

CONDITIONAL USE ZONING DISTRICT APPLICATION

CASE: Z-951, 3/16

PETITIONER: Barry Amos, College Road Development Partners, LLC

REQUEST: Rezone from B-2, Highway Business District, and R-20, Residential District, to (CUD) R-10, Conditional Residential District

ACREAGE: 8.05 acres

LOCATION: 2600 Block of N. College Road
PID: R03408-001-002-000
R03408-001-003-000
R03408-001-004-000

LAND CLASS: Transition and Conservation

PLANNING BOARD ACTION:

This application was heard at the March 3, 2016 Planning Board meeting. At the meeting, the Board discussed traffic concerns of the area, and also requested a condition be place on the development to ensure that the existing vegetation in the rear buffer will be preserved and supplemented as necessary in order to provide a visually opaque buffer.

The Planning Board voted 5-0 to recommend approval of the rezoning to the conditional use district, finding that it is:

1. Consistent with the purposes and intent of the 2006 CAMA Land Use Plan because the “Transition” classification allows for intensive development on lands that have been provided with Urban Services. The property is located on an arterial street and is in close proximity to public water and sewer services. The proposal is also consistent with the “Conservation” classification because impervious surfaces will be limited within the areas of the property classified as “Conservation”, and because no structures or septic systems will be constructed within those same “Conservation” areas.
2. Reasonable and in the public interest because it provides increased density in areas best suited for development and because it provides for alternative modes of transportation by installing a multi-use path in accordance with the Wilmington/New Hanover County Comprehensive Greenway Plan.

The Planning Board also voted 5-0 to recommend approval of the Special Use Permit with the following conditions:

1. A 10’ multi-use path shall be installed along N. College Road in accordance with the Wilmington/New Hanover County Comprehensive Greenway Plan. The multi-use path shall be

constructed to the adjoining properties and shall include any necessary crosswalks, boardwalks, or bridges.

2. Existing vegetation must remain within the rear buffer and be supplemented as necessary to provide the 100% visual opacity requirement.

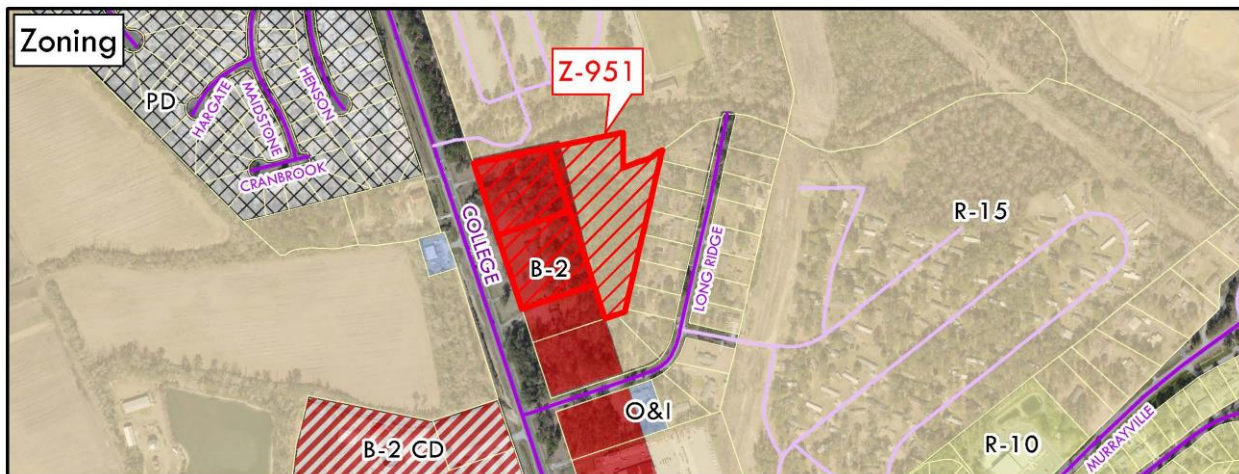
EXISTING CONDITIONS:

Existing Zoning and Land Uses

The proposed rezoning includes three parcels of land totaling 8.05 acres located at the 2600 block of N. College Road. The property was zoned R-20 when zoning was initially applied to this area in 1972. In 1998, the B-2 zoning was expanded along the first 300 feet of the property fronting N. College Road.

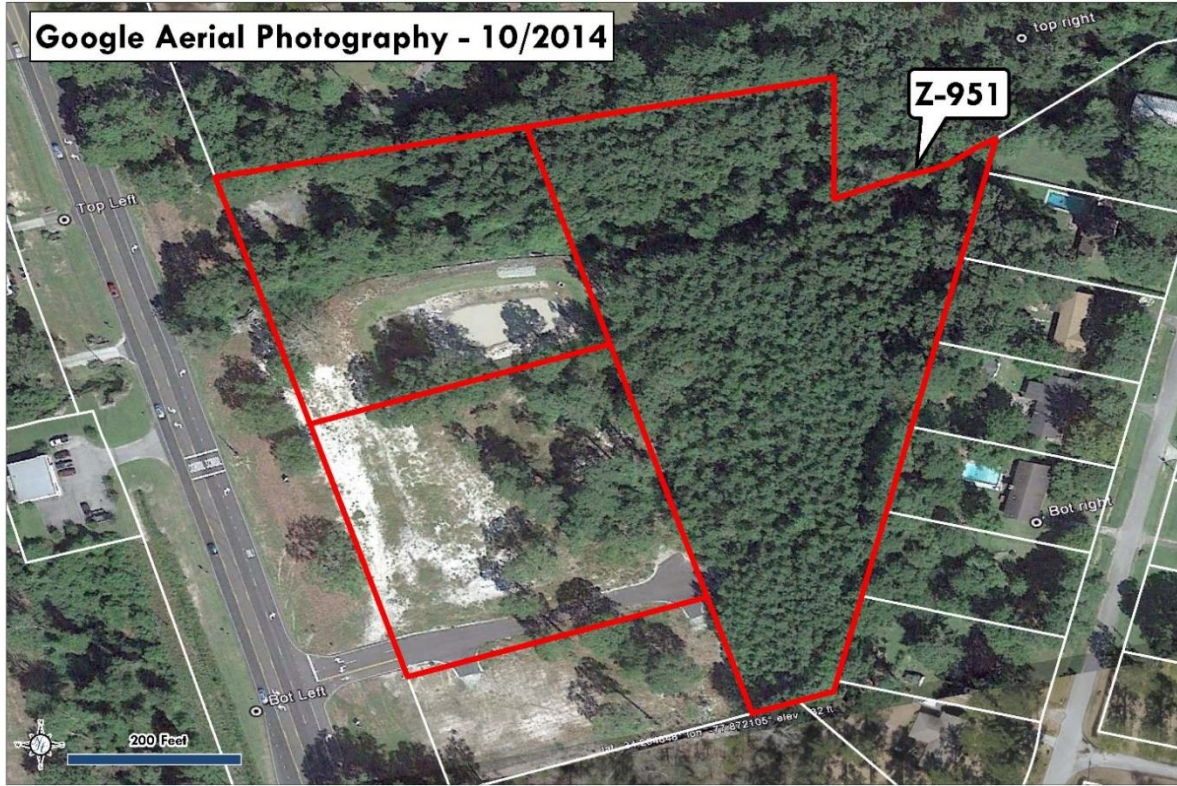
The zoning in the vicinity consists mostly of the R-15 district. Commercial zoning runs along N. College Road and is part of a commercial node located at the intersection of N. College Road and Murrayville Road. The Northchase Planned Development is located to the north of the subject property.

Land uses in the area consist of a mixture of single-family residential, retail, and institutional uses. Laney High School adjoins the property directly to the north.



Existing Site Conditions

The property proposed to be rezoned is currently undeveloped. However, some improvements have been made to it as part of previously proposed developments. The past proposals included the development of a fast-food restaurant and of a mixed-use building consisting of 120 dwelling units and office/retail space. Today, the fast-food restaurant (Taco Bell) and driveway have been constructed. Additional off-site improvements have also been installed in accordance with an approved Traffic Impact Analysis (TIA) completed for the previously proposed developments.



Community Services

Water and Sewer:

The property is within the Urban Services Boundary, and water and sewer infrastructure is located within the nearby vicinity.

Fire Protection:

The property is served by New Hanover County Fire Services and located in the New Hanover County North Fire District.

Schools:

The property is located within the school districts for Castle Hayne Elementary, Eaton Elementary, Trask Middle, and Laney High schools.

School	Total	Capacity w/Mobiles	+/- Capacity
Castle Hayne	614	535	79
Eaton	577	526	51
Trask	730	688	42
Laney	2196	1495	701

Conservation, Historic, and Archaeological Resources

A portion of the subject property is classified as Conservation in the 2006 CAMA Land Use Plan. The Conservation classification on the property coincides with the AE floodplain. Development strategies for areas within the Conservation classification are detailed below in the Land Use Plan Considerations.

PETITIONER’S REQUEST:

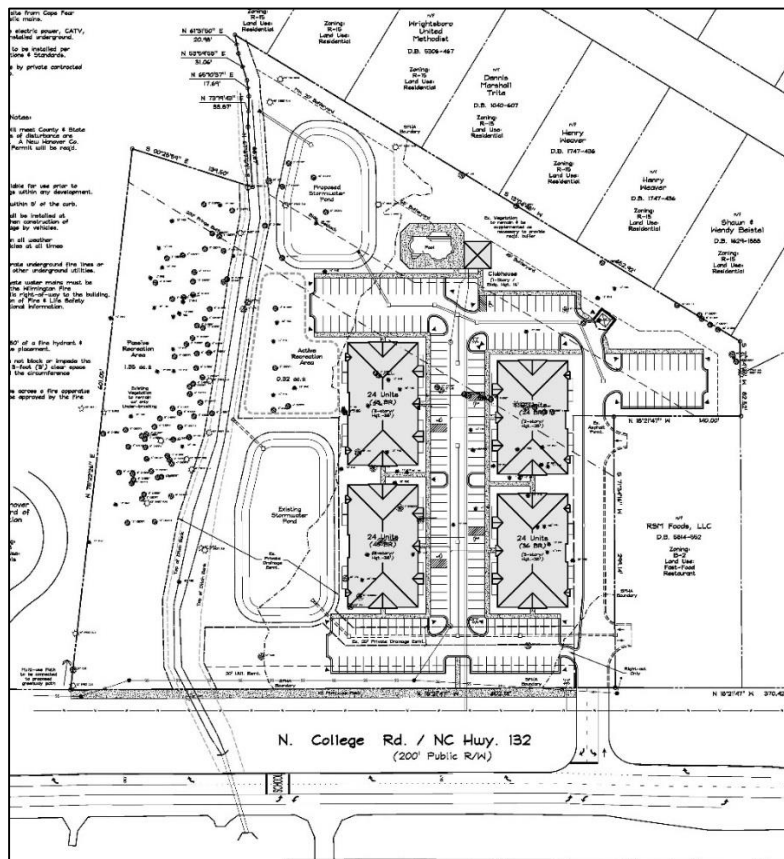
The petitioner is seeking to rezone 8.05 acres currently zoned B-2, Highway Business District, and R-15, Residential District, to (CUD) R-10, Conditional Use Residential District, in order to develop a high density development consisting of 88 dwelling units.

STAFF POSITION:

Zoning and Subdivision Ordinance Considerations

High density developments are allowed within the R-10 zoning district with a Special Use Permit. The Zoning Ordinance allows for high density developments within the R-10 zoning district to have a maximum density of 17 units/acre. The proposal for 88 units on this property equates to a density of 10.9 units/acre.

A site plan is included as part of the application and is shown below. The site plan was reviewed and approved with conditions by the Technical Review Committee. Engineered plans that comply with the county’s ordinances must be submitted, reviewed, and approved by staff prior to issuance of any construction permits.



Proposed Site Plan

Traffic

The proposed development will generate 45 trips in the AM peak, and 55 trips in the PM peak. As previously mentioned, a TIA was completed for proposed development of this property in 2013. That proposal included a fast-food restaurant and a mixed-use building consisting of 120 dwelling units and office/retail space. The improvements required as part of that TIA have been installed, including the addition of a center turn lane along N. College Road. The TIA can be found online [here](#).

The TIA further stated that with the installation of the required improvements, the proposed site access will operate at a Level of Service (LOS) of E during the AM peak and a LOS of D during the PM peak. This is an improvement from LOS F, which is what the site access was experiencing when the TIA was originally completed.

As the current proposal does not exceed 100 peak hour trips, and the fact that the previous required improvements have been installed, a new or updated TIA was determined to be unnecessary by county staff, the WMPO, and NCDOT.

Environmental

The proposed development is subject to several environmental regulations and permits. Stormwater management will be reviewed by New Hanover County Engineering and by the NC Division of Energy, Mineral and Land Resources. The development must also obtain a soil erosion and sedimentation control permit.

The applicant has performed a preliminary wetland assessment of the property. Conducted by Withers & Ravenel, the assessment identifies a small portion of the property where regulated wetlands may exist, and a perennial stream. The potential wetland area must be further delineated by the Army Corps of Engineers prior to building permit issuance, however it is outside of the proposed development area. The stream may be subject to additional buffering standards required by the NC Division of Water Resources.

Portions of the property are within an AE Special Flood Hazard Area, which are classified as Conservation in the 2006 CAMA Land Use Plan. New Hanover County is in the process of analyzing new preliminary flood maps provided by the NC Floodplain Mapping Program. Under the preliminary flood maps, the entire property is proposed to be within a Special Flood Hazard Area. Regardless, any development must comply with applicable flood regulations.

For septic suitability, the property contains Class II, Class III, and Class IV soils. Class II soils have moderate limitations, which require moderate modification and maintenance, Class III soils have severe limitations, which require extensive modification and intensive maintenance, and Class IV soils are unsuitable for septic systems. That being said, this project will be required to install public water and sewer service in accordance with the standards of the CFPUA and the County's Zoning Ordinance.

Land Use Plan Considerations

The site and surrounding area are classified as both Transition and Conservation according to the 2006 CAMA Land Use Plan. The purpose of the Transition classification is to provide for future intensive development on lands that have been or will be provided with necessary urban services. Residential development within the Transition classification can exceed 25 percent impervious coverage and 2.5 units per acre provided the development is compatible with existing and proposed surrounding land uses and

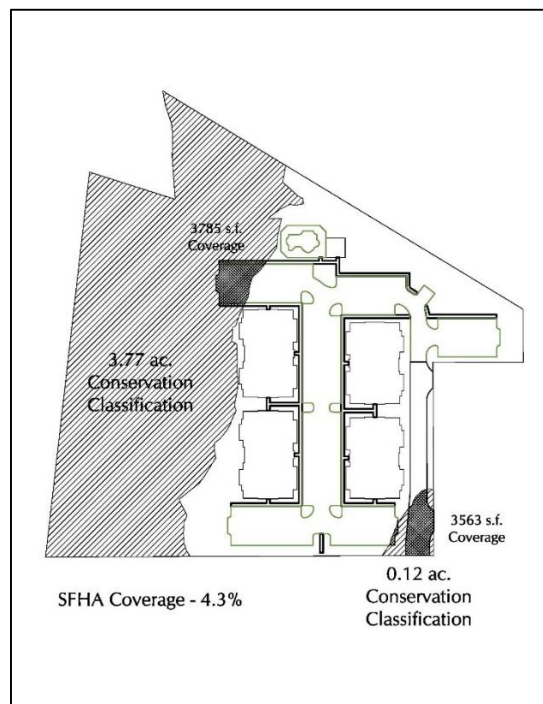
it is served by public sewer and water systems and has direct access to a minor arterial or larger access road.

The purpose of the Conservation class, on the other hand, is to provide long-term management and protection of significant, limited or irreplaceable natural resources while also protecting the rights of the property owner. Generally, estuarine areas of environmental concern (AEC's) as defined by the State of North Carolina and adjacent lands within the 100-year (AE) floodplain have been classified as Conservation.

Conservation areas should be preserved in their natural state, however exceptional developments preserving natural features which are sensitively designed to be in harmony with the site's natural functions, and provide a balance with the highest and best use of the property, may be allowed within the Conservation areas. Such projects minimize erosion, runoff and siltation; minimize impervious surface's impacts and protect estuarine resources; do not interfere with access to or use of navigable waters; do not require extraordinary public expenditures for maintenance; ensure that ground absorption sewage systems, if used, meet applicable standards; and should be aware of and not damage historic, architectural or archeological resources.

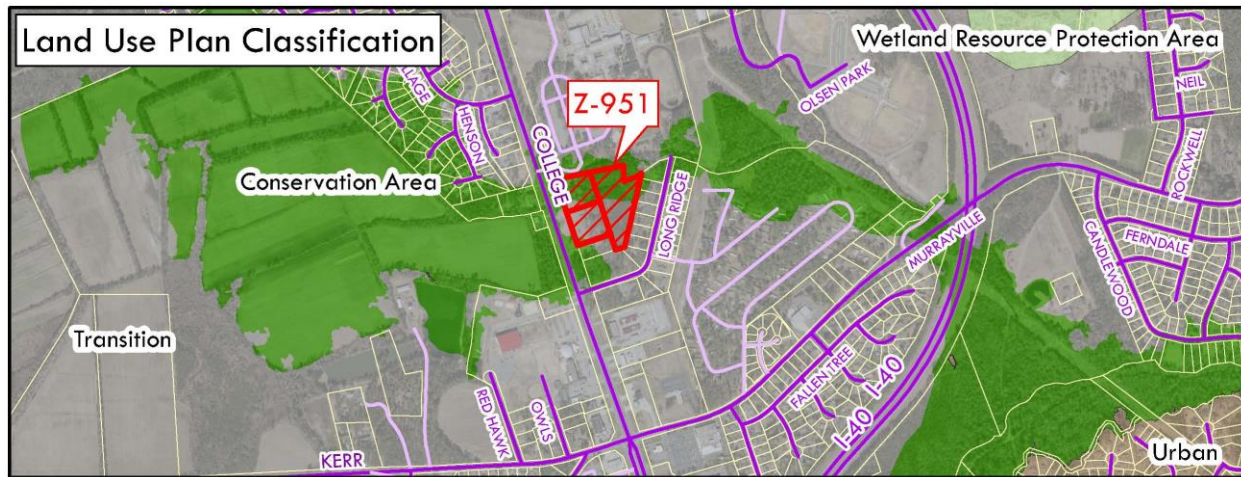
As stated above, impervious surfaces shall be limited in Conservation areas. In no case shall impervious surface coverage exceed 25%. In some cases, impervious surface coverage may be required to be as low as 15% or less, depending on the environmental constraint.

Staff has reviewed the preliminary site plan and feels comfortable that it meets the intent of the Conservation classification. On the site plan, the proposed buildings and impervious areas have been positioned to be mostly located within the Transition classification. Only a small portion of the development's parking and driveway is within the Conservation classification. Specifically, 7,348 square feet of impervious coverage is located within the Conservation classification, which equates to 4.3% of the classification.



Further, as the proposed development is subject to sediment and erosion control regulations, this project should minimize erosion, runoff and siltation. The proposed development will not interfere with access to or use of navigable waters, and will not have any ground absorption sewage systems.

In summary, the proposal is consistent with both the Transition and Conservation land use classifications and does not conflict with any goal or policy within the Land Use Plan.

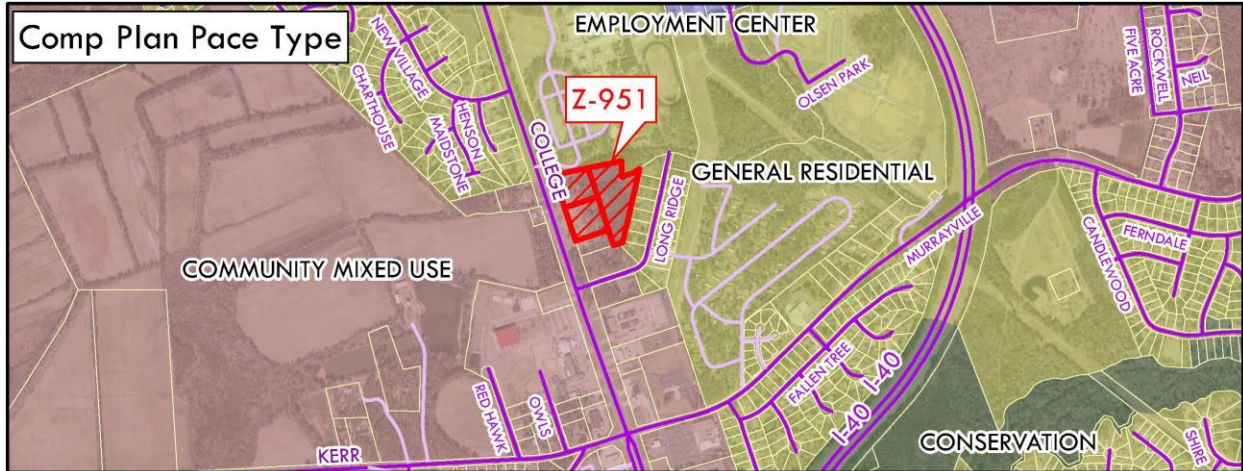


Draft Comprehensive Plan

The County is currently going through a process to create a new comprehensive land use plan. The current draft of the new Comprehensive Plan classifies the property as Community Mixed Use on the Future Land Use Map.

The Community Mixed Use Place Type focuses on small-scale, compact, mixed use development patterns that serve multimodal travel and act as an attractor for county residents and visitors. These areas share several qualities with higher-intensity mixed use place types, including a combination of first floor retail with office and housing above, wider sidewalks, and an emphasis on streetscaping. However, these centers are generally small, no more than a few square blocks. Civic uses, particularly recreation and public gathering places, are particularly encouraged here. Ideally, large-scale, lower density commercial and industrial developments are prohibited.

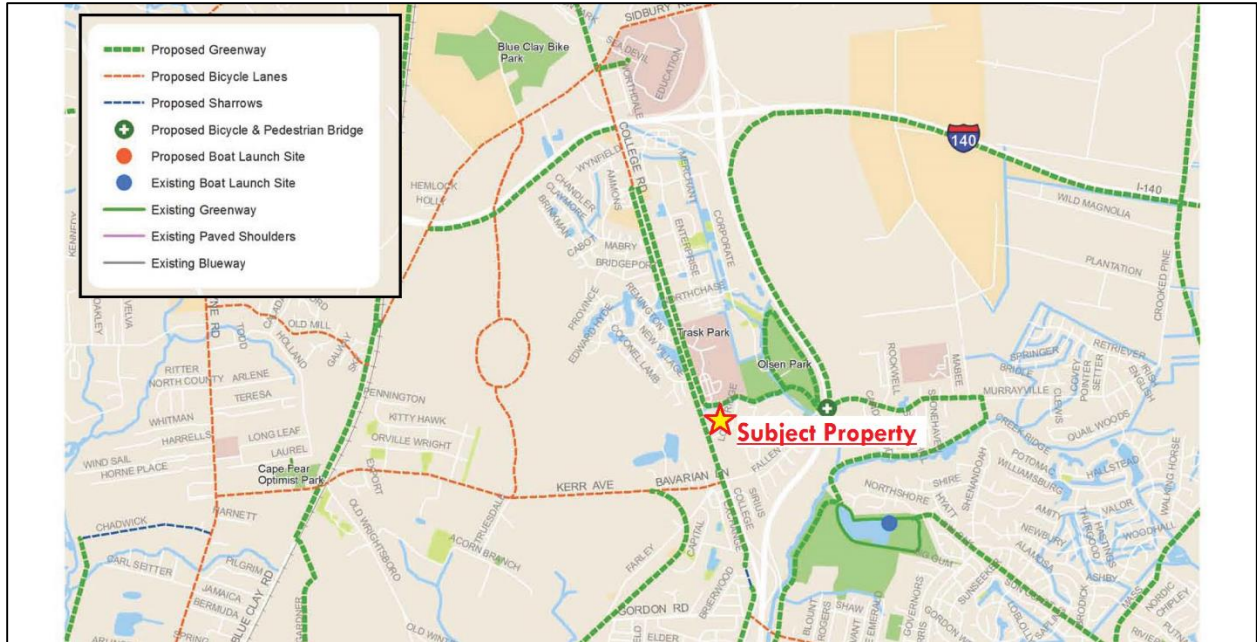
In regards to multi-family residential development, the ideal density within the Community Mixed Use Place Type is 12-15 dwelling units per acre. Therefore, the proposed development is consistent with the current draft of the Comprehensive Plan.



Wilmington/NHC Comprehensive Greenway Plan

The Wilmington/NHC Comprehensive Greenway Plan proposes that a greenway network be installed along N. College Road. Shown below is the proposed network for the surrounding area. The plan suggests that a greenway be installed along the west side of N. College Road, and that it continue on the east side of the road, from Northchase Parkway NE to the southern portion of Laney High School, where it would then head east to Olsen Park. The exact location of the proposed greenway does not cross the subject property, however, the TRC has recommended it be extended to do so.

Due to Laney High School being located directly north of the subject property, the area is currently subject to pedestrian travel generated by the students attending the school. The extension of the greenway would allow for safe pedestrian travel of those students and for the residents of the proposed high density development. It would also give the residents of the proposed high density development access to the proposed greenway connecting to Olsen Park. Therefore, staff is recommending a condition be added to the Special Use Permit which would require in the installation of a 10' multi-use path in front of the subject property along N. College Road. The multi-use path would be located within the right-of-way and be maintained by the County. The applicant has agreed to this condition and has added the multi-use path to the site plan.



Proposed Greenway Network

REVIEW AND ACTION:

This request is being facilitated by *Section 55.2 – Conditional Use District* of the County’s Zoning Ordinance, and has been processed and reviewed per *Section 110 – Amending the Ordinance*. A community meeting was held on Thursday, January 28, 2016 in accordance with the requirements for such a request. Five members of the public attended the meeting, and minor changes regarding the location of the stormwater pond were made to the site plan as a result. Included in the packet is a summary of the meeting prepared by the applicant.

Conditional Use Zoning Districts shall be considered for approval or denial as a two-part ordinance amendment. The proposed Conditional Use District rezoning is considered first, then the companion Special Use Permit proposal.

CONDITIONAL USE ZONING DISTRICT:

Staff recommends the approval of the Conditional Use Zoning District. Staff concludes that the request is consistent with the requirements of the Zoning Ordinance and also the 2006 Wilmington-New Hanover County CAMA Land Use Plan. The Transition classification allows for intensive development on lands that have been or will be provided with necessary urban services. Also, the required Special Use Permit(s) for the development of the property will ensure any impacts on the surrounding areas generated by the development can be examined and mitigated.

Action Needed

- **Motion to approve of the rezoning request**
- **Motion to “table” the item in order to receive more information**
- **Motion to deny of the rezoning request**

Example Motion for Approval:

Motion to approve, as the Board of Commissioners find that this request for a zoning map amendment of 8.05 acres from B-2, Highway Business District, and R-15, Residential District, to (CUD) R-10, Conditional Use Residential District, as described is:

1. Consistent with the purposes and intent of the 2006 CAMA Land Use Plan because [Describe elements of controlling land use plans and how the amendment is consistent].
2. Reasonable and in the public interest because [Briefly explain why. Factors may include public health and safety, character of the area and relationship of uses, applicable plans, or balancing benefits and detriments.].

Example Motion for Denial:

Motion to deny, as the Board of Commissioners find that this request for a zoning map amendment of 8.05 acres from B-2, Highway Business District, and R-15, Residential District, to (CUD) R-10, Conditional Use Residential District, as described is:

1. Not Consistent with the purposes and intent of the 2006 CAMA Land Use Plan because [Describe elements of controlling land use plans and how the amendment is not consistent].
2. Not reasonable or in the public interest because [Briefly explain why not. Factors may include public health and safety, character of the area and relationship of uses, applicable plans, or balancing benefits and detriments.].

Staff Suggested Motion:

Motion to approve, as the Board of Commissioners find that this request for a zoning map amendment of 8.05 acres from B-2, Highway Business District, and R-15, Residential District, to (CUD) R-10, Conditional Use Residential District, as described is:

1. Consistent with the purposes and intent of the 2006 CAMA Land Use Plan because the “Transition” classification allows for intensive development on lands that have been provided with Urban Services. The property is located on an arterial street and is in close proximity to public water and sewer services. The proposal is also consistent with the “Conservation” classification because impervious surfaces will be limited within the areas of the property classified as “Conservation”, and because no structures or septic systems will be constructed within those same “Conservation” areas.
2. Reasonable and in the public interest because it provides increased density in areas best suited for development and because it provides for alternative modes of transportation by installing a multi-use path in accordance with the Wilmington/New Hanover County Comprehensive Greenway Plan.

SPECIAL USE PERMIT:

A Special Use Permit, in accordance with Section 71 of the Zoning Ordinance, shall be approved on a finding the applicant demonstrates the proposed use will meet the following:

1. The use will not materially endanger the public health or safety where proposed and developed according to the plan as submitted and approved;
2. The use will meet all required conditions and specifications of the Zoning Ordinance;
3. The use will not substantially injure the value of adjoining or abutting property or that the use is a public necessity; and
4. The location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development for New Hanover County.

Preliminary Staff Findings of Fact

Finding 1: The Board must find that the use will not materially endanger the public health or safety where proposed and developed according to the plan as submitted and approved.

- A. Water and wastewater services must be provided and designed to comply with the Cape Fear Public Utilities Authority standards.
- B. The subject property is located in the New Hanover County North Fire Service District.
- C. Access to the site will be provided by N. College Road, an arterial street that has recently been improved to serve the development of the subject property.
- D. A multi-use path will be installed along N. College Road in accordance with the Wilmington/NHC Comprehensive Greenway Plan.
- E. The subject site does not host any known cultural or archaeological resources.

Staff Suggestion: Evidence in the record at this time supports a finding that the use will not materially endanger the public health or safety where proposed.

Finding 2: The Board must find that the use meets all required conditions and specifications of the Zoning Ordinance.

- A. High density developments are allowed by Special Use Permit in the R-10 zoning district.
- B. The use complies with the standards of Section 72-43 of the Zoning Ordinance.

Staff Suggestion: Evidence in the record at this time supports a finding that the use meets all of the required conditions and specifications of the Zoning Ordinance.

Finding 3: The Board must find that the use will not substantially injure the value of adjoining or abutting property or that the use is a public necessity.

- A. The location of the proposed high density development is classified as Transition and Conservation in the 2006 CAMA Land Use Plan.
- B. The surrounding land uses are predominately include a mixture of residential, commercial, and institutional uses.

- C. No evidence has been submitted that this project will decrease the property values of adjacent or nearby properties.

Staff Suggestion: *The evidence in the record at this time supports a finding that the use will not substantially injure the value of adjoining or abutting property.*

Finding 4: The Board must find that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development for New Hanover County.

- A. The 2006 Wilmington-New Hanover County CAMA Land Use Plan classifies the area proposed for the high density development as Transition and Conservation, and the proposal is not in conflict with the intent of the Transition and Conservation land use classifications, and additionally, not in conflict with any other policy of the 2006 CAMA Land Use Plan.
- B. Density and impervious coverage on the areas of the property classified as Conservation shall be limited in accordance with the 2006 CAMA Land Use Plan.
- C. The proposed development will provide for alternative forms of transportation in compliance with the 2012 Comprehensive Greenway Plan and Policy 6.9 of the 2006 CAMA Land Use Plan.

Staff Suggestion: *Evidence in the record at this time supports a finding that the use is general conformity with the plan of development for New Hanover County.*

SUMMARY

Staff concludes that the applicant has demonstrated that the proposal complies with the findings of fact specified in Section 71 of the Ordinance. Staff also concludes that, with the information submitted, the applicant has demonstrated that the proposal is not in conflict with the management strategy for the Transition and Conservation land use classification, and not in conflict with any other policies of the CAMA Land Use Plan. High density developments are appropriate within the Transition land use classification, which allows for intensive development on lands with necessary urban services. Further, the proposal's limited development within the areas classified as Conservation, complies with goals of Policy 3.9 of the CAMA Land Use Plan and the purpose of the Conservation land use classification.

Policy 3.9: Carefully control development activities with the 100-year floodplain (1% annual chance floodplain) according to density and impervious surface limits to protect the public safety, reduce the risk of property damage, and provide for the long-term protection and management of these environmental significant resources.

Note: A Special Use Permit is a quasi-judicial action requiring an evidentiary hearing and findings of fact.

ACTION NEEDED (Choose one):

1. **Motion to approve (with or without conditions)**
2. **Motion to table the item in order to receive additional information or documentation (Specify).**

3. **Motion to deny based on specific findings in any of the 4 categories above, such as lack of consistency with adopted plans or determination that the project will pose public hazards or will not adequately meet requirements of the ordinance.**

Staff suggests the following motion:

Motion to approve, as the Board of Commissioners find that this request for a Special Use Permit complies with the four required findings of fact, and that the following conditions be met:

1. A 10' multi-use path shall be installed along N. College Road in accordance with the Wilmington/New Hanover County Comprehensive Greenway Plan. The multi-use path shall be constructed to the adjoining properties and shall include any necessary crosswalks, boardwalks, or bridges.
2. Existing vegetation must remain within the rear buffer and be supplemented as necessary to provide the 100% visual opacity requirement.