

STAFF REPORT FOR TA19-01 TEXT AMENDMENT APPLICATION

APPLICATION SUMMARY	
Case Number: TA19-01	
Request:	
To amend the Zoning Ordinance to add five new residential zoning districts, two new commercial districts, one new mixed use district and to amend the existing Planned Development district	
Applicant:	Subject Ordinance:
New Hanover County	Zoning Ordinance
Subject Article(s) and Section(s):	
<ul style="list-style-type: none"> • Article V: District Regulations <ul style="list-style-type: none"> ○ Section 50: Table of Permitted Uses ○ Section 51: Residential Districts ○ Section 52: Commercial Districts ○ Section 54: Mixed Use Districts • Article VI: Supplementary District Regulations <ul style="list-style-type: none"> ○ Section 60: Development Plans ○ Section 63: Additional Restrictions Imposed on Uses Permitted by Right 	
Purpose & Intent	
<ul style="list-style-type: none"> • To provide residential zoning options that <ul style="list-style-type: none"> ○ Allow the housing types and densities outlined in 2016 Comprehensive Plan ○ Increase the supply of workforce/affordable housing ○ Provide alternatives to the High Density Development special use permit • To provide commercial zoning options that <ul style="list-style-type: none"> ○ Are designed to be located in areas more accessible for nearby residents ○ Provide certainty without the use of conditions or negotiated rezonings • To provide mixed use zoning options that <ul style="list-style-type: none"> ○ Allow and encourage projects that provide integrated mix of uses and high quality design 	

BACKGROUND

Staff has prepared a code amendment to add eight new zoning districts to the county's Zoning Ordinance and to revise the existing Planned Development (PD) district. This is the first code amendment prepared as part of the "UDO Project" development code update and will provide the tools needed to allow the types of development envisioned in the 2016 Comprehensive Plan. The proposed changes to the Zoning Ordinance reflect the direction received from the Planning Board at their August 2018 UDO Project Work Session and the proposed district profile sheets presented at the March 7, 2019 Planning Board meeting.

The addition of these eight districts is intended to allow the county's development regulations to be tailored more precisely to the needs of particular types of property, increase the diversity of development options available within the county's jurisdiction, and reduce uncertainty regarding potential impacts from general district rezonings (without conditions).

If approved, the proposed new districts will be considered "floating," as they will not be applied to properties without additional rezoning hearings.

Proposed New Districts

The proposed code amendment includes five residential districts, two commercial districts, and a mixed use district adapted from zoning designations already successfully used in the City of Wilmington. This will increase the number of base zoning districts available in the county's jurisdiction to 25 (to compare, Wilmington currently has 31 zoning districts).

The permissions and standards for the proposed districts are generally based on the City of Wilmington's current requirements. The lists of permitted and special uses have been converted into the use terms the county uses, as the names of uses are a little different in the two codes (like *Movie theaters* vs. *Indoor Theaters*). The same supplemental standards that apply to a use in the city also apply in the proposed districts, unless they are covered by existing state statutes (like for adult day cares) or are not consistent with county practices (requiring lot size minimums for particular uses like skating rinks).

Dimensional requirements have been amended to allow for the performance subdivision option in the residential districts and to ensure that commercial properties that meet minimum lot size requirements are buildable when adjacent to residential properties. Height standards are generally higher in the city, allowing up to 96 feet in some districts, so these have been adjusted to a 45' limit, which is in line with the recommendations of the comprehensive plan and closer to the current height standards allowed in the county's districts.

Residential Districts

The proposed code amendment would add five new residential districts to New Hanover County's residential district line-up. The proposed districts include:

- R-5 Moderate-High Residential District;
- RMF-L Residential Multi-Family Low Density District;
- RMF-M Residential Multi-Family Moderate Density District;
- RMF-MH Residential Multi-Family Moderate-High Density District; and
- RMF-H Residential Multi-Family High Density District

The intent of the new districts is to allow for the full range of residential densities and housing types outlined in the 2016 Comprehensive Plan. The Zoning Ordinance’s current residential district line-up currently only allows very low and low density residential development by-right, with a maximum density of 6 dwelling units per acre. Moderate density projects are allowed only with a High Density Development special use permit, which requires a quasi-judicial public hearing that limits public input while increasing applicant cost and risk. With the addition of the 5 proposed residential districts, the full range of densities outlined in the Comprehensive Plan would be allowed by-right, as depicted in Figure 1.

