wishes to award the contract to a different business entity identified by a number or letter in the Utilities Department memorandum, the motion should identify the number or letter as indicated in the memorandum and if same passes, the Council President’s disclosure announcement can be modified accordingly.

Motion by Councilman Tingom, seconded by Councilman Jacobs, to award the contract for the Utilities Department Laboratory Testing Services in accordance with the Utilities Department memorandum dated August 17, 2011. Motion carried on the following roll call vote:

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

Councilman Levy noted that proper due process was done and this was the lowest bid.

Mr. Lunny suggested that once Council decided how to award, that the bidder and the price be announced.

Councilwoman Uria announced that the bid was awarded to Pace Analytical Service for \$35,075.

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Mr. Lunny read Item No. 15.

15. DISCUSSION CONCERNING PROPOSAL FOR ACTUARIAL PENSION STUDY.

A memorandum dated August 24, 2011, to Mayor Diane Veltri Bendekovic and all Members of City Council, from Dan Keefe, Chief Administrative Officer, and Margie Moale, Human Resources Director, follows:

As previously requested, Gabriel, Roer, Smith & Company’s Steve Palmquist has provided the following proposal via email:

“Below is our fee quote regarding the two studies you requested for City of Plantation General Employees Pension Plan:

1. Closing the current General Employee Pension Plan to new participants and requiring all newly hired general employees to go into a Defined Contribution Plan including all costs associated with doing so.

For this study we would prepare 30-year projections of costs under the current plan and the proposed closed plan and DC Plan. Our fee for this study would be \$5,000 - \$7,000.

2. Closing the current General Employee Pension Plan to all current participants and providing recommendations as to vesting status and rolling into a Define Contribution Plan, including all costs associated with doing so.

It seems like in this study the plan would be frozen and current members would have a choice between leaving their accrued benefit in the Defined Benefit Plan and converting the value of their accrued benefit into an opening balance in the Defined Contribution Plan. This study will include the following items:

We would prepare 30-year projections of costs under the current plan and the proposed plan.

We will also calculate each member's accrued benefit and the present value of this accrued benefit to aid them in their decision. We will present these figures in an individual Employee Benefit Statement for each member. These statements will show the accrued benefit, projected normal retirement benefit and the present value of the accrued benefit.

Our fee for this study would be \$15,000 - \$17,000."

If you have any questions regarding the above, please do not hesitate to contact me.

Councilman Jacobs advised that his intention was not to spend this much money on studies. He was more interested in understanding whether other pension funds converted from Defined Benefit to Defined Contribution and if so, how they did it and how they took care of all of the members. It is not Councils intention to harm any employee in any way. He believes that the City should be able to do a conversion while still giving a very good compensation; in fact, making it such that employees would be happy to make the change.

Councilwoman Uria cannot understand why the cost is so much. She has always suggested that if we were to go to a Defined Contribution Plan that it has to be fair and does not hurt the employees. She has also said that she would rather give a higher salary to employees if we go to a Defined Contribution Plan. She questioned how to go about this without spending money. She also questioned whether there is a way to have a discussion with other actuaries.

Councilman Tingom agreed that this is a lot of money to spend for something that may or may not drive a benefit to the employed and/or to the City. He would not support spending this amount of money for this study at this time. He suggested that we look at other Cities to determine whether any of them have done this particular switch.

In response to Councilwoman Uria, Mayor Bendekovic stated that we can reach out to other actuaries and determine if there is a cost and bring it back to you. She has the plans and studies of 27 Broward County Municipalities; therefore, that can be provided. An overview can be given as to what other Cities have done and we can reach out to other actuaries to see if there is a cost associated. This year the Tier 2 will save approximately \$58,000.

Councilwoman Uria indicated that another consideration is anyone who has less than five years can be changed; there are different options to look at. She did not feel that there was enough information to make a decision at this time.

Mayor Bendekovic clarified that the Council would like to have more information on how other pension funds have transferred from a Defined Benefit Plan to a Defined Contribution Plan.

Councilwoman Uria suggested continuing this discussion.

Kevin Swan, General Employee Representative, advised that the pension plan was reviewed a few years ago and a study was done. Another actuary also looked at the Plan. His interpretation was that to make the move was counter-productive and too expensive. He stated that our pension plan is different than most and is in the top percentile; when the market goes down we lose less than the others. Over the course of 30 years we have made more than the assumed value; we have made 9.25%. The City paid for the study a year ago, which was performed by GRS, and the conclusion was the Tier 2, which ended the \$300 supplemental benefit to new employees as well as raising the retirement age, requiring the employee to work 36.5 years to reach full retirement and lowering the multiplier to 2.25%, and now we are looking to shift employees into a Defined Contribution Plan. He believes this study is unjustified. The General Employees Retirement Plan is over 80% funded and performing well compared to its peers. It is a fact that participants in the Defined Contribution Plan cost more than the Defined Benefit Plan because our Administration and investment costs are much less.

Councilman Jacobs indicated that the study a year ago never contemplated terminating the Plan; it only contemplated maintaining the Plan in some shape or form and going forward possibly with a parallel Defined Contribution Plan. All of those scenarios are very expensive but once you terminate the Plan the financial numbers start to make sense and that is the only way it can be done. This is not an easy thing to do, which is why not many places have done it. He believes that we have to look at it and we have to try. To him there is one basic fundamental difference, in a Defined Benefit Plan the taxpayers of Plantation are forever on the hook for paying the benefits that we contractually agreed to whereas in a Defined Contribution Plan, every month the City makes a cash payment into a persons plan and the citizens are no longer liable for paying that money to an employee; it is the employee's money. To him that difference is the key.

Dennis Conklin, resident, thanked the Council for putting this on the agenda. He was surprised there would be a cost for the study. He recommended that the Council contact Heritage at Heritage.org. The problem with a Defined Benefit Plan is two infinities; you must have an infinite number of people for the Plan to work and you must have an infinite amount of money for it to work.

Marcus Hurt, employee, commented that he came from the private sector after 15 years and lost everything. He took a 50% cut in salary to work for the City of Plantation with the idea of the benefits and retirement that would be coming. As an employee, he hopes that Council makes fair, in some manner, compensation so that the employees are taken care of. As a resident, we get a good product and he is very pleased with the service the City provides. He tends to think that happy employees will provide the level of quality service and product that we enjoy.

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Councilwoman Uria read Item No. 16.

16. DISCUSSION CONCERNING LIBERTY TREE PARK HOLIDAY DECORATIONS.

A memorandum dated August 19, 2011, to Members of City Council, from Mayor Diane Veltri Bendekovic, follows:

As you are aware, the City has come under scrutiny from the American Civil Liberty's Union (ACLU) for its Liberty Tree Park holiday display. A picture of that display as it was set up last year is attached (Holiday Décor 2010).

City staff has researched several suggested scenarios at varying price points to assist you in the decision making process. These are only suggestions, the costs and layouts are adjustable if and when a decision is made to continue the holiday décor. We can make changes as you deem necessary.

They are as follows:

- Holiday Décor 1 includes the addition of a snowman, Polar bears and penguins..... \$16,635
- Holiday Décor 2 includes the addition of three snowmen, An additional tree, and toy soldier.....\$ 8,285
- Holiday Décor 3 includes the addition of a snowman, 2 deer, a sleigh, and a toy drum.....\$ 4,330

If you have any questions or additional suggestions prior to the Council meeting, please contact Jim Romano, Parks and Recreation Director, 954-452-2513 or Dan Keefe, CAO, 954-797-2211.

A memorandum dated August 17, 2011, to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

Plantation's land development regulations generally will permit the City's residential land owners, commercial land owners, and non-commercial land owners to temporarily erect holiday displays on their respective private property, and generally, the City does not regulate the content of these displays.

Holiday displays on public property can cause criticism when such displays utilize or fail to utilize religious symbols. For the past few years, certain citizens have requested that the City include a nativity scene in a park holiday display. Last year's Liberty Tree Park Holiday Display (which included a nativity scene and Menorah on the display's stage) prompted the American Civil Liberties Union (ACLU) to ask the City to cease erecting in Liberty Tree Park a holiday display which contains any religious symbol. In reaction to press coverage concerning the ACLU's request, the City received correspondence from the Alliance Defense Fund (on behalf of the Christian Family Coalition) and Liberty Council (the latter offering to defend the City at no cost in the event the City is sued by the ACLU). These organizations advocate – and litigate – nationally – for their respective positions. It would be fair to conclude that each organization's political and social agenda might be larger, more complex, or different than a purely municipal agenda (such as Plantation's). Therefore, the City might wish to not appear to favor any such organization, and keep all "at arm's length" so to speak, in addressing this matter.

A printed picture of last year's three-week park holiday display is included in the agenda package for this matter. The Administration has evaluated the 2010 Liberty Tree Park holiday display, and is proposing to change same so as to include more secular symbols, remove the nativity scene from the center stage area and place same on the ground to the side of the stage, and remove the Menorah from the stage and place same on the ground next to the stage. The display will be erected for the same approximate three-week period. The changes are being

proposed as an alternative to removing all religious symbols from the Liberty Tree Park holiday display, or to re-erecting last year's park display.

While the case law in this area is highly fact specific, there are cases which have determined that a governmental entity can erect a holiday display on public property which contains religious symbols without running afoul of constitutional requirements. We have reviewed the Administration's suggestions as indicated in the graphics enclosed in the agenda package for 2011's proposed alternate park displays, and it is our considered view that these displays appear to be consistent with case law precedent. It is also our view that increasing the number and size of the secular components of the holiday display would increase the extent that the overall display would be consistent with the case law.

We have consulted with the League of Cities' Insurance Defense Counsel, R. Bruce Johnson, Esquire. Mr. Johnson has confirmed that Plantation's League of Cities Insurance Program would cover a claim against the City for any of the proposed 2011 alternate park holiday displays. He has also confirmed that if the City were to allow the Liberty Counsel to defend the City at no expense, the insurance coverage would likely be voided. Mr. Johnson concurs in our comments that the Administrations' alternate proposals for the 2011 park holiday display appear to be consistent with case law precedent, and that increasing the number and size of the secular components of the holiday display would increase the extent that the overall display would be consistent with the case law.

Discussion

1. City Displays on Public Property

There have been two major cases considered by the Supreme Court concerning holiday displays, and they demonstrate some of the difficulties in deciding whether a particular display is appropriate or not. In *Lynch v. Donnelly*, 465 U.S. 668; (1984), the Court upheld the constitutionality of a government exhibiting a nativity scene in a holiday display. The display also included a Santa Claus house, a wishing well, a reindeer pulling a sleigh, candy-striped poles, a clown, an elephant, a teddy bear, colored lights, and a banner that read "Season's Greetings". Justice Berger wrote the majority decision for the Court (a 5-4 decision), concluding that in the context of the whole scene, the nativity scene did not constitute advocacy of particular religion and that there was a legitimate secular purpose in the government sponsoring the holiday display. In 1989, the Supreme Court considered *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter*, 492 U.S. 573 (1989). In this case, a creche was placed on the grand staircase of a Courthouse, poinsettias and a fence framed it, and the manger had, at its crest, an angel bearing a banner declaring in translation "Glory to God in the Highest". The Court determined that in its overall context, the display violated the Constitution. The Justices of the Supreme Court issued a number of individual opinions in this case.

Religious symbols displayed on public property continue to be challenged in courts across our Country. Some of the displays have been found to be unconstitutional while others have been found to be within the parameters of the law. Most of the cases decided in this area of law revolved around the display of the Ten Commandments, crèches, menorahs, crosses or crucifixes, slogans, or various other religious-oriented symbols. The cases are very fact and detail specific. Generally, the case law indicates that a government-erected holiday display will not be unconstitutional if the display: (i) serves a secular purpose, (ii) does not have as a primary or principal effect endorsing, advancing or inhibiting a religion, and (iii) does not excessively entangle government with religion. Generally, within the overall context of a government holiday display, the display can acknowledge the religious significance of the season to a degree. The cases generally examine the extent to which the display has secular and religious symbols, the relative prominence of the religious symbols within the overall display, the display's

location and context, how long the display remains up, and any signage that the government erects which indicates it is not the government's intent to endorse or advance a religion by the display's inclusion of religious symbols (Plantation has such a sign).

2. Private Displays on Public Property – Creation of a Forum.

When a government property owner sets aside a portion of public property to allow private parties to erect displays, free speech constitutional concerns are additionally implicated. Generally, when a forum is created, all private viewpoints are afforded access to the forum area. While some may think that setting aside property to allow anyone to say or display whatever they wish is a good thing or a community, the dissension that can be created by forum cases are best illustrated by those cases involving Ku Klux Klan crosses, Nazi marches, salutes to Hitler, etc. Advocates of creating forums downplay these fears, and probably correctly state that government officials tend to exaggerate the likelihood of these things actually occurring; however, they do not question that this type of community disruptive behavior could occur within a forum.

In the context of the City's Liberty Tree Park display, the display area is fenced by the City. In addition, the display area is illuminated so that the public can see the display from NW 5th Street in the evening hours when the park is closed. The City has not previously allowed any access to the display area for private parties to erect their own displays. The Legal Department continues to recommend that the City safeguard against transforming the display area into a forum, and continue to not allow private parties to erect symbols, signs, or displays within the City's holiday display.

Mayor Bendekovic explained that the City has come under scrutiny from the ACLU regarding the holiday décor that was displayed last year in the City. She had Parks and Recreation as well as City staff, research a few of the scenarios in order to come within the legal means of a display. She requested a high end, a medium and a low. This is adjustable; she wanted to show the cost factor. There are choices that can be made and she is requesting direction from Council.

Mr. Lunny indicated that as he has pointed out in the past, the City is extremely flexible with respect to displays on private property. Generally, people can put up whatever kind of displays on private property they wish. The issue is displays on public property, particularly in parks and other public places. The very best conservative legal advice is not to have any exposure and do not put any religious symbols in the parks as part of a public holiday display. Citizens sometimes get unhappy; however, in the past, citizens have requested the City to acknowledge special traditions during the holidays by putting certain religious symbols into displays. The case law in this area states that a City, a government, can have a holiday display in a park that it erects and that the context of the display can have religious symbols so long as the overall purpose is secular in nature, so long as it does not excessively entangle government with religion and so long as the display as a whole is not viewed as endorsing or advancing any particular faith. The difficulty becomes in applying the test; it is a fairly actively litigated subject every year. As long as the overall purpose is secular and the religious aspects are not emphasized and not prominent versus the rest of the display, along with some other factors that the Courts look at, government can have a display, which includes symbols. The last concept is one where government is not the speaker, but instead, a portion of the park is set aside and anyone is allowed to put up whatever they wish. Those are viewed by lawyers as forum cases. Those are much more risky because once you allow someone to put up something in a portion of a public property that is set aside then you have to accommodate all viewpoints and that can get tricky, as mentioned in the memorandum. With respect to these three displays, we have concluded that are all defensible in 2011. The sign is recommended; however, either two or one is better than three. Mr.

Lunny has also discussed this with the League of Cities Insurance Counsel and they are in full concurrence both with our analysis and conclusions.

Councilwoman Uria distributed a letter at the request of Will Halker, with Gibbs Law Firm. She stated that we still have all of the holiday décor used last year.

The following residents spoke:

Pam Cloonan was heartbroken broken when she heard of problem with ACLU. She has a problem with it because what happened to the majority rules? In addition to the ACLU there is the ACLJ, the American Center for Law and Justice, who specializes in these cases. She suggested that Council contact the ACLJ to get their advice because they are winning these Court issues. She feels that Council should get rid of the burden and let the residents decide.

Paul Fealk stated that the Bill of Rights to the Constitution is in place so that the majority will not take away the rights of the minority. One point about the establishment of the United States is not that it is a Christian country, but we also need to take note of the underlying philosophy, that individual belief and conscious should be beyond the reach of government; that government has no role to play in matters of individual belief. He requested Council to consider that. He referenced the memorandum and noted that there is a lot more to this than what is listed in the memo and these proposals may not be adequate.

Barry Butin, Co-Legal Chair for the ACLU, concurred with his colleagues. The ACLU is here to be protective and to show that the government should not be endorsing any religion. He noted that the majority rule does not always work.

Will Halker, attorney with Gibbs Law Firm, advised that one of the things the firm does is provide pro bono legal representation in cases of this nature. He referenced the letter distributed and mentioned the key issues.

Lenoard Torres, founder of the Committee to Bring Jesus Back to Christmas, commented that the ACLU is in opposition to our direct Christian values and is at war with us. To accomplish this, they intimidate school districts and small towns with threats of law suits that they cannot afford to defend; therefore, they submit to their demands.

Christine Torres addressed the two letters the ACLU sent to the City of Plantation regarding the holiday display. The ACLU's remarks are absurd; however, if the lie is told often enough people will believe it. She noted that nowhere in the Constitution are written the words, "Separation of Church and State".

Dennis Conklin stated that we are talking about December 25th, Christmas. He referenced the Declaration of Independence and noted that it is a prayer. The ACLU has the right to be offended and residents have the right to be offended by the ACLU being offended by Christmas. With regard to the Constitution, we basically all have the rights of life, liberty and pursuit of happiness and also to be offended. He is not for the majority rights.

Alan Ehrlich commented that next year he will have been on the Board of the ACLU in Broward County for 30 years. He emphasized that the ACLU is trying to protect people's rights, not take them away. He apologized to Council for the ACLU's lack of appearance. When this issue was first considered input should have been provided at that time. In his opinion, separation of Church and State is one of the things that make our country as great as it is. From his perspective, that means that no matter what religion you are you can be sure that the government in our country will not endorse or promote religion, especially on government property. He

commended Mr. Lunny's memorandum and thought it was excellent; he also commended the Counsel's effort to secularize the display that has been present. The City gives residents plenty of leeway with regard to displays; we do not need them on government property. He understands legalities, but just because something can be done does not mean it should be done. This is something the City should have stayed out of and he requested that the Council reconsider and choose the fourth option rather than the three on the memorandum, which is to cancel the display in total.

Jerry Fadgen advised that Plantation has a broad mix of ethnic and religious traditions and to terminate an observance of a broadly held traditional holiday due to a threat or potential threat of a law suit is something that this City should not do. He thanked Mr. Halker's offer to represent the City in the event of a law suit and urged Council to keep the display.

Gilbert Linkswiler indicated that the ACLU is in the business of extortion and they do so by bringing America to their knees by frivolous law suits. He urged Council to do the right thing and suggested that they accept pro bono representation with Liberty Counsel or with Gibbs Law Firm.

Mark Rohr, with the Broward ACLU, indicated that no one has spoken about the threat of a law suit. This reference to extortion and all associated comments are out of place. He was not going to speak because he knew that the display is probably constitutional and he has no problem with Mr. Lunny's memorandum. Their message should not be understood that way. They are saying that even if the display is Constitutional, they would urge the City to adhere to the separation of Church and State and not have the holiday display even though it would probably be upheld in a legal challenge. He reiterated that he did not believe they were looking for a law suit.

Mr. Lunny thanked Mr. Rohr for the clarification.

Councilwoman Uria stated that there are some options. She was not sure that she, personally, wanted to spend any more money on holiday displays. The least amount might pay for one of the actuary studies.

Mr. Lunny recommended options #1 or #2, and not last years' display.

Motion by Councilman Levy to look at the holiday décor listed in option #2, using whatever we have and keeping the cost to a minimum and going ahead with the display. There was no second to the motion.

Councilperson Stoner commented that due to the fact that Mr. Rohr has indicated that the present display is Constitutional she does not see any reason to add anything.

