

**August 3, 2022**

**Re: Pompey Park, Waiver Request**

This letter is a waiver request pursuant to Section 2.4.7(B)(5) and Section 4.6.16 (E)(5) "Trees" of the Delray Beach Land Development Regulations ("LDRs"). Section 4.6.16 (E)(5) "Trees" reads: *"Tree species shall be a minimum of 16 feet in overall height at the time of planting, with a minimum of six feet of single straight trunk with eight feet of clear trunk, and a seven-foot spread of canopy."*

The project's landscape design proposes ninety-six (96) trees and fifty-eight (58) palms on site. Of the 96 trees, fifty-seven (57) are utilized for mitigation purposes and the additional thirty-nine (39) provide for the additional requirements of the site and aesthetic value. As shown above, Section 4.6.16(E)(5) states the required height, clear trunk, and spread of canopy for trees on site. The 57 proposed trees utilized for mitigation meet these minimum standards, however the 39 other trees do not. While the 39 trees are not compatible with the city standards, due to the constraints outlined below, they provide equal aesthetical value:

- Nursery stock is a volatile market and current availability to procure grade 1 trees that meet the height and spread requirements and a search throughout the state indicates limited number of species that meet the requirements of the LDR. Only Live Oaks and Bridal Veil trees have been found to meet the requirements. Should these species be the only ones utilized, the aesthetics of this community site would suffer, and a monoculture would be created. A monoculture has potential to cause various maintenance issues should a single tree become diseased etc.
- Overhead powerlines are found along the northern property line, and the 16 foot overall height is incompatible with "Right Tree Right Place" standards which dictates setbacks based upon tree sizes. Per the "Right Tree Right Place" standards, trees of 14 -49 feet tall require a 30 foot setback from the overhead lines.

Upon your review and positive acceptance of this waiver, allow for 25% of the 154 trees and palms to reduce the size criteria outlined in LDR Section 4.6.16 (E)(5) "Trees".

As per the Land Development Regulations, Section 2.4.7(B)(5) requires that the governing body make positive findings to support the granting of a waiver based on the following:

- a) The waiver shall not adversely affect the neighboring area;
- b) The waiver shall not significantly diminish the provision of public facilities;
- c) The waiver shall not create an unsafe situation; and,
- d) The waiver does not result in the granting of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Positive findings with respect to LDR Section 2.4.7(B)(5) Waiver Findings, can be made as follows:

***a) The waiver shall not adversely affect the neighboring area.***

The granting of the waiver will not adversely affect the surrounding area. The trees in question will provide additional visual aesthetic value through differentiation of size, texture, and color to the site. The trees are on site and do not affect the areas outside of the project limits.

***b) The waiver shall not significantly diminish the provision of public facilities***

The waiver is internal to the project and is related to landscaping. Public facilities will not be significantly diminished and therefore the granting of the waiver will not significantly diminish public facilities.

***c) The waiver shall not create an unsafe situation.***

The waiver will not create an unsafe situation. The proposed trees adhere to CPTED (Crime Prevention Through Environmental Design) principals and have passed the initial CPTED review.

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

No special privilege will result from the granting of this waiver and under similar circumstance this type of waiver could be granted for other developments.

Please feel free to email or call if you have any questions.

Sincerely,

**August 3, 2022**

**Re: Pompey Park, Waiver Request**

This letter is a waiver request pursuant to Section 2.4.7(B)(5) and Section 4.6.16 (H)(3)(a) of the Delray Beach Land Development Regulations (“LDRs”).

LDR Sec. 4.6.16 (H)(3)(a) reads as follows:

*“A strip of land at least five feet in depth located between the off-street parking area or other vehicular use area and the right-of-way shall be landscaped, provided, however, that should the zoning code of the Delray Code of Ordinances require additional perimeter depths, that the provisions of the zoning code shall prevail. This landscape strip shall be free of any vehicular encroachment, including car overhang. The landscaping shall consist of at least one tree for each 30 linear feet or fraction thereof. The trees shall be located between the right-of-way line and the off-street parking or vehicular use area. Where the depth of the perimeter landscape strip adjacent to the right-of-way exceeds 15 feet, shade trees may be planted in clusters, but the maximum spacing shall not exceed 50 feet. The remainder of the landscape area shall be landscaped with grass, ground cover, or other landscape treatment excluding pavement.*

