

PLANNING AND ZONING BOARD STAFF REPORT

CBD Railroad Corridor Sub-District LDR Amendments

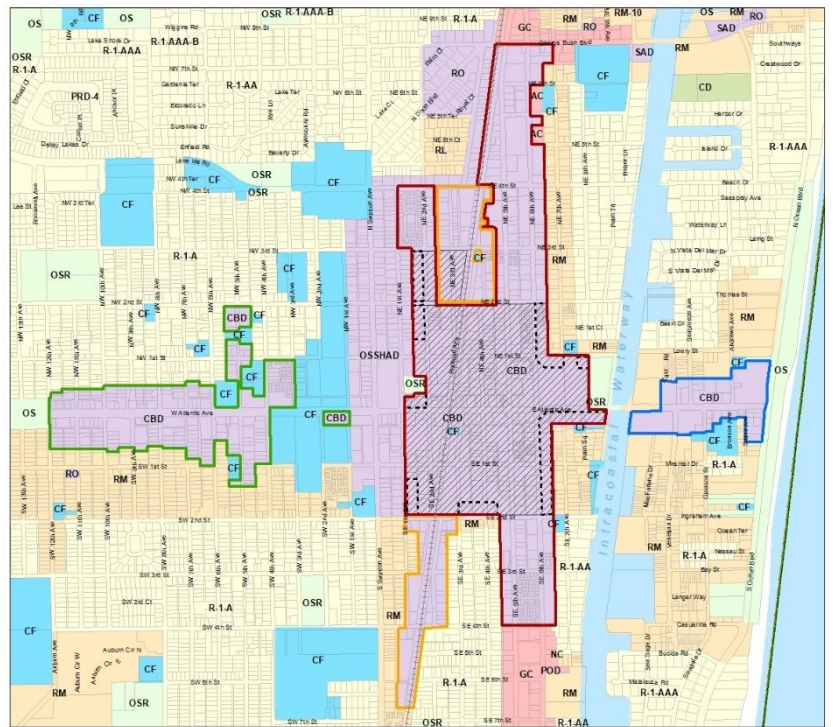
Meeting	File No.	Application Type
September 21, 2020	2020-093-LDR	Land Development Regulations Amendment
Authorized Agent		Applicant
Christina Bilenki (Dunay, Miskel, Backman, LLP)		1 st Avenue Capital 301 LLC

Request

Provide a recommendation to the City Commission on Ordinance No. 52-20, a privately-initiated request to amend the Land Development Regulations (LDR) Section 4.4.13, Central Business District (CBD), regarding automated parking garages, height of rooftops, maximum number of building stories and building height, upper story front setbacks, and density within the Railroad Corridor Sub-district, and additional amendments regarding revised parking requirements applicable to all CBD Sub-districts.

Background Information

In February 2015, Ordinance No. 02-15 was adopted, which provided a rewrite of the regulations applicable to the CBD, as an award-winning Form-Based Code. Prior to February 2015, the **standard height and density** for the CBD was a maximum of 48 feet and a maximum of 30 du/ac for the area now known as the Central Core Sub-district (outlined in red) and Railroad Corridor Sub-district, previously zoned CBD-Railroad Corridor (outlined in yellow). An increase in density to more than 30 du/ac was available via a conditional use process with the provision of workforce housing for a limited area within the downtown's core. To minimize impacts on residential neighborhoods surrounding the downtown, the area available for higher density was limited to properties located south of NE 2nd Street and North of SE 2nd Street, and the area west of the FEC railroad north of NE 2nd Street and South of NE 3rd Street, all subject to specific performance standards. See hatched area on map. The previously adopted Comprehensive Plan established the density limitation for properties with a Commercial Core Future Land Use designation to a maximum density of 100 du/ac, subject to approval of a conditional use request.



In addition, a conditional use to **increase the building height** from 48 feet to 60 feet was also an option prior to adoption of Ordinance No. 02-15. This height increase was available for “all property within the Central Core portion of the CBD, except for that portion within 150 feet of any zoning district which has a maximum height limit of 35 feet, measured from the property lines of the CBD zoned property.” (The dashed lines on map above show the properties excluded from seeking additional height under the criteria.) Those properties eligible to request a conditional use height increase were subject to “a finding of compliance” with the applicable criteria, as follows:

Project Planner:

Amy Alvarez, Principal Planner
alvarez@mydelraybeach.com
561.243.7284

Attachments:

- Draft Ordinance No. 52-20
- Applicant Request Letter & Justification/Support

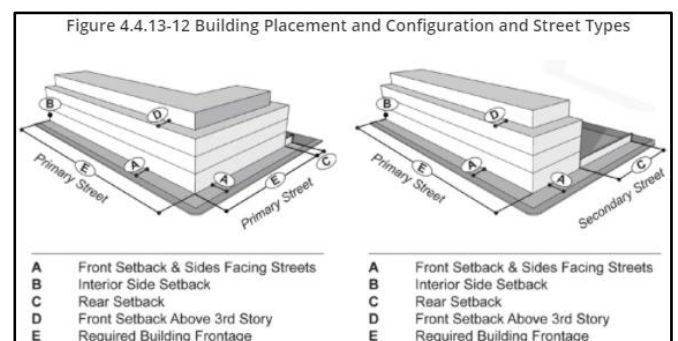
- **Same Floor Area:** That the increase in height will not provide for, nor accommodate an increase in the floor area (within the structure) beyond that which could be accommodated by development which adheres to a height limitation of 48 feet, except for an increase in height when the increase to 60 feet is for the purpose of accommodating residential use on the top floor of the structure; however, the increase in height is only for the added residential area.
- **Workforce Housing:** Workforce housing units, equal to at least 20 percent of the residential units on the top floor shall be provided within the development onsite, offsite, or through monetary contributions...the workforce housing units shall be at the low or moderate income levels...
- That the increase in height shall be allowed if two or more of the following are met:
 - **Additional Setbacks:** That for each foot in height above 48 feet, an additional building setback of two feet is provided from the building setback lines which would be established for a 48-foot tall structure. The additional setback is required from all setback lines for the portion of the building that extends above 48 feet. In lieu of this setback requirement, buildings in the CBD zone shall adhere to the setback requirements of that district;
 - **Mixed-Use Development:** That a minimum of 50 percent of the ground floor building frontage consist of nonresidential uses (excluding parking);
 - **Open Areas:** That open areas, such as courtyards, plazas, and landscaped setbacks, be provided to add interest and provide relief from the building mass.

In 2015, with the adoption of Ordinance No. 02-15, the **standard height** was increased to a maximum of 54 feet and four stories to accommodate taller ceiling heights without increasing the building capacity. The density was limited to 30 du/ac for the areas located within the Central Core and Railroad Corridor Sub-districts. The conditional use process to allow density higher than 30 du/ac and additional height were purposefully eliminated, and replaced by a “**Residential Incentive Program**” to allow an increased density “to encourage a variety of unit types and income ranges within the downtown area, opportunities to increase density are offered in certain CBD Sub-districts. This Residential Incentive Program is the only way to obtain increases in density for property zoned CBD.” The West Atlantic Neighborhood Sub-district is the only CBD area currently included in the Residential Incentive Program where requests can be made to increase the density from 12 du/ac to 30 du/ac; additional height is not offered. The increase is based on compliance with the required Performance Standards that includes the provision of workforce housing units equal to at least 20 percent of the bonus density within the development onsite, offsite, or through monetary contributions. Applications to utilize the Incentive Program are reviewed as part of a site plan by SPRAB or HPB for compliance with the regulations. The Board will make a recommendation to the City Commission on the site plan before the City Commission takes final action to approve or deny the site plan and the increased density.

The current **CBD parking calculations** (adopted in 2015) are applicable to the entire CBD and are modified from those of Section 4.6.9, Off-Street Parking, which are applicable to the balance of the city. The purpose of these modified regulations are to “recognize that the downtown is a compact, interconnected area with multimodal transportation options, and that improper placement of parking and mandatory duplication of the parking supply on each building site separates the various land uses from each other. This separation reduces the viability of the mixed-use districts and harms the walkability of the streets in the downtown area. These regulations reflect the needs of the urban, mixed use downtown. When in conflict with the regulations in Section 4.6.9, this section shall rule.”

