



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Sr Planner

DEPARTMENT: Planning &
Development

MEETING: Town Council – November 9, 2022

SUBJECT: **Conditional Zoning** to consider a drinking and eating establishment classified as a bar to serve on-premises alcohol located at 604 N. Lake Park Blvd.
Applicant: Shagri-La LLC

BACKGROUND:

The applicant, Shagri-La LLC, applied for a Conditional Zoning application for a bar/tavern in the Highway Business District. The proposal includes providing on-premise wine, beer, and liquor. When on-premise alcohol is being served and the use is not classified as a standard restaurant, the ordinance defines the use as a bar. The ABC requires restaurants to have food comprise at least 30 percent of their sales, or it is classified as a bar. A bar is allowed through the approval of a conditional zoning district in the Highway Business District.

The 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 Council 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 Council 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.

Proposal:

The applicant is proposing to change the use of the business from a restaurant to a bar at 604 N. Lake Park Blvd. No new bars/taverns shall be permitted within 200 feet of an established church or school or 200 feet of any residential district. This location meets that separation requirement.

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 existing building is a two-unit commercial building built in 1998. It meets the current lot coverage and setbacks requirements. No additions are proposed outside of the current footprint. The applicant is providing 11 on-site parking spaces and 4 off-site parking spaces across Lake Park Blvd, in the Winner RV Park on property adjacent to the public right-of-way. The parking space amount and location was approved in the original Conditional Use Permit approved on December 9, 1997.

The building consists of 3,200 Sq. ft. of indoor area. The most recent previous use was an eating and drinking establishment, which has the same parking calculation as bars and taverns. At the time of the approval of the existing building, the 1984 Zoning Ordinance did not require pedestrian access between off-site parking and the building. Staff recommends pedestrian access improvements are installed that consists of a 5' sidewalk adjacent to N Lake Park in front of the property.

CUP 97-2 Conditions:

1. Make findings for approval of the Conditional Use Permit required by Zoning Ordinance Section 602.5. (1984)
 - a. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 - b. That the use meets all required conditions and specifications;
 - c. That the Use will not substantially injure the value of adjoining or abutting property;
 - d. That the location and character of the 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 of Carolina Beach and its environs;
2. All Federal, State, and Local requirements;
3. Landscaping pursuant to the Landscape Ordinance; Planning & Zoning Commission recommends in lieu of landscaping along 421 applicant may pour sidewalk in public right-of-way.
4. Six (6) foot high buffer, or combination landscaping, consistent with Section 704. Buffers of the Zoning Ordinance. (1984)

Staff Proposed Conditions

1. 5' Sidewalk must be installed per Sec. 40-150(5) to provide safe pedestrian access between off-site parking and the building.
2. The 4 off-site parking spaces at 605 N Lake Park Blvd shall be designated with signage, wheel stops, and an approved parking surface.

P&Z Proposed Conditions

P&Z recommended approval of the project 4-1 with only the following condition:

1. The 4 off-site parking spaces at 605 N Lake Park Blvd shall be designated with signage and wheel stops.

Conditional Zoning Process

As part of the application process a community meeting is required. The applicant held the required meeting on August 26, 2022. 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.

Land Use Plan

The project is in general conformity with the 2020 Land Use Plan it supports to sustain a healthy and vibrant locally-oriented economy. This area is recognized as a higher density area with a mix of uses, within the district and individual buildings.

ACTION REQUESTED:

Consider recommending approval or denial of a conditional zoning to approve a bar located at 604 N. Lake Park Blvd.

Staff recommends approval of the project as proposed. P&Z recommends approval 4-1.

MOTION:

Approval - whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine that the adoption of the Conditional Use District to allow for a bar located at 604 N. Lake Park Blvd. is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans.

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.