

**Miami-Dade County Department of Regulatory and Economic Resources  
Staff Report to Community Council No. 11**

**PH: Z13-114 (14-04-CZ11-2)**

**April 8, 2014**

Item No. 2

<b>Recommendation Summary</b>	
<b>Commission District</b>	11
<b>Applicant</b>	Efren Bello
<b>Summary of Requests</b>	The applicant is seeking to permit a covered patio setback less than required from the rear property line and with less patio area than is required.
<b>Location</b>	5042 SW 145 Avenue, Miami-Dade County, Florida.
<b>Property Size</b>	.062 Acre.
<b>Existing Zoning</b>	RU-TH, Townhouse District
<b>Existing Land Use</b>	Townhouse residence
<b>2015-2025 CDMP Land Use Designation</b>	Low-Density Residential, 2.5 to 6 dua <i>(see attached Zoning Recommendation Addendum)</i>
<b>Comprehensive Plan Consistency</b>	Consistent with interpretative text, goals, objectives and policies of the CDMP
<b>Applicable Zoning Code Section(s)</b>	Section 33-311(A)(4)(b), Non-Use Variance Standards <i>(see attached Zoning Recommendation Addendum)</i>
<b>Recommendation</b>	<b>Approval with conditions.</b>

**REQUESTS:**

1. NON-USE VARIANCE to permit an existing covered patio setback 1.75' (5' required) from the rear (West) property line.
2. NON-USE VARIANCE to permit a patio living area of 362 sq. ft. (400 sq. ft. min. required).

Plans are on file and may be examined in the Department of Regulatory and Economic Resources, entitled, "Floor Plan" as prepared by MDS Engineering Corp. and dated stamped received December 16, 2013, consisting of 1 sheet. Plans may be modified at public hearing.

**PROJECT DESCRIPTION:**

Existing 178 sq. ft. covered terrace patio addition to townhouse residence

<b>NEIGHBORHOOD CHARACTERISTICS</b>		
	<b>Zoning and Existing Use</b>	<b>Land Use Designation</b>
<b>Subject Property</b>	RU-TH, townhouse residence	Low Density Residential (2.5 to 6 dua)
<b>North</b>	RU-TH, townhouse residence	Low Density Residential (2.5 to 6 dua)
<b>South</b>	RU-TH; townhouse residence	Low Density Residential (2.5 to 6 dua)
<b>East</b>	RU-TH; townhouse residence	Low Density Residential (2.5 to 6 dua)
<b>West</b>	RU-1; single-family residences	Low Density Residential (2.5 to 6 dua)

**NEIGHBORHOOD COMPATIBILITY:**

The subject property is located at 5042 SW 145 Avenue within an existing residential development. The area surrounding the subject property is primarily characterized by townhouse residences to the north, south, and east and single-family residences to the west.

**SUMMARY OF THE IMPACTS:**

Approval of this application will allow the applicant to maintain the existing covered patio addition to a townhouse residence as a recreational use, and will also provide shelter from the elements. However, although the covered terrace is existing, the 3.25' encroachment may visually impact the abutting residences to the west.

**COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:**

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the site for **Low Density Residential**. *This category allows a range in density from a minimum of 2.5 to a maximum of 6 dwelling units per gross acre and is characterized by single family housing, e.g., single-family detached, cluster, zero lot line and townhouses.* The approval of the encroachment will not add additional dwelling units to the site beyond what is allowed by the LUP map of the CDMP and will not change the townhouse residence use. Since the applicant is not requesting to add additional dwelling units or change the townhouse residence use, approval of the application with conditions is **consistent** with the density threshold of the Low Density Residential Communities map of the CDMP LUP map designation.

**ZONING ANALYSIS:**

When Requests #1 and #2 are analyzed under Section 33-311(A)(4)(b), Non-Use Variance Standards, staff opines that approval with conditions will maintain the basic intent and purpose of the zoning, subdivision and other land use regulations and would be **compatible** with the area. Staff found similar or more intensive approvals for rear patio setbacks along with variances for patio living areas. For example, a property located at 4813 SW 145 Avenue was approved pursuant to Resolution #5-ZAB-93-96 to permit a covered patio to setback 2' (10' required) from the rear (east) property line with a minimum patio living area of 55 sq.ft. (400' sq.ft. minimum required); a property located at 14455 SW 50 Street was approved pursuant to resolution #5-ZAB-130-96 to permit a covered patio to setback 2' (10' required) from the rear (north) property line with a minimum patio living area of 280.3 sq. ft. (400 sq. ft. minimum required) and a property located at 14050 SW 52 Terrace was approved pursuant to Resolution # 5-ZAB-419-94 to permit a 2.25' (20' required) from the rear southeast property line with a minimum patio living area of 202 sq.ft. (500 sq. ft. minimum required).

In May 1987, the subject property was a part of a larger tract of land which was approved pursuant to Administrative Site Plan Review (ASPR) number #A198700185 for a townhouse Development. The ASPR site plan indicated a 6' high wood fence along the rear (west) property line of the subject property and the abutting properties along the block face. Staff opines that the existing 6' high wood fence, which is a part of the townhouse development, provides a visual buffer that mitigates any negative visual impact created by the encroachment.

**Based on the aforementioned analysis, staff recommends approval with conditions of the application under Section 33-311(A)(4)(b), Non-Use Variance From Other Than Airport Regulations Standards.**

**ACCESS, CIRCULATION AND PARKING:** Not applicable.

**NEIGHBORHOOD SERVICES PROVIDER REVIEW:** See attached.

**OTHER:** Not applicable.

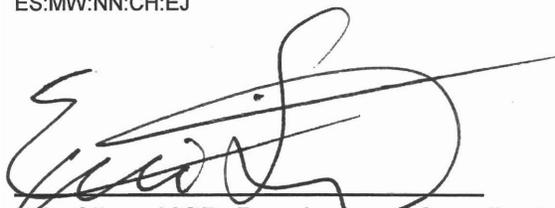
**RECOMMENDATION:**

**Approval with conditions.**

**CONDITIONS FOR APPROVAL :**

1. That a site plan be submitted to and meet with the approval of the Director of the Department of Regulatory and Economic Resources upon the submittal of an application for a building permit and/or Certificate of Use; said plan must include among other things but not be limited to, location of structure or structures, exits and entrances, drainage, walls, fences, landscaping, and other requirements.
2. That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled, "Floor Plan" as prepared by MDS Engineering Corp. and dated stamped received December 16, 2013, consisting of 1 sheet. Except as may be specified by any zoning resolution applicable to the subject property, any future additions on the property which conform to Zoning Code requirements will not require further public hearing action.
3. That the use be established and maintained in accordance with the approved plan.
4. That a gutter be installed along the rear (west) roof line of the covered patio to insure on-site drainage.
5. That the existing 6' high wood fence along the rear (west) property line be maintained and that if the fence is removed or destroyed, the applicant shall replace same with a 6' high wood fence.

ES:MW:NN:CH:EJ



Eric Silva, AICP, Development Coordinator  
Development Services Division  
Miami-Dade County Department  
of Regulatory and Economic Resources

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# ZONING RECOMMENDATION ADDENDUM

Efren Bello  
Z13-114

<b>NEIGHBORHOOD SERVICES PROVIDER COMMENTS</b>	
Division of Environmental Resource Management (RER)	No objection
Platting and Traffic Review Section (RER)	No objection
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No objection
Schools	No objection
Public Works and Waste Management Dept	No objection
*Subject to conditions in their memorandum.	

## COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

<p><b>Low-Density Residential (Pg. I-31)</b></p>	<p><i>The Adopted 2020 and 2030 Land Use Plan designates the subject property as being within the Urban Development Boundary for Low Density Residential. The residential densities allowed in this category shall range from a minimum of 2.5 to a maximum of 6.0 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.</i></p>
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## PERTINENT ZONING REQUIREMENTS/STANDARDS

<p><b>Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.</b></p>	<p><i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for <b>non-use variances</b> from the terms of the zoning and subdivision regulations and may grant a non-use variance upon a showing by the applicant that the non-use variance maintains the basic intent and purpose of the zoning, subdivision and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community and provided that the non-use variance will be otherwise compatible with the surrounding land uses and would not be detrimental to the community. No showing of unnecessary hardship to the land is required</i></p>
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