

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

**JULY 1, 2009**

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

1. Roll call by the City Clerk:

Councilmember:	Diane Veltri Bendekovic Jerry Fadgen Robert A. Levy Peter S. Tingom Sharon Moody Uria
Mayor:	Rae Carole Armstrong
City Attorney:	Donald J. Lunny, Jr.

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2. The invocation was offered by Mayor Armstrong.

The Pledge of Allegiance followed.

3. The City Council minutes for June 17, 2009 were approved as printed.

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**ITEMS SUBMITTED BY THE MAYOR**

Mayor Armstrong read a Proclamation designating July as *Parks and Recreation Month* in the City of Plantation.

The Proclamation was accepted by Jim Romano, Parks and Recreation Director.

Mr. Romano reminded everyone of the *Fourth of July Parade*, which begins at 9:00 a.m. A free concert by Groove Line will be held at Plantation Central Park at 7:00 p.m. Fireworks will be by Bay Fireworks, beginning at 9:00 p.m.

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Mayor Armstrong announced the *Chamber of Commerce Wine, Jazz & Taste* will be held Saturday, July 11, 2009 from 6:30 p.m. – 9:30 p.m. at the Renaissance Hotel.

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Mayor Armstrong expressed appreciation to Susan DiLaura and staff. The City of Plantation has been recognized as one of only three cities in the State of Florida by the Florida Green Building Coalition with a Gold certification.

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## **CONSENT AGENDA**

No items were removed from the Consent Agenda.

As a Commissioner of the CRA, Mayor Armstrong has a voting privilege on Items #18 & #20.

Mr. Lunny read the Consent Agenda by title.

4. Approve upgrades to core Cisco switches from Insight Public Sector in the amount of \$52,378. (Budgeted – IT)
5. Approve needed upgrades to the City and Public Safety communications circuits by MyFloridaNetwork (MFN) and AT&T in the amount of \$3,197 per month. (Budgeted – IT)
6. Approve purchase of assorted lift station pump parts from Barneys Pumps Inc. in the amount of \$25,824. (Budgeted – Utilities)
7. Approve purchase of new #1 & #2 WAS pumps for Regional Wastewater Treatment Plant in the amount of \$50,608. (Budgeted – Utilities)
8. Authorize Insituform Technologies, Inc. to reline and rehabilitate lift station #59 collection basin in the amount of \$1,013,354.20. (Budgeted – Utilities)
9. Award bid for restoration of the Regional Wastewater Treatment Plant Preliminary Treatment Building flow channels and gates to lowest responsive bidder, Southland Painting Corporation in the amount of \$130,730. (Budgeted – Utilities)

### **Ordinance No. 2431**

10. Second and Final Reading of an **ORDINANCE** pertaining to the subject of growth management; amending Ordinance Number #2323 to extend the assignment of 197 flexibility units for Phase Two of the Village at Plantation development for three (3) years from the effective date hereof; recognizing that 201 of the flexibility units have been vested by the Certificate of Occupancy being issued for Phase 1; providing findings; providing a savings clause; and providing an effective date therefore.

### **Resolution No. 10596**

11. **RESOLUTION** urging the Board of County Commissioners for Broward County and the School Board of Broward County to ensure that there is sufficient funding to provide School Resource Officers for all schools located in Broward County; providing for conflicts; providing for severability; and providing for an effective date.

12. **Resolution No. 10597**  
**RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 4744 NW 3 Street.  
(Smith)

13. **Resolution No. 10598**  
**RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 9101 NW 13 Street.  
(Polanco)

14. **Resolution No. 10599**  
**RESOLUTION** confirming a Plantation City Lien of Utilities Service Charges for 1170 NW 89th Way.  
(Kamm)

15. **Resolution No. 10600**  
**RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 11 – June 17, 2009 for the Plantation Gateway Development District.

16. **Resolution No. 10601**  
**RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 11 - June 17, 2009 for the Plantation Midtown Development District.

17. **Resolution No. 10602**  
**RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 11 – June 17, 2009.

18. **Resolution No. 10603**  
**RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 11 – June 17, 2009 for the City of Plantation’s Community Redevelopment Agency.

19. **Resolution No. 10604**  
**RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 18 – June 24, 2009.

20. **Resolution No. 10605**  
**RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period June 18 – June 24, 2009 for the City of Plantation’s Community Redevelopment Agency.

***Motion by Councilwoman Uria, seconded by Councilman Fadgen, to approve tonight’s Consent Agenda as read. Motion carried on the following roll call vote:***

Ayes: Levy, Tingom, Uria, Fadgen, Bendekovic  
Nays: None

**NOTE:** Mayor Armstrong voted affirmatively on Items #18 and #20.

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## **ADMINISTRATIVE ITEMS - None**

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## **LEGISLATIVE ITEMS**

21. Public Hearing and First Reading of an **ORDINANCE** pertaining to the subject of Comprehensive Planning Flexibility; assigning 407 Local Activity Center (LAC) residential units to property generally described as a portion of Parcel "A", of Plantation Business Park, according to the Plat thereof, as recorded in Plat Book 125, Page 40, of the Public Records of Broward County, Florida, and being more particularly described in Exhibit "A" which is on file with the City Clerk; the property generally located south of Sunrise Boulevard 680 feet east of 47<sup>th</sup> Avenue; providing findings; providing conditions and limitations concerning the legislation and approval; providing a savings clause; and providing an effective date therefore. (Madiera Apartments)

**NOTE: Items #21 and #22 were heard in tandem.**

**A memorandum dated July 1, 2009 to Mayor and Members of City Council from Donald J. Lunny, Jr., City Attorney, follows:**

I learned yesterday and confirmed this evening that a member of the Hospital Administration for Plantation General will be speaking out against the Madiera Land Use Application.

As the Council is aware, I am a member of the Plantation General Hospital Board of Trustees. The Board of Trustees are not compensated, and have the following duties and functions:

1. It is a liaison between medical staff and Administration and the Corporate Board of the Hospital Owner.
2. It assists in ensuring compliance with hospital accreditation standards and applicable law (both internally in terms of physician credentialing and externally in terms of hospital accreditation by regulatory agencies).
3. It oversees the management of the environment of care for patients to promote a safe and secure care environment.
4. It is responsible for quality assessment and performance improvement in the area of patient care and reduction of errors and risk management.
5. It advises the Hospital Owner on the annual budget and capital improvement plan.

It is not a function of the Board of Trustees to oppose or comment upon any land development matter that may affect the Hospital Owner.

I do not, and have not, represented the Hospital as a client.

I do not have a conflict concerning this matter that would require me to withdraw from representing the City with respect to this matter. However, I am disclosing fully my relationship to the Plantation General Hospital so

that if either the Mayor, or the Council, or the Applicant wanted me to step aside and not represent the City with respect to this hearing, I will do so. Unfortunately, no one else at the Firm has any knowledge concerning this matter and so if I need to step aside, the matter will need to be continued to a new hearing until one of my partners can become educated about the matter and represent the City in a competent manner.

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Attorney Bill Laystrom was present on behalf of the applicant. He did not have any concerns.

It was the consensus of the City Council that Attorney Lunny represent the City in this matter.

Councilwoman Bendekovic disclosed that she also serves on the Plantation General Hospital Board of Trustees. Unlike Attorney Lunny, she has a voting privilege in this matter; therefore, she submitted a Conflict of Interest form, which is on file in the City Clerk's office. She will manage and facilitate the meeting; however, she will not take part in the conversation or state any opinions.

In response to Councilwoman Uria, Attorney Lunny did not believe anyone has been on the wrong side with regard to abstaining in the past. In his position it is highly unusual to make a disclosure, but if this matter gets litigated he did not want any delays in getting to a point of decision. In terms of the future, if you are involved in an entity that is appearing before the Council, it needs to be discussed and determined in advance because the ethics laws are changing and the ethics issues are becoming more forefront; therefore, you need to continue in being diligent in attempting to identify these issues.

It is Attorney Lunny's view that the award of LAC units pursuant to the City's law and the City Comprehensive Plan is a legislative function. It is also his view that this requires an ordinance; however, Attorney Laystrom disagrees and that objection will be made and noted for purposes of this evening. Consistent with what is done with flex applications and reserve units, the City Council proposed that the hearing be consolidated, as it may make it easier for presentation purposes. This was his proposal without the City waiving its right to treat the assignment of flex as a legislative topic.

Attorney Lunny advised that anyone who makes comments to the elected officers are subject to cross examination and if they refuse to be cross examined by the applicant or others, the Council can disregard their testimony. Rules of procedures are on the monitors and are considered a part of these proceedings.

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**A memorandum dated June 30, 2009 to Mayor and Members of City Council from Brett Butler, City Engineer, follows:**

As a result of continuing review of the applicant's site plan and timing of the applicant's responses to staff comments, the Engineering Department was unable to update the staff report for the agenda deadline. The following is the Department's current position regarding the site plan and traffic engineering and shall supersede the Department comments in the staff report.

Site Plan

Subsequent to a June 23<sup>rd</sup> meeting with the applicant, the Department received applicant responses to current staff comments. The applicant's responses satisfactorily address Department issues and concerns. The Applicant must still revise the site plan and resubmit for approval prior to permitting.

## Traffic Engineering

The traffic study submitted assumes a build out year of 2009 and an existing year of 2007. The existing year will become 2009 and the project build out date will change to an unknown future year. The count data provided in the study is from 2006-2007. The City will require an updated and corrected study with current data, a revised existing year and a new build out date for review and approval prior to securing a building permit. The City will accept the data collected in October 2007; however, the intersection of Sunrise Boulevard/SR7 will need to be recounted as that data is from 2006.

Should you have any questions, please do not hesitate to contact me.

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## **The Planning, Zoning and Economic Development Department Staff Report and Recommendations follow:**

### **INTRODUCTION:**

In order to orient the Council with respect to the subject application, an introductory comment concerning how Local Activity Center Category Residential Units are assigned is appropriate.

When the City created its Local Activity Center ("LAC") Future Land Use Category and designated the Gateway 7 Area as enjoying this Future Land Use Category, the City intended to create a regulatory environment which would allow the City to approve development consistent with its various plans. Generally, as to non-residential development, the LAC category creates a floating pool of non-residential entitlements that can be approved on a parcel specific basis (thus, nonresidential uses may be able to develop under the applicable zoning scheme to a greater intensity than generally contemplated by the market, and have the ability to be subsidized by either direct grants or indirect infrastructure investment funded through the City Community Redevelopment Agency or the Plantation Gateway Safe Neighborhood District or the City).

With respect to Residential Development, the existing zoning scheme applicable to the subject property would only allow residential development to be approved if Flexibility Units or Reserve Units were available and assigned. These Units have been consumed by other projects preceding the subject project. Therefore, unlike the non-residential entitlements created by the LAC (which are in excess of non-residential development generally afforded by the zoning scheme), there is insufficient residential use afforded by the zoning scheme to support this Project, and residential units may only be constructed within this area of the City by the City Council approving an assignment of LAC Residential Units to the Property.

The LAC Future Land Use Category creates a pool of residential units in Plantation Gateway, and once residential units are consumed, there are fewer units available for future projects in Plantation Gateway. As with nonresidential development, LAC Residential Projects may receive market support through either direct grants or indirect infrastructure investment funded through the City Community Redevelopment Agency or the Plantation Gateway Safe Neighborhood District or the City.

The provision of Local Activity Center Residential Units is a certain type of Comprehensive Planning Flexibility, and as such, is subject to Sec. 19-67, Plantation City Code. The enactment of an Ordinance is necessary to approve an assignment of LAC Residential Units from the pool reserved within the Comprehensive

Plan to any particular piece of property. Unlike other types of Comprehensive Planning Flexibility, however, there are no ordained qualifying limitations constraining the Council's legislative prerogative to approve LAC Residential Units in Subsection 19-67 (b), Plantation City Code. Therefore, the policy considerations that guide the Council's discretion are contained in the Comprehensive Plan (and Plans referenced therein) and in Subsection 19-67(c), Plantation City Code. Finally, the assignment of LAC Residential Units is also subject to Subsection 19-67 (d) concerning how long these types of decisions remain viable and other conditions that affect viability.

Since a Site Plan is necessary to evaluate the policy considerations that guide the City's discretion in deciding whether to approve or not approve a requested assignment of LAC Residential Units, Staff has written a combined report addressing both the assignment of LAC Residential Units and the approval of the Proposed Site Plan. As stated above, a decision to approve a requested assignment of LAC Residential Units is a legislative type planning decision; whereas, a decision to approve a Site Plan is quasi-judicial in nature. In order to promote efficiencies in meeting time and presentations, Staff has prepared a consolidated Report. Staff has agendized the Ordinance on the Legislative portion of the Agenda, and the Site Plan on the Quasi-Judicial portion of the Agenda. Staff would suggest that the presentations for both these decisions be consolidated. Therefore, after the title of the Ordinance is read, the President of the Council should announce that the City will be consolidating its hearing on the Ordinance and Site Plan to promote efficiencies in presentation, and without waiving the Council's legislative prerogatives concerning the Ordinance. All comment with respect to the Project will be subject to the City's quasi-judicial rules of procedure which are contained on the Agenda. When the hearing is concluded, the Council should first vote to determine whether to enact the Ordinance assigning the LAC Residential Units to the Property by approving same at First Reading and scheduling the required Second Reading and Public Hearing. If this vote passes, the Council may then proceed to vote on whether to approve the Site Plan. Any approval of the Site Plan must be contingent upon the enactment of the Ordinance at Second Reading. If the Council does not determine to enact an Ordinance to assign LAC Units for this Project, there will be no need for the Council to formally vote on the requested Site Plan Approval.

