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**RESOLUTION NO: 2011-85**  
**ZONING APPLICATION VPB-11-001**

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A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; DENYING THE REQUEST OF APPLICANT, SHORES AT PALMETTO BAY, LLC's TO ESTABLISH A CHARTER SCHOOL FACILITY FOR 1400 STUDENTS ON A PROPERTY WITHIN THE FT&I, MM AND MN ZONING DISTRICT PURSUANT TO DIVISION 30-120, OF THE VILLAGE'S CODE; PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the applicant made applications for a public hearing pursuant to Division 30-120 of the Village's Land Development Code to establish a charter school at the third parcel from the NE corner of SW 97<sup>th</sup> Avenue and SW 180th Street, Palmetto Bay; and,

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WHEREAS, the Village Council of the Village of Palmetto Bay first heard the item on October 17, 2011, and at which time the Applicant requested a continuance of the hearing until December 12, 2011. The Mayor and Village Council granted the continuance, based upon the request of the Applicant, and the need for further information, including the required site specific charter, as delineated in the staff report dated October 17, 2011 (attached hereto as Exhibit "A"); and,

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WHEREAS, the hearing was held on December 12, 2011, and the Planning Director testified that he did not have a complete application by the date of closing the agenda, as there was not an approved charter by the School Board for the site provided, and the final site plan failed to address the comments of Miami-Dade County Public Works; and,

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WHEREAS, the applicant and applicant's counsel were provided the opportunity to address the Village Council and did not provide competent substantial testimony to rebut the Planning Director; and,

WHEREAS, a public hearing was held on the issue of whether the application should be denied due to an incomplete application; and,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. A hearing on the Applicant's request pursuant to Division 30-120, of the Village's Land Development Code, relating to establishing a charter school at the property was held on December 12, 2011, and the Village Council denied Applicant's application, without prejudice.

Section 2. Findings of Fact. On October 17, 2011, Applicant requested a continuance to December 12, 2011, in order to obtain an approved school charter usable at the applicable site and to complete certain documentation required by staff, Miami-Dade County Public Works, and the

1 Village's traffic consultant. On December 12, 2011, the Village's Planning Director testified that the  
2 application was incomplete. The applicant had not provided the applicable charter school  
3 authorization from the Miami-Dade County School Board, which would have been usable for the  
4 Applicant's site. The staff report and backup documentation submitted by the Director identified  
5 that Applicant had placed the Planning Department on notice that Applicant was seeking charter  
6 approval from the Miami-Dade County School Board, had obtained preliminary approval from the  
7 ARC (Application Review Committee) but that due to canceled School Board meetings, no  
8 approved charter had been issued for the site. The Director also testified, under oath, that a final  
9 site plan submitted with the application did not address the traffic and safety concerns of Miami-  
10 Dade County Public Works. It was further discovered during the course of the hearing that the  
11 Applicant had not complied with the disclosure requirements of 30-30.12, relating to expert  
12 witnesses. A copy of the Planning Director's letter to Applicant was produced during the hearing,  
13 which specifically reflected that the Applicant was previously placed on notice of the deadline  
14 concerning disclosure of expert witnesses. Failure to comply with the disclosure requirement  
15 precluded any expert testimony or documentation from being admitted into evidence.  
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17 Section 3. Order.

18 The Council denies applicant's request based upon the Applicant's prior request for a  
19 continuance in order to obtain an approved charter from the Miami-Dade County School Board,  
20 which would have been usable for the Applicant's site, as required by the Village Code  
21 Requirements, and based upon the non-final site plan, and failure to comply with 30-30.12, of the  
22 Village's Code of Ordinances. The application was incomplete and the Village did not want to  
23 create a precedent by allowing an incomplete application to proceed. The application was denied,  
24 without prejudice.  
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26 Section 4. Record.

27 The record shall consist of the notice of hearing, the applications, documents submitted by  
28 the applicant and the applicant's representatives to Village's Department of Planning and Zoning in  
29 connection with the applications, the county recommendation and attached cover sheet and  
30 documents, the testimony of sworn witnesses and documents presented at the quasi-judicial hearing,  
31 and the tape and minutes of the hearing. The record shall be maintained by the Village Clerk.  
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33 Section 5. This resolution shall take effect immediately upon approval.

34 PASSED and ADOPTED this <sup>12<sup>th</sup></sup> day of December, 2011.

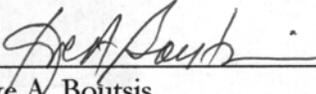
35 (Executed on the 19<sup>th</sup> day of December, 2011.)

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37 Attest:

38 Meighan Alexander  
39 Village Clerk  
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Shelley Starczyk  
Mayor

1 APPROVED AS TO FORM:

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5 Eve A. Boutsis,  
6 Village Attorney

7 FINAL VOTE AT ADOPTION:

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9 Council Member Patrick Fiore YES  
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11 Council Member Howard Tendrich YES  
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13 Council Member Joan Lindsay YES  
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15 Vice-Mayor Brian W. Pariser YES  
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17 Mayor Shelley Stanczyk YES