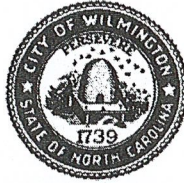


Ordinance



City Council
City of Wilmington
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 9/8/2020

**Ordinance Modifying a UMX(CD), Urban Mixed-Use District (Conditional District)
Located at 1531 & 1541 Eastwood Road for a Large-Scale Mixed-use Development
(CD-5-917-M320)**

LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to change or modify zoning 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 tract of land from the present UMX (CD), Urban Mixed-use District (Conditional District) without the SHOD (Special Highway Overlay District) and putting it in the newly modified UMX (CD), Urban Mixed-use District (Conditional District) classification without the SHOD (Special Highway Overlay District), said tract being more particularly described as follows:

Legal Description

Tract 1:

A tract of land in the City of Wilmington, Wilmington Township, New Hanover County, North Carolina fronting on the northeast side of Eastwood Road (US Highway 74) and the west side of Military Cut-Off Road (SR No. 1409) adjoining the property of Eastport Development, Wilmington Independent Living, LLC and Mayfaire Town Center, being described as follows:

Beginning at an iron pipe in the northeastern boundary of Eastwood Road, said iron pipe having NC Grid Coordinates of N = 176,524.09 feet and E = 2,353,133.18 feet and being the westernmost corner of Lot 4 of Eastport Development (Map Book 32, Page 212); thence from the beginning along the northeastern right-of-way of Eastwood Road the following three (3) courses and distances: (1) N 55° 07' 28" W 338.93 feet to an iron pipe; (2) N 55° 20' 35" W 457.24 feet to an iron rod; and (3) N 54° 56' 28" W 158.31 feet to an iron rod in an open drainage ditch, a corner with the property owned, now or formerly, by Wilmington Independent

CITY CLERK
The Hon. Sylvia Sidbury
CERTIFIED TO BE A TRUE COPY

Living, LLC (Book 5779, Page 1801); thence with the property of Wilmington Independent Living, LLC the following ten (10) calls:

- (1) N 83° 12' 02" E 45.70 feet to an iron rod in the ditch;
- (2) N 74° 30' 13" E 98.40 feet to an iron rod in the ditch;
- (3) N 67° 28' 29" E 45.80 feet to an iron rod in the ditch;
- (4) N 34° 53' 49" E 133.86 feet to an iron rod in the ditch;
- (5) N 54° 19' 35" E 197.94 feet to an iron rod in the ditch;
- (6) S 84° 35' 49" E 22.82 feet to an iron rod in the ditch;
- (7) S 67° 38' 03" E 73.90 feet to an iron rod in the ditch;
- (8) S 63° 28' 26" E 94.63 feet to an iron rod in the ditch;
- (9) N 88° 04' 33" E 68.47 feet to an iron rod; and
- (10) N 01° 56' 48" W 599.03 feet to an iron rod in a drainage ditch, a corner with the property of Mayfaire Town Center.

Thence with the property of Mayfaire Town Center N 88° 07' 46" E 891.69 feet to an iron rod at the western right-of-way line of Military Cut-Off Road; thence with the western right-of-way of Military Cut-Off Road S 04° 19' 15" W 222.01 feet to an iron rod; thence leaving the Road with common property line of Eastport Development S 31° 34' 59" W 778.95 feet to an iron pipe; thence S 31° 34' 59" W 266.47 feet to a concrete monument labeled "PJ"; thence continuing with Eastport Development S 35° 11' 31" W 206.07 feet to an iron pipe and S 35° 15' 15" W 118.07 feet to the point of beginning, containing 23.17 acres, more or less, and being shown on that certain ALTA Survey entitled "Swain and Associates, LLC 23.17 acres 1531 and 1541 Eastwood Drive, Wilmington, NC" by Wetherill Engineering, dated April 24, 2017.

Tract 2:

A tract of land in the City of Wilmington, Wilmington Township, New Hanover County, North Carolina known as the northern half of Eastwood Road (US Highway 74) adjoining the property of the proposed CenterPoint development, being described as follows:

Beginning at an iron pipe in the northeastern boundary of Eastwood Road, said iron pipe having NC Grid Coordinates of N = 176,524.09 feet and E = 2,353,133.18 feet and being the westernmost corner of Lot 4 of Eastport Development (Map Book 32, Page 212); thence from the beginning along the northeastern right-of-way of Eastwood Road the following three (3) courses and distances: (1) N 55° 07' 28" W 338.93 feet to an iron pipe; (2) N 55° 20' 35" W 457.24 feet to an iron rod; and (3) N 54° 56' 28" W 158.31 feet to an iron rod in an open drainage ditch, a corner with the property owned, now or formerly, by Wilmington Independent Living, LLC (Book 5779, Page 1801); thence with the right-of-way of Eastwood Road the following five (5) calls: (1) S 35° 03' 32" W 75.00 feet to Eastwood Road centerline; (2) S 54° 56' 28" E 158.57 feet along the Eastwood Road centerline; (3) S 55° 20' 35" E 457.36 feet along the Eastwood Road centerline; (4) S 55° 07' 28" E 338.79 feet along the Eastwood Road centerline; (5) N 34° 52' 32" E 75.00 feet to the point of beginning, containing 1.64 acres, more or less.

Tract 3:

A tract of land in the City of Wilmington, Wilmington Township, New Hanover County, North Carolina known as the western half of Military Cut-Off Road adjoining the property of the proposed CenterPoint development, being described as follows:

Beginning at an iron pipe in the western boundary of Military Cut-Off Road, said iron pipe having NC Grid Coordinates of N = 177679.49 feet and E = 2,353,867.62 feet; thence from the beginning along the western right-of-way of Military Cut-Off Road the following the course and distance: (1) N 4° 19' 15" E 222.01 feet to an iron rod, a corner of the Mayfaire Town Center property; thence with the right-of-way of Military Cut-Off Road the following three (3) calls: (1) S 85° 40' 17" E 75.00 feet to Military Cut-Off Road centerline; (2) S 4° 19' 43" W 76.50 feet along the Military Cut-Off Road centerline; (3) S 31° 35' 12" W 163.69 feet to the point of beginning, containing 0.26 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. The use and development of the 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. In the event of a conflict, the more stringent requirement or higher standard shall apply.
3. 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.
4. The use and development of the subject property shall be in accordance with the plan as submitted and approved.
5. The proposed use shall be limited to 370 apartment units, a 220-room hotel, 102,300 square feet of office space, and 121,000 square feet of retail and restaurant space.
6. The project shall incorporate improvements included in the landscape and streetscape concept plan as submitted and approved.
7. All roadway connections shall be completed in accordance with the plan as submitted and approved.
8. The design of all above-grade parking structures shall relate to the context of the area. Exterior walls of parking structures shall be designed with materials, colors, and architectural articulation in a manner that provides a visual compatibility with adjacent buildings and environment.
9. Pedestrian circulation shall be clearly defined with paving materials and/or landscaping and shall connect all uses. Sidewalks and crosswalks shall be provided. Bicycle and/or pedestrian connectivity to adjacent or nearby developments shall be required.

10. The proposed stormwater shall be managed through low impact development such as underground infiltration, use of pervious pavements, and disconnection of impervious surfaces in the overall stormwater design. The stormwater management plan shall comply with all city of Wilmington and NC-DEMLR stormwater management rules and regulations
11. The applicant shall work with the NC DOT, WAVE Transit, the WMPO, and the City of Wilmington to determine the appropriate access to the existing WAVE Transit stop on Military Cutoff Road (Route 104, Stop #6).
12. Exterior site lighting shall be installed so as not to shine directly onto adjacent residential parcels.
13. All existing protected trees not located within the building foot print or impacted by essential site improvements shall be preserved or mitigated.
14. Any freestanding sign(s) on the site shall be monument style with landscaping around the base of the sign; no pole signs shall be permitted.
15. The use of pine straw as ground cover shall be prohibited within ten (10) feet of any combustible exterior construction.
16. The creative standard shall not be used to satisfy the streetyard landscaping requirements.
17. Requirements of the approved Traffic Impact Analysis (TIA) must be completed prior to issuance of a certificate of occupancy.
18. All city, state and federal regulations shall be followed.

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.

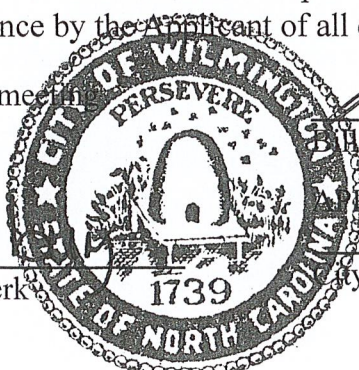
SECTION 4: That any person violating the provisions of this ordinance, including the approved site plan, shall be subject to the penalties set forth in Section 18-52 of the Land Development Code.

SECTION 5: Any prior rezoning related to this property that are 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: That this ordinance shall be effective upon its adoption by City Council, and the City's receipt of written acceptance by the Applicant of all conditions adopted by the City.

Adopted at a special meeting
on September 8, 2020



[Signature]
Saffo, Mayor

ATTEST:
[Signature]
Penelope Spicer-Simbury, City Clerk

PROVED AS TO FORM:
[Signature]
City Attorney