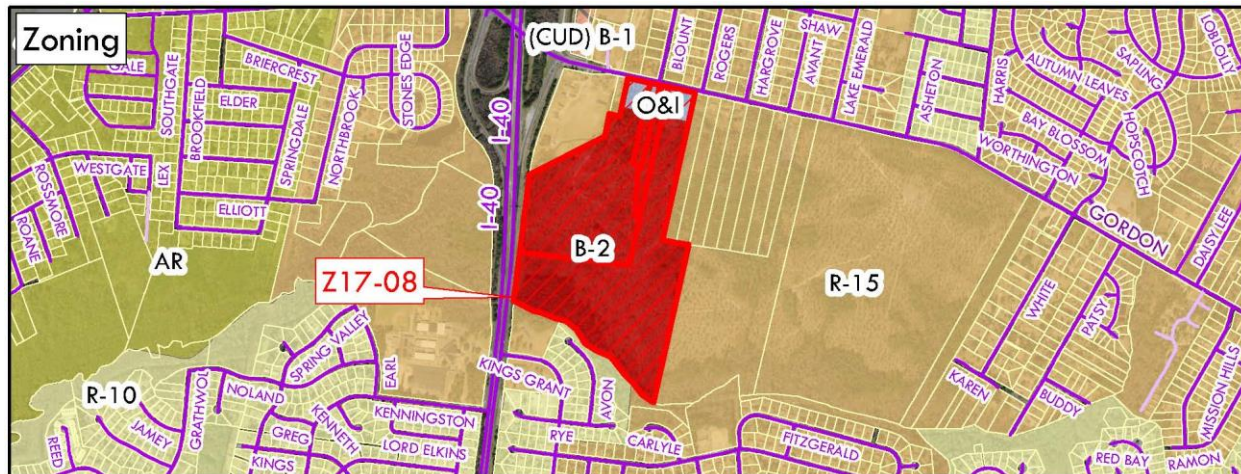


STAFF SUMMARY OF Z17-08

CONDITIONAL USE ZONING DISTRICT APPLICATION

APPLICATION SUMMARY	
Case Number: Z17-08	
Request: Conditional Use R-15 Zoning District in order to develop a high density development consisting of 236 single-family lots and 192 apartment units.	
Applicant: Robbie B. Parker & Michael V. Lee with Lee Law Firm, PLLC	Property Owner(s): The Lewis Family Tract, LLC
Location: 4700 block of Gordon Road	Acreage: 85.19 acres
PID(s): R04300-008-015-000; R04300-008-014-001; R04300-008-014-000; R04300-008-013-000; and R04300-008-012-000.	Comp Plan Place Type: Urban Mixed Use & Conservation
Existing Land Use: Undeveloped	Proposed Land Use: High density development
Current Zoning: O&I and B-2	Proposed Zoning: (CUD) R-15



SURROUNDING AREA		
	LAND USE	ZONING
North	Single-family residential (Weaver Acres)	R-15
East	Interstate 40/Single-family residential	R-15

South	Single-family residential (Kings Grant)/Religious Institution	R-15/R-10
West	Single-family residential/Undeveloped	R-15



ZONING HISTORY

July 7, 1972	Initially zoned R-15 (Area 8B)
April 7, 1986	The subject property was rezoned to O&I (front 300 feet) and B-2 (Z-262)