Mayor Bendekovic advised that this is not set in stone; all that was provided was a cost factor.

Councilwoman Uria concurred with Councilperson Stoner; they do not want to spend anymore money. She noted that Option #1, the holiday décor costs \$16,635; Option #2 is \$8,285 and Option #3 is \$4,330.

Councilman Levy believed that we should use what we have but add some more secular decorations in order to have the ratio appropriately what the Supreme Court has already ruled and what our Counsel is already recommending in order to forestall any further questions about our display.

Councilman Jacobs felt that since lights are on the light posts and at City Hall, there is no reason to spend anymore money on displays. He preferred not to have the display in the park this year.

In response to Mayor Bendekovic, Councilman Jacobs clarified that he did not think the old display is the best choice, based upon the memorandum from the City Attorney, and to change it will cost money.

Mayor Bendekovic stated that Administration will go with the recommendation of our Legal Counsel and she feels that more secular be added if we are going to retain the display.

Councilman Tingom concurred that we should not spend any additional funds. In order to meet the criteria, perhaps we could request some additional funds from the speakers this evening to meet the requirement as stated by the City Attorney. He restated the motion by Councilman Levy, seconded by Councilwoman Uria in December 2009 as follows: "Accept Mr. Torres' offer to donate funds to the City for a secular display that will include a nativity scene and acknowledge, but not endorse religious traditions of the seasons. It could be erected after Thanksgiving and come down before New Years. The design, content and placement will be up to the City. The display would not be located on public safety sites and this issue should be reviewed in a year." Apparently this issue was not reviewed last year and now it is coming under review. He believes that we should accept donations and the offer from various law firms should there be any litigation so the City is not liable.

In response to Councilman Levy, Mr. Lunny advised that the City can always accept unrestricted donations from anyone. Our vice is not to create a forum; therefore, you do not want to start tying donations to particular things and doing something indirectly that we are advising not to do. The donations would go into the General Fund.

Councilman Levy was not satisfied with that solution because it puts the issue in a gray area. He does not think the cost of a few more penguins is going to break the City in order to raise the ratio. He feels we could go ahead with what we already have with a few more thousand dollars to make it correct and to the point that there is not a challenge. We owe it to our citizens to celebrate a joyous occasion no matter what their religion.

In response to Councilman Tingom, Mr. Lunny indicated that if a group stepped forward and wanted to add anything to the display it would be our discretion as to what is purchased.

In response to Councilman Levy, Councilperson Stoner clarified that the motion was just to not expend any money. The motion would include donations that the Administration could accept in order to meet the requirements that Counsel has suggested.

In response to Mayor Bendekovic, Mr. Lunny advised that any donation checks should be written to the City of Plantation.

Motion by Councilperson Stoner, seconded by Councilwoman Uria, to keep the display the same as it was in 2010 and if donations are received additions can be made at the discretion of Administration. Motion carried on the following roll call vote:

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

* * * * *

LEGISLATIVE ITEMS - None

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 17.

17. REQUEST FOR MASTER SITE PLAN, SITE PLAN, ELEVATIONS AND LANDSCAPE PLAN APPROVAL FOR VERANDA PHASE II LOCATED AT 599 NW 82 AVENUE.

A staff report dated August 24, 2011, to the City Council, from the Planning, Zoning and Economic Development, follows:

REQUEST: Consideration of a request for a master site plan, site plan, elevation, and landscape plan modification approval for Veranda Phase II

EXECUTIVE SUMMARY: Planning, Zoning, and Economic Development Department

The PZED Executive Summary does not address the comments and conditions of other departments participating in the development review process, including Engineering, Landscape, Utilities, Building, Fire, and Police Departments. PZED recommends reviewing the entire staff report for a full understanding of all department comments and conditions.

The applicant has submitted an amended site plan for Veranda Phase II as part of a Master Plan development that includes Veranda Phase I and the Publix Shopping Center. The amended Veranda Phase II site plan is generally similar to the approved plan, but includes some significant changes, including the following:

- 1) The applicant has reduced the building height from eight to six stories.
- 2) The applicant has relocated the main entrance into the building to the north of Veranda II facing the Lakeside Office parking lot.
- 3) The applicant has increased the building footprint by approximately ten feet in width (east/west) and 15' in depth (north/south).
- 4) The original parking garage provided minimum 24-foot wide drive aisles throughout the garage. The applicant is to reduce drive aisle widths to 20 feet in those portions of the garage where drivers make turns to move from one parking level to another. *Staff Comment: A waiver is required to reduce the aisle width from 24 to 20 feet at these locations. Prior to the Council meeting, staff will review other residential parking garages in Plantation to determine if there is any precedent for the 20-foot aisle width.*
- 5) The applicant has changed the project from a condominium to rentals. *Staff Comment: Discussion of this issue is a policy consideration to be addressed by Council if it so chooses.*
- 6) The applicant has relocated the recreational amenities from the fifth floor (on top of the parking garage) to the ground floor in a centrally located interior courtyard. The interior courtyard is lined with apartments on two sides and an open parking garage on a third side. Unlike the original plan, this arrangement exposes the apartments in the six-story courtyard to noise and headlights associated with an open parking garage. *Staff Comment: Staff believes the open parking garage is not compatible with residential units sharing the same enclosed six-story closed courtyard. Applicant disagrees with staff's*

position. Applicant has offered to provide a green screen treatment in lieu of redesigning the building. If City Council chooses to approve the plan with the current garage/courtyard interface, staff recommends that the flex allocation not be approved until detailed green screen plans are submitted and approved by Planning, Design and Landscape Construction Management, and Fire Departments prior to issuance of any development permits.

7) The original plan included 16 townhouses to the rear of the Publix. In 2007, the prior property owner requested site plan modification to remove the townhouses in order to provide additional parking. The current applicant has changed the plan to add the townhouses back to their original location, which will result in a net decrease of 20 spaces below what is provided today. *Staff Comment:* While the site plan meets SPI-3 parking requirements, staff is concerned that as this project approaches build-out and full occupancy, sufficient parking may not be available at certain times for the shopping center. Staff's concerns are based on the following:

- a. The 2007 property owner initiated site plan modification to delete the townhouses to provide more parking.
- b. Only 33% of the total provided spaces in the Veranda Complex are accessible by shopping center employees/tenants. At the Fountains, roughly 60% of the total provided spaces are accessible by shopping center employees/tenants.

Again, the project meets the SPI-3 parking code, which grants a 22.5% reduction below conventional suburban parking requirements. The City Council, if it so chooses, can approve allocation of flex units subject to the applicant reducing the number of townhouses behind Publix. Please also see Engineering comments regarding site congestion in the body of the report.

The applicant is required to meet the City Code requirements found in Section 19-67 to justify the assignment of the 197 flexibility units required to build the apartment building. With the exception of the open parking/courtyard interface and the reduction in "provided parking" below current levels, the applicant generally meets the criteria. Consideration of the request for the assignment of flexibility units is tentatively scheduled for the City Council Meeting of September 7, 2011.

Please Note: During his or her presentation to the City Council, the applicant may commit or promise to make plan or design revisions not currently shown on the plan. The applicant may also commit to a construction or phasing schedule. Unless these promises or commitments are specifically listed and included in the City Council approval motion, staff has no authority to enforce said promises or commitments.

ZONING WAIVER REQUESTS:

1. **From:** Section 20-126(b), which requires payment of park impact fees at the time of site development plan approval;
To: Allow payment of the park impact fees at the time of building permit submittal.
PZED staff has no objection.
2. **From:** Section 27-624(2), which limits the number of dwelling units to 61 units on the tower parcel and 14 units on the townhouse parcel (because the building is not mixed use);
To: Increase the number of allowed units from 75 to 197.
PZED staff has no objection to allowing 181 units in the apartment building. Staff has concerns regarding the reincorporation of 16 townhouse units due to the resulting net loss of 20 existing parking spaces.

3. **From:** Section 27-626(b) (vi), which requires a pedestrian passageway between the street frontage and the rear of the building when the building frontage exceeds 250 feet.
To: Eliminate the pedestrian passageway on the east side of the building
PZED staff has no objection.
4. **From:** Section 27-624(e)(4), which limits that portion of the building within the required build-to zone on a B street (American Expressway) to a maximum height of 45'.
To: Allow a building height of 75' within the build-to-zone on a B street.
PZED staff has no objection.
5. **From:** Section 27-624(b) (iii), which requires minimum glazing of 30% of the building frontage on a B street (American Expressway).
To: Allow glazing of approximately 15.3% of the building frontage on a B Street.
PZED Staff has no objection.
6. **From:** Section 27-626(3)(iii)(c), which restricts residential sliding glass doors on designated B street (American Expressway) facades.
To: Allow residential sliding glass on designated B street (American Expressway) facades.
PZED Staff has no objection.
7. **From:** Section 27-623(d)(2) which requires all sidewalks to be a minimum of eight feet in width.
To: Allow some interior sidewalks to be six feet in width.
PZED Staff has no objection.
8. **From:** Section 27-742(e) which requires a minimum drive aisle width of 25 feet for drive aisles abutting 90-degree (perpendicular) parking spaces.
To: Reduce the drive aisle width to 24 feet in the above cases.
To: Reduce the drive aisle width to 20 feet in the parking garage with no adjacent parking spaces.
The original plan provided 24-foot wide aisles in turning areas. PZED Staff has no basis to support a reduction from 24 to 20 feet.
9. **From:** Section 27-747(d) (2) requires a minimum of four (4) off-street loading spaces.
To: Reduce the required number of off-street loading spaces to one (1) space.
PZED has no objection based on Phase I Veranda approval.

