

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

**June 10, 2015**

The meeting was called to order by Councilmember Chris Zimmerman, President of the City Council.

1. Roll Call by City Clerk:

Councilmember:	Ron Jacobs Robert A. Levy Lynn Stoner Peter S. Tingom 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 Meetings

Minutes of the regular meetings of March 18, 2015 were approved as printed.

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**ITEMS SUBMITTED BY THE MAYOR**

**Resolution No. 12080**

4. **RESOLUTION** of Appreciation to Kenneth Boyce for 30 years of dedicated service to the City of Plantation.

*Motion by Councilmember Tingom, seconded by Councilmember Levy, to approve Resolution No. 12080 as presented. Motion carried on the following roll call vote:*

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

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James Romano, Director for Parks and Recreation, made the following announcements:

- Summer Camp started on Monday; there are a few openings left. If interested please call 954-452-2510.
- The Miami Dolphins 7 versus 7 Tournament will be held on Saturday and Sunday, June 13 and 14, 2015 at Central Park. For more information call 954-452-2508.
- The Broward County Junior Golf Association will be held at the Plantation Preserve on Monday, June 15, 2015. On Tuesday, June 16, 2015 a PGA Teen Golf Event will begin at 4:30 p.m. at the Plantation Preserve.
- The Father's Day Brunch will be at the Plantation Preserve on Sunday, June 21, 2015. Reservations are suggested; call 954-585-5031.
- The Independence Day Parade will be on Saturday, July 4, 2015 at 9:00 a.m. That evening there will be a concert at 7:00 p.m. and fireworks at 9:00 p.m. at the ball field at Central Park.

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Mayor Bendekovic made the following announcements:

- We are seeking applications for the Plantation Historic Commission. Applications are on [www.plantation.org](http://www.plantation.org).
- The Broward County United Way Mayor's Gala will be on October 24, 2015 at 6:00 p.m. They would like to know who will be attending sometime in August.
- Council needs to decide if anyone will be attending the 89<sup>th</sup> Annual Florida League of Cities Conference in Orlando, Florida at the Orlando World Center and Marriott from August 13 to 15, 2015.
- The Mayor's Council is next Wednesday, June 17, 2015 at the Fire Department Administrative Training Room. After a short presentation there will be a tour of the Utilities Department.
- The Friends of the Library Used Book Sale is Friday, June 12, 2015 between 9:00 a.m. and 5:00 p.m. and on Saturday, June 13, 2015 between 9:00 a.m. and 4:00 p.m. and Friday and Saturday, June 26 and 27, 2015.
- The Summer Reading Program has begun.
- The Kid's Summertime Program will run every Wednesday through July 29, 2015 at 10:30 a.m. for all ages and on Thursdays at 10:30 a.m. for three and four year olds.
- The Wine, Jazz and Taste of Plantation will be on Friday, July 17, 2015.
- The Plantation Farmer's Market is at Volunteer Park every Saturday between 8:00 a.m. and 2:00 p.m.

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## **CONSENT AGENDA**

As a Commissioner of the CRA, Mayor Bendekovic has a voting privilege on Item No. 13.

Mr. Lunny advised that there is no legal requirement that the title to any of the Resolutions be read. He questioned whether it was the President's intent to move on or whether he wanted him to read the Consent Agenda by title. In the past it was public announcement/public information; however, nothing was pulled and there are no Ordinances where the title is required to be read.

Councilmember Zimmerman indicated that if there is no reason to read them then we will move on.

5. Request for authorization to exercise/execute the first of three (3) one-year renewal options with Pace Analytical Services, Inc. contract for “Laboratory Testing Services” ITB Nr. 028-14. (Budgeted – Utilities)
6. Request to approve a Developer Agreement Financial Assurance Irrevocable Standby Letter of Credit for Plantation Palace North.

**Resolution No. 12081**

7. **RESOLUTION** approving agreement for purchase of a fire truck between the City of Plantation and Hallmark Fire Apparatus in the amount of \$496,710.

**Resolution No. 12082**

8. **RESOLUTION** approving agreement for professional construction specification and estimating services between the City of Plantation and Housing and Assistive Technology, Inc. in form attached hereto as Exhibit “A”; having the appropriate City Officials execute revisions thereto; and providing an effective date therefor.

**Resolution No. 12083**

9. **RESOLUTION** approving agreement for professional construction specification and estimating services between the City of Plantation and SoFl Corporation in form attached hereto as Exhibit “A”, having the appropriate City Officials execute same and authorizing the City Administration or City Attorney to make minor revisions thereto; and providing an effective date therefor.

**Resolution No. 12084**

10. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 21, 2015 through June 2, 2015 for the Plantation Gateway Development District.

**Resolution No. 12085**

11. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 21, 2015 through June 2, 2015 for the Plantation Midtown Development District.

**Resolution No. 12086**

12. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 21, 2015 through June 2, 2015.

**Resolution No. 12087**

13. **RESOLUTION** approving the expenditures and appropriations reflected in the Weekly Expenditure Report for the period May 21, 2015 through June 2, 2015 for the City of Plantation’s Community Redevelopment Agency.

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

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

NOTE: Councilmember Jacobs was not present for the discussion or vote.

Mayor Bendekovic voted affirmatively on Item No. 13.

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## ADMINISTRATIVE ITEMS

Mr. Lunny read Item #14.

### 14. ANNUAL BOARD/COMMITTEE APPOINTMENTS/RATIFICATIONS

Mayor Bendekovic appointed Joe Namm to the Nuisance Abatement Board and Claudia Vance to the Unsafe Structure Board.

Councilmember Tingom appointed Stacy Bomar to the Board of Adjustment; Peggy Tingle to the Educational Advisory Board; Marilyn Barber to the Landscape Planning and Review Board; Wilma Tippy Drainer to the Library Board; Phyllis Lind to the Nuisance Abatement Board; Jeanne Dishowitz and Sandra Gracey to the Parks and Recreation Advisory Board; Cathy Iala (sic) to the Planning and Zoning Board; Rick Gibbs to the Plantation Gateway Advisory Board; Adam Sic (sic) to the Plantation Midtown Advisory Board and Dennis Fontaine to the Unsafe Structure Board.

Councilmember Levy reappointed Fred Bellis to the Planning and Zoning Board and Bill Cuthbertson as the rotating member on the Planning and Zoning Board.

Councilmember Zimmerman appointed Owen Duke to the Plantation Midtown Advisory Board.

Councilmember Jacobs appointed John Auerbach to the Plantation Midtown Advisory Board.

Councilmember Tingom indicated that he has a vacancy on the Planning and Zoning Board since Councilmember Levy appointed Bill Cuthbertson as the rotating seat.

Mayor Bendekovic questioned whether there is a vacancy on the Educational Advisory Board.

Councilmember Jacobs advised that he appointed Natalie Lynch Walsh a while ago.

Ms. Slattery advised that Councilmember Jacobs has a vacancy on the Landscape Planning and Review Board.

***Motion by Councilmember Stoner, seconded by Councilmember Levy, to ratify the appointments. Motion carried on the following roll call vote:***

Ayes: Levy, Stoner, Tingom, Jacobs, Zimmerman

Nays: None

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**LEGISLATIVE ITEMS**

Mr. Lunny read Item #15.