The CBD regulations also acknowledge the impact of more intense development of a larger scale on adjacent properties, particularly those in abutting residential zoning districts where the maximum building height is 35 feet. Therefore, the CBD requires additional **upper story setbacks** above the 3rd story with 20 feet for the front, and 30 feet for the side and rear. See Figure 4.4.13-12.

In 2018, the CBD regulations were amended to provide specific guidance regarding the **use of rooftops** and associated covered structures. The regulations were intended to mitigate any impacts on



adjacent development, particularly those with residential uses, from additional height, lighting, or noise on the rooftop of a building in the CBD. All required screening, railings, and parapets are limited to a height of 60 feet. Covered structures, which are limited to a maximum of 25 percent of the total roof area, are also limited to a height of 60 feet. The maximum height of the CBD is 54 feet and 4 stories, except for the Atlantic Avenue Limited Height Area, which is limited to 38 feet and 3 stories.

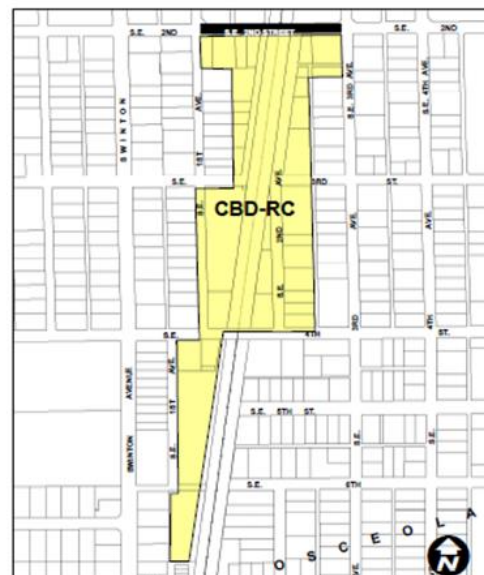
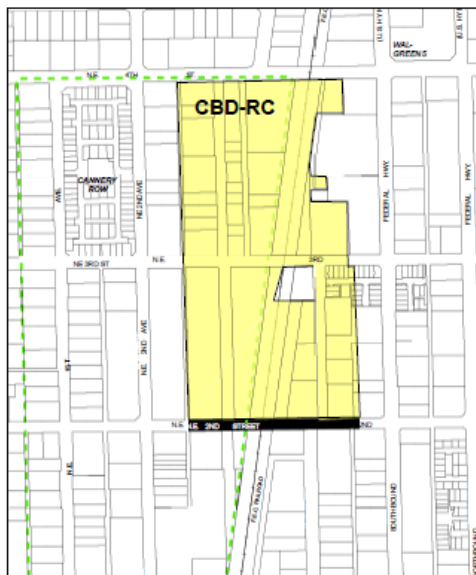
In 2019, a privately initiated amendment was approved to allow **automated parking garages** within the CBD. The request was adopted but to specifically limit the new use to Secondary Streets located north of NE 2nd Street within the Railroad Corridor Sub-district. Four additional requirements must be met by the automated parking garages:

- A traffic statement detailing the ingress, egress, queuing, and circulation demonstrating the specific measures taken to minimize stacking onto public right-of-way resulting from the automated parking garage.
- An attendant must be on-site during all hours of operation (unless the garage is limited to private use), and the garage must be secured when not accessible for parking purposes.
- Projects with driveways that limit the ability to install the required number of street trees shall either provide the required trees at another location on-site or contribute to the Tree Fund.
- SPRAB may approve automated parking garages that utilize an alternative façade design or cladding materials provided photovoltaic cells (solar panels) are incorporated into the structure and used as a power source for the garage operations or uses associated with the automated parking garage; if solar panels are not incorporated, facades that do not meet the architectural standards require City Commission approval.

Description of Proposal

The proposed amendments, as outlined below, are applicable to the Railroad Corridor Sub-district (see Regulating Plan below) of the Central Business District (CBD).