Staff comments on the Application first focus on the Application's consistency with the LAC goals, objectives, and policies (and the goals, objectives and policies of the various Plans incorporated in the Local Activity Center Future Land Use Category by reference). After this comment, a discussion follows concerning the Application in light of the policy considerations found in Subsection 19-67(c), Plantation City Code. Finally, detailed Site Plan comments are made.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; site plan application; Planning and Zoning Board minutes of August 5, 2008; Landscape Planning Review Board Meeting minutes of February 25, 2008; Advisory Board for the Disabled Meeting minutes of February 25, 2008; and Review Committee Meeting minutes of September 25, 2007.

**PLANNING AND ZONING BOARD:** Recommendation of DENIAL (5/2, Mr. Cuthbertson and Mr. Siniawsky dissenting; August 5, 2008).

**LANDSCAPE PLANNING REVIEW BOARD:** Recommendation of APPROVAL subject to staff comments (7/0; February, 25, 2008).

**ADVISORY BOARD FOR THE DISABLED:** Recommendation of APPROVAL subject to staff comments (4/0; February 25, 2008).

**REVIEW COMMITTEE:** Recommendation of APPROVAL subject to staff comments (7/1, Utilities Department dissenting; September 25, 2007).

**HISTORICAL DEVELOPMENT DISCUSSION:** The subject parcel (“Site” or “Property” or “Parcel”) contains 18.2 acres and is located on the south side of Sunrise Boulevard approximately 700 feet east of NW 47<sup>th</sup> Avenue. City Council approved a site plan for the office complex known as Plantation Business Park on July 23, 1986, which is currently developed with eight one-story office/warehouse buildings, surface parking, and landscaping. A 5-acre parcel at the northeast corner of the parcel is owned by the State of Florida and is not part of this site plan application.

Prior to 2000, the subject parcel (“site”) was zoned OP-P, which does not permit residential uses. The Future Land Use Map (“FLUM”) designation of the site remained “Commercial” until 2004. A “Commercial” Future Land Use Category does not allow residential use as a permitted use. In order to construct residential units on property enjoying a Commercial Future Land Use designation, the City must approve an assignment of Flexibility Units or Reserve Units. At no time when the property was designated “Commercial” did the City Council approve a request for the assignment of Flexibility Units or Reserve Units.

The City initiated a comprehensive rezoning of the 345.8-acre Plantation Gateway Area from various previously existing zoning designations to SPI-2. This site was included in this comprehensive Gateway rezoning plan, and is currently zoned SPI-2 (Healthcare Services Sub district). Under this zoning scheme, if a land owner wishes to construct residential use, the applicant is required to apply for site-specific Flexibility Unit or Reserve Unit assignment. However, all but seven (7) of the Flexibility Units and Reserve Units for this area of the City have been previously consumed by prior projects. Thus, the Comprehensive Plan needed to be changed for the City to be able to encourage appropriate residential development.

In 2004, the city initiated a Comprehensive Plan Amendment to amend both the Comprehensive Plan and the Future Land Use Map Designation for the Gateway Area from various designations, including “Commercial”, to “Local Activity Center”. This future land use designation created a pool of units that can be approved by the City Council for any particular property within the Gateway Area, but the property needs to receive an assignment of LAC Residential Units first. If the applicant wishes to locate residential use on a LAC designated property, the applicant is required to apply for a site-specific LAC unit assignment. The City Council then evaluates the application for LAC Residential Units in accordance with the Comprehensive Plan and the Plantation Community Redevelopment Plan. One concern in making any assignment is the fact that less units will remain in the pool.

The applicant has requested an assignment of 66 garden and 341 high rise units from the available LAC Residential Unit pool for Plantation Gateway. If the City Council approves this request, the remaining LAC Residential Units in the Plantation Gateway Area would be 359 high rise units, 145 garden apartment units, and 300 townhouse units. Therefore, the subject application requests assignment of one-third (33.6%) of the available residential units reserved within the Comprehensive Plan for Plantation Gateway.

## **ANALYSIS OF APPLICATION FOR LAC UNITS.**

### **I. Consideration of Goals, Objectives, and Policies of Relevant Plans.**

In summary, the requested LAC Unit allocation is not consistent with Comprehensive Plan and Plantation Redevelopment Plan. Comprehensive Plan Policy 1.17.1 states: “The City shall use the Local Activity Center designation as a means to carry out recommended land use policies within unified planning districts based on an

adopted master or redevelopment plan.” As the elected officials are aware, the applicable redevelopment plan is the Plan of Redevelopment adopted and approved as part of the Plantation Community Redevelopment Agency (herein, “Plantation Redevelopment Plan”). Based on the size and scale of adjacent development (1-2 stories), proposed building height (3-6 stories), dwelling unit type (high-rise and garden apartment multifamily), and density (22.36 units per acre), the project is not consistent with the Comprehensive Plan and Plantation Redevelopment Plan. In addition, (see zoning comments below) the site plan does not comply with multiple zoning code requirements such as maximum building height, minimum required parking counts, minimum required loading zones, and minimum dwelling unit (floor area) size.

Section IV of the “Plantation Community Redevelopment Plan” (Page 45: Overall Redevelopment Concepts, Design Guidelines, Building Configuration) states in part that building heights should be sensitive to the surrounding neighborhood characteristics. Lots with greater depths may mitigate the impact of building height, particularly in a neo-traditional setting where more height is appropriate. The Plan defines neo-traditional design as “pulling the building to the street edge while placing the parking to the rear on narrow streets and alleys.” An example of this type of preferred urban design is the Altman Project (Grove East), which has buildings along the edge of State Road 7. The subject project, which proposes up to six-story buildings without application of the neo-traditional design elements, is inconsistent with Section IV of the “Plantation Community Redevelopment Plan. The Plan also states that pedestrian amenities should include sidewalks wide enough for two persons to walk comfortably side-by-side, which also seems to be lacking in this proposal.

Objective 1.17 (Future Land Use Element) states that development within the Local Activity Center (LAC) should be characterized by efficient infrastructure, close-knit neighborhoods and a sense of community, preservation of natural systems, and promotion of pedestrian circulation and convenient access to mass transit facilities.

- The project design consists of very long three six-story buildings surrounded by linear parking fields, no centrally located recreation facilities or usable open space, and excessive walking distances to on-site trash disposal facilities. Based on the above, the project does not promote pedestrian circulation or a close knit neighborhood consistent with Objective 1.17.

Policy 1.17.2 (Future Land Use Element) states that Local Activity Centers shall support the location of uses oriented around a five minute (¼ mile) walk.

- Most of the dwelling units are located in excess of a ¼ mile walk from commercial areas on State Road 7. The distance between the property and residential supportive other uses along State Road 7 makes this proposal a “stand alone” residential project inconsistent with the type of project promoted by the applicable Plans in light of Policy 1.17.2. If the subject property incorporated significant retail, restaurant, live work areas, and other residential supportive uses, then a close knit neighborhood and sense of pedestrian oriented community around a five minute walk would be more likely realized.

Policy 1.17.3 (Future Land Use Element) states “Local Activity Centers shall support the location of uses and internal circulation such that pedestrian mobility is a priority. All land uses in a Local Activity Center shall be directly assessed via pedestrian ways, and accessible to existing or future alternative public transportation modes, including bicycle and transit.”

- The layout of the proposed project does not lend itself to the promotion of pedestrian circulation. Long linear parking lot drive-aisles (600 to 1200 feet) do not promote pedestrian circulation as a priority, and as such, is inconsistent with Policy 1.17.3.
- Loading zones (not located adjacent to building entrances/exits) may be used for drive-aisles or parking spaces, increasing hazards to internal pedestrian movement. Increased hazards to pedestrian mobility do

not support the promotion of pedestrian movement as a priority, and as such, are inconsistent with Policy 1.17.3.

- Because many dwelling units are located so far from trash compactors (400 to 600+ feet), the project layout encourages residents to use their automobile to transport trash from their apartment to the compactors, particularly in inclement weather. The location of trash compactors so far from so many dwelling units is inconsistent with Policy 1.17.3.

Policy 1.17.10 (Future Land Use Element) states that “Residential development shall be limited to townhouse or multi-family to encourage compact development and integrated mixed use development.”

- The proposal includes three six-story apartment buildings surrounded by large surface parking fields. This design is not compact, nor does it incorporate mixed-use development.
- The primary recreation center (clubhouse, fitness center, large pool, and volleyball court) and the secondary recreation area (small pool and tot lot) are respectively located at the extreme northwest and southeast corners of the site. For many residents, the walking distance to either the primary or secondary recreation facility exceeds ¼ mile. These proposed community facilities are not centrally located in a manner consistent with “compact development” as per Policy 1.17.10.

Policy 1.17.13 (Future Land Use Element) states that “all land uses shall be integrated and oriented around the five-minute walk within these three activity nodes (the North, Central, and South Sub-districts).”

- Most of the dwelling units are located in excess of a ¼ mile walk from North District Commercial areas, and as such are not oriented around a five-minute walk within other parts of the North Sub-District.

Based on the size and scale of adjacent residential development (1-2 stories), the proposed building height (3-6 stories), dwelling unit type (high-rise and garden apartment multifamily), and gross density (22.36 units per acre) are not consistent with the Comprehensive Plan and Plantation Redevelopment Plan.

## II. Policy Considerations Outlined in Sec. 19-67(c), Plantation City Code

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

**Applicant Response:** The proposed residential development is located nearby to commercial and office development and major medical facilities as well as State Road 7 bus transportation corridor, the State Road 7 automobile sales and service corridor and the new County Park. This has caused a substantial and unanticipated change affecting the subject property. This creates a present opportunity to apply units to establish residential development near such facilities and to still have complementary commercial and office uses on the subject property.

*Staff Response: Applicant’s statement that there has been “substantial and unanticipated change affecting the property” is not supported by the facts. The only change to abutting properties has been the construction of the two-story Park Place Townhomes to the east. The proposed three six-story, 22.36 units/ acre site plan is incompatible with Park Place Townhomes and well as the established single family subdivision to the south.*

*The referenced automobile sales and service and medical uses have existed in the general area at least 20+ years. The referenced County Park is located over two-thirds-mile from the site, and is separated from Plantation by the grade-separated SR 7/Sunrise Boulevard interchange.*

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

**Applicant Response:** With the approval of this project, the City of Plantation will realize several goals and objectives outlined in the City of Plantation Comprehensive Plan. The project will bring new housing units to this district and provide a community to support the nearby commercial and office development. While the site plan requires typical waivers, the applicant has devoted a substantial amount of time working to provide a quality community for these new residents. The site plan provides for safe and efficient movement of pedestrian and vehicular traffic. It reflects an orderly and creative arrangement of uses that interact with each other internally and externally provide another building block for redevelopment in the State Road 7 Corridor.

*Staff Response: Staff disagrees.*

- *The density and scale of the project is incompatible with the adjacent one and two-story residential neighborhoods.*
- *This project cannot be characterized as offering significant benefits when it does not meet minimum zoning requirements, including maximum building height, minimum number parking spaces, minimum number of loading spaces, and minimum apartment size.*
- *This project cannot be characterized as a quality community based on the distance and difficulty required for residents to transport garbage to the two on-site compactors. Applicant's failure to provide trash chutes leading to ground floor enclosed dumpsters in four and five-story buildings is not consistent with a quality residential development.*
- *The project design (see zoning comments) is not consistent with a quality residential development intended to promote safe and convenient pedestrian connectivity within the site.*
- *The linear project design, which includes excessively long straightaway drive aisles, is not a creative arrangement of buildings and parking areas.*
- *Incompatible development (as characterized by excessive density and height) does not provide a benefit to the City.*
- *The development does not meet the Quality Housing Criteria as defined in Chapter 19 of the Plantation Code (see immediately below) that Staff recommends should be considered.*

1. Cement tile roofs with staggered rooflines;

Applicant's Response: Cement tile roofs will be used.

*Staff Response: The building elevation plans show parapets and metal tile roofs. The elevations are inconsistent with Quality Housing criteria.*

2. Stucco or brick covered sidings and walls;

Applicant's Response: Stucco walls will be used.

*Staff Response: The building elevations reveal a significant amount of "cementitious siding" in addition to stucco walls. The building elevations are inconsistent with Quality Housing criteria.*

3. Landscaped entryway and property perimeter features;

Applicant's response: The entryway and property perimeter feature will be landscaped. Please refer to site plan and landscape plan submittals.

*Staff Response: Staff concurs.*

4. Waterway features (such as fountains) for lake, pond or wet retention areas;

Applicant's Response: A fountain will be designed and installed in the centrally located retention lake.

*Staff Response: Staff concurs.*

5. A perimeter stucco concrete block wall, concrete panel and cap wall, brick walls or metal picket fence;

Applicant's response: Applicant is proposing a chain link fence with ficus hedge.

*Staff Response: The site plan shows a five-foot high aluminum picket fence along the north and east property lines. The site plan is inconsistent with Quality Housing criteria.*

6. Dwelling units which all have central air conditioning and heating systems, hot water, and public sewer service;

Applicant's response: All units have central air conditioning, heat, hot water and public sewer.

*Staff Response: Staff concurs.*

7. Dwelling units which all have balconies, patios, or porches;

Applicant's response: Select units will have patios and/or balconies.

*Staff Response: Staff concurs.*

8. Dwelling units which, if they are single family units, have a garage and laundry facilities interior to the units;

Applicant's response: These are multi-family units, however all units have laundry facilities interior to the units.

Staff Response: *Staff concurs with applicant's statement.*

9. Dwelling units which, if they are multifamily, have storage facilities, and resident-only laundries on site;

Applicant's Response: Storage facilities within the buildings will be available to the residents. All units will be equipped with a washer and dryer.

