



Department of Planning, Zoning and Code Compliance
6601 Main Street • Miami Lakes, Florida 33014
Office: (305) 364-6100 • Fax: (305) 558-8511
Website: www.miamilakes-fl.gov

Staff Analysis and Recommendation

To: Honorable Mayor and Members of the Town Council

From: Alex Rey, Town Manager

Subject: **HEARING NUMBER: VARH2017-0002**
APPLICANT: Lennar Homes, LLC
FOLIO: 32-2016-000-0040
LOCATION: North side of NW 154th Street, between NW 87th Avenue and I-75 Ext.
Miami Lakes, Florida
ZONING DISTRICT: RM-13 –Low Density Residential District
FUTURE LAND USE: Low Density Residential (LD)

Date: April 18, 2017

A. REQUEST

In accordance with the Town of Miami Lakes Land Development Code (the “Code”), Lennar Homes, LLC (the “Applicant”) is requesting the following:

A variance from section 13-444(16) to permit a patio wall of a material that is not masonry, where masonry walls are required, to enclose the rear yards of a townhouse development.

B. SUMMARY

The Applicant is requesting a variance to allow for patio walls of a material different than masonry, where masonry walls are required, to enclose the rear yards of a townhouse development that is currently under construction. Section 13-444 (16) requires that all outdoor living areas on each townhouse be enclosed by a wall affording complete screening, and further requires that such a wall be made of masonry or other similar material and that it have a minimum height of six feet. The Applicant proposes the walls enclosing the outdoor living area of the townhouses to be six feet in height but made of horizontal wood slats instead of masonry. As noted in the Letter of Intent provided by the applicant (see attachment A), the request arises out of a desire to support the development’s concept of “peace, serenity, and minimalism to achieve a calming environment to commune with nature.”

The current development under constructions has an approved site plan (Resolution No. 15-1334) which plans indicated wood construction for the patio wall enclosure of the townhomes. Because

those schematics where not permitted by Code, a condition was approved with the site plan resolution clarifying that masonry construction for those walls remained a requirement. If the Town Council is inclined to approve this variance request, it shall serve to supersede that particular condition of the site plan resolution.

C. STAFF RECOMMENDATION

Staff does not support the variance because the Practical Difficulty Variance Factors, as outlined in Subsection 13-305(f)1 of the Town LDC, are not met.

Therefore, based on the analysis below and other factors contained in this report, Staff recommends **denial** of this application.

D. BACKGROUND

Zoning District of Property: RM-13, Low Density Residential District

Future Land Use Designation: Low Density Residential (LD)

Subject Property:

The subject property is a parcel situated at the northwest corner of NW 87th Avenue and NW 154th Street. Except for right-of-way dedications that have been made and a 10-acre commercially zoned property directly at the corner of NW 87th Avenue and NW 154th Street, the parcel is a quarter of a land section. The subject site, zoned RM-13, is 142.67 acres, and previously included agricultural uses, specifically cattle grazing; however, site preparations have begun for a single family and townhouse development with several units currently under construction. The subject site is characterized by a large, oddly shaped artificial lake, which both provides opportunities for waterfront properties, but also significantly constrains design options. The site is bounded by Interstate 75 on the west. To the east, across NW 87th Avenue, is a vacant parcel that includes the environmentally significant Madden's Hammock, as well as significant archeological remains of Native Americans, and the Dunnhill Isle and Dunnhill Cove plats, which are single-family subdivisions but are, as yet, unbuilt. To the north and south of the site are single family residential uses.

Surrounding Property:

	Land Use Designation	Zoning District
North:	Low Density Residential (LD)	Single-Family Residential District (RU-1)
South:	Low Density Residential (LD)	Single-Family Residential District (RU-1) and Zero Lot Line Single Family Residential District (RU-1Z)
East:	Low-Density Residential (LD) and Parks and Recreation (PR)	Single-Family Residential District (RU-1) and Agricultural (AU)
Southeast:	Business and Office (BO)	Limited Business District (BU-1A)
West (across I-75):	City of Hialeah	City of Hialeah

Subject Property Location Map:



E. Open Building Permit(s) / Open Code Compliance Violation(s)

Open Building Permits: There are a number of open building permit applications for this property, related to the construction of a new single family and townhouse residential development as discussed below in 'Zoning History.'

