



Department of Planning, Zoning and Code Compliance
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Staff Analysis and Recommendation

To: Planning and Zoning Board

From: Brandon R. Schaad, AICP, LEED AP
Director of Planning

Subject: HEARING NUMBER: VARH2016-0017
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: November 15, 2016

REQUEST(S)

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

1. A variance from Subsection 13-1509(b)(2) 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.

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. 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:



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

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 two open Code Compliance Violations associated with this property:

- C2016-0734, work without a permit for a sales trailer on-site. There is currently a lien for this violation.

- C2016-1134, for debris at the site. A courtesy notice has been issued. No citation has been issued at this time.

Zoning History: The following is the known zoning history of the subject property: in 1978, Miami-Dade County, through resolution 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 02-25, a Comprehensive Plan amendment to reconfigure the portions of the property designated for Low Density Residential and for Business and Office, to their current configurations.

Also in 2002, the Town Council approved Ordinance 02-26, which rezoned the subject property from AU to RU-3M (now called RM-13), and rezoned the remaining portion of the parent parcel 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 11-883, which approved a development agreement for the entire parcel, which provided conditional parks and transportation concurrency. Concurrently, the Council passed Resolution 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 2015, the Town Council approved Resolution 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, approves 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 June 10, 2016, Lennar Homes, LLC submitted an administrative site plan application (ASPR2016-0009) with detailed plans for recreational amenities and common area landscaping, as well as detailed site plans for the various home models. This site plan application is currently under review.

On August 16, 2016 and September 13, 2016, the Planning and Zoning Board granted variances (application number VARH2016-0015) for both temporary (marketing of the new development) and permanent signs. These approvals were via Planning and Zoning Board Orders 2016-108 and 2016-109.

SUMMARY OF PROPOSAL AND STAFF ANALYSIS

Summary

The Applicant is requesting a variance to allow for the placement of a wall on the north property line taller than what is allowed by the Code. Subsection 13-1509(b)(2) limits the height of fences/walls within a required yard to six feet, which according to Subsection 13-1509(a)(2) are to be measured by taking elevations along both sides of the fence/wall and averaging the heights from those elevations to the top of the fence/wall. The Applicant intends to place single family residential lots along the north property line, and those lots will be at a higher elevation than the existing single family residential lots to the north of the site, by approximately two feet. The Applicant intends to build the wall such that it would be six feet high from the perspective of the new homes on the south side of the wall, but approximately eight feet high from the perspective of the existing homes on the north side of the wall. Because the measurement of height is based on an average from both sides of the wall, as explained above, a variance is required to do this.

Variance Criteria

Subsection 13-305(f)1 of the Town LDC allows the Town Council or Planning and Zoning Board to approve variance request(s) on the basis of practical difficulty on part of the Applicant by a majority vote of the members present. In order to authorize any variance on the basis of practical difficulty, the Council members or Planning and Zoning Board members at the meeting 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.

	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: The Town has not received any written support regarding these requests. The Town has received one written opposition regarding these requests.</i></p> <p><u>This criterion is not met.</u></p>
b.	<p>Whether the Variance would be compatible with development patterns in the Town;</p> <p><i>Analysis: While the lots on the north side of the proposed wall would have walls of approximately eight feet high in their back yards, given the difference in grade between those lots and those future lots on the subject site on the south side of the proposed wall, strictly adhering to the Code requirement for a wall limited to six feet high measured as an average between the two sides would result in a wall that would be quite short from the perspective of the lots to the south, leading to privacy issues for the lots to the north. Thus, the proposed variance would more closely adhere to development patterns in the Town than adhering to the Code requirement.</i></p> <p><u>This criterion is met.</u></p>
c.	<p>The essential character of the neighborhood would be preserved;</p> <p><i>Analysis: By helping to ensure privacy of the adjacent existing single family lots to the north of the subject site, the variance would ensure that the essential character of the neighborhood would be preserved.</i></p> <p><u>This criterion is met.</u></p>
d.	<p>The Variance can be approved without causing substantial detriment to adjoining properties;</p> <p><i>Analysis: Rather than causing substantial detriment to the adjoining properties to the north, the proposed variance will help to ensure continued privacy for those lots as the subject site is developed into a residential community.</i></p>

	<u>This criterion is met.</u>
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: As explained above, while the lots on the north side of the proposed wall would have walls of approximately eight feet high in their back yards, given the difference in grade between those lots and those future lots on the subject site on the south side of the proposed wall, strictly adhering to the Code requirement for a wall limited to six feet high measured as an average between the two sides would result in a wall that would be quite short from the perspective of the lots to the south, leading to privacy issues for the lots to the north. Thus, the proposed variance would more closely adhere to development patterns in the Town than adhering to the Code requirement.</i></p> <p><u>This criterion is met.</u></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: While the circumstance of sharply different elevations between the subject site and the properties to the north is unique for Miami Lakes, the “plight” in this case falls to the owners and/or residents of the properties to the north. While the proposed variance works to relieve that plight, this criterion is nevertheless not technically met.</i></p> <p><u>This criterion is not met.</u></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: As explained above, there are no special conditions or circumstances for the Applicant.</i></p> <p><u>This criterion is not met.</u></p>

RECOMMENDATION

The subject application is for a variance to allow a wall height of up to eight feet (maximum six feet required) along the north property line, along the rear of future single family residential lots adjoining existing single family residential lots. The proposed variance is borne of the fact that the subject site at the northern lot line will be approximately two feet above the existing single family residential lots to the north of the subject site. The Applicant proposes to construct a wall along the north property line that would separate the rear yards of new single family homes on the subject site and existing single family homes to the north. The proposed wall would be six feet high from the perspective of the new homes, but approximately eight feet high from the perspective of the existing single family lots. The Code provides that wall height is measured by taking elevations along BOTH sides of the wall and averaging the wall height from both sides; thus, a variance is required to do this.

Staff supports the application because while the lots on the north side of the proposed wall would have higher walls than typical, it will help to protect the privacy of those existing homes because if the Code requirement were adhered to, the wall from the perspective of the new lots would be significantly lower than six feet, allowing persons of average or slightly above average height to easily see over the wall from south to north. Thus, the proposal is a reasonable solution to maintain the privacy of the existing single family homes just north of the subject site.

Therefore, based on the above analysis and other factors contained in this report, Staff recommends ***approval with conditions***.

CONDITIONS

1. All work approved herein shall be in substantial compliance with the plans shown in Exhibit 1.
2. The Applicant shall obtain any required permits for improvements as approved herein within 12 months of the date of approval of this variance, unless an extension of properly granted by the Building Department.
3. Prior to the issuance of a building permit, the Applicant shall take all necessary steps to close Code Compliance case C2016-0734, and shall pay any outstanding fines and costs associated with this case.
4. The hours of construction and associated noise shall comply with the Town of Miami Lakes Noise Ordinance No. 04-50.