

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

**September 25, 2013**

The meeting was called to order by Councilmember Lynn Stoner, President Pro Tem of the City Council.

1. Roll Call by City Clerk:

Councilmember:	Jerry Fadgen Ron Jacobs Robert A. Levy (by phone) Lynn Stoner Chris P. Zimmerman
Mayor:	Diane Veltri Bendekovic
City Attorney:	Donald J. Lunny, Jr.

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2. The invocation was offered by Mayor Bendekovic.

3. Approval of Minutes of Meeting – June 12, 2013.

The Meeting Minutes for June 12, 2013 were approved as presented.

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**ITEMS SUBMITTED BY THE MAYOR**

Mayor Bendekovic introduced Pat Hines with the Plantation Women’s Club and Ms. Hines introduced Barb Grayson, the Community Improvement Chairman.

Ms. Hines and Ms. Grayson presented a check to Jim Romano, Parks and Recreation Director, for the Corduroy and the Easter Egg Hunt.

Ms. Hines thanked Mr. Romano and the Public Works Department for the beautiful job they did on Deicke Auditorium.

Ms. Hines explained two checks that were being presented as follows:

- Police Chief Harrison had a wish list to purchase the cuff man, which is an arrest and control dummy that has a flexible joint action for the Police Training Program.

- The Plantation Volunteer Fire Department is seeking funds to update and upgrade their audio visual equipment in their auditorium at the Main Fire Station. Battalion Chief Joel Gordon came to one of their luncheons to explain the improvements that they had planned to request in three phases because of the cost. The women were very impressed and voted to give the full amount now.

Ms. Grayson presented the following checks:

- A check in the amount of \$2,649.20 to Police Chief Harrison for the Cuff Man.
- A check in the amount of \$18,000 to Fire Chief Laney Stearns and Battlion Chief Joel Gordon.

Mayor Bendekovic commented that the Plantation Women’s Club was very generous as usual.

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Mayor Bendekovic presented Service Awards to the following Employees:

*Officer William Briody	Police	30 years
*Officer Phillip Toman	Police	30 years
*Jeffrey Jones	Utilities	25 years
*Officer Kenneth McLaughlin	Police	20 years
David Miller	Public Works	15 years
Nancy Romanello	Finance	10 years
*Ricci Singh	Utilities	5 years

\*Unable to attend.

Congratulations were offered.

\* \* \* \* \*

Mayor Bendekovic made the following announcements:

- The Solid Waste and Recycling Guidelines will be coming in the mail.
- Art Search Free Visual Arts Competition for students in grades K-12 with the theme “Home Is Where the Art Is”. Entry forms are available September 3, 2013 through October 11, 2013 at Central Park, the Community Center and Plantation Schools. Awards will be given in each grade level and all winning art pieces will be displayed November 9 and 10, 2013 at Art in the Park and later displayed at Plantation Central Park for one year.
- The 47<sup>th</sup> Art in the Park with the theme “Home Is Where the Art Is” will be on November 9 and 10, 2013.
- The Plantation Acres Women’s Club Spaghetti Dinner, all you can eat, Friday, October 18, 2013, from 6:00 p.m. to 10:00 p.m. at Volunteer Park.
- The Plantation Farmer’s Market is every Saturday between 8:00 a.m. and 2:00 p.m. at Volunteer Park.

- Deicke Auditorium had an Open House and it was an example of what Team Plantation is all about. She recognized Public Works, Parks and Recreation, Utilities, IT and Danny Ezzeddine. As promised, the ladies will be able to return in October.

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## CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No.12.

Item No's. 8 and 11 were pulled from the Consent Agenda to be discussed separately.

Mr. Lunny read the Consent Agenda by title.

4. Request from Plantation Chamber of Commerce for temporary road closures on Saturday, November 23, 2013 from 9:00 a.m. – 12:00 p.m. for the 40<sup>th</sup> Annual “It’s a Wonderful Life” Holiday Parade.
5. Renewal for the City’s Excess Self-Insurance Program for the 10/01/2013 - 09/30/2014 plan year.

### **Ordinance No. 2489**

6. **ORDINANCE** Second and Final Reading pertaining to the subject of the City’s Alcoholic Beverages Regulations; amending distance separation requirements between certain establishments selling alcoholic beverages and parks, hospitals, schools, Houses of Worship, and child care centers; providing for conflicts; providing a savings clause; and providing an effective date therefor.

### **Resolution No. 11756**

7. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing said property; 4744 NW 3<sup>rd</sup> Street – Breezeswept Park Estates.

### **Resolution No. 11757**

9. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 5, 2013 through September 18, 2013 for the Plantation Gateway Development District.

### **Resolution No. 11758**

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 5, 2013 through September 18, 2013 for the Plantation Midtown Development District.

### **Resolution No. 11760**

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 5, 2013 through September 18, 2013 for the City of Plantation Community Redevelopment Agency.

### **Resolution No. 11761**

- 12a. **RESOLUTION** of the City Council of Plantation, Florida to apply for a Florida Recreation Development Assistance Grant.

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

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

**NOTE:** Mayor Bendekovic voted affirmatively on Items No.12.

\* \* \* \* \*

Mr. Lunny read Item No. 8.

8. Request to approve to authorize the City of Plantation to enter into the Third Amendment of the Agreement with Keolis Transit America to continue to lease three trolleys.

Councilman Fadgen questioned how long it will take to have the cash box installed and when it will be completed.

Mayor Bendekovic clarified that this is the trolley not the tram. There are six trolleys and we have leased three of them out, which bring in \$90,000 in revenue. That information is available on the boxes.

Mr. Consaul advised that he is meeting with them tomorrow at 10:00 a.m. to discuss the procedures for installation. We would like to have this done by the end of October.

***Motion by Councilman Fadgen, seconded by Councilman Jacobs, to approve Item No. 8. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

\* \* \* \* \*

Mr. Lunny read Item No. 11.

**Resolution No. 11759**

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 5, 2013 through September 18, 2013.

Councilman Zimmerman commented that he may have a voting conflict with check #144163 to the Broward Alliance for Neighborhood Development; therefore, he will abstain for this check only.

***Motion by Councilman Jacobs, seconded by Councilman Fadgen, to approve Resolution No. 11759. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

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**ADMINISTRATIVE ITEMS – None.**

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**LEGISLATIVE ITEMS**

Mr. Lunny read Item No. 13.

**Resolution No. 11762**

13. **RESOLUTION** ADOPTING THE FINAL MILLAGE RATE FOR THE CITY OF PLANTATION OF 5.6142 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014, IDENTIFYING THE CITY ONLY ROLLED-BACK MILLAGE RATE, THE AGGREGATE MILLAGE AND AGGREGATE ROLLED-BACK RATE; AND THE PERCENTAGE INCREASE FROM THE AGGREGATE ROLLED-BACK RATE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Mr. Lunny noted that at some time during the presentation the Financial Services Director needs to make a legal announcement.

Dr. Caravella made the following announcement:

As per Florida Statutes there are several things that need to be read into the record. This is the Second and Final Reading for all of the above Resolutions.

The City of Plantation Budget is based on the General Fund operating millage of 5.6142, which is an increase of 3.27% from the rolled-back millage rate of 5.4365 mills.

The Plantation Gateway Development District Budget is based on the operating fund millage of 2.0 mills, which is an increase of 64.6% from the rolled-back rate of 1.2149 mills.

The Plantation Midtown Development District Budget is based on the operating fund millage of 1.0 mill, which is an increase of 150% from the rolled-back millage of 0.4005 mills.

The City of Plantation Aggregate Budget is based on the operating millage of 5.8366 mills, which is an increase of 5.27% of the rolled-back millage rate of 5.5391 mills.

The total budget for the City of Plantation for Fiscal Year 2014 is \$178,110,619, a decrease of 7.4% from last year's budget. As per the Budget Hearing on September 12, 2013 there were no changes to the proposed budget for Council's consideration. The Fiscal Year 2014 budget is balanced.

Mayor Bendekovic welcomed and thanked everyone for taking the time to come out. Tonight is the Second Public Hearing for the 2013/2014 Budget. The City has held several Workshops prior to tonight's hearing. These presentations were essentially to explain the City's financial status, a shortfall of \$4.9 million, expenditure reductions, both medical and pension benefits, and additional revenue generating options to the Council and to the public. For anyone who missed those presentations, the Power Points are available online at [www.Plantation.org](http://www.Plantation.org). Balancing the budget for the past three years has not been an easy task due to many factors and to name a few of those factors which have impacted the budget has been the economic tsunami we experienced; Plantation's low millage rate; the increase costs of basically doing the day to day business; the

reduction and revenue sources and the increase of personnel benefits. Plantation is still in the lower third of all of the municipalities. The City has made marginal progress; however, the City has its struggles and challenges still exist today. The City will not be out of the woods until there are substantial increases in both our capital improvements and unassigned reserves. This year's budget for the capital improvements is under \$100,000 and as indicated last week, the unassigned reserves are approximately \$935,000 which makes Plantation the lowest in the County on unassigned reserves. The bear minimum in unassigned reserves should be approximately \$4.3 million. The recommendation of a utility service fee and the selling of ten acres in the North Acres is still open for discussion if the Council wishes to do so. The proposed budget tonight was prepared with the combined efforts of Gary Shimun, Chief Administrative Officer, Dr. Kristi Caravella, Finance Director, and the countless hours of the Department Directors and City staff, who on a day to day basis are the face of Plantation. Tonight she is seeking the Council's support in approving the millage rate and the balanced budget.

Councilman Zimmerman mentioned unassigned reserves and stated that when we did the budget workshop on June 26, 2013 it was pointed out that there was about \$769,000 in savings from either Waste Management or a couple of other things that were to be assigned to the unassigned reserves to increase our reserves. He has not seen that and he still sees the \$900,000 number that has not been increased by the amount they were told.

Dr. Caravella advised that fund balances are only adjusted once a year and that is the time when the books are closed. The books were closed September 30, 2013 and usually the CAFER is done by the first week in March and those numbers will be reflected.

Councilman Zimmerman commented that we should see an increase in the reserves based on those numbers.

Dr. Caravella stated that she reviewed the financials this past month and it looks like most of the revenues came in so we should definitely see that. Some things did not come in such as ad valorem but we did collect more delinquent. It looks like we will be ahead of where we were last year.

Councilmember Stoner questioned where it is right now.

Dr. Caravella indicated that the fund balance is not calculated because it does not roll until all of the expenses close.

Councilmember Stoner questioned whether we received the funds from Wheelabrator.

Dr. Caravella stated that we did; those are in the miscellaneous revenue; a line item; and they are accounted for. As soon as we see what everything totals out to she will provide a better idea of how much is left. Everything was asked from the departments by October 4, 2013 and we wait until November 30, 2013 for all the checks to clear so we should have an idea around December 2013 and the final number will be in March 2014.

Councilman Zimmerman mentioned the financial statements just received and questioned between revenues received and expenses out; total fund we are still \$18 million in the positive side. That is for our funds. Even looking at the expense report up through September 15, 2013 there is only about another \$2.5 million that was spent. In the General Fund we are looking at possibly a savings of about \$8 million not to mention we still have some expenses going on and we have the end of this month. If there is a fund balance that we have come December he questioned if that money rolls over into the reserves.

Dr. Caravella advised that it will go into reserves. The thing to remember is that there are some year end accruals that are not charged until year end so some of those expenses will go up. The other thing is most of the money when looking at the all funds is coming from Utilities; they had a lot of capital budgeted that they have not completed so about \$8 million in Utilities alone will probably not be spent.

Councilman Zimmerman questioned if Council can request that she come back to the December meeting to provide a summary report.

Dr. Caravella indicated that she would be glad to put a memo together as soon as she knows the update in numbers. It will probably be given to the auditors in December because that is when they put the report together.

Councilman Fadgen mentioned \$8 million in Utilities that has not been spent; that does not mean that it will not be spent, it just will not be spent in this fiscal year.

Dr. Caravella stated that those projects are maybe a little behind schedule or they are waiting for equipment. They are still on the capital improvement plan but it did not happen this year and it will roll to their fund.

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11762. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Jacobs, Levy, Stoner  
Nays: Fadgen

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Mr. Lunny read Item No. 14.

