

Topic:	Incentive Zoning; Mixed/Multiple Use
Resource Type:	Regulations
State:	North Carolina
Jurisdiction Type:	Municipal
Municipality:	City of Wilmington
Year (adopted, written, etc.):	2002
Community Type – applicable to:	Urban; Suburban
Title:	City of Wilmington Mixed Use District Ordinance
Document Last Updated in Database:	August 28, 2016

Abstract

This ordinance provides for the granting of density bonuses for various environmental improvements, transportation enhancements, affordable housing, preservation of historic resources and improvement of pedestrian facilities. The more significant the community benefit, the greater the bonus awarded.

Resource

Wilmington, North Carolina

Code of Ordinances § 19-25.1. MX, Mixed Use District

Sec. 19-25.1. MX, Mixed Use District.

(a) Purpose. The Mixed Use District (MX) is established, consistent with the policies of the comprehensive plan, to provide innovative opportunities for integrating diverse but compatible uses into a single development that is unified by distinguishable design features. The Mixed Use District is intended to provide an alternative to the predominate development pattern in Wilmington characterized by unconnected, uncoordinated commercial development along thoroughfares and limited access residential developments isolated from places to work and shop, MX may also be used to replicate the historic urban development pattern in redevelopment areas. In addition to a mixture of compatible uses, developments in this district shall provide amenities and walkways to increase pedestrian activity, decrease reliance on individual vehicles, foster transit usage, enhance the environmental quality and attractiveness of Wilmington and New Hanover County, improve the overall quality of life, and provide for the welfare of the citizens. In the event of conflict between regulations for mixed use developments and those in other sections of the City Code, the mixed use regulations shall supersede unless specifically stated otherwise.

(b) Mixture of uses.

- (1) Uses may be mixed within a building or within the development.
- (2) Mixed use developments on sites greater than fifteen (15) acres shall contain a minimum twenty (20) percent residential use.
- (3) No more than seventy-five (75) percent of the required residential component may be located in a single family detached residential development.
- (4) The mixed use development must always contain at least three (3) of the following use categories:
 - (a) Residential.
 - (b) Office.
 - (c) Commercial.
 - (d) Institutional, quasi-public, public.
 - (e) Hotel.
- (5) For mixed use developments containing three (3) use categories, each use shall occupy a minimum of 20% of the floor area or gross acreage of the project. The developer may choose the use mix measurement but each project shall only use one of the use mix measurements (floor area or gross acreage). For projects with four (4) or more use categories, the twenty percent (20%) minimum is waived for all categories except residential, however, no use may occupy more than sixty percent (60) and no two uses combined shall occupy more than eighty percent (80%) of the floor area or gross acreage. For phased projects, during construction of any phase prior to project completion or six (6) years from the initial foundation inspection, whichever is first, no single use shall exceed sixty percent (60%) and no two uses shall exceed ninety percent (90%).
- (6) For MX projects developed in phases (as defined in this ordinance), each phase shall be able to function as a stand alone development and the project shall contain the required mixture of uses and common space/open space at all times during the phases of construction. The MX project, with the sole exception of single family detached residential developments and townhouse residential developments, not exceeding four units per building in MX projects of one hundred (100) acres or more, whether developed in phases or not, shall have eighteen (18) months from the first building foundation inspection approval to provide the required mixture of uses. If the mixture of uses is not provided in this time, no certificates of occupancy will be issued for any part of the project other than single family detached residential developments and townhouse residential developments, not exceeding four units per building until the mixture is provided. All structures with a certificate of occupancy or at least foundations and footings may be considered part of the mixture. Single family detached residential developments and townhouse residential developments, not exceeding four units per building in MX projects of one hundred (100)

acres or more may have up to four (4) years from the first foundation inspection approval before certificates of occupancy will be withheld for failure to provide the required mix of uses. The City Council may grant a one year extension for a total of five (5) years if the property owner can provide evidence that a mix will be provided by the end of the additional year. The evidence may include but [not] be limited to tenant contracts, leases or other legal construction agreements with specific deadlines.

(c) Permitted uses.

(1) Principal uses: All uses in this list shall be considered permitted uses in a MX District. All adult establishments are prohibited. The uses are arranged in categories to provide an appropriate mix of uses. Uses are placed in categories based on similar impacts and to ensure diversity of uses. The categories are not intended to follow standard classification of uses. The list of uses for MX Districts is independent from the table of uses for other zoning districts. At least three (3) categories out of the five (5) listed below, must be represented in the mixed use project.

(a) Residential category. Dwellings single family, duplex, triplex, quadplex, multi-family and townhouses.

(b) Office category.

1. Art galleries and studios.
2. Banking and financial institutions.
3. Medical clinics.
4. Offices (without outdoor operations or storage).
5. Offices with limited wholesale distribution (no assembly and storage permitted).
6. Radio and television broadcasting studios.
7. Veterinary services with enclosed pens.

(c) Commercial category.

1. Convenient food stores (with or without gasoline sales).
2. Lawn and garden stores.
3. Spas and health clubs.
4. Movie theaters except drive-in.

5. Night clubs (night clubs shall not locate adjacent to an existing place of worship or within one thousand five hundred (1,500) feet of existing residential uses or districts).

6. The following personal service establishments:

- a. Beauty salons.
- b. Barber shops.
- c. Licensed professional therapists.
- d. Clothing alterations.
- e. Shoe repair shops.
- f. Laundry, dry cleaning and laundromat services.

7. Photography studios.

8. Marinas.

9. Recreation facilities: private indoor or outdoor.

10. Repair shops (without outdoor operations or storage).

(with or without drive up windows drive up windows shall not be located within one thousand five hundred (1,500) feet of existing residential uses or districts).

12. Retail stores and shops.

13. Service stations.

14. Cultural arts centers including theaters.

15. Automobile service shops (without outside storage or operations).

16. Meeting and event centers.

17. Corporate park uses limited to educational, scientific and industrial research facilities, research laboratories and medical or dental laboratories.

18. Farmers market.

(d) Institutional, quasi-public use, or public use category.