Staff Response: *Staff concurs.*

10. A clubhouse and recreational amenities (pool, tot lot, courts, etc.);

Applicant's Response: A clubhouse will be provided with a fitness center, kid's center room with large screen television and pool table. An outdoor pool, spa, tot lot, and passive courtyard with fountain will be provided.

Staff Response: *Site amenities are not centrally located for the convenience of all residents. The primary recreation center (clubhouse, fitness center, large pool, and volleyball court) and the secondary recreation area (small pool and tot lot) are respectively located at the extreme northwest and southeast corners of the site. For many residents, the walking distance to either the primary or secondary recreation facility exceeds ¼ mile. Excessive pedestrian travel distances are inconsistent with Policies 1.17.10 (requiring "compact development") and 1.17.13 (5-minute or ¼ mile walking distance) of the Future Land Use Element of the Comprehensive Plan. The site plan is inconsistent with Quality Housing criteria.*

11. A program of on site security measures;

Applicant's Response: The community will be gated and all units will be pre-wired for alarm systems.

Staff Response: *Staff concurs.*

12. Where the development has committed itself to the ongoing maintenance of the site in accordance with the standards set forth in the City's community appearance ordinance through appropriate restrictive covenants, the creation of associations or other substitute method of assuring that the maintenance obligations are capable of being paid for by assessments or property lien rights, and with such other restrictive covenants or documents as are reasonably required by the City's legal department in order to implement any other conditions of the City governing body's decision;

Applicant's Response: This is a rental community and will be outfitted with a full time property management and maintenance staff.

Staff Response: *If approved by the City Council, the applicant is required to provide restrictions and/or covenants (as required by the City Attorney) prior to issuance of any permits to assure the continued perpetual maintenance of the project.*

13. Where architectural treatments and embellishments meet the requirements of Section 5-57 of this Code;

Applicant's Response: Please refer to the submitted site, landscape and architectural plans.

Staff Response: *See zoning and landscape comments.*

c. The extent to which the project contributes to the tax base, adds employment, and provided other positive economic impacts;

**Applicant Response:** At the present time the site is extremely outdated and in need of major redevelopment. The proposed development will add significant tax funds to the City and the Gateway 7 District. The project will also meet the goal to add new housing in this area.

Staff Response: *Applicant's response is incomplete as it does not address the costs to provide city services to the project. With any residential development, the tax benefit is a function of estimated property taxes compared with municipal costs (Police, Fire, EMS, Parks and Recreation, etc.) to service the development and its residents. Documentation has not been submitted demonstrating that the tax benefit exceeds the city service costs over the useful life of the project. As the Council may recall, the City's ad hoc economic redevelopment committee reported in March 1, 2007 that over the long run, residential projects consume more governmental service than non-residential ones, and consequently, do not generate as significant a net revenue impact as commercial or office development.*

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

**Applicant Response:** The project will not adversely impact local services. Water and sewer service are available to the site and the City has sufficient capacity to service the project. Based on the size of the project, 407 multi-family dwelling units, existing police, fire and EMS services will be more than adequate to serve the project. Given the residential nature of the development there will be no secondary effects such as odors, noise, traffic or crime. The existing industrial center creates a much greater risk of odor and crime. Applicant intends to demolish the existing medical office center as part of its redevelopment plan.

The traffic generation from this new development will not adversely impact adjacent roadways.

Staff Response: *Applicant has provided no evidence demonstrating development of this property for office/warehouse use generates more crime than high-density residential use.*

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

**Applicant Response:** The property is an aging center. The site could physically be developed with limited success. However, given the size of the parcel, the economic impact of this new project would result in a greater catalyst to redevelopment than simply rebuilding residential units. The application of units is warranted to inject a reasonable number of residents into the district to complement and utilize the existing and potential commercial base. Further, these new residents will help to utilize the bus transportation system, government building, medical facilities, and adjacent retail/office buildings.

*Staff Response: Staff agrees in concept that additional residential dwellings support existing and future commercial uses within the Plantation Gateway district; however, residential development at this site does not accomplish this in the manner contemplated by the Plans for the area because most of the dwellings are located ¼ to ½ mile from the State Road 7 Corridor, in excess of walking distances called for in the Local Activity Center Policy 1.17.13. The commercial uses along this portion of SR 7 do not include neighborhood commercial uses that would most benefit from the residential development. If residential units are to be approved for the subject property, they should be approved only if the subject property is integrated with other residential supportive use, such that the development fully functions as a close knit community.*

- f. The nature and types of uses surrounding the subject property and whether the development proposal is compatible and complements those uses;

**Applicant Response:** The proposed residential use of this property is the use most able to complement the bus system, hospital, county government buildings and the mixed-use office and retail complexes along State Road 7. It is compatible with the intensity of nearby retail and medical uses and will provide the desired mix of residential and commercial use.

*Staff Response: The project is not compatible with the surrounding residential uses (one-story single family and two-story townhouse). The proposed three six-story, 22.36 unit/acre apartment project does not compliment the surrounding residential development. The net density, after deducting water areas, is nearly 24 units per acre.*

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

**Applicant Response:** The project addresses the Housing Element of the Comprehensive Plan Objective 1.1 which indicates that the City of Plantation shall continue to assist the private sector in providing 7,866 additional housing units by the year 2006, which when taken in conjunction with existing housing units, will continue to provide affordable housing. Policy 1.6.1 (a) indicates the compatibility of existing and future uses shall be primary considerations in the review and approval of land use amendments. These policies apply similarly to the assignment of flexibility units.

*Staff Response: The applicant has misread Objective 1.1 of the Housing Element and has read a prior version of the Element. With respect with Policy 1.6.1, the project (three six-stories) is not compatible with the adjacent existing one and two-story residential developments.*

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

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

*Staff Response: As stated above, there is no significantly remaining flexibility or reserve units available for this project, and the only way to obtain residential use is through an assignment of LAC Residential Units from the pool reserved within the Comprehensive Plan. For reasons stated above, Staff does not consider the subject application to warrant utilizing LAC units. Additionally, the project's failure to meet zoning requirements (minimum parking, minimum loading, minimum building separation, maximum building height, and minimum dwelling unit size) is indicative of an overbuilt project.*

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

**Applicant Response:** The City has conducted an extensive area wide study of the State Road 7 and concluded that the addition of housing units to the corridor would encourage redevelopment in the corridor. By improving the corridor and stimulating redevelopment, the health, safety and welfare of neighboring residents will be improved.

*Staff Response: Quality residential developments are desirable, but only if consistent with the Comprehensive Plan and Plantation Plan, and planned at the appropriate scale, height, and density relative to adjacent residential development.*

- j. The future land use and needs of the community; and

**Applicant Response:** The City has been moving forward on its new vision for the State Road 7.

*Staff Response: The needs of the community are not served by three six-story buildings in a neighborhood characterized by one and two story residential development. The City should not award one-third (33.6%) of its total LAC Unit remaining capacity on a project such as that proposed which does not clearly meet and exceed the expectations reflected within the governing Plans' policy considerations.*

- k. Such other policy considerations that may be set forth above but which are nonetheless considered by the City governing body to be reasonable and appropriate under the circumstance.

**Applicant Response:** The City has been moving forward on its new vision for the State Road 7 corridor. This property is in close proximity to the ongoing commercial and office redevelopment in the corridor. The site is large enough to allow for residential use development.

*Staff Response: The scale, height, and density of the development are neither reasonable nor appropriate given the established adjacent low-rise development patterns.*

## **SITE PLAN ANALYSIS:**

### **I. Summary of Site Plan Waiver Requests**

- 1) From Section 20-126(b), to defer payment of the recreational impact fees until time of issuance of the first building permit.
- 2) From Section 27-613.4(b); to increase the building height from five stories to six stories.

*PZED does not support this height waiver. The height waiver request, as well as proposed buildings not requiring a height waiver, is incompatible with existing, adjacent one and two-story residential development.*

- 3) From Section 27-635(3) which requires building to building separations:
  - a. To reduce the separation between Building #1 and Building #4 – from 70’ to 49’
  - b. To reduce the separation between Building #2 and Building #3 – from 70’ to 49’
  - c. To reduce the separation between Building #3 and Building #5 – from 60’ to 40’
  - d. To reduce the separation between Building #4 and Building #5 – from 60’ to 34’
  - e. To reduce the separation between Building #6 and Building #7 – from 65’ to 56’

*PZED does not support the building separation waivers, particularly between long linear buildings or buildings containing 4 or more floors. Failure to comply with building separation requirements indicates that the site is overbuilt with respect to total number of dwelling units.*

- 4) From Section 27-635(5), to increase the length of Building #1 from 275 feet to approximately 285 feet.

*PZED does not support allowing buildings in excess of the maximum length allowed by the zoning code. Buildings approaching 300 feet in length do not promote pedestrian circulation as a priority, and as such, are inconsistent with Policy 1.17.3 of the Future Land Use Element in the Comprehensive Plan.*

- 5) From Section 27-689(d), to reduce the minimum required floor area for a one-bedroom unit from 750 square feet to 720 square feet.

*PZED staff does not support waivers to reduce one bedroom apartments below the minimum required 750 sq. ft. This floor area waiver request is reflective of the excessive dwelling unit density associated with the project.*

- 6) From Section 27-743(2), to reduce the required parking from 749 spaces to 653 spaces.

*PZED does not support the parking waiver as a 15% reduction in required parking has already been applied to the site under the Plantation Gateway development standards.*

- 7) From Section 27-747(d), to reduce the required number of off-street loading zones from 8 (eight) to 0 (zero).

*PZED does not support the waiver. The three loading spaces provided in the middle of the parking lots are non-functional and can be mistakenly used for parking spaces or drive aisles, creating an increased hazard to pedestrian mobility. The lack of functionally located loading zones is counterintuitive to the promoting pedestrian mobility as a priority (Policy 1.17.3 of the Future Land Use Element of the Comprehensive Plan).*

- 8) From Section 13-40(c) (2), to reduce the interior parking lot island widths from nine feet to four feet (inside curb to inside curb).

*Landscape Staff does not support this waiver. Four-foot planting islands are not adequate growing space for Category 1 (shade trees) – Parking can/should be modified to allow for nine-foot parking islands as required per code.*

- 9) From Section 13-40(c) (3), to reduce the terminal parking lot island widths from ten feet to eight feet.

*Landscape Staff does not support this waiver. Parking can/should be modified to allow for ten-foot wide islands to allow maximum growing space for Category 1 (shade trees).*

- 10) From Section 13-40(c) (4), to reduce the width of landscape medians between double parking bays from ten feet to eight feet.

*Landscape Staff does not support this waiver. Parking can/should be modified to allow for ten-foot wide medians with a two-foot overhang to allow maximum growing space for Category 1 (shade trees).*

- 11) From Section 13-41(b), to reduce the landscape pedestrian zones:

- a. for Building 1 from 29.5' to 12'.
- b. for Building 2 from 29.5' to 15'.
- c. for Building 3 from 20.5 to 18'.
- d. for Building 4 from 20.5 to 18'.
- e. for Building 7 from 25' to 20' (Northwest side).

*Landscape Staff does not support waivers throughout the landscape pedestrian zones – The density of this project can be modified to be compatible with the surrounding area thus allowing additional green space to support code required planting.*

## **II. Discussion Concerning Site Plan**

The applicant proposes demolition of the eight existing office/warehouse buildings and development of 407 multi-family units consisting of 66 garden and 341 high-rise apartments for an overall site density of 22.36 dwelling units per acre. Because, the highest density Residential Land Use Category within Plantation is Medium-High 25 Units per Acre, a proposed residential density of 22.36 Units per acre for this Property is considered very intense.

**Buildings:** The height and scale of the proposed seven multi-family buildings include two three-story buildings (33 units each), two four-story buildings (44 units each), one five-story building (55 units), one six-story

building (132 units), and one six-story building (66 units). Building heights stagger from three stories on the south side of the site to six stories on the north side of the site.

The maximum height allowed in the zoning district is five stories or 75 feet. Two of the seven buildings exceed the allowable height. The building materials include stucco finishes accented with cementitious siding and metal standing seam roofing material. A single story clubhouse and six single story parking garages are also proposed.

Amenities: A clubhouse with swimming pool and volleyball lot are proposed at the northwest corner of the project and a smaller pool and tot lot are proposed at the southeast corner of the site. The site layout groups four of the six buildings in a central location surrounded by surface parking. The linear building arrangement results in excessively long straight-away drive aisles up to 1,200 feet in length (equivalent to the length of four football fields).

Sanitary Facilities: Trash chutes leading to an enclosed dumpster on the ground floor of four, five and six-story buildings are not proposed for comparable buildings on the Madeira site. Instead, residents are required to carry their trash with them as they exit the building (by stairway or elevator) out to one of two compactors located on opposite ends of the site. Many dwelling units are located 400 to 600+ feet from the nearest compactor.

Parking: Based on the unit count and bedroom mix, 881 parking spaces are required. Section 27-613A (2) of the code allows for a 15% reduction in required parking for development proposals within the Plantation Gateway thereby reducing the required parking to 749 spaces. The applicant provides 653 surface parking spaces and 96 parking spaces within the parking garages. Parking spaces within the parking garages are typically offered at a paid premium and are not available to all residents; therefore, garage parking is not counted towards provided parking. The resultant parking deficiency is 96 spaces. Neither on-street parking nor adjacent “joint-use” parking is available to address the parking deficiency.

Loading Zones: Based on the number of dwelling units, Section 27-747(d) (2) requires eight loading zones be provided on-site. Loading zones are required to be arranged for convenient and safe ingress and egress by trucks or trailers and accessible from the interior of the building they are intended to serve. The applicant has provided three loading areas in the middle of parking lots. None of the loading zones are located adjacent to any building and are likely to be used as drive aisles or parking spaces (see parking deficiency referenced above). Because these loading zones are non-functional, they are not counted toward meeting the loading zone requirement.

In addition, the failure to provide usable loading zones will:

- a) Encourage the use of drive-aisle fire lanes for loading, potentially reducing response time.
- b) Encourage the use of improperly located loading zones for parking or drive-aisles, increasing hazards to internal pedestrian movement. Increased hazards to pedestrian mobility do not support the promotion of pedestrian movement as a priority, and as such, is inconsistent with Policy 1.17.3 of the Future Land Use Element.

### **III. Additional Staff Comments**

**Planning:**

1. The plan design is not compatible (building height, density, dwelling type) with the adjacent residential areas, and as such, is inconsistent with Section IV of the “Plantation Community Redevelopment Plan”.

2. Site amenities are not centrally located for the convenience of all residents as the two buildings located at the southeast corner of the site are located in excess of 1/4 mile (walking distance) from the main clubhouse and vice versa for access to the tot lot from Buildings 2 and 3.
3. The site plan provides excessively long linear parking areas and drive aisles.
4. The applicant does not comply with quality housing requirements.
5. The applicant has not demonstrated compliance with the Broward Traffic Concurrency requirements.
6. This request must undergo a local concurrency review for water, sewer, streets, drainage, and solid waste. The standard single-page form is available in the Planning and Zoning Department. The applicant must present the form to the appropriate City departments for sign off prior to City Council approval. The concurrency form shall be completed before this item can be scheduled for City Council consideration.
7. Documentation of payment of Broward County School Board Impact Fees shall be provided prior to issuance of any permits. Please note there is an existing Interlocal agreement between the City and the School Board regarding school impact fees in the LAC, and is therefore vested in terms of school concurrency.
8. The applicant must contact the Broward County School Board regarding school mitigation fees prior to Planning and Zoning Board consideration. Fees must be paid prior to applying for a building permit.
9. Local park impact fees are required prior to City Council approval. The recreation impact fee form is available in the Planning Department.
  - a. The applicant is requesting a waiver to pay the park impact fees prior to issuance of a building permit.
  - b. If approved, the applicant will be subject to pay the park impact fees that will be in effect at the time of permitting.

### Zoning:

#### In General:

1. The site plan layout is not in keeping with the quality housing standards normally associated with the City with regards to building placement, parking lot and pedestrian circulation. The proposed density of 22.36 dwelling units per net acre is incompatible with the two-story multi family uses to the east and west and the single-story single family residential uses to the south.
2. The five-acre parcel northeast of the subject site has access rights to existing NW 8<sup>th</sup> Court and drainage rights within the subject site. These rights reduce the buildable land area within the subject by providing access easements through the site and increasing the amount of water retention built on the subject site beyond the needs of the on-site development. These rights effectively reduce the buildable dry land area and increase the net built density to nearly 24 units per acre.
3. The applicant must provide State approval of the release of the existing access easement and acceptance of the proposed access easement and drainage rights prior to issuance of a building permit.
4. Provide a platting determination letter or verification of compliance with the current plat note restriction from Broward County prior to issuance of a building permit.
5. Easements in conflict with the proposed building locations must be vacated prior to issuance of a building permit and new easements rededicated prior to issuance of a certificate of occupancy.
6. Signage is not a part of this review.

#### Site Plan:

7. The site plan layout is not supported by staff given the bulk and scale of buildings massed in the center of the site and long linear parking rows that exceed 1,200 feet in length. Site amenities are not centrally located for the convenience of all residents as the two buildings located at the southeast corner of the site

are located approximately 1/4 mile (walking distance) from the clubhouse and visa versa for access to the tot lot from Buildings 2 and 3. Excessive pedestrian travel distances are inconsistent with Policies 1.17.10 (requiring “compact development”) and 1.17.13 (five-minute walking distances) of the Future Land Use Element of the Comprehensive Plan.

8. The site plan is provided at a 1” = 60’ scale and is difficult to get detailed information from. The horizontal control plans is provided at a 1” = 30’ scale but doesn’t provide adequate dimensional information. If approved, provide a site plan at a 1” = 30’ scale for the file prior to submittal of a building permit.
9. Section 27-635(3) requires a building separation as follows:
  - a. Between Building #1 and Building #4 - 70 feet
  - b. Between Building #2 and Building #3 - 70 feet
  - c. Between Building #3 and Building #5 - 60 feet
  - d. Between Building #4 and Building #5 - 60 feet
  - e. Between Building #6 and Building #7 - 65 feetA waiver is requested. Staff does not support this waiver as inadequate building separations are an indication that the site is overbuilt.
10. Section 27-635(5) limits the length of apartment buildings to 275 feet. The north elevation of Building #1 is approximately 285 feet in length. A waiver is requested. Staff does not support this waiver given the size and scale of proposed Building #1.

#### Floor plans and Building elevations:

11. The floor plans do not match the building elevations. For example, the building elevations show windows on each building end whereas the floor plans show no windows. In addition, the elevations show exterior wall articulation where the floor plans show “flat” (unarticulated) exterior building walls.
12. Sheets A-2.01 – A2.02 do not match the buildings shown on Site Plan sheet A1.01. Floor plans for Building 3, 4, and 7 are not provided.
13. Per Section 27-635(c) (2), the minimum floor area shall be 750 square feet. Several of the one bedroom apartments do not meet minimum zoning code floor area requirements.
14. A significant downgrade of the architectural features of the residential building occurred with the removal of the dormers. “Plantation Tropical” recommends the roofline incorporate the use of dormers.
15. Front door details are not provided. Staff cannot determine if front doors include Plantation Tropical” improvements, including decorative transoms and sidelights utilizing moldings, pediments or keystones
16. Provide porch dimensions on the floor plans.

#### Parking & Loading:

17. The proposed 96 garage parking spaces cannot count towards the overall parking requirement. Change the parking calculations on the Site Data Table (Sheet A1.010) to reflect 653 spaces provided. A waiver is being requested. Staff does not support this waiver as:
  - a. Applicant has already been granted the 15% Gateway reduction
  - b. Insufficient parking can result in car parking in unapproved areas, including but not limited to, parking in the non-functional loading zones.
18. Section 27-747(2) requires eight off-street loading spaces. A waiver is being requested to provide 0 (zero) loading zones. Three loading zones are provided, however they are located in the middle of parking lots (minimum 80 feet from any building entrance) and do not meet the zoning code location criteria. Staff does not support the waiver.

### Fences and Walls:

19. Provide entry gate and rear gate details for staff approval prior to permitting.
20. Provide pedestrian gates details.
21. A pedestrian gate, located along the southerly property line, has been added since the last submittal. What is the purpose of this gate?
22. Clarify the limits of the masonry wall versus the aluminum picket fence. A wall should be provided when abutting the single family area to the south (at the southeast corner).

### Details:

23. The roof elevations have been significantly changed from the last submittal and air conditioning units sitting on the roof may not comply with Sec. 27-653. Clarify plan to provide this information.
24. Label the entry roundabout, sidewalk roundabouts, and the ingress/egress lanes to clearly reflect paver material locations.
25. Excessive travel distances to compactors and absence of internal trash facilities in four six-story buildings are not conducive to maintaining a clean, refuse free environment.
26. Restroom facilities for the main pool area are located in the clubhouse. How will residents access the restroom facilities when the clubhouse is closed?
27. Please provide the setback to the main swimming pool. Twenty feet minimum is required.
28. Update the site Data Table (Sheet A1.02) to correctly show the correct number of bedroom counts, parking calculations, vehicle overhang area, floor area ratio, etc.
29. Sheet A1.01 refers to "Pedestrian Amenity See Detail Sheet A1.05". Sheet A1.05 has not been provided.
30. Dimension the sidewalk around the mail kiosk.
31. Provide a decorative railing around the patio area of ground floor units to afford an element of privacy and prevent pedestrian traffic through the landscape areas surrounding the building.
32. A second trash compactor (located at the NE corner of the property) has been added and details have not been provided.
33. Provide an outdoor light at each of the ground floor unit entry ways and upper floor patios.
34. No lighting is being provided around the residential buildings or recreational amenities area, Sheet A1.04. Staff strongly recommends lighting be provided for the safety of the residents.
35. A maintenance facility/area is not shown. Please provide an on-site maintenance area to avoid future placement of sheds or maintenance buildings that are not compatible.
36. What is the "gray" square located in the southwest corner of the project on Sheet C-2.2?

**TRAFFIC CONSULTANT:** See Engineering comments.

### **ENGINEERING DEPARTMENT:**

NOTE: The February 20, 2009 response to comments submitted by the Applicant in this package included responses to other department review comments, but did not include responses to the Engineering Department comments.

1. Curbed islands must be the same length as the parking spaces on the Site Plan. **Comment not addressed. Throughout the site the islands are too short.**
2. The loading zones are located in parking area/drive aisles and too close to intersections. Please relocate. **Comment not addressed. Please relocate loading zones.**

3. Signing and marking is still incomplete, also both sets of plans, civil and Site Plan need to match. **Comment not addressed. The plans need to match and signing and marking needs to be complete.**
4. Please show all signing and marking on the Site Plan. **Comment not addressed. The Site Plan must have signing and marking on it.**
5. The Site Plan and the civil plans must match, please revise. **Comment not addressed.**
6. Please show fire truck radius throughout the Site Plan. It may not go over parking spaces, curbs, etc. **Comment not addressed. Truck radii still go over curbs and sidewalks. (Ex. Main entrance gates)**
7. All pedestrian crossings, not at intersections, shall include the appropriate signage.
8. There is a disabled ramp by the west trash area leading to the middle of the drive aisle. Please remove or revise.
9. Please provide signing and marking at the resident only access drive.
10. A guard gate is shown as well as two gated entrances. The visitor call box location appears to be beyond the guard gate. Please explain access circulation for visitors and residents will be accomplished.
11. There are two (2) signs at the entrance to the guard gate and two at the gated entrances that are not identified. Please identify.
12. The garage structures do not provide sufficient site distance for vehicles backing out into the drive aisles to avoid a conflict with other vehicles. A hold harmless agreement will be required between the City and the developer/owner.
13. The drive aisle southeast of Building #4 is angled and the width is less than the required 24 feet. The stop bar is also out in the drive aisle creating a vehicular conflict point. Revise the parking area geometry to correct this deficiency.
14. Please dimension the back out area for the resident only access gate.
15. The dumpster doors at the east side open into the drive aisle. Please extend the curb to protect them.
16. There is a pedestrian gate in the southeast corner that does not connect to a public sidewalk. Please remove or provide sidewalk.

**Should the City Council elect to support and approve the Site Plan, the Engineering Department strongly recommends that its' comments be addressed and approved together with the submittal of a Hold Harmless Agreement (see review comment #12), acceptable to the City prior to the Applicant's submittal to permitting.**

#### Permit Comments

1. An erosion and sedimentation control plan will be required.
2. A MOT will be required for construction.
3. Drainage calculations (signed and seal by a FL PE) and district approval will be required.

#### Traffic Engineering Comments:

**NOTE: The traffic study submitted assumes a build out year of 2009 and an existing year 2007. Since the project build out date will change and count data is from 2006-2007, the City will require an updated study with current data for review and approval prior to City Council action. The following comments are from the previous submittal and should be taken into account for the new study.**

1. Since actual data is available why is SR7 balanced? **Applicant response not sufficient.** E-mail discussions took place in December 2008-January 2009 regarding "balancing" and changing existing data. Existing data is not to be changed, reduced, or "balanced" by the analyst. An e-mail sent January 2, 2009 to the analyst, stating this was not responded to.

2. Table D-1 volumes do not match the count data. **Applicant response not sufficient.**
3. Tables D-1 and D-2 do not show Sunrise Boulevard/SR 7 as two intersections, please revise tables.
4. Existing conditions signal analysis does not use the correct phf's or the correct existing signal timing. **Applicant response not sufficient.** The existing analysis must use the approach phf and the signal timing in the analysis is not what is on the timing sheets.
5. Heavy vehicle factor of at least 2% needs to be included in all movements.
6. At SR 7/Sunrise Boulevard EB; the NB lanes should not be five; that is misleading for the analysis since two of the lanes are for the left turn movement. The percent trucks at this location show 21% in the EB direction. **Applicant response not sufficient.** The geometry for this analysis does not represent true field conditions.
7. Not all of the numbers are adding up. For example on Figure 5, the EB right turn at NW 45th Avenue (project entrance) says that 32% is inbound and there are 169 pm peak inbound trips of which 32% would be 54 trips. Figure 6 shows only 52 pm peak inbound trips there. This occurs for other movements as well. Please check the project percentages with the total driveway trips. **Applicant response not sufficient.** There are no existing uses on the site to generate traffic. Project traffic to and from the site must match the distribution percentages.

**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 Department of Environmental Protection and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review. Developer agreement and bond will be required at time of permitting.

#### **LANDSCAPE ARCHITECTURE:**

##### Site Plan:

1. Staff is in agreement with Zoning Department's comments regarding the site plan for this project. "The site plan layout is not in keeping with the quality housing standards normally associated with the City with regards to building placement, parking lot and pedestrian circulation, and limited or isolated open space and amenities. The proposed density of dwelling units per acre is incompatible with the two story multi-family uses to the east and west and with the predominantly single story single family residential uses to the south." The bulk and scale of buildings massed in the center of the site and long linear parking rows are incompatible neighborhood friendly design in the adjoining residential areas.
2. In our opinion, the site plan is not conducive with contemporary site planning principles as the usable spaces that it presents are lacking in quality, are not pedestrian friendly, and are geared towards the automobile. With this size project and the type of housing this will provide, there has been no effort to site or design the buildings so that they could take advantage of prevailing breezes and other climatic forces that would help make the project environmentally friendly.
3. The amount of green space has dropped ~14,470 ft<sup>2</sup> – it appears green space has been removed from the outdoor recreational areas (Tot lot, pool, active open space).
4. Please make sure plant material in the vicinity of all hydrants is a minimum of 7.5 feet on each side, four feet to the rear nothing in front. (i.e. Bldg. 4 (SE island), Bldg. 3 (S end island), etc.).
5. Landscape plans are not consistent with Engineering and site plans.
6. Please dimension planting islands, planting medians, landscape pedestrian zones, etc.
7. Code requires terminal islands to be ten feet wide, inside curb to inside curb – plans reflect eight-foot terminal islands; 13-40(c) (3) applicant has requested waivers. Staff does not support this waiver.

