

**RESOLUTION NO. 07-561Z**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING WITH CONDITIONS VARIANCE(S) FILED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE TO WAIVE DIVISION 6.5.B.6.c TO PERMIT AN EXISTING CHICKEE HUT ACCESSORY STRUCTURE IN THE RU-1 ZONING DISTRICT WITH (1) 242 SQUARE FEET OF ROOFED AREA WHERE 150 SQUARE FEET OF ROOFED AREA PER STRUCTURE IS PERMITTED; (2) 19 FEET OF HEIGHT WHERE THE MAXIMUM HEIGHT OF AN OPEN SIDED STRUCTURE OR GAZEBO THAT IS PLACED WATERWARD OF THE TOP OF SLOPE IS NOT PERMITTED TO EXCEED 1 STORY WITH A MAXIMUM HEIGHT OF 15 FEET MEASURED FROM THE HEIGHT OF THE UNDISTURBED LAND WHERE IT IS PLACED; (3) 242 SQUARE FEET OF DECK AREA WATERWARD OF THE TOP OF SLOPE WHERE 225 SQUARE FEET OF DECK AREA IS PERMITTED; AND (4) 50 INCHES OF MAXIMUM HEIGHT, WHERE THE MAXIMUM HEIGHT OF DECKS WATERWARD OF THE TOP OF SLOPE THAT DO NOT ALTER THE ESTABLISHED SLOPE IS NOT PERMITTED TO EXCEED A MAXIMUM HEIGHT OF 18 INCHES MEASURED AT ANY POINT ALONG THE DECK, (COLECTIVELY REFERRED TO AS THE "VARIANCE"), FOR PROPERTY LOCATED AT 14021 LEANING PINE DRIVE, MIAMI LAKES, FLORIDA; PROVIDING FINDINGS; PROVIDING FOR APPROVAL WITH CONDITIONS; PROVIDING FOR APPEAL; PROVIDED FOR VIOLATION OF CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, pursuant to Division 3.5 of the Town of Miami Lakes Land Development Code ("Town LDC"), Ramon E. Coto and Libia M. Coto (the "Applicant") has applied to the Town of Miami Lakes ("the Town") for approval of the following variance(s) to waive certain requirements of Division 6.5.B.6.c of the Town LDC to permit an existing Chickee Hut accessory structure in the RU-1 zoning district: (1) with 242 square feet of roofed area where

150 square feet of roofed area per structure is permitted; (2) 19 feet of height where the maximum height of an open sided structure or gazebo that is placed waterward of the top of slope is not permitted to exceed 1 story with a maximum height of 15 feet measured from the height of the undisturbed land where it is placed; (3) 242 square feet of deck area waterward of the top of slope where 225 square feet of deck are is permitted; and (4) 50 inches of maximum height, where the maximum height of decks waterward of the top of slope that do not alter the established slope is not permitted to exceed a maximum height of 18 inches measured at any point along the deck (collectively hereinafter referred to as “the Variance”), for property located at 14021 Leaning Pine Drive, Miami Lakes, Florida, Folio #32-2023-005-0510; legally described as Lot 38, Block 29, of Miami Lakes Section 6, according to the Plat thereof recorded in Plat Book 81, Page 66, of the Public Records of Miami-Dade County, Florida; and

**WHEREAS**, Division 3.5 of the Town LDC sets forth the authority of the Town Council to consider and act upon an application for a Variance; and

**WHEREAS**, in accordance with Division 3.9 of the Town LDC, proper notice has been mailed to the appropriate property owners of record; the public hearing on the Variance has been noticed for Tuesday, August 21, 2007 at 7:00 p.m. at Miami Lakes Middle School, 6425 Miami Lakeway North, Miami Lakes, FL 33014; 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 Staff Analysis and Recommendation (the “Staff Analysis”), attached as Exhibit “A,” and incorporated into this Resolution by 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.**

