

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

November 20, 2013

The 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 Robert A. Levy Lynn Stoner Chris P. Zimmerman
Mayor:	Diane Veltri Bendekovic
City Attorney:	Donald J. Lunny, Jr.

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2. The invocation was offered by Mayor Bendekovic.

The Pledge of Allegiance followed.

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ITEMS SUBMITTED BY THE MAYOR

Mayor Bendekovic read a Proclamation designating December 5 – 15, 2013, as *The United States Tennis Association Orange Bowl International Championship Days* in the City of Plantation.

Lou Brewer with USTA, Lowell Kaufman and Conner Montana accepted the proclamation.

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Mayor Bendekovic presented Service Awards to the following Employees:

Jason Meadows	Parks & Recreation	25 years
*Colleen Guerra	Building	15 years
*Offer Samson	Utilities	15 years
Jose Quintero	Landscape	10 years
Terrence Shaffer, Jr.	Fire/Rescue	10 years

*Unable to attend.

Congratulations were offered.

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Mayor Bendekovic made the following announcements:

- “It’s A Wonderful Life in Plantation” holiday parade on Saturday, November 23, 2013 at 9:00 a.m.
- The annual Interfaith Thanksgiving Service will be held on Sunday, November 24, 2013 at the Plantation United Methodist Church at 7:00 p.m.
- The Orange Bowl International Tennis Championships will be December 5 – 15, 2013 at the Frank Veltri Tennis Center.
- The annual Forrest Gump Table Tennis Tournament will be on Saturday, December 7, 2013 from 9:00 a.m. to 4:00 p.m. The entry fee is \$20 per person.
- The Plantation Farmer’s Market is at Volunteer Park every Saturday from 8:00 a.m. to 2:00 p.m.

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

- The Winter Championship Swim Meet will run from Thursday at 3:30 p.m. through Sunday beginning at 7:30 a.m.
- This week is the PGA Web.com tour. That is Stage 2 and it started yesterday, November 19, 2013 and will conclude on Friday, November 22, 2013.
- There will be a Thanksgiving Day buffet at the Plantation Preserve Golf Course on Thursday, November 28, 2013 from 1:00 p.m. to 5:00 p.m.
- The 13th Annual Forrest Gump Table Tennis Tournament will be at Plantation Central Park Gymnasium on Saturday, December 7, 2013.
- The Annual Multi-Family Garage Sale will be rescheduled for Saturday, November 23, 2013.

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CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 14.

Mr. Lunny read the Consent Agenda by title.

3. Permission for Massey Yardley Chrysler Dodge Jeep located at 777 North State Road 7 to host a Holiday Event on Saturday, December 14, 2013 from 11:00 a.m. until 4:00 p.m.
4. Request to approve the funds to purchase the Intergraph maintenance contract – Public Safety CAD911. (Budgeted – IT)
5. Request to approve a purchase order to Xlyem Water Solutions in the amount of \$34,506 to replace two submersible Flygt pumps for lift station 76. (Budgeted – Utilities)

Ordinance No. 2492

6. **ORDINANCE** Second and Final Reading pertaining to the subject of Comprehensive Planning; recapturing the previously approved 227 flexibility units, and reassigning up to 286 flexibility units to the following described property located in Flex Zone 75 so as to permit the construction of up to 286 multi-family dwelling units without amending the City Comprehensive Future Land Use Plan; property lying in Section 9, Township 50 South, Range 41 East, and described as a portion of Parcel 816, according to the Plat of Jacaranda Parcel 816, as recorded in Plat Book 43631 at Page 1963 inclusive of the Public Records of Broward County, Florida. Generally located on the east side of SW 78th Avenue, 500 feet south of SW 6th Street; providing findings; providing a savings clause; and providing an effective date therefor. (286 Flex Units - Camden – Midtown 24).

Resolution No.11796

7. **RESOLUTION** assessing a lien on certain property for the cost to the City of Plantation of its mowing and clearing said property. (Silverberg)

Resolution No. 11797

8. **RESOLUTION** of the City Council of the City of Plantation, Florida, urging members of the Florida Legislature to oppose legislation that would mandate the use of a Uniform Chart of Accounts (UCOA) for all governmental entities to report financial information; providing an effective date therefor.

Resolution No. 11798

9. **RESOLUTION** of the City of Plantation, Florida authorizing an Amendment to the estimated Expenditures and Revenues for Fiscal year 2013; providing for severability; and providing an effective date therefor.

Resolution No. 11799

10. **RESOLUTION** of the City of Plantation, Florida, authorizing an Amendment to the Estimated Expenditures and Revenues for Fiscal year 2013; providing for severability; and providing an effective date therefor. (FY 2012/2013 Year – End Budget Amendment No. 2)

Resolution No. 11800

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 7 – November 13, 2013 for the Plantation Gateway Development District.

Resolution No. 11801

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 7 – November 13, 2013 for the Plantation Midtown Development District.

Resolution No. 11802

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 7 – November 13, 2013.

Resolution No. 11803

14. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 7 – November 13, 2013 for the City of Plantation's Community Redevelopment Agency.

NON-AGENDA ITEM

14a. Request to approve a special permission event for the Saban & Solomon Law Firm located at 150 North University Drive on Thursday, December 12, 2013 from 5:30 p.m. until 9:30 p.m. for their office party and holiday fundraiser to benefit the Joe DiMaggio’s Children’s Hospital.

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

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

NOTE: Mayor Bendekovic voted affirmatively on Item No. 14.

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Mayor Bendekovic introduced Mr. Yardley of Massey Yardley Chrysler Dodge Jeep and thanked them for their decades of the dealership, renovations to the Gateway and their investment in the City.

Mayor Bendekovic also introduced Michael Hooley, Jr. of Plantation Ford, also in the Gateway.

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ADMINISTRATIVE ITEMS

Mr. Lunny read Item No. 15.

15. DISCUSSION PERTAINING TO POLICY CONSIDERATIONS FOR THE GROWTH MANAGEMENT (TELECOMMUNICATIONS) ORDINANCE.

A memorandum from Donald J. Lunny, Jr., City Attorney, to Mayor and Members of the City Council dated November 14, 2013 follows:

INTRODUCTION

At its meeting of October 24, 2013, the City Council requested that Staff conduct another Industry Group Meeting before it addressed the Major Policy Considerations outlined in the memorandum. The requested purpose of the Industry Group Meeting was to determine if the Staff and Industry could come closer to agreement. Several underlying Major Policy Considerations in the areas of aesthetics, safety, and regulatory processes will affect language set forth in a working draft of the proposed Ordinance, and so it is premature to include a draft of the Ordinance in the Agenda Package. The Major Policy Considerations are set forth below, and are the same as last time. **However, the results of the last Industry Group Meeting on November 5, 2013 are reflected in red type in this Memorandum.**

PART I. NON-RIGHT OF WAY INSTALLATIONS

Major Policy Consideration 1: Draft the Law to Meet State “Super-Pre-emption” without regard to the Type of Communications Facility Involved

Different types communications facilities are subject to different types of regulations. For example, when wireless telecommunications providers agree to provide E-911 service, they enjoy a “super pre-emption” under State law that limits the zoning compliance review of tower applications to 90 days and of antenna applications to 45 days¹. While residential installations are subject to a “cooperative determination”, the thrust of the State law is that zoning authorities can not preclude E-911 wireless providers from residential areas. Other types of communications facilities do not enjoy “super state pre-emption”; however, they enjoy “federal pre-emption”. Given that, a tower is classified based upon the type of antenna hung on the tower, and given the City’s current desire not to increase human resources, the proposed Ordinance in most cases does not distinguish between different types of communications facilities, and is designed to meet the most strict State law pre-emption. While this policy consideration may result in certain types of towers being built within Plantation where they might not otherwise be built under a more comprehensively administered regulatory program, this approach would allow the City to administer the Ordinance without materially increasing its investment in human resources.²

The Industry Members and Staff felt the above Statement fairly describes this issue.

Staff still believes the Council desires the proposed Ordinance in most cases to not distinguish between different types of communications facilities, and be designed to meet the most strict State law pre-emption.

Does the Council agree that this Major Policy consideration should continue to significantly influence this legislative process?

Major Policy Consideration 2: Objective and Specific Regulation

State law will allow the City to enact aesthetic and safety regulations. Because of Major Policy Consideration 1, Staff would prefer objective and fixed regulatory requirements. In this regard, the following is noted:

- a. **Setback.** Staff had suggested a universal tower setback of one and one-half (1 ½) feet for each one (1) foot of tower height, except when the setback was measured from a residential area or for real property enjoying a residential classification, in which case the setback would be one and three quarters (1 ¾) feet for each one (1) foot tower height. The Industry comment almost always changed this proposed setback to one (1) foot in tower height. In all cases, setbacks are measured between the tower and related equipment to the property line (i.e. not from the lease line).

¹ I refer to these timetables as the “Shot Clock” requirements.

² Staff noted at a prior Industry Group Meeting that State law prevents the City from charging any material review fees for various applications to install telecommunications facilities because the City collects a tax on these services; therefore, there is no “new revenue source” that can pay for any increase in human resource expenses to administer a more comprehensive regulation. While the existing tax revenue may increase, the administration has requested that Staff try not to propose changes to the structure of the City’s current operations which increase the demand for human resources unless a new *source* of revenue can be used to pay for same.

The Industry Members and Staff felt the above Statement fairly describes this issue.

The Industry Group did not wish to offer any additional accommodation in increasing the proposed setback.

After further consideration subsequent to the Industry Group Meeting and in response to this Council's desire that Staff and the Industry move towards resolution, Staff wishes to make the following revised recommendations:

- i. The Building Official recommends a minimum, safe universal setback from all property lines, regardless of zoning classification, of 1.15 feet in setback for each 1.0 foot in height.
- ii. In addition to the above, the PZED Director recommends an additional setback requirement from the property line of any residentially zoned property of 1.5 feet for each 1.0 foot of tower height. This is an aesthetics-based recommendation.
- iii. Residential developments that are not located in a residential zoning district (e.g. *One Plantation Place, Veranda, Midtown 24* which are in the SPI-3) would meet the setback requirements of (i) above, and not (ii).

What does the Council desire concerning setback regulations?

- b. Maximum Height. In addition to a height restriction limited by a setback regulation, Staff prefers a regulation which establishes an overall maximum tower height as follows:
 - i. For public sites not owned by the City, the PZED Department proposes a maximum height limitation of one hundred twenty-five (125) feet.
 - ii. For industrial zoning classifications, the PZED Department proposes the communications towers should not exceed the maximum height of one hundred fifty (150) feet.
 - iii. For communications towers installed on other non-residential property, the Staff proposes a maximum height of one hundred twenty-five (125) feet.
 - iv. For residential property (where allowed by Cooperative Determination), Staff proposed a maximum height limitation of forty-five (45) feet.³ The Industry would prefer not to have a maximum height limitation and instead, regulate height by the application of setback requirements.

The Industry Members and Staff felt the above statement fairly describes this issue.

The Industry Group did not wish to offer any additional accommodation in decreasing the proposed height. The Industry Group reiterated a desire that the Variance Requirements for Board of Adjustment relief be liberalized.

³ Notably, most telephone poles and power poles in easements in residential areas are usually thirty-eight (38) feet above grade.

Staff did not wish to increase proposed heights beyond the following clarification:

Towers located within residential developments on property which is not residentially zoned (e.g. in the SPI-3 zoning district) shall have a maximum height of 125 feet (the same as non-residentially zoned property) as distinguished from 45 feet.

Does the Council have any desire to establish maximum height limitations consistent with Staff recommendations?

- c. Generators. Staff's draft would have permitted one (1) generator and one (1) above ground fuel tank to be permanently installed for each communications tower. During times of emergencies, portable generators and portable tanks would be permitted. The Industry's suggestions are to allow one (1) permanently installed generator per tower user and multiple above-ground fuel tanks (plural). In light of fire safety considerations, it is Staff's preference not to have multiple permanent generators and multiple, permanent, above-ground tanks. The communications towers located on City property have one (1) permanent generator for several users, and this has worked well for years. As for tanks, staff has advised the Industry that it will recommend that the Ordinance be revised to increase the size of the fuel tank, if located below ground. The Fire Department has agreed to not require "know boxes" for equipment cabinets.

The Industry Members and Staff felt the above Statement fairly describes this issue.

The Industry strongly desires multiple permanently installed generators and multiple above-ground fuel tanks (1 per tower user). Staff reiterated that one underground fuel tank could be sized as large as reasonably needed, and only one 250 gallon above ground permanently installed generator should be permitted. The Fire Department has over the years been requiring other uses to remove their above ground tanks for fire safety reasons). This is a life safety Department concern.

No progress was made on this topic.

Does the Council agree that there should be only one (1) permanent generator per tower site, or should there be multiple permanent generators for each tower site?

- d. Fencing. Staff's suggestion is to require an eight (8) foot opaque or solid PVC fence or wall around the equipment compound, and the Industry suggestion is that the fence be six (6) feet in height. **The Industry has withdrawn this suggestion.**

The Industry Members and Staff felt the above Statement fairly describes this issue.

No direction is needed from the City Council, unless of course, it disagrees with the above.

- e. Landscaping. Staff has recommended particular requirements for equipment compound landscaping that were objective and which would promote efficiencies in review. The Industry suggestion is to allow the Plans Adjustment Committee authority "impose reasonable landscaping requirements" without specifying what they may be. **This has been resolved to retain specific landscape standards and allow the Plans Adjustment Committee (PAC) to grant a landscape waiver based on the recommendations of Mr. Ezzeddine's site specific**

circumstances, which would take into consideration existing landscape within twenty (20) feet of the equipment compound.

The Industry Members and Staff felt the above Statement fairly describes this issue.

No direction is needed from the City Council, unless of course, it disagrees with the above.

