

# STAFF SUMMARY OF TA18-01 TEXT AMENDMENT APPLICATION

## APPLICATION SUMMARY

**Case Number:** TA18-01

**Request:**

To amend the location and access requirements for high density residential developments.

**Applicant:**

Stephen C. Pritchard, Esq.  
Harper Capital, LLC

**Subject Ordinance:**

Zoning Ordinance

**Subject Article(s) and Section(s):**

- Article V: District Regulation
  - Table of Permitted Uses
- Article VI: Supplementary District Regulations
  - Section 61.3: Thoroughfare Requirements
- Article VII: Provisions for Uses Allowed as Special Uses
  - Section 72-43: High Density Development

## BACKGROUND

Summary:

The applicant is seeking to amend location and access regulations for high density residential developments. These standards tie high density developments to certain land use classifications (place types) of the Comprehensive Plan and require direct access to a major or minor arterial street. While high density developments have been historically required to locate within certain land use classifications of the effective CAMA land use plan, the adoption of the 2016 Comprehensive Plan and its companion “bridging” text amendment (A-424) resulted in many properties losing the ability to apply for a high density development permit. This text amendment would provide additional flexibility to the eligibility requirements for these types of developments.

Staff has also identified that these specific standards are likely to be modified in the new Unified Development Ordinance (UDO), however this section will not be addressed until a later phase of the project. The applicant prefers not to wait for the UDO to be adopted.

Additional Information:

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 (SUP), and in the PD zoning district by-right. High density developments may consist of any housing type (single-family, duplex, townhome, condos, multi-family, etc.) and may be made up of a variety of densities and overall number of dwelling units.

In order to ensure high density developments are located in appropriate areas, where higher density may be appropriate and adequate infrastructure is available, the Zoning Ordinance contains specific regulations for the use. These regulations include location and access standards. Specifically, high density developments are only permitted in the Urban Mixed Use, Community

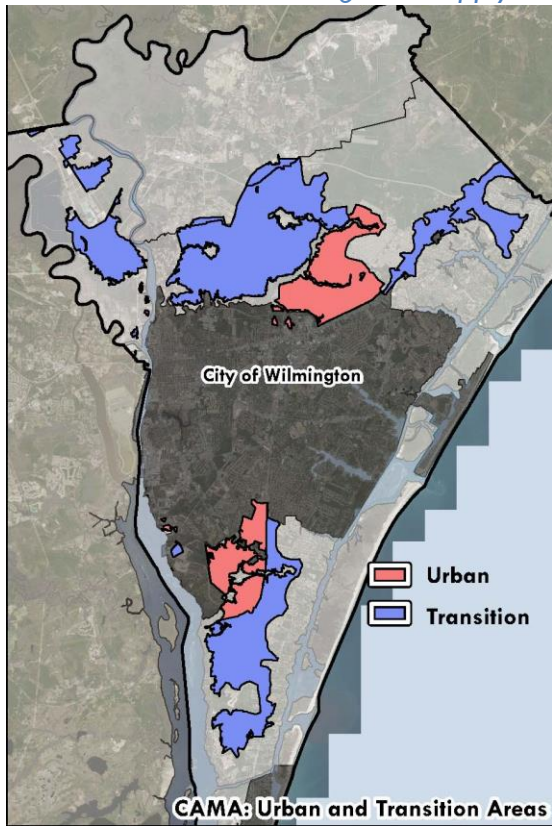
Mixed Use, and Employment Center place types and must have access to a major or minor arterial street.

The County has historically limited high density developments to certain land use classifications listed in the effective CAMA land use plan, specifically Urban and Transition areas. Those land use classifications were tied to existing development patterns and intensities, the availability of infrastructure, and desired future density levels. In 2016, the County adopted the 2016 New Hanover County Comprehensive Plan, Plan NHC. This plan included a new Future Land Use Map, which established new land use classifications (place types). These place types, however, are not defined by the current availability of infrastructure, but instead establish a long-term vision of the County's development through the year 2040. The plan states that the intent of the Future Land Use map is not to be legally binding, but a general representation of the vision for the County's future land use. It further states that place types should not be interpreted as being parcel specific like a zoning district.