**Resolution No. 12088**

15. **RESOLUTION OF THE CITY OF PLANTATION, FLORIDA PERTAINING TO THE SUBJECT OF REAL PROPERTY; DETERMINING CERTAIN REAL PROPERTY TO BE SURPLUS PROPERTY; THE SURPLUS PROPERTY AFFECTED BY THIS RESOLUTION BEING LEGALLY DESCRIBED IN EXHIBIT “1” TO THE DRAFT RESOLUTION WHICH IS FILED IN THE OFFICE OF THE CITY CLERK (SUCH PROPERTY GENERALLY NEAR OR REFERENCED BY THE FOLLOWING AD VALOREM PROPERTY IDENTIFICATION OR FOLIO NUMBERS: 494131 03 1140, 504112 12 0230, 504106 01 0070, 504101 01 0122, 504103 38 1080, 494133 02, 0041, 504108 08 0040, AND 5041 08 30 0030); AUTHORIZING THE CONVEYANCE BY QUIT CLAIM DEED OF SUCH SURPLUS PROPERTY; APPROVING THE FORM OF THE QUIT CLAIM DEED FOR SUCH CONVEYANCES AND AUTHORIZING CHANGES THERETO AS MAY BE REQUIRED; GENERALLY AUTHORIZING THE ADMINISTRATION TO TAKE ALL ACTIONS AND DO ALL THINGS NECESSARY TO EXECUTE THE CONVEYANCES APPROVED BY THIS RESOLUTION; PROVIDING FINDINGS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.**

A Memorandum dated May 27, 2015, to Mayor and Members of City Council, from Priscilla Richards, Strategic Operations Administrator, follows:

**HISTORY:** This is the 2015 second batch of proposed surplus properties that Staff recommends be returned to the private sector. As the elected officials may recall, Sec. 2-163, of the Plantation City Code, provides for an efficient and cost saving process to dispose of surplus property. Most of the properties were received by the City as part of a tax sale (except Parcel 111, which the City received from Texaco). No site is large enough to comprise an independent building site. City Staff has reviewed the status of each parcel and recommends the surplus determination and transfer of eight sites. The Chart below summaries the relevant circumstances for each proposed site, with values taken from the current ad valorum tax roll.

Site #	Address	Folio	Value	Recipient	Reason
69	NW 101 Terrace	4941-31-03-1140	\$ 2,160	Jacaranda Lakes Homeowner’s Association, Inc.	Parcel was community common area next to a lake (stormwater) area.
104	1035 West Country Club Circle	5041-12-12-0230	\$ 3,110	Paul and Christine Conti	Parcel is part of the Conti’s property.
109	NW 1 Court	5041-06-01-0070	\$ 1,310	Bellsouth Telecommunications LLC	Parcel is perimeter landscape directly adjacent to Bellsouth’s property and “squares off” the property boundary.
111	501 North State Road 7	5041-01-01-0122	\$ 450	Lake Worth Property Enterprise LLC	Parcel is directly adjacent to the Recipient’s property and “squares off” the boundary.

116	NW 65 Terrace	5041-03-38-1080	\$ 10	Polynesian Villas Condominium	Parcel is private roadway/parking area within Condominium Community.
135	NW 85 Terrace	4941-33-02-0041	\$ 300	Lauderdale West Homeowner's Association	Parcel is where community satellite dishes used to be installed. The land will now be able to be used by the Association for its purposes.
182	SW 89 Terrace	5041-08-08-0040	\$19,120	Coco Plum Coco Lake Homeowner's Association, Inc.	HOA owns the majority of the water body where parcel is located.
183	SW 1 Street	5041-08-30-0030	\$ 10	Cedar Landing at Jacaranda Condominium Association, Inc.	Parcel is private road located within Condominium Community.

Mr. Lunny advised that the Administration is embarking on a project of trying to return to the private sector various properties that the City receives from Broward County as a result of tax sales or other properties that from time to time the City finds that it no longer needs. This matter is now ready for City Council action.

***Motion by Councilmember Levy, seconded by Councilmember Tingom, to approve Resolution No. 12088. Motion carried on the following roll call vote:***

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

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16. DISCUSSION CONCERNING COMMUNITY DEVELOPMENT.

Mayor Bendekovic advised that in the future she is going to bring several issues before Council for discussion. The reason is because of what is happening with Plantation General Hospital. She decided to look at the entire City and get Council's feedback. She feels that we should always balance. If Council does not want to discuss this, they can meet with Mr. McHugh and Mr. Leeds to discuss some of the concerns and then she can come back with a more thorough report. The City of Plantation has three major business corridors; Midtown, Gateway and Plantation Tech Park. In recent years Plantation Midtown and Gateway have experienced major redevelopments, which increased our property taxable value. She is happy to say that Gateway was 6.2 and Midtown was 7.3. During the economic downturn Plantation was one of the few cities that were very fortunate to have millions of redevelopment going on while others along those corridors were not. Many of those projects were residential. With the construction of these projects the commercial land use has diminished. She wanted mentioned the approved residential projects as follows: One Plantation Place, Midtown 24 Phase I, Camden, Veranda I, and Veranda II known as the Manors, Crossroad Residential and Broadstone. Currently up for application are Mill Creek with 250 proposed units, Lakeside with 271 units and Strata with 150 units. We still have possible other applications coming in with 321 North. She will be meeting with 321 North next Tuesday along with Mr. Lunny and Mr. Leeds. In 2007 an Ad Hoc Committee was formed, which provided

economic development recommendations. Upon further review, she noticed that some of the recommendations were addressed and others were not due to lack of funding. Anyone who travels north and south on University Drive understands the congestion at peak time. With the approval of high density multi-family residential it has and will have a direct correlation with the impact on traffic along with our neighbors to the south who are also having a surge of redevelopment and with Trader Joes and Wholesale Foods; that entire corridor will have more traffic. The Council did realize that the residential development along our business corridors was going to create an impact on our infrastructure and also on public safety; Fire and Police. An impact fee was approved and the current balance for Fire is \$27,598. That is not generating enough funds to purchase the latter fire truck that is needed to facilitate these developments and future ones. The chart shows the land area usage and we are on the low end of having office, commercial and industrial; we only have 10%. Plantation has two concept plans; Plantation Midtown and Plantation Gateway. The Midtown plan was approved in 2002 and since that time the plan has changed dramatically and some of it is obsolete. There needs to be a thorough examination of the plan and she would like to see that happen. This was mentioned at the Plantation Midtown Advisory Board meeting. In looking at Plantation Gateway, there will be a dramatic change if Memorial is unsuccessful in their appeal in opposing the Plantation General Hospital transfer of beds. That healthcare district might never exist again and we will have to redefine that district. That is another area of concern. She appreciates each of your decisions because they are educated and informed. She wants to put some questions out there and if anyone would like to respond she would appreciate it. Decisions in the coming months and coming years will decide the direction that Plantation is going to be going.

Mayor Bendekovic asked the following questions:

- How does the City address its reduced capacity to provide employment?
- Should the City update the cost benefit analysis of additional multi-family versus non-residential?
- What is the benefit of encouraging additional high density multi-family residential projects?
- Does the City of Plantation propose a moratorium or a scale back on further multiple family projects?
- Should the City review and update its various concepts?
- Does the City Council wish to discuss using flexibility more selectively.

