

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

**December 10, 2014**

The meeting was called to order by Councilmember Lynn Stoner, 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 Councilmember Jacobs.

The Pledge of Allegiance followed.

3. Approval of Minutes of Meeting – November 12, 2014

Minutes of the regular meeting of November 12, 2014 were approved.

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It should be noted that the Boy Scouts Color Guard led the Pledge of Allegiance.

**ITEMS SUBMITTED BY THE MAYOR**

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

- The USTA Orange Bowl Tennis Tournament will be at the Frank Veltri Tennis Center during the next two weeks. The tournament began last Friday and runs through Sunday, December 14, 2014.
- The Winter Wonderland Kids Program will be at Plantation Central Park. Registration begins on Monday, December 5, 2014 and the program runs from December 19, 2014 and ends on January 2, 2015.
- A Winter Break Tennis Camp will be held at the Frank Veltri Tennis Center between December 19, 2014 and January 2, 2015. There will also be an Equestrian Share-a-Pony Winter Camp program.
- Santa's visit is on Wednesday, December 24, 2014. If anyone is interested in volunteering to be a Santa please call 954-452-2514.

- The Orange Classic Soccer Tournament will be held on Sunday, December 28, 2014 and run through Tuesday, December 30, 2014 at Pine Island Park and Plantation Central Park.

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Mayor Bendekovic read a Proclamation designating Wednesday, December 10, 2014, as *Rick Case Bikes for Kids Day* in the City of Plantation.

Rick and Rita Case accepted the proclamation.

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Mayor Bendekovic made the following comments:

- The Winter Wonderland Holiday Exhibit and Display is at the Plantation Historical Museum. Open House will be on Thursday, December 11, 2014 from 6:30 p.m. to 8:30 p.m.; Children's Day with Santa is Saturday, December 13 and 20, 2014 from 10:00 a.m. to 3:00 p.m.; and Open House Thursday, December 18, 2014 between 6:30 p.m. and 8:30 p.m.
- Fig Tree Youth Writers are for teens and tweens who enjoy writing. They meet the first Thursday of each month between 6:00 p.m. and 7:00 p.m. at the Helen B. Hoffman Library to discuss writing techniques and methods. Lectures are every Wednesday between 2:00 p.m. and 4:00 p.m. Story time is every Wednesday and Thursday at 10:30 a.m. and 4:00 p.m. except on Christmas and New Year's Eve. Friends of the Library Book Sales will be on December 19 and 20, 2014. The Chess Club is on Saturdays between 3:00 p.m. and 5:00 p.m. The Library will close early on Christmas Eve and will be closed on Christmas Day.
- The Farmer's Market is open every Saturday at Volunteer Park between 8:00 a.m. and 2:00 p.m.
- Mayor Bendekovic expressed thanks to the Plantation Women's Club for the lovely holiday luncheon.

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## CONSENT AGENDA

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 11.

Mr. Lunny explained to the Boy Scouts that the Consent Agenda is the time when the City governing body reviews various purchases, appoints people to various positions, reviews weekly Bill Lists which are similar to a household checkbook ledger, and approves various agreements. All of these things will be approved by a motion or resolution and a resolution is an expression of administrative intent and is evidence of formal approval. Some of the approvals are informal and some are very formal.

Mr. Lunny read the Consent Agenda by title.

4. Request to approve the purchase of the ongoing maintenance for our Intergraph Software (Public Safety CAD 911) in the amount of \$122,316. (Budgeted – IT)
5. Request to award a purchase order in the amount of \$63,050 to INSITUFORM Technologies LLC for sanitary sewer rehabilitation at 4670 NW 6<sup>th</sup> Court. (Budgeted – Utilities)

**Resolution No. 11990**

6. **RESOLUTION** of the City of Plantation, Florida pertaining to the subject of Utilities; approving an Interlocal Agreement between the City of Plantation and Broward County to provide cost share support of a Naturescape Irrigation Service within the water utility service area and authorize Broward County to conduct specific technical activities require as part of landscape and irrigation system evaluations; having the appropriate City Officers execute the same and authorizing the City Administration or City Attorney to make minor revisions thereto; providing findings; providing for severability; and providing an effective date therefor.

**Resolution No. 11991**

7. **RESOLUTION** for the appointment of a Financial Services Director for the City of Plantation's Finance Services Department fixing the initial annual compensation to be paid for said executive position; and the appointment of an individual to said executive position.

**Resolution No. 11992**

8. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 13, 2014 through December 3, 2014 for the Plantation Gateway Development District.

**Resolution No. 11993**

9. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 13, 2014 through December 3, 2014 for the Plantation Midtown Development District.

**Resolution No. 11994**

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 13, 2014 through December 3, 2014.

**Resolution No. 11995**

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period November 13, 2014 through December 3, 2014 for the City of Plantation's Community Redevelopment Agency.

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

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

Mayor Bendekovic voted affirmatively on Item No. 11.

Councilmember Stoner introduced Anna Otiniano, the new Finance Director.

Ms. Otiniano stated that she is very excited and ready for the challenges.

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**ADMINISTRATIVE ITEMS – None.**

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**LEGISLATIVE ITEMS – None.**

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

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**QUASI-JUDICIAL ITEMS**

Ms. Slattery introduced Nancy Salafia who works in the City Clerk’s office. She is going to be attending the meetings and trained to fill in as needed.

Mr. Lunny explained that at this time of the meeting the City Council acts sort of like a judge and jury. It is reviewing proposed development of property and applying the City codes to the property in order to determine whether the development is adequate to serve the public’s interest. The development is proposed in what is called a site plan, which are plans that detail the buildings, parking and the layout of the site. This request is for site plan modification and approval associated with the proposed former Whole Food Stores by Lucky’s Market. The waivers of the City code were read.

Mr. Lunny read Item No. 12.

- 12. CONSIDERATION OF REQUEST FOR SITE PLAN MODIFICATION APPROVAL FOR FAÇADE IMPROVEMENTS AND SITE IMPROVEMENTS AT KIMCO PLANTATION CENTER LOCATED AT 7620 PETERS ROAD AND ZONED SPI-3. (PLANTATION MIDTOWN)

-AND-

CONSIDERATION OF A REQUEST FOR SITE PLAN MODIFICATION APPROVAL FOR SITE IMPROVEMENTS AT KIMCO PLANTATION CENTER DUE TO THE RENOVATION OF AN EXISTING TENANT SPACE FOR THE PROPOSED LUCKY’S MARKET LOCATED AT 7320 PETERS ROAD AND OWNED SPI-3. (PLANTATION MIDTOWN)

A Staff Report dated December 10, 2014, to the City Council, from the Planning, Zoning and Economic Development Department, follows:

**REQUEST:** Site plan modification approval associated with the proposed re-occupancy of Whole Foods by Lucky’s Market.

**WAIVER REQUEST:**

- From: Section 27-743, which requires 357 parking spaces based on the proposed tenant occupancy.
- To: Reduce the required parking to 249 parking spaces (30% reduction).

