

CITY OF MARCO ISLAND

ORDINANCE 07-01

AN ORDINANCE TO AMEND CHAPTER 30, THE LAND DEVELOPMENT CODE PORTION OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES; TO AMEND SECTIONS 30-184(10) AND 30-224(16) OF THE C-1 AND C-3 COMMERCIAL ZONING DISTRICTS; TO AMEND CRITERIA RELATING TO BUILDING HEIGHT FOR MIXED RESIDENTIAL AND COMMERCIAL USES; TO AMEND SECTION 30-628, ARTICLE VIII (ARCHITECTURAL AND SITE DESIGN STANDARDS) TO EXPRESSLY PROHIBIT MIXED USE IN OVERLAY DISTRICT TWO-D (COMMUNITY CENTER SUBDISTRICT); PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Marco Island City Charter empowers the City to adopt, amend, or repeal ordinances, resolutions, and codes as may be required for the good governing of the City; and

WHEREAS, the City staff has been requested by the City Council to draft amendments to the Land Development Code (LDC); and

WHEREAS, following a public hearing, the Planning Board considered the recommendation of staff and public input and recommended, that proposed text amendments to the City's Land Development Code, be adopted; and

WHEREAS, Mixed use development is considered the development of a tract of land, buildings, or structure with a variety of complementary and integrated uses and which development includes residential uses together with commercial uses such as office, retail, restaurants, or entertainment in compact urban form.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

Section 1. That Section 30-184(10), which section is applicable to the C-1 and C-1/T zoning districts, is hereby amended to read as follows (with underlining indicating new text additions and strikeout indicating deletions):

Sec. 30-184. Conditional uses.

(10) Mixed residential and commercial uses only within the following Architectural Overlay Districts and subject to the following criteria:

1. Architectural Overlay District Two – b. (Collier Boulevard Pedestrian Tourist Sub-District (South Section) described and illustrated in Section 30-628:

- a. Based upon surrounding land uses, location, and compatibility, the commercial uses in the development, hours of operation, dumpster locations, size of delivery trucks, and type of equipment may be limited;
- b. Residential and commercial uses may occupy the same floor of a building, except residential uses are prohibited on the first habitable floor;
- c. The number of residential dwelling units shall be controlled by the dimensional standards of the C-1, C-1/T district, together with the specific requirement that in no instance shall the residential uses exceed 50 percent of the gross floor area of the building or the density permitted under the growth management plan;
- d. Each residential dwelling unit shall contain the following minimum floor areas: efficiency and one-bedroom, 450 square feet; two-bedroom, 650 square feet; three-bedroom, 900 square feet;
- e. A minimum of 24 percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: Areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot island may not be used unless existing native vegetation is maintained);
- f. The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential used through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible;
- g. Maximum building height: two stories, not to exceed 35 feet;
- h. The maximum height of a mixed use structure shall be measured from the base flood elevation to the mid-point of the roof;
- i. The location of proposed uses within the site and the degree of compatibility of such uses with each other and surrounding property;
- j. The existing residential density and intensity of commercial use of surrounding property;
- k. The availability and location of utilities, services, and public facilities; and
- l. The access to and suitability of transportation systems and routes.

2. Architectural Overlay District Two – c. (Barfield Sub-District) described and illustrated in Section 30-628:

- a. Based upon surrounding land uses, location, and compatibility, the commercial uses in the development, hours of operation, dumpster locations, size of delivery trucks, and type of equipment may be limited;
- b. Residential and commercial uses may occupy the same floor of a building, except residential uses are prohibited on the first habitable floor;
- c. The number of residential dwelling units shall be controlled by the dimensional standards of the C-1, C-1/T district, together with the specific requirement that in no instance shall the residential uses exceed 50 percent of the gross floor area of the building or the density permitted under the growth management plan;
- d. Each residential dwelling unit shall contain the following minimum floor areas: efficiency and one-bedroom, 450 square feet; two-bedroom, 650 square feet; three-bedroom, 900 square feet;
- e. A minimum of 24 percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: Areas used to satisfy water management requirements, landscaped areas,

recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot island may not be used unless existing native vegetation is maintained);

- f. The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential used through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible;
- g. Maximum building height: two stories, not to exceed 35 feet;
- h. The maximum height of a mixed use structure shall be measured from the base flood elevation to the mid-point of the roof;
- i. The location of proposed uses within the site and the degree of compatibility of such uses with each other and surrounding property;
- j. The existing residential density and intensity of commercial use of surrounding property;
- k. The availability and location of utilities, services, and public facilities; and
- l. The access to and suitability of transportation systems and routes.

~~3. Architectural Overlay District Two — d. (Community Center Sub-District) described and illustrated in Section 30-628:~~

- ~~a. Based upon surrounding land uses, location, and compatibility, the commercial uses in the development, hours of operation, dumpster locations, size of delivery trucks, and type of equipment may be limited;~~
- ~~b. Residential and commercial uses may occupy the same floor of a building, except residential uses are prohibited on the first habitable floor;~~
- ~~c. The number of residential dwelling units shall be controlled by the dimensional standards of the C-1, C-1/T district, together with the specific requirement that in no instance shall the residential uses exceed 50 percent of the gross floor area of the building or the density permitted under the growth management plan;~~
- ~~d. Each residential dwelling unit shall contain the following minimum floor areas: efficiency and one bedroom, 450 square feet; two bedroom, 650 square feet; three bedroom, 900 square feet;~~
- ~~e. A minimum of 24 percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: Areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot island may not be used unless existing native vegetation is maintained);~~
- ~~f. The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential used through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible;~~
- ~~g. Maximum building height: 35 feet;~~
- ~~h. The maximum height of a mixed use structure shall be measured from the base flood elevation to the mid-point of the roof;~~
- ~~i. The location of proposed uses within the site and the degree of compatibility of such uses with each other and surrounding property;~~

- ~~j. The existing residential density and intensity of commercial use of surrounding property;~~
- ~~k. The availability and location of utilities, services, and public facilities; and~~
- ~~l. The access to and suitability of transportation systems and routes.~~

Section 2. That Section 30-224(16), which section is applicable to the C-3 zoning district, is hereby amended to read as follows (with underlining indicating new text additions and strikeout indicating deletions):

Section 30-224. Conditional uses

(16) Mixed residential and commercial uses only within the following Architectural Overlay Districts and subject to the following criteria:

1. Architectural Overlay District Two – b. (Collier Boulevard Pedestrian Tourist Sub-District (South Section) described and illustrated in Section 30-628:

- a. Based upon surrounding land uses, location, and compatibility, the commercial uses in the development, hours of operation, dumpster locations, size of delivery trucks, and type of equipment may be limited;
- b. Residential and commercial uses may occupy the same floor of a building, provided the commercial uses are consistent with the C-1 and C-1/T zoning districts and residential uses are prohibited on the first habitable floor;
- c. The number of residential dwelling units shall be controlled by the dimensional standards of the C-3 district, together with the specific requirement that in no instance shall the residential uses exceed 50 percent of the gross floor area of the building or the density permitted under the growth management plan;
- d. Each residential dwelling unit shall contain the following minimum floor areas: efficiency and one-bedroom, 450 square feet; two-bedroom, 650 square feet; three-bedroom, 900 square feet;
- e. A minimum of 24 percent of the mixed-use development shall be maintained as open space. The following may be used to satisfy the open space requirements: areas used to satisfy water management requirements; landscaped areas; recreation areas; or setback areas not covered with impervious surface or used for parking (parking lot islands may not be used unless existing native vegetation is maintained);
- f. The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential uses through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible;
- g. Maximum building height: four stories, not to exceed 50 feet;
- h. The maximum height of a mixed use structure shall be measured from the base flood elevation to the mid-point of the roof;
- i. The location of proposed uses within the site and the degree of compatibility of such uses with each other and surrounding property;
- j. The existing residential density and intensity of commercial use of surrounding property;
- k. The availability and location of utilities, services, and public facilities; and
- l. The access to and suitability of transportation systems and routes.

2. Architectural Overlay District Two – c. (Barfield Sub-District) described and illustrated in Section 30-628:

- a. Based upon surrounding land uses, location, and compatibility, the commercial uses in the development, hours of operation, dumpster locations, size of delivery trucks, and type of equipment may be limited;
- b. Residential and commercial uses may occupy the same floor of a building, provided the commercial uses are consistent with the C-1 and C-1/T zoning districts and residential uses are prohibited on the first habitable floor;
- c. The number of residential dwelling units shall be controlled by the dimensional standards of the C-3 district, together with the specific requirement that in no instance shall the residential uses exceed 50 percent of the gross floor area of the building or the density permitted under the growth management plan;
- d. Each residential dwelling unit shall contain the following minimum floor areas: efficiency and one-bedroom, 450 square feet; two-bedroom, 650 square feet; three-bedroom, 900 square feet;
- e. A minimum of 24 percent of the mixed use development shall be maintained as open space. The following may be used to satisfy the open space requirements: Areas used to satisfy water management requirements, landscaped areas, recreation areas, or setback areas not covered with impervious surface or used for parking (parking lot island may not be used unless existing native vegetation is maintained);
- f. The mixed commercial/residential structure shall be designed to enhance compatibility of the commercial and residential used through such measures as, but not limited to, minimizing noise associated with commercial uses; directing commercial lighting away from residential units; and separating pedestrian and vehicular access ways and parking areas from residential units, to the greatest extent possible;
- g. Maximum building height: two stories, not to exceed 35 feet ~~50-feet~~;
- h. The maximum height of a mixed use structure shall be measured from the base flood elevation to the mid-point of the roof;
- i. The location of proposed uses within the site and the degree of compatibility of such uses with each other and surrounding property;
- j. The existing residential density and intensity of commercial use of surrounding property;
- k. The availability and location of utilities, services, and public facilities; and
- l. The access to and suitability of transportation systems and routes.

Section 3. That Section 30-628 of the Architectural Overlay Districts 1-4 is hereby amended to read as follows (with underlining indicating new text additions and strikethrough indicating deletions):

Section 30-628. Architectural overlay districts 1 – 4.

The purpose of the architectural overlay districts (1 – 4) is to encourage development in conformance with the city’s comprehensive plan, the future land use map, and city zoning map; to promote and enhance the Island’s small town character and prominent styles of architecture; with the intent to develop pedestrian friendly, high quality, commercial and mixed use projects. Exterior building colors and materials contribute significantly to the visual impact of a building, of which shall be well designed and integrated into a comprehensive design style for the project. The following information represents architectural styles, building materials and design standards for overlay districts one, two, three, and four:

- (1) *Overlay district one (town center mixed use district).* The purpose of architectural overlay district no. 1 (see Exhibit A) is to encourage development in conformance with the intended character (Mediterranean, Polynesian, and Bermuda Island style, or a Southwest Florida Vernacular style) of the town center mixed use district; to provide incentives for redevelopment that is directed towards supporting pedestrian, bicycle and vehicular access; and to enhance the image and architectural attractiveness of commercial and mixed use development.
 - a. Minimum yard requirements: Front, rear, and side yard setbacks per existing commercial zoning regulation. For property located along a navigable waterway, landscaping provided along the side yard shall be preserved as a view corridor, maintained at three feet and below for shrubs and above seven feet for canopy trees. (See illustration 8.1.1, on file in the office of the city clerk.)
 - b. Elkcam Circle Zoning Overlay: Reserved.
 - c. For exterior building materials and style standards see supplemental illustration 8.1.3, on file in the office of the city clerk.

- (2) *Overlay district two (Collier Boulevard pedestrian tourist subdistricts (north and south), Barfield subdistrict and community center subdistrict).* The purpose of architectural overlay district no. 2 (see overlay district exhibits two – a., two – b., two – c., and two – d. is to encourage development in conformance with the intended character (Mediterranean and Bermuda Island style, or a Southwest Florida Vernacular style) of the Collier Boulevard pedestrian tourist subdistrict, Barfield subdistrict, and community center subdistrict; to provide incentives for redevelopment that is directed towards supporting pedestrian, bicycle and vehicular access; and to enhance the image and architectural attractiveness of commercial development in overlay districts two - a. and two - d., and mixed use development in overlay districts two - b. and two – c. and ~~two - d.~~
 - a. Minimum yard requirements: Front, side, and rear per existing commercial zoning regulation.
 - b. For exterior building materials and style standards see supplemental illustration 8.2.2, on file in the office of the city clerk.

- (3) *Overlay district three (Marco Lake Subdistrict).* The purpose of architectural overlay district no. 3 (see Exhibit C) is to encourage development in the Marco Lake Subdistrict, to provide incentives for redevelopment that is directed towards supporting pedestrian, bicycle and vehicular access; and to enhance the image and architectural attractiveness of commercial and mixed use development.
 - a. Minimum yard requirements: Front, rear, and side yard setbacks per existing commercial zoning regulation.
 - b. For exterior building materials and style standards see supplemental illustration 8.3.2, on file with the city clerk.

- (4) *Overlay district four (village commercial district).* The purpose of architectural overlay district no. 4 (see Exhibit D) is to encourage development in conformance with the intended character (Old Florida and Victorian/Key west style, or Southwest Florida Vernacular style) of the village commercial district; to provide incentives for

redevelopment that is directed towards supporting pedestrian, bicycle and vehicular access; and to enhance the image and architectural attractiveness of commercial and mixed use development.

- a. Minimum yard requirements: Front, rear, and side yard setbacks per existing commercial zoning regulation.
- b. For exterior building materials and style standards see supplemental illustration 8.4.2, on file with the city clerk.

Section 4. It is the intention of the City Council and it is hereby ordained that the provisions of the Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article" or other appropriate word.

Section 5. All sections or parts of sections of the Code and Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

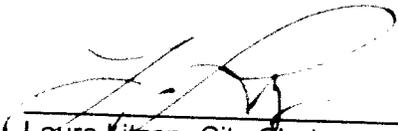
Section 6. In the event this Ordinance conflicts with any other Ordinance of the City of Marco Island or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

Section 7. This ordinance shall become effective immediately upon adoption for eliminating mixed use within Overlay District Two-d. (Community Center Subdistrict). Reductions to building height shall become effective two years after adoption of this ordinance. Any applications submitted for conditional use approval pursuant to existing Sections 30-184(10) and 30-224(16) of the Code of Ordinances prior to the effective date of this ordinance shall be subject to the criteria in effect at the time of application's submittal, provided such application is deemed by the City as sufficient and complete.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida this 22nd day of January 2007.

Attest:

CITY OF MARCO ISLAND, FLORIDA

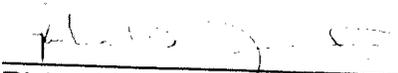


Laura Litzan, City Clerk

By: 

Terri DiSciullo, Chairwoman

Approved as to form and legal sufficiency:



Richard D. Yovanovich, Esquire
City Attorney