

**SEMINOLE COUNTY GOVERNMENT  
BOARD OF ADJUSTMENT  
AGENDA MEMORANDUM**

**SUBJECT:** 5700 S. Sylvan Lake Drive – Primrose School – Sanford; Steve Merrick, Interplan, LLC, applicant; Request for a Special Exception to establish a child care center in A-1 (Agriculture) district.

**DEPARTMENT:** Planning & Development **DIVISION:** Planning

**AUTHORIZED BY:** Kathy Fall **CONTACT:** Denny Gibbs **EXT:** 7387

**Agenda Date** 1/26/09 **Regular**  **Consent**  **Public Hearing – 6:00**

**MOTION/RECOMMENDATION:**

1. **Deny** the request for special exception to establish a child care center in A-1 (Agriculture) district; or
2. **Approve** the request for special exception to establish a child care center in A-1 (Agriculture) district; or
3. **Continue** The request to a time and date certain.

<b>GENERAL INFORMATION</b>	<b>5700 S. Sylvan Lake Drive</b> – Primrose School – Sanford; Steve Merrick, Interplan	A-1 District, LDC section 30.124 (conditional uses); private & public schools
<b>BACKGROUND / REQUEST</b>	<ul style="list-style-type: none"> <li>• The applicant proposes to construct a 10,723 square foot child care center on 2.31 acres in the A-1 (Agriculture) district.</li> <li>• The property is located at the intersection of Orange Blvd. and South Sylvan Lake Drive. Orange Blvd. is classified as a Collector roadway.</li> <li>• The property is located within the Wekiva River Protection Area (WRPA).</li> <li>• The hours of operation are from 6:30 am to 6:30 pm.</li> <li>• There will be 184 students and 20 employees.</li> </ul>	

Reviewed by:
Co Atty: <i>MC</i>
Pln Mgr:

	DIRECTION	EXISTING ZONING	EXISTING FLU	USE OF PROPERTY
	<b>SITE</b>	<b>A-1</b>	<b>SE</b>	<b>Single Family</b>
	NORTH	A-1 and R1AAA	SE and LDR	Single Family
	SOUTH	A-1	SE	Agriculture
	EAST	R1AAA	SE	Single family
	WEST	A-1	SE	Single family
<p><b>STANDARDS FOR GRANTING A SPECIAL EXCEPTION; LDC SECTION 30.43(b)(2)</b></p>	<p>The Board of Adjustment (BOA) shall have the power to hear and decide special exceptions it is specifically authorized to pass under the terms of the Land Development Code upon determination the use requested:</p> <p><b><u>IS NOT DETRIMENTAL TO THE CHARACTER OF THE AREA OR NEIGHBORHOOD OR INCONSISTENT WITH TRENDS OF DEVELOPMENT IN THE AREA:</u></b></p> <p>The subject property is located within the Wekiva River Protection Area and East Lake Sylvan Transitional Area and is required by Section 369.305(1)(b)3, Florida Statutes, to demonstrate that the new use is low-density residential in nature and has less impacts on natural resources than low-density residential development.</p> <p>Seminole County Comprehensive Plan Policy FLU 1.9 Wekiva and Econlockhatchee River Protection also requires the County to implement Protection Zone policies and regulations regarding maintaining rural density and character in the aggregate within the Wekiva River Protection Area (WRPA). The term "rural density and character" would equate to a general pattern of one (1) dwelling unit per net buildable acre, or less (Policy FLU 12.3). Based upon the above policies and regulations the proposed development has not demonstrated that they are consistent with the WRPA requirements.</p> <p><b><u>DOES NOT HAVE AN UNDULY ADVERSE EFFECT ON EXISTING TRAFFIC PATTERNS, MOVEMENTS AND VOLUMES:</u></b></p> <p>The students and employees will generate additional traffic than what is currently generated. The subject property is located at the corner of S. Sylvan Lake Drive and Orange Blvd, which is a collector roadway. Prior to obtaining permits, the site must pass concurrency.</p>			

**IS CONSISTENT WITH THE SEMINOLE COUNTY COMPREHENSIVE PLAN:**

The Seminole County Comprehensive Plan designates the property Suburban Estates (SE) future land use. The property is also located within the Wekiva River Protection Area and East Lake Sylvan Transitional Area and the subject use has not demonstrated consistency with the requirements of Section 369.305(1)(b)3, Florida Statutes, states, regarding development within the Wekiva River Protection Area: "Prohibition of development that is not low-density residential in nature, unless that development has less impacts on natural resources than low-density residential development."

Further, in 1999, Seminole County and the Florida Department of Community Affairs entered into a Stipulated Compliance Agreement to ensure that land uses within the WRPA comply with the provisions of the Act. Seminole County adopted Objectives and Policies within its Comprehensive Plan to respond to the requirements of Compliance Agreement. All development proposals within the WRPA must be consistent with those unique provisions of the Seminole County Comprehensive Plan.

**MEETS ANY ADDITIONAL REQUIREMENTS SPECIFIED IN THE CODE SECTION AUTHORIZING THE USE IN A PARTICULAR ZONING DISTRICT OR CLASSIFICATION:**

Based on the submitted site plan, the proposed use and proposed buildings meet the minimum area and dimensional requirements of the A-1 district. Consistency with the Wekiva River Protection Area has not been demonstrated.

**WILL NOT ADVERSELY AFFECT THE PUBLIC INTEREST:**

Within the A-1 district child care centers are allowed as a conditional use. Consistency with the Wekiva River Protection Area has not been demonstrated.

<p><b>STANDARDS FOR GRANTING A SPECIAL EXCEPTION IN THE A-1 (AGRICULTURE) DISTRICT; LDC SECTION 30.124(a)</b></p>	<p>The BOA may permit any use allowed by special exception in the A-1 (Agriculture) district upon making findings of fact, in addition to those required by section 30.43(b)(2) of the Land Development Code, that the use:</p> <p><b><u>IS CONSISTENT WITH THE GENERAL ZONING PLAN OF THE A-1 (AGRICULTURE DISTRICT):</u></b></p> <p>Agriculture zoning permits uses that have an agriculture purpose and non-agriculture uses with conditions to protect the character of the area. Within the urban area Agricultural zoning is considered a transitional zoning.</p> <p><b><u>IS NOT HIGHLY INTENSIVE IN NATURE:</u></b></p> <p>Consistency with the Wekiva River Protection Area must be demonstrated. Section 369.305(1)(b)3 of the Wekiva River Protection Act prohibits development "that is not low-density residential in nature, unless that development has less impacts on natural resources than low-density residential development." In the case of Seminole County, the term "low-density residential" equates to a general pattern of one (1) dwelling unit per net buildable acre in the aggregate within the WRPA.</p> <p><b><u>HAS ACCESS TO AN ADEQUATE LEVEL OF URBAN SERVICES SUCH AS SEWER, WATER, POLICE, SCHOOLS AND RELATED SERVICES:</u></b></p> <p>The property is located in the Northwest Service Area in which water and sewer will be provided by Seminole County utilities. Capacity availability for the proposed improvements will be determined at concurrency. Other county services, including emergency services and garbage disposal, are also available to the site.</p>
<p><b>STAFF FINDINGS</b></p>	<p>At this time, we cannot support a finding that this proposed development is consistent with the Seminole County Comprehensive Plan.</p>
<p><b>STAFF RECOMMENDATION</b></p>	<p>Staff recommends denial of the subject request based upon the following conditions:</p> <ol style="list-style-type: none"><li>1. The subject day care center has not demonstrated consistency with the Wekiva River Protection Area requirements in the Seminole County Comprehensive Plan.</li></ol>



January 16, 2009

Mr. Steve Merrick  
Interplan LLC  
933 Lee Road  
Orlando FL 32810

**Subject: Primrose Private Daycare School-Wekiva Consistency Determination**

Dear Mr. Merrick:

We have reviewed your Development Impact Report (DIR) for the Primrose School proposed for the corner of Orange Boulevard and South Sylvan Lake Drive. Upon comparing your DIR to the requirements of the Seminole County Comprehensive Plan, it is our conclusion that your proposal is not consistent with the Comprehensive Plan for the following reasons:

1. The analysis submitted is based upon a comparison between the projected impacts of the site if developed in accordance with the Seminole County Future Land Use of "Low Density Residential" and your proposal. The correct comparison is between the Seminole County Future Land Use of "Suburban Estates" and your proposal.
2. The analysis submitted addresses the impacts of your proposal upon the immediate area, but this is not a sufficient analysis for a site located in Wekiva River Protection Area. In this particular protected area, the analysis must also address impacts upon the quality of the surface waters of the basin draining to the river.

General Background

As you are aware, this property is located within the Wekiva River Protection Area (WRPA), governed by the Wekiva River Protection Act (the "Act"), Part II, Chapter 369 of Florida Statutes. In 1999, Seminole County and the Florida Department of Community Affairs entered into a Stipulated Compliance Agreement to ensure that land uses within the WRPA comply with the provisions of the Act. Seminole County adopted Objectives and Policies within its Comprehensive Plan to respond to the requirements of Compliance Agreement. All development proposals within the WRPA must be consistent with the State Law and those unique provisions of the Seminole County Comprehensive Plan adopted to comply with that law.

Section 369.305(1) (b) 3 of the Act prohibits development "that is not low-density residential in nature, unless that development has less impacts on natural resources

than low-density residential development.” The term “low-density residential” equates to a general pattern of one (1) dwelling unit per net buildable acre in the aggregate within the WRPA, which is the density allowed by the Suburban Estates Future Land Use designation. The Suburban Estates Future Land Use designation is the designation applicable to the majority of land within the WRPA (with exceptions for pre-existing developments).

Policy FLU 1.9 of the Seminole County Comprehensive Plan states that “no development may be approved upon parcels so located unless the proposed development conforms to the provisions of the Wekiva River Protection Act...and the provisions of this Plan adopted to conform to said Act.”

The Stipulated Compliance Agreement also acknowledges that “the Board of County Commissioners of Seminole County has determined that the mandate of the Wekiva River Protection Act to maintain the rural character in the aggregate cannot be adequately applied unless the entire Protection Area within Seminole County is considered as a whole.”

Accordingly, consistent with the Stipulated Compliance Agreement, any development proposal within the WRPA must be evaluated not only for its impacts on the immediate surroundings, but for its impacts upon the Protection Area and the resource that the Protection Area was created to maintain – the Wekiva River.

#### Specific DIR Issues

- The analysis in the DIR, beginning with Section III ‘Existing Site Conditions’ sets forth the maximum density allowable in Seminole County’s ‘Low Density Residential’ Future Land Use designation and concludes that the site would allow either five or nine residential units.
- The subject site, however, has a Future Land Use designation of Suburban Estates, which allows only a maximum of one dwelling unit per net buildable acre. The analysis therefore starts with an incorrect premise.
- The analysis further states that properties to the northwest are zoned for ‘Low Density Residential’ zoning and that the site is surrounded by ‘existing developments that are similar and consistent with’ the proposed pre-school. This statement is provided as a means of indicating that the proposed use will be compatible with surrounding existing residential uses, nursery and nearby Wilson Elementary School. However, the northwest properties are zoned for R-1AA (the Seminole County Land Development Code does not have a ‘Low Density Residential’ Zoning District), and are limited to single family residences on lots with a minimum size of 11,700 square feet. Both the landscape nursery located across from the subject site on Sylvan Lake Drive, and elementary school are zoned A-1, which is a zoning that allows agricultural uses, single family homes and public elementary schools.

- Point "F" of the DIR, discussing water usage, assumes that the subject site would allow 9 residential units and concludes that water demand, wastewater and trash generation and pesticide application for 9 dwelling units would exceed the demands and generations of the proposed Primrose School. As noted above, the existing Future Land Use designation of Suburban Estates would not allow more than two dwelling units. The analysis of service impacts was based on an incorrect premise.
- The DIR does not address the issue of impact upon the water quality of the Wekiva River. As noted above, approval of all developments within the WRPA must demonstrate that any impact on surface water quality other than the allowable low density Suburban Estates Land Use designation must demonstrate that water quality impacts are less than those from the allowable Suburban Estates development. The DIR addresses the fact that a dry retention pond on site will retain stormwater as required to prevent flooding, but does not provide verification that the discharged stormwater will not violate the water quality limitations of the basin draining to the Wekiva River. Given that the proposed use will greatly increase the amount of impervious surface subject to receipt of petrochemical products over and above that which would be anticipated for a Suburban Estates development, it is imperative that water quality modeling verify a lesser impact.

### Conclusion

The DIR addresses impacts anticipated from development of this site, but compares those impacts to an incorrect density. In addition, a more comprehensive impact analysis is required to demonstrate that surface water quality within the Wekiva River basin will not be degraded. Therefore, at this time, we cannot support a finding that this proposed development is consistent with the Seminole County Comprehensive Plan.

If you have any additional questions, or wish to meet to discuss the matters in this letter, please feel free to contact me at the address below, or by telephone at 407-665-7339; FAX 407-665-7385; email [AStettner@seminolecountyfl.gov](mailto:AStettner@seminolecountyfl.gov). Alternately, you may contact Tina Williamson, AICP, Assistant Planning Manager, at 407-665-7375 or email at [TWilliamson@seminolecountyfl.gov](mailto:TWilliamson@seminolecountyfl.gov).

Sincerely,



Alison Stettner, AICP  
Planning Manager

AS:ss

Fee: \$370.00

Application # BS 2008-18  
Meeting Date 12-1-08

# COPY

## SPECIAL EXCEPTION APPLICATION SEMINOLE COUNTY PLANNING DIVISION 1101 East First Street Sanford FL 32771 (407) 665-7444



PROPERTY OWNER / APPLICANT (If you are not the owner please provide a letter of authorization from the owner)

Name: Primrose School - Sanford  
Address: 3660 Cedarcrest Road City: Acworth, GA Zip code: 30101  
Project Address: 5700 S. Sylvan Lake Dr. City: Sanford Zip code: 32771  
Phone number(s): (407) 645-5008 Steve Merrick  
Email address: smerrick@interplanorlando.com

**What is this request for?**

- Church
- Daycare
- School
- Group Home
- Assisted Living Facility (ALF)
- Kennel
- Riding Stable
- Alcoholic Beverage Establishment
- Communication Tower
- Other: \_\_\_\_\_

Is the property available for inspection without an appointment?  Yes  No

What is the current use of the property? Residential

NO APPLICATION WILL BE ACCEPTED AND/OR SCHEDULED unless the required pre-application conference has been held and all of the required information in the Special Exception application and submittal checklist is provided to the Planning Division.

Signed: [Signature] 12/24/08

**FOR OFFICE USE ONLY**

Date Submitted: <u>10-24-08</u>	Reviewed By: <u>F. JOHNSON</u>
Tax parcel number: <u>25-19-29-300-0410-0000</u>	Zoning/FLU: <u>A-1/SE</u>
<input type="checkbox"/> Legally created parcel (1971 tax roll, 5-acre dev, lot split)	<input type="checkbox"/> Platted Lot (check easements on lots / in dedication)
<input type="checkbox"/> Lot size _____	<input type="checkbox"/> Meets minimum size and width
<input type="checkbox"/> Past approval # _____	<input type="checkbox"/> Application and checklist complete
Notes: _____	
_____	
_____	

## SPECIAL EXCEPTION SUBMITTAL CHECKLIST

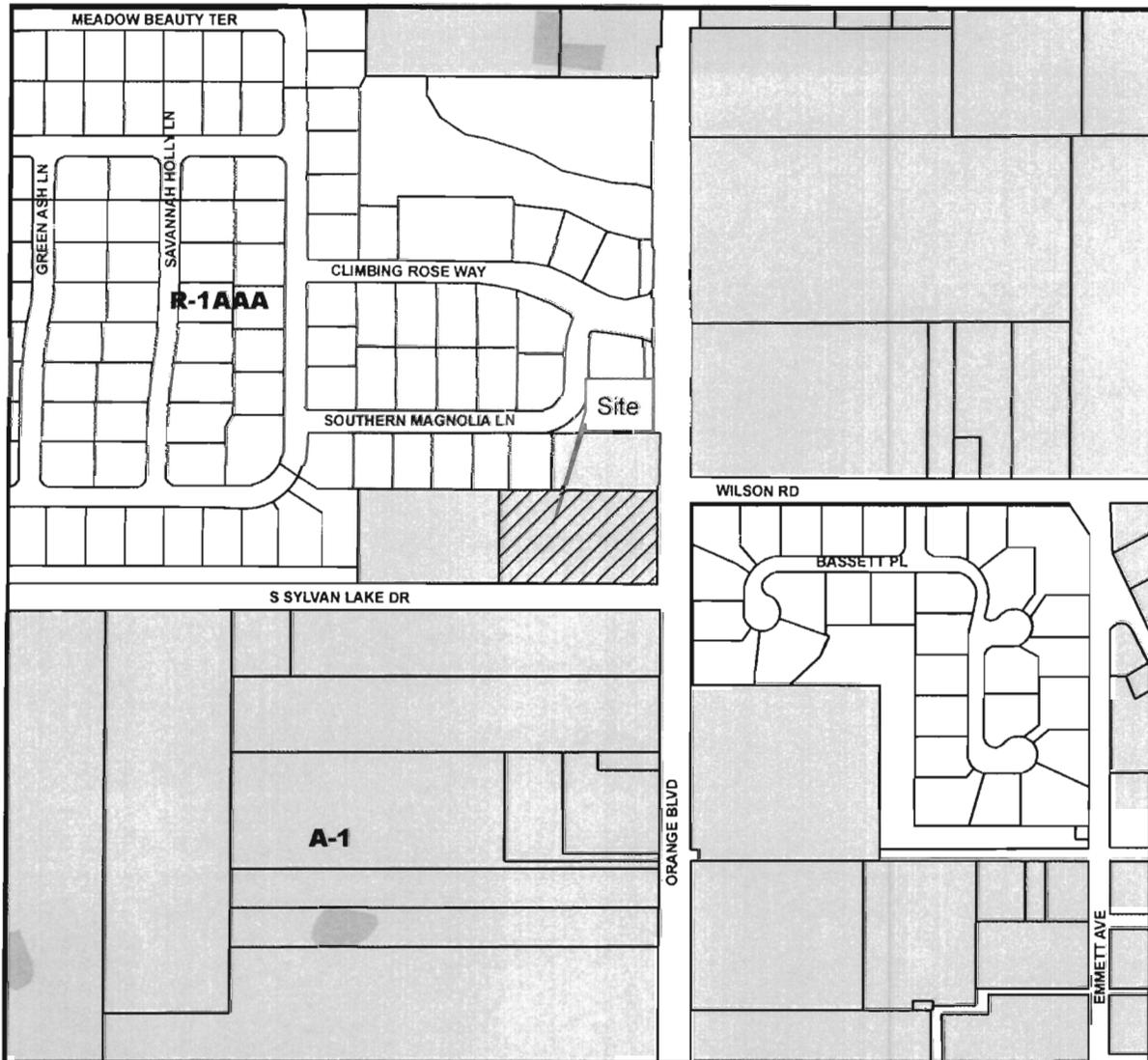
A Special Exception is approved to a detailed conceptual site plan. Following approval of the Special Exception by the Board of Adjustment a final engineered site plan is required to be submitted to Development Review. [View Site Plan Review information.](#)

	1. Completed application.
	2. Provide a statement of the request including a summary of the business operation. Include information such as: square footage of facilities; hours of operation; seating capacity; number of clients, or students; number of staff and how many shifts; and address any other site concerns that may impact adjacent properties.
	3. Owner's authorization letter (if needed). <i><u>This form can be obtained online.</u></i>
	4. A Special Exception is approved to a detailed conceptual site plan and should include, at minimum, the following information:
	○ Size and dimensions of the parcel
	○ Location of wetland and/or flood plain line, if applicable
	○ Location and names of all abutting streets
	○ Location of driveways
	○ Identification of available utilities <i>(ex: water, sewer, well or septic)</i>
	○ Location, size and type of any septic systems, drainfield and wells
	○ Location of all easements
	○ Existing and/or proposed buildings, structures and improvements <i>(Label existing, label proposed, and include square footage and dimension of each)</i>
	○ Building height
	○ Setbacks from each building to the property lines
	○ Proposed fences
	○ Location and size of buffers: show existing and proposed landscaping, fences and walls
	○ Location, number and size of existing and proposed parking spaces
	○ Location of existing and proposed outdoor lighting
	○ Location of existing and proposed signage
	○ Location of fire lanes
	5. Provide an 8 ½ x 11 reduction of the site plan.





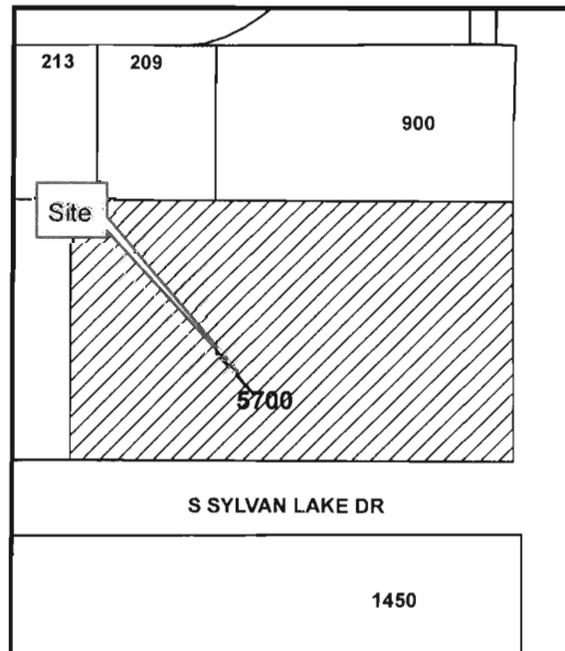
Primrose School - Sanford  
5700 S Sylvan Lake Drive  
Sanford, Florida 32771



Seminole County Board of Adjustment  
January 26, 2009  
Case: BS2008-18 (Map 3051 Grid B2)  
Parcel No: 25-19-29-300-0410-0000

Zoning

-  BS2008-18
-  A-1
-  R-1AAA



# **INTERPLAN**

933 LEE ROAD, FIRST FLOOR  
ORLANDO, FL 32810  
PH 407.645.5008  
FX 407.629.9124

October 23, 2008

**Seminole County  
Planning Department**  
1101 East 1<sup>st</sup> Street  
Sanford, Florida 32771

**Reference:** Primrose School-Sanford  
DRC Application # 08-80000054  
Interplan Project #002008.0110  
Special Exception Request

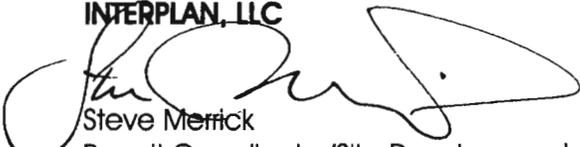
To Whom It May Concern:

Please accept this letter of request from Primrose School to allow for a child care center at 5700 South Sylvan Lake Dr, Sanford, FL. Primrose is proposing to build a 10,723 square foot child care center on 2.31 acres of land. The day care will operate between the hours of 6:30 am and 6:30 pm, Monday through Friday. Providing service to 184 students and utilizing 20 employees during one overall shift daily with the number of staff increasing during the peak hours of 10:00 am and 3:00 pm. The property is zoned A-1 Agricultural, which does allow for a day care center with a special exception.