From: Section 13-41(a)(b)(c). Pedestrian zones along building facades.  
One tree is required in this zone for each 30 lineal feet, or fraction thereof, of building façade width. A total of 240 lineal feet along the store frontage.  
To: Reduce the required number of trees from eight to five.

From: Section 13-40(c)(1). Interior landscaping for parking areas.  
No landscaped area shall have any dimension less than five (5) feet.  
To: Reduce the minimum required planting space to three (3) feet.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report, subject site map, and application.

**ANALYSIS:**

The subject property is zoned SPI-3 (Plantation Midtown), contains 4.59 acres, and is developed with a 60,414-square-foot shopping center. Peters Road abuts the property to the north, SW 13<sup>th</sup> Place to the south, and SW 78<sup>th</sup> Avenue to the west. The shopping center includes two buildings, a smaller building containing a dry cleaner and paint store and a larger building containing a supermarket, wholesale bakery, and smaller retail tenants. A different company owns the Maniacs Hobby Store and parking adjacent thereto.

Beer and wine on and off premises consumption: Lucky's Market proposes to occupy the tenant space vacated by Whole Foods plus the Whole Foods Bakery. Lucky's preliminary floor plans (applicant did not provide any with this submission) indicated about 30% +/- of store display for beer and wine sales. The preliminary plan also included an accessory indoor café and outdoor face, the latter of which is subject to certain conditions. According to Lucky's, the store will sell beer and wine for consumption on premises in the store and at the outdoor café.

Package liquor store (off-premises consumption): The initial floor plan included a separate 1,500-square-foot package liquor store. The proposed package store is about 750 feet from the Publix package store north of Peters Road. A 1,000-foot separation is required unless the Peters Road ROW exceeds 99 feet in width, in which case a 500-foot separation is required (Code Section 3-2; Proximity of similar type establishments). The Engineering Department has confirmed that the Peters Road ROW is 106 feet wide. Therefore, the liquor store complies with Section 3.2 provided it meets additional conditions regarding location and size.

The applicant requests approval of parking lot and landscape improvements together with a waiver to reduce required parking. The site improvements include increased site lighting, restriping of parking lot and loading zone area, fine lane relocation, landscape improvements, and installation of an outdoor patio area for outdoor seating.

Current Parking: Based on tenant occupancy, the shopping center requires 295 spaces. The existing parking lot provides 249 spaces for a deficit of 46 spaces (16%).

Proposed Parking: Lucky's proposes to convert the wholesale bakery area to additional retail grocery area. This revised plan requires 357 spaces, increasing the parking deficit to 108 spaces (30%). The net increase in parking deficiency is 14%.

A concurrent application is also in review for façade improvements to all of the buildings on the site.

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

1. Staff cannot determine to what extent the conversion of the wholesale bakery to a retail grocery store will generate the need for additional parking.
2. The City Code prohibits the outdoor display of merchandise (Ch. 14, License and Business Regulation). Based on prior discussions with the City Attorney, this restriction is a “use-type” regulation and is not subject to Council waiver.
3. Today, a large landscape area and handicapped spaces separate outdoor seating from the fire lane. The proposed site plan eliminates most of this landscaping and moves outdoor seating to within three to five feet of the fire lane. The first photo below shows current outdoor seating location. The second photo below shows the existing landscape area. A substantial portion of this landscape area will be lost if the site plan is approved.
  - a. Staff recommends maintaining the current outdoor seating and landscape arrangement. In the alternative, relocate the landscape area in accordance with sketch provided in the Design and Landscape comments. Provided parking will not be affected.
4. Cart storage shall be located inside of the building.
5. The City Code prohibits outdoor storage, including but not limited to the loading areas.
6. The applicant shall provide enclosures for existing and proposed dumpsters and recycling containers.

**ENGINEERING DEPARTMENT:**

1. Please provide the Type D curb end location at the property line or show the tie into the existing.
2. Please provide all signing and marking on the plan.
3. Please provide drive aisle dimensions on the plan.
4. The Fire lane may not be part of the drive aisle. Please use the Type II detail if the required dimensions are not met.
5. Curbed islands must be the same length as the parking spaces. Please revise.
6. Please provide the detail for both types of ramps being used.
7. Please provide the ADA connection to the public sidewalk.
8. Please see proposed revisions to landscape islands below, recommended to improve traffic flow. Please contact Engineering to discuss.

**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 may/will be required and reviewed at time of permitting. An NOI may/will be required.
2. A Maintenance of Traffic (MOT) plan will be required. Please meet with Engineering to discuss.
3. Drainage calculations may/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 Broward County and/or SFWMD may be required and a copy(s) provided to the Engineering Department at the time of permit review.
5. The applicant may be required to execute a developer agreement and post security for all engineering and landscape related improvements at the time of permitting.

**TRAFFIC CONSULTANT:** Please see Engineering.

## DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:

This property was developed 35-40 years ago, prior to adoption of contemporary landscape codes. As such, green space is minimal and tree islands are so small as to prevent trees from reaching mature canopy size.

The property owner in 1998 revised the site plan to add a 60' x 18' landscape area to compensate for minimal existing landscaping. The proposed site plan eliminates much of this continuous green space, dividing it into several smaller areas. Staff does not support the removal of this green area as it exists today.

As previously agreed upon and discussed at pre-development meetings with the applicant – staff requests the following (in lieu of what has been proposed):

Maintain the outdoor seating and landscaping in their current locations or relocate the landscaping directly north in the area currently occupied by a striped paved area.

### Site Plan:

1. As per City Code, no landscaped area shall have any dimension less than five feet; proposed plans show the planting area along the proposed outdoor seating patio to be only three feet in width. *Waiver required.*
2. Terminal islands must be a minimum of ten feet wide inside curb to inside curb.
3. Staff does not support the proposed plan to remove a portion of the terminal island which includes the removal of an existing tree. Staff concurs with Engineering comment #8 which would maintain the existing terminal island as is.

### Planting Plan:

1. A minimum of one tree is required every 30 lineal foot, or fraction thereof, of façade width (three palms = one tree). A total of 240 lineal feet along the store frontage.
  - Eight trees are required along the eastern lpz – five trees have been provided.*Waiver required.*
2. Wellington tape, guy wires, rubber hose, and/or any other non-biodegradable material is not to be used for the staking of trees. The City recommends the use of a 3/8" sisal or similar biodegradable material.
3. Please use the City of Plantation Tree Planting Detail in lieu of those submitted; they are available on-line: <http://www.plantation.org/Landscape-Architecture/details-notes.html>.
4. Tighten the spacing on all hedge and ground cover material – as per City codes the tips of plant material should be touching at time of planting (i.e. 12" x 12" plants should be planted 12" on-center).
5. Three inches of clean mulch shall be installed around all new and existing trees, palms, and throughout planting beds on site; mulch shall be kept three inches away from the trunks and stems of plants. Please do not use Cypress or red mulch (Eucalyptus, Melaleuca, or recycled mulch is acceptable); please make a note to this effect on the plans.
6. A root barrier system shall be installed in situations where a tree or palm is planted within ten feet of a paved surface or infrastructure. Please include root barrier details on landscape plans submitted.
7. Tree protection barrier details on sheets LD-1 and LP-2 are inconsistent; please follow City codes regarding specifications.

