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**RESOLUTION NO. 2012-64**

**AMENDING RESOLUTION NO.: 2010-048,  
AS PREVIOUSLY AMENDED  
BY RESOLUTION 2011-53**

**ZONING APPLICATION VPB 07-012-B**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; PURSUANT TO THE DECISION RENDERED BY THE THIRD DISTRICT COURT OF APPEAL ON JULY 5, 2012, IN THE ACTION ENTITLED THE VILLAGE OF PALMETTO BAY, FLORIDA V. PALMER TRINITY PRIVATE SCHOOL, INC., UNDER APPELLATE CASE NO 3D12-190, ON APPEAL FROM THE 11TH JUDICIAL CIRCUIT, APPELLATE DIVISION, UNDER CASE NO: 10-259 AP; AMENDING THE AMENDED ZONING RESOLUTION 2010-48 [AS PREVIOUSLY AMENDED UNDER RESOLUTION 2011-53], RELATING TO THE SPECIAL EXCEPTION AND A SITE PLAN MODIFICATION ON PROPERTY ZONED E-M; GRANTING THE 1,150 STUDENT REQUEST; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Florida 11th Judicial Circuit, Appellate Panel, on February 11, 2011, granted the certiorari petition filed by Palmer Trinity Private School, and granted the petition, quashing two conditions in the Village's May 4, 2010 zoning resolution. The Appellate panel found:

That Condition 4.4 "which contained the 30 year prohibition" "operates as an out right ban on Palmer Trinity's ability to even ask for additional development approvals. Accordingly, the Court holds that the provision in Condition 4.4 of the Resolution, which not only prohibits development, but even applications for development, for the next 30 years constitutes a departure from the essential requirements of law and should be quashed."

As to the second condition, related to the number of students, 900, the Court found that the "900 Student Cap on Enrollment" should be quashed, as there was "no competent substantial basis for the 900 student cap on enrollment. Accordingly, this Court holds that the 900 student cap is not supported by competent substantial evidence."

**WHEREAS**, the Court, on March 3, 2011, issued the mandate commanding the Village to hold "such further proceedings in accordance with the opinion of this Court [per the February 22, 2011 order]"; and,

1           **WHEREAS**, on April 12, 2011, Palmer Trinity filed its motion to enforce the Court's  
2 mandate, as to the two quashed conditions of the May 4, 2010 resolution; and,  
3

4           **WHEREAS**, on May 6, 2011, the Court granted Palmer Trinity's motion to enforce  
5 mandate, without opinion; and,  
6

7           **WHEREAS**, subsequently, the Village filed a motion for clarification as to the order  
8 enforcing mandate, asking for direction as to the Appellate Panel's direction to hold "further  
9 proceedings;" and,  
10

11           **WHEREAS**, on June 3, 2011, the Appellate panel responded to the Village's motion for  
12 clarification stating:  
13

14           "[T]he Court finds that the original opinion in this matter issued February 11, 2011 is  
15 clear and unambiguous. The Village of Palmetto Bay shall forthwith commence the  
16 required proceedings to remove the two quashed conditions from the Resolution or  
17 otherwise render those conditions ineffectual and take no further action that would  
18 be inconsistent with the Court's prior Order of May 5, 2011 and this Order."  
19

20 and,  
21

22           **WHEREAS**, based upon the foregoing direction of the Appellate Panel, solely the two  
23 conditions appealed and quashed were to be reviewed by the Village Council. The Appellate Court  
24 quashed the Village's two conditions: (1) the 30 year development covenant prohibition and (2) the  
25 900 cap on the number of students; and,  
26

27           **WHEREAS**, on July 12, 2011, Applicant filed a "Renewed, Emergency Motion To Enforce  
28 Mandate, or Alternatively, To Enjoin And Prohibit Respondent from Violating the Express  
29 Mandate of the Court;" and,  
30

31           **WHEREAS**, on July 15, 2011, the Village filed its opposition to Applicant's "Emergency"  
32 motion; and,  
33

34           **WHEREAS**, the Appellate Panel, on July 18, 2011, the Appellate Panel denied Applicant's  
35 "Emergency" motion, in its entirety, without opinion; and,  
36

37           **WHEREAS**, the Village properly noticed, and adhered to its procedural requirements for  
38 public hearings, and held the public hearing on July 19, 2011, at Christ Fellowship Church, on the  
39 issue of the remanded special exception application, relating to the two appealed items so that the  
40 Village Council could take action on the amendment of Resolution 2010-48 (the resolution that was  
41 the subject of the certiorari action); and,  
42