**Resolution No. 11763**

14. **RESOLUTION** ADOPTING THE FINAL MILLAGE FOR PLANTATION GATEWAY DEVELOPMENT DISTRICT OF 2.0 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; IDENTIFYING THE COMPUTED ROLLED-BACK MILLAGE RATE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

***Motion by Councilman Jacobs, seconded by Councilman Fadgen, to approve Resolution No. 11763. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

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Mr. Lunny read Item No. 15.

**Resolution No. 11764**

15. **RESOLUTION** ADOPTING THE FINAL MILLAGE RATE FOR THE PLANTATION MIDTOWN DEVELOPMENT DISTRICT OF 1.0 MILLS FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; IDENTIFYING THE COMPUTED ROLLED-BACK MILLAGE RATE; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Councilman Fadgen commented that as mentioned by the Chairman of the Midtown Advisory Board, the millage rate went up 150%. He wants the elected officials to remember that is hopefully just a temporary increase that will be rolled-back some time in the future.

*Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11764.  
Motion carried on the following roll call vote:*

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

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Mr. Lunny read Item No. 16.

**Resolution No. 11765**

16. **RESOLUTION** PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL CONSOLIDATED ESTIMATED REVENUE AND APPROPRIATION BUDGET OF THE CITY OF PLANTATION, FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFOR.

*Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11765.  
Motion carried on the following roll call vote:*

Ayes: Zimmerman, Jacobs, Levy, Stoner  
Nays: Fadgen

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Mr. Lunny read Item No. 17.

**Resolution No. 11766**

17. **RESOLUTION** PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL REVENUE AND APPROPRIATION BUDGETS OF THE DEPENDENT TAXING DISTRICT OF PLANTATION GATEWAY DEVELOPMENT DISTRICT FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11766.  
Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

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Mr. Lunny read Item No. 18.

**Resolution No. 11767**

18. **RESOLUTION PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL REVENUE AND APPROPRIATION BUDGETS OF THE DEPENDENT TAXING DISTRICT OF PLANTATION MIDTOWN DEVELOPMENT DISTRICT FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11767.  
Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

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Mr. Lunny read Item No. 19.

**Resolution No. 11768**

19. **RESOLUTION PROVIDING FOR THE ADOPTION AND APPROVAL OF THE FINAL REVENUE AND APPROPRIATION BUDGET OF THE PLANTATION COMMUNITY REDEVELOPMENT AGENCY FOR THE OPERATING FISCAL YEAR OCTOBER 1, 2013 THROUGH SEPTEMBER 30, 2014; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Resolution No. 11768.  
Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Levy, Stoner  
Nays: None

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Mayor Bendekovic thanked Council for supporting staff regarding the budget.

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

NOTE: Councilman Levy did not participate in this item.

Councilmember Stoner questioned whether Item No. 20 could be heard along with the Quasi-Judicial Item No. 21.

Mr. Lunny advised that with the consent of the lawyer representing the developer, we can read the ordinance as well as the site plan and swear in the witnesses, as long as he acknowledges for the record that action on the ordinance remains Legislative.

Attorney Billy Laystrom was present on behalf of Candem. He stated that they agree.

NOTE: Items No. 20 and No. 21 were heard in tandem.

**LEGISLATIVE ITEMS**

Mr. Lunny read Item No. 20.

- 20. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF COMPREHENSIVE PLANNING; RECAPTURING THE PREVIOUSLY APPROVED 227 FLEXIBILITY UNITS, AND RE-ASSIGNING UP TO 286 FLEXIBILITY UNITS, TO THE FOLLOWING DESCRIBED PROPERTY LOCATED IN FLEX ZONE 75 SO AS TO PERMIT THE CONSTRUCTION OF UP TO 286 MULTI-FAMILY DWELLING UNITS WITHOUT AMENDING THE CITY COMPREHENSIVE FUTURE LAND USE PLAN; PROPERTY LYING IN SECTION 9, TOWNSHIP 50 SOUTH, RANGE 41 EAST, AND DESCRIBED AS A PORTION OF PARCEL 816, ACCORDING TO THE PLAT OF JACARANDA PARCEL 816, AS RECORDED IN PLAT BOOK 43631 AT PAGE 1963 INCLUSIVE OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, GENERALLY LOCATED ON THE EAST SIDE OF SW 70<sup>TH</sup> AVENUE, 500 FEET SOUTH OF SW 6<sup>TH</sup> STREET; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

*Motion by Councilman Jacobs, seconded by Councilman Fadgen, to approve Item No. 20. Motion carried on the following roll call vote:*

Ayes: Zimmerman, Fadgen, Jacobs, Stoner  
Nays: None

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## QUASI-JUDICIAL ITEMS

Mr. Lunny read Item No. 21 and the waivers.

### 21. REQUEST FOR SITE PLAN, ELEVATIONS AND LANDSCAPE PLAN FOR MIDTOWN 24 – PHASE II. PROPERTY LOCATED AT 710 SW 78<sup>TH</sup> AVENUE AND ZONED SPI-3 (MIDTOWN).

A Staff Report dated September 25, 2013, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

#### PROJECT HISTORY AND CURRENT PROPOSAL

On June 15, 2006, the City Council approved the original master plan, elevation, and landscape plan for the Residences at the Fountains to construct 478 residential units within two 11-story and two 12-story towers. The apartments were approved in the former parking lot behind Marshalls and the demolished cinema. The master plan property is occupied by retail, restaurant, and residential uses and is 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.

Parking to support the two residential towers was located on floors 1 through 4 and integrated into the building design. Phase II was a “reverse” mirror image of the Phase I building with both buildings sharing an internal entryway courtyard. Phase I was completed on February 29, 2010.

Approved Midtown Phase II: In 2011, the City Council approved a 227-unit apartment building in a 12-story “L” shaped building configuration with a dramatic building entrance and vehicle drop-off area facing southeast into the passive park located between Total Wine and Dick’s Sporting Goods.

Two hundred and twenty-seven (227) units on a 2.34-acre development site equals about 97 units per net acre. The site plan provided an average of 1.82 garage parking spaces per dwelling unit, similar to what is provided at the Veranda. The parking garage was open on all sides, but included extensive decorative screening to minimize the visual impact of the concrete structure from the east, west, and north.

No apartments were located on the ground floor, which included a retail component and accessory uses including a 2,300-square-foot fitness center. The plan also included an approximate 2,300-square-foot swimming pool.

Residents could not walk directly back and forth between the parking deck and the apartment building. Residents had to take an elevator to the ground floor of the parking garage to enter the apartment building and use an elevator to get to their apartment. The parking garage at One Plantation Place has a similar arrangement.

Proposed Midtown Phase II (Current 2013 Proposal): Camden is the present owner of the Phase II site. The new plan orients the apartment building in an “S” shape, wrapping around both the pool/recreation area facing west and the parking garage facing east. The garage is concealed from view on three sides and is only visible from the east, facing the back of the shopping center.

The new proposal adds 59 units for a new total of 286 units, or about 122 units per net acre. To some extent, the box-like appearance of the building is a result of increased density and reduced unit size. If the flex allocation is approved, total units for both buildings will increase from 478 to 537.

The building entrance is located on the south side of the building across the street from the medical office building. There is no commercial component in the building. 132 of the 286 units do not meet the minimum floor area requirement. There is no City Council history or policy regarding unit size reduction.

The proposed parking garage exterior is lined with apartments on the north, south and west. The garage is open on the east and provides no decorative screening on the upper floors. Staff recommends the applicant add decorative screening to higher floors above the Marshall's roofline.

- PLEASE NOTE: The Fire Code requires parking garages providing less than 50% unrestricted airflow to provide smoke evacuation systems. Fire indicates permit-level plans and calculations are necessary to determine if the 50% requirement is met. If Fire determines the 50% requirement is not met during permit review, the designer may choose to remove decorative garage screening or install a garage smoke evacuation system. Post-Council building elevation revisions may require City Council approval.

Unlike the prior approval, a residence can walk directly from the parking deck into the apartment building. Garage parking has been increased to 1.92 spaces per unit (subject to staff comments). 1.92 spaces per dwelling unit exceed the requirements of One Plantation Place, Veranda I and II, and existing Midtown Phase I.

**REQUEST #1:      ASSIGNMENT OF UP TO 286 FLEXIBILITY UNITS**

PLEASE NOTE: The City Council may vote to approve part or all of 286-flex assignment.

City Code Section 19-67(c) provides policy considerations that the City uses as part of its legislative review when deciding whether to allocate or utilize flexibility. Exhibit "A" lists the policy considerations and includes responses from the applicant and staff. Exhibit "B" lists the Quality Housing Criteria (also contains applicant and staff responses) necessary to assign flex units. The City Council will be voting on whether or not to assign 286 residential flex units to this site, in place of the previously approved 227 flex unit assignment. Exhibits "A" and "B" are a part of this report.

**REQUEST #2:      SITE PLAN, ELEVATIONS, AND LANDSCAPE PLAN APPROVAL**

If the City Council recommends approval without comment, the site plan is approved subject to all recommendations in the "STAFF COMMENTS" portion of the report.

**WAIVER REQUESTS:**

The City Council may recommend approval or denial of all waivers. If the Council wishes to approve some waiver and deny others, staff recommends the Council vote individually on each waiver. The Council may also approve waivers subject to conditions if they choose to do so. The waivers relate only to the current Camden proposal and not the existing apartment building or shopping center.

- 1.\*    From:            Section 27-624(v), which limits density to the equivalent site area (about 5.3 acres) and allows 132 units.
- To:            Base density on combined retail and residential sites in the Fountains Complex to allow 286 units.

**STAFF COMMENT:** *SPI-3 Zoning was written to discourage freestanding apartment buildings in Midtown by limiting density to 25 +/- net site units per acre. The applicant has requested a waiver from this provision to build 286 units. The City Council has granted similar waivers for One Plantation Place, Veranda, and Midtown 24, II, but at fewer units per acre.*

2. From: Section 27-689, which requires one-bedroom units to be a minimum of 750 square feet in area and two-bedroom units to be a minimum of 950 square feet in area;  
To: Reduce the size of 86 one-bedroom units from 750 square feet to a range of 600 square feet to 679 square feet (9% to 20% reduction); and  
To: Reduce the size of 46 two-bedroom units from 950 square feet to a range of 785 square feet to 879 square feet (7% to 17% reduction).

**STAFF COMMENT:** *There is no Council policy supporting apartment size waivers. Based on this, staff cannot support the proposed reductions in apartment size.*

3. From: Section 27-642(c)(2), which requires a 20' setback on unclassified streets (NS-1, EW-1, and EW-2);  
To: Reduce north side setback to 18 feet;  
To: Reduce south side setback to 19.25 feet;  
To: Reduce west side setback to 13 feet; and

- 4.\* From: Section 27-743, which requires 2,531 parking spaces based on the overall master plan mixed uses;  
To: Reduce required parking to 2,490 parking spaces (a 41-space deficit).

**STAFF COMMENT:** *This latest plan provides more parking per unit than both the existing Phase I Building and approved 2011 Phase II revision. The 34-space deficit represents a one percent reduction in overall site parking.*

5. From: Section 27-742(m)(2), which requires a 25-foot minimum drive aisle width for two-way drive aisles in parking garages;  
To: Reduce the drive aisle width to 24 feet.

- 6.\* From: Section 27-747(d)(2), which requires a minimum of six (6) off-street loading spaces;  
To: Provide two (2) off-street loading spaces.

**STAFF COMMENT:** *No objection based on observations of similar buildings with two loading areas.*

- 7.\* From: Section 27-626(b)(vi), which requires buildings having frontage greater than 250' in length to provide a pedestrian passageway between the street frontage and the rear of the building.

To: No mid-building pedestrian passageway.

***STAFF COMMENT:** No objection as this requirement is intended primarily for shopping centers providing mid-building access to rear parking areas.*

8.\* From: Section 13-40(a)(b)(c)(1) which states no landscaped area shall have any dimension less than five feet.

To: Reduce planting spaces at various locations less than five feet in width.

***LANDSCAPE STAFF COMMENT:** Provide minimum five (5)-foot wide planting spaces.*

**\*Awaiting payment of 2,000 in waiver fees for four of the eight waivers from applicant. Staff will not commence zoning permit review until all waiver fees paid.**

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; site plan application; Planning and Zoning Board meeting minutes of July 9, 2013; Landscape Planning Review Board meeting minutes of July 9, 2013; and Review Committee minutes of May 28, 2013.

**REVIEW COMMITTEE RECOMMENDATION: NO OBJECTIONS** to the project moving forward for further review (May 28, 2013).

**PLANNING AND ZONING BOARD RECOMMENDATION: APPROVED** up to 286 flex units, site plan, elevations, and landscape plan subject to staff comments (July 9, 2013; 5-0). **APPROVED** all waivers except Waiver #2 requesting a unit size reduction (July 9, 2013; 5-0).

**LANDSCAPE PLANNING REVIEW BOARD: APPROVED** subject to staff comments (July 9, 2013; 6-0).

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

**Planning:**

1. Applicant shall contact Broward County School Board and obtain an updated Public School Concurrency Determination prior to the second reading of the flexibility ordinance.
2. Applicant is required to pay impact fees at the Building Department prior to issuance of development permits.

**Zoning:**

1. **In General:**
  - a. Provide an additional 2,500 trust account deposit for legal review of Items D and E below.
  - b. The Linear Park parcel, per the Broward County Property Appraiser's Office, is owned by Residences at the Fountains Owners Association, Inc. The applicant has stated in the response letter that the applicant (Camden USA, Inc.) controls the association. Provide documentation indicating Camden USA, Inc. has control of the association. Please provide an owners signature on the application page for Residences at the Fountains Owners Association, Inc.

- c. Provide an owner's authorization signed by both owners allowing ADD Inc. to act as agent for the application.
- d. If approved, revise the Developers Agreement with the City of Plantation to include the new site plan, change in flex units and any subsequent changes since the agreement was last amended. The Developers Agreement shall be approved by the City Attorney prior to the second reading of the ordinance assignment the flex units and recorded prior to issuance of any development permits. Estimated Developer Agreement review time, including applicant revisions requested by the City Attorney can vary from 45 – 90 days.
  - i) The current Developers Agreement requires completion of the linear park prior to issuance of a CO for Phase II. This condition shall also be included in the revised Developers Agreement.
  - ii) The revised Developers Agreement shall establish who is responsible for construction and development of the park as well as the bonding requirements.
- e. The Unified Control Document dated December 28, 2006, was reviewed as part of the site plan review of the combined, master planned, mixed-use "Midtown 24/Fountains Shopping Center" project. If approved, the Unified Control Document shall be updated to reflect the increase in residential density (59 more units than previously approved). The document shall be submitted, reviewed and approved by the City Attorney prior to the second reading of the ordinance. Execution and recording of the Unified Control Document shall take place prior to permit approval.
- f. Vacation of easements shall be completed prior to issuance of building permits.

2. Site Plan:

- a. The following dimensions must be included on the site plan prior to permitting:
  - i) Provide the dimension from the building to the west property line at its closest point. Staff is scaling at approximately 13 feet.
  - ii) West side: The closest setback from the building to the edge of curb is not provided. Revise plan.

3. Floor Plans:

- a. Section 27-689 requires one-bedroom units to be a minimum of 750 square feet in area and two-bedroom units to be a minimum of 950 square feet in area. Eighty-six (86) one-bedroom units are shown from 600 square feet in area to 679 square feet in area. Forty-six (46) two-bedroom units are shown from 785 square feet in area to 896 square feet in area. The applicant is requesting a waiver from the required unit size.

4. Elevation:

- a. The perspective views on Sheet A-0007 do not match the proposed perspective elevations. Two of the three tower elements have been removed and replaced with a wider tower element above the entrance. Staff recommends maintaining all tower elements on current plan plus adding an additional "Minor" tower element to the southwest corner of the south elevation.
- b. The colors are not labeled and color elevations are not provided in this submittal. Staff is reviewing the elevations with the color rendering provided at the Planning staff is reviewing the elevations with the color rendering provided at the Planning and Zoning Board (not provided by applicant in Council application). Staff recommends the applicant submit full size color elevations for comparison with the black-line elevation prints for review and approval by zoning prior to submission of permit-level drawings.

5. Parking and Loading:

- a. Total required parking for the entire Fountains Complex, including the proposed Camden building, which is 2,531 parking spaces. The required parking count is based on the following:
  - i) Council application of the SPI-3 mixed-use parking code (June 2006) to the Fountains Commercial and Residential complex (The medical office, the hotel, and three stand-alone outparcels along University Drive are not included), plus

- ii) A 98-space parking City Council waiver to allow restaurants with outdoor seating in lieu of retail in the east-west “main street” buildings at the Fountains (Lime Fresh, Cheese Course and others).
  - b. Based on the above, 2,531 parking spaces are required for all residential and commercial uses in the Fountains Complex, 2,490 spaces are provided. The applicant has requested a 41-space waiver. Please see Items i-iii below for parking comparisons:
    - i) Midtown 24 Phase I (existing apartment building) was approved in June 2006 and completed in 2010. This building provides approximately 1.4 “garage spaces” per unit, excluding the 20 parallel spaces located adjacent to the building on NW 78<sup>th</sup> Avenue.
    - ii) Midtown 24 Phase II was approved in June 2011 and provided approximately 1.82 garage spaces per unit.
    - iii) Camden (new Phase II) proposed approximately 1.92 garage spaces per unit with one-bedroom units constituting 60.1% of the total unit count. This most recent plan provides more parking per unit than the June 2011 Phase II approval and the existing Phase I building. Analysis indicates the plan provides the following garage parking:
      - a. 1 ½ parking spaces for each one-bedroom apartment.
      - b. 2 spaces for each two-bedroom or one bedroom-den apartment.
      - c. 5 or more “unrestricted access” guest spaces (lower floors) for each five apartments.
6. Parking garage (Ordinance 2471):
- a. The minimum required drive aisle width inside the parking garage is 25 feet. Twenty-four (24)-foot wide drive aisles are being provided. *The applicant is requesting a waiver.*
  - b. Speed ramps from the first to second floor are 24 feet wide. 25 feet is required. *The applicant is requesting a waiver.*
  - c. Based on limited storage and proposed unit count, provide secure (locked with electronic key or other system) bike storage facility on the first floor.
7. Details:
- a. Note: All rooftop equipment shall be screened in accordance with Section 27-653. Please note 27-653 is not based on line of sight.
  - b. The applicant has provided resident storage on seven floors, but has not indicated how much storage area will be allocated to each unit. Staff has always maintained that resident storage lockers (not including closets in the apartments) are an important amenity. Revise plan to show how these storage areas will be broken up for individual unit owners.
  - c. Applicant has increased the pool size to 23’ x 60’ or 1,300 square feet. Staff recommends a minimum 35’ x 60’ pool for a 286-unit apartment complex.
8. Signage is not part of this review.

**TRAFFIC CONSULTANT:** No objections.

**ENGINEERING DEPARTMENT:**

- 1. Please include all of the signing and marking on the site plan. **05-13-13:** The signage and markings at the garage are still missing. There are signs located in the pedestrian walkway that are not defined, please remove. **06-27-13:** The garage has been included. Please make sure the signing and marking on both the site plan and the civil plan match. The signs in the walkway are still there and are also behind a parking space. Please show existing and proposed signs and markings (including crosswalks) on both plans as well. **09-16-13: Please verify the markings at the garage. There are no pedestrian**

**crossing markings or ramps. It looks like they cross at an angle in front of the loading zone, cut through a break in the island and then cross the garage. Please clearly define the pedestrian crossing at this location including ramps and markings.**

2. Sheet A-001C, please show the stop bars at 4' behind the crosswalk, typical. **05-13-13:** Stop bars do not scale at four (4) feet from the stop bar, they scale at three (3), please revise. **06-27-13:** The response states that the stop bars on the plans are "for graphic representation only". This is not acceptable. These plans will become the Site Plan of Record and as such must be accurately represented. Please revise to show the stop bars in the correct locations with dimensions. **09-16-13: They do scale at 4', thank you. Please put a note (typ) on the Site Plan labeling this dimension.**
3. The disabled parking spaces in the garage are not the correct size, please revise. **05-13-13:** The spaces are shown at 18 feet, please provide a wheel stop per the City standard for disabled parking. **06-27-13:** Please show the spaces on the plans as they are shown in the detail, dimensioned correctly. **09-16-13: The wheel stop is not shown as being two (2) feet back. Please revise. There is also a six (6)-foot area next to the nine (9)-foot space with no markings. Please hatch out this area for no parking.**

### **Permit Comments**

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

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

### **DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:**

#### **In General:**

- All site plan and planting plan comments from the Department of Design, Landscape & Construction Management must be responded to in writing at time of permitting. When responding to staff comments, please bubble plan changes and specify the page number corrected in the written responses.
- Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.
- The applicant will be required to execute a Developer Agreement and post security for all engineering and landscape related improvements at the time of permitting.

Site Plan:

1. As previously mentioned, staff has concerns with the limited planting spaces as well as the proposed planting in the tight spaces throughout the landscape pedestrian zones.

Planting Plan:

1. The plans propose the planting of trees and palms in very tight spaces; please clarify the impact this will have on the installation as well as the survivability of the proposed trees and palms.
2. Staff is working with the developer regarding tree removals and relocations for the development of this site.
3. All trees to be removed or relocated require ISA tree appraisals for mitigation purposes as well as bonding as per City codes. Performance bonds are required on trees to be relocated.
4. Trees that were relocated from the previous phases of this site that did not survive relocation require mitigation as previously discussed.

**BUILDING DEPARTMENT:** No objection.

**FIRE DEPARTMENT:**

1. Applicant has failed to address previous comments:
  - a. This project has an adverse effect on the Fire Department's ability to provide services.
  - b. Building fails to provide 360-degree laddering access for the Fire Department. Without this access the acceptable alternative is complying with Section 11.8 of the FFPC 2010 edition and Florida Building Code Section 403.
2. Seven (7) parking spaces along west side need to be removed. Not part of original site plan approval and impedes access to building.
3. West side Siamese connection must be within 25 feet of hydrant on same side of roadway.
4. Building as designed does not meet the travel distances allowed by code.
5. All storage units must be designed to provide 18" protection from bottom of sprinkler head so no storage can be above the 18 inches.
6. Landscaping shown on plan encroaches on the 7.5 feet required clear space around fire hydrants.

**POLICE DEPARTMENT:**

1. All access control points must provide immediate access for police personnel.
2. All lighting for perimeter, garage and common areas must conform to IESNA Security lighting standards.

**UTILITIES:** No objection; however, the following comments apply:

1. Prior to a Building Permit being issued, the following must be provided.
  - \$500 review fee must be submitted to the Utilities Department.
  - Complete Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval.
    - BCHD and BCEPD Permits must be approved if required.
    - Utilities Agreement must be executed.
    - Utilities Performance Bond must be posted.

- Utility Easements must be executed.
  - Utility Inspection fees must be paid.
  - Capacity Charges must be paid in FULL.
  - Contact: Danny Pollio if you have any questions, 954-797-2159.
2. Must provide receipt or check copy for \$2,000 deposit marked for Utilities Expenses to project cost recovery account.
  3. Detailed Water and Wastewater Utilities must be shown on plan before a proper review can be completed.
  4. Show all new and existing water and sewer lines and easements on landscaping and drainage plans.
  5. Maintain all utilities and utilities easements for water and wastewater system access.
  6. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".
  7. No structures allowed in utility easements.

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

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

**EXHIBIT A**

In response to the criteria set out in Section 19-67 of the Plantation Land Development Code and Objective 1.7 of the Future Land Use Plan, please see applicant and staff responses to the additional 59 flex units above that approved for Midtown Phase II in 2011.

- 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's Response: The applicant seeks the opportunity to add to the residential component of the Midtown – Phase II project. The mixed-use development presents an opportunity for adding the residential units in accord with the previously approved master plan.

*Staff Response: The applicant has not provided justification for the requested 286 flex units.*

- 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 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's Response: The primary land development regulations guided the redevelopment of the Fountains midtown project. The previously approved site plan granted substantial flexibility units for

residential use which helped achieve the mixed use benefits while providing a pedestrian-friendly design with enhanced vehicular pedestrian circulation and significant landscaping improvements. The applicant seeks to expand on that previously approved site plan with the addition of 59 residential flexibility units as part of the overall redesign of the project.

**Staff Response:** *The plan does not meet or exceed the following requirements to justify the assignment of 286 flex units:*

1. *The building elevations do not exceed SPI-3 design requirements.*
2. *The building does not exceed minimum unit sizes (many apartments do not meet unit sizes).*
3. *The applicant provides a swimming pool that does not appear to exceed minimum standards for a swimming pool in a 286-unit apartment building. While there are no standards for swimming pool size based on estimated resident or unit count, the proposed 1,300-square-foot pool does not appear to exceed any reasonable requirement.*
4. *The sidewalks surrounding the project have been expanded to the minimum eight feet width but do not exceed this minimum requirement.*

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

Applicant's Response: The proposed residential development will add significant tax revenues to the City. The project will also meet the goal to add new housing in this area.

