

STAFF REPORT FOR TA21-03 TEXT AMENDMENT APPLICATION

APPLICATION SUMMARY	
Case Number: TA21-03	
Request:	
To amend Articles 2, 3, and 5 of the Unified Development Ordinance to update height standards and setback requirements for multi-family and nonresidential structures and provide for additional height allowances to accommodate changing construction standards and structure types envisioned for multi-family, mixed use, and nonresidential zoning districts.	
Applicant:	Subject Ordinances:
New Hanover County	Unified Development Ordinance
Purpose & Intent	
The key intent of this amendment is to adjust height standards that serve as barriers to accessible housing and the types of development envisioned in the 2016 Comprehensive Plan.	

BACKGROUND

As part of the Unified Development Ordinance (UDO) code update project intended to implement the 2016 Comprehensive Plan, height maximums were increased in some districts in summer 2020. Since that time, staff has received questions about potential projects, and current height limits have come up as barriers in several nonresidential districts, not allowing for the structures that uses permitted in the district now require, for instance, hospitals in the Office and Institutional district and some warehouses in Light Industrial. Even the Planned Development (PD) district, which was intended to allow for integrated mixed-use projects and requires compensating community benefits and approval of a Master Development Plan as part of the rezoning process, would not accommodate the heights needed for some of these structures. In addition, the findings of the City of Wilmington/New Hanover County Comprehensive Housing Study and Master Aging Plan have indicated a need for more accessible rental housing, such as elevator-served structures, which are generally at least four stories in height.

This amendment includes proposed height increases in three types of districts: Residential Multi-Family (RMF), Mixed Use (specifically Urban Mixed Use Zoning, or UMXZ, and PD), and several Commercial and Industrial districts.

Residential Multi-Family (RMF) Districts

The county's four RMF districts were created in 2019 to allow for the full range of residential densities outlined in the Comprehensive Plan and to provide districts where multi-family development (primarily apartments) could be anticipated. At the time, most of the county's residential districts allowed for multi-family projects, but only at limited densities without a special use permit. The possibility of multi-family housing in these districts was contrary to adjacent residents' expectations, and the densities permitted were not supportive of what was identified as

needed to support affordability and to transition between higher intensity and lower intensity areas of the community.

When first designed, the RMF-L and RMF-M districts—because of their lower densities (10 du/acre and 17 du/acre respectively)—were also anticipated to be built at a lower scale, so building heights were limited to three stories. At the time, it was thought that the higher densities allowed in the RMF-MH (25 du/acre) and RMF-H (36 du/acre) would be the trigger for needing four-story structures, which open up additional units for seniors and people with mobility issues as they require elevators. Since 2019, staff has found that due to rising residential demand in this region, four-story buildings are still possible for the lower density RMF districts.

The proposed amendment provides an additional height allowance for four-story structures in the RMF-L and RMF-M districts. To mitigate impacts on adjacent residential properties (platted lots in the general R Residential districts—RA, AR, R-20, R-20S, R-15, R-10, R-7, and R-5—and those with existing single family and duplex homes), three different mitigation options are outlined for those taller structures.

The first two options consist of 2:1 structure setbacks or architectural stepbacks (where the setback/stepback is approximately 2 x the height of the building in feet) when the taller structure is adjacent to an existing home (even if separated by open space). This is intended to both mitigate potential impacts