LANDSCAPE WAIVER REQUESTS

10. **From:** Section 13-41(b), which requires landscaped pedestrian zones (lpz) to extend the full width of each façade when abutting a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.
To: Reduce the required lpz from 15 feet to 0 along the west side of the townhouses.
To: Reduce the required lpz from 30 feet to 13 feet along the north side of the tower.
11. **From:** Section 13-41(c), which requires one tree to be installed in the landscape pedestrian zone for each 30 lineal feet, or fraction thereof, of façade width?
To: Reduce the required number of trees along the western façade from 12 to 0.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; site plan application; and Review Committee Meeting minutes of April 26, 2011 (*not available*).

REVIEW COMMITTEE: No objection to the project moving forward for further review (April 26, 2011).

PLANNING AND ZONING BOARD: Recommendation to approval of site plan, flex allocation, and waivers, subject to compliance with all department comments and conditions, plus applicant to maintain 28 unrestricted (no gate) parking spaces on the lower levels of Veranda II parking garage.

ANALYSIS:

The subject site is located at the northeast corner of Pine Island Road and American Expressway. In February of 2004, the City Council approved a master plan development of approximately 25 acres which includes an existing five-story office building, 382 new multi-family units in two high-rise buildings, 16 new townhouses in four buildings and 48,850 square feet of retail and restaurant space.

In July of 2004, City Council approved the following modifications to Veranda Phase II:

- 1) Incorporate a four-story parking garage within Veranda Phase II. The parking garage was not visible to and did not open onto the recreation area or any residential units.
- 2) Elevate the swimming pool and recreation area to the fifth floor on top of the integrated parking garage.

In 2007, Staff administratively approved the reduction of townhouses to provide additional parking in the area previously planned for 16 townhouses.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. The flex allocation application shall be heard at the September 7, 2011 City Council meeting.
2. The applicant has provided the local concurrency review form. The form is currently being routed to the appropriate departments.
3. City park impact fees will be required for the Phase II residential dwelling units (including the Townhouses) prior to City Council approval. The applicant is seeking a waiver from this code requirement and to pay City park impact fees at building permit submittal. *Staff has no objection.*

Zoning:

In General:

1. While the proposed apartment building exterior elevations match completed Veranda Phase I, the plan does not meet several of the current SPI-3 requirements. Staff is supporting most of the SPI-3 waivers (except as indicated) since the exterior of the building is similar to Veranda Phase I. The waiver recommendations are subject to applicant complying with report conditions, including providing material and color sample boards.
2. If the project is approved by the City Council, the applicant will submit, at some point, construction drawings to the Building Department for building permit approval. The building permit plans are required to be consistent with the site and architectural plans approved by City Council, all approval conditions, and zoning code requirements. If the applicant wishes to submit building plans that are not consistent with any of the above items, the applicant must first submit these changes to the Zoning Division prior to submission of permit plans to the Building Department. The City Code contains specific procedures to address Post-City Council plan changes, which vary based on the extent of the change. This same protocol applies to any site plan or architectural plan changes proposed while the project is under construction.
3. The applicant proposes moving the north Veranda access drive leading from American Expressway further north. The relocated access drive appears to encroach beyond the common area roadway

easement. Applicant shall provide an amended easement (approved by Lakeside) allowing the encroachment onto their property. This issue (previously raised in the Review Committee staff report) shall be resolved prior to approval of any development permits.

Site data:

1. The “key map” on some plan sheets is inconsistent with what is shown on the site plan. Please revise plan accordingly.
2. The applicant has calculated parking requirements incorrectly. Applicant shall revise plans consistent with SPI-3 parking requirements. Staff has calculated the parking requirements based on the assumption that the “Declaration of Unity of Title” allows shared parking between the Shopping Center and the two apartment buildings, to be confirmed by applicant prior to issuance of a building permit. Please note also that required and provided parking below do not include the Lakeside Office Center parking lot.

Parking Analysis

- Total required parking (City-Wide Code): 1,258 spaces
- SPI-3 Shared Parking Reduction: 1,048 spaces (210 spaces reductions)
- SPI-3 Parallel Parking Credit: 1,026 (22 space parking reduction)
- SPI-3 Vehicle Connectivity Reduction: 974 (51 space parking reduction)
- Required parking after SPI-3 reductions 975 spaces
- Total parking provided 976 spaces (Total 22.5% reduction)

The practical issue is to what extent the reduction of parking spaces behind Publix (necessary to construct the townhouses) will reduce available parking in the main parking lot. Because the townhouse driveways are too short to accommodate townhouse guests, it is reasonable to assume that some of the remaining 20 spaces may be occupied by townhouse guest vehicles at certain times. It is our understanding that some Publix employees park in this area.

Council should consider that while parking is currently available in the shopping center at most times, this may change upon the build-out of Veranda II, the townhouses, and the full occupancy of both apartment buildings. Please also see Engineering comments regarding increased traffic congestion in the main parking lot.

Elevations:

1. Please revise the townhome building elevations to provide canvas awnings or Bahama-style shutters over the third floor sliding glass doors.

Parking Garage:

1. The ground floor internal courtyard is best described as the “hole” in the donut. The donut is the six-story building and parking garage that surround the courtyard. Residential units open out onto the courtyard on two sides. The parking garage opens out onto the residential courtyard on a third side. Staff believes the open parking garage is not compatible with residential units sharing the same enclosed six-story closed courtyard. Applicant disagrees with staff’s position. Applicant has offered to provide a green screen treatment in lieu of redesigning the building. If City Council chooses to approve the plan with the current garage/courtyard interface, staff recommends that the flex allocation not be approved until detailed green screen plans are submitted and approved by Planning, Design, Landscape and Construction Management, and Fire Departments prior to issuance of any development permits.
4. Please note on plan minimum vertical clearance in parking garage (7’ 2” recommended).

Off-Street Loading:

1. Please note on plan minimum vertical clearance into loading/trash removal area as well as minimum interior vertical clearance to accommodate the loading of trash.

Lighting:

1. Please note on plan lighting fixture height on the top floor of garage. Limit fixture height to no more than 12'.

Details:

1. As indicated in the Review Committee Comments, the Planning and Zoning Board submittal requires color board and material samples. If the City Council chooses to approve the plan as submitted, approval shall be subject to applicant submission and staff approval of samples to determine consistency with Veranda Phase I elevations. Approval of the flex allocation shall also be subject to this condition.
2. Provide bike rack, bench, and other amenity details to be consistent with Veranda Phase I.
3. All roof top equipment shall be screened in accordance with Section 27-653.

Easements:

1. Many easements conflict with the location of the new Phase II building. Prior to issuance of a building permit, staff will require written approval from all affected parties including City Utilities and Engineering Departments that the building can be constructed at the proposed location.

Signage:

1. Signage is not part of this review

TRAFFIC CONSULTANT: N/A

ENGINEERING DEPARTMENT:

1. The proposed mid-rise building encroaches into the property to the north. [There is still a slight encroachment in the northwest corner of the property (P & Z).] *Response states that the stoop from stairwell has been reduced and is no longer encroaching. The plan shows it still encroaching.*
2. The survey does not correctly represent the roadway between the existing residential and the proposed townhomes. For example the survey shows an angled ramp crossing, which is not correct. Please revise. [The ramp is still shown on the survey (P & Z)]. *Response states that the survey has been updated. The ramp is still shown incorrectly.*
3. The signing and marking on the Site Plan is in complete. Please dimension the stop bars four feet from the crosswalk. The fire lane may not be a part of the drive aisle. Signing and marking is not shown on the civil plans, please include them. Comment not addressed (P & Z). *Please show signing and marking on civil plans, as requested.*
4. The driveways to the townhomes are too short for a vehicle to park in without encroaching into the roadway. Engineering will accept this design condition as long as the applicant provides a Hold Harmless Agreement for the townhomes (P & Z). *Response states that a Hold Harmless Agreement will be provided. This must be in place prior to the issuance of a permit.*
5. The existing parking behind Publix was done as a Site Plan Modification (PAC) due to the need for additional parking, as the front parking area had become very congested due to traffic circulation. The site, today, is still very busy with vehicles trying to find parking while circulating around the whole site. The additional rear parking provided some relief to the congested traffic circulation in the front of the store. The applicant should demonstrate how they will resolve the expected return to a more congested site condition through the proposed reduction in parking spaces. *Response states that "the applicant has been monitoring the circulation for the center and has seen that parking spaces are always available in the main lot at all different times the center is in operation." Please provide this data that shows how that this analysis was done according the engineering standards or provide an independent parking analysis.*
6. From the property boundaries, the public sidewalk is shown inside the property. A sidewalk easement will need to be prepared and executed.

Permit Comments

1. Please provide an erosion and sedimentation control plan.
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.

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, DESIGN, AND CONSTRUCTION MANAGEMENT:

- 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. Please contact the Engineering Department regarding this matter at 954-797-2282.

Site Plan:

1. Code requires landscape pedestrian zones to extend the full width of each façade abutting a parking or vehicular use area; the minimum width shall be half the height of the proposed or ten feet (paved areas in the lpz may not constitute more than five feet of the required lpz). Required landscape pedestrian zones have not been met on the south and north sides of the proposed multi-family structure and along the western side of the townhomes. *Waiver requested.*

Planting Plan:

1. City codes require one tree to be installed in the landscaped pedestrian zone for each 30 lineal feet, or fraction thereof, of façade width. Required trees have not been met along the western side of the townhomes: 12 trees are required - 0 have been provided. *Staff requests mitigation for trees not provided for. Waiver requested.*
2. Wellington tape, guy wires, rubber hose and/or any other non-biodegradable material is not to be used for the staking of trees. The City recommends the use of a 3/8-inch sisal or similar biodegradable material. Please remove “typical tree guying detail” as it is in conflict with the City of Plantation Planting Detail.
3. Please note that trees will be field grown/balled and burlaped in lieu of containers (i.e. Live oaks, Japanese blueberry, Silver buttonwood, Orange Geiger, etc.).
4. Under the “plant Key Ledger” it appears the solid circles are proposed new trees/palms in lieu of “existing trees/palms” and the dashed circles are existing trees/palms – please clarify.
5. Plans submitted note the Live oak trees will be Root Plus Grown and they will be in a 200-gallon container – please clarify this comment as Root Plus trees are field grown trees.
6. Staff has a concern with the following plant material (this plant material has not been performing well in the City): Orange Geiger & Silver Buttonwood trees).
7. Staff requests the use of Crape myrtles in lieu of the proposed Silver buttonwood and Orange Geiger trees throughout the landscape pedestrian zones to allow additional uniformity between Veranda I and Veranda II.
8. Please consider spacing the Sienna trees closer than 20’ - 30’ on-center.
9. Please clarify what HA is (sheet LA-6) along the western landscape pedestrian zone is (Hibiscus/HS?). Please correct on landscape plans.
10. Please use Category 1 trees (Live oak) in areas that can accommodate them in lieu of palms. (i.e. corners of the building and along the south side of the parking garage).

