

ORDINANCE 06 - 03
MIXED USE

AN ORDINANCE TO AMEND THE HANOVER COUNTY CODE, APPENDIX, ZONING ORDINANCE, TITLE I, BY AMENDING ARTICLE 2, SECTION 2, TO ADD THE DEFINITION OF “MULTIPLE-USE BUILDING”; BY AMENDING ARTICLE 3, SECTION 1 TO INCLUDE THE MX, MIXED USE DISTRICT, IN THE LIST OF ZONING DISTRICTS; BY ADDING IN ARTICLE 5, A SECTION 8A, CONSISTING OF SECTIONS 8A.1 THROUGH 8A.9, TO CREATE THE MX, MIXED USE DISTRICT, WHICH WOULD PERMIT COMMERCIAL AND RESIDENTIAL USES IN A SINGLE DISTRICT SUBJECT TO CERTAIN LISTED REGULATIONS; TO AMEND THE HANOVER COUNTY CODE, APPENDIX, SUBDIVISION ORDINANCE, TITLE II, BY AMENDING SECTION 5-32, WHICH WOULD PERMIT PRIVATE STREETS AND PRIVATE ACCESS DRIVES IN THE MX MIXED USE DISTRICT; AND TO REPEAL THE HANOVER COUNTY CODE, APPENDIX, ZONING ORDINANCE, TITLE I, ARTICLE 5, SECTION 9, CONSISTING OF SECTIONS 9.1 THROUGH 9.15, CONTAINING THE PROVISIONS CREATING AND REGULATING THE PUD, PLANNED UNIT DEVELOPMENT DISTRICT.

WHEREAS, the Board of Supervisors of Hanover County has determined that it is in the best interests of the citizens of Hanover County to encourage livable, walkable, and inclusive communities; and

WHEREAS, the Board of Supervisors has determined that it is in the best interests of the citizens of Hanover County to create a zoning district that will permit a variety of residential and commercial uses in accordance with specified regulations, standards, and guidelines to encourage such communities; and

WHEREAS, the Board of Supervisors has determined that such a district will encourage economic development throughout the County; and

WHEREAS the Board of Supervisors finds that the public necessity, convenience, general welfare and good zoning practice require that the Zoning Ordinance be amended to provide for such regulation;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That the Hanover County Code, Appendix, Zoning Ordinance, Title I, Article 2, Section 2, “Definitions,” shall be amended by adding a definition of “multiple-use building”, which shall read as follows:

Building, multiple-use: A building in which two or more uses are conducted, including, but not limited to, residential, business, office, or other uses such as **clinics, professional offices, restaurants, and similar uses.**

2. That the Hanover County Code, Appendix, Zoning Ordinance, Title I, Article 3, Section 1, shall be amended to read in its entirety as follows:

Section 1. Establishment of districts.

In order to regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes; to regulate and restrict the location, height, and size of buildings hereafter erected or structurally altered, the size of yards and other open spaces and the density of population, the following zoning districts are hereby established:

- (a) Conventional Zoning Districts: A-1 Agricultural; RC Rural Conservation; AR-6 Agricultural Residential; RS Single-Family Residential; R-4 Residential Cluster Development; R-5 Multiple-Family Residential; R-6 Residential Mobile Home; MX Mixed Use District; B-0 Business Office; B-1 Neighborhood Business; B-2 Community Business; B-3 General Business; OS Office/Service; M-1 Limited Industrial; M-2 Light Industrial; M-3 Heavy Industrial.
 - (b) Overlay Zoning Districts: OAP Overlay Airport Protection; OUD Overlay Urban Development; OHP Overlay Historic Preservation; Crump Creek Reservoir Overlay Protection; Overlay Route 1 Corridor; Ashland Area Overlay District.
3. That the Hanover County Code, Appendix, Zoning Ordinance, Title I, Article 5, shall be amended by adding a section numbered 8A, consisting of Sections 8A.1 through 8A.9, which read in its entirety as follows:

Section 8A. MX Mixed Use District.

8A.1 Purpose of the district. The purpose of this district is to encourage large-scale developments as a means of creating a quality living environment, including walkability, through unified planning and building operations, to encourage variety **and affordability** in housing, **including housing for the workforce, to encourage provision of** well-located community facilities, to protect unique and valuable landscape or natural features, to encourage preservation and more efficient use of open space, and to offer an opportunity for design flexibility and innovations which may result in improved relationships between land uses of different types and between land uses and transportation facilities, while protecting existing and future development and achieving the goals of the Comprehensive Plan. MX Mixed Use Districts may only be located within the Suburban Service Area as depicted on the Phased Suburban Development Plan in the Hanover County Comprehensive Plan.

8A.2 Uses. The uses permitted within the Mixed Use District, whether by right or as Conditional Uses or Special Exceptions, are as specified below:

- a. Permitted residential uses:
 - 1. Attached and detached single-family dwellings; multiple-family dwellings; and multiple-use structures.
 - 2. Any permitted use or accessory use specified in the RS, Residential Single-Family District.

- b. Permitted commercial uses:

Any permitted use or accessory use specified in the B-O, Business Office District, **and** the B-1, Neighborhood Business District, ~~and the M-1, Limited Industrial District~~

- c. **Permitted industrial uses.**

Any permitted use or accessory use specified in the M-1, Limited Industrial District.

- e.d Conditional uses.

The following uses may be permitted as conditional uses if approved by the Board of Supervisors in accordance with the procedures set out in this appendix:

- 1. Any conditional use listed in the RS, Residential Single-Family District; ~~or~~ the B-1, Neighborhood Business District; **and the M-1, Limited Industrial District.**
- 2. Any permitted or conditional use listed in the B-2, General Business District.

- d.e Special Exceptions.

The following uses may be permitted as special exceptions if approved by the Board of Supervisors in accordance with the procedures set out in this appendix:

Any special exception use listed in the B-1, Neighborhood Business District.

8A.3 *Application of the district.* To enable the district to operate in harmony with the plan for land use and population density embodied in these regulations, the Mixed Use Community District is created as a separate district exclusive of other districts contained in these regulations. The housing types, minimum lot requirements, maximum height, minimum yard requirements, and accessory uses and accessory signs shall be determined by the requirements and procedures set forth in this article, which shall prevail over conflicting requirements of these regulations or ordinances governing the subdivision of land. The MX District is intended to provide incentives for the development of parcels to which public utilities are readily available, either as individual properties or through the assemblage of smaller parcels into a larger tract. In addition, the district provides for unified and cohesive development of large tracts of land into active, distinctive, and pedestrian-friendly environments comprising discrete communities.

8A.4 *Minimum district area; minimum area(s) for designated uses.* The minimum area for a Mixed Use District shall be twenty (20) acres, although an MX District of less area may be considered if the land has unique historical character, topography, or landscaping features, or is an isolated problem area which justifies application of the district to a smaller area.

For each of the designated uses, the following minimum areas shall apply:

1. No less than twenty-five percent (25%) of the net developable area of the overall district shall be set aside as open space. This may include common open areas, plazas, areas improved for recreation, historic sites, and any buffers provided between the various uses within the district. It shall not include yards of dwelling units or outdoor areas used in connection with a commercial or industrial use. Active and passive recreation may be provided within the open space. Public squares and plazas that are surrounded on at least three (3) sides by residential and/or commercial uses **which** front the plaza **or peripheral roads adjoining the plaza** shall be counted at twice the actual area toward satisfaction of the open space requirement.
2. All common open space shall be protected by covenants setting forth the provisions for ownership and for maintenance of the open space. For purposes of the regulations governing the MX Mixed Use District, "net developable area" shall be defined as the total acreage of the site minus those areas in floodplains, Chesapeake Bay Protection Areas, wetlands, and slopes of 25% or greater.
3. No less than twenty percent (20%), nor more than fifty percent (50%), of the net developable area shall be used for commercial and/or industrial development. When commercial uses are mixed with residential uses, the area of development shall be calculated for commercial development.

8A.5 *Procedures; master plan required.* A master plan complying with the requirements specified in this article shall accompany an application for approval of an MX District. A request to establish an MX District shall be considered in accordance with the procedures set forth in Articles 9 and 10 of this appendix.

Once approved, any amendments to the MX District or to the master plan shall be in accordance with the procedures set forth in Article 10 regarding revisions. The master plan shall guide the general location of all features of the community, including land uses, densities, roads, public uses, and other features. Approved final plats and plans shall supersede the master plan.

8A.6 *Master plan; requirements.* The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or planner. The scale shall be appropriate to permit the entire project to be represented on a sheet of paper no larger than 30 inches by 48 inches.

The master plan shall include the following:

1. The proposed title of the project and the name of the engineer, architect, designer, and/or landscape architect, and the owner/developer.
2. The northpoint, scale, and date. Plans for districts less than 100 acres shall be drawn at a scale of not less than 1":200', and shall include an area within 1000 feet of the boundary of the proposed district. For proposed districts of 100 acres or more, the scale shall be not less than 1":400', and shall include the area within 2,000 feet of the proposed district. Within the boundaries of the project, a circle with a radius of one thousand two hundred (1200) feet shall be inscribed around each commercial area, with the centerpoint located at the center of the commercial area. This depiction may be provided on a separate plan sheet.
3. Zoning and zoning district boundaries, both existing and proposed.
4. Vicinity sketch at a scale no greater than 1":2000'.
5. Location of existing environmental, topographical, and historic resources including:
 - a. Topography, at an interval of two feet.
 - b. Aquifer recharge areas, based on available published information (USGS maps or other sources approved by the County).
 - c. The location of ponds, streams, and natural drainage swales, and one-hundred year flood plains, as well as all resource protection areas as defined under the Chesapeake Bay Preservation requirements and slopes of **twenty-five (25)** percent or greater.

- d. Location of all historic structures and resources including but not limited to those identified in the Hanover County Historic Site Survey (including those on any contiguous tract), abandoned roads, cemeteries, and military earthworks. All features to be preserved shall be clearly noted on the plan.
 - e. Other existing natural features on the property, including tree masses, wood lines, and a depiction of any proposed modifications to the feature.
6. Proposed lot lines.
7. The number and location of residential dwelling units, by type.
8. Proposed square footage of commercial and industrial buildings.
9. Designation of areas of common space, with a description of proposed improvements and landscaping where appropriate, and active and passive recreation areas.
10. General location of proposed structures (commercial, industrial, and residential), with designation of the type(s) of housing proposed. If attached structures are to be used, the number of units in each structure within the district shall be shown.
11. A project Design Manual, to include descriptions, depictions, and typical drawings for the following:
 - a. An overall project description establishing the intended community characteristics, design themes, and elements to be incorporated into the project, to include concepts related to bulk and scale, physical relationships, and material composition.
 - b. Proposed typical elevations for all structures, which shall include the following typical details:
 - i. Façade materials, including the use of color(s),
 - ii. Building height, length, and depth,
 - iii. Roof lines and materials,
 - iv. Stoop, porch, and eave design details (including columns and railings),
 - v. Door, entryway, and trim design details (including garage doors),
 - vi. Window, trim, and shutter design details, and

- vii. Screening for the heating, air conditioning, and electrical systems used in commercial, industrial, or multiple-use buildings. The proposed screening shall be constructed so ensure that the equipment for such systems shall not be visible from residences within the district or from any residence or public road located outside of the district.

- c. Landscape details, including typical plant materials to be used throughout the project, typical planting details and location(s), amenities, including street furniture, light fixtures, recreational improvements, and all other hardscape for the following areas:
 - i. External buffers along major thoroughfares, and where proposed along common external boundaries,
 - ii. Internal buffers, where proposed,
 - iii. Internal roads,
 - iv. Common and public areas, and
 - v. Parking lots.

- d. Neighborhood design characteristics including:
 - i. Internal road functional classifications,
 - ii. Typical Road section plans for each functional classification, to include both plan and cross section views,
 - iii. Proposed setback lines for each type of road as describe in “i.” above (if applicable),
 - iv. Proposed build-to lines for each type of road as described in “i.” above (if applicable), and
 - v. Typical streetscape design for each classification of road and/or neighborhood.

- e. Pedestrian system, including type(s) of paving and/or impervious surface to be used

8A.7 Relationship of final plans and final plats to master plan. Following the establishment of a Mixed Use District and approval by the Board of Supervisors of a master plan, a subdivision plat or site plan may be submitted for any section of the district shown on the master plan. The plats or site plans shall be reviewed by the Planning Commission in accordance with the procedures set forth in this appendix. All plats and site plans shall be in substantial conformity with the approved master plan. Where land is to be subdivided within the district, the plats shall comply with the requirements specified in Title II, Subdivision Ordinance. Where land is not to be subdivided, the plans shall comply with the requirements of Article 7, Section 6.

