

PLANNING COMMISSION

Agenda Item # 4.

City Council

January 3, 2018

LDC-6-118

Ron Satterfield, Assistant Planning Director 910-341-3255 ron.satterfield@wilmingtonnc.gov

Staff Recommendation	Approval
Planning Commission	1/03/18; Scheduled for public hearing
City Council	PENDING

Request

Code Section(s)	Section 18-204, UMX, Urban Mixed Use
Request	Amend Section 18-204, UMX, Urban Mixed Use (c) to allow a maximum height of buildings for property associated with a development agreement to reach seventy-five (75) feet in lieu of a special use permit
Applicant	City of Wilmington

BACKGROUND AND ANALYSIS

The proposed amendment would allow a building within a UMX-zoned property to be constructed to a maximum height of seventy-five (75) feet in lieu of a special use permit (SUP) if the development is subject to an approved development agreement. Currently, the maximum by-right height for properties zoned UMX, Urban Mixed Use is as follows:

- Along arterial streets, building height shall not exceed four (4) stories or forty-five (45) feet.
- Along residential and collector streets, building height shall not exceed thirty-five (35) feet or two (2) stories.
- Outside the 1945 corporate limits, for parcels fronting arterials and/or internal collector streets, building height may be increased to five (5) stories or fifty-five (55) feet if structured parking is provided within the project.

Building height along arterial streets is currently permitted to be increased to seventy-five (75) feet with the issuance of a special use permit, regardless if the property is located inside or outside of the 1945 corporate limits.

On March 5, 2013, City Council adopted the UMX, Urban Mixed-use District regulations and concurrently, rezoned select areas within the 1945 corporate limits to the new UMX classification with the intent of facilitating infill and redevelopment. On September 2, 2014 City Council approved an amendment to the UMX regulations that extended the availability of the UMX district for application to properties outside of the 1945 Corporate Limits with increased by-right height to 55 feet along certain roadways provided structured parking was included.

Per the NC General Statutes, public hearings for SUPs are quasi-judicial in nature, meaning the City Council's decision to issue or deny a SUP is to be based solely on the sworn

evidence presented during the public hearing. Public hearings for development agreements are legislative in nature and allow open discussion between citizens, developers, and elected officials.

PROPOSED AMENDMENT

Following is the proposed amendment to the Land Development Code. The addition is proposed to Section 18-204. UMX, Urban Mixed Use District. (c). Additions are underlined and deletions are in ~~strike through~~.

(c) *General regulations.* The historic urban development pattern inside the 1945 corporate limits frequently includes a fine-grain mix of uses on multiple parcels within close proximity to one another. The mix of uses is achieved through many smaller, independent parcels working together in a greater context. Parcels outside the 1945 corporate limits shall have a minimum lot area of five (5) acres, so as to be able to accommodate a mix of uses on a single site.

(1) *Maximum building height:* Along arterial streets, building height shall not exceed four (4) stories or forty-five (45) feet. Building height along arterial streets may be increased to seventy-five (75) feet with the issuance of a special use permit or entry into a development agreement that provides for such increase. Along residential and collector streets, building height shall not exceed thirty-five (35) feet or two (2) stories. Outside the 1945 corporate limits, for parcels fronting arterials ~~and/or~~ internal collector streets, building height may be increased to five (5) stories or fifty-five (55) feet if structured parking is provided within the project. Roadway classifications are according to the Wilmington Metropolitan Planning Organization Functional Classification Map.

(2) *Building setbacks:*

a. Inside the 1945 corporate limits, no setbacks are required except where abutting a single-family residential district, excluding street and alley rights-of-way. When abutting a single-family residential zoning district, that side of the building abutting the single-family zoning district, shall be set back as follows:

Front: At least five (5) feet or the average setback of existing buildings within the block or block face, but not more than ten (10) feet

Side: At least five (5) feet

Rear: At least five (5) feet

b. Outside the 1945 corporate limits, where buildings abut single-family zoning districts, building heights shall be limited within certain setbacks, according to the following table:

<i>Minimum setback from single-family zoning district</i>	<i>Maximum building height</i>
35 feet	35 feet
45 feet	45 feet
45 feet	55 feet*
45 feet	75 feet**

*Only applicable to properties outside of the 1945 corporate limits along arterial or internal collector streets and when structured parking is provided

**Requires special use permit or applicable terms of an approved development agreement

- c. In no case shall front setbacks adjacent to the primary street(s) or internal street exceed ten (10) feet. Front setbacks are not required along alleyways. Strict adherence to the ten-foot building to line may be waived by the Technical Review Committee where an existing easement or significant natural feature exists.