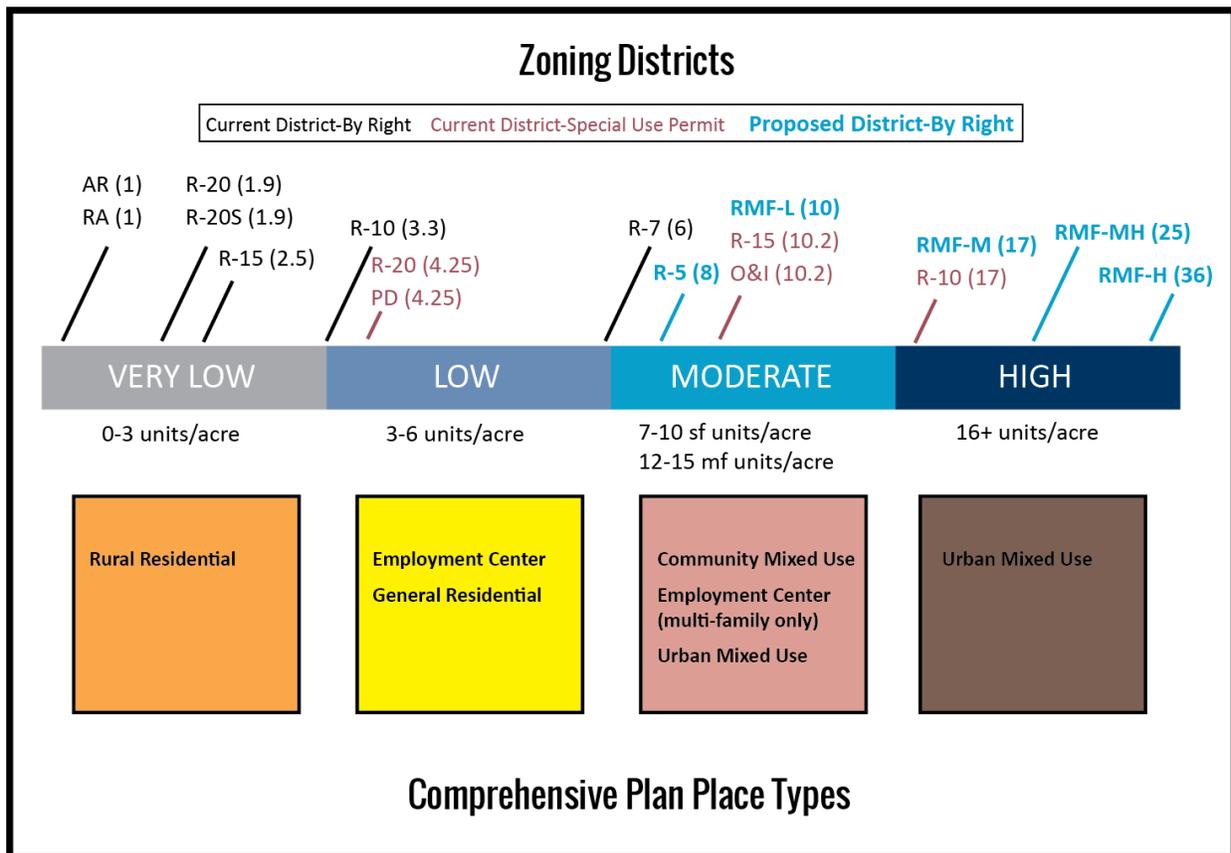


Figure 1: Permitted Residential Densities by District

These new residential districts can also assist with achieving the county’s goals of increasing the supply of workforce/affordable housing. Greater by-right density can help to reduce the cost of developing each housing unit and allow for housing types, such as townhomes and condominiums, that can provide more affordable living opportunities for area residents than large-lot single family homes. In addition, accessory dwelling units are permitted in the proposed county districts, just as they are in the city’s parallel districts.

