

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 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 options for certainty without requiring conditions or negotiated rezonings • To provide mixed use zoning options that <ul style="list-style-type: none"> ○ Allow and encourage projects that provide an integrated mix of uses 	

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 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 text amendment will not rezone any properties or modify the Official Zoning Map. If a property owner wants to use one of these districts, a rezoning application will have to be filed, and additional public hearings will be required.

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 from 18 to 25 (to compare, Wilmington currently has 31 base 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 care) or are not consistent with county practices (requiring lot size minimums for particular uses like skating rinks).

Dimensional requirements have also been adjusted to be compatible with the county's current practices and development pattern. For instance, the county's performance subdivision option, which is not available in the city, will be allowed in the residential districts. In addition, while the city's height standards allow up to 96 feet in some districts, structures of those heights would not be aligned with the current 35 to 40-foot heights allowed in the county's districts. As a result, height maximums in the proposed districts have been adjusted to a 45' limit, consistent with the recommendations of the comprehensive plan. Staff will be working with our consulting firm during the next phase of this project to refine height and dimensional standards across the county's jurisdiction to allow more flexibility and consistency with the city. More specific information regarding these adjustments are outlined on the attached district profile sheets.

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 existing 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. With the addition of the 5 proposed residential districts, the full range of densities outlined in the Comprehensive Plan would be possible by-right, as depicted in Figure 1.

