

Sponsor (Name or Committee):

Planning Board

Article Contact (Name, Title, Email, Phone):

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Article Title:

Zoning Bylaw Amendment - Mixed-use Bylaw

Article (Warrant Language):

ARTICLE XX. To determine whether the Town will delete entirely Section 4.2.3 (Combined Business/Residence) in the Town’s Zoning Bylaw and amend the Zoning Bylaw as follows: (1) amend Section 1.3 to add a definition for Streetscape; (2) amend Table I Principal Use Regulations Section 4.2.3 to change the Principal Use name from Combined Business/Residence to Mixed-use Development, allow Mixed-use Development in Limited Business District 1, and delete the words “residential use” from Footnote *** for WCV Commercial District; and (3) insert a new Section 4.2.3 (Mixed-use Development) as follows (deletions are shown in ~~strikeout~~ and amendments are shown in **bold italics** for emphasis only); or take any other action relative thereto:

1) Amend Section 1.3 Definition to add a new Section 1.3.26 Streetscape definition and renumber remaining definitions accordingly as follows:

1.3.26 Streetscape: The visual elements of a street that give it a sense of identity and vitality.

2) Amend Table I Principal Use Regulations Section 4.2.3 to change the Principal Use name from Combined Business/Residence to Mixed-use Development, allow Mixed-use Development in Limited Business District 1, and delete the words “residential use” from Footnote *** for WCV Commercial District to remove the prohibition of residential use on the first floor as follows:

Concord Zoning - Table I - Principal Use Regulations

	Principal Uses	Residential Districts				Commercial Districts					Industrial Districts				
		RA A	RA	RB	RC	WCV	B, CCB, TDB, NACB	WCB	LB	M P	WCI	I	IPA	IP B	LIP# 1 LIP #2
4.2. 3	Mixed-use Development Combined business/residence	No	No	No	No	Yes ***	Yes	Yes	Yes 1,2,3,&7	SP	No	No	No	No	No

*** Except no ~~residential use~~, lodge or club, professional office, or R&D and Light manufacturing shall be permitted on the first floor in the West Concord Village District.

3) Insert a new Section 4.2.3 (Mixed-use Development) as follows (all the language is new and not shown in **bold italics**):

4.2.3 Mixed-use Development: A dwelling unit or units may be located on the same lot where business uses are conducted, provided that:

4.2.3.1 Location of mixed-use: Uses on the site may be mixed within a single building or in more than one building on the site. Combinations of residential and non-residential uses shall be permitted on a site as follows:

- (a) In buildings with **façades** that front a public right-of-way, the ground floor shall be occupied by non-residential uses for a minimum depth of 30 feet, measured perpendicular from the front building **façade**. Residential uses may be permitted beyond this 30-foot depth.
- (b) Any additional rear building(s) located behind building(s) that front a public right-of-way may contain residential, non-residential, or mixed uses. These rear building(s) must be connected to the public right-of-way by an adequate pedestrian connection.

4.2.3.2 Open space: Twenty percent (20%) of the lot shall be maintained as open space. The open space may include publicly available space for use by the customers or clients of the non-residential uses, and must include a certain amount of space, as detailed below, whose use shall be dedicated to the residents of the residential units.

- (a) Public spaces may include outdoor dining areas, sitting areas, pocket parks, gardens, and similar features. Such spaces shall be connected to the public pedestrian network, where available, and shall have a shape, dimension, character and location suitable to ensure their usability by the public.
- (b) A minimum of twenty-four (24) square feet per dwelling unit shall be provided as open space reserved for residential use. Such minimum residential open space may be provided for individual units, for example a 24 sq. ft. balcony or patio, or combined into one or more spaces accessible to all residents. Combined spaces may include patios, terraces, or rooftop decks. Any combined residential open space shall have a shape, dimension, character and location suitable to ensure its usability by all residents. If any individual units are not afforded a private open space, no less than 25% of the minimum required open space must be allocated to a single communal space available to all residents, unless the communal residential space exceeds the residential open space minimum, in which case the developer may opt to split the **space into multiple usable spaces of no less than 150 square feet each**.
- (c) Landscaped areas contained within parking areas, such as islands, stormwater drainage areas, or other isolated areas not available for public or resident uses shall not count toward the required minimum open space.

