



JUSTIFICATION STATEMENT

This is a request for a waiver of fence height as it pertains to subdivision known as Delaire Country Club located at 4645 White Cedar Lane. The requested waiver pertains specifically to the Clubhouse Parcel. The fence requiring the waiver is located on the north side of the new pickleball courts that were approved via the Class I Site Plan Modification (File Number 2023-229) approved in October 2, 2023.

This is a request for a waiver from Section 4.6.5 (C) of the City of Delray Beach's Land Development Regulations which requires that fences located in the front setback to not exceed 6 FT in height. More specifically, the Land Development Regulation states:

Height restrictions. Walls, fences, or hedges located in a required front yard or street side yard shall not exceed six feet in height. Walls, fences, or hedges located in a required interior side or rear yard shall not exceed eight feet in height. Such height is further regulated by subsection (A), above. For the purpose of this section, height is to be measured from the undisturbed natural) grade of the ground adjacent to the exterior of the fence, wall or hedge.

We respectfully request a waiver to allow the fence, located in the front setback of the Clubhouse Parcel to be 10 FT in height. The fence is an existing fence that is to be relocated in order to enclose the new pickleball courts that was formerly a tennis court. A Class 1 Site Plan Modification was approved on October 2, 2023 to allow the conversion of the tennis court to four (4) pickleball courts. The perimeter fence used to enclose the existing tennis court is slated to be relocated around the newly approved pickleball courts, however, the size of the new pickleball courts is actually 2+/- FT longer and 10 +/- FT wider than the existing tennis court and the pickleball court was shifted approximately 10 FT to the north to accommodate golf cart parking that was approved as part of the Class 1 Site Plan Modification. As a result, the existing 10 FT fence is being shifted approximately 13 FT to the north and which will now encroach into the 30 FT front setback. The 10 FT fence is a regulation size fence used to ensure that play stays within the enclosed area so that balls are not inadvertently landing onto oncoming vehicular or pedestrian traffic.

In accordance with Section 2.4.11 of the City of Delray Beach Land Development Regulations, a waiver involves the granting of partial or total relief from a specific development regulation. Prior to the City Commission granting a waiver, the City Commission must make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;**
- (b) Shall not significantly diminish the provision of public facilities;**
- (c) Shall not create an unsafe situation;**

and

(d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

The following responses address the required findings:

(a) Shall not adversely affect the neighboring area: The fence at 10 FT is actually an existing condition. Due to the conversion of the tennis court to pickleball courts, the fence is forced to be moved into the front setback. Visually, there is no change in the appearance of the fence from its present condition to the proposed location. The fence is adjacent to the main collector roadway of the community and poses no impact to the neighboring residents or area. It is understood by the residents that a fence height of 10 FT is necessary in order to protect the vehicular and pedestrian traffic from errant balls.

(b) Shall not significantly diminish the provision of public facilities: The request to allow the fence to be at 10 FT in height has no impact on the provision of public facilities. The proposed fence location is outside of the right-of-way and utility easements and will sit on private property. No impact is made to the ability to deliver or provide the necessary services to the community.

(c) Shall not create an unsafe situation: The proposed waiver does not create an unsafe situation. It is the contrary, the proposed fence and location is being requested as a safety measure in order to prevent errant balls from accidentally landing in the adjacent roadway or impacting pedestrian circulation. The fence at 10 FT in height is already in existence and is being requested to be relocated in order properly surround the new pickleball courts. It has been proven, that for many years, the fence height at 10 FT ensures safety to and from the surrounding areas.

d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner: The proposed fence height of 10 FT is not the granting of special privilege. It is common for perimeter fences for tennis/pickleball courts to be at 10 FT or greater in order to protect the surrounding area from errant balls. The existing fence is at 10 FT and is being relocated in order to safely protect the play as a result of the conversion of the tennis court to pickleball courts. The height of the fence is requested for safety purposes and it is a common in and around the City of Delray Beach seeing that the City supports and encourages outdoor recreation.