8A.8 *Density.* The gross density of the net developable area of the district shall not exceed twice the permissible density in the underlying land use designation. When a proposed district includes an area designated on the land use map for commercial use, the maximum density shall not exceed thirty (30) units per acre. Within each designated residential section, and within areas with combinations of uses, density may exceed four residential units per acre.

8A.9 *Development standards.* *The following standards shall apply to all Mixed Use districts.*

1. All MX districts shall be developed with public utilities. Districts of sufficient size to allow construction of water and/or sewerage treatment plants to serve the development shall design and construct such systems in conformance with the **County's** design standards and specifications in effect at the time of approval of the district. The systems shall be offered for dedication to the County without cost, and shall be accepted by the County and operated as part of the public utility system if the Board of Supervisors determines that county ownership and operation of the systems would be consistent with the plans for the County's public utility system.
2. All recreation areas shall be designated on the master plan. When improved with playground equipment, playing fields, tennis courts, swimming pools, or other recreational facilities, such improvements shall be detailed on the plan. All improvements shall be constructed prior to issuance of any Certificate of Occupancy within the section of the project served by the recreation area; in the alternative, the applicant may post a bond or provide other surety acceptable to the Director of Planning in an amount equal to the estimated cost to complete such improvements and a twenty-five (25) percent allowance for estimated administrative costs, including attorneys' fees, if applicable, and inflation. The recreational areas and facilities shall be owned and maintained by either the developer or the residents' association.
3. Parking shall be provided as specified in Article 7, Section 1. Within the project, on-street parking, including parallel parking, shall be permitted and shall be counted toward satisfaction of the required parking. All congregate parking areas within the district shall be developed and landscaped in conformance with the standards specified in Article 5A, Section 3.
4. All streets within the district shall be public unless approved to be private streets or private access drives by the Board of Supervisors. The design for all private streets and private access drives shall be included as part of the master plan and reviewed at the time of district approval. Any private street shall be constructed in accordance with the standards set forth in Section 5-32 of the Hanover County Subdivision Ordinance. Curb and gutter shall be used throughout the development.
5. Streetlights, when provided, shall not exceed a height of fifteen (15) feet **anywhere** within the district. All lights shall conform with the provisions of Article 7, Section 13: Site lighting requirements.

6. Thoroughfare buffers shall be provided along the frontages of all uses when located along an adjoining existing thoroughfare along the external boundary of the project **in accordance with the requirements for thoroughfare buffers specified in Section 5-21-1(a) of the Subdivision Ordinance**. For commercial and industrial uses, a buffer shall be **provided, and shall be** no less than twenty-five (25) feet in width. For all other uses, the buffer shall be **as specified in Section 5-21-1(a) of the Subdivision Ordinance**. Landscaping shall be provided as specified in Article 7, Section 2B.
7. To the extent possible, existing features which would enhance the value of the district, including trees, watercourses, historical sites, and similar assets, shall be preserved.
8. Design standards for signs and light fixtures within the district shall be approved by the Board of Supervisors at the time of district approval.
9. Open space shall be reasonably dispersed throughout the site, and, where possible, shall be connected by a pedestrian circulation system, including sidewalks, **pathways, and trails**. Open space areas shall be designed and located so as to maximize public accessibility, emphasize inter-relationships between uses within the project, and create visual connections between spaces. They shall also contain features and amenities which encourage safe and continued public use, such as bandstands, pavilions, gazebos, benches, tables, and playgrounds. Commercial and residential uses are encouraged to be located to face squares, plazas, public areas, parks, and open space areas. Open spaces areas shall incorporate all lands deducted from the gross acreage to determine net acreage (floodplains, Chesapeake Bay Protection Areas, wetlands, and slopes of 25% or greater). The open space shall generally abut existing or potential open space land on adjacent parcels, and shall be designed as part of any existing or proposed larger contiguous and integrated greenway systems.
10. No residential use shall be located closer than fifty (50) feet to the boundary of the district or to any adjoining existing or proposed road except as part of a combined use. No use other than residential uses shall be located closer than one hundred (100) feet to the boundary of the district or to any adjoining existing or proposed road except as part of a combined use. In addition, all commercial or institutional uses shall be located no closer than one hundred (100) feet to any residential use within the district.
11. Within the district, there shall be no minimum lot areas nor minimum lot front, rear, or side yard requirements except as approved as part of the master plan for the district or except as specified above.
12. Single-family dwelling units, both attached and detached, may be constructed to a height of four (4) stories or fifty (50) feet. Multiple-family structures and all other commercial and institutional uses, including combined use structures, may be constructed to a height of five stories or sixty (60) feet.

13. No residential use shall have direct access to any road outside of the district. All commercial and institutional uses shall be limited to no more than one (1) direct access per use to any road outside of the district.
14. *Ownership and maintenance of common open space.*
 - a. Prior to or contemporaneous with the final subdivision plat or site plan approval for the first section of the district, the applicant shall record documents which create an owners' association. The association shall be required to maintain all open space, common areas and amenities, including recreation facilities, street lights, street trees, alleys, and pedestrian paths, and all lot owners shall be members of the association. The association shall be authorized to assess fees and impose liens on members' property for the cost of maintenance of the maintained areas and amenities; provided that alternate arrangements for the maintenance of open space may be approved by the Board of Supervisors, as described below. Prior to or contemporaneous with the final subdivision plat or site plan approval for each section of the district, the applicant shall convey all amenities and all common and open space areas within that section to the association.
 - b. Unless alternate arrangements are approved by the Board of Supervisors, prior to or contemporaneous with final subdivision plat or site plan approval for any section within an MX District, applicants shall record documents conveying open space easements applicable to the common and open space, to the County, with content approved by the County, requiring preservation of features so designated on the Plan, requiring maintenance in perpetuity of the common and open space, prohibiting further division of those areas, and prohibiting any use not permitted by the Zoning Ordinance.
 - c. The Board of Supervisors may approve conveyance of the open space and any open space easement to a qualifying nonprofit or governmental entity other than the owners' association or the County, upon a finding that (1) such a conveyance will achieve purposes of open space consistent with the character of the MX District, (2) the conveyance will be beneficial to the future owners within the district and to the public, and (3) the purposes and resources of the entity and the proposed conveyance are consistent with the perpetual preservation of the open space and significant features.
4. That the Hanover County Code, Appendix, Subdivision Ordinance, Title II, Section 5-32, shall be amended to read in its entirety as follows:

5-32 Private streets and private access drives:

- a. Private streets may be allowed only in subdivisions zoned A-1, Agricultural; AR-6, Agricultural Residential; R-4, Residential Cluster; R-5, Multiple-Family Residential Districts; or in residential sections of an MX Mixed Use District.

- b. Private access drives may be allowed in commercial and industrial districts where at no time in the future such streets will carry through traffic. Private access drives may be allowed in the commercial and industrial sections of an MX Mixed Use District where such drives do not carry traffic directly from a public road located outside the district.
 - c. Private streets or private access drives are not allowed for planned roads designated in the major thoroughfare plan.
 - d. Any subdivision containing private streets or private access drives shall, in the deed to each tract or lot, carry a restrictive covenant to the effect that certain roads in the subdivision are private in nature and shall not be maintained by the state department of transportation or other public road agency; that the maintenance and improvement thereof shall be the mutual obligation of the landowners in the subdivision; and that such private roads shall not be taken into the state secondary system, unless and until the abutting landowners or homeowners' association shall have constructed and dedicated the private roads in accordance with the latest state department of transportation specifications, and thereafter the county board of supervisors shall have recommended that said roads be taken into the state secondary system of highways.
5. That the Hanover County Code, Appendix, Zoning Ordinance, Title I, Article 5, Section 9, consisting of Sections 9.1 through 9.15, is hereby repealed.
6. That all PUD Planned Unit Development Districts approved by ordinance adopted by the Hanover County Board of Supervisors prior the effective date of this ordinance shall continue in effect and be subject to the ordinance provisions of the PUD, Planned Unit Development District in effect prior to the effective date of this ordinance. Copies of the PUD, Planned Unit Development District provisions shall be on file in the Hanover County Planning Office for reference.
7. This ordinance shall be effective on the date of adoption.