4.2.3.3 Development standards: The following additional development standards shall be met.

- (a) All developments shall be subject to the provisions of this section in addition to the requirements of the underlying district.
- (b) Where feasible, a single driveway shall provide access to parking for all uses, unless additional curb cuts are required by the Concord Fire Department or Concord Public Works for safe access.
- (c) On-site pedestrian networks shall connect building entrances to the public pedestrian network, where present.
- (d) The parking for the non-residential uses in a mixed-use development shall be based on Table IV Minimum Parking for each individual non-residential use and the parking for the residential uses shall be calculated at 1.5 spaces per residential unit, unless joint parking facilities pursuant to Section 7.7.2.4 or relief from parking pursuant to Section 7.7.2.12 is granted.

- (e) Site landscaping, including landscaping in parking areas, shall follow the principles of Low-Impact Design. Diverse native plants or plants adapted to the New England climate shall be used. Plants listed on the Massachusetts Prohibited Plant List are not permitted.
- (f) Lighting shall be dark-sky compliant and shall meet the requirements of Section 7.13.
- (g) Multi-tenant sign plan for all proposed signs for the development shall be coordinated for the entire project.
- (h) Stormwater shall be managed on-site and in accordance with the Concord Public Works Design & Construction Standards & Details and applicable state laws and regulations.
- (i) New buildings shall be sited such that any non-residential ground floor spaces along a public right-of-way contribute to a vibrant streetscape.
- (j) The placement of building(s) shall take into consideration the existing neighborhood development patterns of setbacks, massing, height variations, styles, and form. New buildings and significant rehabilitation shall take into consideration the architectural qualities of the existing neighborhood structures on adjacent or nearby properties while allowing for appropriate contemporary design elements.

4.2.3.4 Design guidelines: The Planning Board may adopt and amend, by simple majority, design guidelines to illustrate the development standards in Section 4.2.3.3, above.

4.2.3.5 Affordable housing: All mixed-use developments, whether new construction, substantial rehabilitation, expansion or reconstruction, or residential conversion, where such development contains ten (10) or more new dwelling units, shall have at least 20% of the total number of dwelling units available as affordable units at 80% area median income (AMI) and included on the Town's Subsidized Housing Inventory (SHI), except as provided below.

- (a) To calculate the number of affordable units required, the unit requirement shall be rounded up to a whole unit for any fraction of 0.5 or above. For fractional unit requirements of less than 0.5, a payment in lieu of fractional units may be paid to the Concord Municipal Affordable Housing Trust (CMAHT) as an alternative to building a whole unit.
- (b) The payment shall be calculated by multiplying the fractional unit by the market value of an equivalent unit at the time of occupancy.

4.2.3.6 Development standards for Affordable housing: The following additional development standards shall be met for affordable units.

- (a) Affordable units shall be distributed equally throughout the development in terms of both location and unit size/type.
- (b) Affordable units shall be comparable to market-rate units in exterior building materials and finishes, construction quality, and energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems. However, affordable units may have different interior finishes and features, provided that such finishes and features are durable, of good quality and consistent with contemporary standards for new housing. The Building Commissioner has the right to verify the durability and quality of interior finishes proposed and to require reasonable changes to better achieve comparability of units.
- (c) Affordable units shall have access to all residential amenities on terms equal to those of the market-rate units.
- (d) Each affordable unit shall have a designated parking spot on equal basis with market-rate units and in comparable locations.

- (e) Affordable units shall not be more negatively affected by noise, dust, odors, or poor views than market-rate units.
- (f) If the development is phased, affordable units shall be constructed and made available at the same rate as the market-rate units.

4.2.3.7 Special Permit Waiver Provision: Except in Limited Business District #2, in a mixed-use building where more than twenty (20%) percent of the dwelling units are available as affordable housing, the Board may grant a special permit to allow less than the required amount of open space if there is publicly accessible open space within a reasonable walking distance to the residential units, an increase in the height of the building to forty (40) feet to reduce impervious coverage and provide more open space and landscaped areas, and/or a decrease in the number of parking spaces if adequate justification for a reduction in parking is provided.

Article Explanation:

This bylaw amendment seeks to allow mixed-use developments in more than one building on a site, change the required amount of affordable housing and open space, create new development standards for mixed-use projects and the associated required affordable housing, and create criteria for the granting of waivers.

