

STAFF SUMMARY OF TA17-01 TEXT AMENDMENT APPLICATION

APPLICATION SUMMARY

Case Number: TA17-01

Request:

To amend the setback, density fringe area, height, and buffer requirements of high density developments.

Applicant:

Cindee Wolf of Design Solutions

Subject Ordinance:

Zoning Ordinance

Subject Article(s) and Section(s):

- Article VII: Provisions for Uses Allowed as Special Uses
 - Section 72-43: High Density Development
- Article VI: Supplementary District Regulations
 - Section 62.1-4: Additional Requirements for Berms and for Yards in which Buffers are Required

BACKGROUND

The applicant is seeking to amend certain regulations for high density developments. A high density development is a residential development that exceeds the density limits of the applicable zoning district. These developments are permitted in the R-10, R-15, R-20, and O&I zoning districts with a special use permit, and in the PD zoning district by-right. Also, high density developments are only permitted in the Urban Mixed Use, Community Mixed Use, and Employment Center place types, and must have access to a major or minor arterial street.

In order to mitigate potential impacts high density developments may have on the surrounding area, the Zoning Ordinance contains specific regulations for the use. These regulations include requiring increased setbacks and additional buffer strips.

The application proposes to reduce the setbacks/density fringe area, height, and buffer strip requirements of high density developments. Below, staff examines each requirement individually and offers a recommendation on each.

PART 1 – SETBACKS/DENSITY FRINGE AREA

Proposed Text

Red and Underline/Strikethrough – Petitioner’s Proposed Additions/Deletions

Article VII: Provisions for Uses Allowed as Special Uses – **Section 72-43:** High Density Development

1 (5) Setbacks and Uses

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

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~~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)~~

~~(C) (B)~~ In no case shall any part of a detached single-family dwelling unit be located closer than ten (10) feet to any part of any other detached single-family dwelling, and in no case shall any part of a multiple dwelling unit be located closer than twenty (20) feet to any part of another dwelling unit. (6/1/92)

Staff's Position

Currently, when high density developments are located adjacent to a detached single-family development, the setback is based on the height of the structure and the housing type. Specifically, the required setbacks are calculated by multiplying the structure's height by either 2.75 or 3.73. For a typical 35-foot-tall, three-story apartment building, the Zoning Ordinance would require a setback of 130 feet.

When comparing the setback requirements to other similar or nearby communities' multi-family standards, staff found that the county's requirements are by far the strictest:

Multi-Family Setbacks	
Community	Required Setback
Wilmington	Setbacks range from 5 to 35 feet depending on property line (front, side, or rear) and zoning district. Setbacks are increased when

	buildings exceed 35 feet in height. Maximum building height is 96 feet.
Guilford County	Sides: 10 feet. Rear: 25 feet. Front: 25-95 feet depending on the street classification, zoning district, and height of the structure.
Wake County	No additional setbacks for multi-family developments. However, multi-family developments generally only consist of only 2-4 unit buildings and require additional land area. Large apartment complexes generally must annex into a municipality in order to obtain access to utilities.
Greenville, NC	20 foot setback along all property lines. The setback increases by one foot for each foot in height the structure is over 35 feet tall.
Pender County	Setbacks are determined by the Planning Board and Board of Commissioners through the rezoning process.

The current text also limits the density of high density developments containing attached housing units when they are located within 200 feet of an existing detached residential structure or platted lot. Specifically, the density within this area must be no greater than three times the maximum density allowed in the adjacent detached residential development. For example, a high density development would only permit 7.5 dwelling units per acre in the 200 foot “density fringe area” abutting a detached residential development in the R-15 zoning district, which permits 2.5 dwelling units per acre.

The proposed text would reduce the setback requirement and completely remove the “density fringe area”. The proposed setbacks would be from 25 feet up to the height of the structure, which is currently a maximum of 35 feet. However, the applicant is requesting the maximum height requirement of the high density developments to be increased to 40 feet as explained in Part 2 of this summary.

With the adoption of the 2016 Comprehensive Plan, high density mixed use developments are encouraged in appropriate place types. As previously stated high density developments are permitted in areas classified as Employment Center, Urban Mixed Use, and Community Mixed Use on the county’s Future Land Use Map. These place types promote compatible uses to be located next to one another in order to make alternative modes of transportation more viable.

