

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

October 9, 2013

The special meeting was called to order by Councilmember Robert A. Levy, President of the City Council.

1. Roll Call by City Clerk:

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

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2. The invocation was offered by Councilmember Zimmerman.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

3. Annual Fire Prevention Awards

Mayor Bendekovic introduced Fire Chief Laney Stearns and Fire/Rescue Battalion Chief Joel Gordon.

Chief Stearns advised that this is the 37th year of the Annual Poster Contest. The theme this year is "Prevent Kitchen Fires". He thanked the Friends of the Library for judging the essays and the Plantation Art Guild for judging the posters. He also thanked the children for getting involved.

Mr. Gordon announced the 1st place winners as follows:

The 1st place citywide poster contest winner was Cameron Kristi (sic), third grader from Tropical Elementary.

The 1st place citywide essay contest winner was Timothy Shaw, fifth grader from Plantation Park Elementary.

Chief Stearns recognized the *Plantation Fire Department's 2013 Business of the Year*, the Stiles Corporation.

The award was accepted by Joe Donabe (sic), Steve Palmer, Mike Flynn and Tim Moore.

This year's *Plantation Fire Department 2013 Member of the Year Award* went to Firefighter Robin Russell.

The award was accepted by Robin Russell.

Congratulations were offered.

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Chief Stearns reminded everyone that the Firefighters Memorial will be on Saturday, October 19, 2013 at Station 2, Fire Headquarters. The 57th annual barbecue is going to be on Sunday, November 3, 2013.

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Resolution No. 11770

4. **RESOLUTION** of Appreciation to Jo A. Kokofsky for 35 years of dedicated service to the City of Plantation.

Motion by Councilmember Fadgen, seconded by Councilmember Stoner, to approve Resolution No. 11770. Motion carried on the following roll call vote:

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

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Resolution No. 11771

5. **RESOLUTION** of Appreciation to Erik H. Funderburk for 32 years of dedicated service to the City of Plantation.

Motion by Councilmember Fadgen, seconded by Councilmember Stoner, to approve Resolution No. 11771. Motion carried on the following roll call vote:

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

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

- The Fall local tennis tournament will be on Saturday, October 12, 2013 and Sunday, October 13, 2013 at the Frank Veltri Tennis Center.
- The Broward County High School Swimming Championship Meet will be at the Aquatic Complex on Saturday, October 19, 2013.

- Free flu shots for ages 55 and over will be given at Plantation Central Park on Wednesday, October 16, 2013.
- The Family Halloween & Safety Festival will be at Volunteer Park on Saturday, October 26, 2013 between 10:00 a.m. and 2:00 p.m.

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Mayor Bendekovic made the following announcements:

- Art Search is a free visual arts competition for students in grades K-12. The deadline for entries is Friday, October 11, 2013 at Central Park, the Community Centers and Plantation schools. This year's theme is "Home Is Where the Art Is".
- The 47th Annual Art in the Park will be on Saturday, November 15, 2013 and Sunday, November 16, 2013.
- The Plantation Acres Women's Club "All You Can Eat Spaghetti Dinner" will be at Volunteer Park on Friday, October 18, 2013 between 6:00 p.m. and 10:00 p.m.
- The Plantation Farmer's Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.
- Friends of the Helen B. Hoffman Library are having a fundraiser at Sweet Tomatoes on Thursday, October 17, 2013 between 11:00 a.m. and 3:00 p.m.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 19.

Item No's. 14 and 15 were pulled from the Consent Agenda to be discussed separately.

Mr. Lunny read the Consent Agenda by title.

6. Approve St. Benedict's Church to sell Christmas trees from November 30 through December 14, 2013.
7. Big Bike Riders Association in conjunction with Hart-T-Farms is requesting approval to sell Christmas trees from a temporary facility located at the northeast corner of the Westfield Mall parking lot adjacent to the University Drive/Broward Boulevard intersection beginning Tuesday, November 26, 2013 through Tuesday, December 24, 2013.
8. Request from Publix to sell Christmas trees in front of their six locations beginning Friday, November 29, 2013 – Tuesday, December 24, 2013.
9. South Plantation High School is requesting permission to have a Community Yard Sale located on their property which is located on the corner of Peters Road and SW 54th Avenue on Saturday, November 2, 2013 from 7:30 a.m. until noon.
10. Request to approve a purchase order for low bidder Francis Uriel Electric, Inc. in the amount of \$31,460 to install wiring between the Central Water Treatment Plant Well #8 and the Motor Control Center. (Budgeted – Utilities)

11. Request for authorization to continue purchasing calcium hypochlorite (HTH) from Allied Universal, Inc., using the City of Plantation publicly advertised RFP No. 038-11, through October 19, 2012, at a cost of \$124 per 100-pound container. (Budgeted – Utilities)
12. Request for authorization to continue purchasing sodium hypochlorite (chlorine bleach) from Odyssey Manufacturing Co. using the City of Plantation publicly advertised RFP No. 038-11, through October 19, 2014 at a cost of \$0.67 per gallon for split or full-tanker load. (Budgeted – Utilities)
13. Request for authorization to continue purchasing sodium hexametaphosphate from Brenntag Mid-South, Inc. using the City of Plantation publicly advertised RFP No. 073-12, through November 24, 2014, at a cost of \$1.09 per pound. (Budgeted – Utilities)

Resolution No. 11772

16. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 19, 2013 through October 2, 2013 for the Plantation Gateway Development District.

Resolution No. 11773

17. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 19, 2013 through October 2, 2013 for the Plantation Midtown Development District.

Resolution No. 11774

18. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 19, 2013 through October 2, 2013.

Resolution No. 11775

19. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period September 19, 2013 through October 2, 2013 for the City of Plantation Community Redevelopment Agency.
- 19a. Request for approval by Plantation Volunteer Fire Association for a helicopter landing in conjunction with the Volunteer Fire Association's Annual Firefighters Barbecue fundraiser on Sunday, November 3, 2013 at Pine Island Park.

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

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

NOTE: Mayor Bendekovic voted affirmatively on Item No. 19.

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Mr. Lunny read Item No. 14.

14. APPROVE PURCHASE OF MAINTENANCE FOR MICROSOFT LICENSED SOFTWARE IN THE AMOUNT OF \$34,773. (BUDGETED – IT)

A memo dated October 3, 2013 to Mayor Diane Veltri Bendekovic and City Council Members, from Gary Shimun, Chief Administrative Officer, and Dr. Kristi Caravella, Finance Director, follows:

This information is provided for your review and consideration regarding your approval of the funds to purchase ongoing maintenance for our Microsoft licensed software.

DELIVERABLES:

Microsoft Windows Server, Data Center Server, System Center Datacenter Edition, Remote Desktop Services, and SQL Serve Enterprise software assurance and client access licenses.

BENEFITS:

Maintenance, support, and software version upgrades as they become available.

COSTS:

We have negotiated a price of \$34,773 for the year's maintenance coverage through Software House International (SHI).

RECOMMENDATION:

Therefore, it is recommended that City Council approve the budgeted funds to purchase the required maintenance.

513_4607 R/M-Maintenance contract-computers
SHI International (Microsoft Licensing)
\$42,000

Councilmember Fadgen pulled this item because the contract is for \$34,000 per year and he is curious whether it might be advisable to self-insure these maintenance issues. It looks like there are about 380 pieces of equipment covered by the maintenance agreement and if one or more of them went bad it might be easier to replace them rather than to spend the \$34,000. He questioned what type of maintenance experience there has been over the last few years.

Robert Castro, IT Director, advised that the Microsoft Licensing is not for things that break; it is paying for the use of software. It is basically a license to access servers and applications used within the City.

Councilmember Fadgen noted that the description seems to be similar for two separate lines; software insurance and then licensing and software insurance.

Mr. Castro indicated that the software insurance enables us to upgrade the software previously purchased to a new version at no cost. It assures us to be able to keep up with the latest software at no additional cost until the term is up, which is three years.

In response to Councilmember Fadgen, Mr. Castro stated that this is a yearly fee to use the software. We cannot really eliminate the coverage because we are using the software.

Motion by Councilmember Fadgen, seconded by Councilmember Zimmerman, to approve Item No. 14. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 15.

15. APPROVE PARKS AND RECREATION PROPOSED FACILITY FEE INCREASES.

A memorandum dated October 1, 2013 to Mayor Diane Veltri Bendekovic and City Council Members, from James S. Romano, Director of Parks and Recreation, follows:

Attached for your review are the current Parks and Recreation facility fees and the proposed fee increases and decreases for the 2013-2014 fiscal year.

With a lack of room rentals at the Jim Ward Community Center, we recommend that we reduce the existing Banquet Room fee by 31%. We anticipate that by reducing this fee we will generate more interest from the public. We are also aligning the Private Corp., Government, and other Non-Profits not based in Plantation categories to the same fees.

With the makeover of Deicke, we recommend additional increases for the Main Hall rentals that will provide revenue of \$7,752.

At this time the Parks and Recreation Department is recommending that City Council approve these proposed fee increases, which could generate approximately \$8,646 of additional revenue to the City.

Please review this information and call me if you have any questions or concerns.

Councilmember Stoner requested the rationale because she was not sure if she necessarily agrees. It does not change the cost to run the facility.

Mr. Romano indicated that when Deicke Auditorium was redone the partitions now work and the fees were changed. They did not work before so there was only one fee for the large room. Residents were upcharged for the rental and to help offset some of the improvements. The numbers for the Jim Ward Community Center were reduced because we are not getting any rentals from anyone in the community so why have a facility with the higher rentals. The rental numbers were lowered to see if there is any action from the community for rentals. Surveys are done and we are still in the middle of the ball field as far as rental facilities in the County. A few adjustments may help generate a little additional revenue.

Councilmember Stoner questioned the tradeoff at the end. There have been increases and decreases.

Mr. Romano advised that Deicke and the Jim Ward Community Center were the two issues. There is a \$77,000 increase at Deicke and it is believed that we should meet that if not do better and we will see what happens with the Jim Ward Community Center; an \$800 increase in revenue is projected but we will see how the community reacts to the change.

