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## Staff Analysis and Recommendation

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**To:** Honorable Mayor and Members of the Town Council  
**From:** Edward Pidermann, Town Manager  
**Subject:** Street Side Yard Patios in RU-1Z Lots  
**Date:** April 9, 2019

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AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; AMENDING CHAPTER 13, LAND DEVELOPMENT CODE, AT ARTICLE V, SECTION 13-1507, ENTITLED "DECKS AND WALKWAYS," PERMITTING A DECK TO BE LOCATED WITHIN THE REQUIRED STREET SIDE YARD SETBACK OF CORNER LOTS FOR PROPERTIES ZONED RU-1Z; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### A. BACKGROUND

At the June 5, 2018, Town Council meeting, an item was introduced during the Manager's Report which addressed the possibility of permitting corner lots zoned RU-1Z, Single Family Zero Lot Line, to have decking located within the required street side yard setback. The presentation relied upon preliminary research that found the majority of RU-1Z zoned corner lots tended to be wider than the interior lots. The preliminary conclusion, pending further research, was that such an accommodation may be possible. The logic relied upon there being similar construction on corner lots as found on interior lots, thus freeing up more land to capture stormwater runoff from impervious areas. The Town Council directed the Town Manager to explore the possibility and return with an ordinance if the additional research supported the initial conclusion. Staff's additional research found that it may be possible to permit street side yard decks, however the recommendation includes a cautionary note as presented in the coming paragraphs.

On September 19th, 2018, the Planning and Zoning Board, acting in their capacity as the Local Planning Agency, heard the item and recommended approval with the condition that the changes apply only to corner lots.

## B. PROPOSED CHANGES

The following described elements are presented in the same order that they appear in the proposed ordinance.

*Require minimum street side setback of four (3) feet for RU-1Z corner lots.* A minimum setback of four (3) feet is required. This standard provides for some pervious area to capture runoff provided that a berm, a swale or a retaining wall be provided to avoid water runoff.

*Maximum impervious for all yards total.* The proposed ordinance adjusts the maximum total impervious area for all yards total for RU-1Z corner lots from 50% to 60%, unless the previously mentioned berm, swale, or retaining wall are provided.

Zero Lot Line Corner Lots			
60'X100' Lot	Total Area		Notes
	Pervious	Impervious	
Current Code	32%	68%	3' Wide walk way - 50% max deck coverage
Proposed Change	21%	79%	4' Minimum Setback 60% total Deck coverage

## C. EVALUATION AND STUDY

*Description of affected properties.* The Town's RU-1Z zoned properties are concentrated in the southwest quadrant of the Town in an area commonly referred to as West Lakes. Approximately 1,088 homes within the West Lakes neighborhood are zoned RU-1Z. Of those lots, approximately 174 are considered corner lots. Zero lot line developments are characterized by a type of housing configuration whereby one portion of the principal building is built to the property line with setbacks provided along the front, rear and the other side of the property. For interior lots, that side yard setback is typically ten (10) feet and includes a four (4) foot platted easement to the benefit of the adjacent neighbor for drainage and for maintenance access. Please note, not all of the lots within the West Lake neighborhood are zoned RU-1Z. Approximately 209 are zoned RU-1 and RU-1A and would not be subject to this proposed ordinance (Attachment A).

*Intent of a required (street side) yard.* To understand staff's findings, it is important to also understand what a required yard is and what purpose it serves. A required yard is that portion of the property that, notwithstanding fencing and other specified accessory structures, is required to be clear of any structures from ground to sky. The required street side yard within the RU-1Z district is 15 feet and the current code limits decking within that area to a three (3) foot wide walkway. The intent of the street side yard requirement is both for esthetics and functionality.

*Aesthetic and landscaping considerations.* Visually, setbacks in single family residential neighborhoods contribute to the sense of openness. This is achieved by keeping required yards largely clear of structures. The vast majority of the corner lots in the West Lake neighborhood have fences built near or at the street side property line. Hence, the visual concern of decking a portion of the required street side yard is largely ameliorated by opaque fencing. Further, staff believes any decking behind fencing meets the visual aspect of the intent of the street side yard setback requirement.