COMMUNITY SERVICES

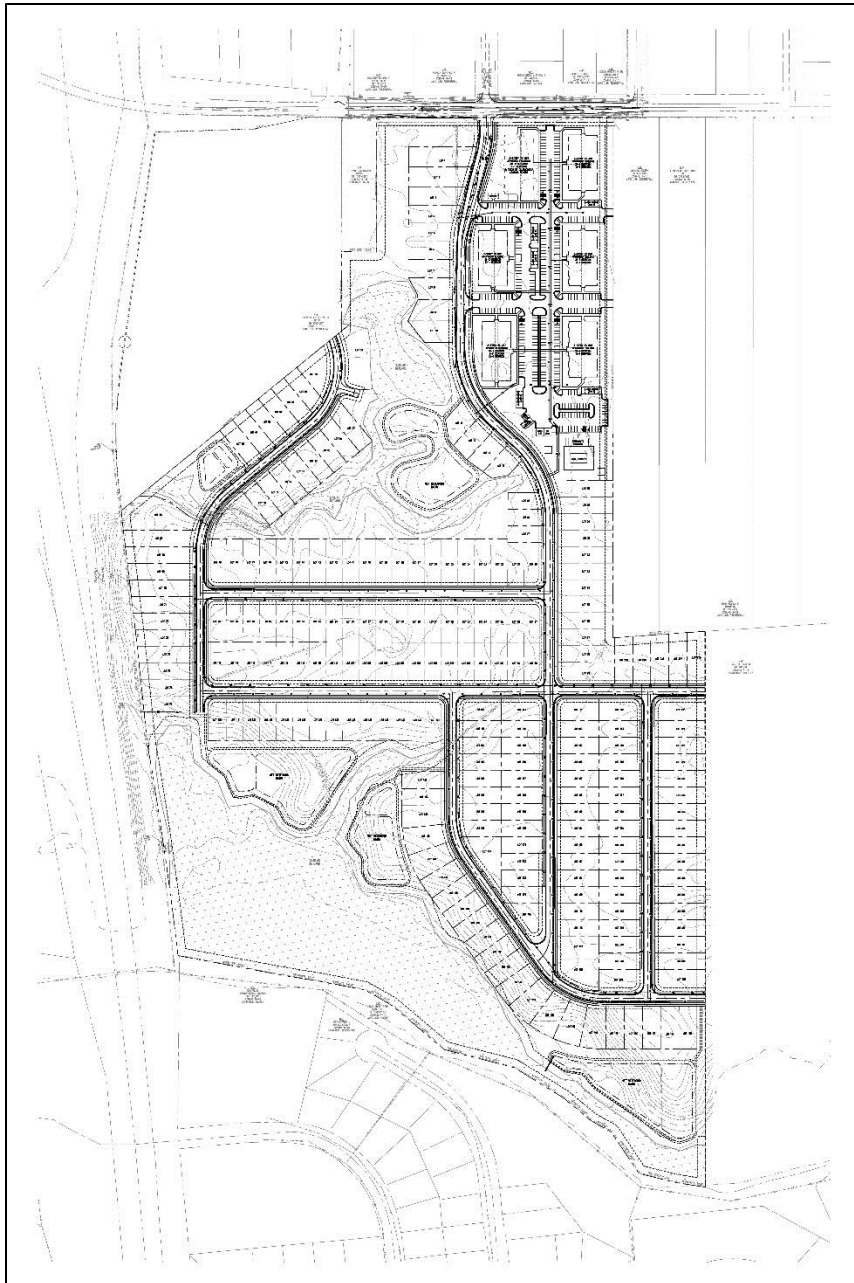
Water/Sewer	The development will connect to CFPUA water and sewer services.			
Fire Protection	New Hanover County Fire Services, New Hanover County Northern Fire District, New Hanover County Murrayville Station			
Schools	School	Total	Capacity w/Mobiles	+/- Capacity
	Blair	568	529	39
	Eaton	562	466	96
	Trask	747	662	85
	Laney	2221	1733	488
Recreation	Smith Creek Park & Ogden Park			

CONSERVATION, HISTORIC, & ARCHAEOLOGICAL RESOURCES

Conservation	The property contains swamp forest wetlands along Smith Creek. These wetlands are subject to the standards of the Conservation Overlay District.
Historic	No known historic resources
Archaeological	No known archaeological resources

Proposed Site Plan

- The proposed development consists of 236 single-family lots and 192 apartment units for a total of 428 dwelling units. This equates to a density 5 dwelling units per acre based on the net acreage.
- The proposed street network will be dedicated as private.
- A bufferyard is required along the eastern side of the apartment buildings, and a streetscape is required along Gordon Road.
- 35% of the property must be dedicated as open space, with 15% of the property being able to be used for active recreation.
- A clubhouse and pool will be included within the apartment area.



TRANSPORTATION

- Access is provided to the subject property by Gordon Road (SR 2048).
- The current 2016-2025 NC State Transportation Improvement Program (STIP) includes a project (U-3831) that will widen Gordon Road to multi-lanes, with construction expected to begin in 2023-2024. However, the proposed 2018-2027 STIP does not include this project.
- The NHC/City of Wilmington Greenway Plan recommends that bike lanes be installed along Gordon Road, and that a greenway be installed along Smith Creek and College Road/I-40.
- A Traffic Impact Analysis (TIA) was conducted for the proposed development and is currently under review by the MPO and NCDOT. Below is information taken from the analysis. The TIA can be found online at the County's Development Activity Page: <http://planningdevelopment.nhcgov.com/development-activity/>

Trip Generation			
LAND USE	INTENSITY	AM PEAK	PM PEAK
Single-Family Home (210)	236 Dwelling Units	177	236
Apartments (220)	192 Dwelling Units	98	123
Total:		275	359

- The proposed development is anticipated to 3,534 trips during the course of a 24-hour period.

Level of Service

Table 5.2 - Gordon Road and NC 132 (N. College Road)/I-40 Eastbound Ramps													
Scenario	Overall LOS	Level of Service by Approach (Delay in sec/veh)											
		Eastbound			Westbound			Northbound			Southbound		
AM Peak Hour													
2017 Existing	C (25.4)	L	T	R	L	T	R	L	T	R	L	T	R
		C (34.0)	D (41.5)	D (41.5)	C (27.4)	C (21.3)	A (9.8)	B (16.3)	C (33.2)	B (16.0)	D (37.1)	C (27.6)	C (27.6)
		D (40.3)			B (18.1)			C (22.6)			C (31.5)		
2021 Future No Build	E (76.4)	L	T	R	L	T	R	L	T	R	L	T	R
		C (34.6)	D (42.9)	D (42.9)	F (129.3)	C (22.6)	B (11.1)	D (45.4)	C (32.8)	B (16.4)	F (296.1)	C (31.4)	C (31.4)
		D (41.5)			D (46.0)			C (27.5)			F (139.7)		
2021 Future Build	F (91.6)	L	T	R	L	T	R	L	T	R	L	T	R
		C (34.1)	D (42.2)	D (42.2)	F (208.3)	C (23.7)	B (11.8)	D (46.8)	C (33.6)	B (17.3)	F (331.9)	C (32.3)	C (32.3)
		D (41.0)			E (69.9)			C (28.3)			F (157.5)		
2021 Future Build with Improvements	D (45.4)	L	T	R	L	T	R	L	T	R	L	T	R
		D (49.2)	E (68.0)	E (68.0)	F (87.8)	C (28.4)	A (7.0)	E (64.1)	E (64.8)	C (24.8)	F (80.3)	C (32.4)	C (32.4)
		E (65.1)			C (36.1)			D (46.2)			D (52.4)		
PM Peak Hour													
2017 Existing	C (27.7)	L	T	R	L	T	R	L	T	R	L	T	R
		C (26.9)	C (35.0)	C (35.0)	B (16.2)	B (13.9)	A (6.1)	B (19.9)	D (36.8)	C (22.9)	D (44.3)	C (30.6)	C (30.6)
		C (33.9)			B (10.6)			C (26.9)			D (35.9)		
2021 Future No Build	F (84.9)	L	T	R	L	T	R	L	T	R	L	T	R
		C (27.6)	D (37.3)	D (37.3)	E (55.1)	B (14.4)	A (6.6)	D (46.1)	D (36.8)	C (22.8)	F (359.9)	C (31.4)	C (31.4)
		D (36.0)			C (20.6)			C (28.9)			F (160.9)		
2021 Future Build	F (107.3)	L	T	R	L	T	R	L	T	R	L	T	R
		C (27.8)	D (41.7)	D (41.7)	E (67.4)	B (14.7)	A (6.8)	D (46.1)	D (36.8)	C (23.6)	F (460.7)	C (31.4)	C (31.4)
		D (40.1)			C (24.9)			C (28.9)			F (214.1)		
2021 Future Build with Improvements	D (44.5)	L	T	R	L	T	R	L	T	R	L	T	R
		D (35.5)	E (71.6)	E (71.6)	F (97.6)	C (21.9)	A (4.2)	D (52.3)	D (52.0)	D (36.0)	E (66.4)	C (27.3)	C (27.3)
		E (67.2)			C (33.5)			D (41.6)			D (43.9)		

