

PLANNING COMMISSION

Agenda Item # 1.

Planning Commission: January 3, 2018

Case: LDC-3-118

Staff Contact: Megan Upchurch; megan.upchurch@wilmingtonnc.gov; 910-342-2779

Staff Recommendation: Approval

Planning Commission
Recommendation:

City Council Action:

Request

<i>Code Section(s)</i>	Amend Sec. 18-190. O&I-1, Office and Institutional District 1	
<i>Request</i>	To allow limited retail in as part of a Commercial District Mixed-use (CDMU) in the O&I-1 district	
<i>Applicant</i>	Matthew Nichols Smith Moore Leatherwood LLP 101 N. 3 rd St. Suite 400 Wilmington, NC 28401	(910) 815-7100 matt.nichols@smithmoorelaw.com

BACKGROUND / ANALYSIS

The proposed amendment is to allow neighborhood-scale retail within Commercial District Mixed-use (CDMU) developments in the Office and Institutional-1 (O&I-1) district. The Land Development Code (LDC) currently does not allow retail of any kind as a permitted use within O&I-1 district.

O&I-1 is established to provide areas that are conducive to the establishment and operation of institutional, office, and limited commercial uses. Retail sales establishments are a permitted use within the CDMU provided it is already permitted within the district. Since retail sales establishments are not permitted in O&I-1, then they are not permitted within a CDMU within the O&I-1 District.

Per the proposed amendment, retail sales establishments would be permitted within the O&I-1 district but only on a neighborhood scale subject to criteria identified in Section 18-322(a) of the LDC. Neighborhood-scale retail establishments are "small businesses that meet local, convenient retail needs," drive-through windows and loud speakers are prohibited, and retail uses cannot exceed 3,200 square feet. This narrowly proposed amendment is in compliance with the Create Wilmington Comprehensive Plan by promoting walkable retail options, reducing single occupancy automobile travel, and encouraging mix of uses.

Benchmark City Summary

The benchmark cities were almost evenly split on whether or not retail was allowed in O&I or similar districts. There were some limitations to the analysis since most of the cities had only office districts. In addition to this limitation, most of the benchmark cities had little to no

regulations regarding small-scale retail. This is why retail as a whole was used for benchmarking and not neighborhood-scale. Even though the benchmark cities were split on permitting or not permitting retail within the O&I districts, staff findings through the Create Wilmington Comprehensive Plan and the city's Strategic Plan showed that neighborhood-scale retail could be beneficial to future growth via enhanced mixed use development.

Benchmark City	Retail Permitted in O&I
Alexandria, VA	Permitted in Office Commercial District
Annapolis, MD	Not permitted in Office Districts
Asheville, NC	Permitted in Office/Business/Permitted through special use in the Institutional District
Charleston, SC	Not permitted in Office Districts
Chattanooga, TN	Not permitted in Office District
New Bern, NC	Permitted in C-5A District
Raleigh, NC	Permitted as a limited use in the Office Mixed Use district
Santa Fe, NM	Not permitted within Office Districts
Savannah, GA	Not permitted in O&I District
St. Augustine, FL	Permitted in the Residential and General Office District
St. Petersburg, FL	Permitted in Institutional Center by being Grandfathered
Wilmington, NC	Not Permitted in O&I-1

PROPOSED AMENDMENT

Following are the proposed amendments to the Land Development Code. Additions are underlined.

Sec. 18-190. -O&I-1, Office and Institutional District 1.

- (a) *Purpose.* The purpose of the Office and Institutional Districts shall be to provide areas that are conducive to the establishment and operation of institutional, Office and limited commercial activities not involving the sale of merchandise, except as provided herein. Standards are designed so that these districts, in some instances, may serve as transitions between residential districts and other commercial districts. The principal means of ingress and egress for uses in the districts shall be along collector roads, minor arterials, and/or major arterials as designated on the city's Thoroughfare Plans.
- (b) *Uses permitted by right.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.

- (23) Within CDMU development, neighborhood-scale retail establishments as defined in 18-322(a)

CONSISTENCY WITH ADOPTED PLANS

Create Wilmington Comprehensive Plan

The proposed amendment is consistent with the recommendations of the *Create Wilmington Comprehensive Plan*. The plan encourages a mix of uses where compatible to reduce dependency on single occupancy automobiles and create more live/work communities.

