

Ordinance



City Council
City of Wilmington
North Carolina
0-2010-76

Introduced By: Sterling B. Cheatham, City Manager

Date: 10/5/2010

Ordinance Amending the Land Development Code to Add Sections 18-203, Oleander Transition District and 18-322, Prescribed and Special Use Conditions in the Oleander Transition District; and to Amend Sec. 18-812, Definitions

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the Land Development Code to create a transitional zoning district for the area identified in the Future Land Use Plan as the "Oleander Transition Area;"

THEREFORE, BE IT ORDAINED:

SECTION 1: Chapter 18, Article 5, Sec. 18-203 of the Wilmington City Code is hereby amended to read as follows:

Sec. 18-203. OT, Oleander Transition District.

(a) *Purpose.* The purpose of the Oleander Transition District is to allow for the conversion of existing single-family homes to offices and other compatible low-intensity uses. This district is intended to facilitate redevelopment options that will retain and enhance area character, minimize impacts on adjacent residential uses, encourage the adaptive reuse of existing residential structures, encourage new development to be of a residential scale and proportion, ensure compatibility of building and site design in the district, protect trees, require interconnectivity, including bicycle and pedestrian connections, and control access to minimize the impacts of redevelopment on Oleander Drive. This zoning district is only intended for parcels fronting Oleander Drive generally between Pine Grove Drive and 51st Street. Where these regulations conflict with the other sections of this Chapter or the city's *Technical Standards and Specifications Manual*, these regulations shall apply.

(b) *Uses permitted by right.* The following uses are permitted in the OT district, provided that they meet all of the requirements of this section and all other applicable requirements established in this chapter:

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- (1) Artists, commercial including silk screening
- (2) Consulting services
- (3) Dwellings, duplex, triplex, and quadraplex
- (4) Dwellings, single-family detached
- (5) Offices, professional
- (6) Personal services
- (7) Residential unit contained within principal commercial use

(c) *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 of this chapter:

- (1) Dry cleaner
- (2) Group home supportive, small
- (3) Group home supportive, medium
- (4) Group home supportive, large
- (5) Retail sales establishment

(d) *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 this chapter:

- (1) Additions or expansions to existing structures where the gross building footprint of the entire structure would be greater than two thousand one hundred (2,100) square feet
- (2) Construction of a new primary structure
- (3) Recombination of lots to a lot width greater than 100 linear feet
- (4) Daycare, adult or child
- (5) Group home residential
- (6) Guest lodging

(e) *Permitted accessory uses and structures.* The following accessory uses and structures, clearly incidental and subordinate to the principal use and structure, are permitted provided only one accessory building is permitted per lot and that they meet all requirements of this section, Article 6, and all other applicable requirements established in this chapter:

- (1) Accessory building
- (2) Accessory apartment, attached
- (3) Accessory apartment, detached

(f) *Development Standards.* All uses and structures permitted in the district shall meet the applicable development standards established in this section and all other applicable requirements of this chapter:

(1) *Dimensional Requirements.*

- (a) Min. lot area (square feet): 15,000
- (b) Max. residential density (u/a): 6
- (c) Min. lot width (feet): 80 (200 max with SUP)
- (d) Max. lot coverage (%): 50
- (e) Min. front setback (feet): equal to the predominant front setback for that block face on the same side of the street
- (f) Min. rear setback (feet): 25
- (g) Min. interior side setback (feet): 10
- (h) Min. corner lot side setback (feet): 15
- (i) Max. building height: 2 stories or 35 feet, whichever is less
- (j) Min setback for parking areas: 5 feet from all property lines

(2) *Site Design Standards.*

- (a) Nonresidential uses or conversion to uses other than single-family detached shall not be permitted by the conversion of any structure or premises originally designed for a residential use unless the existing residential character of the building is retained.
- (b) Buildings, driveways, parking areas, loading areas, outdoor activity areas, light sources, trash areas, and other potential nuisances shall be located and designed to minimize adverse impacts on abutting residential properties. In order to limit potential adverse impacts, the Technical Review Committee (TRC) may require alternative site layouts, including increased setbacks from residential property lines, different locations of buildings, parking areas, and driveways, and increased screening for light sources and activity areas.
- (c) The overall character of the site in terms of existing topography and vegetation shall be retained. Grading to modify the topography is not permitted except to correct drainage problems, as approved by the TRC.
- (d) *Additions to existing structures.* No additions to or extensions of existing structures shall be made to the front or side(s) of the structure.
 - 1. Any addition or extension that increases the gross building footprint of the entire structure to more than two thousand one hundred (2,100) square feet shall require a special use permit.
 - 2. Additions and extensions shall maintain the character of the existing structure in terms of massing, scale, roof pitch, setback, building

materials, orientation, and fenestration.

(e) *Exterior building materials.* Predominant exterior building materials for all new structures and additions to existing structures shall be limited to one or more of the following:

- a. Wood siding or shingles
- b. Brick
- c. Stacked stone
- d. Fiber cement siding or shingles

(f) *Driveway access controls.* The intent of this section is to provide for cross-access and shared driveways between compatible land uses to reduce conflict points and minimize traffic flow interruptions on Oleander Drive. Cross-access easements create a service drive providing vehicular access between two (2) or more contiguous parcels so that motorists and/or pedestrians do not need to reenter Oleander Drive to gain access to adjacent uses. Cross-access between adjacent properties reduces vehicular conflict points between motorists on the main street and motorists entering and leaving driveways. Reduced traffic conflicts result in fewer accidents and improved traffic flow on Oleander Drive. When driveway easements and cross-access easements are created to serve more than one (1) lot, an owners association or binding contract for the purpose of maintenance is encouraged.

1. No more than one (1) driveway access shall be permitted per street frontage.
2. Along Oleander Drive, all uses other than single-family detached uses shall be required to share access with the adjacent OT-zoned property whenever the duplex, triplex, quadraplex, or nonresidential use has proposed access to Oleander Drive through the provision of an easement to the adjacent OT-zoned property. When driveway access is available on an abutting property, the proposed nonresidential use, duplex, triplex, or quadraplex shall utilize this access. If shared access cannot be provided via an existing driveway on an abutting property, access shall be provided in such a way that maximizes the potential for shared access in the future, as outlined below.
 - a. Shared access via existing driveways.
 - i. When the nearest edge of an existing driveway on an adjacent OT-zoned nonresidential, duplex, triplex, or quadraplex used- property with frontage on Oleander

Drive is within fifty (50) feet of the proposed duplex, triplex, quadraplex, or nonresidential use, the proposed use shall utilize the driveway on the adjacent tract as a shared access, provided an easement granting access has been recorded.

ii. The shared driveway shall be the sole access to the site from Oleander Drive and any existing driveway(s) accessing Oleander Drive shall be eliminated.

iii. Shared access shall not be required when all possible interconnections between two abutting properties would cross twenty (20) linear feet or more of wetlands, and/or floodplains.

b. Shared access via new or existing driveway on a property.

i. When shared access cannot be provided via an existing driveway consistent with the requirements of this section (above), a maximum of one (1) driveway to Oleander Drive shall be permitted on the property.

ii. The driveway shall be located to maximize interconnectivity, as approved by the TRC. In order to accommodate required sight distances or preserve environmental features, this driveway shall not be set back from the side lot line more than forty (40) feet. Shared access shall not be required when all possible interconnections between two abutting lots would cross twenty (20) linear feet or more of wetlands and/or floodplains.

iii. Each use other than single-family detached shall provide a cross-access easement to this driveway guaranteeing access to all abutting lots zoned OT. An accessway may not be blocked off, parked in, or otherwise obstructed. The access easement shall provide access from the closest adjacent property line to the driveway. The easement between the driveway and the closest adjacent lot shall be in a logical location for connection to the adjacent lot, shall be located behind the primary structure, and shall be a minimum of twelve (12) feet wide. The TRC may waive the cross-access requirement if it would cause five (5) or more contiguous lots to be interconnected.

iv. Existing driveways not meeting the requirements

in this section shall be eliminated during the redevelopment/conversion of the property.

- v. The location of the driveway intersection with Oleander Drive and with the easement connection to the adjacent lot shall be subject to approval by the TRC based on the potential to minimize the need for future driveways, preserve existing buildings and trees, and/or maximize the distance from the existing street and driveway intersection, including consideration of safe sight distances.
- vi. Parking shall not be permitted along shared driveways between Oleander Drive and the rear edge of the easement granting access to the abutting lot.

- 3. For properties located on the north side of Oleander Drive that are developed with uses other than single-family detached, vehicular access to the alley is not permitted.
- 4. Each use other than single-family detached shall provide access easements for its parking aisles and driveways guaranteeing access and use to all abutting lots within the OT district, unless all possible interconnections would cross twenty (20) linear feet or more of wetlands, and/or floodplains. Parking areas on abutting lots shall be directly connected by a driveway. These interconnections shall be constructed during the initial conversion/redevelopment, or if an interconnection is not currently feasible, escrow funds for future construction while also providing an easement to the abutting lot allowing future construction when the abutting lot converts/redevelops as an OT use.

(g) *Parking.* Parking is not permitted in front yards or between the primary structure and Oleander Drive. This regulation may be waived by the TRC for existing structures converted to a duplex, triple, quadraplex or nonresidential use where site constraints prohibit access to the rear or side yard.

- 1. Off-street parking surfaces shall be of pervious materials, where soils are suitable.
- 2. The minimum required number of off-street parking spaces may be reduced by up to twenty-five (25) percent, as approved by the TRC.
- 3. All parking areas shall be screened from adjacent non-OT-zoned

residential uses and along the alley north of Oleander Drive with a minimum ten- (10) foot wide vegetative buffer and solid six (6)- to ten (10)-foot tall wood fence. A minimum of one (1) row of planted materials consisting of a combination of trees and shrubs shall be provided at a minimum height of three (3) feet at planting and give at least fifty (50) percent opacity of the fence at planting. To provide a variety of height and depth, at least one (1) tree on average will be planted for every thirty (30) linear feet of screen.

- (h) *Screening.* Any ground-level mechanical equipment (such as HVAC, electrical panels, and similar mechanical equipment), shall be screened from view from any right-of-way with a vegetative screen tall enough to shield the equipment.
1. Dumpsters shall be prohibited. Trash should be kept inside a principal building until collection, where possible.
 2. Outdoor storage of equipment and/or materials shall be prohibited.
- (i) *Signage.* Signage shall be limited to mounted monument-style signs, either freestanding or ground-mounted. Other sign types shall be prohibited. All other pertinent sign regulations shall apply.
1. Signs shall be compatible with the architecture and materials of the principal structure.
 2. Signs shall not exceed six (6) feet in height.
 3. The total sign area shall be limited to thirty-two (32) square feet.
 4. Signs shall be set back a minimum of five (5) feet and a maximum of fifteen (15) feet.
 5. Internal illumination and changeable copy, electronic or otherwise, are prohibited.
 6. Landscaping shall be provided around the base of the sign on all sides. A minimum of forty (40) square feet of ground cover, not including non-ornamental grasses, shall be provided.
- (j) *Site lighting.* Any exterior lighting shall be limited to cut-off or shielded type luminaries and shall be directed toward the center of the property. In no case shall site lighting be located or installed so as to shine directly onto neighboring properties or the public right-of-way. The height of any

exterior lighting shall not exceed ten (10) feet in height and shall maintain a clearance of at least eight (8) feet above any pedestrian area. A lighting plan shall be submitted as part of any TRC application.

(k) *Landscaping and buffers.* All new construction or conversion of structures to a duplex, triplex, quadraplex, or nonresidential use shall be subject to the parking lot landscaping and O&I-1 streetyard requirements of Article 8 of this Chapter. Preservation of natural stands of trees and native vegetation 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 for new landscaping.

1. A buffer consisting of a minimum ten- (10) feet of vegetation and solid six (6)- to ten (10)-foot tall wood fence shall be provided adjacent to non-OT-zoned residential uses and along the alley north of Oleander Drive. A minimum of one (1) row of planted materials consisting of a combination of trees and shrubs shall be provided at a minimum height of three (3) feet at planting and be at least fifty (50) percent opaque at planting. To provide a variety of height and depth, at least one (1) tree on average will be planted for every thirty (30) linear feet of screen.

(l) *Drive-through windows shall be prohibited.*

Secs. 18-204--18-210. Reserved

SECTION 2. Chapter 18, Article 6, Sec. 18-322 of the Wilmington City Code is hereby amended to read as follows:

Sec. 18-322. Prescribed and Special Use Conditions in the Oleander Transition District

- (a) Retail sales establishments shall only be permitted on a neighborhood scale. Neighborhood-scale retail establishments are small businesses that meet local, convenient retail needs. Drive-through windows and loud speakers are prohibited. Retail uses shall not exceed three thousand two hundred (3,200) square feet.
- (b) Dry cleaners shall not utilize any chemicals on site.
- (c) Additions that would bring the gross building footprint to more than two thousand one hundred (2,100) square feet shall meet the follow standards:
 1. The minimum lot area required is twenty thousand (20,000) square feet.
 2. In no case shall the total building footprint exceed three thousand (3,000) square feet.

(d) All new structures and additions to existing structures shall meet the following standards:

1. All new construction shall maintain a residential character compatible with the area in terms of massing, scale, roof pitch, setback, building materials, building orientation, and fenestration. All new construction shall have a residential appearance that is consistent with that of the existing block face.
2. The building footprint for any new principal building constructed after the adoption of this ordinance may be up to two thousand one hundred (2,100) square feet. The maximum building footprint may be increased to three thousand (3,000) square feet if the lot area is a minimum of twenty thousand (20,000) square feet.
3. All new structures shall provide front elevations and a functional entrance facing Oleander Drive to be consistent in appearance with structures along the existing block face.
4. All new structures shall maintain a residential-type pattern of door and window fenestration that is consistent with the fenestration on the existing block face. Tinted or mirrored glass is prohibited. A wall-to-window opening ratio between two-to-one (2:1) and one-to-one (1:1) is required.
5. All new structures shall maintain a pitched roof that is consistent with the roofs along the existing block face.
6. Any application for an SUP for all proposed new construction shall illustrate all proposed driveways, shared/cross-access easements, and parking areas.

(e) Any lots that are recombined to exceed a lot width of more than one hundred (100) linear feet shall meet the following standards:

1. The location of all existing/proposed structures, parking areas, and driveways shall be shown on the site plan.
2. In no case shall the lot width exceed two hundred (200) linear feet.

Sec. 18-323 -18-339. Reserved.

SECTION 3. Chapter 18, Article 15, Sec. 18-812 of the Wilmington City Code is hereby amended to add the definition, in alphabetical order, to read as follows:

Consulting services: Services provided by a professional for a fee, which may include limited

accessory retail uses, including but not limited to interior designers, architects, engineers, and individual music, art, fitness, or dance instruction.

SECTION 4. That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

SECTION 5: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

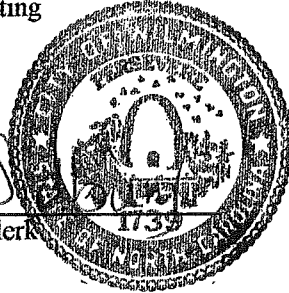
SECTION 6: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

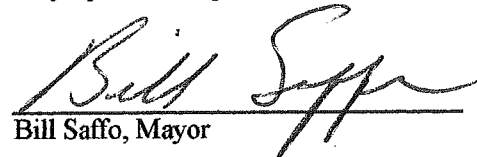
SECTION 7: That this ordinance shall be effective immediately upon its adoption.

Adopted at a regular meeting
on October 5, 2010.

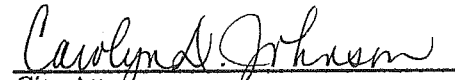
Attest:


Penelope Spicer-Sidbury, City Clerk




Bill Saffo, Mayor

Approved As To Form:


Carolyn Johnson
City Attorney