



Lake Park Town Commission, Florida

Park Avenue Downtown District (PADD) Density Workshop

Commission Chamber, Town Hall, 535 Park Avenue, Lake Park, FL 33403

October 19, 2024 10:00 am – 12:00 pm

CIVILITY AND DECORUM

The Town of Lake Park is committed to civility and decorum to be applied and observed by its elected officials, advisory board members, employees and members of the public who attend Town meetings. The following rules are hereby established to govern the decorum to be observed by all persons attending public meetings of the Commission and its advisory boards:

- Those persons addressing the Commission or its advisory boards who wish to speak shall first be recognized by the presiding officer. No person shall interrupt a speaker once the speaker has been recognized by the presiding officer. Those persons addressing the Commission or its advisory boards shall be respectful and shall obey all directions from the presiding officer.
- Public comment shall be addressed to the Commission or its advisory board and not to the audience or to any individual member on the dais.
- Displays of disorderly conduct or personal derogatory or slanderous attacks of anyone in the assembly is discouraged. Any individual who does so may be removed from the meeting.
- Unauthorized remarks from the audience, stomping of feet, clapping, whistles, yells or any other type of demonstrations are discouraged.
- A member of the public who engages in debate with an individual member of the Commission or an advisory board is discouraged. Those individuals who do so may be removed from the meeting.
- All cell phones and/or other electronic devices shall be turned off or silenced prior to the start of the public meeting. An individual who fails to do so may be removed from the meeting.

Agenda Item:

1. Park Avenue Downtown District (PADD) Workshop

PARK AVENUE
DOWNTOWN DISTRICT (PADD)
WORKSHOP

Saturday, October 19: 10am – 12pm

Town Hall Commission Chambers

535 Park Avenue, Lake Park, Florida 33403

HISTORY

HOW WE GOT HERE

- [2018-2021](#): **Workshop** meetings (engaging the public and gathering Board/Commission feedback).
- [February 2022](#): **Comprehensive Plan amendments** were adopted to allow for more flexibility in density within the Downtown land use area.
- [July 2022](#): **Rezoning** of parcels to expand the boundaries of the downtown area to how it exists today **AND** Revised land development regulations (**LDRs**) creating two sub-districts in order to align with previously adopted comprehensive plan amendments and allow for flexible redevelopment options per the policy directives at the time.
- [September 2022](#): Future train station site land use map amendment.
- [October 2022](#): Future train station site rezoning.
- [Mid to late 2024/early 2024](#): Two mixed-use development site plan applications for the Core sub-district on the PADD were submitted.

WHY IS THIS WORKSHOP NECESSARY?

With the recent submittal of two large-scale mixed use projects for the Park Avenue/10th Street area (Core Sub-District), it has been requested of Staff and the Town Attorney to take a closer look at whether the resultant projects are consistent with the Commission's vision for the downtown redevelopment area and whether the LDRs and density, if maximized, are consistent with the overall redevelopment vision for the downtown area, as it was originally intended when the Comprehensive Plan Amendments and Land Development regulations were adopted a few years ago.

INTRODUCTION

Focus Areas for this Workshop

- Density
- Floor Area Ratio/Massing
- Height
- Traffic
- Infrastructure

*****all categories lend towards an analysis of compatibility, feasibility and neighborhood character*****

LEGAL ANALYSIS INTRODUCTION

POLICY CONSIDERATIONS

- The Town was created pursuant to the Kelsey City Plat. The planners originally involved in the creation of the Kelsey City Plat were amongst the best known planners.
- John Nolan and the Olmstead Brothers created the Kelsey City Plat which include a downtown business district.
- The PADD and its scale is reflective of the Kelsey City Plat's downtown. The Kelsey City Plat would need to be modified. The two proposed projects are proposing a replat or a unity of title given their multiple lot configurations and aggregation of lots.
- The Kelsey City Plat also governs development of the area surrounding the Downtown, which to the north, south and east consists predominately of low density single family residential neighborhoods.

LEGAL ANALYSIS INTRODUCTION (*continued*)

POLICY CONSIDERATIONS

- The Lake Park Downtown was designed to serve the neighborhoods surrounding it, which includes the residential neighborhoods on small lots and a downtown also with comparatively small lots. For example, the lots upon which the projects are proposed are approximately 2 acres and 3 acres. Thus, without changes to the Plat, or some aggregation of lots in the Downtown, the Lake Park downtown must continue to be viewed as having a small scale development pattern.
- Because of this small scale development pattern, the Downtown of Lake Park cannot be viewed in the same context as the downtowns of significantly larger cities that have increased densities and have become urban centers with high rise office towers and residential condominium like West Palm Beach.

LEGAL ANALYSIS INTRODUCTION (*continued*)

POLICY CONSIDERATIONS

- The 2021 amendments to the Comprehensive Plan increased the densities in the downtown such that the Commission's vision for the downtown was that it would be re-developed at an **average density of 48 units per acre and with a FAR (massing) of 3 for non-residential uses.**
- However, the first two proposals for redevelopment do not contemplate average densities of 48 units per acre. Instead the 2 developers have proposed densities of 203 and 233 units per acre, at the maximum height permitted of 16 stories, and with a FAR (massing) for the residential and non-residential components that more than doubles the FAR contemplated in the Downtown. In addition these projects propose nonresidential uses totaling 16,380 and 16,309 S.F.
- The development of the projects at the height and a density exceeding 48 units per acre are only permitted at the discretion of the Commission and provided they are consistent with the policies of the Town's Comprehensive Plan and Land Development Regulations (LDRs).
- My (Town Attorney) memos that have been distributed provide a detailed analysis of the 2 projects which have been proposed within the context of the Objective 12 and Policies 12.1, 12.2, 12.3, 12.4 and 12.5 of the Comprehensive Plan.

LEGAL ANALYSIS INTRODUCTION (*continued*)

POLICY CONSIDERATIONS

- What is the significance of these policies?
- Because courts have likened a Comprehensive Plan to a local government's Constitution.
- They are local laws.
- **The interpretation and application of the Objectives and Policies of the Comprehensive Plan is a discretionary legislative determination to be made by the Commission.**
- Florida law requires that any development approval must be **consistent** with the Objectives and Policies of the CP.
- Courts have ruled that where there are policies which appear to conflict with one another, (referred to as an internal inconsistency), the Commission must resolve the conflict and choose the Policies, or portions thereof that it determines to be consistent with its vision.

LEGAL ANALYSIS INTRODUCTION (*continued*)

Item 1.

POLICY CONSIDERATIONS

- The submission of the 2 applications present an internal consistency issue and require that the Commission evaluate the developers' requests to develop at densities at greater than 48 units per acre and at a maximum FAR of 3 (for non-residential) and consider a different vision as expressed in the following:
- Objective 12 ... a mixed use downtown that is **well-integrated into the surrounding neighborhoods**
- Policy 12.1 ... providing that redevelopment of residential and non-residential buildings shall **complement** the existing buildings.
- Policy 12.2 ... the density of 48 units/acre and FAR of 3 (for non-residential) may be exceeded at the discretion of the commission **only if the result is that the projects would be consistent with the CP policies and the LDRs.**
- LDR Section 78-70(a)(1) Purpose and Intent of the PADD: Provide for development which is **reflective of early master plans for small scale traditional downtown commercial areas.**
- The PADD intent indicates that the **scale of development** in the PADD should be consistent with the Kelsey City Plat developed by John Nolan and the Olmstead Brothers.

Sec. 78-70. Park Avenue Downtown District (PADD).

(a) Purpose and intent. It is the purpose and intent of the Park Avenue Downtown District to provide for the following:

- (1) Urban development which is reflective of early master plans for a small scale traditional downtown commercial area;**
- (2) Buildings and structures that relate to the pedestrian environment at a human scale which, in conjunction with public investments, help to create a sense of place;**
- (3) The reestablishment and redevelopment of an urban center offering a mixture of retail, personal service, commercial, office, and residential uses;**
- (4) A pedestrian-oriented development pattern;**
- (5) The concentration of a variety of uses, including live performance theaters, restaurants, brewpubs and breweries, offices, arts and crafts, and other retail uses to attract both residents and visitors to the Town's traditional downtown for specialty shopping and entertainment;**
- (6) The prohibition of certain uses which do not support or enhance the specialty shopping, entertainment, arts district, or uses otherwise inconsistent with a pedestrian-oriented traditional downtown development pattern;**

A LOOK AT THE PADD SUB-DISTRICT REGULATING PLAN



TABLE 78-70-2 – CORE Sub-District Regulations

Building Height (Maximum)	12 stories (160 feet). See 78-70(b)(7)b.3. for an additional height waiver for structured parking.
Story Height	Maximum 12 feet per story, 20 feet maximum for ground floor, and top floor or middle floor
Minimum Building Height	New development shall have a minimum building height of two stories.
Building Coverage	90% maximum
Front Setback	15 feet (Maximum)
Side Setback (Interior)	15 feet when adjacent to existing buildings
Side Street Setback	None
Rear Setback	None
Parking Standards	Parking shall be located at the rear of the site
Sidewalk Width (Minimum)	10 feet
Lot Size	1 acre (minimum, or Outer Sub-District Regulations shall apply)
Density	Maximum density shall be 48 dwelling units per acre. The Town Commission may approve a project in excess of 48 units provided that the average density for the entire contiguous Downtown Future Land Use area does not exceed 48 du/acre and the Town Commission finds it in keeping with the purpose and intent established for the PADD.