Commercial Districts

Two new commercial districts adapted from the City of Wilmington's zoning line-up are also included in the proposed amendment. The proposed districts include:

- CB Community Business District
- CS Commercial Services District

The intent of these districts is to provide alternatives to the existing commercial designations, particularly B-2, the most common commercial district in the county's jurisdiction. One is designed to be appropriate closer to residential neighborhoods, and the other provides an alternative zoning designation for the B-2 uses that are less desirable on high-visibility corridors.

In general, commercial districts should balance flexibility in permitted uses and design with features that will reduce impacts on nearby properties and neighborhoods, especially when the districts are located in close proximity to residential areas. Historically, the county has provided flexibility by allowing a large number and wide variety of uses in the B-2 district, with 90 uses permitted by-right and 42 permitted with special use permit, ranging from neighborhood-scale retail and offices to light industrial uses.

This type of zoning tool worked for many years because the B-2 designation was applied primarily to properties that were already used for commercial purposes, already a part of the fabric of the community, and often located a distance away from residential neighborhoods. Over time, however, residential neighborhoods grew, and in 1988, the county added large setback requirements between non-residential uses and residential properties. These requirements reduced the likelihood that small lots potentially appropriate for smaller structures and businesses could be located near residential neighborhoods but failed to reassure residents completely. In addition, these requirements increased the cost to develop, as more land was required, which often meant less expensive buildings were constructed. Businesses that could have provided services for nearby communities were also limited in the areas where they would be most accessible to the residents they served.

Currently, the B-2 district allows such a wide variety of uses that board members express they do not have enough certainty regarding potential uses and their impacts to approve rezoning petitions without applying additional conditions. This requires property owners seeking a rezoning to go through the longer, riskier conditional zoning process and to place restrictions on future use of the property. These conditional projects must be developed to the same dimensional and buffering requirements as other B-2 properties and are generally not visibly different in quality or type than other projects developed based on the original 1970s zoning designations.

One tactic to reduce resident misgivings and board uncertainties would be to remove the uses most likely to cause concern, such as contractor operations, outside storage, and light industry. Many of these uses already exist on the ground, however, and removing them from B-2 could create nonconformities. This would result in a loss of value for property owners as no other current commercial zoning district allows the range of uses currently allowed on their properties and could inadvertently limit reinvestment. The creation of alternative zoning districts avoids potential nonconformities while still meeting the same goals.

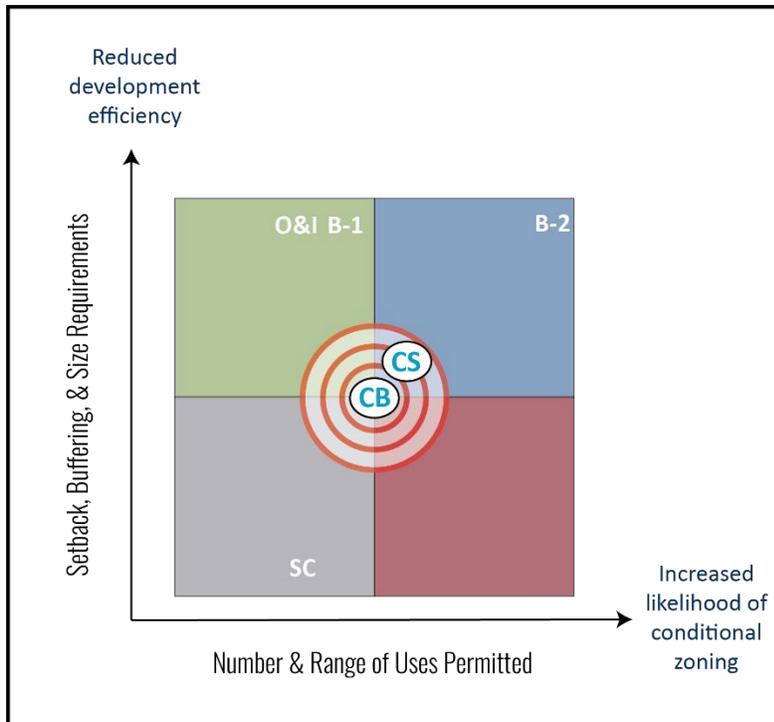


Figure 2: Range of Current & Proposed Commercial Districts

Community Business (CB) District

The CB district is proposed as an alternative to conditional B-2 zoning. It is intended to balance flexibility in uses with setbacks, structure size, and buffering requirements that maintain the quality of life for surrounding residents. Supplemental standards limit the size of retail operations, and outside storage is not allowed. This district should be one residents and boards could feel comfortable being applied to properties along corridors and at intersections close to residential neighborhoods without a conditional rezoning process.

Commercial Services (CS) District

The CS district is intended to be an alternative zoning designation to

allow the B-2 uses that are less desirable for high visibility corridors like Market Street, S. College Road, and Carolina Beach Road. It will allow for uses like contractor yards, equipment storage, and some light industry and requires larger setbacks than those required for the CB district. These types of uses play an important role in the local economy but often require more land and easier truck access, which may be less appropriate along major corridors where land is generally more expensive and a use's visual appearance is under closer scrutiny. Encouraging these uses through a specific zoning designation in areas on the outskirts of industrial areas or near similar uses can support the viability of businesses and increase the attractiveness of the primary gateways to tourist destinations.

In addition, by providing an alternative to B-2, the full range of commercial uses will still be available, but it may be possible to begin to transition B-2 into a regional business district with the types of larger format retail and office uses that can provide more employment and shopping opportunities. To encourage this, uses not allowed in the city's district but permitted in B-2, such as boat dealers, recycling facilities, and some manufacturing uses, have been added to the proposed CS use list.

Mixed Use District

Though not presented at the August 2018 Planning Board Work Session, one mixed use district adapted from the city's UMX zoning designation is proposed. During various meetings over the past few months, county staff has received feedback that the new mixed use districts will be key to providing the types of development patterns outlined in the comprehensive plan. While staff will be working with a consulting firm over the next year to develop the full slate of neighborhood-scale, community-scale, and urban-scale mixed use districts outlined at the Work Session, an adapted city UMX district was suggested as a potentially effective tool for the county's jurisdiction that did not have to wait on additional study.

The proposed UMXZ balances a wide spectrum of permitted uses with very specific design standards intended to create a more urban form that could be appropriate in some Community Mixed Use places and the Urban Mixed Use places shown on the Future Land Use Map.

Proposed Changes to Existing Planned Development (PD) District

At the August 2018 Planning Board Work Session, several proposed changes to the county's Planned Development (PD) district were outlined. They included updating the intent statement, reducing the district size requirements, reducing fringe use restrictions, and revising density requirements and incentives. In the proposed amendment, all of these modifications are proposed except for the density standards. That portion of the district will be evaluated in future phases of the development code update to make sure that the county's highest priorities are being incentivized and that those incentives work the way they are intended.

The PD district was created to allow for the development of integrated mixed-use projects under common ownership. In general, these types of districts are designed to balance enough flexibility to allow for innovative projects with enough oversight to ensure the projects are appropriate if developed as approved. PD is the county's only current zoning district that allows both flexibility in use and design and has processes in place intended to allow for thorough staff, community, and board member review prior to any approval.

The current district size requirement of 100 acres was created at a time when these types of projects were generally developed on very large tracts of land. The limited amount of large vacant tracts remaining in the county and post-recession challenges in developing multi-phase projects over long periods of time have made this model less likely. Reducing the minimum district size for a PD could increase the likelihood that it will be used to create the types of mixed use developments envisioned by the Comprehensive Plan. While some jurisdictions do not place any district size requirements on PD, that usually only occurs when no other mixed use district options exist or when areas are highly urban. Ten acres is generally large enough to accommodate a mix of uses and allow for fewer development phases and shorter development timeframe.

In addition, the PD district standards also include fringe use restrictions that limit uses in a 200 ft. wide buffer area around the perimeter of the PD project when it's adjacent to residential uses and/or planned residential lots. In this area, only residential uses, open space, rights-of-way, stormwater utilities, and active recreation uses are allowed, and building heights are reduced and building setbacks increased. These fringe use restrictions were adopted as part of the same 1988 amendment that introduced very large setbacks between non-residential uses and residential properties. Those types of separations between uses has been shown to reduce development potential and the efficient use of land. In addition, these restrictions are greater than is required for B-2 and I-1 developments located next to residential properties. Because PD has a process in place that provides opportunities for boards to consider the appropriateness of the proposed development, removing the fringe use area and instead requiring the same setbacks allowed in other districts (CB for retail and office, I-1 for manufacturing) can increase the likelihood that this district is used.