CONSISTENCY WITH ADOPTED PLANS

Create Wilmington Comprehensive Plan

The proposed amendment is generally consistent with the recommendations of the *Create Wilmington Comprehensive Plan*. The plan encourages developments to be designed in a form and context appropriate to its surroundings.

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



Strong Support






Modest Support



Modest Non-support



Strong Non-support

Policies	1 Development and City Building
Compatibility	
1.4.1	Quality design and site planning should be promoted so that new development infill and redevelopment is implemented with minimal adverse impacts on desired character of the existing built environment. 
1.4.2	New commercial development should be properly managed through the use of development regulations, the development review process, and other tools. The intent is to avoid unreasonable impacts, such as traffic, parking, litter, shadow, light, view obstruction, odor, noise, and/or vibration impacts on nearby residential areas. 
Commercial Districts, Corridors, and Nodes	
1.6.4	Within commercial districts, development should be designed at a height, mass, scale, and form that is appropriate and provides a suitable transition to the surrounding areas. 

Neighborhood Conservation and Revitalization		
1.7.9	Infill development should enhance or improve the existing physical development pattern of the area. The development of lots that have been historically difficult to infill or redevelop should be facilitated.	
Infill and Redevelopment		
1.11.1	Land development regulations, technical standards, and development review procedures should facilitate and encourage infill and redevelopment.	
1.11.2	In collaboration with regional partners, the city and other local governments in the region should focus on reducing sprawling development patterns and encouraging infill and redevelopment that helps achieve the goals of a healthy, diverse, and efficient community.	
1.11.3	Areas well-suited for infill and redevelopment, should be redeveloped in a way that maintains or enhances the desired character of the surrounding area, improves access to goods, services, and amenities, increases housing options, and improves the overall quality of life in the vicinity.	
Policies	5 Economic Development	
Commercial Corridor Reinvestment		
5.1.1	Revitalization and redevelopment of Wilmington’s aging commercial corridors through targeted economic development programs, improved development codes, infrastructure investment, and other means, should be a priority. The maintenance of these roadways should also be considered as part of any planning and redevelopment processes.	
5.1.2	Mixed-use redevelopment should be promoted as a means of revitalizing and enhancing economic development in commercial corridors and creating transit- and pedestrian-oriented development patterns.	
Neighborhoods		
5.5.5	Land use patterns and zoning regulations should support retail, office, and mixed-use infill and should not push retail to edge locations or promote the abandonment of existing retail centers. Emerging and re-emerging retail districts should be identified and encouraged to capitalize on those specific characteristics and niches that make them distinctive and desirable to patronize.	

City of Wilmington Strategic Plan

The proposal is generally consistent with the recommendations of the *City of Wilmington Strategic Plan*. Public hearings for development agreements are legislative in nature and allow open discussion between citizens, developers, and elected officials. Maximum height would be maintained at 75 feet. Focus Areas that pertain to the proposed zoning amendment include the following:

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

- *Engage in Civic Partnerships*

The City will build and improve partnerships, collaborations and relationships with all stakeholders, including our citizens and public and private organizations.

CONCLUSION/RECOMMENDATION

The proposed amendment would allow a building within a UMX-zoned property to be constructed to a maximum height of seventy-five (75) feet without the need to obtain a special use permit provided the site and development proposal is subject to an approved development agreement. Decisions to approve or not approve development agreements and special use permits both require properly advertised and executed public hearings. Citizens, developers, and other interested parties are allowed to participate. Due to the fact that citizen input is allowed and the legislative nature of development agreements, staff believes the proposed amendment is consistent with the recommendations of the *Create Wilmington Comprehensive Plan*, the city's Adopted Focus Areas, and is in the public interest. Therefore, staff recommends **approval** of the amendment to the Land Development Code as proposed.

NEIGHBORHOOD CONTACT

	Planning Commission	City Council
<i>Advertisement Date(s)</i>	12/29/17	
<i>Other – Contact(s)</i>	None	None

ACTIONS TO DATE

<i>Planning Commission</i>	1/3/18; Scheduled for public hearing
<i>City Council</i>	Pending

ATTACHMENTS

1. Current City of Wilmington Land Development Code Section 18-204, UMX
2. Proposed 18-204 (c) language

Sec. 18-204. - UMX, Urban Mixed Use District.

