



**Ordinance Amendment
Staff Report**

Planning & Zoning Commission Public Hearing Date: December 11, 2023
City Council Public Hearing Date: December 18, 2023

Case: OAM23-03

Applicant(s): City of Tomball

Section(s): ADD: Section 50-75.1 (*Neighborhood Retail – NR District*)
MODIFY: Section 50- 82 (Use Regulations Chart)
MODIFY: Section 50-112 (*Off Street Parking*)
MODIFY: Section 50-113 (*Landscaping*)
MODIFY: Section 50-115 (*Screening, Buffering & Fencing*)

Subject: Add “Neighborhood Retail – NR” Zoning District and subsequent development & land use standards. Including specific standards governing parking, landscaping, and land use buffering/screening.

BACKGROUND

Over the course of the past several months, the City of Tomball has been approached by property owners and perspective developers requesting rezoning of properties to allow nonresidential commercial uses, often near existing and/or planned residential land uses or at the intersections of major thoroughfares. In many instances, these requests are in alignment with the goals and objectives of the Comprehensive Plan and Future Land Use Plan. However, the current nonresidential zoning districts of General Retail (GR), Commercial (C), & Light Industrial (LI) often allow a range of uses that may be considered incompatible with nearby residential land uses or undesirable at certain intersections of high traffic major thoroughfare. In these instances, the Planning & Zoning Commission and/or City Council have approved downgrading rezoning requests to Office (O) zoning. Although this has been a suitable alternative in certain areas, often the Office (O) zoning district is considered overly stringent to accommodate many developments and planned land uses. In efforts to better accommodate these requests for nonresidential zoning near existing and/or planned residential land uses or intersections of major thoroughfares the City of Tomball is recommending the creation of a new zoning district hereby referred to as “Neighborhood Retail (NR)” zoning. The intent of this Neighborhood Retail district is to accommodate a limited range of retail trade, services and office activities that are needed to serve a neighborhood area. The land uses promoted by this district are intended to be a middle ground between the existing Office (O) and General Retail (GR) zoning districts. This zoning district is to be utilized as a transition district between residential uses and more intense non-residential uses. The overall goal of this ordinance amendment is to create a zoning designation that will promote pedestrian oriented neighborhood level commercial developments, while increasing landscaping, buffering & screening standards to better protect nearby residential land uses when located next to nonresidential zoning districts.

NOTICE OF PUBLIC HEARING:

A public hearing notice was published in the Potpourii on November 29, 2023.

PROPOSED ORDINANCE AMENDMENT(s):

Code of Ordinance Section(s):

Chapter 50 - Article III. – District Regulations

ADD: Sec 50-75.1 – Neighborhood Retail District (NR)

- (a) General purpose and description – The Neighborhood Retail District is intended to accommodate a limited range of retail trade, services and office activities that are needed to serve a neighborhood area. The district is to be utilized as a transition district between residential uses and more intense non-residential uses. The district is to incorporate elevated landscaping and buffering standards to facilitate seamless integration alongside residential districts. Development within the district should be similar in scale as residential uses and adjacent properties. Architectural principles should be incorporated within site development to actively engage streetscapes and create pedestrian oriented environments. Uses within this district should not include uses that create excessive traffic, noise, trash, or late-night business operations. This district is ideally suited for intersections of major thoroughfares or at the intersection of a major thoroughfare and primary entrances to residential subdivisions and/or multi-family developments.
- (b) Permitted uses. Those uses listed for the Neighborhood Retail (NR) District in the use charts (section 50-82) as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively.
- (c) Height regulations. Maximum height:
 - 1) Forty feet (40’); also see setback requirements related to height (d)(2)(b.2) of this section.
 - 2) One story for accessory buildings
- (d) Area regulations
 - 1) Size of lots
 - a. Minimum lot area: 6,000 square feet.
 - b. Minimum lot width: 60 feet.
 - c. Minimum lot depth: 100 feet.
 - 2) Size of yards and setbacks
 - a. Minimum front yard: 15 feet. Where a lot faces a designated arterial street, the front yard shall be a minimum of 25 feet.
 - b. Minimum side yard.
 - 1. Interior: 5 feet
 - 2. Interior: If adjacent to a single-family, duplex, patio home or single-family attached district, then side and rear setbacks (within which parking is permitted) shall be according to the height of the primary structure as follows:
 - a. Setbacks shall be measured at a ratio of five feet in horizontal setback distance for every three feet of building height.
 - 3. Side yard adjacent to a street: 15 feet.
 - 4. Side yard adjacent to a designated arterial: 25 feet
 - c. Minimum rear yard: 15 feet. If adjacent to a single-family, duplex (two-family), patio home or single-family attached district, then minimum rear yard (within which parking is permitted) shall be 60 feet, unless separated by an alley in which case the minimum shall be 20 feet. When adjacent to an arterial, minimum rear yard shall be 25 feet.
 - d. Zero lot line exception: notwithstanding the requirements of this section, except where an interior side yard or rear yard is adjacent to property zoned for or restricted by a duly recorded subdivision plat to, or primarily use for, single-family residential purposes, there shall be no required interior side or rear yard if the wall adjoining such interior side or rear lot line, as applicable, is constructed with materials giving it a four-hour firewall rating. Yards adjacent to street or alley right-of-way are excluded from this provision.
 - e. Minimum underground setback: any underground building structure shall be setback from any lot line by a minimum of 15 feet.

- f. Minimum pavement setback: all paving, except driveways and sidewalks, shall be setback from any public street right-of-way by a minimum of 15 feet.
- 3) Maximum lot coverage. Maximum lot coverage is 50 percent of the net site area (after right-of-way dedication) for the gross ground floor area of all building structures, including main and accessory buildings.
- 4) Maximum floor area. Maximum floor area ratio (FAR) is 1:1
- 5) *Outdoor sales*: Outdoor sales are prohibited.
- 6) *Outdoor storage*: Outdoor storage is prohibited.
- 7) *Hours of Operation*: Except for uses permitted within a residential zoning district, no use shall operate before 6:00 a.m. nor after 11:00 p.m. on any day of the week.
- 8) Façade Orientation Standards
 - a. Facades of primary building(s) immediately adjacent to street right-of-way(s) shall be front and/or side facades only. Rear facades of buildings shall be prohibited from facing street right-of-way(s).
- 9) *Parking Standards* Refer to Section 50-112 (c)(1.1) – Parking regulations for the NR District

Chapter 50 - Article IV. – DEVELOPMENT STANDARDS - Section 50-112 – Off Street Parking and Loading Requirements

MODIFY: (c) Nonresidential and MF Districts; off-street parking provisions.

ADD: (1.1) Parking regulations for the NR District

- a. Parking areas must be located to the side or rear of primary buildings. No parking shall be located between the front and/or side facades of primary buildings and street right-of-way(s) unless otherwise specified by the following:
 - a. One-way Vehicle drive-through lanes for overall circulation as well as drive-through and pickup/drop off services shall be exempt from this standard.
 - b. A maximum of one, one-way aisle of parallel and/or angled parking stalls shall be permitted between street rights-of-way(s) and facades of primary buildings.
- b. All parking and vehicle maneuvering areas shall be screened from streets by a solid row of hedges. As prescribed by Section 50-113 (f)(3)(f)
 - a. EXCEPTION: Vehicle visibility triangles shall be clear of hedges utilized for screening as prescribed by Section 38-34 – Obstructions prohibited in visibility triangle.
- c. No parking area may be located closer than 10 feet from property lines for properties zoned for Single-Family Residential uses.

Chapter 50 - Article IV. – DEVELOPMENT STANDARDS - Section 50-113 – Landscape requirements

MODIFY: (f)(3) Requirements for landscaping in and around parking lots

ADD: (f) Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned property, whether adjacent or across a street, by a continuous hedge, planter, berm, fence, wall, or combination of these, with a minimum height of 36 inches. This requirement shall not be required along state highways.

- 1. Shrubs utilized for screening parking areas shall be a minimum 3-gallon planting size spaced 36-inches on center.

Chapter 50 - Article IV. – DEVELOPMENT STANDARDS - Section 50-115 – Screening, buffering and fencing requirements

MODIFY: (b) screening of non-residential, multifamily areas and manufactured (mobile) home parks. The following provisions shall apply to screening of nonresidential, multi-family areas and manufactured (mobile) home parks:

DELETE:

- ~~(1) An opaque screening wall of not less than six feet, nor more than eight feet, in height shall be erected on the property line separating zoning districts in the following cases:~~

- ~~a. When a multifamily use, nonresidential use, or manufactured (mobile) home park sides or backs upon a single family, two family or residential PD District;~~
- ~~b. When any nonresidential use is on a tract, lot or parcel that is less than 15 acres and the nonresidential use sides or backs upon a multiple family district; and~~
- ~~c. When a commercial or industrial use is established on a building site located adjacent to any residential area, a ten foot side landscaped open-space buffer shall be installed and maintained by the owner, developer, or operator of the commercial or industrial property between it and the adjacent residential area. The provisions of this section shall not apply where the residential area is separated by a public street, drainage ditch, or canal with a minimum easement of 30 feet. With written approval of the planning and zoning commission, and otherwise full compliance with landscaping standards, a required buffer may include a stormwater detention area. In no event, however, shall the following uses be allowed in buffers: playfields, stables, swimming pools, tennis courts, or similar active recreation uses.~~

ADD:

- (1) Land use buffering shall be provided along property lines separating zoning districts as prescribed below:
 - a. When non-residential, multi-family residential, or manufactured (mobile) home park zoning shares a common boundary with single-family residential, two-family residential, residential planned developments or agricultural zoning districts.
 - b. Required land use buffers must consist of a minimum 10-foot-wide vegetative buffer yard and 7-foot opaque wooden fence plus at least 25 points based on the following criteria:
 - i. Points:
 - 1. Opaque masonry wall with 6-foot minimum height in lieu of providing opaque wooden fence = 10 points
 - 2. Each additional 5 feet of buffer yard = 5 points (maximum of 10 points)
 - 3. ONE (1) tree with a mature height of at least 20-feet and height of at least 8-feet and caliper size of 4-inches (measured 12-inches above ground level) at the time of planting per 25 lineal feet of buffer yard = 15 points
 - 4. THREE (3) smaller trees with a height of at least 8-feet and caliper size of 2-inches (measured 12-inches above ground level) at the time of planting per 25 lineal feet of buffer yard = 15 points
 - c. Trees planted to accommodate required land use buffering shall be in addition to the required trees prescribed within Section 50-113 (Landscaping Requirements).
 - d. Preservation of existing trees: Each tree preserved to accommodate the required land use buffer shall count as one tree toward the overall land use buffering requirement regardless of size. Trees planned to be preserved must be on the City of Tomball approved planting list.
 - e. For purposes of interpreting this section, mixed use zoning shall be considered nonresidential.
 - f. Buffer yards are required between adjacent uses as indicated. For purposes of this section adjacent includes properties separated by an alley but does not include properties separated by a street.
 - g. Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned property, whether adjacent or across a street, by a continuous hedge, planter, berm, fence, wall, or

combination of these, with a minimum height of 36 inches. This requirement shall not be required along state highways.

- h. Open space in buffer yards shall be planted in grass or other vegetative ground cover.
- i. Alternative buffering may be permitted by the Director of Community Development or their designee during the site plan review process so long as the buffering and aesthetic intent of these requirements are met.

ADD:

(5) Mechanical equipment, including roof-mounted equipment, must be screened from the view from streets, parking lots, parks, and residential districts with materials consistent with the principal structure, opaque fencing, masonry walls, and/or landscaping. Wall mounted electrical panels are exempt from this standard.

Chapter 50 - Article III. – District Regulations - Section 50-82 – Use Regulations (charts)

MODIFY:

| Types of Land Uses | Residential Zoning Districts | | | | | | | Nonresidential Zoning Districts | | | | | | | OT&MU | Parking ratio <small>(Also see section 50-112)</small> |
|---|------------------------------|---------|------|------|--|---|----|---------------------------------|---|----|----|--|---|----|-------|---|
| | AG | SF-20-E | SF-9 | SF-6 | | D | MF | MHP | O | NR | GR | | C | LI | | |
| Agriculture | | | | | | | | | | | | | | | | |
| Bulk grain and/or feed storage | P | | | | | | | | | | | | C | C | | 1 space per 1,000 square feet |
| Farm (ranch, garden, crops, livestock, or orchard) ‡ | P | P | P | P | | P | P | P | P | P | | | P | P | P | None |
| Feed and grain store/farm supply store ‡ | C | | | | | | | | | | C | | P | P | C | 1 space per 500 square feet |
| Flour and other grain mills | | | | | | | | | | | | | | P | | 1 space per 1,000 square feet |
| Livestock, wholesale/auction | C | | | | | | | | | | | | | | | None |
| Livestock sales/auction | C | | | | | | | | | | | | | | | None |
| Stable, commercial | C | | | | | | | | | | | | | C | | 1 space per 1,000 square feet |
| Stables (private, principal or accessory use) ‡ | P | | | C | | | | | | | | | | | | None |
| Residential | | | | | | | | | | | | | | | | |
| Accessory building/structure (business or industry) ‡ | | | | | | | | P | P | P | | | P | P | P | None |
| Accessory building/structure (residential) ‡ | P | P | P | P | | P | P | | | | | | | | P | None |
| Accessory dwelling | P | P | P | C | | C | C | | | | | | | | P | None |
| Garage/accessory dwelling ‡ | P | P | P | C | | C | C | | | | | | | | P | None |
| Caretaker's, guard's residence ‡ | P | C | | | | | P | P | P | P | | | P | P | P | 1 space per caretaker/guard |
| Dwelling, four-family (quadraplex) (defined under Multiple-family dwelling) ‡ | | | | | | | P | | | | | | | | P | 2 spaces per dwelling |
| Dwelling, HUD code-manufactured home ‡ | | | | | | | | P | | | | | | | C | 2 spaces per dwelling |
| Dwelling, industrialized home ‡ | P | P | P | P | | P | P | P | | | | | | | C | 2 spaces per dwelling |
| Dwelling, multiple-family ‡ | | | | | | | P | | | | | | | | P | 2 spaces per dwelling |

