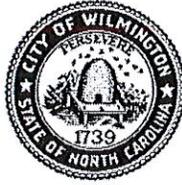


Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 1/5/2016

Ordinance Modifying a CB(CD), Community Business (Conditional District) Zoning on Property Containing 1.56 Acres of Land Located at 5914 Oleander Drive and 202, 204, 206, and 232 Giles Avenue to Allow for Three Buildings Totaling 9,950 Square Feet with Limited Commercial and Office Uses (CD-1-705-M1215)

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to change or modify zoning district 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 part of the Giles Avenue right of way from the from the present CB (CD), Community Business (Conditional District) Classification and putting it in the CB(CD), Community Business (Conditional District) Classification, said tract being more particularly described as follows:

200, 202, 204, 206, and 232 Giles Avenue and part of the Giles Ave. ROW - All that certain parcel of land being in the City of Wilmington, New Hanover County, North Carolina, known as Lot Numbers 191, 192, 193, 194, 195 and all of that portion of Lots 196, 197 and 198 located southwardly of U.S. Highway #76 all of the Suburban Land Company's property, as shown on map thereof duly recorded in Map Book 2 as Page 31 in the office of the Register of Deeds of New Hanover County being more particularly described as follows:

Beginning at a point at the intersection of the southern boundary of Oleander Drive, a 100' public right-of-way, with the western boundary of Giles Avenue, a 30' public right-of-way; and running thence along the Giles Avenue boundary,
South 28015'00" West, 420.61 feet to a point; thence,
North 51045'00" West, 185.00 feet to a point; thence,
North 28015'00" West, 315.64 feet to a point in the southern boundary of Oleander Drive;

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CERTIFIED TO BE A TRUE COPY

thence with that line, North 88040'44" East, 212.71 feet to the point and place of beginning, containing 68,104 square feet, or 1.56 acres, more or less.

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

- 1) The property shall be subject to all of the specific requirements stated in the Land Development Code for the proposed use as well as any additional conditions stated below.
- 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 return the plan for development of the property to its previous conditional district zoning and associated site plan.
- 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 three buildings totaling 9,950 square feet with limited commercial and office uses.
- 4) The proposed development shall be limited to the following uses:
 - a. Amusement and recreation services, indoor
 - b. Banking services
 - c. Business services
 - d. Contractor's office
 - e. Gun sales, including repair
 - f. Offices, professional
 - g. Offices, medical
 - h. Personal services
 - i. Retail establishments
 1. Arcades with coin operated amusements
 2. Arts and crafts shops
 3. Bicycle shops
 4. Boat stores
 5. Candy stores
 6. Carpet and rug dealers
 7. Hardware stores
 8. Gift, novelty, and souvenir shops
 9. Dairy stores
 10. Clothing shops
 11. Hobby, toy, and game shops
 12. Jewelry stores
 13. Limited optical stores
 14. Paint, glass, and wallpaper stores
 15. Picture frame shops
 16. Radio and television stores
 17. Shoe repair shops
 18. Shoe stores

- 19. Specialty food shops
 - 20. Sporting goods stores
 - j. Kennels, commercial boarders and breeders
 - k. Spas and health clubs
- 5) As a condition of the proposed Exceptional Design components as proposed by the applicant, the applicant shall use at a minimum 50% xeric landscaping.
 - a. Plant species specified for xeriscaping areas are to be drought tolerant
 - b. No permanent irrigation is permitted in xeriscaped areas.
 - c. All trees and shrubs shall be selected for compatibility with the area's climate and soil types.
 - d. Areas of xeriscaping shall be maintained by the owner in perpetuity until as such time the property is ever rezoned.
 - 6) The site shall meet the design criteria for exceptionally design projects in accordance with the LDC.
 - 7) The parking area shall be constructed with pervious material as soils allow.
 - 8) A sidewalk easement will be required if sidewalk is located on site.
 - 9) All requirements of the Land Development Code shall be met.
 - 10) All local, state and federal requirements shall be met.
 - 11) All TRC requirements and conditions shall be met.
 - 12) Conditions retained from 2005 Conditional District (CD-1-705) as follows:
 - a. No auxiliary signs or freestanding pole sign shall be permitted on this site. All freestanding signs shall be monument signs that comply with the City Code. The sign shall be landscaped around the base and shall not exceed 6 feet in height or 35 square feet in area.
 - b. Driveway access to Oleander Drive shall be prohibited.
 - c. Giles Avenue is to be improved to commercial street standards, including sidewalk installation on the proposed development side of the center line.
 - 13) A payment-in-lieu shall be provided for the portion of sidewalk located along Giles Avenue between the southern property line and the location at which the sidewalk connects to the site's internal sidewalk network, south of the second driveway.
 - 14) Animals must be supervised at all times in all outdoor areas.

SECTION 3: The City Clerk and the Planning Director 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.

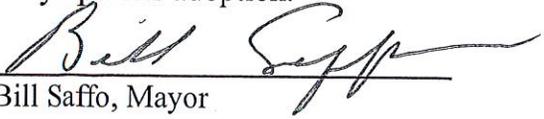
SECTION 5: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

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.

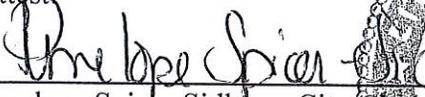
SECTION 7: This ordinance shall be effective immediately upon its adoption.

Adopted at a regular meeting
on January 5, 2016

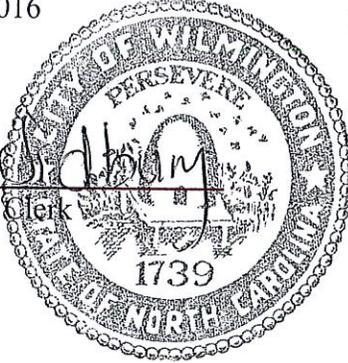


Bill Saffo, Mayor

Attest:



Penelope Spicer-Sidbury, City Clerk



Approved As To Form:



Suzanne E. Spivey
City Attorney