Policies that pertain to the proposed amendment are provided below. Not all policies carry equal weight and may depend on the specifics of the proposal. The following symbology is employed:



Strong Support



Modest Support



Modest Non-support



Strong Non-support

Policies 1 Development and City Building

Mixed-use Development

- 1.5.2 Integration and mix of uses should be provided within all “Areas of Opportunity” and “Mixed-use Centers” identified in the Growth Strategies Maps. These developments may vary in scale and intensity, but should all contribute to the city’s livability, manage future growth, and provide bike, pedestrian, and transit-accessible destinations.



Policies 5 Economic Development

Economic Development and Land Use

- 5.5.2 Appropriate intensification and retrofitting of existing office and retail with new, interconnected, pedestrian- and bike-friendly residential and retail uses should be encouraged to provide attractive and competitive live-work designations.
- 5.5.5 Land use patterns and zoning regulations should support retail, office, and mixed-use infill and should not push retail to edge locations or promote the abandonment of existing retail centers. Emerging and re-emerging retail districts should be identified and encouraged to capitalize on those specific characteristics and niches that make them distinctive and desirable to patronize.



Policies 9 Urban Design and Placemaking

Pedestrian-oriented Placemaking

- 9.3.1 Mixed-use buildings and multi-use development sites should be encouraged where appropriate. Infill development that creates a destination for existing land uses should include opportunities for cross-site pedestrian connections, shared parking arrangements and other strategies to enhance mixed-use environments.



City of Wilmington Strategic Plan

The proposal is consistent with the recommendations of the *City of Wilmington Strategic Plan*. The proposed amendment may allow for the opportunity to create more mixed use retail opportunities for residents and workers in and around the O&I-1 Districts. By having closer access to retail, the proposed amendment would encourage more walking and biking options and reduce dependency on single occupancy automobiles. Mixed-use projects in the O&I-1 district would help mitigate traffic by allowing drivers to drive shorter distances and/or less often

due to retail being located within walking/biking distance to homes and offices. The focus area that most pertains to the proposed code amendment is *Provide Sustainability and Adaptability*.

Focus Area: Support Efficient Transportation Systems

- The City will advocate for, develop and maintain diverse modes of transportation needed for an inclusive, connected community. A complete transportation system includes motor vehicles, mass transit, pedestrian, bicycle and other transportation modes operating in a unified and complementary manner that increases mobility and regional connectivity.

Focus Area: Foster a Prosperous, Thriving Economy

- The City will promote opportunity and prosperity by fostering sustainable, regionally coordinated economic growth and development strategies for creating jobs, building a strong workforce, facilitating commerce and business vitality.

Focus Area: Provide Sustainability and Adaptability

- The City will protect and preserve our natural resources with quality design for the built environment. The City will make strategic decisions focused on the long-term financial, physical and social health of the entire City to enhance our ability to respond to changing economic and demographic conditions. Our actions will be based on a shared commitment to inclusiveness, equity and continuous improvement.

CONCLUSION / RECOMMENDATION

The proposed amendment would allow for neighborhood-scale retail in a Commercial District Mixed-use (CDMU) in the Office and Institutional 1 District (O&I-1). This will create more pedestrian friendly retail options for office workers and residents within the O&I-1 zoning district. The proposed amendment would have no change current building standards.

The proposed amendment is consistent with the recommendations of the *Create Wilmington Comprehensive Plan*, the city's Strategic Plan, and is in the public interest; staff recommends **approval** of the amendment to the Land Development Code as proposed.

NEIGHBORHOOD CONTACT

Advertisement Date(s)

Planning Commission
12/29/2017

ATTACHMENTS

1. Land Development Code Amendment Application (Dated Received 9/29/2017)
2. Land Development Code Article 6, Division I-Prescribed Conditions, Special Use Prerequisites, and Accessory Uses and Structures, Section 18-322(a)-Prescribed and special use conditions in the Residential Office District

LAND DEVELOPMENT
CODE AMENDMENT

REQUEST

APPLICATION TO
AMEND THE LAND

DEVELOPMENT CODE
(CHAPTER 18)

The applicant requests that the City of Wilmington Land Development Code be amended as indicated below:

Applicant Information


Name: Grand View Holdings, LLC

Mailing Address: c/o Matt Nichols, Smith Moore Leatherwood LLP

101 N. 3rd St., Suite 400, Wilmington, NC 28401

Phone: (910) 815-7100 Fax:

Email: matt.nichols@smithmoorelaw.com

Applicant Signature 
Grand View Holdings, LLC by Christopher W. Bailey, Authorized Agent

Action Requested

Article, Division, and Section of Land Development Code to be amended (be sure to include all applicable articles and sections): Sec. 18-190. - O&I-1, Office and Institutional District 1

Wording of proposed text amendment (attach additional sheets as necessary):

Please see attached Exhibit "A"

Explanation of impacts on the City as a whole and consistency with City plans and policies (comprehensive plan, corridor plans, Vision 2020: A Waterfront Downtown, etc.) (attach additional sheets as necessary):

Please see attached Exhibit "B"

Justification for amending the Land Development Code as proposed (attach additional sheets as necessary):

Please see attached Exhibit "B"

LAND DEVELOPMENT
CODE AMENDMENT
REQUEST

APPLICATION TO
AMEND THE LAND
DEVELOPMENT CODE
(CHAPTER 18)


Agent Form

Please make additional copies as necessary.

I/we, the applicant(s), hereby designate Matthew A. Nichols to serve as agent regarding this application, to receive and respond to administrative comments, to resubmit information on my behalf, and to represent me in any public meeting regarding this application.

Grand View Holdings, LLC by Christopher W. Bailey, Authorized Agent

Name (please print) _____


Signature _____

9/28/17
Date _____

EXHIBIT "A"
TO
LAND DEVELOPMENT CODE AMENDMENT REQUEST

APPLICANT: Grand View Holdings, LLC

Proposed changes to text LDC Sec. 18-190:

Sec. 18-190. - O&I-1, Office and Institutional District 1.

- (a) *Purpose.* The purpose of the Office and Institutional Districts shall be to provide areas that are conducive to the establishment and operation of institutional, office and limited commercial activities not involving the sale of merchandise, except as provided herein. Standards are designed so that these districts, in some instances, may serve as transitions between residential districts and other commercial districts. The principal means of ingress and egress for uses in the districts shall be along collector roads, minor arterials, and/or major arterials as designated on the city's Thoroughfare Plans.
- (b) *Uses permitted by right.* The following uses are permitted provided that they meet all requirements of this section and all other applicable requirements established in these regulations.
- (1) Artists, commercial including silk screening.
 - (2) Assembly hall.
 - (3) Banking services.
 - (4) Business services.
 - (5) Funeral home and crematory.
 - (6) Golf course, public or private.
 - (7) Hospitals, except animal hospitals.
 - (8) Medical supply stores, retail.
 - (9) Offices, medical.
 - (10) Offices, professional.
 - (11) Parks and recreation areas, municipal.
 - (12) Personal services.
 - (13) Post office.
 - (14) Recreation facility, private.
 - (15) Restaurants: standard and fast-food.
 - (16) Social services, including employment offices or contractors

- (17) Spas and health clubs.
- (18) Veterinary services with enclosed pens.
- (19) Schools, college and universities.
- (20) Schools, primary and secondary.
- (21) Schools, trade, correspondence, and vocational.
- (22) Community center.

(23) Within CDMU development, neighborhood-scale retail establishments as defined in 18-322(a)

EXHIBIT “B”
TO
LAND DEVELOPMENT CODE AMENDMENT REQUEST

APPLICANT: Grand View Holdings, LLC

Explanation of impacts on the City as a whole and consistency with City plans and policies (comprehensive plan, corridor plans, Vision 2020: A Waterfront Downtown, etc.) (attach additional sheets as necessary):

The proposed amendment is consistent with the City’s plans and vision to create a more walkable, live/work community. It would give property owners additional tools to enhance their mixed-use centers by bringing limited retail goods closer to their residents and neighbors, in addition to the currently allowed services such as salons and restaurants.

Consistency with City of Wilmington Strategic Plan

This proposed text amendment is consistent with the focus area of Sustainability and Adaptability.

