

**PROPOSED AMENDED ZONING REGULATIONS
CITY OF MORRO BAY**

CHAPTER 17.07 – C COMMERCIAL AND MIXED USE DISTRICTS:

**TABLE 17.07 – A: USE REGULATIONS – COMMERCIAL AND MIXED USE DISTRICTS AND
TABLE 17.07 – B: DEVELOPMENT STANDARDS – COMMERCIAL AND MIXED USE DISTRICTS AND
ACCOMPANYING TEXT**

STANDARDS FOR MIXED-USE DEVELOPMENT IN COMMERCIAL ZONES

A. BACKGROUND

At its August 16, 2004 meeting, the Planning Commission very briefly considered the possibility of adopting standards for residential development within the CC-P and CVS commercial zones. At this time, there appeared to be no serious interest in developing practical and workable guidelines.

Over the past year, it has become all too apparent that specific standards for residential uses in commercially-zoned areas of the City are badly needed. In the case of the proposed Harborview development, the property-owner put forward a mixed-use project which, he believed, incorporated residential units as a “secondary” use. The Morro Bay Planning Commission and City Council agreed with this interpretation, although many members of the community did not. Eventually, the California Coastal Commission concluded that the residential uses were not, in fact, “secondary” to the commercial component of the project and a coastal development permit was denied. In a second instance, the owner of a property located at the intersection of Anchor Street and the Embarcadero designed and proposed a project which would have included commercial uses on the ground level with “secondary” residential quarters above. In this instance, the Planning Commission determined that the residential uses were not, in fact, “secondary” and the development was denied.

In these cases, the absence of appropriate planning standards resulted in the unnecessary and ultimately unproductive expenditure of thousands of dollars on the part of property owners, heated dissension within the community, and decisions on the part of the City which, in similar proposals, were or at least give the appearance of being diametrically inconsistent.

The current revision of the Zoning Ordinance provides an opportunity for the City to define clearly the type, size, purposes, and other aspects of residential development that are acceptable and desirable within the CC-P and CVS zones. In addition, it affords an opportunity to ensure that the standards adopted are congruent with the vision of the community and with the expectations of the

Coastal Commission. Such concrete standards would minimize future controversies and would provide property owners with a degree of assurance that projects approved at the local level will also meet with approval from the Coastal Commission.

In addition to the lack of clarity with respect to residential development in the CC-P and CVS zones, the public hearing draft of the proposed Zoning Ordinance fails to articulate or promote the City's vision with regard to any differences in acceptable or desired residential uses in the CC-P zone and the CVS zone.

In light of the pressing need for specificity in this area, the City's failure to deal with the issue of residential uses in the CC-P and CVS zones directly and in detail is unacceptable and is inconsistent with the principles of responsible and participatory government.

B. MIXED-USE DEVELOPMENT IN THE CVS ZONE

SECTION: **17.07.020 Land Use Regulations**
 17.07.030 Development Regulations

CONCERN: With respect to potential residential development in the Visitor-Serving Commercial zone, these two sections are inconsistent with one another. Table 17.07–A indicates that the uses “Single-Family Dwelling”, “Two-Family Dwelling (Duplex)” and “Multiple Family Residential” are prohibited in the CVS zone. On the other hand, Table 17.07–B indicates a “Maximum Residential Density” which may be established in this zone. Obviously, there is no need to specify a maximum allowable density for a use that is prohibited.

If residential uses are to be permitted, at all, in the CVS zone, Table 17.07–A should indicate that this is the case and should specify the conditions under which such uses may be established and the design features that are required.

CONTROLLING POLICY: **California Public Resources Code, Division 20, Article 3, Section 30222:**

“The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.”

Draft Morro Bay General Plan/Local Coastal Plan Policy LU-26:

“Subject to the Land Use Map, the City shall continue to give priority to the use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.”

Draft Morro Bay General Plan/LCP Implementation Measure LU-17A:

“The city shall prepare mixed-use development standards for conditions when the concept is applied to a single parcel as well as when dissimilar uses are to occur on adjacent parcels.”

Implementation measure LU-17A requires, in very explicit terms, that the City prepare development standards for mixed-use projects. As currently written, the draft Zoning Ordinance does not contain such standards with respect to the CVS zone. Provisions of the proposed Ordinance relating to the development of residential uses in the CVS zone are so vague and subject to interpretation that they do not accomplish the goals of the General Plan/Local Coastal Plan and do not meet the requirements of the California Coastal Act.

- SUGGESTED CHANGES:**
- a.) In Table 17.07–A, in the column labelled “CVS*” and the rows labelled “Single-Family Dwelling”, “Two-Family Dwelling (Duplex)” and “Multiple Family Residential”, the “--” designation should be replaced with a new designation, “L-3”.
 - b.) The footnotes for Table 17.07-A should be amended to indicate “L-3: Permitted by conditional use permit if subsidiary to a permitted commercial use on site.”
 - c.) A text paragraph should be added after Table 17.07-A as follows:

“Residential mixed-use development standards: CVS Zone – In the Visitor-Serving Commercial zone, residential uses may be permitted as a component of mixed-use development by conditional use permit. Such use will be approved only if all of the following development standards and conditions are met:

- 1.) The residential use is subsidiary to a permitted commercial use on site. A residential use will be considered to be subsidiary to an associated commercial use only if all of the following conditions are met:
 - a.) The residential use serves a purpose which is essential to or directly and substantially benefits permitted on-site commercial activities (e.g., sleeping quarters for security personnel, on-site accommodations for a hotel manager). The mere fact that residential uses could potentially benefit the owner of the property through rents or other monies collected will not be considered such a purpose.
 - b.) The commercial and residential uses constitute a single, indivisible property and ownership of the residential portion of the development cannot be sold or transferred separately from ownership of the commercial use or any portion thereof.
 - c.) Occupancy of the residential use is to be restricted to the proprietor of an on-site business and members of his or her immediate family or to a full-time employee or employees of an on-site business and members of their immediate families.
 - d.) The owner of the property receives no rent or other payment related to occupancy of the residential portion of the development. If, however, the residential quarters are employee-occupied, the provision of housing so afforded may be considered an in-kind payment in lieu of salary.
 - e.) The residential portion of the development is located entirely on the topmost story of the structure or entirely on the rear half of the lot (as measured from the most-traveled adjacent street or pedestrian walkway).

- f.) The fair market value or rental of the residential portion of the development does not exceed 30% of the fair market value or rental of the commercial portion.
- 2.) The development is designed so that garages or other enclosed or covered parking facilities for use by residents are not visible from Embarcadero Road or from bikeways, sidewalks or other pedestrian amenities adjacent to or constructed in replacement of Embarcadero Road.
- 3.) If the design of the development includes entrances to residential units that are separate from the entrance to the permitted visitor-serving commercial uses, such entrances are not visible from Embarcadero Road or from bikeways, sidewalks or other pedestrian amenities adjacent to or constructed in replacement of Embarcadero Road.
- 4.) Off street parking and loading spaces are provided for both residential and commercial uses in accordance with the requirements of Table 17.24-A and Table 17-24.B. All residential spaces are to be provided on-site. Commercial parking spaces may be provided either on-site or off-site, as provided in Section 17.24.050.B. The number of off street parking spaces required may not be reduced by the payment of in-lieu fees, by participation in a Parking Management Program or District, by joint use parking, or by means of a parking demand study.”

C. MIXED-USE DEVELOPMENT IN THE CC-P AND MX ZONES

SECTION: 17.07.020 Land Use Regulations

CONCERN: The provisions of Table 17.07–A inappropriately restrict mixed use development within the CC–P and MX zones. The uses “Single Family Dwelling” and “Two Family Dwelling (Duplex)” are assigned an “L-1” designation, indicating “permitted if an existing use; new uses are prohibited.” Only “Multi-Family Residential” uses are “L-2: Permitted as-of-right if part of a mixed-use project above street level, except for lobbies and entrances; otherwise requires a minor use permit.”

This appears to be in direct conflict with the General Plan/Local Coastal Plan, which strongly supports mixed-use development in all of the commercial areas of the City. Much of Morro Bay’s commercially-zoned property has already been subdivided and developed. In areas such as the Downtown/Old Town District, lot sizes and existing buildings are relatively small by conventional commercial standards. In such areas, it may be feasible to redevelop properties or to remodel existing buildings in a manner that would provide one or two residential units in addition to commercial space, but, because of lot-size constraints, multifamily residential may simply not be possible. In light of stated General Plan/LCP priorities, it simply does not seem reasonable to prohibit potential mixed commercial-residential projects simply because the number of housing units that can be provided is less than three.

In addition, the draft Zoning Ordinance should be revised to include development standards for mixed-use projects in the CC–P and MX zones, as required by the adopted draft General Plan/Local Coastal Plan.

CONTROLLING POLICY: **Draft Morro Bay General Plan/Local Coastal Plan Policy LU-17:**

“The City shall encourage new development to utilize the concept of mixed uses throughout the City’s commercial areas in order to create a more vibrant community and offer additional opportunities for housing.”

Draft Morro Bay General Plan/LCP Implementation Measure LU-17A:

“The city shall prepare mixed-use development standards for conditions when the concept is applied to a single parcel as well as when dissimilar uses are to occur on adjacent parcels.”

SUGGESTED CHANGES: a.) The explanation of the “L-1” designation provided in the footnotes to Table 17.07-A should be amended to read “L-1: Permitted if an existing use. New developments devoted exclusively to residential use are prohibited. Residential uses which are part of a mixed-use development may be approved by conditional use permit, subject to development standards.”

- b.) The explanation of the “L-2” designation Table 17.07-A should be amended to read “L-2: Permitted if an existing use. New developments devoted exclusively to residential use are prohibited. Residential uses which are part of a mixed-use development may be approved by minor use permit, subject to development standards.”
- c.) A text paragraph should be added after Table 17.07-A as follows:

“Residential mixed-use development standards: CC-P and MX Zones – In the Pedestrian-Oriented Commercial and Mixed Use zones, residential uses may be permitted as a component of mixed-use development by conditional use permit. Such use will be approved only if all of the following development standards and conditions are met:

- 1.) The residential use is proportional in scale, intensity of use, and value to a permitted commercial use on site. A residential use will be considered to be proportional to an associated commercial use only if both of the following conditions are met:
 - a.) The residential portion of the development (excluding stairways, entrances, and lobbies) is located entirely above the ground story of the structure or entirely on the rear half of the lot (as measured from the most-traveled adjacent street or pedestrian walkway).
 - b.) The fair market value or rental of the residential portion of the development does not exceed the fair market value or rental of the commercial portion.
- 2.) The development is designed so that garages or other enclosed or covered parking facilities for use by residents are not visible from either Main Street or Morro Bay Boulevard or from adjacent bikeways, sidewalks or other pedestrian amenities.
- 3.) If the design of the development includes entrances to residential units that are separate from the entrance to the permitted visitor-serving commercial uses, such entrances are not visible from Main Street or Morro Bay Boulevard or from adjacent bikeways, sidewalks or other pedestrian amenities..
- 4.) Off street parking and loading spaces are provided for both residential and commercial uses in accordance with the requirements of Table 17.24-A and Table 17-24.B. All residential spaces are to be provided on-site. Commercial parking spaces may be provided either on-site or off-site, as provided in Section 17.24.050.B. The number of off street parking spaces required may not be reduced by the payment of in-lieu fees, by participation in a Parking Management Program or District, by joint use parking, or by means of a parking demand study.”

D. MIXED-USE DEVELOPMENT IN THE CC–A ZONE

SECTION: 17.07.020 Land Use Regulations

CONCERN: Table 17.07–A prohibits all residential development in the CC–A zone. This would appear to be inconsistent with General Plan/Local Coastal Plan Policy LU-17, which requires that the City “shall encourage new development to utilize the concept of mixed uses *throughout* the City’s commercial areas (*emphasis added*).”

SUGGESTED CHANGES:

- a.) Table 17.07–A should be modified to designate “Single-Family Dwelling”, and “Two-Family Dwelling (Duplex)” uses as “L-1” and to designate “Multiple Family Residential” as “L-2” in the “CC–A” zone, or
- b.) General Plan/Local Coastal Plan Policy LU-17 should be modified to read “The City shall encourage new development to utilize the concept of mixed uses ~~throughout the City’s~~ in suitable commercial areas in order to create a more vibrant community and offer additional opportunities for housing.”