



# Staff Report

## Planning and Community Development Commission

May 9, 2022

### ITEM NAME

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Mixed-Use in Commercial Zone Districts

### STAFF

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Philip Strom, Director of Community Development

### INFORMATION

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#### Background

The two primary commercial use zoning districts, Commercial (C) and Commercial Downtown (CD), allow for residential use as a principal use:

#### Commercial

Sec. 16-3-200(3) Residential use as follows:

- a. Associated residential unit, or
- b. Dwelling unit when it provides a place of residence in conjunction with a place of employment, provided that there are one thousand six hundred (1,600) square feet of lot area per each dwelling unit.

*Associated residential dwelling unit* means a residential dwelling unit that is located in a building in which fifty (50) percent or more of the first floor area is devoted to a use for which the primary and principal purpose is the sale of goods, products or services that are subject to local sales tax, with the exception of stairways, entrance areas necessary to serve the associated residential dwelling unit and retail facades. An associated residential dwelling unit must be intended for use on a long-term basis, shall not be made available for lease or rent for periods of less than six-month terms and shall maintain an exterior entrance separate and apart from any other use within the building.

#### Commercial Downtown

Sec. 16-3-210(3) Residential use, but only if a business use occupies the portion of the building immediately adjacent to the street frontage.

Additionally, LMC Chapter 6, Article 7 – Short-Term Rental Licenses allows for Short-term rentals in C and CD:

*Short-term rental* means the use of any dwelling, dwelling unit, or portion of any dwelling unit, that is located in the A-1, A-2, E, EC, R-1, R-2, C, CD, and CEC zone districts that is rented or leased to no more than one (1) booking party per night for valuable consideration for individual occupancy periods of less than thirty (30) days with or without provision of meals. This definition does not include commercial hotels or motels. A short-term rental is a use that is accessory to the primary residential use of the dwelling unit, for which the principal use remains occupancy by the owner as their primary residence. In commercial districts (CEC, CD, and C), a short-term rental is also



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a use that is accessory to the primary business use of the property, for which the principal use remains a business open to the public on the same property. As such, the short-term rental use must remain incidental and subordinate to the primary use of the dwelling as a permanent residence or the public oriented business.

The eligibility for short-term rental licenses in commercial districts is defined in Sec. 6-7-40(2):

A residential unit in a commercial district, commercial eastern corridor district, or commercial downtown district where a business representative is on-site during business hours. The business representative must maintain a business which is open to the public within the same property where the residential unit is located. For the purposes of this Article, "business hours" means that the business is open to the public Monday through Friday, 9:00 a.m. to 5:00 p.m., for of nine (9) months per calendar year or equivalent operating hours as determined by the Town Administrator.

### **Recent Issues**

1. Commercial Short-Term Rental applications where the residential use does not appear to be subordinate of the commercial use.
2. Mixed-use (residential & commercial) triggers additional Building and Fire Code requirements for separation of use.

### **Next Steps**

A text amendment is required to the Zoning Code for C and CD principal uses to allow Short-Term Rentals; this was missed when the Short-Term Rental Ordinance was adopted. Direction is needed as to finalize the text amendment as well as determine the intent of the code regarding flexibility of mixed-use vs. more restrictive.

Additionally, the Comprehensive Plan Update is evaluating the current Zoning Districts and the above should be considered as part of a larger evaluation of the current code.

### **COMMISSION ACTION**

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Provide direction to staff for next steps in amending the zoning text regarding mixed-use and future zoning text amendments.

### **ATTACHMENTS**

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None.