1. In accordance with Division 3.5(f) of the Town LDC, the Town Council, having considered the testimony and evidence in the record presented by all parties, finds that the Applicant does not meet all of the requirements of Division 3.5(f)(1)(a) thru (g) of the Town LDC, which are as follows:
  - a. Variance Consistent with Authorized Powers. That the variance is in fact a variance as set forth in the Land Development Code and within the province of the Town Council; and
  - b. Existence of Special Conditions or Circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district; and
  - c. Conditions Not Created by Applicant. That the special conditions and circumstances do not result from the actions of the Applicant; and
  - d. Special Privileges Not Conferred. That granting the variance requested will not confer on the Applicant any special privilege that is denied by this Land Development Code to other similarly situated lands, buildings, or structures in the same zoning district; and
  - e. Hardship Conditions Exist. That literal interpretation of the provisions of this Land Development Code would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Land Development Code and would work unnecessary and undue hardship on the applicant. The purchase of property which is an illegal nonconformity with this Land Development Code shall not be considered a hardship for granting of a variance, nor shall conditions peculiar to the property owner be considered; and

- f. Only the Minimum Variance Granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
  - g. Not Injurious to Public Welfare or Intent of the Land Development Code. That the grant of the variance will be in harmony with the general intent and purpose of the Comprehensive Plan and this Land Development Code and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
2. The Applicant does not meet all of the criteria in Division 3.5(f) (1) (a) thru (g) of the Town LDC, but the Town Council determines that:
- a. Objections have not been filed by adjoining or directly affected property owners; and
  - b. Approval of this Variance is justified by practical difficulty on the part of the Applicant.

**Section 3. Approval/Denial.**

The Variance, as described above, is approved with conditions.

**Section 4. Conditions.**

- 1. That the plan be submitted to and meet the approval of the Building Department Director. Upon the submittal of an application for a permit and/or Certificate of Use and Occupancy; said plan to include among other things but not limited thereto, location of structure or structures, exits, entrances, drainage, walls, fences and landscaping.
- 2. That in the approval of the single family residence Chickee Hut structure and deck, the same be in accordance with the plans submitted for the hearing entitled "Sketch of Survey" for 14021 Leaning Pine Drive, Miami Lakes, Fl., as prepared by Enrique Posada Land Surveyor & Mapper, Registered Land Surveyor State of Florida, No. 5662, Job No. 04-19-01-12, and consisting of 1 sheet. The approved gazebo plans shall be substantially in accordance with the plans submitted for the hearing entitled Tiki-Hut for a Residence Located at 14021 Leaning Pine Drive, Miami Lakes, FL. Property of Ramon Coto; Consisting of 1 Sheet; Approving the requested single family residence, 1 story Chickee Hut accessory building and deck with a maximum height of 19 feet setback a minimum of 20 feet from the rear and interior side property lines.

3. The applicant shall record the Resolution in the public records of the Clerk of the Circuit and County Court and shall return the original order to the Town Clerk before a permit is issued for the Chickee Hut accessory building.
4. The applicant shall obtain a permit and all requisite inspections for the requested accessory building, at the size and height approved herein, within 1 year of the date of this approval. If a permit is not obtained or an extension granted within the prescribed time limit then this approval shall become null and void.

**Section 5. Appeal.**

In accordance with Division 3.10 of the Town LDC, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Council by filing a Writ of Certiorari to the Circuit Court of Miami-Dade County, Florida, in accordance with the Florida Rules of Appellate Procedure.

**Section 6. Violation of Conditions.**

Failure to adhere to the terms and conditions of this Resolution shall be considered a violation of the Town LDC and persons found violating the conditions shall be subject to the penalties prescribed by the Town LDC, including but not limited to, the revocation of any of the approval(s) granted in this Resolution. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town LDC before it may commence construction or operation, and that the foregoing approval(s) in this Resolution may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town LDC.

**Section 7. Effective Date.**

This Resolution shall take effect 30 days following the date it is filed with the Town Clerk. If during that time frame, the decision of the Town Council is appealed as provided in the Town LDC and the Florida Rules of Appellate Procedure, the appeal shall stay the effectiveness of this Resolution until said appeal is resolved by a court of competent jurisdiction.

The foregoing Resolution was approved by the application of the practical difficulty standard in Division 3.5(f)(2) of the Town LDC by Mary Collins and Seconded by Richard Pulido, and upon being put to a vote the motion carried with each Council Member voting as follows:


Mayor Wayne Slaton

yes

Vice Mayor Mary Collins            yes  
Councilmember Roberto Alonso    yes  
Councilmember Robert Meador    yes  
Councilmember Michael Pizzi    yes  
Councilmember Richard Pulido    yes  
Councilmember Nancy Simon       absent

PASSED AND ADOPTED this 21st day of August, 2007.

This Resolution was filed in the Office of the Town Clerk on this 30th day of  
August, 2007.

  
\_\_\_\_\_  
Wayne Slaton  
MAYOR

ATTEST:

  
\_\_\_\_\_  
Debra Eastman, MMC  
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR USE ONLY BY THE TOWN OF MIAMI LAKES:


  
\_\_\_\_\_  
Weiss Serota Helfman Pastoriza  
Cole & Boniske, P.L.  
TOWN ATTORNEY



EXHIBIT A

**TOWN OF MIAMI LAKES  
MEMORANDUM**

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**To: Honorable Mayor and Town Council**

**From: Alex Rey, Town Manager**

**Subject: Hearing # - ZH 07-23  
Ramon E. Coto and Libia M. Coto  
14021 Leaning Pine Drive  
Miami Lakes, FL 33014**

**Date: August 21, 2007**

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**Request:**

The applicants, Ramon E. Coto and Libia M. Coto are requesting the following non-use variances to permit the maintenance and continued use of an existing Chickee Hut accessory building and deck in connection with an existing single family residence:

1. A Variance pursuant to Division 3.5 of the Town Code from Division 6.5, of the Town Code for Supplementary Use Regulations, Waterfront Properties:

To permit an existing Chickee Hut accessory building to the RU-1 residence as per Division 6.5.B.6.c, with 242 square feet of roofed area where 150 square feet of roofed area is permitted.

2. A Variance pursuant to Division 3.5 of the Town Code from Division 6.5, of the Town Code for Supplementary Use Regulations, Waterfront Properties:

To permit an existing Chickee Hut one storey accessory building to the RU-1 residence as per Division 6.5.B.6.c, with nineteen feet (19'-0") of maximum height, where the maximum height of an open sided structure or gazebo that is placed waterward of the top of slope is not permitted to exceed one storey with a maximum height of fifteen feet (15'-0") measured from the height of the undisturbed land where it is placed.

3. A Variance pursuant to Division 3.5 of the Town Code from Division 6.5, of the Town Code for Supplementary Use Regulations, Waterfront Properties:

To permit an existing accessory Chickee Hut deck to the RU-1 residence as per Division 6.5.B.6.d.(2), with 242 square feet of deck area waterward of the top of slope where 225 square feet of deck area is permitted.

4. A Variance pursuant to Division 3.5 of the Town Code from Division 6.5, of the Town Code for Supplementary Use Regulations, Waterfront Properties:

To permit an existing accessory Chickee Hut deck to the RU-1 residence as per Division 6.5.B.6.d.(2), with fifty inches (50") of maximum height, where the maximum height of decks waterward of the top of slope that do not alter the established slope is not permitted to exceed a maximum height of eighteen inches (18") measured at any point along the deck.

### **Applicable Code Section:**

#### **Request #1, #2, #3 & #4      Division 6.5 Waterfront Properties**

This division shall govern the placement of accessory improvements and landscaping waterward of the top of the slope or tie line in the rear or side yards of lakefront or canal front properties. This division shall not apply to the placement of accessory improvements landward of the top of the slope of such lakes or canals, which are permitted as accessory structures and uses otherwise under this Code. This division shall also apply to improvements into lakes or canals which are privately or publicly owned or maintained. No permit shall be issued for improvements into a lake or canal until the applicant receives approval from the owner of the portion of the lake or canal or the governmental authority or homeowners association having jurisdiction over the portion of the lake or canal where the proposed improvements will be constructed.

6. The placement of the following accessory improvements and landscaping shall be permitted waterward of the top of slope on a lot, parcel or tract, subject to the following conditions:



a. Docks

- (1) Docks shall either be floated or be placed on pilings at right angles to the water's edge or shoreline, except as otherwise provided herein.
- (2) The width of all docks on a single lot, parcel or tract collectively shall not exceed thirty (30) percent of the lot's width at the water's edge. However, a dock that is placed parallel to the lot and that does not extend more than six (6) feet beyond the water's edge may exceed 30% of the lot's width but may not encroach into the required side setbacks for docks in this section.
- (3) No dock shall project past the water's edge more than one-half (1/2) the length of the lot's shoreline frontage as measured at the water's edge, or twenty (20) percent of the lake or canal width at its widest point, whichever is smaller. In no event shall a dock exceed twenty-five (25) feet in length. For purposes of this section, the length shall be the perpendicular dimension measured from the water's edge (the average low ground water elevation) to the farthest point of the dock (including floating docks) extending into the lake.
- (4) Docks in all zoning districts shall be setback 7.5' on interior side property lines and 15' on side property lines facing a street.
- (5) Only one (1) dock shall be permitted for each principal building on the subject lot, parcel or tract.
- (6) Enclosed or roofed structures, open sided gazebos shall not be permitted on docks or waterward of the water's edge.