Major Policy Consideration 3: Application Requirements

- a. State law allows the City to determine when an application is “complete” and once an application for a tower is complete, provides the cities have ninety (90) days to approve or deny such applications. Further, State law indicates that local governments may not require providers to provide evidence of wireless communications facilities compliance with federal antenna emissions safety regulations. State law would, however, allow the City to request the FCC to provide information as to wireless providers compliance with federal regulations as authorized by federal law. Against this backdrop, Staff’s draft indicated that an application would not be complete until staff requested and received confirmation from the FCC as to the provider’s compliance with FCC regulations. Alternatively, the draft Ordinance allowed an applicant an *option* to supply such evidence so as to be able to proceed with the application process. This provision was deleted by the Industry. The Industry explained to Staff that the waiting for the FCC to respond to the City’s query would create extraordinary delay.

Staff clarified that it would not object to the deletion of this provision, provided an enforceable safety acknowledgement was received as explained below in paragraph b.

- b. The Staff’s draft also required an enforceable acknowledgment from applicant of the City’s ability to require immediate removal of any communications antenna which at any time was determined to not meet all present and future promulgated safety laws, rules and regulations (Lines 434-441). This language was removed by the Industry. **This language will be revised, to allow the concept to be retained, but to add a notice and a cure period, and to allow the antennas to be “turned off” pending removal.**

Staff’s draft would also require the applicant to acknowledge that if the communications antenna interferes with public safety communications or the receipt of communications signals by adjacent property, the antennas can be removed. This language too was deleted by the Industry. **The City’s Special Communications Counsel, Mr. Liebowitz, will suggest language consistent with FCC regulation that addresses interference (a subject actively policed by the FCC), and the retained Ordinance will concern only interference with public safety communications.**

The Industry Members and Staff felt the above statement fairly describes this issue.

No direction is needed from the City Council, unless of course, it disagrees with the above.

Does the Council wish to delete Staff’s provision in Paragraph a above that no application be considered “complete” until the City receives information from the FCC concerning safety and compliance matters?

Major Policy Consideration 4: Role of Various Boards and Committees

- a. Given that the City only has ninety (90) days to review for compliance an application for a communications tower to an approve or deny it, Staff prefers that the Plan Adjustment Committee be used for this purpose. The Plan Adjustment Committee's role would be to review whether the Ordinance requirements were met; therefore, PAC's review is compliance based. The only limited waiver that the Plan Adjustment Committee would make is whether to allow a landscape waiver or whether to delete collocation capability (which is more limited in a stealth design) to reduce tower height.⁴ In the event a variance from the requirements were needed, a Board of Adjustment *separate* application would be necessary. This separate application would not be subject to the ninety (90) day "shot clock" application timetable.

The Industry revisions would grant the Plan Adjustment Committee additional power to make modifications to the standards of the Ordinance (i.e. to grant waivers to all aspects of the Ordinance). Staff is concerned that these changes would force the City to complete a *compliance review and waiver process* with ninety (90) days; whereas, State law *only requires a compliance review* during this period. The City does not have the resources to meet this request and Staff believes this change places an inappropriate burden on PAC members.

Staff previously stated it will recommend that the Council utilize different considerations for the Board of Adjustment to grant variances for telecommunications facilities. These types of provisions will be designed to address the Industry's concerns about not being able to satisfy the "hardship" requirement for variances as are normally required by the Board.

The Industry Members and Staff felt the above Statement fairly describes this issue.

The Industry strongly desires that PAC be able to grant waivers to all ordained requirements and that this be accomplished within the statutory "shot clock" timetables. However, it does seem appreciative of the Staff's willingness to support modifying the Board of Adjustment variance criteria. Administrative relief from the regulation's specifications seems to be a critical issue to the Industry.

Staff has agreed to recommend the right-of-way installations (Part II) be allowed to seek Board of Adjustment variances for height limitations.

Does the Council desire that the discretion of the Plan Adjustment Committee be very limited in granting waivers?

Does the Council agree that only a compliance review be completed within the "Shot Clock" timetables?

Does the Council desire to have Staff propose accommodative changes to the Board of Adjustment hardship variance standard?

- b. The Industry comment also significantly changed procedures for "appeals".

⁴ Staff has reconsidered whether to require communication towers to look like Bell or Clock Towers when they are located in Commercial areas and has decided against this proposal.

Staff's draft provided that appeals of Staff's determinations are processed like any other Staff appeal – namely to the Board of Adjustment.

The Industry revision would refer all appeals to the City Council. This means all staff determinations, PAC decisions and Board of Adjustment decisions could be “appealed” to the City Council.

Staff would suggest that if the City Council wishes to create an appeal process for PAC denials, that appeals would be considered by the Board of Adjustment because such Board also has the power to grant variances.

Staff is of the view that given the highly preemptive nature of State and Federal law in this area, the City can exercise little subjective discretion in denying installations; therefore, applications to approve towers and antennas no longer warrant the City Council's discretionary deliberation.

The Industry Members and Staff felt the above statement fairly describes this issue. No accommodation was offered at the Industry Group Meeting.

Staff strongly recommends that the Ordinance not provide an “appeal” to the City Council. This is because when an “appeal” is provided in an Ordinance, it becomes an applicant's “*right*”, such that the City Council has no direction to refuse to consider an “appeal”.

After thinking about the matter subsequent to the Industry Group Meeting and in view of the Council's desire that Staff and the Industry try to move towards resolution, Staff will support including in the regulation an elected official “*call up privilege*”, as distinguished from an “*appeal*”. The elected officials are familiar with the “call up privilege” process. It basically works as follows:

If a matter has fully concluded the administrative process and turns out unfavorably to an Interested person, he or she can ask an elected official to “call the matter up” before the City Council. If no elected official does so within a time certain, the decision below becomes final.

When any elected official decides to exercise a call up privilege, he or she notifies the City Clerk in writing and becomes a sponsoring elected official. The question of whether The matter will be considered by the City Council is placed on the Administrative portion of the City Council Agenda with a Staff report. The sponsoring elected official asks the Council whether it wishes to consider the matter and interested persons have the right to make remarks.

If the Council chooses to consider the matter it is set for hearing at a future, fully advertised hearing date, and the Council makes the substantive decision after considering all the evidence and any new evidence the Council allows to be introduced.

If the Council chooses not to consider the matter, the decision below stands undisturbed and becomes final.

The call up privilege allows the Council *discretion* to determine whether it will review the substantive matter, as distinguished from the Council review of the substantive matter being a “*right*” of Appeal.

Staff will also add the Ordinance authorized motion practice in front of the Board of Adjustment, so as to expressly authorize a motion for Re-Hearing and a Motion for Reconsideration. These are proposed as an accommodation to the Industry Group which desired an opportunity to readdress a matter again the in the administrative process before seeking judicial relief.

Does the Council wish to adopt Staff’s suggestions?

Major Policy Consideration 5: Antenna Installation on Buildings

Staff’s draft would allow no portion of a communications antenna to extend above the height of the portion of the building or tower to which it is attached. In this regard, the Industry desires that “stealth antennas” extend beyond the building heights by twenty (20) feet for buildings in excess of sixty (60) feet, by ten (10) feet for buildings between fifty (50) and sixty (60) feet, and by six (6) feet for buildings for more than thirty-five (35) feet in height. If other antennas are installed, the Industry revisions decrease the amount of the antenna that could extend above the building.

Staff recognizes that encouraging antennas on buildings would be preferred over independent tower installation. However, Staff is concerned about the visual impact of the proposed extent of protrusion (i.e. a twenty (20) foot antenna on a sixty (60) foot building would mean that the antenna height would be one third (1/3) the height of the building).

In all cases, the next draft of the Ordinance will more clearly reflect that the antennas on buildings must meet property line setback requirements based on height.

The Industry Members and Staff felt the above Statement fairly describes this issue.

No real progress was made in reducing the Industry desired heights for antenna on buildings because of the Industry concerns that the more you move an antenna into the center of a building roof, the higher it needs to be, and because to be effective, the Industry states that an antenna cannot be screened from view with material that will not permit sign penetration; therefore, the heights proposed must generally be tall enough to clear solid masonry parapet walls.

However, Staff and the Industry agree that the regulation might use a “percentage” height requirement (e.g. no more than 20% of the height of the building) to avoid the disparate results a “step up height regulation” creates. For example, under the Industry “step up” suggestion, a building 59 feet high would have a maximum antenna height of 10 feet; whereas, a building 61 feet high would have a maximum antenna height of 20 feet. Most everyone thought a flat percentage would be fairer.

Does the Council have any desire to limit the extent antennas can extend above buildings? If so, does it wish to employ a flat percentage allowance?

PART II. RIGHT-OF-WAY INSTALLATIONS

The second part of the Ordinance pertains to communications facilities located within rights-of-way. Industry comments to the Ordinance also implicate several policy considerations in this regard, as follows:

Major Policy Consideration 1: Height of Communications Structures in Municipal Rights-of-Way

Staff's draft indicates that communications structures within rights-of-way shall be limited to a maximum height of forty-five (45) feet. This is because most light poles in residential streets are approximately thirty-eight (39) feet above grade. Industry comment indicates that poles with collocated antennas will not exceed one hundred thirty (130%) percent of the original pole height. Given that the City is advised that some of the new technology has a small service radius, it is possible that many poles on residential streets could be significantly, visually altered in cases of collocation. For installations which would not be collocations, the Industry comment has maintained a fifty (50) foot height limitation.

After consideration the Industry comment, Staff has agreed to support a collocation regulation in most residential rights-of-way that would impose a maximum height requirement of the less of fifty (50) feet or one hundred twenty (120%) percent of the existing pole height. This would apply to most types of telephone and electric pole installations.

Staff has not formulated recommendations for transmission electric pole collocations. This subject will require some further input by FPL and Staff.

The Industry Members and Staff felt the above statement fairly describes this issue.

The Industry and Staff believe the residential collocation height requirement is workable, except when transmission poles are involved.

FPL has indicated that depending on the Council's desired policy for transmission pole collocations, the height restriction might be liberalized. Some of the transmission lines are located near residential buildings. FPL was requested by Staff to present to the City Council some examples of alternatives. It will do so.

Does the Council wish to allow some reasonable extension to existing pole height for extending poles and installing antennas in municipal rights-of-way as a "tradeoff" for a decrease number of installations?

Major Policy Consideration 2: Specificity of Street Light Installation

Staff's draft outlines an existing procedure where a wireless provider can substitute one (1) of its poles for an existing street light pole. This procedure was intended to directly facilitate placement of telecommunications infrastructure within rights-of-way, and would require installation to look like street lights. This provision has been deleted by the Industry comment. While the Industry comment indicates that the utility poles will look like a street light pole, the language does not require an energized light to be placed on the pole, with the power costs to be paid by the Industry.

The Industry Members and Staff felt the above Statement fairly describes this issue.

The Industry clarified that it does not object to Staff's specificity in this area, and so the Staff suggestion will be retained, unless of course, the City Council does not like Staff's suggestion.

Does the Council wish to retain Staff's specificity in this regard?

Major Policy Consideration 3: Maintaining a Separation Requirement on Municipal Streets

The Industry comment deleted language in the draft Ordinance which would have maintained a five-hundred (500) foot separation requirement between antenna poles along municipal rights-of-way. This language is critical to the City's ability to manage its right-of-way. This would not apply where an antenna would collocate on an existing pole.

The Industry Members and Staff felt the above statement fairly describes this issue.

No progress was made in this regard. While Staff will support allowing Board of Adjustment variances for the height requirements that apply in rights-of-way, Staff does not support the concept of allowing variance to right-of-way antenna pole separation standards.

Does the Council wish to retain a separation requirement?

PART III. CONSIDERATIONS THAT APPLY CITY-WIDE

Major Policy Consideration 1: Grandfathering

Currently, there are towers and antennas existing in the City that do not meet and will not meet the requirements of the new Ordinance. The Industry desires to know how the City proposes to treat this topic. In that regard, Staff notes:

1. The easiest option would be to grandfather all installations and allow them to continue to make changes to their installations that are not a "substantial increase".⁵
2. Another option is to establish reasonable amortization periods for equipment and tower installations to allow the owners to recoup their capital investment prior to being required to conform to the Ordinance. If the Council desires to explore this option, Staff advised the Industry to be prepared to address this topic. This second option would require time and effort to "police".

The Industry Members and Staff felt the above Statement fairly describes this issue.

Staff and the Industry prefer Option 1.

Given that this technology continue to rapidly change, Option 1 may be preferred. Does the Council agree?

CONCLUSION

The Legal Department sincerely appreciates the contributions of the elected officials, the Industry Group, Staff, and Mr. Liebowitz to this regulatory effort. No doubt, as we move forward in this legislative process additional policy considerations will become evident and will require resolution.

⁵ Going forward, any tower installed after the effective date of the new Ordinance would be subject to the applicable maximum height regulation even if it was not substantially increased.

Mr. Lunny advised that staff and the Industry have had four meetings and the last one was conducted in an attempt to resolve some further areas of apartness. He stated that he would go through the policy considerations and part of them, based on the meeting with the Industry, will involve Industry discussion or it can be done by hearing from the Industry first. He thought it might be easier to step through the considerations in the same format they were presented last time.

Councilmember Levy agreed.

Mr. Lunny stated that after he identifies the topic and speaks, if Council wants to hear from a staff member or from the Industry they can come up. He indicated that instruction is needed from Council before getting to the finer points of drafting. He hopes that tonight can be a policy type discussion. The first consideration was trying to have a general approach of satisfying the strictest legal test as opposed to having a much more comprehensive regulation. Recognizing that writing a standard to meet the most strict preemption might result in more towers in the City, it is still staff's desire to approach the subject from that vane as opposed to a far more comprehensive and expensive regulatory scheme.

Councilmember Jacobs mentioned expensive regulatory scheme and questioned what drives it being expensive.

Mr. Lunny indicated that it is both to write it and administer it. Special training and special drafting is needed. Depending on the type of antenna hung on a structure, it changes the application of the regulation; therefore, you might as well try to write the law to meet the strictest standard. That is his recommendation to the Council.

Councilmember Jacobs commented that based on his discussions with AT&T, they were concerned about flexibility in an application and the City not being able to review and grant exceptions.

Mr. Lunny stated that is a different area of the memo. We are talking about the overall regulatory approach, not about how to grant relief or the process for approval.

Councilmember Jacobs clarified that as an overall approach we should have the strictest regulation.

Mr. Lunny believed that we should try to write this to comply with the strictest standard recognizing that not all installations might be required to meet that standard.

Councilmember Jacobs stated that if it is not strict enough we cannot make it stricter later; we can only make it less restrictive under the Federal guidelines.

Mr. Lunny advised that Mr. Leibowitz's concern can be addressed with respect to aesthetic, separation standards, height regulations, and setback regulations, all of those fixed and objective regulatory criteria.

In response to Councilmember Jacobs, Mr. Lunny indicated that landscaping requirements could be increased. This first policy consideration logically would not be objectionable to the Industry it is just a question of regulatory approach, which he believes is the proper purview of the Council to make.

Councilmember Jacobs agreed.

Mr. Lunny stated that the second consideration is that staff desires having very simple check the box type of criteria with little discretion. The desire is to have simple non-discretionary standards with regard to setback, height, landscape, generators and fencing. With respect to setback, the Industry's position was one-foot in

height and staff has, after the meeting, revised their setback recommendations. The Building Official is recommending 1.1-foot for each foot in height and the Zoning Director is recommending 1.15 feet for each one-foot in height for residentially zoned property. One accommodation made by the Zoning Director was that there are several developments in non-residentially zoned areas and the Industry specifically asked that the residential zoning rule not apply in that area as staff had previously proposed. Staff did accommodate that request but not to the degree that was proposed by the Industry. In reviewing this, Mr. Joe Balow (sic), who was Mr. Leibowitz's partner, felt that the Industry always indicates that these towers crumple on each other and very rarely fall down this way, which is Mr. Sabouri's concern with the 1.15 setback. Mr. Balow indicates that the antennas and stuff on the tower can sometimes fall away from the tower so he felt that maybe staff was being somewhat conservative in terms of the number; however, this is staff's recommendation. Any installation would have to meet the Florida Building Code regardless. We were not able to come to an agreement on setback. The City is allowed to create safety and aesthetic regulations and these issues will be addressed by Mr. Sabouri and Mr. Leeds.

In response to Councilmember Jacobs, Mr. Lunny stated that the Building Official said 1.15 feet to one-foot for everything.

Councilmember Jacobs questioned whether they want 1.15 feet for non-residential also.

Mr. Lunny advised that the setback would be 1.5 feet in setback from any residentially zoned property for each one-foot in height. Mr. Sabouri's recommendation is a minimum safety recommendation no matter where it is in the City and Mr. Leeds is making an aesthetic based recommendation to separate them further from residential lands.

Councilmember Jacobs mentioned towers in light industrial and stated that there is residential at one of the property lines and questioned whether that would trigger the 1.15 feet.

Mr. Lunny indicated that it would trigger the 1.15 feet from that setback.

Councilmember Jacobs commented if the tower were located in a residential area it would be 1.15 feet all around.

Mr. Lunny stated that as he understood Mr. Leeds' recommendation, if residential was across the street it would be 1.5 feet from that residential zoning line including the street and the other private property.

Councilmember Jacobs noted that the street counts as part of the setback.

Mr. Leeds advised that if the tower is located on non-residential land and not in Midtown, the setback from the residential property would be 1.5 times the height of the tower. Council approved a tower for different purposes; that was taller but that setback was close to over two times the height. Based on discussion with the Council, it was reduced from 1.75 feet to 1.5 feet. If it is across the street from residential, the street portion of the right-of-way figures into the 1.5 feet so the applicant is not penalized if they are across the street or across the canal. That is still considered part of the 1.5-foot setback.

Councilmember Jacobs referenced the 1.15 feet and questioned if that would have to be that distance from the property line. He commented that the residential requirement might not push the tower back.

Mr. Leeds stated that is the difference from any property line or the street right-of-way line. With regard to pushing the tower back, that would depend on the specific location.

NOTE: Councilmember Fadgen is in attendance.

Councilmember Stoner advised that it is going to depend on the height of the tower when looking at the practical application of the setback. She used Midtown as an example and noted that they need to have wifi spots everywhere, which means there has to be some cell facilities in the area to provide that. She questioned how a setback would be determined for these towers in that kind of an area where you definitely want to provide that type of service. Even in residential she questioned the average height of a tower.

Mr. Leeds stated that in a commercial district it would be 125 feet so in Midtown it would be 125 feet.

Councilmember Stoner commented that all of a sudden you want it 200 feet from every property line. In her opinion, the practical application does not make sense.

Mr. Leeds noted that is the minimum distance from any property line; 1.15 feet, which is the recommendation of the Building Official.

Councilmember Stoner indicated that when talking about things falling; it is going to meet Building Code. She appreciates that safety is part of the decision but she does not know that these setbacks make sense.

Councilmember Jacobs questioned what happens if something is put on a light pole.

Mr. Lunny advised that these rules apply to private property installations they do not apply to right-of-way installations.

Councilmember Jacobs questioned what would happen if there is a private property with a parking lot and light poles and they want to use the light poles instead of towers.

Mr. Lunny indicated that they would have to meet the setback requirement.

Councilmember Stoner noted that does not make sense. She questioned the drawback on a commercial piece of property in reviewing them on a case by case basis; there are so many variables and given that we are basically built out.

Mr. Lunny advised that the legal requirement is that a complete application must be reviewed and approved or denied within 90 days for a tower or 45 days for an antenna. The recommendation is general regulations that would apply Citywide and if relief from those regulations is needed there would be a separate application for a Board of Adjustment variance and that application would not be subject to the shock clock requirements.

Councilmember Stoner mentioned that Board of Adjustment says that they have to show the hardship was not of their doing.

Mr. Lunny believes that is a discussion about whether Council is going to modify those standards. Everywhere in the City there are general rules about how things are done and an appropriate relief valve about how to get a site specific accommodation. He is not proposing that there not be a relief valve; there are some ideas about the relief valve that they would like to discuss with Council, but generally as to setback, the Building Official is

indicating that 1.15 feet would be his minimum safety requirement because he is concerned about tip over on other people's property. If it falls on the individual property that is one thing but not on other people's property.

Councilmember Stoner commented that she has only seen one FP&L pole tip and she questioned what the typical construction of the new cell towers is going to be.

Mr. Lunny could not answer that. The setbacks are a traditional zoning tool; the Industry recommended one-foot to one-foot and Mr. Sabouri said one-foot to 1.5 feet.

Mr. Sabouri stated that he did not know. A monopole was proposed and they said it would have hinges and sections, which he has not seen. He has to go based on what is already known on regular towers. He wants to make sure that regular towers fall on the individual's property rather than on a neighbor's property. He has a concern if the tower falls in case of a hurricane or anything of that nature.

In response to Councilmember Stoner, Mr. Sabouri indicated that the current Building Code is the same as the International Code. He stated that the structures are designed as an envelope; this is a monopole and it has to be self supporting; there is no guide wire holding it in place, especially when you go over 100 feet. Normally they do not act the way they are designed to act; they act differently. If there is a slight problem in workmanship the tower will not function the way it is supposed to.

Councilmember Levy commented that prior to hearing from the Industry and considering their needs as well he questioned how Council feels regarding this issue.

Councilmember Jacobs believed that 1.15 feet sounds reasonable and the 1.5 feet is workable especially considering it on a street as the street would be included.

Councilmember Fadgen stated that the excess of the height of the tower is not that significant; therefore, the 1.15 feet should be sufficient.

Councilmember Levy felt the same.

Councilmember Zimmerman indicated that he was all right with the 1.15 feet but he would like to hear a little more on the 1.5 feet. He knows it is residential and understands where Mr. Leeds is coming from aesthetically but he would like more discussion as the Industry as some thoughts on that.

Mayor Bendekovic noted that 1.5 feet is fine. She sat in the last conference and she understands where Mr. Leeds is coming from because of the aesthetic and residential.

Councilmember Levy advised that is where we stand but we will hear from the Industry as well.

Mr. Lunny clarified that 1.15 feet is all right. The next consideration is height. Staff was a more liberal with the first cut; however, they have become more conservative in their height restriction. The Industry did not wish to have any additional accommodations but desired regulating height strictly by use of the setback function and staff wanted an overall height restriction.

Councilmember Jacobs commented that the height of the tower near the Police Department is 400 feet but it is hardly noticed.

Councilmember Stoner noted that the issue is the setback.

Mr. Lunny indicated that this would apply under #1 for public sites not owned by the City. When the City owns a site it has the authority to site plan, develop and consider the public need and what public safety communications go on that tower, which is what happened to that tower. These are regulatory constraints when others who are not you are proposing to build on property that the City does not own.

Councilmember Stoner stated that the point was aesthetics.

Councilmember Jacobs mentioned that 125 feet compared to 400 feet is a big difference but we certainly do not want a proliferation of 400-foot towers all over the City.

Mr. Lunny advised that our Special Communications Counsel wishes him to emphasize that the technology is changing to where towers are being brought down in height and there is some concept that the lower they are the more able you are to reuse existing frequencies and that helps the network and aesthetics. Their view is that these height requirements would likely not be significantly objectionable over the longer term and that we may want to look at this particular height regulation in a year or two and see how it is going. He believes that the Industry's comment was somewhat similar; in their material there is some discussion as to how some things might be changing. He thinks that Council should hear from the Industry before setting this standard. If this standard is all right then Council might consider reducing it a little now or in the future. It is felt that this is workable for our City at this time with this simple check in the box type approach.

In response to Councilmember Jacobs, Mr. Lunny stated that Motorola is 185 feet. Motorola would not be able to put up that tower unless they got relief pursuant to the discussion we will have later. That is why the first time this was wrote this industrial was 200 feet or 185 feet and Mr. Leeds has refined his thinking on that. The Industry was told up front that those heights will be re-evaluated.

Councilmember Fadgen mentioned that in terms of height we have the Industrial zone classification but what about an office park.

Mr. Lunny noted it would be 125 feet.

Councilmember Fadgen questioned whether 150 feet should be permitted in that location. The reason he mentioned this is because on both sides of University Drive around Peters Road reception is horrible. He is not sure whether the other 25 feet in some of the office parks to the west would help that situation.

Mayor Bendekovic commented that there is a 400-foot tower in that area and with AT&T she can never use her phone in that building or in the parking lot because of the blockage.

Councilmember Fadgen stated that he has the same experience in his office; he has to go across the street.

Mr. Lunny advised that the Legislature has forbidden us to consider the quality of service to the provider's customers in establishing regulations or in administering them.

Councilmember Stoner indicated in the early days a lot of people were putting the towers on top of their buildings.

Councilmember Fadgen referenced the whole central business district and questioned whether the height restriction should be 125 feet rather than 150 feet.

Councilmember Levy noted that the only one he sees is Industrial at 150 feet; the rest are 125 feet.

Councilmember Fadgen questioned why a higher height is not allowed since it is not residential. He is happy with 125 feet for residential but the rest should be 150 feet.

Councilmember Zimmerman commented that residential is limited to 45 feet.

Mr. Lunny indicated that another concern is that once State and Federal law come in and they show a 124.75-foot tower that meets the setback they are approved. There could be quite a population of towers at that height. The benefit to that might be enhanced service to the citizens with some aesthetic cost. The Industry has said if a few more feet are added they do not need them so often. He believes that is a constant theme; there is a trade off between height and number.

Councilmember Levy believes that we have to plan what we are doing now for future so we do not have to keep revising. Enough leeway has to be given in order to allow that to happen as the Industry progresses through the year. Councilmember Fadgen made the proposal about making 150 feet the norm other than the residential at 125 feet. He questioned how everyone felt about that.

Councilmember Jacobs preferred to hear Industry comments regarding that because he does not have enough information.

Councilmember Zimmerman and Councilmember Stoner agreed with Councilmember Jacobs.

Mr. Lunny advised that the next topic is generators and tanks. This is another life safety consideration and where the life safety officers have a concern is where he is most firm. The Industry strongly desires to have a permanent generator for each provider on a tower and separate above ground tanks for each provider on a tower. The Fire Chief and staff say that there will be one generator sized to meet everyone permanently installed for the tower; one generator for the tower just like we have on all of our City sites. In terms of the tanks, there will be one tank above ground 250 gallons maximum, which is the Fire Chief's requirement, otherwise they can go underground and have one much larger. The Fire Chief has informed the Industry that the Fire Department is required tank removal in other places and this is, in his judgment, a safety concern. Mr. Lunny has informed the Industry that staff will be very firm on this point; no progress was made on this topic.

Fire Chief Stearns indicated that they spent a great deal of time over the last six or seven years going around to public businesses making sure they meet the code in the City Code Book, which is one tank per complex or per property. A lot of compliance has been gained over the last five years. Very few tanks do not meet the code and they have been cited. To reverse that now for the Industry would not be good. It is believed to be a hazard to have those kinds of tanks above ground; anything larger than 250 gallons. Propane is a hazardous material and that is what they are using. We have offered underground of any size they want but we want to remain where we are, strict at law, throughout the whole City. A decision was made on the generators after Hurricane Wilma that there would be one generator per pole and that has been done across the board with the Industry and with the City and there is no reason to change that now.

