

## Angela Ruggeri

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**Subject:** FW: Response to Questions about Mixed Use Development  
**Attachments:** APA Model Mixed-Use Zoning District Ordinance.pdf

The following email is a response that staff received from Steve Butler at the Municipal Research and Services Center (MRSC) on how other cities have dealt with regulation of office and residential components of mixed use development and whether office or residential better supports retail uses .

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**From:** Steve Butler [<mailto:sbutler@mrsc.org>]  
**Sent:** Thursday, May 14, 2015 4:14 PM  
**To:** Gerald Buker  
**Subject:** Response to Questions about Mixed Use Development

Dear Gerald,

I am responding to your questions about how cities have dealt with regulating the office and residential components of a mixed use development and which component better supports retail uses?

Many cities encourage development with a true mix of uses, but I was not able to find any that specifically dictate residential or office must occur on the upper floors. Requiring office uses is especially difficult, given the historically low demand for speculative office space (especially when considering the recent increase in demand for multi-family dwelling units. Instead, most of the ordinances I reviewed allow both residential and office. I have included a few articles about mixed use development and some ordinance examples (see attached and below).

- MRSC Mixed Use [webpage](#)
- Model Mixed-Use Zoning District Ordinance provisions (from APA) represent a commercial zoning classification that permits, rather than mandates, a vertical mix of commercial and residential uses within the same building. [See the attached PDF]
- City of Vancouver (WA) Mixed Use District zoning provisions ([VMC section 20.430.060](#)) require a minimum mix of residential and non-residential uses.
- Clark County (WA) Mixed Use zoning [section 40.230.020](#) subsection (E) also requires a minimum mix of residential and non-residential uses.
- City of Colorado Springs (CO) *Mixed use Zoning and Street Standards* [report](#) (with “required mix of uses” discussed on pp. 31-32) and related [Zoning Code](#) section 7.3.705(A).
- City of Garden Grove (CA) [Chapter 9.18](#) has development standards that restrict uses within a vertically integrated residential/commercial mixed use development (Subsection 9.18.020.070; pp 21-22); these restrictions focus more on minimum commercial on the ground floor and/or overall within the building, or residential uses only on the second floors and above. Also, the term “commercial” is broadly defined to include office uses.

- Montgomery County (PA) *New Town Mixed Use District; Creating Walkable, Transit-Friendly Places Report* (2010)
- *Mixed-Use Development and Financial Feasibility: Part I-Economic and Financial Factors* [article](#) in “Real Estate Issues” (2009)

There are lots of articles about mixed use incentives, but very few examples of it being codified; one exception may be Toronto, Canada (see the [7/23/14 staff report](#) on “Proposed Incentives to Support the Replacement of Office Space in New Mixed Use Developments”).

Your second main question – whether residential or office better supports retail uses – is difficult to answer, since it depends on a number of different variables (such as the specific type of desired retail and the overall scale of supportive development) and what your city wants to achieve. For example, if you want to attract a grocery store as a ground floor tenant, then a large scale residential component would be desirable - see the following links that were recently sent to Angela Ruggeri regarding grocery stores and mixed use development:

- [Food Markets: The Latest Must-Have Amenity Fueling Condo Sales](#), *Forbes*, April 30, 2013
- [Business Performance in Walkable Shopping Areas](#), Active Living Research, November 2013

On the other hand, if you operate a lunch-oriented restaurant, then you would want to be located close to a large number of office workers. The second report listed above describes the different types of retail uses (which is summarized on page 9) that would be more appealing to office space and residential properties.

I hope this information is helpful. Please let me know if you have any additional questions.

**Steve Butler, FAICP**

Planning & Policy Manager

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Thank you for contacting MRSC. Help us improve our services by taking our five-question survey [here](#).

#### 4.1 MODEL MIXED-USE ZONING DISTRICT ORDINANCE

The following model zoning district provisions represent a commercial zoning classification that permits, rather than mandates, a vertical mix of commercial and residential uses within the same building. The district is intended to accommodate a physical pattern of development often found along village main streets and in neighborhood commercial areas of older cities.