8. Please clarify if you are using DBH or caliper on the proposed trees (under the plant schedule the heading states DBH while the description states Cal).
9. Please include a table with the existing tree/palm canopy in the area of work to be done; please include species, spread, height, caliper, condition, and disposition of existing trees/palms.
10. Please include the spacing on the proposed hedge in lieu of “as shown”.
11. Staff does not support the proposed removal of two Yellow tabebuia trees.
12. All proposed trees to be removed or relocated require ISA appraisals based on the checked Trunk Formula Method, Guide for Plant Appraisal, 9<sup>th</sup> edition, 2000.
13. Performance bonds are required on all trees to be relocated as per City codes.
14. All proposed trees to be removed must be mitigated for as per City codes; tree mitigation will be above and beyond code required trees on the property.
15. City staff will verify all trees proposed to be removed, remain, and/or relocated.
16. Tree/palm removal and relocation permits as well as mitigation fees must be obtained directly through the Design, Landscape & Construction Management Department at the time of permitting. Please contact Diana at 954-797-2248 directly to obtain required permits.
17. All landscape areas shall be provided with an automatically-operating underground irrigation system; with a minimum of 100% coverage, with 50% minimum overlap in ground cover and shrub areas. The rain sensor must be installed as well as a rust inhibitor if applicable. Irrigation plans must be submitted at time of permitting.
18. Staff requests the property be brought to code with the approved landscape plans from 1998 with regards to the replanting of missing, dead, and/or irreparably damaged plant material including but not limited to trees, palms, hedge, ground cover, sod, and irrigation. This includes the southern perimeter of the site.

**FIRE DEPARTMENT:**

1. Provide dedicated emergency vehicle access (fire lane) from entry off SW 88<sup>th</sup> Avenue to the northwest exit on Peters Road and shall be designated “NO PARKING – FIRE LANE” per FFPC NFPA-1 and City of Plantation Engineering Department standard.
2. Remove vehicle gate on northwest corner of Building #7700-7720.
3. Remove storage container against perimeter wall, west of Building #7730-7750.
4. Additional conditions may arise upon review of all required permitting plans.

**UTILITIES:**

1. No objection to the site plan modification. No utility work associated with this project.
2. Additional capacity charges may apply should existing uses change due to expansion. Please contact Danny Pollio should you have any questions.

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Attorney Bill Laystrom was present on behalf of Kimco and Lucky’s Market.

Mr. Laystrom stated that great progress has been made along that corridor with the projects already approved for Stiles. Currently under construction is the redevelopment of the Carrabba’s Center and Westfield Mall has also made improvements to their facility. Another shopping center is coming in; we lost Whole Foods to Davie; however, we have an opportunity to put in a new tenant for the same space within the shopping center that is at University Drive and Peters Road on the southwest corner. The hobby store that has been there for many years is now called Maniacs. He distributed materials for people who are not familiar with Lucky’s. It is a very

consumer friendly facility and it is intended to have fresh produce very much like the Whole Foods concept. You can actually carry a wine beverage or a beer while shopping inside of the store as well as purchase them. There is a liquor store; however, it is separated pursuant to code; there is no pedestrian access directly inside of the store between the liquor store and the shopping center. He mentioned the waivers in the staff report. They have been able to solve the second waiver, which is the width of the planting areas that were down to three feet; they have been able to get them up to five feet so that waiver will not be needed and they are basically agreeing with the staff comment. He mentioned the modification for the site plan and noted that the Lucky's design for the front is an outstanding addition to the shopping center to greatly improve it. The applicant has agreed to make improvements to the building across the parking lot, to the east, right behind the Chevron. Signs are not being approved tonight; however, they are on the plan to show where they will be located. Staff requested that brick be added to the entrance feature, which they did. The reason they had not was because it was put over the liquor store to try to give it some special emphasis but there is no objection to making that addition. With regard to staff comments, Mr. Laystrom indicated the following:

- There is an exposed wall on the Maniac's property, which is the old hobby facility and Sound Advice. The only comment they have is that they do not control that wall; it is separate ownership. They will ask them and will pay for it and do it but they have to have permission to do it. He cannot make a commitment that he can do something on a separate property but he is making a commitment that he will actively seek to get that done. It is a protruding wall and staff would like to have the view improved. The wall is only visible to cars within the parking lot of their center facing to the north. Their building is taller so the wall is really the building itself.
- Staff has requested a wall on the east elevation of the small building. They will work with staff as best as they can; there are some structural challenges. Their engineers have told them that it may not be able to hold the load for a screening wall up on the roof and there is an entire gutter system there. He requested that staff be given the leeway to work with them to the extent that they can provide some type of screening along that wall.
- All of these things are existing site issues where they are upgrading the site and he wants Council to understand how much Kimco, the property owner, is doing to improve this property rather than just moving in another grocery store.

Mr. Laystrom advised that they have done an application for the site plan modifications for the parking lot. With regard to the second staff report, they have eliminated the second waiver for the three feet of planting area; they are going to provide the five feet. There are two items that need to be discussed. The first is a general comment they seem to have on all of these. Since they were built so long ago they do not meet the current parking code. The parking is not being changed in any way and they are not adding to the building; they are trying to keep the parking they have. This site was developed so many years ago it was probably County zoning at the time it was actually developed. They have done a number of upgrades. He has talked to both the operator and the center owner and they both believe that the parking will be adequate to provide parking to all of the users within their site and to the Maniacs property next door.

Councilmember Jacobs mentioned the trees.

Mr. Laystrom stated that there was a comment inside of the report; there was not a waiver listed with regard to the number of trees being eight instead of five required. They will work with Ms. Berchielli to try to find a way to get to the eight. There is a tight space. Most of the report talks about the landscape/seating area they are proposing on the site plan. The actual seating area is on the left side and intended to be very nice. They have landscaped around it and overall within the site area they have added approximately 60 square feet; not a lot, but they have added total green area from where they are today. Ms. Berchielli has requested that they comply

with a 1998 plan, which they have not yet looked at. Hopefully they can get permission to get a copy of the plan.

Councilmember Stoner questioned why they are taking 20-year-old plans for the landscaping.

Mr. Laystrom advised that they made a general comment and said that they want any landscaping that was supposed to be there to be brought back. They are willing to do that within the boundaries of construction if something is missing from the plan. That plan does have a different version of this area and they are asking that Council approve their version which has landscaping surrounding it with outdoor seating out from under the overhang. This provides a lot more ambiance for being out there; they are hoping that people will be out there for a while not just for a minute; hopefully enjoying a glass of wine that ultimately results in a purchase of a bottle of wine. The updated staff report requires they provide some protection from vehicles coming in the area and they are happy to provide that protection as requested. It is believed that this works very well for their project. They think it will be a nice addition. There are two roll up doors and he has talked, in detail, to his client about the reasons the roll up doors are there. They are there because they are trying to create an open grocery market type look. The idea is that you are invited in and you will see fresh produce as you look through the glass roll up doors. He does not know if staff had an objection but they clearly wanted to make it unknown. The client is aware that they cannot bring their stuff out and put it around the site in front like at a Home Depot.