PROPOSED AMENDMENT

The proposed amendment is attached. New text is shown in red and is underlined. ~~Text that has been removed~~ is shown with a strikethrough line.

The proposed amendment includes changes to:

- Article V: District Regulations
 - Section 50, Table of Permitted Uses (p. 1-15)
 - Sections 51, 52, and 54 outlining the zoning district regulations (p. 16-34)
- Article VI: Supplementary District Regulations
 - Section 60 to include lighting standards (p. 35)
 - Section 63 to outline supplemental standards for uses permitted by right (p. 35-39)

STAFF ANALYSIS

Currently, the county does not provide the diversity of zoning districts that will allow the types of development patterns outlined in the 2016 Comprehensive Plan. The proposed amendment includes adaptations of eight zoning districts already successfully used in the City of Wilmington and a revision to the current county PD district. It will allow for the full range of residential types and density outlined in the comprehensive plan, support the development of more affordable housing, offer new commercial development options that provide alternatives to B-2 zoning, and afford immediate opportunities for mixed use projects in the county's jurisdiction.

These new zoning tools are the principal code update needed to allow for the implementation of the comprehensive plan's goals and will set up opportunities for development of more complete communities throughout the county's planning jurisdiction.

Additional Considerations

In adapting the city zoning districts, staff focused on keeping use permissions, supplemental standards (regarding buffering, lighting, etc.), and dimensional standards (setbacks, minimum lot sizes, height limits, etc.) in line with either what the city's current requirements or the general practices and policies for New Hanover County. Two considerations came to light, however, that fall outside those general guidelines but may improve the functionality of the proposed zoning classifications.

1. The city's R-5 and multi-family districts allow for accessory apartments, and this use has been added to the county's list of uses. The city currently requires that accessory units be no more than 35% of the gross floor area of the principal dwelling, but we have received feedback that this percentage limits the potential for accessory units. **Staff would recommend that the size maximum for accessory units be no more than 50% of the gross floor area of the principal dwelling.**

The city also currently requires that lots be either 50% larger than the minimum lot area of a district or 5,000 square feet in order to be allowed an accessory unit. The feedback we have received indicates this is also a factor that limits the possibility of these units in the city's districts. This type of restriction is generally required to ensure that roadway and utility infrastructure can accommodate additional units and to reduce the likelihood that multiple accessory units alter neighborhood character. Appropriate lot size and density standards for accessory units will be considered in future phases of the development code update.

2. *Senior Living: Active Adult Retirement Community or Independent Living* uses generally follow the same standards as similar developments where age is not restricted. However, it is not specifically listed in the city's code and is not allowed with the same permissions as single-family detached or attached in the county's jurisdiction. It is currently drafted as not allowed in the new residential districts. **In keeping with the original intent of the use, however, staff recommends that *Senior Living: Active Adult Retirement Community or Independent Living* be permitted by right in the R-5 and RMF districts, subject to the same permissions and density requirements as for other residential development in those districts.**

STAFF RECOMMENDATION

Staff recommends approval of the requested amendment. Staff concludes that the amendment is:

1. Consistent with the purposes and intent of the 2016 Comprehensive Plan because it will provide for the zoning tools needed to incorporate the development patterns envisioned in the plan. The new residential districts will allow the full range of housing types and densities outlined on the Future Land Use Map and support an increase of the supply of workforce/affordable housing. The new commercial districts will provide zoning designations that are designed to be located where accessible to nearby residents, and the new and revised mixed use districts will provide options for planned developments that include the mixture of uses and development forms encouraged in the Community Mixed Use and Urban Mixed Use places.
2. Reasonable and in the public interest because the proposed amendment will provide additional options for residential, commercial, and mixed use development potentially appropriate in community mixed use, urban mixed use, and general residential areas of the county and are adapted from zoning districts already successfully used in the City of Wilmington.