

RESOLUTION NO. 03-158 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 LYING WEST OF N.W. 83RD AVENUE AND APPROXIMATELY 100 FEET NORTH OF N.W. 154TH TERRACE, MIAMI LAKES, FLORIDA (AS LEGALLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO); TO PERMIT A SETBACK OF 20.33 FEET (25 FEET REQUIRED) FROM THE FRONT (EAST) PROPERTY LINE; PROVIDING FINDINGS; PROVIDING FOR APPROVAL; PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR RECORDATION; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR APPEAL.

WHEREAS, pursuant to Section 33-311 of the Town Code, ¹ Carlos and Sylvia Zagales (collectively, the "Applicant") have applied to the Town for approval of a non-use variance, (the "Variance") (as referenced in Town Application No. Z-03-108) for property legally described in exhibit "A" attached hereto and incorporated by reference (the "Property"); 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 of the Town Code, notice was provided and a hearing was held on the Variance, and all interested parties have had the opportunity to address their comments to the Town Council; and

WHEREAS, Town Staff has reviewed the application and recommends approval of the Variance with conditions, as set forth in the Memorandum dated July 10, 2003, attached as exhibit "B" hereto and incorporated by reference (the "Memorandum").

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 requested Variance to the Applicant from Section 33-50 of the Town Code for the Property (exhibit "A") to permit a setback of 20.33 feet (25 feet required) from the front (east) property line.

Section 4. Conditions of Approval.

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

1. That a site plan be submitted to and meet with the approval of 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 to the location of: structure or structures; exits and entrances; drainage; walls; fences; landscaping; etc.
2. That in approval of the plan, the same be substantially in accordance with that submitted for hearing entitled, "New Residence Owner: Carlos & Sylvia Zagales," as prepared by Juan B. Ordonez, P.E., consisting of 7 sheets, dated stamped received 4/7/03. Except as specified by any zoning resolution applicable to the Property, any future additions on the Property

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.

which conform to the Zoning Code requirements of the Town of Miami Lakes and this approval will not require public hearing action. The plans referenced herein may be modified at public hearing.

Section 5. **Recordation.**

The decision of the Town Council to approve the 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 10th day of July 2003.

Wayne Slaton
WAYNE SLATON, MAYOR

ATTEST:

Beatriz M. Arguelles
BEATRIS M. ARGUELLES, OMC
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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

Motion by Thomson Second by Collins

Council voted <u>7-0</u> as follows:	
Mayor Wayne Slaton	<u>Yes</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>

EXHIBIT "A"

OWNERSHIP AFFIDAVIT
FOR
INDIVIDUAL

STATE OF Florida

Public Hearing No. _____

COUNTY OF Miami-Dade

Carlos R. Zagales &

Before me, the undersigned authority, personally appeared Sylvia M. Zagales
hereinafter the Affiant, who being duly sworn by me, on oath, deposes and says:

1. Affiant is the fee owner of the property, which is the subject of the proposed hearing.
2. The subject property is legally described as:
Lot 26, in Block 2, of Royal Palm North
First Addition, according to the Plat thereof,
as recorded in Plat Book 135 Page 51 of the
PUBLIC RECORDS of Dade County, Florida
3. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:

Rosanna Milian

Signature

Rosanna Milian

Print Name

Nalys Cabrera

Signature

Nalys Cabrera

Print Name

[Signature]

Affiant's signature

Carlos R. Zagales Sylvia M. Zagales

Print Name

Sworn to and subscribed before me on the 13 day of March,
2003. Affiant is personally known to me or has produced _____ as
identification.

Nelsa Garcia
Nelsa Garcia
Notary Public-State of Florida

My Commission Expires:



Nelsa Garcia
MY COMMISSION # DD029933 EXPIRES
June 3, 2005
BONDED THRU TROY FAIN INSURANCE, INC.

EXHIBIT "B"

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

APPLICANT: Carlos & Sylvia Zagales

PH: Z03-108 (03-7-MLB-1)

SECTION: 15-52-40

DATE: July 10, 2003

COMMISSION DISTRICT: 13

ITEM NO.: 1

A. INTRODUCTION

o REQUEST:

Non-use variance of setback requirements to permit a single family residence setback a minimum of 20.33' (25' required) from the front (east) property line.

Plans are on file and may be examined in the Zoning Department entitled "New Residence Owner: Carlos & Sylvia Zagales," as prepared by Juan B. Ordonez, P.E., consisting of 7 sheets, dated stamped received 4/7/03. Plans may be modified at public hearing.

o SUMMARY OF REQUEST:

The request will allow a single family residence, which is under construction, to setback a minimum of 20.33' from the front (east) property line

o LOCATION:

Lying west of N.W. 83 Avenue & approximately 100' north of N.W. 154 Terrace, Miami Lakes, Florida.

o SIZE: 9,400 square feet.

o IMPACT:

The approval of this application will have a minor impact on the surrounding area.

B. ZONING HISTORY:

In 1987 Resolution No. Z-300-87 approved a district boundary change from AU, Agricultural District to RU-1, Single-Family Residential District on a parcel of land of which the subject property is part and parcel. In 1988 Resolution No. 4-ZAB-346-88 approved with conditions a non-use variance of zoning and subdivision regulations to allow lots to front on a private drive and to have access to a public street by means of a private drive, and a special exception to permit the refacing of lots in a platted subdivision.

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 densities

allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 units per gross acre. This density category is generally characterized by single family housing, e.g., single family detached, cluster, zero lot line and townhouses. It could include low-rise apartments with extensive surrounding open space or a mixture of housing types provided that the maximum gross density is not exceeded.