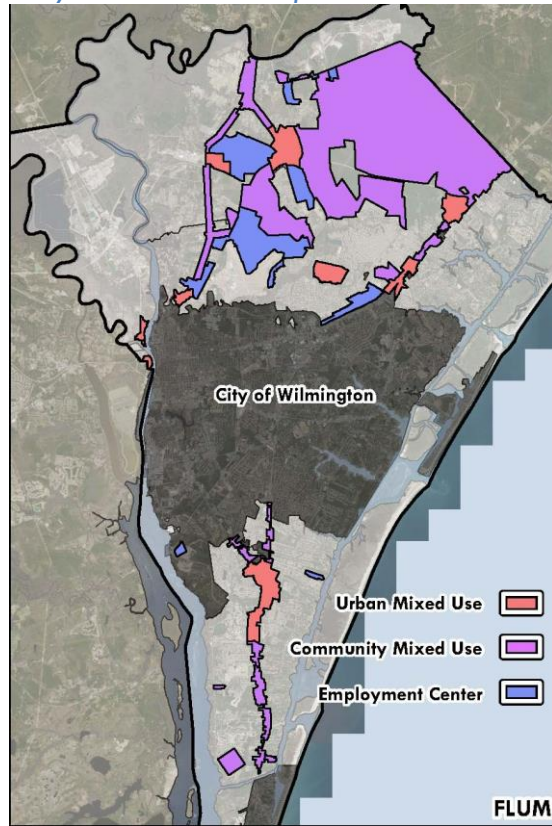
Because the Zoning Ordinance requirements for high density developments included references to the previous but no longer existing CAMA land use classifications, the Zoning Ordinance needed to be amended. In order to account for the new approach to land classification by place type, a "bridging" text amendment (A-424) was adopted in September 2016 until a more thorough approach could be developed during the UDO process. The intent of that text amendment was to be policy neutral by not making any fundamental changes to the regulatory concepts in the Zoning Ordinance. It sought to replace the former CAMA land use classifications with the most similar place types in terms of intent and recommended levels of density.

However, because of the differences between the previous CAMA land use classifications and the new place types, the areas of the county where high density development was possible shifted with that text amendment. Prior to the amendment, property owners could apply for high density development permits in most areas of the county where infrastructure was available. With the "bridging" text amendment, high density developments are allowed within the Urban Mixed Use, Community Mixed Use, and Employment Center place types, regardless of existing availability of infrastructure. They cover areas of the county where utilities are not available and do not cover areas that would have been eligible to apply for high density development permits previously. Below are the current Future Land Use Map and the former CAMA Land Use Map, with only the subject land use classifications shown. Approximately, 15,000 acres of land lost the ability to apply for a high density development permit with the adoption of the 2016 Comprehensive Plan and "bridging" text amendment.

Areas eligible to apply for high density residential developments:

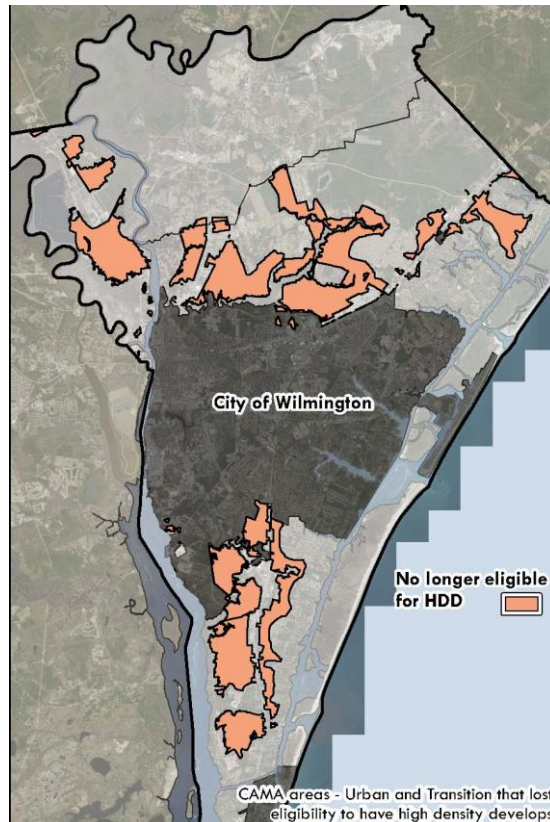


2006 CAMA Plan



2016 Comprehensive Plan

Areas that lost eligibility to apply for a high density development permit (subject to all other ordinance requirements, SUP approval or PD zoning):



This application proposes to modify the standard requiring high density developments to be located within the Urban Mixed Use, Community Mixed Use, and Employment Center place types and the access requirements for the use. Specifically, it seeks to allow applicants to apply for a permit for properties near the boundaries of an Urban Mixed Use, Community Mixed Use, and Employment Center place type. It also seeks to allow high density developments to access arterial streets via a private street. Below, staff examines each requirement individually and offers a recommendation on each.

**Amendment 1 – PLACE TYPE REQUIREMENT**  
**Proposed Text**

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

**Article V: District Regulations – Table of Permitted Uses**

Permitted Uses	PD	R 20S	R 15	R 10	O & I
High Density Development (3/22/82) <del>Permitted only within Employment Center, Urban Mixed Use, or Community Mixed Use Place Types</del> (2/16/87, 10/11/95, 9/6/16)	P	S	S	S	S

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

(D) Determination of site capacity

1. The maximum number of dwelling units that may be built may be determined by multiplying the BASE SITE AREA by the appropriate density factor from the table below. (1/2/90)(10/5/95).

<u>DISTRICT</u>	<u>DENSITY FACTOR</u>
R-10	17 units/acre
R-15	10.2 units/acre
R-20	4.25 units/acre
O&I	10.2 units/acre
PD (inside Employment Center/Urban Mixed Use/Community Mixed Use/General Residential place types)	4.25 units/acre

2. Each high density development shall be located on a parcel of land that is either totally or primarily in, contiguous to or within 250 feet of, the boundary of areas classified Employment Center, Urban Mixed Use, or Community Mixed Use place types. In cases where a high density development includes primarily Employment Center, Urban Mixed Use, or Community Mixed Use and limited Conservation place type or AE or VE special flood hazard areas or units shall not be clustered at a density greater than 2.5 units per BASE SITE acre in the AE or VE special flood hazard areas or CAMA Estuarine Areas of Environmental Concern. (10/5/95)(9/6/16).

## **Staff Analysis**

The proposed amendment will remove a use-specific standard from the Table of Permitted Uses and allow for properties located along the mapped boundary of the Community Mixed Use, Urban Mixed Use, and Employment Center place types to be eligible to apply for a high density development SUP.

The Future Land Use Map included in the 2016 Comprehensive Plan is not intended to be a parcel-specific, legally binding map like the County's Zoning Map. Because of these generalized borders, parcels located in proximity to the boundaries between place types could be appropriately developed in accordance with either place type. The intent of the general boundaries is to build flexibility into the plan, allowing site-specific features and evolving development patterns in the surrounding area to be considered during land use decisions. However, as the Zoning Ordinance currently requires high density developments to be located within certain place types, it effectively treats the Future Land Use Map as a zoning map for these types of developments, essentially altering the intent of the Comprehensive Plan and Future Land Use Map.

The land along the County's main thoroughfares provides an example of this. While these areas are mostly classified for high density mixed use development in the Future Land Use Map, in many cases the classification only extends a few hundred feet from the right-of-way before changing to the General Residential classification. As commercial businesses are typically developed along thoroughfares, a strict interpretation of the place types may hinder an orderly transition of using varying density residential to go from the higher intensity commercial uses to the lower intensity single-family developments.

