



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Jeremy Hardison, Planning & Development Director      **DEPARTMENT:** Planning & Development

**MEETING:** Town Council – November 9, 2021

**SUBJECT:** **Conditional Zoning** to consider a mixed use commercial-residential development located at 902, 910, 1000, & 1010 N. Lake Park Blvd.  
Applicant: Cape Fear Four LLC

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### **BACKGROUND:**

The applicant, Cape Fear Four, LLC applied for a Conditional Zoning application for a mixed use commercial-residential project in the Highway Business District. A conditional zoning district allows a particular use to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could. The review process provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties.

All applications shall include a site plan and any development standards to be approved concurrently with the rezoning application. Development standards may include such things as parking, landscaping, design guidelines, and buffers. When evaluating an application for the creation of a conditional zoning district, the Planning & Zoning Commission shall consider the following:

1. The application's consistency to the general policies and objectives of the Town's CAMA Land Use Plan, any other officially adopted plan that is applicable, and the Zoning Ordinance.
2. The potential impacts and/or benefits on the surrounding area, adjoining properties.
3. The report of results from the public input meeting.

Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one (1) public input meeting and file a report of the results with the Zoning Administrator. In approving a petition for the reclassification of property to a conditional zoning district, the Planning & Zoning Commission may recommend, that the applicant add reasonable and appropriate conditions to the approval of the petition. Any such conditions should relate to the relationship of the proposed use to the impact on the following details:

1. Town services
2. Surrounding property
3. Proposed support facilities such as parking areas and driveways
4. Pedestrian and vehicular circulation systems
5. Screening and buffer areas
6. Timing of development
7. Street and right-of-way improvements
8. Infrastructure improvements (i.e. water)
9. Provision of open space
10. Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose

If the applicant does not agree with the Planning & Zoning Commission or staff's recommendations of additional conditions, the Town Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.

No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district.

**Applicant proposes to construct:**

Building	Residential Units	Commercial Sq. Ft	Building Height
1	53	18,754 Retail 4,5445 Leasing office	50 ft
2	88	4,077 Fitness club	50 ft
3	102	2,684 Restaurant	50 ft
4	6	5,054 Live/work	50 ft
5	0	5,000 Office	50 ft
6	10	4,012 Clubhouse	50 ft
7	2	0	45 ft
<b>Total</b>	<b>261</b>	<b>44,111 Sq. Ft</b>	

## **Zoning**

The purpose of the Highway Business (HB) district is to accommodate businesses oriented toward the motoring public and which require a high volume of traffic. In many cases, businesses in the HB district serve the entire community and beyond. For the most part, they are located on major thoroughfares so that they can be conveniently reached by automobile and to avoid sending heavy automobile traffic through smaller streets or residential areas. The HB zoning district allows for mixed use commercial-residential with the approval of a conditional zoning district. The ordinance requires parcels that are over 10 acres to provide for 3,000 sq. ft. of commercial space. The proposed development consists of three parcels that will be combined prior to the issuance of a building permit for a total of 12.01 acres. Based on the size of the property 36,030 commercial sq. ft is required. The applicant is providing 44,111 sq. ft of heated commercial space with an additional 57, 711 commercial area that includes outdoor dining, retail, amenity & pool area. The residential component of the property will include 261 units.

Maximum lot coverage is 60%, which includes footprint of the building, decks, and steps. The applicant's proposed total lot coverage equals 89,650 sq. ft. or 17% lot coverage. Density of units allowed in the HB district is determined through review of a Conditional Use Permit. The applicant's structures will not exceed the maximum 50' height limit. Setbacks in the HB district are 10' (side), 30' (front), and 20' (rear). The applicant is exceeding the minimum setback requirements. The applicant is required to provide 525 parking spaces for the business and residential uses. The total parking provided by the applicant is 527 spaces. A Type B 10' landscaping buffer is required on all boundaries of the property. In some areas on the site are not meeting this requirement and the applicant would need to request and be granted a landscape waiver in these areas that are depicted on the site plan. An 8' multiuse path is proposed on Saint Joseph's and through the site connecting the right-of-ways. A 6' sidewalk is proposed on N. Lake Park Blvd. The sidewalk on N. Lake Park Blvd was reduced to 6' to accommodate a right turning In to enter the site from the south. The existing sidewalk along Lake Park Blvd are 5'. A portion of the property is in a floodzone that is adjacent to Saint Joseph St. A state stormwater permit would be required, and the applicant is proposing approximately 1.2 acre pond.

A Traffic Impact Analysis is required for the site and will need to incorporate those required improvements. The TIA is currently being finalized by the applicants traffic engineer to submit to DOT for review. The applicants engineer is gathering data on the projected daily usage water & sewer rates to submit to the Utility Director on what infrastructure improvements are needed.

### **Conditional Zoning Process**

As part of the application process a community meeting is required. The applicant held the required meetings on August 26, 2021. The applicant has provided summary comments from the meeting. Based off the comments from the meeting the applicant can place conditions on the project to help mitigate the impacts and concerns from the neighboring properties.

The applicant is proposing the following conditions.

1. Provide for an 8' multiuse path on Saint Joseph St and through the site connecting to the public right of ways and a 6' sidewalk on N. Lake Park Blvd.
2. All lighting shall be aimed, located, designed, fitted, shielded, and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
3. Install recommendations of the traffic impact analysis to include upgrades of up to \$300,000 for a traffic light with pedestrian signal at the intersection of Lake Park Blvd and Winner Ave.
4. Provide daily usage of water & sewer and make improvements as required by Public Utilities
5. Access and parking easements to be recorded for usage of the Jersey Mikes parking.
6. Keep existing Live oaks as depicted on the site plan.
7. Prohibit short term rentals less than 90 days within the residential units.
8. Install a pedestrian access on town property located at 108 Winner Ave from the applicant's property to Winner Ave.
9. Memberships to the swimming pool shall be available to residents of Carolina and Kure Beach.

### **Land Use Plan**

The 2020 Land Use Plan was amended in August for the vision on this area to be higher density area with a mix of uses, within the district and individual buildings. Residential uses allowed only on upper stories; unless associated with a mixed commercial-residential use on a 10 acre or greater lot with a minimum 3,000 sq ft of commercial space provided per acre.

### **ACTION REQUESTED:**

Consider recommending approval or denial of a conditional zoning mixed use commercial-residential project located at 902, 1000, 1010 N. Lake Park Blvd.

Staff and Planning & Zoning Commission recommend approval of the project with the 9 conditions.

### **MOTION:**

Approval - whereas in accordance with the provisions of the NCGS, the Commission does hereby find and determine that the adoption of the Conditional Use District to allow for a mixed use commercial – residential located at 902, 1000, 1010 N. Lake Park Blvd. is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans and The potential impacts on the surrounding area, are mitigated by the approved conditions.

Denial - based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long-range planning documents and the potential impacts on the surrounding areas.