Councilmember Jacobs questioned where the liquor store will be.

Mr. Laystrom indicated that it is on the south end where the Wholesale Bakery was. As staff indicated, they are not certain that it will generate the same kind of traffic that would be generated by a Wholesale Bakery or a typical grocery store.

Councilmember Jacobs mentioned that one of the waivers listed on the backup is to reduce the required number of trees from eight to five.

Mr. Laystrom stated that is the small area for the seating along the frontage. They will meet with Ms. Berchielli; they think they can put them in. At the same time, he requested that the motion give a little room because he does not want to cram them in there.

Councilmember Levy questioned how Lucky's plans to attract customers from the same demographic that attends Publix. What is their game plan to be successful?

Patrick Gilliland, from Lucky's Market, was present. He stated that they are a lot lower price with a very high quality product and they focus on a lot of local organic. They are much cheaper than Publix and that is one way they will compete. Probably 25% of their sales are produce and produce and meat are their main drivers.

Councilmember Levy questioned if they will do a bacon cutting ceremony at the Grand Opening.

Mr. Gilliland advised that they will; instead of a ribbon cutting ceremony they have a bacon cutting ceremony. They feel that they compete very well with Whole Foods and Publix.

Councilmember Levy stated that the people that shopped at Whole Foods are looking for a place. Heading under I-595 creates a traffic problem and people from Plantation would prefer to stay north of that. He is hoping that Lucky's Market will fill the void left by Whole Foods leaving.

Councilmember Stoner questioned when they are anticipating opening.

Mr. Gilliland indicated that Whole Foods is moving out by the end of March and they are hoping to be open by August or September 2015.

Councilmember Fadgen questioned if the Crown Lounge in the small building was still there.

Mr. Gilliland stated that they left.

Mr. Laystrom advised that there are two comments in the staff report; one says they will provide the ten-foot terminal islands and they will provide those while doing new construction but not throughout the existing parking lot. There is a comment from Engineering to add some additional concrete to direct traffic at one location; they will work with them on that. They are fine with the north side; however, they want to discuss the south side as they would like to make that a little bit mountable because as cars turn they might be driving over it.

***Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Item No. 12 granting the waivers; subject to staff comments; and working with staff to straighten everything out. Motion carried on the following roll call vote:***

Ayes: Fadgen, Levy, Jacobs, Zimmerman, Stoner

Nays: None

Councilmember Zimmerman mentioned the seating area and noted that staff is recommending that it be changed and you are saying keep it the way it is. He likes the way it is and thinks the lower landscaping and the seating works better from a visual standpoint. As far as the staff comments go, he would like to say that at least with the comment regarding seating that it stay the way it is.

Mr. Laystrom assumed that the motion included the things he requested.

Mr. Leeds clarified that in terms of Application 29, the applicant modified a couple of items for the main building A and B. They relocated the brick veneer from the liquor store to the north tower; they will use best efforts to work with the owner of the wall to repaint the wall and they will use best efforts to work with staff on Item #2A, which is the east elevation façade. Those are the conditions for 29. The parking waiver was approved for 30; the first landscape waiver will use best efforts to work with staff; the second landscape waiver is withdrawn based on the last comment except Planning and Zoning Comment #3, which allows them to keep the seating area as it is. Mr. Laystrom also agreed to meet the Fire Department barrier requirements.

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Mr. Lunny read Item No. 13.

13. DEFERRED CONSIDERATION OF REQUEST FOR SITE PLAN, ELEVATION AND LANDSCAPING APPROVAL FOR 3950 RENOVATION LOCATED AT 3950 SW 6<sup>TH</sup> STREET AND ZONED SPI-2. (HYBRID COMMERCIAL)

A Staff Report dated December 10, 2014, to City Council, from the Planning, Zoning, and Economic Development Department, follows:

**REQUEST:** Site plan, elevation and landscape plan approval to bring the property into compliance with Gateway Enhancement Ordinance #2244.

**WAIVER REQUEST:**

- From: Section 27-617(e)(i)(a). Required enhancements for non-conforming properties:  
Perimeter landscape buffer: five feet with a three feet clear zone allowing for a maximum vehicular overhang of two feet.
- To: Reduce the perimeter landscape buffer to one-foot on the east side.  
Reduce the perimeter landscape buffer to four feet on the west side.

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

**ANALYSIS:**

The subject property is zoned SPI-2 (Hybrid Commercial). The subject property is 8,125 square feet in area and developed with a 3,094-square-foot office/warehouse building. The project involves removing unpermitted additions at the front of the building, and bringing the property into compliance with Gateway parking and landscaping development standards to the greatest extent possible. The renovated 2,536 +/- square-foot building will have 1,388 +/- square-foot of office space and 1,148 +/- square-foot of warehouse (ancillary) use based on floor plans.

The City Council adopted Ordinance 2244 on April 10, 2000. This ordinance provided for flexible (but quality) development along State Road 7 to encourage redevelopment. Those plans not able to meet the redevelopment standards are reviewed by the City Council for consideration of waiver requests.

The applicant is requesting approval of parking lot and landscape improvements required pursuant to Ordinance 2244.

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

1. The current zoning allows warehouse use only as accessory to the office. The eastern roll up door facing north shall be replaced with a pedestrian door or window to reduce the likelihood the office will be converted to warehouse at a later date. Office use shall remain the primary use of the site.
2. A demolition permit is required to remove the unpermitted addition.
3. The Paint Color and Approval form shall be approved prior to the issuance of a building permit.
4. Outdoor vehicle or material storage is prohibited.

## **ENGINEERING DEPARTMENT:**

1. Please provide the Site Plan in an Engineering scale no smaller than 1" = 50'.
2. The new sidewalk area must have curb and gutter to match the existing on the other side of the driveway.
3. Please provide the Type D curb taper for the curb ends.
4. Please provide the standard City detail for disabled parking, available on the City's website [www.plantation.org](http://www.plantation.org), under Engineering/Private Development.
5. Pervious area needs to be a minimum of 30%.
6. Note says that the sidewalk and the concrete walk are flush at the connection point. Please provide grades to show compliance with ADA requirements.
7. The grades show that the parking area on the east side is 10.55. The new concrete sidewalk is 10.4. With a six-inch curb between the two, how is the walkway lower than the asphalt? It should be higher at this location.
8. Please provide a sidewalk detail.
9. Please show stop bar minimum of four (4) feet behind sidewalk.
10. As shown, there is vehicle access to the building for parking. The existing concrete at this location must be six (6) inches or it must be replaced.
11. The vehicle parking in the building has no place to back up without backing into the street, going the wrong way. Please provide a back out area (possibly and an end parking space) for the vehicle to be able to exit properly.