11. Please re-evaluate the use of Coconut palms along the pedestrian walk on the southern boundary (along the existing lake); staff has a concern with fruit drop.
12. All proposed trees "to be removed" must be mitigated for as per City codes; tree mitigation will be above and beyond code required trees on the property. City staff will verify trees proposed for "removal and relocation".
13. All trees to be removed require ISA tree appraisals for mitigation purposes as per City codes. Performance bonds are required on trees to be relocated. Please include in tabular form species, condition, and disposition of all existing trees and palms.

BUILDING DEPARTMENT: No objection.

FIRE DEPARTMENT: The applicant has agreed to all Fire Department comments.

POLICE DEPARTMENT:

1. The Police Department must have unlimited and immediate access to all common areas of the building. Revise Plan accordingly.
2. All service areas and hallways must provide adequate lighting, access control and security features to protect users. Please revise and note on plan accordingly.
3. The parking garage must have adequate lighting and provide open areas that prevent hiding areas for criminal activity. Please provide garage lighting plan.
4. All off site parking planned for visitors must have adequate lighting for pedestrian movement, crosswalks and walkways to move to and from the building to parking area.

UTILITIES: OBJECTION because revised plans submitted to this Department raises several new utility concerns.

1. Offsite and onsite improvements and equipment are required at applicant's expense to support project. No offsite plans provided. Offsite improvements were previously discussed with the applicant. A second request was made for credits on off site improvements: No credits are available because the offsite improvements are necessary only for the benefit of this project. Offsite improvements must be reviewed and approved by the Utility Department and all off site improvements must be funded by the applicant.

The following comments apply to the site plan:

2. Prior to a building permit being issued, the following must be provided:
 - Accurate Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
 - BCHD and BC EPD permits must be approved.
 - Utilities Agreement must be executed.
 - Utilities Performance Bond must be posted.
 - Utility Easements must be executed.
 - Utility Inspection fees must be paid.
 - Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions, 954.797.2159.
3. A pre-design meeting is required with the Utilities Department.
4. Accurate Water and Wastewater Utilities must be shown on plan before a proper review can be completed.
5. Show all existing water and wastewater facilities on site plan; identify correctly and clarify sewer connections

6. Provide plan for vacating easements as necessary. What portion of easement is requested to be abandoned? Exhibit C is missing. Water main in same location would need to be relocated. Show all existing easements on plans. Easement on western portion of proposed building is missing.
7. Show all new and existing water and sewer lines and easements on landscaping and drainage plan. Utility plans do not match landscape plans.
8. Maintain all utilities and utilities easements for water and wastewater system access.
9. Water meters for townhomes must be located in green space. Where are the existing ddc's and what is planned for them? Sewer plans must be clarified and identified properly; incorrect connections shown. Utility plan shows meter location correctly, Landscape plan shows location incorrectly.
10. No structures allowed in Utilities easements. The west side of the building appears to be in water main easement, please clarify.

O.P.W.C.D.:

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

WASTE MANAGEMENT:

1. Letter provided.

Mr. Lunny advised that staff appears to have a concern with the following waivers:

- Zoning waiver #2 from Section 27-6242, which limits the number of dwelling units to 61 units on the tower parcel and 14 units on the townhouse parcel because the building is not mixed use so as to increase the number of allowed units from 75 to 197. Staff's concern is the unit numbers beyond 181 units.
- Zoning waiver #8 from Section 27-742E, which requires a minimum drive aisle width of 25 feet for aisles abutting the 90-degree perpendicular parking spaces so as to reduce the aisle width from 24 feet required to 20 feet in the parking garage with no adjacent parking spaces. Staff's concern is that there is no basis to support this requested reduction.
- Landscape waiver #10 from Section 13-41B, which requires a landscape pedestrian zone to extend the full width of each façade when Abutting a parking or vehicular use area to reduce it from 15 feet to 0 feet along the west side of the townhouse project and from 30 feet to 13 feet along the north.
- Landscape waiver #11 from Section 13-41C, which requires one tree to be installed in the landscape pedestrian zone for each 30 lineal feet or fraction thereof so as to require the number of trees along the western façade to be reduced from 12 required to 0 provided.

In response to Councilwoman Uria, Mr. Lunny stated that the backup indicates that staff had no objection to the other waivers.

Mr. Leeds indicated that he spoke to Diana Berchielli and she has no objections to Landscape waivers #10 and #11; therefore, Zoning waivers #2 and #8 are the only ones that staff disagree with. He noted that waiver #2 is more of a parking issue than a density issue.

Hank Breitenkam, Utilities Director, clarified that the applicant agrees to rehabilitate the lift station that serves this project.

Bill Laystrom, attorney, was present on behalf of the applicant. He provided a brief overview of the project as follows:

- When they originally came in with the Veranda project, the SPI-3 district was in its infancy stage and had not been approved. That project was approved while the City was still working on the SPI-3 ordinance, which is in some ways a reflection of what was done to create the project. This project actually has three components; it has the Publix Shopping Center on Pine Island Road; Phase 1, which is already constructed; and they are here to propose Phase 2. When they were originally approved they were approved for the 197 units as well as the townhouses that were proposed as part of an integrated effort to create a mixed use project with the residential adjacent to the commercial uses stretching between the Publix Shopping Center and the two residential buildings. They have made some changes to the design of the insides of the building; the outside will look exactly as it has looked before.
- The Phase 2 building will be six stories rather than eight stories, it will still have the 197 units, and it will be slightly larger; the footprint is about five to ten feet at the widest part, larger than it was before but all within the same parcel. They have worked very hard with staff to match the landscaping and the exterior elevations and to have the same number of units.
- When going through the project, there were four or five issues that they are still working on; two that are not on the list. They committed with Landscaping that they would mitigate for the trees that are not in front of the townhouses; they will mitigate with trees either on site or off site.
- It was noted that one of the issues staff raised was that the parking garage is now on one end of the courtyard. They have added a trellis across the front of it, similar to what was done with Midtown 24, on the exterior so it would be screened.
- There is a staff concern that when they go through the technical analysis of the parking garage that either the Building Department or Fire Department may have an issue with that; therefore, he provided a letter to Mr. Leeds that indicates that they understand if the trellis, for any reason, is not approved by the Building or Fire Departments, because of Code requirements, that they would consider that to be an amendment to the site plan and would have to come back before Council to reconsider if a change were being made.
- The Landscape Planning and Review Board requested that the green cutouts where the lounge chairs are located be artificial turf rather than grass for maintenance reasons, which they concur with. The Board did suggest pavers as an alternative and they were advised that he would meet with Ms. Berchielli to determine which material she would find best.
- With regard to waiver #2, Mr. Laystrom does not believe that staff is reacting to the units; the issue that comes up is that along the course of time the developer of the project had put in temporary parking behind Publix of which a portion of that parking sits on the townhouse site. This parking lot is not full but is very active with the Publix. The townhomes are parked, according to Code, as well as the shopping center and their project. There is no waiver for parking; they meet the SPI-3 parking requirement for what is now their concept of Midtown. Staff has not said, "Don't put the units up", they have said, "If there is a concern about the parking, even though a waiver is not requested, that perhaps we would consider removing some of the townhouses so that additional parking could be put in". They do not believe that is required and as said, part of the original concept of this project was that there would be different units types between the townhouses and the units. It is economically important to be able to build the project as it was originally envisioned and approved. Currently, the parking in Phase 1 has been adequate; therefore, they do not see the need. They are requesting that waiver #2 be approved.
- With regard to Zoning waiver #8, the drive aisle widths, they are reducing from 24 feet to 20 feet; this is on the non-parking curbs only. There are no parking spaces on either side. The 24-foot drive aisle is where there is parking on either side and people are backing in and out. Staff has not indicated that they

do not want Council to approve the waiver; just raising attention to the parking garage and the corners where it has been reduced to 20 feet.

- They have worked very hard with Ms. Berchielli with regard to the Landscape waivers and she is satisfied.

Mr. Laystrom raised three issues as follows:

- There is an older lift station that serves a portion of this property. That lift station, when originally approved, was not part of the infrastructure that was put in place when building the entire project, including all of the utilities to serve Phase 2. There is a new issue and he would not mention it; however, the budget for that repair is between \$450,000 and \$650,000. He requested, since they have a flex application that will be heard at a later date in September, that he is permitted to speak with Mr. Breitenkam. Their percentage of use on that lift station is 16% versus all of the users on that lift station today. When they come back Council can determine whether it is appropriate if they pay 100% of that versus 16% or somewhere in between, as it is a major expense.
- The report indicates that there are 28 spaces behind the gate for free spaces, it was 27.
- With regard to the vertical clearance for the garage, they are going to provide what is required by Code; staff has recommended a possible 7'2". They will look at that; however, the standard for a parking garage is slightly below that.