- (a) *Purpose.* The urban core of the city, primarily that area within the 1945 corporate limits, contributes to the unique character of the City of Wilmington. The UMX is established to assure an appropriate development pattern is maintained within the 1945 corporate limits through five (5) main objectives: to enhance and preserve existing urban development patterns by encouraging compatible infill and redevelopment; to affect quality design and a variety of built forms of lasting value that result in a pedestrian scale; to provide a mix of housing options; to promote and enhance transit options, particularly those that are pedestrian-oriented, while reducing demand for automobile trips; and to encourage a mix of uses that fosters a sense of community. The district regulations include design elements intended to enhance the urban form, increase neighborhood safety, add flexibility for small, urban lots, and complement the historic built environment. Integrated mixes of uses on development sites and within individual buildings is encouraged. UMX zoning inside the 1945 corporate limits is intended to reinforce and restore traditional mixed-use patterns in the older parts of Wilmington. UMX zoning outside the 1945 corporate limits is intended to promote mixed-use developments on sites large enough to create a mix of uses within the existing suburban environment. Typically these developments will include creative development and redevelopment solutions such as integrated, vertical mixed use and structured parking. This district is not intended to be applied to the Central Business District (CBD), nor any of the historic districts.
- (b) *Uses.*
- (1) Notwithstanding the provisions of section 18-173, any use is permitted in the UMX provided it meets all other provisions of this chapter, except for the following:
 - a. Adult establishments.
 - b. Electronic gaming.
 - c. Garbage collection, private.
 - d. Gas companies.
 - e. Manufactured homes sales.
 - f. Motor freight companies.
 - g. Movers, van lines, and storage.
 - h. Nightclubs.
 - (2) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.
 - a. Auxiliary uses and wares.
 - b. Communications facilities.
 - c. Freestanding structured parking decks.
 - d. Group home supportive, small, medium, large.
 - e. Reserved.
 - f. Industrial uses greater than ten thousand (10,000) square feet, provided they are housed within a building existing at the time of adoption of this ordinance.

- g. Utility stations and plants outside public rights-of-way (public and private), including lift stations, substations, pump stations, etc.
 - h. Breweries, small regional and microbreweries.
 - i. Artisan food and beverage producers.
- (3) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.
- a. Automobile renting and leasing.
 - b. Automotive services and towing service.
 - c. Communication facilities, including radio and television stations, cellular telephone facilities, towers, etc.
 - d. Contractor equipment or supply dealers and service.
 - e. Contractor storage yard.
 - f. Dormitories, private.
 - g. Drive-through services.
 - h. Group day facility.
 - i. Industrial and manufacturing uses greater than ten thousand (10,000) square feet.
 - j. Motor vehicle dealers, including automobiles, boat dealers, motorcycles, recreational vehicles, and utility trailers.
 - k. Tire dealers and service.
 - l. Group home residential.
- (4) All UMX sites outside the 1945 corporate limits shall include a mix of both residential and nonresidential uses.
- (c) *General regulations.* The historic urban development pattern inside the 1945 corporate limits frequently includes a fine-grain mix of uses on multiple parcels within close proximity to one another. The mix of uses is achieved through many smaller, independent parcels working together in a greater context. Parcels outside the 1945 corporate limits shall have a minimum lot area of five (5) acres, so as to be able to accommodate a mix of uses on a single site.
- (1) *Maximum building height:* Along arterial streets, building height shall not exceed four (4) stories or forty-five (45) feet. Building height along arterial streets may be increased to seventy-five (75) feet with the issuance of a special use permit. Along residential and collector streets, building height shall not exceed thirty-five (35) feet or two (2) stories. Outside the 1945 corporate limits, for parcels fronting arterials and/or internal collector streets, building height may be increased to five (5) stories or fifty-five (55) feet if structured parking is provided within the project. Roadway classifications are according to the Wilmington Metropolitan Planning Organization Functional Classification Map.
- (2) *Building setbacks:*
- a. Inside the 1945 corporate limits, no setbacks are required except where abutting a single-family residential district, excluding street and alley rights-of-way. When

abutting a single-family residential zoning district, that side of the building abutting the single-family zoning district, shall be set back as follows:

Front: At least five (5) feet or the average setback of existing buildings within the block or block face, but not more than ten (10) feet

Side: At least five (5) feet

Rear: At least five (5) feet

- b. Outside the 1945 corporate limits, where buildings abut single-family zoning districts, building heights shall be limited within certain setbacks, according to the following table:

Minimum Setback from Single-Family Zoning District	Maximum Building Height
35 feet	35 feet
45 feet	45 feet
45 feet	55 feet*
45 feet	75 feet**

* Only along arterial streets and when structured parking is provided.