- Automated parking garages: Allow on any Secondary Street within the Railroad Corridor; currently limited to Secondary Streets north of NE 2nd Street within the Railroad Corridor Sub-district.
- Height of Rooftops on Buildings: Extend maximum height on rooftops within the Railroad Corridor Sub-district from 60 feet to 10 feet above the maximum permitted height.
- Building Stories and Height: Increase to 6 stories and 72 feet from 4 stories and 54 feet within the Railroad Corridor Sub-district.
- Setback above 3rd Story: Decrease minimum front and rear setback requirements at the top of the 3rd story from 20 feet to 10 feet.
- Density Bonus and Workforce Housing: Add the Railroad Corridor Sub-district to the Residential Incentive Program; increase density to up to 100 du/ac, when at least 20 percent of the bonus density is provided as workforce housing units at the moderate income level either onsite, office, or through monetary contribution.



The proposed amendments, outlined below, include a revision to the parking requirements applied to the entire CBD zoning district.

- Efficiency Dwelling units: Increased from 1.0 to 1.25 per unit.
- One-Bedroom Dwelling Unit: Increased from 1.25 to 1.5 spaces per unit.
- Two-Bedroom Dwelling Unit: Retain requirement of 1.75 per unit; eliminate more than two-bedroom units from this calculation.
- Three or more Bedroom Dwelling Unit: Increase requirement from 1.75 to 2.0 spaces per unit.
- Guest Parking: Eliminate requirement.

The request indicates that the purpose of the amendments is to facilitate the redevelopment of a 1.46 acre property located at 301 SE 1st Avenue. The submitted narrative indicates that the property is currently vacant, and the applicant proposes to develop the property *“with an attractive new multi-family residential development with a small café and retail component.”* The complete request letter and narrative support memo are provided as attachments.

Review and Analysis

Pursuant to **LDR Section 2.4.5(M)(1)**, amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.

The proposed amendment is privately-initiated, and requested by Christina Bilenki of Dunay, Miskel, Backman, LLP, for 1st Avenue Capital 301 LLC.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, in addition to LDR Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies of the Comprehensive Plan. The following GOPs of the adopted Comprehensive Plan are applicable to the proposed amendment:

NOTE: The subject request was submitted prior to the adoption of the Always Delray Comprehensive Plan on February 4, 2020 then subsequently placed on hold by the applicant prior to the onset of Covid-19 and the cancelation of Public Meetings for 3 months. In addition to the Goals, Objectives, and Policies adopted in the Always Delray Comprehensive Plan, the applicable Goals, Objectives, and Policies from the prior Comprehensive Plan have also been provided and reviewed. The previous Comprehensive Plan stipulated a conditional use process as the mechanism for increased density; the conditional use process for additional height and density was removed as an option in the LDRs in 2015. The Always Delray Comprehensive Plan specifies that a density of 30 – 100 du/ac is limited as a revitalization or incentive density. The Revitalization/Incentive density is the maximum density that may be offered in the LDRs to achieve a certain community benefit in a specific area as part of an incentive program, or to implement the recommendations of an adopted redevelopment or neighborhood plan. The amendments include a requirement for workforce housing. Newly adopted policy also requires LDR standards adjust density and intensity based on compatibility, scale, character, adopted master plans, or workforce housing incentives.

Policy NDC 1.1.14 Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs. (Prior Comprehensive Plan Future Land Use Element Objective A-1 and Policy A-2.3)

Objective NDC 2.2 Downtown and Surrounding Neighborhoods Protect and enhance the “Village by the Sea” character of the downtown and neighborhoods located east of I-95. (Prior Comprehensive Plan Future Land Use Element Objective C-3)

The proposed height (including increase in the number of stories and rooftop appurtenances), reduced upper setbacks (above the 3rd story), and density amendments will have an impact on the future scale and density of development, which will likely have an impact on adjacent land uses, particularly on the adjacent properties with zoning designations that establish development of a smaller scale with lower heights and densities. The northern section of the Railroad Corridor Sub-district is surrounded by the Central Core Sub-district on all sides, except for the north, which is zoned Residential Office (RO) along NE 4th Street and part of the Del Ida Park Historic District. The height for the RO zoning district is limited to 35 feet with residential uses limited to single-family or duplex units.