Through careful review of our proposed plan we do not anticipate any site concerns that may impact adjacent properties. While a portion of our property abuts lots that are zoned R-1AAA Residential, the proposed dry retention pond and the existing wood fence will act as an adequate buffer and setback between these residentially zoned lots and the proposed Primrose School. Lot 40 and 41A do not require any setbacks or buffers. However, Lot 40 will also be separated by the existing wood fence and the proposed dry retention pond.

Please call me if you have any questions or require additional information. If I am not available, Stuart Anderson is the Civil Project Manager and will be able to answer your questions.

Sincerely,  
**INTERPLAN, LLC**



Steve Merrick  
Permit Coordinator/Site Development

INTERPLAN LLC

Primrose – Sanford  
Special Exception  
Page 2  
Attachments

cc: Stuart Anderson, P.E. Interplan LLC  
Chris Caywood, Interplan LLC  
Frank Ricci, Interplan LLC  
Sergio DiMaggio, Interplan LLC  
Katie Kleibl, Interplan LLC  
File

October 23, 2008

Owner: Larry Jon Bates  
9130 West Lake Ruby Dr  
Winter Haven, FL 33884

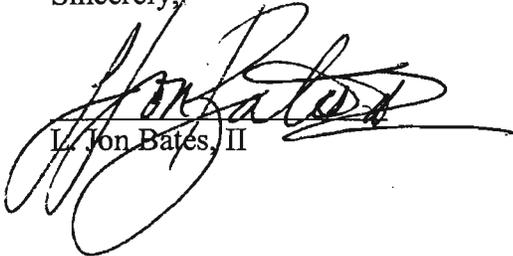
Reference: **Primrose Day Care**  
**5700 Sylvan Lake Dr**  
Sanford, FL 32771  
Parcel ID: 25-19-29-300-0410-0000  
IP File: 002008.0110.00

To Whom It May Concern:

Please accept this letter authorizing Primrose Day Care to apply and Interplan LLC to act as agent in correspondence and representation for applications in relation to the location referenced above.

If you have any questions please contact me at 386-871-8509.

Sincerely,



L. Jon Bates, II

Subscribed and sworn to before me on this 23 day of Oct, 2008

Notary Public Denise D. Higgins  
Seal

My Commission Expires:



**SEMINOLE COUNTY  
APPLICATION & AFFIDAVIT**

**Ownership Disclosure Form**

Please provide the information as requested below in accordance with Ordinance No. 07-23:

1. List all natural persons who have an ownership interest in the property, which is the subject matter of this petition, by name and address.

Name: _____	Name: _____
Address: _____	Address: _____
City/Zip: _____	City/Zip: _____
Phone #: _____	Phone #: _____

Name: _____	Name: _____
Address: _____	Address: _____
City/Zip: _____	City/Zip: _____
Phone #: _____	Phone #: _____

(Use additional sheets for more space.)

2. For each corporate owner, list the name, address, and title of each officer of the corporation, the name and address of each director of the corporation, and the name and address of each shareholder who owns 2% or more of the stock of the corporation. Shareholders need not be disclosed as to corporations whose shares of stock are traded publicly on any national or regional stock exchange.

Name of Corporation: _____	Name of Corporation: _____
Officers: _____	Officers: _____
Address: _____	Address: _____
City/Zip: _____	City/Zip: _____
Directors: _____	Directors: _____
Address: _____	Address: _____
City/Zip: _____	City/Zip: _____
Shareholders: _____	Shareholders: _____
Address: _____	Address: _____

(Use additional sheets for more space.)

3. In the case of a trust, list the name and address of each trustee and the name and address of the beneficiaries of the trust.

Name of Trust: _____	Beneficiaries: _____
Trustees: _____	Address: _____
Address: _____	City/Zip: _____
City/Zip: _____	_____

(Use additional sheets for more space.)

SEMINOLE COUNTY  
**APPLICATION AND AFFIDAVIT**

For partnerships, including limited partnerships, list the name and address of each principal in the partnership, including general or limited partners.

Name of Partnership: \_\_\_\_\_ Name of Partnership: \_\_\_\_\_  
Principal: \_\_\_\_\_ Principal: \_\_\_\_\_  
Address: \_\_\_\_\_ Address: \_\_\_\_\_  
City/Zip: \_\_\_\_\_ City/Zip: \_\_\_\_\_

(Use additional sheets for more space.)

5. In the circumstances of a contract for purchase, list the name of each contract vendee, with their names and addresses, the same as required for corporations, trust, or partnerships. In addition, the date of the contract for purchase shall be specified along with any contingency clause relating to the outcome of the consideration of this petition.

Contract Vendee: \_\_\_\_\_ Contract Vendee: \_\_\_\_\_  
Name: Primrose School Name: \_\_\_\_\_  
Address: 3660 Cedarcrest Rd Address: \_\_\_\_\_  
City/Zip: Acworth, GA 30101 City/Zip: \_\_\_\_\_

(Use additional sheets for more space.)

6. As to any type of owner referred to above, a change of ownership occurring subsequent to this application, shall be disclosed in writing to the Planning and Development Director prior to the date of the public hearing on the application.

I affirm that the above representations are true and are based upon my personal knowledge and belief after all reasonable inquiry. I understand that any failure to make mandated disclosures is grounds for the subject rezone, future land use amendment, special exception, or variance involved with this Application to become void. I certify that I am legally authorized to execute this Application and Affidavit and to bind the Applicant to the disclosures herein.

10/24/08  
Date

[Signature]  
Owner, Agent, Applicant Signature

STATE OF FLORIDA  
COUNTY OF Orange

Sworn to (or affirmed) and subscribed before me this 24th day of October, 2008 by Steve Merrick

[Signature]  
Signature of Notary Public

Heather Johnston  
Print, Type or Stamp Name of Notary Public

Personally Known X OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



**For Use by Planning & Development Staff**  
Date: \_\_\_\_\_ Application Number: \_\_\_\_\_

## CONTRACT OF SALE AND PURCHASE

THIS CONTRACT OF SALE AND PURCHASE ("Contract") is made by and between LARRY JON BATES, SHARON MCCUTCHIN BATES, LARRY JON BATES, II and STEPHEN HAINES BATES (collectively referred to as the "Seller") and PRIMROSE SCHOOL FRANCHISING COMPANY, a Georgia corporation ("Purchaser"). The Effective Date of this Contract shall be the date on which the last party executes the Contract.

In consideration of the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

### ARTICLE I SALE OF THE PROPERTY

- 1.1 The Property. Seller agrees to sell and convey unto Purchaser, and Purchaser agrees to purchase and accept from Seller, for the price and subject to the terms, covenants, conditions and provisions herein set forth, that certain approximate 2.3 acre tract of land located in Sanford, Seminole County, Florida, being Parcel # 25-19-29-300-0410-0000 and more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes ("Land"), together with all right, title and interest, if any, of Seller, in and to all easements in or upon the Land and all other rights and appurtenances belonging or in anywise pertaining to the Land (collectively, the "Property"). If Exhibit "A" consists of a site depiction, rather than a metes and bounds legal description, the legal description for the Property shall be in accordance with the Survey obtained pursuant to the provisions of Section 4.2 herein.

