



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning & Zoning Commission **DEPARTMENT:** Planning & Development

MEETING: Town Council – April 9, 2024

SUBJECT: **Zoning Map Amendment** to consider a request to rezone 204 Harper Avenue from Mixed Use (MX) to Central Business District (CBD).
Applicant: STLNC, LLC

BACKGROUND:

The applicant, STLNC LLC, has submitted a petition to consider rezoning 204 Harper Avenue from Mixed Use (MX) to Central Business District (CBD) Zoning. The neighboring property to the east is under the same ownership, formally the Welcome Inn (205, 207, 209 N. Lake Park Blvd), and is currently in the CBD. The applicant has requested the rezoning because to have consistent zoning and land uses for the property, they would like to see the same zoning apply to 204 Harper Ave, so all business-related decisions and operations fall under the same zoning guidelines.

For consistency and for the purpose of redevelopment it is best practice for the entirety of a property to be within the same zoning district. Redevelopment of the property would require the recombination of the property. One of the standards for creating zoning districts is to follow plotted lot lines. Guidance for the interpretation of zoning district boundaries comes from Sec. 40-45 (attachment 1) of the zoning ordinance. Previously 204 Harper Avenue had a single-family structure with the adjacent common ownership parcels was formally the Welcome Inn. The adjacent use to the west is a single-family, to the north is a multi-family structure and across the street to the south is a Hotel.

History:

The property has been in the same ownership for over 50 years. The single-family house and Welcome Inn were built in the 30's. In 2023 the structures were demolished after a new hotel was approved for the site in 2022. The hotel has not started construction and the property was recently purchased. The Permit for the hotel authorization will expire September 14, 2024.

The 1984 Zoning Ordinance and Zoning Map had both properties, of 204 Harper Ave and the property where the Welcome Inn was in the B-1: Central District. In 2000, 204 Harper Ave was rezoned to MX and the Welcome Inn property was rezoned to CBD.

District Purpose and Permitted Uses:

The MX, Mixed Use Transitional District is established to provide for an area of transitional land uses between intensified use districts or elements and residential districts. This district includes an area of mixed land uses between the intensive, commercial, central part of Town and the quiet residential areas and may also be employed as a transitional area between busy major thoroughfares and quieter residential areas. Permitted uses include a mixture of single-family homes, two-family dwellings, and small-scale office and institutional uses. Small hotels and motels and multifamily housing of modest density and size may also be permitted in this district.

The CBD, Central Business District is established to accommodate, protect, rehabilitate, and maintain the traditional central business district and boardwalk area of the Town. This area accommodates a wide variety of pedestrian oriented, commercial and service activities, including retail, business, office, professional financial, entertainment, and tourism. The regulations of this district are intended to encourage the use of the land for concentrated development of permitted uses while maintaining a substantial relationship between land uses and the capacity of the Town’s infrastructure.

The Mixed Use District does allow for certain business uses like standard restaurants and eateries, general retail, offices, and mixed use commercial-residential but does not allow for more intense uses like bars and taverns, or commercial parking lots. A complete list of the uses allowed in both districts is shown on Attachment 2. The MX district is considered residential, and residents must abide by the standards of the noise ordinance for residential areas of a daytime level of 65dB(A) between the hours of 7:00am and 11:00pm, and the nighttime level of 55dB between the hours of 11:00pm and 7:00am. The Commercial district allows for a 75dB(A) daytime level between 7:00am and 11:00pm, and 65 dB(A) between the hours of 11:00pm and 7:00am, except on Friday and Saturday, the daytime levels shall remain in effect until midnight.

Dimensional Standards:

<i>Zoning District</i>	<i>Primary Permitted Uses</i>	<i>Min. Lot Size</i>	<i>Min. Lot Width⁵</i>	<i>Min. Front Yard</i>	<i>Min. Rear Yard</i>	<i>Min. Side Yards (Corner Lot-Min 12.5 ft.)⁵</i>	<i>Max. Density</i>	<i>Max. Height</i>	<i>Max. Lot Coverage</i>
MX	Mixed Use	5,000 sq. ft.	50 ft.	20 ft.	10 ft. ³	7.5 ft. ³	17 units/acre	50 ft.	40%
CBD	Commercial Uses and Services, Entertainment	None	None	None	None, or same as abutting residential use or district	None, or same as abutting residential use or district	NA	50 ft. ⁴	None

The MX Zoning District requires setbacks and has a maximum lot coverage in all areas throughout the district. Much of the CBD has no setbacks or lot coverage requirement. Although the dimensional standards for both districts are different, properties in the CBD areas must have a rear and side setback that is the same as the residential zoning district it abuts. Landscaping standards are also required if a CBD parcel is adjacent to residential to mitigate the transition between the business and residential use.

Land Use Plan

The property is shown on the Future Land Use Map as Mixed Use Commercial and is described as a higher density area with a mix of uses, within the district and individual buildings. Residential uses allowed only on upper stories; ground floor encouraged to be active. 4-5 story structures possible, unless adjacent to low or medium density residential with attractive street facades. NCGS 160D states that if a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment is required.

ACTION REQUESTED:

Consider recommending approval or denial of a zoning map amendment to rezone 204 Harper Ave from the MX zoning district to the CBD.

P&Z recommended approval of the rezoning from MX to CBD.

MOTION:

Approval - whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine that the adoption of the Zoning Map Amendment for 204 Harper Ave is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans.

A statement approving the proposed Zoning Map Amendment and declaring that this also amends the plan, to meet the vision of the community taken into consideration in the zoning amendment.

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.

ATTACHMENTS:

1. Sec. 40-45. Rules for interpretation of district boundaries.
2. Sec. 40-72. Table of permissible uses.

ATTACHMENT 1

Sec. 40-45. Rules for interpretation of district boundaries.

The Zoning Administrator shall decide the exact location of any zoning district boundary lines whenever uncertainty exists about the boundary lines shown on the official zoning maps, subject to appeal to the board of adjustment provided for in article XVI of this chapter. The determination of the exact location of a zoning district boundary shall be based upon the following rules:

- (1) Boundaries indicated as approximately following or within a street, alley, or railroad right-of-way, or utilities (electrical, gas, water main, etc.) easement shall be construed to be in the center of such right-of-way easement;
- (2) Boundaries indicated as following shore lines shall be construed to follow such shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, creeks, or other bodies of water shall be construed as following such centerlines;
- (3) Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines;
- (4) Boundaries indicated as approximately following Town limits shall be construed as following Town limits; and
- (5) Boundaries indicated as parallel to or extension of features indicated in subsections (1), (2), (3) and (4) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (6) In the event that a district boundary line on the zoning map divides a platted lot held in one ownership on the date of passage of the ordinance from which this chapter is derived, each part of the lot so divided shall be used in conformity with the district in which such part is located.

(Code 1986, app. A, § 2.3; Ord. No. 00-463, 10-10-2000)

ATTACHMENT 2

Sec. 40-72. Table of permissible uses.

P = Permitted.

CZ = May be permitted with conditional zoning

S = May be permitted by special use permit

USES OF LAND	MX	CBD
Residential Uses		
Two-family dwellings	P	

Manufactured home, on standard, single-family lot (See section 40-261)		
Multifamily dwellings (See section 40-260) Units <= 4	P	
Multifamily dwellings (See section 40-260) Units > 4	CZ	
Planned unit development, residential (See article XII of this chapter) Units <= 4	P	
Planned unit development, residential (See article XII of this chapter) Units > 4	CZ	
Single-family detached	P	
Attached single-family residential	P	
Accessory Uses		
Accessory uses and structures, including garages, carports, etc. (See sections 40-261, 40-548)	P	P
Home occupations, customary (See sections 40-261, 40-548)	P	P
Swimming pools, private (See sections 40-261, 40-548)	P	
Swimming pools, public (See sections 40-261, 40-548)	CZ	CZ
Nonresidential Uses		
Adult entertainment establishment (See		

sections 40-261, 40-548)		
Aircraft takeoff and landing zone (See sections 40-261, 40-548)	Prohibited	
Animal care facility		
Animal care facility with outdoor area (See section 40-261)		
Arcades, rides, games in enclosed buildings		P
Art galleries (See section 40-548)	P	P
Auctions sales		P
Automobile repair garages, including engine overhauls, body and paint shops and similar operations in enclosed buildings (See sections 40-261, 40-548)		
Automobile service stations and convenience stores		P
Bakeries, retail, off-premises sales		
Bakeries, retail, on-premises sales only		P
Banks/financial institutions		P
Barber shops		P
Bed and breakfast inn (See section 40-261)	CZ	CZ
Boat and personal water craft (PWC) sales and rental		P
Body piercing facility		
Bus terminal		P

Cafeteria or dining room for employees of permitted uses		
Car wash (See section 40-548)		
Cemeteries, public and private (See section 40-261)		
Churches/places of worship/parish houses	CZ	P
Commercial indoor recreation, such as bowling alleys, etc.		
Commercial outdoor recreation, such as miniature golf, golf driving ranges, par-3 golf courses, go carts and similar enterprises (See section 40-261)		
Contractors offices, no outdoor storage		P
Day nurseries, day care centers and preschools (See sections 40-261, 40-548)	CZ	CZ
Distillery		P
Drop-in child care providers (See sections 40-261, 40-548)	P	P
Dwelling for caretaker on premises where employed		
Drive-in/thru facility		
Dry stack storage facilities		
Ear piercing Facility		
Eating and/or drinking		

establishments (See section 40-261)		
Bars and taverns (See section 40-261)		CZ
Standard restaurants and eateries	P	P
Exhibition buildings		CZ
Exterminator service business offices, no outdoor storage of materials or equipment		P
Fire stations, emergency services, nonprofit	CZ	CZ
Fishing piers; public and private		P
Funeral homes		P
Furniture stores		
Gardens, arboretums and greenhouses, items for sale		P
General retail sales	P	P
Government/Public facilities and utilities (See section 40-261)	P	P
Ice-cream stores	P	P
Laundries and dry cleaning, delivered by customers		P
Laundromats, self-service		P
Libraries	P	P
Live entertainment complexes in enclosed buildings		CZ
Manufacturing incidental to retail business, sold on premises only, maximum of five		P

manufacturing operators		
Marinas, docks and/or piers, private		
Marinas, docks and/or piers, public or commercial		P
Medical and dental clinics	P	P
Meeting facilities	CZ	P
Mixed use commercial-residential (See section 40-261)	P	P
Motels and hotels	CZ	CZ
Motels and hotels, operated with a marina		
Multi-use facility	P	P
Municipal parking decks		P
Museums		P
Nursery, garden and landscaping, display and sales		
Offices, public, private or civic	P	P
Outdoor amusements, carnival and rides		CZ
Parking lot, commercial—permanent (See section 40-261)		P
Parking lot, Town operated (See section 40-261)	P	P
Private parking decks		CZ
Parking and loading areas serving uses in the same zoning district, on same or contiguous lot (See	P	P

article V of this chapter)		
Parking and loading areas serving uses in the same zoning district, on non-contiguous lot (See article V of this chapter)	CZ	P
Pet shops and pet supply stores		P
Photographic studio	P	P
Planned unit development, business (See article XII of this chapter)		CZ
Post offices		P
Postal mailing services, commercial		P
Printing/reprographics		P
Radio, computer, television and appliance repairs and rental service		P
Rental of any item, the sale of which is permitted in the district		P
Rental of golf carts, mopeds, and scooters (See section 40-261)*	P	P
Repair of any item, the sale of which is permitted in the district		P
Rooming house	Prohibited	
Schools, commercial for specialized training		P
Schools, public	CZ	CZ
Schools, private, general instruction	CZ	CZ
Seafood production and/or processing		

and/or dockage, wholesale and retail		
Shopping centers/big box	CZ	CZ
Spa health club		P
Studios, artist, designers, gymnasts, musicians, sculptures	CZ	P
Tailor shops	P	P
Tattoo studios (See sections 40-261, 40- 548)		
Telephone exchange		P
Tennis courts, commercial (See section 40-261)		CZ
Tennis courts, private (See section 40-261)	CZ	CZ
Theaters, in enclosed structure		P
Theaters, open air drama		CZ
Trailer, business		CZ
Trailer park, travel (See section 40-548)		
Trailer, temporary construction (See section 40-261)	P	P
Utilities, private (See section 40-261)	CZ	P
Vehicle sales lot and rental lot (See section 40-261)		
Water oriented businesses		CZ
Wholesale sales		P
Wine and beer shops (Retail/Off-Premise)		P
Wireless telecommunications facilities	See article X of this chapter	

Manufacturing, Assembly and Processing (See section 40-261)		
Beverages, bottling works		
Breweries (See section 40-261)		P
Flammable liquid storage, >1,000 gallons aboveground only (See section 40-261)		
General assembly and repair		
Ice manufacture, sales and storage		
Manufacturing and assembly, processing, and packaging, except those uses identified in section 40-261		
Planned development, industrial		
Sign painting and sign fabrication		
Storage yard, outdoor (See section 40-261)		
Recreational vehicle/boat storage, yard (See section 40-261)		
Towing service impound yard		
Warehouses, storage. Large and mini		
Woodworking shops		

* **Note:** Rental of these items may be permitted in the designated zoning districts as an accessory use to other permitted commercial uses if parking and other standards can be met.