TOWN COUNCIL
REGULAR MEETING
JUNE 20, 2001

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:02 p.m. by Mayor Venis and was followed by the Pledge of Allegiance.

2. ROLL CALL

Present were Mayor Venis, Vice-Mayor Paul and Councilmembers Clark, Starkey and Truex. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

Mayor Venis advised that item 9.4 would be heard after Presentations

3. PRESENTATIONS

3.1 Boy Scouts

There were no representatives from the Boys Scouts present.

3.2 Employee Picnic Recognition

Ms. Stafiej commended those involved in organizing the annual employee picnic, and presented certificates of recognition to various staff members and volunteers. Mayor Venis presented a commemorative spatula to Community Redevelopment Administrator Will Allen and Bob Amchir.

3.3 Community Redevelopment Agency (CRA)

Neil Kalis, Chair, thanked Vice-Mayor Paul for her participation in the recognition dinner for past members of the CRA.

Mr. Kalis reported that a meeting was held with Mr. Shapiro and Mr. Abraham regarding the status and future plans for the Lefmark property and Mr. Shapiro had indicated that he was interested in proceeding with a redevelopment project for the site. Mr. Shapiro authorized Mr. Abraham to contact property owners to solicit purchasing of neighboring properties. Mr. Shapiro had also authorized his office to get bids for demolition of the site, which would occur within 60 to 90 days of this meeting. Mr. Kalis stated there was also discussion with Nova Southeastern University regarding their interest in participating in the development of the downtown area and it was discovered that Lennar was also in discussion with Mr. Shapiro regarding the Lefmark site. Mr. Kalis added that Lennar was interested in working with Mr. Shapiro and at a recent meeting, various concepts were discussed for redevelopment of the site, including a multi-use project with a residential component. A meeting was scheduled for July 13, 2001 where further discussion would take place.

Mr. Kalis stated that the CRA had retained the services of Dover, Kohl to help design a building that would meet the needs of Walgreens and comply with the Town's ordinances. A meeting was scheduled for June 26th to review a site plan for this project. Mr. Kalis stated the CRA had made the second of five payments to Andrx as part of its Qualified Targeting Industry Agreement grant match. He stated that the CRA had established a marketing committee to investigate the benefits available to prospective investors in the CRA district, namely downtown. A demonstration project or joint venture was being considered for this purpose. Mr. Kalis stated that the CRA was looking to expand the Loan Subsidy program.

Finally, Mr. Kalis stated that the CRA had approved a final signage program and the vendor was in the process of constructing signs. He approximated the signs to be installed within 60 to 90 days.

Mr. Allen stated that he had met with the Florida Department of Transportation (FDOT) and four members of the governing board of the South Florida Water Management District, to discuss various issues including permit and waiver requests for the Davie Road bridge, Griffin Road landscaping, Orange Drive/Linear Park landscaping, and landscaping at the four corners of the Davie Road bridge. He gave a detailed report of the results of the meeting, stating that conflicts with traffic signals, concrete walls, and landscaping, amongst others, were being designed, reviewed, and ultimately resolved. Mr. Allen added that these issues would not appear on the South Florida Water Management District's agenda until August. He stated that South Florida Water Management staff could not recommend approval of any waivers; however, they were willing to state that Mr. Allen's proposals would have the minimum affect on the South Florida Water Management District. Mr. Allen also stated that his argument was that many mature trees were removed for the purpose of this project and his department would not settle for little or no landscaping replacement.

Mayor Venis stated that Mr. Alonzo from South Florida Water Management District was setting up a meeting with a representative from the governing board who represented Broward County, regarding the drainage issue. Councilmember Starkey stated that this would be an appropriate venue for prioritizing and pushing forward the projects Mr. Allen discussed, as they had been somewhat stagnant.

Mr. Allen stated that the Orange Drive landscaping was similar to Griffin Road's landscaping, where there was the 40 foot rule and in most places, 40 feet was not available. Finally, Mr. Allen advised that he was trying to meet with FDOT prior to meeting with the other groups and he felt that it would be important to have a member of Council present at these meetings. Councilmember Truex offered to participate in these meetings and Mayor Venis said that he would participate in the meetings regarding the drainage issue.

3.4 2001 Legislative Report - David Sigerson

Mr. Sigerson gave a summary of the recent legislative session and explained why some of the non-controversial issues were not addressed, including House Bill 835 that would have allowed the Town and Southwest Ranches to "trade out" a piece of property to allow the Ranches to have a city hall. He advised that Senate Bill 2274 had passed which created the ability to obtain an exemption from transportation concurrency and explained how it positively affected the future of the Town. Also, the Citrus Canker Eradication Reimbursement issue had passed which allowed for $100 per tree, specific homeowner notification provisions, and an arbitration panel to settle disputes.

Mr. Sigerson also gave a brief summary of windstorm insurance rates, stating that this was also an issue that was not addressed. However, Mobile Home Reform passed and it was designed to give relief to dispossessed homeowners who contribute to a fund.

3.5 Pine Island Park Update - Bruce Bernard

Public Works/Capital Projects Manager Bruce Bernard stated the Pine Island Park project was only $15,950 over the $4.1 million budget and that everything was complete, except for the growing period for the fields which were expected to be completed within five weeks. The courts, rinks, playgrounds, and concession stand were open. The multi-purpose facility was 83% complete and the project was on schedule, due to be completed the first week in August. No bids were received for the water playground and it would be put up for

bids again in September, so as not to disrupt summer activities at the pool area. Mr. Bernard stated that staff was working on signage and they were still waiting for the naming of the park to complete this task. Also, furniture and equipment was being ordered for the multi-purpose building.

3.6 Upcoming Special Events - Bonnie Stafiej and Dennis Andresky

Bonnie Stafiej, Special Projects Director, advised that upcoming events included: summer youth kids rodeo (June 22nd); muscle rodeo (June 23rd); Independence Day Celebration (July 4th); and kids' day with Vanishing Species Wildlife (July 7th - 8th).

Dennis Andresky, Parks and Recreation Director, announced that upcoming events included: registration for the Davie Bronco Football program and Summer Celebration for the pre-school program at Ivanhoe Community Center.

Mayor Venis added item 3.7 to the agenda.

3.7 Presentation to Council by Mr. and Mrs. Von Holly

Mrs. Von Holly spoke of their recent trip to Hanover, Germany and described the similarities between it and the Town. She presented Council with a crest from Hanover, which was sent by the Lord Mayor of Hanover. Mrs. Von Holly gave the Council literature that described the City of Hanover and its various amenities.

Mayor Venis announced that item 9.8 had been requested to be tabled to July 18, 2001.

Councilmember Paul made a motion, seconded by Councilmember Clark to table this item. In a voice vote, all voted in favor. (Motion carried 5-0)

9.4 Mayor Venis swore in the witnesses.

Robert Tsai, representing the petitioner, was present. Mark Kutney, Development Services Director, read the report. Mr. Kiar explained the rules concerning the presentation of evidence.

Mr. Tsai presented handouts to Council which were marked as Exhibit 1 and spoke of the desire to blend the church into the surrounding residential neighborhood. He also spoke of a failed attempt for the same project on SW 26 Street which was denied because SW 26 Street was a residential street and this was why the Hiatus Road site was chosen by the petitioner. Mr. Tsai spoke of several potential impacts the church would have on the community, including increased traffic and lower property value, and stated that these impacts were "unfounded." He stated that the petitioner was committed to include neighbors in the planning and design process of this site.

Mayor Venis asked for a show of hands for those who wanted to speak for and against this item. He then suggested that, if possible, representatives speak for each group, adding that he would allow more than the allotted three minutes for representatives from large groups.

Barbara Sneider, board member for Harmony Lakes, 1404 SW 110 Way, spoke in opposition to the church because she felt that the proposed size of the church would increase in size, therefore directly increasing the traffic. She was also concerned with special events for fundraising. Ms. Snyder stated that this property would adversely affect drainage, which was a serious problem in the area surrounding this site.

Dan Sweeney, 1570 SW 115 Avenue, spoke in opposition to the church and indicated that he was concerned with drainage, which was already problematic on his property. He offered a petition that was signed by homeowners in his neighborhood which was marked as Exhibit 2. Mr. Sweeney was concerned with the future of the church in case it was not successful. He read a letter written by neighbor Mrs. Kelly who was unable to appear and was concerned with drainage and the letter was marked as Exhibit 3.

Matthew Crook, 11460 SW 16 Street, spoke in opposition to the church and urged Council to consider zoning changes, especially in residential areas.

Patrick O'Neil, 1595 SW 115 Avenue, spoke in opposition to the church and showed a layout of the site in question and the surrounding area. He was concerned with traffic and wanted the community to remain as residential/agricultural.

Cliff Lockwood, President of the Davie West Homeowner's Association, spoke in opposition to the church. He cited Mr. Kutney's transportation plan and was concerned with traffic increasing in the area. Mr. Lockwood mentioned that the notice sign was not clearly posted.

Gilbert DeLeeuw, 2942 NW 5 Avenue - Wilton Manors, spoke in favor of the church. He stated that he had taught the church's children for approximately 25 years and that the members were upstanding citizens who would be an asset to this community.

William Chen, 13862 SW 39 Street, spoke in favor of the church and provided a letter from Alice and Adriana Cioare regarding Sunday school classes which was marked as Exhibit 4. Mr. Chen read the last five lines of the letter, which described various contributions these children had made to the community.

Ruth Dreyer, 11555 SW 21 Court, spoke in opposition to the church and stated that the proposed church was not compatible with the surrounding neighborhood and the Hiatus Road corridor. She was concerned with the effect this zoning might afford the petitioner, such as providing day care, education, and senior citizen day care. Ms. Dreyer stated that allowing this rezoning would cause a domino effect and other non-residential enterprises, including daycare centers and churches, would be proposed in this residential/agricultural neighborhood. She was also concerned with the impact on traffic and property values decreasing in the area. Ms. Dreyer recommended that the Town purchase the property and use it for wetland mitigation as the drainage problem was very serious in this neighborhood.

Teria Rand, 11330 SW 17 Street, spoke in opposition to the church. She was concerned with drainage and felt that it needed to be corrected before a facility surrounded by asphalt was built. Ms. Rand was also concerned with increased traffic, special events, future expansion, and the homeless.

Karen Llera, president of Phase I Homeowner's Association for Harmony Lakes, 1604 West Harmony Lake Circle, spoke in opposition to the church. She was concerned that so few notices had been distributed as she found the vast majority of homeowner's were not aware of this petition and the posted notice was clearly visible. Ms. Llera presented a petition in opposition which was marked as Exhibit 5. Mr. Kiar asked if the petition had different signatures from those already presented and Ms. Llera assured him that it did. Ms. Llera stated that one of the main concerns of the homeowners was "the Planning and Zoning Board did not adequately address critical issues and the adverse impact on residents in the nearby area." She was concerned with traffic and drainage and urged Council to assure that the area met the needs of both the residents and the petitioners.

Steve Soo, 8167 North Savana Circle, spoke in favor of the church. He assured Council that the congregation would not grow and its presence would only have a positive impact on the community. Mr. Soo stated that Asian churches raised funds through donations, not through special events.

Fred Azrak, 11124 North Harmony Lakes Circle, spoke in opposition to the church. He stated that once the Hiatus Road bridge was open, traffic would increase and the church would add to this. Also, Mr. Azrak stated that he believed the church would grow because of the size of the lot and the proposal to build a facility up to 16,000 square feet.

Sally Moh, 3989 SW 141 Avenue, spoke in favor of the church. She spoke about the prior attempt to open a church on 26 Street and stated that the Hiatus Road site was much smaller. At the present time, this congregation was renting space from a Baptist church and did not have the liberty of having "meetings" when they wanted to. Also, Ms. Moh stated that the church would not negatively impact the community, and that traffic would not increase.

Phil Labowitz, 11450 SW 16 Street, spoke in opposition to the church. He felt that the church would bring alienation to this neighborhood, especially with the drainage problem.

Fou-Su Chiang, 10865 SW 38 Drive, spoke in favor of the church. Mr. Chiang stated that the traffic would not be negatively impacted as there were many routes that accessed the site. He also spoke about the annual Easter Egg Hunt at Robbins Lodge, which brought a great deal of traffic to the Hiatus Road corridor. Mr. Chiang stated that the property value would not decrease.

Paul Cobb, 10895 SW 38 Drive, spoke in favor of the church and felt that this would be a small church because it served a limited congregation. He also stated that he had faith in the Town to make decisions which benefited the Davie community. Mr. Cobb stated that small churches in the Town were a pleasant contribution and this church would be an asset.

Thomas Seaver, Vice-President of Phase I, Harmony Lakes, 1504 SW 110 Way, spoke in opposition to the church. He was concerned that this church would "change the face" of the rural quality of the Hiatus Road corridor. Mr. Seaver spoke of the aforementioned domino effect.

Chileen Song**,** 13879 SW 43 Street, spoke in favor of the church and stated that the traffic would not be adversely impacted as many of the 35 congregation members carpool. He also said that this congregation was willing to do whatever it took to blend into the surrounding neighborhood.

Song Lee, 3781 SW 106 Terrace, spoke in favor of the church and stated that he lived, worked, and paid taxes in Davie, and would like to attend church in Davie. He advised that traffic would not be negatively affected. Mr. Lee was not a member of the church, but would join once it was established in the Town.

Holleen Song, 13879 SW 43 Street, spoke in favor of the church and stated that this church did not participate in special events. She advised that the community served by this church was limited and growth should not be a concern. Ms. Song stated that this congregation needed its own church, as it was sharing a church and this situation presented limits on the scheduling of church services.

Theresa Song, 13879 SW 43 Street, spoke in favor of the church and stated that this church would not grow as the community it served was limited. She spoke about the need for the church for elders who did not speak English and who could not benefit from other local churches because of the language barrier. Ms. Song also spoke about the positive

affects this church would have on the community. She stated that traffic would not be adversely affected and considered the 400 GL homes that were being constructed on Hiatus Road and how that was going to affect the community, both traffic-wise and through utility usage.

Grace Chiang, 10865 SW 38 Drive, spoke in favor of the church and stated that she was a Sunday school student. She spoke about services at the church and thanked Council for approving this application.

Richard Berry, 300 Hiatus Road, spoke in opposition to the church. He advised that he learned of this petition from the Sun Sentinel and felt that it was not properly advertised. Mr. Berry was concerned with the traffic and drainage issues and with the inconsistencies of various reports of both the physical proportions of the building and congregation size.

Rose Valentino-Santa, 7280 Stirling Road, spoke in favor of the church and advised that she had a personal interpreter assigned to her so that she could understand the sermons. She stated that this congregation was made up of hard working, family oriented people, who would be an asset to any community. Ms. Valentino-Santa indicated that GL Homes would make a much larger impact on this community and was concerned that no one complained when that application was approved. She felt this was a religious issue, but stated that everyone was entitled to his/her own opinions. Ms. Valentino-Santa urged Council to approve the application.

Ruth Bronisas, 1601 SW 116 Avenue, spoke in opposition to the church and stated that the church did not fit the character of the neighborhood. She advised that a recreation/equestrian trail passed in front of this property and increased traffic would pose a danger to users of the trail system. Ms. Bronisas stated that precedence had been established with churches in the neighborhood and referred to the long established Triple Cross Ranch, which had to curb some of its activities because the neighboring church opposed them. She also referred to a new church on Flamingo Road, which refused to allow equestrians to ride on their property. Ms. Bronisas also referred to the flooding problem and questioned why this property had not been considered for wetland mitigation, stating that it would be an ideal location for it.

Shoni Labowitz, 11450 SW 16 Street, spoke in opposition to the church and inferred that this issue was not one of religion, but it was inappropriate for the church. She urged Council and the community to find an appropriate location for the church in the Town. Ms. Labowitz was also concerned with the drainage problem as her house was flooded during the last hurricane.

Joy Yoder, 12610 SW 13 Manor, spoke in opposition to the church and indicated that she was speaking for a Jehovah's Witness resident, 1751 SW 116 Avenue, who could not speak at this meeting. This person opposed the location of the church and felt that because of the proposed size of the church, the congregation would increase in size. Ms. Yoder indicated that this was not an issue of religion, but rather an issue with the size of the building and the location. She stated that the church was not compatible with the neighborhood and recommended the Calgary Church property on State Road 84, which was available for purchase. Ms. Yoder also stated that the church was a commercial endeavor and it would increase in size. Ms. Yoder advised that this land would be more appropriately used as a passive park and that Davie residents had proven in the last election that they were committed to the preservation of the rural character of the Town. Finally,

Ms. Yoder pointed out that the congregation did not live in the neighborhood where the church was located.

Diane Aucamp, 10880 SW 26 Court, spoke in opposition to the church. She stated that the issue was rezoning and the property in question was zoned for estate homes.

Denise Wincapaw, 1920 117 Avenue, spoke in opposition to the church and was concerned with the drainage issue in the neighborhood. She felt this was not the appropriate location and was concerned with what the future would bring. Ms. Wincapaw also felt that this would also impede her passage on the equestrian trail near the site, especially on Sundays when traffic would be increased.

Joyce Steward, 10850 SW 25 Street, spoke in opposition to the church and as a real estate broker, she stated that this would negatively affect real estate values in the area. Ms. Steward reminded Council of the fight in the past to keep Hiatus Road a rural two-lane road. She thanked Council and staff, both past and present, for standing behind the desire to maintain the character of this neighborhood. Ms. Steward urged Council to not permit this rezoning.

Gladys Pena, 11701 SW 20 Street, spoke in opposition to the church. She stated that the church was of no benefit to the immediate community, as its members did not live in this neighborhood and indicated that because a church was a business, it would grow. She stated that this was a horse community and this congregation was not involved with horses, therefore they did not understand the rules of safety around horses.

Johnny Chan, 13862 SW 49 Street, spoke in favor of the church and stated this rezoning would not negatively impact the neighborhood.

Barbara Paraskis, 3420 SW 117 Avenue, spoke in opposition to the church. She stated her opposition was to the rezoning and added that this community wanted to maintain the character of the neighborhood.

Tian Qui, 4908 SW 151 Avenue, spoke in favor of the church. She spoke on behalf of her mother and stated that this church had helped her family in many ways. Ms. Qui stated that it would be an asset to the community and would not negatively affect the neighborhood.

James Secord, 11551 SW 20 Street, spoke in opposition to the zoning change. He stated that religion was not the issue, but the rezoning was.

Mark Chan Capwell, 6401 NW 53 Street, spoke in favor of the church. He stated this was a site plan issue, as the application was for rezoning and added that the church would not negatively impact the neighborhood. The traffic and drainage problems would not increase on Hiatus Road because of this one property. Mr. Capwell stated that the property value had already increased since the petitioners purchased it.

Richard Weiner, 10244 SW 18 Street, spoke in opposition to the church and stated that the previous Council fought to maintain the rural integrity of Hiatus Road. He indicated that allowing a community facility to be built in this area would allow for similar projects in the future. Mr. Weiner urged Council to vote against the rezoning.

Louis Sang, Miami, spoke in favor of the church. He stated that the church would not expand and there would be no special events. Mr. Sang added that this church would not cause additional flooding in the area.

Patty Sweeney, 1570 SW 115 Avenue, spoke in opposition to the church. She stated that her property was directly affected by this rezoning as flooding and drainage were serious problems in her neighborhood. Ms. Sweeney affirmed that this was not an issue of religion, but an issue of zoning.

Mayor Venis closed the public hearing. He invited Mike Bender, Planning and Zoning Board member, to address Council

Mike Bender, 14800 SW 31 Court, stated that he was the one member of the Board opposed to this rezoning. He compared this rezoning to a similar issue on Shotgun Road, where the residents were opposed to the construction of a church. Mr. Bender felt that "the vision residents had for their community was paramount to all other visions" and he saw the location as having potential for future growth. He added that Hiatus Road could not handle additional traffic. Mr. Bender referred to GL Homes, and stated that when residents purchased homes, they knew that additional homes would be built, not churches or businesses. He felt the appropriate location for this church was a main corridor, not a rural road such as Hiatus Road. Mr. Bender agreed that this congregation would be an asset to the community, but this location was not the proper site for them.

Mr. Tsai stated that his church wanted to blend into this neighborhood and had worked with the Homeowner's Association and neighbors to this end. He indicated that his congregation was very flexible.

Mr. Tsai presented Mr. and Mrs. Yehyen Lial and translated for them. Ms. Lial stated that she was happy to have her church in Davie. Mr. Lial presented models of various buildings, stating that he was willing to work with the neighbors to build a structure that would blend with the rural neighborhood.

Mayor Venis stated that he had spoken with several residents regarding this issue and he had a list available in his office. He indicated that he had received e-mails regarding this rezoning issue. Mayor Venis stated that he was opposed to this rezoning because it paralleled the Shotgun Road church a few years back. He stated that Council at that time desired to have houses of worship on main corridors, rather than in residential areas. Mayor Venis stated he had also opposed the widening of Hiatus Road and Hiatus Road had been taken off the trafficways to protect the integrity of the Hiatus Road corridor, adding that the Town was responsible for its maintenance. He stated that he would not go back on the commitment he had made to the residents of the community in years past. Mayor Venis stated he would vote against the rezoning.

Vice-Mayor Paul stated that she had also spoken with various members of the community regarding this issue and provided a list of e-mails which were marked as Exhibit 6. She indicated that there were current issues involving the expansion of churches in the Town and no matter what the deed restrictions said, it was very difficult to deny an existing church the right to expand. Vice-Mayor Paul cited the Jewish Community Center on Pine Island Road, Saint Bonaventure Church, and Parkway Church. In these cases, the residents were also concerned about church expansion, and Council had worked very hard to find a happy medium between the groups. She stated that these churches were all located on what were considered major corridors. Vice-Mayor Paul stated that she wanted to maintain the rural character and residential zoning, and to stick to the comprehensive plan for the Town. Vice-Mayor Paul stated that she would regretfully have to vote against the rezoning.

Councilmember Truex disclosed that he had spoken with various residents, including Dennis Devaugh, Cliff Lockwood, Ruth Dreyer, Linda Grecko, Valerie Ran, Beth Morrison, and others via e-mail.

Councilmember Starkey stated that she wanted to continue to keep the Hiatus Road corridor as rural as possible and not to increase its density. She indicated that she would like to see this congregation relocate within the Town. Councilmember Starkey disclosed that she had spoken with and received e-mails from numerous residents regarding this issue. She presented copies of e-mails , marked as Exhibit 7, and indicated that a list was also available. Councilmember Starkey stated that she would vote against the rezoning.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to deny. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

4. MAYOR/COUNCILMEMBER'S COMMENTS
5. TOWN ADMINISTRATOR'S COMMENTS
6. TOWN ATTORNEY'S COMMENTS

No comments were made.

7.24 Councilmember Truex asked if this was a Nortel system and if BellSouth was an exclusive vendor for the system. Information Systems Director Frank Apicella replied that it was a Nortel system but BellSouth was not the exclusive vendor. Councilmember Truex asked if the entire system, at completion, would cost $400,000 with Mr. Apicella replying in the affirmative. Councilmember Truex asked if it was advisable to have the cabling and the PBX system done by the same vendor so there were no disputes if problems should arise with Mr. Apicella replying affirmatively. Councilmember Truex asked if this “piggyback” bid required BellSouth to give the same deal to all Broward County municipalities. Mr. Apicella responded affirmatively.

Councilmember Truex cited Town Codes 2-317 and 2-326, which pertained to purchases over $10,000 and alternative government purchasing standards, respectively. He voiced his concerns about the bid process and piggyback methods, especially in the Town with this particular issue. Councilmember Truex was mostly concerned with this contract as it was for $400,000 and bids were not requested. He added that this was not an emergency as the Town did not have all of the funds to pay for the system at this time and it would be completed in phases. Councilmember Truex stated that this project must be bid out especially because of the high cost of the project.

Councilmember Truex made a motion to deny with instructions to staff to advertise and seek bids on this contract.

Mayor Venis invited Procurement Manager Herb Hyman to speak on this issue. Mr. Hyman stated that he had not been able to review this item before it was added to the agenda and he did not know the specifics of the County's contract. He described the piggyback process and his experience with it. Mr. Hyman stated that if Council chose to bid every item and not utilize the piggyback method, it could be done, but the Purchasing staff had to be increased to more than one. With this particular item, he recommended that a purchasing consultant be hired to write a specification and assist in the evaluation of bids.

Mr. Willi stated that piggyback bids were a widely accepted government purchasing practice. He stated there were enormous staff cost savings and significant savings with advertising. Mr. Willi pointed out that BellSouth had won the original bid with the County and advised that it would be prudent for the Town to take advantage of this bid.

The motion died for the lack of a second.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to approve. In a voice vote, with Councilmember Starkey and Councilmember Truex dissenting, all voted in favor. (Motion carried 3-2)

9.5 Mayor Venis swore in the witness. Mr. Kiar explained the rules concerning the presentation of evidence.

Bill Laystrom, representing the petitioner, was present. Mr. Kutney summarized the planning report.

Wilson Atkinson, attorney for Pelican Bay, asked Mr. Kutney if he had prepared the "backup package" that was presented to Council. Mr. Kutney stated that he reviewed it and agreed with its contents, but that was not where his aforementioned information was read. Mr. Atkinson asked Mr. Kutney if he was relying on the staff report and Mr. Kutney stated that it was.

Mr. Atkinson referred to page 1 after page 5, to the "second amended justification for rezoning requests" and asked if Mr. Kutney's staff prepared it and where it came from. Mr. Kutney stated that they did not and responded that it was provided by the petitioner. Mr. Atkinson asked if this information was relied upon by staff to address the criteria. Mr. Kutney stated that staff had looked at the justification, but did its own analysis and its own review. Mr. Atkinson asked Mr. Kutney if his staff was aware of "their" commitments made to Council when the site plan was approved on May 5, 1999. Mr. Kutney could not say for sure if they were aware of every commitment. Mr. Atkinson asked if Mr. Kutney was aware that the Engineering Department had previously reviewed road improvements that had to be made to the intersection at 51st Street and State Road 441 and required that it be bonded and done by the petitioner for the site plan that was previously approved. Mr. Kutney did not believe the planner on this case was aware of this. He stated that traffic concerns were considered, but he did not believe this particular concern was one of the key justifications in recommending approval. Mr. Atkinson asked if the aforementioned commitments were considered and if a bond was posted to do those improvements. Mr. Kutney stated that he was not sure if the commitments were considered by staff and a bond had not been posted. Mr. Atkinson asked if final improvements had been agreed upon with construction plans, and Mr. Kutney stated that he did not know.

Mr. Kiar asked Mr. Kutney if he had independent knowledge of the matters Mr. Atkinson had presented. Mr. Kutney stated that he was familiar with some aspects, but Mr. Atkinson had addressed site plan considerations which would not be reviewed at this point in a rezoning. Mr. Kutney reiterated that there was a delegation request and an additional site plan modification, adding that all these items had to be handled with the County, as well.

Mr. Atkinson asked Mr. Kutney if the rezoning were permitted, would the property be allowed to have restaurants and medical offices, which tend to generate increased traffic. Mr. Kutney stated that it could, but the applicant and staff had not yet discussed these possibilities. He added that he could not speak for the applicant and was not sure if the

applicant knew what the actual "mix" would be at this point. Mr. Atkinson clarified that the answer to this was possibly affirmative and Mr. Kutney agreed. Mr. Atkinson also clarified that a site plan was approved for eight industrial buildings with Mr. Kutney agreeing. Mr. Atkinson asked would the "applicant or successor/purchaser" have the ability to abandon the existing site plan if the zoning were approved. Mr. Kutney replied that they could not without first obtaining additional approvals. He indicated that there was a plat note that governed the square footage as it related to the industrial use on the site plan, adding that to accomplish the present rezoning request, the applicant would have to get a delegation request for changes. Mr. Kutney affirmed that if a new purchaser wanted to make modifications, they too would have to apply for a plat note change. Mr. Atkinson clarified stating that "the present site that has been approved, there was no obligation to comply with it. If they were to abandon that and not build the eight buildings, they could so." Mr. Kutney clarified that it would be subject to an additional site plan approval and approval from the County. Mr. Atkinson asked if one-third of the property was rezoned for commercial and the remainder was zoned industrial, could the applicant return with a significantly different site plan that would comply with the Town's Code. Mr. Kutney stated that it was unlikely because the present site plan would be "pretty tight." He added that based upon the present degree of commercial, he did not think they could add more commercial without significant modifications to the site plan. Mr. Atkinson asked if the property was presently rezoned so the front third was commercial and the back was industrial, what would prevent the "possessor" from using the commercial portion for an amusement park and industrial portion for compliance with parking requirements. Mr. Kutney stated that the "possessor" would have to apply for a new site plan submittal because an amusement park "would be completely different from what the current site plan showed." Mr. Atkinson understood that the "possessor" would have to follow procedure, but asked if they would not comply from a zoning category. Mr. Kutney stated that they would comply from a zoning category; as to whether a site plan would be workable, he could not say until he saw the new site plan. Mr. Atkinson asked if the "possessor" chose to abandon the current site plan, would they no longer be responsible for doing the aforementioned traffic improvements. Mr. Kutney reiterated that it would depend upon the new site plan proposal. Mr. Atkinson clarified "if they abandon the present site plan, they would not have that obligation." He continued stating it may be re-opposed with a secondary site plan. Mr. Kutney agreed with Mr. Atkinson's statements.

Mr. Atkinson stated that in the backup, items A through J of the criteria were met. Mr. Kutney agreed that they were. Mr. Atkinson asked if policy 7.4 was considered when proposal A was addressed with Mr. Kutney replying affirmatively. Mr. Atkinson asked how Mr. Kutney justified "putting this commercial use at a corridor that was not at an intersection." Mr. Kutney stated that it was an "arterial designation." Mr. Atkinson cited policy 7.4, regarding arterials and adequate traffic circulation and asked if this site had "adequate traffic circulation." Mr. Kutney replied that the site itself had traffic circulation. Mr. Atkinson asked how the site could be exited to the north. Mr. Kutney stated that one would have to go south on State Road 441. Mr. Atkinson clarified that northbound exiting was not possible, therefore limiting traffic circulation; hence it was contrary to policy 7.4. Mr. Kutney stated that in his opinion it was not limiting and it occurred often.

Mr. Atkinson asked if policy 9.2 was considered. Mr. Kutney could not answer for the planner as policy 9.2 was not referenced in the report. Mr. Atkinson cited 9.2 which referred

to industrial and manufacturing expansion in the land use plan, and stated that Mr. Kutney was not in compliance with this policy and that it was being abandoned because this rezoning was for commercial use. Mr. Kutney stated that this application would make for a more successful site than an industrial site. Mr. Atkinson cited policy 9.3 "non-industrial development of land which was designated for industrial was discouraged" and asked how it was addressed. He stated that the policy discouraged changes to industrial usage lands. Mr. Kutney agreed that it was discouraged, but clarified that it was not banned. Mr. Atkinson asked if the Town was reducing the inventory of industrial land and Mr. Kutney responded in the affirmative. Mr. Atkinson asked if it cost more or less to service industrial land than commercial land. Mr. Kutney stated that fiscal impact studies varied and the answer was debatable. Mr. Atkinson stated his research showed industrial cost less money to service than commercial. Mayor Venis made an objection, stating this was argumentative.