*Additionally, a hedge, wall or other durable landscape area shall be placed along the interior perimeter of the landscape strip. If a hedge is used, it must be a minimum of two feet in height at the time of planting and attain a minimum height of three feet above the finished grade of the adjacent vehicular use or off-street parking area within one year of planting.”*

The proposed landscape adheres to LDR Sec 4.6.16.(H)(3)(a) with exception to the requirement for a hedge, wall, or other durable landscape area being placed along the perimeter of the landscape strip. As the site currently stands, the landscape strip along NW 2<sup>nd</sup> St. and NW 10<sup>th</sup> Ave. is filled with mature trees. Due to the size of the trees and their inclusion to remain within the proposed project, over planting or adding a wall to the strip could cause damage. It is understood that this portion Sec. 4.6.16(H)(3)(a) is meant to screen the surrounding area from vehicle lights and noise coming from the site. However, the existing mature trees are of such a large size that they will help to mitigate these issues. The site is also a public park and community center and therefore, the design should offer clear sight from outside of the property in. A heavily planted hedge or wall would impede the visual connection and create a sense of enclosure. It would also decrease the safety of the site by creating the visual barrier. CPTED principals guide design to increase safety through the use of clear sight lines both to and from the site.

Please accept this request for a waiver to allow the landscape design to not include a hedge or perimeter wall within the landscape strips separating onsite parking from the roadway per LDR Sec. 4.6.16(H)(3)(a).

As per the Land Development Regulations, Section 2.4.7(B)(5) requires that the governing body make positive findings to support the granting of a waiver based on the following:

- a) The waiver shall not adversely affect the neighboring area;
- b) The waiver shall not significantly diminish the provision of public facilities;
- c) The waiver shall not create an unsafe situation; and,
- d) The waiver does not result in the granting of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Positive findings with respect to LDR Section 2.4.7(B)(5) Waiver Findings, can be made as follows:

***a) The waiver shall not adversely affect the neighboring area.***

The granting of the waiver will not adversely affect the surrounding area. While the existing site does have a chain link fence surrounding the property, it is transparent and no hedges or other walls are present. The proposed design maintains the current site conditions within the landscape strip and adds additional canopy trees to help screen the area while maintaining a safe condition.

***b) The waiver shall not significantly diminish the provision of public facilities***

The waiver is related to landscaping. Public facilities will not be significantly diminished and therefore the granting of the waiver will not significantly diminish public facilities.

***c) The waiver shall not create an unsafe situation.***

The waiver will not create an unsafe situation. The proposed landscape will increase safety in the site by allowing for clear sight lines in and out of the property.

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

No special privilege will result from the granting of this waiver and under similar circumstance this type of waiver could be granted for other developments.

Please feel free to email or call if you have any questions.

Sincerely,

**August 3, 2022**

**Re: Pompey Park, Waiver Request**

This letter is a waiver request pursuant to Section 2.4.7(B)(5) and Section 4.6.16 (H)(3)(i), of the Delray Beach Land Development Regulations (“LDRs”).

LDR Sec. 4.6.16 (H)(3)(i) reads as follows:

*“Landscape islands which contain a minimum of 135 square feet of planting area, with a minimum dimension of nine feet, exclusive of the required curb, shall be placed at intervals of no less than one landscaped island for every 13 standard parking spaces. One shade tree shall be planted in every island with a minimum of 75 square feet of shrubs and groundcovers. Tree specifications shall adhere to those listed in Section 4.6.16(E)(5) and 4.6.16(E)(6). Where approval for the use of compact parking has been approved, islands may be placed at intervals of no less than one island for every 15 compact parking spaces: [Amd. Ord. 6-12 2/21/12]*

1. *The distance between parking islands can be increased up to 15 standard or 17 compact parking spaces but the width of the parking island must be increased by one foot for each additional space (i.e. if the distance between parking islands is 15 standard parking spaces the parking island would have to be 11 feet wide). “*

The proposed project meets the above requirements of LDR Sec. 4.6.16(H)(3)(i), except for Subsection 1. The southeastern corner of the parking lot along NW 2<sup>nd</sup> St, contains 16 parking spots between landscape islands. The additional parking spot is necessary for two reasons. The parking demand set forth by the Parks and Recreation department and other City Departments has been placed as the main priority. The addition of a landscape island would minimize the necessary parking count. The landscape island needed by the LDR is also infeasible. The existing canopy trees are mature specimen trees, proposed to remain, and need to be protected. Their canopies extend well into the parking spaces providing necessary shade. Should a landscape island be proposed, there is potential for damage to these trees. The landscape island would also require a canopy tree to be planted within, which in turn would not survive due to the canopy coverage of the existing trees in the landscape strip.

