

RESOLUTION NO. 02- 104 Z

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA; APPROVING A NON-USE VARIANCE FILED IN ACCORDANCE WITH SECTION 33-311 OF THE TOWN CODE FOR PROPERTY ZONED RU-1 LOCATED AT 7965 NW 162nd STREET, MIAMI LAKES, FLORIDA; TO PERMIT A SINGLE FAMILY RESIDENCE WITH A LOT COVERAGE OF 37.2% WHERE 35% IS PERMITTED; 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 33-311 of the Town Code ¹, **Alberto & Lilia Fernandez** (the “Applicant”) has applied to the Town for approval of non-use variances, Application **Z02-233** (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

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.

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.

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 7965 NW 162nd Street, Miami Lakes, Florida.

Section 4. Conditions of Approval.

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

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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 "Residence for Mr. & Mrs. A. Fernandez," as prepared by Juan Jose Leon, consisting of five (5) sheets and dated, signed, and sealed 08/05/02, as it pertains to the variance related construction.. 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.

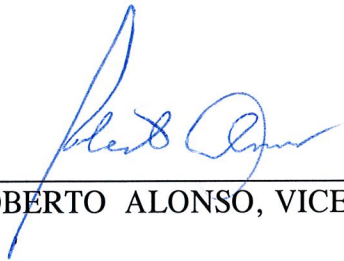
This resolution shall become effective immediately upon its adoption.

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.

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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

Simon Thomson

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>

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2. ALBERTO & LILIA FERNANDEZ
(Applicant)

02-11-MLB-2 (02-233)
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>
1986	R. O. & E. B. Lovell	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: Alberto & Lilia Fernandez

PH: Z02-233

SECTION: 15-52-40

DATE: November 14, 2002

COMMISSION DISTRICT: 13

ITEM NO.: 2

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A. INTRODUCTION

o **REQUEST:**

NON-USE VARIANCE OF LOT COVERAGE REQUIREMENTS to permit a single family residence with a lot coverage of 37.2% (35% permitted).

A plan is on file and may be examined in the Zoning Department entitled "Residence for: Mr. & Mrs. A. Fernandez," as prepared by Juan Jose Leon, consisting of 5 sheets and dated, signed and sealed 8/5/02. Plans may be modified at public hearing.

o **SUMMARY OF REQUEST:**

The request would allow the addition of a covered terrace to the rear of a single family residence which is under construction and would permit more lot coverage than is permitted. (Section 33-49, Town of Miami Lakes Code.)

o **LOCATION:**

7965 N.W. 162 Street, Miami Lakes, Florida.

o **SIZE:** 84' x 100'

o **IMPACT:**

The approval of this request will have a minor impact on the neighboring area since the total amount of lot coverage will be only 2.2% more than permitted by Code.

B. ZONING HISTORY:

The subject property is a portion of a larger parcel which was rezoned from AU, Agricultural District, to RU-1, Single-Family Residential District, on September 11, 1986 in connection with Resolution No. Z-212-86

Urban Design: N/A

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:

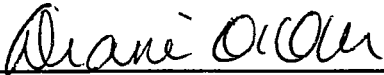
This recommendation is being issued by the Miami-Dade County Planning and Zoning Department acting as staff to the Town of Miami Lakes. In this capacity staff notes that the Third District Court of Appeals has held invalid for Miami-Dade County, the Miami-Dade County zoning standards for non-use variances, 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 decision 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.

This application seeks to permit a single family residence, which is under construction, with a lot coverage of 37.2% where 35 % is permitted.

Alberto & Lilia Fernandez
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3. That the use be established and maintained in accordance with the approved plan.

DATE INSPECTED: 10/25/02
DATE TYPED: 10/25/02
DATE REVISED: 10/30/02
DATE FINALIZED: 10/30/02
GEO:DO'QW:AJT:MTF:DBM



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

Site grading and development shall comply with the requirements of Chapter 11C of the Code of Miami-Dade County.

Any proposed development shall comply with County and Federal flood criteria requirements. The proposed development order, if approved, will not result in a reduction in the Level of Service standards for flood protection set forth in the Comprehensive Development Master Plan subject to compliance with the conditions required by DERM for this proposed development order.