Mr. Atkinson referred to criteria E, stating that the report noted that traffic would increase by approximately 4,000 trips. He asked Mr. Kutney if the square footage of industrial would calculate to 119 daily trips. Mr. Kutney stated that was "probably" an accurate calculation. Mr. Atkinson pointed out there was an approximate "4,000 increase in traffic" and asked if the site would handle that amount of traffic. Mr. Kutney agreed that it would. Mr. Atkinson asked if traffic studies were done and Mr. Kutney stated they were and were submitted in writing by the applicant. Mr. Atkinson stated he did not receive a copy of the traffic study and Mr. Kutney explained he had received it this evening at approximately 6:00 p.m. Mr. Atkinson stated he had no more questions for staff at that time.

Councilmember Clark asked if the petitioner had given a reason as to why the traffic study was not submitted to staff prior to 6:00 p.m. Mr. Kutney stated that the applicant was working on it, but he did not anticipate its submittal for this meeting. He added that staff was working on the report regardless of whether or not the traffic study was completed for this meeting. Mr. Kutney stated that a traffic study was previously completed and using that information, staff did not feel that the increase was not going to have a negative affect or be excessive. Councilmember Clark asked if the previous traffic study was valid if the zoning had changed. Mr. Kutney stated that trips would be increased as indicated in the report, adding that improvements were going on in that area. Mr. Kutney stated that the same traffic experts were being used as those who performed the service in the previous traffic report.

Mayor Venis asked Mr. Kutney to clarify the bonding issue as it related to this petition. Mr. Kutney stated that a bond was required and placed on the applicant by the previous Town engineer. He added that the applicant was in the process of submitting the bond. Mayor Venis clarified that once the bond was in place, the improvements would be taken care of.

Mayor Venis asked if anyone wished to provide testimony in favor of or opposition to the issue. No one spoke.

Mr. Laystrom spoke about the history of the project and the traffic circulation issue. He stated that with improvements being made to the State Road 7 corridor, the traffic study was not necessary. The decision to update the study was made when the neighbors opposed the rezoning last week. Mr. Laystrom presented a graphic to Council.

Mayor Venis referred to the prior occasion when there was a quasi-judicial hearing and asked if litigation was involved. Mr. Laystrom stated that there was litigation and the applicant was successful in court. Mayor Venis asked what the basis of the litigation was and Mr. Laystrom stated it was the same traffic issue.

Mr. Laystrom explained the objectives of the application, showing how the mixed-use project could accommodate both industrial use to the rear of the site and commercial use in front. He addressed Mr. Atkinson's concern regarding abandonment of the site plan and if Mr. Atkinson wanted to place restrictions on the use as it was tied to this site plan, that was acceptable. Mr. Laystrom stated that the bond was not yet an issue as the buildings had not been built and bonding was typically done as part of the building permit process. He stated that staff had indicated that one of the bonds was not posted at SW 51 Street and explained that some money was posted with the County and some money was posted with the Town. Mr. Laystrom added that Mr. Zacco had stated that if this was an issue, he would bring in a check which would be held until the bond process was completed. Mr. Laystrom stated that it could also be made as a condition of this rezoning and they would post the bond. Mr. Kiar asked if those were voluntary commitments and Mr. Laystrom replied affirmatively.

Mr. Laystrom stated there was no intention of abandoning the industrial component of the project, nor was there any intention of building an amusement park. He added that upgrades were made to the 441 side to give more of a retail use character. Mr. Laystrom stated that the property would only accommodate what was presented and the entrance point was set by the plat. He continued with a description of the commercial character of 441.

Councilmember Truex asked Mr. Laystrom about Mr. Atkinson's questions regarding arterials. Mr. Laystrom reiterated what Mr. Kutney had said regarding similar commercial enterprises along this corridor. He stated that this type of project, because of its size, would not occur on a major intersection such as Griffin Road and 441. Councilmember Truex referred to the industrial use of land. Mr. Laystrom reiterated that they intended to remain committed to the site plan and they were not abandoning the industrial component. Mr. Laystrom also pointed out that in all of the Town's policies "there was a balancing between different policies." He explained that in staff's report there were other policies that encouraged commercial development. Councilmember Truex referred to policy 9.3, which discouraged development of industrial land for non-industrial use. Mr. Laystrom stated they were using it as industrial land and it was being developed as industrial land.

Alan Tinter, president and owner of Tinter Associates Transportation Engineers, spoke on behalf of the petitioner. He stated that his company had prepared the traffic study in 1999 and certain recommendations were made in the traffic report relative to improvements to SW 51 Street which he described. Mr. Tinter clarified that FDOT preferred right turns and u-turns as opposed to left turns on multi-lane highways as it was safer. He stated that the analysis still stood and recommendations previously made relative to the improvements were still appropriate given the current mix of development. Mr. Tinter added that the northbound access was necessary on SW 51 Street because some trucks that access this development would not be able to make the u-turn and would have to turn north from SW 51 Street. He reminded Council that the motor vehicle inspection site was active when the original traffic study was prepared and estimates were based on that

activity. Mr. Tinter also explained that amount of vehicular traffic that would be generated now as compared to that of the original report, but the impact during peak hour was not significantly different.

Councilmember Truex asked how many people would use the SW 51 Street egress, which was shared with Pelican Bay as opposed to the southbound egress. Mr. Tinter stated that approximately 24% of traffic would use SW 51 Street and explained the procedure used to make this calculation.

Councilmember Starkey asked if there was consideration of an exit on the extreme north side of the project. Mr. Tinter explained that other alternatives were considered, but the plat restricted them to the single entrance toward the middle. Also, FDOT preferred if the applicant's entrance aligned with their entrance because it limited the number of turning movements on 441. Mr. Tinter added that they were not able to get a permit for an additional entrance/exit onto 441.

Mr. Atkinson referred to Mr. Tinter's 1999 testimony, when he stated that the intersection at SW 51 Street and 441 would operate at least at a D level which Mr. Tinter confirmed. Mr. Atkinson clarified that this was based on a traffic analysis with the applicant's proposed site plan, which was with a light industrial use which Mr. Tinter also confirmed. Mr. Atkinson asked if at that time it was looked at with a general industrial use, the traffic generation would have been greater. Mr. Tinter agreed, stating that "light industrial use" was the appropriate land use category given the type of development Mr. Zacco originally proposed. He clarified that under Mr. Atkinson's hypothetical "general use" category, more traffic would have been generated. Mr. Atkinson stated that at present, one-third of the property and 25% of the buildings that were to be constructed were going to be zoned B-2/commercial use and asked if that generated greater traffic flow. Mr. Tinter reiterated his prior estimate, which was that traffic would increase from 940 to 3,424 vehicles per day. Mr. Atkinson stated that improvements to 441 southbound ended at SW 51 Street. Mr. Tinter corrected him, stating that the improvements went south of SW 51 Street. There was some debate regarding this and Mr. Atkinson clarified that the intersection would be completed, but immediately south of the intersection at SW 51 Street there was no new road construction. Mr. Tinter added that the plans of FDOT included expanding 441 southbound to the Dade County line. Mr. Atkinson asked Mr. Tinter when exiting the property at 441 if there was enough distance to go south, cross three lanes of traffic, and safely make a u-turn. Mr. Tinter stated there was enough "weaving distance" from the applicant's entrance to SW 51 Street. He added that there would be plenty of gaps for this maneuver to take place, and explained drivers' behaviors when attempting this type of maneuver. Mr. Atkinson clarified that Mr. Tinter specifically studied this and asked if he believed the intersection in question would function for a u-turn. Mr. Tinter replied affirmatively. Mr. Atkinson asked if that was why Mr. Tinter believed less traffic would be exiting and/or entering the applicant's site through SW 51 Street. Mr. Tinter replied affirmatively.

Mr. Atkinson asked if the new traffic study would confirm the information Mr. Tinter testified to at this meeting. Mr. Tinter clarified that the report Mr. Kutney received was a summary and the details discussed at this meeting were not in this report. He also offered to provide additional backup information. Mr. Tinter added that both the eastbound and westbound approach were improvements that were recommended.

Mario Zacco, the petitioner, stated that he had been addressing this issue with the complainant time and again and had won his case in front of the "Commission," and

Council, and on appeal. He added that he had spent a great deal of time and money and had to hold up the project for some time because of the issue regarding SW 51 Street. Mr. Zacco added that once again, he was before this Council and felt that his consultants had provided information, which showed the project was feasible, compliant, and improved from its original plan.

Mr. Atkinson stated that he was finished with his cross-examination, and proceeded to make his presentation to the Council, adding that he had one expert witness.

Mr. Atkinson stated that his client's concern was the traffic that had a direct impact on Pelican Bay, which was a substantial tax base for the Town and provided employment for many people. Also, his client's concern was that when the Davie Commerce Center was planned 15 years ago, all traffic from "north of the Indian reservation, south of Griffin Road, west of 441, and east of the Florida Turnpike were forced to exit at the SW 51 Street and 441 intersection." Mr. Atkinson described the history of the immediate area surrounding Pelican Bay. He stated that a problem existed when the auto auction was located there and had worked with Mr. Atkinson's client to find an alternative exit to Griffin Road. Mr. Atkinson referred to surrounding undeveloped acreage that might be developed in the future and he "assumed that it would be industrial," adding that egress from that property would have to be on SW 51 Street. He stated that he had spoken with the previous Town Engineer to find an alternative relief for the traffic at this intersection. Mr. Atkinson clarified that his client understood Mr. Zacco's situation and they were not trying to stop his project; they did not want it to have an adverse impact on their establishment, which had a 95% occupancy. He suggested the applicant had no means of getting a right-of-way, but the Town did and added that the auto auction agreed with Pelican Bay to a "special assessing district" to get alternative access. Mr. Atkinson stated that this intersection was questionable and alternatives should be considered, and that was the issue Council had to decide on. He felt that he did not think there was enough information before Council to make a decision at this meeting.

