

# STAFF REPORT FOR S19-02

## SPECIAL USE PERMIT APPLICATION

### RESIDENTIAL USES IN A COMMERCIAL DISTRICT SUP OVERVIEW

- The Zoning Ordinance allows for dwelling units to be permitted in the B-1 or B-2 zoning district with a Special Use Permit provided the units are part of a mixed-use development.
- The mixed-use development should provide for innovative opportunities for an integration of diverse but compatible uses into a single development that is unified by distinguishable design features with amenities and walkways to increase pedestrian activities.
- When this option is utilized, commercial uses within the development must be limited to those permitted in the B-1 district, even for sites zoned B-2. The B-1 district permits traditional commercial uses, like retail establishments, restaurants, and offices. The heavy commercial/light industrial type uses allowed in the B-2 district are prohibited under the specific standards for this Special Use Permit.
- In addition to the conceptual site plan, applications for this type the SUP must include architectural elevations and a conceptual lighting plan.

### APPLICATION SUMMARY

**Case Number:** S19-02

**Request:**

SUP to allow residential uses within a commercial zoning district as part of a mixed-used development.

**Applicant:**

Mark Maynard, Jr – Tribute Companies

**Property Owner(s):**

Coswald, LLC

**Location:**

200 Block of Lendire Road, near the 7200 Block of Market Street

**Acreage:**

15.6

**PID(s):**

R04400-001-003-000

**Comp Plan Place Type:**

Urban Mixed Use

**Existing Land Use:**

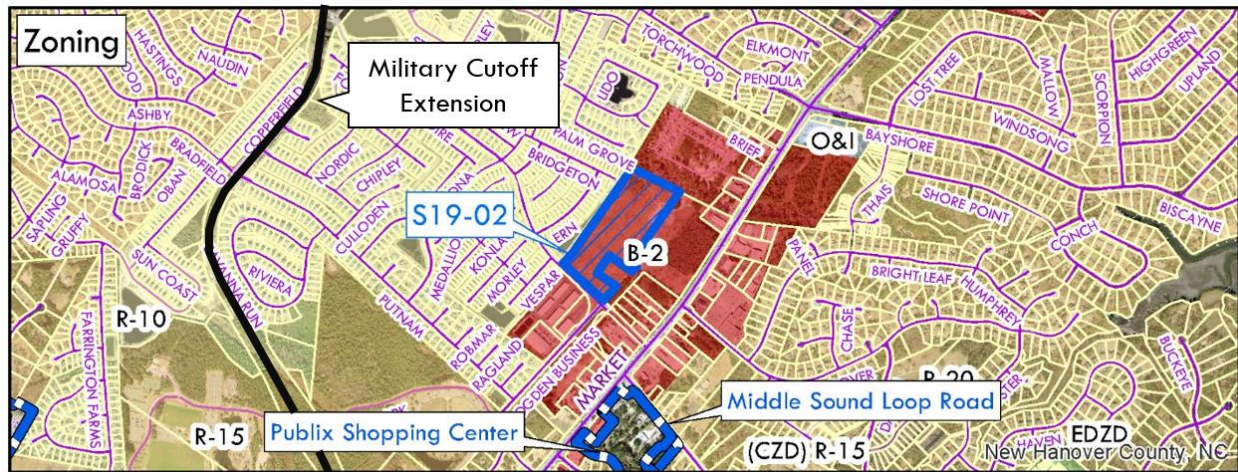
Undeveloped

**Proposed Land Use:**

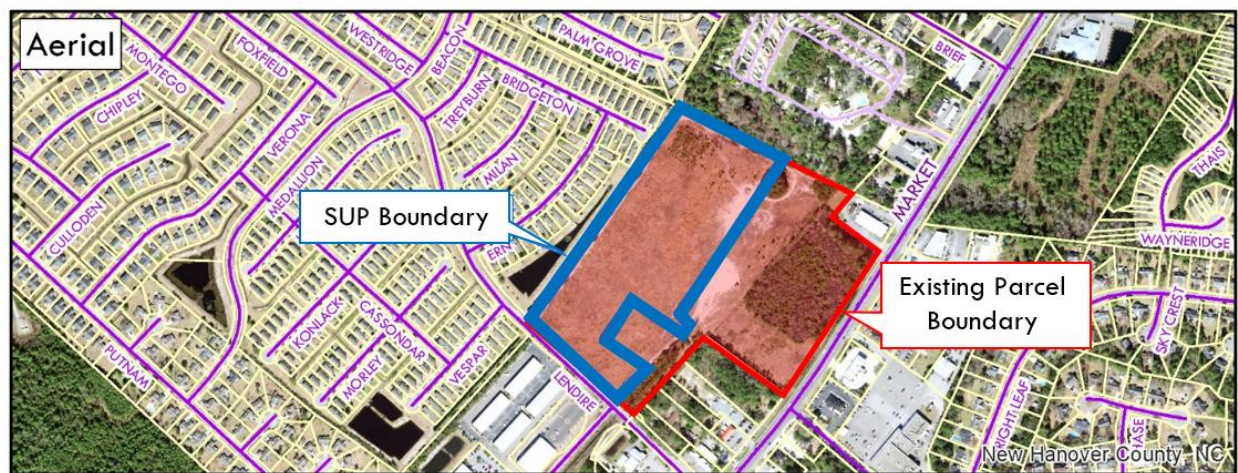
Mixed-Use Development

**Current Zoning:**

B-2



SURROUNDING AREA		
	LAND USE	ZONING
North	Single-Family Residential (Palm Grove), Camping (KOA).	R-10, B-2
East	Undeveloped, Commercial Services, Ogden Fire Station	B-2
South	Commercial Services (Recreation Establishments, Restaurants, Retail)	B-2
West	Single-Family Residential (Jacobs Ridge at West Bay Estates)	R-10



ZONING HISTORY	
July 7, 1972	Initially zoned R-15 (Area 8B)
November 2, 1987	Portions of the parcel rezoned from R-15 to B-2 (Z-321)
September 6, 1988	Portions of the parcel rezoned from R-15 to B-2 (Z-356)
September 4, 1990	Portions of the parcel rezoned from R-15 to B-2 (Z-413)



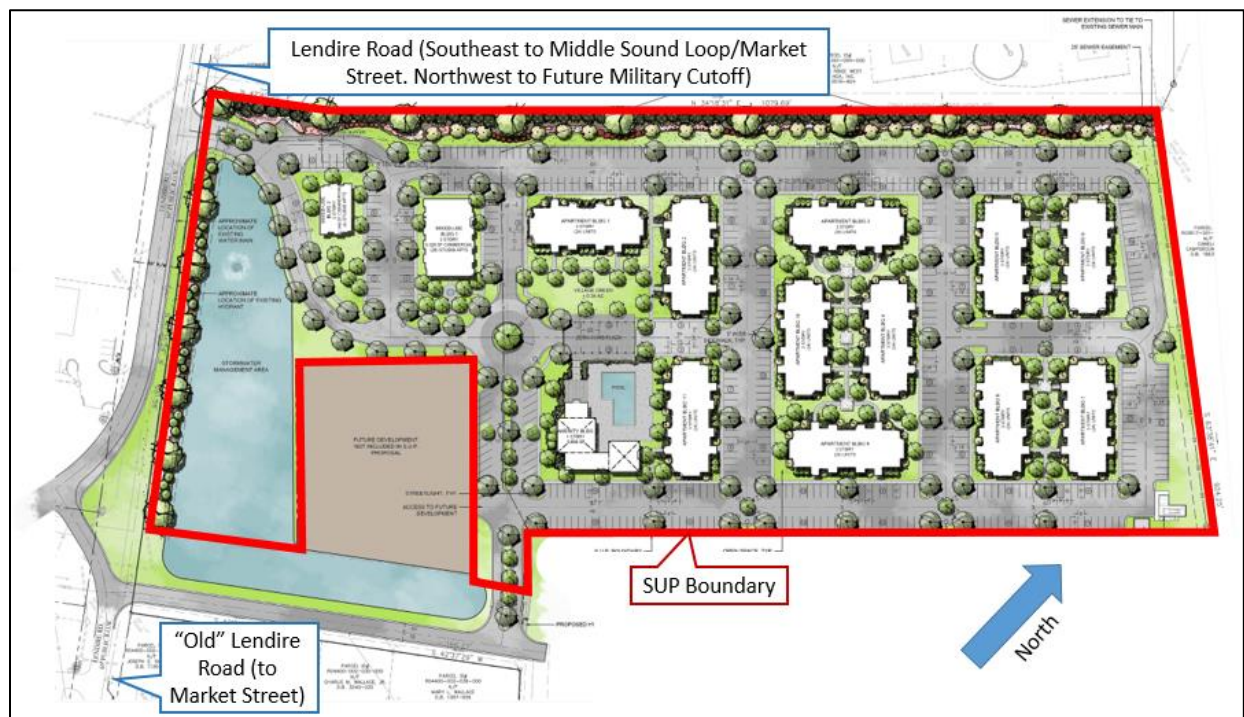
## COMMUNITY SERVICES

<b>Water/Sewer</b>	Water and sewer will be provided by CFPUA. Specific design will be determined during site plan review.
<b>Fire Protection</b>	New Hanover County Fire Services, New Hanover County Northern Fire District, New Hanover County Station Ogden
<b>Schools</b>	Blair Elementary, Eaton Elementary, Holly Shelter Middle, and Laney High Schools
<b>Recreation</b>	Ogden Park

## CONSERVATION, HISTORIC, & ARCHAEOLOGICAL RESOURCES

<b>Conservation</b>	No known conservation resources
<b>Historic</b>	No known historic resources
<b>Archaeological</b>	No known archaeological resources

## PROPOSED CONCEPTUAL PLAN



*Includes Staff Markups*

- The proposed mixed-use development will consist of up to 288 dwelling units located within apartment buildings and mixed-use buildings, and approximately 7,500 square feet of commercial building space. The commercial uses proposed are office and retail businesses. The buildings will range from one to three stories and be restricted to a maximum height of 35 feet.

- The western boundary of the site, adjacent the Jacob's Ridge at West Bay subdivision, is subject to an increased building setback and bufferyard. The bufferyard will be approximately 50 feet in width and must contain vegetation, or a combination of vegetation and fencing, that provides an opaque screen. The applicant is proposing to install a 6-foot-tall solid wood fence within the buffer. As shown on the conceptual plan, the buildings will exceed the required setback and be placed about 115 feet from the western property line.
- The conceptual plan includes two mixed-use buildings located on the southern portion of the site adjacent Lendire Road. The buildings would permit office and retail uses on the ground floor and residential units above the commercial space. One building is proposed to be two stories and contain 4 dwelling units, and the other is proposed to be three stories with 20 dwelling units. The commercial space would total about 7,500 square feet.