Consistency with the Create Wilmington Comprehensive Plan

This proposed text amendment is consistent with the Create Wilmington Comprehensive Plan’s following principles:

1.5 Mixed-use Development

The resurgence of mixed-use downtowns, employment centers, and retail centers is a national trend that is clearly evident in Wilmington in areas such as Mayfaire, Autumn Hall, and Greater Downtown. Mixed-use centers bring together medium- to high-density residential and nonresidential uses within a walkable, bicycle-friendly, and/or transit-accessible development framework. Uses can be mixed vertically (within buildings) and horizontally (between buildings). The diversity of uses and activities in mixed-use centers make them vibrant destinations that attract attention due to the level of activity. A mixed-use center should provide a full service environment and diverse uses, including housing at a variety of price points, offices, retail, service, entertainment, civic, and open space, for residents, employees, and visitors.



Related Policies
5.1 9.4



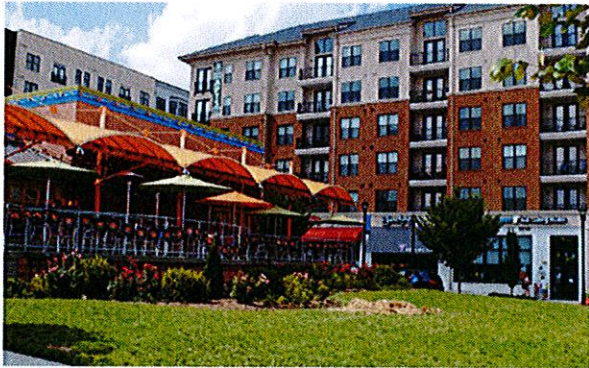
Suburban Mixed-use
North Hills in Raleigh is a nationally-recognized model mixed-use redevelopment of a suburban location. There are vertical mixed-use buildings and a horizontal mix of uses in this successful pedestrian-friendly commercial center.
Source: James Willmore \ North Hills, Raleigh \ CC BY-SA 2.0 \ createwilmington.org

Policies Sec. 1.5 *Mixed-Use Development* states that “[a] mixed-use center should provide a full service environment and diverse uses....” specifically including retail.

Policies Sec. 1.9 *Retail Land Uses* states in part that Wilmington's policy on retail development should focus on strengthening current mixed-use centers and encouraging redevelopment in mixed-use and commercial centers that is pedestrian friendly.

1.9 Retail Land Uses

Wilmington's retail uses are located primarily along major road corridors. The downtown core is a major existing mixed-use center. There are also several smaller mixed-use centers within the Greater Downtown that provide local retail goods and services and local restaurants. The Mayfaire area provides an expanding base of national retail goods and services and local and national restaurants. Built in 1956, Hanover Center is the oldest major retail shopping center in Wilmington and one of the oldest in North Carolina. Today, Hanover Center offers a mix of local, regional, and national retailers. Built in 1979, Independence Mall, just across Oleander Drive from Hanover Center, is the only enclosed mall within 60 miles of Wilmington and features national department stores to anchor smaller national and local retailers. The remainder of Wilmington's commercial shopping is located along major streets, and consists primarily of disconnected, one-story, strip commercial centers. Wilmington's policies on retail development focus on strengthening current mixed-use centers, encouraging connectivity within and between existing retail developments, and encouraging infill and redevelopment in mixed-use and commercial centers that is pedestrian-friendly and less reliant on motor vehicle access.



Mixed-Use Buildings

These types of buildings should include residential, commercial and retail within a context sensitive design, focusing on pedestrian interactions at the ground floor.

Source: City of Wilmington

Policies Sec. 9.0 *Urban Design and Placemaking* states that mixed-use buildings should include residential, commercial and retail within a context sensitive design.

Policies Sec. 1.9 *Economic Development and Land Use* states that retail should not be pushed to edge locations but should part integrated into existing locations via infill.

5.5.5

Land use patterns and zoning regulations should support retail, office, and mixed-use infill and should not push retail to edge locations or promote the abandonment of existing retail centers. Emerging and re-emerging retail districts should be identified and encouraged to capitalize on those specific characteristics and niches that make them distinctive and desirable to patronize.



