

RESOLUTION NO. 40-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING AN APPEAL AND APPROVING A WAIVER TO SECTION 5.3.1(A) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW FOR A REDUCTION OF THE REQUIRED RIGHT OF WAY DEDICATION FOR THE PROPERTY LOCATED AT 816 PALM TRAIL, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach, Florida (“the City”) received an application for 10 Waivers to the Land Development Regulations (2021-040) associated with the property located at 816 Palm Trail (the “Property”), from Interloc, LLC (“Applicant/Property Owner”), requesting the dissolution of a unity of title and demolition of the existing structure and the construction of 11 new single-family homes located at 816 Palm Trail; and

WHEREAS, Section 5.3.1(A) of the City of Delray Beach Land Development Regulations (“LDR”) states that Right-of-way dimensions and dedications, whether public or private, shall be consistent with the Mobility Element of the Comprehensive Plan as outlined in Table MBL-1, "Street Network and Classification and Improvements", which provides for coordinated rights-of-way dedications with the Florida Department of Transportation and Palm Beach County; and

WHEREAS, Table MBL-1 in the Comprehensive Plan indicates that ultimate right of way width of an alley is 20 feet; and

WHEREAS, LDR Section 5.3.1(A)(3) states that when development is adjacent to an existing or planned street, the development shall be responsible for providing one-half of the ultimate right-of-way or such portion of the ultimate right-of-way which is yet undedicated and which is on that development's side of the ultimate right-of-way center line. In situations where there are unusual topographic features, greater or lesser dedications may be required; and

WHEREAS, the ultimate Right-of-Way north of 816 Palm Trail, Lot 9 Block 5, is 15 feet as depicted in Exhibit “A”, attached hereto and incorporated herein; and

WHEREAS, consistent with Table MBL-1 in the Comprehensive Plan and LDR Section 5.3.1(A)(3), a 2.5-foot dedication is required; and

WHEREAS, the applicant requests a reduction in the required right of way dedication from 2.5 feet to 0 feet so that no dedication is required; and

WHEREAS, the requested reduction is not supported by the City Engineer; and

WHEREAS, on January 28, 2020, the City’s Development Management Services Group met and did not support the request to reduce the right-of-way dedication; and

WHEREAS, pursuant to LDR Section 5.3.1(A)(7)(a), an appeal may be made to the City Commission when a reduction request is not supported by the City Engineer; and

WHEREAS, reductions in the required right-of-way width may be granted if the Commission finds that:

1. requiring full dedication would constitute a hardship in this particular instance and that all required improvements will be provided in a manner which will not endanger public safety and welfare, and
2. that acceptable, alternative provisions are made to accommodate features which would otherwise be accommodated within the right-of-way e.g., alternative drainage systems, alternative pedestrian walkways, alternative on-street parking, etc.

WHEREAS, the City Commission granted the appeal and considered the waiver request to LDR Section 5.3.1(A) at a quasi-judicial hearing on February 9, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby incorporated herein by reference and are approved and adopted.

Section 2. The City Commission makes positive findings that requiring full dedication would constitute a hardship in this particular instance and that all required improvements will be provided in a manner which will not endanger public safety and welfare and that acceptable, alternative provisions are made to accommodate features which would otherwise be accommodated within the right-of-way e.g. alternative drainage systems, alternative pedestrian walkways, alternative on-street parking, etc.

Section 3. The City Commission grants the appeal and approves the request to reduce the right-of-way dedication to 0' and finds that no dedication is required.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to Thomas F. Carney, Jr., 135 SE 5<sup>th</sup> Avenue, Suite 202, Delray Beach, FL 33483.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

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Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

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Lynn Gelin, City Attorney