43           **WHEREAS**, on July 19, 2011, Mayor and Village Council, approved Resolution 2011-53,  
44 which amended Resolution 2010-48 which struck the 30 year development covenant prohibition and

1 removed all references to the 900 student enrollment cap leaving in place the denial of the  
2 applicant's request of 1,150 students; and,  
3

4 **WHEREAS**, on August 26, 2012, Palmer Trinity Private School, Inc., filed a motion to  
5 enforce mandate or in the alternative, a request for certiorari review of the July 19, 2011 action of  
6 the Council under Resolution 2011-053; and  
7

8 **WHEREAS**, on December 22, 2011, the 11th Circuit Appellate Panel granted Palmer  
9 Trinity's motion to enforce mandate; and,  
10

11 **WHEREAS**, thereafter, on January 23, 2012, the Village filed a first tiered certiorari action,  
12 was filed with the Third District Court of Appeal, for discretion review of the December 22, 2011  
13 decision of the 11th Circuit Appellate Panel to grant Palmer Trinity's motion to enforce mandate;  
14 and,  
15

16 **WHEREAS**, during the discretionary appeal the Village argued, *amongst other legal and factual*  
17 *issues*, that the Village had adhered to the direction of the 11th Judicial Circuit and that the 11th  
18 Circuit Appellate Panel erred in directing the Village to approve 1,150 students as the Court could  
19 only remand the matter and could not direct a certain action be taken as any such direction would be  
20 contrary to the standard of review of an appellate action and inconsistent with the holding of  
21 *Broward County v. GBV Int'l Ltd.*, 787 So. 2d 838 (Fla. 2001); and,  
22

23 **WHEREAS**, on June 22, 2012, the Third District Appellate Panel, consisting of Chief Judge  
24 Wells, Senior Judge Schwartz, and Judge Lagoa, held oral argument on the merits of the Village's  
25 discretionary appeal; and,  
26

27 **WHEREAS**, despite what appeared to be a favorable outcome to the Village during oral  
28 argument, the Third District Appellate Panel, in a unanimous decision, on July 5, 2012, denied the  
29 Villages Writ of Certiorari, leaving in place the 11<sup>th</sup> Circuit Appellate determination as to the  
30 mandate and motion to enforce the mandate, intact; and,  
31

32 **WHEREAS**, it is now incumbent upon the Mayor and Village Council to comply with  
33 mandate of the Third District Court of Appeal and the 11<sup>th</sup> Judicial Court's determination that the  
34 Village is to grant the applicant its 1,150 student enrollment request.  
35

36 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE**  
37 **COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**  
38

39 **Section 1.** Resolution 2010-48 [as previously amended by Resolution 2011-53] is hereby  
40 attached and incorporated into this Resolution and is so amended to permit a student enrollment  
41 not to exceed 1,150 students as requested by the application.  
42

43 **Section 2.** This is a final order to further amend Resolution 2010-48 [that had  
44 previously been amended under Resolution 2011-53], as it relates to the number of students  
45 authorized under the special exception expansion request of Palmer Trinity, to authorize the number

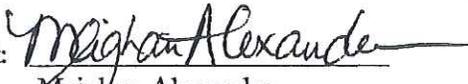
1 of 1,150 students. All other terms and conditions, findings of fact, conclusions of law from  
2 Resolution 2010-48, as previously amended by Resolution 2011-53, attached hereto and  
3 incorporated by reference herein, and all other conditions of those resolutions remain in full force  
4 and effect. The twice amended Resolution 2010-048, and Resolution 2011-53 shall be attached  
5 hereto and incorporated by reference into this final resolution approving the site plan application of  
6 Palmer Trinity, with all remaining conditions as provided herein.  
7

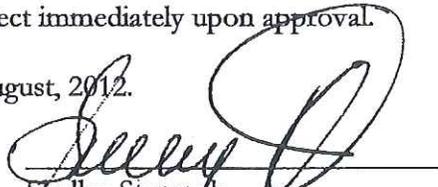
8 **Section 3.** Record. The record shall consist of the notice of hearing, the applications,  
9 documents submitted by the applicant and the applicant's representatives to the Village of Palmetto  
10 Bay Department of Planning and Zoning in connection with the applications, the Village  
11 recommendation and attached cover sheet and documents, the testimony of sworn witnesses and  
12 documents presented at the quasi-judicial hearing, and the tape and minutes of the hearing. The  
13 record shall be maintained by the Village Clerk.  
14

15 **Section 4.** This resolution shall take effect immediately upon approval.

