City Council Executive Summary and Update Version December 18, 2023


Location: This text amendment affects all properties within the South Norfolk Business Overlay District

Planning Area: South Norfolk

Planning Commission Hearing Date: December 13, 2023

Staff Planner: Aaron Bell
The proposed amendment will amend Appendix A of the City Code, entitled “Zoning,” Article 12, Sections 12-604, 12-605, and 12-607, to permit residential development as a conditional use in the South Norfolk Business Overlay District (SNBOD).

Currently the only residential development allowed in the SNBOD is multi-family residential as part of a mixed-use development. The existing uses in the overlay district do include residential, primarily single-family homes along Perry Street and Bainbridge Boulevard, but these residences pre-date the adoption of the SNBOD into the Chesapeake Zoning Ordinance (CZO).

Staff has added detached dwellings (single-family homes), two-family dwellings (duplexes), attached row dwellings (townhouses/row homes), and multi-family dwellings (apartments/condos) to the table of permitted and conditional uses for the overlay district as conditional uses. Mixed-use was also added to the table as a permitted use, to distinguish it as a separate use from multi-family residential. Home occupation was added to the table as a conditional use, as previously there were no single-family residential uses permitted, which is the only type of residential use permitted to operate a home occupation.

During research into the proposed amendment, staff noted that Section 12-604 (Area of applicability) of the CZO specifically states that the development and design standards of the SNBOD only apply to land that is zoned for commercial (B-1, B-2, B-5) and office and institutional uses (O&I). It was determined that property within the overlay district could be rezoned to a residential district and no longer be subject to the standards of the SNBOD. Staff determined that removing the limitation of applicability for the SNBOD would encourage a harmonious design throughout the overlay district and promote a sense of place. Staff is therefore recommending that all properties within the South Norfolk Business Overlay District Map be subject the standards of the SNBOD, regardless of zoning.

As the development standards of the SNBOD are currently oriented towards commercial and office uses in an urban design form, staff is recommending additional development standards specifically for residential uses.

The SNBOD lists specific uses that must follow the CZO in terms of parking requirements. Residential uses are not currently included in this list and staff determined that residential development should be added to this list if not included within a mixed-use building. Similar to the setback requirements, the parking requirements will be evaluated as part of the CUP process and can be reduced or increased as a condition of the CUP.

Background

City Council adopted a resolution on August 15, 2023, requesting recommendations for proposed amendments to the CZO to permit residential development as a conditional use in the South Norfolk Business Overlay District.
A previous text amendment that applied to the South Norfolk Business Overlay District, PLN-TXT-2022-014, was approved by City Council on July 18, 2023. The text amendment increased the allowable density, increased the maximum building height, and provided flexible parking standards to promote mixed-use development within the overlay district.

**Planning Commission Public Hearing**

The request was heard at the December 13, 2023, Planning Commission Public Hearing, where it was recommended for approval by a 7-1 vote. The Commission discussion included questions of staff as to the purpose and need of the proposal, why a specific area was not targeted to remove from the SNOBD, and the level of support from South Norfolk civic organizations.

There were no emails and no calls in advance of the meeting. There was one (1) speaker from the South Norfolk Civic League in support of the project, and no speakers in opposition to the project.

Staff is not aware of any updates since Planning Commission and recommends approval of this request.

**Previous Staff Reports**

*Version dated November 17, 2023*
An ordinance amending Appendix A of the City Code, entitled “Zoning,” Article 12, Sections 12-604, 12-605, and 12-607, to permit residential development in the South Norfolk Business Overlay District.

Initiating Resolution Adopted by City Council: 08/15/2023

STAFF RECOMMENDATION
Approval of version dated October 4, 2023

PLANNING COMMISSION
HEARING DATE: 12/13/2023
RECOMMENDATION: APPROVAL of version dated October 4, 2023
VOTE: 7 – 1
TEXT AMENDMENT SUMMARY

PLN-TXT-2023-011  Residential Development in SNBOD

COUNCIL HEARING DATE FOR INITIATING RESOLUTION: 08/15/2023

A RESOLUTION REQUESTING THE CHESAPEAKE PLANNING COMMISSION TO CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROPOSED AMENDMENTS TO THE CHESAPEAKE ZONING ORDINANCE TO PERMIT RESIDENTIAL DEVELOPMENT AS A CONDITIONAL USE IN THE SOUTH NORFOLK BUSINESS OVERLAY DISTRICT – PLANNING

APPROVED 8 – 0 (Whitaker/Ward, Ike excused)

STAFF CONTACT: Planning Department
Aaron Bell, Planner II
(757) 382-6176
8. **PLN-TXT-2023-011**

An ordinance amending Appendix A of the City Code, entitled “Zoning,” Article 12, Sections 12-604, 12-605, and 12-607, to permit residential development in the South Norfolk Business Overlay District.

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**PLANNING COMMISSION RECOMMENDATION:**

**APPROVAL of version dated October 4, 2023:** (7 – 1; Hackworth/Crews; Gerloff opposed; Forbes excused)

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Mr. Bostwick read PLN-TXT-2023-011 into the record for Commission review and action.

**Staff Presentation:**

Mr. Bell stated that based on the findings listed in the staff report, planning staff recommend that **PLN-TXT-2023-011 version dated October 4, 2023**, be **APPROVED** as listed in the official agenda.

**Proponent:**

Brad Moore, 1300 Park Avenue, Chesapeake, Virginia, Citizen. Mr. Moore stated he is in support of residential development to improve the Overlay District.

**Commission Discussion:**

Vice Chairman Gerloff requested additional information as to why a Text Amendment was needed for residential development in the Overlay District.

Mr. McNamara stated that the Text Amendment is needed to evaluate a site on a case by case basis in order to ensure commercial development or residential developments are appropriate for the sites.

Chairman Steiner stated he has concerns about the risk of residential properties being placed in the Overlay District.

Mr. McNamara stated that the intent of the Overlay District is to improvement and upgrading of the area, along with promoting commercial revitalization.

Mr. Hackworth requested additional information on objection to the Text Amendment.

Mr. Moore stated that when a community meeting was held and a better understanding of the Text Amendment was gathered, the community was in favor of the Text Amendment changes.
COMMISSION VOTE:

Commissioner Hackworth moved that PLN-TXT-2023-011 version dated October 4, 2023 be APPROVED. Commissioner Crews seconded the motion. The motion was carried by a vote of 7 – 1.
### Proposal
An ordinance amending Appendix A of the City Code, entitled “Zoning,” Article 12, Sections 12-604, 12-605, and 12-607, to permit residential development in the South Norfolk Business Overlay District.

<table>
<thead>
<tr>
<th><strong>Address</strong></th>
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</tr>
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<tbody>
<tr>
<td><strong>Planning Area</strong></td>
<td>South Norfolk</td>
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<tr>
<th><strong>Planning Commission Hearing Date</strong></th>
<th>December 13, 2023</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Staff Planner</strong></td>
<td>Aaron Bell</td>
</tr>
</tbody>
</table>
The proposed amendment (attached) will amend Appendix A of the City Code, entitled “Zoning,” Article 12, Sections 12-604, 12-605, and 12-607, to permit residential development as a conditional use in the South Norfolk Business Overlay District (SNBOD).

Currently the only residential development allowed in the SNBOD is multi-family residential as part of a mixed-use development. The existing uses in the overlay district do include residential, primarily single-family homes along Perry Street and Bainbridge Boulevard, but these residences pre-date the adoption of the SNBOD into the Chesapeake Zoning Ordinance (CZO).

Staff has added detached dwellings (single-family homes), two-family dwellings (duplexes), attached row dwellings (townhouses/row homes), and multi-family dwellings (apartments/condos) to the table of permitted and conditional uses for the overlay district as conditional uses. Mixed-use was also added to the table as a permitted use, to distinguish it as a separate use from multi-family residential. Home occupation was added to the table as a conditional use, as previously there were no single-family residential uses permitted, which is the only type of residential use permitted to operate a home occupation.

