



To: Mayor and Village Council

Date: April 18, 2016

From: Edward Silva, Village Manager

Re: Public School Distance
Separation – 1st Reading

**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 POLICY 1.4.1 RELATING TO PUBLIC SCHOOLS; ESTABLISHING A DISTANCE SEPARATION REQUIREMENT BETWEEN SUCH SCHOOLS FOR THE PURPOSE OF ENSURING COMPLIANCE WITH TRAFFIC LEVEL OF SERVICE CONCURRENCY; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.
(Sponsored by Mayor Eugene Flinn)**

BACKGROUND:

It is generally accepted that school facilities have the potential to generate voluminous traffic in and around the areas in which they are located. This phenomenon is easy to observe on those days when school is out and traffic congestion is considerably eased; however, on school days, traffic demands often result in unacceptable Level of Service (LOS) ratings to the adjacent roadway network. The impact is driven in part by start times that require all students to be present when roadways are experiencing peak rush-hour traffic conditions. This impact may be further compounded where there are multiple schools within relatively close proximity to one another. In such cases, impacts may accrue to a broader portion of the roadway network than those streets immediately adjacent to either school.

Whether the school is a public or private institution, the potential for negative road LOS impact is possible. The Village has a thorough set of provisions regarding the establishment, siting, growth, and operational standards for private school facilities. By way of example, these standards allow the Village to require operational features such as providing for appropriate vehicular stacking area, requiring staggered school start times, and the placement caps on total student population. Through those provisions, a wide number of unintended impacts can be mitigated. However, Florida law does not allow local jurisdictions to regulate public schools the same way.

Notwithstanding design modification voluntarily agreed to by a school's governing authority, any such facility which complies with those polices must be permitted regardless of the overlaid zoning provisions. This rule equally applies to charter schools, which pursuant to Florida Statute's Section 1002.31, defines them as public schools.

Florida Statute 1002.33(18)(a) prohibits local governing authorities from imposing site development and building standards that are stricter than State Requirements for Education Facilities of the Florida Building Code. The statute does not preclude a local jurisdiction from requiring a charter school to complete a site plan review procedure that is equivalent to the process that a public school board would follow when citing one of their own facilities¹.

While the Village may request or desire certain development features as part of a public hearing process, State Statute makes their compliance voluntary to the favor of the public school. Thus as stated above, a municipality's main avenue to public school regulation must then be contained within the land use policies of its Comprehensive Plan.

The Village's Comprehensive Plan at policy 1.4.1, permits public schools in all of its zoning districts. The Comprehensive Plan also provides for roadway concurrency standards at Objective 2A.1 and its policies provided therein, and at Table 9.1 of the Capital Improvement Element, to ensure all developments comply with acceptable Level of Service (LOS) standards. Public schools are not exempt from those polices and must equally comply.

A comprehensive plan is not meant to be a detailed list of development standards, rather its design, in part, is meant to ensure municipal infrastructure is capable a managing development. The proposed amendment attempts address potential roadway capacity LOS requirements when two or more public schools are within 1,500 of each other. When such proximity exists, no new school or expansions thereto would be permitted should any portion of the roadway network within the overlapping buffer areas be caused to not meet roadway LOS as a result of said establishment or expansion. All other level of services standards within the Village's Comprehensive Plan shall continue to apply.

COMPREHENSIVE PLAN AMENDMENTS – PROCEDURALLY:

At the first public hearing, the Village Council shall take action to deny or approve the proposed ordinance, or approve it with modifications or conditions for purposes of transmittal to Florida Department of Economic Opportunity (DEO) Pursuant to Section 163.3184, Florida Statutes. If denied by the DEO, the Village may resubmit the application as provided under Section 30-30.2, of the Village's Code. If approved for purposes of transmittal, the Village shall thereafter provide the necessary administrative support for the DEO's review process required under Section 163.3184, et seq., Florida Statutes, and the Village's ordinance would go into effect upon adoption at the second public hearing.

¹ The Village of Palmetto Bay participates in an interlocal agreement with the Miami-Dade School Board, Miami-Dade County, and its' area municipalities that provides for an exhaustive review procedure. Charter schools are not subject to the interlocal agreement. Hence, the Village relies upon Section 30-120 of its Land Development Code to review site plan requests for charter school facilities.

ANALYSIS:

The following is a review of the request pursuant to the Village's Comprehensive Amendment criteria found at Section 30-30.8(b) of the Land Development Code. The Background Section of this report is hereby incorporated by reference into this analysis.

Criteria (1) Whether the proposal is internally consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: The following Goals, Objectives and Policies (GOP) were identified as relating to this request. Each GOP is provided with a brief analysis. A final finding is provided at the end of this criterion.