Required yards provide the opportunity for the planting of shade trees that contribute to the overall tree canopy, which is a hallmark of the Town of Miami Lakes. Further, any shade tree plantings within the yards serve to cool the property and our urban environment. Increasing the amount of permitted decking reduces the opportunity to plant shade trees. To overcome this challenge, it is recommended that a three (3) foot setback be required and no more than 60% of the required side yard may be decked. It is worth noting that the Town is pursuing urban reforestation efforts to replenish lost canopy within its neighborhoods. The West Lake neighborhood represents a particular challenge in achieving that objective.

*Drainage.* As a functional matter, pervious open space is essential to promote infiltration and to reduce overall site runoff. Even with onsite pervious areas, the natural slope of a property may result in some runoff onto the adjacent rights-of-way. A property without pervious area will drain all stormwater onto the neighbor's property and onto the rights-of-way. Portions of the West Lake neighborhood have drainage issues that the Town is actively addressing. The neighborhood is identified in the Town's Storm Water Master Plan (originally adopted in 2003 and updated in 2012<sup>1</sup>) for needed upgrades to the storm water system. A Marlin Engineering study complete in 2012, as precursor to reconstruction of the drainage system designs, found that the existing drainage system is a disjointed-unconnected network, that there are poor drainage soil types (Plantation Muck) within the area, and that very little area of the rights-of-way are pervious<sup>2</sup>. The prevailing development pattern within West Lake community itself also appears to be contributing to flooding challenges. The Marlin study assumed a pervious area percentage of privately held lands at 15%. It is in part for these reasons that flooding is a challenge in the West Lake neighborhood.

CORNER LOT	Lot Information			Building Info		Required Yards												Total	Percent
						Front Yard				Str/Int Side Yard				Rear Yard				Impervious	Impervious
	Width	Depth	Area	% Cov	Bldg	S/B	Area	Ratio	Imperv	S/B	Area	Ratio	Imperv	S/B	Area	Ratio	Imperv		
Patio allowed	60	100	6000	0.5	3000	20	1200	0.5	600	15	1200	0.2	240	10	450	0.5	225	4065	68%
Only Walkway	60	100	6000	0.5	3000	20	1200	0.5	600	15	1200	0.5	600	10	450	0.5	225	4425	74%
60% Impervious	60	100	6000	0.5	3000	20	1200	0.6	720	15	1200	0.6	720	10	450	0.6	270	4710	79%