During research into the proposed amendment, staff noted that Section 12-604 (Area of applicability) of the CZO specifically states that the development and design standards of the SNBOD only apply to land that is zoned for commercial (B-1, B-2, B-5) and office and institutional uses (O&I). It was determined that property within the overlay district could be rezoned to a residential district and no longer be subject to the standards of the SNBOD. Staff determined that removing the limitation of applicability for the SNBOD would encourage a harmonious design throughout the overlay district and promote a sense of place. Staff is therefore recommending that all properties within the South Norfolk Business Overlay District Map be subject the standards of the SNBOD, regardless of zoning.

As the development standards of the SNBOD are currently oriented towards commercial and office uses in an urban design form, staff is recommending additional development standards specifically for residential uses. Residential setbacks tend to be larger than commercial or mixed-use buildings. The SNBOD currently states that all buildings be given a setback of 0-10% of the lot depth. In some cases, this may be appropriate; however, staff determined that following a setback pattern of the block in which the residential structure is to be built would promote uniformity. As these residential uses will require a conditional use permit (CUP), City Council will be able to evaluate and approve setbacks on a case-by-case basis.

The SNBOD lists specific uses that must follow the CZO in terms of parking requirements. Residential uses are not currently included in this list and staff determined that residential development should be added to this list if not included within a mixed-use building. Similar to the setback requirements, the parking requirements will be evaluated as part of the CUP process and can be reduced or increased as a condition of the CUP.
Background

City Council adopted a resolution on August 15, 2023, requesting recommendations for proposed amendments to the CZO to permit residential development as a conditional use in the South Norfolk Business Overlay District.

A previous text amendment that applied to the South Norfolk Business Overlay District, PLN-TXT-2022-014, was approved by City Council on July 18, 2023. The text amendment increased the allowable density, increased the maximum building height, and provided flexible parking standards to promote mixed-use development within the overlay district.

Staff Analysis

Comprehensive Plan

The Land Use section of the 2035 Comprehensive Plan contains an objective to plan in a proactive manner to ensure that new development supports and complements existing development. The proposed text amendment will allow staff to analyze any proposed residential development within the SNBOD on a case-by-case basis to ensure that the proposal will complement and be compatible with the existing development within the overlay district. The proposed changes also subject residential development to the design standards of the SNBOD, which enforces high quality building design and a neutral color palette to ensure that any new or renovated buildings will be of a similar design and quality to the existing buildings in the overlay district.

An objective of the Growth Management section of the Comprehensive Plan relates to form of development and contains action strategies related to directing growth to areas as designated on the 2035 Land Use Plan. The SNBOD and Poindexter Street Corridor of South Norfolk has been targeted by City Council for growth and revitalization and the proposed text amendment supports these efforts. Another action strategy under this objective notes that the City will amend the CZO to reflect necessary changes to the Overlay District standards to be consistent with this Plan.

General Analysis

Section 12-603 (Purpose and intent) of the SNBOD states that one of the intentions of the overlay district is to, "provide development flexibility that allows and encourages the improvement and upgrading of the area." Staff finds that the proposed changes are a step forward in order to accomplish this goal.

According to Section 1-201.A of the CZO, a purpose of the Zoning Ordinance is to implement the adopted comprehensive plan of the City of Chesapeake and to promote the health, safety, and general welfare of the residents of this city. The proposed changes follow good zoning practices that will not pose a threat to the health, safety, and general welfare of the citizens in this area.

This ordinance only applies to those properties located within the area identified in the map entitled "South Norfolk Business Overlay District Map." Such area is generally described as follows: those properties located along the south side of Liberty Street between 16th Street and the Norfolk Southern railroad tracks; those located on both sides of Poindexter Street from the intersection of Poindexter and Liberty Streets to the intersection of Poindexter and Bainbridge Boulevard; and those located on both...
sides of Bainbridge Boulevard from the intersection of Bainbridge Boulevard with Poindexter Street to the southwest corner of Lakeside Park.

### Staff Findings

1. The proposed changes support the objectives of the Land Use section of the 2035 Comprehensive Plan, to ensure new development supports and complements existing development.

2. The proposed changes support objectives of the Growth Management section of the Comprehensive Plan, to direct growth to areas as designated on the 2035 Land Use Plan and make necessary changes to the Overlay Districts in the zoning ordinance to be consistent with the goals of the Comprehensive Plan.