D. NEIGHBORHOOD CHARACTERISTICS:

<u>ZONING</u>	<u>LAND USE PLAN DESIGNATION</u>
<u>Subject Property:</u>	
RU-1; single family residence (under construction)	Residential, 2.5 to 6.0 du
<u>Surrounding Properties:</u>	
NORTH: RU-1; single family residence	Residential, 2.5 to 6.0 du
SOUTH: RU-1; single family residence	Residential, 2.5 to 6.0 du
EAST: RU-1; vacant	Residential, 2.5 to 6.0 du
WEST: RU-1; single family residence	Residential, 2.5 to 6.0 du

The subject property is located within a gated community on the west side of N.W. 83 Avenue, a cul-de-sac road. A single family residence is under construction on the subject property, which is surrounded by existing single family residences, except for the vacant lot to the east.

E. SITE AND BUILDINGS:

Site Plan Review:	
Scale/Utilization of Site:	Acceptable
Location of Buildings:	Acceptable
Compatibility:	Acceptable
Landscape Treatment:	Acceptable
Open Space:	Acceptable
Buffering:	Acceptable
Access:	Acceptable
Parking Layout/Circulation:	Acceptable
Visibility/Visual Screening:	Acceptable
Energy Considerations:	N/A
Roof Installations:	N/A
Service Areas:	N/A
Signage:	N/A
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 Department of Planning and Zoning 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 decision of the Supreme Court is pending, the Court of Appeals' 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 Department of Planning and Zoning 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 a non-use variance of setback requirements to permit a single family residence, which is under construction, to setback a minimum of 20.33' from the front (east) property line where 25' is required.

The Department of Environmental Resources (DERM) has stated that this application meets the minimum requirements of Chapter 24 of the Code and **DERM has no objections** to this application since said application does not entail any environmental concern. The **Public Works Department has no objection** to this application.

Only one corner of the garage of the single family residence which is under construction encroaches 4.67' into the front (east) property line. This encroachment will not be detrimental to the vacant residential parcel to the east, which is on the opposite side of N.W. 83 Avenue. The requested variance of front setback requirements is necessary to allow the siting of the residence on this site. The subject property is located on a cul-de-sac, which in some instances reduces the amount of available space between the front building line of a structure and the front property line of the property.

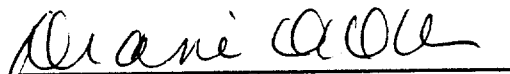
This application is **consistent** with the Comprehensive Development Master Plan (CDMP) and is **compatible** with the neighboring area.

I. **RECOMMENDATION:** Approval with conditions.

J. **CONDITIONS:**

1. That a site plan be submitted to and meet with the approval of 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 not be 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 that submitted for the hearing entitled "New Residence Owner: Carlos & Sylvia Zagales," as prepared by Juan B. Ordonez, P.E., consisting of 7 sheets, dated stamped received 4/7/03. Except as specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to the Zoning Code requirements of the Town of Miami Lakes will not require further public hearing action. Plans may be modified at public hearing.
3. That the use be established and maintained in accordance with the approved plan.

DATE INSPECTED: 06/10/03
DATE TYPED: 06/10/03
DATE REVISED:
DATE FINALIZED: 06/16/03
DO'QW:AJT:MTF:REM:DBM


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



MEMORANDUM



TO: Diane O' Quinn-Williams, Director
Department of Planning and Zoning

DATE: April 30, 2003

RECEIVED

SUBJECT: #Z2003000108
Carlos & Sylvia Zagales
W/O NW 83rd Avenue and N/O NW
154th Street
Approval to Permit a Proposed SFR
that would Exceed Setback
Requirements
(0.22 Ac.) 15-52-40

APR 30 2003
MIAMI-DADE COUNTY
PLANNING & ZONING
OFFICE

FROM: Alyce M. Robertson, Assistant Director
Environmental Resources Management

DERM has reviewed the subject application and has determined that it meets the minimum requirements of Chapter 24 of the Code of the Miami-Dade County, Florida. Accordingly, DERM may approve the application and it may be scheduled for public hearing. DERM has also evaluated the request insofar as the general environmental impact that may derive from it, and based upon the available information offers no objection to its approval.

Potable Water Supply and Wastewater Disposal:

Public water and public sanitary sewers can be made available to this property. Therefore, DERM will require connection to the public water supply and public sanitary sewer systems.

Existing public water and sewer facilities and services meet the Level of Service (LOS) standards set forth in the Comprehensive Development Master Plan (CDMP). Furthermore, the proposed development order, if approved, will not result in a reduction in the LOS standards subject to compliance with the conditions required by DERM for this proposed development order.

Notwithstanding the foregoing, in light of the fact that the County's sanitary sewer system has limited sewer collection/transmission and treatment capacity, no new sewer service connections can be permitted until adequate capacity becomes available. Consequently, final development orders for this site may not be granted unless adequate capacity in the sanitary sewer collection/transmission and treatment system is available at the point in time when the project will be contributing sewage to the system or if approval for alternative means of sewage disposal can be obtained. Use of an alternative means of sewage disposal shall be an interim measure, with connection to the public sanitary sewer system required upon availability of adequate collection/transmission and treatment capacity.

Tree Preservation:

Section 24-60 of the Code requires the preservation of tree resources. 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.

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

PUBLIC WORKS DEPARTMENT COMMENTS

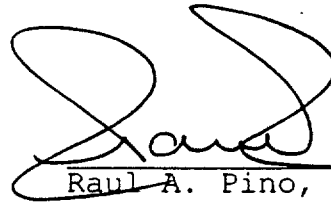
Applicant's Name: Carlos & Sylvia Zagales

This Department has no objections to this application.