b. Landscaping, Hedges, Rocks, Rip Rap, Bulkheads

- (1) Landscaping or hedges waterward of the top of slope but landward of the water's edge are allowed; however, hedges or mass plantings shall be placed no closer than ten (10) feet from the water's edge. No hedge or mass plantings shall exceed two and a half (2 1/2) feet in height waterward of the top of the slope. Fences, wall or rocks arranged to form a fence or wall or objects which restrict access or block views from adjacent properties are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.
- (2) A Rip-rap, interlocking block, concrete, wood or similar material bulkhead running parallel to the water's edge is permitted waterward of the top of slope. The bulkhead shall not extend more than one (1) foot below the water's edge and no higher than one (1) foot above the existing grade.

c. Open Sided Structures, Gazebos  
(See Attachment A: Division 6.5 Waterfront Properties)

(1) Only one open sided structure shall be permitted waterward of the top of slope but landward of the water's edge, subject to compliance with the side setback requirements for decks in this section and accessory building lot coverage requirements of the zoning district in which the structure is located; provided, however, the rear setback requirement from the water's edge shall be zero (0) feet. In no event shall an open sided structure or gazebo that is placed waterward of the top of slope exceed fifteen (15) feet in height, measured from the height of the undisturbed land where it is placed, nor shall it exceed 150 square feet in area. Open sided structures, with the exception of chickee huts as defined in this code, shall be constructed and finished to match the existing residence (including roofing material) or designed in an architectural style complimentary to the existing residence. (See Attachment B: Division 4.2.E; Development Regulations for Single Family and Two Family Districts)

d. Steps and Decks

- (1) At grade steps no wider than four (4) feet, and leading from the top of the slope or tie line towards the lake, dock, open sided structure, gazebo or deck, shall be permitted waterward of the top of slope and landward of the water's edge.
- (2) Decks that do not alter the established slope by more than eighteen (18) inches at any point along the deck, with a maximum size of 225 sq. ft. per lot or parcel, including the footprint of a gazebo, shall be permitted waterward of the top of slope. The deck area shall be set back a minimum of 7.5' from the interior side property lines and 15' from a side facing a street and subject to all lot coverage requirements for impervious area contained else where in this code.

**Background:** *Folio No. 32-2023-005-0510*

**Legal Description:**

MIAMI LAKES SECTION 6 PB 81-66 LOT 38 & INT IN & TO LAKE BLK 29 LOT SIZE SITE  
VALUE F/A/U 30-2023-005-0510 OR 19649-0127

**Zoning of Property:** RU-1 – Single Family Residential

**Future Land Use Designation:**

The future land use designation In the Town's Comprehensive Plan for the  
Subject property: LD – Low Density Residential and the property is zoned  
(RU-1 – Single Family Residential)

**Surrounding Property:**

North: Low Density Residential; (RU-1)  
East: Low Density Residential; (Lake)  
South: Low Density Residential; (RU-1)  
West: Low Density Residential; (RU-1)

Low Density (LD) - The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 6.0 dwelling 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.

**Subject Property:**

The subject property is a residential parcel and is located within a fully developed residential subdivision. The applicant's property is a one story, 4 bedroom, 2 bath residence located on the east side of Leaning Pine Drive. The residence as per County Tax Assessors records contains approximately 2,751 sq. ft and was constructed in 1967. An existing Chickee Hut accessory building as shown on the enclosed pictures is situated on the southeast corner of the subject property.

**Subject Property Location Map:**



**Open Violations / Zoning History:**

There are no open permits or violations on the subject property.

**Typical Deed Restrictions Summary:**

The following deed restriction data is provided for informational purposes only, and shall not be considered by the Council in providing its determination.

Typical deed restrictions in the area provided that for gazebos and other similar constructed elements the plans, specifications, and location of all contemplated improvements and modifications shall meet the requirements of all applicable local codes and ordinances of the local governing agency issuing permits for construction. This application is part of the process in terms of assuring that the accessory building to the subject property is properly permitted.



## **Proposal:**

The applicant is proposing to permit a Chickee Hut accessory building and deck area with 242 square feet of roofed area and a maximum height of 19'-0". The Chickee Hut will provide additional outdoor living space for the applicant. The Land Development Code RU-1 zoning requirements as per Ordinance 04-64 for the Town of Miami Lakes provides that an accessory building to the single family residence shall be permitted with a maximum height of fifteen (15'-0") feet, and shall not exceed one-hundred fifty (150) square feet of roofed area including roof overhangs. The Chickee Hut will be comprised of an open sided seating area 242.00 square feet in size and will be situated along side the water's edge. The 242 square foot Chickee Hut deck area is constructed at a height of 50 inches from the established slope where a deck height of 18 inches is permitted, the overall height of 19 feet exceeds the maximum permitted height of 15' feet for the structure. This application will allow the subject over sized Chickee Hut to be permitted to be situated on the southeast corner of the subject property along the water's edge.

## **Variance Criteria:**

Division 3.5(f) of the Town Code allows the Council to approve non-use variances based upon seven hardship criteria.

Notwithstanding the hardship criteria should the Town Council by extraordinary (5 votes) vote determine that the variance is justified by practical difficulty on the part of the applicant, and no objections from adjoining or directly affected property owners have been filed to the application, a variance may be approved as requested or approved with conditions.

## **Compliance of request with variance criteria:**

- a. Variance Consistent with Authorized Powers. **YES** – The variance requests are correctly in front of the Council.
- b. Existence of Special Conditions or Circumstances. **NO** – The property is the same size and shape as other lots in the subdivision.
- c. Conditions Not Created by Applicant. **NO** – The applicant could comply with the requirements to what is permitted by code.
- d. Special Privileges Not Conferred. **NO** – If hardship variances are granted the property would have a special privilege that is denied by this Land Development Code to other similarly situated lands, buildings, or structures in the same zoning district.

- e. Hardship Conditions Exist. **NO** - A literal interpretation of the provisions of this Land Development Code would not deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Land Development Code and would not create unnecessary and undue hardship on the applicant.
- f. Only the Minimum Variance Granted. **NO** - The requested variances are not necessary to allow the reasonable use of the land, building, or structure.
- g. Not Injurious to Public Welfare or Intent of the Land Development Code. **YES** - If granted the variances will not be injurious to the area involved or otherwise detrimental to the public welfare.

Based on the above review, it is staff's opinion that the variance requests do not meet all of the hardship variance criteria. However, should the Council desire to approve the application by practical difficulty on part of the applicant and approve by extraordinary (5 votes) vote of the Council the following analysis is provided.

### **Analysis:**

The oversized subject parcel of land is located at 14021 Leaning Pine Drive, with approximately 10,687.5 square feet of lot area. The Town's Comprehensive Development Plan (CDP) designates the subject property for low density residential development which permits up to a maximum of 6.0 dwelling units per gross acre. The variance requests for the subject residence within this development is consistent with the CDP and does not create any impact on the levels of service (LOS) standards.

The applicant is proposing to permit an existing Chickee Hut with 242 square feet of roofed area and a maximum height of 19'-0", on a deck 50 inches in height. The Land Development Code RU-1 zoning requirements as per Ordinance 04-64 for the Town of Miami Lakes provides that an accessory building to the single family residence shall be permitted with a maximum height of fifteen (15'-0") feet, and shall not exceed one-hundred fifty (150) square feet of roofed area including roof overhangs. Staff notes that the subject property is a waterfront parcel of land located with the rear yard facing Lake Adele, and that the proposed Chickee Hut to the single family residence will be located with ample interior side setbacks of approximately 20'-0" (twenty feet) from the interior side property lines where 7'-5" feet minimum setbacks are required (See Attachment A & B: Development Regulations)

The Chickee Hut will be comprised of an open sided seating area and deck area measuring 242.00 square feet in size. The 242.00 square foot Chickee Hut deck area is constructed at a height of 50 inches from the established slope where a deck height of 18 inches is permitted. This application will allow the subject over sized Chickee Hut to be permitted to be situated on the southeast corner of the subject property along the water's edge.