** Requires special use permit.

- c. In no case shall front setbacks adjacent to the primary street(s) or an internal street exceed ten (10) feet. Front setbacks are not required along alleyways. Strict adherence to the ten-foot build-to line may be waived by the technical review committee where an existing easement or significant natural feature exists.

(3) *Density:*

	Maximum Dwelling Units Per Acre
Single-family	15
Multi-family	25
Vertically integrated mixed-use building	None

- (4) *Utility and equipment screening:* HVAC equipment, air conditioning window units, and other electrical equipment, and fire escapes shall not be located on facades with street frontage. All such equipment shall be placed in the interior yards or inset into the roof pitch, or behind a parapet wall in the case of a flat roof, of the building and screened from the right-of-way. Through-wall mechanical units are permitted on any facade if they are incorporated into the design of the building, flush with the facade on which they are located, concealed by a vent cover and have an internal drip system for condensation. Utility meters, transformers and fixed trash disposal receptacles that cannot be located out of sight shall be screened from the public right-of-way by plantings or opaque fencing. The technical review committee may approve alternations to these standards, if necessary.
- (5) *Site lighting:* All site lighting shall be located, angled, shielded, and/or limited in intensity so as to cast no direct light upon adjacent properties, shall minimize off-site backlighting glare, and up-lighting. Light posts shall be no taller than twelve (12) feet.
- (6) *Parking and driveway requirements:*
- There are no minimum parking requirements. Parking shall not exceed the maximum parking requirements established for any use in Article 9 of this chapter.
 - Bicycle parking shall be provided as follows. Where two (2) standards are listed, the greater number applies.

Use	Minimum Bike Spaces Required
Schools	5 spaces per classroom
Parks and recreation areas	10 spaces
Religious Institutions	2 spaces or 1 per 5,000 square feet of gross floor area
Multifamily residential	1 space per dwelling unit
Group home	1 space per resident
Office uses	2 spaces or 1 per 5,000 square feet of gross floor area
Commercial/retail uses	5 spaces or 1 per 1,000 square feet of gross floor area

- Surface parking shall be located to the side or rear of buildings or in the interior of a block and shall be prohibited in front of buildings. Surface parking shall not be located along rights-of-way except for alleys.
- Surface parking lots visible from the public right-of-way shall be screened by permanent walls, shrubbery or hedges at least three (3) feet in height. If hedges or

shrubby are used, they shall be at three (3) feet in height at the time of planting and shall be maintained at three (3) to five (5) feet in height at all times.

- e. Parking shall be accessed via alleyways wherever possible.
 - f. The design of all above-grade parking structures shall relate to the context of the area. Exterior walls of parking structures shall be designed with materials, colors, and architectural articulation in a manner that provides a visual compatibility with adjacent buildings and environment.
 - g. Pervious pavement materials, vegetated bio-infiltration parking lot islands, or infiltration systems shall be used to minimize pollutant run-off from surface parking areas to the extent that soil permeability, depth to groundwater, or site constraints allow.
 - h. Driveway and parking lot design shall be consistent with an urban form and may be exempt from the requirements of the Technical Standards and Specifications Manual, as approved by the technical review committee.
- (7) *General site design:* Each of the following components shall be included in UMX developments.
- a. Outside the 1945 corporate limits, any UMX development shall either be a conditional district zoning or a general zoning subject to a conceptual site plan review and approval by city council. Regardless of the form of the zoning action, a specific site plan shall be reviewed and approved by the technical review committee, in accordance with all applicable standards. Major changes, as identified in section 18-89 of this chapter, to approved conceptual site plans shall be authorized by the city council. The following shall be included in the conceptual site plan:
 - 1. Boundary survey and vicinity map showing total acreage, general location in relation to major streets, railroads, and/or waterways, the date and a north arrow on the top.
 - 2. Conceptual plan showing the location of all major land uses and proposed maximum square footage for each use - may be a bubble format showing the general location and relative arrangement of different land uses.
 - 3. Maximum building heights.
 - 4. All external access points and conceptual internal traffic circulation plan.
 - 5. Proposed buffers and landscaping.
 - b. *Multi-modal transportation opportunities.* Public transit, walking, bicycling, and/or water-oriented transit and the facilities necessary for such uses.
 - 1. Pedestrian circulation shall be clearly defined with paving materials and/or landscaping and shall connect all uses. Sidewalks and crosswalks shall be provided within new developments as necessary.
 - 2. Bicycle and/or pedestrian connectivity to adjacent or nearby developments is required.
 - 3. Sidewalks. Where no sidewalks currently exist, sidewalks shall be installed within the right-of-way between the property line and the back of the curb. Sidewalk width shall be a minimum of twelve (12) feet along arterial streets and eight (8) feet along residential/collector streets and may be reduced on