Goal 1: To guide the Village of Palmetto Bay from birth to early maturity as an outstanding and truly livable community in southeast Florida by building on, and improving, the existing land use blueprint through visionary planning and place-making, cost efficient provision of high quality facilities and services, quality neighborhood protection, and enhancement of its unique and beautiful coastal environmental resources.

Analysis: See Background Section of this report. Most traffic studies associated with development only measure the impact of the adjacent roadways and intersections. This amendment seeks ensure other nearby roads do not exceed LOS when another public school is within 1,000 feet. By doing this, an added protection is provided to minimize unintended impacts to the neighborhoods of Palmetto Bay.

Objective 10.1 Work with Miami-Dade County Public Schools towards the reduction of the overcrowding which currently exists in Miami-Dade County Public Schools, while striving to attain and optimum level of service pursuant to Objective 2. Provide additional solutions to overcrowding so that countywide enrollment in Miami-Dade County's Public Schools will meet state requirements for class size by September 1, 2010.

Analysis: See Background section and Goal 1 above. All public schools are required to comply with roadway LOS. This amendment allows for additional consideration when multiple public schools facilities are located in close proximity to one another.

Finding: Consistent.

Criteria (2) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing Comprehensive Plan, and whether the changes support or work against the proposed amendment.

Analysis: The majority of the goals, objectives and policies within the Comprehensive Plan were adopted in 2005. Since that time, Miami-Dade County has considerable growth in the number of charter school facilities and the Village recently adopted new provision that will encourage residential development. The proposed amendment is offered to ensure roadway LOS continues to perform at existing or prescribed levels.

Finding: Consistent.

Criteria (3) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed neighboring property land use.

Analysis: See Background section of this report. Public schools are allowed in all land use and zoning categories. This provision seeks to ensure greater compatibility by seeking to maintained desired roadway LOS when public schools are in close proximity to one another.

Finding: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: It is not clear what impact the proposed amendment would have on property values. However, it is believed the provision serves the general welfare by providing a roadway LOS requirement when there are school facilities that are close to one another.

Finding: Consistent.

Criteria (5) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.

Analysis: See Criteria 1 through 4 and the Background Section of the report.

Finding: Consistent.

Criteria (6) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of the Comprehensive Plan.

Analysis: Please see Criteria 1 through 4 and the Background Section of the report.

Finding: Consistent.

Criteria (7) Whether the proposed amendment meets the requirements of Florida Statutes Section 163.3161, Florida Statutes, entitled "The Local Government Comprehensive Planning and Land Development Regulation Act."

Analysis: See Background Section. No portion of the amendment violates Section 163.31.61.

Finding: Consistent.

Criteria (8) Other matters which the Local Planning Agency [here the Village Council, in its legislative discretion, may deem appropriate.

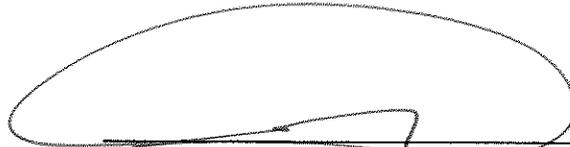
Finding: Decision for the Village Council.

FISCAL/BUDGETARY IMPACT:

No budgetary impact is anticipated at this time.

RECOMMENDATION:

Approval is recommended.

A handwritten signature in black ink, consisting of a large, sweeping loop that starts on the left, goes up and over, then comes down and under, ending with a horizontal stroke.

Darby Delsalle, AICP
Director of Planning and Zoning

ORDINANCE NO. _____

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2
3
4 **AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF**
5 **THE VILLAGE OF PALMETTO BAY, FLORIDA, ACTING IN ITS**
6 **CAPACITY AS THE MAYOR AND VILLAGE COUNCIL AND AS THE**
7 **LOCAL PLANNING AGENCY, AMENDING POLICY 1.4.1 RELATING**
8 **TO PUBLIC SCHOOLS; ESTABLISHING A DISTANCE**
9 **SEPARATION REQUIREMENT BETWEEN SUCH SCHOOLS FOR**
10 **THE PURPOSE OF ENSURING COMPLIANCE WITH TRAFFIC**
11 **LEVEL OF SERVICE CONCURRENCY; PROVIDING FOR**
12 **ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY**
13 **AND AN EFFECTIVE DATE. (Sponsored by Mayor Eugene Flinn)**
14

15
16 **WHEREAS**, Section 1013.33(13), Florida Statute, provides, that once a public school
17 facility is determined consistent with a municipality's Comprehensive Plan Land Use Policies, a
18 zoning site plan application may not be denied; and
19

20 **WHEREAS**, Florida Statutes Section 1002.31 defines "charter school" as public school;
21 and
22

23 **WHEREAS**, Policy 1.4.1 of the Village's Comprehensive Plan (Comp Plan) permits
24 public schools and charter schools in all zoning categories identified within the Village's Land
25 Development Code (LDC), consistent with Florida Statutes 1013.33(13); and
26

27 **WHEREAS**, among the policies adopted within the Village's Comp Plan are Levels of
28 Service (LOS) standards for roadway capacity within the Village as more specifically noted at
29 Objective 2A.1 and its policies provided therein, and Table 9.1 of the Capital Improvement
30 Element; and
31

32 **WHEREAS**, it generally understood that public school facilities have the potential to
33 generate voluminous traffic in and around the areas in which they are located which may result in
34 unacceptable roadway LOS; and
35

36 **WHEREAS**, while the Village desires to continue accommodating public schools within
37 all its zoning districts, the Village now seeks to clarify land use Policy 1.4.1 in such cases where
38 two or more public schools within 1,500 feet of each other causes an adjacent roadway(s) to
39 perform below required roadway LOS standards; and
40

41 **WHEREAS**, such a policy is consistent with Florida Statute 1013.33(13), which requires
42 public schools facilities to comply with a municipal's land use policy; and
43

44 **WHEREAS**, pursuant to Section 163.3174, *Florida Statutes* the Village Council has been
45 designated as the Local Planning Agency for the Village; and
46

1 WHEREAS, on _____, 2016, the Local Planning Agency recommended
2 approval the proposed ordinance; and
3

4 WHEREAS, in light of the above, Village of Palmetto Bay desires to amend Policy 1.4.1
5 of the Comprehensive Plan as described more particularly herein.
6

7 **NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL**
8 **OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**
9

10 **Section 1.** The above recitals are true and correct and incorporated herein by this
11 reference.

12 **Section 2.** The Land Use Element of the Village's Comprehensive Plan is amended
13 to read as follows:
14

15 **1.0 FUTURE LAND USE ELEMENT**
16

17 **GOAL 1 TO GUIDE THE VILLAGE OF PALMETTO BAY FROM BIRTH TO**
18 **EARLY MATURITY AS AN OUTSTANDING AND TRULY LIVABLE**
19 **COMMUNITY IN SOUTHEAST FLORIDA BY BUILDING ON, AND**
20 **IMPROVING, THE EXISTING LAND USE BLUEPRINT THROUGH**
21 **VISIONARY PLANNING AND PLACE-MAKING, COST EFFICIENT**
22 **PROVISION OF HIGH QUALITY FACILITIES AND SERVICES,**
23 **QUALITY NEIGHBORHOOD PROTECTION, AND**
24 **ENHANCEMENT OF ITS UNIQUE AND BEAUTIFUL COASTAL**
25 **ENVIRONMENTAL RESOURCES.**
26

27 **Objective 1.1 Schools and Co-location with Public Facilities**
28 **Help the Miami-Dade County School Board and local charter school**
29 **developers provide the high-quality elementary, secondary, and college**
30 **level education facilities and resources.**
31

32 * * *

33
34 **Policy 1.4.1 Public schools are allowed in all land use categories shown on the adopted FLUM**
35 **and all zoning districts contain in the LDC. However, if located in or near**
36 **neighborhoods, adverse impacts to the tranquility of the resident around the**
37 **school and in the surrounding neighborhood must be minimized to the maximum**
38 **extent possible. A public school located within a 1,500 foot concentric ring**
39 **buffer of another such facility, as measured from the property line, shall not be**
40 **permitted if those roads that fall within the overlapping buffer area of the schools**
41 **causes those roadways to exceed LOS standards as provided at Objective 2A.1**
42 **and its policies provided therein, and Table 9.1 of the Capital Improvement**
43 **Element.**
44

45 * * *

1 **Section 3. Conflicting Provisions.** The provisions of the Comprehensive Plan of
2 the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
3 provisions of this ordinance are hereby repealed.
4

5 **Section 4. Severability.** The provisions of this Ordinance are declared to be
6 severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be
7 held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining
8 sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being
9 the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.
10

11 **Section 5. Codification.** It is the intention of the Village Council and it is hereby
12 ordained the provisions of this Ordinance shall become and be made part of the Comprehensive
13 Plan of the Village of Palmetto Bay, Florida.
14

15 **Section 6. Effective Date.** This ordinance shall only take effect once the conditions
16 of companion Resolution No. _____ have been fulfilled.
17

18 **PASSED and ENACTED** this _____ day of _____, 2016.
19

20 First Reading: _____
21

22 Second Reading: _____
23

24
25 Attest: _____
26 Meighan Alexander
27 Village Clerk

Eugene Flinn
Mayor

28
29 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
30 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
31

32 _____
33 Dexter W. Lehtinen
34 Village Attorney
35

36 FINAL VOTE AT ADOPTION:
37

38 Council Member Karyn Cunningham _____
39

40 Council Member Tim Schaffer _____
41

42 Council Member Larissa Siegel Lara _____
43

44 Vice-Mayor John DuBois _____
45

46 Mayor Eugene Flinn _____