Mr. Leeds explained that Phase 2 is very similar to Phase 1 and the applicant has met all architectural requirements. There will always be situations where there is not enough parking or there is too much unused parking. Townhouses were shown on the original plan approved in 2004. They were taken off the plan to provide additional parking and now the applicant wants to put them back on the plan. He believes that the addition of the townhouses allows the applicant to provide a better plan and create more residential demographic for the shopping center in Midtown. The issue with the drive aisle is very similar; our minimum standard for all aisles in Plantation for two-way aisles is 25 feet as per Code, regardless of whether parking spaces back into them or not. We routinely reduce the 24 feet and should probably do so because that is the national standard for two-way drive aisles. The only reason he mentioned the 20-foot drive aisles is that it is less than provided in other projects within the City. To comply with the requirement would require the reduction of parking spaces in the parking garage, which staff does not support. With regard to Item #6 on page 2, staff appreciates that the applicant has come in and has agreed to present a detail of the green screen waiver originally requested in addition to the trellis, which they have agreed to consider. He requested that the flex units be delayed until a decision is made and Mr. Laystrom has agreed to bring it back to City Council for reapproval. Mr. Leeds encouraged that this be made a part of the motion; that the applicant has agreed to resubmit the green screen plan if it does not meet the interdepartmental approval during Building permit review. The applicant has met all of the requirements regarding colors.

In response to Councilwoman Uria, Mr. Laystrom indicated that he will speak with the Utilities Department regarding any money for a light at American Expressway and Cleary Boulevard. He noted that the light at that location has repeatedly failed the warrants.

In response to Councilperson Stoner, Mr. Laystrom advised that the green screen will be on the trellis. They have to take it off the exact side of the garage in order to allow air to circulate. Detailed calculations must be done in order to see if that will work for the Fire Department.

Councilperson Stoner commented that she was not in favor of the artificial turf. She mentioned the comment that the footprint has not changed, just the inside. She also mentioned that the interior hallway is only five feet.

Mr. Laystrom stated that the courtyard has been changed.

Mr. Leeds indicated that the footprint has gotten a little larger.

In response to Councilperson Stoner, Sandi Peaseman (sic), architect, believed the corridor mentioned was the service corridor at the ground level, which was increased to 6.5 feet. He believes that the interior hallways accessing the apartments are 5'6". An NFPA study would have to be done that allows a certain amount of people to exit; it would fall within the Codes very easily.

Mr. Leeds commented that this is not a Zoning requirement. The applicant has agreed to 5.5 feet. He stated that there is no minimum requirement in the Code for vertical clearance in a parking garage; 7'2" has been recommended and they could go down to 7'; 6'8" is the lowest he recommended going. He believes Veranda Phase 1 is seven feet.

Jorge Gonzalez, with Related, indicated that the minimum Code is 6'8". He believes that once you are past the lobby level of the garage at Veranda 1 it is close to 6'8" and above. That is what they build for the most part and it has to do with being able to generate the life safety requirements inside the garage. The extra clearance actually causes more problems.

In response to Mayor Bendekovic, Mr. Laystrom advised that they are already in for permits.

Mr. Gonzalez stated that they will break ground in mid October to mid November. There are 97 one bedroom/one bath and one bedroom/dens and the balance are two bedrooms units, including the townhouses. The rental rate will range between \$1,500 and \$2,500.

In response to Councilman Levy, Mr. Laystrom indicated that the light Councilwoman Uria was requesting offsets the Lauderdale West Drive, which is one of the problems with getting warrants for the light.

In response to Councilman Tingom, Mr. Gonzalez advised that there is a little bit of space on the drive aisle using 20 feet versus 24 feet; they do 20 feet all the time in parking garages. Market studies indicate that there is a demand for these units.

Mr. Laystrom indicated to qualify the Landscape waivers with his commitment to mitigate the trees. In his opinion the townhomes would be approved and there is not a waiver for parking; they meet the parking requirements. He has indicated to Engineering that data would be provided with regard to open parking. They are requesting the waiver for the drive aisle width; the 28 available parking spaces before the gate were modified to 27. He believes the site plan will be approved with the Utilities comment, which is that they are committed to the lift station; the flex hearing is delayed to the September meeting and he will come back if there is still an issue. He understands the City's position; however, the magnitude of this one is more than anticipated. He is hearing less about the traffic light because they cannot get the warrant. The lift station may be a financial deal breaker. If pavers are preferred they will do so. He has submitted the requested letter regarding the trellis.

Mr. Breitenkam understands that if this is approved tonight it is including the lift station improvements. He expressed concern about the applicant's timeline to get a building permit. In order to get a building permit the Utilities Department has to sign off and for them to sign off they need to have approved the utility plans and they need to have the regulatory Environmental Agency's permit for the project. The Utilities consulting engineer, Winningham Fradley has advised that they have spoken to the regulatory people in Broward County and they

will not approve the plan as the lift station is. He wants the applicant to know that there is a concern for the timeline to get a permit.

Mr. Laystrom advised that he will not be pulling a building project if it breaks the project. He is not waiting long to meet with them. A study was done, which indicated that it is over capacity based on four times what the daily flow is and the calculation will be done as to what is owed. They are ready to discuss this.

In response to Councilman Jacobs, Mr. Laystrom stated that if it is too expensive the project will come back. He is planning on having an answer on September 7, 2011, after doing some more detailed cost estimates.

Mr. Laystrom commented that they have submitted their working drawings and are a little concerned that the hallways may be at five feet. He would prefer to do five feet, as it exceeds Code requirements, and if they can make it 5'6" they will do so.

Mr. Leeds advised that is not a Zoning requirement.

Mr. Leeds suggested a motion as follows:

To approve the site plan, including the elevation and landscape plan modification subject to approval of all waivers #1 through #11, subject to the following conditions:

- Applicant agrees to meet with the Landscape Department regarding waivers #10 and #11.
- Applicant agrees to meet with Utilities prior to the September 7, 2011 City Council Flex Allocation meeting.
- Brick pavers will be used instead of Astroturf.
- A trellis letter will be submitted by Mr. Laystrom on August 25, 2011.
- Vertical garage clearance shall meet the minimum garage clearance of Veranda 1.
- Minimum apartment access aisle width will be 5'6".
- All staff comments in the report.

Councilwoman Uria commented that she has an issue with the parking and the parking garage and she believes the parking could become an issue.

Motion by Councilman Jacobs, seconded by Councilman Levy, to approve the project and townhomes for Item #PP11-0009, request for master site plan, site plan, elevations and landscape plan approval for VERANDA PHASE II, located at 599 NW 82nd Avenue, subject to the aforementioned comments made by Mr. Leeds. Motion carried on the following roll call vote:

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

* * * * *

Mr. Lunny read Item No. 18 and the waivers.

18. REQUEST FOR SITE PLAN, ELEVATION AND LANDSCAPE PLAN APPROVAL FOR WESTGATE PLAZA LOCATED AT 15 NORTH STATE ROAD 7.

A Staff Report dated August 24, 2011, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

REQUEST: Consideration of a request for site plan approval to modify the previously approved out-parcel buildings at Westgate Plaza. This plan includes a new TD Bank (former Shell Station site) and a new in-line strip shopping center parallel to Broward Boulevard and directly west of the bank.

ZONING WAIVER REQUESTS:

1. From: Section 27-613A(b), "Plantation Tropical" which requires a tropical design theme for buildings and building sites in the SPI-2 zoning district.
To: Waive all "Plantation Tropical" requirements for TD Bank.

PZED Staff Comment: The proposed bank and retail center do not include Plantation Tropical Design Elements currently reflected in the Westgate Shopping Center or Grove East. Staff has recommended some material/color changes to TD Bank and the new retail building (see body of report) so that some elements of the existing shopping center are reflected in the new bank and retail center. If Council were to choose between the new bank and the new retail center, staff believes it is more important that the new retail center be compatible with the existing shopping center.

2. From: Section 27-613.5(b), which requires a minimum out-parcel separation of 200';
To: To allow a 173-foot (+/-) out-parcel building separation.

PZED Staff Comment: No objection.

LANDSCAPE WAIVER REQUESTS:

3. From: Section 13-40(c)(2)(c) – Interior landscaping for parking areas; Island in parking bays shall have a minimum size of eight feet in width, not including curbing.
To: Eight feet required in landscape islands throughout the site of proposed Phase 1 & 2 where modifications to the existing parking are being made - < eight feet provided.
4. From: Section 13-4(c)(3) – Interior landscaping for parking areas: Islands shall be provided to separate parking bays from major internal access drives and shall have a minimum width of ten feet, not including curbing.
To: Ten feet required in terminal islands throughout the site of proposed Phase 1 & 2 where modifications to the existing parking are being made - < 10 feet provided.
5. From: Section 13-41(b) – Pedestrian zones along building facades: Landscape pedestrian zones shall extend the full width of each façade that abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.

To: TD Bank:

- Ten-foot landscape pedestrian zone required along the western façade – four feet provided. Multi-tenant building (out-parcel).
- Ten-foot landscape pedestrian zone required along the northern façade – eight feet provided.
- Ten-foot landscape pedestrian zone required along the ester façade – four feet provided.

6. From: Section 13-41(c) – One tree shall be installed in this zone per each 30 lineal feet or fraction thereof, of façade width.

To: TD Bank:

- Three trees required along the western façade – zero provided.
- Four trees required along the southern façade – one provided. Multi-tenant building (out-parcel).
- Four trees required along the western façade - zero provided.
- Five trees required along the northern façade – one provided.

EXHIBITS TO BE INCLUDED:

Planning and Zoning Division report; subject site map; site plan application; Planning and Zoning Board meeting minutes of July 12, 2011, Landscape Planning Review Board meeting minutes of February 28, 2011; and Review Committee meeting minutes of January 25, 2011.