### ARTICLE II CONSIDERATION

- 2.1 Purchase Price. The purchase price ("Purchase Price") for the Property is FIVE HUNDRED EIGHTY THOUSAND AND 00/100 DOLLARS (\$580,000.00), which shall be payable by Purchaser to Seller at Closing all in cash.
- 2.2 Earnest Money.
- 2.2.1 Within ten (10) days of the Effective Date, Purchaser shall deposit with FIDELITY NATIONAL TITLE INSURANCE COMPANY, whose address is 200 Galleria Parkway, SE, Suite 2060, Atlanta, Georgia (the "Title Company"), the sum of TEN THOUSAND AND 00/100 DOLLARS (\$10,000.00) (the "Earnest Money") in good funds. The Earnest Money, together with any interest earned thereon is hereinafter referred to collectively as the "Earnest Money".
- 2.2.2 If the transaction contemplated by this Contract is consummated in accordance with the terms and provisions hereof, the Earnest Money shall be credited against the Purchase Price and paid to Seller at Closing. If the transaction is not so consummated, the Earnest Money shall be held and delivered by the Title Company as hereinafter provided in this Contract.

ARTICLE III  
INSPECTION

- 3.1 Matters to be Submitted. If not delivered to Purchaser prior to the Effective Date, then within five (5) days following the Effective Date, Seller shall deliver to Purchaser copies of any existing surveys, environmental reports, soil reports, and other reports in Seller's possession with respect to the Property (collectively, the "Submission Matters"). Such Submission Matters shall be delivered by Seller to Purchaser with a letter itemizing the same, and if Seller contends that it is not in possession of any Submission Matters, written notice of such shall be delivered by Seller to Purchaser, with Seller's letter itemizing such Submission Matters or absence thereof being herein referred to as the "Submission Notice".
- 3.2 Inspection Period. Purchaser shall have the period commencing on the date Purchaser receives the Submission Matters and ending ninety (90) days thereafter ("Inspection Period") to review the Submission Matters and to enter or to have its authorized representatives and its and their agents, employees and representatives enter upon the Property or any part thereof at any reasonable time for the purpose of conducting physical and environmental inspections of the Property and making, at Purchaser's sole risk and expense, such other inspections, examinations, investigations and tests as Purchaser considers appropriate, provided that Purchaser shall be responsible for and shall and does hereby agree to indemnify and hold harmless Seller and its agents, employees and representatives from liability for any loss, cost, expense, claim, injury or damage arising out of or in any manner connected with such activities on the Property, and such indemnification shall survive the termination of this Contract and the Closing.
- 3.3 Authorization for Environmental Sampling. Seller hereby specifically authorizes Purchaser and its representatives and its and their agents, employees and representatives to enter upon the Property for the purpose of conducting the reviews, inspections and environmental assessments described above and agrees that in connection with any environmental assessments authorized by Section 3.2, such parties may test and take such samples as may be necessary, in the reasonable opinion of such parties, to conduct an environmental assessment of the Property.
- 3.4 Right of Termination. During the Inspection Period, Purchaser shall be entitled, for any reason in Purchaser's sole discretion, judgment and opinion, including without limitation if Purchaser shall disapprove and be dissatisfied with any aspect of the Property or any item examined by Purchaser pursuant to Sections 3.1, 3.2 and 3.3, and as its sole remedy, to terminate this Contract by giving written notice to Seller on or before the expiration of the Inspection Period, whereupon all of the provisions of this Contract (except Section 3.2) shall terminate and the Earnest Money shall be returned to Purchaser. Upon such termination, neither Seller nor Purchaser shall have any further rights, obligations or liabilities hereunder, except as provided in Section 3.2. In the event Purchaser does not elect to terminate this Contract pursuant to the terms of this Section 3.4, then within five (5) days after the expiration of the Inspection Period, Purchaser shall deposit an additional \$10,000.00 which shall also constitute Earnest Money, and the Earnest Money

shall then be non-refundable to Purchaser, except pursuant to Section 3.5 and Section 7.2 hereinbelow, but shall in all instances be applicable to the Purchase Price in the event of a Closing.

- 3.5 Necessary Items. Purchaser's obligation to close under this Contract is contingent upon Purchaser obtaining satisfactory architectural control committee approvals (if any), environmental and soils survey and satisfactory variances, zoning approvals, site or development plan approvals, curb cut approval, access permits, municipal design approvals, and all licenses, building permits and other authorizations necessary in the sole discretion of the Purchaser to construct and operate a Primrose School ("Primrose School Facility") on the Property. (All of the foregoing approvals, licenses, permits and authorizations are hereinafter referred to as the "Necessary Items".) Such Necessary Items shall be received within one hundred eighty (180) days from the expiration of the Inspection Period ("Approval Period"), or this Contract shall be null and void at Purchaser's election and all Earnest Money returned to Purchaser by the Title Company, provided however, Purchaser shall have the right to extend the Approval Period, prior to the expiration thereof, by two (2) consecutive thirty (30) day periods ("Extension Periods"), if Purchaser so elects by payment of the sum of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00) ("Extension Fee") for each such Extension Period, with Purchaser having the right to exercise each such Extension Period separately. Any Extension Fee(s) paid by Purchaser shall be paid to the Title Company, shall be applied to the Purchase Price at Closing, and shall be refundable and shall in all other respects be treated in the same manner as the Earnest Money. Purchaser represents that it will proceed with reasonable effort to obtain all of the Necessary Items contemplated in this paragraph. Seller agrees to execute such documents as may be necessary for Purchaser to secure the Necessary Items described herein and hereby grants to Purchaser, Seller's Power of Attorney, to execute such Necessary Item requests, on behalf of Seller. So long as Purchaser is acting reasonable and in good faith, in the event conditions are imposed by any governmental or quasi-governmental authorities upon Purchaser and/or the Property that, in Purchaser's reasonable opinion, materially and detrimentally impact or interferes with the functionality of the Property or economic feasibility or intended use of the proposed development and/or Property, Purchaser may terminate this Contract at any time prior to the expiration of the Approval Period or Extended Approval Period. Upon termination pursuant to the terms of this paragraph, Purchaser shall be entitled to a refund of the Earnest Money and the First and Second Extension Fees.

#### ARTICLE IV TITLE AND SURVEY

- 4.1 Title Commitment. Purchaser, at Purchaser's expense, shall cause the Title Company to furnish to Purchaser a Commitment for Title Insurance (the "Commitment") in a form consistent with policies issued by the Title Company in the State in which the Property is located covering the Property and listing Purchaser as the Proposed Insured and showing the Purchase Price as the Policy Amount.

- 4.2 Survey. Purchaser shall obtain a current ALTA/ACSM Survey prepared in accordance with the 1999 standards (the "Survey") of the Property by a Registered Professional Land Surveyor, locating and describing the Property, showing all corners to be properly and securely marked, locating all utilities (including, but not limited to: electric, water, gas, sanitary sewer, storm sewer, cable and telephone, etc.), improvements, encroachments or other matters visible on the site, easements, rights of way, setback lines, and all other matters affecting the Property and to state that no portion of the Property is within a 100 year flood plain.
- 4.3 Review of Title and Survey. Purchaser shall have until the end of the Inspection Period ("Title Review Period") in which to notify Seller of any objections Purchaser has to any matters shown or referred to in the Commitment or on the Survey. Any title encumbrances or exceptions which are referred to in the Commitment or on the Survey and to which Purchaser does not object during the Title Review Period shall be deemed to be Permitted Encumbrances (herein so called) to the status of Seller's title. Provided however, Purchaser shall have a continuing right to update the Commitment and Survey after the Title Review Period up until Closing, and Seller shall have the obligation to cure any title defect occurring during or after the Title Review Period.
- 4.4 Objections to Status of Title. In the event Purchaser objects to any matters referred to in the Commitment or on the Survey during the Title Review Period, Seller shall have a period of ten (10) days ("Cure Period") within which to satisfy Purchaser's objections. In the event Seller is unable or unwilling to satisfy Purchaser's objections within the Cure Period, Purchaser shall have the option to either waive Purchaser's objections and purchase the Property as otherwise contemplated by this Contract, in which event such waived objections shall become Permitted Encumbrances or terminate this Contract by written notice to Seller, in which event the Earnest Money shall be returned to Purchaser and except as provided in Section 3.2 hereto neither Seller nor Purchaser shall have any further rights, obligations or liabilities hereunder. Except as herein provided, Seller shall have no obligation to cure any objection raised by Purchaser during the Title Review Period and may elect to notify Purchaser in writing at any time during the Cure Period that it is unable or unwilling to satisfy any of Purchaser's objections. Provided however, if a title exception or title encumbrance is created during or after the Title Review Period, Seller shall be obligated to cure such defect.

