

RESOLUTION NO. 38-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, RECOGNIZING THAT THE CITY OF DELRAY BEACH IS CONSIDERING AMENDMENTS TO THE CITY'S LAND DEVELOPMENT REGULATIONS (LDR) WITH RESPECT TO BASE DISTRICT DEVELOPMENT STANDARDS AND THE STRUCTURES ALLOWED IN SETBACKS PURSUANT TO SECTION 4.3.4 (H)(4)(d); PROVIDING THAT DURING THE PENDENCY OF THE CITY'S CONSIDERATION OF THE NEW LDR AMENDMENTS, THE CITY WILL DEFER THE PROCESSING AND APPROVAL OF ALL APPLICATIONS THAT PROPOSE TO BUILD BALCONIES IN SETBACKS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach, Florida ("City") has been actively engaged in the process of undertaking a review and update of the existing Land Development Regulations ("LDR") with respect to regulations concerning base district development standards, specifically, structures that are allowed in setbacks; and

WHEREAS, the City is conducting a review of this subject matter and its LDR and considering the adoption of the appropriate regulations and zoning rules to the existing LDR; and

WHEREAS, the City has relied on a long-standing interpretation of LDR Section 4.3.4(H)(4)(d) that interprets "House Eaves, not to exceed a three-foot overhang" to allow balconies to project into setback areas; and

WHEREAS, specific regulations for the size and design elements of balconies allowed in setbacks are needed to properly execute the LDR; and

WHEREAS, in accordance with these considerations, the City of Delray Beach Department of Development Services ("Department") will be proposing amendments to the City's LDR with respect to this subject matter; and

WHEREAS, all persons or entities that desire to submit a development application that includes balconies within the setbacks that relies upon the allowance of "House Eaves" within setbacks are on notice that the City is considering the adoption of amended LDR with respect to this subject matter, and that this subject matter should be considered zoning in progress; and

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

Section 1. The recitals above are true and correct and incorporated into the findings of this Resolution as if set forth in full herein.

Section 2. Zoning in Progress. Pursuant to the pending ordinance doctrine and Florida law, the City Commission hereby acknowledges that the City of Delray Beach commenced the preparation and consideration of the adoption of amendments to the LDR with respect to base district development standards and, specifically, allowable structures within the setback within the City to include balconies.

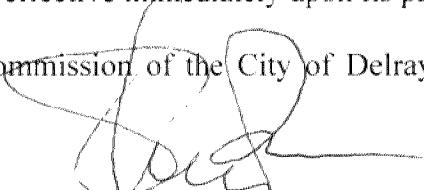
Section 3. The City's consideration of amendments to the LDR for this subject matter constitutes zoning in progress.

Section 4. The acceptance and processing of applications, permits, or any other approvals for development applications that include balconies by relying upon the allowance of "House Eaves" within setbacks shall be deferred from consideration by the City until the ending as set forth in Section 5 below.

Section 5. This zoning in progress shall remain in effect until new or amended LDR are adopted by the City Commission with respect to this subject matter or until the passage of 180 days, whichever occurs first. This policy may be extended by Resolution of the City Commission for additional periods of time in order to complete the tasks outlined herein.

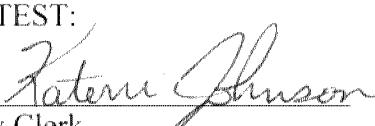
Section 6. This Resolution shall become effective immediately upon its passage.

PASSED AND ADOPTED by the City Commission of the City of Delray Beach, Florida, this  
16<sup>th</sup> day of January, 2024.

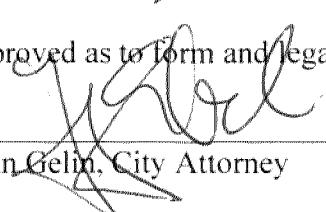


Shelly Petrolia, Mayor

ATTEST:

  
Karen Johnson  
City Clerk

Approved as to form and legal sufficiency:

  
Lynn Gelin, City Attorney