In response to Councilmember Stoner, Mr. Romano stated that the \$18 increase at Volunteer Park was by combining some of the government and private groups. He agreed that it is one of the most actively used facilities.

Councilmember Fadgen questioned how the reduction of the Jim Ward Community Center fees would be publicized.

Mr. Romano indicated that there is the website and the Plantation Now information that goes out on the Internet. There are quarterly flyers and other things that go out to the public; they do not advertise in the newspaper. They have their own in-house way of marketing.

In response to Councilmember Fadgen, Mr. Romano advised that e-mail is used frequently. Plantation Now is done by email and there are probably 8,000 people on that list.

Councilmember Stoner was not sure about such an increase in Deicke. She understands that we have a better ability to generate because the partitions work now. She suggested giving it a year and then coming back.

Mr. Romano agreed. If it does not work he will come back next year and will go back the other way. Deicke was improved aesthetically and the pull in doors were fixed so there is the ability to have three separate break out rooms.

Mr. Lunny advised that procedurally the Council can, by Resolution, and if they adopt this motion it will be a de facto resolution, adjust the fees by up to 50% off of what they were from last year's ordinance. Some of these fees that go above 50% will have to come back to Council for an ordinance. He questioned if that would affect Mr. Romano's recommendations.

Mr. Romano stated that it would not.

Mr. Lunny indicated that if this is approved it will move to the 50% mark and then an ordinance will be done for the others.

Motion by Councilmember Stoner, seconded by Councilmember Fadgen, to approve Item No. 15. Motion carried on the following roll call vote:

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

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item No. 20.

20. DISCUSSION CONCERNING PINE ISLAND LIGHTING/LED PROPOSAL.

A memorandum dated October 1, 2013 to Mayor Diane Veltri Bendekovic and City Council Members, from James S. Romano, Parks and Recreation Director, follows:

At the September 25th City Council meeting, the request to purchase a Musco lighting green system was approved at a cost of \$484,700. This approval included a \$115,000 down payment and the understanding that total payment would be made in seven (7) annual payments to the contractor.

Since that meeting, Mr. Tim Imhoff from Musco Lighting has brought forward for our consideration the possibility of re-lamping this facility with LED lights. The benefits that the City would receive from LED lights is an approximate 50% savings in energy costs annually (approximately \$11,000 per year) and a conservative 30-year lamp life versus an approximately three-year life span for the metal halide. Should any damage occur, Musco Lighting will cover the cost of both parts and labor for both systems under a ten-year warranty. The following is a breakdown of the cost:

Approved at the September 25th City Council meeting:

30 fc metal Halide with \$115,000 down payment

\$484,700
- <u>21,600</u> tax savings from direct purchase
\$463,100
- <u>115,000</u> down payment
\$338,100 x .1699617 = \$59,163.67 annual payment
\$59,163.67 x 7 years = \$414,145.69 total cost

Mayor Bendekovic indicated that approval was requested for lighting at Pine Island Park and it was a total of approximately \$500,000. After the fact, they found out about the LED option. This item is for discussion purposes. They know the lighting has to be improved and it is at a \$500,000 cost. This is an estimate for the LED lighting.

Mr. Romano explained that LED lighting is becoming more in vogue. Some of the benefits of LED lighting are provided and we could have electrical power savings anywhere from 56%. Our current FP&L bills are just under \$22,000 and based on the 56% our proposed bill would be under \$10,000 for a savings of \$11,000 per year. LED lights are projected at a 30-year lamp life and the other thing is that lamps are automatic on; they come on instantly. He referenced the picture on the last page and noted that the front field is 30-foot metal Halide lighting and it is lit rather well. The one behind it is 20-foot candle LED and you can see the difference as to how well the back field is lit. The question is whether the City of Plantation wants to put out another \$250,000 to \$260,000 to go the extra mile. We do not want this to come up after the fact and have someone ask why this was not brought up. When the representatives from Musco brought this up he and Mayor Bendekovic had a conversation about it and thought it was important enough to bring up because there is savings built in with LED lighting and the electrical and also with the maintenance of the lamp. The metal Halide lamp has a

three-year life span on average and the LED lighting will stay on for almost 30-years. LED lighting is a new system that we are being familiarized with today. This is just another opportunity for us to look at and maybe project out a little further to see how and if we want to provide this to our community.

Councilmember Fadgen commented that the innovation of LED on the fields is very interesting. The only problem is that the payback period is between 21 and 23 years. Over the life of each of those lights we might only start saving after the 23 years for the added investment. As he sees it, there is about \$254,000 additional cost and savings of either \$11,000 or \$12,000 a year. If we get the price down it would be great to pay back within seven or eight years. At this point he does not think there is enough efficiency there to invest the additional capital.

Mr. Romano stated that we are talking about today's numbers; we do not know what FP&L numbers will be in ten or 20 years but they will be higher than they are today.

In response to Councilmember Fadgen, the life of the Halide is three years. Under both of these systems they are both covered for ten years and Musco will come out and replace the bulb or the LED light. There is no cost to us for ten years.

Councilmember Fadgen indicated that over the next 11 or 12 years that the LED's would be in we would have some additional costs of replacing the Halides. There is almost ten times as much life. He questioned how much the Halides cost.

Mr. Lunny advised that the best example would be the contract price that the City received even though it is a three-year price with a ten-year guarantee which was somewhere around \$450. You would be spending that again at the end of ten years for the Halide light. You would not have to spend that additional number for the LED and that is not in the calculation.

Councilman Fadgen noted that perhaps a little more calculating needs to be done to find out.

Tim Imhoff, with Musco Lighting, was present. He stated the cost to replace the metal Halide fixture is about \$125 to \$150 per fixture. Pine Island Park uses approximately 1,000 to 1,100 hours per year and based on that there is about a three-year life then they have to be changed. Mr. Romano and his crew either rent a truck or bid that out to take care of that.

Councilmember Fadgen questioned whether all of them are typically changed.

Mr. Imhoff indicated that probably 95% of most cities and counties take care of the ones when they are out but the problem is that all of a sudden there is a new lamp pushing out a high lumen to an older lamp pushing out an lower lumen and now the uniformity on the field are haywire. Most people do not budget it that way because it costs thousands of dollars to relamp so they just replace them as they go. Unfortunately then the light levels on the fields go down and do not meet the present standards of today. It is one of those things that have to be budgeted appropriately each year so when they have to be changed out the money is available. The benefit of the LED is about five decades of light based upon the usage. The reason LED's have not been used in sports lighting is because they could not push the light out enough and it could be used in a small area. Over the last five to seven years the ability to pad a lot of things has changed and they are now sharing it. The other side benefit is spill and glare protection so the residences on the west side and on the roadway on Pine Island Road will see about a 90% reduction in outside spillage and glare.

Councilmember Fadgen questioned whether you can still get the coverage with the same number fixtures.

Mr. Imhoff stated that it is a whiter light so the perception is from a 30-foot candle metal Halide to a 20-foot candle LED; it looks like it is 40 to 50-foot candles.

Councilmember Stoner questioned how many teams or fields are presently using LED.

Mr. Imhoff advised that almost none are using LED. He noted that LED has come a long way over the last five years. It is all about the manufacturer's ability to get light on the facility. The product, which is consistent as a work horse, can be put in an application to be able to throw the light a long distance.

Councilmember Stoner commented that it is a rapidly changing industry for this specific sports type usage. Every year these lights are going to go by leaps and bounds in their technology.

Mr. Imhoff indicated that the LED will not; the LED technology is what it is and is the same as it was in 1962. The only thing that is changing is the photometrics; the ability to throw the light a long distance. That has changed greatly over the last five years.

Councilmember Stoner mentioned that there have been some studies that people do have sensitivity to the LED lights and she wonders how youth has been affected by the usage of those types of lights. Most of what she has heard is inside but she would like to know if that also extends to outside uses.

Mr. Imhoff replied that it does not.

Councilmember Stoner stated that for her, she is not sure that we have the money to spend. She was not comfortable spending the money in the first place unless there was a need. She was kind of disappointed that this was not brought before Council in the first place. Perhaps we should explore and do an RFP and at least revisit it. She does not think that we should accept one; we need to fairly rebid the whole thing with a new scope.

Councilmember Zimmerman advised that he tended to agree with Councilman Fadgen on the return on investment being out there 20+ years with some new technology that we do not have in place in the County. He has some concerns but he does like the energy efficiency. This is an energy savings today; FP&L rates are going to go up. He questioned if the bids received are good for 90 days. He believes that we should look into this and at least get a cost. Maybe in the market place this will change and perhaps some of the other questions asked can be responded to by the time we receive some bids.

Mr. Imhoff indicated that there is no doubt when looking at HID and LED it is cost. There are some benefits. It is a strong balance to look at and they promote looking at both to see which one makes the most sense. There is no question that the HID is a lot less expensive.

In response to Councilmember Stoner, Mr. Imhoff stated that they did one in Doral and several are un-negotiated in South Florida.

Councilmember Levy mentioned that technology keeps changing and evolving. He questioned whether these could be converted to solar power at some point.

Mr. Imhoff stated that it would take approximately four to five football fields solar powered to let that run for an hour and a half. Solar power probably will not be an option. His recommendation would be to wait and for the next ten years you do not have to budget anything. The only thing the City has to take care of is the fuse, which are supplied for ten years. He believes where the City is right now is the perfect place to be.

No action was taken.

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Mr. Lunny read Item No. 21.

Resolution No. 11776

21. **RESOLUTION OF THE CITY OF PLANTATION PERTAINING TO THE SUBJECT OF COMMUNITY PLANNING; APPROVING A DECORATIVE STREET LIGHTING INSTALLATION AND MAINTENANCE PROGRAM FOR THE CITY'S RESIDENTIAL NEIGHBORHOODS; APPROVING A FORM HOMEOWNER'S ASSOCIATION AGREEMENT FOR UPGRADED STREET LIGHTS; PROVIDING FINDINGS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

An interoffice memorandum No. 2013-031 dated August 21, 2013, to Mayor and Members of City Council, from Brett Butler, City Engineer, follows:

The Buckhead Homeowners Association (HOA) in Plantation Acres has approached the City with a request to replace existing FPL street lights in their neighborhood with decorative street lights.