### Permit Comments

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

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

**TRAFFIC CONSULTANT:** No objections.

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

### Site Plan/Planting Plan:

1. Waivers are required for the eastern and western perimeter landscape buffer.  
Section 27-617(e)(i)(a). Required enhancements for non-conforming properties:  
Perimeter landscape buffer: Five feet with a three-foot clear zone allowing for a maximum vehicular overhang of two feet.  
Reduce the perimeter landscape buffer to 0' on the east side.  
Reduce the perimeter landscape buffer to 2' on the west side.

At time of permitting, please address the following:

1. Please include a palm staking detail for the proposed Sabal palms.
2. Please include a tag line on the planting plan for the proposed hedge on the southern perimeter (include quantity and species).
3. Hedge is required along the eastern and western perimeter (the entire length of the property).
4. Please include the spread on the proposed plant material; tips of plant material shall be touching at time of planting.
5. Please include the caliper on the proposed trees.
6. Please note on plans that all trees will be field grown/balled and burlapped.
7. The proposed Gumbo limbo trees in the rear of the site are too close to the overhead FPL lines. Please use a species of these in accordance with FPL's "Right Tree/Right Place" program.
8. Please clarify where the Cassis trees are to be planted (this species has been included on the plant list but not on the planting plan).
9. Please include the height, spread, caliper and condition of the existing trees.
10. Please show utility easements in gray scale on the planting plan as well as above and below ground utilities and associated equipment.
11. Screen above ground utilities on the planting plan with live greenery, including FP&L boxes, etc. Please make a note to this effect on the plans.
12. The proposed Sabal in the eastern planting space in the front of the building is only one-foot from the curb; please adjust this palm accordingly.
13. Please center the proposed Live oak in the planting island at the entrance in lieu of the tip/end of the island (this will allow additional area for the roots to grow).

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In response to Councilmember Stoner, Ms. Slattery advised that this was deferred at a previous meeting so it is being heard now.

Stephen Brasgalla, architect, was present.

Mr. Brasgalla explained that years ago he worked for Mike Mulligan, a local businessman, who owned the subject property. Mr. Mulligan wanted to upgrade and beautify the project so he could use it as his painting headquarter offices. Plans and reviews were submitted around 2006; however, the economy hit him very hard and he lost the property in foreclosure. He was introduced to his new client when he found those materials and called. Mr. Eliyahu Bohadanah owns the property now and he would like to make this building his business office. He is a general contractor. This building has an advantage; it has a lower garage door on the right hand where he can safely park a construction truck and construction materials for the day. It is not a construction office and is not a staging area for any kind of construction; it is only an office and a place to secure parking for his car. It has been made clear that construction vehicles are not allowed in the parking lot or visible at any time of the night. This is meant to be a first class private business. The applicant would like to beautify the building, move in and do business. The site is very tight; unfortunately it is boxed in by other properties; it has no rear access causing all kinds of problems in meeting code. He mentioned the resolution that says, "To bring it into compliance with Gateway parking and landscaping to the greatest extent possible". They are good with that and will do it to the greatest extent possible.

Councilmember Jacobs mentioned the waiver in the backup that says, "Reduce the perimeter buffer to one-foot on the east side and four feet on the west side".

Mr. Brasgala advised that this is an existing very dilapidated property. It exists the way it is; the building is very tight to its edges; they are not changing the footprint of the building in any way. There is a lot of paving in front of the building; it is just asphalt paving with no striping or delineation. There is no effective landscaping of any kind so they are going to put this into the greatest possible compliance with the landscape code, parking code and Engineering code; everything they can possibly do. They are actually increasing the landscape area where they cannot achieve the City setbacks because the existing parking is too close to the edges of the property. They are not asking for an exception, they are acknowledging the non-conforming existence and they are formally required to achieve a waiver.

Mr. Leeds indicated that they need to be clear whether they are requesting the waiver or not. At this time you have not agreed to remove the waiver. Originally you also agreed to replacing the east roll up door, a pedestrian door or glass. He sent a follow-up email to Council that eliminates that requirement based on an evaluation with the City Attorney. The issue is that the applicant has taken a building with long running Zoning, Code Enforcement and Building fines that was a dump and renovated it. He addressed the Building code first and installed two new roll up doors. Originally this was an auto repair shop. We were concerned because Zoning only allows the office for a contractor and the applicant showed an area that has a roll up door and it is labeled office but it will probably be used for something else. Rather than putting office on the plan and create an unrealistic expectation, we are taking the position now that he can use it for the temporary storage of construction materials for active jobs; therefore, he would not have to remove the door. The Zoning Code says it can only be used as an office; storage is allowed as an accessory use. To label an office when it will be hard to keep it that way creates an issue.

Councilmember Jacobs questioned if it would be an issue if it is approved without them changing the roll up door but they decide they want to eliminate the roll up door at a later date.

Mr. Leeds stated that nothing will stop them. If the applicant wants to maintain the plan as is with both roll up doors Planning and Zoning Item #1 would be deleted. There are two different ways of looking at it; it is a very close call in trying to deal with a building that has been a problem. It does not face State Road 7; the doors face SE 6<sup>th</sup> Street; the building is small and it does not directly abut residential.

Councilmember Stoner questioned if a Phase 1 was done on this.

Mr. Leeds advised that the doors have been replaced.

Councilmember Stoner questioned if a Phase 1 Environmental was done.

Mr. Leeds did not know.

Councilmember Stoner commented that this was auto repair and noted that there could be some material that contaminated the ground.

Mr. Leeds agreed but stated that City's do not typically require Phase 1 Environmental audits; he does not know of any City that does. Usually the property owner requests one before closing on a property. If it has to be cleaned up then it has to be cleaned up. He does not have any Environmental authority; that rests with Broward County.

Councilmember Stoner questioned whether we have any authority to request that before we as a Council approve any additional renovations to the property.

Mr. Lunny advised that if the Council wishes to request that and have staff examine it with respect to the feasibility of the development shown the Council has that discretion. Mr. Leeds is correct, the County is the one that actually has the permitting scheme for clean ups and for regulation but we do have the ability, should the Council want, to look at the evidence and determine whether it affects the location and layout of the buildings on site in a reasonably foreseeable way.

Mr. Leeds indicated that a Phase 1 Environmental audit is a technical document provided by someone with specific credentials.

Mr. Lunny stated that to the best of his knowledge, we do not normally request copies of transaction audits for our development review but that does not prevent the Council from asking for it in specific cases and then directing staff to look at that issue.

Councilmember Stoner mentioned a couple of sites; TD Bank at Broward Boulevard and State Road 7, which used to be a Shell Gas Station. When they came forward she specifically asked about the Phase 1 and they actually had some clean up that had to be done. She thinks that as we get into the renovation of older sites the City has a responsibility to some extent to confirm that that has been done in the interest of that ground and surrounding area.