*Conceptual Rendering of the Three-Story Mixed-Use Building*

- 264 of the proposed dwelling units will be located within 11 three-story apartment buildings. The project will also contain an amenity building and outdoor swimming pool for the residents.
- The project will contain 3.62 acres of amenity areas and open space, which equates to approximately 23% of the 15.6-acre site. Approximately 56% of site will contain impervious surfaces. The stormwater management areas will be located in the southern portion of the site along Lendire Road.
- The applicant is proposing to design the stormwater facilities for the project to handle up to a 100-year event ( $\approx 10$  inches of rain over a 24-hour period). This exceeds the County's requirement of designing the facilities to handle a 25-year storm event ( $\approx 8$  inches of rain over a 24-hour period). The site is located at the apex of three drainage basins (Smith Creek, Pages Creek, and Howe Creek). All runoff to the site will be conveyed to the proposed stormwater facility, and will ultimately flow south toward Howe Creek. Although



the site was initially thought to drain toward Smith Creek, more detailed analysis of adjacent development plans indicated the downstream outfall flows south toward Howe Creek. Any stormwater that flows into the northern ditch and Market Street today will be conveyed to the new stormwater facility.

- The applicant is proposing to incorporate distinguishable design features within the project including consistent architectural design, color scheme, landscaping, park benches, bicycle racks, and street lighting. Sidewalks will be provided throughout the development, allowing residents to walk to existing and future commercial uses in the vicinity. If approved, the distinguishable site features will be verified by TRC during the site plan review.

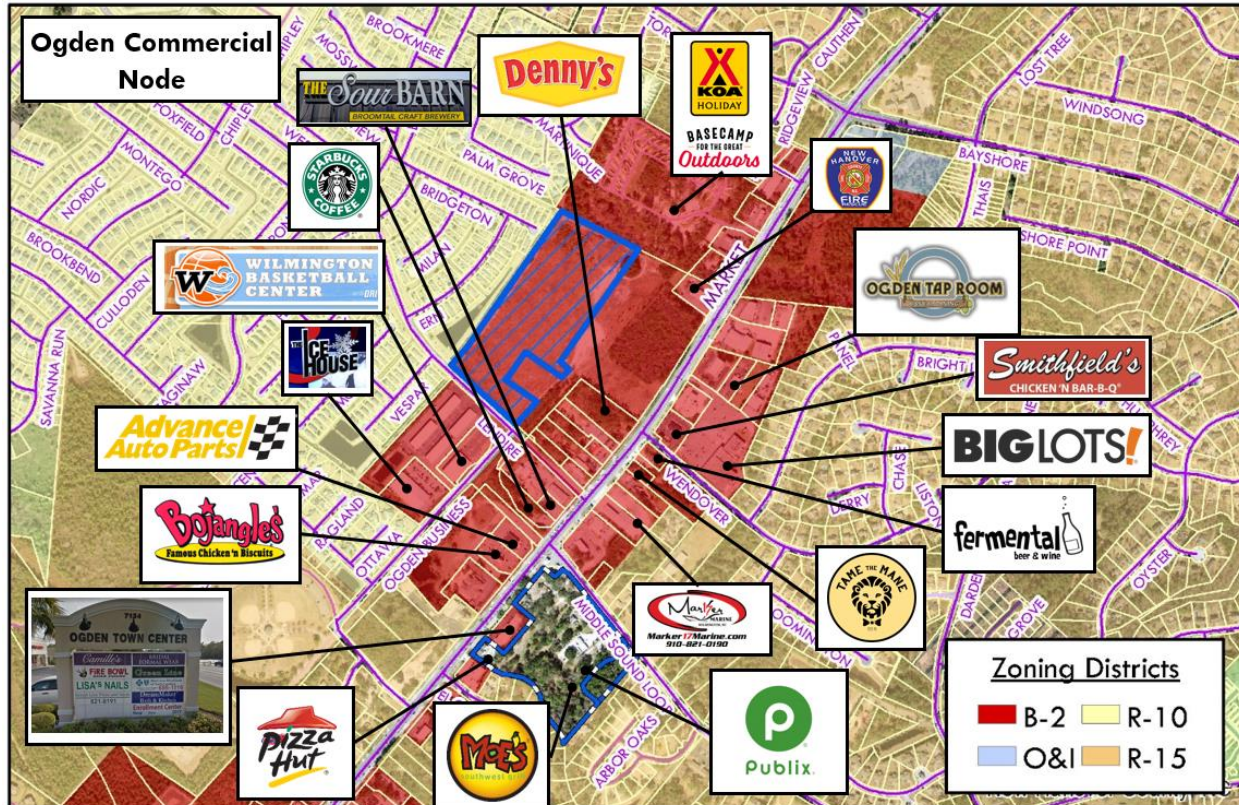


*Conceptual Rendering of the Three-Story Apartment Buildings*

## **ZONING CONSIDERATIONS**

- The subject 15.6-acre site is part of a larger parcel, approximately 30 acres in size, zoned B-2. The parcel is currently undeveloped.
- The “outparcel” shown on the conceptual site plan which is not included in the boundary of the SUP is under contract to be purchased by the applicant. The applicant does not have specific plans for that portion of the property at this time, and thus it is not included in this application, however, they anticipate that the area would be developed for office-related uses.
- The site is located within the Market/Middle Sound commercial node, near the intersection of Market Street and Middle Sound Loop Road/Lendire Road.

- This node contains several commercial businesses including, but not limited to, retail establishments (Publix and Big Lots shopping centers), restaurants (Odgen Tap Room, Smithfields BBQ, Denny's, Bojangles), personal services (Tame The Mane, The Corner Buzz, dry cleaners), specialty restaurants (Casa Blanca Coffee, Starbucks), and craft beer establishments (Fermental Wine & Beer, The Sour Barn).

