

RESOLUTION NO. 02- 103 Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA; APPROVING A NON-USE VARIANCE FILED IN ACCORDANCE WITH SECTION 33-50 OF THE TOWN CODE FOR PROPERTY ZONED RU-1 LOCATED AT 8200 NW 164TH ST, MIAMI LAKES, FLORIDA; TO PERMIT A SWIMMING POOL ON A DUAL FRONTAGE LOT SETBACK 51.5' WHERE 75' IS REQUIRED FROM THE FRONT (SOUTH) PROPERTY LINE AND SETBACK 15.33 WHERE 20' IS REQUIRED FROM THE SIDE STREET (EAST) PROPERTY LINE; PROVIDING FINDINGS; PROVIDING FOR APPROVAL; PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR RECORDATION; PROVIDING FOR APPEAL AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Section 33-50 of the Town Code ¹, **J&E Deverlopers, Inc.** (the "Applicant") has applied to the Town for approval of non-use variances, Application **Z02-224** (the "Variance "); and

WHEREAS, Section 33-311 of the Town Code sets forth the authority of the Town Council to consider and act upon an application for a non-use variance; and

WHEREAS, in accordance with Section 33-310 (c) & (d), proper notice has been mailed to the appropriate property owners of record; the public hearing on the Variance has been noticed for Thursday, November 14, 2002 at 7:00 p.m. at Miami Lakes Middle School, 6245 Miami Lakeway North, Miami Lakes, Florida; and all interested parties have had the opportunity to address their comments to the Town Council; and.

WHEREAS, the Miami-Dade County Director of Planning and Zoning (the "Director"), in her capacity as Town Staff, has reviewed the application and recommends approval of the Variance with conditions, as set forth in the Memorandum dated November 14, 2002, (the "Memorandum"), attached as exhibit "A," and incorporated into this Resolution by this reference.

¹ Pursuant to Section 8.3 of the Town Charter and Ordinance 2001-01, the applicable provisions of Chapter 33 of the Miami-Dade County Code of Ordinances serve as the Town's Zoning Code.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals.

The above recitals are true and correct and incorporated into this resolution by this reference.

Section 2. Findings.

In accordance with Section 33-311 (A) (4) (b) of the Town Code, The Town Council finds:

- (1) That the Variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations to protect the general welfare of the public, particularly as it affects the stability and appearance of the Town.
- (2) That the Variance is compatible with the surrounding land uses.
- (3) That the Variance is not detrimental to the Town.

Section 3. Approval.

The Town Council approves the non-use Variance to the Applicant from Section 33.50 (setbacks) of the Town Code for the property located at 8200 NW 164th Street, Miami Lakes, Florida

Section 4. Conditions of Approval.

The non-use Variance is granted and the Applicant shall comply with the following conditions:

1. That a site plan be submitted to and meet the approval from the Town of Miami Lakes upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things, but limited thereto, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, etc.
2. That in the approval of the plan, the same be substantially in accordance with the submitted plan for the hearing entitled "Amistad Homes II Proposed Swimming Pool" as prepared by Juan Jose Leon, consisting of two (2) sheets and dated 06/10/02. Except as may be specified by any zoning resolution applicable to the subject property, any future additions

on the property which conform to the Zoning Code requirements will not require further public hearing action.

- 3. That the Use be established and maintained in accordance with the approved plan

Section 5. Recordation.

The decision of the Town Council to approve the non-use Variance shall be recorded on the official zoning maps of the Town.

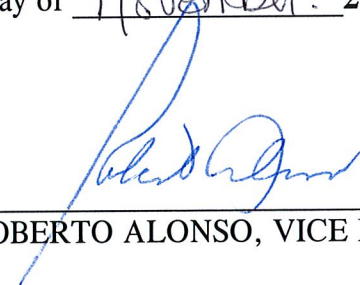
Section 6. Effective Date.

This resolution shall become effective immediately upon its adoption.


Section 7. Appeal.

In accordance with Section 33-312 and 33-316 of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Council by filing of a notice of appeal in accordance with the Florida Rules of Appellate Procedure.


PASSED AND ADOPTED this 14th day of November, 2002.


ROBERTO ALONSO, VICE MAYOR

ATTEST:


BEATRIS M. ARGUELLES, CMC
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


WEISS, SEROTA, HELFMAN, PASTORIZA & GUEDES, P.A.
TOWN ATTORNEY

Collins / Simon

Council voted <u>6-0-1</u> as follows:	
Mayor Wayne Slaton	<u>ABS</u>
Vice Mayor Roberto Alonso	<u>Yes</u>
Councilmember Mary Collins	<u>Yes</u>
Councilmember Robert Meador	<u>Yes</u>
Councilmember Michael Pizzi	<u>Yes</u>
Councilmember Nancy Simon	<u>Yes</u>
Councilmember Peter Thomson	<u>Yes</u>

1. J & E DEVELOPERS, INC.
(Applicant)

02-11-MLB-1 (02-224)
MLB/District 13
Hearing Date: 11/14/02

Property Owner (if different from applicant) **Same**

Is there an option to purchase / lease the property predicated on the approval of the zoning request? Yes No

Disclosure of interest form attached? Yes No

Previous Zoning Hearings on the Property:

<u>Year</u>	<u>Applicant</u>	<u>Request</u>	<u>Board</u>	<u>Decision</u>
1987	Lovell, Inc.	Zone change from AU to RU-1.	BCC	Approved

Action taken today does not constitute a final development order, and one or more concurrency determinations will subsequently be required. Provisional determinations or listings of needed facilities made in association with this Initial Development Order shall not be binding with regard to future decisions.

**MIAMI-DADE COUNTY DEPARTMENT OF PLANNING AND ZONING
RECOMMENDATION TO TOWN OF MIAMI LAKES COUNCIL**

APPLICANT: J & E Developers, Inc.

PH: Z02-224 (02-11-MLB-1)

SECTION: 15-52-40

DATE: November 14, 2002

COMMISSION DISTRICT: 13

ITEM NO.: 1

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A. INTRODUCTION

o **REQUEST:**

NON-USE VARIANCE OF SETBACK REQUIREMENTS to permit a swimming pool on a dual frontage lot setback 51.5' (75' required) from the front (south) property line and setback 15.33' (20' required) from the side street (east) property line.

A plan is on file and may be examined in the Zoning Department entitled "Amistad Homes II Proposed Swimming Pool" as prepared by Juan Jose Leon, consisting of 2 sheets and dated 6/10/02. Plans may be modified at public hearing.

o **SUMMARY OF REQUEST:**

The request will allow the applicant to construct a swimming pool within the required front and side street setback areas (Section 33-50, Town of Miami Lakes Code).

o **LOCATION:**

8200 N.W. 164 Street, Miami Lakes, Florida.

o **SIZE:** 85" x 215.32'

o **IMPACT:**

The approval of this request will allow an accessory use within the required front and side street setback areas on a dual frontage lot. The approval of same could visually impact the surrounding properties.

B. ZONING HEARINGS HISTORY:

In 1987, this property was a portion of a larger parcel of land, which was granted approval for a district boundary change from AU, Agricultural District to RU-1, Single-Family Residential District by the Miami-Dade County Board of County Commissioners.

C. COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP):

The Adopted 2005 and 2015 Land Use Plan designates the subject property as being within the Urban Development Boundary for **low density residential**. The residential

F. PERTINENT REQUIREMENTS/STANDARDS:

Upon appeal or direct application in specific cases, the Town Council shall hear and grant applications for **non-use variances** from the terms of the zoning and subdivision regulations and 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.

G. NEIGHBORHOOD SERVICES:

DERM	No objection
Public Works	No objection
Parks	No objection
MDTA	No objection
Fire Rescue	No objection
Police	No objection
Schools	No comment


H. ANALYSIS:

This recommendation is being issued by the Miami-Dade County Planning and Zoning Department acting as staff to the Town of Miami Lakes. In this capacity staff notes that the Third District Court of Appeals, has held invalid for Miami-Dade County, the Miami-Dade County zoning standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing, and modifications of conditions and covenants. The Miami-Dade County Attorney's Office is seeking a review of the decision in the Florida Supreme Court. While the case is pending, the decision is presently in effect and binding on all parties in the unincorporated portions of the county. Its impact has been to suspend consideration of zoning applications in the unincorporated portions of the county for most special exceptions, unusual uses, non-use variances, and modification of conditions and covenants until the decisions is modified or reversed or modified standards are enacted. The Town of Miami Lakes has zoning standards similar to those struck down by the Third District Court of Appeals but has decided to allow hearings under these standards to go forward. The Miami-Dade County Planning and Zoning Department recognizes the binding effect of the court decision on all Miami-Dade County decisions but in rendering this recommendation makes no comment as to its legal impact on the zoning decisions of the Town of Miami Lakes. The recommendation is addressed only to the land use impacts of the application.

The subject property is located at 8200 N.W. 164 Street, Town of Miami Lakes, Miami-Dade County, Florida, with dimensions of 85' x 215.32' in the RU-1 district. The applicant is seeking to construct a proposed swimming pool and jacuzzi within the front and side street setback areas. The proposed swimming pool and jacuzzi will setback 51.5' (75'

J & E Developers, Inc.
Z02-224
Page 5

DATE INSPECTED: 10/21/02
DATE TYPED: 10/21/02
DATE REVISED: 10/21/02,10/23/02,10/30/02,10/31/02
DATE FINALIZED: 10/31/02
DO'QW:AJT:MTF:REM:TA



Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning

#Z2002000224

J & E Development, Inc.

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constitute DERM's written approval as required by the Code. Additionally, DERM has also evaluated the application so as to determine its general environmental impact and after reviewing the available information offers no objections to the approval of the request.

cc: Ruth Ellis-Myers, Zoning Evaluation-P&Z
Lynne Talleda, Zoning Hearings- P&Z
Franklin Gutierrez, Zoning Agenda Coordinator-P&Z

DISCLOSURE OF INTEREST*

If the property which is the subject of the application is owned or leased by a CORPORATION, list the principal stockholders and the percentage of stock owned by each. [Note: Where the principal officers or stockholders consist of another corporation(s), trustee(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

J+E Developers, Inc.
CORPORATION NAME

<u>NAME, ADDRESS AND OFFICE</u>	<u>Percentage of Stock</u>
<u>Jorge A. Merida (President) 9928 NW 133 St. Hialeah Gardens FL 33018</u>	<u>50%</u>
<u>Evelio Gomez (Vice President) 2795 W. 78 STREET HIALEAH FL 33016</u>	
<u>Clara D. Merida (Secretary) 9928 NW 133 St. Hialeah Gardens FL 33018</u>	<u>50%</u>
<u>Cary H. Rodriguez (Treasurer) 860 E 341 St, Hialeah FL 33013</u>	

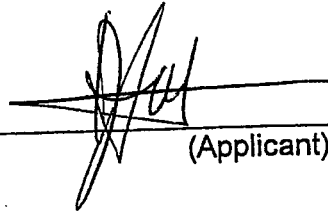
If the property which is the subject of the application is owned or leased by a TRUSTEE, list the beneficiaries of the trust and the percentage of interest held by each. [Note: Where the beneficiary/beneficiaries consist of corporation(s), another trust(s), partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity].

<u>TRUST NAME</u>	
<u>NAME AND ADDRESS</u>	<u>Percentage of Interest</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____


If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust.

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

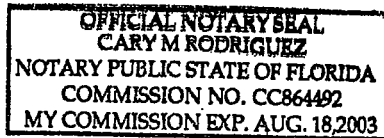
The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: 
(Applicant)