The southern section of the Railroad Corridor Sub-district, the location of this request, is primarily surrounded by Multiple-Family Residential, Medium Density (RM) zoning to the west and south, and Single-family residential (R-1-A) to the east and south; the RM and R-1 districts both have height limits of 35 feet. Single-family zoning is limited to a single unit per property, while the RM zoning allows a maximum density of 12 du/ac. The Central Core sub-district of the CBD is adjacent to the north where the height is limited to 54 feet and a density of 30 du/ac.

Consideration is needed regarding the proposed amendment, as presented, in whether it achieves compliance with or meets the intent of the identified Objectives and Policy, particularly related to compatibility of adjacent properties. The density increase that was allowed in the previous version of the LDRs (prior to 2015) that was applicable to the Railroad Corridor Sub-district was limited to those areas west of the FEC railway. The increase in height to 60 feet that was allowed in the previous version of the LDRs (prior to 2015) was limited to properties not located within 150 feet of a zoning district with a maximum height of 35 feet. The proposed amendment seeks to apply the increased density and height throughout the Railroad Corridor Sub-district, regardless of proximity to zoning districts with a lower scale of development. "Community benefits", in addition to the provision of Workforce Housing units, should also be considered; other community benefit examples are high-level green building certifications (currently new buildings within the CBD with more than 50,000 square feet require a Silver level certification), additional civic open space, contribution to a mobility fee, provisions for public parking, a higher percentage or range of workforce units price points serving a wider range of income brackets, etc.

It is important to note that properties within the CBD Railroad Corridor Sub-district are zoned Commercial Core (CC), which is limited in intensity by a Floor Area Ratio (FAR) of 3.0. The surrounding land use designations of Medium Density (MD) and Low Density (LD) are limited in scale and massing based on the allowed density and required development standards including height, setbacks, and lot coverage. The other adjacent land use designations are limited both by the development standards and the prescribed Floor Area Ratio of 1.0 for Transitional (TRN) located north of the northern portion of the Railroad Corridor Sub-district.

The proposed density change will increase the current maximum of 30 du/ac for market rate units to 100 du/ac provided that 20% of the additional units are reserved as Workforce Housing units at the moderate level. Under the 1.43 acre parcel the applicant cites, the number of units allowed would increase from 43 to 146, of which 20 would be Workforce Housing at the moderate level. The moderate level is 80-120% of the Average Median Income (AMI), currently \$79,100 for Palm Beach County. Under the current AMI, the moderate level range for a family of 4 would have a total household income of \$70,240 – 105,360 and have a rental range of \$1,827 – 2,740 for a 3-bedroom unit. Given the considerable density increase, consideration should be given to both the percentage of Workforce housing required and if a mix of income levels that includes the very low (up to 60% AMI) and low (61% - 80% AMI) income levels in addition to moderate should be included.

In addition to the above, the request to increase building height to a the maximum height proposed (72 feet) is further extended by proposing an additional 10 feet for rooftop structures, for a total potential building height of 82 feet within the Railroad Corridor Sub-district – in some areas across the street from single family houses. While rooftop structures are limited to no more than 25% of the total roof area, there was careful consideration provided when adopting the rooftop regulations 2018. The intent is to provide attractive rooftop amenities desired in the downtown while maintaining an appropriate height and mitigating potential impacts on neighboring developments, regardless of the use or zoning district.

The following Objective and Policies are to be considered with the proposed density increase and associated workforce housing requirement as to whether the proposed amendments meet their intent:

Objective HOU 3.2 Expansion of the Housing Supply *Expand the housing supply by allowing different unit types in a variety of locations for all income levels.*

Policy HOU 3.2.1 *Allow a variety of housing types to reflect the needs of all household types, including both rental and ownership opportunities for single people, couples, families, seniors, persons with disabilities and multi-generational families.*

Policy HOU 3.2.2 *Establish and regularly reassess criteria for requiring workforce housing units in new development (either on-site or through participation in a housing program) based upon proposed development density, intensity, and size. Policy HOU 6.1.2 Encourage income diversity by requiring a mix of unit types in new development.*

Policy HOU 6.1.3 *Promote mixed income development in areas with access to amenities including parks, recreational and cultural facilities, transit services, employment centers and healthcare services.*

Policy HOU 6.1.4 *Implement incentives in the Land Development Regulations, such as increases in density, to establish workforce housing units within targeted areas.*

Policy HOU 6.4.10 *Encourage a shared responsibility for the private sector to address workforce housing needs by offering incentives.*

It is important to note that requests for an increased density require a recommendation by the applicable review Board (either Site Plan Review and Appearance Board or Historic Preservation Board) to the City Commission; the final action would be taken by the City Commission.

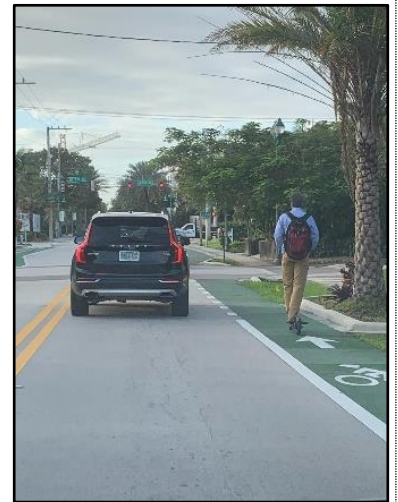
Regarding the revision to the location limitations for automated parking structures, the amendment maintains the use within the Railroad Corridor Sub-district. The initial inclusion of automated parking structures was focused to a small area so that impacts, such as noise and traffic could be observed prior to a wider application. To date, one structure has been approved, but has not been constructed. The additional location options would expand the direction from 2019. There are certain requirements associated with this use that strive to mitigate traffic impacts and allow architectural deviations related to the function in exchange for the incorporation of solar panels into the design. Additional considerations, such as the direction of the facility, whether it faces a residential zoning district, and compatibility with the surrounding neighborhood may necessary under this expansion. These considerations could be made with the site plan review.

The current CBD parking calculations *recognize that the downtown is a compact, interconnected area with multimodal transportation options and reflect the needs of the urban, mixed use downtown.* This type of downtown is resilient to significant changes in the transportation industry as new ways of moving around towns have become more prominent. For example, privately owned electric scooters and electric bicycles have become more affordable to the general public and more people are using them to get around Delray Beach. These vehicles use the same infrastructure as conventional bicycles or smaller mobility devices, such as bike lanes and sidewalks. For residents living downtown, this trend could lend itself to people owning less cars, no cars, or towards people using shared car services such as Zipcar, or ride hailing services such as Uber and Lyft. The Mobility Element identifies the on-going change in transportation trends and the need to appropriately revise the existing regulations accordingly.

Mobility Element, Objective MBL 3.4, Parking Requirements *Continue to develop and refine policies that adjust parking requirements to account for changes in car ownership trends, the growth of ride-sharing, connected vehicles, and vehicles automation*

Policy MBL 3.4.1 *Regularly analyze, assess, and update parking requirements in the Land Development Regulations to reflect actual parking trends and needs. Parking requirements may be customized for various parts of the City (e.g. Downtown, West of Congress Avenue).*

While the applicant proposes to increase the required parking for each unit type from an efficiency to 3-bedroom or more units, the requirement for guest parking is proposed to be eliminated. There are public parking garages within or adjacent to the Central Core Sub-district, and many public parking lots or on-street parking provided throughout the West Atlantic Neighborhood and Beach Sub-districts. However, the amount of public parking that could assist with guest parking within the Railroad Corridor Sub-district areas is significantly less than available in the other Sub-districts. The southern portion of the Railroad Corridor Sub-district is surrounded by residential zoning without on-street parking unlike the rest of the CBD to the east, south, and west. Shifting the parking requirement for guests from being provided onsite to the surrounding areas may impact surrounding neighborhoods without on-street parking. However, given the increase in required parking for each unit type, under certain scenarios, there could be a surplus of parking in comparison to the current requirements. The City is undergoing a Parking and Curbside Management Plan within the CBD, which will include recommendations related to required ratios. The proposed parking ratio revisions would affect those areas currently



being studied. The Parking and Curbside Management Plan, which is anticipated to be completed by Mid-2021, will identify and provide solutions to address concerns of residents, customers, and merchants related to the following factors:

- parking type, availability, and locations;
- ride share services impacts;
- valet parking services function and locations;
- delivery services and loading zones serving downtown restaurants and businesses; and
- pedestrian activity and demands.