This application **does** meet the traffic concurrency criteria for an Initial Development Order. It will generate **2 PM** daily peak hour vehicle trips. The traffic distribution of these trips to the adjacent roadways reveal that the addition of these new trips **does not** exceed the acceptable level of service of the following roadways:

Sta. #		LOS present	LOS w/project
9544	NW 154 St. e/o NW 79 Ave.	D	D

The request herein, constitutes an Initial Development Order only, and one or more traffic concurrency determinations will subsequently be required before development will be permitted.



Raul A. Pino, P.L.S.

JUN. 30 2003

Date

TEAM METRO NORTHWEST OFFICE

ENFORCEMENT HISTORY

CARLOS & SYLVIA ZAGALES

LYING WEST OF NW 83
AVENUE AND
APPROXIMATELY 100' NORTH
OF NW 154 TERRACE, MIAMI
LAKES, FLORIDA

APPLICANT

ADDRESS

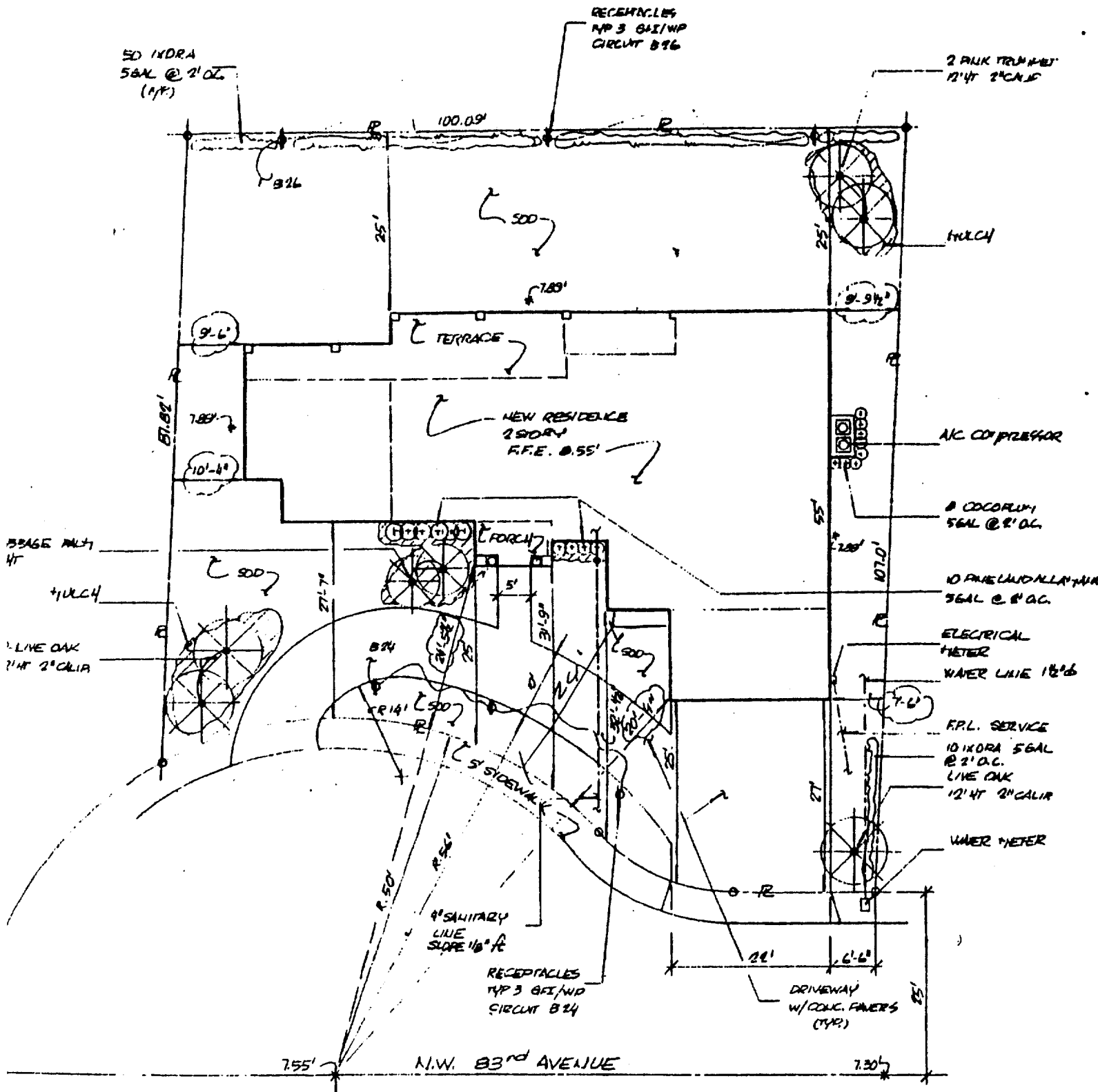
07/10/2003

03-108

DATE

HEARING NUMBER

NO CURRENT ENFORCEMENT ACTION



SITE PLAN

7/32" = 1'-0"

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23-108
APR 07 2003

NORTH

NOTE: SEE ZONING SHEET N

LEGAL DESCRIPTION

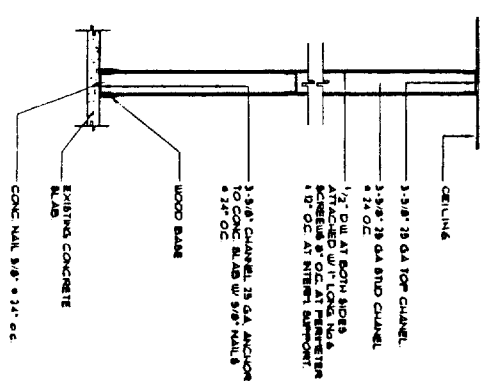
LOT 26 BLOCK 2 ROYAL PALM NORTH FIRST ADDITION
ACCORDING TO THE PLAT THEREOF AS RECORDED IN
PLAT BOOK 135 AT PAGE 51 OF THE PUBLIC RECORDS OF
MIAMI-DADE COUNTY, FLORIDA.

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY: RE

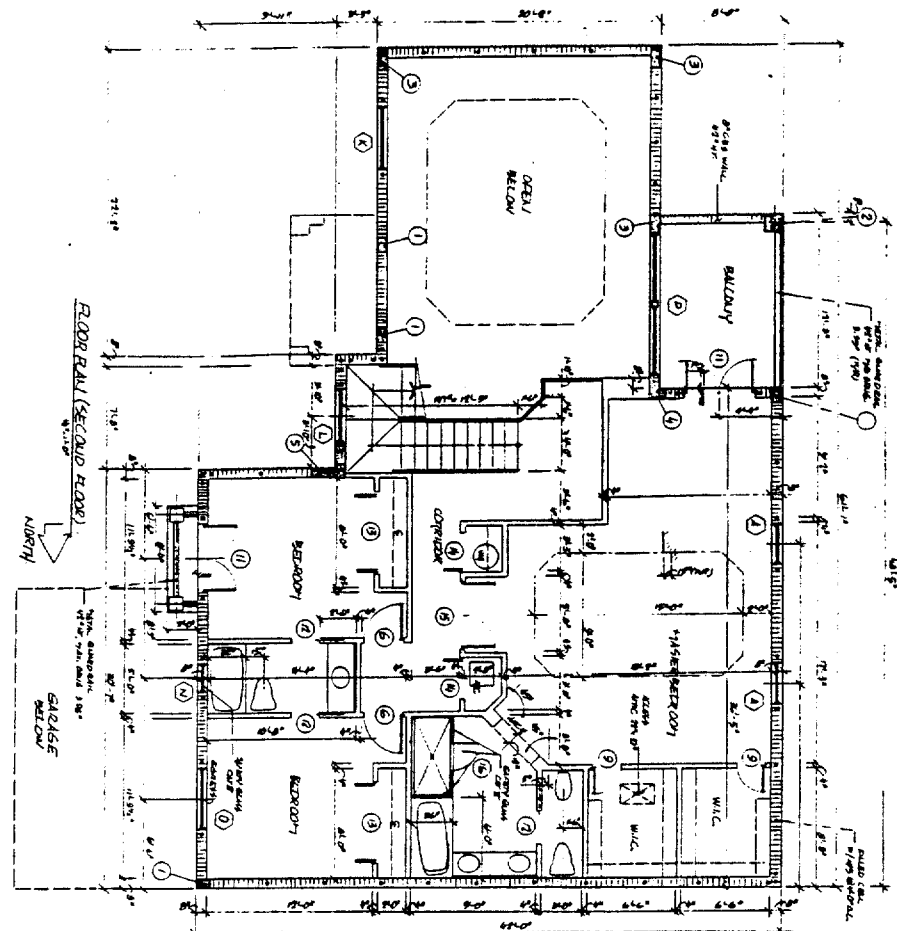
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ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY _____



DETAIL PARTITION



ROOM FINISH SCHEDULE

ROOM	FLOOR	BASE	WALL	CEILING	CEILING HT
LIVING	CF	WOOD	DW	DW	8' 0"
DINING	CF	WOOD	DW	DW	8' 0"
KITCHEN	CF	WOOD	DW	DW	8' 0"
BEDROOM-1	CF	WOOD	DW	DW	8' 0"
BEDROOM-2	CF	WOOD	DW	DW	8' 0"
BATH	CF	WOOD	DW	DW	8' 0"
HALL	CF	WOOD	DW	DW	8' 0"
STAIR	CF	WOOD	DW	DW	8' 0"
W.C.	CF	WOOD	DW	DW	8' 0"
CL. 1	CF	WOOD	DW	DW	8' 0"
CL. 2	CF	WOOD	DW	DW	8' 0"
CL. 3	CF	WOOD	DW	DW	8' 0"

DATE: 11-28-02

OWNER: CARLOS & SILVIA ZOLALES
 17 MIAMI FLORIDA
 PHONE 305 321 0377

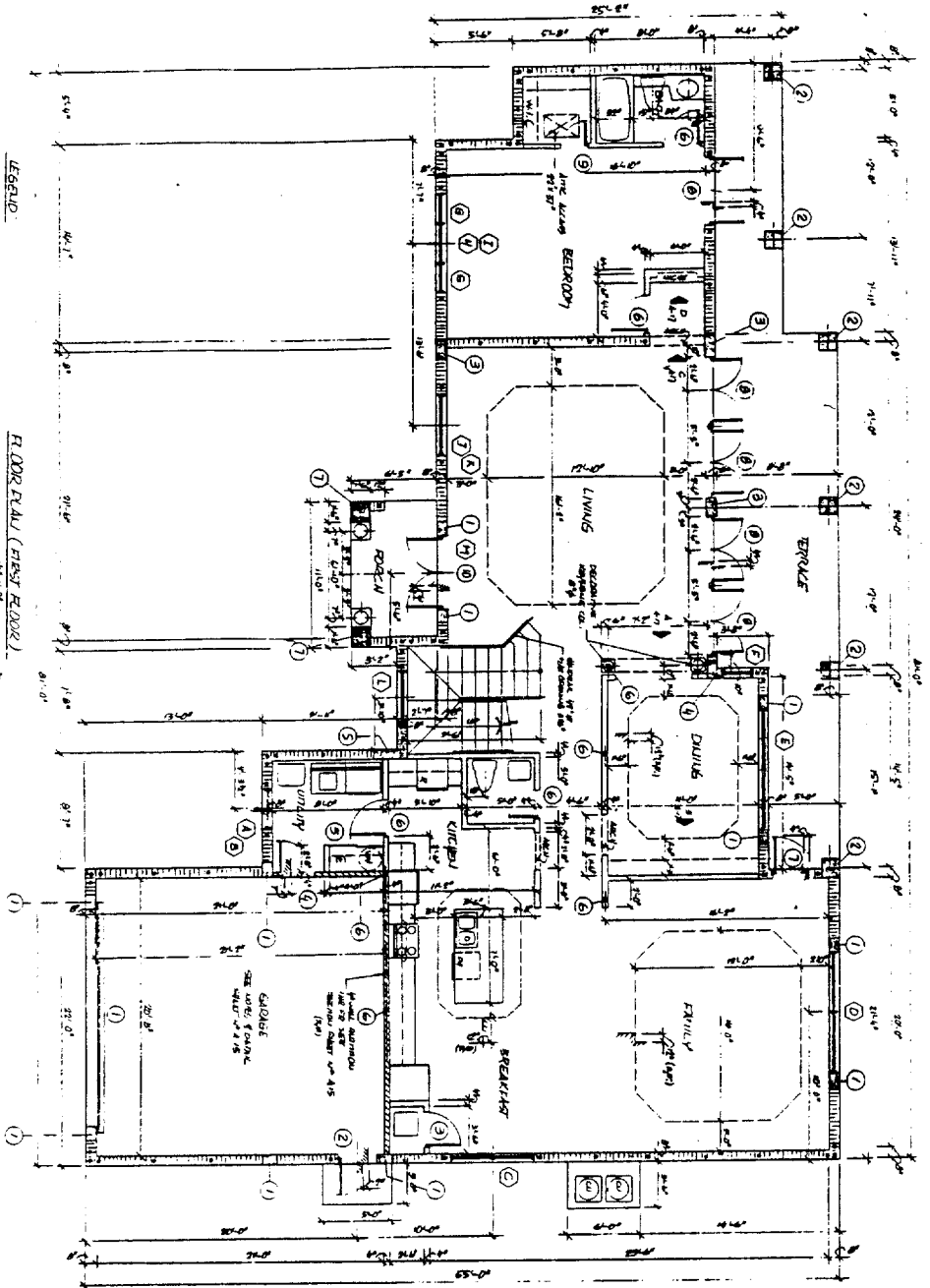
PROJECT: NEW RESIDENCE

DATE: 11-28-02

Admission
 3/31/03

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 203-108

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



LEGEND
 2" O.C. WALL
 4" WALL, INTERIUM
 4" WALL, EXTERIUM
 4" O.C. WALL
 4" O.C. WALL
 4" O.C. WALL

FLOOR PLAN (FIRST FLOOR)

NORTH

WINDOW SCHEDULE

NO.	TYPE	SIZE	REMARKS
1	6" x 6"	6" x 6"	
2	6" x 6"	6" x 6"	
3	6" x 6"	6" x 6"	
4	6" x 6"	6" x 6"	
5	6" x 6"	6" x 6"	
6	6" x 6"	6" x 6"	
7	6" x 6"	6" x 6"	
8	6" x 6"	6" x 6"	
9	6" x 6"	6" x 6"	
10	6" x 6"	6" x 6"	

DOOR SCHEDULE

NO.	TYPE	SIZE	REMARKS
1	6" x 6"	6" x 6"	
2	6" x 6"	6" x 6"	
3	6" x 6"	6" x 6"	
4	6" x 6"	6" x 6"	
5	6" x 6"	6" x 6"	
6	6" x 6"	6" x 6"	
7	6" x 6"	6" x 6"	
8	6" x 6"	6" x 6"	
9	6" x 6"	6" x 6"	
10	6" x 6"	6" x 6"	

Handwritten signature
 3/31/03

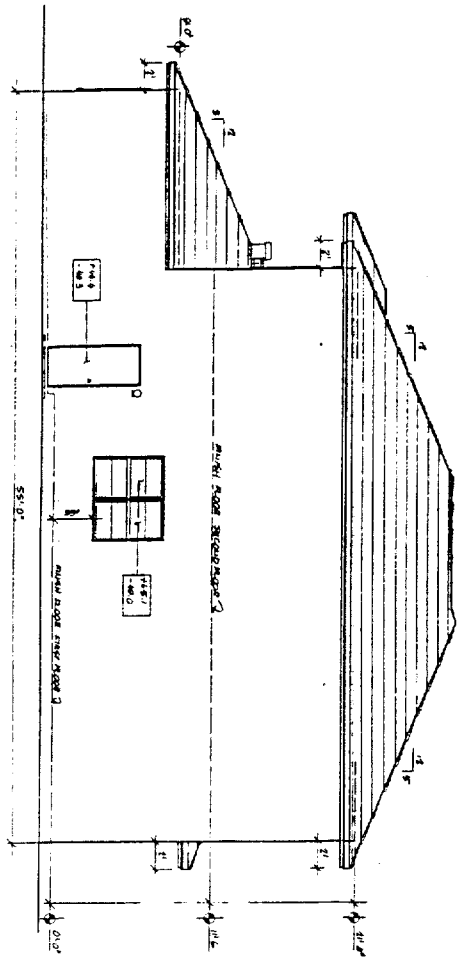
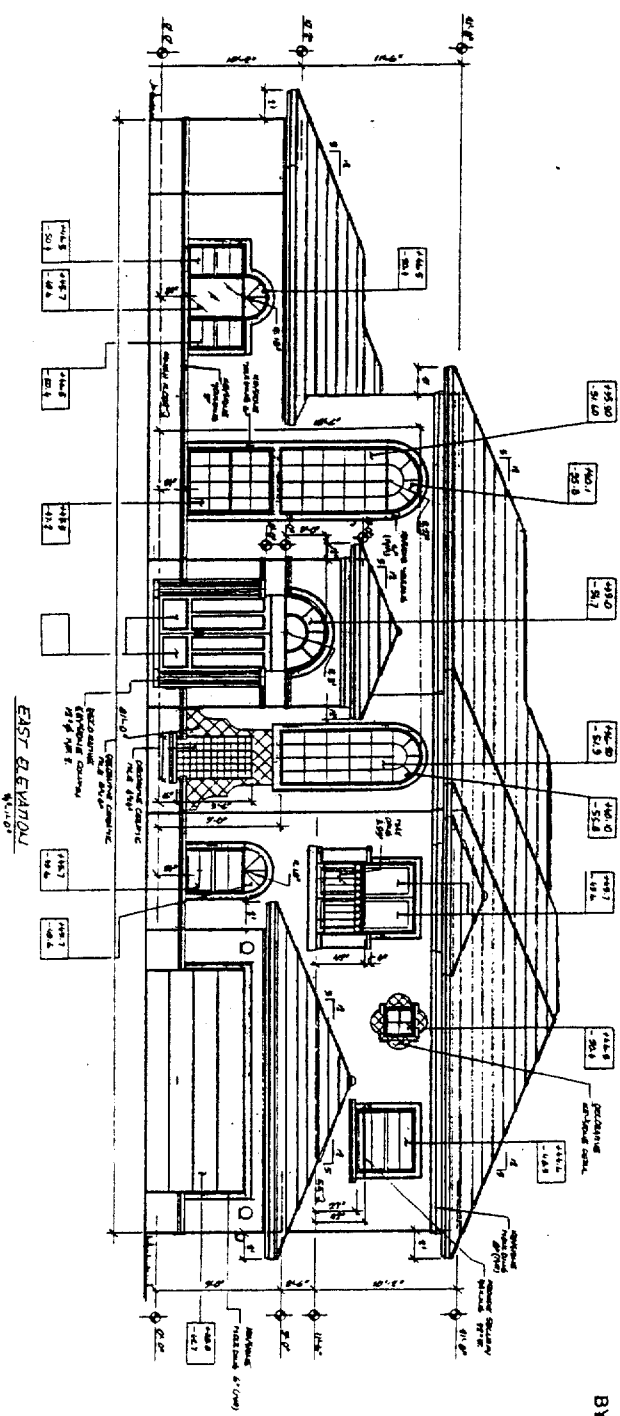
DATE: 11-26-02

OWNER: CARLOS & SILVIA ZAVALA
 1943X N.W. 67TH AVE
 MIAMI, FL 33150
 PHONE: 305-432-0171

DESIGNER: J.D.
 4.3 sheet of 24

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 APR 07 2003

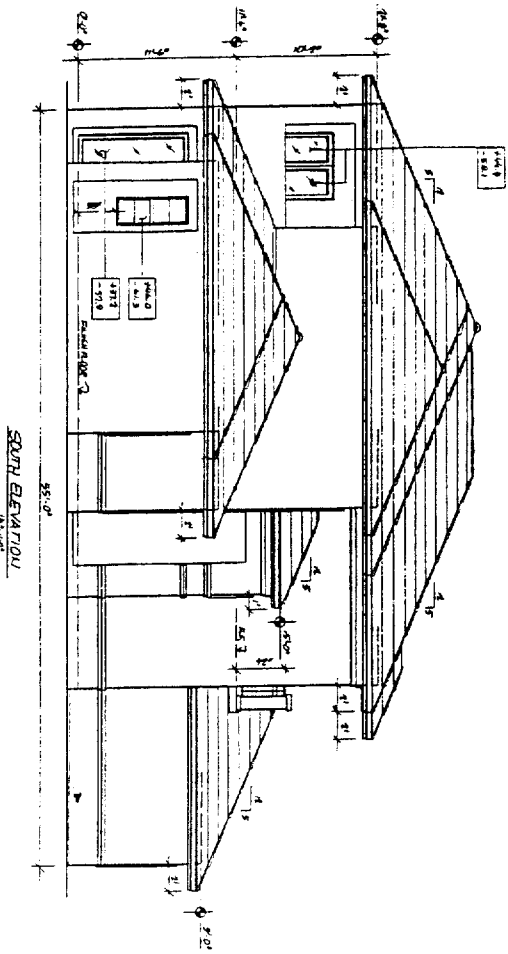
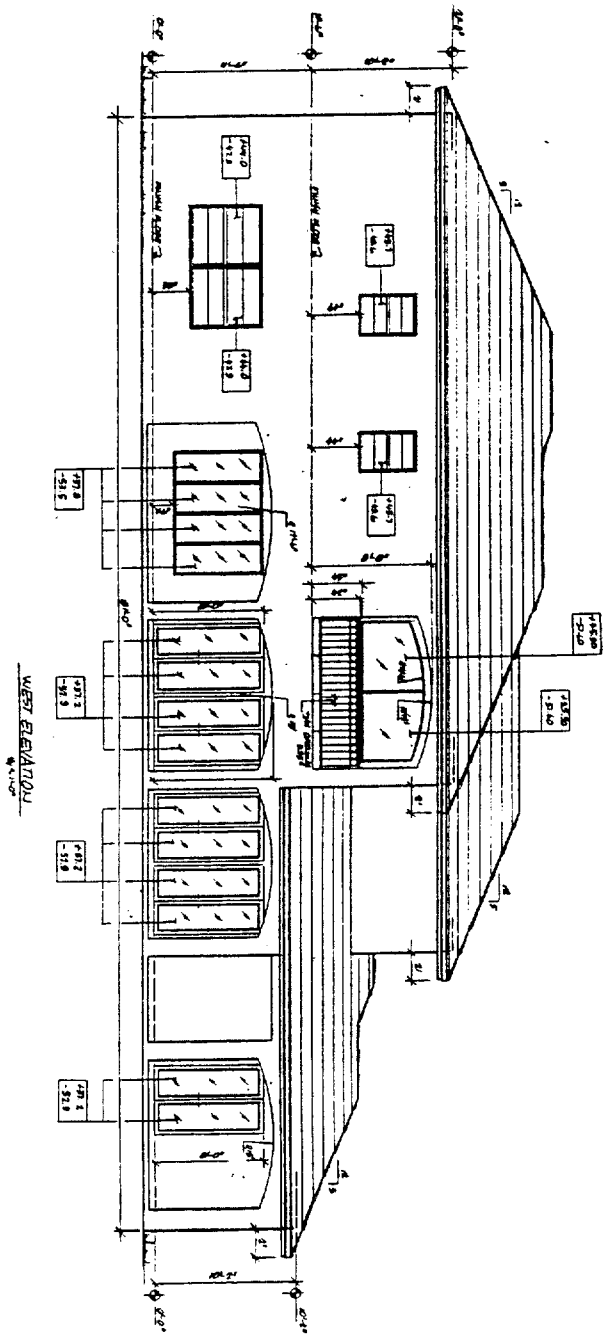
ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY _____