Primary Smart Growth Principle Addressed: Mix land uses

Secondary Smart Growth Principle Addressed: Compact building design

#### CX1, Neighborhood Commercial, Mixed-Use District

##### 101. Purpose

The purposes of the CX1, Neighborhood Commercial, Mixed-Use District are to:

- (1) Accommodate mixed-use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units above the nonresidential space;
- (2) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets; and
- (3) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

##### 102. Definitions

As used in this ordinance, the following words and terms shall have the meanings specified herein:

**“Floor Area Ratio”** means the ratio of a building’s gross floor area to the area of the lot on which the building is located.

**“Gross Floor Area”** is the sum of the gross horizontal areas of all floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Gross floor area does not include basements when at least one-half the floor-to-ceiling height is below grade, accessory parking (i.e., parking that is available on or off-site that is not part of the use’s minimum parking standard), attic space having a floor-to-ceiling height less than seven feet, exterior balconies, uncovered steps, or inner courts.

**“Mixed-use Building”** means a building that contains at least one floor devoted to allowed nonresidential uses and at least one devoted to allowed residential uses.

##### 103. Allowed Uses

Uses are allowed in “CX1” zoning districts in accordance with the use table of this section.

USE GROUP		Zoning District
Use Category		CX1
Specific Use Type		
P= permitted by-right    C = conditional use    N = Not allowed		

<b>USE GROUP</b>	<b>Zoning District</b>
<b>Use Category</b>	<b>CX1</b>
Specific Use Type	
P= permitted by-right    C = conditional use    N = Not allowed	
<b>RESIDENTIAL</b>	
<b>Household Living</b>	
Artist Live/Work Space located above the ground floor	P
Artist Live/Work Space, ground floor	C
Dwelling Units located above the ground floor	P
Detached House	C
Multiunit (3+ units) Residential	C
Single-Room Occupancy	C
Townhouse	C
Two-Flat	C
<b>Group Living</b>	
Assisted Living	C
Group Home	P
Nursing Home	C
Temporary Overnight Shelter	C
Transitional Residences	C
Transitional Shelters	C
<b>PUBLIC AND CIVIC</b>	
Colleges and Universities	P
Cultural Exhibits and Libraries	P
Day Care	P
Hospital	N
Lodge or Private Club	N
Parks and Recreation	P
Postal Service	P
Public Safety Services	P
Religious Assembly	P
School	C
Utilities and Services, Minor	P
Utilities and Services, Major	C
<b>COMMERCIAL</b>	
Adult Use	N
<b>Animal Services</b>	
Shelter/Boarding Kennel	N
Sales and Grooming	P
Veterinary	P
Artist Work or Sales Space	P
Drive-Through Facility [See comment]	C
<b>Eating and Drinking Establishments</b>	
Restaurant	P

<b>USE GROUP</b>	<b>Zoning District</b>
<b>Use Category</b>	<b>CX1</b>
Specific Use Type	
P= permitted by-right    C = conditional use    N = Not allowed	
Tavern	C
<b>Entertainment and Spectator Sports</b>	
Small (1–149 seats)	P
Medium (150–999 seats)	N
Large (1,000+ seats)	N
<b>Financial Services</b>	P
<b>Food and Beverage Retail Sales</b>	P
<b>Gas Stations</b>	N
<b>Lodging</b>	
Small (1–16 guest rooms)	P
Large (17+ guest rooms)	C
<b>Medical Service</b>	P
<b>Office</b>	P
<b>Parking, Commercial (Nonaccessory)</b>	C
<b>Personal Service, including health clubs and gyms</b>	P
<b>Repair Service, Consumer, including bicycles</b>	P
<b>Residential Storage Warehouse</b>	N
<b>Retail Sales, General</b>	P
<b>Vehicle Sales, Service, and Repair</b>	N
<b>INDUSTRIAL</b>	
<b>Manufacturing, Production and Industrial Services</b>	
Artisan (hand-tools only; e.g., jewelry or ceramics)	C
<b>OTHER</b>	
<b>Wireless Communication Facilities</b>	
Co-located	P
Freestanding (Towers)	C

**Comment:** *This use table should be refined to reflect local characteristics and planning objectives. The range of uses allowed should be kept as broad as possible in order to ensure that the district is economically viable. Note that this model allows, as a conditional use, drive-through facilities. Drive-through facilities may be appropriate in such areas in connection with banks and pharmacies. Whether to allow them is a policy choice, no different than other policy choices in selecting permitted uses. Also keep in mind that in buildings with residential units, commercial use issues will be largely self-policing because owner associations and builder/developers will ensure that commercial uses in mixed-use buildings will be compatible with upper-story residential uses.*

#### **104. Commercial Establishment Size Limits**

The gross floor area of commercial establishments in the CX1 district shall not exceed [15,000] square feet.

**Comment:** *Floor area limits are proposed in the model ordinance to help ensure that allowed commercial uses would be geared toward a neighborhood market area. Some local ordinances impose much more restrictive floor area limits in neighborhood-oriented districts. The limit proposed in this model ordinance would accommodate a modern drug store. If floor area limits are employed, the standards should not be so restrictive as to hamper the economic viability of the district.*

### **105. Indoor/Outdoor Operations**

All permitted uses in the CX1 district must be conducted within completely enclosed buildings unless otherwise expressly authorized. This requirement does not apply to off-street parking or loading areas, automated teller machines, or outdoor seating areas.

### **106. Floor-to-Floor Heights and Floor Area of Ground-floor Space**

(1) All commercial floor space provided on the ground floor of a mixed-use building must have a minimum floor-to-ceiling height of [11] feet.

(2) All commercial floor space provided on the ground floor of a mixed-use building must contain the following minimum floor area:

(a) At least [800] square feet or [25] percent of the lot area (whichever is greater) on lots with street frontage of less than [50] feet; or

(b) at least 20 percent of the lot area on lots with [50] feet of street frontage or more.

**Comment:** *In areas with strong residential real estate markets, ground-floor space is sometimes viewed as an afterthought, particularly when developed by those with a poor understanding of mixed-use development. These types of provisions can help ensure that ground-floor space will meet the needs of future retailers and not sit vacant for years after upper-floor residential units have been leased or sold.*

### **107. Lot Area per Unit (Density)**

The minimum lot area per dwelling unit shall be [1,000] square feet for mixed-use buildings and [1,500] square feet for all other buildings.

**Comment:** *If mixed-use buildings are desired, such buildings should be rewarded with more flexible development standards. The model ordinance allows higher residential densities in mixed-use buildings than it does in single-use buildings.*

### **108. Floor Area Ratio**

The maximum FAR shall be [2.0] for mixed-use buildings and [1.25] for all other buildings.

**Comment:** *To encourage mixed-use buildings, the model ordinance allows higher FARs for mixed-use projects.*

## 109. Setbacks

(1) The entire building façade must abut front and street side property lines or be located within [10] feet of such property lines.

**Comment:** *Rather than mandating a zero-foot “build-to” line for all properties in CX1 zoning districts, this model offers flexibility to accommodate shallow building setbacks that are sometimes necessary to accommodate features such as outdoor seating/display areas, stoops and sidewalk widening. Alternately, it is possible for the ordinance to establish a formula to determine setbacks based on the average setback of buildings in a block face. For an example of this, see Section 108 of the Model Town Center Ordinance (below).*

(2) The minimum rear setback is [0–30] percent of the lot depth.

**Comment:** *The appropriate minimum building setback will depend on lot and development patterns in the area. When alleys abut the rear of CX1 lots, no rear setback may be necessary, except perhaps for upper floors. On the other hand, when CX1-zoned lots will abut the rear property line of residential lots, buildings in the CX1 district should be set back from rear property lines in order to protect the privacy and open feeling expected within residential rear yards.*

(3) No interior side setbacks are required in the CX1 district, except when CX1-zoned property abuts R-zoned property, in which case the minimum side setback required in the CX1 district shall be the same as required for a residential use on the abutting R-zoned lot.

**Comment:** *Most pedestrian-oriented shopping streets are lined with buildings that span the entire width of the lot. The standard proposed here will help reinforce that pattern, while also ensuring that if a CX1 district abuts a residential zoning district, a “typical” residential side yard will be provided.*

## 110. Building Height

The maximum building height shall be [38–50] feet for mixed-use buildings and [35–47] feet for all other buildings.

**Comment:** *Some communities will want to regulate height by stories rather than feet above grade, since stories will allow for greater flexibility in building design. The standards proposed allow greater height for mixed-use buildings than for single-use buildings because mixed-use buildings are required to have taller floor-to-ceiling heights on the ground floor. The proposed standards will accommodate three- or four-story buildings.*

## 111. Off-Street Parking

(1) [Insert off-street parking standards]

(2) No off-street parking is required for nonresidential uses in CX1 districts unless such uses exceed [3,000] square feet of gross floor area, in which case off-street parking must be provided for the floor area in excess of [3,000] square feet.

**Comment:** *Paragraph (2) may be incorporated into paragraph (1). Exempting small retail businesses from compliance with off-street parking requirements will help promote pedestrian-oriented character and encourage use/reuse of storefront retail space. Communities should also*

*examine off-street parking ratios with an eye toward reducing the amount of off-street parking required overall and encouraging shared and off-site parking arrangements.*

(3) Off-street parking spaces must be located to the rear of the principal building or otherwise screened so as to not be visible from public right-of-way or residential zoning districts.

## **112. Transparency**

(1) A minimum of [60–75] percent of the street-facing building façade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas.

(2) The bottom of any window or product display window used to satisfy the transparency standard of paragraph (1) above may not be more than [3–4.5] feet above the adjacent sidewalk.

(3) Product display windows used to satisfy these requirements must have a minimum height of [4] feet and be internally lighted.

## **113. Doors and Entrances**

(1) Buildings must have a primary entrance door facing a public sidewalk. Entrances at building corners may be used to satisfy this requirement.

(2) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

**Comment:** *Requiring ground-floor windows and sidewalk-facing entrances help make for a more pleasing pedestrian environment.*

## **114. Vehicle and Driveway Access**

No curb cuts are allowed for lots that abut alleys.

**Comment:** *Driveways that cross sidewalks disrupt pedestrian movements and pose safety threats. They should be the rare exception in neighborhood-oriented mixed-use districts.*

## **References**

Denver, Colorado, City of. Div. 15. Mixed-Use Districts, Sections 59-301--59-320, website [accessed November 5, 2004]:

[www.municode.com/resources/gateway.asp?pid=10257&sid=6](http://www.municode.com/resources/gateway.asp?pid=10257&sid=6)

Fort Worth, Texas, City of. Zoning Code, Mixed Use Sections 4.902, Low-Density Mixed Use [accessed November 5, 2004]: [www.fortworthgov.org/csec/disclaimer.asp](http://www.fortworthgov.org/csec/disclaimer.asp)

Maryland, State of. Infill Development Model [accessed November 5, 2004]:  
[www.mdp.state.md.us/mgs/infill/InfillFinal\\_1.pdf](http://www.mdp.state.md.us/mgs/infill/InfillFinal_1.pdf)

Orland, Florida, City of. Southeast Orlando Sector Plan Development Guidelines and Standards [accessed November 5, 2004]: [www.cityoforlando.net/planning/deptpage/sesp/sespguid.htm](http://www.cityoforlando.net/planning/deptpage/sesp/sespguid.htm)