Table 5.3 - Gordon Road and I-40 WB Ramps													
Scenario	LOS of Worst Approach	Level of Service by Approach (Delay in sec/veh)											
		Eastbound			Westbound			Northbound			Southbound		
AM Peak Hour													
2017 Existing	C (17.9) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (14.3)	A (0.0)			A (0.0)	A (0.0)	F (61.5)	F (61.5)	B (13.2)			
		A (1.5)			A (0.0)			C (17.9)					
2021 Future No Build	C (19.1) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (12.7)	A (0.0)			A (0.0)	A (0.0)	F (70.6)	F (70.6)	B (13.9)			
		A (1.3)			A (0.0)			C (19.1)					
2021 Future Build	C (21.0) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		C (14.1)	A (0.0)			A (0.0)	A (0.0)	F (90.4)	F (90.4)	B (14.1)			
		A (1.4)			A (0.0)			C (21.0)					
PM Peak Hour													
2017 Existing	D (32.3) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (12.3)	A (0.0)			A (0.0)	A (0.0)	F (90.2)	F (90.2)	D (26.4)			
		A (1.7)			A (0.0)			D (32.3)					
2021 Future No Build	E (39.5) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (10.7)	A (0.0)			A (0.0)	A (0.0)	F (112.4)	F (112.4)	D (32.2)			
		A (1.4)			A (0.0)			E (39.5)					
2021 Future Build	F (76.3) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (11.3)	A (0.0)			A (0.0)	A (0.0)	F (196.5)	F (196.5)	F (65.5)			
		A (1.3)			A (0.0)			F (76.3)					

Table 5.4 - Gordon Road and Blount Drive/Site Access													
Scenario	LOS of Worst Approach	Level of Service by Approach (Delay in sec/veh)											
		Eastbound			Westbound			Northbound			Southbound		
AM Peak Hour													
2017 Existing	F (93.9) SB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (12.7)	A (0.0)			A (0.0)	A (0.0)				F (93.9)		F (93.9)
		A (0.1)			A (0.0)						F (93.9)		
2021 Future No Build	F (109.1) SB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (13.2)	A (0.0)			A (0.0)	A (0.0)				F (109.1)		F (109.1)
		A (0.1)			A (0.0)						F (109.1)		
2021 Future Build	F (6731.3) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (13.2)	A (0.0)	A (0.0)	B (10.6)	A (0.0)	A (0.0)	F (6731.3)	F (6731.3)	F (6731.3)	F (475.5)	F (475.5)	F (475.5)
		A (0.1)			A (0.1)			F (6731.3)			F (475.5)		
2021 Future Build with Improvements	D (48.7) Signal	L	T	R	L	T	R	L	T	R	L	T	R
		D (51.0)	D (51.0)	A (5.4)	E (70.9)	C (34.1)	C (34.1)	F (163.5)	E (67.3)	E (67.3)	E (60.3)	E (60.3)	E (60.3)
		D (48.7)			C (34.6)			F (138.2)			E (60.3)		
PM Peak Hour													
2017 Existing	E (38.7) SB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (10.0)	A (0.0)			A (0.0)	A (0.0)				E (38.7)		E (38.7)
		A (0.1)			A (0.0)						E (38.7)		
2021 Future No Build	E (44.6) SB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (10.3)	A (0.0)			A (0.0)	A (0.0)				E (44.6)		E (44.6)
		A (0.1)			A (0.0)						E (44.6)		
2021 Future Build	F (3304.7) NB Approach	L	T	R	L	T	R	L	T	R	L	T	R
		B (10.3)	A (0.0)	A (0.0)	B (12.7)	A (0.0)	A (0.0)	F (3304.7)	F (3304.7)	F (3304.7)	F (251.9)	F (251.9)	F (251.9)
		A (0.0)			A (0.7)			F (3304.7)			F (251.9)		
2021 Future Build with Improvements	C (22.2) Signal	L	T	R	L	T	R	L	T	R	L	T	R
		C (31.2)	C (31.2)	A (7.3)	D (43.0)	A (8.0)	A (8.0)	E (68.0)	D (41.2)	D (41.2)	D (38.2)	D (38.2)	D (38.2)
		C (27.7)			B (10.0)			E (60.7)			D (38.2)		

Recommended Improvements

The TIA recommends the following the improvements be installed to the adjacent roadway network in order to accommodate the proposed development:

- Gordon Road and NC 132 (N. College Road)/I-40 Eastbound Ramps
 - Optimize Signal timing.
 - Increase the southbound left turn lane to 650 feet of storage with appropriate taper.
 - Increase the westbound left turn lane to 400 feet of storage with appropriate taper.
- Gordon Road and Blount Drive/Site Access
 - Signalizing the intersection;

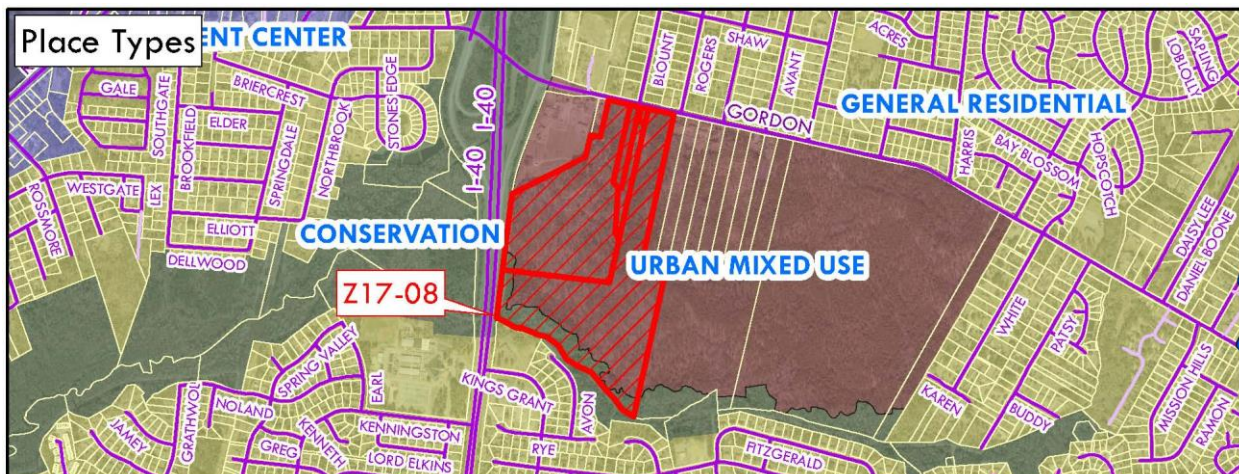
- Westbound left turn lane with 100 feet of storage and appropriate taper;
- Eastbound right turn lane with 100 feet of storage and appropriate taper; and
- Northbound full left turn lane along with a through-right lane that extends to the first internal driveway.

ENVIRONMENTAL

- The southern portion of the property contains Special Flood Hazard Areas along Smith Creek. These flood areas include an AE floodway, AE flood zone (100-year floodplain), and Shaded X flood zone (500-year floodplain). The AE flood zone is located on approximately 7 lots. Structures built within the flood zone must comply with the county's Flood Damage Prevention Ordinance.
- The property contains regulated wetlands for which the delineation has been approved by the US Army Corps of Engineers. Most of the wetlands area located in the southern portion of property along Smith Creek. These wetlands adjacent to Smith Creek are subject to the standards of the county's Conservation Overlay District.
- The property is not located within a Natural Heritage Area.
- The subject property is within the Smith Creek (SA;HQW) watershed.
- Soils on the property consist of Class II (moderate limitation), Class III (severe limitation) and Class IV (unsuitable) soils, however, this project must install public water and sewer service in accordance with the standards for high density developments and CFPUA.

2016 COMPREHENSIVE LAND USE PLAN

The New Hanover County Future Land Use Map provides a general representation of the vision for New Hanover County's future land use, as designated by place types describing the character and function of the different types of development that make up the community. Specific goals of the comprehensive plan are designated to be promoted in each place type, and other goals may be relevant for particular properties.



