

ORDINANCE NO 39-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 4, "ZONING REGULATIONS," OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.6, "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT," SUBSECTION (F), "DEVELOPMENT STANDARDS," SUBSECTION (G), "SUPPLEMENTAL DISTRICT REGULATIONS," AND SUBSECTION (H), "SPECIAL REGULATIONS" TO PROVIDE REGULATIONS FOR THE FLO DELRAY OVERLAY DISTRICT; AMENDING ARTICLE 4.5, "OVERLAY AND ENVIRONMENTAL MANAGEMENT DISTRICTS," BY ENACTING A NEW SECTION 4.5.22, "THE FLO DELRAY OVERLAY DISTRICT;" AMENDING ARTICLE 4.7, "FAMILY/WORKFORCE HOUSING," SUBSECTIONS 4.7, "DEFINITIONS," 4.7.2, "APPLICABILITY," SUBSECTION (B), "WORKFORCE HOUSING INCENTIVE AREAS" TO ALLOW FOR APPLICABILITY OF WORKFORCE HOUSING INCENTIVES IN THE FLO DELRAY OVERLAY DISTRICT, AND AMENDING 4.7.4, "DENSITY BONUS AREAS" TO OUTLINE REQUIREMENTS FOR INCREASED DENSITY FOR THE FLO DELRAY OVERLAY DISTRICT; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Alice Clayton, LLC, ("Petitioner"), is the owner of a parcel to be known as The Flo Delray (the "Property") that measures approximately 4.86± acres and is generally located north of West Atlantic Avenue and west of Military Trail, as more particularly described in Exhibit "A", Legal Descriptions; and

WHEREAS, a privately initiated amendment to the Land Development Regulations (LDR) of the City of Delray Beach, Code of Ordinances, is requested by the Petitioner; and

WHEREAS, the amendment establishes The Flo Delray Overlay District for the Property described in Exhibit "A" and shown in Exhibit "B"; and

WHEREAS, the Petitioner desires to develop multi-family housing as part of a residential development in The Flo Delray Overlay District with a minimum of 20 percent of the units in the development dedicated as workforce housing; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this item at a public hearing on September 26, 2023 and voted 6 to 0 to recommend the proposed text amendment be approved, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission considered the text amendment request and has considered the respective findings as set forth in the Comprehensive Plan and Land Development Regulations.

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

Section 1. The recitations set forth above are incorporated herein.

Section 2. The City Commission of the City of Delray Beach finds that this Ordinance is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations.

Section 3. Chapter 4, "Zoning Regulations," Article 4.4, "Base Zoning District," Section 4.4.6, "Medium Density Residential (RM) District," of the Land Development Regulations of the City of Delray Beach, Florida, is hereby amended to read as follows:

(A) - (E) (These subsections shall remain in full force and effect as adopted).

(F) ***Development standards.***

- (1) The R-1-A District regulations apply to single family detached dwellings.
- (2) The development standards in Section 4.3.4 apply to duplex and multi-family development, except as modified herein.
- (3) Southwest Neighborhood, ~~and~~ Carver Estates, and The Flo Delray Overlay Districts, and Infill Workforce Housing Area Development Standards. The following development standards apply to duplex and multi-family development in the Southwest Neighborhood Overlay District, Carver Estates Overlay District, The Flo Delray Overlay District, and the Infill Workforce Housing Area that are developed pursuant to regulations in Article 4.7, "Family/Workforce Housing".

(a) ***Setbacks.***

- (i) Front: 15 feet
  - (ii) Side (Street): 15 feet
  - (iii) Side (Interior): 10 feet (One- and two-story), 15 feet (third story and above)
  - (iv) Rear: Ten feet
- (b) ***Setbacks for garages, carports and porte-cocheres.*** Garages, carports and porte-cocheres must have a minimum 20 feet setback when the entrance faces a public street or alley.
- (c) ***Porch encroachments.*** Front porches may extend five feet into the front or side street setback and cannot occupy more than 50 feet of the building frontage and cannot be enclosed in any manner.