1. Clubs, lodges and recreation facilities for use by non-profit organizations.

2. Colleges and universities.
3. Convalescent centers.
4. Day care facilities.
5. Government facilities, not to include correctional facilities.
6. Hospitals.
7. Museums.
8. Religious institutions.
9. Retirement centers and life care communities.
10. Public and private schools.

(e) Hotel category.

1. Hotels.
2. Motels.

(2) Supporting uses: The uses listed below are considered supporting uses to the required categories. While the following uses are allowed by right, they shall not count towards the minimum required mixed use categories. Even though the project may contain one or more of the following uses, it must still include at least three (3) of the five (5) categories (residential, office, commercial, institutional/quasi-public/public, or hotel) listed above to qualify as a mixed use project.

- (a) Accessory buildings.
- (b) Garage apartments.
- (c) Accessory uses.
- (d) Caretakers dwellings.
- (e) Golf driving ranges.
- (f) Helistops.
- (g) Commercial parking facilities.
- (h) Public parks, playgrounds and facilities.

- (i) Public and private transportation facilities.
- (j) Public utility facilities, with or without outside storage.
- (k) Home occupations.
- (d) General regulations.

(1) Minimum site size: The minimum gross tract size for initial zoning shall be five (5) contiguous acres. Contiguous additions may be made in increments of any size. Additions, when combined with any existing MX area, shall meet all ordinance requirements as a unified development. When the total MX site area exceeds fifteen (15) acres, the requirements for sites greater than fifteen (15) acres shall apply to the total MX site.

(2) Building height: No buildings shall exceed six (6) floors in height, including mezzanine levels. Floors for parking facilities shall not be included in the maximum height calculation. Additional height, up to ten (10) floors may be approved by the technical review committee if the project is granted density bonuses for low impact development. Buildings with height greater than six (6) floors should be located in the center of the site but may be permitted on site perimeters if the adjacent property has a building six (6) floors or greater.

(3) Thoroughfare requirements: All mixed use developments on sites larger than fifteen (15) acres shall have at least one (1) direct access to and from an existing major or minor thoroughfare as indicated in the thoroughfare plan. Interconnection to other road classifications may be required.

The city council may approve mixed use developments without direct access to a thoroughfare if a traffic impact analysis, performed and approved according to the City Code, demonstrates:

(a) The impact of the project will not cause surrounding roadways to operate above capacity. The city council shall consider the impact of undeveloped land in the area when approving mixed use developments with out access to thoroughfares;

OR

(b) The impact of the project will be less than or equal to the impact of a typical project developed under existing zoning. The typical project shall be determined by reviewing at least three (3) recent comparable projects developed within five (5) years of the project in the same zoning designation and shall not be a best case or worst case scenario. The list of comparable projects must be approved by city staff.

(4) Fringe use areas: To insure compatibility with adjoining land uses, a fringe use area, two hundred (200) feet in width, shall be established along the exterior property lines of

the MX District where the exterior property lines of the MX District are adjacent to single family residential uses or platted single family residential lots.

(a) If the exterior property line of the MX District is not adjacent to residential uses or platted residential lots, then no fringe use area will be required.

(b) If a fringe use area is required, only residential uses or open space shall be permitted within that fringe area.

(c) The maximum building height within the fringe use area shall be three (3) stories.

(d) The required building setback in the fringe use area shall be calculated as follows: (building height) X (2.75). In no case shall the minimum setback be less than twenty-five (25) feet.

(e) There shall be no accessory structures or parking located within the part of the setback adjacent to residential districts.

(f) In all instances, lighting shall be directed away from the adjacent residential use.

(5) Building setbacks and separations: Buildings located on the periphery of the MX District shall be set back a minimum of twenty (20) feet from the MX District boundary. All buildings shall be set back at least fifty (50) feet from US and NC numbered highways and major thoroughfares. No building shall encroach upon the right-of-way of a proposed thoroughfare as designated by the Wilmington Area Thoroughfare Plan. There shall be no minimum interior setbacks and separation requirements. All internal non-residential buildings are encouraged to be located within ten (10) feet of street rights-of-way to enhance the pedestrian orientation of the development. Buildings set back large distances from roads and pedestrian trails are strongly discouraged. However, all structures shall meet state building code requirements and all other requirements to protect the health, safety and welfare of occupants.

(6) Unified control/ownership of the site: Mixed used developments shall be under single ownership or unified control or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this ordinance. The entire MX site, including all phases and subdivided lots, shall be fully integrated through common design themes and pedestrian and vehicular connections. A unified mixed use development is required regardless of whether the development is phased or subdivided.

(7) Community property owner's association: A community property owner's association shall be established in accordance with the subdivision ordinance.

(8) Underground utilities: All electric, cable television and telephone facilities, fire alarm conduits, street lighting wiring, and other wiring conduits and similar facilities shall be placed underground by the developer or the appropriate utility company.

(9) Minimum landscaping: All areas designated mixed use shall be subject to the landscaping regulations for the Office and Institutional (O&I) zoning district. Any individual, large retail buildings with a footprint of forty thousand (40,000) square feet or more shall be subject to the landscaping requirements for large scale retail. Street trees are required along all streets and shall be a minimum three (3) inch caliper and shall be located at a minimum fifty (50) feet on center. The technical review committee (TRC) may permit alternatives to strict conformance with the required landscaping under the following conditions. However, in all cases, mixed use developments shall provide at least the minimum square feet of landscaped area and number of trees required by the Code. Only the location of required landscaping may vary.

(a) Preservation of natural stands of trees and native vegetation. Preservation of natural stands of trees may be substituted for interior landscaping requirements when the square footage of the preserved area is at least equal to the minimum square footage required. Natural stands should be dispersed throughout the project if possible and shall not be permitted to replace all landscaping in a parking area. However, in no case shall perimeter landscaping be less than eight (8) feet in width.

(b) Additional landscaping in key areas. Provision of at least ten (10) percent greater amount (square feet) than minimum landscaping area on the project perimeter, at project entrances and in common spaces may be substituted for strict conformance to internal landscaping requirements.