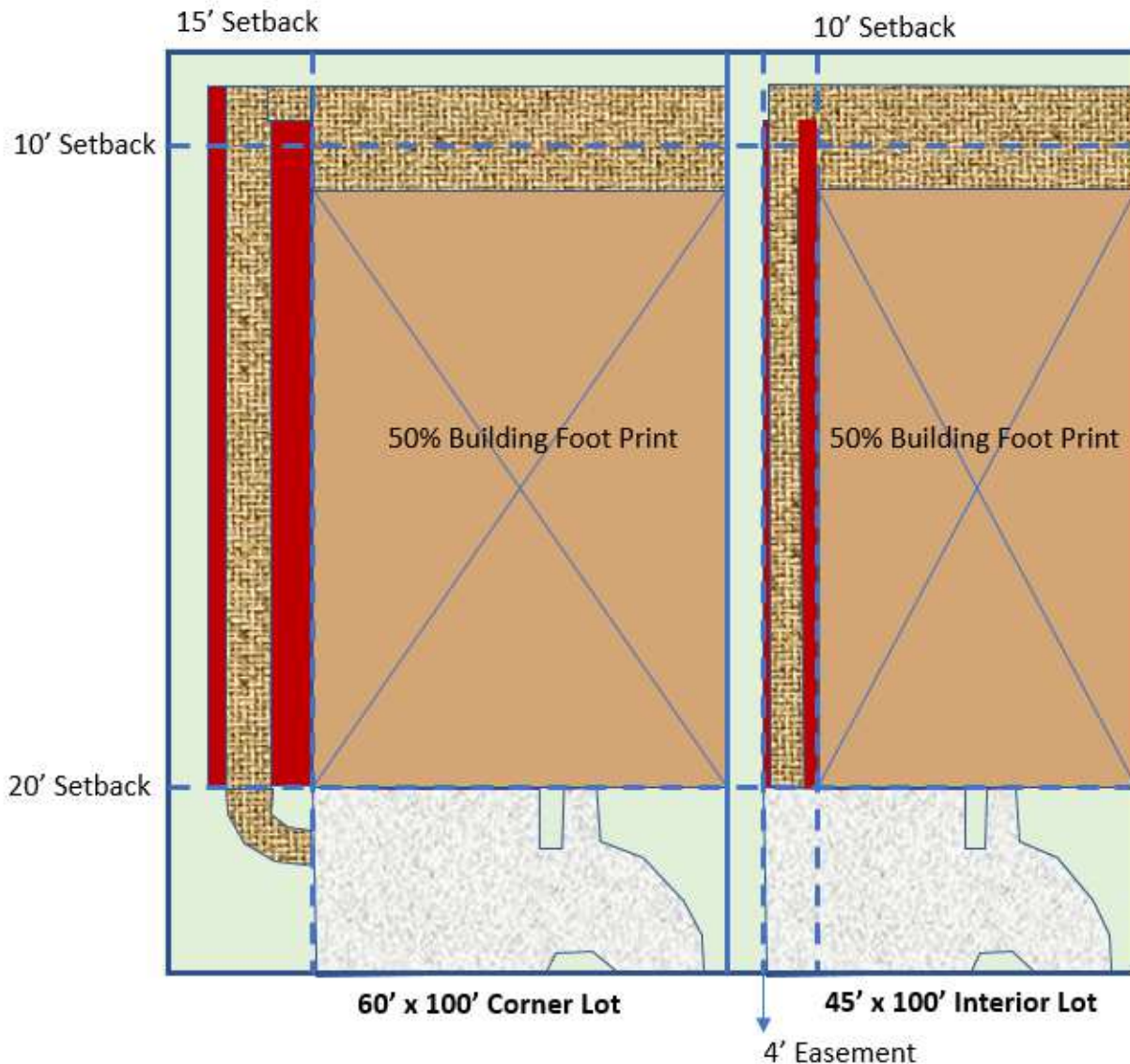
INTERIOR LOT	Lot Information			Building Info		Required Yards												Total	Percent
						Front Yard				Str/Int Side Yard				Rear Yard				Impervious	Impervious
	Width	Depth	Area	% Cov	Bldg	S/B	Area	Ratio	Imperv	S/B	Area	Ratio	Imperv	S/B	Area	Ratio	Imperv		
Patio allowed	45	100	4500	0.5	2250	20	900	0.5	450	10	800	0.5	400	10	350	0.5	175	3275	73%
Only Walkway	45	100	4500	0.5	2250	20	900	0.5	450	10	800	0.3	240	10	350	0.5	175	3115	69%
60% Impervious	45	100	4500	0.5	2250	20	900	0.6	540	10	800	0.6	480	10	350	0.6	210	3480	77%

In the RU-1Z district, maximum lot coverage for the principal building is 50% and the required impervious area for any one yard cannot be more than 60%. The 60% rule, however is misleading since the total impervious area for all required yards combined cannot exceed 50%. Regardless, the result is a reduced area for on-site infiltration and reduction of storm water runoff. As stated above, all side yards are currently limited to a three (3) foot wide walkway. For a corner lot (60' x 100' lot) at max buildout, that would leave approximately 32% of the land available for drainage. Interior lots (45' x 100') would have on average 31%

<sup>1</sup> Original Storm Water Master Plan and the update were prepared by Kimley Horn.

<sup>2</sup> "Drainage Report for the design of Miami-Lakes, West" Marlin Engineering, Inc. January 2012.

pervious<sup>3</sup>. If the street side yard were permitted to be decked, with the totality of all decking (including driveways and front walk ups) equaling 50% for all required yards, the remaining impervious area would be roughly 26%. Applying the same standard to an interior lot would result in 27% available for drainage. To be clear, these numbers are ballpark figures and do



not account for other decked portions of the property that are not a required yard or include the building footprint. It is possible that the numbers represented in this portion of the research are high and as such are presented for the purpose of comparison and affect. The following paragraph speaks to that point.

As mentioned previously, a drainage project commenced in the West Lake neighborhood to ease the flooding of the rights-of-way caused by rain events. The first two phases are complete and involved a storm drainage trunk line that runs underneath the length of NW 89<sup>th</sup> Avenue in the West Lake neighborhood (Attachment B). The next phase, which is to be

<sup>3</sup> Minimum lot width in the RU-1Z is 45 feet with a minimum area of 4,500 square feet. This equates to a typical lot that is 45 feet by 100 feet. Corner lots in the West Lake neighborhood range in width from 55 feet to 80 feet. For the purpose of this review, the typical corner lots is assumed to be 60 feet wide to accommodate the additional required setback.

delivered over two separate construction cycles, involves infiltration trenches along select streets (Attachment C). Despite the pervious area calculations above, the Marlin Engineering study found that actual available surface level pervious area (private land plus rights-of-way) for each of the basins is between 14.5% and 16.3% (Attachment D). Whether these numbers are conservative or not, the Marlin study reflects that very little water is being absorbed at ground level, and the pervious area that is available is generally understood to be of a poor quality<sup>4</sup>. In general, rights-of-way are designed to serve as the principal overflow reservoir to capture water throughout the neighborhood during significant storm events. However, in light of the calculations above and the observed conditions of West Lake neighborhood, there is an unintended reliance on the rights-of-way for stormwater management. As a result, and notwithstanding other factors, the adjacent roadways in the West Lake neighborhood tend to flood more often. Estimated at \$1.6 million, the current phase of the drainage project is designed to capture that water and drain it into infiltration pipes under the roadway at depths of 10 to 15 feet. Yet, a drainage project is not scheduled for every street that comprises the West Lake neighborhood.

*Corner lot versus interior lot conundrum.* The above information is shared to put the proposed amendment in context. A block in West Lake can have as many as 47± and as few as six (6) homes on it. Hence corner lots, by their nature are fewer in number than internal lots. While permitting additional decking does reduce the amount of pervious area, the impact is limited given the relative number of corner lots versus interior lots. In this case, only 16% of the RU-1Z lots are situated on a corner.

The slippery slope comes when owners of the interior lots expect similar consideration as that being contemplated for corner lots. And this issue has already been broached and includes the question as to whether interior lots may deck over the four (4) foot platted easement. As one can see the issue is the same, decking of the side yard and the resulting loss of pervious area. Just permitting decking up to the easement line in the side yard of an interior lot, and again relying on the same assumptions in the paragraphs above, could result in approximately 27% pervious area to remain. This scenario, together with the corner lot proposal (which provides only 26% pervious), would likely increase the impact of water flowing into the rights-of-way. Remember, these numbers are simply used to represent potential impact, as actual available pervious area as identified in the Marlin study is lower.

*60% versus 50%.* As mentioned above, maximum impervious area for any given required yard is 60%. But, at no time can the total of all yards combined exceed 50% impervious. This rule is reintroduced here because it potentially means any additional impervious area being added to a side yard may limit impervious areas in others. Since all yards may not exceed the 60% rule, the suggestion here is to allow the corner lots to apply it as the total pervious area of all yards. Using the formula described above, that would result in a pervious area for the entire lot at 21% (versus 26% when applying the 50% rule). Applying the relaxed standard would enable property owners to enjoy maximized decking within the side and rear yards areas. Again, given the relative number of corner lots, the impact would be minor. However, for the purposes of comparison, the 60% rule applied to the interior lots would be 23% pervious area (versus 27% when applying the 50% rule). Applying the rule to all lots would likely have a more significant impact.

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<sup>4</sup> As stated earlier, the Marlin study found one of the soil types to be Plantation Muck. With the majority of the pervious area located on private lands, it is likely that is where this soil type is located. The other soils identified are more consistent with that which would be found around road prepared surface areas.

*Summary.* Any increase in impervious areas will likely have an impact on the West Lake neighborhood. Nevertheless, at just 16% of the homes in the neighborhood, the impact is likely to be relatively small if limited to corner lots. The cautionary tale, however, is whether the same accommodation is to be extended to interior lots. This scenario will most certainly have a greater impact that could increase flooding in the community and hamper the effectiveness of the current drainage project. Therefore, any decision to increase impervious area should be limited in its applicability.

#### **D. STAFF RECOMMENDATION**

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance amending the minimum street side setback requirement and maximum impervious surface for all yards for RU-1Z corner lots.

#### **E. ANALYSIS**

The Land Development Code provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this ordinance.

**1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. As proposed, and presented in Section “A”, “B”, and “C” above, the amendment conforms to the following policy of CDMP below. The proposal does not appear to significantly impact the ongoing drainage projects within the West Lake neighborhood.