**Staff Response:** *The proposed 286 apartments will add some taxable value.*

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's Response: The impacts on public services were evaluated and addressed during the original site plan review process and that review remains ongoing as part of the site plan modification process. When the City adopted a master plan including new residential units in Midtown, obviously impacts on public services were to be expected. The applicant will ensure that those impacts do not exceed what was previously envisioned. Further, the applicant has a vested interest in ensuring that public services are adequate for future residents of the project and the City in general. The addition of 62 residential units is not expected to generate negative secondary effects of odors, fumes, noise, or crime.

**Staff Response:** *See public service provider comments in site plan comments.*

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's Response: The City's approval of the master plan for Midtown manifested the City's desire to have a mixed use urban form of development which is consistent with what the applicant proposes. In order to add an adequate residential component, the use of flex units is mandatory.

**Staff Response:** *The property can be developed in a desirable manner without the assignment of flex units.*

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

**Applicant's Response:** The subject property is surrounded by office uses to the west, retail uses immediately east, as well as to the south, and retail, hotel, and office uses to the north. The proposed mix of residential and retail use is compatible with and compliments these surrounding uses. The proposed residential element will provide housing opportunities for employees of surrounding office uses and the enhanced retail element will provide shopping and dining opportunities for these residents.

**Staff Response:** *The use is compatible with the surrounding uses.*

- 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's Response:** The project addresses the Housing Element of the Comprehensive Plan Objective 1.1 which indicates that the City of Plantation shall continue to assist the private sector in providing additional housing units. The proposed land use is not in conflict with the goals, objectives, and policies of the City's comprehensive plan and is compatible with adjacent uses. Further, the applicant states that the use of residential flexibility units is consistent with Objective 1.6 of the City's comprehensive plan as well as Objective 1.7 and Policy 1.7.5.

**Staff Response:**

**PLANTATION MIDTOWN; NEIGHBORHOOD DESIGN ELEMENT**

*A proposed apartment building at this location is consistent with the Midtown Neighborhood Design Element of the Comprehensive Plan.*

*The site plan concept:*

- a. *Supports Objective 1.1 to create an appropriate mix of functional uses (residential and adjacent commercial).*
  - b. *Supports Objective 1.2 and the related policies by increasing the potential demand (286 additional residential units) for cultural facilities and possible future transit service in Midtown.*
  - c. *Supports in part Objective 1.3 and related policies by encouraging higher density, mixed use, and transit-oriented development. The development does not support multi-story, vertical, mixed-use development.*
- 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's Response:** The County flexibility ordinance allows cities within Broward County to inter-mix land-use types within County guidelines. There is no current plan at the City or County to eliminate the assignment of flexibility units although the County continues to regulate such assignments. It is the applicant's understanding that the City has the necessary flexibility units to make the requested assignment.

**Staff Response:** *In addition to flex unit assignment in this request, Crossroads Residences located on Peter's Road has requested 287 units. Flex Zone 75, which includes Midtown, has a balance of 226 flex units, less than currently requested.*

*Staff, at Council discretion, has applied to Broward County to merge Flex Zone 75 and 74. Flex Zone 75 includes Midtown and is generally west of University. FL 74 is generally located east of University Drive and north of Broward Boulevard. Staff cannot predict if the Flex Zone Merger will be approved by the County Commission.*

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

Applicant's Response: The city has conducted an extensive area wide study of the Midtown corridor and concluded that the addition by housing units in the corridor would encourage redevelopment of the corridor. By improving the corridor and stimulating redevelopment, the health, safety and welfare of neighboring residents will be improved. Certainly, the proposed additional residential development will not be detrimental to the public welfare.

**Staff Response:** *The applicant wishes to waive minimum floor area size for 132 of the 286 apartments. There is no City Council policy or precedent to support reducing apartment unit sizes in Plantation. The Planning and Zoning Board has opposed the unit size waiver. Staff cannot support the request.*

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

Applicant's Response: The proposed additional flex allocation is consistent with the future land use and will help meet the housing needs of the community and reinvigorate the shopping area to help meet the shopping, dining, and entertainment needs as well.

**Staff Response:** *The additional 59 units will support the adjacent business community if the demographic earns sufficient disposal income to spend on retail, dining, and entertainment.*

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

Applicant's Response: The City is moving forward on its plan for the Midtown corridor. The property is ideal for adding an additional residential component to this corridor.

**Staff Response:** *See comments in a-j above.*

## **EXHIBIT B**

Quality Housing Standards response for the modification of the site plan for Phase II of Midtown 234, wherein the applicant is seeking to add 62 additional units in conjunction with other modifications to the site plan. The applicant's responses to the criteria are attached as Exhibit B.

- A. Whether the proposed project satisfies the quality housing standards set forth in Section 19-67 of the Land Development Regulations.

1. Cement tile roofs with suggested rooflines.

Applicant's Response: The building's roofline above the street level base incorporates a variety of massing articulation to breakdown the scale of the structure. Trellis elements, expressed penthouses and integrated architectural lighting will provide interest and drama to the project skyline.

*Staff Response: The proposed apartment building plan meets the minimum requirements.*

2. Stucco or brick covered sidings and walls.

Applicant's Response: The south and east facades include stone base, accent tile, and stucco walls with metal awnings. The upper building will have stucco walls accented with decorative tile and louvers.

*Staff Response: The proposed apartment building plan meets the minimum requirements.*

3. Landscaped entryway and property perimeter features.

Applicant's Response: Between Complex 1 and 2, the residential drop-off will feature a large landscaped area which includes multiple water features, lush plantings and sitting area. The SW 6<sup>th</sup> Street entrance will be highlighted by gardens and landscaped area.

*Staff Response: The residential drop-off area located on the south side of the building provides no water feature.*

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

Applicant's Response: The landscaped residential drop-off area and SW 6<sup>th</sup> Street Garden include multiple water features.

*Staff Response: Provided for existing Phase I.*

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

Applicant Response: The Residences at the Fountains is located within an urban context where perimeter walls would negatively affect the project.

*Staff Response: A metal picket fence with landscaping is provided to secure the pool area.*

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 concurs.*

7. Dwelling unit which all have balconies, patios or porches.

Applicant's Response: All dwelling units on the first floor of Phase 2 will have private patios. All units on the floors above will have private balconies.

**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: There are no single-family units included in this project.

**Not applicable.**

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

Applicant's Response: Tenant storage is provided on the ground floor. All dwelling units will contain private laundries.

**Staff Response:** *The applicant has provided 84-storage spaces for a 286-unit apartment.*

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

Applicant's Response: Interior and exterior amenities are provided on the ground floor of Phase I and include items such as: pool, cabanas, recreational lawn, billiards room, club room, business center, etc.

**Staff Response:** *The applicant has provided a 2,000-square-foot fitness center. The pool, at 23' x 60' deep, does not seem large enough for a 286-unit apartment building.*

11. A program of on site security measures.

Applicant's Response: Lobby and front desk will include security and staff. Card access will be provided throughout the property for additional safety measures.

**Staff Comment:** *To be determined by the Plantation Police Department.*

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: The applicant will coordinate with the City to ensure the maintenance standards set forth in the community's appearance ordinance are coordinated through appropriate covenants. Applicant understands that the documents may need to be approved by the City Attorney.

**Staff Comment:** *To be determined by Legal.*

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

Applicant's Response: The overall Phase 1 and Phase 2 Fountains project will not duplicate or be architectural similar to any other structure unless as discussed with City Staff. The applicant intends to provide additional architectural elements to distinguish itself from Phase 1 design.

*Staff concurs.*

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Attorney Bill Laystrom was present on behalf of Camden U.S.A., which is the owner of the site he calls Midtown 24 Phase II. In the Fountains next to Midtown Phase I is a parcel which is Midtown Phase II and a linear park immediately to the north. The Midtown Phase II site plan was approved several years ago. They have come in with an amended site plan with modifications. The original design showed parking on the first several floors and then the building is on the balance. The units have been brought down to ground level and they are wrapped around the garage in order to create a different design. The architecture is very similar; however, they have reduced the height from 12 stories to 8 stories. They have focused their entrance way at the southeast corner to take advantage of the redesign of The Fountains so that traffic and appearance of the project are the main entrance feature. There is a pedestrian connection. The pool is on the first floor at the base level, which allows all of the units to have a visual access to the pool. There are eight waivers, two of which are no objection, which is the loading zone waiver and the break between buildings, which is customarily found on commercial projects; since it is in the SPI-3 it was included. In addition, they have the waiver from 25 feet for drive aisles to 24 feet, which is fairly customary to be considered on these types of projects. With regard to the landscape request, which is at the planting areas, they have expanded those planting areas and will meet with Ms. Berchielli to show her where they have been expanded. To the extent that they still have areas that require some landscape adjustment they will either provide structured soil underneath the sidewalk or area adjacent to it. He believes they meet all of those requirements for those spaces in the last design because they basically shrunk the building and increased the pedestrian width on both the east and western sides of the building. With regard to parking, this has been discussed in these types of projects many times. They are well over the 1.8/1.7 ratio that was approved for Phase I of the Midtown as well as the Veranda project and One Plantation. They are at about 1.92 spaces and the parking design is much better than with the pedestal approach. You can now get out of your car in the parking lot and go directly to your floor of the apartment. If you are on the seventh floor you will actually park on the seventh floor of the garage. The first floor of the garage is open for guest parking and none of the parking is restricted or assigned so you can park anywhere within that facility. There are two waivers that need to be discussed; one is the unit sizes. This has been discussed a lot and he would like to focus on what the market is for these types of products. In order to qualify for the rents on a project like this the annual income has to be around \$60,000 per year. People are looking for smaller, more efficient space. If the bedroom walls were removed a number of the units would be studios and fit within the 600 square feet that is permitted under code for studios; however, they like to have the bedroom. There are a number of two bedrooms, which are dens in their mind, but staff considers those to be two bedrooms because of the way they are designed with walls. Parking can be increased with two bedrooms, which made staff more comfortable. They have gone through the market throughout the country and have provided examples for Council to review. Camden takes care of their properties and they are a long time hold company; this will be an outstanding addition to the City of Plantation and a big help to the Midtown and the ability to continue to grow Midtown and keep the values up on the commercial properties. This project will be worth approximately \$55 million of taxable value which is somewhere around \$400,000 to \$420,000 to the City of Plantation and the Midtown District and about \$1.2 million in overall taxes to Broward County. There are ten full time employees including

security and leasing. The payroll just for the building alone is about \$400,000 to \$450,000. All of the features that typical renters are looking for from the game room to the cappuccino machine to the high speed internet access are on the first floor. The pedestrian way on their property going north to the future linear park, which is tied to the CO on their project. They went ahead and changed the design of their garage; the size of the space was reduce between the garage and the building which requires them to ventilate the garage for a cost of about \$300,000 or \$400,000 but that allowed them to add ten feet to both the east and west side of the landscape pedestrian zone areas. They have tried to put a treatment on both. They think the west is fine and the east has a neighbor; the back of Marshalls and the back of Total Wine. They believe they have come up with an excellent plan to get pedestrians through that area. The garage is only open on one side instead of three sides.

Councilman Fadgen commented that some of the feedback he has received is that people are happy that the building was reduced from 12 to 8 stories. While it is Phase II, the architecture is different on this building. He questioned the Planning and Zoning Board's rational for rejecting the size of the units.

Mr. Laystrom stated that they did not take a position; therefore, it is denial. They said it is a policy decision for the City Council to decide whether or not to approve it so they were not recommending it.

Councilman Jacobs indicated that the issue is the size of the apartments.

Councilman Zimmerman advised that he is all right with the units. He noted that the plans he reviewed shows a proposed change in the rear service courtyard of Total Wine. The change will change the way it looks from the corner intersection.

Mr. Leeds stated that there are no plans that he is aware of to change Total Wine, which is owned by another party. They may show it on the plan but it does not necessarily mean that it is part of Council's approval. Approval is limited to the confines of the site.

Mr. Laystrom indicated that they researched that after the comment was made and Mr. Leeds is correct; their plan was incorrect and was reversed.

In response to Councilmember Stoner, Mr. Laystrom advised that the large Oak trees on the site will be relocated.

