

## Section 1.7 Transitional Provisions

### 1.7.3 APPROVALS GRANTED BEFORE EFFECTIVE DATE

- A. Approved zoning permits, building permits, variances, special use permits, subdivision plans, and site plans that are valid on February 3, 2020 shall remain valid until their expiration date. Development may be completed in accordance with such approvals even if such building, development or structure does not fully comply with provisions of this Ordinance. If building is not commenced and diligently pursued in the time allowed under the original approval or any extension granted, then the building, development or structure shall be subject to the requirements of this Ordinance.
- B. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 11: Nonconforming Situations.
- C. Any re-application for an expired development approval or permit shall comply with the standards in effect at the time of re-application.
- D. *All development and use of land in a PD District that was approved before [redacted] [insert effective date of amendment] shall comply with the standards approved for that district. The Planning Director may approve minor deviations from the PD District standards identified in Section 10.3.4.C.8.b, Minor Deviations, provided the deviations have no material effect on the character of the approved development. All other modifications of the PD District standards shall be considered major modifications and are subject to the procedures and standards in Section 10.3.4, Master Planned Development.*

### 1.7.4 APPLICATIONS IN PROGRESS BEFORE EFFECTIVE DATE

- A. Applications for development approvals and permits that were submitted in complete form and are pending on February 3, 2020 shall be reviewed and decided in accordance with the regulations in effect when the application was accepted.
- B. Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.
- C. An applicant with a pending application accepted before February 3, 2020 may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance. The application submittal fees will be waived for this new application.
- D. *An applicant with a pending application for a PD District that was accepted before [redacted] [insert effective date of amendment] may opt to have the proposed PD District reviewed and decided under either the zoning regulations in effect at the time the application was accepted, in whole, or the procedures and standards of this Ordinance, in whole. If the applicant opts to have the proposed PD District reviewed under the procedures of this Ordinance, the applicant shall withdraw the pending application and submit a new application in accordance with the standards of this Ordinance. The application submittal fees will be waived for this new application.*
- E. *Except for a PD District approved in accordance with subsection D above, t*To the extent an application approved under this section proposes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to the provisions of Article 11: Nonconforming Situations.

### 3.3.7 PLANNED DEVELOPMENT (PD) DISTRICT

#### F. Purpose

The Planned Development (PD) District is established to encourage innovative, *integrated, and efficient* land planning and site design concepts that support a high quality of life and achieve a high quality of development under an integrated development plan that would otherwise not be possible under general district requirements. Specifically, the intent of the PD district is to: *that achieve a high quality of development, environmental sensitivity, and adequate public facilities and services, and that provide community benefits, by:*

- *Reducing the inflexibility of zoning district standards that sometimes result from strict application of the base district, and development standards;*
- *Allowing greater flexibility in selecting: the form and design of development, the ways by which pedestrians and traffic circulate, how the development is located and designed to respect the natural features of the land and protect the environment, the location, and integration of open space and civic space into the development, and design amenities;*
- *Encouraging a greater mix of land uses with the same development;*
- *Allowing more efficient use of land, with smaller networks of streets and utilities;*
- *Providing pedestrian connections within the site and to the public right-of-way; and*
- *Promoting development forms and patterns that respect the character of established surrounding neighborhoods and other types of land uses.*
- ~~Create new planned development districts for specialized purposes where tracts are suitable in location, area, and character for development on a unified basis;~~
- ~~Promote economical and efficient patterns of land use that are sensitive to natural features;~~
- ~~Reduce automotive traffic congestion by supporting a reasonably close relationship between origins and destinations of persons living, working, or visiting in such development; and~~
- ~~Encourage unified developments consistent with the goals of the County's Comprehensive Plan and compatible with surrounding land uses.~~

#### G. Concept



**H. Use Standards**

Allowed uses and use-specific standards for principal, accessory, and temporary uses are *identified* established in Article 4: Uses and Use-Specific Standards. ~~No more than 30 percent of any PD District shall be used for Industrial, Commercial, and Civic and Institutional uses.~~ *The allowed uses are only permitted for development if they are included in the MPD Master Plan that is approved as part of the PD district in accordance with Section 3.3.3.A, MPD Master Plan.*

**I. District Dimensional *and Density* Standards**

Standard	Residential Uses	Commercial Uses	Industrial Uses
Minimum district size, under common ownership or joint petition: 10 acres			
Building setback from PD District boundary (feet)	20	CB Setback Requirements	I-1 Setback Requirements
Building setback from pedestrian and bicycle paths (feet)	10		
Front setback (feet)	Established in MPD Master Plan in accordance with Section 3.3.3.A, MPD Master Plan		
Side setback, street (feet)			
Side setback, interior (feet)			
Rear setback (feet)			
	None	20	50
	None	20	50
	None	None*	**
	None	10*	**
<i>Density, maximum (du/acre)</i>	*		
<i>Intensity, maximum</i>	<i>Established in MPD Master Plan in accordance with Section 3.3.3.A, MPD Master Plan</i>		
Building height, maximum (feet)	40***		

\* *Maximum density in Urban Mixed Use areas identified on the New Hanover County Future Land Use Map shall be established in the MPD Master Plan. Maximum Density in areas outside of the Urban Mixed Use areas shall also be established in the MPD Master Plan, but shall not exceed 17 dwelling units per acre. Setback is 20 feet from abutting residentially zoned land or lots on which there is residential development.*

\*\* ~~Determined in accordance with Section 3.1.3.C, Setback Requirements in Certain Commercial and Industrial Districts.~~

\*\*\* ~~There is no maximum building height for agricultural or industrial uses. The maximum building height is 80 feet for buildings located within the Urban Mixed Use, Community Mixed Use, or Employment Center place types as indicated *areas identified* on the County's Land Classification Map *New Hanover County Future Land Use Map* and fronting along a collector, minor arterial, or principal arterial as indicated on the Wilmington Urban Area MPO functional classification map.~~

**J. Other District Standards**

**1. ~~Density/Intensity Bonuses~~**

- ~~a. Allowable density shall be determined by the Site Capacity Standards for Additional Dwelling Allowances as authorized in Section 3.1.3.E, Additional Dwelling Allowance, except that land intended for Industrial, Commercial, and Civic and Institutional uses shall also be subtracted from the gross site area. The residential density factor of the PD district shall be 4.25 dwelling units per acre if it is located within the Urban Mixed Use, Community Mixed Use, General Residential, or Employment Center place types.~~

- ~~b. The maximum allowed density for residential units in the AE and VE special flood hazard areas and CAMA Estuarine Areas of Environmental Concern is 2.5 units per acre.~~
- ~~c. If the PD district is located within the Employment Center, Urban Mixed Use, or Community Mixed Use place types, the residential density factor of the PD District may be increased as follows, based on the total points allowed for all features in the PD district in accordance with Table 3.3.7.E.1: Allowed Density Bonus Points:
 
  - ~~1. A total score of 75 points or more = an increase in density from 4.25 to 10.2 dwelling units per acre; and~~
  - ~~2. A total score of 165 points or more = an increase in density from 10.2 to 17 units per acre.~~~~

**Table 3.3.7.E.1: Allowed Density Bonus Points**

Feature	Points
Adjacent to a Minor or Principal Arterial Facility as indicated on the Wilmington MPO Functional Classification Map and providing a public collector road plan and a public or private local street plan that include sidewalks and bicycle facilities to provide an efficient variety of choices for moving people around and through the proposed development	15
Within one mile by road of established businesses sufficient to support a total employment equal to 85 percent of the anticipated labor force (calculated at one worker per unit) of the PD district population.	15
If the PD is located in a manner that satisfied at least two of the following criteria: <ul style="list-style-type: none"> <li>• Within one road mile of a neighborhood convenience store offering basic grocery items and other items.</li> <li>• Within two road miles of a community shopping center. A community shopping center is defined as a site with a common parking area, a grocery store, and at least two of the following types of retail establishments: drug store, hardware store, dry cleaners, variety retail, department store, discount store or restaurant.</li> <li>• Within three miles of regional shopping center consisting of over 100,000 sq. ft. of retail space for sales and storage.</li> </ul>	15
At least 1/2 mile inland of coastal wetlands, estuarine waters, estuarine shorelines and public trust waters and preserves riparian buffers and incorporates LID techniques for stormwater controls.	25
All structures are located beyond the 100-year floodplain as designated on the County's Official Flood Insurance Maps.	20
Outside the County's most sensitive aquifer recharge area (Area No. 2) as shown on the Aquifer Sensitivity Map for New Hanover County.	15
Bus or shuttle transportation.	10
Solid waste transfer station.	30
Within one mile of a public park and recreation facility.	10
At least 5 percent of the total number of dwelling units in the PD District are designated and reserved on the MPD Master Plan for either handicapped or households with income less than 60 percent of the median household income for New Hanover County.	20
Public access and public waterfront facilities provided, such as docks, piers, and boat ramps or shoreline parks and boardwalks	25
All residential units will meet LEED, Healthy Build Home, ICC700 Green Building Standards, or Green Globes designation.	520
Alternative energy systems supply at least 20 percent of the total non-renewable energy consumption for space and hot water heating. Alternative energy systems, for purposes of this Ordinance, are defined as constructed passive or active systems. Passive systems shall be evaluated using the solar load ratio method and active	20

<b>Table 3.3.7.E.1: Allowed Density Bonus Points</b>	
Feature	Points
systems using the F chart system. Points will not be awarded for this incentive unless the conditions for the above incentive concerning thermal standards are also met.	
Recreational facilities other than tot lots and mini-parks. These recreational facilities may include, but are not limited to, tennis courts, golf courses, ball fields, basketball courts, and community recreation buildings or community gardens. Points will be awarded at a rate of one point for each \$5,000 of investment (not including land or design costs), up to a maximum of 20 points. Adequacy of design and improvements, and cost estimates will be evaluated by the County Parks Department.	20

**1. Compensating Community Benefits**

*Compensating community benefits shall be identified in the MPD Master Plan. These benefits shall be in addition to what is otherwise required to meet the minimum standards of this UDO and other County, state, and federal regulations. They may include, but are not limited to:*

**a. Improved Design**

*The use of architectural design that exceeds any minimum standards established in this UDO or any other County regulation, or the use of site design incorporating principles of walkable urbanism and traditional neighborhood development, compatible with the comprehensive plan and other adopted County plans.*

**b. Natural Preservation**

*The preservation of sensitive lands such as natural habitats, natural features, or trees that exceed the requirements of this UDO, when they are located on the site.*

**c. Improved Connectivity for Pedestrians and/or Vehicles**

*Additional connections to existing roads, bicycle facilities, and pedestrian facilities that provide additional connectivity to and from the development and existing residential and commercial development in the County, beyond the requirements of Section 5.2, Traffic, Access, and Connectivity.*

**d. Mixed-Use Development**

*The approval of a significant amount of mixed-use development on the site, by ensuring that a minimum of 35 percent of the total gross square feet in the development (and 25 percent of the land area) will be developed in an integrated mixed-use form (residential and nonresidential), with sidewalks on both sides of the street, and street trees spaced appropriately, along the street.*

**e. Green Building Practices**

*The inclusion of green building practices, that may include but not be limited to: LEED buildings (or a comparable); the integration of low-impact development techniques; the use of alternative energy to generate power (solar or wind); energy conservation practices; water conservation practices; tree conservation (exceeding the requirements of this UDO); recycling; and similar practices.*

**f. Dedication of Land or Facilities or In-Lieu Fee Contribution**

**1. Parks, Recreation, and Open Space**

*The dedication of land, construction of facilities, or contribution of in-lieu fee for public parks, trails and trail linkages, greenways, waterfront access, recreation facilities, or open space identified in the comprehensive plan or other adopted County plans, beyond the requirements of Section 5.5, Open Space Set-Aside Standards.*

**2. Transportation Facilities**

*The dedication of land, construction of facilities, or contribution of in-lieu fees for off-site transportation facilities that exceed the mitigation requirements of Section 5.2.4, Traffic Impact Worksheet.*

**3. Community Facilities**

*The dedication of land or construction of facilities for community facilities (e.g., cultural arts center, public plaza, and public art) identified in the comprehensive plan or other adopted County plans.*

**4. Workforce Housing**

*The construction of workforce dwelling units.*

**5. Other**

*Any other community benefit that would provide benefits to the development site and the citizens of the County, generally.*

**2. Development Standards Subject to Modification**

*Except as required in subsections 3 through 5 below, development in a PD district shall comply with the standards in Article 5: General Development Standards, Article 6: Subdivision Design and Improvements, Article 7: Stormwater Management, Article 8: Erosion and Sedimentation Control, and Article 9: Flood Damage Prevention, unless they are modified as allowed by Table 3.3.7.E.4: PD District Development Standards Subject to Modification, and accompanied by documentation providing a clear basis for why the change is needed, how it supports the purposes of the district, and how it supports high-quality development.*



<b>Table 3.3.7.E.4:</b>	
<b>PD District Development Standards Subject to Modification</b>	
<b>Standard</b>	<b>Means to Modify</b>
<b>Article 5: General Development Standards</b>	
<i>Section 5.1 Parking and Loading</i>	<i>MPD Master Plan</i>
<i>Section 5.2 Traffic, Access, and Connectivity</i>	<i>MPD Master Plan</i>
<i>Section 5.3 Tree Retention</i>	<i>No modification</i>
<i>Section 5.4 Landscaping and Buffering</i>	<i>No modification</i>
<i>Section 5.5 Exterior Lighting</i>	<i>MPD Master Plan</i>
<i>Section 5.6 Signs</i>	<i>MPD Master Plan</i>
<i>Section 5.7 Conservation Resources</i>	<i>No modification</i>
<i>Section 5.8 Open Space Requirements</i>	<i>MPD Master Plan</i>
<i>Section 5.9 Fire Hydrants</i>	<i>No modification</i>
<i>Section 5.10 Airport Height Restriction</i>	<i>No modification</i>
<b>Article 6: Subdivision Design and Improvements</b>	
<i>Section 6.1 General Purpose</i>	<i>No modification</i>
<i>Section 6.2 Design Standards</i>	<i>MPD Master Plan</i>
<i>Section 6.3 Improvements</i>	<i>MPD Master Plan</i>
<b>Article 7: Stormwater Management</b>	<i>(reserved)</i>
<b>Article 8: Erosion and Sedimentation Control</b>	<i>(reserved)</i>
<b>Article 9: Flood Damage Prevention</b>	<i>No modification</i>

### 3. Minimum Infrastructure Improvements

The following minimum improvements and public services shall be provided in accordance with all standards set by the County or appropriate local or State agency:

- a. Water supply and sewer facilities provided by the Cape Fear Public Utility Authority or an equivalent agency;
- b. Fire hydrant and water supply systems that meet the standards specified in the National Fire Protection Association Standard as amended;
- c. A drainage plan *in accordance with* pursuant to Section 6.3.3.E, Surface Water Drainage, and the County’s Stormwater Management Ordinance.
- d. Street lights, at the rate of one fixture per 500 linear feet or less of roadway.
- ~~e. Tot lots and/or mini-parks (adequacy of design and improvements to be evaluated by County Parks and Gardens), at the rate of one acre or more per 1,000 population and within 1 mile distance of residential areas to be served by them, and accessible by a network of sidewalks or pedestrian trails;~~

- f. Audible fire alarm systems connected directly to a central dispatch system for all structures except single-family and *two-family* (duplex) residential.

#### 4. Building Separations *Standards*

- a. The project shall be designed so as to avoid encroachment into the path of any proposed transportation project included in the Wilmington MPO's Metropolitan Transportation Plan.
- b. No part of a detached single family dwelling unit or its accessory structure *shall* may be located closer than 10 feet to any part of any other detached single family dwelling or its accessory structure.
- c. No part of a multi-family or attached dwelling unit or its accessory structure *shall* be located closer than 20 feet to any part of another dwelling unit, accessory structure, or nonresidential building.

#### ~~5. Parking~~

~~Off-street parking shall be provided in accordance with Section 5.1, Parking and Loading, except the design of parking lots or shared parking facilities may be approved with minor dimensional deviations, when the TRC concurs and provided the number of required spaces is not reduced.~~

#### ~~6. Signs~~

~~Signs shall be in accordance with Section 5.6, Signs. The developer shall be responsible for erecting and maintaining street name signs at all intersections within the PD District. Signs on public streets shall conform with existing Department of Transportation regulations.~~

#### ~~7. Access and Connectivity~~

- ~~a. The PD district shall have direct access to and from an existing major or minor arterial as indicated on the Wilmington MPO Functional Classification Map. This direct access requirement will be satisfied if:
  - ~~1. One or more property boundary lines is contiguous with and utilizes access to and from an existing major or minor arterial; or~~
  - ~~2. The PD district accesses an existing major or minor arterial roadway by a NCDOT-maintained public street, or by a private street designed and constructed in accordance with the County's minimum standards for a collector road.~~~~
- ~~b. All interior drives shall be designed so as to provide adequate access for emergency service vehicles and future connectivity to adjoining undeveloped properties.~~

#### ~~8. Continuing Care Retirement Facility Standards~~

~~The following additional standards apply if at least 25 percent of the number of residential units in the PD district are included in a Continuing Care Retirement Facility as described and regulated under N.C.G.S. § 58, Article 64:~~



- ~~a. The maximum allowed height for a continuing care retirement facility building is 55 feet; and~~
- ~~b. The thoroughfare requirements in subsection 5 above, may be satisfied if a traffic study supports a finding by the Board of Commissioners that the roadway providing access for the proposed PD development to and from an existing major or minor arterial will operate at an acceptable level of service (LOS), and will not cause the LOS to drop below Level C at build-out.~~

**9. Community Property Owner’s Association**

A Community property owner's association shall be established in accordance with Section 5.8.3, Open Space Provisions, and Section 3.1.3.D.7. Rights-of-way platted for public use *shall* ~~may~~ not be altered to private rights-of-way by any action of a community property owner’s association unless approved by the TRC.

<b><del>K. Reference to Other Standards</del></b>	
<del>Article 2: Measurements and Definition</del>	<del>Section 5.8 Open Space Requirements</del>
<del>Section 5.1 Parking and Loading</del>	<del>Section 5.9 Fire Hydrants</del>
<del>Section 5.2 Traffic, Access, and Connectivity</del>	<del>Article 6: Subdivision Design and Improvement</del>
<del>Section 5.3 Tree Retention</del>	<del>Article 7: Stormwater Management</del>
<del>Section 5.4 Landscaping and Buffering</del>	<del>Article 8: Erosion and Sedimentation Control</del>
<del>Section 5.6 Signs</del>	<del>Article 9: Flood Damage Prevention</del>
<del>Section 5.7 Conservation Resources</del>	<del>Article 11: Nonconforming Situations</del>

**10.3.4 MASTER PLANNED DEVELOPMENT**

**A. Purpose**

The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish a master planned development district. A master planned development (MPD) is a development under unified control with more flexible standards and procedures that are conducive to creating a more mixed-use, pedestrian-oriented development than could be achieved through general use zoning district regulations.