DATE: 2/13/03
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]

DATE: 2/13/03	PROJECT: NEW RESIDENCE	DESIGNER: GRS/L/D
OWNER: CARLOS & SILVIA ZAGALIS	ADDRESS: 19433 N.W. 43RD AVE	DESIGNER: GRS
PHONE: (305) 481-0117		DESIGNER: GRS
		DATE: 2/13/03

Handwritten signature and date:
 Carlos Zagalis
 2/13/03



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

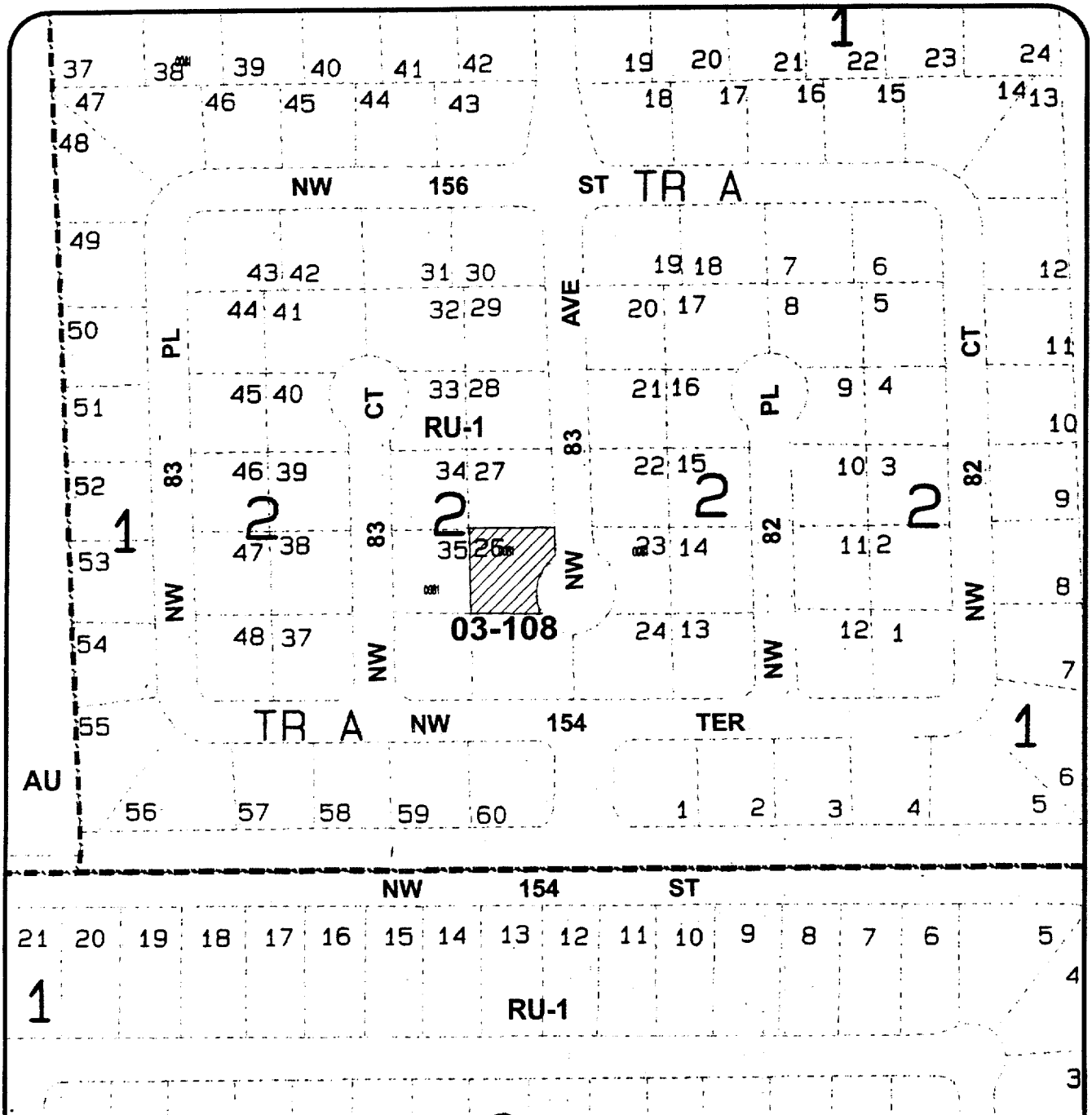
PROJECT
 203-108
 1-11-03

15

Approved
 3/31/03

DATE: 3/31/03
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 PROJECT: NEW RESIDENCE
 ADDRESS: 13420 N.W. 51st Ave., Miami, Florida 33182-1071

