

RESOLUTION NO. 07- 595Z

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING WITH CONDITIONS VARIANCES SUBMITTED IN ACCORDANCE WITH DIVISION 3.5 OF THE TOWN OF MIAMI LAKES LAND DEVELOPMENT CODE TO WAIVE 1) DIVISION 6.5.B.6.d(2) TO PERMIT A WATERSIDE DECK WITH 1,695.75 SQUARE FEET OF DECK AREA WATERWARD OF THE TOP OF THE SLOPE WHERE 225 SQUARE FEET OF DECK AREA IS PERMITTED; 2) DIVISION 5.9.B.1.b TO PERMIT A FENCE 25 FEET 4 INCHES BEYOND THE TOP OF SLOPE TOWARD THE LAKE OR WATERSIDE OF THE SURVEY TIE LINE WHERE FENCES OR WALLS ARE NOT PERMITTED BEYOND THE TOP OF THE SLOPE TOWARD THE LAKE, OR WATERSIDE OF THE SURVEY TIE LINE; 3) DIVISION 5.7.A.3 TO PERMIT A PAVED REAR DECK SETBACK 4.25 FEET FROM THE INTERIOR SIDE (EAST) PROPERTY LINE WHERE 5 FEET IS PERMITTED; 4) DIVISION 5.7.A.3 TO PERMIT A PAVED REAR DECK SETBACK 4.25 FEET FROM THE INTERIOR SIDE (WEST) PROPERTY LINE WHERE 5 FEET IS PERMITTED; AND 5) DIVISION 5.7.A.5 TO PERMIT LOT COVERAGE OF 70.5% FOR IMPERVIOUS AREAS WHERE 50% IS PERMITTED, FOR A SINGLE FAMILY RESIDENCE IN THE RU-1 ZONING DISTRICT (COLLECTIVELY REFERRED TO AS THE "VARIANCE"), FOR PROPERTY LOCATED AT 8020 NW 166<sup>TH</sup> STREET, MIAMI LAKES, FLORIDA; PROVIDING FINDINGS; PROVIDING FOR APPROVAL WITH CONDITIONS; PROVIDING FOR APPEAL; PROVIDING 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 (the "Town LDC"), Pedro Alvarez and Marianela Alvarez (the "Applicant") has applied to the Town of Miami Lakes (the "Town") for approval of several variances to waive requirements of 1) Division 6.5.B.6.d(2) to permit a waterside deck with 1,695.75 square feet of deck area waterward of the top of the slope where 225 square feet of deck area is permitted; 2) Division 5.9.B.1.b to permit a fence 25 feet 4 inches beyond the top of slope toward the lake or waterside of the survey tie line where fences or walls are not permitted beyond the top of the

slope toward the lake, or waterside of the survey tie line; 3) Division 5.7.A.3 to permit a paved rear deck setback 4.25 feet from the interior side (east) property line where 5 feet is required; 4) Division 5.7.A.3 to permit a paved rear deck setback 4.25 feet from the interior side (west) property line where 5 feet is required; and 5) Division 5.7.A.5 to permit lot coverage of 70.5% for impervious areas where 50% is permitted, for a single family residence in the RU-1 zoning district (collectively referred to as the "Variance"), for property located at 8020 NW 166th Street, Miami Lakes, Florida Folio #32-2015-008-0070 legally described as Lot 7, Block 15 of ROYAL OAKS THIRD ADDITION, according to the Plat thereof recorded in Plat Book 130 Page 64 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 November 20, 2007 at 7:00 p.m. at Miami Lakes Middle School, 6425 Miami Lakeway North, Miami Lakes, Florida 33014; and all interested parties have had the opportunity to address their comments to the Town Council; and

**WHEREAS**, Town Staff reviewed the application and recommended approval of requests #2, #3 and #4 with conditions, modified approval of request #1 with conditions, and denial of request #5, 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 Town LDC. 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 has determined 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 for the:

- 1) waterside deck with 1,695.75 deck area waterward of the top of the slope is hereby approved with conditions; and
- 2) fence, 25 feet 4 inches beyond the top of the slope toward the lake, or waterside of the survey tie line, is hereby approved with conditions; and
- 3) paved rear deck setback 4.25 feet from the interior (east) side property line is hereby approved with conditions; and
- 4) paved rear deck setback 4.25 feet from the interior (west) side property line is hereby approved with conditions; and,
- 5) lot coverage of 70.5% for impervious areas is hereby approved with conditions.