Councilmember Stoner stated that she noticed 19 or 20 Crepe Myrtles on the plan as well as a lot of other trees. She noted that there is nothing on Crepe Myrtles for six months of the year and questioned whether a substitute could be found for some of them.

Danny Ezzeddine, Director of Design, Landscape and Construction Management, was present. He indicated that staff is working with them to establish a new landscape plan. Crepe Myrtles are beautiful flowering trees but he agreed that they loose their leaves half of the year. They are trying to introduce more flowering trees. He stated that they will suggest some Yellow or White Tabebuias.

Mr. Lunny mentioned that Mr. Leeds requested in a side conference and made a comment about Council voting and requested that they vote on the waivers separately.

Mr. Leeds clarified that there are three things to vote on. He would like the flex allocation to be a separate vote so the minutes are clear for the City Clerk and himself. He requested that a separate vote be done on the

waivers; Council can vote on all of them if they wish at once but he would like it separate from the site plan approval.

Councilman Zimmerman questioned whether they can do the site plan with the waivers.

Mr. Leeds stated that if it is done that way Council should say they recommend approval of the site plan and that includes staff comments and approval of all of the waivers. Sometimes there is a conflict between a waiver and a staff comment and when you are clear about the waivers the record is clear.

***Motion by Councilman Jacobs, seconded by Councilman Fadgen, to approve the site plan and all of the waivers for Item #21, request for site plan, elevations, and landscape plan for MIDTOWN 24 – PHASE II, property located at 710 SW 78<sup>th</sup> Avenue. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Stoner

Nays: None

\* \* \* \* \*

Mr. Lunny read Item No. 22.

22. REQUEST FOR SIGN SPECIAL EXCEPTION FOR LA FITNESS – MARKET ON UNIVERSITY – LOCATED AT 1041 SOUTH UNIVERSITY DRIVE.

A Staff Report dated September 25, 2013, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST #1:**

From: Section 22-35(a), which limits the size of the wall signs on the front of the building to 60 square feet in area;

To: Increase the wall sign on the east side of the building (facing University Drive) from 60 square feet to 188.5 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 wall sign on the north side of the building (facing SW 10<sup>th</sup> Street) from 30 square feet to 120 square feet.

**REQUEST #3**

From: Section 22-35(g), which allows two (2) wall signs for corner stores (one on the front and one on the side or rear);

To: Allow three (3) wall signs; one facing University Drive, a second facing SW 10<sup>th</sup> Street, and a third facing south to a parking lot.

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

**ANALYSIS:**

The subject property is zoned SPI-3, generally located on the west side of University Drive between SW 10<sup>th</sup> Street and Peters Road, and part of the Market on University shopping center. The center is occupied by retail, office, and restaurant uses.

City Council approved a redevelopment site plan for this property on August 28, 2013. The site plan included demolition of the existing two-story retail/office space (Office Max) and replacement with a 45,000-square-foot sportscenter (LA Fitness) at the north end of the west building.

The applicant (LA Fitness) is now requesting three sign special exceptions:

Request #1: Given the cross access and shared parking fields, the sign code defines the overall site as a “center establishment”. The sign code applicable to center establishments allows one-square-foot of wall signage for each linear foot of storefront subject to a maximum area of 60 square feet (fro the front sign). The applicant requests approval of a 188.5-square-foot wall sign on the east elevation of the proposed LA Fitness Building facing University Drive in lieu of the 60-square-foot maximum sign area allowed by code. LA Fitness has 212 linear feet of storefront on the east elevation.

Request #2: The side or rear wall sign area is limited to 50% of the allowable area of the front sign (60 square feet). Therefore, the side or rear sign area will be limited to 30 square feet. The applicant requests approval of a 120-square-foot wall sign on the north elevation of the proposed LA Fitness facing SW 10<sup>th</sup> Street in lieu of the 30-square-foot maximum sign area allowed by code. LA Fitness has 188.7 linear feet of storefront on the north elevation.

Request #3: Section 22-35(g) limits stores with front and side storefront to two (2) wall signs, one facing the front and a second facing the side or rear. The applicant is requesting approval of an additional wall sign, 58.6 square feet in area, on the south elevation. The third sign, if approved, will be located above an entrance to the proposed parking garage, facing south to a surface parking lot.

The proposed wall signs will be consistent in color and materials with the uniform sign agreement on file for the center having white channel letters with gray returns and trim caps.

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

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

Request #1 (Front Sign – East Elevation): No objection.

Request #2 (Side Sign – North Elevation): No special exception code criteria to support 120-square-foot wall sign. Council approval of a 100-square-foot sign would be consistent with Council prior approval of a wall sign on a building of similar height and length (Kohl’s wall sign facing University Drive).

Request #3 (Additional Sign – South Elevation): No objection. The proposed sign is located above one of four entrances into the parking garage and may encourage LA Fitness members to park in the shopping center’s underutilized west parking area (south of the sportscenter).

**SPECIAL EXCEPTION:**

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

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

***APPLICANT RESPONSES ATTACHED TO BACK OF CITY APPLICATION.***

***STAFF: Special conditions apply to the south elevation based on the need to identify LA Fitness access fro the rear parking area. Special conditions apply to the east elevation based on the setback from University Drive and the floor area (45,000 square feet). No special conditions justify a 120-square-foot wall sign (4x allowed size) along SW 10<sup>th</sup> Street.***

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.

***STAFF: Past approvals by the City Council support the granting of the special exception for the east elevation. Dick's was granted a similar sign for their east wall sign. Both are set back far from University Drive and contain 45,000-50,000 square feet.***

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

***STAFF: There are no special conditions justifying the 117-square-foot wall sign along the north building elevation. The Council approved a 100-square-foot sign for a building of similar frontage and height in 2008 (Kohl's east wall sign).***

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

***STAFF: The minimum measure needed along the north elevation (SW 10<sup>th</sup> Street) is less than the requested 120-square-foot sign. The Council approved a 100-square-foot sign for a building of similar frontage and height in 2008 (Kohl's east wall sign).***

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.

***STAFF: The 120-square-foot wall sign along SW 10<sup>th</sup> Street is not consistent with the intent and purpose of the sign code. See Comment #4.***

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

**To be determined.**

Attorney Bill Laystrom was present on behalf of LA Fitness. Staff has recommended waivers #1 and #3; they had no objections and recommended that the request for waiver #2 be reduced to 100 square feet from 120 square feet. They are agreeable to that.

***Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Item No. 2, with waivers #1 and #3 and waiver #2 reduced to 100 square feet. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Stoner

Nays: None

\* \* \* \* \*

Mr. Lunny read Item No. 23 and the waivers.

23. REQUEST FOR SITE PLAN AMENDMENT FOR BRAVO ITALIAN RESTAURANT LOCATED AT 8000 WEST BROWARD BOULEVARD AND ZONED SPI-3.

**REQUEST:** Site plan, elevation and landscape plan for a freestanding low-turnover sit-down restaurant.

**WAIVER REQUESTS:**

1. From: Section 27-743(36)(a) which requires a unified control document and B7-Q zoning to apply the shared parking requirement.  
To: Allow application of the shared parking requirement without a unified control document in an SPI-3 Zoning District.
2. From: Section 27-721(90) of the City Code, which limits low turnover sit down restaurants to be less than 4,000 square feet and bar to 20 lineal feet.  
To: Allow a low turnover 8,490-square-foot low turnover sit-down restaurant with 25 lineal feet of bar.
3. From: Section 27-721(61)(f) of the City Code which requires outdoor café seating to be at tables only.  
To: Allow bar seating and couch seating in lieu of seating at tables in a 600-square-foot outdoor patio bar.
4. From: Section 13-40(a)(b)(c)(4)(c). Interior landscaping for parking areas:  
Medians shall be provided between double parking bays, shall be curbed and shall have a minimum of eight feet in green area, not including curbing.
  - *Eight feet wide median required in eastern parking area – zero feet has been provided.*Large shade trees shall be installed in all parking areas at a maximum spacing of 40' on-center.
  - *Four trees required in eastern parking area – zero provided.*

5. From Section 13-40(a)(b)(c)(3). Interior landscaping for parking areas:  
Islands shall be provided to separate parking bays from major internal access drives and shall have a minimum width of ten feet, not including curbing.  
Ten feet required in terminal islands throughout -3' – 5' has been provided.  
Large shade trees shall be installed in all parking areas.
- *One tree Category tree is required in all terminal islands – zero provided.*
6. From Section 13-40(a)(b)(c)(5). Interior landscaping for parking areas:  
Where multiple perpendicular or angular parking spaces are provided to driveways, landscape islands will be preserved in green so as to break up the monotony of such parking and to minimize the hazards created thereby providing visual breaks to assist in seeing other pedestrian and vehicular traffic every eight spaces.
- *One island required along the southern parking area adjacent to the building – zero provided.*
  - *One island required along the western parking area adjacent to the building – zero provided.*
  - *One island required along the parking area east of the building – zero provided.*
  - *One island required along the parking area west of the building – zero provided.*
- Large shade trees shall be installed in all parking areas.
- *One tree required in the island along the southern parking area adjacent to the building – zero provided.*
  - *One tree required in the required island along the western parking area adjacent to the building – zero provided.*
  - *One tree required in the required island parking area east of the building – zero provided.*
  - *One tree required in the required island parking area west of the building – zero provided.*
7. From Section 13-40(a) Interior landscaping for parking areas:  
In all zoning districts requiring review and approval of site plans, a total area of interior landscaping shall be provided in all off-street parking areas equal to not less than 15% of the total paved vehicular use areas of the site, including all parking and circulation areas.
8. From Section 13-40(c)(1). Interior landscaping for parking areas:  
No landscaped area shall have any dimension less than five feet.
- *Five feet minimum planting space required – three feet provided throughout.*
- Staff does not support this waiver; modifications can be made to the proposed sidewalks allowing additional planting space.*
9. From Section 13-41(a)(b)(c). Pedestrian zones along building facades.  
Landscape pedestrian zones shall extend the full width of each façade which abuts a parking or vehicular use area; the minimum width of such landscape zone shall relate to the adjacent structure's wall height.
- *11'-3" required along the northern façade – 2' provided.*
  - *11'-3" required along the southern façade – 2' provided.*
  - *11'-3" required along the eastern façade – 4' provided.*
  - *11'-3" required along the western façade – 4' provided.*
- Staff does not support this waiver; modifications can be made to the proposed sidewalks allowing additional planting spaces.*

One tree shall be installed in this zone per each 30 lineal feet, or fraction thereof, of façade width.

- *Four trees required along the northern façade – zero provided.*
- *Four trees required along the southern façade – zero provided.*
- *Five trees required along the eastern façade – zero provided.*
- *Five trees required along the western façade – zero provided.*
- 

10. From Section 13-41(a)(f). Pedestrian zones along building facades.

For all trees required throughout the landscape pedestrian zones, 25% of the trees must be a minimum of 10'-12' installed height. The remaining 75% of the trees shall be of an installed size relating to the adjacent wall structure height.

- 75% of the required tree height shall be a minimum of 12'-14' – zero trees have been provided.

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

**ANALYSIS:**

The City Council approved a site plan on May 9, 2012 to add a 2,489 seat movie theater, 16,270-square-foot of additional retail/restaurant area, and a 4,179-square-foot freestanding bank outparcel at the corner of South University Drive and Federated Road. The City Council approved an amended master site plan on August 8, 2012 to adjust the restaurant and retail square footages, including minor exterior changes to the parking lot and sidewalks, among other interior changes.

The applicant is requesting to amend the site plan to replace the approved bank with an 8,490-square-foot low turnover sit-down restaurant (Bravo). The restaurant proposes Mediterranean style architecture, with two outdoor areas, a table only seating area and a bar/lounge area. The restaurant closes at 10:00 p.m. Sunday through Thursday, and at 11:00 p.m. on Friday and Saturday, per the company website.

The Engineering Department has identified potentially significant changes to the parking lot layout abutting the restaurant. If the applicant is approved by Council, said action shall be subject to a revised plan reflecting Engineering and other comments and designated the *“official site plan of record”*.

The Design, Construction and Landscaping Department indicate the landscape plan is incomplete or does not meet code. The applicant has requested seven landscape waivers. The applicant has drawn the landscape and site plans based on approval of the waivers. To the extent that one or more waivers are denied, the landscape and site plan shall be revised consistent with the waiver denial and incorporated in the official site plan of record.

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

Planning: The proposed restaurant use is consistent with the “Commercial” land use designation on the Future Land Use Map and Future Land Use Element of the Comprehensive Plan.

Zoning:

In general:

1. The applicant is also seeking the approval of waivers from Section 27-721(90) of the City Code to allow a low turnover sit down restaurant:
  - i) to exceed 4,000 square feet, and
  - ii) to have a bar exceeding 20 feet in length.
2. The applicant is seeking waivers from Section 27-721(61)(f) of the City Code to allow bar seating and couch seating in lieu of seating at tables in a 600-square-foot outdoor patio bar.
3. Council approval of the application on September 25, 2013 shall be with the understanding that the current site plan shall not be the official site plan of record. The official site plan of record shall be administratively approved after the site plan has been modified in accordance with Engineering and other department comments. A file copy of the official site plan of record shall be provided to the participating departments. *Both staff and the applicant have agreed to this process.*
4. Outdoor seating areas to discontinue service at 11:00 p.m. in accordance with low turnover sit down restaurant requirements.

Site Plan:

5. Revise plans to show scaled setback dimensions from the south and east property lines to the closest points of the buildings.

Parking:

6. Unified Control Document Waiver:

- a. The Council approved a waiver on May 5, 2012 to apply the shared parking calculation {Section 27-743(3)} without a unified control document (UCD). Shared parking is based on the concept that different uses experience peak demand at different times of the day and week. Based on the theatre addition and other changes, the shared parking requirement indicated a surplus of 315 spaces. The Council continued the waiver for the August 8, 2012 approval, with the shared parking requirement indicating a surplus of 355 spaces, based on adjusting the square footages of the restaurant uses and retail uses. For this current proposal, with the substitution of the restaurant for the bank, the current parking surplus is 325 spaces.
- b. The UCD generally allows employees or customers to park anywhere on a site containing multiple owners. Westfield only owns a portion of the mall parking lot, with each anchor owning their portion of the overall parking lot.
- c. The Council waived the UCD for the theatre based on an agreement requiring Westfield to replace any loss of shared parking. The loss of shared parking could result from a major anchor store expansion or redevelopment requiring more parking than currently provided. The agreement requires Westfield to construct a parking garage on their property to make up for the lost parking.
- d. If the Council chooses to waive the UCD to allow the restaurant, approval shall be subject to execution and recording of the amended agreement prior to approval of restaurant development permits.

Dumpsters:

7. The dumpster enclosure gates shall be painted to match the building. Include revised notes on official plan of record.

Elevations:

8. The official site plan of record shall be revised accordingly. The proposed building color theme seems designed to attract attention and is not compatible with recent development in the area. It also is not consistent with the color theme of Bravo in the Mercado Center in Naples, Florida (See below). Applicant to revise and resubmit building elevation plans (including color samples) as part of the official site plan or record review.

- a. The applicant has not submitted samples of the stone or tile. Applicant to provide stone or tile samples for staff approval.
- b. Please building elevations to raise to raise stone element to the 12-foot mark.
- c. Add tile to the insets, as well as the decorative metal trellises, on the south and west elevations.
- d. Section 27-653 requires that all rooftop equipment to be screened, with the parapet or screening mechanism to be as high or higher than the highest portion of the equipment or apparatus being screened. Revise building elevations and site plan to show rooftop equipment location and the screening ad required by code. Screening to also reflect material and color.

**Signage:**

9. Signs are not part of this review. The signs shown on the current plan do not meet sign code requirements. All signs shall be deleted from the building elevations of the official site plan of record.

**TRAFFIC CONSULTANT:** No objections.

**ENGINEERING DEPARTMENT:**

1. Please provide the ADA connection to the public sidewalk.
2. The photometric plan, Sheet ESP-1 shows a pedestrian crossing and sidewalk (what looks like the ADA connection to the public sidewalk, that is not on the site plan. Why is it not on the site plan?
3. Please include all of the signing and marking on the site plan. It is incomplete; please correct.
4. Please provide the Type "D" curb detail.
5. Curbs must be the same length as the parking spaces. Please correct.
6. The drive aisle entrance, from the parking lot to the restaurant, is too large; the inbound is 24+ feet wide. Please reduce the width.
7. The drive aisle entrance also has a conflict with the northbound one-way drive aisle. Exiting traffic is too close to the entering traffic; vehicles will not be able to line up with the exit land and will end up exiting in the entrance lane. There is no signing or marking at this location either. This access location needs to be revised to reduce the vehicular conflicts. Please contact Engineering to discuss.
8. Please remove the striped out areas next to the islands and just create larger islands. Vehicles will just drive through them creating conflicts.
9. The fire truck radius on Sheet 10 states that the scale is 1' = 50'. It is actually 1" = 20' and when the truck template is put on the plan it does not work as shown. Please contact Engineering to discuss.
10. Impacted easements will need to be vacated prior to the issuance of a CO.
11. Please provide a detail for the dumpster to insure that the gates do not encroach into the drive aisle and interfere with the pedestrian access and vehicular parking.

**Permit Comments (required at time of submittal for permitting)**

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

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

5. The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

## **DESIGN, LANDSCAPE AND CONSTRUCTION:**

### In General:

- When responding to staff comments, please bubble plan changes and specify the page number corrected in the written responses.
- The applicant will be required to execute a developer agreement and post security for all engineering and landscape related improvements at time of permitting.
- Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.

### Site Plan:

1. Please dimension all green spaces (i.e. medians, islands, landscape pedestrian zones, etc.)
2. In all zoning districts requiring review and approval of site plans, a total area of interior landscaping shall be provided in all off-street parking areas equal to not less than 15% of the total paved vehicular use area of the site, including all parking and circulation areas. ***Waiver required if 15% interior landscape is not met.***
3. One planting island is required every eighth space on an averaged basis on commercial properties; proposed plans do not reflect this in the new parking areas. ***Waiver required.***
4. Islands separating parking bays from major internal access drives (terminal islands) shall have a minimum width of 10', not including curbing. 3' – 5' has been provided. ***Waiver required.***
5. Medians between double parking bays shall be curbed and have a minimum width of 8' in width, not including curbing. 2' vehicle overhand does not count towards code required dimensions. ***Waiver required.***  
No landscaped area shall have any dimension less than 5'. ***Waiver required. Staff does not support this waiver; modifications can be made to the proposed sidewalks allowing additional planting space.***
6. Code requires landscape pedestrian zones (lpz) to extend the full width of each façade abutting a parking or vehicular use areas; the minimum width shall be half the height of the proposed or 10' (paved areas in the lpz may not constitute more than 5' of the required lpz):
  - a. 11'-3" lpz is required along the northern façade – 2' has been provided.
  - b. 11'-3" lpz is required along the southern façade – 2' has been provided.
  - c. 11'-3" lpz is required along the eastern façade – 4' has been provided.
  - d. 11'-3" lpz is required along the western façade – 4' has been provided.***Waivers required.***  
***Staff does not support this waiver; modifications can be made to the proposed sidewalks allowing additional planting space.***
7. Please do not place lighting in landscape islands where trees are required by code. Light poles must be a minimum of 15' from any tree planting to avoid interference as the trees mature.
8. Please do not place fire hydrants or associated equipment in planting islands where trees are required by code.
9. Please consider the use of a bike rack to provide an alternate method of transportation.

10. Clarify the purpose of the proposed sidewalk on the north side of the building east of the door; it appears this sidewalk is leading to a planting bed.
11. Please clarify the purpose of the proposed sidewalk arrangement on the southeast corner of the building.

Planting Plan:

1. Staff is unable to fully review the landscape plans submitted – they are incomplete and difficult to read with regards to plant quantities, species, proposed locations, etc.
2. Please show utility easements in gray scale on the planting plan as well as above and below ground utilities and associated equipment.
3. Screen above ground utilities on the planting plan with live greenery, including FP& L boxes, etc. Please make a note to this effect on plans.
4. Please show existing and/or proposed lighting on landscape plan; light poles must be a minimum of 15' from any tree/palm planting to avoid interference as the trees mature.
5. Please use the City of Plantation Tree Planting Detail; they are available online: <http://www.plantation.org/Landscape-Architecture/details-notes.html>.
6. Please remove the container size on proposed plant material-hedge and ground cover.
7. Please include quantities of proposed plant material under the Plant List.
8. Please include tag lines with tree specie as well as quantity on landscape plans.
9. Please remove the tree planting detail for container grown trees to avoid confusion; all trees are to be field grown/balled and burlapped.
10. Please revise comment 11 under landscape notes; it is not clear as to the meaning of shaping and pruning of trees; all tree trimming work shall be done by an ISA certified arborist following City codes.
11. Please include the specific type of mulch to be used under comment 12 of landscape notes (please do not use red or Cypress mulch).
12. Please use category 1 trees (large shade trees) in planting islands as per City codes in lieu of category 4 trees.
13. The five-year growth elevation plan is not consistent with the planting plan with regards to quantities and specie.
14. The title block on sheets L-1 and TR-1 read “Broward Mall Cinema and Bistro”; I believe the plans submitted are for the proposed outparcel; please clarify.
15. Three inches of clean mulch shall be installed around all new and existing trees, palms, and throughout planting beds; mulch shall be kept three inches away from the trunks and stems of plants. Please do not use Cypress or red mulch (Eucalyptus, Melaleuca, or recycled mulch is acceptable) please make a note to this effect on the plans.
16. Please include General Contractor’s notes as well as the City of Plantation City notes.
17. Please add the current City of Plantation City Notes available online: <http://www.plantation.org/Landscape-Architecture/details-notes.html>; please keep the “General Notes” on the landscape plans.
18. Please include Tree Protection details as per City codes in lieu of those submitted; 2” x 4” posts, 48” in height, with three 2” x 4” rails spaced equally.
19. Please make a note on the landscape plans that an ISA certified Arborist root prunes any existing tree within paving/curbing areas to be installed.
20. All proposed trees to be removed ore relocated require ISA appraisals based on the Checked Trunk Formula Method, Guide for Plantation Appraisal, 9<sup>th</sup> edition, 2000.
21. All proposed trees to be removed must be mitigated for as per City codes; tree mitigation will be above and beyond code required trees on the property.
22. City staff will verify all trees proposed “to be removed or relocated”.

23. A pre-planting meeting with the Department of Landscape Architecture is required before any planting commences on the project; please note on plans.
24. All landscape areas shall be provided with an automatically-operating underground irrigation system; with a minimum of 100% coverage, with 50% minimum overlap in ground cover and shrub areas. The rain sensor must be installed as well as a rust inhibitor if applicable. Irrigation plans must be submitted at time of permitting.
25. Large shade trees shall be installed in all parking areas (medians) at a maximum spacing of 40' center to center. ***Waivers required.***
26. Large shade trees shall be installed in all planting islands and terminal islands. Plans submitted propose category 2/3 and four trees in lieu of category 1 trees.  
Please meet required tree/palm heights, spread, and caliper throughout the landscape pedestrian zones (lpz) – 25% of the required trees must be a minimum of 10' – 12' installed height; the remaining 75% of the required trees must be of installed heights relating to the adjacent wall structure height, as defined in City landscape codes. ***Waivers required.***
27. A minimum of one tree is required every 30 lineal foot, or fraction thereof, of façade width (three palms = one tree):
  - a. Four trees required along the northern lpz – zero trees have been provided.
  - b. Four trees required along the southern lpz – zero trees have been provided.
  - c. Five trees required along the eastern lpz – zero trees have been provided.
  - d. Five trees required along the eastern lpz – zero trees have been provided.***Waivers required. Staff requests mitigation for required trees if waivers are approved or requirements are not met.***

**BUILDING DEPARTMENT:** Per City ordinance 10-4 an A/C garbage room is required.

**FIRE DEPARTMENT:** No objections as to this site plan with the understanding that the applicant and/or owner are aware of the following conditions:

1. Fire hydrant and Fire Department connection shall be located on same side of roadway, within 25' of each other and within 6' of curb; fire hydrant requires a minimum clearance of 7.5' in front and to the sides with 4' to the rear; Fire Department connection requires a minimum clearance of 7.5' in front and to the sides.
2. Dedicated second means of egress required from public area, complying with 2010 FFPC NFPA-101 Chap 7 shall not exit through food preparation area or any assembly area.
3. Occupancy load shall be calculated per 2010 FFPC NFPA-101 12.1.7 and 7.3.1.2.
4. Occupant load is inclusive of public/non-public areas and interior /exterior areas.
5. As preliminarily calculated, occupant load exceeds 300 which will require the installation of a voice evacuation system, monitored by the fire alarm system.
6. Fire alarm control panel shall be located adjacent to main entrance.
7. Additional conditions may arise upon review of all required permitting plans.