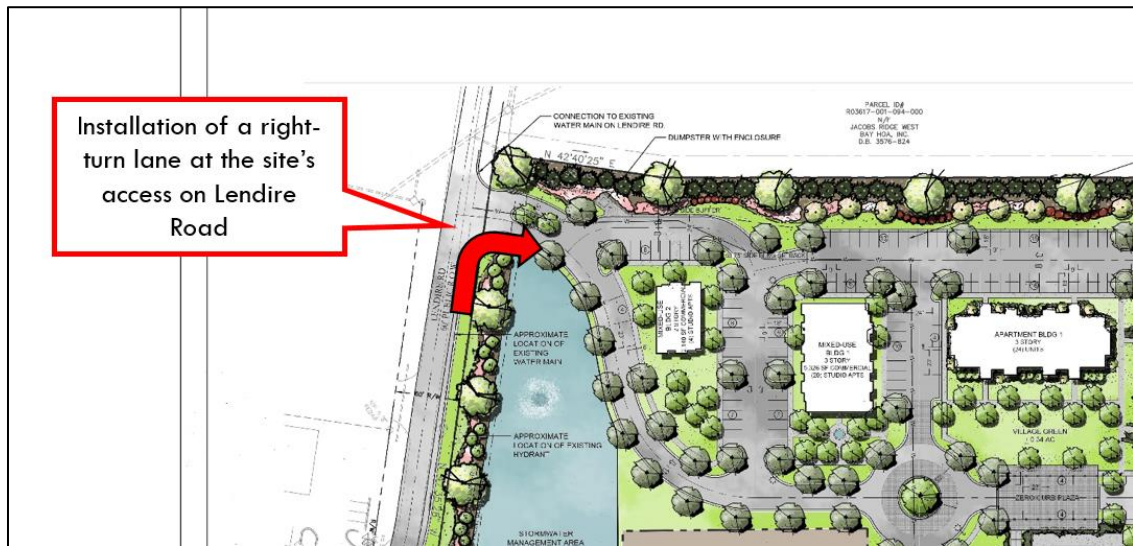


## TRANSPORTATION

- The subject site will be accessed by Lendire Road (SR-2892) and "Old" Lendire Road, a private access easement.
- When estimating traffic impacts of undeveloped sites, staff's general rule based on typical development patterns is that commercial development typically covers about 25% of the site for building area at one story (approximately 170,000 square feet for the subject 15.6-acre site). In this case the applicant estimates that the site would support about 116,000 square feet of shopping center related uses (retail, restaurants, and offices), which is a more conservative market estimate for the property.
- According to the applicant, development of the site as currently zoned using their assumption of 116,000 square feet of shopping center related uses would generate about 485 trips in the AM peak hours and 540 trips in the PM peak hours.
- The proposed project of 288 multi-family units and 7,500 square feet of office/retail space is estimated to generate about 140 trips in the AM peak hours and 190 trips in the PM peak hours. This would result in an estimated decrease of 345 trips in the AM peak hours and 350 trips in the PM peak hours.



- The applicant has completed a Traffic Impact Analysis (TIA) which has been approved by NCDOT and the WMPO. The approved TIA requires a westbound right turn lane to be installed on Lendire Road at the site's access.