3. The proposed changes follow good zoning practices that will not pose a threat to the health, safety, and general welfare of the citizens in this area.

### Public Outreach

Staff presented the proposed amendment to the South Norfolk Revitalization Commission (SNRC) at their monthly meeting on September 21, 2023. The SNRC provided positive feedback and have expressed their support of the proposed amendment.

Staff presented the proposed changes to the South Norfolk Civic League (SNCL) and attended the November 13, 2023, meeting in order to answer any questions members may have. The SNCL expressed support of staff’s proposed changes and took a vote to provide a letter of support of the text amendment, which was passed unanimously. A copy of the letter of support, dated November 14, 2023, is attached to this report.

As required by state law, this request was advertised in the Chesapeake Clipper on December 3, 2023 and December 10, 2023.

### Supplemental Documents

1. Ordinance, dated October 4, 2023

2. Letter from South Norfolk Civic League, dated November 14, 2023
AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE, ENTITLED “ZONING,” ARTICLE 12, SECTIONS 12-604, 12-605, AND 12-607, TO PERMIT RESIDENTIAL DEVELOPMENT IN THE SOUTH NORFOLK BUSINESS OVERLAY DISTRICT.

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix A of the City Code, entitled “Zoning,” Article 12, entitled “Special Overlay Districts,” Sections 12-604, 12-605, and 12-607, thereof be amended and reordained as follows:

ARTICLE 12 – SPECIAL OVERLAY DISTRICTS

12-604. - Area of applicability.

The South Norfolk Business Overlay District encompasses all those properties now or hereafter zoned B-1 (neighborhood business), B-2 (general business), B-5 (urban business) and O & I (office and institutional) and located within the area identified in the map entitled "South Norfolk Business Overlay District Map," which is hereby incorporated into and made a part of this ordinance. Such area is generally described as follows: those properties located along the south side of Liberty Street between 16th Street and the Norfolk Southern railroad tracks; those located on both sides of Poindexter Street from the intersection of Poindexter and Liberty Streets to the intersection of Poindexter and Bainbridge Boulevard; and those located on both sides of Bainbridge Boulevard from the intersection of Bainbridge Boulevard with Poindexter Street to the southwest corner of Lakeside Park.

Section 12-605. - General development standards.

B. Principal building setback (required yard).

1. For residential uses, except for mixed use, setbacks shall be consistent with the overall characteristics and design of the site and neighboring
properties on the block. City Council may determine appropriate setbacks as conditions on the use permit.

21. *From streets (front yard).* The front setback may range from zero (0) to ten (10) percent of the lot depth. A setback of zero (0) feet normally shall be encouraged on sites on which off-street parking is required or provided, in order to facilitate the design of parking in the rear of such sites. In the discretion of the planning director or designee, a front yard setback may be permitted to ten (10) percent of the lot depth. No other setback distances shall be permitted, unless a proposed building is to be constructed in a row of already constructed buildings with common walls, in which case the front yard setback line established by the existing buildings shall be observed.

32. *From lot lines bordering other than residential property (side and rear yards).*

a. Party walls (and therefore a setback of zero (0) feet) are permitted, but if a commercial building will not share a common wall with another commercial building a side yard setback of five (5) feet shall be required.

b. *Rear yards.* The rear setback may range from zero (0) to ten (10) percent of the lot depth as approved by the planning director or designee.

43. *From lot lines bordering residentially zoned property (side and rear yards).*
a. **Side yards.** Eight (8) feet setbacks from adjoining properties.
   No interior side setbacks are required.

b. **Rear yards.** The rear setback may range from zero (0) to ten (10) percent of the lot depth as approved by the planning director or designee.