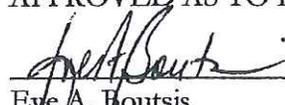
16 PASSED and ADOPTED this 29 day of August, 2012.

17 Attest:

18   
19 Meighan Alexander  
20 Village Clerk

21   
22 Shelley Stanczyk  
23 Mayor

24 APPROVED AS TO FORM:

25   
26 Eve A. Houtsis,  
27 Village Attorney

28 FINAL VOTE AT ADOPTION:

29  
30 Council Member Patrick Fiore YES  
31  
32 Council Member Howard Tendrich YES  
33  
34 Council Member Joan Lindsay YES  
35  
36 Vice-Mayor Brian Pariser YES  
37  
38 Mayor Shelley Stanczyk YES  
39

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RESOLUTION NO 2010-48 (AMENDED 07/19/2011 and 08/29/2012)

ZONING APPLICATION VPB 07-012-B

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING WITH CONDITIONS THE APPLICATION OF PALMER TRINITY PRIVATE SCHOOL, LOCATED AT 7900 SW 176<sup>TH</sup> STREET THROUGH 8001 SW 184<sup>TH</sup> STREET; APPROVING WITH CONDITIONS THE SPECIAL EXCEPTION REQUEST TO EXPAND THE SCHOOL TO INCLUDE AN ADDITIONAL 32.2 ACRES, AND REQUEST TO INCREASE ENROLLMENT BY 550 STUDENTS ~~DENIED~~ AS PROVIDED FOR UNDER 33-151, ET SEQ.; AND PURSUANT TO SECTION 33-311 OF THE MIAMI-DADE COUNTY CODE FOR A SITE PLAN MODIFICATION ON PROPERTY ZONED E-M, LOCATED IN PALMETTO BAY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2006 the applicant made an application for (1) a rezoning of 8001 SW 184<sup>th</sup> Street from AG and E-2 to E-M; (2) a special exception to expand the existing private school located at 7900 SW 176<sup>th</sup> Street with 600 students, onto the adjacent property known as 8001 SW 184<sup>th</sup> Street with 32.2 acres, and 1400 students; (3) a site plan modification of the approved 1999 plan for 7900 SW 176<sup>th</sup> Street to include the elements under request (2); (4) a non-use variance of height limitations on the gymnasium performing arts center and chapel to allow structures over 56 feet, where 35 feet is permitted; (5) a non-use variance to allow three stories for an administrative building, where two stories is permitted; and (6) a non-use variance to allow parking on natural terrain. This application is described in the Village's Department of Planning and Zoning Recommendation from 2008, as issued by Ms. Arleen Weintraub, the then Planning & Zoning Director, to the Village of Palmetto Bay; and,

WHEREAS, hearings were held on February 25, 2008, and April 14, 2008, at which time the Applicant's rezoning request was denied, and the remainder of their requests were not ruled upon; and,

WHEREAS, the district boundary change, rezoning item was ruled upon by the Third District Court of Appeal on March 24, 2010, finding reversible error, and,

WHEREAS, the district boundary request was heard and ruled upon separately by the Mayor and Village Council on April 29, 2010 and May 4, 2010. Ordinance 2010-09 was adopted, rezoning the property known as 8001 SW 184<sup>th</sup> Street from AG and E-2 to E-M; and,

WHEREAS, concerning the remainder of the applicant's requests, the applicant's plans have been modified prior to hearing and a substituted plan dated April 19, 2010 is to be reviewed by the Village Council. Public hearing was held on May 4, 2010; and,

1           WHEREAS, the modified plan provided for (1) a special exception to expand onto 8001 SW  
2 184<sup>th</sup> Street with an increase in student population of 1150 (reduced from the original 1400 request);  
3 and a site plan modification; and,  
4

5           WHEREAS, all variance requests have been withdrawn; and,  
6

7           WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial  
8 hearing on the application at Christ Fellowship Church on May 4, 2010; and,  
9

10           WHEREAS, the Mayor and Village Council find, based upon substantial competent  
11 evidence in the record, that the application pursuant to section 33-151, et seq, and 33-311, of the  
12 Miami-Dade County Code, as adopted by the Village relating to the above requests, and as amended  
13 by Council Action, is consistent with the Village's Comprehensive Plan and the applicable land  
14 development regulations; and,  
15