Mr. Leeds referenced question #6 in the backup and provided some background about what the decrease in the flex units means and how the number of flex units were increased. Historically, Plantation has limited residential development to less than allowed by the Broward County Plan. The Broward County Plan allows more units, higher density. The number of flex units is the difference between the County and City plan. Initially, in Flex Zone 75, which includes Midtown, there were 1,570 units available. Starting in 2004 the Council began to approve high density apartment buildings by flex assignment in Midtown decreasing the difference between the total amount of units allowed by the County and the City, specifically in Flex Zone 75. By 2014/2015 flex assignments for high density Midtown apartments had nearly depleted the Flex Zone 75 pool. There was a concern that if exceptional projects came to Midtown that flex units would not be available to permit the exceptional units. City staff, with the support of City Council, approved County approval to combine Flex Zone 75 with the adjacent Flex Zone 74 located to the east. Flex Zone 75 is over one-third of the City and the new combined Flex Zone which is called 75X is two-thirds of the City. With the consolidation of these two flex zones, we were able to take the units from the old 74 that were not going to be used and put them into 75X. We only obtained 716 units; therefore, there are not a lot of flex units to play with in Midtown. The development community has requested that the City amend its Comprehensive Plan to allow something called density stacking. Today our City plan allows developers a choice of one rule to increase residential density on commercial properties. Density stacking, if amended, allows the developer two rules to increase density. In one case the density was increased by 8% which is above the increase already allowed today. There is one project that came in that was limited to 25 units per acre; that is the maximum density in the City. However, by

application of this rule, if this rule were applied the property owner would be allowed 31 units per acre. This is a piece of property outside of Midtown. The development community has also requested the density stacking component outside of Midtown. Staff is evaluating the different options of what can be picked and something will be brought back to Council with possible two, three or four alternatives. The last item is #8. The assignment of flex units was originally intended for really exceptional projects that exceeded code requirements and were just superb products. This is because the flex assignment process reduces the overall review process six to eight months from a Land Use Plan Amendment. A Land Use Plan Amendment allows for more thorough contemplative review by City staff and also multi agency review. Flex assignment only requires two City Council hearings. The point of allowing it and encouraging it was to get the right stuff; the superb A+/A-buildings. As a benefit you come in with a great project that enhances the City and is a landmark in terms of architecture and design you save six to eight months getting there. As the City and County continue to climb out of the recession the City now has an opportunity to be much more selective regarding the quality of residential development. There was a tendency to accept more in 2009 or 2010 when things were really bad. There was concern about the banks; the mortgage back securities to deal with and a drop in property values all over the country. We have made significant increases in property values, especially in Midtown and State Road 7 Gateway. Now that we are at this point it is a time for reflection. He suggested that Council think about considering a long term benefit cost analysis comparing apartment buildings with employment based development. The short term tax base is a piece of commercial property that is under-utilized or not utilized. What does this mean to the Police Department and Fire Department five to ten years down the road that have to service these residential developments? What does it mean if we have a City that becomes a bedroom community of apartment buildings? He spoke with someone today from a rental agency who needed help with alternative advertising. They said they have about 20% to 25% vacant units and another ten units coming up for renewal and they were concerned. They said their one bedrooms are \$1,500 per month and up. A year and half ago to two years ago that was the price for a one-bedroom apartment in Downtown Broward Boulevard and Federal Highway. Mr. Leeds and his staff are going to investigate to see if this is really the rents that are being collected. If someone is paying \$1,500 per month they have to earn \$60,000 a year because they will be paying \$16,000 to \$18,000 a year in rent. These are people that are currently employed at Plantation General Hospital; nurses and new doctors. He assumes there may be some school teachers but most of them could not afford it. Jobs have to be created within the City to provide the demographic who can afford to live there. These are sustainable jobs; economically sustainable. Now is the time to plan.

Mayor Bendekovic stated that within the next five years this Council will be making some critical decisions. We need to be the gatekeeper for the development in the City of Plantation.

Councilmember Zimmerman agreed. There are a lot of things to look at before we move on.

Councilmember Levy indicated that there are some problems we need to tend to before getting into the visioning. He knows there is a plan to replace the American Express building and those offices with other offices and other companies. Plantation General Hospital is the #1 economic development crisis for our community. The Gateway 7 area is the buffer zone for the rest of Plantation. We have spent millions of dollars redeveloping, bringing businesses in, and changing the face of that area. This crisis, that is no fault of our own, is going to be a tremendous impact for the entire City. We need to come up with some way of marketing and working with those who are left in that area to create whatever type of invitation we want. There are lots of things we can do to start promoting the area now.

Mayor Bendekovic received a memo later this afternoon and they have asked for a continuance so they did not hear the appeal. They will not hear it until August 17-21, 2014 and August 24-28, 2015 and September 14-18, 2015.

Councilmember Levy believes that we need to focus on that area immediately. We need to come up with a plan and the Gateway 7 business group needs to be involved as well. He does not want to spend a long time in development plans and then find we have a short window to make it happen.

Councilmember Tingom thinks the review and update of the concept plans is what we need to do. Those plans are old and there have been many amendments to them. We have not done exactly what they asked us to do. He concurs with Councilmember Levy; we need to make sure we have a Plan A and B for the hospital area; that is a critical area. He heard that there was a Bill introduced in the Florida House to do away with the Certificate of Need requirement. If the hearing is postponed until August that might have an effect on what is coming down the road. It is important that the Council and the City move quickly to put guidelines in place so we can move forward. He thinks the questions asked are excellent and that is what we need to be focusing on and studying for the next couple of months and then we should take some action.

Mayor Bendekovic advised that she would look into that. She questioned if that means we could add beds and maybe there would be a buyer. There was a buyer for Plantation General Hospital from the Midwest but the beds did not stay there so that was an issue.

Councilmember Jacobs recalled when the Midtown plan was written. One of the fears he had at the time was that the University Drive corridor was going to be deteriorating along with the State Road 7 corridor. He thinks the Midtown was willing to address that issue and it did. The Midtown Plan definitely needs to be addressed and updated. He does not know about the other districts and whether you want to create an overall plan for the City. In the past, we focused on districts in our planning and we never had a full citywide vision on paper. Maybe it is something to consider. He would be hesitant to do a moratorium on anything, at least without a lot of study. To him a moratorium is more of a temporary emergency measure than a realistic planning tool. He is not sure that it is worth it to do a cost benefit analysis of multi-family versus non-residential use. He thinks it is more realistic to look at a plan that makes sense for this plan and the cost benefit of the different types of uses is not an important factor as much as the right plan that fits for Plantation and for our vision.

Councilmember Zimmerman agreed with no moratorium at the moment. He does not think that is something that is needed, especially with 321 coming online. There is some concern about getting higher rise, higher density developments coming outside of the Midtown. He thinks the City has done a good job limiting where that high rise development can go. The more we do four and five+/- story buildings throughout the City gives more credence to other developments coming in. He believes we should look beyond Midtown in the study. We have a unique nature in Plantation; it is a small hometown community and that sells a lot. If we ruin that with higher density outside the Midtown area then services and traffic will become an issue. He has seen some site plans come through that start to push that envelope and as a Council we have approved some of those. Maybe we are approving them without the benefit analysis of what it is going to do to the overall City and if it is the right thing to do. He thinks the Midtown Advisory Board wants us to review the Midtown plan and feels that we need to move fairly rapidly but not so rapidly that we miss something.

Mayor Bendekovic realized that the word moratorium is a severe word. She is not recommending it but at the same time you can also look at scale back. Instead of a 500 residential you might allow 150 residential. It is not necessarily eliminating it; it is just controlling it and having a balance. Commercial property does not have the impact that residential does on our infrastructure or public safety.

Councilmember Jacobs commented that with regard to looking at the Midtown plan, he hopes we are not going to do a new Midtown plan; that we are going to review and update. He believes there is no point in spending a lot of money doing it from scratch.

Mayor Bendekovic stated that she is going to refer to the notes we have from the Workshop many months ago and then we can have a working group.

Councilmember Zimmerman indicated that we have approved two large towers in the Midtown, the one on Peters Road and the one behind Total Wine. He has not seen those move ahead and that is a lot of units. Maybe there is something we need to know.

Mayor Bendekovic advised that Camden has not come back.

Jon Voight was present. He stated that they are still moving forward. Amway owns that. The County requires a lot of documents and he just received easement forms from the Utility Department. FP&L has held them up since last July on vacating an easement on the right strip of the property, north and south behind Publix. There is a 15-foot FP&L easement and they need five feet of it that they are not using. Now they want us to find where their utilities are and determine how far they will still have from the edge; that has held them up six months. He noted that the millennial generation is not looking to buy houses in the suburbs, they want to rent and they tend to have the disposable income to pay those rents; they do not want to be tied down long term. Apparently there are now banks that loan for rent like mortgages to buy places. The developers cannot get loans to build ownership properties. It is quicker from a development standpoint to build residential than commercial because you are building a much larger usual building that has a higher demand for electrical feed, water capacity, etc. Those projects are going to move forward; they are not going to be empty blighted areas.

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Mr. Lunny read Item #17.

## **LEGISLATIVE ITEMS**

17. PUBLIC HEARING AND FIRST READING OF AN ORDINANCE OF THE CITY OF PLANTATION, FLORIDA, PERTAINING TO THE SUBJECT OF WRECKERS; AMENDING ARTICLE III OF CHAPTER 12 OF THE CODE OR ORDINANCES RELATING TO WRECKER SERVICE FOR TOWING VEHICLES; PROVIDING THAT THE FEES AND CHARGES FOR SUCH SERVICES AS ADOPTED AND AMENDED BY BROWARD COUNTY SHALL BE EFFECTIVE WITHIN PLANTATION SUBJECT TO CERTAIN EXCEPTIONS; PROVIDING THAT THE CITY MAY HAVE ONE OR MORE WRECKER FRANCHISEES; PROVIDING THAT THE CITY MAY APPROVE MULTIPLE FIVE-YEAR EXTENSIONS TO A FRANCHISE AGREEMENT; PROVIDING OTHER MISCELLANEOUS AMENDMENTS AND CLARIFICATIONS TO THE CITY'S WRECKER AND TOWER REGULATIONS; PROVIDING A SAVINGS CLAUSE AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Memorandum dated June 8, 2015, to Mayor and Members of City Council, from Horace A. McHugh, Chief Administrative Officer, follows:

**SUBJECT:** Towing Franchise Agreement

**REQUEST:** Adopt ordinance authorizing the assignment of the existing franchise agreement with Interstate Towing, Inc. to A Superior Towing; authorizing an extension of the franchise agreement for an additional five years, at the annual \$90,000 franchise fee; and amending Section 34 of the agreement to incorporate the County's rate schedule as may be amended from time to time and making the implementing changes.

**ANALYSIS:**

The City adopted Ordinance No. 2393 providing for Franchise Agreements for towing services. Agreements were subsequently executed with Giardina Enterprises, Inc. d/b/a Interstate Towing, Inc. and A Superior Towing allowing the two exclusive vendors to conduct towing services in Plantation from October 2007 to September 2012. Both agreements were extended for an additional five-year term through September 2017, which was permitted by each agreement. Similar agreements were executed with both vendors and critical terms of each agreement were:

- Each franchise pays the City \$35,000 annually for each year of the agreement;
- Each franchisee would be assigned tows by the City on a rotational basis;
- A variety of equipment and fleet were specified which were required to be maintained to acceptable standards and allowance was made for City inspection;
- Standards for storage, work areas, office facilities, crime scene storage, garage and other facilities were specified and allowance for City inspections;
- Franchisees agreed to comply with established response times in which they were required to respond to incidents and accident scenes;
- Franchisee agreed to provide tow services, tire change services and other services to City equipment, free of charge.

Interstate Towing, Inc. is interested in transferring its Franchise Agreement to A Superior Towing and requests the City's approval per Section 31 of the franchise agreement. A Superior has indicated its concurrence with this request. In reviewing the past service levels by A Superior Towing, we have no history of significant concerns with their operations, facilities or equipment. They have provided the service since 2007 and we have no objections to the assignment.

Under the terms of the arrangement, A Superior Towing would pay the City \$72,000 (\$36,000 x 2) annually for the balance of the remaining term of both franchise agreements and would be the only towing franchise authorized to operate within the City. The standards and requirements for equipment, facilities, response times, service levels and other components of the agreement would remain as if one (1) franchisee were operating (A Superior would not be required to double up on equipment). A Superior states that it has the full capability to cover the entire City under the time requirements and other stipulations set forth in the Agreement.

A Superior is additionally asking for a five-year extension beyond the expiration of the existing exclusive agreement, which would allow it to better amortize its investment in taking over the other franchisee's obligations. These include the receipt and storage of the other franchisee's inventory and office records for audit purposes, maintaining the other franchisee's insurance coverage for the balance of the current franchise agreement term, and making such business investments as are needed to accomplish the transfer. It has agreed to increase the annual franchise fee to \$90,000 (from \$72,000) in the five years of the extended franchise.

The current franchise makes reference to specific rates, under Section 35, subsections a, b, c, and d. These rates were related to Broward County's rates, which have been since revised. The County regulates towing rates and offers revisions which have a County-wide impact. As such, it is requested that these sections be revised to reference the Broward County rate structure.

In order to have a single franchise, extend the agreement as required for a third, five (5) year term and use the County rate structure. The City Attorney advises an Ordinance is necessary and a draft ordinance is attached.

If the Council approves the Ordinance at First Reading on June 10, 2015, it will be advertised for Second Reading. At that meeting, we will schedule the Council's consideration of a Resolution consenting to the franchise transfer and extension.

**RECOMMENDATION:**

It is recommended that the Council authorize the assignment of the existing franchise agreement with Interstate Towing, Inc. to A Superior Towing; authorize an extension of the A Superior franchise agreement for an additional five years; at the annual \$90,000 franchise fees; and amend Section 34 of the agreement to incorporate the County's rate schedule as may be amended from time to time and adopt the Ordinance making the implementing changes.

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Mr. Lunny explained that this ordinance is basically an enabling ordinance that is designed to allow a proposed transition in the City's franchise wrecker service where A Superior Towing, Inc., take over the operations of Giardina Enterprises, Inc. along the lines discussed and outlined in Mr. McHugh's memorandum. One change to the ordinance will be for Second Reading and that is that under the Commerce clause. Exclusive franchises are viewed with a strict legal eye and we do not wish to have multiple repetitive five-year extensions without, at some point, seeking a procurement. He recommended that when we come back for Second Reading perhaps we put a limit and say three extensions or shorten them a little like we do with Waste Management. He does not think that will affect the request for one additional five-year extension.