ARTICLE V  
REPRESENTATIONS AND WARRANTIES

- 5.1 Seller's Representations. Seller represents and warrants to Purchaser as of the Effective Date and as of the Closing Date, as follows:
- 5.1.1 Seller is duly authorized to enter into the within Contract.
- 5.1.2 Seller has not received any written notice concerning violations or alleged violations of applicable laws in connection with the Property, and to Seller's knowledge, there exists no writ, injunction, decree, order, or judgment

outstanding relating to the ownership, use, maintenance, or operation of the Property by any person in violation of or from alleged violations of applicable laws.

- 5.1.3 There are no actions, suits, or proceedings pending or, to Seller's knowledge, threatened in any court or before or by any governmental authority against or affecting the Property.
- 5.1.4 There are no pending eminent domain or condemnation proceedings against the Property or any part thereof and to Seller's knowledge, no such proceedings are presently threatened or contemplated by any authority with the power of eminent domain.
- 5.1.5 None of the persons comprising Seller is a foreign person subject to withholding tax as required by Section 1445 of the Internal Revenue Code.
- 5.1.6 There are no leases, subleases or other rental agreements or rights to occupancy in effect covering all or any portion of the Property except the lease to Terry and Patty Ames ("Tenant"), a copy which is attached hereto (the "Lease"). Seller shall take all actions necessary to properly terminate the Lease and to ensure that the Tenant vacates the Property by the Closing Date, including without limitation all necessary legal action to have Tenant evicted from the Property prior to the Closing Date. Seller shall submit to Purchaser evidence of such promptly upon sending the termination to Tenant. In the event that Tenant has not vacated the Property by the Closing Date the Purchaser shall have the option to either (1) terminate this Contract by written notice to Seller, in which event all Earnest Money and Extension Fees and all other costs and expenses incurred by Purchaser relating to the purchase and due diligence inspection of the Property shall be paid to Purchaser by the Seller and neither Seller nor Purchaser shall have any further rights, obligations or liabilities hereunder, or (2) postpone the Closing until after Tenant has vacated the Property. In the event Purchaser elects option number (2) of postponing the Closing, then Seller shall pay to Purchaser the amount of \$150.00 per day beginning on the original Closing Date through and including the date the Closing actually occurs. Furthermore, in the event Purchaser elects option number (2) of postponing the Closing and Tenant has not vacated the Property by sixty (60) days from the original Closing Date, then Purchaser shall be entitled to terminate this Contract, in which event all Earnest Money and Extension Fees and all other costs and expenses incurred by Purchaser relating to the purchase and due diligence inspection of the Property shall be paid to Purchaser by the Seller and neither Seller nor Purchaser shall have any further rights, obligations or liabilities hereunder
- 5.1.7 The Property presently, or will at Closing, abut a publicly dedicated road ("Road") that provides access to the Property sufficient for Purchaser to obtain a building permit for construction of a Primrose School ("Primrose School Facility"), in the jurisdiction in which the Property is located, and construction of

such Road is complete, and such construction has been done in accordance with all applicable governmental requirements.

5.1.8 Seller warrants that there is no proceeding or inquiry by any governmental authority with respect to the presence of, nor does there exist any Hazardous Materials on the Property or the migration of Hazardous Materials from or to other property. The term "Hazardous Materials" means any substance, material or waste which becomes regulated by any local or state governmental authority of the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is: (A) defined as a "hazardous substance" or "hazardous material" by any local or state law; (B) oil and petroleum products and their by-products; (C) Asbestos; (D) designated as a "hazardous substance" pursuant to the Federal Water Pollution Control Act; (E) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act; or (F) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act. Seller further represents and warrants that to the best of Seller's knowledge there is no hazardous material located on the Property.

5.1.9 Intentionally Deleted.

5.1.10 Except as herein provided, the Property will be in the same condition as of the date of Closing as it is as of the Effective Date.

5.1.11 Seller represents that the Property constitutes a legally subdivided parcel and a separately assessed tax parcel in accordance with all laws and regulations of the State, County and Municipality in which the Property is located.

5.1.12 Seller represents that to the best of Seller's knowledge the Property is not currently subject to a water or sewer moratorium agreement and Seller has no knowledge of any previous water or sewer moratorium agreement.

5.2 Survival. The representations and warranties made by Seller in Section 5.1 hereof shall survive Closing.

## ARTICLE VI CLOSING

6.1 Closing Date. (i) The Closing shall be held at the offices of the Title Company (or such other location as may be mutually agreed upon by Seller and Purchaser) at 10:00 a.m. on the first (1<sup>st</sup>) business day following the date which is thirty (30) days after the expiration of the Approval Period or Extended Approval Period, whichever is later, or (ii) such earlier date and time as may be designated in writing by Purchaser ("Closing Date"). Provided however, at the election of Purchaser, Purchaser's portion of the Closing may be conducted by delivery of Purchaser's Closing documents to the Title Company, on the Closing Date, by a courier delivery service.

6.2 Closing Matters.

6.2.1 At Closing, Seller shall:

- (a) Deliver possession of the Property to Purchaser, subject only to the Permitted Encumbrances;
- (b) Deliver such evidence of the authority and capacity of Seller and its representatives as Purchaser, Purchaser's counsel or the Title Company may reasonably require; and
- (c) Affirm all representations, warrants and covenants contained herein, and acknowledge that the same survive Closing.

6.2.2 At Closing, Seller shall execute, deliver and acknowledge the following documents:

- (a) A General Warranty Deed ("Deed"), subject only to a lien for ad valorem taxes for the year of Closing not yet due and payable and the Permitted Encumbrances;
- (b) An affidavit with respect to Seller's status as a United States taxpayer in form satisfactory to Seller and Purchaser;
- (c) Such other documents as may be reasonably required by the Title Company; and
- (d) The Restrictive Covenant as provided in Section 9.4 herein.

6.2.3 At Closing, Purchaser shall:

- (a) Deliver the Purchase Price to the Title Company (less the amount of Earnest Money on deposit);
- (b) Deliver such evidence of the authority and capacity of Purchaser and its representatives as Seller, Seller's counsel or the Title Company may reasonably require; and
- (c) Execute and deliver such other documents as may be reasonably required by the Title Company.

6.2.4 At Closing, all prepaid expenses and ad valorem taxes (real and personal) for the year of Closing shall be prorated in cash as of the Closing Date. If ad valorem taxes for the year of Closing are not known or cannot be reasonably estimated, taxes shall be estimated based on taxes for the year prior to Closing. After taxes

for the year of Closing are known, adjustments, if needed, will be made between the parties. Should any governmental authority charge any roll back taxes due subsequent to Closing as a result of a change in use of the Property by Purchaser ("Roll Back Taxes"), Seller shall be responsible for and shall pay such Roll Back Taxes after Closing, with the estimated amount of such Roll Back Taxes due after Closing to be escrowed at Closing, and with Seller's obligation to pay Roll Back Taxes to survive Closing. In the event the amount of such property tax is not ascertainable at time of closing, then the estimated amount of such taxes shall be held in escrow by the Title Company until the amount of such taxes is known, at which time they will be paid out of the funds held for escrow, and the balance, if any, paid to Seller, and if such estimated amount is insufficient the additional amount due for Seller's pro rata amount due will be paid by Seller to the Title Company. This Agreement shall survive Closing.