**Section 4. Conditions.**

1. The site plan shall be submitted to and meet the approval of the Building Official, upon the submittal of an application for a permit and/or Certificate of Use and Occupancy. The site plan shall include, but not be limited to, location of structure or structures, exits, entrances, drainage, walls, fences, and landscaping.
2. The approvals granted herein shall be in accordance with the submitted plan for the hearing entitled "Sketch of Survey" for 8020 NW 166 Street, Miami Lakes, Florida as prepared by J. F. Lopez and Associates, Inc., Registered Land Surveyor State of Florida, No. 3086, Order No. 070822, and consisting of one sheet. The approved plans shall be substantially in accordance with the plans submitted for the hearing entitled Proposed Pool Deck Extension for Pedro Alvarez Residence located at 8020 NW 166 Street, Miami Lakes, Florida; Consisting of one sheet, prepared by William Plasencia Architect, Inc., dated signed and sealed July 16, 2007.
3. The Applicant shall record the Resolution in the Official Records of Miami-Dade County, Florida and shall return a copy of the recorded Resolution to the Town Clerk before a permit is issued.
4. The Applicant shall obtain a building permit, for all request(s) approved herein, within one (1) year of the date of this approval. If a building 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 in Section 4, if any, 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), if any, 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 REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

The foregoing Resolution was approved with conditions by the application of the practical difficulty standard in Division 3.5(f)(2) of the Town LDC by Michael Pizzi and Seconded by Mary Collins, and upon being put to a vote the motion carried 6-0 with each Council Member voting as follows:

Mayor Wayne Slaton	<u>yes</u>
Vice Mayor Nancy Simon	<u>yes</u>
Councilmember Roberto Alonso	<u>absent</u>
Councilmember Mary Collins	<u>yes</u>
Councilmember Robert Meador II	<u>yes</u>
Councilmember Michael Pizzi	<u>yes</u>
Councilmember Richard Pulido	<u>yes</u>

PASSED AND ADOPTED this 20 day of November 2007.

This Resolution was filed in the Office of the Town Clerk on this 6 day of December, 2007.

Wayne Slaton  
WAYNE SLATON  
MAYOR

ATTEST:

Debra Eastman  
DEBRA EASTMAN, MMC  
TOWN CLERK

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



Mary T. Fush  
WEISS SEROTA HELFMAN PASTORZA  
COLE & BONISKE, P.L.  
TOWN ATTORNEY



## EXHIBIT A

# TOWN OF MIAMI LAKES MEMORANDUM

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**To:** Honorable Mayor and Town Council  
**Thru:** Alex Rey, Town Manager   
**From:** Maria Crowley, Director of Planning and Zoning   
**Subject:** Hearing Number: ZH-07-37  
Applicant: Pedro Alvarez and Marianela Alvarez  
Folio: 32-2015-008-0070  
Location: 8020 NW 166 Street  
Miami Lakes, FL 33016  
**Date:** November 20, 2007

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### REQUEST(S)

Pedro Alvarez and Marianela Alvarez (the "Applicant") are requesting the following variance submitted in accordance with the Town of Miami Lakes Land Development Code ("Town Code") to permit a rear yard waterside deck in connection with a 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.

Variance Request:

To permit a proposed waterside deck to the RU-1 residence as per Division 6.5.B.6.d.(2), with 1,695.75 square feet of deck area waterward of the top of slope where 225 square feet of deck area is permitted.

2. A variance pursuant to Division 3.5 of the Town Code from Division 5.9.B.1.b of the Town Code for Single Family and Two Family Residences; Location Restrictions: On properties abutting lakefronts, fences or walls are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.

Variance Request:

To permit a fence (25'-4") beyond the top of the slope toward the lake, or waterside of the survey tie line where fences or walls are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.

3. A Variance pursuant to Division 3.5 of the Town Code from Division 5.7.A.3 of the Town Code for Single Family and Two Family Residences; Decks and Walkways: At grade decks or walkways constructed of wood, concrete, brick pavers set in



sand or of similar impervious materials shall be setback a minimum of five (5) feet from the rear and interior side property lines.