Mr. Atkinson stated that his client was concerned that Council had already taken the action to give access to the plat to SW 51 Street when the site plan was approved. He stated that if Mr. Zacco "did not do the site plan," he did not have the obligation to do the improvements. Mr. Atkinson asked if Mr. Zacco did not do the improvements, would the Town do them as it was a Town street. He stated that the site plan approval, since May 1999, did not include the commitments to the intersection and added that it was not available in the Engineering Department either. Mr. Atkinson referred to amendments in 2000 and in January 2001, which Mr. Zacco presented to him, but were not available to him through the Town, suggesting that perhaps they had not been filed. He urged Council to defer this matter with the purpose to insure that protocol was followed and that alternatives were researched, rather than denying the applicant.

Michele Mellgren spoke as an expert witness for Mr. Atkinson and referred to the criteria contained in the Land Development code by which the rezoning application must be considered. She referred to policy 7-4, stating that the subject property was not located at intersection of two arterials and it had "limited access with some difficult traffic circulation." Ms. Mellgren stated that this property was not located in a commercial corridor, according to the future land use plan map.

Ms. Mellgren referred to policy 7.1 and policy 9.2, stating the "language in the comprehensive plan recognized the value of non-residential land uses." She referred to the

Land Use Impact Analysis which was adopted by Council on June 18, 1997. Ms. Mellgren stated the study showed the ratio of revenue to cost on a per acre basis for commercial was about equal.

Ms. Mellgren referred to policy 9-3, and believed that the Town had approximately 4% of its land in industrial use. She added that the plan stated that it was"incumbent to preserve this valuable economic resource.

Ms. Mellgren referred to criterion B, stating that zoning and land use on the west and south sides of the site were zoned industrial, but had limited access roads. She also referred to designated commercial property north of the site, but stated that it was oriented to Griffin Road and 441 and there was no functional relationship between commercial and industrial there. Ms. Mellgren stated that the proposed rezoning would create a commercially zoned property that bared no functional relationship to the surrounding property. She referred to other commercial property in Hollywood, which she stated were below standard and hoped the Town would agree. Ms. Mellgren stated the proposed rezoning failed to meet criterion B.

Ms. Mellgren referred to criterion C, regarding rezoning boundaries and existing conditions. She stated that changing the zoning district boundaries would be illogical, since the boundaries wouldn't match existing conditions. Ms. Mellgren stated the proposed rezoning failed to meet criterion C.

Ms. Mellgren referred to criterion D, which regarded the affect on living conditions in the neighborhood. She stated that the proposed change would adversely affect the neighborhood through the increase in traffic the commercial property would generate, and she referred to Mr. Tinter's testimony regarding traffic increase. Ms. Mellgren added that there would be a decrease in traffic movement due to the limited access to and from the site. Ms. Mellgren stated the proposed rezoning failed to meet criterion D.

Ms. Mellgren referred to criterion E, regarding an increase in traffic above what was specified in the land use plan. She reiterated discussion that there would be an increase in traffic because of the commercial use. Ms. Mellgren stated the proposed rezoning failed to meet criterion E.

Ms. Mellgren referred to criterion F, regarding the affect to property value and stated the lesser need for services by industrial enterprises, such as fire and police. She also stated that commercial and industrial areas should be distinct from each other for safety and security purposes so there was an enhanced, not a reduced, property value. Ms. Mellgren stated the proposed rezoning failed to meet criterion F.

Ms. Mellgren referred to criterion G, regarding improvement of other property in accordance with existing regulations. She described the Pelican Bay site and the impact suffered over the years because of the auto auction and the inspection station. Ms. Mellgren added that because parking would be shared between the industrial park and the proposed commercial, patrons would be seeking alternative access to State Road 7, and they were concerned with the impact this would have on SW 51 Street. She stated the proposed rezoning failed to meet criterion G.

Ms. Mellgren referred to criterion H, regarding granting "special privilege to an individual as contrasted with the welfare of the general public." She stated that the subject site was located in an industrial area and reiterated aforementioned impacts this rezoning would have on this area. Ms. Mellgren added that this rezoning was contrary to the adopted

comprehensive plan," as mentioned in her earlier testimony regarding policies. She stated that this special privilege would only be beneficial to the property owner and added that the proposed rezoning failed to meet criterion H.

Ms. Mellgren referred to criterion I, regarding maintaining the property as status quo. She stated that there was no reason this property could not exist with its present zoning status and indicated that the proposed rezoning failed to meet criterion I.

Ms. Mellgren referred to criterion J, regarding the most appropriate designation to enhance the Town's tax base. She referred to her earlier comments regarding the Economic Impact Analysis, stating that the most appropriate designation for this site was industrial. Ms. Mellgren stated the proposed rezoning failed to meet criterion J.

In closing, Ms. Mellgren requested Council's denial of this rezoning as it failed to meet the criteria contained in the Land Development Code.

Councilmember Truex stated that because of the amount of testimony offered, no amount of tabling "would fix" the conflicts put forth to Council. Ms. Mellgren stated that her client was not opposed to Mr. Zacco's development, but they were concerned about the traffic. Councilmember Truex asked Mr. Atkinson if there was any adverse affect his client would suffer if this petition was denied. Mr. Atkinson responded negatively.

Barry Rowars, 4990 SW 52 Street, part owner of Pelican Bay, spoke of the history of Pelican Bay and stated that traffic was "horrendous in and out" of Pelican Bay which his tenants had affirmed to him. He felt that the traffic options Mr. Tinter presented were dangerous and stated that the only improvement to SW 51 Street was the addition of poles for traffic lights. Mr. Rowars added that most of his tenants and their employees exited to the north. He stated that he was not opposed to Mr. Zacco's project, but to the traffic it would create.

Mayor Venis closed the public hearing.

Mr. Zacco spoke about his history in the Town and the surrounding area, and properties he owned and was developing. Mr. Zacco also spoke of the history of his involvement with the subject site. Mr. Zacco stated that Mr. Rowars had approached him for a partnership when Mr. Zacco was involved in the initial purchasing of the 10 acres. He stated that at time, his plans for the eight buildings were the same as his present plans. This partnership did not materialize and Mr. Zacco stated that Mr. Rowars had tried to purchase the same land.

Councilmember Truex asked Mr. Zacco what would happen if his application was denied. Mr. Zacco stated that he was not sure and explained that he owned the land and had invested greatly in it. Councilmember Truex asked if it would be developed with the current site plan, which was industrial. Mr. Zacco stated that he would develop the land as he already had a $6 million bank loan and $1.5 million invested in the property. He reiterated that he was an established businessman in this community and had no plans to desert this project.

Councilmember Truex asked if Mr. Zacco's warehouse south of State Road 84 was well maintained. Mr. Zacco stated that it was. Councilmember Truex asked if there were problems there with neighbors or the neighborhood. Mr. Zacco stated that he did not and had 100% occupancy there.

Mr. Laystrom referred to the criteria Ms. Mellgren had addressed, stating that staff had made its recommendation. He added there was only one expert present qualified to testify on the traffic issue. Mr. Laystrom stated there were two more hearings on this application

before it was approved. He reiterated that his client was willing to post the bond at this time, before the second hearing. Mr. Laystrom explained that improvements were not done on SW 51 Street because they had not been able to begin the project as they were still in litigation and in the site plan process with the Town. He clarified that there was no obligation to post the bond until the building permit was filed, but his client was willing to post the bond in good faith. Mr. Laystrom stated that no amusement park would be built on this site and this could be added as a condition. He reiterated his client's position, stating that industrial would be included on this site and that it would be an improvement to the surrounding area. Mr. Laystrom stated that this application did meet the criteria.

Mr. Kiar clarified that Mr. Laystrom voluntarily stipulated to placing the bond before the next meeting. Mr. Laystrom replied affirmatively. Mr. Kiar also clarified that Mr. Laystrom stipulated that the site plan would stay in affect as a condition to this rezoning. Mr. Laystrom replied affirmatively, clarifying that"the design of the eight building being stacked the way they were on the site would remain the same.

Vice-Mayor Paul asked if less fire and police services were required of industrial sites. Mr. Kutney stated that comments made by Ms. Mellgren relative to the 1997 study were relatively accurate. He added that the study showed a "greater pay back to industrial than it did to commercial," but the numbers varied as it depended on the area in question. Mr. Kutney added that he had seen reverse results on similar issues. He stated that the firm who prepared the study had "changed," and there was no one available to answer specific questions regarding the information therein.

Mayor Venis agreed with Vice-Mayor Paul that there were many discrepancies in the 1997 study. He referred to the Town's past history with trying to incorporate theory from the study, but explained that there were too many discrepancies.

Vice-Mayor Paul asked why the applicant chose to go for commercial use. Mr. Laystrom stated that they believed the character of State Road 7 would change to more commercial than industrial. He reiterated that the industrial would be on the back portion of the property and the commercial would face the road, making it visually more appealing. Mayor Venis clarified that it would be a more attractive building and Mr. Laystrom agreed. Councilmember Truex asked if the buildings were all going to be the same, how would the commercial side be better. Mr. Laystrom explained that the facade would be different and asked Council to allow staff to have flexibility in this. He added that the site layout would not change.

Councilmember Clark asked if this would be a more profitable venture if the rezoning was passed. Mr. Laystrom stated that the property tax value for taxes would be increased. Mr. Kutney stated that staff looked at the fact that this site was at the "entrance" to the Town and they considered this because it was more aesthetically pleasing than a warehouse facility.

Councilmember Clark spoke of a former debate regarding industrial usage lands. She stated that the response to increasing industrial was that it would be encouraged on the 441 corridor and along I-595. Councilmember Clark stated industrial did bring more to the tax base, adding that she did not believe there were discrepancies with the 1997 study where industrial was concerned. She felt there was no reason to change this zoning, except for the personal decision by the petitioner who would have a better venture by adding the commercial component. Councilmember Clark stated that she agreed with Ms. Mellgren and was not in agreement with staff in regards to findings of fact for each criterion.

Mr. Kutney referred to criterion A and Ms. Mellgren's comments regarding it. He stated that if "100% consistency" had to be achieved in policies and plans, nothing would be proven. Mr. Kutney added that there were always minor inconsistencies, stating that the Department of Community Affairs had reviewed the plan and had not responded regarding conflicts. He clarified that this site plan was generally consistent with the plan.