Significant public outreach has commenced and will continue into early November. This input will gather information and preferences for parking deficiencies, cost of parking downtown, alternative parking policies, and suggestions on valet parking operations. The outcome of the study will provide better parking management, and valet and curbside management solutions that will be developed into a holistic Parking and Curbside Management Master Plan and ultimately, the Land Development Regulations.

It is important to note that under the currently code, in residential development, parking spaces for residents or guests are not required to be reserved or identified. However, in mixed-use developments, one space per residential unit is required to be reserved.

Considerations

The Board should carefully consider the following in reviewing the subject request:

- Additional height (from 54 feet to 70 feet) and density (from 30 to 100 du/ac) in the Railroad Corridor Sub-district is a shift in Policy in an area where it has not previously been available; not all properties were eligible under the “old” code, as a buffer area of 150 feet from zoning districts with a maximum height of 35 feet was in effect.
- Additional Workforce Housing Units are needed in Delray Beach to assist our residents and attract a workforce who can live, work, and play here; however, the proposed rate is limited to the moderate income level (80%-120% AMI).
- Additional community benefits, in addition to the workforce housing units, could be considered as part of the additional height and density provisions.
- Reduced setbacks above the 3rd story add to the building scale and mass that can impact the adjacent residential zoning districts where the maximum height is 35 feet.
- Additional height of rooftop structures extends the proposed building height up to 80 feet.
- Amending the CBD parking requirements prior to the completion of the Parking and Curbside Management Plan may result in additional LDR amendments that reverse or substantially alter the proposed parking ratios.

Review By Others

The proposed LDR Amendments have been reported to the **Community Redevelopment Agency (CRA)**.

The proposed LDR Amendment will be reviewed by the **Downtown Development Authority (DDA)** at its meeting of September 14, 2020; the Board's recommendation will be provided to the City Commission.

The proposed LDR Amendments will be reviewed by the **Pineapple Grove Main Street Board** at its meeting of September 30, 2020; the Board's recommendation will be provided to the City Commission.

The **City Commission** review of the proposed LDR Amendments has not yet been determined.

Alternative Actions

- A. Recommend **approval** to the City Commission of Ordinance No. 52-20, a privately-initiated request to amend the Land Development Regulations (LDR) Section 4.4.13, Central Business District (CBD), regarding automated parking garages, height of rooftops, maximum number of building stories and height, upper story front setbacks, and density within the Railroad Corridor Sub-district, and additional amendments regarding revised parking requirements applicable to all CBD Sub-districts by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.

- B. Recommend **approval** to the City Commission of Ordinance No. 52-20, **as amended**, a privately-initiated request to amend the Land Development Regulations (LDR) Section 4.4.13, Central Business District (CBD), regarding automated parking garages, height of rooftops, maximum number of building stories and height, upper story front setbacks, and density within the Railroad Corridor Sub-district, and additional amendments regarding revised parking requirements applicable to all CBD Sub-districts, by finding that the amendment as amended and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 52-20, a privately-initiated request to amend the Land Development Regulations (LDR) Section 4.4.13, Central Business District (CBD), regarding automated parking garages, height of rooftops, maximum number of building stories and height, upper story front setbacks, and density within the Railroad Corridor Sub-district, and additional amendments regarding revised parking requirements applicable to all CBD Sub-districts, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

Public and Courtesy Notices

X Courtesy Notices were provided to the following via email, at least 5 working days prior to the meeting:

- Chamber of Commerce
- Del-Ida Park Historic District
- Osceola Park Neighborhood Association

N/A Public Notices are not required for this request.