- Parking can/should be modified to allow for ten-foot wide islands to allow maximum growing space for Category 1 (shade trees).
8. Code requires medians between double parking bays to be ten feet inside curb to inside curb with a two-foot overhang – plans reflect eight-foot medians; 13-40(c)(4). Applicant has requested waivers. Staff does not support this waiver. Parking can/should be modified to allow for ten-foot wide medians with a two-foot overhang to allow maximum growing space for Category 1 (shade trees).
  9. Code requires interior islands to be nine feet inside curb to inside curb – plan reflects four-foot islands; 13-40(c)(2). Applicant has requested waivers. Staff does not support this waiver. Four-foot planting islands are not adequate growing space for Category 1 (shade trees) – Parking can/should be modified to allow for nine-foot parking islands as required per code.
  10. Code requires landscape pedestrian zones to be 29.5 feet on buildings 1 and 2 – you are proposing 12 feet and 15 feet respectively; 20.5 feet on buildings 3 and 4 – you are proposing 18 feet and 25 feet; on building 7 – you are proposing 20 feet on the north and west side; 13-41(b). Applicant has requested waivers. Staff does not support waivers throughout the landscape pedestrian zones – The density of this project can be modified to be compatible with the surrounding area thus allowing additional green space to support code required planting.
  11. In the locations of “Resident Garages” the planting space (minimum width of islands) should be a minimum of eight feet inside curb to inside curb with a Category 1 (canopy/shade) tree – landscape plans submitted reflect a four-foot planting space with a Category 3 tree. Code allows island widths to be a minimum of five feet – you are proposing four-foot islands; 13-40(c) (1). Applicant has requested waivers.

#### Planting Plan:

1. Center trees in planting islands to take full advantage of planting space.
2. Center the Live Oak trees in the planting space north of the “resident’s garage” on sheet L-1.
3. Label all buildings – i.e. sheet L-1 – the “L” shaped building is not labeled.
4. Correct the numbers on buildings to avoid confusion – labeled building 3 should be building 2 on sheet L-1.
5. Please include the north arrow on all sheets – i.e. Sheet L-3.
6. Please note under specifications – that all trees will be field grown/balled & burlapped.
7. Tree and palm counts vary from landscape plans submitted November 5, 2007 – please clarify with our department.
8. Staff previously requested replacing the proposed Magnolia trees with specie due to their performance in the City – please use an alternate specie as they remain on the plant list on sheets L-1 and L-3.
9. Adjust planting location of the Live Oak in the terminal island southwest of building 3 – the current location is only four feet from the curb.
10. Washington palms are better suited to arid conditions as opposed to Florida’s humid weather - consider the use of an alternate specie of palm such as the Sabal palm on the three and four-story buildings – you may use the Washington palms on the five and six-story buildings.
11. The Sabal palms are not listed on the “Plant List” – are the proposed Sabals throughout the property all relocated palms?
12. Specify OA heights on all palms (i.e. Carpenteria, Montgomery and Washington palms).
13. Make sure the trees/palms in the landscape pedestrian zones are of code required heights: 75% of the trees should have a minimum height of 16’-18’ with a spread of nine-foot and palms should be a minimum overall height of 22’-28’ on buildings 1, 2, 3, 4, and 7; 75% of the trees should have a minimum height of 14’-16’ with a spread of eight feet and palms should be a minimum overall height of 18’-22’ on buildings 5 and 6.

14. You are proposing the planting of 30 Dahoon Holly trees – please use an alternate specie/limit their use as the Dahoon Holly trees do not do well in Plantation.
15. As previously discussed – please under plant the Sabal palms throughout the development.
16. Add plant material (trees and hedge) along the exterior portion of the proposed northern perimeter wall east of the entrance. Staff recommends shifting the road and wall five feet to the north for planting (this wall has the potential of being viewed from Sunrise Boulevard and should be landscaped accordingly).
17. Landscape the triangular planting island to the east of the guardhouse.
18. You are only proposing the planting half of the landscape median in the island with the security gates/arms – please landscape areas where possible.
19. Landscape the planting island to the north of the guardhouse at the entrance.
20. The compactor should be screened along the northern wall adjacent to the volleyball court; please add a hedge as well as trees to this area.
21. The existing perimeter wall is located on the property line (Code requires a five-foot setback) with required plant material located in the public right of way or on adjacent properties. The proponent or property owner will be required to maintain this landscape material and all landscape material to the edge of the road. This also includes proper irrigation for this landscape material and the assurance that all plant material to remain is in excellent condition. Please revise landscape plans along NW 8<sup>th</sup> Street and NW 46<sup>th</sup> Avenue to incorporate existing landscape with existing landscape.

**BUILDING DEPARTMENT:** No comments.

**FIRE DEPARTMENT:**

1. There are access issues on this site.
2. Due to the access issues, Please provide the following:
  - a. Provide a fire sprinkler system in accordance to NFPA 13 throughout and including the attic spaces
  - b. Provide a standpipe system in accordance with NFPA 14
    - i. Standpipes must be inside and outside stairwells
    - ii. Hose valves must be within 115 feet of hose reach
    - iii. Hydrants must be within 25 feet of the Siamese connection

**POLICE DEPARTMENT:**

1. **As indicted by Engineering, please provide a traffic impact study. We are concerned about the impact 440 units will have on traffic to Sunrise Boulevard.**
2. Disabled parking must conform to city ordinance.

**UTILITIES:**

1. Prior to a Building Permit being issued, the following must be provided:
  - Water and Sewer Utility plans must be submitted to the Utilities Dept. 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.

2. A pre-design meeting is required with the Utilities Department.
3. Offsite improvements may be required at proponent's expense.
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.
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. Current plans do not meet Utilities requirements.
10. It is extremely important for Utilities to have a high degree of coordination in the project.
11. Existing lift station appears out of scale.

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

**WASTE MANAGEMENT:** No comments.

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Mr. Bill Laystrom, Attorney for the applicant, testified he was previously sworn in and understands the rules governing the hearing.

Mr. Laystrom provided a brief presentation of the project. This project started with a site plan application about two and a half years ago.

With regard to the legislative matter, Mr. Laystrom indicated he has done several projects within the LAC District including the Grove East project. This is the first project that had an eight-page starter memorandum within the staff review and then went to the legislative side. He noted that Grove East did not go through the legislative; it went through the Quasi Judicial proceeding only.

This is a 19-acre site located immediately west of Rick Case Acura on the south side of Sunrise Boulevard. It is a Business Park that is about 20% built out; all of the buildings that were built are in the back of the project, which is largely industrial. There are plenty of offices within that project. It sat for approximately 20 years without anything being built in addition to the initial construction mainly because it is located across the canal.

The project will have direct access onto Sunrise Boulevard. There will be a right in, right out and left in access to the site, which will be maintained throughout the project. There is no left turn out; therefore, you can go to State Road 7, make a u-turn and come back on West Sunrise Boulevard. In addition, the project has east access off of NW 8<sup>th</sup> Court. There will be a card access gate off State Road 7 and at the entrance gate off of Sunrise Boulevard. The only other access to the site is a pedestrian gate out the southeast corner, as requested by staff. This would allow for a walking path to the school; however, some residents have suggested that might be a concern. There will be 407 working homes for working people. Everything has been done to give the assurance that this will be a quality project for high end rents consistent with rents found at Grove East.

One thing of importance is what is needed for the District. Over the course of time the City of Plantation has seen a tremendous conversion of rental units into condos throughout the City. It is their intent to provide the amenities such as single and multi bedroom floor plans, washers and dryers in each residence, secured access to parking and all residences, luxurious clubhouse complete with fitness center, business center, billiard room and multi purpose room ideal for entertaining and private functions, a family playground area and a volleyball area. Individual garages probably are not going to be available due to a staff comment. There are approximately 68 to 70 parking spaces that are in garage form; however, those do not count towards required parking. If the waiver

of parking is an issue, those spaces will be deleted and the waiver will go away. There will be two resort style pools and the proximity is in the middle of everything.

There have been several outreach meetings with neighborhood residents. During the meetings it was said that the density of 440 units was too much and that five-story buildings had been placed across the entire site. Originally all of the buildings were five stories and residents believed that was too high, particularly from NW 8<sup>th</sup> Street.

After the Planning and Zoning Board meeting the number of units dropped from 440 to 407, the height was reduced for the front two buildings closest to the residents from five stories to three stories to accommodate their concerns that the buildings would actually be above the proposed landscaping on both sides of the masonry wall on NW 8<sup>th</sup> Street. In doing so, the height of the buildings closest to Sunrise Boulevard was increased because it was believed that would be a compromise.

All of the buildings are below the 75-foot height restriction. The Applicant is prepared to reduce the height on the two buildings proposed as six stories to five stories, which will reduce the project by approximately 30 units.

Mr. Laystrom reviewed the waiver requests and made the following comments:

- **With regard to waiver #1**, it was requested that recreational impact fees be paid at the time prior to Building permit rather than prior to the City Council hearing. It was noted that impact fees go down as units decrease.
- **With regard to waiver #2**, the waiver for height was requested because the building was raised in order to accommodate the reduction on the balance of the site to the south.
- There were some expanded windows on the side of each of the buildings; however, staff has taken the position that the building separation is from the nearest point of any portion of the building that protrudes; therefore, those windows will be brought back or false windows will be put in so they are at the end of the hall.
- It was noted that should the application be favored, waivers #2 and #3 will not be required; only waiver #1, the recreation impact fee.
- **With regard to waiver #3**, staff raised issues due to building separations.
- **With regard to waiver #4**, when the buildings were proposed to be six stories the L-shaped building was reconnected into a single building. Some of the largest units within that building can be reduced bringing the building down from 285 feet to 275 feet. This waiver can be eliminated and an updated site plan can be provided if necessary.
- **With regard to waiver #5**, staff had a concern about one-bedroom units being 720 square feet instead of 750 square feet. This can be corrected very easily. In order to offer a wide selection of units the one and two bedrooms were offered with different floor layouts and different square footage. They are prepared to expand the one bedroom units to 750 square feet without expanding or changing the outside of the building.
- **With regard to waiver #6**, garage parking can be removed so that all of the parking spaces will look exactly like all of the other parking islands with the same landscaping and separation. It was noted that they would still have a 15% waiver, allowed by Code, and as long as the parking garages are removed this is not a waiver to be granted or denied.
- Staff has taken the position that rental parking spaces cannot be counted towards the parking count because it is for one individual person and not available to others.
- They would not be deficient with the 96 parking spaces if the garages are removed.

- **With regard to waiver #7**, three loading zones have been put within the site so that multiple buildings can use a single loading zone. Once the units are reduced, the parking requirement goes down. They are prepared to put the loading zones back in.
- Staff has determined that the loading zones are a critical aspect of the project and it is very important not to take up alternate parking spaces that might otherwise be used for parking because someone is loading and unloading in front of the facility.
- **With regard to waiver #8**, a reduction in interior parking lot island widths from nine feet to four feet inside curb to inside curb has been requested. After double checking, they are well over nine feet on all of the islands; however, they agree that all of the islands will comply with requirements.
- **With regard to waiver #9**, terminal parking island widths are shown as 11.5 feet to 10 feet inside curb to inside curb. They probably did not find one or two; therefore, they will not request the waiver.
- **With regard to waiver #10**, width between landscape medians between double parking bays. This was scaled as best as possible and they were unable to find any spots that did not have ten feet; therefore, they will not request the waiver.
- **With regard to waiver #11**, the stagger of the buildings can be adjusted in order to make the landscape pedestrian zones work. It is believed that the architectural affect of the building running in and out is a much better look than flattening the space.

Mr. Laystrom commented that they have also committed, as part of their presentation to the residents, that they would increase the height of the existing six-foot masonry wall along the south and west to eight feet. It is believed that all of the waivers can be solved with the exception of waiver #1.

In response to Councilman Fadgen, Mr. Laystrom indicated the rest of the border is an eight-foot picket fence, which can be matched. Sometimes the City finds the picket fence more favorable than the masonry wall; either can be provided.

With regard to staff comments, Mr. Laystrom advised that they agree with Fire Department, Utilities, Engineering and Police Department comments.

The Landscaping comments were reviewed as follows:

- They agree with comments #4 through #11 and all of the planting comments.
- **With regard to comment #2**, guidance was requested with regard to the general layout, contemporary site plan and principles. It was suggested that this be placed in the form of an ordinance or resolution.

Mr. Laystrom reviewed Planning and Zoning comments as follows:

- **With regard to Planning, comment #4**, one of the quality housing requirements is concrete tile roofs; however, the Plantation Tropical favors the metal roof. They are prepared to put in the concrete tile roof.
- They comply with almost all of the quality housing standards except for one or two and they are prepared to meet those standards as long as direction can be provided.
- **With regard to Planning, comment #5**, they have every intention of paying the impact fees at the time a Building permit is pulled.
- **With regard to Planning, comment #6**, they comply with all requirements; a form was filed in September and is still not signed. There are no engineering concurrency issues. The water, sewer, and roads are at capacity and do not impact the roads in any adverse way.

- **With regard to Planning, comments #7 and #8,** they need to provide documentation for Broward County impact fees for schools.
- **With regard to Planning, comment #9,** a request has been made to pay the park impact fees at the time of permit, which has been customary in the City of Plantation for many years.
- **With regard to Zoning comments,** they agree to comments #2 through #6.
- **With regard to Zoning comment #7,** they will come back to layout.
- **With regard to Zoning comment #8,** they agree to provide the 30-foot scale.
- **With regard to Zoning comment #9,** building separations have been discussed.
- **With regard to Zoning comment #10,** they are prepared to change the length waiver for building #1 by going back down to 275 feet.
- **Zoning comments #11 through #16** are correction of the plans. As they move forward to Building permit they are all right with each of the comments. All of the changes will be made and a final plan will be created for staff to sign off.
- **With regard to Zoning comments #17 and #18,** they will be able to avoid these waivers by eliminating the garages and putting in the loading zones.
- **With regard to Zoning comments #19, #20 and #21,** the pedestrian gate will be card access only. If there is a concern with security between the property and the neighborhood they are prepared to take out the pedestrian gate at the southeast corner of the project.
- **With regard to Zoning comment #22,** limits of the masonry wall will be clarified. The wall will basically run along NW 8<sup>th</sup> Street and along the western boundary of the property. The eight-foot picket fence would run the balance of the property.
- **With regard to Zoning comment #23,** the roof elevations have been changed.
- **With regard to Zoning comment #24,** appropriate labeling will be made for the entry roundabout, sidewalk roundabouts and the ingress/egress lanes to clearly reflect paver material locations.
- **With regard to Zoning comment #25,** there are two compactors on the site; however, he has heard many concerns that they are too far away and that residents will not carry their trash.
- It was suggested to use a trash valet system, which means the property management office runs a pickup truck and picks up the trash at each building on trash days.
- The other alternative would be to add a trash chute to each unit and a dumpster to each bottom for the trash to slide into. They are prepared to do either system.
- **With regard to Zoning comment #26,** restroom facilities will be open and there will be access.
- The pool area will be closed at dusk.
- There will be onsite management and security 24 hours a day.
- Zoning comments #27 through 32 and #35 and #36 are acceptable.
- **With regard to Zoning comment #33,** they agree to provide the appropriate site lighting as required by Code.

Mr. Leeds made the following comments:

- Reducing the six-story buildings to five stories would reduce the plan by 33 units and 66 parking places. There would still be a density of 19 to 20 units per acre, which exceeds that of Grove East.
- Reducing the height of the buildings from six stories to five stories does not address the issue of the requirements and recommendations of the Comprehensive Plan that apply to Compact Urban Development similar to Grove East.
- With regard to building separation, putting false windows in a residential development is not consistent with quality residential development.

- Even though three loading zones were provided, they are basically in parking lots and really of no use. When trucks enter the loading zone they will park in front of the entrance and block the drive aisle for whatever period of time, which may impede or divert emergency vehicle access.
- With regard to trash, back in the 60's and 70's people would put their trash in a plastic bag, open a chute and the trash would go down. They did not have to go down to the first floor, wait for their trash to be picked up by a truck or walk 400-600 feet to a compactor. This is a step backward in terms of a design evolution of housing products in this County.
- Recreational facilities in Grove East were placed in a more logical location. Many residents living in this development, if approved, would have to walk in excess of one-quarter mile to one of the two recreation facilities.
- This project is counter intuitive to the whole premise of redevelopment on the Gateway corridor.
- The concurrency review form has been completed.

Mr. Leeds indicated that these plans called for something totally different than what is being presented. There is a housing project that does not meet any of the criteria of what the City is attempting to achieve. Grove East comes much closer to meeting the criteria than this project. The Comprehensive Plan talks about compatibility. In his mind, this project is going to be four times the density of the single family homes that exist in Park East directly to the south. The Park Place Townhouse on NW 8<sup>th</sup> Court is at 15.5 dwelling units per density. Even if the density is reduced, it is very high and is not compatible. The Comprehensive Plan calls for it to be compatible. There are two community centers located at extreme ends of the complex, large walking distances, the buildings are very linear and long, the parking lots are the same way. This is not a development that encourages people to walk to any place; the distances alone rely heavily on the use of the automobile, which is not what Plantation Gateway Redevelopment Plan is about; it is about reducing automobile usage, creating a sense of community and this project does not do that.

In Mr. Leed's opinion, this project does not offer any of the benefits associated with an ordinary mid rise apartment application. He supports the applicant's desire to comply with parking and loading requirements but he believes the building height at five stories is excessive, especially in this location. He appreciates the applicant's desire to increase the dwelling unit size of the one bedroom units from 720 to 750 feet; however, he has a problem with the building length and the institutional feel of this project.

The applicant has revised the site plan; however, it does not go far enough, it does not provide the mixed use, pedestrian oriented community that the Comprehensive Plan and Redevelopment Plan talk about. It is the responsibility of the architect to submit a list of waivers as part of the application. The architect did not submit this, staff took it upon themselves, in order to save time, and as an accommodation to go through and identify all of the waivers.

In response to Councilman Fadgen, Mr. Leeds believes that every building four or more stories should have an enclosed trash chute and a dumpster in an enclosure on the ground floor. When the trash truck comes the dumpsters will be emptied twice a week. Most of the mid rise buildings throughout Broward County do this. This plan is a step backward. From his position, doing this does not solve the problem because he believes anything above two or three stories is too tall at this location. With regard to the false windows, he feels that real windows should be placed in a residential development. The plans are unclear. The building elevations show one thing and the site plan or floor plan show something else; therefore, it is unknown whether there are windows at the ends of the building or not.

Councilman Levy commented that the City Council has worked for many years in helping the Gateway 7 area, Park East, Country Club Estates and the surrounding area come up to a certain level and standard of something

we can be very proud of. In his opinion, this project does not seem to be an upgrade to the community and seems like we are reverting back. No matter what, the buildings are too tall, too dense and too crowded for the area. We have made great strides with Plantation General Hospital's campus, with the businesses and the linear trails. He appreciates the fact that someone has a piece of property they would like to develop and are doing the best they can economically and also appreciates Mr. Laystrom's comments about what has been done in order to comply with staff comments, but as a member of this Council, having heard this in its first hearing, he believes overall that this is not a positive in any way for the community, whether it is a high rise or dense. He emphasized that he is not sure this is a positive addition to the community in which he lives. Grove East was a totally different case. There is a lack of business space in the community and this would be taking more. He suggested going the extra mile and finding something that we could be proud of that would provide jobs, money and a better quality of life rather than just another high rise. He concurred with Mr. Leeds and the staff recommendations.

Councilman Fadgen expressed concern with the building at the south end that would be bordering residents on NW 8<sup>th</sup> Street. In conjunction with Mr. Leeds' comments, he questioned whether buildings #5 and #6 could be reduced by one story, which would go from three stories to two stories. In his calculations, that would save 22 units per building or 44 units, which would then push them below the density.

Mr. Laystrom advised he would discuss this with his architect. He needs the ability to cover the costs of the overall project to see whether or not that can be done.

Kim Spicer was present on behalf of the applicant. In response to Councilman Fadgen, she advised the rental rates are comparable with Grove East. One-bedroom units will be between \$1,250 and \$1,300. Two bedroom units for Grove East are \$1,600 and they will be between \$1,600 and \$1,700 at this development. Three bedrooms at Grove East are at \$1,750 and they will be between \$1,745 and \$1,845 here.

Mayor Armstrong commented that for Council to take a site plan that does not meet staffs' expectations in terms of quality, criteria, compatibility or any of those items, and redesign it instead of sending it back is extremely dangerous. She cautioned that it is dangerous to be in a position of eliminating this and that and coming out with a project that is going to do many things indicated by Councilman Levy that are very important to us in terms of recognizing that we have raised standards to meet better expectations for the area where this property is located. She noted that relative to the LAC units, they are one of the City's most precious possessions and should be used for extraordinary projects. She reminded Council to be extremely careful when utilizing the LAC units and to keep them for a project that is exceptional.

Mr. Laystrom advised the site plan reflected Planning and Zoning Board comments as well as comments heard from residents. He is not convinced that if the height of a building is reduced by two stories that someone cannot envision it, but does recognize that since there are so many adjustments in a combination, parking included, that City Council might want to see all those. The only way to get all the comments is to go through this process even if it may take more than one hearing.

Councilwoman Bendekovic opened discussion to the public.

The following residents spoke in opposition of the project:

Peter Jehlen  
Elissa Truitt  
David Hughes

Kelly Ladwig  
Kingsley Smith  
O'Neil Chin  
Denise Watt  
William Reed  
Errol Brown

The following residents spoke in favor of the project:

Mary Higgins  
Connie Everhart  
Patrick Saba  
Ralph Govin

The hearing was closed to the public.

In response to Councilman Fadgen, Mr. Laystrom commented on the project immediately on the south boundary, which would be an additional 22-unit reduction. The applicant is prepared to make that change and bring back the site plan for Council review.

Councilman Levy voiced his frustration with the project. He stated that this is no comparison to Grove East.

Mr. Laystrom believes it is important to look at what the City has done in the past as far as height. He addresses several concerns that have been voiced such as affordable housing and trash. He discussed the possibility of a grocery store going in this location and stated that most of the retailers are not interested in this location for a grocery store. Residents moving into the project will most likely be employed by hospitals, fire departments and schools.

Councilwoman Uria appreciates that Mr. Laystrom and his team are willing to be flexible; however, she is not sure that this is the place to do that. There is a major difference between Grove East and this project, people wanted Grove East and there are people who do not want this project. Grove East is mainly surrounded by commercial property, even across the street. She welcomes redevelopment in this area, this parcel of land needs to be redeveloped but she thinks it needs to be consistent and compatible with the surrounding neighborhood. If this development is approved, almost 33% of the LAC units would be lost and she is not sure that those units should be given up for this project. Residents would like to see something different and so would she. Staff has clearly stated that they want something different. There are multiple zoning code requirements that this project does not meet.

Mr. Laystrom advised there is nothing in the Code that talks about what lower density would be.

Mr. Lunny indicated he would suggest that Council allow Mr. Laystrom to consult with his client to see if there is anything further he would like to add before motions are made. He then suggested that the public hearing be formally closed and a decision be made as to whether the ordinance will be passed on first reading. If it is decided not to do so, there is no need to make any motions on the site plan as per the staff report.

Mr. Laystrom consulted with his client and requested guidance on what Council is looking to see so they can determine if that can be put together in the form of a site plan.

Mayor Armstrong explained that the project must be something compatible with the neighborhood; the site plan presented is totally out of line and not at all compatible with any of the neighborhood characteristics. Those characteristics would be more like single family, one to two stories, and lots of open space. This project does not come close to Grove East. She believes this project needs to be denied because there is nothing inherently characteristic on this site; the buildings are too high, there are no architectural elements included; there is very little open space and way too much asphalt. The project does not fit State Road 7 and the conceptual plans put in place for that area. She is of the opinion that the need for LAC units is in other areas throughout the District and not to this intensity at this location.

In response to Mr. Laystrom, Mayor Armstrong indicated that service areas need to be present that mixed use would provide; however, none are existent in this project. As far as height, she is not afraid of the height but stated they have to be integrated into a site in such a way that they work and fit.

Mr. Laystrom commented that his client would still like an opportunity to put something together without going back through the entire process. He requested this item be tabled for 60 days so they could attempt to put another site plan together. He would commit that in the absence of putting the site plan together that the application would expire and he would have to re-file.

***Motion by Councilman Fadgen, to table. There was no second. Therefore, the motion fails.***

Councilman Fadgen suggested an ownership type of product be considered rather than a rental, one that is less intense.

In response to Councilwoman Uria, Mr. Laystrom requested that the request be tabled for 60 days. He agreed there will not be a hearing unless staff directs them to Review Committee, Planning and Zoning or the City Council.

In response to Mr. Lunny, Mr. Laystrom indicated there is a Code Enforcement case in progress and if he is denied at this time he will not have any time to look at alternates for the site because the fine will begin accruing.

Mr. Lunny clarified the fines have been suspended by the City Council for almost one year. The fines will not increase; they were suspended and frozen by the City Council.

In response to Councilman Levy, Mr. Laystrom advised if he withdraws the request it is his understanding that it would be like there was no application and he would be back to re-filing and starting again, which he is attempting to avoid. If they cannot come up with a plan that is financially viable within 60 days he will provide notice that they are not intending to provide any amendment to the site plan.

The hearing was closed at this time.

***Motion by Councilwoman Uria, seconded by Councilman Tingom, to DENY the LAC Ordinance for Madeira Apartments. Motion carried on the following roll call vote:***

Ayes:	Levy, Tingom, Uria, Fadgen
Nays:	None
Abstain:	Bendekovic

Mr. Laystrom questioned whether they could be given 60 days prior to pursuing foreclosing on the lien so that a new site plan could be submitted. He will commit to be the liaison for any violations the City feels may occur between now and the 60-day period.

Mr. Lunny advised if the Council wishes to abate the case for 60 days it should not be linked with respect to an effort to file the site plan.

***Motion by Councilman Fadgen, seconded by Councilwoman Uria, to abate the case for 60 days, subject to guaranteeing that the perimeter of the site along NW 8<sup>th</sup> Street and NW 46<sup>th</sup> Avenue will be cleaned up; that landscaping and irrigation will be installed, the trash will be cleaned up and the property will be maintained at that level.***

Mr. Lunny advised that Mayor Armstrong could direct him to abate the case, as these are two completely different issues; one is a clean up violation which Code Enforcement handles.

***Councilman Fadgen withdrew the aforementioned motion.***

Mayor Armstrong directed Mr. Lunny to abate the case for 60 days.