The current setbacks and density requirements may hinder the type of development promoted in the Comprehensive Plan from locating in the areas where they are most appropriate. Suitable areas would include the infrastructure (transportation network, utilities, and supporting nonresidential uses) to support multi-family development and overall, the mixed use development pattern which promotes alternative modes of transportation and maximizing the efficient use of land.

Further, these high density developments require review from the Planning Board and Board of Commissioners, either through the special use permit process or through a rezoning to the PD zoning district. These processes provide for the opportunity for potential impacts of the proposed development to be closely examined, and if determined to be necessary, additional conditions like increased setbacks can be added.

Therefore, staff is supportive of this portion of the proposed amendment.

PART 2 – MAXIMUM HEIGHT

Proposed Text

Red and Underline/~~Strikethrough~~ – Petitioner’s Proposed Additions/Deletions

Article VII: Provisions for Uses Allowed as Special Uses – **Section 72-43:** High Density Development

- 1 (11) Maximum allowable height for structures shall be forty (40) ~~35~~ feet. However, the maximum
2 allowable height for piling supported primary structures which are located in "Coastal High
3 Hazard Areas, V-Zones" and/or Ocean Hazard Areas as defined by the Coastal Resources
4 Commission shall be 44 feet. (10/5/92)

Staff’s Position

Currently, the Zoning Ordinance limits the height of structures depending on the type of development or the zoning district in which it is located. The current maximum height standards of the county’s zoning districts are as follows:

Zoning District	Residential Districts*	B-1	B-2	O&I	SC	AI	I-1	I-2
Maximum Height in Feet	35	35	40	40	none	35	40	none

*AR, RA, R-20S, R-20, R-15, R-10, & R-7

Typically, local governments have established maximum height standards to ensure adequate fire protection. Some firefighting apparatuses may only be able to effectively serve a 35-foot-tall structure, hence the requirement. Staff has confirmed with the county’s Fire Services Department that the county’s fire departments can provide fire protection to 40-foot-tall structures.

The 2016 Comprehensive Plan encourages structures of up to seven stories in height in certain areas. Therefore, staff is supportive of this portion of the proposed amendment.

PART 3 – Buffer Strips

Proposed Text

Red and Underline/~~Strikethrough~~ – Petitioner’s Proposed Additions/Deletions

Article VI: Supplementary District Regulations – **Section 62.1-4:** Additional Requirements for Berms and for Yards in which Buffers are Required

- 1 (1) Location of Buffer Strips – Buffer strips shall be required to screen any non-residential use
2 from any residential use or district. ~~Buffer strips shall also be required to screen any~~
3 ~~residential use or district from any attached housing development or mobile home park or~~
4 ~~High Density Development or Planned Development~~ Buffers strips shall also be required
5 to screen the below developments from the adjacent land uses, however, no buffer will
6 be required for high density detached lots provided lots equal or exceed 5000 square

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feet (10/7/91). Buffer strips shall be required only along the perimeter boundary of an EDZD (3/1/10).

<u>New Development of Subject Site</u>	<u>Must Provide Buffer Strips From:</u>
<ul style="list-style-type: none"> • <u>Attached residential developments;</u> • <u>Mobile home parks;</u> • <u>High density developments; or</u> • <u>Planned developments.</u> 	<ul style="list-style-type: none"> • <u>Detached or duplex residential structure;</u> • <u>Undeveloped residentially zoned land within the General Residential or Rural Residential place types;</u> • <u>Platted residential lots; or</u> • <u>Proposed residential lots included within an approved and valid preliminary plat for a major subdivision.</u>

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In addition, staff noticed potentially confusing organization of the screening standards in the Zoning Ordinance. These standards require items like dumpsters and HVAC units to be screened from adjacent properties or right-of-ways. Currently, these standards are located in the buffer strip section, however the required screen is technically not a buffer strip. In an effort to provide better clarity to the applicability of these standards, staff is proposing to relocate them to their own section of the Zoning Ordinance:

Red and Underline/Strikethrough – Petitioner’s Proposed Additions/Deletions

The following subsections of section 62.1-4 shall be relocated to a new section: 62.1-4.1: Additional Screening Requirements

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- (~~5~~) Uses in the rear and side yards abutting a residential use - The following uses shall be shielded from view from the property line of the residential use by means of a 100% opaque solid wall.
1. dumpsters or other trash holding areas
 2. outside storage areas
 3. loading/unloading areas
 4. heating/air conditioning units, including roof mounted units.

