



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### CBD Railroad Corridor Sub-District LDR Amendments (AMENDED REQUEST)

Meeting	File No.	Application Type
January 25, 2021	2020-093-LDR	Land Development Regulations Amendment
Authorized Agent	Applicant	
Christina Bilenki (Dunay, Miskel, Backman, LLP)	1st Avenue Capital 301 LLC	

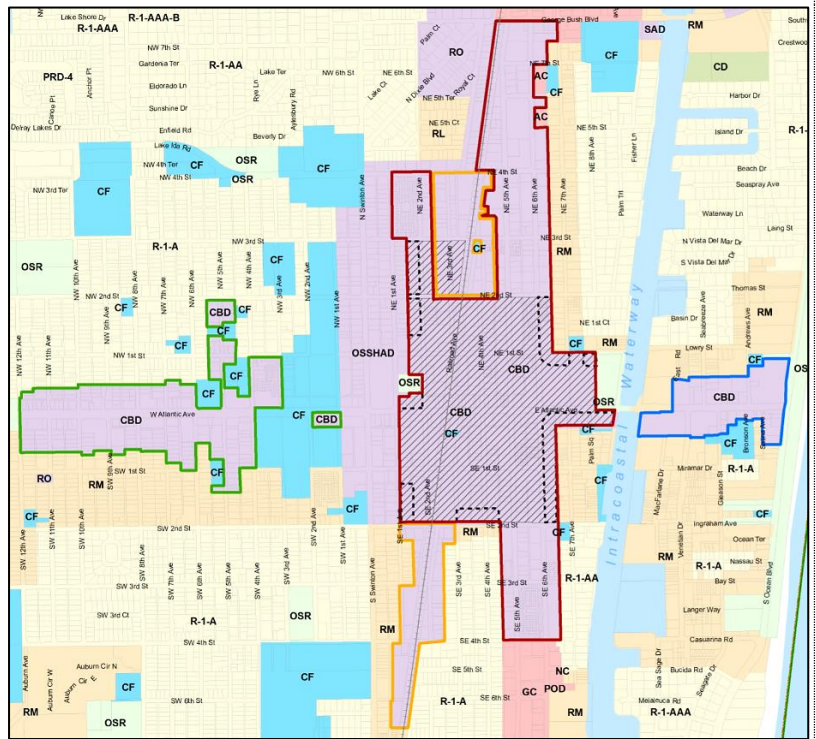
### Request

Provide a recommendation to the City Commission on Ordinance No. 03-21, privately-initiated amendments to the Land Development Regulations for the portion of the Central Business District (CBD) Railroad Corridor Sub-district located south of SE 2nd Street to increase the maximum number of stories allowed from four to five within the current maximum height of 54 feet, increase the maximum density from 30 to 70 dwelling units per acre as part of a Residential Incentive Program that requires at least 20 percent of the bonus density be provided as on-site workforce housing units, and expand the locations for Automated Parking Garages to include any Secondary Street within the Railroad Corridor Sub-district.

### Background

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 (See area outlined in red on map) and Railroad Corridor Sub-district, previously zoned CBD-Railroad Corridor (See area outlined in orange).

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. 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 Comprehensive Plan at the time established the density for properties with a Commercial Core Future Land Use designation as a maximum of 100 du/ac, subject to approval of a conditional use request.



In addition to an increase in density, 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.” (See the dashed lines on map for the properties excluded from requesting additional height) Those properties eligible to request a conditional use height increase were subject to “a finding of compliance” with the applicable criteria, as follows:

- 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 after a significant public engagement process, the **standard height** was increased to a maximum of 54 feet and four stories to accommodate taller ceiling heights without increasing the overall 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” (LDR Section 4.4.13(H)(1)). The West Atlantic Neighborhood Sub-district is the only CBD Sub-district currently included in the Residential Incentive Program, where requests can be made to increase the density from 12 du/ac to 30 du/ac; however, additional height is not offered in the CBD. The increase in density 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.

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

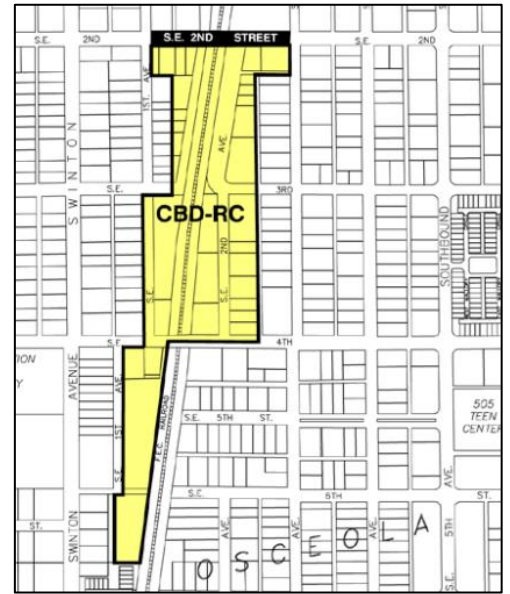
- A traffic statement detailing the ingress, egress, queuing, and circulation demonstrating the specific measures taken to minimize stacking onto public right-of-way resulting from the automated parking garage.
- An attendant must be on-site during all hours of operation (unless the garage is limited 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 located south of SE 2<sup>nd</sup> Street (see area highlighted in yellow) of the Central Business District (CBD).

- **Building Stories and Height:** Increase to 5 stories from 4 stories, retaining the 54-foot height limit, within the Railroad Corridor Sub-district
- **Density Bonus and Workforce Housing:** Add the Railroad Corridor Sub-district to the Residential Incentive Program; increase density from 30 du/ac to up to 70 du/ac, with at least 20 percent of the bonus density units provided on-site as workforce housing units at an equal distribution of very low, low, and moderate income levels for Palm Beach County.
- **Automated parking garages:** Allow on any Secondary Street within the Railroad Corridor; currently limited to Secondary Streets north of NE 2<sup>nd</sup> Street within the Railroad Corridor Sub-district.

The request indicates that the purpose of the amendments is to facilitate the redevelopment of a 1.46-acre property located at 301 SE 1<sup>st</sup> 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 memo are provided as attachments. It is important to note the LDR Amendments will apply to all of the properties within this portion of the Sub-District, and not just the applicant’s property. Further, any development proposal must be approved by the Site Plan Review and Appearance Board and the LDR amendment does not guarantee that the applicant will submit the specific building illustrated; the recommendation for the LDR amendment should not be based on a building rendering presented by the applicant.



## Planning and Zoning Board Review: November 16, 2020

The subject request previously appeared before the Planning and Zoning Board on November 16, 2020 as Ordinance No. 52-20, and **the Board voted 6-1 to recommend denial** to the City Commission. The request has been revised as follows:

- An increase to six stories and 60 feet in building height has been **revised** to an increase to **five stories within the current 54 feet height limit**.
- **Increased density** up to 80 du/ac has been **revised to 70 du/ac**.
- **Increased height for rooftops and rooftop features** has been **removed**.
- A **reduction in upper-story setbacks** has been **removed**.
- Residential Incentive (**bonus density**) has been **revised to require that all units be located on-site and equally distribute among the very low, low, or moderate income levels**.

At City Commission on January 5, 2021, the Commission requested that the Planning and Zoning Board re-review the amended request and make a recommendation prior to first and second reading. The discussion below reflects the revised request.

## 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 (GOPs) of the Comprehensive Plan. The following GOPs of the adopted Comprehensive Plan are applicable to the proposed amendment:

**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.*

**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.*

**Policy NDC 1.1.2:** *Provide a complementary mix of land uses, including residential, office, commercial, industrial, recreational, and community facilities, with design characteristics that provide:*

- *Similar uses, intensity, height, and development patterns facing each other, especially in residential neighborhoods.*
- *Uses that meet the daily needs of residents.*
- *Public open spaces that are safe and attractive.*

**Policy NDC 1.1.7:** *“...Standards in the Land Development Regulations, including those guiding compatibility and transitions, such as setbacks, height limitations, open space criteria, etc. may limit the actual density achievable on a specific site.”*

**Policy NDC 2.7.16:** *Continue to support the variety of commercial and light industrial uses on land with mixed-use land use designations in Osceola Park.*

**Policy NDC 2.7.17:** *Continue to support the accommodation of compatible housing types within Osceola Park based on the recommendations and overall intent of the adopted Osceola Park 2019 Redevelopment Plan Update.*

**Policy NDC 2.7.18:** *Consider the vision and strategies in the Osceola Park Redevelopment Plan Update (2019) when assessing rezoning requests, reviewing development applications, and planning public infrastructure projects.*

#### **Housing Element**

**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. [Complete by 2022]*

**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 6.2.1** *Update the Housing Assessment Study to provide an updated inventory of the housing stock, housing needs, housing demands, and cost burden for various income levels Delray Beach’s population. [Complete by 2022]*

**Policy HOU 6.2.2** *Develop and adopt a comprehensive housing strategy to determine requirements, standards incentives, and appropriate locations for the provision of affordable and workforce housing units in all new developments. [Complete by 2025].*

**Policy HOU 6.2.3** *Analyze and amend Workforce Housing regulations in the Land Development Regulations to implement the adopted comprehensive housing strategy.*

**Policy HOU 6.4.10** *Encourage a shared responsibility for the private sector to address workforce housing needs by offering incentives.* Properties within the CBD Railroad Corridor Sub-district have a land use designation of 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 the development standards in the LDRs, including height, setbacks, and lot coverage.

In terms of the objective of protecting the character of the downtown, it is noteworthy that the 2015 City-initiated LDR amendments to the CBD included extensive public outreach, with over 17 public meetings, and resulted in changes that did not increase the number of stories and that removed density incentives from this area. This amendment proposes fundamental changes to the built environment of the downtown area and a new incentive program for a limited portion of a sub-district - both as a private initiative. Consideration must be made whether the proposed changes help realize the community’s “Village by the Sea” vision.

In terms of compatibility, the change in height and density will likely have an impact on adjacent properties, particularly those with zoning designations that establish development of a much smaller scale and lower densities. The southern portion of the Railroad Corridor Sub-district (the location of this request is within the Osceola Park Redevelopment Plan area and 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; both the RM and R-1 districts 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 with a height limit of 54 feet and four stories. Consideration is needed regarding whether the proposed amendments, as presented, achieve compliance with or meet the intent of the identified GOPs, particularly related to compatibility with adjacent properties. The density increase that was allowed in the LDRs prior to 2015 was limited to areas a specific area of the northern Railroad Corridor Subdistrict. The proposed amendment seeks to apply the increased density throughout the southern portion of the Railroad Corridor Sub-district, regardless of proximity to zoning districts with a lower scale of development, and in areas that were not afforded this scale or intensity of development in the past.

The Osceola Park Redevelopment Plan focuses on protecting and respecting the single-family character of the community, while acknowledging that a portion of the plan area includes the CBD where development opportunities are larger in scale and mass and densities are higher than adjacent properties. The Plan speaks to encouraging adaptive reuse, and while this is likely referring to existing buildings, the ability to reuse all buildings in the downtown area, even new construction, is intended and encouraged. The amendments include the ability to place five stories within 54 feet of building height. Squeezing in an additional story to the height limitation encourages maximizing development scale and is not conducive to adaptive reuse overtime by resulting in ceiling heights too low for non-residential uses, and negatively impacting the ability to provide a high-quality product by pancaking the stories. This concern was the same as those raised by the community in 2015, which led to the re-write.

Proposed Density Increase & Workforce Housing

The proposed amendments increase density from the current maximum of 30 du/ac (all market rate units) to 70 du/ac, provided that 20% of the additional units are reserved as Workforce Housing units located on-site and equally distributed among the very low, low, and moderate levels. For example, in the applicant’s companion request to develop a 1.43-acre parcel, the applicant cites the number of units allowed would increase from 42 to 100 – an increase of 58 units. 20% of the 58 “bonus” units results in a requirement for 11 units to be Workforce Housing. These 11 units are approximately 11% of the total number of units in the development. “Equal” distribution, in this case would mean 4 units available for the “very low”, 4 units for the “low”, and 3 units for the “moderate” income levels.

The Average Median Income (AMI) in Palm Beach County is currently \$79,100, and further refined based on family size. Rents and purchase prices are also keyed to number of units and family size. The table below provide the information for a family of four and a 2-bedroom rental:

Income Level	% of AMI \$79,0100	Family of 4 Income Range	Monthly 2 BDR	Purchase Price
<b>Moderate</b>	81-120%	\$70,240 - \$105,360	\$1,583- 2,373	\$203,580 - \$261,030
<b>Low</b>	61-80%	\$52,680 < \$70,240	\$1,186 - 1,582	\$166,110-\$213,570
<b>Very Low</b>	Up to 60%	< \$52,680	<\$1,186	< \$166,110

The proposal continues to support the accommodation of a variety of unit types and sizes, particularly now revised to provide Workforce Housing units at a proportionate distribution among very low, low, and moderate income level households. However, the amount of units provided at these levels is limited to 20% of the bonus density (above 30 du/ac), as opposed to 20% of the total number of units at the bonus density rate.

Given the considerable density increase (233%), consideration should be given to the proposed percentage of Workforce housing as well as the context of the location near the City's downtown and adjacent to neighborhoods identified as needing revitalization or needing rehabilitation (See Map AD-5 attached). The most recent zoning changes related to density increases for the provision of workforce housing in the City, Aura Delray Special Activities District (SAD) and the Linton Commons Overlay, proposed 25% and 20% respectively of the total number of units. Given the downtown's strong market for residential units and significant employment center (hotel and service industry, police and fire stations, and government centers) the quantity of workforce units proposed should be considered. In addition, other "Community benefits" that further other city goals could also be considered, such as, 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, provisions for public parking, etc.

#### Proposed Additional Story

The CBD regulates height through two measures: the number of stories and overall building height in feet. The current requirement for height and stories is 54 feet and four stories; the proposal is to increase the number of stories to five. The CBD regulations specify that "stories are measures from the finished floor to finished ceiling" and minimum story heights for buildings are as follows:

- the ground story of commercial or mixed-use buildings shall be a minimum of 12 feet tall;
- the ground story of residential buildings shall be a minimum of ten feet tall; and
- each story above the ground story in all buildings must be at least nine feet tall.

The proposed building height and number of stories raises concerns of the ability to provide a quality residential product. Prior to 2015, building height in the CBD was limited to 48 feet, with ground stories required to be at least 10 feet from floor to ceiling and upper stories at least 9 feet. Ordinance No. 02-15 updated Section 4.4.13 of the LDRs and revised height to be limited both by the number of stories and by overall building height. Generally, height is 4 stories and 54 feet. The intent of using both number of stories and feet to limit height is to allow for higher ceilings without increasing development capacity. Higher ceilings allow for Class A office, facilitate adaptive reuse in the mixed-use district, and provide for a high quality residential or hotel product. The proposed increase in the maximum number of stories from four to five within the current maximum building height of 54 feet will negatively impact the provisions of high-quality development and adaptive reuse due to the lower ceiling heights that will inevitably result as developers seek to maximize density and/or floor area. For this reason, the ability to "pancake" floors within buildings was specifically prevented in the 2015 update of the CBD regulations by limiting the number of stories to four.

While the amendment maintains the use of automated parking structures within the Railroad Corridor Sub-district, the initial inclusion of automated parking structures as a use was focused to a much smaller area so that impacts, such as noise and traffic could be observed prior to a wider application. To date, one structure has been approved, and is now under construction. The additional location proposed 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 orientation of the facility, whether it faces a residential zoning district, and compatibility with the surrounding neighborhood may necessary under this expansion.

#### **Considerations**

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

- Additional stories (from 4 stories to 5 stories within the current maximum height of 54 feet) and density (from 30 to 70 du/ac) in the Railroad Corridor Sub-district is a shift in policy in an area where these options have not previously been available.
- Additional Workforce Housing Units are needed in Delray Beach to accommodate residents and attract a workforce who can live, work, and play here; is the proposed percentage of units (20% of the bonus density) appropriate for the proposed increase in height and density?
- Other community benefits could be included in the requested height and density provisions.

## Review By Others

The proposed LDR Amendments were reported to the Community Redevelopment Agency (CRA), in September 2020.

Note: The original request included an area within both the boundaries of the Pineapple Grove Main Street and the Downtown Development Authority (DDA). Since their review, the revisions made to the request are no longer applicable to land within the Pineapple Grove Main Street or DDA.

First and second reading at **City Commission** is anticipated for February 9, 2021 and March 2, 2021.

## Alternative Actions

- A. Recommend **approval** to the City Commission of Ordinance No. 03-21, privately-initiated amendments to the Land Development Regulations for the portion of the Central Business District (CBD) Railroad Corridor Sub-district located south of SE 2nd Street to increase the maximum number of stories allowed from four to five within the current maximum height of 54 feet, increase the maximum density from 30 to 70 dwelling units per acre as part of a Residential Incentive Program that requires at least 20 percent of the bonus density be provided as on-site workforce housing units, and expand the locations for Automated Parking Garages to include any Secondary Street within the Railroad Corridor Sub-district, 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, as amended**, to the City Commission of Ordinance No. 03-21, privately-initiated amendments to the amendments to the Land Development Regulations for the portion of the Central Business District (CBD) Railroad Corridor Sub-district located south of SE 2nd Street to increase the maximum number of stories allowed from four to five within the current maximum height of 54 feet, increase the maximum density from 30 to 70 dwelling units per acre as part of a Residential Incentive Program that requires at least 20 percent of the bonus density be provided as on-site workforce housing units, and expand the locations for Automated Parking Garages to include any Secondary Street within the Railroad Corridor Sub-district, 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. 03-21, privately-initiated amendments to the amendments to the Land Development Regulations for the portion of the Central Business District (CBD) Railroad Corridor Sub-district located south of SE 2nd Street to increase the maximum number of stories allowed from four to five within the current maximum height of 54 feet, increase the maximum density from 30 to 70 dwelling units per acre as part of a Residential Incentive Program that requires at least 20 percent of the bonus density be provided as on-site workforce housing units, and expand the locations for Automated Parking Garages to include any Secondary Street within the Railroad Corridor Sub-district., 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

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

- Chamber of Commerce
- Osceola Park Neighborhood Association

Public Notices are not required for this request.