(c) Provision of low impact developments. Landscaping necessary to accommodate the provision of low impact developments as described in the density bonus section may be substituted for strict conformance with minimum requirements.

(10) Signs: The following sign requirements shall apply to mixed use developments:

(a) All internal signs in areas designated mixed use shall be required to meet the requirements for signs in the Central Business District (CBD) zoning district.

(b) Project entry signs shall be freestanding signs or mounted on site entry features and shall meet the requirements for signs in the Special Highway Overlay District (SHOD). Pole signs and outdoor advertising signs shall not be permitted in mixed use developments.

(c) If any part of the development is within the Special Highway Overlay District (SHOD), then those regulations shall supersede all other sign regulations in the event of discrepancy.

(d) Signs in areas designated as exclusively single family residential shall comply with the regulations for signs permitted in residential districts.

(11) Street and parking design:

(a) A general grid street system with multiple external road connections is encouraged. Multiple internal road connections are required.

(b) Road connections to adjacent roads and developments:

1. Connections to existing stubbed roads are required unless the connection would result in substantial degradation of an existing wetland or water body to the point that required permits cannot be obtained from the appropriate regulating bodies.

2. Multiple connections are encouraged to limit the impact on any one (1) street.

3. Each MX project shall have sufficient external connections so that no one site entrance will carry more than fifty (50) percent of the average daily trips to or from the site. This requirement may be waived if a site has insufficient frontage to be granted multiple driveway permits from the North Carolina Department of Transportation or the city and adjacent site conditions prevent connections on other perimeters.

4. A traffic impact analysis and street design plan shall be required to make the determination of adequate connectivity. The traffic impact analysis is required at the time of site plan submittal. The interconnectivity requirements of this section shall be met for each phase of a mixed use development.

5. Connections to existing local roads shall not be direct through street access from collectors or arterials. Connections to local roads shall include landscaped islands, roundabouts or other features designed to calm traffic as it enters the existing neighborhood.

6. Public amenities are encouraged to be located next to adjacent neighborhood connection points.

(c) Pedestrian scale, tree lined streets with on street parking are encouraged.

(d) Parking lots shall be located behind or to the side of buildings. Clearly defined rear building entrances are encouraged where parking is located behind buildings. The majority of parking is encouraged to be on street parking to reduce large parking lots.

(e) Parking garages are discouraged on primary activity or collector streets. If a parking garage is located on a primary activity or collector street, the majority of the facade shall have a non-parking use.

(f) Alleys are encouraged.

(g) The maximum block perimeter in areas designated mixed use, shall be no more than one thousand eight hundred (1,800) feet. Alternatives to this standard may be considered through the mixed use development process, provided that pedestrian access is maintained

at least every four hundred fifty (450) feet. Access may be provided through buildings or service alleys.

(h) Mixed use developments may be required to provide street or driveway stubs and reciprocal access easements to promote efficient circulation between uses and properties, and promote connectivity and dispersal of traffic.

(i) The technical review committee may permit alternatives to the city's technical standards for street and parking design under any one (1) of the following conditions:

1. Safe and adequate access to and within the site is provided. All interior drives shall be designed so as to provide adequate access for emergency service vehicles, mass transit and solid waste pick up.

2. Low impact development as described in the density bonus section, is provided.

3. Greater than fifty (50) percent of the total parking is on-street parking.

4. Angled parking may be permitted on streets with speed limits of twenty (20) miles per hour or less.

5. The eight hundred (800) foot rule for culs-de-sac and private driveways may be waived in areas with a grid street pattern where multiple access points exist. Safe and adequate access for emergency service vehicles and solid waste pick up shall be provided.

(12) Parking requirements: The following parking requirements shall apply to mixed use developments:

(a) Maximum parking requirements shall be consistent with the parking requirements of the City Code. Mixed use developments shall be eligible for additional parking spaces above the maximum when utilizing the pervious parking requirements of the city code. Any parking located above ground level in a parking facility shall not be counted towards the maximum. There shall be no minimum parking requirement.

(b) A maximum twenty-five (25) percent of parking may be for small vehicles/compact cars subject to the standards of the City Code.

(13) General site design: The following characteristics are essential for a quality mixed use development. Each of these components shall be included in mixed use developments. Each component in this section includes both required and optional site design elements and is intended to allow for flexibility. The site plan shall include a narrative describing how the project will incorporate these characteristics. All mixed use developments shall contain a minimum fifty (50) percent of the encouraged optional elements of this section.

(a) Pedestrian accessibility/concentration of development (critical mass) in a compact, walkable area.

1. Uses are encouraged to be sufficiently concentrated to promote convenient pedestrian access. Larger projects are encouraged to concentrate uses in multiple nodes. Concentration within a fifteen hundred (1,500) foot perimeter is preferred.
 2. Pedestrian circulation shall be clearly defined and shall connect all uses.
 3. Bicycle and pedestrian access to adjacent developments is strongly encouraged in areas where vehicular access is not provided.
 4. Sidewalks are required on each side of rights-of-way or private streets throughout the development and are encouraged to be located in front of businesses and houses and not concentrated in parking areas.
 5. With the exception of exclusively single family areas, separated, single use pods are prohibited. Strip commercial development characterized by single story uncoordinated, unconnected buildings with large street frontage parking lots is specifically prohibited. Strip malls with uncoordinated, unconnected out parcels are prohibited. All structures shall be fully integrated into the mixed use project through common design themes (including but not limited to lighting, benches, landscaping, other decorative features but not necessarily building design), integration with a variety of uses, non-linear arrangement, common spaces, pedestrian walkways, vehicular access connections and other features.
- (b) Clearly defined common spaces for gathering/interaction and fostering a sense of community. Plazas, courtyards and other areas are necessary to provide for public gathering and interaction. Amenities, such as benches, planters, lighting, fountains, art and landscaping that further the design theme of the project and encourage interaction are required. Specific requirements are described in the common space and open space section of this article.
- (c) Integrated design of the project. Common architectural theme: Mixed use projects require special attention to building design because of the intermixing of land uses in close proximity. Functional integration of residential and commercial uses shall be considered during design of mixed use projects. The following standards are intended to guide development of mixed use projects:
1. Physical integration of uses: All mixed use developments shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development.
 2. Residential and commercial uses may be located within the same or adjoining structures providing appropriate health and safety regulations are followed.
 3. Design: Structures should provide architectural relief and interest, with emphasis at building entrances and along sidewalks, to promote and enhance a comfortable pedestrian scale and orientation. Structures shall have consistent scale and massing to create a unified

project. Compatibility with the immediate context is required. However, gradual transitions in scale and massing are permitted.