In addition, all lights shall be shielded in such a manner that light from the fixture will not directly radiate into the ~~buffer strip or beyond~~ adjacent property.

- (~~7~~) Screening for Dumpsters and Outside Storage along Public Right-Of-Ways The following uses shall be screened from the view of any public right-of-way or adjacent property. Screening shall be at least 8 ft. in height and may consist of living and nonliving material as specified in this section.
1. The rear side of a building where that side abuts a street right-of-way, or any dumpster or trash receptacle storage area used in connection with any business establishment.

- 19 2. Any outside storage area for vehicles awaiting repair in connection with any
20 automotive or motor vehicle repair business, where the number of such vehicles
21 exceeds five.
22 3. Any outside storage area for any equipment used in excavation, building site
23 preparation, or construction. No part of any New Hanover County Zoning Ordinance
24 Page 138 equipment stored in such area may project above the screen. (7/01)

Staff's Position

Currently, the Zoning Ordinance requires high density developments to install a buffer strip along all property lines that abut a residential land use or a residential zoning district. The intent of buffering requirements is to mitigate the potential impacts a more intensive land use would generate on a less intensive land use. However, as written, the Zoning Ordinance requires buffer strips between certain like uses: high density, attached residential, mobile home parks, and planned developments.

The proposed text would help clarify when buffer strips are to be required for these types of developments. Specifically, a buffer must be installed when the subject property is adjacent to existing or approved detached or duplex residential structures, or undeveloped residentially zoned land within the General Residential or Rural Residential place types. These two place types allow for lower density developments consisting of 1-6 dwelling units an acre.

It is important to note that the Zoning Ordinance limits the intensity of high density, mobile home parks, and planned developments depending on the place type in which they are located. As previously stated, high density developments are only permitted in the Urban Mixed Use, Community Mixed Use, and Employment Center place types, and must have access to a major or minor arterial street.

Overall, the proposed text moves closer to meeting the intent of buffer strips, which again is to mitigate the potential impacts a more intensive land use would generate on a less intensive use. Also, there is the opportunity for additional buffering to be required through the special use permit and rezoning process.

Therefore, staff is supportive of this portion of the proposed amendment.

PLANNING BOARD ACTION

The Planning Board considered this application at their March 2, 2017 meeting. At the meeting, one resident, Michael Lee, spoke in favor of the application. The Planning Board discussed issues regarding the setback portion of the application, citing concerns of the potential impacts that would be generated on detached residential developments if the setbacks are substantially reduced. The Board further stated that additional time and research should be conducted in order to determine appropriate setbacks for high density development, and that the UDO process would provide an opportunity to examine these standards more closely.

The Planning Board recommended denial (6-0) of the setback portion of the application, finding that it is:

1. Not consistent with the purposes and intent of the 2016 Comprehensive Plan, with particular emphasis on the protection of existing neighborhoods.

2. Not reasonable and not in the public interest because of possible impacts it may generate on the harmony and value of existing neighborhoods.

The Planning Board recommended approval (6-0) of the height and buffer portions of the application, finding that they are:

1. Consistent with the purposes and intent of the 2016 Comprehensive Plan because it follows the guidelines established for the subject place types.
2. Reasonable and in the public interest because it follows the guidelines established for the subject place types.

STAFF RECOMMENDATION

Staff recommends approval of the requested amendments. While staff agrees with the Planning Board that a more comprehensive review of the setback standards may be beneficial, overall the proposed setbacks would better promote the compact mixed use development pattern encouraged throughout the Comprehensive Plan. In addition, high density developments are already limited in areas where they can be developed, and must be reviewed through either a Special Use Permit or rezoning process. Staff concludes that the application is:

1. Consistent with the purposes and intent of the 2016 Comprehensive Plan because it promotes mixed use development patterns that are encouraged throughout the Plan.
2. Reasonable and in the public interest because the proposal updates outdated requirements that may hinder mixed use development patterns; which promote business success, maximize the efficient use of land, and support alternative modes of transportation, reducing the dependency on the automobile.