

STAFF REPORT FOR Z20-07

CONDITIONAL USE ZONING DISTRICT APPLICATION

CONDITIONAL USE ZONING OVERVIEW

- Applications for conditional use district are broken down into two decisions. The first being on the rezoning to the conditional use district (a legislative decision), and the second on the special use permit for the proposed use (a quasi-judicial decision).
- Decisions which are legislative are policy decisions made by the Board of Commissioners. The Board may take into account both opinions and facts when considering legislative rezoning proposals. In making a decision on a legislative rezoning, the Board must state whether the proposal is or is not consistent with the Comprehensive Plan, and if the Board's action of approving or denying the request is reasonable and in the public interest.
- Quasi-judicial decisions, on the other hand, must be based only on competent, material, and substantial evidence presented at the hearing. Only parties with standing should present evidence to the Board, and that testimony should relate to the four conclusions required for a special use permit to be granted. In some situations, the only competent evidence is provided by someone regarded as an expert in the subject field.
- In order for a conditional use district to be approved, the Board of Commissioners must approve both the rezoning and special use permit for the proposed use.

APPLICATION SUMMARY

Case Number: Z20-07

Request:

- A) Rezoning to a Conditional Use R-20 Zoning District
- B) Special Use Permit for a Continuing Care Retirement Community consisting of a 150-unit independent living multi-family building, 32 assisted living duplexes, a 25,000 square foot wellness and amenity center, and a central services building.

Applicant:

Bruce Bowman, AIA, Bowman Murray
Hemingway Architects

Property Owner(s):

Cornelia Nixon Davis, Inc.

Location:

1000 block of Porters Neck Road

Acreage:

67.38

PID(s):

R03700-001-005-000
R03700-002-001-000
R03700-002-002-001

Comp Plan Place Type:

General Residential

Existing Land Use:

Nursing Care Facility/Undeveloped

Proposed Land Use:

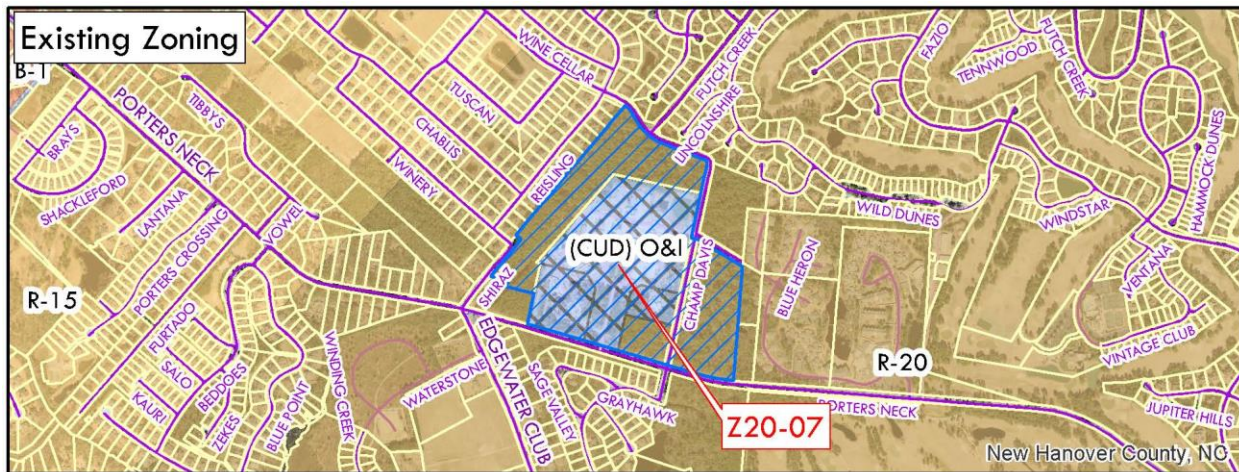
Continuing Care Retirement Community

Current Zoning:

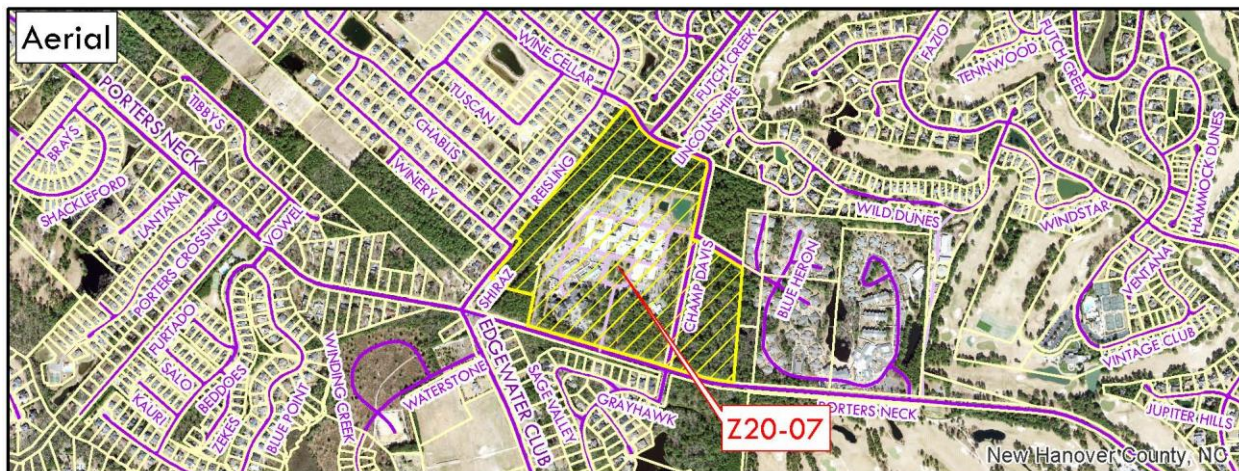
(CUD) O&I, R-15

Proposed Zoning:

(CUD) R-20



SURROUNDING AREA		
	LAND USE	ZONING
North	Single-Family Residential (Vineyard Plantation, Porters Neck Plantation)	R-20
East	Single-Family Attached Residential, Continuing Care Retirement Community (Plantation Village)	R-20
South	Single-Family Residential (Porters Neck Plantation)	R-20
West	Single-Family Residential (Vineyard Plantation), Undeveloped	R-20



ZONING HISTORY	
July 6, 1971	Initially zoned R-20 (Area 5)
July 6, 1992	24 acres of site zoned (CD) O&I for Health Care Center
November 10, 2008	Additional 2.64 acres zoned (CD) O&I for expansion
May 7, 2012	Additional 7.56 acres zoned (CUD) O&I for expansion and renovation

Note: CD Zoning approvals were renamed to either a CUD or CZD in 2012 and the prior CD approval is now considered a CUD

COMMUNITY SERVICES

Water/Sewer	Water and sewer services are available through CFPUA.
Fire Protection	New Hanover County Fire Services, New Hanover County Northern Fire District, Porter's Neck Station
Schools	Blair at Porter's Neck Elementary, Holly Shelter Middle, and Laney High Schools
Recreation	Pages Creek Park Preserve, Ogden Park

CONSERVATION, HISTORIC, & ARCHAEOLOGICAL RESOURCES

Conservation	The southeastern portion of the site contains a small area of pocosin wetlands, however, this area of the site is not anticipated to be disturbed and is designated as conservation space on the site plan.
Historic	No known historic resources
Archaeological	No known archaeological resources

A. Z20-07 REZONING REQUEST

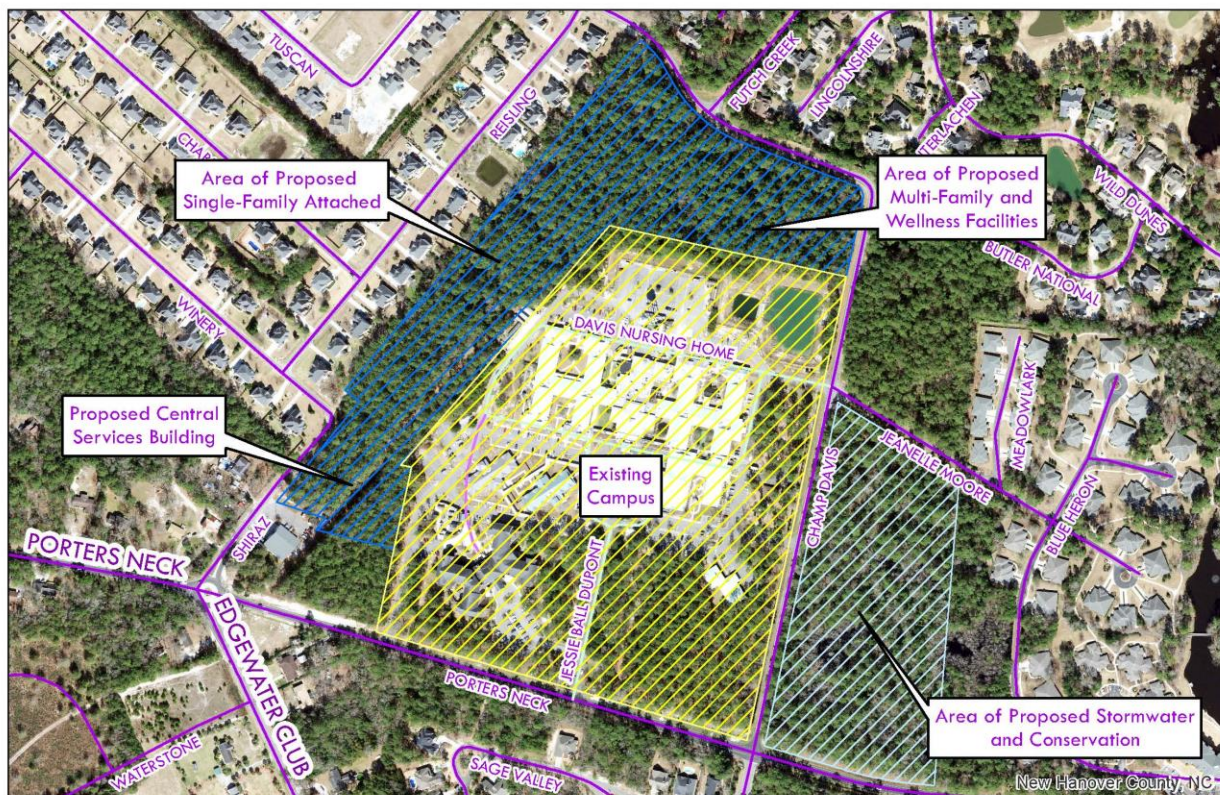
- In 1966, The Davis Community was constructed to serve as a skilled nursing hospital with 87 beds, and by 1968 had expanded to a total of 119 beds. After the adoption of the New Hanover County Zoning Ordinance in 1969 and the application of R-20 zoning to the site in 1971, the campus continued to expand in size and scope using a combination of rezonings, special use permit approvals, and minor and major modifications to approvals, the most notable of which include:
 - In 1972, a special use permit was granted to allow an expansion of the health care facility by up to 80 beds.
 - In 1992, approximately 24 acres of the site, including the initial campus, was rezoned from R-20 to (CD) O&I in order to accommodate additional health care uses on the site consisting of a geriatric clinic and physician services.
 - In 2008, an additional 2.64 acres were rezoned to (CD) O&I to accommodate a 20-room addition and the reconstruction of an on-site pharmacy and doctor's office.
 - In 2012, an additional modification to the campus was approved, rezoning 7.56 acres of additional land to (CUD) O&I to accommodate two additional buildings and the renovation of pre-existing facilities.
- The current use of the campus includes a 179-bed skilled nursing facility, a 123-unit assisted living facility, a pharmacy, administrative buildings, parking areas, and open space areas.
- This conditional use rezoning request is to expand the main campus to an adjacent 17.91-acre parcel and will consist of a four-story 150-unit independent living multi-family building, 32 assisted living duplexes, a 25,000 square foot wellness and amenity center, a central services building, and a memorial garden.
- The existing stormwater retention pond will be removed, and a new infiltration basin will be constructed on a portion of the 12-acre parcel to the southeast of the existing campus. This facility will be designed to accommodate the 100-year storm event, containing a design

capacity capable of retaining a minimum of 10 inches of rainfall over a 24-hour period. The remainder of this tract will be preserved for conservation.

- The portion of the site currently zoned (CUD) O&I is proposed to be rezoned back to R-20, and the accompanying Special Use Permit would permit a Continuing Care Retirement Community as defined by the Unified Development Ordinance:

A residential community that accommodates changing lifestyle preferences and health care needs and offers several levels of assistance, including all of the following: independent living, assisted living, and nursing home care. It provides a written agreement or long-term contract between the resident and the provider community that offers assurance of a continuum of housing, services, and health care, most commonly all on one campus, and frequently last for the resident's lifetime.

- This action is proposed to provide a consistent zoning classification among the entire campus and adjacent community, as well as to provide a use classification that will more accurately describe and consolidate the scope of activity within the entire facility.
- The applicant may be subject to any applicable licensure requirements to certify the proposed uses on the site with the respective governing agencies.



- As currently zoned, the undeveloped portions of the subject site would be permitted an approximate maximum of 57 dwelling units under the performance residential standards and 127 units with an Additional Dwelling Allowance Special Use Permit.

	R-20	Proposed CUD
Min Lot Size (Conventional)	20,000 sf	N/A
Max Density	1.9 du/ac (Performance) 4.25 du/ac (Additional Allowance SUP)	4.5 du/ac
Max Dwelling Units for Subject Property	57 (Performance) 127 (Additional Allowance SUP)	150 additional independent MF units, 32 duplex/triplex units

Transportation

- Access is currently provided to the subject property via two locations on Porters Neck Road and two locations on Champ Davis Road, all controlled with automated gates. With this proposal, an additional point of ingress and egress is proposed on Futch Creek Road on the northern boundary of the site, for a total of five gated access points. In addition to these vehicular connections, a bicycle and pedestrian connection is proposed near the intersection of Shiraz Way and Winery Way.
- Delivery trucks will utilize the existing access on Porters Neck Road to consolidate deliveries to the new central services building, and from there vans or small trucks will make individual deliveries using the internal transportation network.
- As currently zoned, R-20, the subject site would be permitted a maximum of 57 dwelling units under the performance residential standards. A detached single-family dwelling typically generates about one trip during the peak hours. With the existing zoning, development of the property is estimated to generate approximately 57 trips during the peak hours.
- Due to the classification as senior adult housing and congregate care, the proposed expansion is estimated to generate an estimated 16 AM peak hour trips and 35 PM peak hour trips, representing a decrease of 41 AM peak hour trips 22 PM peak hour trips from the trips generated if the site were to be developed under the existing zoning classification.

Comparison of Potential Trip Generation Scenarios

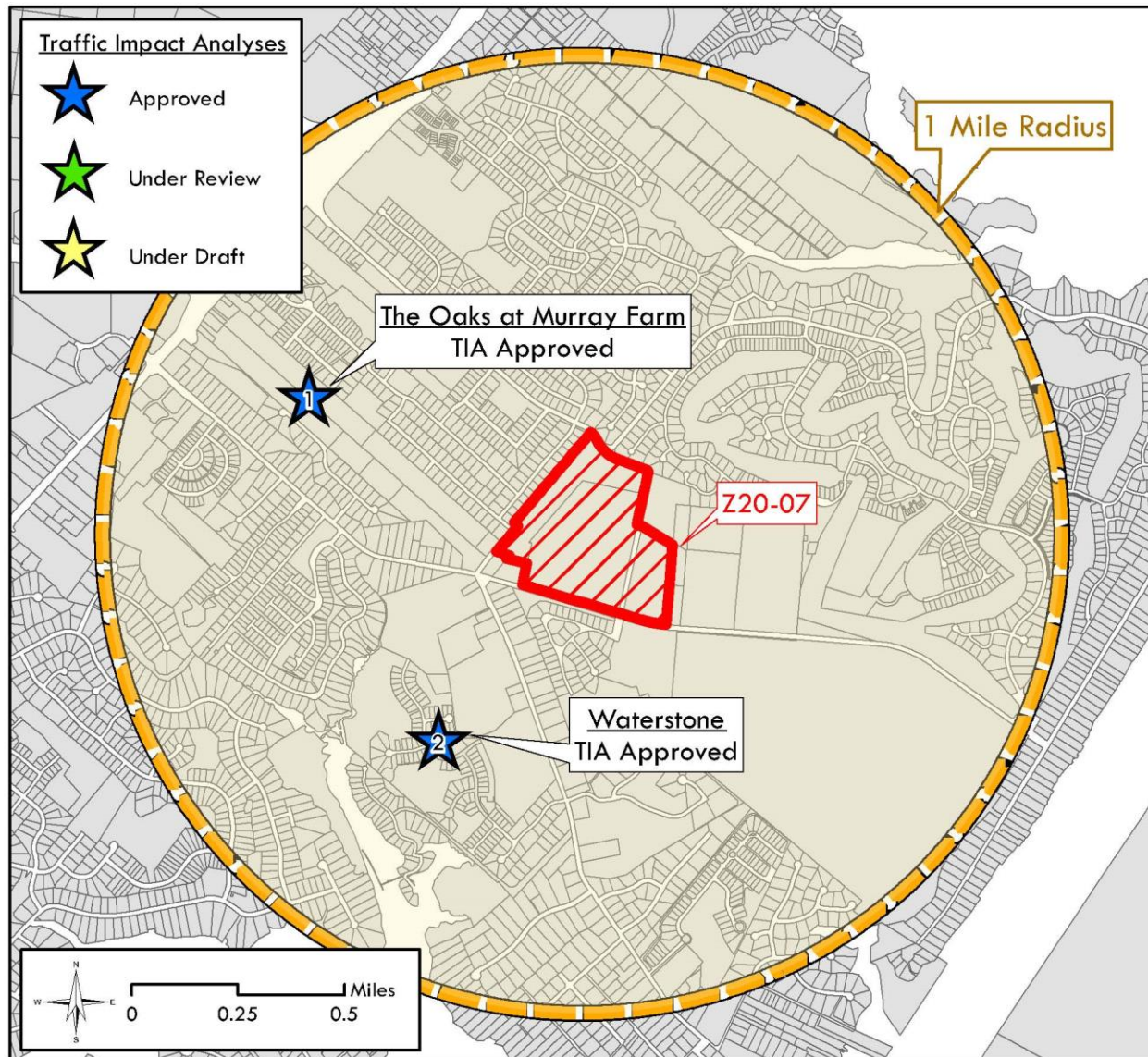
	Intensity	Approx. Peak Hour Trips
Existing Development:	Undeveloped (29.93 of 67.38 acres)	0 AM / 0 PM
Typical Development under Current Zoning:	57 single-family homes	57 AM / 57 PM
Development under Proposed (CUD) R-20 Zoning:	150 unit congregate care facility 32 senior adult housing units	16 AM / 35 PM

- As the number of anticipated trips does not equal or exceed 100 peak hour trips, a Traffic Impact Analysis (TIA) is not required. However, the applicant has prepared a technical memorandum to assess traffic impacts, and it concludes that the proposed expansion will have relatively minimal impact on nearby road capacity with less than a second increase in delay. Regardless of the requirement to conduct a TIA, an NCDOT Driveway Permit will be required for the additional connection to Futch Creek Road.
- Because a TIA is not required to analyze transportation impacts, staff has provided the volume to capacity ratio for Futch Creek Road and Porters Neck Road near the subject site. While volume to capacity ratio, based on average daily trips, can provide a general idea of the function of adjacent roadways, the delay vehicles take in seconds to pass through intersections is generally considered a more effective measure when determining the Level of Service of a roadway. The volume to capacity ratio indicates that both of these segments are currently operating below the capacity for a 2-lane, unsignalized corridor.

Traffic Counts – 2018 (Source – Davenport Technical Memorandum)

Road	Location	Volume	Capacity	V/C
Futch Creek Road	400 block (north of subject property)	2,200	17,000	0.13
Porters Neck Road	800 block (west of Porters Neck Road roundabout)	14,500	17,000	0.85

Nearby Planned Transportation Improvements and Traffic Impact Analyses



Nearby NC STIP Projects:

- STIP Project U-4751 (Military Cutoff Extension)
 - Proposal to extend Military Cutoff from Market Street to I-140.
 - The project is currently under construction and is expected to be completed in late 2022/early 2023.
 - 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.
- STIP Project U-4902D (Market Street Median)
 - Project to install a center median and pedestrian access ways along Market Street from Middle Sound Loop Road to Marsh Oaks Drive. The pedestrian access ways will consist

- of a 10-foot multi-use path on the eastern side of the street, and a 5-foot sidewalk on the western side of the street.
 - The project is currently under construction and is expected to be completed in late 2022/early 2023.
- NCDOT Project – Installation of an Additional Southbound Exit Lane on US-17 onto Market Street
 - The Board of Commissioners recently adopted a resolution to support the installation of an additional southbound exit lane at the US 17/Market Street Interchange. The project is a candidate for funding through the State's High Impact Low Cost program.
 - While funding for this program is currently on hold due to NCDOT's cash flow balance, NCDOT Division 3 has been requested to submit everything needed for the fund requests to the Board of Transportation so there is no delay when funding becomes available.