TABLE 78-70-3 - OUTER Sub-District Regulations

Building Height (Maximum)	4 stories (56 feet)
Story Height	Maximum 12 feet per story, 20 feet maximum for ground floor
Building Coverage	90% maximum
Front Setback	15 feet (Minimum)
Side Setback (Interior)	None, 15 feet when adjacent to single-family districts*
Side Street Setback	None, 15 feet when adjacent to single-family districts*
Rear Setback	None, 15 feet when adjacent to single-family districts*
Parking Standards	Parking shall be located at the rear of the site, except for townhouse driveways
Sidewalk Width (Minimum)	10 feet
Density	Maximum density shall be 48 dwelling units per acre. The town commission may approve a project in excess of 48 units provided that the average density for the entire contiguous Downtown Future Land Use area does not exceed 48 du/acre and the town commission finds it in keeping with the purpose and intent established for the PADD.

COMPREHENSIVE PLAN

“DOWNTOWN LAND USE” OVERVIEW

(relevant Objectives and Policies)

Objective 12

Redevelopment of the Historical Downtown Area: A Downtown Future Land Use Classification is established to facilitate the redevelopment of the historical Park Avenue downtown and the immediate surrounding area. This land use category encourages a dense, vibrant, walkable mixed-use downtown that combines residences, businesses, and civic spaces, and that is well-integrated into the surrounding neighborhoods. This land use classification is also intended to facilitate development that complements a future tri-rail station.

- **Policy 12.1**

The Downtown Land Use classification is implemented by the Park Avenue Downtown District (PADD) zoning district. The Downtown Land Use shall provide for the development or redevelopment of compact residential and non-residential or mixed use buildings to complement the existing buildings.

- **Policy 12.2**

Within section 3.4.3 “Future Land Use Classification System” the Downtown Land Use provides for a density of 48 du/acre and a FAR of 3.0 across the entire contiguous area.

COMPREHENSIVE PLAN (CP) “DOWNTOWN LAND USE” OVERVIEW (continued)

- **Policy 12.2 (continued)**

The Commission may approve a project greater than 48 du/acres so long as the average density of development within the entire contiguous Downtown Land Use area does not exceed 48 du/acre, and is consistent with the policies contained herein and meets the land development regulations. The land development regulations shall provide for a maximum FAR of 3.0 for non-residential uses. Development of sites within the Downtown Land Use may exceed the maximum 3.0 FAR, so long as the average FAR for the entire Downtown Land Use area does not exceed 3.0, is consistent with the policies contained herein and as provided in the land development regulations.

- **Policy 12.3**

The land development regulations developed to implement the Downtown Land Use shall provide for compatibility of adjacent land uses by establishing criteria to address buffering and to control the height and intensity of structures to mitigate the impacts of development on adjacent zoning districts, particularly single-family districts

- **Policy 12.4**

Development and redevelopment shall be supported by publicly accessible civic spaces, walkable and bikeable streets and served by varied forms of public and private transportation.

- **Policy 12.5**

Development shall provide for and accommodate various alternative mobility and micro -mobility options, consistent with policies of the Transportation Element, to achieve the safe interconnectivity of vehicular, pedestrian, and other non-motorized movement, and promote sustainability.

- **Policy 12.6**

The Town shall continue to pursue a proposed train station location immediately adjacent to the Downtown future land use area, in support of its redevelopment and mobility goals.

DENSITY

Discussion on the 48 units per acre and the ability to request more at the Town Commission's discretion and the impact requests may have on future redevelopment in the PADD.

- * Total downtown density: *1,590 units*
- * Current density in the downtown: *250 existing units*
- * Available density for redevelopment: *1340 units*
- * Remaining available density for redevelopment if the two large projects are approved as proposed: *245 units*

PROJECT LOCATIONS



Item 1.

Residences at 10th and Park



Kelsey on Park



ALLOWABLE/DISCRETIONARY DENSITY IS THE KEY DRIVER FROM WHICH ALL OTHER IMPACTS FOLLOW, SUCH AS BUILDING BULK AND APPEARANCE, COMPATIBILITY WITH SURROUNDING AREA, THE NEED FOR THE HEIGHT WAIVER, TRAFFIC IMPACTS AND UTILITY ISSUES.

DENSITY: COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT POLICY 12.2

Within section 3.4.3 “Future Land Use Classification System” the Downtown Land Use provides for a density of 48 du/acre and a FAR of 3.0 across the entire contiguous area. The Commission may approve a project greater than 48 du/acres so long as the average density of development within the entire contiguous Downtown Land Use area does not exceed 48 du/acre, and is consistent with the policies contained herein and meets the land development regulations.



The PADD, TABLE 78-70-2 DENSITY REGULATION

“Maximum density shall be 48 dwelling units per acre. The Town Commission may approve a project in excess of 48 units provided that the average density for the entire contiguous Downtown Future Land Use area does not exceed 48 du/acre and the Town Commission finds it in keeping with the purpose and intent established for the PADD

How are these provisions being used by developers? How does staff review for consistency with the Comprehensive Plan and Intent Section of the LDRs? Is it producing what the Town Commission envisioned?

Granting additional density is at the discretion of the Town Commission. The Town Commission is not under any obligation to approve the requested increase, but could choose to grant a lesser amount or no increase.

Should the Town Commission desire to grant an increase over the base of 48 du/acre they must find:

- 1) That the requested increase and resultant project is “in keeping with the purpose and intent established for the PADD.”
And**
- 2) That it is consistent with the policies of the Comprehensive Plan and meets the land development regulations.**

**DOWNTOWN MIXED-USE DENSITIES AND HEIGHT:
ARE THE LAKE PARK REGS REASONABLE?**

	Density (max. in core)	Height
Lake Park Sub-districts	Core 48 du/acre + add'l units Outer 48 du/acre + add'l units	12 stories (160 ft.) 16 stories (200 ft.) 4 stories (56 ft.)
Delray Beach historic downtown core	30 du/acre	5 stories (54 ft.)
West Palm Beach Core downtown, TOD* Note: FAR used in lieu of density	FAR 7.0 FAR 2.75 (3.50 small lots) FAR 1.75 (2.50 small lots)	25 stories or 380 ft. 10 stories or 155 ft. 8 stories or 104 ft.
Stuart Urban code districts	30 du/ac	4 stories or 45 ft.
Village of North Palm Beach Village Place Project	Project FAR = 2.75	14 stories 9 stories

PROPOSED PROJECTS:

Project #1	232 DU/ACRE FAR 10.52 (Total Bldg.) est. FAR w/o parking = approx. 7.3	16 STORIES 197 FT.
Project #2	203 DU/ACRE FAR 8.31 (Total Bldg.)	16 STORIES 174 FT.+

DENSITY (UNITS)  HEIGHT AND MASSING

Item 1.



16 Stories
Park Avenue Frontage

16 Stories
10th St. Looking North



FLOOR AREA RATIO (FAR) / MASSING

BUILDING MASS

The appearance of a massive building is due to a number of components- the density or intensity, height, lot coverage, and architectural treatment.

One measure of a building's mass or intensity is the floor area ration (FAR*).

The higher the number the more intense the project.

The PADD uses floor area ratio (FAR) for non-residential buildings, such as office buildings.

While the density measure has been used to regulate the residential component of mixed use buildings:

IF the FAR measure were to be utilized (for residential and non-residential), the buildings' FARs would be comparable to the most intense downtown buildings in West Palm Beach.

The projects FARs are below 3.0 for their nonresidential components. However, if the 3.0 were to be used for residential and non-residential (this would require a policy change), they would be far in excess of the 3.00 FAR.

How should the building mass be viewed in light of Comprehensive Plan Policies?