Mayor Venis asked how the Town would benefit by increased tax revenues through this project. Mr. Kutney stated that the answer to this question could be looked at from various standpoints. Mayor Venis asked if the Town would get more money from the enhanced building versus the amount it would receive if it remained purely industrial. Mr. Kutney stated that this was debatable. He stated that generally mixed-use projects generated more tax dollars.

Councilmember Truex concurred with Councilmember Clark's comment and stated that the 1997 study needed to be updated. He stated that the Town's policy was clearly that it was not to reverse industrial zoning. Councilmember Truex disclosed that he had met with Mr. Atkinson and Ms. Mellgren and they had provided him with information regarding Ms. Mellgren's testimony. Councilmember Starkey agreed with Councilmembers Truex and Clark, stating that she felt it was inappropriate to change industrial use zoning. She disclosed that she met with Ms. Mellgren and Mr. Atkinson which she provided and which were marked as Exhibits A and B.

Councilmember Truex made a motion, seconded by Councilmember Clark, to deny.

Mayor Venis disclosed that he had discussed this project with Mr. Zacco in an unrelated matter. Mayor Venis added that this mix-use project would be a benefit for the Town as far as taxes were concerned. He agreed that it would be more attractive and it was an entrance to the Town. Mayor Venis supported staff and their recommendation. He felt that rezoning this one parcel would not have a "negative impact on the tax base of the Town."

In a roll call vote, the vote was as follows: Mayor Venis - no; Vice-Mayor Paul - no; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 3-2)

9.6 Mayor Venis swore in the witnesses.

Joe Lammert, representing the petitioner, was present. Mr. Katims summarized the report.

Mayor Venis asked if anyone wished to provide testimony in favor of or opposition to the issue. No one spoke.

Councilmember Truex made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

9.7 Mayor Venis swore in the witnesses.

Kenneth Leach, representing the petitioner, was present. Mr. Katims read the report.

Mayor Venis asked if anyone wished to provide testimony in favor of or opposition to the issue.

Bob Pallistrant, 13151 SW 16 Court, distributed a letter which was marked as Exhibit A. Mr. Pallistrant stated that he had approached the applicant in March regarding the potential

flooding problem that would occur if the pool was put in because of the possible slope situation; however, this issue was never addressed. He stated that the pool company never approached him regarding this, yet they had stated to the Planning and Zoning Board that he had no problem with it. Also, they had stated at the Board meeting that the pool was not included; however, Mr. Pallistrant confirmed that it was and it was already being used.

Mayor Venis asked Mr. Pallistrant if his issue was the sloping. Mr. Pallistrant stated that he was concerned with potential flooding. Mr. Pallistrant stated that he did not receive a variance letter and he only knew of it by the sign that was posted.

Councilmember Clark asked if it was at the proper spot, would Mr. Pallistrant still be concerned with flooding. Mr. Pallistrant clarified that he was concerned about water running down the slope and accumulating in his yard. Councilmember Clark asked for suggestions as to how Mr. Pallistrant's land could be protected, even if it was in the proper location. Mr. Pallistrant stated that he was not sure, but he was concerned there would be a problem if the pool was not moved, adding that he was also open to suggestions.

Mr. Katims thought the pool problem was discovered during the inspection phase and that it had not received a final Engineering inspection. He indicated that an inspector had never been to the site to see if the property was properly graded after construction. Mr. Katims added that the water must be contained within the property and staff had not seen the property so they had not had the opportunity to deny it for this reason. In order for the variance to be approved, inspection of the property must be done to assure it was properly corrected.

Councilmember Truex asked if this item should be tabled until the inspection was completed. Mr. Katims was not certain if the additional footage would make the difference, especially with the grade that was required with drainage. Mayor Venis stated he would rather have the information and inspections completed before Council moved on this. Mr. Katims believed that the petitioner was given a stop work order.

Mr. Leach stated that the stop work order was received when the decking was being built. He clarified that the 25 foot setback was for the water of the swimming pool and that the deck itself could go five feet from the property line. Mr. Leach stated that when the permit was submitted, 21.5 feet was designated on the plan. He explained that a zoning employee allowed his "permit runner" to change the setback from 21.5 feet to 25 feet and the pool company was not informed of this and had built the pool "as is." Mr. Leach continued, stating that the deck inspection failed because he thought the deck was included in the setback. He met with Mr. Gratz and concluded that the deck was in compliance, and the building official had signed off.

Mr. Kiar clarified that a zoning employee allowed the permit runner to change the measurements on the plans. Mr. Leach clarified that the change was allowed on the survey, not on the actual plans. Mr. Kiar stated that the petitioner was responsible for not reading the plans. Mr. Leach stated that the permit runner was mistaken for not informing him that the zoning official made the change on the plan. He added that the plan went to the construction department and the pool was "built out" according to the plan, admitting that his company made the mistake, and the Building Division brought that to his attention. Mr. Leach added that there were inspections made on the pool before the deck was constructed and had he been informed of the error, the spa could have easily been moved.

Mayor Venis stated that the stop work order could be lifted to make corrections and asked what the procedure would be. Mr. Katims advised that the stop work order could be

lifted at the contractor's risk. Mr. Leach stated that the building official said "you can continue or finish the pool. You will not get a final inspection until the variance is approved."

Mayor Venis stated the issue was the sloping. The man stated that the sloping was not what this issue was about, adding that if the pool was at 25 feet the drainage problem would still exist. Mr. Bernard stated that berms could be added or yard drainings could be added to move the water elsewhere, but the water had to be contained on site. He explained the proper requirements for the slope, adding that something had to be done at the property line to contain the water.

Mayor Venis felt this item should be tabled until staff could investigate further and return with a plan to correct this situation. Councilmember Clark agreed. Mr. Leach explained that the actual property line was in the middle of a ten foot drainage easement and it was intended that water roll to the property edge.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to table until the first meeting in July. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

7. CONSENT AGENDA

Minutes

7.1 May 2, 2001 - Regular Meeting
7.2 May 8, 2001 - Joint Agency Meeting
7.3 May 16, 2001 - Regular Meeting

Home Occupational Licenses

7.4 Amaral Consulting and Services, Inc., 11869 Green Oak Drive
7.5 Balloonatics, 3161 SW 116 Avenue
7.6 Chemical Depot & Supply, Inc., 4252 SW 92 Avenue
7.7 Hector Valiente's Lawn Service, 2800 SW 136 Avenue
7.8 LaFlamme Architectural Design Corporation, 4270 SW 92 Avenue
7.9 Precise Contractors, Inc., 3152 SW 147 Avenue

Resolutions

7.10 **PROPOSAL -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2001-165 ACCEPTING THE PROPOSAL FOR AN INDEPENDENCE DAY FIREWORKS DISPLAY AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT FOR SUCH SERVICES. (Zambelli Internationale - $15,000)

7.11 **SUPPORT -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA
R-2001-166 SUPPORTING THE BROWARD COUNTY URBAN FOREST INITIATIVE TO INCREASE THE TREE CANOPY IN BROWARD COUNTY.

7.12 R-2001-167 **CHANGE ORDERS -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER NO. 6 FOR VARIOUS CREDITS ON THE "PINE ISLAND PARK UNDERGROUND UTILITIES AND SITE IMPROVEMENTS" PROJECT AND CHANGE ORDER NO. 5 WITH THE HASKELL COMPANY FOR THE ADDITION OF SEVERAL ITEMS TO THE SCOPE OF WORK OF THE "DESIGN/BUILD IMPROVEMENTS AT PINE ISLAND PARK" PROJECT. (Change Order #6 - decrease of $13,505.75; Change Order #5 - increase of $ 12,625)

7.13 R-2001-168 **CONTRACT -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PROFESSIONAL CONCESSIONS, INC. FOR CONCESSIONAIRE SERVICES AT THE BERGERON RODEO GROUNDS. (Professional Concessions, Inc. - payment of $3,125/month to the Town)

7.14 R-2001-169 **AGREEMENT -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE APPROPRIATE TOWN OFFICIAL TO EXECUTE THE STATEWIDE MUTUAL AID AGREEMENT FOR CATASTROPHIC DISASTER RESPONSE AND RECOVERY; AND PROVIDING AN EFFECTIVE DATE.

7.15 R-2001-170 **AGREEMENT -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH JENNMAR DIMENSIONAL CONCEPTS, INC., TO LEASE OFFICE SPACE IN SUITE '"A" AT 4700 SW 64 AVENUE.

7.16 R-2001-171 **AGREEMENT -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND BROWARD COUNTY FOR ADMINISTRATION OF THE TOWN'S CDBG-FUNDED SINGLE-FAMILY HOUSING REHABILITATION PROGRAM; AND PROVIDING AN EFFECTIVE DATE.

7.17 R-2001-172 **SPECIAL WARRANTY DEED -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE ACCEPTANCE OF A SPECIAL WARRANTY DEED FOR PROPERTY HEREIN DESCRIBED ON THE NORTH SIDE OF L-LAKE ON 61ST AVENUE, WHICH WAS DONATED TO THE TOWN BY SUMMERLAKE APARTMENTS, LTD., FOR USE AS A LINEAR PARK.

7.18 R-2001-173 **BID -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BIDS FOR FERTILIZER. (lowest responsive bidder for each item)

7.19 R-2001-174 **BID -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID FOR ONE HURRICANE RESCUE PUMPER, CITY OF TALLAHASSEE BID NO. 2166-95-R01-1GG. (Emergency One, Inc. - $347,530)

7.20 R-2001-175 **BID -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA ACCEPTING THE BID FOR HARDWARE FROM DELL COMPUTERS TO AUGMENT THE DOCUMENT IMAGING SYSTEM. (Not to exceed $15,000)

7.21 R-2001-176 **PLAT AMENDMENT -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING AN AMENDMENT TO THE INGRESS AND EGRESS EASEMENT OF THE "MAIN STREET PLAT", AND PROVIDING AN EFFECTIVE DATE. (DG 5-1-01, 5645 South University Drive)

7.22 R-2001-177 **RESTRICTIVE NOTE REVISION -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A REVISION TO THE RESTRICTIVE NOTE OF THE "ICW SOUTH PLAT", AND PROVIDING AN EFFECTIVE DATE. (DG 5-2-01, 4400 Weston Road)

7.23 R-2001-178 **AGREEMENT -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND JOHN L. LOWELL, JR., TRUSTEE PROVIDING FOR REMEDIAL MEASURERS TO SATISFY ROAD CONCURRENCY REQUIREMENTS RELATED TO THE POINTE WEST CENTER NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 3-1-01, 3450 - 3550 Weston Road)

7.24 R-2001-179 **PURCHASE/INSTALLATION -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, FOR PURCHASE AND INSTALLATION OF THE FIRST PHASE OF TELEPHONE AND DATA INFRASTRUCTURE FOR TOWN GOVERNMENT FACILITIES, PIGGYBACKING ON THE EXISTING AGREEMENT BETWEEN BROWARD COUNTY AND BELLSOUTH. ($84,075)

7.25 R-2001-180 **PRIORITY LIST -** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA CREATING A PRIORITIZATION LIST OF QUALIFIED LOBBYISTS TO REPRESENT THE TOWN ON A MYRIAD OF ISSUES.