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
1. The Oaks at Murray Farm*	<ul style="list-style-type: none"> ● 348 Multi-Family Housing ● 58 Single-Family Housing 	<ul style="list-style-type: none"> ● December 6, 2019 ● 2023 Build Out Year
The TIA required improvements be completed at certain intersections in the area. The notable improvements consisted of: <ul style="list-style-type: none"> ● Installation of a second westbound right turn lane on Futch Creek Road at US 17, and revising the signal timing plan at that intersection. 		
<u>Nearby Proposed Developments included within the TIA:</u>		
<ul style="list-style-type: none"> ● Waterstone 		
Development Status: Development pending rezoning consideration.		

**The current proposed number of units being considered by the Board of Commissioners has been reduced since the TIA. The above figures reflect the density analyzed with the TIA.*

Proposed Development	Land Use/Intensity	TIA Status
2. Waterstone	<ul style="list-style-type: none"> ● 151 Single-Family Dwellings 	<ul style="list-style-type: none"> ● Approved June 18, 2015 ● 2020 Build Out Year
The TIA required improvements be completed at certain intersections in the area. The notable improvements consisted of: <ul style="list-style-type: none"> ● Installation of a southbound right turn lane on Edgewater Club Road at the site's northern access. 		
<u>Nearby Proposed Developments included within the TIA:</u>		

- Porters Neck Elementary

Development Status: 98 lots have been platted at this time, and approximately 20 units are occupied. The right turn lane has been installed.

ENVIRONMENTAL

- The property is not within a Natural Heritage Area or Special Flood Hazard Area.
- The property is largely within the Futch Creek watershed, with a small part of the southwestern portion of the site within the Pages Creek watershed.
- Per the Classification of Soils in New Hanover County for Septic Tank Suitability, soils on the property consist of Class I (suitable/slight limitation), Class II (moderate limitation) and Class IV (unsuitable) soils, 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.



Future Land Use Map Place Type	General Residential
Place Type Description	Focuses on lower-density housing and associated civic and commercial services. Typically, housing is single-family or duplexes, though low-density multi-family residential is included as an appropriate use. Commercial uses should be limited to strategically located office and retail spaces, while recreation and school facilities are encouraged throughout.
Analysis	The subject parcel is the location of the existing Davis Community, a senior care campus adjacent to the Plantation Village independent senior living facility. The current senior care community has been located on this site for

	<p>53 years and was in place prior to much of the single family development in the Porters Neck area. The proposed development would expand the existing project with a 150-unit independent living building, 32 single story cottage units, a wellness facility, and relocations of existing services (i.e., shipping, laundry, maintenance, and storage).</p> <p>Like the majority of the Porters Neck area east of the Market Street/Highway 17 corridor, this parcel has been designated as a General Residential area in the Comprehensive Plan. The intent of this place type is to preserve existing residential neighborhoods and provide opportunities for similar lower density housing and associated services. The Comprehensive Plan indicates that single family residential and duplexes are typical, but it also lists multi-family residential (including the type of independent living building proposed) as appropriate for this place type.</p> <p>The proposed development continues the senior living uses currently on the site and on the adjacent Plantation Village property, which have been in existence for several decades. Its total proposed density (including existing units) of 4.5 dwelling units per acre is in line with the 1-6 units per acre recommended for General Residential areas. Even including the 179 existing skilled nursing beds, which are generally not factored into density calculations, the density is still only slightly higher at 7.2 units per acre.</p> <p>The requested 4-story building is taller than the 3-story buildings included in the guidelines for this place type. This building scale recommendation was based on the most common form of development in existing residential neighborhoods and, a no-longer accurate, expectation that 4-story tall buildings were unlikely due to an elevator requirement triggered at that height. However, the proposed height of the independent living building is similar to the height of nearby structures in the Plantation Village community.</p>
Consistency Recommendation	<p>The proposed expansion of the Davis Community is generally CONSISTENT with the 2016 Comprehensive Plan because it is a continuation of a long standing senior living community and its associated services and has an overall density in line with what is recommended for General Residential areas.</p>