16           ~~WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to~~  
17 ~~grant the application, as amended (modified/conditioned) by Council Action,~~  
18

19           NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE  
20 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:  
21

22           Section 1.     A hearing on the present application was held on May 4, 2010 in accordance  
23 with the Village's "Quasi-judicial hearing procedures" Ordinance, found at 2-105, of the Village's  
24 Code of Ordinances. Pursuant to the hearing, the Mayor and Village Council make the following  
25 findings of fact, and conclusions of law.  
26

27           Section 2.     Findings of fact.

28           The subject property is located at 7900 SW 176<sup>th</sup> Street and 8001 SW 184<sup>th</sup> Street, Palmetto Bay,  
29 Florida.  
30

31           In 1999, the Applicant sought a site plan modification for 7900 SW 176<sup>th</sup> Street. During that  
32 hearing, a transcript was made. During the May 4, 2010 hearing, Applicant's Counsel asserted that  
33 the 1999 transcript is part of the record for the May 4, 2010 hearing. He advised that Applicant read  
34 the transcript and that there were no commitments made at a public hearing to limit the school to  
35 600 students. During the May 4, 2010 hearing, the Vice Mayor read from the 1999 transcript as  
36 follows:  
37

38           Page 38, line 10 – 1999 hearing Transcript:

39           Mr. O'Donnell (then counsel for Applicant): And our 600 student body is  
40 something that may or may not be achieved, but that is the maximum, depending on  
41 the year and depending on who accepts it and that sort of thing.  
42

43           Page 57, line 14 – 1999 hearing Transcript:  
44  
45

1 Mr. O'Donnell: I really would like to say, our contributions, if you look at the right-  
2 of-way, the hundreds of thousands of dollars that we have spent on the right-of-way  
3 along 176 Street on the landscaping of that road, you have to come to our campus to  
4 understand that we are committed to our mission. And we are not attempting to  
5 achieve any more development than the 600 students, at the maximum that we have  
6 now, on this campus. That is our mission. We have spent two years developing that  
7 mission. We have no intention of altering that mission.  
8  
9

10 In 2006, the applicant filed an application for a special exception for the expansion of a private  
11 school to increase the enrollment from 600 to 1,150 students. The "original" plan from the 2008  
12 hearings was based upon the 2006 application. The 2008 plan proposed 1,400 students on 55 acres  
13 (from 22.5 acres). The expansion plan proposed one of two alternatives – either (1) an expansion of  
14 students to include grammar school children - kindergarten through grade 5 and increase the  
15 enrollment of students in grades 6 through 12; or, (2) solely an increase in middle school and high  
16 school students (grades 6-12). The April 19, 2010, plan reflected removal of the daycare and  
17 preschool components. In either proposal, the total number of students has been voluntarily  
18 reduced by the Applicant from 1,400, which had been presented in the 2008 application, to a total of  
19 1,150 students.  
20

21 Additionally, the Applicant sought a site plan modification. The Applicant submitted a master plan,  
22 which has been revised since its original submittal<sup>1</sup>. The final site plan reviewed by Council was  
23 dated April 19, 2010, and provided for the future use of the entire 55 acre site as a private school  
24 and includes its long-range plan for the school's expansion. Accordingly, the Applicant requested a  
25 modification of a previously approved site plan, via resolution C-ZAB-132-99, to reflect their vision  
26 for the school.  
27

28 The 2008 application contained a request for a non-use variance of parking requirements to permit  
29 parking on natural terrain, where not permitted. This request was eliminated and withdrawn from  
30 the modified site plan dated April 19, 2010.  
31

32 The original 2008 application contained variance requests for height and number of stories to allow  
33 a maximum height of 50'-7" for certain proposed new buildings to include a chapel, a performing  
34 arts center, a library/media center/administration building and a gymnasium where 35 ft. is  
35 permitted, as well as to allow three (3) stories where two (2) is permitted for the library/media  
36 center/administration multi-purpose building. These requests were eliminated and withdrawn from  
37 the April 19, 2010 plan.  
38

39 The 2008 plan included a steeple up to 70 feet in height. No variance was required for the steeple, as  
40 it would have been permitted as of right. The Applicant voluntarily withdrew its request for a  
41 steeple/church tower.  
42

---

<sup>1</sup> Applicant filed its application in 2006. The 2006 plan had been modified prior to the February and April 2008 quasi-judicial hearings ("original plan"). The final plan is dated April 19, 2010.

1 The initial hearings were held on February 25, 2008, and April 14, 2008, at which time the  
2 Applicant's rezoning request was denied, and the remainder of their requests were not ruled upon.  
3 The Circuit Court, upon the first tiered appeal via a petition for certiorari ruled, without opinion,  
4 that the Village's actions were proper. Thereafter, the district boundary change, rezoning item was  
5 ruled upon, during a second tiered appeal, by the Third District Court of Appeal on March 24, 2010,  
6 finding reversible error. Based upon the foregoing ruling, the district boundary request was heard  
7 and ruled upon separately by the Mayor and Village Council on April 29, 2010 and May 4, 2010.  
8 Ordinance 2010-09 was adopted, rezoning the property known as 8001 SW 184<sup>th</sup> Street from AG  
9 and E-2 to E-M.

10  
11 The Applicant's property is comprised of a 55-acre parcel of land, that was previously zoned under  
12 three (3) different zoning classifications (AG, E-2, and E-M), and is surrounded by the Estate-  
13 Modified Single-Family zoning district. Prior to hearing the application for special exception and  
14 site plan modification, the Applicant requested that the 32.22 acres property bearing address 8001  
15 SW 184<sup>th</sup> Street be rezoned from AG and E-2 to E-M. On May 4, 2010, prior to ruling on the  
16 Applicant's requests under PH-VPB 07-012-B, the Village Council rezoned 8001 SW 184<sup>th</sup> Street to  
17 E-M.

18  
19 The Town of Cutler Bay is located to the south. The 8001 SW 184<sup>th</sup> Street property adjoins the  
20 northern parcel zoned E-M, also owned by the Applicant that bears the address 7900 SW 176<sup>th</sup>  
21 Street. Except for the Applicant's private school to the north, and Bill Sadowski Park bordering the  
22 northeastern portion of the Applicant's property, the surrounding neighborhood is characterized  
23 predominantly by detached single-family homes. Canals are located to the west (between SW 84<sup>th</sup>  
24 Avenue and SW 83<sup>rd</sup> Court) and north (between SW 173 Terrace and SW 175<sup>th</sup> Street). To the east  
25 of the property is Old Cutler Road. To the south of the property is SW 184<sup>th</sup> Street (Eureka Drive).  
26 The canals and roadways serve as immediate natural borders for the residential neighborhood  
27 surrounding the Applicant's subject property and school. The lots immediately to the east and west  
28 along the southern edge of the subject property on S.W. 184<sup>th</sup> Street are zoned E-1, Single-Family  
29 and are comprised of single-family homes. To the east and along Old Cutler Road there is a church,  
30 a pre-school and kindergarten, Village Library, VMU (Village Mixed-Use) District, and both E-1 and  
31 E-M Zoning Districts.

32  
33 Planning and Zoning staff found the scale, utilization, location of buildings, height of buildings,  
34 landscaping, open space, and buffering, are acceptable. Staff recommended conditions as to certain  
35 elements, including as it relates to compatibility, access, parking circulation/layout, and  
36 visibility/visual layout. Signage is governed under the County Code, Section 33-100.

37  
38 DERM [PERA] had no objections, subject to conditions stated in their report. Miami-Dade Public  
39 Works Department raised issues and stated their objections in their report and those objections have  
40 been addressed by Applicant. The Village's Traffic Consultant, The Corradino Group, has issued  
41 recommendations that are incorporated by reference by staff as conditions to approval of the  
42 application. The Miami-Dade County Parks & Recreation department issued objections relating to  
43 the Bill Sadowski Park and those comments are incorporated by reference. Fire Rescue's report is  
44 also incorporated by reference. The Miami-Dade Police Department (Village Policing Unit) has no  
45 objections.

1 In 2008, the site was found to have code violations and corrective action was undertaken by  
2 Applicant. The sole item remaining to come into compliance is the removal of the two (2) portable  
3 classrooms that were to be removed according to the year 2000 substantial compliance review. The  
4 portables were not removed. In 2008-9, Applicant sought a second substantial compliance review,  
5 which proposed a timetable for bringing the portables into compliance by constructing one of the  
6 structures from the 1999 plan and then eliminating the portables. Thereafter, Applicant sought a  
7 construction permit in 2009 to begin construction on the 1999 approved structure. However, the  
8 permit was not processed due to the Village's one (1) year construction moratorium implemented in  
9 order to enact the Village's Land Development Code.

10  
11 The Miami-Dade County Archeological and Historical Department has requested a survey during  
12 phase 1, as archeological artifacts have been discovered in the Bill Sadowski Park.