Site Plan

7.26 SP 3-1-01, Tail End Pet Resort, 10401 Orange Drive (A-1) *Planning and Zoning Division recommended approval subject to the planning report; Site Plan Committee recommended approval subject to checking the parking requirements, and if allowed, eliminate the two west parking spaces; add additional landscaping to screen the parking area; and widen the dry retention swale*

Temporary Use Permits

7.27 TU 4-1-01, Andrx, 4011 SW 47 Avenue

7.28 TU 6-1-01, McDonald's @ Weston, 4492 Weston Road

7.29 TU 6-2-01, Madison Lakes, 5050 SW 82 Avenue
The Consent Agenda was discussed later in the meeting.

8. PUBLIC COMMENTS

Ordinance - First Reading (Second Public Hearing to be held on July 3, 2001)

8.1 **CODE AMENDMENT -** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, CREATING SECTIONS 12-32.100 THROUGH 12-32.106 ENTITLED "COMMUNITY BUSINESS CENTER DISTRICT"; PROVIDING FOR DEVELOPMENT REGULATIONS FOR THE COMMUNITY BUSINESS CENTER ZONING DISTRICT; AND AMENDING SECTION 12-503 ENTITLED "DEFINITIONS"; PROVIDING FOR DEFINITIONS RELATING TO THE CREATION OF THE COMMUNITY BUSINESS CENTER DISTRICT; PROVIDING FOR INTENT; PROVIDING FOR REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE. (tabled from June 6, 2001)

This item was approved later in the meeting.

8.2 **PERMIT FEES -** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, RELATING TO REQUIRING AND COLLECTING PERMIT FEES FROM PROVIDERS OF COMMUNICATIONS SERVICES AND INCREASING THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR INTENT; PROVIDING FOR ELECTION NOT TO REQUIRE AND COLLECT PERMIT FEES; PROVIDING FOR ELECTION TO INCREASE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

This item was approved later in the meeting.

8.3 **MORATORIUM -** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA DECLARING A SIX MONTH MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS AND ON THE ISSUANCE OF PERMITS AND APPROVALS FOR THE CONSTRUCTION OF WIRELESS TELECOMMUNICATIONS TOWERS; PROVIDING FOR EXCEPTIONS; SETTING FORTH EXPIRATION AND EFFECTIVE DATES.

This item was approved later in the meeting.

9. PUBLIC HEARINGS

Ordinances - Second and Final Reading

9.1 2001-30 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, CREATING SECTIONS 12-375 THROUGH 12-379 ENTITLED "MASTER PLANNED DEVELOPMENTS"; PROVIDING MASTER PLANNED DEVELOPMENT GUIDELINES; AMENDING SECTION 12-54 ENTITLED "NONRESIDENTIAL PERFORMANCE STANDARDS"; TO REFLECT THE NEW MASTER PLANNED DEVELOPMENT REGULATIONS; PROVIDING FOR INTENT; PROVIDING FOR REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Truex made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Cox - Starkey; Councilmember Truex - yes. (Motion carried 5-0)

9.2 2001-31 **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, AMENDING SECTION 12-33 ENTITLED "GENERAL REGULATIONS", AMENDING SECTION 12-368 ENTITLED "GENERAL PURPOSES", AMENDING CHAPTER 26, ENTITLED "VEGETATION", CREATING CHAPTER 26 ARTICLE IV, ENTITLED "CLEARING AND GRUBBING OF LAND", PROVIDING FOR INTENT, APPLICABILITY, PERMIT PROCEDURES, PERMIT APPLICATION, PERMIT EXEMPTION, AND REQUIRED DOCUMENTATION PRIOR TO THE ISSUANCE OF A PERMIT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Starkey referred to Section 1 of the ordinance, stating that the abbreviation should read DPEP rather than DEEP.

Councilmember Truex made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

9.3 **COMPREHENSIVE PLAN AMENDMENT -** AN ORDINANCE OF THE
2001-32 TOWN OF DAVIE, FLORIDA, APPROVING APPLICATION LA (TXT) 01-2B AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE TRANSPORTATION ELEMENT TO REVISE THE LEVEL OF SERVICE STANDARD FOR INTERSTATE 595 PURSUANT TO A STIPULATED SETTLEMENT AGREEMENT WITH THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DOAH CASE NO. 99-1308GM); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public hearing was closed.

Councilmember Truex made a motion, seconded by Councilmember Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

Quasi Judicial Items

9.4 **REZONING -** ZB 4-1-01, Evangelical Formosan Church/Daher, 1515 Hiatus Road (from A-1 to CF) (tabled from June 6, 2001) *Planning and Zoning Division recommended approval subject to the planning report; Planning and Zoning Board recommended approval subject to a Declaration of Restrictions*

This item was denied earlier in the meeting.

9.5 **REZONING -** ZB 4-3-01, Laystrom/Zacco Properties, Inc., 5011 State Road 7 (Buildings 1 and 2) (from M-2 to B-2) *Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval*

This item was denied earlier in the meeting.

9.6 **REZONING -** ZB 4-4-01, Lammert/Florida Power & Light Company, 4900 Oakes Road and 3700 Kean Road (M-4 to U and M-2) *Planning and Zoning Division recommended approval; Planning and Zoning Board recommended approval*

This item was approved earlier in the meeting.

9.7 **VARIANCE -** V 4-1-01, Anthony-Sylvan Pools Corp./Adams, 13101 SW 16 Court (A-1) (to reduce the required side yard setback from 25 feet to 21.5 feet) *Planning and Zoning Division recommended denial; Planning and Zoning Board recommended denial*

This item was tabled earlier in the meeting.

Item to be tabled

9.8 **PLANNING AND ZONING BOARD TABLED TO JULY 11, 2001; COUNCIL CAN TABLE TO JULY 18, 2001**

TEXT AMENDMENT - ZB(TXT) 4-1-01, The Big Orange Development, Ltd./Margolis and Spielman

This item was tabled earlier in the meeting.

8.1 Town Clerk Muniz read the ordinance by title. Mayor Venis advised that a public hearing would be held on July 3, 2001.

Mayor Venis asked if anyone wished to speak for or against the ordinance.

Bill Laystrom stated that developers supported this ordinance and added that he would like to see an increased retail component for the Community Business Center District. He indicated that the Planning and Zoning Board had decided on 10%, but he felt that up to 20% retail should be allowed as part of a mixed-use project. Mr. Laystrom stated that this allowed developers with sites of five acres or larger to have retail uses in a limited amount. Additionally, he stated that the land use designation for employment centers at both Broward County and Town, permitted up to 20%. Mr. Laystrom asked Council to consider this increased limit within this zoning ordinance.

Tim Talbert, representing property owners of one of the parcels, agreed that the 20% limit on retail along the I-595 corridor would assist developers. He added that 10% would only represent approximately 12,000 square feet. Mr. Talbert asked Council to consider the 20% factor.

Mayor Venis closed the public hearing.

Vice-Mayor Paul preferred to stay with the 10% retail component in a mixed-use project and added that she was concerned with protecting residential areas in potentially commercial areas. Vice-Mayor Paul referred to Section 12-32.105(3)(C), stating that she had discussed various changes with staff including distance and hours of operation. She also referred to Section 12-32.106(2)(A), indicating that she would like to see this changed to 75 feet. Vice-Mayor Paul questioned if landscape buffers were counted as open space and suggested widening landscape buffers adjacent to residential uses.

Councilmember Truex asked if laboratory animals were being subjected to testing and referred to Section 12-503. He asked that special permits would be required if tests were to be done on live animals. Planning and Zoning Manager Jeff Katims stated it could be included. Councilmember Truex asked why light fabrication was changed to fabrication and assembly. Mr. Katims replied that the latter was a more complete definition than the aforementioned. Councilmember Truex asked if automobiles or airplanes could be built under this definition. Mr. Katims responded that this type of fabrication was conducted in self-contained facilities that did not negatively affect the surrounding area. Councilmember Truex referred to Section 12-32.1021, clarifying that storage would be required inside.

Mr. Kutney stated that the only concern staff had with discussions with Vice-Mayor Paul was if setbacks were too stringent for sites of five acres or less which might constrain development options. He stated that the minimum site in the new district would be five acres and Master Planning would be required. Vice-Mayor Paul voiced her concerns regarding industrial/commercial properties being incompatible with residential properties.

Mr. Laystrom stated that the ordinance was well written and additions to it would diminish developers' options and might deter them from the area.

Mayor Venis asked about the hours of operation and Mr. Laystrom stated that most business did not have any restrictions on hours of operation. He suggested various solutions to alleviate this concern.

Councilmember Truex felt the Master Planning process would address Vice-Mayor Paul's concerns.

Councilmember Truex stated that language regarding "indoor storage" and special permits for live animal studies should be included in the ordinance.

Mayor Venis asked if this ordinance was in place when the Home Depot was built and if there would have been a difference. Mr. Laystrom stated the difference would have been substantially different, and he explained why.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve based on 100 feet, 12-32.105 (3)(C), instead of 50 feet; 12-32.106 (E) if abutting residential, the loading doors shall operate 7:00 a.m. to 8:00 p.m., Monday through Friday, 9:00 a.m. on Saturday, 10:00 a.m. on Sunday; under the definition of laboratory, and there would be no live animal experimentation. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - no; Councilmember Starkey - yes; Councilmember Truex - no. (Motion carried 3-2)

8.2 Town Clerk Muniz read the ordinance by title. Mayor Venis advised that a public hearing would be held on July 3, 2001.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Truex made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

8.3 Town Clerk Muniz read the ordinance by title.

Mayor Venis asked if anyone wished to speak for or against the ordinance. As no one spoke, the public comments were closed.

Councilmember Truex made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Paul - yes; Councilmember Clark - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

7 - Consent Agenda

Vice-Mayor Paul asked that item 7.26 be removed from the Consent Agenda. Councilmember Truex asked that items 7.6, 7.13, 7.19, 7.20, 7.25, and 7.27 be removed.

Councilmember Starkey made a motion, seconded by Councilmember Clark, to approve the Consent Agenda without items 7.6, 7.13, 7.19, 7.20, 7.25, 7.26, 7.27. In a voice vote, all voted in favor. (Motion carried 5-0)

7.6 Councilmember Truex wanted assurance that hazardous materials were not going to be stored in this home. He suggested tabling this item until applicant could be present.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to table to July 3, 2001. In a voice vote, all voted in favor. (Motion carried 5-0)

7.13 Councilmember Truex referred to the concessionaire contract and stated that he had spoken with Ms. Stafiej regarding the language relating to soft drinks. He pointed out that the language should be non-alcoholic beverages and Ms. Stafiej stated that this could be

done with an addendum. Councilmember Truex stated that there were occasions where alcoholic beverages besides beer and wine were allowed. He felt it should state "only with permission of the Town."

Councilmember Truex made a motion, seconded by Vice-Mayor Paul, to approve subject to "soft drink be corrected to be non-alcoholic beverage" and that "alcoholic, other than beer and wine, be with Town approval." Mr. Kiar suggested that subcontracting should also be subject to Town's approval. He pointed out that Item D on page 7, needed to say $500,000 rather than $50,000. Mayor Venis added these conditions to the motion. In a voice vote, all voted in favor. (Motion carried 5-0)

7.19 Councilmember Truex referred to piggyback bids and stated in this circumstance, it made sense to purchase fire equipment from this source. He pointed out that there was a problem with piggyback bidding, as this particular bid specified a vehicle from 1995. Also, the specifications were vague, rather than specific. Councilmember Truex felt the piggyback bid policy was unreliable.

Councilmember Truex made a motion, seconded by Vice-Mayor Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

7.20 Councilmember Truex felt this item should be bid out as it was a commodity.

Councilmember Truex made a motion to deny. The motion died due to the lack of a second.

Councilmember Starkey made a motion, seconded by Vice-Mayor Paul, to approve. In a voice vote, with Councilmember Truex dissenting, all voted in favor. (Motion carried 4-1)

7.25 Councilmember Truex was concerned with the reputation of Ron Book from the Rubin Group. He cited two newspaper articles that were provided by the Rubin Group which described Mr. Book's illegal activities. Councilmember Truex felt that Mr. Book and the Rubin Group were an inappropriate choice for the Town as lobbyist.

Councilmember Truex made a motion to amend to delete the Rubin Group.

Mr. Willi stated that he had already removed the Rubin Group and replaced it with William D. Rubin, the individual instead of the Group. He explained that the Rubin Group reconsidered their position with neighboring municipalities and it appeared there might be a conflict of interest. The Rubin Group had requested that Mr. Book not be included.

Councilmember Truex retracted his motion.

Councilmember Clark made a motion, seconded by Vice-Mayor Paul, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

7.26 Vice-Mayor Paul stated that changes were made to the site plan reflecting that two parking spaces were going to be removed. Also, the drainage swale was supposed to be widened and this change was not reflected.

Gus Aguirre explained that the swale was widened to 20 feet, with 10 feet on each side. Vice-Mayor Paul wanted this reflected in the motion.

Vice-Mayor Paul made a motion, seconded by Councilmember Clark, to approve based on recommendations and the amendment. In a voice vote, all voted in favor. (Motion carried 5-0)

7.27 Councilmember Truex referred to recommendation 3 regarding the trailer. He asked if the trailer would be moved when Andrx received its final certificate of occupancy. Mr. Katims replied that Andrx might obtain a partial or temporary certificate for the portion of the structure that would house the refrigeration. Mr. Willi stated it would probably be a series of partial certificates with the final certificate in the "not too near future." Mr. Kutney added that it would be at least a year before Andrx received its final certificate. Mr. Katims indicated that recommendation 3 could be reworded to indicate a partial certificate so that the refrigeration could be put in place. Councilmember Clark asked if the refrigeration was at the new site with Mr. Katims replying in the affirmative. Councilmember Clark asked if the refrigeration trailer was temporarily being housed at the old site. Mr. Katims replied affirmatively. Councilmember Clark wanted to know how long it would be housed there as she was not comfortable with the precautions made for hurricane season, especially since the trailer would contain hazardous materials. She wanted a more definitive time frame for the temporary trailer. Mr. Willi explained that the hurricane strapping system was designed to withstand strong winds. He added that temporary certificate's would not be extended beyond one year. Councilmember Truex asked if a definitive time frame could be included in the recommendation. Mr. Willi responded in the affirmative and Mr. Katims indicated that one year would be reasonable. Councilmember Clark felt that six months would be more appropriate as it posed a safety hazard. Fire Chief Don DiPetrillo stated that they were told that no hazardous materials would be stored in those trailers. He added that signage would be posted to identify the contents of the trailer.

Councilmember Truex made a motion, seconded by Councilmember Clark, to approve subject to paragraph 3 saying "not to exceed a year." In a voice vote, all voted in favor. (Motion carried 5-0)

Vice-Mayor Paul referred to Citrus Canker decision, asking if the new ruling was going to be appealed, and what recourse the Town had. Mr. Kiar stated that the opinion was not final and added that a motion for re-hearing could be filed. He indicated that the Chief Assistant Appellate Attorney for Broward County would likely file for a re-hearing. Mr. Kiar advised that the Coalition of Cities in Broward County had filed a rural challenge with the Division of Administrative Hearing, challenging the 1900 foot emergency rule, which was pending.

10. APPOINTMENTS

10.1 School Advisory Board (one exclusive appointment - Mayor Venis; term expires March 2002)

Mayor Venis appointed Patricia Cardella.

10.2 Youth Advisory Board (one exclusive appointment - Mayor Venis; term expires April 2002)

Mayor Venis deferred his appointment.

10.3 Child Safety Board (one exclusive appointment - Vice-Mayor Paul; term expires July 2001)

Vice-Mayor Paul appointed Dalia Raclaw.

10.4 Child Safety Board (two exclusive appointments per Councilmember; terms expire July 2002)

Mayor Venis appointed Lil Olfern and Joy Yoder. Councilmember Truex deferred his appointments. Vice-Mayor Paul reappointed Rosemary Lanshe and Dalia Raclaw. Councilmember Starkey reappointed Doug Iscovitz and appointed Margie Maine. Councilmember Clark reappointed Joseph Brill and Lorraine Hoffman.

10.5 Open Space Advisory Committee (two exclusive appointments per Councilmember; terms expire July 2002)

Mayor Venis re-appointed Robert Hoth and George Greb. Councilmember Truex and Vice-Mayor Paul deferred their appointments. Councilmember Clark re-appointed Christina Pellicane and deferred her second appointment. Councilmember Starkey reappointed Danny Belyeu and Joy Yoder.

10.6 Affirmation of the Community Redevelopment Agency's Selection of Chair and Vice-Chair (Chair - Neal Kalis; Vice-Chair - Joan Kovac)

In a voice vote, all voted in favor. (Motion carried 5-0)

11. OLD BUSINESS

12. NEW BUSINESS

12.1 Advisory Boards - Councilmember Truex

This item was deferred.

12.2 Davie Agricultural Advisory Committee Report

This item was deferred.

Vice-Mayor Paul asked if a date had been set for the preservation workshop. Mr. Kutney stated that it was scheduled for June 28th, but the time was not set. Councilmember Clark stated that she had a scheduling conflict on this date.

12.3 Pocket Park north of Nova Drive - Mayor Venis and Councilmember Truex

Norm Blanco, representing the Associations of Nova Drive, indicated that he had approached Mayor Venis and Councilmember Truex regarding this issue. He advised that Councilmember Truex had arranged a meeting with Mr. Kutney, Programs Administrator Chris Kovanes, Assistant Town Administrator Ken Cohen, Mr. Bernard, and various presidents from the associations. Councilmember Truex clarified that they wanted staff to have the authority to research this 3.7 acre location for a passive park. There was a consensus of Council to move forward with this investigation.

12.4 Vacation of Right-of-Way, 142nd Avenue from 14th Street to 26th Street - Vice-Mayor Paul

Vice-Mayor Paul explained that this was in response to preserving the rural character of the community. She suggested vacations, no road widening, and dedicated easements as a means to addressing this need. Vice-Mayor Paul spoke of vacating the right-of-way on SW 142 Avenue between SW 14 Street and SW 26 Street and allowing for the opportunity for

the residents "to have that as their own." She stated that it would eliminate the possibility of a road being built and would assist in the preservation of the Oak Hill area. Vice-Mayor Paul wanted to know if this was a legal issue or if staff could research this possibility. Mayor Venis recommended that Mr. Kiar research this and provide a report at the next meeting.

Mayor Venis stated that an additional item needed to be added to the agenda regarding a $3,500 commitment for police officers to attend the Miss America Pageant. Police Chief John George gave a history of this program and the Police Honor Guard's annual participation in this event.

Councilmember Truex stated that he felt this was a waste of taxpayer's money. Councilmember Clark stated that if it was an annual event for 28 years, it should be included in the budget. Vice-Mayor Paul stated it was a good marketing strategy for the Town.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve the expenditure. In a voice vote, with Councilmember Truex dissenting, all voted in favor. (Motion carried 4-1)

Councilmember Truex stated that Mr. Willi had sent a letter to the Pine Island Ridge Country Club President regarding a comprehensive Town information publication that would be sent to them in June. Councilmember Truex asked if Council could be involved before this publication was distributed as he was opposed to the tone, citing statements made in the letter which he felt had not been concluded. He added that it was a policy decision as to whether Pine Island Ridge would be "enticed" to become part of the Town, and Council should be involved in this decision.

Mr. Willi explained that staff was compiling an informational publication similar to the Davie Update to be sent to Pine Island Ridge, Sunshine Ranches, Rio Ranches, and the Waldrep properties. He offered to distribute a draft to Council for additional input. Mr. Willi added that a commitment had been made to the annexation delegation for distribution on June 15th, but that deadline could be briefly extended. He clarified that the purpose was to share information on services the Town provided. Mayor Venis suggested that Councilmembers be given drafts and comments should be returned before the July 3rd meeting.

13. ADJOURNMENT

There being no objections or further business, the meeting was adjourned at 1:45 p.m.

APPROVED _____ _____
Mayor / Councilmember

_____
Town Clerk