



Legislation Details (With Text)

File #:	21-126	Version:	1	Name:	
Type:	Resolution	Status:		Agenda Ready	
File created:	1/25/2021	In control:		City Commission	
On agenda:	2/9/2021	Final action:			
Title:	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 (QUASI JUDICIAL).				
Sponsors:	Development Services Department				
Indexes:					
Code sections:					
Attachments:	1. Agenda Cover Report, 2. Resolution No. 40-21, 3. Surevey - Res. No 40-21, 4. Appeal Letter, 5. Simple Legal Review Approval 40-21				

Date	Ver.	Action By	Action	Result
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TO: Mayor and Commissioners
FROM: Anthea Gianniotis, Development Services
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: February 9, 2021

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 (QUASI JUDICIAL).

Recommended Action:

Review and consider Resolution No. 40-21 of an appeal to section 5.3.1(A) of the Land Development Regulations to allow a reduction of an alley right of way.

Background:

The subject property is adjacent to 816 Palm Trail, which is before the City Commission for waivers to LDR Sections 4.1.4(B) and 4.1.4(D) to allow for the construction of non workforce housing residential structures on lots with frontage of less than 50 feet. The property is located in the North Palm Trail neighborhood and is zoned (RM) Medium Density Residential with a LUM of (MD) Medium Density. The existing property contains one parcel that is unified by a Unity of title and contains a medical office that is 22,778 square feet, which was built in 1978.

The request is for a Right-of-Way reduction for the Sophia Frey Subdivision, which was submitted in response to the technical review of the 816 Palm Trail waivers. Based on the survey provided, the alley that is adjacent to Lot 9 Block 5 is 15 feet wide. Per the Comprehensive Plan, Table MBL-1, alleys have an ultimate width of 20 feet wide; this requirement applies City wide. Upon redevelopment, the property is required to dedicate 2.5' to the alley. Per the code, when a 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.

Pursuant to 5.3.1(A)(7)(a) A reduction in the required right-of-way width, may be granted by the body having the approval authority of the associated development application in developments in which new streets are created. For existing streets, reductions in right-of-way width may be granted by the City Engineer upon a favorable recommendation from the Development Management Services Group (DSMG). Reductions in the required right-of-way width may be granted pursuant to the following:

(a) The reduction is supported by the City Engineer. Nonsupport by the City Engineer may be appealed to the City Commission.

(b) That requiring full dedication would constitute a hardship in a particular instance and that all required improvements will be provided in a manner which will not endanger public safety and welfare.

(c) 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.

The DSMG met on January 26, 2021 and given the two-way vehicular use of the alley and the presence of utilities in the right-of-way, both underground and overhead lines, the board did not support the reduction in right-of-way width, by a vote (6-0). The Board did not find positive findings for a hardship or find that alternative provisions were available.

Pursuant to LDR 2.4.7(E)(1) an appeal of an approving board's action shall be made to the City Commission.

City Attorney Review:

City Attorney approves for form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

If the appeal is denied, a waiver regarding lot width may be needed to develop a market rate house.