13  
14 The Planning and Zoning Staff Analysis Report is incorporated by reference herein, as part of the  
15 factual record for the Village Council's decision as Exhibit A to this resolution.

16  
17 The Council heard testimony from Mr. Julian Perez, the Village's Planning & Zoning Director; Mr.  
18 Joe Corradino, of Corradino Consulting Group, the Village's traffic consultant; Mark Alvarez, a  
19 planner representing a citizens group, Concerned Citizens of Old Cutler Inc. (CCOCI); Jack Luft, a  
20 planner representing applicant; Mr. Timothy Plummer, of David Plummer & Associates, Inc. a  
21 Traffic Engineer/Consultant for Applicant; and, Mr. Don Washburn, of Audio Bug, Inc., an audio  
22 expert for Applicant.

23  
24 Prior to Council deliberation and action Counsel for Applicant advised that it accepted all conditions  
25 of staff minus: 4.3, 4.4, 4.14, and 7.3. As to conditions 4.1 and 4.4 Counsel agreed to no increase in  
26 student population above 1150 for 30 years but requested the right to increase structures, lot  
27 coverage or intensity of uses. Applicant's counsel agreed to Phase 1 construction to include  
28 improvements to SW 184<sup>th</sup> Street. Mr. Price argued that the berm requirement and contiguous use  
29 of the walking and maintenance paths, found at condition 7.3 was inconsistent with the landscape  
30 plans proposed and inappropriate. He also requested that condition 8.9 of staff's recommendations  
31 relating to the use of the SW 176<sup>th</sup> Street entrance be modified so that the entrance could remain  
32 open after proposed hours for four events per school year.

33  
34 The Council held a public hearing and many residents and community members spoke both in favor  
35 and in opposition to the application. The Council heard testimony relating to traffic, noise, number  
36 of students, field usage and affects of that usage, environmental concerns, and other topics. The  
37 Council incorporates by reference the minutes, audio tape, and transcript (if transcribed) into its  
38 findings of fact.

39  
40 Section 3. Conclusions of law.

41 1. The Application is in compliance with the adopted 2005 Village of Palmetto Bay  
42 Comprehensive Plan and Future Land Use Map.

1 The standard of review for a special exception is found at 33-151, et seq., of the Miami-Dade  
2 County Code. The Applicant's request for a special exception to expand onto 8001 SW 184<sup>th</sup> Street  
3 and to increase the number of students from 600 to 1,150 ~~is not~~ in compliance with the applicable  
4 standards. ~~However, the Applicant's request for a special exception to expand onto 8001 SW 184<sup>th</sup>~~  
5 ~~Street from 7900 SW 176<sup>th</sup> Street.~~

6  
7 2. The standard of review for a site plan modification is found at section 33-311(A)(7),  
8 of the Miami-Dade County Code. The Applicant's request for site plan modification is in  
9 compliance with the applicable standards, as amended below.

10  
11 Section 4. Order.

12  
13 A. The Council, pursuant to Section 33-311(A)(7), and 33-151, et seq., of the Miami-  
14 Dade County Code as applied by the Village, approves with conditions and modifications the  
15 Applicant's requests for a special exception and site plan modification for school use and expansion  
16 as to the plans entitled Palmer Trinity Private School Campus Master Plan as prepared by Duany  
17 Plater-Zyberk & Co., consisting of 36 sheets, dated stamped received November 1, 2007, as revised  
18 by the plans entitled Palmer Trinity Private School Campus Master Plan as prepared by Duany  
19 Plater-Zyberk & Co., consisting of 48 sheets, dated stamped received April 19, 2010. The April 19,  
20 2010 plans are incorporated by reference as Exhibit B to this resolution [formerly Exhibit 1 to the 5-  
21 4-2010 hearing item PH -VPB- 07-012B].

22  
23 B. The Village Council conditions/modifies the site approval/special exception as  
24 follows:

25  
26 1. All variance requests from the 2008 plans are specifically recognized as withdrawn.  
27 This includes all height, story and natural terrain parking variances. The 2008 plan included a steeple  
28 up to 70 feet in height. No variance was needed for the steeple; it would have been permitted, as of  
29 right. The Applicant has voluntarily withdrawn its request for a steeple/church tower and said  
30 request is considered withdrawn.

31  
32 2. The special exception to expand the non-public school use onto 8001 SW 184<sup>th</sup>  
33 Street is approved with conditions.

34  
35 3. The request to increase the non-public school number of students to 1150 is  
36 approved denied.