- (4) **Historic districts, sites, and buildings.** Properties located within a Historic District or Individually Designated Sites, as listed on the Local Register of Historic Places in Section 4.5.1(I), are subject to Section 4.5.1.
- (G) **Supplemental district regulations.** In addition to the supplemental district regulations in Article 4.6, the following supplemental regulations also apply in the RM zoning district.
- (1) ***Southwest Neighborhood~~—and~~, Carver Estates, and Flo Delray Overlay Districts and Infill Workforce Housing Area.*** The following supplemental district regulations shall apply to duplex and multi-family development in the Southwest Neighborhood Overlay District, Carver Estates Overlay District, Flo Delray Overlay District, and the Infill Workforce Housing Area, that are developed pursuant to Article 4.7, "Family/Workforce Housing".
- (a) Street-facing garages and parking is discouraged. Parking shall only be allowed in the front yard if there is no dedicated access to the side or rear of the property.
- (b) When garages are provided in the side or rear of the property, on-street parking must be provided.
- (H) **Special regulations.**
- (1) Density may exceed the base of six units per acre only after the approving body makes a finding that the project has substantially complied with the performance standards in Section 4.3.3(BB), which are intended to mitigate the impacts of the increased density and ensure that the project is compatible with surrounding land uses. In no event shall a development's total density exceed 12 units per acre, except within the following incentive areas:
- (a) ***Southwest Neighborhood Overlay District:*** Up to 24 dwelling units per acre are allowed within the Southwest Neighborhood Overlay District, defined in Section 4.5.9, subject to compliance with Article 4.7.
- (b) ***Carver Estates Overlay District:*** Up to 24 dwelling units per acre are allowed within the Carver Estates Overlay District, defined in Section 4.5.11, subject to compliance with Article 4.7.
- (c) ***Infill Workforce Housing Area:*** Within the Infill Workforce Housing Area defined in Section 4.5.12, up to 18 dwelling units per acre are allowed, subject to compliance with Article 4.7.
- (d) ***S.W. 10<sup>th</sup> Street Overlay District:*** Within the S.W. 10<sup>th</sup> Street Overlay District defined in Section 4.5.10, up to 24 dwelling units per acre are allowed, subject to compliance with Article 4.7.
- (e) ***The Flo Delray Overlay District:*** Within the Flo Delray Overlay District defined in Section 4.5.22, up to 24 dwelling units per acre are allowed, subject to compliance with Article 4.7.

- (2) The density for a specific RM development may be further limited by a numerical suffix affixed to the designation and shown on the zoning map (i.e. RM-8 limits the density to eight units per acre). To seek a density greater than allowed by the suffix, it is necessary to rezone the property.
- (3) For proposals to rezone property to RM with a density suffix, the approving body must make a finding that the proposed density is appropriate based upon the land use map designations of surrounding property as well as the prevailing development pattern of the surrounding area.
- (4) Recreational areas are required for all new rental apartment developments, and of owner occupied developments with homeowner associations that must care responsible for retention areas, private streets, or common areas. Recreational features should be designed to accommodate activities for children and youth of all ages. Tot lots are appropriate for toddlers; features such as a basketball court, volleyball court, and open playfields are appropriate for older children. A pool and clubhouse, unless specifically designed for children, does not meet this requirement. Projects with fewer than 25 units may be exempted from this standard where it is determined by the approving body that it is not practical or feasible to comply.
- (5) The height of accessory structures shall not exceed the height of the associated principal structure. Screen enclosures without a solid roof are excluded from this limit.
- (6) The floor area of an accessory structure shall not exceed 40 percent of the floor area of the principal structure.

Section 4. Chapter 4, “Zoning Regulations,” Article 4.5, “Overlay and Environmental Management Districts” of the Land Development Regulations of the City of Delray Beach, Florida, shall be amended by enacting a new Section 4.5.22, “The Flo Delray Overlay District,” to read as follows:

Section 4.5.22. - The Flo Delray Overlay District

- (A) Defined. The Flo Delray Overlay District is hereby established as the 4.86-acre area of land bounded by the Marketplace of Delray on the south and east, High Point of Delray West on the north and west, and the abutting Lake Worth Drainage District’s L-33 on the north, being more specifically identified as with the West ½ of the Northwest ¼ of the Northeast ¼ of the Southeast ¼ of Section 14, Township 46 South, Range 42 east, Palm Beach County. The overlay district is zoned Medium Density Residential (RM). All development within the overlay district is subject to RM zoning district regulations.



Section 4. Chapter 4, “Zoning Regulations,” Article 4.7, “Family/Workforce Housing,” Section 4.7.2, “Applicability”, Subsection (B), “Workforce housing incentive areas” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

- (15) ***The Flo Delray Overlay District.*** The 4.86-acre area of land bounded by the Marketplace of Delray on the south and east, High Point of Delray West on the north and west, and the abutting Lake Worth Drainage District’s L-33 on the north, as more specifically defined in Section 4.5.22 and shown on the map below.



Section 5. Section 4.7.4, “Density Bonus areas,” of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:



***Sec. 4.7.4. - Density bonus areas.***

(A) – (H) (These subsections remain in full force and effect as adopted.)

