

Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 8/2/2011

**Ordinance Rezoning Property Containing 0.31 of an Acre Located at 19 South 10th Street, 1007 and 1009 Dock Street, and a Portion of the Rights-of way of South 10th and Dock Streets Totaling 0.21 of an Acre From CS, Commercial Services District and R-3, Central City Residential District to O&I-1 (CD), Office and Institutional District-1 (Conditional District) for a Cultural Arts Center.
(CD-1-711)**

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to change or modify zone boundaries 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.

THEREFORE, BE IT ORDAINED:

SECTION 1: The Official Zoning Maps of the City of Wilmington are hereby amended by removing the hereinafter described tracts of land and rights-of way from the present CS, Commercial Services District and R-3, Central City Residential District and putting it in the O&I-1(CD), Office and Institutional District-1 (Conditional District) classification, said tracts and rights-of way being more particularly described as follows:

Legal Description for
Conditional district rezoning of 19 South 10th Street, 1007 and 1009 Dock Street, and a portion of the rights-of-way of South 10th and Dock streets

Beginning at City of Wilmington control monument marking the intersection of the centerline of Dock Street (66-foot public right of way) and the centerline of South 10th Street (66-foot public right of way), thence from said beginning point so located along and with the centerline of South 10th Street North 05 degrees 27 minutes 00 seconds West 123.00 feet, thence leaving said centerline and at right angles thereto North 84 degrees 33 minutes 00 seconds East 33.00 feet to a point in the eastern right of way line of South 10th Street, thence North 84 degrees 33 minutes 00 seconds East 150.00 feet, thence South 05 degrees 27 minutes 00 seconds East 90.00 feet to a point in the northern right of way line of Dock Street, thence the same course continued South 05 degrees 27 minutes 00 seconds East 33.00 feet to

CERTIFIED TO BE A TRUE COPY
City Clerk
[Signature]

a point in the centerline of Dock Street, thence along and with said centerline South 84 degrees 33 minutes 00 seconds West 183.00 feet to the point of beginning being all of those three tracts conveyed to Alisa C. Harris in deed book 5533, page 1369 and deed book 5537, page 185 of the New Hanover County register of deeds office and the eastern half of the right of way of South 10th Street and the northern half of the right of way of Dock Street abutting said tracts.

SECTION 2: The following rules, regulations and conditions shall apply to the property described in this ordinance:

1. The use and development of the subject property shall comply with all other supplemental regulations and requirements imposed by the Land Development Code or any other applicable federal, state or local law, ordinance or regulation, as well as any condition stated below. In the event of a conflict, the more stringent requirement or higher standard shall apply.
2. If, for any reason, any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.
3. The use of the site shall be for a cultural arts center with activities and events limited to those associated only with cultural arts. This may include food services as an accessory use, but shall not include assembly hall and/or food service uses not accessory to and in conjunction with cultural arts activities or theatrical performances; nor include alcoholic beverage services not in accordance with State ABC laws and regulations applicable to cultural arts activities or theatrical performances.
4. The development of the subject property shall be in accordance with the plan and building elevations as submitted and approved.
5. All parking areas shall be of pervious materials, provided soils are suitable, except where disallowed by building code or technical standards.
6. A minimum five-foot wide bufferyard shall be installed adjacent to residential uses to the north of the site.
7. All existing street trees shall be preserved and protected during all phases of construction.
8. At least one additional street tree, approved by TRC, shall be installed along South 10th Street adjacent to the site.
9. Exterior site lighting shall be installed so as not to shine directly onto residentially used or zoned property.
10. Signage shall be limited only to one wall each on the S. 10th and Dock Street facades, not to exceed a total of 100 square feet, and one awning sign.
11. External speakers shall be prohibited on the site.
12. Facility operations shall be limited to interior areas of the building only. Outdoor functions shall be limited to daytime hours.
13. All city, state, and federal regulations shall be followed.

SECTION 3: The City Clerk and the Planning Manager are hereby authorized and directed under the supervision of the City Manager to change the Zoning Maps on file in the office of the City Clerk and the Planning Division, to conform with this ordinance.

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

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

SECTION 6: 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.

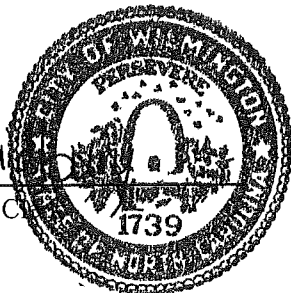
SECTION 7: This ordinance shall be effective immediately upon its adoption.

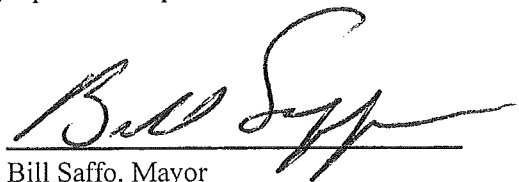
Adopted at a regular meeting
on August 2, 2011.

Attest:



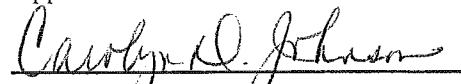
Penelope Spicer-Sidbury, City Clerk





Bill Saffo, Mayor

Approved As To Form:



Carolyn D. Johnson
City Attorney