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**RESOLUTION NO. 03-10**

**ZONING APPLICATION 03-1-VPB-2 (02-267)**

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; DENYING THE APPLICATIONS OF THOMAS & MARGARET GERRISH. FOR ALTERNATIVE SITE DEVELOPMENT ORDER AND; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made applications for alternative site development order and for alternative non-use variance, as described in the Miami-Dade Department of Planning and Zoning Recommendation to the Village of Palmetto Bay, which is attached to this resolution; and,

WHEREAS, the village council of the Village of Palmetto Bay conducted a quasi-judicial hearing on the application at Southwood Middle School on January, 28, 2003; and,

WHEREAS, the mayor and village council finds, based on substantial competent evidence in the record, that the application for alternative site development order is consistent with the Miami-Dade County comprehensive plan but does not comply with the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the mayor and village council determined to deny the applications, as provided in this resolution.

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

Section 1. A hearing on the present applications was held on January 28, 2003 in accordance with ordinance. no. 02-03, entitled "Quasi-judicial hearing procedures." Pursuant to the hearing, the village council makes the following findings of fact, conclusions of law and order.

Section 2. Findings of fact.

1. The applicant is Thomas and Margaret Gerrish. The property is single family residence located at 13900 Old Cutler Road.

- 1           2.    The applicant requests approval to construct a swimming pool in front of  
2           the residence. The requests are further described in the attached county  
3           recommendation.  
4           3.    The village council adopts the portions of the cover sheet to, and the county  
5           recommendation, entitled Previous Zoning Hearings on the Property;  
6           Enforcement History; Introduction-Requests, Summary of Requests,  
7           Location, Size, Impact, Zoning Hearings History, Comprehensive  
8           Development Master Plan (CDMP), Neighborhood Characteristics, Site and  
9           Buildings and Neighborhood Services as its findings of fact.  
10

11           Section 3.    Conclusions of law.

- 12           1.    The village council adopts the portions of the county recommendation,  
13           entitled Pertinent Requirements/Standards-Alternative Site Development  
14           Option for Single Family and Duplex Dwellings and Alternative non-use  
15           variance standard; and Analysis as its conclusions of law.  
16           2.    The village council further concludes that the application for alternative site  
17           development order is consistent with the Miami-Dade County  
18           comprehensive plan but does not comply with the applicable land  
19           development regulation, §33-311(A)(14)(Alternative Site Development  
20           Option).  
21

22           Section 4.    Order.

- 23           1.    The application for alternative site development order is denied without  
24           prejudice.  
25           2.    The application for alternative non-use variance is denied on the basis that  
26           the applicant did not submit evidence to carry its burden of proof on the  
27           issue.  
28           3.    This is a final order.  
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30           Section 5.    Record.

31           The record shall consist of the notice of hearing, the applications, documents  
32           submitted by the applicant and the applicant's representatives to the Miami-Dade County  
33           Department of Planning and Zoning in connection with the applications, the county  
34           recommendation and attached cover sheet and documents, the testimony of sworn  
35           witnesses and documents presented at the quasi-judicial hearing, and the tape and  
36           minutes of the hearing. The record shall be maintained by the village clerk.  
37

1            Section 6.    This resolution shall take effect immediately upon approval.

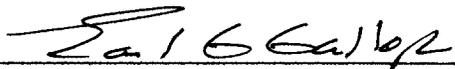
2            PASSED and ADOPTED this 28<sup>th</sup> day of January, 2003.

3  
4    Attest:

5              
6            Meighan Pier  
7            Village Clerk

8              
9            Eugene P. Flinn, Jr.  
10           Mayor

11           APPROVED AS TO FORM:

12             
13           Earl G. Gallop,  
14           Village Attorney

15           FINAL VOTE AT ADOPTION:

16           Council Member Ed Feller	<u>          AYE          </u>
17	
18           Council Member Paul Neidhart	<u>          AYE          </u>
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20           Council Member John Breder	<u>          AYE          </u>
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22           Vice-Mayor Linda Robinson	<u>          AYE          </u>
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24           Mayor Eugene P. Flinn, Jr.	<u>          AYE          </u>
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29           \\Dell\_6100\Documents\0293\EGG\16650.doc - Zoning-Gerrish  
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