Variance Request:

To permit a paved rear deck setback of 4.25' feet from the interior (east) side property line, where five (5) feet is permitted from the interior (east) side property line.

4. A Variance pursuant to Division 3.5 of the Town Code from Division 5.7.A.3, of the Town Code for Single Family and Two Family Residences; Decks and Walkways: At grade decks or walkways constructed of wood, concrete, brick pavers set in sand or of similar impervious materials shall be setback a minimum of five (5) feet from the rear and interior side property lines.

Variance Request:

To permit a paved rear deck setback of 4.25' feet from the interior (west) side property line, where five (5) feet is permitted from the interior (west) side property line.

5. A Variance pursuant to Division 3.5 of the Town Code from Division 5.7.A.5 of the Town Code for Single Family and Two Family Residences; Decks and Walkways: In no instance shall the total impervious areas (including brick pavers set in sand) of all the required yards on a lot or parcel exceed 50%.

Variance Request:

To permit a lot coverage of 70.5% for impervious areas where 50% is permitted for a single family residence.

**APPLICABLE CODE SECTION(S)**

**Request #1:**

**Division 6.5 Waterfront Properties**

B. Development and Use Restrictions:

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:
  - d. Steps and Decks

- (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 square feet 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 seven-five feet (7.5') from the interior side property lines and fifteen (15) feet from a side facing a street and subject to all lot coverage requirements for impervious area contained else where in this code.

**Complete Copy of Division 6.5 (Attachment A)**

**Request #2:**

**Division 5.9 Fence, Walls and Gates**

B. Single Family and Two Family Residences:

1. Location Restrictions:

- b. On properties abutting lakefronts, fences or walls are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.

**Complete Copy of Division 5.9 (Attachment B)**

**Requests #3, #4 & #5:**

**Division 5.7 Decks and Walkways**

A. Single Family and Two Family Residential lots or parcels shall comply with the following for at-grade decks:

3. Required Rear Yard:

At grade decks or walkways constructed of wood, concrete, brick pavers set in sand or of similar impervious materials shall be setback a minimum of five (5) feet from the rear and interior side property lines. For zero lot line developments the decks or walkways shall be setback three (3) feet from the rear property line, zero (0) feet from the zero lot line side and four (4) feet from the other interior side property line. For all corner lots the decks shall comply with the required street side setbacks for the main structure.

5. In no instance shall the total impervious areas (including brick pavers set in sand) of all the required yards on a lot or parcel exceed 50%.

**Complete Copy of Division 5.7 (Attachment C)**

## **SUMMARY OF PROPOSAL AND RECOMMENDATION**

The applicant is proposing to expand an existing pool deck beyond the survey tie line. The waterside pool deck (Request #1) is proposed to be 1,695.75 square feet where a waterside deck with 225 square feet is permitted, a waterside fence (Request #2) is proposed to extend twenty five feet, four inches (25'-4") beyond the survey tie-line, where fences are not permitted beyond the survey tie line, and deck would be provided with interior side setbacks (Requests #3 & #4) of four-twenty-five feet (4.25) where five (5) feet is required. Additionally, the total impervious areas (including brick pavers set in sand) of all the required yards is provided at 70.5% lot coverage (Request #5), where paved areas are not permitted to exceed 50%. (See **Exhibit 1** for pictures of the subject property)

### **Staff Recommendation:**

Denial of **Request #5**; Modified Approval of **Request #1** Subject to Conditions; and, Approval Subject to Conditions of **Request #2**, **Request #3** & **Request #4**.

Approving the requested single family residence, waterside deck at 133.5 square feet, and the deck and fence to extend two (2) feet beyond the survey tie line and the setback to be a of minimum (4.25') feet from the interior east and west property lines.

## **BACKGROUND**

### **Zoning of Property:**

**RU-1 – Single Family Residential**

### **Future Land Use Designation:**

**Low Density Residential**

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 (0) 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.