**Floor area ratio is determined by taking the entire square footage of a building (adding up the floors) and comparing it to the size of the lot. For example, a building consisting of 150,000 sq. ft. on a 50,000 sq. ft. lot would be 150,000 divided by 50,000 for a FAR of 3.00.*

HEIGHT & HEIGHT WAIVERS

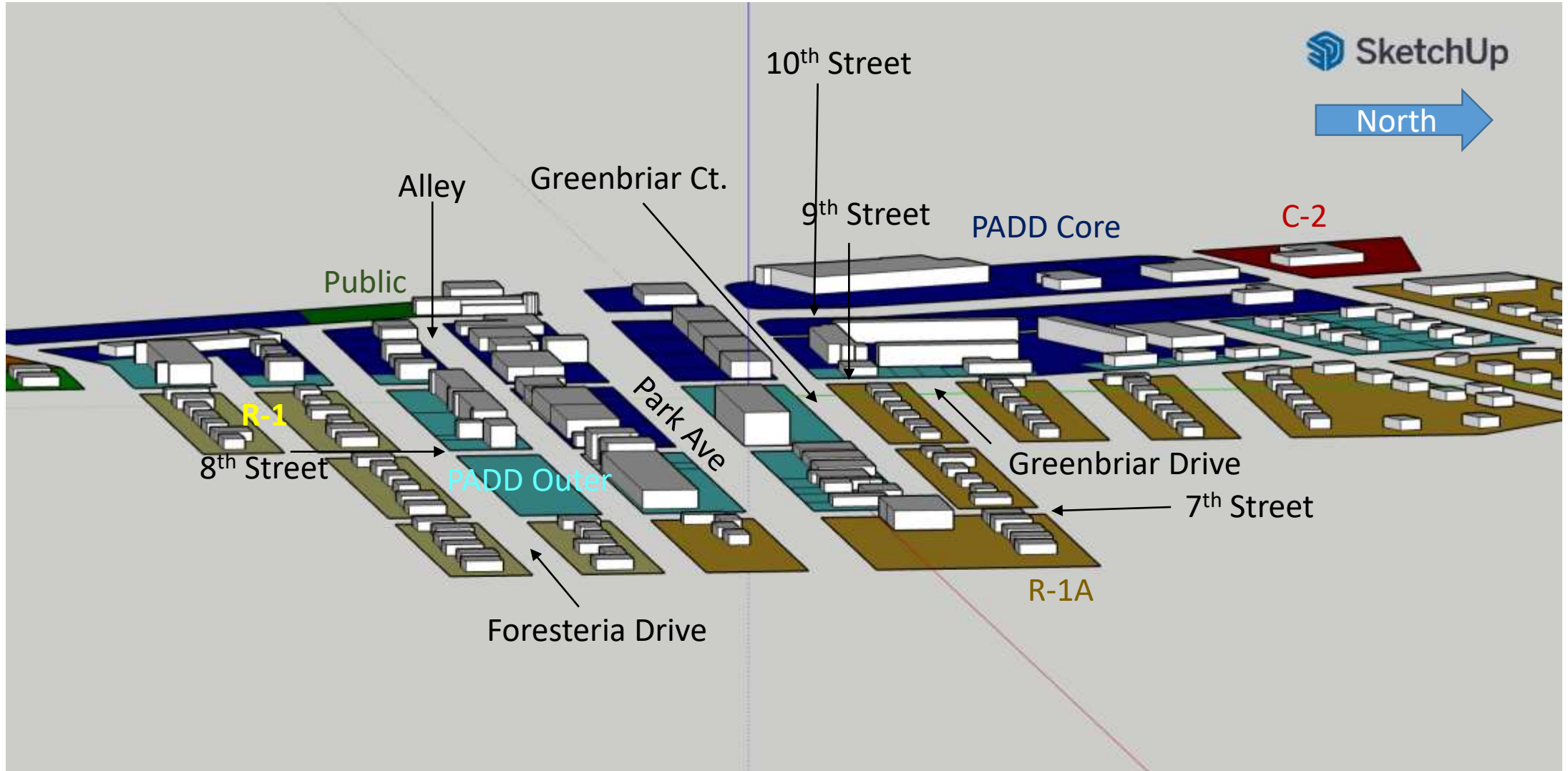
Height is not addressed in the Comprehensive Plan. In the **Core sub-district**, the PADD provides for a base height of 12 stories or 160 ft. The height waiver for structured parking would allow up to 4 stories (or 40 ft.) of the parking structure to be exempt from the 12 story limit, thereby allowing a possible **16 story building with the waiver**. (Sec. 78-70 (b) (7) 3.)

To receive the waiver, the Code requires that the project must provide public parking equivalent to a minimum of ten percent of the required building parking. This public parking shall be located on the ground floor of the structured parking area, be free of charge, and marked and reserved for public use in perpetuity. The parking waiver was first adopted for the FHMUDO, then included in the C-3, and subsequently the PADD.

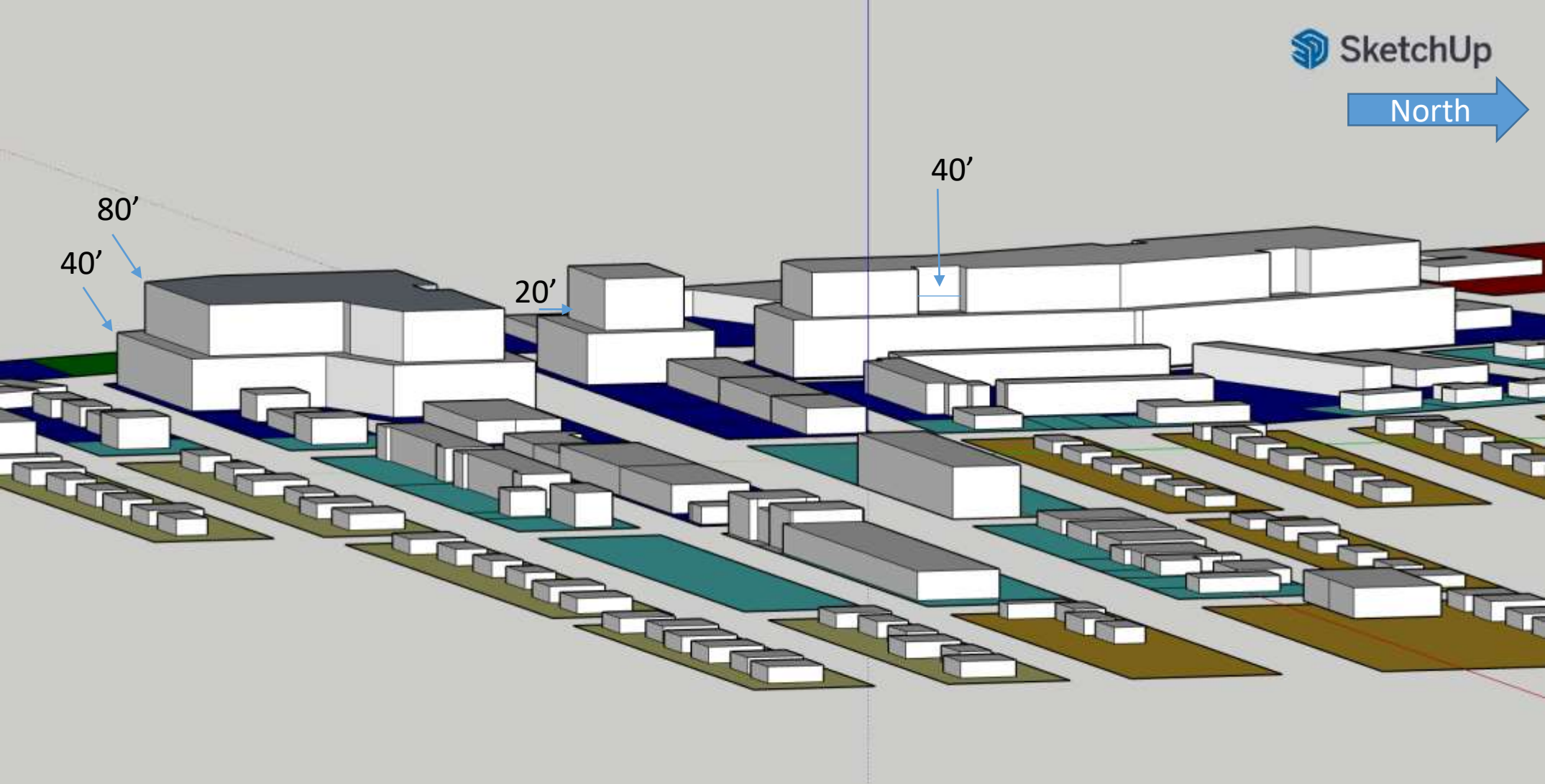
In addition to the public parking, for the waiver to be granted, the Town Commission must find: “Pursuant to a review of shadow studies, the additional height would not significantly impact the light, air flow, and aesthetics of any abutting single-family dwellings or multifamily dwellings or those that are located across a street or alleyway in a manner that creates substantial negative or detrimental impacts.”