**B. Applicability**

The procedure in this section is required for any amendment of the Official Zoning Map that rezones land to a master planned development district, including the UMXZ, RFMU, EDZD, or PD districts, *or for major modifications to an already approved master planned development district. Any modification to an approved master planned development district that is not a minor deviation as set forth in Section 10.3.4.C.8.b, Minor Deviations, is a major modification.*

**C. Master Planned Development Procedure**

Figure 10.3.4.C summarizes the requirements and procedures in Section 10.2, Standard Review Procedures, that apply to master planned

developments. Subsections 1 through 8 below, specify the required procedure for a master planned development, including applicable additions or modifications to the standard review procedures.

**Figure 10.3.4.C: Summary of Planned Development Procedure**



**1. Pre-Application Conference**

A pre-application conference in accordance with Section 10.2.2, Pre-Application Conference, is required.

**2. Community Information Meeting**

The applicant shall conduct a community information meeting in accordance with Section 10.2.3, Community Information Meeting.

**3. Application Submittal and Acceptance**

Applications shall be submitted in accordance with Section 10.2.4, Application Submittal and Acceptance. In addition to all other application requirements set forth in the Administrative Manual, the application shall include the following:

- a. An MPD Master Plan meeting the requirements of Section 3.3.3.A, MPD Master Plan, depicting the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, open space, public facilities, and phasing;
- b. An MPD Terms and Conditions document meeting the requirements of Section 3.3.3.B, MPD Terms and Conditions Document, specifying terms and conditions defining development parameters, providing for environmental mitigation, and outlining how public facilities will be provided to serve the master planned development; and
- c. To ensure unified control, a copy of the title to all land that is part of the proposed master planned development district *or land that is affected by a major modification to an existing master planned development district.*

**4. Staff Review and Action**

- a. If requested by the applicant, the TRC shall review the application and provide any comments on the proposed master planned development

to the Planning Director, who shall transmit any comments received from the TRC in writing to the applicant.

- b. The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 10.2.5, Staff Review and Action. The Planning Director may recommend revisions to the proposed MPD Master Plan and MPD Terms and Conditions document.
- c. If the proposed master planned development involves a rezoning to *or major modification of an* the EDZD District, the staff report shall address each of the following:
  - 1. The suitability of the proposal for the general type of function, the physical characteristics of the land, and relation of the proposed development to surrounding areas and existing and probable future development;
  - 2. The sufficiency of supporting evidence in the application showing that the proposed location can meet the basic criteria for exceptional design;
  - 3. The relation to major roads and mass transit facilities, utilities, and other facilities and services;
  - 4. The adequacy of evidence of unified control and the suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or the need for such instruments, or for amendments in those proposed;
  - 5. The suitability of plans proposed or the suggestion of conditions; and
  - 6. The consistency with the Comprehensive Plan and other adopted plans for development in the vicinity, and how the EDZD district might be reasonable and in the public interest if approved.

## **5. Public Hearing Scheduling and Public Notification**

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 10.2.6, Public Hearing Scheduling and Public Notification.

## **6. Planning Board Review and Action**

- a. The Planning Board shall conduct a public hearing on the application and make a recommendation on the application in accordance with Section 10.2.8, Advisory Body Review and Action, and Section 10.3.4.D, Master Planned Development Review Standards. The Planning Board's recommendation shall address whether the proposed master planned development is consistent with the Comprehensive Plan.
- b. If the Planning Board's decision is to recommend denial of the application, the applicant must submit written notice to the Planning Director of the applicant's intent to proceed with a hearing before the Board of Commissioners within 10 calendar days of the Planning

Board's decision. If the applicant does not provide such notice within that time period, the application shall be deemed withdrawn and no further review of the application shall occur.

## **7. Board of Commissioners Review and Action**

- a.** If appropriate, the Board of Commissioners shall conduct a public hearing on the application and make a decision on the application in accordance with Section 10.2.9, Decision-Making Body Review and Action, and Section 10.3.4.D, Master Planned Development Review Standards. The decision of the Board of Commissioners shall be one of the following:
  1. Approve the master planned development district subject to the MPD Master Plan and MPD Terms and Conditions document in the application;
  2. Approve the master planned development district subject to additional or revised conditions related to the MPD Master Plan or MPD Terms and Conditions document;
  3. Deny the master planned development district; or
  4. Remand the master planned development application back to the Planning Board for further consideration.
- b.** Prior to deciding to adopt or deny a master planned development, the Board of Commissioners shall adopt a statement that:
  1. Addresses the consistency of the master planned development with the Comprehensive Plan by either:
    - i. Describing the consistency or inconsistency of the master planned development with the Comprehensive Plan; or
    - ii. If the master planned development is approved, declaring that the approval is also deemed an amendment to the Comprehensive Plan, and providing an explanation of the change in conditions Board of Commissioners took into account in approving the master planned development to meet the development needs of the community. No additional request or application for amendment to the Comprehensive Plan shall be required.
  2. Explains why the decision is reasonable and in the public interest.
- c.** *Only conditions of approval mutually agreed to by both the applicant and the Board of Commissioners are allowed.*

## **8. Post-Decision Limitations and Actions**

The post-decision limitations and actions in Section 10.2.10 apply, in addition to the provisions in subsections a through c below.

### **a. Effect of Approval**

1. Lands classified to master planned development district shall be subject to the approved MPD Master Plan and MPD Terms and

Conditions document. Such approval does not itself authorize specific development activity, but allows the property owner to obtain subsequent development approvals and permits necessary to implement the MPD Master Plan and MPD Terms and Conditions document, in accordance with the applicable procedures and standards set forth in this Ordinance.

Subsequent development approvals and permits shall comply with the MPD Master Plan and MPD Terms and Conditions document.

2. Approval of an MPD Master Plan shall establish a vested right in accordance with N.C.G.S. §§ 153A-344.1(c) and (d).

**b. Minor Deviations**

Subsequent applications for development within a master planned development district may include minor modifications from the approved MPD Master Plan and MPD Terms and Conditions document, provided such modifications have no material effect on the character of the approved development. Changes in the following constitute minor modifications that may be approved by the Planning Director:

1. Modifications in building placement, provided the placement does not decrease approved setbacks by more than 10 percent;
2. Increases to building size and height not to exceed 10 percent provided all other applicable standards of this Ordinance are met;
3. Modifications to structure floor plans;
4. Modifications to the driveway locations not exceeding 10 percent of the length of the subject property line, or as required by the North Carolina Department of Transportation; and
5. Modifications to the proportion of housing type not to exceed 10 percent.

**c. Expiration**

1. If no building permit has been issued for the land approved as a master planned development district within two years of the date of approval, the Planning Director may, at the Planning Director's discretion, schedule a hearing for the Planning Board to consider whether active efforts are proceeding in accordance with the approved master planned development. If the Planning Board determines that such efforts are not proceeding, the Board may, at the Board's discretion, initiate a Zoning Map amendment in accordance with Section 10.3.2, Zoning Map Amendment, to rezone the master planned development district to its classification prior to approval, or to another zoning district the Board determines is appropriate.
2. A landowner may request, and the Planning Director may grant, one, one-year extension of the two-year time period established in subsection 1 above if the Planning Director determines that site conditions have not substantially changed since the approval of

the master planned development district. The applicant must submit the request in writing prior to the expiration of the time period.

3. If site conditions have substantially changed since the approval of the master planned development district, a landowner may request and the Board of Commissioners may grant, at a regularly-scheduled public meeting, one extension not to exceed three years, of the two-year time period established in subsection 1 above. The applicant must submit the request in writing prior to the expiration of the time period.

**D. Master Planned Development Review Standards**

The advisability of establishing a master planned development district is a matter committed to the legislative discretion of the Board of Commissioners. In determining whether to approve a proposed master planned development district, the Board of Commissioners shall consider the review standards for Zoning Map amendments in Section 10.3.2.C, Zoning Map Amendment Review Standards. The Board of Commissioners shall not approve a master planned development district unless it complies with the requirements in Section 3.3.3, General Requirements for Mixed Use Zoning Districts, and the standards that apply to the specific master planned development district set forth in Section 3.3, Mixed Use Zoning Districts.