Future Land Use Map Place Type	Urban Mixed Use (portion of property in Conservation)
Place Type Description	Promotes development of a mix of residential, office, and retail uses at higher densities. Types of uses encouraged include office, retail, mixed use, small recreation, commercial, institutional, single-family, and multi-family residential.
Consistency Analysis	<p>The proposed residential rezoning does not provide for the mix of uses and design desired for this place type. Housing not associated with a mixed-use development is recommended to be less than a quarter of all uses in an Urban Mixed Use area. This rezoning would provide all the desired housing component for the entire Urban Mixed Use area off Gordon Rd. and is the only portion of that area currently zoned to allow the other desired uses. In addition, the subdivision design includes block lengths larger than those recommended for this place type.</p> <p>The portion of the property designated Conservation is adjacent to Smith Creek and the required conservation overlay district will limit development in this area.</p>

Relevant Goals of the Comprehensive Plan	
Goal I: Support business success	Desired Outcome: A vibrant economy for New Hanover County based on business success
Consistency Analysis: The proposed development will provide sufficient residential density to support existing and future commercial uses nearby. However, the subject property is the only portion of the Urban Mixed Use place type off Gordon Road that is currently zoned for commercial use.	
Goal III: Promote fiscally responsible growth	Desired Outcome: Growth patterns that achieve efficient provisions of services and equitable distribution of costs between the public and private sectors
Consistency Analysis: Sufficient infrastructure is in place to support the proposed development, and it incorporates street connections to adjoining undeveloped property, as recommended.	
Goal IV: Use public infrastructure improvements to leverage private investments	Desired Outcome: Coordinated efforts of public and private investment to maximize improvements
Consistency Analysis: The proposed development includes street connections that will assist with connectivity. They are proposed as private roads with public easements.	

Goal VIII: Integrate multi-modal transportation into mixed land uses that encourage safe, walkable communities	Desired Outcome: A community with a mixture of land uses that allows for individuals to perform daily tasks without the use of an automobile. A community where individuals can safely walk, bike, and access transit.
Consistency Analysis: Five-foot wide sidewalks are proposed on one side of the road, but other transportation infrastructure for urban mixed use areas, including bicycle lanes and wide shoulders, are not included in the proposed development plan.	
Goal IX: Promote environmentally responsible growth	Desired Outcome: Development that accommodates population growth while minimizing negative impacts on natural resources
Consistency Analysis: While the proposed development is not mixed use, as recommended by the comprehensive plan, it is clustered, which will minimize impacts on natural resources. However, several residential lots are immediately adjacent to the wetlands that assist in filtering contaminants before they can enter Smith Creek.	
Goal XIII: Preserve and protect water quality and supply	Desired Outcome: Accommodating anticipated growth in a manner that is sustainable to New Hanover County's water supply and water quality
Consistency Analysis: The implementation guidelines for this goal include encouraging the retention of natural vegetative buffers to protect water quality, subdivision design that protects and improves water quality, and low impact development best management practices. Several residential lots in the proposed development are immediately adjacent to the wetlands that assist in filtering contaminants before they can enter Smith Creek.	
Goal XV: Provide for a range of housing types, opportunities, and choices	Desired Outcome: Citizens are not overburdened with the costs or availability of housing, but have a diverse range of options that are affordable at different income levels
Consistency Analysis: The proposed development does include both single-family and multi-family housing types.	
Goal XVIII: Increase physical activity and promote healthy active lifestyles	Desired Outcome: A built environment that encourages active lifestyles and increased health through walking and biking.
Consistency Analysis: The proposed development includes sidewalks, community amenities, and active and passive open space. An easement for the multi-use path along Smith Creek included in the Greenway Master Plan is not included in the application information.	

Goal XX: Support health promotion and disease prevention while minimizing debilitating effects of mental and physical disabilities	Desired Outcome: A built environment that supports citizens with mental and physical disabilities through the location of services, integration of land uses, and sensitivity to the disabled population
Consistency Analysis: One of the implementation guidelines for this goal includes designing sidewalks, pedestrian amenities, and residential common areas to be inclusive of persons with limited mobility. Access to the community pool and active and passive common areas may be limited for individuals with mobility issues due to gaps in sidewalks connecting to these areas.	

Staff Consistency Recommendation

The proposed residential development is not consistent with the 2016 Comprehensive Land Use Plan because it is moving the County's development pattern away from the direction outlined in the Future Land Use Map. It proposes a residential development on the only portion of the Urban Mixed Use place type off Gordon Rd. that is not already zoned for residential, and design features do not conform with the recommendations for this place type.

