

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, MARCH 17, 2014
MEETING OF THE ZONING HEARING
Village Hall Chambers
9705 E. Hibiscus Street, Palmetto Bay, FL**

1. **CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE:** Mayor Stanczyk called the meeting to order at 7:05 pm. The following members of the Village Council were present:

Mayor Shelley Stanczyk
Vice Mayor John DuBois
Councilman Patrick Fiore
Councilman Tim Schaffer
Councilwoman Joan Lindsay

The following staff members were present:
Village Manager Ron E. Williams
Interim Village Attorney John R. Herin, Jr.
Village Clerk Meighan Alexander
Director of Planning and Zoning Darby Delsalle
Zoning Administrator Travis Kendall

Mayor Stanczyk led the pledge of allegiance.

2. **Approval of Minutes - Zoning Hearing of December 16, 2013:** Vice Mayor DuBois moved to approve the Minutes, as submitted. Seconded by Councilman Fiore. All voted in favor. The Minutes were approved unanimously (5-0.)
3. **Reading of decorum statement/Swearing in of witnesses:** Clerk Alexander read the following decorum statement: Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Village of Palmetto Bay Council shall be barred from further audience at this meeting before the Village of Palmetto Bay Council by the presiding officer, unless permission to continue or again address the council be granted by the majority vote of the council members. Attorney Herin swore in those individuals who wished to testify.
4. **Public Hearing Items:**
- a. The following item is being considered pursuant to Division 30-30.6(b) of the Village's Land Development Code:

Applicant: LCA Acquisition Corporation (South Motors Infiniti)

Folio: 33-5033-004-0070, 33-5033-004-0060, 33-5033-004-0050
File #: VPB-13-009
Location: 16915 & 16945 S. Dixie Highway, Palmetto Bay, FL 33157
Zoned: Mixed-Use Corridor (MC)
Request: Variance of parking requirements to allow a surface parking lot to be located in front of the building along the southbound US-1 frontage, where such parking lots are required to be screened by a liner building on a parcel zoned Mixed-Use Corridor (MC).

Councilman Fiore moved the item forward. Seconded by Councilman Schaffer.

Director Delsalle provided staff report, including a Powerpoint presentation. He advised that the property will be configured into four blocks for the dealership, which will include a customer parking service area. He noted that the lot is obsolete commercial property, with very little that can be viable on the lot. He noted that conditions are included, such as landscaping to screen the parking area. He provided a brief history of the matter.

Attorney Simon Ferro, Two South Biscayne Boulevard, was present for the applicant. He stated that the property has three frontages, with the main frontage is on the southside of the property, facing westward toward US-1. He noted that the applicant intends to build 17 parking spaces and under strict compliance with the Code, the applicant would have to construct a building in order to avoid a variance. Attorney Ferro remarked that this request provides an opportunity for the Village to require more landscaping in this area. He advised that they will provide unity of title.

Mayor Stanczyk opened the public hearing. No one wished to be heard.

The Council gave the following disclosures:

Councilwoman Lindsay stated that she did not have any disclosures.

Councilman Schaffer advised the he recently attended a luncheon that was associated with a fishing tournament. He explained that a South Motors representative was in attendance. He stated that he will remain objective.

Councilman Fiore stated he did not have any disclosures.

Vice Mayor DuBois advised that he did not have any disclosures.

Mayor Stanczyk remarked that Mr. Steve Kreisher had telephoned her about the hearing. She will remain impartial.

Vice Mayor DuBois asked for clarification regarding criteria 7, the conditions concerning landscaping.

Director Delsalle advised that the landscaping meets the minimum requirements, but the Village wants enhanced landscaping in order to fully screen the parking lot.

Mayor Stanczyk asked if staff will be reviewing the rest of the landscaping plan. Director Delsalle stated that staff's desire is to bring the entire property up to the approval state it had at the time of construction. He explained that with regard to the two western parcels, staff will require enhancement beyond current code.

Vice Mayor DuBois moved to approve. Seconded by Councilman Schaffer. Attorney Herin asked the maker of the motion indicates that approval is due to the criteria being met due to the competent substantial evidence provided for the variance request. All voted in favor. The matter passed unanimously (5-0.)

- b. The following item is being considered pursuant to Division 30-120 of the Village's Land Development Code:

Applicant: Shores at Palmetto Bay, LLC.
Folio: 33-5033-000-0860
File #: VPB-11-001
Location: The third parcel north of the northeast corner of SW 180th Street and SW 97th Avenue, Palmetto Bay, FL, A/K/A Section 33, Township 55, Range 40, Consisting of 5.01 Acres, M/L North 1/2 of Southwest 1/4 of Northwest 1/4 of Southwest 1/4 less West 40' for R/W F/A/U 30-5033-000-0860 COC 24034-4438 11 2005 1 OR 24034-4438 1105 00 Palmetto Bay, FL 33157

Zoned: Mixed Use Main Street (MM) and Mixed Use Neighborhood (MN).
Request: A request to establish a charter school as provided by Section 30-120 of the Village Code of Ordinances on a property within the FT&I District.

Attorney Herin swore in those residents who wished to testify.

Vice Mayor DuBois moved this item forward. Seconded by Councilman Schaffer.

Director Delsalle provided staff report. He reviewed the history of the property. He explained that the request is to locate a 1,400 student charter school. He noted that there are several conditions to this request, such as: at the time of application, there would be usable charter; and, the construction time table would be 24 months. Director Delsalle explained the State Statutes that mandate the process concerning charter schools. He briefly noted the following Florida

Statutes: Section 1002.31, Section 1113.33(13), Section 1002.33(18), and FS 1002.33(18)(a). He provided information concerning the numbers of students in various grade categories. He explained the garage and its size. Director Delsalle reviewed the transportation operation plan, which is intending to stack 76 vehicles. He advised that the property is located within an Enterprise Zone; therefore, the development is exempt from transportation concurrency and the Council does not have the authority to deny the application due to that transportation criteria. He concluded that the applicant is consistent with the Florida to Area Ratio and is also consistent with the Village's Code Sections 30-120.4 and 30-120.6

Attorney JC Planas, 18851 NE 29 Avenue, Suite 303, representing the applicant, was recognized. He noted that he was present with Victor Barroso, Academica Schools, Rolando Llanes, Civica Architecture, and Richard Garcia, traffic engineer. He reserved time for rebuttal.

Councilwoman Lindsay asked Mr. Garcia, with regard to page 14 of the traffic study, the approach that would be used at the intersection of Franjo Road (SW 97 Avenue) and US-1.

Mr. Garcia stated that the approach he considered was that US-1 is northbound; and, that Franjo Road at that point is also northbound.

Councilwoman Lindsay asked which street is considered eastbound, as it is not possible to have two northbound roads intersecting. She asked for explanation concerning various directions at that intersection.

Mr. Garcia advised that the signal lights are timed to favor US-1, which means that the minor approaches suffer. He explained that if you attempt to relieve the side streets, you will harm US-1 and the significant vehicular traffic on that roadway. He noted that signal timing is controlled by Miami-Dade County and the signals benefit the US-1 corridor.

Councilwoman Lindsay expressed her concern with the negative impact at this intersection. Mayor Stanczyk concurred.

Vice Mayor DuBois remarked that the Council can not require mitigation in this instance. Councilwoman Lindsay stated that the Statutes allow for reasonable imposition of conditions.

Attorney Herin advised that concurrency is not part of Council's consideration. He further noted that staff's recommendation is that the applicant would have to

seek and obtain approval from Miami-Dade County public works, but the traffic matter cannot be the basis of denial.

Discussion ensued concerning the varying arrival and dismissal times.

Councilwoman Lindsay asked for information concerning the student enrollment levels and whether they are capped per grade or will fluctuate depending upon demand.

Mr. Victor Barroso, Academica, 6340 Sunset Drive, advised that the population per grade levels stay consistent. He advised that Sommerset intends to have a five-year "ramp up": 650 students in year 1 (allowed to open to K7); Year 2 – 800; Year-3-4 – 875; and Year 5 – 900 up to the maximum.

Discussion ensued regarding stacking of the traffic and the queuing analysis. Mayor Stanczyk stated that she is desirous of mitigation for the traffic matter. Attorney Planas replied that the applicant will work with staff; however, traffic can't be a basis for denial. He remarked that, at this time, the applicant does not know why type of traffic mitigation the Village may seek, so they can not agree to a non-specific condition. He advised that the staggered timing was suggested to assist, as was the stacking to contain vehicles during pick-up/drop-off times. Councilwoman Lindsay expressed her concern regarding the health and safety issue that may occur with this traffic pattern.

Attorney Planas stated that Councilwoman Lindsay's remarks are anecdotal, as there is not an expert report provided.

Mr. Wayne Rosen, 277 Galleon Court, principal of the 5-acre tract, stated that he would be willing to work with a committee to review the traffic situation and meet with staff, as well. Mayor Stanczyk stated that as a long time committee member, she does not believe that the committee will be helpful without a specific final outcome.

Councilman Schaffer excused himself from the meeting at 8:35 pm.

Ms. Susette Rose, Sommerset principal, 10324 SW 89 Court, stated that all parents have to abide by a parent contract. She discussed the car-pooling and the traffic assistance they get from the parents.

Mr. Rolando Llanes, 8323 NW 12 Street, architect with Civica, explained the modifications made to the site plan. Attorney Planas advised that hearing is not for site plan approval, rather, staff will be working with the applicant during administrative approval.

Councilman Schaffer returned to the meeting. He remarked that as the Council cannot deny the request due to traffic concurrency, then staff can discuss the possible solutions later, but it is not applicable to the vote this evening.

Councilwoman Lindsay stated that the Council should consider conditions to protect all from the potential negative impacts that will occur.

Attorney Planas suggested that these solutions would be discussed during administrative review.

Mayor Stanczyk asked if the site plan would return to the Council for review. Director Delsalle stated that it would not. Mayor Stanczyk stated that this hearing is Council's only opportunity to provide suggestions. Attorney Herin advised that the Council may direct their concerns to the Manager for consideration by the Planning & Zoning staff.

Attorney Herin advised that this matter is whether or not this application complies with application provisions of comprehensive plan and 30-120 of the land development code.

Discussion ensued concerning traffic concerns and the Corradino Group's memorandum. Mayor Stanczyk asked if the student enrollment of 1,400 is capped at that amount or if it will increase. Mr. Barroso and Attorney Planas advised that the figure is capped at 1,400. Attorney Herin noted that the figure was included in the agreement adopted by Council.

Councilman Fiore stated that "reasonable conditions" are not defined by the Statute and while he agrees that there are some concerns regarding traffic, he asked how this school would work with the downtown redevelopment plans currently being considered.

Director Delsalle advised that he is uncertain how the school will fit into the conceptual urban form contemplated by the downtown redevelopment task force.

Mayor Stanczyk stated that the charter school was contemplated under a charrette process in 2004, and a committee was created under the first Council's direction, prior to her tenure as Mayor.

Councilwoman Lindsay asked if turning lanes from Franjo into the project is being considered. Mr. Garcia stated they were not. Attorney Planas added that the applicant cannot agree to this as part of the process as this will be considered by

the County and the Village and is not part of the framework, legally, for Council approval.

Mr. Rosen reiterated that he will meet with a committee or meet with each Council person individually.

Councilwoman Lindsay stated that she would like Mr. Rosen to fund any improvements to the roadway. Mr. Rosen stated that he would not agree to that request this evening.

Councilman Fiore asked if studies concerning Franjo Road have been prepared for the downtown redevelopment area. Manager Williams replied that they have not been received.

Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: Gary Pastorella, 6940 SW 142 Terrace. Attorney Planas objected to Mr. Pastorella's remark. Attorney Herin provided his opinion, noting that determination is the Mayor's responsibility and there is a separate process for ethical and conflict of interest codes. Mayor Stanczyk asked Mr. Pastorella to refrain from that line of testimony.

The public hearing continued with the following individuals speaking: Bev Gerald, 14271 SW 74 Court; Sheila Frazer, 9305 SW 181 Street; Jerry Templar, 8120 SW 182 Street; and Gary Pastorella, 6940 SW 142 Terrace.

Attorney Planas remarked that this school is a public school, not a private school.

Councilman Schaffer remarked that this application is only coming before the Council because of the school aspect, not due to the residential and business aspect. Director Delsalle agreed. Councilman Schaffer asked if there is a report that clarifies a safety issue with the roadway. Director Delsalle advised that no such report had been submitted.

Attorney Herin stated that the law allows the Council to propose reasonable conditions; however, the process will be reviewed by Miami-Dade County Public Works, Transportation, and Village staff.

Councilwoman Lindsay asked how the applicant will address parents using the neighborhood surrounding the park for student drop-off. Mr. Rosen stated that the contract with the parents will contain restrictions to prohibit the parents from doing this.

Discussion ensued.

Vice Mayor DuBois remarked that when the downtown redevelopment is complete and successful, traffic will increase significantly in this area. He stated that the Village should be careful not to discriminate against the charter school when the potential Village redevelopment will be intense. He noted that Number 3 on the conditions included "recommendations".

Director Delsalle stated that Miami-Dade County Public Works will make requirements, but the Village can make recommendations.

Vice Mayor DuBois asked for clarification regarding number 7, the list of activities. Attorney Herin advised that the list is part of the settlement.

Vice Mayor DuBois asked for clarification concerning Number 9. Director Delsalle stated that the Village's intent is to be clear that this is a school that mimics a school's functions.

Vice Mayor DuBois asked about the bond or construction that was included in Condition 10. Director Delsalle states that the amount of the bond will be determined when the construction cost is calculated. Attorney Herin explained that if there are improvements to the right-of-way, the contractor will provide a bond, and the village takes ownership of the improvements. Director Delsalle added that if the project fails, the Village must be sure there are funds to complete the improvements. He explained that this condition is provided as an assurance of completion of infrastructure improvements on our right-of-ways.

Following discussion, Mr. Rosen advised that when the downtown redevelopment is commencing, he would send Mr. Garcia to meet with the County and the Village to discuss the design of Franjo.

Following brief comment, Councilman Fiore moved to include a condition that, "Applicant shall, when the Franjo Road and DRTF [Downtown Redevelopment Task Force] studies are completed, work with the Village and the county, as it relates to signalization on Franjo Road." Seconded by Vice Mayor DuBois. All voted in favor. The motion passed unanimously (5-0.)

Mayor Stanczyk moved to include a condition that "applicant agrees to be a member or a part of a committee to examine issues relating to the charter school, including, but not limited to, traffic and safety issues." Seconded by Vice Mayor DuBois. Councilman Schaffer asked who would comprise the committee. Mayor Stanczyk suggested: Mr. Rosen, or his designee, the Mayor or his/her designee, and 3 members, including the Principal of the school.

Clerk Alexander stated that it would not be appropriate to create a committee via zoning resolution. Attorney Herin concurred, stating that a resolution would be prepared in the future. He noted that the general condition concerning the committee is appropriate.

All voted in favor of the previous motion (5-0.)

Mayor Stanczyk asked the Clerk to read the correction on Page 2 of 4 into the record. The Clerk read, "the village council, pursuant to section 30-120 of the LDC approved the plan entitled "Parkside at Palmetto Bay" as prepared by Civica Architecture and Urban Design dated, stamped received February 19, 2014, together with the traffic studies..."

Councilman Fiore moved to approve the Resolution, as amended. Seconded by Vice Mayor DuBois. All voted in favor. The Resolution passed (5-0.)

5. Adjourn: The meeting was adjourned at 10:25 p.m.

Prepared and submitted by:

Meighan J. Alexander, CMC
Village Clerk

Approved by the Village Council on
this ____ day of September, 2014.

Mayor Shelley Stanczyk

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.

**VILLAGE OF PALMETTO BAY, FLORIDA
MINUTES OF THE MONDAY, JULY 21, 2014
MEETING OF THE ZONING HEARING
Village Hall Chambers
9705 E. Hibiscus Street, Palmetto Bay, FL**

1. **CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE:** Mayor Stanczyk called the meeting to order at 7:10 pm. The following members of the Village Council were present:

Mayor Shelley Stanczyk
Vice Mayor John DuBois
Councilman Patrick Fiore
Councilman Tim Schaffer
Councilwoman Joan Lindsay

The following staff members were present:
Village Manager Ron E. Williams
Village Attorney Dexter Lehtinen
Village Clerk Meighan Alexander
Director of Planning and Zoning Darby Delsalle
Zoning Administrator Travis Kendall

Mayor Stanczyk led the pledge of allegiance.

2. **Reading of decorum statement/Swearing in of witnesses:** Clerk Alexander read the following decorum statement: Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Village of Palmetto Bay Council shall be barred from further audience at this meeting before the Village of Palmetto Bay Council by the presiding officer, unless permission to continue or again address the council be granted by the majority vote of the council members.

Attorney Lehtinen swore in those individuals who wished to testify on the matter.

Mayor Stanczyk remarked that a councilmember stood to be sworn in as a witness. She asked Attorney Lehtinen to speak to the Vice Mayor in order to determine the subject of his testimony. (A short recess was taken.)

Attorney Lehtinen announced that the Vice Mayor will recuse himself from this item and appear as a resident/witness and not as a participating council member.

Vice Mayor DuBois stated that he will recuse himself as he is a close neighbor for the next item, he had met with the managers of the property, and does not believe he can be impartial on this item.

1. Public Hearing Items:

- a. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE LOCAL PLANNING AGENCY AND AS THE VILLAGE COUNCIL, RELATING TO AN AMENDMENT OF THE FUTURE LAND USE MAP CONSISTENT WITH 166.041, 163.3184 AND 163.3187, FLORIDA STATUTES; CHANGING THAT PORTION OF 17901 OLD CUTLER ROAD PRESENTLY DESIGNATED PARKS AND RECREATION CONSISTING OF APPROXIMATELY 22± ACRES, TO VILLAGE MIXED-USE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk]

Councilwoman Lindsay moved this item forward. Seconded by Councilman Fiore.

Director Delsalle provided a presentation concerning the property. He advised that each ordinance would have to be voted upon separately. He explained that the County is intending to consider this property as a location for a fire station. Director Delsalle's explained that the zoning, if approved, will allow two units per acre and the developer intends to interweave the buildings between the canopy in order to attempt to preserve the vegetation in the area. He noted that the Village wishes to preserve the west buffer; however, there are some areas to be modified.

Director Delsalle continued by noting that the item was sponsored by the Mayor to allow the County to site the public facility, put the lot in useful form, and maintain the canopy to the greatest extent possible. He provided a history of the parcel and explained the text amendments.

Councilman Fiore asked why private land was zoned as parks and recreation.

Director Delsalle replied that he was not certain; however, the former village attorney advised him that there was a concept that the village would purchase the land to install a park, but that concept never came to fruition.

Councilman Schaffer asked for explanation of the covenant and the number of units per acre.

Director Delsalle advised that due to the time constraints regarding agenda deadlines, there was insufficient time to perform a complete history search

concerning the land use of this parcel. He advised that it has been subsequently discovered that the estate density land use designation was established on this land in 1988.

Councilman Schaffer suggested that the covenants should be considered prior to changing this zoning.

Attorney Lehtinen advised that covenants are property law concepts between the owners of the property and whoever is affected by the land's use. He noted that government regulation is a different/separate concept. He stated that the Village may adopt a zoning category that permits use, while an owner has a covenant running with the land that restricts use of their property, which is not inconsistent legally. He explained that the zoning would allow certain uses, but the property owner is covenanted not to undertake those uses; and there is no legal reason for the zoning to be consistent with the covenant.

Director Delsalle explained that the VMU created the 2005 covenant. He further noted that in 1988, the County designated that property to be estate density and the Village removed that designation in 2005 and changed it to parks and recreation. He stated that the covenant has development limitations (from 1985) including a 75% signature requirement for properties within 500 feet that would apply if the applicant wished to change the zoning. He listed other requirements, such as giving the shoreline to Biscayne National Park, did not allow curb cuts for vehicular access, and paragraph 7, "the owners will continue to maintain native vegetation on the portion of the property located adjacent to Old Cutler Road on the north and south boundaries to obscure visibility of the building from Old Cutler Road."

Mayor Stanczyk asked what type of building or facility allowed under a parks and recreation designation. Director Delsalle advised that under the land use element, it would be limited – a fire station would not be permitted. He noted that the FAR in the FT&I district is .5; the parks and recreation is .2. He stated that only facilities ancillary to a park would be permitted: tennis club houses, storage, entertainment and cultural uses.

Councilwoman Lindsay asked for clarification as to what would trigger the covenant. Director Delsalle stated that an application by the owner would be required; however, the government, in this case, is considering modifying the zoning. Attorney Lehtinen added that, generally, private parties cannot deprive the government of its power. He asked for disclosures from the Council.

Mayor Stanczyk stated that she had forwarded emails and a list of anyone who contacted her to Village staff. She explained that she spoke with Laura Reynolds

this afternoon, and also spoke to Ms. Spatafina from DERM, and Mr. Blake. She noted that she will remain impartial.

Councilman Fiore stated that he had forwarded the emails and had spoken to the County administrators in the past concerning the fire station.

Councilman Schaffer advised that he had forwarded emails to staff and had spoken to Mr. Scott Silver regarding sponsorship of this matter. He stated he will remain impartial.

Councilwoman Lindsay stated that she had met with Scott Silver concerning the VMU designation and had received emails from Beth Kibler, Jose Gay, and one forwarded by Palmetto Bay Watch from Suzette Rice.

Mr. Scott Silver, 18001 Old Cutler Road, representing 17777 Old Cutler Road, LLC, explained that in 2003, a charrette was held and the property owners listened to all concerns. He stated that the VMU is the trend, but the owners don't wish to have senior living or office buildings on that piece of land, as they wish to be more sensitive to the community. He explained that DERM determined that park usage wasn't appropriate for that parcel. Mr. Silver stated that only two protected species found; and they were located in the marsh area that is in the far south end of the property. He noted that they intend to respect the covenant; however, the only one in place, in this case, is to maintain the landscape buffer that obscures the visibility of buildings from Old Cutler. He added that they intend to eradicate the invasive species, find pockets in the vegetation to construct the homes, and include one driveway from Old Cutler into the property for the homeowners only.

Discussion ensued regarding increasing the size of the buffer and the actual size of the buffer. Director Delsalle explained that the measurement of the buffer is measured from the property line. Councilwoman Lindsay remarked that the property line meanders and is not a consistent distance from the bike path.

Councilman Schaffer asked what would prevent the property owner from removing trees, if the Council approved the zoning change. Manager Williams explained that the site plan will come back to Council for approval. Mr. Silver added that the native specimen trees are protected and DERM approval is also required.

Attorney Lehtinen explained the unique nature of the VMU-SFR category.

Councilwoman Lindsay remarked that with the VMU-SFR, if the property will be solely for single family residential cluster development, the word "solely" should be inserted instead of the word "generally". Mr. Silver agreed. Councilwoman Lindsay moved to revise 30-50.19 and strike the word "generally."