Policy 4C.1.2: Utilizing funding obtained from its newly-established Stormwater Utility, the Town will allocate sufficient funds in to address existing stormwater deficiencies identified in the Stormwater Master Plan.

*Finding:* Complies

**2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. The amendment attempts to address corner lots in RU-1Z districts in a proportionately. Corner lots tend to be larger and may have more land available to utilize for pervious area. In this light, the proposed ordinance conforms with the Town’s LDC’s. A review of the LDC’s found no conflicts.

*Finding:* Complies.

3. **Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

*Analysis* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. Many corner lots with the RU-1Z zoning have decked the street side yard. It is difficult to tell how many of those properties did so with the benefit of a permit. Regardless, an appropriate remedy may be to permit some decking to occur, while still providing for pervious and landscaping areas. This ordinance attempts to strike that balance. The proposal appears to have only a minimal impact regarding on site drainage and the ongoing storm water drainage program pursued by the Town appears to implement conservative calculations in designing for storm water runoff capture.

*Finding:* Complies.

4. **Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; of this report. The proposed ordinance does not change the main permitted use of the property, however it does provide some consideration regarding decking for larger corner lots within RU-1Z districts. There exists decking in the West Lake neighborhood that may or may not have been built with the benefit of permits. The ordinance seeks to find a remedy with the least amount of impact. However, the ordinance would not apply to all RU-1Z properties. As such, it is essential for the Town Council to consider the benefit of approving the ordinance against its limited availability and the overall impact that decision would render.

*Finding:* As determined by the Town Council.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; and Criteria 1, 2, and 4, of this report. If the approval is limited to only corner lots, the impact will likely be minimal to the neighborhoods storm drainage system.

*Finding:* Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: The proposed ordinance does not impact the above systems.

*Finding:* Complies.

**7. Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study and Criteria 1, 2, and 4, of this report. If the approval is limited to only corner lots, the impact will likely be minimal to the neighborhoods storm drainage system.

*Finding:* Complies.

**8. Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study and Criteria 1, 2, and 4, of this report. Section “B” provides a full description of the positive and negative effects of the proposal. In summary, if the approval is limited to only corner lots, the impact will likely be minimal to the neighborhoods storm drainage system.

*Finding:* Complies.

**9. Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study and Criteria 1, 2, and 4, of this report. If approved, it will provide an opportunity for additional decking on corner lots and to bring properties that installed decking without permits to come into compliance.

*Finding:* Complies.

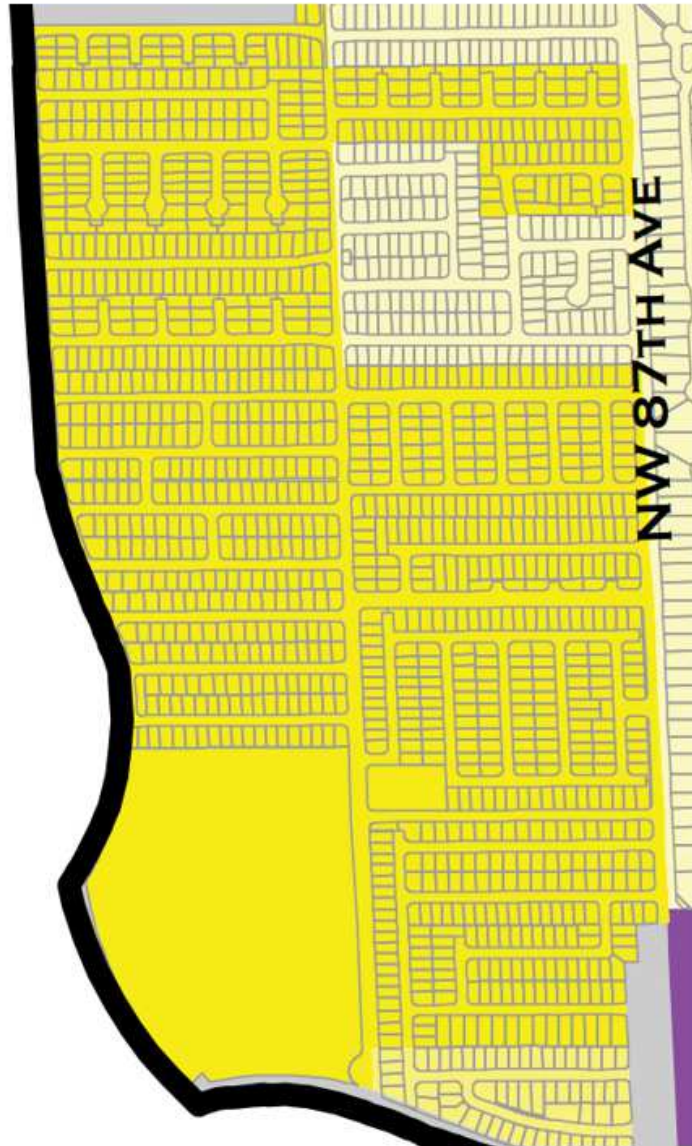
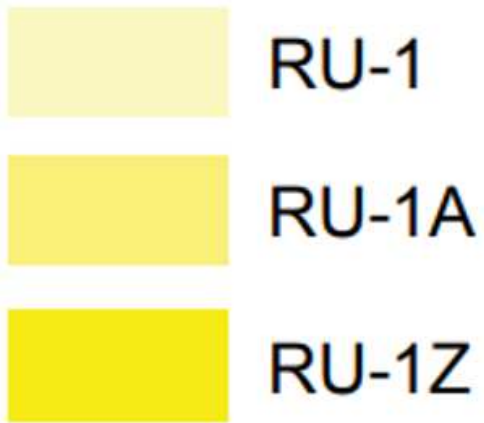
**10. Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