Open Code Compliance Violations: There are currently no open Code Compliance Violations associated with this property:

F. ZONING HISTORY

In **1978**, Miami-Dade County, through **Resolution No. 4-ZAB-184-78**, approved an unusual use to allow a rock crushing and concrete batching plant for an approved lake excavation. The conditions of approval of that 1978 resolution were modified in 1983 via resolution 4-ZAB-122-83.

In **2002**, the Town Council approved **Ordinance No. 02-25**, amending the Comprehensive Development Master Plan to reconfigure the portions of the property designated for Low Density Residential and for Business and Office, to Low Density Residential.

In **2002**, the Town Council approved **Ordinance No. 02-26**, rezoning the subject property from AU to RU-3M (later relabeled RM-13 with the adoptions of the Town's Official Zoning Map), and rezoned the remaining portion of the parent parcel at the southeast corner to BU-1A. This Ordinance also approved site plans for both the residential and commercial portions of the property, which are still in effect today, and approved a **Declaration of Restrictions** (recorded in **Official Records Book 20812, Page 4767**) setting forth a number of limitations on development and use of the property. In **2003**, the Declaration of Restrictions was modified, as included in **ORB 21338 PG 0639**.

In **2011**, the Town Council passed **Resolution No. 11-883**, which approved a development agreement for the entire parcel, that provided for conditional parks and transportation concurrency. Concurrently, the Council passed **Resolution No. 11-884**, which amended the original **Declaration of Restrictions** to reflect the terms of the development agreement. This amendment is recorded in **Official Records Book 27929, Page 1276**.

In **November 3, 2015**, the Town Council approved **Resolution No. 15-1334**, approving an "alternate" site plan for the property, which includes 256 single family homes and 226 townhomes (482 residential units total) and recreational amenities in a gated community, approved a number of variances related to front and rear setbacks on some single family properties, reduction of required private patio area on townhouse properties, reduction of required common open space and reduction in required width of rights-of-way. The same Resolution also approved the **Second Modification to the Declaration of Restrictions (ORB 30017 PG 3351)** to allow for use of the approved alternate site plan.

On **May 12, 2016**, the Town issued a Final Development Order for an **administrative site plan (ASPR2016-0003)** approving a site plan for the property with greater detail to implement that site plan approved by the Town Council in Resolution 15-1334.

On **November 29, 2016**, administrative site plan **ASPR2016-0009** was approved granting to Lennar Homes, LLC administrative site plan application which provided for detailed plans for recreational amenities and common area landscaping, as well as detailed site plans for the various home models.

On **August 16, 2016**, the Planning and Zoning Board granted a variance (**Zoning Board Orders 2016-108**) for both temporary signage of the new development.

On **September 13, 2016**, the Planning and Zoning Board granted a variance (**Zoning Board Orders 2016-109**) regarding permanent signage.

On **November 15, 2016** Planning and Zoning Board granted variance **VARH2016-0017** to allow a wall up to eight (8) feet in height along the northern property line, where the Code limits walls within a required yard to no greater than six (6) feet in height.

G. PERTINENT LAND DEVELOPMENT CODE(S)

Section 12-444 (16)

Patio walls. All patio outdoor living areas on each townhouse site shall be enclosed by a wall affording complete screening except in cases where a natural feature of the site such as a lake or golf course would suggest that complete screening would not be required. Such determination shall be made as a result of the site plan review process as provided herein. Such wall shall all be of masonry or other similar material and the minimum height of such wall shall be six feet and the maximum height shall not exceed the roof line; such walled-in patio areas may include an awning, canopy or screen roof. All rear yard areas used for service, such as drying areas, shall be completely screened from view.

Section 12-444 (18)

Patios and service areas.

- a. There shall be provided on each townhouse site at least 400 square feet of patio living area exclusive of parking and service areas for each townhouse; such footage may consist of one or more patio areas. Open and non-air-conditioned roof areas and balconies designed and planned for patio purposes may be credited toward patio area. The following features may also be included in the required patio area calculation: screen enclosures, canvas roofed areas, patio slabs, Jacuzzis, swimming pools, decks, garden features and hot tubs. Said features must be either shown on the approved site plan or approved pursuant to the provisions of [Section 13-445\(2\)](#).