37 4. Preliminary Conditions:

38  
39 4.1 The Applicant shall execute a unity of title document to be recorded in the public  
40 records of Miami-Dade County, which unity of title shall covenant (or provide a covenant in lieu of  
41 unity of title) the property holder(s) to join the parcels together [7900 SW 176<sup>th</sup> Street and 8001 SW  
42 184<sup>th</sup> Street] as one parcel, in a form approved by the Village Attorney, consistent with the

1 requirements of the Village's Land Development Code<sup>2</sup>. The covenant shall be in final form for  
2 recording within 45 days of final approval. No permits shall issue until the covenant/unity of title is  
3 recorded.  
4

5 4.2 The Applicant shall record an acceptable and approved restrictive covenant running  
6 with the land for specific conditions, which covenant shall exist for 30 years, and automatically  
7 renew for 10 year periods, thereafter.  
8

9 4.3 Any substantial modification [pursuant to 30-30.3(c) of the Village's Code of  
10 Ordinances] or abandonment of the attached site plan shall require public hearing. The term  
11 "substantial modification" for the purposes of this approval shall mean a modification or substitute  
12 site plan of equal or lesser intensity, including floor area ratio, lot coverage, square footage, and  
13 height; and provide equal or greater setbacks, buffering, landscaping, and amenities. In no way shall  
14 student enrollment be expanded due to a substantial modification review.  
15

16 4.4 - Reserved.  
17

18 4.5 Student Enrollment Defined and Reporting. Applicant shall not exceed 1,150  
19 students in enrollment. Applicant agrees to submit an executed affidavit from the Headmaster of  
20 the School each year to the Village Manager, within 30 days of the first day of the applicable school  
21 year, identifying the number of students enrolled for the academic school year and attesting the  
22 number of students enrolled in the school. This information shall be provided to the Village,  
23 annually, for as long as a school is located on the site. Applicant agrees and acknowledges that the  
24 "maximum number of students" shall mean the actual number of students enrolled at the school as  
25 reported to the State of Florida and the Florida Council of Independent Schools and shall not be the  
26 daily average attendance, nor exclude any students that may be traveling/studying abroad. The  
27 Applicant shall provide a copy of the FCIS to the Village once it becomes available. The maximum  
28 number of students shall include all student transfers during the school year. Any increase in  
29 students enrolled at the school after the initial annual enrollment is disclosed shall be reported to the  
30 Village within five (5) business days of the event.  
31

32 4.6 Should Applicant violate section 4.5 relating to the number of students and should  
33 Applicant fail to cure the excess enrollment within 30 days of written notice, such an act shall  
34 constitute a false statement or misrepresentation of fact that would permit the Village to revoke the  
35 most recent building permit or certificate of occupancy issued by the Village.  
36

37 4.7 Student expansion shall comply with the timetable provided, attached hereto as Exhibit "C"  
38 [formerly Exhibit 7 to the May 4, 2010 hearing item PH-VPB-07-012B] to this resolution, but  
39 modified to reflect the actual start date of this final order.  
40

41 4.9 Community Relations Committee. The Applicant shall create a Community  
42 Relations Committee that will be charged with the responsibility of facilitating future discussions

<sup>2</sup> Although a unity of title, or covenant in lieu of, shall be required, in order to facilitate understanding the conditions contained in this application, the addresses of 7900 SW 176<sup>th</sup> Street and 8001 SW 184<sup>th</sup> Street shall be utilized in this order.

1 with neighbors (properties within 2500 foot radius) in an effort to avoid or resolve potential disputes  
2 between the Applicant, the neighbors, and the Village. The Applicant agrees to cooperate and act in  
3 good faith with the Community Relations Committee. The Committee shall be a voluntary group,  
4 with three (3) representatives from the Applicant, and three (3) representatives from the  
5 neighborhood, as selected by the Village Council, and a representative from the Village Manager's  
6 Office. The group shall meet as needed, but not less than twice a year (once every six (6) months).  
7 The Village shall be provided with prior written notice of all such meetings, if possible at least two  
8 weeks in advance of any such meeting(s). The actions of the group shall not be binding. Rather, the  
9 group meetings are intended to be a mechanism for communication, discussion, and resolution of  
10 any items.

11  
12 4.10 The Applicant agrees and affirms that there will be no objection now or in the future  
13 to controlled burns conducted by Miami-Dade County at Bill Sadowski Park for the park's  
14 management. The Village will attempt to coordinate with Miami-Dade County to provide the  
15 Applicant with prior notice of controlled burns. The Applicant further agrees not to interfere, due  
16 to lighting issues, with night program schedules for Bill Sadowski Park.