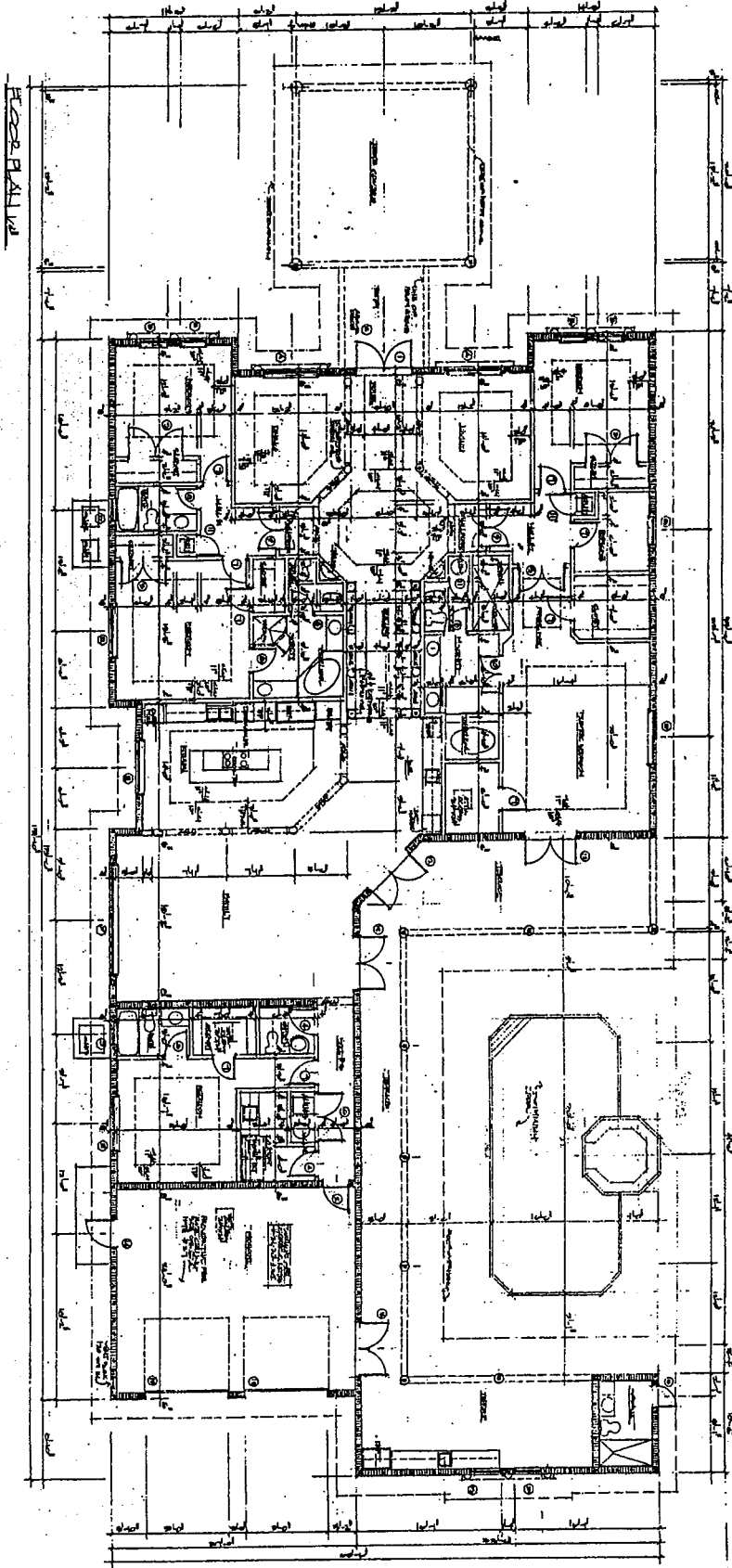
Sworn to and subscribed before me,
this 5th day of August 2002,


Notary Public, State of Florida at Large
My Commission Expires:

(SEAL)



*Disclosure shall not be required of any entity, the equity interests in which are regularly traded on an established securities market in the United States or other country; or of any entity, the ownership interests of which are held in a limited partnership consisting of more than 5,000 separate interests and where no one person or entity holds more than a total of 5% of the ownership interest in the limited partnership.



ESPERANZA

ARISTAD HOMES II
 PROPOSED SWIMMING POOL
 8200 NW 164th STREET
 MIAMI, FLORIDA 33016
 305 986-3369

ARCHITECT: JUAN JOSE LEON
 REGISTERED PROFESSIONAL ARCHITECT
 NO. 17943
 STATE OF FLORIDA 2001
 15/000007

DATE: 08/02/02
 DRAWN BY: A-2
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]

RECEIVED
 202-224
 AUG 02 2002

ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY _____


8-2-02
 [Signature]



MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 52 Range: 40
Process Number: 02000224
Applicant: J & E DEVELOPERS, INC.
District Number: 13
Zoning Board: C00
Drafter ID: DIONNE
Scale: NTS

S C A L E
0 NTS N

 SUBJECT PROPERTY