Mayor Stanczyk suggested hearing from the public. She opened the public hearing. The following individuals addressed the Council: Laura Reynolds of the Tropical Audobon Society, 20715 Leeward Lane, Cutler Bay; Bob Ross, 6701 SW 94 Street, Pinecrest; Brian Carlstrom, Superintendent of Biscayne National Park; Gary Pastorella, 6940 SW 142 Terrace; Eric Tullberg, 7884 SW 179 Terrace; Barbara Glancy, unincorporated dade-33030; David Zisman, 14135 Farmer Road.

Attorney Lehtinen stated that Roberts Rules of Order indicate that motivation should not be discussed or attacked.

The public hearing continued, as follows: Zacharia Cosgrove, 7180 SW 114 Terrace, Miami; Laura Sheldon, 8860 SW 123 Terrace, Miami; Craig Van der Heiden of the Institute for Regional Conservation; Larissa Lara-Siegal, 17125 SW 77 Avenue; Paul Blake, 8201 SW 183 Street; Eugene Flinn, 8261 SW 162 Street; and, Jeff Curt, 913 Marial Court, North Carolina.

Following brief discussion, Councilman Schaffer suggested the Council defer this item until further information is received.

Mayor Stanczyk asked Mr. Scott Mendelsberg, CFO of Miami-Dade County Fire Rescue, to come forward. Mr. Mendelsberg remarked that the County has the location at SW 142 Street and Old Cutler under contract and will be coming before the Village in the near future. He noted that while the County is considering this area, as well, the unit for this location is not yet in service. He advised that the County is looking to buy two parcels.

Councilwoman Lindsay asked when the last controlled burn was performed in the combined rock lands. Mr. Mendelsberg replied that he did not know. He advised that the County has been working with Mr. Silver and will be preparing new documents in the near future. Mr. Silver advised that there was a limited controlled burn in the hardwood hammock and pine rockland areas in 2006.

Mr. Silver advised that he has received biodiversity studies and will be happy to address any of the environmental concerns discussed. Mayor Stanczyk suggested that the studies be updated prior to second reading.

Councilwoman Lindsay suggested a workshop be scheduled prior to voting on this matter. Mr. Silver agreed, adding that he was under the impression that the County wanted the matter settled for the September budget cycle.

Following discussion, Mayor Stanczyk moved to defer the item to the September 22, 2014 Zoning Hearing. Seconded by Councilwoman Lindsay. Discussion ensued concerning a date for the workshop. Mr. Silver stated that the date of

September 17th may be possible. All voted in favor of the motion to defer. The motion passed unanimously (4-0.)

- b. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS CAPACITY AS THE MAYOR AND VILLAGE COUNCIL AND AS THE LOCAL PLANNING AGENCY, AMENDING THE VILLAGE'S COMPREHENSIVE PLAN'S LAND USE CATEGORY, "VILLAGE MIXED-USE" TO PERMIT SINGLE FAMILY RESIDENTIAL AND PUBLIC FACILITY USES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk]

Councilman Schaffer moved this item forward. Seconded by Councilman Fiore. Councilman Schaffer moved to defer the matter until September 22nd and incorporate the previous staff report, expert testimony, and public comment into the record. Seconded by Councilman Fiore. All voted in favor of the motion to defer. The motion passed unanimously (4-0.)

- c. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING THE OFFICIAL ZONING MAP TO REFLECT A DISTRICT BOUNDARY ZONE; CHANGING THAT PORTION OF 17901 OLD CUTLER ROAD PRESENTLY ZONED INTERIM DISTRICT AND ADJACENT TO OLD CUTLER ROAD, CONSISTING OF APPROXIMATELY 20.5± ACRES, TO VILLAGE MIXED USE – SINGLE FAMILY RESIDENTIAL (VMU-SFR) DISTRICT; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk].

Councilman Schaffer moved this item forward. Seconded by Councilman Fiore. Councilman Schaffer moved to defer the matter until September 22nd and incorporate the previous staff report, expert testimony, and public comment into the record. Seconded by Councilman Fiore. All voted in favor of the motion to defer. The motion passed unanimously (4-0.)

- d. AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-50.19, "VILLAGE MIXED-USE DISTRICT", TO PERMIT SINGLE FAMILY RESIDENTIAL USES, TOGETHER WITH APPLICABLE DEVELOPMENT REGULATIONS; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk]

Councilman Schaffer moved this item forward. Seconded by Councilman Fiore. Councilman Schaffer moved to defer the matter until September 22nd and incorporate the previous staff report, expert testimony, and public comment into

the record. Seconded by Councilman Fiore. All voted in favor of the motion to defer. The motion passed unanimously (4-0.)

