

RESOLUTION NO. 2008- 199 R

A resolution granting variance requests from Sections 21-54(e)(1) and 21-54(a) of the Victoria City Code, which require the construction of sidewalks along lots abutting perimeter streets and require local streets to have a pavement width of 30', to Tuscany Subdivision-Section 1A, which is owned by Ball Airport Road Development, LLC, conditioned on the owner's execution of a Sidewalk Agreement and Covenant with the City of Victoria, obligating the owner and subsequent owners to pay a pro-rata share of the cost of constructing a sidewalk along the streets adjacent to the subject property in the future when the sidewalk is constructed and further conditioned on the streets being constructed of concrete; and declaring an effective date.

Sections 21-54(e)(1) and 21-54(a) of the Victoria City Code require:

- (1) the developer to install sidewalks in the street right-of-way along all exterior side and rear lot lines of each lot abutting all perimeter streets, and
- (2) local streets to have a pavement width of 30', and

The owner of Tuscany Subdivision-Section 1A requested variances to the sidewalk requirement to not construct a sidewalk along the rear lot lines along existing Northside Road, and to construct subdivision streets with a width of 28' with the standard right-of-way width of 60'.

The requests for the variances to Sections 21-54(e)(1) and 21-54(a) were considered at a public hearing before the Planning Commission, which recommended approval of the sidewalk variance conditioned upon the owner's execution of a contract to install such improvements when they can be installed permanently and with the condition that the streets will be constructed of concrete, and the City Council finds based upon the evidence presented in this case that:

- (1) The granting of the variances will not be detrimental to the public safety, health, or welfare, be injurious to surrounding property, or violate the intent and purpose of the regulation;
- (2) The granting of the variances is not based on a hardship which is self-imposed;
- (3) The hardship is not based solely on the cost of complying with the regulations; and
- (4) The hardship is based on circumstances which are unique to the property for which the variances are sought, and not circumstances common to other properties;

THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

Variances from Sections 21-54(e)(1) and 21-54(a) of the Victoria City Code are granted to Tuscany Subdivision-Section 1A, in accordance with the recommendations of the Planning Commission, conditioned on the owner's execution of a Sidewalk Agreement and Covenant with the City of Victoria, obligating the owner and subsequent owners to pay a pro-rata share of the cost of constructing a sidewalk along the street adjacent to the subject property at such time in the future when the sidewalk is constructed, and with the added condition that the streets will be constructed of concrete and be at least 28 feet wide.

2.

This resolution shall become effective immediately upon adoption.

PASSED, this the 16th day of December, 2008.

AYES: 7
 NAYS: 0
 ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 16th day of December, 2008.

WILL ARMSTRONG, Mayor of the City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

MILES K. RISLEY, City Attorney

Copies Sent: **December 17, 2008**

ATTEST:

SCARLET SWOBODA, City Secretary

Distribution: Legal Department
Development Services