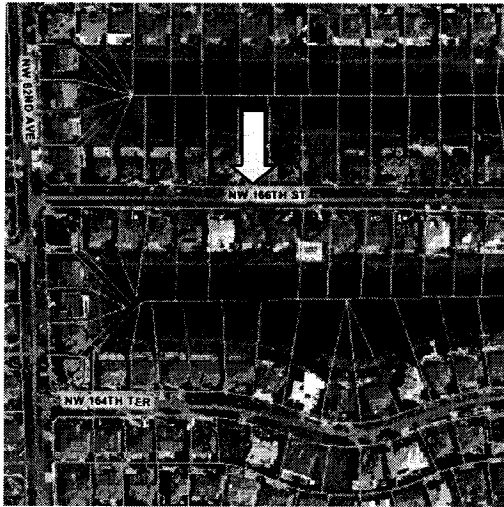
### **Subject Property:**

The subject property is a residential parcel and is located within a fully developed residential subdivision. The applicant's property is a two stories, 4 bedrooms, 3 baths residence located on the south side of NW 166<sup>th</sup> Street. The residence as per County Tax Assessors records was constructed in 1987 and contains approximately 3,226 square feet on a 7,500 square feet lot. An existing pool deck is proposed to be expanded beyond the survey tie line as shown on the attached plans and pictures.

### **Surrounding Property:**

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

**Subject Property Location Map:**



**Open Building Permit(s) / Open Code Compliance Violation(s) / Zoning History:**

As of October 24, 2007, there are no open Building Permit(s) and/or Code Compliance Violation(s) 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 the plans, specifications, and location of all contemplated improvements and modifications shall be accordance with the terms hereof and shall meet the requirements of all applicable local codes and ordinances of the local governing agency issuing permits for construction or land alterations in effect at the time the approval is sought.

**VARIANCE CRITERIA**

Division 3.5(f) of the Town Code allows the Council to approve non-use variances based upon seven (7) hardship criteria.

Notwithstanding the hardship criteria should the 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.

<b>COMPLIANCE OF REQUEST WITH VARIANCE CRITERIA</b>			
a.	<u>Variance Consistent with Authorized Powers</u>	The variance requests are correctly in front of the Council.	<b>YES</b>
b.	<u>Existence of Special Conditions or Circumstances</u>	The property is not the same size and shape as other lots in the subdivision.	<b>YES</b>
c.	<u>Conditions Not Created by Applicant</u>	The applicant could comply with the requirements to what is permitted by code.	<b>YES</b>
d.	<u>Special Privileges Not Conferred</u>	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.	<b>NO</b>
e.	<u>Hardship Conditions Exist</u>	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.	<b>NO</b>
f.	<u>Only the Minimum Variance Granted</u>	The requested variances are not necessary to allow the reasonable use of the land, building, or structure.	<b>NO</b>
g.	<u>Not Injurious to Public Welfare or Intent of the Land Development Code</u>	If granted, the variances will not be injurious to the area involved or otherwise detrimental to the public welfare.	<b>YES</b>

Based on the above review, it is staff's opinion that the variance request does 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 subject residential parcel of land is located at 8020 NW 166<sup>th</sup> Street, with approximately 7,500 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 are consistent with the CDP and do not create any impact on the Levels of Service (LOS) standards.

The approval of this application will allow the proposed waterside pool deck and fence beyond the survey tie deck located 4.25 feet from the interior side property lines where five

(5) feet is required. The subject pool deck is requested for health reasons and provides additional outdoor living space for the residents.

Staff is of the opinion that the subject application should be approved on a modified basis. The subject waterside deck (Request #1) should be reduced to allow for a waterside deck area of approximately 133.5 sq. ft. (2.0 x 66.8), this would allow for the waterside fence to be approved at 2.0 feet beyond the survey tie, with the corresponding requested interior side setbacks of 4.25 feet where 5 feet is required. Thus, with the recommended modification, the waterside deck with 133.5 square feet of area would be below the permitted 225 square feet of area allowed for a waterside deck, and would be provided with minor encroachments on the interior side setbacks.

Additionally, the total impervious areas (including brick pavers set in sand) of all the required yards based on the recommended reductions would be provided at the Code required lot coverage not to exceed 50%. Staff notes that this application with the recommended denial of requests #5, and approval of request #2, #3 & #4 as well as modified approval of request #1 would be compatible with the area minimizing aural and visual impact on the adjacent properties while affording the applicant reasonable use of this land. The variance requests, as modified based on practical difficulty, are recommended, and would do substantial justice to the applicant, as well as to other property owners in the district. Accordingly, staff recommends modified approval of the subject application with conditions.