**POLICE DEPARTMENT:** This project will have little impact on police services. All security lighting designs should conform to IESNA security lighting levels and be unified with Westfield Mall security lighting design.

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

1. Prior to a Building Permit being issued, the following must be provided:
  - \$500 review fee must be submitted to the Utilities Department.
  - Water and Sewer Utility plans (5 sets) must be submitted to the Utilities Department.
  - BCHD and BC EPD Permits must be approved if required.
  - Utilities Agreement must be executed.
  - Utilities Performance Bond must be posted.
  - Utility Easements must be executed.
  - Utility inspection fees must be paid.
  - Capacity Charges must be paid in FULL.
  - Contact: Danny Pollio if you have any questions, 954-797-2159.
2. Must provide receive or check copy of \$2,000 deposit marked for Utilities Expenses to project cost recovery account.
3. Complete Water and Wastewater Utilities must be shown on plan before a property review can be completed.
4. Provide plan for vacating easements as necessary.
5. Show all new and existing water and sewer lines and easements on landscaping and drainage plans.
6. Maintain all utilities and utilities easements for water and wastewater system access.
7. Full Utilities plan review and approval is required prior to permitting. No plans are for construction until marked "FINAL".
8. No structures are allowed in utility easements.

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Note: Councilman Levy did not participate in this item.

Jason James, with CPH Engineers, Rebecca Galagis with Westfield, Todd Hendrix, Vice President of CPH Engineers, John Burdick, on behalf of Bravo Brio Restaurant Group, and legal staff Scott Steady (sic) were present.

Councilman Jacobs commented that Zoning, Engineering, and Landscaping were not happy with the site plans.

Mr. James was aware of that and stated that they have met with them a couple of times. As of Friday, they have made a lot of progress with landscaping. Ms. Berchielli agreed with the new plan conceptually. He explained that this project is on the Broward Mall. This area was included in the City Council agenda for last August 2012 and was approved as part of the theater expansion and the Bistro. Previously it was a bank and since that time plans have been submitted for Bravo Restaurant. This is a low turnover sit-down restaurant.

Mr. Burdick, Vice President of Design and Construction for Bravo was present. The company is Ohio based. They have over 100 locations in 27 states and they are moving into Massachusetts and California this year. Bravo and Brio are split about 50/50; there are quite a few in the State of Florida and they do very well with the Bravo Mercado Restaurant in Naples. The menu is a mix of Italian cuisine and the average check ranges between the low and mid \$20's. Currently the company has over 10,000 employees and usually a location hires just over 100 employees. The company originally was under the flag of Bravo Development, Inc. and in 2010 it joined the NASDAQ under the Bravo Brio Restaurant Group. They are looking forward to a relationship with the Westfield Broward Mall and coming to Plantation.

Councilmember Stoner questioned how many restaurants they have opened nationwide in the last year and how many were in Florida. She also questioned how many restaurants they have closed.

Mr. Burdick stated that they average between eight and ten locations a year. Recently they opened in Miami, West Palm Beach, Jacksonville, Boca Raton, Aventura, Pembroke Pines on the east side and water side, Naples, Tampa, and three units in Orlando. He indicated that during the course of the last few years they probably closed a couple that underperformed but not in the Florida market. One was in Louisiana and another in Arizona.

Councilmember Stoner questioned how long this land lease is.

Rebecca Gagalis, Development Director, with Westfield LLC, was present. She believes that the land lease is a ten to 15 year initial term, which is typical.

Councilmember Stoner questioned if they think they have competition with Macaroni Grill, Carrabba's, etc. The menu is fairly generic.

Mr. Burdick advised that there are subtleties amongst all of the Italian restaurants. They are upping the design concept in this particular location. When they find a market where they believe they will be a little more successful they add a lot of design features. They are stepping up the design element to make it a little more elegant. Bravo typically has outdoor seating that is under umbrellas; this particular one is being put under canopies. Brios have columns and draperies on the patios; likewise in this particular facility. The Bravo Mercado in Naples takes on many features of the Brio concept with patio structures, draperies and elements inside.

In response to Councilmember Stoner, Mr. Burdick stated that the construction cost is between \$2.8 and \$3 million.

Councilmember Stoner questioned how the Brio does in the Pembroke Falls.

Mr. Burdick commented that all of their Florida locations do very well. The Waterside Brio and the Mercado Bravo are their top earners. The menus are consistent throughout all of the restaurants.

Ms. Gagalis clarified that the land lease is a ten-year initial term and three five-year options.

Councilman Fadgen questioned why the Naples location is doing so well.

Mr. Burdick advised that their Brio Restaurant is within two miles of that property. He believes a lot of it is the success that the developer put into that and it becomes a destination. They are the Italian venue within that particular Center; the Center has done very well.

Mr. James indicated they met with Engineering and Landscaping last Friday, who are the two departments that had most of the concerns with this site plan. They addressed most of the traffic issues that Lisa Bernstein had. They agreed that there might be some conflicts in the traffic where stacking might occur, preventing people from making a left. They increased the end islands, which is what Ms. Berchielli had issues with, and made it more pervious with more green area. It was channelized so there would be better flow coming in. Other issues brought up during the meeting were the amount of landscaping on the southern and northern facades. They did a little shifting of the existing driveway, tightened them up and they still meet the City code minimum. They were able to get about five feet of landscaping on the south side; however, they have not yet been able to get five feet on the north. As per discussions, they may bring the sidewalks on the north and south down 48 inches, which is still ADA compliant and they can get two more feet onto the north side. Those are the items that staff

initially had issues with and he believes that since the meeting on Friday they can continue developing the plan in order to get it to a point to where everyone is in agreement.

Councilman Jacobs questioned whether the dark dotted line on the plan is for drainage.

Mr. James stated that one of the issues with Engineering was that Ms. Bernstein wanted them to provide an ADA connection to the right-of-way. A connection was added from University Drive so that pedestrians coming on the east side can have a connection all the way from the public right-of-way of University Drive and walk up and access their site. He noted that they also added more pervious area. There is plenty of open space at the site; they actually meet the 15%. One of the waivers was that they did not meet the minimum 15% but they do meet it now and expect to increase it based on discussions with the Fire Department. They want a better exit path to be added for the fire trucks, which will trigger the addition of more landscape islands. Waivers #5 and #7 are met with this current plan.

Councilman Jacobs questioned what they want to take away and noted that Council is still not ready to approve the site plan.

Mr. James believes that the way it was presented was that they could proceed conceptually and then have a follow up determination. Perhaps Mr. Leeds could provide better clarification.

Mr. Leeds advised that the plan in backup is unacceptable to staff. They previously advised the application but have given them an option. One option was to defer this to another Council meeting but they expressed concern about the time delay; therefore, staff agreed to propose something to the Council. The Council approves this with staff comments with the primary comment that this is not the approved plan of record; they have to come back and meet with staff and staff literally has to sign off on the plan and it goes in each department's file before they come in for Building permit. They still have to come back and meet with the group; the City staff, and get approval. That plan is stamped and it gets put in the department files and then they come in with their permit and it has to meet that plan. The other option is continuing this and staff is trying to provide an alternative if they are willing to work with them. They take a chance too because if they get into this final meeting in a week or so and they do not agree with staff they are stuck; they have to work with staff. Staff is trying to come out with particularly landscaping. During the meeting with Ms. Berchielli, it is called a "Compromised solution", which is something staff goes for in several cases. They are being given an option and the final decision is from Council; it can be approved subject to that or it can be continued.

Councilman Jacobs liked the language previously described and if it could be put in the record that would be his motion.

Councilman Zimmerman commented that a lot of landscape waivers are being requested. There is a corner parcel and only a very small portion of the triangular outparcel has been addressed. He went out there and he has some concerns about the amount of landscaping that is shown and the way the building sits on the site. The small amount of landscaping leaves a very strong building sitting in a very open area, not to mention the color.

Councilman Jacobs referenced Waiver #10 for pedestrian zones and questioned if that was for sidewalks.

Mr. Leeds indicated that the pedestrian zones are the area right in front of the building. The idea is that there is lush landscaping so as to soften the impact of the building. The problem with the building is that the yellow is unacceptable and that is why he showed a copy of the Mercado in Naples. The building color, as far as he is

concerned, is unacceptable. He has explained that and they can answer that. He encouraged Council to speak with Mr. Ezzeddine.

Mr. Ezzeddine stated that the plan was not what was previously provided and he sees a lot of decrease in the pedestrian zone and in the amount of landscaping. He is very concerned about that and his main concern is that the applicant did not go to Review Committee previously.

Councilman Zimmerman advised that this has not been to the Planning and Zoning Board or to the Landscape Planning and Review Board; none of those Boards have seen this plan.

Mr. Ezzeddine noted that the proper procedure was to go to Review Committee and all of these items would have been resolved prior to coming to Council.

Councilman Jacobs indicated that the question is whether Council wants to help them out as far as time goes and give a little more trust to staff to make sure they work things out. If things cannot be worked out then they can always appeal to Council, which would take a certain amount of time.

Mr. Leeds advised that it is at the Council's discretion. This is an unusual situation; they came in with a plan at pre-development and the form that was formerly submitted; pre-development's prior application was much different. This is the proper procedure; this is a minor site plan modification. In an effort to process it correctly there were some significant changes on the applicant's behalf and that is what Councilman Zimmerman is referring to. Council has a choice; they can defer it or defer it to staff and let staff make the call. It sounds like Councilman Zimmerman wants to have a discussion about landscaping.

Councilman Zimmerman stated that he does not need discussion; he needs to voice the concerns he has about it. He believes a lot of the Code requirements will help flush that out. Knowing that the site plan is as far off from the landscaping as it is he would tend to defer this and bring it back in two weeks.

Councilman Fadgen believes it is very dangerous to try to resolve this with staff; it would be better between now and the next meeting that this is scheduled for that the issues try to be worked out. He urged Council to go for a continuation rather than trying to get a decision tonight subject to the approval of staff.

Councilman Jacobs questioned whether continuing this until October 9, 2013 would give the applicant enough time to get anything done; that is not enough time.

Mr. Leeds advised that if revised plans were submitted tomorrow they would have to be turned around through every department in a week. He can turn it around through his department but there are several other departments that need to review the plans. He noted that the traffic layout is an issue with the Fire Department.

Councilman Zimmerman noted that is still a problem; from what he understands that has not been resolved.

Mr. Burdick indicated that they worked with Ms. Berchielli on Landscaping concerns and she agreed that they were on the right track. They are not saying that every issue has been resolved but they have resolved every issue of major concern. With Fire, the issue was the truck route, which he mentioned earlier. They were first guided by the Fire Department and then were given other direction by staff. On Friday when everyone agreed, Tony Martin agreed with the plan. They know what the solutions are to staff's concerns. To clarify the comment about the plan that was previously presented during the pre-development meeting, that was a conceptual plan and this plan is very close to what was presented; it is actually better.

Councilmember Stoner stated that she is a general contractor and when she is given a set of plans that are not 100% she is not touching them. This is a \$2.5 million investment and it is sort of on the face of our City and she believes that it is an important piece that needs to be well thought out and presented properly. She is hearing a little bit of hurry hurry and does not want to make a mistake.

Mr. Burdick mentioned one other Landscaping concern. The existing site has very large trees that they have managed to keep and work into the plan. There are nine large canopy trees along University Drive and 12 along Federated Road that they are keeping and they have tried to work and not impact those trees. There are also five more along the north. The only tree they are impacting is a small 11-inch caliper Mahogany, which is where the building is going to go. Another area was actually approved as part of the theater's landscape project; 91 trees are going there in addition to the six that are there including shrubs. Landscaping is definitely present before they even develop the site due to the theater expansion project. When looking at the open space, there is a lot of green space and they can add more trees due to the increase of the end islands. They have dimensioned the end islands to accommodate the fire trucks. Since they were allowed to redirect the fire trucks they can add more trees in addition to all of the trees that are currently present.

Mr. Leeds commented that it sounds like Council wants to continue this to October 9, 2013 which is not a problem.

Councilman Jacobs suggested October 23, 2013 instead.

Mr. Leeds indicated that they can do October 9, 2013. He can provide his staff comments but he does not know about the other departments.