Staff met with representatives of the HOA and explained to the HOA that the existing street lighting servicing the City roadways in their neighborhood are owned by Florida Power & Light (FPL), and that the City is responsible through a long standing Street Lighting Agreement with FPL to pay for energy, operation and maintenance costs. Staff also explained to the HOA that the City is currently not in a position to fund a decorative street lighting program in any area of the City. However, staff proposed to present to City Council a voluntary neighborhood-funded program for decorative street lighting similar to a voluntary Decorative Street Signage Program the City Council adopted in October of 2011. The HOA agreed to staff's proposal.

Staff has developed a voluntary Decorative Street Lighting Installation and Maintenance Program (Program) for Plantation neighborhoods with an active and Florida registered Homeowners Association serviced by City owned public roadways. The program essentially establishes a means for a neighborhood to replace existing standard FPL street lighting with an upgraded decorative street lighting system (System) available through FPL. FPL offers one (1) contemporary style and one (1) traditional style decorative upgrade as referenced in the attached photos. The Program would allow a neighborhood to choose between these two (2) upgrades.

The HOA would be required to reimburse the City for capital costs to implement the System, together with the recurring net increase in cost charged by FPL to the City for energy, operation and maintenance of the upgraded system. The net increase in recurring charges are defined as those costs charged by FPL to the City for energy usage, operation, and maintenance above and beyond what FPL charges the City for a standard FPL street lighting system.

Staff and the City's Legal Department have developed the attached draft of a Homeowners Association Agreement for Upgraded Street Lights (Agreement) for use by staff to administer the Program. The Agreement establishes terms and conditions for HOA funding and City implementation of FPL decorative street lighting within City roadways servicing residential neighborhoods with an active HOA. The attached Agreement makes specific reference to Buckhead Homeowners Association, Inc. as a first HOA to utilize the proposed Program. A proposed Resolution to adopt the Program is also attached for your consideration.

Should the City Council approve of the Program, staff will proceed to work with the HOA to execute the Agreement and coordinate with FPL to implement the System. This item is ready for City Council consideration.

Brett Butler, City Engineer, was present. He explained that there is a neighborhood in Plantation Acres that goes by the name of Buckhead. They approached staff with a request to consider upgrading their existing street lighting to a decorative form of street lighting. The neighborhood is currently serviced with FP&L, which is referred to as a standard form of street lighting. After discussions with the neighborhood we helped them understand that because the neighborhood is provided with an FP&L type of lighting system and because the City is not in a position to self fund any form of a decorative upgrade we came up with what is believed to be a fairly creative and appropriate option for the neighborhood at their discretion to do it voluntarily to participate in a decorative upgrade that we could accommodate for them through FP&L. FP&L does offer some limited options. The program that we have crafted would require Buckhead or any neighborhood that falls under minimum qualifications to pay for the initial capital expenses if there are any and then pay the differential increase in cost for energy and ONM that the City would occur because they will go from a standard to a decorative upgrade. FP&L does incrementally increase their charge to the City for that region so a simple program has been crafted. Buckhead agreed with the protocol and they would like to know if Council is in support of it. If so, they will adopt this program and will work with Buckhead.

Councilmember Fadgen questioned if maintenance is by FP&L once the fixtures are installed.

Mr. Butler stated that when the City of Plantation pays FP&L for street lighting it is a full payment for full service. We do not own the lights; FP&L owns the lights and we pay for energy and ONM. In this case we would be getting this same thing.

Councilmember Fadgen questioned whether every light has an energy charge that is standard.

Mr. Butler advised that FP&L has a calculation that they provide on a per fixture basis. In this case there are five fixtures and we were able to project an estimated annual incremental increase in cost and asked the neighborhood to be responsible only for that incremental increase, not for the full cost.

Councilmember Stoner commented that she would prefer to see that paragraph 13 on page 3 of the Agreement gives 30 days written notice instead of 15 days written notice; 15 days is not sufficient.

Mr. Butler noted that if that is the preference.

Motion by Councilmember Stoner, seconded by Councilmember Zimmerman, to approve Resolution No. 11776, subject to changing the 15 days written notice to 30 days written notice. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 22.

Resolution No. 11777

22. **RESOLUTION** of THE CITY OF PLANTATION APPROVING THAT CERTAIN FORBEARANCE AGREEMENT REGARDING CODE CITATIONS; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated October 3, 2013 to Mayor and Members of the City Council, from Donald J. Lunny, Jr., City Attorney, follows:

Re: Resolution Approving Draft Forbearance Agreement Regarding Community Appearance Alleged Code Violations at the Fashion Mall.

This agenda item results from a request by the Fashion Mall. While the Mayor has the Charter authority to approve a Forbearance Agreement, given the significance of the Fashion Mall to Plantation Midtown, the Mayor desires the Council's advice, review and approval of this matter.

The Fashion Mall is in the process of closing upon financing that will be helpful to its redevelopment effort. As part of this endeavor, the City understands that the prospective lender wishes the Mall owner to obtain a Forbearance Agreement from the City to prevent the City from proceeding to prosecute community appearance code violations that predate the loan. Attached, please find a Resolution approving a Forbearance Agreement. The following is noteworthy:

1. Most recently, the Mall owner's efforts have focused on trying to make the Office portion of the site income productive, and addressing other portions in "future phases." From a practical perspective, this may take years to complete, and there is always risk that some phases may not be completed. As part of the forbearance arrangement, the PZED, Engineering, and DLC (Design, Landscape and Construction) Departments were tasked to negotiate a list of "Maintenance Items" that would occur and be maintained during an extended construction effort. The Maintenance Items are set forth in Exhibits to the draft Forbearance Agreement, and have timetables associated with them. The Council should examine these "Maintenance Items" and the timetables and decide whether they are acceptable. When formulating the list of Maintenance Items, staff was sensitive to not requiring improvements that would later need to be removed as a result of a reconstructive effort. The one remaining request to Counsel for the Mall owner is to add a commitment for future maintenance (pressure cleaning of the buildings, and landscape maintenance should the need arise during buildout).

2. Section 6 of the draft Forbearance Agreement indicates that the City is only going to forbear from enforcing alleged violations that are “cured” by the Maintenance Items in the Improvement Plan. As to alleged violations that are cured by the Improvement Plan, the Agreement states a non-binding intent not to enforce those items if all goes well and if all phases of the Project are complete by 2016.
3. The Legal Department recommends that reasonable monetary consideration be paid to the City to support the proposed Forbearance Agreement. The following observations should be made:
 - a. The aesthetic condition of the Fashion Mall has been the source of complaints for years. Given that no action for maintenance was taking place despite warnings, the City cited the Fashion Mall with community appearance violations, and requested the bankruptcy Judge to allow the City to proceed to enforce them. The Mall owner opposed the City’s Motion for Relief from Stay, and the Court refused to allow the City to be accepted from the bankruptcy stay. Thus, at the present time, there are no fines or liens that have been accruing on the alleged violations. Once the Mall owner emerges from Bankruptcy (a process that has started), the City is free to proceed to try to force the Mall owner to maintain the Fashion Mall in an acceptable condition using code enforcement procedures or other legal procedures.
 - b. It is admittedly difficult to identify a specific dollar amount of consideration that bears any close relationship to the continuing impact of the Fashion Mall’s appearance on the site’s surrounding tax base.
 - b. The amount of specific monetary consideration to be paid to Plantation has been left blank in the draft. The legal Department had hoped that an agreement would be reached between legal counsel for the City and the Mall owner which could be presented to the Mayor and City Council for review. The Legal Department’s first suggestion to Legal Counsel for the Mall for an appropriate level of consideration was in the range of \$50,000 which was stated to be negotiable. The Mall owner’s Legal Counsel countered with \$5,000. The Legal Department inquired as to whether the Mall owner would split the difference and propose a payment of \$27,500 which resulted in the Mall owner increasing the proposed monetary consideration to \$10,000. The City Council will need to determine whether it believes this sum is reasonable under the circumstances.

This matter is now ready to be considered as an Administrative Item.

Mr. Lunny explained that they are trying to get some additional financing and it is his understanding that the bank and the owner have asked the City to continue to forbear aesthetic community appearance code citations. The property is coming out of bankruptcy and the City would be able to proceed with that. The developer is proposing a phased construction project and phases can come and go for many years. The City has received complaints over the years about the property’s condition. It is hard to determine what the impact of the property has been in terms of the surrounding community. Administration has the authority to execute a Forbearance Agreement and negotiate that under the Mayor’s charter power; however, she did not wish to do that because this property is a signature element of the City and she wishes Council’s advice and consent on that. To prepare for this agenda item we asked staff to try to negotiate for some interim improvements knowing that we have a construction schedule. They have done that and it is represented by the exhibits. Mr. D’Arelli and Mr. D’Amore have confirmed today that the owner is willing to continue to do some periodic maintenance should it become necessary. One outstanding item is that the Legal Department recommended there be monetary consideration given for the Forbearance Agreement. The status of the matter in terms of paragraph

3C is unchanged where the developer is proposing \$10,000. The question for Council is whether it wants to forbear; is it satisfied with staff's suggestions in terms of interim improvements; and does it wish to demand some sort of monetary consideration in excess of the \$10,000 currently on the table.

Councilmember Stoner questioned what has changed.

Attorney Paul D'Arelli was present. He stated that they were here approximately six years ago with a site plan for redevelopment of the property that was approved by the Council. The plan had a large redevelopment mixed use project. They were caught in an economic cycle; therefore, the project did not move forward. The ownership held onto the asset and stayed committed to the property. At this point and time there were some code violations that were levied for maintenance. They have resubmitted a site plan in the last two months to the City; a preliminary site plan will be tightened up and refilled within 30 days. They were at a point where they were pulling a building permit, which they are on the cusp of and are working very diligently with the Building Department and Fire Department to secure a building permit to renovate the office building that is attached. This is the financing that will allow that to happen, which is due to close this Friday. Code violations that were sitting out of record became an issue and in order to address them to close the finance and secure the permit. The question is if they want to repaint a Lord and Taylor building which will be torn down as part of the redevelopment; therefore, they proposed to work with staff to come up with some interim improvements to clean up the project; do some temporary landscaping buffering, etc. that made sense with a financial and aesthetic scope that made sense to provide a better condition while the redevelopment is occurring. The only issue is the request for compensation in connection with entering the Agreement. They have proposed a \$10,000 payment in consideration of executing the Agreement.

Councilmember Stoner questioned if they are issuing a loan policy to the lender but the code violations came up.

Mr. D'Arelli indicated that the code violations are at an interesting status because the property went through a bankruptcy restructuring. Technically the code violations were stayed and they are in a weird legal position. When the bankruptcy is done let's come up with a way to clean it up.

Councilmember Stoner questioned if they are signing an indemnification to the title company for all of the code violations. Some of the violations are long running. She questioned the total dollar number.

Mr. D'Arelli did not believe they have to sign an indemnification.

Mr. Lunny advised that the total dollar number is nothing because the City got frustrated. Administration had discussions with the ownership about cleaning up the buildings and finally the citations occurred. He was asked to go into the bankruptcy proceeding and try to cut out from the stay the ability of the City to proceed that was opposed by the owner. The City can, at any time, recite and try to address this. We have been in the position of before of whether or not they are going to come in and how long are we going to tolerate this issue. Currently there is no dollar amount and no lien. The issue about practicality is if you like the idea of at least trying to get an agreement to do some interim improvements and hope that is performed. He recommended that Council get some monetary consideration to support this agreement and the question is what is the appropriate level?

Councilmember Stoner perceived that she has not seen a lot of good faith on the client's part of maintaining the building and it is a huge piece of the City. She feels like \$10,000 is a slap in the face. She wants the property cleaned up and repaired. She has no problem with the forbearance. Not to maintain that site for this amount of

time shows no investment in the community whatsoever. She would tend to aim high on what she would want from the client as far as whether it is something of an LOC we hold.

Mr. Lunny indicated that we are getting a \$65,000 bond for some of the improvements. He is suggesting monetary consideration that is paid to the City of Plantation and it goes into the General Fund.

Councilmember Stoner believes that the bond should be more like \$100,000 and if they do not perform we take the bond and do the deferred maintenance ourselves.

Mr. Lunny commented that it would cost more than that.

Councilmember Stoner noted that we could up the bond.

Mr. D'Arelli stated that the bond amount for the \$65,000 was for the landscaping portion. The other improvements include pressure washing, painting the Lord and Taylor building and the railings.

Councilmember Stoner mentioned that the parking garage and stairwells have to be bleached.

Mayor Bendekovic noted that the rust on the railings also have to be bleached.

Councilmember Stoner is inclined to say okay to the forbearance but as to the dollar value she believes there needs to be another conversation. She does not think that the \$10,000 or the \$65,000 is sufficient based on the client's prior lack of good faith.

Mayor Bendekovic agreed with Councilmember Stoner. She stated that if she had gone by the timeline promised to have the office building that building would be filled because she was elected in March 2011 and it was promised that it would be rented out in June the following year and nothing has happened. The reason we went with the codes was because that was the only thing we could possibly get because we were having so many complaints from Westside Regional Hospital and from all of the businesses around because of the condition of the buildings. Once they went into bankruptcy we could not do anything because of the stay and now they are coming out of bankruptcy and wanted her to sign this agreement and no way was she going to. It has been a cancer to our Midtown development and that should not have been that way. She is glad they are making movements but that is only the office building. They have other phases; they want three residential towers as well as retail. She questioned how long that will take. She wants them to get the office building and to move forward but at the same time they have not come through in the past.

Councilmember Zimmerman commented that he was not sure that \$10,000 covers the time and energy we have into this because of the lack of performance on the site.

Mr. D'Arelli stated that they pay cost recovery fees; that account has been continually replenished.

Attorney Robert D'Amores, counsel for U.S. Capital, was present. He clarified that they do not get a monthly account but when they are asked to replenish they get an accounting.

Councilmember Zimmerman indicated that all of these improvements are supposed to be done within 120 days. If this goes forward then we would expect within the next four months everything is done; otherwise, we revert to the bond.

Mr. Lunny advised that Council could claim the bond for the landscaping and pocket the consideration. That is why he suggested monetary consideration. It cannot be reasonably tied to the impact of the tax based because he does not know how to do that. At least you would get something with this agreement; it is cancellable. He did not think it was a bad arrangement or he would not have suggested that it be shown. He thinks there needs to be some reasonable dollars. If the Council wishes to raise the bond or expand the scope of the bond to cover things other than landscape just remember that is not going to reasonably approximate the cost of those items. His initial thought was \$50,000. There was no Administrative discussion of that because neither Mr. Shimun nor the Mayor approved that; that is why that is a Legal Department item. We are somewhere between \$50,000 and \$10,000.

Councilmember Stoner commented that she was thinking about \$100,000 cash and \$250,000 for the bond.

Councilmember Fadgen stated that \$10,000 is obviously not the right number. He would rather see the number in the improvements to the property. He did not have a problem with the \$250,000 bond and if they do the improvements they get their money back.

Motion by Councilmember Fadgen to approve the forbearance with a fee of \$25,000 and a bond of \$250,000. There was no second to the motion.

In response to Councilman Levy, Councilman Fadgen explained that he lowered the fee because he would rather see the work get done and we get some number that was more reasonable than \$10,000.

Councilmember Stoner advised that we have years and years of staff time at every level that has addressed this and taken away from other duties. The City has also lost a huge amount of what was part of the intended Midtown plan. By not maintaining and following through on this plan for six years it has created a huge deficit in 100 different areas in this City. In her opinion, \$10,000 or \$20,000 does not send a clear message.

Councilmember Zimmerman commented that he tends to agree with the monetary to a degree. He is not for \$100,000 but thinks that it should be more than \$25,000. He thinks Administration went back with a fair and reasonable offer of \$50,000. He thinks their response was a slap in our face at \$5,000 and then up to \$10,000. They had the ability to accept what Administration requested as a compromise of \$27,000 and they did not.

Motion by Councilmember Zimmerman, seconded by Councilmember Fadgen, to keep the \$50,000 and increase the bond to \$250,000, which will include landscaping, pressure cleaning and all of the other improvements. Motion carried on the following roll call vote:

Ayes: Stoner, Zimmerman, Fadgen, Jacobs, Levy

Nays: None

Mr. D'Arelli indicated that they have been working since June with staff on the improvement plan and coming to terms and there was never a discussion that there would be a compensation that would be paid. We first heard that there was going to be an amendment put into the agreement last week asking for some "consideration". It was never part of the negotiation and now we are asked to put \$50,000 towards this and they are closing on the loan on Friday. They were left in a very difficult spot and now you are asking that we raise the amount. He cannot speak on the implications on that in terms of getting an increased bond amount posted and additional cash posted before Friday. He reiterated that the way this came about has put them in a very difficult spot.

Councilmember Fadgen mentioned that it is never unreasonable in almost any business situation whether you exercise an option or modify a loan; there is always some sort of consideration. He does not think it is unreasonable to have that kind of option or compensation involved.

Councilmember Stoner appreciates that in the negotiation of the forbearance that the consideration was not discussed until the last minute; however, the client did not maintain the property for years. Promises have been made for years and nothing has come to fruition.

Mayor Bendekovic commented that they purchased a certain piece of property; the floral shop, and had no problem negotiating a very lucrative deal with them. She believes they got the asking price and whatever they wanted. She does not think there is a shortage of cash; if they could pay that amount for that piece of property they can give a little to the City.

Mr. Lunny advised that everyday in business transactions until you sign the deal things change and they change last minute. Please do not burden the Administration and staff with having to think of all parameters a month before the deal comes to conclusion; that is not fair and it is impossible for all of the departments to coordinate that in this kind of business that we are in. It just happened. He appreciates Mr. D'Arelli's ire about it. We have to think about the benefit of this agreement and if the price is set too high then there is a possibility they might say we are not going to do this and let the City Code Enforce. We are with limited human resources and we will be questioning why this should be Code Enforced while they are under active construction. His strategy and Administration's strategy was to try to bring something at some value and maybe try to suggest an arrangement that would result in some payment to the General Fund in recognition of consideration with some bond to support performance.

Councilmember Levy does not think what the motion states is unreasonable. He still remembers the residential units going onto the third floor and rising above this mall and a number of things approved since then and he also agrees with the fact that it has been an eyesore and an anchor or our redevelopment plans in that area for many years.

* * * * *

LEGISLATIVE ITEMS

Mr. Lunny read Item No.'s 23, 24 and 26.

23. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF COMPREHENSIVE PLANNING; THE CITY OF PLANTATION COMPREHENSIVE PLAN; REVISING THE FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP REGARDING PERMITTING USES IN THE RESIDENTIAL LAND USE DESIGNATION SO AS TO ALLOW A DASHED LINE AREA IN SUCH LAND USE DESIGNATION; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A memorandum dated October 9, 2013, to Mayor and City Council, from the Planning, Zoning and Economic Department follows:

Staff Analysis: The applicant has requested a "text amendment" to the Future Land Use Element of the Comprehensive Plan. The text amendment, if approved, adds language creating a new land use category known

as “Dashed Line” Area. If approved, the text amendment would allow substantial increases in residential density by allowing apartment sites to include adjacent retail or offices in gross density calculation.

This City Council approved this concept under a different regulatory process to allow higher residential densities at Veranda by including residential and non-residential properties in the site area. The City Council approved this concept again, under a regulatory process different from Veranda, to allow 321 units at One Plantation Place. Had residential density been calculated using only the apartment site, One Plantation Place would have been limited to 150 units.