PLANNING AND ZONING BOARD RECOMMENDATION: APPROVAL subject to the following:

- a. Staff report comments and conditions. (7/0; July 12, 2011).
- b. Approval of all waivers, including waiver of Plantation Tropical.
- c. Limit height of parking lot lights to 25 feet on the perimeter of the site and 40 feet on interior of the site (Previously, City Council limited all site lighting to 25 feet).
- d. Conditional use approval required for in-line tenant drive-through use (no tenant is identified at this time).

REVIEW COMMITTEE RECOMMENDATION: APPROVAL subject to staff comments. (7/0; January 25, 2011).

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

ANALYSIS:

The subject property is zoned SPI-2 (Four Corners Commercial), consists of approximately 9.4 acres, and is developed with a retail shopping center encompassing approximately 103,000 square feet. The site is bound by office use to the north, Broward Boulevard to the south, State Road 7 to the east, and single-family residential use to the west. A site plan for redevelopment of the site was approved by City Council with conditions on February 19, 2003, and provided for redevelopment of the existing shopping center and development of two new out-parcels, a pharmacy and fast food restaurant.

On January 25, 2006, the City Council approved an amended site plan substituting an (+/-) 11,700-square-foot retail/bank building in lieu of the pharmacy located on the southeast corner out-parcel.

The newest proposal indicates two outparcels in approximately the same location as the previously approved plans. The corner outparcel includes a 2,997-square-foot freestanding bank with four drive-through lanes. The centrally located outparcel (facing Broward Boulevard) includes a (+/-) 6,861-square-foot freestanding multi-tenant building that is planned for up to 4,528 square feet of restaurant use. A single drive-through lane is shown on the wet end of the building which requires conditional use approval. The applicant has not submitted a conditional use application for the drive-through restaurant since a tenant of the space has not yet been determined.

STAFF COMMENTS:
PLANNING AND ZONING:

Zoning:

1. Conditional use:
 - a. Conditional Use approval will be required for the drive-through restaurant prior to issuance of any interior alternations for the tenant space.
2. Site data:
 - a. Please confirm the square footage of the bank and outparcel building. Square footages shown on the site plan and site data tables indicate a range of square footages between 9,606 and 9,858 square feet.
3. Elevations:
 - a. The applicant is requesting a waiver from meeting the Plantation Tropical Design Guidelines for the bank. Sheet A-5 indicates the exterior elevations of the existing shopping center will be modified by changing the metal awnings to Pantone 5535m Dark Green with 3M Apple Green trim and the tower emblem banding and storefront keystones to 3M Apple Green to match the TD Bank branding colors. The center colors are generally in the soft white, beige and sage green tones; therefore, staff objects to the proposed addition of bright neon (apple green) to the details within the center. While allowing TD Bank branding to be identified through building signage, staff recommends the following revisions to the proposed paint colors so the new and existing buildings will compliment each other:

TD Bank

Tower color Cream Froth (cream white) in lieu of White Diamond (gray white)
Awning color Solid Pantone 5535m Dark Green (with no Apple Green trim)

New Shopping Center

Tower emblem banding Harvester (golden yellow) in lieu of Apple green
Storefront keystones Harvester (golden yellow) in lieu of Apple green
Awning color Solid Pantone 5535m Dark Green (with no Apple green trim)

This change will allow the awnings on all buildings to match, the tower color of the bank to match the wall color of the center, and the trim color on the center to match the wall color on the bank.

- b. Label roofing material on bank as Terra Cotta S-tile to match center.
4. Lighting:
 - a. Seven (7) 40-foot light poles are planned to be installed in the south and east parking areas fronting Broward Boulevard and State Road 7. On January 25, 2006, the City Council approved the prior site plan subject to staff comments, including the condition that the light pole heights not exceed 25 feet. Please revise plan consistent with previous City Council conditions of maximum 25 feet high lights.

5. Details:
 - a. A lift station is proposed southwest of the existing vocational school with a six-foot high chain link fence located abutting the curb. Revise the plan to avoid potential damage from vehicular intrusion and provide shrubs around the fence perimeter to screen lift station from view.
 - b. Bike racks are proposed for both new outparcel buildings. Please match the type and color of bike racks at both locations. Review plan accordingly.
 - c. All rooftop equipment shall be screened from view in accordance with Section 27-653 of the City Code. This means that rooftop equipment cannot exceed the height of parapet walls or other architectural features surrounding the entire perimeter of the roof.
6. Signage:
 - a. Signage is not part of this review.

TRAFFIC CONSULTANT: See Engineering comments.

ENGINEERING DEPARTMENT:

1. Please include all signing and marking on both the site plan and the civil plan. Sheet PM-1, Pavement Marking & Signage Plan, does not show any signage or markings at the ROW on Broward Boulevard. Please show lengths of double yellow and be consistent throughout the site. *Signing and marking is incomplete on Sheet SP-2, please include end of the drive aisle west of the bank drive-thru. Crosswalk will need to be moved further south.*
2. Civil plans need to show curb radii, dimensions of drive aisle, parking stalls, proposed curb locations. *Per FDOT, the drop curb on State Road 7 is in conflict with the 25-foot radii curb returns (Sheet C-1). Please remove existing drop curb.*
3. Proposed catch basins are located in parking spaces that are also not low points, please relocate. Please meet with Engineering to discuss the drainage. There are areas where ponding will occur as a result of the grades. The plans show the site draining into State Road 7 and Broward Boulevard. Please provide FDOT approval for this to occur. This needs to be done prior to City Council submittal. *Response states that grades were adjusted; however, there are still some ponding concerns. FDOT permit/exemption for drainage will now be required at tie of permitting.*
4. Please show how proposed drainage connects to existing drainage. Please meet with Engineering to discuss the drainage. There are several areas where ponding will occur as a result of the grades. The plans show the site draining into State Road 7 and Broward Boulevard. Please provide FDOT approval for this to occur. This needs to be done prior to City Council submittal. *Response states that grades were adjusted; however, there are still some ponding concerns. FDOT permit/exemption for drainage will now be required at time of permitting.*
5. Some of the drainage flow arrows are going “uphill” based on the existing grades. Please review and review accordingly. Please meet with Engineering to discuss the drainage. There are areas where ponding will occur as a result of the grades. The plans show the site draining into State Road 7 and Broward Boulevard. Please provide FDOT approval for this to occur. This needs to be done prior to City Council submittal. *Response states that grades were adjusted; however, there are still some ponding concerns. FDOT permit/exemption for drainage will be required at time of permitting.*
6. Please provide a queuing analysis for the bank and the fast food drive-thru, signed and sealed by a professional engineer, registered in the State of Florida. The bank queuing analysis is acceptable. The response states that the retail queuing was prepared by Glen Hanks and submitted in March and the bank queuing was prepared by Kimley-Horn and submitted in April. The bank study was prepared by Kimley-Horn, but submitted in March. We do not have the retail/fast food study. Please provide a signed and sealed copy of that report. Traffic Study Comments:

- a. Please provide the ITE Trip Generation data page, LUC937.
- b. Trip Generation Table shows 60% pass-by. The 60% was the percent using the drive-thru, not pass-by traffic. Please adjust table.
- c. The service time required for the calculations is not the window service time; it is the total service time from the order board to the window. Please revise the service time.
- d. The 95% confidence level shows that the stacking will exceed the available storage. When the service time is increased this will be exceeded even more. Please provide a hold harmless letter releasing the City from liability should anything occur as a result of the spillover.

Permit Comments:

1. An erosion and sedimentation control plan will be required and reviewed at time of permitting. *Will need more detail at time of permitting.*
2. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.
3. Drainage calculations will need to be submitted, signed and sealed by a professional engineer registered in the State of Florida.
4. *(Relocated from Site Plan Comments to Permit Comments)* Please provide the permit application from FDOT for the addition of the turn lanes and the closure of the north drive aisle. Response says permit application is include, but it is not in the package. The City will require the actual FDOT permit at time of submission to the Building Department for City permits. *Second response states that it will be submitted at time of permitting.*
5. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

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

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

- 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 landscape pedestrian zone may not constitute more than five feet of the required landscape pedestrian zone).

TD Bank:

- a. Ten feet landscape pedestrian zone along the western façade – zero feet provided.
 - Four trees required along the northern façade – one provided.
 - Three trees required along the eastern façade – zero provided.
- b. Four trees required along the southern façade – zero provided.

Multi-tenant building (out-parcel):

- a. Ten feet landscape pedestrian zone along the northern façade – eight feet provided.

- b. Ten feet landscape pedestrian zone along the western façade – four feet provided.

Waiver requested.

2. Terminal islands are to be a minimum of ten feet wide inside curb to inside curb where modifications to the existing parking are being made – eight to nine feet provided. *Waiver requested.*
3. Planting islands are to be a minimum of eight feet wide inside curb to inside curb where modifications to the existing parking are being made – seven feet provided. *Waiver requested.*

Planting Plan:

1. A minimum of one tree is required every 30 lineal foot, or fraction thereof, of façade width (three palms = one tree).

TD Bank:

- a. Three trees are required along the western landscape pedestrian zone – zero trees have been provided.
- b. Four trees are required along the southern landscape pedestrian zone – one tree has been provided (three palms = one tree).

Staff requests mitigation for trees required.

Strip Shopping Plaza (out-parcel):

- a. Four trees are required along the western landscape pedestrian zone – zero trees have been provided.
- b. Five trees are required along the northern landscape pedestrian zone – one tree has been provided.

Staff requests mitigation for trees required.

2. Staff requests the use of a category two tree (i.e. Yellow or Pink Tabebuia, Crape Myrtle, Japanese Blueberry, etc.) along the southern landscape pedestrian zone in lieu of the proposed four Royal Palms.
3. Staff has concerns with relocating the Gumbo Limbos throughout the site; the roots of the Gumbo Limbos have adapted to the small planting spaces. It has been brought to staff's attention the roots of the Gumbo Limbo trees were damaged several years ago when the irrigation system was redone, thus causing further concern with the relocation of the Gumbo Limbo trees throughout the site; City staff will verify all trees proposed "to be removed or relocated". Please contact staff regarding this matter.
4. Trees to be removed must be mitigated for as per codes; mitigation is above and beyond code required trees; please contact staff regarding this matter.
5. At time of permitting please include ISA appraisals with the existing tree schedule.