DATE: 11-23-02	NEW RESIDENCE	ORDER NO. 42-110
		DRAWN BY: [Signature]
		CHECKED BY: [Signature]
		PROJECT: 13420 N.W. 51st Ave., Miami, Florida 33182-1071



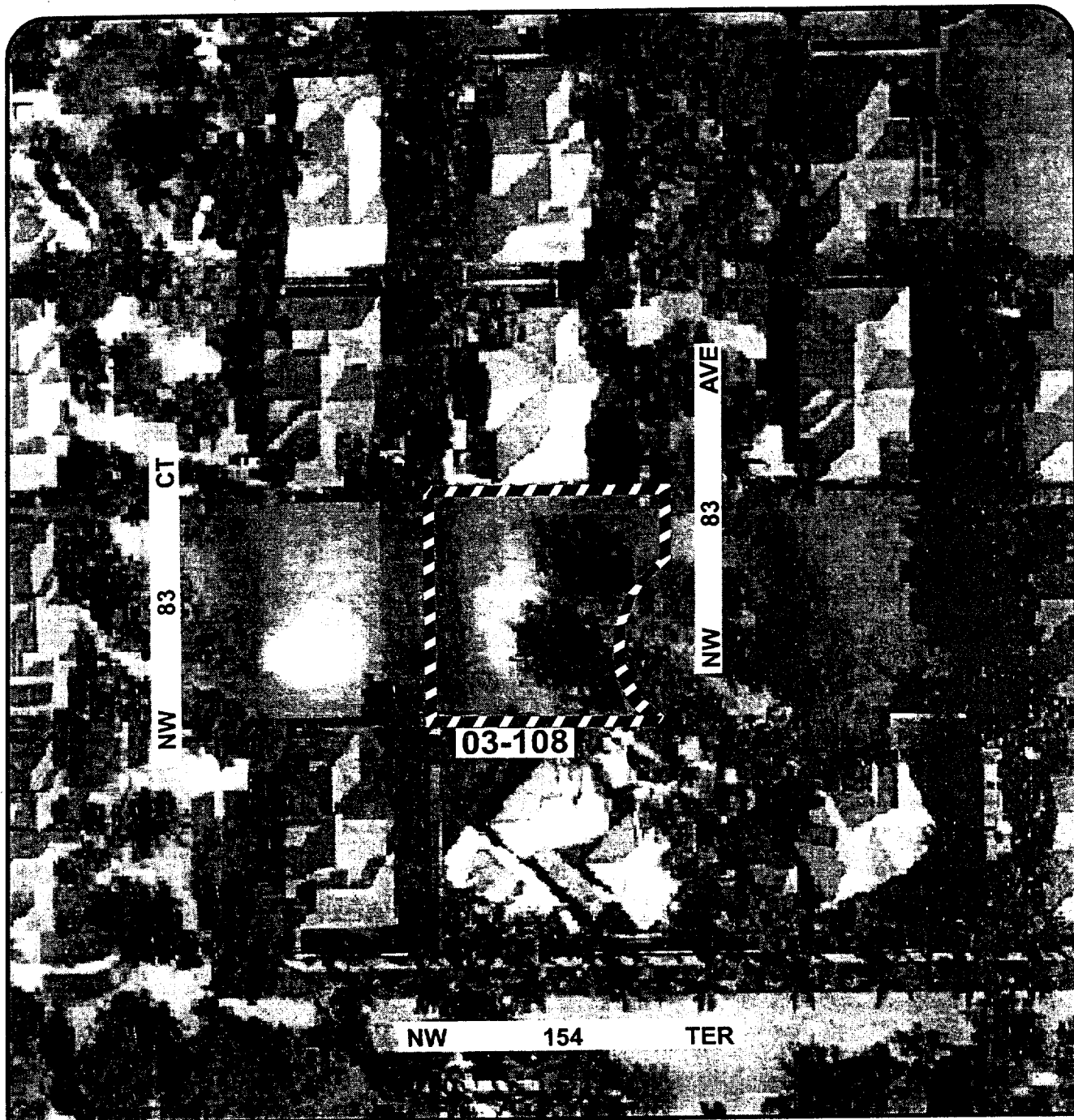
MIAMI-DADE COUNTY
HEARING MAP

Section: 15 Township: 52 Range: 40
 Process Number: 03-108
 Applicant: CARLOS & SYLVIA ZAGALES
 District Number: 13
 Zoning Board: C00
 Drafter ID: ALFREDO
 Scale: 1:200'



 SUBJECT PROPERTY





MIAMI-DADE COUNTY
AERIAL

Section: 15 Township: 52 Range: 40
Process Number: 03-108
Applicant: CARLOS & SYLVIA ZAGALES
District Number: 13
Zoning Board: C00
Drafter ID: ALFREDO
Scale: NTS

S C A L E
0 NTS N



SUBJECT PROPERTY