a. Blank walls shall be avoided by including ground floor windows, recesses, extensions and breaks in roof elevation.

b. Design should provide differentiation between ground-level spaces and upper stories. For example, bays or balconies for upper levels, and awnings, canopies or other similar treatments for lower levels can provide differentiation. Variation in building materials, trim, paint, ornamentation, windows, or other features such as public art, may also be used.

c. Design shall ensure privacy in residential developments through effective window placement, sound-proofing, landscape screening or orientation of outdoor living areas (e.g. balconies, porches, patios and etc.). Opposite facing windows at close distances should be offset vertically or horizontally, or employ appropriate materials (e.g. glazed, tinted and etc.) to protect privacy.

(d) Housing diversity (size, type and cost).

1. Mixed use projects should include attached and detached residential components with a range of prices and sizes.

2. Single family lot sizes shall be varied to provide a mixture of lot sizes.

(e) Preservation of natural features and open space. Permitted flexibility in lot sizes, setbacks, street widths and landscaping shall be utilized to preserve natural features and provide open space consistent with the policies of the comprehensive plan. Specific requirements are described in the common space and open space section of the mixed use ordinance.

(f) Connection to the surrounding community. Mixed use developments shall not be gated and shall be interconnected to surrounding developments. Mixed use projects shall be designed as an integral part of the surrounding community and not as an isolated development.

(g) Phasing. Mixed use projects may be phased. Site plan submittals meeting all requirements of this ordinance and the Wilmington City Code shall be considered a phase. The first phase shall meet all requirements of this ordinance. Additional phases shall become part of the existing development. The entire project, including the first phase and all subsequent phases, shall meet all ordinance requirements as a unified development at all times. The technical review committee may require all external street interconnections, stormwater systems, utilities and other public improvements to be constructed in the first phase to ensure the phase can function as a stand alone mixed use development.

(e) Density.

(1) Mixed use density.

(a) The base density permitted for areas designated mixed use within the developed and urban transition land classification categories shall be 0.20 floor area ratio.

(b) The base density permitted for areas designated mixed use within the resource protection, limited transition, community and rural land classification categories shall be 0.15 floor area ratio. However, in no case shall the amount of impervious surface exceed fifty (50) percent of the entire site area.

(c) The base density permitted for areas designated mixed use in the conservation land classification category shall be 0.10 floor area ratio. However, in no case shall the amount of impervious surface exceed twenty-five (25) percent of the entire site area.

(d) Maximum density for areas designated mixed use shall be determined by adding the base density to any density bonuses. Density bonuses shall be determined by application of performance measures described in this ordinance. In order to be eligible for bonuses in the resource protection category, the applicant shall utilize at least one of the Category A, B or C environmental bonus items. No density bonuses shall be permitted for portions of the project in the conservation land classification category.

(e) Floor area ratio (FAR) equals the gross floor area of all buildings in areas designated mixed use divided by the mixed use area ($\text{FAR} = \text{gross floor area} / \text{mixed use area}$).

(2) Residential density.

(a) The base density permitted for areas designated residential in the developed and urban transition land classification categories shall be eight (8) dwelling units per acre.

(b) The base density permitted for areas designated residential in the resource protection, limited transition, community, rural and conservation land classification categories shall be two and one-half (2.5) dwelling units per acre. However, in no case shall the amount of impervious surface exceed twenty-five (25) percent of the site area in the conservation category and fifty (50) percent in the other land classification categories.

(c) Maximum density for areas designated residential shall be determined by adding base density to density bonuses. Density bonuses shall be determined by application of performance measures described in this ordinance. In order to be eligible for any bonus in the resource protection category, the applicant shall utilize at least one of the Category A, B or C environmental bonus items. No density bonuses shall be permitted in the conservation land classification category.

(3) Density calculations. Density shall be calculated using land use categories (mixed use or exclusively residential).

- (a) Mixed use density shall be calculated using only the gross area identified as mixed use (including streets, parking, common space/open space and other features in the mixed use area).
 - (b) Residential density shall be calculated using only the gross area identified as residential (including streets, parking, common space/open space and other features in the residential area).
 - (c) Maximum density shall be calculated for each land classification area within the project. Development in that area shall not exceed the density permitted in the underlying land classification category except for bonuses permitted in this ordinance. Density shall not be aggregated over the entire site except through the procedures defined in section (d) below.
 - (d) If the applicant designates areas classified resource protection or conservation as not to be developed, the density calculation for the more intense land classification category may be applied to the entire mixed use or residential area.
 - (e) Land preserved for the purpose described in section (d) above shall only be eligible for full credit towards the minimum open space requirement if it is an integral part of the development. If the entire preserved area is located on the periphery of the development, the area shall only be credited for a maximum fifty (50) percent of the required open space. The purpose of this limit is to ensure open space is not isolated but is an integral part of the development.
- (4) Density bonuses: In reviewing a final plan/site plan for a mixed use development, the technical review committee (TRC) shall determine if the applicant meets the requirements for receiving bonuses.

Density bonuses are grouped into four (4) categories from highest bonus to lowest bonus. Greater bonuses are awarded for items with more significant benefits to the community. Each item in the categories is eligible for a bonus. The increases in density shall be subject to the following procedures:

- (a) Category A: The density bonus for providing any individual item in Category A shall be 0.20 floor area ratio or eight (8) dwelling units per acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category A:

Environmental. Bonus item: Use of the following low impact development approach in site design to mimic the predevelopment site hydrology for the ten (10) year storm. This approach has several steps that shall be integrated into the site design process. These steps are:

1. Define site constraints. Locate wetlands, floodplains, stream buffers, significant trees, well drained soils, etc.; define the development envelope; minimize disturbance; plan for lengthening of flow paths and disconnecting impervious surfaces.
2. Hydrologic analysis for pre and post development conditions. Use hydrologic modeling to analyze the site; evaluate time of concentration benefits from planning techniques (from step 1); evaluate integrated management practices and supplemental needs.
3. Develop the storm water management plan. Using bioretention areas, infiltration, filter strips, vegetated swales, rain barrels, etc., evaluate the site for appropriate locations and measures through an iterative process; design supplemental controls as needed for meeting predevelopment runoff volume.
4. Long term maintenance. Provide for long term maintenance of techniques and ensure the continuation thereof.

(b) Category B: The density bonus for providing any individual item in Category B shall be 0.125 floor area ratio or four (4) dwelling units per acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category B:

1. Community design standards. Bonus item: The applicant shall develop architectural design standards for the entire development consistent with the general site design requirements in this ordinance. The standards shall be maintained by the community property owners association, be filed in the development services department and any changes must be approved by the development services department. If design review is at the sole discretion of the developer, the community property owners association shall be permitted to comment on development. Development review shall be required to determine consistency with established standards for the life of the project.
2. Transportation enhancements.
 - a. Bonus item: Provision of a multi-story parking garage (minimum one hundred (100) parking spaces).
 - b. Bonus item: Provision of private transit service. Service shall be provided to the airport, beaches and downtown Wilmington at a minimum. Service to major employment centers and shopping centers is encouraged. A minimum two-year contract is required.
3. Environmental.
 - a. Reducing the amount of impervious surface in the development.
 1. Bonus item: A maximum fifty (50) percent impervious area for development in the developed and urban transition land classification category. When granted this bonus, the

project is not eligible for the bonus for sixty (60) percent impervious surface permitted in Category C.

2. Bonus item: A maximum thirty (30) percent impervious area for development in the resource protection, limited transition and rural land classification categories. When granted this bonus, the project is not eligible for the bonus for forty (40) percent impervious surface permitted in Category C.

b. Bonus item: Maintaining the predevelopment time of concentration for the ten (10) year storm. MX developments shall demonstrate the replication of predevelopment time to peak by use of the following techniques:

1. Grassed swale conveyance of runoff.
2. Disconnecting impervious surfaces.
3. Lengthening of flow path.
4. Maximize sheet flow.
5. Increase flow over pervious soils to increase infiltration.
6. Flattening grades.

7. Several iterations using different combinations of techniques may be necessary depending on the homogeneity of the site design and the distribution of the different techniques across the site.

8. In addition to these techniques, the development shall meet all city and state requirements and any necessary supplemental measures.

4. Mixed use buildings.

a. Bonus item: Inclusion of at least one (1) building that is designated for commercial use on at least the first floor and with at least one (1) floor of residential units above. Residential square feet shall be greater than the commercial square feet in the building.

b. Bonus item: Inclusion of at least two (2) buildings that are designated for retail use on at least the first floor and with at least one (1) floor of offices above.

5. Affordable housing. Bonus item: At least fifteen (15) percent and no more than thirty (30) percent of the residential units are affordable housing subject to the following criteria:

a. Affordable housing units are available to households earning eighty (80) percent or less of the county median income adjusted for family size, that can be purchased or rented without spending more than thirty (30) percent of their income. Income figures shall be

obtained from the Regional Office, U.S. Dept. of Housing & Urban Development, Greensboro, NC.

b. Affordable units shall have a comparable unit distribution to other units in the project. For example, affordable units should not be all multi-family rentals and the mix of affordable one (1), two (2) and three (3) bedroom units should be the same as other units.

c. In order to qualify for the bonus, the following is required: an agreement with the city or deed restrictions specifying 1) the number of affordable units provided; 2) the income limits; 3) maximum purchase price/rent limits subject to annual change; and 4) the period of time that these units must remain affordable (minimum five (5) years for home ownership units and ten (10) years for rental units).

d. In the event that homes or rental units cease to be affordable before the expiration of the minimum period of affordability, the city shall be entitled to capture the increase in value over the original purchase price or value of the rental unit that makes it no longer affordable as defined above.

(c) Category C: The density bonus for providing any individual item in Category C shall be 0.025 floor area ratio or one and one-half (1 1/2) dwelling units per acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category C:

1. Transportation enhancements. Bonus item: Provision of a regional park and ride facility (minimum twenty-five (25) parking spaces). The park and ride facility shall be appropriately located for van pool or other services and shall be capable of serving on-site and off-site users.

2. Environmental.

a. Bonus item: Provision of a minimum one hundred (100) foot naturally vegetated buffer in areas where the Conservation Overlay District or other regulatory agency requires a setback from environmental features. The buffer shall be entirely located on the mixed use site to qualify for a bonus.

b. Bonus item: Increasing the amount of open space provided by a minimum of five (5) percent over the minimum required amount. The additional five (5) percent shall be integral to the development and located in a central area. Sites shall be a minimum fifty (50) acres to qualify for the bonus.

c. Reducing the amount of impervious surface in the development.

1. Bonus item: A maximum sixty (60) percent impervious area for development in the developed and urban transition land classification category.

2. Bonus item: A maximum forty (40) percent impervious area for development in the resource protection, limited transition and rural land classification categories.

(d) Category D: The density bonus for providing any individual item in Category D shall be 0.0125 floor area ratio or one (1) dwelling units per acre. The bonus shall not be split between floor area ratio and dwelling units per acre. The following performance measures are included in Category D:

1. Preservation of existing historic resources.

a. Bonus item: Utilization of the Secretary of the Interior's Standards for Rehabilitation, to restore, rehabilitate or preserve properties over fifty (50) years of age, properties considered contributing resources to a National Register Historic District, properties that are individually listed in the National Register Historic District, properties that have been study listed by the State Historic Preservation Office or properties, buildings, structures, sites, landmarks or objects that have been officially determined eligible by the State Historic Preservation Office.

b. Bonus item: Utilization of the Historic Rehabilitation Tax Credits for buildings or structures located on site.

c. Bonus item: Entering into preservation agreements for historic properties with the Historic Wilmington Foundation (or any other non-profit organization whose mission includes the preservation of historic properties) for buildings or structures located on site.

d. Bonus item: Donation of historic properties to a non-profit organization, whose intention is the adaptive reuse of the building, preservation or successful relocation of buildings, structures, sites, landmarks or objects fifty (50) years of age or older, that are individually listed in the National Register of Historic Places, located in a locally designated Historic District or National Register Historic District, study listed by the State Historic Preservation Office or determined eligible by the State Historic Preservation Office.

e. Definitions:

Buildings and structures means houses, commercial buildings, fences and bridges.