This amendment seeks to create opportunities, should a property owner decide to utilize this provision, to create vibrant commercial areas and meet the goals of the community as defined in the Envision Concord Comprehensive Plan to:

- 1) “renew and improve Concord’s village centers as vital pedestrian-friendly, economic and social hubs that enable community engagement on a wider scale by expanding zoning policies to allow mixed-use and appropriately dense development in and around village centers” (Action Item 4.2(1)(1));
- 2) “enhance quality of life to support the strong commercial successes throughout town and attract and retain a constant workforce by supporting growth of existing and complementary businesses within existing industrial and commercial areas in town...” (Action Item 4.2(2)(2));
- 3) “encourage developers to build housing the Town wants/needs ... and support sustainable development practices by adopting zoning provisions to encourage the redevelopment....to allow mixed-use, multi-family redevelopment” (Action Item 4.3(6)(1)); and
- 4) “explore zoning alternatives that enable higher density, mixed-use, more walkable and economically diverse neighborhoods within/near village centers....through zoning changes to encourage greater mixed-use development within the village centers” (Action Item 4.4 (2)(3)).

The current language in Section 4.2.3.1 restricts the flexibility of where and how mixed uses¹ are achieved on a site. The proposed amendment seeks to allow multiple buildings on a site that is large enough to accommodate all the site requirements, such as open space, parking, landscaping, trash, loading areas, and sidewalks. The proposed amendment will also clarify that mixed-use is permitted in existing or new buildings and will allow ground-floor residential with protection for commercial uses on principal streets.

The current language in Section 4.2.3.2 is a financially infeasible affordable housing requirement. It currently equals 25% mathematically for multiples of 4. As documented in the Economic Feasibility Analysis (“EFA”), the current bylaw is not financially feasible. The proposed amendment (Section 4.2.3.5) reduces the threshold number of affordable units to make smaller developments more

¹ The proposed amendments use the term “Mixed-use” rather than the current “Combined Business/Residence” because it is shorter and is more typically used in zoning.

feasible and allow payments-in-lieu for partial affordable unit calculations and reduces the required open space (Section 4.2.3.2) and parking (Section 4.2.3.3). The EFA shows that the proposed bylaw amendment addresses the financial impacts of the current requirements without excessive profits. Additionally, the proposed amendment (Section 4.2.3.6) establishes Design Standards for affordable units, ensuring that they are treated equally to market rate units.

The current open space requirement in Section 4.2.3.3 has proven onerous and unachievable in many circumstances. The proposed amendment (Section 4.2.3.2) will define green/landscaped space, open space, and pervious areas, as well as help control the intensity of building on the site (number of buildings or footprint of a single building), manage stormwater and reduce the heat island effect through landscaped areas, provide publicly accessible open space areas for customers of the commercial uses, and provide privately accessible open space for tenants of the buildings. The amendment provides clarification that open space does not include landscaped areas within parking areas, stormwater drainage areas, or other isolated areas not available for public or resident uses. The amendment to lower the open space requirement aims to find a balance between having a requirement sufficient for the needs of the residents and customers but also understanding the other design considerations that must be met when developing a mixed-use project, such as parking, stormwater drainage, commercial delivery areas, dumpsters, and pedestrian walkways.

The current language in Section 4.2.3.4 does not create the desired flexibility needed to allow for the development of projects that fit the site and the community. Additionally, the special permit requirements are not well-defined. The proposed amendment (Section 4.2.3.3) creates Development Standards that provide guidance on items such as lighting, stormwater, parking, signage, placement of building(s), massing, height variations, styles, and form that should respect the architectural qualities of the existing neighborhood structures on adjacent or nearby properties.

The adoption of zoning does not mean that developments are going to immediately be built and force the community to deal with their impacts in short order. Zoning is just one tool to advance larger goals for the community, providing options and structure for how those goals can be achieved. Any proposed mixed-use development will still require Site Plan Review through the Planning Board where findings have to be made regarding the adequacy of stormwater drainage, sound and sight buffers, vehicular and pedestrian movement and safety, parking and loading spaces, exterior lighting, layout, architectural design, sustainability, and the impacts to the natural landscape, community assets and the Town's resources, including water and sewer service, traffic and other services. To mitigate impacts, the Planning Board can include reasonable conditions as part of any Site Plan decision.

Mixed-use development is currently permitted by right, and will continue to be permitted by right, in the following Zoning Districts: West Concord Village, Business, Concord Center, Thoreau Depot, Nine Acre Corner, West Concord Business, and Limited Business Districts #2, #3, and #7. It will continue to be allowed by special permit in the Medical-Professional District. This article will allow mixed-use by right in the Limited Business District #1 (Elm St. and Rt. 2), adding flexibility and supporting a diverse tax base now that LB #1 is part of the MBTA Communities Multi-family Overlay District. Please go to the Planning Board's Goals & Projects webpage at www.concordma.gov/2193/Planning-Board-Goals-Projects to view maps of the permitted areas.

Motion (if known at time of submission):

[Insert proposed motion language, if available.]