Concurrent with the text amendment, the applicant has submitted a site-specific map amendment to the Crossroads Consolidated Residential and Office Site. Under separate Ordinance the applicant is proposing a Future Land Use Map amendment from “Office Park” to “Office Park and Residential all within a Dashed Line Area with an overall density of 20.1 dwelling units per acre”. This would allow 287 dwelling units on the residential portion of the site.

Planning and Zoning Board Recommendation: Approval of “Dashed Line” Text Amendment.

Staff Comment: The Dashed Line text amendment, if approved by the City and County, would create a mechanism whereby other vacant office park designated properties in Midtown could be changed to high-density apartment use. In addition, underdeveloped sites could also request application of Dashed Line to allow high-density residential infill adjacent to existing shopping centers. Due to its broader application, the Council’s review of the Dashed Line amendment has policy considerations beyond the Crossroads Project. If the text amendment is approved, the City Council would retain the authority to review said applications on a case-by-case care basis.

24. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE PERTAINING TO THE SUBJECT OF COMPREHENSIVE PLANNING; CHANGING THE FUTURE LAND USE DESIGNATION OF A PARCEL OF PROPERTY; SPECIFICALLY AMENDING CITY OF PLANTATION ORDINANCE NO. 1626; AS AMENDED, WHICH ADOPTED THE CITY’S FUTURE LAND USE PLAN AND MAP, TO REDESIGNATE A PARCEL OF LAND CONTAINING APPROXIMATELY 14.3 PLUS OR MINIMUM ACRES OF PROPERTY FROM “OFFICE PARK” TO “OFFICE PARK AND RESIDENTIAL ALL WITHIN A DASHED LINE AREA WITH AN OVERALL DENSITY OF 20.1 DWELLING UNITS PER ACRE” IN ACCORDANCE WITH POLICY 1.7.6 OF THE PLAN; SAID PARCEL MORE PARTICULARLY DESCRIBED AS A PARCEL OF LAND IN THE EAST ONE-HALF OF SECTION 9 TOWNSHIP 50 SOUTH, RANGE 41 EAST, SAID PARCEL INCLUDING A PORTION OF PARCEL 1, ACCORDING TO THE PLAT OF JACARANDA PARCEL 817 AS RECORDED IN PLAT BOOK 143 AT PAGE 1 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED IN THE LEGAL DESCRIPTION IDENTIFIED AS EXHIBIT “A”, PROPERTY GENERALLY LOCATED AT 8021 PETERS ROAD; AND READOPTING SAID PLAN AND MAP AS THE MASTER LAND USE PLAN AND MAP, 1989, MAKING SAID PLAN AND MAP PART OF THE FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN OF THE CITY OF PLANTATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE THEREFOR. (CROSSROADS)

REQUEST: A site-specific application to amend the future land use plan map for 14.3 +/- acres from “Office Park and Residential all within a Dashed Line Area with an overall density of 20.1 dwelling units per acre”.

PLANNING AND ZONING BOARD (SITTING AS THE LOCAL PLANNING AGENCY)

RECOMMENDATION: APPROVED subject to staff comments (September 10, 2013, 5/0)

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; draft Ordinance; subject site map; land use plan amendment application; and Planning and Zoning Board (sitting as the Local Planning Agency) minutes of September 10, 2013.

BACKGROUND: The LUPA application combines two adjacent building sites:

1. A vacant approximately 4.0-acre site abutting Peters Road (Duke Crossroads Five, LLC) and,
2. A 101,441-square-foot existing office building and surface parking lot (Duke Crossroads Four, LLC – Tradestation, LLC located directly north and fronting NW 10th Street.

Both parcels abut the rear parking area of the Office Max Plaza.

The combined site comprise a development parcel (“development parcel”) containing 12.9 acres net (survey provided) or 14.3 acres gross (represented by the applicant). Net density includes only the private property while gross density includes to centerline of the adjacent public roadways. According to the City and County Comprehensive Plans, maximum density is based on gross acreage.

The applicant has applied for a Land Use Plan Amendment (“LUPA”) to change a development parcel from “Office Park: to “Office Park and Dashed Line with an overall irregular residential density of 20.1 dwelling units per acre”. In this case, the applicant has proposed to retain the existing office building (Tradestation) and develop the four-acre parcel with a 287-unit apartment building on the vacant parcel. If the LUPA “Dashed Line” Map Amendment is approved, the City Comprehensive Plan limits residential dwelling unit density to 25 units per gross acre for the 14.3 acres. The applicant has requested “irregular residential density” within the dashed line not to exceed 20.1 units per acre for the combined Duke Crossroads Parcels Four (Existing Office) and five (new apartment sites).

This master plan approach will enable the concentration of high-density residential adjacent to retail and/or office development in Midtown and is permitted pursuant to Policy 1.7.6 of the Future Land Use Element of the City Comprehensive Plan, as amended. A similar approach has allowed the construction of multi-family apartments in One Plantation Place (2011). It is our understanding that using the Dashed Line/Irregular Residential Density amendment does not require reserve or flex units.

If approved by the City Council, the LUPA will not become effective until is approved by the Broward County Commission, the State Planning Agency, and recertified by the Broward County Planning Council. This process can take approximately 12+ months, assuming no public hearings or review agency evaluations are deferred or delayed. The City Council must also separately approve the companion SP-3 zoning change concurrent with final LUPA approval. Please note that the applicant is requiring the zoning.

ANALYSIS:

Policy 1.16.1

The City shall consider the following policy considerations, in addition to all other appropriate policy considerations stated elsewhere in this plan, when making a decision on whether to change the zoning classifications for a parcel of property or change the future land use designation on a parcel of property:

1. Whether there is a change in population, socioeconomic factors, or physical development of property nearby or affecting the subject property, which change was unforeseen or unanticipated, and which change has created a present problem or opportunity that justifies a change of land use designation or zoning classification on the subject property; and further, the extent to which the proposed land use or zoning would result in action towards mitigating any problem, or capitalizing on any opportunity identified above (the established character of predominantly developed areas should be a primary consideration when a change of zoning classification or of future land use designation is proposed);

Applicant Response: The subject site is located in the City’s Midtown District. The Plantation City Council designated 860 acres as the Plantation midtown District in 2004. The last few years have seen changes in development occur to nearby properties including the reconfiguration of The Fountains Shopping Center. The recent changing nature of the area and District provide the subject site with the opportunity to capitalize on its location in the District. The site is currently designated Office Park. The proposed amendment retains Office Park use and adds Residential use. The proposed scenario offers greater opportunities for the site to respond to changing conditions and to be developed in a manner more suited to the vision of the City’s Midtown District.

Staff Response: Staff’s response is based on a site plan concept that retains the existing 101,441-square-foot office building and adds a multi-story apartment building on Peters Road. Staff does not support the LUPA to allow a freestanding shopping center.

The LUPA proposes a change from “Office Park” to “Office Park and Residential all within a Dashed Line Area with an overall density of 20.1 dwelling units per acre” land use. The LUPA site is located in the “South Business Sub-District” of Midtown (Midtown Plan – Page 21). The Midtown Plan recommends up to an additional 1.4 million-square-foot office space and 120 dwelling units in the South Business Sub District projects by 2025. Since adoption of the Midtown Master Plan, no new office buildings have been built in the South Business Sub District. New construction includes completion of a 321-unit apartment complex (One Plantation Place) and the redevelopment of the adjacent shopping Center (One Retail Place).

The amendment is not consistent with Midtown South Business Sub-District land use recommendation. The amendment is generally consistent with the:

- a. *General Midtown Plan Goals and Objectives (Page 12). These include encouraging mixed-use environments that include residential use, and helping to support thriving commercial markets. In this case, the LUPA is directly adjacent to an office park, shopping center, restaurants, and supermarket*
- b. *Midtown “District-Wide” Residential Projection. The Central Plantation Midtown Master (“Midtown”) Plan Development Program, Page 13, projects 2,985 dwelling units to be completed by 2012. By 2025, the Midtown Plan projects 3,995 dwelling units, 1,995 apartments have been built or are under construction as of January 2013. The proposed LUPA, by adding 286 new apartments in 2015-2015, is consistent with the district-wide residential unit projection.*

2. The impact of development permitted by the proposed land use or zoning on existing public facilities and services, including school, police and fire, potable water, sanitary sewer, local or regional roads, parks and open spaces, and drainage;

Applicant Response: The attached report demonstrates minimal impact of the proposed land use on public facilities and services.

Staff Response:

Water and Sewer: The Utility Department has evaluated this proposal based on the site plan concept, which includes the existing office building and a new approximately 286-unit apartment building. The Utility Department says the apartment building will significantly increase demand for water, but will not exceed the City's Consumptive Use Permit.

Utilities has no objection to the master plan, providing the applicant address Consulting Engineers Hazen and Sawyer's report, dated 12/17/2012. The applicant shall also address Utility comments provided on page 10 of this report.

Schools: The School Board will determine if the additional students will cause any Plantation Schools to exceed capacity, and if so, require the applicant to pay school impact fees.

Police and Fire: The Public Safety Department has no objection to the proposed LUPA. The Police Department will review the site plan in detail for compliance with CPTED (Crime Prevention through Environmental Design) Criteria at time of rezoning and site plan review. CPTED design techniques are employed to improve personal and property safety, including discouraging criminal activity.

Local or Regional Roads: The impact upon Roadway Level of Service should be evaluated by the Engineering Department pursuant to City Code Section 20-66, Transportation Capacity.

Parks and Open Space: Staff has loaded the 286 dwelling units into the demand portion of the City parks formula. Including the additional units, the City continues to exceed the parks and recreation standard of four acres of land per 1,000 persons. In addition, the City Code requires the applicant to pay local park impact fees.

Drainage: To be evaluated by City Engineer.

3. Whether development permitted by the proposed land use or zoning will be compatible with development permitted under the land use and zoning of property surrounding the subject property:

Applicant Response: The development permitted by the proposed land use is compatible with the land uses surrounding the site. Office-park land uses are located to the south and west of the subject site. The proposed residential use will be excellently positioned to take advantage of the commercial uses located to the north and east. In addition, any development occurring on the site will be consistent with the City's land development regulations which ensure compatibility between properties through the use of setbacks, buffers and other regulations.