The approval of this application will allow the above mentioned accessory Chickee Hut building and deck to this single family residence which would provide additional outdoor living space for the residents. Staff is of the opinion that the accessory Chickee Hut building request should be approved due to the over-sized lot's waterward location, and proposed ample setbacks which diminish the impact of the subject Chickee Hut on nearby properties. The Chickee Hut is proposed at a size of 242 square feet which comprises approximately 12.9% lot coverage of the required rear yard (75'x25 '= 1,875 square foot rear yard) where a typical RU-1 required rear yard would be allowed up to 20% lot coverage for accessory structures. Additionally, staff feels that the requested height variance to permit 19'-0" where 15'-0" required is minor and should be approved subject to the ample setbacks in order to limit the Chickee Hut's impact to surrounding properties. The impact to surrounding properties is further minimized due to the fact that the rear yard faces Lake Adele. Therefore approval of request #1 for the additional size to allow 242 square feet of roof area including roof overhangs for the Chickee Hut, where 150 square feet of roof area is permitted and request #2 for the 19'-0" height is recommended. Also recommended for approval are requests #3 & #4 for the deck area of 242 square feet in size where 225 square feet in size is permitted, and the deck height of 50 inches where a maximum deck height of 18 inches is permitted. Staff notes that this application with the proposed setbacks would be compatible with the area minimizing aural and visual impact on the adjacent properties while affording the applicant reasonable use of this land. Accordingly, staff recommends approval of the subject request with conditions.

**Recommendation:** Approval of Request #1, #2, #3, and #4 with Conditions

**Conditions:**

1. That the site plan be submitted to and meet the approval of the Building Department Director. Upon the submittal of an application for a permit and/or Certificate of Use and Occupancy; said plan to include among other things but not limited thereto, location of structure or structures, exits, entrances, drainage, walls, fences, landscaping.
2. That in the approval of the single family residence Chickee Hut structure and deck, the same be in accordance with the plans submitted for the hearing entitled "Sketch of Survey" for 14021 Leaning Pine Drive, Miami Lakes Fl., as prepared by Enrique Posada Land Surveyor & Mapper, Registered Land Surveyor State of Florida, No. 5662, Job No. 04-19-01-12, and consisting of 1 sheet. The approved gazebo plans shall be substantially in accordance with the plans submitted for the hearing entitled Tiki-Hut for a Residence Located at 14021 Leaning Pine Drive, Miami Lakes, Fl. Property of Ramon Coto; Consisting of one sheet; Approving the requested single family residence, one-storey chikee hut accessory building and deck with a maximum height of nineteen feet (19'-0"), setback a minimum of twenty feet (20'-0") from the rear and interior side property lines.



3. The applicant shall record the Resolution in the public records of the Clerk of the Circuit and County Court and shall return the original order to the Town Clerk before a permit is issued for the Chickee Hut accessory building.
4. The applicant shall obtain a permit and all requisite inspections for the requested accessory building, at the size and height approved herein, within one year of the date of this approval. If a permit is not obtained or an extension granted within the prescribed time limit then this approval shall become null and void.

**AR:MIC**

## **ATTACHMENT A: Division 6.5 Waterfront Properties**

This division shall govern the placement of accessory improvements and landscaping waterward of the top of the slope or tie line in the rear or side yards of lakefront or canal front properties. This division shall not apply to the placement of accessory improvements landward of the top of the slope of such lakes or canals, which are permitted as accessory structures and uses otherwise under this Code. This division shall also apply to improvements into lakes or canals which are privately or publicly owned or maintained. No permit shall be issued for improvements into a lake or canal until the applicant receives approval from the owner of the portion of the lake or canal or the governmental authority or homeowners association having jurisdiction over the portion of the lake or canal where the proposed improvements will be constructed.

### **A. Definitions**

1. **Watercraft:**

Any boat, dinghy, raft, or other vessel or structure of any size, shape, material or configuration which is designed to float or travel on water and carry or transport one or more persons on water, whether or not it is motorized.

2. **Lake:**

A lake is a body of water, whether or not connected to a canal or other body of water and all water areas specified on a plat to the shoreline, whether or not the water area is over a portion of a lot. When a lake abuts a body of water designated by a governmental authority to be within the geographical limits of or defined as a canal, that portion designated as a canal shall not be considered a part of a lake unless that body of water is specifically designated as such herein.

3. **Waterfront Lot:**

A waterfront lot is a lot any part of which touches the high water mark of a lake, or a lot which has a sea wall beyond which is a lake, canal or other body of water.

4. **Water's edge:**

The water's edge is defined as the average high ground water elevation. For properties originally developed with a bulkhead or seawall, the water's edge shall be the waterside of the existing bulkhead or seawall.