Mr. Leeds commented that if it shows contamination then we go to Phase 2 and then it starts to get involved.

Councilmember Stoner questioned why we wouldn't want to know now instead of everyone else around having problems later down the road.

Mr. Lunny believes it is a question of policy and practice of the City and what agency is principally and primarily responsible for that and how that system is set up. The City, in other cases, cooperates with detection and control type measures and we could establish a practice and procedure and figure out what that would cost to add this apparatus to our systems.

Councilmember Stoner mentioned the site on Sunrise Boulevard that was a proposed Supervisor of Election's site; that had asbestos. They said they did the Phase 1 and those were some of the issues that were there. It is a protection for the entire City and is something we need to be looking forward to.

Mr. Lunny believes that Mayor Bendekovic and Mr. Keefe can take that under consideration if you would like to ask them to.

Councilmember Stoner advised that she would rather be proactive or reactive.

Councilmember Jacobs questioned what would trigger the County to either request someone to do a Phase 1. He also questioned what would happen if the City were to ask to the County to look into this.

Mr. Lunny indicated that the idea behind Environmental audits was to limit a buyer's potential tacking exposure under Federal Environmental laws for items that result on the property that were not occasioned by the buyer's acts and omissions. When asking for a Phase 1 audit as a prospective buyer the report is given to the buyer. It is not something the buyer is required to give to the governmental authorities but often people cooperate with governmental authorities in order to fix the problem and get a clearance letter once the report discloses something. They are not required to disclose the report as much as required to deal with the problem that is on the land.

Councilmember Jacobs commented that this buyer purchased the land at his own risk without a study. He questioned how the contamination would be detected going into the future and noted that it may be the next time it is sold.

Mr. Lunny stated that someone could find out about the matter during an inspection or during a study on a different parcel.

Councilmember Stoner advised that part of the initial Phase 1 report will say that there was previously a gas station or repair shop located at the site so they try to go back in history to determine where the contamination would have come from. Then they go into the Phase 2 which is a little further involved.

Councilmember Jacobs believes it would be a little tough to try to get someone to do that study as part of approval of this kind of item.

Councilmember Stoner stated that as a car repair shop, chances are that they disposed of oil when doing oil changes on vehicles. There are all kinds of stuff in car repair shops and are we just going to cover it up and let it leak into the ground.

Councilmember Fadgen questioned what triggers that even if there is not a sales transaction with the property. Frequently if you go to a bank there would typically be a Phase 1 type of test. This is a derelict property that the applicant wants to develop and improve quite a bit with landscaping to the extent possible. He thinks we should not require it at this point.

Councilmember Stoner commented that you don't put a clean of paint on something and say a problem does not exist. She appreciates that he purchased the property and what he wants to do; however, it is an opportunity to make sure that it is done correctly going forward.

Councilmember Zimmerman advised that once these plans are done and go into the Building Department they will have to go back to the County to get stamped by the Department of Environmental Protection. That form asks similar questions when they submit. Part of this ends up in the County's responsibility to monitor this. That is why all plans go back to Broward County. If we are going to start looking at each and every one of our projects as they come into Building Department or site plan review, then perhaps we need to look at a longer range, maybe a new ordinance or something that gives us the authority to do that. Currently plans coming in rely on the County to do that review. He does not know if we are there to put additional requirements that are not normal to the process.

Councilmember Stoner questioned if we want to consider as a consensus, given that the City is basically a build out so everything we are going to do a renovation or a rehab whether it is commercial, residential or industrial. She questioned if everyone would be comfortable with Mr. Lunny pursuing that and how we can structure that as a City.

Councilmember Fadgen replied no.

Councilmember Levy indicated that DEP to report back to us what their findings are. They will send someone to investigate the history of the building. We could request that be part of a package or whatever as the building evolves.

Councilmember Zimmerman was not sure if he was on board with having Mr. Lunny look into it. He would like to hear from Jeff Sabouri, Chief Building Official, to see what his opinion is on the process. Mr. Sabouri may shed some light on what the County requirements are and be able to inform us from his point of view. It may be best to ask if we can get a report back from Mr. Sabouri and not hold this project up at this moment.

Mr. Lunny agreed.

Councilmember Stoner questioned if there are any outstanding fines on this property.

Mr. Brasgalla indicated that there are significant outstanding fines. They are hoping to appeal for remediation of the fines after bringing the property into conformance.

In response to Councilmember Stoner, Mr. Brasgalla stated that the amount of the fines is \$350,000.

Councilmember Stoner advised that the property was purchased blindly; it is buyer beware. She strongly recommended that the applicant have a conversation with the Mayor before he starts doing any renovations. There is only so much leeway.

Mr. Lunny stated it is 25%.

Councilmember Stoner commented that needs to be put in the budget; it is not going to go away because the building looks like \$1 million. It is due diligence; you don't come after the fact. Things are done in a certain order; to say that the applicant is going to come back and request a reduction in fines after doing the improvements.

Mr. Brasgalla indicated that the applicant was aware of the fines; he wants to make his business here.

Councilmember Stoner believes that the applicant needs to be a little more cautious for his own budget and have a conversation with the Mayor sooner rather than later about the reduction in the fines.

Councilmember Zimmerman referenced the roll up doors and questioned if they are new or if they are being replaced.

Mr. Brasgalla stated not by this owner; they are replacing them with hurricane impact units.

Eliyahu Bohadanah, owner, was present. He advised that he installed the doors; he received a permit from the City for three roll up doors. There is one in the rear and two in the front.

Councilmember Zimmerman questioned whether they want the door or is it going to be replaced with glass and a storefront per the staff comment.

Mr. Brasgalla indicated that they proposed plan is before Council at the moment; they would like to keep the door.

Councilmember Stoner questioned how temporary storage of materials is defined.

Mr. Leeds advised that there is no definition. It is very subjective. Currently the plan shows the roll up door and the area designated as office. If it is used for something other than office it is very hard to determine if

there is a violation; the door is down, unless the Code Enforcement Officer shows up the moment the door is open. There is not a definition for temporary; the idea is that it does not become a permanent storage warehouse. It is unenforceable.

Mr. Brasgalla stated that they are not covering anything; they are cutting away some of the existing pavings, increasing the green space, and installing a landscape and irrigation system. They are improving the impervious nature of the site and making more green space.

Councilmember Stoner commented that has nothing to do with what a Phase 1 would reveal.

Mr. Brasgalla indicated that there are 11 Engineering comments and something that says Permit Comments 1 – 5. He hopes that those five comments are not binding as part of Council approval; they seem to be comments that are part of a normal permit approval.

Councilmember Stoner noted that she was looking at Permit Comment #1 and #2 that say will be required. Any motion made will be approved based on the staff comments of this date; they will be required.

Mr. Brasgalla stating that they would be required as they relate to the permit. It is his opinion that these comments are onerous and imposing on the owner to make a condition of approval if they do not end up being required. If Broward County does not require them to have a surface water management permit, which is very expensive and problematic to obtain, they will obtain one. He does not want to say that their site plan approval requires this.