Sites means battlefields, parks and archeological sites

Objects means large moveable properties, such as fountains and monuments

Landmarks means buildings, features or structures that have special significance in terms of historical, prehistorical, architectural, or cultural importance, and possess integrity of design, setting, workmanship, materials, feeling or association.

2. Pedestrian facilities. Bonus item: Provision of an internal network of sidewalks in addition to those located along streets and buildings. These facilities shall be in addition to

minimum requirements and shall be at least fifteen hundred (1,500) linear feet. These additional facilities shall be walking trails in residential areas, trails connecting residential areas to open space and mixed use areas or non-invasive trails through environmental preserve areas.

3. Transit facilities.

a. Bonus item: Provision of bus shelters internal to the development spaced according to Wilmington Transit Authority specifications to utilize existing public transit service. Bus turnarounds and pull outs shall be included as necessary.

b. Bonus item: Provide funding to the Wilmington Transit Authority for two (2) years of expanded public transit service to the development.

4. Miscellaneous transportation enhancements. Bonus item: Implementation of a transportation demand management program including varied work times and van pool and car pool coordination.

5. Environmental.

a. Bonus item: Provide a one hundred (100) foot natural buffer from a USGS topographic map blue line stream as described in the Conservation Overlay District.

b. Bonus item: Preserve at least one-half (1/2) acre of wetlands or unique habitats as defined by the North Carolina Heritage Program that are not required to be protected by any provisions of the city or other regulatory agencies.

(f) Common space and open space.

(1) Purpose: It is intended that MX developments be identifiable by functional common spaces and open space, including but not limited to: natural wetlands, forested areas, atriums, parks, internal courtyards, plazas, or other undisturbed or improved spaces.

Common spaces shall shape the design and character of the project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. The pedestrian spaces may include artwork, sculpture and water features to improve their appeal. These spaces shall be designed to create interaction among workers, residents and shoppers. The spaces shall also attempt to provide a pleasant gathering place for transit usage.

Open spaces can be natural or recreational. Natural open spaces are intended to protect the natural environment, protect water quality and provide habitat for wildlife. Recreation open spaces are intended to provide outdoor active recreation facilities and other activity areas for residents, shoppers and employees.

Overlap between spaces considered common space and open space is possible. The definitions are not mutually exclusive. Each MX project shall contain a minimum ten (10) percent common space and a minimum twenty-five (25) percent open space. The developer can propose the allocation of land to these categories. However, common space shall be primarily area for social interaction and have more impervious surface. Open space shall be essentially unimproved pervious area with limited modifications.

(a) Common space: At least ten (10) percent of the acreage of the site shall be devoted to common spaces.

1. Common space includes areas where the public is directly or indirectly invited to gather, browse, sit, interact or congregate. Common spaces do not have to be publicly owned. Common areas may include walking paths, bicycle paths, courtyards, plazas and other similar areas. Unimproved natural areas shall not be counted as common space.

2. Common spaces shall be arranged as community spaces with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects.

3. Common spaces are intended to be places for social interaction and may include impervious surfaces.

a. Common space amenities shall include at least three (3) of the following:

1. Sidewalks with substantial ornamental treatments (e.g. brick pavers; change in materials, color or texture; use of impervious materials when consistent with Americans with Disabilities Act).

2. Sidewalk planters. Planters may be constructed to provide seating around the perimeter.

3. Public art (e.g. sculpture, fountain, clock, mural, etc.).

4. Street trees of a caliper fifty (50) percent wider than required by the this Code (may include preservation of healthy mature trees adjacent to sidewalks).

b. Amenities should be visible and accessible to the general public from an improved street. Access to pocket parks, plazas and sidewalks shall be provided via a right-of-way or a public access easement.

c. The size or capacity of pedestrian amenities should be proportional to their expected use, including use by employees, customers, residents, and other visitors.

d. Amenities should be consistent with the character and scale of surrounding developments. For example, similarity in awning height, bench style, planter materials, street trees and pavers is recommended to foster continuity in the design of pedestrian

areas. Materials should be suitable for outdoor use, easily maintained and have a reasonably long life cycle (e.g. ten (10) years before replacement).

e. When provided at or near a bus stop, amenities should conform to standards of the Wilmington Transit Authority system.

4. The walking areas of common spaces shall be surfaced with concrete, brick, tile or another material approved by the technical review committee. The type of surfacing material shall be identified on the site plan.

5. Construction of bus shelters along project perimeters, shall be mandatory wherever the project includes or is adjacent to an existing or previously identified transit line extension proposed in adopted documents by the Wilmington Transit Authority (WTA), or another public transit provider.

6. Parking area landscaping and buffer areas shall not be counted toward meeting this requirement.

(b) Open space: A minimum twenty five (25) percent open space shall be provided.

1. Open space is any area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment. Open space may include active recreational facilities such as swimming pools, tot lots, ball fields and picnic tables (recreation open space). However, improved recreational facilities, including golf courses, shall not exceed twenty-five (25) percent of the minimum required open space.

2. Parking area landscaping and buffer areas shall be excluded from this calculation.

3. No more than fifty (50) percent of the open space shall be covered by water unless approved by the technical review committee as part of an active recreation area or regional stormwater facility. Standard stormwater retention facilities that meet only minimum city requirements shall not be counted as open space.