Staff Response: In terms of future land use, existing land use, and zoning, the LUPA is compatible with the surrounding properties. The Future Land Use, Existing Land Use, and Zoning Designations of the adjacent properties are as follows:

	<i>Future Land Use Plan Designation</i>	<i>Existing Land Use</i>	<i>Zoning</i>
<i>North</i>	<i>Commercial</i>	<i>Office/Retail</i>	<i>SPI-3</i>
<i>South*</i>	<i>Office Park</i>	<i>Office Park</i>	<i>OP-P</i>
<i>East</i>	<i>Commercial</i>	<i>Hotel/Office Park</i>	<i>SPI-3</i>
<i>West</i>	<i>Office Park</i>	<i>Hotel/Office Park</i>	<i>OP-P</i>

**South side of Peters Road*

4. The extent to which the proposed land use or zoning designation is consistent with the Goals, Objectives, and Policies of the Neighborhood Design Element where the property is located. (The City has an optional Neighborhood Design Element which effectively splits the City into five (5) different regions for future land use comprehensive planning purposes. Each of these five (5) regions is a discrete unit, unique in character and has special Goals, Objectives, and Policies. In evaluating any proposed change of a land use or zoning designation, the Goals, Objectives, and Policies of the affected flexibility zone Neighborhood Design Element should be given a primary importance);

Applicant Response: The subject site is located in the Plantation Midtown District. The proposed use is consistent with the GOP’s of the District. The proposed land use will allow for a greater variety of development potential on the subject site.

Staff Response: See below.

PLANTATION MIDTOWN: NEIGHBORHOOD DESIGN ELEMENT

The LUPA, based on the site plan concept:

- a. Supports Objective 1.1 to create an appropriate mix of functional uses (residential and office).*
- b. Supports Objective 1.2 and the related policies by increasing the potential demand (350-400 additional residents) for cultural facilities and possible future transit service in Midtown.*
- c. Supports that portion of Objective 1.3 that encourages higher density, mixed use, and transit-oriented development.*
- d. Does not support Policy 1.3.4, which encourages vertical multi-story mixed use.*

5. The extent to which development permitted under the proposed land use or zoning is consistent with the Goals, objectives, and Policies of the Future Land Use Element and the other Elements of the Comprehensive Plan. (A land use or zoning change is consistent if it is “compatible with” and “furthers” the Goals, Objectives, and Policies of the Comprehensive Plan. The term “compatible with” means that the proposed change is not in conflict with the Goals, Objectives, and Policies. The term “furthers” means that the proposed change takes action in the direction of realizing the Goals, Objectives, or Policies. For purposes of determining consistency of a land use or zoning change with the elements of the Comprehensive Plan, the Comprehensive Plan shall be construed as a whole and no specific Goal, Objective, or Policy shall be construed or applied in isolation of all other Goals, Objectives, or Policies in the Plan);

Applicant Response: The proposed land use is not in conflict with the GOP’s of the City’s Comprehensive plan and is compatible with adjacent uses. Section XIV of the LUPA report outlines GOP’s with which the proposed land use is consistent. In addition, the proposed land use

offers greater opportunities for the site to respond to changing conditions and to be developed in a manner more suited to the vision of the City's Midtown District.

Staff Response: The "Office Park and Residential all within a Dashed Line Areas with an overall density of 20.1 dwelling units per acre" land use designation furthers some of the GOP's of Comprehensive Plan.

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

Applicant Response: The proposed use offers a greater variety of compatible potential development on the site while retaining office as a permitted use. Development under the proposed use will comply with the City's land development regulations.

Staff Response: Building design does not exceed minimum requirements. Building setbacks, landscaping, and pedestrian connectivity do not meet minimum requirements. The applicant has requested zoning waivers, including parking, density, setbacks, etc.

7. The extent to which the proposed land use or zoning would contribute to enhancing the tax base, adding employment, and providing other positive economic impacts;

Applicant Response: The proposed land use allows for the development of office and residential uses which provide employment opportunities while furthering the City's vision for the Midtown District, including positive economic impacts to the area.

Staff Response: Applicant has submitted a tax revenue analysis comparing a 40,000-square-foot office building with surface parking to a 286-unit apartment building with a parking structure, totaling over 550,000 square feet. According to the applicant, the apartment building will generate over six times the tax revenue of the office building. This tax revenue differential between single story office and multi-story residential is expected. The proposed multi-story apartment building and garage contains nearly 14 times the floor area of the single story office building.

Other Economic Impacts:

- A 40,000-square-foot office building can generate over 100+ full time jobs.
- An apartment building generates few (<12 jobs), usually in maintenance and leasing office staff.
- The apartment building is expected to house 350-400 new residents. The additional residential demographic should help support the redevelopment of the adjacent LA Fitness Plaza, the new Cinema, and other Midtown development.

8. The extent to which the subject property has potential to be developed in a desirable manner under its present land use and zoning scheme;

Applicant Response: The proposed land use retains office as a permitted use while adding residential uses, thereby offering additional development opportunities than under the existing land use.

Staff Response: The site can be developed in a desirable manner based on present land use (“Office Park”) and zoning (“OP-P”).

9. The future land use and zoning needs of the community; and,

Applicant Response: The proposed land use compliments the future land use and zoning needs of the community by providing office and residential use opportunities in a manner consistent with the City’s vision for the Midtown District.

Staff Response: This amendment is consistent with some future land use needs and inconsistent with others.

10. 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 Response: The proposed use is compatible with adjacent land uses and the goals and objectives of the Midtown District.

Staff Response: The proposed land use designation is consistent with some goals and objectives of the Midtown District, but does not provide vertical mixed use and significantly exceeds Midtown District Density (maximum 40 units per net acre).

11. The proposed future land use or zoning of the property does not and will not result in contamination of groundwater sources used to supply potable water.

Applicant Response: The proposed use does not and will not result in contamination of groundwater sources used to supply potable water.

Staff Response: To be determined by the Engineering Department.

12. The proposed future land use or zoning of the subject property does not cause the City’s water demands to exceed the City’s water supply availability or consumptive use permit.

Applicant Response: The proposed future land use will not have a negative effect on the City’s water supply.

Staff Response: To be determined by Utilities Department.

STAFF COMMENTS:
PLANNING DEPARTMENT:

- I. Policy 1.18.2 of the Comprehensive Plan (Future Land Use Element) requires that Redevelopment Area plans that include Plantation Gateway/CRA and Midtown shall be implemented by reviewing and

comparing the Comprehensive Plan against the Plantation Community Redevelopment Plan, Central Plantation Conceptual Plan and Technology Park Neighborhood Plan. *Please see staff analysis below.*

(a) FUTURE LAND USE ELEMENT OBJECTIVE 1.6

Achieve growth and development (through the planning period and to build out) which is guided by this plan, consistent with the adopted Capital Improvements program and a consolidated development code which contains subdivision regulations, innovative design, planned community development districts (PCD), missed use development provisions. See Policy 1.6.2 for measurability. (Ord. No. 1974, 4/13/94)

- *Staff Response: The LUPA generally complies with the requirements of the Policy 1.6.2, with the exception of Ch. 27 Zoning Criteria. However, the site plan concept, in conjunction with the adjacent properties, provides horizontal mixed-use opportunities, a reasonable alternative to recommended vertical mixed-use development.*

(b) FUTURE LAND USE ELEMENT POLICY 1.6.1

The Future Land Use Plan map shall achieve a sound balance between the competing demands of environmental conservation, economic growth, and prevention of future incompatible land uses. (Ord. No. 1974, 4/13/94).

- *Staff Response: See staff response to Criteria No. 7 above.*

(c) FUTURE LAND USE ELEMENT OBJECTIVE 1.18

Encourage innovation in land planning and site development techniques by achieving an on-site mix of residential and commercial uses and by promoting multi-story commercial/office/residential mixed-use development and multi-story office use developments in the Plantation Gateway/CRA and Plantation Midtown redevelopment areas. Multi-story use is as defined by the City's land development code.

- *Staff Response: The LUPA, based on applicant's site plan, does not support "on-site (vertical) mixed-use" development as defined in the City's Land Development Code. However, the proposed site plan, in conjunction with the adjacent properties, provides horizontal mixed-use opportunities, a reasonable alternative to recommended vertical mixed-use development.*

(d) FUTURE LAND USE ELEMENT POLICY 1.18.2

Redevelopment area plans that include Plantation Gateway/CRA and Midtown shall be implemented by reviewing and comparing the Comprehensive Plan against the Plantation Community Redevelopment Plan, Central Plantation Conceptual Plan and Technology Park Neighborhood Plan.

- *Staff Response: The proposed site plan is generally consistent (See Criteria 1 above) with the Midtown Plan.*

(e) FUTURE LAND USE ELEMENT POLICY 1.8.7

Any commercial land use or zoning change application shall be reviewed in the context of vacancy and other market analysis data.

- *Staff Response: The applicant has provided a market analysis discussing multi-family apartment demand in the South Florida area. The study does not analyze current or future housing demand in the Midtown. A Midtown market analysis should include 525+ units under construction in Midtown today, the proposed 200+/- additional units behind the Fountains shopping center, and the possibility of new multi-family residential development at 321 North.*

II. As required in Section 20-61 of the City Code, the applicant shall submit the required concurrency review form for parks, water, sewer, streets, drainage, and solid waste prior to City Council consideration of the LUPA. The standard single-page form is available in the Planning and Zoning Department. The applicant must present the form to the appropriate City departments for approval and returned to the Planning and Zoning Department prior to City Council consideration.