Councilmember Stoner advised that it says based on submitted plans.

Councilmember Levy suggested that the applicant meet with Engineering to discuss. He noted that with the location and the back end being the way it is there is not going to be much traffic.

Mr. Brasgalla agreed. He believes these comments are a natural part of the permit process and should not be part of the Council approval of the site plan and waivers. At least that is what he is asking. He also has an amendment to the waiver statement.

Mr. Leeds advised that there is an Engineering requirement.

Mr. Lunny indicated that the Engineering Department makes that standard comment on every plan because of the condition of the drawings that were submitted to such department. It should indicate that if there is some disagreement that is not resolved the matter can be returned in the development order rescinded.

Mr. Leeds mentioned a comment from the Engineering Department that states if the applicant does not meet with this plan the Engineering Department requires 30% pervious area and only 26% is being provided. This is another issue. He thinks this should be deferred so there can be discussion with the Engineering Department.

Mr. Lunny stated if it is not resolved with the Engineering Department it can be returned to Council for further consideration.

Councilmember Levy does not think the difference on this kind of property 26% to 30% is significant.

Councilmember Stoner appreciates them coming to the City, opening a business and adding to the area. We just want to make it right.

Ms. Brasgalla mentioned the language of the waiver. He was under the impression that it had been tailored to the site plan approval. Mr. Leeds has pointed out that the language is not right. To reduce the landscape buffer from 0 feet to the east side is correct. From the west side it says two feet and he is actually proposing four feet one inch. He believes it should be amended to say, "To reduce the minimum perimeter landscape to two feet on the west side or change it to say the four-foot one-inch they are proposing". He is not going to change it to two feet; that would be less grass. They want it at four feet.

Diana Berchielli, Design, Landscape & Construction Management, was present. She clarified that they are required to have five-foot. Four-foot are being given on the plans; however, two-foot of the four-foot is vehicular overhang and that does not count. Staff has no concerns with these waivers; they understand the dynamics of the property.

In response to Mr. Leeds, Ms. Berchielli stated that the language is correct.

Councilmember Levy reiterated what our Chairperson said, "This fine that is outstanding; it does not go away just because someone bought it and they want to improve it. It stays with the property." Before you invest more money see what you can do to work out a settlement for your own good in your own pocketbook because the fee is not just waived; this vote is not anything to do with the fine. Unfortunately once that starts it evolves in its own way and he does not want him hurt by finding out that the fine is too much for him to do this. That needs to be worked out long before starting on anything even if there is approval today because that is very important to do first and then go with a clear head to do what needs to be done. He does not think anyone here is against what is being requested to renovate this kind of an eyesore and we are very happy you are but we want you to do it right so we all can have a good conscious in this moving forward.

Mr. Bohadanah commented that the City rules are that you cannot apply for a reduction on the fine until you correct the problem and that is what he is trying to do.

Mayor Bendekovic advised that you must come into compliance and then make the reduction.

Mr. Lunny indicated that once these plans are approved the City can say that the plans might be deemed in compliance with whatever is out there. Then the individual can be given a reasonable time to execute the plan and upon completion the fines will go from blank to blank. Something like that has been done in the past where the approval of the plans by the City governing body constitute perhaps an agreement on what compliance will be depending on what the violations are. You can start a dialogue immediately with Administration on this.

Councilmember Stoner requested clarification that the applicant may call and make an appointment at approval of his plans.

Mr. Lunny stated that he cannot answer this exactly at this time. He would like to acquaint himself with the nature of the violations and if the nature of the violations are lack of conformance with the standards and the City approves a site plan saying that this is acceptable with the waivers, at that moment there will be an understanding about what compliance will be like and we might be able to give a reasonable time to execute that with the understanding that once that is executed the fines will go from blank to blank. If it is beyond the Mayor's limit of authority to make a reduction it will have to go to the Special Magistrate. You don't always

have to wait for the improvements to be finished before you come in on all types of violations. Some you can work out this alternative way.

Councilmember Stoner questioned if someone wants to research that and communicate.

Mr. Lunny advised that he needs to make an appointment with Administration.

Mayor Bendekovic indicated that he could contact Susan DiLaura and she will handle it. From there they coordinate with Finance and then Finance gives the figures.

Mr. Lunny commented that most violations are simple to cure; you actually have to do the work before. If the Council is all right with trying to take a different approach they are welcome to do that.

Councilmember Levy stated that he is concerned that he will get into it too deep and realize that he cannot afford it.

***Motion by Councilmember Zimmerman, seconded by Councilmember Fadgen, to approve Item No. 13, subject to staff comments except for Planning and Zoning #1; allowing the garage door to stay; and he will work with staff regarding permitting comments. Motion carried on the following roll call vote:***

Ayes: Fadgen, Levy, Jacobs, Zimmerman, Stoner

Nays: None

\* \* \* \* \*

## **COUNCILMEMBERS' COMMENTS**

Councilmember Fadgen stated that he was contacted by two plumbers that advised him that the procedure for backflow preventer testing that is required every year has changed to a few times a week from 8:30 a.m. to 10:30 a.m.; however, only ten at a time can get permits. That is a real burden on some people. He understands that Wilton Manors recently hired a vendor and all of this can be done online.

Mayor Bendekovic advised that we are in the process of changing the process. We are in the process of re-evaluating and hope to have people faxing in. If a condominium comes in with 40 or 50 at a time and there are other people waiting in line we are asking the ones that have more than ten to make an appointment so we can service them along with the other people who come in. To do a vendor, that would cost us and we prefer to do it expeditiously in another way.

Councilmember Fadgen questioned if only the people with ten or more are restricted to the two days and the two hours.

Mayor Bendekovic indicated that the reason for the two days was because we figured if we need more then we will expand it three or four days as needed. We are doing appointments for people who need more than ten.

In response to Councilmember Fadgen, Mayor Bendekovic clarified that if he had 50 they could make an appointment and be seen.

Ms. Otiniano stated that they were talking about people being able to fax and after speaking with the manager we also discussed about having people email. Faxes have to be confirmed every day; therefore, we may actually go to email instead of fax or both. Currently there is a lot of change going on in the Utility Department, we are trying to get it structured so we understand how many days backflows are needed and how often people are coming in. Staff does not keep track of it so she is looking to see how many, how often and much is needed. If we need to add more days we will do so but definitely the email and the fax will be a good thing. Fax and email requests can be picked up three days later.

Mayor Bendekovic advised that there will be changes in the billing department; they are trying to do quality customer service.

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Councilmember Zimmerman indicated that he attended the Landscape Planning and Review Board Workshop and thought it went very well. He thanked Mr. Ezzeddine and Mr. Romano for working with that group; he thinks it is beneficial to use our Boards to that advantage.

He also had a great lunch with the Women's Club yesterday; they did a great show.

\* \* \* \* \*

Councilmember Levy wished everyone a Happy Hanukkah who celebrates that holiday; it starts on December 16, 2014.