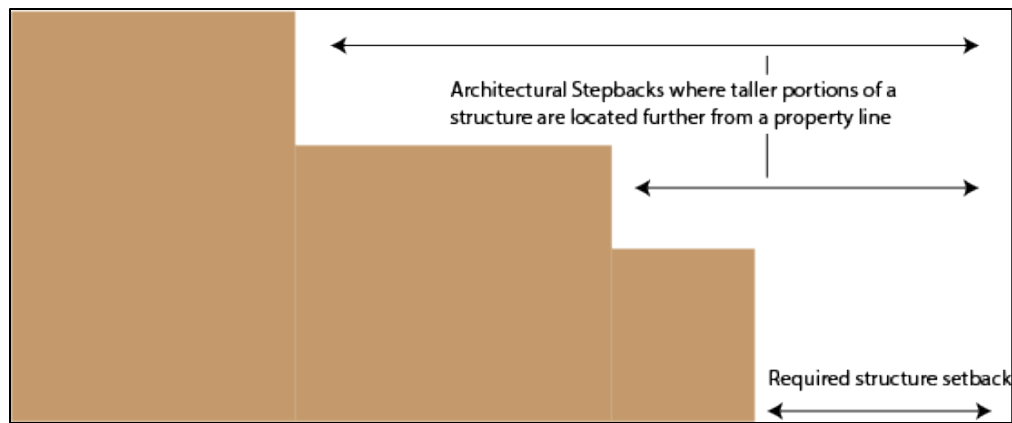


Figure 1. Structure Setbacks and Architectural Stepbacks

of the height and to incentivize site design that places taller buildings further from adjacent residential properties. This is also the distance where existing buffer requirements start to visually block the view of taller buildings from adjacent properties. When taller structures are next to multi-family projects or undeveloped residentially zoned land, the mitigation ratio is reduced to 1.5:1 (where the setback/stepback is approximately 1.5x the height of the building in feet). Because site specific characteristics or other site or architectural design features could also effectively mitigate the impact of these taller structures, alternative techniques are also allowed when the structures are included as part of a conditional zoning district, which requires a full public review and hearing process. Other setbacks are also modified to balance the impact on adjacent properties with limiting the changes to current permissions.

Currently, the RMF-MH and RMF-H districts both allow four-story buildings, though the maximum height of those structures is capped at 50 ft. This maximum in feet has been removed in the current amendment draft, but mitigation for structures taller than 50 ft. has been proposed in response to public concerns about the potential impacts of taller buildings. Flexibility in mitigation techniques as part of conditional zoning approvals is also available for these two districts. In addition, in order to ensure the full spectrum of building scales outlined in the Comprehensive Plan are possible, five-story structures are proposed to be allowed in the RMF-H district if part of a conditional zoning

district. RMF-H is the multifamily district least likely to be located adjacent to existing residential neighborhoods, and five-story structures would still be subject to mitigation standards.

Mixed Use Districts

The proposed amendment impacts height maximums in two mixed use districts: Urban Mixed Use Zoning (UMXZ) and Planned Development (PD). These two districts can only be applied to a piece of property with an approved Master Development Plan and have been designed and/or modified since the adoption of the Comprehensive Plan to be the primary tools for new integrated developments, ultimately replacing the Riverfront Mixed Use (RFMU) and Exceptional Design Zoning District (EDZD), which have not been applied for several years due to complex requirements not calibrated for the current market.

The UMXZ district is designed to require high quality design and encourage a mix of uses. It allows residential densities that range from 15 to 36 units per acre, depending on the type of residential structure, which would make it potentially appropriate in Community Mixed Use, Employment Center, and Urban Mixed Use places as designated in the Comprehensive Plan, all of which have different building height recommendations. Because height—and any setbacks or other design features to mitigate that height—would be outlined in a Master Development Plan (MDP) as part of a rezoning review and approval process, the proposed amendment removes the current height restrictions and allows height to be established in the MDP.

Similarly, the PD district also requires a Master Development Plan and could be appropriate in an even wider variety of Comprehensive Plan places, making it difficult to determine the most appropriate height maximum. The proposed amendment also removes the current maximum height limit for PD and allows the MDP to establish it.

Commercial and Industrial Districts

The final type of districts where height changes are being considered include several business districts, along with Office and Institutional (O&I) and Light Industrial (I-1). The height maximums included in the proposed amendment are based on the story recommendations included in the Comprehensive Plan and height assumptions for nonresidential and mixed-use buildings that were prepared by a consultant in 2018. A maximum height is established for each district to allow the building scales recommended in the Comprehensive Plan. Additional height allowances are also provided for certain uses that are permitted in the district that could generally require more stories. Like the RMF districts, three different mitigation options are outlined for those taller structures. The first two options consist of 2:1 structure setbacks or architectural stepbacks (where the setback/stepback is approximately 2x the height of the building in feet) when the taller structure is adjacent to an existing home (even if separated by open space). This is intended to both mitigate potential impacts of the height and to incentivize site design that places taller buildings further from adjacent residential properties. This is also the distance where existing buffer requirements start to visually block the view of taller buildings from adjacent properties. When taller structures are next to multi-family projects or undeveloped residentially zoned land, the mitigation ratio is reduced to 1:1 (where the setback/stepback is approximately 1x the height of the building in feet). Because



Figure 2. Scale of Tall Building from 2:1 Setback with red line indicating approximate height of buffer plantings within 1 year of installation (6 ft.)

site specific characteristics or other site or architectural design features could also effectively mitigate the impact of these taller structures, alternative techniques are also allowed when the structures are included as part of a conditional zoning district, which requires a full public review and hearing process.