- e. The following item is being considered pursuant to Divisions 30-30.5 and 30-110 of the Village's Land Development Code:

Applicant: **Palmer Trinity Private School, Inc. (VPB-14-001)**

Folios: 33-5034-000-0580, 33-5034-000-0620

Location: 7900 SW 176th Street

East ½ of Northwest ¼ of Southeast ¼ of Section 34, Township 55, Range 40 East, less north 35 feet, in Miami-Dade County

8001 SW 184th Street

East ¾ of Southwest ¼ of the Southeast ¼ of Section 34, Township 55, Range 40 East, in Miami-Dade County

Zoned: Estate Modified (E-M)

Request: A modification of a previously approved site plan of an educational facility as granted by Resolution 2010-48, as further modified by Resolution Nos. 2011-53 and 2012-64, adjusting the size and location of buildings, recreational fields, and landscape buffers, together with other modifications.

Councilman Schaffer moved this item forward. Seconded by Vice Mayor DuBois.

The Council provided the following disclosures:

Mayor Stanczyk advised that she had forwarded all of her emails to the Village Clerk. She stated that she will remain impartial.

Councilman Fiore stated that he had received many emails in support of the application and will remain impartial.

Councilman Schaffer received emails that he believes were generated to the entire Council. He stated that he will be impartial.

Councilwoman Lindsay stated that she had received the same emails that her colleagues referenced. She stated that she forwarded the emails to the Clerk and can remain impartial.

Vice Mayor DuBois stated that all of the emails he received were addressed to all Council members. He can remain impartial.

Director Delsalle provided staff report. He explained that while the settlement agreement is not specifically related to a site plan, many of the site plans issues, such as number of students, have been resolved via settlement. He provided a history of the application.

Councilman Schaffer asked why the public hearing is required, as the applicant is following the code with regard to this development. Director Delsalle advised that a public hearing is required due to the size of the parcel.

Attorneys Eileen Mehta, Jerry Proctor, and Rena Kelley were recognized, representing Palmer Trinity. Attorney Mehta expressed that Palmer will be asking for release of the past conditions and asking for new conditions.

Mr. Jim Piersol, Architect, went through the landscape plan and described the buffer.

Attorney Mehta stated that the County will be reviewing the site plan for approval of the 184 Street improvements.

Attorney Lehtinen stated that certain pages are not identical to those submitted in the past. The page marked L.100 over-all campus planting plan and the other page is dated July 21, 2014 is also not identical.

Mayor Stanczyk remarked that the documents were not submitted timely. Attorney Lehtinen stated that the Council has the ability to accept documents on the dais. Attorney Mehta explained that the document had superimposed information. Mayor Stanczyk moved to accept the new documents submitted, as evidence.

Vice Mayor DuBois asked why the document would be different. Mr. Piersol explained that the only document that is new is the site plan drawing.

Attorney Lehtinen stated that the documents provided to the Council had the previous page of the plan and the new page is being provided.

Councilman Schaffer seconded the motion. All voted in favor. The motion passed (5-0.)

Mr. Robert Parsley, Geometric Designs, 6800 SW 81 Street, Landscape architect, was recognized. He explained the different types of trees and amounts of trees that have been planted over the last three years. He stated that 40 feet of tree screening has been provided.

Councilwoman Lindsay asked what other trees and shrubs would be included in the buffer area. Mr. Parsley stated that small native trees, existing mango trees, ground cover and open space would make up the canopy of trees with ground cover. He stated that five times the number of trees required have been planted.

Attorney Mehta thanks Oscar Fonseca for donating materials to the neighbors for planting in an attempt to make the buffer visually dense.

Mr. Gary Siebine, Acoustical Engineer, Gainesville, FL, provided information concerning the January and June 2014 report. He stated that he concurs with the earlier study performed by Audiobug. He advised that the barrier wall to be constructed is the primary sound reducing element; and, as the school's activities are clustered in the center of the site, this will also reduce noise.

Attorney Mehta stated that Mr. Timothy Plummer is present and prepared to answer questions concerning the traffic study; however, the school has not modified the plans from the earlier traffic study. She introduced Mr. Patrick Roberts, the new Head of School. Mr. Roberts introduced himself.

Attorney Mehta asked members of the audience to stand to show support (most of the audience stood.) She opined that when conditions are imposed upon an applicant after all of the requirements of the government have been satisfied, then the burden shifts to the government to prove why the conditions are necessary. She stated that Palmer has incorporated the majority of the conditions and criteria into the site plan itself. Attorney Mehta opined that many of the conditions should be removed, as they "create ambiguity."

Vice Mayor DuBois asked if there was an alternate resolution. Attorney Mehta noted that a proposed alternate was provided.

Mayor Stanczyk remarked that drawings are not as clear, as text. She stated that many people have expressed problems concerning the sound issues, particularly due to delivery trucks. She stated that throughout the litigation, Palmer did not appeal all conditions, only two items.