RENDERINGS – Existing Conditions

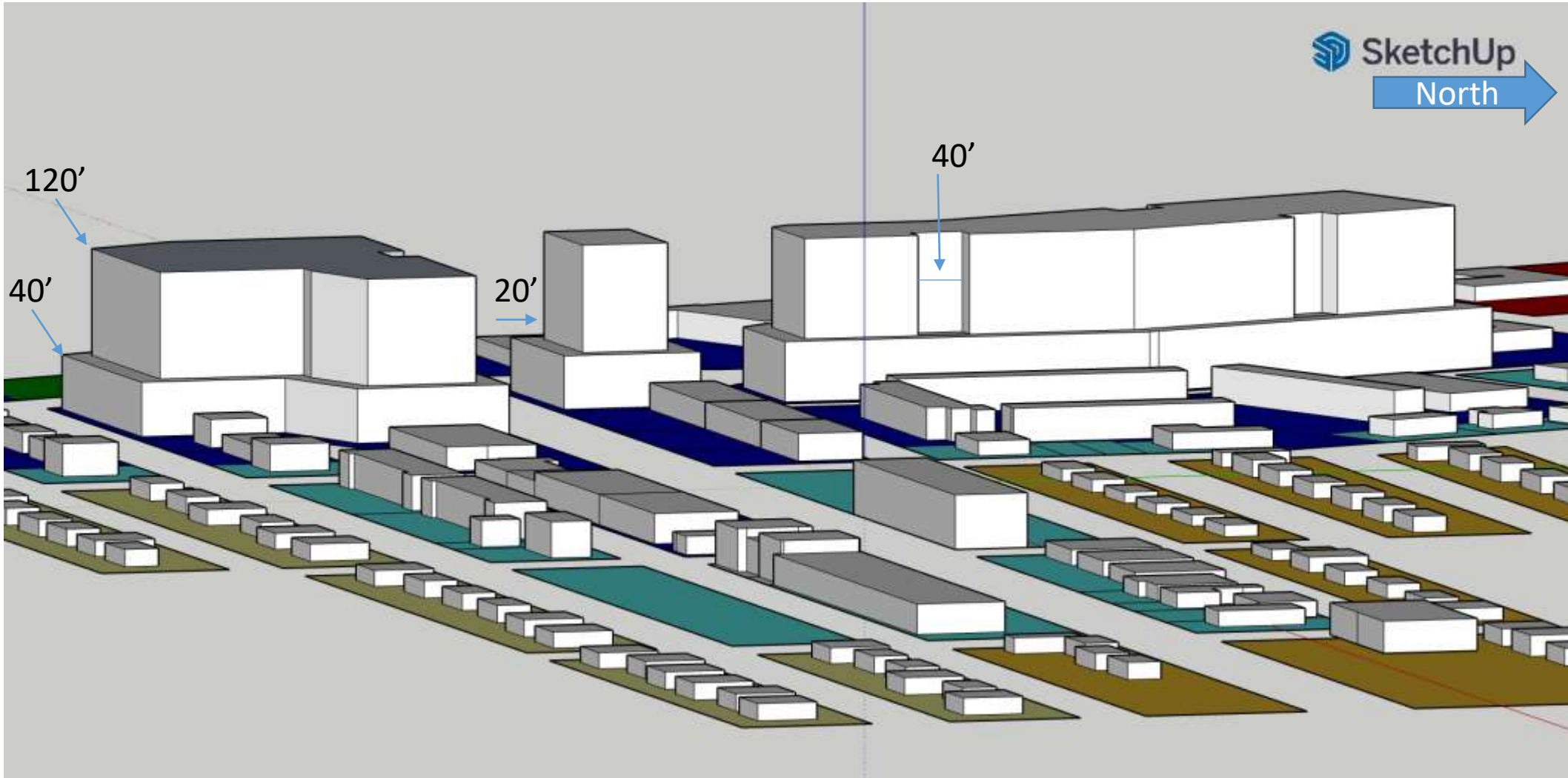
Item 1.



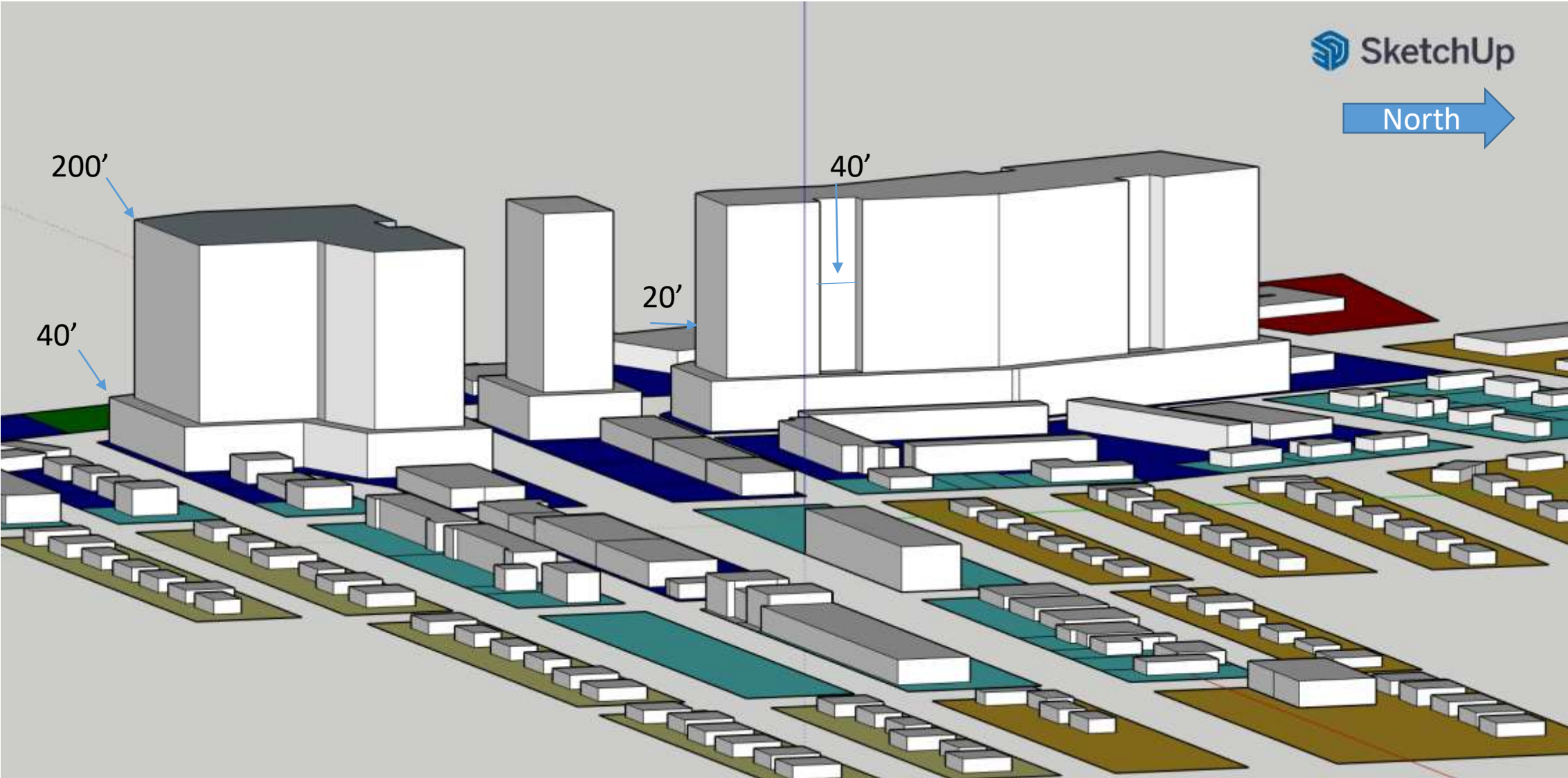
Renderings – 80' Height



Renderings – 120' Height



RENDERINGS – 200' Height (Max)





North and east views

Item 1.



View from 10th Street



IF NOT 16 STORIES, WHAT HEIGHT? EXAMPLES

Item 1.

Note: Additional architectural requirements should be considered to reduce massing at any height.

10 – 12 STORIES

Heights vary from 5 stories to 10 stories. Building length broken up by varied heights, numerous step backs. Building breaks create variety and break massing.



12 STORIES (Proposed for Coral Gables, Fort Lauderdale)



6 STORIES - EXAMPLES

Item 1.



**Top- Building articulation,
vertical orientation to break
up mass. Almost reads as
two separate buildings
Respect for height of
adjacent buildings.**



7-8 STORIES

Item 1.



Tower Separation



TRAFFIC

	PROJECT #1	PROJECT #2	TOTAL IMPACTS combined projects
Project average daily trips (ADT)	3,781 gross trips 3,027 net trips	3,292 trip 2,625 net trips	5,652 net trips
Commercial ADT Concurrency	434 trips	355 trips	789
Residential ADT	2,593 trips	2,270 trips	4,863 (86% of all trips)

Additional traffic-related information to be provided at the workshop

COMBINED TRAFFIC IMPACTS - TWO PROJECTS

	ADDED AVERAGE DAILY TRIPS
TOTAL NEW TRIPS GENERATED (ADT) TRIPS LEAVING THE SITES	5,652 net trips
ADDED TRIPS ON	
PARK AVE.	PARK AVE. East of 10th 985 ADT PARK AVE. West of 10th
10th STREET	10th, North of Park 10th, South of Park 719 ADT
OLD DIXIE	OLD DIXIE, North Bound OLD DIXIE, South Bound

More info will be provided at the workshop

TRAFFIC: INTERSECTION AT PARK AVE. AND 10TH ST.- COMPLICATED BY PROXIMITY OF RAILROAD TRACKS



INFRASTRUCTURE

Water and Sewer Capacity and Lift Station Needs

The prior Comprehensive Plan amendments (as adopted) always intended for additional capacity infrastructure for larger projects.

- The 2 mixed-use projects, as proposed, would develop at increased densities (proposing 203 and 233 units per acre, respectively). They also propose nonresidential uses totaling 16,380 and 16,309 S.F.
- The development of the projects at these densities for the residential (and not taking into consideration the non-residential uses) requires a new wastewater lift station to serve them.
- Neither property owner's plans show a lift station being placed on their property (this was intended as a condition of approval to address at permitting).
- Generally, a developer whose project generates the need for a lift station is responsible for the siting of that lift station on its project, or finding a suitable location acceptable by the Town's governing body (as was done for the Nautilus project along the US-1 corridor).
- The development of these projects, proposing more than 200 units per acre (each), attempts to maximize the intensity provisions in the land development regulations by incorporating densities that fit within those maximized (16-story) building envelopes.
- The development of the 2 projects **without** a lift station would require the following according to Seacoast: "With the replacement of a section of an 18-inch gravity sewer main along West Jasmine, north of Palmetto with a 24-inch pipe, and assuming that a the project approved at the Twin City Mall site does not absorb existing gravity sewer capacity first, the Seacoast System could absorb the following without the construction of a new PADD lift station: Residences at Park and 10th – 150 ERC and Kelsey on the Park 70 ERC. In other words the present capacity in the PADD. Similar to the US-1 redevelopment area, it was intended for the downtown redevelopment area to work through these infrastructure needs, as needed.
- One of the developers who require this new lift station have proposed that it be located on public properties: (1) Town Hall (2) CRA Parking Lot (3) Fire Station. This would require review and approval by the Commission.

CONCLUSION

The original intent of the Comprehensive Plan Amendments for the downtown land use and the Park Avenue Downtown District zoning district were to provide as much flexibility as possible in order to promote redevelopment in the downtown. Two sub-districts were created for this purpose, and for the purpose of creating consistency and compatibility with neighboring areas. The resultant policy that was adopted created a 4-story sub-district (known as the OUTER), closer to single-family residential, and a more intense sub-district (known as the CORE), closer to 10th Street (but still with 400 feet +/-) to single-family areas. This CORE sub-district was developed to allow for a maximum of 12 stories, plus up to 4 stories of parking exemption, for a potential maximum of 16 stories. Architectural guidelines were also adopted to allow for additional buffering and step backs, and ground floor amenities that would aim to create an acceptable pedestrian scale. While actual density numbers within these 'maximum' building envelopes could not be provided at the time, since these are contingent on several design variables, a provision in the Comprehensive Plan providing for special approval by the Town Commission for densities above 48 units per acre was also adopted as a policy. The original intent was also to provide for redevelopment throughout the entire PADD and not (necessarily), only within the two proposed project areas thereby inhibiting additional future growth in the downtown (unless the 48 units per acre is revisited, or the district boundaries are expanded). In addition, while the CP Policy 12.1 calls for "development or redevelopment of compact residential and non-residential or mixed use buildings to complement the existing buildings", it must also be recognized that the initial buildings in redevelopment will likely not complement existing buildings, particularly those that are old, outdated strip centers. With larger projects, additional special requests and infrastructure needs are required.

With the information presented, the Commission will likely discuss its policy perspectives as it relates to what is currently offered in the Comprehensive Plan and Land Development regulations, and whether this meets the intended redevelopment vision for the downtown, or if modifications or other considerations are needed.

SUMMARY OF POLICY CONSIDERATIONS FOR THE TOWN COMMISSION

Are the proposed developments consistent with:

a. OBJECTIVE 12 of the Comprehensive Plan?

If the two proposed projects are constructed as proposed, would these building facilitate the future redevelopment of the historical Park Avenue Downtown and be compatible with the surrounding neighborhoods?

b. Policy 2.1?

Would 16-story, predominantly residential structures at densities greater than 200 units per acre provide the redevelopment of compact residential and non-residential or mixed-use buildings that compliment the existing buildings?

c. Policy 2.2

The density sought would increase the residential densities in the downtown from a base of 48 units per acre to more than 200 units per acre. It is within the Commission's sole discretion to permit density for the proposed projects. Does the Commission believe an increase in density by more than four times the base density is consistent and compatible with its vision for the redevelopment of the downtown?

d. Policy 12.3

Would buffering and step backs for the 16-story buildings at the height and massing proposed mitigate the impact of the buildings on the adjacent single-family residential neighborhoods.

Given the height and massing of the proposed buildings, would the proposed buildings comply with the purpose and intent of the PADD “to facilitate development of small-scale traditional downtown commercial areas” within the context or urban redevelopment opportunities, and is this the vision of the Commission?

Based upon the density and massing proposed, would the buildings ‘address’ Park Avenue and 10th Street as it relates to creating a pedestrian-oriented environment.

e. Policy 12.6

...of the Comprehensive Plan and the PADD LDRs suggest that densities and massing as proposed by the projects pursuant to the current code provisions, are necessary to support a future train station. There is no commitment to tri-rail at this time to locate any stations in Lake Park. The projects would be serviced by the Mangonia train station. If the density and massing proposed is necessary for a future train station and is consistent with the Commission’s vision, the Commission would need to be comfortable pursuing the train station and with additional projects at increased densities.

NEXT STEPS

Staff and the Town Attorney will review and discuss (internally) the feedback received at this workshop (based on the information provided) and, based on this feedback, bring back an agenda item to the Town Commission with recommendations at a future Commission meeting in November 2024.

THANK YOU

- Q & A
- OPEN DISCUSSION

CONTACT INFORMATION

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Karen Golonka, Planner – kgolonka@lakeparkflorida.gov

Anders Viane, Planner – aviane@lakeparkflorida.gov

Memo

To: Honorable Mayor & Commissioners

From: Thomas J. Baird, Town Attorney

Date: August 23, 2024

Subject: Density Downtown Workshop

Cc: John D’Agostino, Town Manager, Nadia DiTommaso, Karen J. Golonka, Anders Viane

This is a follow-up to the memo I authored on August 21, 2024. The information presented in my previous memo should not be taken as meaning that the Downtown cannot be redeveloped pursuant to the objectives and policies of the Comprehensive Plan (Plan). Rather, to the extent that I opined that objectives and policies were not being properly evaluated, it was due to the densities waivers that the two property owners were requesting yielding extraordinary densities of 200+ and 300+ units per acre to two properties in the Downtown. It was also intended to provoke a dialogue amongst the commissioners given that there are developers moving forward with applications based upon the (new) objectives and policies of the Plan and the Land Development Regulations (LDRs) implementing the objectives and policies.

While the Plan’s existing objectives and policies for the Downtown *might* be consistent with the Plan and the intent of the LDRs, appropriate, it seems apparent that the **waivers** requested by the first two applicants are challenging, and if approved are likely to result in an unintended consequence. For example, the Plan establishes a “basket of units” approach and an average density for the entire Downtown of 48 units per acre. As noted in my previous memo, were the waivers to be granted for the two applicant property owners, the remaining Downtown property owners will find that their property rights have been diminished, and these property owners may not be able to achieve the redevelopment of their properties. This could leave Downtown property owners and businesses



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(except for the two property owners who have submitted applications) with the inability to redevelop their properties, or certainly diminished in the extent to which their properties can be redeveloped. To avoid this, the Commission must find a balance with respect to the two proposed projects currently requesting waivers that would result in extraordinary heights and densities in the Downtown to proceed, but leaving behind the other Downtown property owners. Based upon the existing Plan, the other property owners have the same development rights and an expectation of achieving an average density of 48 units per acre for their properties. It would be “unfair” and perhaps legally perilous to diminish the property rights of these other property owners by granting density and height waivers only to the first two property owners who are “first in.”

The proposed projects with the waivers for height and density being sought based upon the current objectives and policies of the Plan, is challenging given the capacity and level of service of existing roads and water and sewer capacity. For example, the ongoing dialogue with the Seacoast Utility Authority has revealed that based upon the density being sought (with waivers) by Forest Development, a new Master Lift Station is required to service its project and the remainder of the Downtown.

Moving forward with the discussion on density and height, a planning forum or series of forums or a mini-Charette may be appropriate where the Commission and stake holders, i.e. the public, property owners and businesses can discuss the application of the existing objectives and policies and implementing LDRs for the Downtown. It may be that there are revisions to the Plan and LDRs which should be made to accommodate the Commission’s vision for the Downtown.

At its last budget workshop, the Commission committed \$50,000 of ARPA funds toward the legal budget for an evaluation of the code and LDRs. Based upon the discussion regarding the RFPS that were issued, I understand that these funds may also be used for planners. A collaborative approach between my office, a consulting planner and the Town’s planners would be welcome. I can elaborate on this memo during my comments at your next commission meeting or before that if anyone would like to discuss this with me individually.

The future of the Town’s historic commercial downtown is of great importance to all and taking a measured approach with the inclusion of all stake holders regarding the Downtown’s redevelopment is in the best interests of the Commission, the public and property owners.

Memo

To: Honorable Mayor and Town Commissioners
From: Thomas J. Baird, Town Attorney
Date: August 21, 2024
Subject: Development Projects Proposed in the PADD
Cc: John O. D’Agostino, Town Manager
 Nadia DiTommaso, Director Community Development
 Karen J. Golonka, Anders Viane, Planners

Preface

At its July 3, 2024 meeting the Town Commission (Commission) discussed the project known as The Residences at Tenth and Park, which some commissioners learned about from an article in the Palm Beach Post. Commissioners expressed frustration because they believed they were not informed about the project and learned that it had already been presented to the Planning & Zoning Board. The Commission wanted it and the public to be informed, and be more fully engaged regarding the project. I informed the Commission that because the quasi-judicial process had already begun, the Commission was limited to having an informational workshop regarding the intensity of development in the Park Avenue Downtown District (Downtown).

The Town Manager left on vacation, but Community Development Department staff (Staff) and I exchanged outlines on the parameters of the workshop. Based upon conversations I had with commissioners individually, I understood the Commission wanted the workshop to take place in October. Nevertheless, Staff noticed the workshop for August 21, 2024. The notice states that the purpose of the workshop is to present information to the Commission and public regarding two major mixed use projects proposed in the Downtown. As stated in the notice, the workshop is to examine the two major projects in the context of development as it relates to the Town’s existing Land Development Regulations (LDRS) and Comprehensive Plan (Plan) objectives and policies for the Downtown. Subsequently, there was confusion as to whether the workshop would take place on August 21 or in October.

This memo follows the notice and addresses the two major projects: The Residences at Tenth and Park Avenue (Tenth) and Kelsey on the Park (Kelsey) in the context of the LDRS and Plan objectives and policies. This memo presents the general metrics of these two major projects based upon the

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Commission's vision for the Downtown as expressed by the relevant LDRS and the objectives and policies of the Plan.

The Significance of the Town's Comprehensive Plan and LDRS

Florida courts have likened a Comprehensive Plan (Plan) to a municipality's constitution. The Plan is a legislative document that expresses the Commission's vision for the Downtown and the objectives and policies are subject to the Commission's interpretation of how they are applied to individual projects proposed by developers. It is the vision of the Commission, not the Town Attorney, Town Manager, or Staff that matters when applying the land development regulations (LDRS) and objectives and policies of the Plan to projects. This is particularly the case when waivers to the Plan's objectives and policies and the LDRs are sought for projects. This memo presents the vision of the Commission for the Downtown as currently expressed by the objectives and policies of the Plan and the LDRS governing the Downtown. Importantly, because the Plan is adopted by an ordinance, it is a local law (as are LDRS). Legally, this means that the Commission must strictly construe its LDRS and the objectives and policies of its Plan, meaning that the Commission is somewhat limited in its otherwise broad discretion when granting waivers to these laws.

The Projects

RESIDENCES AT TENTH AND PARK AVENUE (Tenth)

Tenth has requested the approval of a site plan on 2.92 acres, for a 16-story apartment complex with 595 apartments at a density of **208 units per acre**. The density proposed relies on the Commission granting a waiver to substantially exceed the average density of 48 units per acre established for the Downtown, in reliance on the "bucket of units" which is manifested in Policy 12.2 of the Future Land Use Element (FLUE) of the Plan. The project also includes 11,765 of restaurant and some retail. The height of the complex is increased by the proposed reliance on a Town ordinance that exempts four floors of structured parking from the calculation of height. Tenth's plan also relies on an "Air Rights Easement" to develop a pedestrian bridge over Greenbriar Court, a public right of way. Use of this easement requires the relinquishment of the MacArthur Foundation's reversionary rights. In addition there is a need for the abandonment of certain easements. A development of this intensity will also require the new construction of a Master Lift Station to handle the effluent generated by this major project.

KELSEY ON THE PARK (Kelsey)

Kelsey's original project described a 17 story complex featuring 720 residential apartments and 17,998 s.f. of retail / commercial space on 2.5 acres. Staff evaluated this project and in produced some analysis of it in a January 31, 2022 memo. Staff concluded that the project *"does not respect Park Avenue or the residential areas to the south as required by the Comprehensive Plan"*

Objective 12 of the FLUE, entitled "Redevelopment of the Historical Downtown Area" calls for development that is well integrated into the surrounding neighborhoods. Regarding this objective,

Staff wrote *“As presented, the applicant is maximizing density, height, and FAR in a way that is not complimentary to the scale and traditional character of the downtown.” Finally, staff noted that the applicant should “provide ... a detailed justification narrative explaining to the Town Commission how this project is in keeping with the purpose and intent established for the PADD.”*

The current Kelsey proposal is insignificantly reduced in intensity, by reducing its height by one (from **17** stories to **16**), and the number of units from **720** to **500**. The density of Kelsey’s current proposal at **233 units per acre**. Similar to Tenth, this **density** substantially exceeds the average density in the PADD of 48 units per acre. Like Tenth, the application for this substantial increase in density relies on a waiver application¹ based upon the “basket of units” approach contained in Policy 12.2 of the Future Land Use Element (FLUE). The Kelsey project also relies on 4 floors of structured parking being exempt from the calculation of the project’s height.

Similar to Tenth, Kelsey’s development would require the relinquishment of certain rights which inure to the benefit of the public. Kelsey proposes that the Commission abandon an alley dedicated for public use, and allow the developer to purchase² the land to be abandoned for its appraised value. Also similar to Tenth, the abandonment of the alley would require the MacArthur Foundation to relinquish its reversionary rights.

Although the Tenth project must be evaluated based on the same Plan objectives and policies, and LDRS, Staff concluded in its most recent review that unlike the original Kelsey proposal the Tenth project was consistent with the objectives and policies of the Plan, including those discussed below.

The Property Owner’s Density Waivers Are Justified Based On A Train Station

To justify the density of these projects, the developers of the two projects must rely upon the premise that a Tri-Rail station will be constructed. The increase densities based upon a train station, the projects would necessarily have to be developed in accordance with Tri-Rail’s Transportation Overlay District (TOD) policy³. According to the information initially provided by Kelsey to staff, its project will be the central focus of a TOD. The TOD Policy encourages continuous infill development extending ½ mile from the Tri-Rail station that is not yet committed to in this area and may never be. Neither the Plan, nor the LDRs have TOD policies or development standards. To approve increased densities for these two projects, based upon a train station, a TOD policy would have to be reflected in the Town’s Comprehensive Plan and LDRs.

¹ Applying the average density of 48 units per acre to the 2.5 acre property would yield 120 units.

² Caselaw does not support the proposition that land dedicated for a public use can be sold for private development.

³ It does not appear that Staff has examined this policy to determine whether it is feasible or realistic to believe that it could be met by either or both developers at Park Avenue and 10th Street.

It is telling that Staff's January 31, 2022 memo regarding the Kelsey project stated: "*Given the Project's currently proposed size and scope and our pre application discussions, staff is **strongly of the opinion that the project ... requires a dedicated regional and readily-operational transit component in order to service the immediate transportation demands it will create.... Staff is strongly encouraging the applicant to seek out either Brightline or Tri-Rail contacts to establish a partnership that will definitively and contractually secure ... regional transit to service the project.***"

At present, there is no dedicated regional and readily-operational transit component to service these projects transportation demands. This leads to the question of whether these projects have been prematurely submitted for consideration.

The Projects Don't Seem To Meet the Purpose and Intent of the PADD

The Commission will eventually have to determine whether the proposed projects meet the purpose and intent of Code §78-70, to facilitate the development of "**small scale traditional downtown commercial areas.**" The development of 16-story buildings at the densities proposed would **not seem to be compatible** with existing development in the PADD; nor do the 16-story buildings appear to be well integrated with the Town's surrounding single family residential neighborhoods. The Commission should consider the two most recently developed properties in the PADD. The Ahrens project was developed as a 3-story mixed use structure⁴. This project is consistent with "small scale traditional commercial development" as reflected in section 78-70 of the PADD.

The most recent project approved by the Town Commission is the Oceana Coffee project on 10th Street. This project has been successfully planned and developed within approximately ½ mile of the mythical Trial Station without any reliance on the TOD policy. Originally, the Oceana Coffee structure was to include a third floor, but is being constructed as a 2-story structure. The Oceana Coffee project is consistent with the purpose and intent of the PADD because it is being developed as small scale commercial uses.

In contrast to the PADD's purpose of maintaining a "traditional small scale commercial downtown" these two major projects are predominately high density residential apartment buildings with minimal non-residential uses whose massing, densities, and intensities are comparable to high density residential or mixed use developments in the downtowns of Miami, Ft. Lauderdale and West Palm Beach.

Density and Floor area Ratio (FAR)

⁴ The Ahrens project was originally approved as a 4-story mixed use structure, but the Commission's approval was challenged by a neighboring residential property owner. The case was settled resulting in 3 stories.

Policy 12.2 of the Future Land Use Element states: "Within section 3.4.3 'Future Land Use Classification' the Downtown Land Use provides for a FAR of **3.0**. The plans for the two projects submitted to the Town for review do not calculate their FAR, but it is unlikely that their FAR is close to **3.0**. For example, Kelsey's current application, which does not differ significantly in terms of height, massing and density from its original application, produced a FAR of **12.75**. Policy 12.2 of the Future Land Use Element states: "Within section 3.4.3 'Future Land Use Classification System' the Downtown Land Use provides for a ... FAR of 3.0 across the entire contiguous area. Kelsey's FAR not only exceeds a FAR of 3, but also substantially exceeds the FAR of **7** for mixed use projects in downtown West Palm Beach.

The construction of two 16-story buildings exceeding the average FAR established in the Downtown Land Use, creates a massing of buildings in the Downtown which would not meet the purpose and intent of the PADD to maintain the Town's historical downtown which is reflective of the early master plans and envision a **small scale traditional downtown commercial area**.

Density of the Residential Uses and the Bucket of Units For the Downtown

The density of the residential components of the projects overwhelms their commercial components and may not be reflective of a true mixed use project. The Town's Comprehensive Plan was amended not too long ago to increase densities in the PADD. The density for the downtown establishes a cap of 48 units per acre for the *entire PADD*. The densities for the two projects with the waivers requested would be **233 units per acre** for Kelsey and **203.1 units per acre** for Tenth. The downtown encompasses 32.13 acres. Thus, the number of units permitted within the entire downtown is limited to 1,494 units. With the waivers requested, the two projects, totaling 5.42 acres if developed as proposed would use 1,095 units from the Bucket, or 73% of the residential density allocated to the Downtown on only 17% of the properties in the Downtown. The remaining 26.6 acres and 399 units would be allocated to 83% of the remaining Downtown. This illustrates the imbalance created in the PADD by the allocation of substantial density in only two 16-story buildings and leaving much less units in the bucket for other property owners who might also want to redevelop their properties. This is a disincentive to the other property owners who might otherwise seek to redevelop their properties and contributes little to the overall redevelopment of the Downtown.

The Projects' Consistency with The Plan's Objectives and Policies

OBJECTIVE 12

The Commission may find it difficult to determine that the projects are consistent with Objectives 5 and 12 of the Future Land Use Element of the Comprehensive Plan, and their implementing policies. Objective 12, entitled "Redevelopment of the Historical Downtown Area," establishes a Future Land Use (FLU) classification to which is intended to facilitate the redevelopment of the Downtown and **the immediate surrounding area**. This FLU is intended to produce a dense, vibrant, walkable mixed-use downtown with a **balance** of residences, businesses and include civic spaces, and must

be well-integrated into **the surrounding neighborhoods**. Objective 12 is implemented by *Policy 12.1* which seeks to deliver compact residential and **non-residential or mixed used buildings that complement the existing buildings**. The existing commercial or mixed use buildings in the Downtown are predominately 2-story commercial structures and three stories for the Ahrens building; have substantially less FAR and complement or are compatible with the low density character of the surrounding residential structures in the adjacent neighborhoods. The surrounding neighborhoods are largely low density residential neighborhoods. The projects do not seem to implement Objective 12 which seeks to maintain the existing small scale traditional commercial downtown or be **compatible** with the adjacent surrounding single family residential neighborhoods.

POLICY 12.1

The projects do not appear to be consistent with *Policy 12.1* of the Comprehensive Plan because they do not deliver compact residential/nonresidential mixed use buildings that are well-integrated into the surrounding low density residential neighborhoods. On the contrary, the projects would deliver predominantly residential uses at high residential densities dramatically exceeding the average maximum density permitted within the Downtown. The construction of largely residential buildings at heights of 16 stories would tower over the existing commercial buildings within the Downtown would not seem to be well-integrated with the surrounding residential neighborhoods.

POLICY 12.2

Policy 12.2 provides for a density of 48 units per acre and a FAR of 3.0 to be applied throughout the 32.13 acres in the PADD. The projects do not appear to be consistent with Policy 12.2 because they would absorb almost all of the units allocated to the entire PADD area. For example originally Kelsey proposed FAR of 12.75, or more than three times the average maximum FAR for buildings in the Downtown. At the time staff was recommending amendments to the PADD (which was eventually adopted), I questioned whether it was good policy to establish an average density of 48 units per acre through a “bucket of units” approach. I pointed out then and again point out that this approach is not supported by Section 163.3177(6)(a), F.S., which requires that comprehensive plans establish range of densities in the Future Land Use Element. These two proposed projects illustrate the problem with this approach because the allocation of such extreme densities to two properties creates an internal inconsistency with the policies that redevelopment promotes a small scale commercial downtown and compatibility with the surrounding low density residential neighborhoods. The policy is also inconsistent with its objective which calls for redevelopment of the area. Using the vast majority of available units on two sites would seriously hamper redevelopment of other properties whose redevelopment option will be limited.

POLICIES 12.3, 12.4, and 12.5

The projects do not appear to be consistent with **Policy 12.3**. This policy proposes that “buffering” be used to control height and the intensity of 16-story buildings to mitigate impacts. It is doubtful that “buffering” would be able to mitigate the imposing height and mass of 16-story buildings. **Policy**

12.4 which directs redevelopment to be supported by publicly accessible civic space. Projects that together propose to generate 1,095 residential units would certainly generate more than 2,000 residents and produce substantial traffic on Park Avenue and surrounding roads. In this respect, it is questionable whether the two projects would be consistent with the intent of **Policy 12.5** to achieve the safe interconnectivity of vehicular, pedestrian and other non-motorized movement in the Town.

Concurrency

To develop the projects with the waivers, an new Master Life Station must be constructed. Presently, the developer of Tenth is discussing this with Seacoast.

Conclusion

The two projects with the waivers being sought are substantially higher than other properties in the Downtown. Given their heights, massing and densities, they do not seem to meet section 78-70 of the PADD or the objectives and policies of the comprehensive plan referenced herein. These policies and the Objective 12, along with section 78-70 of the PADD contemplate **a small scale traditional commercial downtown that is well-integrated with surrounding neighborhoods**. The average density, or “bucket of units” approach, yields a planning approach which allows the these two projects to almost empty the bucket of units resulting in other property owners with substantially diminished opportunities to redevelop their properties potentially leaving the remainder of the Downtown as it is today..

Memo

To: John D’Agostino, Town Manager
From: Thomas J. Baird, Town Attorney
Date: April 11, 2023
Subject: Kelsey on the Park Abstract
Cc: Nadia DiTommaso, Director
 Karen J. Golonka, Anders Viane, Planners

Preface

You have requested that I provide the Community Development Department staff with an analysis and opinion regarding the development of a conceptual 2.15 acre (the Property) residential project proposed by Adler at Lake Park LLC (the Developer). I understand that you require this analysis because the Developer continues to pressure staff and “lobby” the commission for waivers that it believes to be available to develop the Property at densities that exceed what is permitted by the Town’s property development regulations. Staff has provided to me an un-dated narrative from the Developer, a site plan and a staff memo dated 1-31-23 which provides comments to the Developer based upon the Narrative and site plan. The staff’s comments are detailed and go beyond what in my experience is normal in reviewing and commenting on a conceptual plan (assuming it is appropriate, or a good use of staff resources to review a conceptual plan). Based upon my review and analysis of the documents provided to me, and in particular, the staff’s comments, I am surprised that the Developer continues to pursue its concept plan. My review and analysis has also taken into consideration Objectives 5 and 12 and the implementing polices set forth in the Town’s Comprehensive Plan; and § 78-70 of the Land Development Regulations (LDR). My review confirms and expands upon many of the staff comments and conclusions reflected in the January 31, 2023 memo.