Please accept this request for a waiver to LDR Sec. 4.6.16(H)(3)(i)(1) in order to allow for the additional parking space to remain in the design as an additional landscape island would be under the parking demand and ultimately be infeasible from a landscape perspective

As per the Land Development Regulations, Section 2.4.7(B)(5) requires that the governing body make positive findings to support the granting of a waiver based on the following:

- a) The waiver shall not adversely affect the neighboring area;
- b) The waiver shall not significantly diminish the provision of public facilities;
- c) The waiver shall not create an unsafe situation; and,

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

Positive findings with respect to LDR Section 2.4.7(B)(5) Waiver Findings, can be made as follows:

**a) *The waiver shall not adversely affect the neighboring area.***

The granting of the waiver will not adversely affect the surrounding area. The issue presented is internal to the proposed site.

**b) *The waiver shall not significantly diminish the provision of public facilities***

The waiver is related to landscaping and parking. Public facilities will not be significantly diminished, but rather expanded, as additional parking will be created.

**c) *The waiver shall not create an unsafe situation.***

The waiver will not create an unsafe situation.

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

No special privilege will result from the granting of this waiver and under similar circumstance this type of waiver could be granted for other developments.

Please feel free to email or call if you have any questions.

Sincerely,

**August 3, 2022**

**Re: Pompey Park, Waiver Request**

This letter is a waiver request pursuant to Section 2.4.7(B)(5) and Section 4.6.16 (H)(3)(k) of the Delray Beach Land Development Regulations (“LDRs”).

LDR Sec. 4.6.16 (H)(3)(k) reads as follows:

*Whenever parking tiers abut, they shall be separated by a minimum five-foot wide landscape strip. This strip shall be in addition to the parking stall and be free of any vehicular encroachment, including car overhang. In addition, a two-foot hedge shall be installed within this landscape strip and run the entire length of the strip. Pedestrian walkways are permitted to allow passage through the hedge. Nonmountable curbs are not required for these landscaping strips, providing carstops are provided. [Amd. Ord. 6-12 2/21/12]*

A single area of parking within the proposed project does not meet the above requirements of LDR Sec. 4.6.16(H)(3)(k). The parking area is found just to the southeast of the proposed community center and contains two parking strips that abut without the minimum five-foot wide landscape strip between the two. As previously stated, the parking demands of the site are of top priority to the Parks and Recreation Department. Should the five foot wide landscape strip be included, the proposed parking spaces would need to move to the south. The roadway would then be pushed and therefore so would the parking spaces along the southern border of the site. In order to keep the necessary parking spaces, this movement would encroach upon the existing mature canopy trees in the southern landscape strip. These specimen trees would in turn need to be removed to the detriment of the site. Their roots and canopy already extend into the proposed parking area and the roots will be pruned to accommodate for this. Any further root pruning would go well past the maximum and ultimately kill the trees.

Please accept this request for a waiver to LDR Sec. 4.6.16(H)(3)(k) to not include the required landscape strip between abutting parking tiers. This will allow for the project to meet the parking demands and protect the existing mature trees on site.

As per the Land Development Regulations, Section 2.4.7(B)(5) requires that the governing body make positive findings to support the granting of a waiver based on the following:

- a) The waiver shall not adversely affect the neighboring area;
- b) The waiver shall not significantly diminish the provision of public facilities;
- c) The waiver shall not create an unsafe situation; and,
- d) The waiver does not result in the granting of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Positive findings with respect to LDR Section 2.4.7(B)(5) Waiver Findings, can be made as follows:

**a) *The waiver shall not adversely affect the neighboring area.***

The granting of the waiver will not adversely affect the surrounding area. The issue presented is internal to the proposed site and maintains existing tree resources.

**b) *The waiver shall not significantly diminish the provision of public facilities***

The waiver is related to landscaping and parking. Public facilities will not be significantly diminished, but rather expanded, as additional parking will be created.

**c) *The waiver shall not create an unsafe situation.***

The waiver will not create an unsafe situation and is unrelated to safety concerns of the site.

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

No special privilege will result from the granting of this waiver and under similar circumstance this type of waiver could be granted for other developments.

Please feel free to email or call if you have any questions.

Sincerely,