Attorney Mehta stated that the site plan is not just a drawing, as textual language is included. She used the construction phasing language in the side plan as an example. She expressed that with regard to sound, the school wishes to be governed by laws, not perception, and the school has included site attenuation standards previously not included, such as walls that will be 13 feet high. Attorney Mehta stated that the school intends to comply with Village code and that the conditions exceed the public necessity.

Following discussion, Manager Williams stated that while there are some common agreements, the site plan could not deviate from an approved resolution. He noted that with regard to a fee waiver, the fees are clearly stated by ordinance and there will be a discussion as to how fees would be handled.

Following brief discussion, Mayor Stanczyk opened the public hearing. The following individuals addressed the Council: David Singer, 8360 SW 154 Terrace; Lewis Fraser, 14670 SW 69 Place; Lily Allen-Fialla, 16745 SW 74 Avenue; Eric Tullberg, 7884 SW 179 Terrace; and, Peter England, 7620 SW 171 Street.

Vice Mayor DuBois moved to extend the meeting past midnight. Seconded by Councilman Fiore. Following brief discussion, the motion passed (3-2, Mayor Stanczyk and Councilwoman Lindsay voting in opposition.)

The public hearing continued: Gary Pastorella, 6940 SW 142 Terrace; Monica Garcia, 8111 SW 175 Street; Karina Duenas, 17104 SW 79 Court; David Zisman, 14135 Farmer Road; Bev Gerald, 14271 SW 74 Court; Stanley Kowlessar, 8360 SW 140 Drive; Jerry Templer, 8120 SW 182 Street; Lois Chumbley, 7480 SW 159 Terrace; Dalphine Martino, 15280 SW 74 Court; and James Slaton, 16100 Old Cutler Road.

Director Delsalle stated that there was a typographical error in staff's report, with June 5th being the correct date for the traffic study.

Councilwoman Lindsay amended her previous disclosure to note that she had attended three workshops of Palmer, but did not participate. Mayor Stanczyk noted that she had, as well.

Councilman Schaffer moved to amend the date to read June 5th, 2014, for the traffic study in staff's report. Seconded by Councilman Fiore. All voted in favor. The motion passed unanimously (5-0.)

Mayor Stanczyk stated that Council should move to approve the original resolution, as submitted. Vice Mayor DuBois remarked that the 104 conditions are not up for discussion tonight, as the Council has agreed, in principle, to allow Palmer to return to Council for final action. Vice Mayor DuBois moved to approve the site plan, as amended, which includes the 104 conditions. Seconded by Councilman Schaffer.

Councilman Fiore expressed his wish that the Village will now be able to "heal."

Councilwoman Lindsay asked for clarification that the resolution being voted upon is the resolution that was submitted by Director Delsalle, not the resolution submitted by Palmer Trinity. Clerk Alexander clarified that the Resolution is the one submitted by Director Delsalle that was attached to staff's report. She read the following caption:

ZONING APPLICATION VPB 14-001 - A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING WITH CONDITIONS THE SITE PLAN MODIFICATION REQUEST OF PALMER TRINITY PRIVATE SCHOOL, LOCATED AT 7900 SW 176TH STREET AND 8001 SW 184TH STREET; AS PROVIDED FOR UNDER 30-110, AND PURSUANT TO SECTION 33-30.5 OF THE VILLAGE OF PALMETTO BAY CODE; PROVIDING FOR RELEASE OF PREVIOUS COVENANT IN LIEU OF UNITY OF TITLED AS REQUIRED BY RESOLUTION 2010-48 (AMENDED 07/19/2011 AND 08/29/2012); AND PROVIDING AN EFFECTIVE DATE.

Mayor Stanczyk called the question. All voted in favor. The Resolution passed unanimously (5-0.)

Mayor Stanczyk expressed her sympathy for the family of the Palmer Trinity alumni Kevin Jesurun who was killed in the recent Malaysian plane crash.

5. **Adjourn:** The meeting was adjourned at 12:15 a.m.

Prepared and submitted by:

Meighan J. Alexander, CMC
Village Clerk

Approved by the Village Council on
this ____ day of September, 2014.

Mayor Shelley Stanczyk

PURSUANT TO FLORIDA STATUTES 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW. WHILE THE FLORIDA STATUTES DO NOT REQUIRE TAPE RECORDINGS, TO THE EXTENT THAT TAPE RECORDINGS ARE MADE, THE TAPES MAY BE REQUESTED FROM THE VILLAGE CLERK FOR REVIEW AND/OR COPYING. THE VILLAGE OF PALMETTO BAY CAN NOT GUARANTEE QUALITY OF ANY RECORDING.