The Conceptual Project

The Developer’s un-dated narrative generally describes a multi-use development plan featuring 720 residential apartments, a parking deck of 321,428 sq. ft., and 17,998 sq. ft. of retail / commercial space which includes a 2,663 sq. ft. restaurant (the Project). The Project, as proposed, would be approximately 17 stories, which includes a 4-story parking deck¹. This conceptual Project would be built on the southside of Park Avenue, east to the property line of the Post Office building property line. It would be constructed from the south side of Park Avenue to the North side of Foresteria and include the existing Barbie Restaurant property.

¹ The Site Plan and the un-dated narrative conflict because the parking deck is shown as 7 levels or 6 stories, not 4.

Pre-requisites or Contingencies to an Application

There are several pre-requisites or contingencies which must be addressed prior to an application being submitted, assuming the Developer elects to proceed with an application to develop this conceptual Project: (1) The Developer proposes that the Town sell a portion of the alleyway to it for its appraised value. First, this assumes the commission would agree to abandon an alley that was dedicated for the benefit of the public. Assuming, the commission agrees with the proposed partial abandonment, then to be legally entitled to abandon and sell a portion of the alley to the Developer, the Town must obtain the approval of the MacArthur Foundation. At staff's request, I did have some dialogue with the attorney at the MacArthur Foundation regarding this, but thus far there is no indication that an abandonment will be possible. (2) An application to the Historic Preservation Board (HPB) to "de-designate" a vacant historic building at 918 Park Avenue must be submitted and approved by the HPB. (3) To justify the density and magnitude of the Project the Developer must rely upon the assumption that a Tri-Rail Station will be constructed near the Project, and that the Project will be developed in accordance with Tri-Rail's Transportation Overlay District (TOD) policy². According to the Developer's Abstract, the Project will be the central focus of a TOD. The TOD Policy encourages continuous infill development extending ½ mile from the mythical Tri-Rail station. Neither the Town's Comprehensive Plan, nor its LDRs have TOD policies or development standards. Accordingly, the Town would need to develop and implement such policies and standards in its Comprehensive Plan and LDRs. It should be noted that the Town of Jupiter took this action nearly 20 years ago and presumably is still anticipating a commitment for the expansion of Tri-Rail and a station.

Analysis of the Project's Compatibility with the Core PADD

The Project is not compatible with the purpose and intent of the Town's LDRs as expressed in § 78-70, or with existing development in the PADD. The purpose and intent of the PADD is to facilitate development of "**small scale traditional downtown commercial areas.**" The only mixed use development which is reflective of the PADD's purpose and intent of small scale traditional commercial development is the mixed use project originally developed by the Ahrens Company on Park Avenue. This mixed use project was originally proposed as four stories, but as a result of a mediated settlement agreement was developed as 3 stories. There are a number of economic factors that have thwarted the development of this project, but it cannot be said that it's development was not compatible or consistent with the purpose and intent of the PADD. The density and height for projects in the PADD traditional downtown have slightly increased, but the purpose and intent of the PADD has not changed.

The only other project that has emerged in the vicinity of the PADD is the Oceana Coffee project on 10th Street. Originally it included a third floor, but the latest plans have scaled it back to two stories. This redevelopment proposal consists only of commercial uses; nevertheless, if developed it would be consistent with the purpose and intent of the PADD by delivering a "small scale commercial area." This project is expected to be a catalyst for the redevelopment of the 10th Street area and as such one would expect that other projects would be consistent with its small scale commercial character.

Contrary to the PADD's purpose of maintaining a "small scale traditional downtown" the Project's character, density, and intensity is such that it is comparable to, or exceeds the character, density,

² I do not have a copy of this policy, but have merely relied upon the Developer's representations in its narrative.

and intensity of mixed use developments in the downtowns of Miami, Ft. Lauderdale and West Palm Beach. For example, the Project's FAR of 12.75 substantially exceeds the FAR of 7 for mixed use projects in downtown West Palm Beach. The proposal to construct 13 floors and 720 studio, 1 and 2 bedroom residential units does not meet the purpose and intent of the PADD which contemplates maintaining the Town's historical downtown which is reflective of the early master plans and envision a **small scale traditional downtown commercial area**. The residential component of the Project overwhelms the commercial component of the Project and is not consistent with the envisioned traditional downtown commercial area. The Developer's proposal³ to develop 720 residential units yields a density of 335 units per acre, or more than 700% greater than the maximum density of 48 units per acre pursuant to the Comprehensive Plan. The development of this number of residential units on 2+ acres would overwhelm Park Avenue and 10th street. While the implementation of a mobility plan might help, these streets are not entirely within the Town's control in terms of the collection and expenditure of mobility fees.

Analysis of the Project's Consistency with The Comprehensive Plan

This conceptual Project not consistent with Objectives 5 and 12 and their implementing policies in the Future Land Use Element of the Comprehensive Plan. Objective 12 is entitled "Redevelopment of the Historical Downtown Area," and establishes a Future Land Use Classification to establish and facilitate the redevelopment of the historical Park Avenue downtown and the immediate surrounding area. This future land use is intended to produce a dense, vibrant, walkable mixed-use downtown with a balance of residences, businesses and include civic spaces. Projects in the historical downtown are intended to be well-integrated into the surrounding neighborhoods. This objective is implemented by *Policy 12.1* which seeks to deliver compact residential and non-residential or mixed used buildings that **complement the existing buildings**. The existing buildings in this area are small scale in character in keeping with the purpose and intent of the PADD. The surrounding neighborhoods are largely low density residential neighborhoods. While the objective is intended to facilitate development that contemplates a *future* tr-rail station, the objective does not rely upon a tri-rail station for these projects to succeed. The Project is not consistent with *Policy 12.1* of the Comprehensive Plan because it does not deliver a compact residential/nonresidential mixed use building that is well-integrated into the surrounding neighborhoods. On the contrary, it delivers a 17 story tower which is predominantly residential that would overwhelm and dwarf the existing buildings along this area of Park Avenue and would not be well-integrated with the surrounding residential neighborhoods.

Policy 12.2 provides for a density of 48 units per acre and a FAR of 3.0 to be applied through the 32.13 acres in the PADD. The Project is not consistent with this policy of the Comprehensive Plan because it would absorb approximately half of the units allocated to the entire PADD area and its proposed FAR is 12.75, or more than three times the average maximum FAR for buildings in the PADD. This FAR is also not compatible with the purpose and intent of the PADD to encourage a small scale traditional downtown.

Although the Project is only 2+ acres the narrative does not suggest that any attention has been given to being consistent with *Policy 12.4* which directs redevelopment to be supported by publicly accessible civic space. A proposal to create 720 residential units would generate more than 1,000 residents. Where will they gather, in the street? If so, this certainly would not be consistent with

³ The Developer's represents that this 2.1 acre site must have 720 units in order to be financially feasible.

Policy 12.5 the intent of which is to achieve the safe interconnectivity of vehicular, pedestrian and other non-motorized movement.

Returning to *Policy 12.2*, you may recall that I was not convinced that the amendments to the Comprehensive Plan promoted by staff permitting an “average” 48 units per acre within the 32.13 acre area was good policy. I advocated for an established general range of density for the PADD acreage as is required by Fla. Stat. § 163.3177 (6) (a). I remain dubious that the establishment of a bucket of units with an average density of 47 units per acre established for the area comprising the bucket is good planning. The conceptual Project illustrates why this approach is not good planning. One project can overwhelm all of the other potential redevelopment projects.

Given what has been proposed as the first project following the adoption of the amendments to the Comprehensive Plan and the PADD, I believe staff should re-evaluate those amendments. My analysis of what these amendments could deliver in terms of development suggests to me that *Policy 12.2* is internally inconsistent with *Policy 12.1* and *Objective 12*. *Objective 12* and *Policy 12.1*, along with the implementing LDRs of the PADD contemplate a small scale traditional commercial downtown that is well-integrated with surrounding neighborhoods. I do not believe that bucket approach and/or the increased height permitted in the PADD is consistent with *Objective 12* or *Policy 12.1* and this warrants a re-evaluation of the amendments to the PADD. I also believe that the amendment to the Code that essentially allows for a height waiver for up to four stories of structure parking is good planning practice and should be revisited before an actual application is submitted, either by this developer or someone else.

Conclusion

Assuming an application is presented to staff for review, and based upon the analysis set forth hereinabove, I do not believe that the Project could be approved by the Commission. To approve it, the Commission would have to ignore Fla. Stat. § 163.3194 (1)(a). This statute provides “after a comprehensive plan has been adopted **all development** undertaken by, and all actions taken in regard to development orders [by the Town] ... shall be consistent with [the Comprehensive Plan].”