In response to Councilmember Stoner, Fire Chief Stearns stated that the tanks are regulated but they do not get monitored like a fire alarm system. He advised that they check the tanks, which are double wall concrete vaulted tanks that go underground. They have a lot of regulations before they go underground.

Councilmember Jacobs questioned if LP leaks whether it goes into the air. He also questioned if diesel tanks are going to be put above ground.

Fire Chief Stearns indicated that LP leaks are pretty close to the ground; natural gas goes up. It is pretty well regulated by the gas company. The tanks can be diesel if desired; they also run on LP. The tanks need to be underground because that is safer.

In response to Councilmember Jacobs, Fire Chief Stearns stated that one tank, 250 gallons, can be above ground.

Councilmember Stoner commented that she would like to see them all underground.

Fire Chief Stearns stated that a lot of established businesses that were here for a long time could not afford to put them all underground; therefore, a limit was put together and the code was written at 250 gallons.

Councilmember Zimmerman noted that there is a code and an amount has been established for all businesses and it seems like this should follow suit.

Mayor Bendekovic believes that we should remain status quo. If portable generators are needed they can bring them in.

Councilmember Stoner questioned whether bringing portable generators in for a limited amount of time is on the books.

Fire Chief Stearns advised that goes under Emergency Preparedness; we allow that no matter what.

In response to Councilmember Stoner, Councilmember Jacobs indicated that a 250-gallon generator will last about 48 hours.

Councilmember Levy indicated that there is a consensus to keep what we already have on the books.

Mr. Lunny mentioned fencing, which is no longer an issue. With regard to landscaping, the ordinance proposed specific requirements for the compound and the Industry requested that the Plan Adjustment Committee impose reasonable landscape requirements. The concern is that it is not a check in the box that requires unreasonable burden on the elected official at Plan Adjustment Committee to specify those requirements for the first time. It was agreed that the ordinance would retain its specific standards but that the one waiver for landscape requirements would go to the Plan Adjustment Committee if Council was alright with designating that authority to PAC.

Councilmember Stoner expressed concern that if there is an existing FP&L pole there are wires. The City has had issues in the past where there have been a required amount of landscaping and invariably all of these years later the trees mature and as a result there are some funny looking trees. She questioned how comprehensive landscaping will be because you do not want the trees compromising existing lines.

Mr. Lunny advised that when FP&L is on private property it would be at their substation sites. Most all of their other installations are in right-of-way. We are talking about the compound where the generator and cabinets would be and there is not necessarily a compound on right-of-way sites.

In response to Councilmember Stoner, Mr. Lunny indicated that there will be a fence around these sites. The landscape requirements are a continuous double row of hedges planted 30 inches on center having a height of 36 inches and a spread of 30 inches at the time of planting; a group of three to five Sabal palms of staggering heights planted eight feet on center palm to palm with a 15-foot separation between groupings and having an overall height of at least 24 feet; one Category One tree planted 35 feet on center having a height of 12 feet and a spread of six feet and a trunk caliper of 3.5 inches; and one Category Two tree planted 20 feet on center having a height of 10 feet with a spread of four feet and a trunk caliper of two inches.

Councilmember Stoner questioned how much we are anticipating the square would feasibly be with the fence around the spot; the dimensions.

Mr. Lunny believed the draft said not to exceed 400 square feet.

Mr. Ezzeddine stated that the last compound FP&L did was near Volunteer Park and it was approximately 20' x 16'.

Councilmember Stoner thought that this sounded a little overkill for a 20' x 20' spot especially when they are off center. She questioned if something specific could say that the trees need to be re-evaluated.

Mr. Lunny noted that he was not certain that most of the antennas being discussed are going to have wires on them; most will be towers. He did not think about the wire issue.

Mr. Ezzeddine advised that they evaluate every situation. He stated that communications towers do not have wires on top.

Mr. Lunny commented that he received no direction other than it sounds all right.

Mr. Lunny indicated that the application requirements were a subject of discussion. His perception is that we are all right on that.

Councilmember Levy stated that it pretty much takes safety and everything and goes elsewhere. We cannot rule on that.

Mr. Lunny stated that the shock clock starts when the application is complete. One Councilmember expressed significant concern over omission safety, which we cannot, under the State Law, ask about. We can write to the FCC under the State Law and wait for them to answer and not have an application be complete; however, we cannot require safety information from the Industry under State Law. That was his idea of saying we will write them and if we do not hear back nothing goes forward or the Industry has the option of supplying it. There is no case authority indicating that can be done; the Industry feels that we are doing some indirectly that we cannot do directly. He believes it is defensible. The Industry says that the FCC is somewhat of a large agency that recently was closed and they do not feel that if a small City wrote them that we would get any kind of answer anytime soon. The ordinance also requires an enforceable acknowledgement that the Industry will, at all times, comply with safety regulations. We do not intend to police that but if we learn that they do not then we will ask that the antennas be turned off. The trade off is that staff is willing to give up writing the FCC and

waiting in return for the safety acknowledgement. He believes that the Industry is rather pleased that staff is doing that.

In response to Councilmember Stoner, Mr. Lunny advised that the safety acknowledgement does not provide any indemnification to the City but it can. He does not believe under the law today that we have exposure for that but if Council wishes an indemnity it can be added. This topic has not been discussed with them.

Councilmember Levy believed that would be a good idea.

Mr. Lunny mentioned that he wrote a special interference clause and the Industry objected to it. Mr. Leibowitz suggested that some FCC language be used on interference that everyone seemed to think works well and we will retain our own interference rule when it comes to our emergency providers. We are not going to wait for some other procedure if their communications equipment is interfering with our Rescue, Law Enforcement or suppression action. That is his recommendation.

In response to Councilmember Stoner, Mr. Lunny stated that he is uncertain what the FCC process and rule is for eliminating interference when you are a resident and a cell tower goes up and then you cannot get the same reception. There is some process for resolving those interference issues. Staff is indicating that we will follow the Industry's suggestion and Mr. Leibowitz's suggestion to follow an FCC like process. Mr. Lunny is recommending that we have a specific different standard for our need to reach our citizens. He has not yet formulated that standard; this is a policy decision. He would like to formulate our own standard; he does not want to wait and he does not think there is a lot of objection. He thinks that if an officer with a badge tells the Industry we cannot get to a portion of the City and to turn the antenna off they will turn it off until the situation is resolved. He questioned whether Council wants to try to do that or not.

Councilmember Levy was in favor.

Councilmember Zimmerman believed that we should have some control over public safety; that has to take priority.

Councilmember Fadgen and Councilmember Stoner agreed.

Mr. Lunny indicated that the next discussion is trying to put governance structure into the City's existing governance apparatus and a way of getting through the process in 90 days or 45 days. His thought is that the Plan Adjustment Committee be used to review these requirements that are non-discretionary and if the requirements are met they get approved; if the requirements are not met the application is denied according to State Law. The Plan Adjustment Committee would have to deny the applicant to prevent an installation and they can only be denied for failure to meet these objective criteria. The issue then becomes how we get relief. His suggestion is that the applicant go to the Board of Adjustment for a variance and they have requested a change to the variance criteria so they will not have the burden of proving that the reason for the variance is not a self created hardship. He has indicated to the Industry that he can support modifying that standard so that the standard would not apply. He would not go as far as what they were proposing but he does feel that some modification might be appropriate. Whether he should work on the modification is a policy issue; he questioned whether Council wants to liberalize the Board of Adjustment variance rules so as to have different rules for height limitations or setback limitations and questioned whether they want to have some change to the normal variance. Council does not have to have it but you might consider liberalizing it a little and this is a strong issue for the Industry. The main thing he is trying to do is not have a review and waiver process done where the person that evaluates and decides whether to grant the application has all kinds of discretion to waive because

that is a review and waiver process within the shock clock and we are not required to do that. He is saying that one Committee; Plan Adjustment Committee, approve or deny them and if relief is needed they have to go to the Board of Adjustment. The next policy consideration is whether the Council would like him to propose modifying that a little and have a discussion with the Industry on that topic as he has indicated that he would be willing to do.

Councilmember Stoner clarified that the Board of Adjustment criteria will be adjusted as well as allowing the call up privilege.

Mr. Lunny stated that he has not discussed the call up privilege. All decisions by staff can get appealed to the Board of Adjustment and routinely do from time to time. The Board of Adjustment grants variances and refuses to grant variances all the time; they are independent of the City. If the variance is not approved they can go to court. He has indicated in the memorandum that he would write it to make them feel more comfortable and have some motion practice in front of the Board so they can ask for a re-hearing or reconsideration and kind of formalize that and that should take care of the issue. The important thing for the Industry is that their concern is about the requirement of self created hardship. There are also other legal concerns; a variance has a different judicial test in terms of how the courts look at variances as opposed to other types of administrative relief. He expressed to the Industry in group meetings that he would ask that Council allow him to work with them to soften the variance criteria.

Councilmember Fadgen questioned whether the Plan Adjustment Committee would have the first review and then the Board of Adjustment.

Mr. Lunny indicated that the Plan Adjustment could grant or deny an application based on the criteria. There are only two waivers that the Plan Adjustment Committee would make. A landscape waiver so when a tower is built they have to provide for the ability of co-locaters to be on that tower, which tends to increase the height of the tower because of antenna or mounting space and clearance. The Industry questioned what if they wanted to go a little less and have a smaller tower without two co-locations but maybe at a single tower. The Plan Adjustment Committee can bring the tower height down a little and not require as many co-locations. Those are the only two areas which are real simple and do not involve variances. It is believed that this would not be a burden for the Committee; the elected official sitting on the Committee would be approving towers that met the criteria. If you do not want the power to grant a waiver it will be written so they will go to Board of Adjustment. He is trying to write this in a way that is sensitive to the Council's functions on the Plan Adjustment Committee and the fact that under the law it is going to be a check in the box and you do not have much discretion to refuse these. He thinks that having more discretion of the Plan Adjustment Committee might be problematic for some and he has the same feeling that that is why there should not be an appeal to the Council, instead there should be a call up privilege but that needs to be handled differently.

Councilmember Zimmerman agreed with trying to write something for the Board of Adjustment. When someone comes in they can actually be bettering something; it is not a matter of hardship, it is a matter of having something better. As long as it is improving and not distracting from he thinks that should give them some ability.

Mr. Lunny stated that was discussed; maybe a better place on the site would work better than meeting all of these other requirements. That is why he believes that for this Industry we might want to modify that standard. He is not sure that he would go as far for everyone.

Councilmember Zimmerman understood and said that this could be re-evaluated if it is thought to be appropriate.

Councilmember Levy stated that the consensus was to liberalize.

Mr. Lunny questioned whether Council was all right with the small discretion given to the Plan Adjustment Committee to come down a little in height and a little down on landscaping.

Everyone agreed.

Councilmember Fadgen questioned if there is little discretion why shouldn't it be a call up. He suggested letting staff decide it themselves.

Mr. Lunny advised that there is no call up at the Plan Adjustment Committee. The Industry would like that no matter what; at the end of the day regardless of what happens at the Board of Adjustment or Plan Adjustment Committee, they want an appeal to the City Council. The rationale is that it gives us one last chance to deal with an administrative entity before going to court. His reaction was that no one has an appeal to Council from the Board of Adjustment; an appeal cannot be accommodated within the shock clock timetables and will not be part of any shock clock. He feels that Council has to weigh the important business of Plantation which remains discretionary. In terms of efficiencies of government, those are the issues that are brought to the governing authority; the discretionary important issues. If it is non-discretionary it does not deserve to come before Council because there is nothing you can do. He does not want to be perceived as removing the prerogative of any elected official any power that you might have to ask the Council to deal with a subject. While he feels strongly that an appeal is not appropriate because it is a matter of right with the applicant or an interested person. There is a call up privilege where things do not become final until Council is notified that something has occurred and then you have the ability to ask the clerk to put it on an agenda. Council has the discretion to decide whether you are going to deal with it or not. This has worked well in other instances and if some of you wish to have a call up privilege to evaluate a matter that has completed Board of Adjustment and Plan Adjustment Committee review that would be a policy decision. He does not believe that an appeal is appropriate especially after Board of Adjustment says they are not granting a variance. If Council wants a call up privilege from the Plan Adjustment Committee, that might be something to consider. He basically said no to the Industry and then was trying to think about what he perceived to be the Council's direction last time and was trying to accommodate a desire.

Councilmember Jacobs questioned how a call up would work procedurally.

Mr. Lunny advised that if the Plan Adjustment Committee approved a tower and a resident was unhappy they could approach the Councilmember and say that they would like Council to reconsider this. You could ask for information about it and if you felt that you wanted Council to address it you would then ask the City Clerk to put in on an agenda and you would become the sponsoring elected official. At the meeting you would have to convince your colleagues that this should be addressed for the following reasons and they can decide whether they wish to address it or not. If they choose to address it then it would be set for a fully advertised hearing later. We have this in other aspects of our procedures; they are rarely used and Council understands why they are rarely used. He was trying to create a process and as he said to the Industry, he is not going to write in an appeal unless he is ordered to.

In response to Councilmember Fadgen, Mr. Lunny indicated that typically the timeframes are short, staff writes a memo to the Council and then there is 15 days for an elected official to say they want something discussed at

a meeting. If that instruction is received, the action below is stayed, there is no final decision until Council determines whether you are going to review it or not.

Councilmember Jacobs questioned if it would be appropriate if an applicant asks a Councilmember to review it.

Mr. Lunny stated that would be appropriate; an applicant or an interested person.

Councilmember Jacobs liked the fact about trying to address Industry concerns; it might be adequate and might not be but it is a step in the right direction. Having a Right of Appeal to the Council versus call up troubles him.

Councilmember Fadgen agreed; a call up is a better option.

Councilmember Zimmerman and Councilmember Stoner were in agreement.

Mr. Lunny stated that the Industry requested a certain height of antennas on rooftops. This is an issue that Councilmember Stoner alluded to earlier. He thinks staff's reaction was that it looks a little high and the Industry explained that the antenna must exceed the parapet wall generally. There are options to take out a parapet wall and put in some sort of membrane to let the signal penetrate the membrane and still have the appearance of a parapet. Mr. Sabouri said that will not work in a structural parapet. Some discussion needs to take place regarding this topic. Mr. Leeds questioned moving the antennas to the center of the building so when someone is standing they cannot be seen at street level. The answer is yes but they need to be higher. This is a topic that he is not sure we really came to a conclusion on. We agreed on one thing and that was that instead of the step up rule the Industry suggested if a building were a certain height the antenna is a certain height and if the building is a little higher the antenna is a little bigger and that we have a flat percentage so there are not any discrepancies. Under the step up, if the building is 59 feet high the antenna would be ten feet and if the building is 61 feet high the antenna would be twenty feet. Everyone at the Industry prefers to have a flat percentage; however, this needs to be discussed further because he is not sure that they came to any conclusion.

Councilmember Levy suggested hearing from the Industry before reaching any conclusion since there are not any recommendations.

Everyone agreed.

Mr. Lunny referenced right-of-way installations. The thought is that generally people are more accustomed to seeing things in the right-of-way that is in the nature of utility installations than on private property. Even in residential areas there are sometimes street lights, poles, etc. and the citizens are more accustomed to seeing those. The approach of the ordinance is to try to locate antennas in those areas rather than on private property and the trade off is the setback rule. In terms of right-of-way, he thinks we are pretty much in accord for municipal rights-of-way, which are our residential streets. Our height would be the lesser of 50 feet or 120% of the existing pole height. The reason he came up with that was because FP&L and AT&T representatives had a schematic that said most of their poles are 38 feet above grade and a little antenna above that can be accommodated for 45 feet. The reason for the 120% is that some of the neighborhoods are powered by underground service and they do not have a traditional overhead service pole; those are quite often lower than 38 feet above grade. It was thought that 120% might work there. He requested that FP&L present tonight that they have transmission poles in corridors of the City and they also have substations. They have advised that if we give them a little more leeway in terms of adding things to the top of their poles to clear those high power wires that it might be a better result for the City. That would apply in the substation sites, which are near

residential according to Mr. Leeds. Mr. Leeds is a little concerned about how that might work. We have asked FP&L to discuss that directly with Council to see what the thought is. He believes that the height rule on municipal rights-of-way is all right. The street light issue was resolved at the last meeting when Mr. Butler, FP&L and the Industry worked out a scenario; they would apply to remove a street light and pay for it. The Industry would then put up a new street light, energize it, have it look like the old one and put an antenna on it and they would pay for the energy. He believes that we are in agreement with that. The issue is the separation requirement for streets. Staff is saying that if you are collocating on an existing pole go ahead. If you are putting in a new pole that is single purpose communications then it has to be 500 feet away from another communications pole. This was in the ordinance when Mr. Leibowitz warned last time that this technology is coming and his concern was that it would be on every pole. This is what staff feels is appropriate in an attempt to maintain some control over our rights-of-way and this is a significant topic for the Industry where services are underground. He does not think it is overly significant where services are overhead because usually in residential areas there is one pole doing service drops for two homes and most of our lots in those parts of the City are not so big that it becomes an issue. Staff is sticking to the 500-foot separation requirement.

Councilmember Stoner questioned whether we have discussed about how many collocations can go on each pole.

Mr. Lunny stated that the Industry group reviewed a schematic that FP&L had; he believes that one antenna would get them to the 45-foot limit. The Industry has been very helpful with information such as this. There have been some pictures with Crown Castle; they have a little smaller antenna. He could not recall for FP&L and it may be lesser for AT&T; they have a requirement that antennas be a certain distance from their lines because they view their poles as principally to support their wire service not other technology. He thinks it is one but it may be more depending on the technology that is being used.

Councilmember Stoner questioned whether we get franchise fees on all of those that go up.

Mr. Lunny indicated that we do not get franchise fees on those that go up. There is a Communications Tax that has been adopted and those taxes will be on the Industry's revenue. He did not believe there is a separate franchise fee for this. There will be a registration requirement. Almost uniformly, the Industry lobby is to reduce to the point of virtually zero municipal revenue except through the tax.

Mayor Bendekovic commented that we recently opposed that reduction. A House Bill was going to reduce the Communications Service Tax; we already lost \$610,000.

Councilmember Levy mentioned the separation requirement and questioned whether that takes into account regarding the higher they go the less number of towers.

Mr. Lunny stated there is another existing three-quarter of a mile separation requirement on private property that will be the likely discussion in the future. On right-of-way it is 500 feet. He is not convinced that the three-quarter mile system will work.

Mayor Bendekovic noted that there was a working group last year at State level that wanted to eliminate the Community Service Tax all together and then add a penny tax on everyone. That was opposed.

Councilmember Levy indicated that is why it is so important that we are part of the League of Cities and fight this kind of legislation.

Mr. Lunny advised that there is no debate over how to treat grandfathering. He proposed to grandfather everyone and start fresh. Another legal option is that non-conforming towers can be required to come into compliance within a time certain and if you wanted to do so you would have to hear from the Industry about what would be a reasonable time to recover their investment in order to have a reasonable regulation. Staff is saying that it would be easier for them to start from scratch and the Industry does not object. Council may want to go further.

In response to Councilmember Stoner, Mr. Lunny clarified that starting from scratch meaning that whatever is in the field now will never need to comply with the law.

Councilmember Stoner questioned the definition of substantial increase.

Mr. Lunny indicated that substantial increase is a term of art in a Federal declaratory statement that says cities cannot prevent a tower from being modified provided it is not a substantial increase. The definition of substantial increase in this declaratory statement is increasing the tower height by more than 10% or the height of one additional antenna array with a separation from nearest existing antenna not to exceed 20 feet, whichever is greater. The mounting of proposed antenna would involve the installation of more than the standard number of new equipment cabinets, not to exceed four or more for one new equipment shelter. The mounting of proposed antenna that would involve adding appurtenance to the body of the tower that would protrude from the edge of the tower no more than 20 feet or more than the width of the tower structure at the level of appurtenance, whichever is greater.

Councilmember Stoner mentioned the quickness of these changes and questioned whether whatever is mounted would also have that kind of quick change. She also questioned if it would be within the realm to say that they have a five-year period to bring it current.

Mr. Lunny advised that can be done. His advice would be that if you want to have a time period within the reach compliance that it has to be reasonable in light of the investment and you can say if your initial investment was blank years it is going to be blank years. The problem with those requirements are not whether they are legally enforceable because it will be written to be enforceable, the problem is policing the things. Mr. Leeds or Mr. Sabouri is going to have a lot of work to keep track of all of this and we are trying to reduce the need to increase human resources and keep the same people, no more. We will do this if Council requires us to do so; it will be very difficult for Mr. Leeds and Mr. Sabouri to do this with their current staffing.

Councilmember Stoner questioned whether we have a database that has all of this in it.

Mr. Lunny did not know. He suggested that she talk with the Directors on that topic as to how they would do that. He is recommending that as of today everyone is grandfathered in and not look back; that is staff's recommendation.

Councilmember Levy stated that if we were to do that and it altered the present set up they would have to come to Council for approval. His concern is that it is grandfathered in and then they say it needs to be brought up to a better standard within the Industry or a new Federal regulation. He questioned if we would have any say in that.

Mr. Lunny indicated that it would not come to Council; it depends on the type of alteration. There are some that take the position that the substantial increase statement is something that cities can reasonably attack. He would

rather indicate that if the Federal Agency says you can substantially increase a tower and cities cannot stop it that one should not try to stop it.

Councilmember Levy commented that is tough; it is happening in our community and we have no say.

Mr. Lunny noted that this lobby is a great lobby. In his opinion substantial increase is not a creeping standard and he believes that a maximum height requirement can be imposed, which the ordinance says. Our communications lawyer and the Industry say it is not like that because when they build a tower they build it from day one and it is going to be a certain height in order to meet the Florida Building Code and unless that code changes it is hard to raise it without starting from scratch. Mechanically, in terms of construction, this worry is not a practical worry.

Councilmember Levy mentioned collocation of devices and other kinds of listening devices that people are concerned about and questioned how that can be regulated.

Mr. Lunny stated that he would propose to follow the ordinance. It is very clear that when you look at the Federal and State Law, especially given that people are getting rid of their landlines on an increasing basis that we need to get to these people when we have emergencies that towers are coming.

Councilmember Jacobs referenced taller towers built before the new ordinance and suggested that they be grandfathered in. He questioned if they will be treated like a non-conforming use. If they are destroyed in a wind event he questioned whether they will be entitled to rebuild as it was before or will it be treated like a variance.

Mr. Lunny advised that topic was not discussed.

Mayor Bendekovic believed that the standard we have today should be followed rather than allowing them to rebuild something that does not meet the standard that we have.

Councilmember Jacobs clarified that if it is a non-conforming use and is substantially destroyed they would have to meet the new code but if they are truly grandfathered in or if they have a variance then the variance gives them the right to continue.

Councilmember Levy agreed that they would have to be built to today's standards. He questioned why we would let someone build to an inferior standard because they were grandfathered in if they are destroyed.

Councilmember Jacobs stated that there are certain high towers that are high for a reason and unless technologies change they may still need it at that height.

Mayor Bendekovic commented that maybe they could keep the height but not the structure; it would have to be built to today's standard but the height could remain the same.

Mr. Lunny noted that they might just need two towers relatively close together to get the same number of providers that were on the other tower. He does not recall that issue being completely flushed out. You might ask your professional staff or the Industry whether that was discussed.

Councilmember Stoner referenced the substantial increase and noted that if someone makes modifications that are less defined if we could tighten that to say the substantial increase from the day of grandfathering. She questioned if it could be totality.

Mr. Lunny replied yes. His comment was directed to if a tower is originally constructed under the maximum height of the substantial increase and is something that is a creeping regulation. No one modification sets it over but accumulative does. It is believed that the overall maximum can be regulated and that is probably as aggressive as he would recommend.

Councilmember Stoner stated that not only was height described in the substantial increase; collocations were described as well.

Mr. Lunny indicated that he would have to look at that more carefully because he has not studied the substantial increase rule to explain everything it might say. He thinks the Industry will comment about it.

Councilmember Levy advised that some people are present for Items Submitted by the Mayor and for Awards, etc.

Mayor Bendekovic indicated that she was going to ask that the other items be done prior to hearing from the Industry.

Councilmember Jacobs advised that there are four items Council would like to hear about; maximum height, antennas on top of buildings, the FP&L transmission lines, and the separation requirement.

Suzanne Montgomery, in-house attorney for AT&T, was present. They have been working with staff and her presentation is not for AT&T specific, it is more for the Industry in general. She agrees with Mr. Lunny that they have made a lot of progress; however, there are more issues to discuss. She is giving the presentation on behalf of her client, Maria Johnston, who was unable to attend this meeting. She is generally going to talk about the technology and the evolution of the Industry. Jana Loda (sic), counsel for Verizon, is going to talk about the legal issues, the structure of the ordinance, the specific topics discussed with Mr. Lunny and a couple of other issues that they, as an Industry, would like some clarification on. Counsel for Crown Castle, Melissa Anderson, will be speaking specifically about the right-of-way issues.

Ms. Montgomery explained that 40% of American homes are wireless only and the younger generation is an even higher number. All of this drives the need for wireless infrastructure. They want clear rules and regulations. There is an increased build of antennas and that is why they are here. They need to expand coverage and more towers need to be built in order to meet the demand. Under Federal law they are not allowed to make judgment calls on the propriety of how customers use the spectrum; they need to allow it all to go through in order to meet customer needs. When a new cell site is needed they look at the identifying need and determine if they are at capacity on an existing structure; if they are having reports of dropped customer calls in a specific area; if a new business development is going in and if they know what will drive increased use in that area. They do a propagation map and select a site. Usually they will have a few blocks radius with some wiggle room but the cell towers can only cover a certain area so they are limited within a small area when looking. They look for an appropriate location and a lot of factors go into that such as what is available, can they go on something else, is there another tower with capacity, is there a building with room on the rooftop, is there a parking lot with some vacant space in the back that no one is going to see. They look at the regulations put in place and once they get over all of those hurdles their technicians and vendors will get the construction done and get it activated to meet the customer need. They are only doing this on a needs basis. All of their

clients have capital budgets and are limited by the dollar. All companies investing in America are spending a lot of money but they are not spending irresponsibly; they spend as it is needed and if they have a way to do it in a way that is more cost effective they will do so, such as a collocation, an antenna on a building and not doing a new site, which is more disruptive and not as aesthetically pleasing to the City than going on something that is already there. That is in their common interest as well. With regard to the setbacks previously mentioned, there is going to be limited available space within the City where they can build towers because with a 1.15-foot setback and the 1.1-foot they proposed as a compromise, they are limited given how built out the City of Plantation is. They will have to look for locations with large open parking lots or fields or they will be requesting a modified variance. They look for an appropriate piece of land and determine if it is accessible and suitable from a zoning perspective. They also look at government owned properties when there is something available, which is a win-win for everyone; it gives revenue and helps them provide some support to the City. They are doing a lot in evolution and the Industry is responding to the City's needs to make these things smaller and more aesthetically pleasing. The small cell structures on the existing utility poles is something new that came out late last year early this year. They are working to make things better for the cities. They are working to respond to those needs and that is driving the evolution of this ordinance.

Councilmember Jacobs questioned if all of the Council members understand the different types of cellular technology as given; the macro, which is the big tower, the small cell, and then the distributed antenna system. He believes that more of the distributed antenna systems will be seen.