H. ANALYSIS

Variance Criteria

Subsection 13-305(f)1 of the Town Land Development Code provides criteria for the consideration of non-use variance request(s) predicated upon a standard of "Practical Difficulty." The decision of the Town Council shall balance the rights of property owners in the Town as a whole against the need of the individual property owner to deviate from the requirements of the Land Development Code based on an evaluation of the factors below. All of the factors should be considered and given their due weight, however no single factor is dispositive. All portions of this report are incorporated into this Variance Criteria analysis.

PRACTICAL DIFFICULTY VARIANCE FACTORS	
FACTOR	
a.	<p>Whether the Town has received written support of the specifically identified variance requests from adjoining property owners;</p> <p><i>Analysis:</i> The Town has not received any written support regarding these requests, nor has Town has received written opposition.</p> <p><i>Finding:</i> Does not comply.</p>
b.	<p>Whether the Variance would be compatible with development patterns in the Town;</p> <p><i>Analysis:</i> Townhome developments throughout the town are built with both wood and masonry walls. Those projects built without masonry walls were done so under a previous Miami-Dade County provision that permitted such construction. The Town, however, with intent, amended that provision in 2008 as part of an omnibus ordinance that, among other items, restricted patio wall construction to masonry. Masonry construction is sturdier than wood and requires less maintenance and thus less prone to degradation. The townhouse patios of the project in question are comparatively small and therefore produce a condition where outdoor private spaces for different properties are in closer proximity. The Land Development Code requires 400 square feet of outdoor living area for each townhouse; the</p>

	<p>applicant's development enjoys a variance which reduces the required patio size to 200 square feet (Resolution No. 15-3334).</p> <p><i>Finding:</i> Does not comply.</p>
c.	<p>The essential character of the neighborhood <i>would</i> be preserved;</p> <p><i>Analysis:</i> The entirety of the property is currently under construction by the developer/property owner. The material proposed would be consistently used within the townhouse portion of the project, in essence creating a character of its own.</p> <p><i>Finding:</i> Complies.</p>
d.	<p>The Variance can be approved without causing substantial detriment to adjoining properties;</p> <p><i>Analysis:</i> See Criteria "c" above. if "adjoining properties" it is understood to refer to properties adjoining the new development, ie, the surrounding neighborhoods, then no substantial detriment would be caused as the entire development is enclosed by a perimeter wall. The uniformity and styling of the requested product also does not cause a substantial detriment. Should, however, the material proposed by the applicant be deemed of lesser quality than masonry construction, as analyzed at Criteria "b", then a detriment may be caused as the product begins to degrade or fail. It may also be deemed less appropriate regarding its ability to provide privacy, particularly in light of the reduced patio sizes are presented at Criteria "b" above.</p> <p><i>Finding:</i> Does not comply.</p>
e.	<p>The Variance will do substantial justice to the property owner as well as to other property owners justifying a relaxation of this Land Development Code to provide substantial relief;</p> <p><i>Analysis:</i> There does not appear to be a practical need for the material proposed for the patio wall enclosures to be different than the masonry material required by the LDC.</p> <p><i>Finding</i> Does not comply.</p>
f.	<p>The plight of the applicant is due to unique circumstances of the property and/or applicant which would render conformity with the strict requirements of the Land Development Code unnecessarily burdensome; and</p> <p><i>Analysis:</i> The request for a change in material for the patio wall enclosures of the townhouses to be other than masonry as required by the LDC does not arise out of unique circumstances of either the property or the applicant. Considering the fact that this is new construction of a new subdivision designed and developed by the applicant, and that there exist no geographical or other physical characteristics that make this material change request a necessity, it stands to reason that the request arises out of either design preferences of the applicant or economic considerations, neither which are unique to the applicant.</p> <p><i>Finding:</i> Does not comply</p>
g.	<p>The special conditions and circumstances which exist are the result of actions beyond the control of the applicant.</p> <p><i>Analysis:</i> See Criteria "f" above. As explained above, there are no special conditions or circumstances for the Applicant.</p> <p><i>Finding:</i> Does not comply</p>