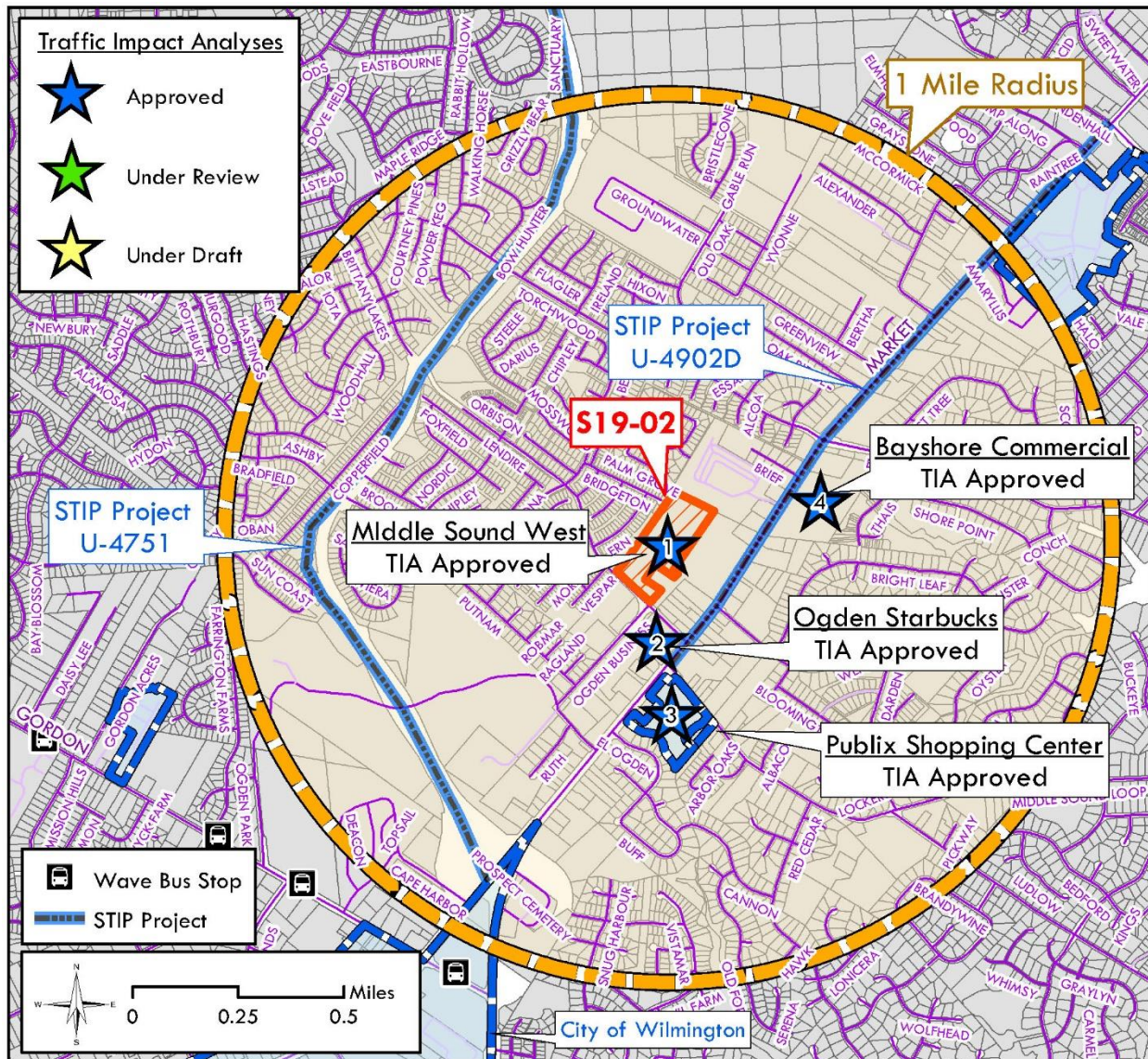
*Required Roadway Improvements*

- The TIA analyzed the Level of Service (LOS) in vehicle delay per second at notable intersections in the area including Lendire Road/Middle Sound Loop Road at Market Street and "Old" Lendire Road at Market Street. The TIA found that the project will slightly increase the time it takes for vehicles to get through these intersections, but it will not reduce the overall LOS of the intersections from the level they are anticipated to operate at in 2021.

Market Street at Middlesound Loop Road/Lendire Road	
Scenario	Overall LOS
AM PEAK	
2019 Existing	D
2021 Future	E
2021 Future with Project	E
PM PEAK	
2019 Existing	D
2021 Future	E
2021 Future with Project	E

Market Street at "Old" Lendire Road	
Scenario	LOS of Eastbound Approach to Market Street
AM PEAK	
2019 Existing	D
2021 Future	C
2021 Future with Project	C
PM PEAK	
2019 Existing	E
2021 Future	C
2021 Future with Project	C

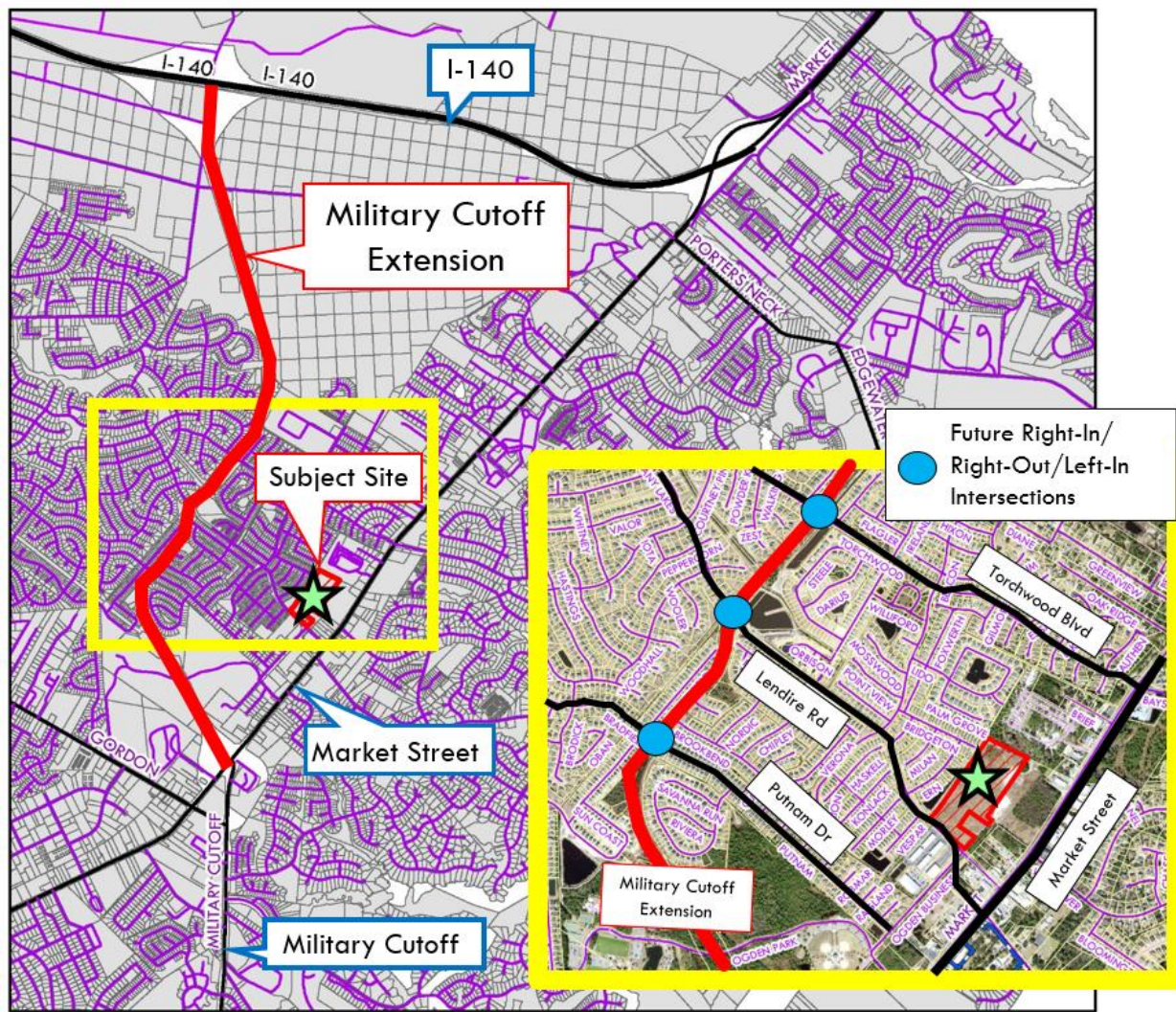
## Nearby Planned Transportation Improvements and Traffic Impact Analyses





