

CARNEY STANTON P.L.

Attorneys At Law

135 S.E. 5TH AVENUE, SUITE 202
DELRAY BEACH, FLORIDA 33483

TEL: (561) 278-5565

FAX: (561) 330-8233

EMAIL: tfc@carneystanton.com

June 15, 2022

Mr. Julian Gdaniec
Senior Planner
Department of Planning and Zoning
City of Delray Beach
100 NW 1st Avenue
Delray Beach, Florida 33444

Re: 917 N.E. 8th Avenue /
Request for Waiver (L.D.R. Section 2.4.7(B))

Dear Mr. Gdaniec:

This office represents 917 NE 8th Ave LLC, owner of the property located at 917 N.E. 8th avenue, Delray Beach, FL 33483 (the "Property"). Please accept this letter as a formal request, pursuant to L.D.R. Section 2.4.7 (B), for a waiver from the provisions of L.D.R. Section 4.6.16. and requesting relief from the requirement to plant trees along the street frontage of the Property.

As pointed out in the Staff Review, trees cannot be placed in the limited space which fronts N.E. 8th Avenue in a way which will accommodate the 5' for the future installation of a sidewalk. In addition, there is insufficient space to meet the 14' FDOT requirement which provides that trees must maintain sufficient clearance from edge of pavement based on established FDOT standards. Thirdly, pursuant to the Florida Greenbook applies (for roadway designs, the "clear area" requirement which provides that there must be a clear area between a sidewalk and the street essentially means that the trees cannot be placed within the 14' and meet). See: <https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/roadway/floridagreenbook/2018-florida-greenbook.pdf?>

Finally, the current site plan provides for a 10' General Utility Easement in the front of the Property which will conflict with the placement of trees within that area.

Please note that even though we are requesting a waiver requiring the street trees, the owner of the Property is providing significant landscaping in the front of the 3 units being constructed, which will include palm trees, ground cover, shrubs, etc. all to create a nice 'street appeal' and a 'lush garden' effect in the front of the units.

A waiver from L.D.R. Section 4.6.16 in this case is supported due to the reasons set forth above. In addition, the granting of the waiver:

(i) will not adversely affect the neighboring area;

- (ii) will not significantly diminish the provision of public utilities;
- (iii) will not create an unsafe situation; and
- (iv) will 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.

(i) The granting of the waiver will not adversely affect the neighboring area.

The granting of the waiver will not adversely affect the neighboring area. In fact, with the increased area and preserving the space for a future sidewalk, will allow greater flexibility for the neighborhood. Not granting the waiver might actually impede the City's future enhancements for the neighborhood.

(ii) The granting of the waiver will not significantly diminish the provision of public utilities.

As stated, the waiver will permit an unobstructed general utility easement in the front of the units. The waiver is required to prevent any interference with this easement.

(iii) The granting of the waiver will not create an unsafe situation.

No unsafe condition will result from the grant of the waiver. Rather, the failure to grant the waiver will conflict with the specific spacing requirements set forth by the FDOT.


(iv) The granting of the waiver 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 granting this waiver is consistent with the City's policies when there is a conflict between various requirements and under similar circumstance this type of waiver could be granted for other developments. The waiver, while eliminating the street trees, will allow for the development of the Property which will have significant landscaping to create a lush garden effect in the front facing the street. Without the waiver, the owner would have to seek relief from the sidewalk space which would be a special privilege or obtain special concessions from FDOT. The grant of the waiver will not result in any special privilege to the applicant.

Accordingly, as per the above items, positive findings with respect to LDR Section 4.6.16 can be made with regards to all standards listed and therefore, the request for the waiver can be approved.

Sincerely,

CARNEY STANTON P.L.

By: 

Thomas F. Carney, Jr.