Tree Preservation:

Section 24-60 of the Code requires the preservation of tree resources. Consequently, DERM will require the preservation of all the specimen-sized trees, as defined in the Code. A Miami-Dade County tree removal permit is required prior to the removal or relocation of any trees. The applicant is advised to contact DERM staff for permitting procedures and requirements prior to development of site and landscaping plans.

Wetlands:

The subject site is not located in jurisdictional wetlands as defined in Chapter 24-3 and 24-58 of the Code; therefore, a Class IV Permit for work in wetlands will not be required by DERM.

Notwithstanding the above, permits from the Army Corps of Engineers (USACOE), the State of Florida Department of Environmental Protection (FDEP) and the South Florida Water Management District (SFWMD) may be required for the proposed project. The applicant is advised to contact these agencies concerning their permit procedures and requirements.

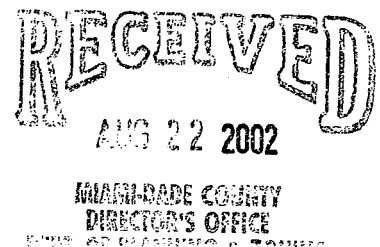
Concurrency Review Summary:

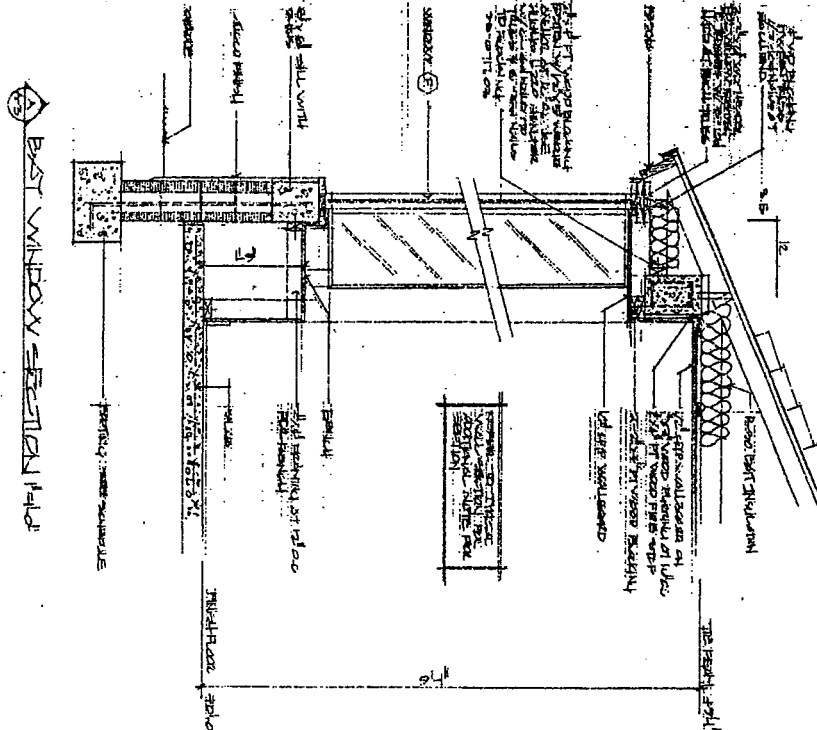
The Department has conducted a concurrency review for this application and has determined that the same meets all applicable Levels of Service standards for an initial development order, as specified in the adopted Comprehensive Development Master Plan for potable water supply, wastewater disposal and flood protection. Therefore, the application has been approved for concurrency subject to the comments and conditions contained herein.

This concurrency approval does not constitute a final concurrency statement and is valid only for this initial development order as provided for in the adopted methodology for concurrency review. Additionally, this approval does not constitute any assurance that the LOS standards would be met by any subsequent development order applications concerning the subject property.