### Nearby NC STIP Projects:

- STIP Project U-4751 (Military Cutoff Extension)
  - Project to extend Military Cutoff from Market Street to I-140.
  - The project is currently under construction and is expected to be completed in early-2023.
  - The extension of Military Cutoff will run about three quarters of a mile west of the subject site. Lendire Road/Brittany Lakes Drive, Torchwood Boulevard, and Putnam Drive/Bradfield Court will connect to the Military Cutoff extension, allowing access to neighborhoods west of the site.
  - The project will also install a sidewalk and multi-use path along the extension of Military Cutoff and the sections of Market Street included in the project.
  - NCDOT recently obtained ownership of Lendire Road from Market Street to the Military Cutoff extension. The connection of Lendire Road to the future Military Cutoff will allow the road to function as a collector street, however, NCDOT does not have any current plans to make improvements to the road.





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- Future Median Breaks of the Market Street Median**
- Signalized Left-Over to Alexander Rd
- Signalized U-Turn Bulb
- Signalized Full Movement Intersection at Torchwood Blvd/Bayshore Dr
- Subject Site
- Market Street Median Project
- Signalized Left-Over at Wendover Ln
- Middle Sound Loop Rd
- Left-Over to Alexander Rd
- Left-Over to Greenview Dr
- Left-Over to KOA, Gas Station, Car Wash
- Marsh Oaks Dr



**Nearby Traffic Impact Analyses:**

Traffic Impact Analyses are completed in accordance with the WMPO and NCDOT standards. Approved analyses must be re-examined by NCDOT if the proposed development is not completed by the build out date established within the TIA.

Proposed Development	Land Use/Intensity	TIA Status
<b>1. Middle Sound West (Subject Site)</b>	<ul style="list-style-type: none"><li>• 288 multi-family units</li><li>• Small office with 32 employees</li></ul>	<ul style="list-style-type: none"><li>• Approved August 14, 2019</li><li>• 2021 Build Out Year</li></ul>
The TIA required improvements be completed at certain intersections in the area. The notable improvements consisted of: <ul style="list-style-type: none"><li>• Installation of a westbound right-turn lane at the site's access on Lendire Road.</li></ul>		
<u>Nearby Proposed Developments included within the TIA:</u>		
<ul style="list-style-type: none"><li>• Ogden Starbucks</li></ul>		
<b>Development Status: Special Use Permit request under review.</b>		

Proposed Development	Land Use/Intensity	TIA Status
<b>2. Ogden Starbucks</b>	<ul style="list-style-type: none"><li>• 2,200 square foot coffee shop with drive thru</li></ul>	<ul style="list-style-type: none"><li>• Approved May 10, 2019</li><li>• 2021 Build Out Year</li></ul>
The TIA required improvements be completed at certain intersections in the area. The notable improvements consisted of: <ul style="list-style-type: none"><li>• Installation of an additional exclusive eastbound right-turn lane on Lendire Road at Market Street (improvement installation to be coordinated with the Military Cutoff Extension project U-4751). Modification of the signal timing at the same intersection to incorporate the new dual right-turn lanes.</li></ul>		
<u>Nearby Proposed Developments included within the TIA:</u>		
<ul style="list-style-type: none"><li>• None</li></ul>		
<b>Development Status: Construction is near completion.</b> The installation of right-turn lane will be completed with the Military Cutoff extension project.		

<b>3. Middle Sound Market Place (Publix)</b>	<ul style="list-style-type: none"> <li>• 32,830 square feet of retail</li> <li>• 49,100 square feet of supermarket</li> <li>• 720 square feet of fast food restaurant</li> </ul>	<ul style="list-style-type: none"> <li>• TIA approved June 15, 2015</li> <li>• 2019 Build Out Year</li> </ul>
<p>The TIA required improvements to be made at certain intersections in the area, including Market Street at Middle Sound and the access points to the development. The major improvements consisted of:</p> <ul style="list-style-type: none"> <li>• Installation of a continuous northbound right turn lane on Market Street to Middle Sound Loop Road and site access points</li> <li>• Extension of existing westbound dual left turn lanes and the addition of a westbound right turn lane on Middle Sound Loop Road to Market Street</li> <li>• Installation of an eastbound right turn lane and westbound left turn lane on Middle Sound Loop Road to a site access</li> </ul> <p>Per NCDOT, the improvements required at this time have been installed in accordance with their standards.</p>		
<u>Nearby Proposed Developments included within the TIA:</u>		
<ul style="list-style-type: none"> <li>• None</li> </ul>		
<b>Development Status: Completed</b>		

<b>4. Bayshore Commercial Development</b>	<ul style="list-style-type: none"> <li>• 20,000 square feet of Medical/Dental Office</li> <li>• 70,000 square feet of Shopping Center</li> <li>• 8,000 square feet of High Turnover Sit Down Restaurant</li> <li>• 4,000 square feet of Fast Food Restaurant</li> </ul>	<ul style="list-style-type: none"> <li>• TIA approved September 11, 2019</li> <li>• 2022 Build Out Year</li> </ul>
<p>The TIA requires improvements be completed at certain intersections in the area. The notable improvements consisted of:</p> <ul style="list-style-type: none"> <li>• Installation of an additional westbound left turn lane on Bayshore Drive to Market Street</li> <li>• Extension of existing northbound right turn lane on Market Street from Bayshore Drive to the site's access points</li> </ul>		
<u>Nearby Proposed Developments included within the TIA:</u>		
<ul style="list-style-type: none"> <li>• None</li> </ul>		
<b>Development Status: The property is zoned B-2, which allows for this development by-right. However, no site plan or permit application have been submitted to County staff for review at this time.</b>		