*Analysis:* See Sections “A”, Background; “B”, Proposed Changes, and Section “C”, Evaluation and Study; and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed FLUM amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

*Finding:* As determined by the Town Council.

## ATTACHMENT A

### ZONING MAP



**ATTACHMENT B**  
**WEST LAKE MAIN TRUNK LINE**  
**(PHASE 1 and 2)**



WEST LAKES DRAINAGE BASIN MAP  
SUBBASINS B, C, D AND E

NORTH  
N. T. S.

WEST LAKE "C"

WEST LAKE "D"

WEST LAKE "E"

WEST LAKE "B"

B - 1

B - 2

B - 3

EXHIBIT 7

# ATTACHMENT D

## WEST LAKE DRAINAGE SITE DATA

Site Development Data ( Miami Lakes, West): Part 1

TOWN OF MIAMI LAKES - WEST LAKES DRAINAGE IMPROVEMENTS						
	Pervious/Impervious Area of West Lakes B,C,D and E (ACRES)					
	B-1	B-2	B-3	E	D	C
Private Area	4.9	3.7	3.1	3.2	4.5	3.6
Pervious Private Area (15%)	0.9	0.7	0.6	0.6	0.8	0.6
Green Area	0.3	0.4	0.3	0.3	0.3	0.3
Asphalt Plus Concrete	2.0	1.8	1.3	1.5	1.5	1.6
R/W Area	2.3	2.2	1.6	1.8	1.8	2.0
Total Area	8.0	6.6	5.3	5.1	7.1	6.2
Total Pervious	1.2	1.1	0.9	0.8	1.1	1.0
% Previous	14.5	16.3	16.1	16.1	15.1	15.9
Average % Pervious					15.7	

Site Development Data ( Miami Lakes, West) Part: 2

TOWN OF MIAMI LAKES - WEST LAKES DRAINAGE IMPROVEMENTS						
	Elevation Analysis of West Lakes B,C,D and E					
	B-1	B-2	B-3	E	D	C
Ave. edeg of Pavement	6.50	6.94	6.93	6.88	7.28	6.65
Min. Road CL elevation	6.17	6.60	6.76	6.91	6.78	6.34
Avg. Road CL elevation	6.89	7.21	7.18	7.25	7.48	7.08
Max. Road CL elevation	7.39	7.80	7.75	7.85	8.02	7.67
Min. FFE elevation	6.84	7.27	7.43	7.58	7.45	7.01
Avg. FFE elevation	7.56	7.88	7.85	7.92	8.15	7.75
Max. FFE elevation	8.06	8.47	8.42	8.52	8.69	8.34

Note : It is assumed Finish Floor Elevation (FFE)= Road CL ele. + 8"

<sup>6</sup> "Drainage Report for the design of Miami-Lakes, West" Marlin Engineering, Inc. January 2012.