

RESOLUTION NO. 59-21

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 TANGERINE 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 a subdivision application for Delray Ridge (2020-237) for the properties located at 2201, 2275, and 2315 North Swinton Avenue, and a vacant parcel identified by Property Control Number 12-43-46-04-00-000-7400, from G. Allan Hendricks ("the Applicant"), including a request to reduce the required right-of-way width for Tangerine Trail; and

WHEREAS, the existing right-of-way known as Tangerine Trail abuts the properties located at 2315 North Swinton Avenue and the vacant parcel identified by Property Control Number 12-43-46-04-00-000-7400; and

WHEREAS, City Land Development Regulations ("the LDRs") Section 5.3.1(A)(3) states 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 side of the ultimate right-of-way center line; and

WHEREAS, LDR Section 5.3.1(A) requires all right-of-way dimensions and dedications to be consistent with the Mobility Element of the Comprehensive Plan as outlined in Table MBL-1, "Street Network and Classification and Improvements"; and

WHEREAS, consistent with Table MBL-1 of the Comprehensive Plan and LDR Section 5.3.1(A)(3), the Applicant is required to dedicate 25 feet for the Tangerine Trail right-of-way abutting 2315 North Swinton Avenue and to dedicate 45 feet for the Tangerine Trail right-of-way abutting parcel No. 12-43-46-04-00-000-7400; and

WHEREAS, the Applicant requested a reduction in the required dedication from 25 feet to 15 feet for the Tangerine Trail right-of-way abutting 2315 North Swinton Avenue and to eliminate the required dedication and instead provide a 20-foot public access easement for the Tangerine Trail right-of-way abutting parcel No. 12-43-46-04-00-000-7400; and

WHEREAS, pursuant to LDR Section 5.3.1(A)(7), reductions in the required right-of-way width may be granted pursuant to the following:

1. The reduction is supported by the City Engineer. Nonsupport by the City Engineer may be appealed to the City Commission;

2. 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
3. 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 Engineer does not support the requested reduction in right-of-way and, pursuant to LDR Section 5.3.1(A)(7)(a), the Applicant has appealed to the City Commission; and

WHEREAS, the appeal was presented to the City Commission at a quasi-judicial hearing conducted on April 6, 2021; and

WHEREAS, City Commission considered the appeal and has considered the respective findings as set forth in the LDRs.

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 (1) 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 (2) that acceptable, alternative provisions are made to accommodate features which would otherwise be accommodated within the right-of-way.

Section 3. The City Commission approves a reduction in the required dedication from 25 feet to 15 feet for the Tangerine Trail right-of-way abutting 2315 North Swinton Avenue and eliminates the required dedication and accepts a 20-foot public access easement for the Tangerine Trail right-of-way abutting parcel No. 12-43-46-04-00-000-7400; and

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to G. Allan Hendricks, 7900 Glades Road, Suite 100, Boca Raton, FL 33434.

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

Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney