



RULE INTERPRETATION DETERMINATION


Determination #: 2020-001

Title: Permitted Density in Mixed Use Buildings in “D” Downtown District

Drafted by: Land Development Division, Zoning Section

Rule in Question: Section 35-381 “Mixed Use Buildings and Live-Work Units”

Department Action: This RID is for clarification purposes and includes a suggested UDC amendment. The Director concurs with staff’s position regarding the clarification of permitted density in Mixed Use Buildings for properties zoned “D” Downtown District.



Michael Shannon, PE, CBO
Development Services Director



Date

Effective Date of Determination: Immediately

Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.

Staff Analysis:

The intent of this RID is to clarify the permitted density within Mixed Use Buildings for properties zoned “D” Downtown District. The classification and use regulations for Dwelling – Attached Apartments/Condominiums uses in Table 35-311-2 “Non-Residential Use Matrix” have no restricted density for the “D” Downtown District as shown below. This use was adopted within the Unified Development Code in 2001 with Ordinance 93881.

TABLE 311-2 NONRESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Dwelling	Dwelling – Attached Apartments/Condominiums							P					

In Section 35-381 Mixed Use Buildings and Live-Work Units, permitted density is established within 35-381(b). For properties zoned “D”, the density within mixed use buildings or live-work units shall not exceed 6 units per acre or 50 units per acre, which is unclear as there are no additional standards to explain why limited to 6 units per acre. This provision was also established within the Unified Development Code 2001 with Ordinance 93881. The table of permitted uses below related to density allowances with reference to 35-381 is below:

TABLE 311-2 NONRESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 6 Dwellings Per Gross Acre, see also 35-381			P	P	P		P					P
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 10 Dwellings Per Gross Acre, see also 35-381					P		P					P
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 20 Dwellings Per Gross Acre, see also 35-381							P					P

The use of Dwelling – Attached Apartments/Condominiums was codified to permit unlimited density within the Downtown District. This creates a conflict within the code as the intent of this provision was to permit unlimited density within the downtown area, for properties zoned “D”. Additionally, the permitted use table indicating maximum density within Mixed Use Buildings creates confusion and should be clarified.

Staff Position and Interpretation: It is staff’s position that the UDC should be amended to clarify that mixed use buildings and live-work units built on properties zoned “D” Downtown

District have no restrictions on density. Additionally, the tables related to density restrictions in other zoning districts is confusing and needs clarification to determine maximum densities only. Below is the section to be amended.

Future UDC Amendments: In an effort to minimize confusion staff recommends that Section 35-311-2 and 35-311-2a be amended as follows:

TABLE 311-2 NONRESIDENTIAL USE MATRIX													
	PERMITTED USE	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 6 Dwellings Per Gross Acre, see also <u>35-381</u>			P	P	P		P					P
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 10 Dwellings Per Gross Acre, see also <u>35-381</u>					P		P					P
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 20 Dwellings Per Gross Acre, see also <u>35-381</u>							P					P

TABLE 311-2a NONRESIDENTIAL USE MATRIX													
		Urban		Rural		Farm		Mixed Industrial					
	PERMITTED USE	UD Major Node	UD Minor Node	KD Major Node	KD Minor Node	PK Ag Commercial	Center FR Minor Node	MI-1	MI-1 - Minor Node	Village Center - M1	MI-2	MI-2 Minor Node	Village Center - M2
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 6 Dwellings Per Gross Acre, see also <u>35-381</u>	P	P										
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 10 Dwellings Per Gross	P	P										

	Acre, see also 35-381																		
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 20 Dwellings Per Gross Acre, see also 35-381	P	P																
Dwelling	Dwelling - Attached Apartments/Condominiums With Maximum Density Of 50 Dwellings Per Gross Acre, see also 35-381	P																	

Section 35-381 (b) be amended as follows:

(b) The density of mixed-use buildings or live-work units shall not exceed the following, at locations where the building is listed as a permitted use in the Nonresidential Use Matrix (Table 311-2 - see listing under category "dwelling" and permitted use "dwelling - attached apartments"):

<i>Maximum Density (dwelling units per gross acre)</i>	<i>Zoning Districts</i>
6	NC, C-1, C-2, D, UD , ERZD
10	C-2, D, UD , ERZD
20	D, UD , ERZD
50	D, UD - major node only, ERZD