He reiterated the comments about the Women's Club luncheon; it was a lovely event.

\* \* \* \* \*

Mayor Bendekovic wished everyone a happy holiday.

She reminded everyone that December 17, 2014 is the next City Council meeting.

Councilmember Jacobs questioned if there is an Executive Session on that date.

Mayor Bendekovic stated that there is at 7:00 p.m.

Mr. Lunny advised that there will be an Attorney/Client session held pursuant to Florida Statute 286.0118 2014 between Mayor Diane Veltri Bendekovic, Council President Lynn Stoner, Council President Pro Tem Ronald Jacobs, and Councilmembers Jerry Fadgen, Dr. Robert A. Levy, and Chris Zimmerman. The attorneys in attendance will be City Attorney Donald J. Lunny, Jr. or Quentin Morgan, and Special Counsel, Jaime A. Cole. The meeting will discuss settlement negotiations and strategy related to litigation expenditures for pending judicial litigation in a case captioned City of Sunrise, et. al, Plaintiffs, versus Broward County, Defendants. The case is pending in the Circuit Court of the 17<sup>th</sup> Judicial Circuit in and for Broward County, Florida and has been assigned Case Number 13015660 in Division 19. This Attorney/Client session shall commence at or as soon as possible after 7:00 p.m. on Wednesday, December 17, 2014 in the Mayor's Conference Room, which is located in City Hall on the second floor, 400 NW 73<sup>rd</sup> Avenue, Plantation, Florida. This Attorney/Client session shall last an estimated .5 hours. The only persons authorized to attend this Attorney/Client session pursuant to the above referenced State Law are Mayor Diane Veltri Bendekovic, Council President, Lynn Stoner, Council

President Pro Tem Ronald Jacobs, Councilmembers Jerry Fadgen, Dr. Robert A. Levy and Chris Zimmerman, City Attorney Donald J. Lunny, Jr. or Assistant City Attorney, Quentin Morgan, and Special Counsel, Jaime A. Cole, and a certified transcribing court reporter.

With respect to the Plantation General Hospital application to relocate its beds to the campus of Nova Southeastern University, the Agency for Healthcare Administration approved the application. This type of approval was a preliminary approval. It was based on the preliminary proceedings. The way these proceedings work is that the Agency is authorized to conduct a discretionary hearing should it choose to do so. In this case it did. Interested persons who are not healthcare providers like Plantation have an opportunity to provide input to the Agency representatives at the hearing and that occurred. Then the Agency determines whether the application should go forward, which it did. This means that the more formal process of contesting the application by parties that have the full standing to do so can now commence. The City has been advised that North Broward Hospital District in conjunction with the South Broward Hospital District in conjunction with the Cleveland Clinic will be formally opposing this application. They will be using some of the evidence that the City collected and presented at the hearing. The Mayor has asked that we continue to be supportive in terms of answering questions or providing information to those parties and it is possible that some of our public safety personnel, Engineer and expert will be called upon to testify. The City is disappointed in the initial determination but all along the initial determination was discretionary to start with. The City had a very limited opportunity to legally participate in the proceedings and nothing that the City did in any way prejudices any of the main litigants from taking over at this point, which early on they announced their intention to do so.

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

George Lord, resident, was present. He invited the Mayor and Councilmembers to the Plantation Country Club Estates Homeowners party on December 18, 2014 at 7:00 p.m.

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Attorney Bill Laystrom was present. He is attempting to slow down a mini crisis at the Pet Smart Plaza. He understands that the Fresh Market is getting ready to open. He represents the shopping center of which the old Borders is a part of as an outparcel. Somewhere around April or May, after some of their approvals were received, a parking calculation was done that basically came out the same as if you had looked at Lucky's; not as much percentage wise but about 60 parking spaces short. They did not get a waiver so he met with Mr. Leeds and Fresh Market and they came up with the plan to apply for a waiver to solve that problem and will come back to Council. His client, who owns the shopping center, lives in Montana and one of the investors lives in California; therefore, they are not very familiar with how things happen here and the cooperating the City Council has always shown. The concern is that they do not have a waiver for the reduction of parking by about 60 spaces for that shopping center. The client called him yesterday and was wild about letting you know that he has this issue. He has been attempting to get the Dunkin Donuts Fast Food Ordinance for about three years and theoretically, there is no parking for any vacant space until the parking waiver is granted. He believes the City will cooperate and allow them to lease their space that may be vacant including the large space with Party City. He should get that application to Council by the middle of January. He distributed a map. He wanted to make sure that he told you that the waiver was coming so when and if they opened and they get here in January you understand that the waiver is still coming and it has a very distressful situation for his client if something happens where he does not get it. His client owns everything in the shopping center except the Pet Smart. The reason the application has not got to Council yet is because one of the requirements is that Pet

Smart signs off on the waiver to change the parking ratio for the parking center. Fresh Market has been very cooperative; they have actually co-authored the parking waiver and are supportive of it. He will report back to his client with the Council's initial thought.

Councilmember Stoner questioned how a CO was issued and whether the parking waiver was a requirement of staff comments.

Mr. Laystrom stated that it was not.

Mr. Lunny advised that the City allocates parking in sites on a first come first serve basis and without the waiver arguably the balance of the site would be affected.

Councilmember Stoner questioned if they striped it.

Mr. Lunny indicated that he is coming to Plantation in the future with an application that he is trying to get the joint approval of the owners on. When it came through the process it came through at Review Committee because it was a minor change. The sign special sign came to Council but the parking waiver was not part of that application and it went through a little faster than one would think. When the application is received the Director has the ability to review it and if he is sponsoring it it can be brought to the Council directly for consideration. There is not a problem with the City's process because the City allocates parking on a first come first serve basis to multi-tenant sites.

Mr. Laystrom mentioned that even allocating it that way, it is short 60 spaces.

Councilmember Jacobs questioned if it would be appropriate to tell the client that you talked to the City Council and are sure that the City will work with you as best we can.

Mr. Laystrom commented that if there were a concern at least he could get that to them and address it as well. He thinks staff will support the waiver. He has been talking to Mr. Leeds since April and they have a solution. Staff has been helpful as well.

Mr. Lunny questioned if any tenants are coming in between now and then.

Mr. Laystrom stated that he did not think so. He was more concerned about the reverse which is they have an extraordinary grand opening and there are no parking spaces. He thinks it will be unusually active until it settles down a little.

Councilmember Levy indicated that they did a quite opening today; no fanfare. There were people there at 9:00 a.m. when they opened.

Mayor Bendekovic advised that the only competitor is Triple A and they have a lot of traffic.

Mr. Laystrom mentioned the number of small restaurants and noted that is why the parking count is so easy to keep a handle on.

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**SEALED COMPETITIVE SOLICITATIONS** – None.

\* \* \* \* \*

**WORKSHOPS** – None.

\* \* \* \* \*

Meeting adjourned at 9:22 p.m.

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\_\_\_\_\_  
Councilmember Lynn Stoner, 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 \_\_\_\_\_, 2015.

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