### **RECOMMENDATION AND CONDITION(S)**

**Recommendation:**

Denial of **Request #5**; Modified Approval of **Request #1** Subject to Conditions; and, Approval Subject to Conditions of **Request #2**, **Request #3** & **Request #4**.

Approving the requested single family residence, waterside deck at 133.5 square feet, and the deck and fence to extend two (2) feet beyond the survey tie line and the setback to be a of minimum (4.25') feet from the interior east and west property lines.

**Condition(s):**

1. The site plan shall be submitted to and meet the approval of the Building Official, upon the submittal of an application for a permit and/or Certificate of Use and Occupancy. The site plan shall include, but not be limited to, location of structure or structures, exits, entrances, drainage, walls, fences, and landscaping.
2. The approvals granted herein shall be in accordance with the submitted plan for the hearing entitled "Sketch of Survey" for 8020 NW 166 Street, Miami Lakes, Florida as prepared by J. F. Lopez and Associates, Inc., Registered Land Surveyor State of Florida, No. 3086, Order No. 070822, and consisting of one sheet. The approved plans shall be substantially in accordance with the plans submitted for the hearing entitled Proposed Pool Deck Extension for Pedro Alvarez Residence located at 8020 NW 166 Street, Miami Lakes, Florida; Consisting of one sheet, prepared by William Plasencia Architect, Inc., dated signed and sealed July 16, 2007.

3. The applicant shall record the Resolution in the Official Records of Miami-Dade County, Florida and shall return a copy of the recorded Resolution to the Town Clerk before a permit is issued.
4. The applicant shall obtain a building permit, for all request(s) approved herein, within one (1) year of the date of this approval. If a building 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.

#### **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 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 waters 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

## **ATTACHMENT B**

### **Division 5.9 Fence, Walls and Gates**

#### **B. Single Family and Two Family Residences:**

##### **1. Location Restrictions:**

- a. No fences, walls or gates shall be permitted within a required front yard or side yard facing a street. However, perimeter walls surrounding subdivisions which are approved through the site plan review process are permitted along sides facing a street or rear yards facing a street.
- b. On properties abutting lakefronts, fences or walls are not permitted beyond the top of the slope toward the lake, or waterside of the survey tie line.

##### **2. Height:**

- a. Where permitted, the maximum height of all fences, walls or decorative columns located within a required yard shall be 6'. Decorative open see-through type gates and decorative columns that are not more than sixteen (16) inches wide and spaced a minimum of 8' apart, shall be permitted to exceed the maximum permitted height of the wall by 18".
- b. Height between different districts. Where an RU District abuts another district, a fence, wall or hedge on the RU property may be erected or maintained on the common property line of the height permitted in the abutting district.

## ATTACHMENT C

### **Division 5.7 Decks and Walkways**

A. Single Family and Two Family Residential lots or parcels shall comply with the following for at-grade decks. At-grade decks and walkways are defined as decks or walkways that are not more than six (6) inches above the established grade. Decks or walkways higher than six (6) inches above the established grade shall be considered accessory structures and must comply with the setback and lot coverage restrictions for accessory structures elsewhere in this code:

1. Required Front Yard:

At-grade decks shall be permitted to project a maximum five (5) feet into the required front yard. One walkway with a maximum width of six (6) feet shall be permitted from the entrance of the residence to the front property line.

2. Required Side Yards:

Decks shall not be permitted within the required side yards. Three (3) feet wide walkways, steps or entrance stoops shall be permitted within the required side yards.

3. Required Rear Yard:

At grade decks or walkways constructed of wood, concrete, brick pavers set in sand or of similar impervious materials shall be setback a minimum of five (5) feet from the rear and interior side property lines. For zero lot line developments the decks or walkways shall be setback three (3) feet from the rear property line, zero (0) feet from the zero lot line side and four (4) feet from the other interior side property line. For all corner lots the decks shall comply with the required street side setbacks for the main structure.

4. The maximum permitted impervious area for driveways, walkways, porches, decks, etc. (including brick pavers set in sand) in the required front yard or a required side yard facing a street shall be 60%.

5. In no instance shall the total impervious areas (including brick pavers set in sand) of all the required yards on a lot or parcel exceed 50%.