

MEMORANDUM

To	Town of Concord Planning Board
From	Emily Keys Innes, AICP, LEED AP ND, President
Date	April 17, 2025
Project	24138 – Concord Mixed-Use Zoning
Subject	Annotated Zoning - draft
Cc:	Elizabeth Hughes, Town Planner, Town of Concord Christine Zale, Senior Planner, Town of Concord

This memorandum analyzes the requirements of the existing Section 4.2.3 Combined business/residence and identifies questions for the Planning Board to consider. The feedback from these questions will be used to create draft text to modify or replace the bylaw. The memorandum begins by examining the existing language and, based on that analysis, annotates the existing text with a series of questions and precedents from other parts of the bylaw.

This analysis does not draw on the previous memorandum, dated March 3, 2025, which analyzed the same section with respect to 760 CMR 72.00 Multi-Family Zoning Requirements for MBTA Communities, as the Planning Board decided in the March meeting not to pursue compliance with those regulations for a Mixed-Use District.

Existing Zoning Bylaw

The existing language is in black text. Annotations underneath the text are shaded.

4.2.3 Combined business/residence: A dwelling unit or units may be located on the same lot where commercial uses are conducted provided that:

According to Table 1 – Principal Use Regulations, this use is currently allowed in the following districts: WCV, B, CCB, TDB, NACB, WCB, and LB (2, 3, and 7), and by special permit in MP. Site Plan Approval is required in all districts. Residential use on the first floor is not permitted in the West Concord Village District.

WCV	West Concord Village	WCB	West Concord Business
B	Business	LB	Limited Business
CCB	Concord Center Business	LB 2	59 Walden Street

TDB	Thoreau Depot Business	LB 3	22 and 34 Monument Square 27, 33, and 37 Bedford Street
NACB	Nine Acre Corner Business	LB 7	106 [100] Main Street

4.2.3.1 Each such unit is structurally part of the commercial building, having common walls, foundation, roof and floor;

Would the Town prefer to keep the residential use as an accessory use to an existing building?

Does the Town anticipate this zoning being used for new mixed-use buildings?

Are there any situations in which one or more residential units might be allowed in a separate building or buildings on the same parcel?

Would the Town be interested in allowing residential on the ground floor of a building that fronts the principal street, behind a required commercial or active ground floor use?

4.2.3.2 For development of four (4) or more units, at least twenty percent of the dwelling units (and no less than one unit) are available as affordable housing;

One unit out of four is a 25% requirement. The language does not state whether the Applicant is required to round up, but if so, multiples of four also require 25% (i.e., 20% of 8 is 1.6 rounded up to 2 units, which is 25%).

Other sections of the bylaw differ in how they treat affordability:

- Section 4.2.4.2 requires that 20% of the units be affordable but allows a reduction to 10% in exchange for affordable rent for industrial or non-retail use.
- The affordability requirement for the MCMOD (Section 7.11) is a threshold of ten or more units, with 20% of the units provided at 80% AMI.
- The Residential Cluster Development (Section 9) provides a density increase and reduction in open space in exchange for affordable housing.
- Planned Residential Development (Section 10) also includes a density bonus for affordable units.

Providing affordable housing is important, but units eligible for the SHI are not the only way to accomplish this goal. The threshold of four units may be a

deterrent for this section of the bylaw, as the threshold for applicability is much lower.

4.2.3.3 Open space shall be provided on the lot (apart from any paved area) equal to twice the gross floor area of the residential portion of the building. Any deck, balcony or rooftop garden shall be considered as open space if its floor area is more than twenty-five (25) square feet. The Board may grant a special permit to allow less than the required amount of open space if the Board finds that the proposed combined business/residence development is in harmony with the general purpose and intent of this Section and that it will not be detrimental or injurious to the neighborhood in which it is to take place.

This requirement is onerous. Some districts have a lot coverage requirement (LB 4, 5, 6, 7, 8, Industrial, Industrial Park A and B, Limited Industrial Park 1 and 2, and West Concord Industrial). Of these, Industrial and West Concord Industrial also have an open space requirement that is a subset of the maximum lot coverage.

Open space is not defined in the bylaw.

What is the Planning Board's goal for the open space requirement?

- Control on the intensity of building on the site (number of buildings or footprint of a single building)?
- Landscaped area for aesthetics?
- Landscaped area to manage stormwater and reduce heat island effect?
- Publicly accessible for customers of the commercial use?
- Privately accessible for tenants of the buildings?

Depending on the goal, the Planning Board could consider limiting impervious surfaces or requiring a minimum amount of open space per unit, which could be tied to the unit (such as a balcony) or aggregated as common space (such as a ground-floor terrace or roof deck).

4.2.3.4 Except in Limited Business District #2, in a combined business/residence building where more than ten 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, an increase in the height of the building to forty (40) feet and/or a decrease in the number of parking spaces if the Board finds that the proposed combined business/residence development is in harmony with the general purpose and intent of this Section and that it will not be detrimental or injurious to the neighborhood in which it is to take place.

This text automatically establishes a special permit waiver for an existing requirement. In other words, this bylaw requires that 20% of the units be affordable; the threshold for the waivers is 10% of the units.

The idea of flexibility is important, but the thresholds should be set for the preferred development conditions first. Flexibility for height might be better tied to an affordability bonus (and its presence in the current bylaw suggests that new buildings were anticipated or that the reuse of existing buildings might require a height waiver because of existing nonconformities relative to height).

Flexibility for ground plane elements (lot coverage, open space, and parking) might be appropriate for irregular lot shapes or other lot conditions that affect the layout of the components.