



## Legislation Text

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File #: 18-535, Version: 1

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**TO:** Mayor and Members of City Council

**THRU:** Kristoff Bauer, Deputy City Manager

**FROM:** Craig Harmon, AICP, CZO - Senior Planner  
Gerald Newton, AICP - Development Services Director

**DATE:** December 10, 2018

**RE:**  
**P18-33F. Rezoning of property from Mixed Residential (MR-5) to Office & Institutional Conditional Zoning (OI/CZ) (initial request to Community Commercial/Conditional Zoning), located at 1053 71st School Road (Tax Map # 9497-64-6544) near the intersection of 71st School Road and Media Drive, containing 1.01 acres and being the property of WARDLAW, VINCENT O & MELISSA L. [The owners have agreed to a more restrictive Office & Institutional (OI) Conditional zoning district.]**

**COUNCIL DISTRICT(S):**  
7 - Larry Wright

### **Relationship To Strategic Plan:**

2024 Goals, Goal II: Diverse and Viable Economy is achieved through the expansion of an existing local business and the redevelopment of a vacant commercial property.

### **Executive Summary:**

The property in question is located on the eastern side of 71st School Road. It is the former site of Wardlaw's Transmission Repair and Service. The site has been vacant since 2015. The owner looks to rezone the property to Mixed Residential-5 (MR-5) to allow for a contracting business. The property has a pending purchase agreement, which is contingent on the property being rezoned.

### **Background:**

The property has a vacant auto repair business located on just over one acre of land. In 2005, this property was rezoned from Manufacturing 2 (M2), a manufacturing/ industrial district to Residential (R5A), a residential district, which allowed lots no smaller than 7,500 square feet. This rezoning request was initiated by the owner; however, the application was to rezone to R5. The City Council approved a more restrictive R5A district, which allowed less density than R5. Due to the reduced density, the planned apartment complex was never built. From 2005 until 2015, Wardlaw continued to operate a transmission repair business as a legal non-conforming use.

Applicant: Vincent Wardlaw

Owner: WARDLAW, VINCENT O & MELISSA L

Requested Action: MR-5 to OI/CZ (owner has agreed to a more restrictive OI district from the original CC/CZ)

Property Address: 1053 71st School Road

Council District: 7

Status of Property: Vacant Auto Repair

Size: 1.01 acres +/-

Adjoining Land Use & Zoning:

North: SF-10 - Unity Chapel & Kingdom Hall of Jehovah's Witnesses

South: MR-5 - Insoul Fellowship Church & Austin Creek Apartments

West: HI - Cardinal Landscaping & M&E Contracting

East: LI - Parking Lot

Traffic Count: 2,200 cars per day (2016)

Letters Mailed: 21

### **2010 Land Use Plan:** Medium-Density Residential

This plan contains some recommendations which are broad concepts applicable to all development in Cumberland County. Developers are allowed some flexibility in selection of the type and location of development they wish to complete.

### **Issues/Analysis:**

Land within the City is generally classified by the Unified Development Ordinance (UDO) to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable conditional zoning districts in accordance with Section 30-2.C.

### **Conditional Zoning:**

The request is for a conditional rezoning from Mixed Residential to Institutional & Office Conditional Zoning (since revised by the applicant/owner from Community Commercial to Office & Institutional Conditional Zoning). The purpose of the OI District is to:

“accommodate a mix of small-scale, low-intensity professional and business offices and institutions, together with limited personal service and supporting retail uses (See 30-4.D Accessory Uses), single-family detached, single-family attached, and multi-family residential uses in close proximity to one another, subject to design and compatibility standards. The districts are generally near residential neighborhoods and often serve as a buffer or transition between neighborhoods and more intense business districts.”

The rezoning of land to a conditional zoning district is intended to provide a landowner and the City an alternative to rezoning the land to a standard base zoning district. The base zoning district allows certain uses and development that may be appropriate but also allows uses and development that may not conform to City plans or would have adverse impacts on public facilities or surrounding lands.

Reclassification of land to a conditional zoning district allows a landowner to propose, and the City Council to consider, additional conditions, or restrictions on the range of allowable uses, use standards, development intensities, development standards and other regulations applicable in the parallel base zoning district. This enables the City to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from

development otherwise allowed by the base zoning district.

### **Specifics of this Conditional Zoning:**

The initial request was for Community Commercial Conditional Zoning (CC/CZ). After discussions with Planning Staff, the owners are in agreeance that a more restrictive rezoning to OI/CZ (Office and Institutional Conditional) is more appropriate for this location. The more restrictive zoning request allows a business to move in, protect the surrounding properties, and provide a buffer to any future residential development, as suggested by the Unified Development Ordinance (UDO). Adjustment of the request is an allowable action of the applicant and consistent with City Council's prior actions.

Below are recommended conditions of the rezoning, as agreed upon by the applicant:

1. Repairs of equipment shall be limited to inside the existing building/garage.
2. Any and all work on equipment or vehicles is limited to those owned by the business located at this location.
3. Any storage of heavy equipment or construction supplies shall be limited to the existing building or behind the existing building with screening and fencing.

### **71st District Redevelopment Plan- 2002:**

This property falls within the 71st District Redevelopment Plan. The property in question does not fall within any of the Focus Areas of the 71st District Redevelopment Plan. This plan does not call for any changes to the existing 2010 Land Use Plan.

On November 13<sup>th</sup>, the Zoning Commission held a public hearing regarding this case. There was one speaker in favor and non in opposition. The Commission voted 5-0 to recommend approval.

### **The Zoning Commission and Planning staff recommend APPROVAL of the map amendment to the amended OI/CZ based on the following:**

- This proposed zoning map amendment implements the policies adopted in the Unified Development Ordinance. This district type is generally near residential neighborhoods and often serves as a buffer or transition between neighborhoods and more intense business districts, such as the industrial uses found on the west side of 71st School Road;
- The uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified due to the existing zoning and uses surrounding this property;
- The proposed change is in accordance with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area; and

There are no other factors which will substantially affect the public health, safety, morals, or general welfare.

### **Budget Impact:**

There is not an immediate budgetary impact but there is an economic impact to this rezoning. A business may move into the site and provide additional jobs and service to the Fayetteville area.

**Options:**

1. Approval of the map amendment/rezoning to OI/CZ as presented by the Planning staff and Zoning Commission (recommended).
2. Approval of a more restrictive map amendment/rezoning.
3. Deny the request.

**Recommended Action:**

The Zoning Commission and Planning Staff recommend that the City Council move to APPROVE the requested rezoning to OI/CZ - Office and Institutional Conditional Zoning, with the conditions listed above. The amendment is consistent with applicable plans because: 1) the City's existing Unified Development Ordinance calls for this type of district to serve as a buffer or transition between neighborhoods and more intense business districts; 2) that the uses surrounding this property are all compatible with the proposed zoning; and 3) the proposed zoning is reasonable and in the public interest because the proposed zoning does fit with the character of the development in this area.

**Attachments:**

Aerial Map  
Zoning Map  
Land Use Plan Map  
Application  
Site Photo