***Motion by Councilmember Jacobs, seconded by Councilmember Tingom, to approve Item #17 on First Reading. Motion carried on the following roll call vote:***

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

Mayor Bendekovic indicated that Superior and Interstate were here for us when no one else would facilitate our needs and they have been very committed to the City of Plantation and to our Police Department and any of our residents. We appreciate that kind of commitment.

\* \* \* \* \*

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

\* \* \* \* \*

*Councilmember Zimmerman referred to the guidelines for those addressing the Council as witnesses having been sworn in.*

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

\* \* \* \* \*

## **QUASI-JUDICIAL ITEMS**

Mr. Lunny read Item #18.

18. DEFERRED REQUEST TO APPROVE SITE PLAN AMENDMENT (PARKING WAIVER) FOR FRESH MARKET/PETSMART PLAZA. PROPERTY LOCATED AT 11901-12171 WEST SUNRISE BOULEVARD AND ZONED B-2L. (PP14-0026)

Councilmember Zimmerman advised that he received a request from the applicant to defer this item until June 24, 2015.

In response to Councilmember Jacobs, Mr. Lunny indicated that there is no need for a Jennings Disclosure; however, there is a need to fill out a contact sheet. When the item comes back for the Quasi-Judicial decision that would be the appropriate time to make the Jennings Disclosure.

***Motion by Councilmember Jacobs, seconded by Councilmember Levy, to defer Item #18 to June 24, 2015. Motion carried on the following roll call vote:***

Ayes: Levy, Stoner, Tingom, Jacobs, Zimmerman

Nays: None

\* \* \* \* \*

Mr. Lunny read Item #19.

19. DEFERRED RESOLUTION APPROVING A 9,715-SQUARE-FOOT RELIGIOUS FACILITY (SHILOH APOSTOLIC CHURCH) ON 2.5+/- ACRES AS A USE VARIANCE TO BE LOCATED IN A B-2P ZONING DISTRICT ON PROPERTY LYING IN SECTION 33, TOWNSHIP 49 SOUTH, RANGE 41 EAST, AND DESCRIBED AS A PORTION OF EVERGLADES PLANTATION COMPANY SUBDIVISION, AS RECORDED IN PLAT BOOK 2, PAGE 7, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; GENERALLY LOCATED AT THE NORTHEAST CORNER OF UNIVERSITY DRIVE AND SUNRISE BOULEVARD (PLANTATION CROSSROADS SHOPPING CENTER) PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Staff Report dated May 13, 2015, to the City Council, from the Planning, Zoning & Economic Development Department, follows:

**REQUEST:** Use variance approval to allow a 9,715-square-foot house of worship in a B-2P zoning district.

**WAIVER REQUEST:**

From: Section 27-742, which requires 1 parking space for each 4 fixed seats plus 1 parking space for each 50 square feet of floor area in assembly rooms with moveable seats;  
To: Reduce the required parking from 176 parking spaces (based on 704 fixed seats) to 76 parking spaces.

**EXHIBITS TO BE INCLUDED:** Planning and Zoning Division report; subject site map; development review application; Planning and Zoning Board meeting minutes February 3, 2015; and Review Committee meeting minutes of June 24, 2014.

**PLANNING AND ZONING BOARD RECOMMENDATION: APPROVED** subject to staff comments (4/1; February 3, 2015).

**REVIEW COMMITTEE RECOMMENDATION: NO OBJECTIONS** to the project moving forward for further review (June 24, 2014).

**ANALYSIS:**

The subject site is the former theatre located in the Plantation Crossroads shopping center (fka Mercedes Plaza) at the northeast corner of University Drive and Sunrise Boulevard. The site is developed with nine freestanding buildings containing approximately 116,000 square feet of retail, office, restaurant, day care, auto repair, pharmacy, and movie theater uses.

The movie theater is centrally located on the north side of the site, does not have visibility from Sunrise Boulevard or University Drive, and had been vacant since 2012.

Houses of worship are not listed as a permitted use in the B-2P zoning district. The applicant has applied for a use variance approval to allow the 9,715-square-foot religious facility to continue to operate at this location. If approved, the use variance would allow all four of the original theatres (704 seats) to be occupied simultaneously.

The applicant indicates:

- 1) The administrative office is open Monday through Friday from 9:00 a.m. to 5:00 p.m.
- 2) Worship services are held from 10:00 a.m. to 1:00 p.m. on Sunday.
- 3) The church holds small group meetings:
  - a. Daytime on Tuesday, Wednesday, and Thursday.
  - b. Evenings on Wednesday and Friday.

Peak occupancy of approximately 100 persons appears to occur on Sundays at 11:00 a.m. The application indicates there are no plans to expand day care, school, or community outreach programs.

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

Planning:

1. This request must undergo a local concurrency review for water, sewer, streets, drainage, and solid waste. The applicant has presented the form to the appropriate City departments for sign off prior to City Council approval.

Zoning:

Use variance approval at the discretion of City Council.

**ENGINEERING DEPARTMENT:** No objection.

**TRAFFIC CONSULTANT:** No objection.

**DESIGN, LANDSCAPE & CONSTRUCTION MANAGEMENT:**

1. Staff has no objection to the use variance request as this project has no impact on the existing code required landscape.

**BUILDING DEPARTMENT:**

1. Complete floor plan drawings will be required to verify compliance with the current life safety codes.

**FIRE DEPARTMENT: COMMENTS FROM PLANNING AND ZONING STAFF REPORT**

1. Provide correct and scaled floor plans to verify proper compliance with fire and life safety codes.

*Applicant Response: Floor Plan outlining Fire and Life safety codes submitted herewith.*

**Fire Department Reply:** Complied.

2. Provide correct and scaled site plans to verify proper compliance with fire and life safety codes.

*Applicant Response: Scaled Site Plan showing compliance with fire and life safety codes submitted herewith.*

**Fire Department Reply:** Not complied.

*Applicant Response: Scaled Site Plan showing compliance with fire and life safety codes submitted herewith.*

**Fire Department Reply:** Not complied; still no site plan submitted to show proper egress discharge from large seating rooms and new exterior stairs.

3. Provide scaled life safety plan showing all proper means of egress requirements.

*Applicant Response: Scaled Life safety Plan with egress specifications submitted herewith.*

**Fire Department Reply:** Submitted plan shows numerous issues that do not comply with proper means of egress requirements, such as insufficient exit signage, insufficient emergency lighting, excessive common path of travel, etc.

*Applicant Response: Scaled Life safety Plan with egress specifications submitted herewith.*

**Fire Department Reply:** Submitted plan still shows issues that do not comply with proper means of egress requirements, such as insufficient exit signage and insufficient emergency lighting; as examples, no exit signs are shown in large seating rooms, no emergency lighting is shown in large seating rooms; additionally, dimensions on plans do not correlate with existing conditions, such as the width of existing stairs is less than the 3' shown.

4. All aspects of fire and life safety shall comply with 2010 Florida Fire Prevention Code as new construction.

*Applicant Response: Compliance with 2010 Florida Fire Prevention Code relating to new construction shown on Plans*

**Fire Department Reply:** Due to code change, all aspects of fire and life safety shall now comply with 2014 Florida Fire Prevention Code as new construction. Submitted plan shows numerous issues that do not comply with proper means of egress requirements, such as insufficient exit signage, insufficient emergency lighting, excessive common path of travel, etc.

*Applicant Response: Compliance with 2014 Florida Fire Prevention Code relating to new construction shown on plans. Sufficient exit signage and emergency lighting corrected by architect Sandra Puerta.*

**Fire Department Reply:** As Fire Chief Laney Stearns confirmed and stated to Pastor Vaughn Smith, all aspects of fire and life safety shall comply as new construction under the Florida Fire Prevention Code 5<sup>th</sup> Ed. (previously known as 2014 Florida Fire Prevention Code) with the exception of any existing structural means of egress dimensions.

5. Whole building/structure shall be entirely protected by an approved, supervised automatic fire sprinkler system.

**Applicant Response:** Economy fire protection, Inc. 2110 Lincoln Street, Hollywood, Florida 33020, phone: (954)925-0113; e-mail: [ecofireinc@aol.com](mailto:ecofireinc@aol.com) has been contacted to outfit the building with an automatic Fire sprinklers. Contact person is Ralph Edmondson

**Fire Department Reply:** Mr. Edmondson informed me that he was contact but turned down the work.

**Applicant Response:** Following a walk through by Fire Chief E. Laney Stearns, III and Tony Martins (Pastor Vaughn Smith being present) it was determined based on the observation and comments of Fire Chief Stearns that a fire sprinkler system is not needed providing a staircase is constructed for proper egress from the second floor; Second floor is cleared of projector equipment; all theaters are kept clean having walk paths clear and unobstructed; and all drapery removed from theater interior walls.

The following conditions have been addressed based on the recommendations:

- a. The Plans submitted herewith outlines a designated plan for the staircase construction- Permit to be applied for;
- b. Theater projector equipment has been removed from the second floor;
- c. All theaters have been cleaned and walk paths cleared;
- d. All drapes have been removed from the theater interior walls.

**Fire Department Reply:** As Fire Chief Laney Stearns confirmed and stated to Pastor Vaughn Smith, the installation of an approved, supervised automatic fire sprinkler system will not be required as long as the following conditions are met and/or adhered to:

A new exterior stair is constructed providing egress from the second floor (life safety plans do not show new stair and new emergency egress paths).

- a. Building is not to be occupied/used until this exterior stair is constructed and all fire and life safety issues are corrected.
- b. All projector equipment is removed from building.
- c. All four large seating rooms (theaters) are cleaned, organized, and egress paths maintained.
- d. All combustible wall covering is removed or professionally treated with a "UL" listed fire retardant.

6. The following issues are known at this time and will required correction:

- a. Second floor means of egress are not of the proper width.

**Applicant Response:** Use of the Second floor is irrelevant Church's purpose and; therefore, will be locked and remain unused. See plan.

**Fire Department Reply:** Locking and/or not using an area does not provide compliance with applicable codes.

**Applicant Response:** Second floor means of egress to be corrected by construction and installation of installation of staircase as shown on plans.

**Fire Department Reply:** Complied.

- b. Second floor does not have remote egress.

**Applicant Response:** Use of the Second floor is irrelevant Church's purpose and; therefore, will be locked and remain unused. See plan.

**Fire Department Reply:** Locking and/or not using an area does not provide compliance with applicable codes.

**Applicant Response:** Building to be fitted with construction of a staircase with flow from the second floor to the southern exterior of the building.

**Fire Department Reply:** Complied.

- c. Fire alarm system does not have up to date inspection, test and certification.

**Applicant Response:** *Up-to-date inspection, test and certification will be performed by "Mr. Wireman" www.mrwireman.com (EC13005166).*

**Fire Department Reply:** Fire alarm system shall be inspected, tested and certified immediately, not wait until building is occupied.

**Applicant Response:** *Up-to-date inspection, test and certification completed by "Mr. Wireman" www.mrwireman.com (EC13005166).*

**Fire Department Reply:** Fire alarm company did not provide required report to this Fire Department.

7. Any new construction will require permitting plans.

**Applicant Response:** *No response.*

**Fire Department Reply:** Not complied.

**Applicant Response:** *Permit for staircase construction will be applied for by licensed contractor.*

**Fire Department Reply:** All new construction, including exterior stair, stage and sound booth, will require permitting plans.

8. Additional conditions may arise upon review of any required permitting plans.

**Applicant Response:** *No response.*

**Fire Department Reply:** Not complied.

**Applicant Response:** *The organization is prepared to review and comply with additional concerns that may be necessary to ensure proper safety.*

**Fire Department Reply:** Complied.

**POLICE DEPARTMENT:** No comment.

**UTILITIES:** No objection, although additional capacity charges may apply once building plans or Occupational License are submitted. Should Fire Department comments require a sprinkler suppression system, additional Utility requirements would apply.

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

**WASTE MANAGEMENT:** No objections

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Mr. Lunny advised that at the last meeting the Fire Chief indicated that there were many concerns with the application and prior to getting to the merits of the matter the item was deferred to tonight in the hopes that those concerns would be resolved. He called attention to the various highlights in the Staff Report. The Fire Chief is present with respect to the progress or lack of progress on those items.

Fire Chief Laney Stearns was present. He stated that he met with the applicant several times since the last meeting. He has put a lot of work into the project and at this point he has no objections to them moving forward.

Councilmember Stoner mentioned that she was not sure whether this was the appropriate thing to do for this site. Motorola has done a new expansion with changes and there are some new buildings going up behind the Holiday Inn. We have those four corners and she does not know that we want to change the use at this time for that area, which would prohibit possible renovation of that entire corner. She did know if she was on board with that.

Mitchell Ceasar, Attorney, was present. He explained that this was the Mercedes Movie Theater, which has been a mess for a long time and has fallen into a state of disrepair. As the Chief said, they have worked extensively with the City and agreed to all items, both in reference to the use variance and the parking waiver. He personally was present during the inspection and there will continue to be significant upgrades. He thinks the key is the fact that not only is this an old facility but the impact on the Center, traffic and use within the Center and of cars on University Drive is extremely minimal. The greatest use will occur on a Sunday morning during services; their entire congregation may be 70 people, so that is not that many cars. At that time everything in the shopping center is basically closed; therefore, the traffic and people impact is extremely minimal. When they have other activities they are also during off times and they are less intensive than a small number of the congregation. It is fixing a bad place and bringing some very hard working people in.

Councilmember Jacobs indicated that Councilmember Stoner's comment was that this might prevent development in the future of this area. Just because we approve does not mean it is going to be there forever. He questioned whether the use variance usually runs with the land. He commented that if the land were redeveloped into a mixed use residential if this use variance would prohibit that or make it more difficult.

Mr. Lunny responded yes. With regard to redevelopment, he stated that it depends on the business arrangement between the occupant and the person trying to acquire the entitlements. If the occupant owns the property or has a long term lease without an effective cancellation provision then just like any other real property provision, the occupant can tie up and frustrate those concerns. Those business arrangements are normally not the subject of whether a use variance, which is a use not contemplated by the zoning scheme, should or should not be granted. Use variances are generally disfavored; you still need to have competent substantial evidence in the record to sustain a decision denying a use variance. There are certain standards that need to be looked at and this Staff Report may want to be referred back to staff for further evaluation in that regard prior to denying it.