C. **Parking.**

1. The following uses shall provide off-street parking complying with the requirements of the zoning ordinance:

   a. Grocery stores.
   b. Meeting halls.
   c. Churches and other houses of worship.
   d. Hotels and motels.
   e. Motion picture theaters, including drive-in theaters.
   f. Bowling centers.
   g. Meeting places for civic, social and fraternal organizations occupying more than one thousand (1,000) square feet of building space.
   h. Eating and drinking places with more than one thousand (1,000) square feet devoted to on-site eating, either inside or outside the facility.
   i. Residential uses, specifically detached dwellings, two-family dwellings, attached row dwellings, and multifamily residential except within mixed-use buildings.
J. General architectural and visual compatibility. In order to ensure that a proposed development, construction, reconstruction or renovation of a building or site meets the requirement of this overlay district of compatibility with the surrounding community, approval of each proposal shall be subject to the following criteria, in addition to the standards set out above:

4. Whether or not, in terms of design, material, texture, color, lighting, landscaping, dimension, line, mass or roofline and height, the proposed structure, building or improvement is designed to serve primarily as an advertisement or commercial display, exhibits exterior characteristics likely to deteriorate rapidly, would be of temporary or short term architectural or aesthetic acceptability, would be plainly offensive to human sensibilities or would otherwise constitute a reasonably foreseeable detriment to the community.

Section 12-607. - Table of permitted and conditional uses.

C. Special conditions pertaining to specific uses. The following conditions shall apply to specific uses, as indicated in the "condition" column in the table of uses:

24. Off-street parking shall be provided as required by Section 6-102 and further defined in Section 19-411 of this Zoning Ordinance unless City Council requires more or less off-street parking as a condition of the use permit.

D. Table of permitted and conditional uses in the South Norfolk Business Overlay District.
<table>
<thead>
<tr>
<th>SIC</th>
<th>TITLE</th>
<th>STATUS</th>
<th>CONDITION</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Dwelling, Detached</td>
<td>C</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>Dwelling, Two-family</td>
<td>C</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>Dwelling, Attached Row</td>
<td>C</td>
<td>24</td>
</tr>
<tr>
<td></td>
<td>Multifamily Residential, except within mixed-use</td>
<td>P C</td>
<td>16 24</td>
</tr>
<tr>
<td></td>
<td>Mixed-Use</td>
<td>P</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Home Occupation</td>
<td>C</td>
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</tbody>
</table>

**ADOPTED** by the Council of the City of Chesapeake, Virginia this ____ day of __________, 2023.

APPROVED:

_____________________________
Richard W. “Rick” West
Mayor

ATTEST:

_____________________________
Sandra M. Madison
Clerk of the Council

APPROVED AS TO FORM:

_____________________________
Benjamin P. Titter
Assistant City Attorney
23-R-042

A RESOLUTION REQUESTING THE CHESAPEAKE PLANNING COMMISSION TO CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROPOSED AMENDMENTS TO THE CHESAPEAKE ZONING ORDINANCE TO PERMIT RESIDENTIAL DEVELOPMENT AS A CONDITIONAL USE IN THE SOUTH NORFOLK BUSINESS OVERLAY DISTRICT.

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require that amendments to the Chesapeake Zoning Ordinance be considered by the Planning Commission and City Council to permit residential development as a conditional use in the South Norfolk Business Overlay District.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Chesapeake, Virginia that the Planning Commission is hereby requested to consider and make recommendations to City Council concerning proposed amendments to the Chesapeake Zoning Ordinance, and any necessary or correlating amendments, to permit residential development as a conditional use in the South Norfolk Business Overlay District.

ADOPTED by the Council of the City of Chesapeake, Virginia this 15th day of August, 2023.

APPROVED:

[Signature]
Mayor

ATTEST:

[Signature]
Clerk of the Council

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
Tuesday, November 14, 2023

Aaron Bell, Planner II
City of Chesapeake
Planning Department
Cedar Road
Chesapeake, VA 23324

RE: South Norfolk Business District Overlay Text Amendment
(PLN-TXT-2023-011)

Mr. Bell:

First, I want to thank you and the Planning Department for soliciting the South Norfolk Civic League’s feedback with regard to the above referenced Text Amendment. Additionally, we thank you for attending our November meeting and making yourself personally available to answer any questions our members and neighbors might have had regarding the matter. On behalf of the League, I am pleased to offer this letter expressing our support for this Text Amendment.

If you have any questions or concerns, then please feel free to contact us on this or other matters that might increase development and improvement in the South Norfolk area.

Regards,

Brad Moore, President
On behalf of the South Norfolk Civic League