

ZONING VARIANCE REVIEW REPORT

TO: Pasco County Development Review Committee      FILE: ZN10-2011  
FROM: Lee W. Millard      PETITION #2011  
Assistant Zoning/Code      Commission District #1  
Compliance Administrator  
SUBJECT: Variance Request      Development Review Committee  
Northeast Pasco County      Hearing Date: 4/29/10, NPR  
APPLICANT: **TAMPA BAY COMMUNITY**      TAZ #196  
**DEVELOPMENT CORPORATION**

---

PETITION SUMMARY:

Variance No. 2011 in the name of Tampa Bay Development Corporation has been filed to allow adjustment of the standards established within Article 500, Zoning; Section 517, R-4 High Density Residential District; Subsection 517.7, Yard Regulations of the Pasco County Land Development Code (LDC). The site under consideration is located on the northwest side of 21<sup>st</sup> Street (Powerline Road) at the intersection of Sol Vista Drive and 21<sup>st</sup> Street (Powerline Road), Sunset Hills Subdivision (Parcel ID No. 21-24-21-0030-00000, Lots 1 through 5 and Lots 46 through 63), and contains 19 acres, m.o.l.

EXPLANATION OF VARIANCE:

Article 500, Zoning; Section 517, R-4 High Density Residential District; Subsection 517.7, Yard Regulations, of the Pasco County LDC states:

**517. R-4 HIGH DENSITY RESIDENTIAL DISTRICT**

**517.7 Yard Regulations**

- A. The following minimum building line setbacks measured from the property lines are required in yard areas listed below unless otherwise specified as in Article 600, Section 603, Subsection 603.9.A.:
  - 3. Rear - Fifteen (15) feet.

REQUESTED ADJUSTMENT:

The applicant is requesting a reduction in the required minimum setbacks from a landscape buffer easement line as follows: 1) Lot 1, a reduction in the required minimum, south-side setback from 7.5 feet to 5 feet and the east-front setback from 20 feet to 12.65 feet; 2) Lots 2 through 5, a reduction in the required minimum, rear setback from 15 feet to 5 feet; and 3) Lots 46 through 63, a reduction in the required minimum rear setback from 15 feet to 10 feet, which, if approved, will allow the applicant to construct accessory buildings within the landscape buffer setbacks as outlined above.

The surrounding zoning districts and land uses are as follows:

|        | <u>Zoning District</u>                                | <u>Land Use</u>  |
|--------|---|--|
| North: | A-R Agricultural-Residential                          | Single-Family Dwelling   |
| East:  | R-1MH Single-Family/Mobile Home                       | 21 <sup>st</sup> Street/Powerline Road;<br>Church; Mobile Home |
| South: | R-4 High Density Residential;<br>MF-1 Multiple Family | Sunkiss Drive; Single-Family<br>Dwellings                      |
| West:  | A-R Agricultural-Residential                          | Single-Family Dwelling   |

FINDINGS OF FACT:

1. Presently, the subject site contains single-family dwellings under construction within the Sunset Hills Subdivision; is comprised of 19 acres, m.o.l.; and is located in an R-4 High Density Residential Zoning District.
2. The applicant has stated that:

**The special application of the land development regulation conflicts with an important goal, objective, or policy of the Comprehensive Plan, or with the intent and purpose of another recently adopted land development regulation that serves a greater public purpose.**

Sunset Hills is being developed as a certified Affordable Housing Development. The floor plans that the builders offer require a minimum pad depth of 58 feet. The maximum depth provided at Sunset Hills is 55 feet on the perimeter lots where the 10-foot and 15-foot landscape easement/buffer (required by the LDC) exist. In Section 2.2.1 of the Pasco County Comprehensive Plan, in Housing Element, Objective HSG 2.2, Development and Permitting, the policy is "increase the opportunity for production of affordable housing by removing regulatory barriers where feasible".

If the builders are forced to redesign their products to fit the building pads, then they will incur significant delays in home construction due to building redesign. In Section 2.2.1 of the Pasco County Comprehensive Plan, in the Housing Element, Policy HSG 2.2.1, Amend Land Development Regulations, the policy is "Pasco County shall regularly review the Land Development Code and building regulations to identify potential actions or programs that might be established to reduce the costs of compliance for affordable housing providers".

Given that the landscape easements are 10 feet and 15 feet in width, respectively, and the rear-yard setback is 15 feet, currently the rear(s) of the home(s) would be located 25 feet and 30 feet, respectively, from the rear property lines(s). We are asking for the variance (5 feet and 10 feet of relief) to reduce the width of the rear-yard setback. The rear of the home(s) would be located 20 feet from the rear property line(s) if this variance is granted.

The language of the LDC is vague and can be considered contradictory when describing how setbacks are measured from the landscape buffers and lot lines. Further, the Central Permitting Division staff issued Building Permits for our model home and two others and provided a Certificate of Occupancy for the model despite the encroachment into the landscape easement. We are asking for relief from the setback width to avoid the significant delays in resubmittal of the subdivision preliminary plan, construction plans, and a replat of the subdivision

3. Access to the property is from Sunbright Way, Sol Vista Drive, Sunkiss Drive, Callista Lane, and Annika Way, homeowners'-maintained roads, which have 50 feet of right-of-way.
4. The subject property is located in Flood Zone "C," and development within this area designated Zone "C" is not subject to the requirements of the LDC, Article 700, Flood Damage Prevention.
5. The surrounding area is characterized by the Sunset Hills Subdivision.
6. The subject area has been designated RES-6 (Residential - 6 du/ga) under the Comprehensive Plan.
7. On October 25, 2005, the Board of County Commissioners approved rezoning Petition No. 6428, with conditions from an R-MH Mobile Home District to an R-4 High Density Residential District for the subject parcels.
8. On October 9, 2009, the plat for Sunset Hills Subdivision was recorded with the Clerk of the Circuit Court in Plat Book 66, Pages 1 through 4.
9. The Pasco County LDC, Section 603, Landscaping and Irrigation; Subsection 603.9.A, Landscape Buffering and Screening, requires that when landscape buffers are located within easements, the applicable side- or rear-yard setback as required by the district is to be measured from the easement line.

10. Lot 1, on the corner of Sol Vista Drive and Powerline Road, has an east-front landscape buffer of 20 feet and a south-side landscape buffer of 15 feet, Lots 2 through 5 on Sol Vista Drive have a rear landscape buffer of 15 feet, and Lots 45 through 64 on Callista Lane have a rear 10-foot landscape buffer.
11. Adding a 20-foot front setback, a 7.5-foot side setback, and a 15-foot rear setback to the existing landscape buffers on these lots, respectively, greatly reduces the building footprint of these lots and limits the potential for accessory structures such as sheds, pools, and enclosures.
12. On April 8, 2010, the applicant's representative was notified that staff would recommend denial of the applicant's request as presented in the application, but would recommend a reduction in the landscape buffer to five feet.
13. Staff is recommending denial of the applicant's request and approval of a reduction in the required minimum landscape buffer from 20 feet (east front Lot 1), 15 feet (south side Lot 1, rear Lots 2 through 5), and 10 feet (rear Lots 45 through 64) to 5 feet.
14. Staff has reviewed a reduction in the required 20-foot landscape buffer on Lot 1, 15-foot landscape buffer on Lots 1 through 5, and 10-foot landscape buffer on Lots 45 through 64 to a 5-foot buffer in accordance with the LDC, Article 300, Subsection 316.1.A, and finds the following:

- a. The strict application of the land development regulation creates an unreasonable or unfair noneconomic hardship or an inordinate burden that was not created by the variance applicant.

Staff finds that a reduction in the setback, as requested by the applicant, would leave some lots with only a 5-foot usable, rear-yard area and some lots with a 10-foot usable, rear-yard area. If the landscape buffer is reduced to 5 feet, the homeowners would have at least 15 feet of usable, rear-yard area for amenities such as sheds, enclosures, and pools.

- b. The specific application of the land development regulation conflicts with important Goals, Objectives, or Policies of the Comprehensive Plan or with the intent and purpose of another recently adopted land development regulation that serves a greater public purpose.

N/A

- c. The granting of the variance will provide a net economic benefit to the taxpayers of Pasco County and is not in conflict with important Goals, Objectives, and Policies of the Comprehensive Plan.

N/A

- d. The granting of the variance is not necessary to achieve an innovative site or building design that furthers the Goals, Objectives, and Policies of the Comprehensive Plan.

N/A

- e. The intent and purpose of the land development regulation, related land development regulations, and Comprehensive Plan provisions are not met or exceeded through an improved or alternate technology or design.

N/A

- f. The granting of the variance is necessary to protect the public health, safety, or welfare.

N/A

- g. The variance is necessary to comply with State or Federal law.

N/A

- h. The variance satisfies variance criteria set forth in the specific County land development regulation that is the basis for the variance request.

N/A

15. Staff's recommendation and report is based upon a study of the factors outlined above.

STAFF RECOMMENDATION:

Denial of Applicant's Request; Approval of a Reduction in the Landscape Buffers that Abut Lots 1 through 5 from 20 Feet and 15 Feet to 5 Feet and that Abut Lots 45 through 64 from 10 Feet to 5 Feet With Conditions

CONDITIONS:

1. The owner/applicant shall obtain all required permits.
2. The owner/applicant shall record the variance petition review report with the final Development Review Committee (DRC) action, at the cost of the applicant, within 14 days of the DRC's approval to place potential buyers on notice.
3. The owner/applicant acknowledges that any provisions of the Pasco County ordinances and any rezoning conditions of approval not specifically waived shall be in full force and effect, including all impact fee ordinances.
4. The owner/applicant shall revise the homeowners' association covenants to reflect the reduction in the landscape buffer/easement as approved by the DRC.
5. In addition to complying with the above conditions, no activity shall commence on site until such time as the acknowledgment portion of this document is completed (including notarization) and received by the Zoning and Site Development Department after the final action.

OWNER'S/APPLICANT'S ACKNOWLEDGMENT:

The owner/applicant acknowledges that they have read, understood, and accepted the above-listed conditions of approval. **Do not sign until you receive a copy of this petition with Development Review Committee results.**

\_\_\_\_\_  
(Date)

\_\_\_\_\_

\_\_\_\_\_  
Printed Name

I hereby certify on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, A.D., before me personally appeared the owner/applicant, to me known to be the person described in and who executed the foregoing document and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

Witness my hand and seal at \_\_\_\_\_, \_\_\_\_\_ County, Florida, the day and year aforesaid.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_

Notary Public, State of \_\_\_\_\_ at Large

DEVELOPMENT REVIEW COMMITTEE ACTION: