



**NEW HANOVER COUNTY
PLANNING & INSPECTIONS
DEPARTMENT
TEXT AMENDMENT**

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Name of Petitioner Cindee Wolf / Design Solutions	Date Feb 2, 2017	Application Number (Staff Use Only):
Address P.O. Box 7221		Email Address cwolf@lobodemar.biz
City, State, Zip Wilmington, NC 28406		Name of Text to be changed Article VI: Section 72-43
Telephone Number 910-620-2374		Section of Text to be changed Minimum Setbacks & Height

SUBMISSION REQUIREMENTS

- Petition must be reviewed by Planning & Zoning for completeness prior to acceptance. A **\$400.00 fee** payable to New Hanover County **MUST** accompany the petition. No supplemental information is required as part of the application. However, Planning & Zoning, Planning Board, and Board of County Commissioners reserve the right to require additional information, if needed, to assure that the proposed text amendment is in accordance with all County plans and policies.

REVIEW PROCEDURES

- Petitions for a text amendment are first referred to the New Hanover County Planning Board and then acted upon by the New Hanover County Board of Commissioners. The owner/applicant and or authorized agent should plan to attend all meetings at which this request will be heard.
- Complete petitions and supplementary information **must be accepted by** Planning & Zoning **twenty (20) working days** before the Planning Board meeting to allow adequate time for processing and advertisement as required by the North Carolina General Statutes. All amendments must be consistent with the comprehensive plan, reasonable and in the public interest. Please explain how the proposal meets those requirements. (Add pages as needed).
- Planning Board meetings are held at **5:30PM** in the Commissioner's Assembly Room in the Old County Courthouse, at Third and Princess Streets, Wilmington, North Carolina, on the first Thursday of each month. If the Planning Board approves your petition, the request will automatically be referred to the Board of County Commissioners.
- If your petition is denied, you may appeal to the Board of Commissioners. Planning & Zoning can advise you regarding appeal procedures.

PROPOSED TEXT CHANGE (attach additional pages as needed)

Reference attached Action Requested, Justification & Impacts statements.

Signature (Print and Sign) _____
Cynthia A. Wolf / *Cynthia A. Wolf*

Proposed Text Amendment

Action Requested

Article and Section of the Land Development Code to be amended:

Article VI: Supplementary District Regulations / Section 72-43: High Density Development

(5) Setbacks and Uses

- (A) The required minimum setback for High Density development shall not be less than twenty-five **(25)** feet. (7/5/95) When such projects are located and adjacent to any existing detached residential development (not including Mobile Home Parks or other High Density or Planned Developments), **structures over twenty-five (25) feet in height shall be set back a distance equal to the height of the structure.** ~~calculated from the following formula:~~

~~1. Required setback = (Building Height) x (2.75)~~

~~2. Reductions in setbacks~~

~~(i) The required setbacks may be reduced as specified in Section 62. In no case, however, shall the minimum setback be less than 25 feet.~~

~~3. Uses in the yards~~

~~(i) The part of the yard adjacent to the residential uses shall be used only for buffer strips and as specified in Section 62.~~

- ~~(B) Attached Residential development adjacent to any existing detached residential structure or platted lot (not including Mobile Home Parks, Planned Developments, or other High Density developments, shall meet the following additional requirements:~~

~~1. The density within the 200 foot wide strip in the High Density development adjacent to the existing detached residential development shall be no greater than three times the maximum performance residential density permitted within the existing detached residential development.~~

~~2. The minimum required setback for attached dwelling units within this strip from the existing detached residential development shall be calculated as follows:~~

~~a. Required setback = (Building Height) x (3.73)~~

~~b. The required setbacks may be reduced as specified in Section 62. In no case, however, shall the minimum setback be less than 50 feet.~~

~~c. The part of the yard adjacent to the existing detached residential use shall be used only for buffer strips and as specified in Section 62. (3/5/90)~~

Justification

The existing Code requirements are arbitrarily based on multipliers to building heights with no consideration of the structure type(s). Adherence to the current minimum requirements result in excessive setbacks, even when the proposed project has a similar character to the adjacent housing. For example, a two-story / twenty-five (25) foot high detached home must set back over sixty-eight (68) feet from the perimeter boundary, simply because it is in a high-density development. If that same structure had attached units, the setback could be as much as ninety-three (93) feet.

New Hanover County's "high-density development" provision is comparable to most jurisdiction's "multi-family" zoning districts. I found no other Ordinances, in comparable jurisdictions, that used a multiplier for calculating setbacks. The suggested amendment gives clear guidance and still adjusts setback to increased height beyond what would be normal in a single-family residential structure.

Likewise, the "fringe" requirements have no logical basis. The specific project density can be determined based on the location and layout of the development proposal when being reviewed for consistency during the special use permit process.

Impact

New Hanover County has become a much more suburban area, and there are more high-density housing projects being proposed. However, high-density development is only permitted by Special Use Permit, and therefore can be subject to more specific conditions dependent on the particular project location or character, and other criteria for consistency and harmony with the area in which it is to be located.

The Ordinance still provides buffer requirements for the protection of adjoining land uses when high-density development is proposed. It is the natural vegetation, fenced and planted, or more heavily planted landscaping along perimeter boundaries with lesser-density uses that provides that physical separation and visual opacity. Reducing the setbacks would allow more versatility in the layout, such as not having to place the parking areas adjacent around the perimeter of the site since that would be the only way to avail the land areas within the extensive setbacks.

AND

(11) Maximum allowable height for structures shall be **forty (40)** ~~35~~ feet. However, the maximum ...

Justification

Architectural trends have raised interior ceiling heights for most residential structures, and hence it is extremely difficult to design a three-story structure - typical of high-density development - and still maintain the 35-maximum height without creating a virtually flat roof, which is less consistent with the residential character generally sought in the project aesthetics.

High-density developments have prescribed conditions for locations specific to Comprehensive Land Use Plan land classifications, and with direct access to a major of minor arterial streets. Multi-family development is a reasonable transitional use between busy road corridors and lower-density established neighborhoods. The Office & Institutional (O&I) district is similarly a transitional use, and provides for a maximum height allowance of forty (40) feet.

Impact

Since this provision is exclusive to high-density development, which is only permitted by Special Use Permit, it would have no impact on conventional residential housing, or even performance residential attached housing. Both of those would still be limited to 35' as by-right uses in all residential districts.

AND

Article VI: Supplementary District Regulations / Section 62.1-4

- (1) Location of Buffer Strips – Buffer strips shall be required to screen any non-residential use from any residential use or district. Buffer strips shall also be required to screen any ~~residential use or district from any attached housing development or mobile home park or High density Development or Planned Development~~ attached residential development, mobile home park, high density development, or planned development from any existing detached residential structure(s) or platted residential lots, or proposed residential lots included within an approved and valid preliminary plat for a major subdivision.

Justification

The existing Code requirement is confusing and can be interpreted to suggest that a buffer is necessary between like uses, or penalize a permitted commercial use because an adjacent commercial use happens to maintain a grand-fathered / non-conforming residential use along with their primary use.

New Hanover County's "high-density development" provision is comparable to most jurisdiction's "multi-family" zoning districts. However, the wording of the current code mandates a buffer based on a description of an adjacent property being in a "residential" district, even if that land use is the same development type.

The purpose of buffer strips is the protect adjoining land uses, particularly residential, from the impacts of more intense land uses.

Impact

Buffer requirements are absolutely necessary for the protection of existing residential development and of lower intensity districts not yet developed. The proposed changes to the wording do not negate the requirement to provide preservation of the character of those areas. It simply clarifies the situations for which the buffer should be mandated.