\* \* \* \* \*

Councilwoman Bendekovic referred to the guidelines for those addressing the Council as witnesses having been sworn in.

All witnesses intending to testify on quasi-judicial items during tonight's meeting were sworn in by Susan Slattery, City Clerk.

**QUASI-JUDICIAL CONSENT AGENDA -None**

\* \* \* \* \*

**QUASI-JUDICIAL ITEMS**

- 22. Request for site plan, elevation and landscape plan approval for Madiera Apartments located at 4350 West Sunrise Boulevard.

**See Item #21 for the Planning, Zoning and Economic Development Staff Report and Recommendations.**

Due to Item #21 not being approved, no action was necessary on this item.

\* \* \* \* \*

- 23. Request for sign special exception for Kohl's located at 801 South University Drive.

**The Planning, Zoning and Economic Development Department Staff Report and Recommendations follow:**

**REQUEST #1: From:** Section 22-35 which establishes sign criteria for "center establishments" and limits the maximum sign area of a front sign to 60 square feet;

**To:** Increase the sign area of the front sign from 60 square feet to 200 square feet.

**REQUEST #2: From:** Section 22-35(g) which limits the area of a side or rear sign to 50% of the allowable area of the front sign.

**To:** Increase the sign area of the side sign from 30 square feet to 100 square feet.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; Sign Exception application and sign exhibits.

**ANALYSIS:**

The subject property is zoned SPI-3, approximately 26-acres in area, and part of the 65-acre master plan known as The Fountains Shoppes of Distinction. The center is occupied by retail, office, restaurant and hotel uses and is generally located south of SW 6<sup>th</sup> Street and north of SW 10<sup>th</sup> Street between University Drive and SW 78<sup>th</sup> Avenue.

The applicant received City Council approval on May 7, 2008, to demolish 153,134 square feet of the existing center which included the movie theater together with the north and central east/west wings (A and B) and to reconstruct approximately 172,209 square feet of retail space including a two-story Kohl's Department store located adjacent to SW 6<sup>th</sup> Street and west of Red Lobster. Demolition of the movie theater and the north wing (A) have already taken place. Construction of the two-story Kohl's is at approximately 75% completion.

Request #1: Given the cross access and shared parking fields, the sign code defines the site as a "center establishment". The sign code applicable to center establishments allows one-square-foot of wall signage for each lineal foot of storefront subject to a maximum square footage of 60 square feet (for the front sign). Given the size and scale of the proposed Kohl's having 247 +/- lineal foot of storefront, the applicant requests approval to allow a maximum of 200 square feet of sign area on the south elevation of Kohl's facing internal to the center. For reference, the current sign for Marshall's is 199 square feet in area.

Request #2: The side or rear sign area is limited to 50% of the allowable area of the front sign. Given the allowable front sign area for Kohl's is limited to a maximum of 60 square feet under the center establishment category, the side or rear sign area will be limited to 30 square feet. The applicant requests approval to allow a maximum of 100 square feet of sign area on the east elevation of Kohl's facing University Drive.

Both proposed wall signs will be consistent in color and materials with the existing and proposed master sign plan on file for the center having white channel letters with bronze returns and trim caps. The length of the sign on the south elevation is also consistent with the master sign plan as it occupies approximately 80% of the length of the brick architectural element it is to be mounted on.

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

1. No comments.

## EXHIBIT "A"

Section 22-11(b) of the Code requires the applicant to address the following criteria in the review of the special exceptions:

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

### Applicant's Response:

*Please refer to Sign Exception document dated 3 June 2009 Special Exception No. 1 describing specific conditions and circumstances along with justification for exception. (See below).*

### Staff's Response:

**South Building Elevation:** Kohl's is a 109,000-square-foot, two-story department store measuring 247 feet in length (south elevation) and 45 feet in height. The store is a primary anchor in the Fountains Shopping Center and is not attached to the existing shopping center. The south elevation wall sign will face inward toward the parking area and does not directly face any public roadway.

The following circumstances apply to this site.

- a. The south building elevation is 247 feet long and 45 feet high.
- b. The south building elevation faces inward toward the shopping and does not face any public roadway.
- c. Kohl's contains over 100,000 square feet in a two-story configuration.
- d. Kohl's is one of two primary anchor department stores in the shopping center.
- e. The sign area is consistent with that of the other primary anchor (Marshall's).

**East Building Elevation:** Kohl's is a 109,000-square-foot, two-story department store measuring 180 feet in length (east elevation) and 45 feet in height. The store is a primary anchor in the Fountains Shopping Center and is not attached to the existing shopping center. The east elevation wall sign is located over 300 feet from University Drive and is separated from the roadway by an existing restaurant and landscaping.

The following circumstances apply to this site.

- a. The east building is 180 feet long and 45 feet high.
- b. While the east building elevation faces University Drive, the building is located over 300 feet from University and is separated by an existing restaurant.
- c. Kohl's contains over 100,000 square feet in a two-story configuration.
- d. Kohl's is one of two primary anchor department stores in the shopping center.
- e. The sign is limited to 100 square feet in area.

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

Applicant's Response:

*Please refer to Sign Exception document dated 3 June 2009 Special Exception No. 1 describing specific conditions and circumstances along with justification for exception (see below).*

Staff's Response:

See response to Criteria 1 above.

3. That the special conditions and circumstances do not result from the action of the applicant.

Applicant's Response:

*The applicant has not created any circumstances that resulted in the submitted Special Exceptions and is requesting exceptions as result of tenant request and current market conditions.*

Staff's Response:

See response to Criteria 1 above.

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

Applicant's Response:

*The applicant has diligently worked with the Zoning Department Staff to arrive at mutually acceptable terms regarding size, configuration, design, etc. included in the Kohl's at the Fountains Signage Criteria and Sign Special Exceptions package as submitted to the City.*

Staff's Response:

Based on the length, height, location, and orientation of the building elevations, as well as the function of the building and hierarchy of the use in the shopping center, the proposed 200 square feet of wall signage on the south elevation and 100 square feet of wall signage on the east elevation is generally architecturally balanced to the building façade.

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

Applicant's Response:

*The Applicant's project location and request for Special Exceptions are such that there are no negative impacts on the neighborhood, surrounding property or nearby rights-of-way.*

Staff's Response:

See response to Criteria 1 above.

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

Applicant's Response:

*Other than those conditions being requested in written Sign Special Exception document dated 3 June 2009 Special Exception No. 1, all signage both existing and proposed is in substantial compliance with City Signage Code, Chapter 22.*

Staff's Response:

A special exception was granted in 1988 allowing two ten-foot high brick ground signs having a sign area of 430 square feet with eight equally spaced stucco tenant panels with ground lighting located on the southwest corner of SW 6<sup>th</sup> Street and University Drive and the northwest corner of SW 10<sup>th</sup> Street and University Drive.

Applicant's correspondence of June 3, 2009:

In connection with our client's pending signage package for Kohl's at the Fountains please see description of requested special exception:

**Special Exception No. 01**

*Sec. 22-4. Definitions.*

Center establishment: *A nonresidential property which is: (1) comprised of more than one (1) separate building; (2) developed, operated, or maintained under unified control or in a unified manner; (3) where the business sites within the property do not all have street frontage; and (4) such business sites have shared ingress and egress to the adjacent public right-of-way.*

Single establishments: *are those properties containing a single occupant within a single structure.*

Requested Exception and Justification

The Applicant believes that though the property in many ways fits the definition of Center Establishment as noted above, the treatment of Tenant wall signage criteria is more in the spirit of a Single Establishment.

Example: The requested wall signage for Kohl's as an Anchor Tenant would include a 200-square-foot maximum front wall sign on the south entry façade and 100-square-foot maximum side wall sign on the east façade as allowed per Sec 22-30. Requests for Ground Signs are to be submitted under separate application.

*Sec 22-30*

<i>Type of Establishment</i>	<i>Number of Ground Signs</i>	<i>Size/Type of Ground Sign</i>	<i>Wall Signage (Front)</i>	<i>Wall Signage (Side and Rear)</i>
<i>Single establishment with street frontage over five hundred (500) lineal feet</i>	<i>One (1) double faced ground sign</i>	<i>Sixty-four (64) square feet max. each face</i>	<i>And one (1) wall sign: One (1) square foot, for each lineal foot of the establishment fronting public right-of-way not to exceed two hundred (200) square feet.</i>	<i>And one (1) side or rear wall sign when fronting a public right-of-way or off-street parking area; however, size may not exceed fifty (50) percent of allowable front wall sign area.</i>

Councilwoman Uria questioned whether Mr. Leeds had a problem with either request #1 or #2.

Mr. Leeds indicated that based on the very unique circumstances of this one store at this one location at this one size and height, he did not have an objection. His recommendation is not applicable anywhere else in the City; there are special circumstances to this request.

Councilwoman Uria commented that both signs are clean.

***Motion by Councilwoman Uria, seconded by Councilman Levy, to approve Sign Special Exception, Requests #1 and #2, for Kohl's located at 801 South University Drive. Motion carried on the following roll call vote:***

Ayes: Levy, Tingom, Uria, Fadgen, Bendekovic

Nays: None

\* \* \* \* \*

## **CONSIDERATION OF COUNCILMEMBERS' COMMENTS**

### **24. Mayor's Status Report Concerning PAL.**

Mayor Armstrong provided a brief status report. She assured there is no crisis. Councilman Fadgen and Councilwoman Uria requested a special meeting; however, there was not a quorum and the meeting could not be held. This issue did not happen overnight, letters and emails have been circulating back and forth for a long period of time, going back to January 2009. This issue was created by the previous executive board because of the way they chose to do business in relationship to the City. No other party would have had the patience that has been given to this vendor with regard to responses and corrective action in terms of the PAL. Notice was given to PAL on June 30, 2009 stating that permits would not be issued for the fields. This was based on several things that had taken place in the interim. The information requested still has not been provided in a complete form. The most important thing is in reference to the programs that were in progress with PAL, the registration fees they currently had in place and the obligations they had to meet in order to be certain the children who had registered could continue with football, cheerleading, biddy basketball, and the Dynamites. The City has provided assurance that these programs would occur. Facility use permits have been issued directly to the commissioners who are volunteers running the program and the program is being completely implemented based on those volunteers and their support for the children and the programs that have been running with PAL. At this moment it is unclear as to who is in charge of this somewhat dysfunctional organization; however, she is very confident that somehow PAL will recognize their responsibility to the children and make those registration fees available so these programs can continue. If the registration fees are not made available, steps will have to be taken to make sure the programs can continue because our primary focus is to be sure there is no disruption to the children and the programs. While doing this, we have an organization that is not being responsive as to why we need to take the time to step back and look at this youth athletic programming in the City of Plantation and make some corrections. Those corrections might be made within the existing organization, through a new organization or through many other hybrids that could potentially be considered in order to better run the sports programs on behalf of our residents and children. For that reason a Task Force has been put together. There was a meeting on June 23, 2009 with the representatives from PAL who appeared to be in charge at that time. There was discussion as to whether they would like to be a part of the process of determining something that is workable for the City and the existing PAL. The invitation was declined and from there it was her understanding that the message was carried back to the PAL Board with an invitation to litigate against the City in lieu of joining the Task Force. Evolving out of that was another direction, which was instead of litigating to the join the

Task Force and that four people were going to meet with the City to help work through the issue, reviewing various topics. That is where we are at this time.

In response to Councilman Fadgen's list of questions, Mayor Armstrong commented as follows:

- The contract is in default because of the lack of responsiveness and many other things, as well as the very poor quality of the relationship that was defined with respect to the City of Plantation. The existing staff immediately reached out to be sure that the needs of the programs in progress were being met, at least from the City's side, with an expectation that PAL would carry their responsibilities forward and meet their obligations as far as releasing and not holding hostage fees that had been paid by the residents.
- It is unknown whether the City will administer the program; that is one of the things that is in the discussion stages. At this time, in order to get through the existing programs in progress, the City is spending millions of dollars on fields, maintenance and working with this organization. There is no idea what the cost would be to take over and administer the program for the next two months while going through this transition time. There are people doing RecTrac and a supervisor is paid to take care of things in support of PAL; therefore, there is no cost associated with the position that we find ourselves in at this moment.

Mayor Armstrong indicated historically, there is no question this has been an organization whose legacy is engrained in the hearts of many of us; unfortunately, it is broken and not functioning in the way that we knew it to be in the past. We have an opportunity to create a new future and an organization that will better reflect the needs of the City and the community and hopefully find some way within the existing PAL culture to change the processes, the negligent way that business has been done in the past, and certainly to change the way they have chosen to relate to the City of Plantation.

Councilman Fadgen believes that everyone present wishes to have the PAL operation issue tightened and reformed and is certain they also want a relationship between the City and the PAL organization improved. He also shares the same desire. In speaking with Mayor Armstrong after the June 12, 2009 memo, he advised he did not want to undermine her efforts to enforce compliance with the PAL contract. He also indicated that he does not support taking over the PAL organization as was threatened. The PAL officers and Board members met with Mayor Armstrong on June 23, 2009 and the result of that meeting was that the PAL operations were going to be taken over by the City, effective July 1, 2009. As said earlier, there is a need for reform of the PAL operations but taking over the PAL operations is a policy matter, which is a City Council prerogative, not the Mayor's acting alone. On Thursday, June 25, 2009, due to the importance and urgency with the July 1, 2009 deadline approaching, he requested a special City Council meeting, joined by Councilwoman Uria. Upon a proper call for a special City Council meeting, the function of the matter after that point is strictly administrative. The Mayor can call a special City Council meeting or two City Council members; they met that requirement. Upon that proper call, the fact that the meeting did not occur is a demonstration, in his mind, of the shameless disrespect of Councilwoman Uria and himself. There well may be good, sound and substantial reasons that outweighed why other City Council members did not come to the special meeting that was called. Councilman Levy was on vacation; he had a substantial reason why he was not available; the rest did not. With that being said, we are at a point where we need to reform the PAL operations and he is committed to do what is necessary. He does not believe the City has a budget to run the sports programs and agrees the organization needs to be reformed. We want it to be transparent, we want the third party arrangements to be on the table and straight forward as partners operate. He is prepared to do whatever is necessary and apologized about the unfortunate experience last week.