4. The city council may reduce the open space requirement to as low as twenty (20) percent when equivalent land area or property value for community facilities is provided to the city. Community facilities dedicated to the city including but not limited to parks, recreation buildings or restoration of historic sites shall be eligible for open space credit.

5. Construction of greenways shall be mandatory whenever the project includes or is adjacent to trails identified on a previously adopted greenway plan.

6. All open space shall remain undivided and no lot or unit owner or any other person shall bring any action for partition or division of any part thereof except as provided in Chapter 47A (Unit Ownership Act) of the General Statutes. Active recreational facilities such as pools and tennis courts may be controlled by sub-associations for the residential components of the project. Each lot or unit owner's undivided interest in the use of

reasonably maintained open space shall be preserved through covenants running with the land. Title to such areas shall be encumbered for the perpetual benefit of the public generally or the private properties in the development, and all future use shall be consistent with the open space requirements. Improvements clearly incidental to the purpose of these provisions may be made within the open space.

7. Access to open space: All residential lots or units created within the development shall have direct access to all open space and recreational facilities, as provided, by means of public streets or dedicated walkways or by the fact of physical contiguity to other public land or lands in common ownership of all residents. The developer shall not place age, race, creed, sex or economic restrictions (other than maintenance assessments) upon lot or unit owners for the use of said open space. Land which is restricted in any way so as to be for the use, benefit or enjoyment of a select group within the development shall not qualify as open space.

8. Open space provisions: The developer shall file a declaration of covenants and restrictions running with the land that will govern the open space. This declaration shall be submitted prior to final plat approval. When a property owners association or other such non-profit ownership is established, the declaration shall include but not be limited to the following:

- a. The homeowners association or the non-profit organization shall be established before any lots are sold;
- b. Membership shall be mandatory for each lot buyer and successive buyer;
- c. The association shall provide for liability insurance, any taxes and the maintenance of all grounds and facilities;
- d. Any sums levied by the association that remain unpaid shall become a lien upon the lot owner's property;

(g) Procedural requirements for the establishment of an MX District. Proposals for an MX District shall be processed in three stages: 1) Conceptual review, 2) rezoning application/preliminary site assessment; and 3) final plan/site plan. The conceptual plan shall represent the applicant's general sketch and impression of the anticipated pattern of development planned for the MX District. The preliminary site assessment shall specify existing site conditions and the appropriateness of the site for mixed use zoning. The final plan shall be the document on which building permits and other applicable city approvals are issued. Each stage shall be processed in the following order:

(1) Conceptual review:

(a) This is a scheduled pre-application conference held with the city development services department to discuss requirements, standards and policies prior to the submission of a formal MX District rezoning petition.

(b) The general outline of the proposed MX (evidenced schematically by sketch plans or drawings showing the proposed location of the MX District, adjacent land uses, major external streets, site conditions, land characteristics, available community facilities and utilities and other applicable information) shall be submitted by the applicant for conceptual review at the pre-application conference.

(c) After holding the required conference, the city development services department shall notify the appropriate representatives of various city agencies (such as the police and fire departments) to obtain preliminary comments regarding the proposed MX. Upon receipt of these comments, the city development services department shall furnish the participants with comments, including appropriate recommendations to inform and assist the applicant prior to preparing a formal MX District rezoning petition.

(d) The applicant is strongly encouraged to meet with neighboring property owners to discuss the conceptual plan. A general summary of the meeting shall be provided to development services staff.

(2) Rezoning application/preliminary site assessment:

(a) Application for a MX District shall be filed with the city development services department. The city development services department shall review the preliminary site assessment and MX District rezoning petition in the nature of a legislative amendment to the city's official zoning map. Such an amendment shall be processed pursuant to the general requirements of Article X of this chapter. Upon receipt of all necessary application materials and a determination of completeness, development services department staff shall schedule the petition before the city planning commission within sixty (60) days.

(b) The city council, following receipt of the planning commission's recommendation will review the MX District rezoning petition and preliminary site assessment.

(c) Approval of the preliminary site assessment as part of the MX District requirements shall not constitute final plan approval, rather it shall be deemed an approval of the rezoning request. The preliminary site assessment shall be filed in the city development services department.

(3) Final plan/site plan.

(a) Application for final plan approval or phases thereof shall be made with the city development services department.

(b) The final plan shall be in compliance with the master plan and no construction, excavation or clearing shall be commenced or any building permit issued until the final plan has been approved and signed by development services department staff.

(c) Site plan/final plan approval shall constitute the equivalent of preliminary plan approval under the Wilmington Subdivision Ordinance. The applicant shall not be required

to submit a separate subdivision application. Final plats for subdivision developments, however, shall be submitted in accordance with the subdivision regulation requirements.

(h) Submittal requirements.

(1) A preliminary site assessment and necessary documents shall be submitted along with the rezoning petition.

(2) The preliminary site assessment shall be prepared by a multi-disciplinary team consisting of qualified practitioners in architecture, landscape architecture, planning and engineering.

(3) The preliminary site assessment shall be a series of drawings and written statements that provide information about existing conditions and the appropriateness of the site for mixed use zoning. At a minimum the contents of the preliminary site assessment shall include the following:

(a) Scale not less than one (1) inch to four hundred (400) feet.

(b) North arrow.

(c) Vicinity or location map.

(d) Development name.

(e) Owner's name and address.

(f) Developer (if other than owner).

(g) Names of design team.

(h) Date.

(i) Boundary line of the proposed MX District.

(j) Existing topographic information with two (2) foot contour intervals.

(k) All water courses, special flood hazard area (100-year floodplain), mean high water lines, preliminary wetlands delineation (does not require Army Corps of Engineers approval) and unique natural features.

(l) Generalized locations of existing trees or a color spot vertical aerial photograph flown in winter months (November to February).

(m) Adjacent external street pattern and proposed vehicular, bicycle and pedestrian interconnection points.

(n) A chart listing the base residential density permitted for any areas that will be designated specifically residential. The city council shall consider the maximum densities permitted in the MX District in considering the rezoning request. To qualify for bonuses, the project must meet criteria at the time of site plan review.

(o) A chart listing the base mixed use density. The city council shall consider the maximum densities permitted in the MX District in considering the rezoning request. To qualify for bonuses, the project must meet criteria at the time of site plan review.