Because high density developments are required to be rezoned to a planned development or obtain an SUP, the Planning Board and Board of Commissioners will have the opportunity to review any application for high density development that might become eligible as a result of the proposed amendment. The proposed amendment does not permit any specific high density developments, but only allows for applications to be submitted in areas in close proximity to the subject place types.

Staff recommends approval of this portion of the proposed amendment. The adoption of the 2016 Comprehensive Plan and the "bridging" amendment resulted in many properties losing the ability to apply for a high density development permit due to the Future Land Use Map being treated similar to a zoning map. This amendment is consistent with the intent of having a non-legally binding Future Land Use Map which will allow some of the properties previously eligible to apply for a high density development permit to again be able to apply once again.

## Amendment 2 – ACCESS REQUIREMENT

### Proposed Text

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

#### Article VI: Supplementary District Regulations – Section 61.3: Thoroughfare Requirements

These requirements shall apply to Planned Developments and High Density developments:

- (A) Access to Thoroughfares – The property to be developed must have direct access to and from an existing major or minor arterial roadway, as indicated on the New Hanover County Thoroughfare Classification Plan. The direct access requirement may be satisfied as follows:
1. One or more property boundary lines is contiguous with and utilizes access to and from said thoroughfare; or
  2. The property ~~is connected to~~ accesses said thoroughfare by a NCDOT-maintained public street or by a private street designed and constructed in accordance with the County’s minimum standards for a collector road. ~~public street design and built to the specifications of “Residential Collector Streets” as defined in N.C. Department of Transportation Subdivision Construction Standards, or as thereafter amended. This connecting street shall be designed to serve only traffic originating from or going to the development, or other existing Planned Developments or High Density developments, or any future residential development. (2/16/87)~~

### Staff Analysis

Currently, all high density developments must have a direct driveway access to an arterial street or connect to an arterial street by way of a public street built to NCDOT’s residential collector road standards. The proposed amendment will add an option for high density developments to access an arterial street through a private street. Staff supports this request as the County currently allows for residential subdivisions of all sizes and commercial developments to be served by private streets, which must be constructed to the County’s minimum standards.

The proposed amendment will also add flexibility to the access requirements by allowing high density developments to access an arterial street by way of a variety of public streets classifications. Staff supports this request as NCDOT as owner of these facilities, is charged with ensuring the access is adequate for the subject development through the driveway permitting process.

Lastly, the proposal removes the standard that restricts the access to the arterial street to only serving the subject development and future residential development. Staff supports the removal of this standard, as it currently restricts interconnectivity with adjacent commercial properties. Multi-family developments are generally an appropriate transition from higher intensity commercial uses to single-family neighborhoods, and shared accessways between the uses are encouraged.

## PLANNING BOARD ACTION

The Planning Board considered this application at their May 3, 2018 meeting. At the meeting the Board discussed how the proposed amendment aligns with the drafting of the Unified Development Ordinance, the possibility of removing the place type requirement, and the potential impacts of modifying the access requirements. No one from the public spoke in favor of, or in opposition to, the application.

The Board recommended approval of the application (4-1), concluding that it is:

1. Consistent with the purposes and intent of the 2016 Comprehensive Plan because it aligns with the objective of having a non-legally binding Future Land Use Map that is not interpreted as a zoning map.
2. Reasonable and in the public interest because the proposal updates requirements that may hinder mixed use development patterns; which promote business success, maximize the efficient use of land, and support alternative modes of transportation, thereby reducing the dependency on the automobile. In addition, the proposal does not permit specific high density developments, but it only allows for applications for a Special Use Permit or Planned Development to be considered.

## STAFF RECOMMENDATION

**Staff recommends approval of the application as stated in the Planning's Board action.** Staff concurs with the Planning Board's statements that the application is consistent with the Comprehensive Plan and is reasonable and in the public interest.