Everyone understood.

Attorney Jana Loda (sic) was present. As a member of the Industry, she agreed with Ms. Montgomery and others that they feel they have been working very well with the City.

Ms. Loda mentioned Federal and State law, which frames the Industry comments and their suggested revisions to the proposed draft ordinance. The Telecommunications Act of 1996 had an objective to open up markets to competition by removing regulatory barriers to entry. It was to provide a pro-competitive and deregulatory national policy framework to allow the deployment of advanced information technologies. This Act not only authorized a pre-emption in favor of the FCC but also placed limits on local regulatory control. Some of the key provisions was that local regulations shall not unreasonably discriminate among providers of functionally equivalent services; shall not prohibit or have the effective prohibiting provision of personal wire services that the local government should act on any request for authorization to place a wireless facility within a reasonable period of time, any decision must be placed in writing and cannot regulate the placement, construction or modification of personal wireless services on the basis of environmental effects. The current total landscape, which is framing some of the revisions they are suggesting as an Industry have occurred in the last several years. The Middle Class Tax Relief and Job Creation Act in 2012, Section 6409, included a provision that provides that local government may not deny and shallow proof any eligible facilities requests for the modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. There was a lot of confusion after that Act; therefore, the FCC issued a public notice on January 25th, which helped to clarify some of the terms used in Section 6409. Following that notice the United States Supreme Court also issued a very distinctive case; the City of Arlington vs. The FCC. Two Florida Statutes apply; first is Section 365.172, which is known as Florida's Emergency Communications #E911 Act, which will be referred to as the E911 Act. That basically was to facilitate reliable E911 service through wireless communications. In that Act in 2005 through 2007 various changes were made. Specific provisions were incorporated that facilitated and encouraged collocation of wireless facilities. By doing so, the ultimate desire was to facilitate a seamless E911 system, which in Florida, is one of the few states that actually has enhanced E911. That is when someone makes a 911 call it not only goes to a central station, it also gives

where the call emanated from, which is very important with respect to first responders. Some of the key provisions in the E911 Act are that collocation on towers and non-historic structures are encouraged through an expedited and limited local government review. The modification of replacement of wireless facilities including non-conforming towers is allowed if it is required to permit collocation. There is a process for wireless deployment in residential areas. It clarified that the local authority is limited to addressing only land use and zoning issues. Application fees must be reasonable and pose what will be called the 4590 timeframe for approval of applications and also allowed certain maintenance and repair of non-tower facilities subject to local government review. The other State Statute that is more limited in its focus where the E911 Statute applies generally to communications facilities being deployed throughout the City. Section 33741 is focused expressly to public rights-of-way. Any of the regulations must be reasonable, non-discriminatory, and competitively neutral. With regard to the overall structure of the ordinance, staff has agreed with the ordinance being divided into three parts; part one dealing with deployment of towers and antennas on property that is not the public rights-of-way; part two which relates to the deployment of facilities within public rights-of-way and part three, the appeal process. Part 1 and part 2 has its own definitional framework which is specific to that particular type of use. There are definitions appropriate to communication facilities that are not in the rights-of-way and for facilities within the rights-of-way. In part 1 there were definitions for a communications tower as well as for a wireless communications tower. They tried to make the definitions more expansive to take into account the evolving technology. Some of the definitions are what you see in the Federal law as well as the State law. A definition for Eligible Facilities Request was added in Section 6409. One of the policy considerations Council is looking for deals with setbacks and height. Any setback, whether it be a 1 to 1 or 1 to 1.5, is in all likelihood not going to be met with a new tower facility in the City of Plantation. The City is in a large part developed and there are not large open fields where a setback can readily be met. They appreciate the accommodation that staff has made to reduce it to 1.15 feet; however, they still believe that 1.1 feet is sufficient for aesthetics as well as for safety but they will take whatever direction the Council offers.

Regarding height, the taller the facility the wider the coverage can be provided and the more providers can be placed on the facility. The shorter you go the fewer providers and the smaller the area and more towers are necessary to cover that area. Where the circumstances warrant a higher tower they certainly support a higher tower not only to allow greater coverage but also to allow additional providers to locate on that facility. If the objective of the City is to eliminate a lot of towers certainly allow a greater height where it is appropriate to do so she believes is reasonable. The next major change made to the ordinance is the preference class. The original ordinance had land use base preferences in Class 1, 2, 3, etc. It was modified to site and priorities using the same hierarchy proposed in the ordinance. This is something that has been adopted by numerous other cities within Broward County. For the installation of a new tower the requirement would be to see if it can be put on a public building site and going down the hierarchy. She believes the Industry is proposing that towers in residential districts are not allowed, they would only be allowed when you go through the cooperative process with the City to make sure it is sited in a thoughtful way. The next Industry policy consideration is the application process for a new tower. Several things were in the initial ordinance that they thought were problematical. Several things were requested, one of which is a disclosure of every single property owner and individual they contacted to site a tower that denied them as well as a written consent from all easement owners on the overall parent track even if their easement was not impacted as part of the leased parcel. They requested favorable consideration of those items. The next item is generators and fuel tanks. The wireless industry and the services they provide especially during a storm event are critical. They are not a typical business. When it comes to a single antenna that has multiple providers it is critical that they are able to provide service and the best way is to make sure they have their own generator so they can be sure it will be there and working when needed and to have a sufficient fuel source. She understands that the fuel tank is an issue. Her understanding is that a 250-gallon fuel tank will power one provider for two days. They would like to have more discussion regarding this issue with the Council. With regard to landscaping, they were trying to fold on flexibility.

Contemplating that this might be a facility tucked in the back of a corner, that landscaping may be more appropriate in the front of the site or along the perimeter especially since you are trying to hide the compound. Landscaping was initially priced at about \$220,000 and thought that was a bit onerous. Should there be a viable exception or waiver process? Their main thought process is that a lot of times these are a "hot button" issue knowing that on every case there is going to be some type of modification or waiver for a tower just for the setback alone. She appreciates that staff is willing to consider some modified standards because the typical hardship criteria and typical variance standards, they believe, are not appropriate given the type of use and request that would be made. With regard to antenna regulations, this is just for antennas that are being sited on existed tower structures or antennas being sited on non-historic buildings, which is what everyone would prefer rather than a new tower. They suggested changes to the application process. The application referred back to the application for a tower structure, which is in some instances is not applicable. Landscaping is not required for antenna installations on rooftops. They folded in the definition of eligible facilities requests so there is a section where something qualifies as an eligible facilities request. That just makes the ordinance complaint with Federal law. As far as collocation, the Industry's proposal is to tie the height of the tower to its capacity for collocations. This is something that is standard in a lot of other cities in Broward County, which, depending upon the height, you are requiring a certain number of collocations or antenna arrays. With respect to buildings, the main thing the Industry would like to see is flexibility. When there is a taller building there are a lot of opportunities for different types of attachments. You can attach to the building, paint it to match and someone would probably never know it is there. If there is an elevator shaft you could flush mount it to the elevator shaft. If staff's desire is to place it away from the edge of the building the one consideration they would request for flexibility is as you move away from the edge of the building line of site with an antenna, because they operate through the air and are trying to effect transmission down for cellular service on the ground, you need to be able to clear that building. As you go into the building they need flexibility to go up higher in height. There are things they can do to stealth them and to mask them; however, they would like to discuss this with staff. As you go shorter on the building the same considerations apply. Flush mounting probably will not be viable the lower you go. They recommend that there be flexibility built into the ordinance, possibly with aesthetics being one of the driving factors.

Attorney Melissa Anderson with Crown Castle was present. She explained that they are not a wireless carrier they are a telecommunications company and a wireless infrastructure provider for the carriers. She showed an actual propagation map of Plantation where they would like to put their nodes and noted that there is a point on Sunrise Boulevard. There are two different Florida Statutes dealing with cellular; one is more designed for towers, which is Section 165372 and Section 337401, which deal with facilities specifically in the rights-of-way. That is what Crown Castle is dealing with in its permit applications to the City. Section 337413 is specifically directed towards communications services providers and Section 337401 allows utilities to access the rights-of-way in Florida. Section 337413 specifically talks about communication services provided. They are different from a wireless company or telecommunication company; they want to provide communication services in some capacity in the rights-of-way in Florida. There are a lot of different small cell structures; therefore, there needs to be a better wireless network where there are not so many outages and dropped calls. That includes any building coverage in stadiums, major office buildings, etc. both for people's telephones and for 911 and other necessary emergency systems. A gas system is designed to provide coverage in the immediate vicinity where it is installed. These are low powered antennas and they actually provide coverage within a quarter of a mile so they are serving the residents in the communities where those utility poles are located. The gas systems they are installing consist of a utility pole with a low powered antenna on top, associated cabinetry, and each pole is connected by fiber optic that is run underground usually to a hub or back to a server. They are all designed to run back to where ever the carrier wants them to go. They help provide coverage or provide more capacity. The towers and wireless are not working properly because there are too many people trying to get on. A stealth of tower facilities is different because they are different types of

infrastructure. Their stealth facilities are going to be designed to look like light poles. With the City's cooperation they are going to apply to have an FP&L pole retired and replace that with a different light pole and put a gas antenna on top; it will be another functioning street light but it will have an antenna on top. They have two locations where they are planning on putting the poles and there is another location on Sunrise Boulevard. The pole is already in place but it is not functioning because it does not have power to it; she believes that is in FDOT jurisdiction and that is why it has not been permitted through the Engineering Department.

She thinks that a lot of the concerns about the small cell portion of the ordinance have been addressed. There is a 500-foot separation requirement in the ordinance. The Industry believes that the 500-foot distance requirement between these utility poles would not potentially be able to accommodate. The 500-foot separation may not be an issue for the next year or two; however, as technology changes and as they need more facilities to cover the wireless demands there may be an issue with that requirement. They requested to have the 45-foot height requirement increased, which is going up to 50 feet.

Mr. Lunny clarified that it is going up to 50 feet or 120% of the existing pole height for municipal rights-of-way and 45 feet for residential sites.

Ms. Anderson stated that they are fine with that.

Councilmember Jacobs referenced a photograph and questioned whether the three poles would be allowed next to each other.

Mr. Lunny advised that 500 feet is the separation standard that would apply not under collocation but when a communications provider wants to install a new pole in a right-of-way; it has to be 500 feet away from an existing pole with communications on it.

In response to Councilmember Jacobs, Ms. Anderson stated that their pole does not have a light on it; it is an antenna.

Mr. Lunny indicated that the separation standard would not allow what is shown on the picture; the separation standard would be from a new pole to an existing pole. The theory would be that they would have to collocate on the other pole and not have a new pole right next to it. That is what staff proposed.

Councilmember Jacobs commented that if that is the way it is going to operate then he questions the 500 feet as being too much; it is making it too difficult for the carriers to do what they want to do.

Mr. Lunny advised that it says that the 500-foot separation requirement is only for our municipal rights-of-way. There are different rules for right-of-way owned by a superior governmental entity.

Ms. Anderson noted that FDOT will not let them go on a lot of the poles. They work with FP&L to get on their poles as best they can; however, they currently do not have an agreement to get on FP&L street lights.

In response to Councilmember Jacobs, Mr. Butler stated that the street lights in Jacaranda Lakes are not necessarily 500 feet; it could be smaller. Staff would like Council to focus on the practicality of this as well. We have existing residential neighborhoods that already have utility poles of some sort, particularly the older neighborhoods. It is strongly believed that they want the Industry to maximize their ability to co-locate because they feel it is the better thing to do. That will make it a little easier for those neighborhoods that have existing facilities to not see such a proliferation of this. The issues they are concerned about are neighborhoods that are

predominately serviced underground where you do not necessarily see a lot of poles. They do not want to see a great proliferation of it there either. Therein lies the issue about the separation and they feel strongly that 500 feet is something they want to align on.

Councilmember Jacobs suggested that we start with 500 feet and see how that works; we can always make it smaller.

Mr. Butler advised that when you craft legislation you always have the option to revisit things. The Industry is indicating that at least for now it may not be an issue. We would like to test this and see if the 500 feet will actually work.

Councilmember Jacobs clarified that municipal rights-of-way in residential areas such as single family home areas more than Sunrise Boulevard, which would be a State right-of-way, or Pine Island Road, which is a County right-of-way. He noted that Cleary Boulevard is a City right-of-way and on that road would be a 500-foot separation.

Councilmember Stoner questioned if there is a way that we can require collocation first versus a new one.

Ms. Anderson indicated that they would rather collocate, it is cheaper and easier so they always attempt to collocate; they do not want to put in new poles. The problem is if there is an FDOT pole where they cannot get on it or another street light pole. If they cannot get on it they have to put in a new pole. The Industry is starting to work to try to make sure we can collocate more often because it is a municipal concern about proliferation of poles.

Councilmember Stoner noted that upon submittal the question should be whether collocation was attempted. She questioned the nearest tower and why it was not collocated.

Ms. Anderson advised that if they could put an antenna on a tower and it worked it would already be there. This is in a residential area because it has to be there in order to get the coverage; it is not working from the tower. She understands the concern and noted that a lot of cities are putting it in as preference for them to collocate first to provide proof of that through a letter from FP&L saying they cannot collocate because it is too close to the power lines and then they will be able to put in the new pole.

Mr. Lunny stated that is one reason why staff had very particular comments because they want to know who you talked to and what was said so that staff can evaluate that. Generally the law encourages collocation; he is not sure whether we could deny something where they refuse to collocate; however, he is rather confident in enforcing the separation requirement.

Councilmember Stoner commented that they have obviously had other municipalities in the County include this as the first preference and proof by submitting backup material that they did inquire on collocating. She stated that everyone has to have some projections as to the number you intend. She questioned whether Council projects a one-year plan, five-year plan, ten-year plan; the projection time in number. They applied for two nodes this week and that is all they have had planned for Plantation for an entire year. There are 339 nodes for the entirety of South Florida. She noted that there are 26 square miles in the City and there are only two on the projections.

Ms. Anderson indicated this is actual demand; this is not projection. They are being built to fill a need and there is probably more need out there. This is a huge project and 239 nodes have already taken a year and a half

and they are only half way through the build. More will probably come to Plantation; however, she does not know. The carriers would have that information and that is probably proprietary information to them. She stated that the demand for data is going to increase how they meet those demands. In two years there will probably be better technology.

Ms. Montgomery advised that type of information is proprietary and they do not tell the lawyers. She understands that there is a permit pending because one of the antennas is an AT&T antenna but it is not their tower; they would be a collocation on that tower. That is the only antenna she understands that have an immediate build planned for the City of Plantation. That is why they were able to work so cooperatively with staff regarding the moratorium because they do not have anything upcoming other than that one location. She has not seen any information herself but that is not to say that it is not there. When she went on the expansive moratorium she was told that there was nothing forthcoming that would be impacted.

Councilmember Stoner commented that concessions are being requested on how they are going to choose to put their product in the City yet you are not willing to tell us how much usage is projected. Initially she thought we were being too tough and going overboard and now she is taking that back.

Councilmember Levy indicated that he would rather be tougher now than later. The only thing we can do is set the enabling legislation and deal with it on an as needed basis.

Councilmember Fadgen mentioned that collocating is a cheaper alternative but yet sharing generator and fuel tank equipment would also seem to be a cheaper alternative. It may fragment the availability for different providers on a single tower. He questioned whether sharing those costs that support equipment could be overcome.

Ms. Montgomery believed they are two different issues; generator versus fuel tank. When looking at the fuel tank sharing is possible; however, the more providers you have the more fuel demands you have and the quicker you will be out of fuel. The generator would be a more difficult issue because everyone has their own individual equipment that is powered and to ensure that the generator is operating properly might be more difficult. It is not the Industry's preference because you want to make sure the equipment is running when you are in a major regional storm event.

Councilmember Jacobs questioned if there is a backup generator on that node. He also questioned whether the generators are restricted primarily to larger towers.

Ms. Montgomery advised that the box contains two backup batteries.

Ms. Anderson believes that generators are restricted primarily to larger towers. The generators are for the micro cells, not the small cells; there is going to be more batter opportunities. She does not know the anticipated time of a battery backup but it is not going to be the length of time of a generator with a fully stocked fuel tank.

Councilmember Jacobs commented that is why the AT&T landlines went down after Hurricane Wilma because the batteries ran out. He believes it is important that we understand where the generators are going to be needed. If it is just going to be on macro cells it is a different story entirely. He requested clarification; it sounds like the Industry believes that all we are going to allow is a 250-gallon tank. He thought we were talking about a larger tank if they were underground.

Mr. Lunny indicated that we have been clear on this point. Larger tanks underground will be allowed and one above ground generator per tower on private property will be allowed, not multiple ones. During times of storm events the Industry can bring in portable generators and portable tanks and that they will be permitted to operate during those times.

John Meyer, Senior Attorney with FP&L Fiber Net, introduced Juliet Roulhack (sic), External Affairs for FP&L. Mr. Meyer advised that they are a telecommunications company but they do not do wireless work. They are probably better known as the broker and manager for FP&L in the use of its infrastructure or attachments by wireless carriers. They have been involved in the development of this ordinance from the outset. They are pleased with the direction this ordinance is going with the exception of the height restrictions that are currently in Section 5.5-57E. As Mr. Lunny indicated earlier, those height restrictions are the lesser of 50 feet or 120% of the existing structure's height. While that is appropriate for distribution poles they feel it is inappropriate for regulating transmission poles, which by their nature range between 72 feet and 90 feet. He reviewed some information that was distributed as follows:

The first page is an overhead of Plantation that indicates the transmission rights-of-way where FP& L transmission poles are currently located. Pages 2, 3 and 4 are indicative of a piece of infrastructure they have employed on FP&L's behalf. This is referred to as the I-pole. The primary purpose of this structure is as a transmission pole; it is to support transmission. The secondary purpose is as a wireless attachment structure. What appears to be a smaller piece of the pole on top and is actually a canister that contains a wireless antenna. They can deploy these structures and collocate a maximum of three carriers on such a pole in canisters that stack, not one on top of the other. The issue with the height restrictions is that they do not really apply to transmission poles and they are not getting the opportunity to maximize the collocation aspects of the structure.

In response to Councilmember Jacobs, Mr. Meyer stated that they would like to see a graduated height structure based on the collocation. They would like 130% of the initial structure height for anything two carriers and below. If there is a third carrier they would like to see a maximum height of 130 feet. This would only be for transmission.

Councilmember Jacobs questioned whether transmission lines are defined clearly in the ordinance.

Mr. Lunny advised that it has not yet been designed because a conclusion has not been met as to how the transmission concept should work.

Councilmember Jacobs noticed two different kinds of antennas and stated that neither are an issue. He referenced the first and second page of pictures.

Councilmember Fadgen questioned whether they would ever have a transmission canister on top of the neighboring pole.

Mr. Meyer indicated that would be regulated by the separation requirement.

In response to Councilmember Jacobs, Mr. Meyer stated that they would let the wireless carriers determine how many backup generators they need. They are simply an infrastructure provider.

Mr. Lunny reminded everyone about Hawks Landing having an FP&L transmission line and at one time there was a transmission tower that got switched out for a cell tower and the difference in perception of a tower that is 70 feet to 80 feet and 130 feet is something that is appreciated by normal senses. Council might want to think

about this and get additional information as to what the usual heights are of the transmission lines and get a feel for 130% would look like.

Councilmember Jacobs commented that 130% of 80 feet is 104%; it is 24 feet taller.

Mr. Lunny noted that the other context of the distribution poles would be the lesser of 50 feet or 120%. Remember that there are transmission poles in the substations and then along the line. He would like to hear how high the transmission poles are and what FPL is asking for.

Mr. Myer explained that the range in height of a standard transmission pole is 72 feet to 90 feet. They are looking for 130% of the existing structure height with a maximum of 130 feet if they are able to put three carriers on that pole. If a third carrier applies to go on that pole they would look to increase the height to 130 feet maximum; it may not be required.

Councilmember Levy stated that it should be in the ordinance. If three collocators are on the pole that means less towers.

Mr. Myer advised that it will cut down on the number of structures that are needed with wireless attachments.

In response to Councilmember Fadgen, Mr. Myer indicated that he is not aware that anymore transmission poles will be built; that is FP&L's business. Borrowing an unforeseen catastrophe that is all there will be.

Councilmember Zimmerman questioned whether that is 130% maximum or 130 feet maximum, whichever is less.

Mr. Myer clarified that it would be 130% of the existing pole height for two or less carriers collocated on that pole and a maximum of 130 feet if there is a third carrier or installation that will go on that pole.

Councilmember Zimmerman commented that the poles are between 72 feet and 90 feet and if there is a third carrier on a 90-foot pole the increase will be almost 40 feet; almost 50% of the pole height.

Mr. Myer noted that it would be unlikely that they would go that tall.

Councilmember Jacobs indicated that if there is a concern about the height then we do not allow the height and they cannot do three carriers and more poles will be required.

Councilmember Levy stated that there is a trade off and we will have to have more towers at 90 feet than we would at 130 feet.

In response to Councilmember Fadgen, Mr. Myer stated they are stacking canisters; ten feet for every canister.

Councilmember Stoner mentioned that it all comes under the substantial increase.

Mr. Lunny advised that the right-of-way rules are a little different and a separate rule is needed for these few corridors where FP&L has transmissions because the existing framework did not work. Under the 130% the 72 feet becomes 96 feet and the 90 feet becomes 120 feet for two and the question is whether Council wants to go above that.

Councilmember Jacobs commented that if it is a 100-foot pole it would end up being 130 feet with three carriers; a 90-foot pole with two carriers would be 120 feet. The highest we have in the City is 90 feet. Based upon what he has heard he does not have a problem with those standards but he would like to take a drive through the four rights-of-way and check it out prior to finalization.

Councilmember Levy stated that Mr. Lunny needs direction tonight to start formulating our thoughts.

Councilmember Jacobs suggested carving out transmission lines and follow that standard for now.

Ms. Loda with Verizon Wireless responded to Councilmember Stoner. She suspects that their involvement is proprietary but she believes that it is a large demand of their customers. Whenever a jurisdiction seeks to amend its wireless communications ordinance she is asked by her client to review the proposed revisions to ensure that they are consistent with State and Federal law and to offer comments in that regard and also comments to help for future applications that there may be; that they are workable based on what they know.

In response to Councilmember Levy, Councilmember Jacobs summarized the four items as follows:

Maximum height:

On public building site the City is proposing 125-foot maximum height and they are asking for 200 feet plus a different setback.

Mr. Lunny indicated that his notes from those four meetings are different and are set forth on page 2. Staff's proposal is on page 3 and it is 125 feet for public sites not owned by Plantation; for Industrial 150 feet; for communications on all other non-residential 125 feet; and for residential private sites are allowed by cooperative determination of 45 feet. His advice is that it is believed this is appropriate and any deviation should be by a variance.

Councilmember Jacobs mentioned that there was a consensus on the setback to be 1.15 feet. He noted that he would consider going to 50 feet in residential instead of 45 feet.

Councilmember Fadgen was in favor of the 45 feet.

Councilmember Zimmerman would like to stay with staff's recommendation at the moment. We can always opt to do something later.

Councilmember Stoner was in favor of letting the City proposal go.

There was a consensus to go with the City proposal.

In response to Councilmember Levy, Councilmember Jacobs advised that transmission lines are not included; we are going to carve out transmission lines.

Antenna head on top of buildings:

Councilmember Jacobs commented that he was thinking of stealth antennas they put on the side of buildings.

Councilmember Stoner noted that there is still the projection; she questioned whether it is the goal to have the antenna up so that you can get reception all the way around.

Councilmember Jacobs stated that it is done different ways; one way is panels on the sides of the building and the other is antennas on the top.

Ms. Montgomery with AT&T advised that it can be done on the side of the building as a stealth, which they have done quite a bit in Miami Beach. They get painted the color of the building and get blended in. On the rooftop they will need more height to get past the building structure.

Mr. Lunny indicated that the first proposal was that it would be attached to the side of the building and not exceed the building height and would be the same color as the building. There was no explicit reference to allowing a rooftop installation. The Industry asked for the rooftop installation in addition to that and they explained that part of the problem is that if you are only on the outside of the building there is only coverage for a limited piece. Our proposal was not satisfactory to them in terms of their needs. Our proposal was side of buildings flush against the face not exceeding the rooftop and that did not work for them.

Ms. Montgomery advised that they would like the flexibility of both, doing the side of the building and working with the City cooperatively on a stealth design to avoid the negative aesthetic appearance to the general public but also having the ability as needed to place them on top of the building. They would also work with the City in that location; they can hide things behind elevator shafts or make it look like an elevator shaft or put it with the existing air conditioning equipment on the building.

Councilmember Jacobs suggested providing photographs to Administration.

Councilmember Levy suggested that we go ahead with what has already been written regarding the flush no higher than the roof of the building; however, there should be a caveat that allows them to ask for a waiver for specific circumstances and come before Council or the Plan Adjustment Committee.

Mr. Lunny would rather have a concrete requirement and check the box because while everyone says they will work with you. He reminded everyone that we have to respond within a certain time and there will be other providers that were not in the room making these promises and when we say this is what we want and they say that is not what they need there will be a point of confrontation.

Councilmember Levy believes that there are too many circumstances that they need that we cannot possibly regulate at this meeting; they may be on air conditioning vents, fire exits, or areas of a building that rise above the roofline.

Mr. Lunny stated that those instances would be by a Board of Adjustment variance.

Councilmember Levy clarified that is what he is saying; keep what we have and allow that to happen.

Ms. Montgomery indicated that they would prefer the proposal that Mr. Lunny is bringing up to address the other installations in the ordinance. A common theme she has heard from Council tonight is to avoid proliferation of new towers and new structures. Buildings are a beautiful alternative to that and more flexibility written in the ordinance where they would not have to go through the more difficult process of getting a variance or waiver would encourage more of that collocation on the existing structures and lessen the number of towers in the City.

Councilmember Zimmerman commented that we started to talk about a percentage of the height of the building for antennas that are up at the front of the building. If there is a 60-foot building and we allow a 10% antenna on front of the building and as we move back in the building to the center there is a percentage increase. As you get back into the center of the building the antenna will not be seen as much. He does not know what the final numbers would read and perhaps we might want to discuss with the Industry and find out what that should be in an attempt to govern some of these antennas so that we are not bringing variances, etc. back.

Mr. Lunny stated that would be fine; they were trying to get a feel about the 20 feet versus 60 feet and whether Council feels that is too liberal.

Councilmember Stoner believed that Councilmember Zimmerman had a good point. The percentage could be staggered based on location.

Mr. Lunny indicated that he would ask the Industry to consider a percentage and a step up.

FP&L transmission lines:

We have agreed to carve it out and go with the Industry recommendation.

Separation 500 feet:

There was a consensus to keep the 500-foot separation.

Generators:

Council prefers one generator and if they want large tanks they can have them as long as they are underground.

Setbacks:

In response to Mr. Lunny, Councilmember Jacobs advised that setbacks were decided earlier.

Mr. Lunny noted that 1.15 feet was done but he questioned what was done on residential.

Councilmember Jacobs commented that Council thought about taking into consideration that the road would be part of a setback, the 1.15 feet. He noted that it is only from a residential property line.

Mr. Lunny mentioned that is for the residential zoning district.