Councilmember Jacobs questioned whether the use variance applies to the specific part or the entire property.

Mr. Lunny stated that Council can limit, with the applicant's consent, the use variance to the church if the occupant agrees and that might be an effective way to control it.

Mr. Ceasar advised that was their intention; they would certainly agree to that and have no objection.

In response to Councilmember Tingom, Mr. Ceasar stated that the lease is three years. He presumed it is renewable; that is a typical lease.

In response to Councilmember Zimmerman, Mr. Ceasar clarified that the use variance is only for the square footage of the theater.

Councilmember Levy likes that idea, especially with the three-year lease.

In response to Councilmember Zimmerman, Mr. Lunny advised that if Council wanted to look at this in three years you could limit the term as well.

Councilmember Jacobs did not think that would be fair. He reiterated that we are limiting the use variance to the old theater, not to square footage that could be applied anywhere on the site.

Mr. Lunny understood and noted that the minutes would reflect that.

Mr. Ceasar noted that the parking waiver was supposed to be addressed.

*Motion by Councilmember Jacobs, seconded by Councilmember Levy, to approve Item #18 including the parking waiver and limiting the use variance to the theater. Motion carried on the following roll call vote:*

Ayes: Levy, Stoner, Tingom, Jacobs, Zimmerman

Nays:

\* \* \* \* \*

Mr. Lunny read Item #20.

**Resolution No. 12090**

20. **RESOLUTION** APPROVING A 2,350-SQUARE-FOOT MASSAGE ESTABLISHMENT (MASSAGE GREEN SPA) AS A CONDITIONAL USE TO BE LOCATED IN A B-2P ZONING DISTRICT ON PROPERTY LYING IN SECTION 6, TOWNSHIP 50 SOUTH, RANGE 41 EAST AND DESCRIBED AS TRACT 276 IN JACARANDA PARCEL 276, AS RECORDED IN PLAT BOOK 127, PAGE 37, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING FURTHER DESCRIBED IN EXHIBIT "A"; ATTACHED HERETO AND GENERALLY LOCATED ON THE NORTHEAST CORNER OF CLEARY BOULEVARD AND NORTH NOB HILL ROAD (PLANTATION PROMENADE); PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREFOR.

A Staff Report dated June 10, 2015, to City Council, from the Planning, Zoning & Economic Development Department, follows:

**REQUEST:** Consideration of a request for conditional use approval for a 2,350-square-foot massage establishment.

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

**ANALYSIS:**

The subject site is zoned B-2P and located on the northeast corner of Nob Hill Road and Cleary Boulevard. The site encompasses 14.5 acres and is developed with a 144,146-square-foot shopping center with multiple tenants including a grocery store anchor and commercial outparcels. On December 20, 2012, the Plan Adjustment Committee approved façade upgrades for the center which included exterior façade, hardscape, and tenant signage improvements. The shopping center is in the final stages of renovation. The site is bound by canals to the north and east, Cleary Boulevard to the south and North Nob Hill Road to the west.

The applicant, Massage Green Spa, is classified as a massage establishment which requires conditional use approval in the B-2P zoning district pursuant to Section 27-721(3). If approved, the business will have a reception area, 9 treatment rooms (7 for individual massage and 2 for couple massage) and 12 employees. The business hours proposed are Monday to Saturday from 9:00 a.m. to 9:00 p.m. and Sunday from 10:00 a.m. to 6:00 p.m.

Parking for the shopping center is based upon shared parking standards. No parking waiver is proposed since the code-required parking does not increase based on the use and square footage.

The review of a Conditional Use request should include consideration of the criteria noted in Section 27-768 of the Land Development Code, which is attached hereto as Exhibit "A".

**STAFF COMMENTS:**

**PLANNING AND ZONING:**

Zoning:

Conditions of Approval:

1. The hours of operation be limited to Monday thru Saturday from 9:00 a.m. – 9:00 p.m. and Sunday from 10:00 a.m. – 6:00 p.m.
2. Massage therapy must take place in locations depicted on the floor plans entitled "Massage Green Spa – Plantation Promenade" prepared by WHA Design, and stamped received APR 28, 2015 attached hereto in Exhibit "B". If changes to the floor plans are subsequently pursued, appropriate approvals will be necessary.
3. At this time, the applicant only identifies one massage therapist. The names and credentials of future massage therapists have not been provided with this application but will be reviewed with each application for a business license. All massage therapists must individually comply with the standards in Chapter 14 and 27 of the City Code. Compliance with all applicable City codes relating to the operation of this use is required including the requirements of Florida Statutes Section 480.043 and Chapter 64B7-26, F.A.C. as may be amended from time to time.
4. No window coverings, including but not limited to blinds, curtains, window films, or other material, shall be used or placed to obstruct the view of the storefront windows.
5. No signage of any kind shall be placed on the storefront glass windows. Signage on the storefront doors (two) shall be limited to no more than 20% of the glazed area of each door and may only include the business address, business name, hours of operation, and open/closed.
6. Occupational license approval is subject to the conditions of this approval.

**ENGINEERING DEPARTMENT:** No site work. No objections.

**TRAFFIC CONSULTANT:** No objections.

**DESIGN, LANDSCAPE AND CONSTRUCTION MANAGEMENT:**

Staff has no objections to the conditional use request; this project has no impact on City code required landscape.

**FIRE DEPARTMENT:** No objections as to only this conditional use request. The applicant and/or owner are aware that conditions may arise upon review of all required permitting plans.

**POLICE DEPARTMENT:** No objections. Has no impact on police services.

**UTILITIES:** No objection, prior to a Building Permit or Occupational License being issued, the following must be provided:

Owner must provide previous use.

Additional Capacity Charges must be paid in FULL if applicable.  
- Contact: Danny Pollio if you have any questions, 954.797.2159

EXHIBIT "A"

LAW OFFICES  
DOUMAR, ALLSWORTH, LAYSTROM,  
VOIGT, WACHS & ADAIR, LLP

JOHN H. ADAIR, III, P.A.  
EMERSON ALLSWORTH, P.A.  
E. SCOTT ALLSWORTH, P.A.  
MARK E. ALLSWORTH, P.A.

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BENJAMIN R. DISHOWITZ, P.A.  
RAYMOND A. DOUMAR, P.A.\*  
C. WILLIAM LAYSTROM, JR., P.A.  
JOHN D. VOIGT, P.A.  
JEFFREY S. WACHS, P.A.+

+ALSO ADMITTED IN PENNSYLVANIA  
\*FORMERLY ADMITTED IN MICHIGAN

OF COUNSEL  
JOHN W. PERLOFF, P.A.  
JODIE SIEGEL, P.A.

Re: Massage Green Spa  
10105 Cleary Blvd.  
Plantation, Florida  
CONDITIONAL USE

CONDITIONAL USE STATEMENT

A conditional use application requires consideration of the criteria found in Section 27-768 of the Land Development Code of the City of Plantation. The Applicant submits the following responses.

- 1. A binding and buildable site plan that allows the Council to determine the architectural features and buffering needed to protect the surrounding property.

Applicant's Response: The shopping center and building already exist and only an interior buildout is being conducted. Detailed architectural plans regarding the interior buildout are being submitted with this application.