BUILDING DEPARTMENT: No objections.

FIRE DEPARTMENT: No objections as to this request with the confirmation that the Fire Department comments of 1/25/11 were satisfactorily addressed by the applicant's letter of 6/3/11 and that the applicant is aware that conditions may arise upon review of all required permitting signed/sealed plans.

POLICE DEPARTMENT:

1. All parking lot lighting and corridor walkways must conform to IESNA minimum lighting standards.
2. All business units must have handicapped parking that conforms to number and design requirements as described in City Ordinance 2149.

PUBLIC WORKS: No comments.

RECREATION DEPARTMENT: No objections.

UTILITIES:

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

1. Prior to a Building Permit being issued, the following must be provided:
 - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
 - BCHD and BC EPD Permits must be approved.
 - Utilities Agreement must be executed.
 - Utility Easements must be executed.
 - Utility Inspection fees must be paid.
 - Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions, 954-797-2159.
2. A pre-design meeting is required with the Utilities Department.
3. Onsite improvements and equipment will be required at applicant's expense to support project.
4. Water and Wastewater Utilities must be shown on plan before a proper review can be completed.
5. Show all existing water and wastewater facilities on site plan including proposed easements.
6. Provide plan for vacating easements as necessary.
7. Show all new and existing water and sewer lines and easements on landscaping and drainage plan.
8. Maintain all utilities and utilities easements for water and wastewater system access.
9. Additional Utility comments:

Although these are detailed plans they will need revisions prior to permitting.
Detailed plans will need to be submitted prior to permitting for a full review.
All water and sewer upgrades will need to be completed during phase one construction, no exceptions.
Entire sewer portion of project will be privately owned and maintained. This must be stated on plans.
All new water mains must be installed, tested, certified and accepted by City of Plantation prior to abandonment of existing mains.
Proposed Lift Station seems extremely close to parking stall and could be damaged by vehicular traffic.
Existing Force Main must be inspected and certified; City of Plantation has no inspection record that FM has been installed and has no certification from States Permitting Agency.
All old water meters must be removed and returned to the City of Plantation.
All water services must be provided utility easements.

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

WASTE MANAGEMENT:

Applicant has provide a letter from Waste Management confirming that the bank dumpster enclosure is allowed at a lesser size than the typical 12' x 12'.

Councilwoman Uria commented on Waivers #1 and #2.

Emerson Allsworth, Attorney, Rich Berrie, architect, and Andre Arrusco, architect for TD Bank, were present.

Mr. Allsworth provided a brief overview of the project and noted that they already have an approved master plan from three to four years ago, which is being modified with TD Bank and a retail outparcel. The waivers are reasonable and they do not have a lot of problems. Staff does not have any objections to Waiver #2 and the rest of the waivers have to do with landscaping and have been discussed with Ms. Berchielli. He referenced a waiver on Page 2 of the staff report, #6, the second item for TD Bank. They were proposing four Royal Palms and because of the height three palms count as one. In speaking with Ms. Berchielli, they have agreed to withdraw that waiver and will work with staff on a substitution of some other type of trees that meets the requirement. They understand they will have to come with a conditional use in the future. The modified bank colors has been agreed to, as recommended by staff. Mr. Allsworth indicated that Council previously approved the 40-foot light poles; they have been ordered and have been on site for about three years, ready to be installed once the site plan is approved. There are two bike racks; one for TD Bank and one for the rest of the Center. Staff has requested that they be similar and they are requesting that they not be similar, as TD Bank wants to have their own style bike racks, which should not be an issue. The only remaining issue has to do with the TD Bank tropical design and the 40-foot light poles.

Mr. Berrie advised that they went before Council in 2005 to discuss the light poles. At that time it was agreed that they would have 25-foot poles around the perimeter and outside shields when the poles were adjacent to residential. The 40-foot poles were going to be used in the central area of the parking lot. The concern was that because they are running 16-foot pervious area, the more poles on site will limit the number of trees they will be able to put on the site. They believe that the 40-foot poles in the area would be a better fit in the Center and provide better lighting. In the last round they went as far as getting a Developer's Agreement; the only last signature they needed.

In response to Councilman Jacobs, Mr. Berrie advised that there are not any 40-foot poles on the perimeter of the property. There are eight 40-foot poles in total on the TD property.

Mr. Berrie clarified that the outparcel is a fast-food drive-thru and there was an external walk in cooler in the rear and the client did not want that; they wanted it within the structure; therefore, it was added to the site plan calculations. The count would then go from 9,606 to 9,858 to account for the 252-square-foot walk in cooler. Parking was reduced by two spaces. TD Bank has a beautiful clover green bike rack, which is a TD Bank icon. TD Bank icons will not be used throughout the Center, they will be using a standard "S" shape recommended by Ms. Easterling; however, TD Bank would like to use their icon bike rack. With regard to the Plantation Tropical Design Guidelines, the bank is changing their color from the diamond white to the cream white, which is the color of the entire Center. They were also presenting a two-tone awning, a dark green and a light green. The Center agreed to change the awnings to match those and Zoning requested that there be no apple green, only dark green, which they concurred with. They were also going to change the colors in the archways with apple green key stones and Zoning requested that golden yellow be used, which they agreed to. There is a small tower feature with a gold emblem on top of the Center that they are going to change to golden yellow. TD Bank colors are being brought into the Center to compliment the bank. TD Bank has a barrel tile roof and they said that the color of the roof is going to match the barrel tile on the Center. They also have a sense of entry, which is a part of the Plantation Tropical Design Guidelines. They believe that with the mixtures of the color, the barrel tile roof and the overall coordination between the Center and the new outparcels that the Center would be relatively consistent with the intent of the Tropical Design Guidelines.

In response to Councilperson Stoner, Mr. Berrie advised that a curb cut was added on Broward Boulevard. One of the requirements of the original site plan approval was to go through and plat the property. In the platting process they worked with FDOT and Mass Transit and ended up with a new entry into the Center off of Broward Boulevard, which will be a combination bus stop and diesel lane.

Councilperson Stoner noted that the entry would be 154 feet from State Road 7.

Mr. Leeds indicated that the Planning and Zoning Board recommended limiting the height of the street lights to 25 feet along the perimeter of the site, which means along State Road 7, Broward Boulevard, the residential street in back and the property line to the north. They did allow 40-foot lights on the interior. The original concern regarding Zoning Comment #3 on Page 3 was that the shopping center was adding some colors to the existing building and staff's recommendation was that they were not consistent with Plantation Tropical Design Guidelines.

Mr. Berrie clarified that the 40-foot poles are lying on the ground ready to be installed.

In response to Mr. Leeds, Mr. Berrie stated that they agree to Zoning Comment #3, which applies to changes on the existing shopping center, the new strip center and the new bank. They agree that the bank tower color will be cream white with no diamond white. They also agree that the awning color on TD Bank is solid dark green. The shopping center tower emblem banding will be golden yellow in lieu of the apple green and the storefront keystones will be golden yellow in lieu of apple green. The only apple green will be the banding on TD Bank and on their bike racks.

Councilman Jacobs commented that the motion will say 25-foot poles around the perimeter and 40-foot poles interior.

In response to Councilman Levy, Mr. Berrie did not recall a discussion regarding a Walmart Food Center.

Mr. Allsworth advised that there is plenty of available space within the Center.

Dennis Conklin, resident, mentioned a food vendor by the name of Aldi that is moving to the area and recommended that they be considered.

Motion by Councilman Jacobs, seconded by Councilman Tingom, to approve Item No. 18, request for site plan, elevation and landscape approval for WESTGATE PLAZA, property located at 15 North State Road 7, subject to staff comments and conditions; excluding the bike rack for the bank that will be the bank color, which is Item #5d on Page 4; the height of the lights will be limited to 25 feet on the perimeter of the site and 40 feet on the interior of the site; deleting Zoning Waiver #1 and Landscape Waiver #6, and granting all of the other waivers. Motion carried on the following roll call vote:

Ayes: Stoner, Tingom, Jacobs, Levy, Uria

Nays: None

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COUNCILMEMBERS' COMMENTS

Councilman Levy thanked the City for allowing him to represent them at the Florida League of Cities meetings. He hopes to be able to go the National League in Phoenix in November 2011, which will be at no cost to the City.

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Councilperson Stoner attended the Broward League of Cities dinner. She noted that Plantation was up for two awards; unfortunately, we did not get them.

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Mayor Bendekovic reminded everyone about the August 31, 2011 Budget Workshop at 6:30 p.m.

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Mayor Bendekovic announced that City Hall will be closed on September 5, 2011.

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In response to Councilwoman Uria, Mayor Bendekovic advised that the Memorial being held on September 11, 2011 at 4:00 p.m. is open to the public.

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Mayor Bendekovic indicated the design on the 9/11 artifact is in the works and will be presented at the Firefighter's Memorial on October 15, 2011.

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Councilwoman Uria made the following comments:

- "The Gate" congratulated businesses serving the Gateway District Community for over 20 years. She noted that Dead Bug Edwards was left out and that business has been in service for over 50 years old.
- She thanked Mr. Leeds for getting Plantation listed in the Greater Fort Lauderdale Alliance Newsletter as a platinum City for our streamline permitting process.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, distributed further information about the Heritage Foundation. He made the following comments:

- Pleased to see that the City was well represented at the redistricting meeting held at the Broward College.
- He commended the Council for taking the issue of the pension under consideration.
- He also commended Council for their decision on the holiday display.

Mr. Conklin mentioned the St. Thomas Aquinas game this Saturday at 12:00 p.m.

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WORKSHOPS - None

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Meeting adjourned at 11:01 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