5. **Top of Slope:**

The survey tie line shown on the plat or the established point on the lot or property where the elevation of the property starts sloping towards the water's edge. In the event that the survey tie line and actual top of slope shown on the survey differ, the top of slope for zoning purposes will be determined by the Administrative Official.

6. **Dock:**

That portion of a horizontal deck or structure constructed on pilings, floated or cantilevered past the water's edge into a lake or canal.

## B. Development and Use Restrictions

1. In all zoning districts, allowable structures and improvements waterward of the top of the slope or waterward of a bulkhead on a lake or canal shall require approval through the Site Plan Review process.
2. No powerboat or other mechanically powered water craft or device propelled by anything other than manpower, sail or 12 volt electric trolling motor shall be used or operated on a privately owned lake. Where a lake abuts a body of water designated by a governmental authority to be within the geographical limits of or defined as a canal, power boats or mechanically powered craft are permitted.
3. Shoreline contours and established slopes of any lake or canal and the lots above or below water may not be changed or modified with the exception of interlocking block, concrete, wood or similar material bulkheads or decks as permitted in this division.
4. Townhouse properties that have side privacy walls extending past the residence towards the lake may construct decks between the walls that modify the established slope.
5. No lot shall be increased in size by filling in the water upon which it abuts.
6. The placement of the following accessory improvements and landscaping shall be permitted waterward of the top of slope on a lot, parcel or tract, subject to the following conditions:
  - a. Docks
    - (1) Docks shall either be floated or be placed on pilings at right angles to the water's edge or shoreline, except as otherwise provided herein.
    - (2) The width of all docks on a single lot, parcel or tract collectively shall not exceed thirty (30) percent of the lot's width at the water's edge. However, a dock that is placed parallel to the lot and that does not extend more than six (6) feet beyond the water's edge may exceed 30% of the lot's width but may not encroach into the required side setbacks for docks in this section.
    - (3) No dock shall project past the water's edge more than one-half (1/2) the length of the lot's shoreline frontage as measured at the water's edge, or twenty (20) percent of the lake or canal width at its widest point, whichever is smaller. In no event shall a dock exceed twenty-five (25) feet in length. For purposes of this section, the length shall be the perpendicular dimension measured from the water's edge (the average low ground water elevation) to the farthest point of the dock (including floating docks) extending into the lake.

- (4) Docks in all zoning districts shall be setback 7.5' on interior side property lines and 15' on side property lines facing a street.
- (5) Only one (1) dock shall be permitted for each principal building on the subject lot, parcel or tract.
- (6) Enclosed or roofed structures, open sided gazebos shall not be permitted on docks or waterward of the water's edge.

b. Landscaping, Hedges, Rocks, Rip Rap, Bulkheads

- (1) Landscaping or hedges waterward of the top of slope but landward of the water's edge are allowed; however, hedges or mass plantings shall be placed no closer than ten (10) feet from the water's edge. No hedge or mass plantings shall exceed two and a half (2 ½) feet in height waterward of the top of the slope. Fences, wall or rocks arranged to form a fence or wall or objects which restrict access or block views from adjacent properties are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.
- (2) A Rip-rap, interlocking block, concrete, wood or similar material bulkhead running parallel to the water's edge is permitted waterward of the top of slope. The bulkhead shall not extend more than one (1) foot below the water's edge and no higher than one (1) foot above the existing grade.

c. Open Sided Structures, Gazebos

- (1) Only one open sided structure shall be permitted waterward of the top of slope but landward of the water's edge, subject to compliance with the side setback requirements for decks in this section and accessory building lot coverage requirements of the zoning district in which the structure is located; provided, however, the rear setback requirement from the water's edge shall be zero (0) feet. In no event shall an open sided structure or gazebo that is placed waterward of the top of slope exceed fifteen (15) feet in height, measured from the height of the undisturbed land where it is placed, nor shall it exceed 150 square feet in area. Open sided structures, with the exception of chickee huts as defined in this code, shall be constructed and finished to match the existing residence (including roofing material) or designed in an architectural style complimentary to the existing residence.

d. Steps and Decks

- (1) At grade steps no wider than four (4) feet, and leading from the top of the slope or tie line towards the lake, dock, open sided structure, gazebo or deck, shall be permitted waterward of the top of slope and landward of the water's edge.