ENGINEERING DEPARTMENT:

1. Section VI. (F) Traffic Circulation Analysis **10-01-13: Comments Not Addressed**
 - a. Number 3 asks for the peak hour and average daily traffic generation for the existing and proposed land uses. Please provide the ITE source documents for the trip generation numbers. ITE LUC 223 may not be appropriate for this use.
 - b. Number 3 also asks for other information if the trips are shown as increasing. Please provide the requested information or comment from Broward County that it is not needed.
26. REQUEST BY STAFF TO DEFER CROSSROADS RESIDENCES REZONING, FLEX ASSIGNMENT, MASTER PLAN, SITE PLAN, ELEVATION AND LANDSCAPE PLAN APPROVAL TO DECEMBER 11, 2013.

A memorandum dated October 9, 2013, to Mayor Diane Veltri Bendekovic and City Council Members, from Gayle Easterling, AICO, Senior Planner, Zoning Department, follows:

Based on discussions with the applicant, staff is requesting deferral of the above referenced items until the December 11, 2013 City Council meeting.

Separately, the applicant has requested a presentation of site plan alternatives be placed on the City Council agenda of October 23, 2013, as an administrative item.

Attorney Bill Laystrom was present on behalf of the applicant.

Mr. Laystrom commented that as they discussed the land use process for this project in June, they originally proposed that this item move forward as a commercial land use amendment. They tied the properties together with a restriction so they could only put so many units on the entire property. The County suggested an alternate to that, which is called a residential dashed line amendment and that it becomes a residential amendment instead of a commercial amendment. One of the issues from their standpoint was even though a portion of the property was going to be done for a residential project, the other being an office building; they would have to calculate all of the impacts based on a commercial project, driving all of the calculations up. They said that they have a dashed line that basically allows a residential designation and the exact density will be put so they cannot go over. The flex units will no longer be needed and two things will be required. Their local plan did not have the dashed line language. No facts have changed as far as the land use amendment; it is

the same project but now there would be a dashed line, which would be a residential piece rather than seeing commercial and having to do a deed restriction. It is believed that this is a better way to go; it is the County's suggestion, and they feel it was a good one. They cannot consider and approve the site plan until they get to the point when they come back with the land use change. They are requesting to take this step, the transmittal. They will still have to come back before Council in March or April with the site plan for approval once the land use amendment also comes back. He would not need the flex units so he will withdraw that application. Council told them a lot of things about the site and the site plan in June that they needed to address. He has asked Administration, through Larry Leeds, to allow him to make a request in writing to bring the site plan forward for some type of discussion, almost like a workshop, but with input from themselves and the public. They have redone the landscaping and moved the building back. They have also finalized the connectivity plan. They have to resubmit a package to City staff and go back through part of the site plan process. He wanted Council to look at this; it would not be a final vote and they would take into consideration Council and public comments and then move forward with the site plan over the next three or four months and come back to Council with the site plan after the land use amendment comes back from the County in March or April. The first item is to change the plan to allow it. Even if it is added to the comprehensive plan that does not mean that you have to exercise that right now or in the future.

In response to Councilmember Levy, Mr. Lunny advised that he would prefer an individual vote for Items #23 and #24.

Councilmember Stoner indicated that during the last presentation she made a comment that she was not sure that we had gotten everything we thought we were going to get on One Plantation. She went back and looked and she was wrong; we did get everything we were promised on that project and more. She recently found at that that project is actually a LEADS building and she apologized for the comments; she knows the reputation of Stiles and what they bring to the table.

In response to Councilmember Levy, Mr. Lunny advised that this was advertised as a public hearing.

Dennis Conklin, resident, was present. He questioned if they are creating more capacity for residential units in this City by not using the flex. He noted that he is in favor of creating more capacity.

Mr. Laystrom stated to the extent that they are not using those flexibility units, those units would be available somewhere, not for this project.

Councilmember Levy commented that there are other needs in the City that we could not do if we did not have flex units and this frees up some flex units.

Cynthia Bush, Vice-President of the Plantation Democratic Club and a 14-year resident of Royal Palm Estates, adjacent to the corner of University Drive and Peters Road, where this development is proposed, was present. She believes there has been an unawareness on the part of the residents in that area as to the extent of the development proposed and she has heard a lot of comments from people in recent days about the number of units that may or may not be built on some of the empty lots that are in this area. She frequently drives in the area and it is incredibly busy and at certain times of the day it is dangerous to drive on Peters Road. There are a lot of things that need to be addressed in this area before any development takes place. She appreciates that Stiles is a great builder and we need to address the development in this area and build something that is appropriate. We also need to get concessions from developers in the hopes that we will not under build or over build so we are not stuck with empty properties 20 years down the road.

Mr. Laystrom indicated that he proposed to have a meeting with Council and residents to show the revised site plan including the traffic light they are adding at 80th Terrace. He has offered to meet individually with his team and the residents to go through the entire plan, going through the traffic movements at Peters Road and University Drive and do whatever they need to do as far as outreach. They are starting to look at the Midtown on the topics that Cynthia mentioned. On November 6, 2013 there is a gathering of everyone who is involved in Midtown to discuss where we are going in the future. It sounds like Cynthia's input would be very helpful at that gathering.

Ms. Bush commented that people at the Plantation Democratic Club were very interested about what is happening but they did not come to any rash conclusions and are not planning on flooding the meeting room. They want to hear what Stiles wants to propose and work with everybody.

Councilmember Levy advised that it would be a few months and between now and then they will be meeting with any concerned residents. Mr. Laystrom has already changed the exterior and the architecture of the building to put in something a little more stylish, appropriate and progressive for the area.

In response to Ms. Bush, Mr. Laystrom stated that One Plantation officially opened on April 1, 2013.

Ms. Bush noted that within six months both buildings are 85% rented so there is obviously a demand even with the rent levels.

Councilmember Levy indicated that it is important that the community be part of the decision making before it comes back to Council and they would appreciate making sure that is met.

Mr. Laystrom stated that a tour of the interior of One Plantation will give an idea of what it is going to look like. He would be happy to provide a tour.

Ms. Bush mentioned that Tropical Elementary School is zoned in this area and hope that Council understands that the school is at capacity so any children that move into this area will have to more than likely go to another school. People might be upset if they find out that their children might not be able to go to Tropical Elementary.

Mayor Bendekovic questioned if that would be addressed at the Broward County Oversight Committee. She believes that former Councilman Tingom is the Chairperson for that Committee.

Motion by Councilmember Fadgen, seconded by Councilmember Levy, to approve Item No. 23. Motion carried on the following roll call vote:

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

Motion by Councilmember Zimmerman, seconded by Councilmember Levy, to approve Item No. 24. Motion carried on the following roll call vote:

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

Motion by Councilmember Fadgen, seconded by Councilmember Stoner, to defer Item No. 26 to October 23, 2013. Motion carried on the following roll call vote:

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

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QUASI-JUDICIAL CONSENT AGENDA – None.

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QUASI-JUDICIAL ITEMS

25. REQUEST BY STAFF TO DEFER TOYS R US SITE PLAN MODIFICATION TO OCTOBER 23, 2013.

Motion by Councilmember Fadgen, seconded by Councilmember Stoner, to defer Item No. 25 to October 23, 2013. Motion carried on the following roll call vote:

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

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Mr. Lunny read Item No. 27 along with the waivers.

27. REQUEST FOR SITE PLAN MODIFICATION WITH WAIVERS FOR THE WHOLE ENCHILADA AT WESTFIELD BROWARD MALL LOCATED AT 8000 WEST BROWARD BOULEVARD AND ZONED SPI-3.

A Staff Report dated October 9, 2013, to the City Council, from the Planning, Zoning and Economic Development Department follows:

REQUEST: Consideration of a waiver request to allow a high-turnover, sit-down restaurant to have an outdoor bar area.

WAIVER REQUESTS:

1. From: Section 27-1, of the City Code which limits restaurant seating at a bar to 15% of the total number of seats (30 seats)
To: Increase the allowable bar seating from 15% (30 seats) to 17.4% (35 seats).
2. From: Section 27-721(61)(f) of the City Code which requires outdoor café seating to be at tables only.
To: Allow outdoor bar seating as well as seating at tables in a 1,875-square-foot outdoor area.

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

ANALYSIS:

The City Council approved a site plan on May 9, 2012 to add a 2,489 seat movie theater, 16,270 square feet 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 approved site plans included a 3,924-square-foot “vanilla box” restaurant space (not tenant specific) between JC Penney and the movie theater.

The Whole Enchilada has not been identified as the proposed tenant and is classified as a high-turnover sit-down restaurant. High-turnover sit-down restaurants are a permitted use in the SPI-3 zoning district.

Section 27-721(61)(f) allows seating within an outdoor seating area at tables and chairs only. The applicant is requesting City Council approval of waivers to allow a bar to be partially located within the outdoor seating area and partially located inside the restaurants flex space, which, if approved, will be open to the outdoors during business hours. The applicant is also requesting a waiver to exceed the maximum allowed bar seating from 30 seats to 35 seats.

The original approval provided 780 square feet of open area seating. This new plan proposes an additional 1,095 square feet of potential outdoor seating area, for a total of 1,875 square feet (up to 39% of the gross restaurant area or 1,875 square feet). In addition, the current proposal:

1. Increases the interior square footage of the restaurant by 83 square feet to 4,007 square feet.
2. Moves the main restaurant entrance closer to the theater.
3. Increases the potential open air areas next to the sidewalk to 1,875 square feet.

STAFF COMMENTS:

PLANNING AND ZONING:

Planning: The proposed use is consistent with the commercial land use designation on the adopted future land use map. Restaurant use is a permitted use under this land use designation.

Zoning:

1. Zoning staff review and approval is required to confirm compliance with outdoor seating regulations prior to issuance of building permits.
2. Signs are not part of this review.

TRAFFIC CONSULTANT: No objections.

ENGINEERING DEPARTMENT: No objections.

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT: Staff has no objection to requested waivers – it is staff’s understanding that there is no impact on the City Council approved landscape plans under this request.

BUILDING DEPARTMENT: No objections to waivers.

FIRE DEPARTMENT: No objections as to this waiver request consideration with the understanding that the applicant and/or property owner is aware of the following items:

1. Door/gate/exit on southwest corner of outdoor covered patio is required and must remain.
2. Door opening into JC Penney southeast stairs exit discharge obstructs its required width; 180-degree opening or relocation to corner is permitted.