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16. DISCUSSION CONCERN STILES CROSSROADS SITE PLAN.

Attorney Bill Laystrom, Architect Beatrice Hernandez and John Orvak (sic) were present. Mr. Laystrom noted at a previous meeting, Council directed the applicant to redo the elevations and reevaluate the setbacks along Peters Road. The Land Use Plan Amendment is being presented to the County and is anticipated to be presented to Council in March 2014. A brief presentation on the site plan and renderings was discussed.

The following was noted:

- The building is 17 feet to the rear which increased the front setback.
- No changes were made to pedestrian connectivity.
- No changes to the traffic signal at the La Quinta intersection.
- Meetings have been held with neighbors prior to these changes. Electronic images will be available for distribution.
- One unit was deleted.
- The building is readjusted and some of the units are screening the parking garage.
- Changes were made to the color palate and extended porch elements.
- A tower element was added.
- The garage entrance is relocated.

In response to Mayor Bendekovic, Mr. Laystrom advised the cost of improvements has not been determined. It was his belief they were significant.

Mr. Orvak explained both projects would achieve the rent structure that was desired. He anticipates the rent structure will be similar to One Plantation Place.

In response to Councilmember Stoner, Mr. Laystrom indicated the units will be approximately 3 to 1 fee simple sales to rental sales. He explained the unit composition was not distinguished during the charette discussion. He noted more tax funds are generated because this is a commercially taxed property.

Councilmember Fadgen felt the presentation was more attractive than the first presentation.

Councilmember Zimmerman complimented the applicant on the presentation.

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LEGISLATIVE ITEMS – None

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QUASI-JUDICIAL CONSENT AGENDA – None.

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

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QUASI JUDICIAL ITEMS

Mr. Lunny read Item No. 17 into the record.

17. REQUEST FOR SITE PLAN MODIFICATION – PLANTATION FORD – LOCATED ON THE WEST SIDE OF STATE ROAD 7 APPROXIMATELY ¼ MILE NORTH OF NW 5TH STREET.

The Planning and Zoning comments follow:

REQUEST: Consideration of a site plan modification for a 7,217 square- foot building expansion and exterior renovations.

WAIVER REQUEST:

1. From: Section 27-613.5(e), which requires exterior renovation to comply with the Plantation Tropical Design Criteria;
To: Allow a contemporary building design.

EXHIBITS TO BE INCLUDED: Planning and Zoning Division report; subject site map; site plan application; and Review Committee Meeting minutes of September 24, 2013.

REVIEW COMMITTEE RECOMMENDATION: **NO OBJECTION** to the project moving forward (September 24, 2013).

ANALYSIS:

The subject site is approximately 8.7 acres in area and developed as a new car dealership with ancillary used car sales. The site is bound by car dealerships to the north, south, and east, together with school use and multi-family residential uses to the west.

The applicant requests approval of a site plan modification for the dealership to add 7,217 square feet of additional indoor showroom, restroom and office areas to the south side of the building. If approved, the building exterior will also be renovated to the national branding with a contemporary design of decorative aluminum panels with grey stucco. New canopies will be added south of the building addition to accommodate the service write up/drop off area.



Building design similar to, but not exact, the applicants proposal

STAFF COMMENTS:

PLANNING AND ZONING:

Planning:

1. The proposed use is consistent with the Local Activity Center (LAC) land use designation on the adopted Future Land Use Map. Auto sales use is a permitted use in the LAC land use category.

Zoning:

1. The building design does not comply with the Plantation Tropical Design guidelines. The applicant is requesting a waiver.
2. Flood light fixtures and/or building uplighting is not permitted.
3. Signage is not part of this approval.

TRAFFIC CONSULTANT: No objection.

ENGINEERING DEPARTMENT:

1. Please include all of the proposed signing and marking as well as existing. 11-05-13: The signing and marking is still incomplete. The crosswalk may not be behind the stop bar. If it is to remain as shown, please add pedestrian crossing signs in both directions of the crosswalk.
2. All curbed islands must be the same length as the parking spaces, especially the one on the NE corner of the work area. Please revise. 11-05-13: Comment not addressed, island in the NE corner is still short as is the one by the proposed entrance. Please revise as requested.
3. The NE corner island also shows both a tree and a monument sign in the same location. Please provide more detail so as to determine if the sight visibility is sufficient. 11-05-13: The monument sign is now NOT shown in the plans. Does this mean it is being removed?
4. Please provide the standard City detail for disabled parking available in the Engineering Dept. 11-05-13: Detail has not been included. Please include as requested.
5. Please provide all civil details including but not limited to Type D curb, asphalt, curb taper, sidewalk, concrete. 11-05-13: Please include the curb taper in the details.
6. Please provide the details in the civil sheets. Sheet C-1 states the paver detail is in the architectural plan, it is not. Please revise. 11-05-13: Please include the paver thickness in the detail.
7. There is an existing gate that is not shown on the proposed plan. Please show it as being removed. 11-05-13: The Site Plan and the Civil plans do not match with the location of a fence/gates. There are fences shown on the site plan that are not on the survey, the gate in the drive aisle is still not shown as being removed, there is a fence on the Site Plan that is not called out as new. Please clearly show all removal and all proposed additions.
8. Please show the area west of the proposed plan in more detail for traffic circulation and signing and marking concerns. 11-05-13: Comment not addressed. Please address as requested.
9. Please provide a cross section for the parking space, landscape and concrete sidewalk/curbed area. They are not at the same height, how will the landscaping be contained? 11-05-13: Section A-A does not show the curb areas. Please provide the section with the curb.

Permit Comments

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

1. An erosion and sedimentation control plan will be required and reviewed at time of permitting.
2. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.
3. Drainage calculations will need to be submitted, signed and sealed by a professional engineer registered in the State of Florida.
4. Surface water management permit(s) through the Environmental Protection Department (EPD) and/or SFWMD may be required and a copy(s) provided to the Engineering Dept. at the time of permit review.

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

DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

In General:

- All site plan and planting plan comments from the Department of Design, Landscape and Construction Management must be responded to in writing at time of permitting. When responding to staff comments, please bubble plan changes and specify the page number corrected in the written responses.
- Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please contact Diana @ 954-797-2248 directly to obtain required permits.

Planting Plan:

1. Please do not use Oleander, this species does not perform well in the City of Plantation.
2. Please tighten the spacing on proposed plant material; the tips should touch at time of planting (i.e. Schefflera, Ilex, and decorative peanut).
3. Please include height, spread, and spacing on all proposed plant material.
4. City staff will verify all trees proposed "to be removed or relocated".
5. Please include a watering schedule for the relocated trees and palms.
6. Large shade trees shall be installed in all planting islands and terminal islands; a Category 1 tree is required in the large terminal island southeast of the proposed addition/drive isle (this island is missing a tree).

BUILDING DEPARTMENT: No objection.

FIRE DEPARTMENT:

1. Whole building/structure shall be entirely protected by an approved, supervised automatic fire sprinkler system due to mercantile occupancy exceeding 12,000 sq ft; this includes all exterior, new and existing, covered areas.

Applicant Response: Noted; we will meet with the fire department to review this requirement and consider alternate options for an existing building including occupancy "Fire Area" containment.

Rebuttal: After meeting with applicant, the following is agreed with:

- Any new and/or renovated areas, within this renovation, will have fire sprinkler system protection installed during this construction.
 - Mezzanine level and parts open area will have fire sprinkler system protection at roof/ceiling height installed during this construction.
 - Any area under mezzanine level that is not protected will have fire sprinkler system protection installed during this construction
 - Area under both open stairs in parts area will have fire sprinkler system protection installed during this construction.
 - First and second floor administrative/office areas will have fire sprinkler system protection installed within 5 years; a "Fire Service Agreement" between applicant and the City of Plantation is being executed for this agreement.
 - A one-hour "UL" listed fire separation assembly, between first and second floor administrative/office areas (unprotected) and other areas (protected), will be installed during this construction.
2. A free standing fire department connection, supplying both protected buildings, and its adjacent fire hydrant shall be located on same side of roadway, within 25' of each other, and within 6' of curb; fire department connection requires a minimum clearance of 7.5' in front and to the sides; fire hydrant requires a minimum clearance of 7.5' in front and to the sides, with 4' to the rear; confer with fire department for best location.

Applicant Response: There are (2) existing fire hydrants located on State Road 7. Additional hydrants may be considered at time of building permit.

Rebuttal: After meeting with applicant, it was agreed that fire department connection would be relocated to within 25' of an existing hydrant.

3. Second means of egress required from mezzanine; both 4/A-3.1 and 4/A-3.4 show exterior stairs removed.

Applicant Response: Please see added sheet A-2.2 for means of egress from mezzanine.

Rebuttal: No objection.

4. All means of egress components within second floor mezzanine shall comply with 2010 FFPC NFPA-101 Chap 7.

Applicant Response: Noted and will comply.

Rebuttal: No objection.

5. Provide means of egress, complying with 2010 FFPC NFPA-101 Chap 7, from service department; roll doors do not meet requirements.

Applicant Response: Noted and will comply.

Rebuttal: No objection.

6. If access to main electric power disconnected is through interior of structure, then a shunt switch shall be provided; confer with fire department for best location.

Applicant Response: Noted and will comply.

Rebuttal: No objection.

7. West emergency vehicle access gate off NW 42nd Ave shall not be obstructed by storage of vehicles or any other equipment; install/mark a NO PARKING – FINE LANE to maintain a clear access path to and from this gate.

Applicant Response: Noted and will comply.

Rebuttal: No objection.

8. Emergency vehicle access gate systems shall be motorized and shall comply with Plantation Fire Department's standard requirements.

Applicant Response: Noted and will comply.

Rebuttal: No objection.

9. Fire Alarm Control Panel will need to be relocated, as it can not be inside an office; confer with fire department for best location.

Applicant Response: Noted and will coordinate the new location with the fire department.

Rebuttal: No objection.

10. D-1.0 and A-1.1 shows "Scope of Work" as main building only; references are made in other pages that work is being done to pre-owned building; clarification needed.

Applicant Response: Please see revised sheet A-3.3 for all information pertaining to the pre-owned building.

Rebuttal: No objection.

11. The applicant and/or owner are aware that conditions may arise upon review of all required permitting plans.

Applicant Response: Noted

Rebuttal: No objection.

12. Tamper switches, supervised by the building fire alarm system, will be required on the Double Detector Check Valve Backflow Preventer being installed and required by Building Dept and Utilities Dept.

POLICE DEPARTMENT:

1. This request will have little impact on police services. Request that all lighting levels remain uniform with existing security lighting levels. Request all security features (CCTV, access control, and locking devices) conform to current security features.

UTILITIES:

- 1. No objection, original comments have been agreed to by proponent. Additional review and comment will be completed at time of permitting.

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

WASTE MANAGEMENT: No comments.

Owner Michael Hooley, Jr. and Architect John Barranco were present. Mr. Barranco agreed to the staff recommendation with regard to the waiver request.

Motion by Councilmember Stoner, seconded by Councilmember Zimmerman, to approve Item No 17. Motion carried on the following roll call vote:

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

Motion by Councilmember Stoner, seconded by Councilmember Zimmerman, to grant the waiver request for Item No. 17. Motion carried on the following roll call vote:

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

After the motion, Mr. Hooley advised the project will begin next spring and be completed approximately one year from start of construction.

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Mr. Lunny read Item No. 18 into the record.

- 18. REQUEST FOR CONSIDERATION OF A SITE PLAN MODIFICATION TO REDUCE THE REQUIRED ON-SITE PARKING LOCATED ON THE NW CORNER OF NW 73 AVENUE AND NW 4 STREET (THE PLAZA AT CITY HALL).

REQUEST: Consideration of a site plan modification to reduce the required on-site parking.

WAIVER REQUESTS:

From: Section 27-743, which requires 67 parking spaces (based on use) for the property;
To: Reduce the required parking from 67 spaces to 59 spaces (a 12% reduction).

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

ANALYSIS:

The property is zoned B-4P (Restricted Business District) and developed with three buildings encompassing 11,900 square feet in area. The office development is located on the northwest corner of NW 73rd Avenue and NW 4th Street, across the street from City Hall.

The applicant, DPI Plantation, is a medical imaging facility that currently occupies 3,000 square feet in the north building. The applicant also has a 1,400 square foot administrative office area adjacent to, but not internally connected to, the imaging center. DPI proposes to expand the imaging center into their existing administrative office area.

The proposed use expansion requires additional parking with 67 parking spaces now being required and 59 parking spaces provided. The applicant is requesting an 8 space parking waiver, which is a 12% reduction. The expansion of the imaging center (classified by code as a medical laboratory) also requires expansion of the conditional use approval. If the parking waiver is granted, the applicant will apply for approval of the conditional use expansion through the City's administrative approval process.

STAFF COMMENTS:

PLANNING AND ZONING: No objection.

TRAFFIC CONSULTANT: No objection.

ENGINEERING DEPARTMENT: No objection.

Attorney Paul D'Arelli was present on behalf of the applicant. There is ample parking.

Motion by Councilmember Jacobs, seconded by Councilmember Zimmerman, to approve Item No. 18 with the requested waiver. Motion carried on the following roll call vote:

Ayes: Zimmerman, Fadgen, Jacobs, Stoner, Levy

Nays: None

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COUNCILMEMBERS' COMMENTS

Mayor Bendekovic wished everyone a Happy Thanksgiving and Happy Hanukah.

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Councilmembers Fadgen, Jacobs and Levy wished everyone a Happy Thanksgiving.

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PUBLIC REQUESTS OF THE COUNCIL CONCERNING MUNICIPAL AFFAIRS - None

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SEALED COMPETITIVE SOLICITATIONS – None.

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WORKSHOPS – None.

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Meeting adjourned at 10:05 p.m.

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Councilmember 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