

Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 11/15/2011

Ordinance Rezoning Property Containing 1.10 Acres Located at 5127 Oleander Drive by Amending the Conditions of an O&I-1 (CD), Office and Institutional District-1 (Conditional District) to Reduce the Size and Square Footage of Two Office Buildings and Add Medical Offices as an Approved Use (CD-13-605-M1011)

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 modifying the conditions of the rezoning hereinafter described tract of land identified as O&I-1 (CD), Office and Institutional District-1 (Conditional District), said tract being more particularly described as follows:

Legal Description for 5127 Oleander Drive

Beginning at a point located at the intersection of the northern right of way line of Oleander Drive (U.S. Highway No 74) and the southwestern corner of the parcel formerly known as Lot 1 as shown on that certain plat entitled "Map of Avondale" recorded in Map Book 4 at Page 36, in the office of the Register of Deeds of New Hanover County, North Carolina, running thence from said point of beginning and leaving said northern right of way line of Oleander Drive North 330 16'40" East 378.69 feet to a point located in the southern right of way line of Mulberry Avenue, thence running along and with the southern right of way line of Mulberry Avenue, South 790 10'00" East 125.86 feet to a point located on the southern right of way line of Mulberry Avenue, thence leaving the southern right of way line of Mulberry Avenue South 100 50'00" West 121.35 feet to a point, thence North 790 10'00" West 92.33 feet to a point, thence South 110 05'42" West 228.65 feet to a point located in the northern right of way line of Oleander Drive, thence running along and with the northern right of way line of Oleander Drive North 790 10'00" West 176.96 feet to the point and place of beginning, and being depicted as "FUTURE DEVELOPMENT" on a map entitled "Magnolia Office Park

CERTIFIED TO BE A TRUE COPY
Mulder Spion-Sidbury
CITY CLERK

Condominiums” recorded in Condo Book 17, Pages 217-218 in the office of the Register of Deeds of New Hanover County

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

1. The site shall be developed in accordance with the approved conditions and site plan, received by the city’s planning division September 20, 2011, and subject to Chapter 18 of the Land Development Code and the City of Wilmington Technical Standards and Specifications Manual. All city, state, and federal regulations must be met. 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 and development of the subject property shall be in accordance with the plan as submitted and approved. The permitted use shall be restricted to medical and professional offices located in two buildings totaling 7,600 square feet of gross floor area with a height no greater than one and one-half stories or 18 feet, whichever is greater.
4. The site shall be developed in accordance with the landscape plan approved for this site on January 20, 2006.
5. The streetyard shall have a minimum width of 20 feet and be approved by city staff.
6. No additional auxiliary signs or freestanding signs shall be permitted on this site.
7. No driveways to Oleander Drive shall be allowed on this site. Site access shall be limited to the driveway existing on the adjacent portion of Magnolia Office Park (5129 Oleander Drive) and an access easement and shared parking agreement, as approved by the City Attorney’s Office, shall be recorded prior to the issuance of a Certificate of Occupancy.
8. Approval of this rezoning request does not constitute technical approval of the site plan. All Technical Review Committee comments shall be followed prior to issuance of a construction release or final zoning approval.

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.

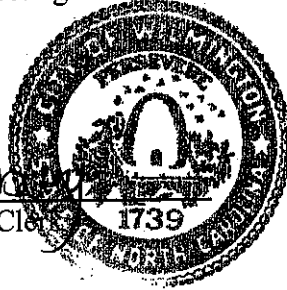
SECTION 6: If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions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

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

Adopted at a regular meeting
on December 6, 2011.

ATTEST:

Penelope Spicer Sidbury
Penelope Spicer-Sidbury, City Clerk



Bill Saffo
Bill Saffo, Mayor

APPROVED AS TO FORM:

Carolyn D. Johnson
City Attorney