Councilmember Stoner advised that staff is already doing more than double their work and she appreciates that we try to accommodate everyone. She feels that October 23, 2013 will give everyone a better thought process.

Ms. Gagalis reminded the Council and the Mayor made the point during their Fire hearings on the theater project that you would work with them to expedite the process as individual uses came into the property so that they might try to time the project; the theater and the restaurants to open as closely as possible to one another. That is why staff was willing to give a five-week turnaround period on this planning process. They knew it would be tight and that they would have to work with staff to try to achieve some decisions. They have been working with staff for three weeks with a whole department head meeting and they do have a plan that resulted from that which addresses all of their comments. Waiting another four weeks is tough; they have a tenant that wants to open.

Councilmember Stoner agreed; however, what has been presented appears a little loose and not refined. The tenant is putting in a signature restaurant in this City and she would think they want it just as good as Council does. Council wants to work with you but they want to get it right.

Ms. Gagalis stated that the process extends beyond the City Council work; they will continue to work with staff to negotiate the mitigation and everything else. There is a lot more work to do that happens subsequent to meeting with Council.

*Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to continue Item No. 23 to the October 23, 2013 City Council Meeting. Motion carried on the following roll call vote:*

Ayes: Zimmerman, Fadgen, Jacobs, Stoner  
Nays: None

\* \* \* \* \*

Note: Councilman Levy did not participate in this item.

Mr. Lunny read Item No. 24.

**Resolution No. 11769**

24. **RESOLUTION OF THE CITY OF PLANTATION APPROVING THAT CERTAIN FIRST AMENDMENT TO AGREEMENT REGARDING NEW IMPROVEMENTS AT THE WESTFIELD – BROWARD MALL; PROVIDING FINDINGS; TEMPORARILY AND CONDITIONALLY WAIVING CERTAIN UNIFIED CONTROL PROVISIONS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A Memorandum dated September 16, 2013, to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

RE: Westfield Broward Mall: Update to Unified Control Waiver

As the elected officials may recall, Westfield Broward Mall received a limited waiver to the City's Unified Control Requirements when the City approved the Cinema which is now under construction. The Westfield Broward Mall's anchor stores own their store footprint and associated parking fields, and so while the site functions as a unified site, it is not unified in a legal or zoning sense. In summary, Westfield and the City entered into an Agreement Regarding New Improvements at the Broward Mall that incorporated provisions approved by the City related to the site plan, parking, consent, and a temporary waiver of the City's payment obligations for Federated Road (which arose as a result of deed restrictions on the Enclave Parcel and such Parcel being a part of the Broward Mall Campus).

The Administration and Westfield has been working on refinements to their Agreement in light of the anticipated CO of the Cinema in the 4<sup>th</sup> Quarter of 2013, and the upcoming restaurant site plan approval on September 25, 2013. In that regard, please find attached a Resolution approving a First Amendment to Agreement Regarding New Improvements at the Broward Mall ("Agreement"), and as part thereof, a First Amendment to Consent to Transfer and Amended and Superseding Deed Restrictions ("Consent").

The purpose of these documents is to:

1. Spread the Unified Control waiver over the property so as to clearly include the restaurant, as well as future types of approvals up to a cumulative of 20,000 square feet (so that the Unified Control issue will not be a repetitive issue of concern for immaterial future development of the property) (Agreement, Lines 223-228);

2. To memorialize the Mall's contribution to the City for maintenance of the Enclave Site of \$45,500, as well as the Mall's decision that given its development plans and uses, its customers (who are members of the public) will not need to use the Enclave Site for non exclusive parking (Agreement, Lines 145-164).
3. Add a new Paragraph 8 to reflect that the Consent will be signed. This draft document is attached to the Agreement as Exhibit "1", and is designed to:
  - a. More clearly clarify which of the "Underlying Deed Restrictions" no longer apply (Consent, Lines 262-264);
  - b. Roll up the term of the deed restrictions to expire in 2030 as opposed to 2045 (Consent, Lines 74, 88, 113, 125, 212);
  - c. Make the suspension of the roadway maintenance assessment coterminous with the City's ownership of the Enclave Parcel (Consent, Lines 323-333);
  - d. Confirm the Fire Department's desired training use of the W1/2 of the N1/2 of the Site (Consent, Lines 347-358);
  - e. Clarify that the contractual maintenance standards of Paragraph 5 for the Enclave Site will not apply until the City receives a CO for a principal building on the Site (Consent, Lines 489-492); and
  - f. Update Notice provisions (Consent, Lines 502-507).

The Administration would like to thank Westfield Broward Mall for its efforts in bringing this matter to a prompt conclusion.

The Resolution is now ready for approval as a quasi-judicial item, and should be considered only if the City Council approves the Restaurant Application for Site Plan approval.

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Mr. Lunny advised that with respect to this, Attorney Scott Steady (sic), Westfield's counsel, is here from Tampa. The unified control issues at the Mall are not going to change anytime in the near future and in his considered view they are structural. The Administration in Westfield has worked out a waiver so that not every time something happens at the Mall it requires his and Mr. Steady's involvement. He requested that while the site plan has been deferred for two weeks, can we approve this tonight so that Mr. Steady does not have to come back, subject to the site plan being approved at the next meeting.

Councilmember Stoner mentioned parking and the comment that this agreement requires Westfield to construct a parking garage to make up for lost parking.

Mr. Lunny indicated that was one of the accommodations in the prior unified control agreement that we have and the prior agreement regarding interim improvements at the Broward Mall. The concern is that if the City uses a shared parking formula for the entire site while internally the Mall has business arrangements with its property owners that use a different formula. If, at some time in the future, they can no longer satisfy the shared parking formula to Council's satisfaction, Council can require the Mall to develop a parking garage on a certain portion of the site that has been scoped for that. The parking structure commitment is not changing by this deal; it is only a commitment that the City asked Westfield to make last time should parking become a problem.

Mr. Steady agreed. He stated that Westfield has tentative plans for a parking garage; they are not going to do anything in the near future.

Councilman Fadgen questioned if there is a location currently on the property where the garage would go if that ever comes about.

Mr. Steady advised that there are internal plans but it will depend on City Council. There is an internal plan that was planned long term.

Mr. Lunny indicated that on the site plan there is an envelope for the parking garage. There is only one little piece of the property left on the southern end that Westfield owns so that it where it will be located. The other parts of this provision are the forgiveness of the maintenance assessments along as the City owns the property. They have agreed with the Fire Department's request to allow certain training on the west half of the north half of the Enclave property. They wrote up some restrictions for a certain number of years. There used to be restrictions on the property until 2045 and they were rolled up to 2030. They also made a contribution to the City's anticipated maintenance and upgrade of the parking lot, which Engineering and Public Works would need to have.

In response to Councilmember Stoner, Mr. Lunny stated that the amount was \$40,500. They have also clarified that they would not be using that property for their holiday parking. We have examined this issue and clarified the prior arrangement; we have added a few things that Administration is recommending to the Council for review and approval. Unless Mr. Steady will be required to come back to the October 23, 2013 meeting he requested that Council approve this subject to approval of the item at the next meeting.

***Motion by Councilman Fadgen, seconded by Councilman Jacobs, to approve Item No. 24 subject to approval of the item at the October 23, 2013 meeting. Motion carried on the following roll call vote:***

Ayes: Zimmerman, Fadgen, Jacobs, Stoner  
Nays: None

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**COUNCILMEMBERS' COMMENTS**

Councilman Jacobs advised that he will miss the next meeting due to his son's wedding.

\* \* \* \* \*

Councilman Fadgen spoke with John McCarthy, Risk Management, and requested that he propose the information about claims on the flood insurance policy and recommend a preserve that we might establish as we self insure to build up over a year to a level that would make sense rather than paying the \$70,000. He requested that Administration bring this information to Council.

Mayor Bendekovic advised that it has to be funded before it can be started. We have to have some type of flood insurance by law because FEMA would not come in if we have a disaster and give us any reimbursements.

Councilman Fadgen stated that if we have been paying flood insurance over the past 20 years and have not had a claim maybe we should consider this.

Mayor Bendekovic indicated that she would be happy to consider it and look into it but she believes that it would start at \$100,000 and then it goes up to \$300,000 and keep building up.

\* \* \* \* \*

Councilman Zimmerman mentioned an email from Administration and he would like to see how the Council feels about calling another Executive Session. He has some things he would like to speak about regarding some of the contracts we are talking about and it is negotiated by him. He feels there is some new light that has come to the table; something he did not have beforehand; and he would like to see if everyone is in agreement.

Mayor Bendekovic stated that we are going back on October 4, 2013 for an explanation because the FOP did request an explanation of #7. She thinks if there is further clarification that is the forum that it needs to be done in.

In response to Councilman Zimmerman, Mayor Bendekovic advised that her suggestion would be to have another Executive Session after October 4, 2013 because of the fact that the feedback would be provided as to what transpired at that time. It will have to be scheduled.

Councilmember Stoner questioned if there is a consensus that we would like to have a meeting as soon after October 4, 2013 as possible.

There was a consensus.

\* \* \* \* \*

Councilman Zimmerman went to the opening of Deicke Auditorium and it looks very nice. He is proud of it and thinks we did a great job.

\* \* \* \* \*

Mayor Bendekovic thanked everyone for supporting the opening of Deicke Auditorium and hopes that the residents are as pleased with it as we are.

\* \* \* \* \*

Councilmember Stoner flipped her appointees on the Parks and Recreation Board so that Betty Cobb is now the appointment and Jayne Flanigan is the Alternate.

\* \* \* \* \*

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

Phyllis Polikoff (sic), resident, was present. She mentioned recent construction on several streets and questioned why trees were planted during this time of year. In her opinion that was money spent foolishly as several of the trees will come down during the first hurricane.

Mr. Lunny advised that was SW 84<sup>th</sup> Avenue and it was a County requirement and a grant.

Councilmember Stoner indicated that was a specific project required that was completed by a certain deadline and we did not have a lot of choice.

\* \* \* \* \*

## **SEALED COMPETITIVE SOLICITATIONS**

Mr. Lunny read Item No. 25.

25. REQUEST TO AWARD ADULT SOFTBALL UMPIRE BID (BUDGETED – PARKS AND RECREATION); PURSUANT TO LAWS OF FLORIDA CHAPTER 2011-140 THE BACKUP INFORMATION ON THIS ITEM IS NOT PUBLIC RECORD AT THIS TIME.

*Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Item No. 25. Motion carried on the following roll call vote:*

Ayes: Zimmerman, Fadgen, Jacobs, Stoner  
Nays: None

Mr. Lunny advised that Council awarded the contract to **Broward County Umpires Association, Inc.**

\* \* \* \* \*

Mr. Lunny read Item No. 26.

26. REQUEST TO AWARD BID FOR PINE ISLAND PARK SOCCER FIELD RELAMPING PROJECT. (BUDGETED); PURSUANT TO LAWS OF FLORIDA CHAPTER 2011-140 THE BACKUP ON THIS ITEM IS NOT PUBLIC RECORD AT THIS TIME.

In response to Councilman Jacobs, everyone understands that this is going to be financed.

Councilman Zimmerman mentioned that while at a Parks and Recreation Advisory Board meeting he heard that the manufacturer of the lighting is actually offering a warranty and guarantee for this lighting for ten years.

Mr. Romano advised that the warranty will cover labor and material. Musco has done other projects for us at the tennis courts and at the Jim Ward Community Center. If a ballast or lamp burns out they will repair it. He noted that he spoke with Wayne Koppel, who said that PAL is more than willing to donate \$5,000 per year for the seven years.

*Motion by Councilman Jacobs, seconded by Councilman Zimmerman, to approve Item No. 26. Motion carried on the following roll call vote:*

Ayes: Zimmerman, Fadgen, Jacobs, Stoner  
Nays: None

Mr. Lunny advised that Council awarded the contract to **Electrical Contracting Services, Inc.** in the amount of \$484,700 financed as presented.

\* \* \* \* \*

**WORKSHOP – None.**

\* \* \* \* \*

Meeting adjourned at 9:24 p.m.

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Councilperson Lynn Stoner, President Pro Tem  
City Council

**ATTEST:**

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Susan Slattery  
City Clerk

**RECORD ENTRY:**

I HEREBY CERTIFY that the Original of the foregoing signed Minutes was received by the Office of the City Clerk and entered into the Public Record this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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Susan Slattery, City Clerk