Related Policies

9.4.2 1.9.3 9.6.2

Justification for amending the Land Development Code as proposed (attach additional sheets as necessary):

On May 1, 2016, City Council adopted the Create Wilmington Comprehensive Plan. The Comprehensive Plan emphasizes the benefits of mixed-used centers that feature a range of residential units and services *including retail*. Prior to the development of the Wilmington Comprehensive Plan, the O&I-1 – Conditional District Mixed Use (CDMU) was an option open to property owners to create mixed-use buildings which combined residential with office space and services. There is a restriction, however, on the sale of goods in the O&I-1 district, even within the CDMU.

The proposed text amendment would allow CDMU mixed-use projects in the O&I-1 district that include residential and services to be complemented by neighborhood-scale retail that is currently disallowed in O&I-1, thereby completing the one-stop destination intention of these properties, in keeping with the Create Wilmington Comprehensive Plan. This very limited change would allow these types of projects to align themselves more closely with the newly adopted Comprehensive Plan and in turn with future updates that are being planned for the Land Development Code to bring it into harmony with the Comprehensive Plan.

Neighborhood-scale retail is currently a use allowed in the Residential Office District under prescribed conditions and defined in LDC Sec. 18-322(a) as follows:

“Neighborhood-scale retail establishments are small businesses that meet local, convenient retail needs. Drive-through windows and loud speakers are prohibited. Retail uses shall not exceed three thousand two hundred (3,200) square feet.”

Applying this narrow definition of neighborhood-scale retail to CDMU projects in O&I-1 would prevent any downside to allowing the sale of goods, while allowing these projects to offer more pedestrian-friendly options for their residents and neighbors in keeping with the Create Wilmington Comprehensive Plan.

It is important to note that no changes to the building standards are proposed as part of this proposed text amendment. This very narrow text amendment is only an effort to allow limited retail sale of goods in order to make these existing mixed-use developments, which have been built in the spirit of the Comprehensive Plan, more well-rounded and to offer more amenities to the residents and neighbors than are currently allowed in O&I-1. This in turn, creates a more walkable, less automobile-dependent neighborhood. If approved, this change would allow access to some limited retail goods to complement the other commercial and residential uses already allowed.

Sec. 18-322. - Prescribed and special use conditions in the Residential Office District.

- (a) Retail sales establishments shall only be permitted on a neighborhood scale. Neighborhood-scale retail establishments are small businesses that meet local, convenient retail needs. Drive-through windows and loud speakers are prohibited. Retail uses shall not exceed three thousand two hundred (3,200) square feet.
- (b) Dry cleaners shall not utilize any chemicals on site.
- (c) Additions that would bring the gross building footprint to more than two thousand one hundred (2,100) square feet shall meet the follow standards:
 - (1) The minimum lot area required is twenty thousand (20,000) square feet.
 - (2) In no case shall the total building footprint exceed three thousand (3,000) square feet.
- (d) All new structures and additions to existing structures shall meet the following standards:
 - (1) All new construction shall maintain a residential character compatible with the area in terms of massing, scale, roof pitch, setback, building materials, building orientation, and fenestration. All new construction shall have a residential appearance that is consistent with that of the existing block face.
 - (2) The building footprint for any new principal building constructed after the adoption of this ordinance may be up to two thousand one hundred (2,100) square feet. The maximum building footprint may be increased to three thousand (3,000) square feet if the lot area is a minimum of twenty thousand (20,000) square feet.
 - (3) All new structures shall provide front elevations and a functional entrance facing Oleander Drive to be consistent in appearance with structures along the existing block face.
 - (4) All new structures shall maintain a residential-type pattern of door and window fenestration that is consistent with the fenestration on the existing block face. Tinted or mirrored glass is prohibited. A wall-to-window opening ratio between two-to-one (2:1) and one-to-one (1:1) is required.
 - (5) All new structures shall maintain a pitched roof that is consistent with the roofs along the existing block face.
 - (6) Any application for an SUP for all proposed new construction shall illustrate all proposed driveways, shared/cross-access easements, and parking areas.
- (e) Any lots that are recombined to exceed a lot width of more than one hundred (100) linear feet shall meet the following standards:
 - (1) The location of all existing/proposed structures, parking areas, and driveways shall be shown on the site plan.
 - (2) In no case shall the lot width exceed two hundred (200) linear feet.

(Ord. No. O-2010-76, § 2, 10-5-10; Ord. No. O-2011-41, § 2, 6-7-11)