- (2) Decks that do not alter the established slope by more than eighteen (18) inches at any point along the deck, with a maximum size of 225 sq. ft. per lot or parcel, including the footprint of a gazebo, shall be permitted waterward of the top of slope. The deck area shall be set back a minimum of 7.5' from the interior side property lines and 15' from a side facing a street and subject to all lot coverage requirements for impervious area contained else where in this code.

e. Boat Ramps

- (1) Boat ramps shall be permitted providing no filling of the slope area occurs. Ramps shall be set back a minimum of seven and one half (7.5') feet from adjacent properties.

- (2) Filling waterward of the top of slope shall be prohibited.

7. Structures or improvements other than those specifically listed above are prohibited from placement within the area waterward of the top of slope.

C. Nonconforming structures or improvements that were constructed without a building permit waterward of the top of the slope.

1. Notwithstanding the provisions of Subsection B above, existing structures or improvements located waterward of the top of the slope that have modified the existing slope of the lake or canal and that can be shown to have existed prior to December 5, 2000 and that did not receive building permits from the County may be considered legal nonconforming structures with respect to all zoning requirements in this division provided that the owner of the property complies with the following:

- a. Provide proof such as but not limited to aerial photographs, signed and sealed surveys, photographs, and affidavits from previous owners or neighboring property owners that the improvements or structures in question existed prior to December 5, 2000.
- b. The property owner shall apply for site plan approval within nine (9) months of the adoption date of this ordinance and receive approval for the existing nonconforming structures or improvements through the site plan review process. As part of the site plan analysis and approval process, the Town may attach conditions or recommend changes to the existing improvements shown on the site plan to mitigate any impacts on adjacent properties or lake.
- c. Obtain all required building permits and a Certificate of Completion or Certificate of Occupancy, as required.
- d. Complete the above requirements, including any conditions required as part of the site plan review process, within one year of the date of the adoption of this ordinance.

2. Fences or walls constructed along the side property line or parallel to the waters edge past the top of the slope without a building permit may not be legalized through the process in C(1) and must be removed. Hedges that do not comply with the regulations contained in this section must be removed or trimmed and may not be legalized through this process.

**ATTACHMENT B:**

**4.2.E. Development Regulations for Single Family and Two Family Districts**

	<u>Min. Lot Size</u>	<u>Min. Lot Width (4)</u>	<u>Front Setback (5)</u>	<u>Rear Setback (7)</u>	<u>Interior Side Setback</u>	<u>Street Side Setback</u>	<u>Max. Lot Coverage (1) (2) (3)</u>	<u>Building Size</u>	<u>Max. Height (6)</u>
<b>RU-1</b>	7,500 sq. ft.	75'	25'	25'	10% of lot width, 5' min. 7.5' Max.	15'	40% for 1 story/ 35% for 2 story	2,000 sq. ft. min.	35' 2 stories
<b><u>RU-1 Access. Structures</u></b>			Not permitted	5'	5'	15'	20% of required rear yard	150 sq. ft. max. size per structure	15' 1 story
<b>RU-1B</b>	6,000 sq. ft.	60'	25'	25'	6'	10'	40%	1800 sq. ft. min.	35' 2 stories
<b><u>RU-1B Access. Structures</u></b>			Not permitted	5'	5'	10'	20% of required rear yard	150 sq. ft. max. size per structure	15' 1 story
<b>RU-1A</b>	5,000 sq. ft.	50'	25'	25'	5'	10'	40%	1700 sq. ft. min.	35' 2 stories
<b><u>RU-1A Access. Structures</u></b>			Not permitted	5'	5'	10'	20% of required rear yard	150 sq. ft. max. size per structure	15' 1 story
<b>RU-1Z</b>	4,500 sq. ft.	45'	20'	10' one story/ 15' two story	0' / 10'	<b>15'</b>	50%	1500 sq. ft. min.	35' 2 stories
<b><u>RU-1Z Access. Structures</u></b>			Not permitted	5'	5'	15'	20% of required rear yard	75 sq. ft. max. size per structure	15' 1 story
<b>RU-2</b>	7,500 sq. ft.	75'	25'	25'	7.5'	15'	40% for 1 story/ 35% for 2 story	900 sq. ft. min. per unit	35' 2 stories
<b><u>RU-2 Access. Structures</u></b>			Not permitted	5'	5'	15'	20% of required rear yard	150 sq. ft. max. size per structure	15' 1 story