The Neighborhood Business, or B-1, district, is currently applied to a number of properties along major and minor roadways in the county. It allows for a wide range of commercial uses and is intended to allow for smaller scale, low intensity development with no more than two-story buildings. The proposed amendment would increase its height maximum to 2 stories OR 40 ft. Modifications to setbacks have also been included in the draft amendment to make all business districts consistent and to remove current standards that apply differently to different roadway types.

The Community Business, or CB, district, is currently applied to only three properties, all of which are subject to conditional zoning approvals. The uses allowed in this district are limited and designed to be less intense so they could be appropriate in close proximity to existing residential neighborhoods. The proposed amendment establishes its maximum height as 3 stories OR 50 ft. Additional mitigation is required for structures taller than 40 ft. Because of the lower intensity of the potential uses in this district and the relatively small scale of potential structures, those mitigation requirements are much less than those required for other zoning districts, and the proposed amendment is generally consistent with current district standards.

The most common commercial zoning district in the county's jurisdiction is Regional Business, or B-2. It is applied along major and minor roadways and to properties surrounded by residential development. It also allows a wide range of uses including retail, auto-oriented sales, lodging, heavy commercial, and some manufacturing. The only permitted uses likely to need more than 3 stories are hotels.

This district does currently allow unlimited height for properties meeting certain criteria; however, this provision has not been used to-date to staff's knowledge and only applies to certain areas, some of which may not be preferable due to the proximity to existing neighborhoods and no mitigation requirements.

The general maximum height for this district has been increased slightly to 3 stories OR 50 ft., and an additional height allowance of up to 100 ft. has been provided for Hotel and Motel structures, which must meet the mitigation standards outlined above. In addition, front and street side setbacks for the district have been adjusted to make sure they are consistent with the other commercial districts possible along the county's roadways.

The Office and Institutional, or O&I, district is currently applied to a number of properties along major and minor roadways and has served a dual purpose for the county—acting as both a transition between higher intensity and lower intensity uses in some cases and to accommodate larger institutional uses. Overall, the uses allowed in the district are relatively limited. Typical uses include offices, medical facilities, and institutional facilities, and it also allows residential development in order to make mixed-use employment center-type development possible. For the proposed amendment, staff has focused on the institutional uses allowed in the district, as the transitional purpose can also be served by other districts, such as Community Business (CB).

Proposed height limits are intended to support three-story structures but also allow for five-story senior living and office buildings, which would be appropriate for this district. The only uses that potentially would need more stories are hospitals and colleges, so an additional height allowance makes that possible.

The final district where height changes are proposed is the Light Industrial, or I-1 district. This district is currently applied to a number of properties, primarily in the northern part of the county. It allows a wide spectrum of uses, including office, commercial, manufacturing, waste and salvage, and wholesaling operations. The current district dimensional standards are designed for manufacturing and wholesale uses but, based on ongoing economic development conversations and the Comprehensive Plan's guidance, this district is needed to support more tech-related and other light industrial uses, which generally need taller buildings. As a result, an additional height allowance is proposed to allow up to 100 ft. for warehouses, offices, research and development, and hotels. While the existing large setbacks from adjacent residential properties were originally thought to be sufficient to mitigate the additional height, in response to public concerns, mitigation standards are also required for additional height in this district when adjacent to residential properties.

PROPOSED AMENDMENT

The proposed text amendment and supplemental summary sheets are attached, with *red italics* indicating new language and ~~strike through~~ indicating provisions that are removed.

PLANNING BOARD ACTION

The Planning Board considered this request at their October 7, 2021 meeting. No one spoke in favor or against the amendment.

The Board recommended approval of the request (6-0), finding it to be:

CONSISTENT with the purpose and intent of the 2016 Comprehensive Plan because it supports accessible housing and is in line with the height recommendations of the plan. They also found **APPROVAL** of the proposed amendment reasonable and in the public interest because it incentivizes the types of commercial development desired in the unincorporated county and mitigates potential impacts of taller buildings on adjacent residential neighborhoods.

STAFF RECOMMENDATION

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

I move to recommend **APPROVAL** of the proposed amendment to the New Hanover County Unified Development Ordinance to increase height in multi-family, mixed use, and commercial and industrial districts. I find it to be **CONSISTENT** with the purpose and intent of the 2016 Comprehensive Plan because it supports accessible housing and is in line with the height recommendations of the plan. I also find **APPROVAL** of the proposed amendment reasonable and in the public interest because it incentivizes the types of commercial development desired in the unincorporated county and mitigates potential impacts of taller buildings on adjacent residential neighborhoods.