STAFF RECOMMENDATION

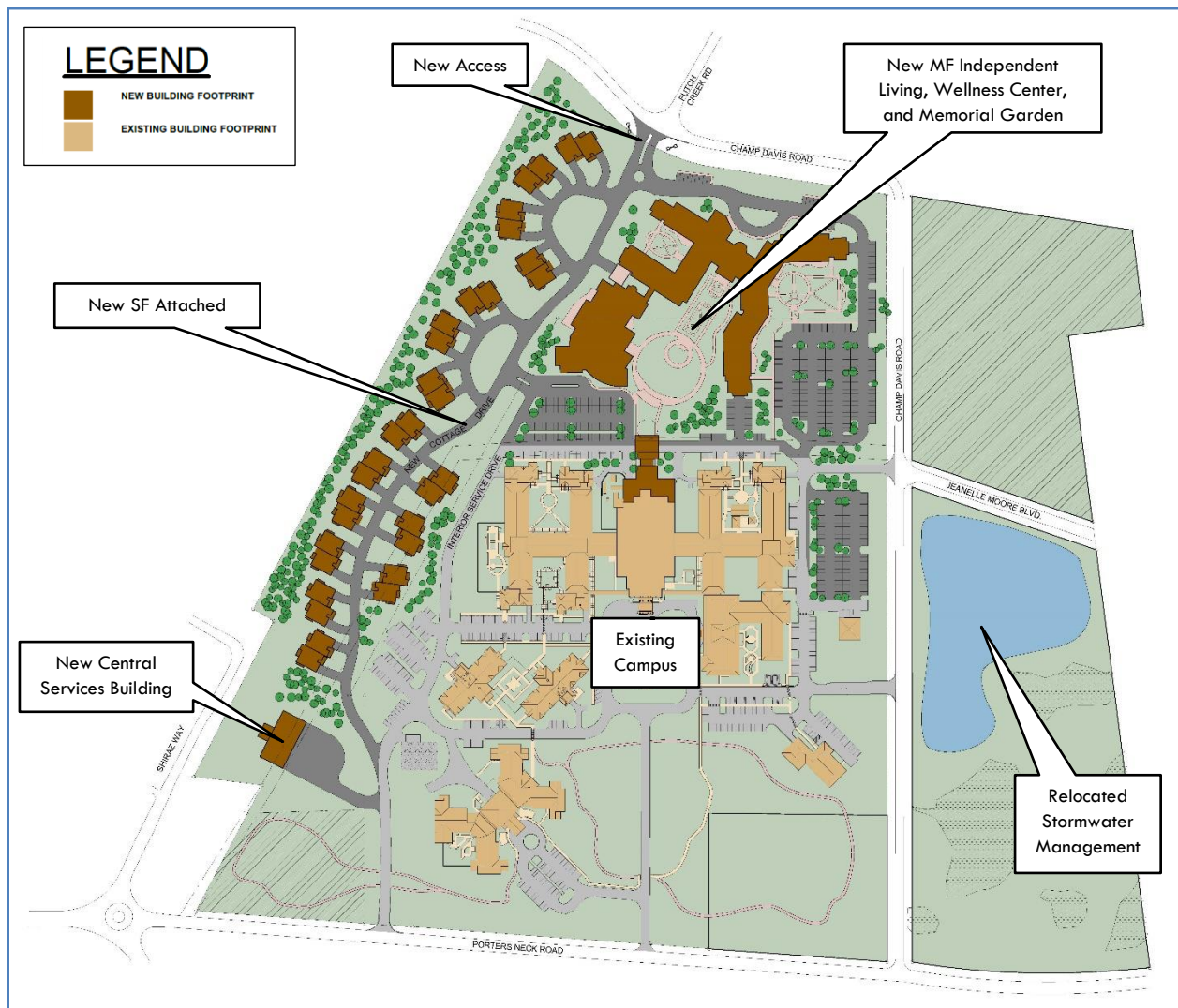
Staff recommends approval of the Conditional Use Zoning District and suggests the following motion:

I move to **APPROVE** the proposed rezoning of the subject property to a Conditional Use R-20 district. I find it to be **CONSISTENT** with the purposes and intent of the Comprehensive Plan because the proposed overall density is in line with what is recommended for General Residential areas. I also find **APPROVAL** of the rezoning request is reasonable and in the public interest because the use is appropriate for the General Residential place type and the proposed expansion is a continuation of a long standing senior living community and its associated services.