Councilwoman Uria believes there were some questions about some procedures; however, when she emailed the City Clerk about agreeing with Councilman Fadgen with regard to a special meeting she had residents calling her. She thanked everyone for the letters and phone calls for trying to keep them informed but noted that letters do not answer all of the questions. She was unable to fully answer the questions being asked and felt it was important to have a meeting. She is glad this issue is being discussed because Mayor Armstrong just said she did not know whether the City will take over PAL, we have to go through the process. It became very clear during a budget meeting that the City is in a deficit. She agreed with Councilman Fadgen that the City does not need to take over this project of running PAL. The organization does need to be reformed but there are a lot of good people, as well as the Task Force members, who can do this, but the City certainly can not and should not be spending the money.

The following residents spoke on this matter:

Denise Horland  
Cathy AyalaWatts – Commissioner for Plantation Wildcats  
Randy Freedman – Attorney retained by former Executive PAL Board  
Evan Krakower  
Bob Horland  
Paul Schneider, CPA  
Rudy Ruytenbeck  
Robin Moselle

Councilwoman Bendekovic applauded all of the people who have volunteered thousands of hours of their time to PAL and the sponsors who have supported the program throughout the years. Both the City and PAL must have the bar set higher. She made recommendations at the June 21, 2009 meeting, which she still stands by and which are on record. Since the audit was completed there have been many letters issued from Administration requesting specific documentation. It is imperative to return accountability and creditability to the organization. This Council owes it to all the PAL participants, volunteers, sponsors, residents and especially their youth, to have a blemish free system with safeguards in place. Whenever any partnership fails in an area sometimes mediation will occur. It is her opinion that is the role of the Task Force; they will regroup, realign and reorganize the youth athletic program that has brought so much to this community. The primary focus will be the children and the sports program. She thanked all of the members of the Task Force for accepting this position and she has the ultimate faith that they will step up to the plate and re-establish a stronger and a better youth sports organization for the children of Plantation.

***Motion by Councilwoman Uria, seconded by Councilwoman Bendekovic, to continue the meeting past 11:00 p.m. Motion carried on the following roll call vote:***

Ayes: Levy, Tingom, Uria, Fadgen, Bendekovic  
Nays: None

Councilwoman Uria referenced a letter dated June 23, 2009 to Mr. Dan Petrovich from Mayor Armstrong, which states, "If PAL does not choose to accept the Task Force recommendations, the City will continue to administer the program while a new 501c3 is formed". She commented that starting a 501c3 is a major task.

Mayor Armstrong explained this is one of the options that are on the table. There is a 501c3 and it is dysfunctional. There are some questions as to whether it has actually functioned appropriately but everyone has said if there is the ability to work within that 501c3 that is something that is certainly an option on the table. If

that does not work out, forming another 501c3 would be the next option, which is not an easy thing to do; however, there is a group that would be willing to take that step. If it were the Council's choice, we could also go out with an RFQ or RFP and get someone to come in; two organizations have already come forward and expressed interest in running the sports programs and they are a 501c3. Another option is for the City to take it under their umbrella and have it more engrained into the City posture. At this time, she does not know whether any of the options have all of the characteristics that would make this an easy decision and that is why we are in the process of putting a Task Force in place. A memorandum was distributed with regard to the request for Councilman Tingom to facilitate the Task Force because this is his area of expertise and he has been involved in sports and athletic programs and is a great facilitator. At this moment she does not know what the picture will look like on August 30, 2009. The only part she knows that needs to be corrected is the organization that we are dealing with today because the business operation, whether the model is acceptable or not, the business operation is not acceptable.

Councilwoman Uria noted that Ms. Moselle commented they are not interested in the City taking over PAL and increasing taxes. She does not want the organization to jeopardize their 501c3.

Mayor Armstrong advised that taxes would not increase. All of those things are details that will be brought to the table so that some decisions can be made. The City has no control over the organization at this time; that is PAL's organization and their policy. The only thing we are focused on is the proactive position of trying to make a correction in an area that is not working well for our citizens.

In response to Councilwoman Uria, Mayor Armstrong indicated the time frame is between now and August 30, 2009 with a hopeful expectation that with good dialogue and conversation a clear solution will be available. The first Task Force meeting is on Thursday, July 2, 2009. The plan is to meet once a week.

Councilwoman Uria questioned a section in the Charter that says, "No department head or City employee may serve as a member on any board or committee of the City except the Review Committee, PAC and the committee whose purpose is to evaluate submissions during a competitive procurement".

Mr. Lunny explained this is a Task Force for a specific purpose. It is not making any final decisions and is more in the nature of a fact finding exercise in an attempt to come up with recommendations on how things might improve. He believes these recommendations will come before Council for approval. The legal status of this matter is that this contract is in default and he was directed, pursuant to the Mayor's power, to enforce it, which is a reluctant exercise. The City does not want to engage in this litigation but will if necessary. At the time this letter was written, on June 23, 2009, that same evening there was a meeting and what appeared to be a change of heart and a change of direction. He feels this is not the time for legal positions; give the Task Force a chance to see whether the culture can be changed so that people are not as tense and upset during meetings and we can get back to the core function. If the contract is changed, that change would have to be approved by this Council.

In response to Councilwoman Uria, Mr. Lunny advised that the Mayor has the charter authority to supervise business of the City. She is the chief executive and has the power to enforce all contracts and the laws of the City; that is her prerogative. She cannot make new contracts and cannot legislate, she will have to come back to Council and ask for approval. A notice has been given that the contract will not be renewed and they are in a very weak position. He is prepared to defend this in court if necessary but would rather not do so.

Mayor Armstrong indicated this is definitely the intended direction; we are in this together to find a solution. The City did not create the problem; it was created on the other side in spite of the way it has been characterized. She is very hopeful there will be a solution. If not, she will return on August 30, 2009 saying that another course

of action needs to be considered and there will be other things on the table in case PAL cannot work this out internally.

Mr. Lunny referenced Mr. Schneider's comment that he has checks ready but has no one to sign them. The issue is who is in control and the City is not going to accept any liability exposure for dealing with an impaired organization. The only way the City could keep the programs going is to say, "You are now City volunteers and we are going to pretend as if PAL, which is temporarily under a disability, is out and you are working with the City so the programs are not interrupted". That is why the letter about the election went out because the City is not going to be jeopardized in terms of exposure by people signing applications for permits and saying they are in charge. This is an internal issue but it does have an impact on the City. His recommendation was to cover this issue so the children will not suffer. In his judgment, this still needs to occur for this temporary period until PAL advises how they wish to run their organization. Either this will be corrected or whatever must be done will be done so that we can start over.

Councilman Tingom commented that he is ready for the challenge. He looks forward to working with others to get to the bottom of the problems and to resolve the situation. The Task Force meetings will be brief and to the point and recommendations will be made. The primary concern is the continuation of the youth athletic program in the City of Plantation.

Councilman Levy was happy to see everyone present due to their interest in the future of this organization. He is thrilled with PAL and what they have accomplished over the years. Currently the largest concern is giving the children a foundation in team work, in sports, attitude and character that they can use as they become adults. He hopes that the Task Force will represent all views in this issue and give everyone the credence necessary to create a very positive product of which we can all be proud. He has always enjoyed what PAL has done and noted that every major facet of youth in this community has been touched by PAL; don't let us loose the sense of that.

Councilman Fadgen advised there is no question that the PAL organization has systemic problems that need to be reformed. PAL has made tremendous accomplishments that are lasting through lifetimes. He believes that the PAL organization is worth saving. If it does not work, there are other options. Let the Task Force do its work and present its report, which will be evaluated. One of the things this Council does frequently is address business issues and many times the attorney will say it is too risky. Risks are taken and from his perspective, while there is some uncertainty about how the election came about, whether it was legitimate or not, during the June 23, 2009 meeting with Mayor Armstrong, the President of PAL indicated that he and a committee would look into it and if necessary have another election. This may be something that has to be done. From his way of thinking, during this two-month period, the PAL organization should be back in the position of running the program. He does not believe anyone wants the City running this program.

***Motion by Councilman Fadgen that the City accept the business risk and reinstitute the PAL organization with the recreational programs.***

Mayor Armstrong advised the volunteers are already running the program exactly the same as they have always done. There is no need to make any kind of a motion or take direction on anything.

Councilman Fadgen emphasized he is philosophically opposed to the City running the program.

Mayor Armstrong emphasized the volunteers and Commissioners are running the program; the oversight is being provided by the City and PAL provided that PAL takes the responsibility not to hold their funding in hostage and moves forward. At this time, she does not know who is in charge to administer the program. The key is to keep the children on the field and the coaches positioned so they have the resources they need in order to continue the program. They have been guaranteed that the City will be resourceful and proactive and she is hopeful that PAL will do the same thing.

Mr. Lunny advised the motion was not improper. Councilman Fadgen is saying he disagrees and is looking for support from the Council.

Councilman Fadgen referenced the May 2009 letter, which has an August 31 deadline. All he is suggesting is that we basically adhere to that. At that time, we will have a Task Force report and if there is not a buy in on the part of the PAL organization then a new 501c3 will be substituted.

Mayor Armstrong suggested they have a difference of opinion and believes that the status as it is currently, is the appropriate one and that the organization has every opportunity to be a productive partner with the City in being sure that the programs in place are administered properly and functioning properly without having to establish any other difference in terms of a deadline.

Councilwoman Uria understood there is no takeover at this point and the Task Force will come back with information for review.

Mr. Lunny explained the City has a relationship with an organization that is under duress because it does not know who has the legal authority to speak for the organization. Hence, when that happened there became great uncertainty as to who has legal authority to speak for the organization, the City said, "We, the City, are going to run the programs, we are not issuing permits under the contract anymore, we are issuing field authorizations to the commissioners, individuals, as if they were our volunteers and there was no agreement, so it is now a City program during this interim period of time because the Mayor determined, on his recommendation, we did not want to have the exposure of ax through the corporation that were later determined not to be authorized. The options that the Administration had was to stop it then and say, "I'm sorry, until you fix this issue there will be no use of the City property", which is not something that was ever a goal in terms of the programs or, "We are going to do it this way for the time being". Councilman Fadgen is saying that he is willing to assume the exposure of having the organization operate the programs as opposed to doing it the way we are trying to do it.

Councilman Fadgen commented that PAL has the insurance coverage and he believes the operational control should remain with the organization until August 31, 2009.

Mr. Lunny expressed concern and noted that in essence, this is a business issue.

Councilwoman Uria noted there is an issue; there are too many people present for there not to be an issue. She suggested letting the Task Force take its course. She concurred with Councilman Fadgen; she does not want the City to take the entity over.

***Motion by Councilman Fadgen to rescind the takeover as of July 1, 2009 and have the PAL organization resume operational control of the programs. There was no second.***

\* \* \* \* \*

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

Councilman Levy referenced the Florida League of Cities Conference which will be held in Orlando in the middle of August 2009 and strongly suggested that Councilman Tingom attend if possible because they do have some educational seminars for newly elected officials. There are also other seminars held by the League throughout the State during the course of time and they are extremely worthwhile.

In response to Councilman Levy, Mayor Armstrong advised a delegate has not yet been chosen. She did not believe she would be attending this year.

Councilman Tingom, Councilman Fadgen and Councilwoman Bendekovic indicated they would not be able to attend the conference in August.

Mr.Lunny read the following:

### **Resolution No. 10606**

**RESOLUTION** appointing Councilman Levy as the City of Plantation representative for the Florida League of Cities Conference to be held in Orlando in August 13 – 16, 2009.

***Motion by Councilwoman Bendekovic, seconded by Councilman Fadgen, to appoint Councilman Levy as the City's representative for the Florida League of Cities Conference to be held in Orlando August 13 – 16, 2009. Motion carried on the following roll call vote:***

Ayes: Levy, Tingom, Uria, Fadgen, Bendekovic

Nays: None

\* \* \* \* \*

Councilman Levy referenced articles in the newspaper regarding the Broward County Sheriff's contract. A County auditor is trying to insinuate that the municipalities that are contracted with BSO are not paying their fair share and he is asking for the Sheriff, who was duly elected, to come up with all this extra money and to force the contract municipalities to come up with more. This issue affects Plantation. If you believe that the contract municipalities are not paying their fair share then you have to assume that Plantation is paying too much.

Councilwoman Bendekovic commented that was discussed during the budget meeting.

Mr. Keefe noted at the last Broward County City Manager's Association meeting they voted to form a committee of both contract municipalities represented and non contract municipalities to perform an independent audit. BCCMA will pay for the audit.

Councilman Levy commented that the municipalities paying extra for BSO services are still paying their full taxes to the County, which includes money for BSO, so they are just not paying their contract fee. Every resident in Broward County pays County taxes and they do not change depending on what municipality you are in.

Mr. Keefe advised the Sheriff has indicated that he will go back and review the contracts.

\* \* \* \* \*

**WORKSHOP - None**

\* \* \* \* \*

Meeting adjourned at 12:41 a.m.

\_\_\_\_\_  
Diane Veltri Bendekovic, President  
City Council

**ATTEST:**

\_\_\_\_\_  
Susan Slattery  
City Clerk

RECORD ENTRY:

I HEREBY CERTIFY that the Original of the foregoing signed document was received by the Office of the City Clerk and entered into the Public Record this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Susan Slattery, City Clerk