- 2. The proposed conditional use will be consistent with the general plan for the physical development of the district including any master plan or portion thereof adopted by the Council.

Applicant's Response: The proposed conditional use to allow a massage spa will be consistent with the general plan of the district in that the shopping center is existing and approved, and this would be an approved use in a shopping center, absent the massage element. Since this is a high-end spa concept, it should be a complement to the surrounding business and neighborhood.

- 3. The proposed conditional use will be in harmony with

the general character of the neighborhood, considering population density, scale and bulk of any proposed structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. A present need for the conditional use must be demonstrated.

Applicant's Response: Since the shopping center and space already exist, nothing about the opening of an in-line spa would change density scale or bulk of any structures or intensity of use. Rather, the high-end spa concept would be appropriate for the other businesses located within the shopping center and the area, as well as the surrounding neighborhood.

4. The proposed conditional use will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property, or the neighborhood, and will cause no objectionable noise, vibration, fumes, odor, dust glare of physical activity.

Applicant's Response: The proposed spa will in no way cause objectionable noise, vibration, fumes, odor, dust or glare or any outside physical activity. It will not in any way be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property or the existence of the other businesses in the shopping center. Rather, it is anticipated it will complement those businesses and uses and be of value to the surrounding neighborhood.

5. The proposed conditional use will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the neighborhood.

Applicant's Response: Since this is an upscale legitimate massage spa, it will in no way adversely affect the health, safety, security, morals, or general welfare of residents, visitors or workers in the neighborhood. The existing locations of Green Massage Spa in six states have demonstrated this and the company has a proven track record.

6. The proposed conditional use will not, in conjunction

with existing development in the area and permitted development under existing zoning, overburden existing public services and facilities.

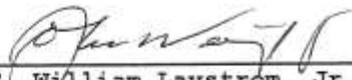
Applicant's Response: Since the shopping center is already approved and built, and this space is not being expanded in any fashion, the proposed use will not overburden existing public services and facilities, and it is anticipated that the spa would be an average traffic generator compared to other businesses in the shopping center.

7. The proposed conditional use shall meet all other specific standards that may be set forth elsewhere in the Code of Ordinances.

Applicant's Response: The Applicant confirms that it will comply with all specific standards set forth in the city's Code of Ordinances as well as in its highly structured franchise agreement with the parent company.

8. The proposed conditional use shall disclose the square feet of use sought for approval so that an adequate evaluation may be made.

Applicant's Response: The proposed square footage to be utilized for spa purposes is 2,350. All square footage is interior to the existing space.

  
\_\_\_\_\_  
C. William Laystrom, Jr.  
John D. Voigt  
Attorneys for Massage Green Spa



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Councilmember Jacobs made a Jennings Disclosure. He met with Bill Laystrom, Attorney, representing the applicant. The meeting has been recorded in the City's online database and he will base his decision on the evidence presented this evening.

Mayor Bendekovic stated that we seem to be getting quite a few of these applicants. We need to be cognizant of them. She does not want Plantation to become the world of massage parlors. She mentioned an article that said Hollywood put a moratorium on them until research could be conducted.

Councilmember Zimmerman questioned whether some backup could be provided as to how many have been approved. He shares the same concern.

Mr. Leeds indicated that they can get that to you real quick. There will probably be another one at the next meeting.

Mayor Bendekovic questioned whether Council wants to defer this until the time that we can provide that information.

Councilmember Jacobs thinks it is a little deceptive because they are listed as foot massage on the agendas and that is not necessarily what they all are. He believes this one is offering more services than just foot massage.

Mr. Leeds advised that this is a spa and massage is the core business of this applicant.

Councilmember Jacobs did not have a problem hearing this item.

Councilmember Tingom commented that prior to the next one we should have a map showing their locations.

***Motion by Councilmember Tingom, seconded by Councilmember Levy, to approve Item #20 subject to conditions in the Staff Report. Motion carried on the following roll call vote:***

Ayes: Levy, Stoner, Tingom, Jacobs, Zimmerman

Nays: None

\* \* \* \* \*

## **COUNCILMEMBERS' COMMENTS**

Mayor Bendekovic mentioned that July, August and September calendars were provided. July 1, 2015 we will get the final property value increase; currently our property value increase was 5.3 but that can change. The maximum millage will be set on July 8, 2015; the Second Hearing on the millage will be on July 22, 2015; there will not be a presentation in August; the First Public Hearing of the Budget will be on Thursday, September 3, 2015; and the Second Public Hearing of the Budget will be on September 9, 2015. We are limited to a few days because of Rosh Hashanah, Yom Kippur, the School Board and the County.

Councilmember Levy questioned whether we meet the minimum date requirements between the First and Second Hearing.

Mayor Bendekovic indicated that we do.

Ms. Otiniano stated that it has to be two to five calendar days to have the advertisement in the paper after the First Hearing and any time after that there is no other requirement.

Councilmember Levy expressed concern because he has always known it to be at least ten days.

\* \* \* \* \*

Mayor Bendekovic wished all of the fathers a Happy Father's Day.

\* \* \* \* \*

Councilmember Levy advised that he has been appointed as a member of the Transportation and Intergovernmental Relations Committee for the League of Cities and will be attending various meetings in Orlando to advise the Legislature on transportation and intergovernmental relations among cities at various times. The first meeting will be June 25 and 26, 2015 in Orlando. Next year the Legislature will start in January at an earlier time than it has this year; therefore, the League has to meet in November to get our policies into Bill form before the Legislature starts. He questioned whether Council has to vote for the official representative for the League.

Mr. Lunny stated that we have in the past.

Mayor Bendekovic indicated that was for the Broward League of Cities; this is for the Florida League of Cities.

Councilmember Jacobs suggested that Councilmember Levy bring any issues back to the Council that might affect Plantation.

Councilmember Levy stated that he is officially representing Plantation, not Pembroke Park.

\* \* \* \* \*

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

Kingsley Smith, resident, mentioned community development and the City's expectations. He questioned what will be left at Plantation General Hospital if they leave and whether the property will be a psychiatric facility. He expressed concern that the area will be blighted and noted that Plantation must remain the Tree City.

Councilmember Levy indicated that there will only be an Emergency Room. With regard to a psychiatric facility, Councilmember Levy stated that is not true.

Mayor Bendekovic stated that there are currently 16 beds for a Baker Act; that was passed a couple of months ago. When and if they get to move, those beds will go with them. It is not going to be a facility to Baker Act individuals. It will be an Emergency Room only. If an individual needs additional care they will have to be transported elsewhere; they cannot stay.

In response to Councilmember Jacobs, Mayor Bendekovic advised that HCA would be operating the Emergency Room.

Councilmember Jacobs mentioned the Westside Emergency Room on University Drive in Davie and believes that may be a model they are going to use.

In response to Mr. Smith, Councilmember Levy indicated that we have protested and attended meetings. Memorial Hospital is also protesting. The Mayor has indicated that everything has been postponed until August but we have to assume that they are not going to be there in two years. He assured Mr. Smith this is our #1 priority.

\* \* \* \* \*

**SEALED COMPETITIVE SOLICITATIONS - None**

\* \* \* \* \*

**WORKSHOPS – None.**

\* \* \* \* \*

Meeting adjourned at 9:10 p.m.

\* \* \* \* \*

\_\_\_\_\_  
Councilmember Chris Zimmerman, 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