internal private streets with technical review committee approval. Sidewalks may be limited to a single side of rights-of-way or private streets, or sidewalk width may be reduced, when right-of-way or private street abuts streams, ponds, or wetlands or when contextual design constraints dictate, as determined by the technical review committee.

4. For UMX sites outside the 1945 corporate limits, an internal grid street pattern is required. Block faces within the grid pattern shall not exceed four hundred (400) feet in length. The grid pattern may be supplemented with alleys. The technical review committee may waive strict adherence to the grid pattern when sites are constrained by topography, including wetlands, ponds, or other natural features, and where connections to arterial streets and connections and relationships to adjacent sites require flexibility.
- c. *Street trees.* Within the 1945 corporate limits, street tree plantings in below-grade planters shall be included in the public right-of-way at the rate of one (1) tree per thirty (30) feet of frontage. If the city manager determines there is no plaza or other space available for tree plantings in the right-of-way, or determines that the planting is problematic for the site, a payment-in-lieu of tree plantings, equal to the cost for the required trees, including materials and installation, shall be paid by the developer into the City of Wilmington tree improvement fund.

Outside of the 1945 corporate limits, street tree plantings in below-grade planters or planting strips shall be included in the public and private rights-of-way at the rate of one (1) tree per thirty (30) feet of frontage. The technical review committee may waive strict adherence to this requirement if an alley is utilized along all or portions of the street frontage.

All plans for street tree plantings must be approved by the city manager and must be planted according to section 18-448 of this chapter, unless otherwise noted in this section. Tree species shall comply with subsection 18-196(f)(3) of this chapter.

- d. *Buffers and streetyards.* All development within the UMX District may be exempted from required buffers and streetyard requirements, as approved by the technical review committee. Outside of the 1945 corporate limits, a minimum buffer of at least twenty (20) feet in width is required adjacent to single-family residential zoning districts.
- e. *Trash containment screening.* All developments within the UMX are exempt from section 18-504 of this chapter and are subject to the following screening requirements:
 1. Trash containment areas shall be located within a building where possible.
 2. If trash containment, including areas for holding recycling, cannot be accommodated within a building, it shall be placed on the rear or side of the building and shall be completely enclosed and screened from view of public rights-of-way with an opaque fence or wall and/or plant materials, as approved by the technical review committee. The enclosure shall be at least one (1) foot taller than the highest point of the trash receptacle. Chain link and exposed concrete blocks are prohibited.
- f. *Encroachment agreements.* An encroachment agreement shall be required for any projection into the right-of-way, such as balconies and door swings. The encroachment agreement must be approved prior to construction release or

issuance of a building permit. Application for any encroachment must be made to the city engineer for review and the format of the encroachment agreement shall be determined and approved by the city attorney. Official approval of such agreement shall be by resolution of the city council. De minimus encroachments including gutters, fabric awnings, door swings, architectural elements less than twelve (12) inches in depth, signs, and sub-grade structural elements are approved or denied by the city engineer.

- [illegible]

(Ord. No. O-2013-16, § 1, 3-19-13; Ord. No. O-2014-67, §§ 1—7, 9-2-14; Ord. No. O-2014-68, § 12, 9-2-14; Ord. No. O-2015-31, § 10, 5-5-15; Ord. No. O-2017-36, § 2, 6-6-17)

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