

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to Community Council No. 12**

PH: Z15-011 (15-9-CZ12-2)

September 1, 2015

Item No. 2

Recommendation Summary	
Commission District	7
Applicants	Duffield W. Matson, III & Sara Matson
Summary of Requests	The applicants seek to modify a condition of a prior resolution in order to submit revised site plans showing an additional accessory structure setback less than required from property lines, that results in more rear yard area coverage than permitted by Code.
Location	4960 Sunset Drive, Miami-Dade County, Florida.
Property Size	.98 gross acre +/-
Existing Zoning	EU-1, Single-Family One Acre Estate District
Existing Land Use	Single-family residence
2020-2030 CDMP Land Use Designation	Estate Density, 1 to 2.5, dua <i>(see attached Zoning Recommendation Addendum)</i>
Comprehensive Plan Consistency	Consistent with the LUP map, and the interpretative text and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311(A)(4)(b), Non-Use Variance From Other Than Airport Regulations Standards Section 33-311(A)(7), Generalized Modification Standards <i>(see attached Zoning Recommendation Addendum)</i>
Recommendation	Approval with conditions.

REQUESTS:

1. MODIFICATION of Condition #2 of Resolution CZAB12-28-01, passed and adopted by the Community Zoning Appeals Board #12, reading as follows:

From: "2 That in the approval of the plan the same be substantially in accordance with that submitted for the hearing unentitled, as prepared by T. L. Riggs and dated revised January 9, 2001."

To: "2 That in the approval of the plan, the same be substantially in accordance with that submitted for the hearing entitled "An Addition for: Matson Residence", as prepared by Brockhouse Associates, P.A., "Landscape Plans" prepared by Bell-La, Sheets L-1, L-2, L-3 and L-4 dated stamped received 5-14-15, all other plans dated stamped received 2/18/15 and consisting of 14 sheets."

The purpose of the request is to allow the applicants to submit revised plans showing an accessory building on the rear of the property and variances to allow for a smaller lot.

2. NON-USE VARIANCE to permit a lot area of .98 acres (1 gross acre required).
3. NON-USE VARIANCE to permit the proposed detached accessory building to setback 2' (20' required) from the interior side (west) property line.
4. NON-USE VARIANCE to permit the proposed detached accessory building with a rear yard area of 10.1% (5% permitted).

PROJECT DESCRIPTION AND PROJECT HISTORY:

Pursuant to Resolution #CZAB12-28-01, the subject property was a part of a larger 2-acre parcel, that was approved to split the parcel into two (2) separate one (1) gross acre lots, Tract “A”, the subject parcel and Tract “B”, the abutting parcel to the south. Said approval permitted the subject property with an accessory structure encroaching 18’ (setback 2’, where 20’ is required) into the interior side (west) setback area. Further, staff notes that a Private Easement Agreement, recorded in Official Record Book (ORB) 926 at Page 266, grants the subject property and the parcel to the south a 30’ wide right-of-way access easement within the abutting property to the west from Sunset Drive.

Among the conditions for approval, was the site plan showing the existing house and an accessory structure on the subject property. The applicants now seek to modify said plan, in order to permit an additional accessory building, which will result in a rear yard coverage that will be more than the 5% allowed by Code and to permit the existing residence on the 0.98 gross acre EU-1 parcel.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	EU-1; single-family residence	Estate Density Residential, (1 to 2.5 dua)
North	City of Coral Gables; single-family residences	Low-Density Residential, (2.5 to 6 dua)
South	EU-1; single-family residence	Estate Density Residential, (1 to 2.5 dua)
East	EU-1; single-family residence	Estate Density Residential, (1 to 2.5 dua)
West	EU-1; elementary school	Estate Density Residential, (1 to 2.5 dua)

NEIGHBORHOOD COMPATIBILITY:

The .98 gross acre subject property contains an existing single-family residence and is surrounded by properties to the north in the City of Coral Gable and to the east and south in Miami-Dade County that are zoned for and contain existing single-residence uses. To the west, is an existing elementary school, which is separated from the subject property by a 30’ wide access easement.

SUMMARY OF THE IMPACTS:

The approval of this application will allow the applicant to construct an additional accessory structure on the subject property which will result in a rear yard coverage of approximately 10% where 5% is allowed by the Code and which will encroach 18’ into the interior side (west) setback area. Staff opines that this may have a visual impact on the properties to the west and south. However, it should be noted that the surrounding properties are well wooded and the property to the west is a school, thus minimizing any visual impacts.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The subject property is designated as *Estate Density Residential* (see attached Zoning Recommendation Addendum) on the Comprehensive Development Master Plan's (CDMP) Adopted 2020-2030 Land Use Plan (LUP) map. Approval of these requests would permit the applicants to build an additional accessory structure on the 0.98 gross acre parcel, which will result in variances to the rear yard coverage and setback requirements on the EU-1 zoned parcel. Staff notes that the approval of the requests sought in the application will not add additional dwelling units to the site beyond what was previously approved and will not change the single-family residential use. Therefore, staff opines that approval of the application would be **consistent** with the uses allowed under the CDMP Estate Density Residential land use category text and the density threshold of the CDMP Estate Density Residential Communities LUP map designation.

ZONING ANALYSIS:

When request #1 is analyzed under Section 33-311(A)(7), General Modification Standards, staff opines that approval of the same would be **compatible** with the surrounding area for the reasons stated herein. The applicants are seeking approval to modify a condition of a prior resolution in order to submit a revised site plan showing additions to the residence and an additional accessory structure. Said structure will encroach 18' into the required 20' wide interior side setback area (request #3) and result in more rear yard coverage than allowed (request #4). For reasons that will be expanded upon in the analysis of the requests #3 and #4 below, staff opines that the approval with conditions of the requested modification, will not create materially greater adverse privacy impacts on adjacent residences than what would otherwise be permitted by the underlying district regulations, and the proposed accessory building is in harmony with the general appearance of the surrounding area.

Staff also notes that the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources (RER) memorandum states that the application will not generate any new PM daily peak hour trips, and that this application meets the traffic concurrency criteria for an initial development order. Further, the Division of Environmental Resources Management of RER memorandum indicates that approval of this application meets all applicable LOS standards for an initial development order, as specified in the CDMP for potable water service, wastewater disposal, and flood protection, and the memorandum from the Miami-Dade Fire Rescue Department does not indicate that the proposal will have a negative impact on fire rescue services in the area. Based on the aforementioned memoranda, staff opines that approval of the subject request would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction. However, as a condition for approval, staff recommends that the subject property should be platted based on the memorandum from the Platting and Traffic Review Section of RER. **For the reasons above, staff recommends approval with a condition of request #1 under Section 33-311(A)(7) Generalized Modification Standards.**

When the requests to permit the existing residence on the 0.98 gross acre (1 gross acre required), EU-1 zoned parcel (request #2), along with the proposed accessory building setback less than required from the interior side (west) property line (request #3), and a 10.1% rear yard coverage, where 5% maximum is permitted (request #4), are analyzed under the Non-Use Variance (NUV) From Other Than Airport Regulations Standards, Section 33-311(A)(4)(b), staff

is of the opinion that approval with conditions of same would be **compatible** with the surrounding area and would not be detrimental to the neighborhood. Staff notes that the subject property was a part of a larger two (2) gross acre parcel, which, pursuant to Resolution #CZAB12-28-01, was approved to permit two (2) separate EU-1 lots in 2001. Staff's review of the submitted survey with that application indicated that the subject parcel met the EU-1 gross acreage requirement. However, in staff's opinion, the subject parcel's size was reduced to the existing .98 gross acre due an inadvertent error at that time. Since the residences have existed on both parcels since that time, staff opines that approval of this request would not result in any change that will have a detrimental effect on the character of the surrounding area.

Staff notes that the existing access easement to the west, provides an additional 30' spacing from the existing uses on the property to the west. As such, staff opines that the proposed accessory structure will not have a negative visual impact on the more intensive school use on the property to the west. Staff's review of aerial photographs of the subject property in the County's Geographical Information Systems (GIS), indicate an abundance of foliage on the subject parcel and the aforementioned abutting parcel. Therefore, staff opines that the increase in rear yard coverage on the subject property (request #4) will not be easily visible from the surrounding properties, and therefore, will not have any visual impact on the surrounding area. **Therefore, staff recommends approval with a conditions of requests #2 through #4, under Section 33-311(A)(4)(b), Non-Use Variance (NUV) From Other Than Airport Regulations Standards.**

ACCESS, CIRCULATION AND PARKING: The subject parcel is located south of Sunset Drive at 4960 Sunset Drive with a private access drive from Sunset Drive that runs parallel to the west property line.

NEIGHBORHOOD SERVICES PROVIDER REVIEW: See attached.

OTHER: Not applicable.

RECOMMENDATION:

Approval with conditions.

CONDITIONS FOR APPROVAL:

1. That all the other conditions of Resolution #CZAB12-28-01, remain in full force and effect except as herein modified.
2. That the applicants comply with all the requirements of the Platting and Traffic Review Section of the Department of Regulatory and Economic Resources in its memorandum dated February 27, 2015.

ES:MW:NN:EJ:CH



Nathan Kogon, AICP, Assistant Director
Development Services Division
Miami-Dade County
Department of Regulatory and Economic Resources

ZONING RECOMMENDATION ADDENDUM

Duffield W. Matson, III & Sara Matson
Z15-011

NEIGHBORHOOD SERVICES PROVIDER COMMENTS	
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
Schools	No objection
*Subject to conditions in their memorandum.	

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

Estate Density Residential (Pg. I-29)	<i>This density range is typically characterized by detached estates which utilize only a small portion of the total parcel. Clustering, and a variety of housing types may, however, be authorized. The residential densities allowed in this category shall range from a minimum of 1.0 to a maximum of 2.5 units per gross acre.</i>
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PERTINENT ZONING REQUIREMENTS/STANDARDS

Section 33-311(A)(4)(b) Non-Use Variances From Other Than Airport Regulations.	<i>Upon appeal or direct application in specific cases, the Board shall hear and grant applications for non-use variances 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>
Section 33-311(A)(7) Generalized Modification Standards.	<i>The Board shall hear applications to modify or eliminate any condition or part thereof which has been imposed by any final decision adopted by resolution; and to modify or eliminate any provisions of restrictive covenants, or parts thereof, accepted at public hearing, except as otherwise provided in Section 33-314(C)(3); provided, that the appropriate Board finds after public hearing that the modification or elimination, in the opinion of the Community Zoning Appeals Board, would not generate excessive noise or traffic, tend to create a fire or other equally or greater dangerous hazard, or provoke excessive overcrowding of people, or would not tend to provoke a nuisance, or would not be incompatible with the area concerned, when considering the necessity and reasonableness of the modification or elimination in relation to the present and future development of the area concerned, or (b) (i) that the resolution that contains the condition approved a school use that was permitted only as a special exception, (ii) that subsequent law permits that use as of right without the requirement of approval after public hearing, and (iii) that the requested modification or elimination would not result in development exceeding the standards provided for schools authorized as a matter of right without the requirement of approval after public hearing.</i>