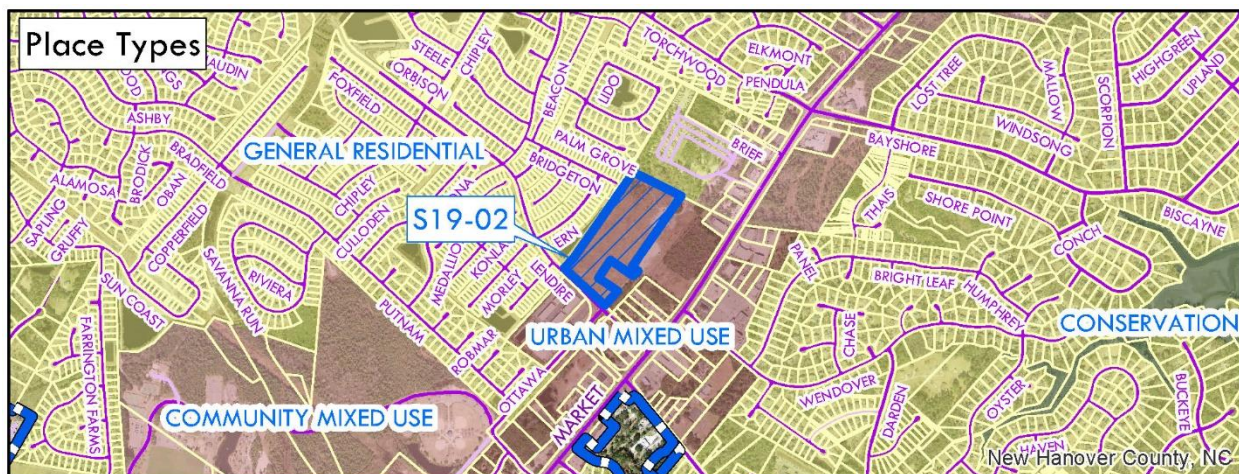


## ENVIRONMENTAL

- The property is not within a Natural Heritage Area or Special Flood Hazard Area.
- The property is within both the Smith Creek (C;Sw) and Pages Creek (SA;HQW) watershed. Based on the applicant's preliminary stormwater design, the site will be design to drain into Smith Creek.
- Per the Classification of Soils in New Hanover County for Septic Tank Suitability, soils on the property consist of Class II (moderate limitation), Class III (severe limitation) soils, and Class IV (unsuitable), however, the project will connect to CFPWA sewer services.

## 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.



<b>Future Land Use Map Place Type</b>	Urban Mixed Use
<b>Place Type Description</b>	Urban Mixed Use 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.
<b>Analysis</b>	The proposed mixed use development is located off Lendire Rd., directly across from Ogden Business Park and behind commercial uses, e.g. Denny's and Patterson Auto Sales, that line Market St. It is also adjacent to single family homes within the Jacobs Ridge at West Bay subdivision.

	<p>The subject parcel is designated as Urban Mixed Use on the Comprehensive Plan's Future Land Use Map, which supports a mix of moderate to high intensity commercial and office uses and moderate to high density residential uses (approximately 16+ units per acre). The plan's intent is to allow more commercial options and higher residential densities in this area to take advantage of the proximity to nearby basic goods and services and to help reduce long travel distances and associated levels of traffic.</p> <p>The types and intensity of commercial and office uses and the density of residential uses in the proposed project are in line with what is recommended for Urban Mixed Use areas, and the project is designed to provide a gradual transition in uses and intensity. The commercial areas are located close to the existing commercial uses along Lendire Rd. and Market St., and the residential portion of the development is located closer to the existing residential neighborhoods off of Lendire. This type of transitional development pattern helps reduce impacts on existing neighborhoods while contributing to the range of housing types available in the Ogden community.</p> <p>The mixed used buildings within the site also offer potential commercial alternatives to Market St. for residents of surrounding neighborhoods, which could reduce traffic congestion along Market St., and potentially Gordon Rd. once construction of Military Cutoff Extension is complete. In addition, residents of this development will be able to access the recreational uses and commercial services along Lendire without having to use primary roadways, specifically Market St. Eventually, those residents will also be able to access existing and future commercial services along Market St. without adding traffic to that road by using planned interconnections to the currently undeveloped section of the property southeast of the development that will remain zoned B-2.</p>
<b>Consistency Recommendation</b>	<p>The proposed mixed use development is generally <b>CONSISTENT</b> with the types and intensity of uses intended for Urban Mixed Use areas and the Comprehensive Plan's intent of providing an orderly transition of uses and densities from higher intensity to lower intensity areas. In addition, it contributes to the range of housing types available in the Ogden community, the mixed use buildings could provide a commercial alternative to Market St. for residents of surrounding neighborhoods, and interconnections with existing commercial properties can help reduce long travel distances and their associated levels of traffic.</p>

### 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 at the Board meeting.



**Conclusion 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. The site is accessed from Lendire Road, a state maintained road (SR-2892) that connects directly into Market Street (US 17), and will connect into the Military Cutoff extension.
- B. A Traffic Impact Analysis (TIA) was completed for the project and approved by NCDOT. The TIA requires a right-turn lane to be installed at the site's access on Lendire Road.
- C. The Traffic Impact Analysis (TIA) analyzed the Level of Service (LOS) in vehicle delay per second at notable intersections in the area, including Lendire Road/Middle Sound Loop Road at Market Street and "Old" Lendire Road at Market Street. The TIA found that the project will slightly increase the time it takes for vehicles to get through these intersections, but it will not reduce the overall LOS of the intersection from the level they are anticipated to operate at in 2021.
- D. The proposal is estimated to reduce traffic generation from what is typically possible with the existing B-2 zoning.
- E. The site's stormwater system will be designed to accommodate a 100-year storm, exceeding the County's requirement of designing for a 25-year storm.
- F. Water and sewer services will be provided by CFPWA.
- G. The subject property is located in the New Hanover County North Fire Service District.