- 6.3 Closing Costs. Seller shall pay one-half (1/2) of the escrow fee charged by the Title Company, and its share of the prorations as set forth in Section 6.2.4 hereof, and its own attorney's fees. Seller shall also pay for the cost of recording any documents required to clear title objections and release liens and deed and transfer taxes. Purchaser shall pay for owner's title insurance premium including title search fees, abstracting charges, the endorsement premium for extended coverage and deletion of the survey exception. Purchaser shall pay for all inspections undertaken pursuant to Article III hereof, its share of the prorations as set forth in Section 6.2.4 hereof, and its own attorneys' fees. Purchaser shall also pay for the cost of recording the deed. Except as otherwise provided in this Section, all other expenses incurred in connection with the purchase and sale contemplated hereby shall be paid by the party incurring such expenses.
- 6.4 Escrow Closing. Notwithstanding anything in this Contract to the contrary, Seller and Purchaser agree that the Closing may be accomplished by delivery into escrow with the Title Company of all documents and instruments required to be delivered at Closing, together with the Purchase Price and all other funds necessary to accomplish the purchase and sale contemplated hereby, whereupon the Title Company shall disburse such documents, the Purchase Price and any other funds to be disbursed hereunder in accordance with the terms of this Contract and such additional escrow instructions as Seller and Purchaser may agree upon consistent with the terms hereof.
- 6.5 IRS Reporting. Seller and Purchaser each hereby designate the Title Company as the "Reporting Person" as such term is utilized in Section 6045 of the Internal Revenue Code and the regulations promulgated thereunder. Seller agrees to provide the Title Company with such information as may be required for the Title Company to file a Form 1099 or other required form relative to the Closing with the Internal Revenue Service. A copy of the filed Form 1099 or other filed form shall be provided to Seller and Purchaser simultaneously with its being provided to the Internal Revenue Service.

## ARTICLE VII REMEDIES

- 7.1 Seller's Remedies. In the event Purchaser defaults in or fails to perform all or any part of its obligations under this Contract, Seller shall be entitled as its sole remedy to terminate this Contract and recover the Earnest Money as liquidated damages and not as a penalty, in full satisfaction of claims against Purchaser hereunder. Seller and Purchaser agree that Seller's damages resulting from Purchaser's default will be difficult to determine and that the Earnest Money is a fair estimate of those damages which has been agreed upon in an effort to cause the amount of said damages to be certain.
- 7.2 Purchaser's Remedies. In the event Seller defaults in or fails to perform all or any part of its obligations pursuant to this Contract, Purchaser may, as its sole and exclusive remedy, either (i) terminate this Contract by giving Seller timely written notice of such election prior to or at Closing or (ii) proceed at law or equity to enforce this Contract, including, but not limited to, an action for specific performance, an/or an action for damages. In the event Purchaser elects to terminate this Contract, the Earnest Money shall be returned to Purchaser and thereafter, except as provided in Section 3.2. hereof, neither Purchaser nor Seller shall have any further rights or obligations hereunder.
- 7.3 Attorney's Fees. In the event either party hereto is required to employ an attorney because of the other party's default, the defaulting party shall pay the non-defaulting party's reasonable attorney's fees incurred in the enforcement of this Contract.
- 7.4 Disposition of Earnest Money. In the event of a termination of this Contract by either Seller or Purchaser, the Title Company is authorized to deliver the Earnest Money to the party entitled to same pursuant to the terms hereof on or before the tenth (10th) day following receipt by the Title Company and the non-terminating party of written notice of such termination from the terminating party, unless the other party hereto notifies the Title Company that it disputes the right of the other party to receive the Earnest Money prior to the expiration of such ten (10) day period. In such event, unless otherwise instructed by both Seller and Purchaser, the Title Company shall interplead the Earnest Money into a court of competent jurisdiction in the County and State where the Property is located. All attorneys' fees and costs and expenses of the Title Company incurred in connection with such interpleader shall be assessed against the party that is not awarded the Earnest Money in the event that such Earnest Money is interplead or if the Earnest Money is distributed in part to both parties, then in the inverse proportion of such distribution.

ARTICLE VIII  
MISCELLANEOUS

- 8.1 Entire Contract. This Contract contains the entire agreement of the parties hereto. There are no other agreements, oral or written, with respect to the transaction contemplated hereby. This Contract can be amended only by a written agreement signed by both the parties hereto.
- 8.2 Binding. This Contract and the terms, covenants and conditions herein contained, shall be covenants running with the Property and shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties hereto.

8.3 Notice. Any notice, communication, request, reply or advice (collectively, "Notice") provided for or permitted by this Contract to be made or accepted by either party must be in writing. Notice may, unless otherwise provided herein, be given or served by depositing the same in the United States mail, postage paid, registered or certified, and addressed to the party to be notified, with return receipt requested or by delivering the same to such party, or an agent of such party, or by delivery by overnight courier such as Federal Express, or by fax. Notice deposited in the mail in the manner hereinabove described shall be effective two (2) business days following such deposit. Notice by overnight courier, or fax shall be effective the day after it is sent. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

Purchaser: Primrose School Franchising Company  
3660 Cedarcrest Road  
Acworth, GA 30101  
Attn: Wayne King, Vice President of Real Estate  
Phone No. 770-529-4100  
Fax No. 770-874-0210

Copy to: Timothy W. Bailey, Esq.  
Bailey Davis, LLC  
506 Roswell Street  
Building 300, Suite 320  
Marietta, Georgia 30060  
Phone No. 770-293-1214

Seller: Larry Jon Bates  
Sharon McCutchin Bates  
Larry Jon Bates, II  
Stephen Haines Bates  
9130 West Lake Roby Drive  
Winter Haven, FL 33884  
Phone No. ~~813-817-1912~~ / 813-757-6877  
Fax No. \_\_\_\_\_

The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by at least five (5) days written notice to the other party.

8.4 Time. Time is of the essence in all things pertaining to the performance of this Contract.

8.5 Place of Performance. This Contract is made and shall be construed in accordance with the laws of the State in which the Property is located.

8.6 Currency. All dollar amounts are expressed in United States currency.

- 8.7 Section Headings. The section headings contained in this Contract are for convenience only and shall in no way engage or limit the scope or meaning of the various and several sections hereof.
- 8.8 Business Days. In the event that any date or any period provided for in this Contract shall end on a Saturday, Sunday or legal holiday, the applicable date or period shall be extended to the first business day following such Saturday, Sunday or legal holiday.
- 8.9 Irrevocable Option. To the extent that this Contract is ever construed as an option agreement, Seller and Purchaser hereby acknowledge that independent consideration for such option in the sum of ONE HUNDRED AND 00/100 DOLLARS (\$100.00) has been, or will upon demand be, paid to Seller by Purchaser, and based on such consideration and the mutual covenants of Seller and Purchaser contained herein, Seller hereby agrees that any such option granted to Purchaser is irrevocable, and Seller shall not terminate said option without the prior written consent of Purchaser, except as may be expressly provided for herein.
- 8.10 Parties in Interest. This Contract is made solely for the benefit of the parties hereto and their respective permitted successors and assigns, and no other person will acquire or have any right under or by virtue of this Contract or any Exhibit hereto.
- 8.11 Assignment. Purchaser may assign this Contract without the consent of Seller to any franchisee of Purchaser, or any affiliate of such franchisee so long as such assignee's use of the Property will be a Primrose School Facility, and upon such assignment being made by Purchaser, Purchaser shall be released from any and all obligations under the within Contract, and Seller agrees to acknowledge such release in writing upon the assumption of Purchaser's obligations under this Contract by such franchisee. Should Purchaser acquire title to the Property rather than an assignee of Purchaser, and Purchaser subsequently sells and transfers such Property to a franchisee of Purchaser, or an affiliate of such franchisee ("Successor Purchaser"), Seller agrees that Purchaser shall have the right to assign to such Successor Purchaser all of Purchaser's rights and remedies against Seller in regard to any representations, covenants and warranties contained in this Contract, and the same shall be enforceable by such Successor Purchaser against Seller.
- 8.12 Counterparts. This Contract may be executed in any number of counterparts, each of which shall constitute an original but all of which, taken together, shall constitute but one (1) and the same instrument.