(I) ***Requests for increase in height.*** ~~Increases in height from 48 feet to a maximum of 60 feet are permitted in the areas identified in Section 4.3.4(J) and must provide low or moderate income workforce housing units onsite, offsite, or through monetary contributions that comply with the provisions of Article 4.7, equal to at least 20 percent of the residential units on the top floor.~~ ***The Flo Delray Overlay District.*** To achieve a maximum density of 24 dwelling units per acre, developers of property in The Flo Delray Overlay District shall provide a minimum of 20 percent of the residential units as workforce housing units, further regulated as follows:

- (1) The units must be affordable to an equal distribution of low and moderate income families.
- (2) The performance standards of Section 4.3.3(BB) shall be substantially met to obtain a density greater than twelve units per acre.
- (3) All sections of Article 4.7 apply to The Flo Delray Overlay District, except for Section 4.7.3(K). The following unit and affordability mix is required as follows:

Table 4.7.4-A, The Flo Delray Overlay Composition of Workforce Housing Units	
<b><u>Unit Type</u></b>	<b><u>Distribution</u></b>
<u>Efficiency</u>	<u>No more than 22 percent of efficiency units can be allocated as workforce units.</u>
<u>One and Two-Bedroom</u>	<u>One-bedroom and two-bedroom workforce units shall be provided in equal percentages.</u>
<u>Three-Bedroom</u>	<u>One three-bedroom unit will be allocated as a moderate income workforce unit.</u>

(J) ***Requests for increase in height.*** Increases in height from 48 feet to a maximum of 60 feet are permitted in the areas identified in Section 4.3.4(J) and must provide low or moderate income workforce housing units onsite, offsite, or through monetary contributions that comply with the provisions of Article 4.7, equal to at least 20 percent of the residential units on the top floor.

Section 6. All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 7. Specific authority is hereby given to codify this Ordinance.

Section 8. If any word, clause, sentence, paragraph, section, or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void, or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this ordinance.

PASSED AND ADOPTED in regular session on second and final reading on this 5<sup>th</sup> day of December, 2023.

ATTEST:

Katerri Johnson  
Katerri Johnson, City Clerk

Shelly Petrolia  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin  
Lynn Gelin, City Attorney

First Reading 11/14/2023  
Second Reading 12/5/2023



**EXHIBIT A**  
**THE FLO DELRAY OVERLAY DISTRICT LEGAL DESCRIPTION**

THE WEST HALF (1/2) OF THE NORTHWEST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA;

LESS THE NORTH 57.00 FEET AS CONVEYED TO LAKE WORTH DRAINAGE DISTRICT BY DEED RECORDED IN DEED BOOK 113, PAGE 429, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS ALSO BEING DESCRIBED AS FOLLOWS:

THE WEST ONE-HALF (W 1/2) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4), SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST. PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF FOUNTAINS AT DELRAY BEACH, AS RECORDED IN PLAT BOOK 83, PAGES 37 AND 38 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S.88°06'33"W. ALONG THE SOUTH LINE THEREOF, SAID SOUTH LINE BEING THE NORTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-33 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 3292, PAGE 941 OF SAID PUBLIC RECORDS, AND THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (1/4) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, A DISTANCE OF 908.70 FEET ; THENCE S.00°21'11"E. ALONG THE WEST LINE OF THOSE CERTAIN LANDS DESCRIBED IN SAID OFFICIAL RECORD BOOK 3292, PAGE 941 AND OFFICIAL RECORD BOOK 18197, PAGE 16 OF SAID PUBLIC RECORDS, SAID LINE BEING THE EAST LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14, A DISTANCE OF 57.02 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-33 CANAL, AS RECORDED IN DEED BOOK 113, PAGE 429 OF SAID PUBLIC RECORDS, AND THE POINT OF BEGINNING; THENCE CONTINUE S.00°21'11"E. ALONG SAID LINE, A DISTANCE OF 635.42 FEET; THENCE S.88°23'03"W. ALONG THE WEST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN SAID OFFICIAL RECORD BOOK 18197, PAGE 16, SAID LINE BEING THE SOUTH LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14, A DISTANCE OF 334.32 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14; THENCE N.00°20'22"W. ALONG THE EAST LINE OF HIGH POINT OF DELRAY WEST - PLAT NO. 2, AS RECORDED IN PLAT BOOK 40, PAGES 114 AND 115 OF SAID PUBLIC RECORDS, AND WEST LINE OF THE WEST ONE-HALF (1/2) OF THE NORTHWEST ONE-QUARTER (1/4) OF THE NORTHEAST ONE-QUARTER (1/4) OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 14, A DISTANCE OF 633.82 FEET TO A POINT OF INTERSECTION WITH THE SOUTH



RIGHT-OF-WAY LINE OF SAID L-33 CANAL; THENCE N.88°06'33"E. ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 334.21 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 212,066 SQUARE FEET/4.8684 ACRES MORE OR LESS.

EXHIBIT B  
THE FLO DELRAY OVERLAY DISTRICT

