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RESOLUTION NO. 07-70

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; APPROVING THE APPLICATION OF ALEXANDER TODDLER & PRESCHOOL, INC. FOR A NON-USE VARIANCE OF SIGN REGULATIONS WOULD ALLOW THE APPLICANT TO IDENTIFY THE PRE-SCHOOL THAT IS CURRENTLY IN OPERATION AT 17800 OLD CUTLER ROAD; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant made application for A non-use variance of sign regulations would allow the applicant to identify the pre-school that is currently in operation, as described in the Village of Palmetto Bay Community Development Department 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 June 18, 2007; and,

WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence in the record, that the application for the non-use variance is consistent with the Village's Comprehensive Plan and the applicable land development regulations; and,

WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to grant the application, 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 application was held on June 18, 2007 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 Alexander Toddler & Preschool, Inc., for a property located 17800 Old Cutler Road.
2. The applicant requests a non-use variance of sign regulations would allow the applicant to identify the pre-school that is currently in operation. Specifically, the applicant is seeking a Non-Use Variance of Sign Regulations to place a detached identification sign measuring 18.06 square feet (1½ square feet maximum permitted) on a property zoned EU-2, Estate, Single Family Residential District, currently occupied by its preschool.

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3. The Village Council adopts the portions of the cover sheet to, and the Village Community Development Department recommendation, entitled Zoning Analysis; and includes the Introduction, Zoning Hearing History, Neighborhood Characteristics, Pertinent Requirement Standards; Analysis and Recommendation as its findings of fact.
 4. In evaluating an application for a Non-Use Variance of Sign Regulations, Section 33-311 (b) and 33-311 (c), of the Miami-Dade County Code as adopted by the Village, are to be considered:
 - (b) *Non-use variances from other than airport regulations.* The Village Council, after public hearing, may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required.
 - (c) *Alternative non-use variance standard.* The Village Council, after public hearing, may grant upon a showing by the applicant that the variance will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the non-use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum non-use variance that will permit the reasonable use of the premises.
 5. The subject property consists of 27,878 square feet residential property and is the second lot of the Northwest corner of Southwest 179th Street and Old Cutler Road, Miami-Dade County, Village of Palmetto Bay, Florida. The applicant, Alexander Toddler & Preschool Inc. The adjacent parcel is occupied by a church (under same ownership) which shares parking with the applicant's pre-school.
 6. The applicant's existing pre-school, does not have a sign. A temporary banner currently identifies the location of the pre-school.
 7. The requested sign is to be installed on a property designated as a historic residence by Miami-Dade County and as such, has been reviewed and approved by the County Historic Preservation Director.
 8. the proposed Non-Use Variance of Sign Regulations is in harmony with the general purpose and intent of the regulations and would be compatible with the area and its development and would conform to the requirements and intent of the

1 Zoning Procedures Ordinance including historic preservation regulations and the
2 Village's Comprehensive Plan.

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4 Section 3. Conclusions of law.

- 5
6 1. The Village Council adopts the portions of the county recommendation, entitled
7 Pertinent Requirements/Standards and Analysis as its conclusions of law.

8
9 Section 4. Order.

10 The Village Council accepts the county and staff recommendation in the zoning report.
11 And Approves the application with conditions under section 33-311 (b) of a Non-Use
12 Variance of Sign Regulations to allow the applicant to place a detached identification
13 sign measuring 18.06 square feet on a property zoned EU-2 as detailed in the signage
14 specification sheet received and stamped on April 27th, 2007, as attached hereto, subject
15 to the following conditions:

- 16
17 1. That the applicant remove the temporary banner upon final inspection of the
18 detached sign.
19
20 2. That the applicant establish a flowering bed at the base of the proposed sign
21 measuring a minimum of 3 feet by 4 feet.
22
23 3. That the applicant enter into a landscape agreement with the Department of
24 Community Development for the maintenance of the flowering bed.

25
26 The Village Council denies review of the application pursuant to 33-311(c).

27
28 Section 5. Record.

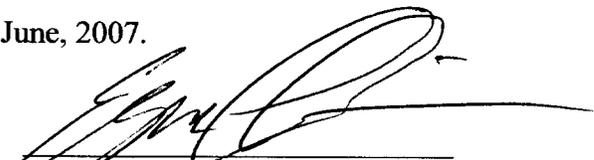
29 The record shall consist of the notice of hearing, the applications, documents submitted
30 by the applicant and the applicant's representatives to the Village of Palmetto Bay Community
31 Development Department in connection with the applications, the Village staff recommendation
32 and attached cover sheet and documents, the testimony of sworn witnesses and documents
33 presented at the quasi-judicial hearing, and the tape and minutes of the hearing. The record shall
34 be maintained by the Village Clerk.

35
36 Section 6. This resolution shall take effect immediately upon approval.

37 PASSED and ADOPTED this 21 day of June, 2007.

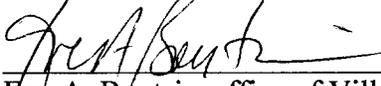
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39 Attest:

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41 Meghan Rader
Village Clerk


Eugene P. Flinn, Jr.
Mayor

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APPROVED AS TO FORM:



Eve A. Boutsis, office of Village Attorney
Nagin Gallop & Figueredo, P.A.

FINAL VOTE AT ADOPTION:

Council Member Ed Feller	<u>Yes</u>
Council Member Paul Neidhart	<u>Yes</u>
Council Member Shelley Stanczyk	<u>Yes</u>
Vice-Mayor Linda Robinson	<u>Yes</u>
Mayor Eugene P. Flinn, Jr.	<u>Yes</u>