ARTICLE IX  
SPECIAL STIPULATIONS

- 9.1 Sign. Purchaser shall be granted a license to place a "Future Home of Primrose School" sign on the Property during the Approval Period.
- 9.2 As Is. Seller hereby covenants and agrees with Purchaser that Seller will deliver Property in "as is" condition at closing.

- 9.3 Restrictive Covenant. The Seller additionally agrees that in the event the Seller or any entity owned in whole or in part by Seller or Seller's spouse and/or children, owns real property located either contiguous to the Property or within a one (1) mile radius of the Property ("Additional Property"), Seller agrees to subject such Additional Property to a restrictive covenant which precludes the development of such Additional Property, or any portion thereof, from use as a child care facility or school and further prohibits the Additional Property or any portion thereof to be used as a liquor store, adult book store, or adult entertainment facility, and such Additional Property shall not be utilized in any manner to advertise any of such prohibited activities ("Restrictive Covenant"). Seller agrees further not to convey all or any part of such Additional Property prior to Closing without subjecting such Additional Property to such Restrictive Covenant.
- 9.4 Should the Property not constitute a legal parcel and a separately assessed tax parcel in accordance with all laws and regulations of the State, County and Municipality in which the Property is located, then Seller shall take all reasonable actions necessary to cause the Property to be a legal parcel and a separately assessed tax parcel on or before Closing.
- 9.5 Zoning A-1 with Special Exception. During the Inspection Period and the Approval Period Purchaser shall have the right to apply a Special Exception from Seminole County (or the applicable governmental body) which will permit Purchaser to use the Property as a Primrose School Facility. Seller agrees to cooperate in such endeavor and hereby appoints Purchaser as Seller's attorney-in-fact to apply for and to seek such Special Exception on Seller's behalf and to file such applications, letters of intent and other documents and information as the Purchaser reasonably deems appropriate in seeking such Special Exception. If Purchaser's efforts in securing the Special Exception are not successful, then Purchaser may terminate this Contract and Purchaser shall be entitled to a refund of the Earnest Money and the First and Second Extension Fees.

ARTICLE X  
REAL ESTATE COMMISSIONS

- 10.1 Commissions. Purchaser hereby represents to Seller that it has not contacted any agent, broker or other similar party with respect to the transactions contemplated by this Contract other than Shorecrest Retail Partners ("Purchaser's Broker"). At Closing Seller agrees to pay Shorecrest Retail Partners a brokerage commission of six percent (6.0%) of the Purchase Price. Purchaser and Seller each hereby agree to indemnify and hold the other harmless from the claims of any agent, broker or other similar party other than Broker claiming by, through or under the indemnifying party.

IN WITNESS WHEREOF, this Contract has been duly executed in multiple counterparts (each of which is to be deemed an original for all purposes) by the parties hereto on the date appearing below each party's signature.

SELLER:

 (Seal)

Name: Larry Jon Bates  
Date: 5-10-2008

Sharon McCutchin Bates (Seal)

Name: Sharon McCutchin Bates  
Date: 5-10-2008

Larry Jon Bates, II (Seal)

Name: Larry Jon Bates, II  
Date: 5-10-2008

Stephen Haines Bates (Seal)

Name: Stephen Haines Bates  
Date: 5-10-2008

PURCHASER:

PRIMROSE SCHOOL FRANCHISING COMPANY  
a Georgia corporation

By: Derek Fuller

Name: Derek Fuller

Title: Vice President, Finance and CFO

Date: 5/27/08

**EXHIBIT "A"**

**DESCRIPTION OF PROPERTY**

Parcel ID # 25-19-29-300-0410-0000

The South 5 acres of the East 12 chains of Government Lot 2, Section 25, Township 19 South, Range 29 East, Seminole County, Florida; less the West 348.48 feet thereof and less right-of-way for Sylvan Lake Drive and Orange Boulevard.

## **SEMINOLE COUNTY DENIAL DEVELOPMENT ORDER**

On January 26, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG SEC 25 TWP 19S RGE 29E S 5 ACRES OF E 12 CH OF LOT 2 (LESS W 348.48 FT &  
RD)

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

### **FINDINGS OF FACT**

**Property Owner:** Primrose School - Sanford  
3660 Cedarcrest Road  
Acworth, GA 30101

**Project Name:** S. Sylvan Lake Drive (5700)

**Requested Special Exception:**

Special Exception to establish a child care center in A-1 (Agriculture) district.

Approval was sought to establish a child care center within a zoning that permits said use only as a conditional use. The Board of Adjustment finds that the proposed use is inconsistent with development trends in the area and would adversely affect the public interest and should not be permitted.

The requested development approval is hereby denied.

Prepared by: Denny Gibbs, Senior Planner  
1101 East First Street  
Sanford, Florida 32771

**Done and Ordered on the date first written above.**

By: \_\_\_\_\_  
Alison C. Stettner  
Planning Manager

**STATE OF FLORIDA     )  
COUNTY OF SEMINOLE )**

**I HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing instrument.

**WITNESS** my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

## SEMINOLE COUNTY APPROVAL DEVELOPMENT ORDER

On January 26, 2009, Seminole County issued this Development Order relating to and touching and concerning the following described property:

LEG SEC 25 TWP 19S RGE 29E S 5 ACRES OF E 12 CH OF LOT 2 (LESS W 348.48 FT & RD)

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

### FINDINGS OF FACT

**Property Owner:** Primrose School - Sanford  
3660 Cedarcrest Road  
Acworth, GA 30101

**Project Name:** S. Sylvan Lake Drive (5700)

**Special Exception Approval:**

Special Exception to establish a child care center in A-1 (Agriculture) district.

The Development Approval sought is consistent with the Seminole County Comprehensive Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: Denny Gibbs, Senior Planner  
1101 East First Street  
Sanford, Florida 32771

## Order

### **NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:**

- (1) The aforementioned application for development approval is **GRANTED**.
- (2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.
- (3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:
  - a. The general layout of the proposed uses as depicted on the attached master plan shall not change.
  - b. No building shall increase more than 10% without Board of Adjustment approval.
  - c. The hours of operation shall be Monday through Friday, 6:30 am to 6:30 pm.
  - d. Maximum number of student shall be limited to 184.
  - e. A 6-foot stockade fence is required along the north and west property lines except at the point where the active buffer components are required adjacent to Lot 3 and Lot 4.
  - f. Landscaping consisting of one canopy tree every 40 feet with three (3) understory trees between shall be installed starting at the east end of lot 3 of Barrington Club and going eastward to Orange Blvd.
  - g. Consistency with the Wekiva River Protection Area requirements must be demonstrated.
  - h. Prior to the issuance of development permits, a site plan that meets the requirements of other applicable code requirements including Chapter 40 of the Land development Code shall be reviewed and approved by the Development Review Committee.
- (4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: \_\_\_\_\_  
Alison C. Stettner  
Planning Manager

STATE OF FLORIDA     )  
COUNTY OF SEMINOLE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public, in and for the County and State  
Aforementioned

My Commission Expires:

