

MEMORANDUM

To: City of The Village of Douglas City Council
Date: September 28, 2023
From: Tricia Anderson, AICP
RE: **Proposed Amendment to Section 26.13:
Ground Floor Residential Special Land Use Standards**

At the October 2, 2023, the City Council will consider the final approval and second reading of the proposed amendment concerning Section 26.13 of the City of the Village of Douglas Zoning Ordinance. At the first reading, held on August 7, 2023, the City Council recommended that the DDA provide feedback on the proposed amendment which would affect properties within the boundaries of the DDA that are zoned C-1, Village Center.

As you may recall, C-1 Village Center, allows mixed-use buildings by right, provided that the ground floor contains a commercial use that is facing the street. As a special land use, this district allows mixed-use buildings to contain ground-floor residential as a special land use if the following standards shown in Figure 1 can be met.

The area highlighted in yellow is the section that is proposed to be removed from this section, this standard precludes some of the C-1 zoned parcels from being able to allow ground-floor residential. Again, we believe the intent of this standard was for proposed ground floor residential uses to abut another residential use, however, zoning districts that permit residential uses, such as C-1

Section 26.13 Ground Floor Residential

1) Locational Requirements: Residential uses shall be permitted on the ground floor of a structure located in the C-1 District only where such use does not front upon Center Street.

2) Site Requirements:






-  a) All residential dwelling units on the ground floor of a structure located within the C-1 District shall be set back a minimum of thirty (30) feet from the Center Street right-of-way to avoid breaking up the continuity of active commercial areas along Center Street.
-  b) All ground floor structures used for residential purposes shall be located on property which abuts property zoned R-1, R-2, R-3, R-4 or R-5 on at least one side.
-  c) The Planning Commission shall make a determination that the regular flow of pedestrian traffic to and from established commercial uses is not likely to be negatively reduced or impeded by the residential use within a ground floor structure.
-  d) Any application for Ground Floor Residential use within the boundaries of the Downtown Development Authority shall be submitted to the DDA Board for recommendation prior to Planning Commission approval.
-  e) All standards of Article 10 C-1 Village Center District shall apply to a ground floor residential use except that the minimum transparency requirements set forth within Section 10.02, D, may be reduced to no less than 30% to insure the safety and privacy of residents.

Fig. 1

(Amended October 19, 2009: Ord. #03-2009)

and PUD are not included in the list of zoning districts that a parcel must abut in order to be eligible for ground floor residential.

The purpose of this memorandum is to provide a summary of the comments and concerns expressed by the members of the DDA when this proposed amendment was presented to them at their 9/27/23 regular meeting:

- ▷ **Will residential uses take over ground floor space historically occupied by commercial uses?** Some members were concerned that the amendment would result in residential uses taking away from the commercial uses that provide the economic viability within the DDA. We assured the DDA members that the other standards within Section 26.13 would prevent the frontage of a building from being occupied by a residential use.
- ▷ **Why not just make an exception for 200 Center Street?** It was explained that the proposed amendment was initiated by a proposed mixed use development at 200 Center Street. The applicant proposed ground-floor residential as a way to off-set the construction costs, as only upper-floor units would require an elevator to comply with ADA requirements. Some members of the DDA expressed concern that the amendment would affect the entire C-1 district and inquired as to why the applicant could not seek a variance, so that the other parcels would not be affected. We explained that the ZBA does not have jurisdiction over special land use standards, and that the majority of the other parcels are already afforded the right to have ground floor residential, provided all the special land use standards can be met. As it relates to part b, the majority of the parcels along Center Street are able to meet this standard, as they abut a residentially zoned district.
- ▷ **What is the definition of “abut”?** Part b currently requires the parcel proposed for ground floor residential to “abut” a parcel zoned residential on at least one side. Some were concerned that the alleyway or public roads that separate the C-1 zoned parcels from the R-3 zoned parcels didn’t actually “abut” a residentially zoned district because the map does not show the road as belonging to any one zoning district. We explained that in our view, “abut” would be interpreted in this case as across the street. Some communities extend zoning districts into the roadways, some do not. And, depending on what map you’re viewing, the road is included in a zoning district and on others it is not.
- ▷ **Could a mixed-use building be bulldozed and redeveloped with a multi-family apartment complex as a result of this amendment?** One member of the DDA was concerned that this amendment may open the door to any type of residential on C-1 zoned parcels. We assured him that this would not be permitted, as multi-family (unless part of a mixed-use building) and single family uses are not permitted in the C-1 district.

If the Council is inclined to offer an approval of the proposed amendment, the DDA would still have the opportunity to review proposals for ground floor residential on a case by case basis.

If any questions arise, please do not hesitate to contact us!