POLICE DEPARTMENT: The Police Department has some concerns in reference to an “outdoor bar” area that is not enclosed or protected by a transition barrier around the patron sitting area. Without access control in place, patrons and staff would be exposed to potential crime threats from the street, which would normally be protected by a barrier. The permanent outdoor bar area adjacent to the sidewalk is protected by a 42-inch wood fence (scaled – no dimension provided). These fences would prevent someone from entering from the street, committing a crime, and running out because the fence creates a psychological as well as a physical barrier. However, the two roll up window-walls closer to the theater (which can be open at the discretion of management) do not provide this same barrier and would provide an opportunity for crime potential. Patrons would be seated at tables or stools in this area with their backs to the street and employees would have a difficult time controlling access points to prevent crimes in this area. The Police Department does not support the roll up window-walls closer to the street unless the 42-inch wood fence referenced above is installed adjacent to these area (inside the window-walls) to create the same barrier when the windows-walls are open.

UTILITIES: No objection, the following comments apply.

1. Water and Sewer Utility Plans were not provided with this submission.
2. Prior to a Building Permit the following must be provided:
 - Water and Sewer Utility plans must be submitted to the Utilities Department for review and approval unless water and sewer service will be provided from the master meter of the mall.
 - BCHD and BC EPD Permits must be approved if applicable.
 - Capacity Charges must be paid in FULL.
 - Contact: Danny Pollio if you have any questions, 954-797-2159.

John Barranco, architect, was present on behalf of the applicant.

Mr. Barranco explained that originally they were approved for a generic restaurant and they did not have a tenant at the Broward Mall. They were interested in the property because it had outdoor seating and it will be a very active use having the theater next door. They have been working with the Broward Mall in making modifications to fit the Whole Enchilada. A lot of the signature things about the Whole Enchilada are the more rustic look so they had to mirror that interior look with the exterior of what was already previously approved with the Mall. They had metal louvers that were very modern and they introduced wood, which is more in keeping with the Whole Enchilada to the exterior of the building. They used the same horizontal pattern that was established and tried to keep the look modern on the outside. The other signature piece of the architecture that is true to the other Whole Enchiladas is the open storefronts. The storefronts remove the outdoor seating and that is why they were very attracted to this property because they already had the opportunity for a patio. Another great thing about this property versus the others is that it is a larger space; this is a 4,000-square-foot

restaurant so they will take the opportunity to create a bar so someone can grab something quick and go to the movie. They are requesting the waivers tonight. The glazing system was slightly modified; they are not changing anything structurally about the building. The canopy remains as is, the structure is built, the columns are in place, the exterior skin of the building is going to be in the same place; however, they are slightly changing the skin. All of the finishes will be the same; the same glass that was previously approved with the same material in the glass. The segmented glazing systems will be operable. The purpose of the waivers was to give patrons the opportunity to sit outside on a warmer day and that is the reason why they split the bar. They are trying to meet the seat count for the license; there are over 200 seats in the restaurant. The bar extended into that space because it made architectural sense; the seven extra seats or the slight percentage increase at the bar seating was not a huge critical issue.

In response to Councilmember Stoner, Mr. Barranco advised that he read all of the staff comments. They agreed with the staff comments. When they met with staff last month the open patio area never had a barrier and as part of their comments they requested that we place a barrier. They added a barrier to the open patio and no other recommendations were made. They received these comments asking for additional barriers at the operable glass area so architecturally they tied it in and agree with the staff comments. The owner thought it was a great idea to keep people from wondering in and out of the restaurant. They agree with the Police Department recommendations which go along with what was recommended for the outside as well. When the Police Department reviewed the plan they noticed that those barriers were not placed at the operable windows so they proceeded to place them.

Councilmember Stoner questioned why there is no landscaping, not even a potted plant. Everything else that has gone in on the outside has had to have some type of foliage.

Mr. Leeds indicated that the original plan did not have any landscaping. The idea was that the original plan is almost exactly the same restaurant except it has less open area open to the outdoors. Landscaping did not require any planters.

Councilmember Stoner questioned why the inconsistency.

Mr. Leeds did not think that it was inconsistent; Sir Pizza was going into an area where they would be taking out a great deal of landscaping and they also had a different concept. They did not have the window wall concept. He reiterated that his conclusion is that it is not inconsistent.

Joshua Gardner, Senior Leasing person with the Mall, was present. He mentioned that with Sir Pizza there was actually a removal of the planter system, which required having a replacement in the notched out areas. With this particular spot, it is actually a pop out with the requested amount of 4,007 per the last meeting is actually new GLA so he thinks that is the main difference between the two.

Councilmember Stoner commented that even when we do something new we have a couple of plants or something going in. She does not want to come in one day and see lights hanging all over because it is bare. It does not appear to be consistent with everything else in that area.

Mayor Bendekovic questioned if there was any awnings or anything for the outdoor seating. There has to be drop downs if it is raining.

Mr. Leeds advised that the whole thing is covered with an opaque canopy; he believes it is metal. The thing that makes it outdoors is that one portion is permanently outdoors and another portion is only outdoors when they open up the window wall. This is different than the canopies at Bokampers or Duffy's.

Councilmember Levy questioned if there were any possibility of adding some green.

Mr. Barranco stated that they did not intentionally ignore that; it is just something that was previously approved and they were trying to minimize the amount of changes. They were being respectful of what was approved.

In response to Councilmember Levy, Mr. Barranco indicated that they could work with the Landscaping Department to do something practical.

Danny Ezzeddine, Director of Design, Landscape and Construction, was present. He commented that he would consider some landscaping. This was approved originally and that is why they worked with Ms. Berchielli.

Councilmember Stoner commented that the edges need to be softened a little.

Mr. Ezzeddine concurred.

Motion by Councilmember Stoner, seconded by Councilmember Zimmerman, to approve Item No. 27, site plan modification with waivers for THE WHOLE ENCHILADA AT WESTFIELD BROWARD MALL, property located at 8000 West Broward Boulevard, subject to staff comments including waivers and working with staff on landscaping. Motion carried on the following roll call vote:

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

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COUNCILMEMBERS' COMMENTS

Councilmember Stoner announced that she attended the last of her FPPTA classes last week; she passed and is officially a certified pension trustee.

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Mayor Bendekovic advised that some appropriation requests were put into our State Representatives and Lobbyists and distributed copies for review. We will begin scheduling meetings with our State Representatives, State Senators and U.S. Representatives. If anyone has any points of interests they would like to be discussed feel free to email Priscilla Richards and they will be put on the list, as they go over item by item with each of the State Representatives. If they do not attend in person they send a Representative.

She also distributed a Federal Lobby Report that the Broward County Board of Commissioners do and distributed that for review.

Three requests were put in and two are for the ERC and lift stations and the other is for resurfacing Country Club Estates Plantation for \$1.5 million.

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Mayor Bendekovic indicated that we have six trolleys that are leased out. Three are leased to Homestead and it was recently learned that Hollywood would like to renew their contract to lease three trolleys. They requested permission to advertise on the trolleys.

Mr. Lunny explained that the Resolution approving the Hollywood matter allows the Administration to make minor changes to the documents, which is a typical Resolution. When this was being discussed, the City did not wish to have advertising on the trolleys while they were within the City's control because of the issues that once you allow advertising of one type it can be advertising of any type. His suggestion that is if you wish to allow your ultimate user, which is Hollywood or the Hollywood CRA to advertise on the trolley, interior or exterior, that the document be clear that all advertising must be removed, all adhesive would be removed and if the finish gets marred in any way that should be restored. He thinks it is important to make sure it is through some program that either the Hollywood City Commission or Hollywood CRA approves so that if someone is upset about advertising that is on a trolley running around a different part of the County and they find out that we are the owner of it, that it does not come back and reflect badly on Plantation and we can say that this was only done pursuant to a program approved by that other ultimate user. If we are leasing this to them and it is generating revenue one might say that if they wish to put advertising on it so be it but we did have both a property interest. He does not know how material it is for them but he would hate to ruin the cash flow because we need cash flow at this time. Those would be his suggestions on how to deal with it.

Councilmember Stoner questioned whether there is an indemnification clause in the initial agreement.

Mr. Lunny did not believe there was an indemnification clause as to this item. The subject of advertising within or without trolleys was not clearly addressed. It said in one section no advertising and in another section it said that they had to remove wrapping. His view is that there is no advertisement. He can imagine the reasons we did that when we had them.

Councilmember Stoner stated that we are saying that we are going to do an amendment with them and be a little more specific about how they have to return if they do the advertising. She believes we need some kind of indemnification clause if they get sued or we are pulled in as an owner.

Councilmember Levy thought that would be appropriate.

Mr. Lunny indicated that is one of those things that he did not perceive this to be within the authority that is customarily granted by those resolutions. If there is a consensus that we can do this he will do so.

Councilmember Levy commented with an indemnification.

There was a consensus to move forward with an indemnification clause.

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Mayor Bendekovic stated that she would appreciate attending the Firefighter's Memorial Service on October 19, 2013.

She requested that residents please support the Volunteer Firefighter's Barbecue on November 3, 2013.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS

Dennis Conklin, resident, mentioned that Kingsley Smith's wife passed away on Monday; arrangements are pending.

Mr. Conklin commented on the dashed line area comment that he was trying to make. He did not get the importance of saving flex units and still having extra flex units that were requested to begin with. Taking 200 units is basically about \$2,000 of property tax of which about \$400 is to the City. That is potential revenue to the City every year.

In response to Councilmember Levy, Mr. Conklin stated that by not using the units but developing what he is, he is creating the revenue that would have been created.

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Mr. Conklin also mentioned the photographs in Council Chambers and Obama Care.

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 10:30 p.m.

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Councilman Robert A. Levy, President
City Council

ATTEST:

Susan Slattery
City Clerk

RECORD ENTRY:

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

Susan Slattery, City Clerk