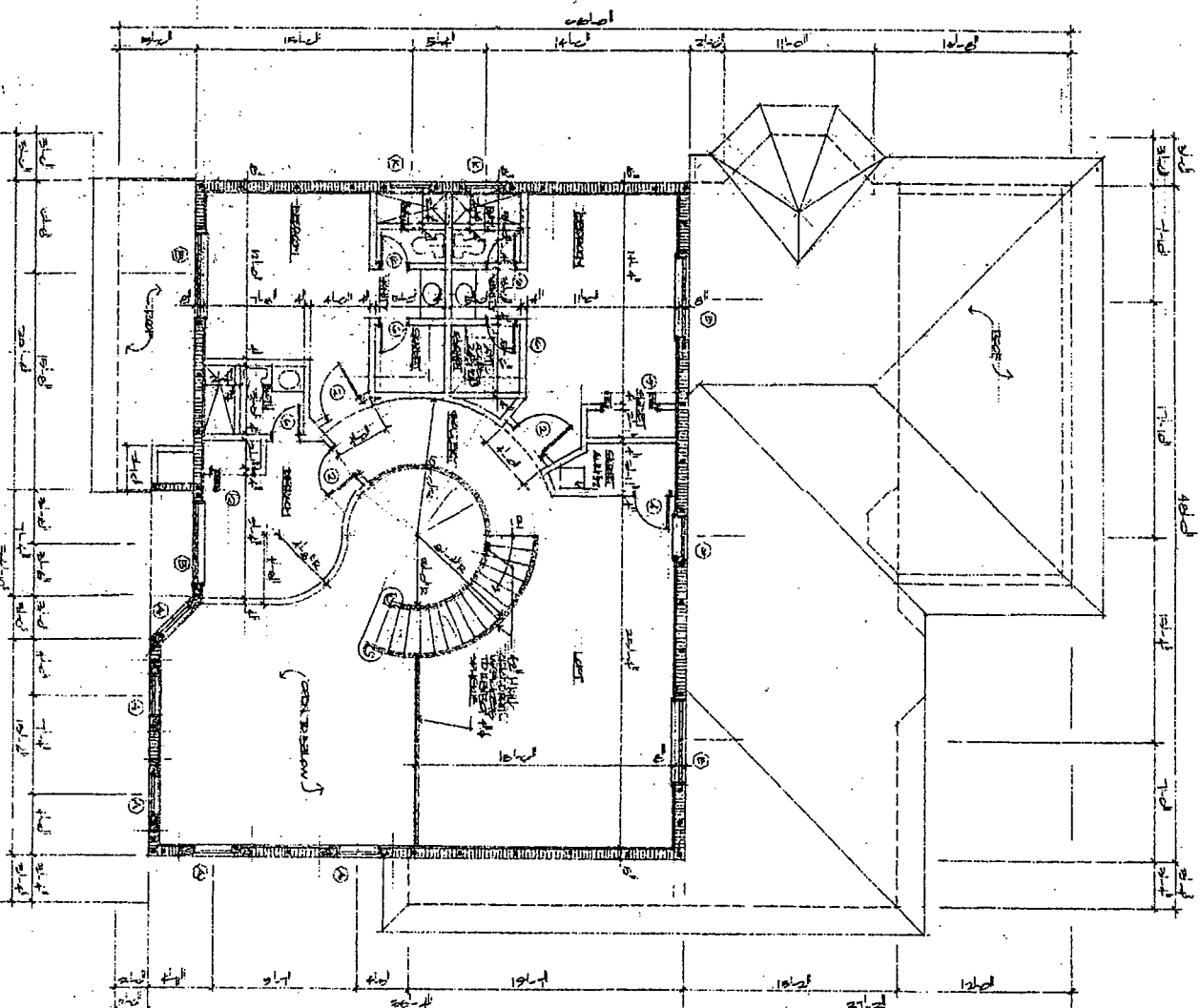
In summary, the application meets the minimum requirements of Chapter 24 of the Code and therefore, it may be scheduled for public hearing; furthermore, this memorandum shall constitute DERM's written approval as required by the Code. Additionally, DERM has also evaluated the application so as to determine 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





