



JAMIE A. COLE  
MEMBER  
Broward Managing director  
[JCOLE@WSH-LAW.COM](mailto:JCOLE@WSH-LAW.COM)

August 8, 2025

VIA E-MAIL

Cole Williams, AICP ([cwilliams@ppines.com](mailto:cwilliams@ppines.com))  
Senior Planner, Planning and Economic Development Department  
City of Pembroke Pines  
601 City Center Way, 3rd Floor  
Pembroke Pines, FL 33025

RE:           Appeal Statement  
              Application Number ZV2024-0008  
              Project Number: PRJ2024-0015

Dear Mr. Williams:

I want to thank you again for your assistance in connection with the subject application for a variance. Please consider this letter the written statement specifying why The Towngate Master Association ("Master Association") believes that the Planning and Zoning Board's ("Board") decision was not based on competent and substantial evidence.

As will be explained in greater detail, below, there are two primary reasons that Towngate believes that the Board's decision lacks record support.

First, the sub-homeowners' association, Cedar Way, was the only opponent to the variance at the hearing but has since reversed its position. Cedar Way no longer opposes the variance and has advised the Master Association that it will sign a letter to that effect and that its vice president will appear at the hearing on August 20, 2025 to express support for the variance.

Second, the Master Association presented an arborist's opinion recommending removing the sidewalks to save the trees. That opinion was not countered by competent and substantial evidence.

I am also including the PowerPoint presentation provided to the Board at the hearing.

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## Background

The City of Pembroke Pines previously issued the Master Association a citation for having cracked sidewalks inside the Cedar Way HOA along NW 24<sup>th</sup> Street (Case Number 230502002). Upon inspection, it became clear that fixing the sidewalk would only be in fact a temporary fix inasmuch as the sidewalk is bordered on one side by mahogany trees. The roots of these trees are causing the damage to the sidewalk, as shown by the PowerPoint photographs. It would only be a matter of time before these trees would again tear up the ground once again resulting in danger and a massive expense for the owners in the community.

On the other side of the sidewalk there exists a large grass area (See photos attached). The Master Association simply wishes to remove the sidewalk along NW 24<sup>th</sup> Street from approximately NW 159<sup>th</sup> Lane to the east terminus at the cul de sac approximately one block east of NW 157<sup>th</sup> Avenue, and plant grass instead. It would match—and expand—the green space that is already there and avoid future danger and expense.

However, the Planned Development (PUD) Guidelines for the Towngate development contain a provision that requires sidewalks to be on both sides of the street. Previously, you advised the Master Association that the PUD Guidelines were referenced in the approval for Towngate by the City Commission. Consequently, a variance is necessary to allow Towngate to remove the sidewalk on one side of the street. Importantly, there is an existing sidewalk on the other side of NW 24<sup>th</sup> Street that will remain in place.

## Master Association's Position

The Master Association contends that it is not the general policy of the City to require sidewalks on both sides of its streets. As the Master Association previously pointed out, there is no City Code provision mandating sidewalks on both sides of streets and there are many examples in the City where projects have been approved with sidewalks on only one side of the street. The Master Association is aware of the Engineering Design Standards Manual and Roadway Design Standards 5 contained in that manual. However, nothing in the Engineering Design Standards Manual exempts it from variances authorized by the City's Land Development Code.

Article 3, Section 155.301, sub-section O of the Land Develop Code provides:

(O) Variance.

(1) Purpose. To allow for the provision of relief from certain development standards of this LDC for one or more of the following reasons:

(a) There are special circumstances or conditions applying to the land or building for which the variance is sought, which are peculiar to the land or building and do not apply generally to land or buildings in the neighborhood, and the strict application of the provisions of the zoning

ordinance would result in an unnecessary hardship and deprive the applicant of the reasonable use of the land or building;

(b) Any alleged hardship is not self-created by person having an interest in the property nor is the result of a mere disregard for or in ignorance of the provisions of the zoning ordinances of the city; or

(c) Granting the variance is not incompatible with public policy, will not adversely affect any adjacent property owners, and the circumstances which cause the special conditions are peculiar to the subject property.

Each of these criteria are met in this case.

First, this property has special circumstances applying to this property that are peculiar and do not apply generally in the City. As noted above, the PUD Guideline requirement originally required sidewalks on both sides of the street. The Towngate Association board has amended the PUD Guidelines to remove this requirement, which is not generally required in the City. Because the PUD Guidelines were referenced in the City Commission's original approval, you have advised that a variance from that requirement in the original PUD Guidelines is nevertheless required. This unusual requirement, which is not required in other parts of the City under the City Code, makes this situation unique and satisfies the special circumstances criteria.

In addition, the developer of the property planted a string of mahogany trees that have now grown so much that their root will continue to rip up the sidewalk, causing danger and substantial cost the owners. In other words, repairing the sidewalk now will not address the cause of the damage. The only way to address the cause is to remove the trees.

Leaving the trees in place and repeatedly repairing or replacing the sidewalk is impracticable and not financially feasible (costing as much as \$3,000 per home in Cedar Way). Therefore, strict application of the PUD Guideline would result in unnecessary hardship and deprive the applicant of the reasonable use of the land by requiring the removal and replacement of the sidewalk and the elimination of the tree canopy (to prevent repeated sidewalk repair and replacement).

The hardship is not self-created as the sidewalk and trees were installed and planted by the original developer of the property, which also drafted the original PUD Guidelines. Given the passage of time, and the growth of the trees, the continued current application of the two-sidewalk rule on NW 24<sup>th</sup> Street in this area does not make sense.

Granting this variance is not incompatible with public policy, will not adversely affect any adjacent property owners, and the circumstances which cause the special conditions are peculiar to the subject property. First, the public policy of the City, as reflected in the City Code and past City approvals, is to require sidewalks on only one side of a street. The ancient PUD Guideline's requirement is no longer consistent with public policy. The property is very peculiar because the PUD Guideline two sidewalk requirement does not apply to other

properties in the City, the trees are numerous and have grown to full size and the sidewalk is very long. Once the sidewalk begins to again become dangerous, the massive cost to the owners would need to again be incurred.

Removing the mahogany trees to prevent damage to future sidewalks is also not practical because it would destroy the largest old-growth natural area in Towngate, and would most likely not be permitted or feasible under the City's and County's tree preservation codes. Removal of the mature trees would also eliminate the sound buffer for the residents in the area, and impact privacy.

The Master Association's submitted the opinion of certified arborist Louis Garter III, which was not countered by any evidence. Mr. Garter recommended removal of the sidewalk. He reasoned:

After assessing the subject Mahogany trees it was observed that the sidewalk is severely impacted causing trip hazards all along 24<sup>th</sup> street. The sidewalk is located within inches of the tree trunks and the sidewalks needs to be removed to preserve the trees. Root pruning and Bio-barriers are not an option.

Because the sidewalk borders on a large grass area, removal of the sidewalk represents an affordable fix that increases green space and preserves the trees. Importantly, the sidewalk on the other side of the road will remain in place for pedestrian use. This solution is very much compatible with public policy.

The Master Association presented evidence to the Board about the City's policy in favor of trees. In the City's Comprehensive Plan, Objection 1 is to "[c]ontinue to protect, maintain or improve air quality in the City through 2030 in accordance with Broward County Standards." Policy 1.2 states "[c]ontinue to implement the City's street tree planting program which aids in the maintenance of air quality." City Code Section 155.656 states:

Proper landscaping promotes the general welfare, public safety, and public health through trees and other plant materials by creating aesthetically pleasing, sustainable residential and nonresidential environments that promote improved air quality, an urban canopy, and many other benefits.

Finally, the City's website states:

For the past 29 years, the City has been recognized as a Tree City USA by the Arbor Day Foundation. The City is committed to maintaining and increasing the overall aesthetic and environmental quality of our public, commercial, and non-residential properties.

Landscaping provides tremendous value to our community. Providing more than just aesthetic value, landscape increases the value of the built environment by providing oxygen, improving air quality, conserving water, providing shade, reducing pollution, and supporting wildlife.

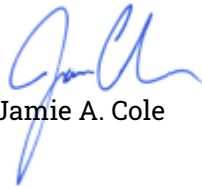
The Pembroke Pines City Commission supports increasing the tree canopy throughout the City and is proud to be certified as a Tree City USA. In 2009, in accordance with the Broward League of Cities, Pembroke Pines passed a resolution to increase tree canopy by 30% by the year 2030.

There was no competent or substantial evidence countering the Master Association's presentation of the City's tree policy.

Finally, there is no adverse effect on any adjacent property owners. Previously, the Cedar Way sub-association opposed the variance. This opposition appears to have been the most significant reason for the Board's decision. Cedar way no longer opposes the variance and is expected to support it at the August 20, 2025 hearing.

For the foregoing reasons, The Towngate of Pembroke Pines Master Association, Inc. respectfully requests a variance from the strict applications of the PUD Guideline's two sidewalk rule, allowing the applicant to remove the sidewalk along NW 24<sup>th</sup> Street from approximately NW 159<sup>th</sup> Lane to the east terminus at the cul de sac approximately one block east of NW 157<sup>th</sup> Avenue. Should you require any additional information in this regard, please call me directly, Again, thank you for your assistance.

Very truly yours,



Jamie A. Cole

JAC/msr  
5828.007  
Enclosures



7027 WEST BROWARD BLVD. # 228 ~ PLANTATION, FL. 33317 ~ USA  
PHONE: 954-791-3535 - FAX: 954-584-5707

## Tree Report

Date: April 25th 2025

Prepared for:  
Towngate HOA

Location:  
24th Street Inside Towngate/Cedar way

To Whom It May Concern:

### Subject: Mahogany Trees

This document shall serve to address Mahogany trees located within the above-mentioned housing community situated in Pembroke Pines, Florida.

### Notes:

After assessing the subject Mahogany trees it was observed that the sidewalk is severely impacted causing trip hazards all along 24th street. The sidewalk is located within inches of the tree trunks and the sidewalk needs to be removed to preserve the trees. Root pruning and Bio-barriers are not an option

The Arborist's recommendation is to remove the sidewalk

Assessed by:  
Louis Garter III  
IS Certified Arborist #FL-0133A  
Broward County Tre Trimmer License #A-019

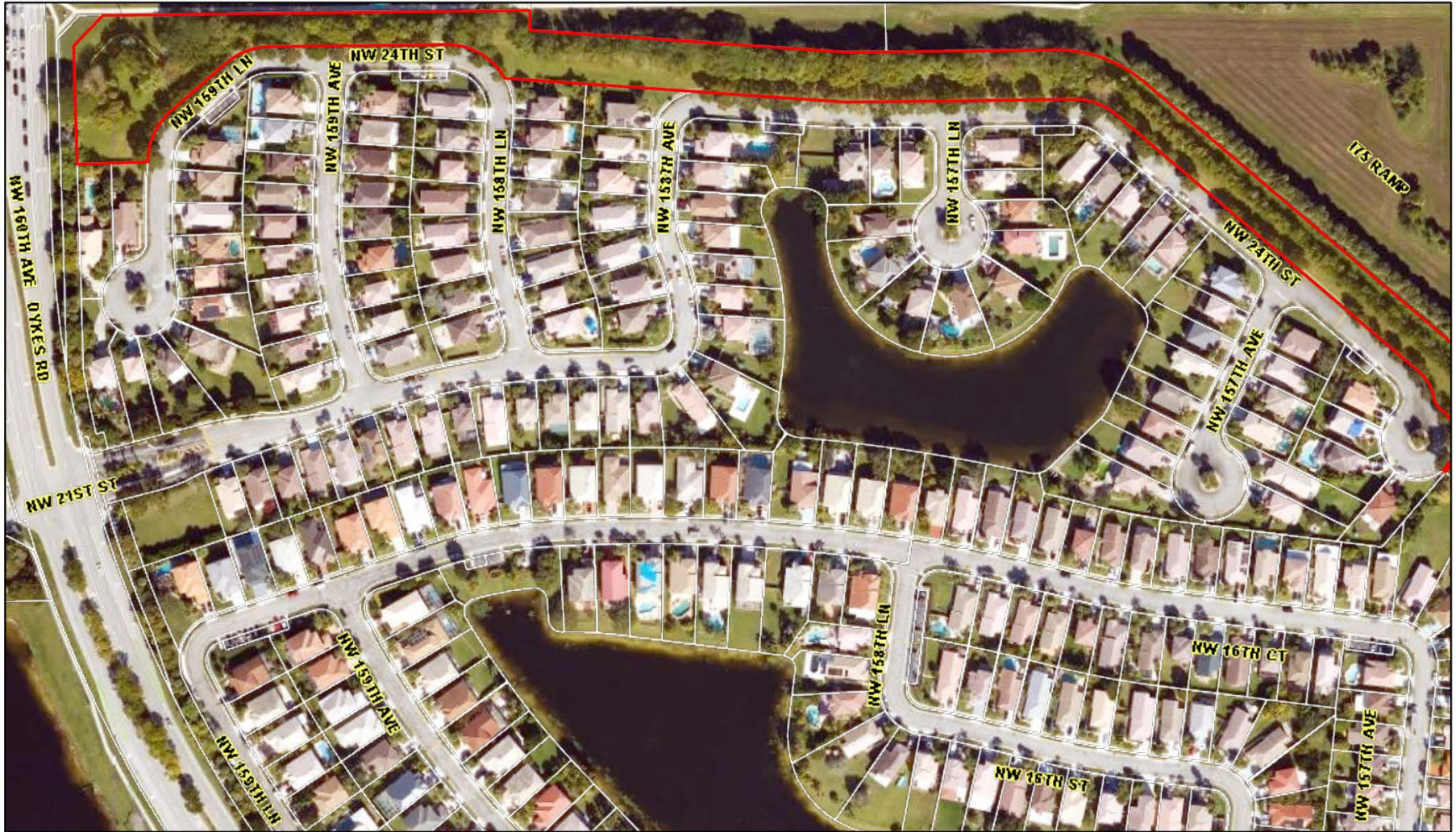


Pembroke Pines  
Planning & Zoning Board  
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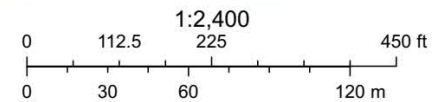


Property Id: 514009211230

\*\*Please see map disclaimer



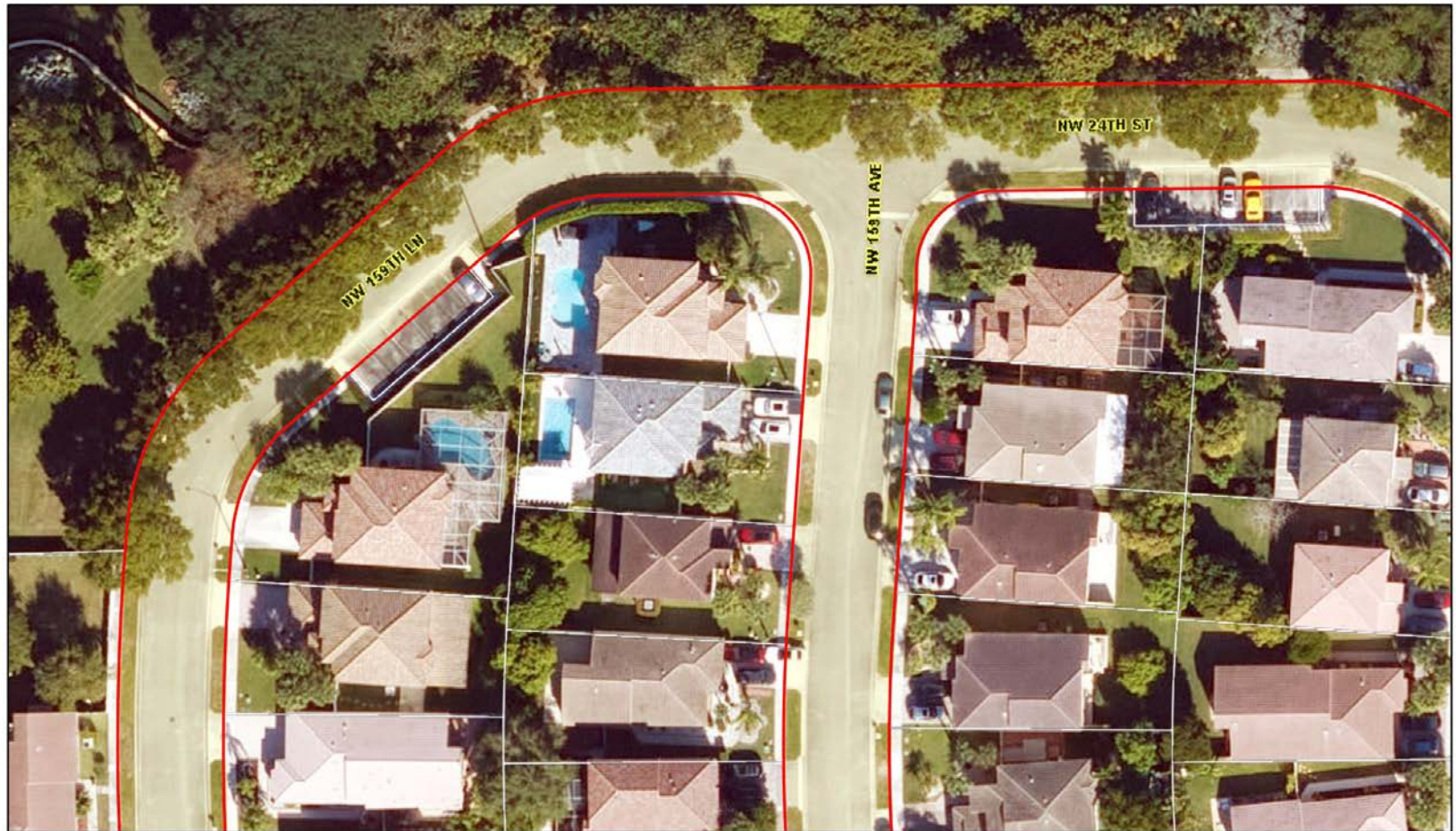
May 5, 2025



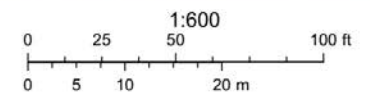


Property Id: 514009211140

\*\*Please see map disclaimer



May 5, 2025







# Current Situation

- Trees were planted 1–2 feet away from the sidewalk.
- Trees grew – roots caused major problems with the sidewalk.
- Situation cannot continue:
  - Risks of injury
  - Not usable by disabled – ADA issues
  - City has issued code citation

















































# Trees and Sidewalks not Compatible

- Trees were planted too close to sidewalk
- Repairing or replacing current sidewalk would be only temporary solution and would still result in potential ADA issue
- One has to go – either remove sidewalks or remove trees

# Arborist Recommendation



7027 WEST BROWARD BLVD. # 228 ~ PLANTATION, FL. 33317 ~ USA  
PHONE: 954-791-3535 - FAX: 954-584-5707

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# No Practical Need for Second Sidewalk

- City Code does not require two sidewalks
- Standard practice in city is one sidewalk
- Pedestrians still have sidewalk on other side
- Grass can be used where sidewalk was for dog walking

# City Tree Preservation Policy

## *City Comprehensive Plan*

Objective 1 – "Continue to protect, maintain or improve air quality in the City through 2030 in accordance with Broward County standards."

Policy 1.2 – "Continue to implement the City's street tree planting program which aids in the maintenance of air quality."

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# City Tree Preservation Policy

## ***City Code Section 155.656***

"Proper landscaping promotes the general welfare, public safety, and public health through trees and other plant materials by creating aesthetically pleasing, sustainable residential and nonresidential environments that promote improved air quality, an urban canopy, and many other benefits."

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“Landscaping provides tremendous value to our community. Providing more than just aesthetic value, landscape increases the value of the built environment by providing oxygen, improving air quality, conserving water, providing shade, reducing pollution, and supporting wildlife.”

“The Pembroke Pines City Commission supports increasing the tree canopy throughout the City and is proud to be certified as a Tree City USA. In 2009, in accordance with the Broward League of Cities, Pembroke Pines passed a resolution to increase tree canopy by 30% by the year 2030.”



# Option 1

## ***Remove trees and fix sidewalk***

- **Trees belong to Cedar Way Association, not Towngate Master Association**
- **Very expensive: estimated to cost around \$300,000**
  - Remove and replace trees: \$90,000
  - Repair sidewalk: \$193,952 (3D Paving estimate)
  - New sod: \$11,600 (DEO estimate)
  - Irrigation: \$7,500 (estimated)
  - Total: \$303,052
- **Contravenes City's pro-tree public policy because lose tree canopy**
  - Major aesthetic loss
  - Lose noise barrier
  - Hurt environment

## Option 2

### ***Keep trees and fix sidewalk in current location***

- **Expensive: estimated to cost over \$200,000**

Repair sidewalk: Over \$193,952 (3D Paving estimate)

“The price would increase if we repaired the sidewalk in the same place with the trees remaining due to the increased time it would take to cut, grind and remove the roots”

- **Not workable because is only temporary – roots will keep damaging sidewalk and will need to repeatedly be repaired**
- **Sidewalks would still be uneven and therefore potentially violate ADA**



## Option 3

### ***Keep trees and relocate sidewalk***

- **Expensive: estimated to cost over \$200,000**

Repair sidewalk: Over \$193,952 (3D Paving estimate)

“The price is the same whether we put the sidewalk back in the same place (with trees removed) or move it 4’ away from the trees”

New sod: \$11,600 (DEO estimate)

Irrigation: \$7,500 (estimated)

Total: Over \$213,052

- **Cannot be done on west portion – inadequate space to relocate sidewalk away from trees**

## Option 4

### ***Keep trees and remove sidewalk***

- **Cost effective: estimated to cost around \$40,000**
  - Remove sidewalk: \$22,970 (Florida Sidewalk estimate)
  - New sod: \$11,600 (DEO estimate)
  - Irrigation: \$7,500 (estimated)
  - Total: \$42,070 (to be paid by Towngate Master Association)
- **Permanent solution**
- **Maintains Tree Canopy**
- **Maintains one pedestrian sidewalk on NW 24<sup>th</sup> Street**

# Variance Needed to Remove Sidewalk

- Although City Code does not require sidewalks on both sides of street, Minto created two sidewalk requirement
  - PUD Guideline: “All roadways shall be constructed with 4 foot sidewalks on both sides of the roadway for a 40’ private roadway”
- Towngate needs variance from PUD, not from City Code
- Association voted to amend guideline, but City contends variance still required
- Meets variance criteria – not self imposed (imposed by Developer), unique property (other properties don’t have 2 sidewalk requirement)

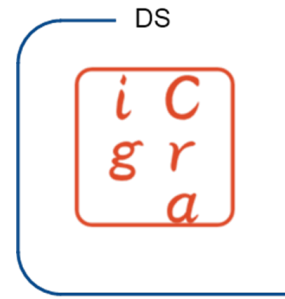


# Community Survey

- Cedar Way Survey: (52 responses)
  - 91% support keeping trees, removing sidewalk
  - 7% support keeping trees, relocating sidewalk
  - 2% support removing/replacing trees and fixing sidewalk
- All Towngate Survey (455 responses)
  - 82% support keeping trees, removing sidewalk
  - 6% support keeping trees, relocating sidewalk
  - 12% support removing/replacing trees and fixing sidewalk

# Request

- Grant variance
- Allow Towngate Master Association to remove second sidewalk to preserve trees
- Permanent and cost-effective solution
- Recommended by certified arborist
- Aligned with city's tree preservation goals



Dear City of Pembroke Pines,

On behalf of the Board of Directors of Cedar Way, we are submitting this letter in support of the variance request to remove the sidewalk on 24th Street, based on the outcome of a community-wide survey.

Out of 113 total homeowners, 54 residents participated in the survey. The results were overwhelmingly in favor of supporting the Master Association's request for a variance and removal of the sidewalk. Specifically, approximately 74% of those who participated support the full removal of the sidewalk by the Master Association, Towngate.

Given this strong majority, the Board is in favor of this course of action and respectfully requests your approval to proceed.

Should you require any additional documentation or clarification, please feel free to reach out via email at [Craig.cedarway@gmail.com](mailto:Craig.cedarway@gmail.com).

Signed by:  
  
3A69BD431BEA414...

Sincerely,

On behalf of the Board of Directors

Craig Kocis

Director & Vice President

Cedar Way Association