COMMUNITY MEETING NOTES

- A community meeting was held on Thursday, June 8, 2017 in accordance with the requirements for such an application.
- The applicant has provided a summary of the meeting within the application.
- No modifications were made to the site plan as a result of the community meeting.

PLANNING BOARD ACTION

The Planning Board considered this application at their July 13, 2017 meeting. At the meeting, an adjoining property owner, who did not speak in opposition of the project, presented concerns regarding the potential for residents to trespass on his property. Another resident had concerns regarding traffic on Gordon Road as additional developments are constructed in the area, and she stated her support for the traffic light to be installed at the intersection of Gordon Road and Blount Drive as recommended in the TIA.

The Planning Board recommended denial (4-3) of the application, citing that the proposal did not contribute to the mixed use development pattern encouraged by the Comprehensive Plan. The Board recommended that the application be modified to designate a portion of the property for nonresidential uses.

Also, the Board had concerns with the design of the development, specifically regarding access to the lots located in the northern portion of the property, and the proximity of wetlands to certain lots within the development. The applicant has updated the site plan in response to these design concerns.

The Planning Board found that the proposed rezoning to the conditional use district is:

1. Not consistent with the purposes and intent of the 2016 Comprehensive Plan because the proposal would remove the only non-residential zoning in an area that is exclusively zoned for residential purposes. This will not support a mixture of compatible uses as encouraged in the Urban Mixed Use place type and does not conform to the recommended development intensity of the place type.
2. Not reasonable and not in the public interest because the proposal would not encourage a mixture of uses that would promote alternative forms of travel and the reduction of the dependency on the automobile.

In accordance with the standards of the Zoning Ordinance, the applicant has elected to appeal the Planning Board's recommendation to the Board of Commissioners.

STAFF RECOMMENDATION

Staff concurs with the Planning Board's action and recommends denial of the Conditional Use Zoning District.

Staff Preliminary Conclusions and Findings of Fact

Staff has conducted an analysis of the proposed use and the information provided as part of the application package and has created preliminary findings of fact for each of the conclusions required to be reached to approve the special use permit request. These preliminary findings of fact and conclusions are based solely on the information provided to date, prior to any information or testimony in support or opposition to the request that may be presented at the upcoming public hearing.

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 Gordon Road, an arterial street.
- D. A Traffic Impact Analysis has been completed and must be review and approved by the MPO and NCDOT, and any improvements to the roadway network required as part of that approval must be installed in accordance with NCDOT's standards.
- E. The subject site will have minimal impact to any known conservation resources located on the site.

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-15 zoning district.
- B. The site design 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 Urban Mixed Use in the 2016 Comprehensive Plan.
- B. The surrounding land uses predominately include residential 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 2016 Comprehensive Plan classifies the area proposed for the high density development as Urban Mixed Use, which promotes a mixture of office, retail, recreation, commercial, institutional, and single and multi-family housing.
- B. The property's current zoning districts would allow for non-residential uses including office, retail, and commercial uses, and also provides an opportunity for mixed use development through the special use permit process.
- C. The proposed rezoning would remove the only non-residential zoning from the area which already is exclusively zoned for residential purposes. It would not encourage a mixture of uses that would promote alternative forms of travel and the reduction of the dependency on the automobile.
- D. Both the planning staff and Planning Board have found the application to be inconsistent with the 2016 Comprehensive Plan.

Staff Suggestion: *Evidence in the record at this time does not support a finding that the use is general conformity with the plan of development for New Hanover County.*

Potential Conditions

Should the Board of Commissioners wish to approve the application, staff has identified potential items that may be appropriate to attach as conditions.

- 1) The proposed private right-of-ways shall be open for public use and placed within a public access easement.
- 2) Streetscape landscaping and buffering, consistent with that of which is required for high density developments adjacent to single-family developments, shall be installed around the multi-family structures to provide a screen from the single-family lots located within the development.
- 3) A 20-foot wide access easement shall be dedicated to the County along Smith Creek in order to allow for the future installation of a multi-use path in accordance with the Wilmington/NHC Greenway Plan.
- 4) Five feet of right-of-way shall be dedicated to NCDOT along Gordon Road for the purpose of allowing for future roadway improvements. This right-of-way dedication shall be in addition to any right-of-way dedication required as a result of the TIA and driveway permit.