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

- A. The site is zoned B-2, Highway Business District.
- B. Residential uses are allowed by Special Use Permit in the B-2 zoning district.
- C. The project proposes a mix of land uses as required to permit residential uses within a business district.
- D. In accordance with the standards of this special use, the commercial uses proposed within the development will be limited to those permitted in the B-1 zoning district.
- E. The project will contain distinguishable site design features, including consistent architectural design, color scheme, landscaping, park benches, bicycle racks, street lights and signage.
- F. The site plan complies with all applicable technical standards of the Zoning Ordinance including buffering and off-street parking requirements.

**Conclusion 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 subject property is zoned B-2, Highway Business District, and is located within Ogden/Market Street commercial node.
- B. The surrounding area contains a single-family residential development, undeveloped land, and commercially developed land.
- C. Bufferyards must be provided between the development and adjacent residential property.
- D. The applicant provided a report prepared by a real estate appraisal and consulting firm (JC Morgan - Jack C. Morgan III, MAI, SRA, AI-GRS). In the report, Mr. Morgan concluded that "there was no market data that [he] found that suggested the proposed project would have any impact on the values of the adjoining or abutting properties."

**Conclusion 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 Comprehensive Land Use Plan for New Hanover County.**

- A. The 2016 Comprehensive Plan classifies the area proposed for the development as Urban Mixed Use.
- B. The Urban Mixed Use place type promotes a mix of residential, retail, and office uses at higher densities.
- C. The project is consistent with the recommended uses and densities of the Urban Mixed Use place type.
- D. The subject site is located between single-family residential areas and commercial areas, providing a gradual transition of uses as promoted in the Comprehensive Plan.
- E. The applicant provided a report prepared by a real estate appraisal and consulting firm (*JC Morgan - Jack C. Morgan III, MAI, SRA, AI-GRS*). In the report, Mr. Morgan stated that “within the market area, comparable infill sites have been developed with mixed uses, generally consisting of commercial land uses located at the front of the development and residential land uses located at the rear of the development. These two land uses are often (and preferably) transitioned by multi-family or lower intense commercial uses. The proposed project maintains this trend, suggesting it is in harmony with the area it is located.”

## **PLANNING BOARD ACTION**

The Planning Board considered this application at their October 3, 2019 meeting. At the meeting six residents spoke in opposition citing concerns over drainage and flooding in the Ogden community, and other concerns. The Planning Board recommended approval of the application (7-0) with the following conditions:

- 1. The project's stormwater facilities must be designed to accommodate a 100-year storm event.
- 2. A 6-foot-tall solid wood fence shall be installed within the bufferyard located along the northwestern property line which abuts the Jacobs Ridge neighborhood.
- 3. As proposed and agreed to by the applicant, a 10-foot multi-use path shall be installed along the site's frontage on Lendire Road and be extended south along the road so that it would connect to the future multi-use path to be installed by NCDOT near Ogden Business Lane as part of the Military Cutoff extension project (U-4751). Installation of the multi-use path shall be coordinated with the County and NCDOT and be constructed in accordance with NCDOT's standards. The applicant is not required to obtain additional right-of-way in order for the multi-use path to be extended to the future multi-use path to be installed by NCDOT near Ogden Business Lane. Please see Exhibit 1 for the approximate location of the path to be installed with the development.



## EXAMPLE MOTIONS

### Example Motion for Approval:

Motion to approve, as the Board finds that this application for a Special Use Permit meets the four required conclusions based on the findings of fact included in the Staff Report, and with the conditions as recommended by the Planning Board.

[**OPTIONAL**] Note any additional findings of fact related to the four required conclusions.

[**OPTIONAL**] Note any conditions be added to the development:

*[List Conditions]*

#### **Recommended Conditions:**

1. The project's stormwater facilities must be designed to accommodate a 100-year storm event.
2. A 6-foot-tall solid wood fence shall be installed within the bufferyard located along the northwestern property line which abuts the Jacobs Ridge neighborhood.
3. As proposed and agreed to by the applicant, a 10-foot multi-use path shall be installed along the site's frontage on Lendire Road and be extended south along the road so that it would connect to the future multi-use path to be installed by NCDOT near Ogden Business Lane as part of the Military Cutoff extension project (U-4751). Installation of the multi-use path shall be coordinated with the County and NCDOT and be constructed in accordance with NCDOT's standards. The applicant is not required to obtain additional right-of-way in order for the multi-use path to be extended to the future multi-use path to be installed by NCDOT near Ogden Business Lane. Please see Exhibit 1 for the approximate location of the path to be installed with the development.

### Example Motion for Denial:

Motion to deny, as the Board **cannot** find that this proposal:

1. Will not materially endanger the public health or safety;
2. Meets all required conditions and specifications of the Zoning Ordinance;
3. Will not substantially injure the value of adjoining or abutting property;
4. Will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Land Use Plan for New Hanover County.

*[State the finding(s) that the application does not meet and include reasons why it is not being met]*