(p) All adjoining land uses and zoning districts.

(q) Fringe use areas.

(r) Total gross acres.

(s) Areas to be left undisturbed.

(t) Minimum area of open space.

(u) Boundaries of all land classification categories.

(4) The preliminary site assessment shall be accompanied by the following:

(a) The names and addresses of each property owner within the proposed MX District.

(b) A legal description of the proposed MX District.

(c) Community property owners association proposed covenants.

(d) A preliminary drainage plan showing the conceptual stormwater management system. This plan is intended to show the general nature of the stormwater management system including information such as the natural direction of flow, a statement about the use of pipes, open ditches or use of natural water features and creation of water features. This plan is not intended to be the final engineering plan required for construction release. The plan shall address in general terms how stormwater will be managed for the entire site and any off-site areas draining through the MX site.

(e) A preliminary utility plan showing general location of connections to existing and proposed municipal and non-municipal utility systems and infrastructure. This plan is not intended to be a utility plan showing on-site infrastructure but shall indicate the general location and type of municipal and non-municipal utility systems located adjacent to the site that are intended to serve the site.

(f) A general traffic impact report. The city recognizes that traffic impacts cannot be estimated in detail without specific uses and building sizes. This report shall provide estimates of minimum, maximum and expected vehicles generated by the project. The

report shall also include a general allocation of this traffic to external roadways. This report shall not be considered the traffic impact analysis required at the site plan stage.

(g) A statement of planning objectives including:

(1) Justification statements that define how the proposed MX zoning has greater public benefit than the existing zoning, how the proposed zoning is consistent with adjacent zoning and land uses, the adequacy of infrastructure to serve the proposed zoning, consistency with the purpose of the MX District and consistency with the comprehensive plan and other city policy documents; and

(2) Other necessary information and evidence to support the creation of a MX District in the city.

(h) The following items described above shall be provided on a schematic drawing or series of drawings at a scale not less than one inch equals four hundred feet (1:400) and provided in both hard copy and digital format:

(1) All adjoining land uses and zoning districts.

(2) Boundaries of Land Classification categories.

(3) Fringe use areas (if any).

(4) Natural direction of drainage flow.

(5) General location and size (if applicable) of all adjacent municipal and non-municipal utilities.

(6) Adjacent public and private street rights-of-way including the most current volume and capacity figures.

(7) Any possible street interconnection points.

(8) Adjacent bus stops and bicycle paths.

(9) All water courses, special flood hazard area (100-year flood plain), preliminary wetlands delineation and unique natural features.

(10) Boundaries of the proposed MX District.

(5) Final plans/site plans required to be submitted for mixed use (MX) developments shall show the following (other items may be required by the technical review committee):

(a) Scale no smaller than one (1) inch to two hundred (200) feet.

(b) Vicinity or location map.

- (c) Name of designer, engineer or surveyor.
- (d) North arrow.
- (e) Owner's name and address.
- (f) Developer (if other than owner).
- (g) Development name.
- (h) Date.
- (i) Boundary line of tract to be developed drawn accurately to scale with linear and angular dimensions.
- (j) A site data table that includes the following information:
 - (1) Zoning of the site.
 - (2) Tract size.
 - (3) Existing building square feet.
 - (4) Proposed building square feet in areas designated mixed use.
 - (5) Acres to be developed.
 - (6) Total acres occupied by structures (buildings, street right-of-way and parking).
 - (7) Total acres and boundaries of land lying within the 100-year flood plain and below mean high water mark.
 - (8) Total acres within wetlands.
 - (9) Required open space.
 - (10) Proposed open space.
 - (11) Required common space.
 - (12) Proposed common space.
 - (13) Maximum parking allowed.
 - (14) Proposed parking.
 - (15) Required internal landscaping.
 - (16) Proposed internal landscaping.
 - (17) Tree survey including the number of existing regulated trees.
 - (18) Trees per acre existing.

- (19) Preserved trees per acre proposed.
- (20) Proposed trees per acre to be planted.
- (k) Boundaries of all open space areas.
- (l) Location of all existing and proposed structures.
- (m) Total number of dwelling units to be constructed with number of bedrooms per unit.
- (n) Location and right-of-way widths of all streets and easements (and other areas to be dedicated to the public use).
- (o) Location and width of all private streets.
- (p) Street names and street designations (public or private).
- (q) Location and description of all recreation areas and facilities.
- (r) Location of natural features including topographical information (contour interval two (2) feet), water courses and approximate natural wooded areas.
- (s) Location and description of all common areas.
- (t) Final drainage and utility plans including but not limited to location, size and materials of all proposed utility and drainage systems and facilities.
- (u) Total acres of submerged land.
- (v) If the development is within a Conservation Overlay District: types, boundaries, areas and required setbacks shall be included for all conservation resource areas. Information concerning these areas is available at the city development services department.
- (w) The approximate delineation of Corps of Engineers (Clean Water Act) Section 404 and Section 10 Wetlands.
- (x) Any required buffers.
- (y) Driveway locations and dimensions.
- (z) Parking lot locations.
- (aa) A narrative description of how the project will incorporate the General Site Design characteristics defined in this ordinance including any deed restrictions that will enforce design standards.

(bb) All projects developed in phases shall provide a narrative describing the plan for providing infrastructure including but not limited to stormwater management systems, public utilities and internal and external roadway interconnections. This narrative shall describe how infrastructure will be provided during each phase to ensure the development is consistent with the requirements and intent of the MX District.

(i) Modifications to plans All amendments to the MX Zoning District shall be processed pursuant to the general requirements of Article X of this ordinance. All amendments to the final plan/site plan shall be consistent with the preliminary site assessment and shall be approved by the technical review committee.

(Ord. of 8-1-00; Ord. of 7-18-00; Ord. No. 0-2001-30, § 1, 6-5-01; Ord. No. 0-2001-62, § 1, 10-2-01; Ord. No. 0-2001-63, § 1, 10-2-01; Ord. No. 0-2002-53, § 1, 7-16-02)