17  
18 4.11 The Applicant shall comply with all applicable State, County, and Village Codes and  
19 Ordinances, including but not limited to the Village's Art in Public Places Ordinance.

20  
21 4.12 Unpermitted and unconstructed portions of prior development approvals (1999  
22 plans, 2000 and 2010 substantial compliance reviews) shall be considered withdrawn and abandoned.  
23 The Applicant shall comply with condition 5.10 relating to the portables.

24  
25 4.13 An official inspector of the Village, or its agents duly authorized, have the privilege,  
26 at any time during normal working hours, of entering and inspecting the use of the premises to  
27 determine whether or not the requirements of the building and zoning regulations and the  
28 conditions contained herein are being complied with. Village Code Compliance shall conduct bi-  
29 annual inspections, with Applicant, for compliance with the terms and conditions of this zoning  
30 resolution.

31  
32 4.14 Applicant shall comply with the Land Development Regulations for maintaining the  
33 sanitary sewer concurrency levels, during construction and throughout operations.

34  
35 4.15 In compliance with the requirements of Section 33-151.51, of the County Code, the  
36 Applicant shall record a covenant running with the land that ensures compliance with the minimum  
37 footage requirements, calculations and conditions upon which the additional square footage has  
38 been permitted.

39  
40 5. Pre Construction – Construction – Build Out Conditions:

41  
42 5.1 All components of the approved site plan shall be completed according to the  
43 schedule attached hereto, which provides that the approved construction shall not be completed  
44 earlier than 15 years and no later than 25 years from the date of zoning approval. The Preliminary  
45 Construction Schedule for Phase 1 is enclosed as Exhibit D [formerly Exhibit 6 to the 5-4-2010  
46 hearing item PH -VPB- 07-012B] to this resolution. This recommendation is consistent with the

1 newly adopted Land Development Code, Section 30-30.2(d)(16) and (k), relating to requiring a  
2 construction plan and timetable.

3  
4 5.2 ~~Staggering of Student Population. The increase in student population to 1150~~  
5 ~~shall occur incrementally over the entire term of the project.~~

6  
7 5.3 Construction Staging:

8  
9 5.3.1 The Applicant shall annually submit a construction staging plan for review and  
10 approval prior to commencement of construction. Phase 1 is enclosed as Exhibit D.  
11 Council approved additional conditions for Phase 1, which are found below.

12  
13 5.3.2 Construction staging shall take place as preapproved by the Village's Planning &  
14 Zoning and Building Directors, on the property known as 8001 SW 184<sup>th</sup> Street, where  
15 possible, toward the center of the property, away from the proposed 75 foot buffers.

16  
17 5.3.3 Construction trailers for staging area are permitted under the Village's Code.

18  
19 5.3.4 The staging area may be cleared during Phase 1 of the construction plan.

20  
21 5.3.5 Construction shall comply with the noise controls provided in the Village's Code of  
22 Ordinances, section 30-60.29.

23  
24 5.3.6 The driveway area may also be cleared during Phase 1.

25  
26 5.3.7 Access points by construction vehicles shall be identified as part of the Construction  
27 Plan for Village approval. No construction vehicle shall access through the neighborhood.  
28 Unless necessary for a specific item, no construction vehicles shall access through SW 176<sup>th</sup>  
29 Street. All other construction vehicles must use SW 184<sup>th</sup> Street once that entrance is  
30 constructed under the Phase 1 Construction Plan.

31  
32 5.4 Permitting and Property Clearance. The Applicant shall not remove any trees  
33 outside the 75 ft. buffer, unless a building permit and/or tree removal permit, if required, has been  
34 secured for the construction of the work being requested. At no time shall the entire 8001 SW 184<sup>th</sup>  
35 Street site be cleared all at once.

36  
37 5.5 Construction Air Quality Management Plan. The Applicant shall provide a  
38 Construction Air Quality Management Plan on the construction drawings that, at a minimum,  
39 includes protecting ducts during construction and changing the filters and vacuuming ducts prior to  
40 occupancy. The submitted plans must note compliance with this provision.

41  
42 5.6 MOT Plan. A construction and Maintenance of Traffic (MOT) Plan shall be  
43 provided to the Building and Public Works Departments for approval.

44  
45 5.7 The Applicant shall comply with the Village's demolition and construction  
46 fencing ordinance.