Signature of Neighbor and Date Signed
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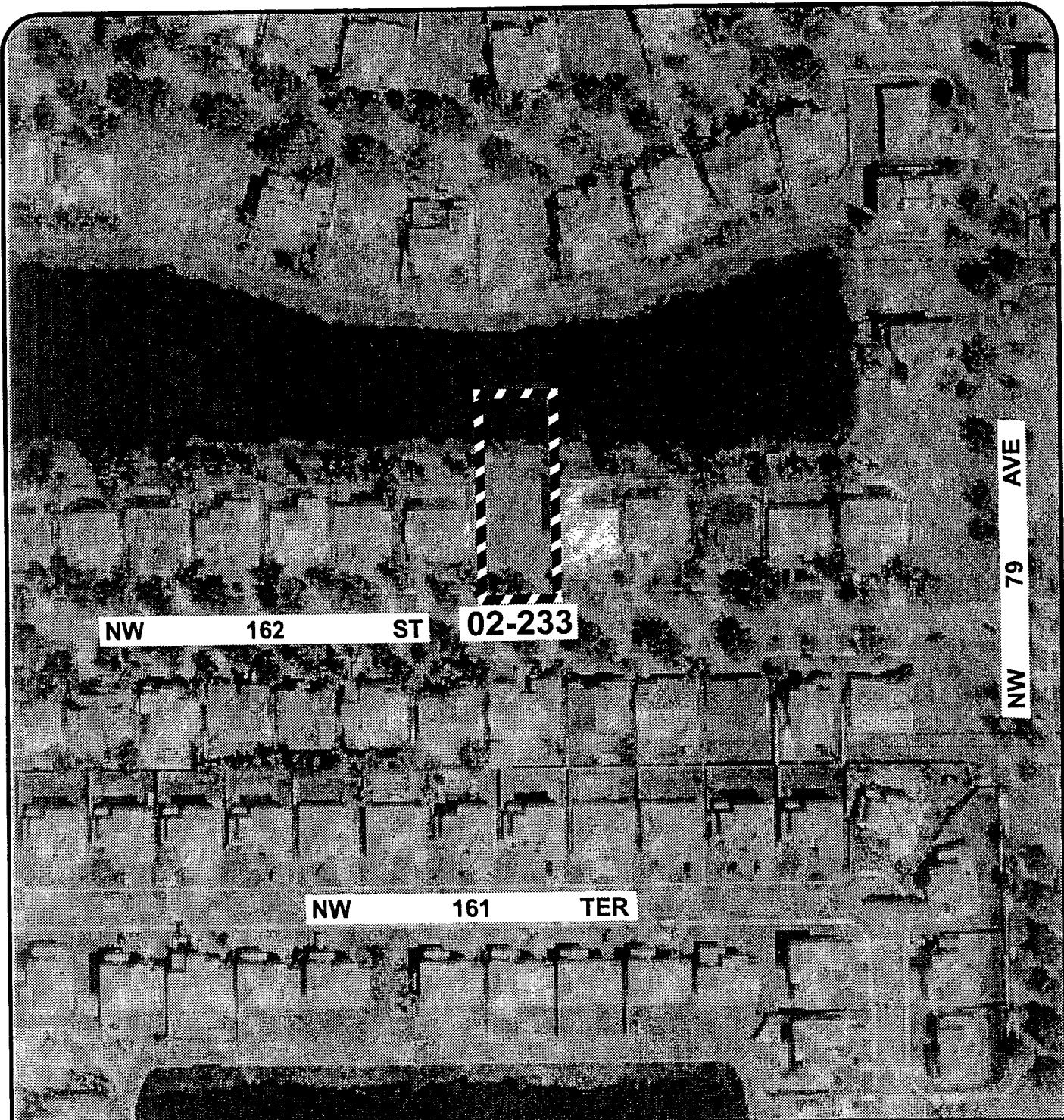
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ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.

RESIDENCE FOR:
 MR. & MRS. A. FERNANDEZ
 7965 NW 162ND STREET
 MIAMI, FLORIDA 33016
 305 642-5555

ARCHITECTS: JUAN JOSE LEON
 DESIGNED: JUAN JOSE LEON
 PLANNERS: JUAN JOSE LEON
 P.O. BOX 172943
 MIAMI, FLORIDA 33117
 305-755-0000
 15

BY: J. J. Leon
 0-5-02



NW 162 ST 02-233


NW 79 AVE

NW 161 TER

MIAMI-DADE COUNTY
AERIAL

SCALE
0 NTS

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N

 SUBJECT PROPERTY

Section: 15 Township: 52 Range: 40
Process Number: 02000233
Applicant: ALBERTO FERNANDEZ
District Number: 13
Zoning Board: C00
Drafter ID: DIONNE
Scale: NTS