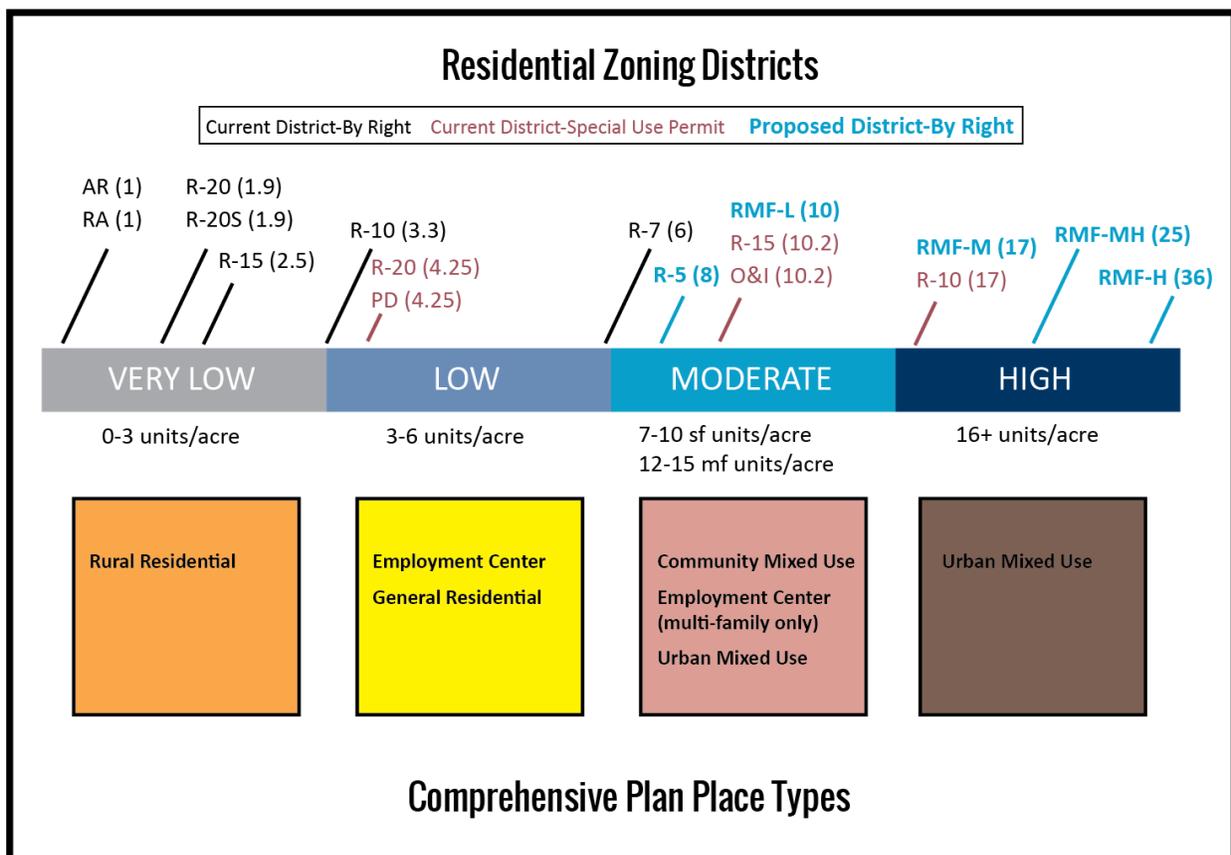


Figure 1: Permitted Residential Densities by District

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 five new proposed county residential 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 can be less desirable on high-visibility corridors.

In general, commercial district standards are intended to 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. While B-2 is called "highway" business, with 90 uses permitted by-right and 42 permitted with special use permit, it functions as more of a catch-all district. Potential uses range from neighborhood-scale retail and offices to heavy commercial and light industrial uses that may not be the most appropriate in more densely populated areas.

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 many property owners seeking a rezoning choose to go through the longer, riskier conditional zoning process to provide more certainty regarding potential uses and their impacts. While this process reduces the property owner's initial risk, it also limits future ability in responding to changing market needs, as the most common conditions are limitations in allowed uses. These conditional projects, though, 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. As a result, the public value of the resulting development may not offset that additional private costs and loss of flexibility.

One tactic to reduce resident misgivings and board uncertainties with very general zoning districts like B-2 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. While changing the existing B-2 could have a large impact on individual property owners, it would be less likely to benefit the county as a whole, as less than 2% of the county's jurisdiction is currently zoned B-2. The creation of alternative commercial zoning districts avoids potential nonconformities while still meeting the same goal of balancing flexibility in use and design with reduced impacts on nearby properties and neighborhoods.

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 to promote community-scale businesses (grocery stores as opposed to regional-scale operations like supercenters) 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 can be less desirable for high visibility corridors like Market Street, S. College Road, and Carolina Beach Road, such as those that customarily have large amounts of outside storage or lower quality architectural finishes. CS will allow for uses like contractor yards, equipment storage, self-storage/mini-warehouses, and some light industry and requires larger setbacks when adjacent to residential uses 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

A mixed use district adapted from the city's UMX zoning designation is also proposed. During various meetings over the past few months, county staff has received feedback that the county's current mixed use districts may not support all the development patterns outlined in the comprehensive plan and new tools should be considered. While staff will be working with a consulting firm over the next year to develop possible neighborhood-scale, community-scale, and urban-scale mixed use districts, 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 the Urban Mixed Use places and some Community Mixed Use places shown on the Future Land Use Map.

Proposed Changes to Existing Planned Development (PD) District

Stakeholders have indicated that the county's Planned Development (PD) district could be a useful tool in creating some of the integrated mixed-use development patterns outlined in the Comprehensive Plan, and this district has been used successfully in the past for the North Chase and River Bluffs developments. However, staff analysis indicates that the district size requirements and fringe use restrictions limit its ability to be used in most of the county's jurisdiction.

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. Of the county's existing mixed use districts, PD allows the most flexibility in use and design.

The current district size requirement of 100 acres was established during the early 1980s 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 significant use of 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. 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 conceptual plan review 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 for similar uses (CB for retail and office, I-1 for manufacturing) can increase the likelihood that this district is used.

Provisions regarding density calculations and incentives 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.

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.

PLANNING BOARD ACTION

The Planning Board considered this request at their April 4, 2019 meeting. The Board recommended approval of the request as presented (7-0), concluding that it 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 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 for areas of the county designated as community mixed use, urban mixed use, and general residential places and is adapted from zoning districts already successfully used in the City of Wilmington.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendment and suggests the following motion:

I move to **APPROVE** the proposed amendment to New Hanover County's Zoning Ordinance. I find it to be **CONSISTENT** with the purpose 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. I also find **APPROVAL** of the proposed amendment is reasonable and in the public interest because it will provide additional options for residential, commercial, and mixed use development in the county's jurisdiction adapted from zoning districts already successfully used in the City of Wilmington.