

## Presentation by Brad Smith – Chair

### Palms of Terra Ceia Bay CDD

#### RE: Bonita Vista Public Hearing comments

February 16<sup>th</sup>, 2017

The residents of the Palms of Terra Ceia Bay CDD are here tonight to express concerns about the variances that are recommended for approval in the Board report for the Bonita Vista Project application.

My understanding of variances is consistent with the questions that are on the City of Palmetto Variance application form.

They are:

- What are the special conditions or circumstances which are not applicable to other properties in the district?
- Tell us how the literal interpretation of the provisions of the code would deprive the applicant rights commonly enjoyed by other properties in the same district.
- Show that the special conditions and circumstances do not result solely from the actions or desires of the applicant.

The applicant apparently went through a process that does not require they fill out that application.

However, it seems that those questions on the variance application **are clearly intended to set the high bar of undue burden or hardship required to grant a variance.**

We ask that the board ask these same questions of the applicant and deny any variance request that does not meet the variance criteria set forth on the city's own variance application form.

**Specifically, we would like the Planning and Zoning Board to provide us with answers to the following questions before any variances are granted:**

1. What **undue burdens or hardships** will fall upon the developer if the applicant:
  - Does not vary from the 35 foot boundary setback specifically called for in the Planned Development – Housing (PD-H) designation. Especially since the requested variance from 35 to 8 foot from the adjoining property is a 77.142% reduction to the benefit of the applicant.
  - Other than having to build a smaller, potentially less profitable project, **what undue burden or hardship** is created by following the existing setback requirements for PDH zoning?

2. What **undue burdens or hardships** will fall upon the developer if they:

Build to 16 dwelling units per acre which is the limit under the PD-H designation instead of the requested 20 units per acre?

- **The staff report specifically states that “The proposed project does not meet any of the PD-H ‘bonus density’ criteria.”**

- Other than having to build a smaller, potentially less profitable project, **what undue burden or hardship** is created by compliance with the existing density limits for PD-H zoning?

3. **Allow 38' setback from Terra Ceia Bay Boulevard. The required setback is 38. 5' from Terra Ceia Bay.**

- Again, other than the ability to build a larger, potentially more profitable project, **what undue burdens or hardships** are lifted from the developer by granting the variance?

I want to quote what the Palmetto City Code of Ordinances has to say about variances:

Section 8.2. ...” **Variances** may be requested by the applicant but must be specified on the master plan and approved by the city council. **The planned development district shall in no way be used to circumvent requirements of other districts or other codes of the city. The proposed master plan shall be consistent with the land use plan designation of the site.”**

- **In this case the land use plan designation is PD-H that has specified limits of a 35 foot boundary setback, 16 units per acre of density and 38.5 feet setback from roadways.**

Section 9.8. – Any person affected by this chapter may request a hearing before the city commission. **Such hearing shall determine whether strict application of this section unduly burdens, or creates an undue hardship on the petitioner.**

- **What are the undue burdens or hardships here?**

We understand that the applicant has the right to build to the PDH limitations. However, we ask that you do not approve any variances that do not meet the City’s own “high bar” requirement.

Our final question is critical as it may have a significant economic impact of the community:

One of the Staff Recommended Stipulations in the Planning report is that “Stormwater shall be permitted through the Florida Department of Environmental Protection (FDEP) for the modification of an existing permit for Terra Ceia”. We assume that Terra Ceia means the CDD in this case.

**How was the determination made that Bonita Vista could connect to the Palms of Terra Ceia Bay CDD drainage system?**

- The CDD has not been contacted about this request or decision.
- Bonita Vista is not within the confines of the CDD.
- It is our understanding that the documentation on which the applicant is relying for the connection to the CDD Stormwater system has not yet been provided to the city or the CDD.

Those items all needs to be resolved. In the meantime:

- If the CDD were to agree (and we have not yet done so) or is mandated that Bonita Vista connect to our drainage system we will require a stipulation or agreement that any improvements or upgrades mandated by FDEP that are caused by the modification of our system as a result of the developer's new connection shall be paid solely by the developer.
- The developer should also be required to pay their fair share of the annual maintenance costs of the Palms of Terra Ceia Bay drainage system.
- It is not fair for the residents of Palms of Terra Ceia Bay to pay for FDEP mandated upgrades which benefit a developer that is not even in the CDD and are of no benefit to residents.

Finally, we thank you for your time and service.