B. Z20-07 SPECIAL USE PERMIT REQUEST

PROPOSED CONCEPTUAL PLAN

The application proposes to expand The Davis Community by developing a four-story 150-unit independent living multi-family building, 32 assisted living duplexes, a 25,000 square foot wellness and amenity center, a new central services building, and additional parking and open spaces.



Proposed Conceptual Plan

- The multi-family independent living facility is proposed at a maximum height of 50' and four stories. In order for the building height to exceed 35', the building must be setback a distance equal to the building's height. The closest proposed building to a single-family structure is approximately 185 feet away.
- The Unified Development Ordinance requires a vegetative, opaque buffer to be provided along all property lines, which the applicant has proposed at a width of 20', and 25' surrounding the multi-family building.

- The site plan was reviewed preliminarily by the Technical Review Committee and it complies with the applicable zoning regulations as proposed.
- The site is currently accessed via Porters Neck Road and Champ Davis Road. The proposed expansion will add an access point on Futch Creek Drive to provide a point of vehicular access on the northern boundary of the site, resulting in a total of five points of gated access to the site. In addition, a bicycle and pedestrian access point will be provided to the site at the intersection of Shiraz Way and Winery Way.
- The existing stormwater retention pond will be removed, and a new stormwater infiltration basin will be constructed on a 12-acre parcel to the southeast of the existing campus. This facility will be designed to accommodate the 100-year storm event, or a design capacity capable of retaining 10 inches of rainfall over a 24-hour period.
- As proposed, the site plan meets all Unified Development Ordinance requirements for a Continuing Care Retirement Community.

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. The applicant has also proposed findings to the conclusions within their application narrative.

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 will be accessed from Porters Neck Road, Futch Creek Road, and Champ Davis Road, all of which are maintained by the NCDOT.
- B. Based on the Institute of Traffic Engineers Trip Generation Manual, the proposed use is estimated to generate an additional 16 trips in the AM peak and 35 trips in the PM peak.
- C. The subject property is located in the New Hanover County North Fire Service District.
- D. The site is not located within any Special Flood Hazard Area.
- E. Water and sewer services must be provided and designed in accordance with CFPUA's standards. CFPUA has indicated water and sewer capacity is available and a Utility Plan Review is required to verify provision of services.
- F. Stormwater retention will be provided with a design capacity capable of accommodating the 100-year storm event, exceeding the minimum requirements of the New Hanover County Stormwater Ordinance.

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

- A. The site is proposed to be zoned (CUD) R-20, Residential District.
- B. Senior Living Options, specifically a Continuing Care Retirement Community, are allowed by special use permit in the R-20 zoning district, subject to supplemental standards.

- C. The conceptual site plan has been reviewed preliminarily by the Technical Review Committee and complies with all applicable technical standards in Section 72-43.1: Senior Living Options of the Unified Development Ordinance.

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 surrounding area generally contains single-family housing, with a Continuing Care Retirement Community, Plantation Village, to the east.
- B. Bufferyards must be provided between the development and adjacent residential property.
- C. To date, no evidence has been provided to show that the proposed development will substantially injure the value of adjoining or abutting property.

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 Davis Community has operated as a skilled nursing facility since 1966. Over the years, it has been expanded with a variety of additional facilities and services, however it has been comprised of office, institutional, and medical land uses since its inception.
- B. The property is located in the General Residential place type as classified in the 2016 Comprehensive Plan.
- C. The proposal is consistent with the recommended uses and densities of the General Residential place type.
- D. The requested 4-story building is taller than the 3-story buildings included in the guidelines for this place type. However, the proposed height of the independent living building is similar to the height of nearby structures in the Plantation Village community.

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 Summary.

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

[OPTIONAL] Also, that the following conditions be added to the development:

[List Conditions]

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 surrounding area, and is 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]

*The Board shall immediately rescind their approval of the Conditional Use District if the companion SUP is denied.